

WESTERN AUSTRALIA

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# WESTERN AUSTRALIAN ARTS COUNCIL REPEAL ACT

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No. 37 of 1986

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**AN ACT to repeal the *Western Australian Arts Council Act 1973*, to make consequential provisions with respect to the assets and liabilities of the Western Australian Arts Council 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:—

## Short title

1. This Act may be cited as the *Western Australian Arts Council Repeal Act 1986*.

**Commencement**

2. This Act shall come into operation on the day on which it receives the Royal Assent or 1 July 1986, whichever is the later.

**Interpretation**

3. In this Act unless the contrary intention appears—

“commencement day” means the day on which this Act comes into operation;

“Council” means the Western Australian Arts Council established by the repealed Act;

“Department” means the Department for the Arts established under the *Public Service Act 1978*;

“Minister” means the Minister of the Crown in whom the administration of the Department for the Arts is for the time being committed by the Governor;

“property” includes moneys standing to the credit of the Western Australian Arts Council Account established under the repealed Act; and

“repealed Act” means the *Western Australian Arts Council Act 1973*.

**Repeal of the *Western Australian Arts Council Act 1973***

4. The *Western Australian Arts Council Act 1973*\* is repealed.

[\*Act No. 42 of 1973.]

**Vesting of property and obligations**

5. (1) Subject to this section, all property that immediately before the commencement day was vested in the Council is vested, without transfer or conveyance, in the Minister.

(2) The vesting effected by subsection (1) is without prejudice to any trust, including a resulting trust or other trust in favour of a donor, that immediately before the commencement day affected the property vested.

(3) In relation to any property vested in the Minister by subsection (1), the Minister has and is subject to all the rights, powers, remedies, liabilities, and obligations and may exercise and discharge in relation to that property all or any of the rights, powers and remedies which the Council would have had and been subject to and might have exercised or discharged in relation to that property if the property had not been divested from the Council and vested in the Minister.

(4) On the commencement day, the Minister becomes, by virtue of this subsection, liable to pay and discharge all the debts, liabilities, and obligations of the Council that existed immediately before that day to the same extent as the Council would have been liable if this Act had not been enacted.

### **Construction of agreements, instruments etc.**

6. Any agreement or instrument subsisting immediately before the commencement day to which the Council was a party has effect on and after that day as if—

- (a) the Minister were substituted for the Council as a party to the agreement or instrument; and
- (b) any reference in the agreement or instrument to the Council were (except in relation to matters that occurred before that day) a reference to the Minister.

### **Continuance of proceedings**

7. Any proceedings pending immediately before the commencement day to which the Council was a party may be continued on or after that day as if the Minister were a party to those proceedings instead of the Council and all claims and defences that would have been available to the Council if this Act had not been enacted shall be available to the Minister.

### **Transfer of records**

8. Upon the commencement day, the members of the Council as constituted immediately before the commencement day shall ensure that all books, documents, records, instruments and other papers of the Council are delivered to the Minister.

### **Transfer of staff**

9. (1) Any person who, immediately before the commencement day was an officer or employee of the Council is on the commencement day and without further appointment under the *Public Service Act 1978* appointed to be an officer or employee of the Department at a remuneration not lower than the remuneration he received as an officer or employee of the Council under the repealed Act.

(2) A person appointed under subsection (1) shall retain existing and accruing rights and in particular rights in relation to leave and other benefits and, for the purpose of determining such rights, service with the Department shall be regarded as continuous with service with the Council.

### **Final accounts and report of the Council**

10. (1) Notwithstanding the repeal of the repealed Act, the Council, as constituted immediately before the commencement day, shall for the purpose of preparing and submitting to the Minister the accounts and report referred to in subsection (2) continue in existence until it has complied with that subsection.

(2) Subject to subsection (3), the Council shall, as soon as practicable after the commencement day, prepare and submit to the Minister a report of its activities and a statement of accounts in respect of the period from the end of the immediately preceding financial year in respect of which a report has been furnished under the repealed Act to the commencement day.

(3) Sections 28 and 29 of the repealed Act shall apply to and in respect of the statement of accounts prepared by the Council under subsection (2) as if those sections had not been repealed and the Council shall as soon as practicable furnish to the Minister the Auditor General's report on that statement of account.

(4) The Minister shall cause a copy of the reports and statement referred to in subsections (2) and (3) to be laid before each House of Parliament as soon as practicable.

**Saving as to audit of recipients' accounts**

11. Notwithstanding the repeal of the repealed Act, section 30 of the repealed Act shall continue to have effect, but as if—

- (a) references in that section to the Minister were references to the Minister as defined in section 3 of this Act;
  - (b) in subsection (2), the words “on the advice of the Council” were omitted; and
  - (c) in subsection (4), the reference to the “Audit Act 1904” was a reference to the “*Financial Administration and Audit Act 1985*”.
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