

Western Australia

**City of Fremantle and Town of East Fremantle  
Trust Funds (Amendment and Expiry) Act 2013**

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As at 22 Aug 2013

ActNoFooter

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# City of Fremantle and Town of East Fremantle Trust Funds (Amendment and Expiry) Act 2013

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Western Australia

## **City of Fremantle and Town of East Fremantle Trust Funds (Amendment and Expiry) Act 2013**

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**No. 9 of 2013**

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***An Act to amend the City of Fremantle and Town of East Fremantle  
Trust Funds Act 1961.***

*[Assented to 22 August 2013]*

The Parliament of Western Australia enacts as follows:

**s. 1**

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**1. Short title**

This is the *City of Fremantle and Town of East Fremantle Trust Funds (Amendment and Expiry) Act 2013*.

**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 the 14<sup>th</sup> day after that day.

**3. Act amended**

This Act amends the *City of Fremantle and Town of East Fremantle Trust Funds Act 1961*.

**4. Part 1 heading inserted**

Before section 1 insert:

**Part 1 — Preliminary**

**5. Section 3 amended**

- (1) In section 3 delete the definition of ***Board***.
- (2) In section 3 insert in alphabetical order:

***asset*** means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description (including money), and includes a security, a chose in action and a document;

***liability*** means any liability, debt or obligation (whether present or future and whether vested or contingent);

***right*** means any right, power, privilege or immunity (whether present or future and whether vested or contingent);

***transfer day*** means the day on which the *City of Fremantle and Town of East Fremantle Trust Funds (Amendment and Expiry) Act 2013*, other than sections 1 and 2, comes into operation.

- (3) In section 3 in the definition of ***Agreement*** delete “is contained in the Schedule;” and insert:

was contained in the Schedule to this Act immediately before transfer day;

- (4) In section 3 in the definition of ***Fremantle Fund*** delete “Agreement.” and insert:

Agreement;

**6. Parts 2 and 3 inserted**

After section 3 insert:

**Part 2 — Transitional provisions relating to Fremantle Fund and East Fremantle Fund**

**Division 1 — Fremantle Fund**

**4. Fremantle Fund abolished**

The Fremantle Fund is abolished on transfer day.

**5. Assets and liabilities of Fremantle Fund**

- (1) On transfer day —
  - (a) the assets and rights of the Fremantle Fund immediately before that day become assets and rights of the City of Fremantle by force of this section; and
  - (b) the liabilities of the Fremantle Fund immediately before that day become liabilities of the City of Fremantle by force of this section.
- (2) This section applies despite —
  - (a) any other law of the State; and
  - (b) the Agreement; and
  - (c) any other contract, agreement, document, order or instrument.

**6. Proceedings relating to Fremantle Fund**

- (1) On and after transfer day, any proceedings that immediately before that day might have been commenced or continued by the Fremantle Fund may be commenced or continued by the City of Fremantle.
- (2) On and after transfer day, any proceedings that immediately before that day might have been commenced or continued against the Fremantle Fund may be commenced or continued against the City of Fremantle.

**7. Agreements and instruments relating to Fremantle Fund**

- (1) Any agreement or instrument —
  - (a) that is in force immediately before transfer day; and
  - (b) to which the Fremantle Fund is a party; and



- (c) that is not —
  - (i) a loan debenture agreement to which section 8 applies; or
  - (ii) the Reserve 34837 order (as defined in section 9),

has effect on and after transfer day as if the City of Fremantle were substituted for the Fremantle Fund as a party to the agreement or instrument.

- (2) Any agreement or instrument —
  - (a) that is in force immediately before transfer day; and
  - (b) that includes a reference to the Fremantle Fund; and
  - (c) that is not —
    - (i) a loan debenture agreement to which section 8 applies; or
    - (ii) the Reserve 34837 order (as defined in section 9),

has effect on and after transfer day as if any reference in the agreement or instrument to the Fremantle Fund were (unless the context otherwise requires) a reference to the City of Fremantle.

## **8. Loan debenture agreements between Fremantle Fund and City of Fremantle**

On transfer day, a loan debenture agreement —

- (a) that is in force immediately before transfer day; and
- (b) to which the Fremantle Fund and the City of Fremantle are parties,

ceases to be in force.

**9. Care, control and management of Reserve 34837**

- (1) In this section —
- Reserve 34837 order** means the order that —
- (a) was made under the *Land Act 1933* section 33 in relation to Reserve no. 34837 on 21 September 1977; and
  - (b) subsists under the *Land Administration Act 1997* Schedule 2 clause 16.
- (2) On transfer day, the Reserve 34837 order is taken to be revoked under the *Land Administration Act 1997* section 50(1).
- (3) On transfer day, the following orders are taken to be made —
- (a) an order under the *Land Administration Act 1997* section 46(1) placing the care, control and management of Reserve no. 34837 with the City of Fremantle for the same purpose as that for which the relevant Crown land is reserved and for purposes ancillary or beneficial to that purpose;
  - (b) an order under the *Land Administration Act 1997* section 46(3) conferring on the City of Fremantle power, subject to the *Land Administration Act 1997* section 18, to grant a lease or sublease or licence over the whole or any part of the relevant Crown land for the purposes referred to in paragraph (a).
- (4) To avoid doubt, this section does not prevent the taking of any action under the *Land Administration Act 1997* or any other written law in relation to the orders that are taken to be made under subsection (3).

**10. Final report on Fremantle Fund**

As soon as reasonably practicable after transfer day, the City of Fremantle must prepare and give to the Minister a report that does the following —

- (a) lists the assets and liabilities of the Fremantle Fund immediately before transfer day;
- (b) lists and gives details of any proceedings that, immediately before transfer day —
  - (i) had been commenced by or against the Fremantle Fund; and
  - (ii) had not been completed;
- (c) lists and gives details of any proceedings that the City of Fremantle is aware are likely to be commenced by or against the City of Fremantle in substitution for the Fremantle Fund pursuant to section 6;
- (d) lists and gives details of the effect of each agreement (other than a loan debenture agreement to which section 8 applies) and instrument that was in force immediately before transfer day to which the Fremantle Fund was a party;
- (e) lists and gives details of each loan debenture agreement that ceased to be in force under section 8 on transfer day;
- (f) states whether, immediately before transfer day, the Fremantle Fund held any assets with the East Fremantle Fund as tenants in common.

**Division 2 — East Fremantle Fund**

**11. East Fremantle Fund abolished**

The East Fremantle Fund is abolished on transfer day.

**12. Assets and liabilities of East Fremantle Fund**

- (1) On transfer day —
  - (a) the assets and rights of the East Fremantle Fund immediately before that day become assets and rights of the Town of East Fremantle by force of this section; and
  - (b) the liabilities of the East Fremantle Fund immediately before that day become liabilities of the Town of East Fremantle by force of this section.
- (2) This section applies despite —
  - (a) any other law of the State; and
  - (b) the Agreement; and
  - (c) any other contract, agreement, document, order or instrument.

**13. Proceedings relating to East Fremantle Fund**

- (1) On and after transfer day, any proceedings that immediately before that day might have been commenced or continued by the East Fremantle Fund may be commenced or continued by the Town of East Fremantle.
- (2) On and after transfer day, any proceedings that immediately before that day might have been commenced or continued against the East Fremantle Fund may be commenced or continued against the Town of East Fremantle.

**14. Agreements and instruments relating to East Fremantle Fund**

- (1) Any agreement or instrument —
  - (a) that is in force immediately before transfer day; and

(b) to which the East Fremantle Fund is a party,

has effect on and after transfer day as if the Town of East Fremantle were substituted for the East Fremantle Fund as a party to the agreement or instrument.

(2) Any agreement or instrument —

(a) that is in force immediately before transfer day; and

(b) that includes a reference to the East Fremantle Fund,

has effect on and after transfer day as if any reference in the agreement or instrument to the East Fremantle Fund were (unless the context otherwise requires) a reference to the Town of East Fremantle.

## **15. Final report on East Fremantle Fund**

As soon as reasonably practicable after transfer day, the Town of East Fremantle must prepare and give to the Minister a report that does the following —

(a) lists the assets and liabilities of the East Fremantle Fund immediately before transfer day;

(b) lists and gives details of any proceedings that, immediately before transfer day —

(i) had been commenced by or against the East Fremantle Fund; and

(ii) had not been completed;

(c) lists and gives details of any proceedings that the Town of East Fremantle is aware are likely to be commenced by or against the Town of East Fremantle in substitution for the East Fremantle Fund pursuant to section 13;

(d) lists and gives details of the effect of each agreement and instrument that was in force

immediately before transfer day to which the East Fremantle Fund was a party;

- (e) states whether, immediately before transfer day, the East Fremantle Fund held any assets with the Fremantle Fund as tenants in common.

### **Division 3 — Miscellaneous**

#### **16. Registration of documents**

The Registrar of Titles is to take notice of the provisions of this Part and is empowered to record and register in the appropriate manner the necessary documents, and otherwise to give effect to this Part.

### **Part 3 — Expiry of Act**

#### **17. Act to expire**

- (1) When the Minister is reasonably satisfied that there is no reason for this Act to continue, the Minister must publish a notice in the *Gazette* stating that this Act expires at the end of the day on which the notice is published.
- (2) The Minister must not publish a notice under subsection (1) unless —
  - (a) the City of Fremantle has given the Minister a report under section 10; and
  - (b) the Town of East Fremantle has given the Minister a report under section 15; and
  - (c) the Minister has consulted the City of Fremantle and the Town of East Fremantle.
- (3) The Act expires as stated in a notice published under subsection (1).

**7. Sections 4 to 9 deleted**

Delete sections 4 to 9.

**8. Schedule deleted**

Delete the Schedule.

