

South Australia

South Australian Ports (Disposal of Maritime Assets) (Miscellaneous) Amendment Act 2007

An Act to amend the *South Australian Ports (Disposal of Maritime Assets) Act 2000*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *South Australian Ports (Disposal of Maritime Assets) (Miscellaneous) Amendment Act 2007*.

2—Commencement

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

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *South Australian Ports (Disposal of Maritime Assets) Act 2000*

4—Amendment of section 21—Membership of panel

- (1) Section 21(2)—delete subsection (2) and substitute:
 - (2) The membership of the panel is to be determined in accordance with the regulations.
- (2) Section 21(3)—delete "subsection (4)" and substitute:

the regulations
- (3) Section 21(4)—delete subsection (4)

5—Substitution of section 22

Section 22—delete the section and substitute:

22—Procedure of panel

Subject to the regulations, the panel may determine its own procedures.

6—Amendment of section 25—Notice of breach

Section 25—after subsection (2) insert:

- (3) If the panel issues notices of non-performance in relation to 2 successive quarters to the operator, the panel must inform the Minister, providing details of the nature of the non-performance.

7—Amendment of section 26—Limitation on cross-ownership

- (1) Section 26(1)—delete "must not simultaneously have" and substitute:

has a *cross-ownership interest* if the person simultaneously has
- (2) Section 26(5) and (6)—delete subsections (5) and (6) and substitute:
 - (5) If a person has a cross-ownership interest that, in the opinion of the Minister, may result in the container terminal not being managed or operated in the best interests of the State, the Minister may, by notice in writing given to the person or to the person and an associate of the person, require the divestiture of assets, within a reasonable period specified in the notice, to the extent considered necessary by the Minister to avoid that result.
 - (6) Before exercising a power under subsection (5), the Minister must—
 - (a) give the person or the person and the associate (as the case requires) at least 21 days notice in writing of the proposed requirement for divestiture and the reasons for the proposed requirement; and

- (b) allow the person or the person and the associate (as the case requires) a reasonable opportunity to show cause why the requirement for divestiture should not be imposed and to provide supporting documents and other information (verified by statutory declaration if required by the Minister).
- (7) If a person fails to comply with a notice under subsection (5), the Minister may, by subsequent notice in writing to the person, confiscate assets that have not been divested as required.
- (8) A person to whom notice is given under subsection (5) or subsection (7) may, within 21 days, apply to the Supreme Court for judicial review of the decision to give the notice.