Western Australia

District Court of Western Australia Act 1969

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Defined terms

Western Australia

District Court of Western Australia Act 1969

An Act to establish the District Court of Western Australia and for incidental purposes.

Part I — Preliminary

1. Short title

This Act may be cited as the *District Court of Western Australia Act 1969*.

2. Commencement

This Act shall come into operation on a date to be fixed by proclamation.

*[**3.** Deleted: No. 122 of 1984 s. 3.]*

*[**4.** Omitted under the Reprints Act 1984 s. 7(4)(e)-(g).]*

5. Construction and application of certain Acts

(1) A reference in any other Act or in any regulation, rule, local law, by-law or instrument made under any other Act in force after the coming into operation of this Act, to a Court of Session, the Chairman thereof, or any officer thereof, shall be read as a reference to the Court, a District Court judge, or the corresponding officer of the Court, as the case requires.

[(2) deleted]

(3) The Court is a court within the meaning of the term "Court" in the *Evidence Act 1906*, and the *Suitors' Fund Act 1964*, and the provisions thereof apply, with such modifications as circumstances require, to the Court, a District Court judge and any officer of the Court.

[(4) deleted]

(5) Unless the context otherwise requires, a reference in any other Act or in any regulation, rule, local law, by-law, notice, proclamation or other statutory instrument made, published or in force under this Act or any other Act to the Chairman, or Chairman of Judges, of the District Court shall be read and construed as a reference to the Chief Judge.

[Section 5 amended: No. 14 of 1970 s. 4; No. 40 of 1972 s. 4; No. 122 of 1984 s. 5; No. 14 of 1996 s. 4; No. 23 of 2002 s. 13; No. 59 of 2004 s. 85; No. 84 of 2004 s. 33.]

6. Terms used in this Act

(1) In this Act, unless the contrary intention appears —

action means a civil proceeding commenced by writ or in such other manner as is prescribed by rules of court and includes suit but does not include any criminal proceeding;

auxiliary District Court judge means an auxiliary District Court judge appointed under section 18A(1);

cause includes any action, suit or other original proceeding between a plaintiff and a defendant and any criminal proceeding;

Chief Judge means the District Court judge appointed the Chief Judge and includes a District Court judge appointed to act in the office of Chief Judge under section 18(2a);

costs determination means a legal costs determination made under the *Legal Profession Uniform Law Application Act 2022* section 133;

Court means the District Court of Western Australia established under this Act;

defendant includes every person served with any writ of summons or process, or served with notice of, or entitled to attend, a civil proceeding;

District Court judge means a judge of the Court, acting judge of the Court or auxiliary District Court judge;

judgment includes a judgment, order or other decision or determination of the Court or a District Court judge;

jurisdiction includes all powers and authorities incidental to the exercise of jurisdiction;

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

matter means a proceeding in the Court that is commenced otherwise than by writ;

party includes a person served with notice of, or attending a proceeding, although not named in the record;

plaintiff includes every person asking any relief (otherwise than by way of counterclaim as a defendant) against any other person by any form of proceeding;

practice and procedure includes matters relating to costs, the method of pleading, the institution, conduct, trial or hearing and adjudication in any proceeding, the attendance of witnesses, the custody on bail of accused or convicted persons and the enforcement and execution of judgments and all the jurisdiction and powers conferred and the matters prescribed, provided for, or regulated by the rules of court;

registrar means the Principal Registrar, a registrar, or a deputy registrar, appointed under section 25;

section means a section of this Act;

sheriff means the Sheriff of Western Australia and any deputy sheriff appointed by the Sheriff of Western Australia.

(2) For the purposes of this Act, ***legal experience*** is —

(a) standing and practice as a legal practitioner; or

[(b) deleted]

(c) judicial service (including service as a judge of a court, a magistrate or other judicial officer) in the State or elsewhere in a common law jurisdiction; or

(d) a combination of both kinds of legal experience defined in this subsection.

[Section 6 amended: No. 7 of 1982 s. 8; No. 122 of 1984 s. 6; No. 53 of 1992 s. 9(3); No. 23 of 1997 s. 4; No. 57 of 1997 s. 48(1); No. 65 of 2003 s. 32(2), 111(2), (3), 125(2); No. 59 of 2004 s. 82(1) and 85; No. 21 of 2008 s. 660(2) and (3); No. 9 of 2022 s. 351.]

7A. *Courts and Tribunals (Electronic Processes Facilitation) Act 2013* Part 2 applies

The *Courts and Tribunals (Electronic Processes Facilitation) Act 2013* Part 2 applies to this Act.

[Section 7A inserted: No. 20 of 2013 s. 58.]

Part II — The Court

Division 1 — Establishment of the District Court of Western Australia

7. Establishment of the Court

(1) There shall be in and for the State a Court to be known as the District Court of Western Australia.

(2) The Court shall be constituted in the manner provided by this Act.

8. Court to be a court of record, constitution

(1) The Court —

(a) is a court of record; and

(b) shall be constituted by a District Court judge as provided in this Act; and

(c) has the criminal and civil jurisdiction conferred on it by this Act.

(2) The jurisdiction of the Court is exercisable by one District Court judge, sitting in Court, or as provided in section 21, sitting in chambers.

(3) The Court constituted by one District Court judge may sit and exercise the jurisdiction of the Court notwithstanding that the Court constituted by another District Court judge is at the same time sitting and exercising the jurisdiction of the Court.

9. Seal of the Court

(1) There shall be a seal of the Court at each place at which the Court is held under this Act.

(2) All writs, notices, summonses, certificates, warrants and other processes issued out of the Court shall be sealed or stamped with the seal of the Court.

Division 2 — District Court judges

10. Appointment, qualifications and seniority

(1) The Governor may, by commission under the Public Seal of the State, appoint as many persons as are needed for the due administration of this Act to be District Court judges.

(2) A person is eligible for appointment as a District Court judge if that person is a lawyer and has had not less than 8 years' legal experience.

(3) A person so appointed shall be a District Court judge for the whole of the State and under his commission is empowered to act in the Court sitting at any place in the State.

(4) The Governor may appoint one of the District Court judges to be the Chief Judge, and may, at any time, revoke his appointment as the Chief Judge.

[(4a) Omitted under the Reprints Act 1984 s. 7(4)(e).]

(5) The District Court judges other than the Chief Judge, have seniority among themselves according to the dates of their respective appointments as District Court judges, but if 2 or more of them are appointed on the same day, they have seniority according to the precedence assigned to them by the Governor, at the time he makes the appointments.

[Section 10 amended: No. 112 of 1978 s. 6; No. 122 of 1984 s. 7; No. 57 of 1997 s. 48(2); No. 65 of 2003 s. 111(4) and 125(3); No. 21 of 2008 s. 660(4); No. 9 of 2022 s. 352.]

11. Tenure of office and oath of office

(1) The commission of each District Court judge shall continue in force during good behaviour but the Governor may, upon the address of both Houses of Parliament, remove any District Court judge from his office and revoke his commission.

(2) Before a person who is appointed to be a District Court judge, an acting District Court judge, an auxiliary District Court judge,

or a commissioner of the Court, performs any function of the office, he or she shall take before the Governor, a Supreme Court judge, or some person authorised for the purpose by the Governor, an oath or affirmation in the form set out in Schedule 1.

[Section 11 amended: No. 7 of 1982 s. 9; No. 23 of 1997 s. 5; No. 65 of 2003 s. 125(4); No. 24 of 2005 s. 18.]

12. Salaries and allowances

(1) Subject to subsections (3) and (3a), there shall be paid to the District Court judges out of the Consolidated Account, without further appropriation than this Act, salaries at the following rates —

(a) to the Chief Judge at the rate of $31 320 a year;

(b) to each of the other District Court judges, at the rate of $29 150 a year,

and the appropriate rate shall not be diminished during the continuance of the commission of a District Court judge.

(2) District Court judges are entitled to such travelling and other allowances or reimbursements as the Governor may, from time to time, approve.

(3) A District Court judge who, at the time of his appointment as such, held the office of chairman of the Third Party Claims Tribunal, established but subsequently abolished under the *Motor Vehicle (Third Party Insurance) Act 1943*, shall be paid the same remuneration as is paid from time to time to a puisne judge of the Supreme Court, and shall not be paid a salary under subsection (1), but is for the purposes of section 14, deemed to be in receipt of a salary as a District Court judge payable to the District Court judge who holds the office of the Chief Judge.

(3a) There shall be paid out of the Consolidated Account by way of salary, without further appropriation than this Act, to an auxiliary District Court judge who is receiving a

non-contributory pension under the *Judges' Salaries and Pensions Act 1950* or any other Act, or under a law of the Commonwealth or of another State or a Territory, the difference between that pension and the salary payable under subsection (1)(b) to an auxiliary District Court judge, in lieu of the full amount of that salary.

(4) A District Court judge who is appointed to act in the office of Chief Judge under section 18(2a) shall be entitled, for so long as his appointment to act as Chief Judge remains in force, to be remunerated and to receive other allowances and reimbursements as if he had been appointed substantively to the office of Chief Judge under section 10(4).

[Section 12 amended: No. 14 of 1970 s. 5; No. 100 of 1970 s. 2; No. 40 of 1972 s. 5; No. 91 of 1972 s. 6; No. 23 of 1974 s. 5; No. 45 of 1975 s. 6; No. 7 of 1982 s. 10; No. 122 of 1984 s. 13; No. 6 of 1993 s. 11; No. 23 of 1997 s. 6; No. 77 of 2006 s. 4.]

13. Leave of absence

A District Court judge is entitled to the same leave of absence as a judge of the Supreme Court.

14. Application of *Judges' Salaries and Pensions Act 1950*

(1) The provisions of the *Judges' Salaries and Pensions Act 1950*, that relate to pensions apply, with such modifications as circumstances require, to each District Court judge and to a surviving spouse, de facto partner or child of a District Court judge after the judge's death in the same manner as they apply to and in respect of a judge of the Supreme Court appointed as such after the coming into operation of that Act, and to a surviving spouse, de facto partner or child of a Supreme Court judge, and for the purpose the term "judge" in that Act includes a District Court judge.

[(2) deleted]

[Section 14 amended: No. 82 of 1987 s. 8; No. 28 of 2003 s. 46.]

15. Application of *Superannuation and Family Benefits Act 1938*

(1) If a person is a contributor within the meaning of the *Superannuation and Family Benefits Act 1938* [1], at the time he is appointed a District Court judge, he may continue to be such a contributor notwithstanding his appointment as a District Court judge.

(2) While a person to whom subsection (1) applies, continues to be a contributor under the *Superannuation and Family Benefits Act 1938* [1], that Act applies to the person; and if he ceases to be a contributor —

(a) on or after he attains the age of 60 years but before he attains the age of 65 years he shall be deemed to have elected to retire; or

(b) on attaining 65 years he shall be deemed to have retired,

under that Act on the day he so ceases to be a contributor and a pension is payable to, and in relation to, him without affecting any pension that may be payable to, and in relation to him, under the *Judges' Salaries and Pensions Act 1950*, but the pension otherwise payable under that Act to and in relation to him, shall be reduced in accordance with the provisions of that Act by the amount of the State share of the first mentioned pension paid to and in relation to him.

[Section 15 amended: No. 100 of 1970 s. 3.]

16. Application of *Judges' Retirement Act 1937*

The provisions of the *Judges' Retirement Act 1937*, apply to a District Court judge in the same manner as they apply to a judge of the Supreme Court appointed as such after the coming into operation of that Act.

17. Judge not to practise as legal practitioner

(1) A District Court judge shall not practise as a legal practitioner, or be directly or indirectly concerned in such practice.

[(2) deleted]

[Section 17 amended: No. 14 of 1970 s. 6; No. 40 of 1972 s. 6; No. 65 of 2003 s. 32(3).]

18. Acting appointments

(1) Where the Chief Judge is absent from duty or there is a vacancy in the office of Chief Judge, then where no District Court judge is specifically appointed under subsection (2a) to act in the office of Chief Judge, all the duties and powers of the Chief Judge shall during such absence or vacancy devolve upon the senior District Court judge.

(2) In the absence or inability of the District Court judge upon whom the powers and duties of the Chief Judge devolve under subsection (1), those powers and duties shall devolve during such absence or inability upon the District Court judge who is next in seniority.

(2a) Where the Chief Judge is, or is expected to be, absent from duty or there is a vacancy in the office of Chief Judge, the Governor may appoint a District Court judge to act in the office of Chief Judge for such period as the Governor thinks fit and specifies in the instrument of appointment.

(2b) The Governor may at any time revoke the appointment of a District Court judge to act as Chief Judge.

(3) Where —

(a) a District Court judge including the Chief Judge is, or is expected to be, absent from duty, the Governor may appoint a person qualified to be appointed a District Court judge, to act as a District Court judge during the absence from duty of the first mentioned judge or until

he completes the trial or hearing of any cause or matter that he had entered upon and not completed before that judge returns to duty, whichever is the later; or

(aa) there is a vacancy in the office of a District Court judge, the Governor may appoint a person qualified to be appointed a District Court judge to act as a District Court judge until the filling of that vacancy or until that person completes the trial or hearing of any cause or matter that he or she had entered upon and not completed before the filling of that vacancy, whichever is the later; or

(b) for any reason the conduct of the business of the Court, in the opinion of the Governor, requires such an appointment to be made, the Governor may appoint a person so qualified to act as a District Court judge for such period as the Governor thinks fit and specifies in the instrument of appointment.

(4) A person appointed to be an acting District Court judge under subsection (3) —

(a) has the same powers and may exercise the same jurisdiction as a District Court judge; and

(b) is liable to be removed from office while so acting in the same manner and upon the same grounds as a District Court judge is liable to be removed from office.

[Section 18 amended: No. 7 of 1982 s. 11; No. 122 of 1984 s. 13; No. 23 of 1997 s. 7.]

18A. Auxiliary appointments

(1) When for any reason the conduct of the business of the Court requires, in the opinion of the Governor, the appointment of an auxiliary District Court judge, the Governor may by commission under the Public Seal of the State appoint a person —

(a) who would, but for the fact that he or she has attained the age referred to in section 3 of the *Judges' Retirement Act 1937*, be qualified to be appointed a District Court judge; or

(b) who is a retired judge of the Supreme Court or a retired District Court judge but has not yet attained that age,

to be an auxiliary District Court judge for such period not exceeding 12 months as is specified in that commission.

(2) The appointment of an auxiliary District Court judge under subsection (1) authorises him or her to complete the hearing and determination of any proceedings that may be pending before him or her at the expiry of —

(a) the period of his or her appointment; or

(b) any period of extension referred to in subsection (3),

so that he or she holds an appointment as an auxiliary District Court judge during any further period while he or she is completing that hearing and determination.

(3) An appointment made under subsection (1) may be extended by the Governor by commission under the Public Seal of the State for a further period or periods, but that appointment can only be extended on any one occasion for such period not exceeding 12 months as is specified in the relevant commission.

(4) A person appointed to be an auxiliary District Court judge under subsection (1) —

(a) has the same powers and may exercise the same jurisdiction as a District Court judge; and

(b) is liable to be removed from office while so appointed in the same manner and upon the same grounds as a District Court judge is liable to be removed from office.

(5) In subsection (1)(b), the reference to a retired judge of the Supreme Court or a retired District Court judge includes a reference to a person who has resigned from his or her office as —

(a) a judge of the Supreme Court; or

(b) a District Court judge.

[Section 18A inserted: No. 23 of 1997 s. 8; amended: No. 65 of 2003 s. 125(5) and (6).]

Division 3 — Sittings of the Court

19. Places and times

(1) The Court shall be held at Perth in the State and such other places in the State as the Governor may, from time to time, by proclamation determine.

(2) The Governor may, by subsequent proclamation, cancel or alter a place so determined for the holding of the Court.

(3) A District Court judge nominated by the Chief Judge shall attend and hold the Court at any place at which the Governor so determines that the Court be held, on such days and at such times as the Chief Judge, from time to time, appoints.

(3a) There shall be a registry of the Court at each place where the Court is held and the principal registry shall be at Perth.

(4) Notice of the days on which and the times at which the Court is to be held at any place shall be published in the *Government Gazette*, and the notice shall be exhibited in a conspicuous place in the court house and in the registry of the Court at the place where the Court is to be held, and no other notice thereof is required, unless a District Court judge otherwise directs.

(5) The Chief Judge may, from time to time, alter the days and times for the holding of the Court at any place and when any such day is so altered, notice of the intended alteration and the time it is to take effect, shall be exhibited in a conspicuous place in the court house at that place and in the registry of the Court at that place.

(6) When the District Court judge who is to hold the Court does not attend at the time appointed for any sitting thereof a registrar thereof may open the Court and adjourn it to the following day or such other day or the next sitting of the Court as he is directed by a District Court judge.

(7) Notwithstanding the provisions of subsections (1) to (6) inclusive, the Court and District Court judges may sit and act at any time and at any place, for the transaction of any part of the business of the Court or a District Court judge, or for the discharge of any duty which by any statute or otherwise is required to be discharged.

(8) Where a sitting of the Court is to be held at a place other than Perth, a registrar of the Court at the place shall deliver or cause to be delivered to the District Court judge on the first day of the sittings a calendar of all prisoners in custody for trial or sentence at that sitting (wherever the prisoners are confined) and shall bring up or cause to be brought up every such prisoner to the Court, there to be dealt with according to law.

[Section 19 amended: No. 58 of 1975 s. 3; No. 122 of 1984 s. 13; No. 53 of 1992 s. 9(3).]

20. Chief Judge may direct where judges to sit and may direct 2 or more judges to sit concurrently

The Chief Judge may direct a District Court judge to sit at any place where sittings of the Court are held under this Act, and if it appears to the Chief Judge to be desirable for the more speedy disposal of business, that 2 or more District Court judges should hold sittings of the Court or sit in chambers concurrently for the disposal of business at the same place, the Chief Judge may direct those judges accordingly.

[Section 20 amended: No. 122 of 1984 s. 13.]

21. Sitting in chambers

A District Court judge may sit in chambers at any time and at any place and, subject to the rules of court, may exercise in chambers any jurisdiction of the Court except the trial of causes and the hearing of applications for new trials.

22. Records to be moved on discontinuance of a place where Court is held

When the holding of the Court at any place is discontinued pursuant to section 19, the Governor may, by notice published in the *Government Gazette*, direct the books and other records of the Court at that place, to be removed to such other place at which the Court is held, as is specified in the notice.

23. Members of the Police Force to attend the Court

Members of the Police Force of the State shall when required attend at the Court sitting at a place where those members are stationed, and shall obey and execute in all cases each lawful writ, summons, warrant, execution, order and command of a District Court judge presiding at that Court.

Division 4 — Commissioners

24. Appointment and jurisdiction of commissioners

(1) The Governor may, by general or special commission under the Public Seal of the State, assign to a person qualified to be appointed a District Court judge under section 10, or to a magistrate the duty of hearing and determining at any place where a sitting of the Court is to be held, any causes or matters, on any questions or issues of fact or of law or partly of the one and partly of the other in any cause or matter, depending in the Court, in the exercise of any civil or criminal jurisdiction capable of being exercised by a District Court judge.

(2) A person to whom a commission is given under this section has, while the commission is in force, all the powers, rights and privileges that are conferred on a District Court judge by or under this Act, and the commission has effect as if its terms as they exist from time to time were enacted in this Act.

(3) The Governor may, at any time, annul, vary or amend any commission given by him under this section.

[Section 24 amended: No. 57 of 1997 s. 48(3); No. 27 of 2000 s. 4; No. 65 of 2003 s. 125(7); No. 59 of 2004 s. 85.]

Division 5 — Registrars

[Heading inserted: No. 59 of 2004 s. 85.]

25. Appointment of registrars and other officers

(1) The Governor may appoint a Principal Registrar and such registrars, deputy registrars and other officers as may be required for the conduct of the business of the Court throughout the State, and all such officers shall severally hold office under and subject to, the provisions of Part 3 of the *Public Sector Management Act 1994*.

[(2) deleted]

[Section 25 amended: No. 40 of 1972 s. 7; No. 53 of 1992 s. 9; No. 32 of 1994 s. 3(2).]

26. Registrar's functions and evidentiary provision

(1) The functions of a registrar are as set out in this Act and in the rules of court.

(2) Any entry in the register or any book of the Court held at any place or a copy thereof, bearing the seal of the Court and signed and certified as a true copy by the registrar of the Court at that place, shall be admitted in all courts and by persons acting judicially as evidence of that entry and of the proceedings referred to by that entry and of the regularity of the proceedings, without further proof and no record of any writ, summons, verdict, judgment, order or decree other than the entry is necessary.

[Section 26 amended: No. 14 of 1970 s. 7; No. 98 of 1985 s. 3; No. 53 of 1992 s. 9(3).]

27. Registrar may administer oaths etc.

(1) Every registrar may take and administer affidavits, depositions, declarations, oaths and affirmations in relation to any action, cause or matter.

[(2) deleted]

(3) Section 174 of the *Supreme Court Act 1935*, apply to the Court, a judge thereof or officer of the Court as they apply to the Supreme Court, a judge thereof or officer of that Court.

[Section 27 amended: No. 24 of 2005 s. 19.]

27A. Employment of personal staff for judges

(1) On the recommendation of the Chief Judge, the Attorney General may employ, under contracts of service, people to be associates, orderlies and other assistants to the District Court judges.

(2) The *Public Sector Management Act 1994* does not apply to or in respect of the employment of a person under subsection (1).

(3) An arrangement under section 66 of the *Public Sector Management Act 1994* may be entered into between an employing authority and the Attorney General under which a public service officer performs the functions, services or duties of an associate, orderly, or other assistant to a District Court judge.

[Section 27A inserted: No. 27 of 2000 s. 5.]

*[**28-35.** Deleted: No. 59 of 2004 s. 85.]*

36. Indemnity to persons acting under this Act

If an action is brought against a person for anything done under a writ or other process issued in pursuance of this Act, the production of the writ or other process under the seal of the Court in the action, is sufficient proof of the authority of the Court prior to the issuing of the writ or other process, and if the plaintiff in the action has a verdict given against him, is non suited or discontinues the action, the defendant shall be allowed full costs as between solicitor and client.

37. Limitation period for actions that contravene this Act

Subject to the *Limitation Act 2005* (except section 12 of that Act), an action or prosecution shall not be commenced against a person for anything done, or omitted to be done, in pursuance of, or in contravention of, this Act, unless it is commenced within 12 months after the thing was done or omitted to be done, and this section has effect subject to Part 3 of the *Limitation Act 2005*.

[Section 37 amended: No. 20 of 2005 s. 10(1).]

*[**38.** Deleted: No. 59 of 2004 s. 85.]*

Division 6 — Representation in the Court

39. Who may appear

(1) A party to an action, cause or other proceeding may appear before the Court in person or by a legal practitioner or by any person allowed by special leave of the presiding District Court judge, in any case.

(2) A person who is not such a certificated practitioner is not entitled to claim or recover or receive directly or indirectly a sum of money or other remuneration for appearing or acting on behalf of another person in the Court.

[Section 39 amended: No. 65 of 2003 s. 32(4); No. 21 of 2008 s. 660(5).]

40. Legal practitioners to have no privilege

No privilege shall be allowed to any legal practitioner to exempt him from the provisions of this Act.

[Section 40 amended: No. 65 of 2003 s. 32(5).]

Division 7 — Jurors

41. Application of *Juries Act 1957*

(1) The persons qualified and liable to serve as jurors at civil and criminal trials and for the assessment of damages respectively under the *Juries Act 1957* are the persons qualified and liable to act as jurors in the Court.

(2) Where the Court is sitting at Perth, the jury books or lists made under the *Juries Act 1957*, for the Supreme Court shall be the jury books or lists for the Court and the provisions of that Act apply to the Court as though it were the Supreme Court.

(3) Where the Court is sitting at a place other than Perth, the jury books or lists made under the *Juries Act 1957* for a Circuit Court, within the meaning of that Act, at that place shall be the jury books or lists for the Court and the provisions of that act apply to the Court as though it were a Circuit Court.

[(4) deleted]

(5) Subject to this Act, the provisions of the *Juries Act 1957* apply in respect of the Court, a District Court judge and any criminal or other trial within the meaning of that Act held in the Court as they apply in respect of the Supreme Court and a judge thereof and any such trial held in the Supreme Court and without limiting the generality of the foregoing, the provisions of that Act relating to the constitution and procuring of juries, the summoning and challenging of jurors, the discharge of juries and the verdicts of juries, extend and apply to the constituting and procuring of juries, the summoning and challenging of jurors, the discharge of juries and the verdicts of juries in the Court.

(6) Where a sitting of the Supreme Court and of the Court coincide wholly or in part at the same place, a jury precept may be issued for summoning jurors to attend both those sittings.

[Section 41 amended: No. 14 of 1970 s. 8; No. 58 of 1975 s. 4; No. 53 of 1992 s. 9(3).]

Part III — Jurisdiction of the Court

Division 1 — Criminal jurisdiction and procedure

42. Criminal jurisdiction

(1) Except as provided in subsection (2), the Court has all the jurisdiction and powers that the Supreme Court has in respect of any indictable offence.

(2) The Court does not have jurisdiction to try an accused person charged with an indictable offence that is —

(a) a crime under *The Criminal Code* section 279, 280, 283, 288 or 290; or

(b) an offence, or offence of a class, prescribed in the regulations.

(3) The jurisdiction conferred on the Court by subsection (1) does not limit or diminish the jurisdiction of the Supreme Court as a Court of criminal jurisdiction.

[Section 42 amended: No. 118 of 1981 s. 8; No. 52 of 1984 s. 49; No. 74 of 1985 s. 21; No. 14 of 1992 s. 6(8); No. 53 of 1992 s. 10; No. 36 of 1996 s. 32(1); No. 29 of 2008 s. 31; No. 3 of 2017 s. 9; No. 28 of 2018 s. 4.]

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.

[Section 43 inserted: No. 84 of 2004 s. 34.]

44. Practice and procedure to be same as Supreme Court

In all respects, except as expressly provided by or under this Act, the practice and procedure of the Court as a Court of criminal jurisdiction shall be the same as the practice and procedure of the Supreme Court in like matters.

45. Change of trial from or to Supreme Court

(1) When a person has been committed for trial or sentence to the Supreme Court or an indictment has been presented against a person in that court for an offence triable in the Court, any District Court judge, if so requested by the Chief Justice of Western Australia, may try or sentence such person, and for that purpose the District Court judge has the same powers and may exercise the same jurisdiction as if the committal had been to, or the indictment had been presented in, the Court.

(2) A request of the Chief Justice of Western Australia made under subsection (1) may be made in respect of a particular case or cases or in respect of a specified class or classes thereof.

(3) When a person has been ordered or is deemed to have been ordered to be committed to take his trial for an indictable offence before the Court or an indictment has been presented against a person in the Court, a judge of the Supreme Court has the same powers and may exercise the same jurisdiction to try

such person as if the committal had been to, or the indictment presented in, the Supreme Court.

*[**46-49.** Deleted: No. 84 of 2004 s. 35.]*

Division 2 — Civil jurisdiction

50. Civil jurisdiction

(1) Subject to section 51 the Court has the same jurisdiction to hear and determine and may exercise all the powers and authority that the Supreme Court has and may exercise from time to time, in relation to —

(a) all personal actions, other than those of the kind referred to in subsection (2), where the amount, value or damages sought to be recovered is not more than the jurisdictional limit, whether on the original claim or demand or a balance after allowing payment on account, or the amount of any set off admitted by the plaintiff;

(aa) an action brought claiming an indemnity where the action arises from or relates to another action that is before the Court or that has been heard and determined by the Court;

(b) an action brought to recover a sum of not more than the jurisdictional limit which is the whole or part of the unliquidated balance of a partnership account, including in any such action jurisdiction, powers and authority relating to declaration of partnership or dissolution of partnership;

(ba) an action brought to recover a sum of not more than the jurisdictional limit which is the amount or part of the amount of the distributive share under an intestacy or of a legacy under a will;

(bb) an action for specific performance of or for the rectifying, delivering up, or cancelling of any agreement whatever, where the amount in dispute or the value of

the property affected is not more than the jurisdictional limit;

(c) an action of replevin where the value of the goods seized is not more than the jurisdictional limit;

(d) an action of ejectment to recover possession of any land, where the value of the land does not exceed one half of the jurisdictional limit by the year or where the rent exclusive of ground rent, if any, payable in respect of the land does not exceed one half of the jurisdictional limit by the year;

(e) any action, whether commenced in the Court or the Supreme Court, in which the amount, value or damages sought to be recovered exceeds the jurisdictional limit in which the parties thereto agree by a memorandum signed by them or by their respective solicitors, that the Court has power to hear and determine;

(f) all other actions or matters in respect of which jurisdiction is given to the Court by or under this or any other Act.

(1a) A sum of money referred to in subsection (1) does not include any interest which may be payable in the particular action.

(2) The Court has the same jurisdiction to hear and determine, and may exercise all the powers and authority, that the Supreme Court has and may exercise from time to time in relation to all personal actions making a claim for damages in respect of the death of or bodily injury to a person and in relation to all proceedings arising with respect to those personal actions under the *Law Reform (Contributory Negligence and Tortfeasors' Contribution) Act 1947*.

[Section 50 amended: No. 14 of 1970 s. 10; No. 40 of 1972 s. 8; No. 69 of 1976 s. 5; No. 118 of 1981 s. 9; No. 122 of 1984 s. 8; No. 53 of 1992 s. 11(1) and 12; No. 59 of 2004 s. 82(2).]

51. Verdict or judgment for amount over the jurisdictional limit

(1) Where at a trial of any cause in the Court a verdict is returned for or a judgment is given for or the total amount that would have been recoverable if the claimant had not been at fault is found at an amount in excess of the jurisdictional limit, the Court shall find and record the amount of the verdict or judgment or, as the case may be, such total amount and the claimant is entitled to recover the full amount of the verdict or judgment, or as the case may be, of such total amount reduced in accordance with the *Law Reform (Contributory Negligence and Tortfeasors' Contribution) Act 1947*, notwithstanding that the amount claimed does not exceed the jurisdictional limit.

(2) Subsection (1) does not apply to or in relation to a trial of any personal action of the kind referred to in section 50(2).

[Section 51 amended: No. 40 of 1972 s. 9; No. 69 of 1976 s. 6; No. 118 of 1981 s. 10; No. 122 of 1984 s. 9; No. 53 of 1992 s. 11(2); No. 59 of 2004 s. 82(3).]

52. Practice and procedure to be same as Supreme Court

In all respects, except as expressly provided by or under this Act, the practice and procedure of the Court as a court of civil jurisdiction including the trial of certain cases with or without a jury, shall be the same as the practice and procedure of the Supreme Court in like matters.

53. Powers and authorities of judges, registrars and other officers

(1) Without affecting the generality of the foregoing provisions of this Act, in all actions, matters and causes within the jurisdiction of the Court, a District Court judge has for the purposes of this Act, in addition to the powers and authorities conferred upon him by this Act, all the powers and authorities of a judge of the Supreme Court; and in all such actions, matters or causes, a registrar who is or has been a legal practitioner has, and is

deemed to have always had, for the purposes of this Act, in addition to the powers and authorities conferred upon him by this Act, all the powers and authorities of the master and the registrar of the Supreme Court; and every registrar or other officer of the Court shall in all such actions, matters or causes, discharge any duties that a corresponding officer of the Supreme Court has authority to discharge, either under the order of a judge of the Supreme Court or under the practice of that Court, and all officers of the Court in discharging those duties, shall conform to the rules of court.

(2) If any question arises as to the amount or value under any of the sections of this Act in relation to the jurisdiction of the Court, the decision of the District Court judge therein shall be conclusive.

[Section 53 amended: No. 40 of 1972 s. 10; No. 53 of 1992 s. 9(3); No. 65 of 2003 s. 32(6); No. 59 of 2004 s. 85.]

54. Absconding debtors, jurisdiction over

A District Court judge may, as to any matter within his jurisdiction, exercise all the powers possessed by a judge of the Supreme Court with respect to the arrest and holding of defendants in actions for the recovery of money or damages and the provisions of sections 63 to 68, inclusive, of the *Supreme Court Act 1935*, apply, with such modifications as circumstances require, to the Court, a District Court judge and the officers of the Court.

55. Court has powers of Supreme Court

The Court or a District Court judge has, as regards any action or matter within its or his jurisdiction for the time being, power —

(a) to grant, and shall grant, in the action or matter such relief, redress or remedy, or combination of remedies, either absolute or conditional; and

(b) to make any order that could be made in regard to any action or matter, and shall in each such action or matter give such and the like effect to every ground of defence or counterclaim equitable or legal,

in a full and ample manner as might and ought to be done in the like case by the Supreme Court or a judge thereof.

*[**56.** Deleted: No. 59 of 2004 s. 85.]*

57. Rules of law and equity applicable to the Court

(1) The several rules of law and equity enacted and declared by the *Supreme Court Act 1935*, shall, unless express provision is otherwise made in this Act, be in force and take effect in the Court, as far as the matters to which those rules relate are respectively cognizable by the Court.

(2) Without affecting the generality of subsection (1), but subject to the express provisions of any other Act, in every action or matter commenced in the Court, law and equity shall be administered according to the provisions of section 25 of the *Supreme Court Act 1935* as though that section were enacted in this Act and in terms made applicable to the Court.

58. Defences or counterclaims in the Court and transfers from the Court

(1) Where in an action before the Court any defence or counterclaim of the defendant involves matters beyond the jurisdiction of the Court, that defence or counterclaim does not affect the competence of the Court to dispose of the whole matter in controversy, so far as it relates to the demand of the plaintiff and the defence thereto, but no relief exceeding that which the Court has jurisdiction to administer shall, subject to section 51, be given to the defendant upon that counter claim.

(2) In any action to which subsection (1) applies a judge of the Supreme Court may, if he thinks fit, on the application of any

party, order on such terms and conditions as he thinks fit, that the whole action be transferred to the Supreme Court.

59. Splitting demands, abandonment of excess

(1) A plaintiff shall not divide a cause of action for the purpose of bringing 2 or more actions in the Court.

(2) A plaintiff who has a cause of action for more than the amount for which a writ of summons may be issued under this Act, may abandon the excess by stating the amount abandoned in the writ.

(3) Where the plaintiff so abandons the excess he may, on proving his case, recover to an amount not exceeding the limit specified by this Act and the judgment of the Court in the action shall be in full discharge of all demands in respect of the cause of action and entry of that judgment shall be made accordingly.

60. Suing on separate security a separate cause of action

Where a defendant has given 2 or more bills of exchange, promissory notes, bonds or other securities, for a debt or sum originally exceeding the jurisdictional limit, the plaintiff may sue separately upon each of those securities not exceeding the jurisdictional limit, as forming a separate cause of action.

[Section 60 amended: No. 40 of 1972 s. 12; No. 69 of 1976 s. 7; No. 118 of 1981 s. 11; No. 122 of 1984 s. 10; No. 53 of 1992 s. 11(3); No. 59 of 2004 s. 82(4).]

61. Facts establishing jurisdiction need not be stated

It is not necessary in any case that the facts necessary to give jurisdiction should appear by recital, averment or otherwise upon any proceeding in or issuing out of the Court.

*[**62.** Deleted: No. 59 of 2004 s. 85.]*

63. Contempt

(1) If a person —

(a) wilfully insults a District Court judge, any juror, any registrar, the sheriff, clerk or officer of the Court during

his sitting or attendance in Court or any District Court judge in going to or returning from the Court; or

(b) wilfully interrupts proceedings of the Court; or

(c) having been duly summoned to appear before the Court and having been paid or tendered a reasonable sum for travelling expenses and subsistence, refuses or neglects without sufficient cause to appear or to produce any books, deeds, papers or writings required by a summons to be produced; or

(d) being summoned or examined as a witness in any cause or matter or being present in the Court and required to give evidence, refuses to be sworn or answer any lawful questions; or

(e) is, in the opinion of the District Court judge before whom the person is appearing as a witness, guilty of wilful prevarication; or

(f) misbehaves in the Court,

the District Court judge concerned or, where any of the above acts or omissions are committed before or in respect of a registrar, or in respect of the sheriff, a clerk or officer of the Court, the Chief Judge may direct the apprehension of the person and if he thinks fit may by warrant under his hand and sealed with the seal of the Court commit the person to imprisonment for a term not exceeding 5 years, or may impose on the person a fine not exceeding $50 000, or may so commit the person and impose such a fine, or in default of immediate payment of the fine imposed may commit the person to imprisonment —

(a) until the fine is paid; or

(b) for a term not exceeding 5 years,

whichever may be the shorter period.

(2) A fine or commitment under this section does not exempt a person from obeying any summons to appear before the Court or to produce therein any books, deeds, papers or writings.

[Section 63 amended: No. 71 of 1986 s. 4; No. 53 of 1992 s. 13; No. 59 of 2004 s. 85.]

Part IV — Costs

64. Costs of action or proceeding

(1) Except as hereinafter provided in this Act, the costs of any action or proceeding shall be in accordance with any costs determination and shall be paid by or apportioned between the parties in such manner as the District Court judge directs and in default of such a direction shall abide the event.

(2) The costs may be recovered in like manner as a debt adjudged by the Court to be paid.

(3) Subject to this Act, a District Court judge has the same power in relation to the payment of costs by any party as a judge of the Supreme Court has.

[Section 64 amended: No. 65 of 1987 s. 24; No. 65 of 2003 s. 32(7); No. 21 of 2008 s. 660(6); No. 9 of 2022 s. 353.]

65. Costs where the Court has no jurisdiction

Where an action or matter is brought in the Court over which the Court has no jurisdiction, the District Court judge shall order the action or matter to be struck out, and the Court has power to award costs to the same extent, and recoverable in the same manner, as if the Court had jurisdiction therein and the plaintiff had not appeared in Court or had so appeared and failed to prove his demand or claim.

66. Solicitor and client costs, witness expenses

The fees to be allowed to legal practitioners for appearing or acting on behalf of a party to an action or other proceeding shall be in accordance with any costs determination, and the expenses to be paid to witnesses shall be according to the scale, for the time being in force, in the Supreme Court.

[Section 66 amended: No. 65 of 1987 s. 25; No. 65 of 2003 s. 32(8); No. 21 of 2008 s. 660(7); No. 9 of 2022 s. 354.]

67. Costs, taxation of

(1) Except as hereinafter provided in this Act and subject to the rules of court, all costs and charges as between the parties shall be taxed by a registrar at Perth or at the place where the action or matter to which they relate was tried or heard, but the taxation by a registrar may be reviewed by a District Court judge on the application of either party.

(2) No costs or charges shall be allowed that are not sanctioned by the scale of costs in force, for the time being, in the Supreme Court.

[Section 67 amended: No. 40 of 1972 s. 13; No. 53 of 1992 s. 9(3).]

68. Solicitor and client costs to be taxed in Supreme Court

Costs and charges of proceedings as between solicitor and client may be taxed by the taxing officer of the Supreme Court.

Part V — Commencement of action

69. Where action to be commenced

(1) The Court has jurisdiction throughout the State.

(2) An action shall be commenced in the Court sitting at the place nearest to where —

(a) the defendant or one of 2 or more defendants, as the case may be, resides or carries on business; or

(b) the cause of action or claim arose either wholly or in some material part; or

(c) a debt or sum of money is made payable under an engagement or promise in writing given by the defendant.

70. Defendant may object to where action commenced

(1) If a person served with a writ of summons in an action fails to duly file a defence or fails to file together with the defence a notice that he claims that the action was not commenced in the Court sitting at the place prescribed in accordance with section 69, the action shall be deemed to have commenced in the Court at the place so prescribed.

(2) Where a notice referred to in subsection (1) is so filed, a District Court judge may upon application in chambers determine whether the action was commenced as prescribed in that subsection.

(3) On the hearing of the application the District Court judge may make such order as he thinks fit.

Part VI — Remitting and transferring actions and matters

71. Transfer to different place

Where an action or matter is commenced in the Court sitting at a place that should have been commenced in the Court sitting at another place, the Court or a District Court judge may order its removal to be tried or heard by the Court sitting at that other place, or may so order that the action or matter be tried or heard in the Court sitting at the place in which it has been commenced.

72. Judge may change venue

Where a District Court judge is satisfied that an action which is listed to be heard in the Court sitting at a place can be more conveniently or fairly tried in the Court sitting at another place, he may order, on such terms and conditions as he thinks fit, the action to be sent for trial to the Court sitting at that other place.

*[**73.** Deleted: No. 59 of 2004 s. 85.]*

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; or

(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; and

(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.

[Section 74 inserted: No. 59 of 2004 s. 83.]

*[**75.** Deleted: No. 59 of 2004 s. 85.]*

76. Supreme Court may remit District Court action to Supreme Court

A judge of the Supreme Court may, upon the application of any of the parties to an action or matter brought in the Court, if he thinks fit, order that the action or matter be tried or heard in the Supreme Court sitting at such place as is specified in the order.

77. District Court may remit to Supreme Court

Where it appears to a District Court judge that any action or matter brought before the Court ought from its nature, or magnitude, or by reason of the question of law involved to be

heard and determined by the Supreme Court, he may make an order, remitting the action or matter to the Supreme Court.

78. Proceedings after order to remit

Upon an order being made under this Act remitting any action or matter from one court to another court —

(a) the action or matter shall be carried on, heard and taken in the court to which the action or matter is so remitted, at the place specified in the order, and as if the action or matter had been originally brought in that court;

(b) the appropriate officer of the court from which the action or matter is remitted shall transmit to the appropriate officer of the court to which the action or matter is remitted, a copy of the order together with a copy of the writ or other document by which the matter was commenced and of the pleadings and all other documents filed in the first-mentioned court in the action or matter;

(c) the order may include such terms and conditions, including the payment of costs by any party, as the court or the judge making the order, thinks fit.

Part VII — Appeals, certiorari, prohibition and mandamus

79. Appeal to the Court of Appeal

(1) A party to an action or matter who is dissatisfied with —

(a) a final judgment, may appeal from that judgment to the Court of Appeal;

(b) a judgment that is not a final judgment or an order remitting any action or matter from one court to another, may by leave of the Court of Appeal, appeal to the Court of Appeal,

notwithstanding that the action or matter to which the final judgment or judgment relates may have been brought in the Court by consent as provided in this Act.

(1a) Notwithstanding anything in this section, an appeal to the Court of Appeal in respect of a judgment, order or determination in proceedings in the Court under the *Commercial Arbitration Act 2012* may be made only by leave of the Court of Appeal.

(2) An appeal under this section shall be made in the same way as an appeal from a judgment or order of the Supreme Court or a judge thereof, may be made to the Court of Appeal, and in all respects the practice and procedure of the Court of Appeal in the appeal shall be the same as though the appeal were an appeal to the Court of Appeal from a judgment or order of the Supreme Court or a judge thereof.

(3) The Court of Appeal has jurisdiction to hear and determine the appeal accordingly.

(4) Nothing in this section authorises a party to appeal to the Court of Appeal against a decision of the Court —

(a) given upon a question as to the value of any real or personal property for the purpose of determining the jurisdiction of the Court under this Act; or

(b) on the ground that the proceedings might or should have been taken at any other place where the Court was sitting.

[Section 79 amended: No. 109 of 1985 s. 3; No. 45 of 2004 s. 32(2)-(4); No. 23 of 2012 s. 45.]

80. Appeals, etc. to be only as provided by this Act

No judgment or order of a District Court judge, nor any proceedings brought before him or pending in the Court, shall be removed by appeal, motion, certiorari or otherwise into any other court, except in the manner and according to the provisions of this Act.

81. Certiorari may issue, procedure

(1) The Supreme Court, or a judge thereof, may order the removal into the Supreme Court, by writ of certiorari, of any cause, matter or proceeding pending in the Court, if the Supreme Court or a judge thereof thinks it desirable that the cause, matter or proceeding should be tried in the Supreme Court.

(2) When any cause, matter or proceeding is so removed into the Supreme Court, the provisions of section 78 apply, as if the cause had been remitted to the Supreme Court under section 76.

82. Stay of proceedings may be ordered in certiorari or prohibition proceedings

(1) The granting by the Supreme Court, or a judge thereof, of a rule or summons to show cause why a writ of certiorari or of prohibition should not issue to the Court shall, if the Supreme Court or a judge thereof so directs, operate as a stay of proceedings in the cause or matter to which such writ relates, until —

(a) the determination of the rule or summons; or

(b) the Supreme Court or the judge thereof otherwise orders,

and the judge of the Court concerned shall from time to time adjourn the hearing of the cause or matter to such day as he thinks fit, until the determination or such order is made.

(2) Where a copy of the rule or summons referred to in subsection (1) is not served by the party who obtained it on the other party or parties to the cause or matter and on the appropriate registrar of the District Court, at least 3 days before the date fixed for the hearing of the cause or matter, the judge of the District Court may order the party who obtained the rule or summons to pay the costs of the day, or so much thereof as he thinks fit, unless the Supreme Court or a judge thereof has made some other order respecting the costs.

83. Prohibition proceedings, procedure

(1) When an application is made to the Supreme Court or a judge thereof for a writ of prohibition addressed to a District Court judge or the Court, the District Court judge —

(a) shall not be served with notice; and

(b) shall not, except by order of a judge of the Supreme Court, be required to appear or be heard on the application; and

(c) shall not be liable to any order for the payment of costs thereof,

but the application shall be proceeded with and heard in the same manner in all respects as a case of an appeal duly brought from a judgment of a District Court judge.

(2) Notice of the application referred to in subsection (1) shall be given to or served upon the same parties as in the case of an appeal against a judgment or an order made or refused by a District Court judge in a matter within his jurisdiction.

84. Order in lieu of mandamus

(1) No writ of mandamus shall issue to a District Court judge or any officer of the Court for refusing to do any act relating to the duties of his office; but a party requiring the act to be done may apply to the Supreme Court or a judge thereof, upon an affidavit of the facts, for a rule or summons calling upon the District Court judge or officer of the Court, and also the party to be affected by the act, to show cause why the act should not be done.

(2) If after the service of the rule or summons referred to in subsection (1), good cause is not shown, the Supreme Court or a judge thereof may, by rule or order, direct the act to be done, and the District Court judge or the officer of the District Court, upon being served with the rule or order, shall obey it under pain of attachment.

(3) In any event the Supreme Court or a judge thereof may make such order with respect to costs as the Supreme Court or a judge thereof thinks fit.

85. Notice to be given of writ of certiorari or prohibition on ex parte application

When a writ of certiorari or of prohibition addressed to the Court is granted by the Supreme Court or a judge thereof on an ex parte application, and the party who obtained it does not lodge it with the appropriate registrar of the Court, and give notice to the other party or parties to the cause or matter to which the writ relates that it has been issued, at least 3 days before the date fixed for the hearing of the cause or matter to which the writ relates, a District Court judge or the Court may order the party who obtained the writ to pay the costs of the day, or so much thereof as he thinks fit, unless the Supreme Court or a judge thereof has made some other order respecting the costs.

Part VIII — Practice and procedure and rules of court

86. Action may be dealt with at more than one place

When any action or matter has been heard at a sitting of the Court held at any place the Court may pronounce judgment or give further hearing or consideration to the action or matter at a sitting of the Court held at another place being a place at which the Court is empowered to sit.

*[**86A.** Deleted: No. 59 of 2004 s. 85.]*

87. Rules of court to govern practice and procedure

(1) Subject to this Act, the practice and procedure of the Court shall be governed by the rules of court, and until provision is made by rules of court or where no special provision is contained in the rules of court, the rules of court of the Supreme Court for the time being in force, so far as applicable, apply to the Court.

(2) A reference in any other provision of this Act to rules of court shall, unless the context otherwise requires, be read as including a reference to the rules of the Supreme Court as applied by this section.

88. Rules of court, making, content

(1) The District Court judges, for the time being, or a majority of them, may make rules, not inconsistent with this Act —

(a) regulating and prescribing the practice and procedure, including the method of pleading, to be followed in the Court (including the practice and procedure to be followed in the offices of the Court); and

(b) regulating and prescribing all matters and things incidental or relating to any such practice and procedure (including the manner in which and the time within which, any applications that under this Act or any other Act are to be made to the Court, shall be made) or

necessary or convenient to be prescribed for the conduct of any business of the Court; and

(c) prescribing matters relating to evidence, including rules —

(i) requiring the disclosure (by the furnishing of copies of statements, reports, plans, photographs, models, or otherwise) of the nature and substance of evidence to be given; and

(ii) that depart from the law of evidence and provide for the admission as evidence and the exclusion from evidence, of any matter the disclosure of which is required by a rule made pursuant to subparagraph (i).

(2) In particular the rules of court may provide —

(a) for regulating the sittings of the Court, and of the judges thereof whether sitting in Court or in chambers;

(b) for regulating any matters relating to the costs of proceedings in the Court fixed by costs determination;

(c) for regulating the means by which particular facts may be proved, and the mode in which evidence thereof may be given, in any proceedings, or on any application in connection with, or at any stage of, any proceedings;

(d) for the service and execution of the process of the Court including the manner in which and the extent to which the process of the Court may be served out of the jurisdiction of the Court;

[(e), (f) deleted]

(g) for a registrar or any particular registrar to have power, either generally or in particular cases and under such conditions as are prescribed, to do such things, to transact such business, and to exercise such authority and jurisdiction as a judge of the Court sitting in chambers may, by virtue of a statute, custom, or rule or

practice of the Court, do, transact, or exercise, and to tax costs;

(h) for requiring and regulating pre-trial conferences in actions;

(i) for regulating the practice and procedure in relation to applications under the *Vexatious Proceedings Restriction Act 2002*.

[Section 88 amended: No. 40 of 1972 s. 14; No. 111 of 1976 s. 7; No. 65 of 1987 s. 26; No. 14 of 1991 s. 7; No. 53 of 1992 s. 9(3); No. 6 of 1993 s. 11; No. 49 of 1996 s. 64; No. 27 of 2000 s. 6; No. 23 of 2002 s. 13; No. 65 of 2003 s. 32(9); No. 59 of 2004 s. 85; No. 21 of 2008 s. 660(8); No. 9 of 2022 s. 355.]

89. Rules to be published and laid before Parliament

(1) Rules of court made under this Act —

(a) shall be published in the *Gazette*;

(b) take effect from the date of publication or from a later date to be specified in the rules;

(c) shall be laid before each House of Parliament within 6 sitting days of such House next following the publication thereof.

(2) If either House of Parliament passes a resolution, of which notice has been given at any time within 6 sitting days after the rules have been laid before it, disallowing any rule or part thereof, that rule or part thereof thereupon ceases to have effect, but without affecting the validity of any proceeding taken or of anything done thereunder in the meantime.

(3) Where a resolution to which subsection (2) refers has been passed, notice of the resolution shall be forthwith published in the *Gazette*.

89A. Regulations

(1A) The Governor may make regulations prescribing matters —

(a) required or permitted to be prescribed by this Act; or

(b) necessary or convenient to be prescribed for giving effect to this Act.

(1) Without limiting subsection (1A), the Governor may make regulations providing for or prescribing the fees to be paid —

(a) when commencing a cause or matter; and

(b) when entering a cause or matter for trial or at any other stage of proceedings in a cause or matter; and

(c) when lodging a document with the Court; and

(d) for the issue of any document by the Court; and

(e) for the service of any document; and

(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 (1A) or (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 Account.

[Section 89A inserted: No. 59 of 2004 s. 84; amended: No. 77 of 2006 s. 4; No. 28 of 2018 s. 5.]

90. Saving

(1) Nothing in this Act and, subject to subsection (2) nothing in the rules of court affects the mode of giving evidence by the oral examination of a witness in a trial with a jury, or the rules of evidence, or the law relating to jurors or juries.

(2) Nothing in this section —

(a) shall prejudice the operation of any rules of court made in pursuance of the power conferred by sections 88(1)(c) and (2)(c); or

(b) shall affect the powers of the Court for special reasons to allow depositions or affidavits to be read.

[Section 90 amended: No. 14 of 1991 s. 8.]

[Part IX deleted: No. 53 of 2000 s. 4.]

Schedule 1 — Oath and affirmation of office

[s. 11(2)]

[Heading inserted: No. 24 of 2005 s. 20.]

I, [*name*], [*insert an oath or affirmation according to the Oaths, Affidavits and Statutory Declarations Act 2005*] that I will faithfully serve the people and the State of Western Australia in the office of [*title of office*] of the District Court of Western Australia and I will do right to all manner of people, according to law, without fear or favour, affection or ill will.

[Schedule 1 inserted: No. 24 of 2005 s. 20.]

[Schedule 2 deleted: No. 36 of 1996 s. 32(2).]

Notes

This is a compilation of the *District Court of Western Australia Act 1969* and includes amendments made by other written laws. For provisions that have come into operation, and for information about any reprints, see the compilation table. For provisions that have not yet come into operation see the uncommenced provisions table.

Compilation table

Short title	Number and year	Assent	Commencement
District Court of Western Australia Act 1969	84 of 1969	17 Nov 1969	1 Apr 1970 (see s. 2 and *Gazette* 26 Mar 1970 p. 903)
District Court of Western Australia Act Amendment Act 1970	14 of 1970	29 Apr 1970	Act other than s. 3(b): 29 Apr 1970 (see s. 2(1)); s. 3(b): 18 May 1970 (see s. 2 and *Gazette* 18 May 1970 p. 1331)
District Court of Western Australia Act Amendment Act (No. 2) 1970	100 of 1970	8 Dec 1970	8 Dec 1970
District Court of Western Australia Act Amendment Act 1972	40 of 1972	16 Jun 1972	Act other than s. 3-6, 8, 9, 11 and 12: 16 Jun 1972 (see s. 2(1)); s. 3-6, 8, 9 and 12: 13 Jul 1972 (see s. 2(2) and *Gazette* 30 Jun 1972 p. 2098); s. 11: 13 Jul 1972 (see s. 2(3) and *Gazette* 30 Jun 1972 p. 2098)
Acts Amendment (Judicial Salaries and Pensions) Act 1972 Pt. II	91 of 1972	4 Dec 1972	1 Jan 1973 (see s. 2)
Reprint of the *District Court of Western Australia Act 1969* approved 9 Apr 1973 (includes amendments listed above)			
Acts Amendment (Judicial Salaries and Pensions) Act 1974 Pt. II	23 of 1974	23 Oct 1974	1 Jul 1974 (see s. 2)
Acts Amendment (Judicial Salaries and Pensions) Act 1975 Pt. II	45 of 1975	18 Sep 1975	8 Aug 1975 (see s. 2)

Short title	Number and year	Assent	Commencement
District Court of Western Australia Act Amendment Act 1975	58 of 1975	24 Oct 1975	1 Jan 1976 (see s. 2 and *Gazette* 7 Nov 1975 p. 4125)
Acts Amendment (Jurisdiction of Courts) Act 1976 Pt. I	69 of 1976	6 Oct 1976	1 Jan 1977 (see s. 2 and *Gazette* 24 Dec 1976 p. 5028)
Acts Amendment (Expert Evidence) Act 1976 Pt. III	111 of 1976	25 Nov 1976	25 Nov 1976
Acts Amendment (Supreme Court and District Court) Act 1978 Pt. III	112 of 1978	12 Dec 1978	1 Apr 1970 (see s. 2)
Reprint of the *District Court of Western Australia Act 1969* approved 5 Sep 1980 (includes amendments listed above)			
Acts Amendment (Jurisdiction of Courts) Act 1981 Pt. II	118 of 1981	14 Dec 1981	1 Feb 1982 (see s. 2 and *Gazette* 22 Jan 1982 p. 175)
Acts Amendment (Judicial Appointments) Act 1982 Pt. III	7 of 1982	6 May 1982	6 May 1982
Acts Amendment (Abolition of Capital Punishment) Act 1984 Pt. VIII	52 of 1984	5 Sep 1984	3 Oct 1984
District Court of Western Australia Amendment Act 1984	122 of 1984	27 Dec 1984	s. 1-7, 12 and 13: 24 Jan 1985 (see s. 2(1)); s. 8-11: 1 Mar 1985 (see s. 2(2) and *Gazette* 1 Mar 1985 p. 777)
Acts Amendment (Sexual Assaults) Act 1985 Pt. V	74 of 1985	20 Nov 1985	1 Apr 1986 (see s. 2 and *Gazette* 28 Feb 1986 p. 605)
Acts Amendment (Financial Administration and Audit) Act 1985 s. 3	98 of 1985	4 Dec 1985	1 Jul 1986 (see s. 2 and *Gazette* 30 Jun 1986 p. 2255)
Commercial Arbitration Act 1985 s. 3(1)	109 of 1985	7 Jan 1986	1 Apr 1986 (see s. 2 and *Gazette* 28 Feb 1986 p. 605)
Acts Amendment (Penalties for Contempt of Court) Act 1986 Pt. II	71 of 1986	4 Dec 1986	4 Dec 1986 (see s. 2)

Short title	Number and year	Assent	Commencement
Reprint of the *District Court of Western Australia Act 1969* as at 12 Feb 1987 (includes amendments listed above)			
Acts Amendment (Legal Practitioners, Costs and Taxation) Act 1987 Pt. IV	65 of 1987	1 Dec 1987	12 Feb 1988 (see s. 2(2) and *Gazette* 12 Feb 1988 p. 397)
Judges' Salaries and Pensions Amendment Act 1987 s. 8	82 of 1987	1 Dec 1987	1 Dec 1987 (see s. 2)
Supreme and District Courts (Miscellaneous Amendments) Act 1991 Pt. 3	14 of 1991	21 Jun 1991	21 Jun 1991 (see s. 2)
Acts Amendment (Sexual Offences) Act 1992 s. 6(8)	14 of 1992	17 Jun 1992	1 Aug 1992 (see s. 2 and *Gazette* 28 Jul 1992 p. 3671)
Acts Amendment (Jurisdiction and Criminal Procedure) Act 1992 Pt. 3	53 of 1992	9 Dec 1992	1 Mar 1993 (see s. 2(1) and *Gazette* 26 Jan 1993 p. 823)
Financial Administration Legislation Amendment Act 1993 s. 11	6 of 1993	27 Aug 1993	1 Jul 1993 (see s. 2(1))
Acts Amendment (Public Sector Management) Act 1994 s. 3(2)	32 of 1994	29 Jun 1994	1 Oct 1994 (see s. 2 and *Gazette* 30 Sep 1994 p. 4948)
Reprint of the *District Court of Western Australia Act 1969* as at 20 Feb 1996 (includes amendments listed above)			
Local Government (Consequential Amendments) Act 1996 s. 4	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
Criminal Law Amendment Act 1996 Pt. 3	36 of 1996	10 Oct 1996	10 Oct 1996 (see s. 2(1))
Financial Legislation Amendment Act 1996 s. 64	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
Acts Amendment (Auxiliary Judges) Act 1997 Pt. 2	23 of 1997	18 Sep 1997	18 Sep 1997 (see s. 2)
Statutes (Repeals and Minor Amendments) Act 1997 s. 48	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2(1))

Short title	Number and year	Assent	Commencement
Reprint of the *District Court of Western Australia Act 1969* as at 1 Jan 1999 (includes amendments listed above)			
Courts Legislation Amendment Act 2000 Pt. 2 (s. 3-7)	27 of 2000	6 Jul 2000	s. 3-5: 6 Jul 2000 (see s. 2(1)); s. 6 and 7: 28 Jul 2001 (see s. 2(2) and *Gazette* 27 Jul 2001 p. 3797)
State Records (Consequential Provisions) Act 2000 Pt. 3	53 of 2000	28 Nov 2000	1 Dec 2001 (see s. 2 and *Gazette* 30 Nov 2001 p. 6067)
Reprint of the *District Court of Western Australia Act 1969* as at 19 Jan 2001 (includes amendments listed above except those in the *Courts Legislation Amendment Act 2000* s. 6-7 and the *State Records (Consequential Provisions) Act 2000*)			
Vexatious Proceedings Restriction Act 2002 s. 13	23 of 2002	18 Sep 2002	28 Sep 2002 (see s. 2 and *Gazette* 27 Sep 2002 p. 4877)
Acts Amendment (Equality of Status) Act 2003 Pt. 17	28 of 2003	22 May 2003	1 Jul 2003 (see s. 2 and *Gazette* 30 Jun 2003 p. 2579)
Acts Amendment and Repeal (Courts and Legal Practice) Act 2003 s. 32, 111 and 125	65 of 2003	4 Dec 2003	1 Jan 2004 (see s. 2 and *Gazette* 30 Dec 2003 p. 5722)
Acts Amendment (Court of Appeal) Act 2004 s. 32	45 of 2004	9 Nov 2004	1 Feb 2005 (see s. 2 and *Gazette* 14 Jan 2005 p. 163)
Courts Legislation Amendment and Repeal Act 2004 Pt. 10 [2]	59 of 2004 (as amended by No. 5 of 2008 s. 24)	23 Nov 2004	1 May 2005 (see s. 2 and *Gazette* 31 Dec 2004 p. 7128)
Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004 Pt. 7	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and *Gazette* 31 Dec 2004 p. 7129 (correction by *Gazette* 7 Jan 2005 p. 53))
Reprint 7: The *District Court of Western Australia Act 1969* as at 19 Aug 2005 (includes amendments listed above)			
Limitation Legislation Amendment and Repeal Act 2005 Pt. 5 [3]	20 of 2005	15 Nov 2005	15 Nov 2005 (see s. 2)
Oaths, Affidavits and Statutory Declarations (Consequential Provisions) Act 2005 Pt. 6	24 of 2005	2 Dec 2005	1 Jan 2006 (see s. 2(1) and *Gazette* 23 Dec 2005 p. 6244)

Short title	Number and year	Assent	Commencement
Financial Legislation Amendment and Repeal Act 2006 s. 4	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and *Gazette* 19 Jan 2007 p. 137)
Legal Profession Act 2008 s. 660	21 of 2008	27 May 2008	1 Mar 2009 (see s. 2(b) and *Gazette* 27 Feb 2009 p. 511)
Criminal Law Amendment (Homicide) Act 2008 s. 31	29 of 2008	27 Jun 2008	1 Aug 2008 (see s. 2(d) and *Gazette* 22 Jul 2008 p. 3353)
Reprint 8: The *District Court of Western Australia Act 1969* as at 7 Nov 2008 (includes amendments listed above except those in the *Legal Profession Act 2008*)			
Commercial Arbitration Act 2012 s. 45 it. 5	23 of 2012	29 Aug 2012	7 Aug 2013 (see s. 1B(b) and *Gazette* 6 Aug 2013 p. 3677)
Courts and Tribunals (Electronic Processes Facilitation) Act 2013 Pt. 3 Div. 10	20 of 2013	4 Nov 2013	25 Nov 2013 (see s. 2(b) and *Gazette* 22 Nov 2013 p. 5391)
Misuse of Drugs Amendment (Methylamphetamine Offences) Act 2017 Pt. 3	3 of 2017	21 Aug 2017	18 Sep 2017 (see s. 2(b))
Reprint 9: The *District Court of Western Australia Act 1969* as at 9 Mar 2018 (includes amendments listed above)			
Court Jurisdiction Legislation Amendment Act 2018 Pt. 2	28 of 2018	2 Nov 2018	1 Jan 2019 (see s. 2(b) and *Gazette* 21 Dec 2018 p. 4845)
Legal Profession Uniform Law Application Act 2022 Pt. 17 Div. 7	9 of 2022	14 Apr 2022	1 Jul 2022 (see s. 2(c) and SL 2022/113 cl. 2)

Uncommenced provisions table

To view the text of the uncommenced provisions see *Acts as passed* on the WA legislation website.

Short title	Number and year	Assent	Commencement
State Superannuation (Transitional and Consequential Provisions) Act 2000 s. 75	43 of 2000	2 Nov 2000	To be proclaimed (see s. 2(2))

Short title	Number and year	Assent	Commencement
Evidence Act 2025 s. 492(2)	15 of 2025	25 Sep 2025	18 Sep 2027 (see s. 2(e) and SL 2026/190 cl. 2)

Other notes

1 The *Superannuation and Family Benefits Act 1938* was repealed by the *State Superannuation Act 2000* s. 39, but its provisions continue to apply to and in relation to certain schemes because of the *State Superannuation (Transitional and Consequential Provisions) Act 2000* s. 26.

2 The *Courts Legislation Amendment and Repeal Act 2004* Pt. 22 (as amended by the *Acts Amendment (Justice) Act 2008* s. 24) contains transitional provisions about enforcing judgments given before that Part commenced. Part 22 and the *Civil Judgments Enforcement Act 2004* commenced on 1 May 2005. Part 22 reads as follows:

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 any proceedings for or in connection with enforcing the judgment are pending in a court, section 145 applies;

(aa) if any enforcement process is in force in relation to the judgment, section 146 applies;

(b) otherwise, the judgment may be enforced under and subject to the *Civil Judgments Enforcement Act 2004*.

[Section 144 amended: No. 5 of 2008 s. 24.]

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 *fieri 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 *fieri 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 *fieri 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.

[3] The *Limitation Legislation Amendment and Repeal Act 2005* s. 10(2) reads as follows:

10. Section 37 amended and a savings provision

(2) The *District Court of Western Australia Act 1969* section 37, as it was immediately before commencement day, continues to apply to causes of action that accrued before commencement day as if subsection (1) had not been enacted.

Defined terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined term	Provision(s)
action	6(1)
auxiliary District Court judge	6(1)
cause	6(1)
Chief Judge	6(1)
costs determination	6(1)
Court	6(1)
defendant	6(1)
District Court judge	6(1)
judgment	6(1)
jurisdiction	6(1)
jurisdictional limit	6(1)
legal experience	6(2)
matter	6(1)
party	6(1)
plaintiff	6(1)
practice and procedure	6(1)
registrar	6(1)
section	6(1)
sheriff	6(1)

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