

Western Australia

## **Animal Resources Authority Act 1981**

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# **Animal Resources Authority Act 1981**

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Western Australia

## **Animal Resources Authority Act 1981**

**An Act to establish and incorporate an Authority to supply laboratory animals for teaching, research, and diagnostic purposes, and for incidental and other purposes.**

## **Part I — Preliminary**

**1. Short title**

This Act may be cited as the *Animal Resources Authority Act 1981*<sup>1</sup>.

**2. Commencement**

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

**3. Interpretation**

In this Act, unless the contrary intention appears —

**Authority** means the Animal Resources Authority established by section 4;

**chairman** and **deputy chairman** mean respectively the chairman and deputy chairman of the Authority;

**committee** means a committee appointed under clause 6 of the Schedule;

**financial year** means the year ending on each 30 June;

**laboratory animal** means an animal used for teaching, research, or diagnostic purposes or for any purpose incidental thereto;

**member** and **temporary member** mean respectively a member and a temporary member of the Authority;

**section** means a section of this Act;

**subsection** means a subsection of the section in which the reference occurs.

## **Part II — Animal Resources Authority**

### **4.      Animal Resources Authority established as a body corporate and Crown agency**

- (1) There is hereby established an Authority to be called the Animal Resources Authority.
- (2) The Authority is a body corporate with perpetual succession and a common seal and is capable of —
  - (a) acquiring, holding and disposing of real and personal property;
  - (b) suing and being sued; and
  - (c) doing and suffering all such acts and things as bodies corporate may lawfully do and suffer.
- (3) The Authority is an agent of the Crown in right of the State.

### **5.      Composition of Authority**

- (1) The Authority shall consist of 8 members who shall be nominated under subsection (2) and appointed by the Governor.
- (2) For the purposes of subsection (1) —
  - (a) the Minister shall nominate 4 persons for appointment; and
  - (b) the governing authority of each of the following bodies shall nominate for appointment the number of persons specified in this paragraph for that body —
    - (i) The University of Western Australia — 2 persons;
    - (ii) Murdoch University — 1 person;
    - (iii) the Curtin University of Technology<sup>2</sup> — 1 person.
- (3) Appointment as a member, temporary member or member of a committee does not of itself render Part 3 of the *Public Sector*

**s. 6**

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*Management Act 1994*, or any other Act applying to persons as officers of the Public Service of the State, applicable to that person, or affect or prejudice the application to him of those provisions if they applied to him at the time of his appointment.

*[Section 5 amended by No. 32 of 1994 s. 3.]*

**6.            Constitution and proceedings**

The provisions of the Schedule shall have effect with respect to the constitution and proceedings of the Authority.

**7.            Remuneration and expenses of members**

A member and a member of a committee shall be paid out of the funds of the Authority such remuneration and travelling and other allowances as are determined in his case by the Minister on the recommendation of the Minister for Public Sector Management<sup>3</sup>.

**8.            Protection of members**

A member, temporary member or member of a committee is not personally liable for any act done or omitted to be done in good faith by the Authority or by him acting as a member, temporary member or member of a committee.



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

### **9. Functions of Authority**

The functions of the Authority are —

- (a) to breed and rear laboratory animals, and to acquire specialised laboratory animals, of a high quality and free of disease, which are required by institutions and bodies for teaching, research, or diagnostic purposes or for any purpose incidental thereto;
- (b) to supply such laboratory animals and tissue of such laboratory animals to those institutions and bodies for payment;
- (c) to establish and maintain —
  - (i) premises, equipment, and facilities; and
  - (ii) a breeding stock of laboratory animals, for the purposes mentioned in paragraph (a);
- (d) to provide advice to the institutions and bodies mentioned in paragraph (a) as to the housing, feeding, and care of, and the prevention of disease in, laboratory animals;
- (e) to undertake and promote any research calculated to further the purposes described in paragraph (a).

### **10. Powers of Authority**

The Authority shall have such powers as are reasonably necessary or expedient for the purpose of enabling it to carry out its functions and in particular —

- (a) may —
  - (i) acquire, improve, and dispose of real and personal property;
  - (ii) enter into, assign, or accept the assignment of any contract,for that purpose;

**s. 11**

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- (b) after consultation with the governing bodies of the institutions mentioned in section 5(2)(b) and with the approval of the Minister, may fix such charges as it thinks appropriate to be paid for the supply of laboratory animals;
- (c) may collaborate with, or engage the services of, any organization or individual, whether in this State or elsewhere, in performing and exercising its functions, powers and duties.

**11. Delegation**

- (1) The Authority may, either generally or as otherwise provided by the instrument of delegation, in writing delegate to a person appointed under section 12(1)(a), or to a committee, any of its powers or duties under this Act, other than this power of delegation.
- (2) For the purposes of this Act, the exercise of a power or the performance of a duty by a person to whom or a committee to which it has been delegated under this section shall be deemed to be the exercise of the power or the performance of the duty by the Authority.
- (3) A delegation under this section may —
  - (a) be made subject to such conditions, qualifications and exceptions as are set out in the instrument of delegation; and
  - (b) be revoked or varied by instrument in writing signed by the Authority.
- (4) The Authority may exercise a power or perform a duty notwithstanding that it has delegated its exercise or performance under this section.

**12. Appointment of staff of the Authority**

- (1) Subject to subsection (4), the Authority may appoint —
  - (a) a person, under such title as it thinks fit, to be the chief executive officer of the Authority; and
  - (b) such other persons as it thinks necessary to be officers or employees of the Authority.
- (2) Subject to any relevant award or industrial agreement, the terms and conditions of service of the chief executive officer and the other officers and employees of the Authority (including their remuneration) shall be as determined by the Minister for Public Sector Management<sup>3</sup>.
- (3) Subject to subsection (4), the Authority may, by arrangement with the governing authority of an institution mentioned in section 5(2)(b) and upon such terms and conditions as may be agreed, make use, either full-time or part-time, of the services of any member of the staff or employee of that institution in any capacity mentioned in subsection (1)(a) or (b).
- (4) The Authority shall not exercise any power conferred on it by subsection (1) or (3) except with the approval of the Minister on the recommendation of the Minister for Public Sector Management<sup>3</sup>.

**13. Position where public service officer seconded**

Where the person appointed under section 12(1)(a) as the chief executive officer of the Authority or any other officer or servant of the Authority, immediately prior to his appointment as such, occupied an office under Part 3 of the *Public Sector Management Act 1994*, he shall —

- (a) if he resigns his office or employment or if his term of office or employment expires by effluxion of time and he is not reappointed, be entitled to be appointed to an office under that Act not lower in status than the office which he occupied immediately prior to his appointment

**s. 14**

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as the chief executive officer or other officer or servant of the Authority; and

- (b) continue to retain his existing and accruing rights, including his rights under the *Superannuation and Family Benefits Act 1938*<sup>4</sup> as if his service as the chief executive officer or other officer or servant of the Authority were service as an officer under Part 3 of the *Public Sector Management Act 1994*.

[Section 13 amended by No. 32 of 1994 s. 3(2); No. 42 of 1997 s. 8.]

**14. Superannuation**

- (1) The Authority may request the Minister to whom the administration of the *Superannuation and Family Benefits Act 1938*<sup>4</sup> is committed to recommend that the Authority be included as a corporate body in the term “department” for the purposes of that Act, and the Treasurer may, on such recommendation and upon the Authority complying with the requirements of that Act, approve of the Authority as, and the Authority shall thereupon be deemed to be, a department for the purposes of that Act.
- (2) Neither a person appointed under section 12(1)(a) nor any other officer or servant of the Authority is obliged to become a contributor under the *Superannuation and Family Benefits Act 1938*<sup>4</sup>.

**14A. Status of chief executive officer and officers and employees of Authority who are members of Senior Executive Service**

Notwithstanding anything in sections 12, 13 and 14, to the extent that there is in the case of a person who is appointed under section 12(1) to be the chief executive officer, or an officer or employee, of the Authority and who is a member of the Senior Executive Service within the meaning of the *Public Sector Management Act 1994*<sup>5</sup> an inconsistency between this Act and that Act that Act shall prevail.

*[Section 14A inserted by No. 113 of 1987 s. 32.]*

**15. Directions by Minister**

- (1) The Minister may give to the Authority such directions, not inconsistent with this Act, as he thinks fit either —
  - (a) generally as to a policy to be followed by the Authority;  
or
  - (b) as to any particular act or proposed act of the Authority.
- (2) The Authority shall in the performance and exercise of its functions, powers and duties give effect to any written directions given to it by the Minister under subsection (1).

## **Part IV — Financial provisions**

### **16. Basis on which financial affairs to be managed**

- (1) The Authority shall so conduct its affairs as to ensure that its revenues are not less than sufficient to meet all sums properly chargeable to revenue account, taking one year with another, including in particular among such sums proper provision for the depreciation of assets.
- (2) The Authority may establish and operate in its books such provisions, reserve accounts and reserve funds as the Treasurer may approve, and shall do so in accordance with any limitations or restrictions he may impose.
- (3) Any profit resulting in any financial year from the activities of the Authority under this Act may be employed by it in carrying out its functions under this Act.

### **17. Funds and property of the Authority**

The funds and property of the Authority comprise —

- (a) money appropriated by Parliament for the purposes of the Authority;
- (b) money contributed to the Authority by —
  - (i) The University of Western Australia;
  - (ii) Murdoch University;
  - (iii) the Curtin University of Technology<sup>2</sup>;
- (c) money and property derived or acquired by the Authority in the course of carrying out its functions under section 9;
- (d) money borrowed by the Authority under this Act;
- (e) money and property representing gifts, bequests or other contributions to the Authority;
- (f) the proceeds of the investment of any funds or property of the Authority;

- (g) all other money and property lawfully received or held by the Authority for the purposes of this Act.

**18. Bank account**

The Authority shall have an account at a bank approved by the Treasurer (to be called the Animal Resources Authority Account) and —

- (a) the moneys referred to in section 17 shall be paid into and placed to the credit of, and
- (b) all expenditure of the Authority shall be charged to,

that account.

*[Section 18 amended by No. 49 of 1996 s. 64.]*

**19. Investment of funds**

Moneys standing to the credit of the Authority may, until required for the purpose of carrying out its functions under this Act, be temporarily invested as the Treasurer may direct in any securities in which money represented in the Public Bank Account may lawfully be invested, and all interest derived therefrom shall be paid to the Authority.

*[Section 19 amended by No. 98 of 1985 s. 3.]*

**20. Application of *Financial Management Act 2006* and the *Auditor General Act 2006***

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

*[Section 20 inserted by No. 98 of 1985 s. 3; amended by No. 77 of 2006 s. 17.]*

*[21-23. Deleted by No. 98 of 1985 s. 3.]*

**s. 24**

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**24. Power to borrow money**

- (1) The Authority may borrow money upon the guarantee of the Treasurer for the purpose of carrying out its functions under this Act, but only —
  - (a) with the prior approval in writing of the Treasurer; and
  - (b) on such terms and conditions as he may approve.
- (2) Subject to any terms and conditions imposed by the Treasurer, any money borrowed by the Authority may be raised as one loan or as several loans.

**25. Guarantee by Treasurer**

- (1) The Treasurer is hereby authorised to give an approval mentioned in section 24(1) and the guarantee referred to therein, including the guarantee of interest, on behalf of the Crown in right of the State.
- (2) Before a guarantee is given under subsection (1) the Authority shall give to the Treasurer such security as he may require, and shall execute all such instruments as may be necessary for that purpose.
- (3) The due payment of money payable by the Treasurer under a guarantee given by him under this section —
  - (a) is hereby guaranteed by the State; and
  - (b) shall be charged to the Consolidated Account without any further appropriation than this subsection.
- (4) The funds and assets of the Authority are hereby charged with —
  - (a) repayment of any sum paid by the Treasurer under subsection (3); and



- (b) payment of any sum required to be paid by the Authority pursuant to any term or condition imposed by the Treasurer under section 24(1).

*[Section 25 amended by No. 98 of 1985 s. 3; No. 6 of 1993 s. 11; No. 49 of 1996 s. 64; No. 77 of 2006 s. 4.]*

## **Part V — Miscellaneous**

### **26. Execution of documents**

- (1) A document is duly executed by the Authority if —
  - (a) it is sealed with the seal of the Authority in accordance with subsections (2) and (3); or
  - (b) it is signed on behalf of the Authority by the member or members or officer or officers of the Authority authorised to do so.
- (2) The common seal of the Authority shall not be affixed to any document except by resolution of the Authority.
- (3) The common seal shall be affixed to a document in the presence of the chairman or the deputy chairman and one other member and each shall sign the document to attest that the common seal was so affixed.
- (4) A document purporting to be executed in accordance with this section shall be presumed to be duly executed until the contrary is shown.

### **27. Proceedings not affected by irregularities**

An act, decision, or proceedings of the Authority shall not be invalid or called in question by reason of —

- (a) any vacancy in its membership or in the membership of a committee; or
- (b) any defect or irregularity in the appointment of a member or temporary member or member of a committee, or to the office of chairman or deputy chairman.

## **Schedule — Provisions as to constitution and proceedings of the Authority**

[s. 6]

*[Heading amended by No. 19 of 2010 s. 4.]*

### **1. Term of office**

- (1) Except as otherwise provided by this Act, a member shall hold office for such term, not exceeding 3 years, as is specified in his instrument of appointment, but may from time to time be reappointed.
- (2) A member, unless he sooner resigns or is removed from office, shall continue in office until his successor comes into office, notwithstanding that the term for which he was appointed may have expired.

### **2. Extraordinary vacancies**

- (1) A member may resign his office by notice in writing delivered to the Minister.
- (2) A member may be removed from office at any time by the Governor —
  - (a) for mental or physical disability, incompetence, neglect of duty or misconduct proved to the satisfaction of the Governor; or
  - (b) if he is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws; or
  - (c) if he is absent without leave of the Authority from 3 consecutive meetings of the Authority of which he has had notice.
- (3) If a member dies or resigns or is removed from office the vacancy shall be deemed to be an extraordinary vacancy.
- (4) In the case of an extraordinary vacancy in any office, the Governor may appoint a person to be a member for the residue of the term of the former holder of that office, and shall do so on the nomination of the same person or body as nominated such former holder of the office.

**cl. 3**

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*[Clause 2 amended by No. 18 of 2009 s. 9.]*

**3. Temporary members**

- (1) Where a member is unable to act by reason of sickness, absence or other cause the Minister may appoint another person to act temporarily in his place, and while so acting according to the tenor of his appointment that other person is deemed to be a member of the Authority.
- (2) An appointment of a temporary member under subclause (1) shall be made on the nomination of the same person or body as nominated the member whose inability to act gives rise to the appointment.
- (3) No act or omission of a temporary member shall be questioned on the ground that the occasion for his appointment or acting had not arisen or had ceased.

**4. Chairman and deputy chairman**

- (1) The Governor shall appoint a member of the Authority to be the chairman and another member to be deputy chairman of the Authority.
- (2) The office of chairman or deputy chairman 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 member of the Authority; or
  - (c) the Minister declares the office to be vacant.
- (3) During any vacancy in the office of chairman or if he is unable to act by reason of sickness, absence or other cause, the deputy chairman shall have and perform the powers, functions and duties of the chairman.
- (4) No act or omission of the deputy chairman acting as the chairman shall be questioned on the ground that the occasion for his so acting had not arisen or had ceased.

**5. Meetings**

- (1) The first meeting of the Authority shall be convened by the chairman and thereafter, subject to subclause (2), meetings shall be held at such times and places as the Authority determines.
- (2) A special meeting of the Authority may at any time be convened by the chairman.
- (3) The chairman shall preside at all meetings of the Authority at which he is present.
- (4) If the chairman is absent from a meeting —
  - (a) the deputy chairman shall preside if he is present; or
  - (b) the members present shall appoint one of their number to preside if the deputy chairman is not present.
- (5) A quorum for a meeting of the Authority is 4 members.
- (6) At any meeting of the Authority the chairman or other person presiding shall have a deliberative vote, and in the case of an equality of votes shall also have a casting vote.

**6. Committees**

- (1) The Authority may from time to time appoint committees of such members or such members and other persons, as it thinks fit and may discharge, alter, continue or reconstitute any committee so appointed.
- (2) Subject to the directions of the Authority and to the terms of any delegation under section 11, each committee may determine its own procedures.

**7. Resolution may be passed without meeting**

A resolution in writing signed or assented to by letter or telegram by each member (which includes a temporary member acting for a member) shall be a valid and effectual as if it had been passed at a meeting of the Authority.

**8. Leave of absence**

The Authority may grant Leave of absence to a member on such terms and conditions as the Authority thinks fit.

**cl. 9**

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**9. Authority to determine own procedures**

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

## Notes

- <sup>1</sup> This is a compilation of the *Animal Resources Authority Act 1981* 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>Animal Resources Authority Act 1981</i>	53 of 1981	25 Sep 1981	2 Jul 1982 (see s. 2 and <i>Gazette</i> 2 Jul 1982 p. 2311)
<i>Acts Amendment (Financial Administration and Audit) Act 1985 s. 3</i>	98 of 1985 (as amended by No. 4 of 1986)	4 Dec 1985	1 Jul 1986 (see s. 2 and <i>Gazette</i> 30 Jun 1986 p. 2255)
<i>Acts Amendment (Public Service) Act 1987 s. 32</i>	113 of 1987	31 Dec 1987	16 Mar 1988 (see s. 2 and <i>Gazette</i> 16 Mar 1988 p. 813)
<i>Financial Administration Legislation Amendment Act 1993 s. 11</i>	6 of 1993	27 Aug 1993	Deemed operative 1 Jul 1993 (see s. 2(1))
<i>Acts Amendment (Public Sector Management) Act 1994 s. 3(2)</i>	32 of 1994	29 Jun 1994	1 Oct 1994 (see s. 2 and <i>Gazette</i> 30 Sep 1994 p. 4948)
<i>Financial Legislation Amendment Act 1996 s. 64</i>	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<i>Equal Opportunity Amendment Act (No. 3) 1997 s. 8</i>	42 of 1997	9 Dec 1997	6 Jan 1998 (see s. 2)
<b>Reprint of the <i>Animal Resources Authority Act 1981</i> as at 9 Nov 2001</b> (includes amendments listed above)			
<i>Financial Legislation Amendment and Repeal Act 2006 s. 4 and 17</i>	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2 and <i>Gazette</i> 19 Jan 2007 p. 137)
<i>Acts Amendment (Bankruptcy) Act 2009 s. 9</i>	18 of 2009	16 Sep 2009	17 Sep 2009 (see s. 2(b))
<i>Standardisation of Formatting Act 2010 s. 4</i>	19 of 2010	28 Jun 2010	11 Sep 2010 (see s. 2(b) and <i>Gazette</i> 10 Sep 2010 p. 4341)

<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 endnote referred to in the table.

**Provisions that have not come into operation**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>State Superannuation (Transitional and Consequential Provisions) Act 2000</i> s. 30 <sup>6</sup>	43 of 2000	2 Nov 2000	To be proclaimed (see s. 2(2))
<i>Public Sector Reform Act 2010</i> s. 89 <sup>7</sup>	39 of 2010	1 Oct 2010	To be proclaimed (see s. 2(b))

<sup>2</sup> Formerly referred to the Western Australian Institute of Technology, the name of which was changed to the Curtin University of Technology by the *Western Australian Institute of Technology Amendment Act 1986* s. 5. The reference was changed under the *Reprints Act 1984* s. 7(3)(h).

<sup>3</sup> Under the *Public Sector Management Act 1994* s. 112(2), a reference in a written law to the Public Service Board is, unless the contrary intention appears or it is otherwise provided under the *Acts Amendment (Public Sector Management) Act 1994*, to be construed as if it had been amended to be a reference to the Minister for Public Sector Management (as defined in the *Interpretation Act 1984*). This reference was amended under the *Reprints Act 1984* s. 7(5)(a).

<sup>4</sup> Repealed by the *State Superannuation Act 2000* s. 39.

<sup>5</sup> Under the *Public Sector Management Act 1994* s. 112(1), a reference in a written law to the *Public Service Act 1978* is to be read as a reference to the *Public Sector Management Act 1994*. The reference was changed under the *Reprints Act 1984* s. 7(3)(g).

<sup>6</sup> On the date as at which this compilation was prepared, the *State Superannuation (Transitional and Consequential Provisions) Act 2000* s. 30 had not come into operation. It reads:

“

**30. Animal Resources Authority Act 1981 amended**

The *Animal Resources Authority Act 1981* is amended as follows:

- (a) in section 13(b) by deleting “, including his rights under the *Superannuation and Family Benefits Act 1938*”;
- (b) by repealing section 14.



”.

<sup>7</sup> On the date as at which this compilation was prepared, the *Public Sector Reform Act 2010* s. 89 had not come into operation. It reads as follows:

**89. Various references to “Minister for Public Sector Management” amended**

- (1) This section amends the Acts listed in the Table.
- (2) In the provisions listed in the Table delete “Minister for Public Sector Management” and insert:

Public Sector Commissioner

**Table**

<i>Animal Resources Authority Act 1981</i>	s. 7, 12(2) and (4)
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