

# INDUSTRIAL LANDS DEVELOPMENT AUTHORITY.

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No. 55 of 1980.

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## AN ACT to amend the Industrial Lands Development Authority Act 1966-1978.

[Assented to 24 November 1980.]

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Industrial Lands Development Authority Amendment Act 1980*.

Short title  
and citation.

(2) In this Act the Industrial Lands Development Authority Act 1966-1978 is referred to as the principal Act.

Approved for  
reprint 22  
July 1974  
and  
amended by  
Acts Nos.  
127 of 1976  
and 68 of  
1978.

(3) The principal Act as amended by this Act may be cited as the Industrial Lands Development Authority Act 1966-1980.

Section 4  
amended.

2. Section 4 of the principal Act is amended by inserting, after the definition of—

(a) “Minister”, the following definition—

“ “paragraph” means a paragraph of the section or subsection in which the term appears; ”; and

(b) “section”, the following definition—

“ “subsection” means a subsection of the section in which the term appears; ” .

Section 6  
amended.

3. Section 6 of the principal Act is amended—

(a) in subsection (1)—

(i) by deleting “five persons” and substituting the following—

“ six persons ”;

(ii) by deleting “and” after paragraph (d);

(iii) by deleting the full stop at the end of paragraph (e) and substituting the following—

“ ; and ”; and

(iv) by inserting, after paragraph (e), the following paragraph—

“ (f) a person appointed by the Minister from a panel of three names submitted by the body known as The Confederation of Western Australian Industry (Incorporated). ”;

(b) by repealing subsection (1a) and substituting the following subsections—

“ (1a) If at any time the body referred to in paragraph (f) of subsection (1) does

not submit a panel of three names under that paragraph within thirty days after being requested in writing by the Minister to do so, the Minister may, notwithstanding that no such panel has been submitted, appoint a suitable person to represent the interests of that body.

(1b) A person appointed by the Minister under subsection (1a) shall for all purposes be deemed to have had his name submitted under paragraph (f) of subsection (1) and to have been appointed under that paragraph and to be the member of the Development Authority representing the body referred to in that paragraph. ”;

(c) in subsection (2) by deleting—

(i) “five” and substituting the following—

“ six ”; and

(ii) “of this section”;

(d) by repealing subsection (3);

(e) in subsection (5) by—

(i) deleting “at the meeting” in paragraph (d) and substituting the following—

“ at that meeting, ”;

(ii) deleting the full stop at the end of paragraph (d) and substituting a semi-colon; and

(iii) inserting, after paragraph (d), the following paragraph—

“ (e) in the event of an equality of votes at that meeting, the question concerned shall remain unresolved until a

subsequent meeting of the Development Authority and, in the event of an equality of votes at that subsequent meeting, that question shall be deemed to be resolved in the negative. ”;

(f) in subsection (6) by deleting “of this section”; and

(g) in subsection (7) by deleting “referred to in paragraph (a), (b) or (c) of subsection (1) of this section” and substituting the following—

“ of the Development Authority ” .

Section 6B  
amended.

4. Section 6B of the principal Act is amended in subsection (3) (f) by deleting “money paid” and substituting the following—

“ moneys paid, ” .

Section 6D  
amended.

5. Section 6D of the principal Act is amended by—

(a) inserting, after the section designation “6D.” the following subsection designation—

“ (1) ”;

(b) deleting “, and may be applied, by the Development Authority—” and substituting the following—

“ the Development Authority and may be applied by the Development Authority— ”;

and

(c) inserting, after the existing section, the following subsection—

“ (2) The costs and expenses of the administration of this Act shall be a charge on the proceeds of the sales conducted by the Development Authority. ” .

6. Section 8 of the principal Act is repealed and the following sections are substituted—

Section 8 repealed and sections 7, 7A, 7B, 7C, 7D and 8 substituted.  
Function of Development Authority.

“ 7. The function of the Development Authority is to acquire the land referred to in Parts II, III, IV, V and VI of the Schedule in the manner provided by this Act and, in its discretion—

- (a) to sell or lease or develop;
- (b) to develop and sell; or
- (c) to develop and lease,

land for industrial purposes or, with the approval of the Governor, for purposes other than industrial purposes.

7A. (1) The Development Authority has power to do all things necessary or convenient to be done for or in connection with its function referred to in section seven.

Powers of Development Authority.

(2) The Development Authority may—

- (a) purchase or otherwise acquire by agreement with the owner of the land concerned any land situated outside the metropolitan region as defined in section two of the Town Planning and Development Act 1928; or
- (b) in default of agreement referred to in paragraph (a), with the prior consent of the Governor compulsorily acquire

land referred to in that paragraph under the Public Works Act 1902 as if that land were required for a public work within the meaning of that Act.

(3) The Development Authority may purchase or otherwise acquire by agreement with the owner of the land concerned any land situated inside the metropolitan region as defined in section two of the Town Planning and Development Act 1928 if—

- (a) that land is zoned for industrial purposes under the Town Planning and Development Act 1928 or the Metropolitan Region Town Planning Scheme Act 1959; or
- (b) the Minister approves of the purchase or other mode of acquisition of that land by the Development Authority.

(4) Nothing in subsection (3) affects the operation of section seven.

(5) The Development Authority may exercise in relation to any land acquired—

- (a) whether by agreement or compulsorily, under subsection (2); and
- (b) under subsection (3),

any power conferred on it by this section.

(6) For the purposes of this Act and subject to subsection (7), the Development Authority may—

- (a) subdivide, and grant easements and other interests in or rights over;
- (b) provide, construct, adapt, alter and maintain buildings or structures and works ancillary thereto in or on;
- (c) provide, construct, adapt, alter and maintain breakwaters, mooring facili-



Crown in right of the State, and when acting in that capacity may exercise those powers in respect of any land, whether acquired by the Development Authority or not.

Restrictions on dealing in land acquired, and subsequently sold or leased, by Development Authority.

7B. (1) A person who has purchased or leased any land to which this subsection applies shall not—

- (a) sell, exchange, transfer, assign or encumber with any mortgage or other security or sublet or otherwise part with the possession of that land or his lease thereof to any other person; or
- (b) use that land for any purpose other than for the purpose for which it was purchased or leased, or originally purchased or leased, as the case requires, from the Development Authority,

without the prior consent in writing of the Minister.

Penalty: \$2 000 and in addition, in the case of an offence involving the use of land for a purpose referred to in paragraph (b), a daily penalty of \$100 for each day or part thereof during which that offence is continued after notice thereof has been given in writing by the Minister to the offender.

(2) Subject to subsections (3), (4), (5) and (6), subsection (1) applies to any land—

- (a) referred to in Part IV, V or VI of the Schedule that has been acquired by the Development Authority; or
- (b) that the Development Authority has acquired—
  - (i) under subsection (2) or (3) of section seven A; or



- (ii) under subsection (1a) or (1aa) of section eight as that subsection existed at the relevant time before the coming into operation of the Industrial Lands Development Authority Amendment Act 1980,

as the case requires,

and that has subsequently been sold or leased to any person by the Development Authority in the performance of its function—

- (c) under section seven; or

- (d) under subsection (1) of section eight as that subsection existed at the relevant time before the coming into operation of the Industrial Lands Development Authority Amendment Act 1980.

(3) If a person has purchased or leased land from the Development Authority for purposes other than industrial purposes, subsection (1) does not apply to that land.

(4) If under subsection (1) the Minister gives his consent to the encumbrance with any mortgage of any land to which that subsection applies and if the mortgagee of the land so encumbered completes the exercise of the power of sale or foreclosure conferred by that mortgage, that land ceases on that completion to be land to which that subsection applies.

(5) If the Minister is of the opinion that any land to which subsection (1) applies has been so developed or used for the purpose for which it was purchased or leased, or originally purchased or leased, as the case requires, from the Development Authority as to warrant that land being exempt from subsection (1), the Minister may by writing under his hand directed to the purchaser or lessee for the time

being of that land exempt that land from that subsection and thereupon that subsection ceases to apply to that land.

(6) Subsection (1) does not apply to any land in respect of which an exemption has been granted under subsection (5) of section eight as that subsection existed at the relevant time before the coming into operation of the Industrial Lands Development Authority Amendment Act 1980.

Certain  
transactions  
to be null  
and void.

7C. (1) If a person sells, exchanges, transfers, assigns or encumbers with any mortgage or other security or sublets or otherwise parts with the possession of any land to which subsection (1) of section seven B applies or his lease thereof to any other person in contravention of that subsection, that sale, exchange, transfer, assignment, encumbrance, subletting or other parting with the possession of that land or his lease thereof, and any instrument relating thereto, are null and void and, in the case of a person who is the lessee of that land, his lease thereof is liable to forfeiture.

(2) If a person has, at any time during the period commencing on 1 September 1980 and ending immediately before the date of coming into operation of the Industrial Lands Development Authority Amendment Act 1980, sold, exchanged, transferred, assigned or encumbered with any mortgage or other security or sublet or otherwise parted with the possession of any land or his lease thereof to any other person in contravention of subsection (4) of section eight as that subsection existed at that time, that sale, exchange, transfer, assignment, encumbrance, subletting or other parting with the possession of that land or his lease thereof, and any instrument relating



such alterations to his records and refunds of fees as may be necessary in consequence of the service of that notice.

(6) In this section—

“the Register Book” has the meaning given by the Transfer of Land Act 1893;

“void transaction” means a sale, exchange, transfer, assignment, encumbrance, subletting or other parting with the possession of land or a lease thereof which is null and void by virtue of subsection (2).

Prohibition on dealings in land to which section 7B (1) applies.

7D. (1) The Development Authority may deliver a memorial in the form approved by the Minister in respect of any land to which subsection (1) of section seven B applies to the Registrar of Titles, who, without payment of a fee, shall register that memorial and endorse the Register Book in respect of that land accordingly.

(2) On the registration under subsection (1) of a memorial, the Registrar of Titles shall not, without the consent in writing of the Minister, accept for registration, or register, under the Transfer of Land Act 1893 any instrument affecting the land to which the memorial relates until the memorial is withdrawn under subsection (3).

(3) The Development Authority—

(a) shall, if the land to which a memorial delivered under subsection (1) relates ceases to be land to which subsection (1) of section seven B applies, forthwith; or

(b) may, at any time while the land to which a memorial delivered under sub-



in subsection (1), the power of the Supreme Court to grant that injunction may be exercised—

- (a) if the Supreme Court is satisfied that the person has engaged in that conduct, whether or not it appears to the Supreme Court that the person intends to engage again, or to continue to engage, in that conduct; or
- (b) if it appears to the Supreme Court that, should an injunction not be granted, it is likely that the person will engage in that conduct, whether or not the person has previously engaged in that conduct and whether or not there is an imminent danger of frustration of the purposes of this Act or of substantial damage to any person if the firstmentioned person engages in that conduct.

(5) In granting an injunction under subsection (1) or (2), the Supreme Court may make such ancillary order relating to costs or otherwise as the Supreme Court thinks fit.

(6) Nothing in or done under this section affects any prosecution or other proceedings under this Act.

(7) An injunction granted under subsection (1) shall have effect for the period specified therein or until further order of the Supreme Court.

(8) The Supreme Court shall not require the Minister, as a condition of granting an interim injunction under subsection (2), to give any undertakings as to damages.

(9) References in this section to engaging in conduct include references to doing, or refusing or failing to do, any act or thing. ” .

7. Section 11 of the principal Act is amended— Section 11 amended.

(a) in subsection (2) by deleting “of this section”; and

(b) in subsection (3) by deleting “of this section”.

8. After section 13 of the principal Act the following section is inserted— Section 14 inserted.

“ 14. (1) This Act shall, subject to this section, continue in operation until 31 December 1990 and no longer. Duration of Act.

(2) On the expiry of this Act by virtue of subsection (1)—

(a) all real and personal property and every right or interest therein that immediately before that expiry was vested in the Development Authority shall without any transfer or assignment pass to and become vested in the Minister;

(b) all rights, liabilities and obligations of the Development Authority that were in existence immediately before that expiry shall devolve on the Minister;

(c) all contracts, agreements and undertakings made by and with the Development Authority and having effect immediately before that expiry shall have effect as contracts, agreements and undertakings made by and with the Minister and may be enforced by or against the Minister accordingly ;  
and

(d) any legal or other proceedings or any remedies that might, but for this section, have been commenced or con-

tinued or available by or against or to the Development Authority may be commenced or continued, or shall be available, by or against or to the Minister, as the case requires,

for the purpose of the winding up of the affairs of the Development Authority and the Minister shall as soon as is practicable after that expiry wind up the affairs of the Development Authority.

(3) For the purposes of this section a reference to the Development Authority in—

- (a) a law of the State in force; or
- (b) a document in existence,

immediately before the expiry of this Act by virtue of subsection (1) shall after that expiry be construed as a reference to the Minister.

(4) Nothing in this section affects or limits any guarantee—

- (a) given by the Treasurer under section thirteen in respect of any money borrowed by the Development Authority under this Act; and
- (b) in force immediately before the expiry of this Act by virtue of subsection (1),

and section thirteen shall continue to apply to that guarantee while that guarantee remains in force as if this section had not come into operation. ” .