

Western Australia

LEGISLATIVE COUNCIL

**Acts Amendment (Criminal Procedure)
Bill 1998**

A Bill for

An Act to amend —

- *The Criminal Code*; and
 - *the Justices Act 1902*,
- and various other Acts as a consequence.

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Acts Amendment (Criminal Procedure) Act 1998*.

5 **2. Commencement**

This Act comes into operation on such day as is fixed by proclamation.

Part 2 — *The Criminal Code*

3. Section 133A inserted

After section 133 of *The Criminal Code** the following section is inserted —

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“

133A. Making false complaint

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Any person who knowingly makes or swears a complaint under the *Justices Act 1902* which, in any material particular, is to his knowledge false, is guilty of a crime and is liable to imprisonment for 7 years.

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[* Reprinted as at 21 April 1997 as the Schedule to the *Criminal Code Act 1913* appearing in Appendix B to the *Criminal Code Compilation Act 1913*.

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For subsequent amendments see *1997 Index to Legislation of Western Australia, Table 1, p. 58, and Acts Nos 15, 29 and 38 of 1998.*]

Part 3 — Justices Act 1902

4. The Act amended by this Part

The amendments in this Part are to the *Justices Act 1902**.

[* *Reprinted as at 4 June 1997.*

5 *For subsequent amendments see 1997 Index to Legislation of
 Western Australia, Table 1, p. 122 and Act No. 29 of 1998.]*

5. Section 54 amended

Section 54(d)(ii) is amended by deleting “and 136” and
inserting instead —

10 “ , 136 and 136AA ”.

6. Section 135 amended

- (1) Section 135(2) is repealed.
- (2) Section 135(2a) is repealed.

7. Section 136AA inserted

15 After section 136 the following section is inserted —

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136AA. Absence of defendant: court may convict

(1) If —

- 20 (a) a complaint has been made or sworn by a
 person who is a public officer acting in the
 course of the officer’s duties; and

(b) the court, under section 135(1)(a), 135(1a)(a) or 136(5)(b)(i), proceeds to hear and determine the complaint in the absence of the defendant,

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the court in doing so may take as proved any allegation in the summons served on the defendant in relation to the complaint.

(2) For the purposes of this section, if a complaint is made or sworn by a person who in the complaint purports to be a public officer, it shall be presumed, in the absence of evidence to the contrary —

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(a) that the person is such an officer;

(b) that the complaint was made or sworn by the person acting in the course of his or her duties as such an officer; and

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(c) that the person had the authority to make or swear the complaint.

(3) In this section —

“**public officer**” has the same definition as in section 1 of *The Criminal Code*.

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Part 4 — Other Acts amended

8. *Explosives and Dangerous Goods Act 1961*

Sections 61A and 61B of the *Explosives and Dangerous Goods Act 1961* are repealed.

5 **9. *Taxi Act 1994***

Sections 34 and 35 of the *Taxi Act 1994* are repealed.

10. *Transport Co-ordination Act 1966*

Sections 56A and 56B of the *Transport Co-ordination Act 1966* are repealed.

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