

Legal Capacity of Minors

Terms of Reference

In 1971, the Committee was asked to consider the recommendations outlined in the New South Wales Law Reform Commission's *Report on Infancy in Relation to Contracts and Property* ("the NSWLRC report") as they relate to the laws of Western Australia, and to make recommendations in relation thereto.

Background of Reference

The NSWLRC report recommended that the age of majority be lowered to 18 years, and that the law applicable to those below that age in respect of contracts and property transactions be codified. As the Western Australian Government had previously announced its intention to lower the age of majority to 18 years, the Committee confined its attention to considering:

- (a) the changes to be made in the law in Western Australia to give effect to the Government's intention; and
- (b) the desirability of enacting a code governing the legal capacity of persons below the age of 18 years.

The Committee released a working paper in January 1972 that discussed these issues. Following the release of the paper the Committee determined that the issues were discrete and that reform of the law in these areas should proceed separately. The Committee therefore divided the reference into two parts: Part I was confined to issues relating to the lowering of the age of majority to 18 years such as, civic rights and responsibilities, age qualification for entry into certain occupations and terms and conditions of employment. Part II dealt specifically with the law relating to minors' contracts.

Nature and Extent of Consultation

The working paper was widely distributed and submissions were received from a cross-section of society, including judges of the Supreme Court, the Child Welfare Department, the Citizens' Advice Bureau (WA) and other professional groups. Following consideration of the submissions, the Committee published its final report in April 1972.¹

Recommendations

The Committee supported the Government's policy decision to lower the age of majority from 21 years to 18 years. The Committee further recommended that:

- Legislation should be introduced:
 - (a) giving general legal capacity to persons in the 18 to 21 year age group;
 - (b) lowering to 18 years the minimum age for membership of state Parliament, voting at local body elections, membership of local bodies, taking declarations and witnessing land transfer documents;
 - (c) lowering to 18 years the minimum age for entry into certain occupations and removing any age requirement from the qualifications for entry into other occupations;
 - (d) providing that a person attains a particular age at the commencement of the day of the anniversary of their birth;
 - (e) replacing the word "infant" where it occurs in legislation by the word "minor."
- No change should be made to s 11 of the *Married Persons and Children (Summary Relief) Act 1965* (WA) or to ss 6 or 57(2) of the *Superannuation and Family Benefits Act 1938* (WA).

¹ Law Reform Committee of Western Australia, *Legal Capacity of Minors*, Project No 25(I) (1972).

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The Committee declined to make recommendations relating to the terms and conditions of employment and matters relating to ss 39 and 49 of the *Child Welfare Act 1947* (WA) and s 19(6)(a)–(b) of the *Criminal Code 1913* (WA), which gave special protection to young persons. A comprehensive discussion of the Committee's recommendations may be found at pages 11–12 of its final report.

Legislative or Other Action Undertaken

The *Age of Majority Act 1972* (WA) gave full effect to the Committee's recommendations.²

² Western Australia, *Parliamentary Debates*, Legislative Assembly, 10 May 1972, 1478 (Mr T D Evans, Attorney-General); Western Australia, *Parliamentary Debates*, Legislative Council 31 May 1972, 1752 (Mr C Court, Leader of the Opposition).