



# **Territories Legislation Amendment Act 1992**

**No. 211 of 1992**

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## **An Act to amend the *Christmas Island Act 1958* and the *Cocos (Keeling) Islands Act 1955***

*[Assented to 24 December 1992]*

The Parliament of Australia enacts:

### **Short title**

**1.** This Act may be cited as the *Territories Legislation Amendment Act 1992*.

### **5 Commencement**

**2.(1)** Subject to subsection (2), this Act commences on the day on which it receives the Royal Assent.

**(2)** Section 4 and Schedule 2 commence immediately after the commencement of sections 10 and 19 of the *Territories Law Reform Act 1992*.

*Territories Legislation Amendment No. 211, 1992*

**Amendments of Acts**

3. The *Christmas Island Act 1958* and the *Cocos (Keeling) Islands Act 1955* are amended as set out in Schedule 1.

**Further amendments of Acts**

4. The *Christmas Island Act 1958* and the *Cocos (Keeling) Islands Act 1955* are further amended as set out in Schedule 2. 5

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**SCHEDULE 1**

Section 3

**AMENDMENTS OF ACTS**

***Christmas Island Act 1958***

**Subsection 4(1) (definition of “jurisdiction”):**

After “powers” insert “or functions”.

**Subsection 8A(1):**

Omit “so far as they are capable of applying in the Territory”.

**Subsection 8A(6):**

Omit the subsection, substitute:

“(6) In this section:

**‘provision of the law of Western Australia’:**

- (a) includes a principle or rule of common law or equity that is part of the law of Western Australia; and
- (b) does not include an Act or a provision of an Act.”.

**Subsection 8G(1):**

Omit “a Judge, magistrate, Justice of the Peace or Coroner appointed under a Western Australian law”, substitute “the holder of a Western Australian appointment of a kind mentioned in a paragraph of subsection 14C(1)”.

**Section 14A (definition of “judicial officer of the Territory”):**

Omit the definition.

**Section 14A:**

Insert the following definitions:

“ ‘**Chief Clerk of the Magistrate’s Court of the Territory**’ means the Chief Clerk of the Magistrate’s Court under the *Magistrate’s Court Ordinance 1958* of the Territory;

‘**Clerk of the Children’s Court of the Territory**’ means the Clerk of the Children’s Court of the Territory under the *Children’s Court Ordinance 1972* of the Territory;

‘**court officer of the Territory**’ means a person holding, or performing the functions or duties of, any of the following offices:

- (a) Judge of the Territory;
- (b) Magistrate of the Territory;
- (c) Justice of the Peace of the Territory;
- (d) coroner of the Territory;

**SCHEDULE 1—continued**

- (e) Registrar of the Supreme Court of the Territory;
- (f) Deputy Registrar of the Supreme Court of the Territory;
- (g) Sheriff of the Supreme Court of the Territory;
- (h) Chief Clerk of the Magistrate's Court of the Territory;
- (i) Clerk of the Children's Court of the Territory;

**'Deputy Registrar'**, in relation to the Supreme Court of the Territory, means the Deputy Registrar of that Court under the *Supreme Court Ordinance 1958* of the Territory;

**'Registrar'**, in relation to the Supreme Court of the Territory, means the Registrar of that Court under the *Supreme Court Ordinance 1958* of the Territory;

**'Sheriff'**, in relation to the Supreme Court of the Territory, means the Sheriff of that Court under the *Supreme Court Ordinance 1958* of the Territory;".

**Subsection 14B(1):**

Add at the end:

“; and (e) a reference to a coroner's court of Western Australia were a reference to a coroner of the Territory.”.

**Paragraph 14C(1)(a):**

Omit the paragraph, substitute:

“(a) a reference to:

- (i) a Judge appointed under a Western Australian law (other than the *Family Court Act 1975* of Western Australia); or
  - (ii) the Master of the Supreme Court of Western Australia;
- were a reference to a Judge of the Supreme Court of the Territory; and”.

**After paragraph 14C(1)(c):**

Insert:

“(ca) a reference to:

- (i) the Principal Registrar or Registrar of the Supreme Court of Western Australia; or
  - (ii) the Registrar or Deputy Registrar of the District Court of Western Australia;
- were a reference to the Registrar of the Supreme Court of the Territory; and

(cb) a reference to:

- (i) the Sheriff of the Supreme Court of Western Australia; or
- (ii) the Bailiff of the District Court of Western Australia;

**SCHEDULE 1—continued**

were a reference to the Sheriff of the Supreme Court of the Territory; and

(cc) a reference to the Registrar or Deputy Registrar of the Family Court of Western Australia were a reference to:

- (i) if the reference relates only to federal jurisdiction—the Registrar or Deputy Registrar (as the case may be) of the Family Court of Western Australia; or
- (ii) if the reference relates only to non-federal jurisdiction—the Registrar or Deputy Registrar (as the case may be) of the Supreme Court of the Territory; or
- (iii) in any other case:
  - (A) the Registrar or Deputy Registrar (as the case may be) of the Family Court of Western Australia; or
  - (B) the Registrar or Deputy Registrar (as the case may be) of the Supreme Court of the Territory; or
  - (C) the Registrars or Deputy Registrars (as the case may be) of both those Courts;

as the case requires; and

(cd) a reference to the Marshal, Director of Court Counselling or Collector of Maintenance of the Family Court of Western Australia were a reference to:

- (i) if the reference relates only to federal jurisdiction—the Marshal, Director of Court Counselling or Collector of Maintenance (as the case may be) of the Family Court of Western Australia; or
- (ii) if the reference relates only to non-federal jurisdiction—the Sheriff of the Supreme Court of the Territory; or
- (iii) in any other case:
  - (A) the Marshal, Director of Court Counselling or Collector of Maintenance (as the case may be) of the Family Court of Western Australia; or
  - (B) the Sheriff of the Supreme Court of the Territory; or
  - (C) the Marshal, Director of Court Counselling or Collector of Maintenance (as the case may be) of the Family Court of Western Australia and the Sheriff of the Supreme Court of the Territory;

as the case requires; and

(ce) a reference to the Clerk of the Children's Court of Western Australia were a reference to the Clerk of the Children's Court of the Territory; and

(cf) a reference to:

**SCHEDULE 1—continued**

- (i) the Clerk or Bailiff of a Local Court of Western Australia;  
or
  - (ii) the Clerk or Bailiff of a Court of Petty Sessions of Western Australia;
- were a reference to the Chief Clerk of the Magistrate's Court of the Territory; and
- (cg) a reference to a coroner's clerk of Western Australia were a reference to a coroner of the Territory; and".

**Paragraph 14C(1)(e):**

Omit "Coroner" (wherever occurring), substitute "coroner".

**Section 14D:**

- (a) Omit "judicial officer" (wherever occurring), substitute "court officer".
- (b) Omit "judicial officer's" (wherever occurring), substitute "court officer's".

***Cocos (Keeling) Islands Act 1955***

**Subsection 4(1) (definition of "jurisdiction"):**

After "powers" insert "or functions".

**Subsection 8A(1):**

Omit "so far as they are capable of applying in the Territory".

**Subsection 8A(6):**

Omit the subsection, substitute:

"(6) In this section:

**'provision of the law of Western Australia':**

- (a) includes a principle or rule of common law or equity that is part of the law of Western Australia; and
- (b) does not include an Act or a provision of an Act."

**Subsection 8G(1):**

Omit "a Judge, magistrate, Justice of the Peace or Coroner appointed under a Western Australian law", substitute "the holder of a Western Australian appointment of a kind mentioned in a paragraph of subsection 15AAC(1)".

**Section 15AAA (definition of "judicial officer of the Territory"):**

Omit the definition.

**SCHEDULE 1—continued**

**Section 15AAA:**

Insert the following definitions:

“**‘Chief Clerk of the Magistrate’s Court of the Territory’** means the Chief Clerk of the Magistrate’s Court under the Courts Ordinance of the Territory;

**‘court officer of the Territory’** means a person holding, or performing the functions or duties of, any of the following offices:

- (a) Judge of the Territory;
- (b) Magistrate of the Territory;
- (c) Justice of the Peace of the Territory;
- (d) Coroner of the Territory;
- (e) Registrar of the Supreme Court of the Territory;
- (f) Deputy Registrar of the Supreme Court of the Territory;
- (g) Sheriff of the Supreme Court of the Territory;
- (h) Chief Clerk of the Magistrate’s Court of the Territory;

**‘Deputy Registrar’**, in relation to the Supreme Court of the Territory, means the Deputy Registrar of that Court under the *Supreme Court Ordinance 1955* of the Territory;

**‘Registrar’**, in relation to the Supreme Court of the Territory, means the Registrar of that Court under the *Supreme Court Ordinance 1955* of the Territory;

**‘Sheriff’**, in relation to the Supreme Court of the Territory, means the Sheriff of that Court under the *Supreme Court Ordinance 1955* of the Territory;”.

**Subsection 15AAB(1):**

Add at the end:

“; and (d) a reference to a coroner’s court of Western Australia were a reference to a Coroner of the Territory.”.

**Paragraph 15AAC(1)(a):**

Omit the paragraph, substitute:

“(a) a reference to:

- (i) a Judge appointed under a Western Australian law (other than the *Family Court Act 1975* of Western Australia);  
or
- (ii) the Master of the Supreme Court of Western Australia;  
were a reference to a Judge of the Supreme Court of the Territory; and”.

**After paragraph 15AAC(1)(c):**

Insert:

“(ca) a reference to:

**SCHEDULE 1—continued**

- (i) the Principal Registrar of the Supreme Court of Western Australia; or
  - (ii) the Registrar or Deputy Registrar of the District Court of Western Australia; or
  - (iii) the Clerk of the Children's Court of Western Australia;were a reference to the Registrar of the Supreme Court of the Territory; and
- (cb) a reference to:
  - (i) the Sheriff of the Supreme Court of Western Australia; or
  - (ii) the Bailiff of the District Court of Western Australia;were a reference to the Sheriff of the Supreme Court of the Territory; and
- (cc) a reference to the Registrar or Deputy Registrar of the Family Court of Western Australia were a reference to:
  - (i) if the reference relates only to federal jurisdiction—the Registrar or Deputy Registrar (as the case applies) of the Family Court of Western Australia; or
  - (ii) if the reference relates only to non-federal jurisdiction—the Registrar or Deputy Registrar (as the case applies) of the Supreme Court of the Territory; or
  - (iii) in any other case:
    - (A) the Registrar or Deputy Registrar (as the case may be) of the Family Court of Western Australia; or
    - (B) the Registrar or Deputy Registrar (as the case may be) of the Supreme Court of the Territory; or
    - (C) the Registrars or Deputy Registrars (as the case may be) of both those Courts;as the case requires; and
- (cd) a reference to the Marshal, Director of Court Counselling or Collector of Maintenance of the Family Court of Western Australia were a reference to:
  - (i) if the reference relates only to federal jurisdiction—the Marshal, Director of Court Counselling or Collector of Maintenance of the Family Court of Western Australia; or
  - (ii) if the reference relates only to non-federal jurisdiction—the Sheriff of the Supreme Court of the Territory; or
  - (iii) in any other case:
    - (A) the Marshal, Director of Court Counselling or Collector of Maintenance (as the case may be) of the Family Court of Western Australia; or



**SCHEDULE 1—continued**

- (B) the Sheriff of the Supreme Court of the Territory;  
or
- (C) the Marshal, Director of Court Counselling or  
Collector of Maintenance (as the case may be) of  
the Family Court of Western Australia and the  
Sheriff of the Supreme Court of the Territory;  
as the case requires; and
- (ce) a reference to:
  - (i) the Clerk or Bailiff of a Local Court of Western Australia;  
or
  - (ii) the Clerk or Bailiff of a Court of Petty Sessions of  
Western Australia;were a reference to the Chief Clerk of the Magistrate's Court  
of the Territory; and
- (cf) a reference to a coroner's clerk of Western Australia were a  
reference to a Coroner of the Territory; and".

**Paragraph 15AAC(1)(e):**

Omit "Coroner appointed", substitute "coroner appointed".

**Section 15AAD:**

- (a) Omit "judicial officer" (wherever occurring), substitute "court  
officer".
  - (b) Omit "judicial officer's" (wherever occurring), substitute "court  
officer's".
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**SCHEDULE 2**

Section 4

**FURTHER AMENDMENTS OF ACTS**

***Christmas Island Act 1958***

**Subsection 4(1):**

Insert the following definitions:

“ **‘court officer of Western Australia’** means a person holding, or performing the functions or duties of, any of the following offices:

- (a) any of the following offices in a court of Western Australia:
  - (i) Judge;
  - (ii) Magistrate (however described);
  - (iii) Master;
  - (iv) Registrar (however described);
  - (v) Clerk (however described);
  - (vi) Sheriff (however described);
  - (vii) Bailiff (however described); or
- (b) any of the following offices in the Family Court of Western Australia:
  - (i) Marshal;
  - (ii) Director of Court Counselling;
  - (iii) Collector of Maintenance; or
- (c) the office of Chairman, Deputy Chairman or nominee member of the Worker’s Compensation Board of Western Australia; or
- (d) any other office in respect of a court of Western Australia, being an office specified in the regulations;

**‘court of Western Australia’** means any of the following courts or tribunals:

- (a) the Supreme Court of Western Australia;
- (b) the District Court of Western Australia;
- (c) the Family Court of Western Australia;
- (d) a Court of Petty Sessions of Western Australia;
- (e) a Local Court of Western Australia;
- (f) a coroners’ court of Western Australia;
- (g) the Children’s Court of Western Australia;
- (h) the Workers’ Compensation Board of Western Australia;
- (i) any other court or tribunal specified in the regulations;”.

**SCHEDULE 2—continued**

**Subsection 8G(1):**

- (a) Omit “the holder of a Western Australian appointment of a kind mentioned in a paragraph of subsection 14C(1)”, substitute “a court officer of Western Australia”.
- (b) Omit “established by a Western Australian law”, substitute “of Western Australia”.

**Section 14:**

Repeal the section.

**Section 14A (definition of “judicial officer of Western Australia”):**

Omit the definition.

**Subsection 14B(1):**

- (a) After “jurisdiction” insert “(including appellate jurisdiction)”.
- (b) Omit “judicial officers”, substitute “court officers”.

**Subsections 14B(2) and (3):**

Omit “judicial officer” (wherever occurring), substitute “court officer”.

**Section 14J:**

Add at the end:

“(2) Subsection (1) does not apply to a reference in the *Federal Court of Australia Act 1976*.”.

***Cocos (Keeling) Islands Act 1955***

**Subsection 4(1):**

Insert the following definitions:

“‘**court officer of Western Australia**’ means a person holding, or performing the functions or duties of, any of the following offices:

- (a) any of the following offices in a court of Western Australia:
  - (i) Judge;
  - (ii) Magistrate (however described);
  - (iii) Master;
  - (iv) Registrar (however described);
  - (v) Clerk (however described);
  - (vi) Sheriff (however described);
  - (vii) Bailiff (however described); or
- (b) any of the following offices in the Family Court of Western Australia:
  - (i) Marshal;

**SCHEDULE 2—continued**

- (ii) Director of Court Counselling;
  - (iii) Collector of Maintenance; or
  - (c) the office of Chairman, Deputy Chairman or nominee member of the Workers' Compensation Board of Western Australia; or
  - (d) any other office in respect of a court of Western Australia, being an office specified in the regulations;
- 'court of Western Australia'** means any of the following courts or tribunals:

- (a) the Supreme Court of Western Australia;
- (b) the District Court of Western Australia;
- (c) the Family Court of Western Australia;
- (d) a Court of Petty Sessions of Western Australia;
- (e) a Local Court of Western Australia;
- (f) a coroners' court of Western Australia;
- (g) the Children's Court of Western Australia;
- (h) the Workers' Compensation Board of Western Australia;
- (i) any other court or tribunal specified in the regulations;".

**Subsection 8G(1):**

- (a) Omit "the holder of a Western Australian appointment of a kind mentioned in a paragraph of subsection 15AAC(1)", substitute "a court officer of Western Australia".
- (b) Omit "established by a Western Australian law", substitute "of Western Australia".

**Section 15AAA (definition of "judicial officer of Western Australia"):**

Omit the definition.

**Subsection 15AAB(1):**

- (a) After "jurisdiction" insert "(including appellate jurisdiction)".
- (b) Omit "judicial officers", substitute "court officers".

**Subsections 15AAB(2) and (3):**

Omit "judicial officer" (wherever occurring), substitute "court officer".

**Section 15AAI:**

Add at the end:

"(2) Subsection (1) does not apply to a reference in the *Federal Court of Australia Act 1976*."

*Territories Legislation Amendment No. 211, 1992*

**NOTES ABOUT SECTION HEADINGS**

1. On the commencement of section 3 of this Act, the headings to section 14C of the *Christmas Island Act 1958* and section 15AAC of the *Cocos (Keeling) Islands Act 1955* are altered by omitting “judicial” and substituting “court”.
2. On the commencement of section 4 of this Act, the headings to section 14B of the *Christmas Island Act 1958* and section 15AAB of the *Cocos (Keeling) Islands Act 1955* are altered by omitting “judicial” and substituting “court”.

[*Minister's second reading speech made in—  
Senate on 25 November 1992  
House of Representatives on 17 December 1992 a.m.*]