



Western Australia

# **Western Australian Treasury Corporation Act 1986**

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Western Australia

# Western Australian Treasury Corporation Act 1986

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Western Australia

## **Western Australian Treasury Corporation Act 1986**

**An Act to establish a corporation to provide financial management services to the Western Australian public sector.**

*[Long title inserted by No. 25 of 1998 s. 4.]*

## Part I — Preliminary

### 1. Short title

This Act may be cited as the *Western Australian Treasury Corporation Act 1986*<sup>1</sup>.

### 2. Commencement

This Act shall be deemed to have come into operation on 1 July 1986.

### 3. Terms used

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

***appointed director*** means a director appointed under section 5B(1)(d);

***authority*** means body corporate which —

- (a) is constituted by or under a written law; and
- (b) is empowered by or under a written law to borrow moneys,

but does not include body corporate belonging to any of the classes of body corporate specified in Schedule 1;

***board*** means the board of directors provided for by section 5B;

***borrow*** includes —

- (a) reborrow;
- (b) obtain advances, credit or deposits; and
- (c) arrange for financial accommodation,

and ***lend*** shall be construed accordingly;

***chief executive officer*** means the person appointed as such under section 8;

***create***, in relation to debt paper, includes issue and sell;

***debt paper*** means inscribed stock, bonds, debentures, debentures with coupons annexed, bills of exchange, promissory



notes or other bearer securities, or other similar instruments evidencing indebtedness;

*director* means a member of the board;

*financial institution* means financial institution situated inside or outside Australia;

*interest rate* includes coupon rate, discount rate and yield;

*the Account* means the Western Australian Treasury Corporation Account referred to in section 17(1);

*the Corporation* means the Western Australian Treasury Corporation established by section 5(1);

*the repealed Act* means the *Borrowings for Authorities Act 1981*;

*Treasury* means the department of the Public Service of which the Under Treasurer is the chief executive officer;

*Under Treasurer* includes an acting Under Treasurer.

- (2) The Governor may from time to time by order amend Schedule 1 by adding a class of body corporate to the classes of body corporate specified in Schedule 1.
- (3) When Schedule 1 is amended under subsection (2), this Act continues to apply to any thing done under this Act before that amendment by or to or in relation to a body corporate belonging to the class of body corporate added by that amendment to the classes of body corporate specified in Schedule 1 as if that amendment had not been made.

*[Section 3 amended by No. 24 of 1992 s. 4; No. 25 of 1998 s. 5; No. 28 of 2006 s. 438.]*

#### **4. Act to prevail over certain written laws**

- (1) If there is an inconsistency between this Act and a written law by or under which an authority is constituted or is empowered to borrow moneys, this Act prevails to the extent of that inconsistency.

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- (2) An authority may, notwithstanding anything in a written law referred to in subsection (1) —
- (a) borrow amounts lent to it by the Corporation under section 14(2) instead of borrowing moneys in accordance with that written law;
  - (aa) provide security to the Corporation, in such manner and in such form and on such terms and conditions as the Corporation requires, for the purpose of securing amounts lent to the authority by the Corporation under section 14(2), the payment of interest on those amounts and the payment of —
    - (i) such fees as are required to be paid under section 14(2); and
    - (ii) any other moneys payable, in connection with that lending; and
  - (b) do or suffer all things necessary or convenient for giving effect to this Act.
- (3) An authority shall, notwithstanding anything in a written law referred to in subsection (1) —
- (a) permit the Corporation, within the State or elsewhere, to establish and conduct, or to arrange for the establishment and conduct of, registries, marking facilities, agencies and other offices for dealing in debt paper created by the authority;
  - (b) if the Corporation establishes, or arranges for the establishment of, any registry, marking facility, agency or other office for dealing in debt paper created by the authority, cause any such office formerly maintained by or on behalf of the authority to be discontinued and furnish to the Corporation on request all accounts, books, records, documents, papers, information and other things formerly pertaining thereto; and

- (c) if the surrender of any debt paper created by the authority is accepted by the Corporation under an agreement made under section 10(4), on request by the Corporation cause that debt paper to be cancelled.

*[Section 4 amended by No. 24 of 1992 s. 5.]*

## **Part II — Western Australian Treasury Corporation**

### **5. Western Australian Treasury Corporation established as body corporate**

- (1) There is hereby established a body corporate to be called the Western Australian Treasury Corporation.
- (2) The Corporation is a body corporate with perpetual succession.
- (3) Proceedings may be taken by or against the Corporation in its corporate name.

*[Section 5 amended by No. 25 of 1998 s. 6.]*

### **5A. Agent of Crown**

The Corporation is an agent of the Crown and enjoys the status, immunities and privileges of the Crown.

*[Section 5A inserted by No. 25 of 1998 s. 7(1).]*

### **5B. Board of directors**

- (1) The Corporation shall have a board of directors comprising —
  - (a) as chairperson, the Under Treasurer for the time being;
  - (b) as deputy chairperson, an officer of the Treasury from time to time nominated by the Under Treasurer;
  - (c) the chief executive officer, or the acting chief executive officer, of the Corporation for the time being; and
  - (d) up to 3 other persons with relevant commercial or financial experience appointed by the Minister.
- (2) The board, in the name of the Corporation, shall perform the functions of the Corporation under this Act or any other written law.

*[Section 5B inserted by No. 25 of 1998 s. 7(1); amended by No. 28 of 2006 s. 439 and 450.]*

**5C. Constitution and proceedings of board**

Schedule 2 has effect.

*[Section 5C inserted by No. 25 of 1998 s. 7(1).]*

**5D. Remuneration of directors and committee members**

There shall be paid out of the funds of the Corporation to —

- (a) an appointed director; and
- (b) a member of a committee under clause 15 of Schedule 2 (other than a director referred to in section 5B(1)(a), (b) or (c) or a person acting for or representing such a director),

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

*[Section 5D inserted by No. 25 of 1998 s. 7(1); amended by No. 28 of 2006 s. 450.]*

**6. Common seal, agents, attorneys and facsimiles of Corporation**

- (1) The common seal of the Corporation shall —
  - (a) be kept in such custody as the Corporation directs; and
  - (b) not be used except as authorised by the Corporation.
- (2) When a document purporting to bear the common seal of the Corporation 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 that common seal; and
  - (b) that common seal was duly affixed to that document.
- (3) The Corporation may, by writing under its common seal, empower a person, either generally or in respect of a specified matter or specified matters, as its agent or attorney to execute

**s. 7**

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deeds or other instruments on its behalf, and a deed or other instrument executed by such an agent or attorney on behalf of the Corporation binds the Corporation and has the same effect as if it were under the common seal of the Corporation.

- (4) For the purposes of this Act, the Corporation may make use of a facsimile of —
- (a) its common seal; or
  - (b) the signature of an agent or attorney empowered to execute deeds or other instruments on its behalf under subsection (3),

and a deed or other instrument purporting to evidence indebtedness on the part of the Corporation and to be endorsed with such a facsimile shall, until the contrary is shown, be deemed to have been sealed by it or signed by the agent or attorney, as the case requires.

*[Section 6 amended by No. 25 of 1998 s. 8.]*

**7. Liability of Corporation for duties, taxes etc.**

- (1) Notwithstanding section 5A or any other written law —
- (a) the Corporation; 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) The Treasurer may by order published in the *Gazette* exempt —
- (a) the Corporation; and
  - (b) deeds or other instruments to which it is a party,
- from any liability under subsection (1) if the Treasurer considers the exemption to be in the public interest.
- (3) Section 43(4) and (7) to (9) of the *Interpretation Act 1984* apply to an order under subsection (2) as if it were a regulation.

*[Section 7 inserted by No. 25 of 1998 s. 9(1).]*

**8. Chief executive officer**

- (1) There shall be a chief executive officer of the Corporation.
- (2) The powers —
  - (a) to appoint and remove the chief executive officer; and
  - (b) to fix and alter his or her terms and conditions of service, are vested in the board.
- (3) The board shall obtain the concurrence of the Minister before it exercises any of the powers conferred by subsection (2).
- (4) Subject to any provision of his or her terms and conditions of service, the chief executive officer may resign his or her office by giving notice in writing to the board.
- (5) The board may appoint a person to act in place of the chief executive officer —
  - (a) during a vacancy in that office; or
  - (b) during any period when the chief executive officer —
    - (i) is unable for any reason to perform his or her duties; or
    - (ii) is absent from the State,  
and where subparagraph (ii) applies may —
      - (iii) appoint a person to act in place of the chief executive officer even though the latter is performing duties of office outside the State; and
      - (iv) specify the extent to which the person may so act.

*[Section 8 inserted by No. 25 of 1998 s. 10(1); amended by No. 28 of 2006 s. 450.]*

**8A. Role of chief executive officer**

Subject to the control of the board, the chief executive officer of the Corporation is responsible for the day to day operations of the Corporation.

*[Section 8A inserted by No. 25 of 1998 s. 10(1); amended by No. 28 of 2006 s. 440.]*

**s. 8B**

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**8B. Staff**

- (1) The power to engage and manage the staff of the Corporation is vested in the board.
- (2) The power conferred by subsection (1) —
  - (a) includes powers to determine remuneration and other terms and conditions of service and to remove, suspend and discipline members of staff; and
  - (b) does not preclude the delegation of any matter under section 18.
- (3) The remuneration of members of staff and other terms and conditions of employment shall not be less favourable than is provided for in —
  - (a) an applicable award, order or agreement under the *Industrial Relations Act 1979*; or
  - (b) the *Minimum Conditions of Employment Act 1993*.
- (4) Nothing in this section affects the operation of Part VID of the *Industrial Relations Act 1979*.

*[Section 8B inserted by No. 25 of 1998 s. 10(1); amended by No. 20 of 2002 s. 27; amended in Gazette 15 Aug 2003 p. 3692.]*

**8C. Use of other government staff etc.**

- (1) The Corporation may by arrangement with the relevant employer make use, either full-time or part-time, of the services of any officer or employee —
  - (a) in the Public Service;
  - (b) in a State agency or instrumentality; or
  - (c) otherwise in the service of the Crown in right of the State.
- (2) The Corporation may by arrangement with —
  - (a) a department of the Public Service; or



- (b) a State agency or instrumentality,  
make use of any facilities of the department, agency or instrumentality.
- (3) An arrangement under subsection (1) or (2) shall be made on such terms as are agreed to by the parties.

*[Section 8C inserted by No. 25 of 1998 s. 10(1).]*

## **Part III — Functions and powers of Corporation**

*[Heading amended by No. 25 of 1998 s. 11.]*

### **9. Functions of Corporation**

- (1) Subject to this Act, the functions of the Corporation are —
- (a) to borrow moneys from any person and to lend moneys —
    - (i) to authorities; or
    - (ii) if a power to borrow moneys from the Corporation is conferred by a written law, so as to enable the exercise of that power;
  - (b) to develop and implement borrowing programmes for the purposes of this Act;
  - (c) to manage financial rights and obligations of the Corporation and authorities;
  - (d) to advise authorities on financial matters including transactions that come within paragraph (g);
  - (e) to accept moneys from authorities on deposit;
  - (f) to accept moneys from authorities in trust for investment, either in the name of the authority concerned or the Corporation;
  - (g) on behalf of authorities to enter into agreements and arrangements that come within section 10(2)(fa) or (fb), either in the name of the authority concerned or the Corporation;
  - (h) to undertake negotiations for authorities in relation to borrowing or transactions that come within paragraph (g);
  - (i) subject to section 9A, to assume by way of assignment or novation any liability incurred by the State (otherwise than through the Corporation) in relation to borrowing or financial accommodation; and

- (j) to perform any other function conferred on the Corporation by or under a written law.
- (1a) In relation to the functions in subsection (1)(c), (d), (e), (f), (g) and (h) —  
*authorities* includes any agency within the meaning of the *Public Sector Management Act 1994*.
- (1b) The Corporation may on behalf of an authority —
  - (a) under subsection (1)(g), enter into agreements or arrangements that come within section 10(2)(fa) or (fb); and
  - (b) perform the functions in subsection (1)(d) and (h) in relation to those matters,even though the authority does not itself have the power to enter into agreements or arrangements of that kind.
- (2) The Corporation shall in the performance of its functions under this section act in accordance with proper principles of financial management and endeavour to ensure that its revenue is sufficient to cover all costs.

*[Section 9 amended by No. 24 of 1992 s. 6; No. 25 of 1998 s. 12; No. 74 of 2003 s. 132(2).]*

**9A. Further provision as to assumption of liabilities on behalf of State**

- (1) The Corporation may only perform the function described in section 9(1)(i) —
  - (a) with the approval of the Treasurer and in accordance with any requirement that the Treasurer may impose; and
  - (b) where appropriate, with the agreement of the person to whom the liability is owed and in accordance with the terms of that agreement.

**s. 9B**

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- (2) Where there has been an appropriation of the Consolidated Account for the principal, interest and other expenses in respect of a liability assumed by the Corporation under section 9(1)(i), the appropriation shall be taken to authorise the payment to the Corporation of the amount of that principal and interest and those other expenses for the purpose of the discharge by the Corporation of the assumed liability.

*[Section 9A inserted by No. 25 of 1998 s. 13; amended by No. 77 of 2006 s. 4.]*

**9B. Duty to observe policy instruments**

The Corporation 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 9B inserted by No. 28 of 2006 s. 441.]*

**10. General powers of Corporation**

- (1) The Corporation may, subject to this Act, do any thing necessary or convenient for the performance of its functions under section 9.
- (2) Without limiting the generality of subsection (1), the Corporation may, for the purpose of performing its functions under section 9 and subject to this section —
- (a) enter into an agreement with any person;
  - (b) subject to section 10A, borrow moneys —
    - (i) inside or outside Australia; and
    - (ii) in Australian currency or in any other currency or medium of exchange, whether national or international;
  - (ba) create debt paper for the purposes of this Act;
  - (c) enter into agreements for varying the terms and conditions on which moneys have been borrowed, and may create debt paper for the purposes of any such agreement;

- (d) create debt paper for the purpose of —
  - (i) carrying out any arrangement made by the Corporation for the exchange, whether on or before maturity and whether with or without any further payment, of any other debt paper created under this section; or
  - (ii) lending it to any person for such periods, and on such terms and conditions, as are agreed between the Corporation and that person;
- (e) cancel any debt paper surrendered to it and undertake to make payments, on such terms and conditions as it thinks fit, to holders of debt paper so surrendered, or otherwise as part of an agreement entered into or arrangement made under this section;
- (f) purchase, resell, hold or otherwise deal in debt paper created by the Corporation on such terms and conditions as it thinks fit, and may cancel any debt paper so purchased;
- (fa) enter into an agreement or arrangement to effect any of the following transactions —
  - (i) a foreign exchange transaction;
  - (ii) a forward foreign exchange transaction;
  - (iii) a currency swap;
  - (iv) a forward currency swap;
  - (v) a foreign currency cap, a foreign currency collar or a foreign currency floor;
  - (vi) a forward interest rate agreement;
  - (vii) an interest rate swap;
  - (viii) a forward interest rate swap;
  - (ix) an interest rate cap, an interest rate collar or an interest rate floor;
  - (x) an option for interest rate or currency management purposes;

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- (xi) a futures contract or a futures option; or
  - (xii) a transaction of such other class as is approved in writing by the Minister, with the concurrence of the Treasurer, as a class of transactions to which this paragraph applies;
- (fb) enter into an agreement or arrangement to effect any transaction which is a combination of —
- (i) 2 or more transactions permitted under paragraph (fa); or
  - (ii) one or more transactions permitted under paragraph (fa) and one or more transactions permitted under any other provision of this Act;
- (fc) take security in such manner and in such form and on such terms and conditions as the Corporation thinks fit for the purpose of securing moneys payable to the Corporation;
- (g) open and maintain accounts with financial institutions inside or outside Australia;
- (ga) establish, and act as the trustee of, any unit trust;
- (h) from time to time and on such terms and conditions as it thinks fit enter into an agreement with a financial institution or other person, which agreement provides for the financial institution or other person to act as underwriter, manager or trustee, or paying, fiscal or other agent, for or in connection with the borrowing of moneys inside or outside Australia;
- (i) within the State or elsewhere establish and conduct, or arrange for the establishment and conduct of, registries, marking facilities, agencies and other offices for dealing in debt paper created by the Corporation or an authority;
  - (j) within the State or elsewhere appoint persons to act as registrars, deputy registrars, agents or otherwise for the purposes of paragraph (i); and
  - (k) charge fees for services provided to an authority or any other person.

*[(3) deleted]*

(4) The Corporation may, on behalf of an authority which has created and issued any debt paper in respect of which the State guarantees the repayment of principal and the payment of interest thereon, agree to accept from any person the surrender of that debt paper on such terms and conditions as the Corporation thinks fit, including, without limiting the generality of those terms and conditions, a condition that the Corporation in consideration of that surrender create and issue to the person effecting that surrender debt paper —

- (a) of a like value; or
- (b) agreed by the Corporation and that person, notwithstanding differences in principal amount, rate of interest, maturity date or otherwise, to be of like value,

to the value of the debt paper surrendered, and thereupon the amount of the debt incurred as a result of the issue to that person of debt paper created and issued under this subsection, together with the amount of any expenses thereby incurred, shall be deemed to be an amount lent by the Corporation to that authority under section 14(2) on such terms and conditions, if any, as the Corporation specifies.

(4a) In subsections (4b) and (4c) ***prescribed debt paper*** means debt paper —

- (a) which is created and issued by an authority and in respect of which the State guarantees the repayment of principal and the payment of interest thereon; or
- (b) which is created and issued by a local government.

(4b) The Corporation may purchase, resell, hold, or otherwise deal in any prescribed debt paper on such terms and conditions as the Corporation thinks fit.

(4c) If prescribed debt paper has been purchased by the Corporation under subsection (4b), the Corporation may create and issue debt paper that the Corporation considers, notwithstanding

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differences in principal amount, rate of interest, maturity date or otherwise, to be of like value (at the time of its issue) to the value of that prescribed debt paper at the time of its purchase.

- (5) Neither a borrower of moneys lent under section 14(2) nor the Corporation nor any officer of whose services it is making use under section 8 —
- (a) shall receive notice of any trust, whether express, implied or constructive, in relation to any debt paper created under this section; or
  - (b) is bound to see to the execution of any trust, whether express, implied or constructive, to which any debt paper created under this section may be subject.
- (5a) A person who enters into an agreement or arrangement referred to in subsection (2)(fa) or (fb) with the Corporation is entitled to assume that the agreement or arrangement is entered into by the Corporation in the performance of its functions under section 9.
- (6) Neither a person appointed under subsection (2)(j) to act as a registrar, deputy registrar, agent or otherwise for the purposes of subsection (2)(i) nor the Corporation nor any officer of whose services it is making use under section 8 —
- (a) shall receive notice of any trust, whether express, implied or constructive, in relation to any debt paper or, in the case of a person so appointed, enter any such notice in any stock ledger or other book kept by such a person; or
  - (b) is bound to see to the execution of any trust, whether express, implied or constructive, to which any part of any debt paper may be subject.
- (7) A person lending moneys to the Corporation is not bound to inquire into the application of the moneys so lent or in any way responsible for the non-application or misapplication thereof.

*[Section 10 amended by No. 24 of 1992 s. 7; No. 14 of 1996 s. 4; No. 25 of 1998 s. 14; No. 10 of 2001 s. 214; No. 21 of 2003 s. 36; No. 28 of 2006 s. 442.]*



**10A. Borrowing limits**

- (1) The Treasurer may, by notice in writing to the Corporation —
  - (a) impose limits on the exercise of the power conferred by section 10(2)(b); and
  - (b) from time to time vary the limit in force.
- (2) The Corporation shall comply with any limit for the time being in force but a liability of the Corporation is not unenforceable by reason of, or in any way affected by, a failure of the Corporation to do so.
- (3) A person dealing with the Corporation is not bound or concerned to enquire whether the Corporation has complied or is complying with this section.

*[Section 10A inserted by No. 25 of 1998 s. 15.]*

**11. Payment of debts incurred by Corporation**

The Corporation shall, subject to this Act, pay —

- (a) the debt incurred as a result of the borrowing of moneys by the Corporation; and
- (b) any amount, other than the debt referred to in paragraph (a), required to be paid by the Corporation by the terms and conditions on which it borrowed the moneys concerned,

out of moneys credited to the Account.

**12. Advances to Corporation from Treasurer**

- (1) The Corporation may borrow from the Treasurer advances of such amounts and for such reasons as the Treasurer approves on such terms and conditions as the Treasurer imposes.
- (2) When an advance is made under subsection (1), the Corporation shall —
  - (a) repay the amount of the advance; and

**s. 13**

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(b) pay interest,

in accordance with the terms and conditions imposed under that subsection and shall comply with any other terms and conditions so imposed.

**13. State guarantee**

(1) Financial liabilities incurred or assumed by the Corporation under this Act (otherwise than under section 12) are guaranteed by the Treasurer on behalf of the State.

(2) A financial liability of the Treasurer under a guarantee arising by virtue of subsection (1) shall be charged to, and paid out of, the Consolidated Account, which is hereby appropriated to the necessary extent.

(2a) The Treasurer on behalf of the State may, in respect of a guarantee arising by virtue of subsection (1), by instrument of any kind (under hand or under seal) executed under subsection (2b) —

- (a) submit to the jurisdiction of any foreign court;
- (b) waive any sovereign or other immunity from action or suit in any foreign jurisdiction;
- (c) appoint an agent to accept service of process in any place outside Western Australia;
- (d) agree to accept service of process in any manner; and
- (e) nominate or appoint, or agree to the nomination or appointment of, a person who as an agent or trustee or in any other representative or other capacity is entitled to the benefit of, and may enforce, that guarantee.

(2b) An instrument referred to in subsection (2a) —

- (a) shall be executed by —
  - (i) the Treasurer; or
  - (ii) any person authorised by the Treasurer in writing or by operation of law;

and

- (b) shall take effect according to its tenor notwithstanding lack of consideration or any other matter or thing.
- (3) The Treasurer may in writing served on the Corporation —
  - (a) specify a fee or fees to be paid by an authority for a guarantee arising under subsection (1) in respect of money lent by the Corporation to that authority; and
  - (b) require the Corporation to collect the fee or fees from the authority concerned.
- (3a) The Corporation shall pay any fee so collected to the Treasurer who is, on receipt, to credit the fee to the Consolidated Account.
- (4) In subsection (2a) —  
**foreign**, when used in relation to a court or a jurisdiction, means a court or a jurisdiction outside Western Australia.  
*[Section 13 amended by No. 24 of 1992 s. 8; No. 6 of 1993 s. 11; No. 49 of 1996 s. 64; No. 25 of 1998 s. 16; No. 77 of 2006 s. 4.]*

#### 14. Disposal of moneys borrowed by Corporation

- (1) When the Corporation receives moneys borrowed by it under this Part, it shall as soon as is practicable credit those moneys to the Account.
- (2) The Corporation may lend in such manner and on such terms and conditions as it thinks fit any of the moneys credited to the Account —
  - (a) to an authority or authorities; or
  - (b) so as to enable the exercise of a power to borrow moneys from the Corporation conferred by a written law.
- (3) The Corporation may require a borrower of moneys lent under subsection (2) to furnish such security in such manner and in such form and on such terms and conditions as the Corporation

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thinks fit to secure the repayment of the moneys borrowed, the payment of interest on those moneys and the payment of —

- (a) such fees as are required to be paid under that subsection; and
- (b) any other moneys payable,

in connection with that borrowing.

*[Section 14 amended by No. 24 of 1992 s. 9; No. 25 of 1998 s. 17; No. 74 of 2003 s. 132(3).]*

**15. Borrowers to pay certain amounts to Corporation**

- (1) Each borrower of moneys lent under section 14(2) shall repay the amount of those moneys, and pay interest thereon, to the Corporation or to such other person as the Corporation directs in accordance with the terms and conditions of that lending, and pay to the Corporation any fees required to be paid under that section in connection with that lending in accordance with that requirement.
- (2) The Corporation shall credit to the Account all amounts, interest and fees repaid or paid to it under subsection (1) or under any agreement entered into by the Corporation under section 10(4).

**16. Repayment of guarantee moneys**

If moneys have been charged to the Consolidated Account under section 13, any moneys received or recovered by the Treasurer from the Corporation or otherwise in respect of an amount so charged shall be credited to the Consolidated Account.

*[Section 16 amended by No. 6 of 1993 s. 11; No. 49 of 1996 s. 64; No. 77 of 2006 s. 4.]*

## Part IIIA — Corporate planning documents

*[Heading inserted by No. 25 of 1998 s. 18.]*

### Division 1 — Strategic development plans

*[Heading inserted by No. 25 of 1998 s. 18.]*

#### **16A. Draft strategic development plan to be submitted to Minister**

- (1) The board shall in each year prepare, and submit to the Minister for his or her agreement, a draft strategic development plan for the Corporation.
- (2) The Minister may from time to time, by written notice to the board —
  - (a) fix a day in each year by which a draft strategic development plan is to be submitted under subsection (1); or
  - (b) cancel a notice given under paragraph (a).
- (3) Each draft strategic development plan is to be submitted not later than —
  - (a) the day fixed under subsection (2); or
  - (b) if there is for the time being no day so fixed — 2 months before the start of the next financial year.

*[Section 16A inserted by No. 25 of 1998 s. 18; amended by No. 28 of 2006 s. 450; No. 77 of 2006 s. 16(2).]*

*[16B. Omitted under the Reprints Act 1984 s. 7(4)(g).]*

#### **16C. Matters to be included in strategic development plan**

- (1) The strategic development plan shall set out objectives and operational targets and how those objectives and targets will be achieved.

- (2) The matters which shall be considered in the preparation of the strategic development plan include operational strategies, borrowing programmes, financial requirements and performance targets.
- (3) A strategic development plan shall cover a forecast period of 3 years or a lesser period agreed with the Minister.

*[Section 16C inserted by No. 25 of 1998 s. 18; amended by No. 28 of 2006 s. 450.]*

**16D. Strategic development plan to be agreed if possible**

The board and the Minister shall endeavour to reach agreement on the draft strategic development plan as soon as possible, and in any event not later than one month before the start of the next financial year.

*[Section 16D inserted by No. 25 of 1998 s. 18; amended by No. 28 of 2006 s. 450.]*

**16E. Minister's powers in relation to draft strategic development plan**

- (1) The Minister may return the draft strategic development plan to the board and request it to —
  - (a) consider or further consider any matter and deal with the matter in the draft plan; and
  - (b) revise the draft plan in the light of its consideration or further consideration.
- (2) The board shall comply with the request as soon as is practicable.
- (3) If a draft strategic development plan has not been agreed to by the Minister by one month before the start of the next financial year, the Minister may, by written notice, direct the board —
  - (a) to take specified steps in relation to the draft plan; or
  - (b) to make specified modifications to the draft plan.

- (4) The board shall comply with a direction under subsection (3) as soon as is practicable.
- (5) The Minister shall within 14 days after a direction is given cause a copy of it to be —
  - (a) laid before each House of Parliament; or
  - (b) dealt with in accordance with section 16Q.

*[Section 16E inserted by No. 25 of 1998 s. 18; amended by No. 28 of 2006 s. 450.]*

**16F. Strategic development plan pending agreement**

- (1) If the Minister has not agreed to a draft strategic development plan before the start of a financial year, the latest draft plan shall be the strategic development plan for the Corporation until a draft strategic development plan is agreed to under section 16G.
- (2) In subsection (1) —

***latest draft plan*** means the draft strategic development plan submitted, or last submitted, by the board to the Minister before the start of the financial year with any modifications made by the board, whether before or after that time, at the direction of the Minister.

*[Section 16F inserted by No. 25 of 1998 s. 18; amended by No. 28 of 2006 s. 450.]*

**16G. Minister's agreement to draft strategic development plan**

When a draft strategic development plan is agreed to by the Minister, it becomes the strategic development plan for the relevant financial year or the remainder of the year, as the case may be.

*[Section 16G inserted by No. 25 of 1998 s. 18; amended by No. 28 of 2006 s. 450.]*

**16H. Modification of strategic development plan**

- (1) A strategic development plan may be modified by the board with the agreement of the Minister.
- (2) The Minister may, by written notice, direct the board to modify the strategic development plan.
- (3) Before giving the direction the Minister shall consult with the board and take its views into account.
- (4) The Minister shall within 14 days after a direction is given cause a copy of it to be —
  - (a) laid before each House of Parliament; or
  - (b) dealt with in accordance with section 16Q.

*[Section 16H inserted by No. 25 of 1998 s. 18; amended by No. 28 of 2006 s. 450.]*

**16HA. Concurrence of Treasurer**

The Minister is not to —

- (a) agree to a draft strategic development plan under section 16G; or
- (b) agree to or direct any modification of a strategic development plan under section 16H,

except with the concurrence of the Treasurer.

*[Section 16HA inserted by No. 28 of 2006 s. 443.]*

**Division 2 — Statement of corporate intent**

*[Heading inserted by No. 25 of 1998 s. 18.]*

**16I. Draft statement of corporate intent to be submitted to Minister**

- (1) The board shall in each year prepare, and submit to the Minister for his or her agreement, a draft statement of corporate intent for the Corporation.



- (2) The Minister may from time to time, by written notice to the board —
- (a) fix a day in each year by which a draft statement of corporate intent is to be submitted under subsection (1); or
  - (b) cancel a notice given under paragraph (a).
- (3) Each draft statement of corporate intent is to be submitted not later than —
- (a) the day fixed under subsection (2); or
  - (b) if there is for the time being no day so fixed — 2 months before the start of the next financial year.

*[Section 16I inserted by No. 25 of 1998 s. 18; amended by No. 28 of 2006 s. 450; No. 77 of 2006 s. 16(3).]*

*[16J. Omitted under the Reprints Act 1984 s. 7(4)(g).]*

**16K. Matters to be included in statement of corporate intent**

- (1) The statement of corporate intent shall be consistent with the strategic development plan under Division 1.
- (2) The statement of corporate intent for the Corporation shall specify —
- (a) an outline of objectives;
  - (b) an outline of the nature and scope of the functions proposed to be performed during the relevant financial year;
  - (ba) the performance targets and other measures by which performance may be judged and related to objectives;
  - (c) the dividend policy for the relevant financial year;
  - (d) accounting policies that apply to the preparation of accounts;
  - (e) the type of information to be given to the Minister, including information to be given in quarterly and annual reports; and

- (f) such other matters as may be agreed on by the Minister and the board.
- (3) The Minister may exempt the Corporation from including any matter, or any aspect of a matter, mentioned in subsection (2) in the statement of corporate intent.

*[Section 16K inserted by No. 25 of 1998 s. 18; amended by No. 24 of 2000 s. 47; No. 28 of 2006 s. 450.]*

**16L. Statement of corporate intent to be agreed if possible**

The board and the Minister shall endeavour to reach agreement on the draft statement as soon as possible, and in any event not later than the start of the next financial year.

*[Section 16L inserted by No. 25 of 1998 s. 18; amended by No. 28 of 2006 s. 450.]*

**16M. Minister's powers in relation to draft statement of corporate intent**

- (1) The Minister may return the draft statement of corporate intent to the board and request it to —
  - (a) consider or further consider any matter and deal with the matter in the draft statement; and
  - (b) revise the draft statement in the light of its consideration or further consideration.
- (2) The board shall comply with the request as soon as is practicable.
- (3) If a draft statement of corporate intent has not been agreed to by the Minister by one month before the start of the financial year, the Minister may, by written notice, direct the board —
  - (a) to take specified steps in relation to the draft statement; or
  - (b) to make specified modifications to the draft statement.
- (4) The board shall comply with a direction under subsection (3) as soon as is practicable.

- (5) The Minister shall within 14 days after a direction is given cause a copy of it to be —
- (a) laid before each House of Parliament; or
  - (b) dealt with in accordance with section 16Q.

*[Section 16M inserted by No. 25 of 1998 s. 18; amended by No. 28 of 2006 s. 450.]*

**16N. Statement of corporate intent pending agreement**

- (1) If the Minister has not agreed to a draft statement of corporate intent before the start of a financial year, the latest draft statement shall be the statement of corporate intent for the Corporation until a draft statement of corporate intent is agreed to under section 16O.
- (2) In subsection (1) —

*latest draft statement* means the draft statement of corporate intent submitted, or last submitted, by the board to the Minister before the start of the financial year with any modifications made by the board, whether before or after that time, at the direction of the Minister.

*[Section 16N inserted by No. 25 of 1998 s. 18; amended by No. 28 of 2006 s. 450.]*

**16O. Minister's agreement to draft statement of corporate intent**

- (1) When a draft statement of corporate intent is agreed to by the Minister, it becomes the statement of corporate intent for the relevant financial year or the remainder of the year, as the case may be.
- (2) The Minister shall within 14 days after he or she agrees to a draft statement of corporate intent under subsection (1) cause a copy of it to be —
- (a) laid before each House of Parliament; or
  - (b) dealt with in accordance with section 16Q.

- (3) The board may request the Minister to delete from the copy of a statement of corporate intent that is to be laid before Parliament a matter that is of a commercially sensitive nature, and the Minister may, despite subsection (2), comply with the request.

*[Section 16O inserted by No. 25 of 1998 s. 18; amended by No. 28 of 2006 s. 450.]*

**16P. Modification of statement of corporate intent**

- (1) A statement of corporate intent may be modified by the board with the agreement of the Minister.
- (2) The Minister may, by written notice, direct the board to modify the statement of corporate intent, and the board shall comply with any such direction.
- (3) Before giving the direction, the Minister shall consult with the board and take its views into account.
- (4) The Minister shall within 14 days after a direction is given cause a copy of it to be —
- (a) laid before each House of Parliament; or
  - (b) dealt with in accordance with section 16Q.

*[Section 16P inserted by No. 25 of 1998 s. 18; amended by No. 28 of 2006 s. 450.]*

**16PA. Concurrence of Treasurer**

The Minister is not to —

- (a) agree to a draft statement of corporate intent under section 16O; or
- (b) agree to or direct any modification of a statement of corporate intent under section 16P,

except with the concurrence of the Treasurer.

*[Section 16PA inserted by No. 28 of 2006 s. 444.]*

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**Division 3 — Supplementary provision as to laying directions  
before Parliament**

*[Heading inserted by No. 25 of 1998 s. 18.]*

**16Q. Procedure where a House is not sitting**

- (1) If —
- (a) at the commencement of a period referred to in section 16E(5), 16H(4), 16M(5), 16O(2), 16P(4), or 21B(4) 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 shall 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 taken to have been laid before that House.
- (3) The laying of a copy of a document that is taken to have occurred under subsection (2) shall 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 16Q inserted by No. 25 of 1998 s. 18; amended by No. 28 of 2006 s. 450; No. 8 of 2009 s. 138.]*

## **Part IV — General**

### **17. Western Australian Treasury Corporation Account**

- (1) The Borrowings for Authorities Account established by section 11 of the repealed Act is hereby continued in existence subject to this Act under the name of the Western Australian Treasury Corporation Account.
- (1a) The Corporation shall credit to the Account —
- (a) moneys from time to time appropriated by Parliament for the purposes of this Act;
  - (aa) any amount required to be so credited under section 14(1) or 15(2);
  - (b) the proceeds of investments made under subsection (2); and
  - (c) any other amount lawfully received by the Corporation in the performance or exercise of its functions or powers.
- (1b) The Corporation may apply the moneys credited to the Account —
- (a) as required by section 11;
  - (b) to make any payment or repayment required under section 12(2) or 13(3);
  - (c) as authorised by subsection (2) or section 14(2); or
  - (d) to pay any other amount that is payable by the Corporation in the performance or exercise of its functions or powers.
- (2) Funds of the Corporation may be invested, until they are required for the performance of the Corporation's functions, in such investments as the board determines.

*[Section 17 amended by No. 24 of 1992 s. 10; No. 25 of 1998 s. 19.]*

**17A. Dividends**

- (1) Any surplus remaining at the end of a financial year after the cost of the operations of the Corporation have been taken into account —
  - (a) may, in accordance with this section, be paid wholly or partly as a dividend to the Consolidated Account; and
  - (b) to the extent that it is not so paid, shall be applied for the purposes of the Corporation.
- (2) The board, as soon as is practicable after the end of each financial year, shall make a recommendation to the Minister as to —
  - (a) whether a dividend is to be paid; and
  - (b) if so, the amount to be paid.
- (3) The Minister, with the concurrence of the Treasurer, may —
  - (a) accept a recommendation under subsection (2); or
  - (b) give a direction to the Corporation as to a matter mentioned in that subsection,

and the Corporation shall give effect to any such direction.

*[Section 17A inserted by No. 25 of 1998 s. 20; amended by No. 28 of 2006 s. 445 and 450; No. 77 of 2006 s. 4.]*

**18. Delegation by Corporation**

- (1) The Corporation or the board may, either generally or as otherwise provided by the instrument of delegation, delegate all or any of its powers and duties under this Act, other than this power of delegation, to an eligible person.
- (1a) In subsection (1) —

***eligible person*** means —

  - (a) the chief executive officer of the Corporation;
  - (b) a person engaged under section 8B; or

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- (c) a person whose services the Corporation is using under section 8C.
- (2) For the purposes of this Act, the exercise of a power or the performance of a duty by a delegate under this section shall be deemed to be the exercise of the power or the performance of the duty by the Corporation.
- (3) A person purporting to exercise a power or perform a duty under a delegation under this section is presumed to do so, in the absence of evidence to the contrary, in accordance with the terms of that delegation.

*[Section 18 amended by No. 25 of 1998 s. 21; No. 28 of 2006 s. 446.]*

**19. Delegation by Minister of power of approval**

- (1) The Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him delegate to a person any power of approval conferred on him by this Act.
- (2) For the purposes of this Act, the giving of an approval under this Act by a delegate under this section shall be deemed to be the giving of the approval under this Act by the Minister.
- (3) A person purporting to give an approval under a delegation under this section is presumed to do so, in the absence of evidence to the contrary, in accordance with the terms of that delegation.

*[Section 19 amended by No. 28 of 2006 s. 450.]*

**20. Directions by Minister**

- (1) The Minister may give directions in writing to the Corporation in relation to the exercise of the powers, or of any specified power, conferred on the Corporation by Part III, including a direction that the Corporation shall not exercise such a power without the prior approval in writing of the Minister, and the Corporation shall give effect to any such direction.



- (2) The approval in writing referred to in subsection (1) may be given on, or subject to, such terms and conditions as the Minister thinks fit.
- (3) The text of any direction given under subsection (1) shall be included in the annual report submitted by the accountable authority of the Corporation under Part 5 of the *Financial Management Act 2006*.
- (4) Subsection (1) has effect subject to the *Statutory Corporations (Liability of Directors) Act 1996*.

*[Section 20 amended by No. 24 of 1992 s. 11; No. 25 of 1998 s. 22; No. 28 of 2006 s. 450; No. 77 of 2006 Sch. 1 cl. 186(1).]*

## **21. Financial administration, audit and reporting**

The provisions of the *Financial Management Act 2006* and the *Auditor General Act 2006* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Corporation and its operations.

*[Section 21 amended by No. 77 of 2006 Sch. 1 cl. 186(2).]*

### **21A. Treasurer and Minister to have access to information**

- (1) For parliamentary purposes or for the proper conduct of the public business of the Treasurer, the Treasurer is entitled —
  - (a) to have information in the possession of the Corporation; and
  - (b) if information referred to in paragraph (a) is in or on a document, to have, and make and retain copies of, the document.
- (2) For the purposes of subsection (1), the Treasurer may —
  - (a) request the Corporation to furnish information to the Treasurer;
  - (b) request the Corporation to give the Treasurer access to information; and

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- (c) for the purposes of paragraph (b), make use of the staff and facilities of the Corporation to obtain information and furnish it to the Treasurer.
- (3) The Corporation shall comply with a request made under subsection (2) and make its staff and facilities available to the Treasurer for the purposes of paragraph (c) of that subsection.
- (3a) This section also applies as if each reference in it to the Treasurer were instead a reference to the Minister.
- (4) In this section —
  - document* includes any tape, disc or other device or medium on which information is recorded or stored mechanically, photographically, electronically or otherwise;
  - information* means information specified, or of a description specified, by the Treasurer that relates to the functions of the Corporation;
  - parliamentary purposes* means —
    - (a) answering a question asked in a House of Parliament; or
    - (b) complying with a written law, or an order or resolution of a House of Parliament, that requires information to be furnished to a House of Parliament.

*[Section 21A inserted by No. 24 of 1992 s. 12; amended by No. 28 of 2006 s. 447.]*

**21B. Quarterly reports**

- (1) In addition to the reporting requirements referred to in section 21, the Corporation shall give to the Minister a report on the operations of the Corporation for each of the first 3 quarters of a financial year.
- (2) A quarterly report shall include the information specified for inclusion in such reports by the Corporation's statement of corporate intent as provided for by section 16K(2)(e).

- (3) A quarterly report shall be given to the Minister —
  - (a) within one month after the end of the quarter; or
  - (b) if another period after the end of the quarter is agreed between the Corporation and the Minister, within the agreed period.
- (3a) The Corporation must give a copy of each quarterly report to the Treasurer.
- (4) The Minister shall within 14 days after receiving the quarterly report under subsection (3) cause a copy of it to be —
  - (a) laid before each House of Parliament; or
  - (b) dealt with in accordance with section 16Q.

*[Section 21B inserted by No. 25 of 1998 s. 23(1); amended by No. 28 of 2006 s. 448 and 450.]*

## **22. 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) Without limiting the generality of subsection (1), regulations made under that subsection may —
  - (a) in the case of the first regulations so made after the coming into operation of this Act, provide that those regulations, except for any regulation or subregulation creating an offence, shall be deemed to have come into operation on 1 July 1986 and that any regulation or subregulation creating an offence shall come into operation on the day on which those regulations are published in the *Gazette*;
  - (b) provide for the creation of debt paper under section 10 and for the cancellation, exchange, redemption, registration, surrender, transfer or transmission of debt paper or for any other procedure or matter relating thereto;

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- (c) prohibit persons from divulging information coming to their knowledge by reason of or in the course of their duties under this Act except in circumstances specified in those regulations; and
  - (d) create offences and provide a penalty not exceeding \$2 500 in respect of any such offence.
- (3) The Corporation may —
- (a) if it enters into an agreement under section 10 to borrow moneys and, in accordance with that agreement, creates any separate debt paper under that section, stipulate in that agreement that regulations referred to in subsection (2)(b) do not apply at all, or apply only to the extent specified in that agreement; or
  - (b) if it borrows moneys under Part III (otherwise than under section 12) by means of the creation under section 10 of debt paper without entering into a separate agreement under that section to borrow moneys, stipulate in that debt paper that regulations referred to in subsection (2)(b) do not apply at all, or apply only to the extent specified in that debt paper,

to that debt paper, whereupon those regulations shall not apply to that debt paper at all or shall apply thereto only to the extent so specified, as the case requires.

*[Section 22 amended by No. 24 of 1992 s. 13.]*

## **Part V — Transitional, validation and consequential amendment**

**23. Repeal**

The *Borrowings for Authorities Act 1981* is repealed.

**24. Transitional provisions**

(1) On the coming into operation of this Act —

- (a) all rights, liabilities and obligations of the Treasurer under the repealed Act that were in existence immediately before that coming into operation shall devolve on the Corporation and section 13 applies accordingly to any such liability which is a financial liability;
- (b) all contracts, agreements and undertakings made by or with the Treasurer under the repealed Act and having effect immediately before that coming into operation shall have effect as contracts, agreements and undertakings made by or with the Corporation and may be enforced by or against the Corporation accordingly; and
- (c) any legal or other proceedings or any remedies that might, but for section 23, have been commenced or continued or available by or against or to the Treasurer under the repealed Act may be commenced or continued, or shall be available, by or against or to the Corporation, as the case requires.

(2) Without limiting the generality of subsection (1) —

- (a) any moneys borrowed by the Treasurer under section 4 of the repealed Act and not repaid, together with any amount referred to in section 5(1)(b) of the repealed Act, related to that borrowing and unpaid, before the coming into operation of this Act shall be repaid or paid, as the case requires, by the Corporation in accordance with the

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- terms and conditions of, and in the manner envisaged by, that borrowing;
- (b) any debt paper created by the Treasurer under the repealed Act and not cancelled or otherwise extinguished before the coming into operation of this Act shall be deemed to have been created by the Corporation under section 10 and shall be dealt with accordingly; and
  - (c) any moneys lent by the Treasurer under section 7(1) of the repealed Act and not repaid, together with any interest on those moneys, and any expenses connected with that lending, not paid, to the Treasurer under section 8 of the repealed Act before the coming into operation of this Act shall be repaid or paid, as the case requires, to the Corporation in accordance with the terms and conditions of that lending, but otherwise those moneys shall be deemed for the purposes of this Act to have been lent under section 14(2) and that interest and those expenses shall be deemed for the purposes of this Act to be interest on those moneys, and fees required to be paid under section 14(2) to the Corporation in connection with that lending, respectively.
- (3) Notwithstanding anything in this section, the Corporation may, after having consulted the authority or authorities concerned, alter the terms and conditions on which any amount or amounts lent by the Treasurer under section 7(1) of the repealed Act was or were so lent to that authority or those authorities and those terms and conditions as so altered shall in respect of the period commencing on the date of that alteration be deemed to be those on which that amount or those amounts was or were so lent and shall have effect accordingly.
- (4) For the purposes of this section, a reference to the Treasurer under the repealed Act or to the Treasurer as the central borrowing authority in the State under the repealed Act, as the case requires, in an account, book, record, document or paper in

existence immediately before the coming into operation of this Act shall on that coming into operation be construed as a reference to the Corporation.

**25. Validation**

Any thing done —

- (a) on or after 1 July 1986; but
- (b) before the day on which this Act receives the Royal Assent,

that would have been lawful if this Act had been in force at the time when that thing was done is hereby validated and declared to have been lawfully done.

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

**Schedule 1 — Bodies that are not authorities**

[Section 3]

*[Heading inserted by No. 25 of 1998 s. 24.]*

**Classes of body corporate not included in definition of *authority***

- | <i>Item</i> | <i>Class of body corporate</i>                                                                                                                                                                                                  |
|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.          | Associations incorporated under or deemed to be incorporated under the <i>Associations Incorporation Act 1987</i> .                                                                                                             |
| 2.          | Corporations as defined by section 9 of the <i>Corporations Act 2001</i> of the Commonwealth.                                                                                                                                   |
| [3, 4.      | <i>deleted</i> ]                                                                                                                                                                                                                |
| 5.          | Registered societies as defined by section 2 of the <i>Co-operative and Provident Societies Act 1903</i> .                                                                                                                      |
| 6.          | Cooperative companies within the meaning of Part VI of the <i>Companies (Co-operative) Act 1943</i> .                                                                                                                           |
| 7.          | Bodies corporate which — <ol style="list-style-type: none"><li>are constituted by or under a written law;</li><li>are empowered by or under a written law to borrow moneys; and</li><li>are of a religious character.</li></ol> |

*[Schedule 1 amended by No. 59 of 1987 s. 47; No. 25 of 1998 s. 24; No. 26 of 1999 s. 111; No. 10 of 2001 s. 215; No. 12 of 2001 s. 51; No. 17 of 2005 s. 31.]*



## Schedule 2 — Constitution and proceedings of board

[Section 5C]

*[Heading inserted by No. 25 of 1998 s. 25.]*

### Division 1 — Terms of office, meetings etc.

*[Heading inserted by No. 25 of 1998 s. 25.]*

#### 1. Term of office

Subject to clause 2, an appointed 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 reappointed.

*[Clause 1 inserted by No. 25 of 1998 s. 25.]*

#### 2. Resignation, removal etc.

- (1) The office of an appointed director becomes vacant if he or she —
  - (a) resigns the office by written notice addressed to the Minister;
  - (b) is an insolvent under administration as that expression is defined in the *Corporations Act 2001* of the Commonwealth; or
  - (c) is removed from office by the Minister under subclause (2).
- (2) The Minister may remove an appointed director from office if the Minister is satisfied that the director —
  - (a) has neglected his or her duty;
  - (b) has misbehaved;
  - (c) is incompetent; or
  - (d) is suffering from mental or physical incapacity impairing the performance of his or her functions.

*[Clause 2 inserted by No. 25 of 1998 s. 25; amended by No. 10 of 2001 s. 216; No. 28 of 2006 s. 450.]*

#### 3. Leave of absence

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

*[Clause 3 inserted by No. 25 of 1998 s. 25.]*

**4. Director under section 5B(1)(b) unable to act**

If the director holding office under section 5B(1)(b) is unable to act by reason of sickness, absence or other cause the Under Treasurer may, in writing delivered to the Corporation, nominate an officer of the Treasury to act temporarily in place of that director; and while so acting according to the tenor of that nomination the officer shall be taken to be a director.

*[Clause 4 inserted by No. 25 of 1998 s. 25.]*

**5. Chief executive officer unable to attend**

The chief executive officer, or an acting chief executive officer, of the Corporation may, in writing delivered to the person presiding at a meeting of the board, nominate a senior officer of the Corporation to represent him or her at that meeting if he or she is unable to attend by reason of sickness, absence or other cause; and while so attending the person nominated shall be taken to be a director.

*[Clause 5 inserted by No. 25 of 1998 s. 25; amended by No. 28 of 2006 s. 449.]*

**6. Appointed director unable to act**

- (1) If an appointed director 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 shall be taken to be a director.
- (2) The appointment of a person under subclause (1) may be terminated at any time by the Minister.

*[Clause 6 inserted by No. 25 of 1998 s. 25; amended by No. 28 of 2006 s. 450.]*

**7. Saving**

No act or omission of a person acting in place of or representing a director under clause 4, 5 or 6 shall be questioned on the ground that the occasion for —

- (a) his or her nomination or appointment had not arisen; or
- (b) his or her acting for or representing a director had ceased.

*[Clause 7 inserted by No. 25 of 1998 s. 25.]*

**8. Calling of meetings**

- (1) Subject to subclause (2), meetings shall be held at the times and places that the board determines.
- (2) A special meeting of the board may at any time be convened by the chairperson or, if the chairperson is unable to act by reason of sickness, absence or other cause, by the deputy chairperson.
- (3) The first meeting of the board shall be convened by the chairperson.  
*[Clause 8 inserted by No. 25 of 1998 s. 25.]*

**9. Presiding officer**

- (1) The chairperson, or in his or her absence the deputy chairperson, shall preside at all meetings of the board at which he or she is present.
- (2) If both the chairperson and the deputy chairperson are absent from a meeting the directors present shall appoint one of their number to preside.  
*[Clause 9 inserted by No. 25 of 1998 s. 25.]*

**10. Quorum**

There is a quorum for a meeting of the board only if 3 directors are present and —

- (a) at least one of them is a person who holds office, or is acting for or representing an office-holder, under section 5B(1)(a), (b) or (c); and
- (b) at least one of them is an appointed director or a person acting temporarily in place of such a director.

*[Clause 10 inserted by No. 25 of 1998 s. 25.]*

**11. Voting**

- (1) At any meeting of the board each director present has a deliberative vote.
- (2) Subject to subclause (3), if the votes cast on a question are equally divided, the question remains unresolved until a subsequent meeting of the board.

- (3) If the votes cast on a question at a meeting of the board were equally divided and the votes cast on the question at a subsequent meeting of the board are again equally divided, the question shall be taken to have been resolved in the negative.

*[Clause 11 inserted by No. 25 of 1998 s. 25.]*

**12. Minutes**

The board shall cause accurate minutes to be kept of the proceedings at its meetings.

*[Clause 12 inserted by No. 25 of 1998 s. 25.]*

**13. Resolution without meeting**

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

*[Clause 13 inserted by No. 25 of 1998 s. 25.]*

**14. Telephone or video meetings**

A communication between not less than 4 directors by telephone or audio-visual means is a valid meeting of the board if each participating director is capable of communicating with every other participating director instantaneously at all times during the proceedings.

*[Clause 14 inserted by No. 25 of 1998 s. 25.]*

**15. Committees**

- (1) The board may appoint committees to assist it in the performance of its functions, and may discharge or alter any committee so appointed.
- (2) A committee may include persons who are not directors but, unless the Minister approves, shall include at least one person who is a director.
- (3) Subject to the directions of the board and to the terms of any delegation under section 18, a committee may determine its own procedures.

*[Clause 15 inserted by No. 25 of 1998 s. 25; amended by No. 28 of 2006 s. 450.]*

**16. Board to determine own procedures**

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

*[Clause 16 inserted by No. 25 of 1998 s. 25.]*

**Division 2 — Disclosure of interests etc.**

*[Heading inserted by No. 25 of 1998 s. 25.]*

**17. Disclosure of interests**

- (1) A director who has a material personal interest in a matter being considered or about to be considered by the board shall, as soon as possible after the relevant facts have come to the director's knowledge, disclose the nature of the interest at a meeting of the board.

Penalty: \$5 000.

- (2) A disclosure under subclause (1) shall be recorded in the minutes of the meeting.

*[Clause 17 inserted by No. 25 of 1998 s. 25.]*

**18. Voting by interested directors**

A director who has a material personal interest in a matter that is being considered by the board —

- (a) shall not vote whether at a meeting or otherwise —
- (i) on the matter; or
  - (ii) on a proposed resolution under clause 19 in respect of the matter, whether relating to that director or a different director;

and

- (b) shall not be present while —
- (i) the matter; or
  - (ii) a proposed resolution of the kind referred to in paragraph (a)(ii),

is being considered at a meeting.

*[Clause 18 inserted by No. 25 of 1998 s. 25.]*

**19. Clause 18 may be declared inapplicable**

Clause 18 does not apply if the board has at any time passed a resolution that —

- (a) specifies the director, the interest and the matter; and
- (b) states that the directors voting for the resolution are satisfied that the interest should not disqualify the director from considering or voting on the matter.

*[Clause 19 inserted by No. 25 of 1998 s. 25.]*

**20. Quorum where clause 18 applies**

- (1) Despite clause 10, if a director is disqualified under clause 18 in relation to a matter, a quorum is present during the consideration of the matter if at least 2 directors are present who are entitled to vote on any motion that may be moved at the meeting in relation to the matter.
- (2) The Minister may deal with a matter insofar as the board cannot deal with it because of subclause (1).

*[Clause 20 inserted by No. 25 of 1998 s. 25; amended by No. 28 of 2006 s. 450.]*

**21. Minister may declare clauses 18 and 20 inapplicable**

- (1) The Minister may by writing declare that clause 18 or 20 or both of them do not apply in relation to a specified matter either generally or in voting on particular resolutions.
- (2) The Minister shall within 14 days after a declaration under subclause (1) is made cause a copy of the declaration to be laid before each House of Parliament.

*[Clause 21 inserted by No. 25 of 1998 s. 25; amended by No. 28 of 2006 s. 450.]*

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## Notes

- <sup>1</sup> This is a compilation of the *Western Australian Treasury Corporation Act 1986* and includes the amendments made by the other written laws referred to in the following table <sup>1a</sup>. The table also contains information about any reprint.

### Compilation table

Short title	Number and year	Assent	Commencement
<i>Western Australian Treasury Corporation Act 1986</i>	16 of 1986	25 Jul 1986	1 Jul 1986 (see s. 2)
<i>Associations Incorporation Act 1987</i> s. 49	59 of 1987	9 Nov 1987	25 Jul 1988 (see s. 2 and <i>Gazette</i> 24 Jun 1988 p. 1995)
<i>Western Australian Treasury Corporation Amendment Act 1992</i> <sup>2, 3</sup>	24 of 1992	17 Jun 1992	17 Jun 1992 (see s. 2)
<i>Financial Administration Legislation Amendment Act 1993</i> s. 11	6 of 1993	27 Aug 1993	1 Jul 1993 (see s. 2(1))
<i>Acts Amendment (Public Sector Management) Act 1994</i> s. 19	32 of 1994	29 Jun 1994	1 Oct 1994 (see s. 2 and <i>Gazette</i> 30 Sep 1994 p. 4948)
<i>Local Government (Consequential Amendments) Act 1996</i> s. 4	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
<i>Financial Legislation Amendment Act 1996</i> s. 64	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<i>Western Australian Treasury Corporation Amendment Act 1998</i> s. 1-25 <sup>4-6</sup>	25 of 1998	30 Jun 1998	s. 1 and 2: 30 Jun 1998; Act other than s. 1 and 2: 10 Nov 1998 (see s. 2 and <i>Gazette</i> 10 Nov 1998 p. 6149)
<i>Acts Amendment and Repeal (Financial Sector Reform) Act 1999</i> s. 111	26 of 1999	29 Jun 1999	1 Jul 1999 (see s. 2(1) and <i>Gazette</i> 30 Jun 1999 p. 2905)
<i>Statutes (Repeals and Minor Amendments) Act 2000</i> s. 47	24 of 2000	4 Jul 2000	4 Jul 2000 (see s. 2)

## Western Australian Treasury Corporation Act 1986

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Short title	Number and year	Assent	Commencement
<b>Reprint of the <i>Western Australian Treasury Corporation Act 1986</i> as at 5 Jan 2001</b> (includes amendments listed above)			
<i>Corporations (Consequential Amendments) Act 2001</i> Pt. 56	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>Building Societies Amendment Act 2001</i> s. 51	12 of 2001	13 Jul 2001	13 Jul 2001 (see s. 2)
<i>Labour Relations Reform Act 2002</i> s. 27	20 of 2002	8 Jul 2002	15 Sep 2002 (see s. 2(1) and <i>Gazette</i> 6 Sep 2002 p. 4487)
<i>Corporations (Consequential Amendments) Act (No. 3) 2003</i> Pt. 17 <sup>7</sup>	21 of 2003	23 Apr 2003	11 Mar 2002 (see s. 2 and <i>Cwlth Gazette</i> 24 Oct 2001 No. GN42)
<i>Labour Relations Reform (Consequential Amendments) Regulations 2003</i> r. 21 published in <i>Gazette</i> 15 Aug 2003 p. 3685-92			15 Sep 2003 (see r. 2)
<i>Statutes (Repeals and Minor Amendments) Act 2003</i> s. 132	74 of 2003	15 Dec 2003	15 Dec 2003 (see s. 2)
<b>Reprint 2: The <i>Western Australian Treasury Corporation Act 1986</i> as at 2 Sep 2005</b> (includes amendments listed above)			
<i>Housing Societies Repeal Act 2005</i> s. 31	17 of 2005	5 Oct 2005	10 Jul 2010 (see s. 2(3) and <i>Gazette</i> 9 Jul 2010 p. 3239)
<i>Machinery of Government (Miscellaneous Amendments) Act 2006</i> Pt. 17 Div. 11 <sup>8</sup>	28 of 2006	26 Jun 2006	1 Jul 2006 (see s. 2 and <i>Gazette</i> 27 Jun 2006 p. 2347)
<i>Financial Legislation Amendment and Repeal Act 2006</i> s. 4, 16 and Sch. 1 cl. 186	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)
<i>Statutes (Repeals and Miscellaneous Amendments) Act 2009</i> s. 138	8 of 2009	21 May 2009	22 May 2009 (see s. 2(b))



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Short title	Number and year	Assent	Commencement
<b>Reprint 3: The <i>Western Australian Treasury Corporation Act 1986</i> as at 7 May 2010</b> (includes amendments listed above except those in the <i>Housing Societies Repeal Act 2005</i> s. 31)			

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

**Provisions that have not come into operation**

Short title	Number and year	Assent	Commencement
<i>Co-operatives Act 2009</i> s. 511 and 518 <sup>10</sup>	24 of 2009	22 Oct 2009	s. 511: to be proclaimed (see s. 2(b)); s. 518: operative on the last day of the period of 2 years after the day fixed under s. 2(b) (see s. 2(c))

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<sup>2</sup> The *Western Australian Treasury Corporation Amendment Act 1992* s. 7(4) reads as follows:

- (4) Any agreement or arrangement entered into, or transaction effected, before the commencement of this section which would have been lawful and valid had —
- (a) section 10(2)(fa) and (fb) of the principal Act as inserted by subsection (1); and
  - (b) the definition of *interest rate* in section 3(1) of the principal Act as inserted by section 4,
- been in operation when that agreement, arrangement or transaction was entered into or effected shall be deemed to be, and always to have been, lawful and valid.

<sup>3</sup> The *Western Australian Treasury Corporation Amendment Act 1992* s. 9(2) reads as follows:

- (2) Section 14(3) of the principal Act as inserted by this section applies in respect of moneys lent before or after the commencement of this section.

<sup>4</sup> The *Western Australian Treasury Corporation Amendment Act 1998* s. 7(2) reads as follows:

- (2) The amendments to the principal Act made by subsection (1) do not affect the corporate identity of the Western Australian Treasury Corporation or its rights or obligations.

<sup>5</sup> The *Western Australian Treasury Corporation Amendment Act 1998* s. 9(2) reads as follows:

- (2) Section 7 as inserted in the principal Act by subsection (1) does not apply to a deed or other instrument that —
  - (a) has been signed or sealed by or on behalf of all parties that are required to do so; or
  - (b) evidences a transaction that was completed, before the commencement of this Act.

<sup>6</sup> The *Western Australian Treasury Corporation Amendment Act 1998* s. 10(2) and (3) read as follows:

- (2) The person who immediately before the commencement of this Act held the office of chief executive officer of the Corporation shall be taken from that commencement to have been appointed as the chief executive officer under section 8 as inserted in the principal Act by subsection (1).
- (3) All persons who immediately before the commencement of this Act were in the employment of the Corporation shall be taken from that commencement to have been engaged under section 8B as inserted in the principal Act by subsection (1).

<sup>7</sup> The *Corporations (Consequential Amendments) Act (No. 3) 2003* s. 2-4 read as follows:

**2. Commencement**

- (1) If this Act receives the Royal Assent before the day on which Schedule 1 to the Financial Services Reform Act comes into operation, this Act comes into operation at the same time as that Schedule comes into operation.
- (2) If this Act receives the Royal Assent on or after the day on which Schedule 1 to the Financial Services Reform Act comes into operation, this Act is deemed to have come into operation at the same time as that Schedule comes into operation.

**3. Interpretation**

In this Part —

*Financial Services Reform Act* means the *Financial Services Reform Act 2001* of the Commonwealth;

*FSR commencement time* means the time when Schedule 1 to the Financial Services Reform Act comes into operation;

*statutory rule* means a regulation, rule or by-law.

**4. Validation**

- (1) This section applies if this Act comes into operation under section 2(2).
- (2) Anything done or omitted to have been done after the FSR commencement time and before this Act receives the Royal Assent that could have been done if this Act had received the Royal Assent before the FSR commencement time is taken to be as valid and lawful, and to always have been as valid and lawful, as it would have been if this Act had received the Royal Assent before the FSR commencement time.
- (3) Anything done or omitted to have been done by a person after the FSR commencement time and before this Act received the Royal Assent that would have been valid and lawful if the Financial Services Reform Act had not commenced, is taken to be valid and lawful.
- (4) Anything done or omitted to have been done after the FSR commencement time and before this Act receives the Royal Assent —
  - (a) that could only have been validly and lawfully done or omitted because this Act received the Royal Assent after the FSR commencement time; and

- (b) that could not have been validly and lawfully done or omitted if this Act had received the Royal Assent before the FSR commencement time,

is taken not to be valid, and to never have been valid.

<sup>8</sup> The *Machinery of Government (Miscellaneous Amendments) Act 2006* Pt. 17 Div. 12 reads as follows:

**Division 12 — Transitional provisions**

**451. *Western Australian Treasury Corporation Act 1986 and Gold Corporation Act 1987***

- (1) A thing done by the Treasurer before commencement under, or for the purposes of —
  - (a) section 10(2)(fa)(xii) or 17A(3) of the *Western Australian Treasury Corporation Act 1986*; or
  - (b) section 16(1)(a) or (b) or 21(1) of the *Gold Corporation Act 1987*,

has the same effect after commencement, to the extent that it has any force or significance after commencement, as if it had been done by the Minister with the concurrence of the Treasurer.

- (2) A thing done or omitted to be done by, to or in relation to, the Treasurer before commencement under, or for the purposes of —
  - (a) a provision of the *Western Australian Treasury Corporation Act 1986* amended by section 450; or
  - (b) section 16(2)(a) or 21(2), (4), (5) or (6) of the *Gold Corporation Act 1987*,

has the same effect after commencement, to the extent that it has any force or significance after commencement, as if it had been done or omitted by, to or in relation to, the Minister.

- (3) In this section —

**commencement** means the time at which this Division comes into operation;

**Minister** means the Minister to whom the administration of the *Western Australian Treasury Corporation Act 1986* is committed.

<sup>9</sup> Footnote no longer applicable.

<sup>10</sup> On the date as at which this compilation was prepared, the *Co-operatives Act 2009* s. 511 and 518 had not come into operation. They read as follows:

**511. *Western Australian Treasury Corporation Act 1986* amended**

- (1) This section amends the *Western Australian Treasury Corporation Act 1986*.
- (2) After Schedule 1 item 6 insert:

7A. Co-operatives registered under the *Co-operatives Act 2009*.

**518. *Western Australian Treasury Corporation Act 1986* amended**

- (1) This section amends the *Western Australian Treasury Corporation Act 1986*.
- (2) In Schedule 1 delete items 5 and 6.

Defined Terms

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**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>
appointed director .....	3(1)
authorities .....	9(1a)
authority .....	3(1)
board .....	3(1)
borrow .....	3(1)
chief executive officer .....	3(1)
create .....	3(1)
debt paper .....	3(1)
director .....	3(1)
document .....	21A(4)
eligible person .....	18(1a)
financial institution .....	3(1)
foreign .....	13(4)
information .....	21A(4)
interest rate .....	3(1)
latest draft plan .....	16F(2)
latest draft statement .....	16N(2)
lend .....	3(1)
parliamentary purposes .....	21A(4)
prescribed debt paper .....	10(4a)
the Account .....	3(1)
the Corporation .....	3(1)
the repealed Act .....	3(1)
Treasury .....	3(1)
Under Treasurer .....	3(1)