

**ACTS AMENDMENT (MINISTRY  
OF JUSTICE) ACT 1993**

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**No. 31 of 1993**

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**AN ACT to amend certain Acts to accommodate restructuring within the Public Service so as to establish a department to be known as the Ministry of Justice, to amend the *Child Welfare Act 1947* to provide for the administration of provisions relating to juvenile justice through that department, and to amend that Act and certain other Acts for related purposes.**

*[Assented to 15 December 1993.]*

The Parliament of Western Australia enacts as follows:

**PART 1 — PRELIMINARY**

**Short title**

**1.** This Act may be cited as the *Acts Amendment (Ministry of Justice) Act 1993*.

**Commencement**

**2.** This Act comes, or is deemed to have come, into operation on 1 July 1993.

**PART 2 — ANATOMY ACT 1930**

**Principal Act**

3. In this Part the *Anatomy Act 1930*\* is referred to as the principal Act.

[\* *Reprinted as authorized 18 March 1970.*

*For subsequent amendments see 1992 Index to  
Legislation of Western Australia, Table 1, p. 10.]*

**Section 8 amended**

4. Section 8 of the principal Act is amended by deleting “comptroller general of prisons” and substituting the following —

“

chief executive officer within the meaning of that expression as defined in section 3 of the *Prisons Act 1981*

”.

### PART 3 — BAIL ACT 1982

#### Principal Act

5. In this Part the *Bail Act 1982*\* is referred to as the principal Act.

[\* *Reprinted as at 17 October 1991.*

*For subsequent amendments see 1992 Index to  
Legislation of Western Australia, Table 1, p. 15.]*

#### Section 3 amended

6. (1) Section 3 (1) of the principal Act is amended —

- (a) in the definition of “authorized community services officer”, by deleting paragraph (a) and substituting the following paragraph —

“

- (a) the CEO (Justice) or a delegate of the  
CEO (Justice) under subsection (5);

”;

and

- (b) by deleting the definition of “chief executive officer of corrective services” and substituting the following definition —

“

**“CEO (Justice)”** means the chief executive officer of the department of the Public Service principally assisting the Minister to whom the administration of the *Prisons Act 1981* is for the time being committed by the Governor in the administration of that Act;

”.

(2) Section 3 of the principal Act is amended by inserting after subsection (4) the following subsection —

“

(5) The CEO (Justice) may by writing signed by him delegate to any officer of the department of which he is the chief executive officer any function he has under this Act as an authorized community services officer.

”.

### **Section 21 amended**

7. Section 21 (2) of the principal Act is amended by deleting paragraph (c) and substituting the following paragraph —

“

(c) an officer referred to in section 33 of the *Children's Court of Western Australia Act 1988* to be present at and participate in proceedings concerning a child under that section.

”.

### **Section 66A amended**

8. Section 66A (2) of the principal Act is amended by deleting “officer of the Department for Community Services” and substituting the following —

“

officer of the department of which the CEO (Justice) is the chief executive officer

”.

**Various references to “chief executive officer of corrective services” amended**

9. The principal Act is amended by deleting “chief executive officer of corrective services” in each place where it occurs that is mentioned in the Table to this section and in each case substituting the following —

“ CEO (Justice) ”.

**TABLE**

Sections 24A (4), 27A, 50A, 50C (4) (a) and (b), 50D (1) (a), 50E, 50F (1), (3), (4) and (5), 50H, 50J, and 50L (1), and clause 3 (3) (e) of Part D of the Schedule.

**PART 4 — CHILD WELFARE ACT 1947**

**Principal Act**

10. In this Part the *Child Welfare Act 1947*\* is referred to as the principal Act.

[\* *Reprinted as at 23 May 1990.*

*For subsequent amendments see 1992 Index to Legislation of Western Australia, Table 1, pp. 28-30.]*

**Section 4 amended**

11. Section 4 (1) of the principal Act is amended —

(a) by inserting before the definition of “child” the following definition —

“

“**CEO (Justice)**” means the chief executive officer of the department of the Public Service principally assisting the Minister referred to in paragraph (b) of section 5 (1) in the administration of the provisions of this Act referred to in that paragraph;

”;

and

(b) by deleting the definition of “Department” and substituting the following definition —

“

“**Department**” means the department of the Public Service principally assisting the Minister who is administering the provision in which the term is used in its administration;

”.

**Section 5 repealed and sections substituted**

12. Section 5 of the principal Act is repealed and the following sections are substituted —

“

**Administration**

5. (1) This Act —

(a) so far as it relates to the protection, guidance and maintenance of children in need of care and protection or a purpose connected therewith, is to be administered by the Minister for the time being administering the *Community Services Act 1972* unless paragraph (b) provides otherwise; and

(b) so far as it relates to —

(i) the control and treatment of children offending against the law or a purpose connected therewith; or

(ii) the provision of welfare or other services for children who are being or have been dealt with for an offence against the law or children referred to in paragraph (j) of the definition of “child in need of care and protection” in section 4 (1), or a purpose connected therewith,

is to be administered by the Minister for the time being administering the *Children’s Court of Western Australia Act 1988*.

(2) The regulations may make provision for determining which Minister is responsible for administering any matter arising under this Act.

(3) The power conferred by subsection (2) is for use in cases where it is expedient to remove doubt as to which Minister is to administer a matter.

(4) Subsection (2) does not limit the application of subsection (1) in relation to matters for which no provision is made by regulations under subsection (2).

(5) Nothing done under this Act by one of the Ministers referred to in subsection (1) or through a department of the Public Service assisting one of those Ministers is invalid on the grounds that it was a function for which the other Minister was responsible.

### **Exchange of information**

**5A.** (1) This section applies if a provision of this Act (in this section called “**the relevant provision**”) is administered by one Minister and other provisions are administered by another Minister.

(2) A person may obtain information, or disclose information obtained, in the course of administering the relevant provision in any way in which the information could be obtained or disclosed if all of the provisions of this Act were administered —

- (a) by the Minister administering the relevant provision; and
- (b) through the department of the Public Service through which the relevant provision is administered.

**Section 6 amended**

13. Section 6 (1) of the principal Act is amended by inserting before “so far as” the following —

“

so far as their administration is vested in the Minister to whom the administration of the *Community Services Act 1972* is for the time being committed by the Governor and

”.

**Section 9A amended**

14. Section 9A (1) (a) of the principal Act is amended by deleting “section 34D (2),”.

**Section 9B amended**

15. Section 9B (6) of the principal Act is amended by deleting “section 34D (2) and”.

**Section 11A inserted**

16. After section 11 of the principal Act the following section is inserted —

“

**Delegation of functions of CEO (Justice)**

11A. The CEO (Justice) may from time to time by writing under his hand delegate to any officer of the Department any function conferred on the CEO (Justice) by this Act.

”.

**Section 12 amended**

17. Section 12 of the principal Act is amended by deleting “the Department” and substituting the following —

“  
each of the departments of the Public Service  
principally assisting in the administration of this Act  
”.

**Section 34D repealed**

18. Section 34D of the principal Act is repealed.

**Section 38 amended**

19. Section 38 (1) of the principal Act is amended by deleting “whether by order of the court or pursuant to the order of the Minister made under section 34D” and substituting the following —

“ on probation ”.

**Section 78 amended**

20. Section 78 (1) of the principal Act is amended by deleting “, notwithstanding that the child is not committed to the care of the Department or placed under the control of the Department”.

**Section 127 amended**

21. Section 127 (a) of the principal Act is amended by inserting after “Director-General,” the following —

“ the CEO (Justice), ”.

**Section 138B amended**

22. Section 138B of the principal Act is amended —

- (a) by inserting after subsection (1) the following subsections —

“

(1a) Although, in accordance with section 5, this section is otherwise administered by the Minister mentioned in subsection (1) (a) of that section, a juvenile justice officer authorized by the Minister mentioned in section 5 (1) (b) who finds a child misbehaving or truanting from school may apprehend the child without warrant and forthwith take the child to its usual place of residence or school.

(1b) In subsection (1a), “**juvenile justice officer**” means an officer of the department principally assisting the Minister mentioned in section 5 (1) (b) in the administration of the provisions of this Act that are administered by that Minister.

and

- (b) in subsection (4), by deleting “under this section” and substituting the following —

“ under subsection (1) ”.

”;

”.

**Section 146B amended**

23. Section 146B of the principal Act is amended by deleting “the Department” in the second place where it occurs and substituting the following —

“

a Department assisting in the administration of any provision of this Act

”.

**Section 146C amended**

**24.** Section 146C (1) of the principal Act is amended by deleting “or officer of the Department” and substituting the following —

“

CEO (Justice), or officer of a Department assisting in the administration of any provision of this Act

”.

**Various references to “Director-General” amended**

**25.** The principal Act is amended by deleting “Director-General” in each place where it occurs that is mentioned in the Table to this section and in each case substituting the following —

“ CEO (Justice) ”.

**TABLE**

Sections 13A (3), 13C (1) (c) and (d), 13J (1), 33B (1) (a), 34CA (1) and (2), 35 (6), 38 (1) and (2), 39Q (1), (2) and (4), 71 (1) (a) and (3) (a), (c) and (d), and 141 (2) (e) and (3).

**PART 5 — CHILDREN'S COURT OF WESTERN  
AUSTRALIA ACT 1988**

**Principal Act**

26. In this Part the *Children's Court of Western Australia Act 1988\** is referred to as the principal Act.

[\* *Act No. 69 of 1988.*

*For subsequent amendments see 1992 Index to  
Legislation of Western Australia, Table 1, p. 30.]*

**Section 3 amended**

27. Section 3 of the principal Act is amended by inserting before the definition of "child" the following definition —

“

“**CEO (Justice)**” has the meaning given to that expression in section 4 (1) of the *Child Welfare Act 1947*;

”.

**Section 7 amended**

28. Section 7 (1) of the principal Act is amended by deleting "*Child Welfare Act 1947*" and substituting the following —

“ *Community Services Act 1972* ”.

**Section 28 amended**

29. Section 28 (2) of the principal Act is amended in paragraph (a) by inserting after "Services" the following —

“ or the CEO (Justice) ”.

### Section 33 amended

30. Section 33 of the principal Act is amended by inserting after “that Department” the following —

“  
    , or the CEO (Justice) or a person who is an officer of the department of the Public Service for which the CEO (Justice) is responsible and is authorized by the CEO (Justice),  
”.

### Section 40 amended

31. Section 40 (2) of the principal Act is amended by deleting paragraph (b) and substituting the following paragraph —

“  
    (b) by the CEO (Justice), on behalf of the child, at any time after the date of the order;  
”.

### Sections 42 and 43 amended

32. Section 42 (1) (c) and section 43 (4) (c) of the principal Act are amended in each case by deleting “the *Child Welfare Act 1947*” in the second place where it occurs and substituting the following —

“    that section    ”.

**PART 6 — THE CRIMINAL CODE**

**Section 666 amended**

**33.** Section 666 of *The Criminal Code*\* is amended in each of subsections (6) and (7) by deleting “chief executive officer of the Department for Community Services” and substituting the following —

“

chief executive officer of the department of the Government principally assisting the Minister administering the *Prisons Act 1981* with the administration of that Act

”

[\* *Reprinted as at 31 May 1991.*  
*For subsequent amendments see 1992 Index to Legislation of Western Australia, Table 1, pp. 50-52 and Act No. 53 of 1992.]*

**PART 7 — CRIMINAL INJURIES COMPENSATION  
ACT 1985**

**Principal Act**

**34.** In this Part the *Criminal Injuries Compensation Act 1985*\* is referred to as the principal Act.

[\* Act No. 73 of 1985.

*For subsequent amendments see 1992 Index to  
Legislation of Western Australia, Table 1, p. 52.]*

**Section 3 amended**

**35.** Section 3 (1) of the principal Act is amended —

- (a) by inserting before the definition of “close relative” the following definition —

“

**“chief executive officer”** means the chief executive officer of the department of the Public Service principally assisting the Minister in the administration of this Act;

”;

- (b) by deleting the semicolon at the end of the definition of “personal representative” and substituting a fullstop; and
- (c) by deleting the definition of “Under Secretary for Law”.

**Various references to “Under Secretary for Law” amended**

**36.** The principal Act is amended by deleting “Under Secretary for Law” in each place where it occurs that is mentioned in the Table to this section and in each case substituting the following —

“ chief executive officer ”.

**TABLE**

Sections 18 (c), 19 (2), 21 (1) and (2) (b), 32, 38A (1), (2) and (4), 39 (1), (3) (a) and (b), (4), (5) and (8), and 41 (1).

**PART 8 — ELECTORAL ACT 1907**

**Principal Act**

37. In this Part the *Electoral Act 1907*\* is referred to as the principal Act.

[\* *Reprinted as at 1 January 1989.*  
*For subsequent amendments see 1992 Index to*  
*Legislation of Western Australia, Table 1, pp. 64-5.]*

**Section 59 amended**

38. Section 59 of the principal Act is amended by deleting “the Director, within the meaning of that expression as defined in section 4 of the *Prisons Act 1903*” and substituting the following —

“

the chief executive officer, within the meaning of that expression as defined in section 3 of the *Prisons Act 1981*

”

**PART 9 — EVIDENCE ACT 1906**

**Principal Act**

**39.** In this Part the *Evidence Act 1906\** is referred to as the principal Act.

[\* *Reprinted as at 1 August 1992.*  
*For subsequent amendments see 1992 Index to*  
*Legislation of Western Australia, Table 1, pp. 68-9.*]

**Section 28 amended**

**40.** Section 28 of the principal Act is amended by repealing subsection (1).

**Section 51 amended**

**41.** Section 51 of the principal Act is amended by deleting “, at the request of a Crown Law officer, the Sheriff of Western Australia, or the Executive Director of the Department of Corrective Services” and substituting the following —

“

the Sheriff of Western Australia or the chief executive officer, within the meaning of that expression as defined in section 3 of the *Prisons Act 1981*,

”.

**PART 10 — FREEDOM OF INFORMATION ACT 1992**

**Principal Act**

42. In this Part the *Freedom of Information Act 1992\** is referred to as the principal Act.

[\* Act No. 76 of 1992.]

**Schedule 1 amended**

43. Schedule 1 to the principal Act is amended in clause 5 (2) (b) by deleting “the Department of”.

**Schedule 2 amended**

44. Schedule 2 to the principal Act is amended by deleting “The Internal Investigations Unit of the Department of Corrective Services.” and substituting the following —

“ The Internal Investigations Unit of Corrective Services. ”.

**Glossary amended**

45. The Glossary to the principal Act is amended —

(a) in clause 1, by deleting the definition of “Department of Corrective Services” and inserting before the definition of “court” the following definition —

“

“**Corrective Services**” means the division concerned with corrective services in the department of the Public Service principally assisting the Minister

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administering the *Prisons Act 1981* in the  
administration of that Act;

”;

and

(b) in each of clauses 2 (3) and 6 (2) —

(i) by deleting “the Department of ”; and

(ii) by deleting “that department” and substituting  
the following —

“ the department in which it is established ”.

**PART 11 — JURIES ACT 1957**

**Principal Act**

46. In this Part the *Juries Act 1957\** is referred to as the principal Act.

[\* *Reprinted as at 2 December 1987.*

*For subsequent amendments see 1992 Index to Legislation of Western Australia, Table 1, p. 107 and Act No. 53 of 1992.]*

**Second Schedule amended**

47. The Second Schedule to the principal Act is amended in Part 1 by deleting item 2 (i) and (j) and substituting the following item —

“

- (i) Officer or employee in the Ministry of Justice of the Public Service, other than an officer in the Public Trust Office;

”

**PART 12 — JUSTICES ACT 1902**

**Principal Act**

48. In this Part the *Justices Act 1902*\* is referred to as the principal Act.

[\* Reprinted as at 1 April 1992.

For subsequent amendments see 1992 Index to Legislation of Western Australia, Table 1, pp. 108-9 and Act No. 53 of 1992.]

**Section 9 amended**

49. Section 9 of the principal Act is amended —

(a) in subsections (2) and (3), by deleting “Under Secretary for Law” and substituting the following —

“ chief executive officer ”; and

(b) by inserting after subsection (4) the following subsection —

“

(5) In subsections (2) and (3), “**chief executive officer**” means the chief executive officer of the department of the Public Service principally assisting the Minister in the administration of this Act.

”

**PART 13 — LAW REFORM COMMISSION ACT 1972**

**Principal Act**

**50.** In this Part the *Law Reform Commission Act 1972\** is referred to as the principal Act.

[\* *Act No. 59 of 1972.*

*For subsequent amendments see 1992 Index to  
Legislation of Western Australia, Table 1, p. 115.]*

**Section 6 amended**

**51.** Section 6 (1) (c) of the principal Act is amended by deleting “Crown Law Department” and substituting the following —

“ Crown Solicitor’s Office ”.

**PART 14 — PAY-ROLL TAX ASSESSMENT ACT 1971**

**Principal Act**

**52.** In this Part the *Pay-roll Tax Assessment Act 1971*\* is referred to as the principal Act.

[\* *Reprinted as at 1 June 1988.*

*For subsequent amendments see 1992 Index to  
Legislation of Western Australia, Table 1, p. 156.]*

**Schedule 2 amended**

**53.** Schedule 2 to the principal Act is amended by deleting items 10 and 11 and inserting after item 22 the following item —

“ 22A. Justice, Ministry of ”.

**PART 15 — PRISONS ACT 1981**

**Principal Act**

54. In this Part the *Prisons Act 1981*\* is referred to as the principal Act.

[\* Reprinted as at 9 July 1992.

For subsequent amendments see 1992 Index to  
Legislation of Western Australia, Table 1, p. 169.]

**Section 3 amended**

55. Section 3 of the principal Act is amended —

- (a) by inserting after the definition of “District Court Judge” the following definition —

“

“**Executive Director (Corrective Services)**” means the person appointed in accordance with section 6 (1);

”;

and

- (b) in the definition of “rules”, by deleting “by the Director”.

**Section 6 amended**

56. Section 6 of the principal Act is amended —

- (a) by repealing subsection (1) and substituting the following subsection —

“

(1) There shall be appointed under and subject to the *Public Service Act 1978* an officer of the Department who has

immediate responsibility to the chief executive officer for the administration of this Act.

”;

and

- (b) in subsection (2), by deleting “chief executive officer” in both places where it occurs and substituting in each case the following —

“ Executive Director (Corrective Services) ”.

**Section 8 amended**

**57.** Section 8 of the principal Act is amended —

- (a) in subsection (1) —

- (i) by inserting after “delegate to” the following —

“

the Executive Director (Corrective Services),

”;

and

- (ii) by inserting before “88” the following —

“ 87, ”;

and

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

“

(1a) The chief executive officer may, either generally or as otherwise provided by the instrument of delegation, by writing

signed by him, delegate to the Executive Director (Corrective Services) any of his powers and duties under sections 9, 87, 88, 104, 105 and 106.

”

**Section 26 amended**

58. Section 26 (2) (b) of the principal Act is amended by deleting “permanent head” in the 3 places where it occurs and in each case substituting the following —

“ chief executive officer ”.

**Section 35 amended**

59. Section 35 (1) of the principal Act is amended by inserting before “with the approval of the Minister” the following —

“  
on the recommendation of the Executive Director  
(Corrective Services) and

”.

**PART 16 — REPRINTS ACT 1984**

**Principal Act**

**60.** In this Part the *Reprints Act 1984\** is referred to as the principal Act.

[\* *Act No. 13 of 1984.*]

**Section 5 amended**

**61.** Section 5 (3) of the principal Act is amended by deleting “officer of the Crown Law Department of the State who is” and substituting the following —

“

person employed in the Parliamentary Counsel's Office who is nominated by the Parliamentary Counsel  
and

”.

**PART 17 — RESIDENTIAL TENANCIES ACT 1987**

**Principal Act**

**62.** In this Part the *Residential Tenancies Act 1987\** is referred to as the principal Act.

[\* *Act No. 128 of 1987.*

*For subsequent amendments see 1992 Index to  
Legislation of Western Australia, Table 1, p. 180.]*

**Schedule 1 amended**

**63.** Schedule 1 to the principal Act is amended in Part A —

- (a) in clause 1, by deleting the definition of “bond administrator” and substituting the following definition —

“

“**bond administrator**” means the chief  
executive officer of the Department;

”;

and

- (b) in clause 3 (1), by deleting “Permanent Head of the Crown Law Department” and substituting the following —

“ bond administrator ”.

**PART 18 — SUITORS' FUND ACT 1964**

**Principal Act**

64. In this Part the *Suitors' Fund Act 1964\** is referred to as the principal Act.

[\* *Approved for reprint 21 August 1979.*  
*For subsequent amendments see 1992 Index to*  
*Legislation of Western Australia, Table 1, p. 204.]*

**Section 3 amended**

65. Section 3 of the principal Act is amended —

- (a) by inserting after the definition of "Court" the following definition —

"

**"Department"** means the department of the Public Service principally assisting the Minister in the administration of this Act;

”;

- (b) by deleting the semicolon at the end of the definition of "the Fund" and substituting a fullstop; and
- (c) by deleting the definition of "Under Secretary".

**Section 4A amended**

66. Section 4A of the principal Act is amended by deleting "Crown Law".

**Section 6 amended**

**67.** Section 6 (1) of the principal Act is amended —

(a) by deleting “Under Secretary” and substituting the following —

“ chief executive officer of the Department ”;

and

(b) by deleting “Crown Law Department of the State” and substituting the following —

“ Department ”.

## **PART 19 — SAVINGS AND TRANSITIONAL**

### **Savings**

**68.** If this Act is not passed until after 1 July 1993, anything done after that day but before this Act is passed that would have been in accordance with law if this Act had not come into operation but as a result of the coming into operation of this Act is contrary to law, is deemed to be in accordance with law.

### **Transitional**

**69.** Unless the contrary intention appears, a reference, however expressed, in any law or document to the former Department of Corrective Services or Crown Law Department, the chief executive officer of either of those departments, or an office or organizational unit within either of those departments, is to be read as a reference to the Ministry of Justice, the chief executive officer of the Ministry of Justice, or the corresponding office or unit within the Ministry of Justice, as is appropriate.