

# SOUTH WEST DEVELOPMENT AUTHORITY ACT 1984.

(No. 32 of 1984)

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# SOUTH WEST DEVELOPMENT AUTHORITY.

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No. 32 of 1984

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AN ACT to establish a South West Development Authority to plan, co-ordinate and promote the economic and social development of the south western region of Western Australia and a South West Development Authority Advisory Committee to advise that Authority in the exercise and performance of its powers, functions and duties, and to provide for matters incidental to or connected with the foregoing.

*[Assented to 15 June 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:—

## PART I—PRELIMINARY.

1. This Act may be cited as the *South West Development Authority Act 1984*. Short title.

Commence-  
ment.

2. (1) Subject to subsection (2) of this section, this Act shall come into operation on the day on which it is assented to by the Governor.

(2) Section 3 and Parts II, III and IV of, and Schedules 1, 2 and 3 to, this Act shall come into operation on such day or days as is or are respectively fixed by proclamation.

Interpreta-  
tion.

3. In this Act, unless the contrary intention appears—

“Advisory Committee chairman” means chairman of the Advisory Committee appointed under section 30 (1) (a) and includes temporary Advisory Committee Chairman;

“Advisory Committee member” means member of the Advisory Committee by virtue of or appointed under section 30 (1) or appointed under clause 2 (4) of Schedule 3;

“Advisory sub-committee” means committee appointed under clause 5 (1) of Schedule 3;

“appointed Advisory Committee member” means Advisory Committee member who is not the Board chairman or deputy Board chairman;

“appointed Board member” means member of the Board appointed under section 6 (2) or clause 2 (4) of Schedule 2 and includes temporary Board member;

“Board chairman” means chairman of the Board by virtue of section 6 (1);

“Board committee” means committee appointed under clause 6 (1) of Schedule 2;

“Board member” means Board chairman or appointed Board member;

“clause” means clause of the Schedule in which the term appears;

“deputy Board chairman” means deputy chairman of the Board appointed under section 6 (2);

“district” has the meaning given by section 6 of the Local Government Act 1960;

“local authority” means municipality within the meaning of the Local Government Act 1960;

“paragraph” means paragraph of the section, subsection, clause or subclause in which the term appears;

“Schedule” means Schedule to this Act;

“section” means section of this Act;

“subclause” means subclause of the clause in which the term appears;

“subparagraph” means subparagraph of the paragraph in which the term appears;

“subsection” means subsection of the section in which the term appears;

“temporary Advisory Committee chairman” means person appointed to act temporarily in the place of the Advisory Committee chairman under clause 3 (1) of Schedule 3;

“temporary Board member” means person appointed to act temporarily in the place of an appointed Board member under clause 3 (1) of Schedule 2;

“the Account” means the South West Development Authority Account referred to in section 21 (2);

“the Advisory Committee” means the South West Development Authority Advisory Committee established by section 29 (1);

“the Authority” means the South West Development Authority established by section 4 (1);

“the Board” means the board of management referred to in section 5 (1);

“the Deputy Director” means the Deputy Director of the Authority appointed under section 14 (1);

“the Director” means the Director of the Authority appointed under section 14 (1);

“the South West Region” means the region constituted by the combined districts of the local authorities referred to in Schedule 1.

PART II—SOUTH WEST DEVELOPMENT AUTHORITY.

*Division 1—Establishment of Authority.*

Establish-  
ment of  
South West  
Development  
Authority.

4. (1) There is hereby established a body to be called the South West Development Authority.

(2) The Authority 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 that bodies corporate may do or suffer.

(3) The Authority is an agent of the Crown in right of the State, but nothing in this Act affects or limits the operation of the Town Planning and Development Act 1928 or the Local Government Act 1960 or the application of those Acts to any of the activities of the Authority.

Board of  
management  
of Authority.

5. (1) The Authority shall have a board of management comprising a chairman, a deputy chairman and one other member.

(2) The Board is the governing body of the Authority with authority, in the name of the Authority, to exercise and perform the powers, functions and duties conferred or imposed on the Authority by or under this Act.

6. (1) The chairman referred to in section 5 (1) shall be the Director *ex officio*.

Membership  
of Board.

(2) The deputy chairman and other member referred to in section 5 (1) shall be appointed by the Governor on the nomination of the Minister.

(3) Appointment as a Board member under subsection (2) 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 the person so appointed, or affect or prejudice the application to him of those provisions if they applied to him immediately before his appointment

(4) The Minister shall cause each appointment under subsection (2) to be notified in the *Gazette*.

7. The provisions of Schedule 2 shall have effect with respect to the constitution and proceedings of the Board.

Constitution  
and  
proceedings  
of Board.

8. A Board member or member of a Board committee shall be paid such remuneration and travelling and other allowances as the Minister from time to time after consultation with the Public Service Board determines in respect of him.

Remuneration  
and  
allowances  
of Board  
members and  
members of  
Board  
committees.

9. (1) A Board member is not personally liable for any act done or omitted to be done in good faith by the Authority, the Board, a Board committee or by him acting as a Board member.

Protection  
of Board  
members  
and members  
of Board  
committees.

(2) In this section—

“Board member” includes member of a Board committee who is not also a Board member.

Disclosure of  
pecuniary  
interests.

10. (1) A Board member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Board or a Board committee shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Board or the Board committee, as the case requires.

(2) A disclosure under subsection (1) shall be recorded in the minutes of the meeting of the Board or the Board committee concerned, as the case requires, and the Board member shall not, unless the Minister or the Board or that Board committee otherwise determines—

- (a) be present during any deliberation; or
- (b) take part in any decision,

of the Board or that Board committee with respect to the matter to which the disclosure relates.

(3) For the purpose of the making of a determination by the Board or the Board committee concerned, as the case requires, under subsection (2) in relation to a Board member who has made a disclosure under subsection (1), a Board member who has a direct or indirect pecuniary interest in the matter to which the disclosure relates shall not—

- (a) be present during any deliberation of the Board or that Board committee for the purpose of making that determination; or
- (b) take part in the making of that determination by the Board or that Board committee.

(4) In this section—

“Board member” includes member of a Board committee who is not also a Board member.



*Division 2—Functions and powers of Authority.*

11. The functions of the Authority are to plan, co-ordinate and promote the economic and social development of the South West Region and for that purpose—

Functions of  
Authority.

- (a) to provide a framework within which local authorities, statutory bodies, representatives of industry and commerce, employer and employee organizations, education and training institutions and other sections of the community within the South West Region may formulate co-ordinated action for the economic and social development thereof;
- (b) to co-operate with Departments of the Public Service of the State and State agencies and instrumentalities;
- (c) to promote individual projects in the South West Region;
- (d) to consult, and have regard to the representations of—
  - (i) Departments of the Public Services of, and other agencies and instrumentalities of, both the State and the Commonwealth;
  - (ii) local authorities; and
  - (iii) statutory bodies;
- (e) to consider matters referred to it by the Minister charged with the administration of the Town Planning and Development Act 1928 and report to him thereon and generally to co-operate with that Minister;
- (f) to undertake major economic and other studies of the South West Region;

- (g) to provide local authorities in the South West Region with information gained by studies referred to in paragraph (f) and by other research; and
- (h) generally to take steps to encourage, promote, facilitate or assist economic and social development in the South West Region.

Powers of Authority.

12. (1) The Authority has power to do all things necessary or convenient to be done for or in connection with the performance of its functions under this Act.

(2) Without limiting the generality of subsection (1), the powers of the Authority referred to in that subsection include power—

- (a) to purchase, sell, lease, take on lease, mortgage, exchange or otherwise acquire, deal in or dispose of real and personal property;
- (b) to improve, develop or alter real property;
- (c) to divide land, provide energy, water and other services, build roads and construct other works;
- (d) to appoint agents and attorneys; and
- (e) to do anything incidental to any of its powers under this Act.

(3) In performing its functions and exercising its powers, the Authority may act alone or in conjunction with—

- (a) any person, firm or body corporate; or
- (b) any Department of the Public Service, or other agency or instrumentality, of the State or the Commonwealth.

13. The Minister may, from time to time and either generally or with respect to a particular matter, give directions to the Authority with respect to the exercise and performance of its powers, functions and duties under this Act, and the Authority shall give effect to those directions.

Direction by  
Minister.

*Division 3—Director, Deputy Director  
and other staff of Authority.*

14. (1) The Director of the Authority and the Deputy Director of the Authority shall be appointed by the Governor on the nomination of the Minister.

Appointment  
and  
conditions  
of service  
of Director  
and Deputy  
Director.

(2) Appointment as the Director or the Deputy Director does not render the provisions of the Public Service Act 1978 or of any other Act applying to persons as officers of the Public Service of the State applicable to the person so appointed, or affect or prejudice the application to him of those provisions if they applied to him at the time of his appointment.

(3) The Minister shall cause each appointment under subsection (1) to be notified in the *Gazette*.

(4) Subject to this Act, the Director and the Deputy Director shall each of them hold office for such term, being not more than 4 years, as is specified in his instrument of appointment, but each of them may from time to time be re-appointed.

(5) The conditions of service of the Director and of the Deputy Director shall be such as the Minister after consultation with the Public Service Board determines.

(6) The Director and the Deputy Director shall each be paid such remuneration and travelling and other allowances as are from time to time determined in respect of him by the Minister after consultation with the Public Service Board.

Functions of  
Director and  
Deputy  
Director.

15. Subject to this Act, the functions of—

- (a) the Director are, subject to the Board, to administer the day to day operations of the Authority and generally to exercise the powers conferred, and to perform the duties imposed, on him as the Director by or under this Act; and
- (b) the Deputy Director are to assist the Director in the performance of the functions of the Director and, while the office of the Director is vacant or the Director is sick, absent from duty or for any reason unable to perform his functions, to perform the functions of the Director, including his function as the Board chairman.

Vacation of  
office by  
Director and  
Deputy  
Director.

16. (1) The Director and the Deputy Director may each of them resign his office by notice in writing delivered to the Minister.

(2) The Governor may remove the Director or the Deputy Director from office at any time—

(a) for—

- (i) mental or physical disability;
- (ii) incompetence;
- (iii) neglect of duty; or
- (iv) misconduct,

impairing the performance of his functions and proved to the satisfaction of the Governor;

- (b) if he is an undischarged bankrupt or a person whose property is subject to an order or arrangement under the laws relating to bankruptcy; or

- (c) if he, while he is the Board chairman, is absent without leave of the Board from 3 consecutive meetings of the Board of which he has had notice.

17. (1) There shall be appointed under and subject to the Public Service Act 1978 a Senior Executive Officer and such other officers as may be necessary to enable the Authority to exercise and perform its powers, functions and duties under this Act.

Appointment  
of other  
staff and  
engagement  
of  
consultants.

(2) The Authority may, with the prior approval of the Minister, engage under contracts for services such consultants and professional or technical or other assistance as it considers necessary to enable the Authority to exercise and perform its powers, functions and duties under this Act.

18. The 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 with the Public Service Board, make use, either full time or part time, of—

Use of staff  
and  
facilities of  
Departments,  
agencies and  
instrument-  
alities.

- (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 of a Department of the Public Service of the State or of a State agency or instrumentality.

19. The Board may request the Minister to whom the administration of the Superannuation and Family Benefits Act 1938 is committed to recommend to the Treasurer that the Authority be included as a corporate body in the term "department" for the purposes of that Act, and the Treasurer may, if that Minister so recommends and on the Authority

Super-  
annuation.

complying with the requirements of that Act, approve of the Authority as, and the Authority shall thereupon be deemed to be, a "department" for the purposes of that Act.

Secrecy.

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

- (a) make a record of, or divulge or communicate to any person, any information concerning the 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 affairs of another person furnished for the purposes of this Act.

Penalty: \$2 500.

(2) This section applies to every person who is or has been a Board member, a member of a Board committee, the Director, the Deputy Director or an officer referred to in section 17 (1), or is rendering or has rendered services to the Authority under section 17 or 18.

*Division 4—Financial provisions.*

Funds of  
Authority.

21. (1) The funds available for the purpose of enabling the Authority to exercise and perform its powers, functions and duties under this Act consist of—

- (a) moneys from time to time appropriated by Parliament;
- (b) moneys advanced to the Authority from moneys referred to in paragraph (a);

- (c) all moneys received by the Authority from performing any of its functions under this Act;
- (d) all moneys borrowed by the Authority under section 22 or 23;
- (e) the proceeds of sales by the Authority of land or any interest in land;
- (f) rents derived from land leased by the Authority; and
- (g) any moneys, other than moneys referred to in paragraphs (a), (b), (c), (d), (e) and (f), lawfully received by, made available to or payable to the Authority.

(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 "South West Development Authority Account".

(3) There shall be paid from the moneys from time to time in the Account—

- (a) interest on and repayments of moneys borrowed by or advanced to the Authority under this Act;
- (b) the remuneration and travelling and other allowances payable to Board members, members of Board committees, the Director, the Deputy Director, officers referred to in section 17 (1) and Advisory Committee members;
- (c) the expenses of the Advisory Committee or of any Advisory sub-committee in performing its functions under this Act; and
- (d) all expenditure, other than expenditure referred to in paragraphs (a), (b) and (c), lawfully incurred by the Authority in the exercise or performance of its powers, functions and duties under this Act.

Borrowing by  
Authority  
from  
Treasurer.

22. (1) The Treasurer may make, and the Authority may borrow, from the Public Account advances of such amounts as the Treasurer approves on such conditions relating to repayment and payment of interest as the Treasurer imposes.

(2) By virtue of this subsection the Account and the assets of the Authority are charged with the due performance by the Authority of all obligations arising from any advance made under this section.

Borrowing by  
Authority  
generally.

23. (1) The provisions of this section are in addition to, and not in derogation from, the provisions of section 22.

(2) The Authority may—

(a) with the prior approval of the Treasurer in writing and on such terms and conditions as he approves, borrow moneys for the purpose of exercising and performing its powers, functions and duties under this Act; and

(b) borrow moneys under this subsection on the guarantee of the Treasurer given under section 24.

(3) Any moneys borrowed by the Authority under subsection (2) may be raised as one loan or as several loans and in such manner as the Treasurer approves, but the amount of the moneys so borrowed shall not in any one financial year exceed in the aggregate such amount as the Treasurer approves.

Guarantee by  
Treasurer.

24. (1) The Treasurer may, in the name and on behalf of the Crown in right of the State, guarantee, in such form and subject to such terms as he determines, the payment of any moneys payable by the Authority in respect of moneys borrowed by it under section 23.

(2) The due payment of moneys payable by the Treasurer under a guarantee given by him under subsection (1)—

(a) is hereby guaranteed by the State; and



(b) shall be made by the Treasurer out of the Consolidated Revenue Fund, which to the necessary extent is appropriated accordingly.

(3) By virtue of this subsection the Account and the assets of the Authority are charged with the due repayment of any payment made by the Treasurer under a guarantee given by him under subsection (1) and with the performance and observance by the Authority of any covenants and conditions which the Treasurer imposes as a term of that guarantee.

(4) The Treasurer shall cause any amounts received or recovered from the Authority or otherwise in respect of any payment made by the Treasurer under a guarantee given by him under subsection (1) to be paid into the Consolidated Revenue Fund.

(5) Before a guarantee is given by the Treasurer under subsection (1), the Authority shall give to the Treasurer such security as the Treasurer requires and shall execute all such instruments as are necessary for the purpose.

25. The Authority may, with the approval of the Treasurer, temporarily invest moneys standing to the credit of the Account in such manner and in such categories of investment as are approved by the Treasurer until those moneys are required for the purpose of the performance of the functions of the Authority under this Act.

Temporary investment of funds.

26. (1) The Authority shall cause annual estimates of its receipts and payments relating to the exercise and performance of its powers, functions and duties under this Act to be—

Annual estimates of receipts and payments.

(a) prepared under such headings and in such manner as the Treasurer approves or directs; and

(b) submitted to the Minister.

(2) The Minister shall, if he approves annual estimates submitted to him under subsection (1), cause those estimates to be submitted to the Treasurer not later than a date specified by the Treasurer.

Accounts  
and audit.

27. (1) The Authority shall—

(a) 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

(b) do all things necessary to ensure that—

(i) all payments by the Authority are correctly made and properly authorized; and

(ii) adequate control is maintained over the assets of, or in the custody of, the Authority and over the incurring of liabilities by it.

(2) The Authority shall cause to be prepared in respect of each financial year ending on 30 June—

(a) a full, true and fair—

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

(ii) income and expenditure statement;

and

(b) such full, true and fair statements other than those referred to in paragraph (a) as the Treasurer from time to time directs,

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

(3) On receiving the balance sheet and statements submitted to him under subsection (2), the Auditor General shall examine and audit the accounts and records of the financial transactions of the Authority and shall—

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

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

(b) report to the Minister on—

- (i) whether or not in his opinion the balance sheet and statements submitted under subsection (2) are based on proper accounts and records;
- (ii) whether or not in his opinion the balance sheet and statements submitted under subsection (2) are properly drawn up in accordance with the relevant generally accepted accounting standards so as to present a true and fair view of the financial transactions of the Authority for the period under review and the financial position at the end of that period;
- (iii) whether or not in his opinion the controls exercised by the Board 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 Act; and
- (iv) such other matters arising out of the balance sheet and statements submitted under subsection (2) as the Auditor General considers should be reported.

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

28. (1) The 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 financial year ending on 30 June last preceding.

Annual  
report of  
Authority.

(2) The Minister shall cause the report furnished under subsection (1), together with copies of the relevant balance sheet and statements of the Authority and of the report of the Auditor General thereon, to be laid before each House of Parliament as soon as is practicable in each year after the receipt by him of that report and those copies.

PART III—SOUTH WEST DEVELOPMENT AUTHORITY  
ADVISORY COMMITTEE.

Establishment and functions of South West Development Authority Advisory Committee.

29. (1) There is hereby established a committee to be known as the South West Development Authority Advisory Committee.

(2) The function of the Advisory Committee is to advise the Authority on the exercise and performance of its powers, functions and duties under this Act.

(3) The Advisory Committee shall have and may exercise such powers as are necessary for or incidental to the performance of its function.

(4) The Minister may give directions of a general or specific nature to the Advisory Committee in relation to its function under this Act and to the manner in which that function is carried out, and the Advisory Committee shall give effect to those directions.

Composition of Advisory Committee.

30. (1) The Advisory Committee shall comprise—

- (a) a person to whom this paragraph applies appointed by the Minister on the nomination of the Board chairman to be the chairman of the Advisory Committee;
- (b) a prescribed number of persons, being not more than 12 persons, appointed under subsection (3) by the Minister, who shall appoint one of those persons to be the deputy chairman of the Advisory Committee;

- (c) a person appointed under subsection (4) by the Minister; and
- (d) the Board chairman and the deputy Board chairman *ex officio*.

(2) Paragraph (a) of subsection (1) applies to any person, including the Board chairman and the deputy Board chairman, who is not appointed as an Advisory Committee member under subsection (3) or (4).

(3) For the purpose of appointing Advisory Committee members referred to in subsection (1) (b)—

(a) the Board chairman shall—

- (i) cause advertisements calling for the submission to him of the names of persons resident in the South West Region and able and willing to be candidates for appointment as Advisory Committee members under that subsection to be placed in newspapers circulating in the South West Region;
- (ii) select, in consultation with the Advisory Committee member referred to in subsection (1) (c), a panel of the names of persons referred to in subparagraph (i) from the names of persons submitted in response to the advertisements referred to in that subparagraph, which panel shall contain the names of twice as many persons as there are vacancies in the prescribed number referred to in subsection (1) (b); and
- (iii) submit the panel of names referred to in subparagraph (ii) to the Minister;

and

(b) the Minister shall—

- (i) appoint from the panel of names submitted to him under paragraph (a) a sufficient number of persons to fill the vacancies in the prescribed number referred to in subsection (1) (b); and
- (ii) in appointing persons under subparagraph (i), ensure as far as is practicable that the Advisory Committee is representative of the interests of the people of the South West Region and, without limiting the generality of the foregoing, includes persons from local authorities, statutory bodies, industry and commerce, employer and employee organizations, education and training institutions and other sections of the community within the South West Region.

(4) For the purpose of appointing the Advisory Committee member referred to in subsection (1) (c), the Minister shall—

- (a) simultaneously request each local authority in the South West Region to join with every other local authority therein in submitting to him a panel of the names of 3 persons able and willing to be candidates for appointment as; and
- (b) appoint from the panel of names submitted to him in response to his requests made under paragraph (a) a person to be,

that Advisory Committee member.

(5) If at any time the local authorities in the South West Region do not submit to him a panel of names within 21 days of the making of the relevant request referred to in subsection (4) (a), the Minister may, without the submission of that panel, appoint a suitable person to be the Advisory Committee member referred to in subsection (1) (c).

(6) A person appointed under subsection (5) shall for all purposes be deemed to be duly appointed under subsection (4) to be the Advisory Committee member referred to in subsection (1) (c).

(7) Appointment as an appointed Advisory Committee member does not render the Public Service Act 1978 or any Act applying to persons as officers of the Public Service of the State applicable to the person so appointed, or affect or prejudice the application to him of that Act if it applied to him immediately before his appointment.

(8) The Minister shall cause each appointment referred to in paragraph (a), (b) or (c) of subsection (1) to be notified in the *Gazette*.

31. The provisions of Schedule 3 shall have effect with respect to the constitution and proceedings of the Advisory Committee.

Constitution and proceedings of Advisory Committee.

32. An Advisory Committee member shall be paid such remuneration and travelling and other allowances as the Minister from time to time after consultation with the Public Service Board determines in respect of him.

Remuneration and allowances of Advisory Committee members.

33. (1) An Advisory Committee member is not personally liable for any act done or omitted to be done in good faith by the Advisory Committee or an Advisory sub-committee or by him acting as an Advisory Committee member.

Protection of Advisory Committee members and others.

(2) In subsection (1)—

“Advisory Committee member” includes member of an Advisory sub-committee who is not also an Advisory Committee member.

34. (1) An Advisory Committee member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Advisory Committee or by an Advisory sub-committee shall, as soon as possible after the relevant

Disclosure of pecuniary interests of Advisory Committee members.

facts have come to his knowledge, disclose the nature of his interest at a meeting of the Advisory Committee or of the Advisory sub-committee, as the case requires.

(2) A disclosure under subsection (1) shall be recorded in the minutes of the meeting of the Advisory Committee or of the Advisory sub-committee concerned, as the case requires, and the Advisory Committee member shall not, unless the Minister or the Advisory Committee or that Advisory sub-committee otherwise determines—

- (a) be present during any deliberation; or
- (b) take part in any decision,

of the Advisory Committee or of that Advisory sub-committee with respect to the matter to which the disclosure relates.

(3) For the purpose of the making of a determination by the Advisory Committee or by the Advisory sub-committee concerned, as the case requires, under subsection (2) in relation to an Advisory Committee member who has made a disclosure under subsection (1), an Advisory Committee member who has a direct or indirect pecuniary interest in the matter to which the disclosure relates shall not—

- (a) be present during any deliberation of the Advisory Committee or of that Advisory sub-committee for the purpose of making that determination; or
- (b) take part in the making of that determination by the Advisory Committee or by that Advisory sub-committee.

(4) In this section—

“Advisory Committee member” includes member of an Advisory sub-committee who is not an Advisory Committee member.



## PART IV—GENERAL.

35. (1) A document is duly executed by the Authority, if—

Execution of  
documents  
by Authority.

(a) the common seal of the Authority is affixed to it in accordance with subsections (2) and (3); or

(b) it is signed on behalf of the Authority by the Board member or Board members or officer or officers of the Authority authorized by the Board to do so.

(2) The common seal of the Authority shall not be affixed to any document except by resolution of the Board.

(3) The common seal of the Authority shall be affixed to a document in the presence of the Board chairman and one other Board member and each of them shall sign the document to attest that that common seal was so affixed.

(4) A document purporting to be executed in accordance with this section shall be presumed to be duly executed until the contrary is shown.

(5) When a document is produced bearing a seal purporting to be the common seal of the Authority, it shall be presumed that that seal is the common seal of the Authority until the contrary is shown.

36. An Act, decision or proceeding of the Board or a Board committee or of the Advisory Committee or an Advisory sub-committee shall not be invalid or called in question by reason only of—

Proceedings  
not affected  
by irregu-  
larities.

(a) any vacancy in the Board or a Board committee or in the Advisory Committee or an Advisory sub-committee; or

(b) any defect or irregularity in appointment to an office under this Act.

Regulations.

37. (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 the purposes of this Act.

(2) Regulations made under this section may prescribe a penalty not exceeding \$2 500 for any contravention of or failure to comply with the requirements of those regulations.

(3) Regulations made under this section may be so made—

- (a) as to apply generally or in a specified class of case, or specified classes of cases, at all times, or at a specified time or specified times, or in a specified place or specified places;
- (b) as to require a matter affected by them to be in accordance with a specified standard or specified requirement or as approved by, or to the satisfaction of, a specified person or body, or class of person or body, and so as to authorize a specified person or body to exercise a discretionary authority; and
- (c) as to provide that in specified cases, or a specified class of case, or specified classes of cases, whether on specified conditions or unconditionally, persons or things may be exempted from its provisions either wholly or to such extent as is specified.

(4) In subsection (3)—

“specified” means specified in regulations made under this section.

Review  
of Act.

38. (1) The Minister shall carry out a review of the operation and effectiveness of this Act 4 years after the commencement of this Act, and in the course of that review the Minister shall consider and have regard to—

- (a) the effectiveness of the operations of the Authority and the Advisory Committee;

- (b) the need for the continuation of the functions of the Authority and the Advisory Committee; and
- (c) such matters, other than those referred to in paragraphs (a) and (b), 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.

## SCHEDULES.

### SCHEDULE 1. (Section 3)

#### LOCAL AUTHORITIES COMBINED DISTRICTS OF WHICH CONSTITUTE THE SOUTH WEST REGION.

The Shires of Augusta-Margaret River, Boyup Brook, Bridgetown-Greenbushes, Busselton, Capel, Collie, Dardanup, Donnybrook-Balingup, Harvey, Mandurah, Manjimup, Murray, Nannup and Waroona and the City of Bunbury.

### SCHEDULE 2. (Section 7)

#### CONSTITUTION AND PROCEEDINGS OF BOARD.

1. (1) Except as otherwise provided by this Act, an appointed Board member shall hold office for such term, being not more than 4 years, as is specified in his instrument of appointment, but he may from time to time be re-appointed.

Term of  
office of  
appointed  
Board  
member.

(2) An appointed Board member, unless he sooner dies or 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.

2. (1) An appointed Board member may resign his office by notice in writing delivered to the Minister.

Extra-  
ordinary  
vacancies.

(2) An appointed Board member may be removed from office at any time by the Governor—

(a) for—

- (i) mental or physical disability;
- (ii) incompetence;

- (iii) neglect of duty; or
- (iv) misconduct,

impairing the performance of his functions and proved to the satisfaction of the Governor;

- (b) if he is an undischarged bankrupt 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.

(3) If an appointed Board member dies or resigns or is removed from office, the vacancy shall be deemed to be an extraordinary vacancy.

(4) In the case of an extraordinary vacancy in the office of an appointed Board member, the Governor may appoint a person to be an appointed Board member for the residue of the term of the former holder of that office, and shall do so on the nomination of the Minister.

Temporary Board members.

3. (1) If an appointed Board member is unable to act by reason of sickness, absence or other cause, the Minister may appoint another person to act temporarily in his place, and while so acting according to the tenor of his appointment the other person has all the powers, functions and duties of a Board member.

(2) 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.

(3) The appointment of a person as a temporary Board member may be terminated at any time by the Minister.

Meetings of Board.

4. (1) The first meeting of the Board shall be convened by the Board chairman and thereafter, subject to subclause (2), meetings of the Board 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 Board chairman.

(3) At a meeting of the Board the Board chairman or, in his absence, the deputy Board chairman shall preside.

(4) At any meeting of the Board 2 Board members constitute a quorum.

(5) At any meeting of the Board—

- (a) each Board member present is entitled to a deliberative vote;
- (b) subject to paragraph (c), if the votes cast on a question are equally divided, the question shall remain unresolved until a subsequent meeting of the Board; and
- (c) if the votes cast on a question at a previous meeting were equally divided and the votes cast on the question at a subsequent meeting are again equally divided, the question shall be deemed lost.

(6) The Board shall cause accurate minutes to be kept of the proceedings at its meetings.

5. (1) The Board may, by resolution, delegate to a Board member, the Director, the Deputy Director, an officer referred to in section 17 (1) or a Board committee (in this clause called “the delegate”), either generally or otherwise as provided by the instrument of delegation, all or any of its powers, functions or duties under this Act (except this power of delegation). Delegation  
by Board.

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

(3) A delegation under this clause is revocable at will and does not prevent the exercise of a power or the performance of a function or duty by the Board.

6. (1) The Board may from time to time by resolution appoint a committee consisting of— Board  
committees.

- (a) such Board members; or
- (b) such Board members and such other persons,

as it thinks fit for the purpose of assisting or advising the Board on any aspect of the functions of the Board and may discharge, alter, continue or reconstitute any committee so appointed.

(2) Subject to the directions of the Board, each Board committee may determine its own procedures.

(3) A Board committee shall report to the Board on a matter referred to it by the Board within such period as the Board directs.

Resolution may be passed without meeting.

7. A resolution in writing signed or assented to by letter or telegram by each Board member shall be as valid and effectual as if it had been passed at a meeting of the Board.

Leave of absence.

8. The Board may grant leave of absence to a Board member on such terms and conditions as it thinks fit.

Board to determine own procedures.

9. Subject to this Act, the Board shall determine its own procedures.

SCHEDULE 3. (Section 31)

CONSTITUTION AND PROCEEDINGS  
OF ADVISORY COMMITTEE.

Term of office of Advisory Committee member.

1. (1) Except as otherwise provided by this Act, an appointed Advisory Committee member shall hold office for such term, being not more than 4 years, as is specified in his instrument of appointment, but he may from time to time be re-appointed.

(2) An appointed Advisory Committee member, unless he sooner dies or 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.

Extra-ordinary vacancies.

2. (1) An appointed Advisory Committee member may resign his office by notice in writing delivered to the Minister.

(2) An appointed Advisory Committee member may be removed from office at any time by the Minister—

(a) for—

- (i) mental or physical disability;
- (ii) incompetence;
- (iii) neglect of duty; or
- (iv) misconduct,

impairing the performance of his functions and proved to the satisfaction of the Minister;

(b) if he is an undischarged bankrupt 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 Advisory Committee from 3 consecutive meetings of the Advisory Committee of which he has had notice.

(3) If an appointed Advisory Committee member dies or resigns or is removed from office, the vacancy shall be deemed to be an extraordinary vacancy.

(4) In the case of an extraordinary vacancy in the office of an Advisory Committee member—

- (a) referred to in section 30 (1) (a), the Minister may appoint a person to whom section 30 (1) (a) applies;
- (b) referred to in section 30 (1) (b), the Minister may appoint a person from the most recent panel of names submitted to him under section 30 (3) (a); or
- (c) referred to in section 30 (1) (c), the Minister may appoint—
  - (i) a person from the panel of names from which the Advisory Committee member whose death, resignation or removal from office caused that extraordinary vacancy was appointed; or
  - (ii) if the Advisory Committee member referred to in subparagraph (i) was not appointed from a panel of names, a suitable person,

to be an Advisory Committee member referred to in section 30 (1) (a), 30 (1) (b) or 30 (1) (c), as the case requires, for the residue of the term of the former holder of that office.

3. (1) If the Advisory Committee chairman is unable to act by reason of sickness, absence or other cause, the Minister may appoint another person to act temporarily in his place, and while so acting according to the tenor of his appointment the other person has all the powers, functions and duties of the Advisory Committee chairman.

Temporary  
Advisory  
Committee  
chairman.

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

(3) The appointment of a person as a temporary Advisory Committee chairman may be terminated at any time by the Minister.

4. (1) The first meeting of the Advisory Committee shall be convened by the Advisory Committee chairman and thereafter, subject to subclause (2), ordinary meetings of the Advisory Committee shall be held at such times and places as the Advisory Committee determines.

Meetings of  
Advisory  
Committee.

(2) Ordinary meetings of the Advisory Committee shall be held at intervals not exceeding 3 months.

(3) A special meeting of the Advisory Committee may at any time be convened by the Advisory Committee chairman.

(4) At any meeting of the Advisory Committee, the Advisory Committee chairman or, in his absence, the deputy chairman appointed under section 30 (1) (b) shall preside, but if both the Advisory Committee chairman and that deputy chairman are absent from such a meeting the appointed Advisory Committee members present shall appoint one of their number to preside at the meeting.

(5) At any meeting of the Advisory Committee—

(a) a majority of the Advisory Committee members constitutes a quorum; and

(b) each Advisory Committee member present is entitled to a deliberative vote.

(6) The Advisory Committee shall cause accurate minutes to be kept of the proceedings at its meetings and shall submit to the Authority and the Minister a copy of the minutes of each meeting within 14 days of the date on which the meeting was held.

Advisory  
Committee  
sub-  
committees.

5. (1) The Advisory Committee may from time to time appoint a committee consisting of—

(a) such Advisory Committee members; or

(b) such Advisory Committee members and such other persons,

as it thinks fit and may discharge, alter, continue or reconstitute any committee so appointed.

(2) Subject to the directions of the Advisory Committee, each Advisory sub-committee may determine its own procedures.

Leave of  
absence.

6. The Advisory Committee may grant leave of absence to an Advisory Committee member on such terms and conditions as it thinks fit.

Advisory  
Committee  
to determine  
own  
procedures.

7. Subject to this Act, the Advisory Committee shall determine its own procedures.