

Western Australia

Offenders (Legal Action) Act 2000

As at 17 Nov 2000

No. 46 of 2000

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Offenders (Legal Action) Act 2000

No. 46 of 2000

An Act to prevent offenders and others from taking legal action in respect of harm suffered in the course of committing an offence.

[Assented to 17 November 2000]

The Parliament of Western Australia enacts as follows:

1. Short title

This Act may be cited as the *Offenders (Legal Action) Act 2000*.

2. Commencement

This Act comes into operation on the day on which it receives the Royal Assent.

3. Interpretation

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

“action” means an action in tort, an action of a similar kind to an action in tort, an action under the *Fatal Accidents Act 1959* or an application under the *Criminal Injuries Compensation Act 1985*;

“criminal conduct” means —

- (a) the commission of an offence; or
- (b) anything done or omitted to be done for the purpose of the commission of an offence, including —
 - (i) planning it;
 - (ii) preparing for it;
 - (iii) travelling to or from the place where it is committed;
 - (iv) concealing it;
 - (v) disposing of anything used in the course of it or obtained from it.

(2) A reference in subsection (1) to an offence is a reference to —

- (a) an indictable offence against a written law or a law of another State, a Territory or the Commonwealth; or
- (b) conduct that —
 - (i) constitutes an offence against a law of another country for which a person could be sentenced, on conviction in that country, to imprisonment for a period of not less than 2 years or for an indefinite period; and

- (ii) would, if it had taken place in this State, have constituted an indictable offence against a written law.
- (3) For the purposes of subsection (2) an offence is indictable if the trial of that offence can or has to be by jury.

4. Application

This Act applies to an action whether the cause of action arose before or after the coming into operation of this Act.

5. Actions in respect of harm suffered by offenders barred

- (1) It is a defence to an action in respect of injury or loss suffered by a person (“**the offender**”) for the defendant to show that the injury or loss was suffered in the course of criminal conduct by the offender.
- (2) Subsection (1) does not apply if the person bringing the action can show that the injury or loss suffered by the offender —
 - (a) arose from an unlawful act that was intended to result in the offender suffering injury or loss; or
 - (b) arose from circumstances —
 - (i) which were entirely separate from those to which the offender was exposed by reason of being engaged in criminal conduct; and
 - (ii) to which the offender was exposed in common with other persons who were not engaged in criminal conduct.
- (3) This section has effect despite anything in section 5 of the *Occupiers’ Liability Act 1985*.

