

WESTERN AUSTRALIA

PERTH MINT AMENDMENT ACT

(No. 39 of 1986)

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WESTERN AUSTRALIA

PERTH MINT AMENDMENT ACT

No. 39 of 1986

AN ACT to amend the *Perth Mint Act 1970* and for related purposes.

[Assented to 1 August 1986.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Perth Mint Amendment Act 1986*.

Commencement

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

PART II—PERTH MINT ACT 1970**Principal Act**

3. In this Part the *Perth Mint Act 1970** is referred to as the principal Act.

[*Act No. 23 of 1970 as amended by Act No. 42 of 1974, and by Act No. 98 of 1985.]

Long title amended

4. The long title to the principal Act is repealed and re-enacted with amendments as follows—

“ An Act to Constitute a Body Corporate to control, maintain, and carry on the business of the Perth Branch of the Royal Mint as a commercial undertaking, promoting the development of the Australian gold, silver, precious metal and precious stone industries and facilitating investment, marketing and trading in relation to those industries; and for related purposes. ”.

Short title amended

5. Section 1 of the principal Act is repealed and the following section is substituted—

Short title

“ 1. This Act, on and after the coming into operation of the *Perth Mint Amendment Act 1986*, shall be cited as the *Western Australian Mint Act 1970*. ”.

Sections 2 and 3 repealed

6. Sections 2 and 3 of the principal Act are repealed.

Section 5 amended

7. Section 5 of the principal Act is amended—

(a) by deleting the definitions of “appointed day”, “appointment”, “contributor”, “Director”, “engagement”, “permanent officer”, “salary”, “section”, “State conditions”, “superannuation”, “temporary officer”, “the Account”, “the Board”, “the Fund”, “the Commissioner”, “the Mint”, “the Public Service Act”, “the Superannuation Act”, and “wages employee”;

(b) in the definitions of “established person”, “Imperial conditions”, “Imperial scheme”, “Royal Mint employee”, “the Deputy Master”, and “unestablished person” by deleting “the appointed day” and substituting the following—

“ the day on which the *Perth Mint Act 1970* came into operation ”;

(c) in the definition of—

(i) “benefit”, by inserting after “means” the following—

“ , in relation to that scheme, ”;

(ii) “Imperial conditions”, by deleting “elects” and substituting the following—

“ elected ”,

and by adding after “section 19” the following—

“ as enacted prior to the coming into operation of the *Perth Mint Amendment Act 1986* ”;

(iii) “unestablished person”, by deleting the semicolon and substituting a full stop; and

(d) by inserting the definitions following in their respective appropriate alphabetical positions—

“ “director” means a person who is appointed or deemed to be, or who is *ex officio*, a member of the Board;

“prescribed symbol” means a symbol prescribed pursuant to section 13 (6);

“the Board” means the Board of Directors of The Mint constituted under section 9;

“The Director of The Perth Mint” means the body corporate established pursuant to section 9 of this Act as enacted prior to the coming into operation of the *Perth Mint Amendment Act 1986*;

“The Mint” means Western Australian Mint; ”.

Section 6 repealed and re-enacted with amendments

8. Section 6 of the principal Act is repealed and re-enacted with amendments as follows—

- “ 6. The provisions of Part III of this Act as enacted prior to the coming into operation of the *Perth Mint Amendment Act 1986* and applied pursuant to section 14 in relation to superannuation shall continue to be construed as though incorporated and read as one with the *Superannuation and Family Benefits Act 1938*. ”.

Section 7 amended

9. Section 7 of the principal Act is amended—

- (a) by deleting “the appointed day”, wherever occurring other than in subsection (3), and substituting the following—

“ the coming into operation of the *Perth Mint Act 1970*”;

- (b) by deleting “the Director”, wherever occurring (other than in subsections (4) (b) and (5)), and substituting—

(i) in subsection (1), the following—

“ the body corporate established by section 9 of the *Perth Mint Act 1970* and known as The Director of The Perth Mint ”; and

(ii) in subsections (2) and (4) (other than in (4) (b)) the following—

“ The Director of The Perth Mint ”;

- (c) in subsection (1) by deleting “and vested in,”;

(d) in subsection (3)—

(i) by deleting “On and after the appointed day the Royal Mint shall be” and substituting the following—

“ On and after the coming into operation of the *Perth Mint Act 1970* and prior to the coming into operation of the *Perth Mint Amendment Act 1986* the Royal Mint shall be taken to have been ”; and

(ii) by inserting after “The Perth Mint” the following—

“ and, notwithstanding that on and after the coming into operation of the *Perth Mint Amendment Act 1986* the name of the body corporate formerly known as The Director of The Perth Mint is known as Western Australian Mint, all or any of the activities of that body under this Act may be carried on under—

(a) the name of The Perth Mint; or

(b) subject to the *Business Names Act 1962*, a trading name,

rather than in its corporate name of Western Australian Mint where the Board in relation to any activity so determines and the Minister approves ”;

(e) in subsection (4)—

(i) by inserting before “for the purposes of this Act” the following—

“ , and on and after the coming into operation of the *Perth Mint Amendment Act 1986* there shall be vested in the body corporate known as Western Australian Mint, ”;

(ii) by deleting “such property” and substituting the following—

“ the land and property referred to in subsection (1) and such other land and property ”;

(iii) by deleting “acquire” and substituting the following—

“ have acquired or as Western Australian Mint acquires ”;

(iv) by deleting “may, from time to time, vest in the Director” and substituting the following—

“ , from time to time, vested in The Director of The Perth Mint or vests in Western Australian Mint ”;
and

- (v) by inserting after “purposes”, at the end of the subsection, the following—

“ , and on and after the coming into operation of the *Perth Mint Amendment Act 1986* Reserve No. 3293, classified as of Class A and containing both the 6 778 square metres (being Perth Town Lots D11 and D12) previously set apart for “Mint” and the 5 109 square metres (being Perth Lot 950) previously set apart for “Perth Mint”, and immediately prior thereto vested in The Director of The Perth Mint is hereby cancelled and the land is hereby granted in fee simple free of trust to Western Australian Mint ”;

- (f) in subsection (5) by deleting “in the Director” and substituting the following—

“ for the time being, in The Director of The Perth Mint or Western Australian Mint ”;

and

- (g) by adding the subsections following—

“ (6) The body corporate which was prior to the coming into operation of the *Perth Mint Amendment Act 1986* constituted under this Act by the name The Director of The Perth Mint is, under and subject to the provisions of this Act, hereby preserved and continued in existence as a body corporate having perpetual succession and a common seal under the name “Western Australian Mint”, whereby the corporate identity of that body corporate and (whether accrued pursuant to this section or otherwise) its rights, securities and assets of every description and its engagements, obligations and other liabilities, as at the date of the coming into operation of the *Perth Mint Amendment Act 1986*, shall not be affected (otherwise than by the change of name) and vest in or are imposed upon The Mint as constituted under this Act as an agency of the Crown in right of the State.

(7) A reference to which subsection (2) refers or to The Director of The Perth Mint, the Perth branch of the Royal Mint, or The Perth Mint, whether by the use of any of those names or in a similar or abbreviated form—

- (a) in any written law passed or made; or

- (b) otherwise made, or contained in any document or other instrument executed, entered into or done,

prior to the coming into operation of the *Perth Mint Amendment Act 1986* shall, unless the context is such that it would be incorrect or inappropriate so to do, be read and construed as a reference to The Mint.

(8) Notwithstanding that the person holding office as Director of the Mint appointed pursuant to section 10 of this Act as enacted immediately prior to the coming into operation of the *Perth Mint Amendment Act 1986* ceases to hold office, the body corporate known as The Director of The Perth Mint continued in existence by subsection (6) as an integral part of The Mint—

- (a) is deemed in law to be the same person as The Mint and shall be constituted by The Mint during the transitional period;
- (b) shall take such conveyancing or other steps as may be necessary to give effect to the transfer of property, rights, liabilities and functions contemplated by this section from that body corporate to The Mint and not effected by the operation of this Act; and
- (c) may function under that name at the request of The Mint after the coming into operation of that Act whenever it is requested by The Mint so to function for the purpose of ensuring an orderly transition to give effect to this section,

and the period of continued functioning is in this section referred to as the transitional period.

(9) Where for any reason the vesting of any property, right or liability in The Mint pursuant to this section is ineffective, or where a law other than a law of the State applies, it shall be the duty of The Director of The Perth Mint during the transitional period to hold that property or right for the benefit of, or to discharge that liability on behalf of, The Mint.

(10) If any dealing or transaction is entered into by The Mint with any person in relation to or in connection with any property, right, liability or function that was immediately prior to the coming into operation of the *Perth Mint Amendment Act 1986* vested in or imposed on The Director of The Perth Mint, it shall be deemed in favour of that person that The Mint has full power and authority to enter into that dealing or transaction as if the property, right, liability or function had vested in or been imposed on The Mint, as the case may be, under this Act.

(11) The Registrar of Titles, the Registrar of Deeds, the Ministers respectively administering the *Land Act 1933*, the *Mining Act 1978* and the *Mining Development Act 1902*, the Commissioner for Corporate Affairs, 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 this section and is empowered to record and register in the appropriate manner such of those documents as are necessary to give effect to this section.

(12) Where there is no sufficient provision in this section in respect of any matter or thing necessary or convenient to give effect to this section in relation to the transfer of any property, right, liability or function, regulations made under section 45 may make that provision.

(13) During the transitional period it shall remain the duty of The Director of The Perth Mint to comply with the requirements of this Act as enacted immediately prior to the coming into operation of the *Perth Mint Amendment Act 1986* in relation to the keeping, balancing and audit of accounts and the furnishing of audited accounts to the Minister, as though the relevant provisions had been re-enacted, with the necessary modifications, in this section.

(14) A direction given, or having effect as if given, under section 9 (3) of this Act as enacted immediately prior to the coming into operation of the *Perth Mint Amendment Act 1986* to the Director by the Minister for the time being responsible for the administration of this Act which is effective immediately prior to the coming into operation of that Act shall, during the transitional period, have effect as if given to The Mint and shall be given effect to by The Mint. ”.

Section 8 repealed and re-enacted with amendments

10. Section 8 of the principal Act is repealed and re-enacted with amendments as follows—

Functions of The Mint

“ 8. (1) The Mint is to act as an agent of the Crown in right of the State, and as such shall enjoy the status, immunities and privileges of the Crown except as prescribed, and in that capacity its functions are—

- (a) to continue and develop the activities of the Royal Mint and The Perth Mint heretofore carried on pursuant to this Act, and to maintain a like reputation and international accreditation as a melter and weigher acceptable to the London Gold Market;
- (b) to mint, make, buy, sell, distribute and otherwise deal in coins, whether or not coins subject to the *Currency Act 1965* of the Commonwealth, medallions and other artifacts of precious metal;
- (c) to recover, extract, process, smelt, sample, refine, assay and work gold, silver and other precious metals, their ores and dore and alloys;
- (d) to trade and deal in gold, silver and other precious metals and in precious stones, and things containing or relating thereto, in Australia and elsewhere;
- (e) to provide financial services to industry concerned with gold, silver or other precious metals or with precious stones;
- (f) to promote the production and marketing, in Australia and elsewhere, of gold, silver and other precious metals and of precious stones;
- (g) to provide storage and safekeeping facilities to international standards for gold, silver and other precious metals and for precious stones and other valuable objects;
- (h) to promote, and create opportunities for the establishment and operation of, a market for Australian bullion, coins and precious stones; and
- (j) to establish and promote Western Australia as an international bullion centre,

and for the purposes of the *State Trading Concerns Act 1917* such functions shall be taken to have been expressly authorized by Parliament.

(2) Subject to subsection (5), the Board is charged with the duty of operating the undertaking of The Mint in accordance with sound business principles, and is required to use its best endeavours to ensure that the revenue of The Mint suffices to meet both the expenditure properly chargeable to that revenue and to derive an adequate financial return on the assets of The Mint.

(3) The Mint has power, in the State or elsewhere, to do all things necessary for, or convenient or incidental to, the carrying out of its functions and, without derogating from that generality, The Mint may—

- (a) acquire, hold and dispose of real and personal property in trust for the Crown in right of the State, and sue and be sued, in its corporate name;
- (b) borrow, lease, buy or otherwise acquire, and sell, lend or otherwise dispose of, gold, silver and other precious metals, or precious stones or anything containing gold, silver or other precious metals or precious stones, within Australia or elsewhere;
- (c) accept gold, silver or other precious metals, or precious stones, on deposit;
- (d) issue securities in relation to gold and silver held on deposit, loans and other forms of investment in gold or silver, and in relation to transactions affecting gold or silver;
- (e) open and maintain an account or accounts with any bank or financial institution, whether within Australia or elsewhere;
- (f) subject to any requirement or condition to which the approval may be subject, and to any direction given pursuant to subsection (5)—
 - (i) borrow or lend money, or otherwise provide or take financial accommodation on any account whatsoever, and issue guarantees or indemnities, subject to the approval of the Treasurer;
 - (ii) make, endorse, discount or accept bills of exchange and other negotiable instruments in relation to any class of transaction, or in relation to any particular

case or circumstance, in respect of which the Treasurer signifies his approval which he may do in advance in relation to any particular transaction, or any class of matter; and

- (iii) subject to the approval of the Minister and of the Treasurer, unless section 31 applies in relation to any temporary investment, invest in, subscribe for or otherwise acquire, and deal in or dispose of, securities within the meaning of the *Securities Industry (Western Australia) Code*;
- (g) form or establish, or participate in the formation or establishment of, and conduct, any business undertaking to promote the objects of this Act, and for that purpose form, or associate with other persons in the formation of, and manage companies, exercise any right conferred upon The Mint to appoint a director of, or to hold office in, such a business undertaking or company, and provide staff, information and facilities; and
- (h) act as trustee, manager or agent for other persons, appoint managers, agents and attorneys, enter into management contracts in relation to its operations, or establish branches or agencies in the State or elsewhere.

(4) The Mint may carry out such other functions as may be conferred or imposed upon The Mint by or pursuant to any other written law, and in particular may carry out either on its own account or on behalf of the Minister administering that Act, as the circumstances relating to sections 38 and 39 may from time to time require, the function of administering the operations of the Western Australian State Batteries and associated activities conducted pursuant to Part IV of the *Mining Development Act 1902* and for that purpose and such other purposes of this Act as the Board may determine shall establish and maintain a branch of The Mint in Kalgoorlie.

(5) The Minister, and in relation to the powers conferred by subsection (3) (f) the Treasurer, may from time to time give to The Mint written directions with respect to policy generally or in relation to a particular matter, or to refrain from the exercise of a power in a particular case or its powers in relation to any class of transaction, and the Board shall, in so far as the Act so permits, cause effect to be given to any such direction. ”.

Sections 9 to 13 repealed and substituted

11. Sections 9 to 13, inclusive, of the principal Act are repealed and the following sections are substituted—

The Board of Directors

“ 9. (1) The Mint shall be governed by a Board of directors with authority, in the name of The Mint, to exercise and perform the functions, powers and duties conferred or imposed on The Mint, and that Board shall be constituted by—

- (a) a Chairman;
- (b) a Deputy Chairman;
- (c) not less than 2 nor more than 8 other persons; and
- (d) the person holding or acting in the office of, or pursuant to subsection (12) as representative of, the Managing Director of The Mint,

but a body corporate or body of persons is not eligible as such to be appointed a member of the Board.

(2) The authority of the Board to carry on any class of activity or form of business shall not be construed as limited by reference to the practice, usage, form or procedure followed formerly by the Royal Mint or The Director of The Perth Mint.

(3) The members of the Board (other than the Managing Director) shall be appointed by the Governor on the nomination of the Minister.

(4) The Managing Director shall, subject to the approval of the Minister, be appointed by such members of the Board as were appointed as a director under subsection (3) or (10) or are deemed to be a director under subsection (11), and a reference in this section to the Managing Director shall be construed as including a reference to a person acting in that office.

(5) Appointment as a director does not render the *Public Service Act 1978*, or any other Act applying to persons as officers of the Public Service of the State, applicable to that person, or affect or prejudice the application to that person of those provisions if they applied at the time of the appointment.

(6) A director (other than the Managing Director) shall be paid out of the funds of The Mint such remuneration and travelling and other allowances as are determined by the Board and approved by

the Treasurer, and any such determination may take into account whether the director is or is not required to act in a full time executive capacity.

(7) The Managing Director shall—

- (a) subject to the control of the board, administer the day to day activities of The Mint;
- (b) be appointed, and may from time to time be re-appointed, for such term as is specified in the instrument by which that person is appointed or re-appointed;
- (c) be paid such remuneration and allowances, and be subject to such conditions of service, as are recommended by the Board and approved by the Minister; and
- (d) be liable to be removed from office by the Minister on the recommendation of the Board for any reason for which an appointed member might be removed from office by the Governor,

and may resign the office by notice in writing given in accordance with the relevant conditions of service.

(8) Subject to this Act, a director (other than the Managing Director) shall hold office for 3 years or such lesser term as may be specified in the instrument by which that person is appointed, and may be re-appointed, but such a director shall, unless that person sooner resigns or is removed from office, continue in office, notwithstanding that the term for which the appointment was made has expired, until a successor assumes office.

(9) A person appointed to the office of director, other than as Managing Director, may resign from office by notice in writing delivered to the Minister, and may be removed from office by the Governor on the recommendation of the Minister—

- (a) for mental or physical disability, incompetence, neglect of duty or misconduct proved to the satisfaction of the Governor;
- (b) if he is an undischarged bankrupt or a person who is an insolvent under administration or a person whose property is subject to an order or arrangement under the laws relating to bankruptcy; or
- (c) if he is absent without leave of the Board from 3 consecutive meetings of the Board of which he has had notice.

(10) If a director (other than the Managing Director) dies or resigns or is removed from office the vacancy may be deemed to be an extraordinary vacancy and the Governor may, on the nomination of the Minister, appoint a person to be a director for the residue only of the term of the former holder of that office.

(11) Where a director (other than the Chairman or the Managing Director) is unable to act by reason of sickness, absence or other cause, the Minister may appoint another person to act temporarily in the place of that director, and while so acting that other person is deemed to be a director.

(12) The Board may appoint a person to act in the office of the Managing Director during any period when the Managing Director is absent or unable to carry out his duties, but where no such person is appointed the Managing Director may, in writing delivered to the Chairman, nominate a senior officer of The Mint to act as the representative of the Managing Director at any meeting which the Managing Director is unable to attend by reason of sickness, absence or other cause, and while so attending a person so acting shall be deemed to be a director.

(13) No act or omission of a person acting in place of another under this section shall be questioned on the ground that the occasion for the appointment or acting had not arisen or had ceased.

(14) No action, claim or demand lies, or shall be commenced or allowed, by or in favour of any person against The Mint, the Board or any person who is or was a member of the Board or of a committee appointed by the Board, in respect of any act, matter or thing done or omitted to be done in good faith in the exercise or purported exercise of any function, power or duty under this Act or for the purpose of giving effect to the provisions or objects of this Act.

Meetings of the Board

10. (1) The first meeting of the Board shall be convened by the Chairman and thereafter, subject to subsection (2), meetings shall be held at such times and places as the Board determines.

(2) A special meeting of the Board may at any time be convened by the Chairman.

(3) The Chairman shall preside at all meetings of the Board at which he is present, and the Deputy Chairman shall preside at a meeting at which he, but not the Chairman, is present.

(4) If the Chairman and Deputy Chairman are both absent from a meeting the directors present shall appoint one of their number to preside.

(5) At any meeting of the Board the Chairman or other person presiding shall have a deliberative vote, and in the case of an equality of votes shall also have a casting vote.

(6) A resolution in writing signed or assented to by letter, telex or telegram by each director shall be as valid and effectual as if it had been passed at a meeting of the Board.

(7) The Board may grant leave of absence to a director on such terms and conditions as it thinks fit.

(8) A record of the proceedings of every meeting shall be kept in such manner as the Minister may direct or approve and shall be amended as necessary and certified correct by the person presiding at that or the next succeeding meeting, and the Board shall ensure that the Minister is furnished with such further or other information and reports on the activities of The Mint as the Minister may require.

(9) Subject to this Act and the *Interpretation Act 1984*, the Board shall determine its own procedures.

Committees and delegation

11. (1) The Board may from time to time, by resolution, appoint committees of such directors, or such directors and other persons, as it thinks fit and may discharge, alter, continue or reconstitute any committee so appointed.

(2) Subject to the directions of the Board and to the terms of any delegation under subsection (3), each committee may determine its own procedures.

(3) The Board may, by resolution, delegate to a director, to a committee of the Board, or to a person designated in that resolution, either generally or otherwise as provided by the instrument of delegation, all or any of its functions, powers or duties under this Act, except this power of delegation.

(4) A function, power or duty so delegated shall be exercised or performed by the delegate in accordance with the instrument of delegation and thereupon shall, for the purposes of this Act, be deemed to have been exercised or performed by the Board.

Conflict of interest

12. (1) A director, or a member of a committee of the Board—

(a) who has in any way, whether directly or indirectly, a material pecuniary interest in any matter before the meeting for consideration or in any other matter that arises or is likely to arise out of a matter before the meeting for consideration, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of that interest at the meeting; and

(b) on being requested to do so by the person presiding at the meeting, shall disclose whether or not he has, and the nature of, any pecuniary interest in a matter before the meeting or any other matter arising or likely to arise out of that matter as to which the person presiding may inquire.

(2) Every disclosure made pursuant to subsection (1), and particulars of any request made under subsection (1) (b), shall be recorded in the record of the proceedings of the meeting at which it is made.

(3) Where—

(a) disclosure is made of a pecuniary interest or likely pecuniary interest; or

(b) the person presiding at the meeting is of the opinion that a disclosure requested has not been adequately made,

the person presiding at that meeting may put to the meeting the question as to whether or not the director or member of the committee making the disclosure or requested to make the disclosure should be present during the consideration of the matter in relation to which the pecuniary interest exists or may arise.

(4) Where the question is put to the meeting in accordance with subsection (3), the meeting may determine that the director or member of the committee to whom the question relates—

- (a) should not be present during the consideration of the matter in relation to which the pecuniary interest exists or may arise; or
- (b) should be permitted so to be present and—
 - (i) shall be permitted to take part in the consideration and to vote; or
 - (ii) shall be permitted to take part in the consideration, but shall not be eligible to vote,

in relation to the matter, as the case may require, and effect shall be given to the determination.

(5) Where a meeting proposes to deliberate the question of a determination to which subsection (4) refers the director or member of the committee to whom the question relates shall not—

- (a) unless the meeting otherwise agrees, be present during the deliberation; or
- (b) be eligible to take part in the making of the determination.

(6) The requirements of subsection (1) do not apply in any case where the interest of the director or member of the committee consists only of being a member or creditor of a corporation that is interested in a contract or proposed contract with The Mint if the interest of that person may properly be regarded as not being a material interest.

(7) For the purposes of subsection (1), a general notice given to the Board or a committee by a person to the effect that he is an officer or member of a specified corporation or a member of a specified firm and is to be regarded as having a pecuniary interest

in any contract that may, after the date of the notice, be made with that corporation or firm shall be deemed to be a sufficient declaration of that interest if—

- (a) the notice states the nature and extent of the interest of the person in the corporation or firm;
- (b) when the matter in question is first taken into consideration, the extent of his interest in the corporation or firm is not greater than is stated in the notice; and
- (c) the notice is given at a meeting of the Board or that committee or the person takes reasonable steps to ensure that it is brought up and read at the next such meeting after it is given.

(8) For the purposes of section 54 of the *Interpretation Act 1984* a director or member of a committee who is precluded under this section from taking part in any deliberation or decision at a meeting with respect to a matter shall be deemed to be absent from the meeting while that matter is being deliberated or decided upon.

The Common Seal, facsimile seals, and prescribed symbols

13. (1) The form of the Common Seal of The Mint shall be determined by the Board.

(2) Where the Board so determines the Common Seal of The Mint may be varied by the addition of distinguishing characteristics in relation to—

- (a) the branch of The Mint in Kalgoorlie; or
- (b) any other branch established by The Mint,

sufficient to identify that branch.

(3) The seals of The Mint shall be used only by the authority of the Board, or of a committee of the directors authorized by the Board to authorize the use of the seal, and every document to which a seal is affixed shall be signed by a director and be countersigned by another director or a person appointed by the directors to countersign that document or a class of documents in which that document is included.

(4) For the purpose of expediting or facilitating the execution of documents elsewhere than in the State, The Mint may have and use a facsimile of the Common Seal, and provision may be made by regulations under section 45 for the execution of documents by The Mint utilising the Common Seal, a facsimile seal, facsimile signatures or otherwise.

(5) A document purporting to be executed in accordance with this section shall be presumed to be duly executed until the contrary is shown and all courts, Judges and persons acting judicially shall take judicial notice of the Common Seal of The Mint.

(6) The Mint may utilise prescribed symbols specified in regulations made under this Act, with or without trade or internationally recognised markings, in relation to or in connection with its verification of metals or of weight, the identification of securities, the marketing of bullion, medallions or artifacts, or otherwise as the Board may determine. ”.

Part III of the principal Act repealed

12. Part III of the principal Act, comprising the Part heading, Division headings and sections 14 to 23 inclusive, is repealed.

New Part III inserted

13. The principal Act is amended by inserting after section 13 a new part as follows—

“ PART III—STAFF AND FACILITIES

Division 1—Employees

Former employment with The Perth Mint

14. (1) Notwithstanding the repeal by the *Perth Mint Amendment Act 1986* of Part III of this Act, and of definitions relating to that Part as enacted immediately prior to the coming into operation of that Act, a person who was immediately prior to the coming into operation of that Act—

- (a) an officer, temporary officer or wages employee of The Perth Mint; or
- (b) a former Royal Mint employee, including an unestablished person,

to whom that Part applied shall not, by reason of that repeal, cease to be eligible for any benefit (whether a benefit under the Imperial Scheme or otherwise) relating to salary, wages, leave, retirement or superannuation to which he would have been entitled had that Part not been repealed in so far as the entitlement had accrued at the time of the repeal of that Part, and the obligations of the State and of the Treasurer in respect of that Part shall, in so far as they are not inconsistent with this Act and are required to give effect to this subsection, be deemed to continue.

(2) For the purposes of this Act, the continuation of the appointment or engagement with Western Australian Mint under this Act of a person who was formerly appointed or engaged under the provisions of this Act repealed by the *Perth Mint Amendment Act 1986* or of an Act repealed by this Act shall be taken to constitute throughout a continuous appointment or engagement, but no compensation or other payment is payable by reason only of the change in the nature of the appointment or engagement occasioned by the operation of the *Perth Mint Amendment Act 1986*.

(3) Where there is no sufficient provision in this Part in respect of any matter of thing necessary or convenient to ensure an orderly transition to give effect to this Part in relation to persons appointed or engaged under the provisions of this Act repealed by the *Perth Mint Amendment Act 1986* and their entitlements arising therefrom, regulations made under section 45 may make that provision.

Transitional arrangements as to employment

15. (1) On the coming into operation of the *Perth Mint Amendment Act 1986*—

- (a) the appointment of a person who was appointed as a permanent officer or as a temporary officer; and
- (b) the engagement of a person who was employed as a wages employee,

under Part III of this Act as enacted immediately prior thereto shall, if it subsists at that time, be taken to constitute an employment of that person by Western Australian Mint on the like terms and conditions.

(2) The employment by Western Australian Mint pursuant to subsection (1) shall terminate—

- (a) on the day appointed under subsection (3);
- (b) on engagement of that person by The Mint for employment of a kind to which subsection (3) (a) refers;
- (c) on that person becoming subject to the *Public Service Act 1978* or employed in a permanent capacity by any Crown instrumentality or other body which is, or is deemed to be, a department for the purposes of the *Superannuation and Family Benefits Act 1938*; or
- (d) on the termination of that employment—
 - (i) by the employee;
 - (ii) in accordance with its terms; or
 - (iii) by reason of misconduct,

whichever is the earlier.

(3) The Minister, on being satisfied that reasonable arrangements have been made whereby persons to whom subsection (1) applies and who so wish have—

- (a) entered into engagements with The Mint for employment—
 - (i) in an office or capacity similar to, or whereby that person would not be disadvantaged had he remained in; and
 - (ii) at a remuneration, and on terms and conditions, not less favourable to that person than applied to,

the office or capacity in which the person was employed under Part III of this Act as enacted immediately prior to the coming into operation of the *Perth Mint Amendment Act 1986*; or

- (b) obtained employment, or been made a reasonable offer of employment of the kind referred to in subsection (2) (c),

may by notice published in the *Government Gazette*, appoint a day for the purposes of subsection (2) (a).

(4) Where, after the coming into operation of the *Perth Mint Amendment Act 1986* but prior to the day appointed under subsection (3), a person ceases to be employed by The Mint but has accrued entitlement to leave under this Act that person—

- (a) if the person thereupon becomes subject to the *Public Service Act 1978*, shall be deemed to have been in continuous service and to have accrued such a leave entitlement under that Act; and
- (b) otherwise, shall be entitled to payment by The Mint in lieu of that leave at a rate of remuneration not less than that which the person would have received in respect of that leave under this Act as enacted prior to the coming into operation of the *Perth Mint Amendment Act 1986*.

(5) This section shall not be construed as entitling a person who held office as the Director of The Perth Mint prior to the coming into operation of the *Perth Mint Amendment Act 1986* to carry out thereafter functions conferred on The Director of The Perth Mint in a corporate capacity by the provisions of this Act repealed by that Act.

Employees of The Mint

16. (1) The Mint may appoint and employ, either on a permanent whole time basis or otherwise, as many persons as the Board from time to time considers necessary for the purposes of this Act.

(2) Western Australian Mint shall for the purposes of the *Industrial Relations Act 1979* be taken to be a public authority, but subject to any industrial agreement registered under section 41 of that Act or any award made pursuant to Part IIA of that Act The Mint may employ persons upon such remuneration and other terms and conditions as the Board determines.

(3) Western Australian Mint, in succession to The Director of The Perth Mint, shall for the purposes of the *Superannuation and Family Benefits Act 1938* be deemed to be a department.

(4) Where a person becomes, after the coming into operation of the *Perth Mint Amendment Act 1986*, an employee of The Mint and immediately prior to his employment as such the person occupied an office under the *Public Service Act 1978* or otherwise was a contributor to units of pension or to the Provident Account under the *Superannuation and Family Benefits Act 1938* that person shall for the purposes of retaining any leave entitlement under the *Public Service Act 1978* or any existing or accruing rights under the *Superannuation and Family Benefits Act 1938* be taken to be, and to have been, in continuous service, but the *Public Service Act 1978* shall not otherwise apply to, or in relation to, an employee of The Mint.

(5) Where a person who is a contributor to the superannuation scheme established pursuant to the *Superannuation and Family Benefits Act 1938* is seconded to service with The Mint, The Mint shall, if so directed by the Treasurer, re-imburse the Treasurer on behalf of the Crown in right of the State for payment into the Consolidated Revenue Fund the proportion of the State share of the liability in respect of that scheme in relation to the period of secondment.

Interpretation of this Division

17. For the purposes of this Division—

“contributor” has the meaning given to that expression by section 6 of the *Superannuation and Family Benefits Act 1938*, and for the purpose of that definition the expressions “employee” and “qualified contributor” have the respective meanings given in that section;

“leave” means leave of absence for any reason, and includes long service leave, sick leave and holidays and *pro rata* entitlement to leave and payment in lieu of leave; and

“service” has the meaning given to that expression by section 6 of the *Superannuation and Family Benefits Act 1938*.

Division 2—Other staff and facilities

Use of staff and facilities of Departments and instrumentalities, and contracts for goods and services

18. (1) The Mint may, by arrangement made between the Board and the Minister concerned, and on such terms and conditions as may be mutually arranged with that Minister and with the Public Service Board, make use, either full time or part time, of—

- (a) the services of any officer or employee employed in the Public Service of the State or in a State instrumentality or otherwise in the service of the Crown in right of the State; or
- (b) any facilities of a Department of the Public Service of the State or of a State instrumentality.

(2) Any such arrangement shall provide for an agreed amount by way of payment at commercial rates for the use of the services or facilities.

(3) The Mint may engage under contract for services such professional and technical or other assistance as the Board considers expedient to enable The Mint to carry out its functions.

(4) The Board shall, so far as is practicable and economic, in relation to the purchase of goods or the provision of services give preference to the purchase from, and engagement of, persons and firms within Western Australia.

Division 3—Offences by directors, employees and others

Duty and liability of directors

19. (1) A director of The Mint shall at all times act honestly in the exercise of his powers and the discharge of the duties of his office.

Penalty—

- (a) in a case to which paragraph (b) does not apply—\$5 000;

or

- (b) where the offence was committed with intent to deceive or defraud The Mint or creditors of The Mint or creditors of any other person or for any other fraudulent purpose—\$20 000 or imprisonment for 5 years, or both.

(2) A director of the Mint shall at all times exercise a reasonable degree of care and diligence in the exercise of his powers and the discharge of his duties.

Penalty: \$5 000.

Improper use of position or information

20. (1) A person to whom this section applies shall not make improper use of his position as such, or of information acquired by virtue of that position or by reason of his rendering services of the kind referred to in subsection (2) (c), to gain, directly or indirectly, an advantage for himself or any other person or to cause detriment to The Mint or to a person of a kind referred to in subsection (2) (b) (ii).

Penalty: \$20 000 or imprisonment for 5 years, or both.

(2) This section applies to every person who or which—

(a) was, under the provisions of this Act as enacted immediately prior to the coming into operation of the *Perth Mint Amendment Act 1986*, an officer or employee of The Director of The Perth Mint or the Royal Mint;

(b) is, or has been, a director, officer or employee of—

(i) The Mint; or

(ii) a person authorized by, or associated jointly with, The Mint in relation to the functions of The Mint;

or

(c) is, or has been, a person rendering services to The Mint or to a person of the kind referred to in paragraph (b) (ii),

and in relation to a person that is a body corporate the expression “officer” has the meaning which the expression has in relation to a corporation for the purposes of section 229 of the *Companies (Western Australia) Code*.

Consequences of contravention of s. 19 or s. 20.

21. (1) Where—

- (a) a person is convicted of an offence under section 19 or section 20; and
- (b) the court is satisfied that The Mint, or a person who is aggrieved and is a person of a kind referred to in section 20 (2) (b) (ii), has suffered loss or damage as a result of the act or omission that constituted the offence,

the court by which he is convicted may, in addition to imposing a penalty, order the convicted person to pay compensation to The Mint or other person so suffering loss or damage of such amount as that court specifies, and any such order may be enforced as if it were a judgment of that court.

(2) Where a person contravenes or fails to comply with a provision of section 19 or section 20 in relation to The Mint or a person of a kind referred to in section 20 (2) (b) (ii), The Mint or the person aggrieved may, whether or not the person so contravening or failing to comply has been convicted of an offence under that section in relation to that contravention or failure to comply, recover from that person as a debt due to The Mint or the person aggrieved, as the case requires, by action in any court of competent jurisdiction—

- (a) if the person so contravening or failing to comply or any other person made a profit as a result of the contravention or failure—an amount equal to that profit; and
- (b) if The Mint or the person aggrieved, as the case requires, has suffered loss or damage as a result of the contravention or failure—an amount equal to that loss or damage.

(3) Where a person who contravenes or fails to comply with section 19 or section 20 has been found by a court to be liable to pay to a person an amount by reason of a contravention of Part X of the *Securities Industry (Western Australia) Code*, or of the provisions of a law in force in a State or Territory that is a participating State or participating Territory for the purposes of that Code being provisions that correspond with that Part of the Code, that arose out of or was constituted by the same act or transaction as the contravention of or failure to comply with that section, the amount of the liability under this section shall be reduced by the firstmentioned amount.

(4) For the purposes of subsection (3), the onus of proving that the liability of a person to pay an amount to another person arose from the same act or transaction as that from which another liability arose lies on the person liable to pay the amount.

(5) This section has effect in addition to, and not in derogation of, any rule of law relating to the duty or liability of a person by reason of his office or employment and does not prevent the institution of any civil proceedings in respect of a breach of such a duty or in respect of such a liability.

Secrecy, and security of records of the Mint

22. (1) Except in the performance of a function or duty under or in connection with this Act, a person to whom this section applies shall not, either directly or indirectly—

- (a) make a record of, or divulge to any person, any information concerning the business affairs of another person acquired by him by reason of his office or employment under or for the purposes of this Act; or
- (b) produce to any person any document relating to the business affairs of another person furnished for the purposes of this Act,

unless the prior permission of the person owning or operating the business to which that information or document relates has been obtained or subsection (2) applies.

Penalty: \$5 000 or imprisonment for 2 years, or both.

(2) Nothing in this section precludes a person from—

- (a) divulging to a court in the course of criminal proceedings, or proceedings under this Act or a prescribed Act, any information coming under his notice in the performance of his official duties, or the performance of a function or the exercise of a power, under this Act;
- (b) producing a document to a court in the course of criminal proceedings, or proceedings under this Act or a prescribed Act; or
- (c) divulging information or producing a document that the person is required to so divulge or produce by any other Act.

(3) A person who conceals, destroys, mutilates or falsifies any securities of or belonging to The Mint or any record affecting or relating to affairs of The Mint is guilty of an offence.

Penalty: \$10 000 or imprisonment for 2 years, or both.

(4) Where matter that is used or intended to be used in connection with the keeping of any record affecting or relating to affairs of The Mint is recorded or stored in an illegible form by means of a mechanical device, an electronic device or any other device, a person who—

- (a) records or stores by means of that device matter that he knows to be false or misleading in a material particular;
- (b) destroys, removes or falsifies matter that is recorded or stored by means of that device, or has been prepared for the purpose of being recorded or stored, or for use in compiling or recovering other matter to be recorded or stored, by means of that device; or
- (c) fails to record or store matter by means of that device with intent to falsify any entry made or intended to be compiled, wholly or in part, from that matter,

is guilty of an offence.

Penalty: \$10 000 or imprisonment for 2 years, or both.

(5) It is a defence to a charge arising under subsection (3) or (4) if the defendant proves that he acted honestly and that in all the circumstances the act or omission constituting the offence should be excused.

(6) In this section—

“information” includes any record relating to information;

“record” includes any document, accounts or accounting records and any other method of compiling information however prepared, recorded or stored;

“to divulge” includes to communicate by any means whatsoever, or to produce or furnish any record, or any copy of or extract from a record; and

“to produce” includes to permit access to, obtain for or make available.

Offences by bodies corporate

23. (1) Where an offence under this Part is found to have been committed by a body corporate and is proved—

- (a) to have been committed with the consent or connivance of; or
- (b) to be attributable to any failure to take all reasonable steps to secure compliance by the body corporate with this Act on the part of,

any director, manager, executive officer, secretary or other person concerned in the management of the body corporate, or any person purporting to act in any such capacity, that person as well as the body corporate shall be guilty of that offence and is liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate. ”.

Heading to Part IV amended

14. Part IV of the principal Act is amended by deleting the heading “PART IV—FINANCE.” and substituting the heading following—

“ PART IV—ASSETS, FINANCE, ACCOUNTING AND SECURITY ”.

Section 24 amended

15. Section 24 of the principal Act is amended—

- (a) by inserting after the section designation “24.” the subsection designation “(1)”;
- (b) by deleting “made of all property that is” and substituting the following—
 - “ maintained specifying the property that was ”;
- (c) by deleting “Director on the appointed day” and substituting the following—
 - “ body corporate known as The Director of The Perth Mint on the coming into operation of the *Perth Mint Act 1970* ”;

(d) by deleting “against the Director” and substituting the following—

“ in relation to that property in the accounts of The Mint ”;
and

(e) by adding the subsections following—

“ (2) The Minister shall cause a schedule to be made of all property that is, under this Act, vested in The Mint on the coming into operation of the *Perth Mint Amendment Act 1986*, taking into account the property specified in the schedule maintained under subsection (1), and shall determine the separate and aggregate values to be attributed to, and charged in relation to, that property in the accounts of The Mint.

(3) On and after the coming into operation of the *Perth Mint Amendment Act 1986*, the Board shall cause to be maintained a detailed record, in such form as the Treasurer may approve or direct, of all property that is for the time being or that has at any time been (as the Treasurer may require) vested in The Mint. ”.

Section 25 repealed and new section substituted

16. Section 25 of the principal Act is repealed and the following section is substituted—

Evidence of Treasurer’s approval etc.

“ 25. (1) In relation to any power of approval or direction on the part of the Treasurer provided for in section 8 or in this Part the Treasurer may, by writing signed by him delegate all or any of his powers to an officer of the Treasury and thereupon—

(a) the person to whom power is so delegated may exercise the power in the same manner and with the same effect as if the power were directly conferred upon the officer by this Act and not by delegation; and

(b) a person who purports to exercise power pursuant to a delegation conferred under this subsection is presumed to do so in accordance with the terms of the delegation in the absence of proof to the contrary,

and where under this Act the approval of the Treasurer is required in relation to any transaction or any matter is or may be affected by a direction given by the Treasurer if the person for the time being holding or acting in the office of Under Treasurer of the State is satisfied that The Mint has complied with this Act and any such direction of the Treasurer and any requirements of the Treasury as to—

- (c) the disclosure to the Treasury of relevant information;
- (d) the terms and conditions applicable and the manner by which the transaction is to be effected; and
- (e) the form and content of any security or other document required to be executed relating to the proposals,

and that the approval required by this Act in respect thereto has been given, he may by writing under his hand give a certificate in a form agreed with the parties to the relevant transaction, expressed to have been prepared in respect of that transaction and to be given for the purposes of this section, as to the matters referred to in this subsection.

(2) A certificate given under subsection (1) shall be conclusive evidence of the facts therein stated as between the parties to the original transaction or their successors or assignees in any proceedings arising from or relating to that transaction. ”.

Section 26 amended

17. Section 26 of the principal Act is amended—

- (a) by inserting after the section designation “26.” the subsection designation “(1)”;
- (b) by deleting “The Director shall” and substituting the following—

“ The Board on behalf and in the name of The Mint may ”;
- (c) by deleting “establish at that bank an account to be” and substituting the following—

“ make use of and operate the account established at that bank and ”; and

(d) by adding the subsection following—

“ (2) As soon as may be practicable after the coming into operation of the *Perth Mint Amendment Act 1986* the Board shall—

- (a) establish an account at the Reserve Bank to be called “The Western Australian Mint Bullion Account”;
- (b) maintain and operate that account for the purposes referred to in subsection (1); and
- (c) ensure that any moneys standing to the credit of the account referred to in subsection (1) are transferred to The Western Australian Mint Bullion Account. ”.

Section 27 amended

18. Section 27 of the principal Act is amended—

(a) by repealing subsection (1) and substituting the subsection following—

Moneys available to The Mint

“ 27. (1) Subject to this Act, The Mint is responsible for managing its own finance, and the moneys available to The Mint shall be—

- (a) moneys appropriated by Parliament from time to time for that purpose;
- (b) moneys standing to the credit of the accounts of The Mint;
- (c) all other moneys received for the products, goods and services provided by The Mint, or otherwise lawfully received by or made available to The Mint including moneys borrowed under this Act, or lent by the Treasurer pursuant to section 28 or the *Borrowings for Authorities Act 1981*, or derived from financial accommodation entered into under and subject to the provisions of this Act; and

- (d) such moneys as may have been received by or made available to, or are payable to, The Director of The Perth Mint as at the coming into operation of the *Perth Mint Amendment Act 1986*. ”; and
- (b) by repealing subsections (2) and (3) and substituting the subsections following—

“ (2) Subject to the maintenance of adequate records showing the sources from and purposes for which moneys are received and the manner in which moneys are used, the moneys received into or paid out of the accounts of The Mint shall be taken to have been receivable, and may be utilised or otherwise dealt with, for the general purposes of The Mint.

(3) All moneys, credit or other financial accommodation received by or on behalf of The Mint shall be used for the purpose of this Act, including carrying out any activity within the functions of The Mint, but not otherwise. ”.

Sections 28 and 29 repealed and new sections inserted

19. Section 28 and section 29 of the principal Act are repealed and the following sections are inserted—

Treasurer may make advances, payment for facilities, etc.

“ 28. (1) The Mint may borrow from the Treasurer such amounts as the Treasurer approves, on such conditions, including conditions as to repayment and payment of interest, as the Treasurer imposes and is hereby authorized to approve and impose.

(2) Where an advance is made under subsection (1) The Mint shall—

- (a) repay the amount of the advance;
- (b) pay interest in accordance with the conditions imposed under subsection (1); and
- (c) comply with any other conditions imposed.

(3) By virtue of this subsection the assets of The Mint are charged with the due discharge by The Mint of all obligations arising under this section.

Treasurer may give guarantees

29. (1) Subject to the prior approval of the Governor, the Treasurer may, on behalf of the Crown in right of the State and on such terms and conditions as he may determine, guarantee the payment of any moneys payable by The Mint, or the discharge of any indebtedness or liability, or the performance of any obligation (however or wherever arising, entered into or to be entered into), of The Mint.

(2) The performance of a guarantee given by the Treasurer on behalf of the State under this Act is hereby authorized and the due payment of moneys payable by the Treasurer thereunder with all interest thereon is hereby guaranteed by the State and shall be payable out of the Consolidated Revenue Fund which is hereby to the extent necessary appropriated accordingly, and any sums received or recovered by the Treasurer, from The Mint or otherwise, in respect of payment so made shall be paid into the Consolidated Revenue Fund.

(3) The funds and assets of The Mint are hereby, and where the Treasurer so requires the funds and assets of a person or body associated with The Mint in respect of a matter in relation to which a guarantee is given shall by the instrument of guarantee be, charged (by way of a floating charge unless otherwise provided by the instrument of guarantee) with repayment of any sum paid by the Treasurer under subsection (2) in accordance with such terms and conditions as the Treasurer may have imposed or approved in relation to the guarantee.

(4) The liability of the State pursuant to a guarantee under this section shall not be affected or discharged by the granting to The Mint or a person or body associated with The Mint in relation to the guarantee of any time or other indulgence or consideration, or by reason of any transaction that may take place between The Mint and any person having the benefit of the guarantee, or by any other act or omission of the person having the benefit of the guarantee, whereby the liability of the State as guarantor would but for this provision have been affected or discharged.

(5) In respect of every guarantee given by the Treasurer under this section, The Mint shall pay or cause to be paid an annual fee to the Treasurer for the credit of the Consolidated Revenue Fund.

(6) The annual fee referred to in subsection (5) shall be determined by the Treasurer not later than the time when the guarantee is given, but may be varied from time to time by the Treasurer by notice in writing to The Mint.

(7) An instrument of guarantee given pursuant to subsection (1) shall be executed by—

- (a) the Treasurer; or
- (b) a person authorized—
 - (i) by the Treasurer in writing; or
 - (ii) by operation of law. ”.

Section 30 amended

20. Section 30 of the principal Act is amended—

- (a) by repealing subsection (1) and subsection (2) and substituting the subsections following—

“ (1) The Mint shall pay to the Treasurer such amounts, if any, as are fixed by the Treasurer—

- (a) as the interest and sinking fund contributions for the year in respect of such proportion of the General Loan and Capital Works Fund as is, or has been, applied for purposes to which the functions of The Mint relate; and
- (b) for the use by or on behalf of The Mint of Government buildings or other Government property, and for services rendered by any officers of the Public Service or any Government department.

(2) The Board shall make provision, by way of a sinking fund or in such other manner as the Treasurer may require, for the purpose of redeeming any moneys borrowed by the Mint. ”;

and

(b) in subsection (3)—

(i) by inserting after “contributions” the following—

“ referred to in subsection (1) ”;

(ii) by inserting after “being” the following—

“ , and the nature of any provision required pursuant to subsection (2), ”; and

(iii) by deleting “the Director in relation to the exercise by him of the powers conferred upon him by this Act” and substituting the following—

“ The Mint ”.

Section 31 amended

21. Section 31 of the principal Act is amended—

(a) by inserting after the section designation “31.” the subsection designation “(1)”;

(b) by deleting “any account of the Director” and substituting the following—

“ The Mint ”;

(c) by deleting “by the Director”;

(d) by deleting the balance of the section after “invested” and substituting the following—

“ in any manner in which moneys standing to the credit of the Public Bank Account may be invested under the *Financial Administration and Audit Act 1985* and, subject to the approval of the Treasurer, in other forms of investment. ”; and

(e) by adding the subsection following—

“ (2) The Board, in the name and on behalf of The Mint, may appoint a person as financial manager for The Mint and, by resolution, delegate to that person the power of The Mint under subsection (1). ”.

Section 32 repealed and re-enacted with amendments

22. Section 32 of the principal Act is repealed and re-enacted with amendments as follows—

Application of profit of The Mint

“ 32. Where in respect of any financial year a profit results from activities carried on by The Mint under this Act, the Board may, after taking into account the requirements of section 34 and making such provision for actual or contingent liabilities, reserve accounts and contributions to reserve funds, depreciation and writing off, and otherwise, as the Treasurer may approve, recommend the amount to be retained by The Mint and the amount to be transferred by way of dividend to the credit of the Consolidated Revenue Fund and if the Treasurer approves shall give effect thereto in accordance with the terms of the approval. ”.

Section 33 amended

23. Section 33 of the principal Act is amended by deleting “The Director and his operations” and substituting the following—

“ The Mint and the operations of The Mint ”.

New section inserted

24. The principal Act is amended by inserting after section 33 the section following—

Payment in lieu of income tax, etc.

“ 34. (1) In lieu of the liability which The Mint, if it had been a public company liable for tax, would have had to pay tax on income or profits under any Act of the Commonwealth in any year, The Mint shall pay to the Treasurer for payment into the Consolidated Revenue Fund within 6 months after the end of each financial year ending on 30 June, beginning with the period ending on 30 June following the coming into operation of the *Perth Mint Amendment Act 1986* such amount as the Treasurer may determine, being an amount not less than the amount calculated under subsection (2).

(2) The amount required to be calculated for the purposes of subsection (1) shall be determined and certified, by a person who is a registered company auditor for the purposes of the *Companies (Western Australia) Code* and who is appointed by The Mint with

the approval of the Treasurer, as being the amount of income tax in respect of that period that would have been payable to the Commonwealth by The Mint had The Mint been a public company liable for payment of tax.

(3) In determining the amount required to be calculated for the purposes of subsection (1), any loss that may have accrued in a previous year or years may be carried forward, but any amount provided for provisions, reserves and reserve funds is subject to the approval of the Treasurer. ”.

Section 35 repealed and new section inserted

25. Section 35 of the principal Act is repealed and the following section is inserted—

Title to gold, etc.

“ 35. (1) Where gold or any other precious metal or any precious stone is purchased in good faith by The Mint—

- (a) the property thereupon vests in The Mint absolutely, free from any mortgage, charge, lien, trust or other interest in or affecting the property and notwithstanding any actual or implied notice relating thereto;
- (b) The Mint is authorized and shall be taken to pay the person delivering the property for the property on behalf of all persons having any interest in the property;
- (c) upon that payment being made The Mint shall not be under any liability to a person other than the payee in respect of an interest which that other person claims in the property; and
- (d) The Mint shall not be bound or concerned to inquire into any matter affecting or relating to the title to the property offered by the vendor or to the proceeds of the sale.

(2) Where—

- (a) prior to the coming into operation of the *Perth Mint Amendment Act 1986*, any gold, or gold bearing ore or dore, or alloy containing gold was smelted, sampled, assayed, refined or otherwise worked at the premises of the Royal Mint or of The Perth Mint; or

- (b) on or after the coming into operation of that Act any gold or other precious metal, or ore or dore bearing any gold or other precious metal, or any alloy thereof, or any precious stone or ore bearing any precious stone, is smelted, sampled, assayed, refined or otherwise worked at the premises of The Mint,

any residue, after the normal working procedures have been carried out and the metal or stone so worked has been delivered to or on behalf of the person for whom the work was done, that remained or remains thereafter in the fabric of those premises, vests in The Mint absolutely as though it had been gold purchased in good faith to which subsection (1) applies. ”.

Section 36 amended

26. Section 36 of the principal Act is amended—

- (a) by deleting “All books of the Director” and substituting the following—

“ Except in so far as commercial confidentiality otherwise requires in relation to any gold, precious metals, precious stones or other things stored on behalf of a person the books ”; and

- (b) by deleting “accounts of the Director”, where it subsequently occurs, and substituting the following—

“ operations of The Mint and the accounts for the preceding and current financial years and in the possession or custody of The Mint ”.

Sections 37, 38 and 39 inserted

27. The principal Act is amended by inserting after section 36 the following sections—

Security of The Mint

“ 37. (1) The Board shall determine what security measures are necessary to safeguard the integrity and assets of The Mint, and may in relation to any specified place, vehicle or circumstances—

- (a) prohibit or regulate access by any person; and

- (b) require persons, on entering and on departing, to submit to a search (including a body search) by a person authorized by the Board.

(2) The Board may prepare, issue and amend Security Instructions to be observed by the Board and the employees of The Mint, and by other persons specified, in the carrying on of activities of, or on behalf of or in association with, The Mint, with respect to security, including administrative, supervisory, accounting, safety, guidance and disciplinary measures, subject to any award, industrial agreement, Act or other written law.

(3) Security Instructions under this section may be issued—

(a) so as to apply—

(i) at all times or at a specified time;

(ii) to all employees or persons associated with the activities of The Mint or to specified employees or persons; or

(iii) in specified circumstances;

(b) so as to require a matter affected by the Instructions to be—

(i) in accordance with a specified standard or specified requirement; or

(ii) approved by or to the satisfaction of a specified person or body or a specified class of person or body;

(c) so as to confer a discretionary authority on a specified person or body or a specified class of person or body;

(d) so as to empower the Managing Director by written direction issued generally or in a particular case to supplement the requirements of the Instructions; and

(e) so as to provide, or to empower the Managing Director to provide by written direction, in a specified case or class of case for the exemption of persons or things or a class of persons or things from the provisions of the Instructions, whether unconditionally or on specified conditions or conditions additionally imposed and either wholly or to such an extent as is specified or otherwise determined.

(4) In this section "specified" means specified in a relevant Security Instruction issued under this section.

(5) The Board shall cause to be published in the *Government Gazette* notice of the making or amendment of Instructions under this section, but—

- (a) notices under this subsection need not include the text of the Instructions or the amendments; and
- (b) section 42 of the *Interpretation Act 1984* shall not be construed as having effect in relation to Instructions under this section.

(6) Subject to this Act, every member of the Board or employee of The Mint, and any person who is a person specified in a relevant Instruction, shall comply with Security Instructions issued under this section.

(7) On recommendation by the Board, regulations made under section 45 may make provision to give effect to this section and to enforce penalties in respect of any contravention of those regulations.

State Batteries

38. (1) For the purpose of effecting the transfer of the function of administering the operations of the Western Australian State Batteries and associated activities conducted pursuant to Part IV of the *Mining Development Act 1902* from the Minister administering that Act to The Mint the Governor may, on a recommendation of The Mint of which that Minister approves, fix a day by Order in Council in relation to any of those batteries to be the transfer day for the purposes of this section.

(2) The Board shall cause a notice of the making of an Order under subsection (1) to be published in the *Government Gazette* and the effect of that Order to be otherwise promulgated for public information.

(3) On and after the transfer day in relation to any battery, The Mint is charged, as agent of the Crown in right of the State, with the duty of administering, and is empowered to carry out, the functions of that battery and the management of its operations, and thereupon—

- (a) all the assets, property, rights, liabilities, obligations and undertaking relating to that battery are transferred to or imposed on The Mint, so that—
 - (i) The Mint is empowered to purchase tailings on behalf of Government in accordance with the State Battery Regulations made under that Act;
 - (ii) tailings segregated but not treated vest in The Mint subject to an obligation for payment, in accordance with those regulations, by The Mint to the former owner on the actual extraction obtained; and
 - (iii) tailings which by the operation of those regulations are the property of the Government without purchase or are deemed abandoned vest in, and may be dealt with by, The Mint;
- (b) the Minister administering the *Mining Development Act 1902* shall cease to exercise his functions under that Act in respect of the battery, save in so far as may be required at the request of The Mint to give effect to the transfer contemplated by this section;
- (c) regulations may be made in respect to that battery under the *Mining Development Act 1902* on the recommendation of The Mint; and
- (d) the accounts of The Mint shall be credited with such amount in respect of the assets transferred, and The Mint shall incur such liability in respect thereof, as the Treasurer may determine.

(4) The Minister administering the *Mining Development Act 1902* shall not give approval to a recommendation of The Mint for the purposes of subsection (1) until he is satisfied that reasonable arrangements have been made whereby persons employed in relation to the operation of the battery in question, and who so wish, have obtained or been offered not less advantageous employment with The Mint, or elsewhere, to take effect on or before the transfer day.

State Battery reserves, and related property

39. (1) Where the Governor (after, in the case of a reserve previously vested in a Minister of the Crown other than the Minister administering the *Mining Development Act 1902*, consultation with that other Minister) by Order in Council, whether an Order made under section 38 or otherwise, so directs, any reserve (not being a Class A reserve) or interest in land specified therein and previously set aside or utilised for the purposes of a State Battery or a purpose related to a State Battery, being land or an interest not vested in any person other than a Minister of the Crown or a statutory authority, shall, by operation of this section, be vested in The Mint.

(2) Upon receipt of an Order made under subsection (1) the Registrar of Titles, the Registrar of Deeds, or the Minister for the time being administering the *Land Act 1933* (as the relevant reserve or interest may require) shall, by reference to the terms of the Order, cause the like record to be made in the document of title or by memorial in the register relating to the title to the land in question to evidence the interest of The Mint as could have been made if—

- (a) the vesting of a reserve not previously vested had been effected by an Order in Council lawfully made in accordance with section 33 of the *Land Act 1933* and for the purposes of The Mint;
- (b) a reserve which was prior to that Order vested in a Minister of the Crown had been re-vested in Her Majesty as of Her former estate and that reserve had then been vested in, and for the purposes of, The Mint by an Order in Council lawfully made in accordance with section 33 of the *Land Act 1933*; or
- (c) in the case of an interest in land, a transfer or agreement relating to the vesting had been executed in full form.

(3) In relation to any reserve, nothing in this section affects the operation of section 37 of the *Land Act 1933*.

(4) Where any reserve or interest in land is vested in The Mint under this section the accounts of The Mint shall be credited with such amount in relation thereto, and The Mint shall incur such liability in respect thereof, as the Treasurer may determine. ”.

Section 40 amended

28. Section 40 of the principal Act is amended—

- (a) in paragraph (a), by deleting “appointed day;” and substituting the following—

“ coming into operation of this Act; or ”;

- (b) in paragraph (b), by deleting “of this Act; or” and substituting the following—

“ as enacted prior to the coming into operation of the *Perth Mint Amendment Act 1986*, ”; and

- (c) by deleting paragraph (c).

Section 41 amended

29. Section 41 of the principal Act is amended—

- (a) by deleting “The Director” and substituting the following—

“ The Mint ”; and

- (b) by deleting “under paragraph (c) of section 40” and substituting the following—

“ to discharge any liability of the Crown arising out of a guarantee of the Treasurer given in or under this Act as enacted prior to the coming into operation of the *Perth Mint Amendment Act 1986* ”.

Section 42 amended

30. Section 42 of the principal Act is amended—

- (a) in paragraph (e), by deleting “from the Director or otherwise”;

- (b) in paragraph (f), by deleting the full stop and substituting a comma;

and

- (c) by adding, after paragraph (f), the following—

“ as those sections were respectively enacted prior to the coming into operation of the *Perth Mint Amendment Act 1986*. ”.

Section 43 repealed and new section inserted

31. Section 43 of the principal Act is repealed and the following section is inserted—

Protection of The Mint name, symbol, etc.

“ 43. (1) Subject to subsection (5), a person who, without the consent in writing of The Mint—

- (a) uses the name, or an abbreviation of the name, of The Mint, or a prescribed symbol in connection with a business, trade, profession or occupation;
- (b) sells, offers for sale, exposes for sale, or otherwise has in his possession for sale, goods or securities to which the name, or an abbreviation of the name, of The Mint, or a prescribed symbol has been applied;
- (c) uses the name, or an abbreviation of the name, of The Mint, or a prescribed symbol in relation to goods or securities or to the promotion, by any means, of the supply or use of goods or securities; or
- (d) imports into the State for sale, or for use for the purposes of any trade or business, any article to which the name, or an abbreviation of the name, of The Mint or a prescribed symbol has been applied, outside the State, without the consent in writing of The Mint,

commits an offence.

(2) Subject to subsection (3), where, without the consent in writing of The Mint the name, or an abbreviation of the name of The Mint or a prescribed symbol—

- (a) is used as, or as part of, the name or emblem of a person;
or
- (b) is used by a person in connection with any activity of the person so as to imply that the person is in any way connected with The Mint,

the person commits an offence.

(3) A person shall not be convicted of an offence against this section in respect of the use of an abbreviation of the name of The Mint if the use occurred in such circumstances, or in relation to such matters, as to be unlikely to be taken to imply any connection with The Mint, unless the prosecution proves that the use was intended to imply such a connection.

(4) The conviction of a person for an offence against this section in respect of the use of a name, abbreviation of a name, or prescribed symbol does not prevent a further conviction of that person in respect of the use of that name, abbreviation or prescribed symbol at any time after the first-mentioned conviction.

(5) For the purposes of this section—

- (a) any combination of words or letters, or of both words and letters, that is capable of being understood as referring to The Mint shall be deemed to be an abbreviation of the name of The Mint;
- (b) a reference to a prescribed symbol shall be read as including a reference to an emblem, brand, design, symbol, logo or mark that—
 - (i) is identical with a prescribed symbol; or
 - (ii) so nearly resembles a prescribed symbol as to be capable of being mistaken for a prescribed symbol;
- (c) a name, abbreviation, or prescribed symbol shall be deemed to be applied to goods or securities if it—
 - (i) is impressed on, worked into or affixed to the goods or securities; or
 - (ii) is applied to a covering, label, or other thing in or with which the goods or securities are supplied;
- (d) the reference in paragraph (c) to a covering includes a reference to a vessel, box, capsule, case, frame or wrapper and the reference in that paragraph to a label includes a reference to a band or ticket; and

- (e) a name, abbreviation, or prescribed symbol shall be deemed to be used in relation to goods or securities or to the promotion of the supply or use of goods or securities, if it is used in a sign, advertisement (whether printed, broadcast or televised), invoice, catalogue, price list or other document in relation to the goods or securities;
- (f) a reference to "The Mint" includes a reference to a person authorized by, or associated jointly with, the Mint in relation to any function of The Mint, being a person prescribed for the purposes of this section, in relation to any activity carried on by that person and so prescribed.

(6) Proceedings under this section shall not be instituted without the consent in writing of the Attorney General.

(7) A person who commits an offence against this section is punishable, upon conviction—

- (a) in the case of a person not being a body corporate—by a fine not exceeding \$2 000; or
- (b) in the case of a person being a body corporate, by a fine not exceeding \$4 000,

but where an offence under this section is found to have been committed by a body corporate and is proved—

- (c) to have been committed with the consent or connivance of; or
- (d) to be attributable to any failure to take all reasonable steps to secure compliance by the body corporate with this Act on the part of,

any director, manager, executive officer, secretary or other person concerned in the management of the body corporate, or any person purporting to act in any such capacity, that person as well as the body corporate shall be guilty of that offence and is liable to be proceeded against and punished accordingly.

(8) Where the affairs of a body corporate are managed by its members, subsection (7) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate. "

Section 44 amended

32. Section 44 of the principal Act is amended—

- (a) by inserting after the section designation “44.” the subsection designation “(1)”;
- (b) by deleting “the Director”, where it first occurs, and substituting the following—

“ The Director of The Perth Mint or Western Australian Mint ”;
- (c) by deleting “The Director”, where it secondly occurs, and substituting the following—

“ The Mint ”; and
- (d) by adding the subsection following—

“ (2) The fees and charges payable for materials, products or services provided by The Mint after the coming into operation of the *Perth Mint Amendment Act 1986* may be determined by the Board. ”.

New section added

33. The principal Act is amended by inserting after section 45 the section following—

Review of the Act

- “ 46. (1) The Minister shall carry out, or cause to be carried out, a review of the operation of this Act 5 years after the coming into operation of the *Perth Mint Amendment Act 1986*, and in the course or as a consequence of such review the Minister shall consider and have regard to—
- (a) the effectiveness of the operations of The Mint;
 - (b) the need for the continuation of the functions of The Mint; and
 - (c) such other matters as appear to him to be relevant to the operation and effectiveness of this Act.

(2) The Minister shall prepare a report based on his review of this Act and shall, as soon as practicable after the preparation thereof, cause the report to be laid before each House of Parliament. ”.

PART III—*PARLIAMENTARY COMMISSIONER ACT 1971*

Amendment to Schedule

34. The Schedule to the *Parliamentary Commissioner Act 1971** is amended by inserting, after the item relating to the Western Australian Institute of Technology, the following—

“ Western Australian Mint and the Board of The Mint established under the *Western Australian Mint Act 1970* ”.

[*Act No. 64 of 1971 as amended by Acts Nos. 68 of 1976 and 13 of 1982.]

PART IV—*FINANCIAL ADMINISTRATION AND AUDIT ACT 1985*

Amendment to Schedule

35. Schedule 1 to the *Financial Administration and Audit Act 1985** is amended by inserting, after the item relating to the Western Australian Mining and Petroleum Research Institute, the following—

“ Western Australian Mint ”.

[*Act No. 117 of 1985.]
