

WESTERN AUSTRALIA

RESIDENTIAL TENANCIES AMENDMENT ACT

No. 50 of 1988

AN ACT to amend the *Residential Tenancies Act 1987* and the
Local Courts Amendment Act (No. 2) 1987.

[Assented to 8 December 1988]

The Parliament of Western Australia enacts as follows:

Short title

1. This Act may be cited as the *Residential Tenancies Amendment Act 1988*.

Commencement

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Principal Act

3. In this Act the *Residential Tenancies Act 1987** is referred to as the principal Act.

[*Act No. 128 of 1987.]

Section 3 amended

4. Section 3 of the principal Act is amended—

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

“ “clerk” means the clerk of a local court;

“magistrate sitting in the Small Disputes Division” means a magistrate sitting in the Small Disputes Division of a Local Court as provided by Part VIB of the *Local Courts Act 1904*;

“other jurisdiction” in relation to a local court means any jurisdiction of that court other than the jurisdiction under Part VIB of the *Local Courts Act 1904*; ”; and

(b) by deleting the definitions of “metropolitan region”, “referee” and “registrar”.

Section 12 amended

5. Section 12 of the principal Act is amended—

(a) in subsection (1) by deleting “referee” and substituting the following—

“ magistrate sitting in the Small Disputes Division of a local court as provided by Part VIB of the *Local Courts Act 1904* ”;

(b) by repealing subsections (2) and (3); and

(c) in subsection (4)—

(i) by deleting “A referee” and substituting the following—

“ A magistrate sitting in the Small Disputes Division ”; and

(ii) by deleting “a referee” and substituting the following—

“ a magistrate so sitting ”.

Section 12A inserted

6. After section 12 of the principal Act the following section is inserted—

Clerk may exercise jurisdiction in certain matters

“ 12A. The clerk may, subject to any directions of a magistrate sitting in the Small Disputes Division, exercise the jurisdiction of such a magistrate in respect of any matters of a prescribed class. ”.

Section 13 repealed and a section substituted

7. Section 13 of the principal Act is repealed and the following section is substituted—

Place of proceedings

“ 13. Any proceedings to be brought before a magistrate sitting in the Small Disputes Division shall be instituted in that Division of the local court held nearest to the place where the premises the subject of the proceedings are situated or, by consent of both parties, of any other local court. ”.

Section 15 amended

8. Section 15 of the principal Act is amended—

(a) in subsection (1) by deleting “to a referee for relief” and substituting the following—

“ for relief to a magistrate sitting in the Small Disputes Division ”; and

(b) in subsection (2) (d) by deleting “the registry referred to in section 13 (1) (a)” and substituting the following—

“ a local court ”.

Section 16 amended**9.** Section 16 of the principal Act is amended—

(a) in subsection (2)—

(i) by deleting “referee” and substituting the following—

“ magistrate sitting in the Small Disputes Division of a local court ”; and

(ii) in paragraph (a) by deleting “a local” and substituting the following—

“ that ”; and

(b) by repealing subsection (3).

Section 18 amended**10.** Section 18 of the principal Act is amended in subsection (2)—

(a) by deleting “referee hears an application the registrar” and substituting the following—

“ magistrate hears an application the clerk ”;

and

(b) in paragraph (b) (ii) by deleting “senior referee appointed under section 5 of the *Small Claims Tribunals Act 1974* may direct generally, or as a referee” and substituting the following—

“ Chief Stipendiary Magistrate may direct generally or as a magistrate ”.

Section 19 amended**11.** Section 19 of the principal Act is amended in subsection (1)—

(a) in paragraph (a)—

(i) by deleting “referee or the registrar” and substituting the following—

“ magistrate sitting in the Small Disputes Division or the clerk ”;

and

- (ii) in subparagraph (i) by deleting “referee” and substituting the following—

“ magistrate so sitting ”; and

- (b) in paragraph (b) by deleting “referee” and substituting the following—

“ magistrate so sitting ”.

Section 20 amended

12. Section 20 of the principal Act is amended—

- (a) by deleting “A referee” and substituting the following—

“ A magistrate ”;

- (b) in paragraph (k) by deleting “any court” and substituting the following—

“ the court in its other jurisdiction or any other court ”; and

- (c) in paragraph (l) by deleting “any court” and substituting the following—

“ the court in its other jurisdiction or any other court ”.

Section 26 amended

13. Section 26 of the principal Act is amended—

- (a) in subsection (1) by deleting “referee under this Act” and substituting the following—

“ magistrate under this Act, or by the clerk acting under section 12A, ”; and

- (b) in subsection (2)—

- (i) by deleting “a referee” and substituting the following—

“ a magistrate, or before the clerk acting under section 12A, ”; and

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

“ the magistrate or clerk ”.

Section 79 amended

14. Section 79 of the principal Act is amended in subsection (12)—

(a) by deleting “a referee” and substituting the following—

“ a magistrate sitting in the Small Disputes Division ”; and

(b) by deleting “the referee” and substituting the following—

“ the magistrate ”.

Section 81 amended

15. Section 81 of the principal Act is amended—

(a) in subsection (1), by deleting “referee or a court to recover possession of premises, the referee” and substituting the following—

“ magistrate sitting in the Small Disputes Division or before another court to recover possession of premises, the magistrate ”;

(b) in subsection (2)—

(i) by deleting “referee or a” and substituting the following—

“ magistrate sitting in the Small Disputes Division or before another ”;

(ii) in paragraph (a) by deleting “referee” and substituting the following—

“ magistrate ”;

(iii) by deleting paragraph (b) and substituting the following paragraph—

“ (b) where such proceedings have been completed, or are not by way of application before a magistrate sitting in the Small Disputes Division, a magistrate so sitting, ”; and

(iv) by deleting “as the referee” and substituting the following—

“ as the magistrate ”.

Section 84 amended

16. Section 84 of the principal Act is amended—

- (a) by deleting “A referee” and substituting the following—
“ A magistrate sitting in the Small Disputes Division ”; and
- (b) by deleting “the referee” and substituting the following—
“ the magistrate ”.

Schedule 1 amended

17. Schedule 1 to the principal Act is amended—

- (a) in clause 3 (3), by deleting paragraph (b) and substituting the following paragraph—
“ (b) in reimbursement of the costs and expenses incurred, so far as such income and moneys will allow—
 - (i) in the operation and administration of the Small Disputes Divisions of local courts; and
 - (ii) in the performance by the bond administrator and his authorized agents, the Department and the Commissioner of their respective functions,
that are attributable to the carrying out of this Act;
and ”;
- (b) in clause 8 (1)—
 - (i) by deleting “a referee” and substituting the following—
“ a magistrate sitting in the Small Disputes Division ”; and
 - (ii) by deleting “the referee” and substituting the following—
“ the magistrate ”; and
- (c) in clause 8 (3), by deleting “referee’s” and substituting the following—
“ magistrate’s ”.

Various sections amended

18. (1) The provisions of the principal Act specified in the Table to this subsection are amended by deleting “referee” in each place where it appears and substituting “magistrate sitting in the Small Disputes Division”.

TABLE

section 12 (5)	section 72 (2)
section 15 (3)	section 73 (1)
section 17 (1)	section 74 (1)
section 20 (d)	section 75 (1)
section 32 (1)	section 76 (2)
section 60 (1) (a) (ii)	section 77 (1)
section 60 (1) (b) (ii)	section 78 (2)
section 60 (1) (c)	section 79 (6)
section 60 (3)	section 79 (10)
section 65 (1) (b)	section 79 (15)
section 65 (2)	section 80
section 71 (1)	section 83 (a)
section 71 (2)	Schedule 1, clause 8 (4)
section 72 (1)	

(2) The provisions of the principal Act specified in the Table to this subsection are amended by deleting “referee” in each place where it appears and substituting “magistrate”.

TABLE

section 9 (4) (c)	section 32 (4)
section 9 (4) (e)	section 32 (5)
section 15 (2)	section 32 (6)
section 15 (2) (e)	section 71 (3)
section 15 (4)	section 71 (3) (b) (ii)
section 19 (1) (b) (ii)	section 71 (4)
section 19 (1) (b) (iii)	section 71 (5)
section 21	section 72 (3)
section 22 (2)	section 72 (4)
section 22 (3) (a)	section 73 (2)
section 22 (3) (d)	section 74 (2)
section 23 (1)	section 75 (2)
section 23 (2)	section 76 (1)
section 23 (3)	section 77 (2)
section 24	Schedule 1, clause 8 (2)
section 25 (1)	Schedule 1, clause 8 (3)
section 32 (3)	Schedule 1, clause 8 (7)

***Local Courts Amendment Act (No. 2) 1987* amended**

19. Section 7 of the *Local Courts Amendment Act (No. 2) 1987** is amended in section 106Q (5), inserted in the *Local Courts Act 1904* by that section, by deleting “17” and substituting the following—

“ 16 ”.

[*Act No. 92 of 1987.]