

Western Australia

## **Inventions Act 1975**

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# Inventions Act 1975

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## CONTENTS

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1.	Short title	1
2.	Commencement	1
3.	Definitions	1
4.	Minister may provide or arrange assistance in relation to inventions	2
5.	Inventions Assistance Trust Fund	3
6.	Inventions Advisory Committee	4
7.	Members and deputies	4
8.	Term of office	5
9.	Validity of acts of Committee	6
10.	Meetings	6
11.	Functions of Committee	7
12.	Inventions by Committee members	7
13.	Committee may seek advice	7
14.	Secretary and other officers	8
15.	Protection of members and officers	8
16.	Secrecy	8
17.	Regulations	9

## NOTES



## **Inventions Act 1975**

**An Act to enable assistance to be provided to persons undertaking the development or exploitation of inventions, to establish an Inventions Advisory Committee, and for incidental and other purposes.**

*[Assented to 24 October 1975.]*

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. Short title**

This Act may be cited as the *Inventions Act 1975*.

**2. Commencement**

The provisions of this Act shall come into operation on such date or dates as is or are, respectively, fixed by proclamation <sup>1</sup>.

**3. Definitions**

In this Act, unless the contrary intention appears —

“**department**” means a department of the Public Service of the State;

“**invention**” means —

- (a) any invention for which a patent has been granted under the *Patents Act 1952*, as subsequently

**s. 4**

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amended, of the Parliament of the Commonwealth or which is the subject of an application for a patent made under that Act as so amended; or

- (b) any design which is registered under the *Designs Act 1906*, as subsequently amended, of the Parliament of the Commonwealth or which is the subject of an application for registration made under that Act as so amended;

**“member”** means any member of the Committee including the member who is Chairman of the Committee;

**“person”** includes a body or association (corporate or unincorporate) and a partnership;

**“section”** means section of this Act;

**“the Committee”** means the Inventions Advisory Committee established by section 6;

**“the Fund”** means the Inventions Assistance Trust Fund established by and kept under section 5.

*[Section 3 amended by No. 2 of 1978 s.2.]*

**4. Minister may provide or arrange assistance in relation to inventions**

- (1) Where the Minister is of the opinion that an invention developed in the State is likely —
  - (a) to lead to the establishment of an industry in the State;
  - (b) to be of significant benefit to any industry already established in the State; or
  - (c) to be of advantage to the State in any other way,

the Minister may provide, or arrange the provision of, assistance to any person undertaking the continued development, further development or exploitation of that invention.

- (2) Assistance provided or arranged under this Act may include —
  - (a) financial assistance by way of grant or loan;

- (b) practical assistance arranged by the Minister by agreement with the Minister administering any department or with the persons controlling and managing any statutory authority or with the persons controlling and maintaining any tertiary education institution;
  - (c) such advice or other form of assistance as the Minister considers appropriate.
- (3) The Minister may in respect of financial assistance provided to a person under this Act —
- (a) enter into an agreement with that person setting out the terms and conditions of that assistance;
  - (b) direct the amount to be paid by way of assistance and the manner and times of payments; and
  - (c) in the case of assistance rendered by way of loan, take such security by way of mortgage or otherwise as the Minister thinks fit and direct the rate of interest (if any) to be charged and the manner and times of repayments of moneys so lent.

## **5. Inventions Assistance Trust Fund**

- (1) An account called the Inventions Assistance Trust Fund shall be established and kept in the Treasury forming part of the Trust Fund constituted under section 9 of the *Financial Administration and Audit Act 1985*.
- (2) The Fund shall be administered by the Minister and financial assistance provided by him under this Act shall be granted or lent out of moneys standing to the credit of the Fund.
- (3) The following moneys shall be credited to the Fund, that is to say —
  - (a) such moneys as are, from time to time appropriated by Parliament for that purpose;

- (b) such moneys as may be received by the State for application towards the provision of assistance to persons engaged in the development or exploitation of inventions; and
- (c) such moneys as are received by or for the Minister in the form of payments made —
  - (i) pursuant to agreements entered into under paragraph (a) of subsection (3) of section 4; or
  - (ii) by way of repayment of, or payment of interest on, moneys lent from moneys standing to the credit of the Fund.

*[Section 5 amended by No. 49 of 1996 s.64.]*

**6. Inventions Advisory Committee**

For the purposes of this Act there shall be established a committee to be known as the Inventions Advisory Committee.

**7. Members and deputies**

- (1) The Committee shall be appointed by the Minister and shall consist of the following members, namely —
  - (a) one person who is an officer of the department known as the Department of Industrial Development and Commerce of the Public Service of the State who shall be Chairman of the Committee;
  - (b) four persons who are members of the Western Australian branch of the body known as the Inventors Association of Australia appointed after consultation by the Minister with that branch of that body;
  - (c) one person who is an engineer employed in the department known as the Public Works Department nominated in writing by the Director of Engineering in that department; and



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- (d) one person who has, or two persons who have, in the opinion of the Minister, had experience and shown capacity in matters relating to science, technology, industry, finance, administration or the acquisition and disposal of rights in inventions.
- (2) The Minister may appoint persons to be deputies of the several members of the Committee.
- (3) Any provision of subsection (1) of this section as to eligibility, qualifications, consultation or nomination that applies to or in relation to the appointment of a member applies to or in relation to the appointment of a deputy of that member.
- (4) A person appointed pursuant to subsection (2) of this section is, in the event of the absence from a meeting of the Committee of the member of whom he is the deputy, entitled to attend that meeting and, when so attending, is deemed to be a member and has all the powers, functions and duties of the member of whom he is the deputy.

*[Section 7 amended by No. 63 of 1981 Schedule.]*

**8. Term of office**

- (1) Subject to this Act, each member shall hold office for a period of three years from the date of his appointment and is eligible for re-appointment.
- (2) The Minister may grant leave of absence to a member on such terms and conditions as the Minister determines.
- (3) The Minister may terminate the appointment of a member who, in the opinion of the Minister, because of illness, incapacity, failure to attend meetings of the Committee or any other reason, has ceased to perform or be able to perform his duties as a member.
- (4) If —
- (a) a member —

**s. 9**

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- (i) dies;
- (ii) resigns his office as member by writing under his hand addressed to the Minister; or
- (iii) ceases to be eligible to be a member; or
- (b) the appointment of a member is terminated pursuant to subsection (3) of this section,

the office of that member becomes vacant.

- (5) Where the office of a member becomes vacant in a manner referred to in subsection (4) of this section the Minister may appoint a person to the vacant office for the unexpired part of the term of the office which so became vacant.

**9. Validity of acts of Committee**

An act or proceeding of the Committee is not invalid by reason only of any vacancy in the office of any member or of any defect or irregularity in the appointment of any member or in the appointment of any deputy of a member.

**10. Meetings**

- (1) The Chairman of the Committee shall convene meetings of the Committee at such times and places as are necessary to enable it to discharge its functions and duties under this Act.
- (2) At any meeting of the Committee five members constitute a quorum.
- (3) The Chairman shall preside at all meetings of the Committee at which he is present and his deputy shall preside at all meetings at which he, but not the Chairman, is present but where neither the Chairman nor his deputy is present at a meeting of the Committee, the members present shall appoint one of their number to preside at the meeting.
- (4) At any meeting of the Committee —

- (a) subject to section 12, the members other than the Chairman have a deliberative vote on any question and the question shall be decided by a majority of those votes; and
  - (b) if the deliberative votes on any question are equally divided, the Chairman has a casting vote.
- (5) The Committee shall keep a record of proceedings at its meetings and shall make that record available on demand to the Minister at any time.

**11. Functions of Committee**

The functions of the Committee shall be —

- (a) to examine and evaluate any invention referred to it by the Minister; and
- (b) to advise the Minister in relation to the exercise of the powers conferred on him by section 4.

**12. Inventions by Committee members**

A member is not entitled to participate in the formulation of any advice to be given to the Minister concerning an invention developed by that member or to vote, at a meeting of the Committee, on any question relating to such an invention.

**13. Committee may seek advice**

- (1) The Committee may request any person for advice on any matter, and a person so requested may attend and speak at a meeting of the Committee but may not vote on any question arising at the meeting.
- (2) A person requested to advise the Committee pursuant to subsection (1) of this section may be paid such remuneration as the Minister determines.

**s. 14**

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**14. Secretary and other officers**

- (1) There shall be a secretary to the Committee and such other officers of the Committee as are necessary for its proper functioning.
- (2) The officers of the Committee shall be appointed and shall hold office subject to and in accordance with Part 3 of the *Public Sector Management Act 1994*.
- (3) An officer of the Committee may hold office as such in conjunction with any other office in the Public Service of the State.

*[Section 14 amended by No. 32 of 1994 s.3(1).]*

**15. Protection of members and officers**

A member, or the deputy of a member, or an officer of the Committee is not personally liable for any act or omission by him, or by the Committee, 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.

**16. Secrecy**

- (1) This section applies to a person who is, or has been, a member, or the deputy of a member, or an officer of the Committee and to a person who has been requested to advise the Committee pursuant to section 13.
- (2) A person to whom this section applies shall not, either directly or indirectly, except in the performance of a function or duty under or in connection with this Act —

- (a) make a record of, or divulge or communicate to any person, any information concerning any invention or concerning the affairs of another person being information acquired by him by reason of his office as a member or the deputy of a member, or his employment as an officer of the Committee or his position as an adviser to the Committee; or
- (b) produce to any person a document relating to any invention or relating to the affairs of another person being a document furnished for the purposes of this Act.

Penalty: \$1 000.

**17. Regulations**

The Governor may make regulations, not inconsistent with this Act, prescribing any matter that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

**NOTES**

- <sup>1.</sup> This is a compilation of the *Inventions Act 1975* and includes all amendments effected by the other Acts referred to in the following Table.

**Compilation table**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Inventions Act 1975</i>	56 of 1975	24 Oct 1975	19 Mar 1976 (see <i>Gazette</i> 19 Mar 1976 p.779)
	2 of 1978	11 May 1978	11 May 1978
	63 of 1981	13 Oct 1981	13 Oct 1981
<i>Acts Amendment (Public Sector Management) Act 1994, Part 2</i>	32 of 1994	29 Jun 1994	1 Oct 1994 (see <i>Gazette</i> 30 Sep 1994 p.4948)
<i>Financial Legislation Amendment Act 1996, section 64</i>	49 of 1996	25 Oct 1996	25 Oct 1996 (see section 2 (1))