



Western Australia

## **Solicitor-General Act 1969**

Compare between:

[18 Jan 2008, 02-a0-02] and [27 May 2008, 02-b0-05]





Western Australia

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## Solicitor-General Act 1969

**An Act relating to the office of Solicitor-General of the State of Western Australia.**

### 1. Short title

This Act may be cited as the *Solicitor-General Act 1969*<sup>1</sup>.

### 2. Terms used in this Act

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

**“Attorney General”** includes, where there is a vacancy in the office of Attorney General the person holding office as the Minister for Justice;

**“Solicitor-General”** means a person holding office as Solicitor-General of the State of Western Australia in pursuance of this Act.

(2) In sections 5, 9 and 13, **“Solicitor-General”** includes a person acting in the office of Solicitor-General of the State of Western Australia in pursuance of this Act.

[Section 2 amended by No. 57 of 1997 s. 112(1); No. 29 of 2006 s. 4.]

### 3. Solicitor-General, appointment and qualifications

(1) The Governor may appoint a person to be the Solicitor-General of the State of Western Australia.

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- (1a) Subject to this Act, the Solicitor-General holds office for the term (not exceeding 7 years) fixed by the instrument of appointment and is eligible for reappointment.
- (2) A person is not eligible for appointment as Solicitor-General unless he or she is a legal practitioner (as defined in the *Legal Practice Act 2003*) or a barrister or solicitor of the Supreme Court of another State or a Territory of not less than 8 years' standing and practice.

*[Section 3 amended by No. 65 of 2003 s. 118; No. 29 of 2006 s. 5.]*

**4. Remuneration**

- (1) In this section —  
“**remuneration**” has the meaning given to that term in section 4(1) of the *Salaries and Allowances Act 1975*.
- (2) The remuneration of the Solicitor-General is to be determined by the Salaries and Allowances Tribunal under the *Salaries and Allowances Act 1975*.

*[Section 4 inserted by No. 29 of 2006 s. 6.]*

**4A. Leave and other conditions of service**

The Governor may determine —

- (a) the leave of absence to which the Solicitor-General is entitled; and
- (b) other terms and conditions of service that apply to the Solicitor-General.

*[Section 4A inserted by No. 29 of 2006 s. 6.]*

**5. Resignation**

- (1) The Solicitor-General may resign his office by instrument in writing under his hand and delivered to the Governor.

*[(2) repealed]*

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*[Section 5 amended by No. 29 of 2006 s. 7.]*

**6. Private practice prohibited except with approval**

Except in the performance of the functions or duties of his office or with the approval of the Governor the Solicitor-General shall not engage in the practice of a barrister or solicitor or engage in any other paid employment.

**7. Removal from office**

The Governor may remove the Solicitor-General from office if the Solicitor-General —

- (a) except by reason of temporary illness becomes incapable of performing the duties of his office;
- (b) is guilty of misbehaviour; or
- (c) becomes bankrupt or insolvent, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his salary for their benefit.

**8. Acting Solicitor-General**

- (1) In the event of a vacancy occurring in the office of Solicitor-General, or of the illness or absence of the person holding that office, the Governor may appoint a person who is eligible for appointment to that office to act as Solicitor-General and may at any time revoke the appointment.
- (1a) Subject to this Act, a person appointed under subsection (1) holds office for the term (not exceeding 12 months) fixed by the instrument of appointment and is eligible for reappointment.
- (2) A person appointed under subsection (1) holds office until —
  - (a) the appointment is revoked or expires; or
  - (aa) the person resigns the office; or
  - (b) a person is appointed Solicitor-General under section 3; or

- (c) the person holding office as Solicitor-General ceases to be ill or absent,

whichever first happens.

- (3) The Governor may determine the terms and conditions of service that apply to a person appointed under subsection (1).

*[Section 8 amended by No. 29 of 2006 s. 8.]*

## 9. Functions

The Solicitor-General —

- (a) may act as counsel for the Crown in right of the State and for any other body or person for whom the Attorney General requests him to act, and may perform such other duties of counsel as the Attorney General directs; and
- (b) may exercise, subject to this Act, any powers and functions conferred on the Solicitor-General by any Act of the State or the Commonwealth, whether passed before or after the coming into operation of this Act.

*[Section 9 amended by No. 57 of 1997 s. 112(2).]*

## 10. Certain rights as a public servant preserved

- (1) Where the Solicitor-General was, immediately before his appointment as such, an officer of the Public Service of the State —

- (a) he retains his existing and accruing rights and in particular his rights, if any, under the *Superannuation and Family Benefits Act 1938*<sup>2</sup>; and
- (b) for the purpose of determining those rights, his service as Solicitor-General shall be taken into account as if it were service in the Public Service of the State.

*[(2) repealed]*

*[Section 10 amended by No. 69 of 1979 s. 3; No. 29 of 2006 s. 9.]*

[11, 12. Repealed by No. 29 of 2006 s. 10.]

**13. Attorney General may delegate to Solicitor-General**

- (1) The Attorney General may, either generally or otherwise as provided by the instrument of delegation, by writing under his hand delegate to the Solicitor-General all or any of his powers and functions under all or any of the laws of the State, except this power of delegation.
- (2) A power or function delegated under this section may be exercised or performed by the Solicitor-General in accordance with the instrument of delegation.
- (3) A delegation under this section is revocable at will and does not prevent the exercise of a power or performance of a function by the Attorney General.

[Section 13 amended by No. 57 of 1997 s. 112(2).]

**14. Transitional matters for *Solicitor-General Amendment Act 2006***

- (1) In this section —
  - “**amended Act**” means this Act as amended by the *Solicitor-General Amendment Act 2006*;
  - “**current Solicitor-General**” means the Solicitor-General holding office immediately before 18 July 2006;
  - “**former Act**” means this Act as in force immediately before 18 July 2006.
- (2) This section applies if the current Solicitor-General is appointed under section 3(1) of the amended Act and section 25 of the *Interpretation Act 1984*.
- (3) Despite section 2 of the *Solicitor-General Amendment Act 2006*, that Act is taken to have come into operation on 18 July 2006 immediately after the retirement of the current Solicitor-General.

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- (4) Sections 4, 4A and 10 of the amended Act do not apply in relation to the current Solicitor-General in respect of any period for which he has held or holds office whenever occurring.
- (5) Sections 4, 10, 11 and 12 of the former Act continue to apply in relation to the current Solicitor-General in respect of all periods for which he has held or holds office whenever occurring as if the aggregate of those periods were one continuous period of service.
- (6) The retirement of the current Solicitor-General referred to in subsection (3) is not retirement for the purposes of section 11 of the former Act.

*[Section 14 inserted by No. 29 of 2006 s. 11.]*

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## Notes

- <sup>1</sup> This ~~reprint~~ is a compilation ~~as at 18 January 2008~~ of the *Solicitor-General Act 1969* and includes the amendments made by the other written laws referred to in the following table <sup>1a, 3</sup>. The table also contains information about any reprint.

### Compilation table

Short title	Number and year	Assent	Commencement
<i>Solicitor-General Act 1969</i>	38 of 1969	19 May 1969	19 May 1969
<i>Acts Amendment (Judicial Salaries and Pensions) Act 1976 Pt. II</i>	125 of 1976	2 Dec 1976	1 Jan 1977 (see s. 2)
<i>Solicitor-General Act Amendment Act 1979</i>	69 of 1979	21 Nov 1979	19 May 1969 (see s. 2)
<i>Financial Administration Legislation Amendment Act 1993 s. 11</i>	6 of 1993	27 Aug 1993	1 Jul 1993 (see s. 2(1))
<i>Financial Legislation Amendment Act 1996 s. 64</i>	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<i>Statutes (Repeals and Minor Amendments) Act 1997 s. 112</i>	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2(1))
<b>Reprint of the <i>Solicitor-General Act 1969</i> as at 1 Nov 2002</b> (includes amendments listed above)			
<i>Acts Amendment (Equality of Status) Act 2003 Pt. 54</i>	28 of 2003	22 May 2003	1 Jul 2003 (see s. 2 and <i>Gazette</i> 30 Jun 2003 p. 2579)
<i>Acts Amendment and Repeal (Courts and Legal Practice) Act 2003 s. 118</i>	65 of 2003	4 Dec 2003	1 Jan 2004 (see s. 2 and <i>Gazette</i> 30 Dec 2003 p. 5722)
<i>Solicitor-General Amendment Act 2006 s. 4-11</i>	29 of 2006	30 Jun 2006	18 Jul 2006 (see s. 2)
<b>Reprint 2: The <i>Solicitor-General Act 1969</i> as at 18 Jan 2008</b> (includes amendments listed above)			

<sup>1a</sup> On the date as at which this ~~reprint~~ [compilation](#) was prepared, provisions referred to in the following table had not come into operation and were therefore not included in ~~compiling the reprint~~ [this compilation](#). For the text of the provisions see the endnotes referred to in the table.

**Provisions that have not come into operation**

Short title	Number and year	Assent	Commencement
<i>State Superannuation (Transitional and Consequential Provisions) Act 2000</i> s. 64 <sup>4</sup>	43 of 2000	2 Nov 2000	To be proclaimed (see s. 2(2))
<a href="#">Legal Profession Act 2008</a> s. 705 <sup>5</sup>	<a href="#">21 of 2008</a>	<a href="#">27 May 2008</a>	<a href="#">To be proclaimed (see s. 2(b))</a>

<sup>2</sup> The *Superannuation and Family Benefits Act 1938* was repealed by the *State Superannuation Act 2000* s. 39, but its provisions continue to apply to and in relation to certain schemes because of the *State Superannuation (Transitional and Consequential Provisions) Act 2000* s. 26.

<sup>3</sup> The amendment to s. 4 in the *Financial Legislation Amendment and Repeal Act 2006* s. 4 is not included because the section it sought to amend was replaced by the *Solicitor-General Amendment Act 2006* s. 6.

<sup>4</sup> On the date as at which this ~~reprint~~ [compilation](#) was prepared, the *State Superannuation (Transitional and Consequential Provisions) Act 2000* s. 64 had not come into operation. It reads as follows:

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**64. Solicitor-General Act 1969 amended**

Section 10 of the *Solicitor-General Act 1969* is amended as follows:

- (a) in subsection (1)(a) by deleting “and in particular his rights, if any, under the *Superannuation and Family Benefits Act 1938*”;
- (b) by repealing subsection (2).

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<sup>5</sup> [On the date as at which this compilation was prepared, the \*Legal Profession Act 2008\* s. 705 had not come into operation. It reads as follows:](#)

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705. *Solicitor-General Act 1969 amended*

- (1) The amendments in this section are to the *Solicitor-General Act 1969*.
- (2) Section 3(2) is repealed and the following subsections are inserted instead —

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- (2) A person is eligible for appointment as Solicitor-General if that person is an Australian lawyer and has had not less than 8 years' legal experience.
- (3) In subsection (2) —
  - Australian lawyer* has the meaning given in the *Legal Profession Act 2008* section 3;
  - legal experience* means —
    - (a) standing and practice as an Australian legal practitioner within the meaning of that term in the *Legal Profession Act 2008* section 3; or
    - (b) judicial service (including service as a judge of a court, a magistrate or other judicial officer) in the State or elsewhere in a common law jurisdiction; or
    - (c) a combination of both kinds of legal experience mentioned in paragraphs (a) and (b).

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