



Western Australia

# **Police Legislation Amendment Act 2024**



# Police Legislation Amendment Act 2024

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Western Australia

## Police Legislation Amendment Act 2024

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No. 33 of 2024

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**An Act to —**

- amend the *Criminal Investigation Act 2006*; and
- amend the *Weapons Act 1999*; and
- amend the *Young Offenders Act 1994*; and
- make related and consequential amendments to other Acts.

[Assented to 26 September 2024]

The Parliament of Western Australia enacts as follows:

## **Part 1 — Preliminary**

### **1. Short title**

This is the *Police Legislation Amendment Act 2024*.

### **2. Commencement**

(1) This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

(2) Despite subsection (1), if the *Firearms Act 2024* section 440 comes into operation on or before the day on which Part 5 Division 2 of this Act comes into operation, Part 5 Division 2 of this Act —

- (a) does not come into operation; and
- (b) is deleted.



**Part 2 — *Criminal Investigation Act 2006* amended**

**3. Act amended**

This Part amends the *Criminal Investigation Act 2006*.

**4. Part 4 Division 1 heading inserted**

At the beginning of Part 4 insert:

**Division 1 — Move on orders**

**5. Section 26A inserted**

Before section 27 insert:

**26A. Terms used**

In this Division —

***approved form*** means a form approved by the Commissioner of Police;

***move on order*** means an order referred to in section 27(2);

***relevant place or vehicle*** has the meaning given in section 27(1);

***specified*** means specified by a police officer.

**6. Section 27 amended**

- (1) In section 27(1) delete “order a person who is in a public place, or in a vehicle used for public transport, to leave it, or a part of it specified by the officer, if the officer reasonably suspects that the person — ” and insert:

give a move on order to a person if the officer reasonably suspects that the person, while in a public place or in a vehicle used for public transport (the *relevant place or vehicle*) —

- (2) Delete section 27(2) and (3) and insert:

- (2) A move on order may require the person to do 1 or more of the following —
- (a) to leave the relevant place or vehicle, or a specified part of the relevant place or vehicle;
  - (b) to go beyond a specified reasonable distance from the public place, or a specified part of the place;
  - (c) to stay away from the relevant place or vehicle, or a specified part of the relevant place or vehicle, for a specified reasonable period of not more than 24 hours;
  - (d) to stay a specified reasonable distance from the public place, or a specified part of the place, for a specified reasonable period of not more than 24 hours.

- (2A) The move on order must be given to the person as soon as reasonably practicable after the police officer forms the reasonable suspicion referred to in subsection (1).
- (3) When giving the move on order to the person, the police officer must take into account the likely effect of the order on the person, including, but not limited to, the following —
- (a) the effect on the person’s access to the places where the person ordinarily resides, shops and works;
  - (b) the effect on the person’s access to transport, health, education or other essential services;
  - (c) the effect on the person’s safety and wellbeing.
- (3) In section 27(4) delete “an order under this section” and insert:
- a move on order
- (4) Delete section 27(6) and insert:
- (6) A move on order must be given to a person in an approved form.
- (5) In section 27(7) delete “order and move out of the area.” and insert:
- order.

**7. Sections 27A and 27B inserted**

After section 27 insert:

**27A. Directions for purposes of giving move on orders**

- (1) For the purpose of giving a move on order to a person, a police officer may direct the person —
  - (a) to stay in the relevant place or vehicle for as long as is reasonably necessary for the police officer to give the order to the person; or
  - (b) to accompany the police officer to a suitable location, including a police station, and to stay there for as long as is reasonably necessary for the police officer to give the order to the person.
- (2) For the purpose of determining a suitable location under subsection (1)(b), the police officer must take into account the likely effect that the direction will have on the person's safety and wellbeing.
- (3) A person must not, without reasonable excuse, refuse or fail to comply with a direction given to the person under subsection (1).

Penalty for this subsection: a fine of \$6 000.
- (4) A person who is given a direction under subsection (1) is taken to be in lawful custody for as long as is reasonably necessary for the police officer to give the move on order to the person.

**27B. Method of giving move on orders**

- (1) A police officer may give a move on order to a person —
  - (a) by handing it to the person; or
  - (b) if the person refuses to accept it — by leaving it near the person and orally drawing the person’s attention to it; or
  - (c) with the person’s consent, by electronic means.
- (2) Subsection (1)(c) does not apply to a move on order given to a person who is under 18 years of age.
- (3) The regulations may make provision for or in relation to the following —
  - (a) the way in which a person’s consent may or must be given;
  - (b) the circumstances in which a person’s consent is taken not to be given;
  - (c) the time at which a move on order is taken to be given;
  - (d) the circumstances in which a move on order is taken not to be given.

**8. Part 4 Division 2 heading inserted**

Before section 28 insert:

**Division 2 — Miscellaneous**

**9. Part 7A inserted**

After section 61 insert:

**Part 7A — Use of metal detectors without  
warrant in designated areas**

**Division 1 — Preliminary**

**61A. Terms used**

In this Part —

***arch scanner*** means an electronic device —

- (a) designed for a person to walk through; and
- (b) capable of detecting the presence of metal;

***designated area*** means —

- (a) a protected entertainment precinct; and
- (b) an area or place declared under section 61B to be a designated area;

***hand-held scanner*** means a hand-held electronic device capable of detecting the presence of metal;

***metal detector*** means the following —

- (a) an arch scanner;
- (b) a hand-held scanner;

***protected entertainment precinct*** has the meaning given in the *Liquor Control Act 1988* section 3(1);

***use***, of a metal detector, means a scan of a person or of things in the person's possession or control that involves —

- (a) requiring the person, or a thing in the person's possession or control, to pass through an arch scanner; or

- (b) passing a hand-held scanner over or in close proximity to the person's outer clothing or a thing in the person's possession or control.

## **Division 2 — Declaration of designated areas**

### **61B. Declaration of designated areas**

- (1) A senior police officer may declare an area or place to be a designated area if the senior police officer —
  - (a) is of the opinion that the declaration is necessary to safeguard the area or place or people who are in or may enter the area or place; and
  - (b) considers the use of metal detectors is likely to be effective in detecting or deterring the commission of an offence involving a knife or other weapon in the area or place.
- (2) A declaration may be made in relation to an area or place —
  - (a) not exceeding 3 km<sup>2</sup>; and
  - (b) for a period of up to 12 hours.
- (3) The senior police officer who makes the declaration must make a written record of all of the following —
  - (a) the date and time from which the declaration is in force;
  - (b) a description of the area or place to which the declaration applies;
  - (c) the period during which the declaration will remain in force;
  - (d) the reasons for making the declaration;
  - (e) whether the declaration has been ratified under subsection (4).

- (4) If the declaration is made by a police officer of the rank of inspector, the declaration must be ratified by a police officer of at least the rank of superintendent.
- (5) A declaration referred to in subsection (4) ceases to have effect 3 hours after it is made if —
  - (a) it is not ratified under that subsection; and
  - (b) it has not expired or otherwise ceased to have effect.
- (6) A failure to ratify a declaration referred to in subsection (4) does not invalidate the declaration.
- (7) Declarations for 2 or more consecutive periods may be made under this section in relation to the same area or place.

### **Division 3 — Powers in public places within designated areas**

#### **61C. Use of metal detectors**

- (1) A police officer may, without a warrant, require a person in a public place within a designated area to stop and submit to the use of a metal detector.
- (2) A person must not, without reasonable excuse, fail or refuse to comply with a requirement made of the person under subsection (1).

Penalty for this subsection: imprisonment for 12 months and a fine of \$12 000.

#### **61D. Requirements if metal detector indicates metal**

- (1) This section applies if a metal detector indicates the presence or likely presence of metal on a person or a thing in the person's possession or control.



- (2) A police officer may require the person —
  - (a) to produce any thing that may be causing the metal detector to indicate the presence or likely presence of metal; and
  - (b) to resubmit to the use of a metal detector.
- (3) A person must not, without reasonable excuse, fail or refuse to comply with a requirement made of the person under subsection (2).

Penalty for this subsection: imprisonment for 12 months and a fine of \$12 000.

**61E. Requirements for use of metal detectors**

- (1) A police officer must inform a person that —
  - (a) the person is required to submit or resubmit to the use of a metal detector; and
  - (b) failure to submit or resubmit to the use of a metal detector may constitute an offence.
- (2) Subsection (1)(b) does not apply if the person has already submitted or resubmitted to, or is in the process of submitting or resubmitting to, the use of the metal detector.
- (3) A police officer must use a metal detector in the least invasive way practicable in the circumstances.
- (4) A police officer may detain a person for as long as is reasonably necessary for the person to submit or resubmit to the use of a metal detector under this Division.

**Division 4 — Miscellaneous**

**61F. Annual report to Minister on this Part**

- (1) The Commissioner of Police must give an annual report to the Minister that provides the following information for each financial year in relation to each designated area —
  - (a) the number of people required to submit to the use of a metal detector under this Part;
  - (b) the number of charges laid under the *Weapons Act 1999* section 6A(1) and (2) as a result of the use of metal detectors under this Part;
  - (c) the number of charges laid under this Part;
  - (d) any other information requested by the Minister.
- (2) The report may form part of the annual report submitted by WA Police under the *Financial Management Act 2006* Part 5 Division 2.

**61G. Review of Part**

- (1) The Minister must review the operation and effectiveness of this Part, and prepare a report based on the review, as soon as practicable after the 3<sup>rd</sup> anniversary of the day on which the *Police Legislation Amendment Act 2024* section 9 comes into operation.
- (2) The Minister must cause the report to be laid before each House of Parliament as soon as practicable after it is prepared, but not later than 12 months after the 3<sup>rd</sup> anniversary.

### **Part 3 — *Weapons Act 1999* amended**

**10. Act amended**

This Part amends the *Weapons Act 1999*.

**11. Section 3 amended**

- (1) In section 3 insert in alphabetical order:

*child* means a person who is under 18 years of age;  
*edged weapon* has the meaning given in section 3A;

- (2) In section 3 in the definition of *controlled weapon* paragraph (b) delete “firearm or a prohibited weapon,” and insert:

firearm, a prohibited weapon or an edged weapon,

- (3) In section 3 in the definition of *weapon* after “prohibited weapon,” insert:

an edged weapon,

Note: The heading to amended section 3 is to read:

**Terms used**

**12. Section 3A inserted**

After section 3 insert:

**3A. Meaning of edged weapon**

- (1) An *edged weapon* means the following —
- (a) a knife, a machete, a sickle or a scythe;
  - (b) a blade of an article referred to in paragraph (a);
  - (c) an axe or an axe head;
  - (d) an article with a sharpened edge, that is reasonably capable of being held in 1 or both hands, and that is made or modified to be used —
    - (i) to injure or disable a person; or
    - (ii) to cause a person to fear that someone will be injured or disabled by that use; or
    - (iii) for attack or defence in the practice of a martial sport, art or similar discipline;
  - (e) an article prescribed by the regulations to be an edged weapon.
- (2) Despite subsection (1), an *edged weapon* does not include the following —
- (a) a firearm, an article prescribed by the regulations to be a controlled weapon or a prohibited weapon;
  - (b) a plastic or wooden knife designed to be used for eating;
  - (c) a knife with a rounded tip and dull edge;

- (d) an article prescribed by the regulations not to be an edged weapon.

**13. Section 5A inserted**

At the beginning of Part 2 insert:

**5A. Lawful excuse**

- (1) In this Part —  
*lawful excuse*, in relation to carrying or possessing a weapon —
  - (a) includes carrying or possessing the weapon for the purposes of any of the following —
    - (i) a lawful employment, duty or activity;
    - (ii) a lawful sport, recreation or entertainment;
    - (iii) a lawful collection, display or exhibition of weapons;
  - but
  - (b) does not include carrying or possessing the weapon for defence unless subsection (2) applies.
- (2) A controlled weapon of a kind prescribed by the regulations may be carried or possessed for defence if it is carried or possessed in the circumstances, if any, prescribed by the regulations.
- (3) Regulations under subsection (2) may apply generally or to a particular person or class of persons.

**s. 14**

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**14. Section 6 amended**

(1) Delete section 6(1) and insert:

- (1) Except as provided in subsections (2) and (3) and section 10, a person who does or attempts to do any of the following commits a crime —
- (a) brings or sends a prohibited weapon into the State;
  - (b) carries or possesses a prohibited weapon;
  - (c) purchases, sells or supplies a prohibited weapon;
  - (d) manufactures a prohibited weapon.

Penalty for this subsection: imprisonment for 5 years and a fine of \$60 000.

Summary conviction penalty for this subsection: imprisonment for 3 years and a fine of \$36 000.

(2) In section 6(2) and (3) delete “an offence” and insert:

a crime

(3) At the end of section 6 insert:

Note for this section:

The *Young Offenders Act 1994* section 22(1) does not allow a member of the Police Force to caution a young person (as defined in section 3(1) of that Act) instead of laying a charge in relation to a crime under this section.

**15. Sections 6A and 6B inserted**

After section 6 insert:

**6A. Edged weapons**

- (1) Except as provided in section 10, a person who, without a lawful excuse, carries or possesses an edged weapon commits an offence.

Penalty for this subsection: imprisonment for 3 years and a fine of \$36 000.

- (2) Except as provided in section 10, a person who has a lawful excuse to carry or possess an edged weapon commits an offence if the person carries or possesses it in a manner that could reasonably be expected to cause someone —

- (a) to be injured or disabled; or  
(b) to fear that someone will be injured or disabled.

Penalty for this subsection: imprisonment for 3 years and a fine of \$36 000.

Note for this section:

The *Young Offenders Act 1994* section 22(1) does not allow a member of the Police Force to caution a young person (as defined in section 3(1) of that Act) instead of laying a charge in relation to an offence under this section.

**6B. Selling or supplying edged weapons to children**

- (1) A person who sells an edged weapon to a child commits an offence.

Penalty for this subsection: imprisonment for 3 years and a fine of \$36 000.

**s. 16**

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- (2) A person who supplies an edged weapon to a child commits an offence.

Penalty for this subsection: imprisonment for 3 years and a fine of \$36 000.

- (3) It is a defence to a charge of an offence under subsection (2) to prove the accused believed on reasonable grounds that, at the time the edged weapon was supplied, the child had a lawful excuse to carry or possess the weapon.

Note for this section:

The *Young Offenders Act 1994* section 22(1) does not allow a member of the Police Force to caution a young person (as defined in section 3(1) of that Act) instead of laying a charge in relation to an offence under this section.

**16. Section 7 amended**

- (1) In section 7(1) and (2) in the Penalty delete “Penalty:” and insert:

Penalty for this subsection:

- (2) Delete section 7(3) to (5).

**17. Section 8A amended**

- (1) Delete section 8A(1).
- (2) In section 8A(2) and (3) in the Penalty delete “Penalty:” and insert:

Penalty for this subsection:



(3) Delete section 8A(4) and insert:

- (4) It is a defence to a charge of an offence under subsection (3) to prove the accused believed on reasonable grounds that, at the time the controlled weapon was supplied, the child had a lawful excuse to carry or possess the weapon.

Note: The heading to amended section 8A is to read:

**Selling or supplying controlled weapons to children**

**18. Section 8 amended**

Delete section 8(1) and insert:

- (1) Except as provided in subsections (3) and (5) and section 10, a person commits an offence if the person carries or possesses an article, not being a firearm, a prohibited weapon, an edged weapon or a controlled weapon, with the intention of using it, whether or not for defence —
- (a) to injure or disable any person; or
  - (b) to cause any person to fear that someone will be injured or disabled by that use.

Penalty for this subsection: imprisonment for 2 years and a fine of \$24 000.

**s. 19**

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**19. Section 9 replaced**

Delete section 9 and insert:

**9. *The Criminal Code* s. 25 and 31 not affected**

The following provisions of this Act do not affect the operation of *The Criminal Code* sections 25 and 31 —

- (a) paragraph (b) of the definition of *lawful excuse* in section 5A(1);
- (b) section 8(1).

**20. Section 10 amended**

- (1) In section 10(1) after “section 6,” insert:

6A,

- (2) In section 10(2) delete “section 6” and insert:

section 6, 6A(1)

- (3) In section 10(3) after “section 6,” insert:

6A, 6B,

**21. Section 11 amended**

In section 11 after “section 6,” insert:

6A, 6B,

**22. Section 12 amended**

In section 12(1) in the definition of *offence* after “section 6,”  
insert:

6A, 6B,

**Part 4 — *Young Offenders Act 1994* amended**

**23. Act amended**

This Part amends the *Young Offenders Act 1994*.

**24. Section 22 amended**

Delete section 22(3) and insert:

- (3) Subsection (1) does not allow a member of the Police Force to caution a young person instead of laying a charge if the offence is —
- (a) a Schedule 1 offence or a Schedule 2 offence;  
or
  - (b) an offence under the *Weapons Act 1999* section 6(1), 6A(1) or (2) or 6B(1) or (2).

Note: The heading to amended section 22 is to read:

**Cautions may be given except for certain offences**

## **Part 5 — Other Acts amended**

### **Division 1 — *Children and Community Services Act 2004* amended**

**25. Act amended**

This Division amends the *Children and Community Services Act 2004*.

**26. Section 112 amended**

In section 112 in the definition of *weapon* delete “controlled weapon” and insert:

controlled weapon, an edged weapon

### **Division 2 — *Firearms Act 1973* amended**

**27. Act amended**

This Division amends the *Firearms Act 1973*.

**28. Section 4 amended**

In section 4 in the definition of *firearm* paragraph (b)(i) delete “prohibited weapon” and insert:

prohibited weapon, an edged weapon

### **Division 3 — *Firearms Act 2024* amended**

**29. Act amended**

This Division amends the *Firearms Act 2024*.

**30. Section 6 amended**

In section 6(3)(b) delete “prohibited weapon” and insert:

prohibited weapon, an edged weapon

**Division 4 — Major Events Act 2023 amended**

**31. Act amended**

This Division amends the *Major Events Act 2023*.

**32. Section 4 amended**

In section 4 insert in alphabetical order:

*edged weapon* has the meaning given in the *Weapons Act 1999* section 3A;

**33. Section 96 amended**

In section 96(5) after “prohibited weapon,” insert:

an edged weapon,

**34. Section 97 amended**

In section 97(1) after “prohibited weapon,” insert:

an edged weapon,

Note: The heading to amended section 97 is to read:

**Firearms, explosives and other weapons**

**Division 5 — Sentencing Act 1995 amended**

**35. Act amended**

This Division amends the *Sentencing Act 1995*.

**36. Schedule 1A amended**

(1) After Schedule 1A Part 1 item 7 insert:

**7A. Weapons Act 1999**

s. 6(1)	Offences relating to prohibited weapons
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(2) In Schedule 1A Part 2 item 9 delete the row relating to s. 6(1) and insert:

s. 6A(1) and (2)	Offences relating to edged weapons
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s. 6B(1) and (2)	Selling or supplying edged weapons to children
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