

WESTERN AUSTRALIA

TECHNOLOGY DEVELOPMENT AMENDMENT ACT

No. 32 of 1987

AN ACT to amend the *Technology Development Act 1983*, the *Industrial Lands Development Authority Act 1966*, the *Financial Administration and Audit Act 1985* and the *Constitution Acts Amendment Act 1899*.

[Assented to 29 June 1987]

BE 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:—

Short title

1. This Act may be cited as the *Technology Development Amendment Act 1987*.

Commencement

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

Principal Act

3. In this Act the *Technology Development Act 1983** is referred to as the principal Act.

[*Act No. 69 of 1983 as amended by Act No. 98 of 1985.]

Long title amended

4. The long title to the principal Act is repealed and the following long title is substituted—

“ AN ACT to encourage, promote, facilitate and assist the development and use of technology and industry in the State; to make provision for a Western Australian Technology and Industry Advisory Council; and for connected and incidental purposes. ”.

Section 3 amended

5. Section 3 of the principal Act is amended—

(a) in the definition of “Account” by deleting “Development Authority” and substituting the following—

“ and Industry Development ”;

(b) by inserting after the definition of “building” the following definition—

“ “Chief Executive Officer” means the Chief Executive Officer of the Department referred to in section 15 and includes a person acting in that office; ”;

(c) in the definition of “Council” by deleting “Science, Industry and Technology” and substituting the following—

“ Technology and Industry Advisory ”;

- (d) by inserting after the definition of “Council chairman” the following definitions—

“ “Department” means the department of the Public Service of the State established under the *Public Service Act 1978* principally assisting the Minister with the administration of this Act;

“industry” includes the production, distribution and sale of commercially valuable manufactured products and services for economic benefit; ”; and

- (e) by deleting the definitions of “appointed member”, “Authority”, “Board”, “chairman”, “General Manager”, “member”, “paragraph”, “Schedule”, “section”, “subsection” and “Technology Directorate”.

Section 4 amended

6. Section 4 of the principal Act is amended in subsection (1) by deleting “on the recommendation of the Board.”.

Heading to Part II deleted and a heading substituted

7. The heading to Part II of the principal Act is deleted and the following heading is inserted—

“ PART II—ADMINISTRATION ”.

Heading to Division 1 amended

8. The heading to Division 1 of Part II of the principal Act is amended by deleting “*Establishment of the Authority*” and substituting the following—

“ *The Minister* ”.

Section 5 amended**9. Section 5 of the principal Act is amended—**

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

“ (1) On and after the day on which the *Technology Development Amendment Act 1987* commences (in this section called “the proclaimed date”) the body corporate that was hitherto established under this Act by the name of the “Western Australian Technology Development Authority” is preserved and continued in existence as a body corporate under and subject to the provisions of this Act but so that the corporate identity of the body corporate and its rights, obligations and assets are not thereby affected.

(1a) The Minister shall for the purposes of this Act be the body corporate preserved and continued under subsection (1) and shall be known by such designation as is, from time to time, conferred on him by the Governor under the *Constitution Acts Amendment Act 1899*.

(1b) A reference to the Western Australian Technology Development Authority whether by use of that name or a similar or abbreviated form of that name—

- (a) in a written law passed or made before the proclaimed date;
- (b) in any document or other instrument made, executed, entered into or done before the proclaimed date; or
- (c) made before the proclaimed date in any other manner,

shall, unless the context is such that it would be incorrect or inappropriate to do so, be read and construed as a reference to the Minister. ”;

- (b) in subsection (2) by deleting “its corporate name the Authority” and substituting the following—

“ his corporate name the Minister ”; and

- (c) by deleting subsection (3) and substituting the following subsection—

“ (3) The body corporate referred to in this section is an agent of the Crown in right of the State. ”.

Sections 6 to 11 repealed and a section substituted

10. Sections 6 to 11 of the principal Act are repealed and the following section is substituted—

Delegation by the Minister

“ 6. (1) The Minister may, either generally or as otherwise provided by the instrument of delegation, by writing executed by him delegate to the Chief Executive Officer of the Department or any officer of the Department all or any of his functions under this Act other than this power of delegation.

(2) For the purposes of this Act, the performance of a function by a delegate under this section shall be deemed to be the performance of the function by the Minister. ”.

Section 12 amended

11. Section 12 of the principal Act is amended—

(a) in paragraph (b) by inserting after “technology” the following—

“ or industry ”;

(b) in paragraph (e) by inserting after “technology” the following—

“ or industry ”;

(c) in paragraph (f) by deleting “this Act” and substituting the following—

“ carrying out any function of the Department ”;

(d) in paragraph (g) by inserting after “technology” the following—

“ or industry ”; and

(e) by inserting after paragraph (g) the following paragraphs—

“ (ga) to assist and facilitate the modernization of existing industry in the State;

(gb) to assist and promote interaction between industry, educational institutions and Departments of the Government and State instrumentalities for the purpose of carrying out any function of the Department and in particular to encourage the commercial development of products and services related to technology and industry;

(gc) to provide a secretariat to the Council; ”.

Section 13 amended

12. Section 13 of the principal Act is amended in subsection (2) by deleting paragraphs (b) and (e).

Section 14 repealed

13. Section 14 of the principal Act is repealed.

Section 15 repealed and section substituted

14. Section 15 of the principal Act is repealed and the following section is substituted—

Chief Executive Officer of the Department

“ 15. There shall be appointed a Chief Executive Officer of the Department under and subject to the *Public Service Act 1978* as the permanent head of the Department. ”.

Section 16 repealed and a section substituted

15. Section 16 of the principal Act is repealed and the following section is substituted—

Officers and staff of the Department

“ 16. (1) There may be appointed under and subject to the *Public Service Act 1978* such officers and other staff as are necessary to enable the Department to carry out its functions.

(2) The Minister may engage under contract for services such professional and technical or other assistance, otherwise than under the *Public Service Act 1978*, as the Minister considers necessary for the purposes of this Act and persons so engaged shall, subject to any relevant industrial award or agreement, be employed on such terms and conditions as the Minister determines after consultation with the Public Service Board. ”.

Section 17 repealed

16. Section 17 of the principal Act is repealed.

Section 18 repealed and a section substituted

17. Section 18 of the principal Act is repealed and the following section is substituted—

Position where public service officer seconded

“ 18. Where a person engaged under section 16 (2) immediately before that engagement occupied an office under the *Public Service Act 1978* he shall—

- (a) if he resigns or if his employment under section 16 (2) expires by effluxion of time, other than by his attaining the age of 65 years, and he is not re-appointed, be entitled to be appointed to an office under that Act not lower in status than the office which he occupied immediately before he was engaged under section 16 (2); and
- (b) continue to retain his existing and accruing rights, including his rights (if any) under the *Superannuation and Family Benefits Act 1938*, as if his service under section 16 (2) were service as an officer under the *Public Service Act 1978*. ”.

Section 19 repealed

18. Section 19 of the principal Act is repealed.

Section 20 amended

19. Section 20 of the principal Act is amended by repealing subsection (2) and substituting the following subsection—

“ (2) This section applies to every person—

- (a) who is or has been a member of the Council;
- (b) who is or has been an officer of the Department;
- (c) who is rendering or has rendered service to the Department;

(d) who has—

- (i) been a member of the Board or a member of the Council;
- (ii) been the Director of the Technology Directorate;
or
- (iii) rendered service to or been employed by the Western Australian Technology Development Authority or the Technology Directorate,

under this Act before the commencement of the *Technology Development Amendment Act 1987*. ”.

Section 21 amended

20. Section 21 of the principal Act is amended—

- (a) in subsection (1) by deleting “funds available for the purpose of enabling the Authority to perform its functions under this Act consist of” and substituting the following—

“ moneys available to the Department for carrying out its functions are ”;

- (b) by repealing subsection (2) and substituting the following subsection—

“ (2) Unless the Minister, with the prior approval of the Treasurer, otherwise directs the moneys referred to in subsection (1) shall be paid into and be placed to the credit of an account at the Treasury to be called the “Western Australian Technology and Industry Development Account”. ”; and

- (c) by deleting subsection (4) and substituting the following subsection—

“ (4) The Department shall ensure that the moneys standing to the credit of the Account are applied only in accordance with its functions and this Act. ”.

Section 22 amended

21. Section 22 of the principal Act is amended in subsection (1) by deleting “Authority may, to the extent that it thinks necessary from time to time for carrying out its objects” and substituting the following—

“ Minister may, to the extent that he thinks necessary from time to time for the purpose of pursuing the functions of the Department ”.

Section 24 repealed

22. Section 24 of the principal Act is repealed.

Section 25 amended

23. Section 25 of the principal Act is amended by deleting “statutory authorities apply to and in respect of the Authority” and substituting the following—

“ departments apply to and in respect of the Department ”.

Heading to Part III amended

24. The heading to Part III of the principal Act is amended by deleting “SCIENCE, INDUSTRY AND TECHNOLOGY” and substituting the following—

“ TECHNOLOGY AND INDUSTRY ADVISORY ”.

Section 28 amended

25. Section 28 of the principal Act is amended—

- (a) in subsection (1) by deleting “Science, Industry and Technology” and substituting the following—

“ Technology and Industry Advisory ”; and

- (b) in subsection (2) in paragraph (b) by inserting before “technological” wherever it occurs in subparagraphs (ii) and (v) the following—

“ industrial and ”.

Section 29 amended

26. Section 29 of the principal Act is amended in subsection (1) by deleting paragraph (b) and substituting the following paragraph—

- “ (b) the Chief Executive Officer of the Department for the time being; and ”.

Section 33 repealed and a section substituted

27. Section 33 of the principal Act is repealed and the following section is substituted—

Disclosure of pecuniary interests

- “ 33. (1) A member of the Council who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Council shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Council.

(2) A disclosure under subsection (1) shall be recorded in the minutes of the meeting of the Council and the member of the Council shall not, unless the Minister or the Council otherwise determines—

- (a) be present during any deliberation of the Council with respect to that matter; or
- (b) take part in any decision of the Council with respect to that matter.

(3) For the purpose of the making of a determination by the Council under subsection (2) in relation to a member of the Council who has made a disclosure under subsection (1), a member of the Council who has a direct or indirect pecuniary interest in the matter to which the disclosure relates shall not—

- (a) be present during any deliberation of the Council for the purpose of making the determination; or
- (b) take part in the making by the Council of the determination. ”.

Part IV repealed

28. Part IV of the principal Act is repealed.

Section 41 amended**29.** Section 41 of the principal Act is amended—

(a) in subsection (1)—

- (i) by deleting “Authority” in the first place where it occurs and substituting the following—

“ Minister ”;

- (ii) in paragraph (a) by deleting “Authority in accordance with subsections (2) and (3)” and substituting the following—

“ Minister by the Minister ”; and

- (iii) in paragraph (b) by deleting “Authority by the member or members or employee or employees of the Authority” and substituting the following—

“ Minister by any officer or officers of the Department ”; and

(b) by repealing subsections (2) and (3).

Section 42 amended**30.** Section 42 of the principal Act is amended—

(a) by deleting “the Authority or”; and

(b) in paragraph (a) by deleting “the Board or”.

Section 45 amended**31.** Section 45 of the principal Act is amended—

- (a) in paragraph (a) by deleting “Authority, the Council and the Technology Directorate” and substituting the following—

“ Department and the Council ”; and

- (b) in paragraph (b) by deleting “of the functions of the Authority, the Council and the Technology Directorate” and substituting the following—

“ , or changes to, the functions of the Department or the Council ”.

Schedule 1 repealed

32. Schedule 1 to the principal Act is repealed.

Schedule 2 amended

33. Schedule 2 to the principal Act is amended—

(a) in clause 1 (1) by deleting “2” and substituting the following—

“ 3 ”;

(b) in clause 3 (3) by deleting “Director of the Technology Directorate may nominate, in writing, a senior officer of the Technology Directorate” and substituting the following—

“ Chief Executive Officer of the Department may nominate, in writing, a senior officer of the Department ”; and

(c) in clause 4 (3) by deleting “Director of the Technology Directorate” and substituting the following—

“ Chief Executive Officer of the Department ”.

Miscellaneous amendments

34. The principal Act is amended as set out in the Table to this section—

Table of Amendments

<i>Provision or provisions affected</i>	<i>Amendment</i>
Section 1	Insert after “ <i>Technology</i> ” the following— “ <i>and Industry</i> ”.
Sections 4 (1) (a), 12 (h), 28 (2) (a)	Insert after “ <i>technology</i> ” the following— “ <i>and industry</i> ”.
Heading to Division 2 and heading to Division 3 of Part II	Delete “ <i>Authority</i> ” and substitute “ <i>Department</i> ”.
Sections 12, 13 (1), (2) and (3), 21 (1) (b), (d) and (3), 28 (2) (a)	Delete “ <i>Authority</i> ” wherever it occurs and substitute in each place— “ <i>Department</i> ”.
Sections 21 (1) (c), 22 (3), 23 (1), 41 (5)	Delete “ <i>Authority</i> ” wherever it occurs and substitute in each place— “ <i>Minister</i> ”.

Transitional

35. Schedule 1 has effect.

Consequential amendments

36. The Acts referred to in Schedule 2 are amended in the manner set out in that Schedule.

SCHEDULE 1

(Section 35)

TRANSITIONAL PROVISIONS

Former employees of Technology Development Authority

1. (1) On the commencement of this Act each person employed, engaged or appointed under the principal Act in the service of the Western Australian Technology Development Authority immediately before that commencement shall be deemed to be employed under a contract for services under section 30 of the *Public Service Act 1978* on the same terms and conditions, including remuneration, as those on which the person was employed immediately before that commencement.

(2) The appointment, employment or engagement of a person under subclause (1) and the previous service of that person with the Western Australian Technology Development Authority shall be taken to constitute throughout a continuous service and no compensation or other payment is payable by reason only of a change in the nature of the appointment, employment or engagement occasioned by the operation of this Act.

(3) Notwithstanding section 5 of the principal Act, a reference to the Board of Management of the Technology Development Authority whether by use of that name or a similar or abbreviated form of that name in any contract of employment in force between any person and that Board immediately before the commencement of this Act shall, unless the context is such that it would be incorrect or inappropriate to do so, be read and construed as a reference to the Public Service Board.

(4) Where the General Manager or any other employee of the Western Australian Technology Development Authority under the principal Act before the commencement of this Act, immediately before his appointment as such occupied an office under the *Public Service Act 1978*, he shall—

- (a) if he resigns his office or employment or if his term of office or employment expires by effluxion of time, other than by his attaining the age of 65 years, and he is not re-appointed, be entitled to be appointed to an office under that Act not lower in status than the office which he occupied immediately prior to his appointment under the principal Act;

and

- (b) continue to retain his existing and accruing rights, including his rights (if any) under the *Superannuation and Family Benefits Act 1938* as if his service under the principal Act was service as an officer under the *Public Service Act 1978*.

Former Board and Council members

2. The appointment of every member of the Council and every member of the Board, within the meaning of the principal Act as in force immediately before the commencement of this Act, whose appointment subsists at that time terminates on that commencement.

Reference to former Council

3. A reference to the Western Australian Science, Industry and Technology Council whether by use of that name or a similar or abbreviated form of that name—

- (a) in a written law passed or made before the proclaimed date;
- (b) in any document or other instrument made, executed, entered into or done before the proclaimed date; or
- (c) made before the proclaimed date in any other manner,

shall, unless the context is such that it would be incorrect or inappropriate to do so, be read and construed as a reference to the Western Australian Technology and Industry Advisory Council.

SCHEDULE 2

(Section 36)

CONSEQUENTIAL AMENDMENTS***INDUSTRIAL LANDS DEVELOPMENT AUTHORITY ACT 1966*****Section 6 amended**

1. Section 6 of the *Industrial Lands Development Authority Act 1966** is amended in subsection (1) by deleting paragraph (c) and substituting the following paragraph—

- “ (c) the Chief Executive Officer of the Department referred to in the *Technology and Industry Development Act 1983* or any other officer of that Department as the Minister administering that Act from time to time nominates; ”.

[*Reprinted as approved 12 March 1981 and amended by Act Nos. 63 of 1981 and 57 and 98 of 1985.]

FINANCIAL ADMINISTRATION AND AUDIT ACT 1985**Schedule 1 amended**

2. Schedule 1 to the *Financial Administration and Audit Act 1985** is amended by deleting “Western Australian Technology Development Authority”.

[*Reprinted as approved 4 March 1987.]

CONSTITUTION ACTS AMENDMENT ACT 1899

Schedule V amended

3. Schedule V to the *Constitution Acts Amendment Act 1899** is amended in Part 3—

(a) by deleting the following item—

“ The Board of management of the Western Australian Technology Development Authority constituted under the *Technology Development Act 1983*. ”;

(b) by deleting the following item—

“ The Western Australian Science, Industry and Technology Council established under the *Technology Development Act 1983*. ”; and

(c) by inserting in the appropriate alphabetical position the following item—

“ The Western Australian Technology and Industry Advisory Council established under the *Technology and Industry Development Act 1983*. ”.

[*Reprinted as approved 26 June 1984 and amended by Acts Nos. 75 and 78 of 1984 and 10, 97 and 101 of 1986.]
