

WESTERN AUSTRALIA

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# **INTERPRETATION ACT 1984**

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**REPRINTED AS AT 15 MARCH 1996**



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at 15 March 1996

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# INTERPRETATION ACT 1984

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## INTERPRETATION ACT 1984

AN ACT to amend and consolidate the law relating to the construction, application, interpretation, and operation of written law; to provide for the exercise of statutory powers and duties; and to provide for connected or incidental purposes.

## **PART I — PRELIMINARY**

### **Short title**

1. This Act may be cited as the *Interpretation Act 1984* <sup>1</sup>.

### **Commencement**

2. This Act shall come into operation on 1 July 1984.

### **Application**

3. (1) The provisions of this Act apply to every written law, whether the law was enacted, passed, made, or issued before or after the commencement of this Act, unless in relation to a particular written law —

- (a) express provision is made to the contrary;
- (b) in the case of an Act, the intent and object of the Act or something in the subject or context of the Act is inconsistent with such application; or
- (c) in the case of subsidiary legislation, the intent and object of the Act under which that subsidiary legislation is made is inconsistent with such application.

- (2) The provisions of this Act apply to this Act as they apply to an Act passed after this Act commences.

- (3) A reference in section 17, 25, 43 (6), 45, 50 or 64 to an Act, written law, enactment, or subsidiary legislation passed or made after the commencement of this Act shall be construed so as not to include any enactment which continues or directly amends, but does not repeal entirely, the text of an existing written law.

**Act to bind Crown**

4. This Act binds the Crown.

## **PART II — GENERAL INTERPRETATION PROVISIONS**

### **Definitions applicable to written laws**

5. In this Act and every other written law —

**“act”** used with reference to an offence or civil wrong includes an omission and extends to a series of acts or omissions or a series of acts and omissions;

**“Act”** means any Act or Ordinance passed by the Parliament of Western Australia, or by any Council previously having authority or power to pass laws in Western Australia, such Act or Ordinance having been assented to by or on behalf of Her Majesty;

**“affidavit”** in the case of persons allowed by law to affirm or to declare instead of swearing, includes affirmation and declaration;

**“AFIC (Western Australia) Code”** means the provisions applying because of section 5 of the *Financial Institutions (Western Australia) Act 1992*;

**“AFIC (Western Australia) Regulations”** means the provisions applying because of section 6 of the *Financial Institutions (Western Australia) Act 1992*;

**“amend”** means replace, substitute, in whole or in part, add to or vary, and the doing of any 2 or more of such things simultaneously or by the same written law;

**“ASC Law”** and **“ASC Regulations”** have the meaning provided for by Part 11 of the *Corporations (Western Australia) Act 1990*;

**“Auditor General”** means the Auditor General appointed under the *Financial Administration and Audit Act 1985*;

**“Australia”** means the Commonwealth of Australia;

**“Australia Acts”** means —

- (a) the *Australia Act 1986* of the Commonwealth;  
and
- (b) the *Australia Act 1986* of the United Kingdom;

**“bank holiday”** in relation to an area, means a day that is appointed or declared a bank holiday for that area by or under the *Public and Bank Holidays Act 1972*;

**“book”** —

- (a) when used in relation to the recording of accounting or financial information, includes any method or system of recording such information that has been approved by the Treasurer; and
- (b) when used in relation to the recording of information other than accounting or financial information, includes any method or system of recording such information that has been approved by the Minister to whom the administration of the relevant enactment has been committed by the Governor;

**“British possession”** means any part of Her Majesty’s dominions outside the United Kingdom; and where parts of such dominions are under both a central and local legislature, all parts under the central legislature are deemed, for the purposes of this definition, to be one British possession;

**“by-law”** means a by-law made under the Act in which the term is used;

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**“chief executive officer”** has the meaning given by the *Public Sector Management Act 1994* and —

(a) when used in relation to —

(i) an agency within the meaning of that Act;  
or

(ii) an office or employee in, or anything else connected with, an agency within the meaning of that Act,

means the chief executive officer of the agency;  
and

(b) when used in an enactment otherwise than in the circumstances referred to in paragraph (a), means the chief executive officer of the agency principally assisting the Minister administering the enactment in its administration;

**“Children’s Court”** means the Children’s Court of Western Australia established by the *Children’s Court of Western Australia Act 1988*;

**“commencement”** in relation to an enactment, means the time when the enactment came or comes into operation;

**“Commonwealth”** means the Commonwealth of Australia;

**“Commonwealth Act”** or **“Act of the Commonwealth”** means an Act passed by the Parliament of the Commonwealth;

**“Consolidated Fund”** means the Consolidated Fund referred to in section 64 of the *Constitution Act 1889*;

**“contravene”** in relation to any requirement or condition prescribed in a written law or in any grant, permit,

lease, licence, or other authority under a written law, includes a failure to comply with that requirement or condition;

**“Corporations Law”** and **“Corporations Regulations”** have the meaning provided for by Part 3 of the *Corporations (Western Australia) Act 1990*;

**“court of summary jurisdiction”** or **“court of petty sessions”** means any justice or magistrate to whom jurisdiction is given by, or who is authorized to act under, the *Justices Act 1902*, and whether acting thereunder, or under any other Act, or by virtue of his commission, or under the common law;

**“definition”** means the interpretation given by any written law to a word or expression;

**“District Court”** means The District Court of Western Australia established by the *District Court of Western Australia Act 1969*;

**“District Court Judge”** means a Judge or acting Judge of the District Court;

**“document”** includes any publication and any matter written, expressed, or described upon any substance by means of letters, figures, or marks, or by more than one of those means, which is intended to be used or may be used for the purpose of recording that matter;

**“enactment”** means a written law or any portion of a written law;

**“estate”** in relation to land, includes any legal or equitable estate or interest, easement, right, title, claim, demand, charge, lien, or encumbrance in, over, to, or in respect of the land;

**“Family Court”** means the Family Court of Western Australia established by the *Family Court Act 1975*;

**“Financial Institutions (Western Australia) Code”** means the provisions applying because of section 8 of the *Financial Institutions (Western Australia) Act 1992*;

**“Financial Institutions (Western Australia) Regulations”** means the provisions applying because of section 9 of the *Financial Institutions (Western Australia) Act 1992*;

**“financial year”** means the period of 12 months ending on 30 June;

**“function”** includes powers, duties, responsibilities, authorities, and jurisdictions;

**“Gazette”** or **“Government Gazette”** means the *Government Gazette* of Western Australia printed and published, or purporting to be printed and published, by the Government Printer and includes any supplement to the *Gazette*;

**“Government”** means the Government of the State;

**“Government Printer”** means the Government Printer of the State and any other printer authorized by or on behalf of the Government to print any written law or any other document of the Government;

**“Governor”** means the Governor of the State and includes the officer for the time being administering the Government of the State;

**“Her Majesty”, “His Majesty”, “the Queen”, “the King”, or “the Crown”** means the Sovereign of the United Kingdom, Australia and Her other Realms and Territories, and Head of the Commonwealth and

includes the predecessors and the heirs and successors of the Sovereign;

**“Imperial Act”** means an Act passed by the Parliament of the United Kingdom;

**“individual”** means a natural person;

**“Judge”** means a Judge or acting Judge of the Supreme Court;

**“justice”** means a Justice of the Peace;

**“land”** includes buildings and other structures, land covered with water, and any estate, interest, easement, servitude or right in or over land;

**“Local Court”** means a Local Court established or deemed to have been established under the *Local Courts Act 1904*;

**“magistrate”** means a stipendiary magistrate appointed under the *Stipendiary Magistrates Act 1957*;

**“Minister”** has the meaning given in section 12;

**“Minister for Public Sector Management”** means the Minister of the Crown to whom the administration of the *Public Sector Management Act 1994* is for the time being committed by the Governor;

**“month”** has the meaning given in section 62;

**“oath”** in the case of persons allowed by law to affirm or to declare instead of swearing, includes affirmation and declaration;

**“Parliament”** means the Parliament of the State;

**“penalty”** means a fine, imprisonment, or other form of punishment, including the suspension or cancellation of a licence, registration or permit and disqualification from obtaining a licence, registration or permit;

**“perform”** in relation to functions, includes the exercise of a power, responsibility, authority or jurisdiction;

**“person”** or any word or expression descriptive of a person includes a public body, company, or association or body of persons, corporate or unincorporate;

**“petty sessional court-house”** means any court-house or place where a court of petty sessions is accustomed to be held;

**“police officer”** means a person appointed —

- (a) under Part I of the *Police Act 1892*, to be a member of the Police Force of Western Australia; or
- (b) under Part III of the *Police Act 1892*, to be a special constable;

**“power”** includes any privilege, authority, or discretion;

**“prescribed”** means —

- (a) prescribed by or under the written law in which the word occurs; and
- (b) in a case where reference is made to anything prescribed by a written law other than the law in which the word occurs, includes anything prescribed by subsidiary legislation made under that other written law;

**“proclamation”** means a proclamation made by the Governor and published in the *Gazette*;

**“Public Service”** has the meaning given by the *Public Sector Management Act 1994*;

**“publication”** means —

- (a) all written and printed matter;
- (b) any record, tape, wire, perforated roll, cinematograph film or images or other contrivance by means of which any words or ideas may be mechanically, electronically, or electrically produced, reproduced, represented, or conveyed;
- (c) anything whether of a similar nature to that described in paragraph (b) of this definition or not, containing any visible representation, or by its form, shape, or in any manner capable of producing, reproducing, representing, or conveying words or ideas; and
- (d) every copy and reproduction of a publication as defined in paragraphs (a), (b) and (c) of this definition;

**“public half-holiday”** in relation to an area, means a part of a day that is appointed or declared a public half-holiday for that area by or under the *Public and Bank Holidays Act 1972*;

**“public holiday”** in relation to an area, means a day that is appointed or declared a public holiday for that area by or under the *Public and Bank Holidays Act 1972*;

**“public service holiday”** means a holiday prescribed as such under the *Public Service Act 1978*<sup>2</sup>;

**“regulation”** means a regulation made under the Act in which the term is used;

**“repeal”** includes rescind, revoke, cancel, or delete;

**“Royal Assent”** means assent by or in the name of Her Majesty;

**“rule”** means a rule made under the Act in which the term is used;

**“rules of court”** has the meaning given by section 66;

**“sell”** includes barter, exchange, offer to sell and expose for sale;

**“sign”** includes the affixing or making of a seal, mark or thumbprint;

**“sitting days”** in relation to either House of Parliament, means days on which such House actually sits;

**“State”** means a State of the Commonwealth;

**“statutory declaration”** means —

- (a) if made in Western Australia, a declaration made under the *Evidence Act 1906* or the *Declarations and Attestations Act 1913*;
- (b) if made in Australia, elsewhere than in Western Australia, or in the United Kingdom or a country or territory forming part of the Commonwealth of Nations, a declaration made before a justice, notary public, commissioner for oaths or other person having authority in that place under any law for the time being in force to take or receive a declaration;
- (c) if made in any other place, a declaration made before an Australian consular officer or an Australian diplomatic officer or a British consul or vice consul or before any person having

authority under any Imperial Act or any Commonwealth Act or Act of the Parliament of Western Australia, for the time being in force, to take or receive a declaration;

**“subsidiary legislation”** means any proclamation, regulation, rule, by-law, order, notice, rule of court, town planning scheme, resolution, or other instrument, made under any written law and having legislative effect;

**“summary conviction”** means a conviction by a court of summary jurisdiction;

**“Supreme Court”** means the Supreme Court of Western Australia;

**“swear”** in the case of persons allowed by law to affirm or declare instead of to swear, includes to affirm and to declare;

**“the State”** or **“this State”** means the State of Western Australia;

**“Territory”** means a Territory of the Commonwealth;

**“under”** in relation to a written law or a provision of a written law, includes **“by”**, **“in accordance with”**, **“pursuant to”** and **“by virtue of”**;

**“United Kingdom”** means the United Kingdom of Great Britain and Northern Ireland;

**“Valuer-General”** means the Valuer-General appointed under the *Valuation of Land Act 1978*;

**“will”** includes a codicil and every writing making a voluntary posthumous disposition of property;

**“words”** includes figures and symbols;

**s. 6**

**“writing”** and expressions referring to writing include printing, photography, photocopying, lithography, typewriting and any other modes of representing or reproducing words in visible form;

**“written law”** means all Acts for the time being in force and all subsidiary legislation for the time being in force;

**“year”** means a period of 12 months.

*[Section 5 amended by No. 98 of 1985 s.3; No. 113 of 1987 s.32; No. 49 of 1988 s.41; No. 105 of 1990 s.97; No. 15 of 1991 s.21; No. 30 of 1992 s.21; No. 6 of 1993 s.11; No. 32 of 1994 s.15; No. 73 of 1994 s.4; No. 85 of 1994 s.4.]*

## **Application of definitions**

**6.** Definitions or rules of interpretation contained in a written law apply to the construction of the provisions of the written law that contain those definitions or rules of interpretation as well as to other provisions of that written law.

## **Construction of written laws subject to legislative power of State**

**7.** Every written law shall be construed subject to the limits of the legislative power of the State and so as not to exceed that power to the intent that where any enactment thereof, but for this section, would be construed as being in excess of that power, it shall nevertheless be valid to the extent to which it is not in excess of that power.

**Law always speaking**

8. A written law shall be considered as always speaking and whenever a matter or thing is expressed in the present tense, it shall be applied to the circumstances as they arise, so that effect may be given to every part of the law according to its true spirit, intent, and meaning.

**Parts of speech and grammatical forms**

9. Where a word or phrase is defined in a written law, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.

**Gender and number**

10. In any written law —

- (a) words denoting a gender or genders include each other gender;

[(b) *deleted*]

- (c) words in the singular number include the plural and words in the plural number include the singular.

*[Section 10 amended by No. 73 of 1994 s.4.]*

**References to Sovereign**

11. A reference in a written law to the Sovereign reigning at the time the law was enacted or made, or to the Crown, shall be construed as a reference to the Sovereign for the time being.

**s. 12**

**References in written law to Minister**

**12.** A reference in a written law to the Minister shall be construed —

- (a) in the case of a reference in an Act, as a reference to the Minister of the Crown to whom the administration of the Act, or the provision of the Act, in which or in respect of which the term is used, is for the time being committed by the Governor;
- (b) in the case of a reference in subsidiary legislation, as a reference to the Minister of the Crown to whom the administration of the Act, or the provision of the Act, under which the subsidiary legislation is made, is for the time being committed by the Governor; and
- (c) so as to include a Minister of the Crown for the time being acting for or on behalf of the Minister referred to in paragraph (a) or (b), as the case may require.

**References to British subject, etc.**

**13.** (1) In this section —

**“Commonwealth Act”** means the *Australian Citizenship Act 1948* of the Parliament of the Commonwealth, as amended;

**“law of the State”** means a written law in force in the State.

(2) A reference in any law of the State to a British subject or to a natural born or naturalized subject of Her Majesty or to any other like expression, shall be read as a reference to an Australian citizen and to any other person who, under the Commonwealth Act, has the status of a British subject or has the status of a British subject without citizenship.

(3) Where a rule of law applies to, or in relation to, or has effect with respect to a British subject, that rule of law applies to, or in relation to, or has effect with respect to an Australian citizen and any other person who, under the Commonwealth Act, has the status of a British subject or has the status of a British subject without citizenship, as if that Australian citizen or other person were a British subject.

**References by number to be inclusive**

14. A reference in a written law by number or letter or by number and letter to 2 or more portions of a written law shall be construed as including the portion described by the reference first-mentioned and the portion described by the reference last-mentioned.

**Construction of internal references to section, etc.**

15. (1) Where in an Act reference is made to a Part, Chapter, section, schedule, appendix, or form without anything in the context to indicate that a reference to a Part, Chapter, section, schedule, appendix, or form of or to some other Act is intended, the reference shall be construed as a reference to a Part, Chapter, section, schedule, appendix, or form of or to the Act in which the reference is made.

(2) Where in a provision of an Act reference is made to a subsection, paragraph, subparagraph, or other division without anything in the context to indicate that a reference to a subsection, paragraph, subparagraph, or other division of some other provision is intended, the reference shall be construed as a reference to a subsection, paragraph, subparagraph, or other division of the provision in which the reference is made.

(3) Where in a schedule to an Act reference is made to a clause, subclause, paragraph or other division without anything in the context to indicate that a reference to a clause, subclause, paragraph, or other division of some other provision is intended,

**s. 16**

the reference shall be construed as a reference to a clause, subclause, paragraph, or other division of the schedule or provision of the schedule in which the reference is made.

(4) The provisions of subsections (1), (2), and (3) shall apply, subject to the necessary modifications, to the construction of subsidiary legislation.

**Reference to written law as amended**

**16.** (1) A reference in a written law to a written law shall be deemed to include a reference to such written law as it may from time to time be amended.

(2) A reference in a written law to a provision of a written law shall be construed as a reference to such provision as it may from time to time be amended.

(3) A reference in a written law to an Imperial Act or a Commonwealth Act, or to a provision of an Imperial Act or a Commonwealth Act, shall be construed so as to include a reference to such Act or provision as it may from time to time be amended.

**Disjunctive construction of “or”**

**17.** In relation to a written law passed or made after the commencement of this Act, but subject to section 3 (3), “or”, “other”, and “otherwise” shall be construed disjunctively and not as implying similarity unless the word “similar” or some other word of like meaning is added.

**Regard to be had to purpose or object**

**18.** In the interpretation of a provision of a written law, a construction that would promote the purpose or object underlying the written law (whether that purpose or object is expressly

stated in the written law or not) shall be preferred to a construction that would not promote that purpose or object.

**Use of extrinsic material in interpretation**

**19.** (1) Subject to subsection (3), in the interpretation of a provision of a written law, if any material not forming part of the written law is capable of assisting in the ascertainment of the meaning of the provision, consideration may be given to that material —

- (a) to confirm that the meaning of the provision is the ordinary meaning conveyed by the text of the provision taking into account its context in the written law and the purpose or object underlying the written law; or
- (b) to determine the meaning of the provision when —
  - (i) the provision is ambiguous or obscure; or
  - (ii) the ordinary meaning conveyed by the text of the provision taking into account its context in the written law and the purpose or object underlying the written law leads to a result that is manifestly absurd or is unreasonable.

(2) Without limiting the generality of subsection (1), the material that may be considered in accordance with that subsection in the interpretation of a provision of a written law includes —

- (a) all matters not forming part of the written law that are set out in the document containing the text of the written law as printed by the Government Printer;
- (b) any relevant report of a Royal Commission, Law Reform Commission, committee of inquiry or other similar body that was laid before either House of

**s. 19**

Parliament before the time when the provision was enacted;

- (c) any relevant report of a committee of Parliament or of either House of Parliament that was made to Parliament or that House of Parliament before the time when the provision was enacted;
- (d) any treaty or other international agreement that is referred to in the written law;
- (e) any explanatory memorandum relating to the Bill containing the provision, or any other relevant document, that was laid before, or furnished to the members of, either House of Parliament by a Minister before the time when the provision was enacted;
- (f) the speech made to a House of Parliament by a Minister on the occasion of the moving of a motion that the Bill containing the provision be read a second time in that House;
- (g) any document (whether or not a document to which a preceding paragraph applies) that is declared by the written law to be a relevant document for the purposes of this section; and
- (h) any relevant material in any official record of proceedings in either House of Parliament.

(3) In determining whether consideration should be given to any material in accordance with subsection (1), or in considering the weight to be given to any such material, regard shall be had, in addition to any other relevant matters, to —

- (a) the desirability of persons being able to rely on the ordinary meaning conveyed by the text of the provision taking into account its context in the written law and the purpose or object underlying the written law; and

- (b) the need to avoid prolonging legal or other proceedings without compensating advantage.

## **PART III — COMMENCEMENT AND CITATION**

### **Commencement of Acts**

**20.** (1) Every Act to which the Royal Assent has been given before 1 July 1984 shall be deemed to have come into operation on the day on which that Act received the Royal Assent, unless the contrary intention appears in the Act.

(2) Every Act to which the Royal Assent is given on or after 1 July 1984 shall, unless the contrary intention appears in that Act, come into operation on the 28th day after the day on which that Act receives the Royal Assent.

(3) Every Act reserved for the signification of Her Majesty's pleasure on or after 1 July 1984 shall, unless the contrary intention appears in that Act, come into operation on the day on which Her Majesty's assent is proclaimed in the *Gazette*.

### **Time of commencement of written laws**

**21.** Where any written law, or portion of a written law, comes into operation on a particular day, it shall come into operation at the beginning of that day.

### **Effective date of commencement provisions where proclamation required**

**22.** Notwithstanding section 20 (2), where an Act provides that the Act, or portion of the Act, is to come into operation on a day to be fixed by proclamation, that provision and the provision providing for the short title of the Act, unless it is otherwise expressly provided, shall come into operation on the day on which the Act receives the Royal Assent.

**Construction of power to fix commencement day of Act**

**23.** A power to fix a day on which an Act shall come into operation does not include power to fix —

- (a) a day prior to the day on which the proclamation fixing the day is published in the *Gazette*; or
- (b) different days for different provisions of that Act,

unless express provision is made in that behalf.

**Evidence of date of assent**

**24.** Where a date appearing on a copy of an Act printed, or purporting to be printed, by the Government Printer, purports to be the date on which the Governor assented to such Act or to a portion thereof, or proclaimed in the *Gazette* Her Majesty's assent to such Act or portion, that date as so appearing shall be evidence that it was the date on which the Governor so assented, or made known Her Majesty's assent, and shall be judicially noticed accordingly.

**Exercise of powers before commencement**

**25.** (1) Where a provision of an Act does not commence on the passing of the Act and that provision would, if it had commenced, confer power to —

- (a) make an instrument of a legislative or administrative character;
- (b) give or serve a notice or other document;
- (c) appoint a person to a specified office;
- (d) establish a specified body of persons, whether incorporated or not; or

**s. 25**

- (e) do any other thing for the purposes of the Act,

then the power may, notwithstanding that that provision has not commenced, but subject to subsections (3) and (4), be exercised at any time after the passing of the Act to the extent that it is necessary or expedient for the purpose of bringing the Act, or provisions of the Act, into operation, or giving full effect to the Act, or provisions of the Act, when or after that provision commences.

(2) Where —

- (a) a provision of an Act does not commence on the passing of the Act and the provision would, if it had commenced, amend another Act; and
- (b) a provision of that other Act would, if the first-mentioned provision had commenced, confer power to —
  - (i) make an instrument of a legislative or administrative character;
  - (ii) give or serve a notice or other document;
  - (iii) appoint a person to a specified office;
  - (iv) establish a specified body of persons whether incorporated or not; or
  - (v) do any other thing for the purposes of that other Act,

then the power may, notwithstanding that the first-mentioned provision has not commenced, but subject to subsections (3) and (4), be exercised at any time after the passing of the Act in which the first-mentioned provision is contained to the extent that it is necessary or expedient for the purpose of giving full effect to that other Act, or provisions of

that other Act, when or after the first-mentioned provision commences.

(3) Where a power to make an instrument of a legislative or administrative character, or to give or serve a notice or other document, is exercised as provided in subsection (1) or (2), that instrument, notice, or document shall take effect —

- (a) on the day on which the provision referred to in subsection (1) or, as the case may be, the provision first-mentioned in subsection (2) commences; or
- (b) on the day on which it would have taken effect, if at the time when the instrument was made or the notice or document was given or served, the provision so mentioned or first-mentioned had commenced,

whichever is the later.

(4) Where a power to appoint a person to a specified office, or to establish a specified body of persons, is exercised as provided in subsection (1) or (2), the person so appointed may act in that office, or, as the case may be, the body so established may meet and perform and exercise its functions, duties, and powers, but only for a purpose referred to in subsection (1) or (2) (whichever of those subsections is applicable); and for the purposes of any provision as to the duration of the term of office of the person or a member of the body, that term does not begin until the relevant provision referred to in subsection (1) or (2), as the case may be, commences.

(5) Subject to section 3 (3), this section applies to Acts passed after the commencement of this Act.

### **Citation of written laws**

**26.** (1) Where a written law is referred to, it shall be sufficient for all purposes to cite or refer to that written law by —

- (a) the short title or the citation (if any) by which it was made citable; or

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- (b) in the case of an Act, the year in which it was passed and its number among the Acts of that year.

(2) A provision of a written law may be cited by reference to the Part, section, regulation, rule, clause or other division of the written law in which the provision is contained.

(3) Subject to subsection (4), the citation of or reference to any written law shall in all cases be made according to the copy of such written law printed, or purporting to be printed, by the Government Printer.

(4) Where —

- (a) immediately before the commencement of this Act, an Act was in force as amended; and
- (b) it is provided that the Act may be cited by a method of citation that contains figures referring to 2 years,

that provision is amended by omitting so much of the method of citation as follows the reference to the first of those years.

**References in written law to day of commencement**

**27.** A reference in a written law to the day of coming into operation or to the commencement of a written law shall, where different provisions of the written law come or came into operation on different days, be construed as a reference to the day of coming into operation of the appropriate provisions of that written law.

**PART IV — PROVISIONS AS TO ENACTMENT  
AND OPERATION OF WRITTEN LAW**

**Acts deemed public Acts**

**28.** Every Act passed after 13 April 1853 shall be deemed to be a public Act unless the contrary is expressly provided in the Act and shall be judicially noticed as such.

**Sections to be substantive enactments**

**29.** Every section of an Act takes effect as a substantive enactment without introductory words.

**Act may be amended in same session**

**30.** An Act may be amended or repealed in the same session of Parliament as that in which it was passed.

**Preambles, schedules, etc.**

**31.** (1) The preamble to a written law forms part of the written law and shall be construed as a part thereof intended to assist in explaining its purport and object.

(2) An appendix or schedule to or a table in a written law, together with any notes thereto, forms part of the written law.

**Headings, marginal notes and footnotes**

**32.** (1) The headings of the Parts, divisions and subdivisions into which a written law is divided form part of the written law.

(2) A marginal note or footnote to a written law and, in a context where there is no marginal note with respect to the

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relevant provision and notwithstanding subsection (1), a heading to a section, regulation, rule, by-law, or clause of a written law, or to a portion of a section, regulation, rule, by-law or clause of a written law, shall be taken not to be part of the written law.

## **PART V — REPEAL OF WRITTEN LAW**

### **Repeal of written law as amended**

**33.** Where a written law which has been amended by any other written law is repealed, such repeal shall include the repeal of all those provisions of such other written law by which the first-mentioned written law was amended.

### **Repeal of repeal**

**34.** Where a written law repeals a repealing enactment, the repeal does not revive any enactment previously repealed unless words are added reviving it.

### **Repeal and substitution**

**35.** Where a written law repeals an enactment and substitutes provisions for the enactment repealed, the repealed enactment remains in operation until the substituted provisions come into operation.

### **Effect of substituting provisions**

**36.** Where a written law repeals and re-enacts, with or without modification, any enactment —

- (a) all districts or other local divisions or areas;
- (b) all councils, corporations, boards, tribunals, commissions, trusts, or other bodies constituted, and all elections and appointments of members thereof made; and
- (c) all offices constituted and appointments of officers made;

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- (d) all subsidiary legislation, warrants, certificates, and documents made; and
- (e) all other acts, matters, and things whatsoever,

which, at the commencement of the repealing law, are respectively in existence, or in force or operation, under or for the purposes of such provision, shall, in so far as is consistent with the repealing law, subsist and enure for the purposes of such law and shall continue as if the repealing law had been in operation when they respectively originated or were constituted, made or done and they had originated or been constituted, made or done under that law.

**General savings on repeal**

**37.** (1) Where a written law repeals an enactment, the repeal does not, unless the contrary intention appears —

- (a) revive anything not in force or existing at the time at which the repeal takes effect;
- (b) affect the previous operation of the enactment repealed or anything duly done or suffered under that enactment;
- (c) affect any right, interest, title, power or privilege created, acquired, accrued, established or exercisable or any status or capacity existing prior to the repeal;
- (d) affect any duty, obligation, liability, or burden of proof imposed, created, or incurred prior to the repeal;
- (e) subject to section 11 of *The Criminal Code*, affect any penalty or forfeiture incurred or liable to be incurred in respect of an offence committed against that enactment;

- (f) affect any investigation, legal proceeding or remedy in respect of any such right, interest, title, power, privilege, status, capacity, duty, obligation, liability, burden of proof, penalty or forfeiture,

and any such investigation, legal proceeding or remedy may be instituted, continued, or enforced, and any such penalty or forfeiture may be imposed and enforced as if the repealing written law had not been passed or made.

(2) The inclusion in the repealing provisions of an enactment of any express saving with respect to the repeals effected thereby shall not be taken to prejudice the operation of this section with respect to the effect of those repeals.

### **Effect of repeal of Act on subsidiary legislation**

**38.** (1) Where an Act —

- (a) repeals an Act and substitutes other provisions therefor; or
- (b) repeals and re-enacts an Act, with or without modification,

any subsidiary legislation made under the repealed Act and in operation immediately before the commencement of the repealing Act shall, so far as it is consistent with the repealing Act, continue in operation and have effect for all purposes as if made under the repealing Act.

(2) Subsidiary legislation which continues in operation under subsection (1) may be amended or repealed as if it had been made under the repealing Act.

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**Effect of expiry of enactments**

**39.** Upon the expiry or lapse of any enactment, the provisions of section 37 apply as if that enactment had been repealed.

## **PART VI — SUBSIDIARY LEGISLATION**

### **Governor to make subsidiary legislation**

**40.** If a written law provides that subsidiary legislation may or shall be made and does not provide by whom such subsidiary legislation may or shall be made, any subsidiary legislation made under such a provision shall be made by the Governor.

### **Publication and commencement of subsidiary legislation**

**41.** (1) Where a written law confers power to make subsidiary legislation, all subsidiary legislation made under that power shall —

- (a) be published in the *Gazette*;
- (b) subject to section 42, come into operation on the day of publication, or where another day is specified or provided for in the subsidiary legislation, on that day.

(2) A power to fix a day on which subsidiary legislation shall come into operation does not include power to fix different days for different provisions of that legislation unless express provision is made in that behalf.

### **Laying regulations, rules and by-laws before Parliament, and disallowance**

**42.** (1) All regulations shall be laid before each House of Parliament within 6 sitting days of such House next following publication of the regulations in the *Gazette*.

(2) Notwithstanding any provision in any Act to the contrary, if either House of Parliament passes a resolution disallowing any regulations of which resolution notice has been given within 14 sitting days of such House after such regulations

have been laid before it or if any regulations are not laid before both Houses of Parliament in accordance with subsection (1), such regulations shall thereupon cease to have effect, but without affecting the validity or curing the invalidity of anything done or of the omission of anything in the meantime.

(3) Subsection (2) applies notwithstanding that the period of 14 days referred to in that subsection, or part of that period, does not occur in the same session of Parliament or during the same Parliament as that in which the regulations are laid before the House concerned.

(4) Notwithstanding any provision in any Act to the contrary, if both Houses of Parliament at any time pass a resolution originating in either House amending any such regulations or substituting other regulations for that which has been disallowed by either House under subsection (2), then on the passing of any such resolution —

- (a) amending regulations, the regulations so amended shall, after the expiration of 7 days from the publication in the *Gazette* of the notice provided for in subsection (5), take effect as so amended;
- (b) substituting regulations in place of regulations disallowed, the regulations so substituted shall, after the expiration of 7 days from the publication in the *Gazette* of the notice provided for in subsection (5), take effect in place of that for which the regulations are so substituted.

(5) When a resolution has been passed under subsection (2) or (4), notice of such resolution shall be published in the *Gazette* within 21 days of the passing of the resolution.

(6) Notwithstanding section 37 (1), where —

- (a) regulations are disallowed under this section or are not laid before both Houses of Parliament in accordance with subsection (1); and

- (b) those regulations amended or repealed regulations that were in operation immediately before the first-mentioned regulations came into operation,

the disallowance or failure to comply with subsection (1) revives the previous regulations on and after the day of the disallowance or, in the case of failure to comply with subsection (1), on and after the day next following the last day for compliance with subsection (1).

(7) If a written law empowers or directs the making of regulations by a person other than the Governor and requires that the regulations be confirmed or approved by the Governor or by any other person or authority before having the force of law, subsection (1) does not apply to such regulations unless they have been confirmed or approved as so required.

(8) In this section —

- (a) a reference to regulations shall be construed as including a reference to a regulation or part of a regulation; and
- (b) “**regulations**” includes rules and by-laws.

### **General provisions regarding power to make subsidiary legislation**

43. (1) Subsidiary legislation shall not be inconsistent with the provisions of the written law under which it is made, or of any Act, and subsidiary legislation shall be void to the extent of any such inconsistency.

(2) Where any subsidiary legislation purports to be made in exercise of a particular power or powers, it shall be deemed also to be made in exercise of all powers under which it may be made.

(3) It shall be presumed, in the absence of evidence to the contrary, that all conditions and preliminary steps precedent to

the making of subsidiary legislation have been complied with and performed.

(4) Where a written law confers a power to make subsidiary legislation, it shall be deemed also to include a power exercisable in the like manner and subject to the like conditions (if any) to amend or repeal any such subsidiary legislation.

(5) Where a written law confers power on a person to make subsidiary legislation for any general purpose and also for any special purposes incidental thereto, the enumeration of the special purposes shall not derogate from the generality of the powers conferred with reference to the general purpose.

(6) Subject to section 3 (3), regulations, rules or by-laws made under a power conferred by an enactment passed after the commencement of this Act may provide that contravention of a provision thereof constitutes an offence and may provide for a penalty in respect of such a contravention not exceeding a fine of \$1 000.

(7) A power to make subsidiary legislation may be exercised —

- (a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified case or class of case; and
- (b) so as to make, as respects the cases in relation to which it is exercised —
  - (i) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or classes of case, or different provisions for the same case or class of case for different purposes of the legislation; or
  - (ii) any such provision either unconditionally or subject to any specified condition.

(8) Subsidiary legislation may be made —

(a) so as to apply —

(i) at all times or at a specified time;

(ii) throughout the State or in a specified part of the State;

(b) so as to require a matter affected by the legislation to be —

(i) in accordance with a specified standard or specified requirement;

(ii) approved by or to the satisfaction of a specified person or body or a specified class of person or body;

(c) so as to confer a discretionary authority on a specified person or body or a specified class of person or body; and

(d) so as to provide, in a specified case or class of case for the exemption of persons or things or a class of persons or things from the provisions of the subsidiary legislation, whether unconditionally or on specified conditions or conditions additionally imposed and either wholly or to such an extent as is specified or otherwise determined.

(9) In subsections (7) and (8) “**specified**” means specified in the subsidiary legislation.

### **Words and expressions in subsidiary legislation**

44. (1) Words and expressions used in subsidiary legislation shall have the same respective meanings as in the written law under which the subsidiary legislation is made.

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(2) A reference in subsidiary legislation to “the Act” shall be construed as a reference to the Act under which the subsidiary legislation is made.

**Fees and charges**

**45.** (1) Where provision is made by subsidiary legislation in respect of fees or charges, the subsidiary legislation may provide for all or any of the following matters —

- (a) specific fees or charges;
- (b) maximum or minimum fees or charges;
- (c) maximum and minimum fees or charges;
- (d) *ad valorem* fees or charges;
- (e) the payment of fees and charges either generally or under specified conditions or in specified circumstances; and
- (f) the reduction, waiver or refund, in whole or in part, of such fees or charges.

(2) Where any reduction, waiver or refund, in whole or in part, of any fee or charge is provided for by subsidiary legislation, such reduction, waiver or refund may be expressed to apply or be applicable either generally or specifically —

- (a) in respect of certain matters or transactions or classes of matter or transaction;
- (b) in respect of certain documents or classes of document;
- (c) when any event happens or ceases to happen;
- (d) in respect of certain persons or classes of person; or

- (e) in respect of any combination of such matters, transactions, documents, events, or persons,

and may be expressed to apply or to be applicable subject to such conditions as may be specified in the subsidiary legislation or in the discretion of any person specified in the subsidiary legislation.

(3) Subject to section 3 (3), this section applies to subsidiary legislation made under a power conferred by an enactment passed after the commencement of this Act.

### **Reference to written law to include subsidiary legislation**

**46.** (1) A reference in a written law to a written law shall be construed so as to include a reference to any subsidiary legislation made under that written law.

(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.

(2) A reference in a written law to an Imperial Act or a Commonwealth Act shall be construed so as to include a reference to any subsidiary legislation made under that Act.

*[Section 46 amended by No. 73 of 1994 s.4.]*

### **Acts under subsidiary legislation deemed done under Act**

**47.** Any act done under subsidiary legislation shall be deemed to be done under the written law under which the subsidiary legislation was made.

## **PART VII — STATUTORY POWERS AND DUTIES**

### **Time for exercise of power or performance of duty**

**48.** Where a written law confers a power or imposes a duty, the power may be exercised and the duty shall be performed from time to time as occasion requires.

### **Reference to holder of office includes successors**

**49.** Where a written law confers a power or imposes a duty on the holder of a public office as such, the power may be exercised and the duty shall be performed by the person for the time being lawfully holding, acting in, or performing the functions of the office.

### **Construction of enabling words**

**50.** (1) Where a written law confers upon a person power to do or enforce the doing of any act or thing, all such powers shall also be deemed to be conferred on the person as are reasonably necessary to enable him to do or to enforce the doing of the act or thing.

(2) Without prejudice to the generality of subsection (1), where a written law confers power —

- (a) to provide for, prohibit, control or regulate any matter, such power includes power to provide for the same by the licensing or registration thereof or the granting of permits and power to prohibit acts whereby the prohibition, control, or regulation of such matter might be evaded;
- (b) to grant a licence, registration, lease, right, permit, authority, approval, or exemption, such power includes power to impose reasonable conditions subject to

which such licence, registration, lease, right, permit, authority, approval or exemption may be granted;

- (c) to approve any person, matter, or thing, such power includes power to withdraw approval thereof;
- (d) to give directions, such power includes power to express the same in the form of prohibitions.

(3) Subject to section 3 (3), this section applies to written laws passed or made after the commencement of this Act.

**Power to issue licences, etc. discretionary**

**51.** (1) Where a written law confers power upon a person to issue, grant, give or renew any licence, registration, lease, right, authority, approval, permit, or exemption, the person so empowered shall have a discretion either to issue, grant, give or renew or to refuse to issue, grant, give or renew such licence, registration, lease, right, authority, approval, permit, or exemption.

(2) Nothing in this section shall affect any right which may be conferred by any written law upon a person to appeal against a refusal to issue, grant, give or renew any licence, registration, lease, right, authority, approval, permit, or exemption.

**Power to appoint includes power to suspend, dismiss, etc.**

**52.** (1) Where a written law confers a power or imposes a duty upon a person to make an appointment to an office or position, including an acting appointment, the person having such power or duty shall also have the power —

- (a) to remove or suspend a person so appointed to an office or position, and to re-appoint or reinstate, any person appointed in exercise of such power or duty;

- (b) where a person so appointed to an office or position is suspended or unable, or expected to become unable, for any other cause to perform the functions of such office or position, to appoint a person to act temporarily in place of the person so appointed during the period of suspension or other inability but a person shall not be appointed to so act temporarily unless he is eligible and qualified to be appointed to the office or position; and
- (c) to specify the period for which any person appointed in exercise of such a power or duty shall hold his appointment.

(2) For the purposes of subsection (1) (b), “cause” includes —

- (a) illness;
- (b) temporary absence from the State; and
- (c) conflict of interest.

(3) The validity of anything done by a person purporting to act under an appointment made under subsection (1) (b) shall not be called in question on the ground that the occasion for his appointment had not arisen or had ceased.

(4) Where a written law confers a power or imposes a duty upon a person to make an appointment to an office or position and that power or duty is exercisable only upon the notification or recommendation, or is subject to the approval, concurrence, or consent of some other person, then the powers conferred by subsection (1) (a) to (c) shall only be exercisable upon such nomination or recommendation or subject to such approval, concurrence, or consent.

(5) Nothing in this section affects the tenure of office or position of any person under the express provisions of any written law.

**Appointments by name or office**

**53.** Where a written law confers a power or imposes a duty upon a person to appoint or designate a person to —

- (a) perform any function;
- (b) be a member of any board, tribunal, commission, committee, council, or other similar body, whether corporate or unincorporate; or
- (c) be or do any other thing,

that person may make the appointment or designation either by appointing or designating a person by name or by appointing or designating the holder of an office by the term designating his office; and any such appointment or designation of the holder of an office shall be construed as the appointment or designation of the person from time to time holding, acting in, or lawfully performing the functions of the office.

**Power of majority, quorum, etc.**

**54.** (1) Where a written law confers or imposes a function upon a body or number of persons consisting of not fewer than 3 persons, the function may be performed by a majority of those persons.

(2) Where a written law establishes a board, commission, committee, council or other similar body consisting of 3 or more members (in this section called an “**association**”) —

- (a) at a meeting of the association, a number of members of the association equal to —
  - (i) at least one half of the number of members provided for by the written law, if that number is a fixed number; and

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- (ii) if the number of members provided for by the written law is not a fixed number but is within a range having a maximum or minimum, at least one half of the number of members in office if that number is within the range,

constitutes a quorum; and

- (b) an act or thing done by a majority of the members of the association present at a meeting, if the members present constitute a quorum, shall be deemed to have been done by the association.

### **Exercise of power may be corrected**

**55.** Where a written law confers a power or imposes a duty upon a person to do any act or thing of an administrative or executive character or to make any appointment, the power or duty may be exercised or performed as often as is necessary to correct any error or omission in any previous purported exercise or performance of the power or duty, notwithstanding that the power or duty is not in general capable of being exercised or performed from time to time.

### **“May” imports a discretion, “shall” is imperative**

**56.** (1) Where in a written law the word “may” is used in conferring a power, such word shall be interpreted to imply that the power so conferred may be exercised or not, at discretion.

(2) Where in a written law the word “shall” is used in conferring a function, such word shall be interpreted to mean that the function so conferred must be performed.

**Power of board, etc. not affected by vacancy or certain defects**

**57.** Where a board, tribunal, commission, committee, council or other similar body, whether corporate or unincorporate, is established under a written law, the powers of such a body shall not be affected by —

- (a) any vacancy in the membership of the body;
- (b) any defect afterwards discovered in the appointment or qualification of a person purporting to be a member of the body or the deputy or alternate of a member;
- (c) a minor irregularity in the convening or conduct of a meeting of the body; or
- (d) the presence or participation at a meeting of a person not entitled to be present or participate.

**Exercise of certain powers by delegate**

**58.** Where under a written law the performance of a function by a person is dependent upon the opinion, belief, or state of mind of that person in relation to a matter and that function has been delegated under a written law, the function may be performed by the delegate upon the opinion, belief, or state of mind of the delegate in relation to that matter.

**Construction of power to delegate**

**59.** (1) Where a written law confers power upon a person to delegate the exercise of any power or the performance of any duty conferred or imposed upon him under a written law —

- (a) such a delegation shall not preclude a person so delegating from exercising or performing at any time a power or duty so delegated;

- (b) such a delegation may be made subject to such conditions, qualifications, limitations or exceptions as the person so delegating may specify;
- (c) if the delegation may be made only with the approval of some person, such delegation, and any amendment of the delegation, may be made subject to such conditions, qualifications, limitations or exceptions as the person whose approval is required may specify;
- (d) such a delegation may be made to a specified person or to persons of a specified class, or may be made to the holder or holders for the time being of a specified office or class of office;
- (e) such a delegation may be amended or revoked by instrument in writing signed by the person so delegating;
- (f) in the case of a power conferred upon a person by reference to the term designating an office, such a delegation shall not cease to have effect by reason only of a change in the person lawfully acting in or performing the functions of that office.

(2) The delegation of a power shall be deemed to include the delegation of any duty incidental thereto or connected therewith and the delegation of a duty shall be deemed to include the delegation of any power incidental thereto or connected therewith.

(3) Where under a written law an act or thing may or is required to be done to, by reference to or in relation to, a person and that person has under a written law delegated a relevant function conferred or imposed on him with respect to or in consequence of the doing of that act or thing, the act or thing shall be regarded as effectually done if done to, by reference to or in relation to the person to whom the said function has been delegated.

**Governor to act with advice of Executive Council**

**60.** Where in a written law the Governor is authorized or required to do any act, matter, or thing, it shall be taken to mean that such act, matter, or thing may or shall be done by the Governor with the advice and consent of the Executive Council.

**PART VIII — PROVISIONS REGARDING  
TIME AND DISTANCE**

**Computation of time**

**61.** (1) In computing time for the purposes of a written law —

- (a) where a period of time is expressed to begin at, on, or with a specified day, that day shall be included in the period;
- (b) where a period of time is expressed to be reckoned from, or after, a specified day, that day shall not be included in the period;
- (c) where anything is to be done within a time before a specified day, the time shall not include that day;
- (d) where a period of time is expressed to end at, on, or with a specified day or to continue to or until a specified day, that day shall be included in the period;
- (e) where the time limited for the doing of a thing expires or falls upon an excluded day, the thing may be done on the next day that is not an excluded day;
- (f) where there is a reference to a number of clear days or “at least” or “not less than” a number of days between 2 events, in calculating that number of days both the days on which the events happen shall be excluded;
- (g) where there is a reference to a number of days not expressed to be clear days or “at least” or “not less than” a number of days between 2 events, in calculating the number of days there shall be excluded the day on which the first event happens and there shall be included the day on which the second event happens;

- (h) where an act or proceeding is directed or allowed to be done or taken on a certain day, or on or before a certain day, then, if that day is an excluded day, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day that is not an excluded day.

(2) For the purposes of this section, “**excluded day**” means Saturday, Sunday, public service holiday, and a bank holiday or public holiday throughout the State or in that part of the State which is relevant to the event, act, thing or proceeding concerned.

### **Reckoning of months**

**62.** (1) In a written law, “**month**” means a calendar month, that is to say, a month reckoned according to the calendar.

(2) If a period of one month indicated in a written law begins on any date other than the first day of any of the 12 months of the calendar, it shall be reckoned from the date on which it is to begin to the date in the next month numerically corresponding, less one, or, if there is no corresponding date, to the last day of that month.

*For example:* a month beginning on 15 January ends on 14 February and a month beginning on 30 or 31 January ends on 28 February (or 29 February in a leap year).

(3) If a period indicated in a written law is of 2, 3 or more months, it shall be reckoned from the date on which it is to begin to the date numerically corresponding, less one, in the second, third, or other successive month thereafter or, if there is no such corresponding date, to the last day of the latter month.

*For example:* a period of 6 months beginning on 15 August ends on 14 February and a period of 6 months beginning on 30 or 31 August ends on 28 February (or 29 February in a leap year).

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**Provision where no time fixed**

**63.** Where no time is fixed or allowed within which an act or thing shall be done, such act or thing shall be done with all convenient speed and as often as occasion arises.

**Construction of power to extend time**

**64.** (1) Where in a written law a time is fixed or allowed for doing any act or thing or taking any proceeding and power is given to a court or other authority to extend that time, such power may be exercised by the court or other authority although the application for an extension is not made until after the expiration of the time fixed or allowed.

(2) Subject to section 3 (3), this section applies to written laws passed or made after the commencement of this Act.

**Measurement of distance**

**65.** In the measurement of any distance for the purposes of a written law, the distance shall be measured in a straight line on a horizontal plane.

## **PART IX — PROCEDURES AND PENALTIES**

### **Rules of court**

**66.** (1) In a written law, “**rules of court**” in relation to any court or tribunal, means rules made by the authority having for the time being power to make rules or orders regulating the practice and procedure of such court or tribunal.

(2) The power of an authority referred to in subsection (1) includes a power to make rules of court for the purpose of any written law which directs or authorizes anything to be done by or in accordance with rules of court.

(3) Where a written law confers any jurisdiction on a court or other tribunal or extends or varies the jurisdiction of a court or other tribunal, the authority having for the time being power to make rules or orders regulating the practice and procedure of that court or tribunal may make rules or orders, including rules or orders with respect to costs, for the purpose of regulating the practice and procedure of that court or tribunal in the exercise of the jurisdiction so conferred, extended or varied.

### **Offences and proceedings for offences**

**67.** (1) Offences are of 2 kinds: indictable offences and simple offences.

(2) An offence not otherwise designated is a simple offence.

(3) The procedure for dealing with indictable offences is set out in the *Justices Act 1902* and *The Criminal Code*.

(4) The procedure for dealing with simple offences, and matters that are to be dealt with summarily, is set out in the *Justices Act 1902*.

*[Section 67 inserted by No. 92 of 1994 s.15.]*

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**Double jeopardy**

**68.** Where an act or event constitutes an offence under both —

- (a) a written law; and
- (b) a law of the Commonwealth or a law of another State or Territory,

and the offender has been punished in respect of the offence under a law referred to in paragraph (b), he is not liable to be punished in respect of the offence under the written law.

**Application of penal laws to bodies corporate**

**69.** (1) Every enactment relating to an offence punishable on indictment or on summary conviction shall be taken to refer to bodies corporate as well as to individuals.

(2) Where under a written law, a penalty or sum of money is payable to a party aggrieved, it shall be payable to a body corporate in every case where that body is the party aggrieved.

(3) Except where otherwise expressly provided, where the penalty prescribed in a written law in respect of an offence does not consist of or include a fine, the court before which the offence is tried may, in the case of a body corporate, impose a fine —

- (a) where a term of imprisonment not exceeding 2 years is prescribed — of \$25 000; and
- (b) where a term of imprisonment exceeding 2 years is prescribed — of \$50 000.

**Prescription of maximum, minimum, daily and cumulative penalties**

**70.** (1) Where in a written law a penalty is specified in respect of an offence, that penalty is the maximum penalty that may be imposed for that offence.

(2) Where in a written law more than one penalty is specified in respect of an offence, the use of the word “**and**” between the respective penalties means that the penalties may be imposed alternatively or cumulatively.

(3) Where in a written law a maximum penalty and a minimum penalty are specified in respect of an offence, the offence is punishable by a penalty not less than that minimum nor greater than that maximum.

(4) Where in a written law a penalty specified in respect of an offence is referred to as being a daily penalty, that reference indicates that, in addition to any other penalty that may be imposed in respect of the offence, a penalty may be imposed for each day or part of a day during which the offence continues.

**Continuing offences**

**71.** (1) Where —

- (a) by or under a written law an act or thing is required or directed to be done within a particular period or before a particular time; and
- (b) failure to do that act or thing within the period or before the time referred to in paragraph (a) constitutes an offence; and
- (c) that act or thing is not done within the period or before the time referred to in paragraph (a),

the following provisions have effect —

- (d) the obligation to do that act or thing continues, notwithstanding that that period has expired or that time has passed, until that act or thing is done;
  - (e) where a person is convicted of an offence that, by virtue of paragraph (d), is constituted by failure to do that act or thing after the expiration of that period or after that time, as the case may be, that person is guilty of a separate and further offence in respect of each day after the day of the conviction during which the failure to do that act or thing continues; and
  - (f) unless otherwise provided, the penalty applicable to each separate and further offence is \$50.
- (2) Where —
- (a) by or under a written law an act or thing is required or directed to be done but no period within which or time by which that act or thing is to be done is specified; and
  - (b) failure to do that act or thing constitutes an offence; and
  - (c) a person is convicted of an offence in respect of a failure to do that act or thing,

that person is guilty of a separate and further offence in respect of each day after the day of the conviction during which the failure to do that act or thing continues and, unless otherwise provided, the penalty applicable to each such separate and further offence is \$50.

### **Statement of penalty at end of provision**

**72.** (1) Where in an Act a penalty —

- (a) is specified without qualification at the foot of a section of the Act;

- (b) is specified at the foot of a subsection of a section of the Act, but not at the foot of the section; or
- (c) is specified at the foot of a section of the Act and expressed to apply to a specified subsection or specified subsections of the section,

then, unless the contrary is expressly provided, that specification indicates that a contravention of the section or subsection, or, as the case may be, any of the subsections, is an offence and that the offence is punishable on conviction by a penalty not exceeding that so specified.

(2) Subsection (1) applies to regulations, rules and by-laws subject to necessary modification.

**PART X — MISCELLANEOUS PROVISIONS**

**State deemed established 1 June 1829**

**73.** For the purpose of determining the applicability or otherwise within the State of any Imperial Act, the State shall be deemed to have been established on 1 June 1829.

**Deviation in forms**

**74.** Where a form is prescribed or specified under a written law, deviations therefrom not materially affecting the substance nor likely to mislead shall not invalidate the form used.

**Service of documents by post**

**75.** (1) Where a written law authorizes or requires a document to be served by post, whether the word “serve” or any of the words “give”, “deliver”, or “send” or any other similar word or expression is used, service shall be deemed to be effected by properly addressing and posting (by pre-paid post) the document as a letter to the last known address of the person to be served, and, unless the contrary is proved, to have been effected at the time when the letter would have been delivered in the ordinary course of post.

(2) Where a written law authorizes or requires a document to be served by registered post, whether the word “serve” or any of the words “give”, “deliver”, or “send” or any other similar word or expression is used, then, if the document is eligible and acceptable for transmission as certified mail, the service of the document may be effected either by registered post or by certified mail.

(3) Subsections (1) and (2) apply unless the contrary intention appears and subsection (2) does not apply where a written law requires the production of an acknowledgement

signed by a person to whom a document was addressed to the effect that the document was delivered to that person.

### **Service of documents generally**

**76.** Where a written law authorizes or requires a document to be served, whether the word “serve” or any of the words “give”, “deliver”, or “send” or any other similar word or expression is used, without directing it to be served in a particular manner, service of that document may be effected on the person to be served —

- (a) by delivering the document to him personally; or
- (b) by post in accordance with section 75 (1); or
- (c) by leaving it for him at his usual or last known place of abode, or if he is a principal of a business, at his usual or last known place of business; or
- (d) in the case of a corporation or of an association of persons (whether incorporated or not), by delivering or leaving the document or posting it as a letter, addressed in each case to the corporation or association, at its principal place of business or principal office in the State.

### **Declaration of validity of certain laws**

**76A.** (1) Each provision of an Act or subsidiary legislation enacted or made, or purporting to have been enacted or made, before the commencement of the Australia Acts —

- (a) has the same effect as it would have had; and
- (b) is as valid as it would have been,

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if the Australia Acts had been in operation at the time of its enactment or making, or purported enactment or making.

(2) Subsection (1) is not intended to, and is not to be given effect so as to —

- (a) invalidate any enactment that was valid immediately before the commencement of the Australia Acts; or
- (b) invalidate any Act because it was assented to by the Sovereign rather than the Governor.

[Section 76A inserted by No. 85 of 1994 s.5.]

**Repeal**

**77.** (1) The *Interpretation Act 1918* is repealed.

(2) Notwithstanding subsection (1), section 11 of the *Interpretation Act 1918* shall continue to apply to Acts passed before the commencement of this Act.

(3) The enactment of a provision of this Act that is expressed to apply to Acts or subsidiary legislation passed or made after the commencement of this Act shall not be presumed to have amended the law so as to affect the construction of any Act or subsidiary legislation passed or made before such enactment.

(4) Notwithstanding subsection (1), section 47 (2) of the *Interpretation Act 1918* and the Second Schedule to that Act shall continue to apply to any Act to which that section applied immediately before the commencement of this Act.

## *Interpretation Act 1984*

### NOTES

<sup>1.</sup> This reprint is a compilation as at 15 March 1996 of the *Interpretation Act 1984* and includes the amendments effected by the other Acts referred to in the following Table<sup>1a</sup>.

**Table of Acts**

Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Interpretation Act 1984</i>	12 of 1984	31 May 1984	1 July 1984	
<i>Acts Amendment (Financial Administration and Audit) Act 1985, section 3</i>	98 of 1985	4 December 1985	1 July 1986 (see section 2 and <i>Gazette</i> 30 June 1986 p.2255)	
<i>Acts Amendment (Public Service) Act 1987, section 32 (schedule 2, item 54)</i>	113 of 1987	31 December 1987	16 March 1988 (see <i>Gazette</i> 16 March 1988 p.813)	
<i>Acts Amendment (Children's Court) Act 1988, section 41</i>	49 of 1988	22 December 1988	1 December 1989 (see <i>Gazette</i> 24 November 1989 p.4327)	
<i>Corporations (Western Australia) Act 1990, section 97</i>	105 of 1990	2 January 1991	1 January 1991	

## *Interpretation Act 1984*

Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Children's Court of Western Australia Amendment Act (No. 2) 1991, section 21</i>	15 of 1991	21 June 1991	9 August 1991 (see <i>Gazette</i> 9 August 1991 p.4101)	
<i>Financial Institutions (Western Australia) Act 1992, section 21</i>	30 of 1992	19 June 1992	1 July 1992 (see <i>Gazette</i> 26 June 1992 p.2643)	
<i>Financial Administration Legislation Amendment Act 1993, section 11</i>	6 of 1993	27 August 1993	Deemed operative 1 July 1993	
<i>Acts Amendment (Public Sector Management) Act 1994, section 15</i>	32 of 1994	29 June 1994	1 October 1994 (see <i>Gazette</i> 30 September 1994 p.4948)	
<i>Statutes (Repeals and Minor Amendments) Act 1994, section 4</i>	73 of 1994	9 December 1994	9 December 1994	
<i>Interpretation Amendment (Australia Acts) Act 1994</i>	85 of 1994	20 December 1994	3 March 1986 (see section 2)	

## *Interpretation Act 1984*

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Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Acts Amendment (Fines, Penalties and Infringement Notices) Act 1994, section 15</i>	92 of 1994	23 December 1994	1 January 1995 (see section 2 (1) and <i>Gazette</i> 30 December 1994 p.7211)	

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<sup>1a</sup> As at the date of this reprint Part 41 of the *Sentencing (Consequential Provisions) Act 1995* (Act No. 78 of 1995) was not in operation.

<sup>2</sup> Now see the *Public Sector Management Act 1994*.

