

# WESTERN AUSTRALIAN SPORTS CENTRE TRUST ACT 1986

(No. 101 of 1986)

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WESTERN AUSTRALIA

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# WESTERN AUSTRALIAN SPORTS CENTRE TRUST ACT

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No. 101 of 1986

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**AN ACT to establish the Western Australian Sports Centre Trust, to amend certain other Acts and for incidental and related matters.**

*[Assented to 12 December 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 *Western Australian Sports Centre Trust Act 1986*.

### **Commencement**

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

### **Interpretation**

3. In this Act unless the contrary intention appears—

“board” means the governing body of the Trust provided for under section 5;

“Centre” means the Western Australian Sports Centre established under section 8 and includes any facility that forms part of the Centre;

“general manager” means the person designated general manager of the Centre under section 12 (1);

“Trust” means the Western Australian Sports Centre Trust established by section 4 (1);

“Trust property” means real or personal property owned by, leased to or vested in the Trust;

“trustee” means a person appointed to the board under section 5.

## **PART II—ESTABLISHMENT OF THE WESTERN AUSTRALIAN SPORTS CENTRE TRUST**

### **Western Australian Sports Centre Trust established**

4. (1) There is hereby established a body to be known as the Western Australian Sports Centre Trust.

(2) The Trust is a body corporate with perpetual succession and a common seal and, subject to this Act, is capable of—

- (a) acquiring, holding and disposing of real and personal property;
- (b) suing and being sued; and
- (c) doing and suffering all such acts and things as bodies corporate may do and suffer.

(3) The Trust is an agent of the Crown in right of the State and enjoys the status, immunities and privileges of the Crown except as otherwise prescribed.

(4) Notwithstanding subsection (1), the Trust may use and operate under a trading or business name approved by the Minister being—

- (a) an abbreviation or adaptation of its corporate name;
- (b) a name other than its corporate name.

(5) Notice of approval of a name under subsection (4) shall be published in the *Gazette*.

### **The board of the Trust**

5. (1) The Trust shall have a board of management comprising—

- (a) 3 persons appointed as trustees by the Minister, each of whom is in the Minister's opinion qualified for appointment by reason of knowledge of or experience in commerce, law, financial management or administration or personnel management or administration;
- (b) 3 other persons appointed as trustees by the Minister, each of whom is in the Minister's opinion qualified for appointment by reason of knowledge of or experience in sport; and
- (c) 3 other persons appointed as trustees by the Minister of whom—
  - (i) 2 shall be officers of the public service of the State; and
  - (ii) the other shall be a member of the staff of The University of Western Australia.

(2) The board is the governing body of the Trust with authority, in the name of the Trust, to perform the functions conferred or imposed on the Trust under this Act or any other written law.

### **Constitution, meetings and procedure of the board**

6. (1) Schedule 1 shall have effect with respect to the trustees.

(2) Schedule 2 shall have effect with respect to meetings and procedure of the board.

**Remuneration and allowances**

7. A trustee is entitled to such remuneration and allowances as the Minister from time to time determines on the recommendation of the Public Service Board.

**PART III—FUNCTIONS AND POWERS OF THE TRUST****Functions of the Trust**

8. (1) The functions of the Trust are—

- (a) to establish and maintain a comprehensive sports and recreational complex, to be known as the Western Australian Sports Centre, comprising—
  - (i) facilities for holding competitive sporting events of international, national and State standards;
  - (ii) training facilities for training sportspersons who are seeking to improve their sporting standards, performances and skills;
  - (iii) sports education facilities for the purpose of developing the skills or potential skills of sports administrators, coaches and sportspersons; and
  - (iv) such accommodation or other ancillary facilities as may be required for the effective operation of the Centre;
- (b) to encourage, promote and facilitate the use and enjoyment of the Centre by members of the public; and
- (c) to do such other things consistent with the use and enjoyment by the public of the Centre as the board considers appropriate.

(2) It is not necessary for all of the facilities of the Centre to be established at a single location or at adjoining locations.

(3) The Minister may direct the Trust to manage or operate any facilities specified in the direction being facilities that are of a similar kind to those mentioned in subsection (1) (a) but do not form part of the Centre, and while such direction has effect—

- (a) it shall be a function of the Trust to manage those facilities; and
- (b) this Act shall apply to and in relation to those facilities as if they formed part of the Centre.

(4) The Trust may, and when requested by the Minister shall, make reports and recommendations to the Minister with respect to any matter relating to its functions and, in particular, with respect to the future management and development of the Centre and any facilities that are, or might become, the subject of a direction under subsection (3).

### **General powers**

**9.** (1) The Trust has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

(2) Without limiting the generality of subsection (1), or any other provision of this Act by which a power is conferred on the Trust, the Trust has power—

- (a) to use or authorize the use of the Centre for activities of a sporting, recreational, educational or cultural nature or for the purposes of public entertainment or any public purpose approved by the Minister;
- (b) to provide or permit any other persons to provide refreshments for consumption by persons using or visiting the Centre and to apply for, hold and dispose of any licence, permit or other authority required in connection with the provision of those refreshments;
- (c) to acquire property or an interest in or over property by purchase, lease, licence or exchange or in any other manner and to dispose of property or an interest in or over property by sale, lease, licence or exchange or in any other manner;
- (d) to carry out or arrange to be carried out work in connection with the maintenance, development and improvement, alteration and maintenance of property and, in particular, for the purpose of making the Centre suitable for the activities referred to in paragraph (a);
- (e) to provide tuition and instruction for the purpose mentioned in section 8 (1) (a) (iii);
- (f) to promote and provide exhibits, lectures, films, publications and other types of instruction relating to sporting and recreational activities;
- (g) subject to the regulations, to charge and receive fees or other sums for, or in connection with—
  - (i) the hire or use of the Centre or any other Trust property;
  - (ii) admission to the Centre; or
  - (iii) any service provided, article sold, permission given or licence granted by or on behalf of the Trust;

- (h) to enter into any contract or arrangement with any person including a partnership or arrangement for the sharing of profits;
- (i) to appoint or engage agents or attorneys;
- (j) to act as agent for other persons; and
- (k) to do anything incidental to any of its powers.

(3) In subsection (2) (d), the reference to work includes—

- (a) the development or redevelopment of an area of land;
- (b) the construction, reconstruction or demolition of any building;
- and
- (c) the provision of spectator accommodation, either seating or standing or both.

(4) Where the Trust acquires property by gift, bequest or devise the Trust may—

- (a) agree to and carry out the conditions of the gift, bequest or devise; and
- (b) retain the property in the form in which it is acquired, subject to any condition agreed to by the Trust in relation to the property.

(5) The rule of law against remoteness of vesting does not apply to a condition to which the Trust has agreed under subsection (4) (a).

(6) Where any property has been vested in the Trust the operation of subsection (2) (c) in relation to that property is subject to the conditions upon which the land was vested in the Trust and, in the case of land to which the *Land Act 1933* applies, to the provisions of that Act.

### **Power to establish committees**

10. (1) The Trust may establish such committees as it considers necessary to enable it to perform its functions.

(2) At least one member of each committee shall be a trustee.

(3) The Trust shall nominate a member of a committee who is a trustee to be the chairman of the committee.

(4) The procedure for calling meetings of a committee shall, subject to the regulations, be as determined by the Trust or, to the extent that any matter is not provided for by the regulations or by a determination of the Trust, shall be as determined by the committee.

### **Appointment or use of staff and facilities**

11. (1) The Trust may appoint and employ such persons as it considers necessary to enable it to perform its functions.

(2) Subject to any relevant order, award or agreement under the *Industrial Relations Act 1979*, the Trust may after consultation with the Public Service Board, determine the remuneration and other conditions of service of its officers and employees.

(3) The Trust may, by arrangement made between the board and the Minister concerned, and on such terms and conditions as may be mutually arranged by the board 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 agency or instrumentality or otherwise in the service of the Crown in right of the State; or

(b) any facilities, plant, machinery or equipment of a department of the public service of the State or of a State agency or instrumentality.

(4) For the purpose of enabling the Trust to perform its functions under this Act, the Trust may engage persons under contracts for the performance of services for or on behalf of the Trust.

### **General manager of the Western Australian Sports Centre**

12. (1) Of the persons appointed under section 11 (1), one shall be designated, in the instrument of appointment or in a subsequent instrument executed by the Trust, as general manager of the Centre.

(2) Subject to the control of the Trust the general manager—

- (a) is responsible, as the chief executive officer of the Trust, for the day to day management of the affairs of the Trust and the administration of the Centre and all other Trust property; and
- (b) has and may perform such functions as are conferred or imposed on the holder of that position under this Act or any other written law.

(3) Schedule 3 has effect with respect to a person designated as general manager.

### **Delegation**

13. The Trust may, by instrument in writing, delegate to—

- (a) one or more of the trustees;
- (b) a committee established under section 10;
- (c) the general manager;
- (d) an officer or employee of the Trust other than the general manager; or
- (e) any person of whose services the Trust makes use,

the performance of all or any of the functions of the Trust other than this power of delegation.

### **Direction by Minister**

14. The Minister may, after consultation with the board, give such directions to the Trust with respect to the performance of its functions as appear to the Minister to be in the public interest and the Trust shall give effect to those directions.

## **PART IV—FINANCIAL PROVISIONS**

### **Funds of the Trust**

15. (1) The funds available to the Trust to enable it to perform its functions are—

- (a) any money appropriated by Parliament for the purposes of the Trust;

- (b) all money derived by the Trust from fees and other sums mentioned in section 9 (2) (g);
- (c) all money derived by the Trust from the sale, leasing, or other disposal of Trust property; and
- (d) all other money received by the Trust for the purposes of this Act.

(2) The funds referred to in subsection (1) shall be paid into and placed to the credit of an account at the Treasury to be called the Western Australian Sports Centre Trust Account.

(3) All expenditure incurred by the Trust for the purposes of performing its functions, shall be paid from the account referred to in subsection (2) and moneys standing to the credit of the account shall be applied only for the purposes of this Act.

(4) Subsections (2) and (3) do not affect the operation of section 21 of the *Financial Administration and Audit Act 1985*.

### **Certain property and instruments exempt from rates, taxes and stamp duty**

**16.** (1) Without limiting the generality of section 4 (3) a rate or tax shall not be made, charged or levied by or under any law of the State on or in respect of any Trust property unless that property is leased to, or occupied by, some other person for a purpose which is not directly related to the performance by the Trust of any of its functions.

(2) Without limiting the generality of section 4 (3) the *Stamp Act 1921* does not apply to or in respect of—

- (a) a gift, bequest or devise made to the Trust;

or

- (b) an instrument executed after the coming into operation of this section by which any real or personal property is transferred to, leased to or vested in the Trust, or agreed to be so transferred, leased or vested, for the purposes of this Act.

**Application of *Financial Administration and Audit Act 1985***

17. The provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Trust and its operations.

## PART V—MISCELLANEOUS

**Regulations**

18. (1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for giving effect to this Act and in particular with respect to—

- (a) the care, control, management, preservation and protection of the Centre and other property;
- (b) the use of the Centre or any specified part of it, and the regulation of its use and enjoyment or any specified part of it;
- (c) the admission of persons, clubs and associations to the Centre or any specified part of it, including the determination of admission charges and the collection and disposal of those charges;
- (d) the regulation or prohibition of admission of persons to the Centre or any specified part of it without the authority of the Trust;
- (e) the maintenance of order at the Centre and the appointment and removal of honorary stewards for that purpose;
- (f) the removal of persons found committing offences against the regulations or causing annoyance or inconvenience to members of the public who are lawfully and peaceably at the Centre;
- (g) the regulation or prevention of taking liquor or other intoxicants to, and the consumption of any such liquor or intoxicants at, the Centre or any specified part of it;

- (h) the regulation and control of taking animals to the Centre or any specified part of it, or permitting animals or animals of specified kinds to be at the Centre or any specified part of it;
- (i) the regulation, control or prohibition or parking of vehicles at the Centre or any specified part of it, the making of charges for any such parking and the collection and disposal of any such charges;
- (j) the reservation of any part of the Centre for such separate or exclusive uses as the regulations may prescribe or authorize;
- (k) the closure, for a specified period, of the Centre or a specified part of it for any specified purpose, and the conditions to be observed with respect to any such closure;
- (l) the regulation, control or prohibition of private trading at the Centre or at any specified part of it; and
- (m) the application to the Trust, the trustees or the officers and employees of the Trust, either with or without modification or variation of any written law which would not otherwise be binding on the trust, the trustees or those officers and employees.

(2) The regulations may provide for any contravention of, or failure to comply with, any provision of the regulations to be an offence and may provide for the imposition of a penalty not exceeding \$1 000 for any such offence.

(3) In subsection (1) "specified" means specified under the regulations.

### **Staff transitional provisions**

**19.** (1) Where an officer of the public service of the State becomes an officer or employee of the Trust he is entitled to retain all his existing and accruing rights (including any rights in relation to superannuation and related benefits) as if his service as an officer or employee of the Trust were a continuation of his service as an officer of that public service.

(2) Where a person ceases to be an officer or employee of the Trust and becomes an officer of the public service of the State his service as an officer or employee of the Trust shall be regarded as service in that public service for the purposes of determining his rights as an officer of that public service (including any rights in relation to superannuation and related benefits).

(3) For the purposes of the *Superannuation and Family Benefits Act 1938* the Trust is hereby declared to be a “department” within the meaning of that Act.

### **Review of the Act**

**20.** (1) The Minister shall carry out a review of the operation and effectiveness of this Act as soon as is practicable after the expiration of 5 years from its commencement, and in the course of that review the Minister shall consider and have regard to—

- (a) the effectiveness of the operations of the Trust;
- (b) the need for the continuation of the functions of the Trust; 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 made under subsection (1) and shall, as soon as is practicable after the preparation thereof, cause the report to be laid before each House of Parliament.

### **PART VI—CONSEQUENTIAL AMENDMENTS**

#### ***Parliamentary Commissioner Act 1971* amended**

**21.** The Schedule to the *Parliamentary Commissioner Act 1971*\* is amended by inserting in the appropriate alphabetical position the following—

“ Western Australian Sports Centre Trust and the board established under the *Western Australian Sports Centre Trust Act 1986* ”.

[\**Reprinted as approved 19 July 1983 and amended by Acts Nos. 124 of 1984, 69, 92, 98, 107 and 110 of 1985 and 39 of 1986.*]

#### ***Financial Administration and Audit Act 1985* amended**

**22.** Schedule 1 to the *Financial Administration and Audit Act 1985*\* is amended by inserting in the appropriate alphabetical position the following—

“ Western Australian Sports Centre Trust ”.

[\**Act No. 117 of 1985 as amended by Acts Nos. 3, 16 and 39 of 1986.*]

**Constitution Acts Amendment Act 1899 amended**

**23.** Schedule V to the *Constitution Acts Amendment Act 1899* is amended in Part 3 by inserting in the appropriate alphabetical position the following—

“ The board of management of the Western Australian Sports Centre Trust constituted under the *Western Australian Sports Centre Trust Act 1986*. ”.

[\*Reprinted as approved 26 June 1984 and amended by Acts Nos. 75 and 78 of 1984 and 10 of 1986.]

**SCHEDULE 1**

(Section 6 (1))

**PROVISIONS RELATING TO THE TRUSTEES****Certain persons ineligible for appointment**

1. A person—

- (a) who has attained the age of 70 years; or
- (b) who is an undischarged bankrupt or a person whose property is subject to an order or arrangement under the laws relating to bankruptcy,

is not eligible to be appointed as a trustee.

**Nomination for appointment**

2. When a vacancy under section 5 (1) (c) (ii) is to be filled the Minister shall request The University of Western Australia to nominate a member of its staff for appointment and if a nomination is received within the time specified by the Minister in his request the vacancy shall be filled in accordance with that nomination.

**Term of office**

3. (1) Except as otherwise provided by this Act a trustee shall hold office for such term not exceeding 3 years as is specified in his instrument of appointment and is eligible for reappointment.

(2) A trustee, unless he sooner resigns or is removed from office, shall continue in office until his successor comes into office notwithstanding that the term for which he was appointed may have expired.

**Extraordinary vacancies**

4. The office of a trustee becomes vacant if—

- (a) he resigns his office by written notice addressed to the Minister;

- (b) he is an undischarged bankrupt or a person whose property is subject to an order or arrangement under the laws relating to bankruptcy;
- (c) he is removed from office by the Minister on the grounds of neglect of duty, misbehaviour, incompetence or mental or physical incapacity impairing the performance of his duties;
- (d) being a trustee appointed under section 5 (1) (c) (i), he ceases to be an officer of the public service of the State;
- (e) being the trustee appointed under section 5 (1) (c) (ii), he ceases to be a member of the staff of The University of Western Australia; or
- (f) he is absent without leave of the board from 3 consecutive meetings of the board of which he has had notice.

### **Chairman**

5. (1) The chairman of the board shall be such trustee as the Minister nominates as its chairman.

(2) The office of the chairman of the board becomes vacant when the nomination of the next succeeding chairman takes effect or when the chairman ceases to be a trustee, or when the chairman resigns that office by written notice addressed to the Minister, whichever first occurs.

### **Appointment of deputy**

6. (1) In the case of the illness or absence of any trustee, the Minister may appoint a person as a deputy to act in the place of the trustee at any meeting of the board during that illness or absence.

(2) A deputy appointed under this clause shall, while acting in place of a trustee, be deemed to be a trustee.

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

### **Disclosure of pecuniary interests**

7. (1) A trustee who has a direct or indirect pecuniary interest—

- (a) in a matter that is being considered, or is about to be considered, at a meeting of the board; or
- (b) in a thing being done or about to be done by the Trust,

shall, as soon as possible after the relevant facts have come to the trustee's knowledge, disclose the nature of the interest at a meeting of the board.

(2) A disclosure by a trustee at a meeting of the board that the trustee—

- (a) is a member, or is in the employment, of a specified company or other body;
- (b) is a partner, or is in the employment, of a specified person; or
- (c) has some other specified interest relating to a specified company or other body or a specified person,

shall be deemed to be a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body or that person which may arise after the date of the disclosure.

(3) The chairman of the board shall cause particulars of any disclosure made under subclause (1) or (2) to be recorded in a book kept for the purpose and that book shall be open at reasonable hours to the inspection of any person on payment of such fee as may be determined by the Trust from time to time.

(4) After a trustee has, or is deemed to have, disclosed the nature of an interest in any matter or thing pursuant to subclause (1) or (2), the trustee shall not, unless the Minister otherwise determines—

- (a) be present during any deliberation of the board, or take part in any decision of the board, with respect to that matter; or
- (b) exercise any functions under this Act with respect to that thing,

as the case may require.

(5) Notwithstanding that a trustee contravenes the provisions of this clause, that contravention does not invalidate any decision of the Trust or the performance of any function under this Act.

(6) A reference in this clause to a meeting of the board includes a reference to a meeting of a committee of the Trust.

(7) A failure to comply with or a contravention of this clause shall be deemed to constitute misbehaviour for the purposes of clause 4 (c).

### **Common seal**

8. The common seal of the Trust shall be kept by the general manager.

## SCHEDULE 2

(Section 6 (2))

### MEETINGS AND PROCEDURES OF THE BOARD OF THE TRUST

#### **Procedure and quorum**

1. (1) The procedure for the calling of meetings of the board and the conduct of business at those meetings shall, subject to this Schedule and any regulations, be as determined by the board.

(2) The Minister shall call the first meeting of the board by giving notice to the trustees in such way as the Minister thinks fit.

(3) At a meeting of the board 4 trustees shall form a quorum.

(4) The person presiding at a meeting of the board shall, in the event of an equality of votes, have, in addition to a deliberative vote, a second or casting vote.

(5) A decision supported by a majority of the votes cast at a meeting of the board at which a quorum is present shall be the decision of the Trust.

### **Minutes of meetings**

2. The general manager shall cause minutes of each meeting of the board to be recorded and preserved.

### **Chairman to preside at meetings if present**

3. At a meeting of the board—

(a) the chairman of the board; or

(b) in the absence of the chairman or if it is a meeting held when no person holds the office of chairman of the board—a person elected by the trustees present at the meeting from among their number,

shall preside.

## **SCHEDULE 3**

(Section 12 (3))

### **PROVISIONS RELATING TO THE GENERAL MANAGER**

#### **General manager to devote all his time to his duties**

1. The general manager shall devote the whole of his time to the duties of the office of general manager except with the consent of the Trust.

#### **Attendance of general manager at meetings**

2. The general manager—

(a) may at the invitation of the board be present at a meeting of the board and be heard by the board on any matter being considered by it; and

(b) is an *ex officio* member of each committee of the Trust.

#### **Schedule 1 Clause 7 to apply to general manager**

3. Schedule 1 Clause 7 (subclause (7) excepted) shall, so far as relevant and with any necessary modifications, apply to and in respect of the general manager in the same way as it applies to and in respect of a trustee.