

WESTERN AUSTRALIA

**ACTS AMENDMENT (ASSEMBLIES
AND NOISE) ACT 1996**

No. 50 of 1996

**AN ACT to amend the *Health Act 1911* and the
Environmental Protection Act 1986.**

[Assented to 31 October 1996.]

The Parliament of Western Australia enacts as follows:

PART 2 — HEALTH ACT 1911

Principal Act

3. In this Part the *Health Act 1911** is referred to as the principal Act.

[* Reprinted as at 18 December 1990.
For subsequent amendments see 1995 Index to
Legislation of Western Australia, Table 1, pp. 97-9 and
Act No. 88 of 1994.]

Section 173 amended

4. Section 173 of the principal Act is amended in the definition of “public building” —

(a) in paragraph (a) by inserting after “building” in both places where it occurs the following —

“ or place ”; and

(b) in paragraph (b) by deleting “or platform” in both places where it occurs and inserting in both places the following —

“ , platform or other place ”.

Section 179 amended

5. (1) Section 179 (3) of the principal Act is amended —

(a) by deleting “If it appears to an authorized person that the number of persons in a public building, is such as to exceed the number specified in the certificate of

approval the authorized person may do any one or more of the following —” and substituting the following —

“

If it appears to an authorized person that —

- (aa) a person has opened or is using a public building in respect of which no valid certificate of approval has been issued;
- (bb) the number of persons in a public building exceeds the number specified in the relevant certificate of approval;
- (cc) there are reasonable grounds to believe that a public building is going to be used to accommodate a number of persons in excess of the number specified in the relevant certificate of approval;
or
- (dd) whether or not a valid certificate of approval is issued in respect of a public building, the public building is unsafe or is unsuitable for the use to which it is being put, or is about to be put,

then the authorized person may do any one or more of the following —

”;

and

- (b) in paragraph (d) (ii) by inserting after “refuse” the following —

“ to allow ”.

- (2) After section 179 (4) of the principal Act the following subsection is inserted —

“

(4a) A direction given under subsection (3) (d) (i) to close a public building remains in force until it is withdrawn by the written direction of an authorized person given to the occupier, owner or person in charge of the public building.

”.

- (3) Section 179 (5) of the principal Act is amended —

- (a) by deleting “or” after paragraph (c);
(b) by deleting the comma after paragraph (d) and substituting the following —

“ ; or ”; and

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

“

(e) publishes or disseminates material stating that an assembly is to be held, or inviting a person or persons to an assembly, in a public building contrary to action taken by an authorized person under subsection (3) with respect to the proposed assembly,

”.

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Schedule 5 amended

6. Schedule 5 to the principal Act is amended by deleting “Part VIII” and substituting the following —

“

Part VIII

Sections 178 (4) and 179 (5).

”.

PART 3 — ENVIRONMENTAL PROTECTION ACT 1986

Principal Act

7. In this Part the *Environmental Protection Act 1986** is referred to as the principal Act.

[* Reprinted as at 7 March 1996.]

Section 3 amended

8. Section 3 of the principal Act is amended by repealing subsection (3) and substituting the following subsection —

“

(3) For the purposes of this Act, noise is to be taken to be unreasonable if —

- (a) it is emitted, or the equipment emitting it is used, in contravention of —
 - (i) this Act;
 - (ii) any subsidiary legislation made under this Act; or
 - (iii) any requirement or permission (by whatever name called) made or given by or under this Act;
- (b) having regard to the nature and duration of the noise emissions, the frequency of similar noise emissions from the same source (or a source under the control of the same person or persons) and the time of day at which the noise is emitted, the noise

unreasonably interferes with the health, welfare, convenience, comfort or amenity of any person; or

- (c) it is prescribed to be unreasonable for the purposes of this Act.

”.

Section 81A inserted

9. After section 81 of the principal Act the following section is inserted —

“

Seizure of noisy equipment

81A. (1) Where an authorized person or a police officer —

- (a) has given a direction under section 81 (1) (a) in relation to any premises which has not been complied with; or
- (b) has reason to believe that although a direction could be given under section 81 (1) (a) in relation to any premises such a direction would not be complied with,

that person or officer may enter the premises and seize any equipment, or part of any equipment, which is or has been emitting, or contributing to the emission of, noise which the person or officer considers to be unreasonable.

(2) Any equipment seized under subsection (1) is to be delivered, not later than 7 days after the seizure, to a person who appears to an authorized person or police officer to be entitled to possession of it, but in the event of any doubt or dispute as to that

entitlement the equipment may be retained until the doubt or dispute is settled or determined.

(3) An authorized person or police officer who seizes any equipment under this section or a person who otherwise performs any function under this section in relation to equipment seized is not liable for any loss, damage or injury of or to the equipment unless it is shown that the person deliberately failed to take reasonable care of the equipment.

(4) The regulations may make provision as to the seizure and storage of equipment under this section and the manner in which it is to be dealt with.

”.

Section 82 amended

10. Section 82 of the principal Act is amended —

(a) in subsection (1) —

(i) by inserting after “person” in the first place where it occurs the following —

“ or police officer ”; and

(ii) by inserting after “section 81 (1)” the following —

“ or 81A ”;

and

(b) in subsection (1) (a) by inserting after “persons” the following —

“ or police officers ”.

Section 83 amended

11. Section 83 of the principal Act is amended by inserting after “authorized person” in each place where it occurs the following —

“ or police officer ”.

Section 114 amended

12. Section 114 of the principal Act is amended —

(a) in subsection (1) by inserting after “Subject to” the following —

“ subsection (3) and ”; and

(b) by inserting after subsection (2) the following subsection —

“

(3) A prosecution for an offence under section 81 (2), 82 (2), 83 or 93 may be instituted by a police officer.

”.