

WESTERN AUSTRALIA

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# ACTS AMENDMENT (PUBLIC SERVICE) ACT

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No. 113 of 1987

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AN ACT to amend the *Public Service Act 1978* and to make consequential amendments to other Acts.

[Assented to 31 December 1987]

The Parliament of Western Australia enacts as follows:

## PART I—PRELIMINARY

### Short title

1. This Act may be cited as the *Acts Amendment (Public Service) Act 1987*.

### Commencement

2. The provisions of this Act shall come into operation on such day as is, or days as are respectively, fixed by proclamation.

PART II—AMENDMENTS TO *PUBLIC SERVICE ACT 1978***Principal Act**

3. In this Part the *Public Service Act 1978*\* is referred to as the principal Act.

[\*Reprinted as approved 28 May 1984 and amended by Act No. 94 of 1984.]

**Section 1 repealed and substituted**

4. Section 1 of the principal Act is repealed and the following section is substituted—

Short title

“ 1. This Act may be cited as the *Public Service Act 1978*. ”.

**Section 5 repealed and substituted**

5. Section 5 of the principal Act is repealed and the following section is substituted—

Interpretation

“ 5. (1) In this Act and in Public Service notices, unless the contrary intention appears—

“administrative instructions” means administrative instructions given under section 19;

“chief executive officer” means chief executive officer referred to in section 38;

“department” means branch of the Public Service established as a department under section 21;

“office” means office in the Public Service;

“officer”, in relation to—

(a) a department, means permanent officer, temporary officer or other officer employed in the department under and subject to this Act; or

(b) an organization, means person who—

(i) is employed in the organization; and

(ii) is a member of the Senior Executive Service;

“organization” means, except in section 25, State trading concern, State instrumentality, State agency or public statutory body, corporate or unincorporate—

(a) established or continued by or under a written law; and

(b) specified in column 2 of the Schedule;

“permanent officer” means person holding a current appointment to perform functions as an officer in the Public Service for an indefinite period under and subject to this Act;

“Public Service notices” means notices in writing issued by or under the authority of the Commissioner;

“remuneration” means salary, salary rate, salary range, allowance or other reward for service;

“responsible authority”, in relation to—

(a) a department, means Minister of the Crown or board, committee or other body for the time being administering the department; or

(b) an organization, means—

(i) board, committee or other body for the time being administering the organization;

and

(ii) Minister of the Crown to whom the board, committee or other body referred to in subparagraph (i) is responsible for the administration referred to in that subparagraph;

“senior office” means office or post—

(a) designated as a senior office under section 39 (1); or

(b) referred to in section 39 (3);

“senior officer” means occupier of a senior office;

“sub-department” means branch of the Public Service established as a sub-department under section 22;

“temporary officer” means person—

(a) who holds a current appointment to perform functions as an officer in the Public Service for a finite period under and subject to this Act; and

(b) whose instrument of appointment specifies that he or she is a temporary officer;

“the Acting Commissioner” means the Acting Public Service Commissioner appointed under section 7 (1);

“the Assistant Commissioner” means the Assistant Public Service Commissioner appointed under section 6 (3);

“the Commissioner” means the Public Service Commissioner appointed under section 6 (1);

“the Industrial Commission” means The Western Australian Industrial Relations Commission continued and constituted under the *Industrial Relations Act 1979*;

“the Public Service” means the Public Service referred to in section 20;

“the regulations” means regulations made under section 60 (1);

“the Salaries and Allowances Tribunal” means the Salaries and Allowances Tribunal established by the *Salaries and Allowances Act 1975*;

“the Senior Executive Service” means the Senior Executive Service referred to in section 35.

(2) It is hereby expressly declared that “this Act”, except in section 60, includes the regulations and administrative instructions. ”.

**Section 6 repealed and substituted, and transitional**

**6.** (1) Section 6 of the principal Act is repealed and the following section is substituted—

Appointment, etc., of Public Service Commissioner and Assistant Public Service Commissioner

“ 6. (1) The Governor may appoint a person to be the Public Service Commissioner.

(2) The Commissioner shall be appointed under subsection (1) for such term not exceeding 7 years as is specified in the instrument of his or her appointment and is on the expiry of that term eligible for reappointment.

(3) Following receipt of advice from the Commissioner, the Governor may appoint a person to be the Assistant Public Service Commissioner for such term not exceeding 5 years as is specified in the instrument of his or her appointment and the person so appointed shall act in conjunction with the Commissioner in the performance of such functions as are delegated to him or her under section 12 (1).

(4) If a person appointed under subsection (1) or (3) to be the Commissioner or the Assistant Commissioner is at the time of his or her appointment above the age of 58 years, the term of his or her appointment shall be for a period not longer than the period that will expire on his or her attaining the age of 65 years.

(5) Notwithstanding that the Commissioner or the Assistant Commissioner has attained the age of 65 years, the Governor may, if he or she considers it desirable that the Commissioner or the Assistant Commissioner should continue to hold office, extend the term of office of the Commissioner or the Assistant Commissioner for such time as the Governor thinks fit.

(6) If the Commissioner or the Assistant Commissioner, immediately prior to his or her appointment under subsection (1) or (3), occupied an office in the Public Service under and subject to this Act, he or she shall, if—

- (a) he or she resigns his or her office as the Commissioner or the Assistant Commissioner; or
- (b) his or her term of office as Commissioner or the Assistant Commissioner expires by effluxion of time, otherwise than by his or her attaining the age of 65 years or by the expiry of his or her term of office as extended under subsection (5), as the case requires, and he or she is not reappointed under that subsection, be entitled to be appointed to an office in the Public Service under and subject to this Act not lower in level of classification than the office which he or she so occupied immediately prior

to his or her appointment under subsection (1) or (3) and, if he or she, being a contributor within the meaning of the *Superannuation and Family Benefits Act 1938*, then accepts an appointment to an office in the Public Service under and subject to this Act, section 6(4) of that Act does not apply to or in relation to him or her. ”.

(2) The person who, immediately before the commencement of this section, held office as the *Chairman of the Public Service Board* shall on that commencement be deemed to have been appointed to be the Public Service Commissioner under section 6 (1) of the principal Act as amended by this Act for the remainder of the period for which he would, but for that commencement, have continued to hold office as the *Chairman of the Public Service Board*.

(3) The person who is deemed by subsection (2) to have been appointed to be the Public Service Commissioner is entitled in his capacity as the Public Service Commissioner to—

- (a) remuneration at a rate not less than that; and
- (b) conditions of service not less favourable than those,

to which he was entitled in his capacity as the *Chairman of the Public Service Board*.

### **Section 7 repealed and substituted**

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

#### *Acting Public Service Commissioner*

“ 7. (1) The Governor may appoint a person to be the Acting Public Service Commissioner for such term not exceeding 7 years as is specified in the instrument of his or her appointment and, while the Commissioner is ill, absent or suspended from office under section 9 (1) and unable to perform his or her functions, the person so appointed—

- (a) shall act in the office; and
- (b) has all the functions, obligations and immunities,

of the Commissioner.

(2) The Acting Commissioner shall, in respect of any period during which he or she acts in the office of the Commissioner, receive such remuneration as is from time to time determined by the Salaries and Allowances Tribunal.

(3) Any functions of the Commissioner performed by the Acting Commissioner shall be deemed to have been performed while the Commissioner was ill, absent or suspended from office under section 9 (1) and unable to perform his or her functions unless the contrary is proved. ”.

## Section 8 amended

8. Section 8 of the principal Act is amended—

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

“ (1) The Commissioner and the Assistant Commissioner shall each of them receive such remuneration as is from time to time determined by the Salaries and Allowances Tribunal. ”;

(b) by repealing subsection (2);

(c) in subsection (3) by deleting “Commissioners shall be entitled to such leave of absence” and substituting the following—

“ Commissioner and the Assistant Commissioner shall each of them be entitled to such leave of absence, ”; and

(d) by repealing subsection (4) and substituting the following subsection—

“ (4) If the Commissioner or the Assistant Commissioner, immediately prior to his or her appointment, occupied an office in the Public Service under and subject to this Act, he or she shall continue to retain his or her existing and accruing rights, including his or her rights, if any, under the *Superannuation and Family Benefits Act 1938*, as if his or her service as the Commissioner or the Assistant Commissioner, as the case requires, were service as an officer in the Public Service under and subject to this Act. ”.

**Section 9 amended****9. Section 9 of the principal Act is amended—**

## (a) in subsection (1) by deleting—

- (i) “Any Commissioner may” and substituting the following—

“ The Commissioner and the Assistant Commissioner may each of them ”; and

- (ii) “his office” and substituting the following—

“ office ”;

## (b) in subsection (2) by deleting—

- (i) “of a Commissioner” and substituting the following—

“ under subsection (1) of the Commissioner or the Assistant Commissioner, as the case requires, ”;

and

- (ii) “such suspension” and substituting the following—

“ that suspension ”;

## (c) in subsection (3) by—

- (i) deleting “A Commissioner who has been so suspended” and substituting the following—

“ If the Commissioner or the Assistant Commissioner has been suspended under subsection (1), he or she ”; and

- (ii) inserting after “the Commissioner” the following—

“ or the Assistant Commissioner, as the case requires, ”;

## (d) in subsection (4) by deleting—

- (i) “any Commissioner” and substituting the following—

“ the Commissioner or the Assistant Commissioner ”; and

(ii) “his removal” and substituting the following—

“ his or her removal from office ”;

and

(e) by inserting after subsection (4) the following subsection—

“ (5) If the Commissioner or the Assistant Commissioner, having been suspended under subsection (1), is restored to office, he or she shall receive arrears of remuneration in full from the date on which he or she was so suspended. ”.

### **Section 11 repealed**

10. Section 11 of the principal Act is repealed.

### **Section 12 amended**

11. Section 12 of the principal Act is amended—

(a) in subsection (1) by—

(i) deleting “Board” and substituting the following—

“ Commissioner ”;

(ii) inserting after “delegate to” the following—

“ the Assistant Commissioner or ”;

(iii) deleting “Commissioner,”;

(iv) inserting after “or other person” the following—

“ (in this section called “the delegate”) ”;

(v) deleting “its powers and” and substituting the following—

“ his or her ”; and

(vi) deleting “delegated powers and” and substituting the following—

“ delegated ”;

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

“ (2) The Commissioner shall by instrument in writing delegate to the chief executive officer of the department responsible for the administration of the Senior Executive Service (in this section called “the delegate”) such of his or her functions as are necessary for that administration.

(2a) The delegate may, by instrument in writing, subdelegate to any officer or other person (in this section called “the subdelegate”), either generally or to the extent provided in the instrument of subdelegation, all or any of the functions delegated to the delegate, except this power of delegation, so that the functions subdelegated under this subsection may be performed by the subdelegate in accordance with the instrument of subdelegation. ”;

- (c) in subsection (3) by deleting—

- (i) “in pursuance of any delegation given to him, any delegate of the Board” and substituting the following—

“ , under any delegation or subdelegation made to him or her, any delegate or subdelegate, as the case requires, ”;

- (ii) “Department, the Permanent Head of that Department” and substituting the following—

“ department or organization, the chief executive officer of the department or organization ”;

- (iii) “Board” in the second, third and fourth places where it occurs and substituting in each case the following—

“ Commissioner ”; and

- (iv) “of the delegate” and substituting the following—

“ of the delegate or subdelegate ”;

and

(d) by inserting after subsection (3) the following subsections—

“ (4) Nothing in this section prevents or limits the application to a power or duty of delegation or subdelegation conferred or imposed by this section of paragraph (d) or (f) of subsection (1) of section 59 of the *Interpretation Act 1984*, or of—

- (i) any other provision of that section; or
- (ii) section 58 of that Act.

(5) For the purposes of subsection (4), the reference in section 59 (1) of the *Interpretation Act 1984* to the conferment by a written law on a person of the power to delegate the exercise of any power or the performance of any duty conferred or imposed on that person under a written law includes a reference to the imposition by a written law on a person of the duty to make such a delegation. ”.

### Section 13 amended

12. Section 13 of the principal Act is amended by deleting—

(a) “the Board or”;

(b) “a Commissioner” and substituting the following—

“ the Commissioner ”;

(c) “delegate of the Board,” and substituting the following—

“ delegate or subdelegate under section 12 (1) or (2), as the case requires, ”;

(d) “the Board,”; and

(e) “or the delegate” and substituting the following—

“ or that delegate or subdelegate ”.

**Section 14 amended**

**13.** Section 14 of the principal Act is amended—

- (a) in subsections (1) and (2) by deleting “Board” and substituting in each case the following—

“ Commissioner ”;

- (b) in subsection (2) by deleting—

- (i) “it” and substituting the following—

“ he or she ”;

- (ii) “its” and substituting the following—

“ his or her ”; and

- (iii) “above functions” and substituting the following—

“ functions referred to in subsection (1) ”;

- (c) in subsection (3) by deleting—

- (i) “Board” and substituting the following—

“ Commissioner ”;

- (ii) “sections 28, 29 and 49” and substituting the following—

“ section 30, Division 2 of Part III and section 49 ”;

and

- (iii) paragraphs (d) and (e) and substituting the following paragraphs—

“ (d) determine the remuneration applicable to particular offices or classes of office in all cases in which that remuneration is not determinable by the Salaries and Allowances Tribunal;

(e) determine remuneration for officers and determine the conditions under which that remuneration is payable in all cases in which that remuneration is not determinable by the Salaries and Allowances Tribunal; ”.

**Section 16 amended**

14. Section 16 of the principal Act is amended by deleting—

(a) “Board” in both places where it occurs and substituting in each case the following—

“ Commissioner ”;

(b) “it” and substituting the following—

“ him or her ”;

(c) “Department” and substituting the following—

“ department or organization ”; and

(d) “discharging the functions and exercising the powers” and substituting the following—

“ performing the functions ”.

**Section 19 repealed and substituted**

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

**Administrative instructions and their effect**

“ 19. (1) To the extent that it is practicable to do so, the Commissioner may perform his or her functions by administrative instructions published, notwithstanding section 41 of the *Interpretation Act 1984*, in Public Service notices but not in the *Gazette*.

(2) Administrative instructions are subsidiary legislation, but section 42 of the *Interpretation Act 1984* does not apply to or in relation to them.

(3) Administrative instructions shall come into operation on the day on which they are published under subsection (1) or on such later day as is specified in them. ”.

**Division heading inserted in Part III**

16. Part III of the principal Act is amended by inserting after the heading of that Part the following heading—

“ *Division 1—General* ”.

**Section 20 amended**

17. Section 20 of the principal Act is amended by deleting “by Departments and Sub-Departments” and substituting the following—

“ by—

- (a) departments and sub-departments; and
- (b) organizations, insofar as any posts in them, or persons employed in them, or both, belong to the Senior Executive Service ”.

**Sections 26, 27, 28 and 29 repealed and section 26 substituted**

18. Sections 26, 27, 28 and 29 of the principal Act are repealed and the following section is substituted—

Power of Commissioner to take action  
against certain officers for inefficiency

“ 26. (1) For the purposes of this section, a subordinate officer is inefficient if and only if he or she does not, in the performance of the functions that he or she is required to perform, attain or sustain a standard of efficiency that a person may reasonably be expected to attain or sustain in the performance of those functions.

(2) Without limiting the generality of the matters to which regard may be had for the purpose of determining whether or not a subordinate officer has, in the performance of the functions that he or she is required to perform, attained or sustained the standard of efficiency referred to in subsection (1), regard—

(a) shall be had to—

- (i) any written selection criteria or job specifications applicable to;

- (ii) any duty statement describing; and
  - (iii) any written work standards or instructions relating to the manner of performance of, those functions; and
- (b) may be had to—
- (i) any written selection criteria or job specifications applicable to;
  - (ii) any duty statement describing; and
  - (iii) any written work standards or instructions relating to the manner of performance of, functions similar to those functions.

(3) The Commissioner may in respect of a subordinate officer who is in the opinion of the Commissioner inefficient—

- (a) withhold for such period as the Commissioner thinks fit an increment of remuneration otherwise payable to that subordinate officer;
- (b) reduce the level of classification of that subordinate officer and transfer that subordinate officer from his or her office to an office or functions of that reduced level of classification; or
- (c) terminate the services in the Public Service of that subordinate officer.

(4) The Commissioner shall, before forming an opinion referred to in subsection (3), conduct an inquiry into whether or not the subordinate officer concerned is inefficient.

(5) A subordinate officer who is aggrieved by a decision of the Commissioner made under subsection (3) may appeal against that decision to the Industrial Commission constituted by a Public Service Appeal Board appointed under Division 2 of Part IIA of the *Industrial Relations Act 1979*, and that Public Service Appeal Board has jurisdiction to hear and determine that appeal under and subject to that Division.

(6) In this section—

“subordinate officer” means officer other than—

(a) a chief executive officer; or

(b) a section 39 (3) officer within the meaning of section 42A. ”.

### **Section 30 amended, transitional and validation**

19. (1) Section 30 of the principal Act is amended by—

(a) inserting after “30.” the following—

“ (1) ”;

(b) deleting “Board” wherever it occurs and substituting in each case the following—

“ Commissioner ”;

(c) deleting “employ persons” in paragraph (a) and substituting the following—

“ appoint persons as officers (otherwise than in the Senior Executive Service) ”;

and

(d) inserting after the existing section the following subsections—

“ (2) A person may be appointed under subsection (1) (a) for a term fixed by the Commissioner and, if so appointed, is eligible for reappointment under that subsection after the expiry of that term.

(3) A person may be appointed under subsection (1) (a) as a permanent officer, temporary officer or other officer.

(4) If there is an inconsistency between any terms and conditions determined under subsection (1) (a) and any provision of this Act, those terms and conditions shall prevail to the extent of that inconsistency. ”.

(2) A person who—

- (a) immediately before he became employed under section 30 (a) of the principal Act before its amendment by this section was not an officer within the meaning of the principal Act; and
- (b) was immediately before the commencement of this section treated by the Public Service Board as being employed under section 30 (a) of the principal Act for a fixed term,

shall, notwithstanding anything in his or her terms and conditions of employment under that section, be deemed to be an officer within the meaning of the principal Act as amended by this Act—

- (c) until the expiry of the period of 6 months beginning on the commencement of this section;
- or
- (d) if his or her employment under that section is lawfully terminated before the expiry referred to in paragraph (c), until that termination.

(3) The Commissioner shall, before the expiry referred to in subsection (2) (c), offer to a person who is at the time of that offer deemed to be an officer by virtue of subsection (2) appointment as an officer under the principal Act as amended by this Act.

### **Section 30A inserted, validation and transitional**

**20.** (1) The principal Act is amended by inserting after section 30 the following section—

Permanent officers and fixed term offices

“ 30A. (1) The Commissioner may appoint a person who is a permanent officer to an office for a term fixed by the Commissioner and that person is, on the expiry of that term, eligible for reappointment to the office.

(2) If a person who is eligible under subsection (1) for reappointment to an office (in this subsection called “the fixed term office”) is not so reappointed, the Commissioner shall appoint that person to—

- (a) another office; or
- (b) functions,

having the same level of classification as the fixed term office. ”.

(2) The appointment or promotion by the Public Service Board, at any time during the period commencing on 1 January 1981 and ending immediately before the commencement of this section, of a person who was immediately before that appointment or promotion a permanent officer within the meaning of the principal Act to an office for a term fixed by the Public Service Board shall be deemed to be, and always to have been, valid and lawfully done.

(3) If the term of office of a person appointed or promoted within the meaning of subsection (2) has not expired before the commencement of this section, that term continues to run after that commencement until the time when it would, but for that commencement, have expired, and, after that time, the person so appointed or promoted is eligible for reappointment under section 30A (1) of the principal Act as amended by this section and, in the event of that person not being so reappointed, section 30A (2) of the principal Act as amended by this section applies to that person.

### **Division 2 inserted in Part III**

**21.** (1) Part III of the principal Act is amended by inserting after section 34 the following Division—

“ *Division 2—Senior Executive Service*

#### **Constitution of Senior Executive Service**

35. (1) Subject to this section, the Senior Executive Service consists of—

- (a) each officer employed in a department whose salary;
- (b) each office in a department or post in an organization the salary attached to which; and
- (c) each person employed in an organization whose salary,

exceeds such level as is prescribed in the regulations for the purposes of this subsection and who, or the holder of which, as the case requires, becomes a member of the Senior Executive Service by virtue of—

- (d) section 21 (2) or (3) of the *Acts Amendment (Public Service) Act 1987*;

or

- (e) an appointment under section 40 (1) or 42C.

## (2) The Senior Executive Service—

- (a) excludes such officer, holder of an office, office, post, holder of a post, or person referred to in subsection (1) as is the subject of a declaration in force under subsection (3); but
- (b) includes such officer, holder of an office, office, post, holder of a post or person not referred to in subsection (1) as is the subject of a declaration in force under subsection (5).

## (3) The Governor may from time to time on the recommendation of the Commissioner by notice published in Public Service notices—

- (a) declare that an officer, holder of an office, office, post, holder of a post or person referred to in subsection (1) is excluded from the Senior Executive Service on and from such day, not being a day earlier than the day of that publication, as is specified in that declaration; or
- (b) repeal or amend a declaration made under this subsection.

(4) If a declaration is made under subsection (3) (a) in respect of an officer who was, immediately before the day specified in that declaration, a member of the Senior Executive Service, that officer continues to be a member of the Public Service on the same terms and conditions as those to which he was entitled as a member of the Senior Executive Service until, subject to this Act, he retires or his services are otherwise terminated under this Act.

## (5) The Governor may from time to time on the recommendation of the Commissioner by notice published in Public Service notices—

- (a) declare that an officer, holder of an office, office, post, holder of a post or person not referred to in subsection (1) is included in the Senior Executive Service on and from such day, not being a day earlier than the day of that publication, as is specified in that declaration;

or

- (b) repeal or amend a declaration made under this subsection.

(6) An officer or person to whom a declaration made under subsection (3) or (5) relates may be identified in that declaration by name or by any other means of identification.

(7) The Commissioner shall, before making a recommendation referred to in subsection (3) or (5), consult the chief executive officer or responsible authority of the department or organization in which the officer, holder of an office, office, post, holder of a post or person to whom or which the proposed recommendation relates is employed or is located, as the case requires.

(8) A person who is a member of the Senior Executive Service is by virtue of his or her membership thereof employed by the Commissioner.

#### Purposes of Senior Executive Service

36. The purposes of the Senior Executive Service are—

(a) to provide for a group of officers who—

(i) may undertake higher level policy advice, managerial and professional responsibilities in departments and organizations; and

(ii) may be deployed within departments and organizations, and by the Commissioner between departments and organizations, so as best to promote the efficiency of the Public Service;

and

(b) to promote the efficiency of individual departments and organizations.

#### Chief executive officers

37. There shall be a chief executive officer for each department or organization.

**Functions of chief executive officers****38. (1) A chief executive officer—**

- (a) who is the chief executive officer of a department is responsible to the responsible authority of the department for the general management of the department; or
- (b) who is the chief executive officer of an organization is responsible to the responsible authority of the organization for the general management of the organization.

**(2) A chief executive officer shall—**

- (a) consult and work with the Commissioner for the purpose of achieving the most effective, efficient and economic management of his or her department or organization, as the case requires; and
- (b) perform such other functions as are imposed on chief executive officers generally or on the holder of his or her office by this Act or by any other written law.

(3) A chief executive officer may delegate, either generally or as otherwise provided by the instrument of delegation, to any other officer in his or her department or organization specified in that instrument any of his or her powers or duties under this Act, other than this power of delegation.

**Senior officers**

39. (1) The Governor may from time to time on the recommendation of the Commissioner by notice published in Public Service notices—

- (a) designate an office in a department or a post in an organization as a senior office in which the holder of that office or post is required to perform the more responsible administrative or professional, or administrative and professional, functions of his or her department or organization; or
- (b) repeal or amend a designation made under this subsection.

(2) The Commissioner shall, before making a recommendation referred to in subsection (1), consult the chief executive officer or responsible authority of the department or organization in which the office or post to which the proposed recommendation relates is located.

(3) An office, the holder of which is required as part of his or her functions to be a member of the responsible authority of the department or organization in which he or she is employed, being a responsible authority which is a board, committee or other body, is a senior office.

#### Appointment of chief executive officers and senior officers

40. (1) The Governor may on the recommendation of the Commissioner appoint a person, whether or not an officer, to fill a vacancy in the office of a chief executive officer or in a senior office for such term not exceeding 5 years as is specified in the instrument of his or her appointment.

(2) Subject to section 41, a person appointed under subsection (1) is on the expiry of his or her term of office eligible for reappointment under that subsection.

#### Conditions of appointment of chief executive officers and senior officers

41. (1) A person appointed under section 40 (1) shall be so appointed—

- (a) as a permanent officer; or
- (b) on the basis of terms and conditions agreed between that person and the Commissioner.

(2) A person referred to in subsection (1) (a) who, immediately prior to his or her appointment under section 40 (1), occupied an office continues after that appointment to retain his or her existing and accruing rights, including his or her rights, if any, under the *Superannuation and Family Benefits Act 1938*.

(3) Subject to this Act, a person referred to in subsection (1) (a) is, on—

- (a) the expiry of the term of his or her office as chief executive officer or senior officer (in this subsection called “the first office”);
- (b) his or her resignation of the first office; or
- (c) the abolition of the first office,

eligible for—

- (d) reappointment to the first office if the first office has not been abolished or that person has not resigned from the first office; or
- (e) appointment to—
  - (i) another office as chief executive officer or senior officer;
  - (ii) another office in the Senior Executive Service; or
  - (iii) the Senior Executive Service generally, at the same level of classification as that of the first office,

and, if he or she, being a contributor within the meaning of the *Superannuation and Family Benefits Act 1938*, then accepts a reappointment or appointment referred to in paragraph (d) or (e), section 6 (4) of that Act does not apply to or in relation to him or her.

(4) On the expiry of his or her term of office, a person referred to in subsection (1) (b) is eligible for reappointment under section 40 (1).

(5) If there is an inconsistency between any terms or conditions referred to in subsection (1) (b) and any provision of this Act (other than section 42), those terms and conditions shall prevail to the extent of that inconsistency.

Transfers of chief executive officers  
and senior officers

42. (1) The Governor may at any time on the recommendation of the Commissioner transfer an officer from his or her office of chief executive officer or senior officer to—

- (a) another office of chief executive officer or senior officer that is vacant;
- (b) any vacant office in the Senior Executive Service other than an office referred to in paragraph (a); or
- (c) the performance of other functions in the Senior Executive Service generally.

(2) The Commissioner shall, before making a recommendation referred to in subsection (1), consult—

- (a) in the case of a chief executive officer, the responsible authority of the department or organization in which the office of the chief executive officer is located;
- (b) in the case of a senior officer, the chief executive officer of the department or organization in which the office of the senior officer is located; and
- (c) the chief executive officer or senior officer to whom the proposed recommendation relates.

(3) An officer who is transferred under subsection (1) retains the level of classification of the office from which he or she is transferred.

(4) When an officer was appointed on the basis referred to in section 41 (1) (b) to the office from which he or she is transferred under subsection (1), the terms and conditions on the basis of which he or she was so appointed continue to apply to him or her notwithstanding that transfer.

Power of Commissioner to take action against  
chief executive officers or certain senior  
officers for inefficiency

42A. (1) If the Commissioner is satisfied after conducting an inquiry that a chief executive officer or section 39 (3) officer is inefficient, the Governor may, on the recommendation of the Commissioner in respect of the chief executive officer or section 39 (3) officer—

- (a) withhold an increment of remuneration otherwise payable to the chief executive officer or section 39 (3) officer for such period as the Commissioner thinks fit;
- (b) reduce the level of classification of the chief executive officer or section 39 (3) officer and transfer the chief executive officer or section 39 (3) officer from his or her office to an office or functions of that reduced level of classification; or
- (c) terminate the services in the Public Service of the chief executive officer or section 39 (3) officer.

(2) For the purposes of this section, a chief executive officer or section 39 (3) officer is inefficient if and only if he or she does not, in the performance of the functions that he or she is required to perform, attain or sustain a standard of efficiency that a person may reasonably be expected to attain or sustain in the performance of those functions.

(3) Without limiting the generality of the matters to which regard may be had for the purpose of determining whether or not a chief executive officer or section 39 (3) officer has, in the performance of the functions that he or she is required to perform, attained or sustained the standard of efficiency referred to in subsection (2), regard—

- (a) shall be had to—
  - (i) any written selection criteria or job specifications applicable to;
  - (ii) any duty statement describing; and
  - (iii) any written work standards or instructions relating to the manner of performance of,  
those functions; and

(b) may be had to—

- (i) any written selection criteria or job specifications applicable to;
- (ii) any duty statement describing; and
- (iii) any written work standards or instructions relating to the manner of performance of,

functions similar to those functions.

(4) In this section—

“section 39 (3) officer” means holder of an office referred to in section 39 (3).

#### Acting chief executive officers and senior officers

42B. (1) Subject to this section, the Commissioner may—

(a) if an office of chief executive officer or senior officer is vacant, or a chief executive officer or senior officer is absent from duty or for any reason unable to perform his or her functions, direct an officer to act for such period not exceeding 12 months as is specified in that direction in the office of—

- (i) chief executive officer or senior officer during that vacancy; or
- (ii) the chief executive officer or senior officer during that absence or inability,

as the case requires; and

(b) at any time cancel a direction given under this subsection.

(2) The Commissioner shall, before giving a direction under subsection (1), consult—

- (a) if the proposed direction relates to the office of a chief executive officer, the responsible authority; or
- (b) if the proposed direction relates to the office of a senior officer, the chief executive officer,

of the department or organization in which that office is located.

(3) An officer directed under subsection (1) to act in an office—

- (a) shall comply with that direction; and
- (b) has, whilst he or she is so acting, all the functions and obligations attaching to the office.

**Appointment of officers other than chief executive officers or senior officers to Senior Executive Service generally**

42C. (1) Without limiting the generality of the powers of the Commissioner as provided by section 14 (2), the Commissioner may in accordance with section 42F and procedures set out in administrative instructions appoint persons or officers (not being chief executive officers or senior officers) to the Senior Executive Service generally.

(2) A person or officer appointed under subsection (1) shall be so appointed—

- (a) as a permanent officer; or
- (b) as an officer on the basis of terms and conditions agreed between that person and the Commissioner.

(3) An appointment under subsection (1) shall be to such level of classification as is determined by the Commissioner—

- (a) in accordance with administrative instructions; and
- (b) as being appropriate to the functions to be performed by the person or officer so appointed.

(4) The appointment of an officer referred to in subsection (2) (b) shall be for such term not exceeding 5 years as is specified in the instrument of his or her appointment.

(5) If there is an inconsistency between the terms and conditions referred to in subsection (2) (b) and any provision of this Act (other than section 42G), those terms and conditions shall prevail to the extent of that inconsistency.

(6) On the expiry of his or her term of office by effluxion of time, an officer referred to in subsection (2) (b) is eligible for reappointment under subsection (1)—

- (a) as a permanent officer; or
- (b) as an officer on the basis of terms and conditions agreed between that person and the Commissioner.

Appointment of officers to offices, other than the offices of chief executive officers or senior offices, in Senior Executive Service

42D. (1) The Commissioner may, after consultation with the chief executive officer of the department or organization in which an office in the Senior Executive Service (not being an office referred to in section 40 (1)) is located, in accordance with section 42F and procedures set out in administrative instructions appoint an officer to fill a vacancy in that office for such term not exceeding 5 years as is specified in the instrument of his or her appointment.

(2) On the expiry of his or her term of office by effluxion of time, an officer appointed under subsection (1) is entitled to—

- (a) reappointment under subsection (1) to the office the term of which has expired; or
- (b) appointment to—
  - (i) an office, other than the office referred to in paragraph (a); or
  - (ii) the performance of functions,  
in the Senior Executive Service at the same level of classification as that of the office to which he or she was appointed under subsection (1),

whichever alternative is offered to him or her by the Commissioner.

(3) A person shall not be appointed under subsection (1) before, but may be so appointed at the same time as or after, his or her appointment under section 42C (1).

### Remuneration in Senior Executive Service

42E. Without limiting the generality of the powers of the Commissioner as provided by section 14 (2), the Commissioner may determine—

- (a) the remuneration payable to officers, or in respect of levels of classification or of offices, in the Senior Executive Service; and
- (b) the conditions under which the remuneration referred to in paragraph (a) is payable,

in all cases in which that remuneration or those conditions are not determinable by the Salaries and Allowances Tribunal.

### Selection of persons, including officers, for appointment under section 42C or 42D

42F. (1) In the selection of a person or officer for appointment under section 42C or 42D consideration shall be given only to the relative merit of the persons or officers available for that appointment.

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

“merit”, in relation to a person or officer, means suitability of the person or officer for the performance of the functions—

- (a) of the office, or the level of classification, in the Senior Executive Service to which the person or officer is being considered for appointment;
- (b) of any office, or level of classification, in the Senior Executive Service (other than the office, or level of classification, referred to in paragraph (a))—
  - (i) to which the person or officer may be appointed; and
  - (ii) which has the same level of classification as that of the office, or level of classification, referred to in paragraph (a);

and

- (c) assigned to the level of classification in the Senior Executive Service to which the person or officer is being considered for appointment, and any other functions which may be assigned to that level of classification,

having regard to—

- (d) the purposes of the Senior Executive Service specified in section 36;
- (e) the capacity of the person or officer to perform the functions referred to in paragraphs (a), (b) and (c);
- (f) the standard of work previously performed by the person or officer in other offices, levels of classification, positions or occupations, whether in the Public Service or elsewhere;
- (g) any experience and personal qualities possessed by the person or officer which are relevant to the performance of the functions referred to in paragraphs (a), (b) and (c);
- (h) the training and educational qualifications of the person or officer; and
- (i) the potential for further career development of the person or officer in the Senior Executive Service.

(3) The Commissioner may under section 19 give administrative instructions setting out procedures for the selection of persons and officers in accordance with this section.

(4) The Commissioner shall, before giving any administrative instructions referred to in subsection (3), consult such responsible authorities or chief executive officers or both as the Commissioner thinks fit.

Transfer of officers, other than chief executive officers and senior officers, within Senior Executive Service

42G. (1) The Commissioner may at any time transfer an officer, other than a chief executive officer or a senior officer, from the performance of any functions, or from any office, in the Senior Executive Service to—

- (a) any functions or any other functions; or
- (b) any office or any other office,

as the case requires, in the Senior Executive Service of the same level of classification as the functions from the performance of which, or office from which, that officer is transferred.

(2) The Commissioner shall, before transferring an officer under subsection (1), consult—

- (a) the chief executive officer of the department or organization from which the officer is proposed to be transferred;
- (b) the chief executive officer of the department or organization to which the officer is proposed to be transferred; and
- (c) the officer.

(3) When an officer has been appointed within the meaning of section 42C (2) (b) to the Senior Executive Service generally, the terms and conditions on the basis of which he or she has been so appointed continue to apply to him or her notwithstanding that he or she is transferred under subsection (1). ”.

(2) On the commencement of this section, each person who was, immediately before that commencement—

- (a) the Permanent Head of a Department shall be deemed to have been appointed to be the chief executive officer of the department;
- (b) the person in charge of an organization within the meaning of the principal Act as amended by this Act and immediately subordinate to the board, committee or other body for the time being administering that organization, being a person whose salary then exceeded the maximum salary referred to in subsection (3), shall be deemed to have been appointed the chief executive officer of that organization; or
- (c) a Senior Officer in a Department, being a person whose salary then exceeded the maximum salary referred to in subsection (3), shall be deemed to have been appointed a senior officer in the department,

under Division 2 of Part III of the principal Act as amended by this Act.

(3) On the commencement of this section—

- (a) each officer employed in a Department; and
- (b) each person employed in an organization within the meaning of the principal Act as amended by this Act,

(other than an officer or person referred to in subsection (2)) whose salary exceeded the maximum salary for Level 8 prescribed in clause 6 (a) of the Public Service Salaries Agreement No. 2 of 1985 immediately before that commencement shall be deemed, subject to any declaration in force under section 35 (3) of the principal Act as amended by this Act, to have been appointed an officer in the Senior Executive Service under the principal Act as amended by this Act in the office or post which he or she occupied immediately before the commencement of this section.

(4) A person who is deemed by subsection (2) or (3) to have been appointed an officer in the Senior Executive Service shall be deemed to have been so appointed subject to the same terms and conditions as those that applied to him or her immediately before the commencement of this section.

(5) Notwithstanding anything in subsection (4), the Commissioner may alter any of the terms and conditions subject to which a person is deemed by that subsection to have been appointed an officer in the Senior Executive Service.

(6) Notwithstanding anything in any other written law, there shall not be paid to a person who is deemed by subsection (2) or (3) to have been appointed an officer in the Senior Executive Service any amount in lieu of leave to which that person became entitled prior to the commencement of this section in his capacity as an officer or as an employee of an organization unless, before any such payment is made, that person consents in writing to the making of that payment.

## **Section 44 amended**

**22.** Section 44 of the principal Act is amended—

- (a) in subsection (1) (d) and (e) by inserting after “his” in both paragraphs the following—

“ or her ”;

- (b) in subsection (2) (c) by deleting “Department” and substituting the following—

“ department or, in the case of an officer in the Senior Executive Service, to a department or organization other than the department or organization in which he was serving at the time of the offence ”;

and

- (c) in subsection (2) (d) by deleting “\$250” and substituting the following—

“ \$500 ”.

### **Section 45 amended**

**23.** Section 45 of the principal Act is amended—

- (a) by deleting “Permanent Head”, wherever it occurs, and substituting in each case the following—

“ chief executive officer ”;

- (b) in subsection (1) by—

- (i) deleting “Board” in both places where it occurs and substituting in each case the following—

“ Commissioner ”;

- (ii) inserting after “him” in the 2 places where it occurs the following—

“ or her ”; and

- (iii) deleting “\$25” and substituting the following—

“ \$50 ”;

- (c) in subsection (2) by deleting “Department” and substituting the following—

“ department or organization ”;

- (d) in subsection (3) by inserting after “he” the following—

“ or she ”; and

- (e) in subsection (4) by deleting “Board” in both places where it occurs and substituting in each case the following—

“ Commissioner ”.

### **Section 46 amended**

#### **24. Section 46 of the principal Act is amended—**

- (a) in subsection (1) by deleting—

- (i) “Permanent Head” wherever it occurs and substituting in each case the following—

“ chief executive officer ”;

- (ii) “him” wherever it occurs and substituting in each case the following—

“ him or her ”;

- (iii) “\$50” in paragraph (c) and substituting the following—

“ \$100 ”; and

- (iv) paragraph (d) and the remainder of that subsection and substituting the following paragraph—

“ (d) recommend to the Commissioner that one or more of the other penalties specified in section 44 (2) be imposed on the officer, and, if the chief executive officer does so recommend, the Commissioner may accept or reject that recommendation in whole or in part and take action accordingly. ”;

and

- (b) in subsection (2) by deleting “Board” wherever it occurs and substituting in each case the following—

“ Commissioner ”.

**Section 59 amended and validation**

**25.** (1) Section 59 of the principal Act is amended—

(a) in subsection (1) by inserting after “prior to his” the following—

“ or her ”;

(b) in subsections (1) and (3) by deleting “three months” and substituting in both cases the following—

“ 13 weeks ”;

(c) in subsection (2) by inserting after “on which he” the following—

“ or she ”;

(d) in subsection (3) by inserting after “by him” the following—

“ or her ”;

(e) by inserting after subsection (3) the following subsection—

“ (3a) Notwithstanding anything in this section, the Commissioner may under section 19 give administrative instructions providing for the circumstances in which prior service with an employer outside the Public Service is to be regarded as being—

(a) continuous service; and

(b) continuous with subsequent continuous service,  
in the Public Service for the purposes of this section. ”;

(f) in subsection (4) by deleting “Board” and substituting the following—

“ Commissioner ”; and

(g) in subsection (5) (a) by inserting after “applicable to his” the following—

“ or her ”.

(2) Any Administrative Instructions given by the Public Service Board during the period beginning on the commencement of the principal Act and ending immediately before the commencement of this section and providing for the matters referred to in section 59 (3a) of the principal Act as amended by this Act shall be deemed to be, and always to have been, valid and lawfully given.

### Section 59A inserted and validation

**26.** (1) The principal Act is amended by inserting after section 59 the following section—

#### Intergovernmental arrangements for services or work

“ 59A. The Governor may arrange with the Governor-General of the Commonwealth for the provision of any services or the performance of any work by—

- (a) an officer or officers for the Commonwealth; or
- (b) an officer or officers of the Public Service of the Commonwealth for the State,

and for all matters incidental to or connected with that provision or performance, including any payments to be made in respect of that provision or performance. ”.

(2) Any arrangement made by the Public Service Board with the Commonwealth under regulations made under the principal Act during the period beginning on the commencement of the principal Act and ending immediately before the commencement of this section for the provision of services or the performance of any work by—

- (a) an officer or officers for the Commonwealth;
- or
- (b) an officer or officers of the Public Service of the Commonwealth for the State or the Government,

and for any matter incidental to or connected with that provision or performance, including any payments to be made in respect of that provision or performance, shall be deemed to be, and always to have been, valid and lawfully made.

## Section 60 repealed and substituted

27. Section 60 of the principal Act is repealed and the following section is substituted—

### Regulations

“ 60. (1) The Governor may, on the recommendation of the Commissioner, make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act, and, in particular, amending the Schedule.

(2) An amendment of the Schedule made by regulations made under subsection (1) has effect as if made by an Act. ”.

## Part VI repealed

28. (1) Part VI of the principal Act is repealed.

(2) The repeal effected by subsection (1) does not prevent the continuation of any state of affairs created by Part VI of the principal Act and subsisting immediately before the commencement of this section insofar as that state of affairs is consistent with the principal Act as amended by this Act.

## Schedule added

29. The principal Act is amended by adding after the end thereof—

“ SCHEDULE (Section 5 (1) )

### ORGANIZATIONS

Column 1—item

Column 2—organization

1	Albany Port Authority, constituted under the <i>Albany Port Authority Act 1926</i>
2	Animal Resources Authority, established by the <i>Animal Resources Authority Act 1981</i>
3	Bunbury Port Authority, constituted under the <i>Bunbury Port Authority Act 1909</i>
4	Country High School Hostels Authority, established by the <i>Country High School Hostels Authority Act 1960</i>
5	Commissioner of Main Roads, appointed under the <i>Main Roads Act 1930</i>

Column 1—item	Column 2—organization
6	Dairy Industry Authority of Western Australia, established under the <i>Dairy Industry Act 1973</i>
7	Esperance Port Authority, established by the <i>Esperance Port Authority Act 1968</i>
8	Fremantle Hospital Board, constituted under the <i>Hospitals Act 1927</i>
9	Fremantle Port Authority, constituted under the <i>Fremantle Port Authority Act 1902</i>
10	Geraldton Port Authority, established by the <i>Geraldton Port Authority Act 1968</i>
11	Hedland College, established under the <i>Colleges Act 1978</i>
12	Herd Improvement Service of Western Australia, established by the <i>Herd Improvement Service Act 1984</i>
13	Joondalup Development Corporation, established under the <i>Joondalup Centre Act 1976</i>
14	Kalgoorlie College, established under the <i>Colleges Act 1978</i>
15	Karrakatta Cemetery Board, deemed to have been established under the <i>Cemeteries Act 1986</i>
16	Karratha College, established under the <i>Colleges Act 1978</i>
17	Keep Australia Beautiful Council (W.A.), established by the <i>Litter Act 1979</i>
18	King Edward Memorial Hospital for Women Board, constituted under the <i>Hospitals Act 1927</i>
19	Kings Park Board, constituted under the <i>Parks and Reserves Act 1895</i>
20	Legal Aid Commission of Western Australia, established under the <i>Legal Aid Commission Act 1976</i>
21	Lotteries Commission, constituted by the <i>Lotteries (Control) Act 1954</i>
22	Metropolitan Market Trust, constituted by the <i>Metropolitan Market Act 1926</i>
23	Metropolitan (Perth) Passenger Transport Trust, constituted under the <i>Metropolitan (Perth) Passenger Transport Trust Act 1957</i>
24	Nurses Board of Western Australia, established under the <i>Nurses Act 1968</i>
25	Perth Dental Hospital Board, constituted under the <i>Hospitals Act 1927</i>
26	Perth Theatre Trust, established by the <i>Perth Theatre Trust Act 1979</i>
27	Port Hedland Port Authority, established by the <i>Port Hedland Port Authority Act 1970</i>
28	Princess Margaret Hospital for Children Board, constituted under the <i>Hospitals Act 1927</i>
29	Rottneest Island Board, appointed under the <i>Parks and Reserves Act 1895</i>
30	Royal Perth Hospital Board, constituted under the <i>Hospitals Act 1927</i>
31	Rural Adjustment and Finance Corporation of Western Australia, preserved and continued in existence by the <i>Rural Adjustment and Finance Corporation Act 1971</i>
32	Secondary Education Authority, established by the <i>Secondary Education Authority Act 1984</i>
33	Sir Charles Gairdner Hospital Board, constituted under the <i>Hospitals Act 1927</i>
34	Small Business Development Corporation, established under the <i>Small Business Development Corporation Act 1983</i>

Column 1—item	Column 2—organization
35	South West Development Authority, established by the <i>South West Development Authority Act 1984</i>
36	State Government Insurance Commission, established by the <i>State Government Insurance Commission Act 1986</i>
37	The Agriculture Protection Board of Western Australia, constituted under the <i>Agriculture Protection Board Act 1950</i>
38	The Board of the Art Gallery of Western Australia, referred to in the <i>Art Gallery Act 1959</i>
39	The Library Board of Western Australia, constituted under the <i>Library Board of Western Australia Act 1951</i>
40	The National Trust of Australia (W.A.), established by the <i>National Trust of Australia (W.A.) Act 1964</i>
41	The State Energy Commission of Western Australia, preserved and continued in existence by the <i>State Energy Commission Act 1979</i>
42	The Western Australian Government Railways Commission, constituted under the <i>Government Railways Act 1904</i>
43	The Western Australian Museum, constituted by the <i>Museum Act 1969</i>
44	Totalisator Agency Board, constituted under the <i>Totalisator Agency Board Betting Act 1960</i>
45	Waterways Commission, established by the <i>Waterways Conservation Act 1976</i>
46	Western Australian Alcohol and Drug Authority, established under the <i>Alcohol and Drug Authority Act 1974</i>
47	Western Australian Coastal Shipping Commission, established by the <i>Western Australian Coastal Shipping Commission Act 1965</i>
48	Western Australian Fire Brigades Board, constituted under the <i>Fire Brigades Act 1942</i>
49	Western Australian Meat Commission, constituted under the <i>Abattoirs Act 1909</i>
50	Western Australian Mining and Petroleum Research Institute, constituted by the <i>Mining and Petroleum Research Act 1981</i>
51	Western Australian Post-Secondary Education Commission, referred to in the <i>Western Australian Post-Secondary Education Commission Act 1970</i>
52	Western Australian Tourism Commission, established under the <i>Western Australian Tourism Commission Act 1983</i>
53	Zoological Gardens Board, established under the <i>Zoological Gardens Act 1972</i> . ”.

### Minor amendments

30. The provisions of the principal Act specified in column 2 of Schedule 1 are amended to the extent specified opposite to those provisions in column 3 of that Schedule.

**References to certain words or expressions in written laws**

**31.** (1) Unless the contrary intention appears, a reference in a written law to—

- (a) Administrative Instructions shall be construed as if it had been amended so as to become a reference to administrative instructions;
- (b) the Chairman of the Public Service Board shall be construed as if it had amended so as to become a reference to the Public Service Commissioner;
- (c) a Commissioner of the Public Service Board shall be construed as if it had been amended so as to become a reference to the Public Service Commissioner;
- (d) a Department of the Public Service shall be construed as if it had been amended so as to become a reference to a department of the Public Service;
- (e) the Deputy Chairman of the Public Service Board shall be construed as if it had been amended so as to become a reference to the Public Service Commissioner;
- (f) the Permanent Head, Permanent head or permanent head of a Department shall be construed as if it had been amended so as to become a reference to the chief executive officer of the department;
- (g) the Public Service Board shall be construed as if it had been amended so as to become a reference to the Public Service Commissioner;
- (h) Public Service Notices shall be construed as if it had been amended so as to become a reference to Public Service notices;
- (i) a Senior Officer of a Department shall be construed as if it had been amended so as to become a reference to a senior officer of the department; and
- (j) a Sub-Department of the Public Service shall be construed as if it had been amended so as to become a reference to a sub-department of the Public Service,

within the meaning of the principal Act as amended by this Act, and cognate expressions shall be construed accordingly.

## PART III—CONSEQUENTIAL AMENDMENTS

## Consequential amendment of Acts

32. Each Act specified in column 2 of Schedule 2 is amended to the extent specified opposite to that Act in column 3 of that Schedule.

## SCHEDULE 1

(Section 30)

MINOR AMENDMENTS TO *PUBLIC SERVICE ACT 1978*

<i>Column 1 Item</i>	<i>Column 2 Provision amended</i>	<i>Column 3 Extent of amendment</i>
1.	Section 10	Delete "any Commissioner" and substitute the following— " the Commissioner or the Assistant Commissioner "
2.	Section 10	Insert after "he", wherever it occurs, the following— " or she "
3.	Section 10	Insert after "his", wherever it occurs, the following— " or her "
4.	Section 10 (d)	Delete "a Commissioner" and substitute the following— " the Commissioner or the Assistant Commissioner "
5.	Section 10 (e)	Insert after "himself" the following— " or herself "
6.	Section 15	Delete "Board" and substitute the following— " Commissioner "
7.	Section 17	Delete "Board" in both places where it occurs and substitute in each case the following— " Commissioner "
8.	Section 18	Delete "Board" wherever it occurs and substitute in each case the following— " Commissioner "
9.	Section 18 (1)	Insert after "writings in his" the following— " or her "
10.	Section 18 (2)	Insert after "tendered his" the following— " or her "
11.	Section 18 (2)	Insert after "put to him" the following— " or her "
12.	Section 18 (2)	Insert after "summons, he" the following— " or she "
13.	Section 18 (3)	Insert after "him", wherever it occurs, the following— " or her "
14.	Section 18 (4)	Delete "it" wherever it occurs and substitute in each case the following— " he or she "
15.	Section 18 (4)	Delete "itself" and substitute the following— " himself or herself "
16.	Section 21	Delete "Board" and substitute the following— " Commissioner "

<i>Column 1 Item</i>	<i>Column 2 Provision amended</i>	<i>Column 3 Extent of amendment</i>
17.	Section 21	Delete "Departments", wherever it occurs, and substitute in each case the following— " departments ".
18.	Section 22	Delete "Board" and substitute the following— " Commissioner ".
19.	Section 22	Delete "Sub-Departments", wherever it occurs, and substitute in each case the following— " sub-departments ".
20.	Section 22 (a)	Delete "Departments" and substitute the following— " departments ".
21.	Section 23	Delete "Departments", wherever it occurs, and substitute the following— " departments ".
22.	Section 23	Delete "Board" and substitute the following— " Commissioner ".
23.	Section 23	Delete "the Public Service Notices" and substitute the following— " Public Service notices ".
24.	Section 24	Delete "Sub-Departments", wherever it occurs, and substitute in each case the following— " sub-departments ".
25.	Section 24	Delete "Board" and substitute the following— " Commissioner ".
26.	Section 24	Delete "the Public Service Notices" and substitute the following— " Public Service notices ".
27.	Section 24	Delete "classification" and substitute the following— " classifications ".
28.	Section 25 (2)	Delete "Board" and substitute the following— " Commissioner ".
29.	Section 25 (2)	Delete "salary and allowances" and substitute the following— " remuneration ".
30.	Section 25 (2)	Insert after "payable to him" the following— " or her ".
31.	Section 25 (2)	Delete "The Western Australian Industrial Relations" and substitute the following— " the Industrial ".
32.	Section 31 (1) (b)	Delete "Department" and substitute the following— " department ".
33.	Section 32 (1)	Delete "Board" and substitute the following— " Commissioner ".
34.	Section 32 (2)	Delete "The Board" and substitute the following— " The Commissioner ".
35.	Section 32 (2)	Delete "The Western Australian Industrial Relations" and substitute the following— " the Industrial ".
36.	Section 32 (2)	Delete "of the Board" and substitute the following— " of the Commissioner ".
37.	Section 33	Delete "Board" wherever it occurs and substitute in each case the following— " Commissioner ".

<i>Column 1 Item</i>	<i>Column 2 Provision amended</i>	<i>Column 3 Extent of amendment</i>
38.	Section 33 (2)	Delete "Department", in the 2 places where it occurs, and substitute in each case the following— " department ".
39.	Section 34	Delete "Board" and substitute the following— " Commissioner ".
40.	Section 34	Delete "Administrative Instructions" and substitute the following— " administrative instructions ".
41.	Section 43	Delete "Board" and substitute the following— " Commissioner ".
42.	Section 47	Delete "Permanent Head", in the 2 places where it occurs, and substitute in both cases the following— " chief executive officer ".
43.	Section 47	Delete "Board" in both places where it occurs and substitute the following— " Commissioner ".
44.	Section 47	Delete "Administrative Instructions" and substitute the following— " administrative instructions ".
45.	Section 48	Delete "Permanent Head" wherever it occurs, and substitute in each case the following— " chief executive officer ".
46.	Section 48 (1)	Delete "its determination" and substitute the following— " his or her determination ".
47.	Section 48	Delete "Board" wherever it occurs and substitute in each case the following— " Commissioner ".
48.	Section 48 (2)	Delete "Administrative Instruction" and substitute the following— " administrative instructions ".
49.	Section 49 (1)	Delete "Minister", in the 2 places where it occurs, and substitute in both cases the following— " responsible authority ".
50.	Section 49	Delete "Board" wherever it occurs and substitute in each case the following— " Commissioner ".
51.	Section 49	Delete "Permanent Head", wherever it occurs, and substitute in each case the following— " chief executive officer ".
52.	Section 49 (2)	Delete "it shall" and substitute the following— " he or she shall ".
53.	Section 50	Delete "Permanent Head" and substitute the following— " chief executive officer ".
54.	Section 50	Delete "Board" and substitute the following— " Commissioner ".
55.	Section 50	Delete "Administrative Instructions" and substitute the following— " administrative instructions ".
56.	Section 51	Delete "by the Board" and substitute the following— " by the Commissioner ".

<i>Column 1 Item</i>	<i>Column 2 Provision amended</i>	<i>Column 3 Extent of amendment</i>
57.	Section 51	Delete "The Western Australian Industrial Relations" and substitute the following— " the Industrial ".
58.	Section 52	Insert after "officer during his" the following— " or her ".
59.	Section 52	Delete "Board" and substitute the following— " Commissioner ".
60.	Section 54	Delete "Board" in both places where it occurs and substitute in each case the following— " Commissioner ".
61.	Section 54 (1) (e)	Insert after "the duties of his" the following— " or her ".
62.	Section 54 (2)	Delete "Administrative Instructions" and substitute the following— " administrative instructions ".
63.	Section 55	Delete "Board or any Commissioner or officer of the Board" and substitute the following— " Commissioner or any officer of the Commissioner ".
64.	Section 56 (1)	Delete "Board" and substitute the following— " Commissioner ".
65.	Section 56 (1)	Delete "Permanent Head" and substitute the following— " chief executive officer ".
66.	Section 56 (1)	Delete "Service Notices" and substitute the following— " Service notices ".
67.	Section 57	Delete "Minister" and substitute the following— " responsible authority ".
68.	Section 57	Delete "Permanent Head" and substitute the following— " chief executive officer ".
69.	Section 57	Delete "Department", in the 2 places where it occurs, and substitute in both places the following— " department ".
70.	Section 57	Delete "Sub-Department" and substitute the following— " sub-department ".
71.	Section 57	Delete "Board" and substitute the following— " Commissioner ".
72.	Section 58	Delete "Act, Order in Council, rule, regulation, by-law, contract," and substitute the following— " written law or contract ".
73.	Section 58	Insert after "his", in the 2 places where it occurs, the following— " or her ".
74.	Section 58	Delete "Board" and substitute the following— " Commissioner ".

## SCHEDULE 2

(Section 32)

## CONSEQUENTIAL AMENDMENTS TO OTHER ACTS

Column 1 Item	Column 2 Act amended	Column 3 Extent of amendment
1.	<i>Parks and Reserves Act 1895</i>	Insert after subsection (2) of section 7 the following subsection— “ (3) Notwithstanding anything in this section, to the extent that there is in the case of a person who is appointed under subsection (1) to be a secretary, ranger, park-keeper or other officer and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ”.
2.	<i>Constitution Acts Amendment Act 1899</i>	Delete “Permanent Head of a Department of the Public Service of the State.” in Division 2 of Part 1 of Schedule V and substitute the following— “ Chief executive officer of a department or organization within the meaning of the <i>Public Service Act 1978</i> . ”.  Delete “Any person employed in a Department of the Public Service of the State” in the first item of Division 2 of Part 2 of Schedule V and substitute the following— “ Any person employed in a department or organization within the meaning of the <i>Public Service Act 1978</i> ”.  Delete paragraph (a) of the first item of Division 2 of Part 2 of Schedule V and substitute the following paragraph— “ (a) any person employed in— (i) that department who is an officer; or (ii) that organization who is a member of the Senior Executive Service, within the meaning of that Act; ”. Delete paragraph (b) of the first item of Division 2 of Part 2 of Schedule V and substitute the following paragraph— “ (b) any person appointed or employed by the Governor under any Act administered in that department or organization; or ”. Delete “Department” in paragraph (c) (iii) of the first item of Division 2 of Part 2 of Schedule V and substitute the following— “ department or organization ”.  Delete subparagraph (iv) of paragraph (c) of the first item of Division 2 of Part 2 of Schedule V and substitute the following subparagraph— “ (iv) the chief executive officer of that department or organization; or ”.

Column 1 Item	Column 2 Act amended	Column 3 Extent of amendment
		Delete "Department" in paragraph (c) (v) of the first item of Division 2 of Part 2 of Schedule V and substitute the following— " department or organization ".
3.	<i>Fremantle Port Authority Act 1902</i>	Insert after subsection (2) of section 19 the following subsection— " (2a) Notwithstanding anything in subsections (1) and (2), to the extent that there is in the case of a person who is appointed under subsection (1) to be a general manager, assistant general manager, wharf manager, harbour master or secretary or other officer or servant and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. "
4.	<i>Public Works Act 1902</i>	Insert before "The Governor may" in section 7 of the following— " (1) " Insert after the existing section 7 the following subsection— " (2) Notwithstanding anything in subsection (1), to the extent that there is in the case of a person who is appointed under that subsection to be an engineer, architect, clerk or other officer or other person and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. " Delete "Department of the Public Service of the State" in section 9D (b) and substitute the following— " department ".
5.	<i>Government Railways Act 1904</i>	Delete "permanent head" in section 8 (2) and substitute the following— " chief executive officer " Insert after "one person appointed" in section 8 (3) the following— " under subsection (3a) "

Column 1 Item	Column 2 Act amended	Column 3 Extent of amendment
		<p>Insert after subsection (19) of section 8 the following subsection—</p> <p>“ (20) Notwithstanding anything in this section, to the extent that there is in the case of a person who is appointed under subsection (3a) to be the Commissioner and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ”.</p> <p>Insert after subsection (2) of section 73 the following subsection—</p> <p>“ (3) Notwithstanding anything in this section, to the extent that there is in the case of a person who is appointed under subsection (1) to be an officer or servant of the Department and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ”.</p>
6.	<i>Bunbury Port Authority Act 1909</i>	<p>Delete “managing secretary” in section 18 (1) in both places where it occurs and substitute in each case the following—</p> <p>“ general manager ”.</p> <p>Insert after subsection (3) of section 18 the following subsection—</p> <p>“ (4) Notwithstanding anything in this Act, to the extent that there is in the case of a person who is appointed under subsection (1) or (2) and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ”.</p> <p>Delete “managing secretary” in clause 9 of Part II of the Second Schedule wherever it occurs and substitute in each case the following—</p> <p>“ general manager ”.</p>
7.	<i>Abattoirs Act 1909</i>	<p>Insert after subsection (2) of section 15 the following subsection—</p> <p>“ (2a) Notwithstanding anything in subsection (2), to the extent that there is in the case of a person who is employed under that subsection to be the General Manager and Chief Executive Officer of the Commission or any other Commission employee and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ”.</p>

Column 1 Item	Column 2 Act amended	Column 3 Extent of amendment
8.	<i>Criminal Code Act Compilation Act 1913</i>	Delete "permanent head" in section 384 (1) of The Criminal Code set out in the Schedule to the <i>Criminal Code Act 1913</i> appearing in Appendix B and substitute the following— " chief executive officer ".
9.	<i>Albany Port Authority Act 1926</i>	Delete "managing secretary" in section 18 (1) in both places where it occurs and substitute in each case the following— " general manager ".
		Insert after subsection (3) of section 18 the following subsection— " (4) Notwithstanding anything in this Act, to the extent that there is in the case of a person who is appointed under— (a) subsection (1) to be a general manager, berthing master or wharf manager; or (b) subsection (2) to be any other officer or servant, and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ".
		Delete "managing secretary" in clause 9 of Part II of the Second Schedule wherever it occurs and substitute in each case the following— " general manager ".
10.	<i>Metropolitan Market Act 1926</i>	Insert before "The Trust" in section 10 the following— " (1) ".
		Insert after the existing section 10 the following subsection— " (2) Notwithstanding anything in subsection (1), to the extent that there is in the case of a person who is appointed under that subsection to be a secretary, inspector or other officer or servant and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ".

Column 1 Item	Column 2 Act amended	Column 3 Extent of amendment
11.	<i>Hospitals Act 1927</i>	Insert after subsection (4) of section 19 the following subsection— “ (5) Notwithstanding anything in this section, to the extent that there is in the case of a person who is appointed under— (a) subsection (1) to be a secretary, treasurer or other medical or other officer, matron, nurse, attendant or servant; or (b) subsection (2) to be a medical officer or district nurse, and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ”.
12.	<i>Education Act 1928</i>	Delete “permanent head” in section 8 and substitute the following— “ chief executive officer ”.
13.	<i>Main Roads Act 1930</i>	Insert after section 11 the following section— Status of Commissioner, and of officers of Commissioner, who are members of Senior Executive Service “ 11A. Notwithstanding anything in sections 7, 8, 10 and 11, to the extent that there is in the case of a person who is appointed under— (a) section 7 to be the Commissioner; or (b) section 10 to be an officer of the Commissioner, and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ”.
14.	<i>Land Act 1933</i>	Delete “permanent head”, “Permanent head” or “Permanent Head” wherever it occurs in sections 118F (2), (3) and (5), 152 (1), (2), (3) and (4), 153 (1), (3) and (4), 154, 156, 157, 158, 159 (1) and (2), 163, 167 and 168 and substitute in each case the following— “ chief executive officer ”.
15.	<i>Fire Brigades Act 1942</i>	Insert in Part X before section 48 the following section— Status of Executive Chairman of Board, Chief Officer of Fire Brigades, officers and members of permanent fire brigades and other employees of Board who are members of Senior Executive Service “ 47A. Notwithstanding anything in this Act, to the extent that there is in the case of a person who is appointed under—

Column 1 Item	Column 2 Act amended	Column 3 Extent of amendment
		<p>(a) section 8A to be the Executive Chairman in his capacity as chief executive officer of the Board;</p> <p>(b) section 29 to be an officer or member of a permanent fire brigade or other employee; or</p> <p>(c) section 31 to be the Chief Officer, and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ”.</p>
16.	<i>Agriculture Protection Board Act 1950</i>	<p>Insert after section 8A the following section—</p> <p>Status of officers and other employees of Board who are members of Senior Executive Service</p> <p>“ 8B. Notwithstanding anything in sections 8 (1) (l) and 8A, to the extent that there is in the case of a person who is employed under section 8 (1) (l) to be an officer or other employee of the Board and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ”.</p>
17.	<i>Library Board of Western Australia Act 1951</i>	<p>Insert after subsection (2) of section 6 the following subsection—</p> <p>“ (3) Notwithstanding anything in this section, to the extent that there is in the case of a person who is appointed under this section to be the State Librarian or any other officer and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ”.</p>
18.	<i>Lotteries (Control) Act 1954</i>	<p>Insert after subsection (3) of section 6 the following subsection—</p> <p>“ (4) Notwithstanding anything in this section, to the extent that there is in the case of a person who is hired under subsection (1) (c) to be a servant of the Commission and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ”.</p>

Column 1 Item	Column 2 Act amended	Column 3 Extent of amendment
19.	<i>Metropolitan (Perth) Passenger Transport Trust Act 1957</i>	Delete “, subject to subsection (2) of this section,” in section 42 (1). Insert after subsection (3) of section 42 the following subsection— “ (4) Notwithstanding anything in this section, to the extent that there is in the case of a person who is appointed under subsection (1) to be an employee and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ”.
20.	<i>Art Gallery Act 1959</i>	Insert after subsection (3) of section 16 the following subsection— “ (4) Notwithstanding anything in this section, to the extent that there is in the case of a person who is appointed under subsection (1) to be the Director or any other officer and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ”.
21.	<i>Country High School Hostels Authority Act 1960</i>	Insert after subsection (4) of section 10 the following subsection— “ (5) Notwithstanding anything in this section, to the extent that there is in the case of a person who is appointed under subsection (1) to be an officer or servant and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ”.
22.	<i>Totalisator Agency Board Betting Act 1960</i>	Insert after subsection (2) of section 16 the following subsection— “ (3) Notwithstanding anything in this section, to the extent that there is in the case of a person who is appointed under subsection (1) (a) to be a manager, secretary or other officer and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ”.
23.	<i>Offenders Probation and Parole Act 1963</i>	Insert after the definition of “authority” in section 4 the following definition— “ “chief executive officer” means chief executive officer of the department principally assisting the Minister to whom the administration of the <i>Prisons Act 1981</i> is for the time being committed by the Governor with that administration; ”.

Column 1  
Item

Column 2  
Act amended

Column 3  
Extent of amendment

Delete "permanent head" in the definition of "parole officer" in section 4 and substitute the following—

" chief executive officer ".

Delete the definition of "permanent head" in section 4.

Delete "permanent head" in the definition of "probation officer" in section 4 and substitute the following—

" chief executive officer ".

Delete "permanent head" in section 5A (1) and (2) and substitute in each case the following—

" chief executive officer ".

Delete "permanent head" in section 21 (2) (b) and (c) and substitute in each case the following—

" chief executive officer ".

Delete "permanent head" in section 23 (3) (b) and (c) and substitute in each case the following—

" chief executive officer ".

Delete "permanent head" in section 23A (1) wherever it occurs and substitute in each case the following—

" chief executive officer ".

Delete "permanent head" in section 36 and substitute the following—

" chief executive officer ".

Delete "permanent head" wherever it occurs in the provisions referred to in the Table below and substitute in each case the following—

" chief executive officer ".

#### TABLE OF PROVISIONS

Sections 7, 8, 9 (1a), (7b), (7c), (9), (9a) and (10), 20B (6a), (6b) (a), (7) (b) and (8), 20F (1) (ca) and (3), 20G (a) (ii), 34A (2) (a), 36, 40 (2), 41 (3b), (3c), (3d), (3e), (3f) and (4), 41A (7), 49, 50C (1), 50D, 50N (3), 50P, 50Q (5), 50R (10), 50W (1), 51A (1).

24. *National Trust of  
Australia (W.A.) Act  
1964*

Insert after "22." in section 22 the following—

" (1) ".

Insert after the existing section 22 the following subsection—

" (2) Notwithstanding anything in subsection (1), to the extent that there is in the case of a person who is appointed under that subsection to be an employee of the Trust and who is a member of the Senior Executive Service within the meaning of the *Public Service Act 1978* an inconsistency between this Act and that Act that Act shall prevail. "

Column 1 Item	Column 2 Act amended	Column 3 Extent of amendment
25.	<i>Western Australian Coastal Shipping Commission Act 1965</i>	<p>Repeal section 3. Insert in Division 3 of Part II after section 24 the following section—</p> <p style="padding-left: 40px;">Status of General Manager, and officers and employees, of Commission who are members of Senior Executive Service</p> <p>“ 24A. Notwithstanding anything in this Division, to the extent that there is in the case of a person who is appointed under—</p> <p style="padding-left: 40px;">(a) section 21 (1) to be an officer or employee; or</p> <p style="padding-left: 40px;">(b) section 23 (1) to be the General Manager,</p> <p style="padding-left: 40px;">of the Commission and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ”</p>
26.	<i>Geraldton Port Authority Act 1968</i>	<p>Delete “managing secretary” in section 18 (1) in both places where it occurs and substitute in each case the following—</p> <p style="padding-left: 40px;">“ general manager ”.</p> <p>Insert after subsection (3) of section 18 the following subsection—</p> <p>“ (4) Notwithstanding anything in this Act, to the extent that there is in the case of a person who is appointed under subsection (1) or (2) to be the general manager, berthing master or wharf manager, or any other officer or servant, and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ”.</p> <p>Delete “managing secretary” in clause 9 of Part II of the Second Schedule wherever it occurs and substitute in each case the following—</p> <p style="padding-left: 40px;">“ general manager ”.</p>

Column 1 Item	Column 2 Act amended	Column 3 Extent of amendment
27.	<i>Esperance Port Authority Act 1968</i>	<p>Delete "managing secretary" in section 18 (1) in both places where it occurs and substitute in each case the following—  " general manager ".</p> <p>Insert after subsection (3) of section 18 the following subsection—  " (4) Notwithstanding anything in this Act, to the extent that there is in the case of a person who is appointed under subsection (1) or (2) to be the general manager, berthing master or wharf manager, or any other officer or servant, and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ".</p> <p>Delete "managing secretary" in clause 9 of Part II of the Second Schedule wherever it occurs and substitute in each case the following—  " general manager ".</p>
28.	<i>Nurses Act 1968</i>	<p>Insert before "The Board is" in section 15 the following—  " (1) ".</p> <p>Insert after the existing section 15 the following subsection—  " (2) Notwithstanding anything in subsection (1) (m), to the extent that there is in the case of a person who is appointed and employed under that subsection to be an Administrator to the Board or other employee and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ".</p>
29.	<i>Museum Act 1969</i>	<p>Repeal section 3.</p> <p>Insert after subsection (3) of section 18 the following subsection—  " (4) Notwithstanding anything in this section, to the extent that there is in the case of a person who is appointed under subsection (1) to be the Director of the Museum and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ".</p>

Column 1  
Item

Column 2  
Act amended

Column 3  
Extent of amendment

Insert in Part II after section 28 the following section—

Status of members of staff  
and other employees who are  
members of Senior Executive  
Service

“ 28A. Notwithstanding anything in sections 25 (d), 26, 27 and 28, to the extent that there is in the case of a person who is appointed under section 25 (d) to be a member of the staff or other employee and who is a member of the Senior Executive Service within the meaning of the *Public Service Act 1978* an inconsistency between this Act and that Act that Act shall prevail. ”.

30. *Port Hedland Port Authority Act 1970*

Insert after subsection (2) of section 17 the following subsection—

“ (2a) Notwithstanding anything in this section, to the extent that there is in the case of a person appointed under subsection (1) to be a general manager, assistant general manager, wharf manager, harbour master or secretary, or any other officer or employee, and who is a member of the Senior Executive Service within the meaning of the *Public Service Act 1978* an inconsistency between this Act and that Act that Act shall prevail. ”.

31. *Western Australian Post-Secondary Education Commission Act 1970*

Repeal section 3.

Insert in Division 3 of Part II after section 19 the following section—

Status of Chairman, Secretary  
and officers and employees of the  
Commission who are members of  
Senior Executive Service

“ 19A. Notwithstanding anything in section 6A or this Division, to the extent that there is in the case of a person who is appointed under—

- (a) section 6A to be the Chairman in his capacity as the chief executive officer;
- (b) section 15 to be the Secretary; or
- (c) section 16 to be an officer or employee,

of the Commission and who is a member of the Senior Executive Service within the meaning of the *Public Service Act 1978* an inconsistency between this Act and that Act that Act shall prevail. ”.

Column 1 Item	Column 2 Act amended	Column 3 Extent of amendment
32.	<i>Rural Adjustment and Finance Corporation Act 1971</i>	<p>Insert in Division 1 of Part III after section 14 the following section—</p> <p>Status of Chairman and officers of Corporation who are members of Senior Executive Service</p> <p>“ 14A. Notwithstanding anything in this Division, to the extent that there is in the case of a person who is—</p> <p>(a) appointed under section 9 to be the Chairman of the Corporation, in his capacity as the chief executive officer of the Corporation; or</p> <p>(b) an officer under the control and direction of the Corporation by virtue of section 14,</p> <p>and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ”.</p>
33.	<i>Parliamentary Commissioner Act 1971</i>	<p>Delete “permanent head” in section 17 (4) and substitute the following—</p> <p>“ chief executive officer ”.</p> <p>Delete “The Public Service Board established under the <i>Public Service Act 1978</i>.” in the Schedule and substitute the following—</p> <p>“ The Public Service Commissioner appointed under the <i>Public Service Act 1978</i>. ”.</p>
34.	<i>Zoological Gardens Act 1972</i>	<p>Insert before “The Board may, with the approval of the Governor,” at the beginning of section 14 the following—</p> <p>“ (1) ”.</p> <p>Insert before subsection (2) of section 14 the following subsection—</p> <p>“ (1a) Notwithstanding anything in subsection (1) (a), to the extent that there is in the case of a person who is appointed under that subsection to be a keeper or other employee and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ”.</p>

Column 1 Item	Column 2 Act amended	Column 3 Extent of amendment
35.	<i>Aboriginal Affairs Planning Authority Act 1972</i>	<p>Insert in section 4 after the definition of "reserved lands" the following definition—  " "the Department" means the department in which the officers referred to in section 15 (1) are employed; "</p> <p>Delete "of the Authority," in section 9 (1) (a) and substitute the following—  " of the Department, "</p> <p>Delete "the Governor may appoint" in section 10 (1) and substitute the following—  " there shall be appointed under and subject to the <i>Public Service Act 1978</i> "</p> <p>Delete the passage beginning with "staff of the Authority," and ending with "as its permanent head" in section 10 (2) and substitute the following—  " Department, of which the Commissioner is the chief executive officer "</p> <p>Delete "the Governor may appoint" in section 10 (3) and substitute the following—  " there shall be appointed under and subject to the <i>Public Service Act 1978</i> "</p> <p>Delete "1904, such officers and temporary employees" in section 15 (1) and substitute the following—  " 1978, such officers "</p> <p>Delete "1904" in section 16 and substitute the following—  " 1978 "</p> <p>Delete "officer of the Authority" in subsections (1) and (2) of section 21A and substitute in each case the following—  " officer of the Department "</p>
36.	<i>Dairy Industry Act 1973</i>	<p>Insert after section 19 the following section—  Status of manager, and of officers and employees, of Authority who are members of Senior Executive Service</p> <p>" 19A. Notwithstanding anything in section 17, 18 or 19, to the extent that there is in the case of a person who is appointed under—</p> <p>(a) section 17 to be an officer or employee; or</p> <p>(b) section 19 to be the manager, of the Authority and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. "</p>

Column 1 Item	Column 2 Act amended	Column 3 Extent of amendment
37.	<i>Alcohol and Drug Authority Act 1974</i>	Insert after subsection (4) of section 21 the following subsection— “ (5) Notwithstanding anything in this section, to the extent that there is in the case of a person who is appointed under subsection (1) (a) to be an officer of the Authority and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ”.
38.	<i>Joondalup Centre Act 1976</i>	Insert after section 35 the following section— Status of General Manager and officers of Corporation who are members of Senior Executive Service “ 35A. Notwithstanding anything in this Division, to the extent that there is in the case of a person who is appointed under section 31 to be the General Manager of the Corporation and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ”.
39.	<i>Waterways Conservation Act 1976</i>	Insert after subsection (2) of section 13 the following subsection— “ (3) Notwithstanding anything in this section, to the extent that there is in the case of a person who is appointed under subsection (1) (a) to be the Commissioner and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ”.
40.	<i>Legal Aid Commission Act 1976</i>	Insert after section 22 the following section— Status of Director and members of staff of Commission who are members of Senior Executive Service “ 22A. Notwithstanding anything in sections 18, 20, 21 and 22, to the extent that there is in the case of a person who is appointed under— (a) section 18 to be the Director of Legal Aid; or (b) section 20 to be a member of the staff of the Commission, and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ”.

Column 1 Item	Column 2 Act amended	Column 3 Extent of amendment
41.	<i>Colleges Act 1978</i>	Insert in Part VII after section 36 the following section— Status of chief executive officers and non-academic staff and officers who are members of Senior Executive Service “ 36A. Notwithstanding anything in this Part, to the extent that there is in the case of a person who is appointed under— (a) section 30 to be a chief executive officer; or (b) section 31 to be a member of the staff (other than the academic staff), or another officer, of a college and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ”.
42.	<i>Mining Act 1978</i>	Delete “permanent head” in section 11 and substitute the following— “ chief executive officer ”.
43.	<i>Perth Theatre Trust Act 1979</i>	Insert after subsection (7) of section 17 the following subsection— “ (7a) Notwithstanding anything in this section, to the extent that there is in the case of a person who is appointed under subsection (1) to be the general manager of the Trust or an officer or servant of the Trust and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ”.
44.	<i>Litter Act 1979</i>	Insert after subsection (4) of section 15 the following subsection— “ (5) Notwithstanding anything in this section, to the extent that there is in the case of a person who is appointed under subsection (1) to be an officer and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ”.
45.	<i>State Energy Commission Act 1979</i>	Insert after section 98 the following section— Status of Commissioner, Deputy Commissioners, officers and other servants of Commission who are members of Senior Executive Service “ 98A. Notwithstanding anything in this Act, to the extent that there is in the case of a person who is appointed under—

Column 1 Item	Column 2 Act amended	Column 3 Extent of amendment
		<p>(a) section 11 (2) to be the Secretary to the Commission;</p> <p>(b) section 12 to be the Commissioner in his capacity as the Chief Executive Officer of the Commission;</p> <p>(c) section 12 to be a Deputy Commissioner in his capacity as a Deputy Chief Executive Officer of the Commission; or</p> <p>(d) section 90 to be an officer or other servant of the Commission, and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ”.</p>
46.	<i>Marine and Harbours Act 1981</i>	Delete “permanent head” in section 4 (2) and substitute the following— “ chief executive officer ”.
47.	<i>Animal Resources Authority Act 1981</i>	Insert before section 15 the following section— Status of chief executive officer and officers and employees of Authority who are members of Senior Executive Service “ 14A. Notwithstanding anything in sections 12, 13 and 14, to the extent that there is in the case of a person who is appointed under section 12 (1) to be the chief executive officer, or an officer or employee, of the Authority and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ”.
48.	<i>Prisons Act 1981</i>	Delete the definition of “permanent head” in section 3. Insert after the definition of “Appeal Tribunal” in section 3 the following definition— “ “chief executive officer” means chief executive officer of the Department; ”. Delete “permanent head” in section 6 (1) and substitute the following— “ chief executive officer ”. Delete “permanent head’s responsibility” in section 95 (1) and substitute the following— “ responsibility of the chief executive officer ”. Delete “permanent head” wherever it occurs in the provisions referred to in the Table below and substitute in each case the following— “ chief executive officer ”.

Column 1  
Item

Column 2  
Act amended

Column 3  
Extent of amendment

TABLE OF PROVISIONS

Sections 6 (2) and (4), 7, 8 (1), (2), (4) (b), (5) and (6), 9 (1), 12 (c) and (d), 13 (3), (4) and (5), 15, 16 (1), (5), (7), (8) and (9), 19 (1) and (2), 20, 21, 22, 23, 25, 26, 27 (3) (b) and (6), 31 (1), 33, 34 (1), 35 (1), (2), (5) and (6), 36 (1), 37 (1) and (2), 38 (1), (2) and (3) (d), 39 (a), (d), (e) and (h), 40, 41 (3) (c), 42 (3), 43, 45 (b), 46, 47 (1) and (2), 48 (1), 49 (5), 50 (2) and (7), 52 (1) and (2), 53 (2), 55 (1) (c) and (d), 59 (2), 60 (6) (a), 64, 65, 66 (2), 67 (1) (b) and (3), 68 (2) and (4) (f), 80 (2), 81, 82, 83, 87 (1), (2) (b), (5) and (7), 88, 89, 90, 91, 92 (3) and (5), 93, 94 (1), 95 (1), 99 (2), 102 (2), 103 (1), (2), (3) and (5), 104, 105 (1) and (2), 106, 107 (1) (b) and (3) (b), 108 (1), (2) and (4), 109 (1) and (2), 110 (1) (o), 114 (11).

Schedule 2 clause 5.

49. *Small Business  
Development  
Corporation Act 1983*

Insert after section 15 the following section—

Status of Managing Director  
and other employees of  
Corporation who are members  
of Senior Executive Service

“ 15A. Notwithstanding anything in  
sections 12, 13, 14 and 15, to the extent that  
there is in the case of a person who is—

(a) appointed under section 12 to be  
the Managing Director of the  
Corporation; or

(b) employed under section 15,

and who is a member of the Senior  
Executive Service within the meaning of the  
*Public Service Act 1978* an inconsistency  
between this Act and that Act that Act shall  
prevail. ”

50. *Western Australian  
Tourism Commission  
Act 1983*

Insert after section 19 the following section—

Status of Chairman and General  
Manager and other employees of  
Commission who are members of  
Senior Executive Service

“ 19A. Notwithstanding anything in  
sections 12, 17, 18 and 19, to the extent that  
there is in the case of a person who is  
appointed under—

(a) section 12 to be the Chairman in  
his capacity as chief executive  
officer; or

(b) section 17 to be the General  
Manager or other employee,

of the Commission and who is a member of  
the Senior Executive Service within the  
meaning of the *Public Service Act 1978* an  
inconsistency between this Act and that Act  
that Act shall prevail. ”

51. *Technology and  
Industry Development  
Act 1983*

Delete “permanent head” in section 15 and  
substitute the following—

“ chief executive officer ”.

Column 1 Item	Column 2 Act amended	Column 3 Extent of amendment
52.	<i>Prisoners (Interstate Transfer) Act 1983</i>	<p>Insert after the definition of "Attorney-General" in section 3 (1) the following definition—</p> <p>" chief executive officer" means chief executive officer of the department principally assisting the Minister to whom the administration of the <i>Prisons Act 1981</i> is for the time being committed by the Governor with that administration; "</p> <p>Delete the definition of "permanent head" in section 3 (1).</p> <p>Delete "permanent head" wherever it occurs in the provisions referred to in the Table below and substitute in each case the following—</p> <p>" chief executive officer ".</p>

## TABLE OF PROVISIONS

Sections 12 (2), 22 (1) (a) and (3), 29 (1) (b) (iii), 33.

53.	<i>Water Authority Act 1984</i>	<p>Delete the definition of "Managing Director" in section 3 (1) and substitute the following definition—</p> <p>" "Managing Director" means Managing Director referred to in section 23; "</p> <p>Delete paragraph (a) of the definition of "officer of the Authority" in section 3 (1) and substitute the following paragraph—</p> <p>" (a) the Managing Director; "</p> <p>Repeal subsections (1) and (2) of section 23 and substitute the following subsections—</p> <p>" (1) There shall be appointed under and subject to the <i>Public Service Act 1978</i> a person to be the Managing Director of the Authority.</p> <p>(2) The Managing Director is the chief executive officer of the Authority. "</p> <p>Sections 24 and 25 are repealed.</p>
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54.	<i>Interpretation Act 1984</i>	<p>Insert after the definition of "by-law" in section 5 the following definition—</p> <p>" "chief executive officer", when used in relation to the Public Service, has the meaning given by the <i>Public Service Act 1978</i>; "</p> <p>Delete the definitions of "Permanent Head" and "Public Service Board" in section 5.</p> <p>Insert after the definition of "swear" in section 5 the following definitions—</p> <p>" "the Public Service" has the meaning given by the <i>Public Service Act 1978</i>;</p> <p>"the Public Service Commissioner" means the Public Service Commissioner appointed under the <i>Public Service Act 1978</i>; "</p>
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Column 1 Item	Column 2 Act amended	Column 3 Extent of amendment
55.	<i>South West Development Authority Act 1984</i>	Insert after section 16 the following section— Status of Director and Deputy Director who are members of Senior Executive Service “ 16A. Notwithstanding anything in sections 14, 15 and 16, to the extent that there is in the case of a person who is appointed under section 14 (1) to be the Director, or the Deputy Director, of the Authority and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ”.
56.	<i>Herd Improvement Service Act 1984</i>	Insert in Part IV after section 15 the following section— Status of employees of Corporation who are members of Senior Executive Service “ 15A. Notwithstanding anything in this Part, to the extent that there is in the case of a person who is appointed under section 12 to be an employee of the Corporation and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ”.
57.	<i>Secondary Education Authority Act 1984</i>	Insert in Division 3 of Part II after section 20 the following section— Status of Director, Deputy Director and other employees of Authority who are members of Senior Executive Service “ 20A. Notwithstanding anything in this Division, to the extent that there is in the case of a person who is appointed under— (a) section 14 to be the Director or Deputy Director; or (b) section 17 to be an employee, of the Authority and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ”
58.	<i>Conservation and Land Management Act 1984</i>	Delete the definition of “Executive Director” in section 3 and substitute the following definition— “ Executive Director” means Executive Director of the Department referred to in section 36 (1); ”.

Column 1 Item	Column 2 Act amended	Column 3 Extent of amendment
		<p>Delete "by the Governor" in section 36 (1) and substitute the following—  " under and subject to the <i>Public Service Act 1978</i> ".</p> <p>Delete "permanent head" in section 36 (3) and substitute the following—  " chief executive officer ".</p> <p>Repeal section 36 (4).  Repeal sections 37, 39, 40 and 41.</p>
59.	<i>Financial Administration and Audit Act 1985</i>	Delete "permanent head" in section 71 (3) and substitute the following— " chief executive officer ".
60.	<i>State Government Insurance Commission Act 1986</i>	Delete "The Commission is not," in section 4 (4) and substitute the following— " Subject to section 12A, the Commission is not, ".
		<p>Insert after section 12 the following section—  Status of managing director and officers and employees of Commission  " 12A. Notwithstanding anything in this Division, to the extent that there is in the case of a person who is appointed under—  (a) section 11 to be the managing director; or  (b) section 12 to be an officer or employee of the Commission,  and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. ".</p>
61.	<i>Environmental Protection Act 1986</i>	Delete "Permanent Head" in paragraph (a) of the definition of "Chief Executive Officer" in section 3 (1) and substitute the following— " chief executive officer ".
		<p>Delete "Permanent Head" wherever it occurs in section 7 (4) and substitute in each case the following—  " chief executive officer ".</p>
62.	<i>Cemeteries Act 1986</i>	Insert after subsection (3) of section 10 the following subsection— " (4) Notwithstanding anything in this section, to the extent that there is in the case of a person who is appointed under subsection (1) to be an employee of a Board and who is a member of the Senior Executive Service within the meaning of the <i>Public Service Act 1978</i> an inconsistency between this Act and that Act that Act shall prevail. "