

WESTERN AUSTRALIA

# MINERALS AND ENERGY RESEARCH ACT 1987

(No. 89 of 1987)

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## ARRANGEMENT

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### PART I—PRELIMINARY

Section

1. Short title
2. Commencement
3. Interpretation

### PART II—MINERALS AND ENERGY RESEARCH INSTITUTE OF WESTERN AUSTRALIA

4. Establishment of Minerals and Energy Research Institute of Western Australia
5. Function of Institute
6. Powers of Institute
7. Common seal of Institute

### PART III—BOARD OF DIRECTORS OF INSTITUTE

8. Management of Institute
9. Board subject to directions of Minister
10. Advice of Minerals Research Advisory Committee and Energy Research Advisory Committee
11. Constitution of Board
12. Appointment and tenure of directors
13. Appointment and tenure of Board Chairman
14. Acting Board Chairman
15. Acting directors
16. Remuneration and allowances of Board Chairman, Acting Board Chairman and other directors
17. Meetings and proceedings of Board

PART IV—ADVISORY COMMITTEES

Section

18. Advisory committees
19. Functions of advisory committees
20. Membership of Minerals Research Advisory Committee
21. Membership of Energy Research Advisory Committee
22. Chairmen and deputy chairmen of advisory committees
23. Tenure of office of advisory committee members
24. Meetings and proceedings of advisory committees
25. Remuneration and allowances of members of advisory committees and their deputies

PART V—FINANCE

26. Moneys available to Institute
27. Temporary investment of moneys
28. Application of *Financial Administration and Audit Act 1985*
29. Provisions and reserves
30. Power to borrow from Treasurer

PART VI—STAFF, ASSISTANCE AND FACILITIES

31. Staff of Institute
32. Professional or technical assistance
33. Use of staff and facilities of Departments and instrumentalities

PART VII—GENERAL

34. Institute may require information and terminate assistance
35. Secrecy
36. Liability
37. Records to be maintained
38. Information
39. Regulations
40. Review of Act

PART VIII—AMENDMENTS, REPEALS, SAVINGS AND TRANSITIONAL

41. *Financial Administration and Audit Act 1985* amended
42. *Parliamentary Commissioner Act 1971* amended
43. *Constitution Acts Amendment Act 1899* amended
44. Ancillary provisions in respect of repeal of *Solar Energy Research Act 1977*
45. Repeal of *Mining and Petroleum Research Act 1981* and ancillary provisions
46. *Interpretation Act 1984* to apply

SCHEDULE 1

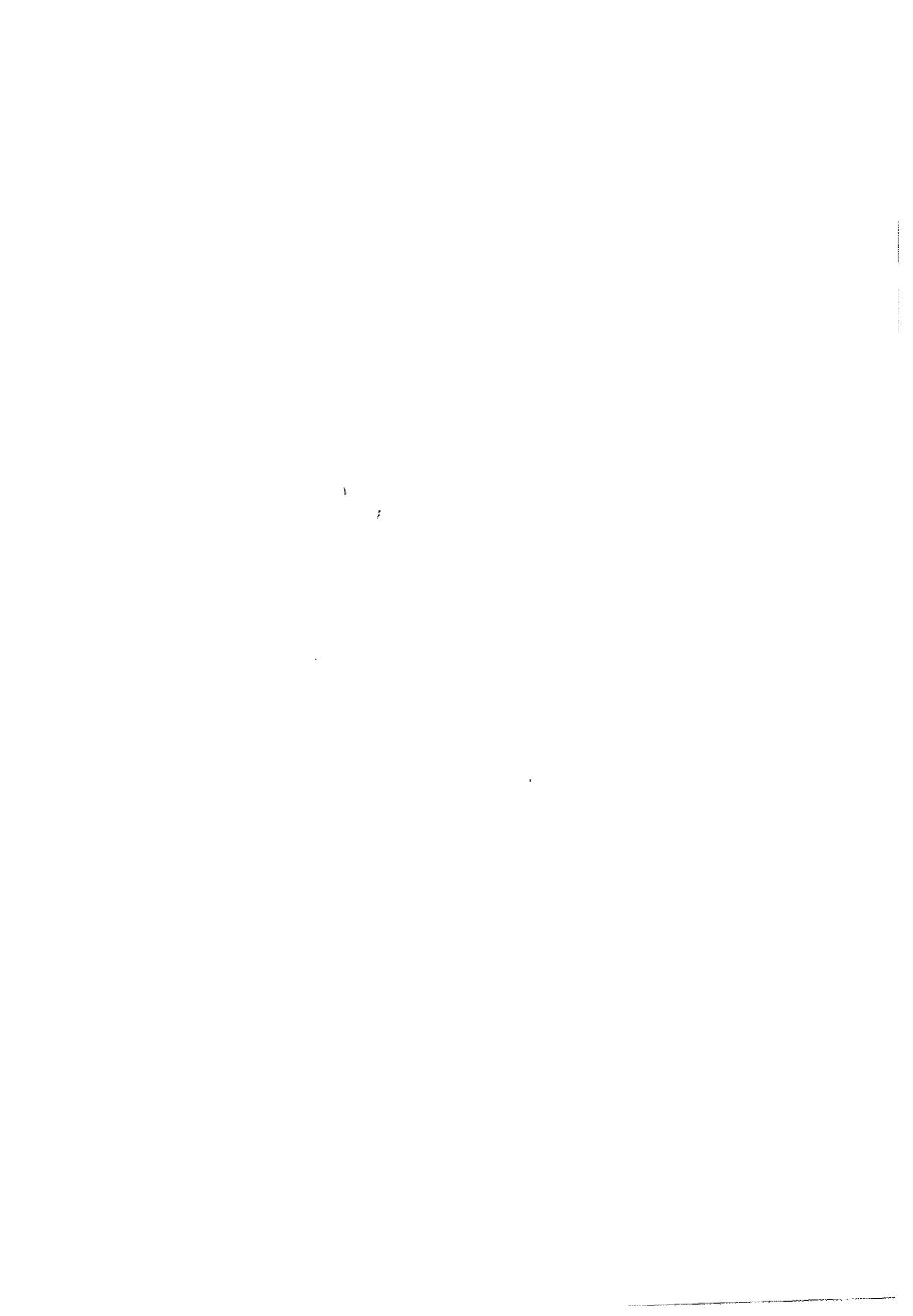
SAVINGS AND TRANSITIONAL PROVISIONS IN RESPECT OF  
*SOLAR ENERGY RESEARCH ACT 1977*

1. Interpretation
2. Transfer of solar energy research projects and related matters
3. Agreements, instruments and proceedings relating to solar energy research projects
4. Notices requiring information or terminating assistance
5. Secrecy

SCHEDULE 2

SAVINGS AND TRANSITIONAL PROVISIONS IN RESPECT OF  
*MINING AND PETROLEUM RESEARCH ACT 1981*

1. Interpretation
2. Directors of Mining Institute to become directors of Institute
3. Chairman of Board of Directors of Mining Institute to become Board Chairman
4. Members of Mining and Petroleum Advisory Committee to become members of Minerals Research Advisory Committee
5. Transfer of assets, liabilities and records of Mining Institute
6. Transfer of mining or petroleum research projects and related matters
7. Agreements, instruments and proceedings generally
8. Notices requiring information or terminating assistance
9. Secrecy
10. References to Mining Institute in written laws
11. Board of Directors of Mining Institute to continue in existence for certain purposes
12. Mining Board to report to Minister on Mining Institute
13. Financial statements relating to Mining Institute
14. Mining Board to send accounts, etc. to Auditor General
15. Minister to table final report of Mining Board and opinion of Auditor General



WESTERN AUSTRALIA

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# MINERALS AND ENERGY RESEARCH ACT

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No. 89 of 1987

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AN ACT to promote and co-ordinate research for the development of the minerals and energy industries, to establish the Minerals and Energy Research Institute of Western Australia, to repeal the *Mining and Petroleum Research Act 1981*, to make consequential amendments to certain other Acts and to provide for matters incidental to or connected with the foregoing.

[Assented to 9 December 1987]

The Parliament of Western Australia enacts as follows:

## PART I—PRELIMINARY

### Short title

1. This Act may be cited as the *Minerals and Energy Research Act 1987*.

**Commencement**

2. This Act shall come into operation on such day as is fixed by proclamation.

**Interpretation**

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

“Acting Board Chairman” means person appointed under section 14 (1) to act in the office of Board Chairman;

“advisory committee” means Minerals Research Advisory Committee or Energy Research Advisory Committee, or advisory committee appointed under section 18 (2);

“Board” means Board of Directors of the Institute referred to in section 8 (1);

“Board Chairman” means director appointed under section 13 (1) to be the chairman of the Board;

“director” means director appointed under section 12 (1);

“energy” means capacity for doing work;

“energy research” includes development of any process, technique, method, design or apparatus—

- (a) to collect, store, apply or utilize any form of energy or to convert one form of energy into any other form of energy;
- (b) to substitute one form of energy for any other form of energy; or
- (c) to conserve any form of energy;

“Energy Research Advisory Committee” means Energy Research Advisory Committee established under section 18 (1);

- “minerals” means naturally occurring substances obtained or obtainable from the Earth;
- “minerals research” includes the development of any process, technique, method, design or apparatus to locate, extract, process, transport or market minerals;
- “Minerals Research Advisory Committee” means Minerals Research Advisory Committee established under section 18 (1);
- “research advisory committee” means Minerals Research Advisory Committee or Energy Research Advisory Committee;
- “research project” means minerals research project or energy research project;
- “the Account” means the Minerals and Energy Research Account referred to in section 26 (3);
- “the Department of Mines” means the Department of the Public Service of the State principally assisting the Minister to whom the administration of the *Mining Act 1978* is for the time being committed by the Governor in that administration;
- “the Institute” means the Minerals and Energy Research Institute of Western Australia established by section 4 (1);
- “the Mining Institute” means the Western Australian Mining and Petroleum Research Institute established by the 1981 Act;
- “the 1981 Act” means the *Mining and Petroleum Research Act 1981*;
- “the 1977 Act” means the *Solar Energy Research Act 1977*;
- “the Solar Institute” means the Solar Energy Research Institute of Western Australia established by the 1977 Act;
- “the State Energy Commission” means The State Energy Commission of Western Australia preserved and continued in existence by the *State Energy Commission Act 1979*.

PART II—MINERALS AND ENERGY RESEARCH INSTITUTE OF  
WESTERN AUSTRALIA

**Establishment of Minerals and Energy  
Research Institute of Western Australia**

4. (1) There is hereby established a body corporate under the name of the Minerals and Energy Research Institute of Western Australia.

(2) Under its corporate name, the Institute—

- (a) has perpetual succession;
- (b) shall have a common seal;
- (c) may sue and be sued in any court;
- (d) may acquire, hold and dispose of real and personal property; and
- (e) subject to this Act, is capable of doing and suffering all that bodies corporate may do and suffer.

(3) Without limiting the generality of subsection (2) (d), the Institute may under its corporate name receive any assets, whether in the form of moneys or otherwise, distributed to it in accordance with a scheme of distribution approved under the 1977 Act.

### **Function of Institute**

5. The function of the Institute is to encourage the development of the minerals and energy industries within the State by fostering and promoting all aspects of minerals research and energy research (especially solar energy research) through—

- (a) undertaking, in its own right or in conjunction with other persons, such research projects as it thinks fit, and evaluating research projects so undertaken;
- (b) investigating matters, and undertaking research projects relevant to the development of those industries, referred to it by the Minister;
- (c) co-ordinating, when appropriate and practicable, research projects undertaken by persons who—
  - (i) have received financial assistance or any other form of support from; or
  - (ii) seek or agree to have their research projects co-ordinated by,

the Institute;

- (d) receiving and considering applications from persons undertaking or wishing to undertake research projects and seeking financial assistance from the Institute;

- (e) allocating, at its discretion, to persons out of the Account financial assistance to enable or assist persons referred to in paragraph (d) to undertake or continue research projects;
- (f) entering into agreements with persons to whom the Institute has allocated financial assistance with respect to the terms and conditions of the allocation of that financial assistance, which terms and conditions may include a condition that such a person shall comply with any directions or guidelines issued by the Institute in relation to the conduct of a research project;
- (g) monitoring and evaluating research projects in respect of which the Institute has allocated financial assistance and other minerals research work or energy research work within the State and elsewhere;
- (h) maintaining within the Department of Mines a collection of all reports or other literature or information issued or compiled by the Institute or by the Solar Institute or the Mining Institute;
- (i) conferring and collaborating on matters relating to minerals research and energy research with the Department of Mines, the State Energy Commission and other appropriate authorities and institutions within the State and elsewhere; and
- (j) promoting public awareness of matters relating to minerals research and energy research, informing the public concerning the latest developments in the fields of minerals research and energy research and receiving and considering submissions from the public concerning—
  - (i) the performance by the Institute of its function; or
  - (ii) matters relating to minerals research and energy research in general.

### **Powers of Institute**

6. (1) The Institute may do, in the State or elsewhere, all things necessary or convenient to be done for or in connection with the performance of its function.

(2) Without limiting the generality of subsection (1), the powers conferred on the Institute by that subsection include power—

- (a) to purchase and construct equipment and facilities needed to conduct any project relevant to its function;

- (b) to own, lease, rent or otherwise acquire suitable premises or accommodation for its staff, records, equipment and facilities;
- (c) to open and maintain such accounts at a bank approved by the Treasurer as are required from time to time; and
- (d) to apply for, or to join in the making of an application for—
  - (i) a patent; or
  - (ii) the registration of an industrial design.

(3) The Institute may, by writing bearing the common seal of the Institute, delegate to a director or to an officer or employee of the Institute or of the Department of Mines, either generally or otherwise as provided by the instrument of delegation, all or any of its powers or duties under this Act, except this power of delegation.

(4) A power or duty delegated under subsection (3) may be exercised or performed by the delegate in accordance with the instrument of delegation and, when so exercised or performed, shall for the purposes of this Act be deemed to have been exercised or performed by the Institute.

### **Common seal of Institute**

7. (1) A person shall not affix the common seal of the Institute to any document except under a resolution of the Board.

(2) A document executed under a resolution of the Board shall be attested by the signatures of any 2 directors.

(3) When a document purporting to bear the common seal of the Institute 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 the common seal of the Institute; and
- (b) the common seal of the Institute was duly affixed to that document.

## PART III—BOARD OF DIRECTORS OF INSTITUTE

**Management of Institute**

8. (1) The control and management of the Institute are vested in a Board of Directors of the Institute, which Board shall be constituted as prescribed by this Part.

(2) Subject to section 9, the Board shall perform the function and all the duties imposed, and may exercise all the powers conferred, on the Institute by this Act.

**Board subject to directions of Minister**

9. The Board shall comply with the directions, if any, of the Minister in relation to the performance of the function or any of the duties, or to the exercise of any of the powers, referred to in section 8 (2).

**Advice of Minerals Research Advisory Committee and Energy Research Advisory Committee**

10. The Board shall pay due regard to the advice of—

- (a) the Minerals Research Advisory Committee in relation to the performance by the Board of the function or any of the duties, or to the exercise by the Board of any of the powers, referred to in section 8 (2) in respect of minerals research; or
- (b) the Energy Research Advisory Committee in relation to the performance by the Board of the function or any of the duties, or to the exercise by the Board of any of the powers, referred to in section 8 (2) in respect of energy research,

but is not bound to act on or give effect to that advice and, when the Board has referred a proposal, matter or question to the Minerals Research Advisory Committee or the Energy Research Advisory Committee, as the case requires, for advice, the Board may act notwithstanding that the advice has not been received.

**Constitution of Board**

11. The Board shall consist of 4 directors.

**Appointment and tenure of directors**

12. (1) Subject to this section, the directors of the Institute shall be appointed by the Governor on the nomination of the Minister under subsection (2) from amongst persons who appear to the Minister to be qualified by training or experience in the physical sciences, applied sciences, finance, administration or marketing, or in any other field that is, in the opinion of the Minister, relevant to the function of the Institute.

(2) Before the first appointments are made under subsection (1) to the offices of the directors and thereafter whenever it is necessary to fill a vacancy which has occurred, or is about to occur, in the office of a director, the Minister shall nominate one or more persons, as the case requires, and may in so doing seek and act on the advice of the Department of Mines and of the State Energy Commission.

(3) A person may be appointed to the office of director for such period not exceeding 4 years as is specified in the instrument of his appointment and, subject to this Act, a person so appointed is eligible for reappointment.

(4) A director may resign his office by writing signed by him and delivered to the Minister.

(5) If a director—

- (a) is an insolvent under administration within the meaning of the *Companies (Western Australia) Code*;
- (b) becomes permanently incapable of performing the duties of his office; or
- (c) is guilty of neglect of duty, misbehaviour or incompetence,

the Governor may remove him from his office and thereupon that office becomes vacant.

**Appointment and tenure of Board Chairman**

13. (1) The Minister shall from time to time appoint one of the directors to be the chairman of the Board.

(2) The Board Chairman may resign his office by writing signed by him and delivered to the Minister.

**Acting Board Chairman**

**14.** (1) The Minister may, in order to enable the Institute to perform its function effectively by ensuring that the duties of the office of Board Chairman are performed without interruption, appoint for such period as is specified in the instrument of appointment an officer of the Department of Mines to act in the office of Board Chairman during any period when the Board Chairman is absent from duty or from the State or is, for any reason, unable to perform the duties of his office.

(2) The Acting Board Chairman may resign his office by writing signed by him and delivered to the Minister.

(3) The Acting Board Chairman shall, while he is acting in the office of Board Chairman, be deemed for the purposes of this Act to be a director.

**Acting directors**

**15.** (1) The Minister may from time to time, if he considers it necessary in order to enable the Institute to perform its function effectively, appoint a person to act in the office of a director (other than the office of the director who is the Board Chairman) during any period when the director is, or is expected to be, absent from duty or from the State or is, for any reason, unable to perform the duties of his office.

(2) A person acting in the office of a director under this section—

- (a) subject to section 16, holds office on such terms and conditions as the Minister determines; and
- (b) may resign his appointment by writing signed by him and delivered to the Minister.

(3) The Minister may at any time terminate an appointment made under this section.

**Remuneration and allowances of  
Board Chairman, Acting Board Chairman  
and other directors**

**16.** There shall be paid to—

- (a) the Board Chairman;

- (b) the Acting Board Chairman; and
- (c) each director (other than the Board Chairman or an Acting Board Chairman) or person acting in the office of that director,

such remuneration and allowances as are fixed in his case by the Minister on the recommendation of the Public Service Board.

### **Meetings and proceedings of Board**

17. (1) The Board shall meet regularly and as often as is necessary for the performance of its functions.

(2) The Board Chairman or, if the Board Chairman is absent from duty or from the State or is, for any reason, unable to perform the duties of his office, the Acting Board Chairman may at any time convene a meeting of the Board.

(3) At a meeting of the Board—

- (a) 3 directors constitute a quorum; and
- (b) subject to subsection (4), the Board Chairman or, if the Board Chairman is absent from duty or from the State or is, for any reason, unable to perform the duties of his office, the Acting Board Chairman shall preside.

(4) When the Board Chairman or, if the Acting Board Chairman is acting in the office the Board Chairman, the Acting Board Chairman is unexpectedly absent from the whole or part of a meeting of the Board, the other directors present at that meeting shall elect one of their number to preside at that whole or part.

(5) A question arising at a meeting of the Board shall be determined by a majority of the votes of the directors present and voting and, subject to subsection (6), when the votes cast on any question are equally divided, the question shall remain unresolved until a subsequent meeting of the Board.

(6) When the votes cast on a question at a meeting of the Board are equally divided and the votes cast on the question at a subsequent meeting of the Board are also equally divided, the person presiding at that subsequent meeting shall exercise a casting vote on the question.

(7) The Board shall cause accurate minutes to be kept of its proceedings at its meetings.

(8) A director who has a direct or indirect pecuniary interest in any matter that is being considered or is about to be considered at a meeting of the Board shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of that interest to the directors present at that meeting and that disclosure shall be recorded in the minutes of that meeting.

(9) The Board shall determine its own procedure to the extent that it is not prescribed.

#### PART IV—ADVISORY COMMITTEES

##### **Advisory committees**

**18.** (1) For the purposes of this Act, there shall be established—

- (a) a committee to be known as the Minerals Research Advisory Committee; and
- (b) a committee to be known as the Energy Research Advisory Committee.

(2) The Board may appoint such advisory committees in addition to the Minerals Research Advisory Committee and the Energy Research Advisory Committee as the Board considers necessary for the purposes of this Act.

##### **Functions of advisory committees**

**19.** (1) The functions of each research advisory committee are—

- (a) to consider and advise the Board on research goals—
  - (i) in the case of the Minerals Research Advisory Committee, relevant to the minerals industry; or
  - (ii) in the case of the Energy Research Advisory Committee, relevant to the energy industry;
- (b) to consider and advise the Board on any proposals, matters or questions that may be referred to that research advisory committee by the Board; and

- (c) to make recommendations to the Board concerning—
- (i) the funding policy of the Institute;
  - (ii) whether or not—
    - (A) in the case of the Minerals Research Advisory Committee, a particular minerals research project;
    - or
    - (B) in the case of the Energy Research Advisory Committee, a particular energy research project,examined by it deserves the support or the continued support, as the case requires, of the Institute; or
  - (iii) any other aspect of the activities of the Institute,
- with a view to ensuring that the best use is made of the resources and moneys at the disposal of the Institute.

(2) The functions of an advisory committee which is not a research advisory committee are such functions as the Board thinks fit to confer or impose on that advisory committee from time to time.

### **Membership of Minerals Research Advisory Committee**

**20.** (1) Subject to this section, the Minerals Research Advisory Committee shall be appointed by the Minister and shall consist of—

- (a) one person appointed from a panel of names submitted by the body known as The Confederation of Western Australian Industry (Incorporated);
- (b) one person appointed from a panel of names submitted by the body known as The Chamber of Mines of Western Australia (Incorporated);
- (c) one person appointed from a panel of names submitted by the body known as the Australian Petroleum Exploration Association Limited;
- (d) one person appointed from a panel of names submitted by the Senate of The University of Western Australia;
- (e) one person appointed from a panel of names submitted by the Senate of Murdoch University;

- (f) one person appointed from a panel of names submitted by the Council of the Curtin University of Technology;
- (g) one person appointed from a panel of names submitted by the Commonwealth Scientific and Industrial Research Organization established under the *Science and Industry Research Act 1949* of the Commonwealth;
- (h) one person appointed on the nomination of the Permanent Head of the Department of Resources Development; and
- (i) such number of other persons (if any) as the Minister considers appropriate, being persons who appear to the Minister—
  - (i) to be knowledgeable concerning the research requirements of the minerals industry;
  - (ii) to have a genuine interest, or be representative of interests, in minerals research; or
  - (iii) to be representative of the interests in minerals research of bodies, post-secondary education institutions or authorities other than those referred to in paragraphs (a) to (h),

or who, for any other reason, are considered by the Minister to be suitable for appointment as members.

(2) A panel of names referred to in subsection (1) (a), (b), (c), (d), (e), (f) or (g)—

- (a) shall be submitted in writing to the Minister at his request; and
  - (b) shall contain the names of at least 3 persons each of whom—
    - (i) is knowledgeable concerning minerals or the general subject of the minerals industry; or
    - (ii) has a genuine interest in minerals research,
- and is willing to accept appointment as a member.

(3) If at any time a body, post-secondary education institution or authority referred to in subsection (1) (a), (b), (c), (d), (e), (f) or (g) does not submit a panel of names within 30 days after the making of the relevant request referred to in subsection (2) (a), the Minister may, without the submission of that panel, appoint a person who is otherwise eligible to be the member concerned to represent the interests of the body, post-secondary education institution or authority in default.

(4) A person appointed under subsection (3) shall for all purposes be deemed to be duly appointed a member and to be the representative of the body, post-secondary education institution or authority in default.

(5) The Minister may, subject to subsection (6), appoint persons to be deputies of the several members.

(6) The provisions of subsections (1), (2), (3), and (4) that apply to and in relation to the appointment of a member apply, with such modifications as are necessary, to and in relation to the appointment of a deputy of the member.

(7) A person appointed under subsection (5) is, in the the event of the absence from a meeting of the Minerals Research Advisory Committee of the member of whom he is the deputy, entitled to attend that meeting and, when so attending, is deemed to be a member and has all the powers, functions and duties of a member.

(8) In this section—

“member” means member of the Minerals Research Advisory Committee.

### **Membership of Energy Research Advisory Committee**

**21.** (1) Subject to this section, the Energy Research Advisory Committee shall be appointed by the Minister and shall consist of—

- (a) one person appointed from a panel of names submitted by the body known as The Confederation of Western Australian Industry (Incorporated);
- (b) one person appointed from a panel of names submitted by the body known as The Chamber of Mines of Western Australia (Incorporated);
- (c) one person appointed from a panel of names submitted by the body known as The Western Australian Chamber of Commerce and Industry (Incorporated);
- (d) one person appointed from a panel of names submitted by the Senate of The University of Western Australia;
- (e) one person appointed from a panel of names submitted by the Senate of Murdoch University;

- (f) one person appointed from a panel of names submitted by the Council of the Curtin University of Technology;
- (g) one person appointed from a panel of names submitted by the Commonwealth Scientific and Industrial Research Organization established under the *Science and Industry Research Act 1949* of the Commonwealth;
- (h) one person appointed on the nomination of the Minister to whom the administration of the *State Energy Commission Act 1979* is for the time being committed by the Governor; and
- (i) such number of other persons (if any) as the Minister considers appropriate, being persons who appear to the Minister—
  - (i) to be knowledgeable concerning energy or the general subject of energy demand, supply and use;
  - (ii) to have a genuine interest in energy research;
  - (iii) to be representative of the interests of energy research of persons residing outside the metropolitan region; or
  - (iv) to be representative of the interests in energy research of bodies, post-secondary education institutions or authorities other than those referred to in paragraphs (a) to (h),

or who, for any other reason, are considered by the Minister to be suitable for appointment as members.

(2) A panel of names referred to in subsection (1) (a), (b), (c), (d), (e), (f) or (g)—

- (a) shall be submitted in writing to the Minister at his request; and
- (b) shall contain the names of at least 3 persons each of whom—
  - (i) is knowledgeable concerning energy or the general subject of energy demand, supply and use; or
  - (ii) has a genuine interest in energy research,

and is willing to accept appointment as a member.

(3) If at any time a body, post-secondary education institution or authority referred to in subsection (1) (a), (b), (c), (d), (e), (f) or (g) does not submit a panel of names within 30 days after the making of the relevant request referred to in subsection (2) (a), the Minister may,

without the submission of that panel, appoint a person who is otherwise eligible to be the member concerned to represent the interests of the body, post-secondary education institution or authority in default.

(4) A person appointed under subsection (3) shall for all purposes be deemed to be duly appointed a member and to be the representative of the body, post-secondary education institution or authority in default.

(5) The Minister may, subject to subsection (6), appoint persons to be deputies of the several members.

(6) The provisions of subsections (1), (2), (3) and (4) that apply to and in relation to the appointment of a member apply, with such modifications as are necessary, to and in relation to the appointment of a deputy of that member.

(7) A person appointed under subsection (5) is, in the event of the absence from a meeting of the Energy Research Advisory Committee of the member of whom he is the deputy, entitled to attend that meeting and, when so attending, is deemed to be a member and has all the powers, functions and duties of a member.

(8) In this section—

“member” means member of the Energy Research Advisory Committee;

“metropolitan region” has the meaning given by the *Metropolitan Region Town Planning Scheme Act 1959*.

### **Chairmen and deputy chairmen of advisory committees**

22. The Minister shall appoint one member of each advisory committee to be the chairman of that advisory committee and another member of that advisory committee to be the deputy chairman of that advisory committee.

### **Tenure of office of advisory committee members**

23. (1) A person may be appointed to the office of member of an advisory committee for such period not exceeding 3 years as is specified in the instrument of his appointment and, subject to this Act, a person so appointed is eligible for reappointment.

(2) A member of an advisory committee may resign his office by writing signed by him and delivered to the Minister.

(3) If a member of an advisory committee—

(a) is an insolvent under administration within the meaning of the *Companies (Western Australia) Code*;

(b) becomes permanently incapable of performing the duties of his office; or

(c) is guilty of neglect of duty, misbehaviour or incompetence,

the Minister may remove him from his office and thereupon that office becomes vacant.

### **Meetings and proceedings of advisory committees**

**24.** (1) The Board Chairman or Acting Board Chairman shall convene regular meetings of each advisory committee and at least 4 such meetings shall be convened in each calendar year after the year in which this Act comes into operation.

(2) The chairman of an advisory committee shall preside at all meetings of his advisory committee at which he is present and the deputy chairman of that advisory committee shall preside at any meeting of that advisory committee at which he, but not that chairman, is present.

(3) When the chairman of an advisory committee and the deputy chairman of the advisory committee are both absent from a meeting of the advisory committee, the members of the advisory committee present shall elect one of their number present to preside at that meeting.

(4) A question arising at a meeting of an advisory committee shall be determined by a majority of the votes of the members of the advisory committee present and voting and, if the votes cast on any question are equally divided, the question shall be declared to be lost.

(5) An advisory committee shall cause accurate minutes to be kept of its proceedings at its meetings.

(6) A member of an advisory committee who has a direct or indirect pecuniary interest in any matter that is being considered or is about to be considered at a meeting of the advisory committee shall, as soon as

possible after the relevant facts have come to his knowledge, disclose the nature of his interest to those present at that meeting and that disclosure shall be recorded in the minutes of that meeting.

(7) When a member of an advisory committee makes a disclosure under subsection (6) in relation to a matter and a majority of the members of the advisory committee present at the meeting concerned determine by motion that the nature of the pecuniary interest disclosed is such that the member should take no part in the consideration of the matter, that member shall not be present during any deliberation of the advisory committee with respect to the matter.

(8) An advisory committee shall determine its own procedure to the extent that it is not prescribed.

### **Remuneration and allowances of members of advisory committees and their deputies**

25. A member of an advisory committee or a deputy of such a member shall be paid such remuneration and allowances as are fixed in his case by the Minister on the recommendation of the Public Service Board.

## PART V—FINANCE

### **Moneys available to Institute**

26. (1) Subject to this Act, the Institute shall be responsible for managing its own finances.

(2) The moneys available to the Institute for the purposes of this Act are—

- (a) moneys from time to time appropriated by Parliament for the purpose;
- (b) moneys received by or for or made available to, and accepted by, the Institute for application towards minerals research or energy research;
- (c) such moneys as may be advanced by the Treasurer in any case in which the moneys standing to the credit of the Account would be insufficient;

- (d) moneys vested in the Institute by Schedule 2;
- (e) any moneys derived from investment under section 27; and
- (f) any other moneys that may lawfully be received by or for the Institute for the purposes of this Act.

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

- (a) opened and maintained under section 6 (2) (c); and
- (b) called the Minerals and Energy Research Account.

(4) Subject to subsection (5), the moneys from time to time in the Account may be applied by the Institute to meet—

- (a) expenditure incurred in respect of minerals research;
- (b) expenditure incurred in respect of energy research;
- (c) expenditure incurred in paying any remuneration and allowances payable under section 16 or 25; and
- (d) any expenditure, other than expenditure referred to in paragraph (a), (b) or (c), lawfully incurred for the purposes of this Act.

(5) If any moneys referred to in subsection (2) (b) are received, or made available and accepted, subject to any trust, condition or stipulation that they be applied towards—

- (a) a specified minerals research project or energy research project;
- (b) minerals research projects or energy research projects of a specified class;
- (c) a specified field of minerals research or energy research; or
- (d) minerals research or energy research generally,

the Institute shall give effect to that trust, condition or stipulation.

**Temporary investment of moneys**

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

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

28. 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 Institute and its operations.

**Provisions and reserves**

29. The Institute may in its accounting records establish and operate provision for actual and contingent liabilities, reserve accounts and reserve funds for such purposes and within such limits as the Treasurer approves.

**Power to borrow from Treasurer**

30. For the purposes of section 26 (2) (c), the Institute 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 VI—STAFF, ASSISTANCE AND FACILITIES****Staff of Institute**

31. (1) The Institute may appoint such officers and employees as it thinks necessary for the purposes of this Act.

(2) Persons appointed under subsection (1) may be employed on a full time or part time basis.

(3) Subject to any relevant award or industrial agreement, the terms and conditions of employment of persons appointed under subsection (1), including the salary or wages payable, are such terms and conditions as are determined in relation to each of those persons by the Minister on the recommendation of the Public Service Board.

(4) The *Public Service Act 1978* does not apply to or in relation to persons appointed under subsection (1).

### **Professional or technical assistance**

**32.** The Institute may, with the approval of the Minister, engage under contract for services such professional and technical or other assistance as may be necessary to enable the Institute to perform its functions effectively.

### **Use of staff and facilities of Departments and instrumentalities**

**33.** (1) The Institute may by arrangement with the Minister concerned and on such terms and conditions as may be mutually arranged with that Minister, make use, either full time or part time, of—

- (a) the services of any officer or employee employed in the Public Service of the State or in a State instrumentality or otherwise in the service of the Crown in right of the State; or
- (b) any facilities of a department of the Public Service of the State or of a State instrumentality.

(2) For the purpose of the performance of the function of the Institute, the Institute shall endeavour as far as practicable to make use of services and facilities in accordance with arrangements made under subsection (1).

## **PART VII—GENERAL**

### **Institute may require information and terminate assistance**

**34.** (1) If the Institute has allocated funds to a person to enable the person to undertake or continue a research project, the Institute may, by notice in writing served on the person, require the person to furnish to the Institute within such period as is specified in that notice such

information by way of reports, data or other evidence of moneys expended, work conducted and progress made in relation to the research project as the Institute requires by that notice for the purposes of this Act.

(2) A person, when required by a notice served under subsection (1) to furnish any information to the Institute—

- (a) shall comply with that notice; and
- (b) shall not knowingly furnish any false or misleading information to the Institute.

Penalty: \$2 000.

(3) If the Institute has allocated funds to a person to enable the person to undertake or continue a research project and the Board is satisfied that the person—

- (a) has failed or is failing to undertake or continue the research project in accordance with terms and conditions agreed between him and the Institute; or
- (b) is unable to complete the research project,

the Institute may, by notice in writing served on the person, terminate the allocation of funds to the person in respect of the research project and, in that event, any moneys that have already been so allocated to the person but have not yet been expended by him are recoverable by the Institute by action in a court of competent jurisdiction as a debt due and payable to the Institute.

## **Secrecy**

**35.** (1) This section applies to every person—

- (a) who is or has been a director;
- (b) who is acting or has acted in the office of the Board Chairman or a director;
- (c) who is or has been a member, or a deputy of a member, of an advisory committee;
- (d) who is or has been an officer or employee of the Institute;
- (e) who is rendering or has rendered services to the Institute under section 32 or 33; or

- (f) to whom the Institute has allocated funds to enable that person to undertake or continue a particular research project, or any person directing, working with or assisting that person on that research project.

(2) A person to whom this section applies shall not, either directly or indirectly, except in the performance of a function under or in connection with this Act—

- (a) make a record of, divulge or communicate to any person or make use of any information concerning the affairs of another person acquired by him by reason of his office or employment or research under or for the purposes of this Act; or
- (b) produce to any person any document relating to the affairs of another person furnished for the purposes of this Act.

(3) Subject to subsection (4), if a person discloses information to the Institute concerning his affairs and indicates in writing to the Institute that he wishes that information to be treated as an industrial or trade secret then, except with the consent of that person—

- (a) a person to whom this section applies shall not make any public disclosure of that information; and
- (b) that information shall not be included in any report or statement prepared under the *Financial Administration and Audit Act 1985* by or for the Institute.

(4) Subsection (3) does not apply to any information that the Institute has, or might have, required to be furnished under section 34 (1).

(5) When moneys referred to in section 26 (2) (b) are received, or made available and accepted, subject to any trust, condition or stipulation that they be applied towards a specified research project, then, if the person from whom those moneys were received or by whom those moneys were made available so requests the Institute in writing—

- (a) a person to whom this section applies shall not make any public disclosure of any information concerning the nature, conduct, progress or results of that research project; and
- (b) no information concerning the nature, conduct, progress or results of that research project shall be included in any report or statement prepared under the *Financial Administration and Audit Act 1985* by or for the Institute.

(6) A person to whom this section applies shall not contravene a provision of this section.

Penalty: \$20 000.

### **Liability**

**36.** A person to whom section 35 applies is not personally liable in civil proceedings, and the Crown in right of the State is not liable, for any act done, default made or statement issued by the Board, an advisory committee or any person to whom that section applies in good faith in the course of the operations of the Institute.

### **Records to be maintained**

**37.** The Board shall cause detailed records to be kept in relation to research projects which—

- (a) the Institute has undertaken, either in its own right or in conjunction with any other person; or
- (b) to which the Institute has allocated funds,

including, without limiting the generality of the foregoing, records relating to moneys allocated, work undertaken, progress achieved and results obtained.

### **Information**

**38.** The Board shall furnish the Minister with such information concerning the activities, achievements, expenditure and financial position of the Institute as the Minister may from time to time require.

### **Regulations**

**39.** 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.

**Review of Act**

40. (1) The Minister shall carry out a review of the operation and effectiveness of this Act as soon as is practicable after the expiry of 5 years from its commencement, and in the course of that review the Minister shall consider and have regard to—

- (a) the effectiveness of the operations of the Board and of each advisory committee;
- (b) the need for the continuation of the functions of the Board and of each advisory committee; and
- (c) such other matters as appear to him to be relevant to the operation and effectiveness of this Act.

(2) The Minister shall prepare a report based on his review made under subsection (1) and shall, as soon as is practicable after the preparation thereof, cause the report to be laid before each House of Parliament.

PART VIII—AMENDMENTS, REPEALS, SAVINGS  
AND TRANSITIONAL

***Financial Administration  
and Audit Act 1985 amended***

41. Schedule 1 to the *Financial Administration and Audit Act 1985*\* is amended by deleting “Western Australian Mining and Petroleum Research Institute” and substituting in its appropriate alphabetical position the following—

“ Minerals and Energy Research Institute of Western Australia ”.

[\*Reprinted as at 4 March 1987 and amended by Act No. 32 of 1987.]

***Parliamentary Commissioner Act 1971 amended***

42. The Schedule to the *Parliamentary Commissioner Act 1971*\* is amended by inserting in its appropriate alphabetical position the following—

“ Minerals and Energy Research Institute of Western Australia. ”

[\*Reprinted as approved for reprint 19 July 1983 and amended by Acts Nos. 124 of 1984, 69, 92, 98, 107 and 110 of 1985 and 39, 51 and 101 of 1986.]

***Constitution Acts Amendment Act 1899*** amended

43. Part 3 of Schedule V of the *Constitution Acts Amendment Act 1899*\* is amended by deleting—

“ The Board of Directors of the Mining and Petroleum Research Act constituted under the Mining and Petroleum Research Act 1981. ”,

and substituting in its appropriate alphabetical position the following—

“ The Board of Directors of the Minerals and Energy Research Institute of Western Australia constituted under the *Minerals and Energy Research Act 1987*. ”.

[\*Reprinted as approved for reprint 26 June 1984 and amended by Acts Nos. 75 and 78 of 1984, 10, 97 and 101 of 1986 and 21 and 32 of 1987.]

**Ancillary provisions in respect of  
repeal of *Solar Energy Research Act 1977***

44. The savings and transitional provisions set out in Schedule 1 apply in respect of the repeal of the 1977 Act.

**Repeal of *Mining and Petroleum Research Act 1981*  
and ancillary provisions**

45. (1) The *Mining and Petroleum Research Act 1981*\* is repealed.

(2) The savings and transitional provisions set out in Schedule 2 apply in respect of the repeal effected by subsection (1).

[\*Act No. 2 of 1981 as amended by Act No. 98 of 1985.]

***Interpretation Act 1984* to apply**

46. Sections 44 and 45 and Schedules 1 and 2 are supplementary to, and do not displace the operation of, the *Interpretation Act 1984*.

## SCHEDULE 1

(Section 44)

SAVINGS AND TRANSITIONAL PROVISIONS IN RESPECT OF  
*SOLAR ENERGY RESEARCH ACT 1977***Interpretation**

1. In this Schedule, unless the contrary intention appears—

“solar energy research project” means project in solar energy research within the meaning of the 1977 Act;

“the commencement day” means the day on which the 1977 Act is repealed.

**Transfer of solar energy research projects and related matters**

2. (1) A solar energy research project—

(a) which was being undertaken or evaluated by the Solar Institute immediately before the commencement day shall continue to be undertaken or evaluated, as the case requires; or

(b) which was being co-ordinated by the Solar Institute immediately before the commencement day shall continue to be co-ordinated,

by the Institute as an energy research project under this Act.

(2) A matter relating to a solar energy research project, which matter was—

(a) referred to the Solar Institute by the Minister to whom the administration of the 1977 Act was at the relevant time committed by the Governor; and

(b) being investigated by the Solar Institute immediately before the commencement day,

shall continue to be investigated by the Institute and the Institute shall report on that matter to the Minister.

(3) An application from a person—

(a) undertaking or wishing to undertake a solar energy research project; and

(b) seeking funds from the Solar Institute,

which application was being considered by the Solar Institute immediately before the commencement day, shall be considered and determined by the Institute as if it were an application referred to in section 5 (d).

(4) The Institute shall—

(a) monitor and evaluate energy research projects in respect of which the Solar Institute allocated funds under the 1977 Act and which were immediately before the commencement day uncompleted; and

- (b) amalgamate with the collection referred to in section 5 (h) the collection of relevant literature, journals and other information concerning solar energy research (excluding any such literature, journals or other information which was or were not issued or compiled by the Solar Institute) maintained by the Solar Institute before the commencement day.

**Agreements, instruments and proceedings  
relating to solar energy research projects**

3. (1) Any agreement, arrangement, contract or undertaking, or any instrument, made by and with the Solar Institute in respect of a solar energy research project and subsisting immediately before the commencement day has effect on and after the commencement day as if—

- (a) that agreement, arrangement, contract or undertaking, or that instrument, had been made by and with the Institute; and
- (b) unless the context otherwise requires, any reference in that agreement, arrangement, contract or undertaking, or that instrument, to the Solar Institute were a reference to the Institute.

(2) If anything relating to a solar energy research project has been lawfully commenced by or under the authority of the Solar Institute before the commencement day, that thing may be carried on and completed by or under the authority of the Institute.

(3) Without limiting the generality of subclause (2), any legal or other proceedings or any remedies in respect of a solar energy research project that might, but for the repeal of the 1977 Act, have been commenced or continued or available by or against or to the Solar Institute may be commenced or continued, or shall be available, by or against or to the Institute.

**Notices requiring information  
or terminating assistance**

4. (1) A notice served under section 31 (1) of the 1977 Act but not complied with before the commencement day shall be deemed to be a notice served under section 34 (1) and section 34 (2) applies to and relation to that notice accordingly.

(2) If a notice has been served under section 31 (3) of the 1977 Act and any funds allocated to the person on whom the notice has been so served and not expended by him have not been recovered or received by the Solar Institute before the commencement day, the notice shall be deemed to be a notice served under section 34 (3) on that person and section 34 (3) applies to and in relation to that notice accordingly.

**Secrecy**

5. Section 32 of the 1977 Act continues to have effect on and after the commencement day in respect of every person referred to in subsection (1) of that section as if the 1977 Act had not been repealed.

**SCHEDULE 2**

(Section 45 (2))

**SAVINGS AND TRANSITIONAL PROVISIONS IN RESPECT OF  
*MINING AND PETROLEUM RESEARCH ACT 1981*****Interpretation**

1. In this Schedule, unless the contrary intention appears—

“assets” includes moneys, rights, real and personal property and interests therein;

“liabilities” includes debts and obligations;

“mining or petroleum research project” means project in mining or petroleum research within the meaning of the 1981 Act;

“the commencement day” means the day on which this Act comes into operation;

“the Mining Board” means the Board of Directors referred to in clause 11 (1);

“Treasurer’s Instructions” has the meaning given by the *Financial Administration and Audit Act 1985*.

**Directors of Mining Institute to become  
directors of Institute**

2. A person who immediately before the commencement day held office as a director of the Mining Institute shall be deemed, subject to this Act, to have been appointed under section 12 (1) to be a director of the Institute for the remainder of the period for which he would, but for the repeal of the 1981 Act, have held office as a director of the Mining Institute.

**Chairman of Board of Directors of  
Mining Institute to become Board Chairman**

3. The person who immediately before the commencement day held office as the Chairman of the Board of Directors of the Mining Institute shall be deemed to have been appointed under section 13 (1) to be the Board Chairman.

**Members of Mining and Petroleum Advisory Committee to become members of Minerals Research Advisory Committee**

4. (1) A person who immediately before the commencement day held office as a member of the Mining and Petroleum Advisory Committee established under the 1981 Act shall be deemed, subject to this Act, to have been appointed under section 20 (1) to be a member of the Minerals Research Advisory Committee for the remainder of the period for which he would, but for the repeal of the 1981 Act, have held office as a member of that Mining and Petroleum Advisory Committee.

(2) For the purposes of section 20, a person referred to in subclause (1) who was appointed as a member of the Mining and Petroleum Advisory Committee under—

- (a) section 20 (1) (a) of the 1981 Act shall be deemed by virtue of that subclause to have been appointed to be a member of the Minerals Research Advisory Committee under section 20 (1) (a);
- (b) section 20 (1) (b) of the 1981 Act shall be deemed by virtue of that subclause to have been appointed to be a member of the Minerals Research Advisory Committee under section 20 (1) (b);
- (c) section 20 (1) (c) of the 1981 Act shall be deemed by virtue of that subclause to have been appointed to be a member of the Minerals Research Advisory Committee under section 20 (1) (c);
- (d) section 20 (1) (d) of the 1981 Act shall be deemed by virtue of that subclause to have been appointed to be a member of the Minerals Research Advisory Committee under section 20 (1) (d);
- (e) section 20 (1) (e) of the 1981 Act shall be deemed by virtue of that subclause to have been appointed to be a member of the Minerals Research Advisory Committee under section 20 (1) (e);
- (f) section 20 (1) (f) of the 1981 Act shall be deemed by virtue of that subclause to have been appointed to be a member of the Minerals Research Advisory Committee under section 20 (1) (f);
- (g) section 20 (1) (g) of the 1981 Act shall be deemed by virtue of that subclause to have been appointed to be a member of the Minerals Research Advisory Committee under section 20 (1) (g);
- (h) section 20 (1) (h) of the 1981 Act shall be deemed by virtue of that subclause to have been appointed to be a member of the Minerals Research Advisory Committee under section 20 (1) (h); or
- (i) section 20 (1) (i) of the 1981 Act shall be deemed by virtue of that subclause to have been appointed to be a member of the Minerals Research Advisory Committee under section 20 (1) (i).

**Transfer of assets, liabilities  
and records of Mining Institute**

5. (1) On the commencement day—

- (a) all assets that were, immediately before the commencement day, vested in, under the control of or standing to the credit of the Mining Institute are, by force of this subclause and subject to subclause (2), vested in the Institute;
- (b) the Institute becomes, by virtue of this subclause, liable to pay, bear or discharge all of the liabilities of the Mining Institute that existed immediately before the commencement day; and
- (c) the Institute shall take delivery of all registers, papers, documents, minutes, receipts, books of account and other records (however compiled, recorded or stored) relating to the operations of the Mining Institute.

(2) The Institute shall give effect to any trust, condition or stipulation subject to which any moneys referred to in section 25 (1) (b) of the 1981 Act and vested in the Institute by subclause (1) (a) were made available before the commencement day.

**Transfer of mining or petroleum  
research projects and related matters**

6. (1) A mining or petroleum research project—

- (a) which was being undertaken or evaluated by the Mining Institute immediately before the commencement day shall continue to be undertaken or evaluated, as the case requires; or
- (b) which was being co-ordinated by the Mining Institute immediately before the commencement day shall continue to be co-ordinated,

by the Institute as a minerals research project under this Act.

(2) A matter referred to the Mining Institute by the Minister to whom the administration of the 1981 Act was at the relevant time committed by the Governor and being investigated by the Mining Institute immediately before the commencement day shall continue to be investigated by the Institute and the Institute shall report on that matter to the Minister.

(3) An application from a person—

- (a) undertaking or wishing to undertake a mining or petroleum research project;
- and
- (b) seeking funds from the Mining Institute,

which application was being considered by the Mining Institute immediately before the commencement day, shall be considered and determined by the Institute as if it were an application referred to in section 5 (d).

(4) The Institute shall—

- (a) monitor and evaluate mining or petroleum research projects in respect of which the Mining Institute allocated funds under the 1981 Act and which were immediately before the commencement day uncompleted; and
- (b) amalgamate with the collection referred to in section 5 (h) the collection of relevant literature, journals and other information concerning mining or petroleum research maintained by the Mining Institute before the commencement day.

### **Agreements, instruments and proceedings generally**

7. (1) Any agreement, arrangement, contract or undertaking, or any instrument, made by and with the Mining Institute and subsisting immediately before the commencement day has effect on and after the commencement day as if—

- (a) that agreement, arrangement, contract or undertaking, or that instrument, had been made by and with the Institute; and
- (b) unless the context otherwise requires, any reference in that agreement, arrangement, contract or undertaking, or that instrument, to the Mining Institute were a reference to the Institute.

(2) If anything has been lawfully commenced by or under the authority of the Mining Institute before the commencement day, that thing may be carried on and completed by or under the authority of the Institute.

(3) Without limiting the generality of subclause (2), any legal or other proceedings or any remedies that might, but for the repeal of the 1981 Act, have been commenced or continued or available by or against or to the Mining Institute may be commenced or continued, or shall be available, by or against or to the Institute.

### **Notices requiring information or terminating assistance**

8. (1) A notice served under section 31 (1) of the 1981 Act but not complied with before the commencement day shall be deemed to be a notice served under section 34 (1) and section 34 (2) applies to and in relation to that notice accordingly.

(2) If a notice has been served under section 31 (3) of the 1981 Act and any funds allocated to the person on whom the notice has been so served and not expended by him have not been recovered or received by the Mining Institute before the commencement day, the notice shall be deemed to be a notice served under section 34 (3) and section 34 (3) applies to and in relation to that notice accordingly.

### **Secrecy**

9. Section 32 of the 1981 Act continues to have effect on and after the commencement day in respect of every person referred to in subsection (1) of that section as if the 1981 Act had not been repealed.

**References to Mining Institute in written laws**

10. References to the Mining Institute in a written law, other than this Act, shall, unless it would be inappropriate to do so because of the context, be read and construed as references to the Institute.

**Board of Directors of Mining Institute to continue in existence for certain purposes**

11. (1) Notwithstanding the repeal of the 1981 Act, the Board of Directors of the Mining Institute as constituted immediately before the commencement day shall continue in existence until it has complied with clauses 12, 13 and 14 and no longer, and the relevant provisions of the 1981 Act shall continue to apply to that Board accordingly.

(2) The Institute shall supply to the Mining Board such assistance as is reasonably required to enable the Mining Board to comply with clauses 12, 13 and 14.

**Mining Board to report to Minister on Mining Institute**

12. (1) The Mining Board shall, as soon as is practicable after the commencement day and, in any event, within 4 months after the commencement day, cause to be prepared and submitted to the Minister a final report containing—

- (a) financial statements relating to the Mining Institute for the period commencing on 1 July 1987 and ending immediately before the commencement day;
- (b) performance indicators and such other information relating to the Mining Institute as may be directed by Treasurer's Instructions;
- (c) a report on the operations of the Mining Institute during the period referred to in paragraph (a); and
- (d) such other information relating to the Mining Institute as the Minister may direct in writing.

(2) The financial statements and report on the operations of the Institute referred to in subclause (1) shall be prepared in accordance with, and contain all the information that is required by, Treasurer's Instructions.

**Financial statements relating to Mining Institute**

13. (1) Unless the Treasurer otherwise approves, the financial statements referred to in clause 12 (1) (a) shall be prepared on an accrual accounting basis and shall consist of—

- (a) a statement of financial transactions of the Mining Institute for the period referred to in clause 12 (1) (a);
- (b) a statement of the financial position of the Mining Institute at the end of the period referred to in clause 12 (1) (a);
- (c) proper and adequate notes to those financial statements; and

- (d) such other financial statements and information as may be directed by Treasurer's Instructions, together with other financial information that the Treasurer may require.
- (2) The financial statements referred to in subclause (1) shall—
- (a) present fairly the financial transactions of the Mining Institute during the period referred to in clause 12 (1) (a);
  - (b) if a statement of financial position at the end of the period referred to in clause 12 (1) (a) is required to be prepared, present fairly the financial position of the Mining Institute at the end of that period; and
  - (c) be certified in the manner required by Treasurer's Instructions.

#### **Mining Board to send accounts, etc. to Auditor General**

14. The Mining Board shall, as soon as is practicable after the commencement day and, in any event, within 4 months after the commencement day, cause to be submitted to the Auditor General the financial statements and the performance indicators and other information referred to in clause 12 (1) (a) and (b).

#### **Minister to table final report of Mining Board and opinion of Auditor General**

15. (1) The Minister shall cause copies of the final report submitted to him under clause 12 (1), together with copies of the opinion of the Auditor General on the financial statements, performance indicators and other information submitted to the Auditor General under clause 14, to be laid before both Houses of Parliament within 21 days of receiving that opinion.

(2) If either House of Parliament is not sitting within the period referred to in subclause (1) so that that subclause cannot be complied with, the Minister shall immediately on the expiry of that period—

- (a) transmit copies of the final report and opinion concerned to the Clerk of the Legislative Council and the Clerk of the Legislative Assembly; and
- (b) make copies of the final report and opinion concerned available to the public.

(3) If the Minister has under subclause (2) transmitted copies of the final report and opinion concerned to the Clerk of the Legislative Council and the Clerk of the Legislative Assembly, those copies shall be deemed to have been laid before both Houses of Parliament within the period referred to in subclause (1).

(4) Notwithstanding anything in subclause (3), the Minister shall cause copies of the final report and opinion concerned to be laid before each House of Parliament within 21 days of the day on which that House next commences to sit.

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