Western Australia

# Witness Protection (Western Australia) Act 1996

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# Witness Protection (Western Australia) Act 1996

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## Defined terms

Western Australia

# Witness Protection (Western Australia) Act 1996

**An Act to establish a program to give protection and assistance to certain witnesses and other persons and for related purposes.**

# Part 1 — Preliminary

## 1. Short title

This Act may be cited as the *Witness Protection (Western Australia) Act 1996*.

## 2. Commencement

(1) Subject to subsection (2), this Act comes into operation on such day as is fixed by proclamation.

(2) If the *Sentence Administration Act 1995* [1] has not been assented to when this Act comes into operation, clause 2 of Schedule 1 comes into operation immediately after that Act is assented to.

## 3. Terms used

(1) In this Act, unless the contrary intention appears —

***approved authority*** means —

(a) the Commissioner of the Australian Federal Police;

(b) the Commissioner (however designated) of the police force of another State or a Territory;

(c) the Chair of the Board of the Australian Crime Commission established by the *Australian Crime Commission Act 2002* of the Commonwealth;

(d) an authority or body of this State, the Commonwealth, another State or a Territory that —

(i) is authorised to conduct inquiries or investigations in relation to conduct that constitutes, or is alleged to constitute, criminal conduct, misconduct or corruption; and

(ii) is declared by the Minister to be an approved authority for the purposes of this Act;

***Commissioner*** means the Commissioner of Police appointed under the *Police Act 1892*;

***Commonwealth Act*** means the *Witness Protection Act 1994* of the Commonwealth;

***complementary witness protection law*** means —

(a) the Commonwealth Act;

(b) a law of another State or a Territory that —

(i) makes provision for the protection of witnesses; and

(ii) is declared by the Minister to be a complementary witness protection law;

***Corruption and Crime Commission*** has the meaning given to "Commission" in section 3 of the *Corruption, Crime and Misconduct Act 2003*;

***court*** includes —

(a) a tribunal or other body established or continued under a written law and having a power to obtain evidence or information;

(b) a Royal Commission established under the *Royal Commissions Act 1968*;

(c) a commission, board, committee or other body established by the Governor or by either or both Houses of Parliament or by or the Government of the State to inquire into any matter;

***designated position*** means an office in the Police Force of this State, the duties of which relate to the SWPP, that has been declared in writing by the Commissioner to be a designated position for the purposes of this Act;

***officer of the Corruption and Crime Commission*** has the meaning given to "officer of the Commission" in section 3 of the *Corruption, Crime and Misconduct Act 2003*;

***Parliamentary Commissioner*** means the person holding or acting in the office of the Parliamentary Commissioner for Administrative Investigations under the *Parliamentary Commissioner Act 1971*;

***participant*** means a person who is included in the SWPP;

***prescribed authority*** means a person —

(a) that under a written law is empowered to grant or issue a document (such as a licence, permit, certificate, authority, approval or exemption), or to keep a record or register of information; and

(b) that is prescribed by the regulations as a prescribed authority,

other than the Registrar of Births, Deaths and Marriages;

***prescribed register*** means any record or register of information required to be kept under a written law and prescribed by the regulations as a prescribed register, other than the register of births required to be kept under the *Births, Deaths and Marriages Registration Act 1998*;

***State Witness Protection Program*** ("SWPP") means the State Witness Protection Program established by this Act;

***witness*** is defined in section 4;

***witness protection program*** means —

(a) the SWPP; or

(b) a witness protection program established under a complementary witness protection law.

(2) In this Act this abbreviation is used:

***SWPP*** for State Witness Protection Program.

(3) The Minister, by notice published in the *Gazette*, may make, amend or cancel declarations for the purposes of the definitions of "approved authority", "complementary witness protection law" and "witness".

*[Section 3 amended: No. 40 of 1998 s. 18(2); No. 48 of 2003 s. 62 and Sch. 3 [2] cl. 11; No. 4 of 2004 s. 58; No. 74 of 2004 s. 75; No. 8 of 2008 s. 22 and 23(9); No. 35 of 2014 s. 39.]*

## 4. Meaning of "witness"

(1) For the purposes of this Act, unless the contrary intention appears, a person is a witness if the person —

(a) has given, or has agreed to give, evidence on behalf of the Crown in right of this State, the Commonwealth, another State or a Territory in —

(i) proceedings for an offence; or

(ii) hearings or proceedings before a body that is declared by the Minister to be a body to which this paragraph applies;

(b) has given, or has agreed to give, evidence otherwise than as mentioned in paragraph (a) in relation to the commission of an offence against a law of this State, the Commonwealth, another State or a Territory; or

(c) has made a statement to a police officer of this State or to an approved authority in relation to an offence against the law of the Commonwealth, another State or a Territory,

and if, as a result, in the opinion of the Commissioner, there is a risk to the person's safety or welfare.

(2) For the purposes of this Act, unless the contrary intention appears, a person is a witness if, in the opinion of the Commissioner, there is a risk to the safety or welfare of the person for any reason other than those stated in subsection (1).

(3) For the purposes of this Act, unless the contrary intention appears, a person is a witness if the person is related to or associated with a person referred to in subsection (1) or (2) and, in the opinion of the Commissioner, may require protection or assistance under the SWPP because of that relationship or association.

# Part 2 — State Witness Protection Program

## Division 1 — Establishment

### 5. Commissioner to establish SWPP

(1) The Commissioner is to establish and maintain a program, to be known as the "State Witness Protection Program" (SWPP), under which the Commissioner, and police officers holding designated positions, arrange or provide protection and other assistance for witnesses.

(2) That protection and assistance may include things done as a result of functions conferred on the Commissioner under a complementary witness protection law.

### 6. Arrangements with approved authorities

(1) The Commissioner may make arrangements with an approved authority about any matter in connection with the administration of a complementary witness protection law.

(2) Without limiting the coverage of those arrangements, those arrangements —

(a) may provide for the Commissioner or a police officer to perform functions conferred by a complementary witness protection law;

(b) must include procedures under which the approved authority shares with the State the costs incurred in performing those functions under those arrangements;

(c) may provide for the approved authority to make available to the Commissioner such statements, transcripts of evidence and other information as will assist the Commissioner in deciding —

(i) whether to include a witness in the SWPP; and

(ii) what protection and assistance is appropriate for a participant;

and

(d) may confer functions under complementary witness protection laws on the Commissioner.

(3) The Commissioner is not to exercise any function conferred by such an arrangement unless this Act would authorise the exercise of that function in respect of the SWPP.

### 7. Authorisation of approved authorities

(1) The Minister, by notice published in the *Gazette*, may authorise an approved authority to perform functions conferred on the Commissioner under this Act for the purposes of any arrangement entered into by the Commissioner under section 6 or the corresponding provision of a complementary witness protection law.

(2) The Minister, by notice published in the *Gazette*, may amend or cancel such an authorisation.

## Division 2 — Including witnesses in the SWPP

### 8. Commissioner to decide who is included

(1) The Commissioner has the sole responsibility of deciding whether to include a witness in the SWPP, including cases where an approved authority has requested that a witness be included in the SWPP.

(2) A witness may be included in the SWPP only if —

(a) the Commissioner has decided the witness needs protection and assistance of the kind able to be provided under the SWPP;

(b) the witness agrees to be included; and

(c) a memorandum of understanding is entered into by or on behalf of the witness in accordance with section 11.

(3) In deciding whether to include a witness in the SWPP, the Commissioner must have regard to —

(a) whether the witness has a criminal record, particularly in respect of crimes of violence, and whether that record indicates a risk to the public if the witness is included in the SWPP;

(b) any psychological or psychiatric examination or evaluation that has been conducted to determine the witness's suitability for inclusion in the SWPP;

(c) the seriousness of the offence to which any relevant evidence or statement relates;

(d) the nature and importance of any relevant evidence or statement;

(e) whether there are viable alternative methods of protecting the witness;

(f) the nature of the perceived danger to the witness; and

(g) the nature of the witness's relationship to other witnesses being assessed for inclusion in the SWPP,

and may have regard to any other matters the Commissioner considers relevant.

(4) The Commissioner must not include a witness in the SWPP if the Commissioner does not, in the Commissioner's opinion, have enough information to assess the matters referred to in subsection (3) in relation to the witness.

### 9. Inclusion not to be a reward for giving evidence etc.

A witness is not to be included in the SWPP as a reward or as a means of persuading or encouraging the witness to give evidence or make a statement.

### 10. Witness to provide Commissioner with information before inclusion

(1) The Commissioner must not include a witness in the SWPP unless the Commissioner is satisfied that the witness has provided the Commissioner with all information necessary for the Commissioner to assess the matters in section 8(3) and to decide whether the witness should be included.

(2) Without limiting the generality of subsection (1), regulations may prescribe the information to be provided by a witness to the Commissioner.

(3) For the purpose of assessing whether the witness should be included in the SWPP, the Commissioner may —

(a) require the witness to undergo —

(i) medical tests or examinations; or

(ii) psychological or psychiatric examinations,

and to make the results available to the Commissioner; or

(b) make any other inquiries and investigations that the Commissioner considers necessary.

### 11. Memorandum of understanding

(1) A memorandum of understanding must —

(a) set out the basis on which a participant is included in the SWPP and details of the protection and assistance that is to be provided;

(b) set out the effect of section 25(1) and (2); and

(c) contain a statement advising the participant of their right to complain to the Corruption and Crime Commission or the Parliamentary Commissioner about the conduct of the Commissioner or a police officer in relation to the SWPP.

(2) A memorandum of understanding in relation to a participant may also contain —

(a) the terms and conditions on which protection and assistance are to be provided to the participant;

(b) requirements that the participant must not engage in activities of a kind specified in the memorandum of understanding;

(c) an agreement by or on behalf of the participant not to compromise, directly or indirectly, the security of, or any other aspect of, the protection and assistance being provided;

(d) an agreement by or on behalf of the participant that the participant will comply with all reasonable directions of the Commissioner in relation to the protection and assistance provided to the participant;

(e) an agreement by or on behalf of the participant that the participant will, if required to do so by the Commissioner —

(i) undergo medical, psychological or psychiatric tests or examinations and make the results available to the Commissioner;

(ii) undergo counselling or treatment for alcohol or drug abuse;

(iii) allow prints of their fingers and palms to be taken; or

(iv) allow photographs to be taken of themself;

(f) a list of —

(i) the outstanding legal obligations (including family maintenance obligations and taxation obligations) of the participant; and

(ii) any other obligations of the participant,

and an agreement by or on behalf of the participant as to how those obligations are to be met;

(g) details of any financial assistance to be given to the participant; and

(h) an agreement by or on behalf of the participant that the participant will disclose to the Commissioner details of any criminal charges that are made against, and any civil or bankruptcy proceedings that are made in relation to, the participant after the participant is included in the SWPP.

(3) A memorandum of understanding must be signed by the witness or —

(a) if the witness is under 18 years old — on behalf of the witness by a parent or guardian of the witness; or

(b) if the witness otherwise lacks legal capacity to sign such a memorandum — on behalf of the witness by a guardian or other person who is usually responsible for the care and control of the witness.

(4) A memorandum of understanding must be signed by or on behalf of the witness in the presence of a police officer who holds a designated position.

(5) A witness becomes included in the SWPP when the Commissioner signs the memorandum of understanding.

(6) The Commissioner must, as soon as practicable after signing a memorandum of understanding, notify the relevant participant that it has been signed.

(7) If —

(a) a parent or guardian of a witness signs a memorandum of understanding because the witness was under 18 years old; and

(b) the witness is included in the SWPP and remains a participant until after the witness turns 18,

the Commissioner may require the participant to sign another memorandum of understanding.

*[Section 11 amended: No. 48 of 2003 s. 62 and Sch. 3 [2] cl. 11.]*

### 12. Amending a memorandum of understanding

(1) A memorandum of understanding may be amended with the consent of the participant and the Commissioner.

(2) An amendment must not have the effect of removing from the memorandum of understanding the provisions referred to in section 11(1).

## Division 3 — Register of participants

### 13. Commissioner to keep register

(1) The Commissioner must keep a register of participants.

(2) The register may be kept on a computer.

(3) The Commissioner must include these details in the register in respect of each participant:

(a) the participant's name;

(b) if the participant has been given a new identity under the SWPP (whether by means of a court order under Division 5 or otherwise) — the participant's new name;

(c) the participant's address;

(d) details of any offences of which the participant has been convicted;

(e) the date on which the person ceases to be a participant.

(4) The Commissioner must keep in conjunction with the register —

(a) the original of each memorandum of understanding;

(b) a copy of every document issued in respect of a participant pursuant to a court order under Division 5;

(c) the original of each permit given by the Commissioner under section 33; and

(d) any document returned to the Commissioner under section 18(5) or pursuant to an order made under section 22.

**14. Access to the register**

(1) Subject to this section, only the Commissioner and those police officers holding designated positions who are authorised by the Commissioner, may have access to the register and to documents kept in conjunction with it.

(2) The Commissioner must permit the Auditor General, or a person appointed by the Auditor General under section 29 of the *Auditor General Act 2006*, to have access to any part of the register, and to any documents kept in conjunction with it, that are relevant to an audit or investigation under that Act.

(2a) The Commissioner must permit the Corruption and Crime Commission, or an officer of the Corruption and Crime Commission, to have access to any part of the register, and to any documents kept in conjunction with it, that are relevant to an investigation under the *Corruption, Crime and Misconduct Act 2003*.

(3) The Commissioner must permit the Parliamentary Commissioner, or a delegate of the Parliamentary Commissioner under section 11 of the *Parliamentary Commissioner Act 1971*, to have access to any part of the register, and to any documents kept in conjunction with it, that are relevant to an investigation under that Act.

(4) The Commissioner must permit a person who is or was a participant to have access to that part of the register, and to any documents kept in conjunction with it, that relate to the person.

(5) If the Commissioner is of the opinion that it is in the interests of the administration of justice to do so, the Commissioner may permit another person to have access to the register or part of the register or to some or all of the documents kept in conjunction with it.

(6) If the Commissioner permits another person to have access under subsection (5), the Commissioner must notify the relevant approved authority (if any) of —

(a) the name of the person so permitted;

(b) the information the person was given access to; and

(c) the reasons for permitting access.

(7) A person who gains access to the register or to any document kept in conjunction with it without the authorisation or permission of the Commissioner commits an offence.

Penalty: Imprisonment for 3 years or a fine of $12 000.

*[Section 14 amended: No. 48 of 2003 s. 62 and Sch. 3[2] cl. 11; No. 77 of 2006 s. 17; No. 35 of 2014 s. 39.]*

## Division 4 — Protecting and assisting witnesses and participants

### 15. Commissioner must take action to protect etc.

(1) If a witness is included in the SWPP, or is being assessed for inclusion in the SWPP, the Commissioner must take such action as the Commissioner considers necessary and reasonable to protect the witness's safety and welfare while also protecting the safety of police officers.

(2) That action may include —

(a) permitting police officers holding designated positions to use assumed names in carrying out their duties in relation to the SWPP and to carry documentation supporting those assumed names;

(b) relocating the witness;

(c) providing accommodation for the witness;

(d) providing transport for the witness's property;

(e) providing payments to the witness for the purpose of meeting the reasonable living expenses of the witness (including, where appropriate, living expenses of any member of the witness's family who is not a witness) and providing, whether directly or indirectly, other reasonable financial assistance;

(f) providing payments to the witness for the purpose of meeting costs associated with relocation;

(g) providing assistance to the witness in obtaining employment or access to education;

(h) providing other assistance to the witness with a view to ensuring that the witness becomes self-sustaining; and

(i) doing other things that the Commissioner considers to be necessary to ensure the safety of the witness.

(3) A police officer who, with permission given under subsection (2)(a), uses an assumed name or carries documentation supporting an assumed name does not by doing so commit an offence under a written law.

### 16. Action as to obligations etc. of a participant

(1) If a participant has any outstanding rights or obligations or is subject to any restrictions, the Commissioner must take such steps as are reasonably practical to ensure —

(a) that those rights or obligations are dealt with according to law; or

(b) that the participant complies with those restrictions.

(2) That action may include —

(a) providing protection for the participant while the participant is attending a court; or

(b) notifying a party, or possible party to legal proceedings, that a police officer nominated by the Commissioner is, on behalf of the participant, to be served with any process issued by a court.

(3) If the Commissioner is satisfied that a participant who has been given a new identity under the SWPP (whether under a court order or otherwise) is using the new identity to —

(a) avoid obligations that were incurred before the new identity was established; or

(b) avoid complying with restrictions that were imposed on the person before the new identity was established,

the Commissioner must give notice in writing to the participant stating that the Commissioner is so satisfied.

(4) The notice must also state that, unless the participant satisfies the Commissioner that the obligations will be dealt with according to law or the restrictions will be complied with, the Commissioner will take such action as the Commissioner considers necessary to ensure they are dealt with according to law or complied with.

(5) That action may include informing a person who is seeking to enforce rights against the participant of the details of any property (whether real or personal) owned by the participant under their former identity.

(6) Where notice is given under subsection (2)(b), service of any process on the nominated police officer is to be taken as good service for the purpose of any written law.

### 17. Commercial arrangements for benefit of participant

This Act does not prevent the Commissioner from making commercial arrangements with a person under which a participant is able to obtain benefits under a contract or arrangement without revealing their former identity.

### 18. Identity documents in urgent cases

(1) If the Commissioner is of the opinion that —

(a) in order to protect the safety and welfare of a person who is a participant, or a witness being assessed for inclusion in the SWPP, documents showing a new identity for the person are needed urgently for a limited time; and

(b) there is insufficient time within which to obtain a new identity for the person by means of a registration of change of name under Part 5 of the *Births, Deaths and Marriages Registration Act 1998* or a new identity order under Division 5,

the Commissioner, by a written notice given to a prescribed authority, may request the prescribed authority to issue any documents that are reasonably necessary to show the new identity (such as a licence, permit, certificate, authority, approval or exemption) and to make any necessary entries in a prescribed register.

(2) The Commissioner must not request documentation for a person that represents the person —

(a) to have qualifications that the person does not have; or

(b) to be entitled to benefits to which the person would not be entitled if they were not included in the SWPP.

(3) A prescribed authority that receives a written request under subsection (1) must comply with it.

(4) As soon as practicable after making a request under subsection (1), the Commissioner must either obtain a new identity for the person by means of a registration of change of name under Part 5 of the *Births, Deaths and Marriages Registration Act 1998* or a new identity order under Division 5, or have the documents issued pursuant to the request returned.

(5) At any time the Commissioner, by a written notice given to the person, may direct the person to return such documents to the Commissioner.

(6) A person who receives a written notice under subsection (5) must comply with it within 7 days after receiving it.

Penalty: $1 000.

(7) If the Commissioner gives such a written notice the Commissioner must notify any prescribed authority that was given a request under subsection (1) accordingly and request the authority to cancel any documents issued, and any entries made in a prescribed register, pursuant to the request.

(8) The issue or cancellation of a document pursuant to a request made under this section has effect as if it were validly done under the written law that provides for the issue of the document.

(9) The making or cancellation of an entry in a prescribed register pursuant to a request made under this section has effect as if it were validly done under the written law that requires the register to be kept.

*[Section 18 amended: No. 40 of 1998 s. 18(3) and (4).]*

## Division 5 — New identity orders

### 19. Terms used in this Division

In this Division —

***new identity order***, in relation to a person, means an order directing —

(a) the Registrar of Births, Deaths and Marriages to make a new entry in the register of births kept under the *Births, Deaths and Marriages Registration Act 1998* in respect of the person;

(b) a person specified in the order, who under a written law is empowered to issue a document (such as a licence, permit, certificate, authority, approval or exemption) or to keep a record or register of information, to issue a new document in respect of the person or to make a new entry in such a record or register in respect of the person,

so as to give the person a new identity.

*[Section 19 amended: No. 40 of 1998 s. 18(5).]*

## 20. Application to Supreme Court

(1) The Commissioner may apply to the Supreme Court for a new identity order in respect of a participant or, in accordance with section 26, for an order under section 22 in respect of a former participant.

(2) An approved authority (other than an approved authority that is an authority or body of this State) may apply to the Supreme Court —

(a) for a new identity order in respect of a person who is included in a witness protection program established under a complementary witness protection law; or

(b) for an order under section 22 in respect of a person who has ceased to be included in such a witness protection program.

## 21. Supreme Court may make order

(1) On an application under section 20, the Supreme Court may make a new identity order in respect of a person if the Court is satisfied —

(a) that the person is a participant or a person who is included in a witness protection program established under a complementary witness protection law (as the case may be);

(b) that it is necessary to change the person's identity to protect the person's safety and welfare;

(c) that a change of the person's name by registration of change of name under Part 5 of the *Births, Deaths and Marriages Registration Act 1998* or by any other lawful means would not afford adequate protection for the person's safety and welfare; and

(d) that the person is likely to comply with the memorandum of understanding entered into by or on behalf of the person.

(2) A new identity order may specify such persons referred to in paragraph (b) of the definition of "new identity order" as the Court thinks fit.

(3) A new identity order must not direct the issuing of any document that represents the person concerned —

(a) to have qualifications that the person does not have; or

(b) to be entitled to benefits to which the person would not be entitled if they were not included in a witness protection program.

(4) On making a new identity order, the Court may order the person concerned to give the Commissioner any documents relating to the person's former identity.

*[Section 21 amended: No. 40 of 1998 s. 18(6).]*

### 22A. Effect of new identity order

A person who has a new identity under a new identity order is entitled to claim that identity as the person's only identity if the person is required under a law of this State to disclose the person's former identity for a purpose unrelated to any proceedings.

*[Section 22A inserted: No. 55 of 2012 s. 127.]*

### 22. Supreme Court may order former identity to be restored

On an application under section 20 the Supreme Court may make such orders as are necessary to cancel the new identity given to a person under a new identity order, to restore the person's former identity and to secure the return to the Commissioner of any document issued in respect of the person under the new identity order.

### 23. Proceedings to be in private

(1) All proceedings in the Supreme Court on an application under this Division must be conducted in the absence of any person not directly concerned in the proceedings.

(2) Except as authorised by a judge of the Supreme Court, no person may inspect the records of proceedings in the Court on an application under this Division.

### 24. Effect of actions done under order

(1) The making or cancellation of an entry in the register of births kept under the *Births, Deaths and Marriages Registration Act 1998*, or in any other register or record, pursuant to a new identity order or an order under section 22 (as the case may be) has effect as if it were validly done under the written law requiring the register or record to be kept.

(2) The issue or cancellation of a document under a written law pursuant to a new identity order or an order under section 22 (as the case may be) has effect as if it were validly done under that written law.

*[Section 24 amended: No. 40 of 1998 s. 18(7).]*

## Division 6 — Terminating protection and assistance

### 25. Commissioner may terminate protection

(1) Protection and assistance provided under the SWPP to a participant must be terminated by the Commissioner if the participant requests in writing that it be terminated.

(2) Protection and assistance provided under the SWPP to a participant may be terminated by the Commissioner if —

(a) the participant commits an offence against the law of this State or elsewhere; or

(b) the participant breaches a term of the memorandum of understanding; or

(c) the Commissioner discovers that the participant has knowingly given information to the Commissioner that is false or misleading in a material particular; or

(d) the participant's conduct or threatened conduct is, in the opinion of the Commissioner, likely to prejudice the effectiveness or security of the SWPP; or

(e) the circumstances that gave rise to the need for protection and assistance for the participant cease to exist; or

(f) the participant breaches an undertaking, including an undertaking to give evidence, given to this State, the Commonwealth, another State or a Territory in relation to a matter relevant to the SWPP; or

(g) the participant refuses or fails to sign a new memorandum of understanding when required to do so under section 11(7); or

(h) there is, in the opinion of the Commissioner, no reasonable justification for the participant to remain in the SWPP;

(i) the participant fails to comply with section 34A(2),

and the Commissioner is of the opinion that, in the circumstances of the case, the protection and assistance should be terminated.

(3) Before terminating the protection and assistance provided to a participant under subsection (2) the Commissioner must take reasonable steps to notify the participant and allow the participant to make representations to the Commissioner about the matter.

(4) If the Commissioner terminates the provision of protection and assistance to a participant, the Commissioner must notify the participant and the relevant approved authority (if any) of the decision.

(5) If under subsection (2) the Commissioner terminates the provision of protection and assistance to a participant, the Commissioner must give the participant written reasons for doing so.

(6) If the Commissioner terminates the provision of protection and assistance to a participant, the participant ceases to be a participant.

*[Section 25 amended: No. 55 of 2012 s. 128.]*

## 26. Restoring a former identity

(1) If —

(a) a participant has been given a new identity under Division 5; and

(b) the Commissioner terminates the provision of protection and assistance to the participant,

the Commissioner, if the Commissioner considers it appropriate to do so, may apply under Division 5 for orders to restore the former participant's former identity.

(2) An application under Division 5 for orders to restore a former participant's former identity must be served on the former participant who has a right to be heard on the application.

# Part 3 — Secrecy and disclosure

## Division 1 — General

*[Heading inserted: No. 55 of 2012 s. 129.]*

### 27. Duty not to disclose

It is the duty of every person who has obtained access to information or a document relevant to the SWPP not to disclose that information or publish that document, except as authorised by the Commissioner or by this Act.

### 28. Disclosure of information cannot be compelled

(1) Subject to subsection (2), no person who is given functions under this Act or under a complementary witness protection law or who, under a Supreme Court order made under Division 5 of Part 2, is required to do anything, shall be compelled —

(a) to produce to a court any document that is in the custody or control of the person as a result of performing those functions or complying with the order; or

(b) to disclose to a court any information obtained as a result of performing those functions or complying with the order that —

(i) may prejudice the effectiveness or security of a witness protection program; or

(ii) may identify a person as a person who is or was included in a witness protection program or the location or circumstances of such a person.

(2) If it is essential to the determination of legal proceedings under or in relation to the law of this State that the officer presiding over the proceedings in a court be advised of the location and circumstances of a person included in a witness protection program, a person referred to in subsection (1) must disclose the

relevant information to the presiding officer in the absence of any person not directly concerned in the proceedings.

(3) Subsection (1) does not apply to information about any financial support given or to be given to a person who is or was included in a witness protection program if the information is provided in a way that cannot identify the location, or prejudice the safety, of the participant or former participant.

### 29. Disclosing information to approved authorities

If —

(a) a participant has been given a new identity (whether by means of a court order or otherwise) or has been relocated under the SWPP; and

(b) an approved authority or a police officer notifies the Commissioner that the participant is under investigation for, or has been arrested for, or charged with, an offence against the law of this State, the Commonwealth, another State or a Territory the maximum penalty for which is or includes imprisonment for more than 12 months,

the Commissioner may —

(c) disclose to the approved authority or the police officer the new identity or new location of the participant;

(d) provide the approved authority with the criminal record of the participant and the prints of the participant's fingers and palms;

(e) disclose to the approved authority or the police officer such other information relating to the SWPP as the Commissioner considers appropriate in the circumstances;

(f) if the Commissioner considers it appropriate to do so in the circumstances — allow officers of the approved authority or a police officer to interview police officers holding designated positions in relation to the participant.

*[**30, 31.** Deleted: No. 55 of 2012 s. 130.]*

### 32. Certain disclosures to court to be in private

(1A) This section does not apply to the disclosure of a protected person's identity under section 34D or 34K.

(1) If in any proceedings in a court, sensitive information may be disclosed or, in respect of a person who under a witness protection program has been provided with a new identity (whether by means of a court order or otherwise) —

(a) the person's new identity may be disclosed when the person is using their former identity in the court; or

(b) the person's former identity may be disclosed when the person is using their new identity in the court,

the presiding officer, unless the officer considers that the interests of justice require otherwise, must —

(c) hold that part of the proceedings that relate to those matters in private; and

(d) make such order as to the suppression of the publication of the proceedings as, in the officer's opinion, will ensure that —

(i) any sensitive information is not disclosed; and

(ii) any new or former identity of the person (as the case requires) is not disclosed.

(2) In subsection (1) —

***sensitive information*** means —

(a) the fact that a person is or was included in, or has undergone assessment for inclusion in, a witness protection program;

(b) information as to the way the program operates;

(c) information about any police officer who is or has been involved, or any person who is assisting or has assisted, in the program;

(d) any details of any memorandum of understanding that applies to a person.

*[Section 32 amended: No. 55 of 2012 s. 131.]*

## Division 2 — Evidence by participants

*[Heading inserted: No. 55 of 2012 s. 132.]*

### Subdivision 1 — Terms used

*[Heading inserted: No. 55 of 2012 s. 132.]*

### 33. Terms used

In this Division —

***another jurisdiction*** means another State, a Territory or the Commonwealth;

***corresponding law*** means a law of another jurisdiction that corresponds to this Division, and includes a prescribed law of another jurisdiction;

***corresponding non-disclosure certificate*** means a certificate given under a provision of a corresponding law that corresponds to section 34A(3);

***court*** includes —

(a) a tribunal or other body established or continued under a written law and having a power to obtain evidence or information;

(b) a Royal Commission established under the *Royal Commissions Act 1968*;

(c) a commission, board, committee or other body established by the Governor or by the Government of the State to inquire into any matter;

***court proceedings*** means any proceedings in a court;

***non-disclosure certificate*** means a certificate given under section 34A(3);

***parliamentary committee*** means a committee or other body established by either or both Houses of Parliament to inquire into any matter;

***parliamentary proceedings*** means any proceedings before a parliamentary committee;

***party***, to proceedings, means —

(a) for criminal proceedings, the prosecutor and each accused person; or

(b) for civil proceedings, each person who is a party to the proceedings; or

(c) for any other proceedings, each person who may appear or give evidence in the proceedings;

***proceedings*** means court proceedings or parliamentary proceedings;

***protected address***, of a protected person, means —

(a) for proceedings in which the protected person is or may be required to give evidence under the person's new identity, the last place where the person lived under the person's former identity; or

(b) for proceedings in which the protected person is or may be required to give evidence under the person's former identity, the place where the person lives;

***protected identity***, of a protected person, means —

(a) for proceedings in which the protected person is or may be required to give evidence under the person's new identity, the person's former identity; or

(b) for proceedings in which the protected person is or may be required to give evidence under the person's former identity, the person's new identity;

***protected person*** means a person who, having been given a new identity under the SWPP, keeps the identity whether or not the person remains a participant.

*[Section 33 inserted: No. 55 of 2012 s. 133; amended: No. 9 of 2022 s. 424.]*

### Subdivision 2 — Non-disclosure certificates for protected persons

*[Heading inserted: No. 55 of 2012 s. 133.]*

### 34A. Non-disclosure certificates

(1) In this section —

***court*** includes a court, within the meaning of that term in this Act, of another jurisdiction.

(2) If a protected person is or may be required to give evidence in proceedings in a court or in parliamentary proceedings, whether under the person's new identity or former identity, the person must notify the Commissioner that the person is or may be required to give evidence in the proceedings.

(3) The Commissioner may give a certificate for the protected person in relation to the proceedings and —

(a) file a copy with the court; or

(b) give a copy to the Clerk of the House of Parliament that established the parliamentary committee concerned or, if the parliamentary committee concerned was established by both Houses of Parliament, to the Clerk of each House of Parliament,

as the case requires.

*[Section 34A inserted: No. 55 of 2012 s. 133.]*

### 34B. What non-disclosure certificate must state

(1) A non-disclosure certificate for a protected person must state —

(a) that the person is, or has been, included in the SWPP; and

(b) that the person has been given a new identity under the SWPP; and

(c) that the person has not been convicted or found guilty of any offence other than an offence mentioned in the certificate.

(2) The non-disclosure certificate must not include information that discloses, or may lead to the disclosure of any of the following —

(a) the person's protected identity;

(b) the person's protected address;

(c) any other sensitive information as defined in section 32(2).

*[Section 34B inserted: No. 55 of 2012 s. 133.]*

### Subdivision 3 — Provisions applicable to court proceedings

*[Heading inserted: No. 55 of 2012 s. 133.]*

### 34CA. Application of Subdivision

This Subdivision applies in relation to court proceedings in which a protected person is, or may be, required to give evidence.

*[Section 34CA inserted: No. 55 of 2012 s. 133.]*

### 34C. Effect of non-disclosure certificate

(1) In this section —

***person involved***, in proceedings, includes —

(a) the court; and

(b) a party to the proceedings; and

(c) a person given leave to be heard or make submissions in the proceedings; and

(d) a lawyer representing a person referred to in paragraph (b) or (c) or a lawyer assisting the court in the proceedings; and

(e) any other officer of the court or person assisting the court in the proceedings; and

(f) a person acting in the execution of any process or the enforcement of any order in the proceedings.

(2) This section applies if a non-disclosure certificate for a protected person in relation to proceedings is filed in a court in this State.

(3) If this section applies, in the proceedings —

(a) a question must not be asked of a witness, including the protected person, that may lead to the disclosure of the

protected person's protected identity or protected address or both; and

(b) a witness, including the protected person, cannot be required to (and must not) answer a question, give evidence or provide information that discloses, or may lead to the disclosure of, the protected person's protected identity or protected address or both; and

(c) a person involved in the proceedings must not make a statement that discloses, or may lead to the disclosure of, the protected person's protected identity or protected address or both.

(4) The court may disclose to each party to the proceedings —

(a) that the court has been given a non-disclosure certificate for a person who may be required to give evidence in the proceedings; and

(b) what the certificate states.

(5) The court may only disclose what the non-disclosure certificate states in the absence of the jury (if any) and the public.

(6) If the court makes a disclosure about the non-disclosure certificate under subsection (4), the court must also inform the parties of the effect of the certificate.

(7) This section applies despite any other Act, but subject to section 34D.

*[Section 34C inserted: No. 55 of 2012 s. 133.]*

### 34D. Disclosure of protected person's identity despite certificate

(1) This section applies if a non-disclosure certificate for a protected person in relation to proceedings is filed in a court in this State.

(2) A party to the proceedings, or a lawyer assisting the court in the proceedings, may apply to the court —

(a) for leave —

(i) to ask a question of a witness, including the protected person, that may lead to the disclosure of the protected person's protected identity or protected address or both; or

(ii) for a person involved in the proceedings to make a statement that discloses, or may lead to the disclosure of, the protected person's protected identity or protected address or both;

or

(b) for an order requiring a witness, including the protected person, to answer a question, give evidence or provide information that discloses, or may lead to the disclosure of, the protected person's protected identity or protected address or both.

(3) The court may —

(a) give leave for the party or lawyer to do anything mentioned in subsection (2)(a); and

(b) make an order requiring a witness to do anything mentioned in subsection (2)(b).

(4) However, the court must not give leave or make an order unless satisfied about each of the following —

(a) there is evidence that, if accepted, would substantially call into question the protected person's credibility;

(b) it would be impracticable to test properly the credibility of the protected person without allowing the risk of disclosure of, or disclosing, the protected person's protected identity or protected address or both;

(c) it is in the interests of justice for the protected person's credibility to be able to be tested.

(5) If there is a jury in the proceedings, the application must be heard in the absence of the jury.

(6) Unless the court considers that the interests of justice require otherwise, the court must be closed when —

(a) the application is made; and

(b) if leave is given or an order is made, the question is asked (and answered), the evidence is given, the information is provided or the statement is made.

(7) The court must make an order suppressing the publication of anything said when —

(a) the application is made; and

(b) if leave is given or an order is made, the question is asked (and answered), the evidence is given, the information is provided or the statement is made.

(8) Nothing in subsection (7) prevents the taking of a transcript of court proceedings, but the court may make an order for how the transcript is to be dealt with, including an order suppressing its publication.

(9) The court may make any other order it considers appropriate to protect the protected person's protected identity or protected address or both.

(10) A person must not contravene an order under subsection (7), (8) or (9).

Penalty: imprisonment for 2 years.

(11) Subsection (10) does not limit the court's power to punish for contempt.

*[Section 34D inserted: No. 55 of 2012 s. 133.]*

### 34E. Directions to jury

(1) This section applies if —

(a) a non-disclosure certificate for a protected person in relation to proceedings is filed in a court; and

(b) there is a jury in the proceedings; and

(c) the protected person gives evidence.

(2) The court must (unless it considers it inappropriate) direct the jury not to give the protected person's evidence any more or less weight, or draw any adverse inferences against the defendant or another party to the proceedings, because —

(a) there is a non-disclosure certificate for the protected person; or

(b) the court has made an order under section 32 or 34D(7), (8) or (9).

*[Section 34E inserted: No. 55 of 2012 s. 133.]*

### 34F. Adjournment for appeal decision

(1) This section applies if, in proceedings before a court (the ***original court***) —

(a) the original court gives, or refuses, leave under section 34D(3)(a) in relation to a non-disclosure certificate for a protected person; or

(b) the original court makes, or refuses to make, an order under section 34D(3)(b) in relation to a non-disclosure certificate for a protected person.

(2) A party to the proceedings may apply to the original court for an adjournment —

(a) to appeal against the decision of the original court to give or refuse leave, or to make or refuse to make the order; or

(b) to decide whether to appeal or seek leave to appeal against the decision.

(3) If an application is made under subsection (2), the original court must grant the adjournment.

*[Section 34F inserted: No. 55 of 2012 s. 133.]*

### 34G. Jurisdiction to hear and determine appeals

A court that has jurisdiction to hear and determine appeals from a judgment, order or direction in the proceedings has jurisdiction to hear and determine an appeal against the decision to give or refuse leave, or to make or refuse to make the order.

*[Section 34G inserted: No. 55 of 2012 s. 133.]*

### 34H. Recognition of non-disclosure certificates under corresponding laws

The following provisions apply, with any necessary changes, to a corresponding non-disclosure certificate that is filed with a court in this State, as if it were a non-disclosure certificate given under section 34A(3) —

(a) section 34C (Effect of non-disclosure certificate);

(b) section 34D (Disclosure of protected person's identity despite certificate).

*[Section 34H inserted: No. 55 of 2012 s. 133.]*

## Subdivision 4 — Provisions applicable to parliamentary proceedings

*[Heading inserted: No. 55 of 2012 s. 133.]*

### 34I. Application of Subdivision

This Subdivision applies in relation to parliamentary proceedings in which a protected person is, or may be, required to give evidence.

*[Section 34I inserted: No. 55 of 2012 s. 133.]*

### 34J. Effect of non-disclosure certificate

(1) In this section —

***person involved***, in proceedings, includes —

(a) a member of the parliamentary committee; and

(b) a party to the proceedings; and

(c) a person given leave to be heard or make submissions in the proceedings; and

(d) a lawyer representing a person referred to in paragraph (b) or (c) or a lawyer assisting the parliamentary committee in the proceedings; and

(e) any other person assisting the parliamentary committee in the proceedings; and

(f) a person acting in the execution of any process or the enforcement of any order in the proceedings.

(2) This section applies if a non-disclosure certificate for a protected person is given under section 34A(3)(b) in relation to parliamentary proceedings.

(3) If this section applies, in the proceedings —

(a) a question must not be asked of a witness, including the protected person, that may lead to the disclosure of the protected person's protected identity or protected address or both; and

(b) a witness, including the protected person, cannot be required to (and must not) answer a question, give evidence or provide information that discloses, or may lead to the disclosure of, the protected person's protected identity or protected address or both; and

(c) a person involved in the proceedings must not make a statement that discloses, or may lead to the disclosure of, the protected person's protected identity or protected address or both.

(4) The parliamentary committee may disclose to each party to the proceedings —

(a) that a non-disclosure certificate for a person who may be required to give evidence in the proceedings has been given; and

(b) what the certificate states.

(5) If the parliamentary committee makes a disclosure about the non-disclosure certificate under subsection (4), the committee must also inform the parties of the effect of the certificate.

(6) This section applies despite any other Act, but subject to section 34K.

*[Section 34J inserted: No. 55 of 2012 s. 133.]*

### 34K. Disclosure of protected person's identity despite certificate

(1) In this section —

***relevant House***, in relation to a parliamentary committee, means —

(a) if the parliamentary committee was established by a House of Parliament — that House; or

(b) if the parliamentary committee was established by both Houses of Parliament — each House.

(2) This section applies if a non-disclosure certificate for a protected person is given under section 34A(3)(b) in relation to parliamentary proceedings.

(3) The parliamentary committee may seek the authorisation of the relevant House —

(a) to ask a question of a witness, including the protected person, that may lead to the disclosure of the protected person's protected identity or protected address or both; or

(b) to require a witness, including the protected person, to answer a question, give evidence or provide information that discloses, or may lead to the disclosure of, the protected person's protected identity or protected address or both; or

(c) for a person involved in the proceedings to make a statement that discloses, or may lead to the disclosure of, the protected person's protected identity or protected address or both.

(4) The relevant House may pass a resolution authorising the doing of anything mentioned in subsection (3)(a), (b) or (c).

(5) However, the relevant House must not pass a resolution unless satisfied about each of the following —

(a) there is evidence that, if accepted, would substantially call into question the protected person's credibility;

(b) it would be impracticable to test properly the credibility of the protected person without allowing the risk of disclosure of, or disclosing, the protected person's protected identity or protected address or both.

*[Section 34K inserted: No. 55 of 2012 s. 133.]*

### 34L. Restrictions on content of reports to Parliament

If a non-disclosure certificate for a protected person is given under section 34A(3)(b) in relation to parliamentary proceedings, the parliamentary committee must not disclose in a report to a House of Parliament —

(a) the protected person's protected identity or protected address; or

(b) information that may lead to the disclosure of the protected person's protected identity or protected address.

*[Section 34L inserted: No. 55 of 2012 s. 133.]*

## Division 3 — Miscellaneous

*[Heading inserted: No. 55 of 2012 s. 134.]*

### 34. Disclosure by Auditor General, Parliamentary Commissioner or Corruption and Crime Commission

(1) Subject to subsection (3), nothing in this Act prevents the Auditor General from disclosing information in accordance with the *Auditor General Act 2006*.

(2) Subject to subsection (3), nothing in this Act prevents the Parliamentary Commissioner from disclosing information in accordance with the *Parliamentary Commissioner Act 1971*.

(2a) Subject to subsection (3), nothing in this Act prevents the Corruption and Crime Commission from disclosing information in accordance with the *Corruption, Crime and Misconduct Act 2003*.

(3) Despite the Acts referred to in subsections (1), (2) and (2a), any report or disclosure by the Auditor General, the Parliamentary Commissioner, or the Corruption and Crime Commission, that directly or indirectly involves a witness protection program must be made in a manner that does not prejudice the effectiveness or security of a witness protection program.

*[Section 34 amended: No. 48 of 2003 s. 62 and Sch. 3[2] cl. 11; No. 77 of 2006 s. 17; No. 35 of 2014 s. 39.]*

# Part 4 — Miscellaneous

## 35. Offences

(1) A person who, without lawful authority, discloses —

(a) information that identifies a person as a person who is or was included in a witness protection program or the location or circumstances of such a person; or

(b) information that compromises the security of such a person,

is guilty of a crime and is liable to imprisonment for 10 years.

Summary Conviction Penalty: Imprisonment for 3 years or a fine of $12 000.

(2) A person who is or has been included in a witness protection program, or a person who is being or has been assessed for inclusion in a witness protection program, and who discloses sensitive information (as defined in section 32(2)) other than —

(a) when required by a court to do so;

(b) when authorised by the Commissioner to do so; or

(c) for the purposes of making a complaint to the Parliamentary Commissioner,

is guilty of a crime and is liable to imprisonment for 5 years.

Summary Conviction Penalty: Imprisonment for 2 years or a fine of $8 000.

(3) A person who, directly or indirectly, makes a record of, or discloses or communicates to another person any information relating to action under this Act to give a new identity to a person or to restore a former identity to a person, other than when it is necessary to do so —

(a) for the purposes of or under this Act; or

(b) for the purposes of an investigation by the Parliamentary Commissioner,

is guilty of a crime and is liable to imprisonment for 10 years.

Summary Conviction Penalty: Imprisonment for 3 years or a fine of $12 000.

### 36. Delegation

(1) The Commissioner, in writing, may delegate to any police officer holding a designated position, any of the Commissioner's functions under this Act, other than —

(a) this power of delegation;

(b) the power to declare an office in the Police Force to be a designated position;

(c) the powers under section 14 to authorise or permit people to have access to the register or documents kept in conjunction with it; and

(d) the power to authorise disclosure under section 27.

(2) A police officer holding a designated position may perform any function delegated to the police officer by the Commissioner under a complementary witness protection law.

### 37. Reporting on the SWPP

(1) The Commissioner must keep the Minister informed of the general operations and performance of the SWPP.

(2) On or before 1 September in each year, the Minister, in consultation with the Commissioner, must prepare a report (the ***annual report***) on the general operations and performance of the SWPP with respect to the previous financial year.

(3) The annual report must be prepared in a manner that does not prejudice the effectiveness or security of a witness protection program, despite sections 81 and 82 of the *Financial Management Act 2006*.

(4) The Minister must cause the annual report to be laid before both Houses of Parliament within 14 sitting days after it is prepared.

(5) Despite Part 5 of the *Financial Management Act 2006*, the annual report required under that Part must be prepared in a manner that does not prejudice the effectiveness or security of a witness protection program.

*[Section 37 amended: No. 77 of 2006 s. 17.]*

## 38. Protection from liability for wrongdoing

(1) In this section, a reference to the doing of anything includes a reference to the omission to do anything.

(2) An action in tort does not lie against a person for anything that the person has, in good faith, done in the performance or purported performance of a function under this Act.

(3) The protection given by this section applies even though the thing done in the performance or purported performance of a function under this Act may have been capable of being done whether or not this Act had been enacted.

(4) This section does not relieve the Crown of any liability that it might have for the doing of anything by a person against whom this section provides that an action does not lie.

## 39. 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.

# Part 5 — Transitional and savings provisions

*[Heading inserted: No. 55 of 2012 s. 135.]*

## 40. Transitional

A person who was, immediately before the commencement of this Act, included in the program operated by the Police Force of this State and known as the witness protection program becomes, on that commencement, included in the SWPP.

## 41. Savings provision relating to *Criminal Investigation (Covert Powers) Act 2012*

(1) In this section —

***commencement day*** means the day on which the *Criminal Investigation (Covert Powers) Act 2012* section 136 comes into operation;

***permission*** means a permission under section 33(1)(b) as in force immediately before the commencement day.

(2) A permission given to a person for the purposes of particular proceedings is, on and after the commencement day, to be taken to be a non-disclosure certificate as defined in section 33 —

(a) for the person; and

(b) in relation to the proceedings,

and Part 3 Division 3 applies, with any necessary modifications, to that certificate.

*[Section 41 inserted: No. 55 of 2012 s. 136.]*

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

# Notes

This is a compilation of the *Witness Protection (Western Australia) Act 1996* and includes amendments made by other written laws. For provisions that have come into operation, and for information about any reprints, or versions that include editorial changes made under the *Legislation Act 2021* Part 3, see the compilation table. For provisions affected by editorial changes see the editorial changes table.

## Compilation table

| Short title | Number and year | Assent | Commencement |
|---|---|---|---|
| *Witness Protection (Western Australia) Act 1996* | 11 of 1996 | 28 Jun 1996 | s. 1 and 2: 28 Jun 1996;<br>Act other than s. 1 and 2:<br>7 Dec 1996 (see s. 2 and *Gazette* 6 Dec 1996 p. 6699) |
| *Statutes (Repeals and Minor Amendments) Act 1997* s. 133 | 57 of 1997 | 15 Dec 1997 | 28 Jun 1996 (see s. 2(2)) |
| *Acts Repeal and Amendment (Births, Deaths and Marriages Registration) Act 1998* s. 18 | 40 of 1998 | 30 Oct 1998 | 14 Apr 1999 (see s. 2 and *Gazette* 9 Apr 1999 p. 1433) |
| *Corruption and Crime Commission Act 2003* s. 62 and Sch. 3 [2] cl. 11 | 48 of 2003 | 3 Jul 2003 | 1 Jan 2004 (see s. 2 and *Gazette* 30 Dec 2003 p. 5723) |
| **Reprint 1: The *Witness Protection (Western Australia) Act 1996* as at 10 Oct 2003** (includes amendments listed above except those in the *Corruption and Crime Commission Act 2003*) | | | |
| *Criminal Code Amendment Act 2004* s. 58 | 4 of 2004 | 23 Apr 2004 | 21 May 2004 (see s. 2) |
| *Australian Crime Commission (Western Australia) Act 2004* s. 75 | 74 of 2004 | 8 Dec 2004 | 1 Feb 2005 (see s. 2 and *Gazette* 31 Dec 2004 p. 7130) |
| *Financial Legislation Amendment and Repeal Act 2006* s. 17 | 77 of 2006 | 21 Dec 2006 | 1 Feb 2007 (see s. 2(1) and *Gazette* 19 Jan 2007 p. 137) |
| *Police Amendment Act 2008* s. 22 and 23(9) | 8 of 2008 | 31 Mar 2008 | s. 22: 1 Apr 2008 (see s. 2(1));<br>s. 23(9): 21 Jun 2008 (see s. 2(2) and *Gazette* 20 Jun 2008 p. 2706) |

| Short title | Number and year | Assent | Commencement |
|---|---|---|---|
| **Reprint 2: The *Witness Protection (Western Australia) Act 1996* as at 8 Aug 2008** (includes amendments listed above) | | | |
| *Criminal Investigation (Covert Powers) Act 2012* Pt. 11 | 55 of 2012 | 3 Dec 2012 | 1 Mar 2013 (see s. 2(b) and *Gazette* 25 Jan 2013 p. 271) |
| *Corruption and Crime Commission Amendment (Misconduct) Act 2014* s. 39 | 35 of 2014 | 9 Dec 2014 | 1 Jul 2015 (see s. 2(b) and *Gazette* 26 Jun 2015 p. 2235) |
| *Legal Profession Uniform Law Application Act 2022* s. 424 | 9 of 2022 | 14 Apr 2022 | 1 Jul 2022 (see s. 2(c) and SL 2022/113 cl. 2) |
| ***Witness Protection (Western Australia) Act 1996* with editorial changes as at 4 Apr 2025** | | | |

## Editorial changes table

The *Legislation Act 2021* Part 3 authorises the Parliamentary Counsel to make editorial changes to laws. This power cannot be used to change the effect of a law. If an editorial change is made to a law, the law has effect as if the change had been made by another law that amended the law and commenced on the day on which the change is made.

To see the editorial changes included in a version of a law, see the compare document for that version on the WA legislation website.

| Provision/s affected | Authorising provision of *Legislation Act 2021* Part 3 | Effective date of change |
|---|---|---|
| Whole Act | s. 30 | 4 Apr 2025 |
| s. 28(1) | s. 34(2) [s. 34(1) def. (h)] | |

## Other notes

1 Repealed by the *Sentencing Legislation Amendment and Repeal Act 2003*.

2 The *Corruption and Crime Commission Act 2003* Sch. 3 was renumbered as Sch. 4 by the *Corruption and Crime Commission Amendment and Repeal Act 2003* s. 35(12) and the reference to it in s. 62 was amended by the *Corruption and Crime Commission Amendment and Repeal Act 2003* s. 35(13).

# Defined terms

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

| Defined term | Provision(s) |
|---|---|
| annual report | 37(2) |
| another jurisdiction | 33 |
| approved authority | 3(1) |
| commencement day | 41(1) |
| Commissioner | 3(1) |
| Commonwealth Act | 3(1) |
| complementary witness protection law | 3(1) |
| corresponding law | 33 |
| corresponding non-disclosure certificate | 33 |
| Corruption and Crime Commission | 3(1) |
| court | 3(1), 33, 34A(1) |
| court proceedings | 33 |
| designated position | 3(1) |
| new identity order | 19 |
| non-disclosure certificate | 33 |
| officer of the Corruption and Crime Commission | 3(1) |
| original court | 34F(1) |
| Parliamentary Commissioner | 3(1) |
| parliamentary committee | 33 |
| parliamentary proceedings | 33 |
| participant | 3(1) |
| party | 33 |
| permission | 41(1) |
| person involved | 34C(1) |
| person involved, | 34J(1) |
| prescribed authority | 3(1) |
| prescribed register | 3(1) |
| proceedings | 33 |
| protected address | 33 |
| protected identity | 33 |
| protected person | 33 |
| relevant House, | 34K(1) |
| sensitive information | 32(2) |
| State Witness Protection Program | 3(1) |
| SWPP | 3(2) |

witness ..... 3(1)
witness protection program ..... 3(1)

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