



Western Australia

Legislation Act 2021

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No. 13 of 2021

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Legislation Act 2021

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Western Australia

Legislation Act 2021

No. 13 of 2021

An Act —

- **to provide for public access to Western Australian legislation; and**
- **to provide for the official status of published versions of Western Australian legislation; and**
- **to provide for Western Australian legislation to be kept in an up-to-date form and consistent with current drafting practice; and**
- **to repeal the *Reprints Act 1984*; and**
- **for related purposes.**

[Assented to 24 August 2021]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Legislation Act 2021*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation.

3. Object of this Act

- (1) The object of this Act is for Western Australian legislation to be easy to find, use and understand.
- (2) This object is to be achieved by —
 - (a) providing for Western Australian legislation to be made publicly available; and
 - (b) giving official status to Western Australian legislation in both hard copy and electronic form; and
 - (c) conferring power on the Parliamentary Counsel to make editorial changes so that, in appropriate cases, Western Australian legislation can be kept up-to-date, modernised and simplified, and errors can be corrected, without the need for the changes to be enacted by Parliament.

4. Terms used

In this Act —

amend —

- (a) has the meaning given in the *Interpretation Act 1984* section 5; and

- (b) includes —
 - (i) repeal as defined in that section; and
 - (ii) relocate;

current drafting practice means the legislative drafting practice for the time being adopted by PCO;

editorial change means a change authorised by Part 3 Division 2;

Imperial enactment means —

- (a) an Act of the Parliament of England, or of the Parliament of Great Britain or of the Parliament of the United Kingdom; or
- (b) an Order in Council, regulation, rule or other legislative instrument made under an Act referred to in paragraph (a);

law means the whole or a part of —

- (a) a written law; or
 - (b) an Imperial enactment that is part of the law of Western Australia because —
 - (i) an Act of Western Australia adopts the Imperial enactment or the Act under which the Imperial enactment is made; or
 - (ii) the Imperial enactment applies by paramount force (that is, it expressly or impliedly applies in Western Australia); or
 - (iii) the Imperial enactment became part of the law of Western Australia on 1 June 1829;
- or
- (c) a proclamation that brings 1 or more provisions of an Act into operation; or

s. 5

- (d) an instrument made under the Royal prerogative that applies in Western Australia and has legislative effect;

Note for this definition:

The term **written law** is defined in the *Interpretation Act 1984* section 5.

official version, of a law, means —

- (a) an electronic version of the law that is an official version under section 15; or
- (b) a hard copy version of the law that is an official version under section 16;

PCO means the Parliamentary Counsel's Office of Western Australia;

prescribed means prescribed by the regulations;

WA legislation website has the meaning given in section 8(1).

5. Act binds Crown

This Act binds the Crown in right of Western Australia and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

6. Application of this Act

This Act applies to laws (including this Act) whether passed or made before or after this section comes into operation.

Note for this section:

Section 10(3) extends the application of this Act to other material if it is published on the WA legislation website.

7. Relationship with other Acts

This Act is in addition to, and does not limit the operation of, other Acts that contain provisions about the publication or effect of Western Australian legislation.

Note for this section:

Those other Acts include the *Interpretation Act 1984*, the *Evidence Act 1906* and the *Local Government Act 1995* (which contains provisions about local laws).

Part 2 — Publication of legislation

Division 1 — Publication responsibilities

8. WA legislation website

- (1) The Parliamentary Counsel must ensure that a website (the **WA legislation website**) is maintained by, or on behalf of, PCO for the publication of laws.
- (2) The uniform resource locator (**URL**) of the WA legislation website is —
 - (a) <www.legislation.wa.gov.au>; or
 - (b) any alternative URL prescribed under subsection (3).
- (3) If the URL referred to in subsection (2)(a) cannot be used for technical or other reasons, the regulations may prescribe an alternative URL for the WA legislation website.

9. Purpose of WA legislation website

- (1) The purpose of the WA legislation website is to provide, in a timely and efficient manner, free public access to accurate, up-to-date and reliable official versions of laws.
- (2) The WA legislation website is intended to be a permanent repository of —
 - (a) laws as originally passed or made; and
 - (b) updated versions of laws incorporating their amendments and any editorial changes.

10. What is published on WA legislation website

- (1) The Parliamentary Counsel must publish on the WA legislation website —
 - (a) Acts as originally passed; and
 - (b) Acts in operation with their amendments incorporated; and

- (c) the prescribed subsidiary legislation as originally made; and
 - (d) the prescribed subsidiary legislation with its amendments incorporated; and
 - (e) any other prescribed laws.
- (2) The Parliamentary Counsel may publish on the WA legislation website any other material —
- (a) that is prescribed; or
 - (b) that the Parliamentary Counsel considers appropriate for publication on the website.
- (3) If material is published on the WA legislation website under subsection (2), this Act applies in relation to the material as if references to a law were references to the material.

11. Versions showing effect of uncommenced amendment or modification or law as modified

- (1) A version of a law published on the WA legislation website may show 1 or more of the following —
- (a) the law as it would be amended by an amendment that has not come into operation;
 - (b) the law as it would be modified by a modification that has not come into operation;
 - (c) the law as it is modified by the law or another law.
- (2) A version of a law published under subsection (1) must indicate that it is such a version and whether or not the amendments or modifications shown in it are in operation.

12. When law published on WA legislation website

- (1) A law is published on the WA legislation website —
- (a) if it is made accessible in full on the website; or
 - (b) if notice of its enactment, making or other production is made accessible on the website and it is made accessible

separately in full on the website or in any other identified location.

- (2) The day on which a law is published on the WA legislation website is the day notified in either or both of the following ways —
 - (a) by showing it on the website;
 - (b) by showing it in a version of the law published on the website.
- (3) The day notified under subsection (2) must be the day on which the law is first published on the WA legislation website under subsection (1), unless section 13(2)(b) applies.

13. WA legislation website unavailable

- (1) If a law cannot for technical or other reasons be published on the WA legislation website at a particular time, the Parliamentary Counsel may publish it in any alternative manner the Parliamentary Counsel considers appropriate.
- (2) If a law is published in an alternative manner under subsection (1) —
 - (a) it must be published on the WA legislation website as soon as practicable; and
 - (b) the day notified under section 12(2) must be the day on which it is first published in the alternative manner.
- (3) A law published in an alternative manner under subsection (1) has, in the period before its publication on the WA legislation website, the same status as a law published on the website.

14. Technical or other requirements for publication on WA legislation website

- (1) So that a law (other than an Act) can be published easily and efficiently on the WA legislation website, the Parliamentary

Counsel may determine requirements that must be met for the law to be accepted for publication.

- (2) Without limiting subsection (1), the requirements may relate to the following —
 - (a) how a law must be provided to PCO for publication;
 - (b) the form in which a law must be provided.
- (3) The Parliamentary Counsel must make the requirements publicly available in the manner the Parliamentary Counsel considers appropriate.

Division 2 — Official versions

15. Official electronic versions

An electronic version of a law is an official version if —

- (a) it is accessed at, or downloaded from, the WA legislation website in a prescribed format; and
- (b) either —
 - (i) it indicates, in a prescribed way, that it is an official version; or
 - (ii) the website indicates, in a prescribed way, that such a version is an official version.

16. Official hard copy versions

A hard copy version of a law is an official version if —

- (a) it indicates, in a prescribed way, that it is an official version; or
- (b) it is produced directly from an official version of the law.

Division 3 — Evidentiary matters

17. Legal status of official versions

- (1) An official version of a law as originally passed or made is taken to correctly set out the text of the law, unless the contrary is proved.
- (2) An official version of a law with amendments incorporated as at a stated date is taken to correctly set out the text of the law as at that date, unless the contrary is proved.
- (3) An official version of a law is evidence that any changes made in the version under Part 3 are authorised by that Part.

18. Evidence of official versions

An electronic or hard copy version of a law that purports to be an official version is taken to be an official version, unless the contrary is proved.

19. Evidence of day of publication of laws

- (1) An official version of a law that shows the day of publication of the law is evidence that the law was published on the day shown.
- (2) A notification on the WA legislation website of the day of publication of a law is evidence that the law was published on the day notified.

20. Evidence of day of Royal Assent

An official version of an Act that shows the day on which the Act received the Royal Assent is evidence that the Act received the Royal Assent on the day shown.

21. Judicial notice

All courts and persons acting judicially must take judicial notice of all laws.

**Division 4 — Publication or notification on WA legislation
website instead of *Gazette***

22. Requirement or authority to publish or notify in *Gazette*

- (1) If a written law requires or authorises an instrument to be published in the *Gazette*, it is sufficient if the instrument is published on the WA legislation website instead of in the *Gazette*.
- (2) If a written law requires or authorises an instrument to be notified in the *Gazette*, it is sufficient if the instrument is notified on the WA legislation website instead of in the *Gazette*.

Part 3 — Editorial changes to legislation

Division 1 — Power to make editorial changes

23. Parliamentary Counsel authorised to make editorial changes

- (1) The Parliamentary Counsel may make an editorial change to a law in producing a version of a law.
- (2) A version of a law in which the power conferred by subsection (1) is exercised can be produced, even though the law has not been amended since it was passed or made, or since the previous version of the law was produced.
- (3) Subsection (1) does not permit a change to the text of a law if the change would change the effect of the law.
- (4) Subsection (3) is subject to section 29(2).

24. Delegation

- (1) The Parliamentary Counsel may delegate the power in section 23(1) to another officer of PCO.
- (2) A delegation must be in writing signed by the Parliamentary Counsel.
- (3) The exercise by an officer of PCO of a power that has been delegated to the officer under this section is taken to be in accordance with the terms of the delegation unless the contrary is shown.

Division 2 — Editorial changes

25. Updating references to law of WA or other jurisdictions

- (1) In this section —
law includes —
 - (a) a law of the Commonwealth, another State or a Territory; and
 - (b) a law of New Zealand.
- (2) A reference to a law's short title or other mode of citation that has been changed can be replaced with the title or mode of citation as changed.
- (3) A reference to a law, or to a provision of a law, that is to be read, or to be taken to be amended to read, as a reference to another law or provision can be changed to a reference to the other law or provision.
- (4) A reference to a law, or to a provision of a law, that has been replaced can be changed to a reference to the replacement law or provision.

26. Things that have been changed or replaced

- (1) A reference to a name or title of a body, office, person, place, locality or other thing that has been changed can be replaced with the name or title as changed.
- (2) A reference to a body, office, person, place, locality or other thing that has been replaced by another body, office, person, place, locality or thing can be changed to a reference to the replacement body, office, person, place, locality or thing.
- (3) A reference to contact details (for example, an address, telephone number, email address or website address) can be changed to reflect changes to those details.

27. Deemed amendments

A law can be changed to give effect to a provision of another law that provides that other laws are to be taken to be amended, or to have effect or be construed as if they had been amended, in a specified way.

28. References to provision of law

- (1) The way in which a provision of a law is referred to can be changed so that it is consistent with current drafting practice.

Examples for this subsection:

1. A reference to "Division 5 of Part 2" can be changed to "Part 2 Division 5".
2. A reference to "subparagraph (a), (b) or (c) of subsection (1) of section 4" can be changed to "section 4(1)(a), (b) or (c)".

- (2) Without limiting subsection (1), referential words can be omitted.

- (3) In subsection (2) —

referential words means words that identify the whole or part of a provision (including a schedule) as a provision, or as part of a provision, of the law in which they appear.

Examples for this definition:

"of this Act", "by this Act", "of this regulation", "the said", "hereof"
"before-mentioned".

29. Clerk's amendment to Act

- (1) This section applies if the Clerk of the Parliaments issues a certificate to the Parliamentary Counsel identifying an amendment of a reference in a provision of an Act to another provision of the Act that —

- (a) is an amendment that should have been made as a clerical amendment before the Act received the Royal Assent in consequence of other amendments made to the Act during its passage through Parliament as a Bill; and

- (b) is necessary in order to enable the Act to have the operation and meaning that Parliament intended it to have.
- (2) A provision of an Act can be amended as identified in a certificate issued under subsection (1) even if the amendment changes the effect of the Act.

30. Gender

Language that indicates or could be taken to indicate a particular gender can be expressed in a different way (whether gender-neutral or gender-free) so that it is consistent with current drafting practice.

Examples for this section:

1. The words “he” or “she” or “he or she” can be replaced with the relevant noun.
2. The words “his” or “her” or “his or her” can be changed to “their”.
3. The word “fireman” can be changed to “firefighter”.
4. The words “Her Majesty the Queen” can be changed to “the Sovereign” or “the Crown”.

31. Numbers, dates, times, quantities, measurements and similar matters

- (1) Changes can be made to the way numbers, dates, times, quantities, measurements and similar matters, ideas or concepts are referred to or expressed in a law so as to be consistent with current drafting practice.

Examples for this subsection:

1. For words that designate a sum of money, figures and the appropriate symbol can be substituted.
 2. A reference in a form to “this [blank] day of [blank] 19..” can be changed to [*date*].
 3. “Per centum” can be changed to “%”.
- (2) Figures that designate a year of the 20th century for the purposes of a formality (for example, as part of the date of completing a

form) can be replaced with figures that designate a year of the 21st century for those purposes.

32. Conjunctives and disjunctives

Conjunctives and disjunctives can be inserted, omitted or changed so as to be consistent with current drafting practice.

Example for this section:

If “and” appears at the end only of the second to last paragraph in a series of 4 paragraphs and the context indicates that “and” can be implied at the end of each of the earlier paragraphs in the series, then “and” can be inserted at the end of those paragraphs.

33. Definitions and items

- (1) A law can be changed so as to be consistent with current drafting practice by changing —
 - (a) the order of definitions; or
 - (b) the order of items in a list, schedule, table or similar arrangement.
- (2) If a term defined in a law appears in bold italic text and begins with a definite or indefinite article, the law can be changed to —
 - (a) delete the article; or
 - (b) change the appearance of the text so that the article is not in bold or italics.

34. Minor errors and inconsistencies

- (1) In this section —

minor error means any of the following —

 - (a) a typographical or clerical error;
 - (b) a grammatical error;
 - (c) a spelling error;
 - (d) a punctuation error;
 - (e) an error in the use of conjunctives or disjunctives;

- (f) a cross-referencing or numbering error;
 - (g) an error in alphabetical, numerical or alphanumerical ordering;
 - (h) an error in a reference to a law or a provision of a law;
 - (i) an error in or arising out of an amendment to a law, including an error relating to the number of times an amendment is expressed to be made;
 - (j) an error of a similar nature to those mentioned in paragraphs (a) to (i).
- (2) A law can be changed so as to correct a minor error in the law.
 - (3) Grammar or spelling can be changed so as to be consistent with current drafting practice.
 - (4) Punctuation can be changed or omitted so as to be consistent with current drafting practice.

35. Obsolete or redundant provisions

The following can be omitted from a law —

- (a) a provision that has expired or is spent or has had its effect;
- (b) a repealing provision, including any list of repealed laws;
- (c) words of enactment;
- (d) words of attestation or authentication of its making;
- (e) any signature of the maker of the law;
- (f) a provision as to the commencement of the law;
- (g) a provision that consists only of a statement showing the manner in which a law is arranged into Parts or other divisions;
- (h) a transitional, savings, validation or other similar provision that applies only to a time or event that has passed;

- (i) a provision that is obsolete or redundant because of the making, operation or effect of a law.

36. Incorporation of certain provisions contained in amending law

A transitional, savings, validation or other similar provision that is contained in an amending law can be incorporated as a provision of the law to which it relates.

37. Numbering and renumbering

- (1) A provision of a law can be numbered or renumbered in a way that is consistent with current drafting practice.
- (2) If a provision of a law is numbered or renumbered (including under section 39), a reference in the law or another law to the provision is a reference to the provision as numbered or renumbered.

38. Format and printing style changes

The format and printing style of a law can be changed so as to be consistent with current drafting practice.

Examples for this section:

Changes can be made to the setting out of provisions, the placement of conjunctives and disjunctives and the use of capital letters, punctuation, hyphens, italics, bolding and quotation marks.

39. Consequential changes

A change can be made to a law that is consequential on any other editorial change made to the law or to another law.

Division 3 — Other matters

40. Effect of editorial changes

If an editorial change is made to a law, the law has effect as if the change had been made by another law that amended the law and commenced on the day on which the change is made.

41. Recording of editorial changes

- (1) If an editorial change is made to a law, the Parliamentary Counsel must ensure that the change is indicated in a suitable way.
- (2) Without limiting subsection (1), an editorial change can be indicated as follows —
 - (a) by providing a comparison, or the facility to create a comparison, between versions of a law;
 - (b) by including, in the law in which the change is made, an indication of the change.

42. Annual report to include summary of editorial changes

- (1) In this section —

Department means the department of the Public Service principally assisting in the administration of this Act.
- (2) The annual report submitted by the accountable authority of the Department under the *Financial Management Act 2006* Part 5 must include a summary of editorial changes made to laws in the financial year to which the report relates.

Part 4 — Miscellaneous

43. Regulations

The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.

44. Review of Act

- (1) The Minister must review the operation and effectiveness of this Act, and prepare a report based on the review, as soon as practicable after the 5th anniversary of the day on which this section comes into operation.
- (2) The Minister must cause the report to be laid before each House of Parliament as soon as practicable after it is prepared, but not later than 12 months after the 5th anniversary.

Part 5 — Repeal of *Reprints Act 1984*

45. *Reprints Act 1984* repealed

The *Reprints Act 1984* is repealed.

46. Status of reprints under repealed Act

A reprint of a written law under the Act repealed by section 45 is taken to be an official version of the written law for the purposes of Part 2 Division 3.

Part 6 — Other Acts amended

Division 1 — *Interpretation Act 1984* amended

47. Act amended

This Division amends the *Interpretation Act 1984*.

48. Section 5 amended

- (1) In section 5 delete the definitions of:

Gazette or ***Government Gazette***

Government Printer

- (2) In section 5 insert in alphabetical order:

Gazette or ***Government Gazette*** means the government gazette of Western Australia (or a supplement to that gazette) —

- (a) published, or purporting to be published, under the authority of the Government —
- (i) in hard copy form; or
 - (ii) in electronic form (whether or not originally published in hard copy form);
- and
- (b) whether published, or purporting to be published, before or after the commencement of the *Legislation Act 2021* section 48(2);

Government Printer means a person authorised by or on behalf of the Government to publish, in hard copy or electronic form, any written law or any other instrument of the Government;

WA legislation website has the meaning given in the *Legislation Act 2021* section 8(1);

- (3) In section 5 in the definition of *proclamation* delete “*Gazette*,” and insert:

Gazette or on the WA legislation website;

49. Section 10 amended

Delete section 10(a) and insert:

- (a) words that indicate or could be taken to indicate a person of a particular gender or sex (for example, he, she, chairman, workman) include —
- (i) any individual, regardless of gender or sex; and
 - (ii) any person that is not an individual;

50. Section 19 amended

Delete section 19(2)(a) and insert:

- (a) all matters not forming part of the written law that are set out in an official version of the law under the *Legislation Act 2021*; and

51. Section 23 amended

In section 23(a) delete “*Gazette*; or” and insert:

Gazette or on the WA legislation website; or

52. Section 24 deleted

Delete section 24.

53. Section 26 amended

Delete section 26(3) and (4) and insert:

- (3) The citation of or reference to a written law is in all cases to be made in accordance with an official version of the law under the *Legislation Act 2021*.

54. Section 41 amended

Delete section 41(1)(a) and insert:

- (a) be published in the *Gazette* or on the WA legislation website; and

55. Section 42 amended

- (1) In section 42(1) delete “*Gazette*.” and insert:

Gazette or on the WA legislation website.

- (2) In section 42(4)(a) and (b) and (5) after “*Gazette*” insert:

or on the WA legislation website

Division 2 — Evidence Act 1906 amended

56. Act amended

This Division amends the *Evidence Act 1906*.

57. Section 3 amended

In section 3 in the definition of *Government Printer*:

(a) after “printing” insert:

or publishing

(b) delete “printer purporting to be the printer authorised to print” and insert:

person purporting to be authorised to print or publish

58. Section 53 amended

In section 53(2):

(a) delete “paper” and insert:

document (whether in printed or electronic form)

(b) after “printed” insert:

or published

59. Section 57 amended

In section 57(1)(b) after “printed” insert:

or published

60. Section 58 amended

In section 58(1)(b) after “printed” insert:

or published

61. Section 69A amended

In section 69A:

(a) in paragraph (c) after “printed” insert:

or published

(b) delete “or printed,” and insert:

printed, published

62. Section 74 amended

In section 74 delete “paper” (each occurrence) and insert:

document

63. Section 75 amended

In section 75:

(a) delete “paper purporting to be printed” and insert:

document purporting to be printed or published

- (b) delete “paper was printed” and insert:

document was printed or published

64. Section 78 amended

In section 78:

- (a) delete “printed paper” and insert:

document

- (b) after “printed” (2nd occurrence) insert:

or published

- (c) in paragraph (a) delete “printed in such paper” and insert:

set out in the document

- (d) in paragraph (b) delete “by such paper” and insert:

from the document

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Defined terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined term	Provision(s)
amend.....	4
current drafting practice	4
Department.....	42(1)
editorial change.....	4
Imperial enactment	4
law.....	4, 25(1)
minor error	34(1)
official version	4
PCO.....	4
prescribed.....	4
referential words	28(3)
URL	8(2)
WA legislation website	4, 8(1)

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