

**ACTS AMENDMENT  
(ACCOUNTABILITY) ACT**

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**No. 5 of 1989**

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**AN ACT to amend the *Financial Administration and Audit Act 1985*, the *Government Employees Superannuation Act 1987*, the *Joondalup Centre Act 1976*, the *State Energy Commission Act 1979*, the *State Government Insurance Commission Act 1986*, the *Totalisator Agency Board Betting Act 1960*, the *Western Australian Development Corporation Act 1983* and the *Western Australian Exim Corporation Act 1986*.**

[Assented to 26 April 1989.]

The Parliament of Western Australia enacts as follows:

**Short title**

**1.** This Act may be cited as the *Acts Amendment (Accountability) Act 1989*.

## Commencement

2. The provisions of this Act shall come into operation on such day as is, or days as are respectively, fixed by proclamation.

## PART 2—FINANCIAL ADMINISTRATION AND AUDIT ACT 1985

### Principal Act

3. In this Part the *Financial Administration and Audit Act 1985*\* is referred to as the principal Act.

[\*Reprinted as at 4 March 1987 and amended by Acts Nos. 94 of 1986, 9, 32, 65, 88, 89, 91, 99 and 113 of 1987 and 4, 19 and 21 of 1988 and regulations published in the Gazettes of 30 June, 25 September and 4 December 1987 and 8 April and 16 December 1988.]

### Section 3 amended

4. Section 3 of the principal Act is amended in subsection (1) by inserting after the definition of “statutory authority” the following definition—

“ “subsidiary body”, in relation to a department or statutory authority, means—

(a) a body which is—

(i) a company or recognized company within the meaning of the *Companies (Western Australia) Code*; or

(ii) formed or incorporated under equivalent laws of a place other than a State or Territory,

and in respect of which the department or statutory authority is in a position to—

(iii) cast, or control the casting of, a majority of votes that might be cast at a general meeting of the body; or

- (iv) control the appointment of a majority of the members of the board of directors or other governing authority of the body; or
- (b) a body that is determined by the Treasurer, by notice in writing served on the department or statutory authority, to be a subsidiary of the department or statutory authority; ”.

### **Section 62 amended**

5. Section 62 of the principal Act is amended by inserting after subsection (3) the following subsection—

- “ (4) A department that has a subsidiary body shall exercise its control over that subsidiary body so as to ensure that the accountable officer of the department is provided with all the information relating to the subsidiary body that the accountable officer needs in order to comply with this section and the Treasurer’s Instructions. ”.

### **Section 66 amended**

6. Section 66 of the principal Act is amended by inserting after subsection (3) the following subsection—

- “ (4) A statutory authority that has a subsidiary body shall exercise its control over that subsidiary body so as to ensure that the accountable authority of the statutory authority is provided with all the information relating to the subsidiary body that the accountable authority needs in order to comply with this section, section 67 and the Treasurer’s Instructions. ”.

### **Section 78A inserted**

7. After section 78 of the principal Act the following section is inserted—

#### **Audits of subsidiary bodies**

- “ 78A. (1) Where a department or statutory authority has a local subsidiary that has power to appoint an auditor the department or statutory authority shall exercise its control over the local subsidiary so as to ensure that the local subsidiary appoints the Auditor General as its auditor.

(2) For the purposes of carrying out an audit of a local subsidiary referred to in subsection (1) the Auditor General shall have the powers and duties conferred and imposed by this Division (including the power conferred by section 82), and those powers and duties shall be in addition to the powers and duties conferred and imposed by the *Companies (Western Australia) Code* or any other written law in relation to the audit.

(3) Where a department or statutory authority has a foreign subsidiary that has power to appoint an auditor—

(a) the department or statutory authority shall exercise its control over the foreign subsidiary so as to ensure that—

(i) the foreign subsidiary appoints as its auditor a person nominated by the Auditor General; and

(ii) the person appointed as auditor performs such audits and examinations, and makes such reports to the accountable officer or accountable authority of the department or statutory authority, as the Auditor General requests; and

(b) the accountable officer or accountable authority of the department or statutory authority shall transmit any report received under paragraph (a) (ii) to the Auditor General.

(4) In this section—

“foreign subsidiary” means a subsidiary body that is a recognized company within the meaning of the *Companies (Western Australia) Code* or is otherwise formed or incorporated under the law of another State or a Territory or of a place other than a State or Territory;

“local subsidiary” means any subsidiary body that is not a foreign subsidiary. ”.

### Schedule 1 amended

8. Schedule 1 to the principal Act is amended by inserting, in the appropriate alphabetical position, the following—

“ Western Australian Development Corporation ”.

## PART 3—GOVERNMENT EMPLOYEES SUPERANNUATION ACT 1987

**Principal Act**

9. In this Part the *Government Employees Superannuation Act 1987\** is referred to as the principal Act.

[\*Act No. 25 of 1987 as amended by Acts Nos. 83 and 91 of 1987.]

**Section 6 amended**

10. Section 6 of the principal Act is amended by inserting after subsection (2) the following subsections—

“ (3) The Minister may give directions in writing to the Board with respect to its functions and powers, either generally or with respect to a particular matter, and the Board shall give effect to any such direction.

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

**Section 13 amended**

11. Section 13 of the principal Act is amended—

(a) in subsection (5), by deleting “and investments made by such an investment manager shall not require the approval of the Treasurer”; and

(b) by inserting after subsection (5) the following subsection—

“ (5a) The Board shall not make a delegation under subsection (5) unless the form and maximum duration of the proposed delegation have been approved by the Treasurer. ”.

## PART 4—JOONDALUP CENTRE ACT 1976

**Section 26 amended**

12. Section 26 of the *Joondalup Centre Act 1976\** is amended—

(a) in subsection (1) by inserting after “directions”, where it first occurs, the following—

“ in writing ”; and

(b) by inserting after subsection (3) the following subsection—

“ (4) The text of any direction received by the Corporation 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*. ”.

[\*Act No. 88 of 1976 as amended by Acts Nos. 11 and 98 of 1985 and 113 of 1987.]

#### PART 5—STATE ENERGY COMMISSION ACT 1979

### Section 10 amended

13. Section 10 of the *State Energy Commission Act 1979*\* is amended by inserting after subsection (2) the following subsection—

“ (2a) The text of any direction received by the Commission under subsection (2) shall be included in the annual report submitted by the accountable authority of the Commission under section 66 of the *Financial Administration and Audit Act 1985*. ”.

[\*Reprinted as at 21 May 1987 and amended by Acts Nos. 30, 113 and 126 of 1987.]

### Section 29 amended

14. Section 29 of the *State Energy Commission Act 1979* is amended—

(a) in subsection (3) by inserting after “may,” the following—

“ in writing and ”; and

(b) by inserting after subsection (3) the following subsection—

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

## PART 6—STATE GOVERNMENT INSURANCE COMMISSION ACT 1986

**Principal Act**

15. In this Part the *State Government Insurance Commission Act 1986*\* is referred to as the principal Act.

[\*Act No. 51 of 1986 as amended by Act No. 113 of 1987.]

**Section 10 amended**

16. Section 10 of the principal Act is amended—

- (a) by inserting after the section designation “10.” the subsection designation “(1)”;
- (b) by inserting after “directions” where it first occurs the following—

“ in writing ”; and

- (c) by inserting the following subsection—

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

**Section 19 repealed and a section substituted**

17. Section 19 of the principal Act is repealed and the following section is substituted—

**Investment of surplus funds**

“ 19. (1) Moneys standing to the credit of the Commission may, until required for the purpose of carrying out its functions under this Act, be invested or dealt with by the Commission in such manner as the board of commissioners thinks fit.

(2) The board of commissioners, in the name and on behalf of the Commission, may, by resolution, appoint a person as investment manager for the Commission and delegate to the investment manager the power of the Commission under subsection (1).

(3) The investment manager may be appointed for such term and at such remuneration as the board of commissioners thinks fit.

(4) The board of commissioners shall not make a delegation under subsection (2) unless the form and maximum duration of the proposed delegation have been approved by the Treasurer.

(5) In exercising the powers of the Commission under subsection (1) the board of commissioners or investment manager, as the case may be, shall observe such prudential requirements as to investment policy as the Treasurer may impose. ”.

### **Section 36 amended**

18. Section 36 of the principal Act is amended—

(a) by inserting after the section designation “36.” the subsection designation “(1)”;

(b) by inserting after “directions” where it first occurs the following—

“ in writing ”; and

(c) by inserting the following subsection—

“ (2) The text of any direction received by the Corporation 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*. ”.

### **PART 7—TOTALISATOR AGENCY BOARD BETTING ACT 1960**

#### **Section 5 amended**

19. Section 5 of the *Totalisator Agency Board Betting Act 1960\** is amended—

(a) in subsection (3) by inserting after “directions” the following—

“ in writing ”; and

(b) by inserting after subsection (3) the following subsection—

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

[\*Reprinted as approved 22 January 1979 and amended by Acts Nos. 48 and 98 of 1985, 113 and 125 of 1987 and 66 of 1988.]

PART 8—WESTERN AUSTRALIAN DEVELOPMENT CORPORATION  
ACT 1983

**Principal Act**

20. In this Part the *Western Australian Development Corporation Act 1983*\* is referred to as the principal Act.

[\*Act No. 87 of 1983.]

**Section 4 amended**

21. Section 4 of the principal Act is amended—

(a) by repealing subsection (4) and substituting the following subsections—

“ (4) The Minister may give directions in writing to the Corporation with respect to its functions and powers, either generally or with respect to a particular matter, and the Corporation shall give effect to any such direction.

(4a) The text of any direction received by the Corporation under subsection (4) 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*. ”;

and

(b) in subsection (5), by inserting after “Code” in the second place where it occurs the following—

“ , unless such compliance would be inconsistent with this Act ”.

**Section 12 amended**

**22.** Section 12 of the principal Act is amended in subsection (3) by deleting “; and notwithstanding anything contained in this Act, the Minister shall not direct the Corporation in the performance of its functions under this section”.

**Sections 13A and 13B inserted**

**23.** After section 13 of the principal Act the following sections are inserted—

Liquidation of affairs of Corporation

“ 13A. (1) Notwithstanding anything in this Act or any other written law, it is a function of the Corporation to liquidate the affairs of the Corporation if, and to the extent that, the Minister directs it to do so.

(2) Without limiting the generality of section 10, the Corporation has power to do all things necessary or convenient to be done for or in connection with the liquidation of the affairs of the Corporation.

Minister to have reports, etc.

13B. (1) The Corporation shall furnish the Minister with—

(a) all documents and information required under any Act or any order or resolution of either House of Parliament;

and

(b) full information on all business of the Corporation as to which the Minister requires information—

(i) for the proper conduct of the Minister’s public business;

(ii) to enable answers to be made to all questions asked in Parliament concerning the Corporation; or

(iii) to enable the Minister to furnish returns required by Parliament.

(2) The Minister shall be entitled—

- (a) at all times to see all documents in the possession or control of the Corporation that the Minister requires to see for any purpose mentioned in subsection (1) (b);
- (b) to be supplied with copies of documents referred to in paragraph (a); and
- (c) to make use of the services of any employee of the Corporation for the purposes of obtaining access to or copies of documents referred to in paragraph (a). ”.

### **Section 24 repealed and a section substituted**

**24.** Section 24 of the principal Act is repealed and the following section is substituted—

*Application of Financial Administration  
and Audit Act 1985*

“ 24. The provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities and their subsidiaries apply to and in respect of the Corporation and its operations. ”.

### **PART 9—WESTERN AUSTRALIAN EXIM CORPORATION ACT 1986**

#### **Principal Act**

**25.** In this Part the *Western Australian Exim Corporation Act 1986*\* is referred to as the principal Act.

[\*Act No. 94 of 1986.]

#### **Section 4 amended**

**26.** Section 4 of the principal Act is amended by repealing subsection (5) and substituting the following subsections—

“ (5) The Minister may give directions in writing to the Corporation with respect to its functions and powers, either generally or with respect to a particular matter, and the Corporation shall give effect to any such direction.

(6) The text of any direction received by the Corporation under subsection (5) 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*. ”.

### Sections 9A and 9B inserted

**27.** After section 9 of the principal Act the following sections are inserted—

#### Liquidation of affairs of Corporation

“ 9A. (1) Notwithstanding anything in this Act or any other written law, it is a function of the Corporation to liquidate the affairs of the Corporation if, and to the extent that, the Minister directs it to do so.

(2) Without limiting the generality of section 9, the Corporation has power to do all things necessary or convenient to be done for or in connection with the liquidation of the affairs of the Corporation.

#### Minister to have reports, etc.

9B. (1) The Corporation shall furnish the Minister with—

(a) all documents and information required under any Act or any order or resolution of either House of Parliament;

and

(b) full information on all business of the Corporation as to which the Minister requires information—

(i) for the proper conduct of the Minister’s public business;

(ii) to enable answers to be made to all questions asked in Parliament concerning the Corporation; or

(iii) to enable the Minister to furnish returns required by Parliament.

(2) The Minister shall be entitled—

(a) at all times to see all documents in the possession or control of the Corporation that the Minister requires to see for any purpose mentioned in subsection (1) (b);

- (b) to be supplied with copies of documents referred to in paragraph (a); and
- (c) to make use of the services of any employee of the Corporation for the purposes of obtaining access to or copies of documents referred to in paragraph (a). ”.

### **Section 18 repealed and a section substituted**

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

*Application of Financial Administration  
and Audit Act 1985*

- “ 18. The provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities and their subsidiaries apply to and in respect of the Corporation and its operations. ”.

### **Section 36 amended**

**29.** Section 36 of the principal Act is amended in subsection (1) by inserting after “function” the following—

- “ or duty ”.
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