

House of Assembly

As passed all stages and awaiting assent.

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South Australia

Statutes Amendment (Budget 2016) Bill 2016

A BILL FOR

An Act to amend various Acts for the purposes of the 2016 State Budget.

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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 (Budget 2016) Act 2016*.

2—Commencement

- (1) Subject to this section, this Act will come into operation on the day on which it is assented to by the Governor.
- (2) Part 2, Part 5, Part 8, Part 12 and Part 13 will come into operation on a day to be fixed by proclamation.
- (3) Part 6 will be taken to have come into operation at midnight on 30 June 2016.
- (4) Section 94 will be taken to have come into operation on 20 June 2016.
- (5) Sections 92, 93 and 96 to 108 (inclusive) will be taken to have come into operation on 1 July 2016.

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 *Authorised Betting Operations Act 2000*

4—Amendment of section 3—Interpretation

- (1) Section 3(1)—after the definition of *approved licensing agreement* insert:
authorised betting operator means—
 - (a) the holder of a licence under this Act; or
 - (b) an authorised interstate betting operator;
- (2) Section 3(1)—after the definition of *compliance notice* insert:
comprehensive licence means the comprehensive major betting operations licence granted under section 7(1);
- (3) Section 3(1), definitions of *duty* and *duty agreement*—delete the definitions
- (4) Section 3(1)—after the definition of *licensing authority* insert:
limited licence means a limited major betting operations licence granted under section 7(3);
- (5) Section 3(1), definition of *major betting operations licence*—delete "the licence" and substitute:
the comprehensive licence or a limited licence

5—Amendment of heading to Part 2

Heading to Part 2—delete "licence" and substitute:
licences

6—Amendment of heading to Part 2 Division 1

Heading to Part 2 Division 1—delete "licence" and substitute:
licences

7—Amendment of section 7—Grant of licences

- (1) Section 7(1) and (2)—before "major" in each of subsections (1) and (2) insert:
comprehensive
- (2) Section 7—after subsection (2) insert:
 - (3) The Governor may grant any number of limited major betting operations licences.
- (3) Section 7(4)—delete "the licence" first occurring and substitute:
a licence

8—Amendment of section 8—Eligibility to hold licence

Section 8—delete "the licence" and substitute:
a licence

9—Amendment of section 9—Authority conferred by licence

- (1) Section 9—delete "The licence" and substitute:
The comprehensive licence
- (2) Section 9—after its present contents as amended by this section (now to be designated as subsection (1)) insert:
- (2) A limited licence may authorise the licensee—
- (a) to conduct off-course totalisator betting on races held by licensed racing clubs;
 - (b) to conduct off-course totalisator betting on approved contingencies;
 - (c) to conduct other forms of betting on races held by licensed racing clubs or on approved contingencies,
- provided that the following requirements are complied with:
- (d) the betting must be conducted only by telephone, Internet or other electronic means and otherwise in accordance with this Act;
 - (e) the licensee must not directly or indirectly make available, or in any way facilitate the provision of, a telephone, computer or other device capable of being used for the conduct of betting by telephone, Internet or other electronic means to a person in South Australia for the purpose of encouraging or facilitating such betting.

10—Amendment of section 10—Term and renewal of licence

- (1) Section 10(1)—delete "The licence" and substitute:
A licence
- (2) Section 10(2)—delete "the licence has been granted or renewed a new approved licensing agreement, a new racing distribution agreement and a new duty agreement" and substitute:
a licence has been granted or renewed a new approved licensing agreement and, in the case of the comprehensive licence, a new racing distribution agreement

11—Amendment of section 11—Conditions of licence

- Section 11(1)—delete "the licence" and substitute:
a licence

12—Amendment of section 12—Approved licensing agreements

- (1) Section 12(1)—delete "the licensee" and substitute:
a licensee
- (2) Section 12—delete "The agreement" wherever occurring and substitute in each case:
An agreement

- (3) Section 12(4)—delete "the agreement" first occurring and substitute:
an agreement
- (4) Section 12(10) and (12)—delete "the agreement" wherever occurring and substitute in each case:
an agreement
- (5) Section 12(12)—delete "*Trade Practices Act 1974*" and substitute:
Competition and Consumer Act 2010
- (6) Section 12(13), definition of *giving effect*—delete "the agreement" first occurring and substitute:
an agreement

13—Amendment of section 13—Racing distribution agreements

- (1) Section 13(1)—delete "the licence" and substitute:
the comprehensive licence
- (2) Section 13(5)—delete "the licence" and substitute:
the comprehensive licence
- (3) Section 13(8)—delete "*Trade Practices Act 1974*" and substitute:
Competition and Consumer Act 2010

14—Repeal of section 14

Section 14—delete the section

15—Amendment of section 15—Approved licensing agreement to be tabled in Parliament

Section 15(2)—delete subsection (2)

16—Amendment of section 16—Transfer of licence

- (1) Section 16(1)—delete "the licence" and substitute:
a licence
- (2) Section 16(3)—delete "the licence" first occurring and substitute:
a licence
- (3) Section 16(3)(a)—delete ", the racing distribution agreement and the duty agreement" and substitute:
and, in the case of the comprehensive licence, the racing distribution agreement

17—Amendment of section 17—Dealings affecting licensed business

Section 17(1)—delete "The licensee" and substitute:

A licensee

18—Amendment of section 18—Other transactions under which outsiders may acquire control or influence

- (1) Section 18(1)—delete "the licensee" and substitute:
a licensee
- (2) Section 18(2) and (3)—delete "the licensee" first occurring in each subsection and substitute in each case:
a licensee

19—Amendment of section 19—Surrender of licence

- (1) Section 19(1)—delete "The licensee" and substitute:
A licensee
- (2) Section 19(2)—delete "the licence" and substitute:
a licence

20—Amendment of section 20—Approval of designated persons

- (1) Section 20(1) and (2)—delete "The licensee" wherever occurring and substitute in each case:
A licensee
- (2) Section 20(1)—after "designated person" insert:
in relation to the licensee
- (3) Section 20(2)—after "designated person" first occurring insert:
in relation to the licensee
- (4) Section 20(3), (5) and (6)—delete "the licensee" wherever occurring and substitute in each case:
a licensee
- (5) Section 20(6), definition of *designated person*—after "designated person" insert:
, in relation to a licensee,

21—Amendment of section 21—Applications

- (1) Section 21—delete "the licence" wherever occurring and substitute in each case:
a licence
- (2) Section 21(1)(d)—delete "the licensee" and substitute:
a licensee
- (3) Section 21(2)(c)(iii)—delete "the licensee" first occurring and substitute:
a licensee

22—Amendment of section 22—Determination of applications

- (1) Section 22(1) and (2)—delete "the licence" wherever occurring and substitute in each case:
 - a licence
- (2) Section 22(3)(a) and (b)—delete "the licensed" wherever occurring and substitute in each case:
 - a licensed
- (3) Section 22(4)—delete "the licensee" first occurring and substitute:
 - a licensee

23—Amendment of section 23—Investigations

Section 23(2)—delete "the licensee and the licensee's" and substitute:
each licensee and each licensee's

24—Amendment of section 24—Investigative powers

Section 24(2)—delete "the licensed" and substitute:
a licensed

25—Amendment of section 25—Costs of investigation

- (1) Section 25(1)(b)—delete "the licensee or the" and substitute:
 - a licensee or a
- (2) Section 25(6)—delete "the licensee" and substitute:
 - a licensee

26—Amendment of section 26—Results of investigation

Section 26(c)—delete "the licensee or the" and substitute:
a licensee or a

27—Amendment of section 27—Accounts and audit

Section 27(1) and (3)—delete "The licensee" wherever occurring and substitute in each case:
A licensee

28—Amendment of section 28—Licensee to supply Authority with copy of audited accounts

Section 28(1) and (2)—delete "the licensee" first occurring in each subsection and substitute in each case:
a licensee

29—Amendment of section 29—Duty of auditor

Section 29(1)—delete "the licensee is required" and substitute:
a licensee is required

30—Repeal of Part 2 Division 8

Part 2 Division 8—delete Division 8

31—Amendment of section 33—Directions to licensee

- (1) Section 33(1)—delete "the licensee" and substitute:
a licensee
- (2) Section 33(2)—delete "The licensee" and substitute:
A licensee

32—Amendment of section 33A—Commissioner to recover administration costs

- (1) Section 33A(1) and (2)—delete "the licensee" wherever occurring and substitute in each case:
each licensee
- (2) Section 33A(3)—delete "the licensee" and substitute:
a licensee
- (3) Section 33A(4) and (5)—delete "the licensee" first occurring in each subsection and substitute in each case:
a licensee
- (4) Section 33A(7), definition of *administration cost*—delete "the licensee" and substitute:
a licensee

33—Repeal of Part 3 Division 2

Part 3 Division 2—delete Division 2

34—Amendment of section 40A—Authorisation of interstate betting operators

- (1) Section 40A(4)(b)—delete paragraph (b) and substitute:
 - (b) the operator does not directly or indirectly make available, or in any way facilitate the provision of, a telephone, computer or other device capable of being used for the conduct of betting by telephone, Internet or other electronic means to a person in South Australia for the purpose of encouraging or facilitating such betting; and
- (2) Section 40A—after subsection (5) insert:
 - (5a) An authorised interstate betting operator must, on or before 30 September in each year, lodge with the Authority an annual return containing the information required by the Authority by written notice.

35—Substitution of section 40B

Section 40B—delete the section and substitute:

Part 3B—Taxation

Division 1—Preliminary

40B—Interpretation

In this Part—

betting operations tax—see section 40D(1);

betting operator means—

- (a) an authorised betting operator; and
- (b) any person who earns revenue as a result of accepting bets from, or providing a service through which bets are made by, persons who were located in South Australia at the time of making the bet or using the service (not being a person who is licensed or authorised to accept such bets, or provide such a service, under a law of the State);

multi-jurisdictional agreement—see section 40F(1);

net State wagering revenue—the net State wagering revenue of a betting operator for a financial year is the sum of—

- (a) the total amount of all bets made with, or using a service provided by, the betting operator during the financial year by persons who were located in South Australia at the time of making the bet or using the service; and
- (b) the total of any fees, commission or other amounts of a kind prescribed by the regulations (in relation to betting operators generally or in relation to particular betting operators or classes of betting operators) associated with making the bets or using the service,

less—

- (c) the total amount of all winnings paid or payable in respect of those bets; and
- (d) the total of any other amounts of a kind prescribed by the regulations (in relation to betting operators generally or in relation to particular betting operators or classes of betting operators);

participating jurisdiction means South Australia and any other Australian jurisdiction that enters, through the agency of a Minister of the Crown, into a multi-jurisdictional agreement.

Division 2—Betting operations tax

40C—Taxation Administration Act

Subject to any regulations made under section 40H(1)(f), this Part must be read together with the *Taxation Administration Act 1996* which makes provision for the administration and enforcement of this Part and other taxation laws.

40D—Liability to pay tax

- (1) A betting operator is liable to pay tax (*betting operations tax*) to the Commissioner of State Taxation on the operator's net State wagering revenue for a financial year.
- (2) Betting operations tax is payable in respect of a financial year as follows:
 - (a) if the net State wagering revenue for the financial year is less than \$150 000—no tax is payable;
 - (b) if the net State wagering revenue for the financial year is \$150 000 or more—tax is payable at the rate of 15% of the amount of net State wagering revenue in excess of \$150 000.

40E—Payments to Fund

- (1) Subject to this section, the Commissioner of State Taxation must pay, out of the taxation revenue collected under this Division during each financial year, an amount of \$500 000 into the *Gamblers Rehabilitation Fund* established under the *Gaming Machines Act 1992* (the *Fund*).
- (2) The amount required to be paid into the Fund in respect of taxation revenue collected during a particular financial year is, on or after 1 January 2018, to be adjusted on 1 January of each year by multiplying the amount that would be required to be paid in accordance with subsection (1) by a proportion obtained by dividing the CPI for the September quarter of the immediately preceding year by the CPI for the September quarter, 2016, on the basis that the quotient used for the purposes of the adjustment will be calculated to 2 decimal places and that the amount obtained from the adjustment will be rounded to the nearest dollar.
- (3) Regulations made under section 40H(1)(i) may require the Commissioner of State Taxation to pay amounts into the Fund in addition to the amounts required under this section.
- (4) If in any financial year the revenue collected under this Division is insufficient to make the payment required by this section, the Commissioner of State Taxation is relieved of the obligation to make the payment under this section to the extent of the insufficiency.

- (5) Amounts paid into the Fund under this section may be applied and dealt with as if they had been paid into the Fund under the *Gaming Machines Act 1992*.
- (6) In this section—
CPI means the Consumer Price Index (All groups index for Adelaide) published by the Australian Bureau of Statistics.

Division 3—Multi-jurisdictional agreements

40F—Treasurer may enter into agreements

- (1) The Treasurer may enter into an agreement (a *multi-jurisdictional agreement*) with 1 or more other Australian jurisdictions to establish and implement processes for achieving improvements in the assessment and collection of taxes, interest and penalties imposed by the participating jurisdictions on betting operations that are carried on in multiple jurisdictions.
- (2) A multi-jurisdictional agreement may, for example—
 - (a) provide for collection of relevant taxes, interest and penalties by a participating jurisdiction on behalf of other participating jurisdictions and for the distribution of monies so collected;
 - (b) provide for each participating jurisdiction to collect, on behalf of all jurisdictions, taxes, interest and penalties payable to those jurisdictions by operators whose businesses are based in the collecting jurisdiction;
 - (c) provide for a participating jurisdiction to undertake audits or investigations in respect of taxes, interest and penalties payable by a betting operator under the law of another participating jurisdiction;
 - (d) authorise the performance or exercise of any functions or powers under this Act or the *Taxation Administration Act 1996* by a specified authority of a participating jurisdiction (subject to subsection (4) and any other limitations specified in the agreement);
 - (e) authorise the performance or exercise of any functions or powers under a specified law of another participating jurisdiction by the Commissioner of State Taxation (subject to any law of that jurisdiction and any limitations specified in the agreement);
 - (f) provide for participating jurisdictions to assist each other in making timely and accurate determinations of relevant taxes, interest and penalties payable by sharing information available to them (including the results of audits and investigations and any other information of a kind specified by the agreement);

- (g) make provision for any other measures or matters that the parties consider necessary or expedient for achieving improvements in the assessment or collection of relevant taxes, interest and penalties or for implementing the processes established by the agreement for that purpose.
- (3) A multi-jurisdictional agreement will operate for such period, and be able to be varied or terminated in such a manner, as the participating jurisdictions agree.
- (4) A multi-jurisdictional agreement—
 - (a) must be consistent with the provisions of this Act and the *Taxation Administration Act 1996* (subject to any modifications prescribed by regulations made under section 40H(1)(f)); and
 - (b) cannot authorise a participating jurisdiction—
 - (i) to make a binding determination of the amount of tax, interest or penalties payable by a betting operator under the laws of another participating jurisdiction; or
 - (ii) to take enforcement action in respect of tax, interest or penalties payable by a betting operator under the laws of another participating jurisdiction.

40G—Commissioner of State Taxation must implement agreements

The Commissioner of State Taxation must take such action as is necessary or expedient for giving effect to a multi-jurisdictional agreement.

Division 4—Regulations

40H—Regulations

- (1) Regulations made for the purposes of this Part may—
 - (a) provide for the payment of betting operations tax (including for payment of the tax by instalments payable after or during the financial year to which the tax instalments relate); and
 - (b) impose requirements in relation to record keeping and the preparation and lodgement of returns; and
 - (c) prescribe the form of any record or return; and
 - (d) prescribe consequences for failure to lodge a return or other document required to be provided under the regulations (or for failure to lodge such a return or document at the required time) including requiring the payment of interest or a monetary penalty or prohibiting the conduct of betting operations, or specified betting operations, until the failure is rectified; and

- (e) make any provision that is necessary or expedient for giving effect to a multi-jurisdictional agreement; and
 - (f) modify the application of the *Taxation Administration Act 1996* in relation to this Part or any matter that is, or may be, provided for under a multi-jurisdictional agreement; and
 - (g) prescribe exceptions to and exemptions from liability to betting operations tax; and
 - (h) prescribe circumstances in which there is an entitlement to a refund of betting operations tax paid; and
 - (i) provide for revenue collected under this Part, or any portion of such revenue, to be paid into a specified fund or funds and applied for prescribed purposes or in a prescribed manner; and
 - (j) make any provision to regulate such a fund.
- (2) Regulations made for the purposes of this Part may provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Minister, the Authority, the Commissioner or the Commissioner of State Taxation.
 - (3) A regulation providing for any revenue collected under this Part to be paid into a specified fund or funds and applied for prescribed purposes or in a prescribed manner is sufficient authority for the making of such payments without further appropriation.
 - (4) This section has effect in addition to section 91.

36—Amendment of section 41—Approval of rules, systems, procedures and equipment

Section 41(1) and (3)—delete "the major" wherever occurring and substitute in each case:

a major

37—Amendment of section 42—Location of off-course totalisator offices, branches and agencies

Section 42(1)—delete "major betting operations" and substitute:

comprehensive

38—Amendment of section 43—Prevention of betting by children

Section 43(1)—delete "the major" and substitute:

a major

39—Amendment of section 44—Prohibition of lending or extension of credit

Section 44—delete "the major" and substitute:

a major

40—Amendment of section 45—Cash facilities not to be in certain areas staffed and managed by comprehensive licensee

Section 45—delete "major betting operations" and substitute:
comprehensive

41—Amendment of section 46—Player return information

(1) Section 46(1)—delete "major betting operations" and substitute:

comprehensive

(2) Section 46—after subsection (1) insert:

(1aa) It is a condition of a limited licence that the licensee must, in accordance with determinations made from time to time by the Commissioner, provide information relating to player returns on bets made with the licensee by persons who were located in South Australia at the time of making the bet and otherwise as required by the Commissioner.

(3) Section 46(1a)—after "The information" insert:

provided under subsection (1) or (1aa)

(4) Section 46(2)—delete "subsection (1)" and substitute:

this section

42—Amendment of section 47—Systems and procedures for dispute resolution

Section 47—delete "the major" and substitute:
a major

43—Amendment of section 48—Advertising code of practice

Section 48—delete "the major" and substitute:
a major

44—Amendment of section 49—Responsible gambling code of practice

Section 49—delete "the major" and substitute:
a major

45—Amendment of section 51—Alteration of approved rules, systems, procedures or equipment

Section 51(3)—delete "the major" and substitute:
a major

46—Amendment of section 67—Statutory default

(1) Section 67(1)(a)—after "the licence" insert:

(other than where the contravention or failure would constitute a taxation default within the meaning of section 73A)

- (2) Section 67(1)(d)—after "basis" insert:

(other than on the basis of a taxation default within the meaning of section 73A)

- (3) Section 67(1)(e)—after "contribution agreement" insert:

(other than where the contravention or failure would constitute a taxation default within the meaning of section 73A)

47—Amendment of section 69—Compliance notice

Section 69(2), penalty provision—delete "the major" and substitute:

a major

48—Amendment of section 70—Expiation notice

Section 70(1)(a)—delete "the major" and substitute:

a major

49—Amendment of section 72—Disciplinary action

Section 72—delete "the major" wherever occurring and substitute in each case:

a major

50—Insertion of section 73A

After section 73 insert:

73A—Disciplinary action for taxation defaults

- (1) A *taxation default* occurs if an authorised betting operator contravenes or fails to comply with—
 - (a) a provision of—
 - (i) Part 3B or regulations made for the purposes of Part 3B; or
 - (ii) the *Taxation Administration Act 1996* as it applies in connection with Part 3B or regulations made for the purposes of such provisions; or
 - (b) a condition of a licence, or an obligation under an agreement, relating to compliance with such provisions.
- (2) If the Commissioner of State Taxation believes on reasonable grounds that a taxation default has occurred, the Commissioner of State Taxation may give written notice to the operator—
 - (a) specifying the default; and
 - (b) requiring the operator to show cause, within a period specified in the notice (which must be at least 14 days), why disciplinary action should not be taken against the operator.
- (3) The Commissioner of State Taxation must allow the operator a reasonable opportunity to make submissions orally or in writing to the Commissioner of State Taxation.

- (4) After considering the submissions (if any) made by the operator, the Commissioner of State Taxation may, by notice in writing to the Authority, request that the Authority take disciplinary action against the operator.
- (5) If the Authority receives a request from the Commissioner of State Taxation under subsection (4), the Authority may, by order, take disciplinary action in 1 or more of the ways specified in section 72(3)(a) to (d).
- (6) Section 72(4), (5), (6) and (7) apply to an order made under subsection (5) as if the order were made under section 72(3).
- (7) In taking disciplinary action in accordance with this section, the Authority may act as the Authority thinks fit but is not required to consider the submissions (if any) made by the operator or otherwise exercise an independent discretion in relation to the matter.

51—Amendment of section 75—Powers of manager

Section 75(3)—delete "the approved licensing agreement may operate to exclude or modify the provisions of subsection (2) in relation to the" and substitute:

an approved licensing agreement may operate to exclude or modify the provisions of subsection (2) in relation to a

52—Amendment of section 76—Administrators, controllers and liquidators

Section 76(1)(b)—delete "the duty" and substitute:

tax payable under this Act

53—Amendment of section 80—Lawfulness of betting operations conducted in accordance with Act

Section 80—delete "the major" and substitute:

a major

54—Amendment of section 81—Further trade practices authorisations

- (1) Section 81(1)—delete "*Trade Practices Act 1974*" and substitute:

Competition and Consumer Act 2010

- (2) Section 81(2), definition of *prescribed agreement, arrangement or instrument*, (d)(iv)—delete "the major" and substitute:

a major

- (3) Section 81(2), definition of *prescribed agreement, arrangement or instrument*, (e)—delete "the major betting operations licence, the" and substitute:

a major betting operations licence, an

55—Amendment of section 84—Offences by bodies corporate

Section 84(4)—delete "32, 33, 40" and substitute:

33

56—Amendment of section 88—Service

Section 88—after subsection (2) insert:

- (3) This section does not apply to a notice or document required or authorised by a provision of Part 3B, or a provision of the *Taxation Administration Act 1996* as it applies in connection with Part 3B, to be given to, served on or lodged with the Commissioner of State Taxation or any other person.

Note—

Service of such notices or documents will be governed by the *Taxation Administration Act 1996*.

57—Amendment of section 89—Evidence

Section 89(1)—after "this Act" insert:

or the *Taxation Administration Act 1996* as it applies in connection with Part 3B

58—Amendment of section 91—Regulations

- (1) Section 91(2)—after paragraph (ab) insert:

- (ac) require licensed racing clubs or licensed bookmakers to pay unclaimed winnings or totalisator fractions (or both) to the Treasurer;

- (2) Section 91(2)(c)—delete "\$5 000" and substitute:

\$20 000

- (3) Section 91—after subsection (3) insert:

- (4) The Governor may, by regulation, make provisions of a saving or transitional nature consequent on the enactment of Part 2 of the *Statutes Amendment (Budget 2016) Act 2016*.
- (5) A provision of a regulation referred to in subsection (4) may, if the regulation so provides, take effect from the commencement of Part 2 of the *Statutes Amendment (Budget 2016) Act 2016* or from a later day.
- (6) To the extent to which a provision takes effect under subsection (5) from a day earlier than the day of the regulation's publication in the Gazette, the provision does not operate to the disadvantage of a person by—
 - (a) decreasing the person's rights; or
 - (b) imposing liabilities on the person.

59—Transitional provision

- (1) In this section—

principal Act means the *Authorised Betting Operations Act 2000*.

- (2) Despite the amendments to the principal Act enacted by this Part, until the prescribed day the duty agreement in force under the principal Act immediately before the commencement of sections 14 and 30 continues in force and continues to bind the parties to the agreement (the *parties*) as if those sections had not been enacted (subject to any supplementary agreement entered into under subsection (3) and any transitional regulations made in accordance with section 91(4) of the principal Act as amended by this Act).
- (3) The parties may enter into a supplementary agreement or vary the terms of the duty agreement for the purpose of transitioning from the arrangements applicable under the duty agreement to the taxation arrangements prescribed under the principal Act as amended by this Act.
- (4) For the avoidance of doubt, the requirements relating to the duty agreement under section 15 of the principal Act as in force immediately before the commencement of section 15 of this Act do not apply to any agreement or variation of an agreement under subsection (3).
- (5) In this clause—
prescribed day means a day fixed by agreement between the parties as the day on which the duty agreement will terminate.

Part 3—Amendment of *Education Act 1972*

60—Amendment of section 106B—Charges for certain overseas and non-resident students

- (1) Section 106B(1)(a)—delete "(within the meaning of Part 5—see section 72I)"
- (2) Section 106B(1)—after paragraph (b) insert:
or
 - (c) a student of a Government school who is a dependant of a person who is the subject of—
 - (i) a temporary work (skilled) visa (subclass 457) issued under the *Migration Act 1958* of the Commonwealth; or
 - (ii) any other visa of a kind declared by the regulations to be included in the ambit of this paragraph.
- (3) Section 106B(7)—before the definition of *student* insert:
full fee paying overseas student—a student will be taken to be a full fee paying overseas student if—
 - (a) the student holds a temporary visa in force under the *Migration Act 1958* of the Commonwealth; and
 - (b) the Commonwealth and the State disregard the student (or a class of students to which that student belongs) when calculating the amount of any assistance to the school at which the student is enrolled;

Part 4—Amendment of *Education and Early Childhood Services (Registration and Standards) Act 2011*

61—Amendment of section 3—Interpretation

Section 3(3)(a)(i)—delete "entry permit" and substitute:

visa

Part 5—Amendment of *Environment Protection Act 1993*

62—Amendment of section 47—Criteria for grant and conditions of environmental authorisations

Section 47(1)(ea)—delete "*Zero Waste SA Act 2004*" and substitute:

Green Industries SA Act 2004

63—Amendment of section 57—Criteria for grant and conditions of environmental authorisations

Section 57—delete "*Zero Waste SA Act 2004*" and substitute:

Green Industries SA Act 2004

64—Amendment of section 121—Confidentiality

Section 121(a)—after "this Act" insert "or the *Green Industries SA Act 2004*"

Part 6—Amendment of *Land Tax Act 1936*

65—Amendment of section 2—Interpretation

Section 2(1)—before the definition of *business of primary production* insert:

association includes—

- (a) a group consisting of 2 or more persons (whether or not incorporated); and
- (b) any person, or group of persons, holding land on trust (whether or not incorporated);

66—Amendment of section 4—Imposition of land tax

Section 4(1)(k)(i) and (ii)—delete subparagraphs (i) and (ii) and substitute:

- (i) an association that is established for the purpose of, or that holds the land wholly or mainly for the purpose of, playing cricket, football, tennis, golf or bowling or other athletic sports or exercises (other than vacant land or land used for residential purposes); or
- (ii) an association that is established for the purpose of, or that holds the land wholly or mainly for the purpose of, horse racing, trotting, dog racing, motor racing or other similar contests (other than vacant land or land used for residential purposes); or

67—Amendment of section 5—Exemption or partial exemption of certain land from land tax

(1) Section 5(10)—after paragraph (ab) insert:

- (ac) subject to this section, land may be wholly exempted from land tax if—
 - (i) the land is owned by a natural person (whether or not he or she is the sole owner of the land) who has ceased to occupy the land; and
 - (ii) the buildings on the land immediately before the person ceased to occupy the land had a predominantly residential character; and
 - (iii) no part of the land is used for a business or commercial purpose (other than the business of primary production) or the part of the land so used is less than 25% of the total floor area of all buildings on the land; and
 - (iv) the Commissioner is satisfied—
 - (A) that the person has ceased to occupy the land as his or her principal place of residence because a building on the land is being renovated or rebuilt; and
 - (B) that the buildings on the land will, after the completion of the renovation or rebuilding, have a predominantly residential character; and
 - (C) that the person intends to resume occupation of the land as his or her principal place of residence when the renovation or rebuilding work is complete (or is completed to a suitable stage); and
 - (v) the person is not receiving an exemption from land tax under another provision of this subsection in relation to other land that constitutes the person's principal place of residence;
- (ad) subject to this section, land may be wholly exempted from land tax if—
 - (i) the land is owned by a natural person (whether or not he or she is the sole owner of the land); and
 - (ii) no part of the land is used for a business or commercial purpose (other than the business of primary production) or the part of the land so used is less than 25% of the total floor area of all buildings on the land; and
 - (iii) the Commissioner is satisfied—
 - (A) that the person is, or will be, renovating or constructing a building or buildings on the land; and

- (B) that the buildings on the land will, after the completion of the renovation or construction work, have a predominantly residential character; and
 - (C) that the person intends to occupy the land as his or her principal place of residence when the renovation or construction work is completed (or is completed to a suitable stage); and
 - (iv) the person is not receiving an exemption from land tax under another provision of this subsection in relation to other land that constitutes the person's principal place of residence;
- (2) Section 5—after subsection (10) insert:
 - (10a) Land is not exempt from land tax during a financial year under subsection (10)(ac) or (ad) unless—
 - (a) the Commissioner is satisfied that—
 - (i) the owner who applied for the exemption occupies the property as his or her principal place of residence for a period of at least 12 months after completion (or completion to a suitable stage) of the renovation, rebuilding or construction work to which the application related; or
 - (ii) the owner who applied for the exemption intended to so occupy the property when applying for the exemption but there were good reasons why the owner was unable to do so; and
 - (b) the Commissioner is satisfied that no rent or other consideration is paid or payable for occupation by some other person, during the financial year or, in a case where paragraph (a)(i) applies, during the period referred to in paragraph (a)(i).
 - (10b) Land may not be exempted from land tax under subsection (10)(ac) or (ad) for a period that exceeds 2 years unless there are, in the Commissioner's opinion, good reasons to exempt the land for a longer period.
 - (10c) The Commissioner may, on application under this subsection, grant a waiver or refund of land tax paid or payable by or on behalf of an owner of land for a financial year if—
 - (a) proper grounds for exempting the land from land tax under subsection (10)(ac) or (ad) existed for that financial year; and
 - (b) the application is made not more than 5 years after the assessment of the liability to the tax to which the application relates.

Part 7—Amendment of *Mining Act 1971*

68—Amendment of section 12—Delegation

Section 12—after subsection (1) insert:

- (1a) The Treasurer may delegate any power or function vested in or conferred on the Treasurer under this Act.

69—Amendment of section 17—Royalty

- (1) Section 17(1)—delete "Minister" and substitute:

Crown

- (2) Section 17(6)—delete "Minister" wherever occurring and substitute in each case:

Treasurer after consultation with the Minister

- (3) Section 17(9)—delete "Minister may, under an agreement between the Minister" and substitute:

Treasurer may, after consultation with the Minister and under an agreement between the Treasurer

- (4) Section 17(10)—delete "Minister may," and substitute:

Treasurer may, after consultation with the Minister and

- (5) Section 17(13)—delete "Minister may," and substitute:

Treasurer may, after consultation with the Minister,

- (6) Section 17(14)—delete "Minister" and substitute:

Treasurer

70—Amendment of section 17A—Reduced royalty for new mines

- (1) Section 17A(1)—delete "Minister may," and substitute:

Treasurer may, after consultation with the Minister and

- (2) Section 17A(3)—delete "Minister may," and substitute:

Treasurer may, after consultation with the Minister and

- (3) Section 17A(4)—before "Minister" insert:

Treasurer after consultation with the

- (4) Section 17A(5)—delete "Minister" and substitute:

Treasurer

- (5) Section 17A(6)—delete "Minister" wherever occurring and substitute in each case:

Treasurer

71—Amendment of section 17B—Assessments by Treasurer

- (1) Section 17B(1)—delete "Minister may make an assessment of royalty under this Act if the Minister" and substitute:

Treasurer may, after consultation with the Minister, make an assessment of royalty under this Act if the Treasurer

- (2) Section 17B(2)—delete "Minister may, on application or on the Minister's own initiative," and substitute:

Treasurer may, after consultation with the Minister, on application or on the Treasurer's own initiative after consultation with the Minister,

- (3) Section 17B(3)—delete "Minister" and substitute:

Treasurer

- (4) Section 17B(5)—delete "Minister" and substitute:

Treasurer

72—Amendment of section 17D—When royalty falls due (general principles)

- (1) Section 17D(1)—delete "Minister" and substitute:

Treasurer may, after consultation with the Minister,

- (2) Section 17D(3)—delete "Minister may, on application by a person liable to pay royalty or of his or her own motion, exempt (on such conditions as the Minister thinks fit) a person from the operation of subsection (1) or (2) if the Minister" and substitute:

Treasurer may, after consultation with the Minister, on application by a person liable to pay royalty or of his or her own motion, exempt (on such conditions as the Treasurer thinks fit) a person from the operation of subsection (1) or (2) if the Treasurer

73—Amendment of section 17DA—Special principles relating to designated mining operators

- (1) Section 17DA(2)—delete "Minister" and substitute:

Treasurer after consultation with the Minister

- (2) Section 17DA(3)—delete "Minister" wherever occurring and substitute in each case:

Treasurer

- (3) Section 17DA(4)—delete "Minister" and substitute:

Treasurer

- (4) Section 17DA(6)(a)—delete "Minister" and substitute:

Treasurer

- (5) Section 17DA(7)—delete "Minister" wherever occurring and substitute in each case:

Treasurer

- (6) Section 17DA(9)—delete "Minister" and substitute:

Treasurer

- (7) Section 17DA(9)—delete "Minister's" and substitute:

Treasurer's

- (8) Section 17DA(10)—delete "Minister may" and substitute:

Treasurer may, after consultation with the Minister

- (9) Section 17DA(10)(a)—delete "Minister" and substitute:

Treasurer

74—Amendment of section 17E—Penalty for unpaid royalty

Section 17E(2)—delete "Minister may, at the Minister's discretion" and substitute:

Treasurer may, at the Treasurer's discretion and after consultation with the Minister

Part 8—Amendment of *Passenger Transport Act 1994*

75—Amendment of section 4—Interpretation

- (1) Section 4(1)—after the definition of *centralised booking service* insert:

chauffeured vehicle service means a passenger transport service defined as a chauffeured vehicle service by the regulations;

- (2) Section 4(1)—after the definition of *passenger transport service* insert:

point to point transport service means a chauffeured vehicle service or taxi service;

- (3) Section 4(1)—after the definition of *taxi-meter* insert:

taxi service means a passenger transport service defined as a taxi service by the regulations;

76—Amendment of section 36—Disciplinary powers

Section 36(2)—after paragraph (a) insert:

- (ab) the respondent has failed to pay amounts required by a notice under clause 2(6) of Schedule 2 within the period specified in the notice (or such other period as may have been allowed by the Minister in accordance with clause 5 of that Schedule); or

77—Insertion of Part 6A

After section 52 insert:

Part 6A—Non-cash payment surcharges

52A—Interpretation

In this Part—

non-cash payment surcharge means a fee or charge (however calculated)—

- (a) added to the amount otherwise payable by the hirer of a point to point transport service because the amount payable for the hire is paid wholly or partly by the use of a debit, credit, pre-paid or charge card; or
- (b) payable by a person in connection with the operation of a point to point transport service because an amount payable for the service is paid wholly or partly by the use of a debit, credit, pre-paid or charge card.

52B—Non-cash payment surcharges

- (1) The regulations may specify the maximum amount payable for a non-cash payment surcharge or surcharges for the same hiring of a point to point transport service.
- (2) Without limiting subsection (1), a fee or charge may be a non-cash payment surcharge whether or not it is payable for accepting or processing payment made by the use of a debit, credit, pre-paid or charge card and whether or not the fee or charge is based on the amount payable for a hire.
- (3) A non-cash payment surcharge does not include a fee or charge imposed in respect of the use of a debit, credit, pre-paid or charge card by—
 - (a) a participant in a designated payment system within the meaning of the *Payment Systems (Regulation) Act 1998* of the Commonwealth; or
 - (b) a person consistently with a voluntary undertaking given by the person to, and accepted by, the Reserve Bank of Australia.
- (4) This section does not limit the operation of any regulation specifying a maximum fare for the hire of a point to point transport service.

52C—Overcharging for non-cash payment surcharge

- (1) If a non-cash payment surcharge that contravenes regulations made for the purposes of this Part is imposed, the following persons are guilty of an offence:
 - (a) the person who imposed the surcharge;

- (b) the owner or driver of the vehicle used to provide the point to point transport service;
- (c) in the case of a point to point transport service that is operated pursuant to a licence under Part 6—the holder of the licence;
- (d) any person who provided or maintains any equipment installed in the vehicle used to provide the point to point transport service that enabled the surcharge to be imposed;
- (e) any person who manages or administers the whole or any part of the system under which the amounts due for the hiring concerned may be paid by the use of a debit, credit, pre-paid or charge card;
- (f) a person of a class prescribed by the regulations.

Maximum penalty: Division 4 fine.

- (2) A person must not, in a vehicle used to provide a point to point transport service, collect or initiate the collection of a non-cash payment surcharge that contravenes regulations made for the purposes of this Part.

Maximum penalty: Division 4 fine.

- (3) A person must not collect, for the purposes of or while providing a centralised booking service, a non-cash payment surcharge that contravenes regulations made for the purposes of this Part.

Maximum penalty: Division 4 fine.

- (4) It is a defence to an offence under this section if the defendant establishes that—
 - (a) the non-cash payment surcharge was imposed or collected, or its collection was initiated, by another person; and
 - (b) the defendant did not know, and could not reasonably be expected to know, that the other person had charged or collected, or would initiate the charge or collection of, a non-cash payment surcharge in respect of that hiring.
- (5) The maximum penalty that a court may impose for an offence against this section that is committed by a corporation is 5 times the maximum penalty that the court could, but for this subsection, impose as a penalty for the offence.

78—Amendment of section 59—General provisions relating to offences

- (1) Section 59(2)—delete "A prosecution" and substitute:

Subject to subsection (2a), a prosecution

(2) Section 59—after subsection (2) insert:

- (2a) A prosecution for an offence against Schedule 2 may be commenced at any time within 5 years after the date of the alleged commission of the offence or, with the authorisation of the Attorney-General, at any later time.

79—Insertion of section 62A

After section 62 insert:

62A—Point to point transport service transaction levy

A point to point transport service transaction levy is payable as provided in Schedule 2.

80—Amendment of Schedule 1—Regulations

Schedule 1, item 50—delete item 50 and substitute:

- 50 The imposition of fines, not exceeding a division 4 fine, for offences against the regulations.

81—Insertion of Schedule 2

After Schedule 1 insert:

Schedule 2—Point to point transport service transaction levy

1—Interpretation

In this Schedule—

assessment period means a period of 3 calendar months determined by the Minister or such other period as the Minister may determine for the purposes of this Schedule;

booking service means—

- (a) a centralised booking service; or
(b) a booking office approved by the Minister under this Act to take bookings for point to point transport services;

point to point transport service transaction means—

- (a) the taking of a booking for a point to point transport service; or
(b) the provision of a taxi service by a hiring made other than by use of a booking service;

point to point transport service transaction levy or *levy*—see clause 2;

relevant provider of a point to point transport service means—

- (a) in the case of a point to point transport service booked by use of a booking service—the operator of the booking service; or

- (b) in any other case—the operator of the point to point transport service.

2—Liability to levy

- (1) A person who is a relevant provider of a point to point transport service during an assessment period must collect from persons using the service, and pay to the Minister, the point to point transport service transaction levy for that assessment period calculated in accordance with this clause.
- (2) A levy amount required to be collected from a person using a point to point transport service is separate from, and does not form part of, the fare or consideration payable by the person for the use of that service.
- (3) The amount of the levy is \$1 for each point to point transport service transaction that occurred in the assessment period for which the levy is payable.
- (4) The levy for an assessment period must be paid at such times and in such manner as the Minister, by notice in the Gazette, directs.
- (5) The Minister may, by further notice in the Gazette, vary or revoke a notice under subclause (4).
- (6) If, in the opinion of the Minister, it is not reasonably practicable to determine the whole or part of the amount of the levy payable based on actual point to point transport service transactions during an assessment period, the amount payable may be calculated on an estimated basis in accordance with the regulations.
- (7) If a person fails to pay a levy as required under this clause, the Minister may, by notice in writing, require the person to make good the default and, in addition, to pay to the Crown any interest or penalty amounts payable in accordance with the regulations.
- (8) A notice under subclause (7) must specify the period within which the amounts to which the notice relates must be paid.
- (9) A levy (including any interest or penalty amounts referred to in subclause (7)) payable by a person under this clause is recoverable by the Minister as a debt due to the Crown.

3—Transactions for which levy is not payable

- (1) A person is not liable to pay the levy for taking a booking for a point to point transport service if—
 - (a) the booking is for a service that is to be provided by a taxi for which a licence under Part 6 is not required; or
 - (b) the booking is for a journey that commences outside Metropolitan Adelaide; or
 - (c) the service is not provided for any reason; or

- (d) another person is already liable to pay the levy for taking a booking to provide the service.
- (2) The taking of a booking for a point to point transport service to transport more than 1 passenger in a vehicle, or that results in the passengers being transported to different destinations, is to be taken to be 1 point to point transport service transaction.
- (3) A person is not liable to pay the levy for providing a taxi service if—
 - (a) the service is provided by a taxi for which a licence under Part 6 is not required; or
 - (b) the service is for a journey that commences outside Metropolitan Adelaide.

4—Offences

- (1) A person must not, by a deliberate act or omission, evade or attempt to evade a payment required under this Schedule.
Maximum penalty: Division 4 fine or imprisonment for 2 years.
- (2) A person who is a relevant provider during an assessment period must keep—
 - (a) any records required by the regulations; and
 - (b) any records necessary for an accurate assessment of the person's liability under this Schedule.Maximum penalty: Division 4 fine.
- (3) A person must not deliberately damage or destroy a record required to be kept under subclause (2).
Maximum penalty: Division 4 fine.

5—Arrangements for payment of levy

- (1) The Minister may extend the time for payment of an amount required under this Schedule and may accept payment by instalments (whether or not such payment is permitted in accordance with the regulations).
- (2) A decision of the Minister under this clause may be made subject to conditions (for example, as to the payment of interest) determined by the Minister.

6—No statute of limitation to apply

No statute of limitation bars or affects any action or remedy for recovery by the Minister of an amount liable to be paid under this Schedule.

7—Offences by persons involved in management of corporations

- (1) If a corporation is guilty of an offence against this Schedule, a person who is concerned in, or takes part in, the management of the corporation is guilty of an offence and liable to the same penalty as may be imposed for the principal offence when committed by a natural person unless the person proves that he or she could not by the exercise of due diligence have prevented the commission of the offence.
- (2) A person may be convicted of a contravention of a provision of this Schedule whether or not the corporation has been convicted of its contravention.
- (3) This clause does not affect a liability imposed on a corporation for an offence committed by it against this Schedule.
- (4) For the purposes of this clause, the following are persons who are concerned in, or take part in, the management of a corporation:
 - (a) a director of the corporation;
 - (b) a secretary of the corporation;
 - (c) a receiver and manager of property of the corporation;
 - (d) an official manager or deputy official manager of the corporation;
 - (e) a liquidator of the corporation appointed in a voluntary winding up of the corporation;
 - (f) a trustee or other person administering a compromise or arrangement made between the corporation and another person or other persons.
- (5) The regulations may make provision in relation to the criminal liability of a person who is concerned in, or takes part in, the management of a corporation that is guilty of an offence against the regulations.

8—Penalties for corporations

The maximum penalty that a court may impose for an offence against this Schedule, or regulations made for the purposes of this Schedule, that is committed by a corporation is 5 times the maximum penalty that the court could, but for this clause, impose as a penalty for the offence.

9—Continuing offences

- (1) A person may be convicted of a second or subsequent offence for a failure to do an act (where the failure constitutes an offence against this Schedule or regulations made for the purposes of this Schedule) if the failure continues beyond the period or date in respect of which the person is convicted for the failure.

- (2) The maximum penalty for the offence is the same whether it is a second or subsequent offence.

10—Regulations

- (1) Regulations made for the purposes of this Schedule may—
- (a) provide for the payment of the levy to the Minister (including for payment of the levy by instalments in respect of any assessment period); and
 - (b) make provision in relation to the collection of the levy by a relevant provider of a point to point transport service from persons using the service; and
 - (c) impose requirements in relation to record keeping and the preparation and lodgment of returns; and
 - (d) prescribe the form of any record or return; and
 - (e) prescribe consequences for failure to lodge a return or other document required to be provided under the regulations (or for failure to lodge such a return or document at the required time) including requiring the payment of interest or a monetary penalty until the failure is rectified; and
 - (f) prescribe exceptions to and exemptions from liability to the levy; and
 - (g) provide for the making of assessments of liability; and
 - (h) prescribe circumstances in which there is an entitlement to a refund of the levy paid; and
 - (i) provide for revenue collected under this Schedule, or any portion of such revenue, to be paid into a specified fund or funds and applied for prescribed purposes or in a prescribed manner; and
 - (j) make any provision to regulate such a fund; and
 - (k) provide for evidentiary certificates relating to anything done under this Schedule or the regulations; and
 - (l) make any other provision that is necessary or expedient for the purposes of this Schedule.
- (2) A regulation providing for any revenue collected under this Part to be paid into a specified fund or funds and applied for prescribed purposes or in a prescribed manner is sufficient authority for the making of such payments without further appropriation.
- (3) This clause has effect in addition to section 64.

Part 9—Amendment of *Petroleum and Geothermal Energy Act 2000*

82—Amendment of section 7—Delegation

Section 7—after subsection (1) insert:

- (1a) The Treasurer may—
- (a) delegate any of the Treasurer's powers or functions under this Act to a specified person, or a person holding or acting in a specified office or position; or
 - (b) vary or revoke a delegation under this section.

83—Amendment of section 43—Royalty on regulated resources

- (1) Section 43(4)(c)—delete "Minister" and substitute:
Treasurer after consultation with the Minister
- (2) Section 43(5a)—delete "Minister may—" and substitute:
Treasurer may, after consultation with the Minister—
- (3) Section 43(5b)—delete "Minister may" and substitute:
Treasurer may, after consultation with the Minister
- (4) Section 43(8)—delete "Minister" and substitute:
Treasurer after consultation with the Minister
- (5) Section 43(9)—delete "Minister may, on application by the producer, or on the Minister's own initiative," and substitute:
Treasurer may, after consultation with the Minister, on application by the producer or on the Treasurer's own initiative after consultation with the Minister,
- (6) Section 43(10)—delete "Minister's" and substitute:
Treasurer's
- (7) Section 43(11)—delete "Minister's" and substitute:
Treasurer's

84—Amendment of section 44—Penalty for late payment

- (1) Section 44(1)—delete "Minister" wherever occurring and substitute in each case:
Treasurer
- (2) Section 44(2)—delete "Minister may" and substitute:
Treasurer may, after consultation with the Minister,

85—Amendment of section 45—Recovery of royalty

Section 45—delete "Minister" and substitute:

Treasurer

Part 10—Amendment of *Real Property Act 1886*

86—Amendment of section 13—Administration of Act

- (1) Section 13(1)—delete "shall be" and substitute:
is to be
- (2) Section 13(2)—delete "shall be" and substitute:
is
- (3) Section 13(3)—delete "shall be" and substitute:
are to be
- (4) Section 13(4) and (5)—delete subsections (4) and (5) and substitute:
 - (4) There are to be such other persons engaged in the administration of this Act as the Registrar-General thinks fit.
 - (5) The Registrar-General and the deputies of the Registrar-General are to be Public Service employees.

87—Substitution of section 18A

Section 18A—delete the section and substitute:

17—Delegation

- (1) The Registrar-General may delegate to a person (including a person for the time being performing particular duties or holding or acting in a particular position) a function or power under this or any other Act (except a prescribed function or power).
- (2) A delegation—
 - (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 delegated function or power may, if the instrument of delegation so provides, be further delegated in accordance with that instrument.
- (4) For the avoidance of doubt, nothing in this section affects—
 - (a) indefeasibility of title of registered proprietors as set out in section 69; or
 - (b) the exclusive power of the Governor to prescribe fees or charges payable for or in respect of matters under this Act as set out in section 277; or
 - (c) the operation of the scheme for compensation set out in Part 18.

88—Amendment of section 21—Seal of office

Section 21—delete "section 18A" and substitute:

section 17

89—Amendment of section 208—Proceedings against the Registrar-General as nominal defendant

Section 208—delete "any of his officers or clerks in the execution of their respective duties under the provisions of" and substitute:

a person engaged in the administration of

90—Amendment of section 229—Offences

Section 229(b)(ii)—delete "an officer in any case where the officer" and substitute:

a person engaged in the administration of this Act in any case where the person

Part 11—Amendment of *Stamp Duties Act 1923*

91—Amendment of section 67—Computation of duty where instruments are interrelated

Section 67(2)—after paragraph (a) insert:

- (ab) a conveyance that relates to land that is being conveyed as part of a series of separate conveyances of land by different persons to the same person (whether that person takes alone or with the same or different persons) where the Commissioner is satisfied that the land is being conveyed by persons acting separately and independently from each other;

92—Amendment of section 71—Instruments chargeable as conveyances

Section 71(5)(j)—delete paragraph (j)

93—Amendment of section 71CC—Interfamilial transfer of farming property

- (1) Section 71CC(1)—delete ", or land and goods, referred to in subsection (1a)" and substitute:

used for the business of primary production

- (2) Section 71CC(1a)—delete subsection (1a)

94—Amendment of section 71DB—Concessional duty on purchases of off-the-plan apartments

- (1) Section 71DB(3)—delete "30 June 2016" and substitute:

30 June 2017

- (2) Section 71DB(6)—delete subsection (6) and substitute:
- (6) This section does not apply in relation to—
- (a) a contract entered into before 20 June 2016 if the Commissioner is satisfied that the contract replaces a contract made before the prescribed date for the purchase of the same apartment; or
- (b) a contract entered into on or after 20 June 2016 if the Commissioner is satisfied that the contract replaces a contract made before that date for the purchase of the same apartment, unless the replaced contract—
- (i) was for the purchase of an apartment that is (or is to be) situated in Area A or Area B and was entered into after the prescribed date; and
- (ii) is not a contract referred to in paragraph (a).
- (3) Section 71DB(7), definition of *prescribed date*—after "particular contract" insert:
entered into before 20 June 2016
- (4) Section 71DB(7), definition of *qualifying apartment*—delete the definition and substitute:
- qualifying apartment* means—
- (a) in the case of an apartment purchased under a contract entered into before 20 June 2016—an apartment that is (or is to be) situated in Area A or Area B; and
- (b) in the case of an apartment purchased under a contract entered into on or after 20 June 2016—an apartment that is (or is to be) situated anywhere in the State;
- (5) Section 71DB(7), definition of *qualifying off-the-plan contract*—delete "30 June 2016 (both dates inclusive)" and substitute:
19 June 2016 (both dates inclusive) or between 20 June 2016 and 30 June 2017 (both dates inclusive)

95—Amendment of section 71DC—Concessional duty on designated real property transfers

- (1) Section 71DC(4)—delete "1 July 2016" and substitute:
7 December 2015
- (2) Section 71DC(5)—delete "1 July 2016" and substitute:
7 December 2015

96—Amendment of section 91—Interpretation

- (1) Section 91(1), definition of *goods*—delete the definition
- (2) Section 91(1), definition of *South Australian goods*—delete the definition
- (3) Section 91(11) and (12)—delete subsections (11) and (12)

97—Amendment of section 99—Determination of value

- (1) Section 99(1)—delete subsection (1)
- (2) Section 99(2)—delete "any relevant asset" and substitute:
underlying land assets
- (3) Section 99(2)—delete "the relevant asset" and substitute:
the asset
- (4) Section 99(3)—delete "a relevant asset" and substitute:
an underlying land asset
- (5) Section 99(4)—delete "relevant asset" and substitute:
underlying land asset

98—Amendment of section 102A—Calculation of duty

- (1) Section 102A(1)(a) and (b)—delete paragraphs (a) and (b) and substitute:
 - (a) in the case of an entity that is a private company or a private unit trust—the duty payable on a conveyance of land with an unencumbered value equivalent to the value of the acquirer's notional interest in the entity's underlying local land assets; and
 - (b) in the case of an entity that is a listed company or a public unit trust scheme—10% of the duty payable on a conveyance of land with an unencumbered value equivalent to the value of the acquirer's notional interest in the entity's underlying local land assets.
- (2) Section 102A(3)—delete subsection (3)
- (3) Section 102A(7), (8) and (9)—delete subsections (7), (8) and (9) and substitute:
 - (7) If a person or group acquires or increases a prescribed interest in a land holding entity and duty has been paid under this Act in respect of the transaction for the acquisition of, or increase in, the interest, the duty calculated under this section is to be reduced by the amount of duty paid under this Act.

99—Amendment of section 102B—Acquisition statement

Section 102B(2)(c)(v)—delete subparagraph (v)

100—Amendment of section 102F—Exempt transactions and related matters

Section 102F(3)—delete subsection (3)

101—Insertion of section 102GA

After section 102G insert:

102GA—Operation of Part as in force after 1 July 2016

This Part as in force after 1 July 2016 does not apply in relation to an acquisition of a prescribed interest, or an increase of a prescribed interest, in a land holding entity that occurred before that date.

102—Amendment of heading to Part 4A Division 3

Heading to Part 4A Division 3—delete "**certain property**" and substitute:

property other than land

103—Repeal of section 104A

Section 104A—delete the section

104—Amendment of section 104B—Application of Division

(1) Section 104B(1)—delete subsection (1) and substitute:

(1) Subject to this section, this Division applies to all property other than land.

(2) Section 104B(2)—delete "or prescribed goods"

(3) Section 104B(2)—delete "or any prescribed goods"

(4) Section 104B(4) and (5)—delete subsections (4) and (5)

105—Amendment of section 104C—Abolition of duty on conveyance or transfer of property other than land

(1) Section 104C(1)—delete "18 June 2015" and substitute:

1 July 2016

(2) Section 104C(2)—delete "18 June 2015" and substitute:

1 July 2016

(3) Section 104C(2)—after "calculated" insert:

, subject to section 104EA,

106—Amendment of section 104D—Relevant rates

(1) Section 104D—delete "18 June 2015" and substitute:

1 July 2016

(2) Section 104D—after "that date will" insert:

, subject to section 104EA,

107—Insertion of section 104EA

After section 104E insert:

104EA—Application of Division as in force before 1 July 2016

This Division as in force immediately before 1 July 2016 continues to apply in relation to a conveyance or transfer of property executed on or after 18 June 2015 and before 1 July 2016.

108—Amendment of Schedule 2—Stamp duties and exemptions

Schedule 2, Part 2, clause 16—after item 32 insert:

- 33 A conveyance or transfer of property to a body established wholly for charitable or religious purposes, or to a person who acquires the property in the person's capacity as trustee for a body established wholly for charitable or religious purposes, where the Commissioner is satisfied that the property will not be used (wholly or predominantly) for commercial or business purposes (including on the basis that this exemption will not apply even if any revenue, income or other benefit arising from the use of the property for commercial or business purposes will be applied towards the charitable or religious purposes of the body).

Part 12—Amendment of *Taxation Administration Act 1996*

109—Amendment of section 4—Meaning of taxation laws

Section 4—after paragraph (f) insert:

- (g) Part 3B of the *Authorised Betting Operations Act 2000* and the regulations under that Part.

110—Amendment of section 93—Appeal prohibited unless tax paid

Section 93(1)—after "whole of the tax" insert:

(not including interest and penalty tax under Part 5)

Part 13—Amendment of *Zero Waste SA Act 2004*

111—Substitution of long title

Long title—delete the long title and substitute:

An Act to continue the statutory corporation Zero Waste SA as Green Industries SA, to build on the waste management reforms effected by Zero Waste SA, to promote innovation and business activity in the waste management, resource recovery and green industry sectors in the State; and for other purposes.

112—Amendment of section 1—Short title

Section 1—delete "*Zero Waste SA*" and substitute:

Green Industries SA

113—Amendment of section 3—Interpretation

- (1) Section 3(1), definition of *Board*—delete the definition and substitute:

Board means the Board of Green Industries SA—see section 9;

business includes a business not carried on for profit or gain;

Green Industries SA—see Part 2;

green industry—see section 3B;

Green Industry Fund—see Part 3;

resource recovery, in relation to waste, means—

- (a) reusing the waste; or
 - (b) recycling the waste; or
 - (c) recovering energy or other resources from the waste;
- (2) Section 3(1), definition of *waste management hierarchy*—delete the definition
- (3) Section 3(1), definitions of *Waste to Resources Fund* and *Zero Waste SA*—delete the definitions
- (4) Section 3(2)—delete subsection (2)

114—Insertion of sections 3A and 3B

After section 3 insert:

3A—Guiding principles

- (1) The following are the *guiding principles* for the purposes of this Act:
- (a) the principles of the circular economy;
 - (b) the waste management hierarchy;
 - (c) the principles of ecologically sustainable development;
 - (d) that best practice methods and standards should be pursued in—
 - (i) waste management; and
 - (ii) the efficient use of resources.
- (2) In this section—
- (a) a reference to the *principles of the circular economy* is a reference to an economic model that contemplates the production of goods and services—
 - (i) by a reduced reliance on virgin materials; and
 - (ii) on the basis of continuously functioning utility and an extended lifecycle; and
 - (iii) in a manner that eliminates, as far as is reasonably practicable, waste or pollution, or harm to the environment;
 - (b) a reference to the *waste management hierarchy* is a reference to an order of priority for the management of waste in which—
 - (i) avoidance of the production of waste; and
 - (ii) minimisation of the production of waste; and
 - (iii) reuse of waste; and
 - (iv) recycling of waste; and

- (v) recovery of energy and other resources from waste; and
- (vi) treatment of waste to reduce potentially degrading impacts; and
- (vii) disposal of waste in an environmentally sound manner,

are pursued in order with, first, avoidance of the production of waste, and second, to the extent that avoidance is not reasonably practicable, minimisation of the production of waste, and third, to the extent that minimisation is not reasonably practicable, reuse of waste, and so on;

- (c) a reference to the *principles of ecologically sustainable development* is a reference to principles that maintain—
 - (i) that the use, development and protection of the environment should be managed in a way, and at a rate, that will enable people and communities to provide for their economic, social and physical wellbeing and for their health and safety while—
 - (A) sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations; and
 - (B) safeguarding the life-supporting capacity of air, water, land and ecosystems; and
 - (C) avoiding, remedying or mitigating any adverse effects of activities on the environment; and
 - (ii) that proper weight should be given to both long and short term economic, environmental, social and equity considerations in deciding all matters relating to environmental protection, restoration and enhancement.

3B—Green industry

In this Act, a reference to *green industry* is a reference to—

- (a) any business activity for the production of goods or services that demonstrates, as far as is reasonably practicable, the application of the guiding principles set out in section 3A in the manner of production and the goods or services themselves; or
- (b) any business activity carried on in support of, or in connection with, an activity referred to in paragraph (a), including research and development, education and marketing.

115—Substitution of heading to Part 2

Heading to Part 2—delete the heading and substitute:

Part 2—Green Industries SA

116—Amendment of section 4—Green Industries SA

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

(1) *Zero Waste SA* continues as *Green Industries SA*.

(2) Section 4(2) to (5) inclusive—delete "Zero Waste SA" wherever occurring and substitute in each case:

Green Industries SA

(3) Section 4(2)(c)—delete "or dealing with" and substitute:

, dealing with or disposing of

(4) Section 4—after subsection (5) insert:

(6) In this section—

personal property includes intellectual property.

117—Substitution of sections 5 and 6

Sections 5 and 6—delete the sections and substitute:

5—Primary objectives and principles of Green Industries SA

(1) The primary objectives of Green Industries SA are—

- (a) to promote waste management practices that, as far as possible, eliminate waste or its consignment to landfill; and
- (b) to promote innovation and business activity in the waste management, resource recovery and green industry sectors, recognising that these areas present a valuable opportunity to contribute to the State's economic growth.

(2) Green Industries SA should, in furthering its objectives and in the exercise of its functions, have regard to—

- (a) the guiding principles set out in section 3A; and
- (b) the principle that government policies relating to waste management, resource recovery and green industry should be developed through a process of open dialogue with local government, industry and the community in which local government, industry and the community are encouraged to contribute to decision making.

6—Functions of Green Industries SA

(1) The functions of Green Industries SA are—

- (a) to develop, co-ordinate and contribute to the implementation of government policy objectives in respect of—

- (i) waste management for regions, industry sectors and material types; and
 - (ii) programs for the prevention of litter and illegal dumping; and
 - (iii) market development (both local and overseas) for waste management, resource recovery and green industry; and
 - (iv) public and industry awareness and education in relation to waste management, resource recovery and green industry practices and systems; and
 - (v) innovation in waste management, resource recovery and green industry; and
- (b) to develop, adopt and administer the waste strategy for the State; and
 - (c) to monitor and assess the adequacy and implementation of the waste strategy; and
 - (d) to commission, collaborate with, and provide assistance to, business in—
 - (i) improving efficiencies in the use of resources (eg. waste, energy and water) and reducing the adverse effects of waste on the environment; and
 - (ii) identifying business opportunities (including export opportunities) in waste management, resource recovery and green industry; and
 - (iii) research and development in relation to infrastructure, technologies, systems and practices for waste management, resource recovery and green industry; and
 - (iv) raising public and industry awareness of innovations or best practice in waste management, resource recovery and green industry; and
 - (e) to develop and promote collaborative partnerships between industry, non-government organisations, the research sector, government agencies and all levels of government in connection with its other functions; and
 - (f) to advise the Minister about any matter referred to it by the Minister or any matter it sees fit to advise the Minister on in connection with its responsibilities under this Act; and
 - (g) such other functions as may be conferred on it by this Act or any other Act, or as may be assigned to it by the Minister.

- (2) Green Industries SA may carry out the functions referred to in subsection (1)(d) either—
 - (a) directly with particular businesses that carry out the activities referred to in that provision; or
 - (b) indirectly via an agent that funds, administers, represents or otherwise supports other businesses in carrying out those activities.

118—Amendment of section 7—Powers of Green Industries SA

- (1) Section 7—delete "Zero Waste SA may" and substitute:

Green Industries SA may, in addition to any other powers conferred on it by or under this Act,
- (2) Section 7—after paragraph (b) insert:

and

 - (c) may make use of information obtained by the Environment Protection Authority in the administration or enforcement of the *Environment Protection Act 1993* (or the regulations or environment protection policies made under that Act), provided that the information is not, without the consent of a particular person or body, used in such a way as to divulge trade processes or financial information in a way that identifies, or would or might tend to identify or in any way be relatable to, that person or body.

119—Amendment of section 7A—Application of *Public Finance and Audit Act 1987*

- (1) Section 7A—delete "Zero Waste SA" and substitute:

Green Industries SA
- (2) Section 7A—delete "Waste to Resources Fund" and substitute:

Green Industry Fund

120—Amendment of section 8—Chief Executive

- (1) Section 8(1)—delete subsection (1) and substitute:
 - (1) The office of Chief Executive of Zero Waste SA continues as the office of the Chief Executive of Green Industries SA.
- (2) Section 8(4)—delete "Zero Waste SA" and substitute:

Green Industries SA

121—Amendment of section 9—Board of Green Industries SA

- (1) Section 9(1)—delete subsection (1) and substitute:
 - (1) The Board of Zero Waste SA continues as the Board of Green Industries SA.
 - (1a) The Board is the governing body of Green Industries SA.

- (2) Section 9(3)—delete "Zero Waste SA" wherever occurring and substitute in each case:
Green Industries SA
- (3) Section 9(4) and (5)—delete subsections (4) and (5)
- (4) Section 9(6)—delete subsection (6) and substitute:
- (6) The Board's membership must include persons who together have, in the Governor's opinion, practical knowledge of, and experience in, the following areas (gained through involvement in business or government):
- (a) waste management, resource recovery or green industry;
 - (b) ecological sustainability;
 - (c) commercialisation of goods or services, entrepreneurship or other business development;
 - (d) corporate governance;
 - (e) community engagement;
 - (f) marketing.

122—Amendment of section 10—Terms and conditions of office

Section 10(1)—delete "2 years, specified in the instrument of appointment and is, on the expiration of a term of office, eligible for re-appointment" and substitute:

3 years, specified in the instrument of appointment and is, on the expiration of a term of office, eligible for re-appointment (subject to the qualification that a person cannot serve as a member for more than 9 consecutive years)

123—Amendment of section 12—Committees and subcommittees of Board

Section 12(1)—delete "Zero Waste SA" wherever occurring and substitute in each case:

Green Industries SA

124—Amendment of section 13A—Delegations by Green Industries SA

Section 13A(1)—delete "Zero Waste SA" and substitute:

Green Industries SA

125—Amendment of section 14—Business plan

- (1) Section 14—delete "Zero Waste SA" wherever occurring and substitute in each case:
Green Industries SA
- (2) Section 14(7)—delete subsection (7)

126—Amendment of section 15—Annual report

- (1) Section 15(1)—delete subsection (1) and substitute:
- (1) Green Industries SA must, on or before 30 September in each year, present a report to the Minister on the operations carried out under the Act during the previous financial year.

- (2) Section 15(2)(a)—delete "Waste to Resources Fund, together with details of the items of income and expenditure of the Fund," and substitute:

Green Industry Fund, together with details of the items of income and expenditure of the Fund (including the amounts applied by Green Industries SA and by the Minister respectively),

- (3) Section 15(2)(b) and (c)—delete "Zero Waste SA" wherever occurring and substitute in each case:

Green Industries SA

127—Amendment of section 16—Use and protection of name

- (1) Section 16(1)—delete subsection (1) and substitute:

- (1) Green Industries SA has a proprietary interest in the following names:

- (a) Green Industries SA;
- (b) Zero Waste SA;
- (c) Zero Waste;
- (d) any other name prescribed by regulation for the purposes of this subsection.

- (2) Section 16(2) to (6) inclusive—delete "Zero Waste SA" wherever occurring and substitute in each case:

Green Industries SA

128—Substitution of heading to Part 3

Heading to Part 3—delete the heading and substitute:

Part 3—Green Industry Fund

129—Amendment of section 17—Green Industry Fund

- (1) Section 17(1)—delete subsection (1) and substitute:

- (1) The *Waste to Resources Fund* continues as the *Green Industry Fund*.

- (2) Section 17(5)—delete subsection (5) and substitute:

- (5) Subject to this section, the Fund may be applied (without further appropriation than this subsection)—
- (a) by Green Industries SA—
 - (i) in accordance with the business plan; or
 - (ii) in any other manner authorised by the Minister for the purposes of this Act; or
 - (b) by the Minister—

- (i) towards the payment of costs of climate change initiatives, including research and development, education, innovation or business activity, in relation to initiatives for mitigating the effects of climate change, minimising carbon emissions and adapting to climate change; or
 - (ii) towards the payment of costs of managing waste or debris, or harm to the environment, following an identified major incident, a major emergency or a disaster, declared under Part 4 Division 3 of the *Emergency Management Act 2004*.
- (5a) Without limiting the form that payment of amounts from the Fund may take for the purposes of subsection (5), such payments may take the form of—
 - (a) a grant of an amount to a person or body; or
 - (b) with the approval of the Treasurer—
 - (i) forming, or acquiring, holding, dealing with or disposing of, shares, units in a unit trust, interests in such shares or units or other interests in or securities issued by, bodies corporate; or
 - (ii) entering into a partnership, joint venture or other profit sharing agreement.
- (3) Section 17—after subsection (6) insert:
 - (7) An approval given by the Treasurer under this section may be—
 - (a) specific or general; and
 - (b) conditional or unconditional.
 - (8) An approval given by the Treasurer may be varied or revoked by the Treasurer at any time.

130—Insertion of section 17A

After section 17 insert:

17A—Delegation by Minister of power under section 17

- (1) The Minister may delegate his or her power under section 17(5)(b) to any other Minister or to any person for the time being performing particular duties or holding or acting in a particular position in an administrative unit of the Public Service.
- (2) A delegation—
 - (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 delegated function or power may, if the instrument of delegation so provides, be further delegated in accordance with that instrument.

131—Amendment of section 18—Development of waste strategy

- (1) Section 18(1)—delete "Zero Waste SA" and substitute:

Green Industries SA

- (2) Section 18(2)—delete subsection (2) and substitute:

- (2) A waste strategy—

- (a) is to include objectives, principles and priorities of Green Industries SA for—
- (i) the management of waste generated or disposed of in the State; and
 - (ii) public and industry awareness of, and participation in, resource recovery and green industry; and
- (b) is to include an analysis of levels of waste generation and waste management practices; and
- (c) is, as a result of the analysis, to identify targets or goals for—
- (i) waste reduction; and
 - (ii) the diversion of waste from landfill; and
 - (iii) waste collection, transport and disposal; and
 - (iv) resource recovery development; and
 - (v) green industry development,
- (including targets or goals relating to research and development and public and industry awareness and education); and
- (d) is to identify—
- (i) the means of implementation of the targets or goals; and
 - (ii) any obstacles or potential obstacles to the implementation of the targets or goals; and
 - (iii) any significant risks associated with the implementation of the targets or goals; and
- (e) is to establish criteria and methods for assessing the adequacy of the strategy and its implementation.

- (3) Section 18(3) and (4)—delete "Zero Waste SA" wherever occurring and substitute in each case:

Green Industries SA

- (4) Section 18(5) and (6)—delete subsections (5) and (6) and substitute:
- (6) Each waste strategy must be replaced by a new waste strategy at least once every 5 years, or at a time directed by the Minister.

132—Amendment of section 19—Green Industries SA and EPA to co-ordinate activities

Section 19—delete "Zero Waste SA" and substitute:

Green Industries SA

133—Transitional provision

- (1) In this section—
- principal Act* means the *Zero Waste SA Act 2004* as in force immediately before the commencement of this Part.
- (2) A member of the Board of Zero Waste SA holding office immediately before the commencement of this section ceases to hold office on that commencement.
- (3) The person holding office as Chief Executive of Zero Waste SA immediately before the commencement of this section continues to hold office as Chief Executive of Green Industries SA on and from that commencement.
- (4) The business plan approved and in effect immediately before the commencement of this section continues, on that commencement, as the current business plan under section 14 of the principal Act as amended by this Act.
- (5) The waste strategy adopted and in effect immediately before the commencement of this section continues, on that commencement, as the current waste strategy under section 18 of the principal Act as amended by this Act, despite the fact that, until the next waste strategy is adopted after that commencement, it may not comply with the requirements under that section.
- (6) A reference in any instrument or contract, agreement or other document to *Zero Waste SA* will, on the commencement of this section, have effect as if it were a reference to *Green Industries SA*.