

(Reprint No. 1)

SOUTH AUSTRALIA

CITY OF ADELAIDE ACT 1998

*This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at **1 December 1999**.*

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

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CITY OF ADELAIDE ACT 1998

being

City of Adelaide Act 1998 No. 47 of 1998
[Assented to 3 September 1998]¹

as amended by

City of Adelaide (Rundle Mall) Amendment Act 1999 No. 38 of 1999 [Assented to 5 August 1999]²
Road Traffic (Road Rules) Amendment Act 1999 No. 39 of 1999 [Assented to 5 August 1999]³

¹ Came into operation (except ss. 6-19 & 21-37) 10 September 1998: *Gaz.* 10 September 1998, p. 814; s. 31 came into operation on assent (3 September 1998): s. 2(2); ss. 6-19, 21-30 & 32-37 came into operation 14 December 1998: *Gaz.* 3 December 1998, p. 1674.

² Came into operation 25 November 1999: *Gaz.* 25 November 1999, p. 2434.

³ Came into operation 1 December 1999: *Gaz.* 11 November 1999, p. 2254.

N.B. The amendments effected to this Act by the *Local Government (Implementation) Act 1999* had not been brought into operation at the date of, and have not been included in, this reprint.

NOTE:

- Asterisks indicate repeal or deletion of text.
- For the legislative history of the Act see Appendix.

An Act to establish mechanisms to enhance the role of the City of Adelaide as the capital city of South Australia; to make special provision in relation to the local governance of the City of Adelaide; and for other purposes.

The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

Short title

1. This Act may be cited as the *City of Adelaide Act 1998*.

Commencement

2. (1) Subject to subsection (2), this Act will come into operation on a day to be fixed by proclamation.

(2) Section 31 will come into operation on assent.

Objects

3. The objects of this Act are—

- (a) to recognise, promote and enhance the special social, commercial, cultural and civic role that the City of Adelaide plays as the capital city and heart of South Australia; and
- (b) to provide for collaborative arrangements for intergovernmental liaison between the State and The Corporation of the City of Adelaide for the strategic development of the City of Adelaide and the representation of the interests of South Australians not enfranchised to vote in elections for the Corporation; and
- (c) to revise and enhance local governance arrangements for the City of Adelaide; and
- (d) to ensure access to the City of Adelaide for all South Australians.

Interpretation

4. In this Act, unless the contrary intention appears—

"**Adelaide City Council**" or "**the Council**" means The Corporation of the City of Adelaide;

"**Capital City Committee**" or "**the Committee**" means the Capital City Committee established by section 6;

"**City of Adelaide**" means the area of the Adelaide City Council;

"**City of Adelaide community**" includes all people who live, work, study or conduct business in, or who visit, use or enjoy the services, facilities and public places of, the City of Adelaide;

"**council member**" means a member of the Adelaide City Council;

"**relevant day**" means the day on which the general election held under clause 3(1) of schedule 1 concludes.

Interaction with Local Government Act

5. (1) This Act and the *Local Government Act 1934* will be read together and construed as if the two Acts constituted a single Act.

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(2) In the event of an inconsistency between this Act and the *Local Government Act 1934*, the provisions of this Act prevail.

PART 2
COLLABORATIVE ARRANGEMENTS FOR THE
STRATEGIC DEVELOPMENT OF THE CITY OF ADELAIDE

DIVISION 1—ESTABLISHMENT OF THE CAPITAL CITY COMMITTEE

Establishment of the Capital City Committee

6. The *Capital City Committee* is established.

Membership of the Capital City Committee

7. (1) The Capital City Committee consists of the following members:

(a) —

- (i) the Premier, or a Minister nominated by the Premier; and
- (ii) two other Ministers nominated by the Premier; and

(b) —

- (i) the Lord Mayor or, if the Lord Mayor chooses not to be a member of the Committee, another member of the Adelaide City Council nominated by the Council; and
- (ii) two other members of the Adelaide City Council nominated by the Council.

(2) A person ceases to be a member of the Committee if—

(a) in the case of a person holding office as a member under subsection (1)(a)—

- (i) in the case of a nominee of the Premier under subsection (1)(a)(i)—the nomination is withdrawn by the Premier; or
- (ii) the person ceases to be a Minister; or
- (iii) another Minister is nominated in substitution for the person;

(b) in the case of a person holding office as a member under subsection (1)(b)—

- (i) in the case of a nominee of the Adelaide City Council under subsection (1)(b)(i)—the Lord Mayor chooses to become a member of the Committee, or another member of the Council is nominated in substitution for the person; or
- (ii) the person ceases to be a member of the Adelaide City Council; or
- (iii) in the case of a nominee of the Adelaide City Council under subsection (1)(b)(ii)—another member of the Adelaide City Council is nominated in substitution for the person.

(3) The performance of a function or the exercise of a power by the Committee is not affected by a vacancy or vacancies in the membership of the Committee.

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(4) Anything done by or in relation to a person purporting to act under a nomination under this section is not invalid merely because there was a defect or irregularity in connection with the nomination.

(5) A member of the Committee incurs no civil liability for an honest act or omission in the performance or exercise, or purported performance or exercise, of the member's or the Committee's functions or powers under this Act.

(6) A civil liability that would, but for subsection (5), attach to a member attaches instead to—

(a) in the case of a member holding office under subsection (1)(a)—the Crown;

(b) in the case of a member holding office under subsection (1)(b)—the Adelaide City Council.

Chairperson of the Capital City Committee

8. The Premier, or another member of the Committee nominated by the Premier from time to time, will be the Chairperson of the Capital City Committee.

Deputies

9. (1) The Premier may nominate a Minister to be a deputy of the Premier, or of another Minister, for the purposes of the Capital City Committee.

(2) The Adelaide City Council may nominate a member of the Council to be a deputy of a member of the Capital City Committee under section 7(1)(b), for the purposes of the Committee.

(3) A deputy may act as a member of the Committee in the event of the absence or unavailability of the member of the Committee in relation to whom the deputy is appointed.

(4) Anything done by or in relation to a person purporting to act under a nomination under this section is not invalid merely because—

(a) there was a defect or irregularity in connection with the nomination; or

(b) the occasion to act had not arisen or had ceased.

DIVISION 2—FUNCTION OF THE CAPITAL CITY COMMITTEE

Function of the Capital City Committee

10. (1) The Capital City Committee is established as an intergovernmental body to enhance and promote the development of the City of Adelaide as the capital city of the State and, for that purpose, may—

(a) identify and promote key strategic requirements for the economic, social, physical and environmental development and growth of the City of Adelaide as the primary focus for the cultural, educational, tourism, retail and commercial activities of South Australia; and

(b) promote and assist in the maximisation of opportunities for the effective co-ordination of public and private resources to meet the key strategic requirements identified by the Committee, and recommend priorities for joint action by the State Government and the Adelaide City Council (within established budget processes and programs); and

- (c) monitor the implementation of programs designed to promote the development of the City of Adelaide; and
- (d) make provision for the publication (as appropriate) of key strategies, goals and commitments relevant to the development and growth of the City of Adelaide that have been agreed by the parties who are (or will be) required to undertake responsibility for their implementation or delivery; and
- (e) collect, analyse and disseminate information about the economic, social, physical and environmental development of the City of Adelaide, with particular emphasis on assessing outcomes and identifying factors that will encourage or facilitate future development within the City of Adelaide; and
- (f) take on other tasks incidental to the preceding paragraphs.

(2) The Committee must convene a forum ("the Capital City Forum") drawn from members of the City of Adelaide community determined by the Committee, and seek advice from, or share information with, the members of the forum.

Programs

11. (1) The Capital City Committee must prepare a *Capital City Development Program* for consideration by the State Government and the Adelaide City Council.

(2) The Committee may prepare or adopt other programs.

(3) A program prepared or adopted by the Committee—

- (a) is subject to endorsement or adoption by the State Government and the Adelaide City Council (unless already so endorsed); and
- (b) is to be taken to be an expression of policy that does not derogate from the ability or power of the State Government or the Adelaide City Council to act in any matter itself, and that does not affect rights or liabilities (whether of a substantive, procedural or other nature).

(4) The Committee must monitor the implementation of the Capital City Development Program (once endorsed or adopted under subsection (3)) on a regular basis and, to the extent that is appropriate and necessary, ensure that it is revised by the end of February in each year for the purposes of the ensuing financial year.

DIVISION 3—PROCEEDINGS AND OPERATIONS

Proceedings

12. (1) The Capital City Committee must meet at least four times in each year.

(2) The proceedings of the Committee will be—

- (a) as prescribed by regulation; or
- (b) insofar as the proceedings are not prescribed by regulation—as determined by the Committee.

(3) A regulation cannot be made for the purposes of subsection (2) except after agreement between the Minister and the Adelaide City Council.

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Subcommittees

13. (1) The Capital City Committee may establish subcommittees.

(2) The membership of a subcommittee will be determined by the Committee and may, but need not, consist of, or include, members of the Committee.

(3) The proceedings of a subcommittee will be—

(a) as determined by the Committee; or

(b) insofar as the proceedings are not determined by the Committee—as determined by the subcommittee.

Staff, etc.

14. (1) The Premier and the Adelaide City Council will jointly determine the administrative and staffing arrangements for the Capital City Committee.

(2) The Committee may—

(a) by arrangement with the appropriate authority, make use of the services, facilities or staff of a government department, agency or instrumentality;

(b) by arrangement with the Adelaide City Council, make use of the services, facilities or staff of the Council.

(3) The administrative and staffing costs of the Committee must be shared equally between the State and the Adelaide City Council.

Delegation

15. (1) The Capital City Committee may delegate a function or power under this Act—

(a) to a specified person or body; or

(b) to a person occupying a specified position.

(2) A delegation—

(a) may be made subject to conditions and limitations specified in the instrument of delegation; and

(b) if the instrument of delegation so provides—may be further delegated by the delegate; and

(c) is revocable at will and does not prevent the Committee from acting itself in a matter.

DIVISION 4—REPORTING AND REVIEW

Reporting

16. (1) The Capital City Committee must ensure that a report is prepared by 31 October in each year on the operation of the collaborative arrangements established under or pursuant to this Act during the financial year ending on the preceding 30 June.

(2) The Premier must ensure that copies of a report prepared under subsection (1) are laid before both Houses of Parliament within 12 sitting days after the report is completed.

(3) The Lord Mayor must ensure that copies of a report prepared under subsection (1) are presented to the Adelaide City Council within four weeks after the report is completed.

Review

17. (1) The Premier must ensure that a report is prepared by 30 June 2002 on the operation of the collaborative arrangements established under or pursuant to this Act, and on any changes that should be considered or implemented to improve or enhance those arrangements.

(2) The Premier must ensure—

- (a) that the Adelaide City Council is consulted during the preparation of the report under subsection (1); and
- (b) that any matters raised by the Adelaide City Council for inclusion in the report are so included; and
- (c) that the Adelaide City Council is given a reasonable opportunity to comment on a final draft of the report.

(3) The Premier must ensure that copies of the report prepared under subsection (1) are laid before both Houses of Parliament within 12 sitting days after the report is completed.

DIVISION 5—OTHER MATTERS

Access to information

18. (1) The following will be taken to be exempt documents for the purposes of the *Freedom of Information Act 1991* and Part 5A of the *Local Government Act 1934*:

- (a) a document that has been specifically prepared for submission to the Capital City Committee (whether or not it has been so submitted);
- (b) a preliminary draft of a document referred to in paragraph (a);
- (c) a document that is a copy of a part of, or contains an extract from, a document referred to in paragraph (a) or (b);
- (d) an official record of the Committee;
- (e) a document that contains matter the disclosure of which would disclose information concerning any deliberation or decision of the Committee.

(2) A document is not an exempt document under subsection (1) if—

- (a) it merely consists of factual or statistical material that does not disclose information concerning any deliberation or decision of the Committee; or
- (b) it is within a class of documents excluded from the operation of subsection (1) by the regulations.

(3) The Crown and the Adelaide City Council are entitled to access to—

- (a) a document referred to in subsection (1); and
- (b) any other document in the possession or control of the Committee under this Act.

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(4) However—

- (a) access to a document is not available under subsection (3) in breach of a duty of confidence; and
- (b) access to a document under subsection (3) may be given on conditions determined by the Committee.

(5) In this section, a reference to the Committee includes a reference to a subcommittee or delegate of the Committee acting under this Act.

Committee not to be subject to Parliamentary Committees Act

19. The functions and operations of the Capital City Committee may not be subject to inquiry under the *Parliamentary Committees Act 1991*.

**PART 3
SPECIAL ARRANGEMENTS FOR THE ADELAIDE CITY COUNCIL**

DIVISION 1—CONSTITUTION OF COUNCIL

Constitution of Council

20. (1) The Adelaide City Council will, from the relevant day, be constituted of—

- (a) the Lord Mayor; and
- (b) eight other members.

(2) Members of the Council holding office pursuant to subsection (1) will be representatives of the area of the Council as a whole.

(3) A person cannot hold office as Lord Mayor for more than two consecutive terms.

(4) The Council may resolve to have a Deputy Lord Mayor in accordance with the provisions of the *Local Government Act 1934*.

(5) The following provisions apply in relation to the application of Part 2 of the *Local Government Act 1934* to the Council:

- (a) subsections (1) and (2) operate subject to any change to the composition or representative structure of the Council effected under Part 2 of the *Local Government Act 1934* after the seventh anniversary of the relevant day (and until that anniversary no such change can be made by proclamation under that Act); and
- (b) sections 23 and 24 of the *Local Government Act 1934* do not apply in relation to the Council from the commencement of this section until the seventh anniversary of the relevant day; and
- (c) the Council must conduct a review under section 24 of the *Local Government Act 1934* as soon as practicable after the seventh anniversary of the relevant day.

DIVISION 2—ROLE OF MEMBERS

Lord Mayor

21. The role of the Lord Mayor is—

- (a) as the principal elected member of the Council representing the capital city of South Australia—
 - (i) to provide leadership and guidance to the City of Adelaide community;
 - (ii) to participate in the maintenance of inter-governmental relationships at regional, State and national levels;
 - (iii) to carry out civic and ceremonial duties associated with the office of Lord Mayor; and
- (b) as the principal member of the Council—
 - (i) to provide leadership and guidance to the Council;

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- (ii) to preside at meetings of the Council;
- (iii) to advise the chief executive officer on the implementation of decisions of the Council between council meetings (as necessary);
- (iv) to act as the principal spokesperson of the Council;
- (v) to exercise other functions of the Council as the Council determines.

Members

22. (1) The role of a member of the Council is—

(a) as a member of the governing body of the Council—

- (i) to participate in the deliberations and activities of the Council;
- (ii) to provide community leadership and guidance to the City of Adelaide community and to participate in achieving a vision for the desired future of the City through the formulation of strategic plans and policies;
- (iii) to keep the Council's goals and policies under review to ensure that they are appropriate and effective;
- (iv) to keep the Council's resource allocation, expenditure and corporate strategies, and the efficiency and effectiveness of its service delivery, under review;
- (v) to participate in setting and assessing performance standards to be met under the Council's contract with the chief executive officer;
- (vi) to serve the overall public interest of the City of Adelaide;

(b) as a person elected to the Council—to represent the interests of residents and ratepayers and to facilitate communication between the community and the Council.

(2) The Lord Mayor may authorise another member of the Council to act in place of, or to represent, the Lord Mayor in the performance of a particular function.

(3) An authorisation under subsection (2) cannot derogate from the role of a Deputy Lord Mayor under the *Local Government Act 1934*.

(4) A member of the Council has no direct authority over an employee of the Council with respect to the way in which the employee performs his or her duties.

DIVISION 3—CODE OF CONDUCT

Code of conduct

23. (1) The Council must, within six months after the relevant day, prepare a code of conduct to be observed by the members of the Council.

(2) The Council must, within 12 months after each subsequent general election of the Council, complete (and, as appropriate, implement) a review of its code of conduct under this section.

(3) The Council may at any time alter its code of conduct, or substitute a new code of conduct.

(4) A code of conduct must be consistent with any principle or requirement prescribed by the regulations and include any mandatory provision prescribed by the regulations.

(5) A person is entitled to inspect (without charge) the code of conduct of the Council at the principal office of the Council during ordinary office hours.

(6) A person is entitled, on payment of a fee fixed by the Council, to a copy of the code of conduct of the Council.

DIVISION 4—ALLOWANCES AND BENEFITS

Allowances

24. (1) A member of the Council will receive an annual allowance from the Council for performing and discharging official functions and duties.

(2) The Council must—

(a) at its first ordinary meeting after the relevant day; and

(b) thereafter—at the first ordinary meeting after the conclusion of each general election,

fix the rates of the annual allowances to be payable to its members during the ensuing year.

(3) The rates must be within the amounts (being minimum and maximum amounts) prescribed by the regulations, and in default of the Council fixing appropriate rates the prescribed minimum amounts will apply.

(4) The rates of the annual allowances (and the prescribed amounts) may vary between the Lord Mayor, Deputy Lord Mayor (if any) and other members.

(5) The rates must be reviewed by the Council on an annual basis (but a resolution fixing the rates ceases to have effect at the conclusion of a general election).

(6) Allowances under this section will be paid as follows:

(a) an annual allowance payable to the Lord Mayor may be paid in monthly instalments in advance of each month in respect of which the allowance accrues;

(b) other allowances will be paid (in accordance with the Council's determination) at the end of the month, quarter, half-year, or year in respect of which the allowances accrue.

(7) A member of the Council who holds an office for part only of the period in respect of which an allowance is payable is entitled to the proportion of the allowance that the period for which the member held the office bears to the total period.

Fees and reimbursement of expenses

25. A member of the Council will receive from the Council—

(a) fees prescribed for the purposes of this paragraph for the performance and discharge of official functions and duties; and

(b) reimbursement of expenses of a kind prescribed for the purposes of this paragraph incurred in performing or discharging official functions and duties; and

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- (c) reimbursement of expenses of a kind prescribed for the purposes of this paragraph, and approved by the Council, incurred in performing or discharging official functions and duties.

Provision of facilities and support

26. (1) The Council may provide facilities and other forms of support to its members to assist the members in performing or discharging official functions and duties.

(2) The provision of facilities and services under this section is at the discretion of the Council subject to complying with the following requirements:

- (a) the Council must specifically resolve that the provision of the facilities or services is necessary or expedient to the performance or discharge of official functions or duties;
- (b) facilities and services must be available to members on a uniform basis (other than facilities or services specifically provided for the benefit of the Lord Mayor);
- (c) any property provided to a member remains the Council's.

(3) A member of the Council must not use a facility or service provided by the Council under this section for a purpose unrelated to the performance or discharge of official functions or duties (unless the use has been approved by the Council and the member has agreed to reimburse the Council for any additional costs or expenses associated with this use).

**DIVISION 5—SPECIFIC PROVISIONS RELATING TO
THE CHIEF EXECUTIVE OFFICER**

Role of the chief executive officer

27. The functions of the chief executive officer of the Council include—

- (a) to ensure that the policies and lawful decisions of the Council are implemented in a timely and efficient manner;
- (b) to undertake responsibility for the day-to-day operations and affairs of the Council;
- (c) to provide advice and reports to the Council on the exercise and performance of its powers and functions under this or any other Act;
- (d) to co-ordinate proposals for consideration by the Council for developing objectives, policies and programs for the area;
- (e) to provide information to the Council to assist the Council to assess performance against its strategic, corporate and operational plans;
- (f) to ensure that timely and accurate information about Council policies and programs is regularly provided to the City of Adelaide community, and to ensure that appropriate and prompt responses are given to specific requests for information made to the Council;
- (g) to support and advance the role that the City of Adelaide plays as the capital city of South Australia;
- (h) to ensure that the assets and resources of the Council are properly managed and maintained;

- (i) to ensure that records required under this or another Act are properly kept and maintained;
- (j) to give effect to the principles of personnel management prescribed by the *Local Government Act 1934* and to apply proper management practices;
- (k) to exercise, perform or discharge other powers, functions or duties conferred on the chief executive officer by or under this or other Acts, and to perform other functions lawfully directed by the Council.

Appointment of staff

28. (1) The chief executive officer is responsible for appointing, managing, suspending and dismissing the other employees of the Council (on behalf of the Council).

(2) The chief executive officer must ensure that an appointment under subsection (1) is consistent with strategic policies and budgets adopted or approved by the Council.

DIVISION 6—ADMINISTRATIVE AND FINANCIAL MATTERS

Objectives

29. The Council must, in the performance of its roles and functions—

- (a) provide open, responsive and accountable government;
- (b) be sensitive to the needs, interests and aspirations of individuals and groups within the City of Adelaide community;
- (c) participate with other councils, and with State and national governments, in setting regional, State and national objectives;
- (d) give due weight, in all its plans, policies and activities, to regional, State and national objectives and strategies concerning the economic, social, physical and environmental development and management of the City of Adelaide;
- (e) seek to co-ordinate with State and national governments in the planning and delivery of services in which those governments have an interest;
- (f) seek to ensure a proper balance within its community between economic, social, environmental and cultural considerations;
- (g) manage its operations and affairs in a manner that emphasises the importance of service to the community;
- (h) seek to ensure that Council resources are used fairly, effectively and efficiently;
- (i) seek to ensure equitable access to its services, facilities and programs.

Strategic plans

30. (1) The Council should take reasonable steps to undertake, or to participate in, strategic planning for its area, and the State more generally (so far as is relevant to the City of Adelaide).

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- (2) The Council should, in undertaking, or participating in, strategic planning seek—
 - (a) to include an assessment of local and wider issues affecting the City of Adelaide and the Council's responses to those issues (including by co-operation with other councils and bodies); and
 - (b) to develop policy statements and proposals to address issues associated with the economic, social, physical and environmental development and management of the City of Adelaide; and
 - (c) to ensure consistency with the Planning Strategy for the Metropolitan Adelaide under the *Development Act 1993* and other relevant policies and plans; and
 - (d) to address other relevant issues.

* * * * *

Rating policy

32. (1) The Council must, for each financial year commencing with the 1999/2000 financial year, in conjunction with the declaration of rates under the *Local Government Act 1934*, publish a rating policy.

(2) The policy must indicate the relationship between its corporate plan, its budget and its rate structure and also address the following:

- (a) the reason why it has adopted the valuation method used by the Council;
- (b) the use of differential rates in its area and, if differential rates are used, the reasons for the differentiation, and the expected level of revenue to be raised by each differential rate;
- (c) the use and level of a fixed charge component of a general rate (if applicable);
- (d) the use and level of any separate rate, service rate or service charge, including the reasons for the rate or charge;
- (e) issues concerning equity within the community and the impact of rates across the area;
- (f) the application or operation of a minimum amount payable by way of rates (if applicable);
- (g) the Council's policy on discretionary rebates, with particular reference to the rebates that will apply for more than one financial year, and including information on how a rebate is designed to meet the purpose behind the rebate;
- (h) the Council's policy on discretionary remission of rates and charges;
- (i) the methods and frequency of payments of rates;
- (j) the application of penalties for late payments,

and may address other issues considered relevant by the Council.

(3) The Council must ensure that copies of the policy are available for inspection (without charge) and purchase (on payment of a fee fixed by the Council) by the public at the principal office of the Council.

(4) The Council must ensure that an abridged or summary version of its policy accompanies each rates notice sent to ratepayers under the *Local Government Act 1934*.

(5) A rate cannot be challenged on a ground based on non-compliance with this section, or a policy under this section.

Rate rebates

33. (1) Subject to this section, the Adelaide City Council may only grant a rebate of rates under section 193(4)(a) of the *Local Government Act 1934* for the purpose of securing—

- (a) a specific development; or
- (b) a specific kind of development.

(2) However, subsection (1)(b) only applies to residential development if it is wholly or predominantly intended for the benefit of disadvantaged persons, students or other special groups within the community.

(3) Subsection (1) applies from 1 July 2003.

(4) The Council should, to the extent that the operation of this section would otherwise affect the amount of rates imposed on land, on application by a ratepayer, give serious consideration to providing a remission or postponement of rates under subsection (1) of section 185 of the *Local Government Act 1934* (to the extent that the ratepayer is eligible for a remission or postponement under that subsection).

Financial reporting

34. (1) The Adelaide City Council must include in its financial statements under section 161 of the *Local Government Act 1934* for each financial year specific information that shows its expenditure, in actual terms and as a percentage of the total expenditure of the Council, in relation to—

- (a) the Council's commitments under the *Capital City Development Program*; and
- (b) works, services and activities that are directly related to the Council's economic development program for the City of Adelaide.

(2) The Adelaide City Council must include in its annual report under section 42A of the *Local Government Act 1934* specific information on the relationship between its corporate plan, rating policy, general revenue raising policies and expenditure policies.

(3) The Council must, at the request of the Minister, furnish the Minister with such additional information as the Minister may reasonably require concerning the relationship between its corporate plan, rating policy, general revenue raising policies and expenditure policies.

DIVISION 7—REGISTER OF INTERESTS

Lodging of returns

35. (1) Every person who is elected as a member of the Adelaide City Council at the election held on the relevant day must, within 30 days after the relevant day, submit to the chief executive officer of the Council a primary return in accordance with schedule 2.

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(2) Every person who is elected as a member of the Adelaide City Council after the election held on the relevant day (other than a person who is re-elected as a sitting member of the Council) or is appointed as a member of the Council must, within 30 days after election or appointment, submit to the chief executive officer of the Council a primary return in accordance with schedule 2.

(3) Every member of the Adelaide City Council must, on or within 60 days after 30 June in each year, submit to the chief executive officer of the Council an ordinary return in accordance with schedule 2.

(4) If a member of the Council fails to submit a return to the chief executive officer within the time allowed under this section, the chief executive officer must as soon as practicable notify the member of that fact.

(5) A notification under subsection (4) must be given by letter sent to the member by registered mail.

(6) A member of the Council who submits a return under this section and schedule 2 that is to the knowledge of the member false or misleading in a material particular (whether by reason of information included in or omitted from the return) is guilty of an offence.

Maximum penalty: \$10 000.

Creation and inspection of Register

36. (1) The chief executive officer of the Council must maintain a Register of Interests and must cause to be entered in the Register all information furnished pursuant to this Division and schedule 2.

(2) A member of the Council who has submitted a return under this Division may at any time notify the chief executive officer of a change or variation in the information appearing on the Register in respect of the member or a person related to the member within the meaning of schedule 2.

(3) A person is entitled to inspect (without charge) the Register at the principal office of the Council during ordinary office hours.

(4) A person is entitled, on payment of a fee fixed by the Council, to a copy of any part of the Register.

(5) A person must not publish—

(a) information derived from the Register unless the information constitutes a fair and accurate summary of the information contained in the Register and is published in the public interest; or

(b) comment on the facts set forth in the Register unless the comment is fair and published in the public interest and without malice.

(6) If information or comment is published by a person in contravention of subsection (5), the person, and any person who authorised the publication of the information or comment, is guilty of an offence.

Maximum penalty: \$10 000.

Interaction with Local Government Act

37. (1) This Division and schedule 2 operate in substitution for Part 8 of the *Local Government Act 1934*.

(2) A reference in another Part of the *Local Government Act 1934* to a return under Part 8 of that Act will be taken to be a reference to a return under this Division and schedule 2.

City of Adelaide Act 1998

**PART 4
MISCELLANEOUS**

Rundle Mall

37A. (1) Rundle Mall ("**the Mall**") continues as a pedestrian mall.

(2) A person must not—

(a) drive a vehicle on any part of the Mall; or

(b) allow a vehicle to be or remain on any part of the Mall,

otherwise than in accordance with a notice or permit published or given by the Adelaide City Council under this section.

Maximum penalty: \$750.

Expiation fee: \$105.

(3) The Council may, by notice published in the *Gazette*—

(a) specify the vehicles that may enter or remain in the Mall (and those vehicles may be defined by reference to vehicles generally, vehicles of a specified class, vehicles used for a specified purpose or by a specified person or persons of a specified class, or vehicles used in specified circumstances);

(b) specify the hours or occasions during which vehicles may enter or remain in the Mall (and the hours so specified may vary according to a vehicle or class of vehicles or according to other specified circumstances).

(4) The Council may, by notice in writing, permit a vehicle to enter and remain in the Mall for the purpose and for the period, and subject to the conditions (if any), specified in the permission.

(5) A person must not contravene or fail to comply with a condition imposed under subsection (4).

Maximum penalty: \$750.

Expiation fee: \$105.

(6) The Council may, by further notice, vary or revoke a notice or permit published or given under this section.

(7) In addition to any other power to make by-laws, the Council may make by-laws—

(a) regulating, controlling or prohibiting any activity in the Mall, or any activity in the vicinity of the Mall, that is, in the opinion of the Council, likely to affect the use or enjoyment of the Mall; and

(b) providing for the fixing, and varying or revoking, by resolution of the Council, of fees and charges for the use of the Mall or any part of the Mall for any display, activity or entertainment, or for any service provided or permit issued in or in connection with the Mall, and providing for any matter or thing in connection with the collection or remission of those fees or charges; and

- (c) regulating any matter or thing connected with the external appearance of a building or structure on, abutting or visible from the Mall; and
- (d) regulating, controlling or prohibiting the movement or standing of vehicles on access or egress areas to the Mall; and
- (e) fixing a penalty not exceeding \$250 for a breach of a by-law.

(8) In any proceedings for an offence against this section, an allegation that a person is the owner of a specified vehicle will, in the absence of proof to the contrary, be taken to be proved.

(9) If in any proceedings for an offence against this section it is proved that a vehicle was driven, parked, standing or stationary in any place in contravention of this section, it will, in the absence of proof to the contrary, be presumed that the vehicle was driven, parked, left standing or allowed to remain stationary by the owner of the vehicle.

(10) The *Local Government Act 1934* applies to and in relation to by-laws made under this section as if they were by-laws made under that Act.

Regulations

38. (1) The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of subsection (1), the regulations may make specific provision concerning the furnishing of reports and other information to the Adelaide City Council by council members who are members of the Capital City Committee.

Transitional provisions

39. (1) The division of the area of the Adelaide City Council into wards immediately before the relevant day ceases to have effect on the relevant day.

(2) Subsection (3) of section 20 applies from the conclusion of the general elections for the Adelaide City Council to be held on the first Saturday of May in 2000 (and any service as Lord Mayor before the conclusion of those elections will be disregarded for the purposes of that subsection).

City of Adelaide Act 1998

SCHEDULE 1

Special provisions for elections and polls

PART 1

PRELIMINARY

Preliminary

1. (1) In this schedule—

"**general election**" means a general election for council members;

"**officer**" of a body corporate means a director, manager, secretary or public officer of the body corporate and includes any other person who takes part in the management of the affairs of the body corporate;

"**polling day**" for an election or poll means the day on which voting at the election closes under this schedule;

"**returning officer**"—*see* clause 2.

(2) Voting at an election or poll for the City of Adelaide is to close at 12 noon on the day fixed for the election or poll.

(3) References in this schedule to wards only apply if the area of the Council is divided into wards after the relevant day.

(4) The election for Lord Mayor is a separate election to the election (or elections) for councillors.

Returning officer

2. (1) The Electoral Commissioner will be the returning officer for the City of Adelaide.

(2) All expenses actually and necessarily incurred by the returning officer in carrying out official duties must be defrayed from funds of the Council.

PART 2

GENERAL ELECTION TO BE HELD

General election to be held

3. (1) A general election will be held for the Adelaide City Council—

(a) if a proclamation is not made under paragraph (b)—on 14 December 1998;

(b) if an earlier date is fixed by proclamation—on that date,

(on the basis of the constitution of the Council under section 20).

(2) If an election under subclause (1) fails or is declared void, a supplementary election will be held to fill the office or offices not filled by the election.

(3) The supplementary election must be held as soon as practicable after the occasion for the election arises.

(4) The returning officer must fix a day on which the supplementary election will be held.

(5) The general election held pursuant to this clause will be taken to be a general election for the purposes of the *Local Government Act 1934*.

Term of office

4. The term of office of the members of the Adelaide City Council elected at the general election held under clause 3(1) will expire at the conclusion of general elections held on the first Saturday of May in 2000.

PART 3
ENROLMENT IN THE CITY OF ADELAIDE

Qualifications for enrolment

5. (1) For the purposes of elections for the Adelaide City Council—

- (a) a natural person of or above the age of majority is entitled to be enrolled on the voters roll for the area or a ward if that person—
 - (i) is enrolled as an elector for the House of Assembly in respect of a place of residence within the area or ward; or
 - (ii) is resident at a place of residence within the area or ward and has lodged the prescribed declaration with the chief executive officer of the Council; or
 - (iii) is a ratepayer in respect of rateable property within the area or ward and is the sole owner or sole occupier of that rateable property; and
- (b) a body corporate is entitled to be enrolled on the voters roll for the area or a ward if it is a ratepayer in respect of rateable property within the area or ward and is the sole owner or sole occupier of the rateable property; and
- (c) a group of persons (consisting of natural persons, bodies corporate or partly of natural persons and partly of bodies corporate) is entitled to be enrolled as a group on the voters roll for the area or a ward if—
 - (i) the members of the group are all ratepayers in respect of rateable property within the area or ward; and
 - (ii) the members of the group are joint owners, owners in common or joint occupiers of the rateable property; and
 - (iii) at least one member of the group (being a natural person of or above the age of majority or a body corporate) is not enrolled on the relevant voters roll under paragraph (a) or (b), and no member of the group is enrolled on the relevant voters roll under paragraph (a)(i) or (ii) as a resident in respect of the rateable property.

(2) If—

- (a) a person has been enrolled as an elector under subclause (1)(a)(ii) on the basis of residence at a particular place of residence; and
- (b) the chief executive officer sends a notice to the relevant address asking the elector to indicate whether he or she is still resident at that address; and
- (c) the chief executive officer receives no reply within 28 days of the date of the notice or receives a reply indicating that the elector is no longer resident at that address,

it may be presumed, for the purposes of the revision of the voters roll, that the elector is not still resident in the area or ward.

(3) The provisions as to nominated agents under Part 7 of the *Local Government Act 1934* do not apply with respect to the City of Adelaide.

(4) However, a person who is the nominee of a body corporate or group which has its name on the voters roll for the City of Adelaide may act as a nominated agent or elector (as the case may require) on behalf of the body corporate or group for the purposes of the other Parts of the *Local Government Act 1934*.

City of Adelaide Act 1998

Revision of roll

6. (1) The voters roll for the City of Adelaide must be revised so that the roll reflects entitlements to enrolment as they exist—

(a) for the general election to be held under clause 3—on a day to be fixed by proclamation under this paragraph; and

(b) thereafter—on the fourth Thursday of February and the fourth Thursday of August in each year,

(the "closing dates").

(2) A revision must be commenced at least four weeks before a closing date and completed within two weeks after a closing date.

(3) The chief executive officer must complete a preliminary revision of the voters roll at least two weeks before the closing date and then ensure that the preliminary revision is available for inspection by members of the public from the time of that completion until the closing date.

(4) The chief executive officer must publish a notice in a newspaper circulating generally throughout the State on or before the date on which the preliminary revision is made available under subclause (3) stating when and where the revision is available for inspection.

(5) A person may, between the time that the preliminary revision is made available for inspection under subclause (3) and the closing date, object in writing to the chief executive officer on the ground that his or her name has been omitted in error from the voters roll.

(6) The chief executive officer must determine any objection under subclause (5) as soon as practicable after receiving the objection and in any event in sufficient time to complete the revision of the roll not later than two weeks after the closing date.

(7) The roll, as revised under this clause from time to time, must be used for the purposes of the general election to be held under clause 3 (in the case of the revision held pursuant to subclause (1)(a)) and thereafter, according to the circumstances, for any election or poll for the City of Adelaide held after the completion of the revision and before the completion of the next revision.

(8) The Electoral Commissioner must, at least four weeks before each closing date, supply the chief executive officer with a list of the persons who are, as at the date of supply, enrolled as electors for the House of Assembly in respect of a place of residence within the City of Adelaide.

· A list may be supplied in electronic form, or in another manner agreed between the Electoral Commissioner and the chief executive officer.

(9) The list supplied under subclause (8) must differentiate electors according to any wards in relation to which they are enrolled.

(10) The Electoral Commissioner must then continue to supply to the chief executive officer (under an arrangement determined by the Electoral Commissioner after consultation with the chief executive officer) updating information as to House of Assembly enrolments until the closing date.

(11) The Electoral Commissioner is entitled to recover as a debt from the Council a fee of an amount determined by the Commissioner for the supply of information under this clause.

**PART 4
ENTITLEMENT TO VOTE IN THE CITY OF ADELAIDE**

Entitlement to vote

7. (1) A natural person who has his or her name on the voters roll used for an election or poll as an elector in his or her own right is entitled to vote at that election or poll.

(2) A natural person is entitled to vote at an election or poll for a body corporate which has its name on the voters roll if—

- (a) the natural person is an officer of the body corporate; and
- (b) the natural person is acting on behalf of the body corporate (which may be assumed on the basis of a declaration under clause 12).

(3) A natural person is entitled to vote at an election or poll for a group which has its name on the voters roll if—

- (a) the natural person is a member of the group or an officer of a body corporate that is a member of the group; and
- (b) the natural person is acting on behalf of the group (which may be assumed on the basis of a declaration under clause 12).

(4) However—

- (a) a natural person may only vote in one capacity at an election or poll for the City of Adelaide (but this clause does not prevent a person voting at two or more elections for the City of Adelaide held on the same day); and
- (b) if a body corporate or group has nominated a person as a candidate for a particular election, that person is the only person entitled to vote at the election for the body corporate or group.

(5) If the name of a natural person has been omitted in error from a voters roll used for an election or poll, the person is, subject to this schedule, entitled to vote at the election or poll as if the error had not occurred.

(6) If the name of a body corporate has been omitted in error from a voters roll used for an election or poll, a person is, subject to this schedule, entitled to vote at the election or poll under subclause (2) as if the error had not occurred.

(7) If the name of a group has been omitted in error from a voters roll used for an election or poll, a person is, subject to this schedule, entitled to vote at the election or poll under subclause (3) as if the error had not occurred.

(8) A person is only entitled to one vote for each (or any) ward for which the person is enrolled.

(9) A person is only entitled to one vote for the area of the Council as a whole in a particular election.

(10) If a person is entitled to vote in more than one ward, the person is still only entitled to one vote for the area of the Council as a whole.

Entitlement to stand for election

8. (1) Subject to this clause and to section 95(2), (3) and (4) of the *Local Government Act 1934*, a person is eligible to be a candidate for election as a member of the Adelaide City Council if the person is an Australian citizen and—

- (a) the person is an elector for the area; or
- (b) the person is the nominee of a body corporate which has its name on the voters roll for the area; or
- (c) the person is the nominee of a group which has its name on the voters roll for the area; or
- (d) the person's name has been omitted in error from the voters roll for the area, or the person is the nominee of a body corporate or group which has its name omitted in error from the voters roll for the area (and would be eligible for nomination under paragraph (b) or (c) (as the case may be) were the name on the roll).

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(2) Subclause (1) operates subject to the following qualifications:

- (a) a nominee of a body corporate must be an officer of the body corporate; and
- (b) a nominee of a group must be a member of the group, or an officer of a body corporate that is a member of the group; and
- (c) a body corporate or group cannot nominate more than one person for a particular election.

Manner in which nomination is made

9. (1) A person who is eligible to be a candidate for election to an office of the Adelaide City Council may nominate (or, in the case of a nominee of a body corporate or group, be nominated) in the prescribed manner and form as a candidate for election to the office.

(2) The nomination must be accompanied by—

- (a) a declaration of eligibility made by the nominated candidate in the form prescribed by the regulations; and
- (b) the information and material required by the regulations in the form prescribed by the regulations.

(3) A body corporate or group of persons who have nominated a candidate under this clause may at any time before the close of nominations, by notice in the prescribed form given to the returning officer, withdraw the nomination.

**PART 5
POSTAL VOTING**

Postal voting to be used

10. (1) Voting at an election or poll for the City of Adelaide will be conducted on the basis of postal voting.

(2) Subclause (1) does not prevent the personal provision and return of voting papers under this Part.

Notice of use of postal voting

11. The returning officer must, at least 21 days before polling day for an election or poll for the City of Adelaide, by notice including the prescribed information published in a newspaper circulating in the City of Adelaide, inform electors that voting in the election or poll will be conducted entirely by means of postal voting.

Issue of postal voting papers

12. (1) The returning officer must, as soon as practicable after the twenty-first day before polling day for the City of Adelaide, and in any event not later than 14 days before polling day, issue to every natural person, body corporate or group who or which has his, her or its name on the voters roll used for the purposes of the election or poll postal voting papers consisting of—

- (a) a ballot paper authenticated to the satisfaction of the returning officer; and
- (b) an opaque envelope bearing two declarations—
 - (i) one being a declaration in the prescribed form, to be completed by the voter, declaring the voter's date of birth and—
 - that the ballot paper contained in the envelope contains his or her vote; and
 - that he or she has not already voted at the election or poll; and
 - (ii) the other being a declaration in the prescribed form to be completed if the voter is acting on behalf of a body corporate or group of persons under Part 4 of this schedule.

(2) The declarations under subclause (1) must appear on a tear-off extension to the envelope flap.

(3) The envelopes used under subclause (1) must be—

- (a) pre-paid post envelopes addressed to the returning officer; or
- (b) accompanied by pre-paid envelopes addressed to the returning officer,

and must comply with any prescribed requirement.

(4) Postal voting papers must also be issued to any person whose name does not appear on the voters roll but who claims to be entitled to exercise a vote at the election or poll and applies to the returning officer for voting papers not later than 5 p.m. on the last business day before polling day.

(5) Postal voting papers issued under subclause (4) must have included on the envelope referred to in subclause (1) an additional declaration in the prescribed form for the person to set out the grounds on which an entitlement to vote is claimed.

(6) Postal voting papers issued under this clause must be accompanied by the information and material prescribed by the regulations and may be accompanied by other material determined by the returning officer.

(7) Postal voting papers may be issued under this clause—

- (a) by giving them to a prospective voter personally; or
- (b) by sending them by post—
 - (i) to a prospective voter at the appropriate address on the voters roll; or
 - (ii) in the case of a body corporate or group (without limiting the operation of paragraph (a))—to the body corporate or group at an address nominated by the body corporate or group in a manner determined or approved by the returning officer; or
 - (iii) in the case of a prospective voter whose name and address do not appear on the voters roll—at some other address of which the returning officer has received notice in a manner determined or approved by the returning officer.

(8) The returning officer must keep a record of the persons to whom voting papers are issued under this clause.

(9) If postal voting papers are returned because they have not been able to be delivered to a particular person, the returning officer must retain those voting papers in a secure place¹.

¹ Fresh voting papers may be subsequently issued to a person under clause 16.

(10) The returning officer is not obliged to check the date of birth of a voter under subclause (1)(b)(i) (but may do so on a selective, random or other basis determined by the returning officer).

(11) A vote is not invalid by reason only of the fact that the voter's date of birth has not been declared (or accurately declared) under subclause (1)(b)(i).

Special arrangements for the issue of voting papers

13. (1) The returning officer may make arrangements for—

- (a) the personal delivery of voting papers to persons who reside at, or who attend, a specified institution, a specified part of an institution, or a specified place, and who are entitled to voting papers under this Part;
- (b) the attendance of electoral officers at a specified institution, or a specified part of an institution, or a specified place, in order to assist persons in voting and to collect completed voting papers.

(2) The returning officer must take reasonable steps to inform candidates and electors of any arrangements made under subclause (1).

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Procedures to be followed for voting

14. (1) If a person to whom postal voting papers have been issued desires to vote by use of those papers, the following procedure must be followed:

- (a) the voter must mark his or her vote in the manner prescribed by this schedule on the ballot paper supplied; and
- (b) the voter must then fold the ballot paper so as to conceal the vote and place the folded ballot paper in the envelope and seal the envelope; and
- (c) the voter must then ensure that any relevant declaration on the envelope flap is completed and signed; and
- (d) the sealed envelope must then be delivered to an electoral officer (by post or personally) not later than the close of voting on polling day.

(2) An electoral officer must, on the receipt of voting papers under subclause (1), immediately ensure the security of those voting papers in accordance with directions issued by the returning officer for the purposes of the election or poll.

(3) However, an electoral officer may, before taking steps under subclause (2), check information appearing on the outside of the envelope in accordance with instructions issued by the returning officer.

Voter may be assisted in certain circumstances

15. If a person who desires to vote by use of postal voting papers is illiterate or physically unable to carry out a procedure under this schedule, a person of the voter's choice (being a person of or above the age of majority) may render such assistance as may be necessary in the circumstances or may vote on behalf of the voter in accordance with his or her directions and, if necessary, complete any declaration on behalf of the voter.

Issue of fresh postal voting papers

16. (1) If the returning officer is satisfied that postal voting papers issued to an elector—

- (a) have not been received by the elector; or
- (b) have been lost; or
- (c) have been inadvertently spoiled,

the returning officer may issue fresh postal voting papers to the elector.

(2) The returning officer must keep a record of the issue of voting papers under this clause.

(3) The issuing of fresh voting papers under this clause automatically cancels the original voting papers.

Security of votes

17. (1) The returning officer must ensure that arrangements are in place for the efficient receipt and safekeeping of envelopes returned by electors voting at an election or poll, and for the confidential scrutiny of those envelopes (if the returning officer so chooses but without opening the envelopes) pending the close of voting.

(2) The returning officer may give directions to other electoral officers for the purposes of subclause (1).

**PART 6
METHOD OF VOTING**

Method of voting at elections

18. (1) A person voting at an election for the City of Adelaide must make a vote on the ballot paper—

- (a) if only one candidate is required to be elected—by placing the number 1 in the square opposite the name of the candidate of the voter's first preference and, if the voter so desires, by placing the number 2 and consecutive numbers in the squares opposite the names of other candidates in the order of the voter's preference for them;
 - (b) if more than one candidate is required to be elected—by placing consecutive numbers beginning with the number 1 in the squares opposite the names of candidates in the order of the voter's preference for them until the voter has indicated a vote for a number of candidates equal to the number of candidates required to be elected and then, if the voter so desires, by continuing to place consecutive numbers for one or more additional candidates in the order of the voter's preference.
- (2) A tick or cross appearing on a ballot paper is equivalent to the number 1.
- (3) If—
- (a) a series of numbers (starting from the number 1) appearing on a ballot paper is non-consecutive by reason only of the omission of one or more numbers from the series or the repetition of a number (not being the number 1); and
 - (b) if more than one candidate is required to be elected—the numbers are at least consecutive up to the number of candidates required to be elected,

the ballot paper is not informal and the votes are valid up to the point at which the omission or repetition occurs.

(4) A ballot paper is not informal by reason of non-compliance with this clause if the voter's intention is clearly indicated on the ballot paper.

PART 7 COUNTING OF VOTES

Arranging postal papers

19. (1) The returning officer will, after the close of voting on polling day for an election or poll for the City of Adelaide, with the assistance of any other electoral officers who may be present, and in the presence of any scrutineers who may be present, ensure that all voting papers returned for the purposes of the election or poll in accordance with this schedule are made available for the purposes of this clause.

(2) For the purposes of the scrutiny of voting papers for each election or poll, the returning officer will, with the assistance of any other electoral officers who may be present, and in the presence of any scrutineers who may be present—

- (a) examine the declarations on all envelopes used for voting (and validly returned) and determine which votes are to be accepted for further scrutiny and which rejected from further scrutiny, rejecting unopened—
 - (i) any envelope that forms part of a set of voting papers that have been cancelled under this schedule;
 - (ii) any two or more envelopes where it appears to the returning officer that the voter has acted in more than one capacity at the particular election or poll;
 - (iii) any envelope where the voter's name does not appear on the voters roll, unless the voter is voting on behalf of a body corporate or group of persons in accordance with this schedule, or unless the voter's name has been omitted from the roll in error;
 - (iv) any envelope where the voter is purporting to be voting on behalf of a body corporate or group of persons but the returning officer concludes that the voter is in fact attempting to exercise an unauthorised vote;

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- (v) any envelope where the signature does not, to the satisfaction of the returning officer, correspond with the signature on the application (if any) of the voter for the relevant voting papers;
- (b) tear off the extensions to the envelope flaps on the envelopes accepted under paragraph (a);
- (c) rearrange the envelopes that no longer bear their tear-off extensions so that the anonymity of voters is maintained;
- (d) remove the ballot papers from those envelopes;
- (e) if an envelope contains more than one ballot paper and a scrutineer challenges the number of ballot papers contained in the envelope—satisfy himself or herself that the envelope does not contain more ballot papers than the number to which the voter is entitled and, if the returning officer is not so satisfied, return all of those ballot papers to the envelope and reject them from the count;
- (f) examine the remaining ballot papers and reject any informal ballot papers;
- (g) arrange all unrejected ballot papers into appropriate parcels for counting.

Method of counting for elections

20. The method of counting votes to apply at elections for the City of Adelaide will be the method set out in section 121(4) of the *Local Government Act 1934*.

Computer voting

21. (1) The returning officer may, after consultation with the Council, decide to use a computer program to carry out steps involved in the recording, scrutiny or counting of votes in an election or poll for the City of Adelaide.

(2) The returning officer may only decide to use a computer program if reasonably satisfied that the proper use of the program would produce the same result in the recording, scrutiny or counting of votes as the result that would be achieved if the program were not to be used.

(3) If a computer program is used, section 121(4) of the *Local Government Act 1934* will apply subject to the modifications prescribed by the regulations or determined by the returning officer and published in the *Gazette*.

(4) The use of a computer program under this clause does not prevent recounting of votes in an election or poll without computer assistance.

PART 8

CAMPAIGN DONATIONS AND EXPENDITURE

DIVISION 1—PRELIMINARY

Interpretation

22. In this Part—

"disposition of property" means a conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, and includes—

- (a) the allotment of shares in a company; and
- (b) the creation of a trust in property; and
- (c) the grant or creation of a lease, mortgage, charge, servitude, licence, power or partnership or any interest in property; and
- (d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of a debt, contract or chose in action or any interest in property; and

- (e) the exercise by a person of a general power of appointment of property in favour of another person; and
- (f) a transaction entered into by a person with intent thereby to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of another person;

"**electoral advertisement**" means an advertisement containing electoral material;

"**electoral material**" means an advertisement, notice, statement or representation calculated to affect the result of an election or poll;

"**gift**" means a disposition of property made by a person to another person, otherwise than by will, being a disposition made without consideration in money or money's worth or with inadequate consideration, and includes the provision of a service (other than volunteer labour) for no consideration or for inadequate consideration;

"**journal**" means a newspaper, magazine or other periodical, whether published for sale or for distribution without charge;

"**property**" includes money;

"**registered industrial organisation**" means an organisation registered under the *Industrial and Employee Relations Act 1994* or under a law of the Commonwealth or another State or a Territory concerning the registration of industrial organisations.

DIVISION 2—RETURNS

Returns for candidates

23. (1) A person who is a candidate for election to an office of the Adelaide City Council must, within six weeks after the conclusion of the election, furnish to the chief executive officer of the Council, in accordance with the requirements of this Part—

- (a) a **campaign donations return** under this Division; and
- (b) a **campaign expenditure return** under this Division.

(2) The returns must be in the prescribed form and completed in the prescribed manner.

Campaign donations returns

24. (1) Subject to this clause, a campaign donations return for a candidate for election to an office of the Adelaide City Council must set out—

- (a) the total amount or value of all gifts received by the candidate during the disclosure period; and
- (b) the number of persons who made those gifts; and
- (c) the amount or value of each gift; and
- (d) the date on which each gift was made; and
- (e) in the case of each gift made on behalf of the members of an unincorporated association, other than a registered industrial organisation—
 - (i) the name of the association; and
 - (ii) the names and addresses of the members of the executive committee (however described) of the association; and

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- (f) in the case of each gift purportedly made out of a trust fund or out of the funds of a foundation—
- (i) the names and addresses of the trustees of the fund or of the funds of the foundation; and
 - (ii) the title or other description of the trust fund or the name of the foundation, as the case requires; and
- (g) in the case of each other gift—the name and address of the person who made the gift.
- (2) A campaign donations return need not set out any details required by subclause (1) in respect of—
- (a) a private gift made to the candidate; or
 - (b) a gift if the amount or value of the gift is less than \$500.
- (3) For the purposes of this clause—
- (a) subject to paragraph (b), the disclosure period is the period that commenced—
 - (i) in relation to a candidate in an election who was a new candidate (other than a candidate referred to in subparagraph (ii))—12 months before polling day for the election;
 - (ii) in relation to a candidate in an election who was a new candidate and when he or she became a candidate in the election was a member of the Council by virtue of having been appointed under the *Local Government Act 1934*—on the day on which the person was so appointed as a member of the Council;
 - (iii) in relation to a candidate in an election who was not a new candidate—at the end of 30 days after polling day for the last preceding election in which the person was a candidate,

and that ended, in any of the above cases, at the end of 30 days after polling day for the election;
 - (b) for the purposes of the general election held under clause 3(1), the disclosure period for a candidate in the election is the period that commences on the day on which this Part comes into operation and that ends at the end of 30 days after polling day for the election;
 - (c) a candidate is a new candidate, in relation to an election, if the person had not been a candidate in the last general election of the Council and had not been elected at a supplementary election held after the last general election of the Council;
 - (d) two or more gifts (excluding private gifts) made by the same person to a candidate during the disclosure period are to be treated as one gift;
 - (e) a gift made to a candidate is a private gift if it is made in a private capacity to the candidate for his or her personal use and the candidate has not used, and will not use, the gift solely or substantially for a purpose related to an election.

(4) If no details are required to be included in a return under this clause for a candidate, the return must nevertheless be lodged and must include a statement to the effect that no gifts of a kind required to be disclosed were received.

Campaign expenditure return

25. (1) Subject to this clause, a campaign expenditure return for a candidate for election to an office of the Adelaide City Council must set out details of all campaign expenditure in relation to the election incurred by or with the authority of the candidate.

(2) For the purposes of this clause, campaign expenditure, in relation to an election, is expenditure incurred on—

- (a) the broadcasting of an electoral advertisement relating to the election; or

- (b) the publishing in a journal of an electoral advertisement relating to the election; or
- (c) the display at a theatre or other place of entertainment, of an electoral advertisement relating to the election; or
- (d) the production of an electoral advertisement relating to the election, being an advertisement that is broadcast, published or displayed as mentioned in paragraph (a), (b) or (c); or
- (e) the production of any material (not being material referred to in paragraph (a), (b) or (c)) that is required under section 133 of the *Local Government Act 1934* to include the name and address of the author of the material or of the person who is the printer of the material (in the case of printed electoral material); or
- (f) consultants' or advertising agents' fees in respect of—
 - (i) services relating to the election; or
 - (ii) material relating to the election; or
- (g) the carrying out of an opinion poll, or other research, relating to the election; or
- (h) the production and distribution of electoral material that is addressed to particular persons or organisations; or
- (i) other matters or items of a prescribed kind.

(3) If a candidate incurred campaign expenditure of a total amount not exceeding \$500 in relation to an election (or incurred no campaign expenditure), the return may be lodged as a "Nil" return.

Certain gifts not to be received

26. (1) It is unlawful for a member of the Adelaide City Council to receive a gift made to or for the benefit of the member the amount or value of which is not less than \$500 unless—

- (a) the name and address of the person making the gift are known to the member; or
- (b) at the time when the gift is made, the person making the gift gives to the member his or her name and address and the member has no grounds to believe that the name and address so given are not the true name and address of the person making the gift.

(2) It is unlawful for a candidate in an election, or a person acting on behalf of a candidate in an election, to an office of the Adelaide City Council to receive a gift made to or for the benefit of the candidate the amount or value of which is not less than \$500 unless—

- (a) the name and address of the person making the gift are known to the person receiving the gift; or
- (b) at the time when the gift is made, the person making the gift gives to the person receiving the gift his or her name and address and the person receiving the gift has no grounds to believe that the name and address so given are not the true name and address of the person making the gift.

(3) For the purposes of this clause—

- (a) a reference to a gift made by a person includes a reference to a gift made on behalf of the members of an unincorporated association;
- (b) a reference to the name and address of a person making a gift is—
 - (i) in the case of a gift made on behalf of the members of an unincorporated association, other than a registered industrial organisation—a reference to—
 - (A) the name of the association; and

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- (B) the names and addresses of the members of the executive committee (however described) of the association; and
- (ii) in the case of a gift purportedly made out of a trust fund or out of the funds of a foundation—a reference to—
 - (A) the names and addresses of the trustees of the fund or of the funds of the foundation; and
 - (B) the title or other description of the trust fund or the name of the foundation, as the case requires;
- (c) a person who is a candidate in an election is to be taken to remain a candidate for 30 days after the polling day for the election;
- (d) a reference to a candidate in an election includes a reference to a person who is already a member of the Council.

(4) If a person receives a gift that, by virtue of this clause, it is unlawful for the person to receive, an amount equal to the amount or value of the gift is payable by that person to the Crown and may be recovered by the Crown as a debt by action, in a court of competent jurisdiction, against the person.

Inability to complete returns

27. If a person who is required to furnish a return under this Division considers that it is impossible to complete the return because he or she is unable to obtain particulars that are required for the preparation of the return, the person may—

- (a) prepare the return to the extent that it is possible to do so without those particulars; and
- (b) furnish the return so prepared; and
- (c) give to the chief executive officer notice in writing—
 - (i) identifying the return; and
 - (ii) stating that the return is incomplete by reason that he or she is unable to obtain certain particulars; and
 - (iii) identifying those particulars; and
 - (iv) setting out the reasons why he or she is unable to obtain those particulars; and
 - (v) if the person believes, on reasonable grounds, that another person whose name and address he or she knows can give those particulars—stating that belief and the reasons for it and the name and address of that other person,

and a person who complies with this clause is not, by reason of the omission of those particulars, to be taken, for the purposes of this Division, to have furnished a return that is incomplete.

Amendment of returns

28. (1) A person who has furnished a return under this Division may request the permission of the chief executive officer to make a specified amendment of the return for the purpose of correcting an error or omission.

- (2) A request under subclause (1) must—
 - (a) be by notice in writing signed by the person making the request; and
 - (b) be lodged with the chief executive officer.

(3) If—

- (a) a request has been made under subclause (1); and
- (b) the chief executive officer is satisfied that there is an error in, or omission from, the return to which the request relates,

the chief executive officer must amend the return, or permit the person making the request to amend the return, in accordance with the request.

(4) The amendment of a return under this clause does not affect the liability of a person to be convicted of an offence arising out of the furnishing of the return.

Offences

29. (1) A person who fails to furnish a return that the person is required to furnish under this Division within the time required by this Division is guilty of an offence.

Maximum penalty: \$10 000.

- (2) A person who furnishes a return or other information—
 - (a) that the person is required to furnish under this Division; and
 - (b) that contains a statement that is, to the knowledge of the person, false or misleading in a material particular,

is guilty of an offence.

Maximum penalty: \$10 000.

(3) A person who furnishes to another person who is required to furnish a return under this Division information—

- (a) that the person knows is required for the purposes of that return; and
- (b) that is, to that person's knowledge, false or misleading in a material particular,

is guilty of an offence.

Maximum penalty: \$10 000.

(4) An allegation in a complaint that a specified person had not furnished a return of a specified kind as at a specified date will be taken to have been proved in the absence of proof to the contrary.

Failure to comply with Division

30. (1) If a person who is required to furnish a return under this Division fails to submit the return within the time required by this Division, the chief executive officer must as soon as practicable notify the person of that fact.

(2) A notification under subclause (1) must be given by letter sent to the person by registered mail.

(3) A failure of a person to comply with a provision of this Division in relation to an election does not invalidate that election.

DIVISION 3—PUBLIC ACCESS TO INFORMATION

Public inspection of returns

31. (1) The chief executive officer of the Adelaide City Council must keep at the principal office of the Council each return furnished to the chief executive officer under Division 2.

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(2) Subject to this clause, a person is entitled to inspect a copy of a return under Division 2, without charge, during ordinary business hours at the principal office of the Council.

(3) Subject to this clause, a person is entitled, on payment of a fee fixed by the Council, to obtain a copy of a return under Division 2.

(4) A person is not entitled to inspect or obtain a copy of a return until the end of eight weeks after the day before which the return was required to be furnished to the chief executive officer.

Restrictions on publication

32. (1) A person must not publish—

- (a) information derived from a return under Division 2 unless the information constitutes a fair and accurate summary of the information contained in the return and is published in the public interest; or
- (b) comment on the facts set forth in a return under Division 2 unless the comment is fair and published in the public interest and without malice.

(2) If information or comment is published by a person in contravention of subclause (1), the person, and any person who authorised the publication of the information or comment, is guilty of an offence.

Maximum penalty: \$10 000.

DIVISION 4—RELATED MATTERS

Requirement to keep proper records

33. (1) A person must take reasonable steps to keep in his or her possession all records relevant to completing a return under this Part.

Maximum penalty: \$5 000.

(2) A person must keep a record under subclause (1) for at least two years after the date on which the relevant return is required to be furnished to the chief executive officer of the Council under this Part.

Maximum penalty: \$5 000.

Related matters

34. (1) For the purposes of this Part, the amount or value of a gift consisting of or including a disposition of property other than money is, if the regulations so provide, to be determined in accordance with principles set out or referred to in the regulations.

(2) For the purposes of this Part—

- (a) a body corporate and any other body corporate that is related to the first-mentioned body corporate is to be taken to be the same person; and
- (b) the question whether a body corporate is related to another body corporate is to be determined in the same manner as under the *Corporations Law*.

(3) For the purposes of this Part, an act performed by a person or committee appointed or formed to assist the campaign of a candidate in an election will be taken to be an act performed by the candidate.

SCHEDULE 2

Register of Interests—Form of returns

Interpretation

1. (1) In this schedule, unless the contrary intention appears—

"**beneficial interest**" in property includes a right to re-acquire the property;

"**family**", in relation to a council member, means—

- (a) a spouse of the member; and
- (b) a child of the member who is under the age of 18 years and normally resides with the member;

"**family company**" of a council member means a proprietary company—

- (a) in which the member or a member of the member's family is a shareholder; and
- (b) in respect of which the member or a member of the member's family, or any such persons together, are in a position to cast, or control the casting of, more than one-half of the maximum number of votes that might be cast at a general meeting of the company;

"**family trust**" of a council member means a trust (other than a testamentary trust)—

- (a) of which the member or a member of the member's family is a beneficiary; and
- (b) which is established or administered wholly or substantially in the interests of the member or a member of the member's family, or any such persons together;

"**financial benefit**", in relation to a person, means—

- (a) any remuneration, fee or other pecuniary sum exceeding \$1 000 received by the person in respect of a contract of service entered into, or paid office held by, the person; and
- (b) the total of all remuneration, fees or other pecuniary sums received by the person in respect of a trade, profession, business or vocation engaged in by the person where that total exceeds \$1 000,

but does not include an annual allowance, fees, expenses or other financial benefit payable to the person under this Act or the *Local Government Act 1934*;

"**gift**" means a transaction in which a benefit of pecuniary value is conferred without consideration or for less than adequate consideration, but does not include an ordinary commercial transaction or a transaction in the ordinary course of business;

"**income source**", in relation to a person, means—

- (a) any person or body of persons with whom the person entered into a contract of service or held any paid office; and
- (b) any trade, vocation, business or profession engaged in by the person;

"**a person related to a member**" means—

- (a) a member of the member's family;
- (b) a family company of the member;
- (c) a trustee of a family trust of the member;

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"return period", in relation to an ordinary return of a council member, means—

- (a) in the case of a member whose last return was a primary return—the period between the date of the primary return and 30 June next following; and
- (b) in the case of any other member—the period of 12 months expiring on 30 June on or within 60 days after which the ordinary return is required to be submitted.

"spouse" includes putative spouse (whether or not a declaration of the relationship has been made under the *Family Relationships Act 1975*);

"trade or professional organisation" means a body, corporate or unincorporate, of—

- (a) employers or employees; or
- (b) persons engaged in a profession, trade or other occupation,

being a body of which the object, or one of the objects, is the furtherance of its own professional, industrial or economic interests or those of any of its members.

(2) For the purposes of this schedule, a person who is an object of a discretionary trust is to be taken to be a beneficiary of that trust.

(3) For the purpose of this schedule, a person is an investor in a body if—

- (a) the person has deposited money with, or lent money to, the body that has not been repaid and the amount not repaid equals or exceeds \$10 000; or
- (b) the person holds, or has a beneficial interest in, shares in, or debentures of, the body or a policy of life insurance issued by the body.

(4) For the purposes of the schedule, in relation to a return by a council member—

- (a) two or more separate contributions made by the same person for or towards the cost of travel undertaken by the member or a member of the member's family during the return period are to be treated as one contribution for or towards the cost of travel undertaken by the member;
- (b) two or more separate gifts received by the member or a person related to the member from the same person during the return period are to be treated as one gift received by the member;
- (c) two or more separate transactions to which the member or a person related to the member is a party with the same person during the return period under which the member or a person related to the member has had the use of property of the other person (whether or not being the same property) during the return period are to be treated as one transaction under which the member has had the use of property of the other person during the return period.

Contents of return

2. (1) For the purposes of this Act, a primary return must be in the prescribed form and contain the following information:

- (a) a statement of any income source that the council member required to submit the return or a person related to the member has or expects to have in the period of 12 months after the date of the primary return; and
- (b) the name of any company, or other body, corporate or unincorporate, in which the council member or a member of his or her family holds any office whether as director or otherwise; and
- (c) the information required by subclause (3).

(2) For the purposes of this Act, an ordinary return must be in the prescribed form and contain the following information:

- (a) if the council member required to submit the return or a person related to the member received, or was entitled to receive, a financial benefit during any part of the return period—the income source of the financial benefit; and
- (b) if the council member or a member of his or her family held an office whether as director or otherwise in any company or other body, corporate or unincorporate, during the return period—the name of the company or other body; and
- (c) the source of any contribution made in cash or in kind of or above the amount or value of \$750 (other than any contribution by the Council, by the State, by an employer or by a person related by blood or marriage) for or towards the cost of any travel beyond the limits of South Australia undertaken by the council member or a member of his or her family during the return period, and for the purposes of this paragraph "cost of travel" includes accommodation costs and other costs and expenses associated with the travel; and
- (d) particulars (including the name of the donor) of any gift of or above the amount or value of \$750 received by the council member or a person related to the member during the return period from a person other than a person related by blood or marriage to the member or to a member of the member's family; and
- (e) if the council member or a person related to the member has been a party to a transaction under which the member or person related to the member has had the use of property of the other person during the return period and—
 - (i) the use of the property was not acquired for adequate consideration or through an ordinary commercial transaction or in the ordinary course of business; and
 - (ii) the market price for acquiring a right to such use of the property would be \$750 or more; and
 - (iii) the person granting the use of the property was not related by blood or marriage to the member or to a member of the member's family—the name and address of that person; and
- (f) the information required by subclause (3).

(3) For the purposes of this Act, a return (whether primary or ordinary) must contain the following information:

- (a) the name or description of any company, partnership, association or other body in which the council member required to submit the return or a person related to the member is an investor; and
- (b) the name of any political party, any body or association formed for political purposes or any trade or professional organisation of which the council member is a member; and
- (c) a concise description of any trust (other than a testamentary trust) of which the council member or a person related to the member is a beneficiary or trustee (including the name and address of each trustee); and
- (d) the address or description of any land in which the council member or a person related to the member has any beneficial interest other than by way of security for any debt; and
- (e) any fund in which the council member or a person related to the member has an actual or prospective interest to which contributions are made by a person other than the member or a person related to the member; and
- (f) if the council member or a person related to the member is indebted to another person (not being related by blood or marriage to the member or to a member of the member's family) in an amount of or exceeding \$7 500—the name and address of that other person; and

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- (g) if the council member or a person related to the member is owed money by a natural person (not being related to the member or a member of the member's family by blood or marriage) in an amount of or exceeding \$10 000—the name and address of that person; and
- (h) any other substantial interest whether of a pecuniary nature or not of the council member or of a person related to the member of which the member is aware and which he or she considers might appear to raise a material conflict between his or her private interest and the public duty that he or she has or may subsequently have as a member.

(4) A council member is required by this clause only to disclose information that is known to the member or ascertainable by the member by the exercise of reasonable diligence.

(5) Nothing in this clause requires a council member to disclose information relating to a person as trustee of a trust unless the information relates to the person in the person's capacity as trustee of a trust by reason of which the person is related to the member.

(6) A council member may include in a return such additional information as the member thinks fit.

(7) Nothing in this clause will be taken to prevent a council member from disclosing information required by this clause in such a way that no distinction is made between information relating to the member personally and information relating to a person related to the member.

(8) Nothing in this clause requires disclosure of the actual amount or extent of a financial benefit, gift, contribution or interest.

APPENDIX

LEGISLATIVE HISTORY

Repeals

The *City of Adelaide (Rundle Mall) Amendment Act 1999* repealed the *Rundle Street Mall Act 1975*.

Transitional Provisions

(Transitional provision from the City of Adelaide (Rundle Mall) Amendment Act 1999, s. 4(2)-(5))

(2) A notice or permit in force under the *Rundle Street Mall Act 1975* immediately before the commencement of this section will continue and have effect as if published or given under section 37A of the principal Act (as enacted by this Act).

(3) A by-law in force under the *Rundle Street Mall Act 1975* immediately before the commencement of this section will continue in force as if made under section 37A of the principal Act (as enacted by this Act).

(4) The repeal of the *Rundle Street Mall Act 1975* does not affect the operation or recovery of a special rate declared under section 9 of that Act before the commencement of this section.

(5) Any asset or liability of the Rundle Mall Committee immediately before the repeal of the *Rundle Street Mall Act 1975* vests in The Corporation of the City of Adelaide.

Legislative History

Section 31:	repealed by 39, 1999, Sched. cl. 2
Section 37A:	inserted by 38, 1999, s. 3