

SOUTH AUSTRALIA

MFP DEVELOPMENT ACT 1992

This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at 1 May 1998.

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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MFP DEVELOPMENT ACT 1992

being

MFP Development Act 1992 No. 24 of 1992
[Assented to 14 May 1992]¹

as amended by

MFP Development (Miscellaneous) Amendment Act 1995 No. 29 of 1995 [Assented to 27 April 1995]²

MFP Development (Miscellaneous) Amendment Act 1996 No. 76 of 1996 [Assented to 21 November 1996]³

MFP Development (Winding-Up) Amendment Act 1998 No. 31 of 1998 [Assented to 23 April 1998]⁴

¹ Came into operation 15 October 1992: *Gaz.* 15 October 1992, p. 1310. (A proclamation under s. 4, to repeal the Technology Development Corporation Act 1982, was made on 1 July 1993: *Gaz.* 1 July 1993, p. 200.)

² Came into operation 27 July 1995: *Gaz.* 27 July 1995, p. 292.

³ Came into operation 19 December 1996: *Gaz.* 19 December 1996, p. 1923.

⁴ **Came into operation 1 May 1998: *Gaz.* 23 April 1998, p. 1926.**

NOTE:

- Asterisks indicate repeal or deletion of text.
- Entries appearing in bold type indicate the amendments incorporated since the last reprint.
- For the legislative history of the Act see Appendix I.

An Act to provide for the development and promotion of the MFP development project; to establish the MFP Development Corporation and define its functions and powers; to repeal the Technology Development Corporation Act 1982; 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 *MFP Development Act 1992*.

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Interpretation

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

"**asset**" means—

- (a) a present, contingent or future legal or equitable estate or interest in real or personal property; or
- (b) a present, contingent or future right, power, privilege or immunity,

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

"**Corporation**" means the MFP Development Corporation;

"**development area**" means—

- (a) the MFP core site; or
- (b) Science Park Adelaide; or
- (c) Technology Park Adelaide; or
- (d) any other area declared by regulation to be a development area;

"**industry**" includes commerce and services;

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

"**MFP core site**" means—

- (a) the areas shown in Part A of Schedule 1 within boundaries delineated in bold and more particularly described in Part B of that Schedule;
- (b) where such an area is altered by regulation the area as so altered;

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"**MFP development centre**" means—

- (a) the urban and industrial development to be established at the MFP core site;
- (b) a development established or to be established at a development area outside the MFP core site including Science Park Adelaide and Technology Park Adelaide;

"**Science Park Adelaide**" means—

- (a) the area shown in Part A of Schedule 2 and more particularly described in Part B of that Schedule;
- (b) where the area is altered by regulation, the area as so altered;

"**Technology Park Adelaide**" means—

- (a) the area shown in Part A of Schedule 3 and more particularly described in Part B of that Schedule;
- (b) where the area is altered by regulation, the area as so altered.

(2) The Governor may, by regulation—

- (a) alter any development area; or
- (b) establish, and assign a name to, a new development area.

Note: For definition of divisional penalties (and divisional expiation fees) see Appendix 2.

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PART 3
MFP DEVELOPMENT CORPORATION

Corporation

6. (1) The *MFP Development Corporation* continues in existence pending the disposing of its assets and liabilities.

(2) The Corporation—

- (a) is a body corporate with perpetual succession and a common seal; and
- (b) is capable of suing and being sued in its corporate name; and
- (c) has the functions and powers assigned or conferred by or under this Act.

(3) The Corporation is an instrumentality of the Crown and holds its property on behalf of the Crown.

Constitution of Corporation

7. The Corporation is constituted of the Minister.

Functions of Corporation

8. (1) The functions of the Corporation are—

- (a) to plan and manage and coordinate the development of the MFP development centres; and
- (b) to attract and encourage international and Australian investment and developments in the MFP development centres and elsewhere in the State, and (in consultation with the relevant Commonwealth authorities) elsewhere in Australia, with particular emphasis on industries and activities involving new or emerging technologies; and
- (c) to promote and assist scientific and technological research and development; and
- (ca) to promote and assist research, investigations or development programmes in relation to the protection, restoration or enhancement of the environment; and
- (d) to promote and facilitate productive interaction between industries and research and development, educational, environmental, community and other organisations in the MFP development centres together with industries and organisations elsewhere in Australia or overseas; and
- (e) to promote and assist in the establishment of advanced information and communication systems linking industries, organisations and persons in the MFP development centres and elsewhere in Australia or overseas; and
- (f) to promote the MFP development centres and the operations of the Corporation in Australia and internationally; and
- (g) to encourage community involvement in the development of the MFP development centres; and

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- (h) to promote, assist and co-ordinate economic, social, environmental and cultural development of the MFP development centres; and
- (i) to perform any other functions that are necessary or convenient for or incidental to the performance of functions referred to above.

(2) In carrying out its operations, the Corporation may consult with and draw on the expertise of—

- (a) administrative units and other instrumentalities of the State; and
- (b) Commonwealth Government and local government bodies,

with responsibilities in areas related to or affected by those operations and may draw on the expertise of non-government persons and bodies with expertise in areas related to those operations.

(3) The Corporation may continue to perform its functions pending the disposing of its assets and liabilities.

Powers of Corporation

9. (1) The Corporation has all the powers of a natural person and may, for example—

- (a) acquire, hold, lease and otherwise deal with and dispose of real and personal property;
- (b) engage agents and employees;
- (c) enter into partnerships and joint venture arrangements;
- (d) provide services and make charges for the services;
- (e) form, or acquire, deal with and dispose of interests in, companies and other entities;
- (f) enter into any other contract or arrangement or acquire or incur any other rights or liabilities.

(2) The Corporation may make use of the services of persons employed by the State.

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Chief executive officer

10. (1) There is to be a chief executive officer of the Corporation.

(2) The chief executive officer is, subject to the control of the Corporation, responsible for the management of the operations of the Corporation.

(3) The chief executive officer is to be appointed by the Corporation.

Vesting of land within, or excluded from, MFP core site

11. (1) All land within the MFP core site that is—

- (a) land not granted in fee simple by the Crown; or

(b) land of an instrumentality of the Crown,

is vested in the Corporation for an estate in fee simple subject to any subsisting interests or rights granted by or on behalf of the Crown.

(2) Where the MFP core site is altered so as to exclude land that is vested in the Corporation, the Governor may, by regulation, transfer that land to the Crown or an instrumentality of the Crown.

(3) Land transferred by regulation under subsection (2) vests on the commencement of that regulation in the Crown or instrumentality of the Crown (as the case may be) for an estate in fee simple, subject to any subsisting interests or rights granted by or on behalf of the Crown or the Corporation.

(4) Where land is vested in a person or body under this section, the Registrar-General will, on the application of that person or body and on being furnished with such duplicate certificates of title (if any) or other documents as the Registrar-General may require, register that person or body as the proprietor of an estate in fee simple in that land.

Environmental impact statement for MFP core site

12. The Corporation must not cause or permit any work that constitutes development within the meaning of the *Development Act 1993* to be commenced within the part of the MFP core site shown as Area A in Schedule 1 unless the development is of a kind contemplated by proposals for development in relation to which an environmental impact statement has been prepared under Division 2 of Part 4 of that Act.

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Delegation

14. (1) The Corporation may delegate any of its functions or powers.

(2) A function or power delegated under this section may, if the instrument of delegation so provides, be further delegated.

(3) A delegation—

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

(b) is revocable at will and does not derogate from the power of the delegator to act in a matter.

(4) A delegate must not act in any matter pursuant to the delegation in which the delegate has a direct or indirect private interest.

Penalty: Division 5 fine or division 5 imprisonment.

(5) It is a defence to a charge of an offence against subsection (3) to prove that the defendant was, at the time of the alleged offence, unaware of his or her interest in the matter.

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(6) In subsection (4)—

"**delegate**" includes a member of a body, or of the governing body of a company or other entity, to which any functions or powers of the Corporation have been delegated.

Common seal and execution of documents

15. (1) The common seal of the Corporation may be affixed to a document on the Corporation's authority.

(2) A document apparently bearing the common seal of the Corporation will be presumed, in the absence of evidence to the contrary, to have been duly executed by the Corporation.

Validity of transactions

16. (1) Subject to subsection (2), a transaction to which the Corporation is a party or apparently a party (whether made or apparently made under the Corporation's common seal or by a person with authority to bind the Corporation) is not invalid because of—

- (a) any deficiency of power on the part of the Corporation; or
- (b) any procedural irregularity on the part of the Corporation or an employee or agent of the Corporation or any procedural irregularity affecting the appointment of an employee or agent of the Corporation.

(2) This section does not validate a transaction in favour of a party—

- (a) who enters into the transaction with actual knowledge of the deficiency or irregularity; or
- (b) who has a connection or relationship with the Corporation such that the person ought to know of the deficiency or irregularity.

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**PART 5
FINANCIAL PROVISIONS**

Banking and investment

29. (1) The Corporation may establish and operate banking accounts.

(2) Any money of the Corporation that is not immediately required for its operations may be invested in a manner approved by the Treasurer.

Borrowing

30. (1) The Corporation may, for the purposes of this Act, borrow money from the Treasurer, or, with the consent of the Treasurer, from any other person.

(2) A liability incurred by the Corporation under subsection (1) with the consent of the Treasurer is guaranteed by the Treasurer.

(3) A liability of the Treasurer under a guarantee arising by virtue of subsection (2) is to be satisfied out of the General Revenue of the State, which is appropriated by this section to the necessary extent.

Accounts and audit

31. (1) The Corporation must cause proper accounts to be kept of its financial affairs and financial statements to be prepared in respect of each financial year.

(2) The Auditor-General may at any time, and must at least once in every year, audit the accounts of the Corporation.

Exemption from rates and taxes

32. Subject to the regulations, the Corporation is exempt from rates and taxes under any law of the State.

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**PART 6
WINDING UP**

Disposal of assets or liabilities

33. (1) The Corporation may, by instrument in writing, vest assets or liabilities of the Corporation in—

- (a) the Crown; or
- (b) a Minister; or
- (c) an instrumentality of the Crown; or
- (d) another authority or person,

nominated in the instrument.

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

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

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

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

(6) Nothing done under this section—

- (a) constitutes a breach of, or default under, an Act or other law; or
- (b) constitutes a breach of, or default under, a contract, agreement, understanding or undertaking; or
- (c) constitutes a breach of a duty of confidence (whether arising by contract, in equity or by custom or in any other way); or
- (d) constitutes a civil or criminal wrong; or
- (e) terminates an agreement or obligation or fulfils any condition that allows a person to terminate an agreement or obligation, or gives rise to any other right or remedy; or
- (f) releases a surety or other obligee wholly or in part from an obligation.

Transfer of staff

34. (1) The Governor may, by proclamation, transfer a person who is an employee of the Department for Administrative and Information Services and who was, immediately before 3 December 1997, employed by the Corporation to a position in the employment of an instrumentality of the Crown.

- (2) The transfer of a person under subsection (1)—
- (a) does not constitute a termination of a pre-existing employment agreement; and
 - (b) does 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.
- (3) The Governor may, by proclamation, make any transitional or ancillary provision that may be necessary or expedient in view of a transfer of a person under subsection (1).

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**PART 7
REGULATIONS**

Regulations

35. The Governor may make regulations for the purposes of this Act.

**PART 8
EXPIRY OF ACT**

Expiry of Act

36. (1) The Governor may, by proclamation, fix a day on which this Act will expire.

(2) If a proclamation is made under subsection (1)—

(a) this Act expires on the day fixed by the proclamation; and

(b) immediately before the expiry, any remaining assets or liabilities of the Corporation vest in the Crown.

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SCHEDULE 1

PART A

Plan of MFP Core Site

SCHEDULE 1 (continued)

PART B

More Particular Description of MFP Core Site

AREA A

Comprising that portion of the Hundred of Port Adelaide, County of Adelaide, bounded as follows:

Commencing at a point on a western boundary of the road (Port Wakefield Road), east of and adjoining the land contained in Filed Plan No. 40030, being a south-eastern corner of allotment 62 (Filed Plan No. 40030), Hundred of Port Adelaide; thence south-westerly along the south-eastern boundary of the said allotment to the northern boundary of the road (Kidman Road) south of and adjoining the said allotment; easterly, south-westerly and westerly along the northern, south-eastern and southern boundaries of Kidman Road to the eastern boundary of allotment 60 (Filed Plan No. 40030); southerly along the latter boundary and generally south-westerly along the south-eastern and eastern boundaries of the said allotment 60 to its intersection with the production easterly through allotment 58 (Filed Plan No. 40030) of the northern boundary of the road south of and adjoining section 433; westerly along the latter production and boundary and the northern boundary of the road south of and adjoining sections 334 and 471 and allotments 2 and 3 (Deposited Plan No. 18683) to the north-eastern boundary of the road (North Arm Road) north-east of and adjoining allotment 4 (Deposited Plan No. 18683); south-easterly along the north-eastern boundary of North Arm Road to its intersection with the production north-easterly of the south-eastern boundary of allotment 4 (Deposited Plan No. 18683); south-westerly along the latter production and boundary; north-westerly along the south western boundary of allotment 4 (Deposited Plan No. 18683) and a south-western boundary of allotment 9 (Deposited Plan No. 13932) and its production through section 646 and the road (Whicker Road) north-west of and adjoining section 646 to the north-western boundary of Whicker Road; north-easterly along the north-western boundary of Whicker Road and its production and along the south-eastern boundaries of allotment 1 (Filed Plan No. 4586) and allotment 8 (Deposited Plan No. 12579); north-easterly along the production of the south-eastern boundary of allotment 8 (Deposited Plan No. 12579) through allotment 15 (Deposited Plan No. 15063) for 193.00 metres; north-westerly at right angles to the north-western boundary of allotment 13 (Deposited Plan No. 15063—Grand Trunkway); south-westerly along the north-western boundary of allotment 13 for 60.00 metres; north-westerly at right angles along a straight line through allotment 15 (Deposited Plan No. 15063), sections 361 and 618 and Block 55 to a northern boundary of Block 55 (a point on the eastern shore of Port Adelaide River—Low Water Mark); generally northerly along the said eastern shore of Port Adelaide River and generally easterly along the southern shore of North Arm (Low Water Mark) to the eastern boundary of the Grand Trunkway; southerly along the latter boundary to the northern boundary of Levee Bank (High Water Mark); generally south-easterly, generally north-westerly and generally north-easterly along the north-eastern, north-western, south-western and western boundaries of the said Levee Bank (High Water Mark) intersecting and or adjoining sections 413 and 918, allotment 3 (Deposited Plan No. 18613) and sections 454, 334, 626, 355 and 625 to its intersection with the production north-westerly of a south-western boundary of section 587; south-easterly along the latter production and boundary and a further south-western boundary of section 587 to the north-western corner of the southern portion of allotment 2 (Filed Plan No. 2871); north-easterly and south-easterly along the north western and north-eastern boundaries of the said southern portion of allotment 2 and production south-easterly and along the north-eastern boundary of allotment 1 (Filed Plan No. 2871) to the western boundary of the road (Port Wakefield Road) east of and adjoining the said allotment 1; thence generally southerly along the eastern boundary of Port Wakefield Road to the point of commencement and crossing all intervening roads and railways.

AREA B

Comprising that portion of the Hundred of Port Adelaide, County of Adelaide, bounded as follows:

Commencing at the westernmost corner of allotment 1 (Deposited Plan No. 21006), Hundred of Port Adelaide; thence north-easterly, northerly and north-easterly along the north-western and western boundaries of allotment 1 and the north-western boundaries of allotments 2 and 3 (Deposited Plan No. 21006) and production north-easterly to the north-eastern boundary of the road (Mersey Road) south-west of and adjoining Pt. Block 4; north-westerly along the north-eastern boundary of Mersey Road to its intersection with the production easterly of the northern boundary of allotment 41 (Deposited Plan No. 7372); easterly along the production of the northern boundary of allotment 41 through sections 360 and 633 to the western shore of Port Adelaide River (Low Water Mark); generally southerly along the western shore of Port Adelaide River to its intersection with the production easterly through Mersey Road and Pt. Block 4 of the southern boundary of allotment 143 (Deposited Plan No. 7964); westerly along portion of the latter production to the eastern boundary of the road (Mersey Road) east of and adjoining the land contained in Deposited Plan No. 7964; northerly along the eastern boundary of Mersey Road to its intersection with the production easterly of a southern boundary of the land contained in Deposited Plan No. 21006 (the northern boundary of Wandilla Street); thence westerly along the latter production and boundary, the southern boundary of section 573 and southern and south-eastern boundaries of the land contained in Deposited Plan No. 21006 to the point of commencement and crossing all intervening roads and railways.

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AREA C

Comprising that portion of the Hundred of Port Adelaide, County of Adelaide, bounded as follows:

Commencing at a point on the western shore of Port Adelaide River (Low Water Mark), being the southernmost corner of allotment 19 (Deposited Plan No. 21409), Hundred of Port Adelaide; thence north westerly along the south-western boundary of allotment 19 and its production to the north-western boundary of Right of Way marked G on Deposited Plan No. 21409; south-westerly along the said boundary of Right of Way to its intersection with the production easterly of the southern boundary of allotment 21 (Deposited Plan No. 21409); westerly along the latter production and boundary and its production through allotment 16 (Deposited Plan No. 16255) and allotments 4 and 3 (Deposited Plan No. 20023) to the eastern boundary of the road (Victoria Road) west of and adjoining the land contained in Deposited Plan No. 20023; northerly and north-westerly along the eastern and north-eastern boundaries of Victoria Road west of and adjoining the land contained in Deposited Plan No. 20023 and south-west of and adjoining the land contained in Deposited Plan No. 13512 and Block 30 to its intersection with the production north-easterly of the north-western boundary of allotment 1044 (Deposited Plan No. 10953); south-westerly along the latter production and boundary and the north-western boundaries of the land contained in Deposited Plan Nos. 10953 and 10919 to a south-eastern boundary of allotment 103 (Deposited Plan No. 26263); generally south-westerly along the south-eastern, eastern and north-eastern boundaries of allotment 103 and the south-eastern boundary of allotment 104 (Deposited Plan No. 26263) to a north-eastern corner of the road (Lady Gowrie Drive) south-west of and adjoining allotment 104; generally north-westerly, generally north-easterly and generally south-easterly along the north-eastern boundary of Lady Gowrie Drive, the north-eastern boundary of the road (Lady Ruthven Drive) south-west of and adjoining the land contained in Deposited Plan No. 24406, the south-eastern boundary of the road (Oliver Rogers Road) north-west of and adjoining the land contained in Deposited Plan No. 24406 and the south-western boundary of the road (Victoria Road) intersecting Block 30 to its intersection with the production south-westerly of a north-western boundary of allotment 1 (Deposited Plan No. 28523—to be accepted for deposit); north-easterly along the latter production and boundary and continuing north-easterly along the north-western boundaries of allotment 1 and production north-easterly through allotment 17 (Deposited Plan No. 13512) to the western corner of allotment 5 (Deposited Plan No. 28523); north-easterly along a north-western boundary of allotment 5 and its production to the western corner of allotment 6 (Deposited Plan No. 28523); north-easterly, south-easterly and north-easterly along the north-western boundaries of allotments 6 and 7 and the north-western and north-eastern boundaries of allotment 8 (Deposited Plan No. 28523) to the western shore of Port Adelaide River (Low Water Mark); thence generally southerly along the said shore to the point of commencement and crossing all intervening roads and railways.

AREA D

Comprising that portion of the Hundred of Port Adelaide, County of Adelaide, bounded as follows:

All that portion of Garden Island to High Water Mark.

SCHEDULE 2

PART A

Plan of Science Park Adelaide

PART B

More particular description of Science Park Adelaide

The land comprised in allotments numbered 61, 62, 63, 64, 65, 66, 67, 68 and 69 on Lands Titles Registration Office Deposited Plan No. 28859.

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SCHEDULE 3

PART A

Plan of Technology Park Adelaide

PART B

More particular description of Technology Park Adelaide

The land comprised in allotments numbered 101 and 104 on Lands Titles Registration Office Filed Plan No. 14368.

APPENDIX 1

LEGISLATIVE HISTORY

Transitional Provisions

(Transitional provision from MFP Development (Miscellaneous) Amendment Act 1996, s. 6)

6. The offices of all members of the Corporation and the Advisory Committee become vacant on the commencement of this section.

Legislative History

(entries in bold type indicate amendments incorporated since the last reprint)

Section 3(1):	definitions of "Advisory Committee" and "Commonwealth Minister" repealed by 31, 1998, s. 3(a) definition of "asset" inserted by 31, 1998, s. 3(a) definition of "liability" inserted by 31, 1998, s. 3(b) definition of "State Minister" repealed by 31, 1998, s. 3(c)
Section 4:	repealed by 31, 1998, s. 4 Part 2 comprising s. 5 and heading amended by 29, 1995, s. 3; repealed by 31, 1998, s. 5
Section 6(1):	substituted by 31, 1998, s. 6
Section 7:	substituted by 31, 1998, s. 7
Section 8(1):	amended by 29, 1995, s. 4; 31, 1998, s. 8(a)
Section 8(3):	inserted by 31, 1998, s. 8(b)
Section 9(2):	amended by 31, 1998, s. 9(a)
Section 9(3):	repealed by 31, 1998, s. 9(b)
Section 11(2):	substituted by 29, 1995, s. 5
Section 11(3) and (4):	inserted by 29, 1995, s. 5
Section 12:	amended by 29, 1995, s. 6
Section 13:	repealed by 31, 1998, s. 10
Section 14(1):	amended by 31, 1998, s. 11
Section 15:	amended by 29, 1995, s. 7; 76, 1996, s. 3; substituted by 31, 1998, s. 12
Section 16:	substituted by 31, 1998, s. 12
Sections 17 - 23:	repealed by 31, 1998, s. 12 Part 4 comprising ss. 24 - 28 and heading amended by 76, 1996, ss. 4, 5; repealed by 31, 1998, s. 13 Part 6 comprising ss. 33 - 35 and heading amended by 29, 1995, s. 8; repealed and ss. 33, 34 and heading inserted in its place by 31, 1998, s. 14 Part 7 comprising s. 35 and heading inserted by 31, 1998, s. 14 Part 8 comprising s. 36 and heading inserted by 31, 1998, s. 14

MFP Development Act 1992**APPENDIX 2****DIVISIONAL PENALTIES AND EXPIATION FEES**

At the date of publication of this reprint divisional penalties and expiation fees are, as provided by section 28A of the *Acts Interpretation Act 1915*, as follows:

Division	Maximum imprisonment	Maximum fine	Expiation fee
1	15 years	\$60 000	—
2	10 years	\$40 000	—
3	7 years	\$30 000	—
4	4 years	\$15 000	—
5	2 years	\$8 000	—
6	1 year	\$4 000	\$300
7	6 months	\$2 000	\$200
8	3 months	\$1 000	\$150
9	-	\$500	\$100
10	-	\$200	\$75
11	-	\$100	\$50
12	-	\$50	\$25

Note: This appendix is provided for convenience of reference only.