

Western Australia

**Metropolitan (Perth)
Passenger Transport Trust
Act 1957**

Reprinted as at 27 July 1999

Western Australia

Metropolitan (Perth) Passenger Transport Trust Act 1957

CONTENTS

Part I — Preliminary

1.	Short title and citation	1
2.	Commencement	1
4.	Interpretation	2

Part II — Metropolitan (Perth) Passenger Transport Trust

5.	The Trust	3
6.	Name	3
7.	Membership of the Trust	3
8.	Tenure of office	3
8A.	Vacation of office	4
9.	Deputies	5
13.	Member not an officer of the Public Service	5
14.	Suspension and removal of members of the Trust	6
15.	Gazettal of appointments of members	7
16.	Convening of meetings	7
17.	Quorum	8
18.	Determination of questions by the Trust	8
19.	Vacancy in, or defect in appointment to office, no ground for invalidity	8
20.	Conduct of Trust's proceedings	9
21.	Delegation	9
22.	Exemption from personal liability	9

**Part III — Functions and powers of
the Trust**

Division 1 — General provisions

- | | | |
|-----|------------------------|----|
| 23. | Functions of the Trust | 10 |
| 24. | Metropolitan area | 10 |

Division 2 — Powers of the Trust generally

- | | | |
|-----|-------------------------------|----|
| 25. | Powers generally of the Trust | 10 |
|-----|-------------------------------|----|

Division 9 — Staff of Trust

- | | | |
|-----|--------------------------------|----|
| 42. | Power of Trust to engage staff | 13 |
|-----|--------------------------------|----|

Part IV — Finance and accounts

- | | | |
|-----|--|----|
| 43. | Interpretation | 15 |
| 44. | Funds | 15 |
| 45. | Treasury advances | 17 |
| 46. | Power of Trust to borrow money on issue of
debentures or inscribed stock | 18 |
| 47. | Power to borrow to pay off loan | 19 |
| 48. | Moneys borrowed to be a charge on Trust's revenues
and guaranteed by the State | 20 |
| 49. | Application of provisions of the Schedule to
debentures and inscribed stock | 20 |
| 50. | Power for trustees to invest in Trust's debentures or
inscribed stock | 21 |
| 51. | Contributions by Trust of interest and instalments to
sinking fund towards General Loan and Capital Works
Fund commitments | 21 |
| 52. | Payment of interest by trust on loans made out of the
Public Account | 22 |
| 53. | Charges for use of Government property and service | 23 |
| 54. | Temporary investment of moneys | 23 |
| 55. | Profit and loss | 24 |
| 56. | Application of <i>Financial Administration and Audit
Act 1985</i> | 24 |
| 58. | Reserve accounts | 24 |

Part V — Miscellaneous

Division 1 — Legal proceedings by and against the Trust

64.	Interpretation	25
65.	Service of notice of legal proceedings	25
66.	Authentication of documents	25
67.	Proceedings in bankruptcy	25
68.	Trust not to prove in bankruptcy unless security insufficient	25
69.	Trust may direct prosecutions	26
70.	Presumption of proof of certain formalities	27
71.	Evidence of exercise of authority	27
72.	Evidence of minutes	28

Division 2 — Supplementary provisions

73.	Power of entry	29
74.	Obstruction	29
75.	Duty of members of Police Force to report breaches of the Act	29
75A.	Goods left by unknown owner may be sold	30

Division 3 — Penalties

76.	Offences generally	31
77.	General Penalty	31
78.	Recovery of penalties	31

Division 3A — Infringement notices

78A.	Interpretation	32
78B.	Infringement notice	32
78C.	Authorized persons	33

Division 4 — Ministerial directions, provision of information

79.	Minister may give directions	34
79A.	Minister to have access to information	34

Division 5 — Regulations

80.	Power to make regulations	35
-----	---------------------------	----

Schedule

Part I — Debentures and inscribed stock

1.	Interest	38
----	----------	----

Contents

2.	When interest payable	38
3.	Debentures and stock inter-changeable	38
4.	Brokerage	39
5.	Sinking Fund	39
6.	Notice of Trust not receivable	39
7.	Owners of securities not responsible for application of moneys	39

Part II — Debentures

1.	Form of debenture	40
2.	Debentures —	40
3.	Pass by delivery	40
4.	Rights of bearer	40
5.	Payment of interest	40
6.	Register of debentures	40
7.	Provision for lost debentures	41
8.	Provision for defaced debentures	42
9.	Discharged debentures to be destroyed	42

Part III — Inscribed Stock

1.	Establishment of registry and appointment of registrar	42
2.	Parcels of stock	43
3.	Stock ledgers	43
4.	Stock how transferable	43
5.	Application for transmission (other than transfer of stock)	44
6.	Power of attorney	45
7.	When transfer books to be closed and ledgers balanced	45
8.	Receipt of registered stock holders to discharge without regard to trust	45

Notes

Defined Terms

Western Australia

Metropolitan (Perth) Passenger Transport Trust Act 1957

An Act for the Purposes of Constituting a Body Corporate with the Functions of Providing and Managing Efficient Passenger Transport Facilities by Vehicular Services over Streets, and by Ferry Services, in the Metropolitan Area of Perth, and for Incidental and Other Purposes.

[Long title amended by No. 93 of 1973 s.3; No. 117 of 1984 s.3; No. 64 of 1994 s.14.]

Part I — Preliminary

[Heading inserted by No. 73 of 1994 s.4.]

1. Short title and citation

This Act may be cited as the *Metropolitan (Perth) Passenger Transport Trust Act 1957*¹.

2. Commencement

This Act shall come into operation on a day to be fixed by proclamation¹.

[3. Repealed by No. 117 of 1984 s.4.]

s. 4

4. Interpretation

In this Act unless the content requires otherwise —

“functions” means functions of the Trust under this Act;

“land” includes estates in land;

“member” means a person occupying any of the offices of member of the Trust, including that of Chairman;

“metropolitan area” means the area defined from time to time by proclamation made under this Act;

“property”

- (a) where used in relation to power of acquisition generally, means land and estates and interests in land, and personal property and interests in personal property; and

[(b) deleted]

“Trust” means the body corporate constituted under this Act as the Metropolitan (Perth) Passenger Transport Trust.

[Section 4 amended by No. 93. of 1973 s.4; No. 117 of 1984 s.5; No. 64 of 1994 s.15.]

Part II — Metropolitan (Perth) Passenger Transport Trust

5. The Trust

- (1) A body constituted in accordance with the provisions of this Part has the functions and immunity prescribed by this Act.
- (2) The Trust is subject to the control of the Minister.

[Section 5 amended by No. 52 of 1966 s.2; No. 117 of 1983 s.6.]

6. Name

The name of the body is Metropolitan (Perth) Passenger Transport Trust.

7. Membership of the Trust

- (1) The Trust shall consist of —
 - (a) a Chairman; and
 - (b) 6 other members,

all of whom shall be appointed by the Minister.

[(2) repealed]

- (3) The Minister shall not appoint a person to be Chairman or a member under subsection (1)(b) unless the Minister is satisfied that the person has wide experience and shown capacity in transport, industrial, commercial, or financial matters or in the conduct of public affairs.

[Section 7 inserted by No. 117 of 1984² s.7; amended by No. 64 of 1994 s.16; No. 2 of 1997 s.4.]

8. Tenure of office

- (1) The term of office of member shall be for such period not exceeding 5 years as is specified in the instrument of appointment of that person as member.

s. 8A

- (2) Subject to the *Salaries and Allowances Act 1975*, a member who is an officer of the Public Service of the State is entitled to such remuneration and allowances as are determined by the Minister on the recommendation of the Public Service Board³.

[Section 8 inserted by No. 117 of 1984 s.8; amended by No. 64 of 1994 s.17.]

8A. Vacation of office

The office of member becomes vacant if —

- (a) his term of office expires;
- (b) he becomes permanently incapable of performing his duties;
- (c) he resigns his office by written notice addressed to the Minister;
- (d) he is an undischarged bankrupt or a person whose property is subject to an order or arrangement under the laws relating to bankruptcy;
- (e) he is absent without leave of the Minister from 3 consecutive meetings of the Trust;

[(f) deleted]

- (g) during his term as a member he in any way, otherwise than as a member and in common with the other members of an incorporated company consisting of not less than 51 persons —
 - (i) becomes concerned or interested, without the approval of the Minister, in any contract or agreement entered into by or on behalf of the Trust;
 - (ii) participates or claims to participate, without the approval of the Minister, in the profit of any such contract or agreement or in any benefit or emolument arising from any such contract or agreement;

- (h) having been suspended from office, as member by the Governor, he is not restored to office on the Trust by authority of a resolution of each House of Parliament under section 14;
- (i) he dies.

[Section 8A inserted by No. 117 of 1984 s.8; amended by No. 64 of 1994 s.18; No. 2 of 1997 s.5.]

9. Deputies

- (1) The Minister —
 - (a) may appoint a member to act as Chairman in place of the Chairman;
 - (b) may appoint a person to act as member whenever a member is appointed to act as Chairman under paragraph (a),

and any person so appointed has, when acting as Chairman or member, as the case requires, pursuant to such an appointment all the duties, powers and entitlements of, and the protection given to, the Chairman or member, as the case may be, in whose place he is appointed to act.

- (2) An appointment under subsection (1)(a) may be made so as to operate in such circumstances as are specified in the instrument of appointment.

[Section 9 amended by No. 93 of 1973 s.7; No. 117 of 1984² s.9; No. 64 of 1994 s.19; No. 2 of 1997 s.6.]

[10-12. Repealed by No. 117 of 1984 s.10.]

13. Member not an officer of the Public Service

- (1) A member or an acting member is not, by reason of his appointment as a member or acting member, an officer of the Public Service of the State.

s. 14

- (2) If a person appointed to be a member was immediately before that appointment an officer of the Public Service of the State he shall notwithstanding that appointment retain his existing and accruing rights on his appointment as member.
- (3) If a person appointed to be member was immediately before that appointment a public service officer within the meaning of the *Public Sector Management Act 1994* he is entitled upon resigning his office as a member or upon ceasing to be a member to be appointed to an office in the Public Service of the State not lower in status than the office he so occupied immediately before his appointment as member.

[Section 13 inserted by No. 117 of 1984 s.11; amended by No. 32 of 1994 s.19.]

14. Suspension and removal of members of the Trust

- (1) A member may be suspended from office on the Trust by the Governor, but shall not be removed from the office except in accordance with the provisions of subsections (2) and (3).
- (2) Where a member has been so suspended the Minister having the administration of this Act shall cause a full statement of the grounds on which the member was suspended to be laid before each House of Parliament within 6 sitting days of the House after the day of the suspension.
- (3) If within 14 sitting days after the statement has been laid before the House, each House of Parliament does not by resolution declare that the member should be restored to office on the Trust, the member shall not be restored to the office, but if within that period each House by resolution declares that the member should be restored to office on the Trust, the Governor shall cause the member to be restored to the office.

- (4) On and from the day of the suspension, the person suspended from office on the Trust is not entitled to salary unless each House of Parliament declares otherwise.

[Section 14 amended by No. 93 of 1973 s.12; No. 117 of 1984 s.12; No. 64 of 1994 s.20.]

15. Gazettal of appointments of members

- (1) (a) The Minister shall cause notice of appointments to the respective offices of members of the Trust to be published in the *Gazette*.
- (b) By the publication of the first appointments, the Trust is constituted a body corporate with perpetual succession, and an official seal in the form prescribed by the regulations, and has and may exercise the functions prescribed by this Act.
- (c) When constituted the Trust is an agency of the Crown in right of the State.
- (1a) Where the Trust participates in a business arrangement under section 25(1)(ec), subsection (1)(c) does not operate for the benefit of any other person or body except a body that is, whether directly or indirectly, wholly owned by the Trust.
- (2) Courts, Judges, and other persons acting judicially shall take judicial notice of the official seal of the Trust affixed to any document, and shall presume that it was regularly affixed, if the seal purports to have been so affixed, in the presence of the Chairman or his deputy and another member of the Trust or his deputy.

[Section 15 amended by No. 93 of 1973 s.13; No. 117 of 1984 s.13; No. 64 of 1994 s.21.]

16. Convening of meetings

- (1) The Chairman shall convene a meeting of the Trust whenever directed to do so by the Minister otherwise the Trust shall meet at the times and places appointed by the Trust.

s. 17

- (2) The Chairman or, in his absence, the person who, under section 9, is appointed to Act in his office shall preside at meetings of the Trust.

[Section 16 amended by No. 117 of 1984 s.14.]

17. Quorum

- (1) At a meeting of the Trust 4 members constitute a quorum.
- (2) A quorum present at a meeting of the Trust at, or within half an hour after, the time appointed for the commencement of a meeting may exercise any function of the Trust as effectively as if all members were present.

[Section 17 inserted by No. 117 of 1984 s.15.]

18. Determination of questions by the Trust

- (1) Where at a meeting of the Trust any question arises for determination by the Trust, each member present is entitled to, and shall exercise, one vote only.
- (2) If the majority of those present vote in favour of a motion for the determination of a question, the question shall be deemed to be determined in accordance with their votes, but if votes in favour equal votes against the motion, the motion shall be deemed lost.

[Section 18 amended by No. 117 of 1984 s.16.]

19. Vacancy in, or defect in appointment to office, no ground for invalidity

An act or determination of the Trust is not invalid or defective on the ground that when the act was done or the determination was made, a vacancy existed in office of a member, or on the ground of a defect in the appointment of a member.

[Section 19 amended by No. 117 of 1984 s.17.]

20. Conduct of Trust's proceedings

- (1) Where this Act, or any other Act, or any regulation, prescribes how the Trust shall conduct proceedings in relation to any matter, the Trust shall conduct the proceedings as so prescribed, but in relation to any other matter the Trust shall conduct proceedings as the members present determine and are hereby authorized to determine from time to time.
- (2) The Trust shall cause proper minutes of the Trust's proceedings to be recorded, and to be preserved until the Governor authorizes, as he is hereby empowered to do, destruction of them.

[Section 20 amended by No. 117 of 1984 s.18.]

21. Delegation

- (1) The Trust may, in relation to any particular matter or class of matters, by written authorization sealed within the official seal of the Trust, delegate to any member or employee of the Trust, power to exercise any of the powers conferred or to carry out any of the duties imposed on the Trust by this Act, except this power of delegation.
- (2) A delegation of power conferred by this section has the effect and may be exercised according to its tenor, but is revocable at the will of the Trust and does not preclude the Trust from exercising the power.

22. Exemption from personal liability

- (1) A person who is or has been a member, acting member, delegate, or employee, of the Trust is not personally liable for anything done or omitted in good faith, in, or in connection with, the exercise or purported exercise of any power conferred, or the carrying out of any duty imposed, on the Trust by this Act.
- (2) Subsection (1) has effect subject to the *Statutory Corporations (Liability of Directors) Act 1996*.

[Section 22 amended by No. 117 of 1984 s.19; No. 41 of 1996 s.3.]

Part III — Functions and powers of the Trust

Division 1 — General provisions

23. Functions of the Trust

- (1) The functions of the Trust are —
 - (a) to provide and manage, in accordance with, and subject to, the provisions of this Act, efficient passenger transport facilities by vehicular and ferry services in the metropolitan area, and to carry out works, and carry on undertakings, necessary and incidental thereto;
 - [(b) deleted]*
 - (c) to give effect to the purposes of this Act generally.
- (2) The Trust shall not acquire any railway.
- (3) Nothing in this Act is to be read as conferring on the Trust any immunity from the requirements of Part III and section 50 of the *Transport Co-ordination Act 1966*.

[Section 23 inserted by No. 93 of 1973 s.15; amended by No. 117 of 1984 s.20; No. 64 of 1994 s.22.]

24. Metropolitan area

The Governor may, by proclamation, define the boundaries of the metropolitan area and may, from time to time, by proclamation, alter the boundaries of the area so defined⁴.

Division 2 — Powers of the Trust generally

[Heading inserted by No. 117 of 1984 s.21.]

25. Powers generally of the Trust

- (1) For the purposes of carrying out its functions the Trust has, and may exercise, in accordance with, and subject to, the provisions of this Act,
 - (a) power to acquire, hold, maintain, protect, manage, and dispose of, property;

- (b) power to borrow money;
- (c) power to issue debentures or inscribed stock or both;
- (d) power to employ and engage personnel;
- (e) power to enter into and execute and carry out agreements, contracts, and arrangements, including, without prejudice to the generality of the power conferred by this subsection,
 - (i) power to enter into agreements, contracts, or arrangements, for the conduct by any person or authority on behalf of the Trust of any passenger vehicular transport service on any route over any streets in the metropolitan area; and
 - (ii) power to enter into any agreements, contracts, or arrangements, for coordinating any passenger transport service conducted by or on behalf of the Trust with any other passenger transport service conducted by any other person or authority, whether by provision for inclusive fares, through tickets, or otherwise;
- (ea) power to enter into agreements, contracts or arrangements with any department of the Public Service of the State or transport agency of the State relating to the use by that department or transport agency of any real or personal property of the Trust, the services of any employee or officer of the Trust, or both;
- (eb) power to acquire property being the whole or part of the undertaking of the proprietor of any passenger transport service conducted over streets if the whole or part of the undertaking is provided in the metropolitan area;
- (ec) power to participate, with the joint approval of the Minister and the Treasurer, in any business arrangement and acquire, hold and dispose of shares, units or other interests in, or relating to, a business arrangement;

Metropolitan (Perth) Passenger Transport Trust Act 1957

Part III Functions and powers of the Trust

Division 2 Powers of the Trust generally

s. 25

- (f) power to sue and be sued, to compromise claims made by or against the Trust, and to submit questions and disputes to arbitration; and
- (g) power to do or cause to be done any other thing which the Trust deems necessary, desirable, or expedient, for, or as incidental to, the carrying out of those functions, and the giving of effect to the purposes of this Act generally.

(2) In subsection (1)(ec) —

“business arrangement” means a proprietary limited company, a partnership, a trust, a joint venture, or an arrangement for sharing profits;

“to participate” includes to form, promote, establish, enter, manage, dissolve, wind up, and to do anything incidental to participating in a business arrangement.

[(3), (4) and (5) repealed]

(6) (a) The Trust may, with the approval of the Governor, under and subject to Part 9 of the *Land Administration Act 1997* acquire any land for the purposes of carrying out any of its functions under this Act.

[(b) deleted]

- (c) If the Governor grants approval to acquisition under Part 9 of the *Land Administration Act 1997*,
- (i) the purpose for which the Trust requires the land shall be deemed a public work under the *Public Works Act 1902*; and
 - (ii) the Trust shall be deemed a local authority under that Act.

[Section 25 amended by No. 10 of 1982 s.28; No. 117 of 1984 s.22; No. 64 of 1994 s.23; No. 31 of 1997 ss.69 and 142.]

[Divisions 3-8 (Sections 26-41). Repealed by No. 117 of 1984 s.23².]

Division 9 — Staff of Trust

42. Power of Trust to engage staff

- (1) The Trust may, from time to time, appoint such employees as the Trust considers necessary in order to enable the Trust to carry out its functions at such respective rates of remuneration and conditions of service as, subject to any award or agreement in force under the *Industrial Arbitration Act 1912*⁵, the Trust determines and is hereby authorized to determine.

[(2) repealed]

- (3) (a) The Trust having regard to the desire of its employees may —
- (i) enter into and carry out an agreement for the purpose of providing pension, superannuation, sickness, or family, benefits, or long service leave benefits, or other benefits of a similar nature, for any of its employees; and
 - (ii) request that the inclusion of the Trust as a department for the purposes of the *Superannuation and Family Benefits Act 1938* be recommended by the Minister having the administration of that Act and approved by the Treasurer; or
 - (iii) enter into an agreement under subparagraph (i) in respect of some of its employees, and make a request under subparagraph (ii), in respect of others of its employees.
- (b) If a request is made pursuant to subparagraph (ii) of paragraph (a),
- (i) then notwithstanding the interpretation of the term, “department” in section 6(1) of the *Superannuation and Family Benefits Act 1938*, the Treasurer, on the recommendation of that Minister mentioned in that interpretation may, if

Metropolitan (Perth) Passenger Transport Trust Act 1957

Part III Functions and powers of the Trust

Division 9 Staff of Trust

s. 42

the Trust enters into the agreement and makes the arrangements required by the proviso to that interpretation, approve the inclusion of the Trust as a department for the purposes of that Act; and

- (ii) authority is hereby conferred on the Trust to enter into and carry out the agreement and the arrangements.
 - (c) If the Treasurer so approves the inclusion of the Trust as a department, the Trust shall be deemed a department for the purposes of that Act, but no such approval and no provisions of this subsection constitutes the Trust a department for any other purpose.
 - (d) No employee of the Trust is compelled to become a contributor for pension, superannuation, or benefits, under an agreement entered into by the Trust under this section.
- (4) Notwithstanding anything in this section, to the extent that there is in the case of a person who is appointed under subsection (1) to be an employee and who is a member of the Senior Executive Service within the meaning of the *Public Service Act 1978*⁶ an inconsistency between this Act and that Act that Act shall prevail.

[Section 42 amended by No. 117 of 1984 s.24; No. 113 of 1987 s.32.]

Part IV — Finance and accounts

43. Interpretation

In this Part, unless the context requires otherwise —

“**Account**” means the “Metropolitan (Perth) Passenger Transport Trust’s General Fund Account”;

“**Consolidated Fund**” means the fund of that name established by section 64 of the *Constitution Act 1889*.

[Section 43 amended by No. 98 of 1985 s.3; No. 6 of 1993 s.14(4).]

44. Funds

- (1) The funds available for the purpose of enabling the Trust to carry out its functions consist of —
 - (a) money appropriated from time to time by Parliament to the purpose;
 - (ab) money paid to the Trust under section 62B of the *Transport Co-ordination Act 1966*;
 - (b) money derived from time to time as income by the Trust from business carried on by it under authority conferred by this Act;
 - (c) money borrowed from time to time by the Trust under authority conferred by this Act.
- (2) The Treasurer shall cause to be opened and kept at the Treasury, forming part of the Trust Fund constituted under section 9 of the *Financial Administration and Audit Act 1985*, an account called the Metropolitan (Perth) Passenger Transport Trust’s General Fund Account.
- (3) Moneys referred to in subsection (1) shall be credited to the Account.

s. 44

- (4) The Account may be operated on for the purpose of enabling the Trust to perform its functions.
- (5) The Trust shall keep such records relating to operations on the Account, in such manner, as the Treasurer approves and is hereby authorized to approve, but in any event shall cause to be shown in the records, separate recordings —
 - (a) of amounts of money credited to the Account as capital, and of operations on the Account relating to capital; and
 - (b) of amounts of money credited to the Account as income, and operations on the Account relating to income.
- (6) The Trust is authorized to apply money standing to the credit of the Account to payment of all expenditure lawfully incurred by the Trust for the purpose of carrying out its functions, including without limiting the generality of that authorization —
 - (a) payment of capital expenditure, costs and other expenses, incurred by the Trust in, and in connection with, the acquisition of any property, whether the property is land or an estate or interest in land, or the undertaking or part of the undertaking of the proprietor of a passenger transport service, or other property;
 - (b) payment of expenditure incurred by the Trust in, and in connection with, and as incidental to, the provision, maintenance, protection, and management, of property of the Trust, and any passenger transport service carried on by, or on behalf of, the Trust;
 - (c) payment of the salaries and allowances of the members, and deputies for members of the Trust;
 - (d) payment of the salaries and wages of persons appointed by and employed by the Trust;
 - (e) payment of any contributions payable by the Trust under any agreement entered into pursuant to authority conferred by this Act on the Trust, for the purpose of

providing pension, superannuation, sickness, or family, benefits, or long service leave benefits, or other benefits of a similar nature, for employees of the Trust;

- (f) payment of brokerage for the making, procuring, negotiating, underwriting, or obtaining, any loan borrowed pursuant to authority conferred on the Trust by this Act; and
- (g) payment of moneys for such purposes as are approved by the Minister.

[Section 44 amended by No. 117 of 1984 s.25; No. 64 of 1994 s.24; No. 49 of 1996 s.64.]

45. Treasury advances

- (1) If the money standing to the credit of the Account is insufficient at any time to meet expenditure incurred or proposed to be incurred by the Trust, the Trust may borrow from the Treasurer such amounts as the Treasurer approves, on such conditions as to repayment and payment of interest as the Treasurer imposes, and is hereby authorized to approve and impose.
- (2) Where an advance is made under this section —
 - (a) the Trust shall repay the amount of the advance; and
 - (b) shall pay interest;in accordance with the conditions imposed under subsection (1), and shall comply with any other conditions so imposed.
- (3) By virtue of this subsection the assets of the Trust are charged with the performance by the Trust of conditions imposed under this section in respect of an advance so made.

[Section 45 amended by No. 98 of 1985 s.3; No. 49 of 1996 s.64.]

s. 46

46. Power of Trust to borrow money on issue of debentures or inscribed stock

- (1) The Trust, with the approval of the Governor which, subject to subsection (2), he is hereby authorized to grant, may, in addition to borrowing money under section 45, from time to time —
- (a) borrow and reborrow moneys by the issue of debentures and the creation and registration of inscribed stock, or either, for the purpose of raising the funds of the Trust for the effectual exercise by the Trust of its functions;
 - (b) issue debentures and create and register inscribed stock or either in exchange for any debentures and inscribed stock or either respectively issued or created and registered in respect of moneys previously borrowed by the Trust, and not repaid;
 - (c) issue and sell debentures, and create and register inscribed stock, for the purpose of borrowing money for redeeming any loans owing by the Trust and for paying the expenses incurred in the issue of the debentures and creation and registration of the inscribed stock, and of otherwise carrying out its functions; and
 - (d) effect of any conversion authorized by this section either by arrangement with the holders of the existing debentures or registered owners of inscribed stock, or by the redemption of the debentures or inscribed stock out of the moneys raised by the sale of debentures and inscribed stock or either, or partly in the one way and partly in the other;

but the Trust shall not issue any debentures, or create any inscribed stock, unless on condition that the principal money thereby secured shall be repayable not later than 21 years from the date of issue of the debentures, or, as the case may be, the creation of the inscribed stock.

- (2) Where the Trust seeks approval of the Governor for the borrowing by the Trust of money under the provisions of this section, the Trust shall submit to the Minister for presentation to the Governor a proposal in writing showing —
- (a) the term and particulars of the proposed loan;
 - (b) the rate of interest to be paid on the loan;
 - (c) the purposes to which the money proposed to be borrowed is to be applied; and
 - (d) the manner in which the loan is to be repaid.
- (3) The Trust may, under the provisions of this section,
- (a) borrow money as one loan or as several loans; and
 - (b) borrow money —
 - (i) by the issue of debentures with or without interest coupons attached;
 - (ii) by the creation and registration of inscribed stock to be called “Metropolitan (Perth) Passenger Transport Trust’s Incribed Stock”;
 - (iii) partly as provided by subparagraph (i) and partly as provided by subparagraph (ii); or
 - (iv) in such other manner as is prescribed by the regulations, or as the Governor approves and is hereby authorized to approve.

47. Power to borrow to pay off loan

For the purpose of making provision to redeem the whole or any part of any loan raised by the Trust under the provisions of this Act, the Trust may with the consent of the Governor, who is hereby authorized to grant the consent, and subject to section 46(2), borrow the necessary moneys before the due date of redemption.

s. 48

48. Moneys borrowed to be a charge on Trust's revenues and guaranteed by the State

- (1)
 - (a) The due redemption of the principal sum secured by debentures issued, and inscribed stock created, under the provisions of this Act, and due payment of all interest thereon, are, by this Act, charged on and secured upon the income of the Trust.
 - (b) For the purposes of this section, **“income of the Trust”** means all charges, fees, rents, interest, and profits, given to, or vested in, or authorized to be demanded or received by, the Trust.
- (2)
 - (a) The due redemption of the principal moneys and the due payment of all interest secured by debentures issued or inscribed stock created and registered by the Trust under the provisions of this Act are, by this Act, guaranteed by the Government of the State on behalf of the Crown in right of the State.
 - (b) The Treasurer of the State shall cause any money required for fulfilling any guarantee given by this Act to be charged to the Consolidated Fund, which is hereby to the necessary extent appropriated accordingly, and shall cause any sums received or recovered by the Treasurer from the Trust or otherwise in respect of a sum so charged by the Treasurer to be credited to the Consolidated Fund.

[Section 48 amended by No. 98 of 1985 s.3; No. 6 of 1993 s.11; No. 49 of 1996 s.64.]

49. Application of provisions of the Schedule to debentures and inscribed stock

- (1) The provisions of Part I of the Schedule apply with respect to debentures issued and inscribed stock created under this Act.
- (2) The provisions of Part II of the Schedule apply with respect to debentures issued under this Act.

- (3) The provisions of Part III of the Schedule apply with respect to inscribed stock created under the provisions of this Act.

50. Power for trustees to invest in Trust's debentures or inscribed stock

- (1) Debentures and inscribed stock issued and created by the Trust under this Act shall have the status of Government securities of the State of Western Australia.

[(2) repealed]

- (3) The debentures and inscribed stock or either are a lawful investment for money which a body corporate is authorized or directed to invest, in addition to any other investments expressly authorized for the investment of the money.

- (4) A trustee or body corporate may, pursuant to this Act, convert debentures issued under this Act and held by the trustee or body into inscribed stock created under this Act.

[Section 50 amended by No. 1 of 1997 s.18; No. 26 of 1999 s.94.]

51. Contributions by Trust of interest and instalments to sinking fund towards General Loan and Capital Works Fund commitments

- (1) Where any portion of the Consolidated Fund is, in any year, applied so as to enable the Trust to carry out any of its functions, the Treasurer —
- (a) shall determine the amount of contribution to be made by the Trust towards interest payable for the year on account of the Public Debt in respect of that portion of the Consolidated Fund; and
 - (b) shall determine the amount of contribution to be made for the year by the Trust towards the sinking fund established on account of the Public Debt in respect of that portion of the Consolidated Fund; and
 - (c) shall cause the respective amounts to be recorded in the Account.

s. 52

- (2) The Trust shall pay to the Treasurer the amount of the contributions so recorded in the year in which they are so recorded, but if the amount is not so paid, the amount is recoverable at the suit of the Treasurer in any court of competent jurisdiction as a debt due by the Trust to the Crown in right of the State.

[Section 51 amended by No. 98 of 1985 s.3; No. 6 of 1993 s.14(4).]

52. Payment of interest by trust on loans made out of the Public Account

- (1) Where any money from the Consolidated Fund is applied to enable the Trust to carry out its functions, then, notwithstanding the *Financial Administration and Audit Act 1985*,
- (a) the money so applied if not repaid by the Trust in accordance with the conditions on which it is so applied is recoverable at the suit of the Treasurer in any court of competent jurisdiction as a debt due by the Trust to the Crown in right of the State;
 - (b) the Treasurer shall fix the rate of interest payable by the Trust in respect of the daily balance of money so applied, and not repaid by the Trust, and shall appoint days at intervals of not less than 6 months on which payment of interest is due;
 - (c) the Treasurer shall cause recordings to be made in the Account of money so applied and the amount of interest so payable and paid; and
 - (d) the Trust shall pay the amount of interest on the days so appointed, but if the amount of interest is not so paid, the amount is recoverable at the suit of the Treasurer in any court of competent jurisdiction as a debt due by the Trust to the Crown in right of the State.

[(2) repealed]

[Section 52 amended by No. 98 of 1985 s.3; No. 6 of 1993 s.11.]

53. Charges for use of Government property and service

- (1) The Treasurer shall cause to be recorded in the account such sum as, in the opinion of the Treasurer, represents the value of the use by the Trust under this Act of Government buildings or other property or of part services of any Government officers not wholly employed by the Trust under this Act or of services rendered by any Government department.
- (2) Any amount debited under this section shall be treated as revenue payable to the credit of the Consolidated Fund, and shall be paid accordingly by the Trust as and when the Treasurer directs and is hereby authorized to direct, but where a departmental vote has already been debited with the amount in the current financial year, the amount shall be credited to that vote or treated as a rebate of the departmental expenditure if the annual estimates of the department provide for a rebate of expenditure, and if the amount is not so paid, the amount is recoverable at the suit of the Treasurer in any court of competent jurisdiction as a debt due by the Trust to the Crown in right of the State.

[Section 53 amended by No. 6 of 1993 s.11; No. 49 of 1996 s.64.]

54. Temporary investment of moneys

All money recorded as standing to the credit of the Account may, until required by the Trust for carrying out its functions, be temporarily invested as the Treasurer directs, and is hereby authorized to direct, in any securities in which money represented in the Public Bank Account may lawfully be invested, and the Treasurer shall cause all interest derived from such investment to be credited to the Account.

[Section 54 amended by No. 98 of 1985 s.3; No. 49 of 1996 s.64.]

s. 55

55. Profit and loss

The profit made or loss incurred by the Trust in each financial year, shall, when ascertained, be treated in such manner as the Trust determines and is hereby authorized to determine, but any profit which is made by the Trust under this Act and which available in cash after making full allowance for interest, and sinking fund contributions; and depreciation, obsolescence, and maintenance, of vehicles and plant; and after providing for any accrued losses and after payment of all current liabilities due and payable by the Trust is not required by the Trust for carrying out its functions, shall be paid to the credit of the Trust into the Account.

56. Application of *Financial Administration and Audit Act 1985*

- (1) The provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Trust and its operations.
- (2) The Under Treasurer shall supply, at the request of the Trust, a certificate of the amounts recorded under sections 51 and 52 and the Trust shall show those amounts in their financial statements and reports prepared for the purposes of the *Financial Administration and Audit Act 1985*.

[Section 56 inserted by No. 98 of 1985 s.3.]

[57. Repealed by No. 98 of 1985 s.3.]

58. Reserve accounts

The Trust may in respect of its functions establish, and may record in its accounts, such reserve accounts for renewals or depreciation as it thinks fit, and may in every year credit to each reserve account so established such sums as the Treasurer approves, and is hereby authorized to approve.

[59-63. Repealed by No. 98 of 1985 s.3.]

Part V — Miscellaneous

Division 1 — Legal proceedings by and against the Trust

Subdivision A — General Provisions

64. Interpretation

In this Part, “**secretary**” means the chief administrative officer of the Trust.

65. Service of notice of legal proceedings

Service of any document on the Trust is validly effected if the document is given personally to the secretary, but the provisions of this section do not prejudice or otherwise affect those of section 31 of the *Interpretation Act 1918*⁷.

66. Authentication of documents

A writ, summons, notice, or other document, is sufficiently authenticated by the Trust without the official seal of the Trust, if signed by the Chairman or secretary of the Trust.

67. Proceedings in bankruptcy

If a person, against whom the Trust has a claim or demand, takes the benefit of an Act for the relief of bankrupt debtors, the secretary, in proceedings in respect of the claim, may represent the Trust, and act on behalf of the Trust in all respects as if the claim or demand were that of the secretary.

68. Trust not to prove in bankruptcy unless security insufficient

Where money is due and payable to the Trust by a person who becomes bankrupt and there is in respect of the money a charge over the property of the person in favour of the Trust, the Trust shall not prove as an unsecured creditor against the person’s estate, unless the Trust has by resolution, declared that it is of opinion that because of the insufficiency or inadequacy of the

charge to secure payment of the money to the Trust, the Trust should prove as an unsecured creditor.

69. Trust may direct prosecutions

- (1) The Trust may order, either generally or in a particular case, proceedings to be taken for the recovery of penalties, or for the punishment of a person offending against the provisions of this Act, and may order the expenses of the prosecution or other proceedings to be charged to the funds of the Trust.
- (2) Proceedings in connection with the prosecution of an offence under this Act may be commenced within one year after the offence has been committed.
- (3) The institution of proceedings against, or the conviction of, a person for an offence under this Act does not affect a remedy which the Trust or another person has in civil proceedings.
- (4) In proceedings in a local court or court of petty sessions, or before a justice,
 - (a) the secretary; or
 - (b) an employee of the Trust appointed for the purpose generally or in a particular case in writing signed by the Chairman;

may represent the Trust in all respects as if he were the party concerned.

- (5) Notwithstanding the provisions of this section, and without prejudice to those of section 41, of the *Interpretation Act 1918*⁷, any person may make and prosecute a complaint of a contravention of this Act.
- (6) The Trust shall, out of its funds, reimburse the secretary or other employee the amount of any damages, costs, charges, and expenses, to which he is put, or with which he is chargeable, by reason of anything done, performed, suffered, or incurred, by him under this section for and on behalf of the Trust.

[Section 69 amended by No. 49 of 1996 s.64.]

Subdivision B — Evidence

70. Presumption of proof of certain formalities

In a prosecution or in other legal proceedings instituted by or under the direction of the Trust under the provisions of this Act, until proof is given to the contrary, proof is not required of —

- (a) the constitution of the Trust;
- (b) any order of the Trust to prosecute;
- (c) the particular or general appointment of the secretary or any other employee of the Trust to take proceedings against any person;
- (d) the powers of the secretary or other employee to prosecute;
- (e) the appointment of the Chairman or of the secretary or other employee of the Trust; or
- (f) the presence of a quorum at any meeting at which any order is made or any Act is done by the Trust.

71. Evidence of exercise of authority

- (1) The production in a prosecution or other legal proceedings of —
 - (a) a copy of the *Gazette* containing a regulation, Order-in-Council, proclamation, notice or containing other evidence of the exercise of any power or authority in pursuance or purported pursuance of the provisions of this Act; or
 - (b) a copy purporting to be certified as a copy of a regulation, Order-in-Council, proclamation, notice, or evidence of the exercise of any such power or authority, by certificate purporting to have been signed by the Chairman or secretary of the Trust;

is evidence of the making, existence, and giving of the regulation, Order-in-Council, proclamation, or notice; or of the exercise of the power or authority; and of all preliminary steps having been regularly taken to give full force and effect to it and to its provisions.

- (2) The provisions of this section —
- (a) are in addition to and not in derogation of those of the *Evidence Act 1906*; and
 - (b) do not render valid, a regulation, which has been disallowed under section 36(2) of the *Interpretation Act 1918*⁷, or which has been invalidly made.

72. Evidence of minutes

- (1) Where a record is produced and identified as the minutes or an excerpt from the minutes of the Trust, the record is, until the contrary is proved, proof of the matters recorded having taken place, without proof —
- that the meeting to which the record relates was duly convened;
 - that other requirements relating to the regularity of the meeting were complied with; and
 - that the minutes were confirmed, and that the signature purporting to be that of the person authorized to sign the confirmation of the minutes is in fact his signature and that he was so authorized.
- (2) Where a document purporting to have been certified by the secretary as being a copy of the minutes, or of an excerpt of the minutes, of the Trust, is produced, the copy has the same probative force as if, instead of the copy so certified, the minutes or the excerpts of the minutes were produced.

Division 2 — Supplementary provisions

73. Power of entry

- (1) The Trust has, and by any of its members or their deputies, employees, servants, and agents, may exercise power, to enter and re-enter at reasonable times between 6 a.m. and 6 p.m., land and buildings and other property for the purpose of making an inspection, or valuation, or doing any other thing, which the Trust is authorized to do by this Act, or the *Public Works Act 1902*, or any other Act, without being liable to legal proceedings on account of the exercise of the power.
- (2) The Trust shall not so enter or re-enter occupied premises without the consent of the occupier, unless the Trust has itself or by any of its members or their deputies, employees, servants, or agents, given to the occupier notice of intention to do so.

74. Obstruction

A person who obstructs or hinders the Trust, or any member or his deputy, or an employee, servant, or agent of the Trust in the performance of anything which the Trust, employee, servant, or agent, is authorized or required to do by this or any other Act, commits an offence.

75. Duty of members of Police Force to report breaches of the Act

- (1) It is the duty of the members of the Police Force of the State who find a person committing or attempting to commit an offence against the provisions of this Act, to demand from the person his name and place of abode, and immediately to report the offence or attempt and the name and place of abode of the person to the secretary of the Trust.
- (2) A member, employee, or servant, of the Trust, or a member of the Police Force of the State who finds a person committing or attempting to commit, or who on reasonable grounds suspects a person of having committed or attempting to commit, an offence

against the provisions of this Act, may demand from the person his name and place of abode.

- (3) A person who refuses to state his name and place of abode, or who states a false name or place of abode, on demand being so made, commits an offence against this Act.
- (4) A person who gives or is suspected of giving a false name or place of abode to the person making the demand may without other warrant than this Act be apprehended by the person making the demand and taken before a justice to be dealt with according to law.

[Section 75 amended by No. 117 of 1984 s.26.]

75A. Goods left by unknown owner may be sold

- (1) If any thing is left in or on any property of the Trust and the owner of the thing is known, the Trust may give notice published in the *Government Gazette* that the thing will be sold on a day, being not less than 21 days from the publication of the notice, unless the owner before that day removes the thing and pays all charges payable in respect of it.
- (2) If the owner of the thing does not so remove it and so pay those charges, the Trust may cause it to be sold.
- (3) Where the thing so left is perishable the Trust may cause it to be sold or where the thing causes offence or creates a nuisance, the Trust may cause it to be destroyed at the expense of the owner, and may cause either to be done without notice to the owner.
- (4) The Trust shall apply the proceeds of sale made pursuant to this section —
 - (a) firstly, in paying the costs of and incidental to the sale, including all charges and expenses incidental to the storage and handling of the thing;
 - (b) secondly, in paying the amount of the balance to the person entitled thereto upon his establishing his claim to that amount within 30 days after the sale.

- (5) Where a claim referred to in subsection (4)(b) is not so established the amount of the balance so referred to shall be credited by the Trust to the Metropolitan (Perth) Passenger Transport Trust's General Fund Account.
- (6) The amount expended in the exercise of the powers conferred upon the Trust by the provisions of subsection (3) to the extent to which it is not recovered on sale pursuant to those provisions is recoverable by the Trust in a court of competent jurisdiction as a debt due by the owner of thing destroyed or sold under those provisions.

[Section 75A inserted by No. 9 of 1961 s.2; amended by No. 49 of 1996 s.64.]

Division 3 — Penalties

76. Offences generally

A person who does not do a thing, which by or under this Act, he is required or directed to do, and a person who does or attempts to do a thing which by or under this Act is prohibited from doing, commits an offence against the provisions of this Act.

77. General Penalty

A person guilty of an offence against the provisions of this Act is liable to the penalty expressly mentioned as the punishment for the offence, or if a penalty is not so expressly mentioned, to a penalty not exceeding \$500.

[Section 77 amended by No. 113 of 1965 s.4; No. 64 of 1994 s.25.]

78. Recovery of penalties

A penalty in respect of an offence against the provisions of this Act may, subject to Division 3A, be imposed summarily under the provisions of the *Justices Act 1902*.

[Section 78 amended by 25 of 1980 s.4.]

Division 3A — Infringement notices

[Heading inserted by No. 25 of 1980 s.5.]

78A. Interpretation

In this Division —

“alleged offender” means person to whom an infringement notice has been given pursuant to this Division;

“authorized person” means person authorized under section 78C of this Act to give infringement notices;

“infringement notice” means notice given under section 78B(1).

[Section 78A inserted by 25 of 1980 s.5; amended by No. 64 of 1994 s.26.]

78B. Infringement notice

- (1) Where an authorized person has reason to believe that a person has committed any such offence against this Act as is prescribed for the purposes of this Division the authorized person may, at or about the time the offence is believed to have been committed, personally give to that person a notice in the prescribed form informing the person that, if he does not wish to have a complaint of the alleged offence heard and determined by a court, he may pay to a person specified in the notice, within the time therein specified, the amount of the penalty prescribed for the offence, if dealt with under this Division.
- (2) A person given an infringement notice may decline to be dealt with under this Division and, if the prescribed penalty is not paid within the time specified in the notice or within such further time as may, in any particular case, be allowed, he is deemed to have declined to be dealt with under this Division.

- (3) An infringement notice may, whether or not the prescribed penalty has been paid, be withdrawn, at any time within 28 days after the giving of the notice, by the sending of a notice, in the prescribed form, signed by a prescribed person, to the alleged offender advising the alleged offender that the infringement notice has been withdrawn, and, in that event, the amount of any prescribed penalty that has been paid shall be refunded.
- (4) Where a prescribed penalty has been paid pursuant to an infringement notice and the notice has not been withdrawn as provided by subsection (3) proceedings shall not be brought against any person with respect to the offence alleged in the notice.
- (5) The amount of any prescribed penalty paid pursuant to an infringement notice shall, subject to subsection (3), be dealt with as if it were a fine imposed by a court as a penalty for an offence.

[Section 78B inserted by No. 25 of 1980 s.5; amended by No. 78 of 1995 s.70.]

78C. Authorized persons

- (1) An employee of the Trust may be authorized in writing signed by the Chairman of the Trust to give infringement notices.
- (2) The Trust shall issue to each authorized person a certificate in the prescribed form which he shall produce whenever required to do so by a person to whom he has given, or is about to give, an infringement notice.

[Section 78C inserted by No. 25 of 1980 s.5; amended by No. 64 of 1994 s.27(1).]

Division 4 — Ministerial directions, provision of information

[Heading inserted by No. 10 of 1998 s.49.]

79. Minister may give directions

- (1) The Minister may give directions to the Trust with respect to the performance by the Trust of its functions, either generally or in relation to a particular matter, and the Trust shall give effect to those directions.
- (2) The text of any direction given under subsection (1) shall be included in the annual report submitted by the accountable authority of the Trust under section 66 of the *Financial Administration and Audit Act 1985*.
- (3) Subsection (1) has effect subject to the *Statutory Corporations (Liability of Directors) Act 1996*.
[Section 79 inserted by No. 10 of 1998 s.49.]

79A. Minister to have access to information

- (1) The Minister is entitled —
 - (a) to have information in the possession of the Trust; and
 - (b) where the information is in or on a document, to have, and make and retain copies of, that document.
- (2) For the purposes of subsection (1), the Minister may —
 - (a) request the Trust to provide information to the Minister;
 - (b) request the Trust to give the Minister access to information;
 - (c) for the purposes of paragraph (b), make use of the staff and facilities of the Trust to obtain the information and provide it to the Minister.
- (3) The Trust shall comply with a request under subsection (2) and make its staff and facilities available to the Minister for the purposes of paragraph (c) of that subsection.
- (4) In this section —
“document” includes any tape, disc or other device or medium on which information is recorded or stored;

“information” means information specified, or of a description specified, by the Minister that relates to the functions of the Trust.

[Section 79A inserted by No. 10 of 1998 s.49.]

Division 5 — Regulations

80. Power to make regulations

- (1) The Governor may make such regulations as he considers necessary, convenient, or desirable, to enable the Trust to carry out its functions or for the better carrying out of the objects and purposes of this Act.
- (2) Without prejudice to the generality of subsection (1),
 - (a) regulations may be so made so as to apply generally, or in a particular class of case; at all times or at a specified time or specified times; to the whole of the Trust’s functions or in respect of any part or parts of those functions;
 - (b) regulations may be so made so as to require any matter to which a regulation relates, to be in accordance with a specified requirement, or as approved by, or to the satisfaction of, a specified person or body or specified class of person or body, or so as to delegate to, or confer on, a specified person or body or class of person or body, a discretionary authority;
 - (c) regulations may be so made so as to impose for a breach of a regulation —
 - (i) a maximum penalty of \$500; with or without provision for
 - (ii) a maximum daily penalty during the breach, of \$50 per day; with or without provision for
 - (iii) a minimum penalty not exceeding one-tenth of the maximum penalty and maximum daily

penalty, if any, for the breach; and with or without provision for

- (iv) the minimum penalty and minimum daily penalty, if any, increasing in severity by one-tenth of the maximum for each successive breach of the same regulation by the same offender;

and

- (ca) regulations may be so made prescribing offences for the purposes of Division 3A of Part V by setting out the offences or by reference to the provisions contravention of which constitutes the offences, and, in respect of each such offence, prescribing the penalty, or different penalties according to the circumstances by which the offence is attended, applicable if the offence is dealt with under that Division, but so that no such penalty exceeds \$50;
 - (d) Regulations may be so made prescribing or relating to —
 - (i) the conduct of proceedings at meetings of the Trust;
 - (ii) the form of the official seal of the Trust;
 - (iii) the manner in which time tables, routes, and fares, may be promulgated; and
 - (iv) the conditions under which persons may use the facilities of any service provided by, or for, or on behalf of, the Trust.
- (3) If there is conflict or inconsistency between the provisions of a regulation so made, and the provisions of an award or industrial agreement in force under the *Industrial Arbitration Act 1912*⁵, the latter provisions shall to the extent of the conflict or inconsistency prevail.

*[Section 80 amended by No. 113 of 1965 s.4; No. 25 of 1980
s.6; No. 64 of 1994 s.29.]*

Schedule

[s.49(1)]

Part I — Debentures and inscribed stock

The following provisions apply to debentures issued and inscribed stock created by the Trust under the provisions of this Act: —

1. Interest

- (a) All debentures issued and inscribed stock created and registered by the Trust shall bear interest, subject to section 29(2), and to section 34(2), at such rate and be redeemable on such day, not being later than 21 years from the issue of the debentures or creation of the inscribed stock, and at such place, as the Trust, with the approval of the Governor who is hereby authorized to grant the approval, determines and is hereby authorized to determine.
- (b) The Trust may, with the consent of the holder of any debentures or of the registered owner of any inscribed stock, as the case may be, redeem the debentures or inscribed stock at any time before the due date for redemption, but at not more than the face value of the debenture or inscribed stock.
- (c) The Trust may purchase any of the debentures or inscribed stock.

2. When interest payable

The Trust shall cause interest secured by any debentures so issued or inscribed stock so created, to be paid half-yearly on such days and at such places as the Trust determines, and is hereby authorized to determine.

3. Debentures and stock inter-changeable

The Trust at the request of the holder of a debenture, or of the registered owner of inscribed stock, may in lieu thereof issue debentures to him, or register him as the owner of inscribed stock, as the case may be, in respect of the same loan, and of the same amount, and having the same due date for redemption, and bearing the same interest.

4. Brokerage

The Trust may pay moneys by way of brokerage for the making, procuring, negotiating, underwriting, or obtaining any loan borrowed by the Trust on the security of debentures or inscribed stock.

5. Sinking Fund

- (1) The Trust shall set aside half-yearly by way of a sinking fund for the purpose of redeeming any loan borrowed by the Trust on the security of debentures or inscribed stock such amount calculated at such rate as the Treasurer approves and is hereby authorized to approve, and as the Governor confirms and is hereby authorized to confirm.
- (2) When it is necessary to have resort to any sinking fund referred to in subclause (1) for the purpose of redeeming either the whole or any part of any loan in respect of which a sinking fund is so provided, the Trust may sell any securities in which the fund is invested, or may obtain and advance thereon from any bank or from the Treasurer of the State.

6. Notice of Trust not receivable

No notice of any trust, express, implied, or constructive, shall be received or noted by the Trust or by an employee of the Trust in relation to a debenture or inscribed stock, and the Trust or the employee shall not be bound to see to the execution of the trust to which the debenture or inscribed stock may be subject.

7. Owners of securities not responsible for application of moneys

A person advancing money to the Trust and receiving in consideration of the advance a debenture or inscribed stock is not bound to inquire into the application of the money advanced and is not in any way responsible for the non-application or mis-application thereof.

Schedule

Part II — Debentures

[s.49(2)]

The following provisions apply to debentures issued by the Trust under this Act: —

1. Form of debenture

Debentures shall be in the form prescribed by the regulations.

2. Debentures —

- (a) shall be sealed with the official seal of the Trust in the presence of the Chairman and the secretary; and
- (b) shall be numbered consecutively beginning with the number one and proceeding in an arithmetical progression having a common difference of one.

3. Pass by delivery

Debentures with the interest coupons annexed thereto, and every interest coupon after being detached therefrom, shall pass by delivery and without any assignment or endorsement.

4. Rights of bearer

The bearer of a debenture or detached interest coupon has the same rights as if he were expressly named as payee in the debenture or coupon.

5. Payment of interest

No interest is payable by the Trust in respect of a debenture, except to the holder of the coupon representing the interest claimed and upon delivery of a coupon to the Trust.

6. Register of debentures

- (1) The Trust shall cause to be kept in one or more books a register of debentures, and within a reasonable time after the date of the issue of a debenture shall cause to be made an entry in the register specifying the number, date and amount of the debenture.

- (2) The register of debentures —
 - (a) may be inspected at all reasonable times by any person on payment of 10 cents for each inspection; and
 - (b) shall be evidence of any matters required or authorized by or under this Act to be inserted therein.
- (3) Any person is entitled to obtain from the Trust copies or extracts certified on behalf of the Trust by the employee in whose custody the register is kept to be true copies of or extracts from the register upon payment for each copy or extract of a fee of 25 cents and 2 cents for every folio of 72 words; and any copy or extract so certified is *prima facie* evidence of the original of which it is certified to be a copy.

7. Provision for lost debentures

Upon proof being made before a Judge in chambers by affidavit of any credible person that a debenture or coupon issued by the Trust under this Act and held by such person the number and amount of which is specified by him in the affidavit, has been lost or accidentally burnt or otherwise destroyed before it has been redeemed by the Trust, and after the insertion of such advertisements as the Judge directs and upon the Judge certifying that he is satisfied with the proof, the Trust may after the expiration of 6 months cause a new debenture with interest coupons attached to be made having the same currency and bearing the same number, date, principal sum, and rate of interest, as the debenture so lost or destroyed, and to be delivered to the person upon his giving sufficient security to the Trust to indemnify the Trust against any double payment; but where the Trust is satisfied that a debenture or coupon has been lost or accidentally destroyed before the due date of redemption the Trust may, without insisting on an application being made to a Judge pursuant to the foregoing provisions, so make and deliver to the person entitled a new debenture or new coupon in place of that lost or destroyed on the person entitled giving to the Trust sufficient security to indemnify the Trust against double payment.

Schedule

8. Provision for defaced debentures

If a debenture is defaced by accident —

- (a) the Trust may cancel it and cause a new debenture to be made in lieu thereof; and
- (b) the new debenture shall have the same currency, and be in all respects subject to the same provisions, and bear the same number, date, principal sum, and rate of interest, as the cancelled debenture.

9. Discharged debentures to be destroyed

- (1) Where a debenture is redeemed, discharged, exchanged for, or converted into, inscribed stock, the Trust shall cause it —
 - (a) to be cancelled by the Secretary; and
 - (b) to be burnt in the presence of the secretary and of the Auditor General or one of his officers authorized by him in writing to witness the destruction of the debenture.
- (2) A debenture shall not be so burnt unless the Auditor General or such officer, as the case may be, has audited the debenture and allowed the accounts thereof and furnished the Trust with a certificate particularising the debenture about to be so burnt; and the secretary shall file that certificate in the office of the Trust.

Part III — Inscribed Stock

[s.49(3)]

The following provisions apply to the Metropolitan (Perth) Passenger Transport Trust's Inscribed Stock created in Perth, Western Australia by the Trust under this Act (in this part called "**stock**"): —

1. Establishment of registry and appointment of registrar

The Trust may establish at the office of the Trust a registry for the inscription of stock and appoint an employee of the Trust to be registrar of stock.

2. Parcels of stock

The Trust may borrow money in parcels or amounts of \$20 or a multiple of \$20, on the security of stock.

3. Stock ledgers

- (1) The Trust shall cause to be provided and kept at the office of the Trust books to be called "stock ledgers."
- (2) The registrar of stock shall cause the names of the owners of stock and the amount of stock held by each of them to be inscribed in the stock ledgers.
- (3) Where more than 4 persons are joint owners of stock, the registrar sufficiently complies with the requirements of subclause (2) if he inscribes the names of not more than 4 of them as the joint owners.
- (4) The stock ledgers are evidence of any matters appearing therein and required or authorized by or under this Act to be inserted therein.
- (5) Any person is entitled to obtain from the Trust copies or extracts certified on behalf of the trust by the registrar of stock in whose custody the register is kept to be true copies or extracts from the stock ledger upon payment for each copy or extract of a fee of 25 cents and 2 cents for every folio of 72 words; and any copy or extract so certified is *prima facie* evidence of the original of which it is certified to be a copy.

4. Stock how transferable

- (1) Stock or any share therein is transferable from one person to another in the manner, and by instrument in the form, prescribed by the regulations, and not otherwise.
- (2) The registrar of stock shall not accept for registration or register a transfer of inscribed stock of a face value containing any fraction of \$1, or of a face value of any smaller sum than \$40 unless that face value containing the fraction or being the smaller sum is the full amount of the balance standing to the credit of the registered owner in the stock ledger.

Schedule

- (3) An instrument of transfer of the stock of any share therein is not valid and shall not be accepted for registration or registered by the registrar of stock unless the instrument is executed by all parties, and the signatures to the instrument are attested in the manner prescribed by the regulations.
- (4) For the purposes of registration, an instrument of transfer when executed shall be delivered to the registrar who shall register it by entering a memorial of it in the stock ledger and shall inscribe the name of the transferee in the stock ledger as the owner of the stock.

5. Application for transmission (other than transfer of stock)

- (1) A person to whom stock is transmitted in consequence of the death or bankruptcy or insolvency of the registered owner of the stock or by any other lawful means than by a transfer in accordance with this Act may apply in the form prescribed by the regulations to the registrar at the registry to be inscribed as the owner of the stock.
- (2) An application for transmission is not valid and shall not be accepted for registration or registered by the registrar of stock unless the application is verified by statutory declaration or in such other manner as is prescribed by the regulations and —
 - (a) in the case of a transmission consequent on death — unless the probate of the will is, or the letters of administration are, produced to the registrar; but in the case of transmission to a survivor or the survivors of a joint owner, the registrar of stock may accept production of a certificate of the death of the owner who has died, accompanied by a statutory declaration identifying the person named in the death certificate with the person who is shown as the registered owner of the stock in lieu of probate or letters of administration; and
 - (b) in the case of a transmission consequent on bankruptcy or insolvency — unless an office copy of the adjudication or order of sequestration is delivered to the registrar.
- (3) The registrar shall if he is satisfied that the provisions of this Act have been complied with register any such transmission by entering a memorial of it in the stock ledger and inscribing the name of the person to whom the stock has been transmitted in the stock ledger as the registered owner of the stock.

6. Power of attorney

- (1) A person may by power of attorney under his hand and seal appoint a person to be his attorney for any purpose in relation to stock, including an application for conversion or to receive payment of interest or payment in redemption.
- (2) A power of attorney is valid and effectual for all purposes therein mentioned until notice of its revocation or of the bankruptcy, insolvency, lunacy, unsoundness of mind, or death, of the principal has been received by the registrar at the registry.

7. When transfer books to be closed and ledgers balanced

- (1) The registrar of stock shall not register an instrument of transfer of stock or of any part thereof on any Saturday or holiday, or within the period of 14 days, or within a period of 21 days or such shorter period as is prescribed, next before any of the days on which the interest thereon is payable.
- (2) During the periods referred to in subclause (1) the Trust shall cause the amount of the stock respectively standing to the credit of the several registered owners thereof to be ascertained and the balances to be struck and carried forward in the proper stock ledger.
- (3) The registrar of stock shall not register an instrument of transfer of stock or of any part thereof during the period of 21 days immediately preceding the date of maturity of stock.

8. Receipt of registered stock holders to discharge without regard to trust

- (1) The receipt of the person in whose name stock stands in the stock ledger, or if it stands in the names of more persons than one, the receipt of one of the persons named in the stock ledger, is a sufficient discharge to the Trust for any interest payable in respect of the stock notwithstanding any trust to which the stock may then be subject, and whether or not the Trust has had the notice of the trusts; and the Trust is not bound to see to the application of the money paid upon such receipt.
- (2) If stock is held in joint names and one or more of the registered owners of the stock dies, becomes bankrupt, insolvent, or otherwise

Schedule

legally incapable, the receipt of any one of the other joint owners or survivors is a sufficient discharge to the Trust for any interest payable in respect of the stock, notwithstanding that a transmission has not been registered as required by this Act.

[Schedule amended by No. 113 of 1965 s.4.]

=====

Notes

- ¹ This reprint is a compilation as at 27 July 1999 of the *Metropolitan (Perth) Passenger Transport Trust Act 1957* and includes all amendments effected by the other Acts referred to in the following Table.

Table of Acts

Short Title	Number and Year	Assent	Commencement	Miscellaneous
<i>Metropolitan (Perth) Passenger Transport Trust Act 1957</i>	71 of 1957	10 December 1957	15 January 1958 (see section 2 and <i>Gazette</i> 3 January 1958 p.1)	
<i>Metropolitan (Perth) Passenger Transport Trust Act Amendment Act 1960</i>	11 of 1960	6 October 1960	6 October 1960	
<i>Metropolitan (Perth) Passenger Transport Trust Act Amendment Act 1961</i>	9 of 1961	10 October 1961	10 October 1961	
<i>Decimal Currency Act 1965, section 4(1)</i>	113 of 1965	21 December 1965	14 February 1966 (see section 2(2))	
<i>Metropolitan (Perth) Passenger Transport Trust Act Amendment Act 1966</i>	52 of 1966	5 December 1966	5 December 1966	
<i>Metropolitan (Perth) Passenger Transport Trust Act Amendment Act 1973</i>	93 of 1973	27 December 1973	22 March 1974 (see section 2 and <i>Gazette</i> 22 March 1974 p.902)	
<i>Metropolitan (Perth) Passenger Transport Trust Amendment Act 1980</i>	25 of 1980	23 October 1980	20 November 1980	

Metropolitan (Perth) Passenger Transport Trust Act 1957

Short Title	Number and Year	Assent	Commencement	Miscellaneous
<i>Companies (Consequential Amendments) Act 1982, section 28</i>	10 of 1982	14 May 1982	1 July 1982 (see section 2(1) and <i>Gazette</i> 25 June 1982 p.2079)	
<i>Metropolitan (Perth) Transport Trust Amendment Act 1984</i>	117 of 1984	19 December 1984	16 January 1985 (see section 2 and <i>Gazette</i> 11 January 1985 p.176)	Section 28 transitional ²
<i>Acts Amendment (Financial Administration and Audit) Act 1985, section 3</i>	98 of 1985	4 December 1985	1 July 1986 (see section 2 and <i>Gazette</i> 30 June 1986 p.2255)	
<i>Acts Amendment (Public Service) Act 1987, section 32</i>	113 of 1987	31 December 1987	16 March 1988 (see section 2 and <i>Gazette</i> 16 March 1988 p.813)	
<i>Financial Administration Legislation Act 1993, Part 4</i>	6 of 1993	27 August 1993	Deemed operative 1 July 1993 (see section 2(1))	
<i>Acts Amendment (Public Sector Management) Act 1994, section 19</i>	32 of 1994	29 June 1994	1 October 1994 (see section 2 and <i>Gazette</i> 30 September 1994 p.4948)	
<i>Acts Amendment (Perth Passenger Transport) Act 1994, Part 3</i>	64 of 1994	1 December 1994	1 January 1995 (see section 2 and <i>Gazette</i> 30 December 1994 p.7211)	Savings ⁸
<i>Statutes (Repeals and Minor Amendments) Act 1994, section 4</i>	73 of 1994	9 December 1994	9 December 1994 (see section 2)	

Metropolitan (Perth) Passenger Transport Trust Act 1957

Short Title	Number and Year	Assent	Commencement	Miscellaneous
<i>Sentencing (Consequential Provisions) Act 1995, Part 51</i>	78 of 1995	16 January 1996	4 November 1996 (see section 2 and <i>Gazette</i> 25 October 1996 p.5632)	
<i>Statutory Corporations (Liability of Directors) Act 1996, section 3</i>	41 of 1996	10 October 1996	1 December 1996 (see section 2 and <i>Gazette</i> 12 November 1996 p.6301)	
<i>Financial Legislation Amendment Act 1996, section 64</i>	49 of 1996	25 October 1996	25 October 1996 (see section 2(1))	
<i>Trustees Amendment Act 1997, section 18</i>	1 of 1997	6 May 1997	16 June 1997 (see section 2 and <i>Gazette</i> 10 June 1997 p.2661)	
<i>Metropolitan (Perth) Passenger Transport Trust Amendment Act 1997</i>	2 of 1997	6 May 1997	6 May 1997 (see section 2)	Saving ⁹
<i>Acts Amendment (Land Administration) Act 1997, Part 42 and section 142</i>	31 of 1997	3 October 1997	30 March 1998 (see section 2 and <i>Gazette</i> 27 March 1998 p.1765)	
<i>Statutes (Repeals and Minor Amendments) Act (No. 2) 1998, section 49</i>	10 of 1998	30 April 1998	30 April 1998 (see section 2(1))	

Short Title	Number and Year	Assent	Commencement	Miscellaneous
<i>Acts Amendment and Repeal (Financial Sector Reform) Act 1999</i> , section 94	26 of 1999	29 June 1999	1 July 1999 (see section 2 and <i>Gazette</i> 30 June 1999 p.2905	

² Section 28 of the *Metropolitan (Perth) Passenger Transport Trust Amendment Act 1984* (No. 117 of 1984) reads as follows —

“

28. Savings and transitional

- (1) A person who on the day that section 7 of this Act comes into operation is a member of the Trust continues in office for the remainder of the term of his office as fixed in the instrument of his appointment under the principal Act as in force before that day but subject otherwise to the provisions of the principal Act as in force after that day.
- (2) The appointment or purported appointment of a member of the Trust as a deputy of the Chairman of the Trust under or purportedly under section 9 of the principal Act as in force before the day that section 9 of this Act came into operation is hereby revoked.
- (3) Any claim for compensation made under the principal Act before the day that section 23 of this Act comes into operation that is pending on that day may be dealt with as though the relevant provisions of the principal Act that applied in relation thereto before that day were still in force after that day.

”

³ Reference to the Public Service Board may be read as a reference to the Minister for Public Sector Management according to the *Public Sector Management Act 1994* (No. 31 of 1994) section 112(2).

⁴ See *Gazette* 9 June 1958 p.846 and 15 July 1973 p.2217.

⁵ Repealed by the *Industrial Relations Act 1979* (No. 114 of 1979) section 4.

⁶ A reference to the *Public Service Act 1978* may be read as a reference to the *Public Sector Management Act 1994* (No. 31 of 1994) according to section 112(1) of that Act.

⁷ Repealed by the *Interpretation Act 1984* (No. 12 of 1984).

⁸ Section 27(2) of the *Acts Amendment (Perth Passenger Transport) Act 1994* (No. 64 of 1994) reads as follows —

“

- (2) The amendment made by this section and section 26 does not affect any infringement notice given under section 78B of the principal Act before the commencement of those sections, and any such notice has effect as if this section and section 26 had not come into operation.

”.

⁹ Section 4(2) of the *Metropolitan (Perth) Passenger Transport Trust Amendment Act 1997* (No. 2 of 1997) reads as follows —

“

- (2) Despite subsection (1), a member of the Metropolitan (Perth) Passenger Transport Trust (“**the Trust**”) —
- (a) referred to in subsection (4)(a) or (b) of section 7 of the principal Act before the repeal of that subsection by subsection (1); and
 - (b) holding office immediately before the commencement of subsection (1),

continues, subject to the principal Act, to hold office as a member of the Trust for the remainder of the period for which he or she would, but for subsection (1), have continued to hold that office.

”.

Defined Terms

Defined Terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined Term	Provision(s)
Account	43
alleged offender	78A
authorized person	78A
business arrangement	25(2)
Consolidated Fund	43
document.....	79A(4)
functions.....	4
income of the Trust	48(1)
information.....	79A(4)
infringement notice	78A
land	4
member	4
metropolitan area	4
property	4
secretary	64
stock.....	Schedule, Part III
to participate	25(2)
Trust.....	4