

Western Australia

**Public Transport Authority Amendment Act  
2008**

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As at 03 Jul 2008

No. 42 of 2008

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Western Australia

# Public Transport Authority Amendment Act 2008

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Western Australia

## **Public Transport Authority Amendment Act 2008**

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**No. 42 of 2008**

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**An Act to amend the *Public Transport Authority Act 2003*.**

[Assented to 3 July 2008]

The Parliament of Western Australia enacts as follows:

**1. Short title**

This is the *Public Transport Authority Amendment Act 2008*.

**2. Commencement**

This Act comes into operation as follows:

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

**3. The Act amended**

The amendments in this Act are to the *Public Transport Authority Act 2003*.

**4. Section 58 amended**

After section 58(3) the following subsection is inserted —

“

- (4) If a security officer or a member of the Police Force has reason to believe that a person has committed an offence under section 64B(1), the security officer or member of the Police Force may, without warrant other than this subsection, take the offender into custody and take the offender to a police station or other place for the offender to be dealt with for the offence according to law.

”.

**5. Sections 64A and 64B inserted**

After section 64 the following sections are inserted —

“

**64A. Prohibiting people from being on or in a conveyance or facility**

- (1) In this section —  
“**conveyance**” means a road bus, ferry or railway train involved in the provision of a public passenger transport service by the Authority;  
“**facility**” means a place associated with the provision of a public passenger transport service provided by the Authority.
- (2) For the purposes of this section, an offence is a relevant offence if it —
  - (a) is an offence specified in subsection (3); and
  - (b) is an offence committed on or after the day 12 months before the day on which the *Public Transport Authority Amendment Act 2008* section 5 comes into operation.
- (3) The specified offences are —

- (a) an offence under *The Criminal Code* section 313, 317 or 318(1)(d) or (g) committed on or in a conveyance or facility;
  - (b) an offence under *The Criminal Code* section 444 committed in relation to Authority property, a conveyance or a facility;
  - (c) an offence under the *Government Railways Act 1904* section 43(5) committed on or in a conveyance or facility and involving behaving in a violent or offensive manner to the annoyance of others;
  - (d) an offence under the *Public Transport Authority Regulations 2003* regulation 40;
  - (e) an offence under the *Public Transport Authority Regulations 2003* regulation 42 committed when regulation 41(g) was the paragraph relevant to the belief on the grounds of which the offender was advised.
- (4) If the chief executive officer proposes to give a person a prohibition order under subsection (5), the chief executive officer must, by written notice, give the offender 14 days beginning on the date of the notice to show cause —
- (a) why the order should not be given to the offender; and
  - (b) why the order should specify circumstances (an **“exception”**) in which the offender may be on or in a conveyance or facility despite the person being prohibited from being on or in a conveyance or facility for the period specified in the order.
- (5) If a person has been found guilty of or pleaded guilty to —

- (a) at least 2 relevant offences committed within a period of 12 months beginning on the day on which the first offence was committed; or
- (b) 3 or more relevant offences committed within a period of 18 months beginning on the day on which the first offence was committed,

and the offences do not arise from the same acts or circumstances, the chief executive officer may give the person (the **“offender”**) an order (a **“prohibition order”**), in a form approved in writing by the chief executive officer, prohibiting the offender from being on or in a conveyance or facility for the period and subject to any exception specified in the order.

- (6) The period specified in the order —
  - (a) must not exceed one month if the offender has been found guilty of or pleaded guilty to not more than 2 relevant offences committed within a period of 12 months beginning on the day on which the first offence was committed; and
  - (b) must not exceed 3 months if the offender has been found guilty of or pleaded guilty to more than 2 relevant offences committed within a period of 18 months beginning on the day on which the first offence was committed.
- (7) For the purposes of subsections (5) and (6), if a person is found guilty of or pleads guilty to more than one relevant offence at one hearing, those relevant offences are to be taken to be one relevant offence committed by the person on the date on which the latest of those offences was committed.
- (8) On the application of an offender the subject of a prohibition order, the chief executive officer may —
  - (a) revoke the order; or

- (b) make the order subject to an exception; or
- (c) amend any exception to which the order is subject.

**64B. Contravention of prohibition order**

- (1) A person who, without reasonable excuse, contravenes a prohibition order given to the person under section 64A(5) commits an offence.  
Penalty: imprisonment for 9 months.
- (2) Despite the *Sentencing Act 1995* section 41(2), a court sentencing a person for an offence under subsection (1) may use only the sentencing options in the *Sentencing Act 1995* section 39(2)(d) to (h).
- (3) The *Young Offenders Act 1994* section 71 does not apply to the sentencing of a young person, as defined in section 3 of that Act (the “**young offender**”), for an offence under subsection (1).
- (4) If a young offender is being dealt with by a juvenile justice team for an offence under subsection (1), the chief executive officer is to be taken to be a victim, as referred to in the *Young Offenders Act 1994* section 31(1), for the purposes of Part 5 Division 2 of that Act.

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