

South Australia

# Outback Areas Community Development Trust Act 1978

An Act to establish the Outback Areas Community Development Trust; to prescribe its powers and functions, and for purposes incidental thereto.

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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 *Outback Areas Community Development Trust Act 1978*.

#### 4—Interpretation

In this Act, unless the contrary intention appears—

*the area* in relation to the Trust means the whole of the State except—

- (a) such parts of the State as lie within municipalities and districts established under the *Local Government Act 1934*; and
- (b) such parts of the States as lie within Aboriginal reserves;

*member* means a member of the Trust;

*the Trust* means the Outback Areas Community Development Trust established under Part 2 of this Act.

### Part 2—Establishment of the Trust

#### 5—Establishment of Trust

- (1) There shall be a trust entitled the *Outback Areas Community Development Trust*.
- (2) The Trust—
  - (a) shall be a body corporate with perpetual succession and a common seal;
  - (b) shall be capable of suing and being sued;
  - (c) shall be capable of acquiring, holding, dealing with and disposing of real and personal property;
  - (d) shall have the powers, duties, functions and authorities conferred imposed or prescribed by or under this Act.

#### 6—Terms and conditions of office

- (1) The Trust shall consist of not less than three and not more than five members appointed by the Governor.
- (2) A member of the Trust shall be appointed for such term of office, not exceeding three years, and upon such conditions as the Governor may determine and, upon the expiration of his term of office, shall be eligible for re-appointment.
- (3) The Governor may appoint a person to be the deputy of a member of the Trust and that person, while acting in the absence of that member, shall be deemed to be a member of the Trust and shall have all the powers, authorities, duties and obligations of the member of whom he has been appointed the deputy.
- (4) The Governor may remove a member of the Trust from office for—
  - (a) any breach of, or non-compliance with, the conditions of his appointment; or

- (b) mental or physical incapacity; or
  - (c) neglect of duty; or
  - (d) dishonourable conduct.
- (5) The office of a member of the Trust shall become vacant if—
- (a) he dies; or
  - (b) his term of office expires; or
  - (c) he resigns by written notice to the Minister; or
  - (d) he is removed from office by the Governor pursuant to subsection (4) of this section.
- (6) 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, the person appointed in his place shall be appointed only for the balance of the term of his predecessor.

### **7—Remuneration of members**

The members of the Trust shall be entitled to receive such fees and allowances as may be determined by the Governor.

### **8—The Chairman**

- (1) The Governor may from time to time appoint one of the members of the Trust to be the Chairman of the Trust.
- (2) The Chairman shall, subject to this Act, hold office as such for a term not exceeding three years, specified in the instrument of his appointment, and shall, at the expiration of that term, be eligible for re-appointment.
- (3) If at any time the Chairman ceases to be a member of the Trust he shall cease to be Chairman of the Trust.

### **9—Quorum etc**

- (1) Three members of the Trust shall constitute a quorum of the Trust.
- (2) The Chairman of the Trust shall preside at a meeting of the Trust at which he is present and, in the absence of the Chairman from a meeting, the members present shall decide who is to preside at the meeting.
- (3) A decision carried by a majority of the votes of the members of the Trust present at a meeting shall be a decision of the Trust.
- (4) Each member of the Trust shall be entitled to one vote on a matter arising for determination by the Trust and the person presiding at the meeting of the Trust shall, in the event of an equality of votes, have a second or casting vote.
- (5) The Trust shall cause accurate minutes to be kept of the business conducted at meetings of the Trust.
- (6) Subject to this Act, the business of the Trust shall be conducted in a manner determined by the Trust.

## **10—Validity of acts of the Trust and immunity of its members**

- (1) An Act or proceeding of the Trust shall not be invalid by reason only of a vacancy in its membership and, notwithstanding the subsequent discovery of a defect in the appointment of a member, an act or proceeding of the Trust shall be as valid and effectual as if the member had been duly appointed.
- (2) No personal liability shall attach to a member of the Trust for an act or omission by him, or by the Trust, in good faith and in the exercise or purported exercise of his or its powers or functions, or in the discharge or purported discharge of his or its duties under this Act.

## **11—Disclosure of interest**

- (1) A member of the Trust who is in any way directly or indirectly interested in a contract, or proposed contract, made by, or in the contemplation of, the Trust—
  - (a) shall as soon as he becomes aware of the contract or proposed contract, disclose the nature of his interest to the Trust; and
  - (b) shall not take part in any deliberations or decision of the Trust with respect to that contract.

Penalty: Five hundred dollars.

- (2) Any disclosure made in compliance with subsection (1) of this section shall be recorded in the minutes of the Trust.
- (3) Where a member makes a disclosure of interest in respect of a contract or proposed contract in the minutes of the Trust.
- (3) Where a member makes a disclosure of interest in respect of a contract or proposed contract in accordance with this section—
  - (a) the contract is not liable to be avoided by the Trust on any ground arising from the fiduciary relationship between a member and the Trust; and
  - (b) the member is not liable to account to the Trust for profits derived from the contract.

## **12—Due execution of documents by the Trust**

- (1) A document is duly executed by the Trust if it is sealed with the common seal of the Trust and signed by two member of the Trust.
- (2) An apparently genuine document purporting to have been executed by the Trust in accordance with subsection (1) of this section shall be presumed in any legal proceedings, in the absence of proof to the contrary, to have been duly executed by the Trust.

## **13—Officers of the Trust**

- (1) There shall be such officers of the Trust as are necessary for the administration of this Act.
- (2) Any such officer shall be appointed, and shall hold office, under the *Public Service Act 1967*.

## **Part 3—Powers and functions of the Trust**

### **14—Trust subject to general control and direction of Minister**

The Trust shall be subject to the general control and direction of the Minister.

### **15—Powers and functions of the Trust**

- (1) Subject to this Act, the functions of the Trust are as follows:
  - (a) to carry out development projects and to provide services for local communities within the area; and
  - (b) to make grants and loans to community organisations within the area and otherwise to foster the development and work of such organisations; and
  - (c) to exercise such powers, and carry out such functions of a local governing body in relation to its area or any part thereof as may be conferred upon, or assigned to, the Trust, under this Act; and
  - (d) to carry out works to improve, or otherwise to promote or facilitate the improvement of, communications to country districts (whether within or outside the area).
- (2) The Governor may, by regulation, declare that specified provisions of the *Local Government Act 1934* shall apply in relation to the Trust and its area—
  - (a) as if the Trust were a district council, and the area of the Trust were a district, as defined in that Act; and
  - (b) with such further modifications as may be specified in the regulation.
- (3) A regulation shall not be made for the purposes of subsection (2) of this section unless the Minister has certified—
  - (a) that a notice prepared by the Minister setting out the substance and effect of the proposed regulation was published in a newspaper circulating throughout the area at least one month before the proposed date of the making of the regulation; and
  - (b) that the Minister has considered the objections (if any) made to him in relation to the proposed regulation.
- (4) A regulation made for the purposes of subsection (2) of this section shall come into force—
  - (a) upon the day next following the day on which the time for disallowance of the regulation expires; or
  - (b) upon the day fixed in the regulation as the day on which it will come into force,whichever is the later.

### **16—Delegation by the Trust**

- (1) The Trust may delegate to any member, or officer of the Trust any of its powers or functions under this Act.

- (2) Any delegation by the Trust shall be revocable at will and shall not derogate from the power of the Trust to act itself in any matter.

## **Part 4—Financial provisions**

### **17—Power to borrow**

- (1) The Trust may, with the consent of the Treasurer, for the purposes of exercising or performing its powers and functions under this Act, borrow money from any person.
- (2) The Treasurer may upon such terms and conditions as he thinks fit guarantee the repayment on any moneys (together with interest thereon) borrowed by the Trust under this section.
- (3) Any moneys required to be paid in satisfaction of a guarantee given pursuant to subsection (2) of this section shall be paid out the General Revenue of the State which is hereby to the necessary extent appropriated accordingly.

### **18—Funds of the Trust**

- (1) All moneys received by the Trust shall be paid into a fund and applied by the Trust to the performance of its functions.
- (2) Such of the moneys of the Trust as are not immediately required by the Trust may be lodged on deposit with the Treasurer or invested in any other manner approved of by the Treasurer.
- (3) The Trust may establish such ADI accounts as it thinks fit.

### **19—Budget**

- (1) As soon as practicable after the commencement of this Act the Trust shall present to the Minister a budget showing its estimates of receipts and payments over the balance of the financial year within which the budget is presented and thereafter the Trust shall before the commencement of each succeeding financial year present to the Minister a budget showing its estimates of its receipts and payments for that succeeding financial year.
- (2) The Minister may approve, with or without amendment, of any budget presented to him pursuant to subsection (1) of this section.
- (3) The Trust shall not, without the consent of the Minister, make any expenditure that is not authorised by an approved budget.
- (4) In this section—  
*approved budget* means a budget that has been approved of by the Minister.

### **20—Accounts**

- (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 each year, audit the accounts of the Trust, and shall have and may exercise in respect of the moneys and accounts of the Trust and the persons dealing therewith the powers that are vested in the Auditor-General by the *Audit Act 1921* in respect of public accounts and accounting officers.

## **Part 5—Miscellaneous**

### **21—Annual report**

- (1) The Trust shall, as soon as practicable after the end of each financial year, submit to the Minister a report upon the conduct of the affairs of the Trust during that financial year, together with the audited statement of accounts of the Trust for that financial year.
- (2) The Minister shall cause the report and audited statement of accounts of the Trust to be laid before each House of Parliament as soon as practicable after his receipt thereof.

### **22—Summary proceedings**

Proceedings in respect of offences against this Act shall be disposed of summarily.

### **23—Regulations**

The Governor may, upon the recommendation of the Trust, make such regulations as are necessary or expedient for the purposes of this Act.

## Legislative history

### Notes

- Amendments of this version that are uncommenced are not incorporated into the text.
- 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).

### Repeal of Act

The *Outback Areas Community Development Trust Act 1978* will be repealed by Sch 1 cl 1 of the *Outback Communities (Administration and Management) Act 2009*.

### Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1978	36	<i>Outback Areas Community Development Trust Act 1978</i>	6.4.1978	25.5.1978 ( <i>Gazette 25.5.1978 p1826</i> )
1999	33	<i>Financial Sector Reform (South Australia) Act 1999</i>	17.6.1999	Sch (item 37)—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> of the Commonwealth as the transfer date for the purposes of that Act: s 2(2)
2009	84	<i>Statutes Amendment (Public Sector Consequential Amendments) Act 2009</i>	10.12.2009	Pt 105 (ss 252 & 253)—1.2.2010 ( <i>Gazette 28.1.2010 p320</i> )

### 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		
ss 2 & 3	<i>omitted under Legislation Revision and Publication Act 2002</i>	
Pt 4		
s 18		
s 18(3)	amended by 33/1999 Sch (item 37)	1.7.1999