

Notes

¹ This is a compilation of the *Bail Act 1982* and includes the amendments made by the other written laws referred to in the following table ^{1a}.

Compilation table

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Bail Act 1982</i>	86 of 1982	18 November 1982	6 February 1989 (see section 2 and <i>Gazette</i> 27 January 1989 p.263)	
<i>Acts Amendment (Abolition of Capital Punishment) Act 1984, Part III</i>	52 of 1984	5 September 1984	3 October 1984	
<i>Bail Amendment Act 1984</i>	74 of 1984	29 November 1984	6 February 1989 (see section 2 and <i>Gazette</i> 27 January 1989 p.263)	Sections 10 and 11 repealed by <i>Bail Amendment Act 1988</i> (No. 15 of 1988 section 20)
<i>Bail Amendment Act 1988</i>	15 of 1988	6 September 1988	6 February 1989 (see section 2 and <i>Gazette</i> 27 January 1989 p.263)	
<i>Acts Amendment (Children's Court) Act 1988, Part 13</i>	49 of 1988	22 December 1988	1 December 1989 (see section 2 and <i>Gazette</i> 24 November 1989 p.4327)	
<i>Criminal Law Amendment Act 1988, Part 4</i>	70 of 1988	15 December 1988	6 February 1989 (see section 2(2)(b) and <i>Gazette</i> 27 January 1989 p.263)	
<i>Justices Amendment Act 1989, section 18 (item 1 of Schedule)</i>	33 of 1989	22 December 1989	1 June 1991 (see section 2 and <i>Gazette</i> 17 May 1991 p.2455)	
<i>Community Corrections Legislation Amendment Act 1990, Part 2</i>	61 of 1990	17 December 1990	3 April 1991 (see section 2 and <i>Gazette</i> 22 March 1991 p.1209)	

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Child Welfare Amendment Act (No. 2) 1990</i> , section 15	83 of 1990	22 December 1990	1 August 1991 (see section 2 and <i>Gazette</i> 1 August 1991 p.3983)	
<i>Children's Court of Western Australia Amendment Act (No. 2) 1991</i> , section 21	15 of 1991	21 June 1991	9 August 1991 (see section 2(2) and <i>Gazette</i> 9 August 1991 p.4101)	
<i>Acts Amendment (Sexual Offences) Act 1992</i> , Part 3	14 of 1992	17 June 1992	1 August 1992 (see section 2 and <i>Gazette</i> 28 July 1992 p.3671)	
<i>Acts Amendment (Ministry of Justice) Act 1993</i> , Part 3	31 of 1993	15 December 1993	Deemed operative 1 July 1993 (see section 2)	Part 19: transitional ²
<i>Criminal Procedure Amendment Act 1993</i> , Part 2	45 of 1993	20 December 1993	Sections 7, 8, 9, 10(2)(b): 4 March 1994 (see section 2 and <i>Gazette</i> 4 March 1994 p. 915); balance: 17 January 1994 (see section 2(2))	Section 13 : transitional ³
<i>Criminal Law Amendment Act 1994</i> , section 13(1) and (2)	82 of 1994	23 December 1994	20 January 1995 (see section 2(2))	
<i>Acts Amendment (Fines, Penalties and Infringement Notices) Act 1994</i> , Part 3	92 of 1994	23 December 1994	1 January 1995 (see section 2 and <i>Gazette</i> 30 December 1994 p.7211)	
<i>Sentencing (Consequential Provisions) Act 1995</i> , Part 5	78 of 1995	16 January 1996	4 November 1996 (see section 2 and <i>Gazette</i> 25 October 1996 p.5632)	
<i>Coroners Act 1996</i> , section 61	2 of 1996	24 May 1996	7 April 1997 (see section 2 and <i>Gazette</i> 18 March 1997 p.1529)	
<i>Mental Health (Consequential Provisions) Act 1996</i> , Part 2	69 of 1996	13 November 1996	13 November 1997 (see section 2)	

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Statutes (Repeals and Minor Amendments) Act 1997</i> , section 21	57 of 1997	15 December 1997	15 December 1997 (see section 2)	
<i>Criminal Law Amendment Act (No. 1) 1998</i> , section 4(2)	38 of 1998	25 September 1998	23 October 1998	
<i>Bail Amendment Act 1998</i> ,	54 of 1998	11 January 1999	Parts 4 and 7 proclaimed 15 May 1999 (see section 2 and <i>Gazette</i> 11 May 1999 p.1905); Parts 2, 3 and 5 (other than section 12) proclaimed 8 March 2000 (see section 2 and <i>Gazette</i> 7 March 2000 p.1039); section 12 proclaimed 1 September 2000 (see section 2 and <i>Gazette</i> 29 August 2000 p.4985); Part 6 proclaimed 4 December 2000 (see section 2 and <i>Gazette</i> 4 December 2000 p.6799).	Section 6(2): transitional ⁴
<i>Court Security and Custodial Services (Consequential Provisions) Act 1999</i> , Part 3	47 of 1999	8 December 1999	18 December 1999 (see section 2 and <i>Gazette</i> 17 December 1999 pp.6175-6)	
<i>Criminal Law Amendment Act 2001</i> s. 10(1)	23 of 2001	26 November 2001	24 December 2001	
<i>Criminal Investigation (Identifying People) Act 2002</i> s. 96	6 of 2002	4 Jun 2002	20 Nov 2002 (see s. 2 and <i>Gazette</i> 19 Nov 2002 p. 5505)	
<i>Criminal Law (Procedure) Amendment Act 2002</i> Pt. 4 Div. 1	27 of 2002	25 Sep 2002	27 Sep 2002 (see s. 2 and <i>Gazette</i> 27 Sep 2002 p. 4875)	

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Sentencing Legislation Amendment and Repeal Act 2003</i> s. 29(3) and 37	50 of 2003	9 Jul 2003	s. 29(3): 31 Aug 2003 (see s. 2 and <i>Gazette</i> 29 Aug 2003 p. 3833) s. 37: 15 May 2004 (see s. 2 and <i>Gazette</i> 14 May 2004 p. 1445)	
<i>Acts Amendment and Repeal (Courts and Legal Practice) Act 2003</i> s. 88, 97, 121 ⁶	65 of 2003	4 Dec 2003	1 Jan 2004 (see s. 2 and <i>Gazette</i> 30 Dec 2003 p. 5722)	
<i>Statutes (Repeals and Minor Amendments) Act 2003</i> s. 29	74 of 2003	15 Dec 2003	15 Dec 2003 (see s. 2)	
<i>Criminal Code Amendment Act 2004</i> s. 24, 26 and 58	4 of 2004	23 Apr 2004	21 May 2004 (see s. 2)	
<i>Acts Amendment (Family and Domestic Violence) Act 2004</i> Pt. 3	38 of 2004	9 Nov 2004	1 Dec 2004 (see s. 2 and <i>Gazette</i> 26 Nov 2004 p. 5309)	

1a On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Short title	Number and Year	Assent	Commencement
<i>Sentencing Legislation Amendment Act 2004</i> s. 13 ⁷	27 of 2004	14 Oct 2004	To be proclaimed (see s. 2)
<i>Children and Community Services Act 2004</i> s. 251 ⁸	34 of 2004	20 Oct 2004	To be proclaimed (see s. 2)
<i>Acts Amendment (Court of Appeal) Act 2004</i> s. 28 ¹⁰	45 of 2004	9 Nov 2004	To be proclaimed (see s. 2)
<i>Courts Legislation Amendment and Repeal Act 2004</i> s. 141 ¹¹	59 of 2004	23 Nov 2004	To be proclaimed (see s. 2)
<i>Misuse of Drugs Amendment Act 2004</i> s. 9(1) ¹²	62 of 2004	24 Nov 2004	To be proclaimed (see s. 2)

2 Part 19 of the *Acts Amendment (Ministry of Justice) Act 1993* (No. 31 of 1993)
reads as follows —

“

Part 19 — Savings and transitional

68. Savings

If this Act is not passed until after 1 July 1993, anything done after that day but before this Act is passed that would have been in accordance with law if this Act had not come into operation but as a result of the coming into operation of this Act is contrary to law, is deemed to be in accordance with law.

69. Transitional

Unless the contrary intention appears, a reference, however expressed, in any law or document to the former Department of Corrective Services or Crown Law Department, the chief executive officer of either of those departments, or an office or organizational unit within either of those departments, is to be read as a reference to the Ministry of Justice, the chief executive officer of the Ministry of Justice, or the corresponding office or unit within the Ministry of Justice, as is appropriate.

”.

3 Section 13 of the *Criminal Procedure Amendment Act 1993* (No. 45 of 1993)
reads as follows —

“

13. Transitional

- (1) The amendments to the principal Act effected by a provision of this Part apply in relation to —
 - (a) a child arrested for any offence; and
 - (b) a person, other than a child, arrested for a serious offence,on or after the day on which that provision comes into operation.
- (2) In subsection (1) “**child**” and “**serious offence**” have the same meanings as in the principal Act.

”.

4 Section 6(2) of the *Bail Amendment Act 1998* (No. 58 of 1998) reads as follows —

“

- (2) Section 16A inserted by subsection (1) applies to persons arrested for an offence referred to in subsection (2)(a) or (3) of that section on or after the day on which this section comes into operation.

”.

5 Footnote no longer applicable.

6 The *Acts Amendment and Repeal (Courts and Legal Practice) Act 2003* s. 97 reads as follows;

“

97. References to Crown Solicitor

If in a written law or other document or instrument there is a reference to the Crown Solicitor that reference may, where the context so requires, be read as if it had been amended to be a reference to the State Solicitor.

”

7

On the date as at which this compilation was prepared, the *Sentencing Legislation Amendment Act 2004* s. 13 had not come into operation. It reads as follows:

“

13. Bail Act 1982 amended

- (1) The amendments in this section are to the *Bail Act 1982*.
- (2) Section 3(4)(a) is amended as follows:
 - (a) by inserting after “79” —
“ , 84E ”;
 - (b) by inserting after “imprisonment” —
“ or conditional suspended imprisonment ”.
- (3) Schedule 1 Part C clause 6(a) is amended as follows:
 - (a) by inserting after “79” —
“ , 84E ”;
 - (b) by inserting after “imprisonment” —
“ or conditional suspended imprisonment ”.

”

8

On the date as at which this compilation was prepared, the *Children and Community Services Act 2004* s. 251, which gives effect to Sch. 2 cl. 3, had not come into operation. It reads as follows:

“

251. Other Acts amended

Other Acts are amended as set out in Schedule 2.

”

Schedule 2 cl. 3 reads as follows:

“

Schedule 2 — Amendments to other Acts

[s. 251]

3. Bail Act 1982 amended

- (1) The amendments in this clause are to the *Bail Act 1982*.
- (2) Section 3(1) is amended in the definition of “authorized community services officer” in paragraph (d) by deleting “or departmental facility under the *Child Welfare Act 1947*”.
- (3) Schedule 1 Part C is amended in clause 2(3) as follows:
 - (a) after paragraph (a) by inserting “and”;
 - (b) by deleting paragraph (b) and “and” after it.

”.

9 Footnote no longer applicable.

10 On the date as at which this compilation was prepared the *Acts Amendment (Court of Appeal) Act 2004* s. 28 had not come into operation. It reads as follows:

“

28. Bail Act 1982 amended

- (1) The amendments in this section are to the *Bail Act 1982*.
- (2) Section 52(2)(a) is deleted and the following paragraphs are inserted instead —

“

- (a) by a judge of the Supreme Court in any case where the defendant was bound to appear before the General Division of the Supreme Court;
- (ab) by a judge of appeal in any case where the defendant was bound to appear before the Court of Appeal;

”.

- (3) Section 53 is repealed and the following section is inserted instead —

“

53. Appeals against decisions made under s. 52

- (1) A person who is dissatisfied with a decision (as defined in section 4 of the *Criminal Procedure (Summary) Act 1902*) made under section 52 may, with the leave of the Court of Appeal, appeal against it.
- (2) For the purposes of subsection (1), Part VIII of the *Criminal Procedure (Summary) Act 1902*, with any necessary changes, applies as if —
 - (a) the decision referred to in subsection (1) were a decision of a court of summary jurisdiction;
 - (b) a reference in that Part to a court of summary jurisdiction were a reference to the court that made the decision referred to in subsection (1); and
 - (c) a reference in that Part to commencing an appeal were a reference to applying for leave to appeal.
- (3) Despite section 195A of the *Criminal Procedure (Summary) Act 1902*, the appeal is to be dealt with by the Court of Appeal.

”.

- (4) The Act is amended as set out in the Table to this section.

Table

s. 3(1)	<p>In the definition of “appropriate judicial officer”, delete paragraph (b) and insert instead —</p> <p>“</p> <p style="padding-left: 40px;">(b) if the court is the Court of Appeal, means a judge of appeal;</p> <p>”.</p> <p>In the definition of “court”, delete paragraphs (f) and (g) and insert instead —</p> <p>“</p> <p style="padding-left: 40px;">(f) the Court of Appeal;</p> <p>”.</p>
s. 7A(1)	<p>In paragraph (a), delete “Full Court” in the first 3 places where it occurs and in each place insert instead —</p> <p>“ Court of Appeal ”.</p> <p>In paragraph (a), delete “the Full Court” in the fourth place where it occurs and insert instead —</p> <p>“ a judge of appeal ”.</p>
s. 15(1)(b)	<p>Delete “Full Court or the Court of Criminal Appeal” and insert instead —</p> <p>“ Court of Appeal ”.</p>
s. 52(1)	<p>Delete “Court of Criminal Appeal, the Full Court of the Supreme Court, the Supreme Court constituted by a single Judge,” and insert instead —</p> <p>“ Supreme Court ”.</p>
s. 52(3)(a)	<p>After “subsection (2)(a)” insert —</p> <p>“ or (ab) ”.</p>
Sch. 1 Pt. A cl. 4(a)	<p>Delete the content of the Second Column and insert instead —</p> <p>“</p> <p style="padding-left: 40px;">If the appeal is being determined by a single judge, a single judge;</p> <p style="padding-left: 40px;">If the appeal is being determined by the Court of Appeal, the Court of Appeal or a single judge of appeal;</p> <p>”.</p>
Sch. 1 Pt. A cl. 4(b)	<p>In the First Column, before “appeal” insert —</p> <p>“ application for leave to appeal or an ”.</p> <p>Delete the content of the Second Column and insert instead —</p> <p>“</p> <p style="padding-left: 40px;">The Court of Appeal or a single judge of appeal;</p> <p>”.</p>
Sch. 1 Pt. A cl. 4(d)	<p>Delete the content of the Second Column and insert instead —</p> <p>“</p> <p style="padding-left: 40px;">The Court of Appeal or a single judge of appeal;</p> <p>”.</p>

Sch. 1 Pt. A cl. 4(e)(i)	Delete the content of the Second Column and insert instead — “ If the appeal was determined by a single judge, a single judge; If the appeal was determined by the Court of Appeal, the Court of Appeal or a single judge of appeal; ”.
Sch. 1 Pt. A cl. 4(e)(ii)	Delete the content of the Second Column and insert instead — “ The Court of Appeal or a single judge of appeal; ”.
Sch. 1 Pt. A cl. 4(f)	Delete the content of the Second Column and insert instead — “ The Court of Appeal or a single judge of appeal; ”.

11 On the date as at which this compilation was prepared, the *Courts Legislation Amendment and Repeal Act 2004* s. 141, which gives effect to Sch. 1, had not come into operation. It reads as follows:

“

141. 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.

”.

Schedule 1 cl. 10 reads as follows:

“

Schedule 1 — Amendments to various Acts

10. Bail Act 1982

s. 3	In the definition of “authorised community services officer”, delete “clerk” and insert instead — “ registrar ”. In the definition of “court”, delete paragraph (a) and insert instead — “ (a) the Magistrates Court; ”. In the definition of “judicial officer”, delete “and a single member of the Children’s Court”. In the definition of “prosecutor”, delete “court of petty sessions” and insert instead — “ court of summary jurisdiction ”.
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s. 7A(1)	Repeal the subsection and insert instead — “ (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 — (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 (b) in any other case — to a Judge of the Supreme Court. ”.
s. 11(2)(d) s. 28(2)(b)(i) s. 31(2)(b) s. 31(2)(c) s. 31(2)(d) s. 31(2)(e) s. 45(1)(c) s. 49(1)(a) s. 60 s. 64 s. 66A(1)	In each provision delete “clerk or” in each place it occurs.
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)	Repeal the subsection and insert instead — “ (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 — (a) the decision referred to in subsection (1) were a decision of a court of summary jurisdiction; (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 (c) a reference in that Part to commencing an appeal were a reference to applying for leave to appeal. ”.
Sch. 1 Pt. A cl. 1	In the second column, delete the passage beginning “in addition” and ending “officer.” and insert instead — “ in addition, in the case of a child, an authorised community services officer. ”.
Sch. 1 Pt. A cl. 4	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 — “ <i>Criminal Procedure (Summary) Act 1902</i> ”. 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 — “ in the case where the appeal is to be heard and determined by the Full Court, the Full Court; ”.
Sch. 1 Pt. B cl. 3	Delete “or a member of the Children’s Court”. Delete “or another member of the Children’s Court” in the 2 places it occurs.
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 ”.

”.

12

On the date as at which this compilation was prepared, the *Misuse of Drugs Amendment Act 2004* s. 9(1) had not come into operation. It reads as follows:

“

9. Consequential amendments to other Acts

- (1) Schedule 2 to the *Bail Act 1982* is amended in item 2a by inserting after the entry relating to section 7(1) —

“

- s. 33(1)(a) Attempting to commit an offence under section 6(1) or 7(1)

”.

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