



ANNO TRICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1982

No. 96 of 1982

An Act to establish a corporation to be known as the “South Australian Government Financing Authority”; to make provision relating to the financial powers and relations of the Authority, semi-government authorities and the Treasurer; and for other purposes.

[Assented to 23 December 1982]

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

PRELIMINARY

Short title. 1. This Act may be cited as the “Government Financing Authority Act, 1982”.

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—ESTABLISHMENT OF THE AUTHORITY
PART III—FINANCIAL POWERS AND RELATIONS OF THE AUTHORITY, SEMI-GOVERNMENT AUTHORITIES AND THE TREASURER
PART IV—MISCELLANEOUS

Interpretation. 4. (1) In this Act, unless the contrary intention appears:
“appointed member” in relation to the Authority means a member of the Authority appointed by the Governor under Part II;
“the Authority” means the South Australian Government Financing Authority established under Part II;
“loan” means any form of financial accommodation (not being a grant) and “lend” and “borrow” have corresponding meanings:

“the Minister responsible” in relation to a semi-government authority means the Minister having the administration of the Act by or under which the semi-government authority is constituted and includes a Minister who is himself a semi-government authority:

“semi-government authority” means a body corporate—

(a) that—

(i) is constituted of a Minister of the Crown;

(ii) has a governing body comprised of or including persons or a person appointed by the Governor or a Minister or other instrumentality of the Crown;

or

(iii) is financed wholly or in part out of public funds;

and

(b) that is declared by proclamation to be a semi-government authority for the purposes of this Act,

but does not include a council as defined in the Local Government Act, 1934-1982:

“security” includes any document evidencing indebtedness.

(2) The Governor may, by proclamation, declare a body corporate to be a semi-government authority for the purposes of this Act.

(3) The Governor may, by proclamation, vary or revoke a declaration under subsection (2).

PART II

ESTABLISHMENT OF THE AUTHORITY

5. (1) There shall be an authority entitled the “South Australian Government Financing Authority”. Establishment of the Authority.

(2) The Authority—

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

(b) shall be capable in its corporate name of acquiring, holding, dealing with and disposing of real and personal property;

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

(d) shall hold its property on behalf of the Crown;

and

(e) shall have the powers, authorities, duties and functions prescribed by or under this or any other Act.

(3) Where an apparently genuine document purports to bear the common seal of the Authority, it shall be presumed in any legal proceedings, in the absence of proof to the contrary, that the common seal of the Authority was duly affixed to the document.

Constitution of
the Authority.

6. The Authority shall consist of three or four members, as the Governor determines, of whom—

(a) one (who shall be the chairman) shall be the person for the time being holding the office of Under Treasurer;

and

(b) the remainder shall be persons appointed by the Governor, upon the nomination of the Treasurer.

Terms and
conditions of
office.

7. (1) An appointed member of the Authority shall be appointed for such term of office, not exceeding three years, and upon such conditions, as may be determined by the Governor, and, upon the expiration of the term of office, shall be eligible for re-appointment.

(2) The Governor may appoint a suitable person to be a deputy of a member of the Authority and that person, while acting in the absence of that member, shall be deemed to be a member of the Authority with all the powers, rights and duties of that member.

(3) The Governor may remove an appointed member of the Authority from office for—

(a) breach of, or non-compliance with, the conditions of his appointment;

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

(c) neglect of duty;

or

(d) dishonourable conduct.

(4) The office of an appointed member of the Authority shall become vacant if—

(a) he dies;

(b) his term of office expires;

(c) he resigns by written notice addressed to the Treasurer;

or

(d) he is removed from office by the Governor pursuant to subsection (3).

(5) Upon the office of an appointed member of the Authority becoming vacant, a person shall be appointed in accordance with this Act to the vacant office.

Quorum, etc.

8. (1) One less than the number of persons for the time being appointed to be members of the Authority shall constitute a quorum of the Authority, and no business shall be transacted at a meeting of the Authority unless a quorum is present.

(2) The chairman of the Authority, or, in his absence, his deputy shall preside at a meeting of the Authority, and in the absence of both the chairman and his deputy from a meeting, the members present shall decide who is to preside at the meeting.

(3) A decision carried by a majority of the votes of the members of the Authority present at a meeting shall be a decision of the Authority.

(4) Each member of the Authority shall be entitled to one vote on a matter arising for decision by the Authority, and the person presiding at the meeting shall, in the event of an equality of votes, have a second or casting vote.

(5) The Authority shall cause accurate minutes to be kept of the business conducted at meetings of the Authority.

(6) Subject to this Act, the business of the Authority shall be conducted in a manner determined by the Authority.

9. (1) An act or proceeding of the Authority shall not be invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

Validity of acts of the Authority and immunity of members.

(2) No personal liability shall attach to a member of the Authority for an act or omission by that person or the Authority in good faith in the exercise or discharge of his or its powers, duties or functions under this Act.

(3) A liability that would, but for subsection (2), lie against a member of the Authority shall lie against the Crown.

10. (1) A member of the Authority who is directly or indirectly interested in a contract, or proposed contract, made by, or in the contemplation of, the Authority—

Disclosure of interest.

(a) shall, as soon as he becomes aware of the contract or proposed contract, disclose the nature of his interest to the Authority and to the Treasurer;

and

(b) shall not take part in any deliberations or decision of the Authority with respect to that contract.

Penalty: Five hundred dollars.

(2) A disclosure made under this section shall be recorded in the minutes of the Authority.

(3) Where a member makes a disclosure of interest in respect of a contract or proposed contract in accordance with this section—

(a) the contract is not void, or liable to be avoided by the Authority, on any ground arising from the member's interest in the contract;

and

(b) the member is not liable to account to the Authority for any profits derived from the contract.

PART III

FINANCIAL POWERS AND RELATIONS OF THE AUTHORITY,
SEMI-GOVERNMENT AUTHORITIES AND THE TREASURER

Functions and
powers of the
Authority.

11. (1) The functions of the Authority are—

- (a) to develop and implement borrowing and investment programmes for the benefit of semi-government authorities;
- and
- (b) to engage in such other activities relating to the finances of the Government of the State or semi-government authorities as are contemplated by this Act or approved by the Treasurer.

(2) For the purposes of this Act, the Authority may, with the approval of the Treasurer—

- (a) borrow moneys within or outside Australia;
 - (b) lend moneys to semi-government authorities;
 - (c) accept moneys on deposit or loan from the Treasurer or a semi-government authority;
 - (d) invest moneys held by the Authority;
 - (e) issue, sell, purchase, pay-off, re-purchase, redeem, convert or otherwise deal in or with securities;
 - (f) open and maintain accounts with banks;
 - (g) appoint a bank, financial institution or other person to act as underwriter, manager, trustee or agent in connection with any transaction within or outside Australia;
 - (h) enter into contracts of guarantee;
 - (i) acquire, hold, deal with and dispose of real and personal property;
 - (j) enter into any agreement or arrangement of a kind not previously mentioned in this subsection or acquire or incur any other rights or liabilities;
- or
- (k) exercise any other powers that are necessary or expedient for the performance of its functions.

Financial
management.

12. (1) The Authority shall, in the exercise and performance of its powers and functions, act in accordance with proper principles of financial management and with a view to avoiding a loss.

(2) Any surplus of funds remaining after the costs of the Authority have been met in any financial year shall be paid into the General Revenue of the State or otherwise dealt with as the Treasurer may determine.

Authority subject
to control and
direction of
Treasurer.

13. The Authority shall, in the exercise and performance of its powers and functions, be subject to the control and direction of the Treasurer.

Terms and
conditions
applying in
relation to
moneys provided
by the Treasurer.

14. Moneys provided by the Treasurer to the Authority shall be regarded for all purposes as having been provided upon such terms and conditions as the Treasurer may from time to time determine.

Government
guarantee.

15. (1) Liabilities incurred or assumed by the Authority in pursuance of this Act are guaranteed by the Treasurer.

(2) A liability of the Treasurer under a guarantee arising by virtue of subsection (1) shall be satisfied out of the General Revenue of the State which is appropriated by this section to the necessary extent.

16. (1) Notwithstanding the provisions of any other Act, a semi-government authority—

Power of semi-government authorities to borrow moneys from or deposit moneys with the Authority.

(a) may borrow moneys from the Authority, and, if the Treasurer so directs, shall borrow moneys from the Authority rather than from any other lender;

and

(b) may, and, if the Treasurer so directs, shall, deposit with or lend to the Authority any moneys of the semi-government authority that are not immediately required for the purposes of the semi-government authority.

(2) The Treasurer shall not give a direction under subsection (1) except as authorized by the regulations and such a direction shall not be given, in any event, to either of the following authorities—

(a) The Savings Bank of South Australia;

or

(b) the State Bank of South Australia.

(3) The terms and conditions of a transaction under subsection (1) shall be as determined by the Treasurer after consultation with the Minister responsible for the semi-government authority.

(4) Subject to subsections (1) and (3), this section does not limit or affect the powers of a semi-government authority to borrow otherwise than from the Authority or to deposit, invest or otherwise deal with moneys.

17. Notwithstanding the provisions of the Public Finance Act, 1936-1981, any moneys under the control of the Treasurer may be deposited with or lent to the Authority by the Treasurer upon such terms and conditions as the Treasurer may determine.

Treasurer may deposit public moneys with the Authority.

18. (1) The Treasurer may, if he thinks fit, after consultation with the Minister responsible for a semi-government authority, re-arrange the finances of the semi-government authority in either of the following ways:

Treasurer may re-arrange finances of semi-government authorities.

(a) where the semi-government authority has borrowed moneys from a source other than the Treasurer or the Government of the State, the Treasurer may—

(i) by determination published in the *Gazette*, transfer to the Authority the liabilities of the semi-government authority in respect of the loan;

and

(ii) determine that the moneys outstanding under the loan shall be regarded for all purposes as having been borrowed by the semi-government authority from the Authority upon terms and conditions specified in the determination;

or

(b) where the semi-government Authority has borrowed moneys from the Treasurer or the Government of the State, the Treasurer

may determine that all or a specified part of the moneys outstanding under the loan shall be regarded for all purposes as having been borrowed by the semi-government authority from the Authority upon terms and conditions specified in the determination.

(2) In subsection (1) (b) a reference to moneys borrowed or received by a semi-government authority from the Treasurer or the Government of the State includes a reference to moneys that were provided to the State by the Commonwealth for the semi-government authority or for the purposes of an activity engaged in by the semi-government authority.

(3) The Treasurer may, after consultation with the Minister responsible for a semi-government authority, vary any terms and conditions applying in relation to the semi-government authority by virtue of a determination under subsection (1).

(4) Where a determination is made under subsection (1) (b) in respect of moneys, the moneys shall be regarded as having been previously provided to the Authority by the Treasurer.

(5) The Treasurer may from time to time determine the terms and conditions upon which moneys are to be regarded as having been provided to the Authority by virtue of subsection (4).

(6) Where—

(a) moneys have been appropriated by Parliament for the purpose of meeting the liabilities of a semi-government authority in respect of a loan to the semi-government authority;

and

(b) the liabilities of the semi-government authority are transferred to the Authority pursuant to subsection (1),

any balance remaining of those moneys shall, if the Treasurer so determines, be paid to the Authority and applied by the Authority for the same purpose or otherwise as the Treasurer may determine.

(7) A determination made by the Treasurer under this section shall have effect according to its terms.

(8) In this section—

(a) a reference to moneys borrowed by a semi-government authority includes a reference—

(i) to moneys borrowed by the South Australian Meat Corporation the liabilities in respect of which have been assumed by the Minister of Agriculture pursuant to the South Australian Meat Corporation Act, 1936-1981;

(ii) to moneys borrowed by the former Monarto Development Commission the liabilities in respect of which have been vested in the Minister of Lands pursuant to the Monarto Legislation Repeal Act, 1980;

and

(iii) to moneys borrowed by the former South Australian Development Corporation the liabilities in respect of

which have been vested in the Crown pursuant to the Industries Development Act, 1941-1981;

and

- (b) a reference to the liabilities of a semi-government authority in respect of a loan includes a reference to liabilities referred to in paragraph (a).

PART IV MISCELLANEOUS

19. (1) The Authority may, by instrument in writing, delegate to the chairman of the Authority, or an officer of the Authority or the public service of the State, any of its powers or functions under this Act. Delegation by the Authority.

(2) A delegation under subsection (1) may be revoked by the Authority by instrument in writing and shall not derogate from the power of the Authority to act itself in any matter.

(3) In any legal proceedings an apparently genuine document purporting to be a certificate under the seal of the Authority containing particulars of a delegation under this section shall, in the absence of proof to the contrary, be accepted as proof of the particulars.

20. (1) The Governor may, subject to and in accordance with the Public Service Act, 1967-1981, appoint such officers as he considers necessary or expedient for the proper administration of this Act and an officer so appointed shall hold office subject to and in accordance with that Act. Staff.

(2) The Treasurer may, by notice published in the *Gazette*, determine—

- (a) that specified provisions of the Public Service Act, 1967-1981, and the regulations under that Act shall not apply to or in relation to an officer appointed under subsection (1);

and

- (b) that provisions contained, or referred to, in the notice shall apply to and in relation to the officer in lieu of those provisions,

and the notice shall have effect according to its terms.

(3) The Treasurer may, by notice published in the *Gazette*, vary or revoke a notice published under subsection (2).

(4) The Authority may, with the approval of the Treasurer, appoint upon terms and conditions from time to time determined by the Governor such officers and employees as it considers necessary or expedient for the proper administration of this Act, and the Public Service Act, 1967-1981, shall not apply to or in relation to persons so appointed.

(5) The Authority may, with the approval of the Minister administering a department of the public service of the State, upon terms mutually arranged, make use of the services of an officer or use any facilities of the department.

21. A semi-government authority shall, if so required by the Treasurer, furnish information to the Authority relating to the financial affairs of the semi-government authority. Semi-government authority to furnish certain information.

Authority and
Treasurer may
charge fees.

22. (1) The Authority or the Treasurer may charge a fee of such amount as the Treasurer thinks fit in respect of any transaction entered into or thing done for the benefit of a semi-government authority or other person in pursuance of this Act.

(2) A fee charged under subsection (1) may be deducted from an amount payable by the Authority or the Treasurer to the semi-government authority or other person charged.

Liability of
Authority to State
taxes, etc.

23. (1) Subject to this section, the Authority and instruments to which the Authority is a party shall be liable to all taxes, duties and imposts under the law of the State as if the Authority were not an agency of the Crown.

(2) The Treasurer may, by notice published in the *Gazette*, exempt the Authority or instruments to which the Authority is a party from a tax, duty or other impost to the extent specified in the notice.

(3) A notice published in the *Gazette* pursuant to this section—

(a) may be varied or revoked by a further such notice;

and

(b) shall have effect according to its terms.

Certificates of
compliance with
this Act.

24. (1) The Treasurer may, if he is so satisfied, certify that anything done by the Authority has been done in pursuance of this Act.

(2) In any legal proceedings, an apparently genuine document purporting to be a certificate under subsection (1) shall be accepted as proof of the matters stated in the certificate in the absence of proof to the contrary.

Accounts and
audit.

25. (1) The Authority shall cause proper accounts to be kept of its financial affairs.

(2) The Auditor-General may at any time, and shall at least once in every year, audit the accounts of the Authority.

(3) For the purposes of an audit under subsection (2), the Auditor-General may exercise in relation to the accounts of the Authority and the members and employees of the Authority the powers that are vested in the Auditor-General by the Audit Act, 1921-1982, in respect of public accounts and accounting officers.

Annual report.

26. (1) The Authority shall, on or before the thirtieth day of September in each year, deliver to the Treasurer a report upon the administration of this Act during the period of twelve months ending on the preceding thirtieth day of June.

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

(3) The Treasurer shall cause a copy of the report to be laid before each House of Parliament.

27. Proceedings for an offence against this Act shall be disposed of summarily. Summary proceedings.

28. The Governor may make such regulations as are contemplated by, Regulations. or necessary or expedient for the purposes of, this Act.

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

D. B. DUNSTAN, Governor