

WESTERN AUSTRALIAN
OVERSEAS PROJECTS
AUTHORITY.

No. 109 of 1978.

AN ACT to establish the Western Australian Overseas Projects Authority, and for purposes connected therewith.

[Assented to 8th December, 1978.]

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 Overseas Projects Authority Act, 1978.* Short title.

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

Interpre-
tation.

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

“Authority” means the Western Australian Overseas Projects Authority established by section 5;

“Board” means the Western Australian Overseas Projects Authority Board established by section 11;

“Chairman” means the Chairman of the Board;

“development project” means a project by way of—

(a) the construction of works;

(b) the design, supply or installation of equipment or facilities; or

(c) separately or together, the introduction, teaching and testing of technology or techniques for primary, secondary or tertiary industry to, in or for a foreign country;

“Director” means a Director of the Authority;

“General Manager” means the General Manager of the Authority;

“overseas development project” means a development project that is to be carried out in a country other than Australia;

“private organisation” means a person or partnership or a company, and includes a consortium of private organisations;

“section” means a section of this Act;

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

“the Account” means the Western Australian Overseas Projects Authority Account referred to in subsection (1) of section 31;

“the Treasurer” means the Treasurer of the State;

“Western Australian consortium” means—

- (a) an association of persons at least one of which is a Western Australian private organisation; or
- (b) an association consisting of the Authority and—
 - (i) a Western Australian private organisation; or
 - (ii) two or more persons at least one of which is a Western Australian private organisation;

“Western Australian private organisation” means—

- (a) a person or partnership; or
- (b) a company,

that carries on the major part of his or its activities in the State and includes any consortium of such private organisations not being a consortium that includes the Authority.

(2) For the purposes of this Act, the profits of the Authority for a financial year are the amount (if any) remaining after deducting from the revenue received or receivable in respect of that financial year the expenditure and provision for expenditure properly chargeable against that revenue.

4. The objects of this Act are to facilitate the export of Western Australian expertise, services, equipment and capital goods through the participation on a contract basis, in development projects in overseas countries; this participation to be through private organisations and to the extent approved by the Minister through public authorities or consortia of private organisations or public authorities, or both.

Objects
of Act.

PART II—WESTERN AUSTRALIAN OVERSEAS
PROJECTS AUTHORITY.

Establish-
ment of
Authority.

5. (1) There is established by this section an Authority by the name of the Western Australian Overseas Projects Authority.

(2) The Authority—

- (a) is a body corporate;
- (b) shall have a seal;
- (c) may acquire, hold and dispose of real and personal property; and
- (d) may sue or be sued in its corporate name.

(3) The seal of the Authority shall be kept in such custody as the Board directs and shall not be used except as authorised by the Board.

(4) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Authority affixed to a document and shall presume that it was duly affixed.

(5) Every notice, order, summons or other document requiring authentication by the Authority may be sufficiently authenticated without the seal of the Authority if signed by the General Manager.

(6) Any notice, summons, writ or other process required to be served upon the Authority may be served by being lodged at the principal office of the Authority.

Functions
of the
Authority.

6. (1) Subject to this Part, the functions of the Authority are—

- (a) to assist Western Australian private organisations to participate in overseas development projects using expertise from Government or expertise and equipment from private organisations, or both, within Western Australia;

private organisations (whether Western Australian private organisations or not), in the formation of a Western Australian consortium for the purpose of carrying out the whole, or a part, of an overseas development project.

Authority to be restricted in trade.

7. (1) Subject to subsection (2), the Authority shall not engage, whether as a principal or an agent, in the buying or selling of goods.

(2) The Authority may, for approved development projects—

- (a) buy or sell goods to the extent that buying or selling is incidental to the provision by the Authority of a technical or advisory service to a Western Australian private organisation or a Western Australian consortium; and
- (b) buy or sell goods, or otherwise trade in goods, to the extent that those goods are essential to the successful implementation of a development project and cannot otherwise be reasonably provided.

Preference to Western Australian services, suppliers, etc.

8. The Authority shall give proper consideration and preference to the use of Western Australian professional services, suppliers, manufacturers, contractors and service industries when letting contracts or placing orders for works, materials, plant, equipment, supplies and services.

Minister's approval.

9. The Authority shall not participate in an overseas development project in accordance with this Act unless the Minister, after consultation with the Authority, approves it doing so and there is no Western Australian private organisation or consortium willing and able to carry out that project.

10. (1) Subject to the Minister, this Act shall be administered by the Authority which has power to do all things necessary or convenient to be done for or in connection with the performance of its functions and, in particular, may—

Powers of
Authority.

- (a) arrange with the Commonwealth, a State or Territory of the Commonwealth or any person for the provision of services to, or the performance of any work for, the Authority;
- (b) arrange with a person for the person, acting on behalf of the Authority, to provide services to, or to perform any work for, a Western Australian private organisation or a Western Australian consortium;
- (c) raise fees or charges with respect to the provision of services, or the performance of any work, by, or on behalf of, the Authority;
- (d) enter, subject to the provisions of this Act, into arrangements or contracts with Governments, Government departments, instrumentalities and other bodies, and private organisations or consortiums overseas for the purpose of, or incidental to the performance of, any overseas development project.

(2) Subject to the provisions of any contract relating thereto, where the Authority is acting on behalf of or in association with some other person or body in the execution or contemplated execution of any project the Authority has power to receive contributions relating thereto and to disburse or arrange for the disbursement of those contributions for the purposes of that project.

PART III—WESTERN AUSTRALIAN OVERSEAS
PROJECTS AUTHORITY BOARD.

11. There is established by this section a Western Australian Overseas Projects Authority Board, which shall be constituted as provided by section 13.

Establish-
ment of
Board.

Board to
conduct
business of
Authority.

12. (1) The business and other affairs of the Authority shall be conducted and controlled by the Board and, subject to section 16, the policy of the Authority with respect to any matter shall be determined by the Board.

(2) All acts and things done in the name of, or on behalf of, the Authority by the Board, or with the authority of the Board, shall be deemed to have been done by the Authority.

Membership
of the
Board.

13. (1) The Board shall consist of four Directors of whom—

- (a) one shall be the person for the time being holding or acting in the office of Under Treasurer of the State;
- (b) one shall be the person for the time being holding or acting in the office of Co-ordinator of Industrial Development in the Public Service of the State;
- (c) one shall be the person for the time being holding or acting in the office of Director of Agriculture in the Public Service of the State; and
- (d) one shall be a person appointed by the Governor and who is at the time of his appointment engaged in private industry,

of whom one shall be appointed by the Governor to be Chairman of the Board.

(2) A person appointed to be a Director pursuant to paragraph (d) of subsection (1) shall, subject to this Act, hold office as such for such period not exceeding three years as is specified in the instrument of his appointment but he is, unless otherwise disqualified, eligible for reappointment.

(3) If a person appointed to be a Director pursuant to paragraph (d) of subsection (1)—

- (a) dies;
- (b) resigns his office by writing under his hand addressed to the Minister;
- (c) is an incapable person within the meaning of section 5 of the Mental Health Act, 1962;

- (d) is an undischarged bankrupt or has his affairs under liquidation by arrangement with his creditors;
- (e) is convicted of an indictable offence; or
- (f) is absent without leave from the Board from six consecutive meetings of the Board,

his office shall become vacant.

(4) The Governor may appoint a person to be the deputy of any Director and may terminate such an appointment at any time.

(5) A person who is the deputy of any Director is in the event of the absence from a meeting of the Authority of the Director, of whom he is the deputy, entitled to attend that meeting, and, when so attending, has all the powers, functions and duties of the Director for whom he is deputy.

(6) The Directors and the deputies of the Directors shall be paid such allowances as are from time to time determined by the Governor.

14. (1) The Board shall hold its meetings at such places on such days and at such intervals as the Board shall from time to time determine, but a meeting may be convened by the Minister at any time.

Proceedings
of the
Board.

(2) At any meeting of the Board, three Directors or in their absence their deputies, shall form a quorum, and shall have and may exercise and perform the powers, authorities and duties which are vested in or imposed upon the Board.

(3) At any meeting of the Board the Chairman, or in his absence his deputy, or in the absence of both the Chairman and his deputy a person elected by and from amongst the members of the Board present shall preside.

(4) At any meeting of the Board—

- (a) each Director, or deputy acting for a Director, present is entitled to a deliberative vote;

(b) the General Manager is entitled to be present but is not, except should he be then acting as the deputy of a member, entitled to vote.

(5) To the extent that it is not prescribed the Board shall determine the procedure for the conduct of its meetings.

(6) The Board shall cause to be kept minutes of all its proceedings.

(7) The Board shall from time to time or at the request of the Minister submit reports on the operations of the Authority.

Assistance
to Minister.

15. For the proper conduct of his public business the Minister shall be at all times entitled to see all documents, papers and minutes which he requires and to be supplied with copies thereof, and also to avail himself of the services and assistance of any officer or employee of the Authority.

Questions
of Policy.

16. (1) The Board shall keep the Minister informed of the decisions of the Board with respect to matters of policy in relation to the performance of the functions of the Authority.

(2) Before adopting a policy (including an altered policy) with respect to any matter relating to the performance of its functions, the Board shall submit the policy for the approval of the Minister, and the Board shall not adopt the policy without the approval of the Minister, or, except during such time as the Minister permits, continue to pursue the policy where the Minister, having approved the policy, subsequently withdraws his approval.

Advisory
bodies or
persons.

17. The Board has power, subject to the approval of the Minister and on such terms and conditions as the Minister may determine, to invite any body or person to act in an advisory capacity to the Board or the Authority in relation to any or all aspects of the functions of the Authority.

Committees
of advisers.

18. (1) In respect of an overseas development project or a proposed overseas development project, the Board shall appoint a committee of whom at

least two or more persons are, at the time of their appointment, engaged in private industry, to advise the Board of the Authority on such matters relating to its functions as are referred by the Board or the Authority to the committee.

(2) Members of committees appointed under this section shall be paid such remuneration and allowances as are from time to time determined by the Governor.

19. (1) The Board may by an instrument in writing delegate in relation to such matter or class of matters and to such activity of the Authority as is specified in that instrument, any of the powers, rights, or duties of the Authority under this Act, except this power of delegation, to a member of the Board or an officer or servant of the Authority named therein or to any committee appointed by the Board. Delegation.

(2) A delegation under this section does not prevent the exercise by the Authority of any of its powers, rights, or duties.

(3) The Board may by the terms of the instrument of delegation limit the exercise of the powers conferred, and may by resolution, notice in writing of which shall be served on the delegate, vary or revoke any delegation granted pursuant to this section.

(4) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Board.

(5) A person or body purporting to exercise a power pursuant to a delegation conferred under the provisions of this section is presumed to do so in accordance with the terms of the delegation in the absence of proof to the contrary, but shall if requested so to do produce evidence of the terms of the delegation to any person in relation to whom it is proposed to exercise the power.

PART IV—GENERAL MANAGER AND STAFF.

General
Manager
and other
staff.

20. (1) The Board may appoint a General Manager to be its chief executive officer and such other officers and employees as the Minister approves are necessary for the purposes of this Act.

(2) All persons appointed under subsection (1) are subject to the control and direction of the Board.

(3) The salaries, allowances and conditions of employment of the officers and employees of the Board shall, subject to any relevant award or industrial agreement, be determined by the Minister on the recommendation of the Public Service Board.

(4) Any person appointed, employed, or engaged by the Board is not subject to the provisions of the Public Service Act, 1904 or of the Government Employees (Promotions Appeal Board) Act, 1945.

Function
of General
Manager.

21. The General Manager shall, under the Board, manage the Authority.

Restriction
on General
Manager.

22. The General Manager shall not engage in paid employment outside the duties of his office except with the approval of the Board.

Leave of
General
Manager.

23. The Board may grant leave of absence to the General Manager on such terms and conditions as to remuneration or otherwise as the Board determines.

Acting
General
Manager.

24. Where there is a vacancy in the office of General Manager, whether or not an appointment has previously been made to the office, or the General Manager is, or is expected to be, absent from duty or from the State, the Board may appoint another person to be acting General Manager until the filling of the vacancy or during the absence, and, when a person is so acting as General Manager, he shall have and may exercise the powers and perform the functions of the General Manager (including any power and functions delegated to the General Manager under section 19).

25. (1) The Authority for the purposes of this Act, with the approval of the Minister concerned and upon such terms and conditions as may be mutually arranged with such Minister, may make use either full time or part time of the services of any officer or servant employed in the Public Service of the State or otherwise in the service of the Crown in the State and may, with the approval of the Minister charged with the administration of this Act, in like manner by arrangement with the Minister charged with the administration of any other Act make available for the purposes of that other Act the services of any officer or servant of the Authority.

(2) The Authority may, with the approval of the Minister, engage under contract for services such professional and technical or other assistance as may be necessary to enable the Authority to carry out effectively its functions under this Act.

(3) The Authority may enter into arrangements with—

(a) a Minister of the Crown of any State 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,

with respect to the employment or utilisation of persons, facilities or services likely to assist in the conduct of any project, investigation, study or research that may be necessary or desirable for the purposes of this Act.

(4) Subject to this Act and to any other relevant Act, and to any relevant award or industrial agreement, the Authority may make rules for or with respect to the powers and duties, conditions of

employment, control, supervision, safety, guidance, regulation and discipline, retirement benefits, and welfare of its officers and employees.

PART V.—FINANCE.

Commercial
principles
to apply.

26. In the performance of its functions and in the conduct of its business the Authority shall act in accordance with sound commercial principles and shall pursue a policy directed towards securing revenues sufficient to meet expenditure properly chargeable to revenue each year.

Funds
of the
Authority.

27. The funds available to the Authority for the purpose of carrying out its powers and functions under this Act are:

- (a) moneys from time to time appropriated by Parliament and advanced to the Authority for that purpose;
- (b) the income derived by the Authority from the business carried on by it under the authority of this Act;
- (c) all other moneys received by the Authority under and for the purposes of this Act, including all fees, expenses, charges, restitutions and contributions received pursuant to any of the provisions of this Act; and
- (d) such moneys as the Authority may borrow under and subject to the provisions of this Act.

Profits to
Consolidated
Revenue.

28. Within three months after the close of a financial year, unless the Treasurer approves otherwise, the Authority shall pay to Consolidated Revenue Fund the profits of the Authority determined in relation to the transactions of that financial year.

Charges
for use of
property
and
services.

29. (1) There shall be entered and debited in the books of account of the Authority such sum as in the opinion of the Treasurer represents the value

of the use by the Authority of government buildings or other property or of part services of any government officers not wholly employed by the Authority under this Act or of services rendered by any Government department.

(2) Any amount debited under subsection (1) shall be treated as revenue payable into the Consolidated Revenue Fund and shall be paid accordingly as and when directed by the Treasurer.

30. The Authority may in respect of its undertaking establish in its books a General Reserve and such reserve accounts for renewals or depreciation as it thinks fit, and may in every year credit to each such reserve account such sums as the Minister may approve. Reserve
Accounts.

31. (1) The Authority shall open, maintain and operate an account at the Treasury to be called the "Western Australian Overseas Projects Authority Account" and shall pay into that account all moneys received by the Authority and all such moneys shall be applied pursuant to and for the purposes of the Act. Authority's
account.

(2) The Authority shall cause separate records or entries to be kept in its books of account in which shall be shown such amounts as are from time to time capital moneys and such amounts as are revenue or profit or income moneys.

(3) The moneys from time to time in the Account shall be chargeable with—

- (a) all capital expenditure incurred in connection with the vesting in or transfer to the Authority by purchase or otherwise of any property, or in connection with the establishment or maintenance of any project carried on or to be carried on by or for the Authority under this Act;
- (b) the fees or remuneration and allowances payable to members of the Board and of committees established by the Board;

- (c) the salaries and wages of officers and others employed in or in connection with the business carried on by the Authority; and
- (d) interest on and repayment of moneys advanced, appropriated or borrowed, and all other expenditure lawfully incurred by the Authority in the exercise of its powers or the discharge of its duties or obligations under this Act.

(4) The accounts of the Authority in relation to the business carried on by it under this Act shall be balanced every year on the thirtieth day of June.

Borrowing
powers
generally;
and State
guaranteed
loans.

32. (1) For carrying out the purposes of this Act the Authority, subject to the approval of the Minister, shall have power upon the guarantee and with the prior approval in writing of the Treasurer to borrow money upon such terms and conditions only as the Treasurer approves.

(2) The Treasurer is hereby authorised to so approve and to give the guarantee, including a guarantee of interest, referred to in subsection (1), for and on behalf of the Crown in right of the State.

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

(4) Before a guarantee is given by the Treasurer under this section, the Authority shall give to the Treasurer such security as the Treasurer may require and shall execute all instruments necessary for the purpose.

(5) The Authority shall use moneys borrowed under the power conferred by this section for the purpose of carrying this Act into effect and for no other purpose.

33. In addition to guarantees approved and given pursuant to section 32, the Crown in right of the State is responsible for the payment of all moneys due by the Authority.

General
guarantee.

34. The Board shall cause to be kept proper accounts and records of the transactions and affairs of the Authority in accordance with the accounting principles generally applied in commercial practice and shall do all things necessary to ensure that all payments out of its moneys are correctly made and properly authorised and that adequate control is maintained over the assets of, or in the custody of, the Authority and over the incurring of liabilities by the Authority.

Proper
accounts
to be kept.

35. A contract to which the Authority is a party where the consideration exceeds one hundred thousand dollars shall not take or have effect unless it is ratified by the Governor on the recommendation of the Minister.

Restriction
on contracts.

36. (1) The Auditor General shall inspect and audit the accounts and records of financial transactions of the Authority and records relating to assets of, or in the custody of, the Authority and shall forthwith draw the attention of the Minister to any irregularity disclosed by the inspection and audit that is, in the opinion of the Auditor General, of sufficient importance to justify his so doing.

Audit.

(2) The Auditor General, may, in his discretion, dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in subsection (1).

(3) The Auditor General shall, at least once in each year, report to the Minister the results of the inspection and audit carried out under this section.

(4) The Auditor General or a person authorised by him is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Authority relating directly or indirectly to the receipt or payment of moneys by the Authority or to the acquisition, receipt, custody or disposal of assets by the Authority.

(5) The Auditor General or a person authorised by him may make copies of, or take extracts from, any such accounts, records, documents or papers.

(6) The Auditor General shall in respect of such accounts, records, documents or papers have all the powers conferred on him by the Audit Act, 1904, but subject to such powers the provisions of the Audit Act, 1904, shall not apply to the business carried on by the Authority under this Act.

(7) The Auditor General may arrange for a periodical or continuous audit of the accounts of the Authority in relation to the business carried on by it under this Act.

(8) The Auditor General or a person authorised by him may require any person to furnish him with such information in the possession of the person or to which the person has access as the Auditor General or authorised person considers necessary for the purposes of the functions of the Auditor General under this Act, and the person shall comply with the requirement.

(9) A person who contravenes subsection (8) commits an offence.

Penalty: \$200.

37. (1) The Board shall, as soon as practicable after the thirtieth day of June in each year, prepare and furnish to the Minister, for presentation to the Parliament, a report of the operations of the Authority during the year ended on that date together with financial statements in respect of that year in such form as the Treasurer approves.

Annual
report of
Authority.

(2) The Minister shall cause a copy of the report and financial statements of the Authority, together with a copy of the report of the Auditor General, to be laid before each House of the Parliament within fifteen sitting days of that House after their receipt by the Minister.

38. (1) The Minister may, either generally or as otherwise provided by the instrument of delegation, with the approval of the Governor, delegate to a person any of his powers under this Act, other than this power of delegation.

Delegation
by Minister.

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Minister.

(3) A delegation under this section does not prevent the exercise of a power by the Minister.

39. A person shall not without the consent of the person carrying on the business to which the information relates, disclose information obtained under, or as a result of information obtained under, this Act otherwise than—

Disclosure
of
information.

- (a) in the form of a summary of similar returns or information furnished by or obtained from a number of persons, being a summary so framed as not to enable particulars relating to any individual business to be ascertained; or

(b) to, or to an officer of, the Authority or the Minister for the purposes of this Act.

Penalty: Five hundred dollars.

Regulations.

40. The Governor may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.
