

Western Australia

Eastern Goldfields Transport Board Act 1984

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Eastern Goldfields Transport Board Act 1984

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Western Australia

Eastern Goldfields Transport Board Act 1984

An Act to preserve and continue the Eastern Goldfields Transport Board as the operator of certain passenger road transport services.

Part I — Preliminary

1. Short title

This Act may be cited as the *Eastern Goldfields Transport Board Act 1984*¹.

2. Commencement

This Act shall come into operation on a day to be fixed by proclamation¹.

3. Interpretation

(1) In this Act, unless the contrary intention appears —

“**Board**” means the Eastern Goldfields Transport Board preserved and continued by section 4;

“**member**” means a member of the Board and, except in section 7(1) and clauses 1(1), 1(2) and 3 of the Schedule, includes a deputy member appointed under clause 3 of the Schedule and a member of a committee appointed under clause 5 of the Schedule;

“**repealed Act**” means the Act repealed by section 37.

[(2) *repealed.*]

(3) For the purposes of this Act, a person does not have a direct or indirect pecuniary interest in an agreement to which the Board is a party if —

- (a) he has the interest as a director, manager or secretary of or as a member of and in common with other members of an incorporated company which has at least 20 members and which is a party to the agreement;

- (b) in the ordinary course of business and in good faith, he, or a company of which he is a director, manager, secretary or member, or a firm in which he is a partner —
 - (i) sells goods to, supplies services to, or does work for, the Board, or for any person who has entered into an agreement with the Board; or
 - (ii) uses any service provided by the Board;
 - (c) he has the interest as a member of an association, which interest arises out of an agreement made or purporting to be made by or on behalf of the association with the Board, being an interest which is held in common with all other members of the association;
 - (d) he purchases land or chattels sold for or on behalf of the Board by public auction;
 - (e) in the case of a member, prior to his having the interest, the Minister determines in writing that the interest is not one to which this Act applies; and
 - (f) in the case of an intended appointee to the Board, prior to his appointment, the Minister determines in writing that the interest is not one to which this Act applies.
- (4) In subsection (3) —
- “association”** means a body of 10 or more persons, whether incorporated or not, which is formed for purposes other than securing pecuniary profit to its members and having for its objects social, sporting, religious, educational, literary, musical, scientific, agricultural, horticultural or other like activities or the welfare of its members.

[Section 3 amended by No. 74 of 1988 s.4; No. 14 of 1996 s.4.]

Part II — Constitution of Board

4. Continuation of the Board

The body corporate constituted under the repealed Act by the name “The Eastern Goldfields Transport Board” is preserved and continues in existence for the purposes of this Act as a body corporate retaining the same corporate name and corporate identity.

5. Perpetual succession, common seal etc.

- (1) The Board as a body corporate —
 - (a) has perpetual succession and a common seal; and
 - (b) is capable in law in its corporate name of suing and being sued.
- (2) The Board is an agent of the Crown and has the status, immunities and privileges of the Crown.

[Section 5 amended by No. 74 of 1988 s.5.]

6. Appointment of Board members

The Board shall consist of not more than 6, and not less than 3, persons appointed by the Minister, being persons who in his opinion have special knowledge and experience in the provision of services that the Board is authorized to operate under this Act.

[Section 6 inserted by No. 74 of 1988 s.6.]

7. Chairman and deputy chairman

- (1) The Minister shall appoint a member to be chairman and another to be deputy chairman.
- (2) The chairman may be appointed on terms that require him to devote his full time to the performance of the duties of his office.

- (3) During any vacancy in the office of chairman or while he is unable to act by reason of sickness, absence or other cause, the deputy chairman shall perform the functions of the chairman.
- (4) No act or omission of the deputy chairman acting as the chairman shall be questioned on the ground that the occasion for his so acting had not arisen or had ceased.

[Section 7 inserted by No. 74 of 1988 s.6.]

8. Constitution and proceedings

The provisions of the Schedule have effect with respect to the constitution and proceedings of the Board.

[Section 8 inserted by No. 74 of 1988 s.6.]

9. Remuneration and expenses of members

A member, and a member of the Advisory Council under Part IIA, shall be paid out of the funds of the Board such remuneration and travelling and other allowances as are determined in his case by the Minister on the recommendation of the Public Service Commissioner².

[Section 9 inserted by No. 74 of 1988 s.6.]

Part IIA — Eastern Goldfields Transport Advisory Council

[Heading inserted by No. 74 of 1988 s.7.]

10. Eastern Goldfields Transport Advisory Council

- (1) The Minister shall establish an Eastern Goldfields Transport Advisory Council consisting of not more than 15, and not less than 5, persons.
- (2) In appointing members to the Advisory Council the Minister shall ensure that not less than one-fifth of the members are appointed on the nomination of the Town of Kalgoorlie and one-fifth on the nomination of the Shire of Boulder, and that the number of appointed nominees of each of those local governments is equal.
- (3) The Minister shall appoint one of the members of the Advisory Council to be chairman of the Council, and another to be deputy chairman.

[Section 10 inserted by No. 74 of 1988 s.7; amended by No. 14 of 1996 s.4.]

11. Function of Advisory Council

The function of the Advisory Council is to advise the Board on the performance of the functions of the Board.

[Section 11 inserted by No. 74 of 1988 s.7.]

12. Constitution and proceedings of Advisory Council

- (1) A member of the Advisory Council shall hold office for such term not exceeding 3 years as is specified in his instrument of appointment, but he may from time to time be reappointed.
- (2) Except as provided in this section —
 - (a) the constitution and proceedings of the Advisory Council;

- (b) the terms and conditions of appointment of members of the Advisory Council; and
- (c) the grounds on which a member may be, removed from office,

shall be as determined by the Minister either generally, or for a particular case, but subject to any such determination the Advisory Council may regulate its own procedure.

[Section 12 inserted by No. 74 of 1988 s.7.]

[13-17. Repealed by No. 74 of 1988 s.6.]

Part III — Functions and powers

18. Functions of Board

- (1) The functions of the Board are to undertake and operate —
- (a) principally, a service for the carriage of passengers and luggage within —
 - (i) the local government district of Kalgoorlie-Boulder and any adjoining district; and
 - (ii) with the approval of the Minister, any other local government district in which, in the opinion of the Board, it is practicable and expedient to undertake and operate such a service;
- and
- (b) charter services, whether within or outside the State, as required to meet the needs of any district in which the Board is, for the time being, permitted to operate a service under paragraph (a).
- (1a) The Minister may from time to time give directions to the Board with respect to the performance of its functions, either generally or with respect to a particular matter, and the Board shall give effect to those directions.
- (1b) Subsection (1a) has effect subject to the *Statutory Corporations (Liability of Directors) Act 1996*.
- (2) The Board may, in performing its functions, use such trading name or names as it thinks suitable.

[Section 18 amended by No. 74 of 1988 s.8; No. 14 of 1996 s.4; No. 41 of 1996 s.3.]

19. Powers of Board

- (1) The Board may do such things as are necessary or convenient to be done for or in connection with the performance of its functions.

- (2) Without limiting the generality of subsection (1) the Board may —
 - (a) subject to subsection (3), acquire and dispose of any real or personal property and any right or privilege which the Board considers necessary or convenient for the purpose of its operations;
 - (b) improve, develop or alter any real or personal property held by it;
 - (c) enter into, assign or accept the assignment of, and vary or rescind any contract or obligation.
- (3) The Board shall not, except with the consent of the Minister, dispose of or abandon its undertaking or by the disposal or abandonment of any part thereof render itself unable to carry out its functions.

20. Bank account

- (1) The Board may maintain an account or accounts at any bank and draw and endorse cheques and other bills of exchange thereon.

[(2) repealed.]

[Section 20 amended by No. 74 of 1988 s.9.]

21. Borrowing by Board

- (1) The Board may —
 - (a) obtain advances by overdraft of any current account, or by way of any other unsecured loan, but not exceeding at any time \$40 000 or such greater sum as the Minister may authorize; and
 - (b) with the approval of the Minister, otherwise borrow or raise money and mortgage or charge all or any part of its property and undertaking as security therefor.
- (2) The powers conferred by subsection (1) may be exercised to provide the Board with such sums as it may require for its

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undertaking and the operation and conduct thereof, or to repay principal moneys owing on account of any other loan.

22. Staff

- (1) The Board may appoint such employees, either full-time or part-time, as it considers necessary to enable it to carry out its functions.
- (2) Subject to any relevant award under the *Industrial Relations Act 1979*, the Board may determine the remuneration and other terms and conditions of service of its employees.
- (3) The Board may engage under contract for services such professional and technical or other assistance as it considers necessary to enable it to carry out its functions.
- (4) The Board may, in writing, delegate to the person who holds, or is acting in, the office of Secretary of the Board any of its powers under this section, and may —
 - (a) do so subject to any condition, qualification or exception;
 - (b) exercise any power notwithstanding that it has been so delegated; and
 - (c) at any time revoke or vary the instrument of delegation.

[Section 22 amended by No. 74 of 1988 s.10.]

23. Superannuation

- (1) The Board may grant, or make provision for the grant of, pensions, gratuities and other benefits to its employees and for that purpose may establish, manage and control, or enter into an arrangement with any company approved by the Minister for the establishment, management and control by such company either alone or jointly with the Board of, any fund or scheme for the purpose of providing for such pensions, gratuities and benefits.
- (2) The Board may make contributions to any fund or scheme referred to in subsection (1) but not, without the approval of the

Minister, exceeding in any financial year the total contributions made by the employees of the Board in respect of that year.

(3) In this section —

“employee” includes former employees and the dependants of an employee or former employee.

[Section 23 amended by No. 54 of 1985 s.54; No. 74 of 2003 s. 45.]

Part IV — Finance

24. General fund

All moneys received by the Board shall be carried to a general fund which shall be applied by the Board to the exercise and performance of its powers and functions.

25. Temporary investment of funds

Except where section 26(3) applies, the Board may invest and deal with any of its funds not immediately required in such manner as it thinks fit.

26. Reserve funds

- (1) The Board may in respect of its undertaking establish —
 - (a) a renewals reserve fund which shall be applicable only to meet expenses incurred on renewals, reconstructions or conversions; and
 - (b) a general reserve fund which shall be applicable to all or any of the following purposes —
 - (i) to provide working capital;
 - (ii) to meet a part or the whole of any deficit;
 - (iii) to meet a part or the whole of any moneys expended by the Board on alterations or extensions of the undertaking of the Board, or any part thereof (including the purchase of omnibuses);
 - (iv) to meet the expenses of such special works or maintenance as the Board thinks fit;
 - (v) to meet the cost of providing long service leave and other benefits which accrue to its employees; and
 - (vi) to provide for the repayment of the amounts of principal and interest of any loans raised by the Board.

- (2) The Board may in every year carry to a reserve fund such sum as it thinks fit.
- (3) Moneys standing to the credit of a reserve fund may be invested as trust funds may be invested under Part III of the *Trustees Act 1962*.

[Section 26 amended by No. 1 of 1997 s.18.]

27. Profits and losses of the Board

- (1) The Governor may make regulations prescribing —
 - (a) the source or sources from which, and the manner and extent to which, any loss sustained by the Board in carrying out its functions shall be made good to the Board; and
 - (b) the person or fund that shall receive any net profit, or any part thereof, made by the Board.

[(2) repealed.]

- (3) In determining the net profit or loss of the Board in any year for the purpose of this section the Board shall bring into account —
 - (a) the net returns to it from any investments made under sections 25 and 26(3); and
 - (b) any contribution to a reserve fund made by it under section 26.

[Section 27 amended by No. 74 of 1988 s.11.]

28. Application of *Financial Management Act 2006* and *Auditor General Act 2006*

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

[Section 28 inserted by No. 98 of 1985 s. 3; amended by No. 77 of 2006 s. 17.]

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29. Copies of statements etc. to local governments

A copy of the financial statements of the Board and the opinion of the Auditor General in relation thereto shall be furnished to the Town of Kalgoorlie and the Shire of Boulder by the Board as soon as is practicable after the opinion of the Auditor General is available.

[Section 29 inserted by No. 98 of 1985 s.3; amended by No. 74 of 1988 s.12; No. 14 of 1996 s.4; No. 57 of 1997 s.50.]

[30-31. Repealed by No. 98 of 1985 s.3.]

Part V — By-laws

32. Power to make by-laws

The Board may make by-laws, not inconsistent with this Act or regulations made under section 36 —

- (a) Prescribing the conditions under which omnibuses or other vehicles used in the undertaking of the Board may be hired and the charges for and conditions of such hire;
- (b) prohibiting the committing of any nuisance in or upon any such omnibus, or other vehicle or in or upon or against any part of the property of the Board;
- (c) prohibiting offensive or annoying behaviour in or upon any such omnibus, or other vehicle or in or upon any part of the property of the Board;
- (d) prohibiting smoking in any such omnibus or other vehicle or any part thereof;
- (e) providing for the holding and disposal by sale or otherwise of unclaimed or lost goods or luggage;
- (f) regulating the time, place and management of, and the proceedings at, meetings of the Board or of any committee and the management and transaction of the business of the Board or of any committee;
- (g) prescribing and making provision for the powers and duties, and the control, supervision, guidance, regulation and discipline of its employees;
- (h) providing for the issue, revocation and conditions of use of any free passes issued by the Board;
- (i) providing that a contravention or failure to comply with a by-law constitutes an offence and providing for penalties not exceeding \$200 for offences against the by-laws; and

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- (j) generally for carrying out the purposes of this Act relating to the undertaking of the Board and the operation and conduct thereof, and regulating the conduct of all persons travelling on vehicles of the Board or being on any of its premises.

33. Summary interference by employee of Board

If a contravention or failure to comply with a by-law is attended with any danger or annoyance to the public or hindrance to the Board, or any employee of the Board, in the conduct of its undertaking, any employee of the Board may summarily interfere to obviate, remove or stop such danger, annoyance or hindrance, and that without affecting any punishment of the offender for an offence against the by-laws of the Board.

Part VI — General

34. Execution of documents

- (1) A document is duly executed by the Board if —
 - (a) it is sealed with the seal of the Board in accordance with subsections (2) and (3); or
 - (b) it is signed on behalf of the Board by the member or members or employee or employees of the Board authorized to do so.
- (2) The common seal of the Board shall not be affixed to any document except by resolution of the Board.
- (3) The common seal shall be affixed to a document in the presence of at least 2 members and each shall sign the document to attest that the common seal was so affixed.
- (4) A document purporting to be executed in accordance with this section shall be presumed to be duly executed until the contrary is shown.
- (5) Where a document is produced bearing a seal purporting to be the common seal of the Board it shall be presumed that the seal is the common seal of the Board until the contrary is shown.

35. Board not subject to rates

All land owned by the Board is exempt from rates under the *Local Government Act 1995*.

[Section 35 inserted by No. 14 of 1996 s.4.]

36. Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, prescribing such things as are required or permitted by this Act to be prescribed or as it is necessary or expedient to prescribe for the purposes thereof.

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- (2) Without limiting subsection (1), regulations made under this Act may provide —
- [(a) deleted.]*
 - (b) that a contravention or failure to comply with a regulation constitutes an offence; and
 - (c) for penalties not exceeding a fine of \$500 for offences against the regulations.

[Section 36 amended by No. 74 of 1988 s.13.]

37. Repeal

The *Eastern Goldfields Transport Board Act 1946* is repealed.

[38. Repealed by No. 74 of 1988 s.14.]

39. Further transitional provisions

[(1) repealed.]

- (2) Without limiting the operation of the *Interpretation Act 1918*³, unless the contrary intention appears in this Act, all appointments, things and circumstances made or created by or under the repealed Act and existing or continuing immediately before the appointed day shall, under and subject to this Act, continue to have the same status, operation and effect for the purposes of this Act as they had immediately before the appointed day.
- (3) In this section “**the appointed day**” means the day on which this Act comes into operation.

[Section 39 amended by No. 74 of 1988 s.15.]

Schedule

[Section 8.]

Provisions as to constitution and proceedings of Board

1. Term of office

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

2. Resignation, removal, etc.

- (1) The office of a member becomes vacant if —
 - (a) he resigns his office by written notice addressed to the Minister;
 - (b) he is an undischarged bankrupt or a person whose property is subject to an order or arrangement under the laws relating to bankruptcy;
 - (c) he is removed from office by the Minister on the grounds of neglect of duty, misbehaviour, incompetence or mental or physical incapacity impairing the performance of his duties and proved to the satisfaction of the Minister.
- (2) In subclause (1)(c) “**misbehaviour**” includes, subject to section 3(3), having a direct or indirect pecuniary interest in an agreement to which the Board is a party.

3. Deputy members

- (1) The Minister may, for each member other than the chairman, appoint a person to be the deputy of that member.
- (2) Where a member other than the chairman is unable to act by reason of sickness, absence or other cause his deputy may act in his place.

cl. 4

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

4. Meetings

- (1) Subject to subclause (2), meetings of the Board shall be held at such times and places as the Board determines.
- (2) A special meeting of the Board may at any time be convened by the chairman.
- (3) The chairman shall preside at all meetings of the Board at which he is present.
- (4) If both the chairman and the deputy chairman are absent from a meeting the members present shall appoint one of their number to preside.
- (5) A quorum for a meeting of the Board at any time is the number of members equal to one-half of the membership in office at that time.
- (6) At any meeting of the Board the chairman, deputy chairman or other person presiding shall have a deliberative vote, and in the case of an equality of votes shall also have a casting vote.
- (7) The Board shall cause accurate minutes to be kept of the proceedings at its meetings.
- (8) The Board may allow a person whom the Board considers may assist it with professional or technical advice on any matter to attend a meeting of the Board and contribute to the discussion of that matter, but any such person shall not take part in any decision of the Board with respect to that matter, or be counted for the purpose of determining the existence of a quorum.

5. Committees

- (1) 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 or alter any committee so appointed.
- (2) Subject to the directions of the Board, each committee may determine its own procedures.

6. Resolution may be passed without meeting

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

7. Leave of absence

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

8. Board to determine own procedures

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

[Schedule inserted by No. 74 of 1988 s.16.]

Notes

¹ This is a compilation of the *Eastern Goldfields Transport Board Act 1984* and includes the amendments made by the other written laws referred to in the following table. ^{1a}.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Eastern Goldfields Transport Board Act 1984</i>	5 of 1984	17 May 1984	1 Aug 1984 (see s. 2 and <i>Gazette</i> 27 Jul 1984 p. 2250)
<i>Eastern Goldfields Transport Board Amendment Regulations 1985</i> (published in <i>Gazette</i> 12 Apr 1985 p. 1287-94)			12 Apr 1985
<i>Acts Amendment and Repeal (Transport Co-ordination) Act 1985, Part III</i>	54 of 1985	28 Oct 1985	1 Jan 1986 (see s. 2 and <i>Gazette</i> 20 Dec 1985 p. 4822)
<i>Acts Amendment (Financial Administration and Audit) Act 1985, section 3</i>	98 of 1985	4 Dec 1985	1 Jul 1986 (see s. 2 and <i>Gazette</i> 30 Jun 1986 p. 2255)
<i>Eastern Goldfields Transport Board Amendment Act 1988</i>	74 of 1988	23 Dec 1988	1 Mar 1989 (see s. 2 and <i>Gazette</i> 17 Feb 1989 p. 457)
<i>Local Government (Consequential Amendments) Act 1996, section 4</i>	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
<i>Statutory Corporations (Liability of Directors) Act 1996, section 3</i>	41 of 1996	10 Oct 1996	1 Dec 1996 (see s. 2 and <i>Gazette</i> 12 Nov 1996 p. 6301)
<i>Trustees Amendment Act 1997, section 18</i>	1 of 1997	6 May 1997	16 Jun 1997 (see s. 2 and <i>Gazette</i> 10 Jun 1997 p. 2661)
<i>Statutes (Repeals and Minor Amendments) Act 1997, section 50</i>	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2)

Short title	Number and year	Assent	Commencement
<i>Statutes (Repeals and Minor Amendments) Act 2003 s. 45</i>	74 of 2003	15 Dec 2003	15 Dec 2003 (see s. 2)
<i>Financial Legislation Amendment and Repeal Act 2006 s. 17</i>	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2 and <i>Gazette</i> 19 Jan 2007 p. 137)

^{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
<i>Acts Amendment and Repeal (Competition Policy) Act 2003 Pt. 6</i> ⁴	70 of 2003 (as amended by No. 28 of 2008 s. 11)	15 Dec 2003	To be proclaimed
<i>Eastern Goldfields Transport Board Repeal Act 2008 s. 2 and 11</i> ⁵	28 of 2008	1 Jul 2008	29 Jul 2008

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

³ Repealed by *Interpretation Act 1984* (No. 12 of 1984) s. 77(1).

⁴ On the date as at which this compilation was prepared, the *Acts Amendment and Repeal (Competition Policy) Act 2003 Pt. 6* had not come into operation. It reads as follows:

“

Part 6 — *Eastern Goldfields Transport Board Act 1984*

22. The Act amended

The amendments in this Part are to the *Eastern Goldfields Transport Board Act 1984*.

23. Section 5 amended

Section 5(2) is repealed and the following subsection is inserted instead —

“

- (2) The Board is not an agent of the Crown and does not have the status, immunities and privileges of the Crown.

”

24. Section 35 repealed

Section 35 is repealed.

”

⁵ On the date as at which this compilation was prepared, the *Eastern Goldfields Transport Board Repeal Act 2008* s. 2 and 11 had not come into operation. They read as follows:

“

2. The Act repealed

The *Eastern Goldfields Transport Board Act 1984* is repealed.

11. Acts Amendment and Repeal (Competition Policy) Act 2003 amended

- (1) The amendment in this section is to the *Acts Amendment and Repeal (Competition Policy) Act 2003*.
- (2) Part 6 is repealed.

”