



Western Australia

Metropolitan Arterial Drainage Act 1982

As at 18 Nov 2013

Version 02-e0-03

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Metropolitan Arterial Drainage Act 1982

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Western Australia

Metropolitan Arterial Drainage Act 1982

An Act to provide for an Arterial Drainage Scheme and the declaration of drainage courses.

[Long title inserted by No. 25 of 2012 s. 21.]

Part I — Preliminary

[Division heading deleted by No. 110 of 1985 s. 15.]

1. Short title

This Act may be cited as the *Metropolitan Arterial Drainage Act 1982*¹.

[Section 1 amended by No. 25 of 2012 s. 22.]

2. Commencement

The provisions of this Act shall come into operation on such day or days as is or are respectively fixed by proclamation¹.

[3. Deleted by No. 25 of 1985 s. 30.]

4. Terms used in this Act

(1) In this Act, unless the context otherwise requires —

arterial drain means an existing or proposed drainage asset classified as an arterial drain in the Arterial Drainage Scheme;

Arterial Drainage Scheme or ***Scheme*** means the scheme of that name compiled pursuant to Part IX;

drainage assets has the meaning given in the *Water Services Act 2012* section 108;

drainage course means an area declared to be a drainage course pursuant to section 106;

former Authority means the Water Authority of Western Australia under the *Water Agencies (Powers) Act 1984*² before the commencement of Part 2 of the *Water Agencies Restructure (Transitional and Consequential Provisions) Act 1995*³;

former Commission means the Water and Rivers Commission established by section 4 of the *Water and Rivers Commission Act 1995*⁴ and in existence before the repeal of that Act;

former Metropolitan Authority means the Metropolitan Water Authority under this Act before the commencement of

section 36 of the *Acts Amendment and Repeal (Water Authorities) Act 1985*¹;

licensee has the meaning given in the *Water Services Act 2012* section 3(1).

- (1A) In this Act, unless the context otherwise requires, terms not otherwise assigned a meaning under this section but referred to in section 3 of the *Water Agencies (Powers) Act 1984* as having a meaning assigned for the purposes of a relevant Act have that meaning in and for the purposes of this Act.

[(2) *deleted*]

[Section 4 amended by No. 101 of 1982 s. 4; No. 25 of 1985 s. 31; No. 110 of 1985 s. 16; No. 24 of 1987 s. 12; No. 73 of 1995 s. 82 and 93; No. 14 of 1996 s. 4; No. 67 of 2003 s. 62; No. 55 of 2004 s. 753; No. 38 of 2007 s. 25; No. 19 of 2010 s. 51; No. 25 of 2012 s. 23.]

5. Relation to the Metropolitan Water Supply, Sewerage, and Drainage Act 1909 and references to the former Board etc.

- (1) The provisions of this Act are incorporated with, and may be read as one with the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909*, and a reference to “this Act” shall be read and construed as including a reference to that Act and to by-laws made under that Act or the *Water Agencies (Powers) Act 1984*.
- (2) Any reference to the former Board or the former Metropolitan Authority made —
- (a) in a written law passed or made;
 - (b) in any document or instrument made, executed, entered into or done; or
 - (c) otherwise,

before the coming into operation of this subsection shall, unless the context is such that it would be incorrect or inappropriate so

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to do, be read and construed as a reference to the former Commission or the Corporation as the case requires.

[Section 5 amended by No. 25 of 1985 s. 32; No. 73 of 1995 s. 83 and 93; No. 67 of 2003 s. 62; No. 38 of 2007 s. 26.]

[Division heading repealed by No. 110 of 1985 s. 15.]

[6. Deleted by No. 25 of 1985 s. 33.]

[7. Deleted by No. 25 of 1985 s. 34.]

Part II — Administration

[Division heading deleted by No. 25 of 1985 s. 35.]

[8. Deleted by No. 73 of 1995 s. 84.]

[9. Deleted by No. 25 of 1985 s. 37.]

[10. Deleted by No. 73 of 1995 s. 84.]

[11. Deleted by No. 25 of 1985 s. 39.]

[Division heading deleted by No. 25 of 1985 s. 35.]

[12-17. Deleted by No. 25 of 1985 s. 39.]

[18. Deleted by No. 73 of 1995 s. 84.]

19. Exemption from personal liability

A person who is or has been a member, acting member or delegate of the former Commission, the former Board, the former Metropolitan Authority, the Board of the former Metropolitan Authority or the former Authority is not personally liable in civil proceedings, 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, under this Act or the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909*.

[Section 19 amended by No. 101 of 1982 s. 7; No. 25 of 1985 s. 41; No. 73 of 1995 s. 85; No. 38 of 2007 s. 27.]

[Division heading deleted by No. 25 of 1985 s. 35.]

[20-25. Deleted by No. 25 of 1985 s. 42.]

[Division heading deleted by No. 25 of 1985 s. 35.]

[26-27. Deleted by No. 25 of 1985 s. 42.]

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[28. Deleted by No. 73 of 1995 s. 86.]

[Division heading deleted by No. 25 of 1985 s. 35.]

[29, 30. Deleted by No. 25 of 1985 s. 45.]

[Division heading deleted by No. 25 of 1985 s. 35.]

[31-34. Repealed by No. 25 of 1985 s. 45.]

[Part III (s. 35-38) deleted by No. 25 of 1985 s. 45.]

*[Part IV (s. 39-41) deleted by No. 24 of 1987 s. 15;
(s. 42) deleted by No. 25 of 1985 s. 46;
(s. 43-45) deleted by No. 25 of 2012 s. 24.]*

[Part V (s. 46-64) deleted by No. 25 of 1985 s. 47.]

[Part VI (s. 65-68) deleted by No. 25 of 1985 s. 48.]

[Part VII (s. 69-76) deleted by No. 25 of 1985 s. 49.]

[Part VIII (s. 77-97) deleted by No. 25 of 1985 s. 50.]

Part IX — Drainage

Division 1 — Arterial Drainage Scheme

[Heading inserted by No. 101 of 1982 s. 15.]

98. The Scheme

- (1) The Minister is charged with ensuring that a scheme is compiled, to be known as the Arterial Drainage Scheme, whereby practical and economic provision is made, in consultation with all relevant licensees, for the planning, managing, maintaining, financing, extending and improving of drainage services to serve the Area.
- (2) The Minister shall prepare, and from time to time review and amend, plans which together will ultimately illustrate the Arterial Drainage Scheme in such a manner as to show —
 - (a) drainage catchments; and
 - (b) lakes, swamps, wetlands, watercourses and other features related to natural drainage; and
 - (c) areas of existing, proposed or potential development; and
 - (d) the existing drainage system — differentiating as to the kinds of drainage; and
 - (e) the proposed drainage system — differentiating as to the proposed kinds of drainage and the persons or bodies to be liable for the provision and maintenance of that drainage; and
 - (f) land which, in the opinion of the Minister —
 - (i) benefits from drainage; and
 - (ii) contributes to the need for drainage;and
 - (g) any other matter or thing prescribed by regulations made under the *Water Agencies (Powers) Act 1984* for the purposes of this section.

(3) The Arterial Drainage Scheme shall make provision for —

- (a) the classification of drainage assets as arterial drains;
and

[(b), (c) deleted]

- (d) drainage courses,

and may make provision for utilising the potential of the Scheme to conserve water, to re-charge aquifers, or in any other manner, in the best interests of the community and for the management of the natural environment.

(4) In planning and implementing the Scheme the Minister shall consult and collaborate with all relevant licensees and the local governments of the districts which are affected, and, in so far as that is practicable, shall consult with the respective authorities or bodies having responsibility for health, planning, roads, railways, conservation and environmental protection, and waterways, having regard to their statutory duties and practical requirements.

(5) In preparing the Scheme, the Minister shall take into account environmental, conservation and management considerations, and the financial implications as to the provision and maintenance of drainage assets and the Scheme is to be prepared in such a manner as to ultimately make provision for the division of responsibilities, by agreement, as between the Minister, relevant licensees, local governments and other persons.

[Section 98 inserted by No. 101 of 1982 s. 15; amended by No. 73 of 1995 s. 87; No. 14 of 1996 s. 4; No. 38 of 2007 s. 28; No. 25 of 2012 s. 25.]

Division 2 — Arterial drains

99. Management of arterial drains

(1) The Minister has responsibility for the over-all administration of the system of arterial drainage and of arterial drains comprised

within the Scheme, notwithstanding that the control, management and care of any particular arterial drain or any portion of an arterial drain may for the time being be vested in some other person or body.

[(2) deleted]

- (3) This Act does not vest in the Minister the control, management or care of an arterial drain or proposed arterial drain.
- (4) The Minister shall —
 - (a) determine what drainage assets shall be designated arterial drains, and what proposed drainage assets should be designated as arterial drains, and assign names to them respectively;
 - (b) delineate the point of commencement, route and point of termination of arterial drains on a specified plan or plans;
 - (c) indicate the nature and size of the arterial drains;
 - (d) notify in writing, accompanied by a copy of a relevant plan, all relevant licensees and the local government of each district in which an arterial drain or proposed arterial drain is, or is to be, situated of the designation of that drainage asset as an arterial drain;
 - (e) invite submissions from the licensees and the local governments affected within such reasonable time as is specified in the notice of designation; and
 - (f) review, and, as may be necessary, amend from time to time the designations made.
- (5) In so far as the course of an arterial drain or proposed arterial drain may traverse more than one district, and may affect the community or the environment, the Minister shall endeavour to evolve and coordinate measures to ensure the most practicable manner of control, management and care of the drain within the concept of an integrated scheme of drainage.

[Section 99 inserted by No. 101 of 1982 s. 15; amended by No. 73 of 1995 s. 88; No. 14 of 1996 s. 4; No. 38 of 2007 s. 29; No. 25 of 2012 s. 26.]

[Division 3 (s. 100-102) deleted by No. 25 of 2012 s. 27.]

[Division 4 (s. 103-105) deleted by No. 25 of 2012 s. 27.]

Division 5 — Drainage courses

106. Declaration of a drainage course

- (1) In relation to any drainage asset or proposed drainage asset, the Minister may determine that an area of land sufficient to contain the drainage asset should be declared to be a drainage course.
- (2) On determining the point of commencement, route, extent, dimensions, and point of termination of a proposed drainage course and assigning a name to it, the Minister shall cause the lands comprising the drainage course, in sufficient detail to enable the boundaries to be ascertained, to be delineated on a specified plan and shall —
 - (a) serve notice in writing, accompanied by a copy of or relevant extract from that specified plan, to be served on all relevant licensees and the local government of each district in which the course is, or is to be, situated and (so far as is practicable) on each person who is an owner or is an occupier of land within the boundaries of that drainage course, of the proposal providing that objections and submissions in relation thereto may be made to the Minister within one month from the date of service of the notice; and
 - (b) cause an advertisement to be published in a newspaper circulating in the area affected by the proposal specifying the proposal in general terms and indicating in what manner and the times when, and places at which, further particulars can be ascertained, and, upon request, furnish those particulars; and

- (c) so far as is practicable, negotiate with all relevant licensees and any local government or person making an objection or submission, and modify the proposal accordingly.
- (3) The Minister shall cause to be published in the *Government Gazette* a notice —
- (a) declaring that as from the date specified in the notice the land within the boundaries described or referred to in the notice shall be a drainage course known by the name assigned in the notice; and
 - (b) containing a description of the boundaries sufficient to identify them or referring to descriptions whereby they can be ascertained; and
 - (c) specifying the plan on which the lands are delineated and stating where it may be inspected,
- and effect shall be given to that declaration.
- (4) The Minister may, by subsequent notice published in the *Government Gazette* in the manner required by subsection (3), vary any declaration made pursuant to this section.
- (5) The Minister may, by notice published in the *Government Gazette*, cancel any declaration made pursuant to this section in relation to any lands and thereupon the lands specified in that notice shall cease to be comprised within a drainage course.
- (6) The declaration of a drainage course —
- (a) shall be taken to be notice of the intention of the Minister that the land is liable to be utilised for arterial drainage; but
 - (b) does not thereby entitle any person to compensation from the Crown.

[Section 106 inserted by No. 101 of 1982 s. 15; amended by No. 73 of 1995 s. 90; No. 14 of 1996 s. 4; No. 38 of 2007 s. 30; No. 25 of 2012 s. 28.]

107. Development in drainage courses

[(1) deleted]

- (2) The Minister must inform a planning authority of the existence of a drainage course.
- (3) A planning authority shall have regard to the existence of a drainage course when considering whether any conditions should be imposed in relation to any development or subdivision.
- (4) In this section the terms *development* and *subdivision* have the same meaning as those terms have in and for the purposes of the *Water Services Act 2012* Part 5 Division 3.

[Section 107 inserted by No. 101 of 1982 s. 15; amended by No. 110 of 1985 s. 20; No. 73 of 1995 s. 91, 92 and 93; No. 38 of 2007 s. 31; No. 25 of 2012 s. 29.]

[108. *Deleted by No. 25 of 2012 s. 30.]*

[Part X (s. 109-112) deleted by No. 25 of 1985 s. 51.]

Notes

- ¹ This is a compilation of the *Metropolitan Arterial Drainage Act 1982* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Metropolitan Water Authority Act 1982</i> ⁹	36 of 1982	27 May 1982	1 Jul 1982 (see s. 2 and <i>Gazette</i> 25 Jun 1982 p. 2091)
<i>Metropolitan Water Authority Amendment Act 1982</i>	101 of 1982	24 Nov 1982	31 Dec 1982 (see s. 2 and <i>Gazette</i> 31 Dec 1982 p. 4969)
<i>Acts Amendment and Repeal (Water Authorities) Act 1985 Pt. IV</i>	25 of 1985	6 May 1985	1 Jul 1985 (see s. 2 and <i>Gazette</i> 7 Jun 1985 p. 1931)
<i>Acts Amendment (Water Authorities) Act 1985 Pt. III</i>	110 of 1985	17 Dec 1985	14 Mar 1986 (see s. 2 and <i>Gazette</i> 14 Mar 1986 p. 726)
<i>Acts Amendment (Water Authority Rates and Charges) Act 1987 Pt. II</i>	24 of 1987	25 Jun 1987	14 Jul 1987 (see s. 2 and <i>Gazette</i> 14 Jul 1987 p. 2647)
<i>Water Agencies Restructure (Transitional and Consequential Provisions) Act 1995 Pt. 6</i>	73 of 1995	27 Dec 1995	1 Jan 1996 (see s. 2(2) and <i>Gazette</i> 29 Dec 1995 p. 6291)
<i>Local Government (Consequential Amendments) Act 1996 s. 4</i>	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
Reprint of the <i>Metropolitan Water Authority Act 1982</i> as at 21 Jan 2000 (includes amendments listed above)			
<i>Economic Regulation Authority Act 2003 s. 62</i>	67 of 2003	5 Dec 2003	1 Jan 2004 (see s. 2 and <i>Gazette</i> 30 Dec 2003 p. 5723)
<i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 2 Div. 83</i> ^{6, 7}	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)

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Short title	Number and year	Assent	Commencement
<i>Water Resources Legislation Amendment Act 2007</i> Pt. 3 ⁸	38 of 2007	21 Dec 2007	1 Feb 2008 (see s. 2(2) and <i>Gazette</i> 31 Jan 2008 p. 251)
Reprint 2: The Metropolitan Water Authority Act 1982 as at 4 Jul 2008 (includes amendments listed above)			
<i>Standardisation of Formatting Act 2010</i> s. 51	19 of 2010	28 Jun 2010	11 Sep 2010 (see s. 2(b) and <i>Gazette</i> 10 Sep 2010 p. 4341)
<i>Water Services Legislation Amendment and Repeal Act 2012</i> Pt. 3	25 of 2012	3 Sep 2012	18 Nov 2013 (see s. 2(b) and <i>Gazette</i> 14 Nov 2013 p. 5028)

² Before the commencement of the *Water Agencies Restructure (Transitional and Consequential Provisions) Act 1995* Pt. 2 the *Water Agencies (Powers) Act 1984* was known as the *Water Authority Act 1984*. The short title of the *Water Authority Act 1984* was changed by the *Water Agencies Restructure (Transitional and Consequential Provisions) Act 1995* s. 7.

³ The *Water Agencies Restructure (Transitional and Consequential Provisions) Act 1995* Pt. 2 came into operation 1 Jan 1996.

⁴ The *Water and Rivers Commission Act 1995* was repealed by the *Water Resources Legislation Amendment Act 2007* s. 189 which came into operation 1 Feb 2008.

⁵ The *Metropolitan Water Supply, Sewerage, and Drainage Amendment Act (No. 3) 1982* came into operation 31 Dec 1982.

⁶ The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administrative Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.

⁷ The *State Administrative Tribunal Regulations 2004* r. 58 reads as follows:

“

58. Metropolitan Water Authority Act 1982

- (1) In this regulation —
commencement day means the day on which the *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Part 2 Division 83 comes into operation;
Corporation has the meaning given to that term in the MWA Act section 4(1);
the MWA Act means the *Metropolitan Water Authority Act 1982*.
- (2) If the Corporation receives, before the commencement day, a notice in accordance with the MWA Act section 43(10) (as in

force when the notice was received by the Corporation) but does not before the commencement day refer the relevant assessment referred to in the notice to a Land Valuation Tribunal, on and after the commencement day the Corporation must refer the relevant assessment to the State Administrative Tribunal for a review as if the notice were a notice served on the Corporation under the MWA Act section 43(10).

- (3) If the Corporation receives, before the commencement day, a notice in accordance with the MWA Act section 43(12) (as in force when the notice was received by the Corporation) but does not before the commencement day refer a decision referred to in the notice to a Land Valuation Tribunal as an appeal, on and after the commencement day the Corporation must refer the decision to refuse to extend time to the State Administrative Tribunal for a review as if the notice were a notice served on the Corporation under the MWA Act section 43(12).
- (4) If a notice has been given under the MWA Act section 43(9) before the commencement day, on or after the commencement day the notice is to be taken to refer to the time within which and the manner in which a review of the decision may be sought.

”.

⁸ The *Water Resources Legislation Amendment Act 2007* Pt. 11 deals with certain transitional issues some of which may be relevant for this Act.

⁹ Now known as the *Metropolitan Arterial Drainage Act 1982*; short title changed (see note under s. 1).

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)
arterial drain	4(1)
Arterial Drainage Scheme	4(1)
channel	4(1)
Corporation	4(1)
development	107(4)
drain	4(1)
drainage area	4(1)
drainage course	4(1)
drainage works	4(1)
former Authority	4(1)
former Commission	4(1)
former Metropolitan Authority	4(1)
main drain	4(1)
occupied	4(2)
owner	4(2)
Scheme	4(1)
subdivision	107(4)
underground water	4(1)
works	4(1)