

WESTERN AUSTRALIA

---

# GOVERNMENT RAILWAYS AMENDMENT ACT (No. 2)

---

No. 79 of 1990

---

**AN ACT to amend the *Government Railways Act 1904* and for related purposes.**

[Assented to 17 December 1990.]

The Parliament of Western Australia enacts as follows:

## **Short title**

1. This Act may be cited as the *Government Railways Amendment Act (No. 2) 1990*.

## **Commencement**

2. This Act shall come into operation on the day on which it receives the Royal Assent.

### **Principal Act**

3. In this Act the *Government Railways Act 1904\** is referred to as the principal Act.

[\**Reprinted as approved 27 October 1982 and amended by Acts Nos. 54 and 98 of 1985, and 16 and 113 of 1987.*]

### **Sections 8C and 8D inserted**

4. After section 8B of the principal Act the following sections are inserted—

#### **Minister may give directions**

“ 8C. (1) The Minister may give directions in writing to the Commission with respect to the performance of its functions, either generally or in relation to a particular matter, and the Commission shall give effect to any such direction.

(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*.

#### **Minister to have access to information in possession of Commission**

8D. (1) For parliamentary purposes or for the proper conduct of the Minister's public business, the Minister is entitled to have information in the possession of the Commission and to have and retain copies of documents.

(2) For the purposes of subsection (1) the Minister may—

- (a) request the Commission to furnish 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 furnish it to the Minister.

(3) The Commission shall comply with a request under subsection (2) and 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 data that is recorded or stored mechanically, photographically, or electronically and any tape, disc or other device or medium on which it is recorded or stored;

“information” means documents or other information relating to the functions of the Commission being information, as so defined, specified, or of a description specified, by the Minister;

“parliamentary purposes” means the purpose of—

- (a) answering a question asked in a House of Parliament; or
- (b) complying with a written law, or an order or resolution of a House of Parliament, that requires information to be furnished to a House of Parliament. ”.

### **Section 23 amended**

5. Section 23 of the principal Act is amended in subsection (1) by deleting paragraph (27).

**Section 76 repealed and  
a section substituted**

6. Section 76 of the principal Act is repealed and the following section is substituted—

**Endowment and provident fund**

“ 76. (1) The formation under the *Companies (Western Australia) Code* of a company named Western Australian Government Railways Employees' Endowment Fund Pty Ltd principally for the purposes of—

- (a) the transfer to it under section 34 of the *Associations Incorporation Act 1987* of the undertakings of the former funds; and
- (b) carrying on the undertakings referred to in paragraph (a),

and the doing of any act or thing related or incidental to the formation of that company are validated and declared to have been lawful.

(2) The Commission may—

- (a) hold shares in the company;
  - (b) at the request of the company—
    - (i) provide the company with the services of staff of the Commission at such cost as the Commission determines; and
    - (ii) do anything else that it considers necessary or expedient to assist in the administration of the company;
- and

- (c) pay any reasonable administrative expenses incurred by the company during the financial year commencing on 1 July 1989,

and the doing of any of those things by the Commission before the commencement of the *Government Railways*

*Amendment Act (No. 2) 1990* is validated and declared to have been lawful except that a charge shall not be made in respect of the services of staff provided before 1 July 1990.

(3) The aggregation by the company of the former funds into a single fund known as the Western Australian Government Railways Employees' Endowment and Provident Fund and administered in accordance with the rules of that fund as referred to in the trust deed is validated and declared to have been lawful and upon the aggregation the rights and entitlements of persons as members of the former funds shall be taken to have ceased and been replaced by rights and entitlements as members of the new fund in accordance with the trust deed.

(4) In this section—

“the company” means the company referred to in subsection (1);

“the former funds” means the funds formerly established under section 23 (1) (27) and incorporated under the *Associations Incorporation Act 1895* as Western Australian Government Railways Employees' Endowment Fund Incorporated and Western Australian Government Railways Employees' Provident Fund Incorporated;

“the new fund” means the Western Australian Government Railways Employees' Endowment and Provident Fund referred to in subsection (3);

“the trust deed” means the deed of trust dated 30 January 1990 between Western Australian Government Railways Employees' Endowment Fund Incorporated, Western Australian Government Railways Employees' Provident Fund Incorporated, Western Australian Government Railways Employees' Endowment Fund Pty Ltd, and the Commission. ”.

**Operation of former section 76 varied**

7. (1) The express condition imposed by subsection (1) of section 76 of the principal Act (as in force immediately before the commencement of this Act) upon the appointment or employment of certain persons as officers or servants of the department—

- (a) shall, subject to paragraph (b), be taken not to have required such a person to be a member of or contributor to the fund mentioned in that subsection for the period commencing on the transfer date and ending immediately before the commencement of this Act but to have required any such person to be a member of the new fund in accordance with the rules of that fund for that period;
- (b) shall not be taken to have required any such person to be a member of or contributor to the fund mentioned in that subsection, or any other fund, on or after the transfer date, if the person was not, immediately before that date, already required by such a condition to be a member of or contributor to the fund mentioned in that subsection,

and, for the purpose of giving effect to paragraph (a), that section shall be construed as if—

- (c) a reference in that section to the fund mentioned in that subsection had been a reference to the new fund;
  - (d) a reference in that section to the by-laws relating to the fund mentioned in that subsection had been a reference to the rules of the new fund; and
  - (e) a reference in that section to the committee of management of the fund mentioned in that subsection had been a reference to the company.
- (2) In this section, unless the contrary intention appears—

“the transfer date” means 2 February 1990, being the date of the publication in the *Gazette* of the orders made under section 34 of the *Associations Incorporation Act 1987* transferring to the company the undertakings of Western Australian

Government Railways Employees' Endowment Fund Incorporated and Western Australian Government Railways Employees' Provident Fund Incorporated; and

expressions used in section 76 of the principal Act (as substituted by section 6 of this Act) that are used in this section have the same respective meanings as they have in that section.

---