

RAILWAYS

RB301

GOVERNMENT RAILWAYS ACT 1904

GOVERNMENT RAILWAYS AMENDMENT BY-LAWS 1995

Made by The Western Australian Government Railways Commission under section 23 of the Act and approved by the Lieutenant-Governor and deputy of the Governor in Executive Council.

Citation

1. These by-laws may be cited as the *Government Railways Amendment By-laws 1995*.

Principal by-law

2. In these by-laws by-law 54 of the *Government Railways By-laws** is referred to as the principal by-law.

[* *Published in Gazette of 5 December 1994 at p. 6393.*
For amendments to 22 November 1995 see 1994 Index to
Legislation of Western Australia, Table 4, p. 112.]

By-law 54 amended

3. The principal by-law is amended —
 - (a) in sub-by-law (1), by deleting “employed” and substituting the following —

“ working on or about Government railways ”;
 - (b) in sub-by-law (2), by deleting “a Government railway employee, that employee” and substituting the following —

“ a person working on or about Government railways,
that person ”;
 - (c) in sub-by-law (3), by deleting “employee” and substituting the following —

“ person working on or about Government railways ”;

and
 - (d) by repealing sub-by-law (4) and substituting the following sub-bylaws —

“

 - (4) The Commission may —
 - (a) establish procedures for training persons, other than employees of the Commission, so that persons who complete the training may be accredited by the Commission to work on or about Government railways;
 - (b) establish different levels of training and accreditation in relation to the performance of different duties;
 - (c) prohibit persons other than employees of the Commission from working on or about Government railways unless —
 - (i) those persons are accredited at the level appropriate to the duties they are to perform; or

- (ii) the Commission has, in writing, specified that the duties those persons are to perform do not require accreditation; and
- (d) cancel or suspend, for any period the Commission considers appropriate, the accreditation of any person.
- (5) Penalties for non-compliance with the rules set out in the Schedule to this by-law are one or more of the disciplinary actions set out in rule 3 of that Schedule.

Schedule amended

4. (1) Rule 1 of the Schedule to the principal by-law is amended —

- (a) by inserting in the appropriate alphabetical positions the following definitions —

“
 Accredited Person Any person who has been accredited in accordance with the procedures established under by-law 54 (4) whose accreditation has not been cancelled or suspended.

Commission Employee Any person employed by the Commission under a contract of employment.

and

- (b) by deleting the definition of “Employee” and substituting the following definition —

“
 Employee A Commission Employee or an Accredited Person who is working on or about Government railways.

(2) Rule 3 of the Schedule to the principal by-law is amended —

- (a) by deleting subrule (1) and substituting the following subrules —

“
 (1) Subject to subrule (6), the Commission may at any time —

- (a) dismiss a Commission Employee without notice; or
- (b) suspend a Commission Employee from duty and, after inquiry, dismiss that Commission Employee without notice; or
- (c) suspend a Commission Employee from duty as a disciplinary measure; or
- (d) reduce a Commission Employee to a lower grade; or
- (e) transfer a Commission Employee without payment of transfer expenses; or
- (f) fine a Commission Employee an amount not exceeding \$20.00; or

- (g) suspend the accreditation of an Accredited Person pending a Commission inquiry; or
- (h) suspend the accreditation of an Accredited Person for any period that the Commission considers appropriate as a disciplinary measure; or
- (i) cancel the accreditation of an Accredited Person.

(1a) Any of the actions referred to in subrule (1), as applicable to a Commission Employee or an Accredited Person, may be taken by the Commission if the employee concerned —

- (a) is under the influence of intoxicants or drugs that might impair the proper performance of the employee's duties; or
- (b) disobeys any lawful order given to the employee or fails to comply with these rules; or
- (c) is guilty of misconduct or is negligent in the performance of the employee's duties; or
- (d) is absent from duty without leave; or
- (e) is convicted of an offence.

”;

(b) in subrule (2), by deleting “an employee” and substituting the following —

“ a Commission Employee ”;

(c) in subrule (3), by deleting “employee” and substituting the following —

“ Commission Employee ”;

(d) in subrule (4), by deleting “an employee” and substituting the following —

“ a Commission Employee ”;

(e) by inserting after subrule (4) the following subrules —

“

(4a) An Accredited Person whose accreditation has been suspended or cancelled may appeal to the Commission in the manner approved by the Commission, and the Commission must then reconsider whether the suspension or cancellation is appropriate.

(4b) If an appeal under subrule (4a) is not resolved to the satisfaction of both parties within 28 days after the appeal is made, either party may appoint an independent arbitrator, who is acceptable to both parties, to resolve the appeal.

(4c) If the parties cannot agree on the arbitrator to be appointed, either party may request the the president of the Law Society of Western Australia to select an arbitrator and the arbitrator so selected is to be regarded as being acceptable to both parties.

(4d) On an appeal under subrule (4a) both parties must bear their own costs and one half of the costs of any arbitrator appointed under subrule (4b).

”;

- (f) in subrule (5) —
- (i) by deleting “an employee’s” and substituting the following —
 “ a Commission Employee’s ”;
- (ii) by inserting after “card,” the following —
 “ or an Accredited Person’s accreditation record ”;
 and
- (iii) in paragraph (b) by inserting after “hearing” the following —
 “
 or an appeal to the Commission under
 subrule (4a)
 ”;
- and
- (g) by inserting after subrule (5) the following subrule —
 “
 (6) To the extent that this rule applies to a
 Commission Employee, it is subject to any relevant
 award of The Western Australian Industrial Relations
 Commission or any relevant industrial agreement
 that may be in force.
 ”.

(3) Rule 4 (1) of the Schedule to the principal by-law is amended by inserting before “employee” the following —

“ Commission ”.

(4) Rule 59 (1) of the Schedule to the principal by-law is amended by deleting “proceeding” and substituting the following —

“ proceeding ”.

(5) The heading to Division 7 of Part 1 of the Schedule to the principal by-law is amended by deleting “DIVISON” and substituting the following —

“ DIVISION ”.

(6) Rule 75 (4) of the Schedule to the principal by-law is amended by deleting “necessary” and substituting the following —

“ necessary ”.

(7) Rule 157 (1) (c) (iv) of the Schedule to the principal by-law is amended by deleting “inadvertance” and substituting the following —

“ inadvertence ”.

(8) Rule 173 (dd) of the Schedule to the principal by-law is amended by deleting “despatch” and substituting the following —

“ dispatch ”.

(9) Rule 181 of the Schedule to the principal by-law is amended by deleting “mutiple” and substituting the following —

“ multiple ”.

(10) Rule 187 (2) of the Schedule to the principal by-law is amended by deleting “qualfied” and substituting the following —

“ qualified ”.

The Common Seal of Western Australian Government Railways Commission was hereunto affixed in the presence of—

R. DRABBLE, Commissioner.
S. RUSSELL, Secretary.

Approved by the Lieutenant-Governor and deputy of the Governor in Executive Council,
J. PRITCHARD, Clerk of the Council.