

Western Australia

Solicitor-General Act 1969

As at 01 Jan 2004

Version 01-b0-04

Extract from www.slp.wa.gov.au, see that website for further information

Western Australia

Solicitor-General Act 1969

CONTENTS

1.	Short title	1
2.	Interpretation	1
3.	Solicitor-General, appointment and qualifications	1
4.	Salary, leave entitlement etc.	1
5.	Resignation and retirement	2
6.	Private practice prohibited except with approval	3
7.	Removal from office	3
8.	Acting Solicitor-General	3
9.	Functions	4
10.	Certain rights as a public servant preserved	4
11.	Pension	5
12.	Service as Solicitor-General to be regarded as service as a Judge	5
13.	Attorney General may delegate to Solicitor-General	5
	Notes	
	Compilation table	7
	Provisions that have not come into operation	8

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*¹.

2. Interpretation

- (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 4, 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).]

3. Solicitor-General, appointment and qualifications

- (1) The Governor may, subject to this Act, appoint a person to be the Solicitor-General of the State of Western Australia.
- (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 eight years' standing and practice.

[Section 3 amended by No. 65 of 2003 s. 118.]

4. Salary, leave entitlement etc.

(1) The Solicitor-General —

- (a) shall be paid the same salary and the same travelling and other allowances as are, respectively, paid from time to time to a Judge, not being the Judge holding the office of Chief Justice of Western Australia or the office of Senior Puisne Judge pursuant to the *Judges' Salaries and Pensions Act 1950*;

[(b) deleted]

- (c) is entitled to the same annual leave of absence for recreation and leave of absence on account of illness, as if he were an officer of the Public Service of the State; and

- (d) is entitled to 3 months of long service leave on full salary for each completed period of 7 years of continuous service as Solicitor-General.

(2) The salary of the Solicitor-General shall be charged to the Consolidated Fund which is to the necessary extent appropriated accordingly.

[Section 4 amended by No. 125 of 1976 s. 8; No. 6 of 1993 s. 11; No. 49 of 1996 s. 64.]

5. Resignation and retirement

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

(2) The Solicitor-General shall retire from office on the day on which he attains the age of 65 years and thereupon the office of the Solicitor-General becomes vacant.

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.
- (2) A person so appointed holds office, subject to this Act on such terms and conditions as the Governor determines and until —
 - (a) his appointment is revoked;
 - (b) a person is appointed Solicitor-General under section 3 of this Act; or
 - (c) the person holding office as Solicitor-General ceases to be ill or absent,whichever first happens.

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*; 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) Where subsection (1) applies to and in respect of a person so that, under the *Superannuation and Family Benefits Act 1938*, a pension is payable to and in respect of him, the payment of that pension does not affect any pension that may be payable to and in respect of him under the *Judges' Salaries and Pensions Act 1950*, but the pension otherwise payable under that Act to and in respect of him, shall be reduced in accordance with the provisions of that Act by the amount of the State share of the firstmentioned pension.

[Section 10² amended by No. 69 of 1979 s. 3.]

11. Pension

The provisions of the *Judges' Salaries and Pensions Act 1950* that relate to pensions and allowances, other than section 15, apply, with such modifications as circumstances require, to and in respect of the Solicitor-General, and to and in respect of a surviving spouse, de facto partner or child of a Solicitor-General after the death of the Solicitor-General, in the same manner as they apply to and in respect of a Judge to whom that Act applies, and to a surviving spouse, de facto partner or child of such a Judge after the death of the Judge.

[Section 11 amended by No. 69 of 1979 s. 4; No. 28 of 2003 s. 185.]

12. Service as Solicitor-General to be regarded as service as a Judge

Where a Solicitor-General is appointed a Judge, his service (whether in continuous periods or not) as Solicitor-General shall be regarded for the purposes of the *Judges' Salaries and Pensions Act 1950* as service as a Judge.

[Section 12 amended by No. 69 of 1979 s. 5.]

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.

s. 13

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

Notes

- ¹ This is a compilation of the *Solicitor-General Act 1969* and includes the amendments made by the other written laws referred to in the following table. For amendments that had not come into operation on the date on which this compilation was prepared see endnote ^{1a}.

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))
Reprint of the <i>Solicitor-General Act 1969</i> as at 1 Nov 2002 (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)

^{1a} On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnote referred to after the short title.

Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
<i>State Superannuation (Transitional and Consequential Provisions) Act 2000 s. 64</i> ²	43 of 2000	2 Nov 2000	To be proclaimed (see s. 2(2))

² On the date as at which this compilation was prepared, the *State Superannuation (Transitional and Consequential Provisions) Act 2000 s. 64* had not come into operation. It reads as follows:

“

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).

”.