

South Australia

Institute of Medical and Veterinary Science Act 1982

An Act to re-define the powers, functions, duties and responsibilities of the Institute of Medical and Veterinary Science; and for other related purposes.

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Legislative history

The Parliament of South Australia enacts as follows:

1—Short title

This Act may be cited as the *Institute of Medical and Veterinary Science Act 1982*.

3—Interpretation

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

the council means the council of the Institute;

the Department means the department of the Minister to whom the administration of this Act is committed;

the Director means the person holding or acting in the office of Director under this Act;

employing authority means—

- (a) unless paragraph (b) applies—the Chief Executive of the Department; or
- (b) if the Governor thinks fit, a person, or a person holding or acting in an office or position, designated by proclamation made for the purposes of this definition;

the Health Commission means the South Australian Health Commission established under the *South Australian Health Commission Act 1976*;

incorporated health centre and *incorporated hospital* have the meanings attributed to those expressions by the *South Australian Health Commission Act 1976*;

the Institute means the Institute of Medical and Veterinary Science;

the repealed Act means the *Institute of Medical and Veterinary Science Act 1937* repealed by this Act.

- (2) The Governor may, from time to time as the Governor thinks fit, vary or revoke a proclamation made for the purposes of the definition of *employing authority*, or make a new proclamation for the purposes of that definition.

5—Transitional provisions

- (1) Subject to this Act, all property, rights and liabilities vested in the council under the repealed Act immediately prior to the commencement of this Act shall, upon that commencement, vest in the Institute.
- (2) All persons who were, immediately prior to the commencement of this Act, officers or employees of the Institute (whether appointed or employed by the Governor or the council under the repealed Act) shall, subject to this Act, remain officers or employees of the Institute under this Act.
- (3) Upon the commencement of this Act—
 - (a) a salaried officer of the Institute under the repealed Act who is specified in a notice published by the Public Service Board in the Gazette for the purposes of this section, shall become an officer of the Public Service in the Department of Agriculture or the Department of Services and Supply, as the notice may specify, at the salary and classification specified in relation to him in the notice; and

- (b) an employee of the Institute under the repealed Act (not being a salaried officer of the Institute) who is specified in the notice referred to in paragraph (a), shall become an employee of the Minister of Agriculture or the Deputy Premier, as the notice may specify, upon terms and conditions fixed by the relevant Minister.
- (4) Notwithstanding any other provision of this section, the transfer of the employment of an officer or employee of the Institute pursuant to subsection (3) shall be effected without reduction of his salary or wage, and without prejudice to, or interruption of, his existing and accruing rights in respect of recreation leave, sick leave and long service leave arising out of his previous service with the Institute.

6—Constitution of the Institute as a body corporate

- (1) The Institute of Medical and Veterinary Science established under the repealed Act shall continue in existence under this Act.
- (2) The Institute shall—
 - (a) be a body corporate with perpetual succession and a common seal; and
 - (b) be capable of suing and being sued; and
 - (c) be capable of holding, acquiring, dealing with and disposing of real and personal property; and
 - (d) be capable of incurring or acquiring any other rights and liabilities; and
 - (e) have the powers, functions, duties and responsibilities conferred or imposed by or under this Act or any other Act; and
 - (f) hold its property on behalf of the Crown.
- (2) Where an apparently genuine document purports to bear the common seal of the Institute, it shall be presumed in any legal proceedings, in the absence of proof to the contrary, that the common seal of the Institute has been duly affixed to that document.

7—Council

- (1) The Institute shall be administered by a council.
- (2) The council shall consist of ten members as follows:
 - (a) nine members shall be appointed by the Governor, of whom—
 - (i) one shall be an officer of the Department nominated by the Minister; and
 - (ii) two shall be persons nominated by the body established under the *South Australian Health Commission Act 1976* to provide health services at the Royal Adelaide Hospital; and
 - (iii) two shall be persons nominated by The University of Adelaide; and
 - (iv) two shall be persons nominated by the Minister, being persons who, in his opinion, have experience in financial management; and
 - (v) one shall be an officer of the Department of Agriculture nominated by the Minister of Agriculture; and

- (vi) one shall be a registered veterinary surgeon in private practice selected by the Minister of Agriculture from a panel of three persons nominated by the South Australian Division of the Australian Veterinary Association; and
 - (b) the Director shall be a member *ex officio*.
- (3) An appointed member of the council shall be appointed—
 - (a) for such term of office, not exceeding four years, as the Governor specifies in the instrument of appointment; and
 - (b) upon such conditions as the Governor may determine.
- (5) If a body fails to nominate a person for the purposes of subsection (2) within one month after receiving a written request from the Minister to do so, the Governor may appoint a person nominated by the Minister to the vacant position on the council, and the person so appointed shall, for all purposes, be deemed to have been duly nominated and appointed to the council.
- (6) Upon the expiration of the term of office of an appointed member of the council, he shall, subject to this section, be eligible for re-appointment.

8—Chairman and Deputy Chairman

The Governor shall, upon the nomination of the Minister, appoint one of the members of the council to be the Chairman of the council, and one other member to be the Deputy Chairman of the council.

9—Deputies

- (1) The Governor may appoint a suitable person to be the deputy of a member of the council.
- (2) Where a member is for any reason absent or unable to act in his capacity as a member of the council, his deputy may act as a member of the council.

10—Removal from and vacancies of office

- (1) The Governor may remove an appointed member of the council from office on the ground of—
 - (a) any breach of, or non-compliance with, a condition of his appointment; or
 - (b) mental or physical incapacity to carry out the duties of his office; or
 - (c) dishonourable conduct; or
 - (d) neglect of duty.
- (2) The office of an appointed member of the council shall become vacant if—
 - (a) he dies; or
 - (b) his term of office expires; or
 - (d) he resigns by giving notice in writing to the Minister; or
 - (e) he is removed from office by the Governor pursuant to subsection (1).
- (3) Upon the office of a member of the council becoming vacant, a person shall be appointed to that office in accordance with this Act.

11—Validity of acts of the council and immunity from liability of members

- (1) An act or decision of the council shall not be invalid by reason of a vacancy in its membership or any defect in the appointment of a person to the council.
- (2) No liability shall attach to a member of the council for any act or omission by him, or the council, in good faith and in the exercise of his or its powers or functions, or in the discharge of his or its duties, under this Act.
- (3) Any liability that would, but for subsection (2), lie against a member of the council shall lie against the Crown.

12—Disclosure of interest

- (1) A member of the council who is in any way directly or indirectly interested in a contract made by the Institute, or a proposed contract in the contemplation of the council—
 - (a) shall as soon as he becomes aware of the contract, or the proposal to make the contract, disclose the nature of his interest to the council; and
 - (b) shall not take part in any deliberations or decision of the council with respect to that contract.

Penalty: One thousand dollars.

- (2) Subsection (1) does not apply in respect of an interest that exists only by virtue of the fact that a member is an officer or employee of the Institute.
- (3) A disclosure under this section shall be recorded in the minutes of the council.

13—Meetings of the council

- (1) The Chairman, or in the absence of the Chairman, the Deputy Chairman, shall preside at meetings of the council.
- (2) Six members of the council (one of whom must be the Chairman or the Deputy Chairman) shall constitute a quorum at any meeting of the council, and no business shall be transacted at a meeting unless a quorum is present.
- (3) A decision carried by a majority of the votes cast by the members present at a meeting shall be a decision of the council.
- (4) The person presiding at a meeting of the council shall, in the event of an equality of votes, have a second or casting vote, in addition to his deliberative vote.
- (5) The council shall keep accurate minutes of proceedings at its meetings.
- (6) Subject to this Act, the council may conduct its business in such manner as it thinks fit.

14—Functions and powers of Institute

- (1) The functions of the Institute are—
 - (a) to provide and maintain a medical pathology service for such hospitals or other health care organisations as the Minister may direct; and
 - (b) to provide, to such extent as the Institute thinks fit, a medical pathology service for medical practitioners in private practice; and

- (c) to provide and maintain a public health laboratory service in accordance with the requirements of the Minister; and
 - (d) to provide and maintain such services and facilities as the Minister of Agriculture may require in relation to the veterinary laboratory services, the services to veterinary surgeons in private practice, and any other veterinary services, provided by the Department of Agriculture; and
 - (e) to provide and maintain such services and facilities as the Minister of Agriculture may require for the conduct of research in the field of veterinary science; and
 - (f) to conduct research into fields of science related to the services provided by the Institute; and
 - (fa) to undertake the commercial exploitation of knowledge acquired by the Institute in the course of conducting research; and
 - (fb) to produce and sell instruments or other equipment for use in—
 - (i) the provision of medical diagnostic services; and
 - (ii) the teaching of medical science; and
 - (iii) scientific research;
 - (fc) to provide consultant services; and
 - (g) to provide the University of Adelaide, the Flinders University, or any other authority or person approved by the Institute, with facilities for conducting research of the kind referred to in paragraph (f); and
 - (h) to provide assistance to tertiary educational authorities in teaching in fields of science related to the services provided by the Institute; and
 - (i) to perform such other functions as the Minister may assign to the Institute; and
 - (j) to perform any other functions that are ancillary or incidental to the functions referred to in the preceding paragraphs.
- (2) For the purpose, or in the course, of performing its functions, exercising its powers, or discharging its duties and responsibilities the Institute may—
- (a) establish committees (which may consist of, or include, members of the council or other persons) to advise the Institute on any matter;
 - (ab) promote the formation of a company under the *Corporations Act 2001* of the Commonwealth;
 - (b) delegate any of its powers, functions, duties or responsibilities—
 - (i) to a committee, a member of the council, a person employed under this Act, or an officer of the Public Service of the State; or
 - (ii) in the case of a function referred to in subsection (1)(fa), (fb) or (fc)—to a company formed in pursuance of paragraph (ab);
 - (c) purchase, receive, take on hire or loan, lease, sell, or otherwise acquire, hold, deal with or dispose of real or personal property;
 - (d) make charges for any service, assistance or facilities provided by the Institute;

- (e) enter into any contract or arrangement relevant to the functions of the Institute.
- (2a) The Institute, or a company formed pursuant to subsection (2)(ab), may operate within or outside the State.
- (3) A delegation under subsection (2)(b) is revocable at will and does not derogate from the power of the Institute to act itself in any matter.
- (4) The council, as the governing body of the Institute, is responsible for carrying out the functions, exercising the powers and discharging the duties and responsibilities of the Institute.

15—Institute subject to the control and direction of the Minister

- (1) The Institute shall be subject to the control and direction of the Minister.
- (2) The Institute must make available to the Minister such information as the Minister may reasonably require for the purposes of exercising powers under this Act.

16—Director of Institute

- (1) There shall be a Director who shall be the chief executive officer of the Institute.
- (2) The Director will be appointed by the employing authority after consultation with the Institute on terms and conditions fixed by the Minister and approved by the Commissioner for Public Employment.
- (3) In addition, a person may not be appointed to the office of Director, and may not be removed from that office, except with the approval of the Minister.

17—Staff of Institute

Note—

Section 17(12) had not come into operation at the date of the publication of this version.

- (1) The employing authority may employ other staff for the purposes of this Act.
- (2) The terms and conditions of employment of a person will be determined by the employing authority after complying with any recommendation of the Commissioner for Public Employment.
- (3) A person employed under this section will be taken to be employed by or on behalf of the Crown but, subject to subsection (4), the *Public Sector Management Act 1995* will not apply to the person.
- (4) The Governor may, by regulation, declare that specified provisions of the *Public Sector Management Act 1995* will apply, with such modifications as may be prescribed, in relation to any person or class of persons employed under this section.
- (5) The employing authority may direct a person employed under this section to perform functions in connection with the operations of a public sector agency specified by the employing authority (and the person must comply with that direction).
- (6) The employing authority is, in acting under this section, subject to direction by the Minister.
- (7) However, no Ministerial direction may be given by the Minister relating to the appointment, transfer, remuneration, discipline or termination of a particular person.

- (8) The employing authority may delegate a power or function under this section.
- (9) A delegation under subsection (8)—
 - (a) must be by instrument in writing; and
 - (b) may be made to a body or person (including a person for the time being holding or acting in a specified office or position); and
 - (c) may be unconditional or subject to conditions; and
 - (d) may, if the instrument of delegation so provides, allow for the further delegation of a power or function that has been delegated; and
 - (e) does not derogate from the power of the employing authority to act personally in any matter; and
 - (f) may be revoked at any time by the employing authority.
- (10) A change in the person who constitutes the employing authority under this Act will not affect the continuity of employment of a person under this section.
- (11) The Institute must, at the direction of the Minister, the Treasurer or the employing authority, make payments with respect to any matter arising in connection with the employment of a person under this Act (including, but not limited to, payments with respect to salary or other aspects of remuneration, leave entitlements, superannuation contributions, taxation liabilities, workers compensation payments, termination payments, public liability insurance and vicarious liabilities).
- (12) *The Institute does not have the power to employ any person.*
- (13) The Institute may, under an arrangement established by a Minister administering an administrative unit, make use of the services or staff of that administrative unit.
- (14) In this section—
public sector agency has the same meaning as in the *Public Sector Management Act 1995*.

18—Superannuation, accrued leave rights etc

- (1) The employing authority may enter into arrangements contemplated by section 5 of the *Superannuation Act 1988*.
- (1a) Any person employed under this Act who was, immediately before entering into that employment, a contributor under the *Superannuation Act 1988* may, subject to that Act, remain a contributor.
- (2) Where a person commences employment under this Act after ceasing to be employed—
 - (a) in the Public Service of the State; or
 - (b) under the *South Australian Health Commission Act 1976*,

and that employment under this Act follows immediately upon the cessation of that previous employment, the following provisions shall apply—

- (e) his existing and accruing rights immediately before the cessation of that previous employment in respect of recreation leave, sick leave, accouchement leave and long service leave shall continue in full force and effect as if that previous employment had been employment under this Act; and

- (f) he shall not be entitled to payment in lieu of those rights.
- (3) Except where subsection (2) applies, where a person commences employment under this Act within three months after ceasing to be employed—
 - (a) in the Public Service of the State; or
 - (b) under the *South Australian Health Commission Act 1976*; or
 - (c) in prescribed employment,

his existing and accruing rights immediately before the cessation of that previous employment in respect of recreation leave, sick leave, accouchement leave and long service leave shall continue to the extent directed by the employing authority and subject to such conditions as may be determined by the employing authority, as if that previous employment had been employment under this Act.

19—Property of the Institute

- (1) The Governor may, by instrument in writing—
 - (a) direct that any unalienated Crown land, or any land held on behalf of the Crown, be vested in the Institute for an estate in fee simple; or
 - (b) place any unalienated Crown land under the care, control and management of the Institute; or
 - (c) resume any land placed under the care, control and management of the Institute pursuant to paragraph (b).
- (2) A direction under subsection (1)(a) shall be effective to vest the land to which it relates in the Institute for an estate in fee simple.
- (3) The Minister may, subject to and in accordance with the *Land Acquisition Act 1969*, acquire land for the purposes of the Institute.

20—Duty of Registrar-General in relation to real property vested in the Institute

- (1) The Registrar-General shall, upon the application of the Institute, and upon proof to his satisfaction that an interest in land has vested in the Institute in pursuance of this Act, and upon production of duplicate certificates of title (if any) relating to the land, issue such new certificates of title, or make such entries and notations upon existing certificates of title, as may be necessary to evidence vesting of the interest in the Institute.
- (2) Where an application has been made under this section, the Registrar-General may require the Institute to furnish him with—
 - (a) any instrument evidencing former title to the land, or any existing or former interest in the land; and
 - (b) a plan of the land to which the application relates, certified by a licensed surveyor.

21—Accounts, audit etc

- (1) The Institute shall cause proper accounts to be kept of its financial affairs and those of any company to which it has delegated functions under this Act.

- (2) The accounts of the Institute and of such a company shall be audited at least once in every year by the Auditor-General.
- (3) For the purposes of the audit, the Auditor-General shall have and may exercise, in relation to the accounts of the Institute and of such a company and the persons employed under this Act and such a company, the same powers as are vested in the Auditor-General by virtue of the *Audit Act 1921* in relation to public accounts and accounting officers.

22—Budget estimates and staffing plan

The council shall, not later than a date stipulated by the Minister, in each year submit to the Minister—

- (a) estimates of the expected receipts and payments of the Institute for the financial year next ensuing after that date; and
- (b) details of any proposed capital works that the Institute proposes to carry out during that financial year; and
- (c) details of any proposed variation in the services, assistance or facilities provided by the Institute; and
- (d) estimates of the requirements of the Institute in relation to staffing for the next financial year.

23—Financial provision

- (1) Subject to subsection (2), the moneys required for the purposes of this Act shall be paid out of moneys appropriated by Parliament for the purpose.
- (2) Moneys received by the Institute in respect of the performance of prescribed functions shall not be paid into the Consolidated Account (unless so directed by the Treasurer) but may be applied by the Institute, without appropriation by Parliament, for the purpose of performing its functions and discharging its duties and responsibilities under this Act.

24—Power to borrow, invest etc

- (1) The Institute may, with the consent of the Treasurer, borrow money for the purpose of enabling it to perform its functions and discharge its duties and responsibilities under this Act.
- (2) A liability incurred with the consent of the Treasurer pursuant to subsection (1) is, by virtue of this section, guaranteed by the Treasurer.
- (3) A liability of the Treasurer under a guarantee arising by virtue of subsection (2) shall be satisfied out of the General Revenue of the State, which is, by virtue of this section, appropriated to the necessary extent.
- (4) The Institute may, with the approval of the Treasurer, invest any moneys of the Institute that are not for the time being required for the purposes of the Institute, in such investments as may be approved by the Treasurer.

25—The council may make rules

- (1) The council may make rules with respect to all or any of the following matters:
 - (a) the conduct of the business and proceedings of the council; and

- (b) the management of the Institute; and
 - (c) the establishment, management and administration of any services provided, or to be provided by the Institute; and
 - (d) the management of any facilities provided by the Institute; and
 - (e) the establishment, management and conduct of any course of instruction or training provided, or to be provided, at the Institute; and
 - (f) the fixing and recovery of fees for any service, assistance or facilities provided by the Institute; and
 - (g) co-operation between the Institute and any Department of the Public Service of the State, any hospital, or any university or other tertiary education authority, in respect of the provision of education or training at the Institute; and
 - (h) the maintenance of good order and discipline at the Institute; and
 - (i) any other matter incidental to the performance and discharge by the Institute of its functions, duties and responsibilities, or affecting the administration of the Institute.
- (2) Every rule made pursuant to this section must be sealed with the seal of the Institute and submitted to the Minister for approval.
- (3) Where the Minister has approved a rule, it shall be transmitted to the Governor for confirmation, and upon confirmation shall come into force.

26—The council may make by-laws

- (1) The council may make, alter or repeal by-laws for all or any of the following purposes:
- (a) to prohibit persons trespassing on the grounds of the Institute; and
 - (b) to define parts of the grounds of the Institute as prohibited areas and to prohibit persons from entering any part of any such prohibited area or to provide for the removal of persons from any such area; and
 - (c) to prevent damage to the property, buildings or grounds of the Institute; and
 - (d) to regulate the speed at which vehicles may be driven on the grounds of the Institute; and
 - (e) to prohibit dangerous or careless driving of vehicles on the grounds of the Institute; and
 - (f) to prescribe the routes to be followed by traffic within the grounds of the Institute; and
 - (g) to provide for, regulate or prohibit the standing, parking or ranking of vehicles within the grounds of the Institute and to provide for the removal of vehicles from the grounds; and
 - (h) to require drivers of vehicles within the grounds of the Institute to comply with traffic directions; and
 - (i) generally to regulate traffic of all kinds in the grounds of the Institute; and

- (j) to prohibit disorderly or offensive behaviour within the Institute or the grounds of the Institute, and to provide for the removal of persons guilty of disorderly or offensive behaviour; and
 - (k) to regulate, restrict or prohibit the consumption of food or alcoholic liquor within the Institute or the grounds of the Institute; and
 - (l) to prevent undue noise within the Institute or the grounds of the Institute; and
 - (m) to prescribe any other matters necessary or expedient for the maintenance of good order, the protection of property of the Institute or the prevention of hindrance to, or interference with, any activities conducted in the Institute or its grounds; and
 - (n) to prescribe fines not exceeding fifty dollars for contravention of any by-law; and
 - (o) to fix expiation fees for alleged offences against the by-laws.
- (2) Every by-law made pursuant to this section must be sealed with the seal of the Institute and submitted to the Minister for approval.
- (3) Where the Minister has approved a by-law, it shall be transmitted to the Governor for confirmation, and upon confirmation shall come into force.
- (4) In any proceedings relating to an offence against a by-law—
- (a) an allegation in a complaint that any specified place is or was in the grounds of the Institute shall be deemed to be proved in the absence of proof to the contrary;
 - (b) an allegation in a complaint that a person named in the complaint was the owner of a vehicle referred to therein shall be deemed to be proved in the absence of proof to the contrary.

28—Recognised organisations

- (1) The following organisations are recognised organisations for the purposes of this section:
- (a) the Federated Miscellaneous Workers' Union; and
 - (b) the Public Service Association; and
 - (c) the Royal Australian Nursing Federation; and
 - (d) the S.A. Salaried Medical Officers Association; and
 - (e) any organisation declared to be a recognised organisation under subsection (2).
- (2) Where the employing authority is of the opinion that an organisation (being an association registered under the Industrial Conciliation and Arbitration Act) represents the interests of a significant number of persons employed under this Act, the employing authority must by notice published in the Gazette, declare that organisation to be a recognised organisation for the purposes of this Act.
- (3) Any such recognised organisation shall have the right to make submissions to the employing authority and the Institute on any matter arising out of or in relation to the exercise or performance of any of their powers or functions under this Act.

30—Duty to maintain confidentiality

- (1) Subject to subsection (2), a person employed under this Act shall not divulge any personal information, relating to any patient, obtained in the course of his employment otherwise than as he may be authorised or required to divulge that information by law or by his employer.

Penalty: Two thousand dollars or imprisonment for six months.

- (2) This section does not prevent a person from divulging statistical or other information that could not reasonably be expected to lead to identification of the patients to whom it relates.

31—Annual report

- (1) The council shall, not later than the thirtieth day of November, in each year present to the Minister a report on the administration and activities of the Institute during the previous financial year.
- (1a) The report must cover the activities of any company to which the Institute has delegated functions in pursuance of this Act.
- (2) The Minister shall, as soon as practicable after his receipt of a report presented to him under subsection (1), cause a copy of the report to be laid before each House of Parliament.

32—Delegation

- (1) The Minister may delegate a power or function vested in or conferred on the Minister by or under this Act—
 - (a) to a particular person or body; or
 - (b) to the person for the time being holding or acting in a particular office or position.
- (2) A power or function delegated under this section may, if the instrument of delegation so provides, be further delegated.
- (3) A delegation—
 - (a) may be absolute or conditional; and
 - (b) does not derogate from the power of the delegator to act in a matter; and
 - (c) is revocable at will by the delegator.

33—Regulations

- (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) The regulations may prescribe penalties not exceeding two hundred dollars for contravention of any regulation.

Legislative history

Notes

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

Repeal of Act

The *Institute of Medical and Veterinary Science Act 1982* was repealed by s 10 of the *Statutes Amendment and Repeal (Institute of Medical and Veterinary Science) Act 2008* on 1.7.2008.

Legislation repealed by principal Act

The *Institute of Medical and Veterinary Science Act 1982* repealed the following:

Institute of Medical and Veterinary Science Act 1937

Principal Act and amendments

Year	No	Title	Assent	Commencement
1982	31	<i>Institute of Medical and Veterinary Science Act 1982</i>	8.4.1982	1.7.1982 (<i>Gazette 1.7.1982 p4</i>)
1985	53	<i>Institute of Medical and Veterinary Science Act Amendment Act 1985</i>	30.5.1985	21.11.1985 (<i>Gazette 21.11.1985 p1542</i>)
1993	75	<i>Statutes Amendment (Abolition of Compulsory Retirement) Act 1993</i>	21.10.1993	1.1.1994: s 2
1996	34	<i>Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996</i>	2.5.1996	Sch (cl 19)—3.2.1997 (<i>Gazette 19.12.1996 p1923</i>)
2000	34	<i>South Australian Health Commission (Administrative Arrangements) Amendment Act 2000</i>	6.7.2000	Sch 1 (cl 10)—6.7.2000 (<i>Gazette 6.7.2000 p5</i>)
2001	23	<i>Statutes Amendment (Corporations) Act 2001</i>	14.6.2001	Pt 18 (s 79)—15.7.2001 being the day on which the <i>Corporations Act 2001</i> of the Commonwealth came into operation: <i>Commonwealth of Australia Gazette No. S 285, 13 July 2001 (Gazette 21.6.2001 p2270)</i>
2006	1	<i>Institute of Medical and Veterinary Science (Miscellaneous) Amendment Act 2006</i>	15.6.2006	15.6.2006

2006	41	<i>Statutes Amendment (Public Sector Employment) Act 2006</i>	14.12.2006	Pt 14 (ss 61—63, new s 17(1)—(11), (13) & (14) (as inserted by s 64) & 65—70)—1.4.2007 (<i>Gazette</i> 29.3.2007 p930); new s 17(12) (as inserted by s 64)—uncommenced
2008	3	<i>Health Care Act 2008</i>	13.3.2008	Sch 4 (c11 11—13)—1.7.2008 (<i>Gazette</i> 26.6.2008 p2563)

Provisions amended

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

Provision	How varied	Commencement
Long title	amended under <i>Legislation Revision and Publication Act 2002</i>	15.6.2006
s 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>15.6.2006</i>
s 3		
s 3(1)	s 3 redesignated as s 3(1) by 41/2006 s 61(2)	1.4.2007
the Department	inserted by 34/2000 Sch 1 cl 10(a)	6.7.2000
employing authority	inserted by 41/2006 s 61(1)	1.4.2007
s 3(2)	inserted by 41/2006 s 61(2)	1.4.2007
s 4	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>15.6.2006</i>
s 7		
s 7(2)	amended by 34/2000 Sch 1 cl 10(b)	6.7.2000
	amended by 1/2006 s 3	15.6.2006
s 7(4)	<i>deleted by 75/1993 s 14</i>	<i>1.1.1994</i>
s 10		
s 10(2)	(c) deleted by 75/1993 s 15	1.1.1994
s 14		
s 14(1)	amended by 53/1985 s 3(a)	21.11.1985
	amended by 34/2000 Sch 1 cl 10(c), (d)	6.7.2000
s 14(2)	amended by 53/1985 s 3(b), (c)	21.11.1985
	amended by 34/2000 Sch 1 cl 10(e)	6.7.2000
	amended by 23/2001 s 79	15.7.2001
	amended by 41/2006 s 62	1.4.2007
s 14(2a)	inserted by 1/2006 s 4	15.6.2006
s 15		
s 15(2)	substituted by 34/2000 Sch 1 cl 10(f)	6.7.2000
s 15(3)	<i>deleted by 34/2000 Sch 1 cl 10(f)</i>	<i>6.7.2000</i>
s 16		
s 16(2)	amended by 34/2000 Sch 1 cl 10(g)	6.7.2000
	substituted by 41/2006 s 63	1.4.2007
s 16(3)	substituted by 41/2006 s 63	1.4.2007
s 16(4)	<i>amended by 34/2000 Sch 1 cl 10(h)</i>	<i>6.7.2000</i>

	<i>deleted by 41/2006 s 63</i>	1.4.2007
<i>s 17 before substitution by 41/2006</i>		
<i>s 17(1)</i>	<i>amended by 34/2000 Sch 1 cl 10(i)</i>	6.7.2000
<i>s 17(2)</i>	<i>amended by 34/2000 Sch 1 cl 10(j)</i>	6.7.2000
s 17	substituted by 41/2006 s 64	1.4.2007 except s 17(12)— uncommenced
s 18		
s 18(1)	amended by 53/1985 s 4	21.11.1985
	substituted by 41/2006 s 65(1)	1.4.2007
s 18(1a)	inserted by 41/2006 s 65(1)	1.4.2007
s 18(2)	amended by 41/2006 s 65(2)—(5)	1.4.2007
	(c) and (d) deleted by 41/2006 s 65(4)	1.4.2007
s 18(3)	amended by 41/2006 s 65(6)—(8)	1.4.2007
	(c) and (d) deleted by 41/2006 s 65(7)	1.4.2007
s 21	substituted by 53/1985 s 5	21.11.1985
s 21(3)	amended by 41/2006 s 66	1.4.2007
s 22	amended by 34/2000 Sch 1 cl 10(k)	6.7.2000
s 23		
s 23(1)	s 23 amended and redesignated as s 23(1) by 53/1985 s 6	21.11.1985
s 23(2)	inserted by 53/1985 s 6(b)	21.11.1985
s 25		
s 25(1)	amended by 34/2000 Sch 1 cl 10(l)	6.7.2000
s 25(2)	amended by 34/2000 Sch 1 cl 10(m)	6.7.2000
s 25(3)	amended by 34/2000 Sch 1 cl 10(n)	6.7.2000
s 26		
s 26(1)	amended by 34/1996 s 4 (Sch cl 19)	3.2.1997
s 26(2)	amended by 34/2000 Sch 1 cl 10(o)	6.7.2000
s 26(3)	amended by 34/2000 Sch 1 cl 10(p)	6.7.2000
s 26(5)	<i>deleted by 34/1996 s 4 (Sch cl 19)</i>	3.2.1997
<i>s 27 before deletion by 41/2007</i>		
<i>s 27(2)</i>	<i>amended by 34/2000 Sch 1 cl 10(q)</i>	6.7.2000
<i>s 27(3)</i>	<i>amended by 34/2000 Sch 1 cl 10(r)</i>	6.7.2000
<i>s 27(4)</i>	<i>amended by 34/2000 Sch 1 cl 10(s)</i>	6.7.2000
s 27	<i>deleted by 41/2006 s 66</i>	1.4.2007
s 28		
s 28(2)	amended by 34/2000 Sch 1 cl 10(t), (u)	6.7.2000
	amended by 41/2006 s 68(1), (2)	1.4.2007
s 28(3)	amended by 34/2000 Sch 1 cl 10(v)	6.7.2000
	amended by 41/2006 s 68(3)	1.4.2007
s 29	<i>deleted by 41/2006 s 69</i>	1.4.2007

s 30		
s 30(1)	amended by 41/2006 s 70	1.4.2007
s 31		
s 31(1a)	inserted by 53/1985 s 7	21.11.1985
s 32	substituted by 34/2000 Sch 1 cl 10(w)	6.7.2000

Transitional etc provisions associated with Act or amendments

Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996

5—Transitional provision

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

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

Note—

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

1—Interpretation

In this Part, unless the contrary intention appears—

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

employing authority means—

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

Industrial Commission means the Industrial Relations Commission of South Australia;

prescribed body means—

- (a) the Aboriginal Lands Trust;
- (b) the Adelaide Cemeteries Authority;
- (c) the Adelaide Festival Centre Trust;
- (d) the Adelaide Festival Corporation;
- (e) SA Ambulance Service Inc;
- (f) the Minister to whom the administration of the *Children's Services Act 1985* is committed;
- (g) the Minister to whom the administration of the *Education Act 1972* is committed;

- (h) the Electricity Supply Industry Planning Council;
- (i) a body constituted under the *Fire and Emergency Services Act 2005*;
- (j) the History Trust of South Australia;
- (k) the Institute of Medical and Veterinary Science;
- (l) a regional NRM board constituted under the *Natural Resources Management Act 2004*;
- (m) the Senior Secondary Assessment Board of South Australia;
- (n) the South Australian Country Arts Trust;
- (o) the South Australian Film Corporation;
- (p) the South Australian Health Commission;
- (q) an incorporated hospital under the *South Australian Health Commission Act 1976*;
- (r) an incorporated health centre under the *South Australian Health Commission Act 1976*;
- (s) the South Australian Motor Sport Board;
- (t) the South Australian Tourism Commission;
- (u) The State Opera of South Australia;
- (v) the State Theatre Company of South Australia;
- (w) the Minister to whom the administration of the *Technical and Further Education Act 1975* is committed;

relevant Act means—

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

2—Transfer of employment

- (1) Subject to this clause, a person who, immediately before the commencement of this clause, was employed by a prescribed body under a relevant Act will, on that commencement, be taken to be employed by the employing authority under that Act (as amended by this Act).
- (2) The following persons will, on the commencement of this clause, be taken to be employed as follows:
 - (a) a person who, immediately before the commencement of this clause, was employed under section 6L(1) of the *Electricity Act 1996* will, on that commencement, be taken to be employed by the employing authority under that Act (as amended by this Act);

- (b) a person who, immediately before the commencement of this clause, was employed by the South Australian Fire and Emergency Services Commission will, on that commencement, be taken to be employed by the Chief Executive of that body;
 - (c) a person who, immediately before the commencement of this clause, was employed by an emergency services organisation under the *Fire and Emergency Services Act 2005* will, on that commencement, be taken to be employed by the Chief Officer of that body;
 - (d) a person who, immediately before the commencement of this clause, was employed by an incorporated hospital or an incorporated health centre under the *South Australian Health Commission Act 1976* will, on that commencement, be taken to be employed by an employing authority under that Act (as amended by this Act) designated by the Governor by proclamation made for the purposes of this paragraph.
- (3) Subject to this clause, the Governor may, by proclamation, provide that a person employed by a subsidiary of a public corporation under the *Public Corporations Act 1993* will be taken to be employed by a person or body designated by the Governor (and the arrangement so envisaged by the proclamation will then have effect in accordance with its terms).
- (4) Subject to subclause (5), an employment arrangement effected by subclause (1), (2) or (3)—
- (a) will be taken to provide for continuity of employment without termination of the relevant employee's service; and
 - (b) will not affect—
 - (i) existing conditions of employment or existing or accrued rights to leave; or
 - (ii) a process commenced for variation of those conditions or rights.
- (5) If, immediately before the commencement of this clause, a person's employment within the ambit of subclause (1), (2) or (3) was subject to the operation of an award or certified agreement (but not an Australian Workplace Agreement) under the Commonwealth Act, then, on that commencement, an award or enterprise agreement (as the case requires) will be taken to be created under the *Fair Work Act 1994*—
- (a) with the same terms and provisions as the relevant industrial instrument under the Commonwealth Act; and
 - (b) with any terms or provisions that existed under an award or enterprise agreement under the *Fair Work Act 1994*, that applied in relation to employment of the kind engaged in by the person, immediately before 27 March 2006, and that ceased to apply by virtue of the operation of provisions of the Commonwealth Act that came into force on that day,
- subject to any modification or exclusion prescribed by regulations made for the purposes of this subclause and subject to the operation of subclause (6).

- (6) Where an award or enterprise agreement is created by virtue of the operation of subclause (5)—
- (a) the award or enterprise agreement will be taken to be made or approved (as the case requires) under the *Fair Work Act 1994* on the day on which this clause commences; and
 - (b) the *Fair Work Act 1994* will apply in relation to the award or enterprise agreement subject to such modifications or exclusions as may be prescribed by regulations made for the purposes of this subclause; and
 - (c) the Industrial Commission may, on application by the Minister to whom the administration of the *Fair Work Act 1994* is committed, or an application by a person or body recognised by regulations made for the purposes of this subclause, vary or revoke any term or provision of the award or enterprise agreement if the Industrial Commission is satisfied that it is fair and reasonable to do so in the circumstances.

3—Superannuation

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

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

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

4—Interpretative provision

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

5—Related matters

- (1) A notice in force under section 51 of the *Children's Services Act 1985* immediately before the commencement of this clause will continue to have effect for the purposes of that section, as amended by this Act.

- (2) A notice in force under section 28 of the *Institute of Medical and Veterinary Science Act 1982* immediately before the commencement of this clause will continue to have effect for the purposes of that section, as amended by this Act.
- (3) A notice in force under section 61 of the *South Australian Health Commission Act 1976* immediately before the commencement of this clause will continue to have effect for the purposes of that section, as amended by this Act.
- (4) A notice in force under section 13(6) of the *South Australian Motor Sport Act 1984* immediately before the commencement of this clause will continue to have effect after that commencement but may, pursuant to this subclause, be varied from time to time, or revoked, by the Minister to whom the administration of that Act is committed.
- (5) The fact that a person becomes an employer in his or her capacity as an employing authority under an Act amended by this Act does not affect the status of any body or person as an employer of public employees for the purposes of the *Fair Work Act 1994* (unless or until relevant regulations are made under the provisions of that Act).

6—Other provisions

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

Historical versions

Reprint No 1—15.8.1991

Reprint No 2—1.1.1994

Reprint No 3—3.2.1997

Reprint No 4—6.7.2000

Reprint No 5—15.7.2001

15.6.2006