

Australian Bicentennial Authority Act 1980

No. 49 of 1980

TABLE OF PROVISIONS

Section

1. Short title
2. Commencement
3. Interpretation
4. Application
5. Reports
6. Directions by Minister, & c.
7. Power of Prime Minister to terminate appointment of Chairman in certain circumstances
8. Appointment of senior officers of Authority
9. Directors deemed to hold public offices for purposes of *Remuneration Tribunals Act 1973*
10. Moneys payable to Authority
11. Estimates
12. Application of moneys of the Authority
13. Authority may form, and invest in, companies for certain purposes
14. Borrowing by Authority
15. Staff of Authority
16. Application of Public Accounts Committee Act
17. Authority deemed to be Commonwealth authority for purposes of Public Service Act
18. Authority deemed to be approved authority for purposes of Superannuation Act
19. Exemption from taxation
20. Rights of public servants
21. Winding up of Authority
22. Protection of name, symbol, & c., of Authority
23. Forfeiture of articles, & c.
24. Sections 22 and 23 not to limit other laws
25. Annual report of Authority
26. Regulations

SCHEDULE

OFFICIAL SYMBOLS OF THE AUTHORITY

Australian Bicentennial Authority Act 1980

No. 49 of 1980

An Act relating to The Australian Bicentennial Authority

[Assented to 23 May 1980]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title

1. This Act may be cited as the *Australian Bicentennial Authority Act* 1980.

Commencement

2. (1) Subject to sub-section (2), this Act shall come into operation on a date to be fixed by Proclamation.

(2) Section 17 of this Act shall come into operation on the day fixed under sub-section 2 (2) of the *Public Service Amendment Act* 1978.

Interpretation

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

“accounts” means profit and loss accounts and balance-sheets, and includes notes, other than auditors’ reports or directors’ reports, attached to, or intended to be read with, any of those profit and loss accounts or balance-sheets;

“approved bank” means the Commonwealth Trading Bank of Australia or another trading bank as defined in sub-section 5 (1) of the *Banking Act* 1959 approved by the Treasurer or by a person authorized by the Treasurer to give approvals for the purposes of this definition;

“Authority” means “The Australian Bicentennial Authority”, being the company so named that is registered as a company limited by guarantee under the *Companies Ordinance* 1962;

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

“Chairman” means the Chairman of the Authority;

“*Companies Ordinance* 1962” means the *Companies Ordinance* 1962 of the Australian Capital Territory as amended and in force from time to time.

Application

4. This Act applies in relation to the Authority notwithstanding anything in the Memorandum of Association or the Articles of Association of the Authority, but this Act shall not be construed as affecting the operation of any provision of the Memorandum of Association or Articles of Association of the Authority that is capable of operating concurrently with this Act.

Reports

5. The Board shall furnish to the Minister such reports as the Minister requests on matters concerning the promotion of the objects of the Authority, and may furnish to the Minister such other reports on matters concerning the promotion of the objects of the Authority as the Board thinks fit.

Directions by Minister, &c.

6. The Authority shall promote its objects and exercise its powers in accordance with such directions (if any) with respect to the policies to be followed by the Authority as may, from time to time, be given to the Board by the Minister in writing.

Power of Prime Minister to terminate appointment of Chairman in certain circumstances

7. (1) If the Chairman of the Authority is guilty of misbehaviour in connection with, or becomes incapable of performing, his duties as Chairman, the Prime Minister may, by writing signed by him, remove the Chairman from office.

(2) The Prime Minister may, at any time, by notice in writing given to the Chairman, terminate the appointment of the Chairman on the expiration of a date specified in the notice, being a date that is not earlier than 6 months after the date on which the notice is given to the Chairman.

(3) The Chairman may, by notice in writing given to the Prime Minister, resign his office of Chairman at the expiration of a date specified in the notice, being a date that is not earlier than 6 months after the date on which the notice is given to the Prime Minister.

(4) The appointment of the Chairman shall not be terminated except in accordance with this section.

(5) Sections 120 and 121 of the *Companies Ordinance* 1962 do not apply to or in relation to the Chairman.

Appointment of senior officers of Authority

8. Notwithstanding sub-section 132 (2) of the *Companies Ordinance* 1962, the appointment of—

- (a) the chief executive officer of the Authority, whether designated General Manager of the Authority or in some other manner;
- (b) a Deputy General Manager of the Authority; or
- (c) the Secretary of the Authority,

is subject to the approval of the Chairman.

Directors deemed to hold public offices for purposes of *Remuneration Tribunals Act 1973*

9. The office of Chairman and the offices of the other directors of the Authority are public offices for the purposes of Part II of the *Remuneration Tribunals Act 1973*.

Moneys payable to Authority

10. (1) There are payable to the Authority such moneys as are appropriated by the Parliament for the purposes of the Authority.

(2) The Minister for Finance may give directions as to the amounts in which, and the times at which, moneys referred to in sub-section (1) are to be paid to the Authority.

Estimates

11. (1) The Board shall prepare estimates, in such form as the Minister directs, of the receipts and expenditure of the Authority for each financial year and, if the Minister so directs, for any other period specified by the Minister, and shall submit those estimates to the Minister not later than such date as the Minister directs.

(2) Moneys of the Authority shall not be expended by the Authority otherwise than in accordance with estimates of expenditure approved by the Minister.

Application of moneys of the Authority

12. (1) Moneys of the Authority shall be applied only—

- (a) in payment or discharge of the costs, expenses and other obligations incurred by the Authority in the promotion of the objects of the Authority or the exercise of the powers of the Authority; and
- (b) in payment of any remuneration and allowances payable to any person under the Memorandum of Association or the Articles of Association of the Authority.

(2) Moneys of the Authority that are not immediately required to be applied as mentioned in sub-section (1) may be invested—

- (a) on deposit with an approved bank;
- (b) in securities of the Commonwealth; or
- (c) in any other manner approved by the Treasurer.

Authority may form, and invest in, companies for certain purposes

13. (1) The Authority may, with the approval of the Minister but not otherwise, form, or participate with another person in the formation of, a company for the purpose of promoting any of the objects of the Authority.

(2) The Authority may, with the approval of the Minister but not otherwise—

- (a) subscribe for, or otherwise acquire, shares in, or debentures or other securities of, a company; or
- (b) advance moneys, whether by way of loan or otherwise, to a company, being a company that is, for the purposes of the *Companies Ordinance* 1962, a subsidiary of the Authority.

Borrowings by Authority

14. (1) The Authority may, with the approval of the Treasurer, borrow moneys for the purpose of promoting its objects.

(2) The Authority may give security over the whole or any part of its assets for the repayment of amounts borrowed under this section and the payment of interest on amounts so borrowed.

(3) The Treasurer may, on behalf of the Commonwealth, guarantee the repayment by the Authority of amounts borrowed under this section and the payment of interest on amounts so borrowed.

(4) The Authority shall not borrow otherwise than in accordance with this section.

Staff of Authority

15. (1) The Authority may appoint such officers and engage such employees as it thinks necessary for the purpose of promoting its objects.

(2) The terms and conditions of service or employment of persons so appointed or engaged are such as are determined by the Authority after consultation with the Public Service Board.

Application of Public Accounts Committee Act

16. The Authority shall be deemed, for the purposes of the *Public Accounts Committee Act* 1951, to be an intergovernmental body to which that Act applies.

Authority deemed to be Commonwealth authority for purposes of Public Service Act

17. The Authority shall be deemed to be a Commonwealth authority for the purposes of Part IV of the *Public Service Act* 1922.

Authority deemed to be approved authority for purposes of Superannuation Act

18. The Authority shall be deemed to be an approved authority for the purposes of the *Superannuation Act* 1976.

Exemption from taxation

19. (1) The Authority is not subject to taxation under any law of the Commonwealth or of a State or Territory.

(2) A company that is a wholly owned subsidiary of the Authority is not subject to taxation under any law of the Commonwealth or of a State or Territory.

(3) Where the Treasurer so determines by notice published in the *Gazette*, a company (not being a company to which sub-section (2) applies) which is a subsidiary of the Authority is not subject to taxation under any law of the Commonwealth or of a State or Territory.

(4) For the purposes of this section, the question whether a company is a subsidiary of the Authority shall be determined in the same manner as the question whether a corporation is a subsidiary of another corporation is determined under the *Companies Ordinance* 1962.

Rights of public servants

20. (1) If a full-time officer or employee of the Authority was, immediately before his appointment as an officer or his engagement as an employee, as the case may be, an officer of the Australian Public Service or a person to whom the *Officers' Rights Declaration Act* 1928 applied—

- (a) he retains his existing and accruing rights;
- (b) for the purpose of determining those rights his service as such an officer or employee, as the case may be, shall be taken into account as if it were service in the Australian Public Service; and
- (c) the *Officers' Rights Declaration Act* 1928 applies as if—
 - (i) this Act and this section had been specified in the Schedule to that Act; and
 - (ii) the Authority were a Commonwealth authority for the purposes of that Act.

(2) In sub-section (1), references to a full-time officer of the Authority shall be read as including references to a full-time director of the Authority.

Winding up of Authority

21. (1) It is hereby declared to be the intention of the Parliament that the winding up of the Authority should be completed on or before 30 June 1990.

(2) Where the Minister is of the opinion—

- (a) that, for the purpose of giving effect to the intention of the Parliament declared in sub-section (1), it is desirable that the voluntary winding up of the Authority should commence; or
- (b) that it is, for any other reason, necessary or desirable that the Authority be wound up,

the Minister shall, by notice in writing given to the Authority, direct that the Authority be wound up voluntarily.

(3) Where a notice is given to the Authority under sub-section (2)—

- (a) the *Companies Ordinance* 1962 has effect, subject to this Act, as if the Authority has, on the day on which the notice was given, resolved, by a special resolution, that the Authority be wound up voluntarily;

(b) the Board shall—

- (i) within 7 days after the notice was given to the Authority lodge a copy of the notice with the Registrar of Companies holding office under the *Companies Ordinance* 1962; and
- (ii) within 14 days after the notice was given to the Authority, publish a copy of the notice in the *Gazette*, being a copy that has appended to it a note stating that the Authority is to be wound up voluntarily in pursuance of the direction contained in the notice; and

(c) sub-sections 254 (2) and (3) of the *Companies Ordinance* 1962 do not apply to or in relation to the winding up of the Authority.

(4) Upon the winding up or dissolution of the Authority, the property of the Authority remaining after satisfaction of all its debts and liabilities (in this sub-section referred to as the surplus) shall be divided among the Commonwealth and the States in such a manner that the total value of the property paid or transferred to the Commonwealth or a State as its share in the surplus shall bear to the total value of the surplus the same proportion, as nearly as practicable, as the sum of the amounts paid to the Authority by the Commonwealth, or by that State, as the case may be, bears to the total of all the amounts that have, from time to time, been paid to the Authority by the Commonwealth and the States.

(5) For the purposes of sub-section (4), the Northern Territory shall be deemed to be a State.

(6) In sub-section (4)—

- (a) a reference to an amount paid to the Authority by the Commonwealth shall be read as a reference to an amount paid to the Authority by the Commonwealth out of moneys appropriated by the Parliament for the purpose;
- (b) a reference to an amount paid to the Authority by a State shall be read as a reference to an amount paid to the Authority by a State out of moneys appropriated by the Parliament of the State for the purpose; and
- (c) a reference to an amount paid to the Authority by the Northern Territory shall be read as a reference to an amount paid to the Authority by the Northern Territory out of moneys appropriated by the Legislative Assembly of the Northern Territory of Australia for the purpose.

Protection of name, symbol, &c., of Authority

22. (1) Subject to sub-section (4), a person who, without the consent in writing of the Authority—

- (a) uses the name, or an abbreviation of the name, of the Authority, a prescribed symbol or a prescribed expression in connection with a business, trade, profession or occupation;
- (b) sells, offers for sale, exposes for sale, hires or lets for hire or otherwise has in his possession for sale or hire, goods to which the name, or an

abbreviation of the name, of the Authority, a prescribed symbol or a prescribed expression has been applied;

- (c) uses the name, or an abbreviation of the name, of the Authority, a prescribed symbol or a prescribed expression in relation to goods or to the promotion, by any means, of the supply or use of goods; or
- (d) imports into Australia for sale, or for use for the purposes of any trade or business, any article to which the name, or an abbreviation of the name, of the Authority, a prescribed symbol or a prescribed expression has been applied, outside Australia, without the consent in writing of the Authority,

is guilty of an offence against this section.

(2) Subject to sub-section (4), where, without the consent in writing of the Authority—

- (a) the name, or an abbreviation of the name, of the Authority or a prescribed symbol—
 - (i) is used as, or as part of, the name or emblem of an association;
 - (ii) is used as, or as part of, the name or emblem of a newspaper or magazine owned by, or published by or on behalf of, an association; or
 - (iii) is used by an association in connection with any activity of the association so as to imply that the association is in any way connected with the Authority; or
- (b) a prescribed expression is used by an association in connection with any activity of the association,

then—

- (c) if the association is a body corporate—the association; or
- (d) if the association is not a body corporate—every member of the committee of management or other governing body of the association,

is guilty of an offence against this section.

(3) A person who is guilty of an offence against this section is punishable, upon conviction—

- (a) in the case of a person not being a body corporate—by a fine not exceeding \$2,000; or
- (b) in the case of a person being a body corporate—by a fine not exceeding \$4,000.

(4) A person shall not be convicted of an offence against this section in respect of the use of an abbreviation of the name of the Authority if the use occurred in such circumstances, or in relation to such matters, as to be unlikely to be taken to imply any connection with the Authority, unless the prosecution proves that the use was intended to imply such a connection.

(5) The conviction of a person for an offence against this section in respect of the use of a name, abbreviation of a name, prescribed symbol or prescribed expression does not prevent a further conviction of that person in respect of the

use of that name, abbreviation, prescribed symbol or prescribed expression at any time after the first-mentioned conviction.

(6) For the purposes of this section—

- (a) any combination of words or letters, or of both words and letters, that is capable of being understood as referring to the Authority shall be deemed to be an abbreviation of the name of the Authority;
- (b) a reference to an official symbol of the Authority shall be read as a reference to—

- (i) a symbol the design of which is set out in the Schedule; or
- (ii) a symbol declared by the regulations to be an official symbol of the Authority;

- (c) a reference to a prescribed symbol shall be read as a reference to an emblem, brand, design, symbol, logo or mark that—

- (i) is identical with an official symbol of the Authority; or
- (ii) so nearly resembles an official symbol of the Authority as to be capable of being mistaken for an official symbol of the Authority;

- (d) a reference to a prescribed expression shall be read as a reference to—

- (i) any of the following expressions, namely, “Bicentenary”, “Bicentennial”, “200 years”, “Australia”, “Sydney”, “Melbourne”, “Founding”, “First Settlement”, “Exposition”, “Expo”, “World Fair”, or “World’s Fair”; or
- (ii) any other word or words, figure or figures, or combination of a word or words and a figure or figures, that is prescribed by the regulations for the purposes of this paragraph,

when used in conjunction with “1788”, “1988” or “88” or with any 2 or more of those groups of figures;

- (e) a name, abbreviation, prescribed symbol or prescribed expression shall be deemed to be applied to goods if it—

- (i) is woven in, impressed on, worked into or affixed to the goods; or
- (ii) is applied to a covering, label, reel or thing in or with which the goods are supplied;

- (f) a name, abbreviation, prescribed symbol or prescribed expression shall be deemed to be used in relation to goods, or to the promotion of the supply or use of goods, if it is used in a sign, advertisement (whether printed, broadcast or televised), invoice, catalogue, price list or other document in relation to goods; and

- (g) the reference in paragraph (e) to a covering includes a reference to a stopper, glass, bottle, vessel, box, capsule, case, frame or wrapper and the reference in that paragraph to a label includes a reference to a band or ticket.

(7) Proceedings under this section shall not be instituted without the consent in writing of the Attorney-General.

(8) Nothing in this section affects any rights conferred by law on a person in respect of—

- (a) a trade mark registered under the *Trade Marks Act* 1955, being a trade mark that was so registered before the date fixed under sub-section 2 (1) of this Act; or
- (b) a design registered under the *Designs Act* 1906, being a design that was so registered before the date fixed under sub-section 2 (1) of this Act.

(9) Nothing in this section affects the use of a name, an abbreviation of a name, a symbol or an expression by a person on or after the date fixed under sub-section 2 (1) if, immediately before that date, the person would have been entitled to prevent another person from passing off, by means of the use of that name, abbreviation, symbol or expression or of a similar name, abbreviation, symbol or expression, goods or services as the goods or services of that first-mentioned person.

Forfeiture of articles, &c.

23. All articles or goods by means of which, or in relation to which, an offence against sub-section 22 (1) is committed shall be forfeited to the Commonwealth.

Sections 22 and 23 not to limit other laws

24. The provisions of sections 22 and 23 are in addition to, and not in substitution for, the provisions of any other law (whether a law of the Commonwealth or a law of a State or Territory) that confers rights or powers on the Authority, including, but without limiting the generality of the foregoing, rights or powers to institute civil or criminal proceedings for the protection of its name, property or interests.

Annual report of Authority

25. (1) The Board shall, as soon as practicable after each 30 June, prepare and submit to the Minister a report of the operations of the Authority during the year that ended on that 30 June, and submit copies of that report to the Premier of each of the States and to the Chief Minister of the Northern Territory, respectively.

(2) The report submitted by the Board to the Minister in relation to the operations of the Authority during a year, and the copies of that report submitted to the Premier of each of the States and to the Chief Minister of the Northern Territory, respectively, shall be accompanied by copies of the accounts that were laid before the Authority at an annual general meeting held during that year and of any auditor's report that was attached to or endorsed on those accounts.

(3) A report prepared under this section shall set out all requests made by the Minister under section 5 and all directions given by him under section 6 during the year to which the report relates.

(4) The Minister shall cause a copy of a report and accounts furnished to him under this section to be laid before each House of the Parliament within 15 sitting days of that House after their receipt by the Minister.

(5) The first report to be prepared under sub-section (1) shall be a report of the operations of the Authority during the period that commenced on 21 January 1980 and ends on 30 June 1981.

(6) The last report to be prepared under sub-section (1) shall be a report of the operations of the Authority during the period commencing on 1 July immediately preceding the date on which the affairs of the Authority are fully wound up and ending on that last-mentioned date.

(7) Upon the commencement of the winding up of the Authority, this section applies in relation to the Authority as if the person holding office for the time being as liquidator of the Authority was the person responsible, in place of the Board, for the preparation and submission of reports of the operations of the Authority under this section, including any reports of operations that took place before the commencement of the winding up to the extent to which reports of those operations have not been submitted by the Board in accordance with this section.

Regulations

26. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

SCHEDULE

Section 22

OFFICIAL SYMBOLS OF THE AUTHORITY

First Symbol



Second Symbol

