



Western Australia.

ANNO SEXAGESIMO SECUNDO

VICTORIÆ REGINÆ.

No. XXX.

AN ACT for consolidating enactments relating to the Construction of Acts of Parliament, and for further shortening the Language used in Acts of Parliament.

[Assented to, 28th October, 1898.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. THIS Act may be cited as the Interpretation Act, 1898.

Short title.

2. THE Acts described in the First Schedule to this Act are hereby repealed.

Repeal.
First Schedule.

Re-enactment of Existing Rules.

3. IN this Act and in every Act or Ordinance heretofore passed, and in every Act hereafter to be passed, unless the contrary intention appears:—

Interpretation of
Acts.

(a.) The word "Act" shall include Ordinance, and the word "Ordinance" shall include Act;

"Act," "Ordinance."
8 Vict., 11, s. 1.

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Masculine.
52 & 53 Vict., c. 63,
s. 1.

Singular and Plural.
Ibid., s. 1.
Ibid., s. 1.

Public Officers
"Governor."
Ibid., s. 1.

"Month."
16 Vict., 11, s. 3.

"Land."
52 & 53 Vict., c. 63,
s. 3.

"Oath," Affidavit,"
"Swear."
Ibid., s. 3.
Ibid., s. 3.

"Statutory Declara-
tion."
52 & 53 Vict., c. 63,
s. 21.

"Writing."
52 & 53 Vict., c. 63,
s. 20.

Sovereign, "Crown."
Ibid., s. 30.

Application of penal
Acts to bodies cor-
porate.
Ibid., s. 2.

Acts to be divided
into sections; each
substantive enact-
ment.

16 Vict., 11, s. 2
52 & 53 Vict., c. 63,
s. 3.
Ibid., pt. s. 6.
Ibid., s. 9.

- (b.) Words importing the masculine gender shall include females;
- (c.) Words in the singular shall include the plural, and words in the plural shall include the singular;
- (d.) The mention of the Governor or any public officer of the Colony shall include the person lawfully acting as such in the Colony for the time being, and the word "Governor" shall mean the Governor acting with the advice of the Executive Council;
- (e.) The word "Month" shall mean calendar month;
- (f.) The word "Land" shall include messuages, tenements, and hereditaments, houses and buildings;
- (g.) The words "Oath" and "Affidavit" shall, in the case of persons allowed by law to affirm or declare instead of swearing, include affirmation and declaration, and the word "swear" shall, in the like case, include affirm and declare;
- (h.) The words "Statutory Declaration" shall mean a declaration made by virtue of the Act of the eighteenth year of Her now Majesty, numbered twelve;
- (i.) Expressions referring to writing shall be construed to include references to printing, lithography, photography, and other modes of representing and reproducing words in a permanently visible form;
- (j.) References to the Sovereign reigning at the time of the passing of the Act or to the Crown shall be construed as references to the Sovereign for the time being, and this Act shall be binding on the Crown;
- (k.) In the construction of every enactment relating to an offence punishable on indictment or on summary conviction, the expression "person" shall include a body corporate, and where any forfeiture or penalty is payable to a party aggrieved it shall be payable to a body corporate in every case where that body is the party aggrieved.

4. (1.) EVERY Act shall be divided into sections if it contains more enactments than one, and every section of an Act shall have effect as a substantive enactment without introductory words.

(2.) Every Act passed after the thirteenth day of April, One thousand eight hundred and fifty-three, whether before or after the commencement of this Act, shall be a public Act, and shall be judicially noticed as such unless the contrary is expressly provided by the Act.

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(3.) Any Act may be altered, amended, or repealed in the same session of Parliament.

Amendment or repeal of Acts in same session.

Ibid., s. 1.

Ibid., s. 10.

(4.) A copy of every Act printed or purporting to have been printed by the authority of the Government shall be admitted in evidence, and it shall not be necessary to prove that it was printed by such authority.

Copies of Acts printed by authority admissible in evidence.

16 Vict., 11, pt. s. 6.

5. (1.) WHERE an Act passed after the thirteenth day of April, One thousand eight hundred and fifty-three, whether before or after the commencement of this Act, repeals a repealing enactment, it shall not be construed as reviving any enactment previously repealed unless words are inserted reviving that enactment.

Effect of repeal in Acts passed since 13th April, 1853.
16 Vict., 11, s. 4.
52 & 53 Vict., c. 63, s. 11 (3).

(2.) Where an Act passed after the thirteenth day of April, One thousand eight hundred and fifty-three, whether before or after the commencement of this Act, repeals wholly or partially any former enactment and substitutes provisions for the enactment repealed, the repealed enactment shall remain in force until the substituted provisions come into operation.

Ibid., s. 5.

Ibid., s. 11 (2).

6. (1.) IN any Act, instrument, or document, an Act may be cited by reference to the short title, if any, of the Act, or by reference to the year or regnal year in which the Act was passed and the number, if any, of the Act, and any enactment may be cited by reference to the section or sub-section of the Act in which the enactment is contained.

Citation of Acts.

Ibid., s. 7.

Ibid., s. 35 (1).

(2.) In any Act a description or citation of a portion of another Act shall, unless the contrary intention appears, be construed as including the words, sections, or other parts mentioned or referred to as forming the beginning and as forming the end respectively of the portion comprised in the description or citation.

52 & 53 Vict., c. 63, s. 35 (3).

7. ALL duties, fees, fines, penalties, forfeitures, or sums of money made payable by any Act passed after the thirteenth day of April, One thousand eight hundred and fifty-three, shall, save so far as by such Act otherwise applied or appropriated, be paid into the hands of the Colonial Treasurer and be appropriated to the use of Her Majesty for the public use of the Colony and the support of the Government thereof.

Appropriation of duties, fees, fines, penalties, forfeitures, etc.

16 Vict., 11, s. 8.

8. ANY of the provisions contained in the sections of the Second Schedule hereto, and distinguished respectively by the letters A, B, C, D, E, F, G, and H, may be incorporated as enactments in any Act by reference to the said Schedule and to the letters distinguishing the said sections respectively.

Sections in Second Schedule may be incorporated in Acts by reference.

16 Vict., 11, s. 9.

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Meaning of service of a document when required by an Act. See *Ibid.*, s. 26.

9. WHERE by any Act any notice or other document is required to be served, whether the expression “serve” or the expression “give,” “deliver,” “send,” or any other expression is used, the service may be effected on the person to be served—

- (a.) By delivering the document to him personally; or
- (b.) By leaving it for him at his usual or last known place of abode, or, if he is in business, at his usual or last known place of business; or
- (c.) By posting the document to him in a registered letter properly addressed.

A document may be served on a corporation by delivering it, leaving it, or posting it in a registered letter, the document being addressed, in each case, to the corporation at its principal office in the Colony, and a document may be served on all the members of a partnership or unincorporated company by being delivered or left or posted in a registered letter, the document being addressed in each case to the partnership or company at the principal place of business thereof in the Colony.

General presumption in case of service by post.

In the case of service by post, whether service by post is required by the Act or not, the service shall be presumed, unless the contrary is shown, to have been effected at the time when, by the ordinary course of post, the letter would be delivered.

Further General Rules of Construction.

Construction of statutory rules, &c.

Ibid., s. 31.

10. WHERE any Act, whether passed before or after the commencement of this Act, confers power to make, grant, or issue any instrument (that is to say any Order in Council, order, warrant, scheme, letters patent, rules, regulations, or by-laws), expressions used in the instrument, if it is made after the commencement of this Act, shall, unless the contrary intention appears, have the same respective meanings as in the Act conferring the power.

Meaning of power given by an Act to make by-laws.

11. WHERE any Act authorises the Governor, or any minister, officer, board, body, or person to make by-laws, rules, or regulations, or other instruments, for carrying out the Act, the Act, unless the contrary intention appears, shall be deemed to give power from time to time to make, repeal, and alter such instruments, and to require a copy thereof to be published in the *Government Gazette*, and to be laid before both Houses of Parliament within fourteen days after such publication, if Parliament is then sitting, and, if Parliament is not then sitting, within fourteen days after its next meeting, and to enact that all such instruments when so published shall have the force of law and shall continue in force unless repealed or altered under the power given by the Act or disallowed by both Houses of Parliament; and

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further to enact that the production of a copy of the *Gazette*, containing what purports to be a copy of such instrument, shall be evidence in all courts of the due and proper making, granting, or issuing thereof.

12. (1.) WHERE an Act passed after the commencement of this Act confers a power or imposes a duty, then, unless the contrary intention appears, the power may be exercised, and the duty shall be performed from time to time as occasion requires.

Construction of provisions as to exercise of powers and duties.

(2.) Where an Act passed after the commencement of this Act confers a power or imposes a duty on the holder of an office as such, then, unless the contrary intention appears, the power may be exercised, and the duty shall be performed by the holder for the time being of the office.

Ibid., s. 32.

13. WHERE an act or omission constitutes an offence under two or more Acts, or both under an Act and at common law, whether any such Act was passed before or after the commencement of this Act, the offender shall, unless the contrary intention appears, be liable to be prosecuted and punished under either or any of those Acts or at common law, but shall not be liable to be punished twice for the same offence.

Provisions as to offences under two or more laws.
Ibid., s. 33.

14. IN the measurement of any distance for the purposes of any Act passed after the commencement of this Act, that distance shall, unless the contrary intention appears, be measured in a straight line on a horizontal plane.

Measurement of distances.
Ibid., s. 34.

15. (1.) IN every Act the expression "commencement," when used with reference to an Act, shall mean the time at which the Act comes into operation.

"Commencement."

(2.) Where an Act, or any Order in Council, order, warrant, scheme, letters patent, rules, regulations, or by-laws made, granted, or issued under a power conferred by any such Act is expressed to come into operation on a particular day, the same shall be construed as coming into operation immediately on the expiration of the previous day.

Ibid., s. 36.

16. WHERE an Act passed after the commencement of this Act is not to come into operation immediately on the passing thereof and confers power to make any appointment, or to make, grant, or issue any instrument (that is to say any Order in Council, order, warrant, scheme, letters patent, rules, regulations, or by-laws), or to give notices, to prescribe forms, or to do any other thing for the purposes of the Act, that power may, unless the contrary intention appears, be exercised at any time after the passing of the Act so far as may be

Exercise of statutory power between passing and commencement of Act.
Ibid., s. 37.

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necessary or expedient for the purpose of bringing the Act into operation at the date of the commencement thereof; subject to this restriction, that any instrument made under the power shall not, unless the contrary intention appears in the Act, or the contrary is necessary for bringing the Act into operation, come into operation until the Act comes into operation.

17. IN every Act passed after the commencement of this Act the following expressions, unless the contrary intention appears, shall have the meanings hereby respectively assigned to them, namely:—

Definitions for the future.

“British possession.”
52 & 53 Vict., c. 63,
s. 18.

The expression “British possession” shall mean any part of Her Majesty’s dominions exclusive of the United Kingdom, and, where parts of such dominions are under both a central and a local legislature, all parts under the central legislature shall, for the purpose of this definition, be deemed to be one Colony.

“Person.”
Ibid., s. 19.

The expression “person” shall include any body of persons corporate or unincorporate.

“Court of summary jurisdiction.”
Ibid., s. 13 (11).

The expression “Court of summary jurisdiction” shall mean any Justice or Justices of the Peace or other Magistrate, by whatever name called, to whom jurisdiction is given by, or who is authorised to act under the Act of the fourteenth year of Her present Majesty, numbered five, or any Act, past or future, amending that Act, and whether acting under such Acts or any of them, or under any other Act, or by virtue of his commission or under the common law.

“Petty Sessional Court.”
Ibid., s. 13 (12)

The expression “Petty Sessional Court” shall mean a court of summary jurisdiction, consisting of two or more Justices when sitting in a petty sessional court-house, and shall include any Government Resident, Resident Magistrate, Police Magistrate, or other stipendiary magistrate when sitting in a court-house or place at which he is authorised by law to do, alone, any act authorised to be done by more than one Justice of the Peace.

“Petty Sessional Court-house.”
Ibid., s. 13 (13).

The expression “Petty Sessional Court-house” shall mean a court-house or place where justices are accustomed to assemble for holding petty sessions, and also any place at which any magistrate is accustomed to do, alone, any act authorised to be done by more than one Justice of the Peace, and, if there is more than one such court-house or place, the expression shall mean any such court-house or place.

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The expression "Rules of Court," when used in relation to any court, shall mean rules made by the authority having for the time being power to make rules or orders regulating the practice and procedure of such court, and the power to make Rules of Court shall include a power to make such rules for the purpose of any Act passed after the commencement of this Act, and directing or authorising anything to be done by Rules of Court.

"Rules of Court."
Ibid., s. 14.

The expression "Financial Year," used respecting any matters relating to the Consolidated Revenue or moneys provided by Parliament, or to the Treasury, or to Taxes or Finance, or to accounting or reporting to the Colonial Treasurer about public moneys, shall mean the twelve months ending the last day of June.

"Financial Year."
See *Ibid.*, s. 22.

18. (1.) WHERE this Act, or any Act passed after the commencement of this Act repeals and re-enacts, with or without modification, any provisions of a former Act, references in any other Act to the provisions so repealed shall, unless the contrary intention appears, be construed as references to the provisions so re-enacted.

Effect of repeal in
future Acts.
Ibid., s. 38.

(2.) Where this Act, or any Act passed after the commencement of this Act, repeals any other enactment, then, unless the contrary intention appears, the repeal shall not—

- (a.) Revive anything not in force or existing at the time at which the repeal takes effect; or
- (b.) Affect the previous operation of any enactment so repealed, or anything duly done or suffered under any enactment so repealed; or
- (c.) Affect any right, privilege, obligation, or liability acquired, accrued, or incurred under any enactment so repealed; or
- (d.) Affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment so repealed; or
- (e.) Affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid;

and any such investigation, legal proceeding, or remedy may be instituted, continued, or enforced, and any such penalty, forfeiture, or punishment may be imposed as if the repealing Act had not been passed.

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Application of Act.

19. THIS Act shall, unless the contrary intention appears, apply to every Act hereafter to be passed, and, except as herein otherwise specially provided, to every Act heretofore passed.

In the name and on behalf of the Queen I hereby assent
to this Act.

ALEX. C. ONSLOW, Governor's Deputy.

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The First Schedule.

8 Vict., No. 11.

16 Vict., No. 11.

Section 2.

The Second Schedule.

Section 8.

A.

All informations and proceedings in respect of offences against this Act hereby made summarily punishable upon conviction before a Justice or Justices of the Peace in Petty Sessions shall be heard and determined, and the penalties and forfeitures in respect of the same be enforced and appropriated (if not hereinbefore otherwise appropriated) according to the provisions of an Act, No. 5, passed in the fourteenth year of the reign of Her Majesty Queen Victoria.

B.

All informations and proceedings in respect of offences against this Act shall be commenced within one month after the offences thereby respectively charged shall have been committed.

C.

All informations and proceedings in respect of offences against this Act shall be commenced within three months after the offences thereby respectively charged shall have been committed.

D.

All informations and proceedings in respect of offences against this Act shall be commenced within six months after the offences thereby respectively charged shall have been committed.

E.

All informations and proceedings in respect of offences against this Act shall be commenced within twelve months after the offences thereby respectively charged shall have been committed.

F.

No order, judgment, warrant, or other proceeding made, or purporting to be made under or concerning the conviction of any offender against this Act shall be quashed or vacated for want of form only, or be removed or removable by *certiorari*, or by any writ or process whatsoever into any superior Court of the Colony.

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G.

And, for the protection of persons acting in execution of this Act, notice in writing of any action about to be commenced for anything done under this Act shall be given to the defendant one month at least before the commencement of the action, and in every such action the defendant may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon, and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court, after such action brought, by, or on behalf of the defendant, together with costs incurred up to that time; and if a verdict shall pass for the defendant or the plaintiff become non-suited or discontinued such action after issue joined, or if, upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs as between solicitor and client, and have the like remedy for the same as any defendant hath by law in other cases; and, though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the Judge before whom the trial is held shall certify his approbation of the action and of the verdict obtained thereon.

H.

No action shall lie against any Justice of the Peace, Officer of Police, Policeman, Constable, Peace Officer, or any other person in the employ of the Government, authorised to carry the provisions of this Act, or any of them, into effect, or any person acting for, or under such persons, or any of them, on account of any act, matter, or thing done, or to be done, or commanded by them, or any of them, in carrying the provisions of this Act into effect against any parties offending, or suspected to be offending, against the same, unless there is direct proof of corruption or malice, and unless such action is commenced within three months after the cause of action or of complaint shall have arisen; and if any such person shall be sued for any act, matter, or thing which he shall have so done, or shall so do, in carrying the provisions of this Act into effect, he may plead the general issue and give the special matter in evidence; and in case of judgment after verdict, or by a Judge sitting as a jury, or on demurrer being given for the defendant, or of the plaintiff discontinuing, or becoming nonsuit in any such action, the defendant shall be entitled to and have treble costs.

I.

That in all cases where, on any summary conviction under this Ordinance of any person, not being a convict, the sum adjudged by one Justice to be paid shall exceed £10, or by two or more Justices shall exceed £20, or the imprisonment, whether adjudged by one or more Justice or Justices, shall exceed one calendar month, any person who shall think himself aggrieved by such conviction may appeal to the next Court of General or Quarter Sessions, which shall be holden, not less than twenty days after the day of such conviction, at Perth, in the said Colony, unless such conviction shall take place within one hundred miles of Albany, in the said Colony, in which case any appeal from such conviction shall be to the next Court of General or Quarter Sessions, holden not less than ten days after the day of such conviction, at Albany aforesaid.