

**PUBLIC WORKS AMENDMENT  
ACT 1994**

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**No. 59 of 1994**

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**AN ACT to amend the *Public Works Act 1902* and as a consequence to amend the *Financial Administration and Audit Act 1985*, to validate the purported exercise or performance of certain powers or duties on behalf of the Minister for Works and for related purposes.**

[Assented to 7 November 1994.]

The Parliament of Western Australia enacts as follows:

**Short title**

1. This Act may be cited as the *Public Works Amendment Act 1994*.

**Principal Act**

2. In this Act the *Public Works Act 1902\** is referred to as the principal Act.

[\* *Reprinted as at 22 June 1992.*  
*For subsequent amendments see 1993 Index to*  
*Legislation of Western Australia, Table 1, pp. 172-3.]*

**Section 5A amended**

3. Section 5A of the principal Act is amended —

- (a) after paragraph (e) by deleting “or”;
- (b) at the end of paragraph (f) by deleting the comma and substituting the following —

“ ; or ”; and

- (c) after paragraph (f) by inserting the following paragraph —

“  
 (g) the Minister of the Crown to whom  
 the administration of the *Marine and*  
*Harbours Act 1981* is for the time  
 being committed by the Governor, ”.

**Section 5B amended**

4. Section 5B of the principal Act is amended —

- (a) at the end of paragraph (c) by deleting “, or” and substituting a semicolon;
- (b) at the end of paragraph (d) by deleting the comma and substituting the following —

“ ; or ”; and

- (c) after paragraph (d) by inserting the following paragraph —

“

- (e) in the case of the Minister of the Crown referred to in section 5A (g), to the chief executive officer of the Department principally assisting that Minister of the Crown in the administration of the *Marine and Harbours Act 1981* or to any other officer of that Department,

”.

### Section 9A amended

5. Section 9A of the principal Act is amended by deleting the definitions of “the Account” and “the Building Authority” and substituting the following definitions —

“

**“the Account”** means the Western Australian Building Management Authority Account continued in existence by section 9E (1);

**“the Building Management Authority”** means the body corporate called the Western Australian Building Management Authority continued in existence by section 9B (1).

”.

### Section 9B amended

6. Section 9B of the principal Act is amended —

- (a) by repealing subsection (1) and substituting the following subsections —

“

- (1) From the commencement of the *Public Works Amendment Act 1994*, the

Western Australian Building Authority previously established by this section continues in existence as a body corporate but is called the Western Australian Building Management Authority.

(1a) The change of name of the body corporate does not affect its legal identity.

”;

and

(b) by repealing subsection (5) and substituting the following subsection —

“

(5) The Building Management Authority is an agent of the Crown in right of the State and, except as provided in section 9C (7), enjoys the status, immunities and privileges of the Crown.

”.

### **Section 9C amended**

7. After section 9C (6) of the principal Act the following subsection is inserted —

“

(7) Nothing in this Part is to be read as conferring on the Building Management Authority in the performance of its functions any immunity from the operation of any written law.

”.

### **Section 9E amended**

8. Section 9E (1) of the principal Act is repealed and the following subsection is substituted —

“

(1) From the commencement of the *Public Works Amendment Act 1994*, the Western Australian

Building Authority Account previously established by this section continues in existence but is called the Western Australian Building Management Authority Account.

”.

### Various sections amended

9. (1) The principal Act is amended by inserting after “Building”, in each place where it occurs that is mentioned in the Table to this subsection, the following —

“ Management ”.

#### TABLE

|                     |                     |
|---------------------|---------------------|
| s. 9B (2)           | s. 9E (2) (5 times) |
| s. 9B (3) (3 times) | s. 9E (4) (3 times) |
| s. 9B (4)           | s. 9E (5)           |
| s. 9C (1)           | s. 9E (6)           |
| s. 9C (2) (twice)   | s. 9E (7)           |
| s. 9C (3)           | s. 9F (1) (twice)   |
| s. 9C (5)           | s. 9F (2)           |
| s. 9C (6)           | s. 9G.              |
| s. 9D               |                     |

(2) The principal Act is amended in the heading to Part IA by inserting after “BUILDING” the following —

“ **MANAGEMENT** ”.

### Transitional

10. (1) A reference in a document executed before the commencement of this Act to the Western Australian Building Authority is to be construed, unless the context otherwise requires, as if that reference had been amended to be a reference to the Western Australian Building Management Authority.

(2) A reference in a document executed before the commencement of this Act to the Western Australian Building Authority Account is to be construed, unless the context otherwise requires, as if that reference had been amended to be a reference to the Western Australian Building Management Authority Account.

### Validation

11. (1) The purported exercise or performance on behalf of the Minister for Works by —

- (a) the Minister of the Crown to whom the administration of the *Marine and Harbours Act 1981* is or was committed by the Governor; or
- (b) the chief executive officer of the Department principally assisting that Minister of the Crown in the administration of the *Marine and Harbours Act 1981* or any other officer of that Department,

with the consent of the Minister for Works during the period beginning on 1 July 1985 and ending immediately before the commencement of this Act of any power conferred or duty imposed on the Minister for Works by the principal Act is hereby validated and declared to have been lawfully done by that Minister of the Crown or that officer of that Department, as the case requires.

(2) In this section —

**“the Minister for Works”** has the meaning given by the principal Act.

***Financial Administration and Audit Act 1985 amended***

**12.** Schedule 1 to the *Financial Administration and Audit Act 1985\** is amended by deleting “Western Australian Building Authority” and substituting the following —

“ Western Australian Building Management Authority ”.

[\* *Reprinted as at 1 July 1991.*

*For subsequent amendments see 1993 Index to Legislation of Western Australia, Table 1, pp. 75-6, Acts Nos. 40 and 53 of 1993 and 6 of 1994.]*