

ROYALTIES FOR REGIONS BILL 2009

EXPLANATORY MEMORANDUM

OVERVIEW OF BILL

The Bill consists of 32 clauses which will provide a legislative framework for the Royalties for Regions Fund and for the establishment of the Western Australian Regional Development Trust.

The Bill provides for an equivalent of 25% of Western Australia's annual royalties (mining and petroleum) to be made available each year for regional infrastructure and services. The object of the legislation is to promote and facilitate, economic, business and social development in regional Western Australia through the operation of the Fund. Monies allocated from the Fund will be over and above existing or planned normal expenditure by Government agencies and will be used to ensure basic Government services and infrastructure is provided in regional areas. The principal areas of expenditure will be on regional infrastructure, headworks, local government and community services. Provision has also been made to allow for the establishment of other sub funds or accounts for other purposes for the benefit of regional Western Australia.

The function of the Trust will be to provide high level advice and recommendations to the Minister on how the money standing to the credit of the Fund is to be allocated between the subsidiary accounts and for what purposes money is to be spent and on any other matter relating to the operation of the Fund. The Trust is to consist of up to 6 members appointed by the Minister with up to two being chairpersons of regional development commissions and up to five other people with regional knowledge and experience necessary to enable the Trust to perform its functions.

The Bill also includes a range of other provisions relating to the administration, operation and constitution of the Trust.

CLAUSE NOTES

Outlined below is a brief description of each clause of the Royalties for Regions Bill 2009.

Part 1 - Preliminary

Clause 1 Short title

Clause 1 cites the short title of the Act.

Clause 2 – Commencement

Clause 2 provides for the commencement of the Act and different provisions may come into operation on such days as may be fixed by proclamation.

Clause 3 – Terms used

Clause 3 provides the meaning of terms used in the Act.

Clause 4 – Object

Clause 4 states the object of the Act.

Part 2 – Royalties for Regions Fund

Clause 5 – Subsidiary accounts of Fund

Clause 5(1) provides for the Royalties for Regions Fund to consist of three subsidiary accounts relating to country local government, regional community services, regional infrastructure and headworks and any other account that may be determined from time to time.

Clause 5(2) provides for the Treasurer, on the recommendation of the Minister, to determine how money is to be allocated among the subsidiary accounts.

Clause 6 – Treasurer to make payments into Fund

Clause 6(1) defines “forecast royalty income”.

Clause 6(2) provides that the Treasurer credit to the Fund 25% of the forecast royalty income each financial year.

Clause 6(3) provides that the Treasurer not credit to the Fund an amount exceeding that provided in clause 8.

Clause 6(4) provides for amounts credited to the Fund to be charged to the Consolidated Account.

Clause 7 – Money credited to the fund

Clause 7(1) provides for income derived from investing money standing to the credit of the Fund, and any other money made available to the Fund, to be credited to the Fund.

Clause 7(2) provides that even with income earned and other money made available under clause 7(1), the amount in the Fund is not to exceed the limit set in clause 8.

Clause 8 – Limit on amount in fund

Clause 8 provides for the Treasurer to ensure that money standing to the credit of the Fund does not exceed \$1 billion.

Clause 9 – Application of fund

Clause 9(1) provides for money standing to the credit of the Fund to be spent on infrastructure and services, the development and broadening of the economic base and in maximising job creation and career opportunities in regional Western Australia.

Clause 9(2) provides that expenditure incurred in the administration of the Fund, including any remuneration or allowances payable to members of the Trust, is to be charged to the Fund.

Clause 10 – Annual report of Department to include information about Fund

Clause 10 provides that the Department charged with the responsibility of assisting the Trust, prepare an annual report on the operation of the Fund.

Part 3 – Western Australian Regional Development Trust

Division 1 – Establishment and functions

Clause 11 – Trust established

Clause 11 establishes the Western Australian Regional Development Trust.

Clause 12 – Functions

Clause 12 provides that the functions of the Trust are to provide advice and make recommendations to the Minister for the purposes of determining how money is to be allocated among the subsidiary accounts (clause 5(2)) and the purposes for which it is to be used (clause 9(1)) and on any other matter relating to the operation of the Fund.

Division 2 – Constitution and related matters

Clause 13 – Membership

Clause 13(1) provides for the membership of the Trust to consist of the chairperson of a regional development commission and between 3 and 5 other people appointed by the Minister.

Clause 13(2) provides for the Minister to appoint one other chairperson of a regional development commission as a member.

Clause 13(3) provides that the Minister may appoint the CEO of the Department as a member.

Clause 13(4) charges the Minister with the responsibility of ensuring that members of the Trust have the knowledge and experience needed to enable the Trust's functions under the Act to be performed effectively.

Clause 14 – Chairperson and deputy chairperson

Clause 14 provides for the Minister to designate one of the members to be the chairperson and another to be the deputy chairperson of the Trust.

Clause 15 – Term of office

Clause 15(1) & (2) provide for a member's term to be no longer than 3 years except that the term for the chairperson of a regional development commission is to be 12 months.

Clause 15(3) provides that a member can be reappointed.

Clause 15(4) provides for a person whose term of office has expired to continue in office until another person is appointed, unless the person resigns or is removed from office.

Clause 16 – Casual vacancies

Clause 16(1) provides for a member to resign at any time by giving notice in writing to the Minister.

Clause 16(2) provides the grounds on which the Minister may remove a member from office.

Clause 16(3) provides the circumstances under which an office of a member becomes vacant.

Clause 17 – Deputy chairperson acting as chairperson

Clause 17(1) and (2) provide the circumstances under which the deputy chairperson is to act in the chairperson's place.

Clause 18 – Alternate members

Clause 18(1) provides for the Minister to appoint another person as an alternate member in the absence of a member who is not a chairperson.

Clause 18(2) provides for the Minister to appoint another person to act temporarily as the deputy chairperson where the deputy chairperson is acting in place of the chairperson.

Clause 18(3) provides for an alternate member to have any entitlement available to a member.

Clause 18(4) provides for an act or omission of an alternate member not to be questioned on the ground that the occasion for the appointment or acting had not arisen or had ceased.

Clause 19 – Leave of absence

Clause 19(1) and (2) provide for the Minister to grant leave of absence to the chairperson and for the chairperson to grant leave of absence to a member.

Clause 20 – Remuneration and allowances

Clause 20 provides that members of the Trust are entitled to any remuneration and allowances that are ordinarily available.

Division 3 - Meetings

Clause 21 – Holding meetings

Clause 21(1) and (2) provides for the chairperson to convene the first meeting of the Trust and for the Trust to determine the time and place of all subsequent meetings.

Clause 22 – Presiding at meetings

Clause 22(1) and (2) provide for the chairperson to preside and if neither the chairperson nor the deputy chairperson is able to preside then the members present are to appoint one of their own to preside.

Clause 23 – Holding meetings remotely

Clause 23 provides for meetings to be held by telecommunications.

Clause 24 – Disclosure of interests

Clause 24(1) and (2) provide for members to disclose a pecuniary interest and its nature in any matter being considered by the Trust. The person presiding may determine any interest where no disclosure is made.

Clause 24(3), (4) and (5) provide for pecuniary interest declarations or determinations to be recorded in the minutes and, while allowing the relevant member the right to take part in deliberations, prevents the member from advising or

making recommendations to the Minister. It also provides that no disclosure need be made if it is an interest common to a significant number of persons in the State.

Clause 25 – Minutes

Clause 25 provides for accurate minutes to be kept.

Clause 26 – Procedures at meetings

Clause 26 provide for the Trust to determine its own meeting procedures.

Division 4 – Other matters

Clause 27 – Provision of services and facilities to Trust

Clause 27(1) and (2) provide for the CEO of the responsible Department to make available such services and facilities as are necessary for the Trust to perform its functions.

Clause 28 – Annual report of Trust

Clause 28(1) and (2) provide for the Trust to prepare a report for the Minister containing information about the Trust's activities and any other information required by the Minister and for that report to be tabled in Parliament.

Clause 28(3), (4) and (5) provide for the transmittal of the report where Parliament is not sitting

Clause 29 – Protection from liability for wrongdoing

Clause 29(1), (2), (3), (4) and (5) provide for a person to be protected against any liability for wrongdoing if the person is doing any thing, in good faith, in the performance of a function under the Act. It also relieves the State of any liability arising from the person having done or not done that thing in the performance of their duties.

Clause 30 – Confidentiality

Clause 30 provides that a person who is or has been a member must not record, disclose or make use of any information obtained in the course of their duty except as provided. The penalty for a breach of this provision is a maximum fine of \$12,000.

Part 4 - Miscellaneous

Clause 31 – Regulations

Clause 31 provides for regulations to be made for giving effect to the purposes of the Act.

Part 5 – Consequential amendment

Clause 32 – *Constitutions Acts Amendment Act 1899* amended

Clause 32 amends the *Constitutions Acts Amendment Act 1899* so as to require that where a member of the Trust is elected to the Western Australian Parliament that the person resign from the Trust.