

Western Australia

**Criminal Procedure and Appeals (Consequential  
and Other Provisions) Act 2004**

---

As at 16 Dec 2004

No. 84 of 2004

Extract from [www.slp.wa.gov.au](http://www.slp.wa.gov.au), see that website for further information



# **Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004**

---

## **CONTENTS**

---

### **Part 1 — Preliminary**

1.	Short title	2
2.	Commencement	2
3.	<i>Interpretation Act 1984</i> , operation of	2

### **Part 2 — Various Acts repealed**

4.	<i>Criminal Procedure (Summary) Act 1902</i> repealed and transitional provision	3
5.	<i>Grand Jury Abolition Act Amendment Act 1883</i> repealed	3

### **Part 3 — *Bail Act 1982* amended**

6.	The Act amended in this Part	4
7.	Section 48 amended	4
8.	Section 49 amended	4
9.	Section 54 amended	5
10.	Schedule 1 Part A amended	6
	4. Appearance in connection with appeal etc.	6
	7. Interpretation in this Part	7
11.	Small amendments	7

### **Part 4 — *Children's Court of Western Australia Act 1988* amended**

12.	The Act amended in this Part	10
13.	Section 19B amended	10

Contents

---

14.	Section 20 amended	10
15.	Section 41 replaced	11
	41. Appeals against decisions of magistrates etc.	11
16.	Section 42A inserted	11
	42A. Appeals from judges' decisions in criminal matters	11
17.	Section 43 amended	11
18.	Small amendments	12
<b>Part 5 — <i>The Criminal Code</i> amended</b>		
19.	The Criminal Code amended	14
20.	Section 360 amended	14
21.	Heading to Part VIII replaced	14
<b>Part VIII — Miscellaneous</b>		
22.	Chapters LXI and LXII repealed	15
23.	Heading to Chapter LXIII replaced	15
<b>Chapter LXIII — Alternative verdicts</b>		
24.	Chapters LXIV to LXIX repealed	15
25.	Chapter LXXIII repealed	15
26.	Section 730 inserted	15
	730. Forfeitures, escheats etc. abolished	15
27.	Amendments about previous convictions	15
28.	Other repeals and amendments	16
<b>Part 6 — <i>Director of Public Prosecutions Act 1991</i> amended</b>		
29.	The Act amended in this Part	17
30.	Section 16A inserted	17
	16A. Prosecuting offences of other jurisdictions	17
31.	Small amendments	18
<b>Part 7 — <i>District Court of Western Australia Act 1969</i> amended</b>		
32.	The Act amended in this Part	19
33.	Section 5 amended	19
34.	Section 43 replaced	19
	43. Exercise of criminal jurisdiction	19
35.	Sections 46 to 49 repealed	19

**Part 8 — *Evidence Act 1906* amended**

36.	The Act amended in this Part	20
37.	Section 106H amended	20
38.	Section 106RA inserted	20
	106RA. Visually recording evidence of witnesses in criminal matters	20
39.	Section 106T amended	21
40.	Section 119 amended	23
41.	Small amendments	23

**Part 9 — *Fines, Penalties and  
Infringement Notices  
Enforcement Act 1994* amended**

42.	The Act amended in this Part	25
43.	Section 21 amended	25
44.	Section 58 replaced	26
	58. Amounts payable by witnesses and sureties for witnesses	26
45.	Section 101B amended	27
46.	Small amendments	27

**Part 10 — *Juries Act 1957* amended**

47.	The Act amended in this Part	28
48.	Section 38 repealed	28
49.	Section 41 replaced	28
	41. Jury's entitlements when together	28
50.	Section 57A inserted	28
	57A. Grand juries not to be summoned	28
51.	Small amendments	29

**Part 11 — *Local Government Act 1995*  
amended**

52.	The Act amended in this Part	30
53.	Section 4.97 replaced	30
	4.97. Prosecutions	30
54.	Section 9.24 replaced	31
	9.24. Commencing prosecutions	31

**Part 12 — *Official Prosecutions  
(Defendants' Costs) Act 1973*  
amended**

55.	The Act amended in this Part	32
56.	Section 4 amended	32

**Part 13 — *Sentencing Act 1995*  
amended**

57.	The Act amended in this Part	34
58.	Section 79 replaced	34
	79. Re-offending, alleging in court	34
59.	Section 84E replaced	36
	84E. Re-offending, alleging in court	36
60.	Section 114A inserted	37
	114A. Victim may appeal against refusal of reparation order	37
61.	Section 129 replaced	38
	129. Re-offending, alleging in court	38
62.	Section 131 amended	40
63.	Section 140 amended	40
64.	Schedule 1 amended	40
65.	Small amendments	41

**Part 14 — *Supreme Court Act 1935*  
amended**

66.	The Act amended in this Part	42
67.	Section 33 inserted	42
	33. Judgments and orders, correction of	42
68.	Section 154 amended	42
69.	Heading to Part X amended	43
70.	Heading inserted	43

**Part XI — Miscellaneous**

71.	Section 178 inserted	43
	178. Habeas corpus proceedings	43
72.	Small amendments	44

**Part 15 — *Young Offenders Act 1994*  
amended**

73.	The Act amended in this Part	45
-----	------------------------------	----

74.	Section 55 amended	45
75.	Section 60 inserted	45
	60. Orders etc. under this Part are sentences	45
76.	Section 178 amended	46
77.	Small amendments	46
 <b>Part 16 — Various Acts amended</b>		
78.	Various Acts amended (Sch 1)	47
 <b>Part 17 — Amendments to change terminology</b>		
79.	References to “complaint” changed to “prosecution notice”	48
80.	Various Acts amended (Sch 2)	48
81.	References to “complaint” to be read as references to “prosecution notice”	48
82.	References to “defendant” changed to “accused”	49
83.	<i>Bail Act 1982</i> amended	57
84.	<i>Criminal Law (Mentally Impaired Defendants) Act 1996</i> amended	58
85.	<i>Evidence Act 1906</i> amended	59
86.	<i>Official Prosecutions (Defendants’ Costs) Act 1973</i> amended	61
 <b>Schedule 1 — Amendments to various Acts</b>		
1.	<i>Aboriginal Affairs Planning Authority Act 1972</i>	62
2.	<i>Agricultural Products Act 1929</i>	62
3.	<i>Agriculture and Related Resources Protection Act 1976</i>	62
4.	<i>Architects Act 1921</i>	62
5.	<i>Art Gallery Act 1959</i>	62
6.	<i>Companies (Co-operative) Act 1943</i>	62
7.	<i>Co-operative and Provident Societies Act 1903</i>	62
8.	<i>Corruption and Crime Commission Act 2003</i>	63
9.	<i>Criminal Law (Mentally Impaired Defendants) Act 1996</i>	63
10.	<i>Diamond (Argyle Diamond Mines Joint Venture) Agreement Act 1981</i>	63
11.	<i>Fertilizers Act 1977</i>	63

Contents

---

12.	<i>Finance Brokers Control Act 1975</i>	64
13.	<i>Health Act 1911</i>	64
14.	<i>Industrial Relations Act 1979</i>	64
15.	<i>Interpretation Act 1984</i>	65
16.	<i>Land Drainage Act 1925</i>	65
17.	<i>Land Valuers Licensing Act 1978</i>	65
18.	<i>Litter Act 1979</i>	65
19.	<i>Magistrates Court Act 2004</i>	65
20.	<i>Minimum Conditions of Employment Act 1993</i>	66
21.	<i>Museum Act 1969</i>	66
22.	<i>Occupational Safety and Health Act 1984</i>	66
23.	<i>Police Act 1892</i>	66
24.	<i>Pollution of Waters by Oil and Noxious Substances Act 1987</i>	66
25.	<i>Prisons Act 1981</i>	66
26.	<i>Prostitution Act 2000</i>	67
27.	<i>Psychologists Registration Act 1976</i>	67
28.	<i>Rail Safety Act 1998</i>	68
29.	<i>Road Traffic Act 1974</i>	68
30.	<i>Royal Commissions Act 1968</i>	68
31.	<i>Strata Titles Act 1985</i>	68
32.	<i>Street Alignment Act 1844</i>	68
33.	<i>Suitors' Fund Act 1964</i>	68
34.	<i>Transfer of Land Act 1893</i>	69
35.	<i>Veterinary Preparations and Animal Feeding Stuffs Act 1976</i>	69
36.	<i>Weapons Act 1999</i>	69
37.	<i>Wildlife Conservation Act 1950</i>	69
38.	<i>Workers' Compensation and Rehabilitation Act 1981</i>	69

**Schedule 2 — Amendments to change  
terminology**

1.	<i>Aboriginal Affairs Planning Authority Act 1972</i>	71
2.	<i>Aboriginal Communities Act 1979</i>	71
3.	<i>Aboriginal Heritage Act 1972</i>	72
4.	<i>Agricultural and Veterinary Chemicals (Western Australia) Act 1995</i>	72
5.	<i>Agricultural Products Act 1929</i>	72



6.	<i>Agriculture and Related Resources Protection Act 1976</i>	72
7.	<i>Animal Welfare Act 2002</i>	73
8.	<i>Architects Act 2004</i>	74
9.	<i>Armorial Bearings Protection Act 1979</i>	74
10.	<i>Art Gallery Act 1959</i>	74
11.	<i>Betting Control Act 1954</i>	74
12.	<i>Botanic Gardens and Parks Authority Act 1998</i>	75
13.	<i>Builders' Registration Act 1939</i>	75
14.	<i>Building and Construction Industry Training Fund and Levy Collection Act 1990</i>	76
15.	<i>Bush Fires Act 1954</i>	76
16.	<i>Cannabis Control Act 2003</i>	76
17.	<i>Caravan Parks and Camping Grounds Act 1995</i>	76
18.	<i>Casino Control Act 1984</i>	76
19.	<i>Cemeteries Act 1986</i>	77
20.	<i>Censorship Act 1996</i>	77
21.	<i>Chicken Meat Industry Act 1977</i>	77
22.	<i>Child Welfare Act 1947</i>	77
23.	<i>Children and Community Services Act 2004</i>	78
24.	<i>Children's Court of Western Australia Act 1988</i>	79
25.	<i>Coal Industry Tribunal of Western Australia Act 1992</i>	80
26.	<i>Community Services Act 1972</i>	80
27.	<i>Companies (Co-operative) Act 1943</i>	80
28.	<i>Competition Policy Reform (Western Australia) Act 1996</i>	80
29.	<i>Conservation and Land Management Act 1984</i>	80
30.	<i>Construction Industry Portable Paid Long Service Leave Act 1985</i>	81
31.	<i>Contaminated Sites Act 2003</i>	81
32.	<i>Control of Vehicles (Off-road Areas) Act 1978</i>	81
33.	<i>Co-operative and Provident Societies Act 1903</i>	82
34.	<i>Country Areas Water Supply Act 1947</i>	82
35.	<i>Country Towns Sewerage Act 1948</i>	82
36.	<i>The Criminal Code</i>	82
37.	<i>Criminal Investigation (Extra-territorial Offences) Act 1987</i>	83
38.	<i>Criminal Investigation (Identifying People) Act 2002</i>	83

Contents

---

39.	<i>Criminal Law (Mentally Impaired Defendants) Act 1996</i>	83
40.	<i>Criminal Property Confiscation Act 2000</i>	83
41.	<i>Curtin University of Technology Act 1966</i>	84
42.	<i>Dangerous Goods Safety Act 2004</i>	84
43.	<i>Dental Act 1939</i>	84
44.	<i>Dental Prosthetists Act 1985</i>	84
45.	<i>Director of Public Prosecutions Act 1991</i>	84
46.	<i>Disability Services Act 1993</i>	85
47.	<i>Dog Act 1976</i>	85
48.	<i>Edith Cowan University Act 1984</i>	85
49.	<i>Electoral Act 1907</i>	85
50.	<i>Energy Operators (Powers) Act 1979</i>	86
51.	<i>Environmental Protection Act 1986</i>	86
52.	<i>Evidence Act 1906</i>	87
53.	<i>Exotic Diseases of Animals Act 1993</i>	87
54.	<i>Fair Trading Act 1987</i>	87
55.	<i>Family Court Act 1997</i>	88
56.	<i>Fertilizers Act 1977</i>	88
57.	<i>Finance Brokers Control Act 1975</i>	88
58.	<i>Fines, Penalties and Infringement Notices Enforcement Act 1994</i>	88
59.	<i>Firearms Act 1973</i>	88
60.	<i>First Home Owner Grant Act 2000</i>	89
61.	<i>Fish Resources Management Act 1994</i>	89
62.	<i>Forest Products Act 2000</i>	90
63.	<i>Gaming and Wagering Commission Act 1987</i>	90
64.	<i>Government Agreements Act 1979</i>	91
65.	<i>Government Railways Act 1904</i>	91
66.	<i>Health Act 1911</i>	91
67.	<i>Heritage of Western Australia Act 1990</i>	93
68.	<i>Home Building Contracts Act 1991</i>	94
69.	<i>Human Reproductive Technology Act 1991</i>	94
70.	<i>Income Tax Assessment Act 1937</i>	94
71.	<i>Industrial Relations Act 1979</i>	95
72.	<i>Land Drainage Act 1925</i>	95
73.	<i>Licensed Surveyors Act 1909</i>	96
74.	<i>Liquor Licensing Act 1988</i>	96
75.	<i>Litter Act 1979</i>	98
76.	<i>Local Government Act 1995</i>	98

77.	<i>Local Government (Miscellaneous Provisions) Act 1960</i>	98
78.	<i>Magistrates Court Act 2004</i>	98
79.	<i>Marine and Harbours Act 1981</i>	99
80.	<i>Maritime Archaeology Act 1973</i>	99
81.	<i>Marketing of Potatoes Act 1946</i>	99
82.	<i>Medical Act 1894</i>	100
83.	<i>Metropolitan Water Supply, Sewerage, and Drainage Act 1909</i>	100
84.	<i>Mines Safety and Inspection Act 1994</i>	100
85.	<i>Mining Act 1978</i>	100
86.	<i>Motor Vehicle (Third Party Insurance) Act 1943</i>	100
87.	<i>Motor Vehicle Dealers Act 1973</i>	101
88.	<i>Motor Vehicle Repairers Act 2003</i>	101
89.	<i>Murdoch University Act 1973</i>	101
90.	<i>Museum Act 1969</i>	101
91.	<i>National Trust of Australia (W.A.) Act 1964</i>	101
92.	<i>New Tax System Price Exploitation Code (Western Australia) Act 1999</i>	102
93.	<i>Nurses Act 1992</i>	102
94.	<i>Occupational Safety and Health Act 1984</i>	102
95.	<i>Occupational Therapists Registration Act 1980</i>	102
96.	<i>Official Prosecutions (Defendants' Costs) Act 1973</i>	102
97.	<i>Optometrists Act 1940</i>	102
98.	<i>Painters' Registration Act 1961</i>	103
99.	<i>Pawnbrokers and Second-hand Dealers Act 1994</i>	103
100.	<i>Pearling Act 1990</i>	103
101.	<i>Perth Market Act 1926</i>	103
102.	<i>Perth Parking Management Act 1999</i>	104
103.	<i>Petroleum Products Pricing Act 1983</i>	104
104.	<i>Petroleum Safety Act 1999</i>	104
105.	<i>Pharmacy Act 1964</i>	104
106.	<i>Pig Industry Compensation Act 1942</i>	104
107.	<i>Plant Diseases Act 1914</i>	105
108.	<i>Podiatrists Registration Act 1984</i>	105
109.	<i>Poisons Act 1964</i>	105
110.	<i>Police Act 1892</i>	105
111.	<i>Port Authorities Act 1999</i>	106
112.	<i>Prisoners (Interstate Transfer) Act 1983</i>	106
113.	<i>Prisons Act 1981</i>	107
114.	<i>Prostitution Act 2000</i>	107

Contents

---

115.	<i>Psychologists Registration Act 1976</i>	107
116.	<i>Public Meetings and Processions Act 1984</i>	107
117.	<i>Public Transport Authority Act 2003</i>	107
118.	<i>Rail Safety Act 1998</i>	108
119.	<i>Rates and Charges (Rebates and Deferments) Act 1992</i>	108
120.	<i>Real Estate and Business Agents Act 1978</i>	109
121.	<i>Retail Trading Hours Act 1987</i>	109
122.	<i>Road Traffic Act 1974</i>	109
123.	<i>Road Traffic Amendment Act (No. 2) 1987</i>	110
124.	<i>Road Traffic Amendment Act 2000</i>	110
125.	<i>Rottnest Island Authority Act 1987</i>	111
126.	<i>Sale of Land Act 1970</i>	111
127.	<i>School Education Act 1999</i>	111
128.	<i>Securities Industry Act 1975</i>	112
129.	<i>Seeds Act 1981</i>	112
130.	<i>Settlement Agents Act 1981</i>	113
131.	<i>Soil and Land Conservation Act 1945</i>	113
132.	<i>Spear-guns Control Act 1955</i>	113
133.	<i>Spent Convictions Act 1988</i>	113
134.	<i>Suitors' Fund Act 1964</i>	113
135.	<i>Swan River Trust Act 1988</i>	113
136.	<i>Taxation Administration Act 2003</i>	114
137.	<i>Taxi Act 1994</i>	114
138.	<i>Transport Co-ordination Act 1966</i>	114
139.	<i>Travel Agents Act 1985</i>	115
140.	<i>University of Western Australia Act 1911</i>	115
141.	<i>Valuation of Land Act 1978</i>	115
142.	<i>Veterinary Preparations and Animal Feeding Stuffs Act 1976</i>	116
143.	<i>Veterinary Surgeons Act 1960</i>	116
144.	<i>Vexatious Proceedings Restriction Act 2002</i>	116
145.	<i>Water Agencies (Powers) Act 1984</i>	116
146.	<i>Water Boards Act 1904</i>	117
147.	<i>Waterways Conservation Act 1976</i>	117
148.	<i>Weights and Measures Act 1915</i>	117
149.	<i>Western Australian College of Teaching Act 2004</i>	118
150.	<i>Western Australian Marine Act 1982</i>	118
151.	<i>Western Australian Sports Centre Trust Act 1986</i>	118
152.	<i>Western Australian Trotting Association Act 1946</i>	118
153.	<i>The Western Australian Turf Club Act 1892</i>	118

---

	Contents
154. <i>White Phosphorus Matches Prohibition Act 1912</i>	119
155. <i>Wildlife Conservation Act 1950</i>	119
156. <i>Workers' Compensation and Rehabilitation Act 1981</i>	120
157. <i>Workers' Compensation and Injury Management Act 1981</i>	120
158. <i>Young Offenders Act 1994</i>	121
159. <i>Zoological Parks Authority Act 2001</i>	121



Western Australia

## **Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004**

---

**No. 84 of 2004**

---

**An Act to —**

- **repeal the *Criminal Procedure (Summary) Act 1902*; and**
  - **amend *The Criminal Code* and various Acts,**
- as a consequence of and in connection with the enactment of the —**
- ***Criminal Procedure Act 2004*; and**
  - ***Criminal Appeals Act 2004*,**
- and to amend various Acts in relation to procedural and other matters.**

*[Assented to 16 December 2004]*

The Parliament of Western Australia enacts as follows:

## **Part 1 — Preliminary**

### **1. Short title**

This Act may be cited as the *Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004*.

### **2. Commencement**

- (1) This Act comes into operation on a day fixed by proclamation.
- (2) Different days may be fixed under subsection (1) for different provisions.
- (3) For the purposes of subsection (2), each amendment in a Table to a provision of this Act or in a Schedule to this Act is to be taken to be a separate provision of this Act.

### **3. *Interpretation Act 1984*, operation of**

If an enactment is repealed by this Act and is re-enacted (with or without modification) by the —

- (a) *Criminal Procedure Act 2004*; or
- (b) *Criminal Appeals Act 2004*,

then for the purposes of the *Interpretation Act 1984* section 36, the enactment is to be taken to have been repealed and re-enacted by the Act referred to in paragraph (a) or (b).



## **Part 2 — Various Acts repealed**

**4. *Criminal Procedure (Summary) Act 1902* repealed and transitional provision**

- (1) The *Criminal Procedure (Summary) Act 1902* is repealed.
- (2) A reference in a written law or book, document or writing to the *Criminal Procedure (Summary) Act 1902* is, unless the contrary intention appears, to be construed as if it had been amended to be a reference to the *Criminal Procedure Act 2004*.

**5. *Grand Jury Abolition Act Amendment Act 1883* repealed**

The *Grand Jury Abolition Act Amendment Act 1883* is repealed.

## **Part 3 — *Bail Act 1982* amended**

### **6.        The Act amended in this Part**

The amendments in this Part are to the *Bail Act 1982*\*.

[\* *Reprinted as at 27 August 1999.*

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2003, Table 1, p. 28 and  
Acts Nos. 50 of 2003 and 4 of 2004.]*

### **7.        Section 48 amended**

Section 48(5) is repealed and the following subsection is  
inserted instead —

“

(5) An application under subsection (1) must be made, and  
proceedings on it are to be conducted —

- (a) in a court of summary jurisdiction — in  
accordance with regulations made under the  
*Criminal Procedure Act 2004*;
- (b) in the Supreme Court or the District Court — in  
accordance with rules of court made under the  
*Criminal Procedure Act 2004*.

”.

### **8.        Section 49 amended**

- (1) If the *Bail Amendment Act 2004* has not come into operation  
when this subsection comes into operation, section 49(1)(a) of  
the *Bail Act 1982* is amended by deleting “make application for  
payment by way of complaint to an appropriate judicial officer”  
and inserting instead —

“

apply to an appropriate judicial officer for an order that  
the sum be paid

”.

- (2) Section 49(2) is repealed and the following subsection is inserted instead —

“

- (2) An application under subsection (1) must be made, and proceedings on it are to be conducted —

- (a) in a court of summary jurisdiction — in accordance with regulations made under the *Criminal Procedure Act 2004*;
- (b) in the Supreme Court or the District Court — in accordance with rules of court made under the *Criminal Procedure Act 2004*.

”.

**9. Section 54 amended**

- (1) If the *Bail Amendment Act 2004* has not come into operation when this subsection comes into operation, section 54(2)(b) of the *Bail Act 1982* is amended by deleting “make a complaint to an appropriate judicial officer as to” and inserting instead —

“

apply to an appropriate judicial officer for a summons or warrant on

”.

- (2) Section 54(3) is repealed and the following subsection is inserted instead —

“

- (3) An application under subsection (2)(b) must be made, and proceedings on it are to be conducted —

- (a) in a court of summary jurisdiction — in accordance with regulations made under the *Criminal Procedure Act 2004*;
- (b) in the Supreme Court or the District Court — in accordance with rules of court made under the *Criminal Procedure Act 2004*.

”.

**10. Schedule 1 Part A amended**

- (1) Schedule 1 Part A clause 1 is amended as follows:

- (a) by inserting before “The initial” the subclause designation “ (1) ”;
- (b) by deleting “court” and inserting instead —

“

a court of summary jurisdiction or the Children’s Court

”;

- (c) by inserting at the foot of the clause the following subclause —

“

- (2) The initial appearance in the District Court or the Supreme Court, not being the initial appearance to which clause 3 applies. A judge of the District Court or a judge of the Supreme Court, as the case requires.

”.

- (2) Schedule 1 Part A clause 4 is deleted and the following clause is inserted instead —

“

**4. Appearance in connection with appeal etc.**

- (1) Appearance in connection with an application or appeal made under the *Criminal Appeals Act 2004* or with any order made in determining the application or appeal. If the appeal is being determined by a single judge of the Supreme Court, a single judge of the Supreme Court; If the appeal is being determined by the Court of Appeal, the Court of Appeal or a single judge of appeal.
- (2) Appearance in connection with a rehearing of proceedings ordered under The Children’s Court.

section 28 of the *Children's Court of Western Australia Act 1988*.

- (3) Appearance in connection with the reconsideration of an order under section 40 of the *Children's Court of Western Australia Act 1988*. The Children's Court constituted by the President.

”.

- (3) Schedule 1 Part A clause 7 is deleted and the following clause is inserted instead —

“

**7. Interpretation in this Part**

In this Part, unless the contrary intention appears —

“**proceedings for an offence**” in clause 2 (but not in clause 1) includes any of the following proceedings relating to that offence —

- (a) appeal proceedings;
- (b) proceedings on a writ of *habeas corpus*; and
- (c) proceedings on the re-appearance of an offender under section 50 of the *Sentencing Act 1995*.

”.

**11. Small amendments**

The Act is amended as set out in the Table to this section.

**Table**

s. 3(1)	<p>In the definition of “prosecutor”, delete “complaint, the complainant” and insert instead —</p> <p>“ prosecution notice, the prosecutor ”.</p> <p>In the definition of “trial”, delete “complaint” and insert instead —</p> <p>“ prosecution notice ”.</p>
---------	---

***Criminal Procedure and Appeals (Consequential and Other Provisions)***  
**Act 2004**

**Part 3**

Bail Act 1982 amended

**s. 11**

---

s. 7A(1) s. 21(2)(a) s. 53(2) Sch. 1 — Pt. C cl. 5	In each provision, delete “Part VIII of the <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ Part 2 of the <i>Criminal Appeals Act 2004</i> ”.
s. 16(2)(b) s. 54(5)	In each provision, delete “ <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ <i>Criminal Procedure Act 2004</i> ”.
s. 20(3)(b)	Delete “complaint” and insert instead — “ prosecution notice ”.
s. 49(1)(c)	Delete “complaint” and insert instead — “ application ”.
s. 51(3)	Delete “Notwithstanding section 140 of the <i>Criminal Procedure (Summary) Act 1902</i> , a defendant” and insert instead — “ An accused ”.
s. 52(1)	Delete “bringing proceedings for” and insert instead — “ prosecuting ”.
s. 52(3)	Delete “Proceedings for an offence which is to be dealt with under this section shall be commenced by a complaint made in writing to a justice, and lodged — ” and insert instead — “  A prosecution for an offence which is to be dealt with under this section shall be commenced by the authorised officer (as defined in section 80 of the <i>Criminal Procedure Act 2004</i> ) who was conducting the proceedings in which the accused failed to comply with his bail undertaking —  ”.

s. 52(4)	Repeal the subsection and insert instead — “ (4) Subject to section 51(3) and (5), a prosecution for an offence which is to be dealt with under this section is to be commenced and conducted under the <i>Criminal Procedure Act 2004</i> as if it were a prosecution of a simple offence in a court of summary jurisdiction. ”.
s. 53(1)	Delete “(as defined in section 4 of the <i>Criminal Procedure (Summary) Act 1902</i> )” and insert instead — “ (as defined in section 6 of the <i>Criminal Appeals Act 2004</i> ) ”.
s. 53(3)	Delete “section 195A of the <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ section 13(1) of the <i>Criminal Appeals Act 2004</i> ”.
s. 54(5)	Repeal the subsection.
Sch. 1 Pt. C cl. 3B(2)(b) cl. 3B(2)(c)	In each provision, delete “complaint under the <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ prosecution ”.

**Part 4 — *Children's Court of Western Australia  
Act 1988* amended**

**12. The Act amended in this Part**

The amendments in this Part are to the *Children's Court of Western Australia Act 1988*\*.

[\* *Reprinted as at 25 August 2000.*

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2003, Table 1, p. 54 and  
Act No. 4 of 2004.]*

**13. Section 19B amended**

Section 19B(3) is repealed and the following subsection is inserted instead —

“

- (3) If the child makes an election under subsection (1) the Court shall proceed under Part 3 Division 4 of the *Criminal Procedure Act 2004* as if the charge were one that must be tried on indictment.

”.

**14. Section 20 amended**

Section 20 is amended as follows:

- (a) by inserting before “Subject to” the subsection designation “(1)”;  
(b) by inserting the following subsection —

“

- (2) Section 172 of the *Criminal Procedure Act 2004*, with any necessary changes, applies in respect of the Court when it is exercising jurisdiction under subsection (1).

”.



**15. Section 41 replaced**

Section 41 is repealed and the following section is inserted instead —

“

**41. Appeals against decisions of magistrates etc.**

Subject to this Part, an appeal against a decision of the Court when constituted so as not to consist of or include a Judge may be made under and subject to Part 2 of the *Criminal Appeals Act 2004*.

”.

**16. Section 42A inserted**

After section 42 the following section is inserted —

“

**42A. Appeals from judges' decisions in criminal matters**

Subject to section 43, an appeal against a decision or judgment of the Court when constituted so as to consist of or include a Judge may be made under and subject to Part 3 of the *Criminal Appeals Act 2004* which, with any necessary changes, applies as if the decision or judgment were a decision or judgment made by a judge of a superior court (as defined in section 4 of that Act) in a trial by a judge alone under the *Criminal Procedure Act 2004*.

”.

**17. Section 43 amended**

Section 43 is amended as follows:

- (a) by repealing subsections (1), (2), (3), (3a) and (3b);

**s. 18**

---

- (b) by inserting after subsection (4) —
- “
- (5) An appeal under subsection (4) must be commenced and conducted in accordance with rules of court made by the Supreme Court.
- (6) An appeal under subsection (4) cannot be commenced later than 21 days after the date of the Judge's finding, order or other decision unless the Court of Appeal orders otherwise.
- (7) The leave of the Court of Appeal is required for each ground of appeal in an appeal under subsection (4).
- (8) In an appeal under subsection (4), the Court of Appeal —
- (a) may affirm, vary or set aside the Judge's finding, order or other decision;
- (b) may make any finding, order or other decision that the Judge could have made;
- (c) if it sets aside the Judge's finding, order or other decision, may order the application concerned be dealt with again.
- ”.

**18. Small amendments**

The Act is amended as set out in the Table to this section.

**Table**

s. 4(2) s. 37(2)	In each provision, delete “ <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ <i>Criminal Procedure Act 2004</i> ”.
s. 19B(1)(b)	In subparagraph (ii), delete “section 99(2) of the <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ section 40(2) of the <i>Criminal Procedure Act 2004</i> ”.

s. 19B(4)(a)(i)	Delete "section 611B of <i>The Criminal Code</i> " and insert instead — " section 95 of the <i>Criminal Procedure Act 2004</i> ".
s. 19B(4)(c)	Delete "Part VIII of <i>The Criminal Code</i> " and insert instead — " Part 4 or 5 of the <i>Criminal Procedure Act 2004</i> ". Delete "and <i>The Criminal Code</i> " and insert instead — " and the <i>Criminal Procedure Act 2004</i> ".
s. 19C(1)	Delete "then — " and the rest of the subsection and insert instead — "  then the Court shall proceed under Part 3 Division 4 of the <i>Criminal Procedure Act 2004</i> as if the charge were one that must be tried on indictment.  ".
s. 32	Repeal the section.
s. 42(1)	Delete "Part VIII of the <i>Criminal Procedure (Summary) Act 1902</i> " and insert instead — " Part 2 of the <i>Criminal Appeals Act 2004</i> ".

## **Part 5 — *The Criminal Code* amended**

### **19.      The Criminal Code amended**

The amendments in this Part are to *The Criminal Code*\*.

[\* *Reprint 10 as at 7 February 2003 (see the Schedule to the Criminal Code Act 1913 appearing as Appendix B to the Criminal Code Compilation Act 1913).*  
*For subsequent amendments see Western Australian Legislation Information Tables for 2003, Table 1, p. 95 and Acts Nos. 50 and 78 of 2003 and 4 of 2004.*]

### **20.      Section 360 amended**

Section 360 is amended as follows:

- (a) by inserting before “Any person” the subsection designation “(1)”;
- (b) by inserting before “If the offender” the subsection designation “(2)”;
- (c) by inserting the following subsection —

“

- (3) A person charged with the unlawful publication of defamatory matter, who sets up as a defence that the defamatory matter is true, and that it was for the public benefit that the publication should be made, must plead that matter specially, and may plead it with any other plea, except the plea of guilty.

”.

### **21.      Heading to Part VIII replaced**

The heading to Part VIII is deleted and the following heading is inserted instead —

“

## **Part VIII — Miscellaneous**

”.

**22. Chapters LXI and LXII repealed**

Chapters LXI and LXII are repealed.

**23. Heading to Chapter LXIII replaced**

The heading to Chapter LXIII is deleted and the following heading is inserted instead —

“

**Chapter LXIII — Alternative verdicts**

”.

**24. Chapters LXIV to LXIX repealed**

Chapters LXIV, LXIVA, LXV, LXVI, LXVII, LXVIII and LXIX are repealed.

**25. Chapter LXXIII repealed**

Chapter LXXIII is repealed.

**26. Section 730 inserted**

Before section 731 the following section is inserted in Chapter LXXIV —

“

**730. Forfeitures, escheats etc. abolished**

Forfeitures (except under a written law), escheats, attainders and corruptions of blood on account of crime or conviction stand abolished.

”.

**27. Amendments about previous convictions**

- (1) Section 52 is amended by repealing the paragraph that begins “If he has been”.
- (2) Section 378(12) is repealed.

**s. 28**

---

- (3) Section 407 is amended by repealing the paragraph that begins “If the offender”.

**28. Other repeals and amendments**

*The Criminal Code* is amended as set out in the Table to this section.

**Table**

s. 3(4)	Repeal the subsection.
s. 5(5)(b)	Delete “Part V of the <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ section 41 of the <i>Criminal Procedure Act 2004</i> ”.
s. 5(9)(a)	After “guilty” insert — “ or otherwise ”.
s. 133A	Delete “makes or swears a complaint under the <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ signs a prosecution notice under the <i>Criminal Procedure Act 2004</i> ”.
Ch. LXXII	In the heading to Chapter LXXII, delete “: Restitution of property unlawfully acquired”.
s. 733	Repeal the section.
s. 739	Repeal the section.
s. 740	Repeal the section.
s. 741	Repeal the section.
s. 744	Repeal the section.
s. 745	Repeal the section.
s. 746	Repeal the section.
s. 746A	Repeal the section.
s. 747	Repeal the section.

**Part 6 — *Director of Public Prosecutions Act 1991*  
amended**

**29. The Act amended in this Part**

The amendments in this Part are to the *Director of Public Prosecutions Act 1991*\*.

[\* Reprinted as at 1 June 2001.

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2003, Table 1, p. 104-5.]*

**30. Section 16A inserted**

After section 16 the following section is inserted —

“

**16A. Prosecuting offences of other jurisdictions**

- (1) If the Director, with the consent of the Attorney General, holds an appointment to prosecute offences in the laws of another jurisdiction, it is a function of the Director to commence and conduct prosecutions for those offences in accordance with the terms of the appointment.
- (2) If a member of the Director's staff, with the consent of the Attorney General, holds an appointment to prosecute offences in the laws of another jurisdiction, the member may commence and conduct prosecutions for those offences in accordance with the terms of the appointment.

”.

**s. 31**

---

**31. Small amendments**

The Act is amended as set out in the Table to this section.

**Table**

s. 13	Delete “section 693A of <i>The Criminal Code</i> ” and insert instead — “ section 47 of the <i>Criminal Appeals Act 2004</i> ”.
-------	--



**Part 7 — *District Court of Western Australia Act 1969*  
amended**

**32. The Act amended in this Part**

The amendments in this Part are to the *District Court of Western Australia Act 1969*\*.

[\* *Reprinted as at 19 January 2001.*

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2003, Table 1, p. 108.]*

**33. Section 5 amended**

Section 5(2) is repealed.

**34. Section 43 replaced**

Section 43 is repealed and the following section is inserted  
instead —

“

**43. Exercise of criminal jurisdiction**

(1) The jurisdiction referred to in section 42 is to be  
exercised subject to —

(a) *The Criminal Code*; and

(b) the *Criminal Procedure Act 2004*.

(2) This Act does not affect the operation of the *Criminal  
Appeals Act 2004* in respect of decisions and  
judgments of the Court.

”.

**35. Sections 46 to 49 repealed**

Sections 46, 47, 48 and 49 are repealed.

**Part 8 — *Evidence Act 1906* amended**

**36. The Act amended in this Part**

The amendments in this Part are to the *Evidence Act 1906*\*.

[\* *Reprint 12 as at 10 October 2003.*

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2003, Table 1, p. 128 and  
Act No. 4 of 2004.]*

**37. Section 106H amended**

Section 106H(2b) is repealed and the following section is  
inserted instead —

“

- (2b) If a person to whom an affected child made a relevant  
statement makes a written statement in accordance with  
Schedule 3 clause 4(1) of the *Criminal Procedure  
Act 2004*, the written statement is admissible.

”.

**38. Section 106RA inserted**

After section 106R the following section is inserted —

“

**106RA. Visually recording evidence of witnesses in criminal  
matters**

- (1) Where a prosecution for an offence has commenced in  
a court, a judge of the court may make an order that the  
evidence of a person (the “**witness**”) whose evidence is  
or may be relevant in the prosecution be taken at a  
special hearing and recorded on a visual recording.
- (2) An order cannot be made under subsection (1) in  
respect of a person who is an affected child.

- (3) An order may be made under subsection (1) on application by a party to the prosecution, on notice to the other parties, or of the court's own motion.
- (4) The grounds on which an order may be made under subsection (1) are —
  - (a) that the witness has been declared to be a special witness under section 106R(1)(a); or
  - (b) that it is likely the witness will be out of the State at the time of the proceeding for the offence and will not be able to give evidence at the proceeding by means of a video link or an audio link.
- (5) If an order is made under subsection (1) the order may include directions as to the conduct of the special hearing including whether the whole of the witness's evidence (including cross-examination and re-examination) or only the evidence in chief is to be recorded.
- (6) If the witness has been declared to be a special witness under section 106R(1)(a), subsection (4) does not affect the operation of sections 106Q and 106R.
- (7) The court may at any time vary or revoke an order in force under this section.

”.

**39. Section 106T amended**

- (1) After section 106T(2) the following subsections are inserted —
  - “
  - (2a) If evidence of a witness is visually recorded under an order made under section 106RA(1) on the ground in section 106RA(4)(a), the evidence is admissible in any hearing in relation to the proceeding for the offence concerned to the same extent as if it were given orally

in the hearing in accordance with the usual rules and practice of the court concerned.

- (2b) If evidence of a witness is visually recorded under an order made under section 106RA(1) on the ground in section 106RA(4)(b), the evidence is admissible in any hearing in relation to the proceeding for the offence concerned to the same extent as if it were given orally in the hearing in accordance with the usual rules and practice of the court concerned if the court is satisfied at that proceeding that —
- (a) the witness is dead;
  - (b) the witness's medical or mental condition is such that the witness is not able to give evidence, or to give evidence satisfactorily, in the proceeding;
  - (c) the witness is out of the State and is not able to give evidence at the proceeding by means of a video link or an audio link, notwithstanding that the witness might return at some future time;
  - (d) that the witness is being kept out of the way by the accused; or
  - (e) that all the parties consent and that the interests of justice do not require the presence of the witness.
- (2c) If under subsection (2a) or (2b), the evidence of a witness recorded on a visual recording is admitted into evidence in a hearing, the witness need not be present at the hearing.
- (2d) If there is a prospect that the witness referred to in subsection (2b) might recover or return, the court need not admit the evidence but may adjourn the hearing.

”.

- (2) Section 106T(3) is amended as follows:
- (a) by deleting “subsection (1) or (2)” and inserting instead —  
“ subsection (1), (2), (2a) or (2b) ”;
  - (b) by inserting after “special witness” —  
“ or witness ”.
- (3) Section 106T(4) is amended by deleting “106R(1)(b)” and inserting instead —  
“ 106RA ”.

**40. Section 119 amended**

After section 119(4) the following subsection is inserted —

- “
- (5) On an application made by a person charged with an offence, the Attorney General may order that all or some of the expenses of a witness or an interpreter called by the person be paid by the State.
- ”.

**41. Small amendments**

The Act is amended as set out in the Table to this section.

**Table**

s. 8(2)	Repeal the subsection.
s. 25A(2)	Delete “section 635 of <i>The Criminal Code</i> ” and insert instead — “ section 88 of the <i>Criminal Procedure Act 2004</i> ”.
s. 28	Repeal the section.
s. 36C(3)(a)	Delete “ <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ <i>Criminal Procedure Act 2004</i> ”.

***Criminal Procedure and Appeals (Consequential and Other Provisions)***  
**Act 2004**

**Part 8**

Evidence Act 1906 amended

**s. 41**

---

s. 106A	In the definition of “visual recording of evidence” delete “106R” and insert instead — “ 106RA ”.
s. 106MA(3)	Delete “106R” and insert instead — “ 106RA ”.
s. 106N(1)(c)	Delete “section 635 of <i>The Criminal Code</i> ” and insert instead — “ section 88 of the <i>Criminal Procedure Act 2004</i> ”.
s. 106R(4)(b)	Delete the paragraph.
s. 106R(4a)	Delete “subsection (4)(b) or (c)” and insert instead — “ subsection (4)(c) ”. Delete “section 106K or 106N, as the case requires,” and insert instead — “ section 106N ”.
s. 106S(1)	Delete “or 106R,” and insert instead — “ 106R or 106RA, ”.
s. 107	Repeal the section and the heading “Depositions” immediately before it.
s. 108	Repeal the section.
Sch. 7 — cl. 1(1)(b)	Delete “the complaint of the offence was made or, in the case of an indictment under section 579 of <i>The Criminal Code</i> , on the day on which the indictment was presented” and insert instead — “ proceedings for the offence were commenced ”.

---

**Part 9 — *Fines, Penalties and Infringement Notices*  
*Enforcement Act 1994* amended**

**42. The Act amended in this Part**

The amendments in this Part are to the *Fines, Penalties and Infringement Notices Enforcement Act 1994*\*.

[\* *Reprinted as at 2 November 2001.*

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2003, Table 1, p. 143.]*

**43. Section 21 amended**

Section 21(4), (5), (6), (6a) and (6b) are repealed and the following subsections are inserted instead —

“

- (4) If an election is made under subsection (1), the Registrar must —
- (a) lodge with a court of summary jurisdiction that has jurisdiction to deal with the alleged offence and the alleged offender a prosecution notice in relation to the alleged offence that contains such of the information provided to the Registrar under section 16(1)(b) as will sufficiently describe the prosecuting authority, the alleged offender and the alleged offence;
  - (b) serve the alleged offender with a copy of the prosecution notice and a court hearing notice that complies with the *Criminal Procedure Act 2004*; and
  - (c) notify the prosecuting authority that the prosecution notice has been lodged and give the authority a copy of the notice and a copy of the court hearing notice referred to in paragraph (b).

**s. 44**

---

(5) When a prosecution notice is lodged with a court under subsection (4)(a) —

- (a) the notice is to be taken to have been made in accordance with the *Criminal Procedure Act 2004*, without being verified on oath, before the Registrar by the person who signed the enforcement certificate; and
- (b) the prosecution is to be taken to have been commenced on the day when the enforcement certificate was lodged.

”.

**44. Section 58 replaced**

Section 58 is repealed and the following section is inserted instead —

“

**58. Amounts payable by witnesses and sureties for witnesses**

In respect of the payment of, or the enforcement of the payment of —

- (a) any amount of a witness undertaking entered into by a person under Schedule 4 to the *Criminal Procedure Act 2004* that is ordered to be forfeited under section 57 of the *Bail Act 1982*; or
- (b) any amount of a surety undertaking entered into by a person under Schedule 4 to the *Criminal Procedure Act 2004* in respect of a witness that is ordered to be forfeited under section 49 of the *Bail Act 1982*,

Part 4, with any necessary changes, applies in respect of the payment of, and the enforcement of the payment of, the amount as if the amount were a fine imposed on the person.



”.

**45. Section 101B amended**

Section 101B(1) is repealed and the following subsection is inserted instead —

“

- (1) For the purposes of this section a person appeals against a fine, or a decision giving rise to a fine, imposed on the person when the person —
- (a) applies under section 71 of the *Criminal Procedure Act 2004* and pays any fee required; or
  - (b) is granted leave to appeal under Part 2 or 3 of the *Criminal Appeals Act 2004*.

”.

**46. Small amendments**

The Act is amended as set out in the Table to this section.

**Table**

s. 4	Repeal the section.
Part 5 heading	Delete “or recognizances”.
s. 56(a)	After the paragraph insert — “ or ”.
s. 56(b)	Delete the paragraph and “or” after it.
s. 57(a)	After the paragraph insert — “ or ”.
s. 57(b)	Delete the paragraph and “or” after it.

**Part 10 — *Juries Act 1957* amended**

**47.        The Act amended in this Part**

The amendments in this Part are to the *Juries Act 1957*\*.

[\* *Reprinted as at 3 July 2000.*

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2003, Table 1, p. 199 and  
Acts Nos. 50 and 78 of 2003.]*

**48.        Section 38 repealed**

Section 38 is repealed.

**49.        Section 41 replaced**

Section 41 is repealed and the following section is inserted  
instead —

“

**41.        Jury’s entitlements when together**

At any time when a jury in a criminal trial is required  
to be together during any adjournment of the trial or  
when it is considering its verdict, it is to be kept under  
the charge of an officer of the court in a private place  
and provided with such accommodation, food and  
drink as the judge may order.

”.

**50.        Section 57A inserted**

Before section 58 the following section is inserted in Part X —

“

**57A.      Grand juries not to be summoned**

A Grand Jury is not to be summoned for the Supreme  
Court, a Circuit Court or the District Court.

”.

**51. Small amendments**

The Act is amended as set out in the Table to this section.

**Table**

s. 3(1)	In the definition of “criminal trial” delete “ <i>The Criminal Code</i> ” and insert instead — “ the <i>Criminal Procedure Act 2004</i> ”.
s. 18(7)	Repeal the subsection.
s. 40	Delete “, death, or incapacity”. Delete “ <i>The Criminal Code</i> ” and insert instead — “ the <i>Criminal Procedure Act 2004</i> ”.

**Part 11 — *Local Government Act 1995* amended**

**52.        The Act amended in this Part**

The amendments in this Part are to the *Local Government Act 1995*\*.

[\* *Reprint 2 as at 2 April 2004.*]

**53.        Section 4.97 replaced**

Section 4.97 is repealed and the following section is inserted instead —

“

**4.97.     Prosecutions**

- (1) A prosecution for an offence against this Part may be commenced by the returning officer or any person referred to in section 9.24(1).
- (2) If the returning officer commences a prosecution for an offence against this Part —
  - (a) the local government is to pay any expenses incurred by, and any costs awarded against, the returning officer in connection with the proceedings; and
  - (b) the returning officer is to pay to the local government any fees or costs paid to the returning officer in respect of the proceedings.

”.

**54. Section 9.24 replaced**

Section 9.24 is repealed and the following section is inserted instead —

“

**9.24. Commencing prosecutions**

- (1) A prosecution for an offence against this Act may be commenced by —
  - (a) the Departmental CEO or a person authorised by the Departmental CEO to do so;
  - (b) a person who is acting in the course of his or her duties as an employee of a local government or a regional local government; or
  - (c) a person who is authorised to do so by a local government or a regional local government.
- (2) A prosecution for an offence against a local law may be commenced by —
  - (a) a person who is acting in the course of his or her duties as an employee of the local government or regional local government that made the local law; or
  - (b) a person who is authorised to do so by the local government or regional local government that made the local law.

”.

**Part 12 — *Official Prosecutions (Defendants' Costs)*  
Act 1973 amended**

**55.        The Act amended in this Part**

The amendments in this Part are to the *Official Prosecutions (Defendants' Costs) Act 1973*\*.

[\* Reprinted as at 19 February 1999.

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2003, Table 1, p. 269.]*

**56.        Section 4 amended**

Section 4(2) is amended as follows:

- (a)    by deleting paragraph (a) and inserting instead the following paragraph —

“

- (a)    subject to paragraph (c), is successful if —
- (i)    he is acquitted of the charge, other than on account of unsoundness of mind;
- (ii)   he is discharged from the charge under section 128(2) or (3) of the *Criminal Procedure Act 2004*;
- (iii)   the charge is dismissed for want of prosecution; or
- (iv)   if his conviction of the charge is set aside;

”;

- (b)    by deleting the full stop after paragraph (b) and inserting instead a semicolon;

- (c) by inserting after paragraph (b) the following paragraph —

“

- (c) is not successful if the charge is of an indictable offence and is dismissed for want of prosecution by the Summary Court —

- (i) if section 5 of *The Criminal Code* applies to the charge — before the Summary Court decides under that section that the charge is to be tried on indictment; or
- (ii) otherwise — before the Summary Court commits him for trial or sentence on the charge.

”.

## **Part 13 — *Sentencing Act 1995* amended**

### **57.        The Act amended in this Part**

The amendments in this Part are to the *Sentencing Act 1995*\*.

[\* *Reprint 3 as at 10 October 2003.*

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2003, Table 1, p. 349 and  
Acts Nos. 50 of 2003 and 4 of 2004.]*

### **58.        Section 79 replaced**

Section 79 is repealed and the following section is inserted  
instead —

“

#### **79.        Re-offending, alleging in court**

(1) If —

- (a) a person (the “**offender**”) has been convicted and dealt with (in this State or elsewhere) for an offence the statutory penalty for which is or includes imprisonment; and
- (b) that offence was committed during the suspension period of suspended imprisonment imposed on the offender in relation to another offence,

a written notice alleging those matters may be lodged in a court in accordance with this section.

(2) The notice may be lodged at any time up until 2 years after the last day of the suspension period.

(3) The notice may be signed by the CEO, a police officer, or a person referred to in section 80(2)(a) to (e) of the *Criminal Procedure Act 2004*.



- (4) The notice must be in a prescribed form and be signed in the presence of a JP or a prescribed court officer (as defined in section 3 of the *Criminal Procedure Act 2004*) who may issue a summons to the offender.
- (5) If the contents of the notice are verified on oath by the person signing it, a magistrate, on the application of that person, may issue an arrest warrant for the offender.
- (6) The notice must be lodged with, and the summons must direct the offender to appear before, or the warrant must direct that the offender be brought before the court that imposed the suspended imprisonment.
- (7) Sections 31 and 32 of the *Criminal Procedure Act 2004*, with any necessary changes, apply respectively to and in respect of a warrant and summons issued under this section.
- (8) If an offender does not obey such a summons, the court concerned may issue a warrant to have him or her arrested and brought before it.
- (9) If an offender is arrested under a warrant issued under this section, he or she must be given a copy of the notice as soon as practicable after being arrested.
- (10) An offender who appears before a court as a result of a summons or warrant issued under this section must be dealt with by the court under section 80.

”.

**59.        Section 84E replaced**

Section 84E is repealed and the following section is inserted instead —

“

**84E.        Re-offending, alleging in court**

(1) If —

- (a) a person (the “**offender**”) has been convicted and dealt with (in this State or elsewhere) for an offence the statutory penalty for which is or includes imprisonment; and
- (b) that offence was committed during the suspension period of CSI imposed on the offender in relation to another offence,

a written notice alleging those matters may be lodged in a court in accordance with this section.

- (2) The notice may be lodged at any time up until 2 years after the last day of the suspension period.
- (3) The notice may be signed by the CEO, a police officer, or a person referred to in section 80(2)(a) to (e) of the *Criminal Procedure Act 2004*.
- (4) The notice must be in a prescribed form and be signed in the presence of a JP or a prescribed court officer (as defined in section 3 of the *Criminal Procedure Act 2004*) who may issue a summons to the offender.
- (5) If the contents of the notice are verified on oath by the person signing it, a magistrate, on the application of that person, may issue an arrest warrant for the offender.

- (6) Subject to section 84P(3), the notice must be lodged with, and the summons must direct the offender to appear before, or the warrant must direct that the offender be brought before the court that imposed the CSI.
- (7) Sections 31 and 32 of the *Criminal Procedure Act 2004*, with any necessary changes, apply respectively to and in respect of a warrant and summons issued under this section.
- (8) If an offender does not obey such a summons, the court concerned may issue a warrant to have him or her arrested and brought before it.
- (9) If an offender is arrested under a warrant issued under this section, he or she must be given a copy of the notice as soon as practicable after being arrested.
- (10) An offender who appears before a court as a result of a summons or warrant issued under this section must be dealt with by the court under section 84F.

”.

**60. Section 114A inserted**

After section 114 the following section is inserted —

“

**114A. Victim may appeal against refusal of reparation order**

- (1) If a victim applies to a court for a reparation order and the court decides to make or to refuse to make a reparation order, the victim may appeal against the decision.
- (2) The appeal must be commenced and conducted under Part 2 or 3 of the *Criminal Appeals Act 2004*, as the case requires, which, with any necessary changes,

applies as if a reparation order were an order that might be made as a result of a conviction.

- (3) This section does not affect the prosecutor's rights of appeal under the *Criminal Appeals Act 2004*.

”.

**61. Section 129 replaced**

Section 129 is repealed and the following section is inserted instead —

“

**129. Re-offending, alleging in court**

- (1) If —
- (a) a person (the “**offender**”) has been convicted and dealt with (in this State or elsewhere) for an offence (other than an offence under section 131(1)); and
  - (b) that offence was committed while the offender was subject to a CRO or community order imposed in relation to another offence,
- a written notice alleging those matters may be lodged in a court in accordance with this section.
- (2) The notice may be lodged at any time up until one year after the CRO or community order ceases to be in force.
- (3) The notice may be signed —
- (a) if the offender was subject to a CRO, by the CEO, a police officer, or a person referred to in section 80(2)(a) to (e) of the *Criminal Procedure Act 2004*;
  - (b) if the offender was subject to a community order, only by the CEO.

- (4) The notice must be in a prescribed form and be signed in the presence of a JP or a prescribed court officer (as defined in section 3 of the *Criminal Procedure Act 2004*) who may issue a summons to the offender.
- (5) If the contents of the notice are verified on oath by the person signing it, a magistrate, on the application of that person, may issue an arrest warrant for the offender.
- (6) The notice must be lodged with, and the summons must direct the offender to appear before, or the warrant must direct that the offender be brought before the court that imposed the CRO or community order.
- (7) Sections 31 and 32 of the *Criminal Procedure Act 2004*, with any necessary changes, apply respectively to and in respect of a warrant and summons issued under this section.
- (8) If an offender does not obey such a summons, the court concerned may issue a warrant to have him or her arrested and brought before it.
- (9) If an offender is arrested under a warrant issued under this section, he or she must be given a copy of the notice as soon as practicable after being arrested.
- (10) An offender who appears before a court as a result of a summons or warrant issued under this section must be dealt with by the court under section 130.

”.

**s. 62**

---

**62.        Section 131 amended**

Section 131(2) is repealed and the following subsection is inserted instead —

“

- (2)    A prosecution for an offence under subsection (1) may be commenced —
- (a)    in the case of an alleged breach of a CRO, by the CEO, a police officer, or a person referred to in section 80(2)(a) to (e) of the *Criminal Procedure Act 2004*;
  - (b)    in the case of an alleged breach of a community order, only by the CEO.

”.

**63.        Section 140 amended**

After section 140(1) the following subsection is inserted —

“

- (1a)   When making a referral under subsection (1)(a) the Attorney General, having regard to the petition, may specify the grounds of appeal to be heard and determined by the Court of Appeal.

”.

**64.        Schedule 1 amended**

Schedule 1 is amended by inserting in the appropriate alphabetical positions the following entries —

“

<i>Health Act 1911</i>	The local government by or on whose behalf the prosecution was commenced.
<i>National Trust of Australia (W.A.) Act 1964</i>	The National Trust of Australia (W.A.).

”.

**65. Small amendments**

The Act is amended as set out in the Table to this section.

**Table**

s. 4	Delete the definition of “convicted”.
s. 84P(3)	Delete “complaint” and insert instead — “ notice ”. Delete “filed” and insert instead — “ lodged ”.
s. 112(1)(b)	Delete paragraph and insert instead — “  (b) the content of any record (as defined in the <i>Criminal Procedure Act 2004</i> ) that is relevant to the offence and that has been disclosed to the offender by the prosecutor under that Act; ”.
s. 120(6)	Repeal the subsection.
s. 121(5)	Delete “complaint laid in respect of” and insert instead — “ prosecution commenced for ”.
s. 128(1)	Delete “complaint” and insert instead — “ notice lodged ”.
s. 131(3)	Delete “A complaint may be made” and insert instead — “ Such a prosecution may be commenced ”.
s. 131(4)	Repeal the subsection.
s. 131(5)	Delete “complaint” and insert instead — “ charge ”.

**Part 14 — *Supreme Court Act 1935* amended**

**66. The Act amended in this Part**

The amendments in this Part are to the *Supreme Court Act 1935*\*.

[\* *Reprinted as at 9 February 2001.*

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2003, Table 1, p. 381-2.]*

**67. Section 33 inserted**

After section 32 the following section is inserted —

“

**33. Judgments and orders, correction of**

If any judgment or order of the Court contains a clerical mistake or any error arising from an accidental slip or omission, the Court may correct the judgment or order without an appeal.

”.

**68. Section 154 amended**

After section 154(5) the following subsection is inserted —

“

- (5a) Notwithstanding subsections (3) and (4), if in relation to any criminal proceeding in the Supreme Court or any other court any act is required or permitted to be done by, to, or with reference to the Attorney General, then, during any vacancy in the office of Attorney General and during any period for which the Attorney General is, by reason of his absence from the State, illness, incapacity or other sufficient cause, unable to discharge the functions of his office, the act may be done by, to, or with reference to such of the Solicitor-General or the State Solicitor as the Governor may designate by Order in Council.



”.

**69. Heading to Part X amended**

The heading to Part X is amended by deleting “, etc.”.

**70. Heading inserted**

Immediately before section 172 the following heading is inserted —

“

**Part XI — Miscellaneous**

”.

**71. Section 178 inserted**

After section 177 the following section is inserted —

“

**178. Habeas corpus proceedings**

- (1) If a person who is in custody pursuant to a warrant issued by another court is brought before the Supreme Court on a writ of habeas corpus, the Supreme Court must not order the release of the person on the ground of a defect or error in the warrant unless —
  - (a) it has received from the other court certified copies of the warrant and any court records that relate to the conviction or order in respect of which the warrant was issued; or
  - (b) if it has not received such copies, a reasonable time has elapsed since it requested the other court to supply the copies.
- (2) If the Supreme Court receives such documents and is satisfied —

**s. 72**

---

- (a) that the conviction or order in respect of which the warrant was issued appears to be justified; and
- (b) that any defect or error in the warrant is one of form only and does not affect the substantial merits of the conviction or order,

the Supreme Court may order the warrant to be amended to rectify any defect or error and the person to be returned to custody.

”.

**72. Small amendments**

The Act is amended as set out in the Table to this section.

**Table**

s. 22	Delete “Rules of Court and the General Rules prescribed under <i>The Criminal Code</i> ” and insert instead — “ <i>Criminal Procedure Act 2004</i> and rules of court made under that Act that apply to the Supreme Court ”.
s. 43(1)	Delete “criminal” and insert instead — “ appellate ”.
s. 57(2) s. 57(4)(a) s. 57(4)(b) s. 58(1)(f)	In each provision, delete “Chapter LXIX of <i>The Criminal Code</i> ” and insert instead — “ Part 3 of the <i>Criminal Appeals Act 2004</i> ”.
s. 58(1)(g) s. 58(1)(h)	In each provision, delete “Part VIII of the <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ Part 2 of the <i>Criminal Appeals Act 2004</i> ”.
s. 154(5)	Delete “the provisions of”.

---

**Part 15 — *Young Offenders Act 1994* amended**

**73. The Act amended in this Part**

The amendments in this Part are to the *Young Offenders Act 1994*\*.

[\* *Reprinted as at 8 December 2000.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2003, Table 1, p. 441 and Acts Nos. 50 of 2003 and 4 of 2004.]*

**74. Section 55 amended**

- (1) Section 55(4) is amended by inserting after “that Act” —

“

or for the purpose of an appeal under the *Criminal Appeals Act 2004*

”.

- (2) After section 55(5) the following subsection is inserted —

“

- (6) The powers in this section may be exercised despite section 147(1) of the *Criminal Procedure Act 2004*.

”.

**75. Section 60 inserted**

After section 59 the following section is inserted —

“

**60. Orders etc. under this Part are sentences**

For the purposes of an appeal under the *Criminal Appeals Act 2004* each of the following is to be taken to be a sentence —

- (a) a decision made under Division 2, 3 or 4 to refrain from imposing any punishment;

**s. 76**

---

- (b) a fine imposed under Division 5;
- (c) a youth community based order imposed under Division 6;
- (d) an intensive youth supervision order or a conditional release order imposed under Division 7;
- (e) a custodial sentence imposed under Division 8;
- (f) the making or discharge of a special order under Division 9;
- (g) a decision by the court, having found a young person guilty of an offence, to record or not to record a conviction of the offence in respect of the person.

”.

**76. Section 178 amended**

After section 178(5) the following subsection is inserted —

“

- (6) If the Court decides to make or refuse to make a direction under subsection (3), the offender or the chief executive officer may appeal against the decision under and subject to Part 3 of the *Criminal Appeals Act 2004* which, with any necessary changes, applies as if the direction were an order that might be made as a result of a conviction.

”.

**77. Small amendments**

The Act is amended as set out in the Table to this section.

**Table**

s. 5	Delete “ <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ <i>Criminal Procedure Act 2004</i> ”.
------	---

## **Part 16 — Various Acts amended**

### **78. Various Acts amended (Sch 1)**

Each Act listed in Schedule 1 is amended as set out in that Schedule immediately below the short title of the Act.

## **Part 17 — Amendments to change terminology**

### **79. References to “complaint” changed to “prosecution notice”**

Each provision in the Table to this section is amended by deleting “complaint” in each place it occurs and in each place inserting instead —

“ prosecution notice ”.

**Table**

<i>Adoption Act 1994</i>	s. 128(3)
<i>Argentine Ant Act 1968</i>	s. 15(2)(b)
<i>Corruption and Crime Commission Act 2003</i>	s. 50(2)
<i>Diamond (Argyle Diamond Mines Joint Venture) Agreement Act 1981</i>	s. 24
<i>Door to Door Trading Act 1987</i>	s. 21
<i>Employment Agents Act 1976</i>	s. 31(d)
<i>Osteopaths Act 1997</i>	s. 91(3)
<i>Radiation Safety Act 1975</i>	s. 57(2)(d) s. 57(3)

### **80. Various Acts amended (Sch 2)**

Each Act listed in Schedule 2 is amended as set out in that Schedule immediately below the short title of the Act.

### **81. References to “complaint” to be read as references to “prosecution notice”**

- (1) A reference in a written law or book, document or writing to a complaint in the context of commencing proceedings in a court for an offence is, unless the contrary intention appears, to be taken to be a reference to a prosecution notice.
- (2) A reference in a written law to a complaint in the context of applying for a warrant to enter or search a place or to seize any

thing is, unless the contrary intention appears, to be taken to be a reference to an application.

## 82. References to “defendant” changed to “accused”

Each provision listed in Table 2, 3 or 4 to this section is amended by deleting any expression listed in Table 1 column 1 in each place it occurs (whether in ordinary type, italics, bold or capitals) and in each place inserting instead (in corresponding type) the expression opposite the deleted expression in Table 1 column 2.

**Table 1**

Delete	Insert instead
A defendant	An accused
a defendant	an accused
a defendant’s	an accused’s
defendant	accused
defendants	accused
Defendants’	Accused’s
Defendants	Accused
the defendant	the accused
the defendant’s	the accused’s

**Table 2 — Various provisions**

<i>Aboriginal Heritage Act 1972</i>	s. 60(2)
<i>Agricultural Products Act 1929</i>	s. 8(3)
<i>Agriculture and Related Resources Protection Act 1976</i>	s. 51(2) & (2a) s. 77(4) s. 80(4) s. 93(2)
<i>Architects Act 1921</i>	s. 31B(2)
<i>Architects Act 2004</i>	s. 14(2) s. 42(3)
<i>Auction Sales Act 1973</i>	s. 24(2)

**s. 82**

---

<i>Betting Control Act 1954</i>	s. 11G(5) s. 24(1a)
<i>Casino Control Act 1984</i>	s. 27(2)
<i>Censorship Act 1996</i>	s. 61(3) s. 65D(3) s. 65E(2) & (5) s. 102(3) s. 102A(5) s. 102B(5) s. 102C(6) s. 102D(3) s. 102E(3) s. 102F(3) s. 116(1) s. 141A(1) & (4)
<i>Charitable Collections Act 1946</i>	s. 6(3)
<i>Child Welfare Act 1947</i>	s. 145
<i>Civil Aviation (Carriers' Liability) Act 1961</i>	s. 9(2)
<i>Companies (Co-operative) Act 1943</i>	s. 141(2) s. 428
<i>Construction Industry Portable Paid Long Service Leave Act 1985</i>	s. 49(3)
<i>Consumer Affairs Act 1971</i>	s. 21(2)
<i>Corruption and Crime Commission Act 2003</i>	s. 177(1)
<i>Court Security and Custodial Services Act 1999</i>	s. 3 "custodial place" s. 4(1) s. 16(2) Sch. 2 cl. 5
<i>Credit Act 1984</i>	s. 132(4)
<i>The Criminal Code</i>	s. 5(1) to (6) & (8) to (11) s. 563A(2)
<i>Criminal Investigation (Identifying People) Act 2002</i>	s. 67(3) Sch 1. cl. 4(1)
<i>Criminal Property Confiscation Act 2000</i>	s. 50(3)
<i>Dangerous Goods Safety Act 2004</i>	s. 62(2)
<i>Dangerous Goods (Transport) Act 1998</i>	s. 41



<i>Dental Act 1939</i>	s. 60
<i>Dental Prosthetists Act 1985</i>	s. 27(4) & (5) s. 29(2)
<i>Dog Act 1976</i>	s. 53(6)
<i>Door to Door Trading Act 1987</i>	s. 18(2) s. 21
<i>Electoral Act 1907</i>	s. 18 s. 59
<i>Employment Agents Act 1976</i>	s. 31
<i>Environmental Protection Act 1986</i>	s. 79(3)
<i>Evidence Act 1906</i>	s. 9(1), (2), (4) & (5) s. 14 s. 36B s. 36BA s. 36BC(1) s. 40 s. 106G s. 106H(1) s. 106HB(2), (3) & (7) s. 106K(3) s. 106N(2), (3) & (4) s. 106P s. 106Q s. 106R(3) & (7) s. 112 Sch. 7 Pt. A cl. 1(1)
<i>Fair Trading Act 1987</i>	s. 19(3) s. 83(1) to (5)
<i>Federal Courts (State Jurisdiction) Act 1999</i>	s. 12B(3)
<i>Fertilizers Act 1977</i>	s. 30(4) s. 41
<i>Finance Brokers Control Act 1975</i>	s. 18F(2)
<i>Fish Resources Management Act 1994</i>	s. 212(2) s. 213(4)
<i>Fuel, Energy and Power Resources Act 1972</i>	s. 50(8)
<i>Gas Standards Act 1972</i>	s. 13(2)
<i>Gold Corporation Act 1987</i>	s. 74(5)

<i>Grain Marketing Act 2002</i>	s. 43(2)
<i>Guardianship and Administration Act 1990</i>	s. 98(1)
<i>Health Act 1911</i>	s. 182 s. 214(2) s. 217(4), (5) & (6) s. 227(10) & (14) s. 230 s. 232(1), (2) & (3) s. 246R(2) & (3) s. 246ZN s. 246ZP(1) s. 246ZS(1) s. 246ZX(1), (2), & (5)(a) & (b)(i) s. 298(2) s. 354(8) s. 377(11)
<i>Heritage of Western Australia Act 1990</i>	s. 66(2) s. 68(12)
<i>Hire-Purchase Act 1959</i>	s. 3(1b)
<i>Human Reproductive Technology Act 1991</i>	s. 6(5) s. 53W(3) s. 57(10)
<i>Income Tax Assessment Act 1937</i>	s. 216(2) s. 218(2) s. 224 s. 227
<i>Industrial Relations Act 1979</i>	s. 96I(3)
<i>Land Administration Act 1997</i>	s. 267(10)
<i>Land Valuers Licensing Act 1978</i>	s. 14(2)
<i>Licensed Surveyors Act 1909</i>	s. 8B(2)
<i>Liquor Licensing Act 1988</i>	s. 109(7) s. 119(12) s. 125(1) s. 169(1) s. 170 s. 171(2) s. 172(9) & (10)

<i>Local Government (Miscellaneous Provisions) Act 1960</i>	s. 374(4)
<i>Magistrates Court Act 2004</i>	s. 11(3)
<i>Maritime Archaeology Act 1973</i>	s. 10(2)
<i>Mental Health Act 1996</i>	s. 3 s. 27(1) & (2) s. 30(1) s. 44 s. 53 s. 64 s. 66(2) s. 94(1) Heading to Pt. 5 Div. 5 Subdiv. 1 s. 104(1) s. 107(1) Heading to Pt. 5 Div. 6 s. 109 s. 110(1) s. 158(1) s. 160(2) s. 161(4) s. 170(1) s. 175 “affected person” s. 204(2)
<i>Misuse of Drugs Act 1981</i>	s. 9(3) s. 38A(1) & (2) s. 38B(1), (2) & (3)
<i>Motor Vehicle Dealers Act 1973</i>	s. 13C(2) s. 33(5) s. 52(3)
<i>New Tax System Price Exploitation Code (Western Australia) Act 1999</i>	s. 36(3)
<i>Nuclear Activities Regulation Act 1978</i>	s. 12(2)
<i>Nurses Act 1992</i>	s. 75(2)
<i>Occupational Therapists Registration Act 1980</i>	s. 36(2) s. 42(4) & (5)

<i>Official Prosecutions (Defendants' Costs) Act 1973</i>	s. 1 s. 3(2) s. 4(1) "costs" s. 4(2) s. 5(1) to (4) s. 6 s. 7(1) & (2) s. 9
<i>Optometrists Act 1940</i>	s. 46
<i>Osteopaths Act 1997</i>	s. 75(3)
<i>Petroleum Products Pricing Act 1983</i>	s. 16(2) & (3) s. 19(2) s. 20(2) s. 25(2) s. 30(1)
<i>Plant Diseases Act 1914</i>	s. 37
<i>Podiatrists Registration Act 1984</i>	s. 31B(2) s. 36(2) s. 41(4) & (5)
<i>Poisons Act 1964</i>	s. 60(1) s. 61
<i>Psychologists Registration Act 1976</i>	s. 42B(2) s. 48(2) s. 55(4) & (5)
<i>Public Meetings and Processions Act 1984</i>	s. 9(3)
<i>Public Sector Management Act 1994</i>	Sch. 3 cl. 4(2)
<i>Radiation Safety Act 1975</i>	s. 57(2) & (3)
<i>Rail Safety Act 1998</i>	s. 48(3)
<i>Real Estate and Business Agents Act 1978</i>	s. 17(2) s. 62(4)
<i>Retail Trading Hours Act 1987</i>	s. 39
<i>Road Traffic Act 1974</i>	s. 15(3) & (4) s. 49A(5) s. 63(7) s. 67(5) & (6) s. 67A(5) & (6) s. 77(2) s. 81F(3) s. 89(3)

<i>Sale of Land Act 1970</i>	s. 19B(5)
<i>Securities Industry Act 1975</i>	s. 21(6) s. 77(1) s. 129(1), (2) & (4)
<i>Seeds Act 1981</i>	s. 21(3) s. 23(2) & (3)
<i>Sentencing Act 1995</i>	s. 52(3)
<i>Settlement Agents Act 1981</i>	s. 17(2)
<i>Stock (Identification and Movement) Act 1970</i>	s. 54(2)
<i>Taxation Administration Act 2003</i>	s. 106(2) s. 109(2) s. 113 s. 123
<i>Tobacco Control Act 1990</i>	s. 10(3)
<i>Trading Stamp Act 1981</i>	s. 4(4)
<i>Transport Co-ordination Act 1966</i>	s. 33(6) s. 50(4)
<i>Travel Agents Act 1985</i>	s. 45(2)
<i>Trustee Companies Act 1987</i>	s. 35(5)
<i>Veterinary Preparations and Animal Feeding Stuffs Act 1976</i>	s. 50 s. 62(2) s. 65 s. 66(1)
<i>Veterinary Surgeons Act 1960</i>	s. 16B(9)
<i>Waterways Conservation Act 1976</i>	s. 74(1) & (2)
<i>Weights and Measures Act 1915</i>	s. 27M(1) s. 40(3) s. 48
<i>Wildlife Conservation Act 1950</i>	s. 27C
<i>Young Offenders Act 1994</i>	s. 15A(3)

**Table 3 — Provisions of the *Bail Act 1982***

s. 3(3)	s. 35(1)
s. 4	s. 36(2)
Part II heading	s. 37(1)
s. 5(1) & (2)	s. 39
s. 6(2), (3) & (3a)	s. 40(2)
s. 7(1), (2), (3) & (4)	s. 42

**s. 82**

---

s. 8(1), (2), (3a) & (4)	s. 44(1) & (2)
s. 9(2)	s. 46(1) & (2)
s. 10	s. 47
s. 11(1), (2) & (3)	s. 48(2), (3) & (4)
s. 12	s. 49(1)
s. 14(2), (2a) & (3)	s. 50C(1) & (2)
s. 15(1)	s. 50D(1) & (2)
s. 16(1) & (2)	s. 50E
s. 16A(2)	s. 50F(1), (2), (4) & (5)
s. 17(2)	s. 50G(1) & (2)
s. 17A(1), (3), (4) & (5)	s. 50K
s. 18(1), (2) & (3)	s. 51(1), (2), (2a), (4) & (7)
s. 19(1), (2), (3) & (4)	s. 52(1) & (2)
s. 20(1) & (3)	s. 54(1), (2) & (4)
s. 21(1)	s. 55(1) & (2)
s. 23	s. 56
s. 24(1) & (2)	s. 57(1), (2) & (4)
s. 24A(2), (3) & (4)	s. 58(1) & (2)
s. 25	s. 59
s. 26(1), (2), (3) & (4)	s. 60
s. 27(1)	s. 64
s. 28(2)	s. 66(1)
s. 29	Sch. 1 Pt. A
s. 30(1), (2) & (3)	Sch. 1 Pt. B
s. 31(2), (3) & (4)	Sch. 1 Pt. C
s. 32(1) & (4)	Sch. 1 Pt. D
s. 33(1), (2) & (3)	Sch. 2
s. 34	

**Table 4 — Provisions of the *Criminal Law (Mentally Impaired Defendants) Act 1996***

s. 1	s. 24(1), (2), (3) & (5)
s. 3	s. 25(1), (2) & (3)
s. 4	s. 26
Part 2 heading	s. 27(1) & (2)
s. 5(1) to (5)	s. 28(1), (2), (3) & (4)
s. 6(2)	s. 30
s. 7	s. 31(1), (2), (3) & (4)
s. 9	s. 32(1) & (2)
s. 10(1) & (2)	Part 5 Division 4 heading

---

s. 11(1), (2) & (3)	s. 33(1) to (5)
s. 12(1), (2), (3) & (4)	s. 34(1) & (2)
s. 13	Part 5 Division 5 heading
s. 14	s. 35(1) to (5)
s. 15	s. 36
s. 16(1) to (6) & (8)	s. 37(1), (2) & (3)
s. 17(1), (1a) & (2)	s. 38(1) & (2)
s. 18	s. 39
s. 19(1) to (5) & (7)	s. 40(1) & (2)
Part 4 heading	Part 6 heading
s. 20	s. 41
s. 22(1), (2) & (3)	s. 45(2)
Part 5 heading	s. 48
s. 23	

**83. Bail Act 1982 amended**

- (1) The amendments in this section are to the *Bail Act 1982*\*.

[\* *Reprinted as at 27 August 1999.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2003, Table 1, p. 28 and Acts Nos. 50 of 2003 and 4 of 2004.]*

- (2) Section 3(1) is amended as follows:

- (a) by inserting in the appropriate alphabetical position the following definition —

“

“**accused**” includes —

- (a) a person charged with, convicted of, or found guilty of an offence;
- (b) a person whose conviction for an offence is stayed;
- (c) a person in respect of whom an appeal relating to an offence is pending;
- (d) a person in respect of whom a new trial for an offence has been ordered;

- ”;
- (b) in the definitions of “adjournment”, “appropriate judicial officer” and “trial” by deleting “defendant” and inserting instead —  
“ accused ”;
  - (c) by deleting the definition of “defendant”.
- (3) Sections 50C(4)(a), 50L(1) and 67(2)(a)(iii) are each amended by deleting “defendants” in each place it occurs and inserting instead —  
“ accused persons ”.

**84. *Criminal Law (Mentally Impaired Defendants) Act 1996* amended**

- (1) The amendments in this section are to the *Criminal Law (Mentally Impaired Defendants) Act 1996*\*.
- [\* Reprinted as at 21 June 2002.  
For subsequent amendments see *Western Australian Legislation Information Tables for 2003, Table 1, p. 96 and Act No. 4 of 2004.*]
- (2) Section 3 is amended as follows:
- (a) by inserting in the appropriate alphabetical position the following definition —  
“  
“**accused**” means a person charged with an offence,  
whether a simple offence or an indictable offence;  
”;
  - (b) by deleting the definition of “defendant”.



**85. Evidence Act 1906 amended**

- (1) The amendments in this section are to the *Evidence Act 1906*\*.

[\* *Reprint 12 as at 10 October 2003.*

*For subsequent amendments see Western Australian  
Legislation Information Tables for 2003, Table 1, p. 128 and  
Act No. 4 of 2004.]*

- (2) Section 36A(1) is amended as follows:

- (a) by inserting in the appropriate alphabetical position the following definition —

“

“**accused**” in relation to a hearing or trial, means any  
accused at the hearing or trial whether or not that  
accused is charged with a sexual offence;

”;

- (b) by deleting the definition of “defendant”.

- (3) If the *Children and Community Services Act 2004* Schedule 2 clause 9 has come into operation, section 106A of the *Evidence Act 1906* is amended as follows:

- (a) by inserting in the appropriate alphabetical position the following definition —

“

“**accused**” —

- (a) in relation to an application referred to in  
clause 2 of Part A of Schedule 7 —

- (i) means any party to the proceeding,  
other than the affected child and an  
applicant who is an officer as defined  
in section 3 of the *Children and  
Community Services Act 2004*;

- (ii) in sections 106K(3)(a) and 106N as they apply to such an application, means any such party specified by the judge;
  - (b) in relation to any other Schedule 7 proceeding, a person charged with an offence;
- ”;
- (b) by deleting the definition of “defendant”.
- (4) If the *Children and Community Services Act 2004* Schedule 2 clause 9 has not come into operation, section 106A of the *Evidence Act 1906* is amended as follows:
  - (a) by inserting in the appropriate alphabetical position the following definition —
    - “
    - “accused” —
      - (a) in relation to an application referred to in clause 2 of Part A of Schedule 7 —
        - (i) means any party to the proceeding, other than the affected child and an applicant who is a police officer or an officer of the department established under section 4 of the *Community Services Act 1972*;
        - (ii) in sections 106K(3)(a) and 106N as they apply to such an application, means any such party specified by the judge;
      - (b) in relation to any other Schedule 7 proceeding, a person charged with an offence;
    - ”;
  - (b) by deleting the definition of “defendant”,

and the *Children and Community Services Act 2004* Schedule 2 clause 9(2) is amended by deleting “ “defendant” ” and inserting instead —

“ “accused” ”.

**86. *Official Prosecutions (Defendants’ Costs) Act 1973* amended**

- (1) The amendments in this section are to the *Official Prosecutions (Defendants’ Costs) Act 1973*\*.

[\* *Reprinted as at 19 February 1999.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2003, Table 1, p. 269.]*

- (2) Section 4(1) is amended as follows:

- (a) by inserting in the appropriate alphabetical position the following definition —

“

“**accused**” means a person charged with an offence in an official prosecution;

”;

- (b) by deleting the definition of “defendant”.

**Schedule 1 — Amendments to various Acts**

[s. 78]

**1. *Aboriginal Affairs Planning Authority Act 1972***

s. 49	Repeal the section.
-------	---------------------

**2. *Agricultural Products Act 1929***

s. 7	Delete “, and where products are sold in contravention of this Act the purchaser himself may proceed against the seller for an offence under this Act”.
------	---

**3. *Agriculture and Related Resources Protection Act 1976***

s. 93(1)	Delete “ <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ <i>Criminal Procedure Act 2004</i> ”.
----------	---

**4. *Architects Act 1921***

s. 22A(4)	Delete “ <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ <i>Criminal Procedure Act 2004</i> ”.
-----------	---

**5. *Art Gallery Act 1959***

s. 27(2)	Repeal the subsection.
----------	------------------------

**6. *Companies (Co-operative) Act 1943***

s. 427	Delete “ <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ <i>Criminal Procedure Act 2004</i> ”.
--------	---

**7. *Co-operative and Provident Societies Act 1903***

s. 58(1)	Delete “any other person” and insert instead — “ a person authorised by the Registrar to do so ”.
----------	--

**8.      *Corruption and Crime Commission Act 2003***

s. 43(5)	Delete “section 103 of the <i>Criminal Procedure (Summary) Act 1902</i> and section 611B of <i>The Criminal Code</i> ” and insert instead — “ sections 61 and 95 of the <i>Criminal Procedure Act 2004</i> ”.
----------	--

**9.      *Criminal Law (Mentally Impaired Defendants) Act 1996***

s. 17(2)	Delete “Part V of the <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ Part 3 Division 4 of the <i>Criminal Procedure Act 2004</i> ”.
s. 20	Delete “under section 143 of the <i>Criminal Procedure (Summary) Act 1902</i> a court” and insert instead — “ a court of summary jurisdiction ”.
s. 21	Delete “under section 653 or 693(4) of <i>The Criminal Code</i> a defendant is found not guilty” and insert instead — “ an accused is acquitted by a superior court or on appeal ”.

**10.     *Diamond (Argyle Diamond Mines Joint Venture) Agreement Act 1981***

s. 27	Delete “ <i>The Criminal Code</i> , the <i>Police Act 1892</i> , the <i>Government Agreements Act 1979</i> or any other Act, regulation, rule or by-law” and insert instead — “ any other written law ”.
-------	---

**11.     *Fertilizers Act 1977***

s. 38(1)	Delete “ <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ <i>Criminal Procedure Act 2004</i> ”.
----------	---

**Schedule 1** Amendments to various Acts

---

**12. *Finance Brokers Control Act 1975***

s. 93(3)	Repeal the subsection and insert instead — “  (3) An allegation in a charge of an offence under this Act that a person named therein was or was not licensed at the time specified therein shall, in the absence of proof to the contrary, be taken as proved.  ”.
----------	---

**13. *Health Act 1911***

s. 14 s. 246ZR(1)	Delete “ <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ <i>Criminal Procedure Act 2004</i> ”.
s. 231(5)	Delete “the provisions of section 43 of the <i>Criminal Procedure (Summary) Act 1902</i> , but subject to those of section 51 of that Act, join both matters in the same complaint.” and insert instead — “  Schedule 1 clause 2(2) and (3) of the <i>Criminal Procedure Act 2004</i> , join both matters in the one prosecution notice.  ”.

**14. *Industrial Relations Act 1979***

s. 81CA(6) s. 81D(3) s. 83D(1)	In each provision, delete “ <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ <i>Criminal Procedure Act 2004</i> ”.
s. 83D(2)	Repeal the subsection and insert instead — “  (2) A determination of an industrial magistrate’s court made in the exercise of the jurisdiction conferred by subsection (1) cannot be appealed under the <i>Criminal Appeals Act 2004</i> .  ”.

**15.      *Interpretation Act 1984***

s. 67(3) and (4)	Repeal the subsections and insert instead — “  (3) The procedure for prosecuting and dealing with offences is set out in the <i>Criminal Procedure Act 2004</i> .  ”.
------------------	--

**16.      *Land Drainage Act 1925***

s. 167(6)	Delete “ <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ <i>Criminal Procedure Act 2004</i> ”.
-----------	---

**17.      *Land Valuers Licensing Act 1978***

s. 35(3)	Delete “Without limiting the application of section 72 of the <i>Criminal Procedure (Summary) Act 1902</i> in relation to a complaint for an offence against this Act, in any proceedings for an offence against this Act an allegation in the complaint” and insert instead — “    An allegation in a charge of an offence under this Act    ”.
----------	---

**18.      *Litter Act 1979***

s. 27A(4)	Delete “ <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ <i>Criminal Procedure Act 2004</i> ”.
-----------	---

**19.      *Magistrates Court Act 2004***

s. 11(3)(b) s. 40(3)(b)	In each provision, delete “ <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ <i>Criminal Procedure Act 2004</i> ”.
s. 36(5)(a) s. 36(6)	In each provision, delete “ <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ <i>Criminal Appeals Act 2004</i> ”.

**Schedule 1** Amendments to various Acts

---

**20. *Minimum Conditions of Employment Act 1993***

s. 46(1)	Delete “ <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ <i>Criminal Procedure Act 2004</i> ”.
s. 46(2)	Delete “Part VIII of the <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ Part 2 of the <i>Criminal Appeals Act 2004</i> ”.

**21. *Museum Act 1969***

s. 50(2)	Repeal the subsection.
----------	------------------------

**22. *Occupational Safety and Health Act 1984***

s. 51C(1)(b)	Delete “ <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ <i>Criminal Procedure Act 2004</i> ”.
s. 54B(1)	Delete “Part VIII of the <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ Part 2 of the <i>Criminal Appeals Act 2004</i> ”.

**23. *Police Act 1892***

s. 50A	Repeal the section.
--------	---------------------

**24. *Pollution of Waters by Oil and Noxious Substances Act 1987***

s. 31(1)	Delete “ <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ <i>Criminal Procedure Act 2004</i> ”.
----------	---

**25. *Prisons Act 1981***

s. 23	Delete “Chapter LXIX of <i>The Criminal Code</i> or to any place to which the Court of Criminal Appeal or a Judge of that Court” and insert instead — “ an appeal under the <i>Criminal Appeals Act 2004</i> or to any place to which a Judge of the Supreme Court ”.
-------	--



s. 73(1)(a)	Delete the paragraph and “or” after it and insert instead — “ (a) direct the superintendent to commence a prosecution for an aggravated prison offence in a court of summary jurisdiction; or ”.
s. 73(2)	Repeal the subsection and insert instead — “ (2) If a prosecution for an aggravated prison offence is commenced in a court of summary jurisdiction, the prosecution shall be heard and determined by the court as if the aggravated prison offence were a simple offence. ”.

**26.      *Prostitution Act 2000***

s. 31(2)(b)	Delete the paragraph and “and” after it and insert instead — “ (b) make an application under section 71 of the <i>Criminal Procedure Act 2004</i> as if the person were a party to the prosecution for the offence; and ”.
s. 31(2)(c)	Delete the paragraph and insert instead — “ (c) appeal against the order under Part 2 of the <i>Criminal Appeals Act 2004</i> . ”.

**27.      *Psychologists Registration Act 1976***

s. 42(3)	Delete “ <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ <i>Criminal Procedure Act 2004</i> ”.
----------	---

**Schedule 1** Amendments to various Acts

---

**28. Rail Safety Act 1998**

s. 56(1)	Delete “Despite section 51 of the <i>Criminal Procedure (Summary) Act 1902</i> , a complaint of” and insert instead — “ A prosecution for ”.
----------	---

**29. Road Traffic Act 1974**

s. 100(1)	Delete “ <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ <i>Criminal Procedure Act 2004</i> ”.
-----------	---

**30. Royal Commissions Act 1968**

s. 34	Repeal the section.
-------	---------------------

**31. Strata Titles Act 1985**

s. 116A(4)(a)	Delete “Part VIII of the <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ Part 2 of the <i>Criminal Appeals Act 2004</i> ”.
---------------	---

**32. Street Alignment Act 1844**

s. 10	Delete “before the Court of Quarter Sessions of this Colony”. Delete “at the discretion of the Court”.
-------	---

**33. Suitors’ Fund Act 1964**

s. 3	In the definition of “appeal”, delete “Part VIII of the <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ Part 2 of the <i>Criminal Appeals Act 2004</i> ”.
s. 5(1)(c)	Delete the paragraph and insert instead — “  (c) upon the issue of any summons or court hearing notice under the <i>Criminal Procedure Act 2004</i> in respect of a prosecution notice to be dealt with by a court of summary jurisdiction,  ”.

**34. *Transfer of Land Act 1893***

s. 214(2)	Repeal the subsection and insert instead — “  (2) A prosecution for an offence under subsection (1) in respect of the registration of any dealing in Crown land may be commenced at any time.  ”.
-----------	--

**35. *Veterinary Preparations and Animal Feeding Stuffs Act 1976***

s. 64(2)	Delete “by the person aggrieved,”.
----------	------------------------------------

**36. *Weapons Act 1999***

s. 16(2)(b)	Delete “section 136A of the <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ section 71 of the <i>Criminal Procedure Act 2004</i> ”.
s. 16(2)(c)	Delete the paragraph and insert instead — “  (c) appeal against the order under Part 2 of the <i>Criminal Appeals Act 2004</i> .  ”.

**37. *Wildlife Conservation Act 1950***

s. 27(2)	Delete “Part VIII of the <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ Part 2 of the <i>Criminal Appeals Act 2004</i> ”.
s. 27B	Delete “ <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ Part 2 of the <i>Criminal Appeals Act 2004</i> ”.

**38. *Workers’ Compensation and Rehabilitation Act 1981***

s. 114(3) s. 188A(1) s. 188A(4)	In each provision, delete “ <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ <i>Criminal Procedure Act 2004</i> ”.
---------------------------------------	--

***Criminal Procedure and Appeals (Consequential and Other Provisions)  
Act 2004***

**Schedule 1**      Amendments to various Acts

---

s. 188A(2)	Delete “Part VIII of the <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “    Part 2 of the <i>Criminal Appeals Act 2004</i> ”.
------------	--

**Schedule 2 — Amendments to change terminology**

[s. 80]

**1. *Aboriginal Affairs Planning Authority Act 1972***

s. 31(2)	Repeal the subsection and insert instead — “ (2) A prosecution for an offence under subsection (1) must not be commenced without the authority of the Commissioner. ”.
s. 47	Delete “where in a complaint made, or in an indictment or information presented, in any proceedings under this Act, an averment is made — ” and insert instead — “ if a statement is made in a prosecution notice or an indictment containing a charge of an offence against this Act — ”.  Delete “averment proved” and insert instead — “ statement proved ”.

**2. *Aboriginal Communities Act 1979***

s. 9(2)	Delete “complaint” and insert instead — “ charge ”.
s. 10	Repeal the section and insert instead — “ <b>10. Limitation period for prosecutions</b> A prosecution for an offence against a by-law must be commenced within 6 months after the date on which the offence was allegedly committed. ”.

**Schedule 2** Amendments to change terminology

---

**3. *Aboriginal Heritage Act 1972***

s. 53	Delete “complaint preferred by the Minister” and insert instead — “ charge ”.
s. 60(3)	Delete “complaint” and insert instead — “ charge ”.

**4. *Agricultural and Veterinary Chemicals (Western Australia)  
Act 1995***

s. 3	In the definition of “instrument”, in paragraph (h), after “indictment,” insert — “ prosecution notice, ”.
------	---

**5. *Agricultural Products Act 1929***

s. 8(2)	Delete “the complaint” and insert instead — “ the charge ”. Delete “complaint” and insert instead — “ prosecution notice verified on oath ”.
s. 8A(1)(b)	Delete “complaint of” and insert instead — “ prosecution for ”.

**6. *Agriculture and Related Resources Protection Act 1976***

s. 84(2)	Delete “complaint, made” and insert instead — “ an application supported by evidence ”.
----------	--

Amendments to change terminology      **Schedule 2**

s. 84(3)	Delete “make a complaint on oath or affirmation before a justice alleging that in his opinion there had been no reasonable grounds for the exercise of that power, and thereupon the justice shall cause the matter to be inquired into and shall make his findings known to the complainant” and insert instead — “ apply to the Magistrates Court for a review of the exercise of that power on the grounds there were no reasonable grounds for its exercise and the court shall inquire into the matter and make its findings known to the applicant ”.
s. 93(2)	Delete “complainant” and insert instead — “   prosecutor   ”.
s. 94(3)	Delete “complaint” and insert instead — “   prosecution notice   ”.

**7.       *Animal Welfare Act 2002***

s. 59	Delete “complaint made” and insert instead — “   an application supported by evidence   ”.
s. 60	Delete “complaint made” and insert instead — “   an application supported by evidence ”.
s. 62(2)	Delete “(but need not swear) a complaint” and insert instead — “   an application (without the evidence on oath)   ”.
s. 62(6)	Delete “swear the complaint and send it to the justice” and insert instead — “ send the evidence on oath in support of the application to the justice ”.
s. 82(3)(b)	Delete “complaint” and insert instead — “   prosecution notice   ”.

**Schedule 2** Amendments to change terminology

---

**8. *Architects Act 2004***

s. 75(3)	Delete “complaint” and insert instead — “ prosecution notice ”.
s. 75(4)	Delete “make a complaint or conduct the” and insert instead — “ commence or conduct a ”.

**9. *Armorial Bearings Protection Act 1979***

s. 3(3)	Delete “complaint in respect” and insert instead — “ charge ”.
---------	---

**10. *Art Gallery Act 1959***

s. 24	Delete “complaint preferred by the Board” and insert instead — “ prosecution ”. Delete “complaint is preferred” and insert instead — “ prosecution ”.
-------	---

**11. *Betting Control Act 1954***

s. 24(3)	Delete “complaint” and insert instead — “ prosecution ”. Delete “made” and insert instead — “ commenced ”.
s. 28A(1)	Delete “complaint made” and insert instead — “ an application supported by evidence ”.
s. 28B	Delete “of any complaint for” and insert instead — “ by a court of a charge of ”. Delete “hearing the complaint”. Delete “in the complaint” in the first 2 places it occurs. Delete “against that person in the complaint”.



Amendments to change terminology **Schedule 2**

s. 31A(2)(e)	Delete “a complaint arising out of the bet is made against another person, on the hearing of the complaint” and insert instead — “ another person is charged with an offence arising out of the bet, on the hearing of the charge ”.
s. 31A(2)(g)	Delete “the person against whom the complaint is made” and insert instead — “ a person charged with an offence ”.

**12. *Botanic Gardens and Parks Authority Act 1998***

s. 51(3)(b)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.
-------------	--

**13. *Builders’ Registration Act 1939***

s. 20B(3)(b)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.
s. 21A	Repeal the section and insert instead — “ <b>21A. Limitation period for prosecutions</b> A prosecution for an offence under this Act must be commenced within 3 years after the date on which the offence was allegedly committed. ”.

**Schedule 2** Amendments to change terminology

---

**14. *Building and Construction Industry Training Fund and Levy  
Collection Act 1990***

s. 29(2)	Repeal the subsection and insert instead — “  (2) A prosecution for an offence against this Act must be commenced within 2 years after the date on which the offence was allegedly committed.  ”.
----------	--

**15. *Bush Fires Act 1954***

s. 59A(2)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.
s. 65(4) s. 66(3)	In each provision, delete “complaint” and insert instead — “ prosecution notice ”.

**16. *Cannabis Control Act 2003***

s. 8(3) s. 8(4)(a) s. 9(3)(a) s. 19(3)(e)	In each provision, delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.
--	--

**17. *Caravan Parks and Camping Grounds Act 1995***

s. 23(3)(b)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.
-------------	---

**18. *Casino Control Act 1984***

s. 23(2b) s. 27(3b)	In each provision, delete “complainant” and insert instead — “ prosecutor ”.
s. 29I(1)(b)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.
s. 36(3)	Delete “complaint” and insert instead — “ charge ”.

**19. Cemeteries Act 1986**

s. 63(1)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.
----------	--

**20. Censorship Act 1996**

s. 117E(1)(b)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.
---------------	--

**21. Chicken Meat Industry Act 1977**

s. 22(2)	Delete “complaint” and insert instead — “ prosecution ”. Delete “laid” and insert instead — “ commenced ”. Delete “lay complaints” and insert instead — “ commence prosecutions ”.
----------	---

**22. Child Welfare Act 1947**

s. 30(3)	Delete “complaint” and insert instead — “ allegation ”.
s. 40A(2)	Delete “complaint” and insert instead — “ claim ”.
s. 107C(1)	Delete “a complaint against”.
s. 107C(2)	Delete “complaints prosecuted” and insert instead — “ prosecutions commenced ”.
s. 122(1)	Delete “cases under this Act heard on complaint or application” and insert instead — “ prosecutions commenced or applications made under this Act ”.
s. 122(2)	Delete “lay such complaint” and insert instead — “ commence such prosecution ”.

**Schedule 2** Amendments to change terminology

---

s. 130(3)	Delete “complaint” and insert instead — “ an application supported by evidence ”. Delete “complained against”.
s. 130(4)	Delete “complaint” and insert instead — “ prosecution of an offence ”. Delete “person complained against” and insert instead — “ accused ”. Delete “such person” in the 2 places where it occurs and in each place insert instead — “ the accused ”.
s. 130A(1)	Delete “complaint” and insert instead — “ an application ”.
s. 130A(5)	Delete “a complaint” and insert instead — “ an application ”. Delete “complaint is laid” and insert instead — “ application is made ”.
s. 149(1)(j)	Delete “complaints” and insert instead — “ applications ”.

**23. *Children and Community Services Act 2004***

s. 111	Delete “complaint” and insert instead — “ charge ”.
s. 196(1)	Delete “a complaint against”.
s. 196(2)	Delete “complaints prosecuted” and insert instead — “ prosecutions commenced ”.
s. 245(1)	Delete “taken” and insert instead — “ commenced ”.
s. 245(2)	Delete “complaint” and insert instead — “ prosecution notice ”.
s. 245(3)	Delete “make a complaint” and insert instead — “ commence ”.

**24. *Children’s Court of Western Australia Act 1988***

s. 19(1) s. 22(3) s. 27(1) s. 30(2) s. 30(4) s. 33 s. 36(1)(a)	In each provision, delete “complaint” in each place it occurs and in each place insert instead — “ charge ”.
s. 19(4)	Delete “appearing before a court on a complaint of a simple offence” and insert instead — “ being prosecuted for a simple offence in a court ”.
s. 19B(4)(b) s. 19E s. 28(2)(d)	In each provision, delete “complainant” and insert instead — “ prosecutor ”.
s. 19B(4)(c) s. 19C(3)(b) s. 19D s. 51	In each provision, delete “complaint” in each place it occurs and in each place insert instead — “ prosecution notice ”.
s. 20	Delete “complaints and”. Delete “(but not including complaints of offences under that Act committed by adult persons)”.
s. 22(1)	Delete “complaint of” and insert instead — “ charge of ”. Delete “the complaint” and insert instead — “ the charge ”.
s. 22(2)	Delete “complaint of” and insert instead — “ charge of ”. Delete “that complaint” and insert instead — “ that charge ”.
s. 27(2)	Delete “Where a complaint or application is being made” and insert instead — “ In the case of a prosecution or application ”. Delete “the complaint” in the 2 places it occurs and in each place insert instead — “ the charge ”.

**Schedule 2** Amendments to change terminology

---

s. 30(1)	Delete “complaint of an offence is made to” and insert instead — “ prosecution for an offence is commenced in ”. Delete “the complaint” and insert instead — “ the charge ”.
----------	---

**25. *Coal Industry Tribunal of Western Australia Act 1992***

s. 26(5)	Delete “Complaints” and insert instead — “ Prosecutions ”.
----------	---

**26. *Community Services Act 1972***

s. 19(2)	Delete “complaint” and insert instead — “ prosecution ”. Delete “laid” and insert instead — “ instituted ”.
----------	--

**27. *Companies (Co-operative) Act 1943***

s. 428	Delete “complaint or information” in the 3 places it occurs and in each place insert instead — “ prosecution notice or indictment ”. Delete “defendant” and insert instead — “ accused ”.
--------	--

**28. *Competition Policy Reform (Western Australia) Act 1996***

s. 3(1)	In the definition of “instrument”, in paragraph (h), after “indictment,” insert — “ prosecution notice, ”.
---------	---

**29. *Conservation and Land Management Act 1984***

s. 112	Delete “complaint of” and insert instead — “ prosecution notice for ”.
s. 114A(2)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.

Amendments to change terminology **Schedule 2**

s. 119	Delete “the complaint” and insert instead — “ an application supported by evidence ”.
--------	--

**30. *Construction Industry Portable Paid Long Service Leave Act 1985***

s. 48(1)	Delete “complaint” and insert instead — “ prosecution ”. Delete “laid” and insert instead — “ commenced ”. Delete “lay complaints” and insert instead — “ commence prosecutions ”.
----------	---

**31. *Contaminated Sites Act 2003***

s. 84(3) s. 85(3) s. 86(1) s. 86(2)	In each provision, delete “complaint” in each place it occurs and in each place insert instead — “ prosecution notice ”.
s. 85(2)	Delete “complaint of” and insert instead — “ prosecution notice alleging ”. Delete “the complaint”. Delete “may be made” and insert instead — “ the prosecution may be commenced ”. Before “need” insert — “ the prosecution notice ”.

**32. *Control of Vehicles (Off-road Areas) Act 1978***

s. 9B(5)	Delete “complaint” and insert instead — “ charge of an offence ”.
s. 37(1)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.
s. 39(1)(a)	Delete “complaint” and insert instead — “ prosecution notice ”.

**Schedule 2** Amendments to change terminology

---

**33. *Co-operative and Provident Societies Act 1903***

s. 51	Delete “the complaint of the society or of” and insert instead — “ a prosecution commenced by the society or ”. Delete “of the Registrar” and insert instead — “ by the Registrar ”.
s. 59	Repeal the section.

**34. *Country Areas Water Supply Act 1947***

s. 12BA(1)	Delete “making a complaint of” in the 2 places it occurs and in each place insert instead — “ commencing a prosecution for ”. Delete “complaint of such an offence that was made” and insert instead — “ prosecution for such an offence that was commenced ”.
s. 115(2)	Delete “complaint” and insert instead — “ prosecution ”. Delete “made” and insert instead — “ commenced ”.

**35. *Country Towns Sewerage Act 1948***

s. 113(3)	Repeal the subsection.
-----------	------------------------

**36. *The Criminal Code***

s. 17 s. 133A	In each provision, delete “complaint” in each place it occurs and in each place insert instead — “ prosecution notice ”.
s. 711	Delete “complaint made” and insert instead — “ an application supported by evidence ”. Delete “the complaint” and insert instead — “ the application ”.
s. 716	Delete “complaint made” and insert instead — “ an application supported by evidence ”.



**37. *Criminal Investigation (Extra-territorial Offences) Act 1987***

s. 4(2)	In each provision, delete “complaint” and insert instead —
s. 4(3)	“ evidence ”.

**38. *Criminal Investigation (Identifying People) Act 2002***

s. 3(2)	Delete “the officer investigating the offence”.
s. 3(2)(a)	Before “informs” insert — “ the officer investigating the offence ”.
s. 3(2)(b)	Delete the paragraph and insert instead — “  (b) a prosecution of the offence is commenced against the person,  ”.

**39. *Criminal Law (Mentally Impaired Defendants) Act 1996***

s. 16(5)	In each provision, delete “complaint” and insert instead —
s. 19(4)	“ charge ”.

**40. *Criminal Property Confiscation Act 2000***

s. 158	Delete “complaint has been made against the person for the offence” and insert instead — “  prosecution of the person for the offence has been commenced  ”.
s. 158(a)	Delete “to answer the complaint” and insert instead — “ in relation to the prosecution ”. Delete “or” after the paragraph.
After s. 158(a)	Insert the following paragraph — “  (aa) a court hearing notice has been issued to the person in respect of the prosecution; or  ”.

**Schedule 2** Amendments to change terminology

---

**41. *Curtin University of Technology Act 1966***

s. 20A(5)	Delete “complaint” and insert instead — “ prosecution notice ”.
s. 20A(7)	Delete “for which a complaint may be brought,” and insert instead — “ proceedings for which may be commenced, ”.

**42. *Dangerous Goods Safety Act 2004***

s. 56(3)(b)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.
s. 58(1)	Delete “complaint” and insert instead — “ prosecution notice ”.
s. 58(1)(a) s. 66(1)	In each provision, delete “complainant” and insert instead — “ prosecutor ”.

**43. *Dental Act 1939***

s. 16	Delete “complaint, information,” and insert instead — “ prosecution ”.
-------	---

**44. *Dental Prosthetists Act 1985***

s. 27(3)	Delete “complaint” and insert instead — “ prosecution notice ”.
s. 27(8)	Delete “complainant” in the 2 places it occurs and in each place insert instead — “ prosecutor ”.

**45. *Director of Public Prosecutions Act 1991***

s. 19(1)(a)	Delete “complainant” and insert instead — “ prosecutor ”.
-------------	--

**46.      *Disability Services Act 1993***

s. 54(1)	Delete “A complaint under the <i>Criminal Procedure (Summary) Act 1902</i> for an offence against this Act may be made or sworn” and insert instead — “ Proceedings for an offence against this Act may be commenced ”.
s. 54(2)	Delete “complainant to make or swear the complaint” and insert instead — “   prosecutor to commence the proceedings   ”.

**47.      *Dog Act 1976***

s. 53(6)	Delete “complainant” and insert instead — “   prosecutor   ”.
----------	--

**48.      *Edith Cowan University Act 1984***

s. 29(7)	Delete “complaint” and insert instead — “   prosecution notice   ”.
s. 29(9)	Delete “for which a complaint may be brought,” and insert instead — “   proceedings for which may be commenced,   ”.

**49.      *Electoral Act 1907***

s. 175U(7)	Delete “same complaint” and insert instead — “   one prosecution notice   ”.
s. 205	Delete “for any such offence complaint may be made within 12 months from the time when the matter of complaint arose” and insert instead — “ a prosecution for any such offence may be commenced within 12 months after the offence was allegedly committed ”.

**Schedule 2** Amendments to change terminology

---

**50.        *Energy Operators (Powers) Act 1979***

s. 67(4)	Delete “any complaint brought pursuant to” and insert instead — “    a charge of an offence under    ”. Delete “any offence alleged in the complaint” and insert instead — “    the offence charged    ”.
----------	--

**51.        *Environmental Protection Act 1986***

s. 51R(5) s. 114A(4) s. 119	In each provision, delete “complaint” in each place it occurs and in each place insert instead — “    prosecution notice    ”.
s. 79(3)	Delete “complaint” and insert instead — “    prosecution    ”.
s. 99B(1)(b)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “    be prosecuted for the alleged offence in    ”.
s. 99K(1)(b)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “    be prosecuted for the alleged offence in    ”.
s. 114A(3)	Delete “complaint of” and insert instead — “    prosecution notice alleging    ”. Delete “the complaint”. Delete “may be made” and insert instead — “    the prosecution may be commenced    ”. Before “need” insert — “    the prosecution notice    ”.
s. 117(1)	Delete “or served” and insert instead — “    to or served on a party to the proceedings    ”. Delete “defendant” and insert instead — “    party    ”.

**52. Evidence Act 1906**

s. 36 s. 41	In each provision, delete “complaint” and insert instead — “ prosecution notice ”.
s. 36C(3)(a)	Delete the paragraph and insert instead — “ <div style="margin-left: 40px;">(a) the person is charged in a prosecution notice or an indictment with committing a sexual offence;</div> ”.
s. 100A(3)	Repeal the subsection.
s. 100A(4)	Delete “or a complaint or information is laid”. Delete “, or the justice, as the case may be,”. Delete “or seeking to lay that complaint or information”.
s. 100A(5)	Delete “or laying any complaint or information”.
s. 100A(6)	Delete “or” after paragraph (a). Delete paragraph (b). Delete “or who desires to lay a complaint or information”.
s. 119(2)(a)(ii)	Delete “on a complaint”.
s. 119(4)	Delete “complainant was” and insert instead — “ proceedings were commenced by ”.
Sixth Schedule	Delete “ “a complaint”, “an indictment”, “an information” ” and insert instead — “ “a prosecution notice”, “an indictment” ”.

**53. Exotic Diseases of Animals Act 1993**

s. 16(2)	Delete “complaint being made” and insert instead — “ such an application supported by evidence on oath ”.
----------	--

#### 54. *Fair Trading Act 1987*

s. 73(3)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.
----------	--

**Schedule 2** Amendments to change terminology

---

**55. *Family Court Act 1997***

s. 211(1)	In the definition of “decree”, delete “complaint” and insert instead — “ prosecution ”.
-----------	--

**56. *Fertilizers Act 1977***

s. 38(1)	Delete “justice before whom the complaint is laid” and insert instead — “ person before whom the prosecution notice is signed ”.
s. 38(2)(b)	Delete “complaint is laid” and insert instead — “ prosecution is brought ”.

**57. *Finance Brokers Control Act 1975***

s. 92A(3)(b)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.
--------------	--

**58. *Fines, Penalties and Infringement Notices Enforcement Act 1994***

s. 11	In the definition of “election”, delete “complaint” and insert instead — “ charge ”.
s. 16(4)	Delete “make a complaint in respect of” and insert instead — “ commence a prosecution for ”.

**59. *Firearms Act 1973***

s. 19A(2)	Delete “the complaint relating to that alleged contravention to be heard and determined by” and insert instead — “ to be prosecuted for the alleged offence in ”.
s. 21A(2)	Delete “a complaint for an offence may be made out against that person” and insert instead — “ that person may be prosecuted for an offence ”.
s. 21B(2)	Delete “complainant” in the 2 places it occurs and in each place insert instead — “ prosecutor ”.

Amendments to change terminology      **Schedule 2**

s. 23A	<p>Delete “A complaint” and insert instead —  “ A prosecution ”.</p> <p>Delete “made” and insert instead —  “ commenced ”.</p> <p>Delete “from the time when the matter of complaint arose”  and insert instead —  “    after the date on which the alleged offence was  committed    ”.</p>
s. 29(1)	<p>Delete “made by the complainant and contained in the  complaint of the offence” and insert instead —  “ in the prosecution notice ”.</p> <p>In paragraph (e), delete “complaint” and insert instead —  “ prosecution notice ”.</p>

**60.      *First Home Owner Grant Act 2000***

s. 44(1)	<p>Delete “by a complaint” and insert instead —  “ on an application supported by evidence ”.</p>
----------	---

**61.      *Fish Resources Management Act 1994***

s. 187(1)	<p>Delete “by complaint made” and insert instead —  “ on an application supported by evidence ”.</p>
s. 188(2)	<p>Delete “a complaint” and insert instead —  “ an application ”.</p>
s. 188(3)	<p>Delete “complaint is sworn” and insert instead —  “ evidence on oath in support is given ”.</p>
s. 188(7)(a)	<p>Delete “sworn complaint” and insert instead —  “ evidence on oath in support ”.</p>
s. 188(8)	<p>Delete “complaint” and insert instead —  “ evidence on oath in support ”.</p>
s. 201(3)(b)	<p>Delete “complaint” and insert instead —  “ prosecution notice ”.</p>

**Schedule 2** Amendments to change terminology

---

s. 205(c) s. 206 s. 207 s. 211	In each provision, delete “complaint” in each place it occurs and in each place insert instead — “ charge ”.
s. 212(2)(a) s. 213(4)(a)	In each provision, delete “complainant’s” and insert instead — “ prosecutor’s ”.
s. 212(2)(b) s. 213(4)(b) s. 218(2) s. 223(2) s. 225(2)(a)	In each provision, delete “complainant” in each place it occurs and in each place insert instead — “ prosecutor ”.
s. 229(1)(b)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.

**62. *Forest Products Act 2000***

s. 63(4)	Delete “a complaint” and insert instead — “ an application supported by evidence ”.
----------	--

**63. *Gaming and Wagering Commission Act 1987***

s. 25(1)	Delete “complaint” and insert instead — “ an application supported by evidence on oath ”.
s. 33(2)	Delete “complaint” and insert instead — “ charge ”.
s. 36(2)	Delete “have a complaint of that offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.
s. 36(4)	Delete “complaint of the alleged offence may be made” and insert instead — “ prosecution for the alleged offence may be commenced ”.



Amendments to change terminology      **Schedule 2**

s. 39(1)(e)	Delete “a complaint arising out of the gaming or wager is made against another person, on the hearing of the complaint” and insert instead — “ another person is charged with an offence arising out of the gaming or wager, on the hearing of the charge ”.
s. 39(1)(g)	Delete “the person against whom the complaint is made” and insert instead — “ a person charged with an offence ”.
s. 39(1)(h)	Delete “the complaint may be made for such an offence” and insert instead — “ a prosecution for such an offence may be commenced ”.
s. 39(3)	Delete “complaint” and insert instead — “ prosecution ”.
s. 43	Delete “any complaint for” and insert instead — “ a charge of ”.
s. 51(3)(a)	Delete “the complaint may be made against the nominee” and insert instead — “ the nominee may be charged with the offence ”.

**64.      *Government Agreements Act 1979***

s. 4(3)	Delete “on a complaint”. Delete “the complaint” and insert instead — “ the prosecution notice ”.
---------	--

**65.      *Government Railways Act 1904***

s. 53A(3)(b)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.
--------------	--

**66.      *Health Act 1911***

s. 199(18)	Delete “on the complaint of” and insert instead — “ by ”.
------------	--

**Schedule 2** Amendments to change terminology

---

s. 227(11)	Delete “The court before which any complaint is made, or any appeal is heard,” and insert instead — “ A court hearing a prosecution or an appeal ”.
s. 227(14)	Delete “complaint” and insert instead — “ prosecution ”.
s. 246ZR(1)(a)	Delete “complainant” and insert instead — “ prosecutor ”.
s. 246ZR(6)	Delete “proceeding on a complaint” and insert instead — “ prosecution for an offence ”. Delete “or complaint”.
s. 246ZR(7)	Repeal the subsection.
s. 246ZX(2)(a)	Delete “complainant” in the 2 places it occurs and in each place insert instead (in the corresponding type) — “ prosecutor ”. Delete “return day of the summons” and insert instead — “ trial date set for the charge ”. After the paragraph insert — “ and ”.
s. 246ZX(2)	Delete paragraphs (b) and (c) and insert instead — “  (b) forthwith commence a prosecution for the alleged offence against the alleged offender in the court. ”.
s. 246ZX(3)	Repeal the subsection and insert instead — “  (3) If the accused complies with subsection (2), the court shall ensure that a court hearing notice is issued to the alleged offender together with such other documents as the court determines and that the charge against the accused and the charge against the alleged offender are listed for trial on the same date. ”.
s. 246ZX(4)	Repeal the subsection.
s. 246ZX(5)	Delete “complaints” and insert instead — “ charges ”.

## Amendments to change terminology **Schedule 2**

s. 246ZX(5)(a)	Delete “complainant” and insert instead — “ prosecutor ”.
s. 246ZX(5)(b)	In subparagraph (ii), delete “dismiss the complaint against the defendant” and insert instead — “ find the accused not guilty of the charge ”.
s. 246ZZ(1)(h)	Delete “complaint” and insert instead — “ prosecution notice ”. Delete “complainant” and insert instead — “ prosecutor ”.
s. 289G(1)	Delete “taken” and insert instead — “ commenced ”.
s. 289G(2)	Repeal the subsection and insert instead — “ (2) If a prosecution for an offence against the regulations purports to be commenced with the written consent of the Executive Director, Public Health, it is to be presumed, in the absence of proof to the contrary, that the prosecution has been so commenced. ”
s. 298(2)	Delete “complaint was laid” and insert instead — “ prosecution was commenced ”.
s. 354(8)	Delete “complainant” and insert instead — “ prosecutor ”.
s. 359	Delete “information, complaint, or summons” and insert instead — “ prosecution ”.
s. 377(11)	Delete “complaint” and insert instead — “ prosecution notice ”.

**67. *Heritage of Western Australia Act 1990***

s. 66(2)	Delete “complaint for” and insert instead — “ charge of ”.
s. 66(3)(a)	Delete “from the time when the matter of complaint arose notwithstanding section 51 of the <i>Criminal Procedure (Summary) Act 1902</i> ” and insert instead — “ after the date when the alleged offence was committed ”.

**Schedule 2** Amendments to change terminology

s. 70(3)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.
s. 82(4)	After “this Act” insert — “ to a party to the proceedings ”. Delete “defendant” and insert instead — “ party ”.

**68. Home Building Contracts Act 1991**

s. 31(2)	Delete “complaint” and insert instead — “ prosecution notice ”.
s. 31B(3)(b)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.

**69. Human Reproductive Technology Act 1991**

s. 52(3)	Delete “complaint for” and insert instead — “ charge of ”.
s. 55(1)	Delete “complaint” and insert instead — “ an application supported by evidence on oath ”.
s. 56(1)(a)	Delete “by a complaint laid”.
s. 56(2)	Delete “matter of complaint arose” and insert instead — “ offence was allegedly committed ”.
s. 57(1) s. 57(2) s. 57(8)	In each provision, delete “complaint” in each place it occurs and in each place insert instead — “ prosecution notice ”.
s. 57(5)	After “any notice” insert — “ to a party to the proceedings ”. Delete “defendant” and insert instead — “ party ”.

**70. Income Tax Assessment Act 1937**

s. 212	Repeal the section.
--------	---------------------

Amendments to change terminology      **Schedule 2**

s. 227(1)	Delete “information, complaint” and insert instead — “    prosecution notice    ”.
-----------	---

**71.            *Industrial Relations Act 1979***

s. 83D(1)	Delete “complaints” and insert instead — “    prosecutions    ”.
s. 96I(3)	Delete “complaint” and insert instead — “    charge    ”.
s. 104(1) s. 104(3) s. 104(4)	In each provision, delete “make and prosecute a complaint of” and insert instead — “    commence and conduct a prosecution for    ”.
s. 104(2)	Delete “complaint shows that the person making the complaint” and insert instead — “    prosecution notice states that the prosecutor    ”.
s. 104(5)	Repeal the subsection and insert instead — “  <div style="padding-left: 40px;">(5) A person not referred to in subsection (1), (3) or (4) may commence a prosecution for an offence under this Act but the charge must be dismissed for want of prosecution unless the court is satisfied that the prosecutor has been affected by the conduct giving rise to the offence.</div> ”.

**72.            *Land Drainage Act 1925***

s. 167(4)	Delete “document” and insert instead — “    service of a document on a party to the proceedings    ”. Delete “defendant” and insert instead — “    party    ”.
s. 167(7)	Delete “complaint which it is necessary to make under or for the purposes of” and insert instead — “    prosecution of an offence under    ”. Delete “laid” and insert instead — “    commenced    ”. Delete “the complaint” and insert instead — “    the charge    ”.

**Schedule 2** Amendments to change terminology

---

s. 173(3)	Delete “complaint” and insert instead — “ prosecution notice ”.
-----------	--

**73. *Licensed Surveyors Act 1909***

s. 24	Delete “complaint” and insert instead — “ prosecution ”.
-------	---

**74. *Liquor Licensing Act 1988***

s. 52(2)	After “complaint” insert — “ or charge ”.
s. 101(1)	Delete “a complaint may be made out against the person for the offence” and insert instead — “ that person may be charged with the offence ”.
s. 109(7)	Delete “complaint” and insert instead — “ charge of an offence ”.
s. 112(2)	Delete “complaint for” and insert instead — “ charge of ”.
s. 119(6)	Delete “complaint for” and insert instead — “ charge of ”.
s. 125(1)	Delete “complaint for” and insert instead — “ charge of ”.
s. 156(2)	Delete “the complaint of” and insert instead — “ a prosecution commenced by ”. Delete “complaint to” and insert instead — “ offence to ”.
s. 161(1)	Delete “complaint” and insert instead — “ an application supported by evidence on oath ”.
s. 162(2)	Delete “on a complaint” and insert instead — “ of a charge ”.
s. 164(5)	After “complainant” in each of the 2 places it occurs, insert — “ or prosecutor ”.
s. 165(3)	Delete “complaint for” and insert instead — “ charge of ”.

Amendments to change terminology **Schedule 2**

s. 167(2)	Delete “complaint for the alleged offence may be heard and determined by” and insert instead — “ prosecution for the alleged offence may be commenced in ”.
s. 167(7)(b)(i)	Delete “complaint for” and insert instead — “ charge of ”.
s. 168(1)	Delete “complaint for an offence against this Act may be laid” and insert instead — “ prosecution for an offence against this Act may be instituted ”.
s. 171(1)(a)	Delete “a complaint, arising out of the purchase or obtaining of the liquor, is made against some other person” and insert instead — “ some other person is charged with an offence arising out of the purchase or obtaining of the liquor ”.
s. 171(1)(b)	Delete “complaint” and insert instead — “ charge ”.
s. 171(2)	Delete “complaint” and insert instead — “ charge of an offence ”.
s. 172(1)	Delete “complaint” in each place it occurs and in each place insert instead — “ charge ”.
s. 172(4)	After “any notice” insert — “ to a party to the proceedings ”. Delete “defendant” and insert instead — “ party ”.
s. 172(7)	Delete “complaint” and insert instead — “ prosecution notice ”.

**Schedule 2** Amendments to change terminology

---

**75. Litter Act 1979**

s. 30(1)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.
----------	--

**76. Local Government Act 1995**

s. 6.56(2)	Delete “complaint,”.
s. 9.17(1)(b)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.
s. 9.26	Delete “complaint which it is necessary to make under or for a purpose of” and insert instead — “ prosecution notice for an offence under ”.

**77. Local Government (Miscellaneous Provisions) Act 1960**

s. 454	Delete “complaint” and insert instead — “ charge ”.
s. 460(5)(b)	Delete “before a Justice of the Peace at the time of making the complaint therefor, or assessed on the hearing of such complaint” and insert instead — “ or determined on the hearing of a charge of trespass ”.
s. 474(2)(b) s. 474(3)(b)	In each provision, delete “on complaint before a court of summary jurisdiction” and insert instead — “ in a court of competent jurisdiction ”.
s. 484(4)	Delete “complaint that” and insert instead — “ charge that ”. Delete “in respect of which the complaint is made” and insert instead — “ concerned ”.

**78. Magistrates Court Act 2004**

s. 17(1)	In the definition of “document”, delete “complaint” and insert instead — “ prosecution notice ”.
----------	---



Amendments to change terminology      **Schedule 2**

s. 33(5)	Delete “complaint” in the first place it occurs and insert instead — “ charge ”.
s. 33(5)(a)	In subparagraph (i), delete “complaint” and insert instead — “ prosecution notice containing the charge ”. In subparagraph (ii), delete “defendant’s” and insert instead — “ accused’s ”.

**79.      *Marine and Harbours Act 1981***

s. 18A(3)(b)(ii)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.
------------------	--

**80.      *Maritime Archaeology Act 1973***

s. 10(3) s. 15	In each provision, delete “complaint” and insert instead — “ charge ”.
s. 16	Repeal the section and insert instead — “  <div style="text-align: center;"><b>16. Limitation period for prosecutions</b></div> <p>A prosecution for an offence against this Act may be commenced within 12 months after the date on which the offence was allegedly committed or, if the person before whom the prosecution notice is signed is satisfied by evidence on oath that having regard to the circumstances of the case it was not practicable to commence the prosecution at an earlier date and gives or renews a certificate to that effect, within one month after the date of the certificate.</p> <p align="right">”.</p>

**81.      *Marketing of Potatoes Act 1946***

s. 22(3) s. 22(4)	In each provision, delete “complaint for” and insert instead — “ charge of ”.
s. 22B(2) s. 41E	In each provision, delete “complaint” and insert instead — “ charge ”.

**Schedule 2** Amendments to change terminology

---

s. 40(2)(b)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.
-------------	--

**82. *Medical Act 1894***

s. 8(1)	Delete “complaint, information” and insert instead — “ prosecution ”.
---------	--

**83. *Metropolitan Water Supply, Sewerage, and Drainage Act 1909***

s. 152A	Repeal the section and insert instead — “ <b>152A. Limitation period for prosecutions</b> A prosecution for an offence against this Act may be commenced within 24 months after the date on which the offence was allegedly committed. ”.
s. 159(3)	Repeal the subsection.

**84. *Mines Safety and Inspection Act 1994***

s. 98(1)	Delete “complaint” and insert instead — “ charge ”.
----------	--

**85. *Mining Act 1978***

s. 161(1)	Delete “complaint” and insert instead — “ charge ”.
-----------	--

**86. *Motor Vehicle (Third Party Insurance) Act 1943***

s. 3(2)	Delete “complaint laid” and insert instead — “ a prosecution commenced ”.
s. 4(6)	Delete “complaint” in the 2 places it occurs and in each place insert instead — “ charge ”.
s. 18(1)	Delete “on complaint to a court of summary jurisdiction” and insert instead — “ to the Magistrates Court ”.

**87. *Motor Vehicle Dealers Act 1973***

s. 55(2)	Delete “complainant” in the 2 places it occurs and in each place insert instead — “ prosecutor ”.
s. 55A(3)(b)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.

**88. *Motor Vehicle Repairers Act 2003***

s. 101(2)(c)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.
s. 110(3)	Delete “complainant” in the 2 places it occurs and in each place insert instead — “ prosecutor ”.

**89. *Murdoch University Act 1973***

s. 24(8)	Delete “The complaint in respect of an offence against a by-law shall be made and the proceedings” and insert instead — “ Proceedings for an offence against a by-law shall be ”. Delete “thereby charged was” and insert instead — “ was allegedly ”.
s. 24(11)	Delete “complaint” and insert instead — “ charge ”.

**90. *Museum Act 1969***

s. 48	Delete “any complaint preferred by the Trustees” and insert instead — “ a charge ”.
-------	--

**91. *National Trust of Australia (W.A.) Act 1964***

s. 26(2)(b)	Delete the paragraph.
-------------	-----------------------

**Schedule 2** Amendments to change terminology

---

**92. *New Tax System Price Exploitation Code (Western Australia)  
Act 1999***

s. 3(1)	In the definition of “instrument”, in paragraph (h), after “indictment,” insert — “ prosecution notice, ”.
---------	---

**93. *Nurses Act 1992***

s. 80(3)	Delete “complaint” and insert instead — “ prosecution notice ”.
s. 81(2)	Delete “complainant” in the 2 places it occurs and in each place insert instead — “ prosecutor ”.

**94. *Occupational Safety and Health Act 1984***

s. 53	Delete “complaint” and insert instead — “ charge ”.
-------	--

**95. *Occupational Therapists Registration Act 1980***

s. 42(3)	Delete “complaint” and insert instead — “ prosecution notice ”.
s. 42(8)	Delete “complainant” in the 2 places it occurs and in each place insert instead — “ prosecutor ”.

**96. *Official Prosecutions (Defendants’ Costs) Act 1973***

s. 4(1)	In the definition of “official prosecution”, delete “on a complaint”.
s. 4(2)(b)(ii)	Delete “on the same complaint” and insert instead — “ in the one prosecution notice ”.

**97. *Optometrists Act 1940***

s. 18	Delete “complaint, information” and insert instead — “ prosecution ”.
-------	--

**98. *Painters' Registration Act 1961***

s. 20(2)	Repeal the subsection and insert instead — “ (2) A prosecution for an offence against this Act must be commenced within 18 months after the date on which the offence was allegedly committed. ”.
s. 26A(2)	Delete “complainant” in the 2 places it occurs and in each place insert instead — “ prosecutor ”.
s. 26B	Delete “complaint for” and insert instead — “ charge of ”.

**99. *Pawnbrokers and Second-hand Dealers Act 1994***

s. 90(3)(b)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.
-------------	--

**100. *Pearling Act 1990***

s. 52(2)	Repeal the subsection and insert instead — “ (2) A prosecution for an offence against this Act must be commenced within 12 months after the date on which the offence was allegedly committed. ”.
s. 53(1)	Delete “complaint” and insert instead — “ charge ”.

**101. *Perth Market Act 1926***

s. 13B(1)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.
-----------	--

**Schedule 2** Amendments to change terminology

---

**102. *Perth Parking Management Act 1999***

s. 19(2)(c)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.
-------------	--

**103. *Petroleum Products Pricing Act 1983***

s. 31	Repeal the section and insert instead — “ <b>31. Limitation period for prosecutions</b> A prosecution for an offence against this Act must be commenced within 12 months after the date on which the offence was allegedly committed. ”.
s. 31C(1)(b)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.

**104. *Petroleum Safety Act 1999***

s. 84(1)	Delete “complaint” and insert instead — “ charge ”.
----------	--

**105. *Pharmacy Act 1964***

s. 42(1)	Delete “complaint, information” and insert instead — “ prosecution ”.
----------	--

**106. *Pig Industry Compensation Act 1942***

s. 14(2a)	Repeal the subsection and insert instead — “ (2a) A prosecution for an offence against this Act must be commenced within 12 months after the date on which the offence was allegedly committed. ”.
-----------	---

**107.      *Plant Diseases Act 1914***

s. 35(3)(b)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “    be prosecuted for the alleged offence in    ”.
s. 35A(2)	Delete “complainant” in the 2 places it occurs and in each place insert instead — “    prosecutor    ”.
s. 36	Delete “complaint” and insert instead — “    prosecution notice    ”.

**108.      *Podiatrists Registration Act 1984***

s. 41(3)	Delete “complaint” and insert instead — “    prosecution notice    ”.
s. 41(8)	Delete “complainant” in the 2 places it occurs and in each place insert instead — “    prosecutor    ”.

**109.      *Poisons Act 1964***

s. 55A(1)	Delete “by a complaint made” and insert instead — “    on an application supported by evidence    ”.
s. 60(1)(a)	Delete “complainant” and insert instead — “    prosecutor    ”.

**110.      *Police Act 1892***

s. 16(2) s. 16A(2)	In each provision, delete “complaint” and insert instead — “    charge    ”.
s. 45	Delete “information” and insert instead — “    indictment    ”.
s. 74 s. 98	In each provision, delete “information” and insert instead — “    charge    ”.
s. 101	Delete “on the complaint of any such Justice, or constable, forfeit and pay a sum” and insert instead — “    be liable to a fine    ”.

**Schedule 2** Amendments to change terminology

---

s. 125	Delete “lodge any information before any Justice” and insert instead — “ commence a prosecution ”. Delete “such Justice” and insert instead — “ a court ”. Delete “information” and insert instead — “ prosecution ”.
s. 133	Delete “the complaint or information” and insert instead — “ a charge ”. Delete “information or complaint” and insert instead — “ charge ”. Delete “informed or complained against” and insert instead — “ charged ”.

**111. *Port Authorities Act 1999***

s. 120(3)	Delete “complaint” in the 2 places it occurs and in each place insert instead — “ prosecution notice ”.
s. 125(1)(b)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.

**112. *Prisoners (Interstate Transfer) Act 1983***

s. 13(b)	Delete “or complaint”.
s. 18(b)	Delete “complaint or information alleging any offence by the person” and insert instead — “ charge against the person of an offence ”.
s. 21(2)	Delete “a complaint or information alleging an offence by a person” and insert instead — “ a charge against a person of an offence ”.
s. 21(2)(b)	Delete “complaint or information” and insert instead — “ charge ”.



**113. *Prisons Act 1981***

s. 32(2)	Delete “lay a complaint of” and insert instead — “ commence a prosecution in a court of summary jurisdiction for ”.
----------	---

**114. *Prostitution Act 2000***

s. 55(1)	Repeal the subsection and insert instead — “ (1) A prosecution for an offence under this Act can only be commenced by a police officer. ”.
----------	--

**115. *Psychologists Registration Act 1976***

s. 55(3)	Delete “complaint” and insert instead — “ prosecution notice ”.
s. 55(8)	Delete “complainant” in the 2 places it occurs and in each place insert instead — “ prosecutor ”.

**116. *Public Meetings and Processions Act 1984***

s. 9(2)	Delete “complaint” and insert instead — “ charge ”. Delete “complainant” and insert instead — “ prosecutor ”.
---------	--

**117. *Public Transport Authority Act 2003***

s. 45(1)(b)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.
-------------	---

**Schedule 2** Amendments to change terminology

---

s. 66(1)	Delete “complaint of an offence under this Act can only be made” and insert instead — “ prosecution for an offence under this Act can only be commenced ”.
s. 66(2)	Delete “make a complaint of” and insert instead — “ commence a prosecution for ”.
s. 68	Delete “complaint” and insert instead — “ prosecution notice ”.

**118. Rail Safety Act 1998**

s. 56(1)	Repeal the subsection and insert instead — “ (1) A prosecution for an offence against this Act must be commenced within 2 years after the date on which the offence was allegedly committed or, with the written authority of the Attorney General, at a later time within 3 years after the date on which the offence was allegedly committed. ”.
s. 56(2)	Delete “complaint of” and insert instead — “ prosecution for ”.

**119. Rates and Charges (Rebates and Deferments) Act 1992**

s. 38(2)	Repeal the subsection and insert instead — “ (2) A prosecution for an offence under subsection (1) must be commenced within 5 years after the date on which the offence was allegedly committed. ”.
----------	--

**120. Real Estate and Business Agents Act 1978**

s. 143(3)	Delete “Without limiting the application of section 72 of the <i>Criminal Procedure (Summary) Act 1902</i> in relation to a complaint for an offence against this Act, in any proceedings for an offence against this Act an allegation in the complaint” and insert instead — “ An allegation in a charge of an offence against this Act ”.
-----------	---

**121. Retail Trading Hours Act 1987**

s. 14(15)	Delete “prosecution of a complaint” and insert instead — “ charge ”.
s. 39(d)	Delete “complaint” and insert instead — “ charge ”.

**122. Road Traffic Act 1974**

s. 15(3)(b)	Delete “complaint for” and insert instead — “ charge of ”.
s. 81F(2)	Delete “on the complaint” and insert instead — “ in the charge ”. Delete “complainant” and insert instead — “ prosecutor ”.
s. 98(1) s. 98(1a) s. 98(3)(a) s. 98(4)	In each provision, delete “complaint” and insert instead — “ prosecution notice ”.
s. 98(5)	Repeal the subsection and insert instead — “  (5) If, in a prosecution notice for an offence against this Act, the name of the accused is that given by the alleged offender at the time of, or immediately following, the occurrence giving rise to the charge, there is a presumption, rebuttable by evidence to the contrary, that the accused is the alleged offender.  ”.

**Schedule 2** Amendments to change terminology

---

s. 100(1)	Delete “complaints” in the 2 places it occurs and in each place insert instead — “ charges ”.
s. 102(1)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.
s. 107(4)	Repeal the subsection and insert instead — “ <div style="padding-left: 40px;">(4) A prosecution for an offence under section 24, 49(1)(a), 53 or 97 must be commenced within 2 years after the date on which the offence was allegedly committed.</div> ”.

**123. Road Traffic Amendment Act (No. 2) 1987**

s. 11	<p>In the proposed section 89(3) of the <i>Road Traffic Act 1974</i>, delete “complaint of an offence under this section has been made” and insert instead —</p> <p>“</p> <p style="padding-left: 40px;">prosecution for an offence under this section has been commenced</p> <p>”.</p> <p>Delete “by whom the complaint was made” and insert instead —</p> <p>“ who commenced the prosecution ”.</p> <p>Delete “complaint is” and insert instead —</p> <p>“ charge is ”.</p>
-------	---

**124. Road Traffic Amendment Act 2000**

s. 32	<p>In the proposed section 58(5) of the <i>Road Traffic Act 1974</i>, delete “On a complaint charging a person” and insert instead —</p> <p>“ If a person is charged ”.</p>
-------	---

s. 44	In the proposed section 102C(4) of the <i>Road Traffic Act 1974</i> , delete “On a complaint charging a person” and insert instead — “ If a person is charged ”.
-------	---

**125. *Rottnest Island Authority Act 1987***

s. 42(2)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.
----------	--

**126. *Sale of Land Act 1970***

s. 19B(5)	Delete “complaint for” and insert instead — “ charge of ”.
-----------	---

**127. *School Education Act 1999***

s. 9(3)	Delete “complaint of an offence against subsection (2) is not to be made” and insert instead — “ prosecution for an offence against subsection (2) is not to be commenced ”.
s. 41(1)	Delete “complaint of an offence against section 38 is not to be made” and insert instead — “ prosecution for an offence against section 38 is not to be commenced ”.
s. 41(2)	Delete “make a complaint” and insert instead — “ commence a prosecution ”. Delete “making a complaint” and insert instead — “ commencing a prosecution ”.

**Schedule 2** Amendments to change terminology

---

s. 42(1)	Delete “complaint of an offence against section 38(1) or 38(2) is not to be made” and insert instead — “ prosecution for an offence against section 38(1) or 38(2) is not to be commenced ”.
s. 44	Delete “complaint” and insert instead — “ charge ”.
s. 45(2) s. 243(3)	In each provision, delete “make a complaint” and insert instead — “ commence ”.
s. 243(2)	Delete “complaint” and insert instead — “ prosecution notice ”.

**128.     *Securities Industry Act 1975***

s. 77(1)	Delete “of the complaint” in the 3 places it occurs and in each place insert instead — “ on which the prosecution was commenced ”.
----------	---

**129.     *Seeds Act 1981***

s. 18(2)	Delete “There shall be served with the summons issued upon complaint of an offence” and insert instead — “ On being charged with an offence against this Act, a person shall be served with ”.  Delete “summons.” and insert instead — “ prosecution notice. ”.
s. 23(2)	Delete “complaint” and insert instead — “ application ”.

**130.      *Settlement Agents Act 1981***

s. 121(3)	Delete “Without limiting the application of section 72 of the <i>Criminal Procedure (Summary) Act 1902</i> in relation to a complaint for an offence against this Act, in any proceedings for an offence against this Act an allegation in the complaint” and insert instead — “    An allegation in a charge of an offence against this Act    ”.
-----------	---

**131.      *Soil and Land Conservation Act 1945***

s. 45(1)	Delete “complaint, information” and insert instead — “    prosecution    ”. Delete “made, laid and taken” and insert instead — “    commenced    ”.
----------	--

**132.      *Spear-guns Control Act 1955***

s. 6	Delete “complaint” and insert instead — “    charge    ”.
------	--

**133.      *Spent Convictions Act 1988***

Long title	Delete “complaint or indictment” and insert instead — “ <b>charge</b> ”.
------------	---

**134.      *Suitors’ Fund Act 1964***

s. 14(1)(b)	Delete “complaint” and insert instead — “    summarily    ”.
-------------	---

**135.      *Swan River Trust Act 1988***

s. 64(5)(b)	Delete “complaint made” and insert instead — “    an application supported by evidence    ”.
-------------	---

**Schedule 2** Amendments to change terminology

---

s. 65(1)	Delete “A complaint for an offence against this Act may be made and prosecuted by — ” and insert instead — “ A prosecution for an offence against this Act may be commenced and conducted by — ”.
s. 65(3)	Delete “complaint” and insert instead — “ charge ”.
s. 67(2)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.

**136. Taxation Administration Act 2003**

s. 100(1)	Delete “by a complaint” and insert instead — “ on an application supported by evidence ”.
s. 112(2)	Delete “complaint” and insert instead — “ prosecution notice ”. Delete “complaint is laid” and insert instead — “ prosecution is commenced ”.
s. 123	Delete “complaint” in the 3 places it occurs and in each place insert instead — “ charge ”.

**137. Taxi Act 1994**

s. 33	Delete “complaint” and insert instead — “ charge ”.
s. 39(2)(b)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.

**138. Transport Co-ordination Act 1966**

s. 33(6) s. 51	In each provision, delete “complaint” and insert instead — “ charge ”.
-------------------	---



Amendments to change terminology **Schedule 2**

s. 58A(3)(b)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.
--------------	--

**139. *Travel Agents Act 1985***

s. 55	Repeal the section and insert instead — “ <b>55. Limitation period for prosecutions</b> A prosecution for an offence against this Act must be commenced within 12 months after the date on which the Commissioner first becomes aware of the commission of the alleged offence. ”.
-------	--

**140. *University of Western Australia Act 1911***

s. 16A(7)	Delete “complaint” and insert instead — “ charge ”.
s. 16A(9)	Delete “A complaint for” and insert instead — “ An allegation of”. Delete “brought, heard and determined” and insert instead — “ dealt with ”.

**141. *Valuation of Land Act 1978***

s. 47	Delete “complaint” and insert instead — “ prosecution ”. Delete “laid” and insert instead — “ instituted ”. Delete “lay complaints” and insert instead — “ institute prosecutions ”.
-------	---

**Schedule 2** Amendments to change terminology

---

**142. *Veterinary Preparations and Animal Feeding Stuffs Act 1976***

s. 44(1)	Delete “no complaint” and insert instead — “ no prosecution for an offence ”. Delete “be made” and insert instead — “ be commenced ”. Delete “Justice before whom the complaint is made” and insert instead — “ person before whom the prosecution notice is signed ”. Delete “make the complaint” and insert instead — “ commence the prosecution ”.
s. 44(2)	Delete “making of a complaint” and insert instead — “ commencement of a prosecution ”.
s. 49(1)	Delete “, complainant”. After “defendant” insert — “ or accused ”.
s. 50	Delete “have the complaint dismissed or prevent his conviction” and insert instead — “ be acquitted ”.
s. 61(5)	Delete “complainant or”.

**143. *Veterinary Surgeons Act 1960***

s. 27(1)(c)	Delete “make a complaint” and insert instead — “ commence a prosecution ”.
-------------	---

**144. *Vexatious Proceedings Restriction Act 2002***

s. 3	In the definition of “institute proceedings”, delete “laying of a complaint” and insert instead — “ commencement of a prosecution ”.
------	---

**145. *Water Agencies (Powers) Act 1984***

s. 103(2)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.
-----------	--

**146. *Water Boards Act 1904***

s. 154(2)	Repeal the subsection.
s. 162(2)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.

**147. *Waterways Conservation Act 1976***

s. 71(2)	Delete “A complaint for an offence against this Act may be made and prosecuted by —” and insert instead — “ A prosecution for an offence against this Act may be commenced and conducted by — ”.
s. 75(1)(c)	Delete “make a complaint” and insert instead — “ commence a prosecution ”.
s. 75(2)	Delete “complaint” and insert instead — “ charge ”.
s. 75(5)	Delete “or served” and insert instead — “ to or served on a party to the proceedings ”. Delete “defendant” and insert instead — “ party ”.

**148. *Weights and Measures Act 1915***

s. 27G(11) s. 27L(6) s. 27M(1) s. 47(2)	In each provision, delete “complainant” in each place it occurs and in each place insert instead — “ prosecutor ”.
s. 40(4)	Delete “on complaint”.
s. 40(5)	Delete “complainant” and insert instead — “ person instituting the prosecution ”.
s. 48	Delete “an information is laid” and insert instead — “ a prosecution is commenced ”.
s. 49	Delete “defendant” and insert instead — “ the accused ”.

**Schedule 2** Amendments to change terminology

---

**149. *Western Australian College of Teaching Act 2004***

s. 84(3)	Delete “complaint” and insert instead — “ prosecution notice ”.
s. 84(4)	Delete “make a complaint” and insert instead — “ commence ”.

**150. *Western Australian Marine Act 1982***

s. 125A	Repeal the section and insert instead — “ <b>125A. Limitation period for prosecutions</b> A prosecution for an offence against this Act or any subsidiary legislation under this Act must be commenced within 3 years after the date on which the offence was allegedly committed. ”.
s. 129 s. 130	In each provision, delete “complaint” and insert instead — “ charge ”.
s. 132(1)	Delete “have a complaint of that offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.

**151. *Western Australian Sports Centre Trust Act 1986***

s. 18C(3)(b)(ii)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.
------------------	---

**152. *Western Australian Trotting Association Act 1946***

s. 9(3)	Delete “complaint” and insert instead — “ charge ”.
---------	--

**153. *The Western Australian Turf Club Act 1892***

s. 22	Delete “proceed with all convenient dispatch to the hearing of the complaint against the offender” and insert instead — “ deal with the offender according to law ”.
-------	--

**154.** *White Phosphorus Matches Prohibition Act 1912*

s. 5	Delete “complaint to” and insert instead — “ being charged before ”.
------	---

**155. Wildlife Conservation Act 1950**

s. 20(3)(a)	Delete “complaint made” and insert instead — “ an application supported by evidence ”.
s. 20(3)(c)	Delete “make a complaint on oath before a justice of the peace alleging that in his opinion there had been no reasonable grounds for the exercise of that power, and thereupon the justice shall cause the matter to be inquired into and shall make his findings known to the complainant” and insert instead — “ apply to the Magistrates Court for a review of the exercise of that power on the grounds there were no reasonable grounds for its exercise and the court shall inquire into the matter and make its findings known to the applicant ”
s. 26A	Repeal the section and insert instead — “ <b>26A. Limitation period for prosecutions</b> A prosecution for an offence against this Act must be commenced within 2 years after the date on which the offence was allegedly committed. ”
s. 27(2)	Delete “complainant, defendant” and insert instead — “ prosecutor, accused ”.

**Schedule 2** Amendments to change terminology

---

s. 27D	Repeal the section and insert instead — “ <b>27D. Presumption as to identity</b> If, in a prosecution notice for an offence against this Act, the name of the accused is that given by the alleged offender at the time of, or immediately following, the occurrence giving rise to the charge, there is a presumption, rebuttable by evidence to the contrary, that the accused is the alleged offender. ”.
--------	--

**156. *Workers’ Compensation and Rehabilitation Act 1981***

s. 115(1)(d)	Delete “complaints under” and insert instead — “ the matters referred to in ”.
s. 170(3)	Repeal the subsection and insert instead — “ (3) A prosecution for an offence under this section must be commenced within 2 years after the date on which the offence was allegedly committed. ”.
s. 188A(1)	Delete “complaints for” and insert instead — “ charges of ”.

**157. *Workers’ Compensation and Injury Management Act 1981***

s. 175H(2)(c)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.
s. 188B(3)	Delete “complaint” in the 2 places it occurs and in each place insert instead — “ prosecution notice ”.

**158. *Young Offenders Act 1994***

s. 33(2)	Delete “before which a complaint of the offence is made, upon being satisfied that the person has complied with the terms, is to dismiss the complaint.” and insert instead — “ hearing a charge of the offence, upon being satisfied that the person has complied with the terms, must dismiss the charge without determining it. ”.
s. 42(4)	Repeal the subsection and insert instead — “ (4) If a copy of a notice to attend court issued to a person under this section is lodged with a court, the notice is to be taken to be a prosecution notice charging the person with the alleged offence described. ”.
s. 175	Delete “that a complaint of the offence be laid before a court” and insert instead — “ to commence a prosecution in a court of summary jurisdiction for the detention offence ”.
s. 186(1)	Delete “complaint” and insert instead — “ a prosecution notice ”.
s. 186(2)	Delete “lay the complaint” and insert instead — “ commence the prosecution ”.

**159. *Zoological Parks Authority Act 2001***

s. 43(3)(b)	Delete “have a complaint of the alleged offence heard and determined by” and insert instead — “ be prosecuted for the alleged offence in ”.
-------------	--