

Western Australia

WADC and WA Exim Corporation Repeal Act 1998

(No. 30 of 1998)

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Western Australia

WADC and WA Exim Corporation Repeal Act 1998

No. 30 of 1998

An Act to:

- **repeal the *Western Australian Development Corporation Act 1983* and the *Western Australian Exim Corporation Act 1986*;**
- **make transitional provisions with respect to assets and liabilities and other matters; and**
- **consequentially amend other Acts.**

[Assented to 30 June 1998]

The Parliament of Western Australia enacts as follows:

1. Short title

This Act may be cited as the *WADC and WA Exim Corporation Repeal Act 1998*.

2. Commencement

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

3. Interpretation

In this Act, unless the contrary intention appears —

“**commencement day**” means the day on which this Act comes into operation;

“**Exim**” means the Western Australian Exim Corporation established by the *Western Australian Exim Corporation Act 1986* and includes a body corporate that is a wholly owned subsidiary of Exim as determined under the Corporations Law;

“**liability**” means any liability, duty or obligation —

- (a) whether actual, contingent or prospective, liquidated or unliquidated; or
- (b) whether owed alone or jointly or jointly and severally with any other person;

“**property**” means property and assets of every description, and includes securities, rights and powers of every description;

“**Treasurer**” means the Treasurer of the State;

“**WADC**” means the Western Australian Development Corporation established by the *Western Australian Development Corporation Act 1983* and includes a body corporate that is a wholly owned subsidiary of the WADC as determined under the Corporations Law.

4. Repeal of the *Western Australian Development Corporation Act 1983*

- (1) The *Western Australian Development Corporation Act 1983** is repealed.
- (2) Schedule 1 has effect with respect to the assets and liabilities of, and other matters relating to, the WADC.

[* *Act No. 87 of 1983*

For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 251.]

5. Repeal of the *Western Australian Exim Corporation Act 1986*

- (1) The *Western Australian Exim Corporation Act 1986** is repealed.
- (2) Schedule 1 has effect with respect to the assets and liabilities of, and other matters relating to, Exim.

[* *Act No. 94 of 1986*

For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 251.]

6. Act does not apply to certain assets, liabilities etc.

This Act has effect subject to section 51 of the *Western Australian Land Authority Act 1992*, in particular —

- (a) subsections (7) and (10) of that section by which the Western Australian Land Authority is made the successor to the WADC in respect of certain property, liabilities, records, things commenced, proceedings and remedies; and

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- (b) subsection (9) of that section by which the Western Australian Land Authority is substituted for the WADC as a party to, or in references to the WADC in, certain agreements and instruments.

7. Interpretation Act to apply

With respect to the repeals effected by sections 4 and 5, this Act is supplementary to, and does not displace the operation of, the *Interpretation Act 1984*.

8. Consequential amendments

Amendments are made as set out in Schedule 2.

Schedule 1 — Transition

[ss. 4, 5]

1. Clauses subject to section 6

Clauses 2, 3, 6 and 7 of this Schedule are subject to section 6 of this Act.

2. Assets, liabilities etc. to vest in the State

On the commencement day —

- (a) any property of the WADC and any property of Exim whether within or outside the State, and all claims, rights and remedies of the WADC and Exim in respect of the property, vest in the State; and
- (b) the State becomes liable to pay, bear or discharge all the liabilities of the WADC and all the liabilities of Exim that are properly payable.

3. Records

On the commencement day the Treasurer is to take delivery of all registers, papers, documents, minutes, receipts, books of account and other records (however compiled, recorded or stored) relating to the operations of the WADC and Exim.

4. Disposal of property and discharge of liabilities

- (1) Where by force of this Act an estate or interest in property of a beneficial nature, and not merely held in trust, is vested in the State, whether solely or together with any other person, the Treasurer, on behalf of the State, may get in, sell or otherwise dispose of, or deal with, that estate or interest or any part of that estate or interest as the Treasurer thinks fit.
- (2) Any moneys vested in, or obtained or collected by, the State or the Treasurer on behalf of the State under this Act are to be paid into the Consolidated Fund.

- (3) Where by force of this Act a liability becomes a liability of the State, the Treasurer, on behalf of the State, may do anything that is necessary or convenient for the purpose of paying or discharging the liability or arranging for it to be compounded or compromised.
- (4) The moneys required by the Treasurer to defray the costs and expenses of and incidental to the exercise of his or her powers under this Act, and in making payments authorized by this Act, are charged to the Consolidated Fund which is appropriated accordingly.

5. Shares

On the commencement day all shares issued to the Treasurer under section 20 of the *Western Australian Development Corporation Act 1983* and section 30 of the *Western Australian Exim Corporation Act 1986* are cancelled and all rights attached to the shares are extinguished.

6. Agreements and instruments

- (1) Any agreement or instrument subsisting immediately before the commencement day —
 - (a) to which the WADC was a party; or
 - (b) which contains a reference to —
 - (i) the WADC; or
 - (ii) a trading name used by the WADC,

has effect after that day as if —

- (c) the State were substituted for the WADC as a party to the agreement or instrument; and
 - (d) any reference in the agreement or instrument to the WADC or a trading name of the WADC were (unless the context otherwise requires) a reference to the State.
- (2) Any agreement or instrument subsisting immediately before the commencement day —
 - (a) to which Exim was a party;

- (b) to which Exim was deemed under section 41(17) of the *Western Australian Exim Corporation Act 1986* to be a party; or
- (c) which contains a reference to —
 - (i) Exim;
 - (ii) The Western Australian Exim Corporation Ltd or a body subsidiary to or associated with The Western Australian Exim Corporation Ltd;
 - (iii) the Western Australian Overseas Projects Authority; or
 - (iv) a trading name used by Exim,

has effect after that day as if —

- (d) the State were substituted for Exim as a party to the agreement or instrument; and
- (e) any reference in the agreement or instrument to a body referred to in paragraph (c) were (unless the context otherwise requires) a reference to the State.

7. Proceedings etc.

Any legal or other proceedings or any remedies that might, but for this Act, have been commenced, continued, discontinued or available by or against or to the WADC or Exim may be commenced, continued, discontinued, and are available, by or against or to the State, as the case requires.

8. Annual report for part of a year

- (1) The accountable authority, as defined in the *Financial Administration and Audit Act 1985*, of the WADC is to report in respect of the WADC as required by section 66 of that Act, but limited to the period from the preceding 1 July to the commencement day, and Division 14 of Part II of that Act applies as if that period were a full financial year.

- (2) The WADC and the accountable authority of the WADC continue in existence for the purpose of subclause (1) only.
- (3) The accountable authority, as defined in the *Financial Administration and Audit Act 1985*, of Exim is to report in respect of Exim as required by section 66 of that Act, but limited to the period from the preceding 1 July to the commencement day, and Division 14 of Part II of that Act applies as if that period were a full financial year.
- (4) Exim and the accountable authority of Exim continue in existence for the purpose of subclause (3) only.
- (5) On the commencement day —
 - (a) the members of the Board of directors of the WADC and the members of the Board of directors of Exim cease to hold office;
 - (b) the Boards are to be constituted by a person appointed by the Minister; and
 - (c) the functions referred to in subclauses (1) and (3) are to be performed through that person.
- (6) A person referred to in subclause (5) (b) —
 - (a) holds office at the pleasure of the Minister and on such terms and conditions as the Minister determines; and
 - (b) has the powers that are necessary or convenient for the purposes of subclauses (1) and (3).
- (7) The Treasurer is to arrange for the provision of such clerical and other assistance as is reasonably required for the purpose of subclauses (1) and (3).

Schedule 2 — Consequential amendments

[s. 8]

1. ***Constitution Acts Amendment Act 1889***

Part 3 of Schedule V to the *Constitution Acts Amendment Act 1899** is amended by deleting the items relating to —

- (a) the Board of Directors of the WADC; and
- (b) the Western Australian Overseas Projects Authority.

[* *Reprinted as at 1 March 1993*

For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 46 and Act No. 10 of 1998.]

2. ***Financial Administration and Audit Act 1985***

Schedule 1 to the *Financial Administration and Audit Act 1985** is amended by deleting the items relating to —

- (a) the WADC; and
- (b) Exim.

[* *Reprinted as at 10 January 1997*

For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, pp. 83-4.]

3. ***Government Employees Superannuation Act 1987***

Part B of Schedule 1 to the *Government Employees Superannuation Act 1987** is amended by deleting the item “Western Australian Development Corporation (on and from 31 March 1991)”.

[* *Reprinted as at 27 May 1996*

For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, pp. 97-8 and Act No. 10 of 1998.]

4. *Statutory Corporations (Liability of Directors) Act 1996*

Schedule 1 of the *Statutory Corporations (Liability of Directors) Act 1996** is amended by deleting the item relating to the WADC.

[* *Act No. 41 of 1996.*]