

**STATE DEVELOPMENT AND INDUSTRIES ASSISTANCE  
(AMENDMENT) ACT 1986 No. 83**

NEW SOUTH WALES



**TABLE OF PROVISIONS**

1. Short title
2. Commencement
3. Principal Act
4. Amendment of Act No. 10, 1966
5. Savings and transitional provisions

SCHEDULE 1—AMENDMENTS TO PART I OF THE PRINCIPAL ACT

SCHEDULE 2—SUBSTITUTION OF PART II OF THE PRINCIPAL ACT

SCHEDULE 3—AMENDMENTS TO PART IIA OF THE PRINCIPAL ACT

SCHEDULE 4—AMENDMENTS TO PART III OF THE PRINCIPAL ACT

SCHEDULE 5—AMENDMENTS TO PART IIIB OF THE PRINCIPAL ACT

SCHEDULE 6—INSERTION OF SCHEDULES 1 AND 2 INTO THE PRINCIPAL  
ACT

SCHEDULE 7—SAVINGS AND TRANSITIONAL PROVISIONS

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**STATE DEVELOPMENT AND INDUSTRIES ASSISTANCE  
(AMENDMENT) ACT 1986 No. 83**

NEW SOUTH WALES



**Act No. 83, 1986**

An Act to amend the State Development and Industries Assistance Act 1966 for the purpose of establishing the New South Wales Economic Development Advisory Council and abolishing the New South Wales Development Corporation; and for other purposes. [Assented to, 21 May 1986]

*State Development and Industries Assistance (Amendment) 1986*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

**Short title**

1. This Act may be cited as the "State Development and Industries Assistance (Amendment) Act 1986".

**Commencement**

2. (1) Except as provided by this section, this Act shall commence on the date of assent to this Act.

(2) Section 4, in its application to a provision of Schedules 1-6, shall commence on the day on which the provision commences.

(3) The several provisions of Schedules 1-6 shall commence on such day or days as may be appointed by the Governor and notified by proclamation published in the Gazette.

(4) A day shall not be appointed under subsection (3) unless the relevant day for the purposes of Schedule 7 has been appointed in accordance with clause 1 (2) of that Schedule.

**Principal Act**

3. The State Development and Industries Assistance Act 1966 is referred to in this Act as the Principal Act.

**Amendment of Act No. 10, 1966**

4. The Principal Act is amended in the manner set forth in Schedules 1-6.

**Savings and transitional provisions**

5. Schedule 7 has effect.

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*State Development and Industries Assistance (Amendment) 1986*

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## SCHEDULE 1

(Sec. 4)

## AMENDMENTS TO PART I OF THE PRINCIPAL ACT

## (1) Long title—

Omit “constitute a Development Corporation and to confer on it certain powers and functions”, insert instead “provide for the establishment of the New South Wales Economic Development Advisory Council and to prescribe its functions”.

(2) Section 3 (**Interpretation**)—

## (a) Section 3 (1), definition of “Advisory Council”—

After “requires—”, insert:

“Advisory Council” means the council established under Part II.

## (b) Section 3 (1), definition of “Appointed member”—

Omit the definition.

## (c) Section 3 (1), definition of “Council”—

Omit the definition, insert instead:

“Council”, in relation to a local authority, has the meaning ascribed to that expression by the Local Government Act 1919.

## (d) Section 3 (1), definition of “Development Corporation”—

Omit the definition.

## (e) Section 3 (1), definition of “Financial assistance”—

Omit the definition.

## (f) Section 3 (3), (4)—

Omit the subsections.

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## SCHEDULE 2

(Sec. 4)

## SUBSTITUTION OF PART II OF THE PRINCIPAL ACT

Part II—

Omit the Part, insert instead:

## PART II

NEW SOUTH WALES ECONOMIC DEVELOPMENT  
ADVISORY COUNCIL**Establishment of Council**

4. (1) There shall be established a council, to be known as the “New South Wales Economic Development Advisory Council”.

(2) The Advisory Council shall consist of—

- (a) the Director; and
- (b) not less than 6 nor more than 14 other persons who shall be appointed by the Governor.

(3) Schedule 1 has effect with respect to the members of the Advisory Council.

(4) Schedule 2 has effect with respect to the procedure of the Advisory Council.

**Functions of the Advisory Council**

5. (1) The functions of the Advisory Council are—

- (a) to prepare and submit to the Minister advice on measures to facilitate, encourage and promote the establishment of a more efficient and competitive economy in New South Wales or any part of New South Wales;
- (b) to advise the Minister on matters referred to the Advisory Council by the Minister in relation to specific development projects and proposals for such projects;

*State Development and Industries Assistance (Amendment) 1986*

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SCHEDULE 2—*continued*

SUBSTITUTION OF PART II OF THE PRINCIPAL ACT —*continued*

- (c) to prepare and submit to the Minister plans or schemes for promoting the economic or industrial development of New South Wales or any part of New South Wales or for the establishment, expansion or development of any particular industry or class of industries in New South Wales or in any part of New South Wales; and
- (d) to report to the Minister on—
  - (i) the economic and industrial development, or any aspect of the economic and industrial development, of New South Wales or any part of New South Wales (including the measures required to be taken to attract industries to New South Wales or any part of New South Wales); or
  - (ii) the decentralisation of industry having regard to the distribution of population within New South Wales.

(2) For the purpose of enabling it to carry out its functions under subsection (1), the Advisory Council may conduct such inquiries and investigations as it considers necessary.

(3) The Advisory Council is empowered to do, in New South Wales or elsewhere, all things necessary or convenient to be done for or in connection with the performance of its functions under this Act.

**Power to establish committees**

6. (1) The Advisory Council may establish committees, consisting of members of the Council or members of the Council and other persons, for the purpose of conducting any inquiry or investigation referred to in section 5 and reporting to the Minister on the outcome of any such inquiry or investigation.

(2) Where the Advisory Council establishes a committee under subsection (1), it shall appoint at least one of the members of the Council as a member of the committee.

SCHEDULE 2—*continued*SUBSTITUTION OF PART II OF THE PRINCIPAL ACT —*continued*

(3) The Advisory Council may at any time dissolve a committee established under subsection (1).

(4) A committee established under subsection (1) shall conduct its proceedings in such manner as the Advisory Council directs or, where the Advisory Council has given no directions for the purpose, the committee may conduct its proceedings in such manner as it thinks fit.

**Delegation**

7. (1) The Advisory Council may delegate to—

- (a) a member of the Council; or
- (b) a committee established under section 6, the performance or exercise of any of its functions or powers, other than this power of delegation.

(2) A delegation under this section—

- (a) shall be in writing;
- (b) may be general or limited; and
- (c) may be revoked, wholly or partly, by the Advisory Council.

(3) A delegate is, in the performance or exercise of a function or power delegated under this section, subject to such conditions as are specified in the instrument of delegation.

(4) A function or power delegated under this section, when performed or exercised by the delegate, shall be deemed to have been performed or exercised by the Advisory Council.

(5) A delegation under this section does not prevent the performance or exercise of a function or power by the Advisory Council.

(6) A function or power purporting to have been performed or exercised by a delegate under this section shall, until the contrary is proved, be deemed to have been duly performed or exercised by a delegate under this section.

*State Development and Industries Assistance (Amendment) 1986*

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SCHEDULE 2—*continued*

SUBSTITUTION OF PART II OF THE PRINCIPAL ACT —*continued*

**Staff of Advisory Council**

8. (1) Such staff as may be necessary to enable the Advisory Council to perform its functions and to exercise its powers shall be employed under the Public Service Act 1979.

(2) The Advisory Council may—

(a) with the approval of the Minister; and

(b) on such terms and conditions as may be approved by the Public Service Board,

arrange for the use of the services of any staff or facilities of a government department, administrative office or public authority.

(3) The Advisory Council may—

(a) with the approval of the Minister; and

(b) on such terms and conditions as may be approved by the Public Service Board,

engage, otherwise than as employees, persons having suitable qualifications and experience as consultants.

**Advisory Council not to be subject to government direction**

8A. Except as provided by this Part, the Advisory Council is not subject to direction by or on behalf of the Government of New South Wales with respect to the performance of its functions or the exercise of its powers.

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## SCHEDULE 3

(Sec. 4)

## AMENDMENTS TO PART IIA OF THE PRINCIPAL ACT

- (1) Section 8D (**Interpretation**)—
  - Section 8D (2)—
    - Omit “or loan”.
- (2) Section 8E (**Advanced Technology Development Assistance Fund**)—
  - Omit the section.
- (3) Section 8F (**Applications for financial assistance**)—
  - Section 8F (1)—
    - Omit “financial assistance”, insert instead “a grant or subsidy”.
- (4) Section 8G (**Determination of applications for financial assistance**)—
  - (a) Section 8G (1)—
    - Omit the subsection, insert instead:
      - (1) On receiving an application made under section 8F, the Ministerial Corporation shall forthwith consider the application.
  - (b) Section 8G (2), (3)—
    - Omit the subsections.
  - (c) Section 8G (4)—
    - Omit the subsection, insert instead:
      - (4) On considering an application made under section 8F, the Ministerial Corporation may, if satisfied that the financial assistance sought by the applicant would, if granted, be applied to a project of a kind specified in subsection (5) and, in the case of a prescribed institution, if satisfied that the institution is concerned or will become concerned in developing, or in promoting the development or use of, innovative technological facilities, make to the applicant a grant or subsidy of an amount not exceeding \$100,000.
  - (d) Section 8G (6)—
    - Omit “an amount referred to in subsection (4) (a), (b), (c) or (d)”, insert instead “the amount referred to in subsection (4)”.

*State Development and Industries Assistance (Amendment) 1986*SCHEDULE 3—*continued*AMENDMENTS TO PART IIA OF THE PRINCIPAL ACT—*continued*

- (e) Section 8G (7)—  
Omit “of a kind specified in paragraph (a), (b), (c) or (d) of subsection (4)”.
- (f) Section 8G (7)—  
Omit “financial assistance under this Part of a similar kind”, insert instead “a grant or subsidy under this Part”.
- (g) Section 8G (7)—  
Omit “that paragraph”, insert instead “subsection (4)”.
- (h) Section 8G (8)—  
Omit the subsection.
- (i) Section 8G (9), (10), (12)—  
Omit “financial assistance” wherever occurring, insert instead “a grant or subsidy”.
- (j) Section 8G (10)—  
Omit “Subject to section 8H, the”, insert instead “The”.
- (k) Section 8G (11)—  
Omit “financial assistance”, insert instead “grants or subsidies”.
- (5) Section 8H (**Rate of interest on loans**)—  
Omit the section.
- (6) Section 8I (**Provisions relating to guarantees given by the Ministerial Corporation under this Part**)—  
Omit the section.
- (7) Section 8J (**Provisions with respect to the acquisition and disposal of shares of business undertakings to which financial assistance is granted under this Part**)—  
Omit the section.

*State Development and Industries Assistance (Amendment) 1986*

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SCHEDULE 3—*continued*

AMENDMENTS TO PART IIA OF THE PRINCIPAL ACT—*continued*

- (8) Section 8K (**Members of Development Corporation to be indemnified by Development Corporation against certain liabilities**)—

Omit the section.

- (9) Section 8L (**Appropriation of money to meet the liability of the Ministerial Corporation under a guarantee and payment of certain money into the Consolidated Fund**)—

Omit the section.

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SCHEDULE 4

(Sec. 4)

AMENDMENTS TO PART III OF THE PRINCIPAL ACT

- (1) Section 12 (**Country Industries Assistance Fund**)—

Omit the section.

- (2) Section 20—

Omit the section, insert instead:

**Ministerial Corporation's powers to make grants and pay subsidies**

20. (1) The Ministerial Corporation may, on application made to it—

- (a) grant money to any person conducting or proposing to conduct a country industry; or
- (b) grant subsidies to the State Rail Authority or any other person or body in respect of the carriage of plant or equipment to be used for the conduct of a country industry or the carriage of goods the product of, or to be used in, a country industry.

(2) The Ministerial Corporation's decision on any such application shall be final.

*State Development and Industries Assistance (Amendment) 1986*

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SCHEDULE 4—*continued*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued*

(3) The approval of any such application may be subject to such conditions as the Ministerial Corporation thinks fit.

(3) Section 21 (**Provisions relating to guarantees given by the Ministerial Corporation**)—

Omit the section.

(4) Section 30 (**Powers of Ministerial Corporation to enter into agreement with councils of local authorities**)—

(a) Section 30 (1)—

Omit “a council to grant or lend”, insert instead “the council of a local authority to grant”.

(b) Section 30 (2)—

Omit “a council”, insert instead “the council of a local authority”.

(5) Section 33 (**Rental, etc., on leases by Ministerial Corporation**)—

Section 33 (1)—

Omit the subsection.

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SCHEDULE 5

(Sec. 4)

AMENDMENTS TO PART IIIB OF THE PRINCIPAL ACT

(1) Section 34IA—

After section 34I, insert:

**Industries Assistance Fund**

34IA. (1) There shall be established in the Special Deposits Account in the Treasury an Industries Assistance Fund into which shall be paid—

- (a) such portion of the money held in the Country Industries Assistance Fund immediately before the commencement of Schedule 4 (1) to the State Development and Industries Assistance (Amendment) Act 1986 as the Ministerial Corporation determines in accordance with arrangements made under Schedule 7 to that Act;
- (b) such portion of the money held in the Advanced Technology Development Assistance Fund immediately before the commencement of Schedule 3 (2) to the State Development and Industries Assistance (Amendment) Act 1986 as the Ministerial Corporation determines in accordance with arrangements made under Schedule 7 to that Act;
- (c) all money appropriated by Parliament for the purposes of Part II A, III or III A;
- (d) all money borrowed by the Ministerial Corporation for the purposes of Part II A, III or III A; and
- (e) all money received by the Ministerial Corporation in respect of the sale, lease, exchange or other dealing with or disposition of real or personal property that has been acquired by the Ministerial Corporation for the purposes of this Act, or on the granting of easements or rights-of-way over any land, or any part of land, so acquired.

(2) The Fund established by subsection (1) shall be applied for the following purposes:

- (a) the payment of any amount for which the Ministerial Corporation is liable under the Capital Debt Charges Act 1957;
- (b) the repayment of money borrowed by the Ministerial Corporation for the purposes of this Act, the repayment of interest on any such money and the payment of any borrowing expenses;
- (c) the making of grants, and the payment of subsidies, by the Ministerial Corporation under Parts II A and III;

*State Development and Industries Assistance (Amendment) 1986*SCHEDULE 5—*continued*AMENDMENTS TO PART III<sub>B</sub> OF THE PRINCIPAL ACT—*continued*

- (d) the payment to the Treasurer of the amounts required to be paid under subsection (3);
  - (e) the payment of any amount for which the Ministerial Corporation is liable by virtue of the performance or exercise of any of its functions or powers—
    - (i) under Part III;
    - (ii) under Part IIIA in relation to the acquisition of land for the purposes of Part III, or in relation to land acquired for those purposes; or
    - (iii) under section 34J;
  - (f) the payment of the expenses of administering Parts IIA, III and IIIA.
- (3) The Ministerial Corporation shall, at such times as the Treasurer may from time to time determine, pay to the Treasurer such part as the Treasurer may from time to time determine—
- (a) of the rental or other consideration received by that Corporation in respect of leases of real or personal property acquired by that Corporation for the purposes of Part III; and
  - (b) of the purchase money received by that Corporation in respect of the sale on terms of, or other dealing or disposition on terms with or of, real or personal property acquired by that Corporation for the purposes of Part III.
- (2) Section 34K (**Director of Environment and Planning may act on behalf of Minister in certain matters**)—
- Omit the section.
- (3) Section 34L (**Authentication of certain documents**)—
- Omit the section.
- (4) Section 34M (**Proof of certain matters not required**)—
- Omit the section.

*State Development and Industries Assistance (Amendment) 1986*

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SCHEDULE 5—*continued*

AMENDMENTS TO PART III<sub>B</sub> OF THE PRINCIPAL ACT—*continued*

(5) Section 34N (**Liability of members**)—

Omit the section.

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SCHEDULE 6

(Sec. 4)

INSERTION OF SCHEDULES 1 AND 2 INTO THE PRINCIPAL ACT

Schedules 1, 2—

At the end of the Principal Act, insert:

SCHEDULE 1

(Sec. 4 (3))

PROVISIONS RELATING TO THE MEMBERS OF THE ADVISORY  
COUNCIL

**Interpretation**

1. In this Schedule—

“appointed member” means a member other than the Director;

“member” means a member of the Advisory Council.

**Age of members**

2. A person of or above the age of 70 years is not eligible to be appointed as a member or to act in the office of an appointed member.

**Chairperson of the Advisory Council**

3. (1) Of the appointed members, one shall, in and by the relevant instrument of appointment as such a member, or by another instrument executed by the Governor, be appointed as chairperson of the Advisory Council.

(2) The Governor may remove an appointed member from the office of chairperson of the Advisory Council.

*State Development and Industries Assistance (Amendment) 1986*

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SCHEDULE 6—*continued*

INSERTION OF SCHEDULES 1 AND 2 INTO THE PRINCIPAL  
ACT—*continued*

(3) A person who is an appointed member and chairperson shall be deemed to have vacated office as chairperson of the Advisory Council if the person—

(a) is removed from that office by the Governor under subclause (2);

(b) resigns that office by instrument in writing addressed to the Minister;  
or

(c) ceases to be an appointed member.

**Acting members and acting chairperson**

4. (1) The Governor may, from time to time, appoint a person to act in the office of a member during the illness or absence of the member, and the person, while so acting, shall have and may exercise and perform all the functions and powers of the member and shall be deemed to be a member.

(2) The Governor may, from time to time, appoint an appointed member to act in the office of chairperson during the illness or absence of the chairperson, and the part-time member, while so acting, shall have and may exercise and perform all the functions and powers of the chairperson and shall be deemed to be the chairperson.

(3) The Governor may remove any person from any office to which the person was appointed under this clause.

(4) A person while acting in the office of a member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

(5) For the purposes of this clause, a vacancy in the office of a member or the chairperson shall be deemed to be an absence from office of the member or chairperson, as the case may be.

**Term of office**

5. Subject to this Schedule, an appointed member shall hold office for such period, not exceeding 6 years, as may be specified in the instrument of appointment of the member, but is eligible (if otherwise qualified) for re-appointment.

**Remuneration**

6. (1) An appointed member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.



*State Development and Industries Assistance (Amendment) 1986*SCHEDULE 6—*continued*INSERTION OF SCHEDULES 1 AND 2 INTO THE PRINCIPAL  
ACT—*continued*

(2) Subclause (1) applies to a member of a committee established under section 6 who is not also a member of the Advisory Council in the same way as it applies to a member of the Advisory Council.

**Filling of vacancy in office of member**

7. If the office of an appointed member becomes vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

**Casual vacancies**

8. (1) An appointed member shall be deemed to have vacated office if the member—

- (a) dies;
- (b) absents himself or herself from 4 consecutive meetings of the Advisory Council of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Minister or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for being absent from those meetings;
- (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- (d) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act 1958 or a person under detention under Part VII of that Act;
- (e) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable;
- (f) resigns the office by instrument in writing addressed to the Minister;
- (g) attains the age of 70 years; or
- (h) is removed from office by the Governor under subclause (2) or (3).

(2) The Governor may at any time, without showing cause, remove an appointed member from office by notice in writing addressed to and delivered to that member.

(3) Without affecting the generality of subclause (2), the Governor may remove from office a member who contravenes the provisions of clause 9

*State Development and Industries Assistance (Amendment) 1986*

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SCHEDULE 6—*continued*

INSERTION OF SCHEDULES 1 AND 2 INTO THE PRINCIPAL  
ACT—*continued*

**Disclosure of pecuniary interests**

9. (1) A member who has a direct or indirect pecuniary interest—

(a) in a matter that is being considered, or is about to be considered, at a meeting of the Advisory Council; or

(b) in a thing being done or about to be done by the Advisory Council,

shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Advisory Council.

(2) A disclosure by a member at a meeting of the Advisory Council that the member—

(a) is a member, or is in the employment, of a specified company or other body;

(b) is a partner, or is in the employment, of a specified person; or

(c) has some other specified interest relating to a specified company or other body or a specified person,

shall be deemed to be a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body or to that person which may arise after the date of the disclosure.

(3) The Advisory Council shall cause particulars of any disclosure made under subclause (1) or (2) to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to the inspection of any person on payment of such fee as may be determined by the Advisory Council from time to time.

(4) After a member has, or is deemed to have, disclosed the nature of an interest in any matter or thing pursuant to subclause (1) or (2), the member shall not, unless the Minister otherwise determines—

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

(b) perform any functions or exercise any powers under this Act with respect to that thing,

as the case requires.

*State Development and Industries Assistance (Amendment) 1986*

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SCHEDULE 6—*continued*

INSERTION OF SCHEDULES 1 AND 2 INTO THE PRINCIPAL  
ACT—*continued*

(5) Notwithstanding that a member contravenes the provisions of this clause, that contravention does not invalidate any decision of the Advisory Council or the performance of any function or the exercise of any power under this Act.

(6) A reference in this clause to a meeting of the Advisory Council includes a reference to a meeting of a committee established under section 6.

**Effect of certain other Acts**

10. (1) The Public Service Act 1979 does not apply to or in respect of the appointment of a member and a member is not, as a member, subject to that Act.

(2) Where by or under any other Act provision is made requiring a person who is the holder of an office specified therein to devote the whole of his or her time to the duties of that office, or prohibiting the person from engaging in employment outside the duties of that office, that provision shall not operate to disqualify the person from holding that office and also the office of an appointed member or from accepting and retaining any remuneration payable to the person under this Act as an appointed member.

(3) The office of an appointed member shall for the purposes of any Act be deemed not to be an office or place of profit under the Crown.

**Liability of members, etc.**

11. No matter or thing done by the Advisory Council, any member or any person acting under the direction of the Advisory Council shall, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand.

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*State Development and Industries Assistance (Amendment) 1986*

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SCHEDULE 6—*continued*

INSERTION OF SCHEDULES 1 AND 2 INTO THE PRINCIPAL  
ACT—*continued*

SCHEDULE 2

(Sec. 4 (4))

PROVISIONS RELATING TO THE PROCEDURE OF THE ADVISORY  
COUNCIL

**General procedure**

1. The procedure for the calling of meetings of the Advisory Council and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Advisory Council.

**Quorum**

2. The quorum for a meeting of the Advisory Council is a majority of the members.

**Presiding member**

3. (1) The chairperson of the Advisory Council or, in the absence of the chairperson, another member elected as chairperson for the meeting by the members present shall preside at a meeting of the Advisory Council.

(2) The person presiding at any meeting of the Advisory Council has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

**Voting**

4. A decision supported by a majority of the votes cast at a meeting of the Advisory Council at which a quorum is present shall be the decision of the Advisory Council.

**Minutes**

5. The Advisory Council shall cause full and accurate minutes to be kept of the proceedings of each meeting of the Advisory Council.

**First meeting of Advisory Council**

6. The Minister shall call the first meeting of the Advisory Council in such manner as the Minister thinks fit.

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## SCHEDULE 7

(Sec. 5)

## SAVINGS AND TRANSITIONAL PROVISIONS

**Interpretation**

1. (1) In this Schedule—

“Development Corporation” means the New South Wales Development Corporation as constituted under the Principal Act;

“Investment Corporation” means the New South Wales Investment Corporation constituted by the New South Wales Investment Corporation Act 1986;

“Ministerial Corporation” means the corporation sole constituted as provided by section 34H of the Principal Act;

“relevant day” means a day appointed by order made in accordance with subclause (2).

(2) For the purposes of this Schedule, the Governor may, by order published in the Gazette, appoint a day as the relevant day.

**Dissolution of the Development Corporation**

2. (1) At the beginning of the relevant day, the Development Corporation is dissolved.

(2) A person who, immediately before the relevant day, held office as a member of the Development Corporation and who ceased to hold office by virtue of the dissolution of the Development Corporation, is not entitled to be paid any remuneration or compensation in consequence of that fact.

**Transfer of assets, etc., of Development Corporation**

3. On and from the relevant day, all property that, immediately before the relevant day, was vested in or belonged to the Development Corporation shall vest in and belong to the Investment Corporation.

**Arrangements for the transfer of funds, etc., under the Principal Act**

4. (1) As soon as practicable after the date on which this Act is assented to, the Minister administering the Principal Act shall, in consultation with the Treasurer and the Auditor-General, make arrangements for determining—

(a) what portion of the balances (as at the day proposed to be appointed as the relevant day) of the Country Industries Assistance Fund and the Advanced Technology Development Assistance Fund should, on and after the relevant day, be that of the Investment Corporation and what portion of those balances should, on and after that date, remain that of the Ministerial Corporation;

(b) what other assets (if any), and what debts and liabilities (if any), of the Ministerial Corporation should be transferred to the ownership or responsibility of the Investment Corporation; and

*State Development and Industries Assistance (Amendment) 1986*

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SCHEDULE 7—*continued*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

- (c) what records (including books, documents and papers) held by the Ministerial Corporation in connection with the exercise or performance of its functions or powers under the Principal Act should be transferred to the Investment Corporation.

(2) A determination made in accordance with arrangements made under subclause (1) shall be given effect to by the Ministerial Corporation on the relevant day.

(3) In making a determination in accordance with arrangements made under subclause (1), regard shall be had to the purposes of the New South Wales Investment Corporation Act 1986 and the amendments to the Principal Act effected by this Act, and, in particular, regard shall be had to the fact—

- (a) that the responsibility for the administration of loans made by the Ministerial Corporation under the Principal Act should become the responsibility of the Investment Corporation;
- (b) that any guarantees that were executed by the Ministerial Corporation under Part IIA or III of the Principal Act and have not been discharged before the relevant day should continue to be the responsibility of the Ministerial Corporation and be a charge on the Consolidated Fund; and
- (c) that responsibility for the payment of pay-roll tax rebates under the Country Industries (Pay-roll Tax Rebates) Act 1977 will, if the Minister administering that Act so decides, become the responsibility of the Investment Corporation on and after the relevant day.

(4) A day shall not be appointed as the relevant day for the purposes of this Schedule unless the Minister certifies to the Governor that the Minister is satisfied that a determination has been made under this clause.

(5) Where, on or after the relevant day, any asset, claim, contract, agreement, arrangement or other property or thing becomes vested in or the responsibility of the Investment Corporation, the Investment Corporation has the same rights and obligations with respect to that asset, claim, contract, agreement, arrangement, property or thing as the Ministerial Corporation or, as the case may be, the Development Corporation would have had if this Act had not been enacted.

**Guarantees executed under Parts IIA and III of Principal Act**

5. (1) Where, in accordance with Part IIA or III of the Principal Act, the Ministerial Corporation has executed a guarantee and the guarantee has not been discharged before the relevant day, the following provisions shall apply with respect to the guarantee:

- (a) the creditor concerned shall, if required by the Ministerial Corporation to do so, continue to hold securities for the payment of the principal debt secured by the guarantee of such nature as the Ministerial Corporation may require;

*State Development and Industries Assistance (Amendment) 1986*SCHEDULE 7—*continued*SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

(b) the guarantee is not enforceable against the Ministerial Corporation or the Consolidated Fund unless and until the creditor has exercised the creditor's rights and remedies under all securities held by the creditor in respect of the debt secured by the guarantee;

(c) the creditor shall not, without the consent in writing of the Ministerial Corporation, assign or encumber the benefit of the guarantee.

(2) If the creditor under a guarantee referred to in subclause (1)—

(a) fails to comply with subclause (1) (a); or

(b) contravenes subclause (1) (c),

the Ministerial Corporation may avoid the guarantee.

(3) The amount of any liability incurred by the Ministerial Corporation under a guarantee referred to in subclause (1) is a charge on the Consolidated Fund and is payable out of that Fund without further appropriation than this Act.

(4) Where a liability incurred by the Ministerial Corporation under a guarantee referred to in subclause (1) has been met, the Ministerial Corporation is entitled to exercise all the rights of the creditor concerned with respect to the debt guaranteed and all money received or recovered by that Corporation in relation to that liability from the person whose debts were the subject of the guarantee shall be paid into the Consolidated Fund.

**Regulations**

6. (1) The regulations under the Principal Act may contain other provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) A provision referred to in subclause (1) may, if the regulations so provide, take effect as from the day on which this Act is assented to or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication in the Gazette; or

(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication in the Gazette.

*State Development and Industries Assistance (Amendment) 1986*

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SCHEDULE 7—*continued*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

(4) A provision referred to in subclause (1) shall, if the regulations so provide, have effect notwithstanding any other clause of this Schedule (clause 2 excepted).

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