

FAMILY COURT.

No. 58 of 1979.

AN ACT to amend the Family Court Act, 1975-1978 and to repeal the Married Persons and Children (Summary Relief) Act, 1965-1975 and the Guardianship of Children Act, 1972-1975.

[Assented to 12th November, 1979.]

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 *Family Court Act Amendment and Acts Repeal Act, 1979*. Short
title.

(2) In this Act the Family Court Act, 1975-1978 is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Family Court Act, 1975-1979.

Commence-
ment.

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

Section 3
repealed
and
substituted.

3. Section 3 of the principal Act is repealed and the following section substituted—

3. This Act is arranged as follows—

PART I.—PRELIMINARY.

PART II.—FAMILY COURT OF WESTERN AUSTRALIA.

Division 1.—Creation.

Division 2.—Judges.

Division 3.—Sittings.

Division 4.—Officers.

Division 5.—Counselling and Reconciliation.

PART III.—JURISDICTION OF THE COURT.

Division 1.—General.

Division 2.—Powers with Respect to Property.

Division 3.—Custody and Guardianship.

Division 4.—Maintenance.

Division 5.—Preliminary and Other Expenses.

Division 6.—Types of Orders and Variation of Orders.

Division 7.—Enforcement of Maintenance Orders.

Division 8.—Ex parte Orders.

PART IV.—COURTS OF SUMMARY JURISDICTION AND TRANSFER OF PROCEEDINGS.

PART V.—APPEALS.

PART VI.—MISCELLANEOUS.

SCHEDULES.

4. Section 4 of the principal Act is amended—

Section 4
amended.

- (a) by adding immediately before the interpretation “Chairman” the following interpretation—

“adopted” in relation to a child means a child adopted under an adoption—

(a) under the Adoption of Children Act, 1896; or

(b) recognised under the Adoption of Children Act, 1896,

which adoption has not been rescinded;

- (b) by adding immediately after the interpretation “Chairman” the following interpretation—

“child” means a child in relation to whom the Court has a non-federal jurisdiction under this Act; ;

- (c) by adding immediately after the interpretation “child of the marriage” the following interpretation—

“Collector of Maintenance” means the person holding or acting in the office of Collector of Maintenance and includes an Assistant Collector of Maintenance; ;

- (d) by adding immediately after the interpretation ““Court” or “Family Court of Western Australia”” the following interpretations—

“Department for Community Welfare” means the Department for Community Welfare established under section 4 of the Community Welfare Act, 1972;

“Director” means the Director of Community Welfare appointed under section 7 of the Community Welfare

Act, 1972 and includes the Deputy Director appointed under section 8 of that Act; ;

- (e) by adding immediately after the interpretation “District Court” the following interpretation—

“Division” means a Division of the Part in which that term is used; ;

- (f) by deleting the interpretation “federal jurisdiction of the Court” and substituting the following interpretation—

“federal jurisdiction of the Court” means the jurisdiction referred to in subsection (1) of section 27; ;

- (g) by adding immediately after the interpretation “federal jurisdiction of the Court” the following interpretation—

“financial matters” means any matter referred to in Division 4 or Division 5 of Part III; ;

- (h) by adding immediately after the interpretation “Judge” the following interpretation—

“maintenance agreement” means any agreement in writing between persons other than parties to a marriage whether made before or after the date of the coming into operation of section 4 of the Family Court Act Amendment and Acts Repeal Act, 1979 that relates to financial matters and whether or not it makes provision with respect to other matters and includes any agreement in variation thereof; ;

- (i) by deleting the interpretation “non-federal jurisdictions of the Court” and substituting the following interpretations—

“non-federal jurisdictions of the Court” means the jurisdictions referred to in subsection (2) of section 27;

“order” means an order of the Court and includes a judgment and an order dismissing an application or refusing to make an order;

“Part” means a Part of this Act; ;

- (j) by adding immediately after the interpretation “party to a marriage” the following interpretations—

“preliminary expenses” in respect of the confinement of a woman means the expenses of the maintenance of the woman during the period of two months immediately preceding the confinement, reasonable medical, surgical, hospital and nursing expenses attendant upon the confinement, and the expenses of the maintenance of the woman and the child or children born to the woman during the confinement and for three months immediately after the birth;

“proceedings” means a proceeding in a court, whether between parties or not, and includes cross-proceedings or an incidental proceeding in the course of or in connection with a proceeding; ;

- (k) by deleting the interpretation “Registrar” and substituting the following interpretation—

“Registrar” means the person appointed under this Act to be the Registrar of the Court and includes an Acting Registrar of the Court and, except in sections 23, 74 and 75, also includes a Deputy Registrar of the Court; ;

- (l) by adding immediately after the interpretation “Registrar” an interpretation as follows—

“Schedule” means a schedule to this Act; ; and

- (m) by deleting the passage “used.” at the end of the interpretation “subsection” and substituting the following passage—

used;

“ward” means a ward as defined under the Child Welfare Act, 1947;

“welfare officer” includes the Director of Court Counselling appointed under this Act and any other counselling or welfare officer of the Court. .

Section 5
amended.

5. Section 5 of the principal Act is amended—

- (a) as to subsection (1), by inserting, immediately after the word “therein”, in line two, the passage “, and the Acts set out in the Third Schedule are repealed”;
- (b) as to subsection (2), by deleting the passage “subsection (3)”, in line one, and substituting the passage “subsections (3) and (3a)”;
- (c) by inserting immediately after subsection (3) a subsection as follows—

(3a) Where a decree made in the exercise of a jurisdiction conferred by one of the Acts specified in the Third Schedule was in force immediately before the date of the repeal of that Act and that jurisdiction is on and after that date one of the non-federal jurisdictions of the Family Court of Western Australia—

- (a) the decree shall have or continue to have effect; and
- (b) this Act shall apply to and in relation to the decree,

as if the decree was made in the exercise of a jurisdiction conferred by this Act, as in force on and after the date of that repeal. ; and

(d) as to subsection (4)—

- (i) by deleting the passage “in force after the date of the coming into operation of this section,” in lines three and four;
- (ii) by deleting the words “on and after that date” in line eight; and
- (iii) by deleting the expression “30” in line eleven and substituting the expression “75”.

6. Subsection (2) of section 9 of the principal Act is amended by deleting paragraph (c) and substituting the following paragraph—

Section 9
amended.

- (c) he is or has been a barrister or solicitor of the Supreme Court of not less than eight years standing; .

7. Section 22 of the principal Act is amended—

Section 22
amended.

(a) as to subsection (1)—

- (i) as to paragraph (a), by inserting immediately after the word “Court” the passage “, and such Deputy Registrars of the Court as are necessary for the proper functioning thereof”;
- (ii) by deleting paragraph (c) and the word “and” immediately after paragraph (c) and substituting the following passage—
 - (c) a Director of Court Counselling of the Court;

- (d) a Collector of Maintenance of the Court and such Assistant Collectors of Maintenance of the Court as are required; and ;

and

- (iii) by redesignating paragraph (d) as paragraph (e);

- (b) as to subsection (2), by deleting the word "The" in line one and substituting the passage "Subject to section 23, the"; and

- (c) as to subsection (3), by deleting the word "Where" in line one and substituting the passage "Subject to this Act, where".

New
section
23 added.

8. The principal Act is amended by adding immediately after section 22 a new section to stand as section 23 as follows—

Registrar
may be a
stipendiary
magistrate.

23. (1) The Registrar may be appointed and hold office as a stipendiary magistrate under and subject to the Stipendiary Magistrates Act, 1957 if he is qualified under that Act to be so appointed.

(2) During any period the Registrar holds office as a stipendiary magistrate under and subject to the Stipendiary Magistrates Act, 1957 he is not a member of the Public Service of the State and references thereto in this Act and to the Public Service Act, 1978 do not apply to and in relation to him. .

Section 23
redesign-
ated.

9. The principal Act is amended by redesignating section 23 as section 24.

Division 6
of Part II
repealed and
re-enacted
to stand
as Division
5 of Part
II.

10. The principal Act is amended as to Division 6 of Part II—

- (a) by repealing the heading to the Division and re-enacting it to stand as Division 5 of

Part II immediately after section 24 of the principal Act as amended by section 9 of this Act;

- (b) repealing section 27 and re-enacting it to stand as section 25;

and

- (c) as to section 28—

- (i) by re-designating the section as section 26;

- (ii) by deleting the words “Director of Counselling and Welfare” where occurring in line one of subsection (1) and in lines three and four of subsection (2) and substituting the words “Director of Court Counselling” in each case.

11. The principal Act is amended by repealing the heading to Division 5 of Part II and substituting the following heading “PART III.—JURISDICTION OF THE COURT.”.

Heading to Division 5 of Part II repealed and heading to Part III added.

12. The principal Act is amended by adding immediately before section 24 the division heading “Division 1.—General.”.

Heading to Division 1 of Part III added.

13. Section 24 of the principal Act is repealed and re-enacted to stand as section 27 as follows—

Section 24 repealed and re-enacted to stand as section 27.

27. (1) The Court has throughout the State the federal jurisdiction with which it is invested by the Family Law Act and any other Act of the Parliament of the Commonwealth and any regulations and proclamations in force under such an Act.

Jurisdiction of the Court.

(2) The Court has throughout the State the non-federal jurisdictions conferred on it by or under this or any other Act, and without derogating therefrom, has non-federal jurisdiction throughout the State—

(a) subject to the Family Law Act, in respect of the property of parties to a marriage or either of them except the interest of a party to the marriage in a partnership with a person who is neither a party to the marriage nor a child of the marriage; and

(b) subject to—

(i) the Family Law Act;

(ii) the Adoption of Children Act, 1896;
and

(iii) the Child Welfare Act, 1947,

in respect of the—

(iv) custody, guardianship of and access to;

(v) maintenance of; and

(vi) preliminary expenses and other expenses specified in this Act incurred with respect to,

any child of a marriage and any child whose parents were not married to each other at the time of the birth of the child or subsequently whether or not the child is a member of a family.

(3) Where a child the subject of proceedings appears to be a child in need of care and protection as defined by the Child Welfare Act, 1947 the Court has, in relation to the child, in addition to the powers conferred by this Act, all the powers of a children's court established under that Act.

(4) Where a child the subject of proceedings appears to be a child in need of care and protection as defined by the Child Welfare Act, 1947 the Director may intervene in any proceedings with respect to the child and where he does so the Director shall be deemed to be a party to the proceedings with all the rights, duties and liabilities of a party.

(5) Subject to this Act, the Court has non-federal jurisdiction under this Act to make an order containing a provision for the custody of, guardianship of, or access to, a child—

- (a) if the child in respect of whom the order is sought is then present in the State; and
- (b) if the applicant or the respondent in the proceedings in which the order is sought is resident in the State.

(6) Subject to this Act, the Court in exercising its non-federal jurisdictions under this Act may make an order, not being an order containing a provision for the custody of, or guardianship of, or access to, a child—

- (a) if the person against whom the order is sought, or
- (b) if the person for whose benefit the order is sought,

is resident in this State.

(7) Subject to this section, the Court has non-federal jurisdiction to make an order under this Act whether or not the facts or circumstances, or any of them, the existence or occurrence of which is necessary for the making of the order, took place or arose before the coming into operation of this Act or outside the State.

(8) An application issued pursuant to this Act may be served outside the State. .

14. The principal Act is amended as to section 25—

- (a) by re-designating the section as subsection (1) of section 28;
- (b) by deleting the words “The Court shall in the exercise of its non-federal jurisdiction have regard to” in lines one and two and substituting the passage “The Court in the exercise of its non-federal jurisdiction shall

Section 25
amended
and
redesignated
as
section 28.

in so far as those principles are capable of application to the case have regard to the following principles—”; and

- (c) by adding the following subsections to stand as subsections (2) and (3) of section 28 as follows—

(2) In the exercise of its non-federal jurisdictions with respect to a child the Court shall have regard to the welfare of the child as the paramount consideration.

(3) Subject to this Act, in exercising its non-federal jurisdictions with respect to a child the Court may—

- (a) make such order in respect of those matters as it thinks proper;
- (b) make an order until further order;
- (c) discharge or vary an order or suspend any part of an order and may revive the operation of any part of an order so suspended. .

Section 26
repealed.

15. Section 26 of the principal Act is repealed.

Heading to
Division 2
of Part III
added.

16. The principal Act is amended by adding immediately before section 26A the heading “*Division 2.—Powers with Respect to Property.*”.

Section 26A
amended
and
redesignated
as
section 29.

17. Section 26A of the principal Act is amended—

- (a) by redesignating the section as section 29;
and
- (b) as to subsection (2)—
 - (i) by deleting the word “fit”, in line two;
and
 - (ii) by deleting the expression “25” in line four and substituting the expression “28”.

18. Section 26B of the principal Act is amended—
- (a) by redesignating the section as section 30; and
- (b) as to subsection (2), by deleting the expression “25” in line nine and substituting the expression “28”.
19. Section 26C of the principal Act is repealed and re-enacted to stand as section 31 as follows—
- 31 (1) Where, on application by a person affected by an order made by the Court under section 30, the Court is satisfied that there has been a miscarriage of justice by reason of fraud, duress, suppression of evidence, the giving of false evidence, or any other circumstance, the Court may, in its discretion, set aside the order and, if it thinks fit, but subject to subsections (2) and (3) of section 30, make another order under section 30 in substitution for the order so set aside.
- (2) In the exercise of its powers under subsection (1), the Court shall have regard to the interests of, and shall make any order proper for the protection of, a *bona fide* purchaser or other person interested.
20. The principal Act is amended by repealing section 26D.
21. The principal Act is amended by redesignating sections 26E and 26F as sections 32 and 33, respectively.
22. The principal Act is amended as to section 26G—
- (a) by redesignating the section as section 34; and
- (b) by deleting the expression “25” in line nine and substituting the expression “28”.

Section 26B
amended
and
redesignated
as
section 30.

Section 26C
repealed and
re-enacted
to stand
as
section 31.

Setting
aside of
orders
altering
property
interests.

Section 26D
repealed.

Sections 26E
and 26F
redesignated
as sections
32 and 33
respectively.

Section 26G
amended
and
redesignated
as
section 34.

New Divisions 3 to 8 of Part III added.

23. The principal Act is amended by adding new Divisions to stand as Division 3 to Division 8 of Part III of the principal Act as follows—

Division 3.—Custody and Guardianship.

Custody and guardianship.

35. Subject to the Adoption of Children Act, 1896 and any order made pursuant to this Division, where the parents of a child who has not attained the age of eighteen years were not married at the time of the birth of the child or subsequently, the mother of the child has the custody and guardianship of the child.

Application for custody and guardianship.

36. An application to the Court for an order for the custody, guardianship of or access to a child may be made by—

- (a) either parent;
- (b) any guardian, whether appointed under the provisions of this Act or by will or otherwise;
- (c) any person having custody or care and control of the child;
- (d) any person acting in a fiduciary capacity who is, under any will, gift, or settlement, or otherwise by law, possessed of any fund for the maintenance or education of the child, or any fund a portion of which may by law be applied for the maintenance or education of the child; or
- (e) any other person, who on the hearing of the application can establish to the satisfaction of the Court that his paramount interest in the matter is the welfare of the child,

and the Court may grant or refuse to make the order.

Limitation on and cessation of Order.

37. An order with respect to custody or guardianship of, or access to a child—

- (a) shall not be made in respect of a child who has attained the age of eighteen years or has been married; and
- (b) ceases to be in force when the child attains the age of eighteen years or marries.

38. On the death of a party in whose favour a custody order has been made in respect of a child—

Death of party to whom custody or guardianship has been granted.

- (a) the other party to the application is entitled to the custody of the child only if the Court so orders;
- (b) the other party to the application or any other person may make an application to the Court for an order placing the child in the custody of the applicant; and
- (c) in an application under paragraph (b) by a person who does not, at the time of the application, have the care and control of the child, any person who, at that time, has the care and control of the child is entitled to be a party to the proceedings.

39. (1) Where application is made to the Court under section 36 the Court may at any stage of the proceedings of its own motion or upon the request of a party to the proceedings, make an order directing the applicant and respondent to the proceedings to attend a conference with a welfare officer to discuss the welfare of the child and, if there are any differences between the parties as to matters affecting the welfare of the child, to endeavour to resolve those differences.

Welfare conferences.

(2) Where the Court makes an order under subsection (1), it may fix a place and time for the conference to take place or direct that the conference shall take place at a time and at a place to be fixed by a welfare officer.

(3) If a party fails to attend a conference in respect of which an order has been made under subsection (1), it is the duty of the welfare officer to report the failure to the Court.

(4) Evidence of anything said or any admission made at a conference that takes place in pursuance of an order made under this section is not admissible in any court but nothing in this subsection prevents a court from admitting evidence of anything said or any admission made at a conference upon the trial of a person for an offence committed at the conference.

Supervision
of orders.

40. Where the Court makes an order under this Division with respect to a child, the Court may also, if it thinks the welfare of the child so requires, by order direct that compliance with the first-mentioned order shall, as far as practical, be supervised by a welfare officer.

Powers of
guardian.

41. A guardian appointed under the provisions of this Act has all the powers over the estate and the person of a child as he would have had if he had been appointed by will.

Agreements
between
parents.

42. No agreement made between the parents of a child shall be held to be invalid by reason only of its providing that one of the parents shall give up the custody, control or guardianship of the child to the other.

Guardian
dead, etc.

43. Where no person is acting as guardian of a child and there is no appointed guardian of the child, or where a guardian has been appointed but is dead or cannot be found or refuses to act, the Court may appoint a person to be the guardian of the child.

44. (1) Subject to subsection (2) of this Guardianship
by will. section—

(a) the father of a child may by deed or will appoint any person to be the guardian of the child after his death;

(b) the mother of a child may by deed or will appoint any person to be the guardian of the child after her death,

and the appointment shall have effect accordingly.

(2) Where a person has been appointed to be the guardian of a child in the manner referred to in subsection (1) of this section and at the time of the death of the parent who has made the appointment there is a guardian of the child, other than the person referred to in the appointment, the appointment has no effect unless the Court otherwise orders.

45. The Court may, on being satisfied that it is Court may
appoint
guardian. for the welfare of the child, remove from his office any guardian, whether appointed under the provisions of this Act or by will or otherwise and may also, if it considers it to be for the welfare of the child, appoint another guardian in place of the guardian so removed.

46. Where the Court is of the opinion that there Delivery of
passport. is a possibility or a threat that a child will be removed from the State, it may order the passport of the child and of any other person concerned to be delivered on such conditions as the Court thinks fit.

47. (1) On the application of a person entitled Warrants. to custody or guardianship of a child a court having jurisdiction under this Act may issue a warrant authorizing or directing the person, or any of the persons, to whom it is addressed, for the purpose of giving effect to the entitlement—

(a) at any time, with such assistance as he requires or they require, and if necessary by force—

(i) to stop and search any vehicle, vessel or aircraft, and to enter and search any premises or place, named or described in the warrant or in which there is reasonable cause to believe that the child may be found; and

(ii) to take possession of the child; and

(b) to deliver the child to the person entitled to custody or guardianship or to some other person or authority named in the order on behalf of the person entitled to custody or guardianship.

(2) On the application of a person entitled to access to a child a court having jurisdiction under this Act may issue a warrant authorizing or directing the person, or any of the persons, to whom it is addressed, for the purpose of giving effect to the entitlement—

(a) at any time, with such assistance as he requires or they require, and if necessary by force—

(i) to stop and search any vehicle, vessel or aircraft, and to enter and search any premises or place, named or described in the warrant or in which there is reasonable cause to believe that the child may be found; and

(ii) to take possession of the child; and

(b) to deliver the child to the person entitled to access or some other person or authority named in the order on behalf of the person entitled to access.

(3) A warrant under subsection (1) or (2) may be addressed to—

- (a) a named person or named persons; or
- (b) every person from time to time holding or acting in a specified office or offices of the State.

(4) Without limiting the generality of subsection (3), a warrant under subsection (1) or (2) may be addressed to—

- (a) a named person being a person who holds an appointment as an enforcement officer under subsection (7); or
- (b) every person from time to time holding or acting in an office of enforcement officer.

(5) Where an order entitles more than one person to the custody of a child, a warrant shall not be issued under this section for the removal of the child from the possession of one of those persons and the delivery of the child to another of them.

(6) A warrant issued under this section shall not be executed at any time after six months after the date of the issue thereof.

(7) The Attorney General may appoint persons to be enforcement officers for the purposes of this Division.

(8) An appointment under subsection (7) may be an appointment of—

- (a) a named person only; or
- (b) every person from time to time holding or acting in a specified office of the State.

48. The Court may proceed with the hearing of proceedings in relation to a child notwithstanding that the person by whom the proceedings were

Applicant
in contempt.

instituted has failed to comply with an order of the Court made under this Act or under another Act or of another court.

Removal
of child
etc.

49. Where an order is made under this Act granting to a person the custody of a child or guardianship of a child, another person shall not remove the child from the care and control of the first-mentioned person contrary to the order or interfere with the exercise of the first-mentioned person's rights under the order in respect of the child.

Delivery
of child.

50. Where an order is made under this Act granting to a person the custody of a child or guardianship of a child, being a child who is in the care and control of another person, that other person shall upon demand by the person entitled to the custody or guardianship of the child under the order, deliver the child to that person.

Hindering
of access.

51. Where an order under this Act provides for a person to have access to a child, a person shall not, without just cause or excuse hinder or prevent the first-mentioned person from obtaining access to the child in accordance with the order or interfere with the access to the child that the first-mentioned person is entitled to in accordance with the order.

Court
may make
order not to
influence
or interfere
with a
person or
a child.

52. On the application of a person having custody or guardianship of a child the Court may in addition to or in lieu of any order which the Court may make under the provisions of this Act, if it is satisfied that the making of the order is necessary or desirable for the protection of the applicant or of the child, make an order requiring any person not to, and not to attempt to, influence or interfere with the manner of living of, or to harass, or otherwise molest any person or child named in the order.

53. (1) A person shall not prevent or hinder the execution of a warrant issued in pursuance of this Division.

Breaches
and
penalties.

(2) If the Court is satisfied that a person has knowingly and without reasonable cause contravened or failed to comply with a provision of this Division or an order made under this Division, the Court may—

- (a) order that person to pay a fine not exceeding \$1 000;
- (b) require that person to enter into a recognizance, with or without sureties, in such reasonable amount as the Court thinks fit, that that person will comply with the relevant order, or order that person to be imprisoned until that person enters into such a recognizance or until the expiration of three months, whichever first occurs;
- (c) order that person to deliver up to the Court that person's passport and such other documents as the Court thinks fit; and
- (d) make such other orders as the Court considers necessary to enforce compliance with this section.

(3) Where an act or omission referred to in subsection (2) is an offence against any other law, the person committing the offence may be prosecuted and convicted under that law, but nothing in this section shall render any person liable to be punished twice in respect of the same offence.

(4) Subsection (2) does not prejudice the power of a court to punish a person for contempt of court.

Division 4.—Maintenance.

54. Subject to this Act both the parents of a child who are not married to each other are liable, according to their respective financial resources, for the maintenance of the child until the child attains the age of eighteen years.

Liability
for
main-
tenance.

Application
for main-
tenance
and other
expenses.

55. (1) Any person may apply to the Court for an order for maintenance with respect to a child.

(2) An application for the maintenance of a child may be made together with an application for the custody of or guardianship of the child under section 36.

(3) On the hearing of an application for maintenance under subsection (1) or on the hearing of an application under Division 5 for preliminary expenses or other expenses or medical expenses, the Court shall not be satisfied that the respondent is or was the father of a child or stillborn child or that the woman is pregnant by the respondent (as the case may be), and shall not make an order upon the evidence of the mother or woman, unless her evidence is corroborated in some material particular.

Finding of
parents.

56. An order under this Division for the payment of maintenance shall recite the finding of named persons as the parents of the child with respect to whom the order is made.

Previous
paternity
proceedings.

57. The Court may be satisfied that a person who was not married to the mother of a child at the time of its birth is the father of the child where that person has been found to be the father of the child in other proceedings.

Matters
to be
considered.

58. (1) In exercising jurisdiction under this Division, the Court shall take into account only the matters referred to in subsection (2) of section 75 of the Family Law Act *mutatis mutandis* and insofar as those provisions may be applicable, and—

- (a) the income, earning capacity, property and other financial resources of the child;
- (b) the financial needs of the child; and
- (c) the manner in which the child is being, and in which the parties to the proceedings might reasonably expect the child to be, educated and trained.

(2) Where the term "parties" appears in subsection (2) of section 75 of the Family Law Act and in subsection (1) of this section that term includes a guardian, and the matters set out in subsection (1) of this section shall be taken into account in relation to such guardian.

(3) Subject to subsection (4)—

- (a) an order shall not be made for the maintenance of a child who has attained the age of eighteen years; and
- (b) an order for the maintenance of a child ceases to be in force when the child attains the age of eighteen years.

(4) The Court may—

- (a) provide in an order for the maintenance of a child who has not attained the age of eighteen years that the order shall continue in force until a day that is later, or for a period that extends beyond the day on which the child will attain the age of eighteen years; or
- (b) make an order for the maintenance of a child who has attained the age of eighteen years, being an order that is expressed to continue in force until a day, or for a period, specified in the order,

if the Court is satisfied that the provision of the maintenance is necessary to enable the child to complete his education (including vocational training or apprenticeship) or because he is mentally or physically handicapped, and, in that case, the order continues in force until that day or the expiration of that period, as the case may be.

59. An order with respect to the maintenance of a child ceases to have effect upon the death of a child.

Cessation
on death.

Cessation
on adoption
or marriage.

60. (1) An order with respect to the maintenance of a child ceases to have effect upon the adoption or marriage of the child.

(2) Where a marriage referred to in subsection (1) takes place or an order for the adoption of a child is made, it is the duty of the person for whose benefit the order for maintenance was made to inform without delay the person liable to make payments under the order of the date of the marriage.

(3) Any moneys paid in respect of a period after either of the events referred to in subsection (1), may be recovered in the Court.

(4) Nothing in this section affects the recovery of arrears due under an order at the time when the order ceases to have effect.

Interim
orders.

61. Where in proceedings with respect to the maintenance of a child it appears to the Court that the child is in immediate need of financial assistance, but it is not practicable in the circumstances to determine immediately what order, if any, should be made, the Court may order the payment, pending the disposal of the proceedings, of such periodic sum or other sums as the Court considers reasonable.

Division 5.—Preliminary and Other Expenses.

Liability
for
preliminary
expenses.

62. (1) A person is liable to provide for or contribute towards, the payment of the preliminary expenses of a woman who, not being his wife, is pregnant by him or has been delivered of a child or a stillborn child of which he is the father.

(2) A woman or any person on her behalf may apply to the Court for an order against a person, not being the woman's husband, that—

(a) the woman—

(i) is pregnant by the respondent; or

- (ii) has been delivered of a child or a still-born child of whom the respondent is, or was the father;

and

- (b) the respondent has not provided for, or contributed towards, the payment of the woman's preliminary expenses.

(3) On the hearing of an application under subsection (2), the Court may make an order containing provision for the payment by the respondent to the Collector of Maintenance or an officer of the Court for disbursement to a person or persons named in the order, of such preliminary expenses as the Court, having regard to the means of both the respondent and the woman, considers reasonable in all the circumstances of the case.

(4) An order made under this section shall recite the finding, as the case may require, that the woman is pregnant by the respondent or that the woman has been delivered of a child or a stillborn child of which the respondent is, or was, the father.

(5) The Court shall not make an order under this section where—

- (a) the woman is pregnant, unless the respondent admits or unless the Court is satisfied by the evidence, or a certificate, of a legally qualified medical practitioner, that the woman is pregnant; or
- (b) the woman is delivered of a child or a stillborn child, unless the application is made within a period of twelve months after the happening of that event.

(6) For the purposes of paragraph (a) of subsection (5) a respondent may admit that a woman is pregnant without prejudice to any allegation by him that the woman is not pregnant by him.

(7) Any moneys paid pursuant to an order made under this section and not disbursed shall, if—

- (a) the order ceases to have effect on a date specified in its pursuant to section 67 be repaid to the defendant; or
- (b) the order ceases to have effect on the delivery of a stillborn child, be—
 - (i) paid to the woman;
 - (ii) paid to the respondent; or
 - (iii) divided, in such proportions as the Court thinks fit, between the woman and the respondent,

as the Court may, on the application of any party or of its own motion, direct.

Court may
order
main-
tenance.

63. (1) Where the Court makes an order under this Division for preliminary expenses, whether before or after the birth of the child to whom it relates, the Court may, upon the hearing of the application for an order for payment of preliminary expenses, make an order for maintenance of the child in accordance with Division 4.

(2) An order made under this section does not take effect until three months after the birth of the child to whom it relates or until the production, to the Registrar or officer of the Court, of a certified copy of the entry in the register of the birth of the child, whichever is the later; and does not take effect at all, where the child is stillborn or where the child dies or is adopted before it would otherwise take effect.

(3) When an order made under this section takes effect, the Registrar shall, forthwith, send by post to the person against whom the order was made, at his last known place of residence or business, a notice setting out—

- (a) the name of the child or, as the case may be, the fact that the child is unnamed;

- (b) the date and place of the birth of the child;
and
- (c) the date on which, and the place at which
the first payment pursuant to the order
is required to be made.

64. Where an order is made under this Act for the maintenance of a child, or in respect of the payment of the preliminary expenses of a woman, before the birth of the child to which that order relates, and two or more children are born, an application may be made for variation of the order to provide for the maintenance of the additional child or children or for the additional expenses occasioned thereby.

Plural
births.

65. (1) Subject to the Adoption of Children Act, 1896, where a child is stillborn or dies before he attains the age of sixteen years and the parents of the child are not married to each other at the time of the birth of the child or subsequently, both parents of the child are liable to contribute towards the reasonable funeral expenses of the child.

Funeral
expenses.

(2) Where a child referred to in subsection (1) was stillborn or has died before attaining the age of sixteen years, any person may apply for an order against the person or persons liable to contribute towards the reasonable funeral expenses of the child and who has or have not, as the case requires, so contributed towards those expenses.

(3) On the hearing of an application under subsection (2), the Court, on being satisfied that the respondent or respondents was or were the parent or parents of the child, may make an order for the payment to the Collector of Maintenance or an officer of the Court, for disbursement to a person named in the order of such funeral expenses in respect of the child as the Court, having regard to the means of both the respondent and the mother, considers reasonable in all the circumstances of the case.

(4) The Court shall not make an order under this section unless—

- (a) the Court is satisfied that the child was born or stillborn to the mother;
- (b) the application is made within a period of twelve months after the death of the child.

Medical
expenses.

66. (1) A person obliged to make payments under an order for preliminary expenses is liable to provide for, or to contribute towards, the payment of medical expenses reasonably incurred by, or in respect of, a person for whose benefit the order was made, if the amount payable under the order is not sufficient to enable adequate provision to be made thereout for, or towards, the payment of those expenses.

(2) The person for whose benefit, or a person having the guardianship, custody or care of a child for whose benefit, an order containing a provision for maintenance or a provision for preliminary expenses has been made under this Division may apply to the Court, for an order for the payment of medical expenses and where an application might, but for that event, have been made under this section by a person who has died, the application may be made by a person who has paid or is liable to pay those expenses.

(3) On the hearing of an application made under subsection (2), the Court may make an order for the payment to the Collector of Maintenance or an officer of the Court for disbursement as provided by subsection (4) of such medical expenses as the Court, having regard to the means of the respondent, considers reasonable in all the circumstances of the case.

(4) The Court may, from time to time, of its own motion or on the application of a party to the proceedings, give such directions as to the disbursement of moneys paid pursuant to an order made under subsection (3) as it thinks fit, but so

that moneys are not disbursed, except to the respondent, before the care or treatment in respect of which medical expenses are to be incurred has been rendered.

(5) An order shall not be made under this section upon an application made more than twelve months after the medical expenses have been incurred.

(6) In this section, "medical expenses" means the reasonable cost of medical, surgical, psychiatric, dental, hospital or nursing care, or treatment, arising out of, or in connection with, the pregnancy of a woman.

67. Where an order is made under this Division during the pregnancy of a woman, the order shall specify a date, not later than six months after the date of the order, on which it ceases to have effect, if the woman has not then been delivered of a child, and if—

Date of
effect of
order.

- (a) the woman is not delivered of a child before that date; or
- (b) the woman is delivered of a stillborn child before that date,

the order ceases to have effect on the date so specified or on the delivery of the stillborn child, as the case may be.

Division 6.—Types of Orders and Variation of Orders.

68. (1) Subject to subsection (2), the Court, in exercising its powers under this Part, may do any or all of the following—

Types of
orders.

- (a) order payment of a lump sum, whether in one amount or by instalments;
- (b) order payment of a weekly, monthly, yearly or other periodic sum;
- (c) order that payment of any sum ordered to be paid be wholly or partly secured in such manner as the Court directs;

- (d) order that any necessary deed or instrument be executed and that such documents of title be produced or such other things be done as are necessary to enable an order to be carried out effectively or to provide security for the due performance of an order;
- (e) appoint or remove trustees;
- (f) order that payments be made direct to a party, to a trustee to be appointed or into Court or to an officer of the Court for the benefit of a named party;
- (g) order that payment of maintenance in respect of a child be made to such person or to the Director, or other public authority specified by the Court;
- (h) make a permanent order, an order pending the disposal of proceedings or an order for a fixed term or for life or during joint lives or until further order;
- (i) impose terms and conditions;
- (j) make an order by consent;
- (k) make any other order (whether or not of the same nature as those mentioned in the preceding paragraphs of this section), which it thinks it is necessary to make to do justice.

(2) Where an order under this Part is an order for maintenance in respect of a child whose parents were not married to each other at the time of the birth of the child or subsequently an order pursuant to paragraph (g) of subsection (1) may order that payments be made to any person or body referred to in that paragraph or to the Collector of Maintenance or other officer of the Court.

before or after the date of the coming into operation of this section)—

- (a) made by the Court; or
- (b) made by another court and registered in the first-mentioned court,

the court may—

- (c) discharge the order if there is any cause for so doing;
- (d) suspend its operation wholly or in part and either until further order or until a fixed time or the happening of some future event;
- (e) revive wholly or in part an order suspended under paragraph (d) of this subsection; or
- (f) subject to subsection (2), vary the order so as to increase or decrease any amount ordered to be paid or in any other manner.

(2) The Court shall not make an order increasing or decreasing an amount ordered to be paid by an order unless it is satisfied—

- (a) that since the order was made or last varied—

- (i) the circumstances of a person who obtained the order have so changed;
- (ii) the circumstances of the child or children referred to in the order have so changed;
- (iii) the circumstances of the person or the person liable to make payments under the order have so changed; or
- (iv) in the case of an order that is binding on a legal personal representative, the circumstances of the estate are such,

as to justify its so doing;

- (b) that, since the order was made, or last varied, the cost of living has changed to such an extent as to justify its so doing; or

- (c) that material facts were withheld from the court that made the order or from a court that varied the order or material evidence previously given before such a court was false.

(3) Subsection (2) does not prevent the Court from making an order varying an order made before the date of commencement of this Act if the first-mentioned order is made for the purpose of giving effect to this Division.

(4) In satisfying itself for the purposes of paragraph (b) of subsection (2) the Court shall have regard to any percentage movement in the table published under the authority of the Census and Statistics Act 1905 of the Commonwealth and any Act passed in amendment or in substitution thereof and described as the "Consumer Price Index—Six Capital Cities Average".

(5) The Court shall not, in considering the variation of an order, have regard to a change in the cost of living unless at least 12 months have elapsed since the order was made or was last varied having regard to a change in the cost of living.

(6) An order decreasing the amount of a periodic sum payable under an order or discharging an order may be expressed to be retrospective to such date as the Court thinks fit.

(7) For the purposes of this section, the Court shall have regard to the provisions of sections 54 and 58.

(8) Unless the Court otherwise orders, the discharge of an order does not affect the recovery of arrears due under the order at the time at which the discharge takes effect.

Registration
of main-
tenance
agreements.

70. (1) A maintenance agreement may be registered in any court having jurisdiction under this Act.

(2) Where a maintenance agreement is registered in a court—

- (a) the agreement is enforceable as if the agreement were an order of the Court; and
- (b) the court may, in relation to the agreement, exercise any of the powers referred to in section 69 as if the agreement were an order of the Court.

(3) The court in which a maintenance agreement is registered under subsection (1) may set aside the agreement if, and only if, the court is satisfied that the concurrence of a party was obtained by fraud or undue influence or that the parties desire the agreement to be set aside.

Division 7.—Enforcement of Maintenance Orders.

71. In this Division “maintenance” includes “preliminary expenses” and any other moneys ordered to be paid pursuant to an order under Division 5. Definition.

72. An order for maintenance made under this Act may be enforced as if it were an order of the Court made by the Court under the Family Law Act and the provisions of Part XIII of the Family Law Act and Part XV of the regulations under that Act shall apply to and in relation to orders for maintenance made under this Act, with such modifications as are necessary. Enforcement.

Division 8.—Ex parte Orders.

73. (1) In the case of urgency, the Court may make an *ex parte* order— Ex parte orders.

- (a) in accordance with Division 3 concerning the welfare or custody of, or guardianship of, or access to, a child;

(b) where a child is in immediate need of financial assistance or a woman is in immediate need of preliminary expenses, for such periodic or other sums as the Court considers reasonable; or

(c) in accordance with section 34.

(2) An application under this section may be made in writing or orally or in such form as the Court considers appropriate.

(3) Where an application under this section is not made in writing, the Court shall not make an order under subsection (1) unless by reason of the extreme urgency of the case it considers that it is necessary to do so.

(4) The Court may give such directions with respect to the filing of a written application, the service of the application and the further hearing of the application as it thinks fit.

(5) An order under subsection (1) shall be expressed to operate only until a specified time or the further order of the Court.

(6) Where a Court makes an order under subsection (1), it may give directions with respect to—

(a) the service of the order and such other documents as it thinks fit; and

(b) the hearing of an application for a further order. .

Heading to
Part III
deleted and
heading to
Part IV
substituted.

24. The principal Act is amended by deleting the heading "PART III.—COURTS OF SUMMARY JURISDICTION." immediately before section 29 and substituting the heading "PART IV.—COURTS OF SUMMARY JURISDICTION AND TRANSFER OF PROCEEDINGS."

25. Section 29 is repealed and re-enacted to stand as section 74 as follows—

Section 29
repealed and
re-enacted
to stand
as
section 74.

74. A court of summary jurisdiction constituted by a stipendiary magistrate, including such a court when constituted by a stipendiary magistrate who is the Registrar, has the federal jurisdiction with which it is invested by or under the Family Law Act. .

26. Section 30 of the principal Act is repealed and re-enacted to stand as section 75 as follows—

Section 30
repealed and
re-enacted
to stand
as
section 75.

75. (1) Subject to subsection (2) of this section, a court of summary jurisdiction constituted by a stipendiary magistrate sitting at places outside the metropolitan region, and a court of summary jurisdiction constituted by a stipendiary magistrate who is the Registrar sitting at any place in the State, may exercise all the non-federal jurisdictions of the Family Court of Western Australia except those conferred by or under the Adoption of Children Act, 1896, and in exercising such jurisdiction, shall have regard to the principles mentioned in section 28.

(2) Where proceedings are instituted in a court of summary jurisdiction with respect to—

- (a) property of a value exceeding \$1 000; or
- (b) the custody of, or guardianship of, or access to a child,

and the respondent, in answer to the application by which the proceedings were instituted, seeks an order different from that sought in the application the court of summary jurisdiction shall, unless the parties agree to the court of summary jurisdiction hearing and determining the proceedings, transfer the proceedings to the Court.

(3) Where proceedings referred to in subsection (2) are before it, the court of summary jurisdiction may transfer the proceedings of its own motion, notwithstanding that the parties would be willing for the court of summary jurisdiction to hear and determine the proceedings. .

New
sections 76
to 78 added.

27. The principal Act is amended by adding after section 30 the following sections to stand as sections 76 to 78 as follows—

Transfer of
proceedings.

76. (1) Without derogating from the provisions of section 75 where in the exercise of a non-federal jurisdiction it appears to the Court or to a court of summary jurisdiction that it is in the interests of justice that the proceedings before it be dealt with in another court the Court or the court of summary jurisdiction, as the case may be, may transfer the proceedings to that other court.

(2) Where proceedings are transferred to another court pursuant to subsection (1) of this section, that court shall proceed as if the proceedings had been originally instituted in that court.

Stay or
dismissal of
proceedings.

77. Where in the exercise of a non-federal jurisdiction it appears to the Court or to a court of summary jurisdiction that related proceedings are pending in another court being proceedings within or outside the State and that it is in the interests of justice to do so the first-mentioned court may stay the proceedings in that first-mentioned court for such time as it thinks fit or it may dismiss the proceedings.

Orders on
transfer or
staying
proceedings.

78. Before transferring or staying proceedings pursuant to this Part a court may adjourn the proceedings and may make such orders pending the disposal of the proceedings as it considers necessary including orders directing—

- (a) the parties to attend a conference with a welfare officer to discuss matters affecting the welfare of any child affected by the proceedings and to resolve the differences (if any) between the parties;
- (b) that a report in accordance with section 86 be obtained from a welfare officer; and
- (c) the payment of preliminary expenses, or, if it is not practicable to so direct, the payment of such periodic or other sums as the court thinks desirable. .

28. Section 31 of the principal Act is amended—

Section 31
amended
and
redesignated
as
section 79.

- (a) by redesignating the section as section 79;
- (b) as to subsection (1), by deleting the expression “29” in line three and substituting the expression “74”; and
- (c) as to subsection (2), by deleting the expression “30” in line three and substituting the expression “75”.

29. The principal Act is amended by redesignating the heading of PART IV as PART V.

Heading to
Part IV
redesignated
as
Part V.

30. Section 32 of the principal Act is amended—

Section 32
amended
and
redesignated
as
section 80.

- (a) by redesignating the section as section 80;
and
- (b) by deleting the expression “29” in line four and substituting the expression “74”.

31. (1) Section 33 of the principal Act is amended—

Section 33
amended
and
redesignated
as
section 81.

- (a) by redesignating the section as section 81;
- (b) by repealing subsection (2) and substituting the following subsections—

(2) In respect of the non-federal jurisdiction of a court of summary jurisdiction an appeal lies from a decree of a court of summary jurisdiction to the Family Court of Western Australia and upon any such appeal the Court—

- (a) shall proceed by way of a rehearing, but may receive as evidence any record of evidence given, including any affidavit filed or exhibit received, in the court of summary jurisdiction; and

- (b) may make such decrees as it thinks fit, including a decree affirming, reversing or varying the decree the subject of the appeal.

(2a) In respect of the non-federal jurisdictions of the Family Court of Western Australia an appeal lies from a decree of the Family Court of Western Australia given in its original or appellate jurisdiction to the Full Court of the Supreme Court and upon any such appeal the Full Court of the Supreme Court may affirm, reverse, or vary the decree the subject of the appeal and may make such decree as, in the opinion of the Full Court, ought to have been made in the first instance. ;

- (c) as to subsection (4), by deleting the expression “(2)” in line one and substituting the expression “(2a)”; and

- (d) by repealing subsection (5).

(2) The amendment effected by paragraph (b) of subsection (1) of this section does not apply in relation to an appeal the hearing of which commenced before the coming into operation of this section.

Heading to
Part V
redesignated
as Part VI.

32. The principal Act is amended by redesignating the heading of PART V as PART VI.

Sections 82
to 88 added.

33. The principal Act is amended by adding immediately before section 34 the following sections to stand as sections 82 to 88 as follows—

Representa-
tion of
children in
proceedings.

82. Where it appears to the Court that a child ought to be separately represented, the Court may, of its own motion, or on the application of the child or of an organisation concerned with the welfare of children or of any other person order that the

child be separately represented, and the Court may make such other orders as it thinks fit for the purpose of securing such separate representation.

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

Power to
give
directions.

84. In proceedings under this Act, the Court may receive as evidence of the facts stated in it a document purporting to be either the original or a certified copy of a certificate, entry or record of a birth, death or marriage alleged to have taken place whether in Australia or elsewhere.

Certificates
of birth
etc.

85. (1) Nothing in this Act shall be deemed to confer any power on the Court or a court of summary jurisdiction to order the release of any ward under the Child Welfare Act, 1947 or of any child under the control of the Department from any centre or facility within the meaning of that Act.

Saving.

(2) Subsection (1) of this section does not apply where the child is a ward pursuant to an order of the Court.

86. The Court may obtain from a welfare officer a report on such matters relevant to the proceedings as the Court thinks desirable, and may receive the report in evidence, and the Court may, if it thinks necessary, adjourn the proceedings for the purpose of obtaining such a report.

Court may
obtain
reports.

87. (1) The Attorney General may intervene in, and contest or argue any question arising in—

Intervention
by Attorney
General.

- (a) any proceedings in any court in the State relating to any non-federal jurisdiction under this Act where the court in which the proceedings are, requests him to do so or a matter arises that affects the public interest; or

- (b) any proceedings in any court in the State relating to any non-federal jurisdiction under this Act with respect to the custody or guardianship of, or access to, children.

(2) Where the Attorney General intervenes in any proceedings, he shall be deemed to be a party to the proceedings with all the rights, duties, and liabilities of a party.

Contempt.

88. (1) Notwithstanding any other provision of law, a court having jurisdiction under this Act may punish persons for—

- (a) contempt in the face of the court when exercising that jurisdiction;
- (b) contempt by wilful disobedience of any order made by a court in the exercise of jurisdiction under this Act; and
- (c) contempt by breach of any undertaking given to a court when exercising that jurisdiction.

(2) Where a person in contempt is not a body corporate, the court may punish the contempt by committal to prison or fine or both.

(3) Where a body corporate is in contempt, the court may punish the contempt by sequestration or fine or both.

(4) The court may make an order for—

- (a) punishment on terms;
- (b) suspension of punishment; or
- (c) the giving of security for good behaviour.

(5) Where a person is committed to prison for a term for contempt, the court may order his discharge before the expiry of that term.

34. Section 34 of the principal Act is amended—

Section 34
amended
and
redesignated
as
section 89.

(a) by redesignating the section as section 89;

(b) as to subsection (3)—

(i) by inserting immediately after paragraph (b), paragraphs as follows—

(ba) prescribing court fees to be payable in respect of proceedings under this Act;

(bb) the exempting of persons from liability to pay a court fee prescribed under paragraph (ba); ;

(ii) by deleting the expression “36” in line two of paragraph (o) and substituting the expression “91”;

(c) by redesignating paragraph (oa) as paragraph (p);

(d) by adding the following paragraphs to stand as paragraphs (q) and (r) as follows—

(q) prescribing the practice and procedure as to charging with contempt and the hearing of the charge;

(r) authorizing any justice of the peace, any police officer or constable in charge at any police station or lockup or any court having jurisdiction under this Act to grant bail in the federal or non-federal jurisdictions under this Act; ;

(e) by redesignating paragraphs (p) and (q) as paragraphs (s) and (t) respectively; and

(f) by inserting at the end the following subsections—

(4) Regulations made under this section may adopt or apply for the purposes of this Act any regulations made

under the Family Law Act and any other Act of the Parliament of the Commonwealth under which the Court is invested with federal jurisdiction.

(5) Court fees payable in pursuance of regulations made under this section in respect of proceedings under this Act are payable to the State. .

Section 35
repealed
and
re-enacted
to stand as
section 90.

35. Section 35 of the principal Act is repealed and re-enacted to stand as section 90 as follows—

Transis-
tional.

90. (1) Regulations, rules and by-laws in force immediately before the date of the coming into operation of this section as re-enacted and redesignated by the Family Court Act Amendment and Acts Repeal Act, 1979 for or in relation to any matter under the non-federal jurisdictions of the Court, or of courts of summary jurisdiction referred to in section 75, shall continue in force after that date for and in relation to that matter with such modifications as are necessary and subject to subsection (2) and the regulations made under section 89.

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

Section 36
repealed
and
re-enacted
to stand as
section 91.

36. Section 36 of the principal Act is repealed and re-enacted to stand as section 91 as follows—

Pending
proceedings.

91. (1) In this section—

“amending date” means the date of the coming into operation of this section as re-enacted and redesignated by the Family Court Act Amendment and Acts Repeal Act, 1979;

“appeal” includes—

(a) an application for leave or special leave to appeal; and

(b) an application for a re-hearing;

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

“pending proceedings” means proceedings that were instituted before the amending date but were not completed before that date; and

“proceedings” means proceedings in a court created by the Parliament of the State in a jurisdiction conferred by an Act specified in the First or Third Schedule that is on and after the amending date one of the non-federal jurisdictions of the Family Court of Western Australia, whether between parties or not, and includes cross proceedings or an incidental proceedings in the course of or in connection with a proceedings.

(2) Subject to subsection (3) and to the regulations, pending proceedings may be continued and shall be dealt with as if they were proceedings instituted under this Act as in force on and after the amending date.

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

(4) Where in any proceedings a decree has been made before the amending date the provisions of this Act as in force immediately before the amending date shall apply to and in relation to any appeal in respect of the decree. .

37. Section 37 of the principal Act is repealed.

Section 37
repealed.

38. The First Schedule to the principal Act is amended by deleting items 2 and 4.

First
Schedule
amended.

Third
Schedule
repealed
and
re-enacted.

39. The principal Act is amended by repealing the Third Schedule and substituting the following Schedule—

THIRD SCHEDULE. S.5.

The Married Persons and Children (Summary Relief) Act,
1965-1975.

The Guardianship of Children Act, 1972-1975. .
