

WESTERN AUSTRALIA

BUILDING AND CONSTRUCTION INDUSTRY TRAINING FUND AND LEVY COLLECTION ACT 1990

(No. 76 of 1990)

ARRANGEMENT

PART 1—PRELIMINARY

Section

1. Short title
2. Commencement
3. Interpretation
4. Act to bind Crown
5. Application off-shore

PART 2—BUILDING AND CONSTRUCTION INDUSTRY TRAINING BOARD

Division 1—Establishment, functions and powers

6. Board established
7. Functions and powers of Board
8. Operational plans
9. Directions by Minister

Division 2—Membership, constitution, proceedings, etc.

Section

10. Membership of Board
11. Deputy members
12. Relationship to Public Service
13. Protection of members
14. Disclosure of pecuniary interests
15. Constitution and proceedings of Board—Schedule 1

Division 3—Staff

16. Staff

PART 3—FUND

17. Building and Construction Industry Training Fund
18. Application of Fund
19. Temporary investment of moneys
20. Power to borrow from Treasurer

PART 4—COLLECTION OF LEVY

21. Payment of levy
22. Adjustment of amount paid after completion of construction work
23. Cancellation of construction work
24. Penalty for late payment
25. Recovery of levy and other amounts

PART 5—MISCELLANEOUS

26. Application of *Financial Administration and Audit Act 1985*
27. Collection agencies
28. Authorized persons
29. Prosecution
30. Offences
31. Regulations
32. Review of Act
33. Consequential amendments to other Acts—Schedule 2

SCHEDULE 1

MEMBERS AND PROCEEDINGS OF THE BOARD

1. Term of office
2. Remuneration and allowances of members
3. Proceedings not affected by irregularities
4. Vacation of office
5. Meetings
6. Member to preside
7. Voting
8. Quorum
9. Minutes
10. Common seal and execution of documents by Board

SCHEDULE 2

CONSEQUENTIAL AMENDMENTS TO OTHER ACTS

BUILDING AND CONSTRUCTION INDUSTRY TRAINING FUND AND LEVY COLLECTION ACT

No. 76 of 1990

AN ACT to establish a fund to be used to improve the quality of training and to increase the number of skilled persons in the building and construction industry, to establish a Building and Construction Industry Training Board to administer the fund and to collect the building and construction industry training levy, and for connected purposes.

[Assented to 20 December 1990.]

The Parliament of Western Australia enacts as follows:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Building and Construction Industry Training Fund and Levy Collection Act 1990*.

Commencement

2. This Act shall come into operation on the day on which the *Building and Construction Industry Training Levy Act 1990* comes into operation.

Interpretation

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

“authorized person” means a person appointed under section 28 (1);

“Board” means the Building and Construction Industry Training Board established under section 6 (1);

“building and construction industry” means the industry declared under section 22 of the *SESDA Act* the description of which includes all, or the majority of, construction work;

“building licence” means a building licence under section 374 of the *Local Government Act 1960*, or a licence to take down a building or part of a building under section 374A of that Act;

“collection agency” means a person or body appointed under section 27 (1);

“construction work” means all of the work carried out in the State or as referred to in section 5—

(a) that is included in the definition of “construction industry” in the *Construction Industry Portable Paid Long Service Leave Act 1985*; or

(b) that comes within the description of work in section 374 or 374A of the *Local Government Act 1960*,

but does not include any work that is prescribed as excluded from this definition;

“Fund” means the Building and Construction Industry Training Fund established under section 17;

“levy” means the levy imposed by the *Building and Construction Industry Training Levy Act 1990*;

“member” means a member of the Board appointed under section 10 (1);

“presiding member” means the presiding member of the Board appointed under section 10 (1);

“project owner” in respect of any construction work means—

- (a) the person who is required to hold a building licence in respect of that construction work;
- (b) where the construction work is carried out by the State, or an agent or instrumentality of the State, the person or organization designated in writing by the Minister to be the project owner or, if the State or an agent or instrumentality of the State has engaged another person or body, other than as an employee, to carry out or cause to be carried out all of the construction work, the person or body so engaged; or
- (c) where paragraphs (a) and (b) do not apply—
 - (i) the person or body for whose direct benefit construction work exists upon its completion; or
 - (ii) if the person or body referred to in subparagraph (i) has engaged another person or body, other than as an employee, to carry out or cause to be carried out all of the construction work, the person or body so engaged;

“SESDA Act” means the *State Employment and Skills Development Authority Act 1990*.

(2) For the purposes of this Act, construction work shall be regarded as commencing—

- (a) where a building licence is required for the construction work, when any work the subject, or that is required to be the subject, of a building licence commences;
- (b) if paragraph (a) does not apply, where the construction work is to be carried out under a contract executed after this Act comes into operation, when any of that construction work commences;
- (c) if paragraph (a) does not apply—
 - (i) where the construction work is to be carried out under a contract executed before this Act comes into operation;and

- (ii) the project owner, after this Act comes into operation, engages another person or body, other than as an employee, to carry out or cause to be carried out any part or stage of that work,

when any of the construction work that the person or body is engaged to carry out or cause to be carried out commences;

- (d) if paragraph (a), (b) or (c) does not apply, when the construction work is prescribed as commencing.

(3) Notwithstanding subsection (2), levy is not payable in relation to construction work for which a building licence has been issued before this Act comes into operation.

Act to bind Crown

4. This Act binds the Crown in right of the State and also, so far as the legislative power of the State extends, in all its other capacities.

Application off-shore

5. (1) Where any construction work is carried out—

- (a) partly within the State and partly within an area to which this subsection applies; or
- (b) wholly or partly in an area to which this subsection applies, and—
 - (i) facilities for servicing or supporting that construction work are maintained in the State by or on behalf of the project owner concerned;
 - (ii) the project owner concerned is connected with the State;
 - (iii) the construction work is carried on from, or on, or by means of, an aircraft, or from, or by means of, a ship or vessel certificated, registered, or licensed under a law of the State or by a department of the Public Service of the State or an agent or instrumentality of the State or any other body established under a law of the State, or which is required to be so certificated, registered, or licensed;

- (iv) the construction work is carried on from, or on, or by means of, a rig or other structure, installation, or equipment, the use or function of which is regulated by the State or by the State and the Commonwealth, or is required to be so regulated;
- (v) the construction work is authorized or regulated by the State or by the State and the Commonwealth;
or
- (vi) the construction work is carried on under a law of the State,

then this Act applies to and in relation to that construction work.

(2) A project owner shall, for the purposes of subsection (1), be connected with the State if that project owner—

- (a) is domiciled in the State;
- (b) is resident in the State, normally or temporarily;
- (c) being a body corporate, is registered, incorporated, or established under a law of the State or is for the purposes of the *Companies (Western Australia) Code* deemed to be related to such a body;
- (d) in connection with the construction work concerned, has an office or a place of business in the State; or
- (e) is the holder of a licence, lease, tenement, permit, or other authority, granted under a law of the State or by a department of the Public Service of the State or an agent or instrumentality of the State or any other body established under a law of the State under which the construction work is carried on.

(3) The areas to which subsection (1) applies are—

- (a) that area situate west of 129° of East Longitude reckoning from the meridian of Greenwich, that is part of the areas known as and comprised within—
 - (i) the Australian fishing zone as defined by the *Commonwealth Fisheries Act 1952*; or
 - (ii) the continental shelf, within the meaning of the Convention on the Continental Shelf a copy of which in the English language is set out in Schedule 1 to the *Commonwealth Petroleum (Submerged Lands) Act 1967*;

- (b) any other area seaward of the State to which from time to time the laws of the State apply or, by a law of the Commonwealth, are applied.

(4) For the purposes of any proceedings under this Act an averment in the application or process—

- (a) that a project owner was, pursuant to subsection (2), at a specified time or during a specified period or at all material times connected with the State; or
- (b) that any conduct, event, circumstance, or matter occurred, or that any place is situate, within an area referred to in subsection (3),

shall, in the absence of proof to the contrary, be deemed to be proved.

(5) Effect shall be given to subsections (1), (2) and (3) only where this Act or any provision of this Act would not otherwise apply as a law of the State to or in relation to any person, circumstance, thing or place.

PART 2—BUILDING AND CONSTRUCTION INDUSTRY TRAINING BOARD

Division 1—Establishment, functions and powers

Board established

6. (1) There is established by this subsection a body to be known as the Building and Construction Industry Training Board.

(2) The Board 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 Board does not represent, and is not an agent or servant of, the Crown.

Functions and powers of Board

7. (1) The functions of the Board are—

- (a) to ensure the efficient collection of levy;
- (b) to control and administer the Fund;
- (c) to formulate operational plans in accordance with section 8;
and
- (d) to implement operational plans approved by the Minister
under section 8.

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

Operational plans

8. (1) The Board and the council shall together formulate and prepare in writing, in respect of each financial year, an Annual Operational Plan (“an operational plan”) the aim of which is to improve the quality of training and to increase the number of skilled persons in the building and construction industry.

(2) An operational plan shall set out the priorities the Board proposes for the allocation of resources to the particular sectors of the building and construction industry from the Fund during that year.

(3) In formulating an operational plan the Board shall not provide for the allocation of the resources of the Fund unless the allocation is made or proposed to be made—

- (a) to each of the particular sectors of the building and construction industry in approximately the same proportions as the resources of the Fund were contributed by that particular sector; and
- (b) only in respect of—
 - (i) skills formation accredited or approved in respect of the building and construction industry under the SESDA Act; or
 - (ii) eligible training expenditure under the *Training Guarantee (Administration) Act 1990* of the Commonwealth in respect of the building and construction industry for which approval has been given by the Board to the project owner or other persons.

(4) The Board shall cause an operational plan together with such other submissions (if any) that the Board and the council consider appropriate to be submitted to the Authority, which shall then submit the plan and any submissions to the Minister for approval.

(5) The Minister may request an operational plan to be amended or revised prior to approval.

(6) If the Minister approves an operational plan the Minister shall give notice in writing of the approval to the Board.

(7) An operational plan shall have effect from the date specified in the notice of approval.

(8) The Board may with the approval of the Minister vary an operational plan and the operational plan as so varied has effect accordingly.

(9) In this section---

“Authority” means the State Employment and Skills Development Authority established under the SESDA Act;

“council” means the industry employment and training council registered under section 23 of the SESDA Act in relation to the building and construction industry;

“sectors”, in relation to the building and construction industry means the following sectors of that industry, each comprising such parts of that industry as are prescribed—

- (a) the housing sector;
- (b) the commercial sector;
- (c) the engineering construction sector; and
- (d) the government construction sector;

“skills formation” has the same meaning as it has for the purposes of the SESDA Act.

Directions by Minister

9. (1) The Minister may give directions in writing to the Board with respect to its functions or powers, either generally or with respect to a particular matter, and the Board shall give effect to any such direction.

(2) The text of any direction received by the Board under subsection (1) shall be included in the annual report submitted by the accountable authority of the Board under section 66 of the *Financial Administration and Audit Act 1985*.

Division 2—Membership, constitution, proceedings, etc.

Membership of Board

10. (1) The Board shall consist of—

- (a) a presiding member appointed by the Minister, after considering any nomination made under subsection (2); and
- (b) 11 other members appointed by the Minister in accordance with this section.

(2) The members referred to in subsection (3) may nominate a person as presiding member.

(3) With respect to the other 11 members—

- (a) one person shall be appointed to be a member on the nomination of each of the bodies known as—
 - (i) the Master Builders' Association of Western Australia;
 - (ii) the Housing Industry Association (Western Australian Division);
 - (iii) the Australian Federation of Construction Contractors (State Division);
 - (iv) The Confederation of Western Australian Industry (Incorporated);
 - (v) the Trades and Labor Council of Western Australia;
 - (vi) the Building Trades Association of Unions of Western Australia (Association of Workers);
 - (vii) the Australian Workers' Union (Western Australian Branch);
 - (viii) the Metal Trades Federation of Unions (W.A. Branch); and

(ix) the Western Australian Municipal Association;

and

(b) 2 persons shall be employed in, or officers of, the Public Service of the State.

(4) If, within 60 days of being requested in writing by the Minister to do so a body referred to in subsection (3) (a) has not nominated a person to be a member, the Minister shall appoint such person to be a member as, in the opinion of the Minister, is a representative of the same interests as the body and the person so appointed shall be deemed to have been nominated under the appropriate subparagraph of subsection (3) (a).

Deputy members

11. (1) The Minister may appoint a deputy member for each member and that appointee shall act in the place of the member where the member is unable to act due to sickness, absence or other cause, and while so acting the appointee has all the functions and entitlements of a member.

(2) The Minister shall appoint as a deputy member of a member referred to in section 10 (3) (a) a person nominated as a deputy member by the same body which nominated the member for appointment.

(3) An appointment under subsection (1) may be revoked by the Minister at any time.

(4) No act or omission of a person acting in place of another under this section shall be questioned on the ground that the occasion for the acting had not arisen or had ceased.

Relationship to Public Service

12. The fact that a person is a member does not—

- (a) render the *Public Service Act 1978* or any other Act applying to persons as officers of the Public Service of the State applicable to that person; or
- (b) affect or prejudice the application to that person of those provisions if they applied to the person at the time of the appointment.

Protection of members

13. A member is not personally responsible for any act done or omitted to be done in good faith by the Board or by that member acting as a member.

Disclosure of pecuniary interests

14. (1) A member who has a direct or indirect pecuniary interest in a proposal before the Board—

- (a) shall disclose the nature of the interest to the Board at each meeting where the proposal is discussed; and
- (b) shall not take part in any deliberation or decision of the Board with respect to the proposal.

(2) A disclosure made by a member under this section shall be recorded in the minutes of the Board.

(3) For the purposes of this section, a member shall not be regarded as having an interest in a proposal only because the proposal may benefit or affect a body referred to in section 10 (3).

(4) A member who fails to comply with subsection (1) is guilty of an offence and is liable to a penalty of \$20 000.

Constitution and proceedings of Board—Schedule 1

15. Schedule 1 has effect with respect to the members and proceedings of the Board.

Division 3—Staff

Staff

16. (1) The Board may from time to time appoint such persons as are necessary for the purposes of the administration of this Act.

(2) Subject to any relevant award or agreement under the *Industrial Relations Act 1979* the terms and conditions of persons employed by the Board are such as the Board determines.

(3) The Board may engage under a contract for services such professional, technical or other assistance as the Board considers necessary to assist it in the effective administration of this Act.

(4) The *Public Service Act 1978* does not apply to or in relation to the members of the staff of the Board.

PART 3—FUND

Building and Construction Industry Training Fund

17. (1) The funds available to the Board for the purposes of this Act are—

- (a) all levy imposed under the *Building and Construction Industry Training Levy Act 1990*;
- (b) any penalty under section 24;
- (c) all moneys borrowed by the Board under section 20;
- (d) any moneys derived from investment by the Board under section 19; and
- (e) any other moneys lawfully received by, made available to, or payable to the Board.

(2) The moneys referred to in subsection (1) shall be paid into and placed to the credit of an account—

- (a) at the Treasury; or
- (b) at a bank approved by the Treasurer,

to be called the “Building and Construction Industry Training Fund”.

Application of Fund

18. There shall be paid from the moneys from time to time in the Fund—

- (a) the remuneration and allowances payable to members and other persons referred to in section 16;
- (b) any moneys the Board has agreed to pay to a collection agency for carrying out functions under this Act;
- (c) interest on and repayment of moneys borrowed under section 20;
- (d) all expenditure approved by the Board as a result of implementing operational plans approved by the Minister under section 8;

- (e) any refund under section 22 or 23; and
- (f) all other expenditure lawfully incurred by the Board in the exercise or performance of its functions.

Temporary investment of moneys

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

Power to borrow from Treasurer

20. The Board may borrow from the Treasurer such amounts as the Treasurer approves on such conditions relating to repayment, payment of interest or any other matter as the Treasurer imposes.

PART 4—COLLECTION OF LEVY

Payment of levy

21. Every project owner shall—

- (a) before commencing any construction work for which a building licence is required, pay to a collection agency the levy in respect of that construction work based on the value of the construction work estimated as prescribed;
- (b) before commencing any construction work for which a building licence is not required—
 - (i) notify the Board of the construction work and the value of the construction work estimated as prescribed; and
 - (ii) pay to the Board the levy in respect of that construction work based on the value of that work as notified to the Board; and
- (c) where, on the completion of construction work, the value of the construction work varies by an additional amount of \$25 000 or more (after adjustment has been made for inflation in the prescribed manner) from the value of that work as estimated for the purposes of paragraph (a) or (b), notify the Board of that variation.

Adjustment of amount paid after completion of construction work

22. Where on the completion of construction work the Board is satisfied that the value of construction work varies by \$25 000 or more (after adjustment has been made for inflation in the prescribed manner) from the value of that work as estimated for the purposes of section 21 (a) or (b)—

- (a) the Board shall refund from the Fund to the project owner an amount equal to the extra amount paid, where the value of the construction work was over estimated; and
- (b) the project owner shall pay to the Board or to a collection agency an amount equal to the extra amount that would have been payable if the estimated value of the construction work had been the actual value of that work, where the value of the construction work was under estimated.

Cancellation of construction work

23. If construction work, or a part of any construction work, is cancelled after the project owner has paid the levy in respect of that work, the Board shall refund from the Fund to the project owner the amount paid in respect of the value of the cancelled construction work on proof of the cancellation to the satisfaction of the Board.

Penalty for late payment

24. Where construction work is commenced before the project owner has paid the levy due in respect of that work, the project owner is liable to pay to the Board, by way of penalty, an amount calculated from the time the construction work commenced at a prescribed rate per annum on the unpaid levy.

Recovery of levy and other amounts

25. The Board may recover—

- (a) amounts of levy that are due for payment; and
- (b) amounts due under sections 22 and 24,

in any court of competent jurisdiction.

PART 5—MISCELLANEOUS

Application of *Financial Administration and Audit Act 1985*

26. Subject to section 27 (2), the provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities apply to and in relation to the Board and its operations.

Collection agencies

27. (1) The Board shall appoint such persons or bodies to be collection agencies for the purposes of this Act as the Board thinks fit.

(2) Notwithstanding any provision of the *Financial Administration and Audit Act 1985* to the contrary, a collection agency shall collect levy and pay levy to the Fund in accordance with prescribed procedures.

(3) A collection agency may be paid such moneys for carrying out its functions under this Act as the Board determines.

Authorized persons

28. (1) The Board may, in writing appoint a person to be an authorized person for the purposes of this Act.

(2) Every authorized person appointed under subsection (1) shall be issued with a certificate of appointment in a form prescribed—

- (a) signed by the presiding member;
- (b) specifying that the person is an authorized person for the purposes of this Act; and
- (c) containing a brief statement summarizing the nature of the powers of an authorized person under this Act.

(3) An authorized person shall produce the certificate referred to in subsection (2) whenever required to do so by any person in respect of whom an authorized person has, or is about to, exercise any power conferred on the authorized person under this section.

(4) A certificate purporting to have been furnished under subsection (2) is, without proof of the signature of the presiding member, evidence in any court of the appointment to which the certificate purports to relate.

(5) An authorized person may, by notice in writing given to a person require the person to submit to the authorized person, or to the Board, within such reasonable time as is specified in the notice, such information or documents relevant to the operation of this Act as is specified in the notice.

(6) An authorized person may require a person to verify by statutory declaration information to be submitted under subsection (5).

(7) If authorized in writing by the Board either in general or in a particular case, an authorized person may, for the purposes of this Act—

- (a) at all reasonable times enter, inspect and examine any building or other place;
- (b) conduct any examination or inquiry as the authorized person considers necessary to ascertain whether there has been compliance with this Act; and
- (c) require the production of, examine, and take copies or extracts of, any documents.

Prosecution

29. (1) Proceedings for an offence against this Act may be instituted by the Board or any person authorized to do so by the Board.

(2) A complaint for an offence against this Act may be made at any time within 2 years from the time when the matter of complaint arose.

Offences

30. (1) A person shall not—

- (a) fail to notify the Board of construction work and its estimated value in accordance with section 21 (b);

- (b) knowingly provide to the Board, or to a collection agency or to an authorized person any information or document that is false or misleading in a material particular regarding construction work and its value, or refuse to provide such document or information when required to do so under section 28;
- (c) commence construction work before paying the levy due in respect of the construction work;
- (d) fail to notify the Board that, on completion of construction work the actual value of the work varied from the value of the work estimated for the purposes of section 21 (a) or (b) by an additional amount of \$25 000 or more (after adjustment has been made for inflation in the prescribed manner).

(2) A person who contravenes subsection (1) commits an offence the penalty for which is—

- (a) in the case of a natural person, \$20 000; or
- (b) in the case of a body corporate, \$50 000.

(3) A person is not excused from complying with a requirement under this Act to provide information or documents on the ground that to do so might tend to incriminate or render the person liable to a penalty, but information or documents provided by a person when so required is not admissible in evidence against the person in any civil or criminal proceedings other than proceedings for perjury or for an offence under this Act arising out of the false or misleading nature of the information or document.

Regulations

31. The Governor may, on the recommendation of the Board, 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.

Review of Act

32. (1) Within a period of 6 months commencing on the third anniversary of the day on which this Act comes into operation, the Minister shall cause an investigation and review to be conducted, and a report prepared, concerning—

- (a) the effectiveness of the Board;
- (b) the attainment of the objects of this Act;

- (c) the need for this Act to continue in operation;
- (d) any other matters that appear to the Minister to be relevant.

(2) The Minister shall prepare a report based on the review of this Act under subsection (1) and shall cause the report to be laid before each House of Parliament within 6 sitting days of that House next following the completion of that report.

Consequential amendments to other Acts—Schedule 2

33. The Acts referred to in the first column of Schedule 2 are amended in the manner set out in the second column of that Schedule.

SCHEDULE 1

(Section 15)

MEMBERS AND PROCEEDINGS OF THE BOARD

Term of office

1. (1) The presiding member shall hold office for such term, not exceeding 5 years, as is specified in the instrument of appointment and is eligible for reappointment.

(2) A member, other than the presiding member, shall hold office for such term, not exceeding 3 years, as is specified in the instrument of appointment and is eligible for reappointment.

(3) A member, who does not sooner resign or is removed from office or whose office does not otherwise become vacant under clause 4, shall continue in office until the member's successor comes into office, notwithstanding that the term for which the member was appointed has expired.

Remuneration and allowances of members

2. A member shall be paid such remuneration and allowances as the Minister, on the recommendation of the Public Service Commissioner, from time to time determines.

Proceedings not affected by irregularities

3. An act, decision or proceeding of the Board, or an act or decision of a member or person acting under the direction of the Board or a member, shall not be invalid or called into question by reason only of any defect or irregularity in—

- (a) the constitution of the Board; or
- (b) the appointment of a member.

Vacation of office

4. (1) A member may resign from office by notice in writing delivered to the Minister.

- (2) A member may be removed from office by the Minister—

- (a) if the Minister is satisfied that the member is permanently incapable of performing the duties of a member;
- (b) if the member is an insolvent under administration, as that expression is defined in the *Companies (Western Australia) Code*;
- (c) if the member is absent without leave of the Board from 3 consecutive meetings of the Board of which the member has had notice; or
- (d) for any other act or omission that in the opinion of the Minister may cause prejudice or injury to the Board.

Meetings

5. (1) The procedure for convening meetings of the Board and the conduct of business at those meetings shall, subject to this Act, be as determined by the Board.

- (2) The first meeting of the Board shall be convened by the presiding member.

- (3) The Board shall meet at least 4 times in every year at intervals of not more than 6 months.

- (4) The presiding member may at any time and shall when requested to do so by not less than 5 members convene a meeting of the Board to be held at a place and time determined by the presiding member.

Member to preside

6. At a meeting of the Board—

- (a) the presiding member shall preside; or
- (b) in the absence of the presiding member, the member elected by the members present to act in the place of the presiding member shall preside.

Voting

7. (1) At a meeting of the Board where any question requiring a vote arises the question shall be resolved by a majority of the votes of the members present if and only if such majority is constituted by the prescribed majority.

(2) For the purposes of subsection (1) "the prescribed majority" means a majority consisting of a majority of the members present from each of the following separate groups of members, namely—

- (a) the group referred to in subparagraphs (i), (ii), (iii) and (iv) of section 10 (3) (a);
- (b) the group referred to in subparagraphs (v), (vi), (vii) and (viii) of section 10 (3) (a); and
- (c) the group referred to in subparagraph (ix) of section 10 (3) (a) and section 10 (3) (b).

Quorum

8. At a meeting of the Board 2 members from each of the separate groups of members referred to in clause 7 (2) constitute a quorum.

Minutes

9. The Board shall cause accurate minutes of each of its meetings to be recorded and preserved.

Common seal and execution of documents by Board

10. (1) A document is duly executed by the Board if—

- (a) the common seal of the Board is affixed in accordance with subsections (2) and (3); or
- (b) it is signed on behalf of the Board by the member or members authorized by the Board to do so.

(2) The common seal of the Board shall not be affixed to any document except by resolution of the Board.

(3) The common seal of the Board shall be affixed to a document in the presence of the presiding member and another member and each of them shall sign the document to attest that the common seal was so affixed.

(4) The common seal of the Board shall—

- (a) be in a form determined by the Board;
- (b) be kept in such custody as the Board directs; and
- (c) not be used except as authorized by the Board.

(5) When a document purporting to bear the common seal of the Board is produced before any court, judge or person acting judicially, that court, judge or person shall unless the contrary is proved, presume that—

- (a) the document bears that common seal; and
- (b) that common seal was duly affixed to that document.

SCHEDULE 2

(Section 33)

CONSEQUENTIAL AMENDMENTS TO OTHER ACTS

Constitution Acts
Amendment
Act 1899

In Part 3 of Schedule V the following item is inserted in the appropriate alphabetical position—

“ The Building and Construction Industry Training Board established under the *Building and Construction Industry Training Fund and Levy Collection Act 1990*. ”.

*Financial
Administration and
Audit Act 1985*

In Schedule 1 by inserting in the appropriate alphabetical position the following item—

" Building and Construction Industry Training Board ".

*Local Government Act
1960*

By inserting after section 374A the following section—

Council not to issue licence under section 374 or 374A unless levy due on work is paid

“ 374AA. A council shall not issue to a person a building licence under section 374 or a licence under section 374A to take down a building or part of a building unless satisfied that the person—

- (a) has paid the levy imposed in respect of the work under the *Building and Construction Industry Training Levy Act 1990*; or
- (b) is not liable to pay a levy referred to in paragraph (a) in respect of the work. ”.

*Parliamentary
Commissioner Act
1971*

In the Schedule by inserting in the appropriate alphabetical position the following—

“ Building and Construction Industry Training Board established under the *Building and Construction Industry Training Fund and Levy Collection Act 1990*. ”