

Western Australia

Acts Amendment (Justice) Act 2008

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No. 5 of 2008

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Western Australia

Acts Amendment (Justice) Act 2008

(No. 5 of 2008)

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Western Australia

Acts Amendment (Justice) Act 2008

No. 5 of 2008

An Act to amend various Acts concerned with the administration of justice and for related matters.

[Assented to 31 March 2008]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary matters

1. Short title

This is the *Acts Amendment (Justice) Act 2008*.

2. Commencement

This Act comes into operation, or is deemed to have come into operation, as follows:

- (a) Part 1 — on the day on which this Act receives the Royal Assent (“**assent day**”);
- (b) section 24 — on 1 May 2005;
- (c) section 39 —
 - (i) if the *Criminal Investigation Act 2006* section 113 has not come into operation on assent day, immediately after that section comes into operation; or
 - (ii) otherwise, on the day after assent day;
- (d) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

**Part 2 — *Children's Court of Western Australia*
Act 1988 amended**

3. The Act amended in this Part

The amendments in this Part are to the *Children's Court of Western Australia Act 1988*.

4. Section 21 amended

- (1) Before section 21(2) the following subsection is inserted —

“

- (1) In this section —

“detention” has the meaning given to that term by section 3 of the *Young Offenders Act 1994*.

”.

- (2) Section 21(2) and (3) are repealed and the following subsection is inserted instead —

“

- (2) The Court when constituted by or so as to include a magistrate cannot —

- (a) sentence an offender to a term of detention longer than 12 months; or
- (b) sentence an offender who at the time of being sentenced is under 18 years of age to a term of imprisonment longer than 3 months; or
- (c) sentence an offender who at the time of being sentenced has reached 18 years of age to a term of imprisonment longer than 6 months,

for one offence, or as the aggregate of the sentences imposed on the one occasion for more than one offence.

”.

s. 05

- (3) Section 21(4)(a) is amended by deleting “be detained in a detention centre” and inserting instead —

“ detention ”.

5. Section 39A inserted

After section 39 the following section is inserted in Part 4 —

“

39A. Judgments, enforcement of

- (1) In this section —

“**judgment**” means a judgment, order, direction or decision of the Court given or made in the exercise of its non-criminal jurisdiction.

- (2) A person to whom money is to be paid under a judgment may enforce it by lodging a copy of it, certified by a registrar, and an affidavit stating to what extent it has not been complied with, with a court of competent jurisdiction.

- (3) If, or to the extent that, a judgment does not require the payment of money, a person entitled to the benefit of the judgment may enforce it by lodging a copy of it, certified by a registrar, and an affidavit stating to what extent it has not been complied with, with the Magistrates Court.

- (4) A judgment that is lodged with another court under subsection (2) or (3) is to be taken to be a judgment of the other court and may be enforced accordingly.

”.

6. Section 40 amended

Section 40(3) is amended by deleting “sentence of detention,” and inserting instead —

“ custodial sentence, ”.

Part 3 — *Civil Judgments Enforcement Act 2004* amended

7. The Act amended in this Part

The amendments in this Part are to the *Civil Judgments Enforcement Act 2004*.

8. Section 30 amended

After section 30(6) the following subsections are inserted —

“

(7) A means inquiry in the Magistrates Court may be conducted in the absence of the judgment creditor, the judgment creditor’s lawyer, and a person referred to in subsection (6), if the judgment creditor, before the inquiry, asks the court to itself examine the judgment debtor for the purposes of determining the matters listed in section 26.

(8) At a means inquiry in the Magistrates Court the court, at the request of the judgment creditor made before or at the inquiry, may itself examine the judgment debtor for the purposes of determining the matters listed in section 26.

”.

9. Section 62 amended

(1) Section 62(1) is amended by deleting “have effect” in the 2 places where it occurs and in each place inserting instead —

“ operate ”.

(2) Section 62(2) is amended as follows:

(a) in paragraph (b) by deleting “have effect” and inserting instead —

“ operate ”;

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(b) by deleting “in effect” and inserting instead —
“ in operation ”.

(3) Section 62(3) is amended by deleting “have effect” and inserting instead —
“ operate ”.

10. Section 72 amended

Section 72(4) is amended as follows:

(a) in paragraph (a) by deleting “has obtained a property (seizure and sale order) —” and inserting instead —
“
had an operative property (seizure and sale order) on the date of the sale of the property —
”;

(b) in paragraph (b) by deleting “has obtained a property (seizure and sale order) —” and inserting instead —
“
had an operative property (seizure and sale order) on the date of the sale of the property —
”.

11. Section 90 amended

(1) Section 90(3) is repealed and following subsection is inserted instead —

“
(3) A court may punish a person guilty of a contempt under subsection (1) in any way it may punish a person for any other contempt of the court, but any period of imprisonment imposed must not be longer than 40 days.
”.

- (2) Section 90(4) is amended by deleting “If under subsection (2) a court decides to imprison a person for contempt of court,” and inserting instead —

“

If a court decides to imprison a person guilty of a contempt under subsection (1),

”.

- (3) After section 90(6) the following subsection is inserted —

“

- (7) Any person who under section 30(6) may appear on behalf of a judgment creditor at a means inquiry in the Magistrates Court may appear on behalf of a judgment creditor at a default inquiry in that court.

”.

12. Section 102 amended

- (1) Section 102(1) is amended by deleting “has effect” and inserting instead —

“ operates ”.

- (2) Section 102(5) is amended by deleting “have effect.” and inserting instead —

“ operate. ”.

13. Section 103 amended

Section 103(4)(b) is deleted and the following paragraph is inserted instead —

“

- (b) otherwise, when it is served on the person to whom the original order was addressed.

”.

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14. Section 108 amended

After section 108(5) the following subsection is inserted —

“

- (6) A bailiff must give the Sheriff written notice of every appointment, suspension or termination of an assistant bailiff by the bailiff under this section and of every death of an assistant bailiff.

”.

15. Section 109 amended

Section 109(3) is amended by inserting after “this Act” —

“ (other than section 111) ”.

**Part 4 — Commercial Tenancy (Retail Shops)
Agreements Act 1985 amended**

16. The Act amended in this Part

The amendments in this Part are to the *Commercial Tenancy (Retail Shops) Agreements Act 1985*.

17. Section 7 amended

Section 7(5) is amended by deleting “under Part III”.

18. Part III heading deleted

The heading to Part III is deleted.

19. Section 16 amended

- (1) Section 16(1)(b) is deleted and the following paragraph is inserted instead —

“

- (b) if it is such a question, hear and determine it.

”.

- (2) Section 16(2) is repealed and the following subsection is inserted instead —

“

- (2) The matter for determination referred to in subsection (1)(a) may be determined by the Tribunal in such manner as it thinks fit, subject to each party being given an opportunity to make a written submission.

”.

- (3) Section 16(3) is repealed.

20. New heading and sections 24 and 25 inserted

Before section 26 the following Part heading and sections are inserted —

“

Part III — Powers and procedure for dealing with matters

24. Term used in this Part

In this Part —

“**matter**” means any application that may be made, or any question or matter that may be referred or submitted, to the Tribunal under this Act.

25. Relationship between this Part and *State Administrative Tribunal Act 2004*

Nothing in this Part prevents a matter from being dealt with through a compulsory conference or mediation process under the *State Administrative Tribunal Act 2004*.

”.

21. Section 26 amended

- (1) Section 26(1) is amended by deleting “proceedings” in the 3 places where it occurs and in each place inserting instead —

“ any matter ”.

- (2) After section 26(3) the following subsection is inserted —

“

- (4) The Tribunal may allow any equitable claim or defence, and give any equitable remedy, in a matter before it that the Supreme Court may allow or give.

”.

22. Section 27 amended

Section 27(1), (2) and (3) are repealed and the following subsections are inserted instead —

“

- (1) If both a court and the Tribunal have jurisdiction to determine a matter, proceedings to determine the matter may be instituted either —
 - (a) before the court; or
 - (b) before the Tribunal,but not both.
- (2) If a matter is before a court, the court may order it to be transferred to the Tribunal if —
 - (a) all parties to the matter so agree; or
 - (b) the court, on its own initiative or on the application of a party, decides it is in the interests of justice to do so.
- (3) If a matter is before the Tribunal and is one that a court also has jurisdiction to determine, the Tribunal may order it to be transferred to the court if —
 - (a) all parties to the matter so agree; or
 - (b) the Tribunal, on its own initiative or on the application of a party, decides it is in the interests of justice to do so.

”.

Part 5 — *Courts Legislation Amendment and Repeal Act 2004* amended

23. The Act amended in this Part

The amendments in this Part are to the *Courts Legislation Amendment and Repeal Act 2004*.

24. Section 144 amended

Section 144(a) is deleted and the following paragraphs are inserted instead —

“

- (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;

”.

Part 6 — *Criminal Appeals Act 2004* amended

25. The Act amended in this Part

The amendments in this Part are to the *Criminal Appeals Act 2004*.

26. Section 10 amended

Section 10(5)(a) and “and” after it are deleted.

27. Section 28 amended

- (1) Section 28(2) is amended by deleting “that sets out the grounds of the appeal”.
- (2) Section 28(5)(a) and “and” after it are deleted.

28. Section 45 amended

- (1) Section 45(1) is amended by deleting “with orders to ensure the exhibits are kept by it until the last to happen of the events referred to in subsection (2)”.
- (2) Section 45(6) is amended by deleting “, subject to any order made under subsection (1)”.

**Part 7 — *Criminal Injuries Compensation Act 2003*
amended**

29. The Act amended in this Part

The amendments in this Part are to the *Criminal Injuries Compensation Act 2003*.

30. Section 3 amended

Section 3 is amended by deleting the definition of “health professional” and inserting instead —

“

“health professional” means —

- (a) a person who is registered as a dentist under the *Dental Act 1939* or a law of another place that is substantially similar to that Act;
- (b) a person who is registered as a medical practitioner under the *Medical Act 1894* or a law of another place that is substantially similar to that Act;
- (c) a person who is registered as a psychologist under the *Psychologists Act 2005* or a law of another place that is substantially similar to that Act;

”.

31. Section 48 amended

Section 48 is amended as follows:

- (a) by inserting before “If a” the subsection designation “(1)”;
- (b) by deleting the full stop after paragraph (b) and inserting instead —
“ ; and ”;

(c) by inserting the following paragraph —

“

- (c) the Chief Assessor is given a request for payment of the amount in accordance with subsection (2).

”;

(d) by inserting the following subsection —

“

(2) A request referred to in subsection (1)(c) must be given to the Chief Assessor —

(a) if the victim was under 18 years of age on the date of the award, before —

- (i) the victim reaches 28 years of age; or
(ii) the expiry of 10 years after the date on which the *Acts Amendment (Justice) Act 2008* section 31 commences,

whichever occurs last; or

(b) otherwise —

- (i) if the award was made before that section commences, within 10 years after the day on which it commences; or
(ii) otherwise, within 10 years after the date of the award.

”.

32. Section 56 amended

Section 56(1) is repealed and the following subsection is inserted instead —

“

(1) On an appeal under section 55 against an assessor’s decision, the District Court must decide the application to which the decision relates afresh, without being fettered by the assessor’s decision, solely on the

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evidence and information that was in the possession of the assessor or may receive further evidence and information.

”.

33. Section 62A inserted

Before section 63 the following section is inserted in Part 9 —

“

62A. Assessor may conduct hearing

- (1) This section does not affect section 24.
- (2) If he or she thinks fit, an assessor may conduct a hearing in respect of any question that an assessor may decide under this Act.

”.

34. Section 63 amended

- (1) Section 63(1) is amended by deleting the definition of “application”.
- (2) Section 63(2) is amended by deleting “of an application” and inserting instead —
“ under this Act ”.
- (3) Section 63(5)(a) is amended by deleting “subsection (1);” and inserting instead —
“ subsection (2); ”.
- (4) Section 63(7) is amended by deleting “of an application”.

Part 8 — *Criminal Investigation Act 2006* amended

35. The Act amended in this Part

The amendments in this Part are to the *Criminal Investigation Act 2006*.

36. Section 27 amended

Section 27(6) is repealed and the following subsection is inserted instead —

“

- (6) Any order given under this section must be in writing on a prescribed form.

”.

37. Section 78 amended

Section 78 is amended by inserting after “person” —

“ other than a deceased person ”.

38. Section 102 amended

Section 102(2) is amended as follows:

- (a) in paragraph (a) by deleting “dentist,”;
- (b) in paragraph (b) by inserting before “qualified” —
“ doctor, nurse or ”.

39. Section 113 replaced

Section 113 is repealed and the following section is inserted instead —

“

113. Disclosure of photographs obtained under Part 8 or 9

(1) In this section —

“forensic purpose” means —

- (a) investigating an offence or a suspected offence or offences generally; or
- (b) investigating the death of a person or identifying a deceased person; or
- (c) investigating the whereabouts of or identifying a missing person;

“protected information” means any photograph of a person or of any part of a person, taken under Part 8 or 9.

(2) A person who has access, or has had access, to protected information may only disclose the information in these circumstances —

- (a) if the person is the person to whom the information relates;
- (b) if the person to whom the information relates consents in writing to the disclosure;
- (c) for the purpose of the medical treatment of the person to whom the information relates;
- (d) if the information is already public;
- (e) for a forensic purpose where the investigation or identification is being done by a police officer or a public officer or by a law enforcement officer prescribed by the regulations;

- (f) for the purpose of a decision as to whether to prosecute an offence;
- (g) for the purpose of criminal proceedings for an offence;
- (h) for the purpose of an investigation or inquest under the *Coroners Act 1996*;
- (i) for the purpose of civil or disciplinary proceedings that relate to the way in which, or the conduct of any procedure by which, the information was obtained;
- (j) for the purpose of an investigation under the *Parliamentary Commissioner Act 1971* into the exercise of any power under this Act;
- (k) in accordance with the *Mutual Assistance in Criminal Matters Act 1987*, or the *Extradition Act 1988*, of the Commonwealth;
- (l) for the purposes of a compensation claim made under the *Criminal Injuries Compensation Act 2003*;
- (m) for the purpose of instructing a person who is or is training to be —
 - (i) a person referred to in or prescribed for paragraph (e); or
 - (ii) a person with qualifications in a forensic science,

if all reasonable measures are taken to prevent the person from whom the personal information was obtained being identified from the information;
- (n) for a purpose that the Minister approves because it is in the public interest in any particular case;
- (o) for a purpose prescribed by the regulations.

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- (3) A person who has access, or has had access, to protected information must not disclose the information except as provided by this section.

Penalty: a fine of \$24 000 or imprisonment for 2 years.

”.

Part 9 — *Criminal Procedure Act 2004* amended

40. The Act amended in this Part

The amendments in this Part are to the *Criminal Procedure Act 2004* unless otherwise specified.

41. Section 23 amended

Section 23(5)(a) and “or” after it are deleted.

42. Section 42 amended

(1) Section 42(1) is amended in the definition of “evidentiary material” as follows:

(a) by deleting paragraph (a)(iv) and inserting instead —

“

(iv) every other recorded statement,
whether oral or written, by,

”;

(b) in each of paragraphs (c), (d) and (e) by deleting
“exhibit” and inserting instead —

“ object ”.

(2) Section 42(2) is amended as follows:

(a) in paragraph (a) by deleting “exhibit” and inserting
instead —

“ object ”;

(b) in paragraph (c) by deleting “, recording or report” and
inserting instead —

“

or recording of the kind referred to in
paragraph (a) of the definition of “evidentiary
material”

”.

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- (3) Section 42(3) is amended by inserting after “subject to” —
“ section 137A and ”.

43. Section 61 amended

- (1) Section 61(3) is amended by inserting after “subject to” —
“ section 137A and ”.
- (2) Section 61(6) is amended by deleting “14 days” and inserting
instead —
“ 28 days ”.

44. Section 95 amended

Section 95(3) is amended by inserting after “subject to” —
“ section 137A and ”.

45. Section 137A inserted

After section 137 the following section is inserted —

“

137A. Prosecution disclosure requirements, exceptions to

The operation of sections 42, 61 and 95 is subject to —

- (a) the *Evidence Act 1906* sections 19C and 106HB(3); and
- (b) any other written law that relates to the disclosure of specific information; and
- (c) the law on privilege; and
- (d) the law on public interest immunity.

”.

46. Section 138 amended

After section 138(4) the following subsection is inserted —

“

- (4a) Despite section 171, an application by a prosecutor for an order under this section that is made without notice to the accused must not be dealt with in open court and the only people who may be present when it is dealt with are the applicant and those permitted by the court.

”.

47. Section 175A inserted

After section 175 the following section is inserted —

“

175A. Additional copies of served documents

- (1) If a person is served with a document under this Act and the document is subsequently lost, damaged or destroyed, the person may ask the person who was required to serve the document for another copy of the document.
- (2) A person asked for another copy under subsection (1) must give the person another copy if satisfied the document has been lost, damaged or destroyed.
- (3) A person who under subsection (2) gives another copy to a person may charge the person a fee prescribed by the regulations for the copy.

”.

48. Schedule 2 amended

- (1) Schedule 2 clause 3(11) is repealed and the following subclause is inserted instead —

“

- (11) A document or other thing that is posted under this clause is to be taken to have been served on the named person on the

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fourth working day after the date on which it was posted
unless the postal service returns it to the sender or the
contrary is proved.

”.

- (2) Schedule 2 clause 4(5) is repealed and the following subclause
is inserted instead —

“

- (5) A document or other thing that is posted under this clause is
to be taken to have been served on the named person on the
fourth working day after the date on which it was posted
unless the postal service returns it to the sender or the
contrary is proved.

”.

Part 10 — *Equal Opportunity Act 1984* amended

49. The Act amended in this Part

The amendments in this Part are to the *Equal Opportunity Act 1984*.

50. Section 134 amended

Section 134(1a) is repealed.

51. Section 136 replaced

Section 136 is repealed and the following section is inserted instead —

“

136. Tribunal must publish decisions made under s. 135

- (1) The Tribunal shall, not later than one month after it makes a decision under section 135, publish —
 - (a) the decision; and
 - (b) the reasons for the decision; and
 - (c) its findings of fact material to the decision; and
 - (d) a summary of the evidence on which those findings were based.
- (2) Any failure to comply with subsection (1) in relation to a decision does not affect the validity of the decision.

”.

Part 11 — Evidence Act 1906 amended

52. The Act amended in this Part

The amendments in this Part are to the *Evidence Act 1906*.

53. Section 119 replaced

Section 119 is repealed and the following section is inserted instead —

“

119. Service as a witness etc., payments for

(1) In this section —

“**criminal proceedings**” includes an appeal in criminal proceedings;

“**eligible service**” has the meaning given in subsections (2) and (3);

“**inquest**” means an inquest held under the *Coroners Act 1996*;

“**liable person**”, in respect of any payment that has to be made under this section in respect of eligible service, means —

(a) if the eligible service is in criminal proceedings and the prosecution was commenced by or on behalf of —

(i) a local government; or

(ii) a statutory body,

the local government or statutory body;

(b) in any other case, the State.

(2) For the purposes of this section a person does eligible service if he or she is, or attends at any place in order to be, any of the following —

(a) a witness who is called by the prosecutor in criminal proceedings;

- (b) a witness who is called by the accused person in criminal proceedings and who —
 - (i) is a child; or
 - (ii) is declared under section 106R to be a special witness;
 - (c) a witness in an inquest;
 - (d) an interpreter in criminal proceedings or an inquest;
 - (e) a person approved under section 106E or 106R(4)(a) in any proceeding in a court;
 - (f) a person appointed under section 106F in any proceeding in a court.
- (3) For the purposes of this section a person does eligible service if he or she does, or attends at any place in order to do, any of the following —
- (a) participate in a programme to prepare —
 - (i) children who may be witnesses; or
 - (ii) persons who are or may be declared under section 106R to be special witnesses,to give evidence in criminal proceedings or an inquest;
 - (b) accompany and assist a child or person described in paragraph (a)(i) or (ii) in order to enable him or her —
 - (i) to attend a programme described in paragraph (a); or
 - (ii) to attend and be a witness in criminal proceedings or an inquest.
- (4) A person who does eligible service is entitled to be paid by the liable person the allowances and expenses

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that are prescribed by the regulations in respect of doing the eligible service.

- (5) If a person does eligible service for a period when he or she is employed by an employer under a contract of service, the employer must pay the person the earnings that he or she could reasonably expect to have been paid in that period under the contract, despite any breach of the contract caused by doing the eligible service.

Penalty: a fine of \$2 000.

- (6) An employer who in accordance with subsection (5) pays a person during any period when the person does eligible service is entitled to be paid by the liable person the fees in accordance with the regulations for the person's service, unless the employer is in a class of employer prescribed by the regulations.
- (7) If a person to whom subsection (5) applies is not paid under that subsection, the person is entitled to be paid by the liable person the fees in accordance with the regulations for the eligible service, unless the person is in a class of person prescribed by the regulations.
- (8) A person who does eligible service but to whom subsection (5) does not apply is entitled to be paid by the liable person the fees in accordance with the regulations for the service, unless the person is in a class of person prescribed by the regulations.
- (9) A claim to a liable person for a payment under this section must be made and determined under the regulations.

- (10) The Governor may make regulations prescribing all matters that are necessary or convenient to be prescribed for the purposes of this section including regulations —
 - (a) that confer a discretionary authority;
 - (b) that require information in support of a claim to the State for a payment to be verified by a statutory declaration.
- (11) On the application of an accused person who calls a witness in criminal proceedings, the Attorney General may authorise the State to pay all or some of the amounts that would be payable under this section if the witness were called by the prosecutor in the proceedings.
- (12) Any amount paid under this section by the State is to be charged to the Consolidated Account.

”.

54. Section 121 amended

Section 121(2) is repealed and the following subsections are inserted instead —

“

- (2) The court shall not make such a direction unless satisfied the video link or audio link is available or can reasonably be made available.
- (2a) The court shall not make such a direction if satisfied the direction is not in the interests of justice.

”.

Part 12 — *Guardianship and Administration Act 1990* amended

55. The Act amended in this Part

The amendments in this Part are to the *Guardianship and Administration Act 1990*.

56. Section 5 repealed and consequential amendment to heading of Part 3 Division 1

- (1) Section 5 is repealed.
- (2) The heading to Part 3 Division 1 is amended by deleting “Constitution, functions” and inserting instead —
“ **Functions** ”.

57. Section 43 amended and consequential amendment to s. 4

- (1) After section 43(2) the following subsections are inserted —
“

- (2a) Subject to section 4, where the State Administrative Tribunal is satisfied that a person in respect of whom an application for a guardianship order is made under section 40 —
 - (a) has attained the age of 17 but not 18 years; and
 - (b) will, when he attains the age of 18 years, be —
 - (i) incapable of looking after his own health and safety; or
 - (ii) unable to make reasonable judgments in respect of matters relating to his person; or
 - (iii) in need of oversight, care or control in the interests of his own health and safety or for the protection of others;
- and

- (c) will, when he attains the age of 18 years, be in need of a guardian,

the Tribunal may by order declare the person will be in need of a guardian when he attains the age of 18 years, and if it does so shall appoint —

- (d) a person to be a plenary guardian or a limited guardian and, if it is expedient, a person to be an alternate guardian; or
- (e) persons to be joint plenary guardians or joint limited guardians,

as the case may require, of the person in respect of whom the application is made.

- (2b) Where under subsection (2a) the State Administrative Tribunal declares that a person will be in need of a guardian, it shall also declare the matter or matters set out in paragraph (b) of that subsection of which it is satisfied.
- (2c) An appointment made under subsection (2a) in respect of a person comes into operation on the day on which the person attains the age of 18 years.

”.

- (2) Section 43(3) is amended by inserting after “subsection (1)” —
“ or (2a) ”.
- (3) Section 4(2)(d) is amended by inserting after “section 43(1)” —
“ or (2a) ”.

58. Section 56A amended

Section 56A is amended by deleting “Notwithstanding section 5(1), the” and inserting instead —

“ The ”.

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59. Section 86 amended

Section 86(1) is amended by inserting after paragraph (a) —

“

or

(aa) the Public Trustee; or

”.

Part 13 — *Industrial Relations Act 1979* amended

60. The Act amended in this Part

The amendments in this Part are to the *Industrial Relations Act 1979*.

61. Section 81CA amended

- (1) Section 81CA(4) is repealed.
- (2) Section 81CA(5) is amended by deleting “summary jurisdiction.” and inserting instead —

“

summary jurisdiction and the *Criminal Procedure Act 2004* applies.

”.

- (3) Section 81CA(6) is repealed.
- (4) Section 81CA(7) is repealed.

62. Section 81CB inserted

After section 81CA the following section is inserted —

“

81CB. Industrial magistrate’s court judgments, enforcement of

- (1) In this section —
“**general jurisdiction**” has the meaning given to that term by section 81CA;
“**judgment**” includes an order, direction or decision.
- (2) A person to whom money is to be paid under a judgment of an industrial magistrate’s court made in the exercise of general jurisdiction may enforce it by lodging a copy of it, certified by a clerk of the court,

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and an affidavit stating to what extent it has not been complied with, with a court of competent jurisdiction.

- (3) If, or to the extent that, a judgment of an industrial magistrate's court made in the exercise of general jurisdiction does not require the payment of money, a person entitled to the benefit of the judgment may enforce it by lodging a copy of it, certified by a clerk of the court, and an affidavit stating to what extent it has not been complied with, with the Magistrates Court.
- (4) A judgment that is lodged with a court under subsection (2) or (3) is to be taken to be a judgment of that court and may be enforced accordingly.

”.

63. Section 83D amended

Section 83D(1) is repealed and the following subsection is inserted instead —

“

- (1) An industrial magistrate's court has jurisdiction to hear and determine any charge of an offence under this Act other than an offence under section 80(3).

”.

64. Section 113 amended

Section 113(3) is amended by deleting “and the enforcement of a judgment, order, direction, or other decision of an industrial magistrate's court”.

Part 14 — *Juries Act 1957* amended

65. The Act amended in this Part

The amendments in this Part are to the *Juries Act 1957*.

66. Section 44 replaced

Section 44 is repealed and the following section is inserted instead —

“

44. Payments for juries in civil trials

- (1) If trial by jury is ordered in a civil trial, the party that applied for the order must pay the summoning officer, before the time or times prescribed —
 - (a) the prescribed amount for summoning the jurors; and
 - (b) the prescribed amount for an officer of the court to attend on the jury for the first day of the trial; and
 - (c) a deposit of such amount as the summoning officer estimates and advises the party will be needed to meet the payments that will have to be made under section 58B for the first day of the trial.
- (2) If an amount is not paid as required by subsection (1), the trial shall proceed as if a trial by jury had not been ordered, notwithstanding any other Act.
- (3) The party referred to in subsection (1) must also pay the summoning officer for each day of the trial after the first day, before the time or times prescribed —
 - (a) the prescribed amount for an officer of the court to attend on the jury for the day; and

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- (b) a deposit of such amount as the summoning officer estimates and advises the party will be needed to meet the payments that will have to be made under section 58B for the day.
- (4) If an amount is not paid for a day as required by subsection (3), the court may, unless the amount is paid by another party, discharge the jury and finish the trial and decide the case without a jury, notwithstanding that the trial commenced with a jury, and notwithstanding any other Act.

”.

67. Section 58B inserted

After section 58A the following section is inserted —

“

58B. Jury service, payments for

- (1) For the purposes of this section a person does jury service if he or she, having been required under this Act to do so, attends at any place in order to serve, or does serve, as a juror.
- (2) A person who does jury service is entitled to be paid by the State the allowances and expenses prescribed by the regulations in respect of doing the jury service.
- (3) If a person does jury service for a period when he or she is employed by an employer under a contract of service, the employer must pay the person the earnings that he or she could reasonably expect to have been paid in that period under the contract, despite any breach of the contract caused by doing the jury service.
Penalty: a fine of \$2 000.
- (4) An employer who in accordance with subsection (3) pays a person during any period when the person does jury service is entitled to be paid by the State the fees

in accordance with the regulations for the person's service, unless the employer is in a class of employer prescribed by the regulations.

- (5) If a person to whom subsection (3) applies is not paid under that subsection, the person is entitled to be paid by the State the fees in accordance with the regulations for the jury service, unless the person is in a class of person prescribed by the regulations.
- (6) A person who does jury service but to whom subsection (3) does not apply is entitled to be paid by the State the fees in accordance with the regulations for the jury service, unless the person is in a class of person prescribed by the regulations.
- (7) A claim to the State for a payment under this section must be made and determined under the regulations.
- (8) Any amount paid under this section by the State to or in respect of a juror for a trial in criminal proceedings is to be charged to the Consolidated Account.

”.

68. Section 62 amended

Section 62(3) is repealed and the following subsection is inserted instead —

“

- (3) The Governor may make regulations prescribing all matters that are necessary or convenient to be prescribed for the purposes of section 58B including regulations —
 - (a) that confer a discretionary authority;
 - (b) that require information in support of a claim to the State for a payment to be verified by a statutory declaration.

”.

69. Second Schedule amended

The Second Schedule clause 2 is amended by deleting paragraph (c).

Part 15 — *Magistrates Court Act 2004* amended

70. The Act amended in this Part

The amendments in this Part are to the *Magistrates Court Act 2004*.

71. Section 33 amended

- (1) Section 33(5) and (6) are repealed.
- (2) Section 33(8) and (9) are repealed and the following subsections are inserted instead —

“

(8) On an application by a person the Court, unless it has good reason not to do so, shall give the person leave, either unconditionally or on any conditions the Court imposes, to inspect, obtain a copy of, view or listen to, any information held by the Court in relation to any case that has been or is being dealt with by it.

(9) Rules of court may —

- (a) prohibit or regulate access to and obtaining information held by the Court in relation to a case that has been or is being dealt with by it;
- (b) entitle a person to access to or to obtain a copy of any such information.

”.

- (3) After section 33(11) the following subsection is inserted —

“

(12) If under this section, rules of court, or the regulations, a document may be supplied to a person, it may, at the request of the person, be supplied in an electronic form.

”.

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72. Schedule 1 amended

- (1) Schedule 1 clause 9(8) is amended by inserting after “functions” —

“ , protection and immunity ”.

- (2) Schedule 1 clause 10(6) is amended by inserting after “functions” —

“ , protection and immunity ”.

**Part 16 — *Magistrates Court (Civil Proceedings)*
Act 2004 amended**

73. The Act amended in this Part

The amendments in this Part are to the *Magistrates Court (Civil Proceedings) Act 2004*.

74. Section 3 amended

Section 3(1) is amended in the definition of “public authority” as follows:

- (a) by inserting after each of paragraphs (a), (b) and (d) —
“ or ”;
- (b) by inserting after paragraph (d) —
“
- (e) the State of Western Australia;
- ”.

75. Section 7 amended

Section 7(3) is amended as follows:

- (a) by deleting “by a consumer or a trader (the “claimant”)”;
- (b) by deleting paragraph (a) and “and” after it and inserting instead —
“
- (a) that arises out of a contract between a consumer and a trader for the supply of goods or the provision of services; and
- (aa) that is made by the consumer or the trader against the other; and
- ”.

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76. Section 14 amended

After section 14(5) the following subsection is inserted —

“

- (6) The Court may decide that the procedure set out in rules of court to be followed in a case is not appropriate for the case, in which case the procedure is to be that decided by the Court.

”.

77. Section 30 amended

Section 30(4) is amended by inserting after paragraph (a) —

“ or ”.

78. Section 31 amended

Section 31(3) is amended by deleting the full stop after paragraph (b) and inserting instead —

“

; or

- (c) the proceedings in the minor case —
- (i) were commenced but not concluded in a Local Court before 1 May 2005; and
 - (ii) were, immediately before 1 May 2005, not proceedings that were being heard and determined under the *Local Courts Act 1904* Part VIA.

”.

79. Section 44 amended

Section 44(2) is amended as follows:

- (a) by deleting paragraph (b) and inserting instead —

“

- (b) if the party is a corporation —

- (i) by one of its officers; or
- (ii) by one of its employees who has written authority from one of its officers to do so;

or

”;

- (b) after paragraph (a) by inserting —
“ or ”.

Part 17 — *Oaths, Affidavits and Statutory Declarations Act 2005* amended

80. The Act amended in this Part

The amendments in this Part are to the *Oaths, Affidavits and Statutory Declarations Act 2005*.

81. Section 6 amended

Section 6(1) is amended by deleting paragraphs (a) and (b) and “or” between them and inserting instead —

“

- (a) in the case of a witness before a court, by the judicial officer who is presiding in the court or by a person who is authorised to do so by that judicial officer; or
- (b) in the case of a witness before a person acting judicially, by that person or by a person who is authorised to do so by that person.

”.

82. Section 7 amended

After section 7(2) the following subsection is inserted —

“

- (3) The person (“**A**”) administering an oath or taking the affirmation of another person (“**B**”) by means of an audio link or a video link, within the meaning of those terms in the *Evidence Act 1906* section 120, may do so in as nearly as practicable the same way as if B were in the presence of A.

”.

**Part 18 — *Planning and Development Act 2005*
amended**

83. The Act amended in this Part

The amendments in this Part are to the *Planning and Development Act 2005*.

84. Section 237 amended

Section 237 is amended as follows:

- (a) by deleting the definition of “ordinary member”;
- (b) by inserting in the appropriate alphabetical positions —

“

“**judicial member**” has the meaning given to that term in section 3(1) of the *State Administrative Tribunal Act 2004*;

“**Tribunal member**” has the meaning given to that term in section 3(1) of the *State Administrative Tribunal Act 2004*.

”;

- (c) by deleting the full stop after the definition of “President” and inserting instead a semicolon.

85. Section 237A inserted

After section 237 the following section is inserted —

“

237A. Constitution of State Administrative Tribunal

- (1) When exercising the jurisdiction referred to in section 236(2), the State Administrative Tribunal is to be constituted under this section and section 238.
- (2) The State Administrative Tribunal is to be constituted by one Tribunal member when it is dealing with an

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application for a review of the determination of, or conditions imposed in respect of —

- (a) a development application to commence a development of a value of less than \$250 000 or such other amount as is prescribed by regulations made under the *State Administrative Tribunal Act 2004*; or
 - (b) a development application to commence a development of a single house on a single lot where the development is of a value of less than \$500 000 or such other amount as is prescribed by regulations made under the *State Administrative Tribunal Act 2004*, or any development ancillary to that development; or
 - (c) an application for approval to subdivide a lot into not more than 3 lots.
- (3) The State Administrative Tribunal is to be constituted by one Tribunal member when it is dealing with an application that the applicant, with the agreement of each other party, has elected at the time of making the application to have determined by one Tribunal member.
- (4) If —
- (a) subsection (2) or (3) does not apply; or
 - (b) the President is of the opinion that an application referred to in subsection (2) or (3) is likely to raise complex or significant planning issues,

the State Administrative Tribunal is to be constituted under section 11 of the *State Administrative Tribunal Act 2004*.

”.

86. Section 238 amended

Section 238(3) and (4) are repealed.

87. Section 239 amended

Section 239(1) is amended by deleting “section 238(3)(a)” and inserting instead —

“ section 237A(2) ”.

88. Section 244 amended

- (1) Section 244(1) is amended by deleting “the President” and inserting instead —

“ a judicial member ”.

- (2) Section 244(2) is amended by deleting “the President” and inserting instead —

“ a judicial member ”.

- (3) Section 244(4) is repealed.

Part 19 — *Restraining Orders Act 1997* amended

89. The Act amended in this Part

The amendments in this Part are to the *Restraining Orders Act 1997*.

90. Section 3 amended

Section 3 is amended in the definition of “final order” by deleting paragraph (c) and “or” after it and inserting instead —

“

- (c) made under section 49(1)(b) to vary a final order, being a replacement or additional final order made under that section; or

”.

91. Section 6 amended

- (1) Section 6(1)(e) is amended by inserting before “causing” —

“ pursuing the person or a third person, or ”.

- (2) Section 6(2)(c) is amended by inserting before “causing” —

“ pursuing the person or a third person, or ”.

92. Section 10 amended

Section 10(4)(a) is deleted and the following paragraph is inserted instead —

“

- (a) the person to be bound by the order to be personally served with it; and

”.

93. Section 27 amended

Section 27(4) is repealed and the following subsections are inserted instead —

“

(4) A hearing fixed under section 26(2) is to be in closed court.

(4a) Despite subsection (4) —

(a) the person seeking to be protected is entitled to have one or more persons near him or her to provide support; and

(b) the court may permit any person who is not a party to the proceedings to be in the court.

”.

94. Section 30E amended

(1) Section 30E(2)(a) is amended by inserting after “person” —

“ or persons ”.

(2) Section 30E(3) is amended as follows:

(a) by deleting “A police officer who makes a police order is to explain at the time the order is made, or served,” and inserting instead —

“

At the time a police order is made or served, a police officer is to explain

”;

(b) by inserting after paragraphs (a) and (b) —

“ and ”.

(3) Section 30E(5)(a) is amended by deleting “the police” and inserting instead —

“ a police ”.

95. Section 42 amended

(1) Section 42(4) is amended as follows:

(a) by deleting “subject to the rules of evidence, a court is to receive” and inserting instead —

“ a court is to admit ”;

(b) by deleting “, except that such record of evidence is not to be received as evidence unless the person who gave the evidence is available to be cross-examined on that evidence.” and inserting instead —

“ that is relevant to the application. ”.

(2) After section 42(4) the following subsection is inserted —

“

(5) A court is not to admit as evidence a record of evidence referred to in subsection (4) unless —

(a) the person who gave the evidence is available to be cross-examined on that evidence; or

(b) the laws of evidence allow the record to be admitted; or

(c) each party at the hearing consents.

”.

96. Section 43 amended

After section 43(1) the following subsection is inserted —

“

(1a) Without limiting subsection (1), at a final order hearing, a court —

(a) may, subject to Part 2, make a final violence restraining order even if the application was for a misconduct restraining order;

- (b) may, subject to Part 3, make a final misconduct restraining order —
 - (i) even if the application was for a violence restraining order; and
 - (ii) even if an interim order is in force.

”.

97. Section 48 amended

(1) Section 48(3) is amended as follows:

- (a) by deleting “subject to the rules of evidence, a court is to receive” and inserting instead —
“ a court is to admit ”;
- (b) by deleting “except that such record of evidence is not to be received as evidence unless the person who gave the evidence is available to be cross-examined on that evidence.” and inserting instead —
“ that is relevant to the application. ”.

(2) After section 48(3) the following subsection is inserted —

“

- (4) A court is not to admit as evidence a record of evidence referred to in subsection (3) unless —
 - (a) the person who gave the evidence is available to be cross-examined on that evidence; or
 - (b) the laws of evidence allow the record to be admitted; or
 - (c) each party at the hearing consents.

”.

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98. Section 49 amended

- (1) Section 49(1) is repealed and the following subsection is inserted instead —

“

- (1) Subject to section 48, at a hearing fixed under section 47 of an application made under section 45 the court may —
- (a) dismiss the application; or
 - (b) if it decides to vary an interim order or a final order —
 - (i) cancel the original order and make a replacement order that contains the variations; or
 - (ii) make an additional interim order or final order, to be read with the original order, that states the variations;
- or
- (c) if it decides to cancel an interim order or a final order, cancel the order.

”.

- (2) After section 49(1a) the following subsection is inserted —

“

- (1b) If a court varies an interim order by cancelling it and making a new one, any objection that the respondent made to the cancelled order applies to the new order and the new order is to be dealt with accordingly.

”.

99. Section 53E amended

Section 53E(3) is repealed and the following subsection is inserted instead —

“

- (3) If a representation made by a child is to be admitted in evidence, evidence of the making and content of the representation is to be given by a person who was present when the child made it.

”.

100. Section 59 replaced

Section 59 is repealed and the following section is inserted instead —

“

59. Service of restraining order, certain people to be notified of

- (1) As soon as practicable after a restraining order is served on the person who is bound by the order, the person who served the order is to —
- (a) complete the proof of service copy of the order; and
 - (b) cause it to be delivered to the registrar.
- (2) As soon as practicable after the registrar receives the proof of service copy of a restraining order, the registrar is to notify the applicant that the order has been served.

”.

101. Section 62B amended

- (1) Section 62B(1) is amended by deleting “but with the approval of a senior officer under section 62D,”.

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(2) After section 62B(1) the following subsections are inserted —

“

- (1a) A police officer must not enter premises under subsection (1) unless the officer has a senior officer’s approval given under section 62D or —
- (a) the officer believes on reasonable grounds that he or she should exercise the powers under subsection (1) urgently; and
 - (b) the officer cannot use remote communication to apply for a senior officer’s approval under section 62D.
- (1b) A police officer who enters premises without a senior officer’s approval given under section 62D must report why the entry was made and what happened at the premises to a senior officer as soon as practicable after the entry.

”.

102. Section 62E amended

After section 62E(1) the following subsection is inserted —

“

- (1a) In order to exercise a power under subsection (1), a police officer may use any force against any person or thing that it is reasonably necessary to use in the circumstances.

”.

103. Section 62F amended

- (1) Section 62F is amended by inserting before “If —” the subsection designation “(1)”.

(2) At the end of section 62F the following subsection is inserted —

“

(2) If a police officer suspects on reasonable grounds that a restraining order has been made but not served on the person who is bound by it, the officer may, without a warrant and in order to facilitate service of the order on the person —

- (a) require the person to remain in a place designated by the officer while the officer gets the order; and
- (b) if the person does not, or the officer reasonably believes the person will not, remain in the place, arrest and detain the person in custody for up to 2 hours.

”.

104. Section 63 amended

After section 63(3a) the following subsection is inserted —

“

(3b) A court may make a restraining order under this section against a person and for the protection of another person even if a restraining order in similar terms in respect of those persons is in force, but if it does, the court must specify that the order comes into force immediately the earlier order expires.

”.

105. Section 70 amended

Section 70(1) is amended by deleting “clerk” and inserting instead —

“ registrar ”.

Part 20 — *Sentencing Act 1995* amended

106. The Act amended in this Part

The amendment in this Part is to the *Sentencing Act 1995*.

107. Section 37 amended

After section 37(3) the following subsection is inserted —

“

- (3a) A sentence imposed or corrected under this section has effect from the time at which the recalled or incorrect sentence had effect, unless the court orders otherwise.

”.

Part 21 — *Sentencing Legislation Amendment and Repeal Act 2003* amended

108. The Act amended in this Part

The amendments in this Part are to the *Sentencing Legislation Amendment and Repeal Act 2003*.

109. Schedule 1 amended

After Schedule 1 clause 5 the following clause is inserted —

“

5A. Minister may discharge certain prisoners from old parole terms

- (1) In this clause —
“**discharge**” means a discharge given under subclause (5);
“**Minister**” means the Minister administering Part 8 of the *Sentence Administration Act 2003*;
“**old parole term**” means a parole term to which the old provisions apply.
- (2) This clause does not affect the operation of section 95(2) of the *Sentencing Act 1995* as it was before the sentencing amendments.
- (3) The Prisoners Review Board established under the *Sentence Administration Act 2003* may at any time give the Minister a report recommending that a person who is subject to an old parole term and who has served two thirds of the term be discharged from the term.
- (4) Any such report must deal with the release considerations (as that term is defined in section 5A of the *Sentence Administration Act 2003*) relating to the person.
- (5) If the Minister, after considering such a report, is satisfied —
 - (a) that the person has served two thirds of the term;
and

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- (b) after taking into account —
 - (i) the release considerations in the report relating to the person; and
 - (ii) section 5B of the *Sentence Administration Act 2003*,that the person ought to be discharged from the term despite the old provisions,

the Minister, in writing, may discharge the person from the term.

- (6) A discharge —
 - (a) has effect on the date of the discharge or on any later date specified in it; and
 - (b) has effect despite the old provisions.
- (7) If, on the date a discharge has effect in relation to a person who is subject to an old parole term, the person is in custody, the person must be released in respect of that term.
- (8) If, on the date a discharge has effect in relation to a person who is subject to an old parole term, the person is subject to a parole order made in respect of that term, the person ceases to be subject to the parole order in so far as it applies in respect of that term.

”.

**Part 22 — *State Administrative Tribunal Act 2004*
amended**

110. The Act amended in this Part

The amendments in this Part are to the *State Administrative Tribunal Act 2004*.

111. Section 11 amended

Section 11(5)(a) is deleted and the following is inserted instead —

“

- (a) a hearing at which the Tribunal makes a decision other than a final decision; or
- (aa) a hearing at which the Tribunal makes a final decision with the consent of the parties; or

”.

112. Section 42 amended

After section 42(3) the following subsection is inserted —

“

- (4) Proceedings before the Tribunal cannot be commenced by 2 or more persons jointly unless the facts or circumstances relating to each person’s interests are the same or related.

”.

113. Section 51A inserted

After section 51 the following section is inserted —

“

51A. Splitting proceedings

- (1) The Tribunal may direct —
 - (a) that any aspect of any proceedings be heard and determined separately;

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- (b) that proceedings commenced by 2 or more persons jointly be split into separate proceedings.
- (2) The Tribunal's power to give a direction under subsection (1) is exercisable by a sitting member for the proceedings who is a legally qualified member.

”.

114. Section 66 amended

- (1) Section 66(2) is amended by deleting “subsection (1)(a)” and inserting instead —

“ subsection (1) ”.

- (2) Section 66(3) is repealed.

115. Section 171 amended

After section 171(2) the following subsections are inserted —

“

- (3) If a question arises as to the fee payable or applicable in a particular case, the question is to be decided by the executive officer.
- (4) A person affected by a decision of the executive officer made under subsection (3) may have it reviewed by the President in a summary way.

”.

Part 23 — *Supreme Court Act 1935* amended

116. The Act amended in this Part

The amendments in this Part are to the *Supreme Court Act 1935*.

117. Section 9A amended

After section 9A(4) the following subsection is inserted —

“

- (5) A person who resigns from the office of President or judge of appeal without resigning from the office of judge may complete the hearing and determination of any appeal, application or proceeding that was pending before the person immediately before the resignation took effect.

”.

118. Section 60 amended

Section 60(1) is amended as follows:

- (a) by deleting paragraph (d);
- (b) in paragraph (e) by deleting “making the order,” and inserting instead —
- “ or of the Court of Appeal, ”.

119. Section 155 amended

(1) Section 155(3) is amended as follows:

- (a) in paragraph (a) by inserting after “Registrar” in the first place it appears —
- “ or a registrar directed under subsection (4) ”;
- (b) in paragraph (b) by inserting after “Appeal Registrar” —
- “ or a registrar directed under subsection (4) ”.

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(2) After section 155(3) the following subsection is inserted —

“

- (4) If the Chief Justice and the President agree that the Court of Appeal Registrar’s workload justifies doing so, the Chief Justice may direct a registrar to temporarily assist the Court of Appeal Registrar to perform the functions of that office.

”.

120. Section 156 amended

After section 156(2) the following subsections are inserted —

“

- (3) The Sheriff may delegate to a bailiff appointed under the *Civil Judgments Enforcement Act 2004*, on any terms the Sheriff thinks fit, the performance of any function under subsection (1).
- (4) If a delegation is made under subsection (3), the *Civil Judgments Enforcement Act 2004* section 109(2) and (4) to (8) apply with any necessary changes.

”.

Part 24 — *Transfer of Land Act 1893* amended

121. The Act amended in this Part

The amendments in this Part are to the *Transfer of Land Act 1893*.

122. Section 133 amended

- (1) After section 133(1) the following subsection is inserted —

“

- (1a) An application to the Registrar under this section must be made in an approved form.

”.

- (2) Section 133(3) is amended as follows:

- (a) by deleting paragraph (b);
(b) after each of paragraphs (a), (c), (d) and (e) by inserting —
“ and ”.

- (3) Section 133(4) is amended after paragraph (a) by inserting —

“ and ”.

- (4) Section 133(8) is amended by deleting the full stop after paragraph (b) and inserting —

“

; or

- (c) the instrument is another property (seizure and sale) order.

”.

- (5) Section 133(11) is amended after paragraph (a) by inserting —

“ and ”.

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- (6) Section 133(12) is repealed and the following subsection is inserted instead —

“

- (12) If while the order has effect —
- (a) a saleable interest in respect of which the order is registered is transferred by the registration of a Sheriff’s dealing or otherwise; or
 - (b) the judgment creditor applies to the Registrar for the order to be discharged in relation to a saleable interest in respect of which the order is registered; or
 - (c) on an application made to the Registrar by any person and accompanied by the prescribed fee, the Registrar is satisfied that —
 - (i) the judgment to which the order relates has been satisfied; or
 - (ii) the order has been cancelled by the court that issued it; or
 - (iii) the sale period has expired,

the Registrar must register a partial or total discharge of the order, as the case requires, with effect from the time when the saleable interest was transferred, or the application was lodged, as the case requires.

”.

- (7) Section 133(13) is amended by deleting “the circumstances justify doing so,” and inserting instead —

“

there is a good reason why a sale of the saleable interest will not occur during the sale period,

”.

- (8) Section 133(14) is repealed and the following subsection is inserted instead —

“

- (14) Unless the court orders otherwise, an application made under subsection (13) must be served on —
- (a) the judgment debtor; and
 - (b) any other judgment creditor who has obtained the registration of a property (seizure and sale) order in respect of the saleable interest; and
 - (c) any other person who has an interest in the saleable interest.

”.

- (9) Section 133(16) is amended by deleting “have expired” and inserting instead —

“ expire ”.

- (10) Section 133(17) is repealed and the following subsection is inserted instead —

“

- (17) If an order, an application and the prescribed fee are lodged under subsection (16) before the sale period would otherwise expire —
- (a) the Registrar must register the order; and
 - (b) the registered order extends the sale period from its expiry for the period stated in the order.

”.

123. Section 138 amended

Section 138(1) is amended by deleting “lodged or” and inserting instead —

“ lodged and ”.

s. 0124

124. Section 139 amended

Section 139(1) is amended as follows:

- (a) by deleting “Subject to the provisions of the next succeeding subsection except in the cases provided by section 142 so long as” and inserting instead —
“ While ”;
- (b) by deleting “lodged.” and inserting instead —

“

lodged unless —

- (a) subsection (2) applies; or
- (b) the instrument is a property (seizure and sale) order within the meaning given in section 133; or
- (c) the instrument is a Sheriff’s dealing (within the meaning given in section 133) and the matter to which the caveat relates does not, under section 133(7), prevail against the dealing; or
- (d) section 142 applies.

”.

Part 25 — *Victims of Crime Act 1994* amended

125. The Act amended in this Part

The amendments in this Part are to the *Victims of Crime Act 1994*.

126. Section 6 amended

Section 6(1) is repealed and the following subsection is inserted instead —

“

(1) The Minister is to carry out a review of the operation and effectiveness of this Act as soon as is practicable after —

- (a) 1 January 2010; and
- (b) the expiry of each 5 year period after that day.

”.

Part 26 — Various Acts amended

**127. *Community Protection (Offender Reporting) Act 2004*
amended**

- (1) The amendments in this section are to the *Community Protection (Offender Reporting) Act 2004*.
- (2) Section 22(2) is amended by deleting “Full Court” and inserting instead —
“ Court of Appeal ”.
- (3) Section 102(2) is amended by deleting “Full Court” and inserting instead —
“ Court of Appeal ”.

128. *Corruption and Crime Commission Act 2003* amended

- (1) The amendments in this section are to the *Corruption and Crime Commission Act 2003*.
- (2) Section 184(3)(c) is amended by deleting “and 133” and inserting instead —
“ , 133 and 140 ”.

129. *The Criminal Code* amended

- (1) The amendments in this section are to *The Criminal Code*.
- (2) The heading to Part V is amended by deleting “marriage and”.
- (3) Section 563B(3) is amended by deleting “defendant” in the 2 places where it occurs and in each place inserting instead —
“ accused ”.

130. *Pawnbrokers and Second-hand Dealers Act 1994* amended

- (1) The amendments in this section are to the *Pawnbrokers and Second-hand Dealers Act 1994*.

- (2) Section 83(3) is repealed and the following subsection is inserted instead —

“

- (3) An arrest made under this section is to be taken to be an arrest made under section 25 of the *Criminal Investigation Act 2006* and section 25(5) to (7) of that Act applies accordingly.

”.

131. Road Traffic Act 1974 amended

- (1) The amendments in this section are to the *Road Traffic Act 1974*.
- (2) Section 100(1) is amended by deleting “section 72” and inserting instead —

“ section 78 ”.

132. Young Offenders Act 1994 amended

- (1) The amendments in this section are to the *Young Offenders Act 1994*.
- (2) Section 96 is amended by deleting “6 months” and inserting instead —
- “ 12 months ”.
- (3) Section 118(2) is amended by inserting after “person to” —
- “ a term of imprisonment or ”.

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