



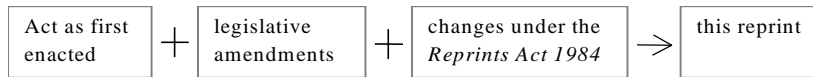
Western Australia

# **Minerals and Energy Research Act 1987**

**Reprint 2: The Act as at 3 July 2009**

## Guide for using this reprint

### *What the reprint includes*



### *Endnotes, Compilation table, and Table of provisions that have not come into operation*

1. Details about the original Act and legislation that has amended its text are shown in the Compilation table in endnote 1, at the back of the reprint. The table also shows any previous reprint.
2. Validation, transitional, savings, or other provisions identified in the Compilation table may be important. The table may refer to another endnote setting out the text of these provisions in full.
3. A table of provisions that have not come into operation, to be found in endnote 1a if it is needed, lists any provisions of the Act being reprinted that have not come into operation and any amendments that have not come into operation. The full text is set out in another endnote that is referred to in the table.

### *Notes amongst text (italicised and within square brackets)*

1. If the reprint includes a section that was inserted, or has been amended, since the Act being reprinted was passed, editorial notes at the foot of the section give some history of how the section came to be as it is. If the section replaced an earlier section, no history of the earlier section is given (the full history of the Act is in the Compilation table).

Notes of this kind may also be at the foot of Schedules or headings.

2. The other kind of editorial note shows something has been —
  - removed (because it was repealed or deleted from the law); or
  - omitted under the *Reprints Act 1984* s. 7(4) (because, although still technically part of the text, it no longer has any effect).

The text of anything removed or omitted can be found in an earlier reprint (if there is one) or one of the written laws identified in the Compilation table.

### *Reprint numbering and date*

1. The reprint number (in the footer of each page of the document) shows how many times the Act has been reprinted. For example, numbering a reprint as “Reprint 3” would mean that the reprint was the 3<sup>rd</sup> reprint since the Act was passed. Reprint numbering was implemented as from 1 January 2003.
2. The information in the reprint is current on the date shown as the date as at which the Act is reprinted. That date is not the date when the reprint was published by the State Law Publisher and it is probably not the date when the most recent amendment had effect.

Western Australia

## Minerals and Energy Research Act 1987

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**Defined Terms**





Western Australia

Reprinted under the  
*Reprints Act 1984* as  
at 3 July 2009

## **Minerals and Energy Research Act 1987**

**An Act to promote and coordinate research for the development of the minerals and energy industries, to establish the Minerals and Energy Research Institute of Western Australia, to repeal the *Mining and Petroleum Research Act 1981*<sup>2</sup>, to make consequential amendments to certain other Acts and to provide for matters incidental to or connected with the foregoing.**

## **Part I — Preliminary**

**1. Short title**

This Act may be cited as the *Minerals and Energy Research Act 1987*<sup>1</sup>.

**2. Commencement**

This Act shall come into operation on such day as is fixed by proclamation<sup>1</sup>.

**3. Terms used**

In this Act, unless the contrary intention appears —

***Acting Board Chairman*** means person appointed under section 14(1) to act in the office of Board Chairman;

***advisory committee*** means Minerals Research Advisory Committee or advisory committee appointed under section 19;

***Board*** means Board of Directors of the Institute referred to in section 8(1);

***Board Chairman*** means director appointed under section 13(1) to be the chairman of the Board;

***director*** means director appointed under section 12(1);

***energy research*** means research as to the location, extraction, processing, transportation or marketing of petroleum, coal, a naturally occurring gas or mixture of gases or a prescribed substance and includes the development of any associated process, technique, method, design or apparatus;

***minerals*** means naturally occurring substances obtained or obtainable from the Earth, but excluding any substance (other than coal, petroleum, a naturally occurring gas or mixture of gases or a prescribed substance) that is a source of energy;

***minerals research*** includes the development of any process, technique, method, design or apparatus to locate, extract, process, transport or market minerals;



***Minerals Research Advisory Committee*** means Minerals Research Advisory Committee established under section 18(1);

***research project*** means minerals research project or energy research project;

***the Account*** means the Minerals and Energy Research Account referred to in section 26(3);

***the Department*** means the Department of the Public Service of the State principally assisting the Minister to whom the administration of the *Mining Act 1978* is for the time being committed by the Governor in that administration;

***the Institute*** means the Minerals and Energy Research Institute of Western Australia established by section 4(1).

*[Section 3 amended by No. 89 of 1994 s. 109; No. 53 of 2003 s. 74.]*

## **Part II — Minerals and Energy Research Institute of Western Australia**

### **4. Establishment of Minerals and Energy Research Institute of Western Australia**

- (1) There is hereby established a body corporate under the name of the Minerals and Energy Research Institute of Western Australia.
- (2) Under its corporate name, the Institute —
  - (a) has perpetual succession;
  - (b) shall have a common seal;
  - (c) may sue and be sued in any court;
  - (d) may acquire, hold and dispose of real and personal property; and
  - (e) subject to this Act, is capable of doing and suffering all that bodies corporate may do and suffer.

*[Section 4 amended by No. 53 of 2003 s. 75.]*

### **5. Function of Institute**

The function of the Institute is to encourage the development of the minerals and energy industries for the benefit of the State by fostering and promoting all aspects of minerals research and energy research through —

- (a) undertaking, in its own right or in conjunction with other persons, such research projects as it thinks fit, and evaluating research projects so undertaken;
- (b) investigating matters, and undertaking research projects relevant to the development of those industries, referred to it by the Minister;
- (c) coordinating, when appropriate and practicable, research projects undertaken by persons who —
  - (i) have received financial assistance or any other form of support from; or

- (ii) seek or agree to have their research projects coordinated by,  
the Institute;
- (d) receiving and considering applications from persons undertaking or wishing to undertake research projects and seeking financial assistance from the Institute;
- (e) allocating, at its discretion, to persons out of the Account financial assistance to enable or assist persons to undertake or continue research projects;
- (f) entering into agreements with persons to whom the Institute has allocated financial assistance with respect to the terms and conditions of the allocation of that financial assistance, which terms and conditions may include a condition that such a person shall comply with any directions or guidelines issued by the Institute in relation to the conduct of a research project;
- (g) monitoring and evaluating research projects in respect of which the Institute has allocated financial assistance and other minerals research work or energy research work within the State and elsewhere;
- (h) maintaining a collection of —
  - (i) the reports produced by the Institute; and
  - (ii) the reports produced by the Mining Institute formerly established by the *Mining and Petroleum Research Act 1981*;
- (i) conferring and collaborating on matters relating to minerals research and energy research with the Department and other appropriate authorities and institutions within the State and elsewhere;
- (j) promoting public awareness of matters relating to minerals research and energy research, informing the public concerning the latest developments in the fields of minerals research and energy research and receiving

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and considering submissions from the public concerning —

- (i) the performance by the Institute of its function; or
- (ii) matters relating to minerals research and energy research in general;
- (k) assisting in the development of the capacity in Western Australia to undertake minerals and energy research; and
- (l) providing the Minister with advice in relation to minerals and energy research.

*[Section 5 amended by No. 89 of 1994 s. 109; No. 53 of 2003 s. 76 and 90; No. 23 of 2008 s. 4.]*

**6. Powers of Institute**

- (1) The Institute may do, in the State or elsewhere, all things necessary or convenient to be done for or in connection with the performance of its function.
- (2) Without limiting the generality of subsection (1), the powers conferred on the Institute by that subsection include power —
  - (a) to purchase and construct equipment and facilities needed to conduct any project relevant to its function;
  - (b) to own, lease, rent or otherwise acquire suitable premises or accommodation for its staff, records, equipment and facilities;
  - (c) to open and maintain such accounts at a bank approved by the Treasurer as are required from time to time;
  - (d) to apply for, or to join in the making of an application for, intellectual property rights; and
  - (e) to accept any gift or other payment if it is absolute or subject to conditions that the Institute would be able to satisfy.
- (3) The Institute may, by writing bearing the common seal of the Institute, delegate to a director or to an officer or employee of

the Institute or of the Department, either generally or otherwise as provided by the instrument of delegation, all or any of its powers or duties under this Act, except this power of delegation.

- (4) A power or duty delegated under subsection (3) may be exercised or performed by the delegate in accordance with the instrument of delegation and, when so exercised or performed, shall for the purposes of this Act be deemed to have been exercised or performed by the Institute.

*[Section 6 amended by No. 53 of 2003 s. 90; No. 23 of 2008 s. 5.]*

**7. Common seal of Institute**

- (1) A person shall not affix the common seal of the Institute to any document except under a resolution of the Board.
- (2) A document executed under a resolution of the Board shall be attested by the signatures of any 2 directors.
- (3) When a document purporting to bear the common seal of the Institute is produced before any court, judge or person acting judicially, that court, judge or person shall, unless the contrary is proved, presume that —
- (a) that document bears the common seal of the Institute; and
  - (b) the common seal of the Institute was duly affixed to that document.

## **Part III — Board of Directors of Institute**

### **8. Management of Institute**

- (1) The control and management of the Institute are vested in a Board of Directors of the Institute, which Board shall be constituted as prescribed by this Part.
- (2) Subject to section 9, the Board shall perform the function and all the duties imposed, and may exercise all the powers conferred, on the Institute by this Act.

### **9. Board subject to directions of Minister**

The Board shall comply with the directions, if any, of the Minister in relation to the performance of the function or any of the duties, or to the exercise of any of the powers, referred to in section 8(2).

### **10. Advice of Minerals Research Advisory Committee**

The Board shall have due regard to any advice given to it by the Minerals Research Advisory Committee but is not bound to —

- (a) act on or give effect to such advice; or
- (b) defer taking action on a matter until such advice is received.

*[Section 10 inserted by No. 53 of 2003 s. 77.]*

### **11. Constitution of Board**

The Board shall consist of 5 directors.

*[Section 11 amended by No. 23 of 2008 s. 6.]*

### **12. Appointment and tenure of directors**

- (1) Subject to this section, the directors of the Institute shall be appointed by the Governor on the nomination of the Minister under subsection (2) from amongst persons who appear to the Minister to be qualified by training or experience in the physical

sciences, applied sciences, finance, administration or marketing, or in any other field that is, in the opinion of the Minister, relevant to the function of the Institute.

- (2) Before the first appointments are made under subsection (1) to the offices of the directors and thereafter whenever it is necessary to fill a vacancy which has occurred, or is about to occur, in the office of a director, the Minister shall nominate one or more persons, as the case requires, and may in so doing seek and act on the advice of the Department.
- (2a) The Minister is to make the nominations so that the Board has —
  - (a) at least one director who has recent or current experience in the petroleum industry;
  - (b) at least one director who has recent or current experience in the minerals industry; and
  - (c) at least one director who has recent or current experience in the research sector.
- (3) A person may be appointed to the office of director for such period not exceeding 4 years as is specified in the instrument of his appointment and, subject to this Act, a person so appointed is eligible for reappointment.
- (3a) A person appointed to the office of director after February 2002 cannot hold office for more than 10 consecutive years.
- (4) A director may resign his office by writing signed by him and delivered to the Minister.
- (5) If a director —
  - (a) is an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth;
  - (b) becomes permanently incapable of performing the duties of his office; or

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- (c) is guilty of neglect of duty, misbehaviour or incompetence,

the Governor may remove him from his office and thereupon that office becomes vacant.

*[Section 12 amended by No. 89 of 1994 s. 109; No. 10 of 2001 s. 221; No. 53 of 2003 s. 78 and 90; No. 23 of 2008 s. 7.]*

**13. Appointment and tenure of Board Chairman**

- (1) The Minister shall from time to time appoint one of the directors to be the chairman of the Board.
- (2) The Board Chairman may resign his office by writing signed by him and delivered to the Minister.

**14. Acting Board Chairman**

- (1) The Minister may, in order to enable the Institute to perform its function effectively by ensuring that the duties of the office of Board Chairman are performed without interruption, appoint for such period as is specified in the instrument of appointment a director of the Board to act in the office of Board Chairman during any period when the Board Chairman is absent from duty or from the State or is, for any reason, unable to perform the duties of his office.
- (2) The Minister may at any time terminate an appointment under subsection (1).

*[Section 14 amended by No. 53 of 2003 s. 90; No. 23 of 2008 s. 8.]*

**15. Acting directors**

- (1) The Minister may from time to time, if he considers it necessary in order to enable the Institute to perform its function effectively, appoint a person to act in the office of a director (other than the office of the director who is the Board Chairman) during any period when the director is, or is expected



to be, absent from duty or from the State or is, for any reason, unable to perform the duties of his office.

- (2) A person acting in the office of a director under this section —
  - (a) subject to section 16, holds office on such terms and conditions as the Minister determines; and
  - (b) may resign his appointment by writing signed by him and delivered to the Minister.
- (3) The Minister may at any time terminate an appointment made under this section.

**16. Remuneration and allowances of Board Chairman and other directors**

There shall be paid to —

- (a) the Board Chairman; and
- [(b) deleted]*
- (c) each director (other than the Board Chairman) or person acting in the office of that director,

such remuneration and allowances as are fixed in his case by the Minister on the recommendation of the Minister for Public Sector Management.

*[Section 16 amended by No. 53 of 2003 s. 79; No. 23 of 2008 s. 9.]*

**17. Meetings and proceedings of Board**

- (1) The Board shall meet regularly and as often as is necessary for the performance of its functions.
- (2) The Board Chairman may at any time convene a meeting of the Board, giving at least 2 days notice of the meeting.
- (3) At a meeting of the Board —
  - (a) 3 directors constitute a quorum; and

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- (b) subject to subsection (4), the Board Chairman shall preside.
- (3a) A member of the Board may attend a meeting of the Board by telephone, audio-visual link-up or any other form of instantaneous communication provided that all Board members attending the meeting are simultaneously in contact with each other, and the member is to be taken to be present at the meeting.
- (4) When the Board Chairman, or Acting Board Chairman (when relevant), is unexpectedly absent from the whole or part of a meeting of the Board, the other directors present at that meeting shall elect one of their number to preside at that whole or part.
- (5) A question arising at a meeting of the Board shall be determined by a majority of the votes of the directors present and voting and, subject to subsection (6), when the votes cast on any question are equally divided, the question shall remain unresolved until a subsequent meeting of the Board.
- (6) When the votes cast on a question at a meeting of the Board are equally divided and the votes cast on the question at a subsequent meeting of the Board are also equally divided, the person presiding at that subsequent meeting shall exercise a casting vote on the question.
- (7) The Board shall cause accurate minutes to be kept of its proceedings at its meetings.
- (8) A director who has a direct or indirect pecuniary interest in any matter that is being considered or is about to be considered at a meeting of the Board shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of that interest to the directors present at that meeting and that disclosure shall be recorded in the minutes of that meeting.
- (9) The Board shall determine its own procedure to the extent that it is not prescribed.

*[Section 17 amended by No. 23 of 2008 s. 10.]*

## **Part IV — Advisory committees**

### **18. Minerals Research Advisory Committee**

- (1) A Minerals Research Advisory Committee is to be established.
- (2) The functions of that committee are —
  - (a) to consider and advise the Board on —
    - (i) research goals relevant to the minerals and energy industries; and
    - (ii) any proposal, matter or question that may be referred to it by the Board;and
  - (b) to make recommendations to the Board concerning —
    - (i) the funding policy of the Institute;
    - (ii) whether or not a particular research project should be, or continue to be, supported by the Institute; or
    - (iii) any other aspect of the activities of the Institute, with a view to ensuring that the best use is made of the funds and resources at the disposal of the Institute.

*[Section 18 inserted by No. 53 of 2003 s. 80(1).]*

### **19. Other advisory committees**

The Board may establish any other advisory committee that it considers to be necessary for the purposes of this Act and, subject to this Act, may appoint the members, and determine the functions, of any such committee.

*[Section 19 inserted by No. 53 of 2003 s. 80(1).]*

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**20.        Membership of Minerals Research Advisory Committee**

- (1) Subject to this section, the Minerals Research Advisory Committee shall be appointed by the Minister and shall consist of —
- (a) one person appointed from a panel of names submitted by the body known as the Chamber of Commerce and Industry of Western Australia;
  - (b) one person appointed from a panel of names submitted by the body known as the Chamber of Minerals and Energy of Western Australia Inc.;
  - (c) one person appointed from a panel of names submitted by the body known as the Australian Petroleum Production and Exploration Association Limited;
  - (d) one person appointed from a panel of names submitted by the Senate of The University of Western Australia;
  - (e) one person appointed from a panel of names submitted by the Senate of Murdoch University;
  - (f) one person appointed from a panel of names submitted by the Council of the Curtin University of Technology;
  - (g) one person appointed from a panel of names submitted by the Commonwealth Scientific and Industrial Research Organization established under the *Science and Industry Research Act 1949* of the Commonwealth;
  - (h) one person appointed on the nomination of the chief executive officer<sup>3</sup> of the Department; and
  - (i) the number of other persons (if any) that the Minister considers appropriate (to a maximum of 8), being persons who appear to the Minister —
    - (i) to be knowledgeable concerning the research requirements of the minerals industry;
    - (ii) to have a genuine interest, or be representative of interests, in minerals research; or

- (iii) to be representative of the interests in minerals research of bodies, post-secondary education institutions or authorities other than those referred to in paragraphs (a) to (h),  
or who, for any other reason, are considered by the Minister to be suitable for appointment as members.
- (2) A panel of names referred to in subsection (1)(a), (b), (c), (d), (e), (f) or (g) —
- (a) shall be submitted in writing to the Minister at his request; and
- (b) shall contain the names of at least 3 persons each of whom —
- (i) is knowledgeable concerning minerals or the general subject of the minerals industry; or
- (ii) has a genuine interest in minerals research, and is willing to accept appointment as a member.
- (3) If at any time a body, post-secondary education institution or authority referred to in subsection (1)(a), (b), (c), (d), (e), (f) or (g) does not submit a panel of names within 30 days after the making of the relevant request referred to in subsection (2)(a), the Minister may, without the submission of that panel, appoint a person who is otherwise eligible to be the member concerned to represent the interests of the body, post-secondary education institution or authority in default.
- (4) A person appointed under subsection (3) shall for all purposes be deemed to be duly appointed a member and to be the representative of the body, post-secondary education institution or authority in default.
- (5) The Minister may, subject to subsection (6), appoint persons to be deputies of the several members.
- (6) The provisions of subsections (1), (2), (3), and (4) that apply to and in relation to the appointment of a member apply, with such

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modifications as are necessary, to and in relation to the appointment of a deputy of the member.

- (7) A person appointed under subsection (5) is, in the event of the absence from a meeting of the Minerals Research Advisory 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 a member.
- (8) The Minister may remove a member appointed under subsection (1)(a), (b), (c), (d), (e), (f) or (g) from office if —
- (a) the member —
    - (i) ceases to be a member or employee of the body, university or authority concerned;
    - (ii) ceases to be engaged by the body, university or authority concerned to represent its interests;
    - (iii) in the case of a member appointed under subsection (1)(a), (b) or (c) — ceases to work in the industry that the body concerned represents; or
    - (iv) otherwise ceases to have a sufficient connection with the body, university or authority concerned to appropriately represent its interests;
  - and
  - (b) the body, university or authority agrees to the person being removed from office.
- (9) In this section —

**member** means member of the Minerals Research Advisory Committee.

*[Section 20 amended by No. 53 of 2003 s. 81; No. 23 of 2008 s. 11.]*

*[21. Deleted by No. 53 of 2003 s. 82.]*

**22. Chairmen and deputy chairmen of advisory committees**

The Minister shall appoint one member of each advisory committee to be the chairman of that advisory committee and another member of that advisory committee to be the deputy chairman of that advisory committee.

**23. Tenure of office of advisory committee members**

- (1) A person may be appointed to the office of member of an advisory committee for such period not exceeding 3 years as is specified in the instrument of his appointment and, subject to this Act, a person so appointed is eligible for reappointment.
- (2) A member of an advisory committee may resign his office by writing signed by him and delivered to the Minister.
- (3) If a member of an advisory committee —
  - (a) is an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth;
  - (b) becomes permanently incapable of performing the duties of his office; or
  - (c) is guilty of neglect of duty, misbehaviour or incompetence,

the Minister may remove him from his office and thereupon that office becomes vacant.

*[Section 23 amended by No. 10 of 2001 s. 221.]*

**24. Meetings and proceedings of advisory committees**

- (1) The Board Chairman shall convene regular meetings of each advisory committee and at least 4 such meetings shall be convened in each calendar year after the year in which this Act comes into operation.
- (2) The chairman of an advisory committee shall preside at all meetings of his advisory committee at which he is present and the deputy chairman of that advisory committee shall preside at

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- any meeting of that advisory committee at which he, but not that chairman, is present.
- (3) When the chairman of an advisory committee and the deputy chairman of the advisory committee are both absent from a meeting of the advisory committee, the members of the advisory committee present shall elect one of their number present to preside at that meeting.
  - (4) A question arising at a meeting of an advisory committee shall be determined by a majority of the votes of the members of the advisory committee present and voting and, if the votes cast on any question are equally divided, the question shall be declared to be lost.
  - (5) An advisory committee shall cause accurate minutes to be kept of its proceedings at its meetings.
  - (6) A member of an advisory committee who has a direct or indirect pecuniary interest in any matter that is being considered or is about to be considered at a meeting of the advisory committee shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest to those present at that meeting and that disclosure shall be recorded in the minutes of that meeting.
  - (7) When a member of an advisory committee makes a disclosure under subsection (6) in relation to a matter and a majority of the members of the advisory committee present at the meeting concerned determine by motion that the nature of the pecuniary interest disclosed is such that the member should take no part in the consideration of the matter, that member shall not be present during any deliberation of the advisory committee with respect to the matter.
  - (8) An advisory committee shall determine its own procedure to the extent that it is not prescribed.

*[Section 24 amended by No. 23 of 2008 s. 12.]*



**25. Remuneration and allowances of members of advisory committees and their deputies**

A member of an advisory committee or a deputy of such a member shall be paid such remuneration and allowances as are fixed in his case by the Minister on the recommendation of the Minister for Public Sector Management.

*[Section 25 amended by No. 53 of 2003 s. 83.]*

## **Part V — Finance**

### **26. Moneys available to Institute**

- (1) Subject to this Act, the Institute shall be responsible for managing its own finances.
- (2) The moneys available to the Institute for the purposes of this Act are —
  - (a) moneys from time to time appropriated by Parliament for the purpose;
  - (b) moneys received by or for or made available to, and accepted by, the Institute for application towards minerals research or energy research;
  - (c) such moneys as may be advanced by the Treasurer in any case in which the moneys standing to the credit of the Account would be insufficient;
  - [(d) deleted]*
  - (e) any moneys derived from investment under section 27; and
  - (f) any other moneys that may lawfully be received by or for the Institute for the purposes of this Act.
- (3) The moneys referred in subsection (2) shall be paid into, and placed to the credit of, an account —
  - (a) opened and maintained under section 6(2)(c); and
  - (b) called the Minerals and Energy Research Account.
- (4) Subject to subsection (5), the moneys from time to time in the Account may be applied by the Institute to meet —
  - (a) expenditure incurred in respect of minerals research;
  - (b) expenditure incurred in respect of energy research;
  - (c) expenditure incurred in paying any remuneration and allowances payable under section 16 or 25; and

- (d) any expenditure, other than expenditure referred to in paragraph (a), (b) or (c), lawfully incurred for the purposes of this Act.
- (5) If any moneys referred to in subsection (2)(b) are received, or made available and accepted, subject to any trust, condition or stipulation that they be applied towards —
- (a) a specified minerals research project or energy research project;
  - (b) minerals research projects or energy research projects of a specified class;
  - (c) a specified field of minerals research or energy research; or
  - (d) minerals research or energy research generally,

the Institute shall give effect to that trust, condition or stipulation.

*[Section 26 amended by No. 53 of 2003 s. 84.]*

**27. Temporary investment of moneys**

Moneys standing to the credit of the Account may, until required by the Institute for the purposes of this Act, be temporarily invested or dealt with by the Institute in such manner as the Treasurer approves.

**28. Application of *Financial Management Act 2006* and *Auditor General Act 2006***

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 relation to the Institute and its operations.

*[Section 28 amended by No. 77 of 2006 Sch. 1 cl. 108(1).]*

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**29. Provisions and reserves**

The Institute may in its accounting records establish and operate provision for actual and contingent liabilities, reserve accounts and reserve funds for such purposes and within such limits as the Treasurer approves.

**30. Power to borrow from Treasurer**

For the purposes of section 26(2)(c), the Institute may borrow from the Treasurer such amounts as the Treasurer approves on such conditions relating to repayment, payment of interest or any other matter as the Treasurer imposes.

## **Part VI — Staff, assistance and facilities**

### **31. Staff of Institute**

- (1) The Institute may appoint such officers and employees as it thinks necessary for the purposes of this Act.
- (2) Persons appointed under subsection (1) may be employed on a full-time or part-time basis.
- (3) Subject to any relevant award or industrial agreement, the terms and conditions of employment of persons appointed under subsection (1), including the salary or wages payable, are such terms and conditions as are determined in relation to each of those persons by the Minister on the recommendation of the Minister for Public Sector Management.
- (4) Part 3 of the *Public Sector Management Act 1994* does not apply to or in relation to persons appointed under subsection (1).
- (5) Notwithstanding anything in this section, if there is in the case of a person referred to in subsection (1) who is a member of the Senior Executive Service (within the meaning of the *Public Sector Management Act 1994*) an inconsistency between this Act and that Act, that Act prevails.

*[Section 31 amended by No. 32 of 1994 s. 19; No. 53 of 2003 s. 85.]*

### **32. Professional or technical assistance**

- (1) The Institute 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 Institute to perform its functions effectively.
- (2) The Minister may authorise the Institute to enter into contracts described in subsection (1) of a value less than \$20 000 (or a higher amount set out in the regulations) without the approval of the Minister under subsection (1).

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- (3) An authorisation under subsection (2) is to be in writing and may —
- (a) apply to all contracts or a specified class of contracts; and
  - (b) be subject to conditions.

*[Section 32 amended by No. 23 of 2008 s. 13.]*

**33. Use of staff and facilities of departments and instrumentalities**

- (1) The Institute may by arrangement with the Minister concerned and on such terms and conditions as may be mutually arranged with that Minister, make use, either full-time or part-time, of —
- (a) the services of any officer or employee employed in the Public Service of the State or in a State instrumentality or otherwise in the service of the Crown in right of the State; or
  - (b) any facilities of a department of the Public Service of the State or of a State instrumentality.
- (2) For the purpose of the performance of the function of the Institute, the Institute shall endeavour as far as practicable to make use of services and facilities in accordance with arrangements made under subsection (1).

## Part VII — General

### 34. Institute may require information and terminate assistance

- (1) If the Institute has allocated funds to a person to enable the person to undertake or continue a research project, the Institute may, by notice in writing served on the person, require the person to furnish to the Institute within such period as is specified in that notice such information by way of reports, data or other evidence of moneys expended, work conducted and progress made in relation to the research project as the Institute requires by that notice for the purposes of this Act.
- (2) A person, when required by a notice served under subsection (1) to furnish any information to the Institute —
  - (a) shall comply with that notice; and
  - (b) shall not knowingly furnish any false or misleading information to the Institute.

Penalty: \$20 000.

- (3) If the Institute has allocated funds to a person to enable the person to undertake or continue a research project and the Board is satisfied that the person —
  - (a) has failed or is failing to undertake or continue the research project in accordance with terms and conditions agreed between him and the Institute; or
  - (b) is unable to complete the research project,

the Institute may, by notice in writing served on the person, terminate the allocation of funds to the person in respect of the research project and, in that event, any moneys that have already been so allocated to the person but have not yet been expended by him are recoverable by the Institute by action in a court of competent jurisdiction as a debt due and payable to the Institute.

*[Section 34 amended by No. 53 of 2003 s. 86.]*

**s. 35**

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**35.     Secrecy**

- (1) This section applies to every person —
  - (a) who is or has been a director;
  - (b) who is acting or has acted in the office of the Board Chairman or a director;
  - (c) who is or has been a member, or a deputy of a member, of an advisory committee;
  - (d) who is or has been an officer or employee of the Institute;
  - (e) who is rendering or has rendered services to the Institute under section 32 or 33; or
  - (f) to whom the Institute has allocated funds to enable that person to undertake or continue a particular research project, or any person directing, working with or assisting that person on that research project.
  
- (2) A person to whom this section applies shall not, either directly or indirectly, except in the performance of a function under or in connection with this Act —
  - (a) make a record of, divulge or communicate to any person or make use of any information concerning the affairs of another person acquired by him by reason of his office or employment or research 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.
  
- (3) Subject to subsection (4), if a person discloses information to the Institute concerning his affairs and indicates in writing to the Institute that he wishes that information to be treated as an industrial or trade secret then, except with the consent of that person —
  - (a) a person to whom this section applies shall not make any public disclosure of that information; and



- (b) that information shall not be included in any report or statement prepared under the *Financial Management Act 2006* by or for the Institute.
- (4) Subsection (3) does not apply to any information that the Institute has, or might have, required to be furnished under section 34(1).
- (5) When moneys referred to in section 26(2)(b) are received, or made available and accepted, subject to any trust, condition or stipulation that they be applied towards a specified research project, then, if the person from whom those moneys were received or by whom those moneys were made available so requests the Institute in writing —
- (a) a person to whom this section applies shall not make any public disclosure of any information concerning the nature, conduct, progress or results of that research project; and
- (b) no information concerning the nature, conduct, progress or results of that research project shall be included in any report or statement prepared under the *Financial Management Act 2006* by or for the Institute.
- (6) A person to whom this section applies shall not contravene a provision of this section.

Penalty: \$100 000.

[Section 35 amended by No. 53 of 2003 s. 87; No. 77 of 2006 Sch. 1 cl. 108(2) and (3).]

### **36. Liability**

A person to whom section 35 applies is not personally liable in civil proceedings, and the Crown in right of the State is not liable, for any act done, default made or statement issued by the Board, an advisory committee or any person to whom that section applies in good faith in the course of the operations of the Institute.

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**37.        Records to be maintained**

The Board shall cause detailed records to be kept in relation to research projects which —

- (a) the Institute has undertaken, either in its own right or in conjunction with any other person; or
- (b) to which the Institute has allocated funds,

including, without limiting the generality of the foregoing, records relating to moneys allocated, work undertaken, progress achieved and results obtained.

**38.        Information**

The Board shall furnish the Minister with such information concerning the activities, achievements, expenditure and financial position of the Institute as the Minister may from time to time require.

**39.        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.

**40.        Review of Act**

- (1) The Minister shall carry out a review of the operation and effectiveness of this Act as soon as is practicable after the *Minerals and Energy Research Amendment Act 2008* comes into operation and every 5 years after that, and in the course of that review the Minister shall consider and have regard to —
  - (a) the effectiveness of the operations of the Board and of each advisory committee;
  - (b) the need for the continuation of the functions of the Board and of each advisory committee; and

- (c) such other matters as appear to him to be relevant to the operation and effectiveness of this Act.
- (2) The Minister shall prepare a report based on his review made under subsection (1) and shall, as soon as is practicable after the preparation thereof, cause the report to be laid before each House of Parliament.

*[Section 40 amended by No. 23 of 2008 s. 14.]*

## **Part VIII — Savings**

*[Heading inserted by No. 53 of 2003 s. 88.]*

### **41. Savings for secrecy provisions**

- (1) Section 32 of the *Solar Energy Research Act 1977* is to be taken to continue in effect in respect of every person referred to in subsection (1) of that section.
- (2) Subsection (1) applies despite the repeal effected by the proclamation under section 43 of the *Solar Energy Research Act 1977* published in the *Gazette* on 30 June 1988 at page 2135.
- (3) Repealed section 32 of the *Mining and Petroleum Research Act 1981* is to be taken to continue in effect in respect of every person referred to in subsection (1) of that section.
- (4) Subsection (3) applies despite the repeal effected by section 45(1) of this Act as in force immediately before the commencement of section 88 of the *Energy Legislation Amendment Act 2003*.

*[Section 41 inserted by No. 53 of 2003 s. 88.]*

*[42-46. Deleted by No. 53 of 2003 s. 88.]*

*[Schedules 1 and 2 deleted by No. 53 of 2003 s. 89.]*

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**Notes**

<sup>1</sup> This reprint is a compilation as at 3 July 2009 of the *Minerals and Energy Research Act 1987* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

**Compilation table**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Minerals and Energy Research Act 1987</i>	89 of 1987	9 Dec 1987	s. 1 and 2: 9 Dec 1987; Act other than s. 1 and 2: 1 Feb 1988 (see s. 2 and <i>Gazette</i> 15 Jan 1988 p. 67)
<i>Acts Amendment (Public Sector Management) Act 1994 s. 19</i>	32 of 1994	29 Jun 1994	1 Oct 1994 (see s. 2 and <i>Gazette</i> 30 Sep 1994 p. 4948)
<i>Energy Corporations (Transitional and Consequential Provisions) Act 1994 s. 109</i>	89 of 1994	15 Dec 1994	1 Jan 1995 (see s. 2 and <i>Gazette</i> 23 Dec 1994 p. 7069)
<b>Reprint of the <i>Minerals and Energy Research Act 1987</i> as at 4 May 2001</b> (includes amendments listed above)			
<i>Corporations (Consequential Amendments) Act 2001 s. 221</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>Energy Legislation Amendment Act 2003 Pt. 6 Div. 1<sup>4</sup></i>	53 of 2003	8 Oct 2003	19 Mar 2004 (see s. 2(2)(c) and <i>Gazette</i> 19 Mar 2004 p. 913)
<i>Financial Legislation Amendment and Repeal Act 2006 Sch. 1 cl. 108</i>	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)
<i>Minerals and Energy Research Amendment Act 2008</i>	23 of 2008	13 Jun 2008	13 Jun 2008 (see s. 2)
<b>Reprint 2: The <i>Minerals and Energy Research Act 1987</i> as at 3 Jul 2009</b> (includes amendments listed above)			

<sup>2</sup> The provision in this Act repealing the *Mining and Petroleum Research Act 1981* has been repealed by the *Energy Legislation Amendment Act 2003* s. 88.

<sup>3</sup> Under the *Acts Amendment (Public Service) Act 1987* s. 31(1)(f) a reference in a written law to the Permanent Head is, unless the contrary intention appears, to be construed as if it had been amended to be a reference to the chief executive officer. This reference was amended under the *Reprints Act 1984* s. 7(5)(a).

<sup>4</sup> The *Energy Legislation Amendment Act 2003* s. 80(2) reads as follows:

- (2) The membership of the Minerals Research Advisory Committee, as existing immediately before the commencement of subsection (1), continues on the same basis after that commencement despite the repeal and replacement of section 18 of the *Minerals and Energy Research Act 1987* by that subsection (1).

## Defined Terms

*[This is a list of terms defined and the provisions where they are defined.  
The list is not part of the law.]*

<b>Defined Term</b>	<b>Provision(s)</b>
Acting Board Chairman .....	3
advisory committee .....	3
Board.....	3
Board Chairman .....	3
director .....	3
energy research .....	3
member .....	20(9)
minerals.....	3
minerals research .....	3
Minerals Research Advisory Committee .....	3
research project .....	3
the Account .....	3
the Department.....	3
the Institute .....	3