

LEGAL AFFAIRS — FAMILY COURT AMENDMENT REGULATIONS 2021

101. Hon Nick Goiran to the parliamentary secretary representing the Attorney General:

I refer to the *Family Court Amendment Regulations 2021*, and I ask:

- (a) what was the catalyst for bringing about these amendments to the regulations;
- (b) who was consulted prior to these amendment regulations being finalised;
- (c) did any person consulted raise any concerns;
- (d) if yes to (c), what were these concerns;
- (e) have the finalised amendment regulations addressed these concerns; and
- (f) if no to (e), why not?

**Hon Matthew Swinbourn replied:**

- (a) In 2020, the Sheriff of Western Australia had cause to ascertain the fees to be charged by him as Marshal of the Family Court of WA for the execution of a Warrant of Possession issued under the Family Court Act 1997. Regulation 6 of the Family Court Regulations 1988 previously stated that, ‘The fees payable to the Marshal are to be in accordance with Part III of the Fifth Schedule to the Rules of the Supreme Court 1971’.

The Fifth Schedule to the Rules of the Supreme Court 1971 was repealed by the Supreme Court Amendment Rules (No. 5) 2001. Following the repeal there was no subsequent amendment to the Family Court Regulations 1988, which specified the relevant instrument under which fees would be charged by the Marshal of the Family Court of WA when executing Family Court enforcement actions.

The Sheriff’s fees for various enforcement processes issued by the civil courts are contained in Schedule 2 of the Civil Judgments Enforcement Regulations 2005 (CJE Regulations). In consultation with the Sheriff and the Principal Registrar of the Family Court it was determined that the fees set out in Schedule 2 of the CJE can equally apply to the Marshal of the Family Court of WA when executing Family Court actions. It was therefore decided to amend Regulation 6 so that Schedule 2 of the CJE would apply.

- (b) The Sheriff of WA and the Principal Registrar of the Family Court were consulted about this proposal and agreed the amendment was necessary so that fees incurred by the Marshal are appropriately regulated and consistent with the fees charged by other civil jurisdictions.
- (c) Each person consulted during the drafting exercise was able to provide feedback, comments and suggestions. Any suggestions raised were discussed, and taken into consideration when the instrument was being drafted. No concerns were raised during this process.
- (f) Not applicable.