

# Public Works Amendment (WA Building Management Authority Abolition) Bill 2019

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Western Australia

LEGISLATIVE ASSEMBLY

**Public Works Amendment (WA Building  
Management Authority Abolition) Bill 2019**

**A Bill for**

**An Act to amend the *Public Works Act 1902* to abolish the Western  
Australian Building Management Authority.**

The Parliament of Western Australia enacts as follows:

1 **Part 1 — Preliminary matters**

2 **1. Short title**

3 This is the *Public Works Amendment (WA Building*  
4 *Management Authority Abolition) Act 2019*.

5 **2. Commencement**

6 This Act comes into operation as follows —

- 7 (a) Part 1 — on the day on which this Act receives the  
8 Royal Assent;
- 9 (b) the rest of the Act — on the day after that day.

1           **Part 2 — *Public Works Act 1902* amended**

2   **3.     Act amended**

3           This Part amends the *Public Works Act 1902*.

4   **4.     Section 2 amended**

5           In section 2 delete the definition of *judge*.

6   **5.     Part IA deleted**

7           Delete Part IA.

8   **6.     Part VIII inserted**

9           After section 123 insert:

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11                   **Part VIII — Transitional matters for *Public***  
12                   ***Works Amendment (WA Building Management***  
13                   ***Authority Abolition) Act 2019***

14                           **Division 1 — Interpretation**

15   **124.   Terms used**

16           In this Part, unless the contrary intention appears —  
17           ***Act Minister*** means the Minister for the time being  
18           administering this Act;

19           ***assets*** —

20           (a) means any legal or equitable estates or interests  
21           (whether present or future, whether vested or  
22           contingent and whether personal or assignable)  
23           in real or personal property of any description;  
24           and

25           (b) includes money, securities, choses in action and  
26           documents;

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- 1                    **Authority** means the body corporate called the Western  
2                    Australian Building Management Authority continued  
3                    in existence by section 9B of the former Act;
- 4                    **Department** means the department of the Public  
5                    Service principally assisting the Minister in  
6                    administering this Act;
- 7                    **former Act** means this Act as in force immediately  
8                    before transition day;
- 9                    **liabilities** means any liabilities, duties or obligations,  
10                  whether actual, contingent or prospective, liquidated or  
11                  unliquidated or whether owed alone or jointly or jointly  
12                  and severally with any other persons;
- 13                  **Minister for Works** means the body corporate created  
14                  by section 5;
- 15                  **operating account** means an agency special purpose  
16                  account established under the *Financial Management*  
17                  *Act 2006* section 16;
- 18                  **relevant official** means —
- 19                    (a) the Registrar of Titles; or  
20                    (b) the Registrar of Deeds and Transfers; or  
21                    (c) any other person authorised by a written law to  
22                    record and give effect to the registration of  
23                    documents relating to transactions affecting any  
24                    estate or interest in land or any other property;
- 25                  **rights** means any rights, powers, privileges or  
26                  immunities, whether actual, contingent or prospective;
- 27                  **this Part** includes regulations made under  
28                  section 136(2);
- 29                  **transition day** means the day on which the *Public*  
30                  *Works Amendment (WA Building Management*  
31                  *Authority Abolition) Act 2019* section 5 comes into  
32                  operation.

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**Division 2 — Authority abolished**

**125. Authority abolished**

On transition day, the Authority is abolished.

**126. Immunity continues**

Despite the abolition of the Authority by section 125, if the Authority had the benefit of any immunity in respect of an act, matter or thing done or omitted to be done before transition day, that immunity continues on and after transition day for the benefit of the Minister for Works so far as the act, matter or thing is within the functions of the Minister for Works.

**Division 3 — Transfer of Authority’s assets, rights and liabilities**

**127. Assets, rights and liabilities**

- (1) On transition day —
  - (a) the assets of the Authority are assigned to and become the assets of the Minister for Works;  
and
  - (b) the liabilities of the Authority are assigned to and become the liabilities of the Minister for Works.
- (2) On and after transition day, any proceedings or remedy that might have been commenced by or against, or might have been available to or against, the Authority in relation to the assets and liabilities assigned by subsection (1) may be commenced by or against, or are available to or against, the Minister for Works.
- (3) On and after transition day, an act done or omitted to be done in relation to the assets and liabilities assigned by subsection (1) before the assignment, by, to or in

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1 respect of the Authority is, to the extent that the act or  
2 omission has any effect, to be taken to have been done  
3 or omitted to be done by the Minister for Works.

4 **128. Registration of documents**

5 The relevant officials —

- 6 (a) must take notice of this Part; and  
7 (b) must record and register in the appropriate  
8 manner the documents necessary to show the  
9 effect of this Part.

10 **129. Authority to complete necessary transactions**

- 11 (1) If an asset or liability of the Authority cannot be  
12 properly assigned to the Minister for Works by the  
13 operation of this Division (whether because the matter  
14 is governed otherwise than by the law of the State or  
15 for any other reason) —  
16 (a) the Authority is to be taken to continue to hold  
17 that asset or be liable for that liability until it is  
18 effectively assigned to the Minister for Works  
19 in accordance with this Division; and  
20 (b) the Authority must take all practicable steps for  
21 the purpose of ensuring that the asset or  
22 liability is effectively assigned to the Minister  
23 for Works in accordance with this Division.
- 24 (2) The fact that subsection (1)(a) applies to an asset or  
25 liability that is to be assigned to the Minister for Works  
26 under this Division does not affect the duty of the  
27 accountable authority of the Department under the  
28 *Financial Management Act 2006*.
- 29 (3) Despite section 125, the Authority continues in  
30 existence for the purpose of performing the functions  
31 described in subsection (1).

- 1           (4) The Authority must perform those functions through a  
2           person appointed by the Act Minister.
- 3           (5) The person holds office at the pleasure of the Act  
4           Minister and on such terms and conditions as the Act  
5           Minister determines.
- 6           (6) The Authority as continued by this section has the  
7           powers that are necessary or convenient for the  
8           purposes of this section.

9           **130. Exemption from State tax**

- 10          (1) In this section —  
11            *State tax* includes —  
12            (a) duty chargeable under the *Duties Act 2008*; and  
13            (b) any other tax, duty, fee, levy or charge under a  
14            law of the State.
- 15          (2) State tax is not payable in relation to —  
16            (a) anything that occurs by operation of this Part;  
17            or  
18            (b) anything done (including a transaction entered  
19            into or an instrument or document of any kind  
20            made, executed, lodged or given) under this  
21            Part, or to give effect to this Part, or for a  
22            purpose connected with or arising out of giving  
23            effect to this Part.
- 24          (3) The Act Minister may certify in writing that —  
25            (a) a specified thing occurred by operation of this  
26            Part; or  
27            (b) a specified thing was done under this Part, or to  
28            give effect to this Part, or for a purpose  
29            connected with or arising out of giving effect to  
30            this Part.

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- 1 (4) For all purposes and in all proceedings, a certificate  
2 under subsection (3) is sufficient evidence of the  
3 matters it certifies unless the contrary is shown.

4 **131. Operating accounts of Authority**

- 5 (1) In this section —  
6 *former accounts* means —  
7 (a) the Western Australian Building Management  
8 Authority Account referred to in section 9E(1)  
9 of the former Act; and  
10 (b) any other operating accounts of the Authority.
- 11 (2) On transition day, any money standing to the credit of  
12 the former accounts must be credited to an operating  
13 account of the Department and the former accounts  
14 must then be closed.
- 15 (3) Money referred to in subsection (2) may be applied —  
16 (a) in the payment of any liabilities of the former  
17 accounts arising before transition day; and  
18 (b) for the purposes of this Act.
- 19 (4) The operating account referred to in subsection (2)  
20 must be credited with any money payable to the former  
21 accounts before transition day that is paid on or after  
22 that day.
- 23 (5) On and after transition day, any agreement, instrument  
24 or other document that contains a reference to any of  
25 the former accounts has effect as if the reference were  
26 to the operating account referred to in subsection (2).

27 **132. Investments**

- 28 (1) Despite the repeal of Part IA of the former Act, the  
29 investment of any funds of the Authority that was  
30 authorised under section 9E(5) of the former Act  
31 immediately before transition day continues on and

1 after transition day to be authorised as if that section  
2 had not been repealed.

3 (2) Funds referred to in subsection (1) that cease to be  
4 invested as described in that subsection must be  
5 credited to an operating account of the Department.

6 **Division 4 — Continuation of certain things**

7 **133. Completion of things done**

8 Anything commenced to be done by the Authority  
9 before transition day may be continued on and after  
10 transition day by the Minister for Works so far as the  
11 doing of the thing is within the functions of the  
12 Minister for Works.

13 **134. Continuing effect of things done**

14 (1) This section applies in relation to an act done or  
15 omitted to be done before transition day by, to or in  
16 respect of the Authority to the extent that the act or  
17 omission —

- 18 (a) has force or significance; and  
19 (b) is not governed by another provision of this  
20 Part.

21 (2) On and after transition day, the act or omission is to be  
22 taken to have been done or omitted to be done by, to or  
23 in respect of the Minister for Works so far as the act or  
24 omission relates to the functions of the Minister for  
25 Works.

26 **135. Agreements, instruments, proceedings and remedies**  
27 **generally**

28 (1) On and after transition day, any agreement or  
29 instrument that contains a reference to the Authority  
30 has effect as if the reference were to the Minister for



- 1           (2) If there is no sufficient provision in this Part for  
2           dealing with a transitional matter, the Governor may  
3           make regulations prescribing matters —
- 4               (a) required to be prescribed for the purpose of  
5               dealing with the transitional matter; or
- 6               (b) necessary or convenient to be prescribed for the  
7               purpose of dealing with the transitional matter.
- 8           (3) Regulations made under subsection (2) may provide  
9           that specified provisions of this Act —
- 10               (a) do not apply to or in relation to a specified  
11               matter; or
- 12               (b) apply with specified modifications to or in  
13               relation to a specified matter.
- 14           (4) If regulations made under subsection (2) provide that a  
15           specified state of affairs is to be taken to have existed,  
16           or not to have existed, on and after a day that is earlier  
17           than publication day for those regulations but not  
18           earlier than transition day, the regulations have effect  
19           according to their terms.
- 20           (5) If regulations made under subsection (2) contain a  
21           provision referred to in subsection (4), the provision  
22           does not operate so as —
- 23               (a) to affect in a manner prejudicial to a person  
24               (other than the State or an authority of the  
25               State) the rights of that person existing before  
26               publication day for those regulations; or
- 27               (b) to impose liabilities on a person (other than the  
28               State or an authority of the State) in respect of  
29               an act done or omission made before  
30               publication day for those regulations.

- 1                      **137.      Effect on other instruments, rights and obligations**
- 2                      The operation of this Part must not be regarded —
- 3                      (a)      as a breach of contract or confidence or
- 4                                   otherwise as a civil wrong; or
- 5                      (b)      as a breach of any contractual provision
- 6                                   prohibiting, restricting or regulating the
- 7                                   assignment or transfer of assets, rights or
- 8                                   liabilities or the disclosure of information; or
- 9                      (c)      as giving rise to any remedy by a party to an
- 10                                   instrument, or as causing or permitting the
- 11                                   termination of any instrument, because of a
- 12                                   change in the beneficial or legal ownership of
- 13                                   any assets, rights or liabilities; or
- 14                      (d)      as causing any contract or instrument to be void
- 15                                   or otherwise unenforceable; or
- 16                      (e)      as releasing or allowing the release of any
- 17                                   surety.
- 18                      **138.      Interpretation Act 1984 not affected**
- 19                      Except to the extent this Part expressly provides
- 20                      differently, the *Interpretation Act 1984* applies in
- 21                      relation to the repeal of an enactment by the *Public*
- 22                      *Works Amendment (WA Building Management*
- 23                      *Authority Abolition) Act 2019* Part 2.
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1     **Part 3 — *Financial Management Act 2006* amended**

2     **7.     Act amended**

3             This Part amends the *Financial Management Act 2006*.

4     **8.     Schedule 1 amended**

5             In Schedule 1 delete “Western Australian Building Management  
6             Authority”.

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