

South Australia

Statutes Amendment (Arts Agencies Governance and Other Matters) Act 2010

An Act to amend various Acts in relation to the governance of Arts agencies; 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 *Statutes Amendment (Arts Agencies Governance and Other Matters) Act 2010*.

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 *Adelaide Festival Centre Trust Act 1971*

4—Amendment of section 4—Interpretation

Section 4(1)—delete subsection (1) and substitute:

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

authorised officer—see Part 4;

Centre means the Adelaide Festival Centre and includes the Festival Theatre, a drama theatre, amphitheatre and experimental theatre and all associated amenities, conveniences, facilities, and works (including plazas, walks, parks, open spaces, roads and carpark);

Council means the council of The Corporation of the City of Adelaide;

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

Festival Theatre means the Festival Theatre, buildings, furniture, instruments, fittings and equipment, works and conveniences authorised to be constructed and provided by the *Adelaide Festival Theatre Act 1964*;

member means member of the Trust;

occupy, in relation to premises, means have, or be entitled to, possession or control of the premises;

official insignia—see Part 5;

premises of the Trust means premises owned or occupied by the Trust;

promote, in relation to an event or activity, includes organise, commission, fund, support, market, advertise or act as project manager;

Trust means the Adelaide Festival Centre Trust established under this Act.

5—Substitution of heading to Part 2

Heading to Part 2—delete the heading and substitute:

Part 2—Adelaide Festival Centre Trust

6—Substitution of Part 2 Division 1

Part 2 Division 1—delete Division 1 and substitute:

Division 1—Establishment of Trust

5—Establishment of Trust

- (1) The Adelaide Festival Centre Trust is established.
- (2) The Trust—
 - (a) is a body corporate; and
 - (b) has perpetual succession and a common seal; and
 - (c) can sue and be sued in its corporate name; and
 - (d) is an instrumentality of the Crown and holds property on behalf of the Crown; and
 - (e) has the functions and powers assigned or conferred under this or any other Act.

Division 1A—Membership, proceedings, etc

6—Composition of Trust

- (1) The Trust will consist of not more than 8 members appointed by the Governor, of whom—
 - (a) 1 will be nominated by the Council from the members, officers or employees of the Council; and
 - (b) the remainder will be nominated by the Minister.
- (2) If the Council fails to nominate a person within 6 weeks of a written request to do so from the Minister, the Governor may appoint a person nominated by the Minister and that person will be taken to have been duly appointed as a member.
- (3) At least 2 members must be women and at least 2 must be men.
- (4) The Governor will appoint 1 of the members nominated by the Minister to be the presiding member.
- (5) The Governor may appoint a suitable person to be the deputy of a member (being a person nominated by the body or person who nominated the member) and the deputy may perform or exercise the functions and powers of the member in the member's absence.

7—Conditions of membership

- (1) A member will be appointed for a term not exceeding 3 years and on conditions determined by the Governor and specified in the instrument of appointment.
- (2) A member will, at the expiration of a term of appointment, be eligible for reappointment (subject to the qualification that a person cannot serve as a member for more than 9 consecutive years).
- (3) The Governor may remove a member from office—
 - (a) for misconduct; or
 - (b) for failure or incapacity to carry out the duties of his or her office satisfactorily; or
 - (c) for contravention of a condition of his or her appointment; or
 - (d) if serious irregularities have occurred in the conduct of the Trust's affairs or the Trust has failed to carry out its functions satisfactorily and its membership should, in the opinion of the Governor, be reconstituted for that reason.
- (4) The office of a member becomes vacant if the member—
 - (a) dies; or
 - (b) completes a term of office and is not reappointed; or
 - (c) resigns by written notice to the Minister; or

- (d) is convicted of an indictable offence or sentenced to imprisonment for an offence; or
 - (e) ceases to satisfy the qualification by virtue of which the member was eligible for appointment to the Trust; or
 - (f) is absent without leave of the presiding member of the Trust from 3 consecutive meetings of the Trust; or
 - (g) is removed from office under subsection (3).
- (5) On the office of a member becoming vacant, a person may be appointed in accordance with this Division to the vacant office.
- (6) A member is entitled to fees, allowances and expenses determined by the Governor.

8—Proceedings

- (1) A quorum of the Trust consists of half of the total number of members (ignoring any fraction resulting from the division) plus 1.
- (2) In the absence of the presiding member at a meeting of the Trust, a member chosen by the members present at the meeting will preside.
- (3) A decision carried by a majority of the votes cast by members at a meeting is a decision of the Trust.
- (4) Each member present at a meeting of the Trust has 1 vote on any question arising for decision and, if the votes are equal, the member presiding at the meeting may exercise a casting vote.
- (5) A conference by telephone or other electronic means between members will, for the purposes of this section, be taken to be a meeting of the Trust at which the participating members are present if—
 - (a) notice of the conference is given to all members in the manner determined by the Trust for the purpose; and
 - (b) each participating member is capable of communicating with every other participating member during the conference.
- (6) A proposed resolution of the Trust becomes a valid decision of the Trust despite the fact that it is not voted on at a meeting of the Trust if—
 - (a) notice of the proposed resolution is given to all members in accordance with procedures determined by the Trust; and
 - (b) a majority of the members expresses concurrence in the proposed resolution by letter, fax or other written communication setting out the terms of the resolution.
- (7) The Trust must meet at least 6 times in each year.
- (8) The Trust must have accurate minutes kept of its proceedings.
- (9) Subject to this Act, the Trust may determine its own procedures.

- (10) Subject to the directions of the Trust and section 11, this section applies to a committee of the Trust in the same way as to the Trust.

9—Validity of acts

An act or proceeding of the Trust or a committee of the Trust is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

10—Ministerial control

- (1) Subject to subsection (2), the Trust is subject to the general control and direction of the Minister.
- (2) No Ministerial direction can be given—
- (a) as to the artistic nature or content of—
 - (i) objects, works or collections held or promoted by the Trust; or
 - (ii) performances or other events or activities conducted or promoted by the Trust; or
 - (b) as to the manner in which the Trust is to deal with a testamentary or other gift; or
 - (c) as to any advice or recommendation that the Trust makes or is required to make to the Minister.

Division 1B—Committees and delegation

11—Committees

- (1) The Trust may establish such committees (including advisory committees or subcommittees) as the Trust thinks fit.
- (2) The membership and conditions of membership of a committee will be determined by the Trust and may, but need not, consist of, or include, members of the Trust.
- (3) The procedures to be observed in relation to the conduct of the business of a committee will be—
- (a) as determined by the Trust; and
 - (b) insofar as a procedure is not determined under paragraph (a)—as determined by the committee.

12—Delegation

- (1) The Trust may delegate a function or power of the Trust under this Act (other than this power of delegation) to any person or committee or other body (including a person for the time being performing particular duties or holding or acting in a specified position).
- (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 power of the delegator to act in a 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) A delegate must not act pursuant to the delegation in any matter in which the delegate has a direct or indirect pecuniary or personal interest.
- Maximum penalty: \$10 000 or imprisonment for 2 years.
- (5) It is a defence to a charge of an offence against subsection (4) to prove that the defendant was, at the time of the alleged offence, unaware of his or her interest in the matter.
- (6) In legal proceedings, an apparently genuine certificate, purportedly signed by the Trust containing particulars of a delegation under this section, will, in the absence of proof to the contrary, be accepted as proof that the delegation was made in accordance with the particulars.

Division 1C—Conflict of interest under Public Sector (Honesty and Accountability) Act

13—Conflict of interest under Public Sector (Honesty and Accountability) Act

A member of the Trust will not be taken to have a direct or indirect interest in a matter for the purposes of the *Public Sector (Honesty and Accountability) Act 1995* by reason only of the fact that the member has an interest in a matter that is shared in common with those engaged in or associated with the arts industry generally, or a substantial section of those engaged in or associated with the arts industry.

Division 1D—Common seal and execution of documents

14—Common seal and execution of documents

- (1) The common seal of the Trust must not be affixed to a document except in pursuance of a decision of the Trust and the fixing of the seal must be attested by the signatures of 2 members.
- (2) The Trust may, by instrument under the common seal of the Trust, authorise a person or persons (whether nominated by name or by office or title) to execute documents on behalf of the Trust subject to conditions and limitations (if any) specified in the instrument of authority.
- (3) Without limiting subsection (2), the Trust may authorise 2 or more persons to execute documents jointly on behalf of the Trust.

- (4) A document is duly executed by the Trust if—
 - (a) the common seal of the Trust is affixed to the document in accordance with this section; or
 - (b) the document is signed on behalf of the Trust by a person or persons in accordance with authority conferred under this section.
- (5) If an apparently genuine document purports to bear the common seal of the Trust, it will be presumed, in the absence of proof to the contrary, that the common seal of the Trust was duly affixed to the document.

7—Substitution of heading to Part 2 Division 2

Heading to Part 2 Division 2—delete the heading and substitute:

Division 2—Functions and powers of Trust

8—Repeal of section 19

Section 19—delete the section

9—Amendment of section 20—Functions

- (1) Section 20(1)—delete "Subject to this Act the Trust is charged with the responsibility of—" and substitute:

The functions of the Trust are—

- (2) Section 20(1)(b)—delete "without limiting the generality of the foregoing," and substitute:

to undertake

- (3) Section 20(1)(e)—delete paragraph (e) and substitute:

- (e) to carry out any other functions assigned to the Trust under this or any other Act or by the Minister.

- (4) Section 20(1a)—delete the subsection and substitute:

- (1a) However, the Trust must not extend the area of operation of its services under subsection (1)(c) without first consulting the Minister.

- (5) Section 20(2)—delete subsection (2)

10—Insertion of section 20A

After section 20 insert:

20A—Powers

- (1) The Trust has, in addition to any other powers conferred on it under this or any other Act, all the powers of a natural person.
- (2) The Trust may, for example, do any 1 or more of the following (subject to this Act):
 - (a) engage agents, consultants or other contractors;

- (b) enter into contracts or agreements with artists, performers, entertainers and other persons involved in the arts, or employ such persons;
- (c) enter into other contracts, agreements or arrangements;
- (d) acquire, hold, take on hire, lend, exchange or dispose of objects, works or collections of artistic, historical or cultural interest;
- (e) acquire, hold, deal with or dispose of—
 - (i) licences; or
 - (ii) intellectual property (including patents and copyright); or
 - (iii) any other property (whether real or personal); or
 - (iv) any interest in such property;
- (f) accept grants or obtain financial sponsorship from any person or body;
- (g) carry on advertising and promotional activities;
- (h) conduct events and establish, operate, manage or make available venues and other facilities (including facilities for food and liquor) at the Centre or other premises of the Trust;
- (i) regulate and control admission to any venue for any events or activities conducted or promoted by the Trust, and charge and collect fees for admission to any such venue;
- (j) grant for fee or other consideration advertising or sponsorship rights or other rights, licences or concessions in connection with events or activities conducted or promoted by the Trust;
- (k) publish or produce books, programs, brochures, films, souvenirs and other information or things relating to events or activities conducted or promoted by the Trust;
- (l) sell or supply food and drink (including liquor), books, programs, brochures, films, souvenirs and other things in connection with events or activities conducted or promoted by the Trust;
- (m) grant or dispose of rights to televise, broadcast or record any events or activities conducted or promoted by the Trust;
- (n) restrict, control and make charges for the use of official insignia;
- (o) take out policies of insurance in its own right or on behalf of the State;

- (p) participate (whether as a member or otherwise) in, or otherwise be involved in the activities of, national or international organisations or associations involved in the arts, or the promotion of the arts;
 - (q) give or contribute towards prizes in competitions designed to encourage artistic or cultural or performing arts activity within the State or make grants and give other assistance for such purposes;
 - (r) enter into any partnership or joint venture arrangement;
 - (s) form, or acquire, hold, deal with and dispose of shares or other interests in, or securities issued by, bodies corporate, whether within or outside of the State;
 - (t) borrow money and obtain other forms of financial accommodation;
 - (u) act as trustee on behalf of another person in connection with the performance of its functions under this Act.
- (3) However, the Trust must not, without the approval of the Treasurer, exercise a power referred to in subsection (2)(s) or (t).
- (4) The Trust is not obliged to accept or keep material that is not, in its opinion, of sufficient artistic, historical, cultural or other interest to justify its collection or preservation under this Act.
- (5) The Trust may exercise its powers within or outside of the State.

Division 2A—Staffing arrangements

11—Substitution of Part 2 Division 3 and Part 3

Part 2 Division 3 and Part 3—delete Part 2 Division 3 and Part 3 and substitute:

Division 3—Financial matters and annual reports

23—Annual budget

- (1) The Trust must, from time to time, prepare and submit to the Minister a budget for the next financial year or for some other period determined by the Minister.
- (2) The budget must set out estimates of the Trust's receipts and expenditures for the period to which the budget relates.
- (3) The budget must conform with any requirements of the Minister as to its form and the matters to be addressed by the budget.
- (4) The Minister may approve a budget submitted under this section with or without modification.
- (5) Subject to subsection (6), the Trust must not, without the consent of the Minister, make an expenditure that is not provided for by a budget that has been approved by the Minister under this section.

- (6) The Trust is not required to have the approval of the Minister with respect to the expenditure of money received by the Trust by way of a testamentary or other gift.

24—Accounts and audit

- (1) The Trust must cause proper accounting records to be kept in relation to the financial affairs of the Trust, and must have annual statements of account prepared in respect of each financial year.
- (2) The accounting records and the 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 further requirements imposed by the Auditor-General.
- (3) The Auditor-General may at any time audit the accounts of the Trust and must audit the annual statements of account.

25—Annual report

- (1) The Trust must, on or before 30 September in every year, forward to the Minister a report on the work and operations of the Trust for the preceding financial year.
- (2) The report must contain the audited statements of account of the Trust for the preceding financial year.
- (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.

12—Substitution of heading to Part 4

Heading to Part 4—delete the heading and substitute:

Part 3—Transfer of Trust property

13—Redesignation of section 29—Transfer of Trust property

Section 29—redesignate section 29 as section 26

14—Substitution of Part 5

Part 5—delete Part 5 and substitute:

Part 4—Authorised officers

27—Appointment of authorised officers

- (1) The Minister may appoint persons to be authorised officers for the purposes of this Act.
- (2) Each police officer is an authorised officer for the purposes of this Act.

- (3) An appointment under subsection (1) may be made subject to conditions or limitations specified in the instrument of appointment (and the exercise by an authorised officer of powers conferred under this Act is subject to the conditions and limitations (if any) specified in his or her instrument of appointment).
- (4) An authorised officer other than a police officer must be issued with an identity card—
 - (a) containing the person’s name and a photograph of the person; and
 - (b) stating that the person is an authorised officer for the purposes of this Act; and
 - (c) stating any conditions or limitations on the authorised officer’s authority.
- (5) An authorised officer must, at the request of a person in relation to whom the authorised officer intends to exercise any powers under this Act, produce for inspection by the person—
 - (a) in the case of an authorised officer appointed under subsection (1)—his or her identity card; and
 - (b) in the case of an authorised officer who is a police officer and is not in uniform—his or her certificate of authority.
- (6) If a person in possession of an identity card issued to the person under this section ceases to be an authorised officer, the person must immediately return the identity card to the Minister.

Maximum penalty: \$250.

28—Powers of authorised officers

- (1) If an authorised officer reasonably suspects that a person, while at the Centre or other premises of the Trust, has committed, is committing or is about to commit an offence against this or any other Act, the authorised officer may do any 1 or more of the following:
 - (a) require the person to state his or her full name and usual place of residence;
 - (b) if the authorised officer suspects on reasonable grounds that the name or place of residence stated is false—require the person to produce evidence of his or her full name or usual place of residence;
 - (c) require the person to leave the Centre or those premises immediately and not to return for a stated period (not exceeding 24 hours) or not to enter the Centre or those premises;
 - (d) if the person refuses or fails to comply with a requirement under paragraph (c)—use such force as is reasonably necessary for the purpose of removing or excluding the person from the Centre or those premises;

- (e) cause the person to be detained and handed over into the custody of a police officer as soon as reasonably practicable.
- (2) An authorised officer may also—
 - (a) require a person to surrender any object, substance or thing that the authorised officer reasonably suspects has been, is being, or is about to be, used at the Centre or other premises of the Trust in contravention of this Act; and
 - (b) give such directions to persons at the Centre or other premises of the Trust that the authorised officer considers necessary for—
 - (i) the maintenance of good order, the prevention of interference with events or other activities, or the safe and efficient regulation of vehicular or pedestrian traffic, at the Centre or those premises; or
 - (ii) the protection of property under the care or control of the Trust; and
 - (c) use such force as may reasonably be required—
 - (i) for the purpose of removing or excluding from the Centre or other premises of the Trust a person who refuses or fails to comply with a requirement or direction under this section; or
 - (ii) for the purposes of seizing goods under section 33; and
 - (d) exercise any other prescribed power.
- (3) An authorised officer may, in exercising powers under this Act, be accompanied by such assistants as are reasonably required in the circumstances.
- (4) For the purposes of this section, a reference to the *Centre or other premises of the Trust* includes a reference to a part of the Centre or those premises.

29—Hindering etc authorised officers

- (1) A person who—
 - (a) without reasonable excuse hinders or obstructs an authorised officer; or
 - (b) fails to answer a question put by an authorised officer to the best of his or her knowledge, information or belief; or
 - (c) produces a document that he or she knows, or ought to know, is false or misleading in a material particular; or
 - (d) fails without reasonable excuse to comply with a requirement or direction of an authorised officer under this Act; or

- (e) uses abusive, threatening or insulting language to an authorised officer or a person assisting an authorised officer; or
- (f) falsely represents, by words or conduct, that he or she is an authorised officer,

is guilty of an offence.

Maximum penalty: \$2 500.

- (2) A person is not obliged to answer a question or to produce a document as required under this Act if to do so might tend to incriminate the person or make the person liable to a penalty.

Part 5—Official insignia

30—Interpretation

- (1) In this Part—
official insignia means—
 - (a) an official title (declared under section 31); or
 - (b) a logo (declared under section 31); or
 - (c) a combination of the above.
- (2) For the purposes of this Part, goods will be taken to be marked with official insignia if the insignia is 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.

31—Official titles and logos

- (1) The following are declared to be official titles:
 - (a) *Adelaide Festival Centre Trust*;
 - (b) *Adelaide Festival Centre*.
- (2) The Minister may, by notice in the Gazette—
 - (a) declare some other name under which the Trust may conduct its operations or part of its operations to be an official title; or
 - (b) declare a name or a title of an event or activity conducted or promoted by the Trust to be an official title; or

- (c) declare a logo (being a design, the copyright of which is vested in the Crown in right of the State) to be a logo in respect of the Trust or a particular event or activity conducted or promoted by the Trust.
- (3) However, the Minister must not make a declaration under subsection (2) in relation to a name or title that is registered or otherwise protected under another Act unless the Minister is acting with the consent or agreement of the person who has the benefit of the registration or protection.
- (4) An official title declared under this section is not required to be registered or otherwise protected under any other Act.
- (5) The Minister may, by notice in the Gazette, vary or revoke a notice under this section.

32—Unlawful use of official insignia

- (1) The Trust has a proprietary interest in all official insignia.
- (2) A person must not, without the consent of the Trust, in the course of a trade or business—
 - (a) use a name in which the Trust has a proprietary interest under this section for the purpose of promoting the sale of services or the provision of any benefits; or
 - (b) sell goods marked with official insignia; or
 - (c) use official insignia for the purpose of promoting the sale of goods or services.

Maximum penalty: \$20 000.

- (3) A person must not, without the consent of the Trust, assume a name or description that consists of, or includes, official insignia.
Maximum penalty: \$20 000.
- (4) A consent under this section—
 - (a) may be given with or without conditions (including conditions requiring payment to the Trust); and
 - (b) may be given generally by notice in the Gazette or by notice in writing addressed to an applicant for the consent; and
 - (c) may be revoked by the Trust 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 Trust, 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 Trust, order the convicted person to pay compensation of an amount fixed by the court to the Trust.

- (7) Subsections (5) and (6) do not derogate from any civil remedy that may be available to the Trust apart from those subsections.

33—Seizure etc of goods marked with official insignia

- (1) If—
- (a) goods apparently intended for a commercial purpose are marked with official insignia; and
 - (b) an authorised officer suspects on reasonable grounds that the use of the insignia has not been authorised by the Trust,
- the authorised officer may seize those goods.
- (2) If goods have been seized under this section and—
- (a) proceedings are not instituted for an offence against section 32(2) 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 Trust 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 paid into the Consolidated Account.

Part 6—Miscellaneous

34—Liability for council rates

- (1) Subject to subsection (2), land owned by the Trust is not rateable under the *Local Government Act 1999*.
- (2) If any such land is occupied under a lease or licence by a person other than the Crown or an agency or instrumentality of the Crown, that person is liable as occupier of the land to rates levied under the *Local Government Act 1999*.

35—Gifts etc

- (1) The Trust may accept—
 - (a) grants, conveyances, transfers and leases of land from the Crown, an instrumentality of the Crown or any other person or body; and
 - (b) rights to the use, control, management or occupation of any land; and
 - (c) gifts of personal property of any kind to be used or applied by it for the purposes of this Act.
- (2) Despite the *Stamp Duties Act 1923*, no stamp duty is payable on any instrument by which land or any interest in or right over land is granted or assured to or vested in the Trust or on any contract or instrument executed by the Trust for the purpose of disposing of any property.

36—Ministerial delegation

- (1) The Minister may delegate a function or power of the Minister under this Act (other than this power of delegation) to any person (including a person for the time being performing particular duties or holding or acting in a specified position).
- (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 power of the delegator to act in a 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 legal proceedings, an apparently genuine certificate, purportedly signed by the Minister containing particulars of a delegation under this section, will, in the absence of proof to the contrary, be accepted as proof that the delegation was made in accordance with the particulars.

37—Approvals by Treasurer

- (1) An approval given by the Treasurer under this Act may be—
 - (a) specific or general; and
 - (b) conditional or unconditional.
- (2) An approval given by the Treasurer may be varied or revoked by the Treasurer at any time.

38—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) provide for the use, care and protection of objects, works, collections or any other property under the care or control of the Trust; and
 - (b) provide for the admission, exclusion or expulsion of members of the public to or from the Centre or other premises of the Trust or a part of the Centre or those premises; and
 - (c) prohibit disorderly or offensive behaviour at the Centre or other premises of the Trust; and
 - (d) prohibit or regulate eating, drinking (including liquor), smoking or the consumption of unlawful substances at the Centre or other premises of the Trust or a part of the Centre or those premises; and
 - (e) prohibit or regulate any other conduct or activities for the purposes of—
 - (i) maintaining good order, and preventing interference with events or activities conducted, at the Centre or other premises of the Trust; and
 - (ii) protecting property under the care or control of the Trust; and
 - (f) prohibit or regulate the driving, parking or standing of vehicles at the Centre or other premises of the Trust; and
 - (g) prescribe fees for the parking of vehicles at the Centre or other premises of the Trust and provide for their payment and recovery; and
 - (h) provide that the owner and driver of a vehicle driven, parked or left standing in contravention of the regulations are each guilty of an offence and provide or exclude defences in relation to any such offence; and
 - (i) provide for the management (including disposal) by, and vesting in, the Trust of unclaimed property; and
 - (j) provide for the approval by the Trust or an authorised officer of any act or activity that would otherwise be prohibited under the regulations; and
 - (k) prescribe penalties not exceeding \$1 250 for breach of any regulation.

- (3) The regulations may—
 - (a) be of general or limited application; and
 - (b) make different provision according to the persons, things or circumstances to which they are expressed to apply; and
 - (c) provide that any matter or thing is to be determined, dispensed with, regulated or prohibited according to the discretion of the Minister, the Trust or another prescribed person or authority.
- (4) In proceedings for an offence against a regulation dealing with the driving, parking or standing of vehicles—
 - (a) an allegation in a 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 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.

Part 3—Amendment of *Adelaide Festival Corporation Act 1998*

15—Amendment of section 3—Interpretation

- (1) Section 3(1), after "In this Act" insert:

, unless the contrary intention appears
- (2) Section 3(1), definition of *board*—delete the definition and substitute:

authorised officer—see Part 5;

board means the board established as the governing authority of the Corporation under section 7;
- (3) Section 3(1), definitions of *logo*, *official insignia*, *official symbol*, *official title* and *promote*—delete the definitions and substitute:

member means member of the board;

occupy, in relation to premises, means have, or be entitled to, possession or control of the premises;

official insignia—see Part 6;

premises of the Corporation means premises owned or occupied by the Corporation;

promote, in relation to an event or activity, includes organise, commission, fund, support, market, advertise or act as project manager.
- (4) Section 3(2)—delete subsection (2)

16—Substitution of heading to Part 3

Heading to Part 3—delete the heading and substitute:

Part 3—Functions and powers of Corporation

17—Amendment of section 6—Powers

(1) Section 6(1) and (2)—delete subsections (1) and (2) and substitute:

- (1) The Corporation has, in addition to any other powers conferred on it under this or any other Act, all the powers of a natural person.
- (2) The Corporation may, for example, do any 1 or more of the following (subject to this Act):
 - (a) engage agents, consultants or other contractors;
 - (b) enter into contracts or agreements with artists, performers, entertainers and other persons involved in the arts, or employ such persons;
 - (c) enter into other contracts, agreements or arrangements;
 - (d) acquire, hold, take on hire, lend, exchange or dispose of objects, works or collections of artistic, historical or cultural interest;
 - (e) acquire, hold, deal with or dispose of—
 - (i) licences; or
 - (ii) intellectual property (including patents and copyright); or
 - (iii) any other property (whether real or personal); or
 - (iv) any interest in such property;
 - (f) accept grants or obtain financial sponsorship from any person or body;
 - (g) carry on any advertising and promotional activities;
 - (h) conduct events and establish, operate, manage or make available venues and other facilities (including facilities for food and liquor) on premises of the Corporation;
 - (i) regulate and control admission to any venue for any events or activities conducted or promoted by the Corporation, and charge and collect fees for admission to any such venue;
 - (j) grant for fee or other consideration advertising or sponsorship rights or other rights, licences or concessions in connection with events or activities conducted or promoted by the Corporation;
 - (k) publish or produce books, programs, brochures, films, souvenirs and other information or things relating to events or activities conducted or promoted by the Corporation;

- (l) sell or supply food and drink (including liquor), books, programs, brochures, films, souvenirs and other things in connection with events or activities conducted or promoted by the Corporation;
 - (m) grant or dispose of rights to televise, broadcast or record any events or activities conducted or promoted by the Corporation;
 - (n) restrict, control and make charges for the use of official insignia;
 - (o) take out policies of insurance in its own right or on behalf of the State;
 - (p) participate (whether as a member or otherwise) in, or otherwise be involved in the activities of, national or international organisations or associations involved in the arts, or the promotion of the arts;
 - (q) give or contribute towards prizes in competitions designed to encourage artistic or cultural or performing arts activity within the State or make grants and give other assistance for such purposes;
 - (r) enter into any partnership or joint venture arrangement;
 - (s) form, or acquire, hold, deal with and dispose of shares or other interests in, or securities issued by, bodies corporate, whether within or outside of the State;
 - (t) borrow money and obtain other forms of financial accommodation;
 - (u) act as trustee on behalf of another person in connection with the performance of its functions under this Act.
- (2) Section 6—after subsection (3) insert:
- (3a) The Corporation is not obliged to accept or keep material that is not, in its opinion, of sufficient artistic, historical, cultural or other interest to justify its collection or preservation under this Act.
- (3) Section 6(4)—delete "and outside" and substitute:
- or outside of

18—Substitution of heading to Part 4

Heading to Part 4—delete the heading and substitute:

Part 4—Management of Corporation

19—Insertion of heading to Part 4 Division 1A

Before section 8 insert:

Division 1A—Membership, proceedings etc

20—Substitution of sections 8 to 11

Sections 8 to 11 (inclusive)—delete the sections and substitute:

8—Composition of board

- (1) The board will consist of not more than 8 members appointed by the Governor, of whom—
 - (a) 1 will be selected from a panel of 3 persons nominated by The Corporation of the City of Adelaide; and
 - (b) the remainder will be nominated by the Minister.
- (2) At least 2 members must be women and at least 2 must be men.
- (3) The Governor will appoint 1 of the members nominated by the Minister to be the presiding member.
- (4) The Governor may appoint a suitable person to be the deputy of a member (being a person nominated by the body or person who nominated the member) and the deputy may perform or exercise the functions and powers of the member in the member's absence.

9—Conditions of membership

- (1) A member will be appointed for a term not exceeding 3 years and on conditions determined by the Governor and specified in the instrument of appointment.
- (2) A member will, at the expiration of a term of appointment, be eligible for reappointment (subject to the qualification that a person cannot serve as a member for more than 9 consecutive years).
- (3) The Governor may remove a member from office—
 - (a) for misconduct; or
 - (b) for failure or incapacity to carry out the duties of his or her office satisfactorily; or
 - (c) for contravention of a condition of his or her appointment; or
 - (d) if serious irregularities have occurred in the conduct of the board's affairs or the board has failed to carry out its functions satisfactorily and its membership should, in the opinion of the Governor, be reconstituted for that reason.

- (4) The office of a member becomes vacant if the member—
 - (a) dies; or
 - (b) completes a term of office and is not reappointed; or
 - (c) resigns by written notice to the Minister; or
 - (d) is convicted of an indictable offence or sentenced to imprisonment for an offence; or
 - (e) is absent without leave of the presiding member of the board from 3 consecutive meetings of the board; or
 - (f) is removed from office under subsection (3).
- (5) On the office of a member becoming vacant, a person may be appointed in accordance with this Division to the vacant office.
- (6) A member is entitled to fees, allowances and expenses determined by the Governor.

21—Amendment of section 12—Proceedings

- (1) Section 12(2)—delete "member appointed to chair meetings of the board" and substitute:

presiding member
- (2) Section 12(6)(b)—delete "facsimile transmission or other electronically transmitted" and substitute:

fax or other
- (3) Section 12—after subsection (6) insert:

(6a) The board must meet at least 6 times in each year.
- (4) Section 12—after subsection (8) insert:

(9) Subject to the directions of the board and section 15, this section applies to a committee of the board in the same way as to the board.

22—Substitution of section 13

Section 13—delete the section and substitute:

13—Validity of acts

An act or proceeding of the board or a committee of the board is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

14—Ministerial control

- (1) Subject to subsection (2), the board is subject to the general control and direction of the Minister.
- (2) No Ministerial direction can be given—
 - (a) as to the artistic nature or content of—

- (i) objects, works or collections held or promoted by the Corporation; or
- (ii) performances or other events or activities conducted or promoted by the Corporation; or
- (b) as to the manner in which the board is to deal with a testamentary or other gift; or
- (c) as to any advice or recommendation that the board makes or is required to make to the Minister.

23—Repeal of Part 4 Division 2

Part 4 Division 2—delete Division 2

24—Amendment and redesignation of section 17—Committees

- (1) Section 17(2)—after "membership" insert:
 - and conditions of membership
- (2) Section 17—redesignate the section (as amended by this section) as section 15

25—Substitution of section 18

Section 18—delete the section and substitute:

16—Delegation

- (1) The board may delegate a function or power of the board under this Act (other than this power of delegation) to any person or committee or other body (including a person for the time being performing particular duties or holding or acting in a specified position).
- (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 power of the delegator to act in a 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) A delegate must not act pursuant to the delegation in any matter in which the delegate has a direct or indirect pecuniary or personal interest.
Maximum penalty: \$10 000 or imprisonment for 2 years.
- (5) It is a defence to a charge of an offence against subsection (4) to prove that the defendant was, at the time of the alleged offence, unaware of his or her interest in the matter.

- (6) In legal proceedings, an apparently genuine certificate, purportedly signed by the board containing particulars of a delegation under this section, will, in the absence of proof to the contrary, be accepted as proof that the delegation was made in accordance with the particulars.

26—Insertion of Part 4 Divisions 3A and 3B

After section 16 (as substituted by section 25 of this Act) insert:

Division 3A—Conflict of interest under Public Sector (Honesty and Accountability) Act

17—Conflict of interest under Public Sector (Honesty and Accountability) Act

A member of the board will not be taken to have a direct or indirect interest in a matter for the purposes of the *Public Sector (Honesty and Accountability) Act 1995* by reason only of the fact that the member has an interest in a matter that is shared in common with those engaged in or associated with the arts industry generally, or a substantial section of those engaged in or associated with the arts industry.

Division 3B—Common seal and execution of documents

18—Common seal and execution of documents

- (1) The common seal of the Corporation must not be affixed to a document except in pursuance of a decision of the board and the fixing of the seal must be attested by the signatures of 2 members of the board.
- (2) The board may, by instrument under the common seal of the Corporation, authorise a person or persons (whether nominated by name or by office or title) to execute documents on behalf of the Corporation subject to conditions and limitations (if any) specified in the instrument of authority.
- (3) Without limiting subsection (2), the board may authorise 2 or more persons to execute documents jointly on behalf of the Corporation.
- (4) A document is duly executed by the Corporation if—
 - (a) the common seal of the Corporation is affixed to the document in accordance with this section; or
 - (b) the document is signed on behalf of the Corporation by a person or persons in accordance with authority conferred under this section.
- (5) If an apparently genuine document purports to bear the common seal of the Corporation, it will be presumed, in the absence of proof to the contrary, that the common seal of the Corporation was duly affixed to the document.

27—Insertion of section 18A

Before section 19 insert:

18A—Annual budget

- (1) The board must, from time to time, prepare and submit to the Minister a budget for the next financial year or for some other period determined by the Minister.
- (2) The budget must set out estimates of the Corporation's receipts and expenditures for the period to which the budget relates.
- (3) The budget must conform with any requirements of the Minister as to its form and the matters to be addressed by the budget.
- (4) The Minister may approve a budget submitted under this section with or without modification.
- (5) Subject to subsection (6), the board must not, without the consent of the Minister, make an expenditure that is not provided for by a budget that has been approved by the Minister under this section.
- (6) The board is not required to have the approval of the Minister with respect to the expenditure of money received by the Corporation by way of a testamentary or other gift.

28—Substitution of Part 5

Part 5—delete the Part and substitute:

Part 5—Authorised officers

21—Appointment of authorised officers

- (1) The Minister may appoint persons to be authorised officers for the purposes of this Act.
- (2) Each police officer is an authorised officer for the purposes of this Act.
- (3) An appointment under subsection (1) may be made subject to conditions or limitations specified in the instrument of appointment (and the exercise by an authorised officer of powers conferred under this Act is subject to the conditions and limitations (if any) specified in his or her instrument of appointment).
- (4) An authorised officer other than a police officer must be issued with an identity card—
 - (a) containing the person's name and a photograph of the person; and
 - (b) stating that the person is an authorised officer for the purposes of this Act; and
 - (c) stating any conditions or limitations on the authorised officer's authority.

- (5) An authorised officer must, at the request of a person in relation to whom the authorised officer intends to exercise any powers under this Act, produce for inspection by the person—
- (a) in the case of an authorised officer appointed under subsection (1)—his or her identity card; and
 - (b) in the case of an authorised officer who is a police officer and is not in uniform—his or her certificate of authority.
- (6) If a person in possession of an identity card issued to the person under this section ceases to be an authorised officer, the person must immediately return the identity card to the Minister.
- Maximum penalty: \$250.

22—Powers of authorised officers

- (1) If an authorised officer reasonably suspects that a person, while on premises of the Corporation, has committed, is committing or is about to commit an offence against this or any other Act, the authorised officer may do any 1 or more of the following:
- (a) require the person to state his or her full name and usual place of residence;
 - (b) if the authorised officer suspects on reasonable grounds that the name or place of residence stated is false—require the person to produce evidence of his or her full name or usual place of residence;
 - (c) require the person to leave those premises immediately and not to return for a stated period (not exceeding 24 hours) or not to enter those premises;
 - (d) if the person refuses or fails to comply with a requirement under paragraph (c)—use such force as is reasonably necessary for the purpose of removing or excluding the person from those premises;
 - (e) cause the person to be detained and handed over into the custody of a police officer as soon as reasonably practicable.
- (2) An authorised officer may also—
- (a) require a person to surrender any object, substance or thing that the authorised officer reasonably suspects has been, is being, or is about to be, used on premises of the Corporation in contravention of this Act; and
 - (b) give such directions to persons on premises of the Corporation that the authorised officer considers necessary for—
 - (i) the maintenance of good order, the prevention of interference with events or other activities, or the safe and efficient regulation of vehicular or pedestrian traffic, on those premises; or

- (ii) the protection of property under the care or control of the Corporation; and
 - (c) use such force as may reasonably be required—
 - (i) for the purpose of removing or excluding from premises of the Corporation a person who refuses or fails to comply with a requirement or direction under this section; or
 - (ii) for the purposes of seizing goods under section 27; and
 - (d) exercise any other prescribed power.
- (3) An authorised officer may, in exercising powers under this Act, be accompanied by such assistants as are reasonably required in the circumstances.
- (4) For the purposes of this section, a reference to *premises of the Corporation* includes a reference to a part of those premises.

23—Hindering etc authorised officers

- (1) A person who—
- (a) without reasonable excuse hinders or obstructs an authorised officer; or
 - (b) fails to answer a question put by an authorised officer to the best of his or her knowledge, information or belief; or
 - (c) produces a document that he or she knows, or ought to know, is false or misleading in a material particular; or
 - (d) fails without reasonable excuse to comply with a requirement or direction of an authorised officer under this Act; or
 - (e) uses abusive, threatening or insulting language to an authorised officer or a person assisting an authorised officer; or
 - (f) falsely represents, by words or conduct, that he or she is an authorised officer,

is guilty of an offence.

Maximum penalty: \$2 500.

- (2) A person is not obliged to answer a question or to produce a document as required under this Act if to do so might tend to incriminate the person or make the person liable to a penalty.

Part 6—Official insignia

24—Interpretation

- (1) In this Part—
official insignia means—
 - (a) an official title (declared under section 25); or
 - (b) a logo (declared under section 25); or
 - (c) a combination of the above.
- (2) For the purposes of this Part, goods will be taken to be marked with official insignia if the insignia is 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.

25—Official titles and logos

- (1) *Adelaide Festival Corporation* is declared to be an official title.
- (2) The Minister may, by notice in the Gazette—
 - (a) declare some other name under which the Corporation may conduct its operations or part of its operations to be an official title; or
 - (b) declare a name or a title of an event or activity conducted or promoted by the Corporation to be an official title; or
 - (c) declare a logo (being a design, the copyright of which is vested in the Crown in right of the State) to be a logo in respect of the Corporation or a particular event or activity conducted or promoted by the Corporation.
- (3) However, the Minister must not make a declaration under subsection (2) in relation to a name or title that is registered or otherwise protected under another Act unless the Minister is acting with the consent or agreement of the person who has the benefit of the registration or protection.
- (4) An official title declared under this section is not required to be registered or otherwise protected under any other Act.
- (5) The Minister may, by notice in the Gazette, vary or revoke a notice under this section.

26—Unlawful use of official insignia

- (1) The Corporation has a proprietary interest in all official insignia.
- (2) A person must not, without the consent of the Corporation, in the course of a trade or business—
 - (a) use a name in which the Corporation has a proprietary interest under this section for the purpose of promoting the sale of services or the provision of any benefits; or
 - (b) sell goods marked with official insignia; or
 - (c) use official insignia for the purpose of promoting the sale of goods or services.

Maximum penalty: \$20 000.

- (3) A person must not, without the consent of the Corporation, assume a name or description that consists of, or includes, official insignia.

Maximum penalty: \$20 000.

- (4) A consent under this section—
 - (a) may be given with or without conditions (including conditions requiring payment to the Corporation); and
 - (b) may be given generally by notice in the Gazette or by notice in writing addressed to an applicant for the consent; and
 - (c) may be revoked by the Corporation 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 Corporation, 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 Corporation, order the convicted person to pay compensation of an amount fixed by the court to the Corporation.
- (7) Subsections (5) and (6) do not derogate from any civil remedy that may be available to the Corporation apart from those subsections.

27—Seizure etc of goods marked with official insignia

- (1) If—
 - (a) goods apparently intended for a commercial purpose are marked with official insignia; and
 - (b) an authorised officer suspects on reasonable grounds that the use of the insignia has not been authorised by the Corporation,

the authorised officer may seize those goods.

- (2) If goods have been seized under this section and—
 - (a) proceedings are not instituted for an offence against section 26(2) 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 Corporation 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 paid into the Consolidated Account.

Part 7—Miscellaneous

28—Gifts etc

- (1) The Corporation may accept—
 - (a) grants, conveyances, transfers and leases of land from the Crown, an instrumentality of the Crown or any other person or body; and
 - (b) rights to the use, control, management or occupation of any land; and
 - (c) gifts of personal property of any kind to be used or applied by it for the purposes of this Act.
- (2) Despite the *Stamp Duties Act 1923*, no stamp duty is payable on any instrument by which land or any interest in or right over land is granted or assured to or vested in the Corporation or on any contract or instrument executed by the Corporation for the purpose of disposing of any property.

29—Ministerial delegation

- (1) The Minister may delegate a function or power of the Minister under this Act (other than this power of delegation) to any person (including a person for the time being performing particular duties or holding or acting in a specified position).

- (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 power of the delegator to act in a 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 legal proceedings, an apparently genuine certificate, purportedly signed by the Minister containing particulars of a delegation under this section, will, in the absence of proof to the contrary, be accepted as proof that the delegation was made in accordance with the particulars.

30—Approvals by Treasurer

- (1) An approval given by the Treasurer under this Act may be—
 - (a) specific or general; and
 - (b) conditional or unconditional.
- (2) An approval given by the Treasurer may be varied or revoked by the Treasurer at any time.

31—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) provide for the use, care and protection of objects, works, collections or any other property under the care or control of the Corporation; and
 - (b) provide for the admission, exclusion or expulsion of members of the public to or from premises of the Corporation or a part of those premises; and
 - (c) prohibit disorderly or offensive behaviour on premises of the Corporation; and
 - (d) prohibit or regulate eating, drinking (including liquor), smoking or the consumption of unlawful substances on premises of the Corporation or a part of those premises; and
 - (e) prohibit or regulate any other conduct or activities for the purposes of—
 - (i) maintaining good order, and preventing interference with events or activities conducted, on premises of the Corporation; and

- (ii) protecting property under the care or control of the Corporation; and
 - (f) prohibit or regulate the driving, parking or standing of vehicles on premises of the Corporation; and
 - (g) prescribe fees for the parking of vehicles on premises of the Corporation and provide for their payment and recovery; and
 - (h) provide that the owner and driver of a vehicle driven, parked or left standing in contravention of the regulations are each guilty of an offence and provide or exclude defences in relation to any such offence; and
 - (i) provide for the management (including disposal) by, and vesting in, the Corporation of unclaimed property; and
 - (j) provide for the approval by the board or an authorised officer of any act or activity that would otherwise be prohibited under the regulations; and
 - (k) prescribe penalties not exceeding \$1 250 for breach of any regulation.
- (3) The regulations may—
- (a) be of general or limited application; and
 - (b) make different provision according to the persons, things or circumstances to which they are expressed to apply; and
 - (c) provide that any matter or thing is to be determined, dispensed with, regulated or prohibited according to the discretion of the Minister, the board or another prescribed person or authority.
- (4) In proceedings for an offence against a regulation dealing with the driving, parking or standing of vehicles—
- (a) an allegation in a 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 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.

Part 4—Amendment of *Art Gallery Act 1939*

29—Insertion of heading to Part 1

Before section 1 insert:

Part 1—Preliminary

30—Amendment of section 3—Interpretation

- (1) Section 3, after the definition of *art gallery* insert:

authorised officer—see Part 3;
- (2) Section 3, definition of *board*—after "Board" insert:

established under this Act
- (3) Section 3, definition of *to damage*—delete the definition
- (4) Section 3—after the definition of *member* insert:

occupy, in relation to premises, means have, or be entitled to, possession or control of the premises;

official insignia—see Part 4;

premises of the board means premises owned or occupied by the board;

promote, in relation to an event or activity, includes organise, commission, fund, support, market, advertise or act as project manager.
- (5) Section 3, note—delete the note

31—Insertion of headings to Part 2 and Part 2 Division 1

Before section 4 insert:

Part 2—Art Gallery Board

Division 1—Establishment of Art Gallery Board

32—Amendment of section 4—Establishment of Art Gallery Board

Section 4(2)—delete subsection (2) and substitute:

- (2) The board—
 - (a) is a body corporate; and
 - (b) has perpetual succession and a common seal; and
 - (c) can sue and be sued in its corporate name; and
 - (d) is an instrumentality of the Crown and holds property on behalf of the Crown; and
 - (e) has the functions and powers assigned or conferred under this or any other Act.

33—Substitution of sections 5 to 13

Sections 5 to 13 (inclusive)—delete the sections and substitute:

Division 2—Membership, proceedings etc

5—Composition of board

- (1) The board will consist of not more than 8 members appointed by the Governor.

- (2) At least 2 members must be women and at least 2 must be men.
- (3) The Governor will appoint 1 of the members to be the presiding member.
- (4) The Governor may appoint a suitable person to be a deputy of a member and the deputy may perform or exercise the functions and powers of the member in the member's absence.

6—Conditions of membership

- (1) A member will be appointed for a term not exceeding 3 years and on conditions determined by the Governor and specified in the instrument of appointment.
- (2) A member will, at the expiration of a term of appointment, be eligible for reappointment (subject to the qualification that a person cannot serve as a member for more than 9 consecutive years).
- (3) The Governor may remove a member from office—
 - (a) for misconduct; or
 - (b) for failure or incapacity to carry out the duties of his or her office satisfactorily; or
 - (c) for contravention of a condition of his or her appointment; or
 - (d) if serious irregularities have occurred in the conduct of the board's affairs or the board has failed to carry out its functions satisfactorily and its membership should, in the opinion of the Governor, be reconstituted for that reason.
- (4) The office of a member becomes vacant if the member—
 - (a) dies; or
 - (b) completes a term of office and is not reappointed; or
 - (c) resigns by written notice to the Minister; or
 - (d) is convicted of an indictable offence or sentenced to imprisonment for an offence; or
 - (e) is absent without leave of the presiding member of the board from 3 consecutive meetings of the board; or
 - (f) is removed from office under subsection (3).
- (5) On the office of a member becoming vacant, a person may be appointed in accordance with this Division to the vacant office.
- (6) A member is entitled to fees, allowances and expenses determined by the Governor.

7—Proceedings

- (1) A quorum of the board consists of half of the total number of its members (ignoring any fraction resulting from the division) plus 1.

- (2) In the absence of the presiding member at a meeting of the board, a member chosen by the members present at the meeting will preside.
- (3) A decision carried by a majority of the votes cast by members at a meeting is a decision of the board.
- (4) Each member present at a meeting of the board has 1 vote on any question arising for decision and, if the votes are equal, the member presiding at the meeting may exercise a casting vote.
- (5) A conference by telephone or other electronic means between members will, for the purposes of this section, be taken to be a meeting of the board at which the participating members are present if—
 - (a) notice of the conference is given to all members in the manner determined by the board for the purpose; and
 - (b) each participating member is capable of communicating with every other participating member during the conference.
- (6) A proposed resolution of the board becomes a valid decision of the board despite the fact that it is not voted on at a meeting of the board if—
 - (a) notice of the proposed resolution is given to all members in accordance with procedures determined by the board; and
 - (b) a majority of the members expresses concurrence in the proposed resolution by letter, fax or other written communication setting out the terms of the resolution.
- (7) The board must meet at least 6 times in each year.
- (8) The board must have accurate minutes kept of its proceedings.
- (9) Subject to this Act, the board may determine its own procedures.
- (10) Subject to the directions of the board and section 10, this section applies to a committee of the board in the same way as to the board.

8—Validity of acts

An act or proceeding of the board or a committee of the board is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

9—Ministerial control

- (1) Subject to subsection (2), the board is subject to the general control and direction of the Minister.
- (2) No Ministerial direction can be given—
 - (a) as to the artistic nature or content of—
 - (i) objects, works or collections held or promoted by the board; or

- (ii) performances or other events or activities conducted or promoted by the board; or
- (b) as to the manner in which the board is to deal with a testamentary or other gift; or
- (c) as to any advice or recommendation that the board makes or is required to make to the Minister.

Division 3—Committees and delegation

10—Committees

- (1) The board may establish such committees (including advisory committees or subcommittees) as the board thinks fit.
- (2) The membership and conditions of membership of a committee will be determined by the board and may, but need not, consist of, or include, members of the board.
- (3) The procedures to be observed in relation to the conduct of the business of a committee will be—
 - (a) as determined by the board; and
 - (b) insofar as a procedure is not determined under paragraph (a)—as determined by the committee.

11—Delegation

- (1) The board may delegate a function or power of the board under this Act (other than this power of delegation) to any person or committee or other body (including a person for the time being performing particular duties or holding or acting in a specified position).
- (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 power of the delegator to act in a 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) A delegate must not act pursuant to the delegation in any matter in which the delegate has a direct or indirect pecuniary or personal interest.

Maximum penalty: \$10 000 or imprisonment for 2 years.

- (5) It is a defence to a charge of an offence against subsection (4) to prove that the defendant was, at the time of the alleged offence, unaware of his or her interest in the matter.

- (6) In legal proceedings, an apparently genuine certificate, purportedly signed by the board containing particulars of a delegation under this section, will, in the absence of proof to the contrary, be accepted as proof that the delegation was made in accordance with the particulars.

Division 4—Conflict of interest under Public Sector (Honesty and Accountability) Act

12—Conflict of interest under Public Sector (Honesty and Accountability) Act

A member of the board will not be taken to have a direct or indirect interest in a matter for the purposes of the *Public Sector (Honesty and Accountability) Act 1995* by reason only of the fact that the member has an interest in a matter that is shared in common with those engaged in or associated with the arts industry generally, or a substantial section of those engaged in or associated with the arts industry.

Division 5—Common seal and execution of documents

13—Common seal and execution of documents

- (1) The common seal of the board must not be affixed to a document except in pursuance of a decision of the board and the fixing of the seal must be attested by the signatures of 2 members of the board.
- (2) The board may, by instrument under the common seal of the board, authorise a person or persons (whether nominated by name or by office or title) to execute documents on behalf of the board subject to conditions and limitations (if any) specified in the instrument of authority.
- (3) Without limiting subsection (2), the board may authorise 2 or more persons to execute documents jointly on behalf of the board.
- (4) A document is duly executed by the board if—
 - (a) the common seal of the board is affixed to the document in accordance with this section; or
 - (b) the document is signed on behalf of the board by a person or persons in accordance with authority conferred under this section.
- (5) If an apparently genuine document purports 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.

34—Insertion of heading to Part 2 Division 6

Before section 16 insert:

Division 6—Functions and powers of board

35—Amendment of section 16—Functions

- (1) Section 16(1)—delete "are as follows:" and substitute:
are—
- (2) Section 16(1)(a)—delete "of all lands and premises placed under the care and control" and substitute:
other premises
- (3) Section 16(1)(f)—delete paragraph (f) and substitute:
 - (f) to carry out any other functions assigned to the board under this or any other Act or by the Minister.
- (4) Section 16(2) and (3)—delete subsections (2) and (3)

36—Substitution of sections 16A and 17

Sections 16A and 17—delete the sections and substitute:

17—Powers

- (1) The board has, in addition to any other powers conferred on it under this or any other Act, all the powers of a natural person.
- (2) The board may, for example, do any 1 or more of the following (subject to this Act):
 - (a) engage agents, consultants or other contractors;
 - (b) enter into contracts or agreements with artists and other persons involved in the arts, or employ such persons;
 - (c) enter into other contracts, agreements or arrangements;
 - (d) acquire, hold, take on hire, lend, exchange or dispose of objects, works or collections of artistic, historical or cultural interest;
 - (e) acquire, hold, deal with or dispose of—
 - (i) licences; or
 - (ii) intellectual property (including patents and copyright); or
 - (iii) any other property (whether real or personal); or
 - (iv) any interest in such property;
 - (f) offer rewards for information leading to the conviction of a person for an offence against any property under the care or control of the board;

- (g) accept grants or obtain financial sponsorship from any person or body;
- (h) carry on advertising and promotional activities;
- (i) conduct events and establish, operate, manage or make available venues and other facilities (including facilities for food and liquor) at the art gallery or other premises of the board;
- (j) regulate and control admission to any venue for any events or activities conducted or promoted by the board;
- (k) charge and collect fees for admission to exhibitions, events or activities conducted on special occasions or for special purposes;
- (l) grant for fee or other consideration advertising or sponsorship rights or other rights, licences or concessions in connection with events or activities conducted or promoted by the board;
- (m) publish or produce books, programs, brochures, films, souvenirs and other information or things relating to events or activities conducted or promoted by the board;
- (n) sell or supply food and drink (including liquor), books, programs, brochures, films, souvenirs and other things in connection with events or activities conducted or promoted by the board;
- (o) grant or dispose of rights to televise, broadcast or record any events or activities conducted or promoted by the board;
- (p) restrict, control and make charges for the use of official insignia;
- (q) take out policies of insurance in its own right or on behalf of the State;
- (r) participate (whether as a member or otherwise) in, or otherwise be involved in the activities of, national or international organisations or associations involved in the arts, or the promotion of the arts;
- (s) give or contribute towards prizes in competitions designed to encourage artistic or cultural arts activity within the State or make grants and give other assistance for such purposes;
- (t) enter into any partnership or joint venture arrangement;
- (u) form, or acquire, hold, deal with and dispose of shares or other interests in, or securities issued by, bodies corporate, whether within or outside of the State;
- (v) borrow money and obtain other forms of financial accommodation;

- (w) act as trustee on behalf of another person in connection with the performance of its functions under this Act.
- (3) However, the board must not, without the approval of the Treasurer, exercise a power referred to in subsection (2)(u) or (v).
- (4) The board is not obliged to accept or keep material that is not, in its opinion, of sufficient artistic, historical, cultural or other interest to justify its collection or preservation under this Act.
- (5) The board may exercise its powers within or outside of the State.

37—Substitution of sections 18 to 29

Sections 18 to 29 (inclusive)—delete the sections and substitute:

Division 7—Staff

18—Staff

- (1) The board's staff consists of Public Service employees assigned to assist the board.
- (2) The board may, under an arrangement established by the Minister administering an administrative unit of the Public Service, make use of the services or staff of that administrative unit.

Division 8—Financial matters and annual reports

19—Annual budget

- (1) The board must, from time to time, prepare and submit to the Minister a budget for the next financial year or for some other period determined by the Minister.
- (2) The budget must set out estimates of the board's receipts and expenditures for the period to which the budget relates.
- (3) The budget must conform with any requirements of the Minister as to its form and the matters to be addressed by the budget.
- (4) The Minister may approve a budget submitted under this section with or without modification.
- (5) Subject to subsection (6), the board must not, without the consent of the Minister, make an expenditure that is not provided for by a budget that has been approved by the Minister under this section.
- (6) The board is not required to have the approval of the Minister with respect to the expenditure of money received by the board by way of a testamentary or other gift.

20—Accounts and audit

- (1) The board must cause proper accounting records to be kept in relation to the financial affairs of the board, and must have annual statements of account prepared in respect of each financial year.

- (2) The accounting records and the 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 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.

21—Annual report

- (1) The board must, on or before 30 September in every year, forward to the Minister a report on the work and operations of the board for the preceding financial year.
- (2) The report must contain the audited statements of account of the board for the preceding financial year.
- (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—Authorised officers

22—Appointment of authorised officers

- (1) The Minister may appoint persons to be authorised officers for the purposes of this Act.
- (2) Each police officer is an authorised officer for the purposes of this Act.
- (3) An appointment under subsection (1) may be made subject to conditions or limitations specified in the instrument of appointment (and the exercise by an authorised officer of powers conferred under this Act is subject to the conditions and limitations (if any) specified in his or her instrument of appointment).
- (4) An authorised officer other than a police officer must be issued with an identity card—
 - (a) containing the person's name and a photograph of the person; and
 - (b) stating that the person is an authorised officer for the purposes of this Act; and
 - (c) stating any conditions or limitations on the authorised officer's authority.
- (5) An authorised officer must, at the request of a person in relation to whom the authorised officer intends to exercise any powers under this Act, produce for inspection by the person—
 - (a) in the case of an authorised officer appointed under subsection (1)—his or her identity card; and

- (b) in the case of an authorised officer who is a police officer and is not in uniform—his or her certificate of authority.
- (6) If a person in possession of an identity card issued to the person under this section ceases to be an authorised officer, the person must immediately return the identity card to the Minister.
Maximum penalty: \$250.

23—Powers of authorised officers

- (1) If an authorised officer reasonably suspects that a person, while at the art gallery or other premises of the board, has committed, is committing or is about to commit an offence against this or any other Act, the authorised officer may do any 1 or more of the following:
 - (a) require the person to state his or her full name and usual place of residence;
 - (b) if the authorised officer suspects on reasonable grounds that the name or place of residence stated is false—require the person to produce evidence of his or her full name or usual place of residence;
 - (c) require the person to leave the art gallery or those premises immediately and not to return for a stated period (not exceeding 24 hours) or not to enter the art gallery or those premises;
 - (d) if the person refuses or fails to comply with a requirement under paragraph (c)—use such force as is reasonably necessary for the purpose of removing or excluding the person from the art gallery or those premises;
 - (e) cause the person to be detained and handed over into the custody of a police officer as soon as reasonably practicable.
- (2) An authorised officer may also—
 - (a) require a person to surrender any object, substance or thing that the authorised officer reasonably suspects has been, is being, or is about to be, used at the art gallery or other premises of the board in contravention of this Act; and
 - (b) give such directions to persons at the art gallery or other premises of the board that the authorised officer considers necessary for—
 - (i) the maintenance of good order, the prevention of interference with events or other activities, or the safe and efficient regulation of vehicular or pedestrian traffic, at the art gallery or those premises; or
 - (ii) the protection of property under the care or control of the board; and
 - (c) use such force as may reasonably be required—

- (i) for the purpose of removing or excluding from the art gallery or other premises of the board a person who refuses or fails to comply with a requirement or direction under this section; or
 - (ii) for the purposes of seizing goods under section 28; and
 - (d) exercise any other prescribed power.
- (3) An authorised officer may, in exercising powers under this Act, be accompanied by such assistants as are reasonably required in the circumstances.
- (4) For the purposes of this section, a reference to the *art gallery or other premises of the board* includes a reference to a part of the art gallery or those premises.

24—Hindering etc authorised officers

- (1) A person who—
- (a) without reasonable excuse hinders or obstructs an authorised officer; or
 - (b) fails to answer a question put by an authorised officer to the best of his or her knowledge, information or belief; or
 - (c) produces a document that he or she knows, or ought to know, is false or misleading in a material particular; or
 - (d) fails without reasonable excuse to comply with a requirement or direction of an authorised officer under this Act; or
 - (e) uses abusive, threatening or insulting language to an authorised officer or a person assisting an authorised officer; or
 - (f) falsely represents, by words or conduct, that he or she is an authorised officer,

is guilty of an offence.

Maximum penalty: \$2 500.

- (2) A person is not obliged to answer a question or to produce a document as required under this Act if to do so might tend to incriminate the person or make the person liable to a penalty.

Part 4—Official insignia

25—Interpretation

- (1) In this Part—

official insignia means—

- (a) an official title (declared under section 26); or
- (b) a logo (declared under section 26); or

- (c) a combination of the above.
- (2) For the purposes of this Part, goods will be taken to be marked with official insignia if the insignia is 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.

26—Official titles and logos

- (1) *Art Gallery of South Australia* is declared to be an official title.
- (2) The Minister may, by notice in the Gazette—
 - (a) declare some other name under which the board may conduct its operations or part of its operations to be an official title; or
 - (b) declare a name or a title of an event or activity conducted or promoted by the board to be an official title; or
 - (c) declare a logo (being a design, the copyright of which is vested in the Crown in right of the State) to be a logo in respect of the board or a particular event or activity conducted or promoted by the board.
- (3) However, the Minister must not make a declaration under subsection (2) in relation to a name or title that is registered or otherwise protected under another Act unless the Minister is acting with the consent or agreement of the person who has the benefit of the registration or protection.
- (4) An official title declared under this section is not required to be registered or otherwise protected under any other Act.
- (5) The Minister may, by notice in the Gazette, vary or revoke a notice under this section.

27—Unlawful use of official insignia

- (1) The board has a proprietary interest in all official insignia.
- (2) A person must not, without the consent of the board, in the course of a trade or business—
 - (a) use a name in which the board has a proprietary interest under this section for the purpose of promoting the sale of services or the provision of any benefits; or
 - (b) sell goods marked with official insignia; or

- (c) use official insignia for the purpose of promoting the sale of goods or services.

Maximum penalty: \$20 000.

- (3) A person must not, without the consent of the board, assume a name or description that consists of, or includes, official insignia.

Maximum penalty: \$20 000.

- (4) A consent under this section—

- (a) may be given with or without conditions (including conditions requiring payment to the board); and
- (b) may be given generally by notice in the Gazette or by notice in writing addressed to an applicant for the consent; and
- (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.

28—Seizure etc of goods marked with official insignia

- (1) If—

- (a) goods apparently intended for a commercial purpose are marked with official insignia; and
- (b) an authorised officer suspects on reasonable grounds that the use of the insignia has not been authorised by the board,

the authorised officer may seize those goods.

- (2) If goods have been seized under this section and—

- (a) proceedings are not instituted for an offence against section 27(2) 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 paid into the Consolidated Account.

Part 5—Miscellaneous

29—Gifts etc

- (1) The board may accept—
 - (a) grants, conveyances, transfers and leases of land from the Crown, an instrumentality of the Crown or any other person or body; and
 - (b) rights to the use, control, management or occupation of any land; and
 - (c) gifts of personal property of any kind to be used or applied by it for the purposes of this Act.
- (2) A gift or bequest made to or for the benefit or purposes of—
 - (a) the art gallery; or
 - (b) the board; or
 - (c) a former governing body of the art gallery,will be taken to be a gift or bequest to the board and must be applied by the board towards the purposes for which the gift or bequest was made.
- (3) Despite the *Stamp Duties Act 1923*, no stamp duty is payable on any instrument by which land or any interest in or right over land is granted or assured to or vested in the board or on any contract or instrument executed by the board for the purpose of disposing of any property.

30—Ministerial delegation

- (1) The Minister may delegate a function or power of the Minister under this Act (other than this power of delegation) to any person (including a person for the time being performing particular duties or holding or acting in a specified position).
- (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 power of the delegator to act in a 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 legal proceedings, an apparently genuine certificate, purportedly signed by the Minister containing particulars of a delegation under this section, will, in the absence of proof to the contrary, be accepted as proof that the delegation was made in accordance with the particulars.

31—Approvals by Treasurer

- (1) An approval given by the Treasurer under this Act may be—
 - (a) specific or general; and
 - (b) conditional or unconditional.
- (2) An approval given by the Treasurer may be varied or revoked by the Treasurer at any time.

32—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) provide for the use, care and protection of objects, works, collections or any other property under the care or control of the board; and
 - (b) provide for the admission, exclusion or expulsion of members of the public to or from the art gallery or other premises of the board or a part of the art gallery or those premises; and
 - (c) prohibit disorderly or offensive behaviour at the art gallery or other premises of the board; and
 - (d) prohibit or regulate eating, drinking (including liquor), smoking or the consumption of unlawful substances at the art gallery or other premises of the board or a part of the art gallery or those premises; and
 - (e) prohibit or regulate any other conduct or activities for the purposes of—
 - (i) maintaining good order, and preventing interference with events or activities conducted, at the art gallery or other premises of the board; and
 - (ii) protecting property under the care or control of the board; and
 - (f) prohibit or regulate the driving, parking or standing of vehicles on premises of the board; and

- (g) prescribe fees for the parking of vehicles on premises of the board and provide for their payment and recovery; and
 - (h) provide that the owner and driver of a vehicle driven, parked or left standing in contravention of the regulations are each guilty of an offence and provide or exclude defences in relation to any such offence; and
 - (i) provide for the management (including disposal) by, and vesting in, the board of unclaimed property; and
 - (j) provide for the approval by the board or an authorised officer of any act or activity that would otherwise be prohibited under the regulations; and
 - (k) prescribe penalties not exceeding \$1 250 for breach of any regulation.
- (3) The regulations may—
- (a) be of general or limited application; and
 - (b) make different provision according to the persons, things or circumstances to which they are expressed to apply; and
 - (c) provide that any matter or thing is to be determined, dispensed with, regulated or prohibited according to the discretion of the Minister, the board or another prescribed person or authority.
- (4) In proceedings for an offence against a regulation dealing with the driving, parking or standing of vehicles—
- (a) an allegation in a 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 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.

Part 5—Amendment of *Carrick Hill Trust Act 1985*

38—Substitution of sections 3 and 4

Sections 3 and 4—delete the sections and substitute:

3—Interpretation

In this Act, unless the contrary intention appears—

authorised officer—see Part 3;

Carrick Hill means the property known by that name vested in the Trust;

member means member of the Trust;

occupy, in relation to premises, means have, or be entitled to, possession or control of the premises;

official insignia—see Part 4;

premises of the Trust means premises owned or occupied by the Trust;

promote, in relation to an event or activity, includes organise, commission, fund, support, market, advertise or act as project manager;

Trust means the Carrick Hill Trust established under this Act.

39—Substitution of Parts 2 and 3

Parts 2 and 3—delete the Parts and substitute:

Part 2—Carrick Hill Trust

Division 1—Establishment of Trust

4—Establishment of Trust

- (1) The Carrick Hill Trust is established.
- (2) The Trust—
 - (a) is a body corporate; and
 - (b) has perpetual succession and a common seal; and
 - (c) can sue and be sued in its corporate name; and
 - (d) is an instrumentality of the Crown and holds its property on behalf of the Crown; and
 - (e) has the functions and powers assigned or conferred under this or any other Act.

Division 2—Membership, proceedings etc

5—Composition of Trust

- (1) The Trust will consist of not more than 8 members appointed by the Governor, of whom—
 - (a) 1 will be nominated by the council of the City of Mitcham from the members, officers or employees of the council; and
 - (b) the remainder will be nominated by the Minister.
- (2) At least 2 members must be women and at least 2 must be men.
- (3) The Governor will appoint 1 of the members to be the presiding member.
- (4) The Governor may appoint a suitable person to be a deputy of a member (being a person nominated by the body or person who nominated the member) and the deputy may perform or exercise the functions and powers of the member in the member's absence.

6—Conditions of membership

- (1) A member will be appointed for a term not exceeding 3 years and on conditions determined by the Governor and specified in the instrument of appointment.
- (2) A member will, at the expiration of a term of appointment, be eligible for reappointment (subject to the qualification that a person cannot serve as a member for more than 9 consecutive years).
- (3) The Governor may remove a member from office—
 - (a) for misconduct; or
 - (b) for failure or incapacity to carry out the duties of his or her office satisfactorily; or
 - (c) for contravention of a condition of his or her appointment; or
 - (d) if serious irregularities have occurred in the conduct of the Trust's affairs or the Trust has failed to carry out its functions satisfactorily and its membership should, in the opinion of the Governor, be reconstituted for that reason.
- (4) The office of a member becomes vacant if the member—
 - (a) dies; or
 - (b) completes a term of office and is not reappointed; or
 - (c) resigns by written notice to the Minister; or
 - (d) is convicted of an indictable offence or sentenced to imprisonment for an offence; or
 - (e) ceases to satisfy the qualification by virtue of which the member was eligible for appointment to the Trust; or
 - (f) is absent without leave of the presiding member of the Trust from 3 consecutive meetings of the Trust; or
 - (g) is removed from office under subsection (3).
- (5) On the office of a member becoming vacant, a person may be appointed in accordance with this Division to the vacant office.
- (6) A member is entitled to fees, allowances and expenses determined by the Governor.

7—Proceedings

- (1) A quorum of the Trust consists of half of the total number of the members (ignoring any fraction resulting from the division) plus 1.
- (2) In the absence of the presiding member from a meeting of the Trust, a member chosen by the members present at the meeting will preside.
- (3) A decision carried by a majority of the votes cast by members at a meeting is a decision of the Trust.

- (4) Each member present at a meeting of the Trust has 1 vote on any question arising for decision and, if the votes are equal, the member presiding at the meeting may exercise a casting vote.
- (5) A conference by telephone or other electronic means between members will, for the purposes of this section, be taken to be a meeting of the Trust at which the participating members are present if—
 - (a) notice of the conference is given to all members in the manner determined by the Trust for the purpose; and
 - (b) each participating member is capable of communicating with every other participating member during the conference.
- (6) A proposed resolution of the Trust becomes a valid decision of the Trust despite the fact that it is not voted on at a meeting of the Trust if—
 - (a) notice of the proposed resolution is given to all members in accordance with procedures determined by the Trust; and
 - (b) a majority of the members expresses concurrence in the proposed resolution by letter, fax or other written communication setting out the terms of the resolution.
- (7) The Trust must meet at least 6 times in each year.
- (8) The Trust must have accurate minutes kept of its proceedings.
- (9) Subject to this Act, the Trust may determine its own procedures.
- (10) Subject to the directions of the Trust and section 10, this section applies to a committee of the Trust in the same way as to the Trust.

8—Validity of acts

An act or proceeding of the Trust or a committee of the Trust is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

9—Ministerial control

- (1) Subject to subsection (2), the Trust is subject to the general control and direction of the Minister.
- (2) No Ministerial direction can be given—
 - (a) as to the artistic nature or content of—
 - (i) objects, works or collections held or promoted by the Trust; or
 - (ii) performances or other events or activities conducted or promoted by the Trust; or
 - (b) as to the manner in which the Trust is to deal with a testamentary or other gift; or

- (c) as to any advice or recommendation that the Trust makes or is required to make to the Minister.

Division 3—Committees and delegation

10—Committees

- (1) The Trust may establish such committees (including advisory committees or subcommittees) as the Trust thinks fit.
- (2) The membership and conditions of membership of a committee will be determined by the Trust and may, but need not, consist of, or include, members of the Trust.
- (3) The procedures to be observed in relation to the conduct of the business of a committee will be—
 - (a) as determined by the Trust; and
 - (b) insofar as a procedure is not determined under paragraph (a)—as determined by the committee.

11—Delegation

- (1) The Trust may delegate a function or power of the Trust under this Act (other than this power of delegation) to any person or committee or other body (including a person for the time being performing particular duties or holding or acting in a specified position).
- (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 power of the delegator to act in a 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) A delegate must not act pursuant to the delegation in any matter in which the delegate has a direct or indirect pecuniary or personal interest.
Maximum penalty: \$10 000 or imprisonment for 2 years.
- (5) It is a defence to a charge of an offence against subsection (4) to prove that the defendant was, at the time of the alleged offence, unaware of his or her interest in the matter.
- (6) In legal proceedings, an apparently genuine certificate, purportedly signed by the Trust containing particulars of a delegation under this section, will, in the absence of proof to the contrary, be accepted as proof that the delegation was made in accordance with the particulars.

Division 4—Conflict of interest under Public Sector (Honesty and Accountability) Act

12—Conflict of interest under Public Sector (Honesty and Accountability) Act

A member of the Trust will not be taken to have a direct or indirect interest in a matter for the purposes of the *Public Sector (Honesty and Accountability) Act 1995* by reason only of the fact that the member has an interest in a matter that is shared in common with those engaged in or associated with the arts industry generally, or a substantial section of those engaged in or associated with the arts industry.

Division 5—Common seal and execution of documents

13—Common seal and execution of documents

- (1) The common seal of the Trust must not be affixed to a document except in pursuance of a decision of the Trust and the fixing of the seal must be attested by the signatures of 2 members of the Trust.
- (2) The Trust may, by instrument under the common seal of the Trust, authorise a person or persons (whether nominated by name or by office or title) to execute documents on behalf of the Trust subject to conditions and limitations (if any) specified in the instrument of authority.
- (3) Without limiting subsection (2), the Trust may authorise 2 or more persons to execute documents jointly on behalf of the Trust.
- (4) A document is duly executed by the Trust if—
 - (a) the common seal of the Trust is affixed to the document in accordance with this section; or
 - (b) the document is signed on behalf of the Trust by a person or persons in accordance with authority conferred under this section.
- (5) If an apparently genuine document purports to bear the common seal of the Trust, it will be presumed, in the absence of proof to the contrary, that the common seal of the Trust was duly affixed to the document.

Division 6—Functions and powers of Trust

14—Functions

The functions of the Trust are—

- (a) to administer, develop and maintain Carrick Hill for any 1 or more of the following purposes:
 - (i) as a gallery for the display of works of art;
 - (ii) as a museum;

- (iii) as a botanical garden; and
- (b) to promote and encourage the interest of the public in Carrick Hill, its collections and the services and amenities provided by the Trust; and
- (c) to perform any other functions assigned to the Trust by this Act or the Minister.

15—Powers

- (1) The Trust has, in addition to any other powers conferred on it under this or any other Act, all the powers of a natural person.
- (2) The Trust may, for example, do any 1 or more of the following (subject to this Act):
 - (a) engage agents, consultants or other contractors;
 - (b) enter into contracts or agreements with artists, performers, entertainers and other persons involved in the arts, or employ such persons;
 - (c) enter into other contracts, agreements or arrangements;
 - (d) acquire, hold, take on hire, lend, exchange or dispose of objects, works or collections of artistic, historical or cultural interest;
 - (e) acquire, hold, deal with or dispose of—
 - (i) licences; or
 - (ii) intellectual property (including patents and copyright); or
 - (iii) any other property (whether real or personal); or
 - (iv) any interest in such property;
 - (f) accept grants or obtain financial sponsorship from any person or body;
 - (g) carry on advertising and promotional activities;
 - (h) conduct events and establish, operate, manage or make available venues and other facilities (including facilities for food and liquor) at Carrick Hill or other premises of the Trust;
 - (i) regulate and control admission to any venue for any events or activities conducted or promoted by the Trust, and charge and collect fees for admission to any such venue;
 - (j) grant for fee or other consideration advertising or sponsorship rights or other rights, licences or concessions in connection with events or activities conducted or promoted by the Trust;

- (k) publish or produce books, programs, brochures, films, souvenirs and other information or things relating to events or activities conducted or promoted by the Trust;
 - (l) sell or supply food and drink (including liquor), books, programs, brochures, films, souvenirs and other things in connection with events or activities conducted or promoted by the Trust;
 - (m) grant or dispose of rights to televise, broadcast or record any events or activities conducted or promoted by the Trust;
 - (n) restrict, control and make charges for the use of official insignia;
 - (o) take out policies of insurance in its own right or on behalf of the State;
 - (p) participate (whether as a member or otherwise) in, or otherwise be involved in the activities of, national or international organisations or associations involved in the arts, or the promotion of the arts;
 - (q) give or contribute towards prizes in competitions designed to encourage artistic or cultural or performing arts activity within the State or make grants and give other assistance for such purposes;
 - (r) enter into any partnership or joint venture arrangement;
 - (s) form, or acquire, hold, deal with and dispose of shares or other interests in, or securities issued by, bodies corporate, whether within or outside of the State;
 - (t) borrow money and obtain other forms of financial accommodation;
 - (u) act as trustee on behalf of another person in connection with the performance of its functions under this Act.
- (3) However, the Trust must not—
- (a) sell or otherwise dispose of any of its real property without the approval of both Houses of Parliament; or
 - (b) exercise a power referred to in subsection (2)(s) or (t) without the approval of the Treasurer.
- (4) The Trust is not obliged to accept or keep material that is not, in its opinion, of sufficient artistic, historical, cultural or other interest to justify its collection or preservation under this Act.
- (5) The Trust may exercise its powers within or outside of the State.

Division 7—Staff

16—Staff

- (1) The Trust's staff consists of Public Service employees assigned to assist the Trust.
- (2) The Trust may, under an arrangement established by the Minister administering an administrative unit of the Public Service, make use of the services or staff of that administrative unit.

Division 8—Financial matters and annual reports

17—Annual budget

- (1) The Trust must, from time to time, prepare and submit to the Minister a budget for the next financial year or for some other period determined by the Minister.
- (2) The budget must set out estimates of the Trust's receipts and expenditures for the period to which the budget relates.
- (3) The budget must conform with any requirements of the Minister as to its form and the matters to be addressed by the budget.
- (4) The Minister may approve a budget submitted under this section with or without modification.
- (5) Subject to subsection (6), the Trust must not, without the consent of the Minister, make an expenditure that is not provided for by a budget that has been approved by the Minister under this section.
- (6) The Trust is not required to have the approval of the Minister with respect to the expenditure of money received by the Trust by way of a testamentary or other gift.

18—Accounts and audit

- (1) The Trust must cause proper accounting records to be kept in relation to the financial affairs of the Trust, and must have annual statements of account prepared in respect of each financial year.
- (2) The accounting records and the 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 further requirements imposed by the Auditor-General.
- (3) The Auditor-General may at any time audit the accounts of the Trust and must audit the annual statements of account.

19—Annual report

- (1) The Trust must, on or before 30 September in every year, forward to the Minister a report on the work and operations of the Trust for the preceding financial year.

- (2) The report must contain the audited statements of account of the Trust for the preceding financial year.
- (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—Authorised officers

20—Appointment of authorised officers

- (1) The Minister may appoint persons to be authorised officers for the purposes of this Act.
- (2) Each police officer is an authorised officer for the purposes of this Act.
- (3) An appointment under subsection (1) may be made subject to conditions or limitations specified in the instrument of appointment (and the exercise by an authorised officer of powers conferred under this Act is subject to the conditions and limitations (if any) specified in his or her instrument of appointment).
- (4) An authorised officer other than a police officer must be issued with an identity card—
 - (a) containing the person’s name and a photograph of the person; and
 - (b) stating that the person is an authorised officer for the purposes of this Act; and
 - (c) stating any conditions or limitations on the authorised officer’s authority.
- (5) An authorised officer must, at the request of a person in relation to whom the authorised officer intends to exercise any powers under this Act, produce for inspection by the person—
 - (a) in the case of an authorised officer appointed under subsection (1)—his or her identity card; and
 - (b) in the case of an authorised officer who is a police officer and is not in uniform—his or her certificate of authority.
- (6) If a person in possession of an identity card issued to the person under this section ceases to be an authorised officer, the person must immediately return the identity card to the Minister.

Maximum penalty: \$250.

21—Powers of authorised officers

- (1) If an authorised officer reasonably suspects that a person, while at Carrick Hill or other premises of the Trust, has committed, is committing or is about to commit an offence against this or any other Act, the authorised officer may do any 1 or more of the following:
 - (a) require the person to state his or her full name and usual place of residence;
 - (b) if the authorised officer suspects on reasonable grounds that the name or place of residence stated is false—require the person to produce evidence of his or her full name or usual place of residence;
 - (c) require the person to leave Carrick Hill or those premises immediately and not to return for a stated period (not exceeding 24 hours) or not to enter Carrick Hill or those premises;
 - (d) if the person refuses or fails to comply with a requirement under paragraph (c)—use such force as is reasonably necessary for the purpose of removing or excluding the person from Carrick Hill or those premises;
 - (e) cause the person to be detained and handed over into the custody of a police officer as soon as reasonably practicable.
- (2) An authorised officer may also—
 - (a) require a person to surrender any object, substance or thing that the authorised officer reasonably suspects has been, is being, or is about to be, used at Carrick Hill or other premises of the Trust in contravention of this Act; and
 - (b) give such directions to persons at Carrick Hill or other premises of the Trust that the authorised officer considers necessary for—
 - (i) the maintenance of good order, the prevention of interference with events or other activities, or the safe and efficient regulation of vehicular or pedestrian traffic, at Carrick Hill or those premises; or
 - (ii) the protection of property under the care or control of the Trust; and
 - (c) use such force as may reasonably be required—
 - (i) for the purpose of removing or excluding from Carrick Hill or other premises of the Trust a person who refuses or fails to comply with a requirement or direction under this section; or
 - (ii) for the purposes of seizing goods under section 26; and

- (d) exercise any other prescribed power.
- (3) An authorised officer may, in exercising powers under this Act, be accompanied by such assistants as are reasonably required in the circumstances.
- (4) For the purposes of this section, a reference to *Carrick Hill or other premises of the Trust* includes a reference to a part of Carrick Hill or those premises.

22—Hindering etc authorised officers

- (1) A person who—
 - (a) without reasonable excuse hinders or obstructs an authorised officer; or
 - (b) fails to answer a question put by an authorised officer to the best of his or her knowledge, information or belief; or
 - (c) produces a document that he or she knows, or ought to know, is false or misleading in a material particular; or
 - (d) fails without reasonable excuse to comply with a requirement or direction of an authorised officer under this Act; or
 - (e) uses abusive, threatening or insulting language to an authorised officer or a person assisting an authorised officer; or
 - (f) falsely represents, by words or conduct, that he or she is an authorised officer,

is guilty of an offence.

Maximum penalty: \$2 500.

- (2) A person is not obliged to answer a question or to produce a document as required under this Act if to do so might tend to incriminate the person or make the person liable to a penalty.

Part 4—Official insignia

23—Interpretation

- (1) In this Part—

official insignia means—

 - (a) an official title (declared under section 24); or
 - (b) a logo (declared under section 24); or
 - (c) a combination of the above.
- (2) For the purposes of this Part, goods will be taken to be marked with official insignia if the insignia is 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.

24—Official titles and logos

- (1) The following are declared to be official titles:
 - (a) *Carrick Hill Trust*;
 - (b) *Carrick Hill*.
- (2) The Minister may, by notice in the Gazette—
 - (a) declare some other name under which the Trust may conduct its operations or part of its operations to be an official title; or
 - (b) declare a name or a title of an event or activity conducted or promoted by the Trust to be an official title; or
 - (c) declare a logo (being a design, the copyright of which is vested in the Crown in right of the State) to be a logo in respect of the Trust or a particular event or activity conducted or promoted by the Trust.
- (3) However, the Minister must not make a declaration under subsection (2) in relation to a name or title that is registered or otherwise protected under another Act unless the Minister is acting with the consent or agreement of the person who has the benefit of the registration or protection.
- (4) An official title declared under this section is not required to be registered or otherwise protected under any other Act.
- (5) The Minister may, by notice in the Gazette, vary or revoke a notice under this section.

25—Unlawful use of official insignia

- (1) The Trust has a proprietary interest in all official insignia.
- (2) A person must not, without the consent of the Trust, in the course of a trade or business—
 - (a) use a name in which the Trust has a proprietary interest under this section for the purpose of promoting the sale of services or the provision of any benefits; or
 - (b) sell goods marked with official insignia; or
 - (c) use official insignia for the purpose of promoting the sale of goods or services.

Maximum penalty: \$20 000.

- (3) A person must not, without the consent of the Trust, assume a name or description that consists of, or includes, official insignia.
Maximum penalty: \$20 000.
- (4) A consent under this section—
- (a) may be given with or without conditions (including conditions requiring payment to the Trust); and
 - (b) may be given generally by notice in the Gazette or by notice in writing addressed to an applicant for the consent; and
 - (c) may be revoked by the Trust 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 Trust, 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 Trust, order the convicted person to pay compensation of an amount fixed by the court to the Trust.
- (7) Subsections (5) and (6) do not derogate from any civil remedy that may be available to the Trust apart from those subsections.

26—Seizure etc of goods marked with official insignia

- (1) If—
- (a) goods apparently intended for a commercial purpose are marked with official insignia; and
 - (b) an authorised officer suspects on reasonable grounds that the use of the insignia has not been authorised by the Trust,
- the authorised officer may seize those goods.
- (2) If goods have been seized under this section and—
- (a) proceedings are not instituted for an offence against section 25(2) 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 Trust 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 paid into the Consolidated Account.

Part 5—Miscellaneous

27—Governor may place Crown land under control of Trust

- (1) The Governor may, if of the opinion that it is expedient to do so, place any Crown land under the care, control and management of the Trust.
- (2) Land placed under the care, control and management of the Trust under this section will, for the purposes of this Act, be taken to be part of Carrick Hill and must be administered by the Trust in accordance with this Act.

28—Gifts etc

- (1) The Trust may accept—
 - (a) grants, conveyances, transfers and leases of land from the Crown, an instrumentality of the Crown or any other person or body; and
 - (b) rights to the use, control, management or occupation of any land; and
 - (c) gifts of personal property of any kind to be used or applied by it for the purposes of this Act.
- (2) Despite the *Stamp Duties Act 1923*, no stamp duty is payable on any instrument by which land or any interest in or right over land is granted or assured to or vested in the Trust or on any contract or instrument executed by the Trust for the purpose of disposing of any property.

29—Ministerial delegation

- (1) The Minister may delegate a function or power of the Minister under this Act (other than this power of delegation) to any person (including a person for the time being performing particular duties or holding or acting in a specified position).
- (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 power of the delegator to act in a 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 legal proceedings, an apparently genuine certificate, purportedly signed by the Minister containing particulars of a delegation under this section, will, in the absence of proof to the contrary, be accepted as proof that the delegation was made in accordance with the particulars.

30—Approvals by Treasurer

- (1) An approval given by the Treasurer under this Act may be—
 - (a) specific or general; and
 - (b) conditional or unconditional.
- (2) An approval given by the Treasurer may be varied or revoked by the Treasurer at any time.

31—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) provide for the use, care and protection of objects, works, collections or any other property under the care or control of the Trust; and
 - (b) provide for the admission, exclusion or expulsion of members of the public to or from Carrick Hill or other premises of the Trust or a part of Carrick Hill or those premises; and
 - (c) prohibit disorderly or offensive behaviour at Carrick Hill or other premises of the Trust; and
 - (d) prohibit or regulate eating, drinking (including liquor), smoking or the consumption of unlawful substances at Carrick Hill or other premises of the Trust or a part of Carrick Hill or those premises; and
 - (e) prohibit or regulate any other conduct or activities for the purposes of—
 - (i) maintaining good order, and preventing interference with events or activities conducted, at Carrick Hill or other premises of the Trust; and
 - (ii) protecting property under the care or control of the Trust; and
 - (f) prohibit or regulate the driving, parking or standing of vehicles at Carrick Hill or other premises of the Trust; and

- (g) prescribe fees for the parking of vehicles at Carrick Hill or other premises of the Trust and provide for their payment and recovery; and
 - (h) provide that the owner and driver of a vehicle driven, parked or left standing in contravention of the regulations are each guilty of an offence and provide or exclude defences in relation to any such offence; and
 - (i) provide for the management (including disposal) by, and vesting in, the Trust of unclaimed property; and
 - (j) provide for the approval by the Trust or an authorised officer of any act or activity that would otherwise be prohibited under the regulations; and
 - (k) prescribe penalties not exceeding \$1 250 for breach of any regulation.
- (3) The regulations may—
- (a) be of general or limited application; and
 - (b) make different provision according to the persons, things or circumstances to which they are expressed to apply; and
 - (c) provide that any matter or thing is to be determined, dispensed with, regulated or prohibited according to the discretion of the Minister, the Trust or another prescribed person or authority.
- (4) In proceedings for an offence against a regulation dealing with the driving, parking or standing of vehicles—
- (a) an allegation in a 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 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.

Part 6—Amendment of *History Trust of South Australia Act 1981*

40—Substitution of section 4

Section 4—delete the section and substitute:

2—Interpretation

- (1) In this Act, unless the contrary intention appears—
authorised officer—see Part 3;

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

member means member of the Trust;

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 artefact (but does not include an item as defined in the *Heritage Places Act 1993* or the *Aboriginal Heritage Act 1988*);

occupy, in relation to premises, means have, or be entitled to, possession or control of the premises;

official insignia—see Part 4;

premises of the Trust means premises owned or occupied by the Trust;

promote, in relation to an event or activity, includes organise, commission, fund, support, market, advertise or act as project manager;

Trust means the History Trust of South Australia established under 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 performing particular duties or holding or acting in a specified position; and
 - (b) may, from time to time as the Governor thinks fit, be varied or substituted by a new proclamation.

41—Amendment and redesignation of section 6—Operation of certain other Acts preserved

- (1) Section 6(b) and (c)—delete paragraphs (b) and (c) and substitute:
- (b) the *Heritage Places Act 1993*; or
 - (c) the *Aboriginal Heritage Act 1988*.
- (2) Section 6—redesignate section 6 (as amended by this section) as section 3

42—Substitution of heading to Part 2

Heading to Part 2—delete the heading and substitute:

Part 2—History Trust of South Australia

43—Substitution of Part 2 Divisions 1 to 3

Part 2 Divisions 1 to 3 (inclusive)—delete Divisions 1 to 3 and substitute:

Division 1—Establishment of Trust

4—Establishment of Trust

- (1) The History Trust of South Australia is established.
- (2) The Trust—
 - (a) is a body corporate; and
 - (b) has perpetual succession and a common seal; and
 - (c) can sue and be sued in its corporate name; and
 - (d) is an instrumentality of the Crown and holds its property on behalf of the Crown; and
 - (e) has the functions and powers assigned or conferred under this or any other Act.

Division 2—Membership, proceedings etc

5—Composition of Trust

- (1) The Trust will consist of not more than 8 members appointed by the Governor.
- (2) At least 2 members must be women and at least 2 must be men.
- (3) The Governor will appoint 1 of the members to be the presiding member.
- (4) The Governor may appoint a suitable person to be a deputy of a member and the deputy may perform or exercise the functions and powers of the member in the member's absence.

6—Conditions of membership

- (1) A member will be appointed for a term not exceeding 3 years and on conditions determined by the Governor and specified in the instrument of appointment.
- (2) A member will, at the expiration of a term of appointment, be eligible for reappointment (subject to the qualification that a person cannot serve as a member for more than 9 consecutive years).
- (3) The Governor may remove a member from office—
 - (a) for misconduct; or

- (b) for failure or incapacity to carry out the duties of his or her office satisfactorily; or
 - (c) for contravention of a condition of his or her appointment; or
 - (d) if serious irregularities have occurred in the conduct of the Trust's affairs or the Trust has failed to carry out its functions satisfactorily and its membership should, in the opinion of the Governor, be reconstituted for that reason.
- (4) The office of a member becomes vacant if the member—
- (a) dies; or
 - (b) completes a term of office and is not reappointed; or
 - (c) resigns by written notice to the Minister; or
 - (d) is convicted of an indictable offence or sentenced to imprisonment for an offence; or
 - (e) is absent without leave of the presiding member of the Trust from 3 consecutive meetings of the Trust; or
 - (f) is removed from office under subsection (3).
- (5) On the office of a member becoming vacant, a person may be appointed in accordance with this Division to the vacant office.
- (6) A member is entitled to fees, allowances and expenses determined by the Governor.

7—Proceedings

- (1) A quorum of the Trust consists of half of the total number of its members (ignoring any fraction resulting from the division) plus 1.
- (2) In the absence of the presiding member from a meeting of the Trust, a member chosen by the members present at the meeting will preside.
- (3) A decision carried by a majority of the votes cast by members at a meeting is a decision of the Trust.
- (4) Each member present at a meeting of the Trust has 1 vote on any question arising for decision and, if the votes are equal, the member presiding at the meeting may exercise a casting vote.
- (5) A conference by telephone or other electronic means between members will, for the purposes of this section, be taken to be a meeting of the Trust at which the participating members are present if—
 - (a) notice of the conference is given to all members in the manner determined by the Trust for the purpose; and
 - (b) each participating member is capable of communicating with every other participating member during the conference.

- (6) A proposed resolution of the Trust becomes a valid decision of the Trust despite the fact that it is not voted on at a meeting of the Trust if—
 - (a) notice of the proposed resolution is given to all members in accordance with procedures determined by the Trust; and
 - (b) a majority of the members expresses concurrence in the proposed resolution by letter, fax or other written communication setting out the terms of the resolution.
- (7) The Trust must meet at least 6 times in each year.
- (8) The Trust must have accurate minutes kept of its proceedings.
- (9) Subject to this Act, the Trust may determine its own procedures.
- (10) Subject to the directions of the Trust and section 10, this section applies to a committee of the Trust in the same way as to the Trust.

8—Validity of acts

An act or proceeding of the Trust or a committee of the Trust is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

9—Ministerial control

- (1) Subject to subsection (2), the Trust is subject to the general control and direction of the Minister.
- (2) No Ministerial direction can be given—
 - (a) as to the nature or content of—
 - (i) Trust collections; or
 - (ii) events or activities conducted or promoted by the Trust; or
 - (b) as to the manner in which the Trust is to deal with a testamentary or other gift; or
 - (c) as to any advice or recommendation that the Trust makes or is required to make to the Minister.

Division 2A—Committees and delegation

10—Committees

- (1) The Trust may establish such committees (including advisory committees or subcommittees) as the Trust thinks fit.
- (2) The membership and conditions of membership of a committee will be determined by the Trust and may, but need not, consist of, or include, members of the Trust.
- (3) The procedures to be observed in relation to the conduct of the business of a committee will be—
 - (a) as determined by the Trust; and

- (b) insofar as a procedure is not determined under paragraph (a)—as determined by the committee.

11—Delegation

- (1) The Trust may delegate a function or power of the Trust under this Act (other than this power of delegation) to any person or committee or other body (including a person for the time being performing particular duties or holding or acting in a specified position).
- (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 power of the delegator to act in a 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) A delegate must not act pursuant to the delegation in any matter in which the delegate has a direct or indirect pecuniary or personal interest.
Maximum penalty: \$10 000 or imprisonment for 2 years.
- (5) It is a defence to a charge of an offence against subsection (4) to prove that the defendant was, at the time of the alleged offence, unaware of his or her interest in the matter.
- (6) In legal proceedings, an apparently genuine certificate, purportedly signed by the Trust containing particulars of a delegation under this section, will, in the absence of proof to the contrary, be accepted as proof that the delegation was made in accordance with the particulars.

Division 2B—Common seal and execution of documents

12—Common seal and execution of documents

- (1) The common seal of the Trust must not be affixed to a document except in pursuance of a decision of the Trust and the fixing of the seal must be attested by the signatures of 2 members of the Trust.
- (2) The Trust may, by instrument under the common seal of the Trust, authorise a person or persons (whether nominated by name or by office or title) to execute documents on behalf of the Trust subject to conditions and limitations (if any) specified in the instrument of authority.
- (3) Without limiting subsection (2), the Trust may authorise 2 or more persons to execute documents jointly on behalf of the Trust.

- (4) A document is duly executed by the Trust if—
 - (a) the common seal of the Trust is affixed to the document in accordance with this section; or
 - (b) the document is signed on behalf of the Trust by a person or persons in accordance with authority conferred under this section.
- (5) If an apparently genuine document purports to bear the common seal of the Trust, it will be presumed, in the absence of proof to the contrary, that the common seal of the Trust was duly affixed to the document.

Division 3—Functions and powers of Trust

13—Functions

The functions of the Trust are—

- (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 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
- (h) to disseminate, or encourage the dissemination of, information relevant to the history of the State; and
- (i) to encourage the conservation of objects of historical significance to the State; and
- (j) 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
- (k) to carry out any other functions assigned to the Trust under this or any other Act or by the Minister.

14—Powers

- (1) The Trust has, in addition to any other powers conferred on it under this or any other Act, all the powers of a natural person.
- (2) The Trust may, for example, do any 1 or more of the following (subject to this Act):
 - (a) engage agents, consultants or other contractors;
 - (b) enter into other contracts, agreements or arrangements;
 - (c) acquire, hold, take on hire, lend, exchange or dispose of objects, works or collections of historical or cultural interest;
 - (d) acquire, hold, deal with or dispose of—
 - (i) licences; or
 - (ii) intellectual property (including patents and copyright); or
 - (iii) any other property (whether real or personal); or
 - (iv) any interest in such property;
 - (e) accept grants or obtain financial sponsorship from any person or body;
 - (f) carry on advertising and promotional activities;
 - (g) conduct events and establish, operate, manage or make available venues and other facilities (including facilities for food and liquor) on premises owned of the Trust;
 - (h) regulate and control admission to any venue for any events or activities conducted or promoted by the Trust, and charge and collect fees for admission to any such venue;
 - (i) grant for fee or other consideration advertising or sponsorship rights or other rights, licences or concessions in connection with events or activities conducted or promoted by the Trust;
 - (j) publish or produce books, programs, brochures, films, souvenirs, information and other things relating to events or activities conducted or promoted by the Trust;
 - (k) sell or supply food and drink (including liquor), books, programs, brochures, films, souvenirs and other things in connection with events or activities conducted or promoted by the Trust;
 - (l) grant or dispose of rights to televise, broadcast or record any events or activities conducted or promoted by the Trust;
 - (m) restrict, control and make charges for the use of official insignia;
 - (n) take out policies of insurance in its own right or on behalf of the State;

- (o) participate (whether as a member or otherwise) in, or otherwise be involved in the activities of, national or international organisations or associations involved in historical or cultural activities, or the promotion of such activities;
 - (p) give or contribute towards prizes in competitions designed to encourage activities of an historical or cultural nature within the State or make grants and give other assistance for such purposes;
 - (q) enter into any partnership or joint venture arrangement;
 - (r) form, or acquire, hold, deal with and dispose of shares or other interests in, or securities issued by, bodies corporate, whether within or outside of the State;
 - (s) borrow money and obtain other forms of financial accommodation;
 - (t) act as trustee on behalf of another person in connection with the performance of its functions under this Act.
- (3) However, the Trust must not, without the approval of the Treasurer, exercise a power referred to in subsection (2)(r) or (s).
 - (4) The Trust is not obliged to accept or keep material that is not, in its opinion, of sufficient historical, cultural or other interest to justify its collection or preservation under this Act.
 - (5) The Trust may exercise its powers within or outside of the State.

44—Substitution of heading to Part 2 Division 4

Heading to Part 2 Division 4—delete the heading and substitute:

Division 4—Staffing arrangements

45—Redesignation of section 16—Staffing arrangements

Section 16—redesignate the section as section 15

46—Substitution of Part 2 Division 5

Part 2 Division 5—delete Division 5 and substitute:

Division 5—Financial matters and annual reports

16—Annual budget

- (1) The Trust must, from time to time, prepare and submit to the Minister a budget for the next financial year or for some other period determined by the Minister.
- (2) The budget must set out estimates of the Trust's receipts and expenditures for the period to which the budget relates.

- (3) The budget must conform with any requirements of the Minister as to its form and the matters to be addressed by the budget.
- (4) The Minister may approve a budget submitted under this section with or without modification.
- (5) Subject to subsection (6), the Trust must not, without the consent of the Minister, make an expenditure that is not provided for by a budget that has been approved by the Minister under this section.
- (6) The Trust is not required to have the approval of the Minister with respect to the expenditure of money received by the Trust by way of a testamentary or other gift.

17—Accounts and audit

- (1) The Trust must cause proper accounting records to be kept in relation to the financial affairs of the Trust, and must have annual statements of account prepared in respect of each financial year.
- (2) The accounting records and the 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 further requirements imposed by the Auditor-General.
- (3) The Auditor-General may at any time audit the accounts of the Trust and must audit the annual statements of account.

18—Annual report

- (1) The Trust must, on or before 30 September in every year, forward to the Minister a report on the work and operations of the Trust for the preceding financial year.
- (2) The report must contain the audited statements of account of the Trust for the preceding financial year.
- (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.

47—Substitution of Part 3

Part 3—delete the Part and substitute:

Part 3—Authorised officers

19—Appointment of authorised officers

- (1) The Minister may appoint persons to be authorised officers for the purposes of this Act.
- (2) Each police officer is an authorised officer for the purposes of this Act.

- (3) An appointment under subsection (1) may be made subject to conditions or limitations specified in the instrument of appointment (and the exercise by an authorised officer of powers conferred under this Act is subject to the conditions and limitations (if any) specified in his or her instrument of appointment).
- (4) An authorised officer other than a police officer must be issued with an identity card—
 - (a) containing the person’s name and a photograph of the person; and
 - (b) stating that the person is an authorised officer for the purposes of this Act; and
 - (c) stating any conditions or limitations on the authorised officer’s authority.
- (5) An authorised officer must, at the request of a person in relation to whom the authorised officer intends to exercise any powers under this Act, produce for inspection by the person—
 - (a) in the case of an authorised officer appointed under subsection (1)—his or her identity card; and
 - (b) in the case of an authorised officer who is a police officer and is not in uniform—his or her certificate of authority.
- (6) If a person in possession of an identity card issued to the person under this section ceases to be an authorised officer, the person must immediately return the identity card to the Minister.

Maximum penalty: \$250.

20—Powers of authorised officers

- (1) If an authorised officer reasonably suspects that a person, while on premises of the Trust, has committed, is committing or is about to commit an offence against this or any other Act, the authorised officer may do any 1 or more of the following:
 - (a) require the person to state his or her full name and usual place of residence;
 - (b) if the authorised officer suspects on reasonable grounds that the name or place of residence stated is false—require the person to produce evidence of his or her full name or usual place of residence;
 - (c) require the person to leave those premises immediately and not to return for a stated period (not exceeding 24 hours) or not to enter those premises;
 - (d) if the person refuses or fails to comply with a requirement under paragraph (c)—use such force as is reasonably necessary for the purpose of removing or excluding the person from those premises;

- (e) cause the person to be detained and handed over into the custody of a police officer as soon as reasonably practicable.
- (2) An authorised officer may also—
- (a) require a person to surrender any object, substance or thing that the authorised officer reasonably suspects has been, is being, or is about to be, used at premises of the Trust in contravention of this Act; and
 - (b) give such directions to persons at premises of the Trust that the authorised officer considers necessary for—
 - (i) the maintenance of good order, the prevention of interference with events or other activities, or the safe and efficient regulation of vehicular or pedestrian traffic, at those premises; or
 - (ii) the protection of property under the care or control of the Trust; and
 - (c) use such force as may reasonably be required—
 - (i) for the purpose of removing or excluding from premises of the Trust a person who refuses or fails to comply with a requirement or direction under this section; or
 - (ii) for the purposes of seizing goods under section 25; and
 - (d) exercise any other prescribed power.
- (3) An authorised officer may, in exercising powers under this Act, be accompanied by such assistants as are reasonably required in the circumstances.
- (4) For the purposes of this section, a reference to *premises of the Trust* includes a reference to a part of those premises.

21—Hindering etc authorised officers

- (1) A person who—
- (a) without reasonable excuse hinders or obstructs an authorised officer; or
 - (b) fails to answer a question put by an authorised officer to the best of his or her knowledge, information or belief; or
 - (c) produces a document that he or she knows, or ought to know, is false or misleading in a material particular; or
 - (d) fails without reasonable excuse to comply with a requirement or direction of an authorised officer under this Act; or
 - (e) uses abusive, threatening or insulting language to an authorised officer or a person assisting an authorised officer; or

- (f) falsely represents, by words or conduct, that he or she is an authorised officer,
is guilty of an offence.
Maximum penalty: \$2 500.
- (2) A person is not obliged to answer a question or to produce a document as required under this Act if to do so might tend to incriminate the person or make the person liable to a penalty.

Part 4—Official insignia

22—Interpretation

- (1) In this Part—
official insignia means—
 - (a) an official title (declared under section 23); or
 - (b) a logo (declared under section 23); or
 - (c) a combination of the above.
- (2) For the purposes of this Part, goods will be taken to be marked with official insignia if the insignia is 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.

23—Official titles and logos

- (1) The following are declared to be official titles:
 - (a) *History Trust of South Australia*;
 - (b) *History SA*.
- (2) The Minister may, by notice in the Gazette—
 - (a) declare some other name under which the Trust may conduct its operations or part of its operations to be an official title; or
 - (b) declare a name or a title of an event or activity conducted or promoted by the Trust to be an official title; or
 - (c) declare a logo (being a design, the copyright of which is vested in the Crown in right of the State) to be a logo in respect of the Trust or a particular event or activity conducted or promoted by the Trust.

- (3) However, the Minister must not make a declaration under subsection (2) in relation to a name or title that is registered or otherwise protected under another Act unless the Minister is acting with the consent or agreement of the person who has the benefit of the registration or protection.
- (4) An official title declared under this section is not required to be registered or otherwise protected under any other Act.
- (5) The Minister may, by notice in the Gazette, vary or revoke a notice under this section.

24—Unlawful use of official insignia

- (1) The Trust has a proprietary interest in all official insignia.
- (2) A person must not, without the consent of the Trust, in the course of a trade or business—
 - (a) use a name in which the Trust has a proprietary interest under this section for the purpose of promoting the sale of services or the provision of any benefits; or
 - (b) sell goods marked with official insignia; or
 - (c) use official insignia for the purpose of promoting the sale of goods or services.

Maximum penalty: \$20 000.

- (3) A person must not, without the consent of the Trust, assume a name or description that consists of, or includes, official insignia.
Maximum penalty: \$20 000.
- (4) A consent under this section—
 - (a) may be given with or without conditions (including conditions requiring payment to the Trust); and
 - (b) may be given generally by notice in the Gazette or by notice in writing addressed to an applicant for the consent; and
 - (c) may be revoked by the Trust 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 Trust, 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 Trust, order the convicted person to pay compensation of an amount fixed by the court to the Trust.
- (7) Subsections (5) and (6) do not derogate from any civil remedy that may be available to the Trust apart from those subsections.

25—Seizure etc of goods marked with official insignia

- (1) If—
 - (a) goods apparently intended for a commercial purpose are marked with official insignia; and
 - (b) an authorised officer suspects on reasonable grounds that the use of the insignia has not been authorised by the Trust,
the authorised officer may seize those goods.
- (2) If goods have been seized under this section and—
 - (a) proceedings are not instituted for an offence against section 24(2) 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 Trust 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 paid into the Consolidated Account.

Part 5—Miscellaneous

26—Governor may place Crown land under control of Trust

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

27—Gifts etc

- (1) The Trust may accept—
 - (a) grants, conveyances, transfers and leases of land from the Crown, an instrumentality of the Crown or any other person or body; and
 - (b) rights to the use, control, management or occupation of any land; and
 - (c) gifts of personal property of any kind to be used or applied by it for the purposes of this Act.
- (2) Despite the *Stamp Duties Act 1923*, no stamp duty is payable on any instrument by which land or any interest in or right over land is granted or assured to or vested in the Trust or on any contract or instrument executed by the Trust for the purpose of disposing of any property.

28—Ministerial delegation

- (1) The Minister may delegate a function or power of the Minister under this Act (other than this power of delegation) to any person (including a person for the time being performing particular duties or holding or acting in a specified position).
- (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 power of the delegator to act in a 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 legal proceedings, an apparently genuine certificate, purportedly signed by the Minister containing particulars of a delegation under this section, will, in the absence of proof to the contrary, be accepted as proof that the delegation was made in accordance with the particulars.

29—Approvals by Treasurer

- (1) An approval given by the Treasurer under this Act may be—
 - (a) specific or general; and
 - (b) conditional or unconditional.
- (2) An approval given by the Treasurer may be varied or revoked by the Treasurer at any time.

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) provide for the use, care and protection of objects, works, collections or any other property under the care or control of the Trust; and
 - (b) require notification by persons to the Trust of the sale, disposal or destruction of objects listed on a register maintained by the Trust; and
 - (c) provide for the admission, exclusion or expulsion of members of the public to or from premises of the Trust or a part of those premises; and
 - (d) prohibit disorderly or offensive behaviour on premises of the Trust; and
 - (e) prohibit or regulate eating, drinking (including liquor), smoking or the consumption of unlawful substances on premises of the Trust or a part of those premises; and
 - (f) prohibit or regulate any other conduct or activities for the purposes of—
 - (i) maintaining good order, and preventing interference with events or activities conducted, on premises of the Trust; and
 - (ii) protecting property under the care or control of the Trust; and
 - (g) prohibit or regulate the driving, parking or standing of vehicles on premises of the Trust; and
 - (h) prescribe fees for the parking of vehicles on premises of the Trust and provide for their payment and recovery; and
 - (i) provide that the owner and driver of a vehicle driven, parked or left standing in contravention of the regulations are each guilty of an offence and provide or exclude defences in relation to any such offence; and
 - (j) provide for the management (including disposal) by, and vesting in, the Trust of unclaimed property; and
 - (k) provide for the approval by the Trust or an authorised officer of any act or activity that would otherwise be prohibited under the regulations; and
 - (l) prescribe penalties not exceeding \$1 250 for breach of any regulation.

- (3) The regulations may—
- (a) be of general or limited application; and
 - (b) make different provision according to the persons, things or circumstances to which they are expressed to apply; and
 - (c) provide that any matter or thing is to be determined, dispensed with, regulated or prohibited according to the discretion of the Minister, the Trust or another prescribed person or authority.
- (4) In proceedings for an offence against a regulation dealing with the driving, parking or standing of vehicles—
- (a) an allegation in a 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 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.

Part 7—Amendment of *Libraries Act 1982*

48—Substitution of section 5

Section 5—delete the section and substitute:

5—Interpretation

In this section, unless the contrary intention appears—

authorised officer—see Part 3;

Board means the Libraries Board of South Australia continued under this Act;

council has the same meaning as in the *Local Government Act 1999*;

LGA means the Local Government Association of South Australia;

library materials means books, magazines, newspapers, records, cassettes, films, videotapes and other materials of a kind commonly lent by, or available for reference at, a library;

member means member of the Board;

occupy, in relation to premises, means have, or be entitled to, possession or control of the premises;

official insignia—see Part 3A;

premises of the Board means premises owned or occupied by the Board;

promote, in relation to an event or activity, includes organise, commission, fund, support, market, advertise or act as project manager.

49—Substitution of heading to Part 2

Heading to Part 2—delete the heading and substitute:

Part 2—Objectives of Act

50—Repeal of heading to Part 2 Division 1

Heading to Part 2 Division 1—delete the heading

51—Amendment of section 7—Objectives of Act

Section 7(2)—after "lending charge" insert:

or the payment of a membership fee

52—Substitution of heading to Part 2 Division 2

Heading to Part 2 Division 2—delete the heading and substitute:

Part 3—Libraries Board of South Australia

Division 1—Continuation of Libraries Board of South Australia

53—Amendment of section 8—Continuation of Libraries Board of South Australia

(1) Section 8(1)—delete "shall continue" and substitute:

continues

(2) Section 8(2) to (5) (inclusive)—delete subsections (2) to (5) and substitute:

(2) The Board—

- (a) is a body corporate; and
- (b) has perpetual succession and a common seal; and
- (c) can sue and be sued in its corporate name; and
- (d) is an instrumentality of the Crown and holds property on behalf of the Crown; and
- (e) has the functions and powers assigned or conferred under this or any other Act.

54—Substitution of sections 9 to 13

Sections 9 to 13 (inclusive)—delete the sections and substitute:

Division 2—Membership, proceedings etc

9—Composition of Board

- (1) The Board will consist of not more than 8 members appointed by the Governor, of whom—
 - (a) 3 will be persons, nominated by the LGA, who may comprise, in any combination—
 - (i) council members; or
 - (ii) librarians employed in a public library; or
 - (iii) community information officers employed by a council; or
 - (iv) any other officers or employees of a council; or
 - (v) any other persons with experience in local government; and
 - (b) the remainder will be nominated by the Minister.
- (2) At least 2 members must be women and at least 2 must be men.
- (3) The Governor will appoint 1 of the members to be the presiding member.
- (4) The Governor may appoint a suitable person to be a deputy of a member (being a person nominated by the body or person who nominated the member) and the deputy may perform or exercise the functions and powers of the member in the member's absence.

10—Conditions of membership

- (1) A member will be appointed for a term not exceeding 3 years and on conditions determined by the Governor and specified in the instrument of appointment.
- (2) A member will, at the expiration of a term of appointment, be eligible for reappointment (subject to the qualification that a person cannot serve as a member for more than 9 consecutive years).
- (3) A member whose term of office expires may nevertheless continue to act as a member, for a period of up to 3 months, until he or she is reappointed or a successor is appointed (as the case may be).
- (4) The Governor may remove a member from office—
 - (a) for misconduct; or
 - (b) for failure or incapacity to carry out the duties of his or her office satisfactorily; or
 - (c) for contravention of a condition of his or her appointment; or

- (d) if serious irregularities have occurred in the conduct of the Board's affairs or the Board has failed to carry out its functions satisfactorily and its membership should, in the opinion of the Governor, be reconstituted for that reason.
- (5) The office of a member becomes vacant if the member—
 - (a) dies; or
 - (b) completes a term of office and is not reappointed; or
 - (c) resigns by written notice to the Minister; or
 - (d) is convicted of an indictable offence or sentenced to imprisonment for an offence; or
 - (e) ceases to satisfy the qualification by virtue of which the member was eligible for appointment to the Board; or
 - (f) is absent without leave of the presiding member of the Board from 3 consecutive meetings of the Board; or
 - (g) is removed from office under subsection (4).
- (6) On the office of a member becoming vacant, a person may be appointed in accordance with this Division to the vacant office.
- (7) A member is entitled to fees, allowances and expenses determined by the Governor.

11—Proceedings

- (1) A quorum of the Board consists of half of the total number of its members (ignoring any fraction resulting from the division) plus 1.
- (2) In the absence of the presiding member at a meeting of the Board, a member chosen by the members present at the meeting will preside.
- (3) A decision carried by a majority of the votes cast by members at a meeting is a decision of the Board.
- (4) Each member present at a meeting of the Board has 1 vote on any question arising for decision and, if the votes are equal, the member presiding at the meeting may exercise a casting vote.
- (5) A conference by telephone or other electronic means between members will, for the purposes of this section, be taken to be a meeting of the Board at which the participating members are present if—
 - (a) notice of the conference is given to all members in the manner determined by the Board for the purpose; and
 - (b) each participating member is capable of communicating with every other participating member during the conference.

- (6) A proposed resolution of the Board becomes a valid decision of the Board despite the fact that it is not voted on at a meeting of the Board if—
 - (a) notice of the proposed resolution is given to all members in accordance with procedures determined by the Board; and
 - (b) a majority of the members expresses concurrence in the proposed resolution by letter, fax or other written communication setting out the terms of the resolution.
- (7) The Board must meet at least 6 times in each year.
- (8) The Board must have accurate minutes kept of its proceedings.
- (9) Subject to this Act, the Board may determine its own procedures.
- (10) Subject to the directions of the Board and section 13A, this section applies to a committee of the Board in the same way as to the Board.

12—Validity of acts

An act or proceeding of the Board or a committee of the Board is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

13—Ministerial control

- (1) Subject to subsection (2), the Board is subject to the general control and direction of the Minister.
- (2) No Ministerial direction can be given—
 - (a) as to the nature or content of—
 - (i) library collections; or
 - (ii) events or activities conducted or promoted by the Board; or
 - (b) suppressing the dissemination of information; or
 - (c) preventing or controlling access by the public to library materials at times when the libraries in which those materials are stored are open to the public; or
 - (d) as to the manner in which the Board is to deal with a testamentary or other gift; or
 - (e) as to any advice or recommendation that the Board makes or is required to make to the Minister.

Division 2A—Committees and delegation

13A—Committees

- (1) The Board may establish such committees (including advisory committees or subcommittees) as the Board thinks fit.

- (2) The membership and conditions of membership of a committee will be determined by the Board and may, but need not, consist of, or include, members of the Board.
- (3) The procedures to be observed in relation to the conduct of the business of a committee will be—
 - (a) as determined by the Board; and
 - (b) insofar as a procedure is not determined under paragraph (a)—as determined by the committee.

13B—Delegation

- (1) The Board may delegate a function or power of the Board under this Act (other than this power of delegation) to any person or committee or other body (including a person for the time being performing particular duties or holding or acting in a specified position).
- (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 power of the delegator to act in a 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) A delegate must not act pursuant to the delegation in any matter in which the delegate has a direct or indirect pecuniary or personal interest.

Maximum penalty: \$10 000 or imprisonment for 2 years.
- (5) It is a defence to a charge of an offence against subsection (4) to prove that the defendant was, at the time of the alleged offence, unaware of his or her interest in the matter.
- (6) In legal proceedings, an apparently genuine certificate, purportedly signed by the Board containing particulars of a delegation under this section, will, in the absence of proof to the contrary, be accepted as proof that the delegation was made in accordance with the particulars.

Division 2B—Conflict of interest under Public Sector (Honesty and Accountability) Act

13C—Conflict of interest under Public Sector (Honesty and Accountability) Act

A member of the Board will not be taken to have a direct or indirect interest in a matter for the purposes of the *Public Sector (Honesty and Accountability) Act 1995* by reason only of the fact that the member has an interest in a matter that is shared in common with public librarians generally, or a substantial section of public librarians.

Division 2C—Common seal and execution of documents

13D—Common seal and execution of documents

- (1) The common seal of the Board must not be affixed to a document except in pursuance of a decision of the Board and the fixing of the seal must be attested by the signatures of 2 members of the Board.
- (2) The Board may, by instrument under the common seal of the Board, authorise a person or persons (whether nominated by name or by office or title) to execute documents on behalf of the Board subject to conditions and limitations (if any) specified in the instrument of authority.
- (3) Without limiting subsection (2), the Board may authorise 2 or more persons to execute documents jointly on behalf of the Board.
- (4) A document is duly executed by the Board if—
 - (a) the common seal of the Board is affixed to the document in accordance with this section; or
 - (b) the document is signed on behalf of the Board by a person or persons in accordance with authority conferred under this section.
- (5) If an apparently genuine document purports 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.

55—Substitution of heading to Part 2 Division 3

Heading to Part 2 Division 3—delete the heading and substitute:

Division 3—Functions and powers of Board

56—Amendment of section 14—Functions

- (1) Section 14—delete "are as follows:" and substitute:
are—

- (2) Section 14(f)—delete "departments and instrumentalities of Government, and with other authorities and bodies" and substitute:
- an administrative unit of the Public Service or any other public sector agency (within the meaning of the *Public Sector Act 2009*) and any other authority or body
- (3) Section 14(g)—delete "upon" and substitute:
- on
- (4) Section 14(h) and (i)—delete paragraphs (h) and (i)
- (5) Section 14—after paragraph (n) insert:
- and
- (o) to carry out any other functions assigned to the Board under this or any other Act or by the Minister.

57—Substitution of sections 15 to 20

Sections 15 to 20 (inclusive)—delete the sections and substitute:

15—Powers

- (1) The Board has, in addition to any other powers conferred on it under this or any other Act, all the powers of a natural person.
- (2) The Board may, for example, do any 1 or more of the following (subject to this Act):
- (a) engage agents, consultants or other contractors;
 - (b) enter into contracts or agreements with authors, librarians or other persons involved in library services, or employ such persons;
 - (c) enter into other contracts, agreements or arrangements;
 - (d) acquire, hold, take on hire, lend, exchange or dispose of library materials;
 - (e) acquire, hold, deal with or dispose of—
 - (i) licences; or
 - (ii) intellectual property (including patents and copyright); or
 - (iii) any other property (whether real or personal); or
 - (iv) any interest in such property;
 - (f) provide courses of training for such persons as the Board thinks fit;
 - (g) accept grants or obtain financial sponsorship from any person or body;
 - (h) carry on advertising and promotional activities;

- (i) conduct events and establish, operate, manage or make available venues and other facilities (including facilities for food and liquor) at the State Library, another public library or any other premises of the Board;
 - (j) regulate and control admission to any venue for any events or activities conducted or promoted by the Board;
 - (k) charge and collect fees for admission to exhibitions, events or activities conducted on special occasions or for special purposes;
 - (l) grant for fee or other consideration advertising or sponsorship rights or other rights, licences or concessions in connection with events or activities conducted or promoted by the Board;
 - (m) publish or produce books, programs, brochures, films, souvenirs and other information or things relating to events or activities conducted or promoted by the Board;
 - (n) sell or supply food and drink (including liquor), books, programs, brochures, films, souvenirs and other things in connection with events or activities conducted or promoted by the Board;
 - (o) grant or dispose of rights to televise, broadcast or record any events or activities conducted or promoted by the Board;
 - (p) restrict, control and make charges for the use of official insignia;
 - (q) take out policies of insurance in its own right or on behalf of the State;
 - (r) participate (whether as a member or otherwise) in, or otherwise be involved in the activities of, national or international organisations or associations involved in library services, or the promotion of library services;
 - (s) give or contribute towards prizes in competitions designed to encourage activities of an educational, historical, cultural or artistic nature within the State or make grants and give other assistance for such purposes;
 - (t) enter into any partnership or joint venture arrangement;
 - (u) form, or acquire, hold, deal with and dispose of shares or other interests in, or securities issued by, bodies corporate, whether within or outside of the State;
 - (v) borrow money and obtain other forms of financial accommodation;
 - (w) act as trustee on behalf of another person in connection with the performance of its functions under this Act.
- (3) However, the Board must not, without the approval of the Treasurer, exercise a power referred to in subsection (2)(u) or (v).

- (4) The Board is not obliged to accept or keep material that is not, in its opinion, of sufficient educational, historical or other interest to justify its collection or preservation under this Act.
- (5) The Board may exercise its powers within or outside of the State.

Division 4—Staff

16—Staff

- (1) The Board's staff consists of Public Service employees assigned to assist the Board.
- (2) The Board may, under an arrangement established by the Minister administering an administrative unit of the Public Service, make use of the services or staff of that administrative unit.

58—Substitution of heading to Part 2 Division 5

Heading to Part 2 Division 5—delete the heading to Division 5 and substitute:

Division 5—Financial matters and annual reports

59—Insertion of sections 18 to 20

Before section 21 insert:

18—Annual budget

- (1) The Board must, from time to time, prepare and submit to the Minister a budget for the next financial year or for some other period determined by the Minister.
- (2) The budget must set out estimates of the Board's receipts and expenditures for the period to which the budget relates.
- (3) The budget must conform with any requirements of the Minister as to its form and the matters to be addressed by the budget.
- (4) The Minister may approve a budget submitted under this section with or without modification.
- (5) Subject to subsection (6), the Board must not, without the consent of the Minister, make an expenditure that is not provided for by a budget that has been approved by the Minister under this section.
- (6) The Board is not required to have the approval of the Minister with respect to the expenditure of money received by the Board by way of a testamentary or other gift.

19—Accounts and audit

- (1) The Board must cause proper accounting records to be kept in relation to the financial affairs of the Board, and must have annual statements of account prepared in respect of each financial year.

- (2) The accounting records and the 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 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.

20—Annual report

- (1) The Board must, on or before 30 September in every year, forward to the Minister a report on the work and operations of the Board for the preceding financial year.
- (2) The report must contain the audited statements of account of the Board for the preceding financial year.
- (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.

60—Insertion of Parts 3 and 3A

Before Part 4 insert:

Part 3—Authorised officers

23—Appointment of authorised officers

- (1) The Minister may appoint persons to be authorised officers for the purposes of this Act.
- (2) Each police officer is an authorised officer for the purposes of this Act.
- (3) An appointment under subsection (1) may be made subject to conditions or limitations specified in the instrument of appointment (and the exercise by an authorised officer of powers conferred under this Act is subject to the conditions and limitations (if any) specified in his or her instrument of appointment).
- (4) An authorised officer other than a police officer must be issued with an identity card—
 - (a) containing the person's name and a photograph of the person; and
 - (b) stating that the person is an authorised officer for the purposes of this Act; and
 - (c) stating any conditions or limitations on the authorised officer's authority.

- (5) An authorised officer must, at the request of a person in relation to whom the authorised officer intends to exercise any powers under this Act, produce for inspection by the person—
- (a) in the case of an authorised officer appointed under subsection (1)—his or her identity card; and
 - (b) in the case of an authorised officer who is a police officer and is not in uniform—his or her certificate of authority.
- (6) If a person in possession of an identity card issued to the person under this section ceases to be an authorised officer, the person must immediately return the identity card to the Minister.
- Maximum penalty: \$250.

24—Powers of authorised officers

- (1) If an authorised officer reasonably suspects that a person, while at a library or other premises of the Board, has committed, is committing or is about to commit an offence against this or any other Act, the authorised officer may do any 1 or more of the following:
- (a) require the person to state his or her full name and usual place of residence;
 - (b) if the authorised officer suspects on reasonable grounds that the name or place of residence stated is false—require the person to produce evidence of his or her full name or usual place of residence;
 - (c) require the person to leave the library or those premises immediately and not to return for a stated period or not to enter the library or those premises;
 - (d) if the person refuses or fails to comply with a requirement under paragraph (c)—use such force as is reasonably necessary for the purpose of removing or excluding the person from the library or those premises;
 - (e) cause the person to be detained and handed over into the custody of a police officer as soon as reasonably practicable.
- (2) An authorised officer may also—
- (a) require a person to surrender any object, substance or thing that the authorised officer reasonably suspects has been, is being, or is about to be, used at a library or other premises of the Board in contravention of this Act; and
 - (b) give such directions to persons at a library or other premises of the Board that the authorised officer considers necessary for—

- (i) the maintenance of good order, the prevention of interference with events or other activities, or the safe and efficient regulation of vehicular or pedestrian traffic, at the library or those premises; or
 - (ii) the protection of property under the care or control of the Board; and
- (c) use such force as may reasonably be required—
- (i) for the purpose of removing or excluding from a library or other premises of the Board a person who refuses or fails to comply with a requirement or direction under this section; or
 - (ii) for the purposes of seizing goods under section 29; and
- (d) exercise any other prescribed power.
- (3) An authorised officer may, in exercising powers under this Act, be accompanied by such assistants as are reasonably required in the circumstances.
- (4) For the purposes of this section, a reference to a ***library or other premises of the Board*** includes a reference to a part of a library or those premises.

25—Hindering etc authorised officers

- (1) A person who—
- (a) without reasonable excuse hinders or obstructs an authorised officer; or
 - (b) fails to answer a question put by an authorised officer to the best of his or her knowledge, information or belief; or
 - (c) produces a document that he or she knows, or ought to know, is false or misleading in a material particular; or
 - (d) fails without reasonable excuse to comply with a requirement or direction of an authorised officer under this Act; or
 - (e) uses abusive, threatening or insulting language to an authorised officer or a person assisting an authorised officer; or
 - (f) falsely represents, by words or conduct, that he or she is an authorised officer,

is guilty of an offence.

Maximum penalty: \$2 500.

- (2) A person is not obliged to answer a question or to produce a document as required under this Act if to do so might tend to incriminate the person or make the person liable to a penalty.

Part 3A—Official insignia

26—Interpretation

- (1) In this Part—
official insignia means—
 - (a) an official title (declared under section 27); or
 - (b) a logo (declared under section 27); or
 - (c) a combination of the above.
- (2) For the purposes of this Part, goods will be taken to be marked with official insignia if the insignia is 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.

27—Official titles and logos

- (1) *State Library of South Australia* is declared to be an official title.
- (2) The Minister may, by notice in the Gazette—
 - (a) declare some other name under which the Board may conduct its operations or part of its operations to be an official title; or
 - (b) declare a name or a title of an event or activity conducted or promoted by the Board to be an official title; or
 - (c) declare a logo (being a design, the copyright of which is vested in the Crown in right of the State) to be a logo in respect of the Board or a particular event or activity conducted or promoted by the Board.
- (3) However, the Minister must not make a declaration under subsection (2) in relation to a name or title that is registered or otherwise protected under another Act unless the Minister is acting with the consent or agreement of the person who has the benefit of the registration or protection.
- (4) An official title declared under this section is not required to be registered or otherwise protected under any other Act.
- (5) The Minister may, by notice in the Gazette, vary or revoke a notice under this section.

28—Unlawful use of official insignia

- (1) The Board has a proprietary interest in all official insignia.
- (2) A person must not, without the consent of the Board, in the course of a trade or business—
 - (a) use a name in which the Board has a proprietary interest under this section for the purpose of promoting the sale of services or the provision of any benefits; or
 - (b) sell goods marked with official insignia; or
 - (c) use official insignia for the purpose of promoting the sale of goods or services.

Maximum penalty: \$20 000.

- (3) A person must not, without the consent of the Board, assume a name or description that consists of, or includes, official insignia.

Maximum penalty: \$20 000.

- (4) A consent under this section—
 - (a) may be given with or without conditions (including conditions requiring payment to the Board); and
 - (b) may be given generally by notice in the Gazette or by notice in writing addressed to an applicant for the consent; and
 - (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.

29—Seizure etc of goods marked with official insignia

- (1) If—
 - (a) goods apparently intended for a commercial purpose are marked with official insignia; and
 - (b) an authorised officer suspects on reasonable grounds that the use of the insignia has not been authorised by the Board,the authorised officer may seize those goods.

- (2) If goods have been seized under this section and—
 - (a) proceedings are not instituted for an offence against section 28(2) 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 paid into the Consolidated Account.

61—Substitution of section 35

Section 35—delete the section and substitute:

35—Copies of certain material to be lodged with Board and Parliamentary Librarian

- (1) Subject to this section, if a person or body publishes material to which this section applies, the person or body must, within 1 month after publication, provide a copy of the material to the Board, and a copy to the Parliamentary Librarian, at the person's own expense.
Maximum penalty: \$2 500.
- (2) A person or body may, by notice in writing to the person or body from the Parliamentary Librarian, be exempted from providing all or a specified part of the material required to be provided to the Parliamentary Librarian under subsection (1).
- (3) If material to which this section applies is published in various forms of differing quality, the copies to be provided under subsection (1) must be of the finest quality (unless provided in electronic form under subsection (4)).
Maximum penalty: \$2 500.
- (4) A copy of material may only be provided under subsection (1) in electronic form—
 - (a) if it is material or material of a kind prescribed by regulation; or

- (b) in the case of material to be provided to the Board—with the agreement in writing of the Board; or
 - (c) in the case of material to be provided to the Parliamentary Librarian—with the agreement in writing of the Parliamentary Librarian.
- (5) A receipt must be issued for material provided under this section.
- (6) This section applies to material of South Australian origin, or material that has particular relevance to this State, in the form of—
- (a) a book, or a part or division of a book; or
 - (b) a newspaper, magazine, journal or pamphlet; or
 - (c) a map, plan, chart or table; or
 - (d) printed music; or
 - (e) a record, cassette, film, video or audio tape, CD, DVD or other item made available to the public, designed to store and facilitate the reproduction of visual images, sound or information.
- (7) This section does not apply to—
- (a) a second or subsequent edition of material referred to in subsection (6) that does not differ from a former edition; or
 - (b) material or material of a kind prescribed by regulation.

62—Repeal of sections 37 to 39

Sections 37 to 39 (inclusive)—delete the sections

63—Amendment and redesignation of section 40—Conditions on which library materials are to be lent etc

- (1) Section 40(1)(b)—delete "upon" and substitute:
on
- (2) Section 40(2)—delete subsection (2) and substitute:
 - (2) A person by whom a fine is payable under subsection (1) who refuses or fails to comply with a demand by the Board for payment of the fine is guilty of an offence.
Maximum penalty: \$1 250.
- (3) Section 40—redesignate the section (as amended by this section) as section 37

64—Insertion of section 38

After section 37 (as redesignated by section 63(3) of this Act) insert:

38—Gifts etc

- (1) The Board may accept—
 - (a) grants, conveyances, transfers and leases of land from the Crown, an instrumentality of the Crown or any other person or body; and
 - (b) rights to the use, control, management or occupation of any land; and
 - (c) gifts of personal property of any kind to be used or applied by it for the purposes of this Act.
- (2) A gift or bequest made to or for the benefit or purposes of—
 - (a) a library administered by the Board; or
 - (b) the governing body of such a library; or
 - (c) the former Institutes Association of South Australia; or
 - (d) institutes that were formerly members of that Association,will be taken to be a gift or bequest to the Board and must be applied by the Board towards the purposes for which the gift or bequest was made.
- (3) Despite the *Stamp Duties Act 1923*, no stamp duty is payable on any instrument by which land or any interest in or right over land is granted or assured to or vested in the Board or on any contract or instrument executed by the Board for the purpose of disposing of any property.

65—Substitution of sections 41 to 43

Sections 41 to 43 (inclusive)—delete the sections and substitute:

39—Ministerial delegation

- (1) The Minister may delegate a function or power of the Minister under this Act (other than this power of delegation) to any person (including a person for the time being performing particular duties or holding or acting in a specified position).
- (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 power of the delegator to act in a 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 legal proceedings, an apparently genuine certificate, purportedly signed by the Minister containing particulars of a delegation under this section, will, in the absence of proof to the contrary, be accepted as proof that the delegation was made in accordance with the particulars.

40—Approvals by Treasurer

- (1) An approval given by the Treasurer under this Act may be—
- (a) specific or general; and
 - (b) conditional or unconditional.
- (2) An approval given by the Treasurer may be varied or revoked by the Treasurer at any time.

41—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) provide for the use, care and protection of objects, works, collections or any other property under the care or control of the Board; and
 - (b) provide for the admission, exclusion or expulsion of members of the public to or from a library or other premises of the Board or a part of a library or those premises; and
 - (c) prohibit disorderly or offensive behaviour at a library or other premises of the Board; and
 - (d) prohibit the use of computers at a library for the purposes of accessing or transmitting defamatory, obscene or other offensive material;
 - (e) prohibit or regulate eating, drinking (including liquor), smoking or the consumption of unlawful substances at a library or other premises of the Board or a part of a library or those premises; and
 - (f) prohibit or regulate any other conduct or activities for the purposes of—
 - (i) maintaining good order, and preventing interference with events or activities conducted, at a library or other premises of the Board; and
 - (ii) protecting property under the care or control of the Board; and
 - (g) prohibit or regulate the driving, parking or standing of vehicles on premises of the Board; and
 - (h) prescribe fees for the parking of vehicles on premises of the Board and provide for their payment and recovery; and

- (i) provide that the owner and driver of a vehicle driven, parked or left standing in contravention of the regulations are each guilty of an offence and provide or exclude defences in relation to any such offence; and
 - (j) provide for the management (including disposal) by, and vesting in, the Board of unclaimed property; and
 - (k) provide for the approval by the Board or an authorised officer of any act or activity that would otherwise be prohibited under the regulations; and
 - (l) prescribe penalties not exceeding \$1 250 for breach of any regulation.
- (3) The regulations may—
- (a) be of general or limited application; and
 - (b) make different provision according to the persons, things or circumstances to which they are expressed to apply; and
 - (c) provide that any matter or thing is to be determined, dispensed with, regulated or prohibited according to the discretion of the Minister, the Board or another prescribed person or authority.
- (4) In proceedings for an offence against a regulation dealing with the driving, parking or standing of vehicles—
- (a) an allegation in a 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 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.

Part 8—Amendment of *South Australian Country Arts Trust Act 1992*

66—Amendment of section 3—Interpretation

Section 3(1)—delete subsection (1) and substitute:

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

authorised officer—see Part 3;

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

member means member of the Trust;

occupy, in relation to premises, means have, or be entitled to, possession or control of the premises;

official insignia—see Part 4;

premises of the Trust means premises owned or occupied by the Trust;

proclaimed region means an area declared by proclamation as a region for the purposes of this Act;

promote, in relation to an event or activity, includes organise, commission, fund, support, market, advertise or act as project manager;

Trust means the South Australian Country Arts Trust established under this Act.

67—Substitution of heading to Part 2

Heading to Part 2—delete the heading and substitute:

Part 2—South Australian Country Arts Trust

Division 1—Establishment of Trust

68—Substitution of sections 5 to 12

Sections 5 to 12 (inclusive)—delete the sections and substitute:

Division 2—Membership, proceedings etc

5—Composition of Trust

- (1) The Trust will consist of not more than 9 members appointed by the Governor, of whom—
 - (a) 1 will be selected from a panel of persons nominated by the Local Government Association of South Australia;
 - (b) 5 will be nominated by the Minister to represent proclaimed regions; and
 - (c) the remainder will be nominated by the Minister.
- (2) At least 2 members must be women and at least 2 must be men.
- (3) The Governor will appoint 1 of the members to be the presiding member.
- (4) The Governor may appoint a suitable person to be a deputy of a member (being a person nominated by the body or person who nominated the member) and the deputy may perform or exercise the functions and powers of the member in the member's absence.
- (5) A person is not eligible to be appointed to represent a proclaimed region unless the person resides in the region.

6—Conditions of membership

- (1) A member will be appointed for a term not exceeding 3 years and on conditions determined by the Governor and specified in the instrument of appointment.
- (2) A member will, at the expiration of a term of appointment, be eligible for reappointment (subject to the qualification that a person cannot serve as a member for more than 9 consecutive years).
- (3) The Governor may remove a member from office—
 - (a) for misconduct; or
 - (b) for failure or incapacity to carry out the duties of his or her office satisfactorily; or
 - (c) for contravention of a condition of his or her appointment; or
 - (d) if serious irregularities have occurred in the conduct of the Trust's affairs or the Trust has failed to carry out its functions satisfactorily and its membership should, in the opinion of the Governor, be reconstituted for that reason.
- (4) The office of a member becomes vacant if the member—
 - (a) dies; or
 - (b) completes a term of office and is not reappointed; or
 - (c) resigns by written notice to the Minister; or
 - (d) is convicted of an indictable offence or sentenced to imprisonment for an offence; or
 - (e) ceases to satisfy the qualification by virtue of which the member was eligible for appointment to the Trust; or
 - (f) is absent without leave of the presiding member of the Trust from 3 consecutive meetings of the Trust; or
 - (g) is removed from office under subsection (3).
- (5) On the office of a member becoming vacant, a person may be appointed in accordance with this Division to the vacant office.
- (6) A member of the Trust is entitled to fees, allowances and expenses determined by the Governor.

7—Proceedings

- (1) A quorum of the Trust consists of half of the total number of its members (ignoring any fraction resulting from the division) plus 1.
- (2) In the absence of the presiding member from a meeting of the Trust, a member chosen by the members present at the meeting will preside.
- (3) A decision carried by a majority of the votes cast by members at a meeting is a decision of the Trust.

- (4) Each member present at a meeting of the Trust has 1 vote on any question arising for decision and, if the votes are equal, the member presiding at the meeting may exercise a casting vote.
- (5) A conference by telephone or other electronic means between members will, for the purposes of this section, be taken to be a meeting of the Trust at which the participating members are present if—
 - (a) notice of the conference is given to all members in the manner determined by the Trust for the purpose; and
 - (b) each participating member is capable of communicating with every other participating member during the conference.
- (6) A proposed resolution of the Trust becomes a valid decision of the Trust despite the fact that it is not voted on at a meeting of the Trust if—
 - (a) notice of the proposed resolution is given to all members in accordance with procedures determined by the Trust; and
 - (b) a majority of the members expresses concurrence in the proposed resolution by letter, fax or other written communication setting out the terms of the resolution.
- (7) The Trust must meet at least 6 times in each year.
- (8) The Trust must have accurate minutes kept of its proceedings.
- (9) Subject to this Act, the Trust may determine its own procedures.
- (10) Subject to the directions of the Trust and section 10, this section applies to a committee of the Trust in the same way as to the Trust.

8—Validity of acts

An act or proceeding of the Trust or a committee of the Trust is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

9—Ministerial control

- (1) Subject to subsection (2), the Trust is subject to the general control and direction of the Minister.
- (2) No Ministerial direction can be given—
 - (a) as to the artistic nature or content of—
 - (i) objects, works or collections held or promoted by the Trust; or
 - (ii) performances or other events or activities conducted or promoted by the Trust; or
 - (b) as to the manner in which the Trust is to deal with a testamentary or other gift; or

- (c) as to any advice or recommendation that the Trust makes or is required to make to the Minister.

Division 3—Committees and delegation

10—Committees

- (1) The Trust may establish such committees (including advisory committees or subcommittees) as the Trust thinks fit.
- (2) The membership and conditions of membership of a committee will be determined by the Trust and may, but need not, consist of, or include, members of the Trust.
- (3) The procedures to be observed in relation to the conduct of the business of a committee will be—
 - (a) as determined by the Trust; and
 - (b) insofar as a procedure is not determined under paragraph (a)—as determined by the committee.

11—Delegation

- (1) The Trust may delegate a function or power of the Trust under this Act (other than this power of delegation) to any person or committee or other body (including a person for the time being performing particular duties or holding or acting in a specified position).
- (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 power of the delegator to act in a 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) A delegate must not act pursuant to the delegation in any matter in which the delegate has a direct or indirect pecuniary or personal interest.
Maximum penalty: \$10 000 or imprisonment for 2 years.
- (5) It is a defence to a charge of an offence against subsection (4) to prove that the defendant was, at the time of the alleged offence, unaware of his or her interest in the matter.
- (6) In legal proceedings, an apparently genuine certificate, purportedly signed by the Trust containing particulars of a delegation under this section, will, in the absence of proof to the contrary, be accepted as proof that the delegation was made in accordance with the particulars.

Division 4—Conflict of interest under Public Sector (Honesty and Accountability) Act

12—Conflict of interest under Public Sector (Honesty and Accountability) Act

A member of the Trust will not be taken to have a direct or indirect interest in a matter for the purposes of the *Public Sector (Honesty and Accountability) Act 1995* by reason only of the fact that the member has an interest in a matter that is shared in common with those engaged in or associated with the arts industry generally, or a substantial section of those engaged in or associated with the arts industry.

Division 5—Common seal and execution of documents

12A—Common seal and execution of documents

- (1) The common seal of the Trust must not be affixed to a document except in pursuance of a decision of the Trust and the fixing of the seal must be attested by the signatures of 2 members of the Trust.
- (2) The Trust may, by instrument under the common seal of the Trust, authorise a person or persons (whether nominated by name or by office or title) to execute documents on behalf of the Trust subject to conditions and limitations (if any) specified in the instrument of authority.
- (3) Without limiting subsection (2), the Trust may authorise 2 or more persons to execute documents jointly on behalf of the Trust.
- (4) A document is duly executed by the Trust if—
 - (a) the common seal of the Trust is affixed to the document in accordance with this section; or
 - (b) the document is signed on behalf of the Trust by a person or persons in accordance with authority conferred under this section.
- (5) If an apparently genuine document purports to bear the common seal of the Trust, it will be presumed, in the absence of proof to the contrary, that the common seal of the Trust was duly affixed to the document.

Division 6—Functions and powers of Trust

12B—Functions

The functions of the Trust are—

- (a) to advise the Minister on matters of policy related to country arts; and
- (b) to act as an advocate for country arts; and
- (c) to manage the development of country arts; and

- (d) to establish and maintain an information service for country arts; and
- (e) to develop and manage programs for the touring of country arts activities within the State or within or outside of the State; and
- (f) to provide, manage and control premises and facilities for country arts; and
- (g) to evaluate and be responsible for the financial and artistic performance of country arts activities funded by the Trust; and
- (h) to provide ticketing services for productions or events of any kind staged or promoted by the Trust or any other person; and
- (i) to carry out any other functions assigned to the Trust under this or any other Act or by the Minister.

12C—Powers

- (1) The Trust has, in addition to any other powers conferred on it under this or any other Act, all the powers of a natural person.
- (2) The Trust may, for example, do any 1 or more of the following (subject to this Act):
 - (a) engage agents, consultants or other contractors;
 - (b) enter into contracts or agreements with artists, performers, entertainers and other persons involved in the arts, or employ such persons;
 - (c) enter into other contracts, agreements or arrangements;
 - (d) acquire, hold, take on hire, lend, exchange or dispose of objects, works or collections of artistic, historical or cultural interest;
 - (e) acquire, hold, deal with or dispose of—
 - (i) licences; or
 - (ii) intellectual property (including patents and copyright); or
 - (iii) any other property (whether real or personal); or
 - (iv) any interest in such property;
 - (f) accept grants or obtain financial sponsorship from any person or body;
 - (g) carry on advertising and promotional activities;
 - (h) conduct events and establish, operate, manage or make available venues and other facilities (including facilities for food and liquor) on premises of the Trust;

- (i) regulate and control admission to any venue for any events or activities conducted or promoted by the Trust, and charge and collect fees for admission to any such venue;
 - (j) grant for fee or other consideration advertising or sponsorship rights or other rights, licences or concessions in connection with events or activities conducted or promoted by the Trust;
 - (k) publish or produce books, programs, brochures, films, souvenirs and other information or things relating to events or activities conducted or promoted by the Trust;
 - (l) sell or supply food and drink (including liquor), books, programs, brochures, films, souvenirs and other things in connection with events or activities conducted or promoted by the Trust;
 - (m) grant or dispose of rights to televise, broadcast or record any events or activities conducted or promoted by the Trust;
 - (n) restrict, control and make charges for the use of official insignia;
 - (o) take out policies of insurance in its own right or on behalf of the State;
 - (p) participate (whether as a member or otherwise) in, or otherwise be involved in the activities of, national or international organisations or associations involved in the arts, or the promotion of the arts;
 - (q) give or contribute towards prizes in competitions designed to encourage artistic or cultural or performing arts activity within the State or make grants and give other assistance for such purposes;
 - (r) enter into any partnership or joint venture arrangement;
 - (s) form, or acquire, hold, deal with and dispose of shares or other interests in, or securities issued by, bodies corporate, whether within or outside of the State;
 - (t) borrow money and obtain other forms of financial accommodation;
 - (u) act as trustee on behalf of another person in connection with the performance of its functions under this Act.
- (3) However, the Trust must not, without the approval of the Treasurer, exercise a power referred to in subsection (2)(s) or (t).
- (4) The Trust is not obliged to accept or keep material that is not, in its opinion, of sufficient artistic, historical, cultural or other interest to justify its collection or preservation under this Act.
- (5) The Trust may exercise its powers within or outside of the State.

69—Insertion of heading to Division 7

Before section 13 insert:

Division 7—Staffing arrangements

70—Substitution of sections 14 to 19

Sections 14 to 19 (inclusive)—delete the sections and substitute:

Division 8—Financial matters and annual reports

14—Annual budget

- (1) The Trust must, from time to time, prepare and submit to the Minister a budget for the next financial year or for some other period determined by the Minister.
- (2) The budget must set out estimates of the Trust's receipts and expenditures for the period to which the budget relates.
- (3) The budget must conform with any requirements of the Minister as to its form and the matters to be addressed by the budget.
- (4) The Minister may approve a budget submitted under this section with or without modification.
- (5) Subject to subsection (6), the Trust must not, without the consent of the Minister, make an expenditure that is not provided for by a budget that has been approved by the Minister under this section.
- (6) The Trust is not required to have the approval of the Minister with respect to the expenditure of money received by the Trust by way of a testamentary or other gift.

15—Accounts and audit

- (1) The Trust must cause proper accounting records to be kept in relation to the financial affairs of the Trust, and must have annual statements of account prepared in respect of each financial year.
- (2) The accounting records and the 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 further requirements imposed by the Auditor-General.
- (3) The Auditor-General may at any time audit the accounts of the Trust and must audit the annual statements of account.

16—Annual report

- (1) The Trust must, on or before 30 September in every year, forward to the Minister a report on the work and operations of the Trust for the preceding financial year.

- (2) The report must contain the audited statements of account of the Trust for the preceding financial year.
- (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.

71—Substitution of Part 4

Part 4—delete the Part and substitute:

Part 3—Authorised officers

17—Appointment of authorised officers

- (1) The Minister may appoint persons to be authorised officers for the purposes of this Act.
- (2) Each police officer is an authorised officer for the purposes of this Act.
- (3) An appointment under subsection (1) may be made subject to conditions or limitations specified in the instrument of appointment (and the exercise by an authorised officer of powers conferred under this Act is subject to the conditions and limitations (if any) specified in his or her instrument of appointment).
- (4) An authorised officer other than a police officer must be issued with an identity card—
 - (a) containing the person’s name and a photograph of the person; and
 - (b) stating that the person is an authorised officer for the purposes of this Act; and
 - (c) stating any conditions or limitations on the authorised officer’s authority.
- (5) An authorised officer must, at the request of a person in relation to whom the authorised officer intends to exercise any powers under this Act, produce for inspection by the person—
 - (a) in the case of an authorised officer appointed under subsection (1)—his or her identity card; and
 - (b) in the case of an authorised officer who is a police officer and is not in uniform—his or her certificate of authority.
- (6) If a person in possession of an identity card issued to the person under this section ceases to be an authorised officer, the person must immediately return the identity card to the Minister.
Maximum penalty: \$250.

18—Powers of authorised officers

- (1) If an authorised officer reasonably suspects that a person, while on premises of the Trust, has committed, is committing or is about to commit an offence against this or any other Act, the authorised officer may do any 1 or more of the following:
 - (a) require the person to state his or her full name and usual place of residence;
 - (b) if the authorised officer suspects on reasonable grounds that the name or place of residence stated is false—require the person to produce evidence of his or her full name or usual place of residence;
 - (c) require the person to leave those premises immediately and not to return for a stated period (not exceeding 24 hours) or not to enter those premises;
 - (d) if the person refuses or fails to comply with a requirement under paragraph (c)—use such force as is reasonably necessary for the purpose of removing or excluding the person from those premises;
 - (e) cause the person to be detained and handed over into the custody of a police officer as soon as reasonably practicable.
- (2) An authorised officer may also—
 - (a) require a person to surrender any object, substance or thing that the authorised officer reasonably suspects has been, is being, or is about to be, used on premises of the Trust in contravention of this Act; and
 - (b) give such directions to persons on premises of the Trust that the authorised officer considers necessary for—
 - (i) the maintenance of good order, the prevention of interference with events or other activities, or the safe and efficient regulation of vehicular or pedestrian traffic, on those premises; or
 - (ii) the protection of property under the care or control of the Trust; and
 - (c) use such force as may reasonably be required—
 - (i) for the purpose of removing or excluding from premises of the Trust a person who refuses or fails to comply with a requirement or direction under this section; or
 - (ii) for the purposes of seizing goods under section 23; and
 - (d) exercise any other prescribed power.

- (3) An authorised officer may, in exercising powers under this Act, be accompanied by such assistants as are reasonably required in the circumstances.
- (4) For the purposes of this section, a reference to *premises of the Trust* includes a reference to a part of those premises.

19—Hindering etc authorised officers

- (1) A person who—
 - (a) without reasonable excuse hinders or obstructs an authorised officer; or
 - (b) fails to answer a question put by an authorised officer to the best of his or her knowledge, information or belief; or
 - (c) produces a document that he or she knows, or ought to know, is false or misleading in a material particular; or
 - (d) fails without reasonable excuse to comply with a requirement or direction of an authorised officer under this Act; or
 - (e) uses abusive, threatening or insulting language to an authorised officer or a person assisting an authorised officer; or
 - (f) falsely represents, by words or conduct, that he or she is an authorised officer,

is guilty of an offence.

Maximum penalty: \$2 500.

- (2) A person is not obliged to answer a question or to produce a document as required under this Act if to do so might tend to incriminate the person or make the person liable to a penalty.

Part 4—Official insignia

20—Interpretation

- (1) In this Part—

official insignia means—

 - (a) an official title (declared under section 21); or
 - (b) a logo (declared under section 21); or
 - (c) a combination of the above.
- (2) For the purposes of this Part, goods will be taken to be marked with official insignia if the insignia is 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.

21—Official titles and logos

- (1) The following are declared to be official titles:
 - (a) *South Australian Country Arts Trust*;
 - (b) *Country Arts SA*.
- (2) The Minister may, by notice in the Gazette—
 - (a) declare some other name under which the Trust may conduct its operations or part of its operations to be an official title; or
 - (b) declare a name or a title of an event or activity conducted or promoted by the Trust to be an official title; or
 - (c) declare a logo (being a design, the copyright of which is vested in the Crown in right of the State) to be a logo in respect of the Trust or a particular event or activity conducted or promoted by the Trust.
- (3) However, the Minister must not make a declaration under subsection (2) in relation to a name or title that is registered or otherwise protected under another Act unless the Minister is acting with the consent or agreement of the person who has the benefit of the registration or protection.
- (4) An official title declared under this section is not required to be registered or otherwise protected under any other Act.
- (5) The Minister may, by notice in the Gazette, vary or revoke a notice under this section.

22—Unlawful use of official insignia

- (1) The Trust has a proprietary interest in all official insignia.
- (2) A person must not, without the consent of the Trust, in the course of a trade or business—
 - (a) use a name in which the Trust has a proprietary interest under this section for the purpose of promoting the sale of services or the provision of any benefits; or
 - (b) sell goods marked with official insignia; or
 - (c) use official insignia for the purpose of promoting the sale of goods or services.

Maximum penalty: \$20 000.

- (3) A person must not, without the consent of the Trust, assume a name or description that consists of, or includes, official insignia.

Maximum penalty: \$20 000.

- (4) A consent under this section—
 - (a) may be given with or without conditions (including conditions requiring payment to the Trust); and
 - (b) may be given generally by notice in the Gazette or by notice in writing addressed to an applicant for the consent; and
 - (c) may be revoked by the Trust 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 Trust, 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 Trust, order the convicted person to pay compensation of an amount fixed by the court to the Trust.
- (7) Subsections (5) and (6) do not derogate from any civil remedy that may be available to the Trust apart from those subsections.

23—Seizure etc of goods marked with official insignia

- (1) If—
 - (a) goods apparently intended for a commercial purpose are marked with official insignia; and
 - (b) an authorised officer suspects on reasonable grounds that the use of the insignia has not been authorised by the Trust,the authorised officer may seize those goods.
- (2) If goods have been seized under this section and—
 - (a) proceedings are not instituted for an offence against section 22(2) 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 Trust 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 paid into the Consolidated Account.

Part 5—Miscellaneous

24—Gifts etc

- (1) The Trust may accept—
 - (a) grants, conveyances, transfers and leases of land from the Crown, an instrumentality of the Crown or any other person or body; and
 - (b) rights to the use, control, management or occupation of any land; and
 - (c) gifts of personal property of any kind to be used or applied by it for the purposes of this Act.
- (2) Despite the *Stamp Duties Act 1923*, no stamp duty is payable on any instrument by which land or any interest in or right over land is granted or assured to or vested in the Trust or on any contract or instrument executed by the Trust for the purpose of disposing of any property.

25—Ministerial delegation

- (1) The Minister may delegate a function or power of the Minister under this Act (other than this power of delegation) to any person (including a person for the time being performing particular duties or holding or acting in a specified position).
- (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 power of the delegator to act in a 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 legal proceedings, an apparently genuine certificate, purportedly signed by the Minister containing particulars of a delegation under this section, will, in the absence of proof to the contrary, be accepted as proof that the delegation was made in accordance with the particulars.

26—Approvals by Treasurer

- (1) An approval given by the Treasurer under this Act may be—
 - (a) specific or general; and
 - (b) conditional or unconditional.

- (2) An approval given by the Treasurer may be varied or revoked by the Treasurer at any time.

27—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) provide for the use, care and protection of objects, works, collections or any other property under the care or control of the Trust; and
 - (b) provide for the admission, exclusion or expulsion of members of the public to or from premises of the Trust or a part of those premises; and
 - (c) prohibit disorderly or offensive behaviour on premises of the Trust; and
 - (d) prohibit or regulate eating, drinking (including liquor), smoking or the consumption of unlawful substances on premises of the Trust or a part of those premises; and
 - (e) prohibit or regulate any other conduct or activities for the purposes of—
 - (i) maintaining good order, and preventing interference with events or activities conducted, on premises of the Trust; and
 - (ii) protecting property under the care or control of the Trust; and
 - (f) prohibit or regulate the driving, parking or standing of vehicles on premises of the Trust; and
 - (g) prescribe fees for the parking of vehicles on premises of the Trust and provide for their payment and recovery; and
 - (h) provide that the owner and driver of a vehicle driven, parked or left standing in contravention of the regulations are each guilty of an offence and provide or exclude defences in relation to any such offence; and
 - (i) provide for the management (including disposal) by, and vesting in, the Trust of unclaimed property; and
 - (j) provide for the approval by the Trust or an authorised officer of any act or activity that would otherwise be prohibited under the regulations; and
 - (k) prescribe penalties not exceeding \$1 250 for breach of any regulation.
- (3) The regulations may—
- (a) be of general or limited application; and

- (b) make different provision according to the persons, things or circumstances to which they are expressed to apply; and
 - (c) provide that any matter or thing is to be determined, dispensed with, regulated or prohibited according to the discretion of the Minister, the Trust or another prescribed person or authority.
- (4) In proceedings for an offence against a regulation dealing with the driving, parking or standing of vehicles—
- (a) an allegation in a 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 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.

Part 9—Amendment of *South Australian Film Corporation Act 1972*

72—Amendment of section 4—Interpretation

- (1) Section 4(1)—delete subsection (1) and substitute:

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

authorised officer—see Part 3;

Chief Executive Officer means the person for the time being holding or acting in the office of Chief Executive Officer under this Act;

Corporation means the South Australian Film Corporation established under this Act;

council has the same meaning as in the *Local Government Act 1999*;

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

film means a photographic film or a recording on magnetic tape or on any other material or device from which a series of images (with or without associated sounds) may be produced and includes such a photographic film or recording for use in a television program;

member means member of the Corporation;

occupy, in relation to premises, means have, or be entitled to, possession or control of the premises;

official insignia—see Part 4;

premises of the Corporation means premises owned or occupied by the Corporation;

producer, in relation to a film, means the person by whom the arrangements necessary for the making of the film are made;

promote, in relation to a film, event or activity, includes organise, commission, fund, support, market, advertise or act as project manager.

- (2) Section 4, note—delete the note

73—Substitution of heading to Part 2

Heading to Part 2—delete the heading and substitute:

Part 2—South Australian Film Corporation

74—Substitution of sections 5 to 8

Sections 5 to 8 (inclusive)—delete the sections and substitute:

Division 1—Establishment of Corporation

5—Establishment of Corporation

- (1) The *South Australian Film Corporation* is established.
- (2) The Corporation—
 - (a) is a body corporate; and
 - (b) has perpetual succession and a common seal; and
 - (c) can sue and be sued in its corporate name; and
 - (d) is an instrumentality of the Crown and holds property on behalf of the Crown; and
 - (e) has the functions and powers assigned or conferred under this or any other Act.

Division 2—Membership, proceedings etc

6—Composition of Corporation

- (1) The Corporation will consist of not more than 8 members appointed by the Governor.
- (2) At least 2 members must be women and at least 2 must be men.
- (3) The Governor will appoint 1 of the members to be the presiding member.
- (4) The Governor may appoint a suitable person to be a deputy of a member and the deputy may perform or exercise the functions and powers of the member in the member's absence.
- (5) The Chief Executive Officer is eligible for appointment to the Corporation.

7—Conditions of membership

- (1) A member will be appointed for a term not exceeding 3 years and on conditions determined by the Governor and specified in the instrument of appointment.
- (2) A member will, at the expiration of a term of appointment, be eligible for reappointment (subject to the qualification that a person other than the Chief Executive Officer cannot serve as a member for more than 9 consecutive years).
- (3) The Governor may remove a member from office—
 - (a) for misconduct; or
 - (b) for failure or incapacity to carry out the duties of his or her office satisfactorily; or
 - (c) for contravention of a condition of his or her appointment; or
 - (d) if serious irregularities have occurred in the conduct of the Corporation's affairs or the Corporation has failed to carry out its functions satisfactorily and its membership should, in the opinion of the Governor, be reconstituted for that reason.
- (4) The office of a member becomes vacant if the member—
 - (a) dies; or
 - (b) completes a term of office and is not reappointed; or
 - (c) resigns by written notice to the Minister; or
 - (d) is convicted of an indictable offence or sentenced to imprisonment for an offence; or
 - (e) ceases to satisfy the qualification by virtue of which the member was eligible for appointment to the Corporation; or
 - (f) is absent without leave of the presiding member of the Corporation from 3 consecutive meetings of the Corporation; or
 - (g) is removed from office under subsection (3).
- (5) On the office of a member becoming vacant, a person may be appointed in accordance with this Division to the vacant office.
- (6) A member is entitled to fees, allowances and expenses determined by the Governor.

8—Proceedings

- (1) A quorum of the Corporation consists of half of the total number of its members (ignoring any fraction resulting from the division) plus 1.
- (2) In the absence of the presiding member at a meeting of the Corporation, a member chosen by the members present at the meeting will preside.

- (3) A decision carried by a majority of the votes cast by members at a meeting is a decision of the Corporation.
- (4) Each member present at a meeting of the Corporation has 1 vote on any question arising for decision and, if the votes are equal, the member presiding at the meeting may exercise a casting vote.
- (5) A conference by telephone or other electronic means between members will, for the purposes of this section, be taken to be a meeting of the Corporation at which the participating members are present if—
 - (a) notice of the conference is given to all members in the manner determined by the Corporation for the purpose; and
 - (b) each participating member is capable of communicating with every other participating member during the conference.
- (6) A proposed resolution of the Corporation becomes a valid decision of the Corporation despite the fact that it is not voted on at a meeting of the Corporation if—
 - (a) notice of the proposed resolution is given to all members in accordance with procedures determined by the Corporation; and
 - (b) a majority of the members expresses concurrence in the proposed resolution by letter, fax or other written communication setting out the terms of the resolution.
- (7) The Corporation must meet at least 6 times in each year.
- (8) The Corporation must have accurate minutes kept of its proceedings.
- (9) Subject to this Act, the Corporation may determine its own procedures.
- (10) Subject to the directions of the Corporation and section 8C, this section applies to a committee of the Corporation in the same way as to the Corporation.

8A—Validity of acts

An act or proceeding of the Corporation or a committee of the Corporation is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

8B—Ministerial control

- (1) Subject to subsection (2), the Corporation is subject to the general control and direction of the Minister.
- (2) No Ministerial direction can be given—
 - (a) as to the artistic nature or content of—
 - (i) films produced or promoted by the Corporation; or

- (ii) events or activities conducted or promoted by the Corporation; or
- (b) as to the manner in which the Corporation is to deal with a testamentary or other gift; or
- (c) as to any advice or recommendation that the Corporation makes or is required to make to the Minister.

Division 3—Committees and delegation

8C—Committees

- (1) The Corporation may establish such committees (including advisory committees or subcommittees) as the Corporation thinks fit.
- (2) The membership and conditions of membership of a committee will be determined by the Corporation and may, but need not, consist of, or include, members of the Corporation.
- (3) The procedures to be observed in relation to the conduct of the business of a committee will be—
 - (a) as determined by the Corporation; and
 - (b) insofar as a procedure is not determined under paragraph (a)—as determined by the committee.

8D—Delegation

- (1) The Corporation may delegate a function or power of the Corporation under this Act (other than this power of delegation) to any person or committee or other body (including a person for the time being performing particular duties or holding or acting in a specified position).
- (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 power of the delegator to act in a 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) A delegate must not act pursuant to the delegation in any matter in which the delegate has a direct or indirect pecuniary or personal interest.
Maximum penalty: \$10 000 or imprisonment for 2 years.
- (5) It is a defence to a charge of an offence against subsection (4) to prove that the defendant was, at the time of the alleged offence, unaware of his or her interest in the matter.

- (6) In legal proceedings, an apparently genuine certificate, purportedly signed by the Corporation containing particulars of a delegation under this section, will, in the absence of proof to the contrary, be accepted as proof that the delegation was made in accordance with the particulars.

Division 4—Conflict of interest under Public Sector (Honesty and Accountability) Act

8E—Conflict of interest under Public Sector (Honesty and Accountability) Act

A member of the Corporation will not be taken to have a direct or indirect interest in a matter for the purposes of the *Public Sector (Honesty and Accountability) Act 1995* by reason only of the fact that the member has an interest in a matter that is shared in common with those engaged in or associated with the film industry generally, or a substantial section of those engaged in or associated with the film industry.

Division 5—Common seal and execution of documents

8F—Common seal and execution of documents

- (1) The common seal of the Corporation must not be affixed to a document except in pursuance of a decision of the Corporation and the fixing of the seal must be attested by the signatures of 2 members of the Corporation.
- (2) The Corporation may, by instrument under the common seal of the Corporation, authorise a person or persons (whether nominated by name or by office or title) to execute documents on behalf of the Corporation subject to conditions and limitations (if any) specified in the instrument of authority.
- (3) Without limiting subsection (2), the Corporation may authorise 2 or more persons to execute documents jointly on behalf of the Corporation.
- (4) A document is duly executed by the Corporation if—
 - (a) the common seal of the Corporation is affixed to the document in accordance with this section; or
 - (b) the document is signed on behalf of the Corporation by a person or persons in accordance with authority conferred under this section.
- (5) If an apparently genuine document purports to bear the common seal of the Corporation, it will be presumed, in the absence of proof to the contrary, that the common seal of the Corporation was duly affixed to the document.

Division 6—Staffing Arrangements

75—Amendment of section 9—Appointment of Chief Executive Officer

Section 9(2)—delete the subsection and substitute:

- (2) However, the employing authority must consult with the Corporation before appointing a person as Chief Executive Officer or removing a person from office as Chief Executive Officer.

76—Insertion of heading to Part 2 Division 7

Before section 10 insert:

Division 7—Functions and powers of Corporation

77—Amendment of section 10—Functions

- (1) Section 10—delete ", generally"
- (2) Section 10—after paragraph (f) insert:
 - and
 - (g) to advise the Minister on matters relating to the development and promotion of the South Australian film industry; and
 - (h) to carry out any other functions assigned to the Corporation under this or any other Act or by the Minister.

78—Substitution of section 11

Section 11—delete the section and substitute:

11—Powers

- (1) The Corporation has, in addition to any other powers conferred on it under this or any other Act, all the powers of a natural person.
- (2) The Corporation may, for example, do any 1 or more of the following (subject to this Act):
 - (a) engage agents, consultants or other contractors;
 - (b) enter into contracts or agreements with actors, writers, artists, performers, entertainers and other persons for the making, distribution and exhibition of films, or employ such persons;
 - (c) enter into other contracts, agreements or arrangements;
 - (d) carry on film production on its own behalf or for another person or organisation;
 - (e) for the purpose of participating in a scheme for the financing of film production—advance money to a person or persons on such security and conditions as the Corporation thinks fit;
 - (f) establish regional film libraries throughout the State;

- (g) acquire, hold, take on hire, lend, exchange or dispose of objects or materials for use in connection with film making, producing, projecting and screening;
- (h) acquire, hold, deal with or dispose of—
 - (i) licences; or
 - (ii) intellectual property (including patents and copyright); or
 - (iii) any other property (whether real or personal); or
 - (iv) any interest in such property;
- (i) accept grants or obtain financial sponsorship from any person or body;
- (j) carry on advertising and promotional activities;
- (k) conduct events and establish, operate, manage or make available venues and other facilities (including facilities for food and liquor) on premises of the Corporation;
- (l) regulate and control admission to any venue for any events or activities conducted or promoted by the Corporation, and charge and collect fees for admission to any such venue;
- (m) grant for fee or other consideration advertising or sponsorship rights or other rights, licences or concessions in connection with events or activities conducted or promoted by the Corporation;
- (n) publish or produce books, programs, brochures, films, souvenirs and other information or things relating to events or activities conducted or promoted by the Corporation;
- (o) sell or supply food and drink (including liquor), books, programs, brochures, films, souvenirs and other things in connection with events or activities conducted or promoted by the Corporation;
- (p) grant or dispose of rights to televise, broadcast or record any events or activities conducted or promoted by the Corporation;
- (q) restrict, control and make charges for the use of official insignia;
- (r) take out policies of insurance in its own right or on behalf of the State;
- (s) participate (whether as a member or otherwise) in, or otherwise be involved in the activities of, national or international organisations or associations involved in film, or the promotion of film;
- (t) give or contribute towards prizes in competitions designed to encourage artistic or cultural arts activity within the State or make grants and give other assistance for such purposes;

- (u) enter into any partnership or joint venture arrangement;
 - (v) form, or acquire, hold, deal with and dispose of shares or other interests in, or securities issued by, bodies corporate, whether within or outside of the State;
 - (w) borrow money and obtain other forms of financial accommodation;
 - (x) act as trustee on behalf of another person in connection with the performance of its functions under this Act.
- (3) However, the Corporation must not, without the approval of the Treasurer, exercise a power referred to in subsection (2)(v) or (w).
 - (4) The Corporation is not obliged to accept or keep material that is not, in its opinion, of sufficient artistic, historical, cultural or other interest to justify its collection or preservation under this Act.
 - (5) The Corporation may exercise its powers within or outside of the State.

79—Substitution of sections 12 to 24

Sections 12 to 24 (inclusive)—delete the sections and substitute:

Division 8—Financial matters and annual reports

12—Annual budget

- (1) The Corporation must, from time to time, prepare and submit to the Minister a budget for the next financial year or for some other period determined by the Minister.
- (2) The budget must set out estimates of the Corporation's receipts and expenditures for the period to which the budget relates.
- (3) The budget must conform with any requirements of the Minister as to its form and the matters to be addressed by the budget.
- (4) The Minister may approve a budget submitted under this section with or without modification.
- (5) Subject to subsection (6), the Corporation must not, without the consent of the Minister, make an expenditure that is not provided for by a budget that has been approved by the Minister under this section.
- (6) The Corporation is not required to have the approval of the Minister with respect to the expenditure of money received by the Corporation by way of a testamentary or other gift.

13—Accounts and audit

- (1) The Corporation must cause proper accounting records to be kept in relation to the financial affairs of the Corporation, and must have annual statements of account prepared in respect of each financial year.

- (2) The accounting records and the 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 further requirements imposed by the Auditor-General.
- (3) The Auditor-General may at any time audit the accounts of the Corporation and must audit the annual statements of account.

14—Annual report

- (1) The Corporation must, on or before 30 September in every year, forward to the Minister a report on the work and operations of the Corporation for the preceding financial year.
- (2) The report must contain the audited statements of account of the Corporation for the preceding financial year.
- (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—Authorised officers

15—Appointment of authorised officers

- (1) The Minister may appoint persons to be authorised officers for the purposes of this Act.
- (2) Each police officer is an authorised officer for the purposes of this Act.
- (3) An appointment under subsection (1) may be made subject to conditions or limitations specified in the instrument of appointment (and the exercise by an authorised officer of powers conferred under this Act is subject to the conditions and limitations (if any) specified in his or her instrument of appointment).
- (4) An authorised officer other than a police officer must be issued with an identity card—
 - (a) containing the person's name and a photograph of the person; and
 - (b) stating that the person is an authorised officer for the purposes of this Act; and
 - (c) stating any conditions or limitations on the authorised officer's authority.
- (5) An authorised officer must, at the request of a person in relation to whom the authorised officer intends to exercise any powers under this Act, produce for inspection by the person—
 - (a) in the case of an authorised officer appointed under subsection (1)—his or her identity card; and

- (b) in the case of an authorised officer who is a police officer and is not in uniform—his or her certificate of authority.
- (6) If a person in possession of an identity card issued to the person under this section ceases to be an authorised officer, the person must immediately return the identity card to the Minister.
Maximum penalty: \$250.

16—Powers of authorised officers

- (1) If an authorised officer reasonably suspects that a person, while on premises of the Corporation, has committed, is committing or is about to commit an offence against this or any other Act, the authorised officer may do any 1 or more of the following:
 - (a) require the person to state his or her full name and usual place of residence;
 - (b) if the authorised officer suspects on reasonable grounds that the name or place of residence stated is false—require the person to produce evidence of his or her full name or usual place of residence;
 - (c) require the person to leave those premises immediately and not to return for a stated period (not exceeding 24 hours) or not to enter those premises;
 - (d) if the person refuses or fails to comply with a requirement under paragraph (c)—use such force as is reasonably necessary for the purpose of removing or excluding the person from those premises;
 - (e) cause the person to be detained and handed over into the custody of a police officer as soon as reasonably practicable.
- (2) An authorised officer may also—
 - (a) require a person to surrender any object, substance or thing that the authorised officer reasonably suspects has been, is being, or is about to be, used on premises of the Corporation in contravention of this Act; and
 - (b) give such directions to persons on premises of the Corporation that the authorised officer considers necessary for—
 - (i) the maintenance of good order, the prevention of interference with events or other activities, or the safe and efficient regulation of vehicular or pedestrian traffic, on those premises; or
 - (ii) the protection of property under the care or control of the Corporation; and
 - (c) use such force as may reasonably be required—

- (i) for the purpose of removing or excluding from premises of the Corporation a person who refuses or fails to comply with a requirement or direction under this section; or
 - (ii) for the purposes of seizing goods under section 21; and
 - (d) exercise any other prescribed power.
- (3) An authorised officer may, in exercising powers under this Act, be accompanied by such assistants as are reasonably required in the circumstances.
- (4) For the purposes of this section, a reference to *premises of the Corporation* includes a reference to a part of those premises.

17—Hindering etc authorised officers

- (1) A person who—
- (a) without reasonable excuse hinders or obstructs an authorised officer; or
 - (b) fails to answer a question put by an authorised officer to the best of his or her knowledge, information or belief; or
 - (c) produces a document that he or she knows, or ought to know, is false or misleading in a material particular; or
 - (d) fails without reasonable excuse to comply with a requirement or direction of an authorised officer under this Act; or
 - (e) uses abusive, threatening or insulting language to an authorised officer or a person assisting an authorised officer; or
 - (f) falsely represents, by words or conduct, that he or she is an authorised officer,

is guilty of an offence.

Maximum penalty: \$2 500.

- (2) A person is not obliged to answer a question or to produce a document as required under this Act if to do so might tend to incriminate the person or make the person liable to a penalty.

Part 4—Official insignia

18—Interpretation

- (1) In this Part—

official insignia means—

- (a) an official title (declared under section 19); or
- (b) a logo (declared under section 19); or
- (c) a combination of the above.

- (2) For the purposes of this Part, goods will be taken to be marked with official insignia if the insignia is 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.

19—Official titles and logos

- (1) *South Australian Film Corporation* is declared to be an official title.
- (2) The Minister may, by notice in the Gazette—
 - (a) declare some other name under which the Corporation may conduct its operations or part of its operations to be an official title; or
 - (b) declare a name or a title of an event or activity conducted or promoted by the Corporation to be an official title; or
 - (c) declare a logo (being a design, the copyright of which is vested in the Crown in right of the State) to be a logo in respect of the Corporation or a particular event or activity conducted or promoted by the Corporation.
- (3) However, the Minister must not make a declaration under subsection (2) in relation to a name or title that is registered or otherwise protected under another Act unless the Minister is acting with the consent or agreement of the person who has the benefit of the registration or protection.
- (4) An official title declared under this section is not required to be registered or otherwise protected under any other Act.
- (5) The Minister may, by notice in the Gazette, vary or revoke a notice under this section.

20—Unlawful use of official insignia

- (1) The Corporation has a proprietary interest in all official insignia.
- (2) A person must not, without the consent of the Corporation, in the course of a trade or business—
 - (a) use a name in which the Corporation has a proprietary interest under this section for the purpose of promoting the sale of services or the provision of any benefits; or
 - (b) sell goods marked with official insignia; or

- (c) use official insignia for the purpose of promoting the sale of goods or services.

Maximum penalty: \$20 000.

- (3) A person must not, without the consent of the Corporation, assume a name or description that consists of, or includes, official insignia.

Maximum penalty: \$20 000.

- (4) A consent under this section—

- (a) may be given with or without conditions (including conditions requiring payment to the Corporation); and
- (b) may be given generally by notice in the Gazette or by notice in writing addressed to an applicant for the consent; and
- (c) may be revoked by the Corporation 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 Corporation, 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 Corporation, order the convicted person to pay compensation of an amount fixed by the court to the Corporation.

- (7) Subsections (5) and (6) do not derogate from any civil remedy that may be available to the Corporation apart from those subsections.

21—Seizure etc of goods marked with official insignia

- (1) If—

- (a) goods apparently intended for a commercial purpose are marked with official insignia; and
- (b) an authorised officer suspects on reasonable grounds that the use of the insignia has not been authorised by the Corporation,

the authorised officer may seize those goods.

- (2) If goods have been seized under this section and—

- (a) proceedings are not instituted for an offence against section 20(2) 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 Corporation 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 paid into the Consolidated Account.

80—Redesignation of Part 6—Miscellaneous

Part 6—re designate Part 6 (Miscellaneous) as Part 5

81—Insertion of sections 22 to 24

Before section 25 insert:

22—Gifts etc

- (1) The Corporation may accept—
 - (a) grants, conveyances, transfers and leases of land from the Crown, an instrumentality of the Crown or any other person or body; and
 - (b) rights to the use, control, management or occupation of any land; and
 - (c) gifts of personal property of any kind to be used or applied by it for the purposes of this Act.
- (2) Despite the *Stamp Duties Act 1923*, no stamp duty is payable on any instrument by which land or any interest in or right over land is granted or assured to or vested in the Corporation or on any contract or instrument executed by the Corporation for the purpose of disposing of any property.

23—Ministerial delegation

- (1) The Minister may delegate a function or power of the Minister under this Act (other than this power of delegation) to any person (including a person for the time being performing particular duties or holding or acting in a specified position).
- (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 power of the delegator to act in a 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 legal proceedings, an apparently genuine certificate, purportedly signed by the Minister containing particulars of a delegation under this section, will, in the absence of proof to the contrary, be accepted as proof that the delegation was made in accordance with the particulars.

24—Approvals by Treasurer

- (1) An approval given by the Treasurer under this Act may be—
 - (a) specific or general; and
 - (b) conditional or unconditional.
- (2) An approval given by the Treasurer may be varied or revoked by the Treasurer at any time.

82—Substitution of sections 30 to 33

Sections 30 to 33 (inclusive)—delete the sections and substitute:

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) provide for the use, care and protection of films, materials, equipment, objects, works, collections or any other property under the care or control of the Corporation; and
 - (b) provide for the admission, exclusion or expulsion of members of the public to or from premises of the Corporation or a part of those premises; and
 - (c) prohibit disorderly or offensive behaviour on premises of the Corporation; and
 - (d) prohibit or regulate eating, drinking (including liquor), smoking or the consumption of unlawful substances on premises of the Corporation or a part of those premises; and
 - (e) prohibit or regulate any other conduct or activities for the purposes of—
 - (i) maintaining good order, and preventing interference with events or activities conducted, on premises of the Corporation; and
 - (ii) protecting property under the care or control of the Corporation; and
 - (f) prohibit or regulate the driving, parking or standing of vehicles on premises of the Corporation; and

- (g) prescribe fees for the parking of vehicles on premises of the Corporation and provide for their payment and recovery; and
 - (h) provide that the owner and driver of a vehicle driven, parked or left standing in contravention of the regulations are each guilty of an offence and provide or exclude defences in relation to any such offence; and
 - (i) provide for the management (including disposal) by, and vesting in, the Corporation of unclaimed property; and
 - (j) provide for the approval by the Corporation or an authorised officer of any act or activity that would otherwise be prohibited under the regulations; and
 - (k) prescribe penalties not exceeding \$1 250 for breach of any regulation.
- (3) The regulations may—
- (a) be of general or limited application; and
 - (b) make different provision according to the persons, things or circumstances to which they are expressed to apply; and
 - (c) provide that any matter or thing is to be determined, dispensed with, regulated or prohibited according to the discretion of the Minister, the Corporation or another prescribed person or authority.
- (4) In proceedings for an offence against a regulation dealing with the driving, parking or standing of vehicles—
- (a) an allegation in a 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 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.

Part 10—Amendment of *South Australian Museum Act 1976*

83—Substitution of section 5

Section 5—delete section 5 and substitute:

2—Interpretation

In this Act, unless the contrary intention appears—

authorised officer—see Part 3;

Board means the Museum Board continued under this Act;

member means member of the Board;

Museum means the South Australian Museum (formerly known under the repealed Act as the State Museum);

occupy, in relation to premises, means have, or be entitled to, possession or control of the premises;

official insignia—see Part 5;

premises of the Board means premises owned or occupied by the Board;

promote, in relation to an event or activity, includes organise, commission, fund, support, market, advertise or act as project manager;

repealed Act means the *Museum Act 1939* repealed by this Act;

State collection means all property of scientific or historical interest vested in the Board.

84—Substitution of Parts 2 to 3

Parts 2 to 3 (inclusive)—delete the Parts and substitute:

Part 2—Museum Board

Division 1—Continuation of Museum Board

3—Continuation of Museum Board

- (1) The Museum Board established under the repealed Act continues in existence.
- (2) The Board—
 - (a) is a body corporate; and
 - (b) has perpetual succession and a common seal; and
 - (c) can sue and be sued in its corporate name; and
 - (d) is an instrumentality of the Crown and holds property on behalf of the Crown; and
 - (e) has the functions and powers assigned or conferred under this Act.
- (3) The rights and obligations vested in, and enforceable against, the Museum Board under the repealed Act are vested in, or enforceable against, the Board under this Act.

Division 2—Membership, proceedings etc

4—Composition of Board

- (1) The Board will consist of not more than 8 members appointed by the Governor.
- (2) At least 1 member must be a person with expertise in a scientific field relating to the State collection.

- (3) At least 2 members must be women and at least 2 must be men.
- (4) The Governor will appoint 1 of the members to be the presiding member.
- (5) The Governor may appoint a suitable person to be a deputy of a member and the deputy may perform or exercise the functions and powers of the member in the member's absence.

5—Conditions of membership

- (1) A member will be appointed for a term not exceeding 3 years and on conditions determined by the Governor and specified in the instrument of appointment.
- (2) A member will, at the expiration of a term of appointment, be eligible for reappointment (subject to the qualification that a person cannot serve as a member for more than 9 consecutive years).
- (3) The Governor may remove a member from office—
 - (a) for misconduct; or
 - (b) for failure or incapacity to carry out the duties of his or her office satisfactorily; or
 - (c) for contravention of a condition of his or her appointment; or
 - (d) if serious irregularities have occurred in the conduct of the Board's affairs or the Board has failed to carry out its functions satisfactorily and its membership should, in the opinion of the Governor, be reconstituted for that reason.
- (4) The office of a member becomes vacant if the member—
 - (a) dies; or
 - (b) completes a term of office and is not reappointed; or
 - (c) resigns by written notice to the Minister; or
 - (d) is convicted of an indictable offence or sentenced to imprisonment for an offence; or
 - (e) ceases to satisfy the qualification by virtue of which the member was eligible for appointment to the Board; or
 - (f) is absent without leave of the presiding member of the Board from 3 consecutive meetings of the Board; or
 - (g) is removed from office under subsection (3).
- (5) On the office of a member becoming vacant, a person may be appointed in accordance with this Division to the vacant office.
- (6) A member is entitled to fees, allowances and expenses determined by the Governor.

6—Proceedings

- (1) A quorum of the Board consists of half of the total number of its members (ignoring any fraction resulting from the division) plus 1.
- (2) In the absence of the presiding member at a meeting of the Board, a member chosen by the members present at the meeting will preside.
- (3) A decision carried by a majority of the votes cast by members at a meeting is a decision of the Board.
- (4) Each member present at a meeting of the Board has 1 vote on any question arising for decision and, if the votes are equal, the member presiding at the meeting may exercise a casting vote.
- (5) A conference by telephone or other electronic means between members will, for the purposes of this section, be taken to be a meeting of the Board at which the participating members are present if—
 - (a) notice of the conference is given to all members in the manner determined by the Board for the purpose; and
 - (b) each participating member is capable of communicating with every other participating member during the conference.
- (6) A proposed resolution of the Board becomes a valid decision of the Board despite the fact that it is not voted on at a meeting of the Board if—
 - (a) notice of the proposed resolution is given to all members in accordance with procedures determined by the Board; and
 - (b) a majority of the members expresses concurrence in the proposed resolution by letter, fax or other written communication setting out the terms of the resolution.
- (7) The Board must meet at least 6 times in each year.
- (8) The Board must have accurate minutes kept of its proceedings.
- (9) Subject to this Act, the Board may determine its own procedures.
- (10) Subject to the directions of the Board and section 9, this section applies to a committee of the Board in the same way as to the Board.

7—Validity of acts

An act or proceeding of the Board or a committee of the Board is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

8—Ministerial control

- (1) Subject to subsection (2), the Board is subject to the general control and direction of the Minister.
- (2) No Ministerial direction can be given—
 - (a) as to the nature or content of—

- (i) the State collection; or
- (ii) events or activities conducted or promoted by the Board; or
- (b) as to the manner in which the Board is to deal with a testamentary or other gift; or
- (c) as to any advice or recommendation that the Board makes or is required to make to the Minister.

Division 3—Committees and delegation

9—Committees

- (1) The Board may establish such committees (including advisory committees or subcommittees) as the Board thinks fit.
- (2) The membership and conditions of membership of a committee will be determined by the Board and may, but need not, consist of, or include, members of the Board.
- (3) The procedures to be observed in relation to the conduct of the business of a committee will be—
 - (a) as determined by the Board; and
 - (b) insofar as a procedure is not determined under paragraph (a)—as determined by the committee.

10—Delegation

- (1) The Board may delegate a function or power of the Board under this Act (other than this power of delegation) to any person or committee or other body (including a person for the time being performing particular duties or holding or acting in a specified position).
- (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 power of the delegator to act in a 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) A delegate must not act pursuant to the delegation in any matter in which the delegate has a direct or indirect pecuniary or personal interest.
Maximum penalty: \$10 000 or imprisonment for 2 years.
- (5) It is a defence to a charge of an offence against subsection (4) to prove that the defendant was, at the time of the alleged offence, unaware of his or her interest in the matter.

- (6) In legal proceedings, an apparently genuine certificate, purportedly signed by the Board containing particulars of a delegation under this section, will, in the absence of proof to the contrary, be accepted as proof that the delegation was made in accordance with the particulars.

Division 4—Common seal and execution of documents

11—Common seal and execution of documents

- (1) The common seal of the Board must not be affixed to a document except in pursuance of a decision of the Board and the fixing of the seal must be attested by the signatures of 2 members of the Board.
- (2) The Board may, by instrument under the common seal of the Board, authorise a person or persons (whether nominated by name or by office or title) to execute documents on behalf of the Board subject to conditions and limitations (if any) specified in the instrument of authority.
- (3) Without limiting subsection (2), the Board may authorise 2 or more persons to execute documents jointly on behalf of the Board.
- (4) A document is duly executed by the Board if—
- (a) the common seal of the Board is affixed to the document in accordance with this section; or
 - (b) the document is signed on behalf of the Board by a person or persons in accordance with authority conferred under this section.
- (5) If an apparently genuine document purports 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.

Division 5—Functions and powers

12—Functions

The functions of the Board are—

- (a) to undertake the care and management of the Museum; and
- (b) to manage the premises of the Board; and
- (c) to carry out, or promote, research into matters of scientific and historical interest; and
- (d) to accumulate and care for objects and specimens of scientific or historical interest; and
- (e) to accumulate and classify data in regard to any such matters; and
- (f) to disseminate information of scientific or historical interest; and

- (g) to advise the Minister on matters relating to scientific or historical research or collections; and
- (h) to carry out any other functions assigned to the Board by this or any other Act or the Minister.

13—Powers

- (1) The Board has, in addition to any other powers conferred on it under this or any other Act, all the powers of a natural person.
- (2) The Board may, for example, do any 1 or more of the following (subject to this Act):
 - (a) engage agents, consultants or other contractors;
 - (b) enter into other contracts, agreements or arrangements;
 - (c) acquire, hold, take on hire, lend, exchange or dispose of objects, works or collections of scientific or historical interest;
 - (d) acquire, hold, deal with or dispose of—
 - (i) licences; or
 - (ii) intellectual property (including patents and copyright); or
 - (iii) any other property (whether real or personal); or
 - (iv) any interest in such property;
 - (e) refuse, or dispose of, material that does not, in the opinion of the Board, justify collection and classification;
 - (f) offer rewards for information—
 - (i) of scientific or historical interest; or
 - (ii) leading to the conviction of a person for an offence against any property of the Board or under the care or control of the Board;
 - (g) accept grants or obtain financial sponsorship from any person or body;
 - (h) carry on advertising and promotional activities;
 - (i) conduct events and establish, operate, manage or make available venues and other facilities (including facilities for food and liquor) at the Museum or other premises of the Board;
 - (j) regulate and control admission to any venue for any events or activities conducted or promoted by the Board;
 - (k) charge and collect fees for admission to exhibitions, events or activities conducted on special occasions or for special purposes;

- (l) grant for fee or other consideration advertising or sponsorship rights or other rights, licences or concessions in connection with events or activities conducted or promoted by the Board;
 - (m) publish or produce books, programs, brochures, films, souvenirs and other information or things relating to events or activities conducted or promoted by the Board;
 - (n) sell or supply food and drink (including liquor), books, programs, brochures, films, souvenirs and other things in connection with events or activities conducted or promoted by the Board;
 - (o) grant or dispose of rights to televise, broadcast or record any events or activities conducted or promoted by the Board;
 - (p) restrict, control and make charges for the use of official insignia;
 - (q) take out policies of insurance in its own right or on behalf of the State;
 - (r) participate (whether as a member or otherwise) in, or otherwise be involved in the activities of, national or international organisations or associations involved in matters of scientific, educational or historical significance;
 - (s) give or contribute towards prizes in competitions designed to encourage activities of a scientific, cultural, historical or educational nature within the State or make grants and give other assistance for such purposes;
 - (t) enter into any partnership or joint venture arrangement;
 - (u) form, or acquire, hold, deal with and dispose of shares or other interests in, or securities issued by, bodies corporate, whether within or outside of the State;
 - (v) borrow money and obtain other forms of financial accommodation;
 - (w) act as trustee on behalf of another person in connection with the performance of its functions under this Act.
- (3) However, the Board must not, without the approval of the Treasurer, exercise a power referred to in subsection (2)(u) or (v).
- (4) The Board is not obliged to accept or keep material that is not, in its opinion, of sufficient scientific, historical, cultural, educational or other interest to justify its collection or preservation under this Act.
- (5) The Board may exercise its powers within or outside of the State.

Division 6—Staff

14—Staff

- (1) The Board's staff consists of Public Service employees assigned to assist the Board.
- (2) The Board may, under an arrangement established by the Minister administering an administrative unit of the Public Service, make use of the services or staff of that administrative unit.

Division 7—Financial matters and annual reports

15—Annual budget

- (1) The Board must, from time to time, prepare and submit to the Minister a budget for the next financial year or for some other period determined by the Minister.
- (2) The budget must set out estimates of the Board's receipts and expenditures for the period to which the budget relates.
- (3) The budget must conform with any requirements of the Minister as to its form and the matters to be addressed by the budget.
- (4) The Minister may approve a budget submitted under this section with or without modification.
- (5) Subject to subsection (6), the Board must not, without the consent of the Minister, make an expenditure that is not provided for by a budget that has been approved by the Minister under this section.
- (6) The Board is not required to have the approval of the Minister with respect to the expenditure of money received by the Board by way of a testamentary or other gift.

16—Accounts and audit

- (1) The Board must cause proper accounting records to be kept in relation to the financial affairs of the Board, and must have annual statements of account prepared in respect of each financial year.
- (2) The accounting records and the 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 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.

17—Annual report

- (1) The Board must, on or before 30 September in every year, forward to the Minister a report on the work and operations of the Museum for the preceding financial year.

- (2) The report must contain the audited statements of account of the Board for the preceding financial year.
- (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—Authorised officers

18—Appointment of authorised officers

- (1) The Minister may appoint persons to be authorised officers for the purposes of this Act.
- (2) Each police officer is an authorised officer for the purposes of this Act.
- (3) An appointment under subsection (1) may be made subject to conditions or limitations specified in the instrument of appointment (and the exercise by an authorised officer of powers conferred under this Act is subject to the conditions and limitations (if any) specified in his or her instrument of appointment).
- (4) An authorised officer other than a police officer must be issued with an identity card—
 - (a) containing the person’s name and a photograph of the person; and
 - (b) stating that the person is an authorised officer for the purposes of this Act; and
 - (c) stating any conditions or limitations on the authorised officer’s authority.
- (5) An authorised officer must, at the request of a person in relation to whom the authorised officer intends to exercise any powers under this Act, produce for inspection by the person—
 - (a) in the case of an authorised officer appointed under subsection (1)—his or her identity card; and
 - (b) in the case of an authorised officer who is a police officer and is not in uniform—his or her certificate of authority.
- (6) If a person in possession of an identity card issued to the person under this section ceases to be an authorised officer, the person must immediately return the identity card to the Minister.

Maximum penalty: \$250.

19—Powers of authorised officers

- (1) If an authorised officer reasonably suspects that a person, while at the Museum or other premises of the Board, has committed, is committing or is about to commit an offence against this or any other Act, the authorised officer may do any 1 or more of the following:
 - (a) require the person to state his or her full name and usual place of residence;
 - (b) if the authorised officer suspects on reasonable grounds that the name or place of residence stated is false—require the person to produce evidence of his or her full name or usual place of residence;
 - (c) require the person to leave the Museum or those premises immediately and not to return for a stated period (not exceeding 24 hours) or not to enter the Museum or those premises;
 - (d) if the person refuses or fails to comply with a requirement under paragraph (c)—use such force as is reasonably necessary for the purpose of removing or excluding the person from the Museum or those premises;
 - (e) cause the person to be detained and handed over into the custody of a police officer as soon as reasonably practicable.
- (2) An authorised officer may also—
 - (a) require a person to surrender any object, substance or thing that the authorised officer reasonably suspects has been, is being, or is about to be, used at the Museum or other premises of the Board in contravention of this Act; and
 - (b) give such directions to persons at the Museum or other premises of the Board that the authorised officer considers necessary for—
 - (i) the maintenance of good order, the prevention of interference with events or other activities, or the safe and efficient regulation of vehicular or pedestrian traffic, at the Museum or those premises; or
 - (ii) the protection of property under the care or control of the Board; and
 - (c) use such force as may reasonably be required—
 - (i) for the purpose of removing or excluding from the Museum or other premises of the Board a person who refuses or fails to comply with a requirement or direction under this section; or
 - (ii) for the purposes of seizing goods under section 28; and

- (d) exercise any other prescribed power.
- (3) An authorised officer may, in exercising powers under this Act, be accompanied by such assistants as are reasonably required in the circumstances.
- (4) For the purposes of this section, a reference to the *Museum or other premises of the Board* includes a reference to a part of the Museum or those premises.

20—Hindering etc authorised officers

- (1) A person who—
 - (a) without reasonable excuse hinders or obstructs an authorised officer; or
 - (b) fails to answer a question put by an authorised officer to the best of his or her knowledge, information or belief; or
 - (c) produces a document that he or she knows, or ought to know, is false or misleading in a material particular; or
 - (d) fails without reasonable excuse to comply with a requirement or direction of an authorised officer under this Act; or
 - (e) uses abusive, threatening or insulting language to an authorised officer or a person assisting an authorised officer; or
 - (f) falsely represents, by words or conduct, that he or she is an authorised officer,

is guilty of an offence.

Maximum penalty: \$2 500.

- (2) A person is not obliged to answer a question or to produce a document as required under this Act if to do so might tend to incriminate the person or make the person liable to a penalty.

Part 4—Meteorites

21—Application of Part

This Part applies to a meteorite, being any naturally occurring object other than a tektite, that has fallen from beyond the atmosphere to earth in this State (whether before or after the commencement of this Part).

22—Property in meteorites vests in Board

- (1) The property in all meteorites to which this Part applies (other than those submitted for registration by the Board before 14 August 1981 and duly registered) is vested in the Board.

- (2) A person who acquires or disposes of a meteorite to which this Part applies must, not later than 1 month after the acquisition or disposal, notify the Board in writing of that fact.

Maximum penalty: \$2 500.

- (3) A court may, after convicting a person of an offence under subsection (2) in relation to a meteorite, order that the meteorite be forfeited to the Board.

- (4) A person must not, without the authority of the Board—

- (a) purport to sell a meteorite that is the property of the Board;
or
(b) have, in his or her possession, a meteorite that is the property of the Board.

Maximum penalty: \$2 500.

- (5) It is a defence to a charge of an offence under subsection (4)(b) for the defendant to prove that he or she was in possession of the meteorite for the purpose of delivering it to the Board.
- (6) This section does not derogate from any criminal liability to which a person may otherwise be subject.
- (7) In proceedings for an offence against this section, an allegation in a complaint that a meteorite to which the proceedings relate was, on a date specified in the complaint, the property of the Board will be taken to be proved in the absence of proof to the contrary.

23—Duty to notify Board of newly found meteorites

A person must, as soon as practicable after finding a meteorite to which this Part applies, notify the Board of that fact and furnish the Board with any other information that the Board may require.

Maximum penalty: \$2 500.

24—Powers of authorised officers in relation to meteorites

- (1) An authorised officer—
- (a) may enter any land for the purpose of searching for or examining a meteorite; and
- (b) may take such steps as are reasonable in the circumstances for recovery of the meteorite.
- (2) If an authorised officer intends to exercise powers under subsection (1) in relation to private land, the authorised officer must give reasonable notice of that intention to the owner or occupier of the land.

Part 5—Official insignia

25—Interpretation

- (1) In this Part—
official insignia means—
 - (a) an official title (declared under section 26); or
 - (b) a logo (declared under section 26); or
 - (c) a combination of the above.
- (2) For the purposes of this Part, goods will be taken to be marked with official insignia if the insignia is 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.

26—Official titles and logos

- (1) *South Australian Museum* is declared to be an official title.
- (2) The Minister may, by notice in the Gazette—
 - (a) declare some other name under which the Board may conduct its operations or part of its operations to be an official title; or
 - (b) declare a name or a title of an event or activity conducted or promoted by the Board to be an official title; or
 - (c) declare a logo (being a design, the copyright of which is vested in the Crown in right of the State) to be a logo in respect of the Board or a particular event or activity conducted or promoted by the Board.
- (3) However, the Minister must not make a declaration under subsection (2) in relation to a name or title that is registered or otherwise protected under another Act unless the Minister is acting with the consent or agreement of the person who has the benefit of the registration or protection.
- (4) An official title declared under this section is not required to be registered or otherwise protected under any other Act.
- (5) The Minister may, by notice in the Gazette, vary or revoke a notice under this section.

27—Unlawful use of official insignia

- (1) The Board has a proprietary interest in all official insignia.
- (2) A person must not, without the consent of the Board, in the course of a trade or business—
 - (a) use a name in which the Board has a proprietary interest under this section for the purpose of promoting the sale of services or the provision of any benefits; or
 - (b) sell goods marked with official insignia; or
 - (c) use official insignia for the purpose of promoting the sale of goods or services.

Maximum penalty: \$20 000.

- (3) A person must not, without the consent of the Board, assume a name or description that consists of, or includes, official insignia.

Maximum penalty: \$20 000.

- (4) A consent under this section—
 - (a) may be given with or without conditions (including conditions requiring payment to the Board); and
 - (b) may be given generally by notice in the Gazette or by notice in writing addressed to an applicant for the consent; and
 - (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.

28—Seizure etc of goods marked with official insignia

- (1) If—
 - (a) goods apparently intended for a commercial purpose are marked with official insignia; and
 - (b) an authorised officer suspects on reasonable grounds that the use of the insignia has not been authorised by the Board,the authorised officer may seize those goods.

- (2) If goods have been seized under this section and—
- (a) proceedings are not instituted for an offence against section 27(2) 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 paid into the Consolidated Account.

Part 6—Miscellaneous

29—Gifts etc

- (1) The Board may accept—
- (a) grants, conveyances, transfers and leases of land from the Crown, an instrumentality of the Crown or any other person or body; and
 - (b) rights to the use, control, management or occupation of any land; and
 - (c) gifts of personal property of any kind to be used or applied by it for the purposes of this Act.
- (2) Despite the *Stamp Duties Act 1923*, no stamp duty is payable on any instrument by which land or any interest in or right over land is granted or assured to or vested in the Board or on any contract or instrument executed by the Board for the purpose of disposing of any property.

30—Ministerial delegation

- (1) The Minister may delegate a function or power of the Minister under this Act (other than this power of delegation) to any person (including a person for the time being performing particular duties or holding or acting in a specified position).

- (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 power of the delegator to act in a 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 legal proceedings, an apparently genuine certificate, purportedly signed by the Minister containing particulars of a delegation under this section, will, in the absence of proof to the contrary, be accepted as proof that the delegation was made in accordance with the particulars.

31—Approvals by Treasurer

- (1) An approval given by the Treasurer under this Act may be—
 - (a) specific or general; and
 - (b) conditional or unconditional.
- (2) An approval given by the Treasurer may be varied or revoked by the Treasurer at any time.

32—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) provide for the use, care and protection of the State collection and other objects, works, collections or property under the care or control of the Board; and
 - (b) provide for the admission, exclusion or expulsion of members of the public to or from the Museum or other premises of the Board or a part of the Museum or those premises; and
 - (c) prohibit disorderly or offensive behaviour at the Museum or other premises of the Board; and
 - (d) prohibit or regulate eating, drinking (including liquor), smoking or the consumption of unlawful substances at the Museum or other premises of the Board or a part of the Museum or those premises; and
 - (e) prohibit or regulate any other conduct or activities for the purposes of—

- (i) maintaining good order, and preventing interference with events or activities conducted, at the Museum or other premises of the Board; and
 - (ii) protecting property under the care or control of the Board; and
 - (f) prohibit or regulate the driving, parking or standing of vehicles on premises of the Board; and
 - (g) prescribe fees for the parking of vehicles on premises of the Board and provide for their payment and recovery; and
 - (h) provide that the owner and driver of a vehicle driven, parked or left standing in contravention of the regulations are each guilty of an offence and provide or exclude defences in relation to any such offence; and
 - (i) provide for the management (including disposal) by, and vesting in, the Board of unclaimed property; and
 - (j) provide for the approval by the Board or an authorised officer of any act or activity that would otherwise be prohibited under the regulations; and
 - (k) prescribe penalties not exceeding \$1 250 for breach of any regulation.
- (3) The regulations may—
- (a) be of general or limited application; and
 - (b) make different provision according to the persons, things or circumstances to which they are expressed to apply; and
 - (c) provide that any matter or thing is to be determined, dispensed with, regulated or prohibited according to the discretion of the Minister, the Board or another prescribed person or authority.
- (4) In proceedings for an offence against a regulation dealing with the driving, parking or standing of vehicles—
- (a) an allegation in a 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 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.

Part 11—Amendment of *State Opera of South Australia Act 1976*

85—Substitution of section 4

Section 4—delete the section and substitute:

2—Interpretation

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

authorised officer—see Part 4;

Board means the Board established as the governing authority of the State Opera under section 7;

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

member means member of the Board;

occupy, in relation to premises, means have, or be entitled to, possession or control of the premises;

official insignia—see Part 5;

premises of the State Opera means premises owned or occupied by the State Opera;

promote, in relation to an event or activity, includes organise, commission, fund, support, market, advertise or act as project manager;

State Opera means the State Opera of South Australia established under section 3.

- (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.

86—Substitution of Part 2

Part 2—delete the Part and substitute:

Part 2—State Opera of South Australia

Division 1—Establishment of State Opera

3—Establishment of State Opera

- (1) The *State Opera of South Australia* is established.
- (2) The State Opera—
 - (a) is a body corporate; and

- (b) has perpetual succession and a common seal; and
- (c) can sue and be sued in its corporate name; and
- (d) is an instrumentality of the Crown and holds property on behalf of the Crown; and
- (e) has the functions and powers assigned or conferred under this or any other Act.

Division 2—Functions and powers of State Opera

4—Functions

The functions of the State Opera are—

- (a) to present, produce, manage and conduct theatrical and operatic performances of any kind as may in its opinion tend to promote the art of the opera and related theatrical arts; and
- (b) to promote the scoring and writing of operas and other theatrical works for operatic or theatrical performance; and
- (c) to promote public interest and participation in the art of the opera and related theatrical arts; and
- (d) to establish and conduct schools, courses, lectures, seminars and discussions on the art of the opera and related theatrical arts; and
- (e) to promote the training of persons concerned in the production, presentation or performance of operatic or other related theatrical presentations; and
- (f) to carry out any other functions assigned to the State Opera under this or any other Act or by the Minister.

5—Powers

- (1) The State Opera has, in addition to any other powers conferred on it under this or any other Act, all the powers of a natural person.
- (2) The State Opera may, for example, do any 1 or more of the following (subject to this Act):
 - (a) engage agents, consultants or other contractors;
 - (b) enter into contracts or agreements with artists, actors, singers, entertainers, performers, writers, composers, choreographers, designers, directors and other persons in relation to any operatic or other related theatrical activity, or employ such persons;
 - (c) enter into other contracts, agreements or arrangements;
 - (d) acquire or build any theatre or acquire and install any fittings or equipment in any theatre;

- (e) acquire, hold, take on hire, lend, exchange or dispose of objects, works or collections of artistic, historical or cultural interest;
- (f) acquire, hold, deal with or dispose of—
 - (i) licences; or
 - (ii) intellectual property (including patents and copyright); or
 - (iii) any other property (whether real or personal); or
 - (iv) any interest in such property;
- (g) assist financially or otherwise in the presentation, production, management or conduct of any theatrical or operatic production in the State;
- (h) accept grants or obtain financial sponsorship from any person or body;
- (i) carry on advertising and promotional activities;
- (j) conduct events and establish, operate, manage or make available venues and other facilities (including facilities for food and liquor) at a theatre, theatre complex or other premises of the State Opera;
- (k) regulate and control admission to any venue for any events or activities conducted or promoted by the State Opera, and charge and collect fees for admission to any such venue;
- (l) grant for fee or other consideration advertising or sponsorship rights or other rights, licences or concessions in connection with events or activities conducted or promoted by the State Opera;
- (m) publish or produce books, programs, brochures, films, souvenirs and other information or things relating to events or activities conducted or promoted by the State Opera;
- (n) sell or supply food and drink (including liquor), books, programs, brochures, films, souvenirs and other things in connection with events or activities conducted or promoted by the State Opera;
- (o) grant or dispose of rights to televise, broadcast or record any events or activities conducted or promoted by the State Opera;
- (p) restrict, control and make charges for the use of official insignia;
- (q) take out policies of insurance in its own right or on behalf of the State;

- (r) participate (whether as a member or otherwise) in, or otherwise be involved in the activities of, national or international organisations or associations involved in operatic or related theatrical arts or the promotion of opera or related theatrical arts;
 - (s) give or contribute towards prizes in competitions designed to encourage artistic or cultural or performing arts activity within the State or make grants and give other assistance for such purposes;
 - (t) enter into any partnership or joint venture arrangement;
 - (u) form, or acquire, hold, deal with and dispose of shares or other interests in, or securities issued by, bodies corporate, whether within or outside of the State;
 - (v) borrow money and obtain other forms of financial accommodation;
 - (w) act as trustee on behalf of another person in connection with the performance of its functions under this Act.
- (3) However, the State Opera must not, without the approval of the Treasurer, exercise a power referred to in subsection (2)(u) or (v).
- (4) The State Opera is not obliged to accept or keep material that is not, in its opinion, of sufficient artistic, historical, cultural or other interest to justify its collection or preservation under this Act.
- (5) The State Opera may exercise its powers within or outside of the State.

6—Special power to acquire land compulsorily

- (1) The State Opera may, with the consent of the Minister, compulsorily acquire land for the purposes of this Act.
- (2) The *Land Acquisition Act 1969* applies to the acquisition of land under this section.

Part 3—Management of State Opera

Division 1—Establishment of Board

7—Establishment of Board

- (1) There will be a Board to act as the governing authority of the State Opera.
- (2) The functions and powers of the State Opera may be performed and exercised by the Board and decisions made by the Board are decisions of the State Opera.

Division 2—Membership, proceedings, etc

8—Composition of Board

- (1) The Board will consist of not more than 8 members appointed by the Governor, of whom—
 - (a) 1 will be selected from a panel of 3 persons nominated by the *Friends of State Opera of South Australia Incorporated*; and
 - (b) the remainder will be nominated by the Minister.
- (2) At least 2 members must be women and at least 2 must be men.
- (3) The Governor will appoint 1 of the members to be the presiding member.
- (4) The Governor may appoint a suitable person to be a deputy of a member (being a person nominated by the body or person who nominated the member) and the deputy may perform or exercise the functions and powers of the member in the member's absence.

9—Conditions of membership

- (1) A member will be appointed for a term not exceeding 3 years and on conditions determined by the Governor and specified in the instrument of appointment.
- (2) A member will, at the expiration of a term of appointment, be eligible for reappointment (subject to the qualification that a person cannot serve as a member for more than 9 consecutive years).
- (3) The Governor may remove a member from office—
 - (a) for misconduct; or
 - (b) for failure or incapacity to carry out the duties of his or her office satisfactorily; or
 - (c) for contravention of a condition of his or her appointment; or
 - (d) if serious irregularities have occurred in the conduct of the Board's affairs or the Board has failed to carry out its functions satisfactorily and its membership should, in the opinion of the Governor, be reconstituted for that reason.
- (4) The office of a member becomes vacant if the member—
 - (a) dies; or
 - (b) completes a term of office and is not reappointed; or
 - (c) resigns by written notice to the Minister; or
 - (d) is convicted of an indictable offence or sentenced to imprisonment for an offence; or
 - (e) ceases to satisfy the qualification by virtue of which the member was eligible for appointment to the Board; or

- (f) is absent without leave of the presiding member of the Board from 3 consecutive meetings of the Board; or
 - (g) is removed from office under subsection (3).
- (5) On the office of a member becoming vacant, a person may be appointed in accordance with this Division to the vacant office.
- (6) A member is entitled to fees, allowances and expenses determined by the Governor.

10—Proceedings

- (1) A quorum of the Board consists of half of the total number of its members (ignoring any fraction resulting from the division) plus 1.
- (2) In the absence of the presiding member at a meeting of the Board, a member chosen by the members present at the meeting will preside.
- (3) A decision carried by a majority of the votes cast by members at a meeting is a decision of the Board.
- (4) Each member present at a meeting of the Board has 1 vote on any question arising for decision and, if the votes are equal, the member presiding at the meeting may exercise a casting vote.
- (5) A conference by telephone or other electronic means between members will, for the purposes of this section, be taken to be a meeting of the Board at which the participating members are present if—
 - (a) notice of the conference is given to all members in the manner determined by the Board for the purpose; and
 - (b) each participating member is capable of communicating with every other participating member during the conference.
- (6) A proposed resolution of the Board becomes a valid decision of the Board despite the fact that it is not voted on at a meeting of the Board if—
 - (a) notice of the proposed resolution is given to all members in accordance with procedures determined by the Board; and
 - (b) a majority of the members expresses concurrence in the proposed resolution by letter, fax or other written communication setting out the terms of the resolution.
- (7) The Board must meet at least 6 times in each year.
- (8) The Board must have accurate minutes kept of its proceedings.
- (9) Subject to this Act, the Board may determine its own procedures.
- (10) Subject to the directions of the Board and section 13, this section applies to a committee of the Board in the same way as to the Board.

11—Validity of acts

An act or proceeding of the Board or a committee of the Board is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

12—Ministerial control

- (1) Subject to subsection (2), the Board is subject to the general control and direction of the Minister.
- (2) No Ministerial direction can be given—
 - (a) as to the artistic nature or content of—
 - (i) objects, works or collections held or promoted by the State Opera; or
 - (ii) performances or other events or activities conducted or promoted by the State Opera; or
 - (b) as to the manner in which the Board is to deal with a testamentary or other gift; or
 - (c) as to any advice or recommendation that the Board makes or is required to make to the Minister.

Division 3—Committees and delegation

13—Committees

- (1) The Board may establish such committees (including advisory committees or subcommittees) as the Board thinks fit.
- (2) The membership and conditions of membership of a committee will be determined by the Board and may, but need not, consist of, or include, members of the Board.
- (3) The procedures to be observed in relation to the conduct of the business of a committee will be—
 - (a) as determined by the Board; and
 - (b) insofar as a procedure is not determined under paragraph (a)—as determined by the committee.

14—Delegation

- (1) The Board may delegate a function or power of the Board under this Act (other than this power of delegation) to any person or committee or other body (including a person for the time being performing particular duties or holding or acting in a specified position).
- (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 power of the delegator to act in a 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) A delegate must not act pursuant to the delegation in any matter in which the delegate has a direct or indirect pecuniary or personal interest.
- Maximum penalty: \$10 000 or imprisonment for 2 years.
- (5) It is a defence to a charge of an offence against subsection (4) to prove that the defendant was, at the time of the alleged offence, unaware of his or her interest in the matter.
- (6) In legal proceedings, an apparently genuine certificate, purportedly signed by the Board containing particulars of a delegation under this section, will, in the absence of proof to the contrary, be accepted as proof that the delegation was made in accordance with the particulars.

Division 4—Conflict of interest under Public Sector (Honesty and Accountability) Act

15—Conflict of interest under Public Sector (Honesty and Accountability) Act

A member of the Board will not be taken to have a direct or indirect interest in a matter for the purposes of the *Public Sector (Honesty and Accountability) Act 1995* by reason only of the fact that the member has an interest in a matter that is shared in common with those engaged in or associated with the arts industry generally, or a substantial section of those engaged in or associated with the arts industry.

Division 5—Common seal and execution of documents

16—Common seal and execution of documents

- (1) The common seal of the State Opera must not be affixed to a document except in pursuance of a decision of the Board and the fixing of the seal must be attested by the signatures of 2 members of the Board.
- (2) The Board may, by instrument under the common seal of the State Opera, authorise a person or persons (whether nominated by name or by office or title) to execute documents on behalf of the State Opera subject to conditions and limitations (if any) specified in the instrument of authority.
- (3) Without limiting subsection (2), the Board may authorise 2 or more persons to execute documents jointly on behalf of the State Opera.

- (4) A document is duly executed by the State Opera if—
 - (a) the common seal of the State Opera is affixed to the document in accordance with this section; or
 - (b) the document is signed on behalf of the State Opera by a person or persons in accordance with authority conferred under this section.
- (5) If an apparently genuine document purports to bear the common seal of the State Opera, it will be presumed, in the absence of proof to the contrary, that the common seal of the State Opera was duly affixed to the document.

Division 6—Financial matters and annual reports

17—Annual budget

- (1) The Board must, from time to time, prepare and submit to the Minister a budget for the next financial year or for some other period determined by the Minister.
- (2) The budget must set out estimates of the State Opera's receipts and expenditures for the period to which the budget relates.
- (3) The budget must conform with any requirements of the Minister as to its form and the matters to be addressed by the budget.
- (4) The Minister may approve a budget submitted under this section with or without modification.
- (5) Subject to subsection (6), the Board must not, without the consent of the Minister, make an expenditure that is not provided for by a budget that has been approved by the Minister under this section.
- (6) The Board is not required to have the approval of the Minister with respect to the expenditure of money received by the State Opera by way of a testamentary or other gift.

18—Accounts and audit

- (1) The Board must cause proper accounting records to be kept in relation to the financial affairs of the State Opera, and must have annual statements of account prepared in respect of each financial year.
- (2) The accounting records and the 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 further requirements imposed by the Auditor-General.
- (3) The Auditor-General may at any time audit the accounts of the State Opera and must audit the annual statements of account.

19—Annual report

- (1) The Board must, on or before 30 September in every year, forward to the Minister a report on the work and operations of the State Opera for the preceding financial year.
- (2) The report must contain the audited statements of account of the State Opera for the preceding financial year.
- (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.

87—Substitution of heading to Part 3

Heading to Part 3—delete the heading and substitute:

Division 7—Staffing arrangements

88—Repeal of section 22

Section 22—delete the section

89—Substitution of Parts 4 and 5

Parts 4 and 5—delete the Parts and substitute:

Part 4—Authorised officers

22—Appointment of authorised officers

- (1) The Minister may appoint persons to be authorised officers for the purposes of this Act.
- (2) Each police officer is an authorised officer for the purposes of this Act.
- (3) An appointment under subsection (1) may be made subject to conditions or limitations specified in the instrument of appointment (and the exercise by an authorised officer of powers conferred under this Act is subject to the conditions and limitations (if any) specified in his or her instrument of appointment).
- (4) An authorised officer other than a police officer must be issued with an identity card—
 - (a) containing the person's name and a photograph of the person; and
 - (b) stating that the person is an authorised officer for the purposes of this Act; and
 - (c) stating any conditions or limitations on the authorised officer's authority.

- (5) An authorised officer must, at the request of a person in relation to whom the authorised officer intends to exercise any powers under this Act, produce for inspection by the person—
- (a) in the case of an authorised officer appointed under subsection (1)—his or her identity card; and
 - (b) in the case of an authorised officer who is a police officer and is not in uniform—his or her certificate of authority.
- (6) If a person in possession of an identity card issued to the person under this section ceases to be an authorised officer, the person must immediately return the identity card to the Minister.
- Maximum penalty: \$250.

23—Powers of authorised officers

- (1) If an authorised officer reasonably suspects that a person, while on premises of the State Opera, has committed, is committing or is about to commit an offence against this or any other Act, the authorised officer may do any 1 or more of the following:
- (a) require the person to state his or her full name and usual place of residence;
 - (b) if the authorised officer suspects on reasonable grounds that the name or place of residence stated is false—require the person to produce evidence of his or her full name or usual place of residence;
 - (c) require the person to leave those premises immediately and not to return for a stated period (not exceeding 24 hours) or not to enter those premises;
 - (d) if the person refuses or fails to comply with a requirement under paragraph (c)—use such force as is reasonably necessary for the purpose of removing or excluding the person from those premises;
 - (e) cause the person to be detained and handed over into the custody of a police officer as soon as reasonably practicable.
- (2) An authorised officer may also—
- (a) require a person to surrender any object, substance or thing that the authorised officer reasonably suspects has been, is being, or is about to be, used on premises of the State Opera in contravention of this Act; and
 - (b) give such directions to persons on premises of the State Opera that the authorised officer considers necessary for—
 - (i) the maintenance of good order, the prevention of interference with events or other activities, or the safe and efficient regulation of vehicular or pedestrian traffic, on those premises; or

- (ii) the protection of property under the care or control of the State Opera; and
 - (c) use such force as may reasonably be required—
 - (i) for the purpose of removing or excluding from premises of the State Opera a person who refuses or fails to comply with a requirement or direction under this section; or
 - (ii) for the purposes of seizing goods under section 28; and
 - (d) exercise any other prescribed power.
- (3) An authorised officer may, in exercising powers under this Act, be accompanied by such assistants as are reasonably required in the circumstances.
- (4) For the purposes of this section, a reference to *premises of the State Opera* includes a reference to a part of those premises.

24—Hindering etc authorised officers

- (1) A person who—
- (a) without reasonable excuse hinders or obstructs an authorised officer; or
 - (b) fails to answer a question put by an authorised officer to the best of his or her knowledge, information or belief; or
 - (c) produces a document that he or she knows, or ought to know, is false or misleading in a material particular; or
 - (d) fails without reasonable excuse to comply with a requirement or direction of an authorised officer under this Act; or
 - (e) uses abusive, threatening or insulting language to an authorised officer or a person assisting an authorised officer; or
 - (f) falsely represents, by words or conduct, that he or she is an authorised officer,

is guilty of an offence.

Maximum penalty: \$2 500.

- (2) A person is not obliged to answer a question or to produce a document as required under this Act if to do so might tend to incriminate the person or make the person liable to a penalty.

Part 5—Official insignia

25—Interpretation

- (1) In this Part—
official insignia means—
 - (a) an official title (declared under section 26); or
 - (b) a logo (declared under section 26); or
 - (c) a combination of the above.
- (2) For the purposes of this Part, goods will be taken to be marked with official insignia if the insignia is 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.

26—Official titles and logos

- (1) *State Opera of South Australia* is declared to be an official title.
- (2) The Minister may, by notice in the Gazette—
 - (a) declare some other name under which the State Opera may conduct its operations or part of its operations to be an official title; or
 - (b) declare a name or a title of an event or activity conducted or promoted by the State Opera to be an official title; or
 - (c) declare a logo (being a design, the copyright of which is vested in the Crown in right of the State) to be a logo in respect of the State Opera or a particular event or activity conducted or promoted by the State Opera.
- (3) However, the Minister must not make a declaration under subsection (2) in relation to a name or title that is registered or otherwise protected under another Act unless the Minister is acting with the consent or agreement of the person who has the benefit of the registration or protection.
- (4) An official title declared under this section is not required to be registered or otherwise protected under any other Act.
- (5) The Minister may, by notice in the Gazette, vary or revoke a notice under this section.

27—Unlawful use of official insignia

- (1) The State Opera has a proprietary interest in all official insignia.
- (2) A person must not, without the consent of the State Opera, in the course of a trade or business—
 - (a) use a name in which the State Opera has a proprietary interest under this section for the purpose of promoting the sale of services or the provision of any benefits; or
 - (b) sell goods marked with official insignia; or
 - (c) use official insignia for the purpose of promoting the sale of goods or services.

Maximum penalty: \$20 000.

- (3) A person must not, without the consent of the State Opera, assume a name or description that consists of, or includes, official insignia.

Maximum penalty: \$20 000.

- (4) A consent under this section—
 - (a) may be given with or without conditions (including conditions requiring payment to the State Opera); and
 - (b) may be given generally by notice in the Gazette or by notice in writing addressed to an applicant for the consent; and
 - (c) may be revoked by the State Opera 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 State Opera, 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 State Opera, order the convicted person to pay compensation of an amount fixed by the court to the State Opera.
- (7) Subsections (5) and (6) do not derogate from any civil remedy that may be available to the State Opera apart from those subsections.

28—Seizure etc of goods marked with official insignia

- (1) If—
 - (a) goods apparently intended for a commercial purpose are marked with official insignia; and
 - (b) an authorised officer suspects on reasonable grounds that the use of the insignia has not been authorised by the State Opera,

the authorised officer may seize those goods.

- (2) If goods have been seized under this section and—
 - (a) proceedings are not instituted for an offence against section 27(2) 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 State Opera 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 paid into the Consolidated Account.

Part 6—Miscellaneous

29—Gifts etc

- (1) The State Opera may accept—
 - (a) grants, conveyances, transfers and leases of land from the Crown, an instrumentality of the Crown or any other person or body; and
 - (b) rights to the use, control, management or occupation of any land; and
 - (c) gifts of personal property of any kind to be used or applied by it for the purposes of this Act.
- (2) Despite the *Stamp Duties Act 1923*, no stamp duty is payable on any instrument by which land or any interest in or right over land is granted or assured to or vested in the State Opera or on any contract or instrument executed by the State Opera for the purpose of disposing of any property.

30—Ministerial delegation

- (1) The Minister may delegate a function or power of the Minister under this Act (other than this power of delegation) to any person (including a person for the time being performing particular duties or holding or acting in a specified position).

- (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 power of the delegator to act in a 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 legal proceedings, an apparently genuine certificate, purportedly signed by the Minister containing particulars of a delegation under this section, will, in the absence of proof to the contrary, be accepted as proof that the delegation was made in accordance with the particulars.

31—Approvals by Treasurer

- (1) An approval given by the Treasurer under this Act may be—
 - (a) specific or general; and
 - (b) conditional or unconditional.
- (2) An approval given by the Treasurer may be varied or revoked by the Treasurer at any time.

32—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) provide for matters relating to subscribers to the State Opera including—
 - (i) the manner in which a person may become, and the conditions under which he or she may remain, a subscriber; and
 - (ii) subscription or other fees to be paid by subscribers; and
 - (iii) rights and obligations of subscribers; and
 - (b) provide for the use, care and protection of objects, works, collections or any other property under the care or control of the State Opera; and
 - (c) provide for the admission, exclusion or expulsion of members of the public to or from premises of the State Opera or a part of those premises; and
 - (d) prohibit disorderly or offensive behaviour on premises of the State Opera; and

- (e) prohibit or regulate eating, drinking (including liquor), smoking or the consumption of unlawful substances on premises of the State Opera or a part of those premises; and
 - (f) prohibit or regulate any other conduct or activities for the purposes of—
 - (i) maintaining good order, and preventing interference with events or activities conducted, on premises of the State Opera; and
 - (ii) protecting property under the care or control of the State Opera; and
 - (g) prohibit or regulate the driving, parking or standing of vehicles on premises of the State Opera; and
 - (h) prescribe fees for the parking of vehicles on premises of the State Opera and provide for their payment and recovery; and
 - (i) provide that the owner and driver of a vehicle driven, parked or left standing in contravention of the regulations are each guilty of an offence and provide or exclude defences in relation to any such offence; and
 - (j) provide for the management (including disposal) by, and vesting in, the State Opera of unclaimed property; and
 - (k) provide for the approval by the Board or an authorised officer of any act or activity that would otherwise be prohibited under the regulations; and
 - (l) prescribe penalties not exceeding \$1 250 for breach of any regulation.
- (3) The regulations may—
- (a) be of general or limited application; and
 - (b) make different provision according to the persons, things or circumstances to which they are expressed to apply; and
 - (c) provide that any matter or thing is to be determined, dispensed with, regulated or prohibited according to the discretion of the Minister, the Board or another prescribed person or authority.
- (4) In proceedings for an offence against a regulation dealing with the driving, parking or standing of vehicles—
- (a) an allegation in a 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 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.

Part 12—Amendment of *State Theatre Company of South Australia Act 1972*

90—Substitution of section 4

Section 4—delete the section and substitute:

2—Interpretation

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

authorised officer—see Part 4;

Board means the Board established as the governing authority of the Company under section 6;

Company means the *State Theatre Company of South Australia* established under section 3;

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

member means member of the Board;

occupy, in relation to premises, means have, or be entitled to, possession or control of the premises;

official insignia—see Part 5;

premises of the Company means premises owned or occupied by the Company;

promote, in relation to an event or activity, includes organise, commission, fund, support, market, advertise or act as project manager.

- (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.

91—Substitution of Part 2

Part 2—delete the Part and substitute:

Part 2—State Theatre Company of South Australia

Division 1—Establishment of Company

3—Establishment of Company

- (1) The *State Theatre Company of South Australia* is established.

- (2) The Company—
- (a) is a body corporate; and
 - (b) has perpetual succession and a common seal; and
 - (c) can sue and be sued in its corporate name; and
 - (d) is an instrumentality of the Crown and holds property on behalf of the Crown; and
 - (e) has the functions and powers assigned or conferred under this or any other Act.

Division 2—Functions and powers of Company

4—Functions

The functions of the Company are—

- (a) to present, produce, manage and conduct theatrical performances, operas, plays, dramas, ballets and entertainments of any kind as may in its opinion tend to promote the art of theatre; and
- (b) to promote the writing of plays or dramas, the scoring and writing of operas, the scoring, writing and choreography of ballets and other works for theatrical performance; and
- (c) to promote public interest and participation in the art of the theatre; and
- (d) to establish and maintain a collection of objects of public interest relating to the past and present practice of the performing arts in this State; and
- (e) to establish and conduct schools, courses, lectures, seminars and discussions on the art of the theatre; and
- (f) to promote the training of persons concerned in the production, presentation or performance of theatrical presentations; and
- (g) to carry out any other functions assigned to the Company under this or any other Act or by the Minister.

5—Powers

- (1) The Company has, in addition to any other powers conferred on it under this or any other Act, all the powers of a natural person.
- (2) The Company may, for example, do any 1 or more of the following (subject to this Act):
 - (a) engage agents, consultants or other contractors;

- (b) enter into contracts or agreements with artists, actors, entertainers, performers, writers, composers, choreographers, designers, directors and other persons in relation to any theatrical presentation, or employ such persons;
- (c) enter into other contracts, agreements or arrangements;
- (d) acquire and install any fittings or equipment in any theatre;
- (e) acquire, hold, take on hire, lend, exchange or dispose of objects, works or collections of artistic, historical or cultural interest;
- (f) acquire, hold, deal with or dispose of—
 - (i) licences; or
 - (ii) intellectual property (including patents and copyright); or
 - (iii) any other property (whether real or personal); or
 - (iv) any interest in such property;
- (g) assist financially or otherwise in the presentation, production, management or conduct of any art of the theatre in the State;
- (h) accept grants or obtain financial sponsorship from any person or body;
- (i) carry on advertising and promotional activities;
- (j) conduct events and establish, operate, manage or make available venues and other facilities (including facilities for food and liquor) at a theatre, theatre complex or other premises of the Company;
- (k) regulate and control admission to any venue for any events or activities conducted or promoted by the Company, and charge and collect fees for admission to any such venue;
- (l) grant for fee or other consideration advertising or sponsorship rights or other rights, licences or concessions in connection with events or activities conducted or promoted by the Company;
- (m) publish or produce books, programs, brochures, films, souvenirs and other information or things relating to events or activities conducted or promoted by the Company;
- (n) sell or supply food and drink (including liquor), books, programs, brochures, films, souvenirs and other things in connection with events or activities conducted or promoted by the Company;
- (o) grant or dispose of rights to televise, broadcast or record any events or activities conducted or promoted by the Company;

- (p) restrict, control and make charges for the use of official insignia;
 - (q) take out policies of insurance in its own right or on behalf of the State;
 - (r) participate (whether as a member or otherwise) in, or otherwise be involved in the activities of, national or international organisations or associations involved in the performing arts or the promotion of the performing arts;
 - (s) give or contribute towards prizes in competitions designed to encourage artistic or cultural or performing arts activity within the State or make grants and give other assistance for such purposes;
 - (t) enter into any partnership or joint venture arrangement;
 - (u) form, or acquire, hold, deal with and dispose of shares or other interests in, or securities issued by, bodies corporate, whether within or outside of the State;
 - (v) borrow money and obtain other forms of financial accommodation;
 - (w) act as trustee on behalf of another person in connection with the performance of its functions under this Act.
- (3) However, the Company must not, without the approval of the Treasurer, exercise a power referred to in subsection (2)(u) or (v).
- (4) The Company is not obliged to accept or keep material that is not, in its opinion, of sufficient artistic, historical, cultural or other interest to justify its collection or preservation under this Act.
- (5) The Company may exercise its powers within or outside of the State.

Part 3—Management of Company

Division 1—Management of Company

6—Establishment of Board

- (1) There will be a Board to act as the governing authority of the Company.
- (2) The functions and powers of the Company may be performed and exercised by the Board and decisions made by the Board are decisions of the Company.

Division 2—Membership, proceedings etc

7—Composition of Board

- (1) The Board will consist of not more than 8 members appointed by the Governor.
- (2) At least 2 members must be women and at least 2 must be men.

- (3) The Governor will appoint 1 of the members to be the presiding member.
- (4) The Governor may appoint a suitable person to be a deputy of a member and the deputy may perform or exercise the functions and powers of the member in the member's absence.

8—Conditions of membership

- (1) A member will be appointed for a term not exceeding 3 years and on conditions determined by the Governor and specified in the instrument of appointment.
- (2) A member will, at the expiration of a term of appointment, be eligible for reappointment (subject to the qualification that a person cannot serve as a member for more than 9 consecutive years).
- (3) The Governor may remove a member from office—
 - (a) for misconduct; or
 - (b) for failure or incapacity to carry out the duties of his or her office satisfactorily; or
 - (c) for contravention of a condition of his or her appointment; or
 - (d) if serious irregularities have occurred in the conduct of the Board's affairs or the Board has failed to carry out its functions satisfactorily and its membership should, in the opinion of the Governor, be reconstituted for that reason.
- (4) The office of a member becomes vacant if the member—
 - (a) dies; or
 - (b) completes a term of office and is not reappointed; or
 - (c) resigns by written notice to the Minister; or
 - (d) is convicted of an indictable offence or sentenced to imprisonment for an offence; or
 - (e) is absent without leave of the presiding member of the Board from 3 consecutive meetings of the Board; or
 - (f) is removed from office under subsection (3).
- (5) On the office of a member becoming vacant, a person may be appointed in accordance with this Division to the vacant office.
- (6) A member is entitled to fees, allowances and expenses determined by the Governor.

9—Proceedings

- (1) A quorum of the Board consists of half of the total number of its members (ignoring any fraction resulting from the division) plus 1.
- (2) In the absence of the presiding member at a meeting of the Board, a member chosen by the members present at the meeting will preside.

- (3) A decision carried by a majority of the votes cast by members at a meeting is a decision of the Board.
- (4) Each member present at a meeting of the Board has 1 vote on any question arising for decision and, if the votes are equal, the member presiding at the meeting may exercise a casting vote.
- (5) A conference by telephone or other electronic means between members will, for the purposes of this section, be taken to be a meeting of the Board at which the participating members are present if—
 - (a) notice of the conference is given to all members in the manner determined by the Board for the purpose; and
 - (b) each participating member is capable of communicating with every other participating member during the conference.
- (6) A proposed resolution of the Board becomes a valid decision of the Board despite the fact that it is not voted on at a meeting of the Board if—
 - (a) notice of the proposed resolution is given to all members in accordance with procedures determined by the Board; and
 - (b) a majority of the members expresses concurrence in the proposed resolution by letter, fax or other written communication setting out the terms of the resolution.
- (7) The Board must meet at least 6 times in each year.
- (8) The Board must have accurate minutes kept of its proceedings.
- (9) Subject to this Act, the Board may determine its own procedures.
- (10) Subject to the directions of the Board and section 12, this section applies to a committee of the Board in the same way as to the Board.

10—Validity of acts

An act or proceeding of the Board or a committee of the Board is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

11—Ministerial control

- (1) Subject to subsection (2), the Board is subject to the general control and direction of the Minister.
- (2) No Ministerial direction can be given—
 - (a) as to the artistic nature or content of—
 - (i) objects, works or collections held or promoted by the Company; or
 - (ii) performances or other events or activities conducted or promoted by the Company; or

- (b) as to the manner in which the Board is to deal with a testamentary or other gift; or
- (c) as to any advice or recommendation that the Board makes or is required to make to the Minister.

Division 3—Committees and delegation

12—Committees

- (1) The Board may establish such committees (including advisory committees or subcommittees) as the Board thinks fit.
- (2) The membership and conditions of membership of a committee will be determined by the Board and may, but need not, consist of, or include, members of the Board.
- (3) The procedures to be observed in relation to the conduct of the business of a committee will be—
 - (a) as determined by the Board; and
 - (b) insofar as a procedure is not determined under paragraph (a)—as determined by the committee.

13—Delegation

- (1) The Board may delegate a function or power of the Board under this Act (other than this power of delegation) to any person or committee or other body (including a person for the time being performing particular duties or holding or acting in a specified position).
- (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 power of the delegator to act in a 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) A delegate must not act pursuant to the delegation in any matter in which the delegate has a direct or indirect pecuniary or personal interest.
Maximum penalty: \$10 000 or imprisonment for 2 years.
- (5) It is a defence to a charge of an offence against subsection (4) to prove that the defendant was, at the time of the alleged offence, unaware of his or her interest in the matter.

- (6) In legal proceedings, an apparently genuine certificate, purportedly signed by the Board containing particulars of a delegation under this section, will, in the absence of proof to the contrary, be accepted as proof that the delegation was made in accordance with the particulars.

Division 4—Conflict of interest under Public Sector (Honesty and Accountability) Act

14—Conflict of interest under Public Sector (Honesty and Accountability) Act

A member of the Board will not be taken to have a direct or indirect interest in a matter for the purposes of the *Public Sector (Honesty and Accountability) Act 1995* by reason only of the fact that the member has an interest in a matter that is shared in common with those engaged in or associated with the arts industry generally, or a substantial section of those engaged in or associated with the arts industry.

Division 5—Common seal and execution of documents

15—Common seal and execution of documents

- (1) The common seal of the Company must not be affixed to a document except in pursuance of a decision of the Board and the fixing of the seal must be attested by the signatures of 2 members of the Board.
- (2) The Board may, by instrument under the common seal of the Company, authorise a person or persons (whether nominated by name or by office or title) to execute documents on behalf of the Board subject to conditions and limitations (if any) specified in the instrument of authority.
- (3) Without limiting subsection (2), the Board may authorise 2 or more persons to execute documents jointly on behalf of the Company.
- (4) A document is duly executed by the Company if—
 - (a) the common seal of the Company is affixed to the document in accordance with this section; or
 - (b) the document is signed on behalf of the Company by a person or persons in accordance with authority conferred under this section.
- (5) If an apparently genuine document purports to bear the common seal of the Company, it will be presumed, in the absence of proof to the contrary, that the common seal of the Company was duly affixed to the document.

Division 6—Financial matters and annual reports

16—Annual budget

- (1) The Board must, from time to time, prepare and submit to the Minister a budget for the next financial year or for some other period determined by the Minister.
- (2) The budget must set out estimates of the Company's receipts and expenditures for the period to which the budget relates.
- (3) The budget must conform with any requirements of the Minister as to its form and the matters to be addressed by the budget.
- (4) The Minister may approve a budget submitted under this section with or without modification.
- (5) Subject to subsection (6), the Board must not, without the consent of the Minister, make an expenditure that is not provided for by a budget that has been approved by the Minister under this section.
- (6) The Board is not required to have the approval of the Minister with respect to the expenditure of money received by the Company by way of a testamentary or other gift.

17—Accounts and audit

- (1) The Board must cause proper accounting records to be kept in relation to the financial affairs of the Company, and must have annual statements of account prepared in respect of each financial year.
- (2) The accounting records and the 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 further requirements imposed by the Auditor-General.
- (3) The Auditor-General may at any time audit the accounts of the Company and must audit the annual statements of account.

18—Annual report

- (1) The Board must, on or before 30 September in every year, forward to the Minister a report on the work and operations of the Company for the preceding financial year.
- (2) The report must contain the audited statements of account of the Company for the preceding financial year.
- (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.

92—Substitution of heading to Part 3

Heading to Part 3—delete the heading and substitute:

Division 7—Staffing arrangements

93—Repeal of section 22

Section 22—delete the section

94—Repeal of Parts 5 and 6

Parts 5 and 6—delete the Parts and substitute:

Part 4—Authorised officers

22—Appointment of authorised officers

- (1) The Minister may appoint persons to be authorised officers for the purposes of this Act.
- (2) Each police officer is an authorised officer for the purposes of this Act.
- (3) An appointment under subsection (1) may be made subject to conditions or limitations specified in the instrument of appointment (and the exercise by an authorised officer of powers conferred under this Act is subject to the conditions and limitations (if any) specified in his or her instrument of appointment).
- (4) An authorised officer other than a police officer must be issued with an identity card—
 - (a) containing the person’s name and a photograph of the person; and
 - (b) stating that the person is an authorised officer for the purposes of this Act; and
 - (c) stating any conditions or limitations on the authorised officer’s authority.
- (5) An authorised officer must, at the request of a person in relation to whom the authorised officer intends to exercise any powers under this Act, produce for inspection by the person—
 - (a) in the case of an authorised officer appointed under subsection (1)—his or her identity card; and
 - (b) in the case of an authorised officer who is a police officer and is not in uniform—his or her certificate of authority.
- (6) If a person in possession of an identity card issued to the person under this section ceases to be an authorised officer, the person must immediately return the identity card to the Minister.

Maximum penalty: \$250.

23—Powers of authorised officers

- (1) If an authorised officer reasonably suspects that a person, while on premises of the Company, has committed, is committing or is about to commit an offence against this or any other Act, the authorised officer may do any 1 or more of the following:
 - (a) require the person to state his or her full name and usual place of residence;
 - (b) if the authorised officer suspects on reasonable grounds that the name or place of residence stated is false—require the person to produce evidence of his or her full name or usual place of residence;
 - (c) require the person to leave those premises immediately and not to return for a stated period (not exceeding 24 hours) or not to enter those premises;
 - (d) if the person refuses or fails to comply with a requirement under paragraph (c)—use such force as is reasonably necessary for the purpose of removing or excluding the person from those premises;
 - (e) cause the person to be detained and handed over into the custody of a police officer as soon as reasonably practicable.
- (2) An authorised officer may also—
 - (a) require a person to surrender any object, substance or thing that the authorised officer reasonably suspects has been, is being, or is about to be, used on premises of the Company in contravention of this Act; and
 - (b) give such directions to persons on premises of the Company that the authorised officer considers necessary for—
 - (i) the maintenance of good order, the prevention of interference with events or other activities, or the safe and efficient regulation of vehicular or pedestrian traffic, on those premises; or
 - (ii) the protection of property under the care or control of the Company; and
 - (c) use such force as may reasonably be required—
 - (i) for the purpose of removing or excluding from premises of the Company a person who refuses or fails to comply with a requirement or direction under this section; or
 - (ii) for the purposes of seizing goods under section 28; and
 - (d) exercise any other prescribed power.

- (3) An authorised officer may, in exercising powers under this Act, be accompanied by such assistants as are reasonably required in the circumstances.
- (4) For the purposes of this section, a reference to *premises of the Company* includes a reference to a part of those premises.

24—Hindering etc authorised officers

- (1) A person who—
 - (a) without reasonable excuse hinders or obstructs an authorised officer; or
 - (b) fails to answer a question put by an authorised officer to the best of his or her knowledge, information or belief; or
 - (c) produces a document that he or she knows, or ought to know, is false or misleading in a material particular; or
 - (d) fails without reasonable excuse to comply with a requirement or direction of an authorised officer under this Act; or
 - (e) uses abusive, threatening or insulting language to an authorised officer or a person assisting an authorised officer; or
 - (f) falsely represents, by words or conduct, that he or she is an authorised officer,

is guilty of an offence.

Maximum penalty: \$2 500.

- (2) A person is not obliged to answer a question or to produce a document as required under this Act if to do so might tend to incriminate the person or make the person liable to a penalty.

Part 5—Official insignia

25—Interpretation

- (1) In this Part—

official insignia means—

 - (a) an official title (declared under section 26); or
 - (b) a logo (declared under section 26); or
 - (c) a combination of the above.
- (2) For the purposes of this Part, goods will be taken to be marked with official insignia if the insignia is 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.

26—Official titles and logos

- (1) The following are declared to be official titles:
 - (a) *State Theatre Company of South Australia*;
 - (b) *State Theatre Company SA*.
- (2) The Minister may, by notice in the Gazette—
 - (a) declare some other name under which the Company may conduct its operations or part of its operations to be an official title; or
 - (b) declare a name or a title of an event or activity conducted or promoted by the Company to be an official title; or
 - (c) declare a logo (being a design, the copyright of which is vested in the Crown in right of the State) to be a logo in respect of the Company or a particular event or activity conducted or promoted by the Company.
- (3) However, the Minister must not make a declaration under subsection (2) in relation to a name or title that is registered or otherwise protected under another Act unless the Minister is acting with the consent or agreement of the person who has the benefit of the registration or protection.
- (4) An official title declared under this section is not required to be registered or otherwise protected under any other Act.
- (5) The Minister may, by notice in the Gazette, vary or revoke a notice under this section.

27—Unlawful use of official insignia

- (1) The Company has a proprietary interest in all official insignia.
- (2) A person must not, without the consent of the Company, in the course of a trade or business—
 - (a) use a name in which the Company has a proprietary interest under this section for the purpose of promoting the sale of services or the provision of any benefits; or
 - (b) sell goods marked with official insignia; or
 - (c) use official insignia for the purpose of promoting the sale of goods or services.

Maximum penalty: \$20 000.

- (3) A person must not, without the consent of the Company, assume a name or description that consists of, or includes, official insignia.

Maximum penalty: \$20 000.

- (4) A consent under this section—
 - (a) may be given with or without conditions (including conditions requiring payment to the Company); and
 - (b) may be given generally by notice in the Gazette or by notice in writing addressed to an applicant for the consent; and
 - (c) may be revoked by the Company 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 Company, 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 Company, order the convicted person to pay compensation of an amount fixed by the court to the Company.
- (7) Subsections (5) and (6) do not derogate from any civil remedy that may be available to the Company apart from those subsections.

28—Seizure etc of goods marked with official insignia

- (1) If—
 - (a) goods apparently intended for a commercial purpose are marked with official insignia; and
 - (b) an authorised officer suspects on reasonable grounds that the use of the insignia has not been authorised by the Company,the authorised officer may seize those goods.
- (2) If goods have been seized under this section and—
 - (a) proceedings are not instituted for an offence against section 27(2) 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 Company 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 paid into the Consolidated Account.

Part 6—Miscellaneous

29—Gifts etc

- (1) The Company may accept—
- (a) grants, conveyances, transfers and leases of land from the Crown, an instrumentality of the Crown or any other person or body; and
 - (b) rights to the use, control, management or occupation of any land; and
 - (c) gifts of personal property of any kind to be used or applied by it for the purposes of this Act.
- (2) Despite the *Stamp Duties Act 1923*, no stamp duty is payable on any instrument by which land or any interest in or right over land is granted or assured to or vested in the Company or on any contract or instrument executed by the Company for the purpose of disposing of any property.

30—Ministerial delegation

- (1) The Minister may delegate a function or power of the Minister under this Act (other than this power of delegation) to any person (including a person for the time being performing particular duties or holding or acting in a specified position).
- (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 power of the delegator to act in a 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 legal proceedings, an apparently genuine certificate, purportedly signed by the Minister containing particulars of a delegation under this section, will, in the absence of proof to the contrary, be accepted as proof that the delegation was made in accordance with the particulars.

31—Approvals by Treasurer

- (1) An approval given by the Treasurer under this Act may be—
- (a) specific or general; and
 - (b) conditional or unconditional.

- (2) An approval given by the Treasurer may be varied or revoked by the Treasurer at any time.

32—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) provide for matters relating to subscribers to the Company including—
 - (i) the manner in which a person may become, and the conditions under which he or she may remain, a subscriber; and
 - (ii) subscription or other fees to be paid by subscribers; and
 - (iii) rights and obligations of subscribers; and
 - (b) provide for the use, care and protection of objects, works, collections or any other property under the care or control of the Company; and
 - (c) provide for the admission, exclusion or expulsion of members of the public to or from premises of the Company or a part of those premises; and
 - (d) prohibit disorderly or offensive behaviour on premises of the Company; and
 - (e) prohibit or regulate eating, drinking (including liquor), smoking or the consumption of unlawful substances on premises of the Company or a part of those premises; and
 - (f) prohibit or regulate any other conduct or activities for the purposes of—
 - (i) maintaining good order, and preventing interference with events or activities conducted, on premises of the Company; and
 - (ii) protecting property under the care or control of the Company; and
 - (g) prohibit or regulate the driving, parking or standing of vehicles on premises of the Company; and
 - (h) prescribe fees for the parking of vehicles on premises of the Company and provide for their payment and recovery; and
 - (i) provide that the owner and driver of a vehicle driven, parked or left standing in contravention of the regulations are each guilty of an offence and provide or exclude defences in relation to any such offence; and

- (j) provide for the management (including disposal) by, and vesting in, the Company of unclaimed property; and
 - (k) provide for the approval by the Board or an authorised officer of any act or activity that would otherwise be prohibited under the regulations; and
 - (l) prescribe penalties not exceeding \$1 250 for breach of any regulation.
- (3) The regulations may—
- (a) be of general or limited application; and
 - (b) make different provision according to the persons, things or circumstances to which they are expressed to apply; and
 - (c) provide that any matter or thing is to be determined, dispensed with, regulated or prohibited according to the discretion of the Minister, the Board or another prescribed person or authority.
- (4) In proceedings for an offence against a regulation dealing with the driving, parking or standing of vehicles—
- (a) an allegation in a 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 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.

Schedule 1—Statute law revision amendments and transitional provisions

Part 1—Preliminary

1—Amendment of Acts specified in Schedule 1

- (1) The Acts specified in this Schedule are amended in the manner indicated.
- (2) If an Act sought to be amended by this Schedule is, before the commencement of the relevant part of the Schedule, amended in a manner that renders an amendment contained in the Schedule ineffective, that amendment will be taken to have been struck out from the Schedule.

Part 2—Statute law revision amendment of *Adelaide Festival Centre Trust Act 1971*

Provision amended	How amended
Long title	Delete the long title and substitute: An Act to establish the Adelaide Festival Centre Trust, to define its functions and powers, to provide for the Adelaide Festival Centre and its management and operation; and for other purposes.

Part 3—Statute law revision amendment of *Adelaide Festival Corporation Act 1998*

Provision amended	How amended
Section 4(2) and (3)	Delete subsections (2) and (3) and substitute: (2) The Corporation— (a) is a body corporate; and (b) has perpetual succession and a common seal; and (c) can sue and be sued in its corporate name; and (d) is an instrumentality of the Crown and holds property on behalf of the Crown; and (e) has the functions and powers assigned or conferred under this or any other Act.

Part 4—Statute law revision amendment of *Libraries Act 1982*

Provision amended	How amended
Section 6	Delete the section
Section 21(2)	Delete "shall be" and substitute: is to be
Section 36(2)	Delete "upon" and substitute: on

Part 5—Statute law revision amendment of *South Australian Country Arts Trust Act 1992*

Provision amended	How amended
Section 4(2) to (4) (inclusive)	Delete subsections (2) to (4) and substitute: <p style="margin-left: 40px;">(2) The Trust—</p> <ul style="list-style-type: none">(a) is a body corporate; and(b) has perpetual succession and a common seal; and(c) can sue and be sued in its corporate name; and(d) is an instrumentality of the Crown and holds its property on behalf of the Crown; and(e) has the functions and powers assigned or conferred under this or any other Act.

Part 6—Statute law revision amendment of *South Australian Film Corporation Act 1972*

Provision amended	How amended
Section 25	Delete "Where" and substitute: <p style="margin-left: 40px;">If</p>
Section 25	After "his" wherever occurring insert in each case: <p style="margin-left: 40px;">or her</p>
Section 25	Delete "shall" and substitute: <p style="margin-left: 40px;">must</p>
Section 27(1)	Delete "he may state therein" and substitute: <p style="margin-left: 40px;">the Governor thinks fit</p>
Section 27(3)	Delete "Upon" and substitute: <p style="margin-left: 40px;">On</p>
Section 27(3)	Delete "a department, instrumentality or agency of the Government" and substitute: <p style="margin-left: 40px;">an administrative unit of the Public Service or any other public sector agency (within the meaning of the <i>Public Sector Act 2009</i>)</p>
Section 27(3)	Delete "shall" and substitute: <p style="margin-left: 40px;">must</p>
Section 28	Delete "shall" and substitute: <p style="margin-left: 40px;">must</p>

Provision amended	How amended
Section 28	Delete "a department, instrumentality or agency of the Government" and substitute: an administrative unit of the Public Service or other public sector agency (within the meaning of the <i>Public Sector Act 2009</i>)
Section 29	Delete the section and substitute: 29—Temporary road closures etc The Commissioner of Police— (a) may, on application by the Corporation and with the approval of the relevant council; or (b) must, on the direction of the Minister (on application to the Minister by the Corporation or any other person and after consultation with the relevant council), temporarily close a road or part of a road, or cause such directions to be given as are necessary to control the movement of pedestrians and vehicular traffic on a road or part of a road, during the making of a film being produced by or on behalf of the Corporation or the other person (as the case may be).

Part 7—Statute law revision amendment of *State Opera of South Australia Act 1976*

Provision amended	How amended
Long title	Delete the long title and substitute: An Act to establish the State Opera of South Australia and a Board, to define its functions and powers; and for other purposes.

Part 8—Statute law revision amendment of *State Theatre Company of South Australia Act 1972*

Provision amended	How amended
Long title	Delete the long title and substitute: An Act to establish the State Theatre Company of South Australia and a Board, to define its functions and powers; and for other purposes.

Part 9—Transitional provisions

Division 1—Membership of Boards etc

2—Membership of Adelaide Festival Centre Trust

- (1) In this clause—

principal Act means the *Adelaide Festival Centre Trust Act 1971*.

- (2) A trustee of the Adelaide Festival Centre Trust (within the meaning of the principal Act) holding office immediately before the commencement of this clause will, on that commencement, continue in office—
- (a) for the balance of that term of office; and
 - (b) on such other conditions as if the principal Act as amended by Part 2 of this Act had been in force when he or she was appointed or last re-appointed a trustee of the Trust and that appointment had been made under the principal Act as so amended.
- (3) A person continues in office by virtue of subclause (2) despite the fact that, for some or all of the duration of the balance of that term of office—
- (a) 1 or more of the provisions of section 6 of the principal Act as amended by Part 2 of this Act (relating to the composition of the Trust) may not be complied with; and
 - (b) section 7(2) of the principal Act as amended by Part 2 of this Act (prohibiting a person from serving as a member for more than 9 consecutive years) may not be complied with,

and, in that case, those provisions will not apply for that duration.

3—Membership of board under *Adelaide Festival Corporation Act 1998*

- (1) In this clause—

principal Act means the *Adelaide Festival Corporation Act 1998*.

- (2) A member of the board (within the meaning of the principal Act) holding office immediately before the commencement of this clause, will, on that commencement, continue in office—
- (a) for the balance of that term of office; and
 - (b) on such other conditions as if the principal Act as amended by Part 3 of this Act had been in force when he or she was appointed or last re-appointed a member of the board and that appointment had been made under the principal Act as so amended.
- (3) A member continues in office by virtue of subclause (2) despite the fact that, for some or all of the duration of the balance of that term of office, 1 or more of the provisions of section 8 of the principal Act as amended by Part 3 of this Act (relating to the composition of the board) may not be complied with, and, in that case, those provisions will not apply for that duration.

4—Membership of Art Gallery Board

- (1) In this clause—
principal Act means the *Art Gallery Act 1939*.
- (2) A member of the Art Gallery Board (within the meaning of the principal Act) holding office immediately before the commencement of this clause, will, on that commencement, continue in office—
 - (a) for the balance of that term of office; and
 - (b) on such other conditions as if the principal Act as amended by Part 4 of this Act had been in force when he or she was appointed or last re-appointed a member of the board and that appointment had been made under the principal Act as so amended.
- (3) A member continues in office by virtue of subclause (2) despite the fact that, for some or all of the duration of the balance of that term of office—
 - (a) 1 or more of the provisions of section 5 of the principal Act as amended by Part 4 of this Act (relating to the composition of the board) may not be complied with; and
 - (b) section 6(2) of the principal Act as amended by Part 4 of this Act (prohibiting a person from serving as a member for more than 9 consecutive years) may not be complied with,

and, in that case, those provisions will not apply for that duration.

5—Membership of Carrick Hill Trust

- (1) In this clause—
principal Act means the *Carrick Hill Trust Act 1985*.
- (2) A member of the Carrick Hill Trust (within the meaning of the principal Act) holding office immediately before the commencement of this clause, will, on that commencement, continue in office—
 - (a) for the balance of that term of office; and
 - (b) on such other conditions as if the principal Act as amended by Part 5 of this Act had been in force when he or she was appointed or last re-appointed a member of the Trust and that appointment had been made under the principal Act as so amended.
- (3) A member continues in office by virtue of subclause (2) despite the fact that, for some or all of the duration of the balance of that term of office—
 - (a) 1 or more of the provisions of section 5 of the principal Act as amended by Part 5 of this Act (relating to the composition of the Trust) may not be complied with; and
 - (b) section 6(2) of the principal Act as amended by Part 5 of this Act (prohibiting a person from serving as a member for more than 9 consecutive years) may not be complied with,

and, in that case, those provisions will not apply for that duration.

6—Membership of History Trust of South Australia

- (1) In this clause—
principal Act means the *History Trust of South Australia Act 1981*.
- (2) A member of the History Trust of South Australia (within the meaning of the principal Act) holding office immediately before the commencement of this clause, will, on that commencement, continue in office—
 - (a) for the balance of that term of office; and
 - (b) on such other conditions as if the principal Act as amended by Part 6 of this Act had been in force when he or she was appointed or last re-appointed a member of the Trust and that appointment had been made under the principal Act as so amended.
- (3) A member continues in office by virtue of subclause (2) despite the fact that, for some or all of the duration of the balance of that term of office, 1 or more provisions of section 5 of the principal Act as amended by Part 6 of this Act (relating to the composition of the Trust) may not be complied with and, in that case, those provisions will not apply for that duration.

7—Membership of Libraries Board of South Australia

- (1) In this clause—
principal Act means the *Libraries Act 1982*.
- (2) A member of the Libraries Board of South Australia (within the meaning of the principal Act) holding office immediately before the commencement of this clause, will, on that commencement, continue in office—
 - (a) for the balance of that term of office; and
 - (b) on such other conditions as if the principal Act as amended by Part 7 of this Act had been in force when he or she was appointed or last re-appointed a member of the Board and that appointment had been made under the principal Act as so amended.
- (3) A member continues in office by virtue of subclause (2) despite the fact that, for some or all of the duration of the balance of that term of office—
 - (a) 1 or more provisions of section 9 of the principal Act as amended by Part 7 of this Act (relating to the composition of the Board) may not be complied with; and
 - (b) section 10(1) of the principal Act as amended by Part 7 of this Act (prohibiting a person from being appointed for a term exceeding 3 years) may not be complied with; and
 - (c) section 10(2) of the principal Act as amended by Part 7 of this Act (prohibiting a person from serving as a member for more than 9 consecutive years) may not be complied with,and, in that case, those provisions will not apply for that duration.

8—Membership of South Australian Country Arts Trust

- (1) In this clause—
principal Act means the *South Australian Country Arts Trust Act 1992*.
- (2) A trustee of the South Australian Country Arts Trust (within the meaning of the principal Act) holding office immediately before the commencement of this clause, will, on that commencement, continue in office—
 - (a) for the balance of that term of office; and
 - (b) on such other conditions as if the principal Act as amended by Part 8 of this Act had been in force when he or she was appointed or last re-appointed a trustee of the Trust and that appointment had been made under the principal Act as so amended.
- (3) A member continues in office by virtue of subclause (2) despite the fact that, for some or all of the duration of the balance of that term of office, 1 or more provisions of section 5 of the principal Act as amended by Part 8 of this Act (relating to the composition of the Trust) may not be complied with and, in that case, those provisions will not apply for that duration.

9—Membership of South Australian Film Corporation

- (1) In this clause—
principal Act means the *South Australian Film Corporation Act 1972*.
- (2) A member of the South Australian Film Corporation (within the meaning of the principal Act) holding office immediately before the commencement of this clause, will, on that commencement, continue in office—
 - (a) for the balance of that term of office; and
 - (b) on such other conditions as if the principal as amended by Part 9 of this Act had been in force when he or she was appointed or last re-appointed a member of the Corporation and that appointment had been made under the principal Act as so amended.
- (3) A member continues in office by virtue of subclause (2) despite the fact that, for some or all of the duration of the balance of that term of office—
 - (a) 1 or more provisions of section 6 of the principal Act as amended by Part 9 of this Act (relating to the composition of the Corporation) may not be complied with; and
 - (b) section 7(1) of the principal Act as amended by Part 9 of this Act (prohibiting a person from being appointed for a term exceeding 3 years) may not be complied with; and
 - (c) section 7(2) of the principal Act as amended by Part 9 of this Act (prohibiting a person from serving as a member for more than 9 consecutive years) may not be complied with,and, in that case, those provisions will not apply for that duration.

10—Membership of Museum Board

- (1) In this clause—
principal Act means the *South Australian Museum Act 1976*.
- (2) A member of the Museum Board (within the meaning of the principal Act) holding office immediately before the commencement of this clause, will, on that commencement, continue in office—
 - (a) for the balance of that term of office; and
 - (b) on such other conditions as if the principal Act as amended by Part 10 of this Act had been in force when he or she was appointed or last re-appointed a member of the Board and that appointment had been made under the principal Act as so amended.
- (3) A member continues in office by virtue of subclause (2) despite the fact that, for some or all of the duration of the balance of that term of office—
 - (a) 1 or more of the provisions of section 4 of the principal Act as amended by Part 10 of this Act (relating to the composition of the Board) may not be complied with; and
 - (b) section 5(2) of the principal Act as amended by Part 10 of this Act (prohibiting a person from serving as a member for more than 9 consecutive years) may not be complied with,and, in that case, those provisions will not apply for that duration.

11—Membership of Board of Management under *State Opera of South Australia Act 1976*

- (1) In this clause—
principal Act means the *State Opera of South Australia Act 1976*.
- (2) A member of the Board of Management (within the meaning of the principal Act) holding office immediately before the commencement of this clause, will, on that commencement, continue in office—
 - (a) for the balance of that term of office; and
 - (b) on such other conditions as if the principal Act as amended by Part 11 of this Act had been in force when he or she was appointed or last re-appointed a member of the Board and that appointment had been made under the principal Act as so amended.
- (3) A member continues in office by virtue of subclause (2) despite the fact that, for some or all of the duration of the balance of that term of office—
 - (a) 1 or more provisions of section 8 of the principal Act as amended by Part 11 of this Act (relating to the composition of the Board) may not be complied with; and
 - (b) section 9(1) of the principal Act as amended by Part 11 of this Act (prohibiting a person from being appointed for a term exceeding 3 years) may not be complied with; and

- (c) section 9(2) of the principal Act as amended by Part 11 of this Act (prohibiting a person from serving as a member for more than 9 consecutive years) may not be complied with,

and, in that case, those provisions will not apply for that duration.

12—Membership of Board of Governors under *State Theatre Company of South Australia Act 1972*

- (1) In this clause—

principal Act means the *State Theatre Company of South Australia Act 1972*.

- (2) A member of the Board of Governors (within the meaning of the principal Act) holding office immediately before the commencement of this clause, will, on that commencement—
 - (a) in the case of a member who was elected by subscribers—cease to hold office; and
 - (b) in the case of a member who was elected by employees—cease to hold office; and
 - (c) in the case of any other member, continue in office—
 - (i) for the balance of that term of office; and
 - (ii) on such other conditions as if the principal Act as amended by Part 12 of this Act had been in force when he or she was appointed or last re-appointed a member of the Board and that appointment had been made under the principal Act as so amended.
- (3) A member continues in office by virtue of subclause (2)(c) despite the fact that, for some or all of the duration of the balance of that term of office—
 - (a) 1 or more provisions of section 7 of the principal Act as amended by Part 12 of this Act (relating to the composition of the Board) may not be complied with; and
 - (b) section 8(1) of the principal Act as amended by Part 12 of this Act (prohibiting a person from being appointed for a term exceeding 3 years) may not be complied with; and
 - (c) section 8(2) of the principal Act as amended by Part 12 of this Act (prohibiting a person from serving as a member for more than 9 consecutive years) may not be complied with,

and, in that case, those provisions will not apply for that duration.

Division 2—Names, titles and logos declared under *Adelaide Festival Corporation Act 1998*

13—Names, titles and logos declared under *Adelaide Festival Corporation Act 1998*

- (1) A name declared by the Minister by notice in the Gazette under section 22 of the *Adelaide Festival Corporation Act 1998* and in force immediately before the commencement of Part 3 section 28 of this Act will, on that commencement, be taken to be an official title declared under section 22 of the Act as amended by Part 3 section 28 of this Act.
- (2) A name or title declared by the Minister by notice in the Gazette under section 23 of the *Adelaide Festival Corporation Act 1998* and in force immediately before the commencement of Part 3 section 28 of this Act will, on that commencement, be taken to be an official title declared under section 22 of the Act as amended by Part 3 section 28 of this Act.
- (3) A logo declared by the Minister by notice in the Gazette under section 23 of the *Adelaide Festival Corporation Act 1998* and in force immediately before the commencement of Part 3 section 28 of this Act will, on that commencement, be taken to be a logo declared under section 22 of the Act as amended by Part 3 section 28 of this Act.

Division 3—Authorised officers and authorised persons

14—Authorised persons under *Adelaide Festival Centre Trust Regulations 2007*

A person appointed and holding office as an authorised person under the *Adelaide Festival Centre Trust Regulations 2007* immediately before the commencement of this Division will be taken to be an authorised officer appointed under Part 4 of the *Adelaide Festival Centre Trust Act 1971* as inserted by Part 2 of this Act and subject to the same conditions and limitations (if any).

15—Authorised officers under *Art Gallery Regulations 2002*

A person appointed and holding office as an authorised officer under the *Art Gallery Regulations 2002* immediately before the commencement of this Division will be taken to be an authorised officer appointed under Part 3 of the *Art Gallery Act 1939* as inserted by Part 4 of this Act and subject to the same conditions and limitations (if any).

16—Authorised persons under *Carrick Hill Trust Regulations 1999*

A person appointed and holding office as an authorised person under the *Carrick Hill Trust Regulations 1999* immediately before the commencement of this Division will be taken to be an authorised officer appointed under Part 3 of the *Carrick Hill Trust Act 1985* as inserted by Part 5 of this Act and subject to the same conditions and limitations (if any).

17—Authorised officers under *History Trust of South Australia Regulations 2010*

A person appointed and holding office as an authorised officer under the *History Trust of South Australia Regulations 2010* immediately before the commencement of this Division will be taken to be an authorised officer appointed under Part 3 of the *History Trust of South Australia Act 1981* as inserted by Part 6 of this Act and subject to the same conditions and limitations (if any).

18—Authorised persons under *Libraries Regulations 1998*

A person appointed and holding office as an authorised person under the *Libraries Regulations 1998* immediately before the commencement of this Division will be taken to be an authorised officer appointed under Part 3 of the *Libraries Act 1982* as inserted by Part 7 of this Act and subject to the same conditions and limitations (if any).

19—Authorised officers under *South Australian Museum Regulations 2004*

A person appointed and holding office as an authorised officer under the *South Australian Museum Regulations 2004* immediately before the commencement of this Division will be taken to be an authorised officer appointed under Part 3 of the *South Australian Museum Act 1976* as inserted by Part 10 of this Act and subject to the same conditions and limitations (if any).