

PUBLIC WORKS.

No. 123 of 1984.

AN ACT to amend the Public Works Act 1902.

[Assented to 27 December 1984.]

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:—

1. This Act may be cited as the *Public Works Amendment Act 1984*. Short title.

2. This Act shall come into operation on the day on which it is assented to by the Governor. Commencement.

Section 1
repealed and
substituted.
Reprinted as
approved
13 June 1978
and
amended by
Act No. 67
of 1979.

3. Section 1 of the Public Works Act 1902 is repealed and the following section is substituted—

Short title.

“ 1. This Act may be cited as the *Public Works Act 1902.* ”.

Part IA
inserted.

4. The Public Works Act 1902 is amended by inserting after Part I the following Part—

“ PART IA—WESTERN AUSTRALIAN
BUILDING AUTHORITY.

Interpreta-
tion in
Part IA.

9A. In this Part, unless the contrary intention appears—

“authorized buildings” means buildings or structures which are public works and works ancillary to any such buildings or structures;

“borrow” includes—

- (a) reborrow;
- (b) obtain credit; and
- (c) arrange for financial accommodation;

“the Account” means the Western Australian Building Authority Account established by section 9E (1);

“the Building Authority” means the Western Australian Building Authority established by section 9B (1).

9B. (1) There is hereby established a body corporate to be called the Western Australian Building Authority.

Western
Australian
Building
Authority
established
as body
corporate.

(2) The Building Authority—

(a) consists of the Minister for Works referred to in section 5 (3); and

(b) under its corporate name—

(i) has perpetual succession and a common seal;

(ii) may sue and be sued in any court; and

(iii) subject to this Part, is capable of doing and suffering all such acts and things as bodies corporate may lawfully do and suffer.

(3) The common seal of the Building Authority shall—

(a) be kept in such custody as the Building Authority directs; and

(b) not be used except as authorized by the Building Authority.

(4) When a document purporting to bear the common seal of the Building Authority is produced before any court, judge or person acting judicially, that court, judge or person shall, unless the contrary is proved, presume that—

- (a) that document bears that common seal; and
- (b) that common seal was duly affixed to that document.

(5) The Building Authority shall not be deemed to represent the Crown for any purpose whatsoever.

Functions
and powers
of Building
Authority.

9C. (1) The functions of the Building Authority are—

- (a) to acquire, hold, lease, take on lease, dispose of, exchange, provide, construct, alter, protect or manage authorized buildings, and to acquire, hold, take on lease or dispose of land for that purpose;
- (b) to borrow moneys for the purpose of the acquisition, provision, construction, alteration, protection or management of authorized buildings and for the purpose of acquiring, holding or taking on lease land in connection with that acquisition, provision, construction, alteration, protection or management; and
- (c) generally to develop land acquired, held or taken on lease by it for the purposes of this Part.

(2) Subject to this Part, the Building Authority may, with the approval of the Treasurer, borrow moneys from any person in the performance of the functions of the Building Authority on such terms and conditions and in such manner as the Treasurer approves.

(3) The Treasurer may, in the name and on behalf of the Crown in right of the State, guarantee—

- (a) repayment of; and
- (b) payment of interest on, and of brokerage, commission, fees and other expenses incurred in respect of,

moneys borrowed by the Building Authority under subsection (2), and any liability of the Crown arising out of any such guarantee is payable out of moneys in the Consolidated Revenue Fund, which to the necessary extent is hereby appropriated accordingly.

(4) A guarantee given under subsection (3) shall be in such form and subject to such terms and conditions as the Treasurer determines and, without limiting the generality of the foregoing, shall be subject to a condition that the lender shall not, without the consent in writing of the Treasurer, assign or encumber the benefit of the guarantee.

(5) The Building Authority may—

- (a) subdivide, and grant easements and other interests in or rights over; and
- (b) provide, arrange for the provision of or cause to be provided energy resources, roads, sewerage, drainage or water or any other resource or service conducive to the development of,

land acquired, held or taken on lease by it in the performance of its functions.

(6) The Building Authority has power to do all things necessary or convenient for or in connection with the performance of its functions.

Use of staff and facilities of Departments, agencies and instrumentalities.

9D. The Building Authority may by arrangement made between it and the Minister concerned, and on such terms and conditions as may be mutually arranged by it with that Minister and, if appropriate, with the Public Service Board, make use, either full time or part time, of—

- (a) the services of any person for the time being holding or acting in any office under the Public Service Act 1978 or in a State agency or 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 agency or instrumentality.

Funds of Building Authority.

9E. (1) There is hereby established an account at the Treasury to be called the Western Australian Building Authority Account.

(2) The funds available for the purpose of enabling the Building Authority to perform its functions under this Part consist of—

- (a) moneys from time to time appropriated by Parliament for the purposes of this Part;
- (b) all moneys borrowed by the Building Authority under this Part;
- (c) the proceeds of sales by the Building Authority of any of its assets;

- (d) rents derived from authorized buildings of the Building Authority leased by it to other persons;
- (e) interest earned on moneys temporarily invested under subsection (5); and
- (f) any moneys, other than moneys referred to in paragraphs (a), (b), (c), (d) and (e), lawfully received by, made available to or payable to the Building Authority.

(3) The funds referred to in subsection (2) shall be paid into and placed to the credit of the Account.

(4) The Building Authority shall pay from the funds from time to time paid into and placed to the credit of the Account—

- (a) interest on and repayments of moneys borrowed by the Building Authority under this Part, and brokerage, commission, fees and other expenses incurred in connection with that borrowing;
- (b) into the Consolidated Revenue Fund an amount equal to the amount of any moneys paid out of the Consolidated Revenue Fund in meeting any liability of the Crown referred to in section 9C (3);
- (c) the expense of acquiring, holding, taking on lease, providing, constructing, altering, protecting or managing authorized buildings and of acquiring, holding or taking on lease land or any interest therein for the

purpose of that acquisition, provision, alteration, protection or management; and

- (d) all expenditure, other than expenditure referred to in paragraphs (a), (b) and (c), lawfully incurred by the Building Authority in the performance of its functions under this Part.

(5) The Building Authority may, with the approval of the Treasurer, temporarily invest any moneys standing to the credit of the Account which are not immediately required for the purposes of this Part in one or more of the ways specified in section 3 (2) of the Public Moneys Investment Act 1961.

(6) Moneys standing to the credit of the Account shall be applied by the Building Authority only for the purposes of this Part.

(7) The Treasurer shall in each financial year include in the Consolidated Revenue Fund Estimates of Revenue and Expenditure in respect of the Building Authority a sum of money (whether nominal or otherwise) for the purposes of this Part.

Delegation
by Building
Authority.

9F. (1) The Building Authority may, either generally or as otherwise provided by the instrument of delegation, by writing signed by it delegate to any person for the time being holding or acting in an office referred to in section 9D (a) of whose services he makes use under section 9D all or any of the functions imposed on the Building Authority by this Part.

(2) For the purposes of this Part, the performance of a function by a delegate under this section shall be deemed to be the performance of the function by the Building Authority.

9G. (1) The Building Authority shall cause to be kept proper accounts and records of its transactions and affairs under such heads as the Treasurer may from time to time direct and shall do all things necessary to ensure that all payments out of moneys standing to the credit of the Account are correctly made and properly authorized and that adequate control is maintained over the assets of, or in the custody of, the Building Authority and over the incurring of liabilities against the Account.

Accounts
and records
to be
audited.

(2) The Building Authority shall cause to be prepared in respect of each financial year—

(a) a full and fair—

(i) balance sheet of its assets and liabilities; and

(ii) income and expenditure statement;

and

(b) such other statements as the Treasurer may from time to time direct,

in such form as the Treasurer approves and shall submit that balance sheet and those statements for audit, examination and report by the Auditor General.

(3) The Auditor General shall inspect and audit the accounts and records of the financial transactions of the Building Authority and of the Account and shall—

(a) forthwith draw the attention of the Minister to any irregularity disclosed by the audit that is, in the

opinion of the Auditor General, of sufficient importance to justify him so doing; and

(b) report to the Minister as to—

- (i) whether in his opinion the statements are based on proper accounts and records;
- (ii) whether in his opinion the accounts and records are properly drawn up in accordance with those generally accepted accounting standards that are applicable so as to present fairly the transactions for the period under review and the financial position at the end of that period;
- (iii) whether in his opinion the controls exercised by the Building Authority are adequate to provide reasonable assurance that the receipt, expenditure and investment of moneys and the acquisition and disposal of assets have been in accordance with this Part; and
- (iv) such other matters arising out of the statements as the Auditor General considers should be reported.

(4) The Auditor General has for the purposes of this Part all the powers conferred on him by the Audit Act 1904.

9H. (1) The Building Authority shall, as soon as is practicable after 1 July in each year, prepare and furnish to the Minister a report on its operations and proceedings for the year ending on 30 June last preceding.

Annual
report of
Building
Authority.

(2) The Minister shall cause the report, together with copies of the financial statements of the Building Authority and the report of the Auditor General thereon, to be laid before each House of Parliament as soon as practicable in each year after the receipt by him of all reports.

9I. The Governor may make regulations prescribing all matters that are required or permitted by this Part to be prescribed, or are necessary or convenient to be prescribed, for giving effect to the purposes of this Part. ”.

Regulations.
