



Western Australia

## **Rottnest Island Authority Act 1987**

Compare between:

[11 Sep 2010, 02-d0-02] and [01 Oct 2010, 02-e0-02]



Western Australia

## **Rottnest Island Authority Act 1987**

**An Act to establish an Authority to control and manage Rottnest Island, to provide for the management policies to be followed by the Authority, to dissolve the Rottnest Island Board, and for connected purposes.**

## **Part I — Preliminary**

**1. Short title**

This Act may be cited as the *Rottnest Island Authority Act 1987*<sup>1</sup>.

**2. Commencement**

This Act shall come into operation on a day to be fixed by proclamation<sup>1</sup>.

**3. Terms used in this Act**

In this Act, unless the contrary intention appears —

***Account*** means the account referred to in section 33(3);

***Authority*** means the Rottnest Island Authority established by section 5(1);

***chairman*** means the chairman appointed under section 6(1)(a);

***chief executive officer*** means the person appointed under section 25 to the office of chief executive officer, and includes an acting chief executive officer;

***committee*** means a committee appointed under clause 6 of Schedule 1;

***deputy chairman*** means the deputy chairman appointed under section 6(3);

***member*** means a member of the Authority and, except in section 6(3) and clauses 1(1), 1(2) and 3 of Schedule 1, includes a temporary member and a member of a committee;

***ranger*** means a person who is a ranger under section 28(1)(a) or (2) or who is appointed under section 28(1)(b) as an honorary ranger;

***temporary member*** means a person appointed under clause 3(1) of Schedule 1; and

***the Island*** means the Rottnest Island Reserve described in section 4.

**4. Rottnest Island Reserve**

For the purposes of this Act, the Rottnest Island Reserve is —

- (a) the land containing 1 859 hectares comprising Swan Location 10976 as shown and bordered pink, at the commencement of this Act, on Department of Land Administration<sup>2</sup> Plan No. 16860; and
- (b) the waters comprising Swan Location 11022 as shown, at the commencement of this Act, on Department of Land Administration<sup>2</sup> Plan No. 16932, including the sea-bed and subsoil beneath such waters,

being Reserve No. 16713 in the records of the Department of Land Administration<sup>2</sup>.

## **Part II — Rottnest Island Authority**

### **5. Authority established**

- (1) There is established by this subsection a body by the name of the Rottnest Island Authority.
- (2) The Authority is a body corporate with perpetual succession and a common seal and is capable of —
  - (a) acquiring, holding and disposing of real and personal property;
  - (b) suing and being sued; and
  - (c) doing and suffering all such other acts and things as bodies corporate may lawfully do and suffer.
- (3) The Authority is an agent of the Crown in right of the State.

### **6. Membership of Authority**

- (1) The Authority shall consist of —
  - (a) a chairman appointed by the Governor on the nomination of the Minister; and
  - (b) 5 other members appointed by the Governor on the nomination of the Minister made in accordance with subsection (2).
- (2) Nominations by the Minister for the purposes of subsection (1)(b) shall be so made that not less than —
  - (a) one member is a person who in the opinion of the Minister has practical knowledge of and experience in the conservation of the environment;
  - (b) one member is a person who in the opinion of the Minister has practical knowledge of and experience in the preservation of buildings of historic value;
  - (c) one member is a person who in the opinion of the Minister is a person of sound commercial experience; and

- (d) one member is a person who in the opinion of the Minister is a regular user of the Island for recreational purposes.
- (3) The Minister shall appoint a member to be deputy chairman.
- (4) Appointment of a person as a member does not of itself render Part 3 of the *Public Sector Management Act 1994*, or any other Act applying to persons as officers of the Public Service of the State, applicable to that person, or affect or prejudice the application to him of those provisions if they applied to him at the time of his appointment.

*[Section 6 amended by No. 32 of 1994 s. 3(2).]*

**7. Constitution and proceedings**

The provisions of Schedule 1 shall have effect with respect to the constitution and proceedings of the Authority.

**8. Remuneration and expenses of members**

A member shall be paid out of the funds of the Authority such remuneration and travelling and other allowances as are determined in his case by the Minister on the recommendation of the Minister for Public Sector Management <sup>3</sup>.

**9. Protection of members and officers**

- (1) A member or any officer of the Authority is not personally liable for any act done or omitted to be done in good faith by the Authority or by him acting in his official capacity.
- (2) In subsection (1) *officer* includes any employee of the Authority, an honorary ranger under section 28(1)(b) and a police officer acting as an *ex officio* ranger under section 28(2).
- (3) Subsection (1) has effect subject to the *Statutory Corporations (Liability of Directors) Act 1996*.

*[Section 9 amended by No. 41 of 1996 s. 3.]*

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**10. Disclosure of interests**

- (1) A member who has a direct or indirect pecuniary interest in a matter that is before a meeting of the Authority or a committee shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest to members who are at that meeting, and that disclosure shall be recorded in the minutes of that meeting.
- (2) A member who has disclosed under subsection (1) his interest in a matter may take part in the consideration or discussion of the matter, but shall not vote thereon.
- (3) If a member has, in the opinion of the person presiding at a meeting of the Authority or a committee, a direct or indirect pecuniary interest in a matter before that meeting, the person so presiding may call on the member to disclose the nature of that interest and, in default of any such disclosure, may determine that that interest exists.
- (4) A determination under subsection (3) that a member is interested in a matter shall be recorded in the minutes of the meeting concerned and the member may take part in the consideration or discussion of the matter, but shall not vote thereon.



## **Part III — Functions and powers**

### **11. Functions of Authority**

- (1) The Authority has the control and management of the Island for the purposes set out in subsection (2).
- (2) The control and management of the Island is vested in the Authority for the purpose of enabling it —
  - (a) to provide and operate recreational and holiday facilities on the Island;
  - (b) to protect the flora and fauna of the Island; and
  - (c) to maintain and protect the natural environment and the man-made resources of the Island and, to the extent that the Authority's resources allow, repair its natural environment.

### **12. Access to facilities**

- (1) In the provision and operation of recreational and holiday facilities on the Island, the Authority —
  - (a) shall have particular regard to the needs of persons usually resident in the State who wish to visit or stay on the Island as a family group; and
  - (b) may reserve the facilities at Kingstown Barracks, or part of those facilities, for use by persons or groups visiting the Island for educational purposes.
- (2) Subject to subsection (1), the Authority shall ensure that where the demand for the use of facilities exceeds the supply of facilities no preference or advantage is given to any person or group.

### **13. Powers of Authority**

- (1) The Authority has power to do all things that are necessary or convenient to be done in connection with the management and control of the Island under this Act.

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- (2) Without limiting the generality of subsection (1) the Authority may in relation to the Island —
- (a) carry out such developments and improvements as are consistent with this Act;
  - (b) enter into any arrangement with a State Government department or instrumentality or any public utility for the performance by that body of any work or the supply of equipment or services;
  - (c) require payment of rent, fees or other charges for the use of the facilities of the Authority or equipment or services supplied by it, and fix the amount of such rent, fees or charges with power to waive, reduce or refund the same in particular cases;
  - (d) in respect of its function of providing and operating recreational and holiday facilities on the Island —
    - (i) establish or acquire, and operate; or
    - (ii) enter into an arrangement for any person to establish or acquire, and operate,any business undertaking that is necessary or convenient for the performance of that function; and
  - (e) subject to subsection (3), grant any lease or licence that is consistent with the purposes described in section 11(2), on such terms and conditions as it thinks fit.
- (3) The power in subsection (2)(e) —
- (a) does not include power to grant a lease or licence for a term exceeding a period of 20 years, including in that period any term obtainable at the option of the lessee or licensee on the expiry of a previous term, unless the Minister's written approval has been given to the proposed lease or licence; and
  - (b) includes the power to grant leases and licences of sites for the mooring of vessels, but that power shall only be

exercised with the concurrence of the Minister to whom the administration of the *Marine and Harbours Act 1981* is for the time being committed.

- (4) Except as provided in subsection (2)(e), the Authority does not have power of disposition over any land forming part of the Rottnest Island Reserve.
- (5) The Authority does not have power to permit any person to take any flora, fauna, rock, stone or soil on the Island for any commercial or other profit-making purpose.

**14. Limit on settlement etc.**

- (1) The Authority —
  - (a) shall not provide any living accommodation on the island except in the settlement area; and
  - (b) shall carry out any development outside the settlement area, not being a development provided for in the management plan referred to in section 17(1), only with the approval of the Minister and in accordance with such conditions as the Minister may impose.
- (2) Subsection (1)(a) does not apply to the provision of living accommodation for any officer or employee of the Authority in a place that is outside the settlement area where the provision of such accommodation is incidental to the duties of that officer or employee at that place.
- (3) In subsection (1) ***settlement area*** means —
  - (a) the part of the Island lying on the northern side of a line drawn generally from Geordie Bay to Kingstown Barracks, the delineation of which is shown —
    - (i) by an orange border on Miscellaneous Diagram No. 136 at the commencement of this Act deposited in, and available for inspection at, the offices of the Department of Land Administration<sup>2</sup> in Perth; or

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- (ii) on a diagram or plan notified under subsection (4)(a);
  - or
  - (b) a part of the Island declared under subsection (4)(b) to be the settlement area.
- (4) The Minister may by notice published in the *Gazette* —
  - (a) give notice of a diagram or plan to have effect, in substitution for the diagram referred to in subsection (3)(a); or
  - (b) declare a part of the Island to be the settlement area in substitution for the part referred to in subsection (3)(a) and any such declaration shall be made by reference to a diagram or plan deposited and available for inspection as mentioned in that subsection.

**15. Minister may direct Authority**

- (1) The Minister may give to the Authority in writing —
  - (a) directions of a general character as to the performance of its functions; or
  - (b) directions requiring it to perform any of its functions in a specified manner,

but, without limiting section 18(3), any such direction shall not be inconsistent with this Act or a management plan referred to in section 17(1).

- (2) The Authority shall comply with any direction given to it under subsection (1).
- (3) Subsection (2) has effect subject to the *Statutory Corporations (Liability of Directors) Act 1996*.

*[Section 15 amended by No. 41 of 1996 s. 3.]*

**16. Delegation**

The Authority may by resolution, either generally or as otherwise provided by the resolution, delegate to a member, the chief executive officer or any other officer or employee of the Authority any of its functions under this Act other than this power of delegation.

## **Part IV — Management plans**

### **17. Management plan**

- (1) The Authority shall control and manage the Island in accordance with the management plan for the time being applicable to the Island.
- (2) A copy of the management plan referred to in subsection (1) shall be kept in the offices of the Authority and shall be available for inspection by the public during office hours free of charge.

### **18. Existing management plan**

- (1) The management plan applicable to the Island at the commencement of this Act is the Rottnest Island Management Plan dated 30 August 1985 prepared by the Rottnest Island Management Planning Group and presented to the Minister.
- (2) The plan referred to in subsection (1) has effect, subject to this section, until a revised plan is approved under this Part.
- (3) The Minister may by notice in writing given to the Authority modify or add to any provision in the management plan referred to in subsection (1), and may vary or revoke a notice so given.
- (4) Section 17(1) has effect subject to any notice given by the Minister under subsection (3) for the time being in force.
- (5) A copy of any notice given by the Minister under subsection (3) shall be attached to the copy of the management plan kept by the Authority under section 17(2).

### **19. Review and revision of management plan**

- (1) The Authority shall not later than 5 years after the commencement of this Act review the management plan referred to in section 18(1) and, if it considers that the

circumstances so require, prepare amendments to that plan or a revised management plan for the Island.

- (2) The Authority shall take action under subsection (1) in respect of every management plan for the time being in force not later than 5 years after the Minister has under section 23 approved that plan or amendments to it or its continuation in force without amendment.
- (3) If, on a review under this section, the Authority considers that a management plan does not require amendment or revision it may determine that the existing plan shall continue in force without amendment.
- (4) In performing its functions under this section, the Authority shall have the objective of promoting the purposes set out in section 11(2).

**20. Contents of management plan**

- (1) Any management plan for the Island prepared under this Part shall contain —
  - (a) a statement of the policies or guidelines proposed to be followed; and
  - (b) a summary of the operations proposed to be undertaken, in respect of the Island during the period of 5 years from the time when it is approved.
- (2) A management plan shall state the date on which it will expire but notwithstanding anything in this section or in the plan, a plan which would otherwise expire shall remain in force until a further plan is approved.
- (3) A management plan shall not disclose any information or matter communicated in confidence for the purposes of this Act or which would or might reasonably be expected to cause damage to the interests of the person from whom the information was received.

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**21. Plan to be publicly notified**

(1) Public notification —

- (a) that a proposed management plan or amendments to the existing management plan have been prepared; or
- (b) that the existing management plan is proposed to be continued in force without amendment,

shall be given in accordance with subsection (2).

(2) The proposed plan or amendments, or the proposal to continue the existing plan in force without amendment, shall be publicly notified by the Authority by the publication —

- (a) in the *Gazette*;
- (b) in 2 issues of a daily newspaper circulating throughout the State; and
- (c) at the offices of the Authority,

of a notice —

- (d) specifying the places at which —
  - (i) a copy of the plan or the amendments may be inspected; and
  - (ii) copies of the plan or the amendments may be obtained;
- and
- (e) stating the effect of section 22 and specifying the period referred to in that section.

**22. Public submissions**

Written submissions on the proposed management plan or amendments or the proposal to continue the existing management plan in force without amendment may be made by any person —



- (a) within a period determined by the Authority, which period shall be not less than 2 months after the day on which the notice is published in the *Gazette*; and
- (b) by delivering or posting them, so that they are received within that period at the offices of the Authority.

**23. Approval by Minister**

- (1) Subject to this Part, the Authority shall submit —
  - (a) the proposed plan or amendments, modified as it thinks fit to give effect to submissions made under section 22; or
  - (b) the proposal to continue the existing management plan in force without amendment,to the Minister for approval.
- (2) The Authority may, in order to give effect to submissions under section 22, submit to the Minister for approval proposed amendments to the existing management plan instead of the proposal that that plan be continued in force without amendment.
- (3) The Minister may —
  - (a) approve the proposed plan or the proposed amendments or approve the same with such modifications as the Minister thinks fit; or
  - (b) approve the proposal to continue the existing management plan in force without amendment or instead make amendments to that plan.

**24. Notice of approval**

- (1) Notice that —
  - (a) a revised management plan has been approved;
  - (b) amendments to the existing management plan have been approved or made; or

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- (c) the continuation in force of the existing management plan without amendment has been approved,
- by the Minister shall be published by the Minister in the *Gazette*, together with a note showing —
  - (d) whether any modifications or amendments were made by the Minister under section 23; and
  - (e) where a copy of the plan or the amendments may be inspected or obtained.
- (2) A management plan or amendments to the existing management plan shall come into operation on the day of publication in the *Gazette* of a notice under subsection (1) or on such later day as is specified in the plan or in the amendments.

## Part V — Staff

### 25. Chief executive officer

- (1) There shall be created in the Authority, under Part 3 of the *Public Sector Management Act 1994*, an office of chief executive officer, and the person appointed to that office shall administer, subject to the control of the Authority, the day to day operations of the Authority.
- (2) The chief executive officer may attend any meeting of the Authority or of a committee and contribute to the discussion of any matter, but shall not vote or be counted for the purpose of determining the existence of a quorum.

*[Section 25 amended by No. 32 of 1994 s. 3(2).]*

### 26. Other staff

- (1) There shall be appointed, under and subject to Part 3 of the *Public Sector Management Act 1994*, such other officers as may be necessary to enable the Authority to perform its functions.
- (2) The Authority may engage persons as wages staff otherwise than under Part 3 of the *Public Sector Management Act 1994*, and persons so engaged shall, subject to any relevant industrial award or agreement, be employed on such terms and conditions as the Minister determines, after consultation with the Minister to whom the administration of the *Industrial Relations Act 1979* is for the time being committed.

*[Section 26 amended by No. 32 of 1994 s. 3(2).]*

### 27. Consultants etc.

- (1) The Authority may, with the approval of the Minister, engage under a contract for services or other arrangement any consultant or person to provide professional, technical or other assistance as it considers necessary to enable the Authority to perform its functions.

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- (2) The engagement or appointment of a person under subsection (1) or section 28(1)(b) does not —
- (a) render Part 3 of the *Public Sector Management Act 1994*, or any Act applying to persons as officers of the Public Service of the State, applicable to that person; or
  - (b) affect or prejudice the application to him of those provisions if they applied to him at the time of his engagement or appointment.

*[Section 27 amended by No. 32 of 1994 s. 3(2).]*

**28. Rangers**

- (1) The Authority may, by instrument that is revocable by it at any time —
- (a) designate any person on its staff or engaged under section 27 to be a ranger for the Island; or
  - (b) appoint any person to be an honorary ranger for the Island.
- (2) A police officer is *ex officio* a ranger for the Island.

**29. Enforcement powers of rangers**

- (1) A ranger, who finds a person committing an offence to which this section applies or who on reasonable grounds suspects that such an offence has been committed or is about to be committed by a person may —
- (a) require the person to give him the person's name and address; and
  - (b) enter any premises and stop, detain, and search any vessel or vehicle if a person in the premises or in or on the vessel or vehicle is, or is suspected by him on reasonable grounds of being, the offender.
- (2) A person shall, when required to do so under subsection (1)(a), give his full and correct name and address.

- (3) If a person does not under subsection (2) give his full and correct name and address to a ranger —
  - (a) he obstructs the ranger in the performance of his functions and section 32 applies accordingly; and
  - (b) the ranger may detain the person until he can be delivered to a police officer to be dealt with according to law.
- (4) This section applies to any offence against a regulation made under section 48 or against section 32.

### **30. Removal of persons from Island**

- (1) Where a ranger finds a person committing an offence against any regulation made under section 48, he may by written order given to the person require the person, at the person's own expense, to leave the Island not later than a specified time and not return to the Island for a specified period, which shall not exceed 7 days.
- (2) A person shall comply with an order under subsection (1) unless he has reasonable excuse for not doing so, the proof of which lies on him.  
Penalty: \$1 000.
- (3) If a police officer on reasonable grounds believes that a person has not complied with an order under subsection (1) the police officer may remove, or make arrangements for the removal of, the person from the Island to the mainland and if necessary enter any vehicle, vessel, premises or place and detain the person and his belongings for the purpose of effecting the removal.
- (4) A person removed under subsection (3) shall take his belongings with him and if he fails to do so a police officer may take such steps as are necessary for their removal from the Island.

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**31.        Certificate as to authority of ranger**

- (1) The Authority shall issue to a ranger who is not a police officer a certificate stating that he has been appointed or designated as a ranger or an honorary ranger, as the case may be, under this Act.
- (2) A ranger shall produce the certificate so issued to him, on demand, to a person who is affected by the exercise of the ranger's powers.
- (3) In any proceedings production of a certificate purporting to be issued under this section shall be sufficient evidence of the matters appearing in the certificate without proof of those matters or of any signature to the certificate.
- (4) Where a person ceases to be a ranger, he shall forthwith surrender the certificate to the chief executive officer or other person authorised to receive it.

Penalty applicable to subsection (4): \$500.

**32.        Obstruction of rangers**

A person shall not resist, delay or in any way obstruct a ranger in the performance of his functions.

Penalty: \$1 000.

*[Section 32 amended by No. 50 of 2003 s. 93(2).]*

## **Part VI — Financial provisions**

### **33. Resources of Authority**

- (1) The funds and property available to the Authority to enable it to perform its functions under this Act are —
  - (a) moneys from time to time appropriated by Parliament for that purpose;
  - (b) moneys received by the Authority by way of fees, rents or other charges;
  - (c) moneys derived by the Authority from the operation of any business undertaking;
  - (d) moneys received by the Authority under section 43;
  - (e) moneys or property received by the Authority by way of gift, including a gift by will;
  - (f) moneys borrowed by the Authority under this Act; and
  - (g) moneys or property otherwise paid or made available to the Authority or to which it becomes entitled.
- (2) Where any gift, including a gift by will, has been made to the Authority upon lawful conditions that are accepted by the Authority, it shall apply the gift in accordance with those conditions.
- (3) An account called the Rottnest Island Authority Account is to be established —
  - (a) as an agency special purpose account under section 16 of the *Financial Management Act 2006*; or
  - (b) with the approval of the Treasurer, at a bank as defined in section 3 of that Act,to which the moneys referred to in subsection (1) are to be credited.
- (4) All expenditure incurred by the Authority for the purposes of performing its functions under this Act, including the repayment

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of moneys borrowed by or advanced to the Authority in accordance with this Act, shall be charged to the Account and moneys standing to the credit of the Account shall be applied only for the purposes of this Act.

*[Section 33 amended by No. 49 of 1996 s. 60 and 64; No. 77 of 2006 s. 17.]*

**34. Relationship of revenue to expenditure**

- (1) The Authority shall perform its functions in such manner as to ensure that, taking one year with another, its revenue is at least sufficient to meet its expenditure.
- (2) In subsection (1) revenue does not include moneys referred to in section 33(1)(a) and expenditure does not include the expenditure of any such moneys.
- (3) The Authority is not obliged to comply with subsection (1) before the fifth financial year after the commencement of this Act.

**35. Application of net profits**

- (1) Subject to this section, the Treasurer may determine an amount that is to be paid by the Authority to the Treasurer for the credit of the Consolidated Account from the net profits of the Authority for a financial year.
- (2) Any net profits of the Authority not paid to the Treasurer under this section shall be applied by the Authority in the performance of its functions.
- (3) The amount determined under subsection (1) for a financial year shall not exceed one half of the net profits of the Authority for that year.
- (4) The Authority shall, as soon as is practicable after the end of each financial year, make a recommendation to the Treasurer as to the amount (if any) that the Authority recommends as



appropriate for the purposes of subsection (1) for that financial year.

- (5) In making a determination under subsection (1) in respect of a financial year, the Treasurer shall have regard to but shall not be bound by the recommendation of the Authority.
- (6) The Authority shall pay an amount payable under this section within such period as the Treasurer may allow.

*[Section 35 amended by No. 6 of 1993 s. 11; No. 77 of 2006 s. 4.]*

**36. Investment of funds**

The Authority may, with the approval of the Treasurer, temporarily invest any moneys standing to the credit of the Account in such manner and in such categories of investments as are approved by the Treasurer until those moneys are required for the performance of any function of the Authority.

**37. General borrowing by Authority**

- (1) Subject to subsection (2), the Authority may, with the prior approval in writing of the Treasurer and on such terms and conditions as he approves, borrow money for the performance by the Authority of its functions.
- (2) Before the Treasurer may approve of the borrowing of money under subsection (1), a proposal in writing showing —
  - (a) the terms and particulars of the proposed loan;
  - (b) the rate of interest to be paid on that loan;
  - (c) the purpose to which the money borrowed is to be applied; and
  - (d) the manner in which the loan is to be repaid,

shall first be submitted by the Authority on the recommendation of the Minister to, and approved by, the Treasurer.

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- (3) Any moneys borrowed by the Authority under this section may be raised as one loan or as several loans and in such manner as the Treasurer may approve, but the amount of money so borrowed shall not in any one year exceed in the aggregate such amounts as the Treasurer approves.
- (4) For the purpose of making provision to repay either the whole or any part of any loan raised under this section the Authority may, under subsection (1), borrow the moneys necessary for that purpose before the loan or part of it becomes payable.

**38. Borrowing from Treasurer**

- (1) In addition to the powers conferred on it by section 37, the Authority may borrow from the Treasurer such amounts as the Treasurer approves on such conditions relating to repayment and payment of interest as the Treasurer imposes.
- (2) By virtue of this subsection the Account and the assets of the Authority are charged with the due performance by the Authority of all obligations arising from any advance made under this section.

**39. Guarantees of borrowings etc.**

- (1) The Treasurer is hereby authorised to guarantee —
  - (a) the repayment of any amount borrowed from time to time under section 37; and
  - (b) the payment of interest and such other charges in respect of such borrowings as he has approved.
- (2) Before a guarantee is given by the Treasurer under this section, the Authority shall give to the Treasurer such security as the Treasurer may require and shall execute all such instruments as may be necessary for the purpose.
- (3) The Treasurer shall cause any money required for fulfilling any guarantee given by him under this section to be charged to the Consolidated Account which, to the extent necessary, is hereby

appropriated accordingly, and the Treasurer shall cause any amounts received or recovered from the Authority or otherwise in respect of moneys so charged by him to be credited to the Consolidated Account.

*[Section 39 amended by No. 6 of 1993 s. 11; No. 49 of 1996 s. 64; No. 77 of 2006 s. 4.]*

**40. Application of the *Financial Management Act 2006* and *Auditor General Act 2006***

The provisions of the *Financial Management Act 2006* and the *Auditor General Act 2006* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Authority and its operations.

*[Section 40 amended by No. 77 of 2006 s. 17.]*

## **Part VII — General**

### **41.        Liability of parents**

- (1) Where loss is suffered by the Authority as a result of any damage to, or destruction of, any property owned by or under the control and management of the Authority by the intentional or negligent act or omission of a child, the Authority may recover the amount of that loss from a responsible adult by action in a court of competent jurisdiction unless the responsible adult shows that he did not conduce to the act or omission of the child by neglecting to exercise due care and control of the child.
- (2) In subsection (1) —  
**child** means a person who has not attained the age of 18 years;  
**responsible adult**, in relation to a child, has the same meaning as it has in section 58 of the *Young Offenders Act 1994* in relation to a young person within the meaning of that Act.
- (3) The provisions of subsection (1) are in addition to those of section 58 of the *Young Offenders Act 1994*.

*[Section 41 amended by No. 57 of 1997 s. 107.]*

### **42.        Infringement notices**

- (1) A ranger who has reasonable grounds to believe that a person has committed an offence against regulations made under section 48 may give to that person an infringement notice in the prescribed form.
- (2) The infringement notice shall inform the person that if he does not wish to be prosecuted for the alleged offence in a court he may, within a period of 21 days after the giving of the notice, pay to the Authority the amount of money specified in the notice as being the modified penalty for that offence.
- (3) In an infringement notice for an alleged offence the amount of money specified as being the modified penalty for the offence

shall be the amount that is, when the offence is committed, for the time being prescribed to apply to the offence if it is dealt with under this section.

- (4) An infringement notice may be given to an alleged offender personally at or about the time the alleged offence is believed to have been committed or, where the offence is one that is committed by the occupier of premises in relation to the premises occupied by him, by leaving it for him at those premises.
- (5) A person to whom an infringement notice is given may decline to be dealt with under this section and if the modified penalty is not paid within the period specified in the notice or within such further period as may, whether before or after the expiry of the specified period, be allowed by the Authority is deemed to have declined to be so dealt with.
- (6) The Authority may, whether or not the modified penalty has been paid, withdraw an infringement notice, at any time within a period of 28 days after it was given by sending to the alleged offender a notice of withdrawal in the prescribed form.
- (7) Any amount paid under an infringement notice that has been withdrawn shall be refunded.
- (8) Where the modified penalty has been paid in accordance with an infringement notice within the period specified therein or within such further period as is allowed and the infringement notice has not been withdrawn under subsection (6), proceedings shall not be brought or penalty imposed that could not be brought or imposed if the person to whom the infringement notice was given had been convicted by a court of, and punished for, the alleged offence.

*[Section 42 amended by No. 84 of 2004 s. 80.]*

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**43.        Fines and penalties to be paid to the Authority**

All fines and penalties imposed for offences against this Act, including modified penalties under section 42, are to be paid to the Authority.

*[Section 43 inserted by No. 78 of 1995 s. 117.]*

**44.        Laws as to building standards**

- (1) Notwithstanding section 5(3), the Authority shall use its best endeavours to ensure that any building work undertaken on the Island complies with the written laws of the State relating to the control of building works.
- (2) For the purposes of subsection (1), a lessee or licensee of the Authority shall not undertake any building work on the Island unless the plans and specifications for the work have been approved by the Authority.
- (3) In this section ***building work*** means the erection of any building or structure, the alteration of any existing building or structure, and any associated works.
- (4) Nothing in this section shall be read as requiring the Authority or a lessee or licensee of the Authority to obtain any licence provided for in Part XV of the *Local Government (Miscellaneous Provisions) Act 1960*.

*[Section 44 amended by No. 14 of 1996 s. 4.]*

**45.        Application of *Health Act 1911***

- (1) Notwithstanding section 5(3), the *Health Act 1911* applies to and in relation to all acts, omissions and circumstances of or pertaining to the Authority and any other person in relation to the Island.
- (2) For the purposes of subsection (1), the Island is a health district and the Executive Director, Public Health is the local

government for the Island in accordance with section 16 of the *Health Act 1911*.

- (3) Without limiting subsection (2), the Executive Director, Public Health may, in relation to the Island, exercise any power to make local laws that is conferred on a local government by the *Health Act 1911*.
- (4) Nothing in this section affects —
  - (a) the application that the *Health Act 1911* would have to any person, act, omission or circumstance if subsection (1) had not been passed; or
  - (b) the operation of section 343A of that Act.
- (5) In this section ***Executive Director, Public Health*** has the same meaning as it has in the *Health Act 1911*.

[Section 45 amended by No. 14 of 1996 s. 4; No. 74 of 2003 s. 106.]

**46. Other laws not affected**

- (1) The application of a written law to and in relation to the Island is not affected by the vesting of the control and management of the Island in the Authority or the conferral of any power on the Authority by this Act.
- (2) Notwithstanding subsection (1), before a person or a body acting under a written law carries out any work affecting the environment of the Island, that person or body shall consult with the Authority on the proposal and have regard to any views that the Authority may express.

**47. Execution of documents by Authority**

- (1) A document is duly executed by the Authority, if —
  - (a) the common seal of the Authority is affixed to it in accordance with subsections (2) and (3); or

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- (b) it is signed on behalf of the Authority by the member or members or officer or officers of the Authority authorised by the Authority to do so.
- (2) The common seal of the Authority shall not be affixed to any document except by resolution of the Authority.
- (3) The common seal of the Authority shall be affixed to a document in the presence of the chairman or deputy chairman and the chief executive officer and each of them shall sign the document to attest that the common seal was so affixed.
- (4) A document purporting to be executed in accordance with this section shall be presumed to be duly executed until the contrary is shown.
- (5) When a document is produced bearing a seal purporting to be the common seal of the Authority, it shall be presumed that that seal is the common seal of the Authority until the contrary is shown.
- (6) All courts and persons acting judicially shall take notice of the common seal of the Authority.

**48. Regulations**

- (1) The Governor may 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.
- (2) Without limiting subsection (1), the regulations may —
  - (a) provide for —
    - (i) the management and control of, and the maintenance of good order on, the Island; and
    - (ii) the protection and repair of the natural environment, fauna and flora, and man-made resources of the Island;



- (b) for the purpose of protecting or repairing the natural environment, fauna or flora, or man-made resources of the Island, prohibit, restrict or regulate the access of persons to any part of the Island; and
- (c) without limiting section 13(2)(c), provide for the imposition and payment of fees and charges.

**49. Review of Act**

- (1) The Minister shall carry out a review of the operation and effectiveness of this Act not later than 5 years after its commencement, and in the course of that review the Minister shall consider and have regard to —
  - (a) the effectiveness of the operations of the Authority;
  - (b) the need for the continuation of the Authority; and
  - (c) such other matters as appear to the Minister to be relevant to the operation and effectiveness of this Act.
- (2) The Minister shall prepare a report based on the Minister's review made under subsection (1) and shall, as soon as is practicable after the preparation thereof, cause the report to be laid before each House of Parliament.

**50. Transitional and savings provisions**

- (1) Schedule 2 shall have effect.
- (2) Sections 36, 37 and 38 of the *Interpretation Act 1984* apply, in relation to the dissolution of the Board, as if this Act were an Act repealing the *Parks and Reserves Act 1895*.

[51. Omitted under the Reprints Act 1984 s. 7(4)(e).]

**Schedule 1 — Provisions as to constitution and proceedings  
of the Authority**

[s. 7]

*[Heading amended by No. 19 of 2010 s. 4.]*

**1. Term of office**

- (1) Except as otherwise provided by this Act, a member holds office for such term, not exceeding 3 years, as is specified in the instrument of his appointment, but may from time to time be reappointed.
- (2) A member, unless he sooner resigns, is removed from office or his office becomes vacant under clause 2(b), continues in office until his successor comes into office, notwithstanding that the term for which he was appointed may have expired.

**2. Resignation, removal etc.**

The office of a member becomes vacant if —

- (a) he resigns his office by written notice addressed to the Minister; or
- (b) he is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws; or
- (c) he is removed from office by the Governor on the grounds of neglect of duty, misbehaviour, incompetence or mental or physical incapacity impairing the performance of his duties and proved to the satisfaction of the Governor.

*[Clause 2 amended by No. 18 of 2009 s. 77.]*

**3. Temporary members**

- (1) Where a member other than the chairman is unable to act by reason of sickness, absence or other cause the Minister may appoint another person to act temporarily in his place, and while so acting according to the tenor of his appointment that other person is deemed to be a member of the Authority.

- (2) Where the member who is deputy chairman is performing the functions of the chairman, the Minister may, under subclause (1), appoint another person to act in his place as member.
- (3) No act or omission of a person acting in place of another under this clause shall be questioned on the ground that the occasion for his appointment or acting had not arisen or had ceased.
- (4) The appointment of a person as a temporary member may be terminated at any time by the Minister.

**4. Deputy chairman**

- (1) The office of deputy chairman becomes vacant if —
  - (a) the person holding the office resigns the office by notice in writing to the Minister;
  - (b) the person holding the office ceases to be a member of the Authority; or
  - (c) the Minister declares the office to be vacant.
- (2) During any vacancy in the office of chairman or while he is unable to act by reason of sickness, absence or other cause, the deputy chairman shall perform the functions of the chairman.
- (3) No act or omission of the deputy chairman acting as the chairman shall be questioned on the ground that the occasion for his so acting had not arisen or had ceased.

**5. Meetings**

- (1) The first meeting of the Authority shall be convened by the chairman and thereafter, subject to subclause (2), meetings shall be held at such times and places as the Authority determines.
- (2) A special meeting of the Authority may at any time be convened by the chairman.
- (3) The chairman shall preside at all meetings of the Authority at which he is present.
- (4) If both the chairman and the deputy chairman are absent from a meeting the members present shall appoint one of their number to preside.

**cl. 6**

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- (5) A quorum for a meeting of the Authority is 4 members.
- (6) At any meeting of the Authority the chairman, deputy chairman or other person presiding shall have a deliberative vote, and in the case of an equality of votes shall also have a casting vote.
- (7) The Authority shall cause accurate minutes to be kept of the proceedings at its meetings.

**6. Committees**

- (1) The Authority may from time to time appoint committees of such members, or such members and other persons, as it thinks fit and may discharge or alter any committee so appointed.
- (2) Subject to the directions of the Authority and to the terms of any delegation under section 16, each committee may determine its own procedures.

**7. Resolution may be passed without meeting**

A resolution in writing signed or assented to by each member by letter, telegram, telex or facsimile transmission shall be as valid and effectual as if it had been passed at a meeting of the Authority.

**8. Leave of absence**

The Authority may grant leave of absence to a member on such terms and conditions as the Authority thinks fit.

**9. Authority to determine own procedures**

Subject to this Act, the Authority shall determine its own procedures.

## **Schedule 2 — Transitional provisions**

[s. 50]

*[Heading amended by No. 19 of 2010 s. 4.]*

**1. Terms used in this Schedule**

In this Schedule —

**commencement** means the commencement of this Act;

**the Board** means the Rottnest Island Board appointed by the Governor under subsection (1) of section 3 of the *Parks and Reserves Act 1895* and constituted a body corporate under subsection (4) of that section.

**2. Dissolution of Board**

The Board is dissolved.

**3. Assets, liabilities etc.**

(1) On the commencement —

- (a) all rights, property and assets that were, immediately before the commencement, vested in, under the control of, or standing to the credit of the Board are, by force of this clause, vested in the Authority;
- (b) the Authority becomes, by force of this clause, liable to pay, bear or discharge all the debts, liabilities and obligations of the Board that existed immediately before the commencement;
- (c) the Authority shall take delivery of all papers, documents, minutes, receipts, books of account and other records (however compiled, recorded or stored) relating to the operations of the Board;
- (d) any proceedings that immediately before the commencement might have been brought or continued by or against the Board may be brought or continued by or against the Authority;
- (e) anything lawfully commenced by the Board may, so far as it is not contrary to this Act, be carried on and completed by the Authority.

**cl. 4**

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- (2) The liability of the Authority under subclause (1)(b) to discharge all obligations of the Board has effect notwithstanding section 12(2).

**4. Agreements and instruments**

Any agreement or instrument subsisting immediately before the commencement to which the Board was a party or which contains a reference to the Board, has effect after the commencement as if —

- (a) the Authority were substituted for the Board as a party to the agreement or instrument; and
- (b) any reference in the agreement or instrument to the Board were (unless the context otherwise requires) a reference to the Authority.

**5. References to the Board in any law**

References to the Board in an enactment as in force immediately before the commencement shall, unless because of the context it would be inappropriate so to do, be read and construed as references to the Authority.

**6. Staff not under *Public Service Act 1978***

All persons who were employed by the Board immediately before the commencement, not being persons subject to the *Public Service Act 1978*<sup>4</sup>, are deemed to have been engaged by the Authority under section 26(2) on the same terms and conditions, including the salary payable, as those on which they were employed immediately before the commencement.

**7. Rangers**

A person who immediately before the commencement was a ranger appointed by the Board under section 7 of the *Parks and Reserves Act 1895* is deemed to have been designated as a ranger under section 28.

**8. Annual reports for part of a year**

- (1) The Board shall report as required by section 66 of the *Financial Administration and Audit Act 1985*<sup>5</sup>, but limited to the period from 1 July 1987 to the date of the commencement of this Act, and

Division 14 of Part II of that Act shall apply as if that period were a financial year of the Board.

- (2) Notwithstanding clause 2, the Board shall continue in existence for the purposes of subclause (1) and shall be entitled to receive from the Authority and its officers such assistance as it may require for that purpose.
- (3) For the purposes of Division 14 of Part II of the *Financial Administration and Audit Act 1985*<sup>5</sup>, the period from the commencement of this Act to the succeeding 30 June shall be deemed to be a full financial year of the Authority.

*[Schedule 3 omitted under the Reprints Act 1984 s. 7(4)(e).]*

## Notes

- <sup>1</sup> This is a compilation of the *Rottnest Island Authority Act 1987* and includes the amendments made by the other written laws referred to in the following table <sup>1a</sup>. The table also contains information about any reprint.

### Compilation table

| Short title   | Number and year | Assent      | Commencement   |
|---|-----------------|-------------|--|
| <i>Rottnest Island Authority Act 1987</i>   | 91 of 1987      | 9 Dec 1987  | s. 1 and 2: 9 Dec 1987; Act other than s. 1 and 2: 30 May 1988 (see s. 2 and <i>Gazette</i> 30 May 1988 p. 1823) |
| <i>Financial Administration Legislation Amendment Act 1993 s. 11</i>  | 6 of 1993       | 27 Aug 1993 | 1 Jul 1993 (see s. 2(1))   |
| <i>Acts Amendment (Public Sector Management) Act 1994 s. 3(2)</i>   | 32 of 1994      | 29 Jun 1994 | 1 Oct 1994 (see s. 2 and <i>Gazette</i> 30 Sep 1994 p. 4948)   |
| <i>Sentencing (Consequential Provisions) Act 1995 Pt. 72</i>  | 78 of 1995      | 16 Jan 1996 | 4 Nov 1996 (see s. 2 and <i>Gazette</i> 25 Oct 1996 p. 5632)   |
| <i>Local Government (Consequential Amendments) Act 1996 s. 4</i>  | 14 of 1996      | 28 Jun 1996 | 1 Jul 1996 (see s. 2(1))   |
| <i>Statutory Corporations (Liability of Directors) Act 1996 s. 3</i>  | 41 of 1996      | 10 Oct 1996 | 1 Dec 1996 (see s. 2 and <i>Gazette</i> 12 Nov 1996 p. 6301)   |
| <i>Financial Legislation Amendment Act 1996 s. 60 and 64</i>  | 49 of 1996      | 25 Oct 1996 | 25 Oct 1996 (see s. 2(1))  |
| <i>Statutes (Repeals and Minor Amendments) Act 1997 s. 107</i>  | 57 of 1997      | 15 Dec 1997 | 15 Dec 1997 (see s. 2(1))  |
| <b>Reprint of the <i>Rottnest Island Authority Act 1987</i> as at 4 Jan 2000</b> (includes amendments listed above) |                 |             |  |
| <i>Sentencing Legislation Amendment and Repeal Act 2003 s. 93</i>   | 50 of 2003      | 9 Jul 2003  | 15 May 2004 (see s. 2 and <i>Gazette</i> 14 May 2004 p. 1445)  |



| Short title   | Number and year | Assent      | Commencement   |
|---|-----------------|-------------|--|
| <i>Statutes (Repeals and Minor Amendments) Act 2003</i> s. 106  | 74 of 2003      | 15 Dec 2003 | 15 Dec 2003 (see s. 2)   |
| <i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004</i> s. 80                     | 84 of 2004      | 16 Dec 2004 | 2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53)) |
| <i>Financial Legislation Amendment and Repeal Act 2006</i> s. 4 and 17  | 77 of 2006      | 21 Dec 2006 | 1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)   |
| <b>Reprint 2: The Rottnest Island Authority Act 1987 as at 10 Oct 2008</b> (includes amendments listed above) |                 |             |  |
| <i>Acts Amendment (Bankruptcy) Act 2009</i> s. 77   | 18 of 2009      | 16 Sep 2009 | 17 Sep 2009 (see s. 2(b))  |
| <i>Standardisation of Formatting Act 2010</i> s. 4  | 19 of 2010      | 28 Jun 2010 | 11 Sep 2010 (see s. 2(b) and <i>Gazette</i> 10 Sep 2010 p. 4341)   |

<sup>1a</sup> [On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.](#)

### **Provisions that have not come into operation**

| <u>Short title</u>   | <u>Number and year</u>     | <u>Assent</u>              | <u>Commencement</u>                            |
|--|----------------------------|----------------------------|--|
| <a href="#">Public Sector Reform Act 2010</a> s. 89 <sup>6</sup> | <a href="#">39 of 2010</a> | <a href="#">1 Oct 2010</a> | <a href="#">To be proclaimed (see s. 2(b))</a> |

<sup>2</sup> Department of Land Administration plans and diagrams are now being held by the Western Australian Land Information Authority (see the *Land Information Authority Act 2006* s. 100).

<sup>3</sup> Under the *Public Sector Management Act 1994* s. 112(2), a reference in a written law to the Public Service Board is, unless the contrary intention appears or it is otherwise provided under the *Acts Amendment (Public Sector Management) Act 1994*, to be construed as if it had been amended to be a reference to the Minister for Public Sector Management (as defined in the *Interpretation Act 1984*). This reference was changed under the *Reprints Act 1984* s. 7(5)(a).

<sup>4</sup> Repealed by the *Public Sector Management Act 1994* s. 110.

<sup>5</sup> Repealed by the *Financial Legislation Amendment and Repeal Act 2006* s. 3.

<sup>6</sup> On the date as at which this compilation was prepared, the *Public Sector Reform Act 2010* s. 89 had not come into operation. It reads as follows:

**89. Various references to “Minister for Public Sector Management” amended**

- (1) This section amends the Acts listed in the Table.
- (2) In the provisions listed in the Table delete “Minister for Public Sector Management” and insert:

Public Sector Commissioner

**Table**

|  |             |
|--|-------------|
| <u><i>Rottnest Island Authority Act 1987</i></u> | <u>s. 8</u> |
|--|-------------|