



Western Australia

Grand Jury Abolition Act Amendment Act 1883

As at 16 Jan 2004

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Reprinted under the
Reprints Act 1984 as at
16 January 2004

Western Australia

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Grand Jury Abolition Act Amendment Act 1883

An Act to consolidate and amend the laws providing for the abolition of Grand Juries, and for the summary discharge, in certain cases, of persons under committal for trial for felonies and misdemeanours.

Preamble

Whereas it is expedient to consolidate and amend the Ordinances of the 18th Vic. No. 5, and the 23rd Vic. No. 2, and to make further provision for the summary discharge, in certain cases, of persons under committal as aforesaid: Be it enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows: —

1. Short title

This Act may be cited as the *Grand Jury Abolition Act Amendment Act 1883*¹.

[Section 1 inserted by No. 74 of 2003 s. 136.]

2. Interpretation of terms

In the construction of this Act the words “**General Quarter Sessions**” shall mean the Courts established under the provisions of 9th Vic. No. 4².

3. Repeal of Acts

The Acts mentioned in the Schedule hereto are hereby repealed.

4. No Grand Jury to be summoned

A Grand Jury shall not be summoned for the Supreme Court of Western Australia, nor for any General Quarter Sessions for the said Colony.

[5-9. Repealed by 1 & 2 Edw. VII No. 14 s. 3.]

10. Attorney General and State Solicitor to be public prosecutors

The Attorney General and the State Solicitor, or either of them, or some other person duly appointed for that purpose, shall act as public prosecutors, and conduct all criminal trials held in the Supreme Court.

[Section 10 amended by No. 65 of 2003 s. 93.]

11. Procedure when Attorney General declines to file an information

When a person has been committed or held to bail as aforesaid to take his trial before the Supreme Court for any felony or misdemeanour, and the Attorney General shall, in the exercise of his discretion, decline to file an information against such person, the Attorney General shall forthwith grant a certificate under his hand in the form No. 2 in the Schedule, addressed to the Chief Justice of the Supreme Court, which shall be filed by the Registrar thereof with the records of the said Court; and if the said person has been committed to gaol pending his trial the Attorney General shall also, by warrant under his hand, in the form No. 3 in the Schedule, forthwith direct the Sheriff or gaoler in whose custody such person may be to discharge immediately such person from imprisonment, and every such Sheriff or gaoler shall forthwith discharge such person from custody; and if the said person is on bail the Registrar of the

Supreme Court shall, by writing under his hand, forthwith inform the person charged, and the persons who are bail for his appearance at the trial, that the Attorney General has declined to prosecute, and that the recognizances are discharged.

12. Procedure when Chairman of Quarter Sessions declines to file an information

If such person has been committed to take his trial before any Court of General Quarter Sessions, and the chairman of the said sessions shall in the exercise of his discretion decline to file an information against such person, the said chairman shall forthwith grant a certificate under his hand, in the form No. 4 in the Schedule, addressed to the Court of General Quarter Sessions of which he is chairman, and the said certificate shall be filed by the clerk of such Court amongst the records of the Court; and if the said person has been committed to gaol, and is in custody pending his trial, he shall also by warrant under his hand, in the form No. 5 in the Schedule, forthwith direct the Sheriff or gaoler in whose custody such person is to discharge immediately such person from custody, and every such Sheriff or gaoler shall immediately discharge such person from custody; and if such person is on bail, the clerk of the said Court shall, by writing under his hand, inform the person charged, and the persons who are bail for his appearance at the trial, that the said chairman has declined to prosecute, and that the recognizances are discharged.

13. Penalty if Sheriff or gaoler refuse to discharge prisoner

If any such Sheriff or gaoler, after receiving a warrant as aforesaid, shall refuse or neglect to discharge immediately such person from custody as aforesaid, he shall for every such refusal or neglect be guilty of a misdemeanor, and he shall be liable to forfeit and pay to the use of Her Majesty a fine or penalty of \$100, to be recovered by action in the Supreme Court in the name of Her Majesty's Attorney General.

[Section 13 amended by No. 113 of 1965 s. 8(1).]

s. 14

14. Information or trial in a district other than that mentioned in the Act not to be invalid

No information or trial or proceedings in connection therewith in any Court of General Quarter Sessions shall be held to be bad or invalid by reason of such information having been filed or such trial or proceedings having been held or taken in a district other than that in which the committing Justice or Justices reside or in which the offence charged was committed.

15. Commencement

This Act shall commence and take effect from and after 1 November 1883.

Schedule of this Act

18 Vic., No. 5. — ‘An Act to abolish Grand Juries, and to substitute other provisions in lieu thereof.’

23 Vic., No. 2. — ‘An Ordinance to provide for the Summary Discharge, in certain cases, of Persons under Committal for Felony and Misdemeanor.’

Form No. 1

In the Supreme Court Western Australia.

Be it remembered that the Honourable (*name of Attorney General*) Attorney General of our Sovereign Lady the Queen, who for our said Lady the Queen prosecutes in this behalf, in his proper person comes into the Supreme Court of our said Lady the Queen, at Perth, in the Colony aforesaid, on the day of in the year of our Lord 20 ; and for our said Lady the Queen gives the Court here to understand and be informed that (*here state the offence charged as in an indictment*).

In the Court of General Quarter Sessions of (*name of district*) Western Australia.

Be it remembered that (*name of Chairman*) the Chairman of the General Quarter Sessions of the Peace held at (*name of place*) in his proper person comes into the said Court at (*name of place*) in the Colony aforesaid, on the day of in the year of our Lord 20 , and gives the Court here to understand and be informed that (*name of prisoner*) is charged for that (*here state the offence charged as in an indictment*).

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Schedule of this Act

Form No. 2

To _____, Esquire, Chief Justice of the Supreme Court of Western Australia.

This is to certify that I decline to file any information against (*name of person charged*), on a charge of (*here state what the charge is*).

Given under my hand this _____ day of _____, 20 ____.

Attorney General.

Form No. 3

To _____, Esquire, Sheriff of the Colony of Western Australia (*or to A.B. the Gaoler of _____ as the case may be*).

Whereas _____ detained in your custody under a Warrant of _____ Esquire, Justice of the Peace, upon a charge of _____; And whereas I have declined to file any information against the said _____ for the said offence; You are hereby authorised and required forthwith to discharge the said _____ from your custody upon the said Warrant.

Given under my hand this _____ day of _____, 20 ____.

Attorney General.

Form No. 4

To the Court of General Quarter Sessions of _____

This is to certify that I decline to file any information against (*name of person charged*) on a charge of (*here state what the charge is*).

Given under my hand this _____ day of _____, 20 ____.

(Name) Chairman of General Quarter Sessions.

Form No. 5

To the Gaoler of

Whereas detained in your custody under the warrant of Justice of the Peace, upon a charge of ; And whereas I have declined to file any information against the said for the said offence; You are therefore hereby authorised and required forthwith to discharge the said from your custody upon the said warrant.

Given under my hand this day of 20 .

Chairman of General Quarter Sessions.

Notes

¹ This reprint is a compilation as at 16 January 2004 of the *Grand Jury Abolition Act Amendment Act 1883* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint³.

Compilation table

Short title	Number and year	Assent	Commencement
<i>The Grand Jury Abolition Act Amendment Act 1883</i> ⁴	47 Vict., No. 6 (1883)	8 Sep 1883	1 Nov 1883 (see s. 15)
<i>Criminal Code Act 1902</i> s. 3	1 & 2 Edw. VII, No. 14	19 Feb 1902	19 Feb 1902
<i>Decimal Currency Act 1965</i>	113 of 1965	21 Dec 1965	s. 4-9: 14 Feb 1966 (see s. 2(2)); balance: 21 Dec 1965 (see s. 2(1))
<i>Acts Amendment and Repeal (Courts and Legal Practice) Act 2003</i> s. 93	65 of 2003	4 Dec 2003	1 Jan 2004 (see s. 2 and <i>Gazette</i> 30 Dec 2003 p. 5722)
<i>Statutes (Repeals and Minor Amendments) Act 2003</i> s. 136	74 of 2003	15 Dec 2003	15 Dec 2003 (see s. 2)

Reprint 1: The *Grand Jury Abolition Act Amendment Act 1883* as at 16 Jan 2004
(includes amendments listed above)

² 9 Vict. No. 4. An Ordinance to make provision for the trial of criminal offences at Albany and other remote districts of the Colony of Western Australia. Repealed by Act No. 24 of 1921.

³ This Act was affected by *The Grand Jury Abolition Act Amendment Act 1893* (57 Vict. No. 6) which was repealed by the *Criminal Code Act 1902* s. 3 and Sch. 3.

⁴ Now known as the *Grand Jury Abolition Act Amendment Act 1883*; short title changed (see note under s. 1).