

Water Resources Legislation Amendment Act 2007

Compare between:

[21 Dec 2007, 00-a0-04] and [01 Feb 2008, 00-b0-02]

Western Australia

Water Resources Legislation Amendment Act 2007

An Act to —

- amend the Country Areas Water Supply Act 1947; and
- amend the Metropolitan Water Authority Act 1982; and
- amend the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909*; and
- amend the Rights in Water and Irrigation Act 1914; and
- amend the Swan River Trust Act 1988; and
- amend the Water Agencies (Powers) Act 1984; and
- repeal the Water and Rivers Commission Act 1995; and
- amend the Water Corporation Act 1995; and
- repeal the Water Supply, Sewerage, and Drainage Act 1912; and
- amend the Waterways Conservation Act 1976; and
- make consequential amendments to other Acts, and for related purposes.

The Parliament of Western Australia enacts as follows:

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Part 1 — Preliminary

1. Short title

This Act is the *Water Resources Legislation Amendment Act* 2007.

2. Commencement

- (1) This Part and Part 11 come into operation on the day on which this Act receives the Royal Assent.
- (2) Parts 2 to 10 come into operation on a day fixed by proclamation.
- (3) Different days may be fixed under subsection (2) for different provisions.

3. **Regulations** — power to amend certain statutory rules

- (1) The Governor, on the recommendation of the Minister, may make regulations amending a statutory rule.
- (2) The Minister may make a recommendation under subsection (1) only if he or she considers that each amendment proposed to be made by the regulations is consequential on the enactment of this Act.
- (3) Nothing in this section prevents a statutory rule from being amended in accordance with the Act under which it is made.
- (4) In this section —

"statutory rule" means a regulation, rule or by-law.

[Parts 2-10 have not come into operation²]had their effect.]

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Part 11 — Transitional provisions

Division 1—**Interpretation**

202. Terms used in this Part

In this Part —

- **"assets"** means property of any kind whether tangible or intangible, real or personal and, without limiting that meaning, includes
 - (a) any chose in action; and
 - (b) goodwill; and
 - (c) any right, interest or claim of any kind,

whether arising from, accruing under, created or evidenced by or the subject of, an instrument or otherwise and whether liquidated or unliquidated, actual, contingent or prospective;

"CEO" means the chief executive officer of the Department;

- "Commission" means the Water and Rivers Commission established by the *Water and Rivers Commission Act 1995* section 4 and in existence before the repeal of that Act;
- **"Department"** means the department of the Public Service principally assisting in the administration of the *Water Agencies (Powers) Act 1984*;
- **"former body"** means the Commission or a former Management Authority;
- **"former Management Authority"** means a Management Authority constituted under the *Waterways Conservation Act 1976* sections 10 and 14 as in force before the transfer time;
- "liability" means any liability, duty or obligation
 - (a) whether actual, contingent or prospective, liquidated or unliquidated; or

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- (b) whether owed alone or jointly or jointly and severally with any other person;
- **"management area"** has the meaning given by the *Waterways Conservation Act 1976* section 3(1);
- "Minister" means the Minister administering the Water Agencies (Powers) Act 1984;
- **"Ministerial Body"** means the Water Resources Ministerial Body established by the *Water Agencies (Powers) Act 1984* section 11;
- "Minister for the Environment" means the Minister to whom the administration of the *Environmental Protection Act 1986* is committed;
- "relevant successor" means
 - (a) the Minister in relation to a former body and a function of the former body that, after the transfer time, became a function of the Minister; and
 - (b) the CEO in relation to a former body and a function of the former body that, after the transfer time, became a function of the CEO; and
 - (c) the State in relation to assets and liabilities transferred to the State by section 205; and
 - (d) the Ministerial Body in relation to assets and liabilities transferred to the Ministerial Body by section 205;
- "repealed Act" means the *Water and Rivers Commission Act 1995*;
- "right" means any right, power, privilege or immunity whether actual, contingent or prospective;
- "transfer order" means an order under section 204;
- "transfer time" means the time at which section 4 comes into operation.

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203. Interpretation Act 1984 not limited

This Part does not limit the operation of the *Interpretation Act 1984*.

Division 2 — Transfer of assets, liabilities, accounts, proceedings etc.

204. Minister to make transfer orders

- (1) As soon as is practicable after this section comes into operation the Minister is to make and publish in the *Gazette* a transfer order that —
 - (a) specifies which assets and liabilities of the Commission are to be assigned to the Ministerial Body by operation of section 205; and
 - (b) specifies proceedings in which the Ministerial Body is to be substituted for the Commission as a party by operation of section 205; and
 - (c) specifies any agreement or instrument that, by operation of section 205, is to have effect as if references to the State or the Ministerial Body were substituted, in accordance with the order, for references in it to the Commission; and
 - (d) specifies land the care, control and management of which is to be placed with the Minister for the Environment by operation of section 206.
- (2) A transfer order may also deal with incidental or supplementary matters and has effect accordingly.
- (3) The transfer order may specify things by reference to schedules which
 - (a) need not be published in the *Gazette*; but
 - (b) must be available for public inspection,

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and anything specified in a Schedule is to be taken to be specified in the order.

- (4) A thing may be specified in a transfer order by describing the class to which it belongs.
- (5) Before a transfer order is made specifying anything by reference to a Schedule, a copy of which will be required to be delivered to a relevant official under section 210, the Minister is to consult with the, or each, relevant official as to the form and content of the Schedule.
- (6) To the extent to which a Schedule to a transfer order relates to the functions of the Registrar of Titles, the Schedule is to be in a form that meets the requirements of the Registrar.
- (7) A thing done by, under or for the purposes of this Part is not invalid merely because subsection (5) or (6) was not complied with.
- (8) A transfer order can only be made before the transfer time.
- (9) The fact that a previous transfer order has been made does not prevent a further transfer order from being made.
- (10) A transfer order, or a Schedule to which it refers, may be amended by the Minister, by further order published in the *Gazette*, but no such amendment may be made after the transfer time.

205. Transfer of assets and liabilities

If a transfer order is made, then —

- (a) at the transfer time
 - (i) the assets of the Commission specified in the transfer order are, by operation of this section, assigned to the Ministerial Body; and
 - (ii) the rest of the assets of the Commission are, by operation of this section, assigned to the State;

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and

- (b) at the transfer time
 - the liabilities of the Commission specified in the transfer order are, by operation of this section, assigned to and become the liabilities of the Ministerial Body; and
 - (ii) the rest of the liabilities of the Commission are, by operation of this section, assigned to and become the liabilities of the State;

and

- (c) at the transfer time, the Ministerial Body is substituted for the Commission as a party to any proceedings specified in the transfer order and the State is substituted for the Commission as a party to all other proceedings in which the Commission was a party immediately before the transfer time; and
- (d) any agreement or instrument specified in the order has effect, by operation of this section, as if references to the State or the Ministerial Body were, at the transfer time, substituted, in accordance with the order, for references in it to the Commission; and
- (e) any proceedings or remedy that might have been commenced by, or available against or to, the Commission in relation to the assets and liabilities assigned by paragraphs (a) and (b) may be commenced by, or are available against or to
 - (i) the Ministerial Body, in the case of assets and liabilities assigned by paragraphs (a)(i) and (b)(i); and
 - (ii) the State, in the case of assets and liabilities assigned by paragraphs (a)(ii) and (b)(ii);

and

(f) anything done or omitted to be done in relation to the assets and liabilities assigned by paragraphs (a) and (b)

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before the assignment, by, to or in respect of the Commission (to the extent that that thing has any effect) is to be taken to have been done or omitted by, to or in respect of —

- (i) the Ministerial Body, in the case of assets and liabilities assigned by paragraphs (a)(i) and (b)(i); and
- (ii) the State, in the case of assets and liabilities assigned by paragraphs (a)(ii) and (b)(ii).

206. Transfer of care, control and management of reserved land

(1) In this section —

"Minister for the Environment" means the Minister administering the *Environmental Protection Act 1986*.

- (2) Land that, immediately before the transfer time, is under the care, control and management of the Commission under the *Land Administration Act 1997* is to be regarded as if it had, at that time, been placed under the care, control and management of the Minister, under section 46 of that Act.
- (3) Land that, immediately before the transfer time, is under the care, control and management of the Commission under an enactment (other than the *Land Administration Act 1997*) is to be regarded as if it had, at that time, been placed under the care, control and management of the Minister, under that enactment as in force after the transfer time.
- (4) Subsections (2) and (3) do not apply to land specified in a transfer order under section 204(1)(d).
- (5) Land to which subsection (2) or (3) would apply but for subsection (4), is to be regarded as if it had, immediately before the transfer time, been placed under the care, control and management of the Minister for the Environment under the relevant enactment as in force after the transfer time.

page 8 Compare 21 Dec 2007 [00-a0-04] / 01 Feb 2008 [00-b0-02] Extract from www.slp.wa.gov.au, see that website for further information (6) Any conditions to which the care, control or management was subject immediately before the transfer time apply to the Minister or the Minister for the Environment (which ever is relevant) after the transfer time.

207. The Water and Rivers Commission Account

The balance, immediately before the transfer time, of the Water and Rivers Commission Account referred to in section 26 of the repealed Act is, at the transfer time, to be credited to an account established under the *Financial Management Act 2006* section 16 for the Department.

208. Commission to complete necessary transactions

- (1) If an asset or liability of the Commission cannot be properly assigned to the State or the Ministerial Body by the operation of this Division (whether because the matter is governed otherwise than by the law of the State or for any other reason)
 - (a) the Commission is to be taken to continue to hold that asset or be liable for that liability until it is effectively assigned to the State or the Ministerial Body in accordance with this Division; and
 - (b) the Commission is to take all practicable steps for the purpose of ensuring that the asset or liability is effectively assigned to the State or the Ministerial Body in accordance with this Division.
- (2) The fact that subsection (1)(a) applies to an asset or liability that is assigned to the State or the Ministerial Body under this Division does not affect the duty of the accountable authority of the Department under the *Financial Management Act 2006*.
- (3) Despite the repeal of the repealed Act, the Commission continues in existence for the purpose of performing the functions described in subsection (1).
- (4) The Commission is to perform the functions referred to in subsection (3) through a person appointed by the Minister.

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- The person holds office at the pleasure of the Minister and on (5) such terms and conditions as the Minister determines. (6) The Commission as continued by this section has the powers that are necessary or convenient for the purposes of this section. 209. The Water Supply, Sewerage, and Drainage Act 1912 (1)In this section — "the body corporate" means the body corporate constituted under the Water Supply, Sewerage, and Drainage Act 1912. At the transfer time, the Ministerial Body becomes the successor (2)of the body corporate. (3) Despite subsection (2), land that, immediately before the transfer time, is under the care, control and management (however described) of the body corporate — (a) under the Water Supply, Sewerage, and Drainage Act 1912 — is to be regarded as if it had, at that time, been placed under the care, control and management of the Minister, under the Land Administration Act 1997 section 46: and under an enactment (other than the *Water Supply*, (b)
 - (b) under an enactment (other than the Water Supply, Sewerage, and Drainage Act 1912) — is to be regarded as if it had, at that time, been placed under the care, control and management of the Minister, under that enactment as in force after the transfer time.

210. Registration of documents

(1) In this section —

"relevant official" means —

- (a) the Registrar of Titles; or
- (b) the Minister administering the *Mining Act 1978*; or

page 10 Compare 21 Dec 2007 [00-a0-04] / 01 Feb 2008 [00-b0-02] Extract from www.slp.wa.gov.au, see that website for further information (c) any other person authorised by a written law to record and give effect to the registration of documents relating to property transactions,

according to which of them, if any, has responsibility for a register relating to the relevant property;

- **"relevant property"** means property of a kind affected by this Part, whether it is an estate or interest in land or any other property.
- (2) The relevant officials are to take notice of this Part and any transfer order, including a Schedule to which the order refers, and are to record and register in the appropriate manner the documents necessary to show the effect of this Part and the transfer order.
- (3) The Minister is to cause a copy of each transfer order and any Schedule to which it refers to be delivered to each relevant official.

211. Exemption from State taxes

(1) In this section —

"State tax" includes stamp duty chargeable under the *Stamp Act 1921* and any other tax under a written law.

- (2) State tax is not payable in relation to
 - (a) anything that occurs by the operation of this Part; or
 - (b) anything done (including a transaction entered into or an instrument or document of any kind made, executed, lodged or given) under this Part, or to give effect to this Part, or for a purpose connected with or arising out of giving effect to this Part.
- (3) The Minister may certify in writing that
 - (a) a specified thing occurred by the operation of this Part; or

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- (b) a specified thing was done under this Part, or to give effect to this Part, or for a purpose connected with or arising out of giving effect to this Part.
- (4) For all purposes and in all proceedings, a certificate under subsection (3) is sufficient evidence of the matters it certifies, except so far as the contrary is shown.

212. Rectifying error in transfer order

- (1) The Minister may, by order published in the *Gazette*, make any provision that is necessary to correct any error in a transfer order or a Schedule to which a transfer order refers.
- (2) An order under this section may be made so as to have effect from the transfer time.
- (3) To the extent that a provision of an order under this section has effect before the day of its publication in the *Gazette*, section 205 does not, as a result of that provision, operate so as —
 - (a) to affect, in a manner prejudicial to any person (other than the State, the Ministerial Body, or a Minister, officer or agency of the State), the rights of that person existing before the day of publication; or
 - (b) to impose liabilities on any person (other than the State, the Ministerial Body, or a Minister, officer or agency of the State) in respect of anything done or omitted to be done before the day of publication.

Division 3 — Staff etc.

213. Transfer of staff

(1) At the transfer time, the CEO becomes the employing authority, within the meaning of the *Public Sector Management Act 1994*, of each person for whom the board of the Commission was the employing authority under that Act immediately before the transfer time.

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(2) A person whose engagement under section 23(2) of the repealed Act is in force immediately before the transfer time becomes, at the transfer time, a person engaged by the CEO under the *Water Agencies (Powers) Act 1984* section 107.

214. Transfer of arrangements about use of other staff

An arrangement between the Commission and an employer under the repealed Act section 24 that is in force immediately before the transfer time becomes, at the transfer time, an arrangement between the CEO and the employer.

215. Employees' rights preserved

- (1) Except as otherwise agreed by an employee, the operation of this Division does not
 - (a) affect the employee's pay, as that term is defined in the *Public Sector Management (Redeployment and Redundancy) Regulations 1994* regulation 3; or
 - (b) affect the employee's existing or accruing rights in respect of annual leave, long service leave, sick leave or any other leave, which are enforceable against the State; or
 - (c) affect any rights under a superannuation scheme; or
 - (d) interrupt the continuity of the employee's service.
- (2) For the purposes of subsection (1)(d), the employee's service with the Commission is to be taken to have been with the Department.

216. Transfer of contracts for services

A person engaged by the Commission under a contract for services (under the *Public Sector Management Act 1994* section 100) that is in force immediately before the transfer time, is to be taken to have been engaged, at the transfer time, by the CEO under that section on the same terms and conditions, for the remainder of the duration of the contract.

Division 4— Committees of the Commission

217. Transfer of members of committees of the Commission

- (1) The members of a committee of the board of the Commission (established under the repealed Act Schedule 1 clause 15) that was in existence immediately before the transfer time become, at the transfer time, the members of an equivalent committee that is to be taken, for all purposes, to have been established by the Minister under the *Water Agencies (Powers) Act 1984* section 109.
- (2) A committee that is to be taken to have been established because of subsection (1)
 - (a) has the same name as that of the committee from which the members came; and
 - (b) has the same functions (to the extent to which the functions are not inconsistent with the *Water Agencies* (*Powers*) Act 1984 section 109) as those of the committee from which the members came.

Division 5 — Former Management Authorities under the Waterways Conservation Act 1976

218. By-laws under the *Waterways Conservation Act* 1976

By-laws made under the *Waterways Conservation Act 1976* section 54 by a former Management Authority in relation to a management area and in force immediately before the transfer time become, at the transfer time, by-laws under that section (as in force after the transfer time) in relation to that management area, as if they had been made by the Minister administering the *Waterways Conservation Act 1976*.

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219. Proceedings in relation to a former Management Authority

At the transfer time —

- (a) in relation to any proceedings by or against a former Management Authority commenced before the transfer time, the State is substituted for the Authority as a party to the proceedings; and
- (b) any proceedings or remedy that might have been commenced by, or available against or to, a former Management Authority in relation to anything done or omitted to be done by the Authority, may be commenced by, or are available against or to, the State.

Division 6—**Continuing effect of things done**

220. Continuing effect of licences, directions, determinations, notices etc.

- (1) A licence, permit or permission (however described) granted under an enactment by a former body and in force immediately before the transfer time is to be taken, for all purposes, to have been granted, at the transfer time, by the relevant successor of the former body under that enactment (as in force after the transfer time).
- (2) A direction, determination or notice (however described) given under an enactment by a former body and in force immediately before the transfer time is to be taken, for all purposes, to have been given or made, at the transfer time, by the relevant successor of the former body under that enactment (as in force after the transfer time).

221. Completion of things commenced

Anything commenced to be done by a former body under a written law before the transfer time may be continued by the relevant successor of the former body so far as the doing of that s. 222

thing is within the functions of the relevant successor after the transfer time.

222. Continuing effect of things done generally

Any act, matter or thing done or omitted to be done before the transfer time by, to or in respect of a former body, to the extent that that act, matter or thing —

- (a) has any force or significance after the transfer time; and
- (b) is not governed by another provision of this Part,

is to be taken, after the transfer time, to have been done or omitted by, to or in respect of the relevant successor of the former body.

223. Agreements and instruments generally

- (1) Any agreement or instrument (including subsidiary legislation) in force immediately before the transfer time —
 - (a) to which a former body was a party; or
 - (b) which contains a reference to a former body,

has effect after the transfer time, to the extent to which the agreement or instrument relates to the functions of a relevant successor to the former body, as if —

- (c) the relevant successor were substituted for the former body as a party to the agreement or instrument; and
- (d) any reference in the agreement or instrument to the former body were (unless the context otherwise requires) amended to be or include a reference to the relevant successor.
- (2) This section does not apply to any agreement or instrument covered by another provision of this Part.

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Division 7 — **General transitional provisions**

224. Confidentiality obligations to continue

- (1) Despite the repeal of the repealed Act section 34, the section continues to apply to a person to whom it applied immediately before the transfer time as if paragraph (a) of that section were amended by inserting "or under another written law" after "this Act".
- (2) Subsection (1) only applies to the extent that another enactment about the use and disclosure of the information does not apply to the person and the information.

225. Further transitional provision may be made

- (1) If there is not sufficient provision in this Part for any matter or thing necessary or convenient to give effect to the transition from a former body to a relevant successor, the regulations may make that provision.
- (2) The regulations may be made so as to have effect from the transfer time.
- (3) To the extent that a provision of the regulations has effect on a day that is earlier than the day of its publication in the *Gazette*, the provision does not operate so as
 - (a) to affect, in a manner prejudicial to any person (other than the State, the Ministerial Body or any other authority of the State), the rights of that person existing before the day of its publication; or
 - (b) to impose liabilities on any person (other than the State, the Ministerial Body or any other authority of the State) in respect of anything done or omitted to be done before the day of publication.
- (4) The Governor may make regulations for the purposes of this section.

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(5) Regulations may not be made under this section after the end of the 24 months after the day on which this Act receives the Royal Assent.

226. Saving

The operation of any provision of this Part is not to be regarded —

- (a) as a breach of contract or confidence or otherwise as a civil wrong; or
- (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets or liabilities or the disclosure of information; or
- (c) as giving rise to any remedy by a party to an instrument or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset or liability; or
- (d) as causing any contract or instrument to be void or otherwise unenforceable; or
- (e) as releasing or allowing the release of any surety.

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Notes

This is a compilation of the *Water Resources Legislation Amendment Act 2007*-¹⁸. The following table contains information about that Act.

Compilation table

Short title	Number and year	Assent	Commencement
Water Resources Legislation Amendment Act 2007 Pt. 1 and 11	38 of 2007	21 Dec 2007	Pt. 1 and 11: 21 Dec 2007 (see s. 2(1)); Pt. 2-10: 1 Feb 2008 (see s. 2(2) and Gazette 31 Jan 2008 p. 251)

^{1a} 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.

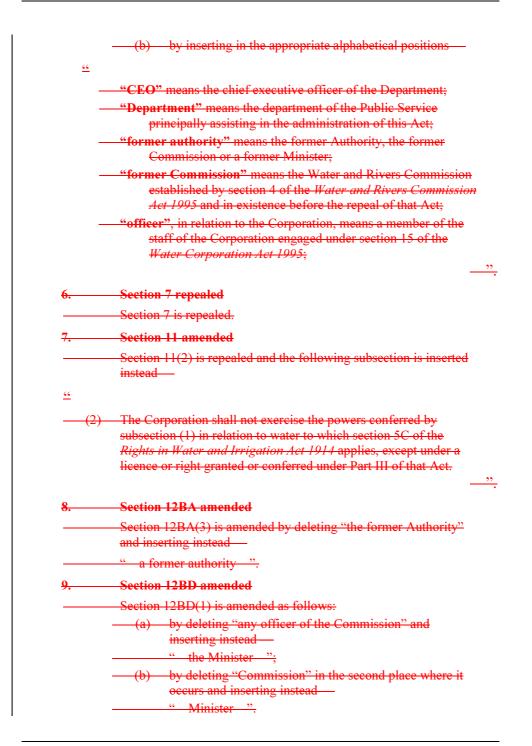
Provisions that have not come into operation

Short title	Number and year	Assent	Commencement	
Water Resources Legislation Amendr Act 2007 Pt. 2-10- ²	38 of 2007 nent	21 Dec 2007	To be proclaimed (see s. 2(2))	
			a red, the <i>Water Resources</i> ome into operation. They read a	
<u>-</u>				
• Part 2	<u>Sup</u>	ts to the <i>Co</i> ply Act 194	runtry Areas Water 7	
4	Sup _j The Act amended	ply Act 194	7	
47	Sup _j The Act amended	ply Act 194	-	
4	Sup The Act amended The amendments in th	ply Act 194	7	
4	Sup The Act amended The amendments in the Eupply Act 1947.	ply Act 194	7	

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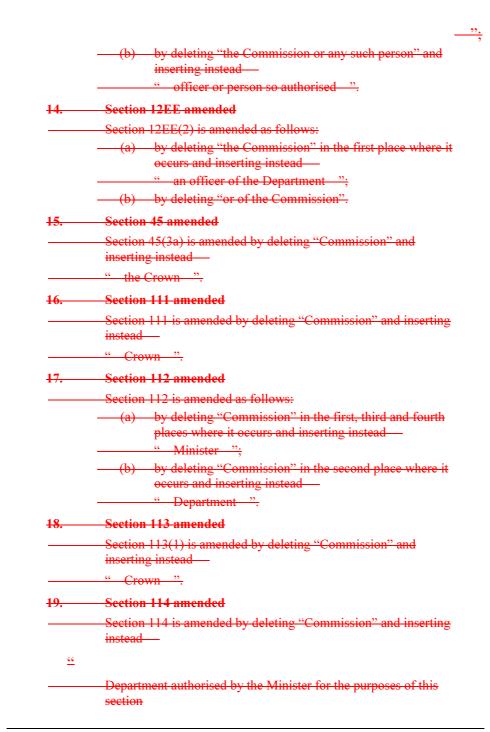
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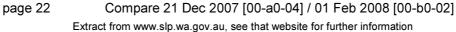


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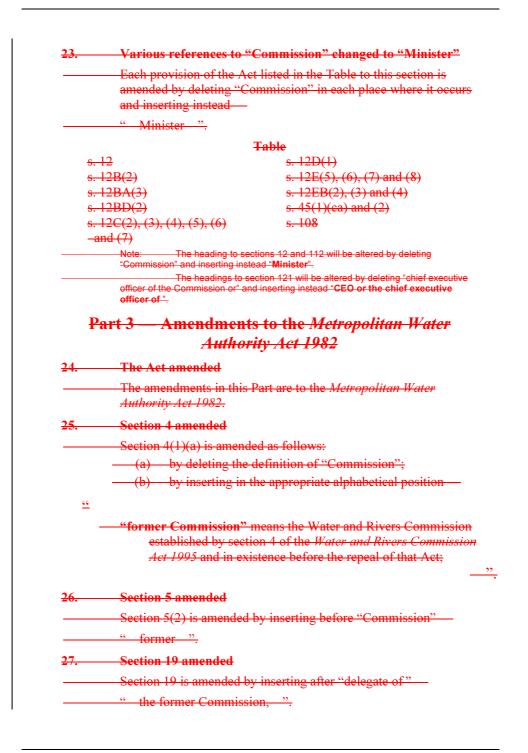
10.	Section 12BE amended
	Section 12BE(4) is amended by deleting "Minister or of the
	Commission" and inserting instead
	<u>"Crown"</u> .
11.	Section 12E amended
	Section 12E(7) is amended as follows:
	(a) in paragraph (a) by deleting "the former Minister, the former Authority" and inserting instead
	(b) in paragraph (b) by deleting "former Minister, the former Authority" and inserting instead
	<u>former authority</u> .
12.	- Section 12EB amended
—(1)	— Section 12EB(2), (3)(b) and (4) are amended by deleting "former Minister, the former Authority" and inserting instead—
	<u>former authority</u> .
(2)	 Section 12EB(3) and (4) are amended by deleting "former Minister or the former Authority" and inserting instead
	<u>former authority</u> .
13.	- Section 12ED amended
(1)	Section 12ED(2) is amended by deleting "any officer of the Commission or other person authorised by the Commission or".
(2)	Section 12ED(4) is amended by deleting "authorise any officer of the Commission or other person authorised by the Commission or the Minister" and inserting instead
<u> </u>	
	 authorise any officer of the Department, and other persons authorised by the Minister,
(3)	Section 12ED(5) is amended as follows:
	 (a) by deleting "or the Commission or a person acting with the authority of the Minister or of the Commission" and inserting instead
<u> </u>	
	, an officer of the Department or a person authorised by the Minister for the purposes of this subsection,





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20.	Section 115 amended
	Section 115(1) is amended as follows:
	(a) in paragraph (a) by deleting "Commission" in the first
	place where it occurs and inserting instead
	<u>"Minister</u> ";
	(b) in paragraph (a) by deleting "Commission" in the second
	place where it occurs and inserting instead
	<u>"Department ";</u> (a) in the heading to Table 1 by deleting "Commission" and
	(c) in the heading to Table 1 by deleting "Commission" and inserting instead
	<u> </u>
	(d) in Table 1 by deleting "12C(7a)" and inserting instead
	<u></u>
	(e) in Table 1 by deleting "obstruction of the Commission"
	and inserting instead
	" <u>obstruction of the Minister, etc.</u> ";
	(f) in Table 1 by deleting "used by the Commission" and
	inserting instead
	(g) in Table 2 by deleting "obstruction of the Corporation"
	and inserting instead —
	<u> </u>
21.	Section 116 replaced
	Section 116 is repealed and the following section is inserted
	instead
116.	Corporation may be represented by officer
	In any proceeding before a court, judge or person acting judicially,
	any authorised officer of the Corporation may represent the
	Corporation in all respects as if he were the party concerned.
22.	Section 121 amended
	Section 121 is amended by deleting "chief executive officer of the Commission or" and inserting instead
	<u> </u>

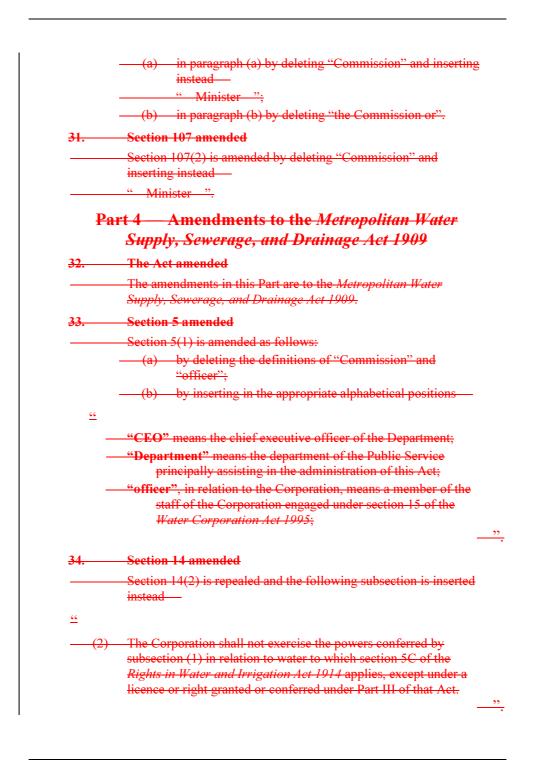
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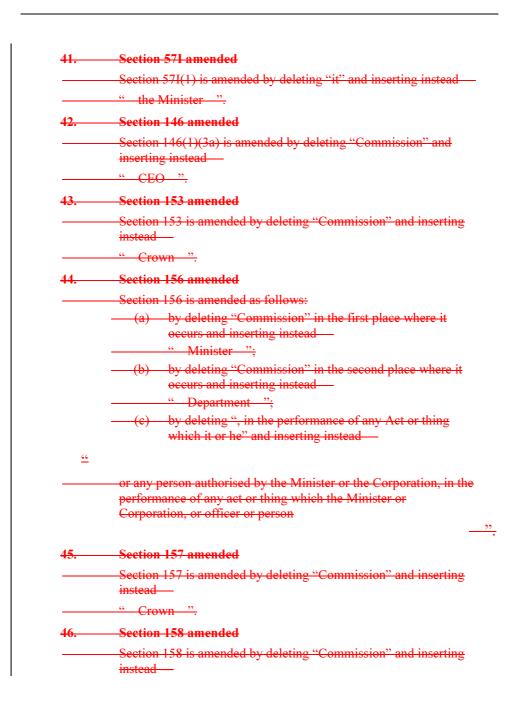
Compare 21 Dec 2007 [00-a0-04] / 01 Feb 2008 [00-b0-02] Extract from www.slp.wa.gov.au, see that website for further information

28.	Section 98 amended
	<u>Section 98(1), (2), (4) and (5) are amended by deleting</u> <u>"Commission" in each place where it occurs and inserting</u> <u>instead</u>
	<u>"Minister"</u> .
29.	- Section 99 amended
(1)	Section 99(1), (3) and (5) are amended by deleting "Commission" and inserting instead
	<u> </u>
(2)	<u>Section 99(4) is amended as follows:</u>
	 (a) by deleting "Commission" and inserting instead <u>"Minister</u>";
	(b) in paragraph (e) by deleting ", and report thereon to the Minister".
30.	Section 106 amended
(1)	Section 106(1), (2) and (5) are amended by deleting
	"Commission" in each place where it occurs and inserting instead
	<u>"Minister".</u>
(2)	Section 106(2) is amended as follows:
	(a) after paragraph (c) by deleting "; and" and inserting a full stop;
	(b) by deleting paragraph (d);
	(c) by inserting at the end of each of paragraphs (a) and (b)
	<u> </u>
(3)	Section 106(3) is amended as follows:
	(a) by deleting "Subject to the approval of the Minister, the Commission" and inserting instead—
	(b) by deleting "unless the Minister otherwise directs";
	(c) by inserting at the end of paragraph (a)
(4)	Section 106(4) is amended by deleting "Subject to the approval of the Minister the Commission" and inserting instead
	<u>"The Minister".</u>
(5)	Section 106(6) is amended as follows:





35.	<u>Section 16 amended</u>	
	 Section 16 is amended by deleting "without the authority of the Commission" and inserting instead 	
<u>دد</u>		
	other than with the authority of the Minister or under another written law	,,
36.	<u>Section 35 repealed</u>	•
	- Section 35 is repealed.	
37.	Section 57C amended	
	<u>Section 57C(1) is amended by deleting "it" and inserting</u> instead	
	<u> the Minister</u> .	
38.	- Section 57EA amended	
	 Section 57EA(2) is repealed and the following subsection is inserted instead— 	
<u></u>		
(2)	The Corporation shall not exercise the power conferred by subsection (1) in relation to water to which section 5C of the <i>Rights in Water and Irrigation Act 1914</i> applies, except under a licence or right granted or conferred under Part III of that Act.	
<u>39.</u>	Section 57G amended	
	 Section 57G(2)(a) and (b) are amended by deleting "it" and inserting instead "the Minister 	
40.	Section 57H amended	
	Section 57H(3) is amended as follows:	
	 (a) by deleting "Commission" in the first place where it occurs and inserting instead <u>"Minister</u>"; 	
	 (b) by deleting "Commission" in the second place where it occurs and inserting instead <u>Crown</u>. 	



<u> </u>	
	- Department authorised by the Minister for the purposes of this
	section
47	Section 159 amended
(1)	Section 159(1) is amended as follows:
	 (a) by deleting "relevant authority" in the first place where it occurs and inserting instead
	 (b) by deleting "relevant authority" in the second place where it occurs and inserting instead
	 (c) by deleting "relevant authority" in the third place where it occurs and inserting instead
<u></u>	
	Minister or the Corporation (which ever, in each case, is relevant)
(2)	-Section 159(4) is repealed.
4 8.	-Section 160 repealed
	-Section 160 is repealed.
49	Section 161 replaced
	Section 161 is repealed and the following section is inserted instead
161	Corporation may be represented by officer
	In any proceeding before a court, judge or person acting judicially, any authorised officer of the Corporation may represent the Corporation in all respects as if he were the party concerned.
50.	-Various references to "Commission" changed to "Minister"
	Each provision of the Act listed in the Table to this section is amended by deleting "Commission" in each place where it occurs and inserting instead
	<u>"Minister "</u>

"

		Table
s.	-13(a)	s. 57D(1)
s. 15 s. 17(1)		s. 57E(1), (2) and (3)
		s. 57G(1), (2), (5) and (7)
S.	57A(1) and (2)	s. 57H(1) and (2)
s.	57B(4)	s. 57I(1) and (2)
s.	57C(1) and (2)	
		sections 17, 57C and 156 will be altered by deleting
		id inserting instead "Minister". ection 146 will be altered by deleting "Corporation" and
	inserting instead	
P	art 5 — Amendmen	ts to the <i>Rights in Water and</i>
		tion Act 1914
51.	— The Act amended	
	The amendments in this	s Part are to the <i>Rights in Water and</i>
	Irrigation Act 1914.	i al al co al mgms in mater and
<u>52.</u>	<u>— Section 2 amended</u>	
34.		
	Section 2(1) is amended	
	•	e definition of "Commission";
	(b) by inserting in	the appropriate alphabetical positions
"		
		f executive officer of the Department;
		the department of the Public Service
		ng in the administration of this Act;
		the Corporation, means a member of the
		ration engaged under section 15 of the
	Water Corporatio	
	1	uncil" means the Water Resources Counci
		tion 16 of the <i>Water Agencies (Powers)</i>
	Act 1984;	8
		-
53.	Section 5 amended	
	Section 5(2) is amended	l as follows:
	(a) after paragraph	
		b) by deleting "Commission" on dimension
		b) by deleting "Commission" and inserting
	instead ————————————————————————————————————	

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Compare 21 Dec 2007 [00-a0-04] / 01 Feb 2008 [00-b0-02] Extract from www.slp.wa.gov.au, see that website for further information

 (c) after paragraph (b) by deleting "; and" and inserting a full stop; (d) by deleting paragraph (c). Section 5A amended Section 5A is amended by deleting "appropriated" and inserting instead — allocated —". Section 6 amended Section 6(4)(d) is amended by deleting "and given a report on them to the Minister". Section 16 amended Section 16(2) is amended as follows: (a) by deleting "The Commission may, with the approval of the Minister, in the name and on behalf of the Crown," and inserting instead — "The Minister may —"; (b) by deleting "Commission" in the second and third places
 (d) by deleting paragraph (c). Section 5A amended Section 5A is amended by deleting "appropriated" and inserting instead
Section 5A is amended by deleting "appropriated" and inserting instead "allocated ". Section 6 amended Section 6(4)(d) is amended by deleting "and given a report on them to the Minister". Section 16 amended Section 16(2) is amended as follows: (a) by deleting "The Commission may, with the approval of the Minister, in the name and on behalf of the Crown," and inserting instead "The Minister may "; (b) by deleting "Commission" in the second and third places
Section 5A is amended by deleting "appropriated" and inserting instead— "allocated—". Section 6 amended Section 6(4)(d) is amended by deleting "and given a report on them to the Minister". Section 16 amended Section 16(2) is amended as follows: (a) by deleting "The Commission may, with the approval of the Minister, in the name and on behalf of the Crown," and inserting instead— "The Minister may—"; (b) by deleting "Commission" in the second and third places
instead
Section 6 amended Section 6(4)(d) is amended by deleting "and given a report on them to the Minister". Section 16 amended Section 16(2) is amended as follows: (a) by deleting "The Commission may, with the approval of the Minister, in the name and on behalf of the Crown," and inserting instead "The Minister may "The Minister may "by deleting "Commission" in the second and third places
Section 6(4)(d) is amended by deleting "and given a report on them to the Minister". Section 16 amended Section 16(2) is amended as follows: (a) by deleting "The Commission may, with the approval of the Minister, in the name and on behalf of the Crown," and inserting instead — "The Minister may —"; (b) by deleting "Commission" in the second and third places
them to the Minister". Section 16 amended Section 16(2) is amended as follows: (a) by deleting "The Commission may, with the approval of the Minister, in the name and on behalf of the Crown," and inserting instead "The Minister may"; (b) by deleting "Commission" in the second and third places
Section 16(2) is amended as follows: (a) by deleting "The Commission may, with the approval of the Minister, in the name and on behalf of the Crown," and inserting instead
 (a) by deleting "The Commission may, with the approval of the Minister, in the name and on behalf of the Crown," and inserting instead "The Minister may "; (b) by deleting "Commission" in the second and third places
 (a) by deleting "The Commission may, with the approval of the Minister, in the name and on behalf of the Crown," and inserting instead "The Minister may "; (b) by deleting "Commission" in the second and third places
(b) by deleting "Commission" in the second and third places
where it occurs and inserting instead
<u>"Minister".</u>
Section 16(3) is amended by deleting ", the Commission," in both places where it occurs.
Section 26B amended
Section 26B(5) is amended by inserting after "26C"
" and any local by laws ".
Section 26GE amended
Section 26GE(3) is amended by inserting after "order"
"- under section 26GD(1) ".
Section 26GH amended
Section 26GH(2) is amended as follows:
(a) by inserting after "compensation" in the first place where
it occurs
" under clause 39 of Schedule 1 ";
(b) by deleting "6(b)" and inserting instead
<u>(6)(b)</u> .
Section 26GL amended

	(a) by inserting at the end of each of paragraph (b)(i) and (ii)
	<u> </u>
	(b) by deleting paragraph (b)(iv) and inserting the following subparagraph instead
	<u></u>
	(iv) are officers of the Department.
61	<u>— Section 26GS amended</u>
	 Section 26GS(3) is amended by deleting "neither the Commission nor the State is" and inserting instead
	<u>"the Crown is not</u> ".
<u>62.</u>	Section 26GU amended
	 Section 26GU(1) is repealed and the following subsection is inserted instead
<u></u>	
—(1)	A plan for the purposes of this Act may be prepared by the Minister.
63.	
	 Sections 26GX(2)(c)(iii) and (d) and 26GY(2)(b)(iii) are amended by deleting "Commission's" and inserting instead
<u> </u>	by deleting "Commission's" and inserting instead <u>Minister's</u> .
<u>64.</u>	by deleting "Commission's" and inserting instead — "— Minister's — ". — Heading to Part III Division 3D Subdivision 2 amended
<u>64.</u>	by deleting "Commission's" and inserting instead — "— Minister's—". — Heading to Part III Division 3D Subdivision 2 amended — The heading to Part III Division 3D Subdivision 2 is amended by
	by deleting "Commission's" and inserting instead — Minister's —". — Heading to Part III Division 3D Subdivision 2 amended — The heading to Part III Division 3D Subdivision 2 is amended by deleting "approval" and inserting instead
	by deleting "Commission's" and inserting instead — "Minister's —". — Heading to Part III Division 3D Subdivision 2 amended — The heading to Part III Division 3D Subdivision 2 is amended by deleting "approval" and inserting instead — "making —". — Section 26GZC amended
	 <u>Minister's</u> <u>Heading to Part III Division 3D Subdivision 2 amended</u> <u>The heading to Part III Division 3D Subdivision 2 is amended by deleting "approval" and inserting instead</u> <u>making</u> <u>Section 26GZC amended</u> <u>Section 26GZC(1) and (2) are amended by deleting "submit" and</u>

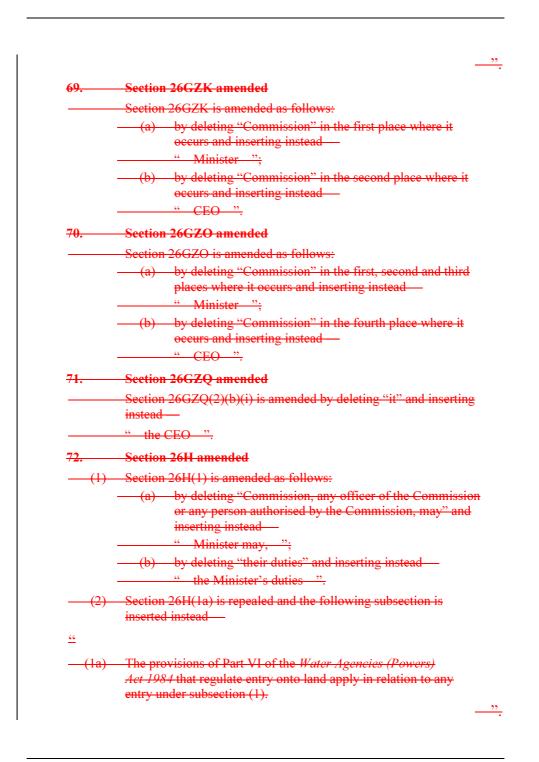
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Compare 21 Dec 2007 [00-a0-04] / 01 Feb 2008 [00-b0-02] Extract from www.slp.wa.gov.au, see that website for further information

66.	Section 26GZE replaced
	Section 26GZE is repealed and the following section is inserted instead
26GZE.	- Minister to make plan
(1)	The Minister must give the proposed plan, modified as the Minister thinks fit under section 26GZD, to the Water Resources Council and indicate the time within which the Water Resources Council may submit its report under subsection (3).
<u>(2)</u>	The plan must be accompanied by
	(a) a summary of all submissions made under section 26GZB and requests made under section 26GZC(4); and
	(b) a report of the Minister indicating the Minister's opinion
	of the merits of those submissions and requests.
(3)	The Water Resources Council may submit to the Minister a report indicating its opinion of the plan and making recommendations about modification and approval of the plan.
(4)	The Minister may make the proposed plan with or without modifications.
(5)	The Minister must not make the plan before the time referred to in subsection (1) has elapsed.
67.	-Section 26GZG amended
	After section 26GZG(4) the following subsection is inserted
<u></u>	
(4a)	The Minister must advise the Water Resources Council of the Minister's decision, and reasons, as to whether action needs to be taken in respect of a plan under subsection (1).
68.	Section 26GZI amended
	Section 26GZI(3) is amended by deleting all of the subsection from and including "hours at" and inserting instead
<u></u>	
	hours at the office or offices of the Department designated by the CEO for the purposes of this subsection.

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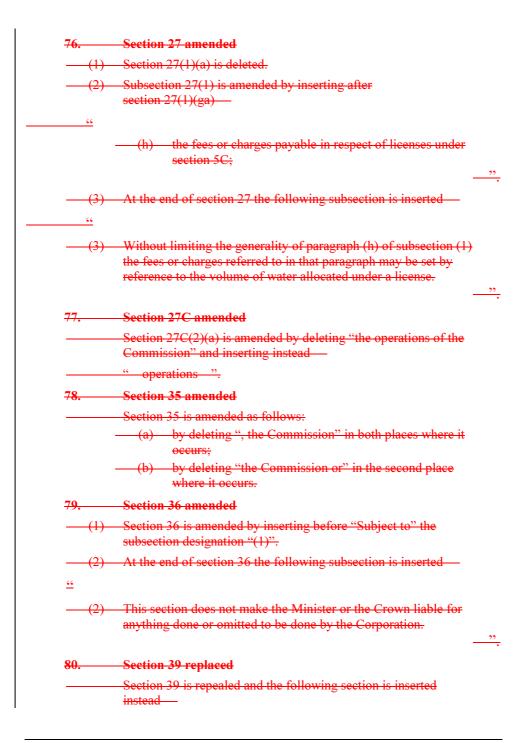
<u> "'</u>



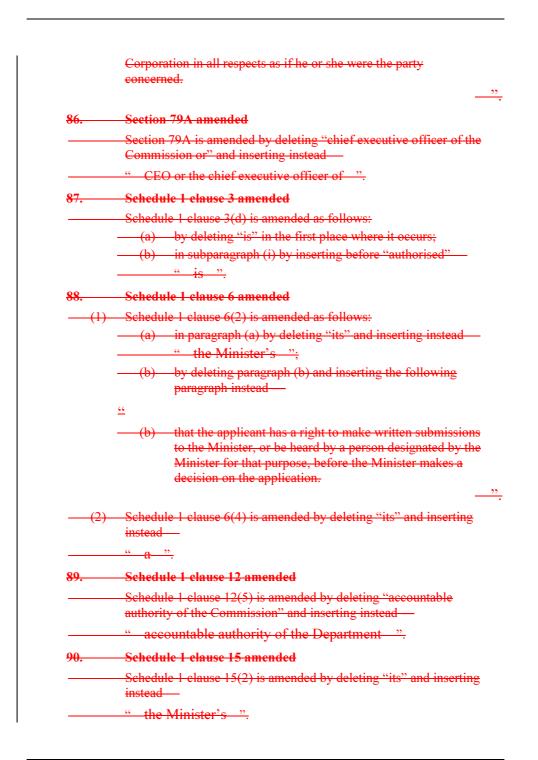
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Compare 21 Dec 2007 [00-a0-04] / 01 Feb 2008 [00-b0-02] Extract from www.slp.wa.gov.au, see that website for further information

(3)	 Section 26H(2) is amended by deleting "Commission or any person acting in the exercise of an authorisation conferred under subsection (1) by the Commission," and inserting instead 	
<u></u>		
	Minister or any other person exercising powers under subsection (1)	,,
73	Section 26J amended	•
	Section 265 timenated Section 26J(1) is amended by deleting "Commission shall be entitled, in the name and on behalf of the Crown, to institute and maintain by any officer of the Commission authorised for that purpose by the Commission" and inserting instead	
<u> </u>		
	Minister, or an officer of the Department authorised by the Minister for the purpose, may institute and maintain	,,
(2)	<u>Section 26J(2) is amended as follows:</u>	•
(2)	(a) by deleting "Commission" in the first, fourth and fifth places where it occurs and inserting instead	
	<u> </u>	
	 (b) by deleting "either the Crown or the Commission or any person" and inserting instead 	
	 (c) by deleting "or the Commission" in the second place where it occurs; 	
	(d) by deleting "Commission's" and inserting instead	
	<u> </u>	
74	-Section 26N amended	
—(1)	— Section 26N(2)(e) is amended by deleting "Minister" and inserting instead—	
	<u>"Water Resources Council".</u>	
(2)	<u>Section 26N(3) is amended by deleting "(2)(c)" and inserting</u> instead	
	<u>-" (2)(d) ":</u>	
75.	-Section 26Q amended	
	Section 26Q(1) is amended by deleting "with the approval of the Minister,".	

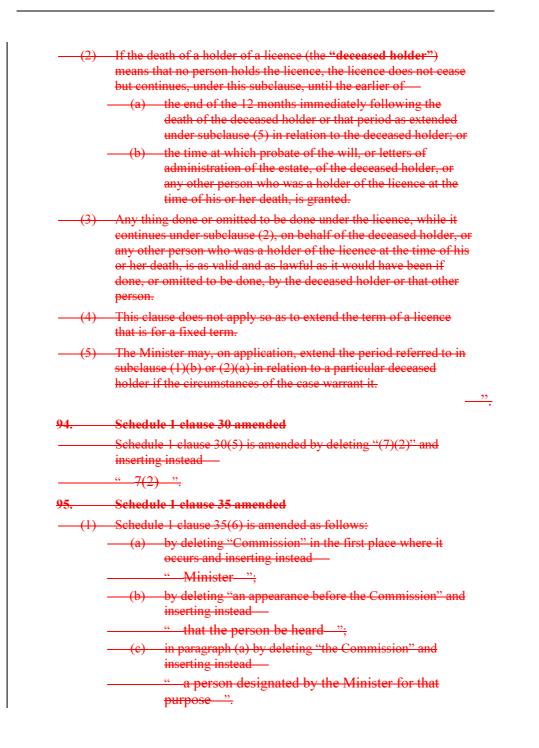


	Allocation of water for irrigation
	 The Minister may, under Part III, allocate water for the purposes of this Part.
81.	Section 69 amended
	 Section 69 is amended by deleting "Commission" and inserting instead
	<u> </u>
<u>82.</u>	Section 70 amended
	Section 70 is amended as follows:
	 (a) by deleting "Commission" in the first, third and fourth places where it occurs and inserting instead <u>Minister</u>;
	(b) by deleting "Commission" in the second place where it occurs and inserting instead
00	<u> </u>
83.	<u>Section 71 amended</u>
	<u>— Section 71 is amended by deleting "Commission" and inserting</u> instead
	<u> </u>
84.	Section 73 amended
	 Section 73 is amended by deleting "Commission" and inserting instead
<u> «</u>	
	 Department authorised by the Minister for the purposes of this section
85.	Section 75 replaced
	Section 75 is repealed and the following section is inserted instead
7 5.	
	In any proceeding before a court, judge or person acting judicial

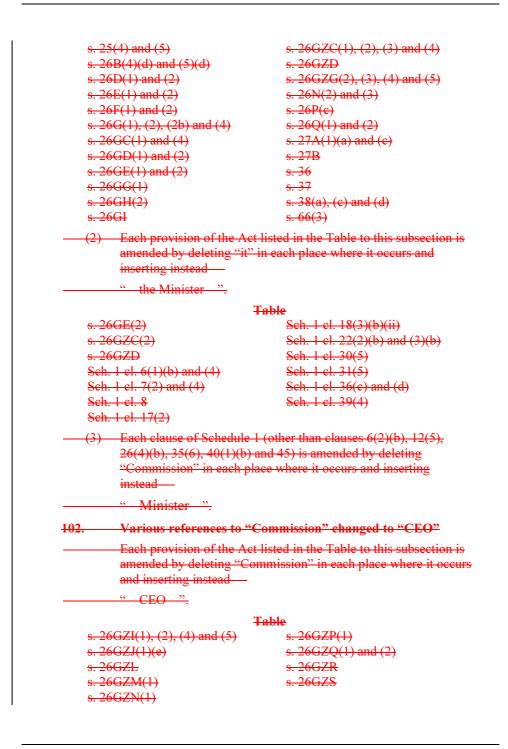


91.	Schedule 1 clause 22 amended
	Schedule 1 clause 22(2)(b) is amended by deleting "its" and
	inserting instead —
	<u>" the "</u> .
92.	Schedule 1 clause 26 amended
(1)	Schedule 1 clause 26(4) is amended as follows:
	(a) in paragraph (a) by deleting "its" and inserting instead
	(b) by deleting paragraph (b) and inserting the following paragraph instead
	<u>«</u>
	(b) that the licensee has a right to make written submissions
	to the Minister, or be heard by a person designated by the
	Minister for that purpose, before the Minister makes a decision to exercise the power.
	decision to exercise the power.
(2)	Schedule 1 clause 26(5) is amended by deleting "applicant" and inserting instead
	<u>"licensee</u> ".
(3)	Schedule 1 clause 26(6) is amended by deleting "it makes its" and inserting instead
	<u>"the Minister makes a ".</u>
93	Schedule 1 clause 29A inserted
	After clause 29 the following clause is inserted
20.4	Transfers of licence death of licence holder
<u> </u>	
(1)	(a) a holder of a licence (the "deceased holder") dies; and
	(b) probate of the will, or letters of administration of the
	estate, of the deceased holder is granted before the end of
	the 12 months immediately following the death of the
	deceased holder or that period as extended under
	subclause (5) in relation to the deceased holder,
	the executor or administrator becomes, on the grant of probate or
	the executor or administrator becomes, on the grant of probate or letters of administration, the holder of the deceased holder's interest in the licence to deal with as executor or administrator.

<u> « «</u>



(2)	-Schedule 1 clause 35(8)(a) is inserting instead	amended by deleting "its" and
	"the Minister's ".	
96.	Heading to Schedule 1 Divi	sion 8 amended
	The heading to Schedule 1 D "Commission" and inserting	ivision 8 is amended by deleting instead—
	<u>"Minister</u> ".	
97.	Schedule 1 clause 38 amend	led
	Schedule 1 clause 38(1)(d) is second place where it occurs	amended by deleting "it" in the and inserting instead
	<u>" the Minister ".</u>	
98.	Heading to Schedule 1 Divi	sion 10 amended
	The heading to Schedule 1 D "Commission" and inserting	ivision 10 is amended by deleting instead—
	<u>"Minister</u> ".	
99.	Schedule 1 clause 40 amend	led
	Schedule 1 clause 40(1)(b) is and inserting instead	amended by deleting "Commission"
	<u> </u>	
100.	-Schedule 1 clause 45 amend	led
	Schedule 1 clause 45 is amer	ded by deleting "Commission" in
	both places where it occurs a	nd inserting instead
	<u>" CEO ".</u>	
101.	-Various references to "Con	mission" changed to "Minister"
(1)		ted in the Table to this subsection is hission" in each place where it occurs
	<u>"Minister</u> ".	
s. 4(s. 26GM(1) and (2)
$\frac{s. 5C(1)(d)}{s. 6(4)}$		s. 26GP(1) and (2) s. 26GO
s. 6(4) and (6) s. 11(1)(a)		s. 26GW(2) and (3)
s. 11(1)(a) s. 17(3a), (4), (6) and (7)		s. 26GX(2) and (3)
	$\frac{A(1)(a)}{A(1)(a)}$	s. 26GY(2) and (3)
s. 22(1), (2), (2a), (3) and (4)		s. 26GZB(a) and (b)



Note:	— The heading to section 26J will be altered by deleting "Commission entitled to" and inserting instead "Minister may".
	The headings to sections 26G, 26GC, 26GQ and 26Q and Schedule 1 clauses 8, 10, 18, 24, 25, 31, 33, 38, 40 and 41 will be altered by deleting "Commission" and inserting instead "Minister".
	— The heading to Schedule 1 clauses 7 and 32 will be altered by deleting "Commission's" and inserting instead "Minister's".
	— The heading to section 26GZN will be altered by deleting "Commission" and inserting instead "CEO".

	_ Amondmonts to the Water Agancies (Powers)
1 4110	Amenuments to the <i>n</i> are Algenetics (1 overs)
	<u>Act 1984</u>

103. The Act amended

The amendments in this Part are to the *Water Agencies (Powers)* Act 1984.

104. Long title amended

The long title is amended by deleting all of the words from and including "vest powers in the Water Corporation" to and including "their functions" and inserting instead

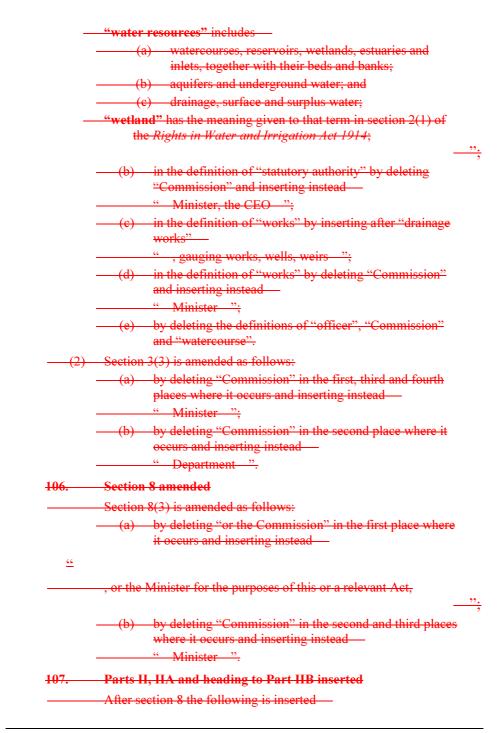
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give the Minister functions and powers, to give the Water Corporation powers, to make other provision in respect of their functions, to establish the Water Resources Ministerial Body and the Water Resources Council

105. Section 3 amended

(1)	Section 3(1) is amended as follows:
	(a) by inserting in the appropriate alphabetical positions
<u> </u>	
_	"CEO" means the chief executive officer of the Department;
_	"Department " means the department of the Public Service principally assisting in the administration of this Act;
_	"former Commission" means the Water and Rivers Commission established by section 4 of the <i>Water and Rivers Commission</i> <i>Act 1995</i> and in existence before the repeal of that Act;
_	"Ministerial Body" means the Water Resources Ministerial Body established by section 11;
_	"officer" , in relation to the Corporation, means a member of the staff of the Corporation engaged under section 15 of the <i>Water Corporation Act 1995</i> ;
_	"watercourse" has the meaning given to that term in section 2(1) of the <i>Rights in Water and Irrigation Act</i> 1914:

Compare 21 Dec 2007 [00-a0-04] / 01 Feb 2008 [00-b0-02] Extract from www.slp.wa.gov.au, see that website for further information

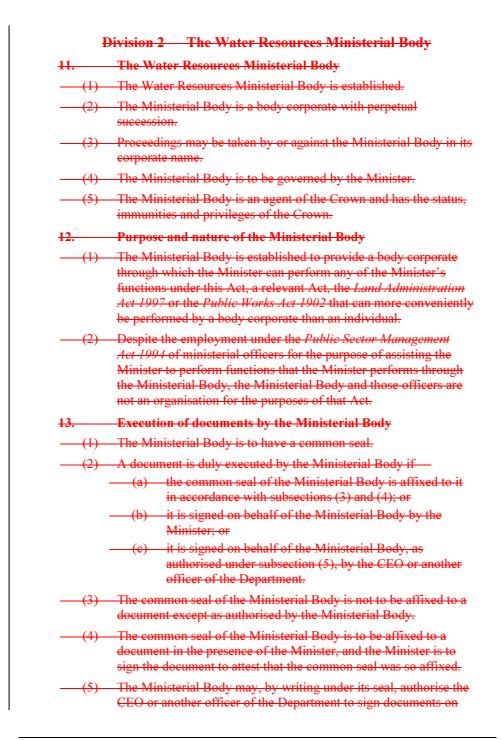




Pa	rt II — The Minister and the Water Resources Ministerial Body
Điv	ision 1 General functions and powers of the Minister
9	General functions and powers of the Minister
(1)	
	(a) conserving, protecting and managing water resources;
	(b) assessing water resources;
	(c) planning for the use of water resources;
	 (d) promoting the efficient use of water resources;
	(e) promoting the efficient provision of water services;
	 (f) developing plans for and providing advice on flood management.
(2)	The Minister has power to do all things necessary or convenient to be done for or in connection with the performance of the Minister's functions.
(3)	Without limiting subsection (2), the Minister may acquire, hold, manage, improve, develop, dispose of and otherwise deal in real and personal property, including for the general purposes of the Department.
(4)	In performing the Minister's functions under this section
	 (a) the Minister is to have regard to water recycling and efficient water use measures when planning the development of new water resources; and
	(b) the Minister, where appropriate, is to promote decision making processes that involve public consultation.
10.	Functions and powers of the Minister relationship to other
	functions and powers and to the Corporation
	A function or power given to the Minister by this Act is in addition to any other function or power of the Minister.
(2)	If the Corporation has a function or power under this Act that corresponds to a function or power that the Minister has under this Act, the Minister is not to perform that function or exercise that power in substitution for the Corporation performing that function or exercising that power, unless the contrary intention appears or the context otherwise requires.

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<u> « «</u>



behalf of the Ministerial Body, either generally or subject to any conditions or restrictions specified in the authorisation.

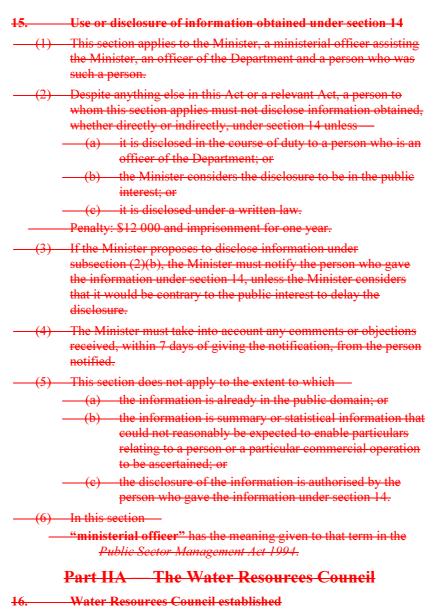
- (6) A document purporting to be executed in accordance with this section is to be presumed to be duly executed until the contrary is shown.
- (7) A document executed by the CEO or another person under this section without the common seal of the Ministerial Body is not to be regarded as a deed unless it is executed as a deed as authorised under subsection (5).
- (8) When a document is produced bearing a seal purporting to be the common seal of the Ministerial Body, it is to be presumed that the seal is the common seal of the Ministerial Body until the contrary is shown.
- (9) For the purposes of this Act, a facsimile of
 - (a) the Ministerial Body's seal; or
 - (b) the signature of the Minister or a person authorised under subsection (5) to execute deeds or other documents,
 - may be used, and a deed or other document purporting to be endorsed with such a facsimile is, until the contrary is shown, to be regarded as bearing the facsimile under this subsection.

Division 3 Minister to have access to certain information

4. Minister to have access to certain information

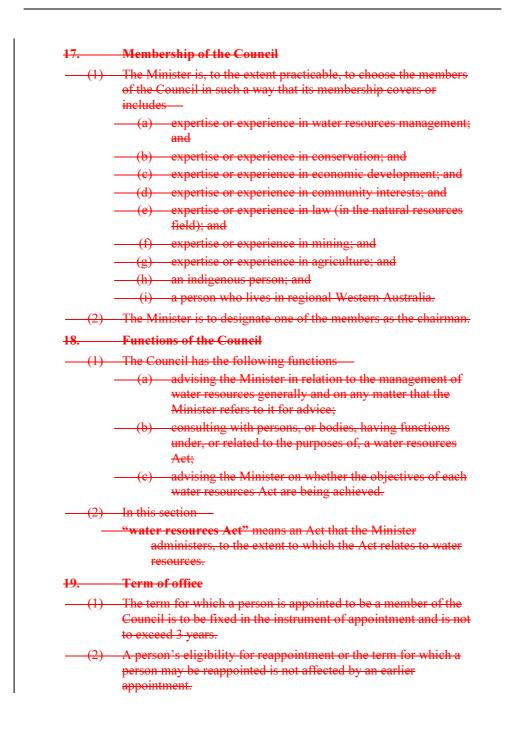
- (1) The Minister may direct a water service licensee to give the Minister specified information, or information relevant to a specified matter, that the Minister considers is relevant to the Minister's functions under, or relating to, this Act or a relevant Act.
- (2) The direction must be in writing, must specify the time period (in days) within which it must be complied with and may specify the form and manner in which the information is to be provided.
- (3) The licensee must comply with the direction even though the direction requires the licensee to give the Minister information that is confidential or commercially sensitive.
- (4) If the licensee objects to the direction the licensee is to notify the Minister, in writing within 7 days of receipt of the direction, of its objection and any reasons for it.
- (5) If the licensee gives a notice to the Minister under subsection (4)

	 (a) the Minister is to consult with the ERA Minister and, having regard to those consultations, is to cancel or confirm the direction; and
	 (b) the licensee is not required to comply with the direction unless it is confirmed.
(6)	If the Minister confirms a direction
	(a) the Minister must notify the licensee; and
	 (b) the time period within which the direction must be complied with commences on the day on which it is confirmed.
(7)	The licensee, a subsidiary of the licensee or a person performing functions for or on behalf of the licensee or subsidiary incurs no civil or criminal liability as a result of complying with the direction, and is not to be regarded for any purpose as being in breach of any duty of confidentiality.
(8)	A water services licensee that does not comply with a direction that has not been objected to or that has been confirmed commits an offence.
	Penalty: \$5 000.
(9)	The Minister must cause a copy of a direction under subsection (1) (other than a direction that has been cancelled) to be laid before each House of Parliament, or dealt with under section 110, within 14 days after the day on which the direction is given or confirmed (which ever is the later).
- (10)	The annual report submitted by the accountable authority of the Department under Part 5 of the <i>Financial Management Act 2006</i> is to list each direction under subsection (1) in the year (other than a direction that has been cancelled).
- (11)	For the purposes of subsection (9) or (10), the Minister or the accountable authority (which ever is relevant) may obliterate or omit so much of the direction as is necessary to avoid disclosing confidential or commercially sensitive material.
(12)	In this section
	"ERA Minister" means the Minister administering the <i>Economic</i> <i>Regulation Authority Act 2003</i> ;
	"water services licensee" means a licensee as defined in section 3 of the Water Services Licensing Act 1995.

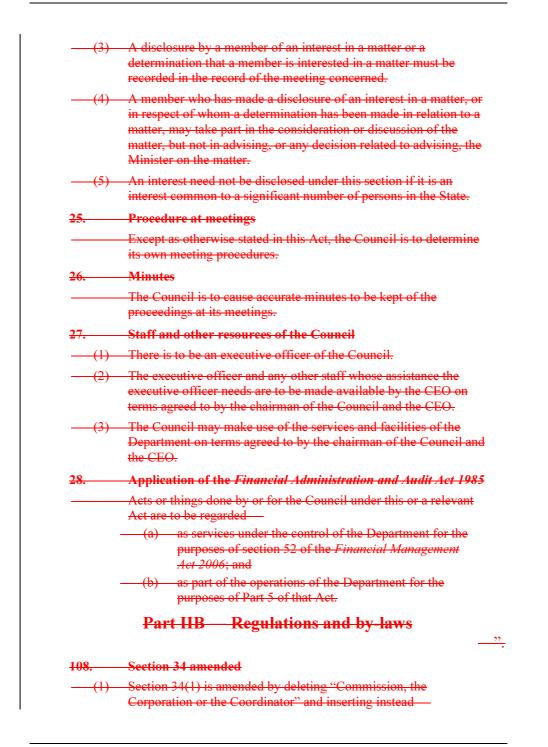


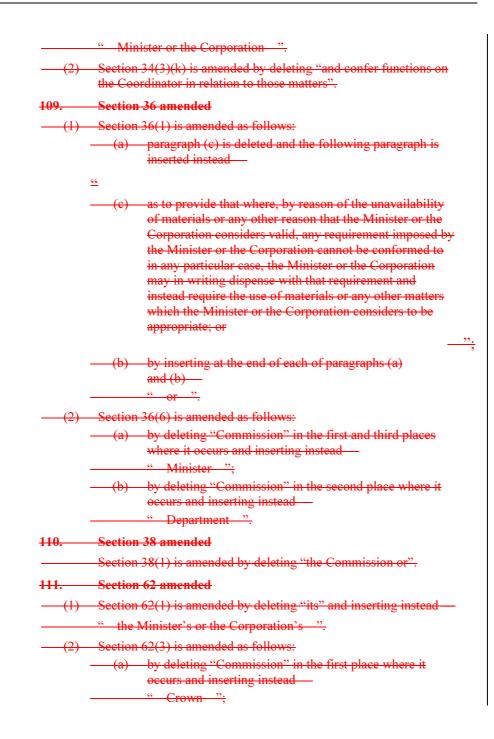
The Minister is to appoint 6, 7 or 8 persons to be the members of a body called the Water Resources Council.

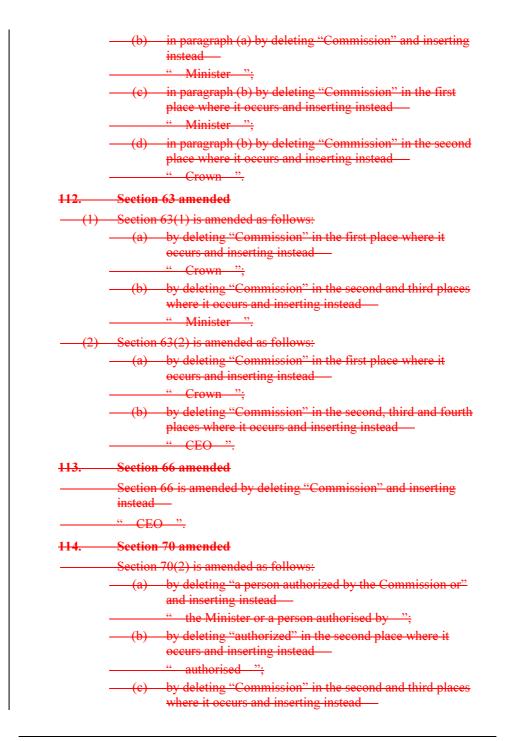
Compare 21 Dec 2007 [00-a0-04] / 01 Feb 2008 [00-b0-02] Extract from www.slp.wa.gov.au, see that website for further information



20.	- Casual vacancy
—(1)	 A member of the Council may at any time resign from office by notice in writing given to the Minister.
(2)	 The Minister may remove a person who is a member of the Council from office on the grounds of —
	 (a) mental or physical incapacity to carry out the person's duties in a satisfactory manner; or
	 (b) the person being an insolvent under administration within the meaning of that term in the <i>Corporations Act 2001</i> of the Commonwealth; or
	— (d) — misconduct.
(3)	If a member of the Council dies, resigns, or is removed from office, the office of the member becomes vacant.
21.	Remuneration and allowances
	 Members of the Council are entitled to any remuneration and allowances that the Minister may from time to time determine on the recommendation of the Minister for Public Sector Management.
22.	-Quorum
	A quorum for a meeting of the Council is any 4 members.
23.	Presiding at meetings
(1)	The chairman, if present, is to preside at a meeting of the Council.
(2)	
(2)	If the chairman is not presiding under subsection (1), the members present at the meeting are to appoint one of their number to preside.
	present at the meeting are to appoint one of their number to
<u>24.</u>	present at the meeting are to appoint one of their number to preside.

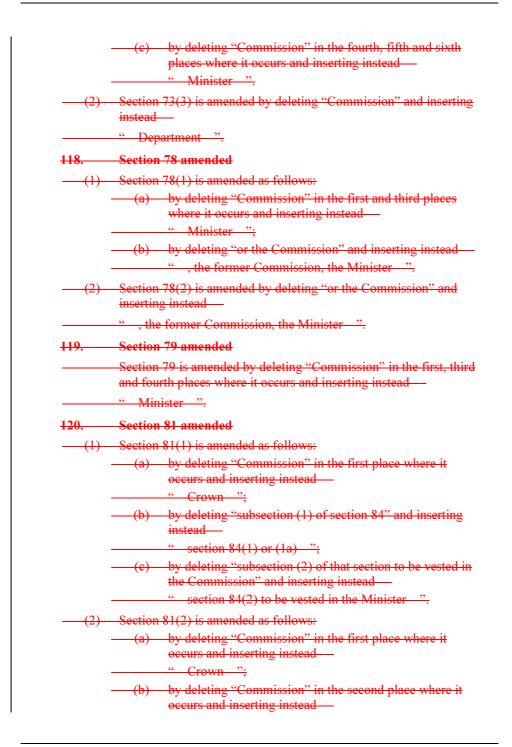






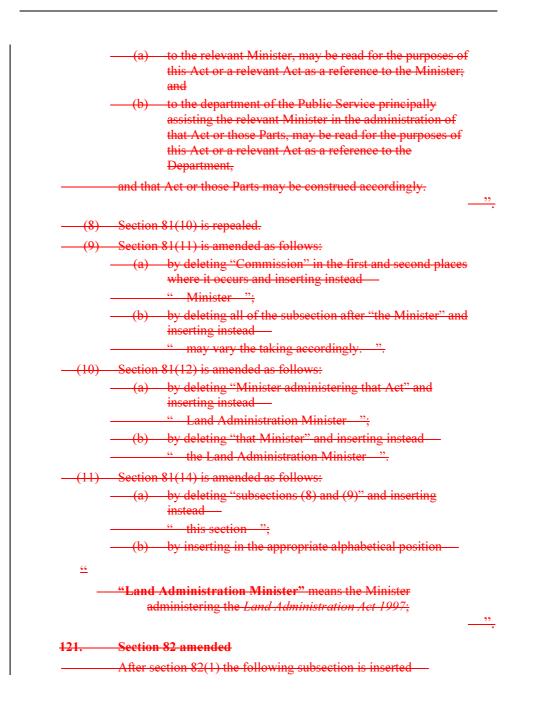


115.	- Section 71 amended
	Section 71(3) is repealed and the following subsection is inserted
	instead
<u></u>	
	Whenever the Minister, or the Corporation by its officers or agents, enters or has entered on or into any land, premises or thing
	the person responsible for the conduct of the entry shall, on
	request, produce evidence of his designation or appointment and
	give particulars of the power conferred on the Minister or the
	Corporation by virtue of which the person claims a right of entry.
116.	- Section 72 amended
(1)	- Section 72(6) is amended as follows:
	(a) by deleting "Commission" in the first place where it
	occurs and inserting instead
	<u> </u>
	(b) by deleting "authorize the Commission or the
	Corporation by its officers" and inserting instead
<u> </u>	
	-authorise an officer of the Department, or the Corporation by its
	officers.
(2)	Section 72(7) is amended by deleting "its" and inserting instead
(_)	
	*
	-Section 73 amended
(1)	Section 73(1) is amended as follows:
	(a) by deleting "Commission or the Corporation an officer of
	the Commission" in the first place where it occurs and inserting instead—
	mserting instead
<u> </u>	
	Minister or the Corporation, an officer of the Department
	(b) by deleting "act on behalf of the Commission" and
	inserting instead
	— " exercise a power of the Minister ";

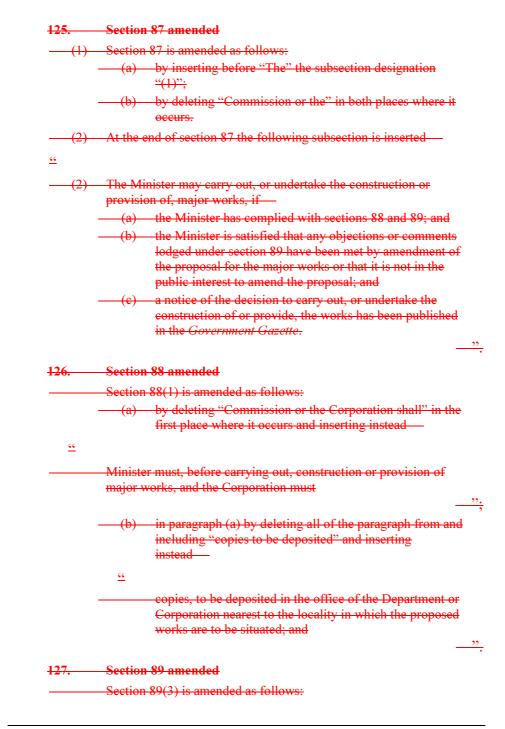


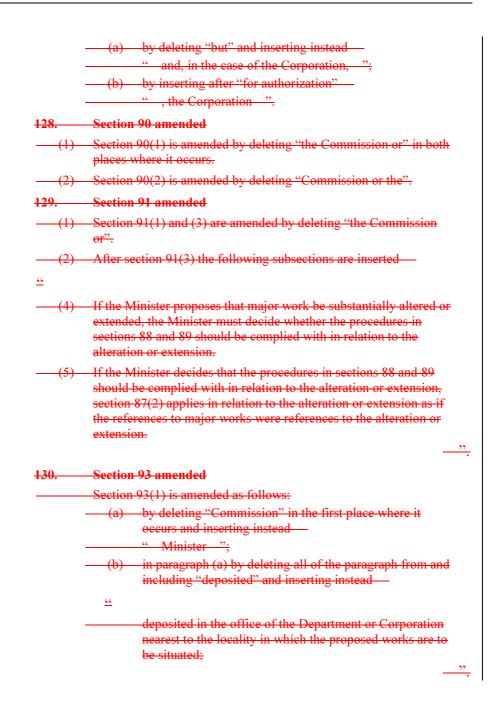
(3)	- Section 81(3) is amended as follows:
(-)	(a) by deleting "Commission" in the first and fourth places
	where it occurs and inserting instead
	<u> </u>
	(b) by deleting "Commission" in the second and third places
	where it occurs and inserting instead
	<u> </u>
(4)	Section 81(4) is amended as follows:
	(a) by deleting "Commission" in the first, second and third
	places where it occurs and inserting instead
	<u> </u>
	— (b) by deleting "its" and inserting instead
	(c) by deleting "directed the Commission" and inserting
	instead
	<u>decided</u> ";
	(d) by deleting all of the words from and including "as may
	in the opinion" to and including "be necessary".
(5)	Section 81(5) is amended by deleting "required".
(6)	- Section 81(6) is amended as follows:
	(a) by deleting "Commission" in the first and third places
	where it occurs and inserting instead
	(b) by deleting "Commission" in the second place where it
	occurs and inserting instead
	<u> </u>
(7)	Section 81(8) is repealed and the following subsection is inserted
	instead
<u> </u>	
(8)	For the purposes of this Act or a relevant Act, the Minister may
	exercise or delegate any power that is by the <i>Public Works</i>
	Act 1902 or Parts 9 and 10 of the Land Administration Act 1997
	vested in the relevant Minister and in so far as that Act applies, or
	those Parts apply, to or in relation to the compulsory taking of any
	land, or the entry on, occupation or use of any land, under this Act or a relevant Act, any reference in that Act or those Parts—
	or a relevant ree, any reference in that ree or those raits

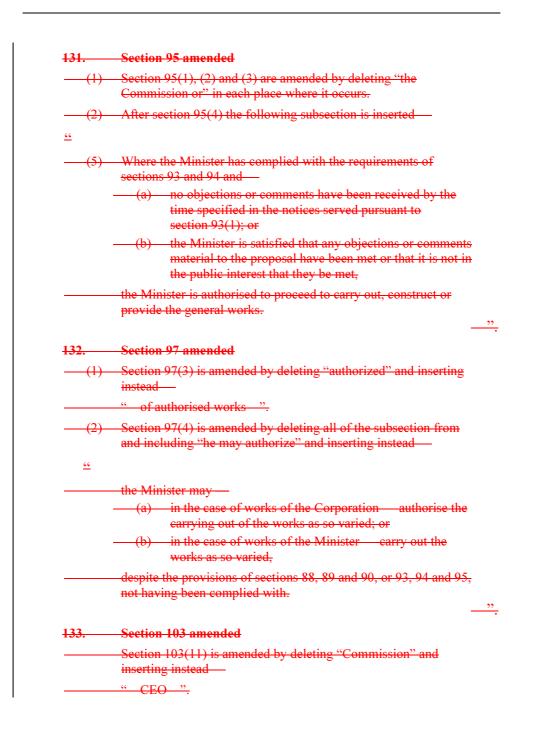
Compare 21 Dec 2007 [00-a0-04] / 01 Feb 2008 [00-b0-02] Extract from www.slp.wa.gov.au, see that website for further information



<u> </u>		
- (1aa) -	The conservation, protection or management of water resources is to be regarded as a public work for the purposes of this Act and Part 9 of the <i>Land Administration Act 1997</i> , even though the conservation, protection or management of water resources may be achieved on or in relation to an area of land without any works being carried out on the land.	,,
122.	-Section 83 amended	
	Section 83(1a) is amended as follows:	
	(a) by deleting "its" in the first place where it occurs and inserting instead	
	<u> </u>	
	(b) in paragraph (a) by deleting "its" and inserting instead	
123.	Section 84 amended	
(1)	Section 84(1) is amended by deleting "the Commission or".	
(2)	After section 84(1) the following subsection is inserted —	
<u></u>		
(1a)	Where the Minister places or has placed, or causes or permits or has caused or permitted any works or other things to be placed upon, in, over or under any land for the purposes of this Act or a relevant Act those works or other things shall be taken to have been lawfully so placed.	<u></u>
(3)	Section 84(4) is amended by inserting after "former Authority"	-
124.	-Section 86 amended	
	Section 86 is amended as follows:	
	 (a) in the definition of "exempt works", in paragraph (c), by deleting "Commission" and inserting instead <u>Minister</u>: 	
	(b) in the definition of "major works", in paragraph (b)(ii),	
	by deleting "directs the Commission or" and inserting instead	
	<u> </u>	

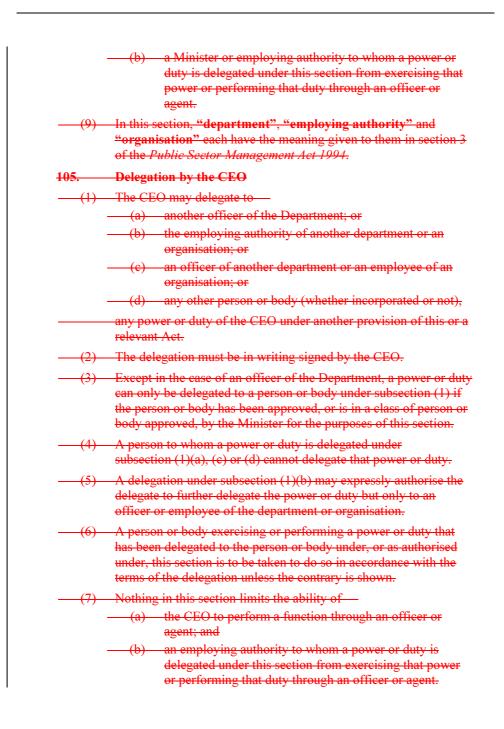




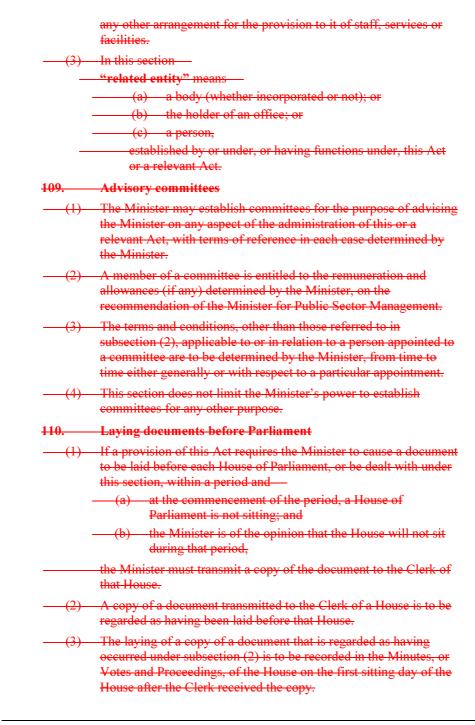


134.	—Part X inserted — After section 103 the following Part is inserted—
	Part X Administrative provisions
104.	- Delegation by the Minister
(1)	The Minister may delegate to
	(a) the CEO; or
	(b) another officer of the Department; or
	(c) an officer of another department or an employee of an organisation; or
	 (e) the employing authority of another department or organisation; or
	(f) any other person or body (whether incorporated or not),
	any power or duty of the Minister under a provision of this or a relevant Act (other than this section and sections 14 and 106).
(2)	Without limiting the things that may be delegated to the CEO under subsection (1), they include things that are to be done in the course of governing the affairs of the Ministerial Body under section 11(4).
(3)	The delegation must be in writing signed by the Minister.
(4)	A person to whom a power or duty is delegated under
	subsection (1)(b), (c) or (f) cannot delegate that power or duty.
(5)	 A delegation under subsection (1)(d) may expressly authorise the other Minister to further delegate the power or duty but only to an officer or employee of a department administered by the other Minister.
(6)	A delegation under subsection (1)(a) or (e) may expressly authorise the delegate to further delegate the power or duty but only to an officer or employee of the department or organisation.
(7)	A person exercising or performing a power or duty that has been delegated to the person under, or as authorised under, this section is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
(8)	 Nothing in this section limits the ability of (a) the Minister to perform a function through an officer or agent; and

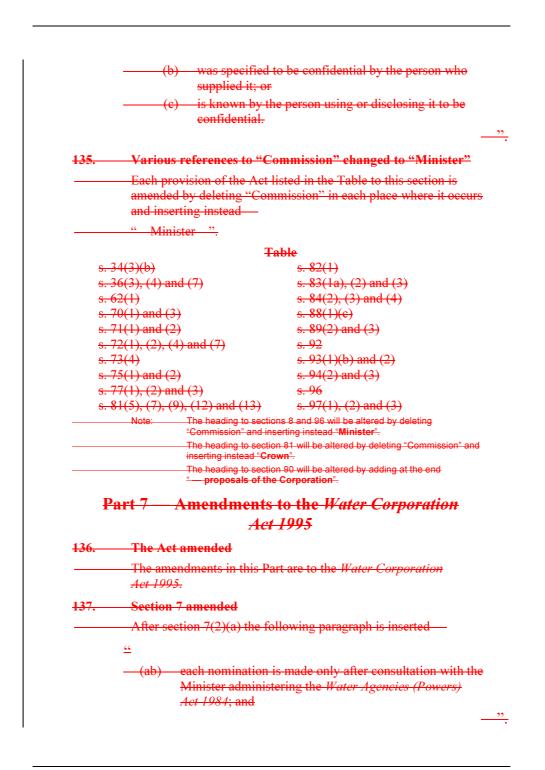
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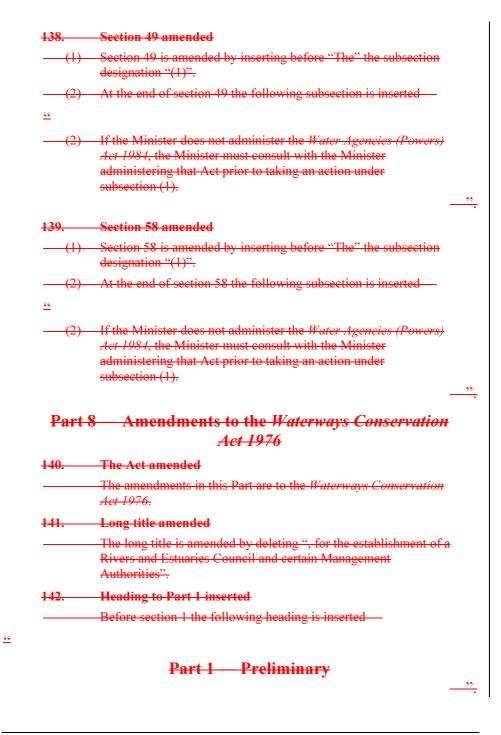
(8)	In this section, "department", "employing authority" and "organisation" each have the meaning given to them in section 3 of the <i>Public Sector Management Act 1994</i> .
106.	Directions about Government policy
(1)	The Minister may, in writing, direct the Water Corporation or a water board to have regard to a general policy of the Government relating to water resources, to the extent specified in the direction.
(2)	The Minister must cause a copy of a direction under subsection (1) to be laid before each House of Parliament, or dealt with under section 110, within 14 days after the day on which the direction is given.
(3)	The text of a direction under subsection (1) is to be included in the annual report submitted by the accountable authority of the Department under Part 5 of the <i>Financial Management Act 2006</i> .
(4)	In this section
_	"water board" means a water board constituted under section 6 of the <i>Water Boards Act 1904</i> ;
	"Water Corporation" means the Water Corporation established by section 4 of the <i>Water Corporation Act 1995</i> .
107.	- Non-public sector staff
(1)	The CEO may engage persons as wages staff otherwise than under the <i>Public Sector Management Act 1994</i> .
(2)	Persons referred to in subsection (1) are to be employed, subject to any relevant industrial award, order or agreement, on such terms and conditions as the CEO determines.
(3)	Nothing in subsection (2) affects the operation of the Workplace Agreements Act 1993 or Part VID of the Industrial Relations Act 1979 or section 100 of the Public Sector Management Act 1994.
108.	Provision of staff, services and facilities
(1)	The CEO may arrange with a related entity to provide it with the use of
	 (a) the services of any officer or employee of the Department; and
	(b) any services or facilities of the Department,
	that are necessary for the entity to perform its functions.
(2)	This section does not limit any power the related entity has to engage its own staff or provide its own facilities, or to enter into

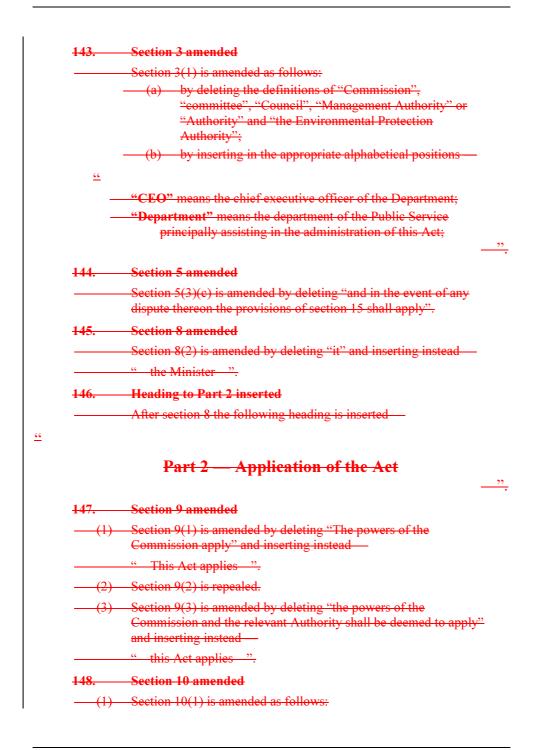


111.	-Protection from liability for wrongdoing
(1)	An action in tort does not lie against a person for anything that the person has done, in good faith, in the performance or purported performance of a function under this or a relevant Act.
(2)	The protection given by subsection (1) applies even though the thing done as described in that subsection may have been capable of being done whether or not this or the relevant Act had been enacted.
(3)	Despite subsection (1), the Crown is not relieved of any liability that it might have for another person having done anything as described in that subsection.
(4)	Subsection (1) does not apply in respect of the Corporation.
	In this section, a reference to the doing of anything includes a reference to an omission to do anything.
112.	- Confidentiality
(1)	A person who misuses confidential information obtained by reason of any function that person has, or at any time had, in the administration of this or a relevant Act commits an offence.
	Penalty: \$12 000 and imprisonment for one year.
(2)	A person misuses confidential information if it is, directly or indirectly, recorded, used or disclosed to another person, other than—
	(a) in the course of duty; or
	(b) under this or a relevant Act or any other written law; or
	(c) with the written permission of the CEO; or
	 (d) for the purposes of the investigation of any suspected offence or the conduct of proceedings against any person for an offence; or
	 (e) with the consent of the person or persons to whom the information relates; or
	(f) in circumstances prescribed by the regulations.
(3)	This section does not apply
	(a) to or in respect of the Corporation; or
	— (b) to information to which section 15 applies.
(4)	In this section
	"confidential information" means information that has not been made public and that
	(a) is by its nature confidential; or

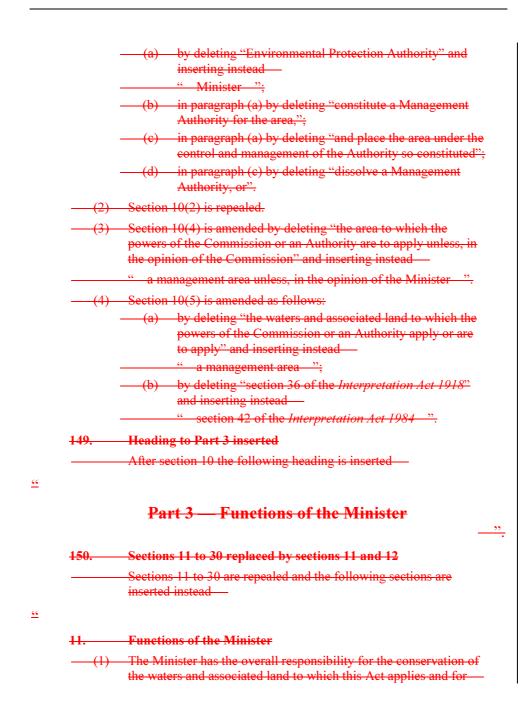


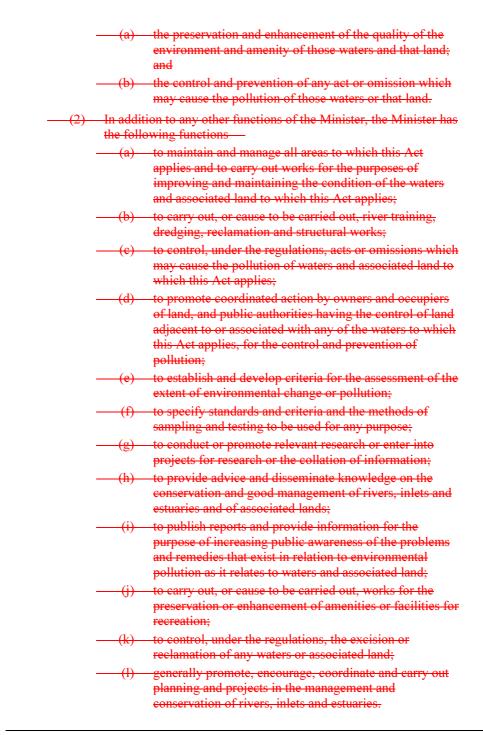






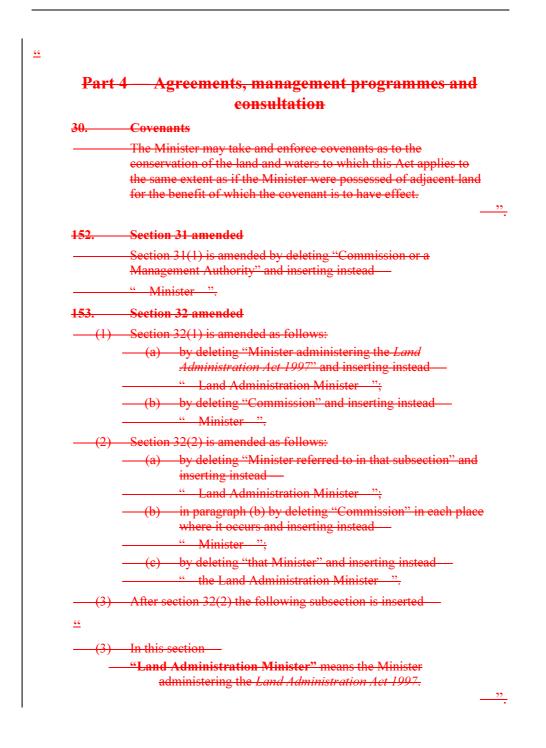




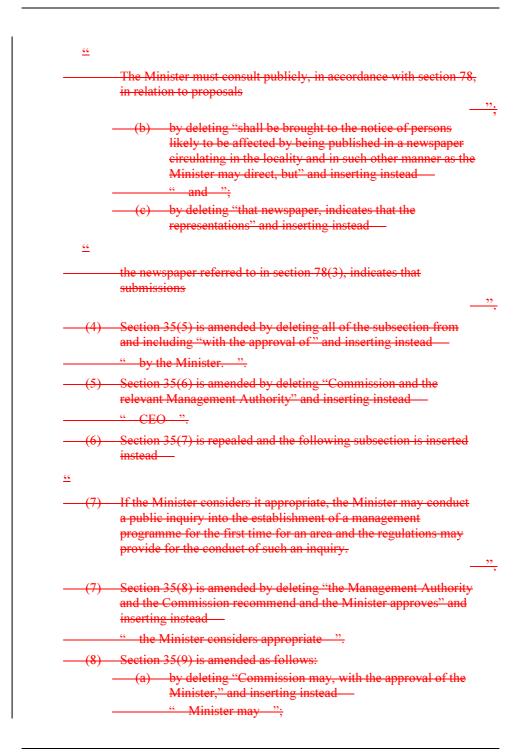




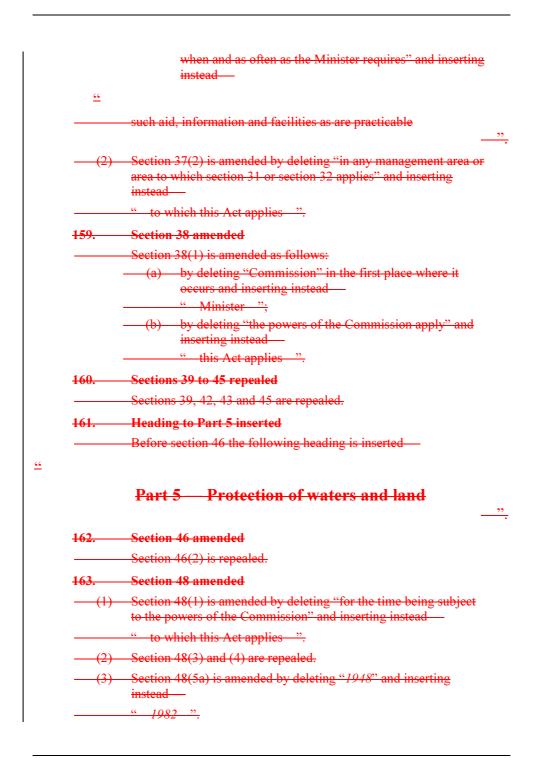
— <u>(3) — In sub</u> : "relev	 in that programme; and having regard to (i) the interests of navigation, fisheries, agriculture, water supply and recreation in the area; and (ii) the natural beauty and amenity of the area; and (iii) the preservation of public rights of access to the area; and (iv) the rights acquired by persons in relation to boat houses, jetties and other structures to the extent that the exercise of those rights is not likely to impair the environment.
— <u>(3) — In sub</u> : — "relev	 (i) the interests of navigation, fisheries, agriculture, water supply and recreation in the area; and (ii) the natural beauty and amenity of the area; and (iii) the preservation of public rights of access to the area; and (iv) the rights acquired by persons in relation to boat houses, jetties and other structures to the extent that the exercise of those rights is not likely to impair the environment.
	 water supply and recreation in the area; and (ii) the natural beauty and amenity of the area; and (iii) the preservation of public rights of access to the area; and (iv) the rights acquired by persons in relation to boat houses, jetties and other structures to the extent that the exercise of those rights is not likely to impair the environment.
	 (iii) the preservation of public rights of access to the area; and (iv) the rights acquired by persons in relation to boat houses, jetties and other structures to the extent that the exercise of those rights is not likely to impair the environment.
	area; and (iv) the rights acquired by persons in relation to boat houses, jetties and other structures to the extent that the exercise of those rights is not likely to impair the environment.
	houses, jetties and other structures to the extent that the exercise of those rights is not likely to impair the environment.
	•
t	vant bodies", for any particular area to which this Act
	applies, means
((a) the local government or governments for the area; and
((b) any other public authority exercising functions in
,	relation to the area; and
((c) other bodies representing persons interested in the use
	of the waters and land in the area.

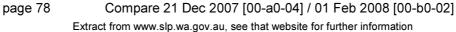


154.	Section 33 amended
(1)	Section 33(1) is repealed and the following subsection is inserted instead
<u> </u>	
(1)	The Minister may refer to a local government any matter that may affect the district of the local government for any information and advice the local government may be able to offer and is to have regard to the views of the local government.
(2)	-Section 33(3) is amended as follows:
1 A A	(a) by deleting "Commission or the relevant Management Authority" and inserting instead
	 <u>Minister</u>; <u>(b)</u> by deleting "an Authority" and inserting instead
155	Section 34 repealed
	Section 34 is repeated.
156	Section 35 amended
	Section 35 amended as follows:
(1)	(a) by deleting "Commission, in consultation with the relevant Management Authority and" and inserting instead
	 <u>Minister, in consultation</u>; <u>(b)</u> by deleting all of the subsection from and including "in relation to" and inserting instead
<u> </u>	
	in relation to waters and associated land to which this Act applies, during the period to which the programme relates.
(2)	Section 35(2) is amended by deleting "Commission or relevant Management Authority" and inserting instead
	<u>"Minister"</u> .

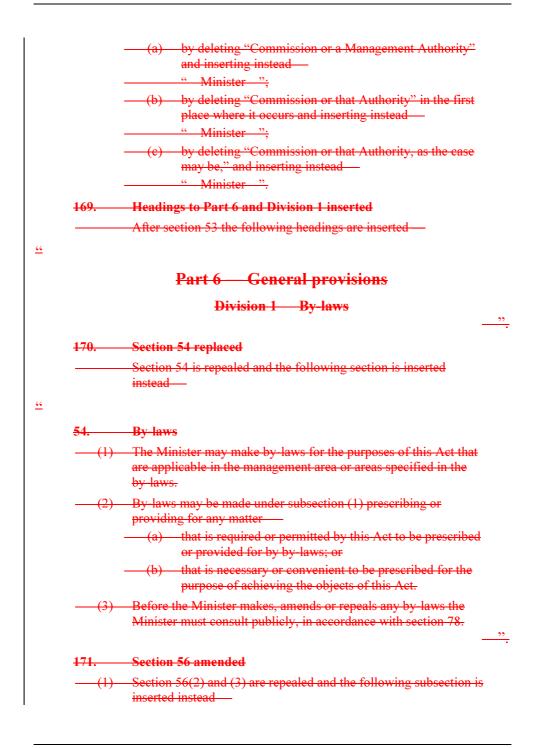


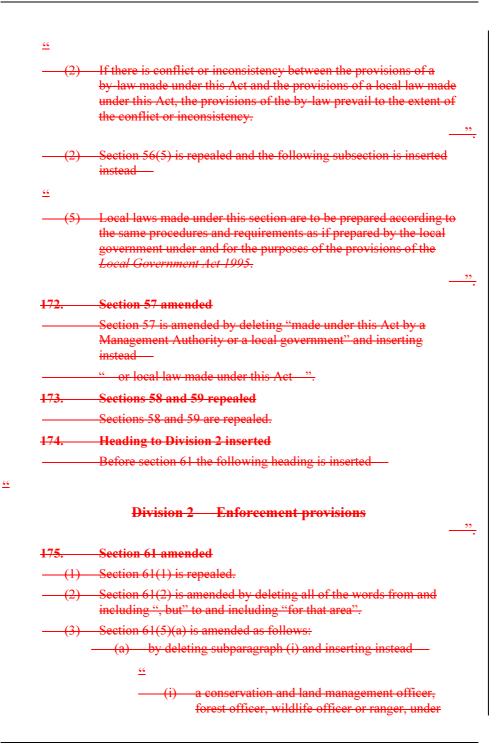
	(b) by deleting "on behalf of the Commission or
	Management Authority, and whether or not under the
	direction of the Commission or that Authority" and
	inserting instead
	", whether or not under the direction of the Minister".
157.	- Section 36 amended
(1)	Section 36(1) is amended by deleting "Commission" in the first, third, fourth and fifth places where it occurs and inserting instead
	<u>" Minister ".</u>
(2)	- Section 36(2) is amended as follows:
	(a) in paragraph (a) by deleting "to it";
	(b) in paragraph (b) by deleting "its" and inserting instead
	inserting instead
	<u> </u>
(3)	Section 36(3) is amended as follows:
	(a) by deleting "it has furnished its" and inserting instead
	(b) by deleting "it" in the second place where it occurs and
	inserting instead
(4)	Section 36(4) is amended as follows:
	(a) by deleting "it" and inserting instead
	(b) by deleting "its" in both places where it occurs.
158.	- Section 37 amended
(1)	- Section 37(1) is amended as follows:
	(a) by deleting "the powers of the Commission apply" and
	inserting instead
	(b) by deleting "Commission" in the second and third places
	where it occurs and inserting instead
	<u>— "Minister"</u> ;
	(c) by deleting "and the relevant Management Authority all
	such aid, information and facilities as are practicable, and
	the Commission shall report to the Minister on the matter
	1

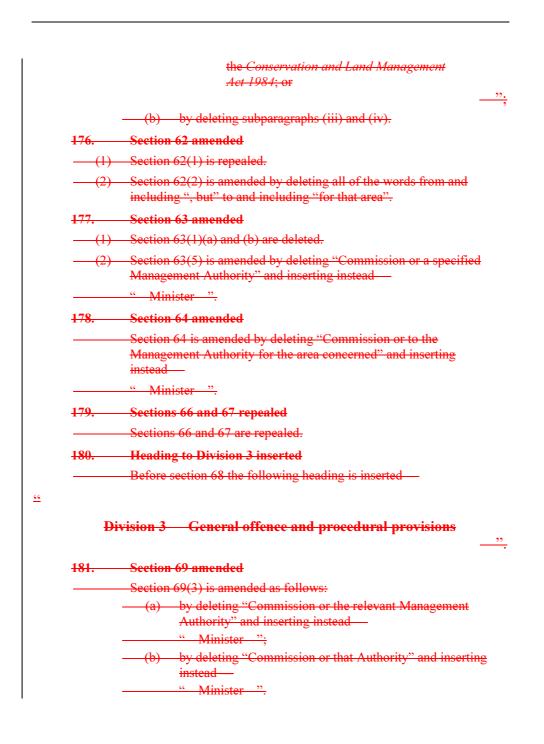




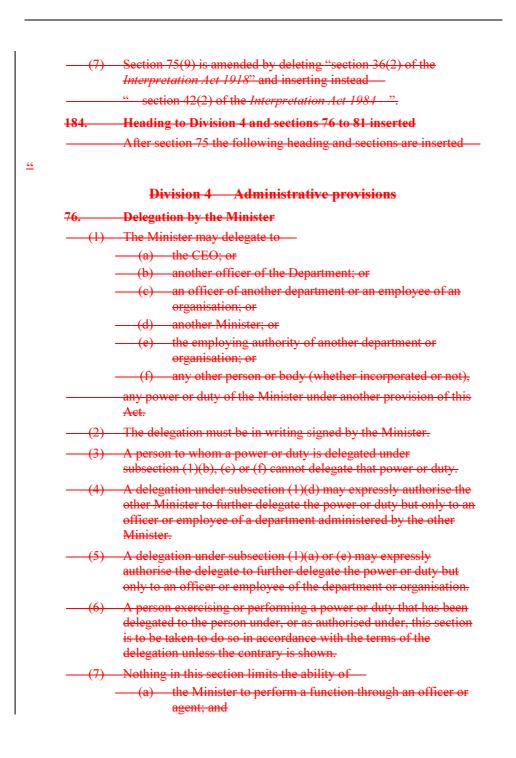
	subsection (3), or".
164.	-Section 49 amended
	- Section 49(1) is amended by deleting "Commission or a
	Management Authority" and inserting instead
	<u>"Minister"</u> .
1 65.	
(1)	- Section 50(1) is amended as follows:
	(a) by deleting "Commission, or the relevant Management Authority," and inserting instead
	<u> </u>
	(b) by deleting "for the time being subject to its control" and inserting instead
(2)	- Section 50(2) is amended as follows:
	(a) by deleting "Commission and any Management Authority" and inserting instead
	(b) by deleting "subject to its control or on any associated land" and inserting instead
166.	-Section 51 amended
	- Section 51 is amended by deleting "or a Management Authority".
167.	-Section 52 amended
	- Section 52 is amended as follows:
	 (a) by deleting "Commission or a Management Authority" and inserting instead
	<u> </u>
	(b) by deleting "subject to its control" and inserting instead
	(c) by deleting "Commission or that Authority" in both places where it occurs and inserting instead
	<u>— " Minister ".</u>
168	Section 53 amended





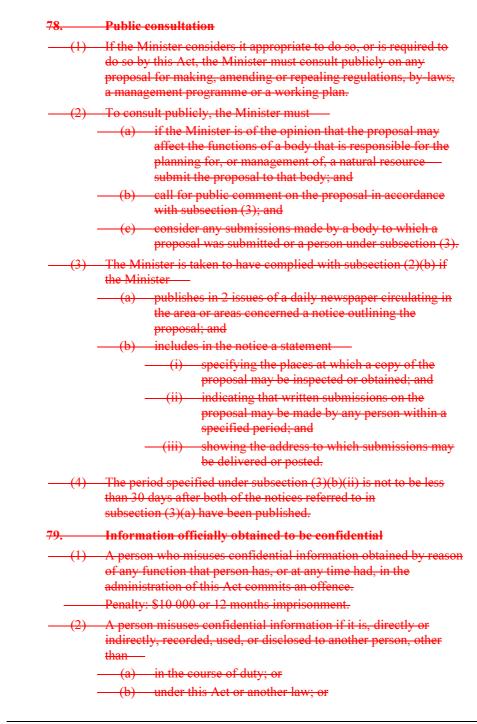


182.	Section 71 amended
	Section 71(2)(c) is amended by deleting "Commission or a
	Management Authority on behalf of the Commission" and
	inserting instead —
	<u>"Minister"</u> .
183.	<u>Section 75 amended</u>
(1)	Section 75(1) is repealed and the following subsection is inserted instead
<u></u>	
(1)	In a prosecution or in other legal proceedings instituted under this Act, proof of the following is not required unless evidence is given to the contrary
	 (a) the particular or general appointment of a person by the CEO under this Act;
	(b) authorisation by the Minister of a person to make a
	complaint, prosecute an offence or otherwise institute proceedings under this Act.
(2)	
	control or management of the Commission or a Management Authority" and inserting instead
(3)	Section 75(3)(a) and (b) are amended by deleting "Commission or a Management Authority" and inserting instead
	<u>"Minister ".</u>
(4)	Section 75(4)(b) and (5) are amended by deleting "chief executive officer of the Commission" and inserting instead
	<u>" CEO ".</u>
(5)	Section 75(7) is amended by deleting ", the Chairman of a Management Authority, or the chief executive officer or other authorised officer of the Commission or of a Management
	Authority" and inserting instead
<u> </u>	
	-, the CEO, a delegate of the minister or CEO or a person otherwise authorised or appointed by the Minister or the CEO under this Act
(0)	<u>Section 75(8) is repealed.</u>

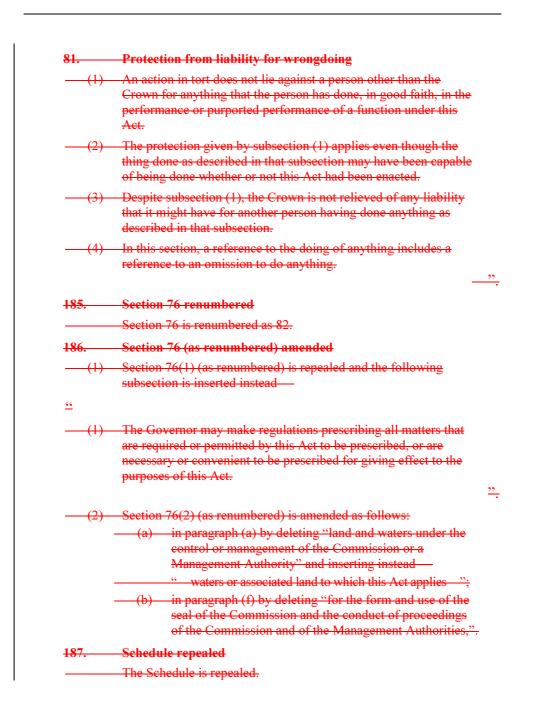


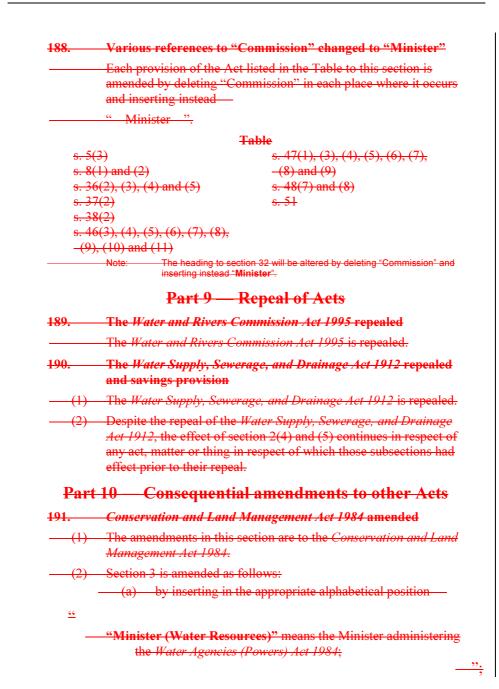


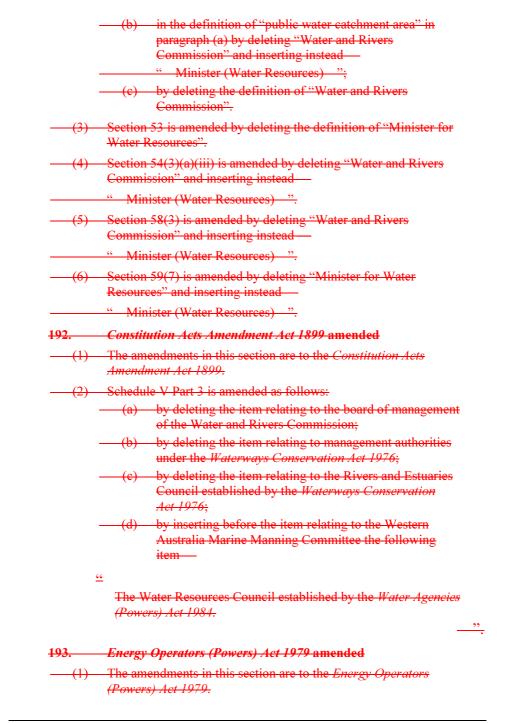
	(b) a Minister or employing authority to whom a power or duty is delegated under this section from exercising that power or performing that duty through an officer or agent.
(8)	In this section, "department", "employing authority" and "organisation" each have the meaning given to them in section 3 of the <i>Public Sector Management Act 1994</i> .
77.	- Delegation by the CEO
(1)	The CEO may delegate to
	(a) another officer of the Department; or
	 (b) the employing authority of another department or organisation; or
	— (c) an officer of another department or an employee of an organisation; or
	(d) any other person or body (whether incorporated or not),
	any power or duty of the CEO under another provision of this Act.
(2)	The delegation must be in writing signed by the CEO.
(3)	Except in the case of an officer of the Department, a power or duty can only be delegated to a person or body under subsection (1) if the person or body has been approved, or is in a class of person or body approved, by the Minister for the purposes of this section.
(4)	A person to whom a power or duty is delegated under subsection (1)(a), (c) or (d) cannot delegate that power or duty.
(5)	A delegation under subsection (1)(b) may expressly authorise the delegate to further delegate the power or duty but only to an officer or employee of the department or organisation.
(6)	A person or body exercising or performing a power or duty that has been delegated to the person or body under, or as authorised under, this section is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
(7)	- Nothing in this section limits the ability of
	 (a) the CEO to perform a function through an officer or agent; and
	 (b) an employing authority to whom a power or duty is delegated under this section from exercising that power or performing that duty through an officer or agent.
(8)	In this section, "department", "employing authority" and "organisation" each have the meaning given to them in section 3 of the Public Sector Management Act 1994.

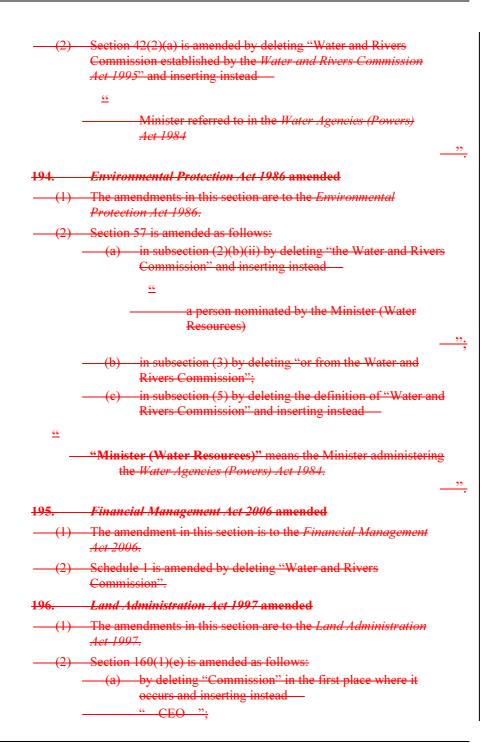


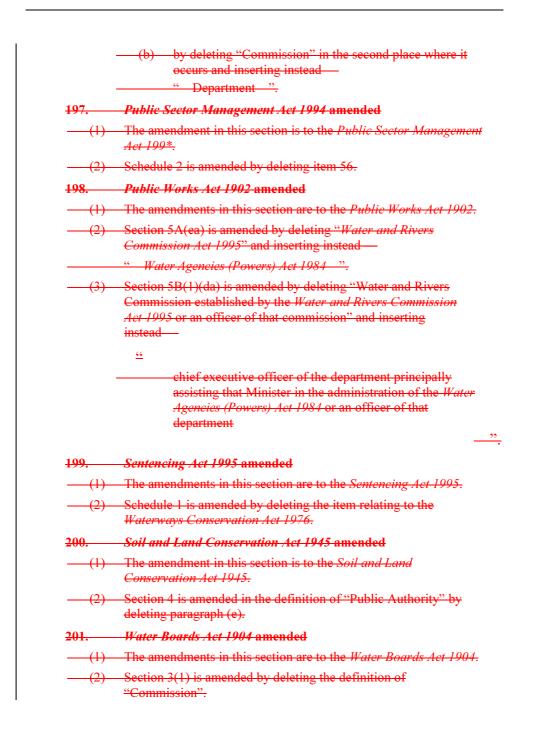
	(c) with the consent of the CEO; or
	(d) for the purposes of the investigation of any suspected
	offence or the conduct of proceedings against any person for an offence; or
	(e) with the consent of the person or persons to whom the information relates; or
	(f) in circumstance prescribed in the regulations.
(3)	In this section
(3)	"confidential information" means information that has not been
	made public and that
	(a) is by its nature confidential; or
	(b) was specified to be confidential by the person who
	supplied it; or
	(c) is known by the person using or disclosing it to be
	confidential.
80.	Annual reports
(1)	The Minister may delete from
	(a) a copy of a report under the <i>Financial Management</i>
	Act 2006 (and any accompanying document) that is to be laid before a House of Parliament or made public; or
	(b) any other document of the Department that is to be, or
	might be, made public,
	- information that is of a commercially sensitive nature, despite
	section 64 of the <i>Financial Management Act 2006</i> or an
	obligation, however arising, to make the document public.
	Subsection (1) does not apply to the extent to which
	(a) the information is already in the public domain; or
	(b) the information is summary or statistical information that
	could not reasonably be expected to enable particulars relating to any person to be ascertained; or
	 (c) disclosure of the information is authorised by each
	person or organisation to whom it relates.
(3)	A copy of a document from which any matter has been deleted
	must
	(a) contain a statement, at the place in the document where
	the matter was deleted, detailing the reasons for the deletion; and
	(b) be accompanied by an opinion from the Auditor General
	stating that the information deleted is commercially sensitive.











(3) Sections 36(1)(c) and (d) and 37 are amended by deleting "Commission" in each place where it occurs and inserting instead

<u>"Minister ".</u>

Compare 21 Dec 2007 [00-a0-04] / 01 Feb 2008 [00-b0-02] Extract from www.slp.wa.gov.au, see that website for further information

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<u>"</u>