

Western Australia

Royalties for Regions Act 2009

As at 03 Dec 2009

No. 41 of 2009

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Royalties for Regions Act 2009

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Western Australia

Royalties for Regions Act 2009

No. 41 of 2009

An Act to —

- **provide for the operation of the Royalties for Regions Fund; and**
- **establish the Western Australian Regional Development Trust, and for related purposes.**

[Assented to 3 December 2009]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Royalties for Regions Act 2009*.

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. Terms used

In this Act —

CEO means the chief executive officer of the Department;

chairperson means the chairperson of the Trust;

Department means the department of the Public Service principally assisting in the administration of Part 3;

deputy chairperson means the deputy chairperson of the Trust;

Fund means the account called the Royalties for Regions Fund established as a Treasurer's special purpose account under the *Financial Management Act 2006* section 10(a);

member means a member of the Trust;

Minister means the Minister responsible for the administration of Part 3;

regional development commission means a body established under the *Regional Development Commissions Act 1993* Part 2;

regional Western Australia means the regions described in the *Regional Development Commissions Act 1993* Schedule 1;

Trust means the Western Australian Regional Development Trust established by section 11.

4. Object

The object of this Act is to promote and facilitate economic, business and social development in regional Western Australia through the operation of the Fund.

Part 2 — Royalties for Regions Fund

5. Subsidiary accounts of Fund

- (1) The Fund is to consist of the following subsidiary accounts —
 - (a) the Country Local Government Fund;
 - (b) the Regional Community Services Fund;
 - (c) the Regional Infrastructure and Headworks Fund;
 - (d) any other account determined by the Treasurer, on the recommendation of the Minister, to be a subsidiary account.
- (2) The Treasurer, on the recommendation of the Minister, is to determine from time to time the way in which money standing to the credit of the Fund is to be allocated between the subsidiary accounts.

6. Treasurer to make payments into Fund

- (1) In this section —

forecast royalty income, for a financial year, means the estimate of royalty income for the financial year set out in —

 - (a) the part of the budget papers for the financial year, tabled in the Legislative Assembly, that is titled “General Government Operating Statement”; or
 - (b) if the regulations prescribe another part of those budget papers — that other part.
- (2) In each financial year the Treasurer is to cause to be credited to the Fund an amount equal to 25% of the forecast royalty income for the financial year.
- (3) The Treasurer is not to cause an amount to be credited under subsection (2) to the extent that to do so would be contrary to section 8.
- (4) Amounts credited under subsection (2) are to be charged to the Consolidated Account.

7. Money credited to Fund

- (1) In addition to amounts credited under section 6(2), the Treasurer is to cause to be credited to the Fund —
 - (a) income derived from the investment of money standing to the credit of the Fund; and
 - (b) any other money lawfully made available to the Fund.
- (2) The Treasurer is not to cause money to be credited to the Fund under subsection (1) to the extent that to do so would be contrary to section 8.

8. Limit on amount in Fund

The Treasurer is to ensure that the amount of money standing to the credit of the Fund at any time does not exceed \$1 billion.

9. Application of Fund

- (1) The Minister, with the Treasurer's concurrence, may authorise the expenditure of money standing to the credit of the Fund for the following purposes —
 - (a) to provide infrastructure and services in regional Western Australia;
 - (b) to develop and broaden the economic base of regional Western Australia;
 - (c) to maximise job creation and improve career opportunities in regional Western Australia.
- (2) There are to be charged to the Fund —
 - (a) expenditure authorised under subsection (1); and
 - (b) expenditure incurred in the administration of the Fund; and
 - (c) expenditure incurred in the administration of the Trust, including any remuneration or allowances payable to its members; and

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- (d) any other expenditure incurred in the administration of this Act.

10. Annual report of Department to include information about Fund

Without limiting the *Financial Management Act 2006* section 61, the annual report for a financial year prepared by the accountable authority of the Department under that section is to contain information about the operation of the Fund during the financial year.

Part 3 — Western Australian Regional Development Trust

Division 1 — Establishment and functions

11. Trust established

A body called the Western Australian Regional Development Trust is established.

12. Functions

The functions of the Trust are —

- (a) to provide advice and make recommendations to the Minister for the purposes of sections 5(2) and 9(1); and
- (b) to provide advice and make recommendations to the Minister on any other matter relating to the operation of the Fund that is referred to it by the Minister.

Division 2 — Constitution and related matters

13. Membership

- (1) The Trust is to consist of —
 - (a) the chairperson of a regional development commission; and
 - (b) at least 3 but not more than 5 other people,appointed by the Minister.
- (2) In addition to the member appointed under subsection (1)(a) the Minister may appoint one other chairperson of a regional development commission as a member under subsection (1)(b).
- (3) The Minister may appoint the CEO as a member under subsection (1)(b).

- (4) The Minister is to ensure that the members of the Trust have, between them, the knowledge and experience needed to enable the Trust's functions under this Act to be effectively performed.

14. Chairperson and deputy chairperson

The Minister is to designate one of the members to be the chairperson and another to be the deputy chairperson of the Trust.

15. Term of office

- (1) The term for which a person is appointed as a member is to be fixed in the instrument of appointment and, subject to subsection (2), is to be not longer than 3 years.
- (2) The term for which a chairperson of a regional development commission is appointed as a member is to be 12 months.
- (3) A person's eligibility for reappointment or the term for which a person may be reappointed is not affected by an earlier appointment.
- (4) A person whose term of office expires continues in office until another appointment to the office comes into effect unless, under section 16, the person resigns or is removed from office.

16. Casual vacancies

- (1) A member may at any time resign from office by notice in writing delivered to the Minister.
- (2) The Minister may remove a person who is a member from office on the grounds of —
- (a) mental or physical incapacity to carry out the person's duties in a satisfactory manner; or
 - (b) the person being an insolvent under administration as that term is defined in the *Corporations Act 2001* (Commonwealth); or

- (c) absence, without leave, from 3 consecutive meetings of the Trust of which the person has had notice; or
 - (d) neglect of duty; or
 - (e) misconduct.
- (3) The office of a member becomes vacant if, before the term for which the person holding the office was appointed expires, the person dies, resigns or is removed from office.

17. Deputy chairperson acting as chairperson

- (1) If the chairperson is unable to act because of sickness, absence or other cause, or if there is no chairperson, the deputy chairperson is to act in the chairperson's place.
- (2) An act or omission of the deputy chairperson acting in the chairperson's place cannot be questioned on the ground that the occasion to act in the chairperson's place had not arisen or had ceased.

18. Alternate members

- (1) If a member, other than the chairperson, is unable to act because of sickness, absence or other cause, the Minister may appoint another person as an alternate member to act temporarily in the member's place.
- (2) If the deputy chairperson is acting in place of the chairperson at a meeting, the Minister may appoint another person as an alternate member to act temporarily as the deputy chairperson.
- (3) While acting in accordance with his or her appointment an alternate member is to be taken to be, and to have any entitlement of, a member.
- (4) An act or omission of an alternate member cannot be questioned on the ground that the occasion for the appointment or acting had not arisen or had ceased.

19. Leave of absence

- (1) The Minister may grant leave of absence to the chairperson on the terms and conditions the Minister thinks fit.
- (2) The chairperson may grant leave of absence to another member on the terms and conditions the chairperson thinks fit.

20. Remuneration and allowances

Members are entitled to any remuneration and allowances that the Minister may from time to time determine on the recommendation of the Minister for Public Sector Management.

Division 3 — Meetings

21. Holding meetings

- (1) The first meeting of the Trust is to be convened by the chairperson.
- (2) Subsequent meetings are to be held at times and places determined by the Trust.

22. Presiding at meetings

- (1) The chairperson, if present, is to preside at a meeting of the Trust.
- (2) If neither the chairperson nor the deputy chairperson acting in the chairperson's place is presiding under subsection (1), the members present at the meeting are to appoint one of their number to preside.

23. Holding meetings remotely

The presence of a person at a meeting of the Trust need not be by attendance in person but may be by that person and each other person at the meeting being simultaneously in contact by telephone or other means of instantaneous communication.

24. Disclosure of interests

- (1) A member who has a direct or indirect pecuniary interest in a matter that is before a meeting of the Trust must, as soon as possible after the relevant facts have come to his or her knowledge, disclose the nature of the interest to the other members who are at that meeting.
Penalty: a fine of \$12 000.
- (2) If a member has, in the opinion of the person presiding at a meeting of the Trust, a direct or indirect pecuniary interest in a matter before that meeting, the person presiding may call on the member to disclose the nature of that interest and, in default of any such disclosure, may determine that that interest exists.
- (3) A disclosure by a member of an interest in a matter or a determination that a member is interested in a matter must be recorded in the minutes of the meeting concerned.
- (4) A member who has made a disclosure of an interest in a matter, or in respect of whom a determination has been made in relation to a matter, may take part in the consideration or discussion of the matter, but not in advising or making a recommendation to the Minister on the matter.
- (5) An interest need not be disclosed under this section if it is an interest common to a significant number of persons in the State.

25. Minutes

The Trust is to cause accurate minutes to be kept of the proceedings at its meetings.

26. Procedure at meetings

Except as otherwise stated in this Division, the Trust is to determine its own meeting procedures.

Division 4 — Other matters

27. Provision of services and facilities to Trust

- (1) The CEO is to ensure that the Trust is provided with such services and facilities as are reasonably necessary to enable it to perform its functions.
- (2) Without limiting subsection (1), the CEO may, by arrangement with the Trust, and on such terms as are agreed with the Trust, allow the Trust to —
 - (a) make use, either full-time or part-time, of the services of any officer or employee of the Department; and
 - (b) make use of any facilities of the Department.

28. Annual report of Trust

- (1) After the end of each financial year the Trust is to prepare and submit to the Minister a report that contains —
 - (a) information about the activities of the Trust during the financial year; and
 - (b) any other information required by the Minister.
- (2) The Minister is to cause a copy of the report to be laid before each House of Parliament within 90 days after the end of the financial year to which the report relates or any shorter period that is prescribed by the regulations for the purposes of this subsection.
- (3) If —
 - (a) at the time a report is submitted to the Minister a House of Parliament is not sitting; and
 - (b) the Minister is of the opinion that that House will not sit before the end of the period referred to in subsection (2),the Minister is to transmit a copy of the report to the Clerk of that House and make the report available to the public.

- (4) A copy of a report transmitted to the Clerk of a House is to be regarded as having been laid before that House.
- (5) The laying of a copy of a report that is regarded as having occurred under subsection (4) is to be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after the Clerk received the copy.

29. Protection from liability for wrongdoing

- (1) An action in tort does not lie against a person for anything that the person has done, in good faith, in the performance or purported performance of a function under this Act.
- (2) The State is also relieved of any liability that it might otherwise have had for a person having done anything as described in subsection (1).
- (3) The protection given by this section applies even though the thing done as described in subsection (1) may have been capable of being done whether or not this Act had been enacted.
- (4) In this section, a reference to the doing of anything includes a reference to an omission to do anything.

30. Confidentiality

A person who is or has been a member must not, directly or indirectly, record, disclose or make use of any information obtained in the course of duty except —

- (a) for the purpose of performing a function under this Act; or
- (b) as required or allowed by this Act or another written law; or
- (c) with the written consent of the person to whom the information relates; or
- (d) in prescribed circumstances.

Penalty: a fine of \$12 000.

Part 4 — Miscellaneous

31. Regulations

The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.

Part 5 — Consequential amendment

32. *Constitution Acts Amendment Act 1899* amended

- (1) This section amends the *Constitution Acts Amendment Act 1899*.
- (2) In Schedule V Part 3 after the item for The Western Australian Post-Secondary Education Commission insert:

The Western Australian Regional Development Trust established
under the *Royalties for Regions Act 2009*.



Defined Terms

Defined Terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined Term	Provision(s)
CEO	3
chairperson	3
Department	3
deputy chairperson	3
forecast royalty income	6(1)
Fund	3
member	3
Minister	3
regional development commission	3
regional Western Australia	3
Trust	3