

Western Australia

## **Crown Suits Act 1947**

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## **Crown Suits Act 1947**

**An Act to repeal the *Crown Suits Act 1898*<sup>2</sup>, and to make better provision for suits by and against the Crown and for other purposes relative thereto and to the constitutional powers of the Crown.**

**1. Short title**

This Act may be cited as the *Crown Suits Act 1947*<sup>1</sup>.

[2. *Omitted under the Reprints Act 1984 s. 7(4)(f).*]

**3. Interpretation of “Crown”**

In this Act, the term “**Crown**” means the Crown in right of the Government of Western Australia.

**4. Application of this Act**

This Act shall apply to any cause of action which accrues after the commencement of this Act<sup>1</sup>.

**5. Crown to sue and be sued as subject**

- (1) Subject to this Act, the Crown may sue and be sued in any Court or otherwise competent jurisdiction in the same manner as a subject.
- (2) Every proceeding shall be taken by or against the Crown under the title “the State of Western Australia”.

[6. *Repealed by No. 20 of 2005 s. 8(1).*]

**7. Statutory rights preserved where already given**

Nothing in this Act shall affect —

- (a) the rights or liabilities of any corporate body or instrumentality of the Crown created by any Act of Parliament.
- (b) any right of action which is conferred on the subject by any Act of Parliament against any corporate body or instrumentality of the Crown or any official or person nominated as a defendant on behalf of the Crown;
- (c) any right or liability by law or custom established of Her Majesty's Attorney General to sue or be sued on behalf of the Crown.

**8. Joinder of the Crown in proceedings between subject and subject**

- (1) When in any action, use or proceeding between litigants in any civil Court in Western Australia in which the Crown is not a party it appears to the Court that the constitutional rights of the Crown may be directly or indirectly affected, or any question arises as to the constitutional validity of any Act of Parliament of the State, the Crown may obtain leave by its Attorney General to intervene, or the Court may order that the Crown be joined as a party.
- (2) Where any such question arises in any civil Court, except the Supreme Court, the Supreme Court or a judge thereof may, on the application of a party or of the Attorney General, remove the proceedings into the Supreme Court for trial and determination.
- (3) Every such intervention or joinder or removal shall be on such terms and conditions as the Court shall deem just.
- (4) In this section "**Act of Parliament**" includes an ordinance passed before the grant of responsible government to the State.

**9. Same process available to Crown and subject**

Subject to this Act, the same process shall be available both to the Crown and to the subject for the determination and enforcement of claims in Her Majesty's civil Courts.

**10. Method of recovering judgment against the Crown**

- (1) No execution or other process in the nature of execution shall be issued out of any Court against the Crown, but after any judgment has been given against the Crown the Registrar of the Supreme Court shall give to the party in whose favour the judgment is given a certificate of such judgment in the prescribed form and sealed with the seal of the Supreme Court.
- (2) On the receipt of such certificate the Governor shall cause to be charged to the Consolidated Fund the amount of such judgment and costs to the person entitled to recover the same.

*[Section 10 amended by No. 6 of 1993 s. 11; No. 49 of 1996 s. 64.]*

**11. Writs of extent and Ca. Sa. abolished**

The writ of extent and the writ of *capias ad satisfaciendum* shall no longer be available at the instance of the Crown for the recovery of debts and judgments and the same are hereby abolished.

**12. Rules of Court**

The Judges of the Supreme Court or any 2 of them may make rules governing practice or procedure which in their opinion requires to be specially prescribed for the purpose hereof, and subject thereto the Rules of the Supreme Court or of any competent Court in which an action is brought by or against the Crown shall apply as far as applicable to the practice and procedure to be observed in such action.

**Notes**

<sup>1</sup> This is a compilation of the *Crown Suits Act 1947* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

**Compilation table**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Crown Suits Act 1947</i>	11 of 1947	1 Nov 1947	1 Nov 1947
<i>Crown Suits Act Amendment Act 1954</i>	22 of 1954	7 Oct 1954	7 Oct 1954
<b>Reprint of the <i>Crown Suits Act 1947</i> approved 14 Apr 1971</b> (includes amendments listed above)			
<i>Acts Amendment (Asbestos Related Diseases) Act 1983 Pt. III</i>	84 of 1983	22 Dec 1983	19 Jan 1984 (see s. 2)
<i>Financial Administration Legislation Amendment Act 1993 s. 11</i>	6 of 1993	27 Aug 1993	1 Jul 1993 (see s. 2(1))
<i>Financial Legislation Amendment Act 1996 s. 64</i>	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<b>Reprint 2: The <i>Crown Suits Act 1947</i> as at 9 May 2003</b> (includes amendments listed above)			
<i>Acts Amendment and Repeal (Courts and Legal Practice) Act 2003 s. 90, 97<sup>3</sup></i>	65 of 2003	4 Dec 2003	1 Jan 2004 (see s. 2 and <i>Gazette</i> 30 Dec 2003 p. 5722)
<i>Limitation Legislation Amendment and Repeal Act 2005 Pt. 4<sup>4</sup></i>	20 of 2005	15 Nov 2005	15 Nov 2005 (see s. 2)

<sup>2</sup> The provision in this Act repealing that Act has been omitted under s. 7(4)(f) of the *Reprints Act 1984* from this reprint.

<sup>3</sup> The *Acts Amendment and Repeal (Courts and Legal Practice) Act 2003* s. 97 reads as follows:

“

**97. References to Crown Solicitor**

If in a written law or other document or instrument there is a reference to the Crown Solicitor that reference may, where the



context so requires, be read as if it had been amended to be a reference to the State Solicitor.

”.

<sup>4</sup> The *Limitation Legislation Amendment and Repeal Act 2005* s. 8(2) reads as follows:

“

**8. Section 6 repealed and a savings provision**

(2) The *Crown Suits Act 1947* section 6, as it was immediately before commencement day, continues to apply to causes of action that accrued before commencement day as if subsection (1) had not been enacted.

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