



Western Australia

## **Regional Development Commissions Act 1993**

Compare between:

[01 Feb 2007, 02-b0-06] and [01 Oct 2010, 02-c0-01]



Western Australia

## **Regional Development Commissions Act 1993**

**An Act to establish regional development commissions to coordinate and promote the economic development of regions of Western Australia, to provide for the establishment of regional development advisory committees, to establish a Regional Development Council, to continue existing regional development bodies as commissions under this Act, to repeal certain Acts and for related purposes.**

## **Part 1 — Preliminary**

### **1. Short title**

This Act may be cited as the *Regional Development Commissions Act 1993*<sup>1</sup>.

### **2. Commencement**

This Act comes into operation on such day as is, or days as are respectively, fixed by proclamation<sup>1</sup>.

### **3. Interpretation**

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

***appointed member*** means a member of a board appointed under section 15(1)(b);

***board*** means a board of management referred to in section 15(1);

***board member*** means the Director or an appointed member;

***commission*** means a body established by a provision of Part 2;

***committee*** means a Regional Development Advisory Committee or other committee appointed under Part 2 of Schedule 2;

***Council*** means the Council established by section 33;

***Director*** means the person holding or acting in the office of the Director of a commission referred to in section 27;

***region*** means a region described in Schedule 1;

***repealed Act*** means an Act repealed by section 5(3), 6(3), 8(3), 10(3) or 11(3).

(2) In this Act, subject to subsection (3) —

***Minister*** means the Minister to whom the administration of this Act is for the time being committed by the Governor.

- (3) In Parts 3 and 5 and Schedule 2 —

***Minister***, in relation to a commission, means the Minister to whom the administration of that commission is for the time being committed by the Governor.

*[Section 3 amended by No. 14 of 1996 s. 4; No. 18 of 2001 s. 4; No. 28 of 2006 s. 370.]*

## **Part 2 — Establishment of regional development commissions**

### **4. Gascoyne Development Commission established**

- (1) There is established by this section a body called the Gascoyne Development Commission.
- (2) The Gascoyne Development Commission is to perform its functions in respect of the region described in Part A of Schedule 1.

### **5. Goldfields-Esperance Development Commission established**

- (1) There is established by this section a body called the Goldfields-Esperance Development Commission.
- (2) The Goldfields-Esperance Development Commission is to perform its functions in respect of the region described in Part B of Schedule 1.
- (3) The *Goldfields-Esperance Development Authority Act 1990* is repealed.

### **6. Great Southern Development Commission established**

- (1) There is established by this section a body called the Great Southern Development Commission.
- (2) The Great Southern Development Commission is to perform its functions in respect of the region described in Part C of Schedule 1.
- (3) The *Great Southern Development Authority Act 1987* is repealed.

### **7. Kimberley Development Commission established**

- (1) There is established by this section a body called the Kimberley Development Commission.

- (2) The Kimberley Development Commission is to perform its functions in respect of the region described in Part D of Schedule 1.

**8. Mid West Development Commission established**

- (1) There is established by this section a body called the Mid West Development Commission.
- (2) The Mid West Development Commission is to perform its functions in respect of the region described in Part E of Schedule 1.
- (3) The *Geraldton Mid-West Development Authority Act 1988* is repealed.

**9. Peel Development Commission established**

- (1) There is established by this section a body called the Peel Development Commission.
- (2) The Peel Development Commission is to perform its functions in respect of the region described in Part F of Schedule 1.

**10. Pilbara Development Commission established**

- (1) There is established by this section a body called the Pilbara Development Commission.
- (2) The Pilbara Development Commission is to perform its functions in respect of the region described in Part G of Schedule 1.
- (3) The *Pilbara Development Commission Act 1992* is repealed.

**11. South West Development Commission established**

- (1) There is established by this section a body called the South West Development Commission.

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- (2) The South West Development Commission is to perform its functions in respect of the region described in Part H of Schedule 1.
- (3) The *South West Development Authority Act 1984* is repealed.

**12. Wheatbelt Development Commission established**

- (1) There is established by this section a body called the Wheatbelt Development Commission.
- (2) The Wheatbelt Development Commission is to perform its functions in respect of the region described in Part I of Schedule 1.

**13. Amendment of Schedule 1**

- (1) Subject to subsection (2), the Governor may make regulations amending Schedule 1 for the purposes of changing the boundaries of any region.
- (2) Regulations may only be made under subsection (1) if each of the commissions affected by proposed regulations have recommended that the regulations be made.



## **Part 3 — Operation of commissions**

### **Division 1 — Constitution and proceedings of commissions**

#### **14. Status of a commission**

- (1) A commission is a body corporate with perpetual succession.
- (2) Proceedings may be taken by or against a commission in that commission's corporate name.
- (3) A commission is an agent of the Crown.

#### **15. Board of management of a commission**

- (1) Subject to section 16, a commission is to have a board of management comprising —
  - (a) the Director, by virtue of his or her office; and
  - (b) a prescribed number of other members, not exceeding 9, who are to be appointed by the Minister in the prescribed manner.
- (2) A board is the governing body of a commission with authority, in the name of that commission, to perform the functions of that commission.
- (3) The Minister is to appoint a member of a board to be chairperson and another member to be deputy chairperson.
- (4) The Minister is to cause notice of each appointment under this section to be published in the *Gazette*.

#### **16. Method of appointment of appointed members**

Regulations made for the purposes of paragraph (b) of section 15(1) are to be consistent with the following, unless particular circumstances require otherwise —

- (a) one third of the members referred to in that paragraph are to be persons who are resident in the region and nominated in accordance with the regulations;

- (b) one third of those members are to be members of the council of a local government in the region and are to be nominated by local governments in the region in accordance with the regulations; and
- (c) one third of those members are to be appointed at the Minister's discretion.

*[Section 16 amended by No. 14 of 1996 s. 4; No. 16 of 1997 s. 4.]*

**17. Constitution and proceedings of a board**

Schedule 2 has effect with respect to the constitution and proceedings of a board.

**18. Delegation by board**

- (1) A board may, by resolution, delegate to an appointed member, the Director or another officer referred to in section 27(1) or a committee, either generally or otherwise as provided by the instrument of delegation, the performance of all or any of its functions, except this power of delegation.
- (2) A function delegated under this section may be performed by the delegate in accordance with the instrument of delegation and, when so performed, is, for the purposes of this Act, to be taken to have been performed by the delegating board.

**19. Remuneration and allowances of appointed members and members of committees**

- (1) Subject to subsection (2), an appointed member or a member of a committee, other than a person who is an officer of the Public Service, is to be paid such remuneration and travelling and other allowances as the Minister from time to time, after consultation with the Minister for Public Sector Management<sup>2</sup>, determines in respect of that member.

- (2) A member of a committee established under clause 11 of Schedule 2 —
- (a) is not to be paid remuneration, unless the Minister, after consultation with the Minister for Public Sector Management<sup>2</sup>, determines that payment is to be made in respect of that member; but
  - (b) is entitled to be paid out-of-pocket expenses for travel and accommodation in connection with the discharge of his or her duties.

**20. Protection of board members and members of committees**

- (1) A board member or a member of a committee is not personally liable for any act done or omitted to be done in good faith by a commission, a board, a committee or by that person acting as a board member or as a member of a committee.
- (2) Subsection (1) has effect subject to the *Statutory Corporations (Liability of Directors) Act 1996* so far as it applies to the Mid West Development Commission or the South West Development Commission.

*[Section 20 amended by No. 41 of 1996 s. 3.]*

**21. Disclosure of pecuniary interests**

- (1) A board member or a member of a committee who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by that board or that committee must, as soon as possible after the relevant facts have come to his or her knowledge, disclose the nature of his or her interest at a meeting of the board or the committee, as the case requires.
- (2) A disclosure under subsection (1) is to be recorded in the minutes of the meeting of the board or the committee concerned and, unless the board or that committee otherwise determines, the board member or member of the committee must not —
- (a) be present during any deliberation; or

- (b) take part in any decision,  
of the board or that committee with respect to the matter to  
which the disclosure relates.
- (3) For the purpose of the making of a determination by a board or  
a committee under subsection (2) in relation to a member of the  
board or committee who has made a disclosure under  
subsection (1), that member must not —
- (a) be present during any deliberation of the board or  
committee for the purpose of making the determination;  
or
- (b) take part in the making of the determination by the board  
or committee.
- (4) A board member or member of a committee who contravenes or  
fails to comply with a provision of this section commits an  
offence.  
Penalty: \$5 000.

**22. Execution of documents by a commission**

- (1) A document is duly executed by a commission, if —
- (a) the common seal of that commission is affixed to the  
document in accordance with subsections (2) and (3); or
- (b) the document is signed on behalf of that commission by  
a board member or members or an officer or officers of  
that commission in accordance with an authorisation  
given under subsection (4).
- (2) The common seal of a commission must not be affixed to any  
document except by resolution of the board of that commission.
- (3) The common seal of a commission is to be affixed to a  
document in the presence of the chairperson and one other board  
member and each of them is to sign the document to attest that  
the common seal was so affixed.

- (4) A board may, in writing under its common seal, authorise a member or members of that board, or an officer or officers of the relevant commission to sign documents on behalf of that commission, either generally or subject to such conditions or restrictions as may be specified by the board in the authorisation.
- (5) A document purporting to be executed in accordance with this section is presumed to be duly executed until the contrary is shown.
- (6) When a document is produced bearing a seal purporting to be the common seal of a commission, it is to be presumed that the seal is the common seal of that commission until the contrary is shown.

## **Division 2 — Functions and powers of a commission**

### **23. Objects and functions of a commission**

- (1) The objects of a commission are to —
  - (a) maximize job creation and improve career opportunities in the region;
  - (b) develop and broaden the economic base of the region;
  - (c) identify infrastructure services to promote economic and social development within the region;
  - (d) provide information and advice to promote business development within the region;
  - (e) seek to ensure that the general standard of government services and access to those services in the region is comparable to that which applies in the metropolitan area; and
  - (f) generally take steps to encourage, promote, facilitate and monitor the economic development in the region.

- (2) For the purposes of achieving those objects a commission is to —
- (a) promote the region;
  - (b) facilitate coordination between relevant statutory bodies and State government agencies;
  - (c) cooperate with representatives of industry and commerce, employer and employee organizations, education and training institutions and other sections of the community within the region;
  - (d) identify the opportunities for investment in the region and encourage that investment;
  - (e) identify the infrastructure needs of the region, and encourage the provision of that infrastructure in the region; and
  - (f) cooperate with —
    - (i) departments of the Public Service of the State and the Commonwealth, and other agencies, instrumentalities and statutory bodies of the State and the Commonwealth; and
    - (ii) local governments,in order to promote equitable delivery of services within the region.

*[Section 23 amended by No. 14 of 1996 s. 4.]*

**24. Powers of a commission**

- (1) Subject to subsection (2), a commission has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.
- (1a) Without limiting subsection (1), a commission may, for or in connection with the performance of its functions, provide financial support in the form of a grant.

- (2) Subsection (1) does not empower a commission —
- (a) subject to Part 5, to enter into any business undertaking either directly or indirectly;
  - (b) to acquire land or any estate or interest in land other than a tenancy to provide office premises for the commission; or
  - (c) to borrow money or obtain financial accommodation.
- (3) In performing its functions, a commission may act in conjunction with —
- (a) any person; or
  - (b) any department of the Public Service, or other agency or instrumentality, of the State or the Commonwealth.
- (4) The requirement of disclosure in section 28(2) applies to a person referred to in subsection (3).

*[Section 24 amended by No. 5 of 2003 s. 4(1).]*

**25. Minister may give directions**

- (1) The Minister may give directions in writing to a commission with respect to the performance of its functions, either generally or in relation to a particular matter, and the commission is to give effect to any such direction.
- (2) The text of any direction given under subsection (1) is to be included in the annual report submitted by the accountable authority of the relevant commission under Part 5 of the *Financial Management Act 2006*.
- (3) Subsection (1) has effect subject to the *Statutory Corporations (Liability of Directors) Act 1996* so far as it applies to the Mid West Development Commission or the South West Development Commission.

*[Section 25 amended by No. 41 of 1996 s. 3; No. 77 of 2006 s. 17.]*

**26. Minister to have access to information**

- (1) The Minister is entitled —
  - (a) to have information in the possession of a commission; and
  - (b) where the information is in or on a document, to have, and make and retain copies of, that document.
- (2) For the purposes of subsection (1) the Minister may —
  - (a) request a commission to furnish information to the Minister;
  - (b) request a commission to give the Minister access to information;
  - (c) for the purposes of paragraph (b) make use of the staff and facilities of a commission to obtain the information and furnish it to the Minister.
- (3) A commission is to comply with a request under subsection (2) and make its staff and facilities available to the Minister for the purposes of subsection (2)(c).
- (4) In this section —

*document* includes any tape, disc or other device or medium on which information is recorded or stored mechanically, photographically, or electronically or otherwise;

*information* means information specified, or of a description specified, by the Minister that relates to the functions of a commission.

**Division 3 — Director and other staff of a commission**

**27. Appointment and functions of Director and other staff**

- (1) There are to be appointed under and subject to Part 3 of the *Public Sector Management Act 1994* a Director of each commission and such other officers as may be necessary to enable that commission to perform its functions.



- (2) The function of a Director is to administer the day to day operations of a commission.
- (3) Despite anything in this section, to the extent that there is, in the case of a person who is appointed under subsection (1) to be the Director or an officer of a commission and who is a member of the Senior Executive Service within the meaning of the *Public Sector Management Act 1994*<sup>3</sup>, any inconsistency between this Act and that Act, that Act prevails.

*[Section 27 amended by No. 32 of 1994 s. 3(2).]*

**28. Engagement of consultants**

- (1) A commission may, with the prior approval of the Minister, engage under contracts for services such consultants and persons to provide professional, technical or other assistance as it considers necessary to enable that commission to perform its functions.
- (2) A person engaged under subsection (1) must disclose to the chairperson of the board any direct or indirect pecuniary interest in a matter to which his or her services relate, as soon as possible after the relevant facts have come to his or her knowledge.  
Penalty: \$5 000.
- (3) The chairperson of the board must cause that disclosure to be recorded in the minutes of the next meeting of the board.
- (4) If the chairperson of a board fails to comply with subsection (3), he or she —
  - (a) is liable to the commission for any damage or loss suffered by the commission as a result of that failure; and
  - (b) commits an offence and is liable to a fine of \$5 000.

**29. Use of staff and facilities of departments, agencies and instrumentalities**

- (1) A commission may by arrangement make use, either part-time or full-time, of —
  - (a) the services of staff employed in the Public Service 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 or of a State agency or instrumentality.
- (2) An arrangement under subsection (1) is to be made between the commission and the Minister concerned, and on such terms and conditions as they agree with the Minister for Public Sector Management<sup>2</sup>.

**30. Secrecy**

- (1) A person to whom this section applies must not, either directly or indirectly, except in the performance of a function 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 or her by reason of his or her 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: \$10 000.

- (2) This section applies to every person who is or has been —
  - (a) a board member or a member of a committee;
  - (b) an officer or employee; or
  - (c) a person referred to in section 28 or 29.

**Division 4 — Financial provisions**

**31. Funds of a commission**

- (1) The funds available for the purpose of enabling a commission to perform its functions consist of —
  - (a) moneys from time to time appropriated by Parliament; and
  - (b) any other moneys lawfully received by, made available to, or payable to the commission.
- (2) An agency special purpose account called the (*name of region*) Development Commission Account is established for each commission under section 16 of the *Financial Management Act 2006* to which the funds for each commission referred to in subsection (1) are to be credited.
- (3) The funds standing to the credit of a commission in an Account are to be applied in payment of —
  - (a) interest on and repayments of moneys advanced to the commission;
  - (b) the remuneration and travelling and other allowances payable to the appointed members or members of committees of the commission under section 19; and
  - (c) any other expenditure lawfully incurred by the commission in the performance of its functions.

[Section 31 amended by No. 28 of 2006 s. 371; No. 77 of 2006 s. 17.]

**32. Application of *Financial Management Act 2006* and the *Auditor General Act 2006***

- (1) The provisions of the *Financial Management Act 2006* and the *Auditor General Act 2006* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of each commission and its operations.

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- (2) The provisions mentioned in subsection (1) apply in respect of a commission and its operations as if the term **Minister** used in those provisions had the meaning given by section 3(3) of this Act.

*[Section 32 amended by No. 18 of 2001 s. 5; No. 77 of 2006 s. 17.]*

## **Part 4 — Regional Development Council**

### **33. Regional Development Council established**

There is established by this section a council called the Regional Development Council.

### **34. Membership of Council**

- (1) The Council is to consist of —
  - (a) the chairperson of each commission; and
  - (b) 3 persons appointed by the Minister.
- (2) The Minister is to appoint a member of the Council to be the chairperson.
- (3) Two of the persons appointed by the Minister under subsection (1)(b) are to have experience and expertise in local government and are to be selected from nominations provided by the Western Australian Local Government Association constituted under section 9.58 of the *Local Government Act 1995*.

*[Section 34 amended by No. 17 of 1996 s. 5; No. 49 of 2004 s. 13.]*

### **35. Functions of the Council**

- (1) The function of the Council is to be the advisory body to the Minister on all regional development issues and for that purpose —
  - (a) to promote development in all regions;
  - (b) to develop policy proposals on development issues affecting one or more of the regions;
  - (c) to facilitate liaison between commissions and relevant government agencies and the coordination of their respective functions;

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- (d) to promote liaison between local, State and Commonwealth government bodies with respect to regional issues, and the coordination of their respective policies on those issues; and
  - (e) to report to the Minister on matters referred to it by the Minister.
- (2) The Council is to report to the Minister on a matter referred to it by the Minister within such period as the Minister directs.

**36. Council procedures**

- (1) The Council is to meet at least twice each year.
- (2) If the chairperson of a commission is unable to attend a Council meeting, an appointed member of the board, nominated by that chairperson, may attend in his or her place as a member of the Council.
- (3) Subject to the directions of the Minister, the Council may determine its own procedures.

**37. Protection of Council members**

A Council member is not personally liable for any act done or omitted to be done in good faith by the Council or by that person acting as a Council member.

## Part 5 — Vesting of land of former authorities

### 38. Definition

In this Part —

*land* includes any estate or interest in land.

### 39. Vesting of land

- (1) On the repeal of the *Geraldton Mid-West Development Authority Act 1988* by section 8(3) all land that immediately before that repeal was vested in the Geraldton Mid-West Development Authority passes to and becomes vested in the Mid West Development Commission.
- (2) On the repeal of the *South West Development Authority Act 1984* by section 11(3) all land that immediately before that repeal was vested in the South West Development Authority passes to and becomes vested in the South West Development Commission.

### 40. Powers in relation to land

- (1) A commission referred to in section 39 may do all things necessary or convenient to be done for the purpose of dealing with the land referred to in that section and may in particular —
  - (a) manage and dispose of the land;
  - (b) subdivide, amalgamate, improve, develop and alter the land; and
  - (c) enter into any contract or arrangement with a person, including a public authority or a local government, for the doing of anything that the commission is authorised to do under this section.
- (2) Without limiting section 25, a commission may enter into a transaction, contract or arrangement under subsection (1) only with the approval of the Minister and subject to any conditions attached to that approval.

*[Section 40 amended by No. 14 of 1996 s. 4.]*

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**41. Registration of documents**

- (1) The Registrar of Titles, the Registrar of Deeds, and any other person authorised by a written law to record and give effect to the registration of documents relating to transactions affecting any estate or interest in land, are to take note of section 39 and are empowered to record and register in the appropriate manner such of those documents as are necessary to give effect to that section.
- (2) Without limiting subsection (1), a statement in an instrument executed by a commission that any estate or interest in land has become vested in the commission under section 39 is evidence of that fact.

*[Section 41 amended by No. 31 of 1997 s. 78.]*



## Part 6 — General

### 42. Regulations

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.

### 43. Transitional provisions

Schedule 3 has effect for the transition to this Act from the provisions of the repealed Acts.

[44. *Omitted under the Reprints Act 1984 s. 7(4)(e).*]

### 45. Review of Act

- (1) The Minister is to appoint a panel to carry out a review of the operation and effectiveness of this Act as soon as is practicable after the expiry of 5 years from the commencement of this section, and in the course of that review the panel is to consider and have regard to —
  - (a) the effectiveness of the operations of each commission; and
  - (b) such matters, other than those referred to in paragraph (a), as appear to the panel to be relevant to the operation and effectiveness of this Act.
- (2) The panel appointed under subsection (1) is to report to the Minister, who is to prepare a report based on the review made under that subsection and, as soon as is practicable after that preparation, cause that report to be laid before each House of Parliament.

## **Schedule 1**

### **Regions defined by reference to districts**

[Sections 3, 4, 5, 6, 7, 8,  
9, 10, 11, 12 and 13]

#### ***Part A — Gascoyne region***

The local government districts of Carnarvon, Exmouth, Shark Bay and Upper Gascoyne.

#### ***Part B — Goldfields-Esperance region***

The local government districts of Coolgardie, Dundas, Esperance, Kalgoorlie-Boulder, Laverton, Leonora, Menzies, Ngaanyatjarraku and Ravensthorpe.

#### ***Part C — Great Southern region***

The local government districts of Albany (Town), Albany (Shire), Broomehill, Cranbrook, Denmark, Gnowangerup, Jerramungup, Katanning, Kent, Kojonup, Plantagenet, Tambellup and Woodanilling.

#### ***Part D — Kimberley region***

The local government districts of Broome, Derby-West Kimberley, Halls Creek and Wyndham-East Kimberley.

#### ***Part E — Mid West region***

The local government districts of Carnamah, Chapman Valley, Coorow, Cue, Geraldton, Greenough, Irwin, Meekatharra, Mingenev, Morawa, Mt. Magnet, Mullewa, Murchison, Northampton, Perenjori, Sandstone, Three Springs, Wiluna and Yalgoo.

#### ***Part F — Peel region***

The local government districts of Boddington, Mandurah, Murray, Serpentine-Jarrahdale and Waroona.

#### ***Part G — Pilbara region***

The local government districts of Ashburton, East Pilbara, Port Hedland and Roebourne.

***Part H — South West region***

The local government districts of Augusta-Margaret River, Boyup Brook, Bridgetown-Greenbushes, Bunbury, Busselton, Capel, Collie, Dardanup, Donnybrook-Balingup, Harvey, Manjimup and Nannup.

***Part I — Wheatbelt region***

The local government districts of Beverley, Brookton, Bruce Rock, Chittering, Corrigin, Cuballing, Cunderdin, Dandaragan, Dalwallinu, Dowerin, Dumbleyung, Gingin, Goomalling, Kellerberrin, Kondinin, Koorda, Kulin, Lake Grace, Merredin, Moora, Mt. Marshall, Mukinbudin, Narembene, Narrogin (Town), Narrogin (Shire), Northam (Town), Northam (Shire), Nungarin, Pingelly, Quairading, Tammin, Toodyay, Trayning, Victoria Plains, Wagin, Wandering, West Arthur, Westonia, Wickopin, Williams, Wongan-Ballidu, Wyalkatchem, Yilgarn and York.

*[Schedule 1 inserted by No. 14 of 1996 s. 4.]*

## **Schedule 2**

[Sections 3, 17 and 19]

### **Part 1 — Constitution and proceedings of a board**

#### **1. Term of office of appointed member**

- (1) An appointed member holds office for such term, being not more than 3 years, as is specified in the member's instrument of appointment, but he or she is eligible —
  - (a) for further reappointment, if the reappointment is consecutive to a previous appointment and will not result in the member holding office continually for a time which exceeds 6 years; or
  - (b) to be reappointed from time to time, if the term of the reappointment is not consecutive to a previous appointment.
- (2) An appointed member, unless the member sooner dies or resigns or is removed from office, continues in office until a successor comes into office, despite the fact that the term for which the member was appointed may have expired.

*[Clause 1 amended by No. 16 of 1997 s. 6(1).]*

#### **2. Vacation of office by appointed member**

- (1) An appointed member may resign from office by notice in writing delivered to the Minister.
- (2) An appointed member may be removed from office at any time by the Minister —
  - (a) for mental or physical incapacity, incompetence, neglect of duty or misconduct that impairs the performance of his or her functions as a member and is proved to the satisfaction of the Minister;
  - (b) if the member is an insolvent under administration, as that term is defined in the *Corporations Act 2001* of the Commonwealth;
  - (c) if the member is absent without leave of the board from 3 consecutive meetings of the board of which the member has had notice; or

- (d) for any other act or omission that, in the opinion of the Minister, may cause prejudice or injury to the board.
- (3) The contravention of, or failure to comply with, section 21, 28(3) or 30 constitutes misconduct for the purposes of subclause (2).
- (4) The Minister is to terminate the appointment of a member who was nominated under section 16(b) if that person has ceased to be a member of the council of a local government and has not resigned from office.

*[Clause 2 amended by No. 16 of 1997 s. 6(2); No. 10 of 2001 s. 220.]*

### **3. Temporary members**

- (1) If an appointed member is unable to act by reason of sickness, absence or other cause, the Minister may appoint another person to act temporarily in the member's place, and while so acting according to the tenor of his or her appointment the other person has all the functions of a board member.
- (2) An act or omission of a person acting in place of another under this clause may not be questioned on the ground that the occasion for his or her appointment or acting had not arisen or had ceased.
- (3) The appointment of a person as a temporary member may be terminated at any time by the Minister.

### **4. Meetings of a board**

- (1) The first meeting of a board is to be convened by the chairperson and, subject to subclause (2), subsequent meetings are to be held at such times and places as the board determines.
- (2) A special meeting of a board may at any time be convened by the chairperson.
- (3) At a meeting of a board —
  - (a) the chairperson;
  - (b) in the absence of the chairperson, the deputy chairperson; or
  - (c) in the absence of the chairperson and the deputy chairperson, a person elected by the board members present at the meeting from among their number,

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is to preside.

- (4) At any meeting of a 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 remains unresolved until a subsequent meeting of the board; and
  - (c) if the votes cast on a question at a meeting of the board were equally divided and the votes cast on the question at a subsequent meeting of the board are again equally divided, the question is taken to have been resolved in the negative.
- (5) A board is to cause accurate minutes to be kept of the proceedings at its meetings.

**5. Resolution may be passed without meeting**

A resolution in writing signed or assented to by letter or facsimile by each board member is as valid and effectual as if it had been passed at a meeting of that board.

**6. Leave of absence**

A board may grant leave of absence to a board member on such terms and conditions as it thinks fit.

**7. Board to determine own procedures**

Subject to this Act, a board may determine its own procedures.

**Part 2 — Regional Development Advisory Committees and other committees**

**Division 1 — Regional Development Advisory Committees**

**8. Establishment**

- (1) The Minister may from time to time establish —
- (a) a Regional Development Advisory Committee (*a Committee*) for a commission; or

- (b) 2 or more such Committees for specified parts of the commission's region,  
if the board of that commission so recommends.
- (2) The Minister is to consult with the regional community in such manner as he or she thinks appropriate in determining the structure of a Committee.
- (3) For the purpose of appointing a Committee, the board is to —
- (a) cause advertisements to be placed in newspapers circulating in the region, calling for the submission of the names of persons who are able and willing to be candidates for appointment as members; and
  - (b) invite organizations, or individuals, to submit the names of persons who are able and willing to be candidates for appointment as members.
- (4) No more than 2 board members may be members of a single Committee.
- (5) The Minister is to appoint a member of a Committee to be the chairperson of that Committee.
- (6) The Minister may alter or reconstitute a Committee and, if a board so recommends, may discharge a Committee.

**9. Functions**

The functions of a Committee are, in relation to the region or part of the region as the case requires, to —

- (a) advise the board on the performance of its functions; and
- (b) ensure that the board is fully informed of, and has regular access to a broad cross-section of community views on, matters of economic and social development.

**10. Committee procedures and time for reporting**

- (1) Subject to the directions of the board, a Committee may determine its own procedures.

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- (2) A Committee is to report to the board on a matter referred to it by the board within such period as the board directs.

**Division 2 — Other committees**

**11. Establishment of other committees**

- (1) A board may from time to time establish a committee for the purpose of considering a particular matter specified by the board and prescribe the membership, constitution and procedures of the committee.
- (2) At least one member of the board must be a member of the committee.
- (3) A board may discharge, alter, or reconstitute any such committee.
- (4) Subject to this clause, a committee may determine its own procedures.



## Schedule 3

[section 43]

### Transitional provisions

#### 1. Succession by new bodies

- (1) On the repeal of the *Goldfields-Esperance Development Authority Act 1990* by section 5(3) of this Act —
  - (a) the Goldfields-Esperance Development Commission (the ***new body***) is the successor to the Goldfields-Esperance Development Authority (the ***existing body***); and
  - (b) the person who, immediately before the repeal of that Act, held the position of Director of the existing body under section 15(1) of that Act, other than in an acting capacity, is to be taken to have been appointed as Director of the new body under section 27(1) of this Act.
- (2) On the repeal of the *Great Southern Development Authority Act 1987* by section 6(3) of this Act, the Great Southern Development Commission (the ***new body***) is the successor to the Great Southern Development Authority (the ***existing body***).
- (3) On the repeal of the *Geraldton Mid-West Development Authority Act 1988* by section 8(3) of this Act —
  - (a) the Mid West Development Commission (the ***new body***) is the successor to the Geraldton Mid-West Development Authority (the ***existing body***); and
  - (b) the person who, immediately before the repeal of that Act, held the position of Director of the existing body under section 14(1) of that Act, other than in an acting capacity, is to be taken to have been appointed as Director of the new body under section 27(1) of this Act.
- (4) On the repeal of the *Pilbara Development Commission Act 1992* by section 10(3) of this Act, the Pilbara Development Commission (the ***new body***) is the successor to the Pilbara Development Commission (the ***existing body***) as established by that Act.

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- (5) On the repeal of the *South West Development Authority Act 1984* by section 11(3) of this Act —
- (a) the South West Development Commission (the *new body*) is the successor to the South West Development Authority (the *existing body*); and
  - (b) the person who, immediately before the repeal of that Act, held the position of Executive Director of the existing body under section 17(1) of that Act, other than in an acting capacity, is to be taken to have been appointed as Director of the new body under section 27(1) of this Act.

**2. Assets, liabilities, etc.**

Without limiting section 39, on the repeal of a repealed Act —

- (a) all property and every right or interest in property that immediately before that repeal was vested in an existing body passes to and becomes vested in the new body;
- (b) all rights, liabilities and obligations of an existing body that were in existence immediately before that repeal devolve on the new body;
- (c) all contracts, agreements and undertakings made by and with an existing body and having effect immediately before that repeal have effect as contracts, agreements and undertakings made by and with the new body, and may be enforced by or against the new body accordingly; and
- (d) any legal or other proceedings or any remedies that might, but for this clause, have been commenced or continued or available by or against or to the existing body may be commenced or continued, or are available, by or against or to the new body, as the case may be.

**3. Moneys in Account**

On the repeal of a repealed Act, moneys standing to the credit of an Account established under that repealed Act are moneys standing to the credit of the corresponding Account established by section 31(2) of this Act.

**4.      References to repealed legislation**

A reference in a document executed before the repeal of a repealed Act to that Act or a provision of that Act is to be construed, unless the context otherwise requires, as if that reference had been amended to a reference to this Act or to the corresponding provision of this Act, as the case may be.

**5.      References to existing body**

A reference in a document executed before the repeal of a repealed Act to an existing body is to be construed, unless the context otherwise requires, as if that reference had been amended to a reference to the corresponding new body.

**6.      Annual report by existing bodies**

- (1) On the repeal of a repealed Act, the accountable authority, within the meaning in the *Financial Administration and Audit Act 1985*, of an existing body is to report in respect of the existing body, as required by section 66 of that Act, for the period from the preceding 1 July to the time of the repeal, and Division 14 of Part II of that Act applies as if that period were a full financial year.
- (2) An existing body and its accountable authority as constituted under a repealed Act continues in existence for the purpose of subclause (1) and for that purpose only.
- (3) A new body is to arrange for the provision of such clerical and other assistance to an existing body as is reasonably required for the purpose of subclause (1).

*[Schedule 4 omitted under the Reprints Act 1984 s. 7(4)(e).]*

### Notes

<sup>1</sup> This is a compilation of the *Regional Development Commissions Act 1993* and includes the amendments made by the other written laws referred to in the following table <sup>1a</sup>. The table also contains information about any reprint.

#### Compilation table

Short title	Number and year	Assent	Commencement
<i>Regional Development Commissions Act 1993</i>	53 of 1993	22 Dec 1993	8 Apr 1994 (see s. 2 and <i>Gazette</i> 8 Apr 1994 p. 1462)
<i>Acts Amendment (Public Sector Management) Act 1994 s. 3(2)</i>	32 of 1994	29 Jun 1994	1 Oct 1994 (see s. 2 and <i>Gazette</i> 30 Sep 1994 p. 4948)
<i>Local Government (Consequential Amendments) Act 1996 s. 4</i>	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
<i>Statutory Corporations (Liability of Directors) Act 1996 s. 3</i>	41 of 1996	10 Oct 1996	1 Dec 1996 (see s. 2 and <i>Gazette</i> 12 Nov 1996 p. 6301)
<i>Regional Development Commissions Amendment Act 1997</i>	16 of 1997	8 Jul 1997	2 Aug 1997 (see s. 2 and <i>Gazette</i> 1 Aug 1997 p. 4391)
<i>Acts Amendment (Land Administration) Act 1997 Pt. 51</i>	31 of 1997	3 Oct 1997	30 Mar 1998 (see s. 2 and <i>Gazette</i> 27 Mar 1998 p. 1765)
<b>Reprint of the <i>Regional Development Commissions Act 1993</i> as at 26 Nov 1999</b> (includes amendments listed above)			
<i>Corporations (Consequential Amendments) Act 2001 s. 220</i>	10 of 2001	28 Jun 2001	15 Jul 2001 (see s. 2 and <i>Gazette</i> 29 Jun 2001 p. 3257 and <i>Cwlth Gazette</i> 13 Jul 2001 No. S285)
<i>Regional Development Commissions Amendment Act 2001</i>	18 of 2001	18 Sep 2001	18 Sep 2001 (see s. 2)
<i>Regional Development Commissions Amendment Act 2003<sup>4</sup></i>	5 of 2003	24 Mar 2003	24 Mar 2003 (see s. 2)
<i>Local Government Amendment Act 2004 s. 13</i>	49 of 2004	12 Nov 2004	1 Apr 2005 (see s. 2 and <i>Gazette</i> 31 Mar 2005 p. 1029)

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Machinery of Government (Miscellaneous Amendments) Act 2006</i> Pt. 12 Div. 5	28 of 2006	26 Jun 2006	1 Jul 2006 (see s. 2 and <i>Gazette</i> 27 Jun 2006 p. 2347)
<b>Reprint 2: The Regional Development Commissions Act 1993 as at 15 Sep 2006</b> (includes amendments listed above)			
<i>Financial Legislation Amendment and Repeal Act 2006</i> s. 17	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)

<sup>1a</sup> [On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.](#)

**Provisions that have not come into operation**

<b><u>Short title</u></b>	<b><u>Number and year</u></b>	<b><u>Assent</u></b>	<b><u>Commencement</u></b>
<a href="#">Public Sector Reform Act 2010</a> s. 89 <sup>5</sup>	<a href="#">39 of 2010</a>	<a href="#">1 Oct 2010</a>	<a href="#">To be proclaimed (see s. 2(b))</a>

<sup>2</sup> Under the *Public Sector Management Act 1994* s. 112(2), a reference in a written law to the Public Service Commissioner is, unless the contrary intention appears or it is otherwise provided under the *Acts Amendment (Public Sector Management) Act 1994*, to be construed as if it had been amended to be a reference to the Minister for Public Sector Management (as defined in the *Interpretation Act 1984*). This reference was amended under the *Reprints Act 1984* s. 7(5)(a).

<sup>3</sup> Under the *Public Sector Management Act 1994* s. 112(1) a reference to the *Public Service Act 1978* is to be read as a reference to the *Public Sector Management Act 1994*. The reference was changed under the *Reprints Act 1984* s. 7(3)(gb).

<sup>4</sup> The *Regional Development Commissions Amendment Act 2003* s. 4(2) reads as follows:

“

- (2) The provision by a commission, within the meaning of the *Regional Development Commissions Act 1993*, of financial support in the form of a grant before the commencement of this Act is as valid, and is to be regarded as always having been as

valid, as it would have been if this Act had commenced before the financial support was provided.

<sup>5</sup> On the date as at which this compilation was prepared, the *Public Sector Reform Act 2010* s. 89 had not come into operation. It reads as follows:

**89. Various references to “Minister for Public Sector Management” amended**

- (1) This section amends the Acts listed in the Table.
- (2) In the provisions listed in the Table delete “Minister for Public Sector Management” and insert:

Public Sector Commissioner

**Table**

<u><i>Regional Development Commissions Act 1993</i></u>	<u>s. 19(1) and (2)(a), 29(2)</u>
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