

GOVERNMENT DEPARTMENTS AND AGENCIES, RIGHT OF ENTRY TO PRIVATE PROPERTY,  
STATUTES

2036. Mr M.G. House to the Attorney General; Minister for Health; Electoral Affairs

- (1) Will the Attorney General provide the details of the statutes under his ministerial portfolio that allow officers of the department, agencies or persons appointed by them to enter private property -
  - (a) with a warrant; and
  - (b) without a warrant?
- (2) Will the Attorney General detail the circumstances under which such entry may be exercised?
- (3) Will the Attorney General advise whether there is a difference with regard to such entry between -
  - (a) a private residential property; and
  - (b) other private property?

Mr J.A. McGINTY replied:

DEPARTMENT OF HEALTH

See attached document. [See paper No 1911.]

DEPARTMENT OF JUSTICE

- (1) (a) On basis that “private property” includes all of the grounds and out buildings, but not the dwelling, which is accorded special status, the following statutes allow officers of the department to enter private property with a warrant:

Supreme Court Act 1935 (WA), District Court of Western Australia Act 1969 (WA) and Local Courts Act 1904 (WA).

  - (b) The same statutes as outlined in (a).
- (2) For the service and execution of court processes.
- (3) No. However a private dwelling has a special status.

DIRECTOR OF PUBLIC PROSECUTIONS

1-3 Not applicable.

EQUAL OPPORTUNITY COMMISSION

1-3 Not applicable.

LEGAL AID WA

1-3 Not applicable.

OFFICE OF THE INFORMATION COMMISSIONER

1-3 Not applicable.

W.A. ELECTORAL COMMISSION

Electoral Act 1907

1. Section 175W details investigative powers in relation to the disclosure of gifts, income and expenditure by candidates, groups and parties. An authorised person may serve notice requiring the production of documents and requiring attendance to give evidence in relation to possible contravention of the offence provisions set out in section 175U.
2. Section 175W(8), (9), (10), (11), (12) and (13) sets out the authority of a police officer to apply to a judge for a warrant to enter property, to search for evidence and to seize documents in relation to a possible contravention of section 175U.
3. The legislation does not distinguish between private residential property and other private property in relation to these provisions.

Local Government Act 1995

1. While this statute is not under the control of the Minister for Electoral Affairs, the Electoral Commissioner is authorised under section 4.96 to investigate whether misconduct, malpractice or maladministration has occurred in relation to elections under this Act.
2. The Electoral Commissioner’s powers in this regard are then set out in Part 8, Division 1 of the Act. This includes the power to enter property under section 8.6, either where the owner has consented or

does not object, or alternatively where the entry is authorised by the warrant of a justice under section 8.8.

3. The legislation does not distinguish between private residential property and other property in relation to these provisions.