

South Australia

# History Trust of South Australia Act 1981

An Act to establish the History Trust of South Australia; to define its powers and functions; and for other purposes.

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## 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 *History Trust of South Australia Act 1981*.

### 4—Interpretation

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

***employing authority*** means the person designated by proclamation as being the employing authority for the purposes of this definition;

***member*** of the Trust includes the Chairman;

***museum*** means premises in which objects illustrative of, or relevant to, the history of the State are cared for and exhibited (whether or not the premises are devoted exclusively to the care or exhibition of such objects);

***object*** includes a document, picture, specimen or artifact (but does not include an item as defined in the *South Australian Heritage Act 1978* or the *Aboriginal Heritage Act 1979*);

***the Trust*** means the History Trust of South Australia established under Part 2 of this Act.

- (2) A proclamation made for the purposes of the definition of ***employing authority***—
- (a) may apply by reference to a specified person, or by reference to the person for the time being holding or acting in a specified office or position; and
  - (b) may, from time to time as the Governor thinks fit, be varied or substituted by a new proclamation.

### 6—This Act not to affect operation of certain other Acts

This Act does not affect the operation of—

- (a) the *South Australian Museum Act 1976*; or
- (b) the *South Australian Heritage Act 1978*; or
- (c) the *Aboriginal Heritage Act 1979*.

## Part 2—The History Trust of South Australia

### Division 1—Constitution of the Trust

#### 7—Establishment of the Trust

- (1) There shall be a body entitled the *History Trust of South Australia*.

- (2) The Trust—
  - (a) shall be a body corporate with perpetual succession and a common seal; and
  - (b) shall be capable of suing and being sued; and
  - (c) shall be capable in its corporate name of acquiring, holding and disposing of real and personal property; and
  - (d) shall be capable of acquiring or incurring any other rights or liabilities; and
  - (e) shall have the powers, authorities, duties and obligations prescribed by or under this Act.
- (3) Where an apparently genuine document purports to bear the common seal of the Trust, it shall be presumed in any legal proceedings, in the absence of proof to the contrary, that the common seal of the Trust was duly affixed to that document.
- (4) The Trust shall be subject to the control and direction of the Minister.

### **8—Membership of the Trust**

- (1) The Trust shall consist of eight members appointed by the Governor.
- (2) One of the members of the Trust shall be appointed by the Governor to be Chairman of the Trust.
- (3) The Governor may appoint a suitable person to be a deputy of a member of the Trust and a person so appointed may act as a member of the Trust in the absence of the member of whom he has been appointed a deputy.

### **9—Conditions of membership**

- (1) A member of the Trust shall be appointed—
  - (a) if he is one of the first members of the Trust—for a term of office not exceeding three years specified in the instrument of his appointment;
  - (b) in any other case—for a term of three years.
- (2) A member of the Trust shall, upon the expiration of a term of appointment, be eligible for re-appointment but no member shall be appointed for more than three consecutive terms.
- (3) The Governor may remove a member of the Trust from office for—
  - (a) mental or physical incapacity that prevents the member from satisfactorily carrying out his duties as such; or
  - (b) neglect of duty; or
  - (c) dishonourable conduct.
- (4) The office of a member of the Trust becomes vacant if—
  - (a) he dies; or
  - (b) his term of office expires; or
  - (c) he resigns by written notice addressed to the Minister; or
  - (d) he is removed by the Governor under subsection (3).

- (5) Upon the office of a member of the Trust becoming vacant, a person shall be appointed in accordance with this Act to the vacant office, but where the office of a member becomes vacant before the expiration of the term for which he was appointed, a person appointed to the vacant office shall be appointed only for the balance of that term.

### **11—Remuneration, allowances and expenses**

A member of the Trust shall, if the Minister thinks fit, be entitled to such remuneration, allowances and expenses as may be determined by the Minister.

### **12—Procedure at meetings of the Trust**

- (1) Five members of the Trust shall constitute a quorum of the Trust.
- (2) The Chairman shall preside at every meeting of the Trust at which he is present, and in the absence of the Chairman, a member chosen by the members present at the meeting shall preside.
- (3) A decision carried by a majority of the votes of the members present at a meeting of the Trust shall be a decision of the Trust.
- (4) Each member present at a meeting shall be entitled to one vote on any matter arising for decision at that meeting, and in the event of an equality of votes on any matter, the person presiding at the meeting shall have a second, or casting, vote.
- (5) The Trust shall cause minutes to be kept of its proceedings at meetings.
- (6) Subject to this Act, the business of the Trust shall be conducted in such manner as the Trust may determine.

### **13—Validity of acts of Trust**

- (1) An Act or proceeding of the Trust shall not be invalid by reason only of a vacancy, or vacancies, in its membership.

## **Division 2—Functions and powers of the Trust**

### **14—Functions and powers of the Trust**

- (1) The functions of the Trust are as follows:
- (a) to carry out, or promote, research relevant to the history of the State; and
  - (b) to accumulate and classify data on any subject of significance to the history of the State; and
  - (c) to accumulate and care for objects of historical interest; and
  - (d) to exhibit objects of historical or cultural interest; and
  - (e) to maintain registers of objects of historical significance to the State; and
  - (f) to manage and administer museums and other premises that are vested in, or placed under the care, control and management of the Trust; and
  - (g) to provide facilities for light refreshment and other amenities in premises vested in or placed under the care, control and management of the Trust; and

- (h) to accredit or otherwise to evaluate museums, and to advise the Minister on the operation of museums and on the allocation of funds or other forms of assistance that may be available for the promotion or development of museums; and
  - (i) to disseminate, or encourage the dissemination of, information relevant to the history of the State; and
  - (j) to encourage the conservation of objects of historical significance to the State; and
  - (k) to advise the Minister on the conservation of objects in the ownership or possession of the Crown that are of historical significance to the State (and, as appropriate, to assume the management of such objects); and
  - (l) to perform any other functions assigned to the Trust by or under this Act.
- (2) For the purpose, or in the course, of performing its functions, the Trust may—
- (a) establish sub-committees (which may, but need not, consist of, or include, members of the Trust) to advise the Trust on any aspect of its functions;
  - (b) delegate any of its powers under this Act to a sub-committee, member of the Trust or other person;
  - (c) purchase, receive, take on hire or loan, or otherwise acquire objects of historical or cultural interest;
  - (d) sell, lend, or exchange objects of historical or cultural interest;
  - (e) purchase, receive, take on hire or loan, or otherwise acquire, hold, deal with or dispose of real or personal property;
  - (f) make charges for admission to any museum or premises vested in, or under the care, control and management of, the Trust;
  - (g) make charges for any services or amenities provided by the Trust;
  - (h) apply for, and hold, licences under the *Licensing Act 1967*;
  - (i) enter into any contract or arrangement relevant to the functions of the Trust.
- (3) A delegation under subsection (2)(b) is revocable at will and does not derogate from the power of the Trust to act itself in any matter.
- (4) A member of the Trust has no authority to act on behalf of the Trust except to the extent that such an authority is conferred on him by delegation or resolution of the Trust (but this subsection does not prevent the subsequent ratification by the Trust of an act of a member done purportedly on behalf of the Trust).
- (5) The Trust is not obliged to accept or retain material that is not, in the opinion of the Trust, of sufficient historical or cultural interest to justify preservation under this Act.
- (6) Where the Trust accepts a gift or bequest of an object of historical or cultural interest, it shall not, without the consent of the Minister, sell or dispose of that object.

## Division 3—Historic premises

### 15—Historic premises

- (2) Where—
  - (a) premises situated upon land of the Crown are, in the opinion of the Governor, of historical significance to the State; or
  - (b) it would, in the opinion of the Governor, be otherwise expedient for land of the Crown to be placed under the care, control and management of the Trust, the Governor may place that land under the care, control and management of the Trust.
- (3) Land placed under the care, control and management of the Trust, by or under this section shall be administered by the Trust in accordance with the provisions of this Act.

## Division 4—Staff of the Trust

### 16—Staffing arrangements

- (1) The employing authority may employ staff to perform activities in connection with the operations or activities of the Trust.
- (2) The terms and conditions of employment of a person under subsection (1) will be determined by the employing authority.
- (3) A person employed under this section will be taken to be employed by or on behalf of the Crown (but will not be employed in the Public Service of the State unless brought into an administrative unit under the *Public Sector Act 2009*).
- (4) The employing authority may direct a person employed under this section to perform functions in connection with the operations or activities of a public sector agency specified by the employing authority (and the person must comply with that direction).
- (5) The employing authority is, in acting under this section, subject to direction by the Minister.
- (6) However, no Ministerial direction may be given by the Minister relating to the appointment, transfer, remuneration, discipline or termination of a particular person.
- (7) The employing authority may delegate a power or function under this section.
- (8) A delegation under subsection (7)—
  - (a) must be by instrument in writing; and
  - (b) may be made to a body or person (including a person for the time being holding or acting in a specified office or position); and
  - (c) may be unconditional or subject to conditions; and
  - (d) may, if the instrument of delegation so provides, allow for the further delegation of a power or function that has been delegated; and
  - (e) does not derogate from the power of the employing authority to act personally in any matter; and

- (f) may be revoked at any time by the employing authority.
- (9) A change in the person who constitutes the employing authority under this Act will not affect the continuity of employment of a person under this section.
- (10) The Trust must, at the direction of the Minister, the Treasurer or the employing authority, make payments with respect to any matter arising in connection with the employment of a person under this section (including, but not limited to, payments with respect to salary or other aspects of remuneration, leave entitlements, superannuation contributions, taxation liabilities, workers compensation payments, termination payments, public liability insurance and vicarious liabilities).
- (11) The Trust does not have the power to employ any person.
- (12) The Trust may, under an arrangement established by the Minister administering an administrative unit, make use of the services or staff of that administrative unit.
- (13) In this section—  
*public sector agency* has the same meaning as in the *Public Sector Act 2009*.

## **Division 5—Financial provisions**

### **17—Dealings with moneys of the Trust**

- (1) All moneys received by the Trust shall be paid into an ADI account established by the Trust.
- (2) An ADI account established by the Trust shall be operated by cheque signed and countersigned by such persons as the Trust may appoint for the purpose.
- (3) Any moneys of the Trust that are not immediately required for the purposes of the Trust may be invested in such manner as the Treasurer may approve.
- (4) Except as authorised by the Minister, no moneys shall be expended by the Trust except in accordance with a budget approved by the Minister.

### **18—Borrowing of moneys**

- (1) The Trust may, for the purposes of this Act, borrow moneys from the Treasurer, or, with the consent of the Treasurer, from any other person.
- (2) A liability incurred by the Trust under subsection (1) with the consent of the Treasurer is guaranteed by the Treasurer.
- (3) A liability of the Treasurer under a guarantee arising by virtue of subsection (2) shall be satisfied out of the General Revenue of the State, which is appropriated by this section to the necessary extent.

### **19—Accounts and audit**

- (1) The Trust shall cause proper accounts to be kept of its financial affairs.
- (2) The Auditor-General may at any time, and shall at least once in every year, audit the accounts of the Trust.
- (3) For the purpose of an audit under subsection (2), the Auditor-General may exercise in relation to the accounts of the Trust, and the officers and employees of the Trust, the powers that are vested in the Auditor-General by the *Audit Act 1921*, in respect of public accounts and accounting officers.

## **Part 3—Miscellaneous**

### **20—Report**

- (1) The Trust shall, on or before the thirtieth day of September in each year, deliver to the Minister a report upon the administration of this Act during the period of twelve months that ended on the preceding thirtieth day of June.
- (2) The report must incorporate the audited statement of accounts for the Trust in relation to the relevant period.
- (3) The Minister shall cause a copy of the report to be laid before each House of Parliament.

### **21—Stamp duty not payable on instruments of conveyance to the Trust**

No stamp duty is payable on any instrument by virtue of which real or personal property is assured to, or vested in, the Trust.

### **22—Damage etc to property of the Trust**

- (1) A person who, without the authority of the Trust—
  - (a) damages or destroys any property of the Trust; or
  - (b) removes any property of the Trust from the possession or control of the Trust,shall be guilty of an offence and liable to a penalty not exceeding two thousand dollars or imprisonment for three months.
- (2) The court before which a person is convicted of an offence under subsection (1) may order the convicted person to pay to the Trust compensation for loss suffered by the Trust in consequence of the commission of the offence.
- (3) Any compensation awarded under subsection (2) may be recovered in the same manner as a fine.
- (4) This section does not derogate from criminal liability to which a person may, apart from this section, be subject.

### **23—Proceedings**

Proceedings for an offence against this Act shall be disposed of summarily.

### **24—Regulations**

- (1) The Governor may, upon the recommendation of the Trust, make such regulations as are necessary or expedient for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), the regulations may require the owner, or the person who has possession or control, of an object registered by the Trust to inform the Trust of any proposal to sell, dispose of, or destroy the registered object.
- (3) Any regulation under this section may prescribe a penalty not exceeding five hundred dollars for breach of, or non-compliance with, the regulation.

## 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 *History Trust of South Australia Act 1981* repealed the following:

*Constitutional Museum Act 1978*

### Principal Act and amendments

New entries appear in bold.

| Year        | No        | Title  | Assent            | Commencement  |
|-------------|-----------|--|-------------------|---|
| 1981        | 36        | <i>History Trust of South Australia Act 1981</i>                                   | 19.3.1981         | 26.3.1981 ( <i>Gazette</i> 26.3.1981 p796)  |
| 1995        | 61        | <i>History Trust of South Australia (Leasing of Property) Amendment Act 1995</i>   | 10.8.1995         | 10.8.1995   |
| 1999        | 33        | <i>Financial Sector Reform (South Australia) Act 1999</i>                          | 17.6.1999         | Sch (item 27)—1.7.1999 being the date specified under s 3(16) of the <i>Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999</i> as the transfer date for the purposes of that Act: s 2(2) |
| 2000        | 47        | <i>History Trust of South Australia (Old Parliament House) Amendment Act 2000</i>  | 13.7.2000         | 14.9.2000 ( <i>Gazette</i> 7.9.2000 p1637)  |
| 2005        | 39        | <i>Heritage (Heritage Directions) Amendment Act 2005</i>                           | 14.7.2005         | Sch 1 (cl 9)—17.11.2005 ( <i>Gazette</i> 17.11.2005 p3972)  |
| 2006        | 41        | <i>Statutes Amendment (Public Sector Employment) Act 2006</i>                      | 14.12.2006        | Pt 13 (ss 59 & 60)—1.4.2007 ( <i>Gazette</i> 29.3.2007 p930)  |
| <b>2009</b> | <b>84</b> | <b><i>Statutes Amendment (Public Sector Consequential Amendments) Act 2009</i></b> | <b>10.12.2009</b> | <b>Pt 78 (ss 186—188)—1.2.2010 (<i>Gazette</i> 28.1.2010 p320)</b>  |
| 2010        | 19        | <i>Statutes Amendment (Arts Agencies Governance and Other Matters) Act 2010</i>    | 28.10.2010        | Pt 6 (ss 40—47) & Sch 1 (Pt 9 cll 6 & 17)—uncommenced   |

## Provisions amended

New entries appear in bold.

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

| Provision                        | How varied   | Commencement      |
|----------------------------------|--|-------------------|
| Long title                       | amended by 47/2000 s 3   | 14.9.2000         |
| Pt 1                             |  |                   |
| s 2                              | <i>omitted under Legislation Revision and Publication Act 2002</i> | <i>17.11.2005</i> |
| s 3                              | <i>deleted by 47/2000 s 4</i>                                      | <i>14.9.2000</i>  |
| s 4                              |  |                   |
| s 4(1)                           | s 4 redesignated as s 4(1) by 41/2006 s 59(2)                      | 1.4.2007          |
| employing authority              | inserted by 41/2006 s 59(1)  | 1.4.2007          |
| <i>the constitutional museum</i> | <i>deleted by 47/2000 s 5</i>                                      | <i>14.9.2000</i>  |
| s 4(2)                           | inserted by 41/2006 s 59(2)  | 1.4.2007          |
| s 5                              | <i>deleted by 47/2000 s 6</i>                                      | <i>14.9.2000</i>  |
| Pt 2                             |  |                   |
| Pt 2 Div 1                       |  |                   |
| s 10                             | <i>deleted by 84/2009 s 186</i>                                    | <i>1.2.2010</i>   |
| s 13                             |  |                   |
| s 13(2)                          | <i>deleted by 84/2009 s 187</i>                                    | <i>1.2.2010</i>   |
| Pt 2 Div 2                       |  |                   |
| s 14                             |  |                   |
| s 14(1)                          | amended by 39/2005 Sch 1 cl 9                                      | 17.11.2005        |
| Pt 2 Div 3                       | heading amended by 47/2000 s 7                                     | 14.9.2000         |
| s 15                             |  |                   |
| s 15(1)                          | <i>deleted by 47/2000 s 8(a)</i>                                   | <i>14.9.2000</i>  |
| s 15(4)                          | <i>inserted by 61/1995 s 2</i>                                     | <i>10.8.1995</i>  |
|                                  | <i>deleted by 47/2000 s 8(b)</i>                                   | <i>14.9.2000</i>  |
| Pt 2 Div 4                       |  |                   |
| s 16                             | substituted by 41/2006 s 60  | 1.4.2007          |
| s 16(3)                          | <b>amended by 84/2009 s 188</b>                                    | <b>1.2.2010</b>   |
| s 16(13)                         |  |                   |
| public sector agency             | <b>amended by 84/2009 s 188</b>                                    | <b>1.2.2010</b>   |
| Pt 2 Div 5                       |  |                   |
| s 17                             |  |                   |
| s 17(1)                          | amended by 33/1999 Sch (item 27(a))                                | 1.7.1999          |
| s 17(2)                          | amended by 33/1999 Sch (item 27(b))                                | 1.7.1999          |

## Transitional etc provisions associated with Act or amendments

### *History Trust of South Australia (Old Parliament House) Amendment Act 2000*

#### 9—Transitional provision

- (1) The Governor may, by proclamation, vest any rights or liabilities of the History Trust of South Australia relating to the premises known as Old Parliament House (or relating to the land appurtenant to those premises) in—
  - (a) a Minister; or
  - (b) with the concurrence of the Joint Parliamentary Service Committee—the Joint Parliamentary Service Committee,(and any such vesting will operate by force of this section and despite the provisions of any other law or instrument).
- (2) A proclamation under subsection (1) may make other provisions that in the opinion of the Governor are necessary or expedient in connection with the vesting of rights or liabilities.

### *Statutes Amendment (Public Sector Employment) Act 2006, Sch 1—Transitional provisions*

#### Note—

Also see *Statutes Amendment (Public Sector Employment) (Transitional Provisions) Regulations 2007*.

#### 1—Interpretation

In this Part, unless the contrary intention appears—

**Commonwealth Act** means the *Workplace Relations Act 1996* of the Commonwealth;

**employing authority** means—

- (a) subject to paragraph (b)—the person who is the employing authority under a relevant Act;
- (b) in a case that relates to employment under the *Fire and Emergency Services Act 2005*—the Chief Executive of the South Australian Fire and Emergency Services Commission, or the Chief Officer of an emergency services organisation under that Act, as the case requires;

**Industrial Commission** means the Industrial Relations Commission of South Australia;

**prescribed body** means—

- (a) the Aboriginal Lands Trust;
- (b) the Adelaide Cemeteries Authority;
- (c) the Adelaide Festival Centre Trust;
- (d) the Adelaide Festival Corporation;
- (e) SA Ambulance Service Inc;

- (f) the Minister to whom the administration of the *Children's Services Act 1985* is committed;
- (g) the Minister to whom the administration of the *Education Act 1972* is committed;
- (h) the Electricity Supply Industry Planning Council;
- (i) a body constituted under the *Fire and Emergency Services Act 2005*;
- (j) the History Trust of South Australia;
- (k) the Institute of Medical and Veterinary Science;
- (l) a regional NRM board constituted under the *Natural Resources Management Act 2004*;
- (m) the Senior Secondary Assessment Board of South Australia;
- (n) the South Australian Country Arts Trust;
- (o) the South Australian Film Corporation;
- (p) the South Australian Health Commission;
- (q) an incorporated hospital under the *South Australian Health Commission Act 1976*;
- (r) an incorporated health centre under the *South Australian Health Commission Act 1976*;
- (s) the South Australian Motor Sport Board;
- (t) the South Australian Tourism Commission;
- (u) The State Opera of South Australia;
- (v) the State Theatre Company of South Australia;
- (w) the Minister to whom the administration of the *Technical and Further Education Act 1975* is committed;

**relevant Act** means—

- (a) in a case that relates to employment with a prescribed body established under an Act being amended by this Act—that Act;
- (b) in a case that relates to employment with a prescribed body who is a Minister to whom the administration of an Act being amended by this Act is committed—that Act;
- (c) in a case that relates to employment with a body constituted under the *Fire and Emergency Services Act 2005*—that Act.

## **2—Transfer of employment**

- (1) Subject to this clause, a person who, immediately before the commencement of this clause, was employed by a prescribed body under a relevant Act will, on that commencement, be taken to be employed by the employing authority under that Act (as amended by this Act).

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- (2) The following persons will, on the commencement of this clause, be taken to be employed as follows:
- (a) a person who, immediately before the commencement of this clause, was employed under section 6L(1) of the *Electricity Act 1996* will, on that commencement, be taken to be employed by the employing authority under that Act (as amended by this Act);
  - (b) a person who, immediately before the commencement of this clause, was employed by the South Australian Fire and Emergency Services Commission will, on that commencement, be taken to be employed by the Chief Executive of that body;
  - (c) a person who, immediately before the commencement of this clause, was employed by an emergency services organisation under the *Fire and Emergency Services Act 2005* will, on that commencement, be taken to be employed by the Chief Officer of that body;
  - (d) a person who, immediately before the commencement of this clause, was employed by an incorporated hospital or an incorporated health centre under the *South Australian Health Commission Act 1976* will, on that commencement, be taken to be employed by an employing authority under that Act (as amended by this Act) designated by the Governor by proclamation made for the purposes of this paragraph.
- (3) Subject to this clause, the Governor may, by proclamation, provide that a person employed by a subsidiary of a public corporation under the *Public Corporations Act 1993* will be taken to be employed by a person or body designated by the Governor (and the arrangement so envisaged by the proclamation will then have effect in accordance with its terms).
- (4) Subject to subclause (5), an employment arrangement effected by subclause (1), (2) or (3)—
- (a) will be taken to provide for continuity of employment without termination of the relevant employee's service; and
  - (b) will not affect—
    - (i) existing conditions of employment or existing or accrued rights to leave; or
    - (ii) a process commenced for variation of those conditions or rights.
- (5) If, immediately before the commencement of this clause, a person's employment within the ambit of subclause (1), (2) or (3) was subject to the operation of an award or certified agreement (but not an Australian Workplace Agreement) under the Commonwealth Act, then, on that commencement, an award or enterprise agreement (as the case requires) will be taken to be created under the *Fair Work Act 1994*—
- (a) with the same terms and provisions as the relevant industrial instrument under the Commonwealth Act; and

- (b) with any terms or provisions that existed under an award or enterprise agreement under the *Fair Work Act 1994*, that applied in relation to employment of the kind engaged in by the person, immediately before 27 March 2006, and that ceased to apply by virtue of the operation of provisions of the Commonwealth Act that came into force on that day, subject to any modification or exclusion prescribed by regulations made for the purposes of this subclause and subject to the operation of subclause (6).
- (6) Where an award or enterprise agreement is created by virtue of the operation of subclause (5)—
- (a) the award or enterprise agreement will be taken to be made or approved (as the case requires) under the *Fair Work Act 1994* on the day on which this clause commences; and
  - (b) the *Fair Work Act 1994* will apply in relation to the award or enterprise agreement subject to such modifications or exclusions as may be prescribed by regulations made for the purposes of this subclause; and
  - (c) the Industrial Commission may, on application by the Minister to whom the administration of the *Fair Work Act 1994* is committed, or an application by a person or body recognised by regulations made for the purposes of this subclause, vary or revoke any term or provision of the award or enterprise agreement if the Industrial Commission is satisfied that it is fair and reasonable to do so in the circumstances.

### **3—Superannuation**

- (1) If a prescribed body under a relevant Act is, immediately before the commencement of this clause, a party to an arrangement relating to the superannuation of one or more persons employed by the prescribed body, then the relevant employing authority under that Act will, on that commencement, become a party to that arrangement in substitution for the prescribed body.
- (2) Nothing that takes effect under subclause (1)—
- (a) constitutes a breach of, or default under, an Act or other law, or constitutes a breach of, or default under, a contract, agreement, understanding or undertaking; or
  - (b) terminates an agreement or obligation or fulfils any condition that allows a person to terminate an agreement or obligation, or gives rise to any other right or remedy,
- and subclause (1) may have effect despite any other Act or law.
- (3) An amendment effected to another Act by this Act does not affect a person's status as a contributor under the *Superannuation Act 1988* (as it may exist immediately before the commencement of this Act).

#### 4—Interpretative provision

- (1) The Governor may, by proclamation, direct that a reference in any instrument (including a statutory instrument) or a contract, agreement or other document to a prescribed body, or other specified agency, instrumentality or body, will have effect as if it were a reference to an employing authority under a relevant Act, the Minister to whom the administration of a relevant Act is committed, or some other person or body designated by the Governor.
- (2) A proclamation under subclause (1) may effect a transfer of functions or powers.

#### 5—Related matters

- (1) A notice in force under section 51 of the *Children's Services Act 1985* immediately before the commencement of this clause will continue to have effect for the purposes of that section, as amended by this Act.
- (2) A notice in force under section 28 of the *Institute of Medical and Veterinary Science Act 1982* immediately before the commencement of this clause will continue to have effect for the purposes of that section, as amended by this Act.
- (3) A notice in force under section 61 of the *South Australian Health Commission Act 1976* immediately before the commencement of this clause will continue to have effect for the purposes of that section, as amended by this Act.
- (4) A notice in force under section 13(6) of the *South Australian Motor Sport Act 1984* immediately before the commencement of this clause will continue to have effect after that commencement but may, pursuant to this subclause, be varied from time to time, or revoked, by the Minister to whom the administration of that Act is committed.
- (5) The fact that a person becomes an employer in his or her capacity as an employing authority under an Act amended by this Act does not affect the status of any body or person as an employer of public employees for the purposes of the *Fair Work Act 1994* (unless or until relevant regulations are made under the provisions of that Act).

#### 6—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 Schedule), apply to any amendment or repeal effected by this Act.

## **Historical versions**

Reprint No 1—10.8.1995

Reprint No 2—1.7.1999

Reprint No 3—14.9.2000

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