

SOLAR ENERGY RESEARCH.

No. 51 of 1977.

AN ACT to promote and co-ordinate research into solar energy and means of utilising solar energy, to establish the Solar Energy Research Institute of Western Australia, and for incidental purposes.

[Assented to 18th November, 1977.]

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:—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Solar Energy Research Act, 1977.* Short title.

Commence-
ment.

2. The provisions of this Act shall come into operation on such date or dates as is or are, respectively, fixed by proclamation.

Arrange-
ment.

3. The arrangement of this Act is as follows—

PART I.—PRELIMINARY.

PART II.—THE SOLAR ENERGY RESEARCH INSTI-
TUTE OF WESTERN AUSTRALIA.

PART III.—THE BOARD OF DIRECTORS OF THE
INSTITUTE.

PART IV.—THE SOLAR ENERGY ADVISORY COM-
MITTEE.

PART V.—FINANCE.

PART VI.—MISCELLANEOUS.

Interpreta-
tion.

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

“Acting Chairman” means a person acting in the office of the Chairman pursuant to section 14;

“Chairman” means the Chairman of the Board;

“Commissioner” means the person appointed under section 8A of the State Energy Commission Act, 1945 to be the Commissioner and Chief Executive Officer of the State Energy Commission;

“Director” means a member of the Board appointed under section 13;

“member of the State Energy Commission” means the Commissioner or an Associate Commissioner or Assistant Commissioner appointed under section 8A of the State Energy Commission Act, 1945;

“section” means a section of this Act;

“solar energy research” includes the development of any process, technique, method, design or apparatus to collect, apply or utilise solar energy or to convert solar energy into any other form of energy;

“subsection” means a subsection of the section in which the term is used;

“the Advisory Committee” means the Solar Energy Advisory Committee established under section 18;

“the Board” means the Board of Directors of the Institute;

“the Institute” means the Solar Energy Research Institute of Western Australia established by section 5;

“the State Energy Commission” means the State Energy Commission of Western Australia established by the State Energy Commission Act, 1945.

PART II.—THE SOLAR ENERGY RESEARCH INSTITUTE
OF WESTERN AUSTRALIA.

5. (1) For the purposes of this Act, there is hereby established a body by the name of the Solar Energy Research Institute of Western Australia.

Establishment of
Solar
Energy
Research
Institute of
Western
Australia.

(2) The Institute—

- (a) is a body corporate, with perpetual succession;
- (b) shall have a common seal;
- (c) may acquire, hold and dispose of real and personal property; and
- (d) may sue and be sued in its corporate name.

(3) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Institute affixed to any document and shall presume that it was duly affixed.

**Functions
of Institute.**

6. The functions of the Institute are—

- (a) to encourage the general development of solar energy as a source of energy for domestic, commercial and industrial purposes in the State and otherwise foster and promote solar energy research in all respects;
- (b) to undertake, in its own right or in conjunction with other persons, such solar energy research projects as it thinks fit and evaluate projects so undertaken;
- (c) to investigate matters and undertake solar energy research projects referred to it by the Minister;
- (d) to co-ordinate where appropriate and practicable solar energy research projects undertaken by other persons where those persons have received funds or any other form of support from the Institute or where those persons seek or agree to have their projects co-ordinated by the Institute;
- (e) to receive and consider applications from persons undertaking or wishing to undertake solar energy research projects and seeking funds from the Institute;
- (f) at its discretion, to allocate to persons, out of funds available to the Institute, funds to enable or assist those persons to undertake or continue solar energy research projects;
- (g) to enter into agreements with persons to whom the Institute has allocated funds, with respect to the terms and conditions of

the allocation of those funds which may include a condition that such a person shall comply with any directions or guidelines issued by the Institute with respect to the conduct of a solar energy research project;

- (h) to monitor and evaluate solar energy research projects in respect of which the Institute has allocated funds and other solar energy research work within the State and elsewhere;
- (i) to maintain a collection of relevant literature, journals and other information concerning solar energy research;
- (j) to confer and collaborate on matters relating to solar energy research with the State Energy Commission and other appropriate authorities and institutions within the State and elsewhere;
- (k) to promote public awareness of matters relating to solar energy research, to inform the public concerning the latest developments in the solar energy research field and to receive and consider submissions from the public as to the performance by the Institute of its functions or as to matters relating to solar energy research in general.

7. (1) The Institute has power to do, in the State or elsewhere, all things necessary or convenient to be done for or in connection with the performance of its functions.

Powers of
Institute.

(2) Without limiting the generality of subsection (1) the powers of the Institute referred to in that subsection include power—

- (a) to purchase and construct facilities and equipment needed to conduct solar energy research projects;

- (b) to own, lease, rent or otherwise acquire suitable premises or accommodation for its staff, records and facilities;
- (c) to open and maintain an account at a bank approved by the Treasurer of the State;
- (d) to make application for a patent or join in the making of an application for a patent;
- (e) to make application for the registration of an industrial design.

(3) The Institute may, by writing bearing the common seal of the Institute, delegate to the Chairman or a Director or to an officer of the Institute or of the State Energy Commission, either generally or otherwise as provided by the instrument of delegation, all or any of its powers under this Act (except this power of delegation).

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

(5) A delegation under subsection (3) is revocable at will and does not prevent the exercise of a power by the Institute.

PART III.—THE BOARD OF DIRECTORS
OF THE INSTITUTE.

Manage-
ment of
Institute.

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

(2) Subject to section 9 the Board shall perform all the functions, and may exercise all the powers, of the Institute under this Act.

9. The Board shall comply with the directions (if any) of the Minister in relation to the performance of any function, or the exercise of any power, by the Board.

Board
subject to
Minister.

10. The Board shall pay due regard to the advice of the Advisory Committee in relation to the performance of any function, or the exercise of any power, by the Board but is not bound to act on or give effect to such advice and, where the Board has referred a proposal, matter or question to the Advisory Committee for advice, the Board may act notwithstanding that the advice has not been received.

Advice of
Advisory
Committee.

11. The Board shall consist of a Chairman and two Directors.

Membership
of Board.

12. (1) The Chairman shall be such member of the State Energy Commission as is from time to time nominated by the Minister to be the Chairman.

Nomination
and tenure
of Chairman.

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

(3) If the Chairman ceases to be a member of the State Energy Commission the office of Chairman becomes vacant.

13. (1) The Directors—

Appoint-
ment and
tenure of
Directors.

(a) shall be appointed by the Governor on the nomination of the Minister from amongst persons who appear to the Minister to be qualified by training or experience in the physical sciences, applied sciences, engineering, finance, administration, marketing, or any other field that is, in the opinion of the Minister, relevant to the functions of the Institute; and

- (b) shall be selected for nomination in accordance with subsection (2).

(2) Before the first appointments are made 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—

- (a) the Energy Advisory Council established under Part IIIA of the State Energy Commission Act, 1945 shall, upon being so requested by the Minister, submit in writing to the Minister a panel containing the names of a number of persons (being a number not fewer than three times the number of offices to be filled) each of whom is willing to accept appointment as a Director; and
- (b) the Minister shall select for nomination one or two persons (as the case may require) named in the panel submitted pursuant to paragraph (a) of this subsection.

(3) A person may be appointed to the office of Director for such period, not exceeding four years, as is specified in the instrument of his appointment and, subject to this Act, any person so appointed is eligible for re-appointment.

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

(5) If a Director—

- (a) is an undischarged bankrupt or a person whose property is subject to an order or arrangement under the laws relating to bankruptcy;
- (b) becomes permanently incapable of performing the duties of his office; or
- (c) is removed from office by the Governor on the grounds of neglect of duty, misbehaviour or incompetence,

the office of that Director becomes vacant.

14. (1) The Minister may, from time to time, if he considers it necessary in order to enable the Institute to perform its functions effectively, nominate a member of the State Energy Commission to act in the office of Chairman during any period when the Chairman 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.

Acting
Chairman.

(2) The provisions of subsections (2) and (3) of section 12 apply to and in relation to an Acting Chairman.

15. (1) The Minister may, if he considers it necessary in order to enable the Institute to perform its functions effectively, appoint a person to act in the office of a Director during any period when that 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.

Acting
Directors.

(2) A person acting in the office of a Director pursuant to this section—

- (a) holds office on such terms and conditions as the Minister determines;
- (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 under this section.

16. A Director or person acting in the office of a Director may be paid such remuneration and allowances as the Governor determines.

Remuneration
and
allowances.

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

Meetings
and
proceedings
of Board of
Directors.

(2) The Chairman or Acting Chairman may at any time convene a meeting of the Board.

(3) At a meeting of the Board—

- (a) the Chairman or Acting Chairman and one other member constitute a quorum;
- (b) the Chairman or Acting Chairman shall preside.

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

(5) Where the votes cast on a question at a previous meeting of the Board were equally divided and the votes cast on that question at a subsequent meeting are also equally divided, the Chairman or Acting Chairman shall exercise a casting vote on the question.

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

(7) Any member 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 his interest to those present at the meeting and that disclosure shall be recorded in the minutes of the meeting.

(8) An act or proceeding of the Board shall not be invalid in consequence of there being any vacancy in the office of a member at the time of the act or proceeding or in consequence of there being some defect or irregularity in the appointment of a person purporting to be a member.

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

(10) "Member", as used in this section, means the Chairman or Acting Chairman or a Director or person acting in the office of a Director.

PART IV.—THE SOLAR ENERGY ADVISORY COMMITTEE

18. For the purposes of this Act there shall be established a committee to be known as the Solar Energy Advisory Committee.

Solar
Energy
Advisory
Committee.

19. The functions of the Advisory Committee are—

Functions
of Advisory
Committee.

- (a) to consider and advise the Board on alternative solar energy research goals;
- (b) to consider and advise the Board on any proposals, matters or questions that may be referred to the Advisory Committee by the Board;
- (c) to make recommendations to the Board—
 - (i) concerning the funding policy of the Institute;
 - (ii) as to whether or not a particular solar energy research project examined by the Advisory Committee deserves the support or continued support, as the case may be, of the Institute; or
 - (iii) concerning any other aspect of the activities of the Institute,

with a view to ensuring that the best use is made of the resources and funds at the disposal of the Institute.

20. (1) The Advisory Committee shall be appointed by the Minister and shall consist of the following members, namely—

Membership
of the
Advisory
Committee.

- (a) one person appointed from a panel submitted by the body known as The Confederation of Western Australian Industry (Incorporated);

- (b) one person appointed from a panel submitted by the body known as The Chamber of Mines of Western Australia (Incorporated);
- (c) one person appointed from a panel submitted by the body known as the Perth Chamber of Commerce (Incorporated);
- (d) one person appointed from a panel submitted by the Senate of The University of Western Australia;
- (e) one person appointed from a panel submitted by the Senate of Murdoch University;
- (f) one person appointed from a panel submitted by the Council of The Western Australian Institute of Technology;
- (g) one person appointed from a panel submitted by the Commonwealth Scientific and Industrial Research Organization established under the Science and Industry Research Act 1949, as amended, of the Parliament of the Commonwealth;
- (h) one person appointed on the nomination of the Minister for Industrial 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 solar energy or the general subject of energy demand, supply and use; or
 - (ii) to have a genuine interest in solar energy research; or
 - (iii) to be representative of the interests in solar energy research of persons residing outside the metropolitan region; or
 - (iv) to be representative of the interests in solar energy research of post-secondary education institutions or

authorities other than those referred to in the preceding paragraphs of this subsection,

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 paragraph (a), (b), (c), (d), (e), (f) or (g) of subsection (1)—

(a) shall be submitted in writing to the Minister at his request; and

(b) shall contain the names of at least three persons each of whom—

(i) is knowledgeable concerning solar energy or the general subject of energy demand, supply and use; or

(ii) has a genuine interest in solar energy research,

and is willing to accept appointment as a member of the Advisory Committee.

(3) The Minister may appoint persons to be deputies of the several members of the Advisory Committee.

(4) The provisions of subsections (1) and (2) that apply to and in relation to the appointment of a member of the Advisory Committee apply to and in relation to the appointment of a deputy of that member.

(5) A person appointed pursuant to subsection (3) is, in the event of the absence from a meeting of the 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 of the Advisory Committee and has all the powers, functions and duties of such a member.

Chairman
and Deputy
Chairman
of Advisory
Committee.

21. (1) The Minister shall appoint one member of the Advisory Committee to be the Chairman of the Advisory Committee and another member to be the Deputy Chairman of the Advisory Committee.

(2) The appointment of a member as Chairman or Deputy Chairman of the Advisory Committee may be terminated at any time by the Minister.

Tenure of
office of
Advisory
Committee
members.

22. (1) A person may be appointed to the office of member of the Advisory Committee for such period, not exceeding three years as is specified in the instrument of his appointment and, subject to this Act, any person so appointed is eligible for re-appointment.

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

(3) If a member of the Advisory Committee—

- (a) is an undischarged bankrupt or a person whose property is subject to an order or arrangement under the laws relating to bankruptcy;
- (b) becomes permanently incapable of performing the duties of his office; or
- (c) is removed from office by the Minister on the grounds of neglect of duty, misbehaviour or incompetence,

the office of that member becomes vacant.

Meetings
and
proceedings
of the
Advisory
Committee.

23. (1) The Chairman or Acting Chairman of the Board shall convene regular meetings of the Advisory Committee and at least four such meetings shall be convened in each calendar year after the year in which this section comes into operation.

(2) The Chairman of the Advisory Committee shall preside at all meetings of the Advisory Committee at which he is present and the Deputy Chairman shall preside at any meeting at which he, but not the Chairman, is present.

(3) Where the Chairman and Deputy Chairman of the Advisory Committee are both absent from a meeting, the members present shall appoint one of their number present to preside at the meeting.

(4) To constitute a meeting of the Advisory Committee there must be not less than one-half of the members present.

(5) Any question arising at a meeting of the Advisory Committee shall be determined by a majority of the votes of the members present and voting and where the votes cast on any question are equally divided the question shall be declared to be negatived.

(6) The Advisory Committee shall cause accurate minutes to be kept of its proceedings at its meetings.

(7) Any member of the 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 the meeting and that disclosure shall be recorded in the minutes of the meeting.

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

(9) An act or proceeding of the Advisory Committee shall not be invalid in consequence of there being any vacancy in the office of a member at the time of the act or proceeding or in consequence

of there being some defect or irregularity in the appointment of a person purporting to be a member or in the appointment of a person purporting to be the deputy of a member.

(10) To the extent that it is not prescribed the Advisory Committee shall determine its own procedure.

Remunera-
tion of
members.

24. A member or a deputy of a member of the Advisory Committee may be paid such remuneration and allowances as the Governor determines.

PART V.—FINANCE.

Funds of
Institute.

25. (1) Subject to subsection (2) the funds available for the purpose of enabling the Institute to perform its functions under this Act consist of—

- (a) moneys from time to time appropriated by Parliament for the purposes of this Act;
- (b) moneys made available to, and accepted by, the State or the Institute for application towards solar energy research; and
- (c) any other moneys that may lawfully be received by the Institute.

(2) If any moneys referred to in paragraph (b) of subsection (1) are made available subject to any trust, condition or stipulation that they be applied towards a specified solar energy research project, or solar energy research projects of a specified class or a specified field of solar energy research, the Institute shall give effect to that trust, condition or stipulation.

Solar
Energy
Research
Fund.

26. (1) The Institute shall establish and administer a Fund to be known as the “Solar Energy Research Fund” into which shall be paid all moneys received by or for the Institute and to which shall be charged—

- (a) all moneys allocated by the Institute pursuant to section 6;
- (b) the expenses incurred by the Institute in performing its functions and exercising its powers under this Act and generally in administering this Act;

- (c) the salary and wages of, and other payments to or in respect of, officers and employees of the Institute;
- (d) the remuneration and allowances payable pursuant to sections 16 and 24.

(2) Any moneys standing to the credit of the Solar Energy Research Fund may, until required by the Institute for the purposes of this Act, be temporarily invested in such securities as the Treasurer of the State may approve and all income derived from any such investment shall be paid to the credit of the Solar Energy Research Fund.

27. (1) The Board shall cause to be kept proper accounts and records of the transactions and affairs of the Institute and shall cause to be prepared in respect of each financial year of the Institute (which shall be a year ending on the 30th June) financial statements in such form as the Minister approves.

Accounts
and
Financial
Statements.

(2) The Board shall submit the financial statements prepared pursuant to subsection (1) for examination and report by the Auditor General.

PART VI.—MISCELLANEOUS.

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

Staff of
Institute.

(2) Persons appointed or engaged 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 or engaged under subsection (1), including the salary or wages payable, are such terms and conditions as the Board, after consultation with the Commissioner, determines.

(4) The Public Service Act, 1904 does not apply to or in relation to persons appointed or engaged under subsection (1).

Professional
or
technical
assistance.

29. 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 effectively its functions under this Act.

Use of staff
and
facilities
of depart-
ments and
instrumen-
talities.

30. (1) The Institute may—

(a) by arrangement with the Commissioner and upon such terms and conditions as are determined by the Commissioner, make use, either full time or part time of—

(i) the services of any officer or employee of the State Energy Commission; or

(ii) any facilities of the State Energy Commission;

(b) by arrangement with the Minister concerned and upon such terms and conditions as may be mutually arranged with such Minister, make use, either full time or part time of—

(i) 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 this State; or

(ii) 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 functions of the Institute, the Institute shall endeavour as far as practicable to make use of services and facilities pursuant to arrangements made under subsection (1).

31. (1) Where the Institute has allocated funds to a person to enable the person to undertake or continue a solar energy research project the Institute, by notice in writing served on the person, may require the person to furnish to the Institute within such period as may be specified in the notice such information by way of reports, data or other evidence of funds expended, work conducted and progress made in relation to that project as the Institute requires by the notice for the purposes of this Act.

Institute
may require
information
and
terminate
assistance.

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

(a) fails to comply with that notice; or

(b) knowingly furnishes any false or misleading information to the Institute,

commits an offence against this Act.

Penalty: Five hundred dollars.

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

(a) has failed or is failing to undertake or continue the solar energy research project in accordance with terms and conditions agreed between him and the Institute; or

(b) is unable to complete the solar energy research project,

the Institute, by notice in writing to the person, may terminate the allocation of funds to the person in respect of that project and, in that event, any such funds that have already been 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
and
liability.

32. (1) This section and section 33 apply to every person who is or has been the Chairman or a Director, is acting or has acted in the office of the Chairman or a Director, is or has been a member or a deputy of a member of the Advisory Committee, is or has been an officer or employee of the Institute or is rendering or has rendered services to the Institute pursuant to section 29 or 30.

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

- (a) make a record of, or divulge or communicate to any person, any information concerning the affairs of another person acquired by him by reason of his office or employment 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), where a person discloses information to the Institute concerning his affairs and indicates 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 the annual report or financial statements furnished pursuant to subsection (2) of section 35.

(4) Subsection (3) does not apply to any information that the Institute has, or might have, required to be furnished pursuant to subsection (1) of section 31.

(5) Where moneys referred to in paragraph (b) of subsection (1) of section 25 are made available subject to any trust, condition or stipulation that they be applied towards a specified solar energy research project, then, except with the consent of the person by whom those moneys were made available—

- (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 project; and
- (b) no information concerning the nature, conduct, progress or results of that project shall be included in the annual report or financial statements furnished pursuant to subsection (2) of section 35.

(6) A person to whom this section applies who contravenes or fails to comply with a provision of this section commits an offence against this Act.

Penalty: One thousand dollars.

33. A person to whom this section 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, the Advisory Committee or any person to whom this section applies in good faith in the course of the operations of the Institute. Liability.

34. The Board shall cause detailed records to be kept in relation to solar energy research projects that the Institute has undertaken, either in its own right or in conjunction with any other person, or to which the Institute has allocated funds including, without limiting the generality of the foregoing, records as to funds allocated, work undertaken, progress achieved and results obtained. Records to be maintained.

Information
and annual
report.

35. (1) 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.

(2) The Board shall as soon as practicable after the end of each financial year of the Institute furnish to the Minister a general report as to the performance by the Institute of its functions during that year together with the financial statements prepared in respect of that year pursuant to subsection (1) of section 27.

(3) The Minister shall cause the report and financial statements furnished pursuant to subsection (2), together with the report of the Auditor General on those financial statements, to be laid before each House of Parliament as soon as practicable after receiving them from the Board.

Regulations.

36. The Governor may make such regulations, not inconsistent with this Act, as may in his opinion be necessary or expedient for carrying out or giving effect to this Act.
