

South Australia

Adelaide Festival Centre Trust Act 1971

An Act to establish and constitute the Adelaide Festival Centre Trust, to provide for the Adelaide Festival Centre and for the management and operation thereof and for matters connected therewith and incidental thereto.

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Legislative history

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Adelaide Festival Centre Trust Act 1971*.

4—Interpretation

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

the Centre means the Adelaide Festival Centre comprised of the Festival Theatre, a drama theatre, an amphitheatre, an experimental theatre and all works and conveniences incidental thereto or necessary therefor including without limiting the generality of the expression all plazas, walks, parks, open spaces, roads and car parks connected with or comprised in the Adelaide Festival Centre;

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

Drama Facilities means a drama theatre, an amphitheatre and an experimental theatre;

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

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

financial year means any period of twelve months concluding on the thirtieth day of June, in a year;

the Trust means the Adelaide Festival Centre Trust established by this Act;

trustee means a trustee of the Trust appointed under this Act.

(3) A proclamation made for the purposes of the definition of *employing authority*—

- (a) may apply by reference to a specified person, or by reference to the person for the time being holding or acting in a specified office or position; and
- (b) may, from time to time as the Governor thinks fit, be varied or substituted by a new proclamation.

Part 2—The Trust

Division 1—Constitution of the Trust

5—Establishment of the Trust

- (1) For the purposes of this Act, a body by the name of the *Adelaide Festival Centre Trust* is hereby established.
- (2) The Trust—
 - (a) shall be a body corporate with perpetual succession and a common seal; and
 - (b) subject to this Act, shall be capable of acquiring, taking or letting out on lease, holding, selling and otherwise disposing of real and personal property; and
 - (c) may in its corporate name and capacity sue and be sued; and
 - (d) shall have the powers, duties, functions and authorities conferred, imposed or prescribed by or under this Act.
- (3) Where a document purporting to bear the common seal of the Trust is produced before any court or person acting judicially that court or that person, as the case may be, shall, unless the contrary is proved, presume—
 - (a) that the document purporting to bear the common seal of the Trust bears the common seal of the Trust; and
 - (b) that the common seal was duly affixed.

6—Composition of Trust

- (1) The Trust consists of eight trustees appointed by the Governor, of whom—
 - (a) seven will be nominated by the Minister; and
 - (b) one will be nominated by the Council from the members, officers or employees of the Council.
- (2) At least two trustees must be men and two must be women.
- (3) Of the seven trustees nominated by the Minister, one will be appointed by the Governor to chair meetings of the Trust.
- (4) If the Council fails to nominate a person within six weeks of a written request to do so from the Minister, the Governor may appoint a person nominated by the Minister and that person will be taken to have been duly appointed as a trustee.
- (5) A trustee will be appointed for a term, not exceeding three years, specified in the instrument of appointment and will, at the expiration of a term of appointment, be eligible for reappointment.
- (6) The Governor may appoint a suitable person to be the deputy of a trustee and the deputy may perform or exercise the functions and powers of the trustee in his or her absence.

7—Acceptance of office as a trustee not to be a bar to the holding of any other office

Notwithstanding any other Act or law, a person shall not be disqualified by appointment as a trustee from holding office as a trustee and also any other office or place or from accepting or retaining any fees or other remuneration provided for by or under this Act, or otherwise, in respect of his service as a trustee.

8—Removal from office of trustee

The Governor may, by notice in writing served on a trustee remove the trustee from office on grounds of misconduct or incapacity to perform his duties and functions as a trustee.

9—Casual vacancies

- (1) The office of a trustee shall become vacant if—
 - (a) he dies; or
 - (b) he resigns by written notice given to the Minister; or
 - (c) he is removed from office by the Governor pursuant to section 8 of this Act; or
 - (d) he is absent without leave of the Minister from three consecutive meetings of the Trust; or
 - (e) he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors or compounds with his creditors for less than one hundred cents in the dollar; or
 - (f) he is convicted of any indictable offence; or
 - (g) he is convicted of any other offence and receives notice in writing from the Minister discharging him from office on the ground of that conviction.
- (2) The office of a trustee, being a trustee nominated by the Council pursuant to paragraph (b) of subsection (1) of section 6 of this Act, shall become vacant if—
 - (a) the trustee ceases to be a member of the Council or, as the case may be, ceases to be an officer of the Council; and
 - (b) the trustee has not within one month from so ceasing to be a member of the Council or, as the case may be, so ceasing to be an officer of the Council, again become such a member or officer.

10—Common seal

The common seal of the Trust must not be affixed to an instrument except in pursuance of a resolution of the Trust, and the affixing of the seal must be attested by the signature of two trustees.

11—Remuneration of trustees

A trustee shall, if the Governor thinks fit, be paid such fees or other remuneration as may from time to time be fixed by the Governor and shall be entitled to receive such travelling and other expenses as are from time to time approved by the Minister.

12—Delegation of powers to trustees

- (1) The Trust may by instrument over its common seal delegate to not less than two trustees any of the powers and functions conferred on the Trust by or under this Act (except this power of delegation) so that the delegated powers and functions may be exercised by the delegates with respect to the matters or matters of a class or in relation to a locality specified in the instrument of delegation.
- (2) A delegation under subsection (1) of this section is revocable in writing at will and no delegation shall prevent the exercise of any power or function by the Trust conferred on it by or under this Act.
- (3) Notwithstanding anything in this Act, where the delegates are unanimous in the exercise or performance of any power or function delegated under subsection (1) of this section the exercise or performance of that power or function by the delegates shall for the purposes of this Act or of any proceedings under this Act be deemed to be an exercise or performance of that power or function by the Trust.

13—Trust proceedings

- (1) Four trustees constitute a quorum at a meeting of the Trust.
- (2) The trustee appointed to chair meetings of the Trust will preside at each meeting of the Trust at which he or she is present.
- (3) In the absence of the trustee appointed to chair meetings of the Trust, a trustee chosen by the trustees present at the meeting will preside.
- (4) A decision carried by a majority of the votes cast by trustees at a meeting is a decision of the Trust.
- (5) Each trustee present at a meeting of the Trust has one vote on any question arising for decision and, if the votes are equal, the trustee presiding at the meeting may exercise a casting vote.
- (6) A conference by telephone or other electronic means between trustees will, for the purposes of this section, be taken to be a meeting of the Trust at which the participating trustees are present if—
 - (a) notice of the conference is given to all trustees in the manner determined by the Trust for the purpose; and
 - (b) each participating trustee is capable of communicating with every other participating trustee during the conference.
- (7) A proposed resolution of the Trust becomes a valid decision of the Trust despite the fact that it is not voted on at a meeting of the Trust if—
 - (a) notice of the proposed resolution is given to all trustees in accordance with procedures determined by the Trust; and
 - (b) a majority of the trustees expresses concurrence in the proposed resolution by letter or by facsimile transmission or other electronically transmitted written communication setting out the terms of the resolution.
- (8) The Trust must have accurate minutes kept of its proceedings.
- (9) Subject to this Act, the Trust may determine its own procedures.

14—Validity of acts etc of Trust

No act, proceedings or determination of the Trust shall be invalid on the ground only of any vacancy in the office of any trustee or of any defect in the appointment of any trustee.

15—Secretary to the Trust

- (1) The Trust may appoint a person to be the secretary to the Trust.
- (2) The secretary to the Trust shall have and may exercise, perform and carry out such powers, functions and duties as are conferred on him by or under this Act or as are directed to be exercised, performed or carried out by the Trust.

16—Trustees not, as such, subject to Public Service Act

A trustee shall not, as such, be subject to the *Public Service Act 1967*, as amended, but this section does not affect the rights, duties and obligations under that Act of any trustee who is otherwise an officer in the Public Service of the State.

17—Trustee to declare interest

Where a trustee becomes aware that he has a financial interest in any matter before the Trust he shall not—

- (a) refuse or fail to declare that interest to the secretary to the Trust; or
- (b) act as such a trustee in relation to any such matter.

Maximum penalty: \$500.

Division 2—Powers etc of the Trust

19—Trust subject to general control and direction of the Minister

In the exercise and discharge of its powers, duties and functions and authorities the Trust shall, except where the Trust makes or is required to make a recommendation to the Minister, be subject to the general control and direction of the Minister.

20—Objects, powers etc of Trust

- (1) Subject to this Act the Trust is charged with the responsibility of—
 - (a) encouraging and facilitating artistic, cultural and performing arts activities throughout the State; and
 - (b) without limiting the generality of the foregoing, the care, control, management, maintenance and improvement of the Centre and of all things necessary for, incidental and ancillary to such care, control, management, maintenance and improvement (subject to such arrangements as may be established from time to time for the occupation of the Centre by the Trust); and
 - (c) providing advisory, consultative, managerial or support services, within areas of the Trust's expertise, to persons associated with the conduct of artistic, cultural or performing arts activities (whether within or outside the State); and

- (d) after consulting the Minister—providing ticketing systems and other related services (including services that involve the construction, installation, operation or maintenance of equipment associated with the provision of such systems or services) to persons associated with the conduct of entertainment, sporting or other events or projects (whether within or outside the State); and
 - (e) carrying out any other function conferred on the Trust by this Act, any other Act or the Minister.
- (1a) Paragraph (c) of subsection (1) is subject to the qualification that, after the commencement of this subsection, the Trust must not extend the areas of operation of its services under that paragraph except after consulting the Minister.
- (2) Without limiting the generality of the provisions of subsection (1) of this section the Trust may in the furtherance of its objects—
- (a) make available on such terms as it sees fit any building or facility comprised in the Centre for any purpose for which, in the opinion of the Trust, that building or facility is situated; and
 - (b) enter into any contract, agreement or arrangement, to operate within or without the State, with any person or body whether corporate or unincorporate for the purpose of the exercise of its powers or functions; and
 - (c) provide or cause to be provided meals, refreshments, and catering services in connection with the use of any building or facility within the Centre; and
 - (d) authorise, on such terms and conditions as it sees fit, any person to sell any wares within the Centre; and
 - (e) acquire any patents or licences which in the opinion of the Trust will assist in the Trust exercising and discharging its powers and functions and may sell or otherwise dispose of any such patents or licences; and
 - (f) give or contribute towards prizes in competitions designed to encourage artistic, cultural and performing arts activity within the State or make grants and give other assistance for such purposes; and
 - (g) do any or all things whether or not of the same kind as the foregoing which in the opinion of the Trust will effectuate the objects of the Trust.

21—Staffing arrangements

- (1) The employing authority may employ staff to perform functions in connection with the operations or activities of the Trust.
- (2) The terms and conditions of employment of a person under subsection (1) will be determined by the employing authority.
- (3) A person employed under this section will be taken to be employed by or on behalf of the Crown (but will not be employed in the Public Service of the State unless brought into an administrative unit under the *Public Sector Management Act 1995*).
- (4) The employing authority may direct a person employed under this section to perform functions in connection with the operations or activities of a public sector agency specified by the employing authority (and the person must comply with that direction).
- (5) The employing authority is, in acting under this section, subject to direction by the Minister.

- (6) However, no Ministerial direction may be given by the Minister relating to the appointment, transfer, remuneration, discipline or termination of a particular person.
- (7) The employing authority may delegate a power or function under this section.
- (8) A delegation under subsection (7)—
 - (a) must be by instrument in writing; and
 - (b) may be made to a body or person (including a person for the time being holding or acting in a specified office or position); and
 - (c) may be unconditional or subject to conditions; and
 - (d) may, if the instrument of delegation so provides, allow for the further delegation of a power or function that has been delegated; and
 - (e) does not derogate from the power of the employing authority to act personally in any matter; and
 - (f) may be revoked at any time by the employing authority.
- (9) A change in the person who constitutes the employing authority under this Act does not affect the continuity of employment of a person under this section.
- (10) The Trust must, at the direction of the Minister, the Treasurer or the employing authority, make payments with respect to any matter arising in connection with the employment of a person under this section (including, but not limited to, payments with respect to salary or other aspects of remuneration, leave entitlements, superannuation contributions, taxation liabilities, workers compensation payments, termination payments, public liability insurance and vicarious liabilities).
- (11) The Trust does not have the power to employ any person.
- (12) The Trust may, under an arrangement established by a Minister administering an administrative unit, make use of the services or staff of that administrative unit.
- (13) In this section—

public sector agency has the same meaning as in the *Public Sector Management Act 1995*.

22—Related staffing issues

- (1) The employing authority may, with the approval of the Minister, determine that, for the purposes of the accrual of, or a payment of a lump sum in lieu of the grant of, long service leave or for the purposes of the accrual of leave on account of illness, previous service of a person employed under this Act with an employer other than the employing authority may be regarded, to the extent approved by the Minister, as service with the employing authority.
- (2) The employing authority may enter into arrangements contemplated by section 5 of the *Superannuation Act 1988*.

Division 3—Construction of Drama Facilities

24—Construction of Drama Facilities

- (1) The Trust may, subject to this Act, out of moneys to be provided by Parliament for the purpose or out of moneys borrowed pursuant to section 26 of this Act, construct and provide, on land within the City of Adelaide occupied by the Trust, Drama Facilities and buildings to be used therewith and may provide the furniture, instruments, fittings and equipment thereof or therefor and carry out and construct all works and conveniences incidental to or necessary for any of the foregoing and may construct and provide any works and conveniences incidental to or necessary for the Festival Theatre.
- (1a) In addition to and without derogating from the powers conferred on the Trust by subsection (1) of this section, the Trust may out of moneys to be provided by Parliament for the purpose or out of moneys borrowed pursuant to section 26 of this Act, construct and provide on, over or under any land not occupied by the Trust, with the consent of the owner of that land—
 - (a) such means of access to land occupied by the Trust as are, in the opinion of the Trust, necessary or desirable; and
 - (b) such buildings, works and conveniences, the construction and provision of which, in the opinion of the Trust, is necessary or desirable to secure to the Trust the full and convenient use of land occupied by the Trust.
- (2) The Drama Facilities and associated works and conveniences shall be constructed and provided in accordance with designs approved by the Minister and the designs shall set forth and contain such particulars as the Minister may require.
- (3) The works authorised by this section shall not be a public work as defined in section 3 of the *Public Works Standing Committee Act 1927*, as amended.

Part 3—Financial

25—Trust to keep proper accounts

- (1) The Trust shall keep proper accounts showing accurately and in detail all its financial transactions, assets and liabilities.
- (2) The Auditor-General must, in respect of each financial year of the Trust, audit the accounts of the Trust.

26—Power to borrow

- (1) The Trust may with the consent of the Treasurer, for the purposes of exercising or performing its powers and functions under this Act, borrow money at interest from any person upon such security (if any) by way of mortgage or charge over any of the assets of the Trust, as the Trust may think fit to grant.
- (2) The Treasurer may upon such terms and conditions as he thinks fit guarantee the repayment on any moneys (together with interest thereon) borrowed by the Trust under this section.

- (3) Any moneys required to be paid in satisfaction of a guarantee given pursuant to subsection (2) of this section may be paid out of the general revenue of the State which is hereby to the necessary extent appropriated accordingly.

27—Funds of the Trust

- (1) The moneys required by the Trust for the purposes of the exercise and performance of its powers and functions under this Act shall be—
- (a) all moneys received by the Trust in the exercise and performance of its powers or functions; and
 - (b) all moneys borrowed by the Trust pursuant to section 26 of this Act; and
 - (c) all moneys being gifts to the Trust or derived from the disposition by the Trust of gifts to the Trust; and
 - (ca) all moneys made available to the Trust by the Government of the Commonwealth; and
 - (d) all moneys paid to the Trust by way of grants by the Treasurer out of moneys to be provided by Parliament for the purpose.
- (2) Such of the moneys of the Trust as are not immediately required by the Trust may be lodged on deposit with the Treasurer or invested in any other manner approved of by the Treasurer.

28—Budget

- (1) As soon as practicable after the commencement of this Act the Trust shall present to the Minister a budget showing its estimates of revenue and expenditure over the balance of the financial year within which the budget is presented and thereafter the Trust shall before the commencement of each succeeding financial year present to the Minister a budget showing its estimates of its revenue and expenditure for that succeeding financial year.
- (2) The Minister may approve of any budget presented to him pursuant to subsection (1) of this section or may direct or allow the Trust to amend a budget before so approving of the budget.
- (3) The Trust shall not, without the consent of the Minister, incur any expenditure that is not authorised by an approved budget.
- (4) In this section—
- approved budget* means a budget that has been approved of by the Minister or a budget that, having been amended, has been approved of by the Minister.

Part 4—Ability to transfer property

29—Ability to transfer property

- (1) In this section—
- asset* includes—
- (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;
liability includes a present, contingent or future liability or obligation.
- (2) Subject to subsection (3), the Governor may, by proclamation, transfer assets or liabilities (or both) of the Trust to a Minister.
- (3) Subsection (2) does not apply to any asset that the Trust holds on trust to the extent that a transfer under that subsection would be inconsistent with the terms or conditions of the trust.
- (4) A transfer of assets or liabilities under this section operates by force of this section and despite the provisions of any other law.
- (5) Nothing done under this section—
- (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.

Part 5—Miscellaneous

31A—Liability for council rates

- (1) Subject to subsection (2), land owned by the Trust is not rateable under the *Local Government Act 1934*.
- (2) If any such land is occupied under a lease or licence by a person other than the Crown or an agency or instrumentality of the Crown, that person is liable as occupier of the land to rates levied under the *Local Government Act 1934*.

32—Reports

- (1) As soon as practicable after the end of each financial year the Trust shall present a report to the Minister on its activities during the year and setting out in a form approved by the Minister a statement as to its financial position.
- (2) The Minister shall cause every report of the Trust made in accordance with subsection (1) of this section to be laid before each House of Parliament within fourteen days of his receipt thereof if Parliament is then in session or if Parliament is not then in session within fourteen days of the commencement of the next session of Parliament.

33—Gifts etc

- (1) The Trust may accept—
 - (a) grants, conveyances, transfers and leases of land whether from the Crown or any instrumentality thereof or any other person; and
 - (b) rights to the use, control, management or occupation of any land; and
 - (c) gifts of personal property of any kind to be used or applied by it for the purposes of this Act.
- (2) Notwithstanding anything contained in the *Stamp Duties Act 1923*, as amended, no stamp duty shall be payable on any instrument by which land or any interest in or right over land is granted or assured to or vested in the Trust or on any contract or instrument executed by the Trust for the purpose of disposing of any property.
- (3) Notwithstanding anything contained in the *Succession Duties Act 1929*, as amended, no succession duty shall be payable in respect of any property or interest passing to the Trust on or by reason of the death of any person, and any such property shall not be subject to succession duty under that Act.
- (4) Notwithstanding anything in the *Gift Duty Act 1968*, as amended, no gift duty under that Act shall be payable in respect of the gift of any real or personal property to the Trust.

34—Summary procedure

Proceedings for offences against this Act shall be disposed of summarily.

35—Regulations

- (1) The Governor may, on the recommendation of the Trust, make such regulations as are necessary or expedient for the purposes of giving effect to the provisions or objects of this Act.
- (2) Without limiting the generality of the provisions of subsection (1) of this section, the regulations may—
 - (a) provide for the disposition by the Trust of any unclaimed property left in or on the Centre; and
 - (b) provide for the securing of decency and order in or on the Centre; and
 - (c) prohibit or regulate the taking of intoxicating liquor into or onto the Centre; and
 - (d) provide for and regulate the movement and parking of motor vehicles in and about the Centre and to prescribe charges or fees for parking of motor vehicles; and
 - (e) provide for and prescribe penalties, in each case, not exceeding two hundred dollars, for a contravention of or failure to comply with any provision of the regulations; and
 - (f) fix expiation fees for alleged offences against the regulations.

- (3) In any proceedings relating to an offence against a regulation relating to the moving or parking of motor vehicles—
- (a) an allegation in a complaint that a person named in the complaint was the owner of a vehicle referred to therein on a specified day shall be deemed to be proved in the absence of proof to contrary; and
 - (b) where it is proved that a vehicle was parked in contravention of a regulation it shall be presumed in the absence of proof to the contrary, that the vehicle was so parked by the owner of the vehicle.

37—Powers of Council

- (1) Notwithstanding anything in this Act, or any other Act or law, any exercise or purported exercise by the Council of its powers under—
- (a) section 373 of the *Local Government Act 1934*; or
 - (b) Part 22A of that Act; or
 - (c) paragraph (47) of section 667 of that Act,
- shall to the necessary extent have effect and be deemed always to have had effect in or about the Centre.
- (2) Where the exercise or purported exercise of any of the powers referred to in subsection (1) of this section is or was inconsistent with a provision of this Act, that provision shall, to the extent of that inconsistency, be or be deemed to be void and of no effect.

Legislative history

Notes

- Amendments of this version that are uncommenced are not incorporated into the text.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1971	93	<i>Adelaide Festival Centre Trust Act 1971</i>	3.12.1971	9.12.1971 (<i>Gazette 9.12.1971 p2371</i>)
1972	24	<i>Adelaide Festival Centre Trust Act Amendment Act 1972</i>	6.4.1972	6.4.1972
1973	65	<i>Adelaide Festival Centre Trust Act Amendment Act 1973</i>	6.12.1973	13.12.1973 (<i>Gazette 13.12.1973 p3266</i>)
1974	128	<i>Adelaide Festival Centre Trust Act Amendment Act 1974</i>	12.12.1974	12.12.1974 (<i>Gazette 12.12.1974 p3648</i>)
1976	95	<i>Adelaide Festival Centre Trust Act Amendment Act 1976</i>	16.12.1976	23.12.1976 (<i>Gazette 23.12.1976 p2321</i>)
1982	22	<i>Adelaide Festival Centre Trust Act Amendment Act 1982</i>	18.3.1982	18.3.1982
1983	98	<i>Adelaide Festival Centre Trust Act Amendment Act 1983</i>	15.12.1983	15.12.1983
1985	31	<i>Adelaide Festival Centre Trust Act Amendment Act 1985</i>	11.4.1985	25.7.1985 (<i>Gazette 25.7.1985 p210</i>)
1987	13	<i>Statutes Amendment (Finance and Audit) Act 1987</i>	9.4.1987	1.10.1987 (<i>Gazette 17.9.1987 p886</i>)
1993	75	<i>Statutes Amendment (Abolition of Compulsory Retirement) Act 1993</i>	21.10.1993	1.1.1994: s 2
1994	16	<i>Adelaide Festival Centre Trust (Miscellaneous) Amendment Act 1994</i>	12.5.1994	12.5.1994 except s 4—1.1.1994: s 2
1995	10	<i>Adelaide Festival Centre Trust (Trust Membership) Amendment Act 1995</i>	23.3.1995	23.3.1995
1996	34	<i>Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996</i>	2.5.1996	Sch (cl 2)—3.2.1997 (<i>Gazette 19.12.1996 p1923</i>)
2000	71	<i>Adelaide Festival Centre Trust (Composition of Trust) Amendment Act 2000</i>	7.12.2000	7.12.2000

2006	41	<i>Statutes Amendment (Public Sector Employment) Act 2006</i>	14.12.2006	Pt 4 (ss 10 & 11)—1.4.2007 (<i>Gazette</i> 29.3.2007 p930)
2008	18	<i>Adelaide Festival Centre Trust (Financial Restructure) Amendment Act 2008</i>	26.6.2008	26.6.2008 (<i>Gazette</i> 26.6.2008 p2552)
2009	84	<i>Statutes Amendment (Public Sector Consequential Amendments) Act 2009</i>	10.12.2009	Pt 7 (ss 13—16)—1.2.2010 (<i>Gazette</i> 28.1.2010 p320)

Provisions amended since 3 February 1976

- Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 1 of The Public General Acts of South Australia 1837-1975 at page 79.

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Pt 1		
s 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	
s 3	<i>omitted under Legislation Revision and Publication Act 2002</i>	
s 4		
s 4(1)		
employing authority	inserted by 41/2006 s 10(1)	1.4.2007
<i>member of the Council</i>	<i>deleted by 71/2000 s 2(a)</i>	7.12.2000
<i>officer of the Council</i>	<i>deleted by 71/2000 s 2(a)</i>	7.12.2000
trustee	amended by 71/2000 s 2(b)	7.12.2000
<i>the vesting day</i>	<i>deleted by 18/2008 s 4(1)</i>	26.6.2008
s 4(2)	amended by 95/1976 s 3	23.12.1976
	<i>deleted by 18/2008 s 4(2)</i>	26.6.2008
s 4(3)	inserted by 41/2006 s 10(2)	1.4.2007
Pt 2		
s 6	amended by 31/1985 s 3	25.7.1985
	amended by 75/1993 s 4	1.1.1994
	amended by 10/1995 s 2	23.3.1995
	substituted by 71/2000 s 3	7.12.2000
s 10	substituted by 71/2000 s 4	7.12.2000
s 13	substituted by 71/2000 s 5	7.12.2000
s 18	<i>deleted by 18/2008 s 5</i>	26.6.2008
s 20		
s 20(1)	amended by 16/1994 s 3(a)	12.5.1994
	amended by 18/2008 s 6	26.6.2008
s 20(1a)	inserted by 16/1994 s 3(b)	12.5.1994

Adelaide Festival Centre Trust Act 1971—26.6.2008 to 31.1.2010

Legislative history

s 20(2)	amended by 95/1976 s 4	23.12.1976
ss 21 and 22	substituted by 41/2006 s 11	1.4.2007
s 23	<i>deleted by 18/2008 s 7</i>	26.6.2008
s 24		
s 24(1)	amended by 18/2008 s 8(1)	26.6.2008
s 24(1a)	amended by 18/2008 s 8(2), (3)	26.6.2008
Pt 3		
s 25		
s 25(2)	substituted by 13/1987 s 3	1.10.1987
s 25(3)	<i>deleted by 13/1987 s 3</i>	1.10.1987
Pt 3A	<i>deleted by 18/2008 s 9</i>	26.6.2008
<i>Pt 4 before substitution by 18/2008</i>		
s 29C	<i>inserted by 95/1976 s 5</i>	23.12.1976
Pt 4	substituted by 18/2008 s 9	26.6.2008
Pt 5		
s 31	<i>amended by 22/1982 s 2</i>	18.3.1982
	<i>amended by 98/1983 s 2</i>	15.12.1983
	<i>substituted by 16/1994 s 4</i>	1.1.1994
	<i>expired: s 31(2)—omitted under Legislation Revision and Publication Act 2002</i>	(30.6.1997)
s 31A	inserted by 16/1994 s 4	1.1.1994
s 35		
s 35(2)	amended by 95/1976 s 6(a)	23.12.1976
	amended by 34/1996 s 4 (Sch cl 2)	3.2.1997
s 35(3)	inserted by 95/1976 s 6(b)	23.12.1976
s 35(4)	<i>inserted by 95/1976 s 6(b)</i>	23.12.1976
	<i>deleted by 34/1996 s 4 (Sch cl 2)</i>	3.2.1997
s 36	<i>inserted by 95/1976 s 7</i>	23.12.1976
	<i>deleted by 34/1996 s 4 (Sch cl 2)</i>	3.2.1997
s 37	inserted by 95/1976 s 7	23.12.1976
Schs 1 and 2	<i>deleted by 18/2008 s 10</i>	26.6.2008
Sch 3	<i>inserted by 95/1976 s 8</i>	23.12.1976
	<i>deleted by 18/2008 s 10</i>	26.6.2008

Transitional etc provisions associated with Act or amendments

Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996

5—Transitional provision

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

Adelaide Festival Centre Trust (Composition of Trust) Amendment Act 2000

6—Transitional provision

A trustee holding office immediately before the commencement of section 3 of this Act will continue to hold office in accordance with the terms of the instrument of the trustee's appointment.

Statutes Amendment (Public Sector Employment) Act 2006, Sch 1—Transitional provisions

Note—

Also see *Statutes Amendment (Public Sector Employment) (Transitional Provisions) Regulations 2007*.

1—Interpretation

In this Part, unless the contrary intention appears—

Commonwealth Act means the *Workplace Relations Act 1996* of the Commonwealth;

employing authority means—

- (a) subject to paragraph (b)—the person who is the employing authority under a relevant Act;
- (b) in a case that relates to employment under the *Fire and Emergency Services Act 2005*—the Chief Executive of the South Australian Fire and Emergency Services Commission, or the Chief Officer of an emergency services organisation under that Act, as the case requires;

Industrial Commission means the Industrial Relations Commission of South Australia;

prescribed body means—

- (a) the Aboriginal Lands Trust;
- (b) the Adelaide Cemeteries Authority;
- (c) the Adelaide Festival Centre Trust;
- (d) the Adelaide Festival Corporation;
- (e) SA Ambulance Service Inc;
- (f) the Minister to whom the administration of the *Children's Services Act 1985* is committed;
- (g) the Minister to whom the administration of the *Education Act 1972* is committed;
- (h) the Electricity Supply Industry Planning Council;
- (i) a body constituted under the *Fire and Emergency Services Act 2005*;
- (j) the History Trust of South Australia;
- (k) the Institute of Medical and Veterinary Science;
- (l) a regional NRM board constituted under the *Natural Resources Management Act 2004*;

- (m) the Senior Secondary Assessment Board of South Australia;
- (n) the South Australian Country Arts Trust;
- (o) the South Australian Film Corporation;
- (p) the South Australian Health Commission;
- (q) an incorporated hospital under the *South Australian Health Commission Act 1976*;
- (r) an incorporated health centre under the *South Australian Health Commission Act 1976*;
- (s) the South Australian Motor Sport Board;
- (t) the South Australian Tourism Commission;
- (u) The State Opera of South Australia;
- (v) the State Theatre Company of South Australia;
- (w) the Minister to whom the administration of the *Technical and Further Education Act 1975* is committed;

relevant Act means—

- (a) in a case that relates to employment with a prescribed body established under an Act being amended by this Act—that Act;
- (b) in a case that relates to employment with a prescribed body who is a Minister to whom the administration of an Act being amended by this Act is committed—that Act;
- (c) in a case that relates to employment with a body constituted under the *Fire and Emergency Services Act 2005*—that Act.

2—Transfer of employment

- (1) Subject to this clause, a person who, immediately before the commencement of this clause, was employed by a prescribed body under a relevant Act will, on that commencement, be taken to be employed by the employing authority under that Act (as amended by this Act).
- (2) The following persons will, on the commencement of this clause, be taken to be employed as follows:
 - (a) a person who, immediately before the commencement of this clause, was employed under section 6L(1) of the *Electricity Act 1996* will, on that commencement, be taken to be employed by the employing authority under that Act (as amended by this Act);
 - (b) a person who, immediately before the commencement of this clause, was employed by the South Australian Fire and Emergency Services Commission will, on that commencement, be taken to be employed by the Chief Executive of that body;
 - (c) a person who, immediately before the commencement of this clause, was employed by an emergency services organisation under the *Fire and Emergency Services Act 2005* will, on that commencement, be taken to be employed by the Chief Officer of that body;

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- (d) a person who, immediately before the commencement of this clause, was employed by an incorporated hospital or an incorporated health centre under the *South Australian Health Commission Act 1976* will, on that commencement, be taken to be employed by an employing authority under that Act (as amended by this Act) designated by the Governor by proclamation made for the purposes of this paragraph.
- (3) Subject to this clause, the Governor may, by proclamation, provide that a person employed by a subsidiary of a public corporation under the *Public Corporations Act 1993* will be taken to be employed by a person or body designated by the Governor (and the arrangement so envisaged by the proclamation will then have effect in accordance with its terms).
- (4) Subject to subclause (5), an employment arrangement effected by subclause (1), (2) or (3)—
- (a) will be taken to provide for continuity of employment without termination of the relevant employee's service; and
 - (b) will not affect—
 - (i) existing conditions of employment or existing or accrued rights to leave; or
 - (ii) a process commenced for variation of those conditions or rights.
- (5) If, immediately before the commencement of this clause, a person's employment within the ambit of subclause (1), (2) or (3) was subject to the operation of an award or certified agreement (but not an Australian Workplace Agreement) under the Commonwealth Act, then, on that commencement, an award or enterprise agreement (as the case requires) will be taken to be created under the *Fair Work Act 1994*—
- (a) with the same terms and provisions as the relevant industrial instrument under the Commonwealth Act; and
 - (b) with any terms or provisions that existed under an award or enterprise agreement under the *Fair Work Act 1994*, that applied in relation to employment of the kind engaged in by the person, immediately before 27 March 2006, and that ceased to apply by virtue of the operation of provisions of the Commonwealth Act that came into force on that day,
- subject to any modification or exclusion prescribed by regulations made for the purposes of this subclause and subject to the operation of subclause (6).
- (6) Where an award or enterprise agreement is created by virtue of the operation of subclause (5)—
- (a) the award or enterprise agreement will be taken to be made or approved (as the case requires) under the *Fair Work Act 1994* on the day on which this clause commences; and
 - (b) the *Fair Work Act 1994* will apply in relation to the award or enterprise agreement subject to such modifications or exclusions as may be prescribed by regulations made for the purposes of this subclause; and

- (c) the Industrial Commission may, on application by the Minister to whom the administration of the *Fair Work Act 1994* is committed, or an application by a person or body recognised by regulations made for the purposes of this subclause, vary or revoke any term or provision of the award or enterprise agreement if the Industrial Commission is satisfied that it is fair and reasonable to do so in the circumstances.

3—Superannuation

- (1) If a prescribed body under a relevant Act is, immediately before the commencement of this clause, a party to an arrangement relating to the superannuation of one or more persons employed by the prescribed body, then the relevant employing authority under that Act will, on that commencement, become a party to that arrangement in substitution for the prescribed body.
- (2) Nothing that takes effect under subclause (1)—
 - (a) constitutes a breach of, or default under, an Act or other law, or constitutes a breach of, or default under, a contract, agreement, understanding or undertaking; or
 - (b) terminates an agreement or obligation or fulfils any condition that allows a person to terminate an agreement or obligation, or gives rise to any other right or remedy,

and subclause (1) may have effect despite any other Act or law.

- (3) An amendment effected to another Act by this Act does not affect a person's status as a contributor under the *Superannuation Act 1988* (as it may exist immediately before the commencement of this Act).

4—Interpretative provision

- (1) The Governor may, by proclamation, direct that a reference in any instrument (including a statutory instrument) or a contract, agreement or other document to a prescribed body, or other specified agency, instrumentality or body, will have effect as if it were a reference to an employing authority under a relevant Act, the Minister to whom the administration of a relevant Act is committed, or some other person or body designated by the Governor.
- (2) A proclamation under subclause (1) may effect a transfer of functions or powers.

5—Related matters

- (1) A notice in force under section 51 of the *Children's Services Act 1985* immediately before the commencement of this clause will continue to have effect for the purposes of that section, as amended by this Act.
- (2) A notice in force under section 28 of the *Institute of Medical and Veterinary Science Act 1982* immediately before the commencement of this clause will continue to have effect for the purposes of that section, as amended by this Act.
- (3) A notice in force under section 61 of the *South Australian Health Commission Act 1976* immediately before the commencement of this clause will continue to have effect for the purposes of that section, as amended by this Act.

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- (4) A notice in force under section 13(6) of the *South Australian Motor Sport Act 1984* immediately before the commencement of this clause will continue to have effect after that commencement but may, pursuant to this subclause, be varied from time to time, or revoked, by the Minister to whom the administration of that Act is committed.
 - (5) The fact that a person becomes an employer in his or her capacity as an employing authority under an Act amended by this Act does not affect the status of any body or person as an employer of public employees for the purposes of the *Fair Work Act 1994* (unless or until relevant regulations are made under the provisions of that Act).

6—Other provisions

- (1) The Governor may, by regulation, make additional provisions of a saving or transitional nature consequent on the enactment of this Act.
- (2) A provision of a regulation made under subclause (1) may, if the regulation so provides, take effect from the commencement of this Act or from a later day.
- (3) To the extent to which a provision takes effect under subclause (2) from a day earlier than the day of the regulation's publication in the Gazette, the provision does not operate to the disadvantage of a person by—
 - (a) decreasing the person's rights; or
 - (b) imposing liabilities on the person.
- (4) The *Acts Interpretation Act 1915* will, except to the extent of any inconsistency with the provisions of this Schedule (or regulations made under this Schedule), apply to any amendment or repeal effected by this Act.

Adelaide Festival Centre Trust (Financial Restructure) Amendment Act 2008, Sch 1

1—Transitional provision

- (1) In this clause—

principal Act means the *Adelaide Festival Centre Trust Act 1971*.
- (2) The repeal of a provision of the principal Act by this Act does not affect any vesting of property before the commencement of this Act (but any property so vested may, after the commencement of this Act, be the subject of a proclamation under section 29 of the principal Act, as enacted by this Act).

Historical versions

Reprint No 1—1.7.1991
 Reprint No 2—1.1.1994
 Reprint No 3—12.5.1994
 Reprint No 4—23.3.1995
 Reprint No 5—3.2.1997
 Reprint No 6—7.12.2000
 1.4.2007