Western Australia

Acts Amendment and Repeal (Courts and Legal Practice) Act 2003

As at 04 Dec 2003 No. 65 of 2003
Extract from www.slp.wa.gov.au, see that website for further information

Western Australia

Acts Amendment and Repeal (Courts and Legal Practice) Act 2003

CONTENTS

Part 1 — Preliminary

1. Short title 2
2. Commencement 2

Part 2 — Repeal of *Legal Practitioners Act 1893* and transitional and savings provisions

Division 1 — Preliminary

3. Interpretation 3

Division 2 — Repeal

4. *Legal Practitioners Act 1893* repealed 3

Division 3 — Transitional and savings provisions

5. Application of *Interpretation Act 1984* 3
6. Legal Practice Board: transitional and savings provisions 3
7. Articled clerks: savings provision 5
8. Managing clerks: savings provision 6
9. Review of legal costs determination 6
10. Powers in relation to transitional provisions 7

Extract from www.slp.wa.gov.au, see that website for further information

Part 3 — Amendments to other Acts consequential on enactment of *Legal Practice Act 2003*

11.	Power to amend regulations	8
12.	*Adoption Act 1994* amended	8
13.	*Agricultural Practices (Disputes) Act 1995* amended	8
14.	*Biological Control Act 1986* amended	9
15.	*Builders' Registration Act 1939* amended	9
16.	*Censorship Act 1996* amended	11
17.	*Children's Court of Western Australia Act 1988* amended	11
18.	*Chiropractors Act 1964* amended	12
19.	*Civil Liability Act 2002* amended	12
20.	*Coal Industry Tribunal of Western Australia Act 1992* amended	13
21.	*Commercial Arbitration Act 1985* amended	13
22.	*Commercial Tribunal Act 1984* amended	14
23.	*Companies (Co-operative) Act 1943* amended	15
24.	*Consumer Affairs Act 1971* amended	15
25.	*Coroners Act 1996* amended	15
26.	*The Criminal Code* amended	16
27.	*Criminal Investigation (Exceptional Powers) and Fortification Removal Act 2002* amended	16
28.	*Debt Collectors Licensing Act 1964* amended	17
29.	*Declarations and Attestations Act 1913* amended	17
30.	*Dental Act 1939* amended	17
31.	*Director of Public Prosecutions Act 1991* amended	18
32.	*District Court of Western Australia Act 1969* amended	18
33.	*Equal Opportunity Act 1984* amended	20
34.	*Evidence Act 1906* amended	20
35.	*Finance Brokers Control Act 1975* amended	20
36.	*Fish Resources Management Act 1994* amended	21
37.	*Fisheries Adjustment Schemes Act 1987* amended	22
38.	*Gas Pipelines Access (Western Australia) Act 1998* amended	22
39.	*Gender Reassignment Act 2000* amended	22

Extract from www.slp.wa.gov.au, see that website for further information

40. *Guardianship and Administration Act 1990* amended 23
41. *Industrial Relations Act 1979* amended 23
42. *Juries Act 1957* amended 24
43. *Justices Act 1902* amended 24
44. *Land Valuers Licensing Act 1978* amended 25
45. *Law Reform Commission Act 1972* amended 25
46. *Law Society Public Purposes Trust Act 1985* amended 26
47. *Legal Aid Commission Act 1976* amended 27
48. *Legal Practitioners Act Amendment Act 1976* amended 30
49. *Local Courts Act 1904* amended 30
50. *Long Service Leave Act 1958* amended 31
51. *Mental Health Act 1996* amended 31
52. *Mining Act 1978* amended 32
53. *Motor Vehicle (Third Party Insurance) Act 1943* amended 32
54. *Official Prosecutions (Defendants' Costs) Act 1973* amended 32
55. *Osteopaths Act 1997* amended 33
56. *Psychologists Registration Act 1976* amended 33
57. *Public Notaries Act 1979* amended 34
58. *Racing Penalties (Appeals) Act 1990* amended 34
59. *Real Estate and Business Agents Act 1978* amended 35
60. *Registration of Deeds Act 1856* amended 36
61. *Residential Tenancies Act 1987* amended 36
62. *Retirement Villages Act 1992* amended 37
63. *Royal Commission (Police) Act 2002* amended 37
64. *Sale of Land Act 1970* amended 38
65. *Security and Related Activities (Control) Act 1996* amended 38
66. *Settlement Agents Act 1981* amended 39
67. *Strata Titles Act 1985* amended 39
68. *Suitors' Fund Act 1964* amended 40
69. *Supreme Court Act 1935* amended 40
70. *Town Planning and Development Act 1928* amended 41
71. *Women's Legal Status Act 1923* amended 42

Extract from www.slp.wa.gov.au, see that website for further information

72. *Workers' Compensation and Rehabilitation Act 1981* amended 42
73. *Young Offenders Act 1994* amended 43

Part 4 — *Legal Contribution Trust Act 1967* amended and transitional provisions

74. The Act amended 44
75. Section 4 amended 44
76. Sections 4A and 4B inserted 45
4A. Application of Act to multi-disciplinary partnerships and incorporated legal practices 45
4B. Application of this Act to interstate practitioners and practitioners who engage in legal practice outside the State 47
77. Heading to Part III replaced 48
Part III — Interest on trust accounts paid to Fund
78. Sections 10, 11 and 12 repealed and transitional provision 48
79. Section 13 replaced 49
13. Bank to pay interest on trust accounts to Trust 49
80. Section 14 amended 50
81. Section 16 amended 50
82. Section 17 replaced 50
17. Investment of Guarantee Fund 50
83. Section 18 amended 51
84. Section 28 amended 51
85. Section 51 amended 51
86. Section 56 amended 52
87. Transitional provisions 52

Part 5 — Amendments relating to State Solicitor and savings provision

88. *Bail Act 1982* amended 54
89. *The Criminal Code* amended 54
90. *Crown Suits Act 1947* amended 55
91. *Escheat (Procedure) Act 1940* amended 55

Extract from www.slp.wa.gov.au, see that website for further information

92. *Financial Administration and Audit Act 1985* amended 55
93. *The Grand Jury Abolition Act Amendment Act 1883* amended 56
94. *Law Reform Commission Act 1972* amended 56
95. *Public Trustee Act 1941* amended 56
96. *Workers' Compensation and Rehabilitation Act 1981* amended 57
97. References to Crown Solicitor 57

Part 6 — Amendments to the *Judges' Salaries and Pensions Act 1950*

98. The Act amended 58
99. Section 2 amended 58
100. Section 6 amended 58
101. Section 8B amended 59
102. Section 11 amended 59
103. Section 14 repealed 59
104. Sections 16 to 19 inserted 59
- 16. Commutation of pension to meet surcharge debt 59
- 17. Benefit if no pension payable 61
- 18. Conversion of lump sum to meet surcharge debt 63
- 19. Administration costs 63

105. Second Schedule amended 64
106. *State Superannuation (Transitional and Consequential Provisions) Act 2000* amended 64
- 8A. Reduction of spouse or de facto partner's pension 64

Part 7 — Amendments about qualifications for appointment

107. *Children's Court of Western Australia Act 1988* amended 65
108. *Commercial Tribunal Act 1984* amended 66
109. *Criminal Injuries Compensation Act 1985* amended 66
110. *Director of Public Prosecutions Act 1991* amended 67
111. *District Court of Western Australia Act 1969* amended 67

Extract from www.slp.wa.gov.au, see that website for further information

112. *Equal Opportunity Act 1984* amended 68
113. *Fisheries Adjustment Schemes Act 1987* amended 69
114. *Land Valuation Tribunals Act 1978* amended 69
115. *Land Valuers Licensing Act 1978* amended 70
116. *Racing Penalties (Appeals) Act 1990* amended 70
117. *Small Claims Tribunals Act 1974* amended 71
7. Eligibility to hold office as a referee 71
118. *Solicitor-General Act 1969* amended 71
119. *Supreme Court Act 1935* amended 72
120. *Transfer of Land Act 1893* amended 73

Part 8 — Amendments about the Crown

121. *Bail Act 1982* amended 74
122. *Children's Court of Western Australia Act 1988* amended 75
123. *The Criminal Code* amended 75
124. *Director of Public Prosecutions Act 1991* amended 77
125. *District Court of Western Australia Act 1969* amended 78
126. *Family Court Act 1997* amended 79
127. *Juries Act 1957* amended 79
128. *Justices Act 1902* amended 80
129. *Local Courts Act 1904* amended 80
130. *Supreme Court Act 1935* amended 80

Extract from www.slp.wa.gov.au, see that website for further information

Western Australia

Acts Amendment and Repeal (Courts and Legal Practice) Act 2003

No. 65 of 2003

An Act —

- **to repeal the *Legal Practitioners Act 1893*;**
- **to make amendments as a consequence of that repeal and the enactment of the *Legal Practice Act 2003*;**
- **for purposes related to that repeal and those amendments; and**
- **to make other amendments relating to courts and legal practice.**

[*Assented to 4 December 2003*]

The Parliament of Western Australia enacts as follows:

Extract from www.slp.wa.gov.au, see that website for further information

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Acts Amendment and Repeal (Courts and Legal Practice) Act 2003*.

2. Commencement

(1) This Act comes into operation on a day fixed by proclamation.

(2) Different days may be fixed under subsection (1) for different provisions.

Extract from www.slp.wa.gov.au, see that website for further information

Part 2 — Repeal of *Legal Practitioners Act 1893* and transitional and savings provisions

Division 1 — Preliminary

3. Interpretation

In this Part —

"commencement day" means the day on which Part 1 of the *Legal Practice Act 2003* comes into operation;

"1893 Act" means the *Legal Practitioners Act 1893*;

"2003 Act" means the *Legal Practice Act 2003*.

Division 2 — Repeal

4. *Legal Practitioners Act 1893* repealed

The *Legal Practitioners Act 1893* is repealed.

Division 3 — Transitional and savings provisions

5. Application of *Interpretation Act 1984*

(1) The provisions of the *Interpretation Act 1984* about the repeal of written laws and the substitution of other written laws for those so repealed (for example, sections 16(1), 36 and 38) apply to the repeal of the 1893 Act as if the 2003 Act repealed that Act.

(2) The other provisions of this Part are additional to the provisions applied by subsection (1).

6. Legal Practice Board: transitional and savings provisions

(1) In this section —

"former Board" means The Legal Practice Board established under the 1893 Act;

Extract from www.slp.wa.gov.au, see that website for further information

"new Board" means the Legal Practice Board established under the 2003 Act.

(2) The new Board is the same entity as, and a continuation of, the former Board, and the rights and liabilities of or in relation to the former Board continue as rights and liabilities of or in relation to the new Board.

(3) Despite the repeal of the 1893 Act and the enactment of the 2003 Act —

(a) section 4(1)(d) of the 1893 Act continues to apply to the terms of office being served immediately before the commencement day by members of the former Board elected under that provision; and

(b) the new Board is to continue to be constituted in accordance with section 4(1)(d) of the 1893 Act, and the quorum is to continue to be determined in accordance with section 4(2a) of the 1893 Act,

until the next election of Board members after the commencement day is held and the members so elected come into office.

(4) Despite section 7(2) of the 2003 Act, in the case of the 12 members of the new Board first elected after the coming into operation of this section —

(a) the 6 members first elected are to hold office for a term of 2 years from the date of becoming a member; and

(b) the 6 members next elected are to hold office for a term of one year from the date of becoming a member.

(5) If any 2 or more of the elected members receive the same number of votes, and the order of election of those members is relevant for the purposes of subsection (4), the members are to determine by lot which of them are appointed for 2 years.

(6) The member of the former Board holding office as chairman of the former Board immediately before the commencement day is

Extract from www.slp.wa.gov.au, see that website for further information

to hold office as chairperson of the new Board until a chairperson is elected under the 2003 Act.

(7) The member of the former Board holding office as deputy chairman of the former Board immediately before the commencement day is to hold office as deputy chairperson of the new Board until a deputy chairperson is elected under the 2003 Act.

(8) An election for chairperson and deputy chairperson of the new Board must be held within 6 months of the commencement day.

7. Articled clerks: savings provision

(1) Any legal practitioner who on the commencement day has an articled clerk within the meaning of the 2003 Act is taken to have been approved under section 20 of the 2003 Act to take, have and retain that articled clerk.

(2) Despite the repeal of section 15(2)(b) of the 1893 Act, any person who —

(a) before the coming into operation of this section has commenced serving for a term of 5 years under articles of clerkship to a practitioner; and

(b) serves for a term of 5 years under those articles and during that term —

(i) passes the examinations (if any) prescribed for the purposes of section 15(2)(b) of the 1893 Act or by the rules under the 2003 Act for the purposes of this section; and

(ii) satisfies the requirements for practical legal training prescribed by the rules under the 2003 Act for the purposes of this section,

is taken to be qualified to be admitted under section 27 of the 2003 Act.

Extract from www.slp.wa.gov.au, see that website for further information

(3) Part 3 of the 2003 Act applies to a person referred to in subsection (2) and to the articles served by that person.

(4) Despite the repeal of section 15(2)(b) of the 1893 Act, any person who, before the coming into operation of this section, has served for a term of 5 years under articles of clerkship to a practitioner as required by the 1893 Act and at any time during that term has passed the examinations prescribed for the purposes of section 15(2)(b) of the 1893 Act is taken to be qualified to be admitted under section 27 of the 2003 Act.

(5) A person referred to in subsection (2) or (4) is, after being admitted, subject to the same restrictions under section 33 of the 2003 Act as a person qualified to be admitted under section 27(2)(a) of that Act.

8. Managing clerks: savings provision

(1) Despite the repeal of sections 16, 17 and 19 of the 1893 Act, those sections, and rules made under section 17 of that Act, continue to apply in respect of a person who is a managing clerk immediately before the commencement day as if the sections had not been repealed.

(2) An appeal that has been commenced under section 83 of the 1893 Act in respect of a refusal to grant a certificate under section 16 of that Act may be continued and dealt with as if those sections were still in operation.

9. Review of legal costs determination

Any legal costs determination made and in force under the 1893 Act immediately before the commencement day is to be reviewed under section 211 of the 2003 Act in the period of 2 years after it was made or last reviewed under the 1893 Act, as the case requires.

Extract from www.slp.wa.gov.au, see that website for further information

10. Powers in relation to transitional provisions

(1) If there is no sufficient provision in this Part for dealing with a transitional matter the Governor may make regulations prescribing all matters that are required, necessary or convenient to be prescribed in relation to that matter.

(2) Regulations made under subsection (1) may provide that specific provisions of the 2003 Act —

(a) do not apply; or

(b) apply with specific modifications,

to or in relation to any matter.

(3) Regulations made under subsection (1) must be made within 12 months after the commencement day.

(4) If regulations made under subsection (1) provide that a specified state of affairs is to be taken to have existed, or not to have existed, on and from a day that is earlier than the day on which the regulations are published in the *Gazette* but not earlier than the commencement day, the regulations have effect according to their terms.

(5) In subsection (4) —

"specified" means specified or described in the regulations.

(6) If regulations contain a provision referred to in subsection (4), the provision does not operate so as —

(a) to affect in a manner prejudicial to any person (other than the State), the rights of that person existing before the day of publication of those regulations; or

(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the day of publication of those regulations.

Extract from www.slp.wa.gov.au, see that website for further information

Part 3 — Amendments to other Acts consequential on enactment of *Legal Practice Act 2003*

11. Power to amend regulations

(1) The Governor, on the recommendation of the Attorney General, may make regulations amending subsidiary legislation made under any Act.

(2) The Attorney General may make a recommendation under subsection (1) only if the Attorney General considers that each amendment proposed to be made by the regulations is necessary or desirable as a consequence of the enactment of the *Legal Practice Act 2003* or this Act.

(3) Nothing in this section prevents subsidiary legislation from being amended in accordance with the Act under which it was made.

12. *Adoption Act 1994* amended

(1) The amendments in this section are to the *Adoption Act 1994**.

[* *Reprinted as at 2 January 2001*.
For subsequent amendments see Act No. 3 of 2002.]

(2) Section 4(1) is amended by deleting the definition of "lawyer" and inserting the following definition instead —

"

"lawyer" means a certificated practitioner within the meaning of the *Legal Practice Act 2003*;

".

13. *Agricultural Practices (Disputes) Act 1995* amended

(1) The amendments in this section are to the *Agricultural Practices (Disputes) Act 1995**.

[* *Act No. 26 of 1995*.]

Extract from www.slp.wa.gov.au, see that website for further information

(2) Section 25(2)(e) is amended by deleting "order made under section 58W of the *Legal Practitioners Act 1893*" and inserting instead —

"

legal costs determination (as defined in the *Legal Practice Act 2003*)

".

(3) Schedule 1 clause 8(2) is amended by deleting "certificated legal practitioner within the meaning of the *Legal Practitioners Act 1893*" and inserting instead —

"

certificated practitioner (within the meaning of the *Legal Practice Act 2003*)

".

14. *Biological Control Act 1986* amended

(1) The amendments in this section are to the *Biological Control Act 1986**.

[* *Act No. 106 of 1986.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 33.]

(2) Section 58(3) is amended by deleting "certificated legal practitioner within the meaning of the *Legal Practitioners Act 1893*" and inserting instead —

"

certificated practitioner (within the meaning of the *Legal Practice Act 2003*)

".

15. *Builders' Registration Act 1939* amended

(1) The amendments in this section are to the *Builders' Registration Act 1939**.

Extract from www.slp.wa.gov.au, see that website for further information

[* *Reprinted as at 11 January 2002.*]

(2) Section 2 is amended by deleting the definition of "Legal practitioner" and inserting the following definition instead —

"

"legal practitioner" means a legal practitioner as defined in the *Legal Practice Act 2003*;

".

(3) Section 5A(2) is amended by deleting "person who is a practitioner as defined by the *Legal Practitioners Act 1893* and who is" and inserting instead —

" legal practitioner ".

(4) Section 5B(3) is amended by deleting "he is a practitioner as defined by the *Legal Practitioners Act 1893*" and inserting instead —

" he or she is a legal practitioner ".

(5) Sections 5C(1a)(a) and 27(2) are amended by deleting "practitioner as defined by the *Legal Practitioners Act 1893*" and inserting instead —

" legal practitioner ".

(6) Section 45A(4)(a) is amended by deleting "legal practitioner" and inserting instead —

"

certificated practitioner (within the meaning of the *Legal Practice Act 2003*)

".

(7) Section 45A(5) is amended in the definition of "legally qualified person" by deleting "articled law clerk" and inserting instead —

" articled clerk (as defined in the *Legal Practice Act 2003*) ".

Extract from www.slp.wa.gov.au, see that website for further information

16. *Censorship Act 1996* amended

(1) The amendments in this section are to the *Censorship Act 1996**.

[* *Act No. 40 of 1996.*]

(2) Section 119(2)(c) is amended by deleting "as defined in section 3 of the *Legal Practitioners Act 1893*" and inserting instead —

" (within the meaning of the *Legal Practice Act 2003*) ".

17. *Children's Court of Western Australia Act 1988* amended

(1) The amendments in this section are to the *Children's Court of Western Australia Act 1988**.

[* *Reprinted as at 25 August 2000.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 51 and Act No. 27 of 2002.]

(2) Section 32(2) is amended by deleting "*Legal Practitioners Act 1893*" and inserting instead —

" *Legal Practice Act 2003* ".

(3) Section 32(4) is amended by deleting the definition of "certificated practitioner" and inserting the following definition instead —

"

"certificated practitioner" means a certificated practitioner within the meaning of the *Legal Practice Act 2003*;

".

Extract from www.slp.wa.gov.au, see that website for further information

18. *Chiropractors Act 1964* amended

(1) The amendments in this section are to the *Chiropractors Act 1964**.

[* *Reprinted as at 7 December 2001*.]

(2) Section 7(2)(a) is amended by deleting "person who is a practitioner within the meaning of the *Legal Practitioners Act 1893*," and inserting instead —

"

legal practitioner (as defined in the *Legal Practice Act 2003*)

".

19. *Civil Liability Act 2002* amended

(1) The amendments in this section are to the *Civil Liability Act 2002*.

[* *Act No. 35 of 2002*.]

(2) Section 16 is amended by deleting the definition of "legal practitioner" and inserting the following definition instead —

"

"legal practitioner" means a legal practitioner as defined in the *Legal Practice Act 2003*.

".

(3) Section 17(2)(a)(i) is amended by deleting "an agreement under the *Legal Practitioners Act 1893* section 59" and inserting instead —

"

a costs agreement within the meaning of the *Legal Practice Act 2003*

".

Extract from www.slp.wa.gov.au, see that website for further information

20. *Coal Industry Tribunal of Western Australia Act 1992* amended

(1) The amendments in this section are to the *Coal Industry Tribunal of Western Australia Act 1992**.

[* *Act No. 37 of 1992.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 54 and Act No. 20 of 2002.]

(2) Section 14(6) is amended by deleting "within the meaning of the *Legal Practitioners Act 1893*" and inserting instead —

" (as defined in the *Legal Practice Act 2003*) ".

21. *Commercial Arbitration Act 1985* amended

(1) The amendments in this section are to the *Commercial Arbitration Act 1985**.

[* *Act No. 109 of 1985.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 56.]

(2) Sections 20(5) and (6) are repealed and the following subsections are inserted instead —

"

(5) A person who is not a legal practitioner does not breach the *Legal Practice Act 2003* or any other Act merely by representing a party in arbitration proceedings under this Act.

(6) In this section —

"legal practitioner" means a legal practitioner as defined in the *Legal Practice Act 2003* or a person entitled to practise as a legal practitioner in any other place;

"legally qualified person" means —

(a) a legal practitioner; or

Extract from www.slp.wa.gov.au, see that website for further information

(b) any other person who, in the opinion of the arbitrator or umpire, has such qualifications or experience in law (whether acquired in Western Australia or in any other place in or outside Australia) as would be likely to afford an advantage in the proceedings.

".

(3) Section 61(1)(a) is amended by deleting "determination under section 58W of the *Legal Practitioners Act 1893*" and inserting instead —

"

legal costs determination (as defined in the *Legal Practice Act 2003*)

".

22. *Commercial Tribunal Act 1984* amended

(1) The amendments in this section are to the *Commercial Tribunal Act 1984**.

[* *Reprinted as at 10 May 2002.*]

(2) Section 11(2) is amended by deleting "practitioner as defined by the *Legal Practitioners Act 1893*" and inserting instead —

"

legal practitioner (as defined in the *Legal Practice Act 2003*)

".

(3) Section 15(3) is amended by deleting "certificated legal practitioner within the meaning of the *Legal Practitioners Act 1893*" and inserting instead —

"

certificated practitioner (within the meaning of the *Legal Practice Act 2003*)

".

Extract from www.slp.wa.gov.au, see that website for further information

23. *Companies (Co-operative) Act 1943* amended

(1) The amendments in this section are to the *Companies (Co-operative) Act 1943**.

[* *Reprinted as at 14 January 2000. For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 60 and Gazette 28 June 2002 p. 3052-4.*]

(2) Section 397(3) is amended by deleting "of the Supreme Court of Western Australia, as defined by the *Legal Practitioners' Act 1893*" and inserting instead —

" (within the meaning of the *Legal Practice Act 2003*) ".

24. *Consumer Affairs Act 1971* amended

(1) The amendments in this section are to the *Consumer Affairs Act 1971**.

[* *Reprinted as at 25 March 1999. For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 74.*]

(2) Section 4(2b) is amended by deleting "Part IV of the *Legal Practitioners Act 1893*" and inserting instead —

" Part 12 of the *Legal Practice Act 2003* ".

25. *Coroners Act 1996* amended

(1) The amendments in this section are to the *Coroners Act 1996**.

[* *Reprinted as at 3 August 2001. For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 77.*]

(2) Sections 6(6) and 7(4) are amended by deleting "practitioner as defined by the *Legal Practitioners Act 1893*" and inserting instead —

Extract from www.slp.wa.gov.au, see that website for further information

“

legal practitioner (as defined in the *Legal Practice Act 2003*)

”.

26. *The Criminal Code* amended

(1) The amendments in this section are to *The Criminal Code**.

[* *Reprinted as at 9 February 2001 as the Schedule to the Criminal Code appearing as Appendix B to the Criminal Code Compilation Act 1913.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 89 and Acts Nos. 3, 6, 8 and 27 of 2002.]

(2) Section 570(1) is amended by deleting the definition of “lawyer” and inserting the following definition instead —

“

“lawyer” means a certificated practitioner within the meaning of the *Legal Practice Act 2003*;

”.

(3) Section 570H(2)(b) is amended by deleting “practitioner (as defined in the *Legal Practitioners Act 1893*)” and inserting instead —

“

legal practitioner (as defined in the *Legal Practice Act 2003*)

”.

27. *Criminal Investigation (Exceptional Powers) and Fortification Removal Act 2002* amended

(1) The amendments in this section are to the *Criminal Investigation (Exceptional Powers) and Fortification Removal Act 2002**.

[* *Act No. 21 of 2002.*]

Extract from www.slp.wa.gov.au, see that website for further information

(2) Section 19(1) is amended by deleting "within the meaning of the *Legal Practitioners Act 1893*" and inserting instead —

" (as defined in the *Legal Practice Act 2003*) ".

28. *Debt Collectors Licensing Act 1964* amended

(1) The amendments in this section are to the *Debt Collectors Licensing Act 1964**.

[* *Reprinted as approved 2 February 1972. For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 96.*]

(2) Section 4(a) is deleted and the following paragraph is inserted instead —

"

(a) a certificated practitioner (within the meaning of the *Legal Practice Act 2003*)

".

29. *Declarations and Attestations Act 1913* amended

(1) The amendments in this section are to the *Declarations and Attestations Act 1913**.

[* *Reprinted as at 24 May 2002.*]

(2) The Schedule item 11 is deleted and the following item is inserted instead —

"

11. A legal practitioner (as defined in the *Legal Practice Act 2003*).

".

30. *Dental Act 1939* amended

(1) The amendment in this section is to the *Dental Act 1939**.

[* *Reprinted as at 25 June 1999.*]

Extract from www.slp.wa.gov.au, see that website for further information

(2) Section 4 is amended by deleting the definition of "legal practitioner".

31. *Director of Public Prosecutions Act 1991* amended

(1) The amendments in this section are to the *Director of Public Prosecutions Act 1991**.

[* *Reprinted as at 1 June 2001.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 100 and Act No. 27 of 2002.]

(2) Section 3 is amended by deleting the definition of "legal practitioner" and inserting the following definition instead —

"

"legal practitioner" means a legal practitioner as defined in the *Legal Practice Act 2003*;

".

32. *District Court of Western Australia Act 1969* amended

(1) The amendments in this section are to the *District Court of Western Australia Act 1969**.

[* *Reprinted as at 19 January 2001.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 103 and Act No. 23 of 2002.]

(2) Section 6 is amended by inserting the following definition in the appropriate alphabetical position —

"

"legal practitioner" means a legal practitioner as defined in the *Legal Practice Act 2003*;

".

(3) Section 17(1) is amended by deleting "practitioner as defined by the *Legal Practitioners Act 1893*" and inserting instead —

" legal practitioner ".

Extract from www.slp.wa.gov.au, see that website for further information

(4) Section 39(1) is amended by deleting ", as defined by the *Legal Practitioners Act 1893*," and inserting instead —

" (within the meaning of the *Legal Practice Act 2003*) ".

(5) Section 40 is amended by deleting "as defined in the *Legal Practitioners Act 1893*,".

(6) Section 53(1) is amended by deleting "practitioner as defined in the *Legal Practitioners Act 1893*" and inserting instead —

" legal practitioner ".

(7) Section 64(1) is amended by deleting "a determination in force under section 58W of the *Legal Practitioners Act 1893*" and inserting instead —

"

any legal costs determination (as defined in the *Legal Practice Act 2003*)

".

(8) Section 66 is amended as follows:

(a) by deleting "as defined in the *Legal Practitioners Act 1893*,";

(b) by deleting "according to a determination in force under section 58W of the *Legal Practitioners Act 1893*" and inserting instead —

"

in accordance with any legal costs determination (as defined in the *Legal Practice Act 2003*)

".

(9) Section 88(2)(b) is amended by deleting "determinations under section 58W of the *Legal Practitioners Act 1893*" and inserting instead —

"

legal costs determination (as defined in the *Legal Practice Act 2003*)

Extract from www.slp.wa.gov.au, see that website for further information

".

33. *Equal Opportunity Act 1984* amended

(1) The amendments in this section are to the *Equal Opportunity Act 1984**.

[* *Reprinted as at 21 July 2000.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 118 and Acts Nos. 3 and 20 of 2002.]

(2) Section 4(1) is amended by deleting the definition of "legal practitioner" and inserting the following definition instead —

"

"legal practitioner" means a legal practitioner as defined in the *Legal Practice Act 2003*;

".

34. *Evidence Act 1906* amended

(1) The amendments in this section are to the *Evidence Act 1906**.

[* *Reprinted as at 4 January 2001.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 121 and Acts Nos. 3 and 27 of 2002.]

(2) Section 122 is amended by deleting "section 76(1) of the *Legal Practitioner's Act 1893*," and inserting instead —

" section 123 of the *Legal Practice Act 2003* ".

35. *Finance Brokers Control Act 1975* amended

(1) The amendments in this section are to the *Finance Brokers Control Act 1975**.

[* *Reprinted as at 3 March 2000.*

Extract from www.slp.wa.gov.au, see that website for further information

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 126.]

(2) Section 5(1)(f) is amended by deleting "certificated legal practitioners, within the meaning of the *Legal Practitioners Act 1893*," and inserting instead —

"

certificated practitioners (within the meaning of the *Legal Practice Act 2003*)

".

(3) Section 7(1)(c) and the "and" following is deleted and the following paragraph is inserted instead —

"

(c) one shall be a legal practitioner (as defined in the *Legal Practice Act 2003*); and

".

(4) Section 19(6) is amended by deleting "certificated legal practitioner within the meaning of the *Legal Practitioners Act 1893*" and inserting instead —

"

certificated practitioner (within the meaning of the *Legal Practice Act 2003*)

".

(5) Section 19(7) is amended by deleting "legal practitioner" and inserting instead —

" certificated practitioner ".

36. *Fish Resources Management Act 1994* amended

(1) The amendments in this section are to the *Fish Resources Management Act 1994**.

[* *Reprinted as at 28 April 2000.*

Extract from www.slp.wa.gov.au, see that website for further information

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 141 and Act No. 2 of 2002.]

(2) Section 153(5) is amended by deleting "within the meaning of the *Legal Practitioners Act 1893*" and inserting instead —

" (within the meaning of the *Legal Practice Act 2003*) ".

37. *Fisheries Adjustment Schemes Act 1987* amended

(1) The amendments in this section are to the *Fisheries Adjustment Schemes Act 1987**.

[* *Reprinted as at 3 May 2002.*]

(2) Section 14U(5) is amended by deleting "within the meaning of the *Legal Practitioners Act 1893*" and inserting instead —

" (within the meaning of the *Legal Practice Act 2003*) ".

38. *Gas Pipelines Access (Western Australia) Act 1998* amended

(1) The amendments in this section are to the *Gas Pipelines Access (Western Australia) Act 1998**.

[* *Reprinted as at 11 August 2000.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 148.]

(2) Section 49 is amended by deleting the definition of "legal practitioner" and inserting the following definition instead —

"

"legal practitioner" means a certificated practitioner within the meaning of the *Legal Practice Act 2003*.

".

39. *Gender Reassignment Act 2000* amended

(1) The amendments in this section are to the *Gender Reassignment Act 2000**.

Extract from www.slp.wa.gov.au, see that website for further information

[* *Act No. 2 of 2000.*]

(2) Section 6(2)(a) is amended by deleting "as defined in the *Legal Practitioners Act 1893*" and inserting instead —

" (as defined in the *Legal Practice Act 2003*) ".

40. *Guardianship and Administration Act 1990* amended

(1) The amendments in this section are to the *Guardianship and Administration Act 1990**.

[* *Reprinted as at 21 April 1997.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 156-7 and Act No. 3 of 2002.]

(2) Section 3(1) is amended by deleting the definition of "legal practitioner" and inserting the following definition instead —

"

"legal practitioner" means a legal practitioner as defined in the *Legal Practice Act 2003*;

".

(3) Section 6(3)(a) is amended by deleting "practitioner as defined in the *Legal Practitioners Act 1893*" and inserting instead —

" legal practitioner ".

(4) Sections 51(3) and 70(3) are amended by deleting "*Legal Practitioners Act 1893*" and inserting instead —

" *Legal Practice Act 2003* ".

41. *Industrial Relations Act 1979* amended

(1) The amendments in this section are to the *Industrial Relations Act 1979**.

[* *Reprinted as at 4 February 2000.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 177 and Act No. 20 of 2002.]

Extract from www.slp.wa.gov.au, see that website for further information

(2) Section 7(1) is amended by deleting the definition of "legal practitioner" and inserting the following definition instead —

"

"legal practitioner" means a certificated practitioner within the meaning of the *Legal Practice Act 2003*;

".

(3) Sections 42B(7), 97UJ(5) and 112A(3) are amended by deleting "section 77A of the *Legal Practitioners Act 1893*" and inserting instead —

" section 123(3)(c) of the *Legal Practice Act 2003* ".

42. *Juries Act 1957* amended

(1) The amendments in this section are to the *Juries Act 1957**.

[* *Reprinted as at 3 July 2000*.]

(2) Sections 56A(1), in paragraph (b) of the definition of "prosecuting officer", 56B(2)(h) and 56C(2)(g) are amended by deleting "practitioner as defined by the *Legal Practitioners Act 1893*" and inserting instead —

"

legal practitioner (as defined in the *Legal Practice Act 2003*)

".

(3) The Second Schedule Part I item 1(f) is deleted and the following paragraph is inserted instead —

"

(f) Legal practitioner (as defined in the *Legal Practice Act 2003*).

".

43. *Justices Act 1902* amended

(1) The amendments in this section are to the *Justices Act 1902**.

Extract from www.slp.wa.gov.au, see that website for further information

[* *Reprinted as at 8 October 2001. For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 193 and Act No. 27 of 2002.*]

(2) Section 183 is amended by deleting the definition of "legal practitioner" and inserting the following definition instead —

"

"legal practitioner" means a legal practitioner as defined in the *Legal Practice Act 2003*;

".

44. *Land Valuers Licensing Act 1978* amended

(1) The amendments in this section are to the *Land Valuers Licensing Act 1978**.

[* *Reprinted as at 3 May 2002.*]

(2) Section 4 is amended by deleting the definition of "legal practitioner" and inserting the following definition instead —

"

"legal practitioner" means a certificated practitioner within the meaning of the *Legal Practice Act 2003*;

".

45. *Law Reform Commission Act 1972* amended

(1) The amendments in this section are to the *Law Reform Commission Act 1972**.

[* *Reprinted as at 26 October 2001.*]

(2) Section 6(1) is amended as follows:

(a) in paragraph (a) by deleting "within the meaning of section 3 of the *Legal Practitioners Act 1893*," and inserting instead —

"

(within the meaning of the *Legal Practice Act 2003*)

Extract from www.slp.wa.gov.au, see that website for further information

";

(b) in paragraph (c) by deleting "practitioner within the meaning of section 3 of the *Legal Practitioners Act 1893*," and inserting instead —

"

legal practitioner (as defined in the *Legal Practice Act 2003*)

".

46. *Law Society Public Purposes Trust Act 1985* amended

(1) The amendments in this section are to the *Law Society Public Purposes Trust Act 1985**.

[* *Act No. 60 of 1985.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 202.]

(2) Section 2 is amended as follows:

(a) by inserting before "In this Act" the subsection designation "(1)";

(b) by deleting the definitions of "trust account" and "trust moneys";

(c) in the definition of "Trust Deed" by deleting the semi-colon and inserting a full stop instead;

(d) by adding the following subsection —

"

(2) A word or expression used in this Act has the same meaning as it has in the *Legal Practice Act 2003* unless —

(a) this Act gives it another meaning; or

(b) the contrary intention appears in some other way.

".

Extract from www.slp.wa.gov.au, see that website for further information

(3) Section 3(1) is amended by deleting "by legal practitioners, or firms of legal practitioners" and inserting instead —

" under the *Legal Practice Act 2003* ".

47. *Legal Aid Commission Act 1976* amended

(1) The amendments in this section are to the *Legal Aid Commission Act 1976**.

[* *Reprinted as at 5 March 1999. For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 203.*]

(2) Section 4(1) is amended as follows:

(a) by deleting the definitions of "Barristers' Board" and "practitioner";

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

"

"certificated practitioner" has the same meaning as in the *Legal Practice Act 2003*;

"Legal Practice Board" means the Board established by section 6 of the *Legal Practice Act 2003*;

"practitioner" means a legal practitioner as defined in the *Legal Practice Act 2003*;

";

(c) by deleting the definition of "private practitioner" and inserting instead —

"

"private practitioner" means a certificated practitioner who is —

(a) practising on his or her own account whether alone or in partnership;

(b) an employee of a certificated practitioner who is so practising; or

Extract from www.slp.wa.gov.au, see that website for further information

(c) an employee or officer of an incorporated legal practice (as defined in the *Legal Practice Act 2003*);

".

(3) Section 14(1) is amended by deleting "Division 4 of Part VI of the *Legal Practitioners Act 1893*" and inserting instead —

" Part 13 Division 3 of the *Legal Practice Act 2003* ".

(4) Section 19(3) is amended by deleting "*Legal Practitioners Act 1893*" and inserting instead —

" *Legal Practice Act 2003* ".

(5) Section 39(1a) is amended by deleting "section 63(1) of the *Legal Practitioners Act 1893*" and inserting instead —

" section 227(1) of the *Legal Practice Act 2003* ".

(6) Section 40(4) is amended as follows:

(a) in paragraph (b) —

(i) by inserting after "member of a firm" the following —

"

or director of an incorporated legal practice

";

(ii) by inserting after "the firm" the following —

" or incorporated legal practice ";

(b) in paragraph (c) —

(i) by inserting after "firm of private practitioners" the following —

"

or an officer or employee of an incorporated legal practice

";

Extract from www.slp.wa.gov.au, see that website for further information

(ii) by deleting in the second place it occurs "or firm" and inserting instead —

"

, firm or incorporated legal practice

".

(7) Section 40(6a) is amended by deleting "Part IV of the *Legal Practitioners Act 1893* by the Barristers' Board" and inserting instead —

"

Part 12 of the *Legal Practice Act 2003* by the Legal Practice Board

".

(8) Section 56(2)(f) is deleted and the following paragraph is inserted instead —

"

(f) the Legal Practice Board,

".

(9) Section 61(1) is amended by deleting "*Legal Practitioners Act 1893*" and inserting instead —

" *Legal Practice Act 2003* ".

(10) Section 61(4) is amended by deleting "Part V of the *Legal Practitioners Act 1893*" and inserting instead —

" Part 10 of the *Legal Practice Act 2003* ".

(11) Section 64(2c) is amended by deleting "Barristers' Board for the purposes of the *Legal Practitioners Act 1893*" and inserting instead —

"

Legal Practice Board for the purposes of the *Legal Practice Act 2003*

".

Extract from www.slp.wa.gov.au, see that website for further information

(12) Section 64(4)(c) is deleted and the following paragraph is inserted instead —

“

(c) in an inquiry by the Legal Practice Board, or in proceedings before the Supreme Court, under the *Legal Practice Act 2003*.

”.

48. *Legal Practitioners Act Amendment Act 1976* amended

Section 5 of the *Legal Practitioners Act Amendment Act 1976** is repealed.

[* *Act No. 113 of 1976.*]

49. *Local Courts Act 1904* amended

(1) The amendments in this section are to the *Local Courts Act 1904**.

[* *Reprinted as at 12 January 2001.*]

(2) Section 83 is amended by deleting “determinations under section 58W of the *Legal Practitioners Act 1893*” and inserting instead —

“

legal costs determination (as defined in the *Legal Practice Act 2003*

”.

(3) Section 87 is amended by deleting “according to the costs fixed by determinations under section 58W of the *Legal Practitioners Act 1893*” and inserting instead —

“

in accordance with any legal costs determination (as defined in the *Legal Practice Act 2003*)

”.

Extract from www.slp.wa.gov.au, see that website for further information

50. *Long Service Leave Act 1958* amended

(1) The amendments in this section are to the *Long Service Leave Act 1958**.

[* *Reprinted as approved 11 July 1974.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 222 and Act No. 20 of 2002.]

(2) Section 37 is amended by deleting "legal practitioner who is a certificated practitioner under and for the purposes of the *Legal Practitioners Act 1893*" and inserting instead —

"

certificated practitioner (within the meaning of the *Legal Practice Act 2003*)

".

51. *Mental Health Act 1996* amended

(1) The amendments in this section are to the *Mental Health Act 1996**.

[* *Act No. 68 of 1996.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 231.]

(2) Section 3 is amended by deleting the definition of "legal practitioner" and inserting the following definition instead —

"

"legal practitioner" means a legal practitioner as defined in the *Legal Practice Act 2003*;

".

(3) Schedule 2 clause 3(3) is amended by deleting ", within the meaning of the *Legal Practitioners Act 1893*," and inserting instead —

" (within the meaning of the *Legal Practice Act 2003*) ".

Extract from www.slp.wa.gov.au, see that website for further information

52. *Mining Act 1978* amended

(1) The amendments in this section are to the *Mining Act 1978**.

[* *Reprinted as at 7 September 2001*.
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 246 and Act No. 15 of 2002.]

(2) Section 162(2)(r) is amended by deleting "determinations under section 58W of the *Legal Practitioners Act 1893*" and inserting instead —

"

legal costs determination (as defined in the *Legal Practice Act 2003*)

".

53. *Motor Vehicle (Third Party Insurance) Act 1943* amended

(1) The amendments in this section are to the *Motor Vehicle (Third Party Insurance) Act 1943**.

[* *Reprinted as at 20 November 1998.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 252 and Act No. 7 of 2002.]

(2) Section 27A(2) is amended by deleting "a determination in force under section 58W of the *Legal Practitioners Act 1893*" and inserting instead —

"

any legal costs determination (as defined in the *Legal Practice Act 2003*) that is in force

".

54. *Official Prosecutions (Defendants' Costs) Act 1973* amended

(1) The amendments in this section are to the *Official Prosecutions (Defendants' Costs) Act 1973**.

[* *Reprinted as at 19 February 1999.*]

Extract from www.slp.wa.gov.au, see that website for further information

(2) Section 5(5) is repealed and the following is inserted instead —

“

(5) The amount of costs ordered, other than Court fees, shall be in accordance with the scale fixed from time to time by a legal costs determination (as defined in the *Legal Practice Act 2003*).

”.

55. *Osteopaths Act 1997* amended

(1) The amendments in this section are to the *Osteopaths Act 1997**.

[* *Act No. 58 of 1997.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 263.]

(2) Section 3 is amended by deleting the definition of “legal practitioner” and inserting the following definition instead —

“

“legal practitioner” means a legal practitioner as defined in the *Legal Practice Act 2003*;

”.

56. *Psychologists Registration Act 1976* amended

(1) The amendments in this section are to the *Psychologists Registration Act 1976**.

[* *Act No. 141 of 1976.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 301.]

(2) Section 9(1)(d) is amended by deleting “practitioners within the meaning of the *Legal Practitioners Act, 1893*” and inserting instead —

“

legal practitioners (as defined in the *Legal Practice Act 2003*)

Extract from www.slp.wa.gov.au, see that website for further information

".

57. *Public Notaries Act 1979* amended

(1) The amendments in this section are to the *Public Notaries Act 1979**.

[* *Act No. 70 of 1979.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 303.]

(2) Section 7(2)(a) is amended by deleting "*Legal Practitioners Act, 1893*" and inserting instead —

" *Legal Practice Act 2003* ".

(3) Section 15A is amended by deleting "by a determination under section 58W of the *Legal Practitioners Act 1893*" and inserting instead —

"

by legal costs determination (as defined in the *Legal Practice Act 2003*)

".

(4) Section 16(2) is amended by deleting "*Legal Practitioners Act, 1893*" and inserting instead —

" *Legal Practice Act 2003* ".

58. *Racing Penalties (Appeals) Act 1990* amended

(1) The amendments in this section are to the *Racing Penalties (Appeals) Act 1990**.

[* *Reprinted as at 19 October 2001.*]

(2) Section 16(7) is amended by deleting "certificated legal practitioner within the meaning of the *Legal Practitioners Act 1893*" and inserting instead —

Extract from www.slp.wa.gov.au, see that website for further information

“

certificated practitioner (within the meaning of the *Legal Practice Act 2003*)

”.

(3) Section 25(2)(g) is amended by deleting “order made under section 58W of the *Legal Practitioners Act 1893*” and inserting instead —

“

legal costs determination (as defined in the *Legal Practice Act 2003*)

”.

59. *Real Estate and Business Agents Act 1978* amended

(1) The amendments in this section are to the *Real Estate and Business Agents Act 1978**.

[* *Reprinted as at 9 March 2001. For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 317.*]

(2) Section 4(1) is amended by deleting the definition of “legal practitioner” and inserting the following definition instead —

“

“legal practitioner” means a certificated practitioner within the meaning of the *Legal Practice Act 2003*;

”.

(3) Section 131A is amended in the definition of “incidental expenses” by deleting paragraph (d) and inserting the following paragraph instead —

“

(d) the costs of a legal practitioner;

”.

Extract from www.slp.wa.gov.au, see that website for further information

60. *Registration of Deeds Act 1856* amended

(1) The amendments in this section are to the *Registration of Deeds Act 1856**.

[* *Reprinted as approved 16 March 1976.*]

(2) Section 6 is amended by deleting "practitioner within the meaning of the *Legal Practitioners Act, 1893*," and inserting instead —

"

legal practitioner (as defined in the *Legal Practice Act 2003*)

".

61. *Residential Tenancies Act 1987* amended

(1) The amendments in this section are to the *Residential Tenancies Act 1987**.

[* *Reprinted as at 22 January 1999.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 321.]

(2) Section 22(6) is amended as follows:

(a) by deleting the definition of "legal practitioner" and inserting the following definition instead —

"

"legal practitioner" means a legal practitioner as defined in the *Legal Practice Act 2003*;

";

(b) in the definition of "legally qualified person" by deleting "articled law clerk" and inserting instead —

"

articled clerk (as defined in the *Legal Practice Act 2003*)

".

Extract from www.slp.wa.gov.au, see that website for further information

62. *Retirement Villages Act 1992* amended

(1) The amendments in this section are to the *Retirement Villages Act 1992**.

[* *Reprinted as at 22 January 1999.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 323.]

(2) Section 24 is amended by deleting "practitioner within the meaning of the term in the *Legal Practitioners Act 1893*" and inserting instead —

"

legal practitioner (as defined in the *Legal Practice Act 2003*)

".

(3) Section 47(8) is amended as follows:

(a) by deleting the definition of "legal practitioner" and inserting the following definition instead —

"

"legal practitioner" means a legal practitioner as defined in the *Legal Practice Act 2003*;

";

(b) in the definition of "legally qualified person" by deleting "articled law clerk" and inserting instead —

"

articled clerk (as defined in the *Legal Practice Act 2003*)

".

63. *Royal Commission (Police) Act 2002* amended

(1) The amendments in this section are to the *Royal Commission (Police) Act 2002**.

[* *Act No. 10 of 2002*.]

Extract from www.slp.wa.gov.au, see that website for further information

(2) Section 3(1) is amended by deleting the definition of "legal practitioner" and inserting the following definition instead —

"

"legal practitioner" means a legal practitioner as defined in the *Legal Practice Act 2003*;

".

64. *Sale of Land Act 1970* amended

(1) The amendments in this section are to the *Sale of Land Act 1970**.

[* *Reprinted as at 25 January 2002.*]

(2) Section 14(2)(b)(ii) is amended by deleting ", as defined in section 3 of the *Legal Practitioners Act 1893*," and inserting instead —

" (within the meaning of the *Legal Practice Act 2003*) ".

65. *Security and Related Activities (Control) Act 1996* amended

(1) The amendments in this section are to the *Security and Related Activities (Control) Act 1996**.

[* *Act No. 27 of 1996.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 338.]

(2) Section 28(2)(a) is amended by deleting "practitioner holding a current practice certificate under the *Legal Practitioners Act 1893*," and inserting instead —

"

certificated practitioner (within the meaning of the *Legal Practice Act 2003*)

".

Extract from www.slp.wa.gov.au, see that website for further information

66. *Settlement Agents Act 1981* amended

(1) The amendments in this section are to the *Settlement Agents Act 1981**.

[* *Reprinted as at 3 November 2000. For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 341*.]

(2) Section 3(1) is amended by deleting the definition of "legal practitioner" and inserting the following definition instead —

"

"legal practitioner" means a certificated practitioner within the meaning of the *Legal Practice Act 2003*;

".

(3) Section 46(5) is amended by deleting "provisions of the *Legal Practitioners Act 1893*" and inserting instead —

" *Legal Practice Act 2003*, ".

67. *Strata Titles Act 1985* amended

(1) The amendments in this section are to the *Strata Titles Act 1985**.

[* *Reprinted as at 1 July 1999. For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 363 and Act No. 24 of 2002*.]

(2) Section 72 is amended by deleting "practitioner within the meaning of the term in the *Legal Practitioners Act 1893*" and inserting instead —

"

legal practitioner (as defined in the *Legal Practice Act 2003*)

".

Extract from www.slp.wa.gov.au, see that website for further information

68. *Suitors' Fund Act 1964* amended

(1) The amendments in this section are to the *Suitors' Fund Act 1964**.

[* *Reprinted as at 29 October 1999.*]

(2) Section 8(2)(c) is amended by deleting "Barristers' Board constituted under the *Legal Practitioners Act 1893*" and inserting instead —

"

Legal Practice Board established by the *Legal Practice Act 2003*

".

69. *Supreme Court Act 1935* amended

(1) The amendments in this section are to the *Supreme Court Act 1935**.

[* *Reprinted as at 9 February 2001.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 370 and Act No. 23 of 2002.]

(2) Section 4 is amended by inserting the following definition in the appropriate alphabetical position —

"

"legal practitioner" means a legal practitioner as defined in the *Legal Practice Act 2003*;

".

(3) Section 11A(2)(a) is amended by deleting "practitioner as defined in the *Legal Practitioners Act 1893*" and inserting instead —

" legal practitioner ".

(4) Section 11A(2)(b) is amended by deleting "person who has been admitted as a practitioner under the *Legal Practitioners Act 1893*" and inserting instead —

Extract from www.slp.wa.gov.au, see that website for further information

" legal practitioner ".

(5) Section 11A(2a)(a) is amended by deleting "practitioner as defined in the *Legal Practitioners Act 1893*" and inserting instead —

" legal practitioner ".

(6) Section 49(1) is amended by deleting "practitioner of the Supreme Court" and inserting instead —

" legal practitioner ".

(7) Section 154(1) is amended by deleting "practitioner as defined by the *Legal Practitioners Act 1893*" and inserting instead —

" legal practitioner ".

(8) Section 167(1) is amended as follows:

(a) in paragraph (d) by deleting "determinations under section 58W of the *Legal Practitioners Act 1893*" and inserting instead —

"

legal costs determination (as defined in the *Legal Practice Act 2003*)

";

(b) in paragraph (da) by deleting "the subject of a determination under section 58W of the *Legal Practitioners Act 1893*" and inserting instead —

"

fixed by legal costs determination (as defined in the *Legal Practice Act 2003*)

".

70. *Town Planning and Development Act 1928* amended

(1) The amendments in this section are to the *Town Planning and Development Act 1928**.

Extract from www.slp.wa.gov.au, see that website for further information

[* *Reprinted as at 3 November 2000. For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 382 and Acts Nos. 25 of 2001 and 24 of 2002*.]

(2) Section 42(2)(a) is amended by deleting "practitioner as defined by the *Legal Practitioners Act 1893*" and inserting instead —

"

legal practitioner (as defined in the *Legal Practice Act 2003*)

".

71. *Women's Legal Status Act 1923* amended

(1) The amendments in this section are to the *Women's Legal Status Act 1923**.

[* *Act No. 56 of 1923*.]

(2) Section 2 is amended by deleting "practitioner within the meaning of that term in the *Legal Practitioners Act 1893*" and inserting instead —

"

legal practitioner (as defined in the *Legal Practice Act 2003*)

".

72. *Workers' Compensation and Rehabilitation Act 1981* amended

(1) The amendments in this section are to the *Workers' Compensation and Rehabilitation Act 1981**.

[* *Reprinted as at 14 September 2001*.]

Extract from www.slp.wa.gov.au, see that website for further information

(2) Sections 84X(2)(a), 84ZL(2)(a), 84ZQ(1)(a) and 87(2) are amended by deleting "a determination in force under section 58W of the *Legal Practitioners Act 1893*" and inserting instead —

"

any legal costs determination (as defined in the *Legal Practice Act 2003*)

".

73. *Young Offenders Act 1994* amended

(1) The amendments in this section are to the *Young Offenders Act 1994**.

[* *Reprinted as at 8 December 2000. For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 423*.]

(2) Section 152(5)(b) is amended by deleting "practitioner as defined in the *Legal Practitioners Act 1893*" and inserting instead —

"

legal practitioner (as defined in the *Legal Practice Act 2003*)

".

Extract from www.slp.wa.gov.au, see that website for further information

Part 4 — *Legal Contribution Trust Act 1967* amended and transitional provisions

74. The Act amended

The amendments in this Part are to the *Legal Contribution Trust Act 1967**.

[* *Reprinted as at 5 February 1999.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 204.]

75. Section 4 amended

Section 4 is amended as follows:

(a) by inserting before "In this Act" the subsection designation "(1)";

(b) by deleting the definition of "Board";

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

"

"bank" means —

(a) an ADI (authorised deposit-taking institution) as defined in section 5 of the *Banking Act 1959* of the Commonwealth; or

(b) a bank constituted by a law of a State or the Commonwealth;

"prescribed" means prescribed by the regulations;

";

(d) by deleting the definition of "practitioner" and inserting instead —

"

"practitioner" has the same meaning as "legal practitioner" in the *Legal Practice Act 2003* and, for the purposes of Parts III and IV, where a

Extract from www.slp.wa.gov.au, see that website for further information

practitioner practises in partnership with other practitioners, and no other person, the expression includes the partnership;

";

(e) in the definition of "professional defalcation" by deleting "clerks or servants" and inserting instead —

" employees ";

(f) in the definition of "trust account" by deleting "*Legal Practitioners Act 1893*" and inserting instead —

" *Legal Practice Act 2003* ".

(2) At the end of section 4 the following subsection is inserted —

"

(2) A word or expression used in this Act has the same meaning as it has in the *Legal Practice Act 2003* unless —

(a) this Act gives it another meaning; or

(b) the contrary intention appears.

".

76. Sections 4A and 4B inserted

After section 4 the following sections are inserted in Part I —

"

4A. Application of Act to multi-disciplinary partnerships and incorporated legal practices

(1) Subject to subsections (2) and (3) and any regulations that provide otherwise, this Act applies to incorporated legal practices and multi-disciplinary partnerships in the same way as it applies to practitioners, as if a reference in this Act to "practitioner" included a reference to "incorporated legal practice" and "multi-disciplinary partnership".

Extract from www.slp.wa.gov.au, see that website for further information

(2) For the purposes of the application of this Act to incorporated legal practices, unless the regulations provide otherwise, a reference in this Act to "professional defalcation" is taken to include the stealing or fraudulent conversion, by —

(a) an incorporated legal practice;

(b) any one or more of the officers or employees of the incorporated legal practice; or

(c) a person with whom the incorporated legal practice shares receipts (other than as principal and agent),

of money or other property at any time entrusted to the incorporated legal practice, a person referred to in paragraph (b) or (c), or any of them, but only if the defalcation occurs in the course of the provision of legal services.

(3) For the purposes of the application of this Act to multi-disciplinary partnerships, unless the regulations provide otherwise, a reference in this Act to "professional defalcation" is taken to include the stealing or fraudulent conversion, by —

(a) a multi-disciplinary partnership;

(b) any one or more of the partners or employees of the multi-disciplinary partnership; or

(c) a person with whom the multi-disciplinary partnership shares receipts (other than as principal and agent),

of money or other property at any time entrusted to the multi-disciplinary partnership, a person referred to in paragraph (b) or (c), or any of them, but only if the defalcation occurs in the course of the provision of legal services.

Extract from www.slp.wa.gov.au, see that website for further information

(4) Nothing in this section limits the application of this Act to a person who is a practitioner.

4B. Application of this Act to interstate practitioners and practitioners who engage in legal practice outside the State

(1) In this section —

"contributing interstate practitioner" means an interstate practitioner within the meaning of the *Legal Practice Act 2003* who —

(i) has complied with sections 91 and 93 of that Act; and

(ii) maintains a trust account in this State.

(2) Subject to subsection (3) and any regulations that provide otherwise, this Act applies to contributing interstate practitioners in the same way as it applies to practitioners, as if a reference in this Act to "practitioner" included a reference to "contributing interstate practitioner".

(3) Subject to this Act and any regulations that provide otherwise, a claim lies against the Guarantee Fund —

(a) in relation to a pecuniary loss occurring wholly in this State from a professional defalcation by a local practitioner (whether or not in the course of engaging in legal practice in this State);

(b) in relation to a pecuniary loss occurring wholly in this State from a professional defalcation by a contributing interstate practitioner (whether or not in the course of engaging in legal practice in this State);

(c) in relation to a pecuniary loss from a professional defalcation by a local practitioner

Extract from www.slp.wa.gov.au, see that website for further information

(whether or not in the course of engaging in legal practice in this State), if —

(i) the loss occurred both in this State and in another State; or

(ii) the loss occurred in this State or another State or both, but it cannot be determined precisely where the loss occurred;

or

(d) in the circumstances where an agreement or arrangement under subsection (4) provides that a claim is payable.

(4) The Legal Contribution Trust may make agreements or arrangements with a regulatory authority of another State for the payment of claims arising from professional defalcations by local practitioners or interstate practitioners who are required to contribute to a fidelity fund in this State and in that other State.

(5) This section applies despite anything to the contrary in this Act.

".

77. Heading to Part III replaced

The heading to Part III is deleted and the following heading is inserted instead —

"

Part III — Interest on trust accounts paid to Fund

".

78. Sections 10, 11 and 12 repealed and transitional provision

(1) Sections 10, 11 and 12 are repealed.

Extract from www.slp.wa.gov.au, see that website for further information

(2) Despite section 11 of *The Criminal Code*, a person may be punished after the commencement of subsection (1) for an offence against repealed section 11.

79. Section 13 replaced

Section 13 is repealed and the following section is inserted instead —

"

13. Bank to pay interest on trust accounts to Trust

(1) In this section —

"relevant period" means —

(a) the 6 months ending on 31 December; and

(b) the 6 months ending on 30 June,

in each financial year, or such other period as is prescribed.

(2) Each bank with which a trust account is maintained shall pay to the Trust the prescribed percentage of the interest earned on the moneys in the trust account during the relevant period.

(3) The interest shall be paid to the Trust by the bank at such times as prescribed.

(4) The rate of interest payable on moneys in the trust account shall be —

(a) the rate prescribed by, or determined in accordance with, the regulations; or

(b) if no regulations are made as to such a rate, the rate agreed between the bank and the Trust.

(5) This section does not apply in respect of a trust account if, during the relevant period, the lowest balance of the trust account, or where more than one trust account is

Extract from www.slp.wa.gov.au, see that website for further information

maintained by the same practitioner, the lowest sum of the balance of the trust accounts is less than $500.

".

80. Section 14 amended

Section 14(1) is amended by deleting "resulting from investments made" and inserting instead —

" received ".

81. Section 16 amended

Section 16(2)(d) and "and" following are deleted and the following paragraph is inserted instead —

"

(d) moneys paid to the Trust under section 93 or 146 of the *Legal Practice Act 2003*; and

".

82. Section 17 replaced

Section 17 is repealed and the following section is inserted instead —

"

17. Investment of Guarantee Fund

(1) The Trust may, with the approval of the Minister, invest that portion of the Guarantee Fund that is not immediately required for the purposes of this Part —

(a) on deposit with a bank in the State, bearing interest at a rate agreed between the bank and the Trust;

(b) on loan to the Treasurer at a rate of interest that is agreed with the Treasurer; or

(c) as trust funds may be invested under Part III of the *Trustees Act 1962*.

Extract from www.slp.wa.gov.au, see that website for further information

(2) The Trust shall apply the moneys resulting from investment under subsection (1) in the manner provided by section 14.

".

83. Section 18 amended

Section 18(1) is amended by deleting "section 58D(b) of the *Legal Practitioners Act 1893*" and inserting instead —

"

section 151(1)(b) of the *Legal Practice Act 2003*

".

84. Section 28 amended

(1) Section 28(1) is amended by deleting "practitioner" in the 3 places where it occurs and substituting in each place —

" person ".

(2) Section 28(2) is amended by deleting "practitioner" and inserting instead —

" person ".

85. Section 51 amended

Section 51(2) is repealed and the following subsection is inserted —

"

(2) An action shall not lie against a practitioner or a bank by reason of anything done by the bank in compliance with section 13.

".

Extract from www.slp.wa.gov.au, see that website for further information

86. Section 56 amended

(1) Section 56(1) is amended by deleting "Without limiting the power to make rules under, and for the purposes of, Part V, the" and inserting instead —

" The ".

(2) Section 56(2)(a) is deleted and the following paragraphs are inserted instead —

"

(a) for the purposes of section 4A, making provision as to the application of this Act to incorporated legal practices and multi-disciplinary partnerships;

(aa) for the purposes of section 13, prescribing —

(i) the percentage of interest to be paid to the Trust;

(ii) the times at which interest is to be paid to the Trust;

(iii) the rate at which interest is to be paid, or how the rate is to be determined; and

(iv) the relevant period;

".

87. Transitional provisions

(1) In this section —

"commencement day" means the day on which Part 10 of the *Legal Practice Act 2003* comes into operation;

"Trust" means the Legal Contribution Trust established under the *Legal Contribution Trust Act 1967*.

(2) Moneys that, on the commencement day, are maintained on deposit by a legal practitioner to the credit of the Trust under section 11 of the *Legal Contribution Trust Act 1967* —

Extract from www.slp.wa.gov.au, see that website for further information

(a) are to be taken on and after that day to be moneys deposited by the legal practitioner to the credit of a trust account under section 137 of the *Legal Practice Act 2003*; and

(b) may be dealt with under the *Legal Practice Act 2003* and the *Legal Contribution Trust Act 1967* accordingly.

(3) If moneys deposited by a legal practitioner to the credit of the Trust under section 11 of the *Legal Contribution Trust Act 1967* are, immediately before the commencement day, the subject of an order made under section 58C of the *Legal Practitioners Act 1893*, the Trust may continue to apply those moneys for the purposes of the order.

Extract from www.slp.wa.gov.au, see that website for further information

Part 5 — Amendments relating to State Solicitor and savings provision

88. *Bail Act 1982* amended

(1) The amendments in this section are to the *Bail Act 1982**.

[* *Reprinted as at 27 August 1999.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 27 and Acts Nos. 6 and 27 of 2002.]

(2) Section 7A(2)(a) is amended by deleting "Crown".

(3) Section 21(2)(b) is amended by deleting "Crown".

89. *The Criminal Code* amended

(1) The amendments in this section are to *The Criminal Code**.

[* *Reprinted as at 9 February 2001 as the Schedule to the Criminal Code appearing as Appendix B to the Criminal Code Compilation Act 1913.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 89 and Acts Nos. 3, 6, 8 and 27 of 2002.]

(2) Section 744 is amended by deleting "Crown" in both places where it occurs and inserting instead —

" State ".

Extract from www.slp.wa.gov.au, see that website for further information

90. *Crown Suits Act 1947* amended

(1) The amendments in this section are to the *Crown Suits Act 1947**.

[* *Reprinted as approved 14 April 1971.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 91.]

(2) Section 6(1)(a) and (3)(c) are amended by deleting "Crown" and inserting instead —

" State ".

91. *Escheat (Procedure) Act 1940* amended

(1) The amendments in this section are to the *Escheat (Procedure) Act 1940**.

[* *Act No. 45 of 1940.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 118.]

(2) Section 4 is amended by deleting "Crown Solicitor" and inserting instead —

" State Solicitor ".

92. *Financial Administration and Audit Act 1985* amended

(1) The amendments in this section are to the *Financial Administration and Audit Act 1985**.

[* *Reprinted as at 24 November 2000.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 131 and Acts Nos. 5 and 20 of 2002 and Gazettes 22 March 2002 p. 1651 and 10 May 2002 p. 2445.]

(2) Section 88 is amended by deleting "Crown" in both places where it occurs and inserting instead —

Extract from www.slp.wa.gov.au, see that website for further information

" State ".

93. *The Grand Jury Abolition Act Amendment Act 1883* amended

(1) The amendments in this section are to *The Grand Jury Abolition Act Amendment Act 1883*.*

[* *Act No. 47 Vict., No. 6.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 156.]

(2) Section 10 is amended by deleting "Crown" and inserting instead —

" State ".

94. *Law Reform Commission Act 1972* amended

(1) The amendments in this section are to the *Law Reform Commission Act 1972*.*

[* *Reprinted as at 26 October 2001.*]

(2) Section 6(1)(c) is amended by deleting "Crown Solicitor's Office of the State" and inserting instead —

" State Solicitor's Office ".

95. *Public Trustee Act 1941* amended

(1) The amendments in this section are to the *Public Trustee Act 1941*.*

[* *Reprinted as at 4 May 2001.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 308 and Act No. 3 of 2002.]

(2) Section 17 is amended by deleting "Crown Solicitor" and inserting instead —

" State Solicitor ".

Extract from www.slp.wa.gov.au, see that website for further information

96. *Workers' Compensation and Rehabilitation Act 1981* amended

(1) The amendments in this section are to the *Workers' Compensation and Rehabilitation Act 1981*.*

[* *Reprinted as at 14 September 2001.*]

(2) Section 84I(5)(a) is amended by deleting "State Crown" and inserting instead —

" State ".

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.

Extract from www.slp.wa.gov.au, see that website for further information

Part 6 — Amendments to the *Judges' Salaries and Pensions Act 1950*

98. The Act amended

The amendments in this Part, other than section 106, are to the *Judges' Salaries and Pensions Act 1950**.

[* *Reprinted as at 3 March 1994.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 187.]

99. Section 2 amended

Section 2(1) is amended by deleting the definition of "Index" and inserting the following definitions in their appropriate alphabetical positions —

"

"actuary" means a Fellow or Accredited Member of The Institute of Actuaries of Australia;

"Index" means the Consumer Price Index number (All Groups Index) for Perth published by the Commonwealth Statistician under the *Census and Statistics Act 1905* of the Commonwealth;

".

100. Section 6 amended

After section 6(2b) the following subsection is inserted —

"

(2c) Unless the Governor decides otherwise no pension is payable under this section to a Judge who has been removed under section 55 of the *Constitution Act 1889*, or section 9 of the *Supreme Court Act 1935*.

".

Extract from www.slp.wa.gov.au, see that website for further information

101. Section 8B amended

(1) Section 8B(1) is amended by deleting "such percentage as is determined by the Treasurer to be".

(2) Section 8B(4) is amended by deleting "Where, for the purposes of determining the increase to be made in pensions for any year, the Treasurer determines that the Index for a" and inserting instead —

" If, in any year, the Index for the ".

102. Section 11 amended

Section 11(b) is amended by inserting after "monthly" —

" , or at such other frequency as is agreed between the Minister and the person entitled to the pension, ".

103. Section 14 repealed

Section 14 is repealed.

104. Sections 16 to 19 inserted

After section 15 the following sections are inserted —

"

16. Commutation of pension to meet surcharge debt

(1) A retired Judge who —

(a) is in receipt of a pension under this Act; and

(b) is liable to pay a surcharge as a result of becoming entitled to that pension,

may commute part of the pension for the purpose of paying all or part of the surcharge.

(2) If a surcharge becomes payable from the estate of a deceased Judge or retired Judge, a person who is in receipt of a pension under section 7 as a result of the

Extract from www.slp.wa.gov.au, see that website for further information

Judge's or retired Judge's death may commute part of the pension for the purpose of paying all or part of the surcharge on behalf of the executor or administrator of the estate.

(3) A person wanting to commute a pension under subsection (1) or (2) is to give to the Minister a notice to that effect, setting out the amount of the lump sum benefit that the person wants to be paid (the **"requested amount"**), which cannot be more than the surcharge.

(4) On receipt of a notice under subsection (3) the Minister is to give to the person a notice setting out the amount by which the person's pension would be reduced under subsection (6)(b) if the commutation was effected on the day on which the Minister gives the notice.

(5) If, after receiving the Minister's notice, the person wants to proceed with the commutation, the person is to give to the Minister a notice to that effect.

(6) On receipt by the Minister of a notice under subsection (5) —

(a) the person becomes entitled to a lump sum benefit of an amount equal to the requested amount; and

(b) the person's pension (as at the date of that receipt) is reduced to an amount determined by the Minister, on the advice of an actuary, to be actuarially equivalent to the value of the pension before the application of this section, reduced by the requested amount.

(7) A notice given to the Minister for the purposes of this section is to be —

(a) made in the form and manner, and given within the period, determined by the Minister; and

Extract from www.slp.wa.gov.au, see that website for further information

(b) accompanied by such information as is determined by the Minister.

(8) In this section —

"surcharge" means an amount payable to the Commissioner of Taxation under the *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Imposition Act 1997* of the Commonwealth or any other Act of the Commonwealth prescribed for the purposes of this definition.

17. Benefit if no pension payable

(1) If a Judge ceases to hold office as a Judge (other than as a result of the death of the Judge) but does not become entitled to a pension under this Act, the Judge is entitled to —

(a) if the Judge is under 55 years of age, a preserved benefit; or

(b) otherwise, payment of a lump sum benefit,

of an amount determined under subsection (3).

(2) If a Judge who does not have a spouse or de facto partner dies while still in office a lump sum benefit of an amount determined under subsection (3) is to be paid to the executor or administrator of the Judge's estate.

(3) The amount of the lump sum benefit is the amount determined by the Minister on the advice of an actuary to be —

(a) the minimum benefit required for the State not to incur an individual superannuation guarantee shortfall in respect of the Judge; less

(b) the employer sponsored component of any benefit —

(i) to which the Judge is entitled as a result of ceasing to hold office as a Judge; or

Extract from www.slp.wa.gov.au, see that website for further information

(ii) payable as a result of the death of the Judge,

(as the case requires) from any other superannuation scheme to which the State contributed in respect of the Judge while he or she was a Judge.

(4) A preserved benefit to which a Judge is entitled under subsection (1)(b) is to be dealt with in accordance with the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth as if —

(a) the benefit were a preserved benefit in a regulated superannuation fund (within the meaning of that Act); and

(b) the preservation age for the Judge was 55 years (or such greater age as is prescribed).

(5) If a Judge who is entitled to a benefit under subsection (1) dies before it is paid, the benefit is to be paid to the executor or administrator of the Judge's estate.

(6) Benefits payable under this section are to be charged to the Consolidated Fund which is, to the necessary extent, appropriated accordingly.

(7) The Governor may make regulations prescribing an age greater than 55 years for the purposes of subsection (4)(b).

(8) In subsection (3) —

"individual superannuation guarantee shortfall" has the meaning given by section 17 of the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth.

Extract from www.slp.wa.gov.au, see that website for further information

18. Conversion of lump sum to meet surcharge debt

(1) A Judge who becomes entitled to a lump sum benefit under section 17 and is liable to pay a surcharge as a result of becoming entitled to that benefit may —

(a) convert all or part of the benefit into a commutable pension; and

(b) fully commute that pension.

(2) A Judge wanting to convert a benefit under subsection (1) is to give to the Minister a notice to that effect, setting out the amount that the Judge wants to be paid in the form of the commuted pension (the **"requested amount"**), which cannot be more than the surcharge.

(3) On receipt by the Minister of a notice under subsection (2) —

(a) the benefit to which the Judge is entitled under section 17 is reduced by the amount of the requested amount;

(b) the Judge becomes entitled to a pension of an amount calculated to be actuarially equivalent to a lump sum benefit of the requested amount; and

(c) that pension is commuted into, and the Judge becomes entitled to, a lump sum of the amount of the requested amount.

(4) In this section —

"surcharge" has the same meaning as in section 16.

19. Administration costs

The costs of administering sections 6 to 17 are to be charged to the Consolidated Fund which is, to the necessary extent, appropriated accordingly.

Extract from www.slp.wa.gov.au, see that website for further information

".

105. Second Schedule amended

Second Schedule Part III item 2 is amended by deleting "Treasurer" and inserting instead —

" Minister ".

106. *State Superannuation (Transitional and Consequential Provisions) Act 2000* amended

(1) The amendments in this section are to the *State Superannuation (Transitional and Consequential Provisions) Act 2000**.

[* *Act No. 43 of 2000.*]

(2) Section 51(4) is repealed and the following subsection is inserted instead —

"

(4) Section 8A is repealed and the following section is inserted instead —

"

8A. Reduction of spouse or de facto partner's pension

If the spouse or de facto partner of a Judge —

(a) is entitled to, or in receipt of, a spouse or de facto partner's pension under this Act; and

(b) is in receipt of a spouse or de facto partner's pension under the *State Superannuation Act 2000*,

then the pension under this Act is to be reduced by an amount equal to the State share (as defined under the *State Superannuation Act 2000*) of the pension under that Act.

".

".

Extract from www.slp.wa.gov.au, see that website for further information

Part 7 — Amendments about qualifications for appointment

107. *Children's Court of Western Australia Act 1988* amended

(1) The amendments in this section are to the *Children's Court of Western Australia Act 1988**.

[* *Reprinted as at 25 August 2000.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 51 and Act No. 27 of 2002.]

(2) Section 3 is amended by inserting before "In this Act" the subsection designation (1).

(3) At the end of section 3 the following subsection is inserted —

"

(2) For the purposes of this Act, **"legal experience"** is —

(a) standing and practice in the State as a legal practitioner (as defined in the *Legal Practice Act 2003*);

(b) standing and practice in another State or a Territory as a barrister or solicitor of the Supreme Court of that State or Territory;

(c) judicial service (including service as a judge of a court, a magistrate or other judicial officer) in the State or elsewhere in a common law jurisdiction; or

(d) a combination of 2 or more kinds of legal experience defined in this subsection.

".

Extract from www.slp.wa.gov.au, see that website for further information

(4) Section 7(2) is repealed and the following subsection is inserted instead —

"

(2) A person is not eligible for appointment as a Judge unless that person —

(a) is or has been a legal practitioner and has had not less than 8 years' legal experience; or

(b) is a practising barrister of the High Court of Australia and has had not less than 8 years' legal experience.

".

108. *Commercial Tribunal Act 1984* amended

(1) The amendments in this section are to the *Commercial Tribunal Act 1984**.

[* *Reprinted as at 10 May 2002.*]

(2) Section 5(1) is amended by deleting "practitioner as defined by the *Legal Practitioners Act 1893*" and inserting instead —

"

legal practitioner (as defined in the *Legal Practice Act 2003*) or a barrister or solicitor of the Supreme Court of another State or a Territory

".

109. *Criminal Injuries Compensation Act 1985* amended

(1) The amendments in this section are to the *Criminal Injuries Compensation Act 1985**.

[* *Reprinted as at 12 February 1997.*]

(2) Section 3(1) is amended by deleting the definition of "qualified person" and inserting the following definition instead —

Extract from www.slp.wa.gov.au, see that website for further information

“

“qualified person” means a person who is a legal practitioner (as defined in the *Legal Practice Act 2003*) or a barrister or solicitor of the Supreme Court of another State or a Territory of not less than 8 years’ standing and practice.

”.

110. *Director of Public Prosecutions Act 1991* amended

(1) The amendments in this section are to the *Director of Public Prosecutions Act 1991**.

[* *Reprinted as at 1 June 2001.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 100 and Act No. 27 of 2002.]

(2) Section 5(2) is amended by inserting after “legal practitioner” —

“

or a barrister or solicitor of the Supreme Court of another State or a Territory

”.

111. *District Court of Western Australia Act 1969* amended

(1) The amendments in this section are to the *District Court of Western Australia Act 1969**.

[* *Reprinted as at 19 January 2001.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 103 and Act No. 23 of 2002.]

(2) Section 6 is amended by inserting before “In this Act” the subsection designation (1).

(3) At the end of section 6 the following subsection is inserted —

“

(2) For the purposes of this Act, **“legal experience”** is —

Extract from www.slp.wa.gov.au, see that website for further information

(a) standing and practice in the State as a legal practitioner;

(b) standing and practice in another State or a Territory as a barrister or solicitor of the Supreme Court of that State or Territory;

(c) judicial service (including service as a judge of a court, a magistrate or other judicial officer) in the State or elsewhere in a common law jurisdiction; or

(d) a combination of 2 or more kinds of legal experience defined in this subsection.

".

(4) Section 10(2) is repealed and the following subsection is inserted instead —

"

(2) A person is eligible for appointment as a District Court Judge if that person —

(a) is or has been a legal practitioner and has had not less than 8 years' legal experience; or

(b) is a practising barrister of the High Court of Australia and has had not less than 8 years' legal experience.

".

112. *Equal Opportunity Act 1984* amended

(1) The amendments in this section are to the *Equal Opportunity Act 1984**.

[* *Reprinted as at 21 July 2000.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 118 and Acts Nos. 3 and 20 of 2002.]

(2) Section 96(2)(a) is amended by inserting after "legal practitioner" —

Extract from www.slp.wa.gov.au, see that website for further information

“

or a barrister or solicitor of the Supreme Court of another State or a Territory

”.

113. *Fisheries Adjustment Schemes Act 1987* amended

(1) The amendments in this section are to the *Fisheries Adjustment Schemes Act 1987**.

[* *Reprinted as at 3 May 2002.*]

(2) Section 14O(2)(a) is amended by deleting “practitioner as defined in the *Legal Practitioners Act 1893*” and inserting instead —

“

legal practitioner (as defined in the *Legal Practice Act 2003*) or a barrister or solicitor of the Supreme Court of another State or a Territory

”.

114. *Land Valuation Tribunals Act 1978* amended

(1) The amendments in this section are to the *Land Valuation Tribunals Act 1978**.

[* *Act No. 75 of 1978.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 201.]

(2) Section 6(1)(a) is amended by deleting “practitioner as defined by the *Legal Practitioners Act, 1893*” and inserting instead —

“

legal practitioner (as defined in the *Legal Practice Act 2003*) or a barrister or solicitor of the Supreme Court of another State or a Territory

”.

Extract from www.slp.wa.gov.au, see that website for further information

115. *Land Valuers Licensing Act 1978* amended

(1) The amendments in this section are to the *Land Valuers Licensing Act 1978**.

[* *Reprinted as at 3 May 2002*.]

(2) Section 6(1)(a) is amended by inserting after "legal practitioner" —

"

or a barrister or solicitor of the Supreme Court of another State or a Territory

".

(3) Section 6(4)(a) is amended by inserting after "legal practitioner" —

"

or barrister or solicitor of the Supreme Court of another State or a Territory

".

116. *Racing Penalties (Appeals) Act 1990* amended

(1) The amendments in this section are to the *Racing Penalties (Appeals) Act 1990**.

[* *Reprinted as at 19 October 2001*.]

(2) Section 5(1) is amended by deleting "practitioner, as defined by the *Legal Practitioners Act 1893*" and inserting instead —

"

legal practitioner (as defined in the *Legal Practice Act 2003*) or a barrister or solicitor of the Supreme Court of another State or a Territory

".

Extract from www.slp.wa.gov.au, see that website for further information

117. *Small Claims Tribunals Act 1974* amended

(1) The amendments in this section are to the *Small Claims Tribunals Act 1974**.

[* *Reprinted as approved 2 July 1999.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 344.]

(2) Section 7 is repealed and the following section is inserted instead —

"

7. Eligibility to hold office as a referee

Any person who is a legal practitioner (as defined in the *Legal Practice Act 2003*) or a barrister or solicitor of the Supreme Court of another State or a Territory may be appointed and hold office as a referee.

".

118. *Solicitor-General Act 1969* amended

(1) The amendments in this section are to the *Solicitor-General Act 1969**.

[* *Act No. 38 of 1969.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 346.]

(2) Section 3(2) is repealed and the following subsection is inserted instead —

"

(2) A person is not eligible for appointment as Solicitor-General unless he or she is a legal practitioner (as defined in the *Legal Practice Act 2003*) or a barrister or solicitor of the Supreme Court of another State or a Territory of not less than eight years' standing and practice.

".

Extract from www.slp.wa.gov.au, see that website for further information

119. *Supreme Court Act 1935* amended

(1) The amendments in this section are to the *Supreme Court Act 1935**.

[* *Reprinted as at 9 February 2001.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 370 and Act No. 23 of 2002.]

(2) Section 4 is amended by inserting before "In this Act" the subsection designation (1).

(3) At the end of section 4 the following subsection is inserted —

"

(2) For the purposes of this Act, **"legal experience"** is —

(a) standing and practice in the State as a legal practitioner;

(b) standing and practice in another State or a Territory as a barrister or solicitor of the Supreme Court of that State or Territory;

(c) judicial service (including service as a judge of a court, a magistrate or other judicial officer) in the State or elsewhere in a common law jurisdiction; or

(d) a combination of 2 or more kinds of legal experience defined in this subsection.

".

(4) Section 8(1) is repealed and the following subsection is inserted instead —

"

(1) A person is eligible for appointment as a Judge of the Court if that person —

(a) is or has been a legal practitioner and has had not less than 8 years' legal experience; or

Extract from www.slp.wa.gov.au, see that website for further information

(b) is a practising barrister of the High Court of Australia and has had not less than 8 years' legal experience.

".

120. *Transfer of Land Act 1893* amended

(1) The amendments in this section are to the *Transfer of Land Act 1893**.

[* *Reprinted as at 9 February 2001.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 385.]

(2) Section 5 is amended by deleting "barrister or solicitor of the English Irish or Colonial Courts" and inserting instead —

"

legal practitioner (as defined in the *Legal Practice Act 2003*) or a barrister or solicitor of the Supreme Court of another State or a Territory

".

(3) Section 6(2) is amended by deleting "he is a practitioner, as defined by the *Legal Practitioners Act 1893*" and inserting instead —

"

he or she is a legal practitioner (as defined in the *Legal Practice Act 2003*) or a barrister or solicitor of the Supreme Court of another State or a Territory

".

Extract from www.slp.wa.gov.au, see that website for further information

Part 8 — Amendments about the Crown

121. *Bail Act 1982* amended

(1) The amendments in this section are to the *Bail Act 1982**.

[* *Reprinted as at 27 August 1999.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 27 and Acts Nos. 6 and 27 of 2002.]

(2) Section 3(1) is amended by deleting the definition of "prosecutor" and inserting instead —

"

"prosecutor" includes —

(a) in the case of an offence charged in a complaint, the complainant;

(b) in the case of an offence charged in an indictment, the State or the Commonwealth, as the case may be;

".

(3) Each of the provisions in the Table to this subsection is amended by deleting "Crown" in each place where it occurs and in each case inserting instead —

" State ".

Table

s. 19(2)(b)	s. 58(1)
s. 49(1)	s. 58(2)
s. 49(3)	s. 59 (2 places)
s. 57(1)	Schedule 1 Part D cl. 1(2)(e)
s. 57(3)	

(4) Section 63 is amended by deleting "Crown" and inserting instead —

Extract from www.slp.wa.gov.au, see that website for further information

" State or the Commonwealth ".

122. *Children's Court of Western Australia Act 1988* amended

(1) The amendments in this section are to the *Children's Court of Western Australia Act 1988**.

[* *Reprinted as at 25 August 2000.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 51 and Act No. 27 of 2002.]

(2) Section 19B(4)(b) is amended by deleting "Crown" and inserting instead —

" State ".

(3) Section 19E is amended by deleting "the Crown in the right of ".

(4) Section 32(2)(a)(i) is amended by deleting "Crown" and inserting instead —

" State ".

(5) Section 32(4) is amended in the definition of "public authority" by deleting "the Crown in right of ".

(6) Schedule 1 is amended by deleting "our Sovereign Lady Queen Elizabeth the Second, Her Heirs and Successors" in the 2 places where it occurs and in each place inserting instead —

" the State of Western Australia ".

123. *The Criminal Code* amended

(1) The amendments in this section are to *The Criminal Code**.

[* *Reprinted as at 9 February 2001 as the Schedule to the Criminal Code appearing as Appendix B to the Criminal Code Compilation Act 1913.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 89 and Acts Nos. 3, 6, 8 and 27 of 2002.]

Extract from www.slp.wa.gov.au, see that website for further information

(2) Each of the provisions in the Table to this subsection is amended by deleting "Crown" in each place where it occurs and in each case inserting instead —

" prosecutor ".

Table

s. 577 (2 places)	s. 632A
s. 616(1)	s. 646
s. 617A	s. 651A(5)
s. 618(3)	

(3) Section 581 is amended by deleting "Crown" in the 2 places where it occurs and in each place inserting instead —

" State ".

(4) Section 584(14) is amended by deleting "Her Majesty" and inserting instead —

" the State ".

(5) Section 609 is amended by deleting "Crown" and inserting instead —

" State or the Commonwealth ".

(6) Section 628 is amended as follows:

(a) by deleting "Crown" in the first and third places where it occurs and in each place inserting instead —

" prosecutor ";

(b) in paragraph (2) by deleting "Crown" and inserting instead —

" State or the Commonwealth, as the case may be, ".

(7) Section 633 is amended by deleting "Crown" and inserting instead —

" State or the Commonwealth, as the case may be, ".

Extract from www.slp.wa.gov.au, see that website for further information

(8) Section 637 is amended by deleting "counsel for the Crown" in the 4 places where it occurs and in each place inserting instead —

" prosecutor ".

(9) Section 693A(4) is amended by deleting "Crown" and inserting instead —

" State ".

(10) Section 701(2) is amended by deleting "for the Crown thereon".

(11) Section 720 is amended by deleting "Queen" and inserting instead —

" State ".

(12) Section 729(3) is amended by deleting "Crown" in the 3 places where it occurs and in each place inserting instead —

" prosecution ".

(13) Section 746A(1) is amended as follows:

(a) by deleting "prosecution" and inserting instead —

" State ";

(b) by deleting "Crown" and inserting instead —

" State ".

(14) Section 746A(4) is amended by deleting "Crown" and inserting instead —

" State ".

124. *Director of Public Prosecutions Act 1991* amended

(1) The amendments in this section are to the *Director of Public Prosecutions Act 1991**.

[* *Reprinted as at 1 June 2001.*

Extract from www.slp.wa.gov.au, see that website for further information

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 100 and Act No. 27 of 2002.]

(2) Section 10(1)(a) is amended by deleting "Crown" and inserting instead —

" State ".

125. *District Court of Western Australia Act 1969* amended

(1) The amendments in this section are to the *District Court of Western Australia Act 1969**.

[* *Reprinted as at 19 January 2001.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 103 and Act No. 23 of 2002.]

(2) Section 6 is amended as follows:

(a) in the definition of "action" by deleting "by the Crown";

(b) in the definition of "cause" by deleting "by the Crown".

(3) Section 10(1) is amended by deleting "in Her Majesty's name" and inserting instead —

" under the Public Seal of the State ".

(4) Section 11(1) is amended by deleting "Her Majesty" and inserting instead —

" the Governor ".

(5) Section 18A(1) is amended by deleting "in Her Majesty's name" and inserting instead —

" under the Public Seal of the State ".

(6) Section 18A(3) is amended by deleting "in Her Majesty's name" and inserting instead —

" under the Public Seal of the State ".

Extract from www.slp.wa.gov.au, see that website for further information

(7) Section 24(1) is amended by deleting "in Her Majesty's name" and inserting instead —

" under the Public Seal of the State ".

(8) The Schedule is amended by deleting "our Sovereign Lady Queen Elizabeth the Second Her Heirs and Successors" in the 2 places where it occurs and in each place inserting instead —

" the State of Western Australia ".

126. *Family Court Act 1997* amended

(1) The amendments in this section are to the *Family Court Act 1997**.

[* *Act 40 of 1997.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 124 and Acts Nos. 3 and 25 of 2002.]

(2) Schedule 1 item 1 is amended by deleting "Her Majesty Queen Elizabeth the Second, Her heirs and successors" in each place where it occurs and in each place inserting instead —

" the State of Western Australia ".

127. *Juries Act 1957* amended

(1) The amendments in this section are to the *Juries Act 1957**.

[* *Reprinted as at 3 July 2000.*]

(2) Section 38(1) is amended by deleting "those prosecuting for the Crown" and inserting instead —

" the prosecution ".

(3) Section 52(1) is amended by deleting "Crown" and inserting instead —

" prosecution ".

Extract from www.slp.wa.gov.au, see that website for further information

128. *Justices Act 1902* amended

(1) The amendments in this section are to the *Justices Act 1902**.

[* *Reprinted as at 8 October 2001.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 193 and Act No. 27 of 2002.]

(2) Section 154A(1) is amended by deleting "Crown" in the 2 places where it occurs and in each place inserting instead —

" State ".

(3) Section 154A(3) is amended by deleting "Crown" and inserting instead —

" State ".

(4) Section 206D is amended by deleting "Crown" and inserting instead —

" State ".

129. *Local Courts Act 1904* amended

(1) The amendments in this section are to the *Local Courts Act 1904**.

[* *Reprinted as at 12 January 2001.*]

(2) Section 3 is amended in the definition of "Minister" by deleting "Crown" and inserting instead —

" State ".

130. *Supreme Court Act 1935* amended

(1) The amendments in this section are to the *Supreme Court Act 1935**.

[* *Reprinted as at 9 February 2001.*
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 370 and Act No. 23 of 2002.]

(2) Section 4 is amended as follows:

Extract from www.slp.wa.gov.au, see that website for further information

(a) in the definition of "Action" by deleting "by the Crown";

(b) in the definition of "Cause" by deleting "by the Crown".

(3) Section 9(1) is amended by deleting "Her Majesty" and inserting instead —

" the Governor ".

(4) Section 15(1) is amended by deleting "Royal Arms" and inserting instead —

" armorial bearings of the State ".

(5) Section 37(2) is repealed and the following subsection is inserted instead —

"

(2) Nothing in this section shall alter the practice in proceedings in relation to the prerogative and criminal jurisdiction of the Court.

".

(6) Section 50(1) is amended by deleting "by the Crown".

(7) Section 51(1) is amended by deleting "by the Crown".

(8) Section 56(1) is amended by deleting "by the Crown".

(9) Section 119 is amended by deleting "to Her Majesty or any of her subjects, or other persons entitled in like manner as subjects".

(10) Section 154(1) is amended by deleting "Her Majesty's" and inserting instead —

" The ".

(11) Section 154(3), (4), (5) and (6) are each amended by deleting "Crown" in each place where it occurs and in each place inserting instead —

Extract from www.slp.wa.gov.au, see that website for further information

" State ".

(12) The Second Schedule is amended by deleting "our Sovereign Lady Queen Elizabeth the Second, Her Heirs and successors" and inserting instead —

" the State of Western Australia ".

Extract from www.slp.wa.gov.au, see that website for further information