

WESTERN AUSTRALIA

**WESTERN AUSTRALIAN
TREASURY CORPORATION
AMENDMENT ACT 1998**

No. 25 of 1998

AN ACT to amend the *Western Australian Treasury Corporation Act 1986* and to make consequential amendments to other Acts.

[*Assented to 30 June 1998.*]

The Parliament of Western Australia enacts as follows:

Short title

1. This Act may be cited as the *Western Australian Treasury Corporation Amendment Act 1998*.

Commencement

2. This Act comes into operation on such day as is fixed by proclamation.

Principal Act

3. In this Act the *Western Australian Treasury Corporation Act 1986** is referred to as the principal Act.

[* *Act No. 16 of 1986.*

For subsequent amendments see 1996 Index to Legislation of Western Australia, Table 1, p. 249.]

Long title repealed and a new title substituted

4. The long title to the principal Act is repealed and the following long title is substituted —

“

AN ACT to establish a corporation to provide financial management services to the Western Australian public sector.

”.

Section 3 amended

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

(a) by inserting immediately before the definition of “authority” the following definition —

“

“appointed director” means a director appointed under section 5B (1) (d);

”;

(b) in the definition of “authority”, by deleting “the Schedule” and substituting the following —

“ Schedule 1 ”;

(c) by inserting in the appropriate alphabetical positions the following definitions —

“

“**board**” means the board of directors provided for by section 5B;

“**chief executive officer**” means the person appointed as such under section 8;

“**director**” means a member of the board;

”;

(d) in the definition of “the repealed Act” by deleting the full stop and substituting a semicolon; and

(e) by inserting after the definition of “the repealed Act” the following definition —

“

“**Under Treasurer**” includes an acting Under Treasurer.

”.

(2) Section 3 (2) and (3) of the principal Act are amended by deleting “the Schedule”, in each place where it appears, and substituting the following —

“ Schedule 1 ”.

Section 5 amended

6. Section 5 (2) and (3) of the principal Act are repealed and the following subsections are substituted —

“ (2) The Corporation is a body corporate with perpetual succession.

(3) Proceedings may be taken by or against the Corporation in its corporate name.

”.

Sections 5A, 5B, 5C and 5D inserted and saving provision

7. (1) After section 5 of the principal Act the following sections are inserted —

“ **Agent of Crown**

5A. The Corporation is an agent of the Crown and enjoys the status, immunities and privileges of the Crown.

Board of directors

5B. (1) The Corporation shall have a board of directors comprising —

- (a) as chairperson, the Under Treasurer for the time being;
- (b) as deputy chairperson, an officer of the Treasury from time to time nominated by the Under Treasurer;
- (c) the chief executive officer, or the acting chief executive officer, for the time being; and
- (d) up to 3 other persons with relevant commercial or financial experience appointed by the Treasurer.

(2) The board, in the name of the Corporation, shall perform the functions of the Corporation under this Act or any other written law.

Constitution and proceedings of board

5C. Schedule 2 has effect.

Remuneration of directors and committee members

5D. There shall be paid out of the funds of the Corporation to —

- (a) an appointed director; and
- (b) a member of a committee under clause 15 of Schedule 2 (other than a director referred to in section 5B (1) (a), (b) or (c) or a person acting for or representing such a director),

such remuneration and allowances as are determined in his or her case by the Treasurer on the recommendation of the Minister for Public Sector Management.

”.

(2) The amendments to the principal Act made by subsection (1) do not affect the corporate identity of the Western Australian Treasury Corporation or its rights or obligations.

Section 6 amended

8. Section 6 (4) of the principal Act is amended —

- (a) in paragraph (b) by deleting “the person referred to in section 5 (2) (a) or of”; and

(b) by deleting “person, or by an agent or attorney, referred to in paragraph (b)” and substituting the following —

“ agent or attorney ”.

Section 7 repealed and a section substituted, and transitional provision

9. (1) Section 7 of the principal Act is repealed and the following section is substituted —

“

Liability of Corporation for duties, taxes etc.

7. (1) Notwithstanding section 5A or any other written law —

(a) the Corporation; and

(b) deeds or other instruments to which it is a party,

are liable to and chargeable with duties, taxes or other imposts under any written law.

(2) The Treasurer may by order published in the *Gazette* exempt —

(a) the Corporation; and

(b) deeds or other instruments to which it is a party,

from any liability under subsection (1) if the Treasurer considers the exemption to be in the public interest.

(3) Section 43 (4) and (7) to (9) of the *Interpretation Act 1984* apply to an order under subsection (2) as if it were a regulation.

”.

(2) Section 7 as inserted in the principal Act by subsection (1) does not apply to a deed or other instrument that —

- (a) has been signed or sealed by or on behalf of all parties that are required to do so; or
- (b) evidences a transaction that was completed,

before the commencement of this Act.

Section 8 repealed and sections 8, 8A, 8B and 8C substituted and transitional provisions

10. (1) Section 8 of the principal Act is repealed and the following sections are substituted —

“

Chief executive officer

8. (1) There shall be a chief executive officer of the Corporation.

(2) The powers —

- (a) to appoint and remove the chief executive officer; and
- (b) to fix and alter his or her terms and conditions of service,

are vested in the board.

(3) The board shall obtain the concurrence of the Treasurer before it exercises any of the powers conferred by subsection (2).

(4) Subject to any provision of his or her terms and conditions of service, the chief executive officer may resign his or her office by giving notice in writing to the board.

(5) The board may appoint a person to act in place of the chief executive officer —

- (a) during a vacancy in that office; or
 - (b) during any period when the chief executive officer —
 - (i) is unable for any reason to perform his or her duties; or
 - (ii) is absent from the State,
- and where subparagraph (ii) applies may —
- (iii) appoint a person to act in place of the chief executive officer even though the latter is performing duties of office outside the State; and
 - (iv) specify the extent to which the person may so act.

Role of chief executive officer

8A. Subject to the control of the board, the chief executive officer is responsible for the day to day operations of the Corporation.

Staff

8B. (1) The power to engage and manage the staff of the Corporation is vested in the board.

(2) The power conferred by subsection (1) —

- (a) includes powers to determine remuneration and other terms and conditions of service and to remove, suspend and discipline members of staff; and
- (b) does not preclude the delegation of any matter under section 18.

(3) The remuneration of members of staff and other terms and conditions of employment shall not be less favourable than is provided for in —

- (a) an applicable award, order or agreement under the *Industrial Relations Act 1979*; or
- (b) the *Minimum Conditions of Employment Act 1993*.

(4) Nothing in this section affects the operation of the *Workplace Agreements Act 1993*.

Use of other government staff etc.

8C. (1) The Corporation may by arrangement with the relevant employer make use, either full-time or part-time, of the services of any officer or employee —

- (a) in the Public Service;
- (b) in a State agency or instrumentality; or
- (c) otherwise in the service of the Crown in right of the State.

(2) The Corporation may by arrangement with —

- (a) a department of the Public Service; or
- (b) a State agency or instrumentality,

make use of any facilities of the department, agency or instrumentality.

(3) An arrangement under subsection (1) or (2) shall be made on such terms as are agreed to by the parties.

”.

(2) The person who immediately before the commencement of this Act held the office of chief executive officer of the Corporation shall be taken from that commencement to have been appointed as the chief executive officer under section 8 as inserted in the principal Act by subsection (1).

(3) All persons who immediately before the commencement of this Act were in the employment of the Corporation shall be taken from that commencement to have been engaged under section 8B as inserted in the principal Act by subsection (1).

Heading to Part III amended

11. The heading to Part III of the principal Act is amended by deleting “**BORROWING AND LENDING BY**” and substituting the following —

“ **FUNCTIONS AND POWERS OF** ”.

Section 9 amended

12. (1) Section 9 (1) of the principal Act is amended —

- (a) by deleting “and” after paragraph (b);

- (b) by deleting the full stop at the end of paragraph (c) and substituting the following —
- “ and authorities; ”; and
- (c) by inserting after paragraph (c) the following paragraphs —
- “
- (d) to advise authorities on financial matters including transactions that come within paragraph (g);
- (e) to accept moneys from authorities on deposit;
- (f) to accept moneys from authorities in trust for investment, either in the name of the authority concerned or the Corporation;
- (g) on behalf of authorities to enter into agreements and arrangements that come within section 10 (2) (fa) or (fb), either in the name of the authority concerned or the Corporation;
- (h) to undertake negotiations for authorities in relation to borrowing or transactions that come within paragraph (g);
- (i) subject to section 9A, to assume by way of assignment or novation any liability incurred by the State (otherwise than through the Corporation) in relation to borrowing or financial accommodation; and
- (j) to perform any other function conferred on the Corporation by or under a written law.

”.

(2) After section 9 (1) of the principal Act the following subsections are inserted —

“

(1a) In relation to the functions in subsection (1) (c), (d), (e), (f), (g) and (h) —

“authorities” includes any agency within the meaning of the *Public Sector Management Act 1994*.

(1b) The Corporation may on behalf of an authority —

(a) under subsection (1) (g), enter into agreements or arrangements that come within section 10 (2) (fa) or (fb); and

(b) perform the functions in subsection (1) (d) and (h) in relation to those matters,

even though the authority does not itself have the power to enter into agreements or arrangements of that kind.

”

(3) Section 9 (2) of the principal Act is amended by deleting “with a view to avoiding a loss” and substituting the following —

“

and endeavour to ensure that its revenue is sufficient to cover all costs

”.

Section 9A inserted

13. After section 9 of the principal Act the following section is inserted —

“ **Further provision as to assumption of liabilities on behalf of State**

9A. (1) The Corporation may only perform the function described in section 9 (1) (i) —

- (a) with the approval of the Treasurer and in accordance with any requirement that the Treasurer may impose; and
- (b) where appropriate, with the agreement of the person to whom the liability is owed and in accordance with the terms of that agreement.

(2) Where there has been an appropriation of the Consolidated Fund for the principal, interest and other expenses in respect of a liability assumed by the Corporation under section 9 (1) (i), the appropriation shall be taken to authorize the payment to the Corporation of the amount of that principal and interest and those other expenses for the purpose of the discharge by the Corporation of the assumed liability.

”.

Section 10 amended

14. (1) Section 10 (2) of the principal Act is amended —

- (a) in paragraph (b) —
 - (i) by inserting before “borrow moneys” the following —

“ subject to section 10A, ”;

- (ii) in subparagraph (ii) by deleting the second comma and substituting a semicolon; and
 - (iii) by deleting the words from and including “on such terms” to the end of the paragraph;
 - (b) in paragraph (g) by deleting “with the approval of the Treasurer,”;
 - (c) by inserting after paragraph (g) the following paragraph —
 - “(ga) establish, and act as the trustee of, any unit trust;
 - (d) by deleting “and” after paragraph (i);
 - (e) in paragraph (j) by deleting the full stop and substituting the following —
 - “ ; and ”; and
 - (f) by inserting after paragraph (j) the following paragraph —
 - “(k) charge fees for services provided to an authority or any other person.”.
- (2) Section 10 (3) of the principal Act is repealed.

Section 10A inserted

15. After section 10 of the principal Act the following section is inserted —

“

Borrowing limits

10A. (1) The Treasurer may, by notice in writing to the Corporation —

(a) impose limits on the exercise of the power conferred by section 10 (2) (b); and

(b) from time to time vary the limit in force.

(2) The Corporation shall comply with any limit for the time being in force but a liability of the Corporation is not unenforceable by reason of, or in any way affected by, a failure of the Corporation to do so.

(3) A person dealing with the Corporation is not bound or concerned to enquire whether the Corporation has complied or is complying with this section.

”.

Section 13 amended

16. (1) Section 13 (2) of the principal Act is amended by inserting after “charged to” the following —

“ , and paid out of, ”.

(2) Section 13 (3) of the principal Act is repealed and the following subsections are substituted —

“ (3) The Treasurer may in writing served on the Corporation —

- (a) specify a fee or fees to be paid by an authority for a guarantee arising under subsection (1) in respect of money lent by the Corporation to that authority; and
- (b) require the Corporation to collect the fee or fees from the authority concerned.

(3a) The Corporation shall pay any fee so collected to the Treasurer who is, on receipt, to credit the fee to the Consolidated Fund.

”

Section 14 amended

17. Section 14 (2) (b) of the principal Act is deleted.

Part IIIA inserted

18. After Part III of the principal Act the following Part is inserted —

“ **PART IIIA — CORPORATE PLANNING DOCUMENTS**

Division 1 — Strategic development plans

Draft strategic development plan to be submitted to Treasurer

16A. (1) The board shall in each year prepare, and submit to the Treasurer for his or her agreement, a draft strategic development plan for the Corporation.

(2) Each draft strategic development plan shall be submitted not later than 2 months before the start of the next financial year.

Transitional provision

16B. The first strategic development plan of the Corporation shall be in respect of the next full financial year after the commencement of this Part.

Matters to be included in strategic development plan

16C. (1) The strategic development plan shall set out objectives and operational targets and how those objectives and targets will be achieved.

(2) The matters which shall be considered in the preparation of the strategic development plan include operational strategies, borrowing programmes, financial requirements and performance targets.

(3) A strategic development plan shall cover a forecast period of 3 years or a lesser period agreed with the Treasurer.

Strategic development plan to be agreed if possible

16D. The board and the Treasurer shall endeavour to reach agreement on the draft strategic development plan as soon as possible, and in any event not later than one month before the start of the next financial year.

Treasurer's powers in relation to draft strategic development plan

16E. (1) The Treasurer may return the draft strategic development plan to the board and request it to —

- (a) consider or further consider any matter and deal with the matter in the draft plan; and
- (b) revise the draft plan in the light of its consideration or further consideration.

(2) The board shall comply with the request as soon as is practicable.

(3) If a draft strategic development plan has not been agreed to by the Treasurer by one month before the start of the next financial year, the Treasurer may, by written notice, direct the board —

- (a) to take specified steps in relation to the draft plan; or
- (b) to make specified modifications to the draft plan.

(4) The board shall comply with a direction under subsection (3) as soon as is practicable.

(5) The Treasurer shall within 14 days after a direction is given cause a copy of it to be —

- (a) laid before each House of Parliament; or
- (b) dealt with in accordance with section 16Q.

Strategic development plan pending agreement

16F. (1) If the Treasurer has not agreed to a draft strategic development plan before the start of a financial

year, the latest draft plan shall be the strategic development plan for the Corporation until a draft strategic development plan is agreed to under section 16G.

(2) In subsection (1) —

“latest draft plan” means the draft strategic development plan submitted, or last submitted, by the board to the Treasurer before the start of the financial year with any modifications made by the board, whether before or after that time, at the direction of the Treasurer.

Treasurer’s agreement to draft strategic development plan

16G. When a draft strategic development plan is agreed to by the Treasurer, it becomes the strategic development plan for the relevant financial year or the remainder of the year, as the case may be.

Modifications of strategic development plan

16H. (1) A strategic development plan may be modified by the board with the agreement of the Treasurer.

(2) The Treasurer may, by written notice, direct the board to modify the strategic development plan.

(3) Before giving the direction the Treasurer shall consult with the board and take its views into account.

(4) The Treasurer shall within 14 days after a direction is given cause a copy of it to be —

(a) laid before each House of Parliament; or

(b) dealt with in accordance with section 16Q.

Division 2 — Statement of corporate intent

Draft statement of corporate intent to be submitted to Treasurer

16I. (1) The board shall in each year prepare, and submit to the Treasurer for his or her agreement, a draft statement of corporate intent for the Corporation.

(2) Each draft statement of corporate intent shall be submitted not later than 2 months before the start of the next financial year.

Transitional provision

16J. The first statement of corporate intent of the Corporation shall be in respect of the next full financial year after the commencement of this Part.

Matters to be included in statement of corporate intent

16K. (1) The statement of corporate intent shall be consistent with the strategic development plan under Division 1.

(2) The statement of corporate intent for the Corporation shall specify —

- (a) an outline of objectives;
- (b) an outline of the nature and scope of the functions proposed to be performed during the relevant financial year;
- (c) the dividend policy for the relevant financial year;

- (d) accounting policies that apply to the preparation of accounts;
- (e) the type of information to be given to the Treasurer, including information to be given in quarterly and annual reports;
- (f) such other matters as may be agreed on by the Treasurer and the board; and
- (g) the performance targets and other measures by which performance may be judged and related to objectives.

(3) The Treasurer may exempt the Corporation from including any matter, or any aspect of a matter, mentioned in subsection (2) in the statement of corporate intent.

Statement of corporate intent to be agreed if possible

16L. The board and the Treasurer shall endeavour to reach agreement on the draft statement as soon as possible, and in any event not later than the start of the next financial year.

Treasurer's powers in relation to draft statement of corporate intent

16M. (1) The Treasurer may return the draft statement of corporate intent to the board and request it to —

- (a) consider or further consider any matter and deal with the matter in the draft statement; and
- (b) revise the draft statement in the light of its consideration or further consideration.

(2) The board shall comply with the request as soon as is practicable.

(3) If a draft statement of corporate intent has not been agreed to by the Treasurer by one month before the start of the financial year, the Treasurer may, by written notice, direct the board —

- (a) to take specified steps in relation to the draft statement; or
- (b) to make specified modifications to the draft statement.

(4) The board shall comply with a direction under subsection (3) as soon as is practicable.

(5) The Treasurer shall within 14 days after a direction is given cause a copy of it to be —

- (a) laid before each House of Parliament; or
- (b) dealt with in accordance with section 16Q.

Statement of corporate intent pending agreement

16N. (1) If the Treasurer has not agreed to a draft statement of corporate intent before the start of a financial year, the latest draft statement shall be the statement of corporate intent for the Corporation until a draft statement of corporate intent is agreed to under section 16O.

(2) In subsection (1) —

“latest draft statement” means the draft statement of corporate intent submitted, or last submitted, by the board to the Treasurer before the start of the financial year with any modifications made by the board, whether before or after that time, at the direction of the Treasurer.

Treasurer's agreement to draft statement of corporate intent

16O. (1) When a draft statement of corporate intent is agreed to by the Treasurer, it becomes the statement of corporate intent for the relevant financial year or the remainder of the year, as the case may be.

(2) The Treasurer shall within 14 days after he or she agrees to a draft statement of corporate intent under subsection (1) cause a copy of it to be —

- (a) laid before each House of Parliament; or
- (b) dealt with in accordance with section 16Q.

(3) The board may request the Treasurer to delete from the copy of a statement of corporate intent that is to be laid before Parliament a matter that is of a commercially sensitive nature, and the Treasurer may, despite subsection (2), comply with the request.

Modifications of statement of corporate intent

16P. (1) A statement of corporate intent may be modified by the board with the agreement of the Treasurer.

(2) The Treasurer may, by written notice, direct the board to modify the statement of corporate intent, and the board shall comply with any such direction.

(3) Before giving the direction, the Treasurer shall consult with the board and take its views into account.

(4) The Treasurer shall within 14 days after a direction is given cause a copy of it to be —

- (a) laid before each House of Parliament; or
- (b) dealt with in accordance with section 16Q.

***Division 3 — Supplementary provision as to laying
directions before Parliament***

Procedure where a House is not sitting

16Q. (1) If —

- (a) at the commencement of a period referred to in section 16E (5), 16H (4), 16M (5), 16O (2), 16P (4), or 21B (4) in respect of a document a House of Parliament is not sitting; and
- (b) the Treasurer is of the opinion that that House will not sit during that period,

the Treasurer shall transmit a copy of the document to the Clerk of that House.

(2) A copy of a document transmitted to the Clerk of a House shall be —

- (a) taken to have been laid before that House; and
- (b) taken to be a document published by order or under the authority of that House.

(3) The laying of a copy of a document that is taken to have occurred under subsection (2) (a) shall be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after the receipt of the copy by the Clerk.

”.

Section 17 amended

19. (1) Section 17 (1a) of the principal Act is amended —

- (a) by redesignating paragraph (a) as paragraph (aa); and

(b) by inserting immediately before that paragraph the following paragraph —

“

(a) moneys from time to time appropriated by Parliament for the purposes of this Act;

”.

(2) Section 17 (2) of the principal Act is repealed and the following subsection is substituted —

“

(2) Funds of the Corporation may be invested, until they are required for the performance of the Corporation's functions, in such investments as the board determines.

”.

Section 17A inserted

20. After section 17 of the principal Act the following section is inserted —

“

Dividends

17A. (1) Any surplus remaining at the end of a financial year after the cost of the operations of the Corporation have been taken into account —

(a) may, in accordance with this section, be paid wholly or partly as a dividend to the Consolidated Fund; and

(b) to the extent that it is not so paid, shall be applied for the purposes of the Corporation.

(2) The board, as soon as is practicable after the end of each financial year, shall make a recommendation to the Treasurer as to —

- (a) whether a dividend is to be paid; and
- (b) if so, the amount to be paid.

(3) The Treasurer may —

- (a) accept a recommendation under subsection (2); or
- (b) give a direction to the Corporation as to a matter mentioned in that subsection,

and the Corporation shall give effect to any such direction.

”.

Section 18 amended

21. Section 18 (1) of the principal Act is repealed and the following subsections are substituted —

“

(1) The Corporation or the board may, either generally or as otherwise provided by the instrument of delegation, delegate all or any of its powers and duties under this Act, other than this power of delegation, to an eligible person.

(1a) In subsection (1) —

“eligible person” means —

- (a) the chief executive officer;
- (b) a person engaged under section 8B; or
- (c) a person whose services the Corporation is using under section 8C.

”.

Section 20 amended

22. After section 20 (3) of the principal Act the following subsection is inserted —

“

(4) Subsection (1) has effect subject to the *Statutory Corporations (Liability of Directors) Act 1996*.

”.

Section 21B inserted and transitional provision

23. (1) After section 21A of the principal Act the following section is inserted —

“

Quarterly reports

21B. (1) In addition to the reporting requirements referred to in section 21, the Corporation shall give to the Treasurer a report on the operations of the Corporation for each of the first 3 quarters of a financial year.

(2) A quarterly report shall include the information specified for inclusion in such reports by the Corporation's statement of corporate intent as provided for by section 16K (2) (e).

(3) A quarterly report shall be given to the Treasurer —

- (a) within one month after the end of the quarter; or
- (b) if another period after the end of the quarter is agreed between the Corporation and the Treasurer, within the agreed period.

(4) The Treasurer shall within 14 days after receiving the quarterly report under subsection (3) cause a copy of it to be —

- (a) laid before each House of Parliament; or
- (b) dealt with in accordance with section 16Q.
 ".

(2) The first report by the Corporation under section 21B of the principal Act, as inserted by subsection (1), shall be in respect of the first quarter of the next full financial year after the commencement of this section.

Schedule amended

24. The Schedule to the principal Act is amended by deleting the heading "SCHEDULE" and substituting the following heading —

" **SCHEDULE 1 — BODIES THAT ARE NOT AUTHORITIES** ".

Schedule 2 added

25. After the Schedule to the principal Act the following Schedule is added —

"
**SCHEDULE 2 — CONSTITUTION AND
PROCEEDINGS OF BOARD**
[Section 5C]

Division 1 — Terms of office, meetings etc.

Term of office

1. Subject to clause 2, an appointed director holds office for such term, not exceeding 3 years, as is specified in the instrument of his or her appointment, but may from time to time be re-appointed.

Resignation, removal, etc.

2. (1) The office of an appointed director becomes vacant if he or she —

- (a) resigns the office by written notice addressed to the Treasurer;
- (b) is an insolvent under administration as that expression is defined in the Corporations Law; or
- (c) is removed from office by the Treasurer under subclause (2).

(2) The Treasurer may remove an appointed director from office if the Treasurer is satisfied that the director —

- (a) has neglected his or her duty;
- (b) has misbehaved;
- (c) is incompetent; or
- (d) is suffering from mental or physical incapacity impairing the performance of his or her functions.

Leave of absence

3. The board may grant leave of absence to a director on such terms and conditions as it thinks fit.

Director under section 5B (1) (b) unable to act

4. If the director holding office under section 5B (1) (b) is unable to act by reason of sickness, absence or other cause the Under Treasurer may, in writing delivered to the Corporation, nominate an officer of the Treasury to act temporarily in place of that director; and while so acting according to the tenor of that nomination the officer shall be taken to be a director.

Chief executive officer unable to attend

5. The chief executive officer, or an acting chief executive officer, may, in writing delivered to the person presiding at a meeting of the board, nominate a senior officer of the Corporation to represent him or her at that meeting if he or she is unable to attend by reason of sickness, absence or other cause; and while so attending the person nominated shall be taken to be a director.

Appointed director unable to act

6. (1) If an appointed director is unable to act by reason of sickness, absence or other cause, the Treasurer may appoint another person to act temporarily in his or her place and, while so acting according to the tenor of his or her appointment, that other person shall be taken to be a director.

(2) The appointment of a person under subclause (1) may be terminated at any time by the Treasurer.

Saving

7. No act or omission of a person acting in place of or representing a director under clause 4, 5 or 6 shall be questioned on the ground that the occasion for —

- (a) his or her nomination or appointment had not arisen; or
- (b) his or her acting for or representing a director had ceased.

Calling of meetings

8. (1) Subject to subclause (2), meetings shall be held at the times and places that the board determines.

(2) A special meeting of the board may at any time be convened by the chairperson or, if the chairperson is unable to act by reason of sickness, absence or other cause, by the deputy chairperson.

(3) The first meeting of the board shall be convened by the chairperson.

Presiding officer

9. (1) The chairperson, or in his or her absence the deputy chairperson, shall preside at all meetings of the board at which he or she is present.

(2) If both the chairperson and the deputy chairperson are absent from a meeting the directors present shall appoint one of their number to preside.

Quorum

10. There is a quorum for a meeting of the board only if 3 directors are present and —

- (a) at least one of them is a person who holds office, or is acting for or representing an office-holder, under section 5B (1) (a), (b) or (c); and
- (b) at least one of them is an appointed director or a person acting temporarily in place of such a director.

Voting

11. (1) At any meeting of the board each director present has a deliberative vote.

(2) Subject to subclause (3), if the votes cast on a question are equally divided, the question remains unresolved until a subsequent meeting of the board.

(3) If the votes cast on a question at a meeting of the board were equally divided and the votes cast on the question at a subsequent meeting of the board are again equally divided, the question shall be taken to have been resolved in the negative.

Minutes

12. The board shall cause accurate minutes to be kept of the proceedings at its meetings.

Resolution without meeting

13. A resolution in writing signed or assented to by each director by letter or facsimile is as effectual as if it had been passed at a meeting of the board.

Telephone or video meetings

14. A communication between not less than 4 directors by telephone or audio-visual means is a valid meeting of the board if each participating director is capable of communicating with every other participating director instantaneously at all times during the proceedings.

Committees

15. (1) The board may appoint committees to assist it in the performance of its functions, and may discharge or alter any committee so appointed.

(2) A committee may include persons who are not directors but, unless the Treasurer approves, shall include at least one person who is a director.

(3) Subject to the directions of the board and to the terms of any delegation under section 18, a committee may determine its own procedures.

Board to determine own procedures

16. Subject to this Act, the board shall determine its own procedures.

Division 2 — Disclosure of interests etc.

Disclosure of interests

17. (1) A director who has a material personal interest in a matter being considered or about to be considered by the board shall, as soon as possible after the relevant facts have come to the director's knowledge, disclose the nature of the interest at a meeting of the board.

Penalty: \$5 000.

(2) A disclosure under subclause (1) shall be recorded in the minutes of the meeting.

Voting by interested directors

18. A director who has a material personal interest in a matter that is being considered by the board —

- (a) shall not vote whether at a meeting or otherwise —
 - (i) on the matter; or
 - (ii) on a proposed resolution under clause 19 in respect of the matter, whether relating to that director or a different director;
- and
- (b) shall not be present while —
 - (i) the matter; or

(ii) a proposed resolution of the kind referred to in paragraph (a) (ii),
is being considered at a meeting.

Clause 18 may be declared inapplicable

19. Clause 18 does not apply if the board has at any time passed a resolution that —

- (a) specifies the director, the interest and the matter; and
- (b) states that the directors voting for the resolution are satisfied that the interest should not disqualify the director from considering or voting on the matter.

Quorum where clause 18 applies

20. (1) Despite clause 10, if a director is disqualified under clause 18 in relation to a matter, a quorum is present during the consideration of the matter if at least 2 directors are present who are entitled to vote on any motion that may be moved at the meeting in relation to the matter.

(2) The Treasurer may deal with a matter insofar as the board cannot deal with it because of subclause (1).

Treasurer may declare clauses 18 and 20 inapplicable

21. (1) The Treasurer may by writing declare that clause 18 or 20 or both of them do not apply in relation to a specified matter either generally or in voting on particular resolutions.

(2) The Treasurer shall within 14 days after a declaration under subclause (1) is made cause a copy of the declaration to be laid before each House of Parliament.

".

Consequential amendments to *Financial Administration and Audit Act 1985*

26. Section 38 of the *Financial Administration and Audit Act 1985** is amended —

- (a) by inserting after subsection (2) (a) the following paragraph —
"
(aa) by placing the moneys with the Western Australian Treasury Corporation

established by the *Western Australian Treasury Corporation Act 1986*; „;

and

- (b) by inserting after subsection (2) the following subsection —

“

(2a) Where moneys are placed with the Western Australian Treasury Corporation under subsection (2) (aa) —

(a) that Corporation shall deal with the moneys in accordance with any directions given by the Treasurer to the Corporation, either generally or in a particular case; and

(b) subject to paragraph (a), that Corporation may invest the moneys in any way authorized by the *Western Australian Treasury Corporation Act 1986* for moneys accepted from authorities under that Act.

”.

[* *Reprinted as at 10 January 1997.
For subsequent amendments see Act No. 17 of 1997.*]

Consequential amendment to *Statutory Corporations (Liability of Directors) Act 1996*

27. Schedule 1 to the *Statutory Corporations (Liability of Directors) Act 1996** is amended by adding at the end of the Schedule the following —

“

Western
Australian
Treasury
Corporation

a director

Western
Australian
Treasury
Corporation
Act 1986

”.

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