

WESTERN AUSTRALIA

**SMALL BUSINESS DEVELOPMENT
CORPORATION AMENDMENT
ACT 1998**

No. 5 of 1998

AN ACT to amend the *Small Business Development Corporation Act 1983*.

[Assented to 30 April 1998.]

The Parliament of Western Australia enacts as follows:

Short title

1. This Act may be cited as the *Small Business Development Corporation Amendment Act 1998*.

Commencement

2. This Act comes into operation on the day on which it receives the Royal Assent.

Principal Act

3. In this Act the *Small Business Development Corporation Act 1983** is referred to as the principal Act.

[* Act No. 46 of 1983.
For subsequent amendments see 1996 Index to
Legislation of Western Australia, Table 1, p. 210.]

Section 3 amended

4. Section 3 (1) of the principal Act is amended —

(a) by deleting the definition of “Managing Director” and substituting the following —

“
 “Managing Director” means the chief executive officer of the Corporation appointed under Part 3 of the *Public Sector Management Act 1994*;
”;

(b) by deleting the definition of “paragraph”;

(c) by deleting the semicolon at the end of the definition of “small business” and substituting a full stop; and

(d) by deleting the definitions of “section” and “subsection”.

Section 5 amended

5. (1) Section 5 (1) of the principal Act is amended by deleting paragraph (b) and “and” following that paragraph, and substituting the following —

“

- (b) 6 persons appointed by the Minister as members of the Corporation, of whom 2 shall be persons representative of small business in the areas of the State outside the metropolitan region; and

”.

(2) Section 5 of the principal Act is amended by inserting after subsection (1) the following subsection —

“

- (1a) For the purposes of subsection (1) (b) —

“**metropolitan region**” has the same meaning as in the *Metropolitan Region Town Planning Scheme Act 1959*.

”.

Sections 11A, 11B and 11C inserted

6. After section 11 of the principal Act, the following sections are inserted —

“

Delegation

11A. (1) The Corporation may, by instrument in writing, delegate the performance of any of its functions, except this power of delegation.

(2) A delegation under subsection (1) may be made to —

- (a) the Managing Director;

- (b) an appointed member;
- (c) a person employed by the Corporation under section 15;
- (d) a person engaged by the Corporation under section 16; or
- (e) with the approval of the Minister, any other person.

(3) A delegate cannot subdelegate the performance of any function unless he or she is expressly authorized by the instrument of delegation to do so.

(4) A function performed by a delegate is to be taken to be performed by the Corporation.

(5) A delegate performing a function under this section is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.

(6) Nothing in this section is to be read as limiting the ability of the Corporation to act through its officers and agents in the normal course of business.

Minister may give directions

11B. (1) The Minister may give directions in writing to the Corporation with respect to the performance of its functions, either generally or in relation to a particular matter, and the Corporation is to give effect to any such direction.

(2) The text of a direction given under subsection (1) is to be —

- (a) laid before each House of Parliament within 14 sitting days of that House after the direction is given; and

- (b) included in the annual report submitted by the accountable authority of the Corporation under section 66 of the *Financial Administration and Audit Act 1985*.

Minister to have access to information

11C. (1) The Minister is entitled —

- (a) to have information in the possession of the Corporation; and
- (b) where the information is in or on a document, to have, and make and retain copies of, that document.

(2) For the purposes of subsection (1) the Minister may —

- (a) request the Corporation to furnish information to the Minister;
- (b) request the Corporation to give the Minister access to information;
- (c) for the purposes of paragraph (b) make use of a member of staff of the Corporation to obtain the information and furnish it to the Minister.

(3) The Corporation is to comply with a request under subsection (2) and make its facilities and members of staff available to the Minister for the purposes of paragraph (c) of that subsection.

(4) In this section —

- “**document**” includes any tape, disc or other device or medium on which information is recorded or stored mechanically, photographically, electronically or otherwise;

“**information**” means information specified, or of a description specified, by the Minister that relates to the functions of the Corporation.

”.

Section 12 repealed

7. Section 12 of the principal Act is repealed.

Section 18 repealed and a section substituted

8. Section 18 of the principal Act is repealed and the following section is substituted —

“

Confidentiality

18. (1) A person to whom this subsection applies 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 functions under this Act;
- (b) as required or allowed by this Act or under another law;
- (c) with the written consent of the person to whom the information relates; or
- (d) in prescribed circumstances.

Penalty: \$10 000.

(2) Subsection (1) applies to any person who is or has been —

- (a) the Managing Director;
- (b) an appointed member;

- (c) employed by the Corporation under section 15;
- (d) engaged by the Corporation under section 16; or
- (e) a delegate under section 11A (2) (e).

”.

Various references to “Governor” changed to “Minister”

9. The principal Act is amended by deleting “Governor” where it occurs in the sections referred to in the Table to this section and substituting the following —

“ Minister ”.

Table

- 3 (1) (definition of “appointed member”)
- 5 (1) (a)
- 5 (4)
- 5 (5) (b)
- 5 (6)
