

Western Australia

**Machinery of Government (Planning and  
Infrastructure) Amendment Act 2002**

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As at 19 Jun 2002

No. 7 of 2002

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# Machinery of Government (Planning and Infrastructure) Amendment Act 2002

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Western Australia

## **Machinery of Government (Planning and Infrastructure) Amendment Act 2002**

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**No. 7 of 2002**

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**An Act to amend —**

- **the *Control of Vehicles (Off-road Areas) Act 1978*;**
  - **the *Motor Vehicle Drivers Instructors Act 1963*;**
  - **the *Motor Vehicle (Third Party Insurance) Act 1943*;**
  - **the *Perth Parking Management Act 1999*;**
  - **the *Rail Safety Act 1998*;**
  - **the *Road Traffic Act 1974*;**
  - **the *Taxi Act 1994*;**
  - **the *Transport Co-ordination Act 1966*; and**
  - **the *Western Australian Planning Commission Act 1985*,**
- in order to facilitate administrative restructuring under the Planning and Infrastructure portfolio, to amend certain other Acts in consequence, and for related purposes.**

[Assented to 19 June 2002]

***Machinery of Government (Planning and Infrastructure) Amendment  
Act 2002***

**s. 1**

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The Parliament of Western Australia enacts as follows:



## **Part 1 — Preliminary**

### **1. Short title**

This Act may be cited as the Machinery of Government  
(Planning and Infrastructure) Amendment Act 2002. 2.

#### **Commencement**

This Act comes into operation on a day fixed by proclamation.

**Part 2 — Control of Vehicles (Off-road Areas) Act 1978**

**3. The Act amended**

The amendments in this Part are to the *Control of Vehicles (Off-road Areas) Act 1978\**.

[\* Reprinted as at 5 March 1999.

*For subsequent amendments see 2000 Index to Legislation of Western Australia, Table 1, p. 91.]*

**4. Section 3 amended**

Section 3(1) is amended as follows:

- (a) by deleting the definition of “Director General” and inserting the following definition instead —

“

“**Director General**” means the chief executive officer of the department of the Public Service principally assisting the Minister in the administration of this Act;

”;

- (b) by deleting the definition of “Minister”.

**5. Section 4A replaced by sections 4A and 4B**

Section 4A is repealed and the following sections are inserted instead —

“

**4A. Delegation**

- (1) The Director General may delegate to a person any power or duty of the Director General under another provision of this Act.
- (2) The delegation must be in writing signed by the Director General.

- (3) If a person is not employed in the Director General's department, a power or duty can only be delegated to the person under this section if the person has been approved by the Minister for the purposes of this section.
- (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 Director General to perform a function through an officer or agent.

**4B. Agreements for performance of functions**

- (1) The Director General may enter into an agreement providing for the Director General's functions under this Act that are described in the agreement to be performed on behalf of the Director General.
- (2) The agreement may be with the Commissioner of Police, a local government, or any other person or body, whether or not the person or body has itself functions of a public nature.

**s. 6**

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- (3) A function described in the agreement may be performed —
  - (a) in accordance with the agreement; and
  - (b) on and subject to terms and conditions in the agreement.
- (4) If the performance of a function is dependent upon the opinion, belief, or state of mind of the Director General it may be performed under the agreement upon the opinion, belief, or state of mind of the body or person with whom the agreement is made or another person provided for in the agreement.
- (5) For the purposes of this Act or any other written law, an act or thing done by, to, by reference to, or in relation to, a body or person in connection with the performance by that body or person under the agreement of a function of the Director General is as effectual as if it had been done by, to, by reference to, or in relation to, the Director General.

”.

**6. Section 5 amended**

Section 5(2) is repealed.

**7. Section 11 amended**

Section 11(3) is amended by deleting “to the Director General”.

**8. Section 28 amended**

Section 28(1) is repealed and the following subsection is inserted instead —

“

- (1) The scheme of registration of vehicles under this Act is to be administered by the Director General, who is to maintain a separate financial record in relation to that scheme.

”.

**9. Section 29 amended**

Section 29(12) is repealed.

**10. Section 34 amended**

Section 34(2) is amended by deleting “the Director General” and inserting instead —

“

either the Director General under this Act or the  
Director General under that Act

”.

**11. Section 43 amended and transitional provisions**

- (1) Section 43(3) is amended by deleting “maintained at the Treasury, forming part of the Trust Fund constituted under section 9 of the *Financial Administration and Audit Act 1985*,” and inserting instead —

“

established as a trust account under the *Financial Administration and Audit Act 1985* section 15B

”.

- (2) The balance of the Off-Road Vehicles Account as it was before this section came into operation is to be the opening balance of the account of that name established under the *Control of Vehicles (Off-road Areas) Act 1978* section 43(3) as amended by subsection (1).
- (3) The amount of that opening balance is to be reflected by a closing entry in the Off-Road Vehicles Account that was, before this section came into operation, required to be maintained as a part of the Trust Fund constituted under the *Financial Administration and Audit Act 1985* section 9.

**Part 3 — Motor Vehicle Drivers Instructors Act 1963**

**12. The Act amended**

The amendments in this Part are to the *Motor Vehicle Drivers Instructors Act 1963*\*.

[\* Reprinted as at 12 July 1977.

*For subsequent amendments see 2000 Index to Legislation of Western Australia, Table 1, p. 299, and Act No. 39 of 2000.]*

**13. Section 3 amended**

Section 3 is amended by deleting the definition of “Director General” and inserting the following definition instead —

“

“**Director General**” means the chief executive officer of the department of the Public Service principally assisting the Minister in the administration of this Act;

”.

**14. Sections 4 and 4A replaced**

Sections 4 and 4A are repealed and the following sections are inserted instead —

“

**4. Delegation**

- (1) The Director General may delegate to a person any power or duty of the Director General under another provision of this Act.
- (2) The delegation must be in writing signed by the Director General.
- (3) If a person is not employed in the Director General’s department, a power or duty can only be delegated to the person under this section if the person has been approved by the Minister for the purposes of this section.

- (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 Director General to perform a function through an officer or agent.

**4A. Agreements for performance of functions**

- (1) The Director General may enter into an agreement providing for the Director General's functions under this Act that are described in the agreement to be performed on behalf of the Director General.
- (2) The agreement may be with the Commissioner of Police, a local government, or any other person or body, whether or not the person or body has itself functions of a public nature.
- (3) A function described in the agreement may be performed —
  - (a) in accordance with the agreement; and
  - (b) on and subject to terms and conditions in the agreement.

**s. 14**

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- (4) If the performance of a function is dependent upon the opinion, belief, or state of mind of the Director General it may be performed under the agreement upon the opinion, belief, or state of mind of the body or person with whom the agreement is made or another person provided for in the agreement.
- (5) For the purposes of this Act or any other written law, an act or thing done by, to, by reference to, or in relation to, a body or person in connection with the performance by that body or person under the agreement of a function of the Director General is as effectual as if it had been done by, to, by reference to, or in relation to, the Director General.

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**Part 4 — *Motor Vehicle (Third Party Insurance)  
Act 1943***

**15. The Act amended**

The amendments in this Part are to the *Motor Vehicle (Third Party Insurance) Act 1943*\*.

[\* Reprinted as at 20 November 1998.]

**16. Section 3 amended**

Section 3(1) is amended as follows:

- (a) by deleting the definition of “Director General” and inserting the following definition instead —

“

“**Director General**” means the chief executive officer of the department of the Public Service principally assisting in the administration of the provisions of the *Road Traffic Act 1974* that section 5 of that Act defines as the “licensing provisions of this Act”;

”;

- (b) in the definition of “Minister”, by deleting “for Works or such other member of the Executive Council as is”.

**17. Sections 3QA and 3QB inserted**

After section 3Q, the following sections are inserted —

“

**3QA. Agreements for performance of functions**

- (1) The Director General may enter into an agreement providing for the Director General’s functions under this Act that are described in the agreement to be performed on behalf of the Director General.
- (2) The agreement may be with the Commissioner of Police, a local government, or any other person or

body, whether or not the person or body has itself functions of a public nature.

- (3) A function described in the agreement may be performed —
  - (a) in accordance with the agreement; and
  - (b) on and subject to terms and conditions in the agreement.
- (4) If the performance of a function is dependent upon the opinion, belief, or state of mind of the Director General it may be performed under the agreement upon the opinion, belief, or state of mind of the body or person with whom the agreement is made or another person provided for in the agreement.
- (5) For the purposes of this Act or any other written law, an act or thing done by, to, by reference to, or in relation to, a body or person in connection with the performance by that body or person under the agreement of a function of the Director General is as effectual as if it had been done by, to, by reference to, or in relation to, the Director General.

**3QB. Delegation**

- (1) The Director General may delegate to a person any power or duty of the Director General under another provision of this Act.
- (2) The delegation must be in writing signed by the Director General.
- (3) If a person is not employed in the Director General's department, a power or duty can only be delegated to the person under this section if the person has been approved by the Minister for the purposes of this section.

- (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 Director General to perform a function through an officer or agent.

”.

**Part 5 — Perth Parking Management Act 1999**

**18. The Act amended**

The amendments in this Part are to the *Perth Parking Management Act 1999*\*.

[\* Act No. 14 of 1999.]

**19. Section 4 amended**

Section 4 is amended by deleting the definition of “Minister”.

**20. Section 5 amended**

Section 5 is amended by deleting “to whom the administration of the *Transport Co-ordination Act 1966* is for the time being committed by the Governor”.

**21. Section 23 amended and transitional provisions**

- (1) Section 23(1) is amended by deleting “as part of the Transport Co-ordination Fund established under section 62 of the *Transport Co-ordination Act 1966*,” and inserting instead —

“

as a trust account under the *Financial Administration and Audit Act 1985* section 15B,

”.

- (2) The balance of the Perth Parking Licensing Account as it was before this section came into operation is to be the opening balance of the account of that name established under the *Perth Parking Management Act 1999* section 23(1) as amended by subsection (1).
- (3) The amount of that opening balance is to be reflected by a closing entry in the Perth Parking Licensing Account that was, before this section came into operation, required to be maintained as a part of the Transport Co-ordination Fund established under section 62 of the *Transport Co-ordination Act 1966*.

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**Part 6 — Rail Safety Act 1998**

**22. The Act amended**

The amendments in this Part are to the *Rail Safety Act 1998*\*.

[\* *Act No. 32 of 1998.*

*For subsequent amendments see Act No. 10 of 2001.]*

**23. Section 3 amended**

Section 3(1) is amended as follows:

- (a) by deleting the definition of “Director General” and inserting the following definition instead —

“

“**Director General**” means the chief executive officer of the department of the Public Service principally assisting the Minister in the administration of this Act;

”;

- (b) by deleting the definition of “Minister”.

**24. Section 23 replaced and transitional provisions**

- (1) Section 23 is repealed and the following section is inserted instead —

“

**23. Rail Safety Accreditation Account**

- (1) An account called the “Rail Safety Accreditation Account” is to be established as a trust account under the *Financial Administration and Audit Act 1985* section 15B.
- (2) The account is to be credited with —
- (a) all fees and charges collected under this Act;
- and

**s. 25**

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- (b) any amount appropriated by Parliament to, or otherwise lawfully received for, the account.
- (3) The account is to be charged with the costs of administering this Act.
- ”.
- (2) The Minister may, with the approval of the Treasurer, fix an amount that is to be the opening balance of the Rail Safety Accreditation Account established under the *Rail Safety Act 1998* section 23(1) as inserted by subsection (1).
- (3) The amount of that opening balance is to be reflected by a closing entry in the Transport Co-ordination Fund that was, before section 52 came into operation, required to be maintained as a part of the Trust Fund constituted under the *Financial Administration and Audit Act 1985* section 9.

**25. Section 57A inserted**

In Part 6 Division 2, before section 58, the following section is inserted —

“

**57A. Delegation**

- (1) The Director General may delegate to a person any power or duty of the Director General under another provision of this Act.
- (2) The delegation must be in writing signed by the Director General.
- (3) If a person is not employed in the Director General’s department, a power or duty can only be delegated to the person under this section if the person has been approved by the Minister for the purposes of this section.

- (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 Director General to perform a function through an officer or agent.

”.

**Part 7 — Road Traffic Act 1974**

**26. The Act amended**

The amendments in this Part are to the *Road Traffic Act 1974*\*.

[\* Reprinted as at 19 October 2001.]

**27. Section 5 amended**

Section 5(1) is amended as follows:

- (a) by deleting the definition of “Director General” and inserting the following definition instead —

“

“**Director General**” means the chief executive officer of the department of the Public Service principally assisting in the administration of the licensing provisions of this Act;

”;

- (b) by deleting the definition of “Minister”.

**28. Sections 6A and 6B inserted**

After section 6, the following sections are inserted —

“

**6A. Delegation**

- (1) The Director General may delegate to a person any power or duty of the Director General under another provision of this Act.
- (2) The delegation must be in writing signed by the Director General.
- (3) If a person is not employed in the Director General’s department, a power or duty can only be delegated to the person under this section if the person has been approved by the Minister for the purposes of this section.



- (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 Director General to perform a function through an officer or agent.

**6B. Agreements for performance of functions**

- (1) The Director General may enter into an agreement providing for the Director General's functions under this Act that are described in the agreement to be performed on behalf of the Director General.
- (2) The agreement may be with the Commissioner of Police, a local government, or any other person or body, whether or not the person or body has itself functions of a public nature.
- (3) A function described in the agreement may be performed —
  - (a) in accordance with the agreement; and
  - (b) on and subject to terms and conditions in the agreement.

**s. 28**

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- (4) If the performance of a function is dependent upon the opinion, belief, or state of mind of the Director General it may be performed under the agreement upon the opinion, belief, or state of mind of the body or person with whom the agreement is made or another person provided for in the agreement.
- (5) For the purposes of this Act or any other written law, an act or thing done by, to, by reference to, or in relation to, a body or person in connection with the performance by that body or person under the agreement of a function of the Director General is as effectual as if it had been done by, to, by reference to, or in relation to, the Director General.

”.

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**Part 8 — *Taxi Act 1994***

**29. The Act amended**

The amendments in this Part are to the *Taxi Act 1994*\*.

[\* *Act No. 83 of 1994.*

*For subsequent amendments see 2000 Index to Legislation of Western Australia, Table 1, p. 446.]*

**30. Section 3 amended**

Section 3(1) is amended as follows:

- (a) in the definition of “department”, by deleting “the *Transport Co-ordination Act 1966*” and inserting instead —

“ this Act ”;

- (b) by deleting the definition of “Director General” and inserting the following definition instead —

“

“**Director General**” means the chief executive officer of the department;

”;

- (c) by deleting the definition of “Minister”;

- (d) by deleting the definition of “Taxi Industry Development Fund” and inserting the following definition instead —

“

“**Taxi Industry Development Account**” means the account established as required by section 41(1);

”.

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**31. Section 5 amended**

Section 5(2) is amended by deleting “accountable officer of the department” and inserting instead —

“ Director General ”.

**32. Section 41 amended and transitional provisions**

- (1) Section 41(1) is repealed and the following subsection is inserted instead —

“

- (1) An account called the “Taxi Industry Development Account” is to be established as a trust account under the *Financial Administration and Audit Act 1985* section 15B.

”.

- (2) Section 41(2)(a), (b), and (e) are deleted.
- (3) Section 41(2)(d) is amended by deleting “Fund” and inserting instead —
- “ account ”.
- (4) Section 41(2)(f) is amended by deleting “Fund” in both places where it occurs and inserting instead —
- “ account ”.
- (5) Section 41(3) is repealed.
- (6) Section 41(5)(e) is amended by inserting before “section 44” —
- “ the former ”.
- (7) The balance of the Taxi Industry Development Fund as it was before this section came into operation is to be the opening balance of the Taxi Industry Development Account established under the *Taxi Act 1994* section 41(1) as inserted by subsection (1).

- (8) The amount of that opening balance is to be reflected by a closing entry in the Taxi Industry Development Fund that was, before this section came into operation, required to be maintained as a part of the Trust Fund referred to in the *Financial Administration and Audit Act 1985* section 9.

**33. Section 42 repealed**

Section 42 is repealed.

**34. Section 44 repealed**

Section 44 is repealed.

**35. References to Taxi Industry Development Fund amended**

The Act is amended by deleting “Taxi Industry Development Fund” in each place where it occurs that is specified in the Table to this section and inserting instead —

“ Taxi Industry Development Account ”.

**Table**

section 13  
section 14(c)  
section 41(2), (4), and (5)  
section 43(2)

**Part 9 — Transport Co-ordination Act 1966**

**36. The Act amended**

The amendments in this Part are to the *Transport Co-ordination Act 1966*.\*.

[\* Reprinted as at 11 May 2001.]

**37. Section 4 amended**

Section 4(1) is amended as follows:

- (a) by inserting in the appropriate alphabetical position the following definition —

“

“**Ministerial Body**” means the Transport Co-ordination Ministerial Body established by section 6;

”;

- (b) by deleting the definition of “Director General” and inserting the following definition instead —

“

“**Director General**” means the chief executive officer of the Department;

”.

**38. Part II Division 1 heading replaced**

The heading to Part II Division 1 is deleted and the following heading is inserted instead —

“ **Division 1 — General administration** ”.

**39. Section 7 replaced by sections 6, 6A, and 7**

Section 7 is repealed and the following sections are inserted instead —

“

**6. Transport Co-ordination Ministerial Body**

- (1) The Transport Co-ordination Ministerial Body is established.
- (2) The Ministerial Body is a body corporate with perpetual succession.
- (3) Proceedings may be taken by or against the Ministerial Body in its corporate name.
- (4) The Ministerial Body is to be governed by the Minister.
- (5) The Ministerial Body is an agent of the State and has the status, immunities, and privileges of the State.

**6A. Purpose and nature of Ministerial Body**

- (1) The Ministerial Body is established to provide a body corporate through which the Minister can perform any of the Minister's functions under this Act that can more conveniently be performed by a body corporate than an individual.
- (2) Despite the employment under the *Public Sector Management Act 1994* of ministerial officers for the purpose of assisting the Minister to perform functions that the Minister performs through the Ministerial Body, the Ministerial Body and those officers are not an organisation for the purposes of that Act.

**7. Execution of documents by Ministerial Body**

- (1) The Ministerial Body is to have a common seal.

- (2) A document is duly executed by the Ministerial Body if —
  - (a) the common seal of the Ministerial Body is affixed to it in accordance with subsections (3) and (4);
  - (b) it is signed on behalf of the Ministerial Body by the Minister; or
  - (c) it is signed on behalf of the Ministerial Body, as authorised under subsection (5), by the Director General or another person.
- (3) The common seal of the Ministerial Body is not to be affixed to a document except as authorised by the Ministerial Body.
- (4) The common seal of the Ministerial Body is to be affixed to a document in the presence of the Minister, and the Minister is to sign the document to attest that the common seal was so affixed.
- (5) The Ministerial Body may, by writing under its seal, authorise the Director General or another person to sign documents on behalf of the Ministerial Body, either generally or subject to any 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 until the contrary is shown.
- (7) A document executed by the Director General or another person under this section without the common seal of the Ministerial Body is not to be regarded as a deed unless it is executed as a deed as authorised under subsection (5).
- (8) When a document is produced bearing a seal purporting to be the common seal of the Ministerial



Body, it is to be presumed that the seal is the common seal of the Ministerial Body until the contrary is shown.

- (9) For the purposes of this Act, a facsimile of —
- (a) the Ministerial Body's seal; or
  - (b) the signature of the Minister or a person authorised under subsection (5) to execute deeds or other documents,

may be used, and a deed or other document purporting to be endorsed with such a facsimile is, until the contrary is shown, to be regarded as bearing the facsimile under this subsection.

”.

**40. Section 7A amended**

Section 7A(2) is amended by deleting “by the Minister himself or”.

**41. Section 7D repealed**

Section 7D is repealed.

**42. Section 8 replaced**

Section 8 is repealed and the following section is inserted instead —

“

**8. Use of other resources**

- (1) The Director General may, for the purposes of assisting in carrying out the provisions of this Act —
- (a) with the consent of a public authority, use the services of a person employed by the public authority; or

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- (b) with the consent of the officer's employing authority, use the services of an officer of the Public Service.
- (2) In subsection (1) —
  - “**employing authority**” has the same meaning as it has in the *Public Sector Management Act 1994*;
  - “**public authority**” means any State instrumentality or agency or any public statutory body, whether incorporated or not, established by or under a law of the State.
- (3) This section does not prevent the operation of section 66 or 100, or any other provision, of the *Public Sector Management Act 1994*.

”.

**43. Section 15 amended**

After section 15(1), the following subsection is inserted —

“

- (1a) Without limiting the things that may be delegated under subsection (1), they include things that are to be done in the course of governing the affairs of the Ministerial Body under section 6(4).

”.

**44. Section 15A repealed**

Section 15A is repealed.

**45. Part II Division 2 heading replaced**

The heading to Part II Division 2 is deleted and the following heading is inserted instead —

“ **Division 2 — Particular functions** ”.

**46. Section 15B amended**

Section 15B(2) is amended as follows:

- (a) by deleting paragraph (h) and inserting the following paragraph instead —

“

- (h) assist the Minister in carrying out the Minister’s functions under this Act;

”;

- (b) by deleting paragraph (j) and inserting the following paragraph instead —

“

- (j) advise the Minister on the administration of the *Eastern Goldfields Transport Board Act 1984*;

”.

**47. Section 15C replaced**

Section 15C is repealed and the following section is inserted instead —

“

**15C. Minister may provide facilities**

- (1) The Minister may provide facilities that the Minister considers to be necessary for the purpose of facilitating the movement of vehicles, under this Act or any other Act, in any part of the State.
- (2) The Minister may impose terms and conditions, including the payment of charges, for the use of any facilities provided under subsection (1).
- (3) The Minister may dispose of facilities that the Minister considers to be no longer necessary for the purpose referred to in subsection (1).

- (4) In this section —
- “**facilities**” includes vehicles;
  - “**manage**”, in relation to facilities, includes —
    - (a) grant a lease of and let on hire; and
    - (b) enter into an agreement or arrangement for the management of facilities by some other person;
  - “**provide**” includes acquire, establish, maintain, manage and alter.

”.

**48. Section 18 amended**

Section 18(1) is amended by deleting “, or any other,”.

**49. Section 18H inserted**

In Part II Division 4, after section 18G, the following section is inserted —

“

**18H. Power to borrow**

- (1) The Minister may borrow money upon the guarantee of the Treasurer of the State for the purposes of —
- (a) providing premises and other facilities under this Division;
  - (b) carrying out the Minister’s functions under this Division; or
  - (c) enabling the Director General’s functions under this Division to be performed.
- (2) The Minister may borrow money with the prior approval in writing of the Treasurer and upon terms and conditions that the Treasurer approves, but not otherwise.

- (3) This section authorises the Treasurer, for and on behalf of the Crown in right of the State, to give any approval or guarantee that this section requires and the guarantee may include the guarantee of interest.
- (4) Any money borrowed by the Minister under this section may be raised as one loan or as several loans and in any manner that the Treasurer may approve, but the amount of money borrowed in any one year cannot exceed, in the aggregate, an amount that the Treasurer approves.
- (5) Before a guarantee is given by the Treasurer under this section, the Minister must give to the Treasurer any security that the Treasurer requires and execute any instruments necessary for giving that security.
- (6) Money borrowed under this section can only be used for a purpose referred to in subsection (1).
- (7) The due payment of money payable by the Treasurer under a guarantee under this section is to be charged to and paid out of the Consolidated Fund, and this subsection appropriates that fund accordingly.

”.

**50. Section 60 amended**

Section 60(2)(a) is amended by deleting “Minister’s” and inserting instead —

“ Ministerial Body’s ”.

**51. Section 61 amended**

Section 61 is amended as follows:

- (a) by inserting after “by the Minister,” —  
“ by the Ministerial Body, ”;

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- (b) by deleting “the Minister,” before “in good faith” and inserting instead —  
“ any of them, ”;
- (c) by inserting after “the Crown, the Minister,” —  
“ the Ministerial Body, ”;
- (d) by inserting after “the Minister or” —  
“ the Ministerial Body or ”.

**52. Sections 62 and 62A repealed**

Sections 62 and 62A are repealed.

**53. Section 62B amended**

Section 62B(2)(b) is deleted.

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**Part 10 — Western Australian Planning Commission  
Act 1985**

**54. The Act amended**

The amendments in this Part are to the *Western Australian Planning Commission Act 1985*\*.

[\* Reprinted as at 16 March 2001.]

**55. Section 5 amended**

(1) Section 5(1)(b) is amended as follows:

- (a) at the beginning of the paragraph, by deleting “5 other members” and inserting instead —  
“ 4 other members ”;
- (b) by deleting subparagraph (iii).

(2) Section 5(1)(c) is amended as follows:

- (a) at the beginning of the paragraph, by deleting “6 other members, being — ” and inserting instead —  
“  
the least number of other members who  
include —

”;

- (b) by deleting subparagraphs (iii), (iv), and (v) and inserting the following subparagraphs instead —

“

- (iv) the person holding or acting in the office of the chief executive officer of the department principally assisting in the administration of the *Transport Co-ordination Act 1966*;
- (v) the person holding or acting in the office of the chief executive officer of

the department principally assisting in the administration of the *Environmental Protection Act 1986*;

- (va) a person, whether a member under another subparagraph or another person nominated by the Minister, who has experience in the field of urban and regional planning and is employed in an agency, as defined in the *Public Sector Management Act 1994*, for which the Minister is responsible;

”.

**56. Section 5A amended**

Section 5A(1)(b) is deleted.

**57. Section 16 amended**

Section 16(1) is amended by deleting “6 members” and inserting instead —

“

a number of members equal to at least one half of the number of members provided for by section 5

”.

**58. Section 19 amended**

- (1) Section 19(1d)(a) is amended by deleting “is so appointed” and inserting instead —

“ approved ”.



(2) Section 19(1e)(a) is amended as follows:

(a) by deleting subparagraph (iv) and inserting the following subparagraph instead —

“

(iv) the member of the Commission referred to in section 5(1)(c)(iv), or a person nominated by that member and approved by the Minister;

”;

(b) by deleting subparagraphs (vi) and (vii).

(3) Section 19(1g)(a) is amended as follows:

(a) by deleting subparagraph (ii) and inserting the following subparagraph instead —

“

(ii) each member of the Commission referred to in section 5(1)(c)(i) or (iv), or a person nominated by that member and approved by the Minister;

”;

(b) by deleting subparagraph (iii) and inserting the following subparagraph instead —

“

(iii) the Coordinator of Energy referred to in section 4 of the *Energy Coordination Act 1994* or a person nominated by him or her and approved by the Minister;

”.

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**59. Section 19A inserted**

After section 19, the following section is inserted —

“

**19A. Delegation of ministerial approval**

- (1) The Minister may delegate to a person or body any function the Minister has of giving or declining to give approval under section 19.
- (2) The delegation must be in writing signed by the Minister.

”.

**60. Section 46 amended**

Section 46 is amended by deleting “\$500 000” and inserting instead —

“ \$1 000 000 ”.

## Part 11 — Other Acts amended

**61. *Fines, Penalties and Infringement Notices Enforcement Act 1994***

Section 3(1) of the *Fines, Penalties and Infringement Notices Enforcement Act 1994*\* is amended by deleting the definition of “Director General” and inserting the following definition instead —

“

“**Director General**” means the chief executive officer of the department of the Public Service principally assisting in the administration of the provisions of the *Road Traffic Act 1974* that section 5 of that Act defines as the “licensing provisions of this Act”;

”.

[\* Reprinted as at 2 November 2001.]

**62. *Government Railways Act 1904***

- (1) The amendments in this section are to the *Government Railways Act 1904*\*.

[\* Reprinted as at 7 September 2001.]

- (2) Section 2 is amended by deleting the definition of “Director General”.
- (3) Section 28A(6) is amended as follows:
- (a) by deleting “to the Director General of Transport”;
  - (b) by inserting before the full stop at the end of the subsection —

“

to the chief executive officer of the department of the Public Service principally assisting in the administration of the *Transport Co-ordination Act 1966*

”.

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- (4) Section 28A(7) is amended by deleting “Where the Director General of Transport receives particulars of a service pursuant to subsection (6) the Director General of Transport” and inserting instead —

“

The chief executive officer who receives particulars of a service under subsection (6)

”.

**63. Railways (Access) Act 1998**

- (1) The amendments in this section are to the *Railways (Access) Act 1998*\*.

[\* Reprinted as at 12 October 2001.]

- (2) Section 14(5) is amended by deleting “Director General of Transport” and inserting instead —

“

chief executive officer of the department of the Public Service principally assisting in the administration of the *Transport Co-ordination Act 1966*

”.

- (3) Section 14(11) is amended as follows:
- (a) by deleting the semicolon at the end of the definition of “Commissioner” and inserting a full stop instead;
  - (b) by deleting the definition of “Director General of Transport”.

**64. *Sentencing Act 1995***

The *Sentencing Act 1995*\* section 105(3) is amended by deleting “Director General of Transport (referred to in section 8 of the *Transport Co-ordination Act 1966*) for the purposes of administering the licensing provisions of the *Road Traffic Act 1974*.” and inserting instead —

“

chief executive officer of the department of the Public Service principally assisting in the administration of the provisions of the *Road Traffic Act 1974* that section 5 of that Act defines as the “licensing provisions of this Act” for the purposes of administering those provisions.

”.

[\* *Reprinted as at 4 May 2001.*

*For subsequent amendments see Acts Nos. 57 of 1999 and 23 and 24 of 2001.]*

**65. *Stamp Act 1921***

The *Stamp Act 1921*\* section 76B is amended by deleting the definition of “Director General” and inserting the following definition instead —

“

**“Director General”** means the chief executive officer of the department of the Public Service principally assisting in the administration of the provisions of the *Road Traffic Act 1974* that section 5 of that Act defines as the “licensing provisions of this Act”;

”.

[\* *Reprinted as at 3 August 2001.*]

## **Part 12 — Transitional matters**

### **66. Transport Co-ordination Ministerial Body**

- (1) In relation to the functions that the former body corporate had for the purposes of the *Transport Co-ordination Act 1966* before section 39 of this Act came into operation, the Transport Co-ordination Ministerial Body established by section 6 of that Act as inserted by section 39 of this Act is a continuation of, and the same legal person as, the former body corporate.
- (2) In this section —  
**“former body corporate”** means the body corporate that was, before section 39 of this Act came into operation, constituted by the Minister under the *Transport Co-ordination Act 1966* section 7.

### **67. Agreements under former *Transport Co-ordination Act 1966* section 15C**

- (1) To the extent that, immediately before the commencement of this Act, an agreement under the former section 15C made provision about the performance of functions of the former Director General under a relevant Act, the agreement continues, when this Act comes into operation, as an agreement under the new provision of the relevant Act.
- (2) To the extent that the agreement continues under subsection (1), it applies as if —
  - (a) instead of being made by the Minister referred to in the former section 15C, the agreement had been made by the Director General referred to in the new provision of the relevant Act; and
  - (b) instead of providing for the performance of functions of the former Director General, the agreement made similar provision for the performance of the corresponding

functions of the Director General referred to in the new provision of the relevant Act.

(3) In this section —

**“former Director General”** means the Director General of Transport under the *Transport Co-ordination Act 1966* section 8 as in force before it was repealed by this Act;

**“former section 15C”** means the *Transport Co-ordination Act 1966* section 15C as in force before it was repealed by this Act;

**“new provision”** means —

- (a) the *Control of Vehicles (Off-road Areas) Act 1978* section 4B;
- (b) the *Motor Vehicle Drivers Instructors Act 1963* section 4A;
- (c) the *Motor Vehicle (Third Party Insurance) Act 1943* section 3QA; or
- (d) the *Road Traffic Act 1974* section 6B;

**“relevant Act”** means —

- (a) the *Control of Vehicles (Off-road Areas) Act 1978*;
- (b) the *Motor Vehicle Drivers Instructors Act 1963*;
- (c) the *Motor Vehicle (Third Party Insurance) Act 1943*;  
or
- (d) the *Road Traffic Act 1974*.

**68. Delegations under former *Transport Co-ordination Act 1966* section 18**

- (1) To the extent that, immediately before the commencement of this Act, a delegation under the former section 18 applied to the performance of functions or powers of the former Director General under a relevant Act, the delegation continues, when this Act comes into operation, as a delegation under the new provision of the relevant Act.

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- (2) To the extent that the delegation continues under subsection (1), it applies as if —
- (a) instead of being made by the former Director General, the delegation had been made by the Director General referred to in the new provision of the relevant Act;
  - (b) instead of delegating the performance of functions of the former Director General, the performance of the corresponding functions of the Director General referred to in the new provision of the relevant Act were delegated; and
  - (c) any Ministerial approval that would have been required in order for the delegation to be made under the new provision of the relevant Act had been given.

- (3) In this section —

**“former Director General”** means the Director General of Transport under the *Transport Co-ordination Act 1966* section 8 as in force before it was repealed by this Act;

**“former section 18”** means the *Transport Co-ordination Act 1966* section 18 as in force before it was amended by this Act;

**“new provision”** means —

- (a) the *Control of Vehicles (Off-road Areas) Act 1978* section 4A;
- (b) the *Motor Vehicle Drivers Instructors Act 1963* section 4;
- (c) the *Motor Vehicle (Third Party Insurance) Act 1943* section 3QB;
- (d) the *Rail Safety Act 1998* section 57A;
- (e) the *Road Traffic Act 1974* section 6A; or
- (f) the *Transport Co-ordination Act 1966* section 18;

**“relevant Act”** means —

- (a) the *Control of Vehicles (Off-road Areas) Act 1978*;



- (b) the *Motor Vehicle Drivers Instructors Act 1963*;
- (c) the *Motor Vehicle (Third Party Insurance) Act 1943*;
- (d) the *Rail Safety Act 1998*;
- (e) the *Road Traffic Act 1974*; or
- (f) the *Transport Co-ordination Act 1966*.

**69. Regulations about transitional matters**

- (1) If there is no sufficient provision in this Act for dealing with a transitional matter, regulations under an Act amended by this Act may include any provision that is required, or is necessary or convenient, for dealing with the transitional matter.
- (2) In subsection (1) —  
**“transitional matter”** means a matter that needs to be dealt with for the purpose of effecting the transition from the provisions of the Acts amended by this Act as in force before this Act comes into operation to the provisions of those Acts as in force after this Act comes into operation.
- (3) Regulations including a provision described in subsection (1) may be expressed to have effect before the day on which they are published in the *Gazette*.
- (4) To the extent that a regulation including a provision described in subsection (1) may have effect before the day of its publication in the *Gazette*, it does not —
  - (a) affect in a manner prejudicial to any person (other than the State or an agency of the State), the rights of that person existing before the day of its publication; or
  - (b) impose liabilities on any person (other than the State or an agency of the State) in respect of anything done or omitted to be done before the day of its publication.

