

WESTERN AUSTRALIAN WATER RESOURCES COUNCIL ACT 1982.

(No. 38 of 1982.)

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WESTERN AUSTRALIAN
WATER RESOURCES
COUNCIL.

No. 38 of 1982.

AN ACT to make provision for the establishment of a Western Australian Water Resources Council, to provide for the assessment, conservation and development of the water resources of the State and for incidental and other purposes.

[Assented to 27 May 1982.]

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 *Western Australian Water Resources Council Act 1982.* Short title.

Commence-
ment.

2. (1) This Act shall come into operation on a date to be fixed by proclamation.

(2) Subject to subsection (1), this Act shall expire 5 years from the date fixed by proclamation pursuant to that subsection.

Interpreta-
tion.

3. In this Act, unless the context otherwise requires—

“Chairman” means the person appointed under section 4 to be the chairman of the Council;

“Council” means the Western Australian Water Resources Council established under section 4 of this Act;

“Department” means a Department of the Public Service of the State;

“member” means a member of the Council and includes a deputy member;

“subsection” means a subsection of the section in which the term is used;

“water services” includes irrigation or other water supply, sewerage and drainage.

PART II—WESTERN AUSTRALIAN WATER RESOURCES COUNCIL.

Division 1—Establishment and Constitution of the Council.

Establish-
ment of
Council.

4. (1) There is hereby established, for the purposes of this Act, a Council to be called the “Western Australian Water Resources Council”.

(2) The Council shall consist of 15 members appointed by the Governor, being—

(a) 9 appointed members; and

(b) 6 *ex officio* members.

(3) The appointed members shall be—

(a) a person appointed on the recommendation of the Minister to be a member and Chairman of the Council;

- (b) a person nominated by each of—
 - (i) the body known as the Local Government Association of Western Australia (Incorporated);
 - (ii) the body known as the Country Shire Councils' Association of Western Australia;
 - (iii) the body known as the Perth Chamber of Commerce (Incorporated);
 - (iv) the body known as The Confederation of Western Australian Industry (Incorporated); and
 - (v) the body known as The Chamber of Mines of Western Australia (Incorporated); and
 - (c) 3 persons representative of rural interests of whom—
 - (i) one is a person who appears to the Minister to be experienced and active in farming in the wheatbelt area of the State;
 - (ii) one is a person who appears to the Minister to be experienced and active in irrigation farming; and
 - (iii) one is a person who appears to the Minister to be experienced and active in market gardening.
- (4) The *ex officio* members shall be—
- (a) the person for the time being holding the office of Director of Engineering of the Public Works Department or a person nominated in writing by him;
 - (b) the person for the time being holding the office of Managing Director of the Metropolitan Water Authority or a person nominated in writing by him;

- (c) each of the persons who are for the time being the Permanent Head of—
- (i) the Department of Forests;
 - (ii) the Department of Agriculture;
 - (iii) the Department of Conservation and Environment; and
 - (iv) the Department of Resources Development,

or a person nominated in writing by each of those persons.

(5) A body eligible to nominate a person for membership of the Council shall, when required to do so by the Minister, nominate to the Minister in writing but without any indication as to preference as between the candidates, 3 persons competent and willing to act as members, and the Minister shall choose one of the candidates so nominated as his recommendation to the Governor for appointment.

(6) Where the Minister by notice in writing requires that a body, within a time specified in that notice, nominate persons pursuant to subsection (5) and that body fails to nominate 3 persons within the time specified, the Governor on the recommendation of the Minister may appoint a person as a member and the person so appointed shall be deemed for all purposes to have been appointed on the nomination of that body.

Terms and conditions of office of members of Council.

5. (1) Subject to this section, an appointed member of the Council shall be appointed for such term of office, not exceeding 3 years, as the Governor may determine and specifies in his instrument of appointment, and, upon the expiration of his term of office, shall be eligible for re-appointment.

(2) If a person appointed to be a member of the Council—

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

Meetings of
the Council.

9. (1) The Council shall hold meetings at such times and places as it determines, but—

- (a) the Minister may at any time convene a meeting of the Council; and
- (b) the Council shall hold not fewer than 4 meetings in any year.

(2) At any meeting, a quorum of the Council shall be constituted by—

- (a) the Chairman, who shall preside; or
- (b) in the absence of the Chairman and also of any other member nominated in writing by the Minister to preside at that meeting, the member elected to preside at that meeting by the members present; and
- (c) not less than 7 other members.

(3) At any meeting the Chairman and each other member present and eligible to vote may cast a deliberative vote on any question and the question shall be decided by the majority, but if the votes are equal the question shall be taken to have been decided in the negative.

(4) A record of the proceedings of every meeting of the Council shall be kept in such manner as the Minister may direct or approve, and shall be certified as correct by the member presiding at the first practicable succeeding meeting.

(5) Any person present at the meeting who has a pecuniary interest in any matter that is before a meeting of the Council for consideration shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest to those present at the meeting and such disclosure shall be recorded in the record of the proceedings of the meeting.

(6) No proceeding or act of a duly constituted Council (if there is a quorum) shall be invalidated or illegal in consequence only of there being any vacancy in the number of members of the Council at the time of such proceeding or act, or in consequence of there being some defect in the appointment or qualification of a person purporting to be a member.

(7) Subject to this Act and to any direction which may be given by the Minister, the proceedings at any meeting of the Council may be regulated in such manner as the Council may determine.

10. Where—

Acting members.

- (a) both a member of the Council and the deputy of that member are absent or temporarily incapable of fulfilling the duties of a member; or
- (b) the office of a member is vacant and is not taken by a deputy or filled in accordance with this Act,

the Minister may appoint a person to act in the place of that member during that absence or incapacity, or until the vacancy is filled, as the case requires, and any person so appointed has, while taking the place of a member of the Council, all the duties, powers and entitlements of, and the protection given to, a member under this Act.

11. No liability shall attach to a member of the Council for any act or omission by him, or by the Council, in good faith and in the exercise, or purported exercise, of his or its powers or functions, or in the discharge, or purported discharge, of his or its duties under this Act.

Immunity of members of the Council.

Division 2—Staff.

12. (1) There may from time to time be appointed under and subject to the Public Service Act 1978 an Executive Officer of the Council and such other officers as may be approved and required by the Council for the effective administration of this Act.

Secretary.

(2) The office of Executive Officer of the Council or an office created pursuant to subsection (1) may be held in conjunction with any other office in the Public Service of the State.

Use of staff and facilities of Departments and instrumentalities.

13. The Council may, by arrangement with the Minister concerned and upon such terms and conditions as may be mutually arranged with such Minister, make use, either full time or part time, of—

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

Division 3—Functions, Powers and Duties of the Council.

Functions.

14. (1) The functions of the Council are—

- (a) to advise the Minister in relation to—
 - (i) the assessment, development, conservation, management and protection of the water resources of the State;
 - (ii) the formulation of policies in relation to water resources and water services;
 - (iii) the priority and relative urgency of the water resource programmes of the State with respect to the pursuit of funds from the Commonwealth or other sources for those programmes or water resources generally;
- (b) to consider any matter affecting water resources or water services referred to it by the Minister and to advise the Minister thereon;
- (c) of its own motion, to make representations, to tender advice and make reports to the Minister on any matter or thing relating to

the development, conservation, management or protection of the water resources of the State;

- (d) to carry out such other advisory functions as the Minister may direct;
- (e) in collaboration with the appropriate Departments and instrumentalities of the State, to initiate, conduct or arrange studies, investigation and research relating to the water resources of the State generally, and the availability and use of such water resources, in particular;
- (f) to publish guidelines for the formulation of by-laws for the conservation, management and protection of water resources, and to encourage local authorities to pass by-laws in accordance with the guidelines; and
- (g) to promote measures to foster awareness and understanding of water resources and the conservation, management and use of water resources amongst—
 - (i) the public generally; and
 - (ii) persons who have administrative and technical responsibilities, in particular.

(2) The Council, in carrying out its functions, shall have regard to any factors affecting or likely to affect—

- (a) the quality of any waters;
- (b) the equitable distribution or use of any waters;
- (c) the loss or wastage of any waters;
- (d) the preservation and conservation of any waters;
- (e) the health and welfare of the people;
- (f) the conservation of flora and fauna; and
- (g) the preservation of the amenity, nature, features and general character of a locality.

(3) The Council may, with the approval of the Minister, enter into arrangements with—

- (a) a Minister of the Crown of any State or territory of the Commonwealth, a Minister of State of the Commonwealth, a department or an instrumentality of the Commonwealth or any State or territory of the Commonwealth;
- (b) a university or other tertiary institution; or
- (c) any other body or person having relevant specialised knowledge, experience, or facilities,

with respect to the conduct of any investigation, study or research that may be necessary or desirable for the purposes of the functions of the Council.

(4) The Council shall have and may exercise such powers as are necessary or incidental to the performance of its functions.

(5) The Council may set up committees of which a member is chairman to investigate and advise the Council on any aspect of its functions under this Act.

Directions
by the
Minister.

15. The Minister may give directions of a general or specific nature to the Council in relation to its functions under this Act, the manner in which the functions are to be carried out and the procedure to be followed at meetings of the Council.

Annual
report of
the Council.

16. (1) The Council 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.

(2) The Minister shall cause the report, together with copies of the financial statements of the Council and the report of the Auditor General thereon, to be laid before each House of Parliament within 12 sitting days of their receipt by him.

