No 5 of 2022 assented to 14.7.2022

South Australia

South Australian Motor Sport (Miscellaneous) Amendment Act 2022

An Act to amend the *South Australian Motor Sport Act 1984*.

Contents

Part 1—Preliminary

1 Short title
2 Commencement

Part 2—Amendment of *South Australian Motor Sport Act 1984*

3 Amendment of long title
4 Amendment of section 3—Interpretation
5 Substitution of heading to Part 2
6 Substitution of section 10
- 4 Establishment of Board
- 5 Membership of Board
- 6 Term and conditions of office
- 7 Remuneration
- 8 Functions of Board
- 9 Delegation
- 9A Procedures of Board
- 9B Committees

7 Amendment of section 10AA—Non-application of *Government Business Enterprises (Competition) Act 1996*
8 Amendment of section 11—Commission may control and charge fee for filming etc from outside circuit
9 Insertion of sections 12 to 17
- 12 Dealings with moneys of the Board
- 13 Power to borrow
- 14 Accounts and audit
- 15 Reports
- 16 Chief Executive
- 17 Staffing arrangements

10 Amendment of heading to Part 3
11 Amendment of section 20—Minister may make certain declarations
12 Amendment of section 21—Commission to have care, control etc of declared area for relevant declared period
13 Amendment of section 22—Commission to have power to enter and carry out works etc on declared area
14 Amendment of section 23—Commission to consult and take into account representations of persons affected by operations
15 Amendment of section 24—Certain land taken to be lawfully occupied by Commission
16 Amendment of section 25—Non-application of certain laws

17 Amendment of section 26—Plans of proposed works to be available for public inspection
18 Amendment of section 27—Power to remove vehicles left unattended within declared area
19 Amendment of section 27AB—Application of sections 27B and 27C
20 Insertion of Part 3B

Part 3B—Reporting

27D Board to report on ticket sales etc for motor sport events
21 Insertion of section 28
28 Board may conduct activities under other name
22 Amendment of section 28AA—Declaration of official titles
23 Amendment of section 28A—Special proprietary interests
24 Amendment of section 28B—Seizure and forfeiture of goods
25 Insertion of section 29
29 Transfer of property
26 Amendment of section 30—Regulations

Schedule 1—Transitional and saving provisions

1 Interpretation
2 Vesting of assets and liabilities of Commission in Board
3 Staff
4 Graphics standards manual

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *South Australian Motor Sport (Miscellaneous) Amendment Act 2022*.

2—Commencement

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

Part 2—Amendment of *South Australian Motor Sport Act 1984*

3—Amendment of long title

Long title—after "Act" insert:

to establish the South Australian Motor Sport Board,

4—Amendment of section 3—Interpretation

(1) Section 3(1)—after the definition of ***Adelaide*** insert:

Board means the South Australian Motor Sport Board established under Part 2;

(2) Section 3(1), definition of ***Commission***—delete the definition

(3) Section 3(1), definition of ***council***—delete the definition

(4) Section 3(1)—after the definition of ***declared period*** insert:

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

(5) Section 3(1), definition of ***the graphic standards manual***—delete "Commission" and substitute:

Board

(6) Section 3—after subsection (3) insert:

(4) A proclamation made for the purposes of the definition of ***employing authority*** 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.

5—Substitution of heading to Part 2

Heading to Part 2—delete the heading and substitute:

Part 2—South Australian Motor Sport Board

6—Substitution of section 10

Section 10—delete section 10 and substitute:

4—Establishment of Board

(1) The *South Australian Motor Sport Board* is established.

(2) The Board—

(a) is a body corporate with perpetual succession and a common seal; and

(b) is capable in its corporate name of acquiring, holding and disposing of real and personal property; and

(c) is capable of acquiring or incurring any other rights or liabilities, and of suing and being sued; and

(d) holds its property on behalf of the Crown.

(3) If a document appears to bear the common seal of the Board, it will be presumed, in the absence of proof to the contrary, that the common seal of the Board was duly affixed to the document.

(4) The Board is subject to the general control and direction of the Minister.

5—Membership of Board

(1) The Board consists of up to 9 members appointed by the Governor on the nomination of the Minister.

(2) In nominating persons for appointment to the Board, the Minister should endeavour to achieve gender equality on the Board.

(3) The Governor may appoint 1 member of the Board to be the presiding member and another member to be the deputy presiding member of the Board.

(4) The Governor may appoint a suitable person nominated by the Minister to be a deputy of a member and a person so appointed may act as a member of the Board in the absence of that member.

(5) An act or decision of the Board is not invalid by reason only of a vacancy in its membership.

6—Term and conditions of office

(1) A member of the Board will be appointed for a term, and on such conditions, determined by the Governor.

(2) A member will, on the expiration of their term of office, be eligible for reappointment.

(3) The Governor may remove a member from office for—

(a) mental or physical incapacity to carry out satisfactorily the duties of office; or

(b) neglect of duty; or

(c) dishonourable conduct; or

(d) any other cause considered sufficient by the Governor.

(4) The office of a member becomes vacant if the member—

(a) dies; or

(b) resigns by written notice addressed to the Minister; or

(c) is removed by the Governor under subsection (3).

(5) On the office of a member becoming vacant, a person may be appointed in accordance with this Act to the vacant office.

7—Remuneration

A member of the Board is entitled to remuneration, allowances and expenses determined by the Governor.

8—Functions of Board

(1) The functions of the Board are—

(a) to negotiate and enter into agreements on behalf of the State under which motor sport events, whether promoted by the Board or by some other person approved by the Minister, are held in the State; and

(b) to undertake on behalf of the State the promotion of motor sport events; and

(c) to do all things necessary for or in connection with the conduct and financial and commercial management of each event promoted by the Board; and

(d) to provide advisory, consultancy, management or other services to promoters or other persons associated with the conduct of sporting, entertainment or other special events or projects, whether within or outside the State; and

(e) such other functions as may be assigned to the Board by or under this Act or by the Minister.

(2) In performing its functions, the Board may do any or all of the following:

(a) establish a motor racing circuit on a temporary basis;

(b) as provided by this Act, assume the care, control, management and use of public roads and parklands on a temporary basis;

(c) carry out works for the construction, alteration or removal of public or other roads, track, grandstands, fencing, barriers and other buildings and structures;

(d) carry on any advertising and promotional activities;

(e) regulate and control admission to any event and charge and collect fees for admission to any such event;

(f) grant for fee or other consideration advertising or sponsorship rights or any other rights, licences or concessions in connection with events;

(g) publish or produce books, programmes, brochures, films, souvenirs and other things relating to events;

(h) sell or supply food and drink (including alcoholic beverages), books, programmes, brochures, films, souvenirs and other things in connection with events;

(i) restrict, control and make charges for the use of official insignia;

(j) take out policies of insurance in its own right or on behalf of the State;

(k) acquire and hold any licence under any other Act;

(l) acquire, hold, deal with and dispose of any personal property;

(m) form, or acquire, hold, deal with and dispose of shares or other interests in, or securities issued by, bodies corporate, whether within or outside the State;

(n) enter into any partnership or joint venture arrangement, appoint any agent, or enter into any other contract or arrangement with another person, whether within or outside the State;

(o) accept money or other things, whether from the State, a State instrumentality or any other person, provided or given to the Board for the performance of its functions;

(p) act as trustee on behalf of any other person in connection with the performance of its functions under this Act;

(q) enter into any agreement or arrangement of a kind not previously mentioned in this subsection or acquire or incur any other rights or liabilities;

(r) do any other thing that is necessary or expedient for, or incidental to, the performance of its functions.

(3) No contract or agreement entered into by a person acting or purporting to act as agent of the Board is binding on the Board unless ratified by the Board (however, to avoid doubt, nothing in this section requires a contract or agreement entered by a person in accordance with a delegation under section 9 to be so ratified before it is binding on the Board).

9—Delegation

(1) The Board may delegate a function of the Board under this Act—

(a) to a specified person or body (who may, but need not, be a member of the Board); or

(b) to a person for the time being occupying a specified office or position.

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

(3) A delegation—

(a) must be made by instrument in writing; and

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

(c) is revocable at will and does not prevent the delegator from acting in a matter.

9A—Procedures of Board

(1) Subject to this Act, a quorum of the Board consists of one half the total number of its members (ignoring any fraction resulting from the division) plus 1.

(2) A decision carried by the votes of a majority of the members present at a meeting of the Board is a decision of the Board.

(3) The presiding member will preside at a meeting of the Board and, in the absence of that person, or, in that member's absence, by the deputy presiding member (if any) and, in the absence of both the presiding member and the deputy presiding member (if any), the members present at a meeting of the Board must choose 1 of their number to preside at the meeting.

(4) A decision carried by a majority of the votes cast by members of the Board at a meeting is a decision of the Board.

(5) Each member present at a meeting of the Board has 1 vote on any question arising for decision (and the member presiding at the meeting will have a casting vote if the votes are equal).

(6) A conference by telephone or other electronic means between the members of the Board will, for the purposes of this section, be taken to be a meeting of the Board at which the participating members are present if—

(a) notice of the conference is given to all members in the manner determined by the Board for the purpose; and

(b) each participating member is capable of communicating with every other participating member during the conference.

(7) 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 members of the Board in accordance with procedures determined by the Board; and

(b) a majority of the members express concurrence in the proposed resolution by letter, email or other written communication setting out the terms of the resolution.

(8) The Board must have accurate minutes kept of its proceedings at meetings.

(9) Subject to this Act, the Board may determine its own procedures.

9B—Committees

(1) The Board may, with the approval of the Minister, establish committees—

(a) to advise the Board; or

(b) to carry out functions on behalf of the Board.

(2) The membership of a committee will be determined by the Board and may, but need not, consist of, or include, members of the Board.

(3) The Board will determine who will be the presiding member of a committee.

(4) The procedures to be observed in relation to the conduct of the business of a committee will be—

(a) as determined by the Board; and

(b) insofar as a procedure is not determined under paragraph (a)—as determined by the committee.

7—Amendment of section 10AA—Non-application of *Government Business Enterprises (Competition) Act 1996*

Section 10AA—delete "Commission" wherever occurring and substitute in each case:

Board

8—Amendment of section 11—Commission may control and charge fee for filming etc from outside circuit

(1) Heading to section 11—delete "Commission" and substitute:

Board

(2) Section 11—delete "Commission" wherever occurring and substitute in each case:

Board

9—Insertion of sections 12 to 17

After section 11 insert:

12—Dealings with moneys of the Board

(1) The Board may establish and operate ADI accounts.

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

(3) Except as authorised by the Treasurer, no money may be expended by the Board except in accordance with a budget approved by the Treasurer.

13—Power to borrow

(1) The Board 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 Board 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 Consolidated Account, which is appropriated by this section to the necessary extent.

14—Accounts and audit

(1) The Board 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 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 other further requirements imposed by the Auditor-General.

(3) The Auditor-General may at any time audit the accounts of the Board and must audit the annual statements of account.

15—Reports

(1) The Board may, on or before 30 September in every year, forward to the Minister a report on the work and operations of the Board for the financial year ending on the preceding 30 June.

(2) The report must incorporate the audited statement of accounts of the Board for the period to which the report relates.

(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.

16—Chief Executive

(1) There will be a Chief Executive of the Board.

(2) The Governor may designate a Public Service employee as the Chief Executive or, as the Governor thinks fit, appoint a person who is not a Public Service employee to be the Chief Executive on terms and conditions determined by the Governor.

17—Staffing arrangements

(1) The employing authority may employ staff to perform functions in connection with the operations or activities of the Board.

(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 not as a Public Service employee.

(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 and must not employ a person for the purposes of this Act except under an approval of the Minister.

(6) However, no Ministerial direction may be given by the Minister relating to the 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 Board must, at the direction of the Minister, the Treasurer or the employing authority, make payments with respect to any matter arising in connection with the employment of a person under this Act (including, but not limited to, payments with respect to salary or other aspects of remuneration, leave entitlements, superannuation contributions, taxation liabilities, workers compensation payments, termination payments, public liability insurance and vicarious liabilities).

(11) The Board does not have the power to employ any person.

(12) The Board 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*.

10—Amendment of heading to Part 3

Heading to Part 3—delete "major"

11—Amendment of section 20—Minister may make certain declarations

(1) Section 20—delete "Commission" wherever occurring and substitute in each case:

Board

(2) Section 20(1)(a)—delete "(consisting of public road or parkland, or both) in Adelaide" and substitute:

(whether in or outside of Adelaide, and whether or not consisting of or including public roads or parkland or both)

(3) Section 20(1)(c)—delete "section 22(1a)" and substitute:

section 22

(4) Section 20(2) and (3)—delete subsections (2) and (3)

12—Amendment of section 21—Commission to have care, control etc of declared area for relevant declared period

(1) Heading to section 21—delete "Commission" and substitute:

Board

(2) Section 21—delete "Commission" wherever occurring and substitute in each case:

Board

13—Amendment of section 22—Commission to have power to enter and carry out works etc on declared area

(1) Heading to section 22—delete "Commission" and substitute:

Board

(2) Section 22—delete "Commission" wherever occurring and substitute in each case:

Board

14—Amendment of section 23—Commission to consult and take into account representations of persons affected by operations

(1) Heading to section 23—delete "Commission" and substitute:

Board

(2) Section 23—delete "Commission" wherever occurring and substitute in each case:

Board

15—Amendment of section 24—Certain land taken to be lawfully occupied by Commission

(1) Heading to section 24—delete "Commission" and substitute:

Board

(2) Section 24—delete "Commission" wherever occurring and substitute in each case:

Board

16—Amendment of section 25—Non-application of certain laws

(1) Section 25—delete "Commission" wherever occurring and substitute in each case:

Board

(2) Section 25(2)—delete "Development Act 1993" and substitute:

Planning, Development and Infrastructure Act 2016

17—Amendment of section 26—Plans of proposed works to be available for public inspection

Section 26—delete "Commission" wherever occurring and substitute in each case:

Board

18—Amendment of section 27—Power to remove vehicles left unattended within declared area

Section 27(1)—delete "Commission" and substitute:

Board

19—Amendment of section 27AB—Application of sections 27B and 27C

(1) Section 27AB(2)—delete subsection (2)

(2) Section 27AB(3)(a)—delete "Commission" and substitute:

Board

20—Insertion of Part 3B

After section 27C insert:

Part 3B—Reporting

27D—Board to report on ticket sales etc for motor sport events

(1) The Board must, in relation to each motor sport event promoted by the Board, or in relation to which the Board performs functions under this Act, prepare and provide to the Minister a report setting out—

(a) the total attendance at the motor sport event; and

(b) any other information required by the regulations.

(2) The report must be completed and provided to the Minister within 3 months after the completion of the motor sport event.

(3) The Minister must cause a copy of the report to be laid before both Houses of Parliament within 6 sitting days after receiving the report.

21—Insertion of section 28

Before section 28AA insert:

28—Board may conduct activities under other name

The Board may, if it so determines, conduct its activities or any part of its activities not under the name the *South Australian Motor Sport Board* but under—

(a) the name "Adelaide 500 Board"; or

(b) the name "Sensational Adelaide 500 Board"; or

(c) any other name prescribed by regulation.

22—Amendment of section 28AA—Declaration of official titles

Section 28AA—delete "Commission" wherever occurring and substitute in each case:

Board

23—Amendment of section 28A—Special proprietary interests

(1) Section 28A—delete "Commission" wherever occurring and substitute in each case:

Board

(2) Section 28A(1)(b)—delete paragraph (b)

24—Amendment of section 28B—Seizure and forfeiture of goods

Section 28B—delete "Commission" wherever occurring and substitute in each case:

Board

25—Insertion of section 29

After section 28B insert:

29—Transfer of property

(1) The Minister may, by instrument in writing, transfer an asset, right or liability of the Board to an agent or instrumentality of the Crown specified in the instrument.

(2) An instrument under subsection (1) may make other provisions that in the opinion of the Minister are necessary or expedient in connection with the relevant transfer.

(3) 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 the transfer of an asset, right or liability under this section.

26—Amendment of section 30—Regulations

(1) Section 30(2)—before paragraph (b) insert:

(a) regulate the proceedings of the Board;

(2) Section 30(2)(d)—delete "Commission" and substitute:

Board

(3) Section 30(2)—after paragraph (i) insert:

(j) make provisions of a saving or transitional nature consequent on the enactment of the *South Australian Motor Sport (Miscellaneous) Amendment Act 2022* or any other Act or law;

(4) Section 30—after subsection (3) insert:

(4) A regulation made under subsection (2)(j) may, if the regulations so provide, take effect from the day on which this subsection comes into operation.

(5) A regulation made under subsection (2)(j) that takes effect from a day earlier than the day of the publication of the regulation in the Gazette does not operate to the disadvantage of a person by—

(a) decreasing the person's rights; or

(b) imposing liabilities on the person.

Schedule 1—Transitional and saving provisions

1—Interpretation

In this Schedule—

asset includes—

(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 Commission);

Board means the South Australian Motor Sport Board established under section 4 of the *South Australian Motor Sport Act 1984* (as enacted by the *South Australian Motor Sport (Miscellaneous) Amendment Act 2022*);

Commission means the South Australian Tourism Commission under the *South Australian Tourism Commission Act 1993*;

liability includes a present, contingent or future liability or obligation (including a non-pecuniary obligation and a present or future cause of action against the Commission);

Minister means the Minister responsible for the administration of the *South Australian Motor Sport Act 1984*;

2—Vesting of assets and liabilities of Commission in Board

(1) Subject to subclause (2), all assets and liabilities of the Commission (being an asset or liability relating to the functions and powers conferred on the Commission under Schedule 1 of the *South Australian Motor Sport Act 1984* (as in force before the commencement of this clause)) are vested in the Board.

(2) Subclause (1) does not apply to any asset or liability vested by the Governor, by proclamation, in—

(a) the Minister; or

(b) another agency or instrumentality of the Crown.

(3) The vesting of assets or liabilities under this clause operates by force of this clause 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 clause, register or record in an appropriate manner a vesting under this clause.

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

(6) Subject to subclause (7)—

(a) a reference in any instrument or contract, agreement or other document to the Commission will have effect as if it were a reference to the Board; and

(b) a reference in any instrument or contract, agreement or other document in force immediately before the commencement of this clause to the Board will have effect as if it were a reference to the Board established under section 4 of the *South Australian Motor Sport Act 1984* (as enacted by the *South Australian Motor Sport (Miscellaneous) Amendment Act 2022*).

(7) Subclause (6) does not apply to any reference excluded by the Governor by proclamation.

(8) Subclause (6) has effect despite the provisions of any other law or instrument.

(9) Nothing done under this clause—

(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.

3—Staff

(1) The Minister may, by notice in the Gazette, transfer the employment of a person who was, immediately before the commencement of this clause, an officer or employee of the employing authority under the *South Australian Tourism Commission Act 1993* to the employing authority under this Act.

(2) The transfer of a person under subclause (1) does not affect—

(a) the person's continuity of employment or existing conditions of employment or existing or accruing rights to leave; or

(b) a process commenced for variation of those conditions or rights.

4—Graphics standards manual

The graphics standards manual within the meaning of the *South Australian Motor Sport Act 1984* (as in force immediately before the commencement of this clause)—

(a) continues as the graphics standards manual under that Act; and

(b) for that purpose, will be taken to have been adopted by the Board as the graphics standards manual.