

WESTERN AUSTRALIA

**WESTERN AUSTRALIAN TOURISM
COMMISSION AMENDMENT
ACT 1994**

No. 68 of 1994

**AN ACT to amend the *Western Australian Tourism
Commission Act 1983*.**

[Assented to 9 December 1994.]

The Parliament of Western Australia enacts as follows:

Short title

1. This Act may be cited as the *Western Australian Tourism
Commission Amendment Act 1994*.

Commencement

2. This Act comes into operation on such day as is fixed by proclamation.

Principal Act

3. In this Act the *Western Australian Tourism Commission Act 1983** is referred to as the principal Act.

[* *Act No. 57 of 1983.*

For subsequent amendments see 1993 Index to Legislation of Western Australia, Table 1, p. 228 and Act No. 32 of 1994.]

Section 3 amended

4. Section 3 of the principal Act is amended —

(a) by deleting the definition of “Chairman” and substituting the following definition —

“

“**chairman**” means the person appointed under section 5 (1) to be the chairman of the Board;

”;

(b) by deleting the definition of “member” and substituting the following definition —

“ “**member**” means member of the Board. ”;

(c) by inserting in the appropriate alphabetical positions, the following definitions —

“

“**Board**” means the Board of Commissioners of the Commission;

“chief executive officer” means the person appointed as chief executive officer under section 17;

”;

and

- (d) by deleting the definitions of “appointed member”, “paragraph”, “Part”, “section”, “subsection” and “Trust Account”.

Section 4A inserted

5. After section 4 of the principal Act the following section is inserted —

“

Board of Commissioners

4A. (1) The Commission shall have a Board of Commissioners, appointed under section 5.

(2) The Board is the governing body of the Commission with authority, in the name of the Commission, to exercise the powers and perform the functions of the Commission under this Act or under any other written law.

”.

Section 5 amended

6. Section 5 of the principal Act is amended —

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

“

(1) Subject to subsection (2), the Board shall consist of not more than 8 members

appointed by the Governor of whom one shall be appointed by the Governor to be the chairman.

(1a) The chief executive officer may be appointed by the Governor to be a member of the Board in addition to the members appointed under subsection (1).

(1b) The Minister shall appoint one of the members appointed under subsection (1) to be the deputy chairman.

”;

- (b) by repealing subsection (2) and substituting the following subsection —

“

(2) Subject to this Act —

(a) the chairman shall hold office for such period not exceeding 5 years; and

(b) each other member shall hold office for such period not exceeding 4 years,

as is specified in the instrument of his appointment, and is eligible for reappointment.

”;

- (c) in subsection (5) —

(i) by deleting “an appointed member” and substituting the following —

“ a member ”;

(ii) by deleting “that appointed member” and substituting the following —

“ that member ”; and

(iii) in para (c), by deleting “Commission” and substituting the following —

“ Board ”;

and

(d) in subsections (3), (4) and (6), by deleting “an appointed member” in the 3 places where it occurs and substituting in each case the following —

“ a member ”.

Section 7 amended

7. Section 7 of the principal Act is amended —

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

“

(1) The terms and conditions of service of, and the remuneration and allowances to be paid to, a member, shall be determined by the Minister after consultation with the Minister for Public Sector Management.

”;

and

(b) in subsection (2) by deleting “an appointed member” and substituting the following —

“ a member ”.

Section 8 amended

8. Section 8 of the principal Act is amended —

(a) in subsections (1), (2), (3), (4), (5) and (6), by deleting “Commission” in the 7 places where it occurs and substituting in each case the following —

“ Board ”; and

(b) by inserting after subsection (2) the following subsection —

“

(2a) Where, by reason of section 11 (2) or (3), a member is not present at a meeting of the Board during consideration of a matter, but there would be a quorum if the member were present, the remaining members present constitute a quorum for the purpose of any deliberation or decision at that meeting in relation to that matter.

”.

Section 9 amended

9. Section 9 of the principal Act is amended by deleting “Commission” and substituting the following —

“ Board ”.

Section 10 amended

10. Section 10 of the principal Act is amended by deleting “Commission” in the 2 places where it occurs and substituting in each case the following —

“ Board ”.

Section 11 amended

11. Section 11 of the principal Act is amended —

- (a) in subsection (1), by inserting after “who has a” the following —

“ direct or indirect ”;

- (b) by inserting after subsection (2) the following subsection —

“
(3) When the Board is considering whether to exclude a member from a meeting or prohibit a member from voting under subsection (2), that member shall not be present during any deliberations of, or any vote taken by, the Board for the purpose of making the decision. ”;

and

- (c) by deleting “Commission” in the 6 places where it occurs and substituting in each case the following —

“ Board ”.

Section 12 repealed

12. Section 12 of the principal Act is repealed.

Division 2 of Part II amended

13. The heading to Division 2 of Part II of the principal Act is amended by deleting “*Objects, functions*” and substituting the following —

“ *Functions* ”.

Sections 13 and 14 repealed and sections substituted

14. Sections 13 and 14 of the principal Act are repealed and the following sections are substituted —

“

Functions

13. The functions of the Commission are —

- (a) to promote or to support and co-ordinate the promotion of Western Australia as a holiday, event and convention destination and to do so within Australia and overseas;
- (b) to develop or to facilitate the development of new tourist facilities and to improve or facilitate the improvement of existing tourist facilities in Western Australia;
- (c) to develop or to facilitate the development of proposals for events and conventions;
- (d) to organize and administer or to assist in the organization and administration of events and conventions;
- (e) to promote tourism generally and to market travel; and
- (f) to advise the Minister on any matter relating to tourism or travel within Western Australia that is referred to the Commission by the Minister.

Powers

14. (1) The Commission may do all things necessary or convenient to be done for or in connection with the performance of its functions.

(2) Without limiting subsection (1), the Commission may, for the purpose of performing any function —

- (a) acquire, hold, manage, improve, develop and dispose of any real or personal property in Western Australia or elsewhere;
- (b) open and maintain accounts at a bank approved by the Treasurer;
- (c) liaise with any person, local authority, public authority or department or instrumentality of the Commonwealth government or the government of any other place;
- (d) enter into any contract or arrangement;
- (e) act as an agent for any person engaged in the provision of travel or tourist facilities;
- (f) appoint agents in Western Australia and elsewhere;
- (g) provide travel and tourism information services;
- (h) demand and receive fees, retainers or commissions;
- (i) undertake research and investigation; and

- (j) make grants or, upon such terms and conditions as are approved by the Treasurer, make loans or provide guarantees to any person or to a local authority or a public authority.

(3) In this section, “**public authority**” means a Minister of the Crown in right of the State, Government department, State instrumentality, State public utility and any other person or body, whether corporate or not, who or which, under the authority of any written law, administers or carries on for the benefit of the State, a social service or public utility.

Section 15 amended

15. Section 15 of the principal Act is amended —

- (a) by repealing subsections (1) and (2) and substituting the following subsections —

“

(1) The Commission may, with the approval of the Minister and of the Treasurer, for the purpose of developing and operating tourist facilities in Western Australia or organizing and administering events and conventions —

- (a) participate in any business arrangement;
- (b) acquire, hold and dispose of shares, units or other interests in any business arrangement; and
- (c) exercise any right conferred upon the Commission to appoint a director of, or hold office in, a business arrangement.

(2) In subsection (1) —

“business arrangement” means a
proprietary limited company,
partnership or trust;

“participate” includes form,
promote, establish, enter into,
manage, dissolve, wind up and
do anything incidental to the
doing of any of those things.

”;

and

(b) in subsection (3), by deleting “after considering a report furnished by” and substituting the following —

“ on the recommendation of ”.

Section 16 amended

16. Section 16 of the principal Act is amended —

(a) by inserting after the section designation “16.” the subsection designation “(1)”;

(b) by inserting after “give” the following —

“ written ”;

(c) by deleting “objects, powers and duties” and substituting the following —

“ functions and powers ”; and

(d) by inserting the following subsection —

“

(2) The text of any direction given under subsection (1) shall be included in the annual report submitted by the accountable authority of the Commission under section 66 of the *Financial Administration and Audit Act 1985*.

”

Section 16A inserted

17. After section 16 of the principal Act the following section is inserted —

“

Minister to have access to information

16A. (1) The Minister is entitled to have information in the possession of the Commission and, 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 Commission to provide information to the Minister;
- (b) request the Commission to give the Minister access to information;
- (c) for the purposes of paragraph (b) make use of the staff of the Commission to obtain the information and provide it to the Minister.

(3) The Commission is to comply with a request under subsection (2) and the Commission is to make

its staff and facilities available to the Minister for the purposes of paragraph (c) of that subsection.

(4) In this section —

“**document**” includes any tape, disc or other device or medium on which information is recorded or stored;

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

”.

Division 2a of Part II inserted

18. Before Division 3 of Part II of the principal Act the following Division is inserted —

“

Division 2a — Corporate and operational plans

Corporate plan

16B. (1) The Board shall, by 31 July each year, prepare a corporate plan for the Commission for the financial year and may review and revise that plan at any time.

(2) A corporate plan shall include —

- (a) a statement of the objectives of the Commission;
- (b) a statement of the policies and strategies that the Board intends to adopt in order to achieve the Commission’s objectives; and

- (c) an assessment of the outlook for tourism to and within Western Australia for the next 4 financial years.

(3) A corporate plan, and a revision of a corporate plan, shall be submitted to the Minister as soon as possible after it is prepared.

(4) When preparing a corporate plan the Board shall consult with such tourism bodies as the Board considers relevant.

Operational plan

16C. (1) When the Board is preparing a corporate plan it shall prepare an operational plan for the financial year to which the corporate plan relates.

(2) An operational plan for a financial year shall —

- (a) contain an estimate of the Commission's income and expenditure for that financial year; and
- (b) specify —
 - (i) the programmes that the Board proposes the Commission will carry out; and
 - (ii) the resources that the Board proposes to allocate to each programme.

Board to comply with corporate and operational plans

16D. To the extent that it is practicable to do so, the Board shall ensure that the performance of the Commission's functions and the exercise of the Commission's powers is consistent with, and designed to give effect to, the current corporate plan and the applicable operational plan.

”

Section 17 amended

19. Section 17 of the principal Act is amended —

- (a) in subsection (1), by deleting “General Manager” and substituting the following —

“ chief executive officer ”;

- (b) by repealing subsections (2) and (3) and substituting the following subsections —

“ (2) The chief executive officer shall conduct the affairs of the Commission, acting in accordance with any policies determined, and any directions given, by the Board.

(3) The Board shall not appoint a member as the chief executive officer.

(3a) Subject to the *Salaries and Allowances Act 1975*, the chief executive officer shall be paid such remuneration and allowances, and holds office on such terms and conditions, as are determined by the Board after consultation with the Minister for Public Sector Management.

(3b) The chairman may appoint a person, other than a member of the Board, to act as chief executive officer —

(a) during a vacancy in the office of chief executive officer; or

(b) during any period when the chief executive officer is absent from duty or from Western Australia or is, for any other reason, unable to perform the duties of the office.

”;

(c) in subsection (4) —

(i) by deleting “on the recommendation of the Public Service Board” and substituting the following —

“

after consultation with the Minister for Public Sector Management

”;

(ii) by inserting after “employees” the following —

“ , other than the chief executive officer ”;

and

(d) in subsection (5), by deleting “The Commission may, from time to time on the recommendation of the Public Service Board” and substituting the following —

“

The Board may, from time to time, after consultation with the Minister for Public Sector Management

”.

Section 19A repealed and a section substituted

20. Section 19A of the principal Act is repealed and the following section is substituted —

“
Status of employees who are members of Senior Executive Service

19A. Despite sections 17, 18 and 19, to the extent that there is, in the case of a person who is appointed chief executive officer or other employee and who is a member of the Senior Executive Service within the meaning of the *Public Sector Management Act 1994*, an inconsistency between this Act and that Act, that Act shall prevail.

”.

Section 21 amended

21. Section 21 of the principal Act is amended by deleting “the Minister concerned and on such terms and conditions as may be mutually arranged with that Minister and, if appropriate, with”.

Section 22 amended

22. Section 22 of the principal Act is amended by deleting “\$2 500” and substituting the following —

“ \$5 000 ”.

Section 23 amended

23. Section 23 of the principal Act is amended in subsection (1), by deleting “of its members” and substituting the following —

“ member ”.

Section 26 amended

24. Section 26 of the principal Act is amended —

- (a) by deleting “Trust” in the 4 places where it occurs and substituting in each case the following —

“ Booking ”; and

- (b) by inserting after subsection (4) the following subsection —

“
(5) Any moneys standing to the credit of the Booking Account may be invested in any manner in which moneys standing to the credit of the Public Bank Account may be invested under the *Financial Administration and Audit Act 1985* and any revenue earned from that investment is to be placed to the credit of the Commission Account.

”

Section 29 inserted

25. After section 28 of the principal Act the following section is inserted —

“

Review of Act

29. (1) The Minister shall carry out a review of the operation and effectiveness of this Act as soon as is practicable after the expiration of 5 years from the commencement of the *Western Australian Tourism Commission Amendment Act 1994* and in the course of that review the Minister shall consider and have regard to —

- (a) the effectiveness of the operations of the Commission;

- (b) the need for the continuation of the functions of the Commission; and
- (c) such other matters as appear to be relevant to the operation and effectiveness of this Act.

(2) The Minister shall prepare a report based on the review made under subsection (1) and shall, as soon as is practicable after the preparation thereof, cause the report to be laid before each House of Parliament.

”.

Section 34 amended

26. Section 34 of the principal Act is amended by deleting “1994” and substituting the following —

“ 2004 ”.