

WESTERN AUSTRALIA

LITTER AMENDMENT ACT 1996

No. 6 of 1996

AN ACT to amend the *Litter Act 1979*.

[Assented to 24 May 1996.]

The Parliament of Western Australia enacts as follows:

Short title

- 1.** This Act may be cited as the *Litter Amendment Act 1996*.

Principal Act

2. In this Act the *Litter Act 1979** is referred to as the principal Act.

[* *Reprinted as approved 20 July 1983.*
For subsequent amendments see 1994 Index to Legislation of Western Australia, Table 1, p. 122, and Acts Nos. 53 of 1994 and 24 of 1995.]

Commencement

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

Section 5 amended

4. Section 5 (1) of the principal Act is amended by inserting, in the appropriate alphabetical positions, the following definitions —

“
“**bill**” means any poster, placard, handbill, sticker, or other material or object manufactured, printed, drawn or produced for the purpose of advertising or promoting any thing, cause, function, event or occasion of any kind;

“**post**”, in relation to a bill, means affix the bill by any means to an object;
”.

Section 23 amended

5. Section 23 of the principal Act is amended in the penalty at the foot of that section by deleting “Four hundred dollars.” and substituting the following —

“ \$1 000. ”.

Section 24 amended

6. Section 24 of the principal Act is amended in the penalty at the foot of that section by deleting “Four hundred dollars.” and substituting the following —

“ \$1 000. ”.

Sections 24A to 24C inserted

7. After section 24 of the principal Act the following sections are inserted —

“

Bill posting

24A. (1) Any person who leaves or posts a bill on any building, fence, furniture, pillar, post, screen, tree, structure, wall or other object on or adjacent to a public place or vacant land commits an offence unless the bill is left or posted with the consent of the owner or occupier of the object on which the bill is left or posted.

Penalty: \$1 000.

(2) Any person who leaves or posts a bill on or in any unoccupied vehicle in a public place commits an offence unless the bill is left or posted with the consent of the owner or person in charge of the vehicle.

Penalty: \$1 000.

(3) A person who leaves a bill in a letter box or similar receptacle for mail does not commit an offence under subsection (1).

Counselling or procuring bill posting

24B. (1) Any person who incites, causes, counsels or procures some other person to leave or post a bill on any building, fence, furniture, pillar, post, screen, tree, structure, wall or other object on or adjacent to a public place or vacant land in contravention of section 24A (1) or on or in any unoccupied vehicle in a public place in contravention of section 24A (2) commits an offence.

Penalty: \$10 000.

(2) Notwithstanding any other enactment, the penalty in subsection (1) applies whether the offender is a natural person or a body corporate.

Offences by bodies corporate

24C. (1) Where a body corporate commits an offence under section 24B and it is proved that the offence occurred with the consent or connivance of, or was attributable to any neglect on the part of, any director, manager, secretary or other officer of the body corporate, or any person who was purporting to act in any such capacity, that person, as well as the body corporate, commits that offence.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

”.

Section 25 amended

8. Section 25 of the principal Act is amended in the penalty at the foot of subsection (9) by deleting “Two hundred dollars together with a daily penalty of twenty dollars” and substituting the following —

“ \$1 000 together with a daily penalty of \$100 ”.

Section 27 amended

9. Section 27 of the principal Act is amended —

(a) in the penalty at the foot of subsection (1a) by deleting “\$100” and substituting the following —

“ \$1 000. ”;

(b) in subsection (2) —

(i) by deleting “or 24 may order that person then and there” and substituting the following —

“ , 24 or 24A may order that person ”;

and

(ii) by deleting “litter.” at the end of paragraph (b) and substituting the following —

“

litter,

within such time as the authorized officer may direct.

”;

and

s. 10

- (c) in the penalty at the foot of subsection (3) by deleting “One hundred dollars.” and substituting the following —

“ \$1 000. ”.

Section 27A inserted

- 10.** After section 27 of the principal Act the following section is inserted —

“

Offences in respect of vehicles

27A. (1) Where an offence against section 23 or 24 consists of the depositing of litter or causing litter to be deposited on any land or on or into any waters from a vehicle or the breaking of or causing to be broken any glass, metal or glass earthenware on any land or on or into any waters from a vehicle and the authorized officer investigating the offence is unable to establish who committed the offence, the driver or person in charge of the vehicle is to be taken to have committed the offence and may be proceeded against and is punishable accordingly.

(2) Notwithstanding subsection (1), the driver or person in charge of a vehicle is not to be taken to have committed an offence by virtue of that subsection if, not later than 10 days after the date of service of a summons on that person for that offence, he or she supplies to the authorized officer who instituted the proceeding a statement in writing, on oath or by statutory declaration, to the satisfaction of the authorized officer, verifying that some other person committed the offence and —

- (a) supplying the name of that other person and the address at which that person can be located; or

(b) if that name and address are not known to the person, verifying that the person does not know and cannot by reasonable diligence find out that other person's name and address.

(3) If a prosecution is instituted against a person named in a statement supplied under subsection (2), a copy of the statement must be served with the summons.

(4) Where a copy of a statement is served under subsection (3), the statement may be endorsed as if it were a summons under section 57 of the *Justices Act 1902*, and service may be proven by that endorsement in the same manner.

(5) Subject to subsection (3), the production of a statement supplied under subsection (2) is evidence of the facts stated in it and in the absence of evidence to the contrary is sufficient evidence of those facts.

(6) Subsection (1) does not prejudice or affect the liability of a person by whom an offence was actually committed to be proceeded against and punished, except that where either that person or a person taken to have committed the offence by virtue of subsection (1) has been convicted of an offence, the other of them ceases to be liable under this Act for the offence.

”.

Section 28 amended

11. Section 28 (1) of the principal Act is amended —

(a) by deleting “or 24” and substituting the following —

“ , 24, 24A or 24B, ”; and

s. 12

- (b) in paragraph (b) by deleting “five hundred dollars” and substituting the following —

“ \$1 000 ”.

Section 29 amended

- 12.** Section 29 of the principal Act is amended —

- (a) in subsection (1) by deleting “subsection (1) of section 28” and substituting the following —

“
section 28 (1) made in respect of a
conviction for an offence against section 23
or 24,
”;

- (b) by inserting after subsection (1) the following subsection —

“
(1a) Where a person is convicted of an
offence against section 24A or 24B, or fails
to comply with an order under
section 28 (1) made in respect of a
conviction for an offence against
section 24A or 24B, the court may instead
of or in addition to imposing any penalty
order the offender to pay to the owner or
occupier or person or authority having
control or management of the building,
fence, furniture, pillar, post, screen, tree,
structure, wall, other object or unoccupied
vehicle where or on which a bill or bills
were posted in consequence of the offence
such sum as it considers reasonable for the
cleaning up and removal of the bill or bills.
”;

and

- (c) in subsection (2) by inserting after “subsection (1)” the following —

“ or (1a) ”.

Section 33 amended

- 13.** Section 33 of the principal Act is amended —

- (a) in subsection (2) (h) by deleting “fifty dollars” in both places where it occurs and substituting in each place the following —

“ \$200 ”; and

- (b) in subsection (3) by deleting “four hundred dollars” and substituting the following —

“ \$1 000 ”.