



# Government Gazette

OF

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[1961

### MARRIED PERSONS (SUMMARY RELIEF) ACT, 1960.

Crown Law Department,  
Perth, 19th January, 1961.

HIS Excellency the Governor in Executive Council, acting pursuant to the provisions of the Married Persons (Summary Relief) Act, 1960, has been pleased to make the Rules of Court set out in the Schedule hereunder, to take effect on and from the 1st day of February, 1961.

(Sgd.) R. C. GREEN,  
Under Secretary for Law.

#### Schedule.

1. These rules may be cited as the Married Persons (Summary Relief) Rules, 1961.

2. In these rules—

“file” means all the documents filed on the record of any proceedings in the Court relating to the parties to a marriage including any complaint, summons, application, affidavit, notice, notes of evidence, orders, records of imprisonment and any other document or letter relating to those proceedings.

“place of origin” in relation to an order or a file which is the subject of an application to the Court means the place—

(a) where the order was first made;

(b) to which the file is transferred upon the coming into operation of the Act; or

(c) to which a file is transferred by an Order made under Rule 33 of these rules.

“the Act” means the Married Persons (Summary Relief) Act, 1960.

“third party” means a person, other than a party to the marriage or child of the family, required by the Act or these rules, to be named in, or to be given notice of, a complaint, whether or not notice has, in fact been given to that person.

3. The Court shall have a seal and any summons, notice, warrant, or other process or any certificate issued out of the Court shall be stamped with the seal.

4. The days and hours for the transaction of business at the Court shall (subject to subsection (4) of section 6 of the Act) be the same as are fixed for other courts of summary jurisdiction.

5. (1) The clerk shall keep a register book in which shall be entered particulars of all complaints made under the Act and that book may be in accordance with Form 1 in the First Schedule to these rules.

(2) Complaints shall be numbered serially, for each year, at each place where the Court sits.

(3) Any index to the register shall be maintained alphabetically according to the surname of the husband, father or male person in *loco parentis*, as the case may be.

(4) Where any complaint relates to a prior order a cross reference to the prior order shall be made in the index.

(5) Where the file of any proceeding is sent by the clerk to the Court at another place, the date and particulars of the place to which it is sent and the date of its return shall be recorded in the register book, under the last entry relating to the parties.

6. The forms in the First Schedule to these rules, or forms to like effect, may be used for the purposes to which they are applicable, as indicated on the form, and those forms or any of them may be varied for the purpose of adapting them or it to circumstances.

7. The fees set out in the Second Schedule to these rules shall be the fees payable.

8. Proceedings under the Act shall be commenced by a complaint which may be made or laid by the complainant in person, or by his counsel or solicitor or other person authorised by the complainant in writing in that behalf.

9. A complaint may contain any one or more causes of complaint under the Act and every cause of complaint on which the complainant relies for relief shall be set forth in the complaint.

10. A complaint may be made before a Justice or before the clerk, who shall sign and issue his summons and a summons issued by the clerk shall have the same force and effect as if issued by a Justice.

11. (1) Subject to these rules, a person may be a party to a complaint, notwithstanding that he is not of full age.

(2) A person may make an *ex parte* application to the Court, supported by affidavit and such documentary evidence as may be available to him, for leave to bring a complaint on behalf of a person of unsound mind and the Court may grant the application, subject to such conditions as it thinks fit.

12. (1) A complainant who alleges, as a cause of his complaint, the adultery of the defendant shall give notice of that allegation to the person with whom it is alleged the defendant committed adultery, unless that person—

- (a) is a person in respect of whom the defendant was convicted of the offence of rape, or any other crime or offence in which sexual intercourse with a person of the opposite sex is an element, and that conviction is relied upon in support of the allegation of adultery;
- (b) is a female under the age of sixteen years or a male under the age of fourteen years;
- (c) is of unsound mind, whether so declared or not; or
- (d) is a person whose identity or whereabouts are unknown to, and cannot reasonably be ascertained by, the complainant.

(2) Except where relieved by this rule of the requirement of notice to a third party, a complainant shall file a copy of the notice upon filing the complaint and the service copy of the notice shall be signed by the clerk.

(3) Where a complainant claims to be relieved by this rule of the requirement of notice to a third party, the complainant shall file with the complaint an affidavit verifying the facts upon which he relies as relieving him of that requirement.

(4) Notwithstanding the filing of an affidavit in that regard, where the complainant deposes that a third party is a person whose identity or whereabouts are unknown to, and cannot reasonably be ascertained by, the complainant, the Court shall not proceed to hear the complaint, unless or until it is satisfied of that fact, whether on the day of the hearing or sooner.

(5) Where the Court, being satisfied that the identity or whereabouts of a third party are unknown to, and cannot reasonably be ascertained by, the complainant, gives leave to proceed with the complaint, if the identity and whereabouts of the third party become known during the course of the hearing, the Court may adjourn the proceedings to enable notice to be given to that party.

13. (1) Any complaint made under the Act shall specify the relief sought by the complainant.

(2) A complaint made under section 13, 14, 15, 16 or 23 of the Act shall set out the date, place and particulars of any order previously made (whether under the Act or the repealed Acts) and still in operation; and shall contain a summary of the facts upon which the complainant relies for relief.

(3) Where, at the hearing of a complaint, the defendant is not present or represented and the complainant seeks relief other than that specified in the complaint, the Court shall, unless satisfied that notice of any other or additional relief sought has been given to the defendant, adjourn the hearing to enable, and not proceed with the hearing until, notice of the additional or other relief sought has been given to the defendant.

14. (1) Where a complaint made under section 13, 14, 15 or 16 of the Act seeks relief affecting the custody of, access to, or maintenance of, a child committed to the legal custody of a person who is not a party to the marriage, notice of that complaint shall be given to that person, as a third party.

(2) A notice required to be given under subrule (1) of this rule shall be given to the Director of the Child Welfare Department where the child is committed to the care of that Department.

(3) A complainant shall file a copy of any notice required to be given under this rule, upon filing the complaint and the service copy shall be signed by the clerk.

15. Where a cross-complaint is made to any complaint mentioned in Rule 12 or 14 of these rules, a notice of the cross-complaint shall be given to any third party to whom notice of the complaint was given.

16. (1) Any summons issued pursuant to a complaint under the Act shall show—

- (a) the full name and address of the defendant and of any third party;
- (b) the cause or causes of complaint;
- (c) the relief sought by the complainant; and
- (d) the date and place for the return of the summons.

(2) Where the complainant is represented by a solicitor, the summons shall set forth the name and address of the solicitor and, in such event, the complainant's address for service shall be deemed to be the address of his solicitor.

17. (1) Where every reasonable effort has been made to effect service of any summons or notice and service cannot be effected by any means provided by section 45 of the Act, the complainant or other person interested may make an *ex parte* application to the Court for leave to proceed, as if service had been effected.

(2) An application under this rule shall be supported by an affidavit setting forth the facts upon which the applicant relies and may be heard in Chambers.

(3) Where the Court grants leave to proceed subject to any conditions which the Court may think fit to impose, it shall not permit the hearing of the complaint to proceed unless or until satisfied that those conditions or any conditions imposed by any other order have been complied with or have been dispensed with.

18. Where a summons or notice is not served within such period prior to the return date as the Court considers reasonable in all the circumstances of the case, it shall fix a later return date and may, in any event, fix any other, including an earlier, return date, by consent of all the parties.

19. (1) In any proceeding commenced under the Act the Court at the place nearest to the defendant's place of abode may, upon an application in that behalf made by the defendant in accordance with subrule (2) of this rule, if satisfied that the proceeding could more conveniently be heard by the Court at some place other than that whence the summons issued, order that the proceeding be removed to the Court at that place, subject to such conditions as it thinks fit to impose.

(2) An application under this rule shall be supported by an affidavit setting out the facts on which the defendant relies and may be made *ex parte*, but, unless the Court determines that the application should be refused forthwith, the Court shall afford the complainant an opportunity of making a representation thereon, by affidavit.

(3) The defendant making an application, under this rule, shall file the application and affidavit in duplicate.

(4) A certified copy of any order of the Court made under this rule shall forthwith be sent, by the clerk, to the clerk at the place whence the summons issued and, where the order appoints some other place for the hearing of the proceeding, the latter clerk shall send forward to the Court at that other place the file relating to that proceeding and the clerk at that other place, shall, upon receipt of the file, appoint a day for the hearing and notify the parties accordingly.

20. The Court may refuse to issue a summons out of the Court at any place other than that nearest the place of abode of one of the parties to the marriage.

21. (1) A defendant or a third party may require particulars of the complaint and, unless the Court is of the opinion that the request was not warranted, if the required particulars are not given within a reasonable period prior to the return date or the day fixed for hearing of a complaint, the Court may, on the application of the party by whom the particulars are required, order the particulars to be given within a specified period and adjourn the hearing until a day after that period.

(2) Any party to a complaint may require any other party to give discovery of all documents which the latter has or has had in his possession or power, relating to any matter in issue and the latter party shall give that discovery by letter or notice signed by him or his solicitor and therein appoint a time when and a place where the documents he consents to produce may be inspected.

(3) If the required discovery and inspection are not given within a reasonable period prior to the return date or the day fixed for the hearing of a complaint, the Court may, on the application of the party by whom discovery and inspection was required, order that the required discovery and inspection be given.

(4) Where a party does not consent to produce any document the party requiring its production may make application to the Court for the question of its production to be determined and the Court, after hearing representations on behalf of the parties, shall make such order as it thinks fit.

(5) A party who fails or neglects to comply with an order made under this rule is guilty of contempt.

22. (1) Where any complaint is made under sections 13, 14, 15 or 16 of the Act in the Court at a place other than the place of origin of the subject order, the clerk at the place where the complaint is made shall obtain the file of the prior proceedings from the Court at the place of origin.

(2) Any party to a complaint may search the file of any proceeding to which the complaint relates and may have recourse to that file during the course of the hearing of the complaint.

(3) On the completion of the hearing of any complaint under this rule the file of any prior proceedings, together with a record of the latest proceeding and a copy of any order made therein shall be returned to the place of origin.

23. A cross-complaint may be heard at the same time as the original complaint, if the summons issued under the cross-complaint is served within such period prior to the original return date as the Court considers reasonable in all the circumstances of the case and shall, in any event, be heard at the same time, if all parties to the complaint consent.

24. (1) Where the parties to a complaint made under section 9 of the Act elect that the Court be constituted by a Stipendiary Magistrate, such fact shall be indorsed upon the record of the proceeding.

(2) Where the Court is required by the Act to be constituted by a Stipendiary Magistrate and one Justice of the Peace and no Justice of the Peace can be found, within ten miles of the place where the Court is sitting, who is capable of acting and willing to act, the clerk shall, except in the circumstances mentioned in subrule (1) of this rule, certify that fact to the Court, in writing and that certificate shall be a part of the record of the proceeding.

25. Any person wishing to lead evidence at a hearing by affidavit may apply at the hearing or make an *ex parte* application to the Court, prior to the hearing, for leave to lead evidence in that manner; and the Court may grant leave accordingly, subject to such conditions as it thinks fit.

26. (1) Where the Court orders that any witness be examined before the Court at another place or before an examiner appointed by the Court, the Court shall cause the file and a sealed copy of the order to be sent to the clerk at that other place or to the examiner so appointed and the clerk or examiner shall appoint a time and place for the attendance of the witness and notice thereof shall be given to the witness and to each party or to his solicitor.

(2) Any witness wilfully disobeying any notice requiring his attendance under this rule is guilty of contempt.

27. Where the Court, by its own summons, requires the attendance of any witness before the Court, it shall not be necessary for conduct money to be tendered to that witness to enforce his attendance.

28. Where the Court orders that the matters or any matter mentioned in paragraphs (a), (b), (c) or (d) of subsection (1) of section 47 of the Act be not printed or published, the order of the Court shall include a provision to that effect.

29. (1) Upon the conclusion of the hearing of a complaint containing more than one cause of complaint the Court shall record its finding on each cause of complaint.

(2) Where the Court dismisses any complaint, by reason of condonation, connivance or conduct conducing or contributing to the commission of the marital offence complained of or by reason of any marital offence on the part of the complainant, or unreasonable delay in bringing the application, the Court shall record that reason.

(3) Notwithstanding any finding which the Court may make against the defendant to a complaint, it shall not record a finding against any third party being a person such as is mentioned in paragraphs (a), (b) or (c) of subrule (1) of Rule 12 of these rules.

30. Where the Court makes an order containing a provision for the payment of money, the order shall specify the imprisonment, if any, to be served in the event of a default of payment.

31. Any order made by the Court shall be reduced to writing and a copy shall subsequently be posted by the clerk to each party to the complaint, at his last known address.

32. Where an order is still in operation and a subsequent order is made affecting the parties to a marriage in respect of whom the former order was made, or affecting any child of that family, and the latter order, while not purporting to vary the former, has that effect, then the two orders shall be consolidated and considered as one, for the purposes of any subsequent proceeding.

33. For the purposes of record, payments and enforcement, an order shall operate in the Court at its place of origin; but the Court may, on the application of a party to the marriage affected by the order, direct that the order operate in the Court at some other place, if the parties to the marriage consent or if, in the opinion of the Court, it is in the interest of those parties that the Court should so direct.

34. A person seeking to enforce payment under an order as provided by subsection (1) of section 22 of the Act (Justices Act procedure) shall file in the Court a praecipe for that purpose together with an affidavit deposing to—

- (a) the amount whereof payment is alleged to be in default;
- (b) the fact that no part of the amount whereof payment is alleged to be in default has been paid to the deponent or to any other person for the deponent's benefit, in money, money's worth or by any benefit given in lieu of money;
- (c) the fact that maintenance is not sought to be enforced in respect of any period during which the defaulting party may already have been imprisoned under the subsection in this rule mentioned; and
- (d) the deponent's means of knowledge of the amount whereof payment is in default, where payments are not made direct to the deponent.

35. A person seeking to enforce payment under an order, as provided by subsection (3) of section 22 of the Act, (Local Court procedure) shall file in the Local Court having jurisdiction within the district where the defaulting party is residing—

- (a) a certified copy of the order under which payment is sought to be enforced;
- (b) a certificate of the clerk that there is not any warrant issued pursuant to subsection (1) of section 22 of the Act, then outstanding; and
- (c) an affidavit such as is prescribed by Rule 34 of these rules.

36. Where any person is imprisoned under the provisions of subsection (1) of section 22 of the Act, the superintendent or other officer in charge of the prison wherein that person is so imprisoned shall certify to the clerk at the place whence the warrant issued the day of the commencement, and of the termination, of that imprisonment.

37. (1) A warrant issued under the provisions of subsection (1) of section 22 of the Act shall have annexed thereto a summary of the provisions of subsection (2) of that section, a direction as to the right conferred by, and a form of election under, section 25 of the Act.

(2) A police officer arresting a person under a warrant mentioned in this rule shall detach the annexure to the warrant and hand it to the person arrested.

(3) A person electing to make an application under section 25 of the Act shall complete and sign the form of election in this rule mentioned and thereupon detach it from the annexure and hand it to the police officer, or where he is already committed to prison, the prison officer, in whose custody he may then be.

(4) A police or prison officer shall upon the receipt of an election made under this rule bring the person so electing before the Court or a Court of Petty Sessions as soon as practicable after receipt of the election and the election and the warrant to which it relates shall be produced to the Court before which the person is brought.

38. Any Court hearing an application made under section 25 of the Act shall indorse on the reverse of the warrant the record of the proceedings taken under the application, and any order which may, from time to time, be made thereunder.

39. Any moneys received by any Court pursuant to a warrant shall be sent forward to the Court at the place whence the warrant issued, as and when received and upon the completion of payments in satisfaction of the warrant it shall be returned to the Court at the place whence it issued.

40. The Court shall not issue a warrant under subsection (1) of section 22 of the Act, unless it is satisfied that no process of execution or enforcement is in operation under subsection (3) of that section, for the same default.

41. Any interlocutory order made by the Court shall be indorsed on the application therefor and no party is obliged to extract that order.



Form 2.

Western Australia.

Married Persons (Summary Relief) Act, 1960.

Complaint No.

## COMPLAINT UNDER SECTION 9.

The Complaint of (1)  
of (2) (3)  
states that (4)  
of (5) (6)  
has been guilty of—(7)

And the complainant applies for relief under the Act, namely an Order that—  
(8)

.....  
Signature of Complainant.

Made before me at this day of  
19 .

.....  
Justice of the Peace or Clerk of the Court.

(1) Full name of complainant. (2) Address of complainant. (3) Description of complainant. (4) Full name of defendant. (5) Address of defendant. (6) Description of defendant. (7) Insert allegation following as nearly as possible the wording of Section 9. (8) Insert relief sought following as nearly as possible the wording of Section 10 (1) adapted to the circumstances.

## Notes on Form 2.

*Under (7) insert: deserting the complainant on the day of  
or  
cruelty to the complainant and to EF., a child of the family on the  
day of at  
or  
wilfully neglecting to provide reasonable maintenance for the complainant and for EF., a child of the family aged years on the  
day of and subsequent thereto  
or  
adultery with XY of a spinster over the full age  
of 16 years on the day of at  
or any combination of the foregoing, as the case may be.*

*Under (8) insert: the complainant be no longer obliged to cohabit with the defendant  
or  
the complainant have the legal custody of the said EF  
or  
the defendant pay to the complainant a weekly or periodical sum by way of maintenance of the complainant and for the said EF  
or  
XY (third party) pay the complainant's costs of the application  
or any combination of the foregoing, as the case may require.*



## Notes on Form 3.

*Example 1.—Application for suspension, variation or discharge of order, by original defendant.*

*Under (5) insert: CD (name of present defendant) followed by (6) address and (7) description of present defendant.*

*Under (8) insert: the complainant pay to the defendant the amount of £8 per week by way of maintenance for the defendant and (as the case may be) of EF a child of the family.*

*Under (9) insert: the complainant says that since the making of the order his circumstances have changed by reason of his loss of employment following his imprisonment under the said order (or as the case may be)*

*or*

*the complainant says that since the making of the order the defendant's circumstances have changed in that she was not then but is now in full time employment.*

*or*

*the defendant has during the subsistence of the marriage namely on the            day of            19            committed adultery with XY (third party) of            (address)*

*(description)*

*Under (10) insert: the said order be suspended for such period as the Court thinks fit.*

*or*

*the said order be varied by reducing the amount of maintenance payable thereunder to an amount of £3 per week for the maintenance of the said EF (child of the family) only.*

*or*

*the said order be discharged and that the legal custody of EF (child of the family) be granted to the complainant and that XY (third party) pay the complainant's costs of the application.*

*Example 2.—Application for variation of order by original complainant.*

*Under (5) insert: she the abovenamed complainant*

*Under (8) insert: the defendant pay to the complainant the amount of £6 per week by way of maintenance for the complainant.*

*Under (9) insert: the complainant says that since the making of the order her circumstances have changed in that she was then but is no longer in part time or any employment.*

*Under (10) insert: the said order be varied by increasing the amount payable by the defendant to the complainant for the purposes aforesaid.*

*Example 3.—Application under section 23 by original complainant.*

*Under (5) insert: she (or he) the abovenamed complainant.*

*Under (8) insert: the complainant be no longer bound to cohabit with the defendant*

*or*

*the complainant have access to EF (child of the family) during the hours of 2 p.m. to 7 p.m. on every Saturday.*

*Under (9) insert: on the            day of            day of            19            and on the            day of            day of            19            the defendant did molest the complainant in her manner of living contrary to the said provision for separation.*

*or*

*the defendant did on Saturday the            day of            19            and on Saturday the            day of            19            refuse to afford the complainant access to the said EF contrary to the provision for access.*

*Under (10) insert: the defendant is in contempt of court and that the defendant be dealt with according to law and be ordered to pay the complainant's costs of the application.*

Form 4

(Page 1.)

Western Australia.

Married Persons (Summary Relief) Act, 1960.

In the Married Persons' Relief Court  
Sitting at

Complaint No.  
Fees paid.  
Assessment No.

In the matter of the complaint of (1)

(2)

Defendant

of (3)

(4)

The complaint abovementioned states that the defendant did (5)

And the complainant applies for relief under the Act, namely an Order that (6)

The defendant has been summoned to appear on \_\_\_\_\_ day the  
day of \_\_\_\_\_ 19\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon (on the first \_\_\_\_\_ day  
following thirty days after service of this summons at \_\_\_\_\_ o'clock in the  
\_\_\_\_\_ noon) (7) at \_\_\_\_\_ Court House before the Married Persons'  
Relief Court there sitting to answer the application for relief under the Act.

(1) Full name of complainant. (2) Full name of defendant. (3) Address of defendant.  
(4) Description of defendant. (5) Set out causes of complaint as in complaint form. (6)  
Set out relief claimed as in complaint form. (7) Delete portion not applicable.

NOTE.—This form may be completed by the insertion of a carbon between the first  
and second and second and third pages.

(Reverse of Page 1.)

Finding.

.....  
.....  
.....  
.....

Order.

.....  
.....  
.....  
.....

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

Justice of the Peace.

Magistrate.

(Page 2.)

Western Australia.

Married Persons (Summary Relief) Act, 1960.

Complaint No.

In the Married Persons' Relief Court  
Sitting at

In the matter of the complaint of

To

of  
The complaint abovementioned states that you did

And the complainant applies for relief under the Act, namely an Order that

Now therefore you are summoned to appear on                    day the  
day of                    19                    , at                    o'clock in the                    noon (on the first  
                  day following thirty days after service of this summons at                    o'clock  
in the                    noon) at                    Court House before the Married Persons'  
Relief Court there sitting to answer the application for relief under the Act.

Given under my hand at                    this                    day  
of                    19                    .

Justice of the Peace or Clerk of the Court.

(Reverse of Page 2.)  
Indorsement of Service.

On the                    day of                    19  
at                    I served the within-named  
                  with the within summons  
by delivering a duplicate to him personally (or by leaving a duplicate of it  
for him with                    his last known place  
at                    of abode).

(Signature)

(Date)

(Page 3.)

Western Australia.

Married Persons (Summary Relief) Act, 1960.

Complaint No.

In the Married Persons' Relief Court  
Sitting at

In the matter of the complaint of

To

of

The complaint abovementioned states that you did

And the complainant applies for relief under the Act, namely an Order that

Now therefore you are summoned to appear on \_\_\_\_\_ day the \_\_\_\_\_  
day of \_\_\_\_\_ 19 \_\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon (on the first  
\_\_\_\_\_ day following thirty days after service of this summons at \_\_\_\_\_ o'clock  
in the \_\_\_\_\_ noon) at \_\_\_\_\_ Court House before the Married Persons'  
Relief Court there sitting to answer the application for relief under the Act.

Given under my hand at \_\_\_\_\_ this \_\_\_\_\_ day  
of \_\_\_\_\_ 19 \_\_\_\_\_

Justice of the Peace or Clerk of the Court.

Form 5.

Western Australia.

Married Persons (Summary Relief) Act, 1960.

In the Married Persons' Relief Court  
Sitting at

Complaint No.  
Fees Paid.  
Assessment No.

NOTICE OF COMPLAINT TO THIRD PARTY.

To (1)  
of (2)

Take notice that (3)  
of (4) \_\_\_\_\_ (5)  
has made a complaint under the Act which states that (6)  
of (7) \_\_\_\_\_ (8)  
did (9)

And the complainant applies for relief under the Act, namely an Order that (10)

The said complaint will be heard at (11)  
on \_\_\_\_\_ day, the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, at \_\_\_\_\_ o'clock  
in the \_\_\_\_\_ noon.

If you wish to be heard upon the hearing of the said complaint you should  
attend at the place and time aforesaid, otherwise the complaint may be heard  
and dealt with in your absence.

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_  
Clerk of the Court.

(1) Full name of third party. (2) Address of third party. (3) Full name of complainant.  
(4) Address of complainant. (5) Description of complainant. (6) Full name of defendant.  
(7) Address of defendant. (8) Description of defendant. (9) Cause of complaint and par-  
ticulars as far as they effect the third party. (10) Relief sought by complainant including  
any such affecting the third party. (11) Place of hearing.

(Reverse.)

Indorsement of Service.

On the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_,  
 at \_\_\_\_\_,  
 I served the within-named \_\_\_\_\_  
 with the within notice by delivering a duplicate to him personally (or by  
 leaving a duplicate for him with \_\_\_\_\_  
 at \_\_\_\_\_  
 his last known place of abode).

(Signature)

(Date)

Form 6.

Western Australia.

Married Persons (Summary Relief) Act, 1960.

In the Married Persons' Relief Court sitting at \_\_\_\_\_

Complaint No. \_\_\_\_\_

ORDER.

In the matter of the complaint of (1) \_\_\_\_\_

for relief under the Act, the Court finds that (2) \_\_\_\_\_

The Court doth Order that:—(3) \_\_\_\_\_

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_  
 19\_\_\_\_.

Magistrate.

(1) Full name of complainant. (2) Particulars of finding including names of parties affected. (3) Particulars of Order.

Form 7.

Western Australia.

Married Persons (Summary Relief) Act, 1960.

In the Married Persons' Relief Court.  
Sitting at

Complaint No.  
Fees paid.  
Assessment No.

In the matter of the complaint of (1)

PRÆCIPUE FOR WARRANT UNDER SECTION 22 (1) AND AFFIDAVIT  
VERIFYING DEFAULT.

I, (2)  
of (2)  
being duly sworn make oath and say:

1. I am the (3) in this matter.
2. The total amount set forth in the schedule to this my affidavit (hereinafter referred to as "the said amount") is the amount whereof payment by the (4) under an Order of the Court, made the (5) day of 19 , is in default.
3. No part of the said amount has been paid to me this deponent or to any other person for my benefit in money, money's worth or by any benefit given in lieu of money and I am informed by the Clerk of the Court and verily believe that no part of the said amount has been paid to any Officer of the Court.
4. No part of the said amount is in respect of any period during which the defaulting party has been imprisoned under subsection (1) of section twenty-two of the Act.
5. I am desirous that a Warrant for the arrest and imprisonment of the defaulting party should issue in respect of the said amount.

THE SCHEDULE.

weeks at £	per week in respect of the period
commencing on the	19 , and
ending the	19 .... £
Costs ....	.....

Sworn at  
In the State of  
by the said deponent this  
day of 19  
Before me:

Justice of the Peace or Clerk of the Court.(6)

Received (date):  
Warrant Issued (date):  
Clerk of the Court:

(1) Full name of complainant in original complaint. (2) Full name, address and description of deponent. (3) Insert "complainant" or "defendant", as the case may be. (4) Complainant, defendant or third party, whichever is the defaulter. (5) Date of order under which payment is in default. (6) This affidavit may not be sworn before a Clerk of the Court other than in Western Australia.

Form 8.

(Page 1.)

Western Australia.

Married Persons (Summary Relief) Act, 1960.

In the Married Persons' Relief Court  
sitting at

Complaint No.

WARRANT FOR ARREST AND IMPRISONMENT OF DEFAULTER  
UNDER SECTION 22 (1).

To all Police Officers in the State of Western Australia and to the Superintendent (or keeper) of Her Majesty's Prison (or gaol) at in the said State.

of  
having made default in the payment of periodical instalments of maintenance and in the payment of costs\* which he was ordered to pay under an Order of the Court made the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, to the extent hereinafter set out and being still in default, these are therefore to command you to arrest the said \_\_\_\_\_ and convey him to the prison or gaol nearest to the place of his arrest and deliver him to the Superintendent or keeper thereof together with this Warrant and the said Superintendent or keeper is hereby required to receive him into his custody in the said prison or gaol there to imprison him for a term of \_\_\_\_\_ days unless the sum hereinafter specified and the costs and expenses of issuing and executing this Warrant amounting to the further sum of \_\_\_\_\_ are sooner paid: But if the said \_\_\_\_\_ shall pay any portion of the total amount payable under this Warrant (namely £ \_\_\_\_\_) then the period of imprisonment shall thereby be reduced by a period which bears the same ratio to the period of imprisonment as the portion paid bears to the total amount payable and the prisoner shall be released at the expiry of the reduced period, and in calculating any such reduction, fractional parts of days shall be disregarded.

Arrears:	_____ weeks at £ _____	per week	.....	£
Costs*	.....	.....	.....	£
				-----
Expense of issuing and executing Warrant	.....	.....	.....	£
				-----
Total amount payable	.....	.....	.....	£
				=====

Given under my hand and the Seal of the Court at  
this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

.....  
Magistrate.

\* Delete reference to costs where not applicable.

(Reverse of Page 1.)

Name of person at whose instance Warrant issued  
Address

RECORD OF PROCEEDINGS UNDER SECTION 26.

Date of Arrest:  
Court before which Arrested Person is brought:  
Place:  
Date of First Appearance:  
Remands:

Order made as to Warrant:

.....  
Magistrate or Justice(s) of the Peace.

Date:

Particulars of Payments (if made) under above Order:

Date: Amount £

.....  
Clerk of the Court.

(Page 2.)

To

(Arrested Person).

1. Your attention is drawn to the following provisions of Section 22 of the Married Persons (Summary Relief) Act, 1960, under which Act the annexed Warrant for your arrest is issued, that is to say—

- (a) If you are imprisoned under the annexed Warrant, your obligation to pay maintenance, under the abovementioned Act, is suspended while you are serving that imprisonment, but not imprisonment under remand;
- (b) notwithstanding your imprisonment under the annexed Warrant, you are still liable to pay the amount for which the Warrant was issued (other than the expenses of execution), but you cannot again be imprisoned for any default of payment due at the time the Warrant was issued, except after proceedings by Judgment Summons under the Local Courts Act, 1904;
- (c) you may be imprisoned for any default of payment occurring after your release from imprisonment; and
- (d) if you are arrested under more than one Warrant at the one time, you are liable to serve imprisonment under those Warrants cumulatively, but not for any period of more than three months.

2. If the annexed Warrant is issued in respect of maintenance payable pursuant to an Order made under the Matrimonial Causes Act, 1959, of the Commonwealth, you should obtain legal advice as to the application of the foregoing portion of this notice to your particular case.

3. If you believe you can show cause why you ought not to be imprisoned under the annexed Warrant, you may elect to be brought before a Court of Summary Jurisdiction, for that purpose, by completing, signing and detaching the form below and handing it to the Police Officer in charge of any Police Station to which you are brought or to the Superintendent or keeper of the prison or gaol in which you are imprisoned.

Married Persons (Summary Relief) Act, 1960.  
FORM OF ELECTION UNDER SECTION 25.

Married Persons' Relief Court  
sitting at

Complaint No.

I, \_\_\_\_\_ (Arrested Person)  
hereby elect to make application for the suspension of the operation of the  
Warrant issued for my arrest and imprisonment on the \_\_\_\_\_ day of  
, 19\_\_\_\_, for the amount of £ \_\_\_\_\_

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

.....  
Signature of Arrested Person.

Note: The Officer receiving this election should attach it to the Warrant to which it applies and thereafter comply with the provisions of Section 25 of the Act.

Form 9.

Western Australia.

Married Persons (Summary Relief) Act, 1960.

In the Married Persons' Relief Court.

Sitting at

Complaint No.  
Fees paid.  
Assessment No.

## INTERLOCUTORY APPLICATION.

In the matter of the Complaint of (1)

against (2)

for relief under the Act:

The (3)

(4)

applies for an interlocutory Order that

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 19 .

Signature of Applicant or his Solicitor.

This application will be heard before the Court/ (5) Magistrate in Chambers at  
o'clock in the \_\_\_\_\_ noon on \_\_\_\_\_ day the  
day of \_\_\_\_\_ 19 .

Clerk of the Court.

Order made on Application.

Magistrate.

Date:

(1) Full name of complainant to original complaint. (2) Full name of defendant and third party (if any). (3) Insert "complainant," "defendant" or "third party" as the case may be. (4) Set out particulars of Order sought by applicant. (5) Delete whichever is inapplicable.

Form 10.

Western Australia.

Married Persons (Summary (Relief) Act, 1960.

In the Married Persons' Relief Court.  
Sitting at

Complaint No.  
Fees paid.  
Assessment No.

In the matter of the complaint of (1)

AFFIDAVIT (GENERAL FORM).

I (2)

of (2)  
(2)

being duly sworn make oath and say:

1. I am (3)

(4)

Sworn at  
in the State of  
by the said deponent this  
day of , 19  
Before me: }

Justice of the Peace or Clerk of the Court.(5)

(1) Name of complainant. (2) Full name, address and description of deponent. (3) Depose here to the capacity in which deponent makes affidavit, e.g., complainant, defendant, third party or employer of one of them. (4) Set out in paragraphs matters deposed to. (5) This affidavit may not be sworn before a Clerk of the Court other than in Western Australia.

Form 11.

Western Australia.

Married Persons (Summary Relief) Act, 1960.

In the Married Persons' Relief Court.  
Sitting atComplaint No.  
Fees paid.  
Assessment No.

## SUMMONS OF A WITNESS.

To (1)  
of (2)  
in the State of Western Australia (3) :

Whereas a complaint was on the                      day of                      , 19                      ,  
made under the Act that  
did (4)

These are therefore to require you to appear before the Court at  
on                      day, the                      day of                      , 19                      , at                      o'clock  
in the                      noon, to testify what you know concerning the matter of the said  
complaint [and you are further required to bring with you and produce at the  
time and place abovenamed] (5) (6)

Given under my hand and the Seal of the Court this                      day  
of                      , 19                      .

Clerk of the Court.

(1) Full name of witness (if known). (2) Address of witness. (3) Description of witness  
(if known). (4) Insert causes of complaint as in complaint and summons. (5) Delete  
if not applicable. (6) Here describe documents to be produced by witness, if applicable.

(Reverse.)

Indorsement of Service.

On the                      day of                      , 19                      ,  
at  
I served the within-named  
with the within notice by delivering a duplicate to him personally (or by leaving  
a duplicate for him with  
at  
his last known place of abode).

(Signature)

(Date)

Form 12.

Western Australia.

Married Persons (Summary Relief) Act, 1960.

In the Married Persons' Relief Court sitting at  
Complaint No.

In the matter of the complaint of

**WARRANT FOR ARREST OF PERSON IN CONTEMPT**

To all police officers in the State of Western Australia:

These are to command you to arrest

of \_\_\_\_\_ so as to have him before the  
Court together with this warrant there to answer touching a contempt which  
he is alleged to have committed against the Court.

Given under my hand and the seal of the Court this \_\_\_\_\_ day  
of \_\_\_\_\_ 19 \_\_\_\_\_

Magistrate.

Form 13.

Western Australia.

Married Persons (Summary Relief) Act, 1960.

In the Married Person's Relief Court sitting at  
Complaint No.

In the matter of the complaint of

**WARRANT OF COMMITMENT.**

To all police officers in the State of Western Australia and to the  
Superintendent (or keeper) of Her Majesty's prison (or the gaol) at  
\_\_\_\_\_ in the said State:

Whereas on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_, upon the  
hearing of a complaint before the Court

of \_\_\_\_\_ was duly  
convicted before the undersigned magistrate that he  
and it was adjudged that he should be imprisoned in Her Majesty's prison  
(or the gaol) at \_\_\_\_\_ for the term of \_\_\_\_\_

These are therefore to command you, the said police officers, to convey  
the said \_\_\_\_\_ to the prison (or gaol) at  
aforesaid and deliver him to the Superintendent (or keeper) thereof together  
with this Warrant and I command you, the said Superintendent (or keeper)  
to receive the said \_\_\_\_\_ into your custody in  
the said prison (or gaol) there to imprison him for the term of \_\_\_\_\_

Given under by hand and the Seal of the Court this  
day of \_\_\_\_\_ 19 \_\_\_\_\_

Magistrate.

## Second Schedule.

**FEES.**

	s.	d.
1. Any complaint	2	0
2. Summons to a defendant	2	0
3. Notice to a third party	2	0
4. Summons to witness	2	0
5. Certified copy of an order	4	0
6. Search of records	2	0
7. Interlocutory application	4	0
8. Filing any affidavit (not being an affidavit verifying default of payment)	2	0
9. Service of any summons or notice	4	0
10. Mileage on service of summons or notice or execution of warrant 1s. 6d. per mile, one way only.		
11. Warrant under section 22 (1)	4	0
12. Execution thereof	8	0
13. Recognisance for the peace or good behaviour	5	0
14. Certified copy Magistrate's notes of evidence per folio (of 72 words)	1	0