

## **Legislative Council—No 102**

As received from the House of Assembly and read a first time, 13 November 2012

South Australia

# **Statutes Amendment and Repeal (Budget 2012) (No 2) Bill 2012**

A BILL FOR

An Act to amend the *Education Act 1972*; the *Electricity Corporations Act 1994*; the *Electricity Corporations (Restructuring and Disposal) Act 1999*; the *Highways Act 1926*; the *Local Government Act 1999*; the *Parliament (Joint Services) Act 1985*; the *Payroll Tax Act 2009*; the *Public Finance and Audit Act 1987*; the *Public Sector Act 2009*; the *Residential Tenancies Act 1995*; the *Stamp Duties Act 1923*; and the *Summary Procedure Act 1921*; and to repeal the *State Bank of South Australia Act 1983*.

---

## Contents

### Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

### Part 2—Amendment of *Education Act 1972*

- 4 Amendment of section 19—Long service leave and retention entitlement
- 5 Amendment of section 20—Taking of leave
- 6 Transitional provisions

### Part 3—Amendment of *Electricity Corporations Act 1994*

#### Division 1—Amendment of Act

- 7 Amendment of section 4—Interpretation
- 8 Repeal of Part 2
- 9 Amendment of section 34—Establishment of corporation

#### Division 2—Transitional provisions

- 10 Interpretation
- 11 Assets and liabilities of RESI
- 12 Redeployees
- 13 Related provisions

### Part 4—Amendment of *Electricity Corporations (Restructuring and Disposal) Act 1999*

- 14 Amendment of section 3—Interpretation

### Part 5—Amendment of *Highways Act 1926*

- 15 Amendment of section 7—Interpretation
- 16 Amendment of section 20—General powers of Commissioner
- 17 Insertion of section 21A
  - 21A Certain roads and land vest in Commissioner
- 18 Amendment of section 26—Powers of Commissioner to carry out roadwork etc
- 19 Amendment of section 26A—Powers of Commissioner in relation to trees etc on roads
- 20 Amendment of section 26B—Total or partial closure of roads to ensure safety or prevent damage
- 21 Amendment of section 26C—Certain road openings etc require Commissioner's concurrence
- 22 Amendment of section 27CA—Vesting of roads outside districts
- 23 Insertion of section 30AC
  - 30AC Certain roads taken to be controlled-access roads
- 24 Amendment of section 30B—Provision for compensation
- 25 Insertion of section 42B
  - 42B Registrar-General to issue certificate of title

### Part 6—Amendment of *Local Government Act 1999*

- 26 Insertion of section 240A
  - 240A Roads vested in Commissioner of Highways

Part 7—Amendment of *Parliament (Joint Services) Act 1985*

- 27 Amendment of section 20—Long service leave and retention entitlement
- 28 Insertion of section 36
  - 36 Regulations
- 29 Transitional provisions

Part 8—Amendment of *Payroll Tax Act 2009*

- 30 Amendment of Schedule 2—South Australia specific provisions

Part 9—Amendment of *Public Finance and Audit Act 1987*

- 31 Amendment of section 18—Financial arrangements

Part 10—Amendment of *Public Sector Act 2009*

- 32 Amendment of Schedule 1—Leave and working arrangements
- 33 Transitional provisions

Part 11—Amendment of *Residential Tenancies Act 1995*

- 34 Amendment of section 73—Rates, taxes and charges

Part 12—Amendment of *Stamp Duties Act 1923*

- 35 Insertion of section 71DB
  - 71DB Concessional duty on purchases of off-the-plan apartments
- 36 Amendment of Schedule 2—Stamp duties and exemptions

Part 13—Amendment of *Summary Procedure Act 1921*

- 37 Amendment of section 189—Costs generally
- 38 Insertion of section 189AA
  - 189AA Costs payable by Crown in certain criminal proceedings

Part 14—Repeal of *State Bank of South Australia Act 1983*

Division 1—Repeal of Act

- 39 Repeal of *State Bank of South Australia Act 1983*

Division 2—Transitional provisions

- 40 Interpretation
  - 41 Vesting of assets and liabilities
  - 42 Additional provisions
  - 43 Related provisions
- 

**The Parliament of South Australia enacts as follows:**

**Part 1—Preliminary**

**1—Short title**

This Act may be cited as the *Statutes Amendment and Repeal (Budget 2012) (No 2) Act 2012*.

## 2—Commencement

- (1) Subject to this section, this Act will come into operation on a day to be fixed by proclamation.
- (2) Part 2, Part 7, Part 8, Part 10 and section 36 will be taken to have come into operation on 1 July 2012.
- (3) Section 35 will be taken to have come into operation on 31 May 2012.

## 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 *Education Act 1972*

### 4—Amendment of section 19—Long service leave and retention entitlement

- (1) Section 19—after subsection (1) insert:
- (1a) An officer who has completed 15 years of effective service (a *long-term employee*) is entitled to an additional amount of leave (a *skills and experience retention leave entitlement*) (that will be taken to constitute long service leave) for each completed month of effective service (being service as a long-term employee) as follows:
- (a) for each month of effective service completed during the 2012/2013 financial year— $\frac{1}{6}$  working days leave;
- (b) for each month of effective service completed during the 2013/2014 financial year— $\frac{1}{4}$  working days leave;
- (c) for each month of effective service completed on or after 1 July 2014— $\frac{1}{3}$  working days leave.
- (2) Section 19—after subsection (3) insert:
- (3a) The following additional provisions will apply in relation to a skills and experience retention leave entitlement:
- (a) the Director-General may make a determination under which the accrual of the entitlement will be calculated instead as a number of working hours leave for each completed month of effective service;
- (b) an entitlement to skills and experience retention leave accrued during a particular financial year may be converted to an entitlement to a monetary amount fixed by the regulations in accordance with a scheme prescribed by the regulations;
- (c) a skills and experience retention leave entitlement is to be taken (depending on the amount of leave accrued) as 1 or more whole working days of leave and accordingly subsection (3) will not apply in relation to a skills and experience retention leave entitlement;

- 5
- (d) a skills and experience retention leave entitlement that is not taken within 5 years of the end of the financial year in which it accrues will be lost (and a sum equal to the monetary value of any entitlement that is lost will not be payable) (and accordingly the other provisions of this Division relating to paying out an entitlement to leave will apply subject to the operation of this paragraph);
- (e) the Director-General may, by determination, make any other provision in relation to the granting or taking of skills and experience retention leave.
- 10
- (3) Section 19—after subsection (4) insert:
- (5) The regulations may—
- (a) prescribe a process for electing to convert an accrued entitlement to skills and experience retention leave to a monetary amount; and
- 15
- (b) fix different monetary amounts according to different classes or categories of officers.
- (6) A regulation under subsection (5) will be made on the recommendation of the Treasurer.
- 20
- (7) The Treasurer must, in making a recommendation under subsection (6), apply the principle that a monetary amount fixed by the regulations must be consistent with any corresponding regulations applying under the *Public Sector Act 2009*.

### 5—Amendment of section 20—Taking of leave

- 25
- Section 20—after subsection (3) insert:
- (3a) Subsection (3) does not apply in relation to a skills and experience retention leave entitlement.

### 6—Transitional provisions

- (1) In this section—
- 30
- effective service* has the same meaning as under the principal Act;  
*officer* means an officer in the teaching service under the principal Act;  
*principal Act* means the *Education Act 1972*.
- (2) An officer who—
- 35
- (a) during the 2011/2012 financial year has, or attains, at least 15 years of effective service; and
- (b) who is an officer on 1 July 2012,
- will qualify for an additional skills and experience retention leave entitlement under the principal Act equal to  $\frac{1}{6}$  working days leave for each month of effective service completed during that financial year (being service as a long-term employee within the meaning of subsection (1a) of section 19 of the principal Act as enacted by this Act).
- 40

(3) Paragraph (d) of section 19(3a) of the principal Act as enacted by this Act applies subject to the qualification that no skills and experience retention leave entitlement will be lost under that paragraph before 1 July 2018.

(4) The Governor may, by proclamation, make other transitional or ancillary provisions that may be necessary or expedient in connection with the provision of an entitlement to skills and experience retention leave under the principal Act or this section.

## Part 3—Amendment of *Electricity Corporations Act 1994*

### Division 1—Amendment of Act

#### 7—Amendment of section 4—Interpretation

(1) Section 4, definition of *electricity corporation*, (a)—delete paragraph (a)

(2) Section 4, definition of *RESI*—delete the definition

#### 8—Repeal of Part 2

Part 2—delete the Part

#### 9—Amendment of section 34—Establishment of corporation

Section 34(3)—delete subsection (3)

### Division 2—Transitional provisions

#### 10—Interpretation

(1) In this Division—

*asset* means—

(a) a present, contingent or future legal or equitable estate or interest in real or personal property; or

(b) a present, contingent or future right, power, privilege or immunity,

(and includes a present or future cause of action in favour of RESI);

*the Department* means the administrative unit of the Public Service that is primarily responsible for assisting the Treasurer in the performance of his or her Ministerial functions and responsibilities;

*liability* means a present, contingent or future liability or obligation (including a non-pecuniary obligation and present or future cause of action against RESI);

*RESI* means RESI Corporation under Part 2 of the *Electricity Corporations Act 1994*;

*SAFA* means the South Australian Government Financing Authority established under the *Government Financing Authority Act 1982*.

(2) For the purposes of this Division, a reference to a claim (or potential or contingent claim) for workers compensation will be taken to include a reference to any claim or other action relating to personal injury, disease, other medical condition or death—

(a) arising out of or in the course of the performance of any work; or

- (b) resulting in any other way from exposure to any material, substance, disease or conditions at a workplace.

### **11—Assets and liabilities of RESI**

- (1) The Treasurer may, by instrument in writing—
- 5           (a) transfer assets or liabilities of RESI associated with claims for workers compensation, or potential or contingent claims for workers compensation, to SAFA; and
- (b) transfer the amount of \$250 000 held by RESI at the time of the execution of the instrument to the *Treasury and Finance Operating Account* kept by the
- 10           Department; and
- (c) after consultation with RESI, transfer or vest any other assets or liabilities of RESI to or in the Treasurer, another Minister, or any other agency or instrumentality of the Crown.
- (2) Proceedings commenced before the transfer of assets or liabilities under subsection (1)(a) by or against RESI with respect to any claim for workers
- 15           compensation may be continued and completed by or against SAFA.
- (3) Anything done, or omitted to be done, by RESI in relation to assets or liabilities transferred to or vested in a person or body under this section is, if it continues to have effect as at the time of transfer or vesting, taken to be an act or omission of that person
- 20           or body.
- (4) A reference in an instrument or other document to RESI in connection with an asset or liability transferred to or vested in a person or body under this section is, from the time of transfer or vesting, taken to be a reference to that person or body.
- (5) Subsection (4) does not apply to any instrument or document, or instrument or
- 25           document of a specified class, excluded from the operation of that subsection by the Treasurer by notice in the *Gazette*.
- (6) An instrument under subsection (1) may make other provisions that in the opinion of the Treasurer are necessary or expedient in connection with the transfer or vesting of assets or liabilities.
- 30           (7) An instrument or notice under this section will take effect on a day specified in the relevant instrument or notice.

### **12—Redeployees**

The Department is, from the commencement of this section, required to assume responsibility for arranging the redeployment of any person who, under the terms of a

35           sale/lease agreement under the *Electricity Corporations (Restructuring and Disposal) Act 1999*, or under the provisions of that Act, accepts an offer of public sector employment on account of being surplus to a private sector employer's requirements in the manner contemplated by that Act.

### **13—Related provisions**

- 40           (1) The transfer or vesting of assets or liabilities under this Division operates despite the provisions of any other law or instrument.

- (2) The transfer or vesting of a liability under this Division discharges RESI from the liability.
- (3) The Registrar-General or another authority required or authorised under a law of the State to register or record transactions affecting assets or liabilities, or documents relating to such transactions, must, on application under this section, register or record in an appropriate manner a transfer or vesting under this Division.
- (4) No fee is payable in respect of an application under subsection (3).
- (5) Nothing done under this Division—
- (a) constitutes a breach of, or default under, an Act or other law; or
  - (b) constitutes a breach of, or default under, a contract, agreement, understanding or undertaking; or
  - (c) constitutes a breach of a duty of confidence (whether arising by contract, in equity or by custom or in any other way); or
  - (d) constitutes a civil or criminal wrong; or
  - (e) terminates an agreement or obligation or fulfils any condition that allows a person to terminate an agreement or obligation, or gives rise to any other right or remedy; or
  - (f) releases a surety or other obligee wholly or in part from an obligation.
- (6) No stamp duty or any other tax attaches to an instrument, transaction, transfer or vesting created or effected under this Division.
- (7) On the repeal of Part 2 of the *Electricity Corporations Act 1994* by section 8 of this Act, RESI is dissolved and any remaining assets or liabilities of RESI vest in the Treasurer.
- (8) The Governor may, by proclamation, make additional provisions of a saving or transitional nature consequent on the enactment of this Part (and any such proclamation will take effect according to its terms and despite the provisions of any other law or instrument).

## **Part 4—Amendment of *Electricity Corporations (Restructuring and Disposal) Act 1999***

### **14—Amendment of section 3—Interpretation**

- (1) Section 3(1), definition of *electricity corporation*, (a)—delete paragraph (a)
- (2) Section 3(1), definition of *RESI Corporation* —delete the definition

## **Part 5—Amendment of *Highways Act 1926***

### **15—Amendment of section 7—Interpretation**

- (1) Section 7, definition of *controlled-access road*—delete "under this Act to be a controlled-access road" and substitute:
  - or otherwise taken to be a controlled-access road under this Act



(2) Section 7, definition of *roadwork*—after paragraph (h) insert:

- (ha) the construction of buildings or facilities relating to public transport or parking for users of public transport; or

### 16—Amendment of section 20—General powers of Commissioner

5 Section 20(6)—after paragraph (a) insert:

- (ab) in a case where land acquired under this section is to be used for the purposes of a lease or licence granted in respect of a road that vests, or land that remains vested, in the Commissioner under section 21A; or

### 10 17—Insertion of section 21A

After section 21 insert:

#### 21A—Certain roads and land vest in Commissioner

- (1) If the Commissioner has, after the commencement of this section, carried out roadworks in relation to a road, the regulations may vest the road (or any part of the road) in the Commissioner for an estate in fee simple.
- (2) The Governor may, by proclamation, vest an estate in fee simple in the following roads (or any part of the following roads) in the Commissioner:
- 20 (a) the South Eastern Freeway (between Gill Terrace at Glen Osmond and the Swanport Bridge at Swanport);
- (b) the Port River Expressway and Salisbury Highway (between Eastern Parade at Port Adelaide and Port Wakefield Road at Dry Creek);
- 25 (c) the Southern Expressway (between South Road at Bedford Park and Main South Road at Old Noarlunga);
- (d) the Northern Expressway, Gawler Bypass and Sturt Highway (between Port Wakefield Road at Waterloo Corner and Sir Condor Laucke Way at Nurioopta).
- 30 (3) A proclamation under subsection (2) may be varied or revoked by subsequent proclamation.
- (4) A proclamation under this section takes effect on the day on which it is made or such later date as may be specified in the proclamation.
- 35 (5) Subject to subsection (9) and to the terms of a proclamation providing for the vesting of a road in the Commissioner in accordance with this section, any interest in the land referred to in the proclamation that existed immediately before the vesting of the land in the Commissioner is extinguished.

5 (6) A road that was, immediately before vesting in the Commissioner in accordance with a proclamation under this section, a controlled-access road, continues to be a controlled-access road after the vesting (but nothing in this subsection prevents the making of a proclamation under section 30A in relation to a road referred to in subsection (2)).

(7) A regulation or proclamation providing for the vesting of a road in the Commissioner in accordance with this section—

10 (a) may define the extent to which land or structures on land vest in the Commissioner in accordance with this section (and may do so by reference to a plan deposited or filed in the Lands Titles Registration Office or by any other method of description); and

(b) has effect despite any other Act or law.

15 (8) If a regulation or proclamation provides for the vesting of a road in the Commissioner in accordance with this section, any land so vested that has not been previously brought under the *Real Property Act 1886* is automatically brought under that Act without further application.

20 (9) A regulation or proclamation providing for the vesting of a road in the Commissioner in accordance with this section does not operate so as to discharge any easement that the Commissioner determines, by notice in the Gazette, to preserve under this subsection.

25 (10) If a regulation or proclamation providing for the vesting of a road in the Commissioner in accordance with this section—

(a) is revoked or (in the case of a regulation) is disallowed; or

(b) is varied so as to exclude any part of the road,

30 the road or that part of the road (as the case may be) will, on the revocation, disallowance or variation, vest in the council or person in whom the road would vest apart from this section.

(11) Part 3A of the *Subordinate Legislation Act 1978* does not apply to a regulation providing for the vesting of a road in the Commissioner in accordance with this section.

35 (12) Where the Commissioner has, after the commencement of this section, determined that land vested in the Commissioner is not required for the purposes of present or future roadwork or any other purposes connected with this Act, the Commissioner may, subject to the approval of the Minister, determine not to dispose of the land if the Commissioner is satisfied that the land may be required in the future for purposes related to roads or transport needs.

**Example—**

The land may be required in the future for—

(a) service centres and other buildings or facilities relating to the use of the road;

- (b) buildings or facilities relating to public transport or parking for users of public transport.

**18—Amendment of section 26—Powers of Commissioner to carry out roadwork etc**

- 5 (1) Section 26(5), (6), (7) and (8)—delete "under the care" wherever occurring and substitute in each case:  
vested in or under the care
- (2) Section 26(9)—delete "under the care" first occurring and substitute:  
vested in or under the care

10 **19—Amendment of section 26A—Powers of Commissioner in relation to trees etc on roads**

Section 26A(a)—delete "under the care" and substitute:  
vested in or under the care

15 **20—Amendment of section 26B—Total or partial closure of roads to ensure safety or prevent damage**

Section 26B(1)—delete "under the care" and substitute:  
vested in or under the care

**21—Amendment of section 26C—Certain road openings etc require Commissioner's concurrence**

- 20 Section 26C(b)(ii)—delete "under the care" and substitute:  
vested in or under the care

**22—Amendment of section 27CA—Vesting of roads outside districts**

Section 27CA(1)—delete "All public" and substitute:  
Subject to section 21A, all public

25 **23—Insertion of section 30AC**

After section 30AB insert:

**30AC—Certain roads taken to be controlled-access roads**

- 30 (1) A road that is vested in the Commissioner in accordance with regulations made under section 21A(1) will be taken to be a controlled-access road if the regulations—
- (a) specify that the road is to be a controlled-access road; and
- (b) specify the routes and means of access by which persons and vehicles may enter or leave the controlled-access road.
- 35 (2) Nothing in this section prevents the making of a proclamation under section 30A in relation to a road referred to in subsection (1).

## 24—Amendment of section 30B—Provision for compensation

Section 30B(1)—delete "proclamation of such" and substitute:

road becoming a

## 25—Insertion of section 42B

After section 42A insert:

### 42B—Registrar-General to issue certificate of title

- (1) If land vests for an estate in fee simple in the Commissioner under this Act, the Commissioner may apply to the Registrar-General for the issue of a certificate of title for the land under the *Real Property Act 1886*.
- (2) An application under this section must—
  - (a) be made in a manner and form approved by the Registrar-General; and
  - (b) be accompanied by any surveys of the land and other materials that the Registrar-General may reasonably require.

## Part 6—Amendment of *Local Government Act 1999*

### 26—Insertion of section 240A

After section 240 insert:

#### 240A—Roads vested in Commissioner of Highways

If the Commissioner of Highways has, in accordance with the *Highways Act 1926*, granted a lease or licence to a person in relation to a road vested in the Commissioner of Highways under that Act, a by-law made under this Act does not apply to any act or omission by the lessee or licensee that is specifically authorised under the lease or licence.

## Part 7—Amendment of *Parliament (Joint Services) Act 1985*

### 27—Amendment of section 20—Long service leave and retention entitlement

(1) Section 20—after subsection (1) insert:

- (1a) An officer who has completed 15 years of effective service (a *long-term employee*) is entitled to an additional amount of leave (a *skills and experience retention leave entitlement*) (that will be taken to constitute long service leave) for each completed month of effective service (being service as a long-term employee) as follows:
  - (a) for each month of effective service completed during the 2012/2013 financial year— $\frac{1}{6}$  working days leave;
  - (b) for each month of effective service completed during the 2013/2014 financial year— $\frac{1}{4}$  working days leave;

- (c) for each month of effective service completed on or after 1 July 2014— $\frac{1}{3}$  working days leave.

(2) Section 20—after subsection (6) insert:

(6a) Despite subsections (3) to (6), the following provisions will apply in relation to a skills and experience retention leave entitlement:

- (a) the Committee may make a determination under which the accrual of the entitlement will be calculated instead as a number of working hours leave for each completed month of effective service;
- (b) an entitlement to skills and experience retention leave accrued during a particular financial year may be converted to an entitlement to a monetary amount fixed by the regulations in accordance with a scheme prescribed by the regulations;
- (c) a skills and experience retention leave entitlement is to be taken (depending on the amount of such leave accrued) as 1 or more whole working days of leave and accordingly—
  - (i) subsection (4) will not apply in relation to a skills and experience retention leave entitlement; and
  - (ii) subsection (5) will apply in relation to a skills and experience retention leave entitlement as if it were referring to a working day;
- (d) a skills and experience retention leave entitlement that is not taken within 5 years of the end of the financial year in which it accrues will be lost (and a sum equal to the monetary value of any entitlement that is lost will not be payable) and accordingly—
  - (i) subsection (6) will apply in relation to a skills and experience retention leave entitlement subject to the operation of this paragraph; and
  - (ii) subsection (6) will apply on the basis that a part of a day constituted by a skills and experience retention leave entitlement (unless lost) may be taken into account;
- (e) the Committee may, by determination, make any other provision in relation to the granting or taking of skills and experience retention leave.

(3) Section 20—after subsection (7) insert:

(8) The regulations may—

- (a) prescribe a process for electing to convert an accrued entitlement to skills and experience retention leave to a monetary amount; and
- (b) fix different monetary amounts according to different classes or categories of officers.

- (9) A regulation under subsection (8) will be made on the recommendation of the Treasurer.
- (10) The Treasurer must, in making a recommendation under subsection (9), apply the principle that a monetary amount fixed by the regulations must be consistent with any corresponding regulations applying under the *Public Sector Act 2009*.
- (11) In this section—  
*effective service* of an officer means the period of the officer's continuous service under this Act.

## **28—Insertion of section 36**

After section 35 insert:

### **36—Regulations**

The Governor may make such regulations as are contemplated by this Act.

## **29—Transitional provisions**

- (1) In this section—  
*effective service* has the same meaning as in subsection (11) of section 20 of the principal Act (as enacted by this Act);  
*officer* means an officer under the principal Act;  
*principal Act* means the *Parliament (Joint Services) Act 1985*.
- (2) An officer who—
- (a) during the 2011/2012 financial year has, or attains, at least 15 years of effective service; and
  - (b) who is an officer on 1 July 2012,
- will qualify for an additional skills and experience retention leave entitlement under section 20 of the principal Act equal to  $\frac{1}{6}$  working days leave for each month of effective service completed during that financial year (being service as a long-term employee within the meaning of subsection (1a) of section 20 of the principal Act as enacted by this Act).
- (3) Paragraph (d) of section 20(6a) of the principal Act as enacted by this Act applies subject to the qualification that no skills and experience retention leave entitlement will be lost under that paragraph before 1 July 2018.
- (4) The Governor may, by proclamation, make other transitional or ancillary provisions that may be necessary or expedient in connection with the provision of an entitlement to skills and experience retention leave under the principal Act or this section.

## **Part 8—Amendment of *Payroll Tax Act 2009***

### **30—Amendment of Schedule 2—South Australia specific provisions**

Schedule 2, clause 10A—delete the clause

## Part 9—Amendment of *Public Finance and Audit Act 1987*

### 31—Amendment of section 18—Financial arrangements

Section 18(4)—delete "the South Australian Asset Management Corporation or"

## Part 10—Amendment of *Public Sector Act 2009*

### 32—Amendment of Schedule 1—Leave and working arrangements

(1) Schedule 1, clause 7—after subclause (1) insert:

(1a) An employee who has completed 15 years of effective service (a *long-term employee*) is entitled to an additional amount of leave (a *skills and experience retention leave entitlement*) (that will be taken to constitute long service leave) for each completed month of effective service (being service as a long-term employee) as follows:

- (a) for each month of effective service completed during the 2012/2013 financial year— $\frac{1}{6}$  working days leave;
- (b) for each month of effective service completed during the 2013/2014 financial year— $\frac{1}{4}$  working days leave;
- (c) for each month of effective service completed on or after 1 July 2014— $\frac{1}{3}$  working days leave.

(2) Schedule 1, clause 7—after subclause (2) insert:

(2a) Despite subclause (1a), the Commissioner may make a determination under which accrual of the entitlement referred to in subclause (1a) will be calculated instead as a number of working hours leave for each completed month of effective service.

(3) Schedule 1, clause 7—after subclause (4) insert:

- (4a) An entitlement to skills and experience retention leave accrued during a particular financial year may be converted to an entitlement to a monetary amount fixed by the regulations in accordance with a scheme prescribed by the regulations (and clause 9(1) will not apply in relation to skills and experience retention leave).
- (4b) A skills and experience retention leave entitlement is to be taken (depending on the amount of such leave accrued) as 1 or more whole working days of leave.
- (4c) A skills and experience retention leave entitlement that is not taken within 5 years of the end of the financial year in which it accrues will be lost (and a sum equal to the monetary value of any entitlement that is lost will not be payable and clause 9 will apply subject to the operation of this subclause).

(4d) The regulations may—

- (a) prescribe a process for electing to convert an accrued entitlement to skills and experience retention leave to a monetary amount; and
- (b) fix different monetary amounts according to different classes or categories of employees.

(4) Schedule 1—after clause 9 insert:

**9A—Related provision (retention leave entitlement)**

- (1) If a regulation under section 41 applies this Part to employment under another Act so as to provide for an entitlement constituted by a skills and experience retention leave entitlement, the regulation may modify the operation of that other Act to the extent necessary to provide consistency with the operation of this Part in relation to that entitlement.
- (2) A regulation under subclause (1) will have effect according to its terms and despite the provisions of any other Act.

**33—Transitional provisions**

(1) In this section—

*effective service* has the same meaning as under clause 7 of Schedule 1 of the principal Act;

*employee* means a person to whom clause 7 of Schedule 1 of the principal Act applies but does not include a person who is excluded from an entitlement to skills and experience retention leave on account of regulations made under section 41 of the principal Act;

*principal Act* means the *Public Sector Act 2009*.

(2) An employee who—

- (a) during the 2011/2012 financial year has, or attains, 15 years of effective service; and
- (b) who is an employee on 1 July 2012,

will qualify for an additional skills and experience retention leave entitlement under clause 7 of Schedule 1 of the principal Act equal to  $\frac{1}{6}$  working days leave for each month of effective service completed during that financial year (being service as a long-term employee within the meaning of subclause (1a) of clause 7 of Schedule 1 of the principal Act as enacted by this Act).

(3) Subclause (4c) of clause 7 of Schedule 1 of the principal Act as enacted by this Act applies subject to the qualification that no skills and experience retention leave entitlement will be lost under that subclause before 1 July 2018.

(4) If—

- (a) a regulation under section 41 of the principal Act applies Part 6 of Schedule 1 of the principal Act to any persons so as to provide for an entitlement constituted by a skills and experience retention leave entitlement; or



- (b) a regulation is made under clause 9A of Schedule 1 of the principal Act (as enacted by this Act) in conjunction with a regulation referred to in paragraph (a); or
- 5 (c) a regulation is made under section 41 of the principal Act so as to exclude a class of persons from an entitlement to skills and experience retention leave, the regulation may, if the regulation so provides, take effect from 1 July 2012 (even if the enactment of this section, and the making of the regulation, occurs after that date).
- 10 (5) The Governor may, by proclamation, make other transitional or ancillary provisions that may be necessary or expedient in connection with the provision of an entitlement to skills and experience retention leave under the principal Act or this section.

## **Part 11—Amendment of *Residential Tenancies Act 1995***

### **34—Amendment of section 73—Rates, taxes and charges**

- (1) Section 73(2)—after "However," insert:  
subject to subsection (4),
- 15 (2) Section 73(3)(b)—after "is" insert:  
, subject to subsection (4),
- (3) Section 73—after subsection (3) insert:
- (4) A landlord must, as soon as is reasonably practicable after obtaining the benefit of the water security rebate amount, ensure that an amount borne by a tenant under an agreement under subsection (2) or under subsection (3)(b) is reduced by—
- 20 (a) in the case of a tenant on land held as a single title consisting of a single place of residence—the water security rebate amount; or
- 25 (b) in the case of a tenant on land held as a single title consisting of more than 1 place of residence—the proportionate water security rebate amount,
- (and if the reduction under this subsection results in a negative amount, 0 is to be substituted for that amount).
- 30 (5) If, during the billing period in which a landlord obtained the benefit of the water security rebate amount, the premises to which the rebate relates were subject to more than 1 residential tenancy agreement, the landlord must ensure that a reduction under subsection (4) is applied to the amount borne by a tenant under each tenancy agreement on a pro rata basis according to the number of days in the billing period in which each tenancy agreement respectively applied
- 35 at the premises.

(6) In this section—

*proportionate water security rebate amount*, in relation to a tenant on land held as a single title consisting of more than 1 place of residence, is the amount that results from dividing the water security rebate amount for that title by the number of places of residence at the land to which the title relates;

*water security rebate amount*, in relation to rates and charges for water supply to residential premises, means the amount specified in an account for those rates and charges as representing the rebate for water security purposes.

## Part 12—Amendment of *Stamp Duties Act 1923*

### 35—Insertion of section 71DB

After section 71DA insert:

#### 71DB—Concessional duty on purchases of off-the-plan apartments

(1) If on an application under this section, in a manner and form determined by the Commissioner and supported by such evidence as the Commissioner may require, the Commissioner is satisfied that the applicant is a purchaser of a qualifying apartment under a qualifying off-the-plan contract, this section applies to a conveyance under which the interest in the apartment is transferred to the applicant.

(2) The duty payable on a conveyance to which this section applies will, if it gives effect to a qualifying off-the-plan contract entered into between 31 May 2012 and 30 June 2014 (both dates inclusive), be as follows:

(a) where the market value of the apartment does not exceed \$500 000—no duty will be payable;

(b) where the market value of the apartment exceeds \$500 000—the duty will be the amount payable apart from this section less \$21 330.

(3) The duty payable on a conveyance to which this section applies will, if it gives effect to a qualifying off-the-plan contract entered into between 1 July 2014 and 30 June 2016 (both dates inclusive), be as follows:

(a) where the market value of the apartment does not exceed \$500 000—the duty will be calculated by reference to a value (the *dutiable value*), rather than the market value, where the dutiable value is calculated in accordance with the following formula:

$$DV = (MV \times 0.35) + (MV \times 0.65 \times C)$$

where—

*DV* is the dutiable value

*MV* is the market value

*C* is a percentage that represents the stage at which the construction or refurbishment of the multi-storey residential development in which the relevant apartment is (or is to be) situated has reached at the relevant contract date, expressed as a percentage of completion of the work—

(a) where—

- (i) Stage 1 equals 0%; and
- (ii) Stage 2 equals 20%; and
- (iii) Stage 3 equals 40%; and
- (iv) Stage 4 equals 60%; and
- (v) Stage 5 equals 80%; and
- (vi) Stage 6 equals 100%; and

(b) where—

- (i) Stage 1 is where no work in relation to the building has been commenced; and
- (ii) Stages 2, 3, 4 and 5 are construction stages determined by the Commissioner from time to time and published in the Gazette; and
- (iii) Stage 6 is where the work has been substantially completed;

(b) where the market value of the apartment exceeds \$500 000—the duty will be the amount payable apart from this section but after taking into account the operation of subsection (4), less an amount determined according to the stage at which the construction or refurbishment of the multi-storey residential development in which the relevant apartment is (or is to be) situated has reached at the relevant contract date, being, depending on the stage, an amount as follows:

- (i) Stage 1—\$15 500;
- (ii) Stage 2—\$12 800;
- (iii) Stage 3—\$9 750;
- (iv) Stage 4—\$6 500;
- (v) Stage 5—\$3 250;
- (vi) Stage 6—\$0,

where the stages will be the same as the stages applying under paragraph (a).

(4) For the purposes of this section, the date of the sale of the property applying under section 60A in relation to a conveyance under this section will be taken to be the date on which the relevant qualifying off-the-plan contract was entered into.

5 (5) For the purposes of this section, only 1 application may be made in relation to a qualifying apartment (and, in the case of an apartment being purchased by 2 or more purchasers, any benefit arising under this section must be shared jointly).

10 (6) This section does not apply in relation to a contract if the Commissioner is satisfied that the contract replaces a contract made before 31 May 2012 for the purchase of the same apartment.

(7) In this section—

15 **apartment** means a self-contained residence that is, or is to be, situated in a multi-storey residential development, but does not include a townhouse;

**multi-storey residential development** means a building of 2 or more storeys containing 2 or more independent residential premises;

**qualifying apartment** means an apartment that is (or is to be) situated—

20 (a) within the area of The Corporation of the City of Adelaide; or

25 (b) on any land within the area where the *Bowden Redevelopment* project is being undertaken (*Bowden Village*) and identified by the Treasurer by notice in the Gazette; or

(c) on any land within the area known as *45 Park, Gilberton*, and comprised within Certificate of Title Register Book Volume 5114 Folio 927 or Volume 5114 Folio 955;

30 **qualifying off-the-plan contract** means a contract for the purchase of an apartment entered into between 31 May 2012 and 30 June 2016 (both dates inclusive) where, at the time that the contract is entered into, the building in which the apartment is, or is to be, situated—

(a) is a new building that is yet to be constructed; or

35 (b) is a new building for which construction has commenced and where the Commissioner is satisfied that the work has not been substantially completed; or

(c) is an existing building where the Commissioner is satisfied that the building is to be substantially refurbished and that refurbishment—

40 (i) is yet to be commenced; or

(ii) has commenced but the Commissioner is satisfied that the work has not been substantially completed;

*relevant contract date* means the date on which the qualifying off-the-plan contract that is relevant to the application of this section was entered into;

*townhouse* means a dwelling consisting of 2 or more storeys where the building (which may be a building joined to another building or buildings) constituting the dwelling occupies a site that is held exclusively with that building.

### **36—Amendment of Schedule 2—Stamp duties and exemptions**

Schedule 2, clause 16—after item 30 insert:

31 A conveyance of a carbon right created under an Act of the Commonwealth.

32 A conveyance of a renewable energy certificate under the *Renewable Energy (Electricity) Act 2000* of the Commonwealth.

## **Part 13—Amendment of *Summary Procedure Act 1921***

### **37—Amendment of section 189—Costs generally**

Section 189—delete "189A" and substitute:

189AA

### **38—Insertion of section 189AA**

After section 189 insert:

#### **189AA—Costs payable by Crown in certain criminal proceedings**

- (1) If, in proceedings for an offence prosecuted by a police officer—
- (a) the Court dismisses the proceedings; or
  - (b) the proceedings are withdrawn,

the Court may only make an order for costs in favour of the defendant if the Court is satisfied that it is proper that the order should be made.

- (2) In deciding whether it is proper to make an order for costs in favour of the defendant, the Court must take into account all relevant circumstances, including—
- (a) whether the prosecution of the offence was conducted in good faith; and
  - (b) whether there was a failure to take appropriate steps to investigate a matter coming to, or within, the knowledge of the prosecution; and
  - (c) whether the investigation into the offence was conducted in an appropriate way; and

(d) whether the order of dismissal (in the case of proceedings dismissed by the Court) was made on technical grounds and not on a finding that there was insufficient evidence to convict or make an order against the defendant; and

(e) whether the defendant brought suspicion on himself or herself by conduct engaged in after the events constituting the commission of the offence; and

(f) whether the defendant unreasonably declined an opportunity before a charge was laid—

(i) to explain the defendant's version of events; or

(ii) to produce evidence likely to exonerate the defendant,

and the explanation or evidence could have avoided a prosecution; and

(g) whether the defendant conducted the defence in a way that prolonged the proceeding unreasonably; and

(h) whether the defendant was acquitted on a charge, but convicted on another.

(3) The amount of costs awarded to a defendant under this section in relation to proceedings for an offence or a number of offences on the 1 complaint or information must not exceed \$2 000 (inclusive of any GST component).

(4) The amount of \$2 000 referred to in subsection (3) is to be adjusted on 1 January of each year, beginning in 2014, by multiplying the specified amount by a multiplier obtained by dividing the Consumer Price Index (All groups index for Adelaide) (*CPI*) for the quarter ending 30 June in the previous year by the *CPI* for the quarter ending 30 June 2012.

(5) In this section—

***GST component*** means a component attributable to a liability to the tax payable under the GST law;

***GST law*** means—

(a) *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth; and

(b) the related legislation of the Commonwealth dealing with the imposition of a tax on the supply of goods and services.

## Part 14—Repeal of *State Bank of South Australia Act 1983*

### Division 1—Repeal of Act

#### 39—Repeal of *State Bank of South Australia Act 1983*

The *State Bank of South Australia Act 1983* is repealed.

## Division 2—Transitional provisions

### 40—Interpretation

In this Division—

*asset* means—

5 (a) a present, contingent or future legal or equitable estate or interest in real or personal property; or

(b) a present, contingent or future right, power, privilege or immunity,

(and includes a present or future cause of action in favour of SAAMC);

10 *liability* means a present, contingent or future liability or obligation (including a non-pecuniary obligation and a present or future cause of action against SAAMC or any unclaimed money held on deposit by SAAMC);

*SAAMC* means the South Australian Asset Management Corporation.

### 41—Vesting of assets and liabilities

15 (1) SAAMC may, by instrument in writing, at the direction of, or with the approval of, the Treasurer, vest assets or liabilities of SAAMC in the Treasurer, another Minister, or any other agency or instrumentality of the Crown.

(2) An instrument under subsection (1) may make other provisions that in the opinion of SAAMC or the Treasurer are necessary or expedient in connection with the vesting of assets or liabilities.

### 42—Additional provisions

20 (1) On the repeal of the *State Bank of South Australia Act 1983*, any remaining assets or liabilities of SAAMC vest in the Treasurer.

25 (2) The Governor may, by proclamation, make additional provisions of a saving or transitional nature consequent on the enactment of this Part (and any such proclamation will take effect according to its terms and despite the provisions of any other law or instrument).

### 43—Related provisions

(1) The vesting of assets or liabilities under this Division operates by force of this Act and despite the provisions of any other law or instrument.

30 (2) The vesting of a liability under this Division operates to discharge SAAMC from the liability.

(3) The Registrar-General or another authority required or authorised under a law of the State to register or record transactions affecting assets or liabilities, or documents relating to such transactions, must, on application under this section, register or record  
35 in an appropriate manner a vesting under this Division.

(4) No fee is payable in respect of an application under subsection (3).

(5) Nothing done under this Division—

(a) constitutes a breach of, or default under, an Act or other law; or

**Statutes Amendment and Repeal (Budget 2012) (No 2) Bill 2012**

Part 14—Repeal of *State Bank of South Australia Act 1983*

Division 2—Transitional provisions

---

- 5
- (b) constitutes a breach of, or default under, a contract, agreement, understanding or undertaking; or
  - (c) constitutes a breach of a duty of confidence (whether arising by contract, in equity or by custom or in any other way); or
  - (d) constitutes a civil or criminal wrong; or
  - (e) terminates an agreement or obligation or fulfils any condition that allows a person to terminate an agreement or obligation, or gives rise to any other right or remedy; or
  - (f) releases a surety or other obligee wholly or in part from an obligation.
- 10 (6) No stamp duty or any other tax attaches to an instrument, transaction or vesting created or effected under this Division.