

HONEY POOL REPEAL ACT 1991

No. 27 of 1991

AN ACT to provide for the business undertakings of the Honey Pool of Western Australia to be carried on by a company limited by shares and to repeal the *Honey Pool Act 1978* and for incidental purposes.

[Assented to 23 November 1991]

The Parliament of Western Australia enacts as follows:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Honey Pool Repeal Act 1991*.

Commencement

2. (1) Subject to subsection (2) and section 10, this Act shall come into operation on the day on which it receives the Royal Assent.

(2) Section 8 shall come into operation on a day to be fixed by proclamation but such a proclamation shall not be made unless the Minister is satisfied that—

- (a) section 4 (1) is complied with; or
- (b) if the Honey Pool is wound up under section 6 until that winding up is completed.

Construction of this Act

3. (1) Unless the contrary intention appears, an expression used in this Act has the same meaning as in the *Honey Pool Act 1978*.

(2) The provisions of this Act apply notwithstanding anything in the *Honey Pool Act 1978*.

PART 2—FORMATION OF COMPANY OR WINDING UP

Arrangements for formation of company

4. (1) The Board shall as soon as is practicable after the coming into operation of this section cause such steps to be taken as are required to complete the formation of a company limited by shares that conforms with the requirements of this section.

(2) The Minister may by notice in writing to the Board fix a time within which the Board shall comply with subsection (1).

(3) The company referred to in subsection (1)—

- (a) shall be a public company;
- (b) shall have a memorandum and articles in a form approved by the Minister that—
 - (i) comply in all respects with the Corporations Law;
 - (ii) contain such provisions as are approved by the Minister; and

- (iii) are lodged with the Australian Securities Commission.

(4) For the purposes of the formation of the company referred to in subsection (1) any valuation of assets for the purposes of the taking of an allotment of shares in the company shall be as determined by the Minister and any determination made for this purpose may be made by reference to a day before the commencement of this section.

(5) For the purposes of the formation of the company referred to in subsection (1) the Minister may direct that shares in the company shall be offered, allotted and issued on the basis directed by the Minister.

(6) An allotment of shares in accordance with directions given by the Minister under this section has effect despite section 1035 of the Corporations Law.

Validation

5. Any act, matter or thing done or expenditure made by the Board before the commencement of section 4 in connection with any of the matters referred to in that section is declared to be and always to have been valid if it would have been valid had it been done or made after that commencement.

Minister may direct winding up

6. (1) Notwithstanding anything in this Act, if the Board has not complied with section 4 (1) within the time fixed under section 4 (2) the Minister may, by instrument published in the *Government Gazette*, direct that the Honey Pool be wound up and effect shall be given to any such direction.

(2) In the winding up of the Honey Pool under subsection (1)—

- (a) a participant from whom the Honey Pool has at the time of the winding up received honey is entitled to receive from the Honey Pool only the amount of the advances then due to the participant;

- (b) after the payment of the amounts referred to in paragraph (a) any surplus funds in the hands of the liquidator after payment of all debts and expenses of the winding up shall be distributed on a basis to be determined by the Minister; and
- (c) the provisions of Part XII Division 6 of the *Companies (Western Australia) Code* with such modifications as are necessary for that purpose apply to the winding up as though the Honey Pool were a body to which those provisions apply.

PART 3—GENERAL

No proceedings against Minister

7. A direction given by the Minister under section 4 or 6 shall not be liable to be challenged, appealed against, reviewed, quashed, or called in question by any court.

Repeal

8. The *Honey Pool Act 1978* is repealed.

PART 4—TRANSITIONAL

Interpretation

9. In this Part—

“company” means the company limited by shares formed pursuant to section 4;

“repeal day” means the day on which section 8 comes into operation.

This Part to have effect only where no winding up

10. This Part has effect on and from the repeal day if and only if the Minister has not before the repeal day given a direction under section 6 that the Honey Pool be wound up.

Assets and liabilities

11. With effect from the repeal day—

- (a) the assets of the Honey Pool vest in the company by virtue of this section;
- (b) the rights and liabilities of the Honey Pool become by virtue of this section the rights and liabilities of the company;
- (c) all proceedings relating to the Honey Pool commenced before the repeal day and pending immediately before the repeal day are to be taken to be proceedings pending by or against the company;
- (d) all proceedings that might have been taken before the repeal day by or against the Honey Pool may after that day be taken by or against the company;
- (e) any act, matter or thing done or omitted to be done in relation to the Honey Pool before the repeal day by or in respect of the Honey Pool is to be taken to have been done by or omitted by, to or in respect of the company;
- (f) a reference in any other written law or any instrument under any other law, or in any document of any kind to the Honey Pool shall be construed as if it had been intended to be, or include, a reference to the company except where the context otherwise requires.

Registration of documents

12. The Registrar of Titles under the *Transfer of Land Act 1893* and any other person authorized by a written law to record and give effect to the registration of documents relating to transactions affecting any estate or interest in land or other property shall take cognizance of the provisions of this Act and are empowered to record and register in the appropriate manner such of the documents as are necessary to give effect to this Act.

Staff

13. (1) On and from the repeal day—

- (a) all persons who were employed or engaged immediately before that day by the Honey Pool shall continue to be employed by the company;
- (b) the terms and conditions including the salary payable on which such persons were employed or engaged immediately before that day continue;
- (c) there is no break or interruption in the employment or engagement of such persons by reason of the enactment of this Act.

(2) Any employment or engagement referred to in subsection (1) (a) is capable of termination, and the terms and conditions are capable of variation after the repeal day in the same manner and to the same extent as before that day.

(3) Nothing in this Act affects—

- (a) any rights or liabilities of any person under any provident, benefit, superannuation or retirement fund or scheme relating to any person referred to in subsection (1) or any former employee of the Honey Pool; or
- (b) any other employee entitlement existing immediately before the repeal day.

Transitional pools

14. (1) The formation of, participation in, or operation of a transitional pool and any act, matter or thing done or made in relation to the formation of, participation in or operation of a transitional pool and any other act, matter or thing done or made in relation to a transitional pool is not required to comply with the Corporations Law and this section has effect despite any provision of the Corporations Law.

(2) In this section “transitional pool” means a pool vested in, or commenced by, the company on or before 30 June 1992.

Immunity

15. Notwithstanding the repeal of the *Honey Pool Act 1978*, where any person had under section 13 of that Act the benefit of any immunity in respect of an act, done before the repeal day that benefit continues after the repeal day in respect of that act.

Report under *Financial Administration and Audit Act 1985*

16. The Board under the *Honey Pool Act 1978* shall report in respect of the Honey Pool under section 66 of the *Financial Administration and Audit Act 1985* as required by section 25 of the *Honey Pool Act 1978*—

- (a) if the company referred to in section 4 is formed, for the period up to the repeal day;
 - (b) if the Honey Pool is wound up under section 6, for the period ending on the day that the liquidation commences.
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