

DISTRICT COURT OF WESTERN AUSTRALIA.

No. 122 of 1984.

AN ACT to amend the District Court of Western
Australia Act 1969.

[Assented to 27 December 1984.]

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

1. (1) This Act may be cited as the *District Court of Western Australia Amendment Act 1984*. Short title and principal Act.

(2) In this Act the District Court of Western Australia Act 1969 is referred to as the principal Act. Reprinted as approved 5 September 1980 and amended by Acts Nos. 118 of 1981 and 7 of 1982.

Commen-
cement.

2. (1) Subject to subsection (2), this Act shall come into operation on the 28th day after the day on which this Act is assented to by the Governor.

(2) Sections 8, 9, 10 and 11 shall come into operation on a day to be fixed by proclamation.

Section 3
repealed.

3. Section 3 of the principal Act is repealed.

Section 4
amended.

4. Section 4 of the principal Act is amended by inserting after subsection (4) the following subsection—

“ (4a) The books and records of a Court of Session for a Division are deemed to be court records for the purposes of Part IX of this Act. ”.

Section 5
amended.

5. Section 5 of the principal Act is amended by inserting after subsection (4) the following subsection—

“ (5) Unless the context otherwise requires, a reference in any other Act or in any regulation, rule, by-law, notice, proclamation or other statutory instrument made, published or in force under this Act or any other Act to the Chairman, or Chairman of Judges, of the District Court shall be read and construed as a reference to the Chief Judge. ”.

Section 6
amended.

6. Section 6 of the principal Act is amended—

(a) by deleting the definition of “the Chairman”; and

- (b) by inserting in the appropriate alphabetical position the following definition—

“ “the Chief Judge” means the District Court Judge appointed the Chief Judge and includes a District Court Judge appointed to act in the office of Chief Judge under section 18 (2a); ”.

7. Section 10 of the principal Act is amended— Section 10 amended.

- (a) in subsection (4)—

- (i) by deleting “Chairman of Judges” and substituting the following—

“ Chief Judge ”; and

- (ii) by deleting “as the Chairman” and substituting the following—

“ as the Chief Judge ”;

- (b) by inserting after subsection (4) the following subsection—

“ (4a) On the day on which section 7 of the District Court Amendment Act 1984 comes into operation the person who, immediately before that day, held office as, or acted in the office of, Chairman of Judges shall be deemed to have been appointed as Chief Judge, or to act in the office of Chief Judge, as the case may be, under and subject to this Act. ”; and

- (c) in subsection (5), by deleting “Chairman” and substituting the following—

“ Chief Judge ”.

Section 50
amended.

8. Section 50 of the principal Act is amended—

(a) in subsection (1)—

(i) by deleting “fifty thousand dollars”
wherever it occurs and substituting
in each case the following—

“ \$80 000 ”; and

(ii) by deleting “twenty-five thousand
dollars” in both places where it
occurs in paragraph (d) and sub-
stituting the following—

“ \$40 000 ”;

(b) by inserting after subsection (1) the
following subsection—

“ (1a) A sum of money referred to in
subsection (1) does not include any
interest which may be payable in the
particular action. ”;

(c) in subsection (2), by deleting “caused by or
arising out of the use of any motor vehicle”
and substituting the following—

“ and in relation to all proceedings
arising with respect to those personal
actions under the Law Reform
(Contributory Negligence and Tort-
feasors’ Contribution) Act 1947 ”; and

(d) by repealing subsection (3).

Section 51
amended.

9. Section 51 of the principal Act is amended in
subsection (1)—

(a) by deleting “fifty thousand dollars” in both
places where it occurs and substituting the
following—

“ \$80 000 ”; and

- (b) by deleting “seventy-five thousand dollars” and substituting the following—

“ \$120 000 ”.

10. Section 60 of the principal Act is amended by deleting “fifty thousand dollars” in both places where it occurs and substituting the following—

Section 60
amended.

“ \$80 000 ”.

11. Section 73 of the principal Act is amended—

Section 73
amended.

- (a) by inserting after the section designation “73.” the subsection designation “(1)”; and

- (b) by inserting the following subsections—

“ (2) When, in an action or matter brought in the Supreme Court—

- (a) the claim, though it originally exceeded \$80 000, is reduced by payment into Court, an admitted set-off, or otherwise, to a sum not exceeding \$80 000;

- (b) in which the claim exceeds \$80 000, the plaintiff obtains judgment on part of the claim and the remainder of the claim does not exceed \$80 000; or

- (c) there is an interlocutory judgment for damages to be assessed and the action or matter or a question or issue therein is otherwise within the jurisdiction of the District Court,

any of the parties to the action or matter may, at any time, apply to the Supreme Court or a Judge thereof for an order remitting the action or matter, or question or issue, as the case may be, to the Court sitting at such place as the order specifies, and the Supreme Court or Judge thereof shall make an order accordingly unless it or he considers that under the circumstances of the case it is advisable that the action, matter, question or issue should be tried in the Supreme Court.

(3) A sum of money referred to in subsection (2) does not include any interest which may be payable in the particular action.

(4) The Supreme Court or a Judge thereof may make an order referred to in subsection (2), if it or he thinks fit, without an application from any of the parties.

(5) The Chief Justice of Western Australia may make an order, at any time after hearing the parties concerned, remitting to the Court any action or matter that—

- (a) is commenced under the Supreme Court Act 1935;
- (b) is pending on the date of the coming into operation of any written law amending the jurisdiction of the Court; and
- (c) could have been commenced under this Act if the written law referred to in paragraph (b) had been in operation when the action was so commenced,

unless the Chief Justice of Western Australia considers that under the circumstances of the case it is advisable that the action or matter should be tried in the Supreme Court. ”.

12. After Part VIII of the principal Act the following Part is inserted— Part IX
inserted.

“ PART IX.—MAINTENANCE AND
DESTRUCTION OF COURT RECORDS.

91. In this Part—

Interpreta-
tion.

“court record” means official record of any proceedings in the Court and includes any document filed in the Court, or in the custody of the Court, in relation to the proceedings;

“document”, “negative” and “reproduction” have the same respective meanings as they have in and for the purposes of sections 73A to 73V of the Evidence Act 1906;

“official record” includes—

- (a) any document, book, plan, paper, photograph, or parchment; or
- (b) any other material or part thereof on which is any writing or printing or which is marked with any letters or marks denoting words or any other signs capable of carrying a definite meaning to persons conversant with them,

made or received by the Court or a person acting judicially under this Act.

Application
of Part IX.

92. This Part shall not be construed so as to derogate in any way from section 8 (1) (a) or from the Library Board of Western Australia Act 1951.

Negative of
court record.

93. A negative of a court record may be made at any time to be held by or on behalf of the Court.

Destruction
of court
records
generally.

94. Subject to sections 92, 95 and 96, a court record—

- (a) of a criminal proceeding may be destroyed after the expiration of 53 years; or
- (b) of a civil proceeding may be destroyed, after the expiration of 25 years,

from the time when it became such a court record.

Destruction
of court
records when
negatives
held.

95. Subject to sections 92 and 96 a court record may, if a negative of it is held by or on behalf of the Court, be destroyed at any time after the expiration of 3 years from the time when it became a court record, but in that case the negatives shall be so held until—

- (a) in the case of the negative of a court record of a criminal proceeding, the expiration of 53 years; or
- (b) in the case of a negative of a court record of a civil proceeding, the expiration of 25 years,

from the time when the court record became a court record.

96. (1) The Registrar may, of his own motion or on the application of any person interested in any proceeding in the Court, which proceeding has not yet been completed—

Preservation
orders.

- (a) order in writing that all or any of the court records relating to that proceeding be preserved from destruction for a period of one year;

and

- (b) from time to time renew in writing for a period of one year an order made under this subsection.

(2) A person shall not destroy a court record to which an order made or renewed under subsection (1) relates while that order is in force.

Penalty: \$100.

97. For the purposes of the laws relating to the admissibility of evidence but without otherwise affecting those laws, where, at any time, a negative of a court record is held by or on behalf of the Court, the negative is deemed to be the court record and shall be treated as such by any other court, without any enquiry as to whether or not the court record has been destroyed. ”.

Evidentiary
provision.

13. The principal Act is amended by deleting “Chairman of Judges” or “Chairman” wherever it occurs in the provisions referred to in the Schedule and substituting in each case the following—

Miscella-
neous
amendments.

“ Chief Judge ”.

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 Australia.

SCHEDULE. (Section 13)

*Substitution of "Chief Judge" for "Chairman of Judges"
or "Chairman".*

Sections 12 (1) (a), 12 (3), 12 (4), 18 (1), 18 (2), 18 (2a),
18 (2b), 18 (3) (a), 19 (3), 19 (5), 20, 28 (2), 28 (3).
