



TRANSADELAIDE (CORPORATE STRUCTURE) ACT 1998

No. 79 of 1998

SUMMARY OF PROVISIONS

**PART 1
PRELIMINARY**

1. Short title
2. Commencement
3. Interpretation

**PART 2
CORPORATE STATUS AND FUNCTIONS**

4. Continuation of TransAdelaide
5. Application of Public Corporations Act 1993
6. Ministerial control
7. Functions
8. Powers
9. Common seal and execution of documents

**PART 3
THE BOARD**

10. Establishment of board
11. Conditions of membership
12. Vacancies or defects in appointment of directors
13. Remuneration
14. Board proceedings

**PART 4
STAFFING AND OPERATIONAL ARRANGEMENTS**

15. Staffing and operational arrangements

**PART 5
MISCELLANEOUS**

16. Acquisition of land
17. Use and protection of name
18. Regulations

SCHEDULE

Related Amendments and Transitional Provision



ANNO QUADRAGESIMO SEPTIMO

ELIZABETHAE II REGINAE

A.D. 1998

No. 79 of 1998

An Act to provide for the continuation of TransAdelaide as a statutory corporation; to make related amendments to the Passenger Transport Act 1994; and for other purposes.

[Assented to 17 December 1998]

The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

Short title

1. This Act may be cited as the *TransAdelaide (Corporate Structure) Act 1998*.

Commencement

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

Interpretation

3. In this Act—

"**board**" means the board of directors established under this Act as the governing body of TransAdelaide;

"**director**" means a person who is a member of the board.

PART 2
CORPORATE STATUS AND FUNCTIONS

Continuation of TransAdelaide

4. (1) *TransAdelaide* continues in existence.
- (2) *TransAdelaide*—
- (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
 - (d) has the functions and powers assigned or conferred by or under this or any other Act.

Application of Public Corporations Act 1993

5. *TransAdelaide* is a statutory corporation to which the provisions of the *Public Corporations Act 1993* apply.

Ministerial control

6. Without limiting the operation of section 6 of the *Public Corporations Act 1993*, *TransAdelaide* is subject to control and direction by the Minister.

Functions

7. *TransAdelaide* has the following functions:
- (a) to operate passenger transport services; and
 - (b) to engage in other activities related to the operation or provision of passenger transport services; and
 - (c) to initiate or develop business opportunities associated with the provision of passenger transport and other services within its fields of expertise, and to undertake other activities that may contribute to the economic benefit of the State or otherwise involve an appropriate use of its resources; and
 - (d) to carry out other functions assigned to it by or under this or any other Act, or by the Minister.

Powers

8. (1) *TransAdelaide* has all the powers of a natural person together with powers conferred on it by or under this or any other Act.

- (2) *TransAdelaide* may, for example—
- (a) enter into any form of contract or arrangement;
 - (b) appoint agents or engage contractors;
 - (c) engage experts or consultants;
 - (d) acquire, hold, deal with and dispose of real and personal property;

- (e) provide facilities and amenities for the users of passenger transport services;
- (f) grant leases or licences over property of TransAdelaide;
- (g) enter into joint ventures;
- (h) participate in the formation of a partnership or other body;
- (i) form a body corporate, or acquire, hold, deal with or dispose of shares in, or securities issued by, a body corporate;
- (j) acquire, hold, deal with or dispose of an interest in a lot under the *Communities Titles Act 1996* or an interest in a unit under the *Strata Titles Act 1988*.

(3) TransAdelaide may carry out such works as are necessary for the establishment, maintenance, extension, alteration or discontinuance of any passenger transport service or other activity carried on by it.

Common seal and execution of documents

9. (1) The common seal of TransAdelaide 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) TransAdelaide may, by instrument under the common seal of TransAdelaide, authorise a director, an employee of TransAdelaide (whether nominated by name or by office or title) or any other person to execute documents on behalf of TransAdelaide 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 TransAdelaide.

(4) A document is duly executed by TransAdelaide if—

- (a) the common seal of TransAdelaide is affixed to the document in accordance with this section; or
- (b) the document is signed on behalf of TransAdelaide by a person or persons in accordance with an authority conferred under this section.

PART 3
THE BOARD

Establishment of board

10. (1) A board of directors is established as the governing body of TransAdelaide.

(2) The board is to consist of not more than six members appointed by the Governor of whom—

- (a) one will be a person nominated by the Minister after taking into account the recommendations of the United Trades and Labor Council; and
- (b) the remainder will be persons nominated by the Minister.

(3) Nominations under subsection (2) should be made with a view to ensuring that the board is constituted by directors who together have the abilities and experience required for the effective performance of TransAdelaide's functions.

(4) At least two members of the board must be women and at least two members must be men.

(5) One director will be appointed by the Governor to chair meetings of the board.

(6) The Governor may appoint a suitable person to be the deputy of a member of the board and to act as a member of the board during any period of absence of the member.

(7) On the office of a director becoming vacant, a person may be appointed under this section to the vacant office.

Conditions of membership

11. (1) A director will be appointed for a term, not exceeding three years, specified in the instrument of appointment and will, at the expiration of a term of appointment, be eligible for reappointment.

(2) The Governor may remove a director from office on the recommendation of the Minister.

(3) The Minister may recommend the removal of a director on any ground that the Minister considers sufficient.

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

- (a) dies; or
- (b) completes a term of office and is not reappointed; or
- (c) resigns by notice in writing to the Minister; or
- (d) becomes bankrupt or applies to take the benefit of a law for the relief of insolvent debtors; or
- (e) is convicted of an indictable offence or sentenced to imprisonment for an offence; or
- (f) is removed from office under subsection (2).

Vacancies or defects in appointment of directors

12. 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.

Remuneration

13. A director is entitled to be paid from the funds of TransAdelaide such remuneration, allowances and expenses as may be determined by the Minister.

Board proceedings

14. (1) A quorum of the board consists of one-half of the total number of its members (ignoring any fraction resulting from the division) plus one.

(2) The director appointed to chair the board will preside at meetings of the board or, in the absence of that director, a director chosen by those present will preside.

(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 second or casting vote.

(5) A conference by telephone or other electronic means 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 if—

- (a) notice of the conference is given to all directors in the manner determined by the board for that purpose; and
- (b) each participating director is capable of communicating with every other participating director during the conference.

(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, telex, facsimile transmission or other written communication setting out the terms of the resolution.

(7) The board must cause accurate minutes to be kept of its proceedings.

(8) Subject to this Act, the board may determine its own procedures.

PART 4
STAFFING AND OPERATIONAL ARRANGEMENTS

Staffing and operational arrangements

15. (1) The chief executive officer of TransAdelaide (to be known as the "General Manager") will be appointed by the board with the approval of the Minister.

(2) TransAdelaide may appoint such other staff as TransAdelaide thinks necessary or desirable.

(3) A member of the staff of TransAdelaide is not a public service employee.

(4) TransAdelaide may carry out its functions and exercise its powers through the instrumentality of—

- (a) its staff; or
- (b) with the approval of the relevant Minister—the employees of an administrative unit of the Public Service; or
- (c) any other person.

PART 5
MISCELLANEOUS

Acquisition of land

16. (1) TransAdelaide may, with the approval of the Minister, acquire land subject to and in accordance with the *Land Acquisition Act 1969* for the establishment, extension or alteration of infrastructure reasonably required or warranted for the provision or operation of a passenger transport service by TransAdelaide.

(2) An approval under subsection (1) may be granted by the Minister on such conditions as the Minister thinks fit.

Use and protection of name

17. (1) TransAdelaide may, if the board so determines, conduct its operations or any part of its operations not under the name *TransAdelaide* but under another name (or names) determined by the board after consultation with the Minister.

(2) The Crown has a proprietary interest in—

(a) the name *TransAdelaide*; and

(b) any other name adopted by the board pursuant to a determination under subsection (1).

(3) A person (other than TransAdelaide) who, without the consent of the Minister, in the course of a trade or business, uses a name in which the Crown has a proprietary interest under subsection (2) for the purpose of promoting a business or service is guilty of an offence.

Maximum penalty: \$5 000.

(4) A consent under subsection (3) may be given with or without conditions.

(5) A person who contravenes or fails to comply with a condition is guilty of an offence.

Maximum penalty: \$5 000.

(6) The Supreme Court may, on the application of the Minister, grant an injunction to restrain a breach of this section.

(7) Subsection (6) does not derogate from any civil remedy that may be available apart from that subsection.

Regulations

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

SCHEDULE*Related Amendments and Transitional Provision***Repeal of schedule 2 of Passenger Transport Act 1994**

1. Schedule 2 of the *Passenger Transport Act 1994* is repealed.

Amendment of schedule 3 of Passenger Transport Act 1994

2. Schedule 3 of the *Passenger Transport Act 1994* is amended—

- (a) by striking out the heading to the schedule and substituting the following heading:

Public transport assets;

- (b) by striking out paragraph (c) of clause 1 and substituting the following paragraph:

- (c) the Minister must, at least two months before the proposed sale—

(i) give notice of the proposal in the *Gazette*, and in a newspaper circulating generally throughout the State; and

(ii) provide a written report on the proposed sale to the Economic and Finance Committee of the Parliament; and;

- (c) by inserting after clause 3 the following clauses:

3a. If it is proposed to transfer or assign to a private sector body or private sector bodies all or a major part of the rights of TransAdelaide under its service contracts with the Passenger Transport Board under this Act (when all of TransAdelaide's service contracts are considered together), then the Minister must, at least two months before the proposed transfer or assignment, provide a written report on the matter to the Economic and Finance Committee of the Parliament.

3b. For the purposes of clause 3a, TransAdelaide will be taken to transfer or assign a major part of its rights under its service contracts if the effect of the relevant transaction or transactions would be to divest TransAdelaide of 50 per cent or more of the total revenue payable to TransAdelaide by the Passenger Transport Board under all of TransAdelaide's service contracts.

3c. However, clause 3a does not apply to—

(a) a transfer or assignment proposed by TransAdelaide for the purpose of entering into a joint venture or partnership arrangement; or

(b) a transfer or assignment proposed for the purpose of a subcontracting arrangement; or

(c) a transfer or assignment proposed by the Passenger Transport Board under section 39.

Transitional provision

3. The person constituting TransAdelaide immediately before the commencement of this schedule will, on that commencement, cease to constitute TransAdelaide (but without affecting any appointment of the person as General Manager of TransAdelaide).

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

E. J. NEAL Governor