

Aboriginal Intestate Estates Legislation Amendment Bill 2012

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Western Australia

LEGISLATIVE ASSEMBLY

(Introduced by Mr Ben Wyatt MLA)

**Aboriginal Intestate Estates Legislation
Amendment Bill 2012**

A Bill for

***An Act to amend the *Aboriginal Affairs Planning Authority Act 1972*,
the *Administration Act 1903*, the *Unclaimed Money Act 1990* and the
Aboriginal Affairs Planning Authority Act Regulations 1972.***

The Parliament of Western Australia enacts as follows:

1

Part 1 — Preliminary

2

1. Short title

3

This is the *Aboriginal Intestate Estates Legislation Amendment Act 2012*.

4

5

2. Commencement

6

This Act comes into operation as follows —

7

(a) Part 1 — on the day on which this Act receives the Royal Assent;

8

9

(b) the rest of the Act — on the day after that day.

**Part 2 — *Aboriginal Affairs Planning Authority*
Act 1972 amended**

3. Act amended

This Part amends the *Aboriginal Affairs Planning Authority Act 1972*.

4. Part IV heading amended

In the heading to Part IV delete “**Estates and**” and insert:

Undelivered

5. Sections 33, 34 and 35 deleted

Delete sections 33, 34 and 35.

6. Section 36 amended

In section 36(1) after “will” insert:

or the administrator of the estate

Note: The heading to amended section 36 is to read:

**Certain property of deceased or missing Aboriginal persons to be
given to executor, administrator or Public Trustee**

7. Section 37 amended

In section 37 delete “this Part,” and insert:

any law,

8. Part VII inserted

After section 51 insert:

Part VII — Savings and transitional provisions

**Division 1 — Savings provisions arising from the
enactment of the *Aboriginal Intestate Estates Legislation
Amendment Act 2012***

52. Terms used

In this Division —

commencement day means the day after the day on
which the *Aboriginal Intestate Estates Legislation
Amendment Act 2012* receives the Royal Assent;

the amendments means the amendments made to this
Act and the *Aboriginal Affairs Planning Authority Act
Regulations 1972* by the *Aboriginal Intestate Estates
Legislation Amendment Act 2012*.

**53. Estates of persons who died before commencement
day not affected**

The estate of a person who died before commencement
day must be distributed or otherwise dealt with as if the
amendments had not been made.

1 **Part 3 — *Administration Act 1903* amended**

2 **9. Act amended**

3 This Part amends the *Administration Act 1903*.

4 **10. Section 3 amended**

5 In section 3 insert in alphabetical order:

6
7 *Aboriginal person* means a person of Aboriginal
8 descent, as defined in the *Aboriginal Affairs Planning*
9 *Authority Act 1972* section 4;
10

11 **11. Section 4A inserted**

12 At the end of Part I insert:

14 **4A. Relatives of Aboriginal persons under customary**
15 **law**

16 (1) For the purposes of this Act, a reference to a person's
17 husband, wife, child or any other relative includes, in
18 the case of an Aboriginal person, a person regarded
19 under the customary law or tradition of the person's
20 community as the equivalent of that relative.

21 (2) Subsection (1) applies in relation to the intestate estate
22 of an Aboriginal person who dies on or after, but not
23 before, commencement day.

24 (3) In subsection (2) —

25 *commencement day* means the day after the day on
26 which the *Aboriginal Intestate Estates Legislation*
27 *Amendment Act 2012* receives the Royal Assent.
28

1 **Part 4 — *Unclaimed Money Act 1990* amended**

2 **12. Act amended**

3 This Part amends the *Unclaimed Money Act 1990*.

4 **13. Section 9 amended**

5 (1) In section 9(1) delete paragraph (a) and insert:

6

7 (a) becomes money that may, if the Aboriginal
8 Affairs Planning Authority so agrees, be vested
9 in the Authority by force of the *Aboriginal*
10 *Affairs Planning Authority Act 1972* section 37
11 but has not so vested at the end of the 3 year
12 period commencing at the time the money
13 could have so vested under that section; or

14

15 (2) In section 9(1) after each of paragraphs (b) to (ja) insert:

16

17 or

18

1 **Part 5 — *Aboriginal Affairs Planning Authority Act***
2 ***Regulations 1972* amended**

3 **14. Regulations amended**

4 This Part amends the *Aboriginal Affairs Planning Authority Act*
5 *Regulations 1972*.

6 **15. Regulation 9 deleted**

7 Delete regulation 9.

8 **16. Schedule amended**

9 In the Schedule delete Form 3.

10 **17. Power to amend or repeal *Aboriginal Affairs Planning***
11 ***Authority Act Regulations 1972* unaffected**

12 The amendment of the *Aboriginal Affairs Planning Authority*
13 *Act Regulations 1972* by this Part does not prevent those
14 regulations from being amended or repealed by subsequent
15 regulations.

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