

**ACTS AMENDMENT
(ENVIRONMENTAL
LEGISLATION).**

No. 41 of 1985.

AN ACT to amend the Clean Air Act 1964, the Mines Regulation Act 1946 and the Noise Abatement Act 1972 and for related purposes.

[Assented to 13 May 1985.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY.

1. This Act may be cited as the *Acts Amendment (Environmental Legislation) Act 1985.* Short title.

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Commence-
ment.

2. This Act shall come into operation on a day to be fixed by proclamation.

PART II—CLEAN AIR ACT 1964.

Principal
Act.

3. In this Part the Clean Air Act 1964 is referred to as the principal Act.

Section 3
repealed.

4. Section 3 of the principal Act is repealed.

Section 6
amended.

5. Section 6 of the principal Act is amended in subsection (1)—

(a) by deleting the definition of “Executive Director”;

(b) by inserting after the definition of “occupier” the following definition—

“ “Permanent Head” means the person who is Permanent Head of the department through which this Act is principally administered; ”; and

(c) by deleting the definitions of “the Committee” and “the Council” and substituting the following definition—

“ “the Committee” means the Air Pollution Advisory Committee established under this Act; ”.

Heading
amended.

6. The heading to Part II of the principal Act is deleted and the following heading is substituted—

“ PART II—ADMINISTRATION. ”.

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7. Sections 7 and 8 of the principal Act are repealed and the following section is substituted—

Sections 7
and 8
repealed and
section 7
substituted.

“ 7. (1) For the purposes of discharging its functions under this Act and giving advice and assistance in connection with the discharge by the Minister of his functions under this Act there shall be established a committee to be called the Air Pollution Advisory Committee.

Air
Pollution
Advisory
Committee.

(2) The Committee—

(a) shall consist of a Chairman and 6 other members; and

(b) may, with the prior approval of the Minister, co-opt a person or persons who is or are conversant with any particular matter upon which the Committee is required to advise.

(3) The 7 members of the Committee shall be appointed by the Minister and shall include—

(a) a person employed in the department through which this Act is principally administered, who shall be Chairman of the Committee;

(b) a person employed in the department known as the Department of Health nominated in writing by the Minister administering that department;

(c) a person nominated in writing by the body known as The Confederation of Western Australian Industry (Incorporated);

(d) a person nominated in writing by the body known as the Trades and Labor Council of Western Australia;

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- (e) a person nominated in writing by the body known as The Conservation Council of Western Australia (Incorporated);
- (f) a person nominated in writing by the body known as the Local Government Association of Western Australia;
- (g) a person nominated in writing by the body known as The Chamber of Mines of Western Australia (Incorporated).

(4) If a Minister or a body referred to in subsection (3) authorized to nominate a person for appointment to the Committee fails to do so within 30 days after the receipt by him or it respectively of a written request from the Minister to do so, the Minister may appoint as member a person having a like qualification to the person who should have been nominated by the Minister or body in default, and the person so appointed shall be taken to have been duly nominated.

(5) Each member of the Committee shall, subject to this Act, hold office for 3 years and is eligible for reappointment.

(6) The Committee shall meet as often as is necessary for carrying out its functions under this Act at such times and places as it thinks fit and shall meet when and as often as it is requested to meet by the Minister.

(7) The Committee shall conduct its business in such manner as it may from time to time determine. ”.

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9. Section 12 of the principal Act is amended— Section 12
amended.

(a) in subsection (1) by deleting “The Governor may, in respect of each member of the Council other than the Chairman of the Council, appoint a person or officer as the case requires” and substituting the following—

“ The Minister may, in respect of each member of the Committee, appoint a person ”; and

(b) by repealing subsections (2) and (4).

10. Sections 13, 14 and 15 of the principal Act are amended by deleting “Governor” in each place where it occurs and substituting the following— Sections 13
14 and 15
amended.

“ Minister ”.

11. Section 16 of the principal Act is repealed. Section 16
repealed.

12. Section 17 of the principal Act is amended— Section 17
amended.

(a) in subsection (1)—

(i) by deleting “The functions of the Council are” and substituting the following—

“ It is the function of the Minister ”; and

(ii) by deleting paragraphs (e), (f) and (g); and

(b) in subsection (2), by deleting “its” and substituting the following—

“ his ”.

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Section 17A
substituted.

13. Section 17A of the principal Act is repealed and the following section is substituted—

Delegation.

“ 17A. The Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to the Permanent Head or a person employed in the department for which the Permanent Head is responsible any of his functions under this Act other than this power of delegation. ”.

Section 18
amended.

14. Section 18 of the principal Act is amended in subsection (1)—

(a) by deleting “Council” in the first place where it occurs and substituting the following—

“ Committee ”; and

(b) by deleting “Council” in the second place where it occurs and substituting the following—

“ Committee and the Minister ”.

Section 19
amended.

15. (1) Section 19 of the principal Act is amended by deleting “Council” in each place where it occurs and substituting the following—

“ Committee ”.

(2) A person is not liable for anything done or omitted to be done before the coming into operation of this section to any greater extent than he would have been if this Act had not been passed.

Section 20
repealed.

16. Section 20 of the principal Act is repealed.

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17. Section 21 of the principal Act is amended in subsection (1) by deleting paragraph (a). Section 21 amended.

18. Section 24 of the principal Act is amended— Section 24 amended.

(a) in subsection (3) by deleting “Executive Director” and substituting the following—

“ Minister ”; and

(b) in subsection (4) by deleting “it” in the second place where it occurs in paragraph (b) (i) and substituting the following—

“ the Minister ”.

19. Section 26 of the principal Act is amended in subsection (2) by deleting “the Minister or”. Section 26 amended.

20. Section 30 of the principal Act is amended in subsection (3) by deleting “Executive Director” in both places where it occurs and substituting the following— Section 30 amended.

“ Minister ”.

21. Section 33 of the principal Act is amended in subsection (2) (b) by deleting “it may by notice in writing signed by the Chairman thereof,” and substituting the following— Section 33 amended.

“ he may by notice in writing ”.

22. Section 35 of the principal Act is amended in subsections (1) and (2) by deleting “signed by the Chairman thereof” in each case. Section 35 amended.

23. Section 39 of the principal Act is amended in subsections (1) and (2) by deleting “signed by the Chairman thereof,” in each case. Section 39 amended.

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Section 39B
amended.

24. Section 39B of the principal Act is amended by repealing subsection (2) and substituting the following subsection—

“ (2) An application for the issue of a permit under this section shall be made to the Permanent Head, in the form approved by the Minister, and be accompanied by a fee of \$50. ”.

Section 41
amended.

25. Section 41 of the principal Act is amended by deleting “signed by the Chairman thereof and”.

Section 43
amended.

26. Section 43 of the principal Act is amended by deleting “Council” in the first place where it occurs and substituting the following—

“ Minister ”.

Section 44
amended.

27. Section 44 of the principal Act is amended by deleting “the Council or”.

Section 45
amended.

28. Section 45 of the principal Act is amended—

(a) in subsection (1)—

(i) by deleting “to the Minister or”;
and

(ii) by deleting “, but the commencement of an appeal to one extinguishes any right of appeal to the other”; and

(b) by repealing subsection (2a).

Section 46
amended.

29. Section 46 of the principal Act is amended by deleting “Council or”.

Section 47
amended.

30. Section 47 of the principal Act is amended by deleting “Council or the”.

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31. Section 49 of the principal Act is amended— Section 49
amended.

(a) in subsection (1), by deleting “Chairman thereof” in paragraph (a) and substituting the following—

“ Minister ”; and

(b) in subsection (2) (b), by deleting “Chairman of the”.

32. Section 50 of the principal Act is amended Section 50
amended. by deleting “Executive Director” and substituting the following—

“ Minister ”.

33. Section 53 of the principal Act is amended Section 53
amended. in subsection (1)—

(a) by deleting paragraph (b);

(b) by deleting the semicolon at the end of paragraph (i) and substituting a full stop;

and

(c) by deleting paragraph (j).

34. The principal Act is amended in each of the “Council”
amended to
“Committee”
in various
provisions. provisions referred to in the schedule to this section by deleting “Council” in each place where it occurs and substituting the following—

“ Committee ”.

Schedule to s. 34.

Sections 10, 11, 13, 14 (1), 15, 18 (2), 24 (3), 30 (3),
34 (4), 40.

"Council"
amended to
"Minister"
in various
provisions.

35. The principal Act is amended in each of the provisions referred to in the schedule to this section by deleting "Council" in each place where it occurs and substituting the following—

“ Minister ”.

Schedule to s. 35.

Sections 17 (1) (h), 17 (1a), 17 (2), 21, 22, 24 (2), 24 (4), 25, 26, 33, 34 (1), 34 (2), 34 (5), 35, 39, 39B (1), 39B (3), 41, 42 (1), 45 (1), 45 (2), 49, 52, 53 (1) (i), 53 (2) (f).

"Executive
Director"
amended to
"Permanent
Head" in
various
provisions.

36. The principal Act is amended in each of the provisions referred to in the schedule to this section by deleting "Executive Director" in each place where it occurs and substituting the following—

“ Permanent Head ”.

Schedule to s. 36.

Sections 24 (1), 24 (2), 27, 28, 34 (3), 34 (4), 53 (2) (f).

Transitional.

37. (1) An application for a licence, or for the renewal or transfer thereof, or for approval under section 34 of the principal Act that was duly made under that Act as in force before the day of the coming into operation of this Act but was not dealt with before that day shall be dealt with under the principal Act as in force after that day as if the application had been made in accordance with that Act as then in force.

(2) Where an appeal has been made under section 45 of the principal Act as in force before the day of the coming into operation of this Act and has not been disposed of before that day, the appeal may be disposed of after that day by the Minister to whom the administration of the principal Act is for the time being allocated as if section 28 had not been passed.

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PART III—MINES REGULATION ACT 1946.

38. (1) Section 23C of the Mines Regulation Act 1946 is amended in subsection (2) by deleting subparagraph (iii) of paragraph (c) and substituting the following subparagraph—

Section 23C
amended.

“ (iii) one shall be a scientific officer having duties under the Clean Air Act 1964, nominated by the Permanent Head of the department of the Public Service of the State through which that Act is principally administered; ”.

(2) The person holding office under section 23C (2) (c) (iii) of the Mines Regulation Act 1946 immediately before the day of the coming into operation of this Act shall, after that day, be deemed to have been nominated and appointed in accordance with that Act as amended by subsection (1).

PART IV—NOISE ABATEMENT ACT 1972.

39. In this Part the Noise Abatement Act 1972 is referred to as the principal Act.

Principal
Act.

40. Section 5 of the principal Act is amended in subsection (1)—

Section 5
amended.

(a) by deleting the definition of “Committee” and inserting after the definition of “abatement notice” the following definition—

“ “Advisory Committee” means the Noise Abatement Advisory Committee established in accordance with section 13; ”;

(b) by deleting the definition of “Executive Director”; and

(c) by deleting the definition of “the Council”.

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Sections 10
and 11
repealed.

41. Sections 10 and 11 of the principal Act are repealed.

Section 12
amended.

42. Section 12 of the principal Act is amended—

(a) in subsection (1)—

(i) by deleting “The functions of the Council are” and substituting the following—

“ It is the function of the Minister ”;

(ii) by inserting after paragraph (e) the following—

“ and ”;

(iii) by deleting “; and” at the end of paragraph (ea) and substituting a full stop; and

(iv) by deleting paragraph (f); and

(b) in subsection (2)—

(i) by deleting “it” and substituting the following—

“ him ”; and

(ii) by deleting “its” and substituting the following—

“ his ”.

Section 12A
inserted.

43. After section 12 of the principal Act the following section is inserted—

Delegation.

“ 12A. The Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him,

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delegate to the Permanent Head of the Department or a person employed in the Department any of his functions under this Act other than this power of delegation. ”.

44. (1) Section 13 of the principal Act is Section 13
amended. amended—

(a) in subsection (1), by deleting “Council of its” and substituting the following—

“ Minister of his ”;

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

“ (2) The Advisory Committee shall consist of 8 members appointed by the Minister and shall include—

(a) a person employed in the Department, who shall be Chairman of the Committee;

(b) a person who is employed in the department as defined in the Occupational Health, Safety and Welfare Act 1984 nominated in writing by the Minister administering that department;

(c) a person nominated in writing by the body known as The Confederation of Western Australian Industry (Incorporated);

(d) a person nominated in writing by the body known as the Trades and Labor Council of Western Australia;

- (e) a person nominated in writing by the body known as The Conservation Council of Western Australia (Incorporated);
 - (f) a person nominated in writing by the body known as the Local Government Association of Western Australia;
 - (g) a person nominated in writing by the body known as The Chamber of Mines of Western Australia (Incorporated);
 - (h) a person who is a member of the Police Force nominated in writing by the Minister administering the Police Act 1892. ”;
- (c) by repealing subsection (4) and substituting the following subsection—
- “ (4) If a Minister or a body referred to in subsection (2) authorized to nominate a person for appointment to the Committee fails to do so within 30 days after the receipt by him or it respectively of a written request from the Minister to do so, the Minister may appoint as member a person having a like qualification to the person who should have been nominated by the Minister or body in default, and the person so appointed shall be taken to have been duly nominated. ”;
- (d) in subsection (5), by deleting “Governor, on the recommendation of the Minister,” and substituting the following—
- “ Minister ”; and
- (e) in subsection (7), by deleting “appointed”.

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(2) The persons who, immediately before the coming into operation of this section, held office as members of the Advisory Committee shall cease to hold office upon the coming into operation of this section but are eligible for reappointment.

45. Section 14 of the principal Act is amended by deleting "recommend for appointment" and substituting "appoint". Section 14 amended.

46. Section 17 of the principal Act is amended by deleting "Governor" and substituting the following— Section 17 amended.

" Minister ".

47. Section 20 of the principal Act is amended by deleting ", but so that in every case the chairman of the committee shall be appointed from amongst the *ex officio* members of the Advisory Committee" in paragraph (a). Section 20 amended.

48. Section 23 of the principal Act is amended by deleting paragraphs (d), (e) and (h). Section 23 amended.

49. Section 24 of the principal Act is amended by deleting "Executive Director" and substituting the following— Section 24 amended.

" Chairman of the Advisory Committee ".

50. Section 25 of the principal Act is amended by deleting "Executive Director" in both places where it occurs and substituting in each case the following— Section 25 amended.

" Advisory Committee ".

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Section 35
amended.

51. Section 35 of the principal Act is amended in subsections (1) and (3) by deleting "Council or" in each case.

Section 36
amended.

52. Section 36 of the principal Act is amended by deleting "Council or".

Section 40
amended.

53. Section 40 of the principal Act is amended—

(a) in subsection (1), by deleting "Council or";

and

(b) in subsection (5)—

(i) by deleting "Council" in the first place where it occurs in paragraph (a) and substituting the following—

“ Advisory Committee ”;

(ii) by deleting "the Council or" in paragraph (a); and

(iii) by deleting "Council" in the third place where it occurs in paragraph (a) and substituting the following—

“ Minister ”.

Section 45
amended.

54. Section 45 of the principal Act is amended—

(a) by inserting after subsection (1) the following subsection—

“ (1a) By-laws made by a local authority are subject to the approval of the Governor. ”;

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(b) in subsection (5), by inserting after “district” the following—

“ but is subject to the Interpretation Act 1984 as if it were the making of a by-law in the terms of the model by-law adopted or, where applicable, the model by-law as adopted with modifications and the publication of the resolution under this subsection were the publication of the by-law in accordance with that Act ”; and

(c) by repealing subsection (6) and substituting the following subsection—

“ (6) A by-law adopted under this section has, when the resolution for its adoption has been published in accordance with subsection (5), the same legal effect as if it had been passed by the local authority, confirmed and approved as required by subsection (1a), and published in the *Gazette*. ”.

55. Section 47 of the principal Act is amended in subsection (1) by deleting “the secretary to the Council” and substituting the following—

Section 47 amended.

“ of the Minister ”.

56. Section 48 of the principal Act is amended in subsection (2) by deleting “to a member of the Council for his services and” in paragraph (a).

Section 48 amended.

57. The principal Act is amended in each of the provisions referred to in the schedule to this section by deleting “Executive Director” in each place where it occurs and substituting the following—

“Executive Director” amended to “Minister” in various provisions.

“ Minister ”.

Schedule to s. 57.

Sections 8, 32, 33A (2), 33H, 38, 40 (1), 45 (1).

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"Council"
amended to
"Minister"
in various
provisions.

58. The principal Act is amended in each of the provisions referred to in the schedule to this section by deleting "Council" in each place where it occurs and substituting the following—

" Minister ".

Schedule to s. 58.

Sections 12 (2), 22 (1), 48 (2) (i).
