

STATE TENDER BOARD.

No. 36 of 1965.

AN ACT to establish the State Tender Board of Western Australia; to provide for the purchase, custody and disposal of Stores and the provision of Services for the Government of the State; and for incidental and other purposes.

[Assented to 8th November, 1965.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *State Tender Board Act, 1965*. Short title.

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

Interpre-
tation.

3. In this Act unless the context requires otherwise—

“Board” means the State Tender Board of Western Australia established under this Act;

“Chairman” means the Chairman of the Board;

“Department” means a Department or Sub-Department established under the Public Service Act, 1904, and includes any branch of the Public Service of the State, Crown instrumentality, concern, hospital, board, body corporate or other body of whatever description, declared by the Governor by proclamation to be a Department for the purposes of this Act;

“member” means a member of the Board, and includes the Chairman;

“permanent head” in relation to a Department, means the officer immediately responsible for the management of the Department;

“public service” includes every department of the Government of the State, and every person or department employed for the purposes of the Government;

“stores” includes any property of or belonging to or in the care, custody or control of the State or of any Department.

Governor
may by
proclamation
declare
Departments.

4. (1) The Governor may at any time and from time to time by proclamation declare any branch of the Public Service of the State, Crown instrumentality, concern, hospital board, body corporate or other body of whatever description to be a Department within the meaning and for the purposes of this Act, and may in like manner declare that any Department shall from a date to be specified in the proclamation cease to be a Department under this Act.

(2) A proclamation made under this section may be cancelled or from time to time varied by a subsequent proclamation.

5. Subject to the general direction and control of the Treasurer, this Act shall be administered by the Board.

Adminis-
tration.

6. (1) For the purposes of this Act there shall be a board by the name of the State Tender Board of Western Australia.

Establish-
ment of
Board.

(2) The Board shall be a body corporate with perpetual succession and a common seal and in its corporate name shall be capable of suing and being sued and of acquiring, holding and disposing of real and personal property and of doing and suffering all that bodies corporate may do and suffer.

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

7. (1) The Board shall consist of not less than ten nor more than fifteen members appointed by the Governor, each of whom shall be the holder of an office in the public service, and be appointed as the holder for the time being of such office, specifying the office but without naming the holder.

Constitution
of Board.

(2) Each successive holder of an office in respect of which the holder is appointed a member of the Board and each person who for the time being occupies or performs the duties of that office shall, without further appointment or other authority and while he holds or occupies or performs the duties of that office, be deemed to have been appointed to be and shall be a member of the Board.

(3) The Treasurer shall appoint one of the members to be the Chairman of the Board.

(4) The exercise or performance of the functions, powers or duties of the Board is not affected by reason only of there being a vacancy in the office of a member or a defect or irregularity in or in connection with the appointment of any member.

Deputies for
members.

8. A member of the Board may nominate a person to be his deputy to attend meetings of the Board when the member is absent and when so attending the deputy shall be deemed to be a member and shall have and may exercise all the functions, powers and duties that the member for whom he is the deputy would have and could exercise under this Act.

Deputy
Chairman.

9. (1) The Board shall appoint a member to be Deputy Chairman.

(2) The Board may at any time terminate the appointment of a member as Deputy Chairman, and in that event shall appoint another member as Deputy Chairman.

Meetings
of the
Board.

10. (1) The Chairman shall convene the first meeting of the Board to be held at a time and place appointed by him and the Board shall meet accordingly, and thereafter shall hold such further meetings as it considers necessary for the conduct of its affairs.

(2) The Treasurer or the Chairman may at any time convene a meeting of the Board.

(3) The Chairman, or in his absence the Deputy Chairman, shall preside at any meeting of the Board, but if both the Chairman and the Deputy Chairman are absent, the members present shall elect one of their number present at the meeting to be the chairman thereof; and the Deputy Chairman or the person so elected, when so presiding, has and may exercise all the functions, powers and duties of the Chairman.

(4) At a meeting of the Board—

- (a) a quorum shall consist of not less than one-half of the number of members of the Board;
- (b) all questions arising at the meeting shall be decided by a majority of the members present and voting;
- (c) each member is entitled to one vote only on the determination of any question, except in the event of an equality of votes, in which case the Chairman shall have a second or casting vote

11. (1) In this section—

Transition
provisions
and savings.

“Tender Board” means the Tender Board referred to in the Treasury Regulations;

“Treasury Regulations” means the regulations cited as the Treasury Regulations made under the Audit Act, 1904, and published in the *Government Gazette* on the fourteenth day of July, nineteen hundred and forty-four.

(2) Subject to this Act, on the day on which this Act comes into operation—

- (a) the Tender Board is by force of this Act dissolved and shall cease to exist;
- (b) all stores and all property of every kind that, immediately preceding that day, were vested in or were under the care, custody or control of the Tender Board for the purposes of the Treasury Regulations shall be deemed to have been lawfully acquired and shall by force of this section, without any conveyance, transfer or assignment, be transferred to and vested in, or placed under the care, custody or control of the Board, subject to any debts, trusts, and liabilities affecting them;

- (c) all powers, functions, rights, duties, obligations and remedies of the Tender Board under the Treasury Regulations shall be discharged, preserved, vested in, carried on, continued and assumed completely and without any abatement or cessation in any respect whatever, by the Board;
- (d) all contracts made before that day by and with the Tender Board have effect as contracts by and with the Board and may be enforced by and with the Board accordingly; and
- (e) all moneys due to the Tender Board shall for the purposes of the recovery thereof be deemed moneys due to Her Majesty, and may be sued for and recovered by the Board.

(3) Any act or thing done or purporting to have been done and any contract entered into and any payment made or received under the Audit Act, 1904, and the Treasury Regulations by the Tender Board prior to the commencement of this Act is hereby ratified as lawful, confirmed and validated.

Exemption
from
personal
liability.

12. A person who is or has been a member or deputy for a member of the Board is not personally liable for anything done or omitted in good faith in or in connection with the exercise or purported exercise of any power conferred on, or the carrying out of any duty imposed on, the Board by this Act.

Functions
of Board.

13. (1) The functions of the Board are—

- (a) to give effect to the purposes of this Act;
- (b) to arrange for and control the purchase, custody and disposal of stores and the provision of services for Departments, and to determine the methods whereby those stores and services may be procured, supplied, transported, delivered, stored and disposed of;

- (c) to advertise for tenders for the supply of stores and provision of services and to examine and, if the Board thinks fit, to accept or reject any tenders; and
- (d) to carry out such other functions as may be prescribed.

(2) The Board has power to do all things necessary or convenient to be done in connection with or incidental to the performance of its functions under this Act and all such things related to the performance of those functions as the Board may lawfully do, but shall not without the approval of the Governor enter into any contract the consideration of which exceeds the sum of five thousand pounds, or such other amount as the Treasurer may fix, and is hereby authorised to fix, from time to time.

14. The records of the Board shall comprise—

Records of
the Board.

- (a) the Minute Book;
- (b) the Advertisement Book;
- (c) the Register of Tenders;
- (d) Contractors' Deposits and Sale of Documents Accounts;
- (e) the Register of Bank Guarantees and Fixed Deposits;
- (f) the Register of Complaints against Contractors; and
- (g) such other records as the Board may direct from time to time.

15. Each permanent head, whenever requested by the Board so to do, shall furnish the Board with such returns, estimates and information as the Board may require.

Returns and
estimates
to be
furnished.

Board
to call for
tenders.

16. (1) The Board shall determine the manner in which supplies of stores are to be procured and services to be provided, whether by annual contract or otherwise, and shall advertise publicly for tenders or take such other means of procuring those stores or providing those services as, having regard to the circumstances of the particular case, the Board may consider advisable.

(2) Where it appears to the Board to be of advantage to the Government of this State so to do, the Board may call for tenders for certain stores in any country or State other than this State, and appoint the places where those tenders may be received and the persons who shall open them, and determine the manner in which the contents of those tenders shall be communicated to the Board.

(3) Notwithstanding the provisions of subsection (2) of this section, where tenders for stores are called for pursuant to that subsection, tenders for those stores shall also be called for within this State, and the opening of those tenders in this State and in each of the other places appointed by the Board pursuant to that subsection shall be effected simultaneously or as near thereto as is reasonably practicable.

Advertise-
ment for
tenders.

17. (1) Every advertisement calling for tenders for the supply of stores and provision of services shall contain general particulars of the stores or services required to be supplied or provided, and such other particulars as are prescribed.

(2) The Board shall exhibit or cause to be exhibited at its office and at such other place or places as it may determine, the form of tender, the schedule and conditions of contract, a copy of the specification in relation to the stores to be supplied, samples (if any) of those stores, and such other particulars as the Board may think fit.

18. (1) Where a tender under this Act is accepted the Board may enter into a contract with the tenderer for supply, and the contract shall include all or any of such general conditions as may be prescribed and with regard to particular supplies such special conditions as the Board may determine.

Board may enter into contracts.

(2) The Board may for the purposes of this Act vary or discharge any contract entered into by it under the provisions of this Act.

19. (1) The Board shall publish in the *Government Gazette* notification of the acceptance of tenders and any cancellations of contracts and shall have the custody of contract documents and samples for stores contracts.

Notification of acceptance of tenders to be published.

(2) The Board may disqualify from tendering, for any period it may think fit, any person found to have been guilty of any default in carrying out a previous contract or who in the opinion of the Board is for any other reason ineligible.

20. (1) All contracts shall be made by the Board for such supplies, stores and services as may be required by or for Departments under this Act, except such supplies, stores or services as the Treasurer exempts, and is hereby authorised to exempt, from the provisions of this subsection.

Contracts for supplies, etc., to be made by Board.

(2) General contracts made by the Board shall be binding upon all Departments under this Act.

(3) Special contracts made by the Board shall bind the Departments for whose services the contracts were taken, but those contracts shall, where not prejudicial to the Departments specially concerned, be available to other Departments under this Act subject to conditions determined by the Board.

Purchase
of stores
not under
contract.

21. Notwithstanding the provisions of this Act, the Board may in writing authorise purchase of stores not under contract to a value not exceeding such amount as is prescribed for that purpose by regulations made under the Audit Act, 1904, and in force from time to time.

Regulations.

22. The Governor may make regulations prescribing forms, fees and other matters and things whatsoever that by this Act are contemplated, required or permitted to be prescribed, or that appear to the Governor necessary or convenient to be prescribed, for the purpose of effectually carrying out the provisions of this Act or enabling or facilitating the performance by the Board of its functions under this Act, or for better effecting the objects and purposes of this Act.
