

South Australia

South Australian Tourism Commission Act 1993

An Act to promote tourism and the tourism industry in the State; to establish the South Australian Tourism Commission; and for other purposes.

Contents

Part 1—Preliminary

- 1 Short title
- 3 Object
- 4 Interpretation

Part 2—South Australian Tourism Commission

Division 1—Establishment of Commission

- 5 Establishment of Commission

Division 2—Board

- 6 Board to be governing body of Commission
- 7 Ministerial control

Division 3—Chief Executive Officer

- 8 Chief Executive Officer

Division 4—Board's membership and procedures

- 9 Composition of board
- 10 Conditions of membership
- 11 Vacancies or defects in appointment of directors
- 12 Remuneration
- 13 Proceedings
- 14 Conflict of interest under Public Sector (Honesty and Accountability) Act
- 16 Common seal and execution of documents
- 17 Delegation

Division 5—Staffing arrangements

- 18A Staffing arrangements

Part 3—Operations of Commission

- 19 Functions of Commission
- 20 Powers of Commission
- 21 Banking and investment

Part 4—Miscellaneous

- 22 Budgets
- 23 Accounts and audit
- 24 Annual report
- 25 Protection of names
- 26 Regulations

Legislative history

Appendix—Divisional penalties and expiation fees

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *South Australian Tourism Commission Act 1993*.

3—Object

The object of this Act is to establish a statutory corporation to assist in securing economic and social benefits for the people of South Australia through—

- (a) the promotion of South Australia as a tourist destination, including to undertake, on behalf of the State, the promotion of events, festivals or other activities; and
- (b) the further development and improvement of the State's tourism industry.

4—Interpretation

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

board means the board of directors established as the governing body of the Commission under Part 2;

Commission means the South Australian Tourism Commission established under Part 2;

CEO means the Chief Executive Officer of the Commission;

director means a person appointed or holding office as a member of the board under Part 2;

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

promote, in relation to an event, festival or other activity, includes support, organise or conduct.

- (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.

Note—

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

Part 2—South Australian Tourism Commission

Division 1—Establishment of Commission

5—Establishment of Commission

- (1) The *South Australian Tourism Commission* is established.
- (2) The Commission—
 - (a) is a body corporate; and
 - (b) has perpetual succession and a common seal; and
 - (c) is capable of suing and being sued in its corporate name; and
 - (ca) has all the powers of a natural person that are capable of being exercised by a body corporate; and
 - (d) has the functions and powers assigned or conferred by or under this Act or any other Act.
- (3) The Commission is an instrumentality of the Crown and holds its property on behalf of the Crown.
- (4) If a document appears to bear the common seal of the Commission, it will be presumed, in the absence of proof to the contrary, that the common seal of the Commission was duly affixed to the document.

Division 2—Board

6—Board to be governing body of Commission

- (1) A board of directors is established as the governing body of the Commission.
- (2) Anything done by the board in the administration of the Commission's affairs is binding on the Commission.

7—Ministerial control

- (1) The board is subject to control and direction by the Minister.
- (2) No Ministerial direction can be given to suppress information or recommendations from a report by the Commission under this Act.
- (3) The board must, in relation to each financial year, enter into a performance agreement with the Minister setting performance targets for the Commission that the board is to pursue in that financial year.
- (4) A Ministerial direction given during a particular financial year and the performance agreement for a particular financial year must be published in the report of the Commission for that financial year.

Division 3—Chief Executive Officer

8—Chief Executive Officer

- (1) The office of Chief Executive Officer (*CEO*) of the Commission is established.
- (2) The CEO is, subject to the control and direction of the board, responsible for—
 - (a) managing the staff and resources of the Commission; and
 - (b) giving effect to the policies and decisions of the board.
- (3) The CEO is to be appointed by the Governor, on the recommendation of the Minister and the board, on terms and conditions determined by the Governor.

Division 4—Board's membership and procedures

9—Composition of board

- (1) The board is to consist of not less than 7 and not more than 10 directors.
- (2) The CEO is to be a director *ex officio* and the remaining directors are to be appointed by the Governor.
- (3) The board's membership must include persons who have, in the Minister's opinion, appropriate expertise in the operation of tourism businesses, regional tourism, business and financial management, marketing, environmental management and industrial relations.
- (4) At least two directors must be women and at least two must be men.
- (5) One director will be appointed by the Governor to chair meetings of the board.
- (6) The Governor may appoint a person to be the deputy of a director, and a person so appointed may act as a director in the absence of that director.

10—Conditions of membership

- (1) A director (other than the CEO) will be appointed for a term, not exceeding three years, specified in the instrument of appointment and, at the expiration of a term of appointment, will be eligible for reappointment.
- (2) The Governor may remove a director (other than the CEO) from office—
 - (a) for misconduct; or
 - (b) for failure or incapacity to carry out the duties of his or her office satisfactorily; or
 - (c) if serious irregularities have occurred in the conduct of the Commission's affairs or the board has failed to carry out its functions satisfactorily and the board's membership should, in the opinion of the Governor, be reconstituted for that reason.
- (3) The office of a director (other than the CEO) becomes vacant if the director—
 - (a) dies; or
 - (b) completes a term of office and is not reappointed; or

- (c) resigns by written notice to the Minister; or
- (d) is convicted of an indictable offence; or
- (e) is removed from office under subsection (2).

11—Vacancies or defects in appointment of directors

An act of the board is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a director.

12—Remuneration

A director is entitled to such remuneration, allowances and expenses as may be determined by the Governor.

13—Proceedings

- (1) A quorum of the board consists of one half the total number of its members (ignoring any fraction resulting from the division) plus one.
- (2) The director appointed to chair meetings of the board will preside at meetings of the board or, in the absence of that director, a director chosen to preside by those present.
- (3) A decision carried by a majority of the votes cast by directors at a meeting is a decision of the board.
- (4) Each director present at a meeting of the board has one vote on any question arising for decision and, if the votes are equal, the director presiding at the meeting may exercise a casting vote.
- (5) A telephone or video conference between directors will, for the purposes of this section, be taken to be a meeting of the board at which the participating directors are present.
- (6) A proposed resolution of the board becomes a valid decision of the board despite the fact that it is not voted on at a meeting of the board if—
 - (a) notice of the proposed resolution is given to all directors in accordance with procedures determined by the board; and
 - (b) a majority of the directors express their concurrence in the proposed resolution by letter, telegram, telex, facsimile transmission or other written communication setting out the terms of the resolution.
- (7) The board must have accurate minutes kept of its proceedings.
- (8) Subject to this Act, the board may determine its own procedures.

14—Conflict of interest under Public Sector (Honesty and Accountability) Act

A director 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 director has an interest in a matter that is shared in common with those engaged in or associated with the tourism industry generally, or a substantial section of those engaged in or associated with the tourism industry.

16—Common seal and execution of documents

- (1) The common seal of the Commission must not be affixed to a document except in pursuance of a decision of the board, and the affixing of the seal must be attested by the signatures of two directors.
- (2) The board may, by instrument under the common seal of the Commission, authorise a director, the CEO, a person employed under this Act (whether nominated by name or by office or title) or any other person to execute documents on behalf of the Commission subject to conditions and limitations (if any) specified in the instrument of authority.
- (3) Without limiting subsection (2), an authority may be given so as to authorise two or more persons to execute documents jointly on behalf of the Commission.
- (4) A document is duly executed by the Commission if—
 - (a) the common seal of the Commission is affixed to the document in accordance with this section; or
 - (b) the document is signed on behalf of the Commission by a person or persons in accordance with authority conferred under this section.

17—Delegation

- (1) The board may, by instrument in writing, 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 any matter.
- (4) A delegate must not act in any matter pursuant to the delegation in which the delegate has a direct or indirect pecuniary or personal interest.
Penalty: Division 5 fine or division 5 imprisonment.
- (5) It is a defence to a charge of an offence against subsection (4) to prove that the defendant was, at the time of the alleged offence, unaware of his or her interest in the matter.

Division 5—Staffing arrangements

18A—Staffing arrangements

- (1) The employing authority may employ staff to perform functions in connection with the operations or activities of the Commission.
- (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 Commission 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 Commission does not have the power to employ any person.
- (12) The Commission 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*.

Part 3—Operations of Commission

19—Functions of Commission

- (1) The Commission has the following functions:
 - (a) to promote South Australia (internationally and domestically) as a tourist destination;
 - (b) to identify tourism opportunities for the State (including opportunities for events and festivals, regional tourism and cultural tourism);

- (ba) to promote such events, festivals or other activities in the State as are consistent with the object of this Act;
 - (c) to contribute to the preparation and implementation of economic development plans for or relating to the tourism industry of the State;
 - (d) to prepare a plan or series of plans (consistent with relevant economic development plans) for tourism promotion for the State and formulate policies and strategies for implementation of the plan or plans by government, industry and community action;
 - (e) to encourage industry participation in and financial support for co-operative tourism marketing programmes;
 - (f) to assist regional bodies engaged in tourism promotion;
 - (g) to ensure the provision of appropriate tourism and travel information and booking services;
 - (h) to work with and provide advice to operators for improvement of the quality of tourism services and products;
 - (i) to encourage government, industry and community action to enhance visitors' experiences of the State;
 - (j) to advise and provide reports to the Minister on matters relating to tourism and the tourism industry of the State;
 - (k) to carry out any other functions assigned to the Commission by the Minister, or conferred on the Commission under another Act, that are consistent with the object of this Act.
- (2) The Commission must carry out its functions—
- (a) in consultation with the Minister; and
 - (b) in co-operation with other Government agencies, industry, local government and relevant regional and community bodies or groups.
- (3) The Commission must ensure that its plans and initiatives are consistent with and give effect to the Government's economic development, social, employment and environmental objectives.

20—Powers of Commission

- (1) The Commission has the powers necessary or incidental to the performance of its functions.
- (2) The Commission may, for example—
- (a) enter into any form of contract or arrangement; and
 - (c) engage consultants or other contractors; and
 - (d) provide services within areas of the Commission's expertise on terms and conditions with respect to the payment of fees or any other matter as determined by the Commission; and
 - (e) establish committees (consisting of directors, other persons or a combination of directors and others) and assign to the committees advisory functions or delegated powers.

21—Banking and investment

- (1) The Commission may establish and operate ADI accounts.
- (2) Any money of the Commission that is not immediately required for the purposes of the Commission may be invested in a manner approved by the Treasurer.

Part 4—Miscellaneous

22—Budgets

- (1) The Commission must, as required by the Minister, submit to the Minister budgets setting out estimates of the Commission's future income and expenditure.
- (2) The Minister may approve a budget submitted under this section with or without modification.
- (3) The Commission may not expend money unless provision for the expenditure is made in a budget approved under this section or unless the expenditure is approved by the Minister.

23—Accounts and audit

- (1) The Commission must cause proper accounting records to be kept in relation to its financial affairs, and must have annual statements of account prepared in respect of each financial year.
- (2) The accounting records and the statements of account must comply with—
 - (a) any instructions of the Treasurer under section 41 of the *Public Finance and Audit Act 1987*; and
 - (b) any further requirements imposed by the Auditor-General.
- (3) The Auditor-General may at any time audit the accounts of the Commission and must audit the annual statements of account.

24—Annual report

- (1) The Commission must, on or before 30 September in every year, forward to the Minister a report on the Commission's operations for the preceding financial year.
- (2) The report must contain—
 - (a) the audited statements of account of the Commission for the preceding financial year; and
 - (b) a report on—
 - (i) the state of tourism and the tourism industry in the State; and
 - (ii) the Commission's plans and the extent to which they have been implemented; and
 - (iii) the extent to which the Commission met the targets set in the performance agreement for the preceding financial year; and
 - (c) any other information required by or under the provisions of this Act or any other Act.

- (3) The Minister must, within 12 sitting days after receiving a report under this section, have copies of the report laid before both Houses of Parliament.

25—Protection of names

- (1) The Commission may, if it so determines, conduct its operations or any part of its operations under a name (other than the South Australian Tourism Commission) prescribed by regulation.
- (2) The Commission has a proprietary interest in—
 - (a) the name "South Australian Tourism Commission"; and
 - (b) any other name prescribed by regulation for the purposes of this section.
- (3) A person who, without the consent of the Commission, in the course of a trade or business, uses a name in which the Commission has a proprietary interest under this section for the purpose of promoting the sale of services or the provision of any benefits is guilty of an offence.
Maximum penalty: \$10 000.
- (4) A consent under subsection (3) may be given with or without conditions.
- (5) The Supreme Court may, on the application of the Commission, grant an injunction to restrain a breach of this section.
- (6) The court by which a person is convicted of an offence against this section may, on the application of the Commission, order the convicted person to pay compensation to the Commission of an amount fixed by the court.
- (7) Subsections (5) and (6) do not derogate from any civil remedy that may be available to the Commission apart from those subsections.

26—Regulations

- (1) The Governor may make regulations for the purposes of this Act.
- (2) A regulation may impose a fine, not exceeding \$2 500, for breach of the regulation.

Legislative history

Notes

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

Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1993	26	<i>South Australian Tourism Commission Act 1993</i>	29.4.1993	1.7.1993 (<i>Gazette</i> 27.5.1993 p1753)
1999	33	<i>Financial Sector Reform (South Australia) Act 1999</i>	17.6.1999	Sch (item 54)—1.7.1999 being the date specified under s 3(16) of the <i>Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999</i> of the Commonwealth as the transfer date for the purposes of that Act: s 2(2)
2006	41	<i>Statutes Amendment (Public Sector Employment) Act 2006</i>	14.12.2006	Pt 22 (ss 99—102)—1.4.2007 (<i>Gazette</i> 29.3.2007 p930)
2009	84	<i>Statutes Amendment (Public Sector Consequential Amendments) Act 2009</i>	10.12.2009	Pt 143 (ss 327—329)—1.2.2010 (<i>Gazette</i> 28.1.2010 p320)
2015	8	<i>Statutes Amendment (Boards and Committees—Abolition and Reform) Act 2015</i>	18.6.2015	Pt 36 (ss 231—236)—1.7.2015 (<i>Gazette</i> 25.6.2015 p3076)

Provisions amended

New entries appear in bold.

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

Provision	How varied	Commencement
Pt 1		
s 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	
s 3	amended by 8/2015 s 231	1.7.2015
s 4		
s 4(1)	s 4 redesignated as s 4(1) by 41/2006 s 99(2)	1.4.2007
employing authority	inserted by 41/2006 s 99(1)	1.4.2007
promote	inserted by 8/2015 s 232	1.7.2015
s 4(2)	inserted by 41/2006 s 99(2)	1.4.2007

Pt 2		
Pt 2 Div 1		
s 5		
s 5(2)	amended by 8/2015 s 233(1), (2)	1.7.2015
s 5(4)	inserted by 8/2015 s 233(3)	1.7.2015
Pt 2 Div 4		
s 14	substituted by 84/2009 s 327	1.2.2010
s 15	deleted by 84/2009 s 327	1.2.2010
s 16		
s 16(2)	amended by 41/2006 s 100	1.4.2007
s 18	deleted by 84/2009 s 328	1.2.2010
Pt 2 Div 5	inserted by 41/2006 s 101	1.4.2007
s 18A		
s 18A(3)	amended by 84/2009 s 329	1.2.2010
s 18A(13)		
public sector agency	amended by 84/2009 s 329	1.2.2010
Pt 3		
s 19		
s 19(1)	amended by 8/2015 s 234(1)—(3)	1.7.2015
s 20		
s 20(2)	(b) deleted by 41/2006 s 102(1)	1.4.2007
s 20(3)	deleted by 41/2006 s 102(2)	1.4.2007
s 21		
s 21(1)	amended by 33/1999 Sch (item 54)	1.7.1999
Pt 4		
s 25		
s 25(3)	amended by 8/2015 s 235	1.7.2015
s 26		
s 26(2)	amended by 8/2015 s 236	1.7.2015

Transitional etc provisions associated with Act or amendments

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—1.7.1999

1.4.2007

1.2.2010

Appendix—Divisional penalties and expiation fees

At the date of publication of this version 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.