



Western Australia

# **Weapons Act 1999**



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Western Australia

## **Weapons Act 1999**

**An Act to prohibit the bringing or sending into the State, carriage, possession, purchase, sale, supply and manufacture of certain weapons, to control the carriage and possession of other weapons, to amend —**

- **the *Firearms Act 1973*<sup>1</sup>; and**
  - **the *Police Act 1892*<sup>1</sup>,**
- and for related purposes.**

## **Part 1 — Preliminary**

### **1. Short title**

This Act may be cited as the *Weapons Act 1999*.

### **2. Commencement**

- (1) Subject to subsection (2), this Act comes into operation on such day as is fixed by proclamation.
- (2) Sections 6, 7 and 8 and item 2 of Schedule 1 come into operation on the day 6 months after the day fixed under subsection (1).

### **3. Terms used**

In this Act, unless the contrary intention appears —

**article** includes a liquid or gas;

**carry** includes to have on or about one's person;

**child** means a person who is under 18 years of age;

**controlled weapon** means —

- (a) an article prescribed by regulations to be a controlled weapon; or
- (b) any other article, not being a firearm, a prohibited weapon or an edged weapon, made or modified to be used —
  - (i) to injure or disable a person;
  - (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;

**conveyance** means anything used or capable of being used to transport people or goods by air, land or water and it does not matter how it is propelled or that it may ordinarily be stationary;

**defence** means self-defence, defence of another or defence of property;

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

**firearm** has the same meaning as in section 4 of the *Firearms Act 1973*;

**possess** includes to have control or dominion over and to have the order or disposition of;

**prohibited weapon** means an article prescribed by regulations to be a prohibited weapon;

**weapon** means a prohibited weapon, an edged weapon, a controlled weapon or an article to which section 8 applies.

*[Section 3 amended: No. 33 of 2024 s. 11.]*

### **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.

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- (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.

*[Section 3A inserted: No. 33 of 2024 s. 12.]*

**4. Relationship to other laws**

This Act is in addition to and not instead of any other written law relating to weapons.

**5. Crown bound**

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



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## Part 2 — Offences

### 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.

*[Section 5A inserted: No. 33 of 2024 s. 13.]*

### 6. Prohibited weapons

- (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;

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(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) A person does not commit a crime under subsection (1)(b) if the person carries or possesses the prohibited weapon only so as to deliver it into the custody of —
- (a) a member of the Police Force; or
  - (b) an employee in the Police Service.
- (3) A person does not, by doing or attempting to do something referred to in subsection (1), commit a crime against that subsection if it is for the purpose of fulfilling a contract for the provision of a prohibited weapon to a person who may lawfully possess it.

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.

*[Section 6 amended: No. 34 of 2009 s. 6; No. 33 of 2024 s. 14.]*

**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.

*[Section 6A inserted: No. 33 of 2024 s. 15.]*

**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.

(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.

*[Section 6B inserted: No. 33 of 2024 s. 15.]*

**7.            Controlled weapons**

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

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

- (2) Except as provided in section 10, a person who has a lawful excuse to carry or possess a controlled 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 2 years and a fine of \$24 000.

*[(3-5) deleted]*

*[Section 7 amended: No. 34 of 2009 s. 7; No. 33 of 2024 s. 16.]*

**8A.          Selling or supplying controlled weapons to children**

*[(1) deleted]*

- (2) A person who sells a controlled weapon to a child commits an offence.

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

- (3) A person who supplies a controlled weapon to a child commits an offence.

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

- (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.

*[Section 8A inserted: No. 34 of 2009 s. 8; amended: No. 33 of 2024 s. 17.]*

**8. Other articles carried or possessed as weapons**

- (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.

- (2) A person is presumed to have had the intention referred to in subsection (1) if —
- (a) the article was carried or possessed in circumstances that give reasonable grounds for suspecting that the person had the intention; and
  - (b) the contrary is not proved.
- (3) A person does not commit an offence under subsection (1) if the person carries or possesses the article at the person's dwelling for the purpose of using it in lawful defence at the dwelling in circumstances that the person has reasonable grounds to apprehend may arise.
- (4) In subsection (3) —

***dwelling*** has the same meaning as in section 1 of *The Criminal Code*.

- (5) A person who has the immediate control of a business does not commit an offence under section 8(1) if the person carries or possesses the article at a part of the business premises —
- (a) that is not in the view of the public; and
  - (b) to which the public does not usually have access,
- for the purpose of using it in lawful defence at the business premises in circumstances that the person has reasonable grounds to apprehend may arise.

*[Section 8 amended: No. 34 of 2009 s. 9; No. 33 of 2024 s. 18.]*

**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).

*[Section 9 inserted: No. 33 of 2024 s. 19.]*

**10.      *Exceptions***

- (1) A person does not commit an offence under section 6, 6A, 7 or 8 only because of something done by the person in the performance of the person's functions as —
- (a) a member of the Police Force;
  - (b) a special constable appointed under Part III of the *Police Act 1892*;
  - (c) an employee in the Police Service;
  - (d) a person —
    - (i) engaged to provide a service to the Police Force;
    - or

- (ii) called upon to assist a member of the Police Force or a special constable appointed under Part III of the *Police Act 1892*;
  - or
  - (e) a security officer as defined in the *Public Transport Authority Act 2003* section 3.
- (2) A person does not commit an offence under section 6, 6A(1) or 7(1) only because of something done by the person in the performance of the person's functions as —
- (a) the Western Australian Museum constituted under the *Museum Act 1969*, a Trustee, member of staff or employee of the Museum or a person engaged to provide a service to the Museum whether for remuneration or not; or
  - (b) a person establishing or maintaining a museum recognized under Part IV of the *Museum Act 1969* or a person employed in or engaged to provide a service to such a museum whether for remuneration or not.
- (3) A person does not commit an offence under section 6, 6A, 6B, 7, 8A or 8 in such circumstances, if any, as the regulations may prescribe.
- (4) Regulations under subsection (3) may apply generally or to a particular person or class of persons.

*[Section 10 amended: No. 31 of 2003 s. 209(2); No. 34 of 2009 s. 10; No. 33 of 2024 s. 20.]*

## **11. Proof of exceptions or lawful excuses**

In any proceedings against a person for an offence under section 6, 6A, 6B, 7, 8A or 8 the person has the burden of

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proving any exception under that section or section 10 or any lawful excuse on which the person seeks to rely.

*[Section 11 amended: No. 34 of 2009 s. 11; No. 33 of 2024 s. 21.]*



## **Part 3 — Enforcement**

### **12. Interpretation**

- (1) In this Part —
- Commissioner* means the Commissioner of Police;
- juvenile justice team* means a juvenile justice team under Division 2 of Part 5 of the *Young Offenders Act 1994*;
- offence* means an offence under section 6, 6A, 6B, 7, 8A or 8.
- (2) For the purposes of this Part a person is lawfully entitled to possess something if —
- (a) the person owns it or is authorised by the owner to possess it; and
  - (b) the possession is not prohibited by law or is authorised, justified or excused by law.

*[Section 12 amended: No. 34 of 2009 s. 12; No. 33 of 2024 s. 22.]*

### **13. Search and seizure without a warrant**

- (1) A member of the Police Force may without a warrant stop, detain and search anyone who the member suspects on reasonable grounds to be —
- (a) committing an offence;
  - (b) carrying a weapon relating to an offence; or
  - (c) carrying something else that will afford evidence as to the commission of an offence.
- (2) A member of the Police Force may without a warrant stop, detain and search any conveyance where the member suspects on reasonable grounds that there is located —
- (a) a weapon relating to an offence; or
  - (b) anything else that will afford evidence as to the commission of an offence.

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- (3) A member of the Police Force may without a warrant seize —
  - (a) any weapon that the member suspects on reasonable grounds relates to an offence; or
  - (b) anything else that the member suspects on reasonable grounds will afford evidence as to the commission of an offence.

**14. Search and seizure with a warrant**

- (1) If a justice is satisfied that there are reasonable grounds for suspecting that there is located in a place —
  - (a) any weapon relating to an offence; or
  - (b) anything else that will afford evidence as to the commission of an offence,

the justice may grant a warrant of search and seizure in relation to that place.

- (2) A warrant under subsection (1) authorises any member of the Police Force with such assistance as the member thinks necessary and with such force as is reasonably necessary for the execution of the warrant —
  - (a) to enter the place at any time;
  - (b) to search the place;
  - (c) to stop, detain and search anyone at the place; and
  - (d) to seize —
    - (i) any weapon that the member suspects on reasonable grounds relates to an offence; or
    - (ii) anything else that the member suspects on reasonable grounds will afford evidence as to the commission of an offence.

**15. Retaining something seized but not forfeited**

- (1) A member of the Police Force may retain anything that has been seized under this Act but that is not forfeited to the Crown if —
- (a) it is required for the investigation of an offence or the prosecution of someone for an offence;
  - (b) it relates to a matter that is being dealt with by a juvenile justice team; or
  - (c) no person has satisfied the Commissioner that the person is lawfully entitled to possess it,
- and a court has not ordered under section 16(1)(b) or 17(3) that it be delivered to a person.
- (2) If something is seized under this Act, but cannot be retained under subsection (1) it is to be returned to the person from whom it was seized unless it is required by an order under section 16(1)(b) or 17(3) to be delivered to another person.

**16. Forfeiture and delivery of a weapon on conviction**

- (1) A court convicting a person of an offence may order that a weapon relating to the offence —
- (a) is forfeited to the Crown, whether or not the weapon has been seized and retained by a member of the Police Force under this Act; or
  - (b) be delivered to another person who is lawfully entitled to possess the weapon if the weapon has been seized and retained by a member of the Police Force under this Act.
- (2) A person claiming to be lawfully entitled to possess a weapon relating to an offence may, in relation to an order under this section —
- (a) be heard in the proceedings for the offence;
  - (b) make an application under section 71 of the *Criminal Procedure Act 2004* as if the person were a party to the proceedings for the offence; and

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- (c) appeal against the order under Part 2 of the *Criminal Appeals Act 2004*.

[Section 16 amended: No. 59 of 2004 s. 141; No. 84 of 2004 s. 78.]

**17. Forfeiture and delivery of a weapon other than on conviction**

- (1) A person claiming to be lawfully entitled to possess a weapon that has been seized and retained by a member of the Police Force under this Act may, within 21 days of the relevant day, apply to the Magistrates Court for an order that the weapon be delivered to the person if —
  - (a) no one is charged with an offence to which the weapon relates; or
  - (b) someone is charged with an offence to which the weapon relates but upon the hearing and determination of every such charge —
    - (i) no one is convicted; or
    - (ii) if someone is convicted, no order is made under section 16(1).
- (2) In subsection (1) —

**relevant day** in relation to a weapon that has been seized and retained by a member of the Police Force under this Act means —

  - (a) if no one is charged with an offence to which the weapon relates or dealt with by a juvenile justice team for a matter to which the weapon relates, the day of the seizure of the weapon;
  - (b) if no one is charged with an offence to which the weapon relates but someone is dealt with by a juvenile justice team for a matter to which the weapon relates, the day on which every such matter is finally disposed of by the team; or

- (c) if someone is charged with an offence to which the weapon relates, the day on which every such charge has been heard and determined.
- (3) A court hearing an application under subsection (1) may order that the weapon be delivered to the person making the application if the court is satisfied on the balance of probabilities that the person is lawfully entitled to possess the weapon.
- (4) A weapon is forfeited to the Crown if, in the circumstances set out in subsection (1) —
  - (a) no application for the delivery of a weapon is made within the time fixed by that subsection; or
  - (b) an application for the delivery of a weapon is made within the time fixed by that subsection but every such application is dismissed.

*[Section 17 amended: No. 59 of 2004 s. 141.]*

## **18. Disposal of a forfeited weapon**

- (1) Subject to subsection (2), if a weapon is forfeited to the Crown under this Act the Commissioner may direct that the weapon be sold, destroyed or otherwise disposed of in such manner as the Commissioner thinks fit.
- (2) If a weapon is forfeited to the Crown —
  - (a) by an order under section 16(1)(a); or
  - (b) after an order dismissing an application under section 17(1),

the Commissioner is not to make a direction under subsection (1) before the expiration of the time allowed for instituting an appeal against the order or, if an appeal is lodged within that time, before the determination of the appeal.

**19.        Commissioner may delegate a function**

The Commissioner may by instrument in writing delegate a function conferred on the Commissioner under this Part other than this power of delegation.

## **Part 4 — Miscellaneous**

### **20. Regulations**

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

*[21. Omitted under the Reprints Act 1984 s. 7(4)(e).]*

*[Schedule 1 omitted under the Reprints Act 1984 s. 7(4)(e).]*

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## Notes

This is a compilation of the *Weapons Act 1999* and includes amendments made by other written laws. For provisions that have come into operation, and for information about any reprints, see the compilation table. For provisions that have not yet come into operation see the uncommenced provisions table.

### Compilation table

Short title	Number and year	Assent	Commencement
<i>Weapons Act 1999</i>	18 of 1999	16 Jun 1999	Act other than s. 6-8 and it. 2 of Sch. 1: 1 Sep 1999 (see s. 2(1) and <i>Gazette</i> 31 Aug 1999 p. 4235); s. 6-8 and it. 2 of Sch. 1: 1 Mar 2000 (see s. 2(2))
<i>Public Transport Authority Act 2003</i> s. 209	31 of 2003	26 May 2003	1 Jul 2003 (see s. 2(1) and <i>Gazette</i> 27 Jun 2003 p. 2384)
<i>Courts Legislation Amendment and Repeal Act 2004</i> s. 141	59 of 2004	23 Nov 2004	1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004</i> s. 78	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))
<b>Reprint 1: The Weapons Act 1999 as at 4 Nov 2005</b> (includes amendments listed above)			
<i>Acts Amendment (Weapons) Act 2009</i> Pt. 3	34 of 2009	3 Dec 2009	s. 5-7 and 9-12: 4 Dec 2009 (see s. 2(c)); s. 8: 31 Dec 2009 (see s. 2(b))
<i>Police Legislation Amendment Act 2024</i> Pt. 3	33 of 2024	26 Sep 2024	20 Dec 2024 (see s. 2(1)(b) and SL 2024/277 cl. 2)

### Uncommenced provisions table

To view the text of the uncommenced provisions see *Acts as passed* on the WA Legislation website.

Short title	Number and year	Assent	Commencement
<i>Firearms Act 2024</i> Pt. 17 Div. 3 Subdiv. 20	23 of 2024	27 Jun 2024	31 Mar 2025 (see s. 2(d) and SL 2024/289 cl. 2)



### **Other notes**

- <sup>1</sup> The provision in this Act amending these Acts has been omitted under the *Reprints Act 1984* s. 7(4)(e).

## Defined terms

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

<b>Defined term</b>	<b>Provision(s)</b>
article .....	3
carry .....	3
child .....	3
Commissioner .....	12(1)
controlled weapon.....	3
conveyance.....	3
defence.....	3
dwelling .....	8(4)
edged weapon .....	3, 3A(1) and (2)
firearm.....	3
juvenile justice team .....	12(1)
lawful excuse .....	5A(1)
offence .....	12(1)
possess .....	3
prohibited weapon.....	3
relevant day.....	17(2)
weapon.....	3