

South Australia

## South Australian Motor Sport Act 1984

An Act to make provision in relation to a corporation to be known as the South Australian Motor Sport Board; to define its powers and functions; and for other purposes.

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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 *South Australian Motor Sport Act 1984*.

#### 3—Interpretation

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

**Adelaide** means the City of Adelaide and includes any adjoining local government area;

**Board** means the South Australian Motor Sport Board continued in existence under Part 2;

**council** means a council within the meaning of the *Local Government Act 1999*;

**declared area** means an area declared by the Minister by notice under Part 3 to be a declared area under this Act;

**declared period** means a period declared by the Minister by notice under Part 3 to be a declared period under this Act;

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

**the graphic standards manual** means a document adopted by the Board as the graphic standards manual and lodged at the General Registry Office;

**logo** means a design (the copyright of which is vested in the Crown in right of the State) that is declared in the graphic standards manual to be a logo;

**member** means a member of the Board appointed under Part 2;

**official insignia** means a logo, an official symbol or an official title;

**official symbol** means a combination of a logo and an official title;

**official title** means a name, title or expression that is declared to be an official title by or under section 28AA;

**promote**, in relation to an event or activity, includes organise or conduct;

**public road** means any road, street or thoroughfare (including any carriageway, footpath, dividing strip and traffic island) commonly used by the public or to which the public are permitted access;

**relevant council**, in relation to a declared area, means a council the area of which includes the declared area or part of the declared area.

- (2) For the purposes of this Act, goods will be taken to be marked with official insignia if such insignia are affixed or annexed to, marked on, or incorporated in or with—
  - (a) the goods; or
  - (b) any covering or container in which the goods are wholly or partly enclosed; or
  - (c) anything placed in or attached to any such covering or container; or
  - (d) anything that is attached to the goods or around which the goods are wrapped or wound.
- (3) For the purposes of this Act, a motor sport event means a motor racing or other motor sport event and includes an event or activity associated with a motor sport event.
- (4) 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.

## Part 2—The Board

### Division 1—Constitution of the Board

#### 4—Continuation of Board

- (1) The Australian Formula One Grand Prix Board continues in existence as the *South Australian Motor Sport Board*.
- (2) The Board—
  - (a) is a body corporate with perpetual succession and a common seal; and
  - (b) is capable in its corporate name of acquiring, holding and disposing of real and personal property; and

- (c) is capable of acquiring or incurring any other rights or liabilities, and of suing and being sued; and
  - (d) holds its property on behalf of the Crown; and
  - (e) has the powers, authorities, duties and obligations prescribed by or under this Act.
- (3) If a document appears to bear the common seal of the Board, it will be presumed, in the absence of proof to the contrary, that the common seal of the Board was duly affixed to the document.

## 5—Membership of Board

- (1) The Board consists of not more than nine members appointed by the Governor, of whom—
- (a) two will be persons nominated by the Corporation of the City of Adelaide; and
  - (b) one will be a person nominated by the Confederation of Australian Motor Sport; and
  - (c) the remainder will be persons nominated by the Minister.
- (1a) At least one member of the Board must be a woman and at least one must be a man.
- (2) The Governor may appoint one member of the Board to be the presiding member and another member to be the deputy presiding member of the Board.
- (3) The Governor may appoint a suitable person to be a deputy of a member (being a person nominated by the person or body that nominated the member) and a person so appointed may act as a member of the Board in the absence of the member of whom he or she has been appointed a deputy.
- (4) If a person or body fails to nominate a person for the purposes of subsection (1) or (3) within one month after receiving a written request from the Minister to do so, the Governor may appoint a person nominated by the Minister, and a person so appointed will be taken to have been duly appointed under that subsection.

## 6—Term and conditions of office

- (1) A member will be appointed for such term of office and on such conditions (as to the payment of allowances and expenses or any other matter) as may be determined by the Governor.
- (2) A member will, on the expiration of his or her term of office, be eligible for reappointment.
- (3) The Governor may remove a member from office for—
- (a) mental or physical incapacity to carry out satisfactorily the duties of office; or
  - (b) neglect of duty; or
  - (c) dishonourable conduct; or
  - (d) any other cause considered sufficient by the Governor.
- (4) The office of a member becomes vacant if the member—
- (a) dies; or

- (b) resigns by written notice addressed to the Minister; or
  - (c) is removed by the Governor under subsection (3).
- (5) On the office of a member becoming vacant, a person may be appointed in accordance with this Act to the vacant office.

### **7—Disclosure of interest**

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

Maximum penalty: \$5 000.

- (2) A disclosure made under this section must be recorded in the minutes of the Board.
- (3) If 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 void, or liable to be avoided by the Board, on any ground arising from the member's interest in the contract; and
  - (b) the member is not liable to account to the Board for profits derived from the contract.

### **8—Procedures of Board**

- (1) A number of members, being one more than the number obtained by dividing the number of members for the time being appointed to the Board by two and disregarding any remainder, constitutes a quorum of the Board.
- (2) A decision carried by the votes of a majority of the members present at a meeting of the Board is a decision of the Board.
- (2a) A decision concurred in by members otherwise than at a meeting of the Board is a valid decision of the Board if—
- (a) each member has had not less than 24 hours notice of the decision proposed to be made; and
  - (b) a number of members not less than that required for a quorum of the Board have signified their concurrence in the decision by letter, telegram, telex, facsimile transmission or other method of written communication.
- (3) The presiding member or, in his or her absence, the deputy presiding member, will preside at a meeting of the Board or, in the absence of both the presiding member and the deputy presiding member, the members present will decide who is to preside at the meeting.
- (4) Each member present at a meeting of the Board is entitled to one vote on a matter arising for decision by the Board and in the event of an equality of votes the member presiding at the meeting has a second or casting vote.
- (5) The Board must have accurate minutes kept of its proceedings at meetings.

- (6) Subject to this Act, the Board may determine its own procedures.

## **9—Validity of acts of the Board and immunity of members**

- (1) An act or decision of the Board is not invalid by reason only of a vacancy in its membership.
- (2) A member of the Board 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 Board's functions, duties or powers under this Act.
- (3) A liability that would, but for subsection (2), lie against a member lies instead against the Crown.

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

### **10—Functions and powers of Board**

- (1) The functions of the Board are—
- (a) to negotiate and enter into agreements on behalf of the State under which motor sport events, whether promoted by the Board or by some other person approved by the Minister, are held in the State; and
  - (b) to undertake on behalf of the State the promotion of motor sport events; and
  - (c) to do all things necessary for or in connection with the conduct and financial and commercial management of each event promoted by the Board; and
  - (d) to provide advisory, consultancy, management or other services to promoters or other persons associated with the conduct of sporting, entertainment or other special events or projects, whether within or outside the State; and
  - (e) such other functions as the Minister may from time to time approve.
- (2) For the purpose, or in the course, of performing its functions, the Board may—
- (aa) establish a motor racing circuit on a temporary basis; or
  - (a) as provided by this Act, assume the care, control, management and use of public roads and parklands on a temporary basis; or
  - (b) carry out works for the construction, alteration or removal of public or other roads, track, grandstands, fencing, barriers and other buildings and structures; or
  - (c) carry on any advertising and promotional activities; or
  - (d) regulate and control admission to any event and charge and collect fees for admission to any such event; or
  - (e) grant for fee or other consideration advertising or sponsorship rights or any other rights, licences or concessions in connection with events; or
  - (f) publish or produce books, programmes, brochures, films, souvenirs and other things relating to events; or
  - (g) sell or supply food and drink (including alcoholic beverages), books, programmes, brochures, films, souvenirs and other things in connection with events; or

- (h) restrict, control and make charges for the use of official insignia; or
  - (i) take out policies of insurance in its own right or on behalf of the State; or
  - (j) acquire and hold any licence under any other Act; or
  - (k) acquire, hold, deal with and dispose of any personal property; or
  - (l) form, or acquire, hold, deal with and dispose of shares or other interests in, or securities issued by, bodies corporate, whether within or outside the State; or
  - (m) enter into any partnership or joint venture arrangement, appoint any agent, or enter into any other contract or arrangement with another person, whether within or outside the State; or
  - (n) accept money or other things, whether from the State, a State instrumentality or any other person, provided or given to the Board for the performance of its functions; or
  - (o) act as trustee on behalf of any other person in connection with the performance of its functions under this Act; or
  - (p) delegate a function or power to a member of the Board, a committee established by the Board or by the presiding member of the Board, the Chief Executive of the Board or another person or body; or
  - (r) enter into any agreement or arrangement of a kind not previously mentioned in this subsection or acquire or incur any other rights or liabilities; or
  - (s) exercise any other powers that are necessary or expedient for, or incidental to, the performance of its functions.
- (3) No contract or agreement entered into by any person acting or purporting to act as agent of the Board is binding on the Board unless ratified by the Board.
- (4) A delegation made by the Board is revocable at will and does not derogate from the power of the Board to act itself in any matter.

#### **10AA—Non-application of *Government Business Enterprises (Competition) Act 1996***

The *Government Business Enterprises (Competition) Act 1996* does not apply to the Board or to any activity of the Board.

#### **10A—Committees**

- (1) The Board or, with the approval of the Minister, the presiding member, may establish committees (which may, but need not, consist of or include members of the Board) to advise or assist the Board or the presiding member.
- (2) The functions and procedures of a committee established under subsection (1) will be as determined by the Board or, in the case of a committee established by the presiding member, by the presiding member with the approval of the Minister.

#### **11—Board may control and charge fee for filming etc from outside circuit**

- (1) Except with the consent of the Board, no person is entitled to make, for the purpose of profit or gain, at or from a place outside a circuit at which a motor sport event promoted by the Board takes place, any sound recording or television or other recording of moving pictures of the event or any part of the event.

- (2) The Board may, if it thinks fit, charge a fee for giving its consent under subsection (1), being a fee of the prescribed amount or such other amount as the Board may fix in a particular case.
- (3) If a person makes a recording as referred to in subsection (1) without the consent of the Board, the Board may recover, as a debt due to the Board, by proceedings in any court of competent jurisdiction, the fee of a prescribed amount referred to in subsection (2).

## 12—Board to be subject to control of Minister

The Board is subject to the general control and direction of the Minister.

## Division 3—Chief Executive and staff

### 13—Chief Executive

- (1) There will be a Chief Executive of the Board.
- (2) A person may be appointed to be Chief Executive—
  - (a) subject to and in accordance with the *Public Sector Management Act 1995*; or
  - (b) on terms and conditions determined by the Governor,as the Governor thinks fit.
- (3) The Chief Executive may hold office in conjunction with another office of the Public Service of the State.

### 14—Staffing arrangements

- (1) The employing authority may employ staff to perform functions in connection with the operations or activities of the Board.
- (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, subject to subsection (4), the *Public Sector Management Act 1995* will not apply to such a person.
- (4) The Governor may, by regulation, declare that specified provisions of the *Public Sector Management Act 1995* will apply, with such modifications as may be prescribed, in relation to persons employed under this section, or any class of such persons.
- (5) 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).
- (6) The employing authority is, in acting under this section, subject to direction by the Minister and must not employ a person for the purposes of this Act except under an approval of the Minister.
- (7) However, no Ministerial direction may be given by the Minister relating to the transfer, remuneration, discipline or termination of a particular person.
- (8) The employing authority may delegate a power or function under this section.

- (9) A delegation under subsection (8)—
- (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.
- (10) 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.
- (11) The Board 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 Act (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).
- (12) The Board does not have the power to employ any person.
- (13) The Board may, under an arrangement established by the Minister administering an administrative unit, make use of the services or staff of that administrative unit.
- (14) In this section—
- public sector agency* has the same meaning as in the *Public Sector Management Act 1995*.

## **Division 4—Financial provisions**

### **15—Dealings with moneys of the Board**

- (1) Money received by the Board must be paid into an ADI account established by the Board.
- (2) An ADI account established by the Board must be operated by cheque signed and countersigned by such persons as the Board may appoint for the purpose.
- (3) Money that is not immediately required for the purposes of the Board may be lodged on deposit with the Treasurer or invested in any other manner as the Treasurer may approve.
- (4) Except as authorised by the Treasurer, no money may be expended by the Board except in accordance with a budget approved by the Treasurer.

### **17—Power to borrow**

- (1) The Board may, for the purposes of this Act, borrow money from the Treasurer, or, with the consent of the Treasurer, from any other person.

- (2) A liability incurred by the Board 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) is to be satisfied out of the Consolidated Account, which is appropriated by this section to the necessary extent.

### **18—Accounts and audit**

- (1) The Board must cause proper accounting records to be kept in relation to its financial affairs, and must have annual statements of account prepared in respect of each financial year.
- (2) The accounting records and statements of account must comply with—
  - (a) any instructions of the Treasurer under section 41 of the *Public Finance and Audit Act 1987*; and
  - (b) any other further requirements imposed by the Auditor-General.
- (3) The Auditor-General may at any time audit the accounts of the Board and must audit the annual statements of account.

### **19—Reports**

- (1) The Board may, on or before 30 September in every year, forward to the Minister a report on the work and operations of the Board for the financial year ending on the preceding 30 June.
- (2) The report must incorporate the audited statement of accounts of the Board for the period to which the report relates.
- (3) The Minister must, within 12 sitting days after receiving a report under this section, have copies of the report laid before both Houses of Parliament.

## **Part 3—Special provisions relating to major motor sport events**

### **20—Minister may declare area and period**

- (1) The Minister may, after consultation with the Board, in respect of a motor sport event, by notice in the Gazette, declare—
  - (a) a specified area (consisting of public road or parkland, or both) in Adelaide to be a declared area under this Act for the purposes of the event; and
  - (b) a specified period (not exceeding five days) to be a declared period under this Act for the purposes of the event; and
  - (c) a specified period or periods (*prescribed works periods*) under this Act during which the Board may have access to land within a declared area for the purposes of carrying out works in the manner contemplated by section 22(1a) (and different periods may be specified in respect of different categories of work).
- (2) The Minister may, after consultation with the Board, by notice in the Gazette, vary or revoke a notice under subsection (1).
- (3) The Minister may only make a declaration under subsection (1) in respect of two motor sport events per financial year.

- (4) The Minister must not make a declaration under this section unless or until the Minister has consulted with—
- (a) the Minister for the time being administering the *Adelaide Park Lands Act 2005*; and
  - (b) any relevant council; and
  - (c) the Adelaide Park Lands Authority.

## **21—Board to have care, control etc of declared area for relevant declared period**

- (1) The care, control, management and use of the land comprising a declared area for a motor sport event vests in the Board for the declared period for that event and the rights or interests of any other person in or in relation to the land are suspended for the declared period.
- (2) Land within the declared area that is public road ceases to be public road for the declared period but will, on the expiration of the declared period, revert to public road.
- (2a) However, if during the declared period the Board opens a road within the declared area to ordinary pedestrian and vehicular traffic the road is, while so open, a public road.
- (3) The provisions of this section have effect despite the provisions of any other Act or law.

## **22—Board to have power to enter and carry out works etc on declared area**

- (1) Subject to this section, the Board may for the purposes of this Act have access to the land comprising a declared area for a motor sport event and may carry out any works and do any other things on the land that are reasonably necessary for or incidental to the performance of its functions.
- (1a) Subject to subsection (2), the access that the Board may have under subsection (1) during a prescribed works period is, with respect to any relevant category of work, free and unrestricted.
- (2) The Board must, in exercising its powers under this section during a prescribed works period with respect to any relevant category of work, comply with—
- (a) any terms and conditions from time to time agreed by the Board with any relevant council or any person having a right of occupation of the land or any part of the land; or
  - (b) failing such agreement in relation to any particular matter, any terms and conditions determined by the Minister.
- (2a) The Board must, in exercising its powers under this section with respect to any matter that is outside the ambit of subsection (1a), comply with—
- (a) subject to paragraph (b), any conditions determined by a relevant council or any person having a right of occupation of the land or any part of the land; or
  - (b) if the Minister considers, on application by the Board, that a condition under paragraph (a) is unreasonable—any conditions determined by the Minister.

- (3) The terms and conditions that may be the subject of agreement or determination under subsections (2) and (2a) include (without limiting the generality of those subsections) terms and conditions—
- (a) that limit or prevent any unnecessary or reasonably avoidable interference with or damage to the land or anything growing on or built on the land;
  - (b) that limit or prevent any unnecessary or reasonably avoidable interference with any activity that may be lawfully carried on on the land;
  - (c) that provide for reimbursement of costs or expenses that may be incurred by any relevant council;
  - (d) that provide for fair and reasonable compensation for any damage or loss that may be suffered by any person having a right of occupation of any part of the land;
  - (e) without limiting a preceding paragraph, that provide for the management, protection or rehabilitation of land (including land outside the declared area that may be affected by the Board's activities).
- (4) The Minister must, before making a determination under this section, consult with—
- (a) any relevant council; and
  - (b) the Board.
- (5) The Environment, Resources and Development Court may, on application by—
- (a) any relevant council; or
  - (b) any person having a right of occupation of the land or any part of the land; or
  - (c) the Adelaide Park Lands Authority,
- restrain a breach of this section.
- (6) The Board must also comply with any direction (including a specific direction) of the Minister—
- (a) to ensure compliance with this section; or
  - (b) to rectify any matter that, in the opinion of the Minister, constitutes a breach of this section.

### **23—Board to consult and take into account representations of persons affected by operations**

- (1) The Board must, in performing its functions—
- (a) take all reasonable steps to consult with—
    - (i) any relevant council or any person having a right of occupation of land within a declared area; or
    - (ii) any person occupying land immediately adjacent to a declared area; or
    - (iii) any other person whose business or financial interests might, in the opinion of the Board, be adversely affected by the operations of the Board; and

- (b) take into account and, to such extent as is reasonably consistent with the performance of its functions, give effect to any representations made by any such person.
- (2) The duties imposed by subsection (1) do not give rise to any cause or right of action against or any liability in the Board.

#### **24—Certain land taken to be lawfully occupied by Board**

- (1) The whole or any part of the land comprising a declared area for a motor sport event may be fenced or cordoned off by the Board for the whole or any part of the declared period for that event.
- (2) The Board may, if it is reasonably necessary for or incidental to the performance of its functions, fence or cordon off a part of a declared area for a period not falling within the relevant declared period.
- (3) Land comprising or included within a declared area that is fenced or cordoned off by the Board will, while it is so fenced or cordoned off, be taken to be in the lawful occupation of the Board.
- (4) The Board must, with respect to the operation of subsection (2), comply with any requirement that applies under section 22.

#### **25—Non-application of certain laws**

- (1) The following Acts or laws do not apply to or in relation to a declared area for a motor sport event during the declared period for that event:
  - (a) the *Environment Protection Act 1993*;
  - (b) any regulations or by-laws made under the *Local Government Act 1934* or the *Local Government Act 1999*.
- (1a) The provisions of the *Road Traffic Act 1961* and the *Motor Vehicles Act 1959* do not apply to or in relation to a vehicle or its driver while the vehicle is being driven in a motor racing event.
- (2) The provisions of the *Development Act 1993* do not apply to or in relation to any works carried out or activity engaged in by or with the approval of the Board within a declared area.
- (3) No activity carried on by or with the permission of the Board within a declared area for a motor sport event during the declared period for that event will constitute a nuisance.

#### **26—Plans of proposed works to be available for public inspection**

The Board must cause copies of the plans of all works proposed to be carried out by the Board to be available for public inspection at a place designated by the Minister by notice published in the Gazette.

## 27—Power to remove vehicles left unattended within declared area

- (1) If a vehicle is left unattended within a declared area for a motor sport event during the declared period for that event, a member of the police force may, or must, at the request of a person acting on behalf of the Board, remove the vehicle to any convenient place and for that purpose may enter the vehicle and drive it, or arrange for it to be driven or towed away.
- (2) If a vehicle is removed under subsection (1), section 86 of the *Road Traffic Act 1961* applies as if the vehicle had been removed under subsection (1) of that section.

## Part 3A—Removal of certain restrictions relating to the sale and consumption of liquor

### 27A—Interpretation

In this Part—

- (a) **prescribed period** means a period commencing 24 hours before the commencement of a declared period and ending 24 hours after the end of that period;  
**senior police officer** means a police officer of or above the rank of inspector;  
and
- (b) terms defined by the *Liquor Licensing Act 1997* have the meanings assigned by that Act; and
- (c) a reference to a licence of a particular class is a reference to a licence of that class under the *Liquor Licensing Act 1997*.

### 27AB—Application of sections 27B and 27C

- (1) The Minister may, by notice in the Gazette, declare that sections 27B and 27C—
  - (a) do not apply in relation to a motor sport event specified in the notice; or
  - (b) apply in relation to a motor sport event specified in the notice but only—
    - (i) with respect to licensed premises within the area, or areas, specified in the notice; or
    - (ii) during the part, or parts, of the prescribed period specified in the notice,

and any such notice will have effect according to its terms.

- (2) The Minister may, by notice in the Gazette, vary or revoke a notice under this section.
- (3) The Minister must, before making or varying a notice under this section, consult with—
  - (a) the Board; and
  - (b) the Commissioner of Police; and
  - (c) the Liquor and Gambling Commissioner.

## **27B—Removal of certain restrictions relating to sale and consumption of liquor**

- (1) Subject to this Part, the following provisions apply during a prescribed period despite the provisions of the *Liquor Licensing Act 1997* and the terms and conditions of a licence under that Act:
  - (a) the days on which and the hours during which liquor may be sold and consumed pursuant to a hotel licence, club licence (including a limited club licence), retail liquor merchant's licence, special circumstances licence, restaurant licence or residential licence are unrestricted;
  - (b) a limited club licence authorises the sale of liquor to an unlimited number of guests introduced to the club premises by a member.
- (2) A condition imposed on a licence by a licensing authority restricting the days on which, or the hours during which, liquor may be sold and consumed pursuant to the licence continues to have effect.

## **27C—Control of noise etc during prescribed period**

- (1) Subject to this Part, if, during a prescribed period—
  - (a) any activity on, or the noise emanating from, premises in respect of which a hotel licence, club licence, retail liquor merchant's licence or special circumstances licence is in force; or
  - (b) the behaviour of persons making their way to or from such premises, is, in the opinion of a senior police officer, unduly offensive, annoying, disturbing or inconvenient to any person who resides, works or worships in the vicinity of the licensed premises, the officer may issue directions prohibiting the activity, behaviour or noise or directing that the level of noise be reduced.
- (2) A direction—
  - (a) may be oral or in writing and may be issued to the licensee, the manager of the licensed premises or patrons of the business conducted at those premises; and
  - (b) operates only during the prescribed period in which it was issued; and
  - (c) may be revoked or varied at any time.
- (3) A person who contravenes or fails to comply with a direction under this section is guilty of an offence.  
Maximum penalty: \$5 000.

## **Part 4—Miscellaneous**

### **28—Board may conduct activities under other name**

The Board may, if it so determines, conduct its activities or any part of its activities not under the name the *South Australian Motor Sport Board* but under—

- (a) the name "Adelaide 500 Board"; or
- (b) the name "Sensational Adelaide 500 Board"; or

- (c) any name prescribed by regulation.

### **28AA—Declaration of official titles**

- (1) The following are declared to be official titles for the purposes of this Act (whether appearing or used in full or abbreviated form or alone or in combination with other words or symbols):
- (a) the expressions "Adelaide 500", "Sensational Adelaide 500", "Classic Adelaide" and "Race to the Eagle" where the expressions can reasonably be taken to refer to a motor sport event;
  - (b) the expression "Adelaide Alive" where the expression can reasonably be taken to refer to an event or activity promoted by the Board;
  - (c) any other name, title or expression declared by the Board by notice in the Gazette in respect of a particular event or activity promoted by the Board.
- (2) The Board must not make a declaration under subsection (1)(c) without the consent of the Minister.

### **28A—Special proprietary interests**

- (1) The Board has a proprietary interest in—
- (a) its name; and
  - (b) any other name adopted by the Board pursuant to a determination under section 28; and
  - (c) all official insignia.
- (2) A person who, without the consent of the Board, in the course of a trade or business—
- (aa) uses a name in which the Board has a proprietary interest under this section for the purpose of promoting the sale of goods or services or the provision of any benefits; or
  - (a) sells goods marked with official insignia; or
  - (b) uses official insignia for the purpose of promoting the sale of goods or services,

commits the tort of conversion and is guilty of an offence.

Maximum penalty: \$15 000.

- (3) A person who, without the consent of the Board, assumes a name or description that consist of, or includes, official insignia commits the tort of conversion and is guilty of an offence.

Maximum penalty: \$15 000.

- (4) A consent under this section—
- (a) may be given with or without conditions (including conditions requiring payment to the Board);
  - (b) may be given generally by notice in the Gazette or by notice in writing addressed to an applicant for the consent;
  - (c) may be revoked by the Board for breach of a condition by notice in writing given personally or by post to a person who has the benefit of the consent.

- (5) The Supreme Court may, on the application of the Board, grant an injunction to restrain a breach of this section.
- (6) The court by which a person is convicted of an offence against this section may, on the application of the Board, order the convicted person to pay compensation of an amount fixed by the court to the Board.
- (7) Subsections (5) and (6) do not derogate from any civil remedy that may be available to the Board apart from those subsections.

## **28B—Seizure and forfeiture of goods**

- (1) If—
  - (a) goods apparently intended for a commercial purpose are marked with official insignia; and
  - (b) a member of the police force suspects on reasonable grounds that the use of the insignia has not been authorised by the Board,the member may seize those goods.
- (2) If any goods have been seized under this section and—
  - (a) proceedings are not instituted for an offence against section 28A in relation to the goods within 3 months of their seizure; or
  - (b) after proceedings have been instituted and completed, the defendant is not convicted,the person from whom they were seized is entitled to recover—
  - (c) the goods or, if they have been destroyed, compensation equal to the market value of the goods at the time of their seizure; and
  - (d) compensation for any loss suffered by reason of the seizure of the goods.
- (3) An action for the payment of compensation under subsection (2) may be brought against the Board in any court of competent jurisdiction.
- (4) The court by which a person is convicted of an offence against this Act may order that goods to which the offence relates be forfeited to the Crown.
- (5) Any goods forfeited to the Crown must be disposed of in such manner as the Minister may direct, and, if sold, the proceeds of the sale must be paid into the Consolidated Account.

## **29—Transfer of property**

- (1) The Minister may, by instrument in writing, transfer an asset, right or liability of the Board to an agent or instrumentality of the Crown specified in the instrument.
- (2) An instrument under subsection (1) may make other provisions that in the opinion of the Minister are necessary or expedient in connection with the relevant transfer.
- (3) The Registrar-General or another authority required or authorised under a law of the State to register or record transactions affecting assets, rights or liabilities, or documents relating to such transactions, must, on application under this section, register or record in an appropriate manner the transfer of an asset, right or liability under this section.

### 30—Regulations

- (1) The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.
- (2) Without limiting the generality of subsection (1), the regulations may—
  - (a) regulate the proceedings of the Board;
  - (b) prescribe conditions for and make any provision relating to the access that persons may have to a declared area, or part of a declared area, for a motor sport event;
  - (c) prohibit trespass upon a declared area, or part of a declared area, for a motor sport event;
  - (d) regulate the fees that may be charged or collected by the Board for admission to a declared area, or part of a declared area, for a motor sport event;
  - (e) regulate, restrict or prohibit the bringing of alcoholic beverages into, or the consumption of alcoholic beverages within, a declared area, or part of a declared area, for a motor sport event;
  - (f) regulate the behaviour of persons within a declared area for a motor sport event and provide for the exclusion or expulsion of persons misbehaving within a declared area;
  - (g) regulate, restrict or prohibit the driving or parking of motor vehicles within a declared area, or part of a declared area, for a motor sport event;
  - (h) prescribe penalties not exceeding \$1 250 for contravention of, or non-compliance with, a regulation;
  - (i) fix expiation fees for alleged offences against the regulations.
- (3) In proceedings in respect of an offence against a regulation—
  - (a) an allegation in the complaint that a person named in the complaint was the owner of a specified vehicle on a specified day will be taken to be proved in the absence of proof to the contrary; and
  - (b) if it is proved that a vehicle was parked on any land in contravention of a regulation, it will be presumed, in the absence of proof to the contrary, that the vehicle was so parked by the owner of the vehicle.

## 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).

### Formerly

*Australian Formula One Grand Prix Act 1984*

### Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1984	97	<i>Australian Formula One Grand Prix Act 1984</i>	20.12.1984	20.12.1984 ( <i>Gazette 20.12.1984 p1885</i> )
1985	83	<i>Australian Formula One Grand Prix Act Amendment Act 1985</i>	5.9.1985	5.9.1985
1986	20	<i>Australian Formula One Grand Prix Act Amendment Act 1986</i>	20.3.1986	20.3.1986 ( <i>Gazette 20.3.1986 p590</i> )
1988	105	<i>Australian Formula One Grand Prix Act Amendment Act 1988</i>	15.12.1988	12.1.1989 ( <i>Gazette 12.1.1989 p52</i> )
1996	34	<i>Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996</i>	2.5.1996	Sch (cl 5)—3.2.1997 ( <i>Gazette 19.12.1996 p1923</i> )
1998	70	<i>Australian Formula One Grand Prix (South Australian Motor Sport) Amendment Act 1998</i>	3.12.1998	17.12.1998 ( <i>Gazette 17.12.1998 p1920</i> )
1999	33	<i>Financial Sector Reform (South Australia) Act 1999</i>	17.6.1999	Sch (item 51)—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)
2000	37	<i>South Australian Motor Sport (Miscellaneous) Amendment Act 2000</i>	13.7.2000	13.7.2000
2001	18	<i>Statutes Amendment (Gambling Regulation) Act 2001</i>	31.5.2001	Pt 10 (s 50)—1.10.2001 ( <i>Gazette 13.9.2001 p4116</i> )
2005	69	<i>Adelaide Park Lands Act 2005</i>	8.12.2005	Sch 1 (c11 22—25)—14.12.2006 ( <i>Gazette 7.12.2006 p4269</i> )
<b>2006</b>	<b>41</b>	<b><i>Statutes Amendment (Public Sector Employment) Act 2006</i></b>	<b>14.12.2006</b>	<b>Pt 21 (ss 97 &amp; 98)—1.4.2007 (<i>Gazette 29.3.2007 p930</i>)</b>

2009 84 *Statutes Amendment (Public Sector Consequential Amendments) Act 2009* 10.12.2009 Pt 140 (ss 319—322)—1.2.2010 (*Gazette* 28.1.2010 p320)

## 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 70/1998 s 3	17.12.1998
Pt 1		
s 1	substituted by 70/1998 s 4	17.12.1998
s 2	<i>deleted by 70/1998 s 27 (Sch)</i>	<i>17.12.1998</i>
s 3		
s 3(1)		
<i>Australian Formula One Grand Prix</i>	<i>deleted by 20/1986 s 3(a)</i>	20.3.1986
<i>the Board</i>	<i>deleted by 70/1998 s 5(a)</i>	<i>17.12.1998</i>
Board	inserted by 70/1998 s 5(a)	17.12.1998
<i>the Chairman</i>	<i>deleted by 70/1998 s 27 (Sch)</i>	<i>17.12.1998</i>
council	amended by 37/2000 s 9 (Sch)	13.7.2000
declared area	substituted by 70/1998 s 5(b)	17.12.1998
declared period	substituted by 70/1998 s 5(b)	17.12.1998
<i>Deputy Chairman</i>	<i>deleted by 70/1998 s 27 (Sch)</i>	<i>17.12.1998</i>
<b>employing authority</b>	<b>inserted by 41/2006 s 97(1)</b>	<b>1.4.2007</b>
<i>grand prix insignia</i>	<i>inserted by 20/1986 s 3(b)</i>	20.3.1986
	<i>substituted by 105/1988 s 3(a)</i>	<i>12.1.1989</i>
	<i>deleted by 70/1998 s 5(c)</i>	<i>17.12.1998</i>
the graphic standards manual	inserted by 83/1985 s 2(a)	5.9.1985
<i>the logo</i>	<i>inserted by 20/1986 s 3(c)</i>	20.3.1986
	<i>deleted by 70/1998 s 5(d)</i>	<i>17.12.1998</i>
logo	inserted by 70/1998 s 5(d)	17.12.1998
<i>official grand prix insignia</i>	<i>inserted by 83/1985 s 2(b)</i>	5.9.1985
	<i>substituted by 20/1986 s 3(d)</i>	20.3.1986
	<i>deleted by 70/1998 s 5(e)</i>	<i>17.12.1998</i>
official insignia	inserted by 70/1998 s 5(e)	17.12.1998
<i>an official symbol</i>	<i>inserted by 20/1986 s 3(d)</i>	20.3.1986
	<i>deleted by 70/1998 s 5(e)</i>	<i>17.12.1998</i>
official symbol	inserted by 70/1998 s 5(e)	17.12.1998
official title	inserted by 20/1986 s 3(d)	20.3.1986
	substituted by 70/1998 s 5(e)	17.12.1998
<i>parkland</i>	<i>deleted by 69/2005 Sch 1 cl 22</i>	<i>14.12.2006</i>

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promote	inserted by 105/1988 s 3(b)	12.1.1989
relevant council	amended by 70/1998 s 5(f)	17.12.1998
s 3(2)	inserted by 83/1985 s 2(c)	5.9.1985
	amended by 70/1998 ss 5(g), 27 (Sch)	17.12.1998
s 3(3)	inserted by 20/1986 s 3(e)	20.3.1986
	amended by 105/1988 s 3(c)	12.1.1989
	substituted by 70/1998 s 5(h)	17.12.1998
	amended by 37/2000 s 2	13.7.2000
s 3(4)	inserted by 20/1986 s 3(e)	20.3.1986
	deleted by 70/1998 s 5(h)	17.12.1998
	<b>inserted by 41/2006 s 97(2)</b>	<b>1.4.2007</b>
s 3(5)	<i>inserted by 20/1986 s 3(e)</i>	<i>20.3.1986</i>
	<i>deleted by 70/1998 s 5(h)</i>	<i>17.12.1998</i>
s 3A	<i>inserted by 83/1985 s 3</i>	<i>5.9.1985</i>
	<i>deleted by 70/1998 s 27 (Sch)</i>	<i>17.12.1998</i>
Pt 2		
Pt 2 Div 1		
s 4		
s 4(1)	substituted by 70/1998 s 6	17.12.1998
s 4(2)	amended by 70/1998 s 27 (Sch)	17.12.1998
s 4(3)	substituted by 70/1998 s 27 (Sch)	17.12.1998
s 5		
s 5(1)	amended by 70/1998 s 27 (Sch)	17.12.1998
s 5(1a)	inserted by 70/1998 s 7	17.12.1998
s 5(2)	substituted by 70/1998 s 27 (Sch)	17.12.1998
s 5(3) and (4)	amended by 70/1998 s 27 (Sch)	17.12.1998
s 6		
s 6(1)—(5)	amended by 70/1998 s 27 (Sch)	17.12.1998
s 7		
s 7(1)—(3)	amended by 70/1998 s 27 (Sch)	17.12.1998
s 8		
s 8(1) and (2)	amended by 70/1998 s 27 (Sch)	17.12.1998
s 8(2a)	inserted by 105/1988 s 4	12.1.1989
s 8(3)	substituted by 70/1998 s 27 (Sch)	17.12.1998
s 8(4) and (5)	amended by 70/1998 s 27 (Sch)	17.12.1998
s 8(6)	substituted by 70/1998 s 27 (Sch)	17.12.1998
s 9		
s 9(1)	amended by 70/1998 s 27 (Sch)	17.12.1998
s 9(2)	substituted by 70/1998 s 27 (Sch)	17.12.1998
s 9(3)	amended by 70/1998 s 27 (Sch)	17.12.1998
Pt 2 Div 2		
s 10		
s 10(1)	amended by 20/1986 s 4(a), (b)	20.3.1986

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	substituted by 105/1988 s 5(a)	12.1.1989
	amended by 70/1998 s 8(a)—(d)	17.12.1998
	amended by 37/2000 s 3(a), (b)	13.7.2000
s 10(2)	amended by 20/1986 s 4(c), (d)	20.3.1986
	amended by 105/1988 s 5(b), (c)	12.1.1989
	(q) deleted by 105/1988 s 5(c)	12.1.1989
	amended by 70/1998 ss 8(e)—(j), 27 (Sch)	17.12.1998
	amended by 37/2000 s 3(c)—(f)	13.7.2000
s 10AA	inserted by 70/1998 s 9	17.12.1998
s 10A	inserted by 105/1988 s 6	12.1.1989
s 10A(1) and (2)	amended by 70/1998 s 27 (Sch)	17.12.1998
s 11		
s 11(1)	substituted by 70/1998 s 10	17.12.1998
s 11(3)	amended by 70/1998 s 27 (Sch)	17.12.1998
s 12	amended by 70/1998 s 27 (Sch)	17.12.1998
<i>Pt 2 Div 3 before substitution by 41/2006</i>		
s 13		
s 13(1) and (2)	amended by 70/1998 s 27 (Sch)	17.12.1998
s 13(3)—(8)	substituted by 70/1998 s 27 (Sch)	17.12.1998
s 14	substituted by 70/1998 s 27 (Sch)	17.12.1998
<b>Pt 2 Div 3</b>	<b>substituted by 41/2006 s 98</b>	<b>1.4.2007</b>
Pt 2 Div 4		
s 15		
s 15(1)	amended by 70/1998 s 27 (Sch)	17.12.1998
	amended by 33/1999 Sch (item 51(a))	1.7.1999
s 15(2)	amended by 70/1998 s 27 (Sch)	17.12.1998
	amended by 33/1999 Sch (item 51(b))	1.7.1999
s 15(3) and (4)	amended by 70/1998 s 27 (Sch)	17.12.1998
s 16	deleted by 105/1988 s 7	12.1.1989
s 17		
s 17(1) and (3)	amended by 70/1998 s 27 (Sch)	17.12.1998
s 18	substituted by 70/1998 s 27 (Sch)	17.12.1998
s 19		
s 19(1)	substituted by 20/1986 s 5	20.3.1986
	amended by 105/1988 s 8	12.1.1989
	amended by 70/1998 s 11	17.12.1998
s 19(3)	substituted by 70/1998 s 27 (Sch)	17.12.1998
Pt 3	heading amended by 70/1998 s 12	17.12.1998
s 20		
s 20(1)	substituted by 70/1998 s 13(a)	17.12.1998
	amended by 37/2000 s 4(a)	13.7.2000
	amended by 69/2005 Sch 1 cl 23(1)	14.12.2006

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s 20(2)	amended by 70/1998 s 27 (Sch)	17.12.1998
	amended by 37/2000 s 4(b)	13.7.2000
s 20(3)	inserted by 70/1998 s 13(b)	17.12.1998
	amended by 37/2000 s 4(c)	13.7.2000
s 20(4)	inserted by 69/2005 Sch 1 cl 23(2)	14.12.2006
s 21		
s 21(1)	amended by 70/1998 ss 14(a), 27 (Sch)	17.12.1998
s 21(2)	amended by 70/1998 ss 14(b), 27 (Sch)	17.12.1998
s 21(2a)	inserted by 20/1986 s 6	20.3.1986
	amended by 70/1998 ss 14(c), 27 (Sch)	17.12.1998
s 21(3)	amended by 70/1998 s 27 (Sch)	17.12.1998
s 22		
s 22(1)	amended by 70/1998 ss 15, 27 (Sch)	17.12.1998
	amended by 69/2005 Sch 1 cl 24(1)	14.12.2006
s 22(1a)	inserted by 69/2005 Sch 1 cl 24(2)	14.12.2006
s 22(2)	amended by 70/1998 s 27 (Sch)	17.12.1998
	amended by 69/2005 Sch 1 cl 24(3)	14.12.2006
s 22(2a)	inserted by 69/2005 Sch 1 cl 24(4)	14.12.2006
s 22(3)	amended by 70/1998 s 27 (Sch)	17.12.1998
	amended by 69/2005 Sch 1 cl 24(5)—(7)	14.12.2006
s 22(4)—(6)	inserted by 69/2005 Sch 1 cl 24(8)	14.12.2006
s 23		
s 23(1)	amended by 70/1998 ss 16, 27 (Sch)	17.12.1998
s 23(2)	amended by 70/1998 s 27 (Sch)	17.12.1998
s 24		
s 24(1)	amended by 70/1998 s 17(a), (b)	17.12.1998
s 24(2)	amended by 70/1998 ss 17(c), 27 (Sch)	17.12.1998
s 24(3)	amended by 70/1998 ss 17(d), 27 (Sch)	17.12.1998
s 24(4)	inserted by 69/2005 Sch 25	14.12.2006
s 25		
s 25(1)	amended by 20/1986 s 7(a)	20.3.1986
	amended by 70/1998 ss 18(a), 27 (Sch)	17.12.1998
	amended by 37/2000 s 9 (Sch)	13.7.2000
s 25(1a)	inserted by 20/1986 s 7(b)	20.3.1986
s 25(2)	amended by 70/1998 ss 18(b), 27 (Sch)	17.12.1998
s 25(3)	amended by 70/1998 ss 18(c), 27 (Sch)	17.12.1998
s 26	amended by 70/1998 s 27 (Sch)	17.12.1998
s 27		
s 27(1)	amended by 70/1998 ss 19, 27 (Sch)	17.12.1998
s 27(2)	amended by 70/1998 s 27 (Sch)	17.12.1998
Pt 3A	inserted by 20/1986 s 8	20.3.1986
s 27A	amended by 70/1998 s 27 (Sch)	17.12.1998

<i>commissioned officer</i>	<i>deleted by 37/2000 s 5(a)</i>	13.7.2000
senior police officer	inserted by 37/2000 s 5(b)	13.7.2000
s 27AB	inserted by 37/2000 s 6	13.7.2000
s 27AB(3)	amended by 18/2001 s 50	1.10.2001
s 27B		
s 27B(1)	amended by 70/1998 s 27 (Sch)	17.12.1998
	amended by 37/2000 s 7	13.7.2000
s 27B(2)	substituted by 70/1998 s 27 (Sch)	17.12.1998
s 27C		
s 27C(1)	amended by 70/1998 s 27 (Sch)	17.12.1998
	amended by 37/2000 s 8	13.7.2000
s 27C(2) and (3)	amended by 70/1998 s 27 (Sch)	17.12.1998
Pt 4		
s 28	substituted by 70/1998 s 20	17.12.1998
s 28AA	inserted by 70/1998 s 20	17.12.1998
s 28A	inserted by 83/1985 s 4	5.9.1985
s 28A(1)	substituted by 70/1998 s 21(a)	17.12.1998
s 28A(2)	amended by 70/1998 ss 21(b)—(d), 27 (Sch)	17.12.1998
s 28A(3)	amended by 70/1998 ss 21(e), 27 (Sch)	17.12.1998
s 28B	inserted by 83/1985 s 4	5.9.1985
s 28B(1)	amended by 70/1998 ss 22, 27 (Sch)	17.12.1998
s 28B(2)	amended by 70/1998 s 27 (Sch)	17.12.1998
s 28B(5)	amended by 70/1998 s 27 (Sch)	17.12.1998
s 29	deleted by 105/1988 s 9	12.1.1989
	inserted by 70/1998 s 23	17.12.1998
s 30		
s 30(1)	amended by 34/1996 s 4 (Sch cl 5)	3.2.1997
s 30(2)	amended by 70/1998 ss 24, 27 (Sch)	17.12.1998
s 30(3)	amended by 70/1998 s 27 (Sch)	17.12.1998
s 30(4)	<i>deleted by 34/1996 s 4 (Sch cl 5)</i>	3.2.1997
Sch	<i>inserted by 83/1985 s 5</i>	5.9.1985
	<i>deleted by 70/1998 s 25</i>	17.12.1998

## Transitional etc provisions associated with Act or amendments

### *Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996*

#### 5—Transitional provision

An Act repealed or amended by this Act will continue to apply (as in force immediately prior to the repeal or amendment coming into operation) to an expiation notice issued under the repealed or amended Act.

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***Australian Formula One Grand Prix (South Australian Motor Sport) Amendment Act 1998***

**26—Transitional provision**

The South Australian Motor Sport Board will have an 18 month financial year commencing on 1 January 1998 and ending on 30 June 1999 (and thereafter will have 12 month financial years commencing on 1 July in each year).

***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).
- (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;

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- (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.

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- (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—1.7.1991

Reprint No 2—3.2.1997

Reprint No 3—17.12.1998

Reprint No 4—1.7.1999

Reprint No 5—13.7.2000

Reprint No 6—1.10.2001

14.12.2006