

South Australia

Government Financing Authority (Insurance) Amendment Act 2006

An Act to amend the *Government Financing Authority Act 1982*.

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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 *Government Financing Authority (Insurance) Amendment Act 2006*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Government Financing Authority Act 1982*

4—Amendment of section 11—Functions and powers of the Authority

- (1) Section 11(1)—delete paragraph (b) and substitute:
- (b) to act as captive insurer of the Crown, including undertaking and carrying on in South Australia and elsewhere the business of insurers, re-insurers and co-insurers of all or any risks of the Crown; and
 - (c) to provide advice to the Crown on issues relating to the insurance and management of risks of the Crown; and
 - (d) to engage in such other financial or insurance-related activities as are determined by the Treasurer to be in the interests of the State.
- (2) Section 11(2)—after paragraph (ia) insert:
- (ib) take out with other persons or bodies insurance or re-insurance of any class of all or any risks of the Crown; or
 - (ic) take such action as may be necessary or expedient to satisfy or compromise any claims made against the Crown in respect of risks of the Crown (including claims that may not necessarily be valid in law); or
 - (id) take such action as may be necessary or expedient for the realisation, enforcement, assignment or extinguishment of rights against third parties arising out of or in connection with the Authority's captive insurance function, including (for example) carrying on a third party's business as a going concern; or
 - (ie) do all acts necessary or convenient for enabling the Authority to carry out its captive insurance function in any foreign jurisdiction, including obtaining the registration or legal recognition of the Authority in foreign jurisdictions; or
- (3) Section 11—after subsection (3) insert:
- (4) In this section—
- Crown** means the Crown in right of South Australia and includes an instrumentality or agency of the Crown (but does not include an instrumentality or agency of the Crown declared by the Treasurer by notice in the Gazette to be excluded from the ambit of this definition);
- risks of the Crown** includes—
- (a) a direct risk of the Crown; and
 - (b) a risk accepted by the Crown; and
 - (c) a risk arising under a guarantee or indemnity given by the Crown,

whether or not the risk relates to an officer, employee or agent of the Crown or property owned by or held on behalf of the Crown.

5—Amendment of section 12—Financial management

- (1) Section 12(1)—after "management and" insert:

, having regard to the nature of the captive insurance function of the Authority,
- (2) Section 12—after subsection (2) insert:
 - (3) Subsection (2) does not apply to funds related to the captive insurance function of the Authority.

6—Amendment of section 17—Treasurer may deposit public money with the Authority

Section 17—delete "*Public Finance Act 1936*" and substitute:

Public Finance and Audit Act 1987

7—Amendment of section 18B—Membership of the Board

- (1) Section 18B—delete "one" wherever occurring and substitute:

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- (2) Section 18B(1)—delete "five or six" and substitute:

not less than 5 and not more than 7
- (3) Section 18B(1)(b)—delete paragraph (b) and substitute:
 - (b) the remaining members are persons appointed by the Governor.
- (4) Section 18B—after subsection (1) insert:
 - (1a) Of the persons appointed by the Governor (the *appointed members*)—
 - (a) at least 1 must be employed by a semi-government authority; and
 - (b) at least 1 must have expertise in insurance (demonstrated by relevant qualifications or relevant experience at a senior level in the public or private sector).
- (5) Section 18B(4)—delete subsection (4) and substitute:
 - (4) An appointed member is appointed for the term (which must not exceed 3 years) stated in the instrument of appointment and, at the end of the term of appointment, is eligible for re-appointment.
- (6) Section 18B(7)—delete "if the number of members of the Board is less than five or if there is no member of the Board employed by a semi-government authority" and substitute:

if—

 - (a) the number of members of the Board is less than 5; or

- (b) there is no appointed member of the Board employed by a semi-government authority; or
- (c) there is no appointed member of the Board with expertise in insurance

8—Substitution of section 19

Section 19—delete the section and substitute:

19—Delegation

- (1) The Authority may delegate a function or power of the Authority under this or any other Act to—
 - (a) an officer of the Authority; or
 - (b) a member of the Public Service of the State.
- (2) A delegation under this section—
 - (a) must be by instrument in writing; and
 - (b) may be absolute or conditional; and
 - (c) does not derogate from the ability of the Authority to act in any matter; and
 - (d) is revocable at will.
- (3) A function or power delegated under this section may, if the instrument of delegation so provides, be further delegated.
- (4) In any legal proceedings an apparently genuine document purporting to be a certificate under the seal of the Authority containing particulars of a delegation under this section will, in the absence of proof to the contrary, be accepted as proof of the particulars.

9—Amendment of section 20—Staff

- (1) Sections 20(1) and (2)—delete "Part 3 of the *Government Management and Employment Act 1985*" wherever occurring and substitute:

the *Public Sector Management Act 1995*
- (2) Section 20(4)—delete "Part 3 of the *Government Management and Employment Act 1985*" and substitute:

the Treasurer may, by notice published in the Gazette, determine that specified provisions of the *Public Sector Management Act 1995*