



Government Gazette
OF
WESTERN AUSTRALIA

(Published by Authority at 4.0 p.m.)

(REGISTERED AT THE GENERAL POST OFFICE, PERTH, FOR TRANSMISSION BY POST AS A NEWSPAPER)

No. 27]

PERTH: THURSDAY, 12th MARCH

[1970

Crown Law Department,
Perth, 9th March, 1970.

THE undermentioned Rules made under the provisions of the Married Persons and Children (Summary Relief) Act, 1965, and amended from time to time up to and including the 1st December, 1969, are reprinted as so amended pursuant to the Reprinting of Regulations Act, 1954 by authority of the Minister for Justice.

W. J. ROBINSON,
Under Secretary for Law.

MARRIED PERSONS AND CHILDREN (SUMMARY RELIEF) ACT, 1965.

MARRIED PERSONS AND CHILDREN (SUMMARY
RELIEF) RULES, 1966.

Published in the *Government Gazette* on the 25th February, 1966, and incorporating the amendments thereto published in the *Government Gazette* on the 6th February, 1968, and reprinted pursuant to the Reprinting of Regulations Act, 1954.

Reprinted pursuant to the Reprinting of Regulations Act, 1954, by authority of the Minister for Justice, dated 6th March, 1970.

MARRIED PERSONS AND CHILDREN (SUMMARY RELIEF)
ACT, 1965.

**MARRIED PERSONS AND CHILDREN
(SUMMARY RELIEF) RULES, 1966.**

1. These rules may be cited as the Married Persons and Children (Summary Relief) Rules, 1966.
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 complaint 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 that 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 37;
 - “rule” means one of these rules;
 - “the Act” means the Married Persons and Children (Summary Relief) Act, 1965;
 - “third party” means a person, other than a party to a 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 every summons, notice, warrant, or other process or any certificate issued out of the Court shall be impressed 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 are the fees payable.

Rule 8.
Amended by
G.G. 6/2/68,
p. 218.

8. (1) 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 complaint in writing in that behalf.

(2) Complaints and applications shall be made in writing and, except as otherwise provided by the Act and these rules, shall be made by way of complaint and summons or notice of application, as the case may require.

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 has 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 of any other crime or offence in which sexual intercourse with a person of the opposite sex is an element, if the conviction is relied upon in support of the allegation of adultery;

(b) is a female under the age of 16 years or a male under the age of 14 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;

or unless the Court, by order, relieves the complainant of the requirement of giving the notice.

(2) Except where relieved by this rule, or by the Court, 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) Where a complainant seeks to be relieved by the Court of the requirement of giving notice under this rule, he shall proceed by way of interlocutory application supported by affidavit.

(5) 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.

(6) 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.

12A. A person requiring leave, or an extension of time within which, to make a complaint, as provided by the Act, shall apply for an order by *ex parte* application, supported by affidavit.

Rule 12A.
Added by
G.G. 6/2/68,
p. 218.

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

(2) A complaint made for ancillary relief, including the extension, variation or discharge of an interim order, 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 for ancillary relief is one touching or 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 in his custody.

(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. (1) A person to whom notice is given, pursuant to rule 12 or 14 is not entitled to be heard at any stage of the proceeding, unless he has first—

- (a) given to the clerk, at least five days prior to the hearing of the complaint, notice of his intention; or
- (b) obtained the leave of the Court;

to be heard.

(2) The clerk, on receiving a notice of intention to be heard, pursuant to this rule, shall forward to the other parties to the complaint a copy of that notice.

(3) A person to whom a notice has been given as a third party and who is not entitled to be heard shall not be awarded, or be condemned to pay, any costs of the proceeding.

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

17. An application for leave to proceed under section 14 of the Act shall be made by an *ex parte* interlocutory application, supported by affidavit.

18. (1) Every 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 complaint; 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 is deemed to be the address of his solicitor.

19. (1) Where every reasonable effort has been made to effect service of a summons or notice and service cannot be effected by any means provided by section 102 of the Act, the complainant or other person interested may make an *ex parte* interlocutory application to the Court for leave to proceed as if service had been effected.

(2) An application under this rule shall be supported by 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.

20. 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.

Rule 21.
Amended by
G.G. 6/2/68,
p. 219.

21. (1) Where a proceeding is commenced in the Court at a place that is not the nearest to the defendant's place of residence at which the Court sits, the defendant if resident in the State, may, at any time prior to the day fixed for the hearing of the proceeding, apply to the clerk of the court in which the proceeding was commenced for a change of venue of the hearing.

(2) An application made under subrule (1) of this rule shall be in the form of an affidavit, filed in duplicate, deposing to the fact that the defendant intends to defend the proceeding and to the facts on which he relies for a change of venue.

(3) Upon receipt of an application made under subrule (1) of this rule, the clerk shall, unless satisfied that no cause has been shown for the change of venue, cause a copy of the defendant's affidavit to be served on the complainant or the solicitor for the complainant with the advice that the complainant may file an affidavit of answer within seven days after service of the copy of the defendant's affidavit.

(4) At the expiration of the time limited by subrule (3) of this rule for the filing of an affidavit of answer, the clerk shall consider the facts disclosed by the affidavit of the defendant and (if any) of the complainant and shall decide whether, and, if so, to which place, the venue of the hearing should be changed.

(5) Where all parties to a proceeding consent to a change of the venue of the hearing, the clerk may, on being satisfied as to that fact, change the venue without requiring the filing of any affidavit.

(6) Where the venue of a hearing is changed pursuant to this rule, the clerk shall send forward to the clerk at the place to which the venue is changed advice of the change, together with the file relating to the proceeding; and the clerk at that other place shall, upon receipt of the file, appoint a day for the hearing and notify the parties of the day so appointed.

Rule 22.
Amended by
G.G. 6/2/68,
p. 219.

22. The clerk 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 complaint.

23. (1) A defendant or third party may require particulars of the complaint and, unless the Court is of the opinion that the request is 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 had in his possession or power, relating to any matter in issue and the other 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.

24. (1) Where any complaint is made for ancillary relief 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 for ancillary relief may peruse the notes of evidence taken in the proceedings to which the complaint relates and may have recourse to that evidence during the course of the hearing of the complaint.

(3) On the completion of the hearing of a 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.

25. 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.

26. (1) Where the parties to a complaint made under Division 1 of Part III of the Act elect that the Court be constituted by a Stipendiary Magistrate, that 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 sub-rule (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.

27. Where, on the hearing of a complaint, the proceeding is adjourned *sine die*, a party causing it to be relisted shall give to the other party or parties a notice of the date fixed for the continuation of the hearing, at least seven days before that date; and where the other party or other parties are appearing in person, the notice shall be served on him or them personally or by registered post requiring acknowledgement of receipt.

28. 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, subject to such conditions as it thinks fit.

29. (1) Where the Court orders that a 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) A witness wilfully disobeying any notice requiring his attendance under this rule is guilty of contempt.

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

31. Where the Court orders that the matters or any matter mentioned in paragraphs (a), (b), (c) or (d) of subsection (1) of section 104 of the Act be not printed or published, the order of the Court shall include a provision to that effect.

32. (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 a 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 of unreasonable delay in bringing the application, the Court shall record that reason.

(3) Notwithstanding any finding that 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.

33. 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.

34. An order made by the Court, other than an interlocutory order, 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.

35. Every exhibit tendered and admitted in a proceeding shall, unless the Court extends or abridges the period, remain in the custody of the Court for a period of two months after the conclusion of the hearing.

36. 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.

37. 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 affected by the order, direct that the order operate in the Court at some other place, if the parties consent or if, in the opinion of the Court, it is in the interest of the parties that the Court should so direct; and an application under this rule shall be supported by affidavit and be made *ex parte*, in Chambers, in the Court at the place in which the order is then operating.

38. A person entitled to receive payment under a provision of an order or the grantee of a power of attorney for that purpose, when seeking to enforce payment under the order as provided by subsection (1) of section 28 of the Act (Justices Act procedure), shall file in the Court a praecipe for that purpose, together with an affidavit deposing—

Rule 38.
Amended by
G.G. 6/2/68,
p. 219.

- (a) to the amount whereof payment is alleged to be in default;
- (b) that no part of the amount whereof payment is alleged to be in default has been paid to the dependant 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) 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;
- (d) to the deponent's means of knowledge of the amount whereof payment is in default, where payments are not made direct to the deponent;
- (e) that any child in respect of whom the order is made has not ceased to be a dependant and is not the subject of any other order for maintenance; and
- (f) that the order sought to be enforced has not ceased to have effect, by reason of any process, or decree, taken or made, under the Matrimonial Causes Act, 1959, of the Commonwealth, or for any other reason.

39. A person seeking to enforce payment under an order, as provided by subsection (3) of section 28 of the Act, (Local Court procedure) shall file in the Local Court—

- (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 28 of the Act, then outstanding; and
- (c) an affidavit deposing to the facts prescribed by paragraphs (a) and (b) of rule 38.

40. Where any person is imprisoned under the provisions of subsection (1) of section 28 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 was issued the day of the commencement, and of the termination, of that imprisonment.

41. (1) A warrant issued under the provisions of subsection (1) of section 28 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 31 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 31 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.

42. A Court hearing an application made under section 31 of the Act shall indorse on the reverse of the warrant the record of the proceedings taken under the application and any order that it may make thereunder and shall, thereupon, cause the warrant to be returned to the Court out of which it was issued.

43. Any moneys received by a Court pursuant to a warrant shall be sent forward to the Court at the place whence the warrant was issued, as and when received.

44. The Court shall not issue a warrant under subsection (1) of section 28 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.

45. An interlocutory order made by the Court shall be indorsed on the application therefor and a party is not obliged to extract that order.

46. (1) Registration of an order in the Court, by virtue of Part V of the Act or the provisions of any other Act (including the Matrimonial Causes Act, 1959, of the Commonwealth, is affected by the entry of the particulars of the order in the register kept pursuant to these rules, on payment of the prescribed fee (if any).

(2) The clerk shall cause such particulars of an order mentioned in subrule (1) of this rule as are prescribed for proceedings of the Court by rule 5 to be entered in the register and shall cause those entries to be distinguished from proceedings originating in the Court, in such manner as he may direct.

(3) Every order registered pursuant to this rule shall be indorsed with a certificate of registration signed by the clerk.

47. The party and party costs for registration in the Court, by virtue of the Matrimonial Causes Act, 1959, of the Commonwealth, of an order made by a superior Court or of an order of the Supreme Court, by virtue of the Guardianship of Infants Act, 1926-1965, for the payment of maintenance, are \$8.40, plus disbursements.

48. Where a warrant is issued to enforce payment under an order (whether made under the Act, or under the Matrimonial Causes Act, 1959 of the Commonwealth or any other Act), the costs and disbursements leading to the issue of the warrant and the costs (if any) allowed under rule 47 may be added to the amount of which payment is sought to be enforced under the warrant; and where a payment is made in satisfaction, or in part satisfaction, of the warrant, the amount of the costs added under this rule shall be first appropriated out of that payment.

49. (1) Where a warrant has, or warrants have, been issued to enforce the making of periodical payments under an order and the person obliged to make those payments, or some person acting on his behalf, pays any amount to the officer of the Court specified in the order, prior to the execution of the warrant or, if more than one warrant, prior to the execution of any of them the amount so paid shall be applied, firstly, for or towards any periodical payments that have become due, since the issue of the warrant or warrants, and, thereafter, the remaining amount, or, if no periodical payments have become due, the full amount, shall, subject to subrule (2) of this rule, be applied in satisfaction of the amount or amounts of which payment is sought to be enforced by the warrant or warrants, in the order in which the warrants were issued.

(2) An amount or part of an amount paid shall not be applied, and an amount tendered shall not be accepted, in part satisfaction, only, of the amount sought to be recovered by a warrant that is unexecuted; and any amount or part of an amount paid that cannot, by reason of this subrule, be applied in satisfaction of an amount sought to be recovered by warrant shall be paid to a suspense account and there held, pending its application for or towards any periodical payments subsequently becoming due.

50. Where a person is obliged to make payments under a suspended warrant, in accordance with an order made under section 32 of the Act, and is, at the same time, obliged to make periodical payments, in accordance with the order under which the warrant was issued, unless that person makes a specific appropriation, to either purpose, of any moneys paid by him, the clerk shall apply those moneys, firstly, for or towards the periodical payments that have become due, since the making of the order under section 32 and, secondly, to instalments due on the warrant; but in special circumstances, the clerk may appropriate moneys received as he thinks those circumstances may, in the interest of the person making the payments, require.

51. (1) Where, at any time, it becomes apparent to the clerk that any provision of an order has been duplicated or that an anomaly with respect to orders exists, then, he is empowered, of his own motion, to issue such process as may be necessary to call the parties, or any two of them, together, so that the matter may be reviewed for the purpose of eliminating the duplication or anomaly, as the case may be.

(2) For the purpose of calling the parties or any of them together under this rule, the clerk may take out an interlocutory application and may issue any necessary witness summons.

52. (1) The clerk of the Court sitting at Perth shall maintain a central registry of all proceedings (other than interlocutory proceedings) commenced and current, under the Act or under any Act repealed by the Act.

(2) When a complaint under Part III of the Act is lodged in the Court at any place other than at Perth, the clerk of the Court at that place shall send forward a duplicate of the complaint to the clerk at Perth who shall cause it to be registered in the central registry; and where any prior order or proceeding relating to the parties to that complaint is current, the clerk at Perth shall notify the clerk who sent forward the copy of the complaint.

(3) The clerk of the Court at any place, other than at Perth, shall advise the clerk at Perth of the outcome of any proceeding and, where an order is made, shall send forward to the clerk at Perth a copy of the order.

(4) The provisions of subrule (3) of this rule apply to any application or order made for the variation or discharge of an order.

53. (1) A ledger in accordance with the form in the First Schedule to these rules shall be maintained in the Court at every place, except a place where a ledger posting machine is installed.

(2) Where moneys are paid to an officer of the Court pursuant to an order made under the Act, the officer shall disburse those moneys to the person named in the order as being entitled to receive payment in accordance with the terms of the order or to the attorney of that person.

54. (1) Subject to any express directions given by the person making the payment, moneys paid pursuant to a provision of an order are deemed to be a payment made to the person entitled to receive it, in satisfaction, to the extent of the payment, firstly, of any amounts due and unpaid under the provision (an amount due at an earlier date being satisfied before an amount due at a later date) and, secondly, of any costs payable in respect of the enforcement of the provision.

Rule 54.
Added by
G.G. 6/2/68
p. 219.

(2) Subject to any express direction given by the person making the payment, the clerk may disburse moneys paid pursuant to a provision of an order, notwithstanding that the moneys have not then become due and payable.

(3) Where a person who is obliged to make payments under two or more provisions of an order or under the provisions of two or more orders pays an amount that is less than the aggregate amount payable under those provisions, without giving any direction as to the appropriation of the moneys so paid, the clerk may, subject to the preceding provisions of this rule, appropriate the moneys so paid for or towards the satisfaction of the amounts payable, in such manner as he thinks proper.

First Schedule.

FORMS.

Married Persons and Children (Summary Relief) Act, 1965.

Form 1.

Complaint No.	Date Filed	Name and Initials of the Parties	Hearing Date

Form 2.

Western Australia.

Married Persons and Children (Summary Relief) Act, 1965.

Complaint No.

ORIGINATING COMPLAINT.*

THE COMPLAINT of (1)

of (2) (3)

states that (4)

of (5) (6)

(7)

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

Signature of Complainant.

Made before me at this day of
Justice of the Peace or Clerk of the Court.

* This form should be used in applications under sections 11, 14, 17, 18, 19 or 64 where the relief claimed does not arise out of, or would not have the effect of varying, an existing order. In every other case, form 3 should be used.

(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) Here insert allegation or ground of complaint in accordance with notes on reverse of this form. (8) Here insert relief sought in accordance with notes on reverse of this form.

Form 3.

Western Australia.

Married Persons and Children (Summary Relief) Act, 1965.

Complaint No.

COMPLAINT FOR ANCILLARY RELIEF.*

THE COMPLAINT of (1)

of (2) (3)

states that whereas:

(a) On the day of , 19 , at (4)

(5)

of (6) (7)

did obtain an Order of the Court whereby it was ordered *inter alia* that (8)

and

(b) (9)

Now therefore the complainant applies for an Order under the Act that (10)

Signature of Complainant.
Made before me at this day of 19
Justice of the Peace or Clerk of the Court.

* This form should be used for applications under section 14, Divisions 2 and 3 of Part III and sections 29 and 30 of the Act, where the relief claimed arises out of, or would have the effect of varying, an existing order. In every other case form 2 should be used.

(1) Full name of complainant. (2) Address of complainant. (3) Description of complainant. (4) Place at which recited order was made. (5), (6), (7) Name, address and description of defendant if defendant obtained the recited order—otherwise insert under (5) the words "the abovenamed complainant". (8) Insert provisions of the recited order which are to be the subject of the present complaint including particulars of defendant if not already stated under (5), (6), (7) as the person against whom the recited order was made. If against the complainant include that fact in particulars of order. (9) Set out briefly facts of changed circumstances or upon which complainant relies for relief. (10) Set out relief which complainant now seeks (e.g. suspension, variation or discharge of recited order, as the case may be).

Form 4.

(Page 1.)

Western Australia.

MARRIED PERSONS AND CHILDREN (SUMMARY RELIEF) ACT, 1965.

Complaint No.
Fees paid
Assessment No.

IN THE SUMMARY RELIEF COURT

Sitting at
IN THE MATTER of the complaint of (1) Complainant
against (2) Defendant(s)
of (3) (4)

THE COMPLAINT abovementioned states that the defendant(s)
(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 before the Summary 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 carbon between the first and second and second and third pages.
This Summons was issued by:

(Reverse of Page 1.)

Adjournments and Interim Orders.

Justice of the Peace. Magistrate.

Date of Trial.
Constitution of Court.
Appearance.
Complainant.
Defendant.
Finding on Each Allegation.

Order.

Dated day of 19
Justice of the Peace. Magistrate.

(Page 2.)

Western Australia.

MARRIED PERSONS AND CHILDREN (SUMMARY
RELIEF) ACT, 1965.

IN THE SUMMARY RELIEF COURT Complaint No.
Sitting at

IN THE MATTER of the complaint of Complainant
To Defendant(s)

of

THE COMPLAINT abovementioned states that you
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 sum-
mons at _____ o'clock in the _____ noon) at _____ before the
Summary 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.
This Summons was issued by:

(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.
(Signature)
(Date)

(Page 3.)

Western Australia.

MARRIED PERSONS AND CHILDREN (SUMMARY
RELIEF) ACT, 1965.

IN THE SUMMARY RELIEF COURT Complaint No.
Sitting at

IN THE MATTER of the complaint of Complainant
Defendant(s)

of

THE COMPLAINT abovementioned states that you
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 _____
before the Summary 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.
This Summons was issued by:

Form 5.

Western Australia.

Married Persons and Children (Summary Relief) Act, 1965.

IN THE SUMMARY RELIEF COURT
Sitting at

Complaint No.
Fees Paid
Assessment No.
Complainant

v.

Defendant.

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 the Summary Relief Court
sitting at on day the
day of , 19 , at 10 o'clock in the forenoon.

If you wish to be heard upon the hearing of the said complaint
you should complete and send or deliver to the Clerk of the above
Court the attached notice of your intention to be heard, at least
five days prior to the above hearing date, otherwise you may not
be heard on the hearing of the complaint without the leave of the
Court.

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 complain-
ant. (6) Full name of defendant. (7) Address of defendant. (8) Description
of defendant. (9) Cause of complaint and particulars as far as they affect
the third party. (10) Relief sought by complainant including any such
affecting the third party.

This notice was issued by:—

(Reverse.)

INDORSEMENT OF SERVICE.

On the day of , 19
at I served the within-named
delivering a duplicate to him personally. with the within Notice by

(Signature)

(Date)

Form 6.

Western Australia.

Married Persons and Children (Summary Relief) Act, 1965.

IN THE SUMMARY RELIEF COURT
Sitting at

Complaint No.

BETWEEN and

(Complainant)
(Defendant)

NOTICE BY THIRD PARTY OF INTENTION TO BE HEARD.
To the Clerk of the Summary Relief Court
at

TAKE NOTICE that I intend to be heard on the hearing of the
above complaint.

Dated this _____ day of _____, 19____
.....
Third Party.

Note.—This notice must reach the Clerk not later than five days
prior to the hearing date.

Western Australia.

Form 7.

Married Persons and Children (Summary Relief) Act, 1965.

Complaint No.
Fees paid.
Assessment No.

IN THE SUMMARY RELIEF COURT

Sitting at

INTERLOCUTORY APPLICATION.

IN THE MATTER of the Complaint of (1)
against (2)
for relief under the Act:

applies for an interlocutory Order that/

The (3)
leave to (4)

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.

Date: _____ Magistrate.

(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 or leave
sought by applicant, deleting words that do not apply. (5) Delete whichever
is inapplicable.

Western Australia.

Form 8.

Married Persons and Children (Summary Relief) Act, 1965.

Complaint No.
Fees paid.
Assessment No.

IN THE SUMMARY RELIEF COURT

Sitting at

IN THE MATTER of

.....Complainant.
.....Defendant

AFFIDAVIT (GENERAL FORM).

I (1) _____ of (2)
being duly sworn make oath and say: (2)

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 deponent. (2) 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 9.

Western Australia.

Married Persons and Children (Summary Relief) Act, 1965.

IN THE SUMMARY RELIEF COURT
Sitting at

Complaint No.
Fees paid.
Assessment No.

SUMMONS TO WITNESS.

.....Complainant.
v.
.....Defendant.

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

You are hereby required to attend the Summary Relief Court sitting at on the day of 19 , at the hour of in the noon, and so from day to day until the above complaint is heard, to give evidence on behalf of the (4) (5) and then and there to have and produce (6) and all other books, papers, writings and other documents relating to the said action which may be in your custody, possession, or power. In default of your attendance you will be liable to a penalty not exceeding one hundred dollars, or to imprisonment for three months under section 107 of the Act.

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 complainant or defendant, as the case requires. (5) Delete if not applicable. (6) Here describe documents to be produced by witness, if applicable.

This witness summons was issued by:

(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.

(Signature)
(Date)

Form 10.

Western Australia.

Married Persons and Children (Summary Relief) Act, 1965.

IN THE SUMMARY RELIEF COURT
sitting at

Complaint No.

IN THE MATTER OF

Complainant
Defendant(s).

ORDER.

BE it remembered that on the _____ day of _____, 19 _____
a complaint was made by _____
that the defendant _____

AND the defendant having appeared*/ not having appeared but
proof having been given that the defendant was duly summoned
to appear*, before the Court.

NOW I/WE* the undersigned Magistrate and Justice of the
Peace* in and for the State of Western Australia sitting in the
Summary Relief Court at _____
in the said State having inquired into and heard the matter of the
said complaint, and it having been proved that the defendant is
guilty of*/ the defendant having admitted the allegation that he is
guilty of* I/WE do hereby adjudge and order:

Dated at _____ this _____ day of _____
, 19 _____

Justice of the Peace.

Magistrate.

* Delete whichever is not applicable.

Form 11.

Western Australia.

Married Persons and Children (Summary Relief) Act, 1965.

IN THE SUMMARY RELIEF COURT
sitting at

Complaint No.

IN THE MATTER of the complaint of (1)
against (2)
of (2)

PRAECIPE FOR WARRANT UNDER SECTION 28 AND
AFFIDAVIT VERIFYING DEFAULT.

I (3)

of (3)

being duly sworn make oath and say:

1. I AM the (4) _____ in this matter.
2. THE total amount set forth in the Schedule to this my affi-
davit (hereinafter referred to as "the said amount") is the amount
whereof payment by the (5) _____ under an
order of the _____ Court, made the (6)
day of _____, 19 _____, is in default.
3. NO PART of the said amount has been paid to me this
deponent nor to any other person on my behalf in money, money's
worth, or by any benefit given in lieu of money.
4. NO PART of the said amount is in respect of any period
during which the defaulting party has been imprisoned under sub-
section (1) of section twenty-eight of the Act.
5. NO proceedings are pending in this or any Court for the
enforcement of the order in respect of the said amount; and no
writ, warrant or other process issued out of any Court for the
enforcement of the order is now in force.
6. THE order now sought to be enforced has not ceased to have
effect, by reason of any process or decree, taken or made under
the Matrimonial Causes Act, 1959 of the Commonwealth, or for any
other reason.

- 7. NO child in respect of which the order is made—
 - (a) has died, married or been adopted;
 - (b) has attained the age of sixteen years, except the following:—
.....; or
 - (c) has before or after the making of the order first in this affidavit mentioned, become the subject of any other order for maintenance.

8. 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 Summary Relief Court at

9. 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.

Arrears to	made up as follows:	\$
Costs		\$

SWORN at in the State of
 deponent this by the said
 , 19 day of

Before me: (7)
 (Justice of the Peace or Clerk of the Court)
 Received (date) Assessment No. Fee paid
 Warrant Issued (date)
 Clerk of the Court TOTAL \$

(1) Full name of complainant in original complaint. (2) Full name, address and description of defendant. (3) Full name, address and description of deponent. (4) Insert "complainant" or "defendant" or "a person holding Power of Attorney" as the case may be. (5) Complainant, defendant, or third party, whichever is the defaulter. (6) Date of order under which payment is in default. (7) This affidavit may not be sworn before a Clerk of the Court other than in Western Australia.

Western Australia.

Married Persons and Children (Summary Relief) Act, 1965.

IN THE SUMMARY RELIEF COURT Complaint No.
 sitting at

**WARRANT FOR ARREST AND IMPRISONMENT
 OF DEFAULTER.**
 (Under Section 28.)

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 at made on the day of 19, and varied on 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 _____ shall be 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 to	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 or Justice of the Peace.

Endorsements by Police Officers:—

* 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 32.

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:

Order for reissue under section 32.

Magistrate.

(Page 2.)

To _____ (Arrested Person).

1. Your attention is drawn to the following provisions of section 28 of the Married Persons and Children (Summary Relief) Act, 1965 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 or Guardianship of Infants Act, 1920-1965, 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 and Children (Summary Relief) Act, 1965.

FORM OF ELECTION UNDER SECTION 31.

SUMMARY 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 31 of the Act.

Form 13.

Western Australia.

Married Persons and Children (Summary Relief) Act, 1965.

SUMMONS UNDER SECTION 29.

IN THE SUMMARY RELIEF COURT

sitting at

Complaint No.

Complainant.

Defendant.

IN THE MATTER of

against

To:

of

WHEREAS a complaint has been made under section 29 of the Act, averring that you

Now therefore these are to command you to appear at the Summary Relief Court sitting at at o'clock in the noon on day the day of , 19 , to show cause why you should not be dealt with in accordance with the provisions of the Act.

And take notice that, in default of your appearance at the date and at the place aforesaid, you will be liable to arrest by warrant issued under the provisions of section 135 of the Justices Act, 1902.

Dated at this day of , 19 .

Clerk of the Court.

(Reverse)

INDORSEMENT OF SERVICE.

On the _____ day of _____ 19
at _____

I served the within-named
with the within summons by delivering a duplicate to him per-
sonally.

(Signature)
(Date)

Form 14.

Western Australia.

Married Persons and Children (Summary Relief) Act, 1965.

IN THE SUMMARY RELIEF COURT
sitting at _____

Complaint No. _____
Complainant. _____
Defendant. _____

BETWEEN

and

ORDER

(Section .)

IN the _____ day of _____ 19 _____ on the
_____ Court held at _____ an Order was
made under the (1) _____
requiring (2) _____
to pay to (3) _____ the sum of

_____ per week for maintenance/and costs.

AND on the (4) _____ a Warrant was issued out of the
Court under (5) _____ requiring the
said (2) _____ to pay arrears of
maintenance/and costs amounting to \$ _____ or be committed to
serve _____ day's imprisonment.

AND upon the said (2) _____ being taken
into custody/committed to prison he elected to make an application
under the said Act seeking an Order that the operation of the said
Warrant be suspended.

AND upon the said (2) _____
being brought before the (6) _____ Court at
_____ on the _____ day of _____ 19
and cause being shown that the said Warrant should not be put
into operation.

NOW THIS COURT doth order that the operation of the said
Warrant be suspended to enable the amount of \$ _____ to be paid
on or before the _____ day of _____ 19
or by instalments of \$ _____ per _____ and orders that
such moneys are to be paid to the Clerk of the Court first above-
mentioned who is hereby authorised to pay all such moneys re-
ceived to the said (3)

The first payment of \$ _____ to be made on the
day of _____ 19

Dated at _____ this day of _____ 19

Justice of the Peace. Justice of the Peace or Magistrate.

Note.—Sec. 32 (3) "An order made under paragraph (c) of subsection (2) of
this section is deemed to include a condition that the person thereby affected
will, in addition to paying the instalments so ordered to be paid, continue
to make periodical payments of maintenance in terms of the order under
which the warrant was issued."

(1) Act under which Order made. (2) Full name of defendant. (3) Full
name of complainant. (4) Date of warrant. (5) Act under which warrant
issued. (6) Insert here Summary Relief Court or Court of Petty Sessions
(as the case may be). (7) Strike out whichever does not apply, according to
the order made.

Form 15.

Western Australia.

Married Persons and Children (Summary Relief) Act, 1965.

CERTIFICATE OF CLERK UNDER SECTION 32 (5).

Stipendiary Magistrate.

re:

v.

No. /

The attached warrant is submitted for re-issue.
Warrant is for \$ being arrears due to and was
suspended on the to allow payment to be made by
\$ per week in addition to current maintenance. First
payment of \$ to be made on
Payments due from to represent payments.

WARRANT.

Instalments due on Warrant
Paid—last payment of \$ on
Arrears for period under review
Balance due on warrant
Total due on Warrant

MAINTENANCE.

Maintenance due at \$ per week
Paid—last payment of \$ on
Arrears for period under review
Arrears prior to order for suspension
Total

REMARKS.

I certify that defendant has failed to comply with the conditions
under which the warrant was suspended and is liable for imprison-
ment of days on the amount outstanding of \$
in accordance with section 167 of the Justices Act, 1902.
Date.

Clerk of the Court.

CLERK OF THE COURT.

The defendant having failed to observe the conditions under
which this Warrant was suspended I order that he be taken into
custody to serve imprisonment for days unless the amount
still outstanding under the abovenamed Warrant and order made
therein \$ is sooner paid.
Date.

Magistrate.

(Original to be retained on file and duplicate attached to warrant.)

Form 16.

Government of Western Australia.

Married Persons and Children (Summary Relief) Act, 1965.

Complaint No.

PRISONS DEPARTMENT.

Prison.

Clerk of Courts,
Summary Relief Court,

I CERTIFY that
was imprisoned on and discharged on
Complaint No. monetary penalty and default
Amount Paid (if any)

Superintendent.
Gaoler.

(Heading as in Form 10.)

Form 17.

APPLICATION FOR ENFORCEMENT OF ORDER OUTSIDE
THE STATE.

WHEREAS the undermentioned order was made in my favour against the defendant in the Summary Relief Court at in this State, on the day of 19 , and the defendant (has gone to reside in) (is resident at in): Now, therefore I, apply to the Collector of Maintenance for the State to send to the documents necessary under Part V of the Act, to enable the order to be made enforceable in

Dated at this day of , 19 .
Complainant.

PARTICULARS OF ORDER.

Court:

Date of Order:

Full name of Defendant:

Address of Defendant (if known):

Amount of order: \$ per week for the maintenance of the complainant and \$ per week for the maintenance of to be paid to the Clerk at the first payment to be made on the day of , 19 .

Moneys unpaid: \$ due on the day of , 19 , in respect of weeks ending on the day of , 19 .

(Heading as in Form 10.)

Form 18.

REQUEST THAT AN ORDER BE MADE ENFORCEABLE
OUTSIDE THE STATE.

I, Collector of Maintenance for the State of Western Australia, do hereby request that the Order made herein at in the State of on the day of , 19 , be made enforceable (in the State of).

The documents referred to in section 53 (1) of the above Act are attached hereto.

Dated at Perth this day of , 19 .
Collector of Maintenance.

To the Collector of Maintenance
at

(Heading as in Form 10.)

Form 19.

COLLECTOR'S CERTIFICATE IN RESPECT OF
MAINTENANCE ORDER.

I, of Summary Relief Court, Perth, in the State of Western Australia, certify as follows:—

1. I am the Collector of Maintenance for the State of Western Australia under the provisions of the Married Persons and Children (Summary Relief) Act, 1965.

2. Attached to this certificate are three certified copies of a maintenance order / and of an order (or orders) varying that maintenance order / particulars of which are as follows:—

3. The maintenance order, as now in operation, is presently enforceable in the Summary Relief Court at Perth pursuant to the provisions of the Married Persons and Children (Summary Relief) Act, 1965, and is not presently enforceable in any State or Territory of the Commonwealth other than the State of Western Australia.

4. The present effect of the maintenance order is to require the abovenamed defendant to pay to the sum of \$ _____ per week for the maintenance of _____ and the sum of \$ _____ per week for the maintenance of _____.

5. It has been made to appear to me that the defendant is resident in, or proceeding to _____ in the State/Territory of _____.

6. There is now remaining due and unpaid under the maintenance order—

- | | |
|--|------|
| | \$ c |
| (a) being enforceable by imprisonment .... | .... |
| (b) not being enforceable by imprisonment .... | .... |
| (c) amount in respect of which a court has previously on disobedience proceedings declined to order that the defendant be imprisoned by reason of— | |
| Arrears as at / / being .... | .... |
| Date last periodical payment fell due | .... |

TOTAL _____

Dated at Perth this _____ day of _____ 19 _____
Collector of Maintenance.

TO The Collector of Maintenance at _____

(Heading as in Form 10.)

Form 20.

NOTICE OF REGISTRATION OF INTERSTATE OR
OVERSEAS ORDER IN WESTERN AUSTRALIA.

To the abovenamed Defendant,
of _____

WHEREAS an order was made against you in the _____ Court at _____ in _____ on the _____ day of _____, 19 _____, whereby you were directed to pay _____ for or towards the maintenance of _____

And whereas the order was registered in the Summary Relief Court at Perth on the _____ day of _____, 19 _____, pursuant to the provisions of Part V of the Married Persons and Children (Summary Relief) Act, 1965.

And whereas a certified copy of that order has been served upon you with this notice:

Now take notice—

- (a) that the maintenance order has been so registered and is enforceable against you in the State of Western Australia under the provisions abovementioned;
- (b) that the amount stated hereunder was due and unpaid under the order on the date specified in relation thereto; and
- (c) that the amount due and unpaid under the order and all moneys becoming due and payable thereunder whilst the order is enforceable in Western Australia are payable to—

The Collector of Maintenance,

And further take notice that if the amount stated hereunder is not paid forthwith or you make default in payment of any moneys becoming due and payable under the order proceedings will be taken against you in the Summary Relief Court for your imprisonment by reason of your default.

Dated at Perth this _____ day of _____, 19 _____
Collector of Maintenance.

Date.	Particulars of Amount Due.	\$
	Arrears of Maintenance due under the Order to the date in the margin Costs as fixed by the Court Total due	

(Reverse.)

INDORSEMENT OF SERVICE.

On the day of , 19 at
I served the within named by delivering to him personally—

- (i) Certified copy of the said maintenance order
- (ii) Duplicate copy of within notice.

Signature.....
Date.....

Form 21.

(Heading as in Form 10.)

NOTICE OF APPLICATION UNDER SECTION 56 AND 73.

WHEREAS an order was on the day of 19 ,
made in the Court at ,
in whereby the abovenamed (1)
was ordered to pay an amount of per (2) for or
towards the maintenance of and of :

And whereas the said order is now enforceable in :

Now therefore take notice that I (3)
intend to apply to the Summary Relief Court at in
the State of Western Australia on the in
day of 19 , at in the noon
for a provisional order that the said order be (4)
on the ground that (5)

Applicant.

Filed in the Summary Relief Court at
this day of 19 .
Clerk of the Court.

To the Collector of Maintenance, Perth
and

To the Collector of Maintenance at
This notice is given by

(1) Insert complainant or defendant, as the case may be. (2) Per week or as the case may be. (3) Full name of applicant. (4) Insert discharged, suspended, varied or revived, as the case may be. Where a variation is sought, add particulars of the variation sought. Where revival is sought set out particulars as to when and where order was suspended. (5) Set out grounds on which applicant relies for the relief sought.

(To be filed in triplicate.)

Form 22.

(Heading as in Form 10.)

NOTICE TO RESPONDENT OF APPLICATION FOR
CONFIRMATION OF PROVISIONAL ORDER.

To:
of:

WHEREAS a provisional order was on the application of the above-named _____ made on the _____ day of _____, 19____, in the _____ Court at _____ in _____.

WHEREBY the maintenance order made in the _____ Court at _____ in _____ was _____

Now take notice that I the Collector of Maintenance for the State of Western Australia intend to apply to the Summary Relief Court at Perth on the _____ day of _____, 19____, at _____ in the _____ noon for an order confirming the said provisional order and that if you wish to show cause why the said order should not be confirmed you should attend at the time and place aforesaid.

Collector of Maintenance.

Filed in the Summary Relief Court at Perth this _____ day of _____, 19____.

_____ Clerk of the Court.

(Reverse)

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.

(Signature)
(Date)

Form 23.

(Heading as in Form 10.)

PROVISIONAL ORDER DISCHARGING, SUSPENDING, VARYING OR REVIVING MAINTENANCE ORDER.

WHEREAS on the _____ day of _____, 19____, upon application made by (or on behalf of) the abovenamed Complainant an order was made by the _____ Court at _____ in _____ against the Defendant for the payment of the amount of _____ per _____ towards the maintenance of the Complainant and of _____:

And whereas the Applicant being at present resident in the State of Western Australia has made application that the said order be discharged (suspended, varied or revived): And the Applicant having this _____ day of _____, 19____, at _____, in the State of Western Australia duly appeared before the Court and the Court being satisfied that the requirements of section _____ of the abovenamed Act relating to notice to the Collector(s) have been complied with; and on cause being shown why the said maintenance order should be discharged (suspended, varied or revived)

THE COURT DOTH ORDER that—

Given under my hand at _____ in the State of Western Australia this _____ day of _____, 19____.

_____ Magistrate.

This Order is provisional only and has no force or effect unless and until confirmed by a competent court in the country in which the defendant resides or to which he is proceeding.

Form 24.

(Heading as in Form 10.)

SUMMONS TO SHOW CAUSE WHY A PROVISIONAL ORDER
FOR MAINTENANCE SHOULD NOT BE CONFIRMED.To the abovenamed Defendant,
of.....

WHEREAS upon the application of the complainant a provisional order was made against you in (Court)
at on the day of
19 , under the provisions of for the payment
of for or towards the maintenance of

And whereas a certified copy of the said order, together with the depositions of witnesses and a statement of the grounds on which the order could have been opposed have been received by the Collector of Maintenance for this State in accordance with the provisions of Part V of the Married Persons and Children (Summary Relief) Act, 1965:

These are therefore to require you to appear at the Summary Relief Court at Perth on the day of
19 , at the hour of ten o'clock in the forenoon to show cause why the provisional order so made against you should not be confirmed.

Dated at Perth this day of , 19 .
Justice of the Peace.
Clerk of Court.

(Reverse)

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.

(Signature)

(Date)

Form 25.

(Heading as in Form 10.)

PROVISIONAL MAINTENANCE ORDER.

BE it remembered that on the day of
19 , application was made to the Court for an order pursuant to the provisions of section 64 of the Married Persons and Children (Summary Relief) Act, 1965, directing the defendant to make payments for or towards the maintenance of the complainant and and having heard the application and it having been proved by the evidence on oath of the complainant (as well as other corroborative evidence)

- (a) that the defendant is the of the complainant and the of the said (children) ;
- (b) that the defendant (cause of complaint) ; and
- (c) that the defendant is a person resident in (proceeding to) a reciprocating country within the meaning of Part IV of the said Act:

The Court doth order that the defendant pay to the Collector of Maintenance for the State of Western Australia (or to at) for the use and maintenance of the applicant and the said the weekly sum of , being in the opinion of the Court a reasonable amount, to be paid week by week.

Dated at _____ in the State of Western Australia
this _____ day of _____, 19____
Magistrate.

This Order is provisional only and has no force or effect unless and until confirmed by a competent court in the country in which the defendant resides or to which he is proceeding.

Form 26.

(Heading as in Form 10.)

STATEMENT OF GROUNDS ON WHICH MAKING OR ORDER
COULD HAVE BEEN OPPOSED.

The grounds upon which the making of an Order might have been opposed if the said _____ had been duly served with a summons and had appeared at the hearing:—

1. That the Court had no jurisdiction to make the Order.
2. That the matter of the complaint is not true.
3. That at the date of the Order there was no valid marriage subsisting between the Complainant and the Defendant.
4. That a decree of judicial separation or an Order having the effect of such a decree, was in force at the time of the hearing of the complaint.
5. That the Complainant and the Defendant were living apart by mutual consent and agreement.
6. That the Complainant had deserted the Defendant.
7. That the Complainant had committed adultery which had not been condoned, connived at, or by wilful neglect or misconduct condoned to by the Defendant.
8. That the Defendant had reasonable cause to leave the Complainant.
9. That under a decree or order of a competent Court the Complainant was entitled to alimony, and such decree or order was being complied with.
10. That the Defendant had not sufficient means to maintain the Complainant, and, or alternatively, the child or children or, alternatively, was not in a position to pay the amount ordered.
11. That the child is or the children are over the age of 16 years.

Dated this _____ day of _____, 19____
Magistrate.

Form 27.

(Heading as in Form 10.)

ORDER CONFIRMING PROVISIONAL MAINTENANCE ORDER.

BE it remembered that on the _____ day of _____, 19____, application was made to _____ (Court) by the complainant, _____ a _____ residing at _____ that the defendant, of in the State of Western Australia, (Cause of complaint) _____ and the complainant having applied to the said Court at _____ for a provisional maintenance order against the defendant and a provisional order having been made that the defendant pay to _____ for the use of the applicant the weekly sum of _____ (and for the maintenance of each child the weekly sum of _____) together with the sum of _____ for her costs in obtaining the said order:

And whereas pursuant to the provisions of the Married Persons and Children (Summary Relief) Act, 1965, the defendant was duly summoned to appear at the Summary Relief Court at Perth on the _____ day of _____, 19____, to show cause why the said provisional order should not be confirmed:

And whereas the defendant has not shown cause (why the provisional order made herein should not be confirmed) (so much of the provisional order as relates to _____ should not be confirmed).

Now the Court, being satisfied (that the said provisional order should be confirmed) (that so much of the provisional order as relates to _____ should be confirmed), DO TH

HEREBY CONFIRM (the provisional order)
(so much of the provisional order as related to _____)
with a modification that the defendant do pay to the Collector of Maintenance for Western Australia at Perth, the weekly sum of _____ Australian Currency, being _____ in respect of _____ (and _____ in respect of _____) the first of such weekly payments to be made on _____ day next and the like sum of _____ on _____ day in each successive week.

Given under my hand at _____ in the State
of Western Australia this _____ day of _____, 19 _____
Magistrate.

Form 28.

(Heading as in Form 10.)

NOTICE OF CONFIRMATION OR DISCHARGE OF
PROVISIONAL ORDER.

The provisional order for _____ came before the Summary Relief Court at Perth, in the State of Western Australia, on the _____ day of _____, 19 _____, for confirmation and after due inquiry the Court ordered (that the provisional order made in your Court on the _____ day of _____, 19 _____, be confirmed) (that the provisional order made in your Court on the _____ day of _____, 19 _____, be discharged on the ground that _____).

Dated at Perth this _____ day of _____, 19 _____
Clerk of the Court.

To the Clerk of the Court at _____

Form 29.

(Heading as in Form 10.)

NOTICE REMITTING PROVISIONAL ORDER.

WHEREAS on the hearing of an application for confirmation of a provisional order for _____ the Summary Relief Court at Perth, in the State of Western Australia, on the _____ day of _____, 19 _____, ordered that the provisional order be remitted to the Court that made the provisional order for the taking of further evidence:

Accordingly I remit the case to you and request that the Court that made the provisional order do take further evidence on the following matters:—

(Set out matters on which evidence is required.)
and deal with the case according to law.

Dated at _____ this _____ day of _____, 19 _____
Clerk of the Court.

To the Clerk of the Court,
at _____

Form 30.

(Heading as in Form 10.)

NOTICE OF FURTHER HEARING.

To the abovenamed
of _____
And to the Collector of Maintenance
for Western Australia.

TAKE notice that certain depositions (which may be inspected by you at this office) have now been forwarded to this Court by the Court at and that further consideration of the application for confirmation of the provisional order for made herein will be proceeded with in the Court at Perth on the day of 19, at the hour of o'clock in the noon.

Dated at the day of 19 Clerk of the Court.

(Reverse)

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.

(Signature)
(Date)

Form 31.

(Heading as in Form 10.)

NOTICE OF FURTHER HEARING.

To the abovenamed of

TAKE notice that the provisional order for made in this Court on the day of 19, on your application has been remitted by the Court at in with a request that further evidence be taken.

You are therefore required to appear before the Court at Perth, on the day of 19, at the hour of o'clock in the noon to give further evidence to the Court touching the following matters:—

Dated at this day of 19 Clerk of the Court.

(Reverse)

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.

(Signature)
(Date)

Form 32.

(Heading as in Form 10.)

CERTIFICATE AS TO CONVERSION OF CURRENCY.

(Section 83 (2).)

I, Collector of Maintenance for the State of Western Australia do hereby certify that according to the information obtained by me from the (1) the equivalent in Australian Currency on the (2) day of 19, of the amount specified in the order made herein on the day of 19, by the Court at in namely (3) on the basis of the telegraphic transfer rate of exchange was (4)

Dated at Perth the _____ day of _____, 19 _____
Collector.

- (1) Insert name of bank from which information was obtained.
- (2) Insert date order is registered or confirmed in this State.
- (3) State amount in overseas currency.
- (4) State equivalent in Australian currency.

Form 33.

SUMMARY RELIEF COURT at _____ v _____ No. _____/_____
Order for _____ per week.
First payment _____/_____/_____

Trust Order Disbursements	Receipt or Trust Order No.	Date	Dr. Maintenance	Cr. Receipts	Balance

Form 34.
Added by
G.G. 6/2/68,
p. 220.

Form 34.

(Heading as in Form 10.)

NOTICE OF BIRTH PURSUANT TO SECTION 18A (4).

To the abovenamed Defendant,
of

WHEREAS an order was made against you in the Summary Relief Court sitting at _____ day of _____ 19 _____, whereby you were directed to pay _____ for or towards the maintenance of the child of _____, then unborn: NOW TAKE NOTICE that a child named _____ (or unnamed) was born to the said _____ on the _____ day of _____ 19 _____, at _____ and that you are accordingly obliged to make the first payment directed by the said order on the _____ day of _____ 19 _____, at _____, and so on from week to week (month to month) thereafter, until further order or until the said child attains the age of sixteen years.

Dated at _____ this _____ day of _____, 19 _____

Clerk of the Summary Relief Court.

(Heading as in Form 10.)
**NOTICE OF ELECTION NOT TO ENFORCE A PROVISION
 OF AN ORDER.**

Form 35. Form 35.
 Added by
 G.G. 6/2/68,
 p. 220.

(Section 28 (6).)

To the Clerk of the Summary Relief Court sitting at
 WHEREAS an order was made against the abovenamed defendant
 in the Summary Relief Court sitting at
 whereby the defendant was directed to pay—

- (a) for or towards the maintenance of ; and
- (b) for or towards the maintenance of ; and
- (c) for or towards the maintenance of :

NOW TAKE NOTICE that I
 being the person entitled to enforce payments under the said order,
 hereby elect not to enforce the provision of the order for the pay-
 ment of for or towards the maintenance
 of , on and after the
 day of , 19

Dated at this day of
 , 19

Signed by the said
 in the presence of:
 Witness

(Heading as in Form 10.)
**CERTIFICATE AS TO AN AMOUNT ORDERED TO BE PAID
 AND PAYMENT MADE.**

Form 36. Form 36.
 Added by
 G.G. 6/2/68,
 p. 221.

Date of Order:

Order:

Person liable to make payments under Order:

I Clerk of the Summary Relief Court
 at certify that it appears from the records
 of the Summary Relief Court at
 that:—

(Set out particulars required in accordance with Section 97 (2).)

Dated the day of
 19

Clerk of the Summary Relief Court
 at

Second Schedule.
 FEES.

	\$
1. Any complaint	0.20
2. Summons to a defendant	0.20
3. Notice to a third party	0.20
4. Summons to witness	0.20
5. Certified copy of an order	0.40
6. Search of central registry index	0.20
7. Interlocutory application	0.40
8. Filing any affidavit (not being an affidavit verifying default of payment)	0.20
9. On registration of any order for enforcement (other than orders under the Child Welfare Act)	0.20
10. Service of any summons or notice	0.40

11. Mileage on service of summons or notice or execution of warrant 15c per mile, one way only.	
12. Warrant under section 28	0.40
13. Execution thereof	0.80
14. Recognisance for the peace or good behaviour	0.50
15. Certified copy Magistrate's notes of evidence per folio (of 72 words)	0.10