



Western Australia

Western Australian Tourism Commission Act 1983

Reprinted as at 29 October 1999

Western Australia

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CONTENTS

Part I — Preliminary

1.	Short title	2
2.	Commencement	2
3.	Interpretation	2

Part II — Administration

Division 1 — Western Australian Tourism Commission

4.	The Commission	3
4A.	Board of Commissioners	3
5.	Composition of the Commission	4
6.	Acting members	5
7.	Remuneration of members	5
8.	Proceedings of the Board	6
9.	Matters not to be invalidated by vacancies, or defects in appointment	7
10.	Liability of members	7
11.	Pecuniary interests of members to be disclosed	7

Division 2 — Functions and powers of the Commission

13.	Functions	8
14.	Powers	9
15.	Formation of companies developing or operating tourist facilities	10
16.	Direction by the Minister	11

Contents

16A.	Minister to have access to information	12
	Division 2a — Corporate and operational plans	
16B.	Corporate plan	12
16C.	Operational plan	13
16D.	Board to comply with corporate and operational plans	13
	Division 3 — Employees and staff of the Commission.	
17.	Employees of the Commission	14
18.	Employment of current officers	15
19.	Employees transitional provisions	15
19A.	Status of employees who are members of Senior Executive Service	16
20.	Professional or technical assistance	16
21.	Use of staff and facilities of Departments and instrumentalities	16
22.	Secrecy	17
23.	Delegation by the Commission	17
	Part III — Financial provisions	
24.	Funds	19
25.	Power to invest	20
26.	Trust Account	20
27.	Borrowing by the Commission	21
28.	Application of <i>Financial Administration and Audit Act 1985</i>	22
29.	Review of Act	22
	Part IV — General	
30.	Regulations	23
	Part V — Transitional and repeal	
31.	Transitional	24
32.	References to Department of Tourism in other laws	25
33.	Repeal	25
34.	Duration of Act	25

Notes

Defined Terms



Western Australia

**Reprinted under the
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at 29 October 1999**

Western Australian Tourism Commission Act 1983

**An Act to make provision for the establishment of a Western
Australian Tourism Commission, to repeal the *Tourist Act 1973-1981*,
and for incidental and other purposes.**

Part I — Preliminary

1. Short title

This Act may be cited as the *Western Australian Tourism Commission Act 1983*¹.

2. Commencement

This Act shall come into operation on such day or days as is or are respectively fixed by proclamation¹.

3. Interpretation

In this Act, unless the contrary intention appears —

“**Board**” means the Board of Commissioners of the Commission;

“**chairman**” means the person appointed under section 5(1) to be the chairman of the Board;

“**chief executive officer**” means the person appointed as chief executive officer under section 17;

“**Commission**” means the Western Australian Tourism Commission established under section 4;

“**Commission Account**” means the Western Australian Tourism Commission Account established by section 24;

“**Department**” means the Department of Tourism continued under the *Public Sector Management Act 1994*;

“**local government**” means a local government or a regional local government;

“**member**” means member of the Board.

[Section 3 amended by No. 32 of 1994 s.19; No. 68 of 1994 s.4; No. 14 of 1996 s.4.]

Part II — Administration

Division 1 — Western Australian Tourism Commission

4. The Commission

- (1) For the purposes of this Act, there shall be established a body corporate by the name of the “Western Australian Tourism Commission”.
- (2) Under its corporate name the Commission —
 - (a) has perpetual succession and a common seal;
 - (b) may sue and be sued in any court;
 - (c) subject to this Act, is capable of doing and suffering all that bodies corporate may do and suffer.
- (3) The Commission is an agent of the Crown in right of the State.
- (4) Where in any judicial proceedings, whether under this Act or not, a document is produced bearing a seal purporting to be the common seal of the Commission the court or tribunal before which those proceedings are brought shall in the absence of proof to the contrary presume that —
 - (a) the seal is the common seal of the Commission; and
 - (b) the seal was duly affixed.
- (5) Regulations made under this Act may make provision as to the use of the common seal of the Commission in the State and elsewhere.

4A. Board of Commissioners

- (1) The Commission shall have a Board of Commissioners, appointed under section 5.
- (2) The Board is the governing body of the Commission with authority, in the name of the Commission, to exercise the

powers and perform the functions of the Commission under this Act or under any other written law.

[Section 4A inserted by No. 68 of 1994 s.5.]

5. Composition of the Commission

- (1) Subject to subsection (2), the Board shall consist of not more than 8 members appointed by the Governor of whom one shall be appointed by the Governor to be the chairman.
- (1a) The chief executive officer may be appointed by the Governor to be a member of the Board in addition to the members appointed under subsection (1).
- (1b) The Minister shall appoint one of the members appointed under subsection (1) to be the deputy chairman.
- (2) Subject to this Act —
 - (a) the chairman shall hold office for such period not exceeding 5 years; and
 - (b) each other member shall hold office for such period not exceeding 4 years,as is specified in the instrument of his appointment, and is eligible for reappointment.
- (3) The Minister may grant leave of absence to a member on such terms and conditions as the Minister determines.
- (4) The Governor may terminate the appointment of a member for inability, inefficiency or misbehaviour.
- (5) If a member —
 - (a) is or becomes an undischarged bankrupt or person whose property is subject to an order or arrangement under the laws relating to bankruptcy;
 - (b) has his appointment terminated by the Governor, pursuant to subsection (4);

- (c) is absent, except on leave duly granted by the Minister, from 3 consecutive meetings of the Board of which he has had notice; or
- (d) resigns his office by written notice addressed to the Minister,

the office of that member becomes vacant.

- (6) The Governor may fill any vacancies in the office of a member.
[Section 5 amended by No. 68 of 1994 s.6; No. 73 of 1994 s.4.]

6. Acting members

- (1) Where —
 - (a) a member is absent or temporarily incapable of fulfilling the duties of a member; or
 - (b) the office of a member is vacant and has not been filled in accordance with this Act,

the Minister may appoint a person to act in the place of that member during that absence or incapability, or until the vacancy is filled, as the case requires, and a person so appointed has, while the appointment subsists, all the duties, powers and entitlements of, and the protection given to, the member in whose place the person is appointed to act.

- (2) The appointment of a person as an acting member may be terminated at any time by the Minister.

7. Remuneration of members

- (1) The terms and conditions of service of, and the remuneration and allowances to be paid to, a member, shall be determined by the Minister after consultation with the Minister for Public Sector Management.
- (2) Acceptance of, or acting in, the office of a member shall not of itself render the provisions of Part 3 of the *Public Sector Management Act 1994* or any other Act applying to persons as

officers of the Public Service or employees of a State instrumentality applicable to that member or affect or prejudice the application to him of those provisions if they applied to him at the time of the acceptance of, or acting in, that office.

[Section 7 amended by No. 32 of 1994 s.19; No. 68 of 1994 s.7.]

8. Proceedings of the Board

- (1) The Board shall hold its meetings at such place on such days and at such intervals as the Board shall from time to time determine.
- (2) At any meeting of the Board —
 - (a) a majority of the members constitute a quorum;
 - (b) the chairman, or in his absence the deputy chairman, shall preside but where both are absent from the meeting the members may appoint one of their number to preside at that meeting;
 - (c) each member present is entitled to a deliberative vote; and
 - (d) where the votes cast on any question are equally divided the chairman, or, in his absence the deputy chairman or the presiding member in terms of paragraph (b), shall have a casting vote.
- (2a) Where, by reason of section 11(2) or (3), a member is not present at a meeting of the Board during consideration of a matter, but there would be a quorum if the member were present, the remaining members present constitute a quorum for the purpose of any deliberation or decision at that meeting in relation to that matter.
- (3) The Board shall cause accurate minutes to be kept of the proceedings at its meetings.
- (4) To the extent that it is not prescribed, the Board may determine its own procedure.

- (5) The Board may from time to time appoint committees of such members or such members and other persons, as it thinks fit and may discharge, alter, continue or reconstitute any committee so appointed.
- (6) Subject to the directions of the Board, each committee appointed under subsection (5) may determine its own procedures.

[Section 8 amended by No. 68 of 1994 s.8.]

9. Matters not to be invalidated by vacancies, or defects in appointment

No proceeding or act of the Board shall (if there is a quorum) be invalidated or illegal in consequence only of there being a vacancy in the number of members at the time of that proceeding or act, or in consequence of there being some defect in the appointment of a person purporting to be a member.

[Section 9 amended by No. 68 of 1994 s.9.]

10. Liability of members

A person who is or has been a member or acting member of the Board is not personally liable for anything done or omitted in good faith in, or in connection with, the exercise or purported exercise of any power conferred, or the carrying out of any duty imposed, on the Board by or under this Act.

[Section 10 amended by No. 68 of 1994 s.10.]

11. Pecuniary interests of members to be disclosed

- (1) Any member of the Board who has a direct or indirect pecuniary interest, which he has not previously disclosed pursuant to this section, in any matter —
 - (a) which is before a meeting of the Board at which he is present; or

- (b) on which he has advised the Board, whether or not he is present at the meeting where the matter is considered, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the fact and nature of his interest to the Board and the Board shall ensure that the information disclosed is recorded in the minutes.
- (2) Where a member discloses an interest under subsection (1) in any matter the Board may by resolution —
- (a) exclude that member from a meeting whilst that matter is under consideration;
- (b) prohibit that member from voting on any question with respect to that matter.
- (3) When the Board is considering whether to exclude a member from a meeting or prohibit a member from voting under subsection (2), that member shall not be present during any deliberations of, or any vote taken by, the Board for the purpose of making the decision.

[Section 11 amended by No. 68 of 1994 s.11.]

[12. Repealed by No. 68 of 1994 s.12.]

Division 2 — Functions and powers of the Commission

[Heading amended by No. 68 of 1994 s.13.]

13. Functions

The functions of the Commission are —

- (a) to promote or to support and co-ordinate the promotion of Western Australia as a holiday, event and convention destination and to do so within Australia and overseas;
- (b) to develop or to facilitate the development of new tourist facilities and to improve or facilitate the improvement of existing tourist facilities in Western Australia;

- (c) to develop or to facilitate the development of proposals for events and conventions;
- (d) to organize and administer or to assist in the organization and administration of events and conventions;
- (e) to promote tourism generally and to market travel; and
- (f) to advise the Minister on any matter relating to tourism or travel within Western Australia that is referred to the Commission by the Minister.

[Section 13 inserted by No. 68 of 1994 s.14.]

14. Powers

- (1) The Commission may do all things necessary or convenient to be done for or in connection with the performance of its functions.
- (2) Without limiting subsection (1), the Commission may, for the purpose of performing any function —
 - (a) acquire, hold, manage, improve, develop and dispose of any real or personal property in Western Australia or elsewhere;
 - (b) open and maintain accounts at a bank approved by the Treasurer;
 - (c) liaise with any person, local government, public authority or department or instrumentality of the Commonwealth government or the government of any other place;
 - (d) enter into any contract or arrangement;
 - (e) act as an agent for any person engaged in the provision of travel or tourist facilities;
 - (f) appoint agents in Western Australia and elsewhere;
 - (g) provide travel and tourism information services;
 - (h) demand and receive fees, retainers or commissions;

- (i) undertake research and investigation; and
 - (j) make grants or, upon such terms and conditions as are approved by the Treasurer, make loans or provide guarantees to any person or to a local government or a public authority.
- (3) In this section, “**public authority**” means a Minister of the Crown in right of the State, Government department, State instrumentality, State public utility and any other person or body, whether corporate or not, who or which, under the authority of any written law, administers or carries on for the benefit of the State, a social service or public utility.

[Section 14 inserted by No. 68 of 1994 s.14; amended by No. 14 of 1996 s.4.]

15. Formation of companies developing or operating tourist facilities

- (1) The Commission may, with the approval of the Minister and of the Treasurer, for the purpose of developing and operating tourist facilities in Western Australia or organizing and administering events and conventions —
- (a) participate in any business arrangement;
 - (b) acquire, hold and dispose of shares, units or other interests in any business arrangement; and
 - (c) exercise any right conferred upon the Commission to appoint a director of, or hold office in, a business arrangement.
- (2) In subsection (1) —
- “**business arrangement**” means a proprietary limited company, partnership or trust;
- “**participate**” includes form, promote, establish, enter into, manage, dissolve, wind up and do anything incidental to the doing of any of those things.

- (3) The Treasurer may, on the recommendation of the Commission, execute a guarantee in favour of any person for the purposes of this section.
- (4) A guarantee under subsection (3) may guarantee —
 - (a) the payment of any moneys and interest thereon owing by any person;
 - (b) the performance of an obligation undertaken by any person.
- (5) The provisions of section 27(5) shall apply to any guarantee under this section as if it were a guarantee under section 27.
- (6) The Treasurer is hereby authorized to charge to the Consolidated Fund, which to the necessary extent is appropriated accordingly, any liability arising out of a guarantee under this section and any money received or recovered by the Treasurer from the Commission or otherwise in respect of any amount so charged by the Treasurer shall be credited to the Consolidated Fund.

[Section 15 amended by No. 98 of 1985 s.3; No. 6 of 1993 s.11; No. 68 of 1994 s.15; No. 49 of 1996 s.64.]

16. Direction by the Minister

- (1) The Minister may from time to time give written directions to the Commission with respect to its functions and powers either generally or with respect to a particular matter, and the Commission shall give effect to those directions.
- (2) The text of any direction given under subsection (1) shall be included in the annual report submitted by the accountable authority of the Commission under section 66 of the *Financial Administration and Audit Act 1985*.

[Section 16 amended by No. 68 of 1994 s.16.]

16A. Minister to have access to information

- (1) The Minister is entitled to have information in the possession of the Commission and, if the information is in or on a document, to have, and make and retain copies of, that document.
- (2) For the purposes of subsection (1) the Minister may —
 - (a) request the Commission to provide information to the Minister;
 - (b) request the Commission to give the Minister access to information;
 - (c) for the purposes of paragraph (b) make use of the staff of the Commission to obtain the information and provide it to the Minister.
- (3) The Commission is to comply with a request under subsection (2) and the Commission is to make its staff and facilities available to the Minister for the purposes of paragraph (c) of that subsection.
- (4) In this section —

“document” includes any tape, disc or other device or medium on which information is recorded or stored;

“information” means information specified, or of a description specified, by the Minister that relates to the functions of the Commission.

[Section 16A inserted by No. 68 of 1994 s.17.]

Division 2a — Corporate and operational plans

[Heading inserted by No. 68 of 1994 s.18.]

16B. Corporate plan

- (1) The Board shall, by 31 July each year, prepare a corporate plan for the Commission for the financial year and may review and revise that plan at any time.

- (2) A corporate plan shall include —
 - (a) a statement of the objectives of the Commission;
 - (b) a statement of the policies and strategies that the Board intends to adopt in order to achieve the Commission's objectives; and
 - (c) an assessment of the outlook for tourism to and within Western Australia for the next 4 financial years.
- (3) A corporate plan, and a revision of a corporate plan, shall be submitted to the Minister as soon as possible after it is prepared.
- (4) When preparing a corporate plan the Board shall consult with such tourism bodies as the Board considers relevant.

[Section 16B inserted by No. 68 of 1994 s.18.]

16C. Operational plan

- (1) When the Board is preparing a corporate plan it shall prepare an operational plan for the financial year to which the corporate plan relates.
- (2) An operational plan for a financial year shall —
 - (a) contain an estimate of the Commission's income and expenditure for that financial year; and
 - (b) specify —
 - (i) the programmes that the Board proposes the Commission will carry out; and
 - (ii) the resources that the Board proposes to allocate to each programme.

[Section 16C inserted by No. 68 of 1994 s.18.]

16D. Board to comply with corporate and operational plans

To the extent that it is practicable to do so, the Board shall ensure that the performance of the Commission's functions and the exercise of the Commission's powers is consistent with, and

designed to give effect to, the current corporate plan and the applicable operational plan.

[Section 16D inserted by No. 68 of 1994 s.18.]

Division 3 — Employees and staff of the Commission.

17. Employees of the Commission

- (1) Subject to this Act, the Commission may, from time to time, employ a chief executive officer and such other persons as it considers necessary to enable the Commission to carry out its objects.
- (2) The chief executive officer shall conduct the affairs of the Commission, acting in accordance with any policies determined, and any directions given, by the Board.
- (3) The Board shall not appoint a member as the chief executive officer.
- (3a) Subject to the *Salaries and Allowances Act 1975*, the chief executive officer shall be paid such remuneration and allowances, and holds office on such terms and conditions, as are determined by the Board after consultation with the Minister for Public Sector Management.
- (3b) The chairman may appoint a person, other than a member of the Board, to act as chief executive officer —
 - (a) during a vacancy in the office of chief executive officer; or
 - (b) during any period when the chief executive officer is absent from duty or from Western Australia or is, for any other reason, unable to perform the duties of the office.
- (4) Subject to any relevant award under the *Industrial Arbitration Act 1979* or any other Act, the Commission may, after consultation with the Minister for Public Sector Management,

determine the remuneration and other terms and conditions of service of its employees, other than the chief executive officer.

- (5) The Board may, from time to time, after consultation with the Minister for Public Sector Management classify the positions to be held by employees of the Commission and define the duties to be performed by the respective holders of those positions.
- (6) Part 3 of the *Public Sector Management Act 1994* does not apply to or in relation to an employee of the Commission.

[Section 17 amended by No. 32 of 1994 s.19; No. 68 of 1994 s.19.]

18. Employment of current officers

- (1) A person who was immediately prior to the commencement of this section an officer within the meaning of the *Public Service Act 1978*² holding a position in the Department shall be entitled to be employed pursuant to the provisions of this Act in an office with a remuneration corresponding with or higher than that which he received in the position that he held immediately prior to the commencement of this section.
- (2) A person who becomes an employee of the Commission pursuant to subsection (1) shall, subject to a suitable vacancy being available, be entitled to be reappointed by the Public Service Board³ at the termination of his employment with the Commission, to an office in the Public Service with a classification and remuneration corresponding with that of the office which he last held in the Public Service.

19. Employees transitional provisions

- (1) Where an officer of the Public Service becomes an employee of the Commission he is entitled to retain all his existing and accruing rights (including any rights under the *Superannuation and Family Benefits Act 1938*) as if his service as an employee of the Commission were a continuation of his service as an officer of the Public Service.

- (2) Where a person ceases to be an employee of the Commission and becomes an officer of the Public Service his service as an employee of the Commission shall be regarded as service in the Public Service for the purposes of determining his rights as an officer of the Public Service and for the purposes of the *Superannuation and Family Benefits Act 1938*.
- (3) For the purposes of the *Superannuation and Family Benefits Act 1938* the Commission is hereby declared to be a “department” within the meaning of that Act.

19A. Status of employees who are members of Senior Executive Service

Despite sections 17, 18 and 19, to the extent that there is, in the case of a person who is appointed chief executive officer or other employee and who is a member of the Senior Executive Service within the meaning of the *Public Sector Management Act 1994*, an inconsistency between this Act and that Act, that Act shall prevail.

[Section 19A inserted by No. 68 of 1994 s.20.]

20. Professional or technical assistance

The Commission may engage persons on a casual basis or under contract for services to provide professional, technical or other assistance.

21. Use of staff and facilities of departments and instrumentalities

The Commission may by arrangement with the relevant employing authority within the meaning of the *Public Sector Management Act 1994*, make use, either full-time or part-time, of —

- (a) the services of any officer or employee employed in the Public Service of the State or in a State instrumentality

or otherwise in the service of the Crown in right of the State; or

- (b) any facilities of a department of the Public Service of the State or of a State instrumentality.

[Section 21 amended by No. 32 of 1994 s.19; No. 68 of 1994 s.21.]

22. Secrecy

- (1) This section applies to every person who is or has been a member, is acting or has acted in the office of a member, is or has been an employee of the Commission or is rendering or has rendered services to the Commission under section 20 or 21.
- (2) A person to whom this section applies shall not, either directly or indirectly, except in the performance of a function or duty under or in connection with this Act —
 - (a) make a record of, or divulge or communicate to any person, any information concerning the affairs of another person acquired by him by reason of his office or employment under or for the purposes of this Act; or
 - (b) produce to any person any document relating to the affairs of another person furnished for the purposes of this Act.

Penalty: \$5 000.

[Section 22 amended by No. 68 of 1994 s.22.]

23. Delegation by the Commission

- (1) The Commission may, by writing under its common seal, either generally or as otherwise provided by the instrument of delegation, delegate to any member or to any employee of the Commission, all or any of its powers, authorities, functions or duties under this Act, other than this power of delegation.
- (2) For the purposes of this Act, the exercise of a power or the performance of a duty by a delegate under this section shall be

Western Australian Tourism Commission Act 1983

Part II Administration

Division 3 Employees and staff of the Commission.

s. 23

deemed to be the exercise of the power or the performance of the duty by the Commission.

- (3) A delegation under this section may be made to a specified person or to persons of a specified class, or may be made to the holder or holders for the time being of a specified office or class of offices.
- (4) A delegation under this section may —
 - (a) be made subject to such conditions, qualifications and exceptions as are set out in the instrument of delegation;
 - (b) be revoked or varied by instrument in writing under the common seal of the Commission.
- (5) The Commission may exercise a power or perform a duty notwithstanding that it has delegated its exercise or performance under this section.

[Section 23 amended by No. 68 of 1994 s.23.]

Part III — Financial provisions

24. Funds

- (1) The funds available for the purpose of enabling the Commission to carry out its objects and perform its functions under this Act consist of —
 - (a) moneys from time to time appropriated by Parliament for the purposes of this Act;
 - (b) all moneys received by the Commission for services provided under the authority of this Act;
 - (c) all moneys received by the Commission for the purposes of this Act;
 - (d) any moneys received by the Commission in repayment of any loan or part thereof authorized to be made under section 14 and interest thereon;
 - (e) any other moneys received by the Commission, except moneys received and held on behalf of any person in its capacity as a travel agent.
- (2) The funds referred to in subsection (1) shall be paid into, and be placed to the credit of, an account at a bank within the State approved by the Treasurer, to be called the “Western Australian Tourism Commission Account”.
- (3) The Commission is authorized to pay moneys out of the Commission Account —
 - (a) in payment of all costs and expenses incurred by the Commission for the purpose of giving effect to this Act;
 - (b) in the repayment of moneys borrowed by the Commission or the Department and interest thereon;
 - (c) in the repayment of money to be credited to the Consolidated Fund; or
 - (d) in any other way authorized by this Act.

s. 25

- (4) Moneys standing to the credit of the Commission Account shall be applied by the Commission only for the purposes of this Act.
[Section 24 amended by No. 98 of 1985 s.3; No. 6 of 1993 ss.11 and 14(7); No. 49 of 1996 s.64.]

25. Power to invest

Any moneys standing to the credit of the Commission Account which are not immediately required for the purposes of this Act may, with the approval of the Treasurer be invested in any manner in which moneys standing to the credit of the Public Bank Account may be invested under the *Financial Administration and Audit Act 1985*.

[Section 25 amended by No. 98 of 1985 s.3.]

26. Trust Account

- (1) The Commission shall establish and at all times maintain in accordance with this Act an account at a bank within the State approved by the Treasurer, to be called the "Western Australian Tourism Commission Booking Account".
- (2) The Commission shall credit to the Booking Account all moneys received or held on behalf of any person by the Commission in its capacity as a travel agent.
- (3) The Commission shall pay moneys withdrawn from the Booking Account to the person or persons lawfully entitled or authorized to receive them.
- (4) All moneys paid into the Booking Account shall be accounted for separately from the Commission Account.
- (5) Any moneys standing to the credit of the Booking Account may be invested in any manner in which moneys standing to the credit of the Public Bank Account may be invested under the *Financial Administration and Audit Act 1985* and any revenue earned from that investment is to be placed to the credit of the Commission Account.

[Section 26 amended by No. 68 of 1994 s.24.]

27. Borrowing by the Commission

- (1) Subject to this Act the Commission may —
- (a) borrow by way of loan, advance or overdraft such moneys;
 - (b) obtain and provide such credit;
 - (c) pay such commission or brokerage; and
 - (d) give, take or arrange such security,
- as it thinks necessary from time to time for carrying out its objects.
- (2) A loan, advance or overdraft under this section may only be made with the prior approval of the Treasurer and upon such terms and conditions as the Treasurer approves.
- (3) Any moneys borrowed by the Commission 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 the moneys so borrowed shall not in any one year exceed in the aggregate such amount as the Treasurer approves.
- (4) The Treasurer may, in the name and on behalf of the Crown in right of the State, guarantee repayment of the principal moneys and interest thereon in respect of moneys borrowed by the Commission under this section, and any liability of the Crown arising out of the guarantee is to be charged to the Consolidated Fund, which to the necessary extent is appropriated accordingly.
- (5) A guarantee under this section shall be in such form and subject to such terms and conditions as the Treasurer determines and, without limiting the generality of the foregoing, shall be subject to a condition that the lender shall not, without the consent in writing of the Treasurer, assign or encumber the benefit of the guarantee.

[Section 27 amended by No. 98 of 1985 s.3; No. 6 of 1993 s.11; No. 49 of 1996 s.64.]

s. 28

28. Application of *Financial Administration and Audit Act 1985*

The provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Commission and its operations.

[Section 28 inserted by No. 98 of 1985 s.3.]

29. Review of Act

- (1) The Minister shall carry out a review of the operation and effectiveness of this Act as soon as is practicable after the expiration of 5 years from the commencement of the *Western Australian Tourism Commission Amendment Act 1994*¹ and in the course of that review the Minister shall consider and have regard to —
 - (a) the effectiveness of the operations of the Commission;
 - (b) the need for the continuation of the functions of the Commission; and
 - (c) such other matters as appear to be relevant to the operation and effectiveness of this Act.
- (2) The Minister shall prepare a report based on the 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.

[Section 29 inserted by No. 68 of 1994 s.25.]

Part IV — General

30. Regulations

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.

Part V — Transitional and repeal

31. Transitional

- (1) On and from the day upon which this section comes into operation —
 - (a) the Department shall cease to exist and, subject to this Act all functions, powers, authorities and duties being exercised or performed immediately prior to that date by the Department shall be exercised and performed by the Commission;
 - (b) all premises occupied by or on behalf of the Department immediately prior to that day for or in connection with the conduct of the business of the Department shall be occupied by the Commission for or in connection with the conduct of its business and activities authorized by this Act;
 - (c) all assets (including furniture, fittings and other Crown property but excluding land) used by the Department shall be assigned to and taken over by the Commission;
 - (d) all liabilities incurred by or on behalf of the Department shall be transferred to and be borne and discharged by the Commission;
 - (e) all charges, fees and moneys due, payable or leviable by or on behalf of the Department shall be paid to and may be received, levied and recovered by the Commission;
 - (f) all contracts made by the Department or by any Minister of the Crown on behalf of the Department shall have effect as contracts by and with the Commission and may be enforced by and against the Commission accordingly;
 - (g) such books, documents, records and papers used by or on behalf of the Department as the Minister determines shall be handed over to the Commission.

- (2) Not later than one month after the coming into operation of this section the Commission and the Minister for Works shall agree upon the terms and conditions on which the Commission shall —
- (a) occupy the premises referred to in subsection (1)(b); and
 - (b) take an assignment of the assets referred to in subsection (1)(c),

and in default of agreement the terms and conditions of occupancy and assignment shall be as the Minister for Works determines.

32. References to Department of Tourism in other laws

- (1) A reference in any Act or regulation to the Department shall, unless the context otherwise requires, be read and construed as a reference to the Commission.
- (2) A reference in any Act or regulation to the Director of Tourism or the Permanent Head of the Department shall, unless the context otherwise requires, be read and construed as a reference to the chairman.

33. Repeal

The *Tourist Act 1973-1981* is hereby repealed.

34. Duration of Act

- (1) This Act shall, subject to this section, continue in operation until 31 December 2004 and no longer.
- (2) On the expiry of this Act by virtue of subsection (1) —
 - (a) all real and personal property and every right or interest that immediately before that expiry was vested in the Commission shall without any transfer or assignment pass to and become vested in the Minister;

s. 34

- (b) all rights, liabilities and obligations of the Commission that were in existence immediately before that expiry shall devolve on the Minister;
- (c) all contracts, agreements and undertakings made by and with the Commission and having effect immediately before that expiry shall have effect as contracts, agreements and undertakings made by and with the Minister and may be enforced by or against the Minister accordingly;
- (d) any legal or other proceedings or any remedies that might, but for this section, have been commenced or continued or available by or against or to the Commission may be commenced or continued, or shall be available, by or against or to the Minister, as the case requires,

for the purpose of the winding up of the affairs of the Commission and the Minister shall as soon as practicable after that expiry wind up the affairs of the Commission.

- (3) For the purposes of this section a reference to the Commission in —
 - (a) a law of the State in force; or
 - (b) a document in existence,

immediately before the expiry of this Act by virtue of subsection (1) shall after that expiry be construed as a reference to the Minister.

- (4) Nothing in this section affects or limits any guarantee —
 - (a) given by the Treasurer under section 27 in respect of any money borrowed by the Commission under this Act; and
 - (b) in force immediately before the expiry of this Act by virtue of subsection (1),

and section 27 shall continue to apply to that guarantee while that guarantee remains in force as if this section had not come into operation.

[Section 34 amended by No. 44 of 1993 s.4; No. 68 of 1994 s.26.]

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Notes

¹ This reprint is a compilation as at 29 October 1999 of the *Western Australian Tourism Commission Act 1983* and includes all amendments effected by the other Acts referred to in the following Table.

Table of Acts

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Western Australian Tourism Commission Act 1983</i>	57 of 1983	13 December 1983	1 January 1984 (see section 2 and <i>Gazette</i> 30 December 1983 p.5017)	
<i>Acts Amendment (Financial Administration and Audit) Act 1985</i> , section 3	98 of 1985	4 December 1985	1 July 1986 (see section 2 and <i>Gazette</i> 30 June 1986 p.2255)	
<i>Acts Amendment (Public Service) Act 1987</i> , section 32	113 of 1987	31 December 1987	16 March 1988 (see section 2 and <i>Gazette</i> 16 March 1988 p.813)	
<i>Financial Administration Legislation Amendment Act 1993</i> , Part 4	6 of 1993	27 August 1993	Deemed operative 1 July 1993 (see section 2(1))	
<i>Western Australian Tourism Commission Amendment Act 1993</i>	44 of 1993	20 December 1993	20 December 1993 (see section 2)	
<i>Acts Amendment (Public Sector Management) Act 1994</i> , section 19	32 of 1994	29 June 1994	1 October 1994 (see section 2 and <i>Gazette</i> 30 September 1994 p.4948)	

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Western Australian Tourism Commission Amendment Act 1994</i>	68 of 1994	9 December 1994	31 December 1994 (see section 2 and <i>Gazette</i> 30 December 1994 p.7215)	
<i>Statutes (Repeals and Minor Amendments) Act 1994, section 4</i>	73 of 1994	9 December 1994	9 December 1994	
<i>Local Government (Consequential Amendments) Act 1996, section 4</i>	14 of 1996	28 June 1996	1 July 1996 (see section 2)	
<i>Financial Legislation Amendment Act 1996, section 64</i>	49 of 1996	25 October 1996	25 October 1996 (see section 2(1))	

² Under section 112(1) of the *Public Sector Management Act 1994* (No. 31 of 1994) references to the *Public Service Act 1978* may be construed as references to the *Public Sector Management Act 1994*.

³ Under section 112(2) of the *Public Sector Management Act 1994* (No. 31 of 1994) references to the Public Service Board may be construed as references to the Minister for Public Sector Management.

Defined Terms

Defined Terms

[This is a list of terms defined and the provisions where they are defined.

The list is not part of the law.]

Defined Term	Provision(s)
Board.....	3
business arrangement	15(2)
chairman.....	3
chief executive officer.....	3
Commission	3
Commission Account.....	3
Department.....	3
document.....	16A(4)
information.....	16A(4)
local government.....	3
member	3
participate.....	15(2)
public authority	14(3)