

City of Fremantle and Town of East Fremantle Trust Funds (Amendment and Expiry) Bill 2013

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**City of Fremantle and Town of East Fremantle Trust Funds (Amendment
and Expiry) Bill 2013**

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Western Australia

LEGISLATIVE ASSEMBLY

**City of Fremantle and Town of East Fremantle
Trust Funds (Amendment and Expiry) Bill 2013**

A Bill for

***An Act to amend the City of Fremantle and Town of East Fremantle
Trust Funds Act 1961.***

The Parliament of Western Australia enacts as follows:

s. 1

1 **1. Short title**

2 This is the *City of Fremantle and Town of East Fremantle Trust*
3 *Funds (Amendment and Expiry) Act 2013*.

4 **2. Commencement**

5 This Act comes into operation as follows —

- 6 (a) sections 1 and 2 — on the day on which this Act
7 receives the Royal Assent;
- 8 (b) the rest of the Act — on the 14th day after that day.

9 **3. Act amended**

10 This Act amends the *City of Fremantle and Town of East*
11 *Fremantle Trust Funds Act 1961*.

12 **4. Part 1 heading inserted**

13 Before section 1 insert:

14

15 **Part 1 — Preliminary**

16

17 **5. Section 3 amended**

18 (1) In section 3 delete the definition of ***Board***.

19 (2) In section 3 insert in alphabetical order:

20

21 ***asset*** means any legal or equitable estate or interest
22 (whether present or future and whether vested or
23 contingent) in real or personal property of any
24 description (including money), and includes a security,
25 a chose in action and a document;

26 ***liability*** means any liability, debt or obligation
27 (whether present or future and whether vested or
28 contingent);

1 **right** means any right, power, privilege or immunity
2 (whether present or future and whether vested or
3 contingent);

4 **transfer day** means the day on which the *City of*
5 *Fremantle and Town of East Fremantle Trust Funds*
6 *(Amendment and Expiry) Act 2013*, other than
7 sections 1 and 2, comes into operation.
8

9 (3) In section 3 in the definition of **Agreement** delete “is contained
10 in the Schedule;” and insert:

11
12 was contained in the Schedule to this Act immediately before
13 transfer day;
14

15 (4) In section 3 in the definition of **Fremantle Fund** delete
16 “Agreement.” and insert:

17
18 Agreement;
19

20 **6. Parts 2 and 3 inserted**

21 After section 3 insert:
22

23 **Part 2 — Transitional provisions relating to**
24 **Fremantle Fund and East Fremantle Fund**

25 **Division 1 — Fremantle Fund**

26 **4. Fremantle Fund abolished**

27 The Fremantle Fund is abolished on transfer day.

- 1 **5. Assets and liabilities of Fremantle Fund**
- 2 (1) On transfer day —
- 3 (a) the assets and rights of the Fremantle Fund
- 4 immediately before that day become assets and
- 5 rights of the City of Fremantle by force of this
- 6 section; and
- 7 (b) the liabilities of the Fremantle Fund
- 8 immediately before that day become liabilities
- 9 of the City of Fremantle by force of this
- 10 section.
- 11 (2) This section applies despite —
- 12 (a) any other law of the State; and
- 13 (b) the Agreement; and
- 14 (c) any other contract, agreement, document, order
- 15 or instrument.
- 16 **6. Proceedings relating to Fremantle Fund**
- 17 (1) On and after transfer day, any proceedings that
- 18 immediately before that day might have been
- 19 commenced or continued by the Fremantle Fund may
- 20 be commenced or continued by the City of Fremantle.
- 21 (2) On and after transfer day, any proceedings that
- 22 immediately before that day might have been
- 23 commenced or continued against the Fremantle Fund
- 24 may be commenced or continued against the City of
- 25 Fremantle.
- 26 **7. Agreements and instruments relating to Fremantle**
- 27 **Fund**
- 28 (1) Any agreement or instrument —
- 29 (a) that is in force immediately before transfer day;
- 30 and
- 31 (b) to which the Fremantle Fund is a party; and

- 1 (c) that is not —
2 (i) a loan debenture agreement to which
3 section 8 applies; or
4 (ii) the Reserve 34837 order (as defined in
5 section 9),
6 has effect on and after transfer day as if the City of
7 Fremantle were substituted for the Fremantle Fund as a
8 party to the agreement or instrument.
- 9 (2) Any agreement or instrument —
10 (a) that is in force immediately before transfer day;
11 and
12 (b) that includes a reference to the Fremantle Fund;
13 and
14 (c) that is not —
15 (i) a loan debenture agreement to which
16 section 8 applies; or
17 (ii) the Reserve 34837 order (as defined in
18 section 9),
19 has effect on and after transfer day as if any reference
20 in the agreement or instrument to the Fremantle Fund
21 were (unless the context otherwise requires) a reference
22 to the City of Fremantle.

23 **8. Loan debenture agreements between Fremantle**
24 **Fund and City of Fremantle**

- 25 On transfer day, a loan debenture agreement —
26 (a) that is in force immediately before transfer day;
27 and
28 (b) to which the Fremantle Fund and the City of
29 Fremantle are parties,
30 ceases to be in force.

- 1 **9. Care, control and management of Reserve 34837**
- 2 (1) In this section —
- 3 ***Reserve 34837 order*** means the order that —
- 4 (a) was made under the *Land Act 1933* section 33
- 5 in relation to Reserve no. 34837 on
- 6 21 September 1977; and
- 7 (b) subsists under the *Land Administration*
- 8 *Act 1997* Schedule 2 clause 16.
- 9 (2) On transfer day, the Reserve 34837 order is taken to be
- 10 revoked under the *Land Administration Act 1997*
- 11 section 50(1).
- 12 (3) On transfer day, the following orders are taken to be
- 13 made —
- 14 (a) an order under the *Land Administration*
- 15 *Act 1997* section 46(1) placing the care, control
- 16 and management of Reserve no. 34837 with the
- 17 City of Fremantle for the same purpose as that
- 18 for which the relevant Crown land is reserved
- 19 and for purposes ancillary or beneficial to that
- 20 purpose;
- 21 (b) an order under the *Land Administration*
- 22 *Act 1997* section 46(3) conferring on the City
- 23 of Fremantle power, subject to the *Land*
- 24 *Administration Act 1997* section 18, to grant a
- 25 lease or sublease or licence over the whole or
- 26 any part of the relevant Crown land for the
- 27 purposes referred to in paragraph (a).
- 28 (4) To avoid doubt, this section does not prevent the taking
- 29 of any action under the *Land Administration Act 1997*
- 30 or any other written law in relation to the orders that
- 31 are taken to be made under subsection (3).

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10. Final report on Fremantle Fund

As soon as reasonably practicable after transfer day, the City of Fremantle must prepare and give to the Minister a report that does the following —

- (a) lists the assets and liabilities of the Fremantle Fund immediately before transfer day;
- (b) lists and gives details of any proceedings that, immediately before transfer day —
 - (i) had been commenced by or against the Fremantle Fund; and
 - (ii) had not been completed;
- (c) lists and gives details of any proceedings that the City of Fremantle is aware are likely to be commenced by or against the City of Fremantle in substitution for the Fremantle Fund pursuant to section 6;
- (d) lists and gives details of the effect of each agreement (other than a loan debenture agreement to which section 8 applies) and instrument that was in force immediately before transfer day to which the Fremantle Fund was a party;
- (e) lists and gives details of each loan debenture agreement that ceased to be in force under section 8 on transfer day;
- (f) states whether, immediately before transfer day, the Fremantle Fund held any assets with the East Fremantle Fund as tenants in common.

Division 2 — East Fremantle Fund

11. East Fremantle Fund abolished

The East Fremantle Fund is abolished on transfer day.

- 1 **12. Assets and liabilities of East Fremantle Fund**
- 2 (1) On transfer day —
- 3 (a) the assets and rights of the East Fremantle Fund
- 4 immediately before that day become assets and
- 5 rights of the Town of East Fremantle by force
- 6 of this section; and
- 7 (b) the liabilities of the East Fremantle Fund
- 8 immediately before that day become liabilities
- 9 of the Town of East Fremantle by force of this
- 10 section.
- 11 (2) This section applies despite —
- 12 (a) any other law of the State; and
- 13 (b) the Agreement; and
- 14 (c) any other contract, agreement, document, order
- 15 or instrument.
- 16 **13. Proceedings relating to East Fremantle Fund**
- 17 (1) On and after transfer day, any proceedings that
- 18 immediately before that day might have been
- 19 commenced or continued by the East Fremantle Fund
- 20 may be commenced or continued by the Town of East
- 21 Fremantle.
- 22 (2) On and after transfer day, any proceedings that
- 23 immediately before that day might have been
- 24 commenced or continued against the East Fremantle
- 25 Fund may be commenced or continued against the
- 26 Town of East Fremantle.
- 27 **14. Agreements and instruments relating to East**
- 28 **Fremantle Fund**
- 29 (1) Any agreement or instrument —
- 30 (a) that is in force immediately before transfer day;
- 31 and

1 (b) to which the East Fremantle Fund is a party,
2 has effect on and after transfer day as if the Town of
3 East Fremantle were substituted for the East Fremantle
4 Fund as a party to the agreement or instrument.

5 (2) Any agreement or instrument —
6 (a) that is in force immediately before transfer day;
7 and
8 (b) that includes a reference to the East Fremantle
9 Fund,

10 has effect on and after transfer day as if any reference
11 in the agreement or instrument to the East Fremantle
12 Fund were (unless the context otherwise requires) a
13 reference to the Town of East Fremantle.

14 **15. Final report on East Fremantle Fund**

15 As soon as reasonably practicable after transfer day,
16 the Town of East Fremantle must prepare and give to
17 the Minister a report that does the following —

- 18 (a) lists the assets and liabilities of the East
19 Fremantle Fund immediately before transfer
20 day;
- 21 (b) lists and gives details of any proceedings that,
22 immediately before transfer day —
- 23 (i) had been commenced by or against the
24 East Fremantle Fund; and
- 25 (ii) had not been completed;
- 26 (c) lists and gives details of any proceedings that
27 the Town of East Fremantle is aware are likely
28 to be commenced by or against the Town of
29 East Fremantle in substitution for the East
30 Fremantle Fund pursuant to section 13;
- 31 (d) lists and gives details of the effect of each
32 agreement and instrument that was in force

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- 1 immediately before transfer day to which the
2 East Fremantle Fund was a party;
- 3 (e) states whether, immediately before transfer day,
4 the East Fremantle Fund held any assets with
5 the Fremantle Fund as tenants in common.

6 **Division 3 — Miscellaneous**

7 **16. Registration of documents**

8 The Registrar of Titles is to take notice of the
9 provisions of this Part and is empowered to record and
10 register in the appropriate manner the necessary
11 documents, and otherwise to give effect to this Part.

12 **Part 3 — Expiry of Act**

13 **17. Act to expire**

- 14 (1) When the Minister is reasonably satisfied that there is
15 no reason for this Act to continue, the Minister must
16 publish a notice in the *Gazette* stating that this Act
17 expires at the end of the day on which the notice is
18 published.
- 19 (2) The Minister must not publish a notice under
20 subsection (1) unless —
- 21 (a) the City of Fremantle has given the Minister a
22 report under section 10; and
- 23 (b) the Town of East Fremantle has given the
24 Minister a report under section 15; and
- 25 (c) the Minister has consulted the City of
26 Fremantle and the Town of East Fremantle.
- 27 (3) The Act expires as stated in a notice published under
28 subsection (1).
29

1 **7. Sections 4 to 9 deleted**

2 Delete sections 4 to 9.

3 **8. Schedule deleted**

4 Delete the Schedule.

5

