



Western Australia

Family Court (Orders of Registrars) Act 1997

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Family Court (Orders of Registrars) Act 1997

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Defined terms

Family Court (Orders of Registrars) Act 1997

An Act relating to certain ineffective orders of Registrars under the *Family Court Act 1975*² and to make consequential amendments to another Act.

1. Short title

This Act may be cited as the *Family Court (Orders of Registrars) Act 1997*¹.

2. Commencement

- (1) Subject to subsection (2), this Act comes into operation on the day on which it receives the Royal Assent¹.
- (2) Section 12 comes into operation —
 - (a) on the day on which this Act receives the Royal Assent;
or
 - (b) on the day on which the *Restraining Orders Act 1997* comes into operation¹,

whichever is the later.

3. Interpretation

- (1) In this Act —

corresponding law means a law in force in the Commonwealth that is declared by order of the Attorney General to be a corresponding law for the purposes of this Act;

court means a court having jurisdiction under the *Family Court Act 1975*²;

liability includes a duty or obligation;

proceedings has the meaning it had in the *Family Court Act 1975*² as in force immediately before the commencement of this Act and includes an initiating application;

Registrar has the meaning it had in the *Family Court Act 1975*² as in force immediately before the commencement of this Act;

right includes an interest or status.

- (2) A reference in this Act to an **ineffective order** is a reference to an order that a Registrar has purported to make, before the commencement of this Act —

(a) in the exercise or purported exercise of a delegated judicial power; and

(b) by way of a non-reviewable judicial determination,

and, where there has been a purported variation, revocation, revival or suspension of such an order, includes a reference to the order in the form in which, and to the extent to which, it purports or purported to have effect from time to time.

4. **Rights and liabilities declared in certain cases**

If an ineffective order purports or purported to have effect in or in relation to any proceedings, the rights and liabilities of all persons are, by force of this Act, declared to be, and always to have been, the same as if the ineffective order had been made by a court.

5. **Effect of declared rights and liabilities**

A right or liability conferred, imposed or affected by section 4 —

(a) is exercisable or enforceable; and

(b) is to be regarded as always having been exercisable or enforceable,

as if it were a right or liability conferred, imposed or affected by an order made by a court in or in relation to the proceedings referred to in section 4.

6. Effect of things done under rights and liabilities declared under this Act or under a corresponding law

Any act or thing done or omitted to be done before or after the commencement of this Act under or in relation to a right or liability conferred, imposed or affected by section 4 or a corresponding law —

- (a) has the same effect and gives rise to the same consequences for the purposes of any written or other law; and
- (b) is to be regarded as always having had the same effect and given rise to the same consequences for the purposes of any written or other law,

as if it were done or omitted to be done to give effect to, or under the authority of, or in reliance on —

- (c) an order made by a court in or in relation to the proceedings referred to in section 4; or
- (d) an order made by a court exercising the federal jurisdiction with which it is invested by or under the *Family Law Act 1975*, the *Child Support (Assessment) Act 1989* and the *Child Support (Registration and Collection) Act 1988* of the Commonwealth in or in relation to the relevant proceedings under that Act,

as is applicable to the case.

Note:

See for example Part IVD of the *Stamp Act 1921*.

7. Proceedings as for contempt

If, before or after the commencement of this Act, a person has —

- (a) interfered with a right conferred or affected by section 4; or
- (b) failed to satisfy or comply with a liability imposed or affected by section 4,

the interference or failure is, and is to be regarded as always having been, a matter that can be dealt with in the same manner as if the matter were the subject of proceedings in relation to a contempt of court.

8. Section 4 regarded as having ceased to have effect in certain cases

If, before the commencement of this Act, a court made an order (the *subsequent order*) having effect in relation to proceedings referred to in section 4 and —

- (a) conferring or imposing rights or liabilities similar to or different from those purportedly conferred or imposed by the ineffective order referred to in section 4; or
- (b) affecting rights or liabilities in the same way as they were purportedly affected by the ineffective order referred to in section 4 or in a different way,

section 4 is to be regarded as having ceased to have effect in respect of the ineffective order when the subsequent order took effect.

9. Powers of courts in relation to declared rights and liabilities

- (1) A court may vary, revoke, revive or suspend a right or liability conferred, imposed or affected by section 4 as if it were a right or liability conferred, imposed or affected by an order made by a court.
- (2) If, immediately before the commencement of this Act, a court had power under section 28(3)(c), 31(1) or 69 (*the relevant provision*) of the *Family Court Act 1975*² to set aside, vary, discharge, revive or suspend an order or part of an order then a court may, in accordance with the relevant provision, set aside, vary, discharge, revive or suspend a right or liability that —
 - (a) is in respect of a matter to which the relevant provision applies; and
 - (b) is conferred, imposed or affected by section 4.

- (3) In this section —
court includes a court having jurisdiction under an Act that repeals the *Family Court Act 1975* ².

10. Evidentiary

The court record, or a copy of the court record, of an extracted ineffective order may be adduced in evidence to show the existence, nature and extent of each right and liability conferred, imposed or affected by section 4.

11. Act does not apply to certain orders

Nothing in this Act applies to an order declared to be invalid by the Full Court of the Family Court of Australia before the commencement of this Act.

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

Notes

¹ This is a compilation of the *Family Court (Orders of Registrars) Act 1997*. The following table contains information about that Act and any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Family Court (Orders of Registrars) Act 1997</i>	21 of 1997	7 Sep 1997	Act other than s. 12: 7 Sep 1997 (see s. 2(1)); s. 12: 15 Sep 1997 (see s. 2(2) and <i>Gazette</i> 12 Sep 1997 p. 5149)

Reprint 1: The *Family Court (Orders of Registrars) Act 1997* as at 16 Jul 2004

² The *Family Court Act 1975* was repealed by the *Family Court Act 1997* s. 246.

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)
corresponding law	3(1)
court	3(1), 9(3)
ineffective order	3(2)
liability	3(1)
proceedings	3(1)
Registrar	3(1)
right	3(1)
subsequent order	8
the relevant provision	9(2)