



Guideline for agencies – Statutes (Repeals and Minor Amendments) Bills

Purpose of Statutes (Repeals and Minor Amendments) Bills

Statutes (Repeals and Minor Amendments) Bills are a means of making a number of minor amendments and repeals that **do not affect the substance of the law**. Such Bills are prepared as an 'Omnibus Bill' as they cover a number of unrelated matters. They reduce the number of Bills that would otherwise be needed to make non-controversial amendments and repeals, and therefore save Parliamentary time. The repeals process also helps keep the Statute Book up to date so as to avoid any public misunderstanding on what laws are still in operation.

The Department of Justice is responsible for the coordination, preparation and introduction into Parliament of these cross-portfolio Bills.

Selection of candidates for amendment or repeal

Suitable

In general, the types of matters that may be suitable for inclusion include:

- The repeal of obsolete legislation;
- Where not otherwise able to be dealt with under the *Legislation Act 2021* Part 3 (see below)-
 - The correction of typographical, grammatical and other minor errors of presentation;
 - Amendments to update names, titles, entities, designations etc.

Matters are included for repeal on the basis that they are no longer of practical utility, or they no longer have any legal effect, because they are spent, unnecessary or obsolete. However, a provision that still has legal effect may be included because the purpose for which it was enacted either no longer exists or is being met by some other means.

Provisions commonly included in Omnibus Bills are as follows:

- References to bodies or organisations that have been dissolved, replaced, wound up or which have otherwise ceased to serve any purpose;
- References to Acts that have been superseded;
- References to statutory provisions (i.e. sections, schedules etc.) that have been repealed;
- Repealing provisions;
- Transitional or savings provisions that are spent.

Some common inclusions may no longer be necessary due to the operation of Part 3 of the *Legislation Act 2021*. See below.

Not suitable

Omnibus Bills are not to be used to implement a change in Government policy or deal with an issue that may be legally or otherwise controversial.

A matter will not be included in an Omnibus Bill if it:

- Affects any existing right, obligation, power, or duty; or
- Changes any process provided for in legislation; or
- Involves the insertion of multiple new sections into an Act.

Of primary importance as to whether a matter will be suitable is whether it will affect the substance of, or impact the operation of, the law.

Steps to get a matter included in an Omnibus Bill

1. Proposal	Email the Department of Justice at repeals@justice.wa.gov.au with a proposed repeal or minor amendment, including all relevant information.
2. Suitability	The Department of Justice will provide a preliminary view, in consultation with Parliamentary Counsel's Office (PCO) where required, as to whether a matter is suitable for inclusion in an Omnibus Bill. ¹
3. Ministerial approval	The agency proposing the amendment or repeal is to seek approval from the relevant Minister to have the matter included in an Omnibus Bill.
4. Submission	Ministerial approval is to be sent to the Department of Justice with all relevant supporting information.
5. Drafting/ passage	The Department of Justice liaises with the agency's contact officer during drafting of the Bill and to prepare explanatory notes for the Bill's passage through Parliament.

Supplementary advice – Omnibus Bill process

1. Proposal	It is sometimes difficult for the Department of Justice or PCO to ascertain whether a provision is suitable for amendment or repeal without an agency's 'corporate knowledge'. Therefore, when seeking to have a matter included in an Omnibus Bill, an agency ought to provide sufficient detail and justification as to why the matter is suitable for inclusion in an Omnibus Bill and the rationale for repeal or amendment. Additionally, any supporting documents will be of assistance when scrutinising a matter, such as correspondence, agency briefings, and legal advice obtained from the State Solicitor's Office (SSO) in relation to the matter.
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¹ PCO may decide to use their editorial powers to correct minor errors and inconsistencies in legislation pursuant to the *Legislation Act 2021*.

2. Suitability	The Department of Justice may consult with PCO when scrutinising matters, and where necessary may direct an agency to seek legal advice from SSO. Legislation Act 2021 editorial power or Omnibus Bill? Part 3 of the <i>Legislation Act 2021</i> gives PCO wider editorial powers, including powers to correct minor errors and inconsistencies in legislation. However, these editorial powers cannot be exercised if they would change the effect of the law. This means that PCO will exercise the editorial powers conservatively. Where PCO decides not to exercise the editorial powers, it may be possible for the matter to be dealt with in an Omnibus Bill. If it is considered that the amendment or repeal cannot be dealt with by way of an editorial power and is not suitable for inclusion in an Omnibus Bill, another legislative vehicle for the amendment or repeal will need to be used. This is most likely to be a Bill amending the relevant principal Act, whether substantively or consequentially. PCO will record the need for the amendment or repeal in its job tracking database and raise the matter when instructions to amend the principal Act are next received.
3. Ministerial approval	If a matter is suitable for repeal or amendment, the Department of Justice will request an agency to seek Ministerial approval to have the matter dealt with in an Omnibus Bill.
4. Submission	The Ministerial approval and drafting instructions are to be provided to the Department of Justice. If not already provided, please include any supporting documentation along with the Ministerial approval. The drafting instructions must include the name and contact details of the person in the agency with whom the Department of Justice and PCO can liaise in relation to the amendment or repeal.
5. Drafting/ passage	PCO may liaise with the agency's contact officer during the drafting of the amendment or repeal. It is the responsibility of the agency's contact officer to prepare material to assist in the passage of the Omnibus Bill through Parliament, such as the clause notes for the Explanatory Memorandum and any potential question and answers concerning the matters for repeal or amendment. Despite a matter being considered suitable for repeal and being subsequently approved by a Minister for inclusion in an Omnibus Bill, the final decision as to whether a matter is included rests with the Attorney General and Cabinet.

Standing Committee on Uniform Legislation and Statutes Review (Committee)

All Omnibus Bills are introduced into the Legislative Council and referred to the Standing Committee on Uniform Legislation and Statutes Review. When the Committee scrutinises an Omnibus Bill, it may query the suitability of certain provisions, and these questions are then put to the Department of Justice. Under these circumstances the Department of Justice will liaise with the relevant agency for more information in preparing a response to the Committee.

The Committee from time to time also conducts its own inquiries into, and reports on, the form and content of the Statute Book. In this regard, agencies must liaise with the Department of Justice to ensure a whole of government response is provided to the Committee's inquiries.

When will an Omnibus Bill be introduced?

The intention is that an Omnibus Bill will be introduced annually. However, the introduction of Omnibus Bills is dependent on parliamentary priorities and the resources of the Department of Justice and PCO.