

South Australia

## City of Adelaide Act 1998

An Act to establish mechanisms to enhance the role of the City of Adelaide as the capital city of South Australia; to make special provision in relation to the local governance of the City of Adelaide; and for other purposes.

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### Contents

#### Part 1—Preliminary

- 1 Short title
- 3 Objects
- 4 Interpretation
- 5 Interaction with Local Government Act

#### Part 2—Collaborative arrangements for the strategic development of the City of Adelaide

##### Division 1—Establishment of the Capital City Committee

- 6 Establishment of the Capital City Committee
- 7 Membership of the Capital City Committee
- 8 Chairperson of the Capital City Committee
- 9 Deputies

##### Division 2—Function of the Capital City Committee

- 10 Function of the Capital City Committee
- 11 Programs

##### Division 3—Proceedings and operations

- 12 Proceedings
- 13 Subcommittees
- 14 Staff etc
- 15 Delegation

##### Division 4—Reporting and review

- 16 Reporting
- 17 Review

##### Division 5—Other matters

- 18 Access to information
- 19 Committee not to be subject to Parliamentary Committees Act

## Part 3—Special arrangements for the Adelaide City Council

### Division 1—Constitution of Council

20 Constitution of Council

### Division 2—Role of members

21 Lord Mayor

22 Members

### Division 3—Code of conduct

23 Code of conduct

### Division 4—Allowances and benefits

24 Allowances

25 Reimbursement of expenses

26 Provision of facilities and support

### Division 5—Specific provisions relating to the chief executive officer

27 Role of the chief executive officer

28 Appointment of staff

### Division 6—Administrative and financial matters

29 Objectives

30 Strategic plans

32 Rating policy

33 Rate rebates

34 Financial reporting

### Division 7—Register of interests

35 Lodging of returns

36 Creation and inspection of Register

37 Interaction with Local Government Act

## Part 4—Miscellaneous

37A Rundle Mall

37B Corporate name

37C Boundaries of the City of Adelaide

38 Regulations

## Schedule 1—Special provisions for elections and polls

### Part 1—Entitlement to vote

1 Entitlement to vote

### Part 2—Special provision for next Adelaide City Council election

2 Election date

### Part 7—Counting of votes

19 Arranging postal papers

---

## Part 8—Campaign donations and expenditure

### Division 1—Preliminary

22 Interpretation

### Division 2—Returns

- 23 Returns for candidates
- 24 Campaign donations returns
- 25 Campaign expenditure return
- 26 Certain gifts not to be received
- 27 Inability to complete returns
- 28 Amendment of returns
- 29 Offences
- 30 Failure to comply with Division

### Division 3—Public access to information

- 31 Public inspection of returns
- 32 Restrictions on publication

### Division 4—Related matters

- 33 Requirement to keep proper records
- 34 Related matters

## Schedule 2—Register of interests—form of returns

- 1 Interpretation
- 2 Contents of return

## Legislative history

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### **The Parliament of South Australia enacts as follows:**

## **Part 1—Preliminary**

### **1—Short title**

This Act may be cited as the *City of Adelaide Act 1998*.

### **3—Objects**

The objects of this Act are—

- (a) to recognise, promote and enhance the special social, commercial, cultural and civic role that the City of Adelaide plays as the capital city and heart of South Australia; and
- (b) to provide for collaborative arrangements for intergovernmental liaison between the State and The Corporation of the City of Adelaide for the strategic development of the City of Adelaide and the representation of the interests of South Australians not enfranchised to vote in elections for the Corporation; and

- (c) to revise and enhance local governance arrangements for the City of Adelaide; and
- (d) to ensure access to the City of Adelaide for all South Australians.

#### **4—Interpretation**

In this Act, unless the contrary intention appears—

*Adelaide City Council* or *the Council* means The Corporation of the City of Adelaide;

*Capital City Committee* or *the Committee* means the Capital City Committee established by section 6;

*City of Adelaide* means the area of the Adelaide City Council;

*City of Adelaide community* includes all people who live, work, study or conduct business in, or who visit, use or enjoy the services, facilities and public places of, the City of Adelaide;

*council member* means a member of the Adelaide City Council.

#### **5—Interaction with Local Government Act**

- (1) This Act, the *Local Government Act 1999* and the *Local Government (Elections) Act 1999* will be read together and construed as if the three Acts constituted a single Act.
- (2) In the event of an inconsistency between this Act and the *Local Government Act 1999* or the *Local Government (Elections) Act 1999*, the provisions of this Act prevail.

## **Part 2—Collaborative arrangements for the strategic development of the City of Adelaide**

### **Division 1—Establishment of the Capital City Committee**

#### **6—Establishment of the Capital City Committee**

The *Capital City Committee* is established.

#### **7—Membership of the Capital City Committee**

- (1) The Capital City Committee consists of the following members:
  - (a) —
    - (i) the Premier, or a Minister nominated by the Premier; and
    - (ii) two other Ministers nominated by the Premier; and
  - (b) —
    - (i) the Lord Mayor or, if the Lord Mayor chooses not to be a member of the Committee, another member of the Adelaide City Council nominated by the Council; and
    - (ii) two other members of the Adelaide City Council nominated by the Council.

- (2) A person ceases to be a member of the Committee if—
  - (a) in the case of a person holding office as a member under subsection (1)(a)—
    - (i) in the case of a nominee of the Premier under subsection (1)(a)(i)—the nomination is withdrawn by the Premier; or
    - (ii) the person ceases to be a Minister; or
    - (iii) another Minister is nominated in substitution for the person;
  - (b) in the case of a person holding office as a member under subsection (1)(b)—
    - (i) in the case of a nominee of the Adelaide City Council under subsection (1)(b)(i)—the Lord Mayor chooses to become a member of the Committee, or another member of the Council is nominated in substitution for the person; or
    - (ii) the person ceases to be a member of the Adelaide City Council; or
    - (iii) in the case of a nominee of the Adelaide City Council under subsection (1)(b)(ii)—another member of the Adelaide City Council is nominated in substitution for the person.
- (3) The performance of a function or the exercise of a power by the Committee is not affected by a vacancy or vacancies in the membership of the Committee.
- (4) Anything done by or in relation to a person purporting to act under a nomination under this section is not invalid merely because there was a defect or irregularity in connection with the nomination.
- (5) A member of the Committee incurs no civil liability for an honest act or omission in the performance or exercise, or purported performance or exercise, of the member's or the Committee's functions or powers under this Act.
- (6) A civil liability that would, but for subsection (5), attach to a member attaches instead to—
  - (a) in the case of a member holding office under subsection (1)(a)—the Crown;
  - (b) in the case of a member holding office under subsection (1)(b)—the Adelaide City Council.

## **8—Chairperson of the Capital City Committee**

The Premier, or another member of the Committee nominated by the Premier from time to time, will be the Chairperson of the Capital City Committee.

## **9—Deputies**

- (1) The Premier may nominate a Minister to be a deputy of the Premier, or of another Minister, for the purposes of the Capital City Committee.
- (2) The Adelaide City Council may nominate a member of the Council to be a deputy of a member of the Capital City Committee under section 7(1)(b), for the purposes of the Committee.
- (3) A deputy may act as a member of the Committee in the event of the absence or unavailability of the member of the Committee in relation to whom the deputy is appointed.

- (4) Anything done by or in relation to a person purporting to act under a nomination under this section is not invalid merely because—
- (a) there was a defect or irregularity in connection with the nomination; or
  - (b) the occasion to act had not arisen or had ceased.

## **Division 2—Function of the Capital City Committee**

### **10—Function of the Capital City Committee**

- (1) The Capital City Committee is established as an intergovernmental body to enhance and promote the development of the City of Adelaide as the capital city of the State and, for that purpose, may—
- (a) identify and promote key strategic requirements for the economic, social, physical and environmental development and growth of the City of Adelaide as the primary focus for the cultural, educational, tourism, retail and commercial activities of South Australia; and
  - (b) promote and assist in the maximisation of opportunities for the effective co-ordination of public and private resources to meet the key strategic requirements identified by the Committee, and recommend priorities for joint action by the State Government and the Adelaide City Council (within established budget processes and programs); and
  - (c) monitor the implementation of programs designed to promote the development of the City of Adelaide; and
  - (d) make provision for the publication (as appropriate) of key strategies, goals and commitments relevant to the development and growth of the City of Adelaide that have been agreed by the parties who are (or will be) required to undertake responsibility for their implementation or delivery; and
  - (e) collect, analyse and disseminate information about the economic, social, physical and environmental development of the City of Adelaide, with particular emphasis on assessing outcomes and identifying factors that will encourage or facilitate future development within the City of Adelaide; and
  - (f) take on other tasks incidental to the preceding paragraphs.
- (2) The Committee must convene a forum ("the Capital City Forum") drawn from members of the City of Adelaide community determined by the Committee, and seek advice from, or share information with, the members of the forum.

### **11—Programs**

- (1) The Capital City Committee must prepare a Capital City Development Program for consideration by the State Government and the Adelaide City Council.
- (2) The Committee may prepare or adopt other programs.
- (3) A program prepared or adopted by the Committee—
- (a) is subject to endorsement or adoption by the State Government and the Adelaide City Council (unless already so endorsed); and

- (b) is to be taken to be an expression of policy that does not derogate from the ability or power of the State Government or the Adelaide City Council to act in any matter itself, and that does not affect rights or liabilities (whether of a substantive, procedural or other nature).
- (4) The Committee must monitor the implementation of the Capital City Development Program (once endorsed or adopted under subsection (3)) on a regular basis and, to the extent that is appropriate and necessary, ensure that it is revised by the end of February in each year for the purposes of the ensuing financial year.

### **Division 3—Proceedings and operations**

#### **12—Proceedings**

- (1) The Capital City Committee must meet at least four times in each year.
- (2) The proceedings of the Committee will be—
  - (a) as prescribed by regulation; or
  - (b) insofar as the proceedings are not prescribed by regulation—as determined by the Committee.
- (3) A regulation cannot be made for the purposes of subsection (2) except after agreement between the Minister and the Adelaide City Council.

#### **13—Subcommittees**

- (1) The Capital City Committee may establish subcommittees.
- (2) The membership of a subcommittee will be determined by the Committee and may, but need not, consist of, or include, members of the Committee.
- (3) The proceedings of a subcommittee will be—
  - (a) as determined by the Committee; or
  - (b) insofar as the proceedings are not determined by the Committee—as determined by the subcommittee.

#### **14—Staff etc**

- (1) The Premier and the Adelaide City Council will jointly determine the administrative and staffing arrangements for the Capital City Committee.
- (2) The Committee may—
  - (a) by arrangement with the appropriate authority, make use of the services, facilities or staff of a government department, agency or instrumentality;
  - (b) by arrangement with the Adelaide City Council, make use of the services, facilities or staff of the Council.
- (3) The administrative and staffing costs of the Committee must be shared equally between the State and the Adelaide City Council.

#### **15—Delegation**

- (1) The Capital City Committee may delegate a function or power under this Act—
  - (a) to a specified person or body; or

- (b) to a person occupying a specified position.
- (2) A delegation—
  - (a) may be made subject to conditions and limitations specified in the instrument of delegation; and
  - (b) if the instrument of delegation so provides—may be further delegated by the delegate; and
  - (c) is revocable at will and does not prevent the Committee from acting itself in a matter.

## **Division 4—Reporting and review**

### **16—Reporting**

- (1) The Capital City Committee must ensure that a report is prepared by 31 October in each year on the operation of the collaborative arrangements established under or pursuant to this Act during the financial year ending on the preceding 30 June.
- (2) The Premier must ensure that copies of a report prepared under subsection (1) are laid before both Houses of Parliament within 12 sitting days after the report is completed.
- (3) The Lord Mayor must ensure that copies of a report prepared under subsection (1) are presented to the Adelaide City Council within four weeks after the report is completed.

### **17—Review**

- (1) The Premier must ensure that a report is prepared by 30 June 2002 on the operation of the collaborative arrangements established under or pursuant to this Act, and on any changes that should be considered or implemented to improve or enhance those arrangements.
- (2) The Premier must ensure—
  - (a) that the Adelaide City Council is consulted during the preparation of the report under subsection (1); and
  - (b) that any matters raised by the Adelaide City Council for inclusion in the report are so included; and
  - (c) that the Adelaide City Council is given a reasonable opportunity to comment on a final draft of the report.
- (3) The Premier must ensure that copies of the report prepared under subsection (1) are laid before both Houses of Parliament within 12 sitting days after the report is completed.

## **Division 5—Other matters**

### **18—Access to information**

- (1) The following will be taken to be exempt documents for the purposes of the *Freedom of Information Act 1991* and Part 5A of the *Local Government Act 1934*:
  - (a) a document that has been specifically prepared for submission to the Capital City Committee (whether or not it has been so submitted);



- (b) a preliminary draft of a document referred to in paragraph (a);
  - (c) a document that is a copy of a part of, or contains an extract from, a document referred to in paragraph (a) or (b);
  - (d) an official record of the Committee;
  - (e) a document that contains matter the disclosure of which would disclose information concerning any deliberation or decision of the Committee.
- (2) A document is not an exempt document under subsection (1) if—
- (a) it merely consists of factual or statistical material that does not disclose information concerning any deliberation or decision of the Committee; or
  - (b) it is within a class of documents excluded from the operation of subsection (1) by the regulations.
- (3) The Crown and the Adelaide City Council are entitled to access to—
- (a) a document referred to in subsection (1); and
  - (b) any other document in the possession or control of the Committee under this Act.
- (4) However—
- (a) access to a document is not available under subsection (3) in breach of a duty of confidence; and
  - (b) access to a document under subsection (3) may be given on conditions determined by the Committee.
- (5) In this section, a reference to the Committee includes a reference to a subcommittee or delegate of the Committee acting under this Act.

### **19—Committee not to be subject to Parliamentary Committees Act**

The functions and operations of the Capital City Committee may not be subject to inquiry under the *Parliamentary Committees Act 1991*.

## **Part 3—Special arrangements for the Adelaide City Council**

### **Division 1—Constitution of Council**

#### **20—Constitution of Council**

- (1) The Adelaide City Council will be constituted of—
  - (a) the Lord Mayor; and
  - (b) other members.
- (3) A person cannot hold office as Lord Mayor for more than two consecutive terms.
- (4) The Council may resolve to have a Deputy Lord Mayor in accordance with the provisions of the *Local Government Act 1999*.

- (5) The following provisions apply in relation to the application of section 12 of the *Local Government Act 1999* to the Council:
- (a) the Council must, as soon as practicable after the commencement of this subsection, conduct a comprehensive review under section 12 of the *Local Government Act 1999*;
  - (b) despite section 12(18) of the *Local Government Act 1999*, a proposal resulting from the review referred to in paragraph (a) is to take effect as from the polling day for the next periodic election for the City of Adelaide after the commencement of this subsection;
  - (c) despite section 12(4) of the *Local Government Act 1999*, the comprehensive review that is to occur after the review referred to in paragraph (a) must be completed in 2013 (in order to allow proposals resulting from the review to take effect as from the polling day for the periodic election of 2014).

## **Division 2—Role of members**

### **21—Lord Mayor**

The role of the Lord Mayor is—

- (a) as the principal elected member of the Council representing the capital city of South Australia—
  - (i) to provide leadership and guidance to the City of Adelaide community;
  - (ii) to participate in the maintenance of inter-governmental relationships at regional, State and national levels;
  - (iii) to carry out civic and ceremonial duties associated with the office of Lord Mayor; and
- (b) as the principal member of the Council—
  - (i) to provide leadership and guidance to the Council;
  - (ii) to preside at meetings of the Council;
  - (iii) to advise the chief executive officer on the implementation of decisions of the Council between council meetings (as necessary);
  - (iv) to act as the principal spokesperson of the Council;
  - (v) to exercise other functions of the Council as the Council determines.

### **22—Members**

- (1) The role of a member of the Council is—
- (a) as a member of the governing body of the Council—
    - (i) to participate in the deliberations and activities of the Council;
    - (ii) to provide community leadership and guidance to the City of Adelaide community and to participate in achieving a vision for the desired future of the City through the formulation of strategic plans and policies;

- (iii) to keep the Council's goals and policies under review to ensure that they are appropriate and effective;
  - (iv) to keep the Council's resource allocation, expenditure and corporate strategies, and the efficiency and effectiveness of its service delivery, under review;
  - (v) to participate in setting and assessing performance standards to be met under the Council's contract with the chief executive officer;
  - (vi) to serve the overall public interest of the City of Adelaide;
- (b) as a person elected to the Council—to represent the interests of residents and ratepayers and to facilitate communication between the community and the Council.
- (2) The Lord Mayor may authorise another member of the Council to act in place of, or to represent, the Lord Mayor in the performance of a particular function.
  - (3) An authorisation under subsection (2) cannot derogate from the role of a Deputy Lord Mayor under the *Local Government Act 1999*.
  - (4) A member of the Council has no direct authority over an employee of the Council with respect to the way in which the employee performs his or her duties.

## **Division 3—Code of conduct**

### **23—Code of conduct**

- (1) The Council must prepare a code of conduct to be observed by the members of the Council.
- (2) The Council must, within 12 months after each subsequent general election of the Council, complete (and, as appropriate, implement) a review of its code of conduct under this section.
- (3) The Council may at any time alter its code of conduct, or substitute a new code of conduct.
- (4) A code of conduct must be consistent with any principle or requirement prescribed by the regulations and include any mandatory provision prescribed by the regulations.
- (5) A person is entitled to inspect (without charge) the code of conduct of the Council at the principal office of the Council during ordinary office hours.
- (6) A person is entitled, on payment of a fee fixed by the Council, to a copy of the code of conduct of the Council.

## **Division 4—Allowances and benefits**

### **24—Allowances**

- (1) A member of the Council is entitled to receive an annual allowance from the Council for performing and discharging official functions and duties.
- (2) Subject to this section, the Council must, at its first ordinary meeting after the conclusion of each general election, fix or apply the rates of the annual allowances to be payable to its members during the ensuing year.

- (3) The rates of the annual allowances may vary from office to office.
- (4) Subject to this section, the rates must then be reviewed by the Council on an annual basis (but a resolution fixing the rates ceases to have effect at the conclusion of a general election).
- (5) A member of the Council who holds an office for part only of the period in respect of which an allowance is payable is entitled to the proportion of the allowance that the period for which the member held the office bears to the total period.
- (6) Allowances under this section must be paid at times, and in a manner, prescribed by the regulations (unless the member declines to accept payment of an allowance).
- (7) The regulations may—
  - (a) prescribe minimum and maximum amounts within which rates must be set under this section; or
  - (b) prescribe a formula or formulas which must be applied in fixing rates under this section; or
  - (c) fix rates under this section (which must then, in turn, be applied by the Council under this section).
- (8) Regulations made for the purposes of subsection (6) or (7) may make different provision according to the offices to which they are expressed to apply.
- (9) In default of the Council fixing an appropriate rate in accordance with the requirements of this section and the provisions of the regulations under subsection (7) in relation to a particular office, the relevant allowance will be determined as follows:
  - (a) if a regulation under subsection (7)(a) applies in relation to the office—the allowance will be the minimum amount set under the regulation in relation to the office;
  - (b) if a regulation under subsection (7)(b) applies in relation to the office—the allowance will be the amount that applies under the relevant formula in relation to the office;
  - (c) if a regulation applies under subsection (7)(c) in relation to the office—the allowance will be the rate that applies under the relevant regulation.

## **25—Reimbursement of expenses**

- (1) A member of the Council is entitled to receive from the Council—
  - (a) reimbursement of expenses of a kind prescribed for the purposes of this paragraph incurred in performing or discharging official functions and duties; and
  - (b) reimbursement of expenses of a kind prescribed for the purposes of this paragraph, and approved by the Council (either specifically or under a policy established by the Council for the purposes of this section), incurred in performing or discharging official functions and duties.
- (2) A policy under subsection (1)(b) lapses at a general election of the Council.

## **26—Provision of facilities and support**

- (1) The Council may provide facilities and other forms of support to its members to assist the members in performing or discharging official functions and duties.
- (2) The provision of facilities and services under this section is at the discretion of the Council subject to complying with the following requirements:
  - (a) the Council must specifically resolve that the provision of the facilities or services is necessary or expedient to the performance or discharge of official functions or duties;
  - (b) facilities and services must be available to members on a uniform basis (other than facilities or services specifically provided for the benefit of the Lord Mayor);
  - (c) any property provided to a member remains the Council's.
- (3) A member of the Council must not use a facility or service provided by the Council under this section for a purpose unrelated to the performance or discharge of official functions or duties (unless the use has been approved by the Council and the member has agreed to reimburse the Council for any additional costs or expenses associated with this use).

## **Division 5—Specific provisions relating to the chief executive officer**

### **27—Role of the chief executive officer**

The functions of the chief executive officer of the Council include—

- (a) to ensure that the policies and lawful decisions of the Council are implemented in a timely and efficient manner;
- (b) to undertake responsibility for the day-to-day operations and affairs of the Council;
- (c) to provide advice and reports to the Council on the exercise and performance of its powers and functions under this or any other Act;
- (d) to co-ordinate proposals for consideration by the Council for developing objectives, policies and programs for the area;
- (e) to provide information to the Council to assist the Council to assess performance against its strategic, corporate and operational plans;
- (f) to ensure that timely and accurate information about Council policies and programs is regularly provided to the City of Adelaide community, and to ensure that appropriate and prompt responses are given to specific requests for information made to the Council;
- (g) to support and advance the role that the City of Adelaide plays as the capital city of South Australia;
- (h) to ensure that the assets and resources of the Council are properly managed and maintained;
- (i) to ensure that records required under this or another Act are properly kept and maintained;

- (j) to give effect to the principles of human resource management prescribed by the *Local Government Act 1999* and to apply proper management practices;
- (k) to exercise, perform or discharge other powers, functions or duties conferred on the chief executive officer by or under this or other Acts, and to perform other functions lawfully directed by the Council.

## **28—Appointment of staff**

- (1) The chief executive officer is responsible for appointing, managing, suspending and dismissing the other employees of the Council (on behalf of the Council).
- (2) The chief executive officer must ensure that an appointment under subsection (1) is consistent with strategic policies and budgets adopted or approved by the Council.

## **Division 6—Administrative and financial matters**

### **29—Objectives**

The Council must, in the performance of its roles and functions—

- (a) provide open, responsive and accountable government;
- (b) be sensitive to the needs, interests and aspirations of individuals and groups within the City of Adelaide community;
- (c) participate with other councils, and with State and national governments, in setting regional, State and national objectives;
- (d) give due weight, in all its plans, policies and activities, to regional, State and national objectives and strategies concerning the economic, social, physical and environmental development and management of the City of Adelaide;
- (e) seek to co-ordinate with State and national governments in the planning and delivery of services in which those governments have an interest;
- (f) seek to ensure a proper balance within its community between economic, social, environmental and cultural considerations;
- (g) manage its operations and affairs in a manner that emphasises the importance of service to the community;
- (h) seek to ensure that Council resources are used fairly, effectively and efficiently;
- (i) provide services, facilities and programs that are adequate and appropriate and seek to ensure equitable access to its services, facilities and programs.

### **30—Strategic plans**

- (1) The Council should take reasonable steps to undertake, or to participate in, strategic planning for its area, and the State more generally (so far as is relevant to the City of Adelaide).
- (2) The Council should, in undertaking, or participating in, strategic planning seek—
  - (a) to include an assessment of local and wider issues affecting the City of Adelaide and the Council's responses to those issues (including by co-operation with other councils and bodies); and

- (b) to develop policy statements and proposals to address issues associated with the economic, social, physical and environmental development and management of the City of Adelaide; and
- (c) to ensure consistency with the Planning Strategy for the Metropolitan Adelaide under the *Development Act 1993* and other relevant policies and plans; and
- (d) to address other relevant issues.

### **32—Rating policy**

- (1) The Council must, for each financial year commencing with the 1999/2000 financial year, in conjunction with the declaration of rates under the *Local Government Act 1999*, publish a rating policy.
- (2) The policy must indicate the relationship between its corporate plan, its budget and its rate structure and also address the following:
  - (a) the reason why it has adopted the valuation method used by the Council;
  - (b) the use of differential rates in its area and, if differential rates are used, the reasons for the differentiation, and the expected level of revenue to be raised by each differential rate;
  - (c) the use and level of a fixed charge component of a general rate (if applicable);
  - (d) the use and level of any separate rate, service rate or service charge, including the reasons for the rate or charge;
  - (e) issues concerning equity within the community and the impact of rates across the area;
  - (ea) issues of equity arising from circumstances where ratepayers provide or maintain infrastructure that might otherwise be provided or maintained by the Council;
  - (f) the application or operation of a minimum amount payable by way of rates (if applicable);
  - (g) the Council's policy on discretionary rebates, with particular reference to the rebates that will apply for more than one financial year, and including information on how a rebate is designed to meet the purpose behind the rebate;
  - (h) the Council's policy on discretionary rebates and remissions, with particular reference to the rebates that will apply for more than one financial year and including information on how a rebate is designed to meet the purpose behind the rebate;
  - (i) the methods and frequency of payments of rates;
  - (j) the application of penalties for late payments;
  - (k) any other matter prescribed by regulation,and may address other issues considered relevant by the Council.

- (3) The Council must ensure that copies of the policy are available for inspection (without charge) and purchase (on payment of a fee fixed by the Council) by the public at the principal office of the Council.
- (4) The Council must ensure that an abridged or summary version of its policy accompanies each rates notice sent to ratepayers under the *Local Government Act 1999*.
- (5) A rate cannot be challenged on a ground based on non-compliance with this section, or a policy under this section.

### **33—Rate rebates**

- (1) Subject to this section, the Adelaide City Council may only grant a rebate of rates under section 166(1)(a) of the *Local Government Act 1999* for the purpose of securing—
  - (a) a specific development; or
  - (b) a specific kind of development.
- (2) However, subsection (1)(b) only applies to residential development if it is wholly or predominantly intended for the benefit of disadvantaged persons, students or other special groups within the community.
- (3) Subsection (1) applies from 1 July 2003.
- (4) The Council should, to the extent that the operation of this section would otherwise affect the amount of rates imposed on land, on application by a ratepayer, give serious consideration to providing a remission or postponement of rates under subsection (1) of section 182 of the *Local Government Act 1999* (to the extent that the ratepayer is eligible for a remission or postponement under that subsection).

### **34—Financial reporting**

- (1) The Adelaide City Council must include in its financial statements under Chapter 8 Part 3 Division 3 of the *Local Government Act 1999* for each financial year specific information that shows its expenditure, in actual terms and as a percentage of the total expenditure of the Council, in relation to—
  - (a) the Council's commitments under the Capital City Development Program; and
  - (b) works, services and activities that are directly related to the Council's economic development program for the City of Adelaide.
- (2) The Adelaide City Council must include in its annual report under Chapter 8 Part 4 of the *Local Government Act 1999* specific information on the relationship between its corporate plan, rating policy, general revenue raising policies and expenditure policies.
- (3) The Council must, at the request of the Minister, furnish the Minister with such additional information as the Minister may reasonably require concerning the relationship between its corporate plan, rating policy, general revenue raising policies and expenditure policies.



## **Division 7—Register of interests**

### **35—Lodging of returns**

- (2) Every person who is elected as a member of the Adelaide City Council (other than a person who is re-elected as a sitting member of the Council) or is appointed as a member of the Council must, within 30 days after election or appointment, submit to the chief executive officer of the Council a primary return in accordance with Schedule 2.
- (3) Every member of the Adelaide City Council must, on or within 60 days after 30 June in each year, submit to the chief executive officer of the Council an ordinary return in accordance with Schedule 2.
- (4) If a member of the Council fails to submit a return to the chief executive officer within the time allowed under this section, the chief executive officer must as soon as practicable notify the member of that fact.
- (5) A notification under subsection (4) must be given by letter sent to the member by registered mail.
- (6) A member of the Council who submits a return under this section and Schedule 2 that is to the knowledge of the member false or misleading in a material particular (whether by reason of information included in or omitted from the return) is guilty of an offence.

Maximum penalty: \$10 000.

### **36—Creation and inspection of Register**

- (1) The chief executive officer of the Council must maintain a Register of Interests and must cause to be entered in the Register all information furnished pursuant to this Division and Schedule 2.
- (2) A member of the Council who has submitted a return under this Division may at any time notify the chief executive officer of a change or variation in the information appearing on the Register in respect of the member or a person related to the member within the meaning of Schedule 2.
- (3) A person is entitled to inspect (without charge) the Register at the principal office of the Council during ordinary office hours.
- (4) A person is entitled, on payment of a fee fixed by the Council, to a copy of any part of the Register.
- (5) A person must not publish—
  - (a) information derived from the Register unless the information constitutes a fair and accurate summary of the information contained in the Register and is published in the public interest; or
  - (b) comment on the facts set forth in the Register unless the comment is fair and published in the public interest and without malice.

- (6) If information or comment is published by a person in contravention of subsection (5), the person, and any person who authorised the publication of the information or comment, is guilty of an offence.

Maximum penalty: \$10 000.

### **37—Interaction with Local Government Act**

- (1) This Division and Schedule 2 operate in substitution for the provisions of Chapter 5 Part 4 Division 2 of the *Local Government Act 1999* (insofar as they relate to council members).
- (2) A reference in another Part of the *Local Government Act 1999* to a return under Chapter 5 Part 4 Division 2 of that Act will be taken to include a reference to a return under this Division and Schedule 2.

## **Part 4—Miscellaneous**

### **37A—Rundle Mall**

- (1) Rundle Mall (*the Mall*) continues as a pedestrian mall.
- (2) A person must not—
- (a) drive a vehicle on any part of the Mall; or
  - (b) allow a vehicle to be or remain on any part of the Mall,

otherwise than in accordance with a notice or permit published or given by the Adelaide City Council under this section.

Maximum penalty: \$750.

Expiation fee: \$105.

- (3) The Council may, by notice published in the Gazette—
- (a) specify the vehicles that may enter or remain in the Mall (and those vehicles may be defined by reference to vehicles generally, vehicles of a specified class, vehicles used for a specified purpose or by a specified person or persons of a specified class, or vehicles used in specified circumstances);
  - (b) specify the hours or occasions during which vehicles may enter or remain in the Mall (and the hours so specified may vary according to a vehicle or class of vehicles or according to other specified circumstances).
- (4) The Council may, by notice in writing, permit a vehicle to enter and remain in the Mall for the purpose and for the period, and subject to the conditions (if any), specified in the permission.
- (5) A person must not contravene or fail to comply with a condition imposed under subsection (4).
- Maximum penalty: \$750.
- Expiation fee: \$105.
- (6) The Council may, by further notice, vary or revoke a notice or permit published or given under this section.

- (7) In addition to any other power to make by-laws, the Council may make by-laws—
- (a) regulating, controlling or prohibiting any activity in the Mall, or any activity in the vicinity of the Mall, that is, in the opinion of the Council, likely to affect the use or enjoyment of the Mall; and
  - (b) providing for the fixing, and varying or revoking, by resolution of the Council, of fees and charges for the use of the Mall or any part of the Mall for any display, activity or entertainment, or for any service provided or permit issued in or in connection with the Mall, and providing for any matter or thing in connection with the collection or remission of those fees or charges; and
  - (c) regulating any matter or thing connected with the external appearance of a building or structure on, abutting or visible from the Mall; and
  - (d) regulating, controlling or prohibiting the movement or standing of vehicles on access or egress areas to the Mall; and
  - (e) fixing a penalty not exceeding \$250 for a breach of a by-law.
- (8) In any proceedings for an offence against this section, an allegation that a person is the owner of a specified vehicle will, in the absence of proof to the contrary, be taken to be proved.
- (9) If in any proceedings for an offence against this section it is proved that a vehicle was driven, parked, standing or stationary in any place in contravention of this section, it will, in the absence of proof to the contrary, be presumed that the vehicle was driven, parked, left standing or allowed to remain stationary by the owner of the vehicle.
- (10) The *Local Government Act 1934* applies to and in relation to by-laws made under this section as if they were by-laws made under that Act.

### **37B—Corporate name**

The corporate name of the Corporation of Adelaide continues to be *The Corporation of the City of Adelaide*.

### **37C—Boundaries of the City of Adelaide**

The boundaries of the City of Adelaide are the exterior boundaries of the park lands of the city, as delineated on the public maps and plans deposited in the Lands Titles Registration Office, the General Registry Office or the Surveyor-General's Office.

### **38—Regulations**

- (1) The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), the regulations may make specific provision concerning the furnishing of reports and other information to the Adelaide City Council by council members who are members of the Capital City Committee.

## Schedule 1—Special provisions for elections and polls

### Part 1—Entitlement to vote

#### 1—Entitlement to vote

A natural person may only vote in one capacity at an election or poll for the City of Adelaide (but this clause does not prevent a person voting at 2 or more elections for the City of Adelaide held on the same day).

### Part 2—Special provision for next Adelaide City Council election

#### 2—Election date

- (1) Despite section 5 of the *Local Government (Elections) Act 1999*, the next periodic election for the City of Adelaide after the commencement of this clause must be held as soon as practicable after the returning officer is satisfied that the relevant representation review processes have been completed.
- (2) The returning officer must, by public notice, fix 5 p.m. on a day specified in the notice as the time and day on which voting at the election referred to in subclause (1) will close (and the day so fixed will be regarded for all purposes as the **polling day** for the election).
- (3) Despite subclause (1), the day fixed under subclause (2) must be no later than the last business day before the second Saturday of November 2007.
- (4) A notice under subclause (2) must also fix a day for the close of the voters roll for the purposes of the election.
- (5) All subsequent periodic elections for the City of Adelaide are to be held in accordance with the dates set out for all periodic elections in section 5 of the *Local Government (Elections) Act 1999* (that is, voting for the next periodic election after the election referred to in subclause (1) will close at 5 p.m. on the last business day before the second Saturday of November 2010).
- (6) A member of the Adelaide City Council—
  - (a) holding office immediately before the commencement of this clause; or
  - (b) elected or appointed after the commencement of this clause and before the close of nominations for the election referred to in subclause (1),may, subject to this Act, the *Local Government Act 1999* and the *Local Government (Elections) Act 1999*, continue to hold his or her office until the conclusion of the election referred to in subclause (1).
- (7) In this clause—

**relevant representation review processes** means the processes under section 12 of the *Local Government Act 1999* (other than any recovery of costs from the Council) involved in, or resulting from, the review referred to in section 20(5)(a) of this Act.

## Part 7—Counting of votes

### 19—Arranging postal papers

- (2) For the purposes of the scrutiny of voting papers for each election or poll, the returning officer will, with the assistance of any other electoral officers who may be present, and in the presence of any scrutineers who may be present—
- (a) examine the declarations on all envelopes used for voting (and validly returned) and determine which votes are to be accepted for further scrutiny and which rejected from further scrutiny, rejecting unopened—
    - (i) any envelope that forms part of a set of voting papers that have been cancelled under this Schedule;
    - (ii) any two or more envelopes where it appears to the returning officer that the voter has acted in more than one capacity at the particular election or poll;
    - (iii) any envelope where the voter's name does not appear on the voters roll, unless the voter is voting on behalf of a body corporate or group of persons in accordance with this Schedule, or unless the voter's name has been omitted from the roll in error;
    - (iv) any envelope where the voter is purporting to be voting on behalf of a body corporate or group of persons but the returning officer concludes that the voter is in fact attempting to exercise an unauthorised vote;
    - (v) any envelope where the signature does not, to the satisfaction of the returning officer, correspond with the signature on the application (if any) of the voter for the relevant voting papers;
  - (b) tear off the extensions to the envelope flaps on the envelopes accepted under paragraph (a);
  - (c) rearrange the envelopes that no longer bear their tear-off extensions so that the anonymity of voters is maintained;
  - (d) remove the ballot papers from those envelopes;
  - (e) if an envelope contains more than one ballot paper and a scrutineer challenges the number of ballot papers contained in the envelope—satisfy himself or herself that the envelope does not contain more ballot papers than the number to which the voter is entitled and, if the returning officer is not so satisfied, return all of those ballot papers to the envelope and reject them from the count;
  - (f) examine the remaining ballot papers and reject any informal ballot papers;
  - (g) arrange all unrejected ballot papers into appropriate parcels for counting.

## Part 8—Campaign donations and expenditure

### Division 1—Preliminary

#### 22—Interpretation

In this Part—

*disposition of property* means a conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, and includes—

- (a) the allotment of shares in a company; and
- (b) the creation of a trust in property; and
- (c) the grant or creation of a lease, mortgage, charge, servitude, licence, power or partnership or any interest in property; and
- (d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of a debt, contract or chose in action or any interest in property; and
- (e) the exercise by a person of a general power of appointment of property in favour of another person; and
- (f) a transaction entered into by a person with intent thereby to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of another person;

*electoral advertisement* means an advertisement containing electoral material;

*electoral material* means an advertisement, notice, statement or representation calculated to affect the result of an election or poll;

*gift* means a disposition of property made by a person to another person, otherwise than by will, being a disposition made without consideration in money or money's worth or with inadequate consideration, and includes the provision of a service (other than volunteer labour) for no consideration or for inadequate consideration;

*journal* means a newspaper, magazine or other periodical, whether published for sale or for distribution without charge;

*property* includes money;

*registered industrial organisation* means an organisation registered under the *Industrial and Employee Relations Act 1994* or under a law of the Commonwealth or another State or a Territory concerning the registration of industrial organisations.

### Division 2—Returns

#### 23—Returns for candidates

- (1) A person who is a candidate for election to an office of the Adelaide City Council must, within six weeks after the conclusion of the election, furnish to the chief executive officer of the Council, in accordance with the requirements of this Part—
  - (a) a campaign donations return under this Division; and
  - (b) a campaign expenditure return under this Division.
- (2) The returns must be in the prescribed form and completed in the prescribed manner.

## 24—Campaign donations returns

- (1) Subject to this clause, a campaign donations return for a candidate for election to an office of the Adelaide City Council must set out—
  - (a) the total amount or value of all gifts received by the candidate during the disclosure period; and
  - (b) the number of persons who made those gifts; and
  - (c) the amount or value of each gift; and
  - (d) the date on which each gift was made; and
  - (e) in the case of each gift made on behalf of the members of an unincorporated association, other than a registered industrial organisation—
    - (i) the name of the association; and
    - (ii) the names and addresses of the members of the executive committee (however described) of the association; and
  - (f) in the case of each gift purportedly made out of a trust fund or out of the funds of a foundation—
    - (i) the names and addresses of the trustees of the fund or of the funds of the foundation; and
    - (ii) the title or other description of the trust fund or the name of the foundation, as the case requires; and
  - (g) in the case of each other gift—the name and address of the person who made the gift.
- (2) A campaign donations return need not set out any details required by subclause (1) in respect of—
  - (a) a private gift made to the candidate; or
  - (b) a gift if the amount or value of the gift is less than \$500.
- (3) For the purposes of this clause—
  - (a) subject to paragraph (b), the disclosure period is the period that commenced—
    - (i) in relation to a candidate in an election who was a new candidate (other than a candidate referred to in subparagraph (ii))—12 months before polling day for the election;
    - (ii) in relation to a candidate in an election who was a new candidate and when he or she became a candidate in the election was a member of the Council by virtue of having been appointed under the *Local Government Act 1934*—on the day on which the person was so appointed as a member of the Council;
    - (iii) in relation to a candidate in an election who was not a new candidate—at the end of 30 days after polling day for the last preceding election in which the person was a candidate,and that ended, in any of the above cases, at the end of 30 days after polling day for the election;

- (b) for the purposes of the general election held under clause 3(1), the disclosure period for a candidate in the election is the period that commences on the day on which this Part comes into operation and that ends at the end of 30 days after polling day for the election;
  - (c) a candidate is a new candidate, in relation to an election, if the person had not been a candidate in the last general election of the Council and had not been elected at a supplementary election held after the last general election of the Council;
  - (d) two or more gifts (excluding private gifts) made by the same person to a candidate during the disclosure period are to be treated as one gift;
  - (e) a gift made to a candidate is a private gift if it is made in a private capacity to the candidate for his or her personal use and the candidate has not used, and will not use, the gift solely or substantially for a purpose related to an election.
- (4) If no details are required to be included in a return under this clause for a candidate, the return must nevertheless be lodged and must include a statement to the effect that no gifts of a kind required to be disclosed were received.

## **25—Campaign expenditure return**

- (1) Subject to this clause, a campaign expenditure return for a candidate for election to an office of the Adelaide City Council must set out details of all campaign expenditure in relation to the election incurred by or with the authority of the candidate.
- (2) For the purposes of this clause, campaign expenditure, in relation to an election, is expenditure incurred on—
- (a) the broadcasting of an electoral advertisement relating to the election; or
  - (b) the publishing in a journal of an electoral advertisement relating to the election; or
  - (c) the display at a theatre or other place of entertainment, of an electoral advertisement relating to the election; or
  - (d) the production of an electoral advertisement relating to the election, being an advertisement that is broadcast, published or displayed as mentioned in paragraph (a), (b) or (c); or
  - (e) the production of any material (not being material referred to in paragraph (a), (b) or (c)) that is required under section 133 of the *Local Government Act 1934* to include the name and address of the author of the material or of the person who is the printer of the material (in the case of printed electoral material); or
  - (f) consultants' or advertising agents' fees in respect of—
    - (i) services relating to the election; or
    - (ii) material relating to the election; or
  - (g) the carrying out of an opinion poll, or other research, relating to the election; or



- (h) the production and distribution of electoral material that is addressed to particular persons or organisations; or
  - (i) other matters or items of a prescribed kind.
- (3) If a candidate incurred campaign expenditure of a total amount not exceeding \$500 in relation to an election (or incurred no campaign expenditure), the return may be lodged as a "Nil" return.

## **26—Certain gifts not to be received**

- (1) It is unlawful for a member of the Adelaide City Council to receive a gift made to or for the benefit of the member the amount or value of which is not less than \$500 unless—
- (a) the name and address of the person making the gift are known to the member; or
  - (b) at the time when the gift is made, the person making the gift gives to the member his or her name and address and the member has no grounds to believe that the name and address so given are not the true name and address of the person making the gift.
- (2) It is unlawful for a candidate in an election, or a person acting on behalf of a candidate in an election, to an office of the Adelaide City Council to receive a gift made to or for the benefit of the candidate the amount or value of which is not less than \$500 unless—
- (a) the name and address of the person making the gift are known to the person receiving the gift; or
  - (b) at the time when the gift is made, the person making the gift gives to the person receiving the gift his or her name and address and the person receiving the gift has no grounds to believe that the name and address so given are not the true name and address of the person making the gift.
- (3) For the purposes of this clause—
- (a) a reference to a gift made by a person includes a reference to a gift made on behalf of the members of an unincorporated association;
  - (b) a reference to the name and address of a person making a gift is—
    - (i) in the case of a gift made on behalf of the members of an unincorporated association, other than a registered industrial organisation—a reference to—
      - (A) the name of the association; and
      - (B) the names and addresses of the members of the executive committee (however described) of the association; and
    - (ii) in the case of a gift purportedly made out of a trust fund or out of the funds of a foundation—a reference to—
      - (A) the names and addresses of the trustees of the fund or of the funds of the foundation; and
      - (B) the title or other description of the trust fund or the name of the foundation, as the case requires;

- (c) a person who is a candidate in an election is to be taken to remain a candidate for 30 days after the polling day for the election;
  - (d) a reference to a candidate in an election includes a reference to a person who is already a member of the Council.
- (4) If a person receives a gift that, by virtue of this clause, it is unlawful for the person to receive, an amount equal to the amount or value of the gift is payable by that person to the Crown and may be recovered by the Crown as a debt by action, in a court of competent jurisdiction, against the person.

## **27—Inability to complete returns**

If a person who is required to furnish a return under this Division considers that it is impossible to complete the return because he or she is unable to obtain particulars that are required for the preparation of the return, the person may—

- (a) prepare the return to the extent that it is possible to do so without those particulars; and
- (b) furnish the return so prepared; and
- (c) give to the chief executive officer notice in writing—
  - (i) identifying the return; and
  - (ii) stating that the return is incomplete by reason that he or she is unable to obtain certain particulars; and
  - (iii) identifying those particulars; and
  - (iv) setting out the reasons why he or she is unable to obtain those particulars; and
  - (v) if the person believes, on reasonable grounds, that another person whose name and address he or she knows can give those particulars—stating that belief and the reasons for it and the name and address of that other person,

and a person who complies with this clause is not, by reason of the omission of those particulars, to be taken, for the purposes of this Division, to have furnished a return that is incomplete.

## **28—Amendment of returns**

- (1) A person who has furnished a return under this Division may request the permission of the chief executive officer to make a specified amendment of the return for the purpose of correcting an error or omission.
- (2) A request under subclause (1) must—
  - (a) be by notice in writing signed by the person making the request; and
  - (b) be lodged with the chief executive officer.
- (3) If—
  - (a) a request has been made under subclause (1); and
  - (b) the chief executive officer is satisfied that there is an error in, or omission from, the return to which the request relates,

the chief executive officer must amend the return, or permit the person making the request to amend the return, in accordance with the request.

- (4) The amendment of a return under this clause does not affect the liability of a person to be convicted of an offence arising out of the furnishing of the return.

## **29—Offences**

- (1) A person who fails to furnish a return that the person is required to furnish under this Division within the time required by this Division is guilty of an offence.  
Maximum penalty: \$10 000.
- (2) A person who furnishes a return or other information—
  - (a) that the person is required to furnish under this Division; and
  - (b) that contains a statement that is, to the knowledge of the person, false or misleading in a material particular,is guilty of an offence.  
Maximum penalty: \$10 000.
- (3) A person who furnishes to another person who is required to furnish a return under this Division information—
  - (a) that the person knows is required for the purposes of that return; and
  - (b) that is, to that person's knowledge, false or misleading in a material particular,is guilty of an offence.  
Maximum penalty: \$10 000.
- (4) An allegation in a complaint that a specified person had not furnished a return of a specified kind as at a specified date will be taken to have been proved in the absence of proof to the contrary.

## **30—Failure to comply with Division**

- (1) If a person who is required to furnish a return under this Division fails to submit the return within the time required by this Division, the chief executive officer must as soon as practicable notify the person of that fact.
- (2) A notification under subclause (1) must be given by letter sent to the person by registered mail.
- (3) A failure of a person to comply with a provision of this Division in relation to an election does not invalidate that election.

## **Division 3—Public access to information**

### **31—Public inspection of returns**

- (1) The chief executive officer of the Adelaide City Council must keep at the principal office of the Council each return furnished to the chief executive officer under Division 2.
- (2) Subject to this clause, a person is entitled to inspect a copy of a return under Division 2, without charge, during ordinary business hours at the principal office of the Council.

- (3) Subject to this clause, a person is entitled, on payment of a fee fixed by the Council, to obtain a copy of a return under Division 2.
- (4) A person is not entitled to inspect or obtain a copy of a return until the end of eight weeks after the day before which the return was required to be furnished to the chief executive officer.
- (5) The chief executive officer is only required to keep a return under this clause for a period of three years following the election to which the return relates.

### **32—Restrictions on publication**

- (1) A person must not publish—
  - (a) information derived from a return under Division 2 unless the information constitutes a fair and accurate summary of the information contained in the return and is published in the public interest; or
  - (b) comment on the facts set forth in a return under Division 2 unless the comment is fair and published in the public interest and without malice.
- (2) If information or comment is published by a person in contravention of subclause (1), the person, and any person who authorised the publication of the information or comment, is guilty of an offence.

Maximum penalty: \$10 000.

## **Division 4—Related matters**

### **33—Requirement to keep proper records**

- (1) A person must take reasonable steps to keep in his or her possession all records relevant to completing a return under this Part.

Maximum penalty: \$5 000.

- (2) A person must keep a record under subclause (1) for at least three years after the date on which the relevant return is required to be furnished to the chief executive officer of the Council under this Part.

Maximum penalty: \$5 000.

### **34—Related matters**

- (1) For the purposes of this Part, the amount or value of a gift consisting of or including a disposition of property other than money is, if the regulations so provide, to be determined in accordance with principles set out or referred to in the regulations.
- (2) For the purposes of this Part—
  - (a) a body corporate and any other body corporate that is related to the first-mentioned body corporate is to be taken to be the same person; and
  - (b) the question whether a body corporate is related to another body corporate is to be determined in the same manner as under the *Corporations Law*.
- (3) For the purposes of this Part, an act performed by a person or committee appointed or formed to assist the campaign of a candidate in an election will be taken to be an act performed by the candidate.

## Schedule 2—Register of interests—form of returns

### 1—Interpretation

- (1) In this Schedule, unless the contrary intention appears—

*beneficial interest* in property includes a right to re-acquire the property;

*family*, in relation to a council member, means—

- (a) a spouse of the member; and
- (b) a child of the member who is under the age of 18 years and normally resides with the member;

*family company* of a council member means a proprietary company—

- (a) in which the member or a member of the member's family is a shareholder; and
- (b) in respect of which the member or a member of the member's family, or any such persons together, are in a position to cast, or control the casting of, more than one-half of the maximum number of votes that might be cast at a general meeting of the company;

*family trust* of a council member means a trust (other than a testamentary trust)—

- (a) of which the member or a member of the member's family is a beneficiary; and
- (b) which is established or administered wholly or substantially in the interests of the member or a member of the member's family, or any such persons together;

*financial benefit*, in relation to a person, means—

- (a) any remuneration, fee or other pecuniary sum exceeding \$1 000 received by the person in respect of a contract of service entered into, or paid office held by, the person; and
- (b) the total of all remuneration, fees or other pecuniary sums received by the person in respect of a trade, profession, business or vocation engaged in by the person where that total exceeds \$1 000,

but does not include an annual allowance, fees, expenses or other financial benefit payable to the person under this Act or the *Local Government Act 1999*;

*gift* means a transaction in which a benefit of pecuniary value is conferred without consideration or for less than adequate consideration, but does not include an ordinary commercial transaction or a transaction in the ordinary course of business;

*income source*, in relation to a person, means—

- (a) any person or body of persons with whom the person entered into a contract of service or held any paid office; and
- (b) any trade, vocation, business or profession engaged in by the person;

*a person related to a member* means—

- (a) a member of the member's family;

- (b) a family company of the member;
- (c) a trustee of a family trust of the member;

**return period**, in relation to an ordinary return of a council member, means—

- (a) in the case of a member whose last return was a primary return—the period between the date of the primary return and 30 June next following; and
- (b) in the case of any other member—the period of 12 months expiring on 30 June on or within 60 days after which the ordinary return is required to be submitted;

**spouse** includes putative spouse (whether or not a declaration of the relationship has been made under the *Family Relationships Act 1975*);

**trade or professional organisation** means a body, corporate or unincorporate, of—

- (a) employers or employees; or
- (b) persons engaged in a profession, trade or other occupation,

being a body of which the object, or one of the objects, is the furtherance of its own professional, industrial or economic interests or those of any of its members.

- (2) For the purposes of this Schedule, a person who is an object of a discretionary trust is to be taken to be a beneficiary of that trust.
- (3) For the purpose of this Schedule, a person is an investor in a body if—
  - (a) the person has deposited money with, or lent money to, the body that has not been repaid and the amount not repaid equals or exceeds \$10 000; or
  - (b) the person holds, or has a beneficial interest in, shares in, or debentures of, the body or a policy of life insurance issued by the body.
- (4) For the purposes of the Schedule, in relation to a return by a council member—
  - (a) two or more separate contributions made by the same person for or towards the cost of travel undertaken by the member or a member of the member's family during the return period are to be treated as one contribution for or towards the cost of travel undertaken by the member;
  - (b) two or more separate gifts received by the member or a person related to the member from the same person during the return period are to be treated as one gift received by the member;
  - (c) two or more separate transactions to which the member or a person related to the member is a party with the same person during the return period under which the member or a person related to the member has had the use of property of the other person (whether or not being the same property) during the return period are to be treated as one transaction under which the member has had the use of property of the other person during the return period.

## 2—Contents of return

- (1) For the purposes of this Act, a primary return must be in the prescribed form and contain the following information:
  - (a) a statement of any income source that the council member required to submit the return or a person related to the member has or expects to have in the period of 12 months after the date of the primary return; and
  - (b) the name of any company, or other body, corporate or unincorporate, in which the council member or a member of his or her family holds any office whether as director or otherwise; and
  - (c) the information required by subclause (3).
- (2) For the purposes of this Act, an ordinary return must be in the prescribed form and contain the following information:
  - (a) if the council member required to submit the return or a person related to the member received, or was entitled to receive, a financial benefit during any part of the return period—the income source of the financial benefit; and
  - (b) if the council member or a member of his or her family held an office whether as director or otherwise in any company or other body, corporate or unincorporate, during the return period—the name of the company or other body; and
  - (c) the source of any contribution made in cash or in kind of or above the amount or value of \$750 (other than any contribution by the Council, by the State, by an employer or by a person related by blood or marriage) for or towards the cost of any travel beyond the limits of South Australia undertaken by the council member or a member of his or her family during the return period, and for the purposes of this paragraph *cost of travel* includes accommodation costs and other costs and expenses associated with the travel; and
  - (d) particulars (including the name of the donor) of any gift of or above the amount or value of \$750 received by the council member or a person related to the member during the return period from a person other than a person related by blood or marriage to the member or to a member of the member's family; and
  - (e) if the council member or a person related to the member has been a party to a transaction under which the member or person related to the member has had the use of property of the other person during the return period and—
    - (i) the use of the property was not acquired for adequate consideration or through an ordinary commercial transaction or in the ordinary course of business; and
    - (ii) the market price for acquiring a right to such use of the property would be \$750 or more; and
    - (iii) the person granting the use of the property was not related by blood or marriage to the member or to a member of the member's family—  
the name and address of that person; and
  - (f) the information required by subclause (3).

- (3) For the purposes of this Act, a return (whether primary or ordinary) must contain the following information:
- (a) the name or description of any company, partnership, association or other body in which the council member required to submit the return or a person related to the member is an investor; and
  - (b) the name of any political party, any body or association formed for political purposes or any trade or professional organisation of which the council member is a member; and
  - (c) a concise description of any trust (other than a testamentary trust) of which the council member or a person related to the member is a beneficiary or trustee (including the name and address of each trustee); and
  - (d) the address or description of any land in which the council member or a person related to the member has any beneficial interest other than by way of security for any debt; and
  - (e) any fund in which the council member or a person related to the member has an actual or prospective interest to which contributions are made by a person other than the member or a person related to the member; and
  - (f) if the council member or a person related to the member is indebted to another person (not being related by blood or marriage to the member or to a member of the member's family) in an amount of or exceeding \$7 500—the name and address of that other person; and
  - (g) if the council member or a person related to the member is owed money by a natural person (not being related to the member or a member of the member's family by blood or marriage) in an amount of or exceeding \$10 000—the name and address of that person; and
  - (h) any other substantial interest whether of a pecuniary nature or not of the council member or of a person related to the member of which the member is aware and which he or she considers might appear to raise a material conflict between his or her private interest and the public duty that he or she has or may subsequently have as a member.
- (4) A council member is required by this clause only to disclose information that is known to the member or ascertainable by the member by the exercise of reasonable diligence.
- (5) Nothing in this clause requires a council member to disclose information relating to a person as trustee of a trust unless the information relates to the person in the person's capacity as trustee of a trust by reason of which the person is related to the member.
- (6) A council member may include in a return such additional information as the member thinks fit.
- (7) Nothing in this clause will be taken to prevent a council member from disclosing information required by this clause in such a way that no distinction is made between information relating to the member personally and information relating to a person related to the member.
- (8) Nothing in this clause requires disclosure of the actual amount or extent of a financial benefit, gift, contribution or interest.



## Legislative history

### Notes

- Amendments of this version that are uncommenced are not incorporated into the text.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Legislation repealed by principal Act

The *City of Adelaide Act 1998* repealed the following:

*Rundle Street Mall Act 1975*

### Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1998	47	<i>City of Adelaide Act 1998</i>	3.9.1998	10.9.1998 ( <i>Gazette 10.9.1998 p814</i> ) except s 31—3.9.1998: s 2(2) and except ss 6—19, 21—30 and 32—37—14.12.1998 ( <i>Gazette 3.12.1998</i> <i>p1674</i> )
1999	38	<i>City of Adelaide (Rundle Mall)</i> <i>Amendment Act 1999</i>	5.8.1999	25.11.1999 ( <i>Gazette 25.11.1999 p2434</i> )
1999	39	<i>Road Traffic (Road Rules) Amendment</i> <i>Act 1999</i>	5.8.1999	1.12.1999 ( <i>Gazette 11.11.1999 p2254</i> )
1999	64	<i>Local Government (Implementation)</i> <i>Act 1999</i>	18.11.1999	s 5—1.1.2000 ( <i>Gazette 9.12.1999 p3113</i> )
2005	35	<i>Statutes Amendment (Local</i> <i>Government Elections) Act 2005</i>	14.7.2005	Pt 2 (ss 4—9) & Sch 1 (cll 1—4, 5(2), 6—9)—18.8.2005; Sch 1 (cl 5(1))—1.1.2006 ( <i>Gazette 18.8.2005</i> <i>p3058</i> )
2005	60	<i>Local Government (Financial</i> <i>Management and Rating) Amendment</i> <i>Act 2005</i>	1.12.2005	Sch 1 (cll 1 & 2)—uncommenced
2005	69	<i>Adelaide Park Lands Act 2005</i>	8.12.2005	Sch 1 (cl 2)—14.12.2006 ( <i>Gazette</i> <i>7.12.2006 p4269</i> )
<b>2006</b>	<b>6</b>	<b><i>City of Adelaide (Representation</i> <i>Review) Amendment Act 2006</i></b>	<b>29.6.2006</b>	<b>29.6.2006</b>

## Provisions amended

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Pt 1		
s 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	18.8.2005
s 4		
<i>relevant day</i>	<i>deleted by 35/2005 s 4</i>	18.8.2005
s 5		
s 5(1)	amended by 64/1999 s 5(a)	1.1.2000
s 5(2)	amended by 64/1999 s 5(b)	1.1.2000
Pt 3		
s 20		
s 20(1)	amended by 35/2005 s 5(1) <b>amended by 6/2006 s 3(1)</b>	18.8.2005 <b>29.6.2006</b>
s 20(2)	<i>deleted by 6/2006 s 3(2)</i>	<b>29.6.2006</b>
s 20(4)	amended by 64/1999 s 5(c)	1.1.2000
s 20(5)	amended by 64/1999 s 5(d)—(g) amended by 35/2005 s 5(2)—(4) <b>substituted by 6/2006 s 3(3)</b>	1.1.2000 18.8.2005 <b>29.6.2006</b>
s 20(6)	<i>inserted by 35/2005 s 5(5)</i> <b>deleted by 6/2006 s 3(3)</b>	18.8.2005 <b>29.6.2006</b>
s 22		
s 22(3)	amended by 64/1999 s 5(h)	1.1.2000
s 23		
s 23(1)	amended by 35/2005 s 6	18.8.2005
s 24		
s 24(1)	amended by 64/1999 s 5(i)	1.1.2000
s 24(2)	substituted by 35/2005 s 7(1)	18.8.2005
s 24(3)	substituted by 64/1999 s 5(j)	1.1.2000
s 24(4)	substituted by 64/1999 s 5(j) amended by 35/2005 s 7(2)	1.1.2000 18.8.2005
s 24(5) and (6)	substituted by 64/1999 s 5(j)	1.1.2000
s 24(7)	substituted by 64/1999 s 5(j) substituted by 35/2005 s 7(3)	1.1.2000 18.8.2005
s 24(8)	inserted by 64/1999 s 5(j)	1.1.2000
s 24(9)	inserted by 64/1999 s 5(j) substituted by 35/2005 s 7(4)	1.1.2000 18.8.2005
s 25	substituted by 64/1999 s 5(k)	1.1.2000
s 27	amended by 64/1999 s 5(l)	1.1.2000
s 29	amended by 64/1999 s 5(m)	1.1.2000

s 31	<i>deleted by 39/1999 Sch cl 2</i>	1.12.1999
s 32		
s 32(1)	amended by 64/1999 s 5(n)	1.1.2000
s 32(2)	amended by 64/1999 s 5(o)—(q)	1.1.2000
s 32(4)	amended by 64/1999 s 5(r)	1.1.2000
s 32	deleted by 60/2005 Sch 1 cl 1	uncommenced—not incorporated
s 33		
s 33(1)	amended by 64/1999 s 5(s)	1.1.2000
s 33(4)	amended by 64/1999 s 5(t)	1.1.2000
s 33	deleted by 60/2005 Sch 1 cl 1	uncommenced—not incorporated
s 34		
s 34(1)	amended by 64/1999 s 5(u)	1.1.2000
s 34(2)	amended by 64/1999 s 5(v)	1.1.2000
	amended by 60/2005 Sch 1 cl 2(1)	uncommenced—not incorporated
s 34(3)	amended by 60/2005 Sch 1 cl 2(2)	uncommenced—not incorporated
s 35		
s 35(1)	<i>deleted by 64/1999 s 5(w)</i>	1.1.2000
s 35(2)	amended by 64/1999 s 5(x)	1.1.2000
s 37		
s 37(1)	amended by 64/1999 s 5(y)	1.1.2000
s 37(2)	amended by 64/1999 s 5(z)	1.1.2000
Pt 4		
s 37A	inserted by 38/1999 s 3	25.11.1999
s 37B	inserted by 64/1999 s 5(za)	1.1.2000
s 37C	inserted by 64/1999 s 5(za)	1.1.2000
	substituted by 69/2005 Sch 1 cl 2	uncommenced—not incorporated
<i>s 39 before deletion by 35/2005</i>		
s 39(2)	<i>amended by 64/1999 s 5(zb)</i>	1.1.2000
s 39	<i>deleted by 35/2005 s 8</i>	18.8.2005
Sch 1		
Pt 1	substituted by 35/2005 s 9(1)	18.8.2005
<i>Pt 2 before deletion by 35/2005</i>		
cl 3	<i>deleted by 64/1999 s 5(zc)</i>	1.1.2000
cl 4	<i>amended by 64/1999 s 5(zd), (ze)</i>	1.1.2000
Pt 2	deleted by 35/2005 s 9(1)	18.8.2005
	<b>inserted by 6/2006 s 4</b>	<b>29.6.2006</b>
<i>Pt 3 before deletion by 35/2005</i>		
cl 5		
cl 5(3) and (4)	<i>substituted by 64/1999 s 5(zf)</i>	1.1.2000
cl 5(5)	<i>inserted by 64/1999 s 5(zf)</i>	1.1.2000
cl 6	<i>substituted by 64/1999 s 5(zg)</i>	1.1.2000

<i>Pt 3</i>	<i>deleted by 35/2005 s 9(1)</i>	<i>18.8.2005</i>
<i>Pt 4 before deletion by 35/2005</i>		
<i>cl 7</i>		
<i>cl 7(8)</i>	<i>substituted by 64/1999 s 5(zh)</i>	<i>1.1.2000</i>
<i>cl 7(9)</i>	<i>amended by 64/1999 s 5(zi)</i>	<i>1.1.2000</i>
<i>cl 7(10)</i>	<i>substituted by 64/1999 s 5(zj)</i>	<i>1.1.2000</i>
<i>cl 7(11)</i>	<i>inserted by 64/1999 s 5(zk)</i>	<i>1.1.2000</i>
<i>cl 8</i>		
<i>cl 8(1)</i>	<i>substituted by 64/1999 s 5(zl)</i>	<i>1.1.2000</i>
<i>cl 8(2)</i>	<i>amended by 64/1999 s 5(zm)</i>	<i>1.1.2000</i>
<i>cl 8(3)</i>	<i>inserted by 64/1999 s 5(zn)</i>	<i>1.1.2000</i>
<i>cl 9</i>		
<i>cl 9(4)</i>	<i>inserted by 64/1999 s 5(zo)</i>	<i>1.1.2000</i>
<i>Pt 4</i>	<i>deleted by 35/2005 s 9(1)</i>	<i>18.8.2005</i>
<i>Pt 5 before deletion by 35/2005</i>		
<i>cl 12</i>		
<i>cl 12(1)</i>	<i>amended by 64/1999 s 5(zp)</i>	<i>1.1.2000</i>
<i>cl 12(2)</i>	<i>amended by 64/1999 s 5(zq)</i>	<i>1.1.2000</i>
<i>cl 12(3)—(6)</i>	<i>substituted by 64/1999 s 5(zr)</i>	<i>1.1.2000</i>
<i>cl 12(8)</i>	<i>amended by 64/1999 s 5(zs)</i>	<i>1.1.2000</i>
<i>cl 12(9)</i>	<i>amended by 64/1999 s 5(zt), (zu)</i>	<i>1.1.2000</i>
<i>cl 12(10) and (11)</i>	<i>substituted by 64/1999 s 5(zv)</i>	<i>1.1.2000</i>
<i>cl 14</i>		
<i>cl 14(3)</i>	<i>amended by 64/1999 s 5(zw)</i>	<i>1.1.2000</i>
<i>cl 15</i>	<i>amended by 64/1999 s 5(zx)</i>	<i>1.1.2000</i>
<i>Pt 5</i>	<i>deleted by 35/2005 s 9(1)</i>	<i>18.8.2005</i>
<i>Pt 6</i>	<i>deleted by 35/2005 s 9(1)</i>	<i>18.8.2005</i>
<i>Pt 7</i>		
<i>cl 19</i>		
<i>cl 19(1)</i>	<i>deleted by 35/2005 s 9(2)</i>	<i>18.8.2005</i>
<i>cl 20</i>	<i>deleted by 64/1999 s 5(zy)</i>	<i>1.1.2000</i>
<i>cl 21 before deletion by 35/2005</i>		
<i>cl 21(3)</i>	<i>amended by 64/1999 s 5(zz)</i>	<i>1.1.2000</i>
<i>cl 21</i>	<i>deleted by 35/2005 s 9(3)</i>	<i>18.8.2005</i>
<i>Pt 8</i>		
<i>cl 31</i>		
<i>cl 31(5)</i>	<i>inserted by 64/1999 s 5(zza)</i>	<i>1.1.2000</i>
<i>cl 33</i>		
<i>cl 33(2)</i>	<i>amended by 64/1999 s 5(zzb)</i>	<i>1.1.2000</i>

Sch 2

cl 1

cl 1(1)

financial benefit amended by 64/1999 s 5(zzc)

1.1.2000

## **Transitional etc provisions associated with Act or amendments**

### ***City of Adelaide (Rundle Mall) Amendment Act 1999***

#### **4—Repeal of *Rundle Street Mall Act 1975***

- (2) A notice or permit in force under the *Rundle Street Mall Act 1975* immediately before the commencement of this section will continue and have effect as if published or given under section 37A of the principal Act (as enacted by this Act).
- (3) A by-law in force under the *Rundle Street Mall Act 1975* immediately before the commencement of this section will continue in force as if made under section 37A of the principal Act (as enacted by this Act).
- (4) The repeal of the *Rundle Street Mall Act 1975* does not affect the operation or recovery of a special rate declared under section 9 of that Act before the commencement of this section.
- (5) Any asset or liability of the Rundle Mall Committee immediately before the repeal of the *Rundle Street Mall Act 1975* vests in The Corporation of the City of Adelaide.

### ***Statutes Amendment (Local Government Elections) Act 2005,* *Sch 1—Transitional provisions***

#### **1—Interpretation**

In this Schedule—

**2006 periodic elections** means the periodic elections to determine the membership of councils to be held in 2006 according to section 5 of the *Local Government (Elections) Act 1999*, as substituted by this Act.

#### **2—Term of office**

A member of a council—

- (a) holding office immediately before the commencement of this clause; or
- (b) elected or appointed after the commencement of this clause and before the close of nominations for the 2006 periodic elections,

may, subject to the provisions of the *Local Government Act 1999*, the *Local Government (Elections) Act 1999* or the *City of Adelaide Act 1998* (as the case requires), continue to hold his or her office until the conclusion of the 2006 periodic elections for the relevant office.

### 3—Allowances

- (1) A council may—
  - (a) review the allowances to be payable to its members under section 24 of the *City of Adelaide Act 1998* or section 76 of the *Local Government Act 1999* (as the case requires) to take into account any relevant provision made by regulation on account of the enactment of this Act;
  - (b) as may be required, fix or apply allowances for any period up to the conclusion of the 2006 periodic election.
- (2) An allowance under subclause (1) must be recorded in the Register of Allowances and Benefits for the relevant council.

### 4—Training and development policy

A council is not required to have a training and development policy under section 80A of the *Local Government Act 1999* until 1 July 2006.

### 5—Rolls and electoral processes

- (1) The chief executive officer of a council cannot rely on subsection (8) of section 14 of the *Local Government (Elections) Act 1999* (as enacted by this Act) with respect to an entry on a voters roll at the time of the commencement of this subclause unless—
  - (a) the chief executive officer has sent a notice addressed to the relevant person at the rateable property advising the person about the operation of that section and the entitlements that apply with respect to the enrolment of residents; and
  - (b) the chief executive officer receives no reply within 28 days of the notice (or receives a reply within that period but the reply does not establish, to the satisfaction of the chief executive officer, that the person is an occupier within the ambit of section 14(1)(a)(iv) or (c)(iv) of the *Local Government (Elections) Act 1999*).
- (2) To avoid doubt—
  - (a) any roll prepared under Schedule 1 of the *City of Adelaide Act 1998* will, until revised, have effect under the *Local Government (Elections) Act 1999*; and
  - (b) any application or other process made, commenced or dealt with under the *City of Adelaide Act 1998* will (if relevant) have effect for the purposes of the *Local Government (Elections) Act 1999*.

### 6—Review of council structures

- (1) If a council has, before the commencement of this clause, commenced a review under section 12 of the *Local Government Act 1999* by the publication of a notice under subsection (5) of that section (as in existence before the amendment of that section by this Act), the council may continue with the process as set out in that section as if it had not been amended until an appropriate certificate is obtained from the Electoral Commissioner under that section.
- (2) However, if—
  - (a) a proposal within the ambit of subclause (1) proposes that the composition of the relevant council be altered so that—

- (i) the council will have a chairperson rather than a mayor; or
  - (ii) the council will have a mayor rather than a chairperson; and
- (b) the council has not, before the commencement of this clause, referred its report on the proposal to the Electoral Commissioner under section 12(12) of the *Local Government Act 1999*,

the proposal cannot proceed unless or until it is approved at a poll in the manner contemplated by section 12(11c) and (11d) of the *Local Government Act 1999* as enacted by this Act.

- (3) A proposal within the ambit of subclause (1) will then take effect in accordance with section 12(11b) and (18) of the *Local Government Act 1999* as enacted by this Act.

## 7—Change to principal member

- (1) In addition to the operation of clause 6, if, at the time of the commencement of this clause—
- (a) —
    - (i) a council is undertaking a review of its composition under section 12 of the *Local Government Act 1999* and has referred its report on its proposal or proposals to the Electoral Commissioner under subsection (12) of that section; and
    - (ii) a proposal is that the composition of the council be altered so that—
      - (A) the council will have a chairperson rather than a mayor; or
      - (B) the council will have a mayor rather than a chairperson; or
  - (b) —
    - (i) a council has completed a review under section 12 of the *Local Government Act 1999*; and
    - (ii) a proposal arising from the review is that the composition of the council be altered so that—
      - (A) the council will have a chairperson rather than a mayor; or
      - (B) the council will have a mayor rather than a chairperson; and
    - (iii) the composition of the council is to be altered as from the next general election of members of the council,

then despite the operation of section 12 of the *Local Government Act 1999* (and anything that would otherwise take effect if it were not for the operation of this provision), the proposal cannot take effect unless or until it is approved at a poll of electors for the relevant area as if it were a proposal within the ambit of clause 6(2) (and accordingly subject to the requirements of section 12(11c) and (11d) of the *Local Government Act 1999* as enacted by this Act).

- (2) A proposal that is approved under subclause (1) will then have effect in accordance with a determination of the Electoral Commissioner under this clause.

## 8—Special provision—LGFA

- (1) In this clause—  
*representative member of the LGFA Board* means a representative member of the Board of the Local Government Finance Authority of South Australia.
- (2) The Governor may, by proclamation—
  - (a) extend the term of office of a person who, immediately before the date of the proclamation, is a representative member of the LGFA Board to a date fixed by the proclamation;
  - (b) fix the term of office of a person who is to be elected or appointed (including by virtue of being re-elected or re-appointed) as a representative member of the LGFA Board to fill an office that will become vacant on the date fixed under paragraph (a).
- (3) A proclamation under this clause has effect despite section 8(1) of the *Local Government Finance Authority Act 1983*.

## 9—Other provisions

- (1) The Governor may, by regulation, make additional provisions of a saving or transitional nature consequent on the enactment of this Act.
- (2) A provision of a regulation made under subclause (1) may, if the regulation so provides, take effect from the commencement of this Act or from a later day.
- (3) To the extent to which a provision takes effect under subclause (2) from a day earlier than the day of the regulation's publication in the Gazette, the provision does not operate to the disadvantage of a person by—
  - (a) decreasing the person's rights; or
  - (b) imposing liabilities on the person.
- (4) The *Acts Interpretation Act 1915* will, except to the extent of any inconsistency with the provisions of this Schedule (or regulations made under this clause), apply to any amendment or repeal effected by this Act.

## *City of Adelaide (Representation Review) Amendment Act 2006*

### 5—Expiry of certain provisions

The following provisions of the *City of Adelaide Act 1998* will expire on 10 November 2007:

- (a) subsection (5) of section 20;
- (b) Part 2 of Schedule 1.

## Historical versions

Reprint No 1—1.12.1999

Reprint No 2—1.1.2000

18.8.2005

1.1.2006 (electronic only)