

Obsolete Legislation Repeal Bill 2015
Explanatory Memorandum

Overview of the Bill

The Obsolete Legislation Repeal Bill 2015 repeals various obsolete statutes, including some Imperial Acts, in so far as they are part of the law of Western Australia.

PART 1 PRELIMINARY

Clause 1 Short title

Provides for this Act to be known as the Obsolete Legislation Repeal Act 2015.

Clause 2 Commencement

Provides for the Act to come into operation on the day after the date of Royal Assent.

PART 2 REPEAL OF WA ACTS

Clause 3 Repeal of the *Business Licensing Amendment Act 1995*

Repeals the *Business Licensing Amendment Act 1995*. Parts 2 and 3 of this Act have never been proclaimed. These parts provide for longer licensing periods for auctioneers and debt collectors. The provisions that were in these parts will now be implemented by the *Licensing Provisions Amendment Act 2015*. The balance of the Act was proclaimed and implemented, allowing for this Act to now be repealed.

Clause 4 Repeal of the *Fire and Emergency Services Authority of Western Australia (Consequential Provisions) Act 1998*

Repeals the *Fire and Emergency Services Authority of Western Australia (Consequential Provisions) Act 1998*. This Act amended the *Bush Fires Act 1954* and *Fire Brigades Act 1942*, and various other Acts as a consequence of the enactment of the *Fire and Emergency Services Authority of Western Australia Act 1998*. This Act has completed its stated purpose and can be cleared off the statutes book.

Clause 5 Repeal of the *Housing Societies Repeal Act 2005*

Repeals the *Housing Societies Repeal Act 2005*. This Act provided for the winding up of housing societies, repealing the *Housing Societies Act 1976* and the *Housing Loan Guarantee Act 1957*. All operative provisions of the Act have taken effect and the Act is considered spent, and can be repealed.

Clause 6 Repeal of the *Sunday Entertainments Act 1979*

Repeals the *Sunday Entertainments Act 1979*. This Act restricts public entertainment on Sundays, Christmas Day and Good Friday. This Act is no longer considered relevant in the current Western Australian context, and can be repealed.

PART 3

REPEAL OF IMPERIAL ACTS

Clause 7

Imperial Acts repealed

- (i) Repeals the following Imperial Acts:

Bills of Exchange (day for payment) Act (1836)

This Act declares the law as to the day on which Bills of Exchange that have been dishonoured can be presented for payment. This Act can now be repealed as it has been superseded by the *Bills of Exchange Act 1909 (Cth)*.

Bills of Exchange (non-payment) Act (1832)

This Act regulates the protesting for non-payment of Bills of Exchange drawn payable at a place not being a place of the residence of the drawee. This Act can now be repealed as it has been superseded by the *Bills of Exchange Act 1909 (Cth)*.

Debts Recovery Act 1830 and Debts Recovery Act 1839

These two Acts consolidate and amend the laws for facilitating the payment of debts out of real estate. The introduction of the Torrens systems of indefeasible title, as well as the existence of other current legislation dealing with property law, probate, wills and administration, mean that it is unlikely these two Acts have any more current relevance in Western Australia. Therefore, both can be repealed.

Executors Act 1830

The purpose of this Act is to allow for the disposal of the undisposed residues of the effects of testators. This subject matter is adequately covered by section 13(2) and 13(3) of the *Administration Act 1903 (WA)*. Those sections confirm that an executor of an estate may not take beneficially any residue of the estate not expressly disposed of by the will, unless it appears by the will that the executor is intended to take that residue. Therefore, as the matter is covered by more modern legislation, the Act can be repealed.

Infants' Property Act 1830

This Act provides for consolidating and amending the laws relating to Property belonging to Infants, Females Covert, Idiots, Lunatics and Persons of Unsound Mind. This Act is now considered obsolete, and is therefore suitable for repeal.

- (ii) Provides that Part V of the *Interpretation Act 1984* will apply to the repeal of an Imperial Act in the same way it applies to the repeal of any written law or enactment.