



Western Australia

## **Police Amendment Act 1998**

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**No. 47 of 1998**

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**An Act to amend the *Police Act 1892* and to consequentially amend the *Young Offenders Act 1994*.**

*[Assented to 19 November 1998]*

The Parliament of Western Australia enacts as follows:

## **Part 1 — Preliminary**

**1. Short title**

This Act may be cited as the *Police Amendment Act 1998*.

**2. Commencement**

This Act comes into operation on such day as is fixed by proclamation.

**Part 2 — Police Act 1892 amended**

**3. The Act amended by this Part**

The amendments in this Part are to the *Police Act 1892*\*.

[\* Reprinted as at 31 January 1997.

*For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, pp. 182-4 and Act No. 10 of 1998.]*

**4. Section 65 amended**

(1) After section 65(1) the following paragraph is inserted —

“

(2) Every person who has in his possession any thing with the intention of using it to cause damage consisting of graffiti.

”.

(2) Section 65 is amended by inserting at the end of the section the following paragraph —

“

A person is presumed to have had the intention referred to in paragraph (2) if —

- (a) the person had possession of the thing in circumstances that give reasonable grounds for suspecting that the person had the intention; and
- (b) the contrary is not proved.

”.

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**5. Section 67B inserted**

After section 67A the following section is inserted —

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**67B. Search and seizure on reasonable suspicion**

- (1) A police officer or constable may without warrant —
  - (a) stop, detain and search any person who the officer or constable suspects on reasonable grounds to be committing an offence under section 65, 66 or 67; and
  - (b) seize any thing that the officer or constable suspects on reasonable grounds relates to the commission of the offence.
- (2) When a police officer or constable proposes to carry out a search under this section, the officer or constable must explain to the person to be searched that failure to comply with the demand is an offence against this Act.

”.

**6. Section 76 amended**

- (1) Section 76 is amended by inserting after the section designation “76.” the subsection designation “(1)”.
- (2) After section 76(1) the following subsection is inserted —

“

- (2) Despite subsection (1), if —
  - (a) possession of the goods or chattels is unlawful;  
or

(b) the Commissioner of Police is satisfied that the goods or chattels are valueless,

the Commissioner may dispose of the goods or chattels in such manner as the Commissioner thinks fit.

”.

### **Part 3 — *Young Offenders Act 1994* amended**

#### **7. The Act amended by this Part**

The amendments in this Part are to the *Young Offenders Act 1994*\*.

[\* Reprinted as at 26 November 1996.

*For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 259 and Act No. 29 of 1998.]*

#### **8. Section 23A amended**

Section 23A(2) is amended as follows:

- (a) by deleting the full stop at the end of paragraph (g) and substituting the following —

“ ; and ”;

- (b) after paragraph (g) by inserting —

“

- (h) a description of any thing seized by the police officer in relation to the offence.

”.

#### **9. Section 23B inserted**

After section 23A the following section is inserted in Division 1 —

“

##### **23B. Police officer may retain a thing relating to an offence**

- (1) If a police officer —

- (a) under a written law, seizes from a young person a thing relating to an offence; and

- (b) gives a caution to the young person for the offence,

the police officer may retain the thing or release it to an appropriate person.

- (2) A police officer who retains a thing under subsection (1) must, after 48 hours after giving the caution, make the thing available for collection by an appropriate person, unless the thing can be retained under any other law.

- (3) In this section —

**“appropriate person”**, in relation to a thing seized from a young person, means a person who —

- (a) owns the thing, is authorized by the owner to possess it or, if the young person is the owner, is a responsible adult in relation to the young person; and
- (b) is not prohibited by law from possessing the thing.

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