



Western Australia

## **Public Order in Streets Act 1984**



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## Public Order in Streets Act 1984

**An Act to regulate the holding of public meetings and processions in streets, to provide for the maintenance of order in streets, and for related purposes.**

*[Long title inserted by No. 70 of 2004 s. 75.]*

### 1. Short title

This Act may be cited as the *Public Order in Streets Act 1984*<sup>1</sup>.

*[Section 1 amended by No. 70 of 2004 s. 76.]*

### 2. Commencement

This Act shall come into operation on a day to be fixed by proclamation<sup>1</sup>.

### 3. Interpretation

In this Act, unless the contrary intention appears —

“**authorised officer**” means a police officer authorised pursuant to a determination published under section 6;

“**Commissioner**” means the Commissioner of Police appointed pursuant to the *Police Act 1892*;

“**notice**” means a notice duly given in accordance with the requirements of section 5;

“**permit**” means a permit granted pursuant to a notice;

“**section**” means a section of this Act;

“**street**” means any road or highway open to, or which although not open to is nevertheless used by, the public,

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notwithstanding that it is on private property, and includes every thoroughfare, carriageway, footpath, reservation, median strip or traffic island associated with it and any steps, doorways or entrances abutting it;

**“subsection”** means a subsection of the section in which the term appears;

**“thoroughfare”** includes any bridge, tunnel, under-pass, arcade, pavement, footpath, court, passage or other place to or through which access to or from a street is permitted to the public.

*[Section 3 amended by No. 55 of 2004 s. 987.]*

**4. Public meetings and processions**

(1) Subject to —

- (a) any directions given by a member of the Police Force under section 9A; and
- (b) the provisions of subsection (2),

where the holding of a public meeting or the conduct of a procession substantially conforms with the terms of the permit relating to it, a person participating in that public meeting or procession who observes such conditions and limitations as may be specified in the permit may position himself in, or proceed over, any street referred to in the permit and is not, by reason of any thing done or omitted to be done by him for the purpose only of his participating in that public meeting or procession, guilty of any offence against the provisions of any other Act or law regulating the movement of traffic or pedestrians, or relating to the obstruction of a street.

- (2) A permit granted pursuant to this Act shall be deemed to contain a condition requiring persons participating in the public meeting or procession to which it relates not to obstruct the free passage of any ambulance, fire brigade vehicle, or police vehicle, and where any person contravenes that condition the holding of the

public meeting or the conduct of the procession shall be taken not to have conformed with the permit.

- (3) For the purposes of this Act an assembly shall not be taken to be a public meeting —
- (a) unless —
    - (i) it comprises 3 or more persons;
    - (ii) it is held for the purpose of communicating or expressing any view to, or of ascertaining the view of, the public or any section of the public (whether or not an organization or body of persons having requirements for membership), or of demonstrating, as to any matter; and
    - (iii) members of the public in general are invited, induced or permitted to attend;
  - or
  - (b) if the assembly is convened solely for the purpose of divine worship.
- (4) For the purposes of this Act an assembly shall be taken to be a procession if —
- (a) it comprises 3 or more persons; and
  - (b) those persons are assembled with the intent of moving, or move, from the place of assembly by means of any street as, or substantially as, a body of persons in orderly succession proceeding by a common route.

*[Section 4 amended by No. 55 of 2004 s. 988 and 991; No. 70 of 2004 s. 77.]*

## **5. Notice of assembly**

- (1) A person who, or body which, proposes to —
- (a) hold a public meeting in a street;
  - (b) conduct a procession (not being a funeral procession) in, or which is to proceed through, any street; or

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- (c) both hold such a public meeting and conduct such a procession,

may give written notice to the Commissioner setting out the proposal and applying for the grant of a permit under this Act in respect of that proposed public meeting or procession, or, if the proposal is both to hold such a public meeting and conduct such a procession, in respect of both the proposed meeting and the procession.

- (2) A notice given for the purposes of subsection (1) setting out a proposal shall provide, with as much detail as is reasonably practicable, the following information —
  - (a) the date of the proposed public meeting or procession;
  - (b) the time at which the public meeting or procession will assemble and the time at which it will disband;
  - (c) the place in which the public meeting or procession will be held, and the boundaries of the area to be occupied by the public meeting;
  - (d) in the case of a procession, the route that it will follow, the extent to which it will occupy any street through which it will pass, the places (if any) at which it will halt and the time for which it will remain stationary in each such place;
  - (e) the name and address of the person or body by whom or which the notice is given;
  - (f) the name and address of the person or body by whom or which the public meeting or procession is being, or is to be, held or conducted;
  - (g) the purpose of the public meeting or procession;
  - (h) an estimate of the number of persons who will participate in the public meeting or procession; and
  - (j) particulars of such other matters as may be prescribed,and the notice may be given at any police station.
- (3) A notice for the purposes of subsection (1) —



- (a) shall be given not less than 4 days before the date of the proposed public meeting or procession, or within such shorter period as may be agreed by the Commissioner or an authorised officer; and
  - (b) may be required to be verified in a manner acceptable to the Commissioner or an authorised officer.
- (4) On receipt of a notice for the purposes of subsection (1) the Commissioner or an authorised officer shall act expeditiously to determine the application.

**6. Authorised officers**

- (1) The Commissioner may, by a determination short particulars of which are published for information in the *Government Gazette*, delegate the duties imposed and powers conferred upon him by this Act (other than this power of delegation) to any commissioned officer of the Police Force therein identified by office or other description, and any such authorised officer —
  - (a) shall be deemed to be —
    - (i) required to carry out the duties imposed on the Commissioner by; and
    - (ii) authorised to grant permits for the purposes of, this Act; and
  - (b) shall, subject to the conditions or limitations set out in that determination, exercise those functions on behalf of the Commissioner,  
  
in relation to the part of the State or circumstances specified in that determination, but any such delegation may be revoked or varied by the Commissioner by a further determination of which particulars are so published and does not prevent the performance of any function by the Commissioner.
- (2) For the purposes of subsection (1), it shall be sufficient if the particulars published in the *Government Gazette* set out the name, the office held by or other sufficient identification of the

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authorised officer and the part of the State or circumstances in which he is authorised to exercise the powers conferred by this Act, but it shall not be necessary to publish the conditions or limitations to which the determination is made subject.

- (3) For the purposes of this Act, the exercise of a power by an authorised officer under this section shall be deemed to be the exercise of the power by the Commissioner.
- (4) If, under this Act, the exercise of a power by the Commissioner is dependent on his opinion, belief or state of mind in relation to a matter and the power has been delegated under this section, the power may be exercised by an authorised officer to whom the power is delegated on the opinion, belief or state of mind of the authorised officer in relation to the matter.

**7. Permits**

- (1) The Commissioner or the authorised officer shall have regard to the information furnished in any notice and any other information available to him in relation to the proposed public meeting or procession and may —
  - (a) by a document furnished to the person or body giving that notice —
    - (i) grant a permit for the public meeting or procession; or
    - (ii) grant a permit for the public meeting or procession subject to the conditions or limitations specified in that permit;
  - or
  - (b) refuse to grant a permit for the public meeting or procession.
- (2) The Commissioner or an authorised officer shall not refuse to grant a permit for a public meeting or procession in respect of which notice has been given unless he has reasonable ground

for apprehending that the proposed public meeting or procession may —

- (a) occasion serious public disorder, or damage to public or private property;
- (b) create a public nuisance;
- (c) give rise in any street to an obstruction that is too great or too prolonged in the circumstances; or
- (d) place the safety of any person in jeopardy.

## 8. Reviews

- (1) Where a notice applying for the grant of a permit is given not less than 4 days before the date of the proposed meeting or procession and the person or body giving the notice —
  - (a) is refused a permit for the meeting or procession by the Commissioner or an authorised officer;
  - (b) is aggrieved by any condition or limitation specified in a permit granted in relation to the proposed meeting or procession; or
  - (c) believes that the application has been dealt with unreasonably, as described in subsection (2),

that person or body may apply to the State Administrative Tribunal for a review of the refusal of the permit, any condition or limitation specified in the permit, or how the application has been dealt with.

- (2) For the purposes of subsection (1) an application is dealt with unreasonably if —
  - (a) the application for the permit has not been granted and there is reason to apprehend that it may not be dealt with sufficiently expeditiously; or
  - (b) otherwise, there is good cause why it should be reviewed.

*[Section 8 amended by No. 55 of 2004 s. 989.]*

**9. Offences, and evidentiary provisions**

- (1) Where a person at, or in relation to, a public meeting held or a procession conducted pursuant to a permit —
- (a) acts in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting or procession assembled;
  - (b) obstructs the free passage of any ambulance, fire brigade vehicle or police vehicle or, otherwise than in the manner or to the extent authorised by the permit relating to that meeting or procession, impedes or disrupts the use by members of the public in general of any street; or
  - (c) incites other persons so to do,

he commits an offence.

Penalty: \$200.

- (2) Where, in any proceedings for an offence against subsection (1), it is alleged in the charge that —
- (a) a permit had been granted under this Act to a person or body named therein; or
  - (b) a public meeting was held or a procession was conducted pursuant to a permit,

it shall not be necessary for the prosecutor to prove the facts so alleged in the absence of evidence to the contrary.

- (3) Where, in any proceedings for an offence against any other Act or law regulating the movement of traffic or pedestrians or relating to the obstruction of a street, the accused satisfies the court that a public meeting was held or a procession was conducted pursuant to a permit purporting to relate to it, it shall be presumed, in the absence of evidence to the contrary, that —
- (a) no irregularity occurred in, or in relation to, the grant of the permit; and

- (b) the holding of the meeting or the conduct of the procession substantially conformed with the terms of the permit relating to it.

*[Section 9 amended by No. 55 of 2004 s. 990 and 991; No. 84 of 2004 s. 80 and 82.]*

**9A. Maintaining order in streets**

- (1) For the purposes of maintaining order in streets the Commissioner of Police may give instructions to any or all members of the Police Force as to —
  - (a) regulating traffic, whether pedestrian, vehicular, or of any other kind, in streets;
  - (b) preventing or removing obstructions to any such traffic in streets;
  - (c) maintaining order in streets.
- (2) Such an instruction is not to be given for the purpose of frustrating —
  - (a) the holding of a meeting, or the conduct of a procession, authorised under a permit granted under this Act; or
  - (b) the holding or conduct of an event on a road closed under an order made under Part VA of the *Road Traffic Act 1974*.
- (3) A member of the Police Force acting under such an instruction may give reasonable directions to any person for the purpose of giving effect to the instruction.
- (4) A person who, knowing of the existence of a direction given under subsection (3), does not comply with it commits an offence.

Penalty: \$2 000.

*[Section 9A inserted by No. 70 of 2004 s. 78.]*

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**10. Protection from liability**

No action or claim for damages shall lie against any person for or on account of anything done, or ordered or authorised to be done, by him which purports to be done for the purpose of carrying out the provisions of this Act, unless it is proved that the act was done, or ordered or authorised to be done, maliciously and without reasonable and probable cause.

**11. Regulations**

The Governor may make regulations as to any matters necessary or convenient to be prescribed for giving effect to the purposes of this Act.

*[12. Repealed by No. 70 of 2004 s. 79.]*

*[Schedule omitted under the Reprints Act 1984 s. 7(4)(e).]*

## Notes

- <sup>1</sup> This is a compilation of the *Public Order in Streets Act 1984* and includes the amendments made by the other written laws referred to in the following table <sup>1a</sup>. The table also contains information about any reprint.

### Compilation table

Short title	Number and year	Assent	Commencement
<i>Public Meetings and Processions Act 1984</i> <sup>2</sup>	23 of 1984	31 May 1984	1 Dec 1984 (see s. 2 and <i>Gazette</i> 30 Nov 1984 p. 3945)
<b>Reprint of the <i>Public Meetings and Processions Act 1984</i> as at 16 Aug 2002</b>			
<i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004</i> Pt. 2 Div. 109 Subdiv. 1 <sup>3</sup>	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
<i>Criminal Law Amendment (Simple Offences) Act 2004</i> Pt. 4	70 of 2004	8 Dec 2004	31 May 2005 (see s. 2 and <i>Gazette</i> 14 Jan 2005 p. 163)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004</i> s. 80 and 82	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))
<b>Reprint 2: The <i>Public Order in Streets Act 1984</i> as at 22 Jul 2005</b> (includes amendments listed above)			

- <sup>1a</sup> On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnote referred to in the table.

### Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
<i>Courts Legislation Amendment and Repeal Act 2004</i> s. 142 <sup>4</sup>	59 of 2004 (as amended by No. 2 of 2008 s. 77(13))	23 Nov 2004	To be proclaimed (see s. 2)

*Criminal Law and Evidence Amendment Act 2008* 2 of 2008 12 Mar 2008 To be proclaimed (see s. 2)  
s. 77(13)<sup>5</sup>

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<sup>2</sup> Now known as the *Public Order in Streets Act 1984*; short title changed (see note under s. 1).

<sup>3</sup> The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administrative Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.

<sup>4</sup> On the date as at which this compilation was prepared, the *Courts Legislation Amendment and Repeal Act 2004* s. 142, which gives effect to Sch. 2, had not come into operation. It reads as follows:

“

**142. Other amendments to various Acts**

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

”

Schedule 2 cl. 42 reads as follows:

“

**Schedule 2 — Other amendments to Acts**

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

s. 3	Delete the definition of “magistrate”. In the definition of “order” delete “a magistrate” and insert instead — “ the Magistrates Court ”.
s. 4(2)	Delete “a magistrate” and insert instead — “ the Magistrates Court ”.
s. 8(1)	Delete “the magistrate” and insert instead — “ the Magistrates Court ”. Delete “a magistrate” and insert instead — “ the Magistrates Court ”.
s. 8(2)	Delete “magistrate” and insert instead — “ Magistrates Court ”.
s. 8(3)	Delete “magistrate” and insert instead — “ Magistrates Court ”. Delete “he” and insert instead — “ it ”.



s. 8(4)	Delete “a magistrate” and insert instead — “ the Magistrates Court ”. Delete “that magistrate” and insert instead — “ the court ”.
s. 8(5)	After “this section” insert — “  shall be heard by the Magistrates Court constituted by a magistrate and  ”.
s. 8(6)	Delete “A magistrate” and insert instead — “ The Magistrates Court ”. Delete “he” and insert instead — “ it ”. Delete “a magistrate” and insert instead — “ the court ”. Delete “the magistrate” in the 2 places where it occurs and in each place insert instead — “ the court ”.
s. 8(7)	Delete “magistrate” and insert instead — “ Magistrates Court ”.

”.

The amendments it seeks to make cannot be done due to amendments and repeals to those sections by the *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* s. 987, 988 and 989.

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On the date as at which this compilation was prepared, the *Criminal Law and Evidence Amendment Act 2008* s. 77(13) had not come into operation. It reads as follows:

“

**77. Courts Legislation Amendment and Repeal Act 2004 amended**

- (1) The amendments in this section are to the *Courts Legislation Amendment and Repeal Act 2004*.
- (13) Schedule 2 clauses 1 to 42 and 44 to 51 are repealed.

”.