

WESTERN AUSTRALIA

**WESTERN AUSTRALIAN
TREASURY CORPORATION
AMENDMENT ACT 1992**

No. 24 of 1992

AN ACT to amend the *Western Australian Treasury Corporation Act 1986* and for related purposes.

[Assented to 17 June 1992.]

The Parliament of Western Australia enacts as follows:

Short title

1. This Act may be cited as the *Western Australian Treasury Corporation Amendment Act 1992*.

Commencement

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

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 1990 Index to
Legislation of Western Australia, p. 170.]*

Section 3 amended

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

(a) in the definition of “borrow” by deleting paragraph (c) and substituting the following —

“ (c) arrange for financial
accommodation,

and “lend” shall be construed accordingly; ”;

and

(b) by inserting after the definition of “financial institution” the following definition —

“ “interest rate” includes coupon rate,
discount rate and yield; ”.

Section 4 amended

5. Section 4 (2) of the principal Act is amended by —

(a) deleting “and” at the end of paragraph (a); and

(b) inserting after paragraph (a) the following —

- “ (aa) provide security to the Corporation, in such manner and in such form and on such terms and conditions as the Corporation requires, for the purpose of securing amounts lent to the authority by the Corporation under section 14 (2), the payment of interest on those amounts and the payment of —
- (i) such fees as are required to be paid under section 14 (2); and
- (ii) any other moneys payable,
- in connection with that lending; and ”.

Section 9 amended

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

- (a) deleting “and” at the end of paragraph (a); and
- (b) deleting the full stop at the end of paragraph (b) and substituting the following —

- “ ; and
- (c) to manage financial rights and obligations of the Corporation. ”.

Section 10 amended and validation

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

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- (a) inserting after paragraph (b) the following paragraph —

“ (ba) create debt paper for the purposes of this Act; ”;

- (b) deleting paragraph (d) and substituting the following paragraph —

“ (d) create debt paper for the purpose of —

(i) carrying out any arrangement made by the Corporation for the exchange, whether on or before maturity and whether with or without any further payment, of any other debt paper created under this section; or

(ii) lending it to any person for such periods, and on such terms and conditions, as are agreed between the Corporation and that person; ”;

and

- (c) inserting after paragraph (f) the following paragraphs —

“ (fa) enter into an agreement or arrangement to effect any of the following transactions —

(i) a foreign exchange transaction;

(ii) a forward foreign exchange transaction;

- (iii) a currency swap;
 - (iv) a forward currency swap;
 - (v) a foreign currency cap, a foreign currency collar or a foreign currency floor;
 - (vi) a forward interest rate agreement;
 - (vii) an interest rate swap;
 - (viii) a forward interest rate swap;
 - (ix) an interest rate cap, an interest rate collar or an interest rate floor;
 - (x) an option for interest rate or currency management purposes;
 - (xi) a futures contract or a futures option within the meaning of the Corporations Law; or
 - (xii) a transaction of such other class as is approved in writing by the Treasurer as a class of transactions to which this paragraph applies;
- (fb) enter into an agreement or arrangement to effect any transaction which is a combination of —
- (i) two or more transactions permitted under paragraph (fa);
or

(ii) one or more transactions permitted under paragraph (fa) and one or more transactions permitted under any other provision of this Act;

(fc) take security in such manner and in such form and on such terms and conditions as the Corporation thinks fit for the purpose of securing moneys payable to the Corporation; ”.

(2) After section 10 (4) of the principal Act the following subsections are inserted —

“ (4a) In subsections (4b) and (4c) “**prescribed debt paper**” means debt paper —

(a) which is created and issued by an authority and in respect of which the State guarantees the repayment of principal and the payment of interest thereon; or

(b) which is created and issued by an authority under the *Local Government Act 1960* or any Act repealed by that Act.

(4b) The Corporation may purchase, resell, hold, or otherwise deal in any prescribed debt paper on such terms and conditions as the Corporation thinks fit.

(4c) If prescribed debt paper has been purchased by the Corporation under subsection (4b), the Corporation may create and issue debt paper that the Corporation considers, notwithstanding differences in principal amount, rate of interest, maturity date or otherwise, to be of like value (at the time of its issue) to the value of that prescribed debt paper at the time of its purchase. ”.

(3) After section 10 (5) of the principal Act the following subsection is inserted —

“ (5a) A person who enters into an agreement or arrangement referred to in subsection (2) (fa) or (fb) with the Corporation is entitled to assume that the agreement or arrangement is entered into by the Corporation in the performance of its functions under section 9. ”.

(4) Any agreement or arrangement entered into, or transaction effected, before the commencement of this section which would have been lawful and valid had —

- (a) section 10 (2) (fa) and (fb) of the principal Act as inserted by subsection (1); and
- (b) the definition of “**interest rate**” in section 3 (1) of the principal Act as inserted by section 4,

been in operation when that agreement, arrangement or transaction was entered into or effected shall be deemed to be, and always to have been, lawful and valid.

Section 13 amended

8. (1) After section 13 (2) of the principal Act the following subsections are inserted —

“ (2a) The Treasurer on behalf of the State may, in respect of a guarantee arising by virtue of subsection (1), by instrument of any kind (under hand or under seal) executed under subsection (2b) —

- (a) submit to the jurisdiction of any foreign court;
- (b) waive any sovereign or other immunity from action or suit in any foreign jurisdiction;

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(c) appoint an agent to accept service of process in any place outside Western Australia;

(d) agree to accept service of process in any manner;

and

(e) nominate or appoint, or agree to the nomination or appointment of, a person who as an agent or trustee or in any other representative or other capacity is entitled to the benefit of, and may enforce, that guarantee.

(2b) An instrument referred to in subsection (2a) —

(a) shall be executed by —

(i) the Treasurer; or

(ii) any person authorized by the Treasurer in writing or by operation of law;

and

(b) shall take effect according to its tenor notwithstanding lack of consideration or any other matter or thing. ”.

(2) Section 13 (3) of the principal Act is amended by inserting after “subsection (1)” the following —

“ , or in respect of an instrument executed under subsection (2b), ”.

(3) After section 13 (3) of the principal Act the following subsection is inserted —

“ (4) In subsection (2a) —

“**foreign**”, when used in relation to a court or a jurisdiction, means a court or a jurisdiction outside Western Australia. ”.

Section 14 amended, and transitional provision

9. (1) After section 14 (2) of the principal Act the following subsection is inserted —

“ (3) The Corporation may require a borrower of moneys lent under subsection (2) to furnish such security in such manner and in such form and on such terms and conditions as the Corporation thinks fit to secure the repayment of the moneys borrowed, the payment of interest on those moneys and the payment of —

(a) such fees as are required to be paid under that subsection; and

(b) any other moneys payable,

in connection with that borrowing. ”.

(2) Section 14 (3) of the principal Act as inserted by this section applies in respect of moneys lent before or after the commencement of this section.

Section 17 amended

10. (1) After section 17 (1) of the principal Act the following subsections are inserted —

“ (1a) The Corporation shall credit to the Account —

- (a) any amount required to be so credited under section 14 (1) or 15 (2);
- (b) the proceeds of investments made under subsection (2); and
- (c) any other amount lawfully received by the Corporation in the performance or exercise of its functions or powers.

(1b) The Corporation may apply the moneys credited to the Account —

- (a) as required by section 11;
- (b) to make any payment or repayment required under section 12 (2) or 13 (3);
- (c) as authorized by subsection (2) or section 14 (2); or
- (d) to pay any other amount that is payable by the Corporation in the performance or exercise of its functions or powers. ”.

(2) Section 17 (2) (a) of the principal Act is deleted and the following paragraph is substituted —

“ (a) invest any moneys credited to the Account —

- (i) in a manner in which public moneys may under the *Financial Administration and Audit Act 1985* be invested;

- (ii) in such foreign government, foreign government guaranteed or bank securities, or classes of such securities, whether issued inside or outside Australia, as are approved by the Treasurer; or
- (iii) by placing moneys on deposit with a foreign bank belonging to a class, and having a credit rating, approved by the Treasurer; ”.

Section 20 amended

11. (1) Section 20 (1) of the principal Act is amended by inserting after “directions” the following —

“ in writing ”.

(2) After section 20 (2) of the principal Act the following subsection is inserted —

“ (3) The text of any direction given under subsection (1) shall be included in the annual report submitted by the accountable authority of the Corporation under section 66 of the *Financial Administration and Audit Act 1985*. ”.

Section 21A inserted

12. After section 21 of the principal Act the following section is inserted —

Treasurer to have access to information

“ 21A. (1) For parliamentary purposes or for the proper conduct of the public business of the Treasurer, the Treasurer is entitled —

- (a) to have information in the possession of the Corporation; and

- (b) if information referred to in paragraph (a) is in or on a document, to have, and make and retain copies of, the document.

(2) For the purposes of subsection (1), the Treasurer may —

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

(3) The Corporation shall comply with a request made under subsection (2) and make its staff and facilities available to the Treasurer 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 Treasurer that relates to the functions of the Corporation;

“parliamentary purposes” means —

- (a) answering a question asked in a House of Parliament; or

- (b) complying with a written law, or an order or resolution of a House of Parliament, that requires information to be furnished to a House of Parliament. ”.

Section 22 amended

13. Section 22 (3) of the principal Act is amended by deleting “(2) (a)” in both places where it occurs and substituting in each case the following —

“ (2) (b) ”.