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WESTERN AUSTRALIA

**INDECENT PUBLICATIONS AND  
ARTICLES ACT 1902**

ARRANGEMENT

Section		Page
1.	Short title	1
1A.	Interpretation	2
1B.	Application of Act to video tapes	2
2.	Printing and publishing indecent article, book, etc.	2
2A.	Child pornography	5
3.	Imposition of penalties	6
4.	Certain advertisements, etc., declared indecent	6
5.	Savings	7
6.	Interpretation	7
7.	State Advisory Committee on Publications	8
8.	Meetings of Committee, etc	9
9.	Powers and functions of Committee	10
10.	Restricted publications	11
11.	Offences in relation to restricted publications	14
11A.	Registration of certain persons	17

*Indecent Publications and Articles Act 1902*

Section		Page
12.	Certain publications not to be liable to prosecution	18
12A.	Search of premises for and seizure etc. of indecent or obscene publications	19
13.	Approval of Minister required for institution of certain proceedings	23
14.	Limitation on proceedings in certain cases	23
15.	Regulations	24
	<b>SCHEDULE</b>	25
	<b>NOTES</b>	26

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# INDECENT PUBLICATIONS AND ARTICLES ACT 1902

**AN ACT to suppress indecent and obscene publications and  
articles.**

*[Long title amended by No. 39 of 1974 s.3.]*

## **Short title**

1. This Act may be cited as the *Indecent Publications and Articles Act 1902*<sup>1</sup>.

*Indecent Publications and Articles Act 1902*

**Interpretation**

**1A.** (1) In this Act unless the contrary intention appears —

“**article**” includes —

- (a) any cinematographic or other type of film or slide and any other form of recording from which a visual image can be produced; and
- (b) any gramophone record, wire, recording tape or other device or thing by or on which words or sounds are recorded and from which they are capable of being reproduced.

(2) For the purposes of this Act a record shall be deemed to be indecent or obscene if the words or sounds capable of being reproduced therefrom are indecent or obscene, and publication, in the case of a record, shall include the delivering of the record to any person or the playing of the record in the hearing of any person.

*[Section 1A inserted by No. 39 of 1974 s.4; amended by No. 45 of 1983 s.3; No. 73 of 1987 s.51.]*

**Application of Act to video tapes**

**1B.** This Act does not apply to video tapes within the meaning of the *Video Tapes Classification and Control Act 1987*.

*[Section 1B inserted by No. 73 of 1987 s.52.]*

**Printing and publishing indecent article, book, etc.**

**2.** (1) Any person who —

- (1) prints, makes, sells, has in his possession, custody or control for sale or gain or apparently for sale or gain, publishes, distributes, or exhibits any indecent or

*Indecent Publications and Articles Act 1902*

obscene article, book, paper, newspaper, writing, picture, photograph, lithograph, drawing, or representation; or

- (2) gives or delivers to any other person any picture or printed or written matter which is of an indecent or obscene nature, with the intent that the same or a copy thereof, or any part of such matter or a copy thereof, should be published as an advertisement in any newspaper; or
- (3)
  - (a) affixes to or inscribes on any house, building, wall, hoarding, gate, fence, pillar, post, board, tree, or any other thing whatsoever, so as to be visible to any person passing along or being in any street, public highway, footpath, or any other place whatsoever to which the public have access;
  - (b) delivers or attempts to deliver or exhibits to any person;
  - (c) leaves in or upon any place to which the public have access, or in or upon any house, shop, yard, garden, or other premises;
  - (d) exhibits to public view in the window of any house or shop, or otherwise publishes any indecent or obscene article, picture or printed or written matter; or
- (4) gives or delivers to any other person any such article, picture or printed or written matter, with the intent that the same, or some one or more thereof, or a copy of any such article, picture or printed or written matter should be affixed, inscribed, delivered, exhibited, or otherwise published in contravention of the provisions of this section; or
- (5) posts, or causes to be posted for transmission by post, any indecent or obscene article, picture or printed or written matter;

*Indecent Publications and Articles Act 1902*

- (6) prints any picture or printed matter published or posted in contravention of this Act; or
- (7) publishes a newspaper containing any indecent or obscene advertisement,

commits an offence against this section.

(2) Any person convicted of an offence against this section shall be liable —

- (a) if the person convicted is a body corporate, to a penalty not exceeding \$500 for a first offence, and to a penalty not exceeding \$1 000 for a second or subsequent offence;
- (b) in any other case, to a penalty not exceeding \$250 or to imprisonment for a term not exceeding 3 months for a first offence, and to a penalty not exceeding \$500 or to imprisonment for a term not exceeding 6 months for a second or subsequent offence.

(3) Where a corporation is convicted of an offence against this section, every person who at the time of the commission of the offence was a director or member of the governing authority of the corporation or an officer concerned in the management of the corporation and who authorized or permitted the commission of the offence is guilty of the like offence.

(4) Where a person has been convicted of an offence against this section, or where in respect of any person an offence against this section has been found proved, the court shall, unless it is satisfied that in all the circumstances it would be unreasonable so to do, order that there shall be forfeited to the Crown and destroyed by the Commissioner of Police any indecent or obscene article, book, paper, newspaper, writing, picture, photograph, lithograph, drawing, representation, or printed matter in respect of which the offence was committed or proved.

[Section 2 amended by No. 6 of 1967 s.2; No. 39 of 1974 s.5.]

**Child pornography**

**2A.** (1) For the purposes of this section —

- (a) unless the context otherwise requires “**child pornography**” means an indecent or obscene article, picture, photograph, lithograph, drawing, or representation which depicts a person (whether engaged in sexual activity or otherwise) who is, or who is apparently, a child under the age of 16 years; and
- (b) a reference to the exhibiting of child pornography includes, in relation to a film, the screening of the film.

(2) A person who publishes, or causes to be published, an advertisement likely to be understood as conveying that the advertiser sells or supplies or exhibits child pornography commits an offence and is liable —

- (a) in the case of a corporation, to a fine not exceeding \$15 000; or
- (b) in any other case, to a fine not exceeding \$4 000 or imprisonment for a term not exceeding 12 months.

(3) A person who exhibits child pornography in a public place or a school, or who causes child pornography to be so exhibited commits an offence and is liable —

- (a) in the case of a corporation, to a fine of \$15 000; or
- (b) in any other case, to a fine of \$4 000 or imprisonment for a term not exceeding 12 months.

(4) A person who has possession of child pornography commits an offence and is liable —

- (a) in the case of a corporation, to a fine not exceeding \$15 000; or

*Indecent Publications and Articles Act 1902*

- (b) in any other case, to a fine not exceeding \$4 000 or imprisonment for a term not exceeding 12 months.
- (5) A person who —
  - (a) with intent to sell or supply it to another, has possession of; or
  - (b) sells or supplies, or offers to sell or supply, to another, child pornography, or who causes or permits child pornography to be sold, supplied or so offered, commits an offence and is liable —
    - (c) in the case of a corporation, to a fine not exceeding \$100 000; or
    - (d) in any other case, to a fine not exceeding \$25 000 or imprisonment for a term not exceeding 5 years.
- (6) A complaint for an offence against this section may be made at any time.

*[Section 2A inserted by No. 14 of 1992 s.17 (1).]*

**Imposition of penalties**

3. Informations for offences against this Act may be heard and determined summarily by any stipendiary magistrate in petty sessions.

**Certain advertisements, etc., declared indecent**

4. Any advertisement, picture, or printed or written matter relating to any complaint or infirmity arising from or relating to sexual intercourse, or to nervous debility or female irregularities, or which might reasonably be construed as relating to any illegal medical treatment or illegal operation, shall be deemed to be indecent within the meaning of the Act.



*Indecent Publications and Articles Act 1902*

**Savings**

5. Nothing in this Act relates to any work of recognised literary, artistic or scientific merit, or to the delivery or exhibiting in the window of any shop, or the posting or causing to be posted for transmission by post for any lawful purpose, of any *bona fide* medical work or treatise; but in any prosecution for an offence against this Act, the burden of proof that a publication is a *bona fide* medical work or treatise, or a work of recognised literary, artistic or scientific merit, shall lie on the defendant.

[Section 5 amended by No. 6 of 1967 s.3.]

**Interpretation**

6. (1) In sections 7 to 14, both inclusive, of this Act —

“**publication**” includes any book, magazine, periodical, paper, newspaper, pamphlet or printed or written matter of any kind, any slide and any other form of recording from which a visual image can be produced and any picture, photograph, lithograph, drawing or representation;

“**restricted publication**” means —

- (a) any publication which is, by determination under section 10, classified as a restricted publication; and
- (b) any publication within a class of publication which is, by determination under section 10, classified as a restricted class of publication;

“**sale**” includes exchange;

“**the Committee**” means the State Advisory Committee on Publications constituted under this Act.

*Indecent Publications and Articles Act 1902*

(2) In sections 7 to 14, both inclusive, of this Act a reference to “hire” or “hiring” means lending whether for a consideration or not.

[Section 6 inserted by No. 98 of 1972 s.3; amended by No. 45 of 1983 s.4; No. 73 of 1987 s.6.]

**State Advisory Committee on Publications**

7. (1) For the purposes of this Act there shall be constituted a State Advisory Committee on Publications, which shall have the functions, powers and duties conferred or imposed on it by this Act.

(2) The Committee shall consist of —

- (a) not less than 3 and not more than 7 persons appointed by the Governor; and
- (b) one *ex officio* member.

(2a) Of the persons appointed by the Governor under subsection (2) (a) —

- (a) at least one shall be a woman;
- (b) at least one shall be a recognized expert in literature, art or science; and
- (c) one shall be a practitioner as defined by section 3 of the *Legal Practitioners Act 1893*.

(2b) The *ex officio* member referred to in subsection (2) (b) shall be the chief executive officer<sup>2</sup> of the Department for the Arts or his nominee.

(3) The Governor may appoint a member of the Committee other than the *ex officio* member referred to in subsection (2) (b) to be the chairman thereof.

*Indecent Publications and Articles Act 1902*

(4) Subject to this section, each member of the Committee other than the *ex officio* member referred to in subsection (2) (b) shall hold office for a term of 5 years.

(5) The office of any member of the Committee other than the *ex officio* member referred to in subsection (2) (b) becomes vacant if he —

- (a) resigns the office by writing addressed to the Minister;
- (b) attains the age of 65 years; or
- (c) is removed from the office by the Governor for disability, insolvency, neglect of duty or misconduct.

(6) Where a vacancy occurs in the office of a member of the Committee, other than the *ex officio* member referred to in subsection (2) (b), the Governor may appoint a person to the vacant office for the residue of the term for which the predecessor was appointed, but where the member whose office became vacant held the qualifications specified in subsection (2a) (a), (b) or (c), the person so appointed shall have the qualifications specified in that paragraph.

(7) Members of the Committee, other than the *ex officio* member referred to in subsection (2) (b), shall be paid such remuneration and allowances as are from time to time determined by the Governor.

(8) The Minister shall appoint a member of the Committee or some other person to be the secretary of the Committee for the purposes of this Act.

[Section 7 inserted by No. 98 of 1972 s.4; amended by No. 39 of 1974 s.6; No. 75 of 1987 s.3.]

**Meetings of Committee, etc**

8. (1) The Minister, the chairman or any 3 members of the Committee may call a meeting of the Committee.

*Indecent Publications and Articles Act 1902*

(2) At any meeting of the Committee —

- (a) the chairman shall preside but if the chairman is not present, the members present shall select one of their number to preside;
- (b) a majority of the members for the time being appointed to the Committee constitutes a quorum;
- (c) questions arising at the meeting shall be decided, in open voting, by a majority of the members present; and
- (d) a record shall be kept of the proceedings thereat.

(3) The powers of the Committee are not affected by any vacancy in the membership thereof and, if a quorum is present, all acts and proceedings of the Committee are valid and effectual notwithstanding the vacancy.

[Section 8 inserted by No. 98 of 1972 s.5.]

**Powers and functions of Committee**

9. (1) The Minister may refer any publication or class of publication to the Committee for consideration of the publication or class of publication with the object of reporting to the Minister whether or not in the opinion of the Committee the publication or class of publication —

- (a) by reason of the nature or extent of references therein to sex, drug addiction, crime, violence, gross cruelty or horror or for any other reason, is undesirable reading for persons under the age of 18 years and should be classified as a restricted publication or class of publication;
- (b) should be the subject of proceedings under section 2 or 2A.

*Indecent Publications and Articles Act 1902*

(2) The Minister may refer to the Committee any other matter arising out of the administration of this Act for its report thereon.

(3) The Committee shall include in its report to the Minister the reasons for and matters taken into consideration in formulating its decision and each member of the Committee may make an individual report on the publication or class of publication or matter referred to the Committee.

*[Section 9 inserted by No. 98 of 1972 s.6; amended by No. 14 of 1992 s.17 (2).]*

**Restricted publications**

10. (1) (a) Where —

- (i) the Committee has made a report to the Minister for the purposes of section 9 (1) (a) in respect of a publication or class of publication referred to it;
- (ii) the National Literature Board of Review constituted under the Customs (National Literature Board of Review) Regulations of the Commonwealth, or a division of that Board, has, in relation to a publication or class of publication submitted or referred to it, made a report that indicates that the distribution of the publication or class of publication should be restricted, or that the publication or class of publication is considered by the Board to be not unsuitable for distribution in Australia restricted to persons who are 18 or more years of age; or
- (iii) in relation to a publication that is a cinematographic or other type of film, slide or other form of recording from which a visual image can be produced, a report has been made for the purposes of the Customs Cinematographic Films Regulations of the Commonwealth that the publication is a publication or is of a class of

## *Indecent Publications and Articles Act 1902*

publication the distribution of which should be restricted or the publication has been reported under those regulations as a publication or of a class of publication that is considered to be not unsuitable for distribution in Australia restricted to persons who are 18 or more years of age,

the Minister, upon consideration of that report, may determine that the publication or class of publication shall be classified as a restricted publication or class of publication.

(b) The classification of a publication or class of publication as a restricted publication or class of publication shall, if the Minister so determines, extend not only to the publication or class of publication specified in the determination but to all subsequent editions, series, numbers or issues of that publication or class of publication, notwithstanding any reconstruction (whether by way of alteration in title, change of subject, characters, story or other features or otherwise) of such publication or class, and any such subsequent editions, series, numbers or issues shall for the purposes of this Act be a restricted publication or class of publication.

(2) A determination made by the Minister pursuant to subsection (1) may be varied or revoked by the Minister.

(3) Notification of any determination or any variation or revocation of any determination shall be published in the *Gazette* and the determination or any variation or revocation thereof shall not take effect until so notified.

(4) Any person aggrieved by a determination made by the Minister under this section (not being a determination made upon the consideration of a report made by the National Literature Board of Review referred to in subsection (1) (a) (ii) or a report made for the purposes of the Customs Cinematographic Films Regulations of the Commonwealth) that a publication or class of publication shall be classified as a restricted publication or class of publication may appeal to the court against the making of that determination.

*Indecent Publications and Articles Act 1902*

(5) If, at the hearing of an appeal made under subsection (4), the person aggrieved satisfies the court that the publication or class of publication to which the appeal relates is not undesirable reading for persons under the age of 18 years, the court may order that the publication or class of publication shall cease to be a restricted publication or class of publication.

(6) Upon the making of an order by the court under subsection (5), the publication or class of publication specified in the order ceases to be a restricted publication or class of publication for the purposes of this Act.

(7) The procedure of the court in relation to an appeal made under this section shall be as prescribed by the rules of court, or in the absence of those rules, as the court determines, and at the hearing of any appeal the court may make such order as to costs as it thinks fit.

(8) In this section —

**“person aggrieved”** means —

- (a) an author or publisher of the publication or class of publication to which the appeal relates; or
- (b) any person selling or hiring the publication or class of publication in the ordinary course of the carrying on of his business;

**“the court”** means The District Court of Western Australia.

(9) Where the Minister has made a determination pursuant to subsection (1) that a publication or class of publication and all subsequent editions, series, numbers or issues of that publication or class of publication, notwithstanding any reconstruction (whether by way of alteration in title, change of subject, characters, story or other features or otherwise) of such publication or class of publication, shall be classified as a restricted publication or class of publication, proceedings may be instituted under section 2 in respect of any subsequent edition, series, number or issue of that

*Indecent Publications and Articles Act 1902*

publication or class of publication notwithstanding that the determination so made by the Minister is still in force and applies to that subsequent edition, series, number or issue.

[Section 10 inserted by No. 98 of 1972 s.7; amended by No. 39 of 1974 s.7; No. 45 of 1983 s.5; No. 73 of 1987 s.54.]

**Offences in relation to restricted publications**

11. (1) Any person who in any street or public place, not being a shop, —

- (a) sells or hires any restricted publication;
- (b) has any restricted publication in his possession apparently for the purpose of selling or hiring it in a street or public place, not being a shop; or
- (c) publishes, distributes or displays or exhibits any restricted publication,

commits an offence against this section.

(2) Any person who in any place, not being a shop, exhibits or displays any restricted publication in view of persons who are in any public place commits an offence against this section.

(3) Any person who —

- (a) in a shop sells, hires, gives or distributes a restricted publication to a person under the age of 18 years; or
- (b) in any place, not being a shop, sells or hires a restricted publication to a person under the age of 18 years,

commits an offence against this section.



*Indecent Publications and Articles Act 1902*

(4) It is a defence to a complaint of an offence against this section to show that the defendant believed, on reasonable grounds, that the person to whom he sold, hired, gave or distributed a restricted publication was not under the age of 18 years.

(5) A person who in any shop displays or exhibits a restricted publication in such a manner as to place it on view —

- (a) from inside the shop to persons under the age of 18 years; or
- (b) from outside the shop,

commits an offence against this section.

(5a) Any person who in any street or public place, including a shop, except on the premises of the shop at which he carries on the business of hiring, selling or distributing restricted publications, advertises, publishes, distributes or exhibits any advertising material in such a manner as to inform any person —

- (a) that a publication is a restricted publication; or
- (b) that an identifiable place or person may be resorted to for the purpose of perusing, viewing or obtaining a publication referred to in that advertisement or advertising material in such a manner as to convey that it is a restricted publication,

commits an offence against this section, unless the advertising, publication, distribution or exhibition is done in good faith solely for the purpose of so informing only persons, or the servants or agents of persons, whose business is or includes the sale or distribution of publications.

(5ab) A person who carries on the business of hiring, selling or distributing restricted publications who permits or suffers a person under the age of 18 years to enter into or remain in any portion of his premises in which restricted publications are displayed, sold, hired or distributed commits an offence against this section.

*Indecent Publications and Articles Act 1902*

(6) Any person convicted of an offence against this section shall be liable —

- (a) if the person convicted is a body corporate, to a penalty not exceeding \$250 for a first offence and to a penalty not exceeding \$500 for a second or subsequent offence;
- (b) in any other case, to a penalty not exceeding \$125 or to imprisonment for a term not exceeding 3 months for a first offence, and to a penalty not exceeding \$250 or to imprisonment for a term not exceeding 6 months for a second or subsequent offence.

(7) Where a person has been convicted of an offence against this section or where in respect of any person an offence against this section has been found proved, there shall be forfeited to the Crown —

- (a) in the case of an offence referred to in subsection (1), (2) or (3), all restricted publications found, at the time of the commission of the offence, in the possession or apparently under the control of that person;
- (b) in the case of an offence referred to in subsection (5), all the restricted publications in respect of which the offence was committed; or
- (c) in the case of an offence referred to in subsection (5a), all advertising material of the nature referred to in that subsection found, at the time of the commission of the offence, in the possession or apparently under the control of that person.

*[Section 11 inserted by No. 98 of 1972 s.8; amended by No. 99 of 1973 s.2; No. 45 of 1983 s.6.]*

*Indecent Publications and Articles Act 1902*

**Registration of certain persons**

**11A.** (1) Any person who is carrying on or intends to carry on the business of distributing, hiring or selling publications, by wholesale or retail, may apply to the secretary of the Committee to be registered under this section.

(2) An application under this section shall contain full particulars of —

- (a) the name of the applicant;
- (b) each place at which he carries on or intends to carry on that business; and
- (c) the address to which the applicant desires notices under this section to be sent and such other particulars as the secretary may require,

and be accompanied by the prescribed fee.

(3) Upon receipt of any application made in accordance with subsection (2), the secretary of the Committee shall —

- (a) enter the name and other particulars of the applicant in the register to be kept by him for the purposes of this section; and
- (b) issue to the applicant a certificate of his registration.

(4) The registration of a person under this section shall be valid for a period of 12 months and may from time to time thereafter be renewed for periods of 12 months upon application made by the person accompanied by the prescribed fee.

(5) Where a person registered under this section —

- (a) commences to carry on the business of distributing, hiring or selling publications by wholesale or retail at any place not specified in his application for registration or renewal thereof; or

*Indecent Publications and Articles Act 1902*

- (b) ceases to carry on that business at a place previously specified in such an application,

he shall, within 7 days, give notice thereof in writing to the secretary of the Committee.

(6) The secretary of the Committee shall cause to be sent to every person registered under this section —

- (a) notice of every publication or class of publication which the Minister has determined shall be classified as a restricted publication and notice of any variation or revocation of such a determination; and
- (b) notice that the Minister has consented to the institution of proceedings under section 2 in relation to any publication as soon as practicable after the Minister so gives his consent.

(7) A person shall not have in his possession for sale or hire any restricted publication unless he has been registered under subsection (1).

(8) Any person who contravenes subsection (5) or (7) commits an offence.

Penalty: \$100.

*[Section 11A inserted by No. 39 of 1974 s.8; amended by No. 28 of 1983 s.3; No. 45 of 1983 s.7.]*

**Certain publications not to be liable to prosecution**

**12.** (1) The Minister, upon the recommendation of the Committee, may determine that any publication proposed to be published, sold, hired or distributed shall not be the subject of proceedings under section 2.

*Indecent Publications and Articles Act 1902*

(2) A determination made by the Minister pursuant to subsection (1) may be revoked by the Minister.

(3) Notification of any determination or the revocation of any determination shall be published in the *Gazette* and the determination or any revocation thereof shall not take effect until so notified.

(4) Notwithstanding any other provision of this Act, no proceedings shall be instituted under section 2 in respect of any publication in respect of which a determination under this section is in force or any edition of any publication which edition was published at a time when a determination under this section in respect of the publication was in force.

[Section 12 inserted by No. 98 of 1972 s.9; amended by No. 45 of 1983 s.8.]

**Search of premises for and seizure etc.  
of indecent or obscene publications**

**12A.** (1) Where the business of selling, hiring or distributing publications is carried on in any premises a member of the Police Force may, without further authority than this subsection, enter those premises at any reasonable time and search for and seize any publications which appear to him to be indecent or obscene.

(2) Where a justice is satisfied by complaint on oath sworn by a member of the Police Force, that there is reasonable ground for suspecting that —

- (a) indecent or obscene publications are kept for the purpose of gain, or apparently for that purpose, in or on any premises specified in the complaint; or
- (b) one or more indecent or obscene publications have been sold, hired, distributed, exhibited, lent or otherwise published in, from or at any premises specified in the complaint,

*Indecent Publications and Articles Act 1902*

the justice may by warrant under his hand in the form in the Schedule, or in any like form, authorize any member of the Police Force to enter those premises with such assistance, and using such force, as may be necessary and to search for and seize any publications which appear to the member of the Police Force to be indecent or obscene found in or on those premises.

(3) Where any publications are seized by a member of the Police Force pursuant to subsection (1) or to a warrant issued under subsection (2) —

- (a) the member of the Police Force shall as soon as practicable thereafter cause to be delivered to the secretary of the Committee at least one copy of each publication or each edition thereof so seized;
- (b) such other copies of publications so seized as are not required by subsection (1) (a) to be delivered to the secretary of the Committee shall be retained by the Commissioner of Police until the return or the forfeiture and destruction of the publications seized has been determined under this Act; and
- (c) the Committee shall, as soon as practicable, consider the publications and report thereon as if the publications had been referred to it by the Minister under section 9.

(4) Where —

- (a) a publication has been referred to the Committee pursuant to subsection (3); and
- (b) the Committee has reported that the publication should be neither classified as a restricted publication nor the subject of proceedings under section 2,

the Commissioner of Police shall cause all copies of the publication seized under this section to be returned to the person from whom they were seized.

*Indecent Publications and Articles Act 1902*

(5) Where —

- (a) a publication has been referred to the Committee pursuant to subsection (3); and
- (b) the Committee has reported that the publication should be classified as a restricted publication,

the secretary of the Committee shall cause notice of the Committee's report to be served as soon as practicable on the person from whom the publication was seized and the Commissioner of Police shall cause all copies of the publication seized under this section to be returned to the person from whom they were seized as soon as practicable after —

- (c) the publication in the *Government Gazette* of a determination by the Minister so classifying the publication; or
- (d) the expiration of 28 days after the Committee so reports,

whichever first happens.

(6) Where —

- (a) a publication has been referred to the Committee pursuant to subsection (3); and
- (b) the Committee has reported that the publication should be the subject of proceedings under section 2,

the secretary of the Committee shall cause notice of the Committee's report to be served as soon as practicable on the person from whom the publication was seized, and if proceedings under section 2 in respect of that publication have not been commenced within 2 months after the Committee has so reported, the person from whom the publication was seized may, at any time within the next succeeding period of 2 months, by complaint summon the member of the Police Force by whom the publication was seized to appear before a court of petty sessions to show cause why all copies of the publication so seized from him should not be returned.

*Indecent Publications and Articles Act 1902*

(7) Where at the expiration of the period of 2 months within which a person from whom copies of a publication have been seized under this section was entitled to commence proceedings pursuant to subsection (6) for the return of those copies to him —

- (a) the person has failed to institute proceedings; and
- (b) proceedings under section 2 have not been commenced against that person in relation to those copies,

the copies so seized under this section are by force of this section forfeited to the Crown and shall be destroyed by the Commissioner of Police.

(8) Any proceedings instituted under subsection (6) shall be conducted by a stipendiary magistrate sitting alone.

(9) In any proceedings instituted under subsection (6) —

- (a) the court shall, if it is of opinion that a publication the subject of the proceedings is not indecent or obscene, order the Commissioner of Police to return all copies of that publication seized under this section to the person or persons from whom they were seized; and
- (b) the court shall, if it is of opinion that a publication the subject of the proceedings is indecent or obscene, order that all copies of that publication seized under this section shall be forfeited to and destroyed by the Commissioner of Police.

(10) Nothing in this section shall operate so as to affect the right of a person to institute proceedings under section 2 in relation to any publications seized under the authority of this section or so as to affect the liability of any person for an offence under that section.

*[Section 12A inserted by No. 39 of 1974 s.9; amended by No. 45 of 1983 s.9.]*



*Indecent Publications and Articles Act 1902*

**Approval of Minister required for institution of certain proceedings**

13. (1) Subject to subsection (2), proceedings under the provisions of this Act in respect of any publication shall not be instituted without the consent of the Minister.

(2) Subsection (1) does not apply to or in respect of proceedings under section 2A or 11.

*[Section 13 inserted by No. 98 of 1972 s.10; amended by No. 14 of 1992 s.17 (3).]*

**Limitation on proceedings in certain cases**

14. No proceedings shall lie or be brought, made or allowed by or in favour of any person against —

- (a) the Committee or any member of the Committee or any other person acting under the direction of the Committee in respect of any act done or omitted to be done in good faith, in the execution of or purportedly in the execution of any power or authority conferred on the Committee by this Act;
- (b) any person by reason only of his having, whether as a member of an advisory body or otherwise, expressed an opinion or tendered advice with respect to any work submitted to him or to any advisory body of which he is a member, under, or for the purposes of, any law of the Commonwealth, of this State or of any other State or any Territory of the Commonwealth, relating to publications;
- (c) the Crown, the Minister, the Commissioner of Police or any member of the Police Force in respect of any act done or omitted to be done in good faith in the execution of or purportedly in the execution of any power, authority or duty conferred or imposed by section 12A;  
or

*Indecent Publications and Articles Act 1902*

- (d) an officer of the Department for Community Services under section 2A (3), (4) or (5) in respect of any act done or omitted to be done in good faith by the officer in the course of the officer's duties.

*[Section 14 inserted by No. 98 of 1972 s.11; amended by No. 39 of 1974 s.10; No. 14 of 1992 s.17 (4).]*

**Regulations**

15. The Governor may make regulations prescribing the fees to be paid under this Act and providing for the payment and recovery of such fees.

*[Section 15 inserted by No. 28 of 1983 s.4.]*

*Indecent Publications and Articles Act 1902*

**SCHEDULE**

[s.12A.]

**Warrant**

To the principal police officer at \_\_\_\_\_, in the State of Western Australia, and all other police officers in the said State.

WHEREAS it appears to me \_\_\_\_\_ a Justice of the Peace, by the complaint on oath of (A.B.) \_\_\_\_\_ of \_\_\_\_\_ in the State of Western Australia, a member of the Police Force, that there is reasonable ground for suspecting that —

- (a) indecent or obscene publications are kept for the purpose of gain or apparently for that purpose, in or on the premises situated at

(here describe the land, building, vehicle, vessel or place specified in the complaint);

OR

- (b) one or more indecent or obscene publications have been sold, distributed, exhibited, lent or otherwise published in, from or on the premises situated at

(here describe the land, building, vehicle, vessel or place specified in the complaint).

This is therefore, in the name of the Crown, to authorize and require you to enter the said premises, with such assistance and using such force as may be necessary, whether by breaking open doors or otherwise, and there to search diligently for and to seize all publications which appear to you to be indecent or obscene and to cause all such publications to be dealt with according to law.

**JUSTICE OF THE PEACE.**

Given under my hand at  
this \_\_\_\_\_ day of \_\_\_\_\_ 19

[Schedule inserted by No. 39 of 1974 s. 11.]

## *Indecent Publications and Articles Act 1902*

### NOTES

<sup>1</sup> This reprint is a compilation as at 15 March 1993 of the *Indecent Publications and Articles Act 1902* and includes all amendments effected by the other Acts referred to in the following Table.

**Table of Acts**

Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Indecent Publications and Articles Act 1902</i>	14 of 1902	11 December 1902	11 December 1902	
<i>Indecent Publications Act Amendment Act 1967</i>	6 of 1967	5 October 1967	5 October 1967	
<i>Indecent Publications Act Amendment Act 1972</i>	98 of 1972	6 December 1972	12 March 1973 (see <i>Gazette</i> 12 March 1973 p.699)	
<i>Indecent Publications Act Amendment Act 1973</i>	99 of 1973	28 December 1973	28 December 1973	
<i>Indecent Publications Act Amendment Act 1974</i>	39 of 1974	15 November 1974	1 March 1975 (see <i>Gazette</i> 31 January 1975 p.265)	
<i>Indecent Publications and Articles Amendment Act 1983</i>	28 of 1983	1 December 1983	1 January 1984 (see <i>Gazette</i> 31 December 1983 p.5016)	

## *Indecent Publications and Articles Act 1902*

Table of Acts — *continued*

Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Indecent Publications and Articles Amendment Act (No. 2) 1983</i>	45 of 1983	5 December 1983	1 January 1984 (see <i>Gazette</i> 31 December 1983 p.5016)	
<i>Video Tapes Classification and Control Act 1987, Part VII</i>	73 of 1987	22 November 1987	19 February 1988 (see <i>Gazette</i> 19 February 1988 p.521)	
<i>Acts Amendment (Arts Representation) Act 1987</i>	75 of 1987	26 November 1987	12 February 1988 (see <i>Gazette</i> 12 February 1988 p.399)	
<i>Acts Amendment (Sexual Offences) Act 1992, Part 5</i>	14 of 1992	17 June 1992	1 August 1992 (see <i>Gazette</i> 28 July 1992 p.3671)	

<sup>2</sup> Amended pursuant to section 7 (5) (a) of the *Reprints Act 1984* to give effect to section 31 (1) (f) of the *Acts Amendment (Public Service) Act 1987*.

