



Western Australia

## **Public Transport Authority Act 2003**

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# Public Transport Authority Act 2003

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**Defined terms**





Western Australia

## **Public Transport Authority Act 2003**

**An Act to establish a State agency responsible for providing public passenger transport services anywhere in the State and performing functions under other Acts, to amend or repeal certain Acts<sup>2</sup>, and to provide for related matters.**

## **Part 1 — Preliminary**

### **1. Short title**

This Act may be cited as the *Public Transport Authority Act 2003*<sup>1</sup>.

### **2. Commencement**

- (1) This Act, other than this Part and Part 7 Division 1, comes into operation on a day fixed by proclamation<sup>1</sup>.
- (2) This Part and Part 7 Division 1 come into operation on the day on which this Act receives the Royal Assent<sup>1</sup>.

### **3. Terms used**

In this Act, unless the contrary intention appears —

**authorised person** means a person designated under section 56 by the chief executive officer to be an authorised person for the purposes of the provision in which the term is used;

**Authority** means the Public Transport Authority of Western Australia established by section 5;

**Authority property** means land or other property that —

- (a) belongs to the Authority;
- (b) is under the care, control, or management of the Authority; or
- (c) is operated on behalf of the Authority;

**chief executive officer** means the chief executive officer, under the *Public Sector Management Act 1994*, of the Authority;

**Crown land** has the meaning given to that term in the *Land Administration Act 1997*;

**operational plan** means an operational plan under Part 5 Division 1;

**prescribed means of public passenger transport** means a road bus, ferry, railway train, or anything else prescribed by the

regulations to be a prescribed means of public passenger transport;

**public** includes any section of the public;

**public passenger transport service** means a service of transporting members of the public by a prescribed means of public passenger transport —

(a) either —

(i) over a fixed area or on a fixed route;

(ii) at fixed fares or free of charge; and

(iii) with fixed timetables;

or

(b) in any other circumstances prescribed by the regulations, except that it does not include a service that the regulations expressly exclude from being a public passenger transport service for the purposes of this Act;

**security officer** has the meaning given to that term in section 56(2);

**train** has the meaning given to that term in the *Rail Safety National Law (WA) Act 2015* section 3;

**Treasurer** means the Treasurer of the State.

[Section 3 amended by No. 18 of 2010 s. 266; No. 21 of 2015 s. 50.]

#### 4. Relationship with other laws

- (1) If anything in this Act or regulations made under it is inconsistent with anything in —
- (a) the *Rail Safety National Law (WA) Act 2015* or subsidiary legislation made under it; or
  - (b) the *Railways (Access) Act 1998* or subsidiary legislation made under it,

the legislation described in paragraph (a) or (b) prevails.

**s. 4**

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- (2) The powers given by this Act to a member of the Police Force are in addition to, and do not limit, the powers that a member of the Police Force would have if this Act had not been enacted.

*[Section 4 amended by No. 18 of 2010 s. 267; No. 21 of 2015 s. 50.]*

## **Part 2 — Public Transport Authority of Western Australia**

### **5. Authority established**

- (1) A body called the Public Transport Authority of Western Australia is established.
- (2) The Authority is a body corporate with perpetual succession.
- (3) Proceedings may be taken by or against the Authority in its corporate name.

### **6. Status**

The Authority is an agent of the State and has the status, immunities, and privileges of the State.

### **7. Management**

- (1) The Authority is to be governed by its chief executive officer.
- (2) The chief executive officer, in the name of the Authority, is to perform the functions of the Authority under this Act or any other written law.

### **Part 3 — Staff and contractors**

**8. Authority to be an SES organisation**

The Authority is to be an SES organisation under the *Public Sector Management Act 1994*.

**9. Chief executive officer**

- (1) The chief executive officer of the Authority cannot be excluded from the Senior Executive Service under the *Public Sector Management Act 1994* section 43(3).
- (2) The chief executive officer is responsible for, and has the necessary powers to administer, the day to day operations of the Authority.

**10. Other staff and contractors**

- (1) The Authority may employ staff.
- (2) This section does not detract from the power that the *Public Sector Management Act 1994* section 100 gives the Authority to engage a person under a contract for services or appoint a person on a casual employment basis.
- (3) The Authority may, by arrangement on such terms as are agreed with the relevant parties, make use of the services of a person employed by another person.

**11. Use of government staff and facilities**

- (1) The Authority may by arrangement with the relevant employer make use, either full-time or part-time, of the services of any officer or employee —
  - (a) in the Public Service;
  - (b) in a State agency; or
  - (c) otherwise in the service of the State.

- (2) The Authority may by arrangement with —
- (a) a department of the Public Service; or
  - (b) a State agency,
- make use of any facilities of the department or agency.
- (3) An arrangement under subsection (1) or (2) is to be made on terms agreed to by the parties.

## **Part 4 — Functions of the Authority**

### **12. Functions**

- (1) The main function that this Act gives the Authority is to provide and operate safe and reliable public passenger transport services, either directly or through persons with whom it contracts.
- (2) This Act does not prevent —
  - (a) the provision of public passenger transport services other than by the Authority or persons with whom it contracts; or
  - (b) the Authority from performing functions under other Acts that do not relate to, or are not limited to, public passenger transport services.

**Note:**

The Authority also has functions under other Acts. For example, the *Rail Freight System Act 2000* gives it functions associated with the rail freight network.

- (3) A secondary function of the Authority is to earn revenue by engaging in commercial activities that are not inconsistent with, and do not have an adverse effect on, the performance of its other functions under this or any other Act and are —
  - (a) connected with the performance of the Authority's functions under this or any other Act; or
  - (b) authorised by the regulations.

### **13. Powers generally**

- (1) The Authority has all the powers it needs to perform its functions under this Act or any other Act.
- (2) The Authority may, for the purpose of performing any of its functions under this Act or any other Act, but subject to any limitation imposed by any Act —
  - (a) acquire, construct, add to, alter, improve, hold, maintain, manage, develop, or dispose of, real or personal property;



- (b) enter into any contract or arrangement, including a contract or arrangement with any person for the performance of the function by that person on behalf of the Authority;
  - (c) act as an agent or provide consultancy, professional, or technical services or other assistance under a contract for services or other arrangement;
  - (d) participate, with the Minister's approval, in any business concern and, with the Treasurer's approval, acquire, hold, and dispose of, shares, units, or other interests in, or relating to, a business concern;
  - (e) carry out any investigation, survey, exploration, feasibility study, evaluation, or review;
  - (f) collaborate in, carry out, or procure the carrying out of, research and publish information that results from the research;
  - (g) produce and deal in any equipment, facilities or system associated with, the performance of the function;
  - (h) develop and turn to account any technology, software or other intellectual property that relates to the function and, for that purpose, apply for, hold, exploit and dispose of any patent, patent rights, copyright or similar rights; and
  - (i) promote and market the Authority and its activities.
- (3) Subsection (2) does not limit subsection (1) or any of the Authority's other powers.
- (4) The Authority may —
- (a) make any gift for a charitable purpose or any other purpose of benefit to the community or a section of the community;
  - (b) make any ex gratia payment that it considers to be in the Authority's interest;

- (c) accept any gift or other payment if it is absolute, or subject to conditions that it would be able to satisfy.

- (5) In this section —

**acquire** includes taking —

- (a) by way of a lease, licence, easement, or bailment; or
- (b) in any other manner in which an interest in property may be acquired;

**business concern** means a company, a partnership, a trust, a joint venture, or any other business arrangement;

**dispose of** includes dispose of —

- (a) by way of a lease, licence, easement, or bailment; or
- (b) in any other manner in which an interest in property may be disposed of;

**participate in** includes form, promote, establish, enter into, manage, dissolve, wind up, and do things incidental to participating in, a business concern.

#### **14. Use of certain Crown land by Authority**

If the Authority has the care, control, and management of any Crown land —

- (a) the purpose for which the Authority has the care, control, and management of the land is extended to include the purposes of section 12(3) unless, by an order under the *Land Administration Act 1997* section 46, the Minister referred to in that section expressly excludes the operation of this paragraph; and
- (b) this Act does not authorise the Authority to do anything that would be inconsistent with the purpose for which the Authority has the care, control, and management of the land.

**15. Dealing with certain Crown land**

- (1) The Authority may, in the name and on behalf of the State, grant a lease, licence, or easement in respect of any Crown land of which it has the care, control, and management, except to the extent that it would be inconsistent with subsection (3), (4), (5), or (6), the *Government Railways Act 1904*, or anything in a relevant instrument, to do so.
- (2) In subsection (1) —  
**relevant instrument** means an instrument giving the Authority the care, control, and management of the land.
- (3) The Authority must obtain the Minister's written approval before it grants a lease, licence, or easement under subsection (1) unless the lease, licence, or easement meets criteria prescribed by the regulations.
- (4) Before granting a lease, licence, or easement under subsection (1) in respect of any Crown land that is in the DBNGP corridor (as defined in the *Dampier to Bunbury Pipeline Act 1997* Part 4), or anything on that land, the Authority must obtain the written approval of the DBNGP Land Access Minister (as defined in that Part).
- (5) The grant of a lease, licence, or easement in respect of Crown land under subsection (1), or anything on that land, is on the conditions that —
  - (a) the land or thing is not to be used in a way that is inconsistent with anything that is on, or is being done on, corridor land as defined in the *Rail Freight System Act 2000* in accordance with rights conferred under Part 3 of that Act; and
  - (b) except as may be permitted by regulations under this Act, the land or thing is not to be used in a way or to an extent that could reasonably be expected to materially interfere with the exercise in the future of rights that

have been, or might in the future be, conferred under Part 3 of that Act.

- (6) The period for which a lease or licence is granted under subsection (1) cannot exceed 50 years.
- (7) For the purposes of this section and any prescribed criteria, the period for which a lease or licence is granted includes any period for which it is renewable under an option to renew.
- (8) Nothing in a provision of this Act that is not in this section authorises the Authority to dispose of an estate or interest in any Crown land of which it has the care, control, and management.

**16. Restriction on certain dealings in other land**

The Authority cannot dispose of any estate in land other than Crown land without the Minister's written approval unless the regulations permit the disposal.

**17. Authority may operate on corridor land under the *Rail Freight System Act 2000***

The Authority may, for the purpose of performing any of its functions under this Act, the *Government Railways Act 1904*, or the *Public Works Act 1902*, use any land that is corridor land under the *Rail Freight System Act 2000*, or any facility on corridor land, by agreement with any other person, if any, having the management and control of the use of the land or facility.

**18. Use of names for Authority and its operations**

The Authority may use and operate under one or more trading names allowed by the Minister, being —

- (a) an abbreviation or adaptation of the name given by section 5(1); or
- (b) any other name.

**19. Delegation by Authority**

- (1) The Authority may delegate to a person a power or duty of the Authority under another provision of this Act or under any other Act except the *Public Works Act 1902* or the *Rail Freight System Act 2000*.
- (2) The delegation must be in writing executed by the Authority.
- (3) If a person is not employed by the Authority, a power or duty can only be delegated to the person under this section if the person has been approved for the purposes of this section by the Minister.
- (4) An approval under subsection (3) may be given in respect of —
  - (a) a specified person or persons of a specified class; or
  - (b) the holder or holders for the time being of a specified office or class of office.
- (5) A person to whom a power or duty is delegated under this section cannot delegate that power or duty.
- (6) A person exercising or performing a power or duty that has been delegated to the person under this section is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (7) Nothing in this section limits the ability of the Authority to perform a function through a member of its staff or an agent.

## **Part 5 — Accountability and financial provisions**

### **Division 1 — Accountability**

#### **20. Draft operational plan to be submitted to Minister**

- (1) In each financial year the Authority is to prepare, and submit to the Minister for approval, a draft operational plan.
- (2) The Minister may from time to time, with the concurrence of the Treasurer, by written notice to the Authority —
  - (a) fix a day in each year by which a draft operational plan is to be submitted under subsection (1); or
  - (b) cancel a notice given under paragraph (a).
- (2a) Each draft operational plan is to be submitted not later than —
  - (a) the day fixed under subsection (2); or
  - (b) if there is for the time being no day so fixed — 2 months before the start of the next financial year (called the ***relevant financial year*** in this section and sections 21 and 22).
- (3) When the Minister approves of a draft operational plan it becomes the Authority's operational plan for the relevant financial year but the Minister must have the Treasurer's concurrence before approving a draft operational plan.
- (4) If a draft operational plan has not been approved by the Minister before the start of the relevant financial year, the latest draft plan is to be the operational plan for the Authority until a draft operational plan is approved by the Minister.
- (5) In subsection (4) —  
***latest draft plan*** means the draft operational plan submitted, or last submitted, by the Authority to the Minister before the start of the relevant financial year with any modifications made by the Authority, whether before or after that time, at the direction of the Minister.

*[Section 20 amended by No. 77 of 2006 s. 12.]*

**21. Content of operational plan**

- (1) An operational plan is to —
  - (a) give an outline of the Authority’s objectives;
  - (b) specify business and service performance targets and other measures by which to judge performance in relation to objectives for the relevant financial year;
  - (c) address allocation of resources;
  - (d) give an outline of the nature and scope of the functions to be performed during the relevant financial year;
  - (e) give an estimate of income and expenditure and source of funding during the relevant financial year; and
  - (f) address any other matters that the Minister directs the Authority to address in the operational plan.
- (2) Matters to be considered by the Authority in preparing an operational plan include initiatives to improve consumer outcomes.
- (3) An operational plan is to cover the relevant financial year and is to deal with the Authority’s functions under this or any other Act.

**22. Minister’s powers in relation to draft operational plan**

- (1) The Minister may return a draft operational plan to the Authority and request it to consider or further consider any matter and deal with it in the draft plan.
- (2) The Authority is to comply with a request under subsection (1) as soon as is practicable.
- (3) If —
  - (a) the Minister has returned a draft operational plan to the Authority requesting it to consider, or further consider, any matter and deal with it; and

(b) less than one month remains before the start of the relevant financial year and the Minister has not approved a draft operational plan, the Minister may, by written notice, direct the Authority to make specified modifications to the draft plan.

(4) The Authority is to comply with a direction under subsection (3) as soon as is practicable.

**23. Modifications of operational plan**

- (1) An operational plan may be modified by the Authority with the approval of the Minister.
- (2) The Minister cannot approve a modification of an operational plan without the Treasurer's concurrence if the modification could result in financial costs, or increased financial costs, to the State.

**24. Duty to observe operational plan**

The Authority is to perform its functions in accordance with its operational plan as existing from time to time.

**25. Consultation**

- (1) The Authority and the Minister, at the request of either, are to consult together, either directly or through appropriate representatives, in relation to any aspect of the Authority's operations.
- (2) The Authority must consult the Minister before it enters upon a course of action that in its opinion —
  - (a) amounts to a major initiative; or
  - (b) is likely to be of significant public interest.
- (3) If the Minister responsible for the administration of this Act is not the Minister responsible for the administration of each other Act under which the Authority has functions, before approving a draft operational plan or a modification of an operational plan



for the Authority the Minister is to consult with each other Minister who is responsible for the administration of any of those other Acts.

**26. Minister to be kept informed**

The Authority must —

- (a) keep the Minister reasonably informed of the operations, financial performance, and financial position of the Authority, including the assets and liabilities, profits and losses, and prospects of the Authority;
- (b) give the Minister reports and information that the Minister requires for the making of informed assessments of matters referred to in paragraph (a); and
- (c) if matters arise that in the Authority's opinion may prevent, or significantly affect, achievement of the Authority's objectives and targets outlined in its operational plan, promptly inform the Minister of the matters and its opinion in relation to them.

**27. Minister may give directions**

- (1) The Minister may give written directions to the Authority with respect to the performance of its functions under this or any other Act, either generally or in relation to a particular matter, and the Authority is to give effect to any such direction.
- (2) The Minister shall cause a copy of a direction under subsection (1) to be laid before both Houses of Parliament within 9 sitting days of the direction being given.
- (3) The text of a direction under subsection (1) is to be included in the annual report submitted by the accountable authority of the Authority under the *Financial Management Act 2006* Part 5.

*[Section 27 amended by No. 77 of 2006 s. 17.]*

**28. Minister to have access to information**

- (1) The Minister is entitled —
- (a) to have information in the possession of the Authority; and
  - (b) if 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 Authority to furnish information to the Minister;
  - (b) request the Authority to give the Minister access to information;
  - (c) for the purposes of paragraph (b) make use of the staff of the Authority to obtain the information and furnish it to the Minister.
- (3) The Authority has to comply with a request under subsection (2) and make staff and facilities available to the Minister for obtaining information under subsection (2)(c).
- (4) In this section —
- document** includes any tape, disk or other device or medium on which information is recorded or stored mechanically, photographically, electronically or otherwise;
- information** means information specified, or of a description specified, by the Minister that relates to the functions of the Authority under this or any other Act.

**29. Deletion of commercially sensitive matters**

- (1) The Authority may request the Minister to delete from —
- (a) a copy of a report under the *Financial Management Act 2006* (and any accompanying document) that is to be laid before a House of Parliament or made public; or

- (b) any other document of the Authority that is to be, or might be, made public,

a matter that is of a commercially sensitive nature, and the Minister may, despite the *Financial Management Act 2006* section 64 or an obligation, however arising, to make the document public, comply with the request except where under paragraph (b) the document is to be laid before either House of Parliament by its own order.

- (2) A copy of a document from which any matter has been deleted under subsection (1) must —
  - (a) contain a statement, at the place in the document where the matter was deleted, detailing the reasons for the deletion; and
  - (b) be accompanied by an opinion from the Auditor General stating that the information deleted is commercially sensitive.

*[Section 29 amended by No. 77 of 2006 s. 17.]*

**30. Protection for disclosure or compliance with directions**

The Authority or a person performing functions under this Act or any other Act under which the Authority has functions is not liable —

- (a) in respect of any claim arising as a consequence of the disclosure of information or documents under this Act; or
- (b) for the fact of having done or omitted a thing that is required to be done or omitted by a direction given under this Act.

## **Division 2 — Financial provisions**

### **31. Authority's funds**

The funds available for enabling the Authority to perform its functions under this or any other Act consist of —

- (a) money borrowed by the Authority under section 33; and
- (b) other money lawfully received by, made available to, or payable to, the Authority under this or any other Act.

### **32. Public Transport Authority Account**

An account called the Public Transport Authority Account is to be established —

- (a) as an agency special purpose account under the *Financial Management Act 2006* section 16; or
- (b) with the approval of the Treasurer, at a bank as defined in section 3 of that Act,

to which money received by the Authority is to be credited, and to which money paid by the Authority is to be debited.

*[Section 32 inserted by No. 77 of 2006 s. 17.]*

### **33. Borrowing**

- (1) The Authority may, with the prior approval of the Treasurer —
  - (a) borrow or re-borrow money;
  - (b) obtain credit; or
  - (c) otherwise arrange for financial accommodation to be extended to the Authority.
- (2) The Authority is to keep any register that the regulations require for the purposes of this section.

### **34. Guarantees**

- (1) The Treasurer, on the Minister's recommendation, may, in the name and on behalf of the State, guarantee the performance by

the Authority, in the State or elsewhere, of any financial obligation of the Authority.

- (2) A guarantee is to be in the form, and subject to the terms and conditions, determined by the Treasurer.
- (3) The due payment of money payable by the Treasurer under a guarantee is to be charged to the Consolidated Account, which this subsection appropriates accordingly.
- (4) The Treasurer is to cause any amounts received or recovered, from the Authority or otherwise, in respect of any payment made by the Treasurer under a guarantee to be credited to the Consolidated Account.

*[Section 34 amended by No. 77 of 2006 s. 4.]*

**35. Charges for guarantee**

- (1) The Treasurer may, after consultation with the Authority, fix charges to be paid by the Authority to the Treasurer for the benefit of the Consolidated Account in respect of a guarantee given under section 34.
- (2) Payments by the Authority to the Treasurer in respect of those charges are required to be made at times, and in instalments, as determined by the Treasurer.

*[Section 35 amended by No. 77 of 2006 s. 4.]*

**36. The Authority may extend credit to customers or suppliers**

- (1) The Authority may provide credit to customers or suppliers in the normal course of business.
- (2) The credit may be secured as the Authority considers appropriate or unsecured.

**37. Notice of financial difficulty**

- (1) The Authority must notify the Minister in the manner prescribed if it forms the opinion that the Authority is unable to, or will be

unlikely to be able to, satisfy any of its financial obligations from the financial resources available or likely to be available to it at the time the financial obligation is due.

- (2) Within 7 days of receipt of the notice, the Minister must —
  - (a) confer with the Treasurer and the Authority for the purpose of determining what action is required to ensure that the Authority is able to satisfy the relevant financial obligation when it is due; and
  - (b) initiate such action as is required to ensure that the Authority is able to satisfy the relevant financial obligation when it is due.
- (3) For the purposes of subsection (2) the Minister may give the Authority a direction under section 27 requiring the Authority to cease or limit the performance of any function.

**Division 3 — *Financial Management Act 2006 and Auditor General Act 2006***

*[Heading inserted by No. 77 of 2006 s. 17.]*

**38. *Application of Financial Management Act 2006 and Auditor General Act 2006***

The provisions of the *Financial Management Act 2006* and the *Auditor General Act 2006* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Authority and its operations.

*[Section 38 inserted by No. 77 of 2006 s. 17.]*

## Part 6 — Miscellaneous

### Division 1 — Protection of people dealing with Authority

**39. People dealing with Authority may make assumptions**

- (1) A person having dealings with the Authority is entitled to make the assumptions described in section 41.
- (2) In any proceedings in relation to the dealings, any assertion by the Authority that the matters that the person is entitled to assume were not correct must be disregarded.

**40. Third parties may make assumptions**

- (1) A person (the *third party*) having dealings with a person (the *new owner*) who has acquired, or purports to have acquired, title to property from the Authority (whether directly or indirectly) is entitled to make the assumptions described in section 41.
- (2) In any proceedings in relation to the dealings, any assertion by the Authority or the new owner that the matters that the third party is entitled to assume were not correct must be disregarded.

**41. Matters that can be assumed**

The assumptions that a person is, because of section 39 or 40, entitled to make are —

- (a) that, at all relevant times, this Act has been complied with;
- (b) that a person who is held out by the Authority to be the chief executive officer, another member of staff, or an agent of a particular kind —
  - (i) has been properly appointed; and
  - (ii) has authority to perform the functions customarily performed by the chief executive officer, another member of staff, or an agent of that kind, as the case may require;

- (c) that a member of staff or agent of the Authority who has authority to issue a document on behalf of the Authority has authority to warrant that the document is genuine;
  - (d) that a member of staff or agent of the Authority who has authority to issue a certified copy of a document on behalf of the Authority has authority to warrant that the copy is a true copy;
  - (e) that a document has been properly sealed by the Authority if —
    - (i) it bears what appears to be an imprint of the Authority's common seal; and
    - (ii) the sealing of the document appears to comply with section 51;
- and
- (f) that the Authority's chief executive officer, other members of staff, and agents have properly performed their duties to the Authority.

**42. When those matters cannot be assumed**

- (1) Despite sections 39 and 40, a person is not entitled to assume a matter described in section 41 if —
  - (a) the person has actual knowledge that the assumption would be incorrect; or
  - (b) because of the person's connection or relationship with the Authority, the person ought to know that the assumption would be incorrect.
- (2) If, because of subsection (1), a person is not entitled to make a particular assumption in relation to dealings with the Authority, section 39(2) does not apply to any assertion by the Authority in relation to the assumption.
- (3) If, because of subsection (1), a person is not entitled to make a particular assumption in relation to an acquisition or purported acquisition from the Authority of title to property, section 40(2)



does not apply to any assertion by the Authority or another person in relation to the assumption.

### **Division 2 — Infringement notices**

**43. Term used: prescribed**

In this Division —

*prescribed* means prescribed by regulations.

**44. Giving of notice**

- (1) An authorised person or a member of the Police Force who has reason to believe that a person has committed a prescribed offence under this Act may, at or about the time the alleged offence is believed to have been committed, give an infringement notice to the alleged offender.
- (2) An offence cannot be prescribed under this section if —
  - (a) it is punishable by imprisonment; or
  - (b) the maximum penalty that could be imposed for that offence by a court would depend on any circumstance of the commission of the offence.

**45. Content of notice**

- (1) An infringement notice is to be in the prescribed form and is to —
  - (a) contain a description of the alleged offence;
  - (b) advise that if the alleged offender does not wish to be prosecuted for the alleged offence in a court, the amount of money specified in the notice as being the modified penalty for the offence may be paid to an authorised person within a period of 28 days after the giving of the notice; and
  - (c) inform the alleged offender as to who are authorised persons for the purposes of receiving payment of modified penalties.

- (2) In an infringement notice the amount specified as being the modified penalty for the offence referred to in the notice is to be the amount that was the prescribed modified penalty at the time the alleged offence is believed to have been committed.
- (3) The modified penalty that may be prescribed for an offence is not to exceed 20% of the maximum penalty that could be imposed for that offence by a court.

*[Section 45 amended by No. 84 of 2004 s. 80.]*

**46. Extension of time**

An authorised person may, in a particular case, extend the period of 28 days within which the modified penalty may be paid and the extension may be allowed whether or not the period of 28 days has elapsed.

**47. Withdrawal of notice**

- (1) An authorised person may, whether or not the modified penalty has been paid, withdraw an infringement notice by sending to the alleged offender a notice in the prescribed form stating that the infringement notice has been withdrawn.
- (2) If an infringement notice is withdrawn after the modified penalty has been paid, the amount is to be refunded.

**48. Benefit of paying modified penalty**

- (1) Subsection (2) applies if the modified penalty specified in an infringement notice has been paid within 28 days or such further time as is allowed and the notice has not been withdrawn.
- (2) If this subsection applies it prevents the bringing of proceedings and the imposition of penalties to the same extent that they would be prevented if the alleged offender had been convicted by a court of, and punished for, the alleged offence.

- (3) Payment of a modified penalty is not to be regarded as an admission for the purposes of any proceedings, whether civil or criminal.

**49. Application of penalties collected**

An amount paid as a modified penalty is, subject to section 47(2), to be dealt with as if it were a penalty imposed by a court as a penalty for an offence.

**Division 3 — Other provisions**

**50. Authority exempt from certain rates and taxes**

- (1) Subject to subsection (3), the Authority is not liable to pay any local government rate or charge or water charge.
- (2) In subsection (1) —  
**water charge** means a charge made under the *Water Agencies (Powers) Act 1984* in respect of land relating to the provision of water services, as defined in that Act, except that it does not include a charge assessed by reference to the quantity of water or wastewater concerned.
- (3) Subsection (1) does not apply to the liability to pay any rate or charge in respect of land held under a lease or tenancy agreement from the Authority.

**51. Execution of documents by Authority**

- (1) The Authority is to have a common seal.
- (2) A document is duly executed by the Authority if —  
(a) the common seal of the Authority is affixed to it in accordance with subsections (3) and (4); or  
(b) it is signed on behalf of the Authority by a person or persons authorised to do so under subsection (5).
- (3) The common seal of the Authority is not to be affixed to any document except as authorised by the Authority.

- (4) The common seal of the Authority is to be affixed to a document in the presence of the chief executive officer, who is to sign the document to attest that the common seal was so affixed.
- (5) The Authority may, by writing under its common seal, authorise —
  - (a) the chief executive officer; or
  - (b) any other member or members of staff,to sign documents on behalf of the Authority, either generally or subject to conditions or restrictions specified in the authorisation.
- (6) A document purporting to be executed in accordance with this section is to be presumed to be duly executed unless the contrary is shown.
- (7) When a document is produced bearing a seal purporting to be the common seal of the Authority, it is to be presumed that the seal is the common seal of the Authority unless the contrary is shown.

**52. Contract formalities**

- (1) In so far as the formalities of making, varying or discharging a contract are concerned, a person acting as authorised by the Authority may make, vary or discharge a contract in the name of or on behalf of the Authority in the same manner as if that contract were made, varied or discharged by a natural person.
- (2) The making, variation, or discharge of a contract in accordance with subsection (1) is effectual in law and binds the Authority and other parties to the contract.
- (3) Subsection (1) does not prevent the Authority from making, varying or discharging a contract under its common seal.

**53. Assignment of benefit of contract**

- (1) A party to a contract with the Authority cannot assign any right or other benefit under the contract unless the Authority consents to the assignment.
- (2) A purported assignment contrary to subsection (1) is void.
- (3) The consent may be withheld until —
  - (a) any proposed assignee enters into an acceptable contract with the Authority or a person specified by the Authority; or
  - (b) a person specified by the Authority enters into an acceptable contract with the Authority in connection with the assignment.
- (4) In subsection (3) —

*acceptable contract* means a contract containing any terms and conditions with respect to the proposed assignment and the proposed assignee that the Authority insists on having in the contract.

**54. Protection from liability for wrongdoing**

- (1) An action in tort does not lie against a person other than the Authority for anything that the person has done, in good faith, in the performance or purported performance of a function under this or any other Act.
- (2) The protection given by subsection (1) applies even though the thing done as described in that subsection may have been capable of being done whether or not this Act had been enacted.
- (3) Despite subsection (1), neither the Authority nor the State is relieved of any liability that it might have for another person having done anything as described in that subsection.
- (4) In this section, a reference to the doing of anything includes a reference to an omission to do anything.

**55. Exchange of information**

- (1) A person who has, or has access to, information obtained in the course of the administration of this Act may disclose that information to —
- (a) a person who is a member of the Police Force; or
  - (b) a person employed in the department of the Public Service principally assisting in the administration of the *Police Act 1892*,
- for the purposes of the performance of an official function.
- (2) Without limiting other ways in which a disclosure may be made, information may be disclosed under subsection (1) by adding the information directly into a database that is accessible only to persons to whom the information may be disclosed in accordance with this Act.
- (3) A person who is an authorised person or a security officer may, in order to obtain information to facilitate the performance of the person's functions in that capacity under this Act, request —
- (a) a person who is a member of the Police Force; or
  - (b) a person employed in the department of the Public Service principally assisting in the administration of the *Police Act 1892*,
- (the *person requested*) to disclose to the person making the request any information of a kind described in the request that the person requested has, or has access to, in an official capacity.
- (4) Information the disclosure of which is requested under subsection (3) may be, but is not required to be, disclosed in accordance with the request.
- (5) This section does not authorise a person who is not an employing authority to —
- (a) disclose information, whether under subsection (1) or in response to a request under subsection (3); or

(b) under subsection (3), request the disclosure of information,

except with the approval of the person's employing authority.

- (6) An employing authority's approval under subsection (5) may apply to a particular disclosure of specified information or may apply generally as specified in the approval.
- (7) Instead of the relevant employing authorities respectively approving of a person making a request under subsection (3) for the disclosure of information and approving of the disclosure of information in response to a request under that subsection, the employing authorities may approve of the disclosure of information to a person who could make the request by giving the person access, through a computer database or other collection of information, to information of the kind that could be requested.
- (8) The authority given by this section to disclose, or to approve the disclosure of, information applies even though the disclosure may be contrary to any duty of confidentiality imposed by law or otherwise arising and whether or not the duty of confidentiality arose before this section commenced but, without limiting the authority given by this section to disclose information, a person to whom confidential information is disclosed under this section is bound by the same duty of confidentiality as applied to the person making the disclosure.
- (9) A person making or approving a disclosure under this section incurs no civil or criminal liability as a result of doing so, and is not to be regarded for any purpose as being in breach of the duty of confidentiality because of the disclosure.
- (10) In this section —  
*employing authority* has the meaning given to that term in the *Public Sector Management Act 1994* section 5 except that, for the purposes of this section, the Commissioner of Police is to be

regarded as the employing authority of a member of the Police Force.

**56. Authorised persons and security officers**

- (1) The chief executive officer may, in writing, designate a person to be an authorised person for the purposes of provisions of this Act specified in the instrument of designation, but a person who is authorised to give infringement notices under section 44 is not eligible to be an authorised person for the purposes of section 45, 46, or 47.
- (2) The chief executive officer may, in writing, designate a person employed by the Authority to be a security officer for the purposes of this Act.
- (3) In subsection (2) —  
*person employed by the Authority* does not include a person referred to in section 10(2) or (3).
- (4) A person cannot be a security officer unless the chief executive officer is satisfied that the person is suitably trained to perform the functions that this Act gives to a security officer.
- (5) A person can, at the same time, be a security officer and an authorised person.
- (6) The chief executive officer is to issue to each authorised person and to each security officer a certificate of that person's designation, and the authorised person or security officer is to produce the certificate if required to do so by a person in respect of whom a power has been or is about to be exercised.

**57. Obtaining details of certain offenders**

- (1) A person who is a security officer or an authorised person may investigate —
  - (a) an offence against this Act; or



- (b) an offence referred to in section 58(2) committed in the circumstances described in that provision,

and that person's office is prescribed for the purposes of the *Criminal Investigation (Identifying People) Act 2002* and in particular the definition of **public officer** in section 3 of that Act.

- (2) The person may exercise powers under the *Criminal Investigation (Identifying People) Act 2002* Part 3 but only in relation to a person's personal details as defined in subsection (3).
- (3) In subsection (2) —  
**personal details** means —
  - (a) the person's full name;
  - (b) the person's date of birth;
  - (c) the address of where the person is living;
  - (d) the address of where the person usually lives.

**58. Offenders may be taken into custody in some circumstances**

- (1) If this subsection applies because of subsection (2) and it appears to a security officer or a member of the Police Force that the offence referred to in that subsection would be likely to continue or be repeated if the offender is not apprehended, the security officer or member of the Police Force may, without warrant other than this subsection, take the offender into custody and take the offender to a police station or other place for the offender to be dealt with for the offence according to law.
- (2) Subsection (1) applies if —
  - (a) an offence under *The Criminal Code* section 74A is committed in or on Authority property;

- (b) an offence under *The Criminal Code* section 70A is committed in respect of premises that are Authority property; or
  - (c) an offence under *The Criminal Code* section 445 is committed in respect of Authority property.
- (3) If a person continues or repeats any act or omission that is an offence under this Act after having been warned by a security officer or a member of the Police Force that to do so may result in the person being taken into custody for the offence, the security officer or member of the Police Force may, without warrant other than this section, take the offender into custody and take the offender to a police station or other place for the offender to be dealt with for the offence according to law.
- (4) If a security officer or a member of the Police Force has reason to believe that a person has committed an offence under section 64B(1), the security officer or member of the Police Force may, without warrant other than this subsection, take the offender into custody and take the offender to a police station or other place for the offender to be dealt with for the offence according to law.

*[Section 58 amended by No. 70 of 2004 s. 82; No. 42 of 2008 s. 4.]*

**59. Security officer may help execute certain warrants**

- (1) If a court issues a warrant directing that a person be brought before a court or committed to imprisonment or other custody, a security officer may, if the person is in or on Authority property, take the person into custody and deliver the person into the custody of a member of the Police Force to be dealt with under the warrant.
- (2) Subsection (1) applies despite the warrant not being directed to the security officer or a class of persons that includes the security officer.

**60. Searching persons taken into custody**

- (1) The purpose of this section is to enable a security officer to remove from the possession of a person taken into custody under section 58 or 59 anything that could cause harm to that person or any other person (a *dangerous article*).
- (2) A security officer who takes a person into custody under section 58 or 59 may search the person and take any dangerous article found on the person, using any force that is reasonably necessary.

**61. Search without warrant**

A security officer or member of the Police Force may without a warrant stop, detain, and search anyone whom the security officer or member of the Police Force suspects on reasonable grounds to be in possession of anything contrary to regulations under section 69(3).

**62. Provisions about searching a person**

- (1) A security officer or member of the Police Force cannot carry out a search of a person under this Act unless of the same sex as the person searched.
- (2) If a security officer or member of the Police Force of the same sex as the person to be searched is not immediately available to carry out the search, a security officer or member of the Police Force may —
  - (a) cause the search to be carried out, under the direction of a security officer or member of the Police Force, by another person of the same sex as the person to be searched;
  - (b) detain the person for as long as is reasonably necessary for the person to be searched in accordance with this section; or
  - (c) convey or conduct the person to a place where the person can be searched in accordance with this section.

- (3) Nothing in this Act authorises a search by way of an examination of a person's body cavities.
- (4) A security officer or member of the Police Force may use any force that is reasonably necessary, and may call on any assistance necessary, in order to perform a function under this section.

**63. Seizure of property**

- (1) A security officer or member of the Police Force may seize from a person anything that is in the person's possession contrary to regulations under section 69(3).
- (2) A security officer or member of the Police Force who seizes anything under this section must record the fact and must record how the thing is dealt with.
- (3) Anything that is seized under this section and is not required to be kept for the purposes of dealing with an offence is to be released to its owner, any other person entitled to its possession, or the person from whom it was seized.
- (4) Subsection (3) does not prevent the thing that has been seized from being seized, forfeited, or dealt with, under another written law or under a legal process.

**64. Unclaimed property**

- (1) A justice may, on the application of the Authority, order that unclaimed property that was seized is forfeited to the State.
- (2) Unclaimed property that was not seized is forfeited to the State at the end of the prescribed period after it came into the possession of the Authority.
- (3) The Authority may destroy, dispose of, or otherwise deal with, forfeited property as it considers appropriate.
- (4) If anything has been forfeited to the State under this section but it has not been destroyed, disposed of, or otherwise dealt with in

a way that would be inconsistent with its return, the Authority may return it to a person who would have been entitled to its possession had it not been forfeited.

(5) In this section —

***prescribed period*** means —

- (a) for perishable goods, a period of 24 hours;
- (b) for anything other than perishable goods, a period of 30 days;

***unclaimed property*** means anything that —

- (a) has been seized, found, or otherwise come into the possession of the Authority; and
- (b) cannot be released in accordance with section 63(3) or otherwise returned to a person entitled to its possession because a person to whom it could be released or returned cannot be found after reasonable effort has been made.

**64A. Prohibiting people from being on or in a conveyance or facility**

(1) In this section —

***conveyance*** means a road bus, ferry or railway train involved in the provision of a public passenger transport service by the Authority;

***facility*** means a place associated with the provision of a public passenger transport service provided by the Authority.

(2) For the purposes of this section, an offence is a relevant offence if it —

- (a) is an offence specified in subsection (3); and
- (b) is an offence committed on or after the day 12 months before the day on which the *Public Transport Authority Amendment Act 2008* section 5 comes into operation.

- (3) The specified offences are —
- (a) an offence under *The Criminal Code* section 313, 317 or 318(1)(d) or (g) committed on or in a conveyance or facility;
  - (b) an offence under *The Criminal Code* section 444 committed in relation to Authority property, a conveyance or a facility;
  - (c) an offence under the *Government Railways Act 1904* section 43(5) <sup>4</sup> committed on or in a conveyance or facility and involving behaving in a violent or offensive manner to the annoyance of others;
  - (d) an offence under the *Public Transport Authority Regulations 2003* regulation 40;
  - (e) an offence under the *Public Transport Authority Regulations 2003* regulation 42 committed when regulation 41(g) was the paragraph relevant to the belief on the grounds of which the offender was advised.
- (4) If the chief executive officer proposes to give a person a prohibition order under subsection (5), the chief executive officer must, by written notice, give the offender 14 days beginning on the date of the notice to show cause —
- (a) why the order should not be given to the offender; and
  - (b) why the order should specify circumstances (an ***exception***) in which the offender may be on or in a conveyance or facility despite the person being prohibited from being on or in a conveyance or facility for the period specified in the order.
- (5) If a person has been found guilty of or pleaded guilty to —
- (a) at least 2 relevant offences committed within a period of 12 months beginning on the day on which the first offence was committed; or

- (b) 3 or more relevant offences committed within a period of 18 months beginning on the day on which the first offence was committed,

and the offences do not arise from the same acts or circumstances, the chief executive officer may give the person (the *offender*) an order (a *prohibition order*), in a form approved in writing by the chief executive officer, prohibiting the offender from being on or in a conveyance or facility for the period and subject to any exception specified in the order.

- (6) The period specified in the order —
- (a) must not exceed one month if the offender has been found guilty of or pleaded guilty to not more than 2 relevant offences committed within a period of 12 months beginning on the day on which the first offence was committed; and
  - (b) must not exceed 3 months if the offender has been found guilty of or pleaded guilty to more than 2 relevant offences committed within a period of 18 months beginning on the day on which the first offence was committed.
- (7) For the purposes of subsections (5) and (6), if a person is found guilty of or pleads guilty to more than one relevant offence at one hearing, those relevant offences are to be taken to be one relevant offence committed by the person on the date on which the latest of those offences was committed.
- (8) On the application of an offender the subject of a prohibition order, the chief executive officer may —
- (a) revoke the order; or
  - (b) make the order subject to an exception; or
  - (c) amend any exception to which the order is subject.

*[Section 64A inserted by No. 42 of 2008 s. 5.]*

**64B. Contravention of prohibition order**

- (1) A person who, without reasonable excuse, contravenes a prohibition order given to the person under section 64A(5) commits an offence.

Penalty: imprisonment for 9 months.

- (2) Despite the *Sentencing Act 1995* section 41(2), a court sentencing a person for an offence under subsection (1) may use only the sentencing options in the *Sentencing Act 1995* section 39(2)(d) to (h).
- (3) The *Young Offenders Act 1994* section 71 does not apply to the sentencing of a young person, as defined in section 3 of that Act (the *young offender*), for an offence under subsection (1).
- (4) If a young offender is being dealt with by a juvenile justice team for an offence under subsection (1), the chief executive officer is to be taken to be a victim, as referred to in the *Young Offenders Act 1994* section 31(1), for the purposes of Part 5 Division 2 of that Act.

*[Section 64B inserted by No. 42 of 2008 s. 5.]*

**65. Ejecting people from Authority property**

- (1) A security officer, an authorised person, or a member of the Police Force may, in circumstances prescribed by the regulations, direct a person who is in or on Authority property to leave the Authority property.
- (2) A person who fails to comply with a direction under subsection (1) commits an offence.  
Penalty: \$1 000.
- (3) A security officer, authorised person, or member of the Police Force whose direction under this section has not been complied with may warn the person to whom the direction was given that the person may be physically removed if the person does not comply with the direction.



- (4) A security officer, authorised person, or member of the Police Force may, using any force that is reasonably necessary, remove from Authority property a person who has been warned under subsection (3) but has still not complied with the direction.
- (5) The chief executive officer cannot designate a person to be an authorised person for the purposes of subsection (4) unless the chief executive officer is satisfied that the person is suitably trained to perform functions under that subsection.

**66. Prosecutions**

- (1) A prosecution for an offence under this Act can only be commenced by a member of the Police Force, a security officer, or an authorised person.
- (2) A security officer may commence a prosecution for an offence for which the security officer took the alleged offender into custody under section 58(1).

*[Section 66 amended by No. 84 of 2004 s. 80.]*

**67. Young offenders**

A security officer or authorised person doing, or considering doing, anything to which the *Young Offenders Act 1994* would apply were it to be done by a member of the Police Force is to comply with the obligations imposed by that Act on a member of the Police Force and, for that purpose, a reference in that Act to a member of the Police Force includes a reference to a security officer or an authorised person.

**68. Proof of certain matters**

In proceedings for an offence against this Act, an averment in the prosecution notice that at a particular time —

- (a) a particular person was an authorised person for the purposes of particular provisions of the Act or was a security officer; or

- (b) a particular person who was using a public passenger transport service had not paid the appropriate fare for using the service,

is to be taken to have been proved in the absence of proof to the contrary.

*[Section 68 amended by No. 84 of 2004 s. 80.]*

**69. Regulations**

- (1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.
- (2) Without limiting subsection (1), regulations may be made —
  - (a) about the provision of public passenger transport services by the Authority;
  - (b) about any place or thing involved in the provision of public passenger transport services by the Authority;
  - (c) about the setting of fares for the use of a public passenger transport service provided by the Authority;
  - (d) regulating the conduct of a person who is —
    - (i) using a public passenger transport service provided by the Authority; or
    - (ii) in any place associated with the provision of a public passenger transport service provided by the Authority,and otherwise regulating the use of a public passenger transport service provided by the Authority;
  - (e) for protecting —
    - (i) the safety and security of any person using a public passenger transport service provided by the Authority; or

- (ii) any property belonging to or under the control of the Authority;
  - (f) prescribing matters for which fees or charges are payable, and making provision as to the amount of any fee or charge.
- (3) In addition, the Governor may make regulations necessary or convenient to be prescribed, whether in relation to the performance of the Authority's functions under this Act or any other Act, for regulating or prohibiting the possession of any prescribed thing by a person who is on or in any vehicle, premises, or other place belonging to or under the control of the Authority.
- (4) The regulations cannot prohibit the possession of anything by a person who is on or in any vehicle, premises, or other place belonging to or under the control of the Authority unless the possession of that thing could result in a nuisance to any person or could endanger the safety of any person or any Authority property.
- (5) Regulations under this section may —
  - (a) provide that contravention of a regulation is an offence;
  - (b) prescribe, for an offence against the regulations, a penalty not exceeding a fine of \$2 000.

**70. Review of Act**

- (1) The Minister is to carry out a review of the operation and effectiveness of this Act as soon as is practicable after every fifth anniversary of the commencement of this section and in the course of each review the Minister is to consider and have regard to —
  - (a) the effectiveness of the operations of the Authority;
  - (b) the need for the continuation of the functions of the Authority; and

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- (c) any other matters that appear to the Minister to be relevant to the operation and effectiveness of this Act.
- (2) The Minister is to prepare a report based on the review and, as soon as is practicable after the report is prepared (and in any event not more than 12 months after the relevant anniversary), cause it to be laid before each House of Parliament.

## Part 7 — Transitional matters

### Division 1 — Metropolitan passenger transport functions from Minister to Authority

#### 71. Terms used

In this Division, unless the contrary intention appears —

**asset** means property that —

- (a) immediately before the transfer time, is held, either by the Transport Co-ordination Ministerial Body in its own right or by any other person on behalf of the State, for the purposes of the *Transport Co-ordination Act 1966* Part II Division 4; or
- (b) arises before the transfer time in relation to the administration of the *Transport Co-ordination Act 1966* Part II Division 4 and exists immediately before that time;

**former holder** means the Transport Co-ordination Ministerial Body or any other person immediately before the transfer time —

- (a) holding any asset; or
- (b) subject to any liability;

**liability** means any liability, duty or obligation —

- (a) whether actual, contingent or prospective, liquidated or unliquidated; or
- (b) whether owed alone or jointly or jointly and severally with any other person,

that arises before the transfer time in relation to the administration of the *Transport Co-ordination Act 1966* Part II Division 4 and exists immediately before that time;

**property** means property of any kind whether tangible, intangible, real, or personal and, without limiting that meaning, includes —

- (a) any chose in action or goodwill; or
- (b) any right, interest, or claim of any kind,

whether arising from, accruing under, created or evidenced by or the subject of, an instrument or otherwise and whether liquidated or unliquidated, actual, contingent or prospective;

**right** means any right, power, privilege or immunity whether actual, contingent or prospective;

**transfer time** means the time when section 195 comes into operation;

**Transport Co-ordination Ministerial Body** means the Transport Co-ordination Ministerial Body established by the *Transport Co-ordination Act 1966* section 6.

**72. Minister may make transfer order**

- (1) To facilitate the transition from the provisions of the *Transport Co-ordination Act 1966* Part II Division 4 to the provisions of this Act, the Minister may make and publish in the *Gazette* an order that —
  - (a) specifies any asset or liability that, by operation of section 73, is to be assigned to the Authority;
  - (b) specifies proceedings relating to the administration of the *Transport Co-ordination Act 1966* Part II Division 4 in which the Authority is, by operation of section 73, to be substituted for a former holder as a party; and
  - (c) specifies any agreement or instrument relating to the administration of the *Transport Co-ordination Act 1966* Part II Division 4 that, by operation of section 73, is to have effect as if, unless otherwise expressly specified in the order, references to the Authority were substituted for references in it to a former holder.

- (2) The transfer order may specify things by reference to schedules which —
  - (a) need not be published in the *Gazette*; but
  - (b) must be available for public inspection,and anything specified in a schedule is to be taken to be specified in the order.
- (3) Anything may be specified in a transfer order by describing the class to which it belongs.
- (4) Before a transfer order is made specifying anything by reference to a schedule, a copy of which will be required to be delivered to a relevant official under section 75, the Minister is to consult as to the form and content of the schedule with the relevant official (or each relevant official if there is more than one).
- (5) A transfer order can only be made before the transfer time.
- (6) The fact that a previous transfer order has been made does not prevent a further transfer order from being made.
- (7) The transfer order, or a schedule to which it refers, may be amended by the Minister, by further order published in the *Gazette*, but no such amendment may be made after the transfer time.

**73. Consequences of transfer order**

If a transfer order is made then —

- (a) at the transfer time —
  - (i) every asset specified in the order is, by operation of this section, assigned to the Authority and if it was previously held on behalf of the State it is assigned to the Authority to hold in its own right;
  - (ii) every liability specified in the order is, by operation of this section, assigned to and becomes a liability of the Authority; and

- (iii) the Authority is, by operation of this section, substituted for a former holder as a party to any proceedings specified in the order;
- (b) any agreement or instrument specified in the order has effect, by operation of this section, as if, unless otherwise expressly specified in the order, a reference to the Authority were, at the transfer time, substituted for a reference in the agreement or instrument to a former holder;
- (c) any proceedings or remedy that might have been commenced by, or available against or to, a former holder in relation to an asset or liability assigned by paragraph (a) may be commenced by, or are available against or to, the Authority; and
- (d) anything relating to an asset or liability assigned by paragraph (a) that was done or omitted to be done by, to, or in respect of, a former holder before the assignment and is of any effect is to be taken to have been done or omitted by, to, or in respect of, the Authority.

**74. Completion of necessary transactions**

If, to any extent, section 73 cannot have effect as described in this Division (whether because a matter is governed otherwise than by the law of the State, or for any other reason), the relevant parties are each to take all practicable steps for the purpose of securing that the effect sought to be achieved by this Division is achieved as soon as possible after the transfer time.

**75. Registration of documents**

- (1) The Minister is to cause a copy of each transfer order and any schedule to which it refers to be delivered to each relevant official and the Authority.
- (2) The relevant officials are to take notice of this Division and any transfer order, including a schedule to which the order refers, and are to record and register in the appropriate manner the



documents necessary to show the effect of the transfer order and this Division.

(3) In this section —

**relevant official** means —

- (a) the Registrar of Titles;
- (b) the Registrar of Deeds;
- (c) the Minister administering the *Mining Act 1978*; or
- (d) any other person authorised by a written law to record and give effect to the registration of documents relating to property transactions,

according to which, if any, of them has responsibility for a register relating to the relevant property;

**relevant property** means property of a kind affected by the transfer order, whether it is an estate or interest in land or any other property.

#### **76. Rectifying error in transfer order**

- (1) The Minister may, by order published in the *Gazette*, make any provision that is necessary to correct any error in a transfer order or a schedule to which a transfer order refers.
- (2) An order under this section may be made so as to have effect from the transfer time.
- (3) To the extent that a provision of an order under this section has effect before the day of its publication in the *Gazette*, section 73 does not, as a result of that provision, operate so as —
  - (a) to affect, in a manner prejudicial to any person (other than the State, the Authority, or a Minister, officer or agency of the State), the rights of that person existing before the day of publication; or
  - (b) to impose liabilities on any person (other than the State, the Authority, or a Minister, officer or agency of the State), in respect of anything done or omitted to be done before the day of publication.

**77. Certain Crown land**

Crown land that, immediately before the transfer time, is under the care, control, and management of the Minister administering the *Transport Co-ordination Act 1966* Part II Division 4 or any other person for the purposes of that Division is to be regarded as if it had, at that time —

- (a) been reserved under the *Land Administration Act 1997* section 41 for the purposes of performing the Authority's functions under this Act or the *Government Railways Act 1904*; and
- (b) under section 46 of that Act, been placed under the care, control, and management of the Authority for those purposes.

**78. Metropolitan Passenger Transport Fund**

The balance of the Metropolitan Passenger Transport Fund as it is immediately before the transfer time is to be transferred to the account referred to in section 32.

**Division 2 — Transition from former *Government Railways Act 1904* bodies to Authority**

**79. Terms used**

In this Division, unless the contrary intention appears —

*asset* means property of any kind belonging, immediately before the commencement time, to a former body, whether tangible, intangible, real, or personal and, without limiting that meaning, includes —

- (a) any chose in action or goodwill; or
- (b) any right, interest, or claim of any kind,

whether arising from, accruing under, created or evidenced by or the subject of, an instrument or otherwise and whether liquidated or unliquidated, actual, contingent or prospective;

***commencement time*** means the time when this Division comes into operation;

***former body*** means the Minister for Western Australian Government Railways or The Western Australian Government Railways Commission;

***liability*** means any liability, duty or obligation that, immediately before the commencement time, a former body had —

- (a) whether actual, contingent or prospective, liquidated or unliquidated; or
- (b) whether owed alone or jointly or jointly and severally with any other person;

***Minister for Western Australian Government Railways*** means the former body corporate named Minister for Western Australian Government Railways established under the *Government Railways Act 1904* section 4;

***right*** means any right, power, privilege or immunity that, immediately before the commencement time, a former body had whether actual, contingent or prospective;

***The Western Australian Government Railways Commission*** means the former body corporate named The Western Australian Government Railways Commission constituted under the *Government Railways Act 1904* section 8.

## **80. Authority is successor of former bodies**

At the commencement time, the body corporate under the name “Minister for Western Australian Government Railways” and the body corporate under the name “The Western Australian Government Railways Commission” are each succeeded by the Authority.

## **81. Transitional provisions**

- (1) At the commencement time —
  - (a) every asset is, by operation of this section, assigned to the Authority;

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**Part 7** Transitional matters

**Division 2** Transition from former Government Railways Act 1904 bodies to Authority

**s. 81**

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- (b) every liability is, by operation of this section, assigned to and becomes a liability of the Authority; and
  - (c) the Authority is, by operation of this section, substituted for a former body as a party to any proceedings.
- (2) Any agreement or instrument has effect, by operation of this section, as if a reference to the Authority were, at the commencement time, substituted for a reference to the former body in the agreement or instrument, unless in the context it would be inappropriate to make the substitution.
- (3) Any proceedings or remedy that might have been commenced by, or available against or to, a former body in relation to an asset or liability assigned by subsection (1) may be commenced by, or are available against or to, the Authority.
- (4) Anything relating to an asset or liability assigned by subsection (1) that was done or omitted to be done by, to, or in respect of, a former body before the assignment and is of any effect is to be taken to have been done or omitted by, to, or in respect of, the Authority.
- (5) Crown land that, immediately before the commencement time, was vested in the Minister for Western Australian Government Railways by the *Government Railways Act 1904* section 4(1) is to be regarded as if it had, at that time —
  - (a) been reserved under the *Land Administration Act 1997* section 41 for the purposes of performing the Authority's functions under this Act or the *Government Railways Act 1904*; and
  - (b) under the *Land Administration Act 1997* section 46, been placed under the care, control, and management of the Authority for those purposes.
- (6) Government railways, other than Crown land, that, immediately before the commencement time, were vested in the Minister for Western Australian Government Railways by the *Government Railways Act 1904* section 4(1) become at that time the property of the Authority.

- (7) The reference in subsection (6) to Government railways other than Crown land includes a reference to anything that is on Crown land.
- (8) Subsections (5) and (6) do not limit the assignment by subsection (1) to the Authority of any asset belonging immediately before the commencement time to a former body.

**82. Completion of necessary transactions**

- (1) If, to any extent, section 81 cannot have effect as described in this Division (whether because a matter is governed otherwise than by the law of the State, or for any other reason), the relevant parties are each to take all practicable steps for the purpose of securing that the effect sought to be achieved by this Division is achieved as soon as possible after the commencement time.
- (2) Despite the repeals effected by sections 100 and 103, each of the former bodies is preserved for the purposes of doing things under subsection (1), and the Minister may execute documents for, and otherwise act on behalf of, each of those bodies for the purposes of doing those things.

**83. Registration of documents**

- (1) The Authority is to cause to be delivered to each relevant official a schedule, in a form acceptable to the relevant official, of the information that the relevant official needs in order to register changes effected by this Division.
- (2) The relevant officials are to take notice of this Division and are to record and register in the appropriate manner the documents necessary to show the effect of this Division.
- (3) In this section —  
*relevant official* means —
  - (a) the Registrar of Titles;
  - (b) the Registrar of Deeds;
  - (c) the Minister administering the *Mining Act 1978*; or

- (d) any other person authorised by a written law to record and give effect to the registration of documents relating to property transactions,

according to which, if any, of them has responsibility for a register relating to the relevant property;

**relevant property** means property of a kind affected by this Division, whether it is an estate or interest in land or any other property.

**84. By-laws under *Government Railways Act 1904* section 23 continue**

By-laws that, immediately before the commencement time, are in force under the *Government Railways Act 1904* section 23 continue under that section as if they had been made by the Authority.

**85. References in written laws to former bodies**

- (1) A reference in a written law in force immediately before the commencement time to a former body is to be construed, after that time, as a reference to the Authority unless in the context it would be inappropriate to do so.
- (2) Subsection (1) does not apply to anything for which this Act has made other provision.

**Division 3 — Transition from Rail Corridor Minister to Authority**

**86. Terms used**

In this Division, unless the contrary intention appears —

**asset** means property of any kind belonging, immediately before the commencement time, to the Rail Corridor Minister, whether tangible, intangible, real, or personal and, without limiting that meaning, includes —

- (a) any chose in action or goodwill; or

(b) any right, interest, or claim of any kind, whether arising from, accruing under, created or evidenced by or the subject of, an instrument or otherwise and whether liquidated or unliquidated, actual, contingent or prospective; **commencement time** means the time when this Division comes into operation;

**liability** means any liability, duty or obligation that, immediately before the commencement time, the Rail Corridor Minister had —

- (a) whether actual, contingent or prospective, liquidated or unliquidated; or
- (b) whether owed alone or jointly or jointly and severally with any other person;

**Rail Corridor Minister** means the former body corporate named “the Rail Corridor Minister” established by the *Rail Freight System Act 2000* section 32(1);

**right** means any right, power, privilege or immunity that, immediately before the commencement time, the Rail Corridor Minister had whether actual, contingent or prospective.

## **87. Transitional provisions**

- (1) At the commencement time —
  - (a) every asset is, by operation of this section, assigned to the Authority;
  - (b) every liability is, by operation of this section, assigned to and becomes a liability of the Authority; and
  - (c) the Authority is, by operation of this section, substituted for the Rail Corridor Minister as a party to any proceedings.
- (2) Any agreement or instrument has effect, by operation of this section, as if a reference to the Authority were, at the commencement time, substituted for a reference to the Rail

Corridor Minister in the agreement or instrument, unless in the context it would be inappropriate to make the substitution.

- (3) Any proceedings or remedy that might have been commenced by, or available against or to, the Rail Corridor Minister in relation to an asset or liability assigned by subsection (1) may be commenced by, or are available against or to, the Authority.
- (4) Anything relating to an asset or liability assigned by subsection (1) that was done or omitted to be done by, to, or in respect of, the Rail Corridor Minister before the assignment and is of any effect is to be taken to have been done or omitted by, to, or in respect of, the Authority.

**88. Completion of necessary transactions**

- (1) If, to any extent, section 87 cannot have effect as described in this Division (whether because a matter is governed otherwise than by the law of the State, or for any other reason), the relevant parties are each to take all practicable steps for the purpose of securing that the effect sought to be achieved by this Division is achieved as soon as possible after the commencement time.
- (2) Despite the repeal effected by section 176, the Rail Corridor Minister is preserved for the purposes of doing things under subsection (1), and the Minister may execute documents for, and otherwise act on behalf of, that body for the purposes of doing those things.

**89. Registration of documents**

- (1) The Authority is to cause to be delivered to each relevant official a schedule, in a form acceptable to the relevant official, of the information that the relevant official needs in order to register changes effected by this Division.
- (2) The relevant officials are to take notice of this Division and are to record and register in the appropriate manner the documents necessary to show the effect of this Division.



(3) In this section —

**relevant official** means —

- (a) the Registrar of Titles;
- (b) the Registrar of Deeds;
- (c) the Minister administering the *Mining Act 1978*; or
- (d) any other person authorised by a written law to record and give effect to the registration of documents relating to property transactions,

according to which, if any, of them has responsibility for a register relating to the relevant property;

**relevant property** means property of a kind affected by this Division, whether it is an estate or interest in land or any other property.

**90. References in written laws to Rail Corridor Minister**

- (1) A reference in a written law in force immediately before the commencement time to the Rail Corridor Minister is to be construed, after that time, as a reference to the Authority unless in the context it would be inappropriate to do so.
- (2) Subsection (1) does not apply to anything for which this Act has made other provision.

**Division 4 — Abolition of Metropolitan (Perth) Passenger Transport Trust**

**91. Winding up of affairs of Metropolitan (Perth) Passenger Transport Trust**

- (1) When the *Metropolitan (Perth) Passenger Transport Trust Act 1957* is repealed by section 156, the Minister responsible for the administration of the *Transport Co-ordination Act 1966* (the **Minister**) is required to wind up the affairs of the former Metropolitan (Perth) Passenger Transport Trust (the **Trust**) as soon as is practicable, and for the purpose of winding up those affairs —

- (a) all real and personal property and every right or interest in it that immediately before the repeal was vested in the Trust passes to and becomes vested in the State without any transfer or assignment;
  - (b) all records and data of the Trust pass to the Minister;
  - (c) all rights, liabilities, and obligations of the Trust that existed immediately before the repeal devolve on the State;
  - (d) all contracts, agreements and undertakings made by and with the Trust and having effect immediately before the repeal have effect as contracts, agreements, and undertakings made by and with the Minister acting on behalf of, and in the name of, the State and may be enforced by or against the State accordingly; and
  - (e) any legal or other proceedings or any remedies that might, but for the repeal, have been commenced or continued by or against or have been available to the Trust may be commenced or continued by or against or are available to the State, as the case requires.
- (2) For the purposes described in subsection (1) a reference to the Trust in —
- (a) a law of the State in force immediately before the repeal; or
  - (b) a document in existence immediately before the repeal,
- is to be construed, after the repeal, as a reference to the State or the Minister acting on behalf of the State, unless in the context it would be inappropriate to do so.
- (3) Subsections (1) and (2) do not apply to anything for which this Act has made other provision.

### **Division 5 — State tax implications of transitions**

#### **92. Exemption from State tax**

(1) In this section —

*State tax* includes stamp duty chargeable under the *Stamp Act 1921* and any other tax, duty, fee, levy or charge, under a law of the State.

(2) State tax is not payable in relation to —

- (a) anything that occurs by operation of this Part; or
- (b) anything done (including a transaction entered into or an instrument or document of any kind made, executed, lodged or given) under this Part, or to give effect to this Part, or for a purpose connected with or arising out of, giving effect to this Part.

### **Division 6 — Other provisions**

#### **93. Certain contributions by former body suffice**

An obligation imposed by the *Agriculture Protection Board Act 1950* section 11 on the Public Transport Authority of Western Australia to contribute in respect of a year is satisfied to the extent that The Western Australian Government Railways Commission had, before section 140 commenced, already made a contribution in respect of that year under that section.

#### **94. Tourist railways**

If, immediately before the commencement of section 123, an order was in force under the *Government Railways Act 1904* section 66A (the *former order*) authorising a person to occupy land for a tourist railway, the land is to be regarded as having been —

- (a) reserved under the *Land Administration Act 1997* section 41 for the purposes of operating a tourist railway; and

- (b) placed under the care, control, and management of that person for the purposes described in paragraph (a) by an order under the *Land Administration Act 1997* section 46 containing the same conditions as applied under the former order.

**95. Saving**

The operation of a provision of this Part is not to be regarded as —

- (a) a breach of contract or confidence or any other civil wrong;
- (b) a breach of a contractual provision prohibiting, restricting, or regulating the assignment or transfer of assets or liabilities or the disclosure of information;
- (c) giving rise to a remedy by a party to an instrument, or causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset or liability;
- (d) causing any contract or instrument to be void or otherwise unenforceable; or
- (e) releasing, or allowing the release of, any surety.

*[Part 8 (s. 96-209) omitted under the Reprints Act 1984 s. 7(4)(e).]*

**Notes**

<sup>1</sup> This is a compilation of the *Public Transport Authority Act 2003* and includes the amendments made by the other written laws referred to in the following table <sup>1a</sup>. The table also contains information about any reprint.

**Compilation table**

Short title	Number and year	Assent	Commencement
<i>Public Transport Authority Act 2003</i>	31 of 2003	26 May 2003	Pt. 1 and Pt. 7 Div. 1: 26 May 2003 (see s. 2(2)); balance: 1 Jul 2003 (see s. 2(1) and <i>Gazette</i> 27 Jun 2003 p. 2384)
<i>Criminal Law Amendment (Simple Offences) Act 2004</i> s. 82	70 of 2004	8 Dec 2004	31 May 2005 (see s. 2 and <i>Gazette</i> 14 Jan 2005 p. 163)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004</i> s. 80	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))
<i>Financial Legislation Amendment and Repeal Act 2006</i> s. 4, 12 and Sch. 1 cl. 138	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)
<i>Public Transport Authority Amendment Act 2008</i>	42 of 2008	3 Jul 2008	s. 1 and 2: 3 Jul 2008 (see s. 2(a)); Act other than s. 1 and 2: 28 Mar 2009 (see s. 2(b) and <i>Gazette</i> 27 Mar 2009 p. 917)
<b>Reprint 1: The Public Transport Authority Act 2003 as at 3 Apr 2009</b> (includes amendments listed above)			
<i>Rail Safety Act 2010</i> Pt. 11 Div. 3	18 of 2010	28 Jun 2010	1 Feb 2011 (see s. 2(b) and <i>Gazette</i> 28 Jan 2011 p. 241)
<i>Rail Safety National Law (WA) Act 2015</i> Pt. 5	21 of 2015	17 Sep 2015	2 Nov 2015 (see s. 2(b) and <i>Gazette</i> 16 Oct 2015 p. 4149)

<sup>1a</sup> On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

**Provisions that have not come into operation**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Graffiti Vandalism Act 2016 Pt. 5</i> <sup>5</sup>	16 of 2016	11 Jul 2016	To be proclaimed (see s. 2(b))

<sup>2</sup> The provisions in the *Public Transport Authority Act 2003* amending or repealing these Acts have been omitted under the *Reprints Act 1984* s. 7(4)(e).

<sup>3</sup> Footnote no longer applicable.

<sup>4</sup> The *Government Railways Act 1904* s. 43(5) was redesignated as s. 43(e) on 11 Sep 2010 by the *Standardisation of Formatting Act 2010* s. 60.

<sup>5</sup> On the date as at which this compilation was prepared, the *Graffiti Vandalism Act 2016 Pt. 5* had not come into operation. It reads as follows:

**Part 5 — *Public Transport Authority Act 2003* amended**

**33. Act amended**

This Part amends the *Public Transport Authority Act 2003*.

**34. Section 58 amended**

- (1) In section 58(1) delete “it appears to a security officer or a member of the Police Force that the offence referred to in that subsection would be likely to continue or be repeated if the offender is not apprehended,” and insert:

a security officer or a member of the Police Force witnesses an offender committing an offence referred to in that subsection, or reasonably suspects that an offence referred to in that subsection has been committed by an offender,

- (2) In section 58(2):  
(a) in paragraph (c) delete “property.” and insert:

property; or

(b) after paragraph (c) insert:

(d) an offence under the *Graffiti Vandalism Act 2016* section 5 committed in relation to Authority property, a conveyance or a facility.

(3) In section 58(2) after paragraph (a) insert:

or

**35. Section 64A amended**

In section 64A(3):

(a) in paragraph (b) after “section 444” insert:

or 445

(b) after paragraph (c) insert:

(da) an offence under the *Graffiti Vandalism Act 2016* section 5 committed in relation to Authority property, a conveyance or a facility;

## Defined terms

*[This is a list of terms defined and the provisions where they are defined.*

*The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
acceptable contract.....	53(4)
acquire.....	13(5)
asset .....	71, 79, 86
authorised person .....	3
Authority.....	3
Authority property .....	3
business concern .....	13(5)
chief executive officer .....	3
commencement time .....	79, 86
conveyance .....	64A(1)
Crown land.....	3
dangerous article.....	60(1)
dispose of.....	13(5)
document.....	28(4)
employing authority .....	55(10)
exception.....	64A(4)
facility .....	64A(1)
former body .....	79
former holder .....	71
former order .....	94
information .....	28(4)
latest draft plan.....	20(5)
liability .....	71, 79, 86
Minister.....	91(1)
Minister for Western Australian Government Railways.....	79
new owner.....	40(1)
offender.....	64A(5)
operational plan.....	3
participate in .....	13(5)
person employed by the Authority.....	56(3)
person requested .....	55(3)
personal details .....	57(3)
prescribed.....	43
prescribed means of public passenger transport.....	3
prescribed period.....	64(5)
prohibition order .....	64A(5)
property.....	71
public .....	3
public passenger transport service .....	3
Rail Corridor Minister .....	86



relevant financial year .....	20(2a)
relevant instrument .....	15(2)
relevant official .....	75(3), 83(3), 89(3)
relevant property .....	75(3), 83(3), 89(3)
right .....	71, 79, 86
security officer .....	3
State tax .....	92(1)
The Western Australian Government Railways Commission.....	79
third party.....	40(1)
train .....	3
transfer time .....	71
Transport Co-ordination Ministerial Body.....	71
Treasurer .....	3
Trust.....	91(1)
unclaimed property .....	64(5)
water charge .....	50(2)
young offender.....	64B(3)