

South Australia

## South Australian Country Arts Trust Act 1992

An Act to establish the South Australian Country Arts Trust and define its functions and powers; and for other purposes.

---

### Contents

#### Part 1—Preliminary

- 1 Short title
- 3 Interpretation

#### Part 2—The South Australian Country Arts Trust

- 4 Establishment of Trust
- 5 Membership of Trust
- 6 Terms and conditions of office
- 7 Procedures of Trust
- 8 Conflict of interest under Public Sector (Honesty and Accountability) Act
- 9 Functions and powers of Trust
- 10 Trust subject to direction and control of Minister
- 11 Committees
- 12 Delegation
- 13 Staffing arrangements
- 14 Power to borrow money
- 15 Power to invest
- 16 Gifts etc
- 17 Budget
- 18 Accounts
- 19 Annual report

#### Part 4—Miscellaneous

- 30 Regulations

Legislative history

---

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

### **Part 1—Preliminary**

#### **1—Short title**

This Act may be cited as the *South Australian Country Arts Trust Act 1992*.

### 3—Interpretation

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

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

*proclaimed region* means an area declared by proclamation as a region for the purposes of this Act;

*Trust* means the South Australian Country Arts Trust.
- (2) A proclamation made for the purposes of the definition of *employing authority*—
  - (a) may apply by reference to a specified person, or by reference to the person for the time being holding or acting in a specified office or position; and
  - (b) may, from time to time as the Governor thinks fit, be varied or substituted by a new proclamation.
- (3) The Governor may, by proclamation—
  - (a) declare a specified area to be a region for the purposes of this Act; or
  - (b) vary or revoke a proclamation under paragraph (a).

## Part 2—The South Australian Country Arts Trust

### 4—Establishment of Trust

- (1) The *South Australian Country Arts Trust* is established.
- (2) The Trust is a body corporate with full juristic capacity to exercise any powers that are by their nature capable of being exercised by a body corporate.
- (3) The Trust is an instrumentality of the Crown and holds its property on behalf of the Crown.
- (4) Where an apparently genuine document purports to bear the common seal of the Trust, it will be presumed in any legal proceedings, in the absence of proof to the contrary, that the common seal of the Trust was duly affixed to that document.

### 5—Membership of Trust

- (1) The Trust consists of 9 trustees appointed by the Minister, of whom—
  - (a) 1 will be appointed to be the presiding trustee of the Trust; and
  - (b) 5 will be appointed to represent proclaimed regions; and
  - (c) 1 will be selected from a panel of persons nominated by the Local Government Association of South Australia; and
  - (d) 2 will be persons who have legal, managerial, entrepreneurial or arts skills.
- (2) At least two trustees must be women and at least two trustees must be men.
- (3) The Minister may, on such terms and conditions as the Minister thinks fit, appoint a suitable person to be the proxy of a member of the Trust (other than a member appointed under subsection (1)(c)).

- (4) The Local Government Association of South Australia may, on such terms and conditions as it thinks fit, appoint a suitable person to be the proxy of a member of the Trust appointed on the nomination of the Association.
- (5) A person is not eligible to be appointed to represent a proclaimed region unless the person resides in the region.

## **6—Terms and conditions of office**

- (1) The presiding trustee of the Trust is appointed for a term not exceeding three years specified in the instrument of appointment.
- (2) A trustee of the Trust (other than the presiding trustee) is appointed for a term not exceeding two years specified in the instrument of appointment.
- (2a) A trustee is eligible for reappointment on the expiration of a term of office but cannot be reappointed so that—
  - (a) the person's total term of office exceeds nine years; or
  - (b) the person's total term of office as a presiding trustee exceeds six years; or
  - (c) the person's total term of office as a trustee other than a presiding trustee exceeds six years.
- (3) A trustee is entitled to such allowances and expenses as the Minister may determine.
- (4) The Minister may remove a trustee from office—
  - (a) for misconduct; or
  - (b) for mental or physical incapacity to carry out satisfactorily the duties of his or her office; or
  - (c) for failure to carry out satisfactorily the duties of his or her office.
- (5) The office of a trustee becomes vacant if the trustee—
  - (a) dies; or
  - (b) completes a term of office and is not reappointed; or
  - (c) resigns by written notice addressed to the Minister; or
  - (d) being a trustee appointed to represent a proclaimed region, ceases to reside in the region; or
  - (e) is removed from office by the Minister under subsection (4).
- (6) On the office of a trustee becoming vacant, a person may be appointed in accordance with this Act to the vacant office.
- (7) A trustee appointed to fill a casual vacancy will be appointed for the balance of the term of his or her predecessor.

## **7—Procedures of Trust**

- (1) A meeting of the Trust will be chaired by the presiding trustee or, in his or her absence, by a trustee chosen by those present at the meeting.
- (2) A quorum of the Trust consists of five members, and no business may be transacted at a meeting of the Trust unless a quorum is present.

- (3) Subject to subsection (2), the Trust may act notwithstanding vacancies in its membership.
- (4) Each trustee present at a meeting of the Trust whether personally or by proxy is entitled to one vote on a matter arising for decision at the meeting, but the person presiding at the meeting has, in the event of an equality of votes, a casting vote as well as a deliberative vote.
- (5) A decision carried by a majority of the votes cast by the trustees present and voting (whether personally or by proxy) at a meeting is a decision of the Trust.
- (6) The Trust must cause accurate minutes to be kept of its proceedings at meetings.
- (7) The procedure for the calling of meetings of the Trust and for the conduct of business at meetings will, subject to this Act, be as determined by the Trust.

### **8—Conflict of interest under Public Sector (Honesty and Accountability) Act**

A trustee will not be taken to have a direct or indirect interest in a matter for the purposes of the *Public Sector (Honesty and Accountability) Act 1995* by reason only of the fact that the trustee has an interest in a matter that is shared in common with those engaged in or associated with the arts industry generally, or a substantial section of those engaged in or associated with the arts industry.

### **9—Functions and powers of Trust**

- (1) The Trust has the following functions:
  - (a) to advise the Minister on matters of policy related to country arts; and
  - (b) to act as an advocate for country arts; and
  - (c) to manage the development of country arts; and
  - (d) to establish and maintain an information service for country arts; and
  - (e) to develop and manage programmes for the touring of country arts activities within the State or within and outside the State; and
  - (f) to provide, manage and control premises and facilities for country arts; and
  - (h) to evaluate and be responsible for the financial and artistic performance of country arts activities funded by the Trust; and
  - (i) to perform such other functions as may be prescribed by or under this Act; and
  - (j) to perform any functions that are incidental to the foregoing.
- (2) For the purpose of carrying out its functions the Trust may, within or outside the State—
  - (a) subject to this Act, enter into contracts, agreements or arrangements;
  - (b) subject to this Act, acquire, hold, deal with, or sell or dispose of real or personal property;
  - (c) engage in any business or activity that promotes country arts;
  - (d) make grants of money, subject to such conditions as the Trust considers appropriate, to any person or body for the purposes of country arts activities;

- (e) provide ticketing services for productions or events of any kind staged or promoted by the Trust or any other person;
- (f) provide meals, refreshments and catering services;
- (g) exercise any other power that is necessary for, or incidental to, the performance of its functions.

## **10—Trust subject to direction and control of Minister**

The Trust is subject to the general direction and control of the Minister.

## **11—Committees**

- (1) The Trust may establish committees (which may, but need not, consist of or include trustees) to advise or assist the Trust or perform any of its functions or powers.
- (2) The functions and procedures of a committee established under subsection (1) will be as determined by the Trust.

## **12—Delegation**

- (1) The Trust may delegate any of its functions or powers (except this power of delegation) under this Act—
  - (a) to a trustee of the Trust; or
  - (b) to a committee established by the Trust; or
  - (d) to a particular person or body; or
  - (e) to the person for the time being occupying a particular office or position.
- (2) A delegation under this section—
  - (a) must be by instrument in writing; and
  - (b) may be absolute or conditional; and
  - (c) does not derogate from the power of the Trust to act in any matter; and
  - (d) is revocable at will by the Trust.

## **13—Staffing arrangements**

- (1) The employing authority may employ staff to perform functions in connection with the operations or activities of the Trust.
- (2) The terms and conditions of employment of a person under subsection (1) will be determined by the employing authority.
- (3) A person employed under this section will be taken to be employed by or on behalf of the Crown (but will not be employed in the Public Service of the State unless brought into an administrative unit under the *Public Sector Act 2009*).
- (4) The employing authority may direct a person employed under this section to perform functions in connection with the operations or activities of a public sector agency specified by the employing authority (and the person must comply with that direction).
- (5) The employing authority is, in acting under this section, subject to direction by the Minister.

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

*public sector agency* has the same meaning as in the *Public Sector Act 2009*.

#### **14—Power to borrow money**

- (1) The Trust may, with the consent of the Treasurer, borrow money at interest from any person upon such security (if any) by way of mortgage or charge over any of the assets of the Trust as the Trust may think fit to grant.
- (2) The Treasurer may, on such terms and conditions as the Treasurer thinks fit, guarantee the repayment of any money (together with interest) borrowed by the Trust under this section.
- (3) Any money required to be paid in satisfaction of a guarantee given pursuant to subsection (2) will be paid out of the Consolidated Account which is accordingly appropriated to the necessary extent.

#### **15—Power to invest**

The Trust may lodge on deposit with the Treasurer or invest in any other manner approved of by the Treasurer any money of the Trust not immediately required by the Trust.

## 16—Gifts etc

- (1) The Trust may accept—
  - (a) grants, conveyances, transfers and leases of land whether from the Crown or any instrumentality of the Crown or any other person; and
  - (b) rights to the use, control, management or occupation of land; and
  - (c) gifts of personal property of any kind to be used or applied by it for the purposes of this Act.
- (2) Notwithstanding anything in the *Stamp Duties Act 1923* no stamp duty is payable on any instrument by which land or an interest in or a right over land is granted or assured to, or vested in, the Trust or on any contract or instrument executed by the Trust for the purposes of disposing of any property.

## 17—Budget

- (1) The Trust must, before the end of each financial year, submit to the Minister a budget showing estimates of its receipts and payments for the next financial year.
- (2) The Minister may approve, with or without amendment, a budget submitted under this section.
- (3) The Trust must not, without the consent of the Minister, make any expenditure that is not authorised by an approved budget.
- (4) In this section—

*approved budget* means a budget that has been approved of by the Minister or a budget that, having been amended, has been approved of by the Minister.

## 18—Accounts

- (1) The Trust must cause proper accounts to be kept of its financial affairs.
- (2) The Auditor-General may at any time, and must at least once in each year, audit the accounts of the Trust.

## 19—Annual report

- (1) The Trust must, on or before 30 September in each year, submit to the Minister a report on its activities during the period of 12 months that ended on the preceding 30 June.
- (2) The report must incorporate the audited statement of accounts for the Trust in relation to the relevant period.
- (3) The Minister must, within 12 sitting days of receiving a report under subsection (1), cause a copy of the report to be laid before each House of Parliament.

## Part 4—Miscellaneous

### 30—Regulations

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

- (2) Without limiting the generality of subsection (1), the regulations may—
- (a) regulate the conduct of persons on the Trust's property;
  - (b) prescribe penalties, not exceeding \$2 500, for breach of, or non-compliance with, a 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](http://www.legislation.sa.gov.au).

### Legislation repealed by principal Act

The *South Australian Country Arts Trust Act 1992* repealed the following:

*Cultural Trusts Act 1976*

### Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1992	57	<i>South Australian Country Arts Trust Act 1992</i>	29.10.1992	26.11.1992 except ss 4—19, 20(5)—(7), 21(1)(a) & (b), 21(3), 22—29 & Sch—1.1.1993 ( <i>Gazette 26.11.1992 p1622</i> )
1994	64	<i>South Australian Country Arts Trust (Touring Programmes) Amendment Act 1994</i>	3.11.1994	3.11.1994
1995	78	<i>South Australian Country Arts Trust (Review) Amendment Act 1995</i>	23.11.1995	1.1.1996 ( <i>Gazette 21.12.1995 p1750</i> )
2000	69	<i>South Australian Country Arts Trust (Appointments to Trust and Boards) Amendment Act 2000</i>	7.12.2000	1.2.2001 ( <i>Gazette 18.1.2001 p70</i> )
2006	41	<i>Statutes Amendment (Public Sector Employment) Act 2006</i>	14.12.2006	Pt 18 (ss 78 & 79)—1.4.2007 ( <i>Gazette 29.3.2007 p930</i> )
2009	3	<i>South Australian Country Arts Trust (Constitution of Trust) Amendment Act 2009</i>	12.2.2009	1.4.2009 ( <i>Gazette 12.3.2009 p992</i> )
<b>2009</b>	<b>84</b>	<b><i>Statutes Amendment (Public Sector Consequential Amendments) Act 2009</i></b>	<b>10.12.2009</b>	<b>Pt 135 (ss 307—309)—1.2.2010 (<i>Gazette 28.1.2010 p320</i>)</b>
2010	19	<i>Statutes Amendment (Arts Agencies Governance and Other Matters) Act 2010</i>	28.10.2010	Pt 8 (ss 66—71) & Sch 1 (Pt 5 & Pt 9 cl 8)—uncommenced

## Provisions amended

New entries appear in bold.

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>	
	amended by 3/2009 s 4	1.4.2009
Pt 1		
s 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	
s 3		
s 3(1)	s 3 redesignated as s 3(1) by 41/2006 s 78(2)	1.4.2007
area	<i>deleted by 3/2009 s 5(1)</i>	1.4.2009
Country Arts Board	<i>deleted by 3/2009 s 5(1)</i>	1.4.2009
employing authority	inserted by 41/2006 s 78(1)	1.4.2007
local resident	<i>deleted by 3/2009 s 5(2)</i>	1.4.2009
proclaimed region	inserted by 3/2009 s 5(2)	1.4.2009
the Trust	<i>deleted by 3/2009 s 5(2)</i>	1.4.2009
Trust	inserted by 3/2009 s 5(2)	1.4.2009
s 3(2)	inserted by 41/2006 s 78(2)	1.4.2007
s 3(3)	inserted by 3/2009 s 5(3)	1.4.2009
Pt 2		
s 5		
s 5(1)	substituted by 78/1995 s 3	1.1.1996
	substituted by 3/2009 s 6(1)	1.4.2009
s 5(2)	substituted by 78/1995 s 3	1.1.1996
s 5(3)	substituted by 78/1995 s 3	1.1.1996
	amended by 3/2009 s 6(2)	1.4.2009
s 5(3a)	<i>inserted by 78/1995 s 3</i>	1.1.1996
	<i>deleted by 3/2009 s 6(3)</i>	1.4.2009
s 5(5)	inserted by 3/2009 s 6(4)	1.4.2009
s 6		
s 6(1)	amended by 78/1995 s 4(a)	1.1.1996
	substituted by 69/2000 s 3	1.2.2001
s 6(2)	substituted by 69/2000 s 3	1.2.2001
	amended by 3/2009 s 7(1)	1.4.2009
s 6(2a)	inserted by 69/2000 s 3	1.2.2001
s 6(5)	amended by 78/1995 s 4(b)	1.1.1996
	amended by 3/2009 s 7(2)	1.4.2009
s 6(7)	amended by 78/1995 s 4(c)	1.1.1996
	amended by 3/2009 s 7(3)	1.4.2009
s 7		

s 7(2)	substituted by 78/1995 s 5	1.1.1996
s 7(4)	amended by 3/2009 s 8	1.4.2009
<i>s 8 before deletion by 3/2009</i>		
s 8(1)	<i>amended by 78/1995 s 9 (Sch)</i>	<i>1.1.1996</i>
s 8	<i>deleted by 3/2009 s 9</i>	<i>1.4.2009</i>
<b>s 8</b>	<b>inserted by 84/2009 s 307</b>	<b>1.2.2010</b>
s 9		
s 9(1)	amended by 64/1994 s 2	3.11.1994
	(g) deleted by 3/2009 s 10	1.4.2009
s 12		
s 12(1)	(c) deleted by 3/2009 s 11	1.4.2009
s 13	substituted by 41/2006 s 79	1.4.2007
<b>s 13(3)</b>	<b>amended by 84/2009 s 308</b>	<b>1.2.2010</b>
<b>s 13(13)</b>		
<b>public sector agency</b>	<b>amended by 84/2009 s 308</b>	<b>1.2.2010</b>
s 17		
s 17(1)	substituted by 3/2009 s 12	1.4.2009
<i>Pt 3 before deletion by 3/2009</i>		
s 20		
s 20(1)	<i>substituted by 78/1995 s 6</i>	<i>1.1.1996</i>
s 21		
s 21(1)	<i>amended by 78/1995 s 7(a), (b)</i>	<i>1.1.1996</i>
s 21(1a)	<i>inserted by 78/1995 s 7(c)</i>	<i>1.1.1996</i>
s 21(3)	<i>substituted by 78/1995 s 7(d)</i>	<i>1.1.1996</i>
s 22		
s 22(1) and (2)	<i>substituted by 69/2000 s 4</i>	<i>1.2.2001</i>
s 22(2a)	<i>inserted by 69/2000 s 4</i>	<i>1.2.2001</i>
s 24		
s 24(1)	<i>amended by 78/1995 s 9 (Sch)</i>	<i>1.1.1996</i>
s 27		
s 27(1)	<i>amended by 78/1995 s 8</i>	<i>1.1.1996</i>
Pt 3	<i>deleted by 3/2009 s 13</i>	<i>1.4.2009</i>
Pt 4		
s 29	<i>substituted by 3/2009 s 14</i>	<i>1.4.2009</i>
	<b>deleted by 84/2009 s 309</b>	<b>1.2.2010</b>
s 30 before substitution by 3/2009		
s 30(2)	amended by 78/1995 s 9 (Sch)	1.1.1996
s 30	substituted by 3/2009 s 14	1.4.2009
<i>Sch before deletion by 3/2009</i>		

*Pt 1* omitted under Legislation Revision and  
Publication Act 2002

*Sch* deleted by 3/2009 s 15

1.4.2009

## Transitional etc provisions associated with Act or amendments

### *South Australian Country Arts Trust (Review) Amendment Act 1995*

#### 10—Transitional provisions

- (1) In this section—  
*former Board* means a Country Arts Board in existence immediately before the commencement of section 6 of this Act (and so abolished by this Act).
- (2) A member of a former Board ceases to hold office on the commencement of this section.
- (3) However, despite subsection (2) and the provisions of the principal Act (as amended by this Act), the Minister may, on the commencement of this section, appoint a person who was a member of a former Board by virtue of a nomination under section 21(1)(c) of the principal Act as a member of a Country Arts Board established by amendment to the principal Act by this Act as if the person had been renominated after the commencement of this Act.
- (4) The Governor may, by proclamation, vest assets, rights or liabilities (whether vested or contingent) of a former Board in a Country Arts Board established by amendment to the principal Act by this Act.
- (5) The Governor may, by further proclamation, if it appears necessary or appropriate to do so, vary a proclamation under subsection (4) (and a proclamation under this subsection will, if the proclamation so provides, be taken to have had effect from the making of the original proclamation under subsection (4)).
- (6) The Registrar-General or another authority required or authorised under a law of the State to register or record transactions affecting assets, rights 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.
- (7) The Governor may, by proclamation, make other provisions of a saving or transitional nature consequent on the enactment of this 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.

***South Australian Country Arts Trust (Constitution of Trust) Amendment Act 2009, Sch 1—Transitional provisions***

**1—Interpretation**

In this Schedule—

*Trust* means the South Australian Country Arts Trust.

**2—Transfer of assets etc of Country Arts Boards to Trust**

On the commencement of this clause all assets, rights and liabilities of Country Arts Boards then in existence are transferred to and vested in the Trust.

**3—Transitional provision relating to Trust**

On the commencement of this clause all members of the Trust then in office vacate their respective offices so that fresh appointments may be made to the Trust under section 5 of the *South Australian Country Arts Trust Act 1992* as amended by this Act.

**Historical versions**

Reprint No 1—3.11.1994

Reprint No 2—1.1.1996

Reprint No 3—1.2.2001

1.4.2007

1.4.2009