

SOUTH AUSTRALIA

ADELAIDE FESTIVAL THEATRE ACT, 1964

SUMMARY OF PROVISIONS

PART I PRELIMINARY

1. Short title
- 1a. Arrangement of Act
2. Interpretation

PART II FESTIVAL THEATRE

3. Power to construct Festival Hall
4. Vesting and control of Festival Hall

PART III FINANCIAL

5. Financial provision
6. The Carclew property, etc.
7. Further financial provision
- 7a. Financial arrangements consequential on the vesting of the Theatre in the Adelaide Festival Centre Trust
- 7b. Payment by Treasurer
- 7c. Discharge of further liability of council, etc.
9. Payments by the Treasurer
10. Arbitration

PART IV VESTING OF LAND

11. Definition
12. Partial cancellation of land grant and divesting, etc., of certain land
13. City Public Baths
14. Vesting of certain land in The Corporation of the City of Adelaide
15. Vesting of certain lands in the Crown
16. Duty of Registrar-General

PART V MISCELLANEOUS

17. The Adelaide Festival Theatre Appeal Fund, etc.

THE SCHEDULE

ADELAIDE FESTIVAL THEATRE ACT, 1964

being

Adelaide Festival Theatre Act, 1964, No. 45 of 1964
[Assented to 30 October 1964]

as amended by

The Festival Hall (City of Adelaide) Act Amendment Act, 1970, No. 45 of 1970 [Assented to 10 December 1970]

Adelaide Festival Theatre Act Amendment Act, 1973, No. 66 of 1973 [Assented to 6 December 1973]¹

Adelaide Festival Theatre Act Amendment Act, 1974, No. 99 of 1974 [Assented to 5 December 1974]

Adelaide Festival Theatre Act Amendment Act, 1975, No. 108 of 1975 [Assented to 20 November 1975]

¹ Came into operation 13 December 1973: *Gaz.* 13 December 1973, p. 3266.

An Act to provide for the erection in the City of Adelaide of a Festival Theatre and for the financing thereof and matters connected therewith and incidental thereto and for other purposes.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:—

PART I
PRELIMINARY

Short title

1. This Act may be cited as the *Adelaide Festival Theatre Act, 1964*.

Arrangement of Act

1a. This Act is arranged as follows—

PART I—PRELIMINARY, ss. 1-2.

PART II—FESTIVAL THEATRE, ss. 3-4.

PART III—FINANCIAL, ss. 5-10.

PART IV—VESTING OF LAND, ss. 11-16.

PART V—MISCELLANEOUS, s. 17.

Interpretation

2. In this Act, unless the context otherwise requires—

"the council" means the council of The Corporation of the City of Adelaide:

"the 1970 amending Act" means *The Festival Hall (City of Adelaide) Act Amendment Act, 1970*:

* * * * *

"the Festival Theatre" means the Festival Theatre, buildings, furniture, instruments, fittings and equipment, works and conveniences authorized by this Act to be constructed and provided:

"the fund" means the "Adelaide Festival Theatre Appeal Fund" established by the Lord Mayor of the City of Adelaide:

"the trustees" means the trustees of the fund appointed under section 17 of this Act:

"the vesting day" means the vesting day fixed pursuant to section 28a of the *Adelaide Festival Centre Trust Act, 1971-1973*.

3.

PART II
FESTIVAL THEATRE

Power to construct Festival Hall

3. (1) The council may, subject to this Act, construct and provide on land within the City of Adelaide vested in, purchased or otherwise acquired by the council, a Festival Theatre and buildings to be used in connection therewith and may provide the furniture, instruments, fittings and equipment thereof or therefor and carry out and construct all works and conveniences incidental to or necessary for any of the foregoing.

(2) The Festival Theatre shall be deemed to be a permanent work or undertaking for the purposes of the *Local Government Act, 1934-1963*.

(3) The Festival Theatre shall be constructed and provided in accordance with designs approved by the Minister. Such designs shall set forth and contain such particulars as the Minister may require.

(4) In addition to any other powers to expend its revenue the council may expend its revenue in contributing towards the cost of construction provision and maintenance of the Festival Theatre where that cost was incurred before the vesting day.

(5) In addition to its other borrowing powers, the council may, from time to time, without further or other authority or consent than this section, borrow, on the security of the general rates, such amounts of money not exceeding \$1 800 000 as may be necessary to enable it to contribute towards the cost of the construction and provision of the Festival Theatre in accordance with the provisions of this Act.

Vesting and control of Festival Hall

4. Until the vesting day, the Festival Theatre shall remain vested in the council which shall have the care, control and management thereof and notwithstanding any other Act the council may do all things necessary for and incidental and ancillary to such care, control and management.

PART III
FINANCIAL

Financial provision

5. (1) The Treasurer may pay to the council an amount not exceeding £100 000 for the purpose of assisting the council to purchase or acquire land with or without buildings to be used as a site for the Festival Hall. Such amount may be paid so soon after the council has decided upon the site as the Treasurer shall approve.

(2) So much of the cost of the construction and provision of the Festival Hall as does not exceed the sum of £1 000 000 shall be borne as to two-fifths thereof by the Government of the State and as to the remaining three-fifths thereof by the council. If the said cost exceeds the sum of £1 000 000, the excess shall be borne wholly by the council.

(3) Four-fifths of so much of the said cost as does not exceed the sum of £1 000 000 shall in the first place be met by payments by the Treasurer to the council of such amounts as the Treasurer from time to time approves.

(4) As each such payment is made by the Treasurer the council shall become liable to repay to the Treasurer one half of the amount thereof. In respect of the capital indebtedness for the time being remaining outstanding the council shall be liable to pay to the Treasurer interest at the rate of £4 10s. per centum per annum. Such capital indebtedness and interest shall be repaid in equal annual instalments beginning on such date after the thirtieth day of June in the year in which the construction and provision of the said Festival Hall, buildings, furniture, fittings and equipment are completed as the Treasurer shall determine, so that the whole liability shall be discharged over the period of thirty years next after the said thirtieth day of June. The amount of each such instalment and the time and manner of its payment shall, subject to this Act, be determined by the Treasurer.

(5) This Act shall be sufficient authority, without further appropriation, for the payment by the Treasurer of any amount in pursuance of subsection (1) of this section. Any other payments by the Treasurer authorized by this section shall be paid out of monies appropriated by Parliament for the purpose.

The Carclew property, etc.

6. (1) In this section—

"current expenditure" means the net amounts expended by the council from time to time for the purposes of or connected with—

(a) the sale of or other dealing with the whole or any portion of the Carclew property;

and

(b) the holding and maintaining of the whole or any portion of the Carclew property during the period elapsing between the commencement of the 1970 amending Act and the day of that sale or dealing;

"the Carclew expenditure" means the net total amount expended by the council before the commencement of the 1970 amending Act on and in relation to the Carclew property in pursuance of the powers conferred on it by section 3 of this Act as then in force including all amounts paid by the council in pursuance of those powers by way of rates and taxes in respect of the whole or any portion of the Carclew property and includes an amount of \$7 640 paid by the Treasurer to the council in respect of an investigation and report by Bolt, Beranek and Newman Inc. of New York but does not include any current expenditure:

"the Carclew property" means those lands situated in the City of Adelaide known as town acres numbers 749 and 750 together with all buildings and structures thereon and includes any property acquired by the council in pursuance of the powers conferred on it by section 3 of this Act as in force before the commencement of the 1970 amending Act for the purposes of or connected with the construction and provision of a Festival Hall on those lands:

"the Government's contribution" means the total of the amounts paid or borne by the Treasurer pursuant to subsection (1) or (2) of section 5 of this Act and the amount of \$7 640 paid by the Treasurer to the council which is included in the Carclew expenditure.

(2) After the commencement of the 1970 amending Act—

(a) no further moneys shall be paid by the Treasurer to the council pursuant to section 5 of this Act;

and

(b) that section shall apply and have effect to and in relation to the repayment of the amounts paid by the Treasurer pursuant to subsection (3) thereof as if the construction and provision of the Festival Hall, buildings, furniture, fittings and equipment referred to in subsection (4) thereof had been completed on the day on which the 1970 amending Act commenced.

(3) Notwithstanding any other Act, the council may, with the consent of the Treasurer, sell or otherwise deal with the whole or any portion of the Carclew property and, shall deduct from the proceeds of any such sale or dealing such portion of the current expenditure as, in the opinion of the council, is attributable to such sale or dealing.

(4) Out of the balance of the proceeds of any sale or dealing referred to in subsection (3) of this section after the deduction provided for in that subsection is made the council shall so often as the Treasurer requires pay to the Treasurer an amount which bears to the balance the same relationship as the Government's contribution bears to the Carclew expenditure and the council may retain the unpaid amount of each such balance for its own purposes.

Further financial provision

7. (1) Subject to this section, the Treasurer may pay to the council an amount with any amount so paid pursuant to this section as in force before the commencement of the *Adelaide Festival Theatre Act Amendment Act, 1973*, not exceeding, in the aggregate, \$4 900 000 for the purposes of assisting the council to construct and provide a Festival Theatre.

* * * * *

(3) In calculating the amount expended by the council for the purposes of this section no regard shall be had to—

(a) the Carclew expenditure as defined for the purposes of section 6 of this Act;

or

(b) any expenditure by the council of moneys paid to the council by the trustees pursuant to subsection (4) of section 17 of this Act that exceeds \$100 000.

(4) If the Treasurer is satisfied that the amount expended by the council in the exercise of the powers conferred on it by section 3 of this Act exceeds \$7 000 000 as a consequence of an alteration of or addition to the Festival Theatre approved of by the Treasurer the Treasurer may in addition to the amounts authorized by this section to be paid to the council pay to the council an amount equal to the cost to the council of those alterations or additions.

Financial arrangements consequential on the vesting of the Theatre in the Adelaide Festival Centre Trust

7a. (1) On and after the vesting day no further moneys shall be payable by the Treasurer to the council pursuant to section 7 of this Act except any such moneys as are required to be so paid by the Treasurer to satisfy any liability incurred by the Treasurer pursuant to that section before the vesting day.

(2) Nothing in subsection (1) of this section shall affect any liability of the council—

(a) to make the payments to the Treasurer as are required by subsection (4) of section 5 of this Act as modified by paragraph (a) of subsection (2) of section 6 of this Act;

and

(b) to make payment to the Treasurer as required by subsection (4) of section 6 of this Act.

Payment by Treasurer

7b. The Treasurer may pay to A.V. Jennings Industries (Australia) Limited, in this section referred to as "the Company", an amount not exceeding \$42 840 in accordance with an arrangement entered into by the Treasurer and the Company with respect to certain expenditure incurred by the Company in relation to overtime payments in connection with the construction of the Festival Theatre.

Discharge of further liability of council, etc.

7c. (1) On and from the commencement of the *Adelaide Festival Theatre Act Amendment Act, 1974*—

(a) the council is by force of this section freed and discharged from any liability to make any further payments to the Treasurer as are required by subsection (4) of section 5 of this Act as modified by subsection (2) of section 6 of this Act;

and

7.

(b) the Treasurer shall reimburse to the council periodically out of the General Revenue of the State (which is hereby to the necessary extent appropriated accordingly) any amount expended or set aside on or after the first day of July, 1974, by the council in providing for the repayment of principal and interest in respect of any moneys borrowed by the council for the purposes of section 3 of this Act.

(2) Nothing in subsection (1) of this section shall affect or limit the obligation of the council to make payment to the Treasurer of any amount required to be paid pursuant to subsection (4) of section 6 of this Act.

* * * * *

Payments by the Treasurer

9. All payments by the Treasurer authorized by this Act, as in force after the commencement of the 1970 amending Act shall be paid out of moneys which have been appropriated to a deposit account at the Treasury for the purpose prior to the commencement of the 1970 amending Act, or which may be subsequently appropriated by Parliament for the purpose.

Arbitration

10. (1) If any dispute arises between the Treasurer and the council in or in relation to any money payable pursuant to this Act by the Treasurer to the council that dispute shall be resolved by arbitration.

(2) The *Arbitration Act, 1891-1934*, shall apply to and in relation to the dispute referred to in subsection (1) of this section as if in relation to that dispute the Treasurer and the council were parties to a submission as defined in that Act.

PART IV
VESTING OF LAND

Definition

11. In this Part—

- (a) "the railway land" means the land described in the schedule to Act No. 126 of 1878 being an Act intituled An Act to authorize the Commissioner of Railways to take possession of portion of the Adelaide Park Lands, and for other purposes;

and

(b) a reference—

- (i) to section 654 shall be read as a reference to the land in the hundred of Adelaide delineated on the plan in the schedule to this Act bounded by a line joining the points marked C, D, E, F and C on that plan;
- (ii) to section 655 shall be read as a reference to the land in the hundred of Adelaide delineated on the plan in the schedule to this Act bounded by a line joining the points marked B, C, F, G, H and B on that plan;

and

- (iii) to section 656 shall be read as a reference to the land in the hundred of Adelaide delineated on the plan in the schedule to this Act bounded by a line joining the points marked A, B, H, J, K, L, M and A on that plan.

Partial cancellation of land grant and divesting, etc., of certain land

12. (1) Land Grant Register Book volume 756 folio 114, except in so far as it relates to lands which lie outside section 654, section 655 and section 656, is by operation of this section cancelled and the land in respect of which that land grant is so cancelled shall on and after the commencement of the 1970 amending Act cease to be vested in the South Australian Railways Commissioner as provided in the grant and shall revest in the Crown freed and discharged from any trust, estate, right, title, interest, claim or demand of any description whatsoever.

(2) On and after the commencement of the 1970 amending Act, the land vested in the South Australian Railways Commissioner for an estate of fee simple pursuant to section 3 of the *Adelaide Park Lands Act, 1928*, shall cease to be so vested.

City Public Baths

13. On and after the commencement of the 1970 amending Act the land on the western side of King William Road appropriated as City Public Baths and containing one acre and a half or thereabouts and referred to in section 368 of *The Municipal Corporation Act, 1890*, shall cease to be so appropriated and so much of that land as does not lie within section 654 shall revest in the Crown freed and discharged from any trust, estate, right, title, interest, claim or demand of any description whatsoever.

Vesting of certain land in The Corporation of the City of Adelaide

14. On and after the commencement of the 1970 amending Act section 654 shall vest in The Corporation of the City of Adelaide for an estate in fee simple freed and discharged from any trust, estate, right, title, interest, claim or demand of any description whatsoever.

Vesting of certain lands in the Crown

15. (1) On and after the commencement of the 1970 amending Act so much of the railway land comprised in section 655 and section 656 as was immediately before that commencement vested in the South Australian Railways Commissioner for any purpose shall cease to be so vested.

(2) On and after the commencement of the 1970 amending Act section 655 and section 656 shall revert in the Crown freed and discharged from any trust, estate, right, title, interest, claim or demand of any description whatsoever.

(3) On and after the commencement of the 1970 amending Act and notwithstanding anything in any Act—

(a) section 655 and section 656;

and

(b) the land reverted in the Crown pursuant to section 13 of this Act,

shall not be under the care, control and management of the council.

Duty of Registrar-General

16. (1) The Registrar-General shall upon the application of—

(a) the council;

(b) the South Australian Railways Commissioner;

or

(c) the Minister,

as the case requires, upon being furnished with such information as he considers necessary, cause to be made such entries and endorsements in any register book or other record in his custody and on any document of title and cause to be issued such certificates of title as he considers appropriate for giving full effect to this Act without being obliged to make any further investigation of title or to make any public advertisement.

(2) In this section "the Registrar-General" means the person for the time being holding the office of Registrar-General under the *Real Property Act, 1886-1969*, or the Registrar-General of Deeds under the *Registration of Deeds Act, 1935-1962*.

PART V
MISCELLANEOUS

The Adelaide Festival Theatre Appeal Fund, etc.

17. (1) There shall be two trustees of the fund—

(a) one of whom shall be appointed by the Lord Mayor of the City of Adelaide;

and

(b) one of whom shall be appointed by the Treasurer.

(2) A person who before the commencement of the 1970 amending Act had been—

(a) appointed as a trustee of the fund by the Lord Mayor of the City of Adelaide and who was immediately before that commencement in office as such a trustee;

or

(b) appointed as a trustee of the fund by the Treasurer and who was immediately before that commencement in office as such a trustee,

shall for the purposes of this Act be deemed to have been appointed a trustee of the fund by the Lord Mayor or the Treasurer, as the case may be, pursuant to subsection (1) of this section.

(3) The Trustees shall—

(a) receive donations to the fund;

(b) bank or cause to be banked any such donations;

(c) place any moneys standing to the credit of the fund and not immediately required on deposit on advantageous terms;

and

(d) render a true account of moneys received by and paid from the fund whenever required by the Treasurer and the Lord Mayor of the City of Adelaide.

(4) The trustees shall—

(a) pay out of the fund to the council a sum of \$100 000 to be applied by the council in the exercise of the powers conferred on it by section 3 of this Act;

and

- (b) at the request of the council pay out of the fund to the council from the balance remaining after the payment referred to in paragraph (a) of this subsection has been made such amounts as the council may from time to time require for the purchase or acquisition by the council of works of art for or in connection with the Festival Theatre,

and the receipt of the council for any moneys paid by the trustees pursuant to this subsection shall be a good and sufficient discharge to the trustees of their duty under this section and the trustees shall not be obliged to satisfy themselves as to the application of any moneys so paid.

(4a) As soon as practicable after the vesting day the trustees shall pay to the Adelaide Festival Centre Trust, established by the *Adelaide Festival Centre Trust Act, 1971-1973*, the balance, if any, of the moneys standing to the credit of the fund on that day and the receipt of the Trust for any moneys so paid shall be a good and sufficient discharge to the trustees.

(4b) On and from the vesting day all works of art, purchased or acquired by the council out of moneys provided from the fund, shall vest in and belong to the Adelaide Festival Centre Trust.

(4c) All moneys received by the Adelaide Festival Centre Trust from the trustees of the fund pursuant to subsection (4a) of this section, shall, by force of this subsection, pass to the Trust freed from any trust and shall be used and applied by the Trust for the purchase or acquisition of works of art for or in connection with the Festival Theatre or for any purpose ancillary to that purchase or acquisition.

(5) No action or proceeding shall lie against the trustees or any one of them for any act or thing done by the trustees or any one of them in the exercise or purported exercise of the powers and functions conferred on them by this section.

12.

THE SCHEDULE