

**ACTS AMENDMENT
(DEPARTMENT OF TRANSPORT)
ACT 1993**

No. 47 of 1993

AN ACT to amend certain Acts to accommodate the abolition of the Department of Marine and Harbours and the transfer of its functions to the Department of Transport.

[Assented to 20 December 1993.]

The Parliament of Western Australia enacts as follows:

PART 1 — PRELIMINARY

Short title

1. This Act may be cited as the *Acts Amendment (Department of Transport) Act 1993*.

Commencement

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

PART 2 — ALBANY PORT AUTHORITY ACT 1926

Principal Act

3. In this Part the *Albany Port Authority Act 1926** is referred to as the principal Act.

[* Reprinted as approved 24 March 1971.

For subsequent amendments see 1992 Index to Legislation of Western Australia, Table 1, pp. 7-8 and Act No. 6 of 1993.]

Section 2 amended and consequential amendments

4. (1) Section 2 of the principal Act is amended by deleting the definition of "Chief Harbour Master" and substituting the following definition —

"

"Chief Executive Officer" means the chief executive officer of the department of the Public Service principally assisting the Minister in the administration of the *Western Australian Marine Act 1982*;

".

(2) Sections 30 and 31 of the principal Act are amended by deleting "Chief Harbour Master" in each place where it occurs and in each case substituting the following —

" Chief Executive Officer "

PART 3 — BUNBURY PORT AUTHORITY ACT 1909**Principal Act**

5. In this Part the *Bunbury Port Authority Act 1909** is referred to as the principal Act.

[* *Reprinted as at 2 January 1991.*

For subsequent amendments see 1992 Index to Legislation of Western Australia, Table 1, p. 22 and Act No. 6 of 1993.]

Section 2 amended and consequential amendments

6. (1) Section 2 of the principal Act is amended by deleting the definition of "Chief Harbour Master" and substituting the following definition —

"

"Chief Executive Officer" means the chief executive officer of the department of the Public Service principally assisting the Minister in the administration of the *Western Australian Marine Act 1982*;

".

(2) Sections 30 and 31 of the principal Act are amended by deleting "Chief Harbour Master" in each place where it occurs and in each case substituting the following —

" Chief Executive Officer "

PART 4 — *ESPERANCE PORT AUTHORITY ACT 1968*

Principal Act

7. In this Part the *Esperance Port Authority Act 1968** is referred to as the principal Act.

[* Act No. 11 of 1968.

For subsequent amendments see 1992 Index to Legislation of Western Australia, Table 1, pp. 67-8 and Act No. 6 of 1993.]

Section 5 amended and consequential amendments

8. (1) Section 5 of the principal Act is amended by deleting the definition of "Chief Harbour Master" and substituting the following definition —

“

“Chief Executive Officer” means the chief executive officer of the department of the Public Service principally assisting the Minister in the administration of the *Western Australian Marine Act 1982*;

”.

(2) Sections 32 and 33 of the principal Act are amended by deleting "Chief Harbour Master" in each place where it occurs and in each case substituting the following —

“ Chief Executive Officer ”.

PART 5 — GERALDTON PORT AUTHORITY ACT 1968**Principal Act**

9. In this Part the *Geraldton Port Authority Act 1968** is referred to as the principal Act.

[* *Act No. 10 of 1968.*

For subsequent amendments see 1992 Index to Legislation of Western Australia, Table 1, p. 86 and Act No. 6 of 1993.]

Section 5 amended and consequential amendments

10. (1) Section 5 of the principal Act is amended by deleting the definition of "Chief Harbour Master" and substituting the following definition —

"

"Chief Executive Officer" means the chief executive officer of the department of the Public Service principally assisting the Minister in the administration of the *Western Australian Marine Act 1982*;

".

(2) Sections 32 and 33 of the principal Act are amended by deleting "Chief Harbour Master" in each place where it occurs and in each case substituting the following —

" Chief Executive Officer ".

**PART 6 — GOVERNMENT EMPLOYEES
SUPERANNUATION ACT 1987**

Schedule 1 amended

11. Schedule 1 to the *Government Employees Superannuation Act 1987** is amended in Part B by deleting “Department of Marine and Harbours”.

[* *Reprinted as at 15 November 1991.*

For subsequent amendments see 1992 Index to Legislation of Western Australia, Table 1, p. 88 and Acts Nos. 6 and 8 of 1993.]

PART 7 — JETTIES ACT 1926

Principal Act

12. In this Part the *Jetties Act 1926** is referred to as the principal Act.

[* *Reprinted as approved 11 August 1976.*
For subsequent amendments see 1992 Index to Legislation of Western Australia, Table 1, p. 106 and Act No. 6 of 1993.]

Section 3 amended and consequential amendments

13. (1) Section 3 of the principal Act is amended by deleting the definitions of “Department” and “General Manager” and inserting in the appropriate alphabetical positions the following definitions —

“

“**Chief Executive Officer**” means the chief executive officer of the Department;

“**Department**” means the department of the Public Service principally assisting the Minister in the administration of this Act;

”.

(2) Sections 7 (2) and 7A of the principal Act are amended by deleting “General Manager” in each place where it occurs and in each case substituting the following —

“ Chief Executive Officer ”.

**PART 8 — LIGHTS (NAVIGATION PROTECTION)
ACT 1938**

Principal Act

14. In this Part the *Lights (Navigation Protection) Act 1938** is referred to as the principal Act.

[* *Act No. 16 of 1938.*]

Section 2 amended

15. Section 2 of the principal Act is amended by deleting the definitions of “Port Authority” and “Port or Harbour” and substituting the following definitions —

“

“Port Authority” means —

- (a) in the case of a port under the control of a port authority established under an Act — that port authority; and
- (b) in the case of any other port or a harbour — the Minister administering the *Shipping and Pilotage Act 1967*;

“Port or Harbour” includes a port or a fishing boat harbour declared as such under the *Shipping and Pilotage Act 1967* and a port under the control of a port authority established under an Act.

”

Section 7 repealed and a section substituted

16. Section 7 of the principal Act is repealed and the following section is substituted —

“

Proceedings for offences

7. A complaint under the *Justices Act 1902* for an offence against this Act may be made or sworn by —

- (a) in the case of a port under the control of a port authority established under an Act — the General Manager of that port authority; or
- (b) in the case of any other port or a harbour — the chief executive officer of the department of the Public Service principally assisting the Minister with the administration of the *Shipping and Pilotage Act 1967*.

”.

PART 9 — MARINE AND HARBOURS ACT 1981

Principal Act

17. In this Part the *Marine and Harbours Act 1981** is referred to as the principal Act.

[* *Act No. 21 of 1981.*

For subsequent amendments see 1992 Index to Legislation of Western Australia, Table 1, p. 127 and Act No. 6 of 1993.]

Long title amended

18. The long title to the principal Act is amended by deleting “**to make provision concerning the functions of the Department of Marine and Harbours and**”.

Section 3 repealed and a section substituted

19. Section 3 of the principal Act is repealed and the following section is substituted —

“

Interpretation

3. In this Act, unless the contrary intention appears —

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

“**Department**” means the department of the Public Service principally assisting the Minister in the administration of this Act;

“Port Authority” means a body corporate established under an Act as a port authority in relation to a port within the State.

Section 4 amended

20. Section 4 of the principal Act is amended by repealing subsections (1), (2) and (3).

Section 6A inserted

21. After section 6 of the principal Act the following section is inserted —

“

Provision of services etc. other than in connection with this Act

6A. (1) Notwithstanding the *State Trading Concerns Act 1916*, the Department, in addition to performing its functions under this Act, may, with the prior approval of the Minister, provide services to any person, including a Minister, department or instrumentality of the State.

(2) For the purposes of subsection (1), the Minister may enter into contracts or arrangements which may provide for payment to the Department for services provided.

(3) In subsection (1), **“services”** means services of the kind that the Department provides for the purpose of performing its functions under this Act and includes advice, the performance of work and the use of facilities.

”

Sections 13, 14, 15 and 16 repealed and sections substituted

22. Sections 13, 14, 15 and 16 of the principal Act are repealed and the following sections are substituted —

“

Revenue to be paid to Consolidated Fund

13. Subject to section 14, all moneys received by the Minister or the Department are to be credited to the Consolidated Fund.

Trust accounts

14. (1) With the prior approval of the Treasurer and the Minister, trust accounts forming part of the Trust Fund referred to in section 9 of the *Financial Administration and Audit Act 1985* may be established for such purposes, on such terms and conditions, and comprising such moneys, as the Treasurer and the Minister determine.

(2) Section 14 of the *Financial Administration and Audit Act 1985* does not apply to such trust accounts.

”

Section 18 repealed and a section substituted

23. Section 18 of the principal Act is repealed and the following section is substituted —

“

Delegation

18. (1) The Minister may delegate to the chief executive officer, or to any other officer of the

Department, the performance of any of the Minister's functions under this Act.

(2) A delegation under subsection (1) to the chief executive officer may authorize the chief executive officer to subdelegate to any other officer of the Department.

(3) Sections 58 and 59 of the *Interpretation Act 1984* apply to a subdelegation under subsection (2).

(4) A delegation or a subdelegation must be in writing.

”

Section 20 repealed and a section substituted

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

“

References to former departments and offices

20. (1) In this section —

“**former department**” means —

- (a) the Harbour and Light Department;
or
- (b) the Department of Marine and Harbours;

“**former office**” means —

- (a) the Manager of the Harbour and Light Department; or

(b) the General Manager of the
Department of Marine and Harbours.

(2) Unless the contrary intention appears, a reference in any law or document to a former department is to be read and construed as a reference to the Department.

(3) Unless the contrary intention appears, a reference in any law or document to a former office is to be read and construed as a reference to the chief executive officer.

”

PART 10 — MARINE NAVIGATIONAL AIDS ACT 1973

Section 2 amended

25. Section 2 of the *Marine Navigational Aids Act 1973** is amended by deleting the definition of "Department" and substituting the following definition —

"

"Department" means the department of the Public Service principally assisting the Minister in the administration of this Act;

".

[* *Act No. 27 of 1973.*

For subsequent amendments see 1992 Index to Legislation of Western Australia, Table 1, p. 128.]

**PART 11 — POLLUTION OF WATERS BY OIL AND
NOXIOUS SUBSTANCES ACT 1987**

Principal Act

26. In this Part the *Pollution of Waters by Oil and Noxious Substances Act 1987** is referred to as the principal Act.

[* *Act No. 14 of 1987.*]

Section 27 amended

27. Section 27 (5) of the principal Act is repealed and the following subsection is substituted —

“ (5) In this section **“appropriate authority”** means —

- (a) where the discharge occurs in a port under the control of a port authority established under an Act — that port authority; and
- (b) where the discharge occurs elsewhere — the Minister.

”.

Section 28 amended

28. Section 28 (6) of the principal Act is repealed and the following subsection is substituted —

“ (6) In this section **“appropriate authority”** means —

- (a) where the discharge occurs in a port under the control of a port authority established under an Act — that port authority; and
- (b) where the discharge occurs elsewhere — the Minister.

”.

PART 12 — SHIPPING AND PILOTAGE ACT 1967

Section 3 amended

29. Section 3 of the *Shipping and Pilotage Act 1967** is amended by deleting the definition of "Department" and substituting the following definition —

“

“Department” means the department of the Public Service principally assisting the Minister in the administration of this Act;

”.

[* *Reprinted as approved 9 November 1984.*
For subsequent amendments see 1992 Index to Legislation of Western Australia, Table 1, p. 193 and Act No. 6 of 1993.]

PART 13 — SWAN RIVER TRUST ACT 1988

Section 12 amended

30. Section 12 (1) of the *Swan River Trust Act 1988** is amended by deleting paragraph (d) and substituting the following paragraph —

“

- (d) the holder of such office in the department of the Public Service principally assisting the Minister in the administration of the *Marine and Harbours Act 1981* as that Minister may from time to time nominate;

”.

[* *Act No. 23 of 1988.*

For subsequent amendments see 1992 Index to Legislation of Western Australia, Table 1, p. 207.]

PART 14 — TRANSPORT CO-ORDINATION ACT 1966

Section 62 amended

31. Section 62 of the *Transport Co-ordination Act 1966** is amended —

- (a) in subsection (2) (b) by inserting after “this Act” the following —

“

or any other Act the Department assists in
the administration of

”;

and

- (b) in subsection (3) (b) by inserting after “this Act” the following —

“

or any other Act the Department assists in
the administration of

”.

[* *Reprinted as at 6 March 1987.*

*For subsequent amendments see 1992 Index to
Legislation of Western Australia, Table 1, pp. 215-6
and Act No. 6 of 1993.]*

PART 15 — WESTERN AUSTRALIAN MARINE ACT 1982

Principal Act

32. In this Part the *Western Australian Marine Act 1982** is referred to as the principal Act.

[* Act No. 55 of 1982.

For subsequent amendments see 1992 Index to Legislation of Western Australia, Table 1, p. 229 and Act No. 6 of 1993.]

Section 3 amended and consequential amendments

33. (1) Section 3 of the principal Act is amended by deleting the definition of “Department” and substituting the following definition —

“

“**Department**” means the department of the Public Service principally assisting the Minister in the administration of this Act;

”.

(2) The principal Act is amended by deleting “General Manager” in each place where it occurs in the provisions in the Table to this subsection and in each case substituting the following —

“ chief executive officer ”.

TABLE

s. 15 (2)(a)	s. 16 (4)	s. 132 (11)
s. 15 (5)	s. 110 (4)	Sch. 6, cl. 5.
s. 16 (1)	s. 110 (5)	

**PART 16 — WESTERN AUSTRALIAN MARINE
(SEA DUMPING) ACT 1981**

Section 14 amended

34. Section 14 (8) (b) (i) of the *Western Australian Marine (Sea Dumping) Act 1981** is amended by deleting “Harbour and Light Department of the State” and substituting the following —

“

department of the Public Service principally assisting
the Minister in the administration of that Act

”

[* *Act No. 111 of 1981.*]