

WESTERN AUSTRALIA

**EASTERN GOLDFIELDS
TRANSPORT BOARD AMENDMENT
ACT**

No. 74 of 1988

AN ACT to amend the *Eastern Goldfields Transport Board Act 1984*.

[Assented to 23 December 1988.]

The Parliament of Western Australia enacts as follows:

Short title

1. This Act may be cited as the *Eastern Goldfields Transport Board Amendment Act 1988*.

Commencement

2. This Act shall come into operation on such day as is fixed by proclamation.

Principal Act

3. In this Act the *Eastern Goldfields Transport Board Act 1984** is referred to as the principal Act.

[*Act No. 5 of 1984 as amended by Acts Nos. 54 and 98 of 1985 and regulations published in the Government Gazette of 12 April 1985 at p. 1288.]

Section 3 amended

4. Section 3 of the principal Act is amended—

(a) in subsection (1)—

(i) by deleting the definitions of “elector”, “section” and “subsection”; and

(ii) by deleting the definition of “member” and substituting the following definition—

“ “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; ”;

(b) by repealing subsection (2); and

(c) in subsection (3) by deleting paragraph (f) and substituting the following paragraph—

“ (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. ”.

Section 5 amended

5. Section 5 of the principal Act is amended by repealing subsection (2) and substituting the following subsection—

“ (2) The Board is an agent of the Crown and has the status, immunities and privileges of the Crown. ”.

**Sections 6 to 17 repealed and
sections 6, 7, 8 and 9 substituted**

6. Sections 6 to 17 of the principal Act are repealed, and the following sections are substituted—

Appointment of Board

“ 6. 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.

Chairman and deputy chairman

7. (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.

Constitution and proceedings

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

Remuneration and expenses of members

9. 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 Commissioner. ”

Part IIA inserted

7. After Part II of the principal Act, the following Part is inserted—

“ PART IIA—EASTERN GOLDFIELDS TRANSPORT
ADVISORY COUNCIL

Eastern Goldfields Transport
Advisory Council

10. (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 municipal council of the Town of Kalgoorlie and one-fifth on the nomination of the municipal council of the Shire of Boulder, and that the number of appointed nominees of each of those councils 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.

Function of Advisory Council

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

Constitution and proceedings of Advisory Council

12. (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 re-appointed.

(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 18 amended

8. Section 18 of the principal Act is amended by inserting after subsection (1) the following subsection—

“ (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. ”.

Section 20 amended

9. Section 20 of the principal Act is amended by repealing subsection (2).

Section 22 amended

10. Section 22 of the principal Act is amended, in subsection (2), by deleting “Arbitration” and substituting the following—

“ Relations ”.

Section 27 amended

11. Section 27 of the principal Act is amended by repealing subsection (2).

Section 29 amended

12. Section 29 of the principal Act is amended by deleting “at the same time as they are submitted to the Minister” and substituting the following—

“ by the Board as soon as is practicable after the opinion of the Auditor General is available ”.

Section 36 amended

13. Section 36 of the principal Act is amended in subsection (2) by deleting paragraph (a).

Section 38 repealed

14. Section 38 of the principal Act is repealed.

Section 39 amended

15. Section 39 of the principal Act is amended—

- (a) by repealing subsection (1); and
- (b) in subsection (3), by deleting “and in section 38.”

**Schedule repealed and
a schedule substituted**

16. The Schedule to the principal Act is repealed and the following Schedule is substituted—

“ (section 8)

SCHEDULE
PROVISIONS AS TO CONSTITUTION
AND PROCEEDINGS OF BOARD

Term of office

1. (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 re-appointed.

(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.

Resignation, removal, etc.

2. (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.

Deputy members

3. (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.

(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.

Meetings

4. (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.

Committees

5. (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.

Resolution may be passed without meeting

6. 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.

Leave of absence

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

Board to determine own procedures

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