



ANNO VICESIMO

## ELIZABETHAE II REGINAE

A.D. 1971

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## No. 93 of 1971

An Act to establish and constitute the Adelaide Festival Centre Trust, to provide for the Adelaide Festival Centre and for the management and operation thereof and for matters connected therewith and incidental thereto.

[Assented to 3rd December, 1971]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I

## PART I

## PRELIMINARY

Short titles.

1. This Act may be cited as the "Adelaide Festival Centre Trust Act, 1971".

Commencement.

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

Arrangement of Act.

3. This Act is arranged as follows:—

PART I—PRELIMINARY

PART II—THE TRUST—

DIVISION I—CONSTITUTION OF THE TRUST

DIVISION II—POWERS, ETC., OF THE TRUST

DIVISION III—CONSTRUCTION OF DRAMA FACILITIES

## PART III—FINANCIAL

## PART IV—VESTING OF LAND

## PART V—MISCELLANEOUS.

## 4. (1) In this Act unless the contrary intention appears—

Definitions.

“Drama Facilities” means a drama theatre, an amphitheatre and an experimental theatre:

“financial year” means any period of twelve months concluding on the thirtieth day of June, in a year:

“member of the Council” means the Lord Mayor of the City of Adelaide, an alderman of the Council or a councillor of the Council:

“officer of the Council” means an officer, as defined in section 5 of the Local Government Act, 1934, as amended, of the Council:

“the Centre” means the Adelaide Festival Centre comprised of the Festival Theatre, a drama theatre, an amphitheatre, an experimental theatre and all works and conveniences incidental thereto or necessary therefor including without limiting the generality of the expression all plazas, walks, parks, open spaces, roads and car parks connected with or comprised in the Adelaide Festival Centre:

“the Council” means the council of The Corporation of the City of Adelaide:

“the Trust” means the Adelaide Festival Centre Trust established by this Act:

“trustee” means a trustee of the Trust appointed under this Act and includes the chairman of the trustees appointed under this Act.

## (2) In this Act—

(a) a reference to section 655 shall be read as a reference to the land in the hundred of Adelaide delineated on the plan in the schedule to the Adelaide Festival Theatre Act, 1964-1970, bounded by a line joining the points marked B, C, F, G, H and B on that plan;

(b) a reference to section 656 shall be read as a reference to the land in the hundred of Adelaide delineated on the plan in the schedule to the Adelaide Festival Theatre Act, 1964-1970, bounded by a line joining the points marked A, B, H, J, K, L, M and A on that plan;

and

PART I

- (c) a reference to section 672 shall be read as a reference to the land in the hundred of Adelaide delineated on the plan in the schedule to this Act bounded by a line joining the points marked A, B, C, D and A on that plan.

PART II

## PART II

## THE TRUST

## DIVISION I—CONSTITUTION OF THE TRUST

Establishment  
of the Trust.

5. (1) For the purposes of this Act, a body by the name of the "Adelaide Festival Centre Trust" is hereby established.

(2) The Trust—

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

(b) subject to this Act, shall be capable of acquiring, taking or letting out on lease, holding, selling and otherwise disposing of real and personal property;

(c) may in its corporate name and capacity sue and be sued;  
and

(d) shall have the powers, duties, functions and authorities conferred, imposed or prescribed by or under this Act.

(3) Where a document purporting to bear the common seal of the Trust is produced before any court or person acting judicially that court or that person, as the case may be, shall, unless the contrary is proved, presume—

(a) that the document purporting to bear the common seal of the Trust bears the common seal of the Trust;

and

(b) that the common seal was duly affixed.

Composition  
of the Trust.

6. (1) Subject to this section, the Trust shall consist of six trustees appointed by the Governor of whom—

(a) four shall be persons nominated by the Minister;

and

(b) two shall be persons nominated by the Council from amongst the members of the Council or the officers of the Council.

(2) From amongst the trustees appointed from the persons referred to in paragraph (a) of subsection (1) of this section the Governor shall appoint a trustee to be chairman of the trustees.

(3) If the Minister has given the Council notice in writing requiring the Council within the time specified in the notice (being not less than six weeks) to nominate a person or two persons for appointment as a trustee or two trustees under paragraph (b) of subsection (1) of this section and the Council fails to nominate the person or two persons required within the time specified, the Governor may, on the recommendation of the Minister, appoint a person as a trustee or two persons as trustees in place of the person or two persons in respect of the nomination of whom the failure occurred and that person or those two persons so appointed shall be deemed for all purposes to have been nominated under that paragraph.

(4) Every trustee shall, subject to this Act, hold office as such until the day expressed in the instrument of his appointment (not being more than three years from the day on which he was last appointed) as being the day on which he shall cease to hold office, but a trustee appointed to fill a casual vacancy in the office of a trustee shall hold office only for the unexpired portion of the term of office of the trustee in whose place he was appointed and no instrument of appointment shall provide for a term of appointment of a trustee that will continue after he has attained his seventieth birthday.

(5) On the expiration of his term of appointment as a trustee, a former trustee shall, subject to subsection (1) of this section be eligible for re-appointment.

7. Notwithstanding any other Act or law, a person shall not be disqualified by appointment as a trustee from holding office as a trustee and also any other office or place or from accepting or retaining any fees or other remuneration provided for by or under this Act, or otherwise, in respect of his service as a trustee.

Acceptance of office as a trustee not to be a bar to the holding of any other office.

8. The Governor may, by notice in writing served on a trustee remove the trustee from office on grounds of misconduct or incapacity to perform his duties and functions as a trustee.

Removal from office of trustee.

9. (1) The office of a trustee shall become vacant if—

Casual vacancies.

(a) he dies;

(b) he resigns by written notice given to the Minister;

(c) he is removed from office by the Governor pursuant to section 8 of this Act;

- (d) he is absent without leave of the Minister from three consecutive meetings of the Trust;
  - (e) he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors or compounds with his creditors for less than one hundred cents in the dollar;
  - (f) he is convicted of any indictable offence;
- or
- (g) he is convicted of any other offence and receives notice in writing from the Minister discharging him from office on the ground of that conviction.

(2) The office of a trustee, being a trustee nominated by the Council pursuant to paragraph (b) of subsection (1) of section 6 of this Act, shall become vacant if—

- (a) the trustee ceases to be a member of the Council or, as the case may be, ceases to be an officer of the Council;

and

- (b) the trustee has not within one month from so ceasing to be a member of the Council or, as the case may be, so ceasing to be an officer of the Council, again become such a member or officer.

Common seal,  
meetings and  
quorum.

10. (1) The common seal of the Trust shall not be affixed to any instrument except in pursuance of a resolution of the Trust.

(2) Any instrument executed in pursuance of such a resolution shall be attested by the signature of any two trustees.

(3) The procedure for the calling of meetings of the Trust and for the conduct of business at such meetings shall, subject to this Act, be as determined by the Trust.

(4) Any four trustees shall constitute a quorum at any meeting of the Trust and any duly convened meeting at which a quorum is present shall be competent to transact any business of the Trust and shall have and may discharge all the powers, duties and functions of the Trust.

(5) A decision carried by the majority of the votes cast by the trustees present at a meeting of the Trust shall be the decision of the Trust.

(6) The Trust shall cause accurate minutes to be kept of its proceedings at meetings.

**PART II**

**11.** A trustee shall, if the Governor thinks fit, be paid such fees or other remuneration as may from time to time be fixed by the Governor and shall be entitled to receive such travelling and other expenses as are from time to time approved by the Minister.

Remuneration  
of trustees.

**12. (1)** The Trust may by instrument over its common seal delegate to not less than two trustees any of the powers and functions conferred on the Trust by or under this Act (except this power of delegation) so that the delegated powers and functions may be exercised by the delegates with respect to the matters or matters of a class or in relation to a locality specified in the instrument of delegation.

Delegation of  
powers to  
trustees.

**(2)** A delegation under subsection (1) of this section is revocable in writing at will and no delegation shall prevent the exercise of any power or function by the Trust conferred on it by or under this Act.

**(3)** Notwithstanding anything in this Act, where the delegates are unanimous in the exercise or performance of any power or function delegated under subsection (1) of this section the exercise or performance of that power or function by the delegates shall for the purposes of this Act or of any proceedings under this Act be deemed to be an exercise or performance of that power or function by the Trust.

**13. (1)** The chairman of the trustees shall preside at all meetings of the Trust at which he is present and in addition to a deliberative vote, shall, in the event of equality of votes, have a second or casting vote.

Chairman and  
presiding  
trustee.

**(2)** In the absence of the chairman of the trustees from any meeting of the Trust the trustees present shall, from amongst their own number, elect a trustee to preside at that meeting and at that meeting the trustee so elected shall have and may exercise the powers and functions conferred on the chairman of the trustees by this section.

**14.** No act, proceedings or determination of the Trust shall be invalid on the ground only of any vacancy in the office of any trustee or of any defect in the appointment of any trustee.

Validity of acts,  
etc., of Trust.

**15. (1)** The Trust may appoint a person to be the secretary to the Trust.

Secretary to the  
Trust.

**(2)** The secretary to the Trust shall have and may exercise, perform and carry out such powers, functions and duties as are conferred on him by or under this Act or as are directed to be exercised, performed or carried out by the Trust.

**PART II**

Trustees not, as such, subject to Public Service Act.

**16.** A trustee shall not, as such, be subject to the Public Service Act, 1967, as amended, but this section does not affect the rights, duties and obligations under that Act of any trustee who is otherwise an officer in the public service of the State.

Trustee to declare interest.

**17.** Where a trustee becomes aware that he has a financial interest in any matter before the Trust he shall not—

(a) refuse or fail to declare that interest to the secretary to the Trust;

or

(b) act as such a trustee in relation to any such matter.

Penalty: Five hundred dollars.

Certain property to vest in the Trust.

**18.** All real and personal property comprised in the Centre, not being real or personal property that is pursuant to section 4 of the Adelaide Festival Theatre Act, 1964-1970, vested in the Council, shall vest in and belong to the Trust.

#### DIVISION II—POWERS, ETC., OF THE TRUST

Trust subject to general control and direction of the Minister.

**19.** In the exercise and discharge of its powers, duties and functions and authorities the Trust shall, except where the Trust makes or is required to make a recommendation to the Minister, be subject to the general control and direction of the Minister.

Objects, powers, etc., of Trust.

**20.** (1) Subject to this Act the Trust is charged with the responsibility of—

(a) encouraging and facilitating artistic, cultural and performing arts activities throughout the State;

and

(b) without limiting the generality of the foregoing, the care, control, management, maintenance and improvement of the Centre and of all things necessary for, incidental and ancillary to such care, control, management, maintenance and improvement.

(2) Without limiting the generality of the provisions of subsection (1) of this section the Trust may in the furtherance of its objects—

(a) make available on such terms as it sees fit any building or facility comprised in the Centre for any purpose for which, in the opinion of the Trust, that building or facility is suited;

- (b) enter into any contract, agreement or arrangement with any person or body whether corporate or unincorporate for the purpose of the exercise of its powers or functions;
  - (c) provide or cause to be provided meals, refreshments, and catering services in connection with the use of any building or facility within the Centre;
  - (d) authorize, on such terms and conditions as it sees fit, any person to sell any wares within the Centre;
  - (e) acquire any patents or licences which in the opinion of the Trust will assist in the Trust exercising and discharging its powers and functions and may sell or otherwise dispose of any such patents or licences;
  - (f) give or contribute towards prizes in competitions designed to encourage artistic, cultural and performing arts activity within the State or make grants and give other assistance for such purposes;
- and
- (g) do any or all things whether or not of the same kind as the foregoing which in the opinion of the Trust will effectuate the objects of the Trust.

**21.** (1) For the purposes of this Act the Trust may employ such officers and servants as it thinks necessary.

Employment  
of officers,  
servants, etc.

(2) The terms and conditions of employment of its officers or servants shall be as determined by the Trust.

(3) Without limiting the generality of subsection (2) of this section, the Trust may, with the approval of the Minister, determine that, for the purposes of the accrual of, or the payment of a lump sum in lieu of the grant of, long service leave or for the purposes of the accrual of leave on account of illness, previous service of an officer or servant of the Trust with an employer other than the Trust for the purposes and to the extent approved of by the Minister shall be regarded as service as an officer or servant of the Trust.

(4) For the purposes of this section the Trust may enter into an arrangement or supplementary arrangement of a kind contemplated by section 6 of the Superannuation Act, 1969, as amended, with the South Australian Superannuation Board.

**22.** The Trust may, with the approval of the Minister and the consent of the Minister controlling any department of the public service of the State and on such terms as may be mutually arranged make use of the services of any of the officers or employees of that department.

Trust may  
make use of  
services of  
employees of  
public service.



PART II

Arrangement  
with the  
Council for  
the management  
of the Festival  
Theatre.

23. The Trust may enter into an arrangement with the Council upon such terms as are approved of by the Minister to perform and exercise on behalf of the Council the powers and functions in relation to the care, control and management of the Festival Theatre conferred on the Council by section 4 of the Adelaide Festival Theatre Act, 1964-1970, and the Trust may so perform or exercise any such powers and functions under and in accordance with any such arrangement.

## DIVISION III—CONSTRUCTION OF DRAMA FACILITIES

Construction  
of Drama  
Facilities.

24. (1) The Trust may, subject to this Act, out of moneys to be provided by Parliament for the purpose or out of moneys borrowed pursuant to section 26 of this Act, construct and provide, on land within the City of Adelaide vested in the Trust or which may be vested in the Trust, Drama Facilities and buildings to be used therewith and may provide the furniture, instruments, fittings and equipment thereof or therefor and carry out and construct all works and conveniences incidental to or necessary for any of the foregoing and may construct and provide any works and conveniences incidental to or necessary for the Festival Theatre.

(2) The Drama Facilities and associated works and conveniences shall be constructed and provided in accordance with designs approved by the Minister and the designs shall set forth and contain such particulars as the Minister may require.

(3) The works authorized by this section shall not be a public work as defined in section 3 of the Public Works Standing Committee Act, 1927, as amended.

PART III

## PART III

## FINANCIAL

Trust to keep  
proper  
accounts.

25. (1) The Trust shall keep proper accounts showing accurately and in detail all its financial transactions, assets and liabilities.

(2) The Auditor-General, may at any time examine the accounts of the Trust and shall, as soon as practicable after the end of each financial year make a report to the Minister on the state of the affairs of the Trust as at the end of that financial year.

(3) The Minister shall cause every report of the Auditor-General made in accordance with subsection (2) of this section to be laid before each House of Parliament within fourteen days of his receipt thereof if Parliament is then in session or if Parliament is not then in session within fourteen days of the commencement of the next session of Parliament.

26. (1) The Trust may, for the purposes of exercising or performing its powers and functions under this Act, 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. Power to borrow.

(2) The Treasurer may upon such terms and conditions as he thinks fit guarantee the repayment on any moneys (together with interest thereon) borrowed by the Trust under this section.

(3) Any moneys required to be paid in satisfaction of a guarantee given pursuant to subsection (2) of this section may be paid out of the general revenue of the State which is hereby to the necessary extent appropriated accordingly.

27. (1) The moneys required by the Trust for the purposes of the exercise and performance of its powers and functions under this Act shall be— Funds of the Trust.

- (a) all moneys received by the Trust in the exercise and performance of its powers or functions;
  - (b) all moneys borrowed by the Trust pursuant to section 26 of this Act;
  - (c) all moneys being gifts to the Trust or derived from the disposition by the Trust of gifts to the Trust;
- and
- (d) all moneys paid to the Trust by way of grants by the Treasurer out of moneys to be provided by Parliament for the purpose.

(2) Such of the moneys of the Trust as are not immediately required by the Trust may be lodged on deposit with the Treasurer or invested in any other manner approved of by the Treasurer.

28. (1) As soon as practicable after the commencement of this Act the Trust shall present to the Minister a budget showing its estimates of revenue and expenditure over the balance of the financial year within which the budget is presented and thereafter the Trust shall before the commencement of each succeeding financial year present to the Minister a budget showing its estimates of its revenue and expenditure for that succeeding financial year. Budget.

PART III

(2) The Minister may approve of any budget presented to him pursuant to subsection (1) of this section or may direct or allow the Trust to amend a budget before so approving of the budget.

(3) The Trust shall not, without the consent of the Minister, incur any expenditure that is not authorized 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.

PART IV

## PART IV

## VESTING OF LAND

Vesting of  
certain land  
in the Trust.

29. Section 655, section 656 and section 672 shall on and from the commencement of this Act, by force of this section, vest in the Trust for an estate in fee simple freed and discharged from any trust, estate, right, title, interest, claim or demand of any description whatsoever.

Duty of the  
Registrar-  
General.

30. (1) The Registrar-General shall upon the application of the Trust, upon being furnished with such information as he considers necessary, cause to be made such entries and endorsements in any register book or other record in his custody and on any document of title and cause to be issued such certificates of title as he considers appropriate for giving full effect to section 29 of this Act without being obliged to make any further investigation of title or to make any public advertisement.

(2) In this section “the Registrar-General” means the person for the time being holding the office of Registrar-General under the Real Property Act, 1886, as amended, or the Registrar-General of Deeds under the Registration of Deeds Act, 1935, as amended.

**PART V****MISCELLANEOUS**

**31.** During the period of ten years next following a day to be fixed by proclamation for the purposes of this section the real property comprised in the Centre, other than real property comprised in the Festival Theatre as defined in the Adelaide Festival Theatre Act, 1964-1970, shall for the purpose of any Act or law relating to the levying of—

Assumed value  
of Trust  
property.

(a) water or sewerage rates;

or

(b) local government rates,

and, notwithstanding anything in any such Act or law, be deemed to have an assessed annual value of fifty thousand dollars.

**32.** (1) As soon as practicable after the end of each financial year the Trust shall present a report to the Minister on its activities during the year and setting out in a form approved by the Minister a statement as to its financial position.

Reports.

(2) The Minister shall cause every report of the Trust made in accordance with subsection (1) of this section to be laid before each House of Parliament within fourteen days of his receipt thereof if Parliament is then in session or if Parliament is not then in session within fourteen days of the commencement of the next session of Parliament.

**33.** (1) The Trust may accept—

Gifts etc.

(a) grants, conveyances, transfers and leases of land whether from the Crown or any instrumentality thereof or any other person;

(b) rights to the use, control, management or occupation of any 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 contained in the Stamp Duties Act, 1923, as amended, no stamp duty shall be payable on any instrument by which land or any interest in or 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 purpose of disposing of any property.

(3) Notwithstanding anything contained in the Succession Duties Act, 1929, as amended, no succession duty shall be payable in respect of any property or interest passing to the Trust on or by reason of the death of any person, and any such property shall not be subject to succession duty under that Act.

(4) Notwithstanding anything in the Gift Duties Act, 1968, as amended, no gift duty under that Act shall be payable in respect of the gift of any real or personal property to the Trust.

Summary  
procedure for  
offences.

**34.** Proceedings for offences against this Act shall be disposed of summarily.

Regulations.

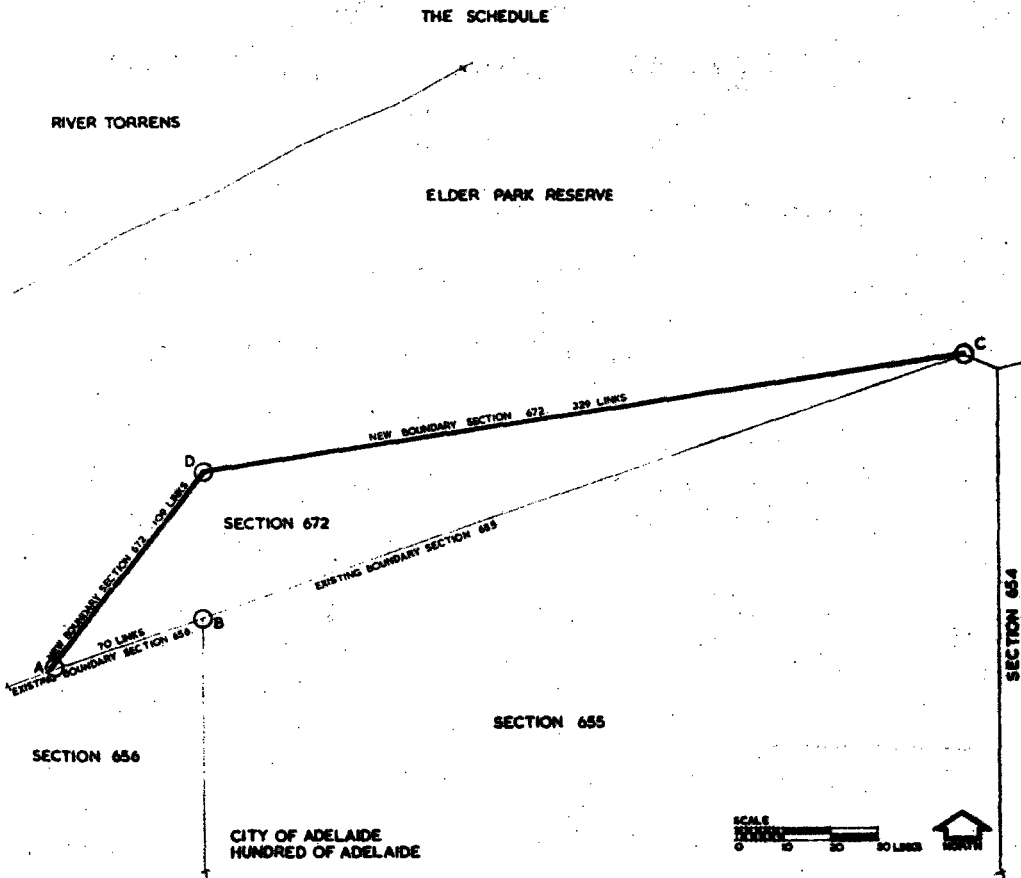
**35. (1)** The Governor may, on the recommendation of the Trust, make such regulations as are necessary or expedient for the purposes of giving effect to the provisions or objects of this Act.

(2) Without limiting the generality of the provisions of subsection (1) of this section, the regulations may—

- (a) provide for the disposition by the Trust of any unclaimed property left in or on the Centre;
- (b) provide for the securing of decency and order in or on the Centre;
- (c) prohibit or regulate the taking of intoxicating liquor into or onto the Centre;
- (d) provide for and regulate the movement and parking of motor vehicles in and about the Centre;

and

- (e) provide for and prescribe penalties, in each case, not exceeding two hundred dollars, for a contravention of or failure to comply with any provision of the regulations.



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

M. L. OLIPHANT, Governor