

**STATUTES (REPEALS AND MINOR
AMENDMENTS) ACT 1994**

No. 73 of 1994

AN ACT to revise the statute law by repealing miscellaneous spent, unnecessary or superseded enactments and by making miscellaneous minor amendments to various enactments.

[Assented to 9 December 1994.]

The Parliament of Western Australia enacts as follows:

Short title

1. This Act may be cited as the *Statutes (Repeals and Minor Amendments) Act 1994*.

Commencement

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

Repeal of various enactments

3. (1) The Acts and ordinances listed in Schedule 1 are repealed.

(2) Without limiting the operation of Part V of the *Interpretation Act 1984*, the repeal of *The Water Supply Act 1893* under subsection (1) does not affect —

(a) any lands that were reserved under section 2 of *The Water Supply Act 1893*; or

(b) any interest that was held in those lands,

immediately before the coming into operation of this section.

Amendment of various Acts

4. The Acts listed in Schedule 2 are amended as set out in that Schedule.

SCHEDULE 1

[Section 3]

ACTS AND ORDINANCES REPEALED

<i>Year</i>	<i>Act or ordinance</i>	<i>Short title/Description</i>
1896	60 Vict. No. 30	An Act to facilitate the Administration of Justice, and the taking of Statutory Declarations
1934	No. 28 of 1934	<i>Administration Act (Estate and Succession Duties) Amendment Act 1934</i>
1938	No. 10 of 1938	<i>Basil Murray Co-operative Memorial Scholarship Fund Act 1938</i>
1911	No. 18 of 1911	<i>Bunbury Electric Lighting Act 1911</i>
1946	No. 57 of 1946	<i>Canning District Sanitary Site Act 1946</i>
1919	No. 44 of 1919	<i>Carnarvon Electric Light and Power Act 1919</i>
1948	No. 33 of 1948	<i>City of Perth Electricity and Gas Purchase Act 1948</i>
1989	No. 36 of 1989	<i>Companies, and Securities and Futures Industries, Legislation (Acts Amendment) Act 1989</i>
1979	No. 90 of 1979	<i>Company Take-overs Act 1979</i>
1895	59 Vict. No. 24	<i>Copyright Act 1895</i>
1845	9 Vict. No. 2	<i>Destitute Persons Relief Ordinance 1845</i>
1902	2 Edw. VII No. 7	<i>Fremantle Prison Site Act 1902</i>
1909	No. 33 of 1909	<i>Mount Lyell Mining and Railway Company Limited Lease Act 1909</i>

SCHEDULE 2

[Section 4]

VARIOUS ACTS AMENDED

<i>Short title of Act</i>	<i>Provision amended</i>	<i>Amendment</i>
<i>Art Gallery Act 1959</i>	s. 29 (2) (b)	Delete "official", substitute — " common ".
<i>Artificial Conception Act 1985</i>	s. 7 (1)	Delete paragraph (b), substitute — " (b) the ovum used for the purposes of the procedure was taken from some other woman, then, in a case to which section 5 applies, for the purposes of the law of the State, the woman from whom the ovum was taken is not the mother of any child born as a result of the pregnancy. "
<i>Builders Registration Act 1939</i>	s. 9A (1) (c)	Delete "Australia Western Australian", substitute — " Australia, Western Australia "
	s. 40 (2)	Delete "for decision", substitute — " for a decision "

	Schedule, item 2	Delete "south-easterly that side to the right bank of the Serpentine River", substitute — " south-easterly along that side to the right bank of the Serpentine River ".
<i>Casino Control Act 1984</i>	s. 21A (1) (b)	Delete "officer", substitute — " member or officer ".
	s. 28 (3)	Delete "member,", substitute — " member or ".
	s. 30 (2)	Delete "to himself ", substitute — " for himself ".
	s. 36 (4) (a)	Delete "member,", substitute — " member or ".
	Schedule 1	Repeal.
<i>Conservation and Land Management Act 1984</i>	s. 148	In subsection (2) that commences "In subsection (1)" delete the subsection designation "(2)", substitute the subsection designation — " (4) ".
<i>Constitution Acts Amendment Act 1899</i>	Schedule V, Part 3	Insert in its appropriate alphabetical position — " The Heritage Council of Western Australia established under the <i>Heritage of Western Australia Act 1990.</i> ".

Delete the item that commences
"The Board of management of the
South West Development Authority".

<i>The Criminal Code</i>	s. 118	Delete " , Municipal, or Road Board", substitute — " or local government ".
	s. 121	In each section delete " , and to be fined at the discretion of the court".
	s. 122	
	s. 139	
	s. 173	
	s. 343A (1) (a)	Delete "of the Code", substitute — " of this Code ".
	s. 414	Delete "of the Code", substitute — " of this Code ".
	s. 579	Delete "of the Code", substitute — " of this Code ".
	s. 656A (6), in paragraph (b) of the definition of "convicted"	Delete "or a dismissal under section 26 (2) of that Act".
	s. 693 (1)	Delete "in law for that other", substitute — " in law for that other offence ".
	s. 697 (b)	Delete "rules of the Court", substitute — " rules of court ".

	s. 716A, in paragraph (b) of the definition of "convicted"	Delete "or a dismissal under section 26 (2) of that Act".
	s. 729	Delete "of the Code", substitute — " of this Code ".
<i>Criminal Injuries Compensation Act 1985</i>	s. 50 (5)	Delete "section 44 (1)", substitute — " section 43 (1) ".
<i>Declarations and Attestations Act 1913</i>	Schedule	After item 18 add — " 19. A surveyor licensed under the <i>Licensed Surveyors Act 1909</i> . 20. A patent attorney registered under the <i>Patents Act 1990</i> of the Commonwealth. "
<i>Environmental Protection Act 1986</i>	s. 73 (4) (b)	Delete subparagraph (ii), substitute — " (ii) caused or allowed to be caused that discharge or the likelihood of the condition of pollution arising or the arising of that condition, as the case requires, by action in a court of competent jurisdiction as

a debt due to the Crown
and shall pay any cost so
recovered into the
Consolidated Fund. ”.

- s. 74 (3) After “offence proves that” insert —
“ that pollution was
caused or ”.
- s. 100 (1) (d) Delete “section 39 (3)”, substitute —
“ section 39 (5) ”.

*Evidence
Act 1906*

- s. 3 Delete the definition of “court”,
substitute —
“ “**court**” includes the
High Court of
Australia, the
Supreme Court,
the District Court,
the Children’s
Court, the Family
Court, a Local
Court, a warden’s
court under the
Mining Act 1978,
and a court of
s u m m a r y
jurisdiction; ”.

- s. 119 After subsection (2) (a) delete “and”.

*Firearms
Act 1973*

- s. 3 (1) Delete “the First Schedule to this
Act”, substitute —
“ Schedule 1 ”.
- s. 11 After the section designation “11.”
insert the subsection designation —
“ (1) ”.

	s. 33 (3)	Delete paragraph (b), substitute — “ (b) where the fees have not been paid for a period of more than 2 years, may recover from the proceeds of a sale of that fire arm or ammunition in the prescribed manner, any fees due and owing in respect of that safe custody and any costs or expenses incurred in effecting such recovery. ”.
	First Schedule	In the heading delete “FIRST SCHEDULE”, substitute — “ SCHEDULE 1 ”.
<i>Fire Brigades Act 1942</i>	s. 29 (1)	Delete “or of any relevant award or agreement under the <i>Public Service Arbitration Act 1966</i> ”.
	s. 29 (2)	Delete “or of any relevant award or agreement under the <i>Public Service Arbitration Act 1966</i> ”.
	s. 54 (3) (b)	Delete “appointed”, substitute — “ proclaimed ”.
<i>Fluoridation of Public Water Supplies Act 1966</i>	s. 5 (4)	Repeal, substitute — “ (4) The member of the Committee referred to in subsection (2) (a) shall be Chairman of the Committee but, if that

person is unable for any reason to attend a meeting of the Committee, a person designated by the Executive Director may act as Chairman at that meeting and, while so acting, has all the powers of the Chairman and of a member. ”.

*Freedom of
Information
Act 1992*

s. 85 (6) After “appeal” insert —
“ under subsection (1)
or (4) ”.

s. 85 After subsection (6) insert —
“ (6a) An appeal
under subsection (2) may
be brought by the access
applicant. ”.

s. 86 (2) After “appeal” insert —
“ under section 85 (1)
or (4) ”.

s. 86 After subsection (2) insert —
“ (3) A third party is
entitled to be joined as a
party to an appeal under
section 85 (2) in
accordance with Rules of
Court. ”.

s. 87 (1) Delete “or (2) (a)”, substitute —
“ , (2) (a) or (4) ”.

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<i>Gold Corporation Act 1987</i>	s. 3 (1)	In the definitions of “chief executive officer” and “deputy chief executive officer”, delete “section 5” in both places where it occurs, substitute in each case — “ section 7 ”.
	s. 4 (5)	Delete “and 27”.
	s. 6 (8)	Delete “the control”, substitute — “ such control ”.
	s. 79	Repeal.
<i>Government Employees Superannuation Act 1987</i>	Schedule 4, clause 1A	After subclause (4) insert — “ (5) References in the definition of “final salary” in subclause (1) to salary paid to the member shall, in relation to any period for which the member was not paid full salary, be taken to include any amount of money that may be deemed by the Board for the purposes of that definition to have been paid as salary to that member. ”.
<i>Health Act 1911</i>	s. 3	In the definition of “Therapeutic substance” delete “Division 3B of Part VIII”, substitute — “ Division 7 of Part VIIA ”.
	s. 297 (4)	Delete “the present war or such lesser”, substitute — “ such ”.

<i>Herd Improvement Service Act 1984</i>	Schedule, clause 2 (4)	Delete "for the residue of the term of the former holder of that office".
<i>Horticultural Produce Commission Act 1988</i>	s. 12 (5)	Repeal.
<i>Hospitals Act 1927</i>	s. 7A (f)	Delete "and to any guidelines formulated under section 17 (4) (c) of the Commonwealth Act".
	s. 10 (2) (c)	Delete "is notified", substitute — " is to be notified ".
	s. 12A (4)	Delete "subsection (2) of this section", substitute — " subsection (3) ".
	s. 18 (1c)	Repeal.
	s. 33A (2)	Insert "or" after paragraph (a).
	s. 33A (2) (b)	Delete "hospital; or", substitute — " hospital, ".
	s. 33A (2) (c)	Delete.
	s. 33A (13)	Delete the definition of "Commonwealth guidelines".
	s. 37 (2d) (a)	Delete "State; and", substitute — " State. ".
	s. 37 (2d) (b)	Delete.
	s. 37 (2f) (c)	Delete "seize", substitute — " the seizure of ".

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<i>Interpretation</i> <i>Act 1984</i>	s. 5	Insert in the appropriate alphabetical position — “ “Family Court” means the Family Court of Western Australia established by the <i>Family Court Act 1975</i> ; ”.
	s. 10	Delete paragraphs (a) and (b), substitute the following paragraph — “ (a) words denoting a gender or genders include each other gender; ”.
	s. 46	After subsection (1) insert — “ (1a) An example of the operation of subsection (1) is that a reference in an Act to “this Act” includes a reference to any subsidiary legislation made under the Act. ”.
<i>Juries</i> <i>Act 1957</i>	s. 34A (3)	Delete “from serving as a juror”.
<i>Justices</i> <i>Act 1902</i>	s. 6	Delete “Great Seal”, substitute — “ seal ”.
	Second Schedule	Delete “Great Seal”, substitute — “ seal ”.

<i>Land Tax Relief</i> <i>Act 1991</i>	s. 2	Delete the subsection designation “(1)”.
<i>Legal</i> <i>Practitioner’s</i> <i>Act 1893</i>	s. 19 (2)	Delete “herein prescribed”, substitute — “ prescribed in paragraph (a) of section 16 ”.
	s. 31E (2) (c) (ii)	Delete “Tribunal;”, substitute — “ Tribunal, shall be admitted as evidence of the matters therein stated; ”.
	Part VI	In the heading to Division 1, before “Legal”, insert — “ The ”.
	Part VI	In the heading to Division 2, after “by the”, insert — “ Legal Costs ”.
	s. 71	Delete “the last preceding section”, substitute — “ section 70 ”.
	s. 78 (1)	Delete “the last preceding section contained”, substitute — “ section 77 ”.
<i>Liquor</i> <i>Licensing</i> <i>Act 1988</i>	s. 96 (6) (b) (ii)	Delete “mortgagor”, substitute — “ mortgagee ”.
	s. 167 (2) (a)	Delete “145 (5)”, substitute — “ 145 (4) ”.

<i>Local Government Act 1960</i>	Second Schedule	Delete the items —
		“Bunbury Electric Lighting Act 1911”;
		“Carnarvon Electric Light and Power Act 1919”;
		“City of Perth Electricity and Gas Purchase Act 1948”; and
		“Northam Municipal Ice Works Act 1921”.
 <i>Metropolitan (Perth) Passenger Transport Trust Act 1957</i>		Before section 1 insert the heading —
		“ PART I — PRELIMINARY ”.
 <i>Metropolitan Region Town Planning Scheme Act 1959</i>	s. 43 (3)	Delete “in manner”, substitute —
		“ in the manner ”.
 <i>Mining Act 1978</i>	s. 70 (8a) (a)	Delete “in in”, substitute —
		“ in ”.
 <i>Misuse of Drugs Act 1981</i>	s. 9 (1)	Repeal.
	s. 9 (2) (a)	After “of a prohibited drug” insert —
		“ referred to in Schedule III ”.
		Delete “specified in Schedule III”, substitute —
		“ specified in that Schedule ”.

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- s. 9 (2) (b) After “particular species or genus”
insert —

“ referred to in Schedule IV ”.

Delete “specified in Schedule IV”,
substitute —

“ specified in that
Schedule ”.

*Motor Vehicle
Dealers
Act 1973*

- s. 5 (6) Delete “the provisions of this Act
other than section 39”, substitute —

“ this Act ”.

s. 30 (3) (b) Delete “any of the provisions of this
Act other than section 39”,
substitute —

“ this Act ”.

s. 32 (2) Delete “the provisions of this Part,
other than section 39, do”,
substitute —

“ this Part does ”.

s. 41B Delete “and,”, substitute —

“ and ”.

*Parks and
Reserves
Act 1895*

- s. 12B (4) Repeal.
s. 12B (5) Repeal.

*Parliamentary
Commissioner
Act 1971*

- s. 4 Move the definition of “chief
executive officer” to its appropriate
alphabetical position.

The
Schedule

Delete the items commencing —

“Artificial Breeding Board”;

“The Trustees of a Public Cemetery”;

“Air Pollution Control Council”;

“Coal Mine Workers’ Pensions Tribunal”;

“Construction Safety Advisory Board”;

“Ministry of Education”;

“Insurance Brokers Licensing Board”;

“Honey Pool of Western Australia”;

“Advisory Committee established under section 6 of the *Industrial Development*”;

“The Industries Assistance Board”;

“Machinery Safety Advisory Board”;

“Mine Workers’ Relief Board”;

“Minerals and Energy Research Institute”;

“National Parks Authority”;

“Rural Youth Movement Council”;

“State Supply Commission”;

“Superannuation Board”;

“Registrar of Trade Associations”;

“The Transport Commission”;
and

“The Western Australian Wildlife Authority”.

The
Schedule

Insert in the appropriate
alphabetical position —

“ Government Employees
Superannuation Board
established under the
*Government Employees
Superannuation
Act 1987.* ”;

“ Minerals and Energy
Research Institute of
Western Australia
established under the
*Minerals and Energy
Research Act 1987.* ”;

“ Secondary Education
Authority established
under the *Secondary
Education Authority
Act 1984.* ”;

and

“ State Supply
Commission established
under the *State Supply
Commission Act 1991.* ”.

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<i>Petroleum Act 1967</i>	s. 16 (1)	Delete "or trustees, as the case may be, of the land", substitute — " of the land, or the relevant cemetery board or local government authority, as the case requires, ".
<i>Petroleum Pipelines Act 1969</i>	s. 4	In the definition of "owner", delete paragraph (c), substitute — " (c) land owned by or vested in a public authority, means that public authority, and "owned" and like expressions have a corresponding meaning; ".
<i>Petroleum (Submerged Lands) Act 1982</i>	s. 81 (13) (a)	Delete "1989", substitute — " 1990 ".
<i>Police Act 1892</i>	s. 2	Delete the definitions of "Governor", "Minister" and "Justice, Justices". Move the definitions of "street" and "local authority" to their appropriate alphabetical positions.
<i>Potato Growing Industry Trust Fund Act 1947</i>	s. 6 (4) (a) (ii)	Delete "of the State".
<i>Public Trustee Act 1941</i>	s. 53 (2) (d)	Delete "such insane patient or incapable person", substitute — " that represented person ".

<i>Public Works Act 1902</i>	s. 33G (2)	Delete "27B", substitute — " 33F ".
<i>R & I Bank Amendment Act 1994</i>	s. 11	In the last item in column 1 of the Table, delete "Schedule 1", substitute — " Schedule 2 ".
<i>Racing Penalties (Appeals) Act 1990</i>	s. 29	Delete " <i>Racing Penalties (Appeals) Act 1989</i> ", substitute — " <i>Racing Penalties (Appeals) Act 1990</i> ".
<i>Rates and Charges (Rebates and Deferments) Act 1992</i>	s. 3 (1)	In the definition of "State concession Card" delete "Director", substitute — " Director-General ".
	s. 6 (1)	Delete "Director", substitute — " Director-General ".
	s. 6 (2)	Delete "Director" in both places where it occurs, substitute in each case — " Director-General ".
	s. 6 (3)	Delete "Director", substitute — " Director-General ".
	<i>Real Property (Foreign Governments) Act 1951</i>	s. 3 (1)

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<i>Registration of Births, Deaths and Marriages Act 1961</i>	s. 6 (5)	Delete "practical", substitute — " practicable ";
	s. 28 (3)	Delete "that section", substitute — " section 24 ".
	s. 44 (4)	Delete "section 43 (c)", substitute — " section 43 (1) (c) ".
	s. 44 (5)	Delete "section 43 (c)", substitute — " section 43 (1) (c) ".
<i>Retail Trading Hours Act 1987</i>	s. 42 (1)	Delete "of 10 (4)", substitute — " or 10 (4) ".
<i>Salaries and Allowances Act 1975</i>	s. 6B (2)	Delete "applies", substitute — " apply ".
	s. 10 (2)	Delete the comma after "1968".
<i>Settlement Agents Act 1981</i>	s. 108 (a)	Delete ", including the cost of every audit pursuant to section 109".
<i>Shearer's Accommodation Act 1912</i>	s. 17 (2) (d)	Delete ", subject as hereinafter provided,".
<i>Small Business Development Corporation Act 1983</i>	s. 5 (7)	Repeal.
<i>Soil and Land Conservation Act 1945</i>	s. 42	Delete the subsection designation "(a)", substitute — " (1) ".

Delete the subsection designation
“(b)”, substitute —

“ (2) ”.

Delete the subsection designation
“(c)”, substitute —

“ (3) ”.

*Stipendiary
Magistrates
Act 1957*

s. 4 (7)

Delete “section 5”, substitute —

“ section 10 ”.

s. 6 (1)

Delete “section 5”, substitute —

“ section 10 ”.

*Stock (Brands
and Movement)
Act 1970*

s. 18 (1) (d)

Delete “they are”, substitute —

“ it is ”.

*Superannuation
and Family
Benefits
Act 1938*

s. 37 (5) (b)
(iii)

Delete “30 miles”, substitute —

“ 50 kilometres ”.

*Swan River
Trust
Act 1988*

s. 49

In subsection (4) that commences
“This Part”, delete the subsection
designation “(4)”, substitute the
subsection designation —

“ (5) ”.

*Technology and
Industry
Development
Act 1983*

Schedule 2,
clause 2 (4)

Delete “, for the residue of the term
of the former holder of that office”.

*The Sale
of Goods
Act 1895*

s. 33

Delete “cost”, substitute —

“ course ”.

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<i>Totalisator Agency Board Betting Act 1960</i>	s. 17	After the section designation "17." insert the subsection designation — " (1) ".
	s. 23A (2) (c)	Delete "Totalisator Agency Board", substitute — " TAB ".
	s. 28	In subsection (6) that commences "From the amount" — (a) delete the subsection designation "(6)", substitute the subsection designation — " (7) "; and (b) delete "1989", substitute — " 1990 ".
<i>Unclaimed Money Act 1990</i>	s. 4 (4)	Repeal.
	s. 6 (1)	Delete "(3), (4)", substitute — " (3) ".
	s. 9 (1) (r) (ii)	Delete "1975", substitute — " 1985 ".
<i>Water Authority Act 1984</i>	s. 5 (1)	Delete "Water Supply Act 1893".
<i>Weights and Measures Act 1915</i>	s. 4 (7) (b)	Delete "import", substitute — " impost ".

<i>Western Australian Land Authority Act 1992</i>	s. 6 (4) (b)	Delete “and of the Authority in respect of directors”.
<i>Western Australian Tourism Commission Act 1983</i>	s. 5 (7)	Repeal.
<i>Western Australian Trotting Association Act 1946</i>	s. 2	In the definition of “metropolitan area” delete “thirty miles”, substitute — “ 50 kilometres ”.
<i>Wildlife Conservation Act 1950</i>	s. 15 (1b) (a)	Delete “Authority”, substitute — “ Department of Conservation and Land Management ”.
<i>Zoological Gardens Act 1972</i>	s. 5 (4)	Delete “Committee”, substitute — “ Board ”.