

## FAMILY COURT.

---

No. 106 of 1975.

---

**AN ACT to create the Family Court of Western Australia, and for incidental purposes.**

[Assented to 1st December, 1975.]

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART I.—PRELIMINARY.

1. This Act may be cited as the *Family Court Act, 1975*. Short title.

2. The provisions of this Act shall come into operation on such day or days as is or are, respectively, fixed by proclamation. Commencement.

Arrangement.

3. This Act is arranged as follows—

PART I.—PRELIMINARY.

PART II.—FAMILY COURT OF WESTERN AUSTRALIA.

*Division 1.—Creation.**Division 2.—Judges.**Division 3.—Sittings.**Division 4.—Officers.**Division 5.—Jurisdiction.**Division 6.—Counselling and Reconciliation.*

PART III.—COURTS OF SUMMARY JURISDICTION.

PART IV.—APPEALS.

PART V.—MISCELLANEOUS.

SCHEDULES.

Interpretation.

4. In this Act, unless the contrary intention appears—

“Chairman” means the Chairman of Judges;

“Court” or “Family Court of Western Australia” means the Family Court of Western Australia created by this Act;

“District Court” means The District Court of Western Australia established under the District Court of Western Australia Act, 1969;

“Family Court of Australia” means the Family Court of Australia created by the Family Law Act;

“Family Law Act” means the Family Law Act 1975 of the Parliament of the Commonwealth or any Act passed in amendment or substitution thereof, and includes regulations and proclamations in force thereunder;

“federal jurisdiction of the Court” means the jurisdiction referred to in section 24;

“Judge” or “Family Court Judge” means a Judge of the Court;

“Marshal” means the person appointed under this Act to be the Marshal of the Court;

“metropolitan region” means such region as is prescribed to be the metropolitan region for the purposes of this Act;

“non-federal jurisdictions of the Court” means the jurisdictions referred to in section 26;

“Registrar” means the person appointed under this Act to be the Registrar of the Court and includes the Deputy Registrar;

“section” means a section of this Act; and

“subsection” means a subsection of the section wherein the term is used.

5. (1) The Acts set out in the First Schedule are amended to the extent specified therein.

Amend-  
ments and  
savings.

(2) In subsection (3) “decree” means judgment or order, and includes an order dismissing an application or complaint or refusing to make an order.

(3) Where a decree of a court created by the Parliament of the State was made before the date of the coming into operation of this section, in the exercise of a jurisdiction conferred by one of the Acts specified in the First Schedule that jurisdiction being on and after that date one of the non-federal jurisdictions of the Family Court of Western Australia—

(a) the decree shall have or continue to have effect; and

- (b) that Act as expressly amended and otherwise affected by this Act shall apply to and in relation to the decree,

as if the decree were made under that Act as so amended and affected.

(4) A reference in any other Act or in any regulation, rule, by-law, or instrument made under any Act, in force after the date of the coming into operation of this section, to a court created by the Parliament of the State, a member thereof, an officer thereof, or a Registry or central or other office thereof, in respect of a matter in a jurisdiction that is on and after that date one of the non-federal jurisdictions of the Family Court of Western Australia or of courts of summary jurisdiction referred to in section 30, shall be read as a reference to the Family Court of Western Australia, a Family Court Judge, the corresponding officer, or the Registry or central or other office, of the Family Court of Western Australia, or as a reference to such courts of summary jurisdiction, the stipendiary magistrates constituting them, the corresponding officers thereof, or the offices thereof, as the case requires.

## PART II.—FAMILY COURT OF WESTERN AUSTRALIA.

### *Division 1.—Creation.*

Creation of  
the Court.

6. (1) A court, to be known as the Family Court of Western Australia, is hereby created for this State.

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

The Court  
to be a court  
of record  
and  
constitution  
thereof.

7. (1) The Court—

(a) is a court of record; and

(b) shall be constituted by a Judge as provided by this Act.

(2) The jurisdiction of the Court is exercisable by one Judge.

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

(4) In this section "a Judge" includes an acting Judge, if any, who for the time being holds an appointment as such pursuant to section 11.

8. All courts, judges, and persons acting judicially shall take judicial notice of the seals and stamps used in the Court.

Judicial  
notice of  
seals and  
stamps.

*Division 2.—Judges.*

9. (1) The Governor may, by commission in Her Majesty's name appoint as many persons as are, in the opinion of the Governor, needed for the conduct of the business of the Court to be Family Court Judges.

Appoint-  
ment of  
Judges.

(2) A person shall not be appointed a Family Court Judge unless—

- (a) he is or has been a Judge of a court created by the Parliament of the Commonwealth;
- (b) he is or has been a Judge or an acting Judge of a court created by the Parliament of the State;
- (c) he is a practitioner as defined by the Legal Practitioners Act, 1893, of not less than eight years standing and practice; or
- (d) he is a practising barrister of the High Court of Australia, of not less than eight years standing,

and, in any case, by reason of training, experience, and personality, he is a suitable person to deal with matters of family law.

(3) A person so appointed shall be a 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 shall appoint one of the Judges to be the Chairman of Judges.

Seniority.

10. (1) The Chairman is senior to all other Judges of the Court.

(2) The Judges other than the Chairman have seniority next to the Chairman according to the dates on which their appointments as Judges took effect but where two or more of those appointments took effect on the same day, they have such seniority in relation to each other as is assigned to them by the Governor.

Acting  
appoint-  
ments.

11. (1) Whenever—

- (a) the Chairman is absent from the State or from duty; or
- (b) there is a vacancy in the office of Chairman,

the next senior Judge who is in the State and is available and willing to do so shall perform the duties and may exercise the powers of the Chairman.

(2) Where—

- (a) a Judge including the Chairman is, or is expected to be, absent from duty, the Governor may appoint a person qualified to be appointed a Judge, to act as a 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, which ever 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 Judge for such period as the Governor thinks fit and specifies in the instrument of appointment.
- (3) A person appointed to be an acting Judge under subsection (2)—
- (a) shall not hold office after he attains the age of sixty-five years;
  - (b) has the same right of resignation as a Judge; and
  - (c) is liable to be removed from office in the same manner and upon the same grounds as a Judge.

12. (1) Each Judge shall retire from his office upon attaining the age of sixty-five years.

Tenure of office.

(2) A Judge may resign his office by writing under his hand addressed to the Governor and the resignation takes effect on the day on which it is received by the Governor or on such later day as is specified in the writing.

(3) Subject to subsections (1) and (2), the commission of each Judge shall continue in force during good behaviour but the Governor may, upon the address of both Houses of Parliament, remove any Judge from his office and revoke his commission.

13. Each person appointed to be a Judge shall, before proceeding to discharge the duties of his office, take before the Governor an oath or affirmation of allegiance and an oath or affirmation of office in accordance with the forms set out in the Second Schedule.

Oaths or affirmations of allegiance and office.

No robing.

14. While a Judge is discharging the duties of his office he shall not robe and counsel appearing before him shall not robe.

Style and  
title of  
Judges.

15. (1) The Chairman is in relation to his office entitled to a like style and title to that which a Puisne Judge of the Supreme Court is entitled in relation to his office.

(2) Each Judge other than the Chairman is in relation to his office entitled to the style and title of "His Honour".

Salaries and  
allowances  
of Judges.

16. (1) The Chairman shall receive salary and allowances or reimbursements at the same rate as a Puisne Judge of the Supreme Court.

(2) Each Judge other than the Chairman shall be paid salary and allowances or reimbursements at the same rate as a District Court Judge other than the Chairman of District Court Judges.

Leave of  
Judge.

17. Each Judge is entitled to the same conditions in respect of leave of absence as a Judge of the Supreme Court.

Application  
of Act No. 35  
of 1950 to  
Family  
Court  
Judges.

18. (1) The provisions of the Judges' Salaries and Pensions Act, 1950 that relate to pensions apply, with such modifications as circumstances require, to and in relation to each Family Court Judge, and to and in relation to his widow and children after his death, in the same manner as they apply to and in relation to a Judge of the Supreme Court appointed as such after the coming into operation of that Act, and to and in relation to his widow and children after his death, and for that purpose the term "Judge" in that Act includes a Family Court Judge.



(2) If a Judge or an acting Judge of another court created by the Parliament of the State is appointed a Family Court Judge his service as a Judge or acting Judge of that other court shall be regarded for the purposes of the Judges' Salaries and Pensions Act, 1950 as service as a Family Court Judge.

(3) If an acting Family Court Judge is appointed a Family Court Judge his service as an acting Family Court Judge shall be regarded for the purposes of the Judges' Salaries and Pensions Act, 1950 as service as a Family Court Judge.

(4) If a Family Court Judge or an acting Family Court Judge is appointed a Judge of another court created by the Parliament of the State his service as a Family Court Judge or an acting Family Court Judge shall be regarded for the purposes of the Judges' Salaries and Pensions Act, 1950 as a Judge of that other court.

19. (1) If a person is a contributor within the meaning of the Superannuation and Family Benefits Act, 1938, immediately before he is appointed a Judge, he may continue to be such a contributor notwithstanding his appointment as a Judge.

Application  
of Act No. 34  
of 1938, to a  
person  
appointed  
a Judge.

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

- (a) before he attains the age of sixty years he shall be deemed to have resigned;
- (b) on or after he attains the age of sixty years but before he attains the age of sixty-five years he shall be deemed to have elected to retire; or
- (c) on attaining sixty-five years he shall be deemed to have retired,

under that Act on the day he so ceases to be a contributor and, in each case referred to in paragraphs (b) and (c) of this subsection, a pension is payable to him, and his widow and children after his death, without affecting any pension that may be payable to, him, and his widow and children after his death, under the Judges' Salaries and Pensions Act, 1950, but the pension otherwise payable under that last mentioned Act to him, and his widow and children after his death, 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 him, and his widow and children after his death.

Dual  
appoint-  
ments.

20. A person may, at the same time, be a Judge of the Family Court of Australia and a Judge of the Family Court of Western Australia but—

- (a) while he is entitled to receive salary and allowances or reimbursements as a Judge of the Family Court of Australia, he is not entitled to receive salary and allowances or reimbursements under this Act except to the extent that the salary and allowances or reimbursements that would be payable to him under this Act apart from this section exceeds the salary and allowances or reimbursements payable to him as a Judge of the Family Court of Australia;
- (b) while he is, and his widow and children after his death are, entitled to receive a pension under the Judges' Pensions Act 1968 of the Parliament of the Commonwealth or any Act passed in amendment or substitution thereof, he is not, and his widow and children after his death are not, entitled to receive a pension under the Judges' Salaries and Pensions Act, 1950 of the State except to the extent that the pension that would be payable to him, and his widow and children after his death, under that State Act exceeds the pension payable to him, and his widow and children

after his death, under that Act of the Parliament of the Commonwealth or any Act passed in amendment or substitution thereof;

- (c) if, after ceasing to be a Judge of the Family Court of Western Australia, he remains a Judge of the Family Court of Australia, any pension to which he is otherwise entitled under the Judges' Salaries and Pensions Act, 1950 of the State shall not be payable except to the extent, if any, that it exceeds the salary payable to him as a Judge of the Family Court of Australia; and
- (d) if, after ceasing to be a Judge of the Family Court of Australia, he remains a Judge of the Family Court of Western Australia, the salary to which he is otherwise entitled under this Act shall not be payable except to the extent, if any, that it exceeds any pension payable to him under the Judges' Pensions Act 1968 of the Parliament of the Commonwealth or any Act passed in amendment or substitution thereof.

*Division 3.—Sittings.*

21. Sittings of the Court shall be held from time to time as required.

Sittings of  
of the Court.

*Division 4.—Officers.*

22. (1) There shall be—

- (a) a Registrar of the Court;
- (b) a Marshal of the Court;
- (c) a Director of Counselling and Welfare of the Court; and
- (d) such other officers and other staff of the Court as are necessary for the proper functioning thereof.

Officers of  
the Court.

## (2) The officers of the Court—

- (a) shall be appointed by the Governor;
- (b) shall hold office subject to and in accordance with the Public Service Act, 1904; and
- (c) may hold office as such in conjunction with any other office in the Public Service of the State.

(3) Where an officer of the Court is or is expected to be absent from duty the Attorney General may appoint another person who is a member of the Public Service of the State to act in the place of that officer during the period of his absence from duty, and that other person has during that period the duties, powers, and functions imposed and conferred on that officer.

## (4) The other staff of the Court—

- (a) shall be appointed and hold office subject to and in accordance with the Public Service Act, 1904; and
- (b) may hold office as such in conjunction with any other office in the Public Service of the State.

(5) In respect of the federal jurisdiction of the Court, the officers of the Court have such duties, powers, and functions as are authorized by the Family Law Act and as are provided by or under this Act.

(6) In respect of the non-federal jurisdictions of the Court, the officers of the Court have such duties, powers, and functions as are provided by or under this Act and any other Act of the State.

(7) All courts, judges, and persons acting judicially shall take judicial notice of the official signature of every person who is and every person who has at any time been an officer or acting officer of the Court and of the office or acting office he holds or has held as such an officer or acting officer.

## 23. (1) The Marshal—

Marshal.

- (a) is charged with the service and execution of all writs, orders, decrees, warrants, precepts, processes, and commands of the Court that are directed to him; and
- (b) shall take, receive, and detain any person who is committed to his custody by the Court, and shall discharge all such persons when directed by the Court or required by law.

(2) The Marshal may authorize such persons as he thinks fit to assist him in the exercise of any power or the performance of any function.

*Division 5.—Jurisdiction.*

24. The Court has throughout the State the federal jurisdiction with which it is invested by the Family Law Act.

Federal jurisdiction of the Court.

25. The Court shall in the exercise of its federal jurisdiction have regard to—

Principles to be applied by the Court in its federal jurisdiction.

- (a) the need to preserve and protect the institution of marriage as the union of man and woman to the exclusion of all others voluntarily entered into for life;
- (b) the need to give the widest possible protection and assistance to the family as the natural and fundamental group unit of society, particularly while it is responsible for the care and education of children;
- (c) the need to protect the rights of children and to promote their welfare; and
- (d) the means available for assisting parties to a marriage to consider reconciliation or the improvement of their relationship to each other and to the children of the marriage.

26. The Court has throughout the State the non-federal jurisdictions conferred on it by or under any other Act of the State.

Non-federal jurisdictions.

*Division 6.—Counselling and Reconciliation.*

Facilities.

27. There shall be available to the Court like counselling and welfare facilities to those available to the Family Court of Australia.

Advice as to counselling.

28. (1) The Director of Counselling and Welfare of the Court may advertise the existence and availability of the counselling and welfare facilities of the Court.

(2) Any person may seek the assistance of the counselling facilities of the Court and when such assistance is sought the Director of Counselling and Welfare of the Court shall, as far as practicable, make those facilities available.

## PART III.—COURTS OF SUMMARY JURISDICTION.

Federal jurisdiction of courts of summary jurisdiction outside the metropolitan region.

29. Courts of summary jurisdiction of this State constituted by a stipendiary magistrate only and sitting at places outside the metropolitan region have the federal jurisdiction with which they are invested by the Family Law Act, and in exercising such jurisdiction, shall have regard to the principles mentioned in paragraphs (a) to (d) inclusive of section 25.

Non-federal jurisdictions of courts of summary jurisdiction outside the metropolitan region.

30. Courts of summary jurisdiction of this State constituted by a stipendiary magistrate only and sitting at places outside the metropolitan region may exercise all the non-federal jurisdictions of the Family Court of Western Australia except those conferred by or under the Guardianship of Children Act, 1972 and the Adoption of Children Act, 1896.

Duties, powers, and functions of officers of courts of summary jurisdiction.

31. (1) In respect of the federal jurisdiction of courts of summary jurisdiction referred to in section 29, the officers of such courts have such duties, powers, and functions as are authorised by the Family Law Act and as are provided by or under this Act.

(2) In respect of the non-federal jurisdictions of courts of summary jurisdiction referred to in section 30, the officers of such courts have such duties, powers, and functions as are provided by or under this Act and any other Act of the State.

PART IV.—APPEALS.

32. In respect of the federal jurisdiction of the Family Court of Western Australia, and of the courts of summary jurisdiction referred to in section 29, the appeal provisions of the Family Law Act apply.

Federal  
jurisdiction.

33. (1) In this section “decree” means judgment or order, and includes an order dismissing an application or complaint or refusing to make an order.

Non-federal  
jurisdiction.

(2) In respect of the non-federal jurisdictions of the Family Court of Western Australia, and of the courts of summary jurisdiction referred to in section 30, a person aggrieved by a decree—

- (a) may, where it is a decree of such a court of summary jurisdiction, appeal to the Family Court of Western Australia; and
- (b) may, where it is a decree of the Family Court of Western Australia, appeal to the Full Court of the Supreme Court.

(3) Appeals under subsection (2) to the Family Court of Western Australia shall be made in the manner and within the time prescribed by regulations made under this Act.

(4) Appeals under subsection (2) to the Full Court of the Supreme Court shall be made in the manner and within the time prescribed by the Rules of the Supreme Court.

## PART V.—MISCELLANEOUS.

## Regulations.

34. (1) The Governor may make regulations, not inconsistent with this Act or the Family Law Act, prescribing all matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The regulations may make provision for or in relation to the practice and procedure to be followed in the Court and in courts of summary jurisdiction exercising jurisdiction under this Act, and for or in relation to all matters and things incidental to any such practice or procedure, or necessary or convenient to be prescribed for the conduct of any business in those courts.

(3) Without limiting the generality of subsection (2) the regulations may make provision for or in relation to—

- (a) the establishment of registries of the Court;
- (b) the places and times of sitting of the Court and of courts of summary jurisdiction exercising federal jurisdiction and non-federal jurisdictions under this Act;
- (c) the attendance of witnesses;
- (d) providing for the manner of service of process of the Court or courts of summary jurisdiction exercising jurisdiction under this Act, and for dispensing with such service;
- (e) the enforcement and execution of the judgments and orders of the Court and courts of summary jurisdiction exercising jurisdiction under this Act;
- (f) the time and manner of institution of appeals to the Court;
- (g) officers of the Court and their duties;



- (h) authorizing an officer of the Court or of a court of summary jurisdiction exercising jurisdiction under this Act to perform and exercise powers and functions, on behalf of the court or otherwise, in relation to proceedings instituted in the Court or proceedings instituted in a court of summary jurisdiction exercising jurisdiction under this Act, and enabling the court concerned to review the decision of that officer in relation to the performance or exercise of any function or power;
- (i) the seals and stamps to be used in the Court and in courts of summary jurisdiction having jurisdiction under this Act;
- (j) prescribing matters relating to the costs of proceedings and the assessment or taxation of those costs;
- (k) authorizing the Court and courts of summary jurisdiction having jurisdiction under this Act to refer to an officer of the court for investigation, report and recommendation claims or applications for or relating to any matters before the court;
- (l) authorizing an officer making an investigation referred to in paragraph (k) to take evidence on oath or affirmation, and to obtain and receive in evidence a report from a welfare officer, and enabling the summoning of witnesses before an officer making such an investigation for the purpose of giving evidence or producing books and documents;
- (m) regulating the procedure of the Court and courts of summary jurisdiction having jurisdiction under this Act upon receiving a report of an officer who has made an investigation referred to in paragraph (k);
- (n) prescribing the metropolitan region for the purposes of this Act;
- (o) the completion of pending proceedings within the meaning of section 36;

- (p) prescribing matters incidental to the matters specified in the preceding paragraphs of this subsection; and
- (q) prescribing penalties not exceeding \$500 for offences against the regulations.

Transitional  
regulations,  
rules, and  
by-laws.

35. (1) Regulations, rules and by-laws in force, immediately before the date of the coming into operation of Division 5 of Part II of this Act, for or in relation to any matter, in a jurisdiction of a court created by the Parliament of the State, that jurisdiction being on and after that date one of the non-federal jurisdictions of the Family Court of Western Australia, or of courts of summary jurisdiction referred to in section 30, shall continue in force for and in relation to that matter, with such modifications as are necessary and subject to subsection (2) and the regulations made under section 34.

(2) Regulations, rules and by-laws continued in force by subsection (1) may be revoked by the Governor at any time.

Pending  
proceedings.

36. (1) In this section—

“appeal” includes—

- (a) an application for leave or special leave to appeal; and
- (b) an application for a new trial or re-hearing;

“decree” means a judgment or order, and includes an order dismissing an application or complaint or refusing to make an order;

“pending proceedings” means proceedings that were instituted before the date of the coming into operation of this section but were not completed before that date; and

“proceedings” means a proceeding in a court created by the Parliament of the State in a jurisdiction conferred by an Act specified

in the First Schedule that is on and after the date of the coming into operation of this section one of the non-federal jurisdictions of the Family Court of Western Australia, whether between parties or not, and includes cross proceedings or an incidental proceeding in the course of or in connection with a proceeding.

(2) Subject to subsections (3) and (4) and to the regulations, pending proceedings may be continued and shall be dealt with as if they were proceedings instituted under the relevant Act specified in the First Schedule as expressly amended and otherwise affected by this Act.

(3) Where it appears to a court in which a pending proceeding has been instituted or is being continued under this section that it is in the interests of justice that the proceedings be dealt with in another court having jurisdiction under this Act, the court may transfer the proceedings to the other court.

(4) The Court or the Registrar, may give such directions in relation to pending proceedings generally or in a particular case as are necessary or desirable for the purposes of this Act.

(5) Where in any proceedings a decree has been made before the date of the coming into operation of this section—

- (a) any appeal in respect of that decree may be continued or instituted as if this Act had not been passed; and
- (b) any new trial or re-hearing ordered upon the hearing of such an appeal shall be had and completed in the Family Court of Western Australia.

37. The Married Persons and Children (Summary Relief) Act, 1965-1972, is further amended as specified in the Third Schedule.

Special  
amendments  
relating to  
imprison-  
ment.

## FIRST SCHEDULE.

s. 5.

1. The Adoption of Children Act, 1896-1973 is amended as set out below.

Provision Amended.	Amendment.
Section 2 ....	<p>Insert after the interpretation "country" an interpretation as follows—</p> <p style="padding-left: 40px;">"Family Court" means the Family Court of Western Australia created by the Family Court Act, 1975.</p> <p>Insert after the interpretation "guardian" an interpretation as follows—</p> <p style="padding-left: 40px;">"Judge" means a Judge of the Family Court and includes an acting Judge of that Court, if any, who for the time being holds an appointment as such pursuant to section 11 of the Family Court Act, 1975.</p>
Section 4D (3) ....	Delete "Supreme" in line 4, substitute "Family".
Section 4H (5) ....	Delete "Supreme" in line 9, substitute "Family".
Section 4H (13) (g)	Delete "the", the first word in line 1, substitute "a".
Section 5A (1) ....	Delete "Supreme" in line 2, substitute "Family".
Section 5A (2) ....	Delete "Supreme" in lines 7 and 11, substitute in each case "Family".
Section 5B ....	Delete "Supreme" in line 3, substitute "Family".
Section 5C ....	Delete "Supreme" in line 11 substitute "Family".
Section 9A ....	Delete "Supreme" in line 2, substitute "Family".
Section 11 ....	Insert after "Court" in line 2 "or the Family Court".
Section 11 ....	Insert after "Master" in line 5 "of the Supreme Court or the Registrar of the Family Court, as the case requires".
Section 12 ....	Delete "Supreme" in line 2, substitute "Family".
Section 12A (1) ....	Delete "Supreme" in line 9, substitute "Family".

FIRST SCHEDULE—*continued.*

Provision Amended.	Amendment.
Section 13A (2) ...	Delete "Supreme" in line 10, substitute "Family".
Section 13B (1) ...	Delete "Supreme" in lines 7 and 10, substitute "Family" in each case.
Section 16 (6) ...	Delete "Supreme" in line 7, substitute "Family".
Section 25 ...	Delete "Governor" in line 1, substitute "Judges or a majority of them".
Section 25 ...	Delete "such rules and regulations as he thinks fit" in line 2, substitute "rules not inconsistent with the Family Court Act, 1975 and regulations in force thereunder".

2. The Guardianship of Children Act, 1972 is amended as set out below.

Provision Amended.	Amendment.
Section 4 ...	Delete the interpretation "the Court", substitute an interpretation as follows— "the Court" means the Family Court of Western Australia created by the Family Court Act, 1975; .
Section 4 ...	Delete the interpretation "the Summary Relief Court".
Section 20 (1) ...	Delete "Summary Relief" in line 4.
Section 20 (2) ...	Delete "Summary Relief" in lines 1, 6 and 8.
Section 26 ...	Delete "Supreme" in line 4.
Section 27 ...	Insert "Supreme" before "Court" in lines 2 and 4.
Section 28 ...	Insert after the section number "28." the passage "(1) Subject to subsection (2) of this section".
Section 28 ...	Delete "Supreme Court" in lines 3 and 4, substitute "Court or a majority of them".
Section 28 ...	Add a subsection as follows— (2) Rules made pursuant to subsection (1) of this section shall not be inconsistent with the Family Court Act, 1975 and regulations in force thereunder. .

FIRST SCHEDULE—*continued.*

3. The Child Welfare Act, 1947-1972 is amended as set out below.

Provision Amended.	Amendment.
Section 40A ....	Repeal and re-enact subsection (3) as follows— (3) Where an order is made under this section for the payment of maintenance, the court shall cause a certified copy of the order to be sent to the Family Court of Western Australia created by the Family Court Act, 1975 for registration in the manner provided by the regulations in force under that Act or by the rules in force of that Family Court; and the order shall, when so registered, be deemed, for all purposes, to be an order of that Family Court. .
Section 40A ....	Repeal subsection (4).

4. The Married Persons and Children (Summary Relief) Act, 1965-1972 is amended as set out below.

Provision Amended.	Amendment.
Section 3 ....	Delete all references to Part II and sections thereof.
Section 3 ....	Delete all references to Part V and Divisions and sections thereof.
Section 5 ....	Delete the interpretation "clerk".
Section 5 ....	Delete the interpretation "court", substitute an interpretation as follows— "court" means the Family Court and, where the case requires, includes any one of the courts of summary jurisdiction referred to in section 30 of the Family Court Act, 1975; .
Section 5 ....	Insert after the interpretation "Director" an interpretation as follows— "Family Court" means the Family Court of Western Australia created by the Family Court Act, 1975; .
Section 5 ....	Delete "appointed" in line 2 of the interpretation "officer of the court", substitute "duly appointed or authorised".

FIRST SCHEDULE—*continued.*

Provision Amended.			Amendment.
Section 5	...	...	Insert after "Act" in line 2 of the interpretation "order" the passage " , or preserved by the Family Court Act, 1975".
Section 5	...	...	Delete the interpretation "welfare officer", substitute an interpretation as follows— "welfare officer" means a welfare officer of the Family Court. .
Section 5	...	...	Insert at the end a subsection as follows— (4) On and after the date of the coming into operation of section 5 of the Family Court Act, 1975 any references made by or under this Act to the "clerk" and "assistant clerk" shall, unless a contrary or other intention appears, be read as a reference to the Registrar and the Deputy Registrar, respectively, of the Family Court or, where the case requires, a clerk or assistant clerk of any one of the courts of summary jurisdiction referred to in section 30 of that Act. .
Part II ..	....	....	Repeal.
Section 16 (4)	...	...	Delete "or a Judge" in line 3.
Part V ..	....	....	Repeal.
Section 90	...	...	Repeal and re-enact as follows— 90. (1) Appeals from orders made or purported to be made under this Act lie in accordance with the provisions of Part IV of the Family Court Act, 1975. (2) Subject to subsection (3) of this section, any order that the Full Court of the Supreme Court can and does make on an appeal which lies as mentioned in subsection (1) of this section shall, for the purposes of its enforcement and for the purposes of sections twenty, twenty-one, and twenty-two to the extent that those sections can and do apply be treated as if it were an order of the court and not of the Supreme Court. (3) The provisions of subsection (2) of this section do not apply to an order of the Supreme Court remitting the application to the court. .

FIRST SCHEDULE—*continued.*

Provision Amended.	Amendment.
Section 100 ....	Insert after "rules" in line 1 "and to the Family Law Act, 1975 and regulations in force thereunder".
Section 101B (2) (b)	Delete ", appointed under section one hundred and eight", in lines two and three.
Section 103 (1) ....	Insert after "rules" in line 2 "or regulations in force under the Family Court Act, 1975".
Section 105 ....	Insert after "rules" in line 1 "and to regulations in force under the Family Court Act, 1975".
Section 106 ....	Insert after "rules" in line 2 "and to regulations in force under the Family Court Act, 1975".
Section 108 ....	Repeal subsections (1), (2) and (3).
Section 110 ....	Insert after the section number "110." the subsection designation "(1)".
Section 110 ....	Delete "The Governor" in line 1, substitute "Subject to subsection (2) of this section, Judges of the Family Court, or a majority of them,".
Section 110 (i) ....	Delete "his" in line 4, substitute "their".
Section 110 ....	Add at the end a subsection as follows— (2) Rules made pursuant to subsection (1) of this section shall not be inconsistent with the Family Court Act, 1975 and regulations in force thereunder. .

## SECOND SCHEDULE.

S. 13.

## 1. ALLEGIANCE

## (a) Oath:

I, ....., do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her heirs and successors according to law. So help me God.

or

## (b) Affirmation:

I, ....., do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her heirs and successors according to law.

(Note:—The name of the reigning Sovereign for the time being is to be substituted from time to time).



SECOND SCHEDULE—*continued.*

## 2. OFFICE

## (a) Oath:

I, ....., do swear that I will well and truly serve in the office of (Chairman of Judges, or Judge, as the case may be) of the Family Court of Western Australia and that I will do right to all manner of people according to law, without fear or favour, affection or ill-will. So help me God.

or

## (b) Affirmation:

I, ....., do solemnly and sincerely affirm and declare that I will well and truly serve in the office of (Chairman of Judges, or Judge, as the case may be) of the Family Court of Western Australia and that I will do right to all manner of people according to law, without fear or favour, affection or ill-will.

## THIRD SCHEDULE.

S. 37.

The Married Persons and Children (Summary Relief) Act, 1965-1972 is further amended as set out below.

Provision Amended.	Amendment.
Section 3 ....	Delete the reference to Division 1 of Part IV, substitute "Division 1.—Interpretation, transitional, and general provisions, sections 28-28A."
Section 3 ....	Delete the reference to Division 1B of Part IV, substitute "Division 1B.—Entry of Judgments, etc., section 30A."
Part IV (Division 1)	Delete the heading, substitute "Division 1.—Interpretation, transitional, and general provisions."
Section 28 ....	Delete the interpretation "commitment order".
Part IV (Division 1)	Add at the end a section as follows—
	<div style="display: flex; align-items: flex-start;"> <div style="font-size: small; margin-right: 10px;">           No imprison- ment for failure to pay money under an order.         </div> <div>           28A. (1) Notwithstanding the provisions of any other Act, no person shall, on or after the date of the coming into operation of this section, be imprisoned or otherwise placed in custody by reason of contravention of, or failure to comply with an order for the payment of money made under this Act, and any person who is in prison or other custody on that date as a result of contravention of, or a failure to comply with, such an order shall be released forthwith.         </div> </div>

THIRD SCHEDULE—*continued.*

Provision Amended.	Amendment.
	<p>(2) The release from a prison or other custody under subsection (1) of this section of a person who was in that prison or custody by reason of failure to pay any moneys does not release the person from any liability to pay those moneys.</p>
	<p>(3) This section does not affect the operation of section 29B, but the provisions of that section shall not apply to or in relation to a recognisance entered into pursuant to this Act to secure compliance with an order for the payment of money made under this Act. .</p>
Part IV (Division 1B)	Delete the heading, substitute "Division 1B.—Entry of Judgments etc."
Part IV      ....      ....	Repeal section 30B, sections 31A to 31M both inclusive, subsection (2) of section 32A, section 32G, and section 32J.