

Courts Legislation Amendment and Repeal Bill 2003

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Western Australia

LEGISLATIVE ASSEMBLY

(As amended during consideration in detail)

**Courts Legislation Amendment and Repeal
Bill 2003**

A Bill for

An Act —

- **to repeal various Acts;**
 - **to amend various Acts; and**
 - **to enact transitional provisions,**
- as a consequence of and in connection with the enactment of —**
- ***the Justices of the Peace Act 2003;***
 - ***the Magistrates Court Act 2003;***
 - ***the Magistrates Court (Civil Proceedings) Act 2003; and***
 - ***the Civil Judgments Enforcement Bill 2003,***
- and to amend various Acts in relation to procedural and other matters.**

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Courts Legislation Amendment and Repeal Act 2003*.

2. Commencement

(1) This Act comes into operation on a day fixed by proclamation.

(2) Different days may be fixed under subsection (1) for different provisions.

10 (3) For the purposes of subsection (2), each amendment in a Table to a provision of this Act or in Schedule 1 is to be taken to be a separate provision of this Act.

3. Operation of *Interpretation Act 1984*

If an enactment is repealed by this Act and is re-enacted (with or without modification) by the —

- 15 (a) *Civil Judgments Enforcement Act 2003*;
(b) *Justices of the Peace Act 2003*;
(c) *Magistrates Court Act 2003*; or
(d) *Magistrates Court (Civil Proceedings) Act 2003*,

20 then for the purposes of the *Interpretation Act 1984* section 36, the enactment is to be taken to have been repealed and re-enacted by the Act referred to in paragraph (a), (b), (c) or (d).

Part 2 — *Local Courts Act 1904* repealed

Division 1 — Repeal

4. *Local Courts Act 1904* repealed

The *Local Courts Act 1904* is repealed.

5 Division 2 — Transitional provisions

5. Interpretation

In this Division —

“**commencement**” means the commencement of this Division.

6. Clerks of Local Courts

10 (1) If immediately before commencement a person holds office under the *Local Courts Act 1904* section 13 as a clerk, then on commencement the person is to be taken to have been appointed —

15 (a) in the case of a person who immediately before commencement is an employee of the department principally assisting the Minister with the administration of the *Local Courts Act 1904* — under the *Magistrates Court Act 2003* section 26(2) as a Registrar of the Magistrates Court;

20 (b) in any other case — under the *Magistrates Court Act 2003* section 26(2) and (6) as a Registrar of the Magistrates Court.

25 (2) If immediately before commencement a person holds office under the *Local Courts Act 1904* section 13 as an assistant clerk, then on commencement the person is to be taken to have been appointed under the *Magistrates Court Act 2003* section 26(2) as a Deputy Registrar of the Magistrates Court.

7. Cases pending

If immediately before commencement an action or matter (as defined in the *Local Courts Act 1904*) is pending before a Local Court, then on commencement the action or matter —

- 5 (a) is to be taken to be a case pending before the Magistrates Court; and
- (b) shall be heard and determined under the *Magistrates Court (Civil Proceedings) Act 2003* as if it is within the civil jurisdiction of the Magistrates Court.

10 **8. Existing summonses and warrants**

- (1) If immediately before commencement a summons, warrant or other process issued under the *Local Courts Act 1904*, other than an enforcement process within the meaning of section 143, is in force, then on commencement the summons, warrant or
- 15 process is to be taken to be a summons, warrant or process issued under the *Magistrates Court (Civil Proceedings) Act 2003*.
- (2) If immediately before commencement a summons or warrant is in force and requires a person to attend or to be brought before a
- 20 Local Court, then on commencement the summons or warrant is to be taken to require the person to attend or to be brought before the Magistrates Court at the place specified in the summons or warrant.

25 **9. References to *Local Courts Act 1904* to be read as references to *Magistrates Court (Civil Proceedings) Act 2003***

A reference in a written law or book, document or writing to the *Local Courts Act 1904* is, unless the contrary intention appears, to be construed as if it had been amended to be a reference to the *Magistrates Court (Civil Proceedings) Act 2003*.

10. References to ‘Local Court’ to be read as references to the ‘Magistrates Court’

5 A reference in a written law or book, document or writing to a Local Court is, unless the contrary intention appears, to be construed as if it had been amended to be a reference to the Magistrates Court.

11. *Local Court Rules 1961* repealed and transitional provision

- (1) The *Local Court Rules 1961* are repealed.
- 10 (2) Until subsection (1) comes into operation, the *Local Court Rules 1961*, as in force immediately before the commencement of this subsection, continue in operation with any necessary changes as if they were rules of court made under the *Magistrates Court Act 2003* and the *Magistrates Court (Civil Proceedings) Act 2003* and accordingly may be amended by
- 15 rules of court made under those Acts.
- (3) If subsection (1) comes into operation before subsection (2), subsection (2) is repealed.

Part 3 — *Small Claims Tribunals Act 1974* repealed

12. Act repealed

The *Small Claims Tribunals Act 1974* is repealed.

13. Transitional provisions

- 5 (1) In this section —
 “**commencement**” means the commencement of this Part.
- (2) If immediately before commencement a small claim is pending
 before a Small Claims Tribunal, then on commencement the
10 small claim is to be taken to be an action within the civil
 jurisdiction of the Magistrates Court and may be heard and
 determined accordingly subject to the *Magistrates Court (Civil
 Proceedings) Act 2003*.
- (3) If immediately before commencement an order made by a Small
15 Claims Tribunal is in force under the *Small Claims Tribunals
 Act 1974*, then on commencement the order is taken to be an
 order made by the Magistrates Court and has effect accordingly.
- (4) The repeal of the *Small Claims Tribunals Act 1974* does not
 prevent an application or order being made under the *Suitors’
 Fund Act 1964* in relation to a claim that was before a Small
20 Claims Tribunal before commencement.
- (5) On commencement and for the purposes of subsection (4) the
 Magistrates Court has jurisdiction to make any order under the
 Suitors’ Fund Act 1964 that a Small Claims Tribunal would
25 have had jurisdiction to make under that Act immediately before
 commencement.
- (6) A reference in a written law or book, document or writing to a
 Small Claims Tribunal is, unless the contrary intention appears,
 to be construed as if it had been amended to be a reference to
 the Magistrates Court.

Part 4 — *Stipendiary Magistrates Act 1957* repealed

14. Act repealed

The *Stipendiary Magistrates Act 1957* is repealed.

15. Transitional provisions

5 (1) In this section —

“**commencement**” means the commencement of this Part;

“**repealed Act**” means the *Stipendiary Magistrates Act 1957*.

10 (2) If immediately before commencement a person, by virtue of an appointment under a provision of the repealed Act referred to in column 1 of the Table to this subsection, holds an office described in column 2, then on commencement the person is to be taken to have been appointed under the provision of the *Magistrates Court Act 2003* referred to in column 3 to the office described in column 4.

15

Table

Repealed Act	Old office	<i>Magistrates Court Act 2003</i>	New office
s. 4(1)	Stipendiary magistrate	Schedule 1 clause 3	Magistrate
s. 4(4)	Chief Stipendiary Magistrate	Schedule 1 clause 6(1)	Chief Magistrate
s. 4(4)	Deputy Chief Stipendiary Magistrate	Schedule 1 clause 6(2)	Deputy Chief Magistrate
s. 5C(2)	Stipendiary magistrate on terms and conditions	Schedule 1 clause 9	Acting magistrate on the same terms and conditions

(3) If immediately before commencement a person is the subject of a direction made under section 5B(3) of the repealed Act, then on commencement the person is to be taken to have been

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appointed under the *Magistrates Court Act 2003* Schedule 1
clause 9 as an acting magistrate for a period ending at the time
when the person would leave office under the direction.

- 5 (4) A person who under this section is taken to have been appointed
under the *Magistrates Court Act 2003* to an office is not
required to take the oaths or affirmations of office under that
Act in respect of that office.
- 10 (5) For the purposes of the *Magistrates Court Act 2003* Schedule 1
clause 7 the seniority of people who under subsection (2) are to
be taken to have been appointed as magistrates of the
Magistrates Court is to be determined according to the dates of
their appointment as stipendiary magistrates.
- 15 (6) The remuneration, existing or accrued rights, rights under a
superannuation scheme, or continuity of service, of a
stipendiary magistrate to whom subsections (2) and (3) apply is
not affected by those subsections.
- 20 (7) A reference in a written law or book, document or writing to a
stipendiary magistrate is, unless the contrary intention appears,
to be construed as if it had been amended to be a reference to a
magistrate.
- (8) A reference in a written law or book, document or writing to the
Chief Stipendiary Magistrate is, unless the contrary intention
appears, to be construed as if it had been amended to be a
reference to the Chief Magistrate.

Part 5 — Other repeals

16. *Debtors Act 1871* repealed

The *Debtors Act 1871* is repealed.

17. *Foreign Judgments Act 1963* repealed

5 The *Foreign Judgments Act 1963* is repealed.

18. *Magisterial Districts Act 1886* repealed

The *Magisterial Districts Act 1886* is repealed.

19. *Public Officers Act 1879* repealed

The *Public Officers Act 1879* is repealed.

10 **20. *Imperial Acts* repealed**

(1) The following Imperial Acts or provisions of them are repealed in so far as they are part of the law of Western Australia —

- (a) 11 Henry VI c. 6 (1433);
- (b) section 1 of 8 Anne c. 18 (1709)
15 [*Landlord and Tenant Act 1709*];
- (c) 1 & 2 Victoria c. 74 (1838)
[An Act to facilitate the Recovery of Possession of Tenements after due Determination of the Tenancy.]
[*Small Tenements Recovery Act 1838*]
20 [Adopted by *Imperial Acts Adopting Act 1844*];
- (d) 1 & 2 Victoria c. 110 (1838)
[An Act for abolishing Arrest on Mesne Process in Civil Actions, except in certain Cases; for extending the Remedies of Creditors against the Property of Debtors; and for amending the Laws for the Relief of Insolvent Debtors in England.]
25 [*Judgments Act 1838*]
[Adopted by *Imperial Acts Adopting Ordinance 1867*];

s. 20

- 5 (e) sections 1, 2, 3, 4, 5 and 6 of 2 & 3 Victoria c. 11 (1839)
 [An Act for the better Protection of Purchasers against
 Judgments, Crown Debts, Lis Pendens, and Fiats in
 Bankruptcy.]
 [Judgments Act 1839]
 [Adopted by *Imperial Acts Adopting Ordinance 1867*];
- 10 (f) 3 & 4 Victoria c. 82 (1840)
 [An Act for further amending the Act for abolishing
 Arrest on Mesne Process in Civil Actions.]
 [Judgments Act 1840]
 [Adopted by *Imperial Acts Adopting Ordinance 1867*];
- 15 (g) sections 1, 2, 3, 4, 5, 6, 7 and 8 of 18 & 19 Victoria c. 15
 (1855)
 [An Act for the better Protection of Purchasers against
 Judgments, Crown Debts, Cases of Lis Pendens, and
 Life Annuities or Rentcharges.]
 [Judgments Act 1855]
 [Adopted by *Imperial Acts Adopting Ordinance 1867*].
- 20 (2) In respect of each Imperial enactment referred to in
 subsection (1), Part V of the *Interpretation Act 1984* applies as
 if a reference in that Part to the repeal of a written law or to the
 repeal of an enactment were a reference to the repeal of the
 Imperial enactment.

Part 6 — *Justices Act 1902* amended and transitional provisions

Division 1 — Amendments

21. Act amended by this Division

5 The amendments in this Division are to the *Justices Act 1902**.
 [* *Reprint 14 as at 16 May 2003.*]

22. Long title replaced

The long title is repealed and the following long title is inserted instead —

10 “ **An Act relating to the functions of courts of summary jurisdiction and to the procedures to be followed in such courts.** ”

15 **23. Short title amended**

Section 1 is amended by deleting “*Justices*” and inserting instead —

“ *Criminal Procedure (Summary)* ”.

24. Section 4 amended

20 Section 4 is amended as follows:

(a) by inserting in the appropriate alphabetical positions the following definitions —

25 “**agent**”, in respect of a person who is a party to
proceedings before a court of summary
jurisdiction, means the solicitor or counsel for the
person, or any other person who lawfully appears
for the person;

“court of summary jurisdiction” means —

- (a) the Children’s Court;
- (b) the Magistrates Court; or
- (c) any other court to which this Act applies;

5 **“DPP”** means the Director of Public Prosecutions appointed under the *Director of Public Prosecutions Act 1991*;

10 **“judicial officer”**, in relation to a court of summary jurisdiction, means the person who constitutes the court and, where the court is constituted by more than one person, means each of those persons;

“prescribed investigator” means —

- (a) a police officer; or
- (b) an officer of a prescribed public authority who is authorised by the public authority, or under a written law, to commence prosecutions;

15 **“prescribed public authority”** means a public authority that is prescribed by the regulations;

20 **“public authority”** means —

- (a) a Minister of the Crown;
- (b) a department of the Public Service;
- (c) a local government or a regional local government; or
- (d) a body, whether incorporated or not, that is established for a public purpose under a written law and that, under the authority of a written law, performs a statutory function on behalf of the State;

25 **“registrar”** means a registrar of a court of summary jurisdiction;

”;

- (b) by deleting the definition of “justices” and inserting instead —

“

“**justice**” means a Justice of the Peace appointed under the *Justices of the Peace Act 2003*;

”;

- (c) by deleting the definition of “magistrate” and inserting instead —

“

“**magistrate**” means a magistrate appointed under —

(a) the *Children’s Court of Western Australia Act 1988*;

(b) the *Magistrates Court Act 2003*; or

(c) any other written law for the purpose of constituting a court to which this Act applies;

”;

- (d) by deleting the definition of “oath”.

25. Part II repealed

Part II is repealed.

26. Part III repealed

Part III is repealed.

27. Section 42 amended

Section 42 is amended as follows:

- (a) by inserting before “Unless” the subsection designation “(1)”;

- (b) by deleting “justices” and inserting instead —

“ a court of summary jurisdiction ”;

- (c) by inserting before “complaint” —

“ written ”;

(d) by inserting the following subsections —

“

(2) A complaint being made on oath shall be signed and sworn before a magistrate, justice or registrar.

5 (3) A complaint not being made on oath shall be signed before a magistrate, justice or registrar, unless the person making it is a prescribed investigator.

”.

28. Section 50 replaced

10 Section 50 is repealed and the following section is inserted instead —

“

50. Complaint where summons issued

15 When it is intended to issue a summons instead of a warrant in the first instance, the complaint need not be on oath.

”.

29. Section 51 replaced

20 Section 51 is repealed and the following section is inserted instead —

“

51. Limitation period for commencing prosecutions

25 (1) Proceedings before a court of summary jurisdiction for a simple offence must be commenced within 12 months from the time when the matter for complaint arose, unless another written law provides otherwise.

(2) Proceedings before a court of summary jurisdiction are commenced —

30 (a) on the day on which a complaint is signed under section 42 by the person making it before a magistrate, justice or registrar; or

- (b) if a complaint is made by a prescribed investigator and is not signed before a magistrate, justice or registrar — on the day on which it is lodged with the court.

5

”.

30. Sections 52 and 53 replaced

Sections 52 and 53 are repealed and the following section is inserted instead —

“

10

52. When a summons may be issued

- (1) If a complaint is made before a magistrate, justice or registrar that any person is guilty of, or is suspected of having committed or is liable to be dealt with in respect of an offence, then that officer may issue his summons.
- (2) If a complaint is made by a prescribed investigator and is not signed before a magistrate, justice or registrar, the investigator may issue a summons which shall have the same force and effect as if issued by a magistrate, justice or registrar.

15

20

”.

31. Section 56 amended

- (1) Section 56 is amended as follows:

- (a) by inserting before “Subject to” the subsection designation “(1)”;
- (b) in the proviso by deleting “clerk of petty sessions” and inserting instead —
“ registrar ”;
- (c) by deleting the third paragraph.

25

(2) Section 56 is amended by inserting the following subsections —

“

- 5 (2) Service by post shall be effected by a registrar properly
addressing and posting (by prepaid post) the summons
as a letter to the person to be served at his last known
place of residence or business.
- (3) A summons that is served by post is to be taken to have
been served at the time when the letter would have
been delivered in the ordinary course of post.
- 10 (4) A certificate by the registrar that the summons was
posted in accordance with subsection (2) is proof of
service, in the absence of evidence to the contrary.

”.

32. Section 58 amended

15 Section 58 is amended as follows:

- (a) by deleting the paragraph beginning with “When
complaint” and ending with “law.” and inserting the
following subsection instead —

“

- 20 (1) When a complaint is made before a magistrate or
justice that any person is guilty of, or is suspected of
having committed or is liable to be dealt with in respect
of an indictable offence, that officer may issue his
warrant to apprehend the defendant and to cause him to
25 be brought before a court of summary jurisdiction to be
further dealt with according to law.

”;

- (b) by inserting before “Provided that” the subsection
designation “(2)”;
- 30 (c) by inserting after “Provided that the” —
“ magistrate or ”;
- (d) by inserting before “Notwithstanding” the subsection
designation “(3)”;

- (e) by inserting after “summons, any” —
“ magistrate or ”.

33. Section 68 replaced

Section 68 is repealed and the following section is inserted
instead —

“

68. Representation in court

- (1) In this section —

“**complainant**” includes applicant;

“**lawyer**” means a person who is admitted and entitled
to practise as a barrister and solicitor of the
Supreme Court.

- (2) A party to a proceeding before a court of summary
jurisdiction is personally entitled to appear before the
court in order to present and conduct the party’s case
and to call, examine, cross-examine and re-examine
witnesses.

- (3) Unless another written law expressly provides
otherwise, the entitlement under subsection (2) may be
performed —

(a) on a complainant’s behalf by a person
permitted under subsection (4); or

(b) on any party’s behalf —

(i) by a lawyer; or

(ii) with the court’s leave by a person who
is not a lawyer.

- (4) Despite the *Legal Practice Act 2003*, in a proceeding
before a court of summary jurisdiction —

(a) the State, or a complainant who is a police
officer acting in the course of duty, may be

represented by a police officer acting in the course of duty;

- (b) a complainant who is acting for or on behalf of a public authority may be represented by an officer or employee of the public authority acting in the course of duty.

- (5) The court may only give leave under subsection (3)(b)(ii) in exceptional circumstances.

- (6) A person who is not a lawyer and who, having been given leave under subsection (3)(b)(ii), performs any act referred to in subsection (2) on behalf of a party is not entitled to claim, receive or recover, directly or indirectly, money or other remuneration for doing so.

”.

34. Section 75 amended

Section 75(1) and (2) are repealed and the following subsections are inserted instead —

“

- (1) If a person summoned as a witness does not appear at the time and place appointed by the summons then, after proof that the summons was duly served on the person and, except in the case of indictable offences, that a reasonable sum was paid or tendered to the person for the person’s costs and expenses of attendance, the court of summary jurisdiction may issue a warrant to have the person arrested and brought before the court.

- (2) A person arrested under such a warrant is to be brought before the court as soon as practicable.

”.

35. Section 79 amended

Section 79(2) and (3) are repealed and the following subsection is inserted instead —

“

- 5 (2) If under subsection (1) a court remands a defendant, it must not do so for a period that exceeds 8 clear days, unless the defendant consents.

”.

36. Section 86A replaced by sections 86A and 86B

10 Section 86A is repealed and the following sections are inserted instead —

“

86A. Video or audio link may be used for remands and adjournments when defendant in custody

- 15 (1) This section applies if —
- (a) a defendant is charged with an offence before a court of summary jurisdiction;
 - (b) the defendant is in custody, whether in relation to the charge or not;
 - 20 (c) the defendant is required to appear before the court in relation to the charge for purposes other than the hearing or determination of the charge; and
 - 25 (d) there is a video link or audio link (within the meaning of section 120 of the *Evidence Act 1906*) between the place where the defendant is in custody and the court.
- 30 (2) If the defendant’s appearance will be his first in relation to the charge, the person in whose custody the defendant is shall bring the defendant before the court in person, unless the court has ordered that the defendant be brought before the video link or audio link.

- 5 (3) If the defendant's appearance will be his second or subsequent in relation to the charge, the person in whose custody the defendant is shall, notwithstanding any warrant that commands that the defendant be brought before the court, bring the defendant before the video link or audio link, unless the court has ordered that the defendant be brought before the court in person.
- 10 (4) A court may make an order under subsection (2) or (3) on its own initiative or on the application of a party to the proceeding, at any time, if satisfied it is necessary for the proper administration of justice to do so.
- 15 (5) The defendant shall not be brought before an audio link unless a video link is not available and cannot reasonably be made available.
- 20 (6) When a defendant is brought before a video link or audio link in accordance with this section, the court may, in relation to the charge, exercise the powers in sections 79, 80 and 86 and comply with the *Bail Act 1982* as if the defendant were personally present before it.

86B. Video or audio link generally

- 25 (1) This section applies if —
- (a) a defendant is charged with an offence before a court of summary jurisdiction; and
 - (b) the defendant is required to appear before the court in relation to the charge for any purpose.
- 30 (2) On an application by the defendant, the court may permit the defendant to appear before a video link (within the meaning of section 120 of the *Evidence Act 1906*) with the court.

- (3) When a defendant appears before a video link as permitted by the court, the court may deal with the charge as if the defendant were personally present before it.

- 5 (4) This section is in addition to and does not affect the operation of sections 120 to 132 of the *Evidence Act 1906*.

”.

37. Section 96 amended

- 10 (1) Section 96(1) is amended by deleting “courts of petty sessions” and inserting instead —

“ a court of summary jurisdiction ”.

- (2) After section 96(1) the following subsection is inserted —

“

- 15 (2) Regulations may authorise the chief executive officer to approve forms for the purposes of this Act.

”.

38. Section 136A amended

- 20 (1) Section 136A(1) is repealed and the following subsection is inserted instead —

“

- 25 (1) Where a decision is given by a court of summary jurisdiction in default of appearance by the complainant or by the defendant, the party who did not appear may, within 21 days after the party becomes aware of the decision, or within such further period as the court at the place where the decision was given may allow, serve on the registrar of the court notice in writing of his intention to apply to the court to set the decision aside, and of the grounds of the application.

30

”.

- (2) Section 136A(2) is amended as follows:
- (a) by deleting “clerk of petty sessions” and inserting instead —
“ registrar ”;
 - 5 (b) by deleting “of petty sessions” in the second place where it occurs.
- (3) Section 136A(3) is amended as follows:
- (a) by deleting “The applicant” and inserting instead —
“ If the registrar so decides, the applicant ”;
 - 10 (b) by deleting “court of petty sessions” and inserting instead —
“ magistrate, justice or registrar ”.
- (4) Section 136A(3a) is amended as follows:
- 15 (a) by deleting “court thinks fit and the court shall where it is constituted by a justice or justices, and may in any other case,” and inserting instead —
“ registrar thinks fit and the registrar may ”;
 - (b) by deleting “clerk of petty sessions” and inserting instead —
20 “ registrar ”.
- (5) Section 136A(3b) is amended as follows:
- (a) by deleting “On a recognisance being given under subsection (3)” and inserting instead —
“ On an application being made under this section ”;
 - 25 (b) by deleting “of petty sessions”.
- (6) Section 136A(4) is amended as follows:
- (a) by deleting “clerk of petty sessions” and inserting instead —
“ registrar ”;

(b) by deleting “of petty sessions” in the second place where it occurs.

(7) Section 136A(5a) is amended by deleting “justices set” and inserting instead —

5 “ the court sets ”.

39. Sections 151, 152 and 153 replaced

Sections 151, 152 and 153 are repealed and the following section is inserted instead —

“

10 **151. Costs**

(1) In this section —

“**dismiss**”, in relation to a charge in a complaint, means to dismiss the charge without considering its merits;

15 “**official prosecution**” has the meaning given by the *Official Prosecutions (Defendants’ Costs) Act 1973*;

20 “**OPDC determination**” means a determination made under section 210 of the *Legal Practice Act 2003* for the purposes of the *Official Prosecutions (Defendants’ Costs) Act 1973*.

(2) Subject to the *Official Prosecutions (Defendants’ Costs) Act 1973* and this section, a successful party to a matter is entitled to the party’s costs.

25 (3) In any proceedings on a complaint, if a court of summary jurisdiction convicts a defendant, the court may order the defendant to pay all or a part of the complainant’s costs.

30 (4) In any proceeding that is not an official prosecution, if a court of summary jurisdiction acquits a defendant or dismisses a charge, the court may order the

complainant to pay all or a part of the defendant's costs.

(5) Subsection (4) does not affect the operation of the *Official Prosecutions (Defendants' Costs) Act 1973*.

5 (6) In a matter that is not a prosecution, a court of summary jurisdiction may make any orders as to costs that it thinks fit.

10 (7) If subsection (3), (4) or (6) applies the costs are to be assessed in accordance with the relevant OPDC determination and section 215 of the *Legal Practice Act 2003*.

(8) If subsection (3), (4) or (6) applies, the court may reduce the costs that it would otherwise have awarded, or refuse to award costs, to the party concerned if —

15 (a) any act or omission of or caused by the party (other than an act or omission that is the subject of a charge) was unreasonable in the circumstances and contributed to the institution or continuation of the case; or

20 (b) any act or omission of or caused by the party during or in the conduct of the case was calculated to prolong the case unnecessarily or cause unnecessary expense.

25 (9) The court may adjourn an application for costs, or the determination of the amount of costs to be paid, if there is good reason to do so.

(10) A question adjourned under subsection (9) is to be dealt with by a magistrate and may be dealt with in chambers.

30 ”.

40. Section 160 inserted

After section 159 the following section is inserted —

“

160. Correcting errors caused by use of false name etc.

- 5 (1) If as a result of a defendant using a false name, address
or date of birth, a record of a court of summary
jurisdiction does not record the defendant’s correct
name, address or date of birth, the court may correct
the records and make any ancillary orders it thinks fit
10 to give effect to the correction.
- (2) The powers in subsection (1) may be exercised by the
court on its own initiative or on an application by a
person who the court is satisfied has a proper interest in
the proceedings.
- 15 (3) Without limiting the power to make ancillary orders,
the court may —
- (a) set aside a conviction or order made by the
court;
- (b) order a rehearing and, if necessary, adjourn
20 proceedings;
- (c) order that records other than the court’s records
be corrected.
- ”.

41. Section 183 amended

25 Section 183 is amended as follows:

- (a) by deleting the definition of “clerk of petty sessions”;
- (b) by deleting the definition of “Court” and inserting
instead —

“

30 **“Court”** means the Supreme Court;

”;

“lower court registrar” means the registrar of the court of summary jurisdiction that made the decision that is the subject of an appeal under this Part;

”

(1) Section 184(1) is repealed and the following subsection is inserted instead —

- (1) The only appeal that can be made against a decision of a court of summary jurisdiction is to the Supreme Court in accordance with this Part and rules of court made by the Supreme Court.

”

“ a court of summary jurisdiction ”.

(4) Subsection (1) is subject to any other Act and in particular to Part 5 of the *Children's Court of Western Australia Act 1988*.

”

43. Section 185 replaced

Section 185 is repealed and the following section is inserted instead —

“

5 **185. Who may appeal**

(1) An appeal may be made by any or all of the following —

- (a) a person who is aggrieved by a decision;
- (b) the Attorney General.

10 (2) An appeal may be made by a person against 2 or more decisions made at the same hearing and in such a case the appeals are to be consolidated unless, or except to the extent that, the Court orders otherwise.

15 (3) If more than one appeal against a decision is made, the Court may determine 2 or more of them at the same time.

”.

44. Section 195A inserted

After section 195 the following section is inserted —

20 “

195A. Single Judge to hear appeal unless case warrants Full Court

25 (1) The Court constituted by one Judge shall hear and determine an appeal unless an order has been made under subsection (2).

(2) On its own initiative, or on the application of a party made before or during the hearing of the appeal, the Court may order that the appeal be heard and determined by the Full Court.

30

”.

45. Section 199 amended

Section 199 is amended as follows:

- (a) in paragraph (a) by deleting “justices” and inserting
instead —
5 “ court of summary jurisdiction ”;
- (b) by inserting after paragraph (a) the following
paragraph —
“
10 (ab) dismiss the appeal if it considers the appeal is
frivolous or vexatious;
”;
- (c) in paragraph (c) by deleting “justices” and inserting
instead —
“ court of summary jurisdiction ”;
- 15 (d) by repealing paragraph (d) and inserting the following
paragraph instead —
“
20 (d) remit the case for hearing by a court of
summary jurisdiction, with or without
directions —
(i) as to how or by whom that court is to be
constituted;
(ii) as to the hearing of the case by that
25 court;
”;
- (e) in paragraph (g) by deleting “costs.” and inserting
instead —
“
30 the costs of the appeal and the costs of the
proceedings in the court of summary
jurisdiction.
”.

(2) Section 199(3) is amended as follows:

- (a) by deleting “any justices” and inserting instead —
“ a court of summary jurisdiction ”;
- (b) by deleting “the justices” and inserting instead —
“ that court ”.

(3) Section 199(4) is amended by deleting “justices” and inserting instead —

“ a court of summary jurisdiction ”.

46. Section 206 amended

Section 206(3) is repealed and the following subsections are inserted instead —

“

(3) The appellant shall give notice of an application under subsection (1) to the other party or other parties to the proceedings before the court of summary jurisdiction.

(4) Upon the making of an application under subsection (1), sections 191, 193, 194 and 195, with all necessary changes, apply as if an appeal had been commenced.

”.

47. Section 206A amended

(1) Section 206A(4) is amended as follows:

- (a) paragraph (f) is deleted and the following paragraph is inserted instead —

“

(f) the commencement of an appeal under section 185;

”;

- (b) in paragraph (g) by deleting “application and”.

- (2) Section 206A(5) is repealed and the following subsection is inserted instead —

“

- (5) Without limiting subsection (4), the powers in section 193(1) may be exercised at any time after an application for leave to appeal is made under this section.

”.

48. Section 206E amended

- (1) Section 206E(1) is amended by deleting “Subject to subsection (3), if” and inserting instead —

“ If ”.

- (2) Section 206E(2) is repealed and the following subsection is inserted instead —

“

- (2) The payment of the costs may be enforced under section 155 as if the order under this Part as to the payment of costs were a payment order and for that purpose the Supreme Court Registrar’s certificate may be registered as a judgment in a court of competent jurisdiction.

”.

49. Part IX replaced

Part IX is repealed and the following Part is inserted instead —

“

Part IX — Miscellaneous

222. Effect of court documents

- (1) A summons, warrant, order or other document issued by a court of summary jurisdiction (“**court document**”) has effect according to its wording.

- (2) In the absence of evidence to the contrary, it is to be presumed that —
- (a) the person who issued a court document was empowered to do so; and
- (b) the signature on a court document is that of the person who issued it.
- (3) The validity of a court document is not affected by the death of a person who issued it.
- (4) A warrant itself is sufficient authority to the person to whom it is directed to act according to it.
- (5) A member of the Police Force of Western Australia must obey any warrant or other order or direction of a court of summary jurisdiction or a judicial officer of it.
- (6) A member of the Police Force of Western Australia who contravenes subsection (5) is to be dealt with under section 23 of the *Police Act 1892*.

223. Warrants of commitment, time for issuing

- (1) If a warrant of commitment is not issued within 12 months after the final hearing and determination of a case, such a warrant shall not issue without the leave of a magistrate.
- (2) Subsection (1) does not apply in respect of a warrant of commitment that may be issued under the *Fines, Penalties and Infringement Notices Enforcement Act 1994*.

”.

50. Other amendments

The Act is amended as set out in the Table to this section.

Courts Legislation Amendment and Repeal Bill 2003**Part 6** Justices Act 1902 amended and transitional provisions**Division 1** Amendments**s. 50**

Table

s. 4	<p>In the definition of “complaint”, delete “justices” and insert instead — “ a court of summary jurisdiction ”.</p> <p>In the definition of “decision”, delete “that justices” and insert instead — “ by a court of summary jurisdiction that it ”.</p> <p>In the definition of “defendant”, delete “justices” and insert instead — “ a court of summary jurisdiction ”.</p> <p>In the definition of “indictable offence”, insert after “Attorney General” — “ , the DPP ”.</p> <p>In the definition of “indictment”, insert after “Attorney General” — “ , the DPP ”.</p> <p>Delete the definition of “jurisdiction”.</p> <p>In the definition of “matter”, delete “justices” and insert instead — “ a court of summary jurisdiction ”.</p> <p>Delete the definition of “Minister”.</p> <p>Delete the definition of “police officer”.</p>
s. 5	<p>After “Justices of the Peace” insert — “ or a court of summary jurisdiction ”.</p>
s. 43	<p>In the second proviso delete “the justices” and insert instead — “ a court of summary jurisdiction ”.</p> <p>Delete “they” and insert instead — “ it ”.</p>
s. 46	<p>Delete “the justices” and insert instead — “ a court of summary jurisdiction ”.</p>

s. 47	Delete “the justices” and insert instead — “ a court of summary jurisdiction ”. Delete “they may” and insert instead — “ it may ”. Delete “they think” and insert instead — “ it thinks ”.
s. 48	Delete “the justices” and insert instead — “ a court of summary jurisdiction ”.
s. 54	In paragraph (b), insert before “matter” — “ offence or ”. In paragraph (c), delete “such justices as shall then be there” and insert instead — “ a court of summary jurisdiction that has jurisdiction to deal with the complaint ”. In paragraph (d)(i), delete “such justices as shall then be there” and insert instead — “ a court of summary jurisdiction that has jurisdiction to deal with the complaint ”.
s. 55	Delete “justice or clerk of petty sessions” and insert instead — “ magistrate, justice or registrar ”. Delete “of justices” and insert instead — “ to a court of summary jurisdiction ”.
s. 56A(1)	Delete “justices” and insert instead — “ a court of summary jurisdiction ”. Delete “registered”.
s. 56A(3)	Delete “of petty sessions”.
s. 56A(4)	Delete “justices” and insert instead — “ court ”.
s. 56A(5)	Repeal the subsection.
s. 56A(6)	Repeal the subsection.
s. 56A(7)	Repeal the subsection.
s. 56A(8)	Repeal the subsection.
s. 57A(1)	Delete “clerk of petty sessions” and insert instead — “ a registrar of the court concerned ”.
s. 57A(2)	Delete “clerk of petty sessions” and insert instead — “ registrar ”.

Courts Legislation Amendment and Repeal Bill 2003**Part 6** Justices Act 1902 amended and transitional provisions**Division 1** Amendments**s. 50**

s. 59	After “before a” insert — “ magistrate or ”. Delete “justice may” and insert instead — “ officer may ”. Delete “justices” and insert instead — “ a court of summary jurisdiction ”.
s. 61	Delete “justices in any jurisdiction” and insert instead — “ a court of summary jurisdiction that has jurisdiction to deal with the complaint ”.
s. 66(1)	Delete “before justices” and insert instead — “ before a court of summary jurisdiction ”. Delete “to justices” and insert instead — “ to a court of summary jurisdiction ”. Delete “the justices” and insert instead — “ the court ”. Delete “their” and insert instead — “ its ”.
s. 66(2)	Delete “The justices are” and insert instead — “ A court of summary jurisdiction is ”. Delete “them” and insert instead — “ it ”.
s. 71	Delete “justices” and insert instead — “ a court of summary jurisdiction ”.
s. 73(1a)	Delete “justices” and insert instead — “ judicial officer ”.
s. 74(1)	Delete “Any justice or clerk of petty sessions” and insert instead — “ A magistrate, justice or registrar ”. Delete “such justices as shall then be there” and insert instead — “ a court of summary jurisdiction ”.
s. 76	Delete “the justice” and insert instead — “ a magistrate or justice ”.
s. 77	Repeal the section.

s. 78	Delete “justices have” and insert instead — “ a magistrate, justice or registrar has ”. Delete “they” and insert instead — “ he ”. Delete “him” and insert instead — “ the person ”.
s. 79(1)	Delete “indictable”. Delete “justices” and insert instead — “ court of summary jurisdiction ”. Delete “their warrant” and insert instead — “ a warrant ”. Delete “subsection (3), as they may in their” and insert instead — “ subsection (2), as it may in its ”. Delete “same or such other justices as shall be acting” and insert instead — “ court ”.
s. 80	Delete “the justices” in the first place where it occurs and insert instead — “ the court of summary jurisdiction ”. Delete “the justices” in the second place where it occurs and insert instead — “ the court ”. Delete “same or such other justices as shall be acting” and insert instead — “ court ”.
s. 81	Delete “Any justices” and insert instead — “ A magistrate, justice or registrar ”. Delete “them” and insert instead — “ the court of summary jurisdiction ”.
s. 83	Repeal the section.
s. 84	Repeal the section.
s. 85	Repeal the section.

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s. 86	Delete “the justices present, or, if only one justice is present, such one justice,” and insert instead — “ a court of summary jurisdiction ”. Delete “counsel or solicitors” and insert instead — “ agents ”.
s. 87	Delete “justices commit” and insert instead — “ a court of summary jurisdiction commits ”. Delete “they may” and insert instead — “ it may ”. Delete “in the place for which they are then acting”. Delete “they think” and insert instead — “ it thinks ”.
s. 88	Delete “justices commit” and insert instead — “ a court of summary jurisdiction commits ”. Delete “they commit” and insert instead — “ it commits ”. Delete “they must” and insert instead — “ it must ”.
s. 90	Delete “justices are” and insert instead — “ a court of summary jurisdiction is ”. Delete “they” and insert instead — “ it ”. Delete “their” and insert instead — “ its ”.
s. 91	Delete “justices who are there present” and insert instead — “ court ”.
s. 92	Delete “justices have” and insert instead — “ a court of summary jurisdiction has ”. Delete “need not be entered into before the same justices, but”. Delete “the same or any other justice or justices or before any clerk of petty sessions” and insert instead — “ any magistrate, justice or registrar ”. Delete “justices shall apply as if the recognisances had been entered into before such justices as heretofore by law required.” and insert instead — “ a justice shall apply. ”.

s. 93	Delete “any justice” and insert instead — “ any magistrate, justice or registrar ”. Delete the passage beginning with “and such justice” and ending with “has taken place”.
s. 97	Delete “justices” and insert instead — “ a court of summary jurisdiction ”.
s. 97A(1)	Delete “before justices” and insert instead — “ before the court ”. Delete “the justices” and insert instead — “ the court ”.
s. 98	Delete “justices” in the 2 places it occurs and in each place insert instead — “ court ”.
s. 99(2)	Delete “justices” and insert instead — “ court ”.
s. 99(3)	Delete “justices decide” and insert instead — “ court decides ”. Delete “justices shall” and insert instead — “ court shall ”.
s. 99(4)	Delete “justices decide” and insert instead — “ court decides ”. Delete “justices shall” and insert instead — “ court shall ”.
s. 99(5)	Delete “justices” and insert instead — “ court ”. Delete “them” and insert instead — “ it ”.
s. 100(1)	Delete “justices have” and insert instead — “ court has ”.
s. 100(2)	Delete “justices” and insert instead — “ court ”.
s. 100(3)	Delete “clerk of petty sessions” and insert instead — “ court ”.
s. 100(4)	Delete “justices are” and insert instead — “ court is ”. Delete “justices may” and insert instead — “ court may ”.
s. 101(1)	Delete “justices” and insert instead — “ court ”.

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s. 101(2)	Delete “justices” and insert instead — “ court ”.
s. 101(3)	Delete “justices” and insert instead — “ court ”. After “Attorney General,” insert — “ DPP, ”. After “appointed” insert — “ or authorised ”.
s. 101A	Delete “justices” and insert instead — “ court ”.
s. 102(1)	Delete “justices” and insert instead — “ court ”.
s. 102(2)	Delete “justices” and insert instead — “ court ”.
s. 103(1)	Delete “clerk of petty sessions” and insert instead — “ court ”.
s. 103(4)	Delete “justices” and insert instead — “ court ”. Delete “justices are” and insert instead — “ court is ”.
s. 103(6)	Delete “justices hear and determine” and insert instead — “ court hears and determines ”. Delete “justices may” and insert instead — “ court may ”. Delete “without their” and insert instead — “ without its ”.
s. 103(7)	Delete “justices may” and insert instead — “ court may ”. Delete “justices think” and insert instead — “ court thinks ”.
s. 104(1)	Delete “justices are” and insert instead — “ court is ”. Delete “tendered to them” and insert instead — “ tendered to it ”. Delete “they are” in the 2 places where it occurs and in each place insert instead — “ it is ”.

s. 104(2)	Delete “justices” and insert instead — “ court ”. Delete “before them” and insert instead — “ before it ”.
s. 104(3)	Delete “justices are” and insert instead — “ court is ”.
s. 104(4)	Delete “justices are” and insert instead — “ court is ”.
s. 107(1)	Delete “justices” in the 3 places it occurs and in each place insert instead — “ court ”. Delete “they” and insert instead — “ it ”.
s. 107(2)	Delete “clerk of petty sessions” and insert instead — “ registrar ”.
s. 109(1)	Delete “before justices”. Delete “the justices” and insert instead — “ the judicial officer ”.
s. 109(2)	Delete “justices by or before” and insert instead — “ judicial officer by ”.
s. 111	Delete “of any justice” and insert instead — “ of a magistrate, justice or registrar ”. Delete “for any justice” and insert instead — “ for that officer ”. Delete “the justice” in the 2 places it occurs and in each place insert instead — “ the officer ”. Delete “magistrate for the district in which he has taken the same” and insert instead — “ registrar of the relevant court of summary jurisdiction ”.
s. 112	Delete “justice” and insert instead — “ officer ”. Delete “counsel or solicitor” and insert instead — “ agent ”.
s. 113	Delete “ a judge or the justice” and insert instead — “ the court ”.

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s. 123	Delete “justices” and insert instead — “ court ”. Delete “their” and insert instead — “ a ”.
s. 124	Delete “justices” and insert instead — “ court of summary jurisdiction ”. Delete “they may think” and insert instead — “ it thinks ”.
s. 125	Delete “justices” in the 2 places it occurs and in each place insert instead — “ judicial officer ”.
s. 126	Delete “justices” in the 2 places it occurs and in each place insert instead — “ court of summary jurisdiction ”. Delete “whom” and insert instead — “ which ”. After “Attorney General” insert — “ , DPP ”. After “appointed” insert — “ or authorised ”. Before “justice” insert — “ magistrate or ”.
s. 127	Delete “justices” and insert instead — “ registrar ”. After “Attorney General,” insert — “ DPP, ”. After “appointed” insert — “ or authorised ”.
s. 128	After “Attorney General,” insert — “ DPP, ”. After “appointed” insert — “ or authorised ”. Delete “justices” and insert instead — “ registrar of the court of summary jurisdiction ”.

s. 129	<p>After “Attorney General” where it occurs first insert — “ , DPP, ”.</p> <p>After “appointed” insert — “ or authorised ”.</p> <p>Delete “in a district”.</p> <p>After “Attorney General” in the second place it occurs insert — “ or DPP ”.</p>
s. 130	<p>After “a court” insert — “ (the “superior court”) ”.</p> <p>Delete “justices or any other justices” and insert instead — “ court ”.</p> <p>Delete “such court” in the first place it occurs and insert instead — “ the superior court ”.</p> <p>Delete “them” in the first place where it occurs and insert instead — “ the committing court ”.</p> <p>Delete “the court” in the first 2 places it occurs and in each place insert instead — “ the superior court ”.</p> <p>Delete “same or any other justices, or such court,” and insert instead — “ committing court or the superior court ”.</p> <p>Delete “the justices or the court” and insert instead — “ it ”.</p> <p>Delete “of justices” and insert instead — “ of a court of summary jurisdiction ”.</p> <p>Delete “them” in the second place where it occurs and insert instead — “ it ”.</p>

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s. 134	<p>Delete “justices” and insert instead — “ court of summary jurisdiction ”.</p> <p>Delete “, his counsel, or solicitor, the justices” and insert instead — “ or his agent, the court ”.</p> <p>Delete “they think” in the 2 places it occurs and in each place insert instead — “ it thinks ”.</p> <p>Delete “they may” and insert instead — “ it may ”.</p>
s. 135(1)	<p>Delete “the justices may” and insert instead — “ the court of summary jurisdiction may ”.</p> <p>Delete “their warrant” in the 2 places it occurs and in each place insert instead — “ a warrant ”.</p> <p>Delete “ before justices” and insert instead — “ before the court ”.</p> <p>Delete “clerk of petty sessions” and insert instead — “ court ”.</p> <p>Delete “the justices shall” and insert instead — “ the court shall ”.</p>
s. 135(1a)	<p>Delete “clerk of petty sessions” and insert instead — “ court ”.</p> <p>Delete “by the clerk” and insert instead — “ by the court ”.</p> <p>Delete “solicitor” and insert instead — “ agent ”.</p> <p>Delete “to the clerk” and insert instead — “ to the court ”.</p> <p>Delete “the justices” and insert instead — “ the court ”.</p> <p>Delete “their warrant” and insert instead — “ a warrant ”.</p> <p>Delete “ before justices” and insert instead — “ before the court ”.</p>

s. 135(1b)	Delete “the solicitor of the defendant” in the 2 places it occurs and in each place insert instead — “ his agent ”.
s. 135(3)	Delete “justices” and insert instead — “ the court ”.
s. 136(1)	Delete “clerk of petty sessions in the place at” and insert instead — “ court of summary jurisdiction before ”.
s. 136(2)	Delete “the clerk of petty sessions” and insert instead — “ the court ”. Delete “that clerk of petty sessions” and insert instead — “ the registrar of the court ”. Delete “solicitor or counsel” and insert instead — “ agent ”. Delete “before the court of petty sessions” and insert instead — “ before the court ”. Delete “justices” and insert instead — “ court ”.
s. 136(3)	Delete “clerk of petty sessions referred to in subsection (2)” and insert instead — “ court ”. Delete “before the court of petty sessions” and insert instead — “ before the court ”. Delete “justices” and insert instead — “ court ”.
s. 136(4)	Delete “clerk of petty sessions” and insert instead — “ registrar ”. Delete “justices have” and insert instead — “ court has ”. Delete “registered”.

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s. 136(5)	Delete “The justices” and insert instead — “ The court ”. Delete “clerk of petty sessions” and insert instead — “ registrar ”. Delete “their warrant” and insert instead — “ a warrant ”. Delete “before justices” and insert instead — “ before the court ”.
s. 136(6)	Delete “petty sessions” and insert instead — “ summary jurisdiction ”.
s. 136B(1)	Delete “the justices proceed” and insert instead — “ a court of summary jurisdiction, other than the Children’s Court, proceeds ”.
s. 136B(2)	Delete “the justices make a determination such as is mentioned in subsection (1)” and insert instead — “ a court makes such a determination ”. Delete “to justices” and insert instead — “ to the court ”. Delete “application for leave to”. Delete “court or Judge hearing that application” and insert instead — “ Supreme Court ”. Delete “justices, court or Judge” and insert instead — “ court hearing the application under this subsection ”.
s. 137(1)	After “appear” insert — “ before a court of summary jurisdiction ”. Delete “counsel or solicitor” and insert instead — “ an agent ”. Delete “justices” and insert instead — “ court ”.
s. 137(2)	Delete “clerk of petty sessions” and insert instead — “ the court ”. Delete “justices” and insert instead — “ court ”.
s. 138	Delete “justices present at the hearing” and insert instead — “ court ”.

s. 138A	Delete “justices” and insert instead — “ court ”.
s. 139	Delete “justices” in the 2 places it occurs and in each place insert instead — “ court ”.
s. 140	Delete “counsel or solicitor, the justices then present” and insert instead — “ an agent, the court ”. Delete “justices may” and insert instead — “ court may ”.
s. 141	Delete “before justices” and insert instead — “ before a court of summary jurisdiction ”. Delete “, his counsel, or solicitor” in the 2 places it occurs and in each place insert instead — “ or his agent ”. Delete “the justices” and insert instead — “ the court ”.
s. 142	Delete “the justices dismiss” and insert instead — “ a court of summary jurisdiction dismisses ”. Delete “they may” and insert instead — “ it may ”. Delete “they think” and insert instead — “ it thinks ”.
s. 143(1)	Delete “the justices shall, if they find” and insert instead — “ a court of summary jurisdiction shall, if it finds ”. Delete “they found” and insert instead — “ it found ”. Delete “they so” and insert instead — “ it so ”.
s. 143(2)	Delete “justices find” and insert instead — “ the court finds ”.
s. 146(1)	Delete “justices” and insert instead — “ a court of summary jurisdiction ”.
s. 146(2)	Delete “justices shall record their” and insert instead — “ a court of summary jurisdiction shall record its ”.
s. 147	Delete “, or be removed by <i>certiorari</i> or otherwise into the Supreme Court,”.
s. 148	Repeal the section.

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s. 150	Delete “justices convict” and insert instead — “ a court of summary jurisdiction convicts ”. Delete “justices may” and insert instead — “ court may ”. After “Act 1995” insert — “ or under the <i>Young Offenders Act 1994</i> as the case requires ”.
s. 154A(1)	Delete “petty sessions” and insert instead — “ summary jurisdiction ”. Delete “justices” and insert instead — “ a court of summary jurisdiction ”.
s. 155(2)	Delete “justices make” and insert instead — “ a court of summary jurisdiction makes ”.
s. 155(4)	Delete “a clerk of petty sessions” and insert instead — “ a registrar of a court of summary jurisdiction ”.
s. 159(1)	Delete “justices make” and insert instead — “ a court of summary jurisdiction makes ”. Delete “or an order under Part VII, they” and insert instead — “ it ”. Delete “the justices” and insert instead — “ the court ”.
s. 159(2)	Delete “justices who” and insert instead — “ court that ”. Delete “, or another justice,”.
s. 186(1)	Delete “application for leave to”. Delete “justices” and insert instead — “ court of summary jurisdiction ”.
s. 186(2)	Delete “application may be made for leave to appeal” and insert instead — “ appeal may be made ”.
s. 187	Repeal the section.
s. 188	Repeal the section.
s. 189	Repeal the section.
s. 190	Repeal the section.

s. 191	Delete “Except where section 190 applies, the” and insert instead — “ The ”. Delete “justices” and insert instead — “ court of summary jurisdiction ”.
s. 193(1)	Delete “On granting leave to appeal, the Judge” and insert instead — “ At any time after an appeal is commenced, the Court ”. Delete “he” and insert instead — “ it ”. Delete “justices” and insert instead — “ court of summary jurisdiction ”.
s. 193(2)	Delete “Any Judge” and insert instead — “ The Court ”.
s. 193(3a)	Delete “leave to appeal is granted in respect of” and insert instead — “ an appeal is commenced against ”.
s. 194(1)	Delete “granting of leave to” and insert instead — “ commencement of an ”.
s. 194(2)	Delete “is received by the clerk of petty sessions that leave to appeal has been granted in respect of a decision” and insert instead — “ of an appeal against a decision is received by a lower court registrar ”.
s. 196(1)	Delete “justices” and insert instead — “ court of summary jurisdiction ”.
s. 196(2)	Delete “justices on” and insert instead — “ court of summary jurisdiction on ”. Delete “the justices as” and insert instead — “ that court as ”.
s. 200(1)	Delete “justices as” and insert instead — “ court of summary jurisdiction as ”. Delete “justices, and” and insert instead — “ court of summary jurisdiction, and ”.
s. 200(4)	Delete “section 27” and insert instead — “ section 223 ”.

Courts Legislation Amendment and Repeal Bill 2003**Part 6** Justices Act 1902 amended and transitional provisions**Division 1** Amendments**s. 50**

s. 200(6)	Delete “Justices or a magistrate” and insert instead — “ The court of summary jurisdiction ”.
s. 201(1)	Delete “any justices” and insert instead — “ a court of summary jurisdiction ”.
s. 202(1)	Delete “clerk of petty sessions” and insert instead — “ court of summary jurisdiction ”.
s. 202(2)	Delete “clerk of petty sessions” and insert instead — “ court of summary jurisdiction ”.
s. 203(3)	Delete “justices” and insert instead — “ court of summary jurisdiction ”.
s. 204(1)	Delete “clerk of petty sessions” and insert instead — “ court of summary jurisdiction ”.
s. 206B(1)	Delete “justices” and insert instead — “ a court of summary jurisdiction ”. Delete “for which leave is granted under section 187,” and insert instead — “ commenced under Division 1, ”. Delete “clerk of petty sessions” and insert instead — “ lower court registrar ”.
s. 206B(2)	Delete “is received by the clerk of petty sessions that leave to appeal has been granted in respect of any decision” and insert instead — “ of an appeal against a decision is received by a lower court registrar ”.
s. 206B(3)	Delete “an appeal is brought under section 189 or”.
s. 206B(4)	Delete “clerk of petty sessions” and insert instead — “ lower court registrar ”. Delete “appeal under section 189 or”.
s. 206B(5)	Delete “a justice, the clerk of petty sessions” and insert instead — “ a magistrate, the lower court registrar ”. Delete “to the clerk” in the 2 places where it occurs and in each place insert instead — “ to the lower court registrar ”.
s. 206B(6)	Delete “clerk of petty sessions” and insert instead — “ lower court registrar ”.

s. 207	Delete “any justices exercising a summary jurisdiction, unless such justices, or one of them,” and insert instead — “ a court of summary jurisdiction unless the court ”.
s. 208	Delete “of the justices” and insert instead — “ of the court of summary jurisdiction ”. Delete “before the justices” and insert instead — “ before that court ”.
s. 215	Delete “a solicitor” and insert instead — “ an agent ”. Delete “such solicitor” in the 3 places it occurs and in each place insert instead — “ such agent ”.
First Schedule	Repeal the Schedule.
Second Schedule	Repeal the Schedule.
Third Schedule	Repeal the Schedule.

51. Various headings deleted or replaced

(1) The following headings are deleted —

- (a) “*Complaints*” before section 42;
- (b) “*Variance and amendment*” before section 46;
- 5 (c) “*Complaints, how made*” before section 49;
- (d) “*Limitation*” before section 51;
- (e) “*Summons*” before section 52;
- (f) “*Service, endorsement, and proof of service*” before section 56;
- 10 (g) “*Warrants in the first instance*” before section 58;
- (h) “*Direction of warrants*” before section 60;
- (i) “*Form of warrant*” before section 61;
- (j) “*Counsel and solicitor*” before section 68;
- (k) “*Evidence*” before section 69;
- 15 (l) “*Witnesses in general*” before section 74;
- (m) “*Remand and adjournment*” before section 79;

- (n) “*Committal and recognisance*” before section 87;
- (o) “*Recognisances generally*” before section 92;
- (p) “*Execution of warrants of commitment*” before section 95;
- 5 (q) “*Regulations and forms*” before section 96;
- (r) “*Warrant of deliverance*” before section 123;
- (s) “*Witnesses where committal for trial*” before section 124;
- (t) “*Transmission of depositions, etc.*” before section 127;
- 10 (u) “*Recommittal*” before section 130;
- (v) “*Complainant’s default*” before section 134;
- (w) “*Defendant’s default*” before section 135;
- (x) “*Decisions given in default of appearance of any party may be set aside*” before section 136A;
- 15 (y) “*Hearing*” before section 137;
- (z) “*Practice*” before section 141;
- (aa) “*Dismissal*” before section 142;
- (bb) “*No certiorari*” before section 147;
- (cc) “*Party’s access to records etc.*” before section 148;
- 20 (dd) “*Costs*” before section 151;
- (ee) “*Enforcement of recognisances*” before section 154A;
- (ff) “*Enforcing orders to pay money*” before section 155;
- (gg) “*Enforcing other orders*” before section 159;
- (hh) “*Right of appeal by leave*” before section 184;
- 25 (ii) “*Determination of application for leave*” before section 187;
- (jj) “*Sentence pending disposal of appeal*” before section 193;
- (kk) “*Determination of appeal*” before section 196;

- (ll) “*Discontinuance and abandonment of appeal*” before section 204;
(mm) “*Habeas corpus*” before section 207;
(nn) “*Service of notices*” before section 215;
5 (oo) “*Costs*” before section 219.

- (2) The heading “*Definitions*” before section 183 is deleted and the following heading is inserted instead —

“
10 **Division 1 — Appeals from courts of summary jurisdiction**
”.

- (3) The heading “*Appeal to Full Court*” before section 206A is deleted and the following heading is inserted instead —

“
15 **Division 2 — Appeals from single Judges’ decisions on appeal**
”.

- (4) The heading “*General*” before section 206B is deleted and the following heading is inserted instead —

20 “
Division 3 — General
”.

Division 2 — Transitional provisions

52. Interpretation

25 In this Division —
“**commencement**” means the commencement of this Division.

53. Justices of the Peace

- (1) If immediately before commencement a person is a Justice of the Peace appointed under the *Justices Act 1902* section 6, then
30 on commencement the person is to be taken to have been

appointed as a Justice of the Peace under the *Justices of the Peace Act 2003* section 10 —

- 5 (a) for the whole State if he or she, immediately before commencement, was appointed for the whole State; or
- (b) for the part of the State for which he or she, immediately before commencement, was appointed,

as the case may be.

- 10 (2) If immediately before commencement a person is a Justice of the Peace by virtue of the *Justices Act 1902* section 9, then on commencement the person continues to be a Justice of the Peace until the person's term of office as the mayor of a city or town or as the president of a shire, as the case may be, ends under the *Local Government Act 1995* or until the person otherwise ceases to hold that office of mayor or president, whichever happens
- 15 first.

- (3) If immediately before commencement a person is a Justice of the Peace by virtue of the *Justices Act 1902* section 12(a), then on commencement the person ceases to be a Justice of the Peace.

- 20 (4) The purported exercise of a power of a Justice of the Peace by a person referred to in subsection (3) within 3 months after commencement is not invalid only because the person has ceased to be a Justice of the Peace, if the person acted in good faith when doing so.

54. Clerks of petty sessions

- 5 (1) If immediately before commencement a person holds office under the *Justices Act 1902* section 25A as a clerk of petty sessions, then on commencement the person is to be taken to have been appointed —
- (a) in the case of a person who immediately before commencement —
- 10 (i) is an employee of the department principally assisting the Minister with the administration of the *Justices Act 1902*; and
- (ii) does not hold office under the *Local Courts Act 1904* section 13 as a clerk, under the *Magistrates Court Act 2003* section 26(2) as a Deputy Registrar of the Magistrates Court;
- 15 (b) in the case of a person who immediately before commencement is a police officer — under the *Magistrates Court Act 2003* section 26(2) and (5) as a Deputy Registrar of the Magistrates Court; and
- 20 (c) in any other case — under the *Magistrates Court Act 2003* section 26(2) and (6) as a Registrar of the Magistrates Court.
- (2) A reference in a written law or book, document or writing to a clerk of petty sessions is, unless the contrary intention appears, to be construed as if it had been amended to be a reference to a registrar of the Magistrates Court.
- 25

55. Pending proceedings

- If immediately before commencement proceedings are pending before justices or a court of petty sessions, then on commencement the proceedings —
- 30 (a) are to be taken to be proceedings before the Magistrates Court; and

(b) shall be heard and determined by the Magistrates Court in accordance with —

(i) if immediately after commencement the proceedings are within the criminal jurisdiction of the court, the law governing the procedure for cases within that jurisdiction;

(ii) if immediately after commencement the proceedings are within the civil jurisdiction of the court, the law governing the procedure for cases within that jurisdiction.

56. Existing summonses and warrants

(1) If immediately before commencement a summons or warrant issued under the *Justices Act 1902* is in force, then on commencement the summons or warrant is to be taken to be a summons or warrant issued by the Magistrates Court under the *Criminal Procedure (Summary) Act 1902*.

(2) If immediately before commencement a summons or warrant is in force and requires a person to attend or to be brought before justices or a court of petty sessions, then on commencement the summons or warrant is to be taken to require the person to attend or to be brought before the Magistrates Court at the place specified in the summons or warrant.

57. References to *Justices Act 1902* to be read as references to *Criminal Procedure (Summary) Act 1902*

A reference in a written law or book, document or writing to the *Justices Act 1902* is, unless the contrary intention appears, to be construed as if it had been amended to be a reference to the *Criminal Procedure (Summary) Act 1902*.

58. References to ‘court of petty sessions’ to be read as references to the ‘Magistrates Court’

5 A reference in a written law or book, document or writing to a court of petty sessions is, unless the contrary intention appears, to be construed as if it had been amended to be a reference to the Magistrates Court.

**Part 7 — *Children's Court of Western Australia*
Act 1988 amended**

59. Act amended by this Part

5 The amendments in this Part are to the *Children's Court of Western Australia Act 1988**.

[* Reprinted as at 25 August 2000.

For subsequent amendments see *Western Australian Legislation Information Tables for 2002, Table 1, p. 54.*]

60. Section 3 amended

10 Section 3 is amended as follows:

- (a) by deleting the definition of “clerk”;
- (b) by deleting the full stop after the definition of “President” and inserting instead a semicolon;
- (c) by inserting after the definition of “President” —

15 “
“**registrar**”, in relation to the Court sitting at a place,
means the person appointed under this Act to be
the registrar of the Court at that place.

”.

20 **61. Section 4 replaced**

Section 4 is repealed and the following section is inserted
instead —

“

4. Application of certain Acts

25 (1) The following provisions of the *Magistrates Court Act 2003* apply to and in relation to the Court and its officers in the same way as they apply to and in relation to the Magistrates Court and its officers —

- (a) Part 3 Division 2;
- 30 (b) sections 35 and 36.

- (2) The *Criminal Procedure (Summary) Act 1902* applies to and in respect of proceedings before the Court as a court of summary jurisdiction unless this Act provides otherwise.

5

”.

62. Section 6A inserted

After section 6 the following section is inserted —

“

6A. Protection of judicial officers

10

- (1) A Judge or a magistrate has, in the performance of his or her functions as a Judge or a magistrate, the same protection and immunity as a Judge of the Supreme Court has in the performance of his or her duties as a Judge.

15

- (2) A JP has, in the performance of his or her functions when constituting the Court, the same protection and immunity as a Judge of the Supreme Court has in the performance of his or her duties as a Judge.

”.

20 **63. Section 10 replaced**

Section 10 is repealed and the following section is inserted instead —

“

10. Magistrates, appointment of

25

- (1) The Governor may appoint a person who is qualified to be appointed as a magistrate of the Magistrates Court as a magistrate of the Children's Court.

30

- (2) The appointment of a magistrate of the Children's Court is to be by a commission under the Public Seal of the State.

s. 64

- (3) The Governor may appoint as many magistrates as are needed to deal with the workload of the Court.
- (4) A magistrate of the Magistrates Court may be appointed to be contemporaneously a magistrate of the Children's Court.
- (5) Section 6(3) and (4) of, and clauses 5, 9 (except clause 9(8)), 10 (except clause 10(8)) and 11 to 17 of Schedule 1 to, the *Magistrates Court Act 2003*, with any necessary changes, apply as if —
- (a) each reference in those provisions to “the Court” were a reference to “the Children's Court”;
- (b) each reference in those provisions to “magistrate” were a reference to “magistrate of the Children's Court”; and
- (c) the reference in section 6(4) of that Act to section 37 of that Act were a reference to section 6A of this Act.
- ”.
- 64. Section 11 repealed**
- Section 11 is repealed.
- 65. Section 12 amended**
- Section 12(1a)(b) is deleted and the following paragraph is inserted instead —
- “
- (b) a magistrate who has taken the oath or affirmation under clause 4 of Schedule 1 to the *Magistrates Court Act 2003*.
- ”.

66. Section 13 replaced

Section 13 is repealed and the following section is inserted instead —

“

5

13. Where and when the Court operates

- (1) The Court is to have registries at such places, including places outside the State, as the Minister, by written notice to the President, decides from time to time.
- 10 (2) At places where it has a registry, the Court is to sit at such times as the President decides from time to time.
- (3) Public notice of decisions made under subsections (1) and (2) is to be given in such manner as the President decides.
- 15 (4) Despite subsection (2), the Court may exercise its jurisdiction at any time and place, but must not do so at a place outside the State without the approval of the President.
- 20 (5) The President may direct a Judge, magistrate or JP to sit at any place where the Court has a registry and may direct concurrent sittings of the Court at the same place for the prompt disposal of the Court's functions.
- 25 (6) This section does not permit the Court, when constituted by an acting magistrate of the Court appointed under clause 10 of Schedule 1 to the *Magistrates Court Act 2003* (as applied by section 10(5)), to exercise its jurisdiction at a place outside the geographical area in which the acting magistrate may perform the functions of a magistrate.

”.

s. 67

67. Section 16 replaced

Section 16 is repealed and the following section is inserted instead —

16. Appointment of registrars, etc.

- 5 (1) The Minister shall appoint, for each registry of the Court, a registrar and such deputy registrars and other officers as may be needed to deal with the workload of the Court.
- 10 (2) A person appointed to be a registrar of the Magistrates Court is to be taken to also have been appointed as a registrar of the Children's Court and vice versa.
- 15 (3) A person appointed to be a deputy registrar of the Magistrates Court is to be taken to also have been appointed as a deputy registrar of the Children's Court and vice versa.

”.

68. Section 19 amended

- (1) Section 19(1) is repealed and the following subsections are inserted instead —

- 20 “
- (1) The Court has exclusive jurisdiction to hear and determine a complaint of an offence alleged to have been committed by a child.
- 25 (1a) Subsection (1) is subject to this Part and these enactments —
- (a) the *Young Offenders Act 1994* Part 5 Division 2;
- (b) the *Sentencing Act 1995* sections 78, 128 and 132.

”.

- (2) After section 19(2a) the following subsection is inserted —

“

- (3) In exercising the jurisdiction conferred by this section, the Court when constituted so as not to consist of or include a Judge is a court of summary jurisdiction, subject to section 19B(4)(d).

”.

69. Section 19B amended

- (1) Section 19B(4)(a)(i) and “and” after it are deleted and the following is inserted instead —

“

- (i) to serve or cause to be served on the child (or the child's solicitor or counsel) and to lodge with the Court, within such time as is specified, any document that is required to be disclosed under section 611B of *The Criminal Code*; and

”.

- (2) Section 19B(4)(c) is amended by inserting after “the charge” the following —

“

, and may exercise any power in Part VIII of *The Criminal Code*,

”.

- (3) Section 19B(4)(d) is amended by inserting after “indictment” the following —

“

, notwithstanding that the child may have been convicted by the Court when constituted other than by a Judge

”.

s. 70

70. Section 32 replaced

Section 32 is repealed and the following section is inserted instead —

“

5 **32. Representation in court**

Section 68 of the *Criminal Procedure (Summary) Act 1902*, with any necessary changes, applies in respect of the Court when —

- 10 (a) it is not a court of summary jurisdiction; or
 (b) it is exercising jurisdiction under section 20.

”.

71. Section 51A inserted

After section 51 the following section is inserted —

“

15 **51A. Court's records, access to**

- (1) In this section —

“**court record**”, in relation to proceedings before the Court, means —

- 20 (a) any formal document that has been filed with
 or issued by the Court in accordance with
 law and that forms part of the Court's
 records;
 (b) the transcript of —
25 (i) evidence taken by the Court in the
 proceedings;
 (ii) any judgment (including the reasons for
 it) given by the Court in the
 proceedings;
30 (c) any document received into evidence in the
 proceedings;

- (d) any written judgment (including the reasons for it) given, or written orders made, by the Court in the proceedings;

“reasons”, in relation to a judgment, includes sentencing remarks.

5

- (2) This section is subject to any other written law that relates to the possession or publication of documents and other records or to the possession of any thing.

10

- (3) In respect of criminal proceedings before the Court, each of the following people is entitled, on request, to inspect or obtain a copy of any document that is part of the court record and any document received by the Court in sentencing proceedings —

15

- (a) a party to the proceedings;
(b) the Commissioner of Police;
(c) the Director of Public Prosecutions appointed under the *Director of Public Prosecutions Act 1991*;

20

- (d) the Corruption and Crime Commission established under the *Corruption and Crime Commission Act 2003*;

25

- (e) the Chief Assessor appointed under the *Criminal Injuries Compensation Act 2003*;
(f) the Parliamentary Commissioner for Administrative Investigations appointed under the *Parliamentary Commissioner Act 1971*;

30

- (g) the chief executive officer of the department of the Public Service principally assisting in the administration of the *Young Offenders Act 1994*;
(h) the chief executive officer of the department of the Public Service principally assisting in the

s. 71

administration of the licensing provisions of the
Road Traffic Act 1974;

(i) a person authorised by one of the above
persons;

5 (j) a person prescribed by the regulations.

(4) In respect of proceedings before the Court that are not
criminal proceedings a party to the proceedings may,
on request, inspect or obtain a copy of any document
that is part of the court record.

10 (5) With the leave of the Court a person who is not
referred to in subsection (3) or (4) may inspect or
obtain a copy of any document that is part of the court
record.

15 (6) With the leave of the Court any person may inspect or
obtain a copy of any thing (other than a document)
received by the Court in proceedings, on which
information is recorded or stored, such as a
photograph, tape or disc.

20 (7) With the leave of the Court a person may listen to or
view a recording of proceedings before the Court.

(8) When giving leave under this section the Court may
impose any conditions on the person's access to
information, including a condition prohibiting or
limiting the publication or use of the information.

25 (9) A decision by the Court under this section is
administrative and is final and not subject to any form
of review.

30 (10) The regulations may prescribe fees to be paid for
inspecting, obtaining copies of or listening to
information under this section.

”.

72. Section 53 replaced

Section 53 is repealed and the following section is inserted instead —

“

5

53. Fees, regulations may prescribe

- (1) Without limiting section 52, regulations may provide for or prescribe the fees to be paid in respect of or in connection with any case in the Court's jurisdiction.
- (2) Without limiting subsection (1), regulations may provide for or prescribe the fees to be paid —
- 10 (a) when commencing a case in the Court;
- (b) when entering a case for trial or at any other stage of proceedings in a case;
- (c) when lodging a document with the Court;
- 15 (d) for the issue of any document by the Court;
- (e) for the service of any document;
- (f) in respect of the conduct of the business of any office of or connected with the Court; and
- (g) for the carrying out of any order or warrant of the Court.
- 20 (3) Without limiting subsection (1), regulations may prescribe the fees and expenses to be paid to mediators and experts.
- (4) All fees received by the Court are to be credited to the Consolidated Fund.
- 25

”.

73. Other amendments

The Act is amended as set out in the Table to this section.

s. 73

Table

s. 3	Delete the definition of "member".
s. 6	Delete "members" in the 4 places it occurs and in each place insert instead — " JPs ".
s. 6(2)(b)	Delete "a member" and insert instead — " one JP ".
Part 2 Division 2	In the heading to Division 2 delete ", magistrates and members" and insert instead — " and magistrates ".
s. 7(1)	Delete "warrant" and insert instead — " commission ".
s. 12(2)	Repeal the subsection.
s. 14 s. 15 s. 21(4) s. 21(6) s. 28(3)(b) s. 37(3)	In each provision delete "members" and insert instead — " JPs ".
s. 17(1) s. 17(2) s. 18(1) s. 18(2) s. 29(1) s. 30(4)	In each provision delete "clerk" in each place it occurs and in each place insert instead — " registrar ".
s. 18(2)	Delete ", a member or a justice of the peace." and insert instead — " or a JP. ".
s. 19(4)	Delete "justices" and insert instead — " a court ".
s. 19B(1)(b) s. 19B(3) s. 19C(1) s. 43(3a)	In each provision delete " <i>Justices Act 1902</i> " in each place it occurs and in each place insert instead — " <i>Criminal Procedure (Summary) Act 1902</i> ".
s. 19B(3)(a)	Delete "on justices" and insert instead — " by that Act for those purposes ".

s. 19C(1)(c)	Delete "on justices" and insert instead — " by that Act for those purposes ".
s. 19D	Delete "a court of petty sessions" in the 2 places it occurs and in each place insert instead — " the Magistrates Court ".
	Delete "courts of petty sessions" and insert instead — " the Magistrates Court ".
s. 29(1)	Delete "member" and insert instead — " JP ".
	Delete "justices" and insert instead — " the Magistrates Court ".
s. 29(3)	Delete ", magistrate or member of the Court" and insert instead — " or magistrate, or a JP constituting the Court ".
s. 30(1) s. 30(2)(c)	In each provision delete "petty sessions" and insert instead — " competent jurisdiction ".
s. 37(2)	Repeal the subsection and insert instead — " <div style="margin-left: 40px;"> (2) Subject to this Act and any other Act that confers jurisdiction on the Court, the practice and procedure of the Court shall be governed by Rules of Court, and until provision is made by Rules of Court or where no special provision is contained in the Rules of Court — <div style="margin-left: 20px;"> (a) the practice and procedure of the Court when it is exercising the jurisdiction conferred by section 19(1) shall be that provided by the <i>Criminal Procedure (Summary) Act 1902</i>; and (b) the practice and procedure of the Court when it is exercising the jurisdiction conferred by section 20 shall be that provided by the <i>Magistrates Court (Civil Proceedings) Act 2003</i> and the rules of court made under that Act by the Magistrates Court. </div> </div> ".

s. 73

s. 41(1)	Repeal the subsection and insert instead — “ (1) Subject to this Part, a decision of the Court when constituted so as not to consist of or include a Judge may be the subject of an appeal made in accordance with Part VIII of the <i>Criminal Procedure (Summary) Act 1902</i> . ”.
s. 42(1)	Delete “an application for leave to appeal may be made under Part VIII of the <i>Justices Act 1902</i> by —” and insert instead — “ the finding, order or decision may be the subject of an appeal made in accordance with Part VIII of the <i>Criminal Procedure (Summary) Act 1902</i> , as if it were a decision by a court of summary jurisdiction, by — ”. Delete the comma after paragraph (dd) and insert instead a full stop. Delete the passage beginning “and that Part” and ending “of that Part.”.
s. 42(2)	Delete “applied or is entitled to apply under subsection (1) for leave to appeal,” and insert instead — “ appealed, or is entitled to appeal, under subsection (1), ”.
s. 42A	Repeal the section.

Part 8 — Coroners Act 1996 amended

74. Act amended by this Part

The amendments in this Part are to the *Coroners Act 1996**.

[* *Reprinted as at 3 August 2001.*

5 *For subsequent amendments see Western Australian
Legislation Information Tables for 2002, Table 1, p. 81 and
Acts Nos. 15 and 28 of 2003.]*

75. Section 12 replaced and transitional provision

10 (1) Section 12 is repealed and the following section is inserted
instead —

“

12. Coroner’s registrars

- 15 (1) Coroner’s registrars are to be appointed under Part 3 of
the *Public Sector Management Act 1994*.
- (2) A registrar of the Magistrates Court may act as a
coroner’s registrar if an investigation is held at a court
house where the Magistrates Court sits.

”.

20 (2) If immediately before the commencement of this section a
person holds office as a Coroner’s clerk, then on the
commencement the person is to be taken to have been appointed
as a Coroner’s registrar.

76. Other amendments

The Act is amended as set out in the Table to this section.

s. 76

Table

s. 3	Delete the definition of “coroner’s clerk” and insert instead — “ “coroner’s registrar” means a person referred to in section 12; ”.
s. 6(3)	Delete “Chief Stipendiary Magistrate appointed under the <i>Stipendiary Magistrates Act 1957</i> ” and insert instead — “ Chief Magistrate of the Magistrates Court ”.
s. 10 s. 13 s. 15 s. 26(1) s. 45(2)	In each provision delete “clerk” in each place it occurs and in each place insert instead — “ registrar ”.
Part 2 Division 3	In the heading to Division 3 delete “clerks” and insert instead — “ registrars ”.
s. 21(1)	Delete “Subject to section 10 of the <i>Stipendiary Magistrates Act 1957</i> ,” and insert instead — “ With the prior approval of the Chief Magistrate of the Magistrates Court, ”.
s. 46(4)	After “the person” insert — “ and bring him or her before a coroner ”.
s. 46(5)	Repeal the subsection and insert instead — “ (5) If under a warrant issued under subsection (4) a person is brought before a coroner, the coroner may order that the person be kept in custody until it is practicable to take or receive evidence from the person, but in any event for not longer than 7 days. ”.

Part 9 — *The Criminal Code* amended

77. The Criminal Code amended by this Part

The amendments in this Part are to *The Criminal Code**.

[* *Reprint 10 as at 7 February 2003 (see the Schedule to the Criminal Code Act 1913 appearing as Appendix B to the Criminal Code Compilation Act 1913).*

For subsequent amendments see Acts Nos. 25, 28 and 30 of 2003.]

78. Section 607B inserted

After section 607A the following section is inserted in Chapter LXIII —

“

607B. Summary convictions of indictable charges

The provisions of this Chapter that allow persons charged on indictment to be convicted of offences other than those with which they are charged apply to persons charged in courts of summary jurisdiction with indictable offences that may be heard and determined summarily.

”.

79. Section 714A inserted

After section 714 the following section is inserted —

“

714A. Orders as to seized property

(1) If a police officer is in possession (whether by virtue of a search warrant or otherwise) of property that is alleged to have been stolen or obtained by fraud and —

(a) any proceedings in relation to an offence allegedly committed in respect of the property have been concluded; or

s. 80

- (b) no offender can be found,
the Magistrates Court may order that the property —
- (c) be delivered to the person who appears to be
the rightful owner; or
- 5 (d) if the rightful owner cannot be identified or
located, be forfeited to the State.
- (2) Such an order does not prevent a person from
recovering the property from the person to whom it is
delivered or from the State, as the case may be, by
10 action commenced within 6 months after the making of
the order.

”.

80. Section 746B inserted

After section 746A the following section is inserted —

15 “

746B. Enforcing orders to pay money, other than fines etc.

- (1) In this section —
- “**payment order**” means an order requiring a person to
pay money, other than —
- 20 (a) a fine, as defined in section 28 of the *Fines,
Penalties and Infringement Notices
Enforcement Act 1994*;
- (b) compensation to be paid under a
compensation order made under Part 16 of
25 the *Sentencing Act 1995*; or
- (c) a sum that is enforceable under Part 5 of the
*Fines, Penalties and Infringement Notices
Enforcement Act 1994*.
- (2) This section applies if the Supreme Court or the
30 District Court makes a payment order.

- 5 (3) If the money is not paid within 28 days after the date of the payment order, the person to whom the money is to be paid may enforce the order by lodging a certified copy of it, and an affidavit stating to what extent it has not been complied with, with a court of competent jurisdiction.
- (4) When lodged, the order is to be taken to be a judgment of the court and may be enforced accordingly.
- 10 (5) This section does not prevent the recovery of the money by means expressly provided by a written law.
- ”.

81. Other amendments

The Criminal Code is amended as set out in the Table to this section.

15

Table

s. 1(1)	<p>After the definition of the term “conveyance”, insert the following definition —</p> <p>“</p> <p style="padding-left: 40px;">The term “court of summary jurisdiction” means the Children’s Court when constituted so as not to consist of or include a judge of that court, the Magistrates Court, or any other court or any person that another written law says is a court of summary jurisdiction;</p> <p style="text-align: right;">”.</p> <p>Delete the definition of the term “indictment” and insert instead —</p> <p>“</p> <p style="padding-left: 40px;">The term “indictment” means a written charge of an indictable offence presented to the Supreme Court or District Court in order that the accused person be tried by that court;</p> <p style="text-align: right;">”.</p>
---------	---

s. 81

	<p>Delete the definition of the term “summarily” and insert instead —</p> <p>“</p> <p style="padding-left: 40px;">The term “summarily” has the meaning given by subsection (5);</p> <p style="text-align: right;">”.</p> <p>Delete the definition of the term “summary conviction” and insert instead —</p> <p>“</p> <p style="padding-left: 40px;">The term “summary conviction” means conviction otherwise than on indictment;</p> <p style="text-align: right;">”.</p>
After s. 1(4)	<p>Insert the following subsections —</p> <p>“</p> <p style="padding-left: 40px;">(5) In this Code, unless the context otherwise indicates, a reference to a charge being dealt with summarily is a reference to the charge being dealt with otherwise than on an indictment.</p> <p style="padding-left: 40px;">(6) Nothing in this Code affects the operation of the <i>Children’s Court of Western Australia Act 1988</i> and in particular the jurisdiction of the Children’s Court to deal with indictable offences.</p> <p style="text-align: right;">”.</p>
<p>s. 3(4)</p> <p>s. 5(5)(b)</p> <p>s. 133A</p> <p>s. 617A</p> <p>s. 618(3)</p> <p>s. 618(4)</p> <p>s. 618(5)</p> <p>s. 635B(1)</p> <p>s. 636A(1)</p> <p>s. 729(3)(a)</p>	<p>In each provision delete “<i>Justices Act 1902</i>” in each place it occurs and in each place insert instead —</p> <p>“ <i>Criminal Procedure (Summary) Act 1902</i> ”.</p>

s. 3(5)	Repeal the subsection and insert instead — “ (5) If a person is convicted by a court of summary jurisdiction of an indictable offence, the conviction is to be regarded as being a conviction of a simple offence only, unless the person is convicted of the offence by the Children’s Court under section 19B(4) of the <i>Children’s Court of Western Australia Act 1988</i> or another written law provides otherwise. ”.
s. 5(1) s. 369 s. 593 s. 618(1) s. 618(3) s. 618(4)	In each provision delete “petty sessions” in each place it occurs and in each place insert instead — “ summary jurisdiction ”.
s. 5(11)	Delete “, or if there is no magistrate and the defendant consents, by 2 justices”.
s. 368	Delete “justices” and insert instead — “ a court of summary jurisdiction ”.
s. 433	Delete “petty sessions before whom” and insert instead — “ summary jurisdiction before which ”.
s. 540	In the first paragraph, after “proceedings” insert — “ before a court ”. In the proviso, delete “or justices” in the 4 places it occurs.
s. 541	Delete “or justices having cognizance of” and insert instead — “ dealing with ”.
s. 656	After “ <i>Sentencing Act 1995</i> ” insert — “ or under the <i>Young Offenders Act 1994</i> , as the case requires ”.

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The Criminal Code amended

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s. 715	Delete “justice or justices” and insert instead — “ court of summary jurisdiction ”. Delete “before 2 justices in a summary way.” and insert instead — “ in a court of competent jurisdiction. ”.
s. 731	Repeal the section.
s. 732	Repeal the section.
s. 740	Delete “or before any justice”. Delete “or before the justice”.
s. 742	Repeal the section.
s. 743	Repeal the section.
s. 747	Delete the first paragraph and insert instead — “ The Judges of the Supreme Court, or a majority of them, may make general rules prescribing forms to be used in courts trying persons on indictment. ”.

Part 10 — *District Court of Western Australia Act 1969*
amended

82. Act amended by this Part

5

[* Reprinted as at 19 January 2001.

For subsequent amendments see Western Australian Legislation Information Tables for 2002, Table 1, p. 108 and Act No. 28 of 2003.

10 **83. Jurisdiction of the Court increased**

- (1) Section 6 is amended by inserting in the appropriate alphabetical position the following definition —

“

15

”

- (2) Section 50(1) is amended as follows:

- (a) by deleting “\$250 000” in each place it occurs and in each place inserting instead —

20

“ the jurisdictional limit ”;

- (b) by deleting “\$125 000” in each place it occurs and in each place inserting instead —

“ one half of the jurisdictional limit ”;

- (c) in paragraph (d) by deleting “the sum of”.

- 25 (3) Section 51(1) is amended by deleting “\$250 000” in each place
it occurs and in each place inserting instead —

“ the jurisdictional limit ”.

s. 84

- (4) Section 60 is amended by deleting “\$250 000” in each place it occurs and in each place inserting instead —

“ the jurisdictional limit ”.

84. Section 74 replaced

- 5 Section 74 is repealed and the following section is inserted instead —

“

74. Court may transfer case to Magistrates Court

- (1) If an action or matter in the Court —
- 10 (a) is within the Magistrates Court’s jurisdiction;
- (b) becomes within the Magistrates Court’s jurisdiction because the claim in the action or matter is reduced by a payment into court, an admitted set-off, a judgment on part of the
- 15 claim, or otherwise; or
- (c) becomes within the Magistrates Court’s jurisdiction because its jurisdiction is increased,
- the Court may order that the action or matter be transferred to the Magistrates Court.
- 20 (2) An order under subsection (1) may be made on the application of a party to the action or matter or by the Court on its own initiative.
- (3) If the Court makes an order under subsection (1) it may also make any other necessary orders including orders
- 25 as to —
- (a) the registry of the Magistrates Court in which the action or matter is to be conducted;
- (b) the payment of fees in the Magistrates Court; and
- 30 (c) the costs in the action or matter that relate to proceedings in the Court.

(4) If the Court makes an order under subsection (1) the Principal Registrar is to send the Court's file to the registry of the Magistrates Court in which the action or matter is to be conducted.

5 (5) If an action or matter is transferred to the Magistrates Court under an order made under subsection (1) that court is to deal with the action or matter as if it had been commenced in that court.

”.

10 **85. Section 89A replaced**

Section 89A is repealed and the following section is inserted instead —

“

89A. Fees, regulations may prescribe

15 (1) The Governor may make regulations providing for or prescribing the fees to be paid —

- 20 (a) when commencing a cause or matter;
- (b) when entering a cause or matter for trial or at any other stage of proceedings in a cause or matter;
- (c) when lodging a document with the Court;
- (d) for the issue of any document by the Court;
- (e) for the service of any document;
- 25 (f) in respect of the conduct of the business of any office of or connected with the Court; and
- (g) for the carrying out of any order or warrant of the Court.

30 (2) Without limiting subsection (1), regulations may prescribe the fees and expenses to be paid to mediators and experts.

s. 86

- (3) If a question arises as to the fee payable or applicable in a particular case, the question is to be decided by the Principal Registrar.
- (4) A person affected by a decision of the Principal Registrar made under subsection (3) may have it reviewed by a District Court Judge in a summary way.
- (5) All fees received by the Court are to be credited to the Consolidated Fund.

”.

86. Other amendments

The Act is amended as set out in the Table to this section.

Table

s. 5(2)	Delete “ <i>Justices Act 1902</i> ” and insert instead — “ <i>Criminal Procedure (Summary) Act 1902</i> ”. Delete “sections 39 and 115 and”.
s. 6	Delete the definition of “Local Court”. Delete the definition of “bailiff”. Insert, in the appropriate alphabetical position — “ “ Sheriff ” means the Sheriff of Western Australia and any deputy sheriff appointed by the Sheriff of Western Australia; ”.
s. 24(1)	Delete “stipendiary magistrate appointed under or deemed to have been appointed under the <i>Stipendiary Magistrates Act 1957</i> ,” and insert instead — “ magistrate ”.
Part II Division 5	Delete the heading to Division 5 and insert instead — “ Division 5 — Registrars ”.

s. 28 s. 29 s. 30 s. 31 s. 32 s. 33 s. 34 s. 35 s. 38	Repeal the sections.
s. 53(1)	Delete “, bailiff”.
s. 56 s. 62	Repeal the sections.
s. 63(1)	In paragraph (a), delete “the bailiff” and insert instead — “ the Sheriff ”. Delete “a bailiff,” and insert instead — “ the Sheriff, a ”.
s. 73	Repeal the section.
s. 75	Repeal the section.
s. 86A	Repeal the section.
s. 88(2)(e)	Delete the paragraph.

Part 11 — *Evidence Act 1906* amended

87. Act amended by this Part

The amendments in this Part are to the *Evidence Act 1906**.

[* *Reprint 12 as at 10 October 2003.*]

5 **88. Section 25A inserted**

After section 25 the following section is inserted —

“

25A. Cross-examination by accused in person

- 10 (1) In any criminal proceeding where an accused person who is not represented by counsel wishes to cross-examine a witness, the court, having regard to the nature of the charge, the wishes of the witness, and the availability of any necessary facilities or equipment, may —
- 15 (a) order that during the cross-examination the accused person and the witness are to be in separate rooms and that either —
- 20 (i) the witness is to be in a room outside the courtroom that is connected to the courtroom by a video link as defined in section 120; or
- 25 (ii) the accused person is to be held in a room outside the courtroom that is connected to the courtroom by a video link as defined in section 120;

- 5 (b) if it is not possible to make an order under paragraph (a), an order that during the cross-examination the accused person and the witness are to be separated by a screen, one-way glass, or other device, that —
- (i) prevents the witness from seeing the accused person; and
- (ii) allows the accused person, the judge and any jury to see the witness;
- 10 (c) whether or not an order is made under paragraph (a) or (b), make an order that forbids the accused person from putting a question to the witness directly and requires the question, having been first stated by the accused person
- 15 to the judge or a person approved by the judge, to be repeated accurately to the witness by the judge or approved person.
- (2) An order made under subsection (1)(a)(ii) may be made despite section 635 of *The Criminal Code*.
- 20 (3) An order made under subsection (1) may be varied or revoked at any time.
- (4) If an order is made under subsection (1) in proceedings before a jury, the judge is to instruct the jury that the procedure used for the cross-examination is a routine practice of the court and that they should not draw any
- 25 inference as to the accused person's guilt from the use of the procedure.
- (5) This section is in addition to and does not limit the operation of sections 106A to 106T, and does not
- 30 prevent orders from being made under both subsection (1) and one or more of those sections.

”.

s. 89

89. Section 96 replaced

Section 96 is repealed and the following section is inserted instead —

“

5 **96. Supreme Court Judge’s powers may be exercised by other judicial officers**

The powers of a Judge of the Supreme Court under this Act in regard to banker’s books may be exercised in any legal proceeding presided over by —

- 10 (a) a Judge of the District Court of Western Australia;
- (b) a Judge of the Family Court of Western Australia;
- 15 (c) a person exercising the jurisdiction of the Magistrates Court;
- (d) a person exercising the jurisdiction of the Children’s Court of Western Australia.

”.

90. Other amendments

20 The Act is amended as set out in the Table to this section.

Table

s. 3	<p>In the definition of “court”, delete “a Local Court” and insert instead —</p> <p>“ the Magistrates Court ”.</p> <p>In the definition of “judge”, delete “a stipendiary magistrate,” and insert instead —</p> <p>“ a magistrate of the Magistrates Court, ”.</p> <p>In the definition of “judge”, delete “and any member or members of the Children’s Court of Western Australia”.</p>
------	--

s. 11(3)	Repeal the subsection and insert instead — “ (3) In subsections (1) and (2), “ judge ” does not include a justice of the peace when constituting the Magistrates Court or the Children’s Court, whether sitting alone or with another justice of the peace. ”.
s. 12(5)	Repeal the subsection and insert instead — “ (5) In subsections (1) and (4), “ judge ” does not include a justice of the peace when constituting the Magistrates Court or the Children’s Court, whether sitting alone or with another justice of the peace. ”.
s. 36C(3)(a) s. 106H(2b) s. 107(1) s. 108(2)	In each provision delete “ <i>Justices Act 1902</i> ” and insert instead — “ <i>Criminal Procedure (Summary) Act 1902</i> ”.
s. 56(b)	After “stipendiary” insert — “ or other ”.
s. 85	Delete “any stipendiary magistrate, the magistrate or any 2 or more justices of the peace exercising the power of the court under the <i>Local Courts Act 1904</i> ,” and insert instead — “ any magistrate of the Magistrates Court, ”.
s. 88	Delete “shall forfeit and pay a sum not exceeding \$200, to be recoverable summarily before any justice of the peace in petty sessions.” and insert instead — “ commits an offence. Penalty: \$200. ”.
s. 107(1)(c)	Delete “justices” and insert instead — “ judicial officer ”.
s. 107(2)(a)	Delete “justices” and insert instead — “ judicial officer ”.

s. 90

s. 108(2)	Before “justice” in the 5 places it occurs, insert — “ magistrate or ”. Delete “stipendiary magistrate for the district in which he has taken the same,” and insert instead — “ the registrar of the relevant court of summary jurisdiction, ”.
s. 108(3)(c)	Before “justice” insert — “ magistrate or ”.
s. 119(1)	Delete the semicolon after the definition of “public official” and insert instead a full stop. Delete the definition of “Summary Court”.
s. 119(2)(a)	In subparagraph (ii) delete “Summary Court” and insert instead — “ court of summary jurisdiction ”.

Part 12 — *Family Court Act 1997* amended

91. Act amended by this Part

The amendments in this Part are to the *Family Court Act 1997**.

[* *Reprint 1 as at 15 August 2003.*]

5 **92. Section 5 amended**

Section 5 is amended by inserting in the appropriate alphabetical position the following definition —

“

10 **“Family Law Magistrate”** means a person who is
both a magistrate appointed under the *Magistrates
Court Act 2003* and either the Principal Registrar
or a Registrar of the Family Court of Western
Australia;

”.

15 **93. Section 26 amended**

- (1) Section 26(1) is amended by inserting after “magistrate” the following —

“ under the *Magistrates Court Act 2003* ”.

- (2) After section 26(2) the following subsections are inserted —

20 “

- (3) If the Principal Registrar and any one or more Registrars hold office as magistrates, the Principal Registrar is the senior of them.

- 25 (4) This Act does not prevent a Family Law Magistrate from constituting the Magistrates Court at a place in or outside the metropolitan region.

”.

s. 94

94. Section 43 amended

Section 43(1)(b) is deleted and the following paragraph is inserted instead —

“

5

(b) if —

10

(i) Part 5A proceedings in relation to property of a total value exceeding \$300 000, or such other amount, if any, as is prescribed in the regulations, are instituted in, or transferred to, the Magistrates Court (“**the court**”);

15

(ii) the court is constituted by a Family Law Magistrate; and

(iii) the respondent, in answer to the application by which the proceedings are instituted, seeks an order different from that sought in the application.

”.

95. Section 43A amended

20

Section 43A(1) is repealed and the following subsections are inserted instead —

“

(1) This section applies if —

25

(a) proceedings in relation to property of a total value exceeding \$20 000, or such other amount, if any, as is prescribed in the regulations, are instituted in the Magistrates Court (“**the court**”);

30

(b) the court is not constituted by a Family Law Magistrate; and

(c) the respondent, in answer to the application by which the proceedings are instituted, seeks an

order different from that sought in the application.

- 5 (1a) The court must, before going on to hear and determine the proceedings, inform the parties that, unless each of them consents to the court hearing and determining the proceedings, the court is required to transfer the proceedings to the Court.
- 10 (1b) If the parties do not consent to the court hearing and determining the proceedings, the court must transfer the proceedings to the Court.

”.

96. Other amendments

The Act is amended as set out in the Table to this section.

Table

s. 8(b)	Delete the paragraph and insert instead — “ (b) the Magistrates Court constituted so as to be able, under section 39, to exercise the Court’s non-federal jurisdictions. ”.
s. 29(1)(a)	Delete subparagraph (ii) and insert instead — “ (ii) a court of summary jurisdiction constituted by a Family Law Magistrate; ”.
s. 38	Delete “, including the Principal Registrar or a Registrar who is also a magistrate,” and insert instead — “ or a Family Law Magistrate ”.

s. 96

s. 39	Delete paragraphs (a) and (b) and insert instead — “ (a) the Magistrates Court, constituted by a magistrate, sitting at a place outside the metropolitan region; and (b) the Magistrates Court, constituted by a Family Law Magistrate, sitting at any place in the State, ”.
s. 40(2)	Delete “courts of summary jurisdiction” and insert instead — “ the Magistrates Court ”. Delete “the clerks of petty sessions of those courts have” and insert instead — “ a registrar of that Court has ”. Delete “those clerks of petty sessions.” and insert instead — “ such a registrar. ”.
s. 42	Repeal the section.
s. 43(7) s. 43(8) s. 44(1) s. 45 s. 243(6)	In each provision delete “a court of summary jurisdiction” or “the court of summary jurisdiction” in each place it occurs and in each place insert instead — “ the Magistrates Court ”.
s. 46(2)	Delete “a court of summary jurisdiction prescribed for the purposes of section 43(1)(b)” and insert instead — “ the Magistrates Court, if constituted by a Family Law Magistrate, ”.
s. 142	In the definition of “Registrar” delete paragraph (b) and insert instead — “ (b) in relation to the Magistrates Court, means a registrar of that court at the place where that court was held; ”.

s. 158	<p>In the definition of “Registrar” delete paragraph (b) and insert instead —</p> <p>“</p> <p>(b) in relation to the Magistrates Court, means a registrar of that court at the place where that court was held.</p> <p>”.</p>
s. 177(4)(b)	<p>In subparagraph (iv), delete items (I) and (II) and insert instead —</p> <p>“</p> <p>(I) is the Magistrates Court, to the registrar of that court at the place where that court made or varied the order;</p> <p>(II) is the Children’s Court, to the registrar of that court at the place where that court made or varied the order; or</p> <p>”.</p>
s. 181(2)	<p>Delete “a court of summary jurisdiction referred to in section 39” and insert instead —</p> <p>“</p> <p>the Magistrates Court when exercising non-federal jurisdictions under this Act</p> <p>”.</p> <p>Delete “the court of summary jurisdiction” in the 2 places it occurs and in each place insert instead —</p> <p>“ the Magistrates Court ”.</p>
s. 181(3)	<p>Delete “a court of summary jurisdiction referred to in section 39(a),” and insert instead —</p> <p>“</p> <p>to the Magistrates Court sitting at a place outside the metropolitan region,</p> <p>”.</p> <p>Delete “the court of summary jurisdiction” and insert instead —</p> <p>“ the Magistrates Court ”.</p>
s. 182(3)	Delete “of summary jurisdiction” in the 2 places it occurs.
s. 182(4)	Delete “of summary jurisdiction”.

s. 96

s. 211(1)	In the definition of “decree”, delete “a court of summary jurisdiction” and insert instead — “ the Magistrates Court ”.
s. 211(2)	Delete “a court of summary jurisdiction” in the first place it occurs and insert instead — “ the Magistrates Court ”. Delete “a court of summary jurisdiction” in the second place it occurs and insert instead — “ the court ”. In paragraph (a), delete “the court of summary jurisdiction” and insert instead — “ the Magistrates Court ”.
s. 220A(5)	In the definition of “Registrar” delete paragraph (b) and insert instead — “ (b) in relation to the Magistrates Court, means the registrar of that court at the place where that court was held. ”.
s. 244(1)	Delete “courts of summary jurisdiction” in the 2 places it occurs and in each place insert instead — “ the Magistrates Court ”.
s. 244(3)(a)	After “jurisdiction or” insert — “ of the Magistrates Court ”.
s. 244(3)	In paragraphs (c), (f), (g), (i), (k) and (s), delete “courts of summary jurisdiction” in each place it occurs and in each place insert instead — “ the Magistrates Court ”.
s. 245(2)(f)	Delete “or exercising” and insert instead — “ or the Magistrates Court exercising ”.

**Part 13 — *Fines, Penalties and Infringement Notices*
Enforcement Act 1994 amended**

97. Act amended in this Part

5 The amendments in this Part are to the *Fines, Penalties and Infringement Notices Enforcement Act 1995**.

[* Reprinted as at 2 November 2001.

For subsequent amendments see *Western Australian Legislation Information Tables for 2002, Table 1, p. 141 and Acts Nos. 14 and 50 of 2003.*]

10 **98. Section 21 amended**

(1) Section 21(4)(a) is amended by deleting “a court of petty sessions” and inserting instead —

“ the Magistrates Court ”.

(2) Section 21(5) is amended by deleting “the clerk of”.

15 (3) Section 21(6) is repealed and the following subsections are inserted instead —

“

(6) The document that under subsection (5) is given to the court is to be taken to be a complaint —

20 (a) made under the *Criminal Procedure (Summary) Act 1902*;

(b) made without oath before the Registrar by the person who signed the enforcement certificate;

25 (c) made on the day when the enforcement certificate was lodged; and

(d) alleging that the alleged offender committed the alleged offence.

(6a) The notice given under subsection (4) to the alleged offender must contain the information that is in the

s. 99

document given to the court and must summons the
alleged offender to appear before the court at a
specified time and place.

- 5 (6b) The notice given under this section to the alleged
offender is to be taken to be a summons issued by the
Registrar under the *Criminal Procedure (Summary)*
Act 1902.

”.

99. Section 63 amended

10 Section 63 is amended by inserting in the appropriate
alphabetical positions the following definitions —

“

“dwelling” means —

- 15 (a) a building, structure or tent, or part of a
building, structure or tent, that is ordinarily
used for human habitation; or
(b) a mobile home,
and it does not matter that it is uninhabited from
time to time;

20 **“mobile home”** means a vehicle —

- (a) that is ordinarily used for human habitation;
and
(b) that is permanently or semi-permanently
stationary in a single location;

25 **“personal property”** does not include any estate or
interest in land;

“place” means any land, building, structure, tent or
vehicle, or any part of any land, building,
structure, tent or vehicle;

30 **“saleable interest”**, in real or personal property, has
the meaning given by section 71(1) or 88(1), as the
case requires;

“**vehicle**” means any thing capable of transporting people or things by road, rail or water, including a hovercraft, and it does not matter how the thing is moved or propelled;

”.

100. Section 70 replaced by sections 70 and 70A to 70E

Section 70 is repealed and the following sections are inserted instead —

“

70. Determining an offender’s interest in property

(1) In this section —

“**interest**”, in any property, means any security, charge or lien over, claim on, or right to, the property or any other legal or equitable interest in the property;

“**public authority**” means a public sector body (within the meaning of section 3(1) of the *Public Sector Management Act 1994*), a local government or a regional local government.

(2) The powers in this section may only be exercised by the Sheriff after receiving a warrant and for the purpose of determining whether and to what extent an offender has any saleable interest in any personal or real property that might be sold under the warrant.

(3) The Sheriff, in writing, may request any person, other than the offender, who the Sheriff believes on reasonable grounds has or may have an interest in any such property to disclose to the Sheriff —

(a) the nature of the interest;

(b) if the interest is a security over the property —

(i) the amount secured against the property;

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- (ii) the amount outstanding under the security;
- (iii) the amount and rate of interest accruing; and
- 5 (iv) any change that occurs to the terms of the security;
- (c) the amount of money that is owed to the person in relation to the property; and
- 10 (d) any other information the Sheriff considers is or may be relevant to determining the matters in subsection (2).
- (4) The Sheriff, in writing, may request a public authority to disclose to the Sheriff the amount of any rates, taxes, service charges, or other amounts, that are due and
- 15 unpaid in respect of any such real property.
- (5) A person, other than a public authority, who contravenes a request made under subsection (3) is guilty of a contempt of the Magistrates Court.
- 20 (6) The Sheriff may disclose any information about any property that has been obtained by the Sheriff to any potential purchaser of the offender's interest in the property.
- 70A. Personal property to be sold in preference to real property**
- 25 (1) Under a warrant, an offender's saleable interest in any real property must not be sold unless the Sheriff is satisfied that the amount that is reasonably likely to be realised from selling the offender's saleable interest in any personal property under the warrant will not be
- 30 sufficient to satisfy the amount owed under the warrant and any enforcement fees.

- (2) Subsection (1) does not prevent an offender's saleable interests in real property and in personal property being sold at the same time.

70B. Only sufficient property to be sold

- 5 (1) Under a warrant, the Sheriff must not sell more property than is sufficient, in the Sheriff's opinion, to wholly satisfy the amount owed under the warrant and the enforcement fees.
- 10 (2) Subsection (1) does not prevent the Sheriff from making one or more additional sales of property if a sale of property has not been sufficient to satisfy the amount owed under the warrant and the enforcement fees.

70C. Seized property, Sheriff to determine fair value of

- 15 (1) Before selling an offender's saleable interest in any personal or real property under a warrant, the Sheriff must take reasonable steps to determine a fair value for the interest.
- 20 (2) For the purposes of determining a fair value the Sheriff may —
- (a) request the offender to provide the Sheriff with such information relevant to the value of the interest as is known to the offender or is reasonably capable of being ascertained by the offender;
- 25 (b) if the nature and apparent value of the interest is such that it is reasonable to do so, engage a suitably qualified and experienced person to give the Sheriff a written valuation of the interest.
- 30

s. 100

70D. Interests of others

If a person other than the offender has any legal or equitable interest in any personal or real property in which the offender has a saleable interest, that interest and that of the offender may be sold together if —

- (a) the Sheriff is of the opinion that such a sale is desirable;
- (b) the other person consents in writing; and
- (c) the Sheriff and the other person agree in writing before the sale as to the division of —
 - (i) the expenses of and incidental to the sale or any attempted sale of the property; and
 - (ii) the proceeds of the sale after payment of those expenses.

70E. Sale to be advertised

- (1) The Sheriff must advertise any intended sale under a warrant of an offender's saleable interest in personal or real property in a reasonable manner.
- (2) An offender's saleable interest in personal or real property must not be sold under a warrant unless at least 7 days have elapsed since the intended sale was first advertised under subsection (1).
- (3) Despite subsections (1) and (2), perishable personal property may be sold without having advertised its intended sale.

”.

101. Sections 71, 72 and 73 replaced by section 71

Sections 71, 72 and 73 are repealed and the following section is inserted instead —

“

5 **71. Warrant of execution, effect of**

(1) In this section —

“**saleable interest**”, in personal property, means any legal or equitable interest in the property that can be disposed of according to law.

10 (2) A warrant issued in respect of an offender —

(a) applies to any saleable interest that the offender has in any personal property at the time when the Sheriff receives the warrant; and

(b) entitles the Sheriff —

15 (i) to seize any such property in which the offender has a saleable interest and to sell that interest;

(ii) to seize any money of the offender;

20 (iii) to seize any cheque, bill of exchange, promissory note, bond, specialty, or other security for money, by virtue of which money is or may be payable to the offender, and to deal with it in accordance with section 77; and

25 (iv) to apply the proceeds of the sale, the money, and any money received or recovered under section 77, in accordance with section 96.

30 (3) The Sheriff’s entitlement applies even if the offender’s saleable interest in any personal property is held jointly or in common with another or others.

s. 102

(4) The Sheriff may take any reasonable action that the Sheriff considers necessary or convenient for the purposes of subsection (2)(b).

5 (5) If, after the Sheriff receives the warrant, a person acquires an interest in any goods to which the warrant applies, the person does so subject to the Sheriff's entitlement in subsection (2) unless, at the time of acquiring the interest —

10 (a) the person acquired it in good faith and for valuable consideration; and

(b) the person had no notice of the fact that the Sheriff had received the warrant and that it was in effect.

”.

15 **102. Section 74 replaced**

Section 74 is repealed and the following section is inserted instead —

“

74. Seizing personal property, powers enabling

20 (1) Under a warrant the Sheriff, using any force and assistance that is reasonably necessary in the circumstances, may do any or all of the following —

25 (a) enter any place where the Sheriff believes on reasonable grounds there is or may be personal property that may be seized under the warrant, or a record evidencing the title to such property, for the purpose of searching for and seizing it;

30 (b) from time to time re-enter any such place where any such property or record is for the purpose of performing the Sheriff's functions under the warrant and this Act in relation to the property;

(c) seize and remove any such property or record;

- 5 (d) make or print out, and keep, a copy of any such
record and for that purpose —
- (i) seize and remove, for no more than
7 days, any computer or other thing on
which any such record is or may be
stored;
- (ii) operate the computer or other thing;
- 10 (iii) direct a person who has the custody or
control of any such record, computer or
thing to make or print out a copy of the
record or to operate the computer or
thing;
- 15 (e) take reasonable measures to secure or protect
any such property, record, computer or thing
against damage or unauthorised removal or
interference.
- (2) The powers in subsection (1)(a) and (b) —
- (a) may be exercised at any time of the day or
night in respect of a place that is not a dwelling;
20 and
- (b) must not be exercised in respect of a dwelling
without the consent of the occupier of the
dwelling or, if there is no occupier, the owner.
- (3) Despite subsection (2)(b), if —
- 25 (a) the consent referred to in subsection (2)(b) is
unreasonably withheld; or
- (b) the Sheriff, after reasonable attempts to do so,
cannot contact the occupier or owner of the
dwelling,
- 30 the Sheriff may exercise the powers in
subsection (1)(a) and (b) without that consent, at any
time of the day or night.

s. 103

- (4) A person who disobeys a direction given under subsection (1)(d)(iii) commits an offence.

Penalty: Imprisonment for 12 months.

”.

5 **103. Section 75 replaced**

Section 75 is repealed and the following section is inserted instead —

“

10 **75. Property that cannot be seized and sold**

The following personal property of an offender must not be seized or sold under a warrant —

- 15 (a) property that the offender holds in trust for another person and in which the offender does not have a beneficial interest;
- 20 (b) wearing apparel and personal items that are of a kind and value prescribed by the regulations;
- (c) household property that is of a kind and value prescribed by the regulations;
- (d) property that is used by the offender to earn income by personal exertion of a value that does not exceed the amount prescribed by the regulations.

”.

25 **104. Section 81 replaced**

Section 81 is repealed and the following section is inserted instead —

“

30 **81. Custody of seized property**

- (1) Until it is sold, seized personal property is to be kept in such custody as the Sheriff decides.

- 5 (2) Seized personal property may be left in the custody of the offender or another person if the offender or person, in writing, consents and agrees —
- (a) to be responsible for its safekeeping;
- (b) not to move it, or allow it to be moved, without the prior consent of the Sheriff; and
- (c) not to give custody or possession of it to another person without the prior consent of the Sheriff.
- 10 (3) If the Sheriff leaves seized personal property in the custody of the offender or another person, the Sheriff is not to be taken as having abandoned the property.
- 15 (4) If the Sheriff seizes any record relating to a business or undertaking of the offender or another person, it must not be retained for longer than 7 days.
- (5) Subsection (4) does not apply to any cheque, bill of exchange, promissory note, bond, specialty or other security for money.

”.

20 **105. Section 88 replaced**

Section 88 is repealed and the following section is inserted instead —

“

25 **88. Warrant, effect of**

- (1) In this section —
- “**saleable interest**”, in real property, means any legal or equitable estate or interest in the property that can be disposed of according to law.

s. 105

- (2) A warrant issued in respect of an offender —
- (a) applies to —
- (i) any saleable interest that is registered under the *Transfer of Land Act 1893* in respect of land under the operation of that Act and that the offender has at the time when the warrant is registered under section 133 of that Act in respect of the interest;
- (ii) any saleable interest that is not registered under the *Transfer of Land Act 1893* in respect of land under the operation of that Act and that the offender has at the time when the Sheriff receives the warrant;
- (iii) any saleable interest in any other real property in the State that the offender has at the time when the Sheriff receives the warrant;
- and
- (b) entitles the Sheriff —
- (i) to seize the land;
- (ii) to sell the saleable interest; and
- (iii) to apply the proceeds in accordance with section 96.
- (3) The Sheriff's entitlement applies even if the offender's saleable interest is held jointly or in common with another or others.
- (4) Under a warrant, the Sheriff must not sell any saleable interest that is registered under the *Transfer of Land Act 1893* in respect of land under the operation of that Act unless, at the time of the sale, the warrant is

registered under section 133 of that Act in respect of the interest.

(5) If, after the Sheriff receives a warrant, a person acquires an interest in any real property to which the order applies, the person does so subject to the Sheriff's entitlement in subsection (2) unless, at the time of acquiring the interest —

(a) the person acquired it in good faith and for valuable consideration;

(b) the person had no notice of the fact that the Sheriff had received the warrant and that it was in effect; and

(c) the warrant had not been registered under the *Registration of Deeds Act 1856*.

(6) Subsection (5) does not apply to or in relation to an interest acquired in any saleable interest that is registered under the *Transfer of Land Act 1893* in respect of land under the operation of that Act.

”.

106. Section 91 replaced by sections 91, 91A and 91B

Section 91 is repealed and the following sections are inserted instead —

“

91. Power of entry

(1) Under a warrant the Sheriff, using any force and assistance that is reasonably necessary in the circumstances, may enter any real property in which the offender has a saleable interest for the purposes of performing the Sheriff's functions under the warrant and this Act in relation to the interest.

s. 106

- (2) Without limiting subsection (1), the Sheriff may —
- (a) enter the real property with any prospective purchaser of the offender's saleable interest; and
 - 5 (b) conduct any sale of the interest on the property.
- (3) The powers in subsections (1) and (2) —
- (a) may be exercised at any time of the day or night in respect of a place that is not a dwelling; and
 - 10 (b) must not be exercised in respect of a dwelling without the consent of the occupier of the dwelling or, if there is no occupier, the owner.
- (4) Despite subsection (3)(b), if —
- 15 (a) the consent referred to in subsection (3)(b) is unreasonably withheld; or
 - (b) the Sheriff, after reasonable attempts to do so, cannot contact the occupier or owner of the dwelling,
- the Sheriff may exercise the powers in subsections (1) and (2) without that consent, at any time of the day or night.
- 20

91A. Offender may be permitted to sell or mortgage real property

- (1) The Sheriff may permit the offender to sell or mortgage the offender's saleable interest in any real property to which a warrant applies.
- 25
- (2) The Sheriff's permit must —
- (a) be in writing;
 - (b) require the amount of any deposit paid in respect of any sale of the interest to be paid to
- 30

- the Sheriff to be held by the Sheriff as stakeholder;
- (c) state the minimum amount (including any such deposit) that must be paid to the Sheriff out of the money realised from any sale or mortgage of the interest;
- (d) state the date on which the permit expires; and
- (e) contain any other information that is prescribed by the regulations.
- (3) The Sheriff's permit may include any conditions that the Sheriff considers necessary.
- (4) While the Sheriff's permit is in force, the Sheriff must not sell the saleable interest under the warrant.
- (5) If while the Sheriff's permit is in force —
- (a) the offender sells or mortgages the interest;
- (b) in the case of a sale, the amount of any deposit paid is paid to the Sheriff in accordance with the permit; and
- (c) in any case, either —
- (i) an amount not less than the minimum amount stated in the permit is paid to the Sheriff; or
- (ii) with the Sheriff's consent, an amount less than the minimum amount stated in the permit is paid to the Sheriff,
- then —
- (d) any liability of the purchaser or mortgagee to pay the offender the money paid to the Sheriff is extinguished;
- (e) the Sheriff must consent to the registration under the *Transfer of Land Act 1893* or the *Registration of Deeds Act 1856* of any

s. 106

documents that relate to the sale or mortgage;
and

- (d) the Sheriff must apply the money received in accordance with section 96 as if they were the proceeds of a sale under the warrant.

5

91B. Place and manner of sale

- (1) Subject to any order made by a court under this section, the sale under a warrant of an offender's saleable interest in real property —

10

- (a) may be conducted on the property or at any other place, as the Sheriff thinks fit;
(b) must be by public auction; and
(c) must not be for less than a fair value of the interest.

15

- (2) The Sheriff may apply to the Magistrates Court for an order as to any or all of the following in relation to a saleable interest to which warrant applies —

20

- (a) that the interest may be sold by public tender;
(b) that the interest may be sold by private agreement;
(c) that the interest may be sold for an amount that is less than a fair value of the interest.

- (3) The offender is entitled to be heard on an application made under subsection (2).

25

- (4) The court may make any or all of such orders.
(5) When or after making an order under subsection (2)(c) a court may order that the interest not be sold for less than an amount set by the court.

”.

107. Section 98 replaced

Section 98 is repealed and the following section is inserted instead —

“

5

98. Sheriff exempt from some licensing requirements

(1) The Sheriff and any delegate of the Sheriff may sell property seized under a warrant without holding any licence to do so that is required under a written law.

10

(2) Subsection (1) does not prevent the Sheriff from engaging a person with an appropriate licence under a written law to sell property seized under a warrant.

”.

108. Other amendments

The Act is amended as set out in the Table to this section.

15

Table

s. 4 s. 56(b)	In each provision delete “ <i>Justices Act 1902</i> ” in each place it occurs and in each place insert instead — “ <i>Criminal Procedure (Summary) Act 1902</i> ”.
s. 6 s. 7(2) s. 7(3) s. 61(2)(a)	In each provision delete “Court of Petty Sessions at Perth” in each place it occurs and in each place insert instead — “ Magistrates Court ”.
s. 22(4)(c)	Delete subparagraph (ii) and insert instead — “ (ii) the Registrar must forthwith notify the Magistrates Court or the Children’s Court, as the case requires, of the discontinuance. ”.
s. 54(1)	Before “clerk” insert — “ registrar or ”.

Courts Legislation Amendment and Repeal Bill 2003**Part 13**

Fines, Penalties and Infringement Notices Enforcement Act
1994 amended

s. 108

s. 62	Delete “clerk of petty sessions” in the first place it occurs and insert instead — “ court of summary jurisdiction ”. Delete “clerk of petty sessions” in the second place it occurs and insert instead — “ court ”. Delete “him” and insert instead — “ the court ”.
s. 69(1)	Delete “a Local Court” and insert instead — “ the Magistrates Court ”.
s. 69(3) s. 94(4)	In each provision delete “section 158 of the <i>Local Courts Act 1904</i> ” in each place it occurs and in each place insert instead — “ the <i>Magistrates Court (Civil Proceedings) Act 2003</i> ”.
s. 79	Repeal the section.
s. 80(4)	Repeal the subsection.
s. 82	Repeal the section.
s. 83	Repeal the section.
s. 84	Repeal the section.
s. 89(1)	Repeal the subsection and insert instead — “ <div style="padding-left: 40px;">(1) Actual seizure of real property by physical occupation or other means before any saleable interest in it is sold under a warrant is not necessary.</div> ”.
s. 92(1)	Delete “a writ of <i>fiери facias</i> and the offender were a judgment debtor” and insert instead — “ <div style="padding-left: 40px;">a property (seizure and sale) order issued under the <i>Civil Judgments Enforcement Act 2003</i> and the offender were the judgment debtor named in the order</div> ”.
s. 94(2)	Delete “Local Court” and insert instead — “ Magistrates Court at the place ”.

s. 95(1)	Repeal the subsection and insert instead — “ <div style="text-align: center;">(1) A warrant (as defined in section 63) has priority over any property (seizure and sale) order issued under the <i>Civil Judgments Enforcement Act 2003</i>, despite that Act and section 133 of the <i>Transfer of Land Act 1893</i>.</div> ”.
s. 101(1)	Delete “justices” and insert instead — “ the Magistrates Court ”.
s. 101(2)	Repeal the subsection and insert instead — “ <div style="text-align: center;">(2) The application must be made in accordance with the Magistrates Court’s rules of court.</div> ”.
s. 101(3)	Delete “justices” in the 2 places it occurs and in each place insert instead — “ Court ”.
s. 101A(1)	Delete “justices” and insert instead — “ the Magistrates Court ”.
s. 101A(3)	Repeal the subsection and insert instead — “ <div style="text-align: center;">(3) The application must be made in accordance with the Magistrates Court’s rules of court.</div> ”.
s. 101A(5)	Delete “justices” in the 2 places it occurs and in each place insert instead — “ Court ”.

Courts Legislation Amendment and Repeal Bill 2003

Part 13 Fines, Penalties and Infringement Notices Enforcement Act
1994 amended

s. 108

s. 101B(1)	<p>In paragraph (a) delete “<i>Justices Act 1902</i>” and insert instead —</p> <p>“ <i>Criminal Procedure (Summary) Act 1902</i> ”.</p> <p>After paragraph (a) insert the following paragraph —</p> <p>“</p> <p style="padding-left: 40px;">(ab) commences an appeal under Part VIII of the <i>Criminal Procedure (Summary) Act 1902</i>;</p> <p style="text-align: right;">”.</p> <p>In paragraph (b) delete “under section 187 of the <i>Justices Act 1902</i> or”.</p>
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Part 14 — *Industrial Relations Act 1979* amended

109. Act amended in this Part

The amendments in this Part are to the *Industrial Relations Act 1979**.

5 [* *Reprinted as at 8 November 2002.*
For subsequent amendments see Acts Nos. 7, 20, 28 and 31 of
2003 and Gazette 15 August 2003 p. 3685-92.]

110. Section 81D amended

10 Section 81D(3) and (4) are repealed and the following
subsections are inserted instead —

“

15 (3) For the purposes of prosecution jurisdiction, the clerk
of an industrial magistrate’s court has in relation to that
court like powers to those that a registrar of the
Magistrates Court has for the purposes of the criminal
jurisdiction of the Magistrates Court under the
Criminal Procedure (Summary) Act 1902.

20 (4) For the purposes of general jurisdiction, the clerk of an
industrial magistrate’s court has like powers to those
that a registrar of the Magistrates Court has for the
purposes of the civil jurisdiction of the Magistrates
Court under the *Magistrates Court (Civil Proceedings)*
Act 2003.

”.

111. Section 81F inserted

After section 81E the following section is inserted —

“

- 5 **81F. Industrial magistrate’s court records, access to records**
- (1) In respect of an industrial magistrate’s court’s records of proceedings under its prosecution jurisdiction (as defined in section 81CA), section 33 of the *Magistrates Court Act 2003*, with any necessary changes, applies.
- 10 (2) In respect of an industrial magistrate’s court’s records of proceedings under its general jurisdiction (as defined in section 81CA), subsections (3) to (9) apply.
- 15 (3) A party to the proceedings may, on request, inspect or obtain a copy of any document that is part of the court’s record of those proceedings.
- 20 (4) A person who is not a party to the proceedings may, with the leave of the court, inspect or obtain a copy of any document that is part of the court’s record of the proceedings.
- 25 (5) Any person may, with the leave of the court, inspect or obtain a copy of any thing (other than a document) received by the court in the proceedings on which information is recorded or stored, such as a photograph, tape or disc.
- 30 (6) Any person may, with the leave of the court, listen to, view or obtain a copy of a recording of the proceedings.
- (7) When giving leave under subsection (4), (5) or (6) the court may impose conditions on the person’s access to information, including a condition prohibiting or limiting the publication or use of the information.

- (8) A decision by the court under subsection (4), (5), (6) or (7) is administrative and is final and not subject to any form of review.
- 5 (9) If under this section a document may be supplied to a person it may, at the request of the person, be supplied in an electronic form.
- 10 (10) The regulations may prescribe fees to be paid for inspecting, obtaining a copy of, listening to or viewing information in relation to proceedings in both the general jurisdiction and the prosecution jurisdiction of an industrial magistrate's court.

”.

112. Sections 88 and 89 replaced

15 Sections 88 and 89 are repealed and the following section is inserted instead —

“

88. Judgments, enforcement of

- (1) In this section —
“**judgment**” includes an order, direction or decision.
- 20 (2) A person to whom money is to be paid under a judgment of the Court may enforce it by lodging a copy of it, certified by a clerk of the court, and an affidavit stating to what extent it has not been complied with, with the Supreme Court.
- 25 (3) If, or to the extent that, a judgment of the Court does not require the payment of money, a person entitled to the benefit of the judgment may enforce it by lodging a copy of it, certified by a clerk of the court, and an affidavit stating to what extent it has not been complied with, with the Supreme Court.
- 30 (4) A judgment that is lodged with the Supreme Court under subsection (2) or (3) is to be taken to be a

s. 113

judgment of that court and may be enforced accordingly.

”.

113. Other amendments

5 The Act is amended as set out in the Table to this section.

Table

s. 7(1)	Delete the definition of “stipendiary magistrate”.
s. 13	After paragraph (a), insert the following paragraph — “ (ab) an industrial magistrate appointed under section 81B; ”. After “such a member” insert — “ or industrial magistrate ”.
s. 81B(2) s. 81B(3)(a) s. 81B(4)	In each provision delete “Stipendiary” and “stipendiary”.
s. 81B(6)	Delete the definition of “Chief Stipendiary Magistrate” and insert instead — “ “Chief Magistrate” means the Chief Magistrate of the Magistrates Court. ”.
s. 81CA(2)	Delete “ <i>Local Courts Act 1904</i> as if the proceedings were an action” and insert instead — “ <i>Magistrates Court (Civil Proceedings) Act 2003</i> as if the proceedings were a case ”.

s. 81CA(3)	Delete “Part VIA of the <i>Local Courts Act 1904</i> .” and insert instead — “ Part 4 of the <i>Magistrates Court (Civil Proceedings) Act 2003</i> . ”.
s. 81CA(6) s. 83D(1) s. 83D(2)	In each provision delete “ <i>Justices Act 1902</i> ” and insert instead — “ <i>Criminal Procedure (Summary) Act 1902</i> ”.
After s. 81CA(7)	Insert the following subsection — “ (7a) Sections 15, 16, 35 and 36 and Part 3 Division 2 of the <i>Magistrates Court Act 2003</i> apply to and in relation to an industrial magistrate’s court and its officers in the same way as they apply to and in relation to the Magistrates Court and its officers. ”.
s. 83D(3)	After “section 84” insert — “ or section 19(1) of the <i>Children’s Court of Western Australia Act 1988</i> ”.

Part 15 — Mining Act 1978 amended

114. Act amended in this Part

The amendments in this Part are to the *Mining Act 1978**.

[* Reprinted as at 7 September 2001.

5 For subsequent amendments see *Western Australian
Legislation Information Tables for 2002, Table 1, p. 254 and
Act No. 28 of 2003.*]

115. Section 133 replaced

10 Section 133 is repealed and the following section is inserted
instead —

“

133. Offences to be dealt with by magistrate

15 A court of summary jurisdiction dealing with an
offence under this Act is to be constituted by a
magistrate.

”.

116. Sections 140 and 141 replaced

Sections 140 and 141 are repealed and the following section is
inserted instead —

20 “

140. Judgments, enforcement of

(1) In this section —

“**judgment**” includes an order, direction or decision.

25 (2) A person to whom money is to be paid under a
judgment of a warden’s court may enforce it by
lodging a copy of it, certified by the mining registrar,
and an affidavit stating to what extent it has not been
complied with, with a court of competent jurisdiction.

- 5 (3) If, or to the extent that, a judgment of a warden's court does not require the payment of money, a person entitled to the benefit of the judgment may enforce it by lodging a copy of it, certified by the mining registrar, and an affidavit stating to what extent it has not been complied with, with the Magistrates Court.
- (4) A judgment that is lodged with another court under subsection (2) or (3) is to be taken to be a judgment of the other court and may be enforced accordingly.
- 10 (5) For the purposes of Part 5 Division 1 of the *Civil Judgments Enforcement Act 2003*, a judgment of a warden's court for the delivery by a person of possession of any mining tenement or minerals to another is to be taken to be a judgment requiring the person to give possession of real or personal property to the other person.
- 15

”.

117. Other amendments

The Act is amended as set out in the Table to this section.

20

Table

s. 13(1)	Delete “stipendiary magistrate under the <i>Stipendiary Magistrates Act 1957</i> ,” and insert instead — “ magistrate under the <i>Magistrates Courts Act 2003</i> , ”.
s. 119(1)	Delete “seized under a warrant or writ of execution” and insert instead — “ seized and sold to satisfy a judgment ”.
s. 127(3)	Repeal the subsection.
s. 134(6)	Delete “a Local Court established under the <i>Local Courts Act 1904</i> ,” and insert instead — “ the Magistrates Court ”.
s. 136(1)	Delete “a Local Court established under the <i>Local Courts Act 1904</i> ” and insert instead — “ the Magistrates Court ”.

Courts Legislation Amendment and Repeal Bill 2003

Part 15 Mining Act 1978 amended

s. 117

s. 136(2)	Delete “ <i>Local Courts Act 1904</i> ” and insert instead — “ <i>Magistrates Court (Civil Proceedings) Act 2003</i> ”.
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Part 16 — Residential Tenancies Act 1987 amended

118. Act amended in this Part

The amendments in this Part are to the *Residential Tenancies Act 1987**.

5 [* Reprinted as at 22 January 1999.
For subsequent amendments see *Western Australian
Legislation Information Tables for 2002, Table 1, p. 333 and
Act No. 45 of 2002.*]

119. Section 3 amended

10 (1) Section 3 is amended by deleting the following definitions:
“clerk”
“magistrate sitting in the Small Disputes Division”
“other jurisdiction”.

15 (2) Section 3 is amended by inserting in the appropriate
alphabetical position the following definition —
“

“**competent court**”, in relation to an application made
under this Act, means a court that under
section 12A or 13 has jurisdiction to hear and
20 determine the application;

”.

120. Sections 12, 12A and 13 replaced

Sections 12, 12A and 13 are repealed and the following sections
are inserted instead —

25 “

12. Interpretation

In this Part —

30 “**prescribed dispute**” means any matter that may be
the subject of an application under this Act, other
than an application made under this Act that is, or
involves, a claim for an amount over the

s. 120

prescribed amount, but includes an application made under clause 8 of Schedule 1, irrespective of the amount claimed;

“**prescribed amount**” means \$10 000 or such other amount as may be prescribed.

5

12A. Jurisdiction over prescribed disputes

- (1) The Magistrates Court has exclusive jurisdiction to hear and determine a prescribed dispute and such disputes are not justiciable by any other court or tribunal.
- (2) A prescribed dispute is a minor case for the purposes of Part 4 of the *Magistrates Court (Civil Proceedings) Act 2003* and the jurisdiction conferred by subsection (1) is to be exercised accordingly.

10

15

13. Jurisdiction over other disputes

- (1) If an application made under this Act is, or involves, a claim for an amount over the prescribed amount, any court that is competent to hear and determine a claim founded on contract for the amount of that claim has jurisdiction to hear and determine the application.
- (2) To the extent that subsection (1) confers jurisdiction on the Magistrates Court, that jurisdiction is not to be exercised in accordance with Part 4 of the *Magistrates Court (Civil Proceedings) Act 2003*.
- (3) Despite subsection (2), the parties to an application referred to in subsection (1) in respect of which the Magistrates Court has jurisdiction may consent in writing (which consent is irrevocable) to the proceedings being heard and determined by the Magistrates Court in accordance with Part 4 of the *Magistrates Court (Civil Proceedings) Act 2003*.

20

25

30

- 5 (4) In respect of the hearing and determination of an application referred to in subsection (1) —
- (a) the practice and procedure applicable in the court dealing with the application shall, subject to subsection (3), apply and this Part (other than this subsection) and regulations made for the purposes of this Part shall not apply; but
- (b) subject to paragraph (a), this Act shall apply.
- 10 (5) If on an application referred to in subsection (1) the plaintiff recovers an amount that is not more than the prescribed amount, the plaintiff shall not be awarded any costs unless the court is satisfied that at the time of making the application there were reasonable grounds for the plaintiff to believe that he had a claim for an
- 15 amount over the prescribed amount.

13A. Magistrates Court's jurisdiction

- (1) For the purpose of exercising the jurisdiction conferred by section 12A and 13, the Magistrates Court is to be constituted by a magistrate.
- 20 (2) Despite subsection (1), a registrar of the Magistrates Court may, subject to the directions of a magistrate, exercise the court's jurisdiction in respect of any application that is to be dealt with in accordance with Part 4 of the *Magistrates Court (Civil Proceedings) Act 2003* if —
- 25 (a) the application is within a prescribed class of applications; and
- (b) either —
- (i) the application is not disputed; or
- 30 (ii) a party to the application does not appear.

s. 121

- 5 (3) An application made under this Act to the Magistrates Court shall be made to the court at the place nearest to the place where the premises the subject of the proceedings are situated but, with the consent of the parties, may be made to the court at any other place. ”.

121. Various references changed

- 10 (1) The Act is amended in each provision listed in the Table to this subsection by deleting “magistrate sitting in the Small Disputes Division” wherever it appears and in each place inserting instead —

“ competent court ”.

Table

s. 15(1)	s. 73(1)	s. 80
s. 20(d)	s. 74(1)	s. 83
s. 32(1)	s. 75(1)	s. 84
s. 60(1)	s. 76(2)	Schedule 1 Part D
s. 60(3)	s. 77(1)	cl. 8(1)
s. 65(1)(b)	s. 78(2)	cl. 8(4)
s. 65(2)	s. 79(6)	
s. 71(1)	s. 79(10)	
s. 71(2)	s. 79(12)	
s. 72(1)	s. 79(15)	
s. 72(2)		

- 15 (2) The Act is amended in each provision listed in the Table to this subsection by deleting “he” wherever it appears and in each place inserting instead —

“ it ”.

Table

s. 15(2)	s. 71(2)	s. 74(2)
s. 19(1)(b)(i)	s. 71(3)	s. 75(1)
s. 20	s. 71(5)	s. 75(2)
s. 23(1)	s. 72(3)(a)	s. 79(15)
s. 24(1)	s. 72(4)	Schedule 1 Part D
s. 32(4)	s. 73(1)	cl. 8(7)(a)
s. 65(2)	s. 73(2)	

- (3) The Act is amended in each provision listed in the Table to this subsection by deleting “magistrate” (other than in the context of “magistrate sitting in the Small Disputes Division”) wherever it appears and in each place inserting instead —

“ court ”.

Table

s. 15(2)(e)	s. 32(5)	s. 76(1)
s. 15(4)	s. 32(6)	s. 77(2)
s. 22(2)	s. 71(3)	s. 79(12)
s. 22(3)	s. 71(4)	s. 84
s. 22(4)	s. 71(5)	Schedule 1 Part D
s. 23(3)	s. 72(3)	cl. 8(1)
s. 24(2)	s. 72(4)	cl. 8(2)
s. 26(1)	s. 73(2)	cl. 8(3)
s. 26(2)	s. 74(2)	cl. 8(7)
s. 32(4)	s. 75(2)	

122. Other amendments

The Act is amended as set out in the Table to this section.

Table

s. 9(4)(c) s. 9(4)(e)	In each provision delete “or magistrate” in each place it occurs.
s. 15(2)	Delete “a magistrate” and insert instead — “ the court ”.

s. 122

s. 15(3)	Delete “A magistrate sitting in the Small Disputes Division” and insert instead — “ The court ”.
s. 16(2)	Repeal the subsection and insert instead — “ <div style="padding-left: 40px;">(2) An order made under this Act by a competent court may be enforced as if it were a judgment of that court.</div> ”.
s. 17(1)	Delete “a magistrate sitting in the Small Disputes Division” and insert instead — “ the court that heard and determined the proceedings ”.
s. 18(2)	Delete “magistrate hears an application the clerk” and insert instead — “ competent court hears an application the court ”. Delete paragraph (b)(ii) and insert instead — “ <div style="padding-left: 40px;">(ii) such notice of the nature of the application as is required by rules of court or directed by the court in a particular case.</div> ”.
s. 19(1)(a)	Delete “magistrate sitting in the Small Disputes Division or the clerk” and insert instead — “ competent court ”. Delete “a magistrate so sitting” and insert instead — “ the court ”.
s. 19(1)(b)	Delete “magistrate so sitting” and insert instead — “ competent court ”. Delete “before him” in the 2 places it occurs and in each place insert instead — “ before it ”. Delete “the magistrate” in the 4 places it occurs and in each place insert instead — “ the court ”.
s. 20	Delete “magistrate” and insert instead — “ competent court ”.

s. 20(k) s. 20(l)	In each provision delete “in its other jurisdiction”.
s. 21	<p>Repeal the section and insert instead —</p> <p>“</p> <p style="text-align: center;">21. Evidence</p> <p style="text-align: center;">In any proceedings on an application under this Act, a competent court shall not be bound by the rules of evidence but may inform itself upon any matter relating to the proceedings in such manner as it thinks fit.</p> <p style="text-align: right;">”.</p>
s. 23(1)	<p>Delete “the magistrate” and insert instead —</p> <p>“ a competent court ”.</p>
s. 23(2)	<p>Delete “magistrate” and insert instead —</p> <p>“ judicial officer who presided ”.</p>
s. 24(1)	<p>Delete “magistrate” and insert instead —</p> <p>“ competent court ”.</p>
s. 25(1)	<p>Delete “magistrate” and insert instead —</p> <p>“ competent court ”.</p>
s. 26(1)	<p>Delete “the clerk acting under section 12A” and insert instead —</p> <p>“ a registrar acting under section 13A(2) ”.</p>
s. 26(2)	<p>Repeal the subsection and insert instead —</p> <p>“</p> <p style="text-align: center;">(2) No declaratory judgment shall be given and no order shall be made under section 36 of the <i>Magistrates Court Act 2003</i> in respect of proceedings taken or to be taken under this Act in the Magistrates Court or any order made in such proceedings by that court, unless the Supreme Court is satisfied that the Magistrates Court had or has no jurisdiction conferred by or under this Act in respect of the proceedings or that a party to the proceedings has been denied natural justice.</p> <p style="text-align: right;">”.</p>

s. 122

After s. 26(2)	Insert the following subsection — “ (3) This section applies despite Part 7 of the <i>Magistrates Court (Civil Proceedings)</i> <i>Act 2003</i> . ”.
s. 32(3)	Delete “A magistrate” and insert instead — “ The court ”.
s. 72(3)(b)	Delete “he” in the first place it occurs and insert instead — “ it ”.
s. 74(1)	Delete “he” in the first place it occurs and insert instead — “ it ”.
s. 79(10)	Delete “a local”. Delete “local” in the second place it occurs.
s. 79(11)	Repeal the subsection and insert instead — “ (11) Any moneys paid into court under subsection (10) shall be credited to the Rental Accommodation Fund as provided by clause 3(2)(c) of Schedule 1. ”.
s. 81(1)	Delete “magistrate sitting in the Small Disputes Division or before another”. Delete “magistrate or”. Delete “he or”.
s. 81(2)	Delete “magistrate sitting in the Small Disputes Division or before another”. Delete “magistrate or” in the 2 places it occurs.
s. 81(2)(b)	Delete the paragraph and insert instead — “ (b) where such proceedings have been completed, or are not by way of application to a competent court, a competent court, ”.

Schedule 1 Part A cl. 3(3)	In paragraph (b)(i) delete “Small Disputes Divisions of local courts” and insert instead — “ Magistrates Court in connection with dealing with minor cases (within the meaning of the <i>Magistrates Court (Civil Proceedings) Act 2003</i>) ”.
Schedule 1 Part D cl. 8(3)	Delete “magistrate’s” and insert instead — “ court’s ”.
Schedule 1 Part D cl. 8(8)	Delete the subclause and insert instead — “ (8) An application under this clause is a prescribed dispute within the meaning of section 12 irrespective of the amount claimed. ”.

Part 17 — *Restraining Orders Act 1997* amended

123. Act amended by this Part

The amendments in this Part are to the *Restraining Orders Act 1997**.

5 [* *Reprinted as at 6 October 2000.*]

124. References to “clerk” changed

The Act is amended in each provision listed in the Table to this section by deleting “clerk” wherever it appears and in each place inserting instead —

10 “ registrar ”.

Table

s. 9(1)	s. 39	s. 59
s. 9(2)	s. 40(3)	s. 63(7)
s. 10(1)	s. 40(4)	s. 67(2)
s. 23(2)	s. 41(3)	s. 76(1)
s. 24(3)(a)	s. 41(4)	s. 78(1)
s. 26(2)	s. 44	s. 78(2)
s. 26(3)	s. 46(1)	s. 78(3)
s. 29(2)	s. 47(1)	s. 79
s. 30	s. 47(2)	s. 79C(1)
s. 31	s. 47(3)	s. 79C(2)
s. 32(3)	s. 49(2)	s. 79C(3)
s. 32(4)	s. 49(3)	s. 79C(4)
s. 33(1)	s. 54(2)	s. 79E(1)
s. 33(2)	s. 55(1)	s. 79E(4)
	s. 55(2)	s. 79F
	s. 55(4)	s. 90(2)

125. Other amendments

The Act is amended as set out in the Table to this section.

Table

Long title	Delete “, to amend the <i>Justices Act 1902</i> and various other Acts,”.
s. 3	Delete the definition of “clerk”. Insert in the appropriate alphabetical position — “ <div style="text-align: center;">“registrar” means the registrar of the relevant court;</div> ”.
s. 4(a) s. 25(3)(b) s. 38(4)(b) s. 52 s. 61(3)(b) s. 79B(2)	In each provision delete “a court of petty sessions” or “the court of petty sessions” in each place it occurs and in each place insert instead — “ the Magistrates Court ”.
s. 10(2)(d)	Delete the paragraph and insert instead — “ <div style="text-align: center;">(d) the court copy of the order to be delivered to the Magistrates Court at the place where the authorised magistrate who made the order sits.</div> ”.
s. 10(3)	Repeal the subsection and insert instead — “ <div style="text-align: center;">(3) The registrar of the Magistrates Court to which the court copy of the order is delivered under subsection (2)(d) is to cause the order to be delivered to the authorised magistrate who made it and a copy of it to be delivered — <div style="text-align: center;">(a) if the respondent is a child, to the Children’s Court; or (b) otherwise, to the Magistrates Court, at the place nearest to where the respondent lives.</div> (4) The registrar of the court to which an order is delivered under subsection (3) is to register it.</div> ”.

s. 125

s. 17(1)	Delete “Chief Stipendiary Magistrate” in the first place it occurs and insert instead — “ Chief Magistrate of the Magistrates Court ”. Delete “the Chief Stipendiary Magistrate” and insert instead — “ he or she ”.
s. 17(2)	Repeal the subsection.
s. 52(3)	Delete “clerks” and insert instead — “ registrars ”.
After s. 63(6)	Insert the following subsection — “ (6a) A restraining order made under subsection (1) by a justice of the peace considering a case for bail is taken to have been made by — (a) the Children’s Court if the person charged is a child; (b) the Magistrates Court in any other case. ”.
s. 64(2)	Repeal the subsection and insert instead — “ (2) If the decision was made by the Magistrates Court, the appeal is to be made in accordance with Part 7 of the <i>Magistrates Court (Civil Proceedings) Act 2003</i> unless subsection (6a)(a) applies. ”.

After s. 64(6a)	<p>Insert the following subsection —</p> <p>“</p> <p>(6b) If —</p> <p>(a) the decision was made under section 63(1) to make a restraining order against a person charged with an offence;</p> <p>(b) the person charged is convicted of that or another offence; and</p> <p>(c) the person charged appeals against the conviction or the sentence imposed,</p> <p>any appeal under subsection (1) by the person charged against the decision is to be made to the court that hears and determines the appeal against the conviction or sentence.</p> <p>”.</p>
s. 72(1)(a)	<p>Delete the paragraph and “or” after it and insert instead —</p> <p>“</p> <p>(a) the Magistrates Court, the practices and procedures applying in that court under the <i>Magistrates Court (Civil Proceedings) Act 2003</i>;</p> <p>or</p> <p>”.</p>
s. 72(2)	Repeal the subsection.
s. 74	<p>Delete the definition of “clerk”.</p> <p>Delete the full stop after the definition of “registered order” and insert a semi colon instead.</p> <p>After the definition of “registered order” insert —</p> <p>“</p> <p style="padding-left: 40px;">“registrar” means the registrar to whom an application for registration of an interstate order is made or another registrar of the same court.</p> <p>”.</p>
s. 75(2)	<p>Delete “a clerk of a court of petty sessions” and insert instead —</p> <p>“ a registrar of the Magistrates Court ”.</p>
Part 8	Repeal the Part.

Part 18 — *Supreme Court Act 1935* amended

126. Act amended by this Part

The amendments in this Part are to the *Supreme Court Act 1935**.

5 [* Reprinted as at 9 February 2001.
For subsequent amendments see *Western Australian
Legislation Information Tables for 2002, Table 1, p. 385 and
Acts Nos. 20 and 28 of 2003.*]

127. Section 17 inserted

10 After section 16 the following section is inserted —

“

17. Court may transfer case to lower court

(1) In this section —

15 “**lower court**” means the District Court or the
Magistrates Court.

(2) If an action or matter in the Court —

- 20 (a) is within a lower court’s jurisdiction;
(b) becomes within a lower court’s jurisdiction
because the claim in the action or matter is
reduced by a payment into court, an admitted
set-off, a judgment on part of the claim, or
otherwise; or
(c) becomes within a lower court’s jurisdiction
because the jurisdiction of the lower court is
25 increased,

the Court may order that the action or matter be
transferred to the lower court.

30 (3) An order under subsection (2) may be made on the
application of a party to the action or matter or by the
Court on its own initiative.

- (4) If the Court makes an order under subsection (2) it may also make any other necessary orders including orders as to —
- (a) the registry of the lower court in which the action or matter is to be conducted;
 - (b) the payment of fees in the lower court; and
 - (c) the costs in the action or matter that relate to proceedings in the Court.
- (5) If the Court makes an order under subsection (2) the Principal Registrar is to send the Court's file to the registry of the lower court in which the action or matter is to be conducted.
- (6) The lower court to which an action or matter is transferred under an order made under subsection (2) is to deal with the action or matter as if it had been commenced in that court.

”.

128. Section 171 replaced

Section 171 is repealed and the following section is inserted instead —

“

171. Fees, regulations may prescribe

- (1) The Governor may make regulations providing for or prescribing the fees to be paid —
- (a) when commencing a cause or matter;
 - (b) when entering a cause or matter for trial or at any other stage of proceedings in a cause or matter;
 - (c) when lodging a document with the Court;
 - (d) for the issue of any document by the Court;
 - (e) for the service of any document;

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- (f) in respect of the conduct of the business of any office of or connected with the Court; and
- (g) for the carrying out of any order or warrant of the Court.
- 5 (2) Without limiting subsection (1), regulations may prescribe the fees and expenses to be paid to mediators and experts.
- 10 (3) If a question arises as to the fee payable or applicable in a particular case, the question is to be decided by the Principal Registrar.
- (4) A person affected by a decision of the Principal Registrar made under subsection (3) may have it reviewed by the Court in a summary way.
- 15 (5) All fees received by the Court are to be credited to the Consolidated Fund.
- ”.

129. Other amendments

The Act is amended as set out in the Table to this section.

Table

s. 4	In the definition of “Inferior Court”, delete “a local court” and insert instead — “ the Magistrates Court ”.
------	--

s. 20	Delete “provisions of the <i>Local Courts Act 1904</i> , the <i>Justices Act 1902</i> , the <i>Courts of Session Act 1921</i> and the <i>Mining Act 1904</i> ,” and insert instead — “ <i>District Court of Western Australia Act 1969</i> , the <i>Criminal Procedure (Summary) Act 1902</i> , the <i>Magistrates Court (Civil Proceedings) Act 2003</i> , the <i>Children’s Court of Western Australia Act 1988</i> , the <i>Family Court Act 1997</i> and the <i>Mining Act 1978</i> , ”.
s. 32(3)	Repeal the subsection.
s. 35	Repeal the section.
s. 37(1)	Delete “ <i>Local Courts Act 1904</i> ” and insert instead — “ <i>Magistrates Court (Civil Proceedings) Act 2003</i> ”.
s. 49(1)	Delete “stipendiary”.
s. 58(1)(h)	Delete the paragraph and insert instead — “ (h) appeals under the <i>Criminal Procedure (Summary) Act 1902</i> , if made returnable before the Full Court; and an appeal under that Act from a Judge to the Full Court; ”.
s. 58(1)(i)	Delete the paragraph and insert instead — “ (i) appeals from the Magistrates Court under the <i>Magistrates Court (Civil Proceedings) Act 2003</i> ; ”.
Part VII (s. 117-146)	Repeal the Part.
s. 157	Repeal the section.
s. 159 s. 160 s. 162 s. 163 s. 164	Repeal the sections.
s. 165(2)	Repeal the subsection.

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Part 18

Supreme Court Act 1935 amended

s. 129

s. 167(1)(n)	Delete the paragraph.
s. 176	Delete “for the State or for any part or district thereof”.

Part 19 — *Workers' Compensation and Rehabilitation Act 1981* amended

130. Act amended by this Part

The amendments in this Part are to the *Worker's Compensation and Rehabilitation Act 1981**.

[* *Reprinted as at 14 September 2001.*

For subsequent amendments see Acts Nos. 28 and 35 of 2003.]

131. Section 120 inserted

After section 119 the following section is inserted —

“

120. Compensation magistrate's court records, access to

(1) In respect of a compensation magistrate's court's records of proceedings in its jurisdiction under section 115(1)(d), section 33 of the *Magistrates Court Act 2003*, with any necessary changes, applies.

(2) In respect of a compensation magistrate's court's records of proceedings in its jurisdiction under section 115(1)(a), (b) and (c), subsections (3) to (9) apply.

(3) A party to the proceedings may, on request, inspect or obtain a copy of any document that is part of the court's record of those proceedings.

(4) A person who is not a party to the proceedings may, with the leave of the court, inspect or obtain a copy of any document that is part of the court's record of the proceedings.

(5) Any person may, with the leave of the court, inspect or obtain a copy of any thing (other than a document) received by the court in the proceedings on which

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information is recorded or stored, such as a photograph, tape or disc.

(6) Any person may, with the leave of the court, listen to, view or obtain a copy of a recording of the proceedings.

(7) When giving leave under subsection (4), (5) or (6) the court may impose conditions on the person's access to information, including a condition prohibiting or limiting the publication or use of the information.

(8) A decision by the court under subsection (4), (5), (6) or (7) is administrative and is final and not subject to any form of review.

(9) If under this section a document may be supplied to a person it may, at the request of the person, be supplied in an electronic form.

(10) The regulations may prescribe fees to be paid for inspecting, obtaining a copy of, listening to or viewing information in relation to proceedings in any jurisdiction of a compensation magistrate's court.

”.

132. Part IIIA Division 6 replaced

Part IIIA Division 6 is repealed and the following Division is inserted instead —

“

**Division 6 — Enforcement of compensation
magistrate's court judgments**

84ZZ. Judgments, enforcement of

(1) In this section —

“**judgment**” includes an order, direction or decision.

- 5 (2) A person to whom money is to be paid under a judgment of a compensation magistrate's court may enforce it by lodging a copy of it, certified by a clerk of the court, and an affidavit stating to what extent it has not been complied with, with a court of competent jurisdiction.
- 10 (3) If, or to the extent that, a judgment of a compensation magistrate's court does not require the payment of money, a person entitled to the benefit of the judgment may enforce it by lodging a copy of it, certified by a clerk of the court, and an affidavit stating to what extent it has not been complied with, with the Magistrates Court.
- 15 (4) A judgment that is lodged with another court under subsection (2) or (3) is to be taken to be a judgment of the other court and may be enforced accordingly.

”.

133. Section 176 amended

After section 176(1)(l) the following paragraph is inserted —

20

“

- (m) providing for or prescribing the fees to be paid in respect of or in connection with any case in the jurisdiction of a compensation magistrate's court including the fees to be paid —
- 25 (i) when commencing a case in the Court;
- (ii) when entering a case for trial or at any other stage of proceedings in a case;
- (iii) when lodging a document with the Court;
- 30 (iv) for the issue of any document by the Court;
- (v) for the service of any document;

”.

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134. Other amendments

The Act is amended as set out in the Table to this section.

Table

s. 57A(2)	Delete “a Local Court” and insert instead — “ the Magistrates Court ”.
s. 113(2) s. 113(4)	In each provision delete “Chief Stipendiary Magistrate” and insert instead — “ Chief Magistrate of the Magistrates Court ”.
s. 113(6)	Repeal the subsection.
s. 114(3)	Repeal the subsection and insert instead — “ (3) The clerk of a compensation magistrate’s court has in relation to that court like powers to those that a registrar of the Magistrates Court has for the purposes of the criminal jurisdiction of the Magistrates Court under the <i>Criminal Procedure (Summary) Act 1902</i> . ”.
s. 115(2)	Delete “a magistrate sitting as”.
After s. 115(2)	Insert the following subsection — “ (2a) Sections 15, 16, 35 and 36 and Part 3 Division 2 of the <i>Magistrates Court Act 2003</i> apply to and in relation to a compensation magistrate’s court and its officers in the same way as they apply to and in relation to the Magistrates Court and its officers. ”.
s. 179(1)	Delete “bailiff of that court” and insert instead — “ Sheriff ”.
s. 179(2)	Delete “bailiff” and insert instead — “ Sheriff ”.

s. 188A(1)	Before “that jurisdiction” insert — “ , subject to section 19(1) of the <i>Children’s Court of Western Australia Act 1988</i> , ”.
s. 188A(1) s. 188A(4)	In each provision delete “ <i>Justices Act 1902</i> ” and insert instead — “ <i>Criminal Procedure (Summary) Act 1902</i> ”.
s. 188A(2)	Repeal the subsection and insert instead — “ (2) Part VIII of the <i>Criminal Procedure (Summary) Act 1902</i> applies in respect of decisions of a compensation magistrate’s court made under subsection (1). ”.

Part 20 — Amendments to Acts about land

Division 1 — *Registration of Deeds Act 1856* amended

135. Act amended by this Division

5 The amendments in this Division are to the *Registration of Deeds Act 1856**.

[* Reprinted as at 16 March 1976.]

136. Section 1 replaced

Section 1 is repealed and the following section is inserted instead —

10

“

1. Application of Act

No memorial may be registered pursuant to this Act in respect of any land, whether Crown, freehold or leasehold, that is under the operation of the *Transfer of Land Act 1893*.

15

”.

137. Other amendments

The Act is amended as set out in the Table to this section.

Table

s. 13	Delete “Civil Court” and insert instead — “ Supreme Court ”.
s. 19	Delete “said Civil Court” and insert instead — “ Supreme Court ”.
s. 20	Delete “said Civil Court” and insert instead — “ Supreme Court ”.

Division 2 — *Transfer of Land Act 1893* amended

138. Act amended by this Division

The amendments in this Division are to the *Transfer of Land Act 1893**.

5 [* *Reprinted as at 9 February 2001.*
 For subsequent amendments see Western Australian
 Legislation Information Tables for 2002, Table 1, p. 400 and
 Acts Nos. 45 of 2002, 6 and 28 of 2003.]

139. Section 133 replaced

10 Section 133 is repealed and the following section is inserted
 instead —

“

**133. Property (seizure and sale) order, registration of
 etc.**

15 (1) In this section —

 “**lodged**” means presented to the Registrar for
 registration;

 “**property (seizure and sale) order**” means a property
 (seizure and sale) order issued by a court under the
20 *Civil Judgments Enforcement Act 2003*;

 “**register**” includes to give effect to;

 “**sale period**”, in relation to a property (seizure and
 sale) order that is registered under this section in
 respect of a saleable interest, means the period of
25 6 months after the date of registration or, if the
 period is extended by an order made under
 subsection (13), the extended period;

 “**saleable interest**” has the meaning given by
 section 80(1) of the *Civil Judgments Enforcement*
30 *Act 2003*;

“Sheriff’s dealing”, in relation to saleable interest,
means a transfer of the saleable interest pursuant to
a sale of it by the Sheriff under a property (seizure
and sale) order.

- 5 (2) A judgment creditor who is named in a property
(seizure and sale) order may apply to the Registrar to
have the order registered in respect of any saleable
interest —
- 10 (a) that the judgment debtor named in the order has
in any land that is under the operation of this
Act; and
- (b) that is registered in respect of the land.
- (3) The application must —
- 15 (a) be made before the order ceases to have effect
under the *Civil Judgments Enforcement
Act 2003*;
- (b) be made in the prescribed form;
- (c) identify the land in which the judgment debtor
has a saleable interest;
- 20 (d) identify the judgment debtor’s saleable interest;
- (e) be accompanied by a copy of —
- (i) the order, certified as a true copy by the
Sheriff; and
- 25 (ii) any order made under section 15 of the
Civil Judgments Enforcement Act 2003
that affects the order or the judgment to
which it relates;
- (f) be accompanied by the prescribed fee; and
- (g) contain or be accompanied by any other
30 information that is prescribed.
- (4) Subject to any order made under section 15 of the *Civil
Judgments Enforcement Act 2003*, on such an

application the Registrar must register the order in respect of the judgment debtor's saleable interest, with effect from the time when the application was lodged, if satisfied that —

- 5 (a) the application is made in accordance with subsection (3);
- (b) the judgment to which the order relates has not been satisfied; and
- 10 (c) the order is not already registered and in effect in respect of that saleable interest.
- (5) If the order is registered in respect of a saleable interest, the order has effect for the purposes of this section until a discharge of it is registered under subsection (12), subject to any order made under
- 15 section 15 of the *Civil Judgments Enforcement Act 2003*.
- (6) Until the order is registered in respect of a saleable interest, a Sheriff's dealing in relation to the interest is not valid as against a purchaser of the interest for
- 20 valuable consideration, notwithstanding that at the time of the purchase —
- (a) the order had been received by the Sheriff; or
- (b) the purchaser had actual or constructive notice of the order.
- 25 (7) While the order has effect in respect of a saleable interest none of the following prevails against a Sheriff's dealing in relation to the interest —
- (a) an unregistered instrument, document, or writing;

- (b) an equitable mortgage or charge by deposit or otherwise without writing that affects any land, lease, sublease, mortgage, annuity or other charge,
- 5 unless a caveat in respect of the matter referred to in paragraph (a) or (b) is lodged —
- (c) before the Registrar receives the application to register the order; or
- (d) with the permission of the Sheriff while the order has effect.
- 10
- (8) While the order has effect in respect of a saleable interest, an instrument that affects the interest must not be registered unless —
- (a) the Sheriff has given permission for the instrument to be registered; or
- 15 (b) the instrument is an order made, or a notice given, under the *Land Administration Act 1997* in relation to Crown land by the Minister under that Act.
- (9) If while the order has effect in respect of a saleable interest a Sheriff's dealing is lodged, the Registrar must register the dealing.
- 20
- (10) For the purposes of subsection (9) the Registrar may register a Sheriff's dealing without requiring the production of the duplicate (if any) of the certificate of title or a Crown lease or of any other instrument if —
- 25 (a) the Registrar has given at least 14 days' notice of his intention to do so in at least one newspaper published in the city of Perth or circulating in the neighbourhood of the land; and
- 30 (b) the transferee has paid the cost of giving the notice.

- (11) When a Sheriff's dealing is registered under subsection (9) in respect of a saleable interest —
- (a) the dealing, if made by the Sheriff, has effect as if it was made by the judgment debtor;
 - 5 (b) the judgment debtor's title to the saleable interest is extinguished; and
 - (c) any estate or interest of an unregistered purchaser, transferee or mortgagee of the saleable interest or of a person claiming under
10 or through the judgment debtor is extinguished unless it is the subject of a caveat —
 - (i) lodged before the Registrar received the application to register the order; or
 - 15 (ii) lodged with the permission of the Sheriff while the order has effect.
- (12) If while the order has effect —
- (a) a Sheriff's dealing is registered;
 - (b) the judgment creditor applies for the order to be discharged; or
 - 20 (c) on an application made by any person and accompanied by the prescribed fee, the Registrar is satisfied that —
 - (i) the judgment to which the order relates has been satisfied;
 - 25 (ii) the order has been cancelled by the court that issued it; or
 - (iii) the sale period has expired,
- the Registrar must register a discharge of the order with effect from the time when the dealing was registered or
30 the application was lodged, as the case requires.
- (13) If, on an application made by the judgment creditor, the court that issued the property (seizure and sale) order is

satisfied that the circumstances justify doing so, it may make an order that extends the sale period for a period set by the court that is not longer than 6 months.

- 5 (14) An application made under subsection (13) must be served on the judgment debtor unless the court orders otherwise.
- (15) An order may be made under subsection (13) on more than one occasion.
- 10 (16) An order made under subsection (13) has no effect unless it is lodged with the Registrar before the sale period would otherwise have expired together with an application to have the order registered and the prescribed fee.
- 15 (17) On an application made under subsection (16) the Registrar must register the order with effect from the time when the application was lodged.
- 20 (18) If under this section an instrument or caveat that may be lodged with the Sheriff's permission is lodged, the Sheriff's written permission must be lodged with or endorsed on the instrument or caveat.

”.

140. Section 138 amended

Section 138 is amended as follows:

- 25 (a) by inserting before “Upon receipt” the subsection designation “(1)”;
- (b) by deleting the semicolon after “been lodged” and inserting instead —

“

- 30 or the judgment creditor named in any property (seizure and sale) order registered under section 133 in respect of the judgment debtor's saleable interest in such land.

”;

- (c) by deleting “and such applicant or proprietor” and inserting instead —

“

- (2) Any such applicant, proprietor or judgment creditor,

”;

- (d) by inserting before “Except” the subsection designation “(3)”;

- (e) by inserting before “A caveat” the subsection designation “(4)”.

141. Other amendments

The Act is amended as set out in the Table to this section.

Table

s. 4(1)	Delete the definition of “Sheriff” and insert instead — “ “Sheriff” means the Sheriff of Western Australia and any deputy sheriff appointed by the Sheriff of Western Australia; ”.
s. 78	Delete “magistrate of a local court” and insert instead — “ Magistrates Court ”.
s. 90	Repeal the section.
s. 116	Delete “justices of the peace” and insert instead — “ the Magistrates Court ”.
s. 119	Delete “The sheriff or other officer who shall have the execution of any writ of fieri facias issued in such action shall on being served with a copy of such order obey the same.”.
s. 136K(4)	Delete “Neither the second and third sentences of section 138, nor the whole of section 141A, apply or applies” and insert instead — “ Sections 138(3) and (4) and 141A do not apply ”.

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s. 138B(1)	After “was lodged” insert — “ , or the judgment creditor named in a property (seizure and sale) order registered under section 133 in respect of the judgment debtor’s saleable interest in such land, ”.
s. 138D(1)(d)	Delete the paragraph and “or” after it and insert instead — “ (d) the consent of the proprietor to do so and, if the notice issued under section 138B(1) was issued on the application of a judgment creditor, the consent of the judgment creditor to do so are endorsed on the further caveat; or ”.
s. 141A	After “interest in the land” insert — “ or on the application of the judgment creditor named in a property (seizure and sale) order registered under section 133 in respect of the judgment debtor’s estate or interest in such land ”.
s. 149	Delete “copy of writ” and insert instead — “ , court order ”.
s. 150	Delete “copy writ” and insert instead — “ , court order ”.
s. 185	Repeal the section.
s. 192	Delete “writ of fi. fa.” and insert instead — “ court order ”.
s. 214(2)	Delete “ <i>Justices Act 1902</i> ” and insert instead — “ <i>Criminal Procedure (Summary) Act 1902</i> ”.
s. 239(1)(h)	In subparagraph (ii), after “execution”, insert — “ or court order ”.

Part 21 — Amendments to other Acts

142. Various Acts amended

Each Act listed in Schedule 1 is amended as set out in that Schedule immediately below the short title of the Act.

Part 22 — Transitional provisions

Division 1 — Provisions about enforcing judgments

143. Interpretation

(1) In this Part —

- 5 **“commencement”** means the commencement of this Part;
 “court fee”, for an application, does not include any fee payable in connection with serving the application to the Sheriff or any other person;
 “enforcement process” means any writ, warrant, order, or
10 other process, issued by a court for or in connection with enforcing a judgment or order of the court.

(2) This Part does not limit the operation of the *Interpretation Act 1984* Part V.

144. Judgments not satisfied before commencement

- 15 If immediately before commencement a judgment of the Supreme Court, District Court or Local Court is unsatisfied, then on commencement —
- (a) if proceedings to enforce the judgment are pending or any process for the enforcement of the judgment is in
20 force, section 145 applies;
- (b) otherwise, the judgment may be enforced under and subject to the *Civil Judgments Enforcement Act 2003*.

145. Pending proceedings to enforce a judgment

- 25 (1) If immediately before commencement proceedings for or in connection with enforcing a judgment are pending in a court, then on commencement either —
- (a) the proceedings may be continued under the law in force immediately before commencement, despite the

enactment of the *Civil Judgments Enforcement Act 2003*; or

5 (b) the person entitled to the benefit of the judgment may discontinue the proceedings and commence proceedings under the *Civil Judgments Enforcement Act 2003* to enforce the judgment.

(2) If proceedings are continued under subsection (1)(a) —

10 (a) no enforcement process may be issued under the law in force immediately before commencement for or in connection with enforcing the judgment; but

(b) subject to the *Civil Judgments Enforcement Act 2003*, the court may make any order under that Act that substantially corresponds with any order that the court could have made in the proceedings under the law in force immediately before commencement.

20 (3) If proceedings under the *Supreme Court Act 1935* section 126(2) or the *Local Courts Act 1904* section 130 are continued under subsection (1)(a), they are to be taken to be a means inquiry held under the *Civil Judgments Enforcement Act 2003* for the purposes of subsection (2)(b).

(4) Subsection (2)(a) does not prevent the issue of any warrant or writ in connection with conducting any proceedings that are continued under subsection (1)(a).

25 (5) No court fee shall be payable for commencing proceedings as permitted by subsection (1)(b) by a person who has discontinued proceedings as permitted by that subsection.

146. Pending process to enforce a judgment

30 (1) If immediately before commencement any enforcement process is in force, then on commencement the process continues in force under the law in force immediately before commencement until —

(a) the process ceases to be in force under that law;

(b) the process ceases to be in force under subsection (5)(a);
or

(c) the expiry of 12 months after commencement,

whichever happens first, and may be served, dealt with, or
executed, under the law in force immediately before
commencement which continues to apply to and in respect of
the process.

(2) If —

(a) on commencement a copy of a writ of *fieri facias* is in
the Register maintained under the *Transfer of Land
Act 1893*, having been served on the Registrar and
entered in that Register under section 133 of that Act; or

(b) after commencement a copy of a writ of *fieri facias* is
entered in that Register under section 133 of that Act,
having been served on the Registrar under that section,

then —

(c) despite subsection (1) the *Transfer of Land Act 1893*
section 133 (as inserted by this Act) applies to and in
respect of the writ as if the writ were a property (seizure
and sale) order that had been —

(i) issued under the *Civil Judgments Enforcement
Act 2003*; and

(ii) registered under the *Transfer of Land Act 1893*
section 133 (as inserted by this Act) at the time
when the copy of the writ was so served;

(d) if the sale period referred to in the *Transfer of Land
Act 1893* section 133 (as inserted by this Act) in respect
of the writ expires at a time after the writ ceases to be in
force under the law in force immediately before
commencement, the writ is to be taken to remain in
force until the sale period expires, despite that law; and

(e) subject to paragraphs (c) and (d), subsection (1) applies
to and in respect of the writ.

- 5 (3) If immediately before commencement any enforcement process is in force but unexecuted, the person for whose benefit the process was issued may apply for an order under the *Civil Judgments Enforcement Act 2003* to enforce the judgment or order.
- (4) No court fee shall be payable on making an application under subsection (3) for an order under the *Civil Judgments Enforcement Act 2003*.
- 10 (5) If on an application made under subsection (3) an order is made under the *Civil Judgments Enforcement Act 2003* —
- (a) the unexecuted process referred to in subsection (3) ceases to be in force; and
- (b) the order made under the *Civil Judgments Enforcement Act 2003* has the same priority as the unexecuted process referred to in subsection (3) has immediately before it ceases to be in force under paragraph (a).
- 15

147. Existing bailiffs and their assistants, termination of appointment etc.

- 20 (1) On commencement the following offices are abolished and the persons holding them cease to do so —
- (a) a bailiff appointed under the *District Court of Western Australia Act 1969* section 28(1);
- (b) a person appointed under the *District Court of Western Australia Act 1969* section 28(2) by a bailiff to assist the bailiff;
- 25 (c) a bailiff appointed under the *Local Courts Act 1904* section 16;
- (d) a person appointed under the *Local Courts Act 1904* section 16 by a bailiff to assist the bailiff.
- 30 (2) If immediately before commencement a person who is not a police officer is a bailiff appointed under the *Local Courts Act 1904* section 16, then on commencement the person is

entitled to be appointed as a bailiff under the *Civil Judgments Enforcement Act 2003* section 107 for a term of 2 years as from commencement.

- 5 (3) If immediately before commencement a person who is a police officer is —
- (a) a bailiff appointed under the *District Court of Western Australia Act 1969* section 28(1); or
 - (b) a bailiff appointed under the *Local Courts Act 1904* section 16,
- 10 then on commencement the person is taken to have been appointed as a bailiff under the *Civil Judgments Enforcement Act 2003* section 107.

Division 2 — General

148. Transitional regulations

- 15 (1) If this Act does not provide sufficiently for a matter or issue of a transitional nature that arises as a result of the repeal or amendment of any Act by this Act and the coming into
- 20 operation of any of the Acts referred to in section 3, the Governor may make regulations prescribing all matters that are required, necessary or convenient to be prescribed for providing for the matter or issue.
- (2) Regulations made under subsection (1) may be expressed to have effect before the day on which they are published in the *Gazette*.
- 25 (3) To the extent that a provision of regulations made under subsection (1) has effect before the day on which it is published in the *Gazette*, it does not —
- (a) affect in a manner prejudicial to any person (other than the State or an agency of the State) the rights of that
- 30 person existing before the day of publication; or

- (b) impose liabilities on any person (other than the State or an agency of the State) in respect of anything done or omitted to be done before the day of publication.

Schedule 1 Amendments to various Acts

Schedule 1 — Amendments to various Acts

[s. 142]

1. *Aboriginal Communities Act 1979*

s. 11	Repeal the section.
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2. *Administration Act 1903*

s. 54(1)	Delete “the magistrate of every Local Court held at a town” and insert instead — “ a magistrate of the Magistrates Court at a place ”.
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5 3. *Agricultural Practices (Disputes) Act 1995*

s. 13(4)	Repeal the subsection and insert instead — “ (4) A person to whom costs are to be paid under such a determination may enforce it by lodging a certified copy of it, and an affidavit stating to what extent it has not been complied with, with a court of competent jurisdiction. (5) When lodged, the determination is to be taken to be a judgment of the court and may be enforced accordingly. ”.
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4. *Agriculture and Related Resources Protection Act 1976*

s. 93(1)	Delete “ <i>Justices Act 1902</i> ” and insert instead — “ <i>Criminal Procedure (Summary) Act 1902</i> ”.
s. 102	Repeal the section and insert instead — “ 102. Offences to be dealt with by magistrate A court of summary jurisdiction dealing with an offence under this Act is to be constituted by a magistrate. ”.

5. *Agriculture Protection Board Act 1950*

s. 30	Delete “justices or in any court of petty sessions” and insert instead — “ a court of summary jurisdiction ”.
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6. *Animal Welfare 2002*

s. 44(6) s. 44(7) s. 44(8) s. 56(1)	In each provision delete “Local Court” and insert instead — “ Magistrates Court ”.
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7. *Art Gallery Act 1959*

s. 27(1)	Delete “Court of Petty Sessions” and insert instead — “ court of summary jurisdiction ”.
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8. *Artificial Breeding of Stock Act 1965*

s. 8(2) s. 8(3)	In each provision delete “Clerk” in each place it occurs and in each place insert instead — “ registrar ”.
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5 **9. *Auction Sales Act 1973***

s. 5(1)(d)	Delete “or by any magistrate”.
s. 11(1)	Delete “clerk of the court of petty sessions” and insert instead — “ registrar of the Magistrates Court at the place ”.
s. 11(2) s. 11(3) s. 11(5) s. 11(6) s. 21(2) s. 22(2) s. 22(3) s. 22(4)	In each provision delete “clerk” in each place it occurs and in each place insert instead — “ registrar ”.
s. 11(5a)	Delete “clerk of the court of petty sessions at which” and insert instead — “ registrar of the Magistrates Court at the place where ”.

Schedule 1 Amendments to various Acts

s. 11(7)	Delete “issued out of the same court”.
s. 16(1) s. 17(4) s. 18 s. 33(3)(b) s. 33(4)	In each provision delete “stipendiary” in each place it occurs.
s. 20	Repeal the section.
s. 21(1)	Delete “the clerk of the court by which it was granted” and insert instead — “ a registrar of the Magistrates Court ”. Delete “the clerk” in the second place it occurs and insert instead — “ the registrar ”.
s. 22(1)	Delete “may summon the licensee before either the court by which the licence was granted or a court of petty sessions constituted by a stipendiary magistrate sitting alone for the place where the alleged conduct occurred, to” and insert instead — “ may apply to the Magistrates Court for a summons requiring the licensee to appear before the Court and ”.
s. 22(2)	In paragraphs (a) and (b), delete “a court” and insert instead — “ the court ”.
s. 35(3)	Repeal the subsection and insert instead — “ (3) A prosecution for an offence under this Act must be commenced within 2 years after the date on which the offence is alleged to have been committed. ”.

10. Bail Act 1982

s. 3	<p>In the definition of “authorised community services officer”, delete “clerk” and insert instead —</p> <p>“ registrar ”.</p> <p>In the definition of “court”, delete paragraph (a) and insert instead —</p> <p>“ (a) the Magistrates Court; ”.</p> <p>In the definition of “judicial officer”, delete “and a single member of the Children’s Court”.</p> <p>In the definition of “prosecutor”, delete “court of petty sessions” and insert instead —</p> <p>“ court of summary jurisdiction ”.</p>
s. 7A(1)	<p>Repeal the subsection and insert instead —</p> <p>“</p> <p>(1) If a person is in custody and an appeal has been commenced under Part VIII of the <i>Criminal Procedure (Summary) Act 1902</i> in connection with the decision by virtue of which the person is in custody, the person may apply for bail —</p> <p>(a) if the appeal is to be heard and determined by the Full Court or if an application has been made to the Full Court for leave to appeal to the Full Court — to the Full Court; or</p> <p>(b) in any other case — to a Judge of the Supreme Court.</p> <p>”.</p>
<p>s. 11(2)(d)</p> <p>s. 28(2)(b)(i)</p> <p>s. 31(2)(b)</p> <p>s. 31(2)(c)</p> <p>s. 31(2)(d)</p> <p>s. 31(2)(e)</p> <p>s. 45(1)(c)</p> <p>s. 49(1)(a)</p> <p>s. 60</p> <p>s. 64</p> <p>s. 66A(1)</p>	<p>In each provision delete “clerk or” in each place it occurs.</p>

Schedule 1 Amendments to various Acts

s. 16(2)(b) s. 21(2)(a) s. 48(5) s. 49(2) s. 51(3) s. 52(4) s. 53(3) s. 54(5) Sch. 1— Pt. A cl. 7 Pt. C cl. 3B(2) Pt. C cl. 5	In each provision delete “ <i>Justices Act 1902</i> ” in each place it occurs and in each place insert instead — “ <i>Criminal Procedure (Summary) Act 1902</i> ”.
s. 19(4)	Delete “clerk of petty sessions” and insert instead — “ registrar of the court ”.
s. 26(1) s. 26(2)	In each provision delete “or a member of the Children’s Court”.
s. 29(d)	Delete “clerk of petty sessions” and insert instead — “ registrar of the Magistrates Court ”.
s. 29(da) s. 29(e)	Delete “clerk” in each place it occurs and in each place insert instead — “ registrar ”.
s. 36(2)	Delete “or clerk”.
s. 53(1)	After “section 52 may” insert — “ , with the leave of the Full Court, ”.

s. 53(2)	<p>Repeal the subsection and insert instead —</p> <p>“</p> <p>(2) For the purposes of subsection (1), Part VIII of the <i>Criminal Procedure (Summary) Act 1902</i>, with any necessary changes, applies as if —</p> <p>(a) the decision referred to in subsection (1) were a decision of a court of summary jurisdiction;</p> <p>(b) a reference in that Part to the lower court registrar were a reference to the Registrar of the Supreme Court or of the District Court, as the case requires; and</p> <p>(c) a reference in that Part to commencing an appeal were a reference to applying for leave to appeal.</p> <p>”.</p>
Sch. 1 Pt. A cl. 1	<p>In the second column, delete the passage beginning “in addition” and ending “officer.” and insert instead —</p> <p>“</p> <p>in addition, in the case of a child, an authorised community services officer.</p> <p>”.</p>
Sch. 1 Pt. A cl. 4	<p>Delete “<i>Justices Act 1902</i>” in each place it occurs except in the second column of paragraph (a) and in each place insert instead —</p> <p>“ <i>Criminal Procedure (Summary) Act 1902</i> ”.</p> <p>In paragraph (a) in the second column, delete “in the case of an appeal under section 189 of the <i>Justices Act 1902</i>, the Full Court;” and insert instead —</p> <p>“</p> <p>in the case where the appeal is to be heard and determined by the Full Court, the Full Court;</p> <p>”.</p>
Sch. 1 Pt. B cl. 3	<p>Delete “or a member of the Children’s Court”.</p> <p>Delete “or another member of the Children’s Court” in the 2 places it occurs.</p>

Schedule 1 Amendments to various Acts

Sch. 1 Pt. C cl. 8	Delete “court of petty sessions or as a member of the Children’s court” and insert instead — “ court of summary jurisdiction ”.
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11. Betting Control Act 1954

s. 25(1)	Delete “any 2 Justices of the Peace” and insert instead — “ the Magistrates Court ”. Delete “such justices” and insert instead — “ the Court ”.
s. 25(2)	Delete “Any 2 Justices of the Peace” and insert instead — “ The Court ”. Delete “their” and insert instead — “ its ”.
s. 25(5)	Delete “any 2 Justices of the Peace” and insert instead — “ the Court ”.
s. 28A(2)	Delete paragraph (d) and insert instead — “ (d) to arrest all persons found therein or thereupon and to detain them until they are dealt with according to law; ”. In paragraph (f), delete “a stipendiary magistrate or 2 justices” and insert instead — “ a court of summary jurisdiction ”. In paragraph (f), delete “magistrate or justices” and insert instead — “ court ”.
s. 28A(5)	Delete “A stipendiary magistrate, or 2 justices,” and insert instead — “ The court of summary jurisdiction ”. In paragraph (a), delete “a magistrate or justices” and insert instead — “ the court ”. In paragraph (b), delete “the magistrate or justices” and insert instead — “ the court ”.

After s. 30	<p>Insert the following subsection —</p> <p>“</p> <p>30A. Offences to be dealt with by a magistrate</p> <p>A court of summary jurisdiction dealing with an offence under this Act is to be constituted by a magistrate.</p> <p>”.</p>
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12. Bills of Sale Act 1899

s. 9	Delete “of the State or any district of the State”.
s. 10(5)	<p>Delete “magisterial district of East Kimberley within the State” and insert instead —</p> <p>“</p> <p>local government districts of Wyndham-East Kimberley or Halls Creek</p> <p>”.</p>

13. Bread Act 1982

s. 15	<p>Repeal the section and insert instead —</p> <p>“</p> <p>15. Proceedings for offences</p> <p>(1) A prosecution for an offence under this Act may be commenced by an inspector or any other person.</p> <p>(2) A court of summary jurisdiction dealing with an offence under this Act is to be constituted by a magistrate.</p> <p>”.</p>
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Schedule 1 Amendments to various Acts

14. *Builders' Registration Act 1939*

s. 44(2)	Repeal the subsection and insert instead — “ (2) A person to whom a sum is to be paid under such an order may enforce it by lodging a certified copy of it, and an affidavit stating to what extent it has not been complied with, with a court of competent jurisdiction. (3) When lodged, the order is to be taken to be a judgment of the court and may be enforced accordingly. ”.
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15. *Bush Fires Act 1954*

s. 56(2)	Delete “taken before justices there to” and insert instead — “ detained until he can ”.
s. 58(4)	Delete “signed or purporting to be signed by the clerk of petty sessions of the court where the offender was convicted” and insert instead — “ issued by the court of summary jurisdiction that convicted the offender ”.
s. 59(1)	Repeal the subsection.

16. *Business Names Act 1962*

s. 14(2)	Delete “, in the case of a local court by a magistrate thereof in chambers or in the case of a court of petty sessions by a stipendiary magistrate in chambers or by two or more justices sitting in petty sessions.” and insert instead — “ or in the case of the Magistrates Court a magistrate in chambers. ”.
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17. *Cattle Industry Compensation Act 1965*

s. 37(2)	Repeal the subsection and insert instead — “ (2) A court of summary jurisdiction dealing with an offence under this Act is to be constituted by a magistrate. ”.
s. 43	Repeal the section.

18. *Censorship Act 1996*

s. 117(4)	Delete “a court of petty sessions” and insert instead — “ the Magistrates Court ”.
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19. *Census Act 1891*

s. 10	After “Act, shall” insert — “ for every such offence ”.
s. 14	Repeal the section.

20. *Charitable Collections Act 1946*

s. 18	Delete the first paragraph.
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5 **21. *Chicken Meat Industry Act 1977***

s. 18(3)	Delete “and may, by leave of the Supreme Court or a Judge, be entered, and in every respect enforced as a judgment or order of the Supreme Court to the same effect”.
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Schedule 1 Amendments to various Acts

After s. 18(3)	Insert the following subsections — “ <p>(4) A party may enforce a determination that is binding on the parties under subsection (3) by lodging a copy of it certified by a member, and an affidavit stating to what extent it has not been complied with, with a court of competent jurisdiction.</p> <p>(5) When lodged, the determination is to be taken to be a judgment of the court and may be enforced accordingly.</p> ”.
s. 23	Repeal the section and insert instead — “ <p>23. Offences to be dealt with by magistrate A court of summary jurisdiction dealing with an offence under this Act is to be constituted by a magistrate.</p> ”.

22. Child Welfare Act 1947

s. 120B(1)	Delete the definition of “clerk of the court”. Insert, in the appropriate alphabetical position — “ <p>“registrar of the court” means —</p> <p>(a) in relation to an application made to the court, the registrar of the court at the place where the application was made; or</p> <p>(b) in relation to a document filed in the court, the registrar of the court at the place where the document was filed; and</p> <p>(c) in relation to the revocation by the court of the registration of an order, the registrar of the court at the place where the registration was revoked;</p> ”.
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s. 120S s. 120T s. 120V(2) s. 120V(4) s. 120X	In each provision delete “clerk” in each place it occurs and in each place insert instead — “ registrar ”.
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23. *Coal Industry Tribunal of Western Australia Act 1992*

s. 17(3)	Repeal the subsection and insert instead — “ (3) A person to whom a sum is to be paid under such an order may enforce it by lodging a certified copy of it, and an affidavit stating to what extent it has not been complied with, with a court of competent jurisdiction. (4) When lodged, the order is to be taken to be a judgment of the court and may be enforced accordingly. ”.
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24. *Coal Miners’ Welfare Act 1947*

s. 24	Repeal the section.
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25. *Companies (Co-operative) Act 1943*

s. 347(3)	Delete “any 2 justices of the peace” and insert instead — “ the Magistrates Court ”.
s. 426	Repeal the section.
s. 427	Delete “ <i>Justices Act 1902</i> ” and insert instead — “ <i>Criminal Procedure (Summary) Act 1902</i> ”.

26. *Competition Policy Reform (Western Australia) Act 1996*

s. 55(1)	Delete “summarily under the <i>Justices Act 1902</i> .” and insert instead — “ by a court of summary jurisdiction. ”.
s. 56	Delete “petty sessions” and insert instead — “ summary jurisdiction ”.

Schedule 1 Amendments to various Acts

27. Conservation and Land Management Act 1984

s. 108A(1)	Delete “on the hearing of the complaint of an authorised officer any court of petty sessions” and insert instead — “ the Magistrates Court, on the application of an authorised officer, ”.
s. 113(1)	Repeal the subsection and insert instead — “ (1) Proceedings for an offence under this Act may be commenced by a police officer or a person authorised in writing for the purpose of the proposed proceedings by the Executive Director. ”.

28. Conspiracy and Protection of Property Act 1900

s. 9	Repeal the section.
s. 10	Repeal the section.

29. Constitution Acts Amendment Act 1899

Schedule V	<p>In Division 1 of Part 1, delete “Referee of Small Claims Tribunals appointed under the <i>Small Claims Tribunals Act 1974</i>”.</p> <p>In Division 1 of Part 1, delete “Chief Stipendiary Magistrate or other stipendiary magistrate appointed under the <i>Stipendiary Magistrates Act 1957</i>.” and insert instead — “ Chief Magistrate, Deputy Chief Magistrate or magistrate of the Magistrates Court. ”.</p> <p>In Division 1 of Part 2, delete “Member of the Children’s Court.”.</p>
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30. *Contaminated Sites Act 2003*

s. 85(1)	<p>Repeal the subsection and insert instead —</p> <p>“</p> <p> (1) A prosecution for an offence under this Act must be commenced within 2 years after the date on which the offence is alleged to have been committed.</p> <p>”.</p>
s. 85(2)	Delete “section 51 of the <i>Justices Act 1902</i> and”.

31. *Control of Vehicles (Off-road areas) Act 1978*

s. 38(15)	<p>Repeal the subsection and insert instead —</p> <p>“</p> <p> (15) If a vehicle is seized under subsection (11), it may be detained until the officer is satisfied —</p> <p> (a) that it is licensed under the <i>Road Traffic Act 1974</i> or registered under this Act; or</p> <p> (b) as to the identity of the owner or driver, or until an order is made under section 42, whichever happens first.</p> <p>”.</p>
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Schedule 1 Amendments to various Acts

s. 38(16)	Repeal the subsection and insert instead — “ (16) A person claiming to be the owner of a vehicle seized under subsection (11) or (12) may apply to the Magistrates Court for an order that the vehicle be delivered to him. (17) A vehicle detained — (a) under subsection (11) or (12) by a member of the Police Force; or (b) under subsection (11) by an authorised officer appointed under subsection (2), is to be taken to be detained in the name of the Director General. (18) A vehicle detained under subsection (11) by an authorised officer appointed by a local government under subsection (3) is to be taken to be detained by the local government. ”.
s. 40	Delete “, and may be dealt with summarily before Justices”.
s. 42	Delete “or a Justice”. Delete “or that Justice” in the 3 places where it occurs.

32. Co-operative and Provident Societies Act 1903

s. 17(1)	Delete “, either in the Local Court of the district in which the registered office of the society is situate, or in that of the district in which such member resides, at the option of the society.” and insert instead — “ in a court of competent jurisdiction. ”.
s. 35(1)	Delete “the Local Court of the district in which the registered office of the society is situated.” and insert instead — “ the Magistrates Court. ”.
s. 35(4)	Delete “a court of summary jurisdiction consisting of two or more Justices of the Peace.” and insert instead — “ the Magistrates Court. ”. Repeal the proviso.

s. 35(5)	Delete “either to the Local Court of the district wherein the parties to such dispute or any of them reside, or to a court of summary jurisdiction consisting of two or more Justices of the Peace,” and insert instead — “ to the Magistrates Court, ”.
s. 35(6)	Delete “The Local Court, Justices,” and insert instead — “ The Magistrates Court ”. Delete “such Local Court, Justices,” and insert instead — “ the Court ”.
s. 36	Repeal the section and insert instead — “ 36. Enforcing decisions (1) A decision of a dispute made under the rules of a registered society may be enforced by lodging a certified copy of it, and an affidavit stating to what extent it has not been complied with, with the Magistrates Court. (2) When lodged, the order is to be taken to be a judgment of the Magistrates Court and may be enforced accordingly. ”.
s. 51	Delete “before any two or more Justices”.

33. *Corruption and Crime Commission Act 2003*

s. 43(5)	Delete “ <i>Justices Act 1902</i> ” and insert instead — “ <i>Criminal Procedure (Summary) Act 1902</i> ”.
s. 177A	Repeal the section and insert instead — “ 177A. Limitation period for prosecution of simple offences A prosecution of a simple offence under this Act must be commenced within 36 months after the date on which the offence was allegedly committed and, with the consent of the Attorney General, may be commenced at any time after that period. ”.

Schedule 1 Amendments to various Acts

34. Country Areas Water Supply Act 1947

s. 46(2)	Repeal the subsection and insert instead — “ (2) A court of summary jurisdiction dealing with an offence under this section is to be constituted by a magistrate. ”.
s. 71(3)	Repeal the subsection and insert instead — “ (3) A court of summary jurisdiction dealing with an offence under this section is to be constituted by a magistrate. ”.
s. 73	Delete “by complaint in a Court of Petty Sessions or by action in any other” and insert instead — “ in a ”.
s. 81	Delete “either by complaint or action” and insert instead — “ action in a court of competent jurisdiction ”.
s. 113(2)	Repeal the subsection and insert instead — “ (2) A court of summary jurisdiction dealing with an offence under this section is to be constituted by a magistrate. ”.
s. 116	Delete “a local court or before justices sitting in petty sessions” and insert instead — “ the Children’s Court or the Magistrates Court ”.

35. Country Towns Sewerage Act 1948

s. 79	Delete “either by complaint or action” and insert instead — “ action in a court of competent jurisdiction ”.
s. 114	Delete “any Local Court, or before Justices of the Peace,” and insert instead — “ the Children’s Court or the Magistrates Court, ”.

36. *Court Security and Custodial Services Act 1999*

s. 24(1)	<p>Delete the definition of “court officer” and insert instead —</p> <p>“</p> <p> “court officer” means —</p> <p> (a) the Sheriff or a deputy of the Sheriff; or</p> <p> (b) the Marshal of the Family Court.</p> <p>”.</p>
s. 25(1)	<p>In the definition of “justice officer”, delete the semicolon after paragraph (f) and insert instead a full stop.</p> <p>In the definition of “justice officer”, delete paragraphs (g) and (h).</p>

37. *Credit Act 1984*

s. 6(1)(c)(ii)	Delete the subparagraph and insert instead — “ (ii) the Magistrates Court. ”.
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38. Credit (Administration) Act 1984

s. 50	<p>Repeal the section and insert instead —</p> <p>“</p> <p>50. Offences to be dealt with by magistrate</p> <p>A court of summary jurisdiction dealing with an offence under this Act is to be constituted by a magistrate.</p> <p>”</p>
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39. *Cremation Act 1929*

s. 14	Delete “stipendiary magistrate” and insert instead — “ coroner ”.
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5 40. *Criminal Investigation (Extra-territorial) Offences Act 1987*

s. 4(3)	Delete “Court of Petty Sessions, Perth.” and insert instead — “ Magistrates Court at Perth. ”.
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Schedule 1 Amendments to various Acts

41. Criminal Law (Mentally Impaired Defendants) Act 1996

s. 3	Delete the definitions of “magistrate” and “superior court”. Delete the semicolon after the definition of “statutory penalty” and insert a full stop instead.
s. 11(1)(b)	Delete “a superior court” and insert instead — “ the Supreme Court or the District Court ”.
s. 16(1)	Repeal the subsection and insert instead — “ (1) This section applies if the defendant — (a) is charged with a simple offence; or (b) is charged with an indictable offence that can be tried summarily and that is to be tried by the court of summary jurisdiction. ”.
s. 16(2)	Delete “magistrate who” and insert instead — “ court that ”. Delete “magistrate must” in the 2 places it occurs and in each place insert instead — “ court must ”.
s. 16(3)	Delete “a magistrate” and insert instead — “ the court ”.
s. 16(4)	Delete “a magistrate” and insert instead — “ the court ”. Delete “the magistrate” and insert instead — “ the court ”.
s. 16(6)	Delete “magistrate” and insert instead — “ court ”.
s. 16(7)	Delete “A magistrate” and insert instead — “ The court ”.

After s. 17(1)	Insert the following subsection — “ (1a) This section also applies if the defendant is charged before the Children’s Court with an indictable offence and has elected to be tried by a judge of the Supreme Court or of the District Court (as the case may be) and a jury. ”.
s. 17(2) s. 20	In each provision delete “ <i>Justices Act 1902</i> ” in each place it occurs and in each place insert instead — “ <i>Criminal Procedure (Summary) Act 1902</i> ”.
Part 3 Division 3	In the heading to Division 3 delete “superior courts” and insert instead — “ the Supreme Court and District Court ”.
s. 18	Delete “a superior court” and insert instead — “ the Supreme Court or the District Court ”.

42. *Criminal Property Confiscation Act 2000*

s. 101(3)	Delete “A Local Court” and insert instead — “ The Magistrates Court ”. Delete “\$25 000.” and insert instead — “ the jurisdictional limit (within the meaning of section 4 of the <i>Magistrates Court (Civil Proceedings) Act 2003</i>). ”.
s. 101(4)	Delete “a Local Court” and insert instead — “ the Magistrates Court ”.

Schedule 1 Amendments to various Acts

s. 101(5)	Repeal the subsection and insert instead — “ (5) Despite subsections (3) and (4), if both the applicant and the respondent consent, the Magistrates Court may hear and determine — (a) an objection; or (b) an application for — (i) an unexplained wealth declaration; (ii) a criminal benefits declaration; or (iii) a crime-used property substitution declaration. ”.
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43. Dampier to Bunbury Pipeline Act 1997

s. 38(6)	Delete the definition of “court” and insert instead — “ “ court ” means the Magistrates Court. ”.
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44. Debt Collectors Licensing Act 1964

s. 4(d)	Delete the paragraph and insert instead — “ (d) a bailiff or assistant bailiff appointed under Part 7 Division 1 of the <i>Civil Judgments Enforcement Act 2003</i> ; ”.
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45. Dental Prosthetists Act 1985

s. 27(2)	Repeal the subsection and insert instead — “ (2) A court of summary jurisdiction dealing with an offence under this Act is to be constituted by a magistrate. ”.
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46. *Director of Public Prosecutions Act 1991*

s. 11(2)	Delete “ <i>Justices Act 1902</i> ” and insert instead — “ <i>Criminal Procedure (Summary) Act 1902</i> ”.
s. 21(b)	Delete “a court of petty sessions” and insert instead — “ the Magistrates Court ”.

47. *Disability Services Act 1993*

s. 54(1)	Delete “ <i>Justices Act 1902</i> ” and insert instead — “ <i>Criminal Procedure (Summary) Act 1902</i> ”.
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48. *Disposal of Uncollected Goods Act 1970*

s. 4(1)	<p>Delete the definition of “court” and insert instead —</p> <p>“</p> <p>“court” means the Magistrates Court constituted by a magistrate;</p> <p>”.</p>
s. 32	<p>Repeal the section and insert instead —</p> <p>“</p> <p>32. Procedure</p> <p>(1) Subject to this Act, the <i>Magistrates Court (Civil Proceedings) Act 2003</i> and rules of court made under that Act apply to and to the hearing and determination of an application.</p> <p>(2) A copy of an application is to be served on any person appearing to be affected by it.</p> <p>”.</p>
s. 33	<p>Repeal the section.</p>

49. *Distress for Rent Abolition Act 1936*

s. 6	Repeal the section.
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Schedule 1 Amendments to various Acts

50. Dividing Fences Act 1961

s. 5	<p>Delete the definition of “court of petty sessions” and insert instead —</p> <p>“ “court” means the Magistrates Court; ”.</p> <p>In the definition of “owner”, delete “a court of petty sessions” and insert instead —</p> <p>“ the court ”.</p> <p>In the definition of “sufficient fence”, delete “a court of petty sessions” and insert instead —</p> <p>“ the court ”.</p>
s. 9(1)	<p>Delete “a court of petty sessions held” and insert instead —</p> <p>“ the court at the place ”.</p> <p>Delete “the complaint of” and insert instead —</p> <p>“ an application by ”.</p>
s. 9(3)	Delete “of petty sessions”.
s. 9(4)	<p>Delete “a court of petty sessions” and insert instead —</p> <p>“ the court ”.</p>
s. 10(1)	<p>Delete “a court of petty sessions” and insert instead —</p> <p>“ the court ”.</p>
s. 11(1)	<p>Delete “of petty sessions held” and insert instead —</p> <p>“ at the place ”.</p> <p>Delete “of petty sessions” in the second place it occurs.</p>
s. 11(4)	<p>Delete “of petty sessions that made the order”.</p> <p>Delete “the complaint of” and insert instead —</p> <p>“ an application by ”.</p> <p>In paragraph (a) delete “complainant” and insert instead —</p> <p>“ applicant ”.</p>
s. 11(5)	<p>Delete “the complaint of” and insert instead —</p> <p>“ an application by ”.</p> <p>Delete “of petty sessions”.</p>
s. 13(4)	<p>Delete “make a complaint in a court of petty sessions held” and insert instead —</p> <p>“ apply to the court at the place ”.</p>

s. 13(5)	Delete “of petty sessions hearing a complaint” and insert instead — “ on an application ”.
s. 13(6)	Delete “a court of petty sessions” and insert instead — “ the court ”.
s. 13(8)	Repeal the subsection.
s. 15(4)	Delete “make a complaint in a court of petty sessions held” and insert instead — “ apply to the court at the place ”.
s. 15(5)	Delete “of petty sessions hearing a complaint” and insert instead — “ on an application ”.
s. 15(5b)	Delete “of petty sessions”.
s. 15(6)	Delete “of petty sessions”.
s. 17	Delete “a court of petty sessions” and insert instead — “ the court ”.
s. 18(2)	Delete “a court of petty sessions” and insert instead — “ the court ”.
After s. 18(2)	Insert the following subsection — “ (3) Despite subsection (1), an order of the court made under section 9(1)(h), 13(5)(d) or 15(5)(d) or (e) is a judgment of the court and may be enforced accordingly. ”.

51. *Dog Act 1976*

s. 39(1)	Delete “a Local Court” and insert instead — “ the Magistrates Court ”.
s. 44(1)	Repeal the subsection.

52. *Electoral Act 1907*

s. 49(1)	Delete “a court of petty sessions” and insert instead — “ the Magistrates Court ”.
s. 90(1a)(e)	Delete the paragraph and “or” after it and insert instead — “ (e) a registrar of the Magistrates Court; or ”.

Schedule 1 Amendments to various Acts

53. Electricity Act 1945

s. 36(3)	Delete “summarily by a complaint before justices sitting in petty sessions.” and insert instead — “ in a court of competent jurisdiction. ”.
s. 45	Delete “court of petty sessions.” and insert instead — “ court of competent jurisdiction. ”.
s. 49	Delete “shall be liable to forfeit and pay to the supply authority in respect of each act complained of a penalty (not exceeding \$100) to be fixed by the Coordinator on the application of the supply authority and also an additional penalty of \$50 for every day or part of a day during which the doing of the act complained of shall continue.” and insert instead — “ commits an offence. Penalty: \$100. For each separate and further offence committed under section 71 of the <i>Interpretation Act 1984</i> : \$50. ”.
s. 53	Repeal the section and insert instead — “ 53. Limitation period for offences A prosecution for an offence under this Act must be commenced within 2 years after the date on which the offence is alleged to have been committed. ”.

54. *Employment Agents Act 1976*

s. 28	<p>Repeal the section and insert instead —</p> <p>“</p> <p>28. Limitation period for offences</p> <p>A prosecution for an offence under this Act must be commenced within 2 years after the date on which the offence is alleged to have been committed.</p> <p>”.</p>
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55. *Energy Coordination Act 1994*

s. 11ZQC(3)	Repeal the subsection.
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56. *Energy Operators (Powers) Act 1979*

s. 82(1)	Delete all of the subsection after “of the offence”.
s. 84(3)	<p>Delete “justices or in any court of petty sessions” and insert instead —</p> <p>“ a court of summary jurisdiction ”.</p>
s. 85	<p>Repeal the section and insert instead —</p> <p>“</p> <p>85. Limitation period for offences</p> <p>(1) A prosecution for a simple offence under this Act must be commenced within 2 years after the date on which the offence is alleged to have been committed.</p> <p>(2) A prosecution for an offence under section 74(1) may be commenced at any time.</p> <p>”.</p>

57. *Environmental Protection Act 1986*

s. 92H(3)	<p>Delete “a Local Court” and insert instead —</p> <p>“ the Magistrates Court ”.</p>
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Schedule 1 Amendments to various Acts

s. 114A(1)	Repeal the subsection and insert instead — “ (1) A prosecution for a Tier 1 offence may be commenced at any time. ”.
s. 114A(2)	Repeal the subsection and insert instead — “ (2) A prosecution for any other offence under this Act may be commenced within 24 months after the date on which the alleged offence was committed. ”.
s. 114A(3)	Delete “section 51 of the <i>Justices Act 1902</i> and”.

58. Equal Opportunity Act 1984

s. 66ZN(2)(f)	Delete the paragraph and insert instead — “ (f) magistrate within the meaning of the <i>Magistrates Court Act 2003</i> ; ”.
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59. Fair Trading Act 1987

s. 70	Before “A person” insert the subsection designation “(1)”. Delete “, and proceedings for such an offence may be disposed of summarily before a magistrate sitting alone”. At the end of the section insert the following subsection — “ (2) A court of summary jurisdiction dealing with an offence under this Act is to be constituted by a magistrate. ”.
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60. *Fertilizers Act 1977*

s. 38(1)	Delete “ <i>Justices Act 1902</i> ” and insert instead — “ <i>Criminal Procedure (Summary) Act 1902</i> ”. After “justice” insert — “ or other person ”.
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61. *Finance Brokers Control Act 1975*

s. 93(3)	Delete “ <i>Justices Act 1902</i> ” and insert instead — “ <i>Criminal Procedure (Summary) Act 1902</i> ”.
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62. *Financial Transaction Reports Act 1995*

s. 11(1)	Delete “petty sessions” and insert instead — “ summary jurisdiction ”.
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63. *Fire Brigades Act 1942*

s. 33A(6)	Delete “a stipendiary magistrate” and insert instead — “ the Magistrates Court ”. Delete “the stipendiary magistrate” and insert instead — “ Court ”.
s. 33A(7)	Repeal the subsection and insert instead — “ <div style="padding-left: 40px;">(7) On an application made under subsection (6), the Magistrates Court shall be constituted by a magistrate and may grant, subject to any conditions the Court thinks fit to impose, or refuse to grant, the order sought by the application.</div> ”.
s. 33A(8)	Delete “to a stipendiary magistrate”.
s. 33A(9)	Delete “a stipendiary magistrate” and insert instead — “ the Magistrates Court ”.

Schedule 1 Amendments to various Acts

s. 33A(10)	Repeal the subsection and insert instead — “ (10) On an application made under subsection (9) the Magistrates Court shall be constituted by a magistrate and may rescind or refuse to rescind the order to which the application relates. ”.
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64. Firearms Act 1973

s. 17(1)(b)	After “auctioneer,” insert — “ Sheriff or deputy sheriff, ”.
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65. Fish Resources Management Act 1994

s. 201(4)	Delete “petty sessions” and insert instead — “ summary jurisdiction ”.
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66. Fuel, Energy and Power Resources Act 1972

s. 61	Repeal the section and insert instead — “ 61. Offences to be dealt with by magistrate A court of summary jurisdiction dealing with an offence under this Part or under regulations made under this Part is to be constituted by a magistrate. ”.
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67. Gaming and Wagering Commission Act 1987

s. 34	Repeal the section and insert instead — “ 34. Offences to be dealt with by magistrate A court of summary jurisdiction dealing with an offence under this Act is to be constituted by a magistrate. ”.
s. 52(a)	Delete “stipendiary”.

68. *Gas Standards Act 1972*

s. 14(2)	<p>Repeal the subsection and insert instead —</p> <p>“</p> <p> (2) A prosecution for an offence under this Act must be commenced within 2 years after the date on which the offence is alleged to have been committed.</p> <p>”.</p>
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69. *Gold Corporation Act 1947*

s. 73(1) s. 73(2)	<p>In each provision delete “Court of Petty Sessions” and insert instead —</p> <p>“ court of summary jurisdiction ”.</p>
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70. *Government Railways Act 1904*

s. 45(5)	<p>Delete “any 2 justices” and insert instead —</p> <p>“ a court of summary jurisdiction ”.</p> <p>Delete “such justices” and insert instead —</p> <p>“ the court ”.</p>
s. 49	<p>Delete “take him before justices of the peace to be dealt with as the law directs.” and insert instead —</p> <p>“ deal with him according to law. ”.</p>
s. 51(1)	<p>Delete “any 2 or more justices of the peace” and insert instead—</p> <p>“ a police officer ”.</p>
s. 77	<p>Delete “a Stipendiary Magistrate.” and insert instead —</p> <p>“ the Magistrates Court. ”.</p>
s. 78(1)(a)	<p>Delete “stipendiary”.</p>
s. 84(4)	<p>Delete “a stipendiary magistrate” and insert instead —</p> <p>“ the Magistrates Court ”.</p> <p>Delete “stipendiary magistrates” and insert instead —</p> <p>“ the court when ”.</p>

Schedule 1 Amendments to various Acts

71. Guardianship and Administration Act 1990

s. 97(1)(c)	After “to him” insert — “ by a court or ”.
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72. Hairdressers Registration Act 1946

s. 19(3)	Repeal the subsection.
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73. Health Act 1911

s. 3(1)	Delete the definition of “Magistrate”.
s. 14	Delete “justices by the <i>Justices Act 1902</i> ” and insert instead — “ a court of summary jurisdiction by the <i>Criminal Procedure (Summary) Act 1902</i> ”.
s. 84(c)	Delete “summarily before any 2 justices.” and insert instead — “ in a court of competent jurisdiction. ”.
s. 89	Delete “before any 2 justices” and insert instead — “ in a court of competent jurisdiction ”.
s. 108(5)	Delete “settled by any 2 justices.” and insert instead — “ decided by a court of competent jurisdiction. ”.
s. 117(2)	Delete “settled by any 2 justices,” and insert instead — “ decided by a court of competent jurisdiction, ”.
s. 122(1)	Delete “, any two justices” and insert instead — “ to the Magistrates Court, the court ”.
s. 122(2)	Delete “they think” in the first place where it occurs and insert instead — “ it thinks ”. Delete “justices” and insert instead — “ court ”. In paragraph (e) delete “they think” and insert instead — “ it thinks ”.

s. 122(3)	Delete “justices’ ” and insert instead — “ court’s ”. Delete “them” and insert instead — “ it ”.
s. 122(4) s. 122(8)	In each provision delete “justices” and insert instead — “ court ”.
s. 122(9)	Delete “justices’ ” and insert instead — “ court’s ”.
s. 127(2)	Delete “awarded summarily by any 2 justices.” and insert instead — “ decided in a court of competent jurisdiction. ”.
s. 128	Delete “summarily before any 2 justices” and insert instead — “ in a court of competent jurisdiction ”.
s. 142(2)	Delete “any 2 justices” and insert instead — “ a court of summary jurisdiction ”. Delete “they think” and insert instead — “ it thinks ”.
s. 155	Delete “the justices” and insert instead — “ a court of summary jurisdiction ”. Delete “they think” and insert instead — “ it thinks ”.
s. 182	In the proviso delete “justices —” and insert instead — “ court of summary jurisdiction — ”.
s. 184(5)	Delete “or summarily before any 2 Justices of the Peace” and insert instead — “ in a court of competent jurisdiction ”.
s. 205(2)	Delete “determination of justices” and insert instead — “ Magistrates Court ”.

Schedule 1 Amendments to various Acts

s. 205(3)	<p>Delete “complain to a justice of the seizure or seizure and carrying away concerned,” and insert instead —</p> <p>“</p> <p style="padding-left: 40px;">apply to the Magistrates Court for an order under subsection (5),</p> <p style="text-align: right;">”.</p> <p>In paragraph (a) delete “complained” and insert instead —</p> <p>“ applied ”.</p> <p>In paragraph (b) delete “justice for the hearing of that complaint.” and insert instead —</p> <p>“ court for the hearing of the application. ”.</p>
s. 205(4)	<p>Repeal the subsection.</p>
s. 205(5)	<p>Delete “The justices hearing and determining a complaint made under subsection (3) may, if it appears to them that the animal to which that complaint relates — ” and insert instead —</p> <p>“</p> <p style="padding-left: 40px;">The Magistrates Court may hear and determine an application made under subsection (3) and may, if it appears to it that the animal to which the application relates —</p> <p style="text-align: right;">”.</p> <p>In paragraph (a)(ii) delete “that complaint and require the complainant” and insert instead —</p> <p>“ the application and require the applicant ”.</p> <p>In paragraph (a)(ii) delete “complaint” in the second place where it occurs.</p> <p>In paragraph (b) delete “complainant.” and insert instead —</p> <p>“ applicant. ”.</p>
s. 205(7)	<p>Delete “complain to a justice of the seizure, or seizure and carrying away, concerned” and insert instead —</p> <p>“ make an application ”.</p>
s. 205(9)	<p>Delete “summary way before any 2 justices.” and insert instead —</p> <p>“ court of competent jurisdiction. ”.</p>

s. 217(6)	Delete “justices” and insert instead — “ court ”. Delete “they think” and insert instead — “ it thinks ”.
s. 221(2)	Delete “justices” and insert instead — “ court of summary jurisdiction ”.
s. 231(5)	Delete “ <i>Justices Act 1902</i> ” and insert instead — “ <i>Criminal Procedure (Summary) Act 1902</i> ”.
s. 233	Delete “justices are” and insert instead — “ court of summary jurisdiction is ”. Delete “they” and insert instead — “ it ”. Delete “they think” and insert instead — “ it thinks ”.
s. 246ZR(1)	Delete “ <i>Justices Act 1902</i> ” and insert instead — “ <i>Criminal Procedure (Summary) Act 1902</i> ”.
s. 256(2)	Repeal the subsection and insert instead — “ (2) All such expenses shall be recoverable in a court of competent jurisdiction by the Executive Director, Public Health or the local government. ”.
s. 259(6)	Delete “a magistrate.” and insert instead — “ the Magistrates Court. ”.
s. 264(2)	Delete “justices” and insert instead — “ court of summary jurisdiction ”.
s. 290	In the definition of “declared patient” delete “a magistrate” and insert instead — “ the Magistrates Court ”. Delete the definition of “magistrate”.
s. 294(2)	Delete “a complaint” and insert instead — “ an application for an order under subsection (5) ”. Delete “against” and insert instead — “ in respect of ”.

Schedule 1 Amendments to various Acts

s. 294(3)	Repeal the subsection and insert instead — “ (3) The application shall be made to the Magistrates Court in accordance with that court’s rules of court. ”.
s. 294(4)	Repeal the subsection and insert instead — “ (4) The Magistrates Court, constituted by a magistrate, shall hear and determine the application and may exclude all or any persons from the hearing and the publication of all or any part of the proceedings if, in the court’s opinion, having regard to the purpose of this Part, the particular circumstances of the case justify doing so. ”.
s. 294(5)	Delete “his” and insert instead — “ its ”. Delete “magistrate” and insert instead — “ court ”. Delete “he shall consider” and insert instead — “ it considers ”.
s. 294(6)	Delete “a complaint made” and insert instead — “ an application ”. In paragraph (a)(iv) delete “a complaint against” and insert instead — “ the application in respect of ”.
s. 294(7)	Delete “a magistrate” and insert instead — “ the Magistrates Court ”.
s. 294(8)(a)	Delete “a magistrate” in the 2 places it occurs and in each place insert instead — “ the Magistrates Court ”.
s. 294(8)(b)	Delete “a complaint,” and insert instead — “ an application, ”.

s. 294(8)(c)	Delete “magistrate” in the 2 places it occurs and in each place insert instead — “ court ”. Delete “he” in the 2 places it occurs and in each place insert instead — “ it ”.
s. 295(b)	Delete “a magistrate” and insert instead — “ the Magistrates Court ”.
s. 307(4)	Delete “or a resident or police magistrate in the district in which he is detained” and insert instead — “ , or to the Magistrates Court (to be constituted by a magistrate) at the place nearest to where he is detained, ”.
s. 352(2)	Delete “and taken before justices, there”.
s. 362(1)	Repeal the subsection.
s. 362(2)	Delete “the recovery of any penalty” and insert instead — “ an offence ”.
s. 363	Repeal the section.
s. 372(1)	Delete “in a summary manner by a magistrate,” and insert instead — “ by the Magistrates Court, constituted by a magistrate, ”.
s. 372(2)	Delete “magistrate’s” and insert instead — “ court’s ”.
s. 372(3)	Delete “magistrate’s decision under the hand of the magistrate,” and insert instead — “ court’s decision ”.
s. 372	In the proviso delete “a magistrate” and insert instead — “ the Magistrates Court ”.
s. 377(10)	Delete “justices” and insert instead — “ court of summary jurisdiction ”.
s. 378	Delete “and magistrates”.

Schedule 1 Amendments to various Acts

74. *Heritage of Western Australia Act 1990*

s. 66(2)	Delete “petty sessions” and insert instead — “ summary jurisdiction ”.
s. 66(3)(a)	Delete “ <i>Justices Act 1902</i> ” and insert instead — “ <i>Criminal Procedure (Summary) Act 1902</i> ”.

75. *Hire Purchase Act 1959*

s. 2(1)	Delete the definition of “Local Court”.
s. 9(3) s. 10 s. 12(3) s. 24(4) s. 25(2) s. 35 s. 36(1) s. 37A(1)	In each provision delete “a Local Court” and insert instead — “ the Magistrates Court ”.

76. *Home Building Contracts Act 1991*

Long title	Delete “ to amend the <i>Small Claims Tribunals Act 1974</i>, ”.
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77. *Income Tax Assessment Act 1937*

s. 225	Repeal the section and insert instead — “ 225. Proceedings for offences (1) A prosecution for an offence under this Act must be commenced within 3 years after the date on which the offence is alleged to have been committed. (2) A court of summary jurisdiction dealing with an offence under this Act is to be constituted by a magistrate. ”.
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78. Interpretation Act 1984

s. 5	<p>Delete these definitions:</p> <p>“Local Court”</p> <p>“petty sessional court-house”.</p> <p>Delete the definition of “ “court of summary jurisdiction” or “court of petty sessions” ” and insert instead —</p> <p>“</p> <p> “court of summary jurisdiction” means the Children’s Court or the Magistrates Court;</p> <p>”.</p> <p>Delete the definition of “justice” and insert instead —</p> <p>“</p> <p> “justice of the peace” or “justice” or “JP” means a justice of the peace appointed under the <i>Justices of the Peace Act 2003</i>;</p> <p>”.</p> <p>Delete the definition of “magistrate” and insert instead —</p> <p>“</p> <p> “magistrate” means a magistrate of the Magistrates Court;</p> <p>”.</p> <p>Insert, in the appropriate alphabetical position —</p> <p>“</p> <p> “Magistrates Court” means the Magistrates Court of Western Australia established by the <i>Magistrates Court Act 2003</i>;</p> <p>”.</p>
s. 67(3) s. 67(4)	<p>In each provision delete “<i>Justices Act 1902</i>” in each place it occurs and in each place insert instead —</p> <p>“ <i>Criminal Procedure (Summary) Act 1902</i> ”.</p>
After s. 67(4)	<p>Insert the following subsection —</p> <p>“</p> <p> (5) This section does not limit the operation of Part 3 of the <i>Children’s Court of Western Australia Act 1988</i>.</p> <p>”.</p>

Schedule 1 Amendments to various Acts

79. *Juries Act 1957*

s. 3(1)	Delete the definition of “Sheriff” and insert instead — “ “Sheriff” means the Sheriff of Western Australia and any deputy sheriff appointed by the Sheriff of Western Australia; ”.
Second Schedule Pt I	In clause 1(e) delete “Stipendiary”. Delete clause 2(f) and insert instead — “ (f) Bailiff or assistant bailiff appointed under the <i>Civil Judgments Enforcement Act 2003</i> . ”.

80. *Kalgoorlie and Boulder Racing Clubs Act 1904*

s. 19	Delete “the breach thereof shall be punishable in a summary manner before a Justice by” and insert instead — “ a person who contravenes any of them commits an offence and is liable to ”.
s. 22	Delete “on conviction thereof before a justice forfeit and pay for every such offence over and above the amount of the injury done any sum” and insert instead — “ commit an offence and be liable, over and above the amount of the injury done, to a penalty ”.
s. 23	Delete “convey him with all convenient despatch before some justice without any warrant or other authority than this Act and such justice shall proceed with all convenient despatch to the hearing of the complaint against the offender.” and insert instead — “ who shall deal with him according to law. ”.

81. *Land Administration Act 1997*

s. 267(4)	Repeal the subsection and insert instead — “ (4) Subject to subsection (5), a prosecution for an offence under subsection (2) must be commenced within 10 years after the date on which the offence is alleged to have been committed. ”.
s. 267(5)	Repeal the subsection and insert instead — “ (5) If an offence under subsection (2) is of a continuing nature, a prosecution for the offence may be commenced at any time during the continuance of that offence. ”.

82. *Land Boundaries Act 1841*

s. 7	Repeal the section and insert instead — “ 7. Injuring landmarks an offence A person who wilfully injures or defaces any such landmark as aforesaid commits an offence. Penalty: Not less than \$20 and not more than \$100. ”.
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83. *Land Drainage Act 1925*

s. 71(3)	Delete “, and any such order may be enforced as an order for a penalty under the <i>Justices Act 1902</i> ”.
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Schedule 1 Amendments to various Acts

s. 104	Repeal the section and insert instead — “ 104. Recovery of rates in arrears The Corporation may recover any rates that are in arrears in a court of competent jurisdiction as if they are a debt due to the Corporation on the date when the rates are payable under the by-laws. ”.
s. 154	Delete “justices” and insert instead — “ court ”.
s. 158	Repeal the section.
s. 161	Delete “petty sessions or before any justice” and insert instead — “ summary jurisdiction ”.
s. 167(6)	Delete “ <i>Justices Act 1902</i> ” and insert instead — “ <i>Criminal Procedure (Summary) Act 1902</i> ”.

84. Land Valuers Licensing Act 1978

s. 35(3)	Delete “ <i>Justices Act 1902</i> ” and insert instead — “ <i>Criminal Procedure (Summary) Act 1902</i> ”.
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85. Legal Practice Act 2003

s. 123(3)(a)	After the paragraph insert — “ or ”.
s. 123(3)(b)	Delete the paragraph and “or” after it.
s. 123(3)(c)	Before “authorised” insert — “ expressly ”.
s. 210(2)(b)	Delete subparagraphs (iii) and (iv) and insert instead — “ (iii) the Magistrates Court; (iv) a court of summary jurisdiction; ”.

86. *Legal Representation of Infants Act 1977*

s. 3(1)	After paragraph (c) insert the following paragraph — “ (ca) the Magistrates Court in relation to its civil jurisdiction; ”.
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87. *Library Board of Western Australia Act 1951*

s. 12	Delete “justices or in any Court of Petty Sessions” and insert instead — “ a court of summary jurisdiction ”.
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88. *Lights (Navigation Protection) Act 1938*

s. 7	Delete “A complaint under the <i>Justices Act 1902</i> for an offence against this Act may be made or sworn” and insert instead — “ A prosecution for an offence under this Act may be commenced ”.
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89. *Limitation Act 1935*

s. 3	In the definition of “Action” delete “a Local Court or other” and insert instead — “ any ”.
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5 **90. *Liquor Licensing Act 1988***

s. 16(14)	Delete “clerk” and insert instead — “ registrar ”.
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Schedule 1 Amendments to various Acts

s. 143(3)	Repeal the subsection and insert instead — “ (3) An order made under subsection (1) may be enforced by lodging a certified copy of it, and an affidavit stating to what extent it has not been complied with, with a court of competent jurisdiction. (4) When lodged, the order is to be taken to be a judgment of the court and may be enforced accordingly. ”.
s. 169(1)	Delete “Notwithstanding section 29 of the <i>Justices Act 1902</i> , a trial for an offence under this Act shall be heard and determined by a stipendiary magistrate where —” and insert instead — “ A court of summary jurisdiction hearing and determining a charge of an offence under this Act shall be constituted by a magistrate where — ”.

91. *Litter Act 1979*

s. 27A(4)	Delete “ <i>Justices Act 1902</i> ” and insert instead — “ <i>Criminal Procedure (Summary) Act 1902</i> ”.
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92. *Local Government Act 1995*

s. 9.29(1)	In the definition of “proceedings” delete paragraph (a) and “or” after it and insert instead — “ (a) proceedings in the Magistrates Court, the Children’s Court or the State Administrative Tribunal; or ”.
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93. *Local Government (Miscellaneous Provisions) Act 1960*

s. 399(3)(a) s. 399(3)(b) s. 400(3)	In each provision delete “a court of petty sessions” and insert instead — “ the Magistrates Court ”.
s. 401(7)	Delete “a court of petty sessions on complaint by the local government” and insert instead — “ the Magistrates Court, on an application by the local government and on being satisfied ”. Delete “the complaint” and insert instead — “ the application ”.
s. 404	Delete “a court of petty sessions on complaint by the local government” and insert instead — “ the Magistrates Court, on an application by the local government and on being satisfied ”.
s. 406	Delete “a court of petty sessions may, upon the complaint of the local government to that effect,” and insert instead — “ the Magistrates Court may, on an application by the local government, ”.
s. 408(4) s. 411(4)	In each provision delete “a court of petty sessions, on complaint by the local government” and insert instead — “ the Magistrates Court, on an application by the local government and on being satisfied ”. Delete “the complaint” and insert instead — “ the application ”.

Schedule 1 Amendments to various Acts

s. 409(4)	Delete “a court of petty sessions on complaint by the local government” and insert instead — “ the Magistrates Court, on an application by the local government and on being satisfied ”.
s. 410(1)	Delete “a court of petty sessions, on complaint to that effect by the local government,” and insert instead — “ the Magistrates Court, on an application by the local government, ”.
s. 418	Delete “complaint” and insert instead — “ application ”. Delete “a court of petty sessions” and insert instead — “ the Magistrates Court ”.
s. 430(2)(a)	Delete the paragraph and “and” after it and insert instead — “ (a) may by leave of the Supreme Court be enforced in that court as if the award were a monetary judgment (within the meaning of section 3 of the <i>Civil Judgments Enforcement Act 2003</i>) of that court; and ”.
s. 454	Delete “petty sessions” and insert instead — “ summary jurisdiction ”.
s. 667(1)	Delete “a court of petty sessions” and insert instead — “ the Magistrates Court ”.

94. Long Service Leave Act 1958

s. 36	<p>Repeal the section and insert instead —</p> <p>“</p> <p>36. Jurisdiction for offences</p> <p>Subject to section 19(1) of the <i>Children’s Court of Western Australia Act 1988</i>, an industrial magistrate’s court has jurisdiction to hear and determine a charge of an offence under this Act and that jurisdiction is exclusive of any other court except where an appeal lies to that other court.</p> <p>”.</p>
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95. Marketing of Potatoes Act 1946

s. 40(8)	<p>Delete “penalty imposed summarily under the <i>Justices Act 1902</i>.” and insert instead —</p> <p>“ fine imposed by a court for that offence. ”.</p>
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96. Medical Act 1894

s. 23	Delete “A, E, F,”.
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97. Metropolitan Region Town Planning Scheme Act 1959

s. 26(3)	<p>Delete “, and upon a certified copy of the order under the hand of the officer having the custody of the record of the order being delivered to the Commission and registered by the Commission in the Local Court nearest to the place where the order was made the order may be enforced in the same way as if it had been a judgment of that Local Court”.</p>
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Schedule 1 Amendments to various Acts

After s. 26(4)	<p>Insert the following subsections —</p> <p>“</p> <p>(4a) An order made under subsection (1) may be enforced by lodging a certified copy of it, and an affidavit stating to what extent it has not been complied with, with a court of competent jurisdiction.</p> <p>(4b) When lodged, the order is to be taken to be a judgment of the court and may be enforced accordingly.</p> <p>”.</p>
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98. Metropolitan Water Supply, Sewerage and Drainage Act 1909

s. 109	Delete “either by complaint or action” and insert instead — “ action in a court of competent jurisdiction ”.
Heading before s. 118	Repeal the heading.
s. 118 s. 119 s. 120 s. 121 s. 122 s. 123 s. 124	Repeal the sections.
Before s. 124A	Insert the following heading — “ (iii) Memorials against land ”.
Tenth Schedule	Repeal the Schedule.
Eleventh Schedule	Repeal the Schedule.
Twelfth Schedule	Repeal the Schedule.

99. Mines Safety and Inspection Act 1994

s. 31(4)	Delete “stipendiary”.
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100. Minimum Conditions of Employment Act 1993

s. 46(1)	Repeal the subsection and insert instead — “ (1) Subject to section 19(1) of the <i>Children’s Court of Western Australia Act 1988</i> , an industrial magistrate’s court established under Part III of the IR Act has jurisdiction to hear and determine a charge of an offence under this Part and that jurisdiction is exclusive of any other court except where an appeal lies to that other court. ”.
s. 46(2)	Repeal the subsection and insert instead — “ (2) Part VIII of the <i>Criminal Procedure (Summary) Act 1902</i> applies in respect of decisions of an industrial magistrate’s court made under subsection (1). ”.

101. Misuse of Drugs Act 1981

s. 3(1)	In the definition of “summary court” delete “Court of Petty Sessions” and insert instead — “ court of summary jurisdiction ”.
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102. Motor Vehicle Dealers Act 1973

s. 36	Delete “or a Small Claims Tribunal established under the <i>Small Claims Tribunals Act 1974</i> ”.
s. 38(1) s. 41A(1)	In each provision delete “a Local Court” and insert instead — “ the Magistrates Court ”.
s. 38(2) s. 41A(3) s. 41A(4) s. 41A(5)	In each provision delete “Local Court” in each place it occurs and in each place insert instead — “ Magistrates Court ”.

Schedule 1 Amendments to various Acts

s. 37A(3)	Delete “office of the Local Court” and insert instead — “ registry of the Magistrates Court at the place ”. Delete “a Local Court pursuant to the <i>Local Courts Act 1904</i> ,” and insert instead — “ the Magistrates Court ”.
s. 37A(5)	Delete “office of the Local Court wherein” and insert instead — “ registry of the Magistrates Court in which ”. Delete “section 154 of the <i>Local Courts Act 1904</i> ,” and insert instead — “ the <i>Magistrates Court (Civil Proceedings) Act 2003</i> or the Magistrates Court’s rules of court, ”.

103. Motor Vehicle Repairers Act 2003

s. 75(1) s. 76(1)	In each provision delete “a Local Court” in each place it appears and in each place insert instead — “ the Magistrates Court ”.
s. 77(1)	Delete “ <i>Local Courts Act 1904</i> ” and insert instead — “ <i>Magistrates Court (Civil Proceedings) Act 2003</i> ”.

104. Motor Vehicle (Third Party Insurance) Act 1943

s. 16(1)	In the definition of “Court” delete “Local Court established under the <i>Local Courts Act 1904</i> ” and insert instead — “ Magistrates Court ”.
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105. Museum Act 1969

s. 50(1)	Delete “Justices” and insert instead — “ a court of summary jurisdiction ”.
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106. *Native Title (State Provisions) Act 1999*

s. 5.4(4)	<p>In the definition of “court” delete paragraph (a) and insert instead —</p> <p>“</p> <p>(a) the Magistrates Court if the order would be within the jurisdictional limit of that Court in respect of the recovery of debts;</p> <p>”</p>
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107. *Newspaper Libel and Registration Act 1884*

s. 17	Repeal the section.
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108. *Occupational Safety and Health Act 1984*

s. 51C(1)(b)	Delete " <i>Justices Act 1902</i> " and insert instead — " <i>Criminal Procedure (Summary) Act 1902</i> ". After "section 52" insert — " , subject to section 19(1) of the <i>Children's Court of Western Australia Act 1988</i> "
s. 51C(3)	Delete " <i>Local Courts Act 1904</i> " and insert instead — " <i>Magistrates Court (Civil Proceedings) Act 2003</i> ". Delete "a court under that Act." and insert instead — " the Magistrates Court. "
s. 51C(4)	Delete " <i>Local Courts Act 1904</i> " and insert instead — " <i>Magistrates Court (Civil Proceedings) Act 2003</i> ".
After s. 51C(5)	Insert the following subsection — " (6) Sections 15, 16, 35 and 36 and Part 3 Division 2 of the <i>Magistrates Court Act 2003</i> apply to and in relation to a safety and health magistrate in the same way as they apply to and in relation to the Magistrates Court and its officers. "

Schedule 1 Amendments to various Acts

s. 51E	Delete “Chief Stipendiary Magistrate” and insert instead — “ Chief Magistrate of the Magistrates Court ”.
s. 52(2)	Delete “Proceedings” and insert instead — “ Subject to section 19(1) of the <i>Children’s Court of Western Australia Act 1988</i> , proceedings ”.
s. 54B(1)	Repeal the subsection and insert instead — “ (1) Part VIII of the <i>Criminal Procedure (Summary) Act 1902</i> applies in respect of decisions of a safety and health magistrate made under section 52. ”.

109. Occupational Therapists Registration Act 1980

s. 42(2)	Repeal the subsection and insert instead — “ (2) A court of summary jurisdiction dealing with an offence under this Act is to be constituted by a magistrate. ”.
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110. Official Prosecutions (Defendants’ Costs) Act 1973

s. 4(1)	In the definition of “Summary Court” delete “a Court of Petty Sessions,” and insert instead — “ the Magistrates Court ”.
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111. Parks and Reserves Act 1895

s. 13	<p>Repeal the section and insert instead —</p> <p>“</p> <p>13. Protection from liability</p> <p>(1) In this section, a reference to the doing of anything includes a reference to the omission to do anything.</p> <p>(2) An action in tort does not lie against a person, other than a Board, for anything that the person has, in good faith, done in the performance or purported performance of a function under this Act.</p> <p>(3) The protection given by this section applies even though the thing done in the performance or purported performance of a function under this Act may have been capable of being done whether or not this Act had been enacted.</p> <p>(4) This section does not relieve the Board or the Crown of any liability that it might have for the doing of anything by a person against whom this section provides that an action does not lie.</p> <p>”.</p>
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112. Parliamentary Commissioner Act 1971

s. 13(2)	<p>Delete paragraph (g) and insert instead —</p> <p>“</p> <p>(g) the Magistrates Court, or a magistrate or acting magistrate appointed under the <i>Magistrates Court Act 2003</i>, or a Justice of the Peace when constituting that Court;</p> <p>(ga) the Children’s Court, or a judge, acting judge, magistrate or acting magistrate, appointed under the <i>Children’s Court of Western Australia Act 1988</i>, or a Justice of the Peace when constituting that Court;</p> <p>”.</p> <p>Delete paragraph (k).</p>
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Schedule 1 Amendments to various Acts

113. *Parole Orders (Transfer) Act 1984*

s. 9(3)(a)	Delete “a Court of Petty Sessions” and insert instead — “ the Magistrates Court ”.
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114. *Partnership Act 1895*

s. 28	Repeal the section and insert instead — “ 28. Enforcing judgments against partners and partnerships The enforcement of a judgment against a partner or against a partnership is subject to the <i>Civil Judgments Enforcement Act 2003</i> . ”.
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115. *Pawnbrokers and Second-hand Dealers Act 1994*

s. 85(3) s. 86(1) s. 93(1)	In each provision delete “a court of petty sessions” in each place it occurs and in each place insert instead — “ the Magistrates Court ”.
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s. 85(1)	<p>Repeal the subsection and insert instead —</p> <p>“</p> <p>(1) If a person has reason to suspect that goods —</p> <p>(a) have been stolen or unlawfully obtained from the owner of the goods or have been pawned, sold or exchanged without the owner’s authority; and</p> <p>(b) are in the possession of a pawnbroker or second-hand dealer,</p> <p>the person may apply to the Magistrates Court, without notice to the pawnbroker or dealer, for an order that the pawnbroker or dealer appear before the court and produce the goods to the court.</p> <p>(1a) On such an application, the Magistrates Court may make such order as it thinks fit and may issue a warrant to have the pawnbroker or dealer brought before the court.</p> <p>”.</p>
s. 85(2)	<p>Delete “A court of petty sessions” and insert instead —</p> <p>“</p> <p>On the appearance of the pawnbroker or dealer, or in default of appearance, the Magistrates Court</p> <p>”.</p>
s. 86(2)	<p>Delete “A court of petty sessions” and insert instead —</p> <p>“ The Magistrates Court ”.</p>
s. 87(1)	<p>Repeal the subsection and insert instead —</p> <p>“</p> <p>(1) The <i>Magistrates Court (Civil Proceedings) Act 2003</i> and the Magistrates Court’s rules of court apply to and in respect of proceedings under sections 85 and 86.</p> <p>”.</p>

Schedule 1 Amendments to various Acts

116. *Petroleum Act 1967*

s. 14(3) s. 21(3)	In each provision delete “Local Court held” and insert instead — “ Magistrates Court at the place ”.
s. 17(4)	Repeal the subsection and insert instead — “ (4) If within such time as may be prescribed the parties are unable to agree upon the amount of compensation to be paid, either party may apply to the Magistrates Court at the place nearest to where the land is situated to fix the amount of compensation. ”.
s. 21(1)	Delete “Local Court” and insert instead — “ Magistrates Court ”.
s. 150(1) s. 150(2) s. 151	In each provision delete “a Local Court” and insert instead — “ the Magistrates Court ”.
s. 151	Delete “the Local Court” in the 5 places it occurs and in each place insert instead — “ the Magistrates Court ”.

117. *Petroleum Products Pricing Act 1983*

s. 22G(4)	Repeal the subsection and insert instead — “ (4) An order the Commissioner made under subsection (3) may be enforced by lodging a copy of it, certified by the Commissioner to be a true copy, and an affidavit stating to what extent it has not been complied with, with a court of competent jurisdiction. (5) When lodged, the order is to be taken to be a judgment of the court and may be enforced accordingly. ”.
s. 23(3)	Delete “stipendiary”.

s. 35(4)(d)	Delete “stipendiary”.
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s. 43(1)	Repeal the subsection.
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s. 41(2)	<p>Repeal the subsection and insert instead —</p> <p>“</p> <p>(2) A court of summary jurisdiction dealing with an offence under this Act is to be constituted by a magistrate.</p> <p>”</p>
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s. 57(5)(a)	Delete “petty sessions” and insert instead — “ summary jurisdiction ”.
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s. 12 s. 13 s. 15 s. 16(1) s. 18 s. 20 s. 31 s. 64 s. 67 s. 83	In each provision delete — “by any 2 or more Justices” or “by 2 or more Justices” or “before any 2 or more Justices” or “before 2 or more Justices” or “before any 2 Justices” in each place it occurs.
s. 20	Delete “convicting Justices” and insert instead — “convicting court”.
s. 21	Delete “before a Justice”.
s. 22	Delete “in each magisterial district”. Delete “Justice sitting as a court of petty sessions in the district” and insert instead — “court of summary jurisdiction”.

Schedule 1 Amendments to various Acts

s. 32	Delete “a Local Court” and insert instead — “ the Magistrates Court ”.
s. 33B(2)(a) s. 33C(4) s. 76G(3)	In each provision delete “stipendiary” in each place it occurs.
s. 34	Delete “any stipendiary magistrate or any 2 or more Justices” and insert instead — “ a magistrate ”. Delete “any such magistrate or Justices” in the 3 places it occurs and in each place insert instead — “ a magistrate ”. Delete “his or their hand or hands” and insert instead — “ his hand ”. Delete “said magistrate or Justices” and insert instead — “ magistrate ”. In the proviso, delete “or Justices”.
s. 36	Delete “before any 2 or more Justices,” in the first place it occurs. Delete “before any 2 or more Justices” in the second place it occurs. Delete “or Justices”. Delete “said Justices” in the 2 places it occurs and in each place insert instead — “ court ”.
s. 37	Delete “or Justice”.
s. 41(1)	Delete the passage that begins with “a misdemeanour” and ends with “determine.” and insert instead — “ an offence. Penalty: Imprisonment for 6 months or a fine of \$500. ”.

s. 41(3)	<p>Delete “a stipendiary magistrate” and insert instead — “ the Magistrates Court ”.</p> <p>Delete “and that magistrate” and insert instead — “ and that court, constituted by a magistrate, ”.</p> <p>Delete “as that magistrate” and insert instead — “ as that court ”.</p> <p>Delete “he” and insert instead — “ it ”.</p>
s. 41(5)	Repeal the subsection.
s. 41(7)	<p>Delete the passage that begins with “a misdemeanour” and ends with “determine.” and insert instead — “</p> <p align="center">an offence.</p> <p align="center">Penalty: Imprisonment for 6 months or a fine of \$500.</p> <p align="right">”.</p>
s. 43(1)	<p>Delete “brought before a Justice, to be dealt with” and insert instead — “ dealt with according to law ”.</p>
s. 43(2)	Delete “brought before a Justice to be”.
s. 44	<p>Delete “brought before a Justice to be dealt with” and insert instead — “ dealt with according to law ”.</p>
s. 47	<p>Delete “and conveyed before a Justice,” and insert instead — “ into custody ”.</p> <p>Delete “take and convey him before a Justice” and insert instead — “ have him dealt with according to law ”.</p> <p>Delete “and to convey him before a Justice” and insert instead — “ and to have him dealt with according to law ”.</p>
s. 49	<p>Delete “brought before a Justice to be”.</p> <p>Delete “or until he shall have given bail for his appearance before a Justice in manner hereinbefore provided”.</p>

Schedule 1 Amendments to various Acts

s. 64	Delete “and the convicting justices may, if they shall think fit, also require the offender to find sureties for keeping the peace”.
s. 65(1)	Delete “being thereto required by any Justice, or who having been duly summoned for such purpose, or brought before any Justice,”. Delete “such Justice” and insert instead — “ a court of summary jurisdiction ”.
s. 68	Repeal all but the last sentence of the section. In the last sentence delete “And when” and insert instead — “ When ”. In the last sentence delete “felony” and insert instead — “ a crime ”.
s. 69	Delete “brought before any Justice”. Delete “such Justice” and insert instead — “ a court of summary jurisdiction ”. Delete “in the discretion of the Justice”.
s. 70	Delete “taken before a Justice” and insert instead — “ dealt with according to law ”. Delete “and carry before a Justice” and insert instead — “ to be dealt with according to law ”.
s. 71	Delete “brought before any Justice”. Delete “such Justice” in the first place it occurs and insert instead — “ a court of summary jurisdiction ”. Delete “him” and insert instead — “ it ”. Delete “such Justice” in the second place it occurs and insert instead — “ the court ”. Delete “a misdemeanour” and insert instead — “ an offence ”.
s. 72	Repeal the section.
s. 73	Repeal the section.

s. 76A	Delete “any stipendiary magistrate” and insert instead — “ a court of summary jurisdiction ”. Delete “the magistrate” and insert instead — “ the court ”.
s. 76C(1)	Delete “any stipendiary magistrate” and insert instead — “ a court of summary jurisdiction ”. Delete “the magistrate” and insert instead — “ the court ”.
s. 76D(1)	Delete “any stipendiary magistrate” and insert instead — “ a court of summary jurisdiction ”. Delete “the magistrate” and insert instead — “ the court ”.
s. 76D(2)	Delete “the magistrate” and insert instead — “ the court ”.
s. 76E	Delete “magistrate” in the 2 places it occurs and in each place insert instead — “ court ”.
s. 78	Repeal the section.
s. 79A	Delete “a misdemeanour, and on conviction before 2 Justices” and insert instead — “ an offence and ”.
s. 81 s. 82	In each provision delete “Justice” in each place it occurs and in each place insert instead — “ court ”.
s. 83(1) s. 83(2)	In each provision delete “such Justices” and insert instead — “ the convicting court ”.
s. 90	Delete “in the discretion of the Justices before whom he shall be convicted of the offence”.
s. 100	Repeal the section.
s. 108	Delete “brought before a Justice” and insert instead — “ dealt with according to law ”.
s. 110	Delete “to take him before any Justice, or”. Delete “brought before a Justice, to be”.
s. 121	Repeal the section.
s. 122	Delete “and bring before him, or any other Justice,”.

Schedule 1 Amendments to various Acts

s. 123	Delete “Justice” and insert instead — “ court of summary jurisdiction ”.
s. 124	Delete “before a Justice”.
s. 128	Repeal the section.
s. 133	Delete “Justice before whom” and insert instead — “ court of summary jurisdiction before which ”. Delete “such Justice” in the 2 places it occurs and in each place insert instead — “ the court ”.
s. 134	Delete “summarily punishable on conviction before any Justice in petty sessions.” and insert instead — “ heard and determined by a court of summary jurisdiction. ”.
Second Schedule	Delete “me, or some other of the Justices of the Peace” and insert instead — “ a court of summary jurisdiction ”.

123. Pollution of Waters by Oil and Noxious Substances Act 1987

s. 31(1)	Delete “ <i>Justices Act 1902</i> ” and insert instead — “ <i>Criminal Procedure (Summary) Act 1902</i> ”.
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124. Poultry Industry (Trust Fund) Act 1948

s. 26	Repeal the section.
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125. Prisoners (Interstate Transfer) Act 1983

s. 3(1)	Delete the definition of “court of petty sessions”. After the definition of “joint prisoner” insert — “ “ Magistrates Court ” means the Magistrates Court constituted by a magistrate; ”.
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s. 12(1)	<p>Delete “A court of petty sessions” and insert instead — “ The Magistrates Court ”.</p> <p>Delete “a court of petty sessions” and insert instead — “ the court at the place ”.</p>
s. 13	<p>Delete “The court of petty sessions before which the prisoner is brought pursuant to an order made under section 12(1) shall —” and insert instead — “</p> <p style="padding-left: 40px;">When a prisoner is brought before the Magistrates Court pursuant to an order made under section 12(1), the court shall —</p> <p style="text-align: right;">”.</p>
s. 14(1) s. 14(4)	<p>In each provision delete “court of petty sessions” and insert instead — “ Magistrates Court ”.</p>
s. 32	<p>Delete “Any court of petty sessions” and insert instead — “ The Magistrates Court ”.</p>

126. *Prisons Act 1981*

s. 3	Delete the definition of “magistrate”.
s. 21	Delete “, 2 justices” and insert instead — “ or an officer of a court authorised by it to do so ”.
s. 22	Delete “2 justices,” and insert instead — “ the State Coroner or a coroner, an officer of any such court authorised by it to do so, ”.
s. 23	Delete “2 justices” and insert instead — “ registrar of the Magistrates Court ”.

Schedule 1 Amendments to various Acts

s. 73	<p>Before “Where a charge” insert the subsection designation “(1)”.</p> <p>At the end of the section insert the following subsection —</p> <p>“</p> <p>(2) If the visiting justice directs that a complaint be laid, the complaint shall be laid under the <i>Criminal Procedure (Summary) Act 1902</i> and heard and determined by a court of summary jurisdiction as if it were a simple offence.</p> <p>”.</p>
s. 74(2)	<p>Repeal the subsection and insert instead —</p> <p>“</p> <p>(2) A court of summary jurisdiction hearing a charge of an aggravated prison offence may direct that the hearing shall take place in open court.</p> <p>”.</p>
s. 74(3)	<p>Delete “magistrate or justices” and insert instead —</p> <p>“ court of summary jurisdiction ”.</p>
s. 79(1)	<p>Delete the passage that begins with “Where a complaint” and ends with “following penalties — ” and insert instead —</p> <p>“</p> <p>A court of summary jurisdiction that convicts a prisoner of an aggravated prison offence may impose one or more of the following penalties —</p> <p>”.</p>
s. 79(2)	<p>Delete “magistrate or 2 justices, as the case may be,” and insert instead —</p> <p>“ court of summary jurisdiction ”.</p> <p>Delete “he” and insert instead —</p> <p>“ it ”.</p>
s. 81(1)	<p>Delete “magistrate or 2 justices under section 79(1)” and insert instead —</p> <p>“ court of summary jurisdiction ”.</p>
s. 81(2)	<p>Delete “magistrate or 2 justices impose” and insert instead —</p> <p>“ court of summary jurisdiction imposes ”.</p>

s. 112	Repeal the section.
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127. Professional Standards Act 1997

s. 54	<p>Repeal the section and insert instead —</p> <p>“</p> <p>54. Offences to be dealt with by magistrate</p> <p>A court of summary jurisdiction dealing with an offence under this Act is to be constituted by a magistrate.</p> <p>”.</p>
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128. Prostitution Act 2000

s. 31(2)	<p>Delete “<i>Justices Act 1902</i>” in each place it occurs and in each place insert instead —</p> <p>“ <i>Criminal Procedure (Summary) Act 1902</i> ”.</p>
s. 32(1) s. 38(2)(b) s. 42(2)(b) s. 45(3)(a) s. 45(4)	<p>In each provision delete “a court of petty sessions” in each place it occurs and in each place insert instead —</p> <p>“ the Magistrates Court ”.</p>
s. 32(6)	<p>Delete “A court hearing an application under subsection (1)” and insert instead —</p> <p>“ On an application under subsection (1), the court ”.</p>
s. 45(3)(c)	<p>Delete “the court of petty sessions to which the matter is transferred” and insert instead —</p> <p>“ the Magistrates Court ”.</p>
s. 45(4)	<p>In paragraphs (a), (b) and (c) delete “the court of petty sessions” in each place it occurs and in each place insert instead —</p> <p>“ the Magistrates Court ”.</p>
s. 45(5)	<p>Delete “clerk” and insert instead —</p> <p>“ registrar ”.</p>

Schedule 1 Amendments to various Acts

s. 47(2)	Repeal the subsection and insert instead — “ (2) If the decision was made by the Magistrates Court, the appeal is to be made in accordance with Part 7 of the <i>Magistrates Court (Civil Proceedings) Act 2003</i> . ”.
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129. Protective Custody Act 2000

s. 20(1)	Delete “a Local Court” and insert instead — “ the Magistrates Court ”.
s. 20(4)	Delete “Local Court” and insert instead — “ Magistrates Court ”.

130. Psychologists Registration Act 1976

s. 55(2)	Repeal the subsection and insert instead — “ (2) A court of summary jurisdiction dealing with an offence under this Act is to be constituted by a magistrate. ”.
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131. Public Notaries Act 1979

s. 3	Delete the definition of “district” and insert instead — “ “ district ” means a district prescribed by rules made under section 17; ”.
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132. Public Trustee Act 1941

s. 37(5)	Delete “clerk of the local court” and insert instead — “ Magistrates Court ”.
s. 50(1) s. 50(2)	Delete “clerk of courts” in each place it occurs and in each place insert instead — “ registrar of the Magistrates Court ”.

133. *Public Works Act 1902*

s. 121	Repeal the section.
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134. *Radiation Safety Act 1975*

s. 51	Repeal the section and insert instead — “ <div style="text-align: center;">51. Offences to be dealt with by magistrate</div> A court of summary jurisdiction dealing with an offence under this Act is to be constituted by a magistrate. ”
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135. *Rail Safety Act 1998*

s. 56(1)	Delete “ <i>Justices Act 1902</i> ” and insert instead — “ <i>Criminal Procedure (Summary) Act 1902</i> ”.
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136. *Real Estate and Business Agents Act 1978*

s. 104	Delete “Registrar of the Court, or the clerk of petty sessions, as the case may be, of the Court” and insert instead — “ registrar of the court ”.
s. 105(1)	Delete “Registrar of the Court, or the clerk of petty sessions, as the case may be,” and insert instead — “ registrar of the court ”.
s. 143(3)	Delete “ <i>Justices Act 1902</i> ” and insert instead — “ <i>Criminal Procedure (Summary) Act 1902</i> ”.

5 **137. *Restraint of Debtors Act 1984***

s. 6(3)	Delete “a Local Court, or a court of petty sessions.” and insert instead — “ or the Magistrates Court. ”.
s. 22(2)	Delete “a Local Court” and insert instead — “ the Magistrates Court ”.

Schedule 1 Amendments to various Acts

138. *Road Traffic Act 1974*

s. 76(2)(b)	Delete the paragraph and insert instead — “ (b) In the case of a disqualification imposed by a court of summary jurisdiction, or a disqualification that takes effect by the operation of the provisions of this Act, an application under subsection (1) shall be made to the Magistrates Court or, in the case of a person under 18 years of age, the Children’s Court. ”.
After s. 76(2)(b)	Insert the following — “ (c) If an application under subsection (1) is a special application, it shall be made to the District Court, the Magistrates Court or, in the case of a person under 18 years of age, the Children’s Court. ”.
After s. 76(2)	Insert the following — “ (2a) An application made under subsection (1) that is made to the Magistrates Court or the Children’s Court shall be heard by the court constituted by a magistrate. ”.
s. 76(3a)	Delete “a court of petty sessions” and insert instead — “ the Magistrates Court or the Children’s Court ”.
s. 76(4a)	Delete “a court of petty sessions” and insert instead — “ the Magistrates Court or the Children’s Court ”.

s. 76(8)(b)	Delete the paragraph and insert instead — “ (b) An application under subsection (7) in relation to an extraordinary licence issued at the direction of the Magistrates Court or the Children’s Court shall be made to the court that made the direction, which shall be constituted by a magistrate. ”.
s. 76(10)(b)	Delete the paragraph and insert instead — “ (b) made to the Magistrates Court or the Children’s Court shall be made in accordance with rules of court. ”.
s. 76(10a)	Repeal the subsection.
s. 86(5)	Delete “on complaint made in a court of petty sessions.” and insert instead — “ in a court of competent jurisdiction. ”.
s. 100(1)	Delete “ <i>Justices Act 1902</i> ” and insert instead — “ <i>Criminal Procedure (Summary) Act 1902</i> ”.
s. 103(6)	Delete “a court of petty sessions, by way of complaint against the Director General,” and insert instead — “ the Magistrates Court ”.
After s. 103(6)	Insert the following subsection — “ (6a) The Director General is to be named as the respondent to an application made under subsection (6). ”.
s. 103(7)	Delete “comprise a stipendiary magistrate” and insert instead — “ be constituted by a magistrate ”.

139. *Sale of Goods Act 1895*

s. 26	Repeal the section.
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Schedule 1 Amendments to various Acts

140. Sale of Land Act 1970

s. 7(1)	Delete “writ of fieri facias or warrant of execution” and insert instead — “ judgment, order or memorial ”.
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141. Security and Related Activities (Control) Act 1996

s. 70	Delete “clerk or”.
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142. Sentencing Act 1995

s. 3(3)(b)	Delete “section 41 of the <i>Justices Act 1902</i> or section 156 of the <i>Local Courts Act 1904</i> ” and insert instead — “ section 29 of the <i>Children’s Court of Western Australia Act 1988</i> or section 16 of the <i>Magistrates Court Act 2003</i> ”.
s. 18 s. 41(6) s. 58(1)	In each provision delete “court of petty sessions” in each place it occurs and in each place insert instead — “ court of summary jurisdiction ”.
s. 31	In the definition of “pending charge”, delete “court of petty sessions or in the Children’s Court,” and insert instead — “ court of summary jurisdiction ”.
s. 38(1) s. 78(1)(a) s. 79(5)(b) s. 126(2)(b) s. 128(1)(b) s. 129(5)(b) s. 132(2)	In each provision delete “a court of petty sessions” in each place it occurs and in each place insert instead — “ the Magistrates Court ”.
s. 79(5)(b)	Delete “such a court” and insert instead — “ that court ”.
s. 112(1)(b) s. 131(2) s. 131(4)	In each provision delete “ <i>Justices Act 1902</i> ” in each place it occurs and in each place insert instead — “ <i>Criminal Procedure (Summary) Act 1902</i> ”.

s. 119	<p>Repeal the section and insert instead —</p> <p>“</p> <p>119. Enforcing a compensation order</p> <p>(1) If the amount payable under a compensation order is not paid within 28 days after the date of the order, the person in whose favour the order is made may enforce it by lodging a certified copy of it, and an affidavit stating to what extent it has not been complied with, with a court of competent jurisdiction.</p> <p>(2) When lodged, the order is to be taken to be a judgment of the court and may be enforced accordingly.</p> <p>(3) No fee shall be charged for a certified copy of the order or for lodging it.</p> <p>”.</p>
s. 126(2)(b)	Delete “any court of petty sessions” and insert instead — “ the Magistrates Court ”.
s. 129(5)(b)	Delete “such a court” and insert instead — “ that court ”.
s. 143A(1)	Delete “chief stipendiary magistrate” and insert instead — “ Chief Magistrate of the Magistrates Court ”.

143. Settlement Agents Act 1981

s. 85	Delete “Registrar of the Court, or the Clerk of Petty Sessions, as the case may be,” and insert instead — “ registrar ”.
s. 121(3)	Delete “ <i>Justices Act 1902</i> ” and insert instead — “ <i>Criminal Procedure (Summary) Act 1902</i> ”.

144. Soil and Land Conservation Act 1945

s. 44(2)	Repeal the subsection.
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Schedule 1 Amendments to various Acts

145. Spear-guns Control Act 1955

s. 7(b)	Delete “take him before any 2 justices to be” and insert instead — “ have him ”.
s. 7(e)	Delete “take it before any 2 justices to be dealt with according to law.” and insert instead — “ deal with it according to law. ”.

146. Spent Convictions Act 1988

Schedule 3 cl. 1	In item 2 in the Table delete “ <i>Justices Act 1902</i> ” and insert instead — “ <i>Justices of the Peace Act 2003</i> ”.
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147. State Administrative Tribunal Act 2003 [Bill 213—2]

s. 84(3)	Delete “, and section 142(1) of the <i>Supreme Court Act 1935</i> applies to the amount not paid under the order as if it were payable under a judgment of the court”.
s. 115(6)	Delete “Stipendiary”.

148. Stock (Identification and Movement) Act 1970

s. 60(2)	Repeal the subsection and insert instead — “ (2) A court of summary jurisdiction dealing with an offence under this Act is to be constituted by a magistrate. ”.
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5 **149. Strata Titles Act 1985**

s. 15(5)	In the definition of “registered interest” delete “a writ of fieri facias or a warrant of execution in respect of a lot;” and insert instead — “ an order or other legal process issued in respect of a lot for the purposes of enforcing a judgment or fine; ”.
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s. 116A(4)	<p>Delete paragraphs (a), (b) and (c) and insert instead —</p> <p>“</p> <p> (a) the time for commencing an appeal under Part VIII of the <i>Criminal Procedure (Summary) Act 1902</i> against the conviction referred to in subsection (1)(b) has expired without an appeal being commenced; or</p> <p> (b) any such appeal that is commenced has been determined, withdrawn or discontinued.</p> <p>”.</p>
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150. *Street Alignment Act 1844*

s. 9	<p>Delete “convicted before any two Justices of the Peace of this Colony” and insert instead —</p> <p>“ who is summarily convicted ”.</p> <p>Delete “forfeit a sum” and insert instead —</p> <p>“ be liable to a fine ”.</p>
s. 16	Repeal the section.

151. *Street Collections (Regulation) Act 1940*

s. 9	Repeal the section.
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152. *Suitors’ Fund Act 1964*

s. 3	<p>In the definition of “appeal”, delete “an order to review granted under section 197 of the <i>Justices Act 1902</i>,” and insert instead —</p> <p>“</p> <p> an appeal under Part VIII of the <i>Criminal Procedure (Summary) Act 1902</i>,</p> <p>”.</p> <p>Delete the definition of “Court”.</p>
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Schedule 1 Amendments to various Acts

s. 5(1)	Delete paragraphs (b) and (c) and insert instead — “ (b) upon the commencement of any case in the Magistrates Court under the <i>Magistrates Court (Civil Proceedings) Act 2003</i> ; or (c) upon the issue of any summons to a defendant under the <i>Criminal Procedure (Summary) Act 1902</i> in respect of a complaint to be heard by a court of summary jurisdiction, ”.
s. 6(1)	Delete “Local Courts or Courts of Petty Sessions” and insert instead — “ the Children’s Court or the Magistrates Court ”.

153. *Surveillance Devices Act 1998*

s. 3(1)	Delete the definition of “Chief Stipendiary Magistrate” and insert instead — “ “Chief Magistrate” means the Chief Magistrate of the Magistrates Court; ”.
s. 23(2) s. 23(3)	In each provision delete “Stipendiary”.

154. *Travel Agents Act 1985*

s. 55	Delete “ <i>Justices Act 1902</i> ” and insert instead — “ <i>Criminal Procedure (Summary) Act 1902</i> ”.
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155. *University of Western Australia Act 1911*

s. 16A(9)(b)	<p>Delete the paragraph and insert instead —</p> <p>“</p> <p style="padding-left: 40px;">(b) dealt with as a simple offence by a court of summary jurisdiction,</p> <p>”.</p> <p>Delete “by way of a complaint under the <i>Justices Act 1902</i>.” and insert instead —</p> <p>“ as a simple offence. ”.</p>
s. 16D	Repeal the section.

156. *Veterinary Preparations and Animal Feeding Stuffs Act 1976*

s. 64(1)	<p>Repeal the subsection and insert instead —</p> <p>“</p> <p>(1) A court of summary jurisdiction dealing with an offence under this Act is to be constituted by a magistrate.</p> <p>”</p>
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157. *Vexatious Proceedings Restriction Act 2000*

s. 6(1)(c) and (d)	<p>Delete the paragraphs and “or” after paragraph (d) and insert instead —</p> <p>“</p> <p style="padding-left: 40px;">(c) in the case of proceedings before any other court, to the court; or</p> <p style="text-align: right;">”</p>
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158. *Warehousemen's Liens Act 1952*

s. 7(7)(a) s. 10(2)(a)	In each provision delete “local court” and insert instead — “ Magistrates Court at the place ”.
s. 7(7)(b)	Delete “local court” and insert instead — “ Magistrates Court ”.

Schedule 1 Amendments to various Acts

s. 10(2)(b)	Delete the paragraph and insert instead — “ (b) Money so paid into the court may, upon the order of the court made in open court or in chambers, be applied as the court thinks fit. ”.
s. 10(4) s. 10(6) s. 12(e)	In each provision delete “a local court” and insert instead — “ the Magistrates Court ”.
s. 13	Delete “local courts” and insert instead — “ the Magistrates Court ”.

159. *Water Boards Act 1904*

s. 34	Delete “any 2 Justices of the Peace may hear and determine the matter in a summary way, and” and insert instead — “ the Magistrates Court ”. Delete “he may, by any Justice of the Peace, be committed” and insert instead — “ the court may commit him ”.
s. 102	Delete “, by complaint before 2 Justices of the Peace, or”.

s. 108	<p>Repeal the section and insert instead —</p> <p>“</p> <p>108. Prohibition on dealings in land</p> <p>(1) Where, in relation to any land, payment of any water rates or charges for water supplied thereon is in arrear, the Water Board may deliver a memorial, in the prescribed form, to that effect to the Registrar of Titles, or the Registrar of Deeds, as the case requires, who, without payment of a fee, shall register the memorial and endorse or note the title and land register or record, in respect of that land.</p> <p>(2) When the memorial is registered the Registrar of Titles, or the Registrar of Deeds, as the case requires, is prohibited from registering and from accepting for registration an instrument affecting the land without the consent of the Water Board until the land ceases under subsection (3) to be bound by this subsection.</p> <p>(3) When the payment in respect of which a memorial is registered under this section ceases to be in arrear, the Water Board shall deliver to the Registrar of Titles, or the Registrar of Deeds, as the case requires, a certificate sealed by the Board certifying that the payment has ceased to be in arrear and the Registrar of Titles, or the Registrar of Deeds, as the case requires, shall endorse the title and land register or record to that effect and when the certificate is so noted, the land ceases to be bound by subsection (2).</p> <p>”.</p>
s. 109	Repeal the section.
s. 156	<p>Delete “any Local Court or Court of Petty Sessions, or before any Justice” and insert instead —</p> <p>“ the Children’s Court or the Magistrates Court ”.</p>
Seventh Schedule	Repeal the Schedule.

Schedule 1 Amendments to various Acts

Eighth Schedule	Repeal the Schedule.
Tenth Schedule	Repeal the Schedule.

160. *Waterways Conservation Act 1976*

s. 71(1)	Repeal the subsection and insert instead — “ (1) A court of summary jurisdiction dealing with an offence under this Act is to be constituted by a magistrate. ”.
s. 71(4)	Repeal the subsection and insert instead — “ (4) A prosecution for an offence under this Act must be commenced within 2 years after the date on which the offence is alleged to have been committed. ”.

161. *Weapons Act 1999*

s. 16(2)	Delete “ <i>Justices Act 1902</i> ” in the 2 places it occurs and in each place insert instead — “ <i>Criminal Procedure (Summary) Act 1902</i> ”.
s. 17(1)	Delete “a court of petty sessions” and insert instead — “ the Magistrates Court ”.

162. *Weights and Measures Act 1915*

s. 40(4)	Delete “All offences against this Act may be prosecuted in a summary way under the <i>Justices Act 1902</i> , and proceedings” and insert instead — “ Proceedings ”.
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163. *Welfare and Assistance Act 1961*

s. 11	Delete “local court” and insert instead — “ court of competent jurisdiction ”.
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s. 13(3)	<p>Repeal the subsection and insert instead —</p> <p>“</p> <p>(3) Where the debt, maintenance or money deemed to be assigned to the Minister pursuant to subsection (1) is paid or to be paid into any court, the Minister may give to the registrar of the court written notice of the assignment, and after receipt of such notice the registrar shall not pay out of court to any person other than the Minister or such person as the Minister may direct, any moneys then in the court or thereafter paid into the court in respect of the debt, maintenance or money, unless and until the Minister withdraws such notice and of that withdrawal gives notice in writing to the registrar.</p> <p>”.</p>
s. 14	<p>Delete “notwithstanding the provisions of section 51 of the <i>Justices Act 1902</i>”.</p>
s. 15(1)	<p>Delete “Registrar of the Supreme Court, if the court in which the order is made is the Supreme Court, or to the clerk of the court, if the court in which the order is made is other than the Supreme Court, written notice of the assignment, and after receipt of such notice the Registrar, or, as the case may be, by the court, shall —” and insert instead —</p> <p>“</p> <p>the registrar of the court in which the order is made written notice of the assignment, and after receipt of such notice the registrar shall —</p> <p>”.</p>
s. 18(2)	<p>Delete “local court, if that amount is within the jurisdiction of the local court, or otherwise in the Supreme Court, and the clerk of the local court, or, as the case may be, the appropriate officer of the Supreme Court, shall enter judgment for the Minister for the amount stated to be due in the certificate together with the fees paid for the certificate and for filing the same and entering judgment” and insert instead —</p> <p>“ court of competent jurisdiction ”.</p>

Schedule 1 Amendments to various Acts

s. 18(3)	Repeal the subsection and insert instead — “ (3) When filed in the court, the certificate is to be taken to be a judgment of the court and may be enforced accordingly. ”.
s. 18(4)	Repeal the subsection.

164. Western Australian Marine Act 1982

s. 104	Repeal the section and insert instead — “ 104. Governor may establish Court of Marine Inquiry (1) The Governor, by proclamation, may establish a Court of Marine Inquiry to hear and determine an inquiry, investigation, appeal or reference under this Act. (2) A Court of Marine Inquiry is a court of record. (3) More than one Court of Marine Inquiry may be established at any one time. (4) Subject to any rules made under section 108, the practice and procedure of a Court of Marine Inquiry shall be the same as that of the Magistrates Court exercising its civil jurisdiction. (5) Subject to section 109(4) sections 15, 16, 35 and 36 and Part 3 Division 2 of the <i>Magistrates Court Act 2003</i> apply to and in a Court of Marine Inquiry and its officers in the same way as they apply to and in relation to the Magistrates Court and its officers. ”.
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s. 105(1)	Delete “Any one or more magistrates of the Local Court may sit as” and insert instead — “ One or more magistrates nominated by the Chief Magistrate of the Magistrates Court shall constitute ”.
s. 107	Repeal the section and insert instead — “ 107. Officers of Court of Marine Inquiry Officers of the Magistrates Court shall be officers of Courts of Marine Inquiry. ”.
s. 108(2)	Delete “ <i>Local Courts Act 1904</i> ” and insert instead — “ <i>Magistrates Court (Civil Proceedings) Act 2003</i> ”.

165. *Western Australian Trotting Association Act 1946*

s. 9(3)	Delete “the nearest Court of Petty Sessions” and insert instead — “ a court of summary jurisdiction ”.
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166. *Wheat Products (Prices Fixation) Act 1938*

s. 19(2)	Repeal the subsection and insert instead — “ (2) A court of summary jurisdiction dealing with an offence under this Act is to be constituted by a magistrate. ”.
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167. *White Phosphorus Matches Prohibition Act 1912*

s. 14	Repeal the section.
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168. *Wildlife Conservation Act 1950*

s. 26(2)	Repeal the subsection.
s. 27(1) s. 27(3)	In each provision delete “petty sessions” and insert instead — “ summary jurisdiction ”.

Schedule 1 Amendments to various Acts

s. 27(2)	Delete “pursuant to the provisions of the last preceding subsection in the manner prescribed in the <i>Justices Act 1902</i> .” and insert instead — “ under subsection (1) in accordance with Part VIII of the <i>Criminal Procedure (Summary) Act 1902</i> . ”.
s. 27B	Delete “ <i>Justices Act 1902</i> ” and insert instead — “ <i>Criminal Procedure (Summary) Act 1902</i> ”.

169. Workmen’s Wages Act 1898

s. 2	Delete the definition of “Court” and insert instead — “ “ Court ” means the Court in which any proceeding may be taken under this Act, and includes a judge or magistrate of any such court; ”.
s. 7	Delete “or the Clerk”.
s. 24	Repeal the section.
Schedule Form 2	Delete “or Clerk”.

170. Young Offenders Act 1994

s. 3	Delete the definition of “clerk of the court”. Insert, in the appropriate alphabetical position — “ “ registrar of the court ”, in relation to the Children’s Court, means the registrar of the Children’s Court at the place where the relevant matter was heard; ”.
s. 5	Delete “ <i>Justices Act 1902</i> ” and insert instead — “ <i>Criminal Procedure (Summary) Act 1902</i> ”.
s. 56(3) s. 59(1)(b)	In each provision delete “clerk” in each place it occurs and in each place insert instead — “ registrar ”.

s. 56(4)	Repeal the subsection and insert instead — “ (4) Section 119 of the <i>Sentencing Act 1995</i> applies to and in respect of an order made under this section for the payment of any amount as if the order were a compensation order made under that Act. ”.
s. 166(3)	Delete “or members of the Children’s Court.” and insert instead — “ of the Children’s Court or Justices of the Peace. ”.
s. 169(c)	Delete “a member of the Children’s Court” and insert instead — “ a justice of the peace ”.

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