

Western Australia

**Western Australian Land
Authority Act 1992**

Reprinted as at 16 April 1999

Western Australia

Western Australian Land Authority Act 1992

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Defined Terms

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Western Australia

Western Australian Land Authority Act 1992

An Act to establish an agency to provide, or promote the provision of, land, infrastructure, facilities and services for the social and economic needs of the State and to dispose of surplus Government land assets.

[Long title inserted by No. 60 of 1998 s.4.]

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Western Australian Land Authority Act 1992*¹.

2. Commencement

- (1) This section and sections 1 and 4 come into operation on the day on which this Act receives the Royal Assent¹.
- (2) The other provisions of this Act come into operation on such day as is fixed by proclamation but in any event shall come into operation not later than 12 months after the date of Royal Assent¹.

3. Objects

The objects of this Act are —

- (a) the provision and development of industrial, commercial, residential and other land in a range of localities to meet the social and economic needs of the State;
- (b) the completion of the Joondalup Centre project;
- (c) the identification and development or redevelopment of urban and regional centres of population and the provision or improvement of infrastructure and facilities for those centres; and
- (d) the establishment of a primary agency for the development and disposal of surplus Government land assets to maximize the financial return to the State.

[Section 3 amended by No. 60 of 1998 s.5.]

4. Interpretation

In this Act, unless the contrary intention appears —

“**Account**” means the Western Australian Land Authority Account referred to in section 31(2);

“**acquire**” includes take on lease;

“**alternate director**” means a person appointed as such under clause 3 of Part A of Schedule 1;

“**Authority**” means the Western Australian Land Authority established by section 5(1);

“**board**” means the board of directors of the Authority provided for by section 6(1);

“**chairperson**” means the person appointed as such under section 6(2);

“**chief executive officer**” means the person appointed as such under section 10;

“**committee**” means a committee appointed under clause 6 of Part A of Schedule 1;

“**Crown land**” has the meaning given by the *Land Administration Act 1997*;

“**director**” means a person appointed to be a member of the board and except in section 6(2) and clauses 1, 2 and 3 of Part A of Schedule 1 includes an alternate director and a member of a committee;

“**dispose of**” includes sell, exchange, lease, let, grant a licence and grant any easement or right of way;

“**function**”, except in sections 16(1) and 17(1), includes powers, duties and authorities;

“**industrial purposes**” means —

- (a) manufacturing, production, technology advancement, fabrication of materials, packaging, processing, transport, distribution, storage, display of manufactured goods, research, development and

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service purposes, and the purposes of any other activity of an industrial nature; and

- (b) commercial, recreational, retail, accommodation and other purposes ancillary to purposes referred to in paragraph (a) —
 - (i) effected or to be effected in the same general vicinity as that in which purposes referred to in that paragraph are effected or to be effected; and
 - (ii) necessary or desirable for the wellbeing or convenience of businesses operating, and workforces employed, in the general vicinity referred to in subparagraph (i).

“land” includes —

- (a) land within the meaning of the *Land Administration Act 1997*; and
- (b) any legal or equitable estate or interest in land;

“public authority” means a Minister of the Crown in right of the State, Government department, State trading concern, State instrumentality, State public utility and any other person or body, whether corporate or not, who or which, under the authority of any written law, administers or carries on for the benefit of the State a social service or public utility;

“Treasurer” means the Treasurer of the State.

[Section 4 amended by No. 14 of 1996 s.4; No. 31 of 1997 ss.140(1) and 141; No. 60 of 1998 ss.6 and 27.]

Part 2 — Western Australian Land Authority

Division 1 — Establishment

5. Authority established

- (1) A body called the Western Australian Land Authority is established.
- (2) The Authority is a body corporate with perpetual succession.
- (3) Proceedings may be taken by or against the Authority in its corporate name.
- (4) The Authority may use and operate under one or more trading names approved by the Minister, being —
 - (a) an abbreviation or adaptation of the name conferred by subsection (1); or
 - (b) a name other than that name.
- (5) The Authority is an agent of the Crown in right of the State and, except as provided in sections 15 and 32, enjoys the status, immunities and privileges of the Crown.

[Section 5 amended by No. 60 of 1998 s.27.]

6. Board of directors

- (1) The Authority is to have a board of directors comprising not less than 5 nor more than 7 persons appointed in writing by the Minister.
- (1a) Of the persons appointed under subsection (1) 4 shall be persons each of them having in the opinion of the Minister, knowledge of and experience in any of the fields of town planning, housing, industry, commerce, finance, engineering and land development.
- (2) The Minister is to appoint one of the directors to be chairperson and another to be deputy chairperson of the board.

- (3) The chief executive officer shall not be appointed as a member of the board.
- (4) Schedule 1 has effect with respect to —
 - (a) the constitution and proceedings of the directors and the board; and
 - (b) the duties of the directors.

[Section 6 amended by No. 73 of 1994 s.4; No. 60 of 1998 s.7(1).]

7. Functions of board

The board is the Authority's governing body and, in the name of the Authority, is to perform the functions of the Authority under this Act or any other written law.

8. Remuneration and expenses of directors

A director is to be paid out of the funds of the Authority such remuneration and travelling and other allowances as are determined in his or her case by the Minister after consultation with the Minister for Public Sector Management.

[Section 8 amended by No. 60 of 1998 s.27.]

9. Protection of directors and officers

- (1) A director or any officer of the Authority is not personally liable for any act done or omitted to be done in good faith by the Authority in the performance, or purported performance, of any function under this Act.
- (2) Subsection (1) does not —
 - (a) limit the operation of the *Statutory Corporations (Liability of Directors) Act 1996*; or
 - (b) relieve the Authority of any liability that, but for that subsection, it might have for the acts or omissions of a director or of an officer of the Authority.

[Section 9 amended by No. 41 of 1996 s.3.]

Division 2 — Staff

10. Chief executive officer

- (1) Subject to section 12, the Minister —
 - (a) is to appoint a chief executive officer of the Authority;
and
 - (b) subject to any applicable order, award or agreement under the *Industrial Relations Act 1979*, shall after consultation with the Minister for Public Sector Management, determine the remuneration and other terms and conditions of service of the chief executive officer.
- (2) The function of the chief executive officer is, subject to the control of the board, to administer the day to day operations of the Authority.

[Section 10 amended by No. 60 of 1998 s.27.]

11. Other staff

- (1) The Authority may appoint such officers as may be necessary to enable the Authority to perform its functions.
- (2) Subject to section 12 and any applicable order, award or agreement under the *Industrial Relations Act 1979*, the Authority may, but only after consultation with the Minister for Public Sector Management, determine the remuneration and other terms and conditions of service of persons appointed under subsection (1).
- (3) The Authority may engage under a contract for services or other arrangement such consultants and professional or technical or other assistance as it considers necessary to enable the Authority to perform its functions.

[Section 11 amended by No. 60 of 1998 s.27.]

12. Officers in Senior Executive Service

Notwithstanding anything in this Division, if there is, in the case of an officer of the Authority who is a member of the Senior Executive Service (within the meaning of the *Public Service Act 1978*²), an inconsistency between this Act and that Act, that Act prevails.

13. Use of other government staff etc.

- (1) The Authority may by arrangement make use, either full-time or part-time, of —
 - (a) the services of any officer or employee 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 Authority and the Minister concerned and on such terms as they and the relevant employing authority within the meaning of the *Public Sector Management Act 1994* agree.

[Section 13 amended by No. 32 of 1994 s.19.]

14. Saving in respect of public service officer

If a person appointed under section 10 or 11 was, immediately before being so appointed, a public service officer within the meaning of the *Public Sector Management Act 1994* —

- (a) he or she retains his or her existing and any accruing rights; and
- (b) for the purpose of determining those rights his or her service as such an officer is to be taken into account as if it were service with the Authority.

[Section 14 amended by No. 32 of 1994 s.19.]

Part 3 — Functions and powers

15. Compliance with written laws

Subject to section 32, nothing in this Act is to be read as conferring on the Authority in the performance of its functions any immunity from the operation of any written law.

16. Functions

(1) The functions of the Authority are —

- (a) to be an agency through which the government provides, or promotes the provision of, land for the social and economic needs of the State;
- (b) to be an agency through which the Crown and public authorities may dispose of land;
- (c) to be an agency through which local governments and regional local governments may dispose of land in accordance with the *Local Government Act 1995*;
- (d) to complete the development of the Joondalup Centre, in accordance with the plan referred to in section 18, on the land described in Schedule 2;
- (e) to identify other potential centres of population, and centres of population in need of redevelopment, and use its powers to bring about the provision, or improvement, of infrastructure and facilities for the same; and
- (f) for the purposes of these functions to —
 - (i) acquire, hold, deal with and dispose of land; and
 - (ii) plan, undertake, provide for, promote and coordinate the development of land.

(1a) It is also a function of the Authority —

- (a) to do things that the board determines to be conducive or incidental to the performance of a function referred to in subsection (1); and

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(b) to do things that it is authorized to do by any other written law.

(2) In subsection (1) —

“Joondalup Centre” means the project for the provision of infrastructure and facilities for a centre of population (including infrastructure and facilities for community, cultural, recreational and sporting purposes) that before the commencement of this section was being carried on by the Joondalup Development Corporation under the Act repealed by section 50(1)(c);

“land” includes infrastructure, facilities and services relating to land.

[Section 16 amended by No. 60 of 1998 s.8.]

16A. Duty to act in accordance with policy instrument

The Authority is to perform its functions in accordance with its strategic development plan and its statement of corporate intent as existing from time to time.

[Section 16A inserted by No. 60 of 1998 s.9.]

17. Powers

(1) The Authority may do all things necessary or convenient to be done for or in connection with the performance of its functions.

(2) The Authority may for the purpose of performing a function —

(a) acquire, hold, manage and dispose of land;

(b) subdivide, amalgamate, improve, develop, alter and extract minerals from land;

(c) enter into any contract or arrangement with any person, including a contract or arrangement for the doing of anything that the Authority is authorized to do under this Act —

(i) by that person;

- (ii) by the Authority, for that person; or
 - (iii) by the Authority and that person on a joint venture basis;
 - (d) apply for the grant of any licence or other authority required by the Authority;
 - (e) charge fees for services provided to any person, including a Crown agency; and
 - (f) carry out any investigation, survey, exploration or feasibility study.
- (3) Subsection (2) does not limit subsection (1) or other powers of the Authority under this Act or any other written law.
- (4) A contract or arrangement under subsection (2)(c) may, with the consent of the owner and the occupier, relate to land that is not vested in, or held in fee simple by, the Authority or dedicated to the purposes of this Act.
- (5) In this section —
“**person**” includes a public authority, local government or regional local government.

[Section 17 amended by No. 14 of 1996 s.4; No. 60 of 1998 s.10.]

17A. Transactions that require Ministerial approval

- (1) Despite sections 16 and 17, the Authority must get the Minister’s approval before it enters into a transaction to which this section applies.
- (2) This section applies to a transaction to be entered into by the Authority if the Authority’s liability exceeds \$1 000 000 or the prescribed amount, whichever is the greater.
- (3) For the purposes of subsection (2) the Authority’s liability is the amount or value of the consideration or the amount to be paid or

received by the Authority ascertained as at the time when the transaction is entered into.

- (4) The Minister must, within 14 days after an approval is given under subsection (1), cause the text of the approval to be laid before each House of Parliament or dealt with in accordance with section 45A.
- (5) In this section —
- “transaction”** —
- (a) includes a contract or other arrangement referred to in —
 - (i) section 17(2)(c); or
 - (ii) section 20;and
 - (b) does not include —
 - (i) a transaction under section 33, 34 or 35; or
 - (ii) an offer or agreement to enter into a transaction if the offer or agreement is conditional on the approval of the Minister.

[Section 17A inserted by No. 60 of 1998 s.11.]

18. Joondalup Centre plan

- (1) The Authority is to perform its functions under section 16(1)(d) and related functions under section 16(1)(f) in accordance with the plan for the time being in force under this section.
- (2) The plan in force under Part IV of the Act repealed by section 50(1)(c) immediately before that repeal is continued in force for the purposes of this section, subject to any amendments approved under subsection (4).
- (3) The Authority is to —
- (a) keep the plan under review and if requested by the Minister is to review the plan completely; and

- (b) submit any proposed amendment arising out of a review to the Minister for approval.
- (4) The Minister may approve a proposed amendment or may approve it with such modifications as the Minister thinks fit.
- (5) A copy of the plan for the time being in force is to be kept in the offices of the Authority and is to be available for inspection by the public during office hours free of charge.

[Section 18 amended by No. 60 of 1998 s.27.]

19. Authority to act on commercial principles

- (1) The Authority is to —
 - (a) perform its functions in a cost-efficient manner;
 - (b) endeavour to achieve or surpass the long term financial targets specified in its strategic development plan as existing from time to time; and
 - (c) ensure that no individual project undertaken by the Authority has an expected internal rate of return that is less than the minimum rate of return specified in its strategic development plan as existing from time to time.
- (2) If there is any conflict or inconsistency between —
 - (a) the duty imposed by subsection (1) and a direction given by the Minister under section 24; or
 - (b) the duty imposed by subsection (1) and the duty imposed by section 16A,

the direction given under section 24, or the duty imposed by section 16A, prevails.

[Section 19 inserted by No. 60 of 1998 s.12.]

20. Compulsory taking of land

- (1) The provision of land under this Act —
 - (a) for industrial purposes; or

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- (b) in the performance of the Authority's functions under section 16(1)(e),

is a public work for the purposes of Parts 9 and 10 of the *Land Administration Act 1997* and the *Public Works Act 1902*, and, if necessary for any of those purposes, the Authority is to be taken to be a local authority within the meaning of the *Public Works Act 1902*.

- (2) In applying Parts 9 and 10 of the *Land Administration Act 1997* and the *Public Works Act 1902* for the purposes of this section —

- (a) the expression “**land**” in those Acts has the same meaning as it has in section 4;
- (b) sections 187, 188, 189, 190 and 191 of the *Land Administration Act 1997* do not apply to land that becomes vested in the Authority by Schedule 4 being land that was taken or acquired under the *Public Works Act 1902* before the commencement of this Act.

- (3) If land referred to in subsection (2)(b) is not required for the public work for which it was taken or acquired, the land may be held or used for some other purpose authorized by this Act if such purpose is one for which the Authority would be entitled to take the land pursuant to this section.

[Section 20 amended by No. 31 of 1997 s.140(2)-(4); No. 60 of 1998 s.27.]

21. Dedication of Crown land to purposes of Act

- (1) The Governor may by notice published in the *Gazette* —
 - (a) dedicate any Crown land to the purposes of this Act; and
 - (b) cancel any dedication of land made under this subsection,

but may only do so on the recommendation of the Minister and after the Minister has consulted with the Ministers to whom the

administration of the *Land Administration Act 1997* and the administration of the *Mining Act 1978* are for the time being respectively committed by the Governor.

- (2) While any land remains dedicated under subsection (1), that land is not to be disposed of otherwise than under the *Land Administration Act 1997* as read with subsection (3).
- (3) The Minister to whom the administration of the *Land Administration Act 1997* is for the time being committed by the Governor may dispose of land dedicated under subsection (1) —
 - (a) to the Authority; or
 - (b) with the consent of the Authority, to a person other than the Authority,

and any such disposition is to be taken to have been effected under that Act.

- (4) When land is disposed of under the *Land Administration Act 1997* as read with subsection (3), it ceases to be dedicated under subsection (1).
- (5) Any land —
 - (a) that has ceased to be dedicated under subsection (1); but
 - (b) that has not been disposed of under the *Land Administration Act 1997* as read with subsection (3),

is to be taken to be Crown land.

[Section 21 amended by No. 31 of 1997 s.141.]

22. Establishment of bodies corporate

- (1) The Authority may, with the approval of the Governor —
 - (a) secure the incorporation —
 - (i) under the *Associations Incorporation Act 1987*, of incorporated associations; or
 - (ii) under the Corporations Law, of companies,

to manage and administer industrial, commercial or residential estates or parks and the like and their precincts;

- (b) on such terms and conditions as the Governor determines, become a member of an incorporated association or company referred to in paragraph (a) and perform the functions of such a member.

- (2) A director or an officer of the Authority may with the approval of the Authority become —

- (a) a member of the committee of an incorporated association; or
- (b) a director of a company,

referred to in subsection (1) and may represent the interests of the Authority on that committee or the board of directors of that company.

[Section 22 amended by No. 60 of 1998 s.13.]

23. Delegation

- (1) The Authority may, by instrument in writing, delegate the performance of any of its functions, except this power of delegation.
- (2) A delegation under subsection (1) may be made to —
 - (a) a director or directors;
 - (b) the chief executive officer;
 - (c) a member of staff;
 - (d) a committee; or
 - (e) any other person.
- (3) A delegate cannot subdelegate the performance of any function unless the delegate is expressly authorized by the instrument of delegation to do so.

- (4) A function performed by a delegate is to be taken to be performed by the Authority.
- (5) A delegate performing a function under this section is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (6) Nothing in this section is to be read as limiting the ability of the Authority to act through its officers and agents in the normal course of business.
- (7) This section does not apply to the execution of documents but authority to execute documents on behalf of the Authority can be given under section 45.

[Section 23 inserted by No. 60 of 1998 s.14.]

Part 3A — Provisions about accountability

[Heading inserted by No. 60 of 1998 s.15.]

Division 1 — Ministerial directions and provision of information

[Heading inserted by No. 60 of 1998 s.15.]

24. Minister may give directions

- (1) The Minister may give directions in writing to the Authority with respect to the performance of its functions, either generally or in relation to a particular matter, and the Authority is to give effect to any such direction.
- (2) Nothing in this section shall authorize the Minister to give a direction which would require the Authority to act in a manner which is unlawful or beyond the power of the Authority or for an improper purpose.
- (3) The text of any direction given under subsection (1) is to be —
 - (a) published in the *Gazette* —
 - (i) within 28 days after the direction is given; or
 - (ii) if the direction is the subject of a notice under section 17 of the *Statutory Corporations (Liability of Directors) Act 1996*, within 28 days after it is confirmed under that section;
 - and
 - (b) within 14 days after the direction is published laid before each House of Parliament or dealt with under section 45A; and
 - (c) included in the annual report submitted by the accountable authority of the Authority under section 66 of the *Financial Administration and Audit Act 1985*.

- (4) The board shall have standing to challenge the validity of a direction by a Minister but shall be entitled pending the resolution of the challenge to act upon it.
- (5) Subsection (1) has effect subject to the *Statutory Corporations (Liability of Directors) Act 1996*.
[Section 24 amended by No. 41 of 1996 s.3; No. 60 of 1998 s.16.]

24A. Consultation

- (1) The board and the Minister, at the request of either, are to consult together, either personally or through appropriate representatives, in relation to any aspect of the operations of the Authority.
- (2) The board must consult the Minister before the Authority enters upon a course of action that in the opinion of the board —
 - (a) amounts to a major initiative; or
 - (b) is likely to be of significant public interest,

whether or not the course of action involves a transaction to which section 17A applies.

[Section 24A inserted by No. 60 of 1998 s.17.]

24B. Minister to be kept informed

The Authority must —

- (a) keep the Minister reasonably informed of the operations, financial performance and financial position of the Authority, including the assets and liabilities, profits and losses and prospects of the Authority;
- (b) give the Minister reports and information that the Minister requires for the making of informed assessments of matters mentioned in paragraph (a); and

- (c) if matters arise that in the opinion of the board may prevent, or significantly affect, achievement of the Authority's —
 - (i) objectives outlined in its statement of corporate intent; or
 - (ii) targets under its strategic development plan, promptly inform the Minister of the matters and its opinion in relation to them.

[Section 24B inserted by No. 60 of 1998 s.17.]

24C. Notice of financial difficulty

- (1) The board must notify the Minister in the manner prescribed if the board forms the opinion that the Authority is unable to, or will be unlikely to be able to, satisfy any financial obligation of the Authority from the financial resources available or likely to be available to the Authority at the time the financial obligation is due.
- (2) Within 7 days of receipt of the notice, the Minister must —
 - (a) confer with the Treasurer and the board for the purpose of determining what action is required to ensure that the Authority is able to satisfy the relevant financial obligation when it is due; and
 - (b) initiate such action as is required to ensure that the Authority is able to satisfy the relevant financial obligation when it is due.

[Section 24C inserted by No. 60 of 1998 s.17.]

24D. Protection from liability

- (1) The Authority or a person performing functions under this Act is not liable —
 - (a) in respect of any claim arising as a consequence of the disclosure of information or documents under this Act; or

- (b) for the fact of having done or omitted a thing that is required to be done or omitted by a direction given under this Act.
- (2) Subsection (1) does not extend to the manner in which a thing is done or omitted if it is done or omitted contrary to section 9 or 10 of the *Statutory Corporations (Liability of Directors) Act 1996*.

[Section 24D inserted by No. 60 of 1998 s.17.]

25. Minister to have access to information

- (1) For the proper conduct of the Minister's public business, the Minister is entitled to have information in the possession of the Authority and to have and retain copies of documents.
- (2) For the purposes of subsection (1) the Minister may —
 - (a) request the chief executive officer or the board to furnish information to the Minister;
 - (b) request the chief executive officer or the board to give the Minister access to information;
 - (c) for the purposes of paragraph (b) make use of the staff of the Authority to obtain the information and furnish it to the Minister.
- (3) The chief executive officer or the board is to comply with a request under subsection (2) and make staff and facilities available to the Minister for the purposes of paragraph (c) of that subsection.
- (4) In this section —

“document” includes any data that is recorded or stored mechanically, photographically, or electronically and any tape, disc or other device or medium on which it is recorded or stored;

“information” means documents or other information relating to the functions of the Authority being information, as so defined, specified, or of a description specified, by the Minister.

[Section 25 amended by No. 60 of 1998 s.27.]

Division 2 — Strategic development plans and statements of corporate intent

[Heading inserted by No. 60 of 1998 s.18(1).]

25A. Strategic development plan and statement of corporate intent

- (1) The board must, at the prescribed times, prepare and submit to the Minister —
 - (a) a strategic development plan for the Authority; and
 - (b) a statement of corporate intent for the Authority.
- (2) Regulations are to make provision for the following:
 - (a) the manner and form in which the board is to prepare, submit, revise or modify a strategic development plan or statement of corporate intent;
 - (b) the period a strategic development plan or statement of corporate intent is to cover;
 - (c) the matters to be set out in a strategic development plan or statement of corporate intent, including matters related to any community service obligations that are to be performed;
 - (d) the functions of the board, the Minister and the Treasurer in relation to the development, approval or modification of a strategic development plan or statement of corporate intent;
 - (e) the operation of a strategic development plan or statement of corporate intent.

- (3) In subsection (2)(c) —
- “community service obligation”** means a commitment that arises because —
- (a) the Minister specifically requests the Authority to do something or specifically approves of the Authority doing something;
 - (b) the Authority could not do the thing and comply with section 19(1)(c); and
 - (c) things of that kind are not required to be done by businesses in the public or private sector generally.
- (4) If a regulation referred to in subsection (2) enables the Minister to give directions to the Authority, the Minister must within 14 days after a direction is given under the regulation cause a copy of the direction to be laid before each House of Parliament or dealt with in accordance with section 45A.
- (5) Regulations referred to in subsection (2) are not to be made except with the Treasurer’s concurrence.

[Section 25A inserted by No. 60 of 1998 s.18(1).]

Division 3 — Reporting requirements

[Heading inserted by No. 60 of 1998 s.18(1).]

25B. Half-yearly reports

- (1) In addition to the reporting requirements referred to in section 39, the board must, for the first half of a financial year, give to the Minister a report on the operations of the Authority.
- (2) A half-yearly report —
- (a) is to include any information prescribed for inclusion in such reports; and
 - (b) must be given to the Minister within the prescribed period or within the period agreed between the Minister and the board.

- (3) The board must give a copy of each half-yearly report to the Treasurer.

[Section 25B inserted by No. 60 of 1998 s.18(1).]

25C. Deletion of commercially sensitive matters from reports

- (1) The board may request the Minister to delete from the copies of a report under section 25B or under the *Financial Administration and Audit Act 1985* (and accompanying documents) that are to be made public, a matter that is of a commercially sensitive nature.
- (2) If the Minister complies with a request under subsection (1) the copies of the report are to include a statement that a matter of a commercially sensitive nature has been deleted from it.

[Section 25C inserted by No. 60 of 1998 s.18(1).]

[Part 4 (Heading and ss.26-30). Repealed by No. 60 of 1998 s.19(1) ³.]

Part 5 — Financial provisions

31. Funds of Authority

- (1) The funds available for the purpose of enabling the Authority to perform its functions consist of —
 - (a) moneys from time to time appropriated by Parliament;
 - (b) fees charged under section 17(2)(e);
 - (c) moneys borrowed by the Authority under section 34 or 35;
 - (d) the proceeds of the disposition of land by the Authority;
 - (e) rents and other payments derived from land leased by the Authority to others;
 - (f) income derived from the investment under section 33 of moneys standing to the credit of the Account; and
 - (g) any moneys, other than moneys referred to in paragraphs (a) to (f), lawfully received by, made available to or payable to the Authority.
- (2) The funds referred to in subsection (1) shall be paid into and placed to the credit of an account at a bank approved by the Treasurer to be called the “Western Australian Land Authority Account”.
- (3) There shall be paid from the moneys from time to time in and standing to the credit of the Account —
 - (a) interest on and repayments of moneys borrowed by the Authority under section 34 or 35 and any fees payable in connection with any such borrowing;
 - (b) the remuneration and allowances payable to directors, the chief executive officer and other staff of the Authority;
 - (c) the expenses of any committee in performing its functions; and

- (d) all other expenditure lawfully incurred by the Authority in performing its functions.

[Section 31 amended by No. 60 of 1998 s.27.]

32. Liability of Authority for duties, taxes, rates etc.

- (1) Despite section 5(5) or any other written law —
 - (a) the Authority; and
 - (b) deeds or other instruments to which it is a party,are liable to and chargeable with duties, taxes or other imposts under any written law.
- (2) Despite subsection (1) and section 15, but subject to subsection (3), land vested in or acquired by the Authority is not rateable land for the purposes of the *Local Government Act 1995*.
- (3) If the Authority leases or lets land vested in or acquired by the Authority, or holds land jointly with another person who is not a public authority, the land is, by reason of the lease, tenancy or joint holding, rateable land for the purposes of the *Local Government Act 1995*.
- (4) The Authority is to pay to the Treasurer in respect of each financial year an amount equivalent to the sum of all local government rates and charges that, but for subsection (2) and section 6.26(2)(a)(i) of the *Local Government Act 1995*, the Authority would have been liable to pay in respect of that financial year.
- (5) Subsection (4) does not apply in relation to land that is rateable under subsection (3).
- (6) An amount payable under subsection (4) —
 - (a) is to be determined in accordance with such principles; and

(b) is to be paid at such time or times,

as the Treasurer may direct.

- (7) The first payment under subsection (4) is to be in respect of the next full financial year after the commencement of the *Western Australian Land Authority Amendment Act 1998*¹.

[Section 32 inserted by No. 60 of 1998 s.20(1)⁴.]

33. Investment

Moneys standing to the credit of the Account may, until required for the purposes of this Act, be temporarily invested as the Treasurer directs in any securities in which money standing to the credit of the Public Bank Account, as constituted under the *Financial Administration and Audit Act 1985*, may lawfully be invested and all income derived from the investment is to be paid to the credit of the Account.

34. Borrowing by Authority from Treasurer

- (1) The Authority may borrow from the Treasurer such amounts as the Treasurer approves on such terms and conditions relating to repayment and payment of interest as the Treasurer imposes.
- (2) The Account and the assets of the Authority are by virtue of this subsection charged with the due performance by the Authority of obligations arising from any loan made under subsection (1).

35. Borrowing by Authority generally

- (1) This section is in addition to, and not in derogation from, the provisions of section 34.
- (2) The Authority may —
- (a) with the prior approval of the Treasurer in writing and on such terms and conditions as the Treasurer approves, borrow moneys for the purpose of performing its functions; and

- (b) borrow moneys under this subsection on the guarantee of the Treasurer given under section 36.
- (3) Any moneys borrowed by the Authority under subsection (2) may be raised as one or more loans and in such manner as the Treasurer approves, but the amount of the moneys so borrowed shall not in any one financial year exceed in the aggregate such amount as the Treasurer approves.

36. Guarantee by Treasurer

- (1) Subject to subsection (2), the Treasurer may, in the name and on behalf of the Crown in right of the State, guarantee, in such form and subject to such terms and conditions as he or she determines, the payment of any moneys payable by the Authority in respect of moneys borrowed by it under section 35.
- (2) Any guarantee shall be expressly limited as to the total amount secured thereby and such amount, together with all other guarantees given by the Treasurer and still in effect with respect to the Authority shall not exceed such sum as has been contained in an approved estimate of amount of guarantees with respect to the Authority.
- (3) For the purposes of subsection (2) an approved estimate of guarantees is an estimate which has been Tabled in and approved by resolution of both Houses of Parliament.
- (4) The due payment of moneys payable by the Treasurer under a guarantee given under subsection (1) —
 - (a) is hereby guaranteed by the State; and
 - (b) shall be charged to the Consolidated Fund, which to the extent necessary is appropriated accordingly.
- (5) The Account and the assets of the Authority are by virtue of this subsection charged with the due repayment of any payment made by the Treasurer under a guarantee given under subsection (1) and with the performance and observance by the

Authority of any terms and conditions which the Treasurer determines under that subsection in respect of that guarantee.

- (6) The Treasurer shall cause any amounts received or recovered from the Authority or otherwise in respect of a payment made by the Treasurer under a guarantee given under subsection (1) to be credited to the Consolidated Fund.
- (7) The Authority shall, before a guarantee is given by the Treasurer under subsection (1), give to the Treasurer such security as the Treasurer requires and shall execute all such instruments as are necessary for the purpose.
- (8) The Treasurer shall —
 - (a) within 28 days of giving a guarantee under subsection (1), cause the text of the guarantee to be published in the *Gazette*; and
 - (b) within 14 days of publication cause the text of the guarantee to be laid before each House of Parliament or dealt with in accordance with section 45A as if a reference in that section to the Minister were a reference to the Treasurer.

[Section 36 amended by No. 6 of 1993 s.11; No. 49 of 1996 s.64; No. 60 of 1998 s.21.]

37. Charges for guarantee

- (1) The Treasurer may fix charges to be paid by the Authority to the Treasurer to be credited to the Consolidated Fund in respect of a guarantee given under section 36.
- (2) Payment of any charges so fixed is to be made at such time or times as the Treasurer determines.

[Section 37 amended by No. 6 of 1993 s.11; No. 49 of 1996 s.64.]

38. Dividends

- (1) Any surplus remaining at the end of a financial year after the cost of the operations of the Authority and the amount of any interim dividend paid under subsection (7) during that financial year have been taken into account —
 - (a) may, in accordance with this section, be paid wholly or partly as a final dividend to the Consolidated Fund; and
 - (b) to the extent that it is not so paid, is to be applied for the purposes of the Authority.
- (2) The board, as soon as is practicable after the end of each financial year, is to make a recommendation to the Minister as to —
 - (a) whether a final dividend is to be paid; and
 - (b) if so, the amount to be paid.
- (3) The Minister, with the Treasurer's concurrence —
 - (a) may accept a recommendation under subsection (2); or
 - (b) after consultation with the board, is to direct that the amount of the final dividend is to be some other amount.
- (4) The Authority is to pay the dividend —
 - (a) as soon as practicable after the amount is fixed under subsection (3); and
 - (b) in any case not later than —
 - (i) 6 months after the end of the financial year to which the final dividend relates; or
 - (ii) such other time as may be agreed between the Treasurer and the board.
- (5) If the board considers that payment of an interim dividend to the Consolidated Fund is justified during part of a financial year the board may make a recommendation to the Minister as to the amount of the interim dividend that the board recommends should be paid.

- (6) The Minister, with the Treasurer's concurrence —
- (a) may accept a recommendation under subsection (5); or
 - (b) after consultation with the board, is to direct that the amount of the interim dividend is to be some other amount.
- (7) The Authority is to pay the dividend —
- (a) as soon as practicable after the amount is fixed under subsection (6); and
 - (b) in any case not later than the end of the financial year to which the interim dividend relates.

[Section 38 inserted by No. 60 of 1998 s.22.]

39. Application of *Financial Administration and Audit Act 1985*

The provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Authority and its operations.

[Part 6 (ss.40-44). Repealed by No. 60 of 1998 s.23.]

Part 7 — Miscellaneous

45. Execution of documents

- (1) The Authority is to have a common seal.
- (2) A document is duly executed by the Authority, if —
 - (a) the common seal of the Authority is affixed to it in accordance with subsections (3) and (4); or
 - (b) it is signed on behalf of the Authority by persons authorized by the board to do so.
- (3) The common seal of the Authority is not to be affixed to any document except as authorized by the board.
- (4) The common seal of the Authority is to be affixed to a document in the presence of such persons and such number of persons as are determined by the Authority, and each of them is to sign the document to attest that the common seal was so affixed.
- (5) A person authorized or determined under subsection (2)(b) is to be a director or an officer of the Authority.
- (6) A document purporting to be executed in accordance with this section is to be taken to be duly executed until the contrary is shown.
- (7) All courts and persons acting judicially are to take notice of the common seal of the Authority.

45A. Supplementary provision about laying documents before Parliament

- (1) If —
 - (a) at the commencement of a period referred to in section 17A(4), 24(3)(b), 25A(4) or 36(8) in respect of a document a House of Parliament is not sitting; and

- (b) the Minister is of the opinion that that House will not sit during that period,

the Minister is to transmit a copy of the document to the Clerk of that House.

- (2) A copy of a document transmitted to the Clerk of a House is to be —
 - (a) taken to have been laid before that House; and
 - (b) taken to be a document published by order or under the authority of that House.
- (3) The laying of a copy of a document that is taken to have occurred under subsection (2)(a) is to be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after the receipt of the copy by the Clerk.

[Section 45A inserted by No. 60 of 1998 s.24.]

[46. Repealed by No. 60 of 1998 s.19(2).]

47. Regulations

- (1) 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.

[(2) and (3) repealed]

[Section 47 amended by No. 60 of 1998 s.27.]

48. Review of Act

- (1) The Minister is to carry out a review of the operation and effectiveness of this Act within 6 months after every 5th anniversary of the commencement of the *Western Australian Land Authority Amendment Act 1998*¹.

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- (2) In the course of that review the Minister is to consider and have regard to —
- (a) the effectiveness of the operations of the Authority;
 - (b) the need for the continuation of the functions of the Authority; and
 - (c) such other matters as appear to the Minister to be relevant to the operation and effectiveness of this Act.
- (3) The Minister is to prepare a report on the review within 6 months after the review is carried out and cause the report to be laid before each House of Parliament as soon as is practicable after it is prepared.

[Section 48 inserted by No. 60 of 1998 s.25.]

49. Consequential amendments

[Omitted under section 7(4)(e) of the Reprints Act 1984.]

50. Repeals, savings and transitional

- (1) The following Acts are repealed —
- (a) the *Industrial Lands Development Authority Act 1966* *;
 - (b) the *Industrial Development (Resumption of Land) Act 1945* **;
 - (c) the *Joondalup Centre Act 1976* ***.
- (2) Schedule 4 has effect for the purpose of the transition to the provisions of this Act from those of the Acts repealed by subsection (1).

[Reprinted as approved 12 March 1981 and amended by Acts Nos. 63 of 1981, 57 and 98 of 1985, 32 of 1987 and 52 of 1990.*

*** Reprinted as approved 25 July 1962 and amended by Acts Nos.63 of 1981 and 57 of 1985.*

**** Act No. 88 of 1976; amended by Acts Nos. 11 and 98 of 1985, 113 of 1987 and 5 of 1989.]*

51. Transfer of certain assets etc. of WADC

- (1) The Authority may agree to acquire property from the WADC if it is of the opinion that such property is suitable for its functions in respect of residential land.
- (2) The price of such property shall be the sum agreed by the Authority and WADC as being the market value of the property and being —
 - (a) in the case of land, not greater than an amount certified by a licensed valuer as being the value of the land, less the agreed value of any liabilities relating to the land; and
 - (b) in the case of any other property not greater than the depreciated value of the property as carried in the accounts of the WADC.
- (3) If the liabilities relating to any land agreed to be acquired under subsection (1) exceed the value of the land, the WADC is liable to the Authority for the amount of the difference.
- (4) Any amount owing by the Authority to the WADC by operation of this section is payable by the Authority on demand by the WADC; but the WADC is not to make such demand unless the Minister consents to its doing so.
- (5) If at the time when all WADC assets have been converted into money there is any debt owing by the Authority to the WADC by operation of this section, the Minister to whom the administration of the *Western Australian Development Corporation Act 1983*⁵ is committed by the Governor may by instrument cancel that debt.
- (6) The Ministers shall by order published in the *Gazette* allocate to the Authority the property agreed to be acquired under subsection (1) and, in the case of land, the liabilities of the WADC relating to that land; and shall include in the order a sufficient description to enable the property and liabilities to be identified.

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- (7) On the publication of an order under subsection (6) —
- (a) the property to which the order relates vests in the Authority together with all claims, rights and remedies that the WADC had in respect of the property;
 - (b) the Authority becomes liable to pay, bear or discharge all the liabilities that are allocated under the order; and
 - (c) the Authority is to take delivery of all registers, papers, documents, minutes, receipts, books of account and other records (however compiled, recorded or stored) relating to the operations of the WADC so far as the records relate to property or liabilities allocated to the Authority under the order.
- (8) The transfer of any liability of the WADC under this section to the Authority does not affect any guarantee under section 21 of the *Western Australian Development Corporation Act 1983*⁵ in force immediately before the transfer and subsection (2) of section 21 of that Act is to be taken to continue to apply after that transfer and notwithstanding that that subsection may be repealed.
- (9) Any agreement or instrument subsisting immediately before the publication of an order under this section to which the WADC was a party or which contains a reference to the WADC or a trading name used by the WADC has effect after that publication as if —
- (a) the Authority were substituted for the WADC as a party to the agreement or instrument; and
 - (b) any reference in the agreement or instrument to the WADC were (unless the context otherwise requires) a reference to the Authority,
- but in this subsection “**WADC**” means the WADC only in relation to agreements or instruments in respect of any property or liability allocated to the Authority under this section.

- (10) Any legal or other proceedings or any remedies that might, but for this section, have been commenced, continued, discontinued or available by or against or to the WADC in relation to any property or liability allocated to the Authority under this section, may be commenced, continued, discontinued, and shall be available, by or against or to the Authority.
- (11) In this section —
- “**Ministers**” means the Ministers to whom the administration of this Act and the *Western Australian Development Corporation Act 1983*⁵ are respectively committed by the Governor, acting jointly;
- “**property**” and “**liabilities**” have the respective meanings assigned by clause 1 of Schedule 4;
- “**WADC**” means the Western Australian Development Corporation established by the *Western Australian Development Corporation Act 1983*⁵.

[52. *Repealed by No. 60 of 1998 s.27.*]

Schedule 1

[section 6(4)]

Part A

Constitution and proceedings of directors and board

1. Term of office

- (1) Except as otherwise provided by this Act, a director holds office for such term, not exceeding 3 years, as is specified in the instrument of his or her appointment, but may from time to time be re-appointed.
- (2) A director, unless he or she sooner resigns, is removed from office or his or her office becomes vacant under clause 2(b), continues in office until his or her successor comes into office, notwithstanding that the term for which he or she was appointed may have expired.

2. Resignation, removal, etc.

The office of a director becomes vacant if he or she —

- (a) resigns the office by written notice addressed to the Minister;
- (b) is an insolvent under administration within the meaning of the Corporations Law;
- (c) is removed from office by the Minister on the grounds of neglect of duty, misbehaviour, incompetence or mental or physical incapacity impairing the performance of his or her duties and proved to the satisfaction of the Minister.

3. Alternate directors

- (1) Where a director other than the chairperson is unable to act by reason of sickness, absence or other cause the Minister may appoint another person to act temporarily in his or her place, and while so acting according to the tenor of his or her appointment that other person is to be taken to be a director.

- (2) Where the director who is deputy chairperson is performing the functions of the chairperson, the Minister may, under subclause (1), appoint another person to act in his or her place as director.
- (3) No act or omission of a person acting in place of another under this clause is to be questioned on the ground that the occasion for his or her appointment or acting had not arisen or had ceased.
- (4) The appointment of a person as an alternate director may be terminated at any time by the Minister.

4. Chairperson and deputy chairperson

- (1) The office of chairperson or deputy chairperson becomes vacant if —
 - (a) the person holding the office resigns the office by notice in writing to the Minister;
 - (b) the person holding the office ceases to be a director; or
 - (c) the Minister declares the office to be vacant.
- (2) During any vacancy in the office of chairperson or while he or she is unable to act by reason of sickness, absence or other cause, the deputy chairperson is to perform the functions of the chairperson.
- (3) No act or omission of the deputy chairperson acting as the chairperson is to be questioned on the ground that the occasion for his or her so acting had not arisen or had ceased.

5. Meetings

- (1) The first meeting of the 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 the board may at any time be convened by the chairperson.
- (3) The chairperson is to preside at all meetings of the board at which he or she is present.
- (4) If both the chairperson and the deputy chairperson are absent from a meeting the directors present are to appoint one of their number to preside.

Schedule 1

- (5) A quorum for a meeting of the board is a simple majority of directors.
- (6) Questions arising at a meeting of the board are to be decided by a majority of the votes of the directors present.
- (7) If the votes of the directors present at a meeting and voting on a question are equally divided, the chairperson, deputy chairperson or other person presiding is to have a casting vote in addition to his or her deliberative vote.
- (8) The board is to cause accurate minutes to be kept of the proceedings at its meetings.

5A. Telephone and video meetings

Despite anything in this Schedule, a communication between directors constituting a quorum under clause 5(5) by telephone or audio-visual means is a valid meeting of directors, but only if each participating director is able to communicate with every other participating director instantaneously at all times while participating in the proceedings.

6. Committees

- (1) The board may from time to time appoint committees of such directors, or such directors and other persons, as it thinks fit and may discharge or alter any committee so appointed.
- (2) Subject to the directions of the board and to the terms of any delegation under section 23, each committee may determine its own procedures.

7. Resolution may be passed without meeting

A resolution in writing signed or assented to by each director by letter, telegram, telex or facsimile transmission is as valid and effectual as if it had been passed at a meeting of the board.

8. Leave of absence

The board may grant leave of absence to a director on such terms and conditions as the board thinks fit.

9. Board to determine own procedures

Subject to this Act, the board is to determine its own procedures.

Part B

Duties of directors

1. Interpretation

- (1) In this Part “**near relative**”, in relation to a director, means a spouse, parent or child of the director.
- (2) In the application of this Part to members of a committee, references to the board are to be read as references to that committee.

2. Conflict of interest

- (1) Subject to subclause (3), a director who has a direct or indirect pecuniary interest in a proposal before the board —
 - (a) is to disclose the nature of that interest to the board as soon as he or she becomes aware of that proposal; and
 - (b) is not to take part in any deliberation or decision of the board in respect of that proposal.
- (2) Without limiting the generality of subclause (1), a director is to be taken to have a direct or indirect pecuniary interest in a proposal for the purposes of that subclause if his or her near relative has such an interest.
- (3) No disclosure is required under subclause (1) in respect of an interest that —
 - (a) arises because the director concerned or his or her near relative has a shareholding (not being a substantial shareholding within the meaning of Division 4 of Part 6.7 of the Corporations Law) in a public company; and
 - (b) is shared in common with the other shareholders in the public company referred to in paragraph (a).

Schedule 1

- (4) A disclosure made under this clause is to be recorded in the minutes of the board.
- (5) If a director discloses his or her interest in a proposal under this clause, or his or her interest in a proposal is not such as need be disclosed under this clause, a transaction resulting from the proposal is not liable to be avoided on any ground arising from the fiduciary relationship between the director and the Authority.

[3, 4 and 5. Repealed]

6. Saving

The provisions of this Part are in addition to and not in derogation of any other law relating to the duty or liability of the holder of a public office.

[Schedule 1 amended by No. 41 of 1996 s.3; No. 60 of 1998 s.26.]

Schedule 2

[section 16(1)(c)]

Area comprising Joondalup Centre

All that portion of land bounded by lines starting at the western corner of Swan Location 7898 and extending westerly and northerly along boundaries of Location 3324 and onwards to a point situate 200 metres north of the northern side of Road Number 3590; thence north-easterly to a point on the western boundary of the northern severance of Location 3323, situate 300 metres from the northern side of Road Number 3590; thence north-easterly to a point on the eastern boundary of the northern severance of Location 3323, situate 150 metres from the northern side of Road Number 3590; thence north-easterly to the north-western corner of Lot 4 of Location 1149; as shown on Department within the meaning of the *Transfer of Land Act 1893* Diagram 40753; thence southerly along the easternmost boundary of Perthshire Location 107 to a northern boundary of Class A Reserve 31048; thence generally north-westerly, generally south-easterly, westerly and again generally south-easterly along boundaries of that reserve to the south-eastern corner of Swan Location 2734; thence south-westerly 475.8 metres along the south-easterly boundary of that location; thence 204 degrees 20 minutes, 14.43 metres; thence 211 degrees 29 minutes, 63.709 metres; thence 218 degrees 39 minutes, 63.709 metres; thence 225 degrees 49 minutes, 63.709 metres; thence 232 degrees 55 minutes, 63.522 metres; thence 237 degrees 53 minutes, 46.984 metres to the northern-most south-western boundary of Perthshire Location 101, as shown on Main Roads Department Plan 7631-305-1; thence south-easterly and south-westerly along boundaries of that location and onwards to the southern side of Mullaloo Drive: thence generally south-westerly along that side to the northern-most north-western corner of Swan Location 8278; thence north-easterly to and along the north-western boundary of Location 7811 to the south-eastern corner of Lot 1 of Location 1370, as shown on Department within the meaning of the *Transfer of Land Act 1893* Diagram 50288; thence generally westerly along southern boundaries of that lot to the prolongation south-westerly of the north-western boundary of Lot 597, as shown on Department within the meaning of the *Transfer of Land Act 1893* Plan 10951; thence north-easterly to and north-easterly and north-westerly along boundaries of that lot to a north-easterly boundary of Location 1370; thence north-westerly

Schedule 2

along that boundary to the starting point, as shown on Town Planning Department Plan 2.0169.

[Schedule 2 amended by No. 81 of 1996 s.153(3).]

Schedule 3

[Omitted under section 7(4)(e) of the Reprints Act 1984.]

Schedule 4

[section 50(2)]

Transitional and savings provisions

1. Interpretation

In this Schedule, unless the contrary intention appears —

“commencement day” means the day on which section 50 comes into operation;

“former body” means the Industrial Lands Development Authority established by the Act repealed by section 50(1)(a) and the Joondalup Development Corporation provided for by the Act repealed by section 50(1)(c);

“liability” includes any obligation, claim or demand, present or future, certain or contingent, ascertained or sounding only in damages;

“property” means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description and includes things in action and a power of disposition over property.

2. Staff

- (1) All persons who were employed or engaged by a former body immediately before the commencement day are to be taken to be employed or engaged by the Authority under section 11 on the same terms and conditions, including the salary payable, as those on which they were employed or engaged immediately before the commencement day.
- (2) Subclause (1) applies to the General Manager holding office immediately before the commencement day under section 31 of the Act repealed by section 50(1)(c) but after the commencement day he or she does not by virtue of that subclause become the chief executive officer of the Authority.

Schedule 4

- (3) On the publication of an order under section 51 such persons as the Minister determines who were employed or engaged immediately before that publication under section 15 of the *Western Australian Development Corporation Act 1983*⁵ in performing duties relating exclusively to property allocated to the Authority under that order are to be taken to have been employed or engaged by the Authority under section 11 on the same terms and conditions, including the salary payable, as those on which they were employed immediately before the publication of the order.
- (4) A person to whom subclause (1) or (3) applies retains all his or her existing and accruing rights (including rights under the *Superannuation and Family Benefits Act 1938*) as if his or her employment or engagement under this Act were a continuation of his or her employment or engagement immediately before the commencement day.
- (5) Nothing in this clause prevents the exercise by the Authority after the commencement day of its powers in relation to the management of the staff of the Authority.

3. Assets, liabilities etc., to vest in Authority

- (1) On the commencement day —
 - (a) any property, whether within or outside the State, which was vested in a former body or, to which a former body was entitled immediately before that day vests in the Authority together with all claims, rights and remedies that the former body then had in respect of the property;
 - (b) the Authority becomes liable to pay, bear or discharge all the liabilities of a former body that are properly payable; and
 - (c) the Authority is to take delivery of all registers, papers, documents, minutes, receipts, books of account and other records (however compiled, recorded or stored) relating to the operations of a former body.
- (2) Anything commenced by a former body before the commencement day may be continued by the Authority, so far as it is authorized by this Act.

4. Agreements and instruments

Any agreement or instrument subsisting immediately before the commencement day —

- (a) to which a former body was a party; or
- (b) which contains a reference to a former body,

has effect after that day as if —

- (c) the Authority were substituted for the former body as a party to the agreement or instrument; and
- (d) any reference in the agreement or instrument to a former body were (unless the context otherwise requires) a reference to the Authority.

5. Registration of documents

- (1) The Registrar of Titles, the Registrar of Deeds, the Ministers respectively administering the *Land Act 1933*⁶ and the *Mining Act 1978*, and any other person authorized by a written law to record and give effect to the registration of documents relating to transactions affecting any estate or interest in land or other property, are to take note of the provisions of this Schedule and section 51 and are empowered to record and register in the appropriate manner such of those documents as are necessary to give effect to this Schedule and section 51.
- (2) Without limiting subclause (1) a statement in an instrument executed by the Authority that any estate or interest in land or other property has become vested in it under this Schedule or section 51 is evidence of that fact.

6. Funds

On the commencement day the fund under section 6B of the *Industrial Lands Development Authority Act 1966* and the account under section 41(2) of the *Joondalup Centre Act 1976* are to be closed and the moneys placed to the credit of the Account referred to in section 31(2).

Schedule 4

7. Particular transitional provisions for *Industrial Lands Development Authority Act 1966*

- (1) In this clause “**the repealed Act**” means the *Industrial Lands Development Authority Act 1966*.
- (2) On and after the commencement day, the matters referred to in subclause (3) continue to be governed by the repealed Act (except section 14), notwithstanding its repeal, but —
 - (a) the functions under that Act are to be performed, for the purposes of this clause, by the Authority established under this Act; and
 - (b) references in that Act to the Fund are to be read as references to the Account referred to in section 31(2).
- (3) Those matters are —
 - (a) land to which section 7B(1) of the repealed Act applied immediately before the commencement day other than such land as is freehold land under the *Transfer of Land Act 1893* unless in respect of such last-mentioned land —
 - (i) a memorial remained registered under section 7D(1) of the repealed Act on the commencement day; or
 - (ii) immediately before the commencement day, a caveat under Part V of the *Transfer of Land Act 1893* by the Industrial Lands Development Authority or its predecessors or the relevant Minister or a caveat under section 182(iii) of the *Transfer of Land Act 1893* by the Registrar of Titles was in force.
 - (b) any memorial that remained registered under section 7D(1) of the repealed Act on the commencement day in respect of land under the operation of the *Transfer of Land Act 1893*;
 - (c) any injunction or interim injunction granted under section 8 of the repealed Act and in force immediately before the commencement day;

- (d) any land referred to in —
 - (i) Part V of the Schedule to the repealed Act and not acquired by or transferred to the Industrial Lands Development Authority; or
 - (ii) Part VI of the Schedule to the repealed Act and not acquired by or transferred to that Authority from the State Planning Commission,
under section 12A of the repealed Act before the commencement day;
 - (e) any advance made, or guarantee given, by the Treasurer under section 13 of the repealed Act and not repaid, or still in force, as the case may be, immediately before the commencement day.
- (4) For the purposes of subclause (3)(e), section 13(3) of the repealed Act is to be taken to continue to apply after the commencement day notwithstanding the repeal.

8. Guarantees under *Joondalup Centre Act 1976*

The repeal of the *Joondalup Centre Act 1976* by section 50(1)(c) does not affect any guarantee under section 43 of that Act in force immediately before the commencement day and section 43(8) of that Act is to be taken to continue in force for the purposes of this clause.

9. Particular transitional provisions for *Industrial Development (Resumption of Land) Act 1945*

- (1) In this clause “**the repealed Act**” means the *Industrial Development (Resumption of Land) Act 1945*.
- (2) Land that was, immediately before the commencement day, dedicated under section 11 of the repealed Act is to be taken, on and after that day, to be land dedicated under section 21.
- (3) If a person was, immediately before the commencement day, a proprietor, purchaser or lessee of land to whom section 13 of the repealed Act applied, that section continues, after that day, to apply to the person while he or she continues to be the proprietor, purchaser or lessee of the land in question.

Schedule 4

- (4) All land —
- (a) to which section 14 of the repealed Act applied immediately before the commencement day; and
 - (b) in respect of which immediately before that day a caveat under Part V of the *Transfer of Land Act 1893* by the Industrial Lands Development Authority or its predecessors or the relevant Minister or a caveat under section 182(iii) of the *Transfer of Land Act 1893* by the Registrar of Titles was in force,

shall on the commencement day be taken to be land in respect of which a memorial is for the time being registered under section 26.

- (5) Any such caveat shall on and after the commencement day be deemed to be a memorial registered under section 26 in respect of that land and to have ceased to be a caveat in force under Part V or section 188(iii) of the *Transfer of Land Act 1893*.

10. Annual report for part of a year

- (1) The “accountable authority”, within the meaning in the *Financial Administration and Audit Act 1985*, of a former body is to report in respect of that body as required by section 66 of that Act, but limited to the period from the preceding 1 July to the commencement day, and Division 14 of Part II of that Act applies as if that period were a full financial year.
- (2) A former body and its accountable authority as constituted immediately before the commencement day continues in existence for the purpose of subclause (1) and for that purpose only.
- (3) The Authority is to arrange for the provision of such clerical and other assistance as is reasonably required for the purpose of subclause (1).

11. Interpretation Act to apply

With respect to the repeals effected by section 50, this Act is supplementary to, and does not displace the operation of, the *Interpretation Act 1984*.



Notes

¹ This reprint is a compilation as at 16 April 1999 of the *Western Australian Land Authority Act 1992* and includes all amendments effected by the other Acts referred to in the following Table.

Table of Acts

Short title	Number and Year	Assent	Commencement	Miscellaneous
<i>Western Australian Land Authority Act 1992</i>	35 of 1992	23 June 1992	Sections 1, 2 and 4 operative 23 June 1992: balance 1 July 1992; (see section 2(2) and <i>Gazette</i> 30 June 1992 p.2869)	
<i>Financial Administration Legislation Amendment Act 1993,</i> section 11	6 of 1993	27 August 1993	Deemed operative 1 July 1993 (see section 2(1))	
<i>Acts Amendment (Public Sector Management) Act 1994,</i> section 19	32 of 1994	29 June 1994	1 October 1994 (see section 2 and <i>Gazette</i> 30 September 1994 p.4948)	
<i>Statutes (Repeals and Minor Amendments) Act 1994,</i> section 4	73 of 1994	9 December 1994	9 December 1994 (see section 2)	
<i>Local Government (Consequential Amendments) Act 1996,</i> section 4	14 of 1996	28 June 1996	1 July 1996 (see section 2)	

Western Australian Land Authority Act 1992

Short title	Number and Year	Assent	Commencement	Miscellaneous
<i>Statutory Corporations (Liability of Directors) Act 1996, section 3</i>	41 of 1996	10 October 1996	1 December 1996 (see section 2 and <i>Gazette</i> 12 November 1996 p.6301)	
<i>Financial Legislation Amendment Act 1996, section 64</i>	49 of 1996	25 October 1996	25 October 1996 (see section 2(1))	
<i>Transfer of Land Amendment Act 1996, section 153(3)</i>	81 of 1996	14 November 1996	14 November 1996 (see section 2)	
<i>Western Australian Land Authority Amendment Act 1997</i>	28 of 1997	26 September 1997	26 September 1997 (see section 2)	
<i>Acts Amendment (Land Administration) Act 1997, Part 67 and section 141</i>	31 of 1997	3 October 1997	30 March 1998 (see section 2 and <i>Gazette</i> 27 March 1998 p.1765)	
<i>Western Australian Land Authority Amendment Act 1998</i>	60 of 1998	31 December 1998	31 December 1998 (see section 2)	Section 7(2): transitional ⁷ ; section 18(2), (3) and (4): transitional ⁸ ; section 19(3) and (4): transitional ³ ; section 20(2): transitional ⁴

² References to the *Public Service Act 1978* are to be construed as references to the *Public Sector Management Act 1994* (Act No. 31 of 1994) according to Section 112(1) of that Act.

³ Section 19(3) and (4) of the *Western Australian Land Authority Amendment Act 1998* (Act No. 60 of 1998) reads as follows —

“

- (3) Despite subsections (1) and (2), on and from the commencement of this Act —
- (a) a memorial registered or deemed to be registered under Part 4 before the commencement of this Act remains of effect, and may be withdrawn and registered again under Part 4, as if the Part had not been repealed;
 - (b) the functions of a relevant official under Part 4 in relation to memorials are to be performed as if the Part had not been repealed;
 - (c) a pending memorial —
 - (i) may be registered under Part 4;
 - (ii) has effect after registration as if Part 4 had not been repealed; and
 - (iii) may be withdrawn and registered again under Part 4,as if the Part had not been repealed; and
 - (d) Part 4 and section 46 continue to apply and have effect in relation to any memorial referred to in paragraph (a) or (c) and to offences and other matters related to the memorial.

(4) In subsection (3) —

“pending memorial” means a memorial in respect of any land disposed of by the Authority pursuant to a transaction entered into before the commencement of this Act;

“relevant official” has the same meaning as it had under the *Western Australian Land Authority Act 1992* immediately before the commencement of this Act.

”.

⁴ Section 20(2) of the *Western Australian Land Authority Amendment Act 1998* (Act No. 60 of 1998) reads as follows —

“

- (2) Section 32 as inserted by subsection (1) —
 - (a) does not apply to a deed or other instrument that —
 - (i) has been signed or sealed by or on behalf of all parties that are required to do so; or
 - (ii) evidences a transaction that was completed, before the commencement of this Act; and
 - (b) subject to paragraph (a), applies in respect of any duty, tax, rate or other impost the Authority becomes liable to and chargeable with after the commencement of this Act but not otherwise.

”

⁵ Repealed by the *WADC and WA Exim Corporation Repeal Act 1998* (Act No. 30 of 1998).

⁶ References to the *Land Act 1933* are to be construed as references to the *Land Administration Act 1997* (Act No. 30 of 1997) according to section 281(3) of that Act.

⁷ Section 7(2) of the *Western Australian Land Authority Amendment Act 1998* (Act No. 60 of 1998) reads as follows —

“

- (2) The persons who were directors of the board immediately before the commencement continue in office under and subject to the *Western Australian Land Authority Act 1992*.

”

⁸ Section 18(2), (3) and (4) of the *Western Australian Land Authority Amendment Act 1998* (Act No. 60 of 1998) reads as follows —

“

- (2) The board must prepare and submit to the Minister for the Minister’s agreement, as soon as is practicable after the commencement of this Act, a draft interim strategic development plan and a draft interim statement of corporate intent.

- (3) When the board and the Minister, with the concurrence of the Treasurer, reach agreement on the draft interim strategic development plan and the draft interim statement of corporate intent, they become the strategic development plan and the statement of corporate intent for the remainder of the financial year in which this Act comes into operation, or until agreement is reached on a draft strategic development plan and draft statement of corporate intent, whichever is the later.
- (4) The first half-yearly report by the board is to be in respect of the first half of the next full financial year after the commencement of this Act.

”

Defined Terms

Defined Terms

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

Defined Term	Provision(s)
Account	4
acquire	4
alternate director	4
Authority	4
board	4
chairperson	4
chief executive officer	4
commencement day	Schedule 4, clause 1
committee	4
community service obligation	25A(3)
Crown land	4
director	4
dispose of	4
document	25(4)
former body	Schedule 4, clause 1
function	4
industrial purposes	4
information	25(4)
Joondalup Centre	16(2)
land	4, 16(2), 20(2)(a)
liabilities	51(11)
liability	Schedule 4, clause 1
Ministers	51(11)
near relative	Schedule 1, Part B, clause 1
person	17(5)
property	51(11), Schedule 4, clause 1
public authority	4
transaction	17A(5)
the repealed Act	Schedule 4, clauses 7(1) and 9(1)
Treasurer	4
WADC	51(9), 51(11)