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**LEGEND:**

**Red font – Amendments**

South Australia

## City of Adelaide Act 1998

**Marked-up with *Statutes Amendment (Local Government Review) Act 2021***

An Act to establish mechanisms to enhance the role of the City of Adelaide as the capital city of South Australia; to make special provision in relation to the local governance of the City of Adelaide; and for other purposes.

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Legislative history

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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 *City of Adelaide Act 1998*.

### 3—Objects

The objects of this Act are—

- (a) to recognise, promote and enhance the special social, commercial, cultural and civic role that the City of Adelaide plays as the capital city and heart of South Australia; and
- (b) to provide for collaborative arrangements for intergovernmental liaison between the State and The Corporation of the City of Adelaide for the strategic development of the City of Adelaide and the representation of the interests of South Australians not enfranchised to vote in elections for the Corporation; and
- (c) to revise and enhance local governance arrangements for the City of Adelaide; and
- (d) to ensure access to the City of Adelaide for all South Australians.

### 4—Interpretation

In this Act, unless the contrary intention appears—

*Adelaide City Council* or *the Council* means The Corporation of the City of Adelaide;

*Capital City Committee* or *the Committee* means the Capital City Committee established by section 6;

*City of Adelaide* means the area of the Adelaide City Council;

*City of Adelaide community* includes all people who live, work, study or conduct business in, or who visit, use or enjoy the services, facilities and public places of, the City of Adelaide;

*council member* means a member of the Adelaide City Council.

*default person*, in respect of a body corporate or group, means an eligible person who has been nominated by the chief executive officer under Schedule 1 clause 3B(1) to vote on behalf of the body corporate or group in an election or poll;

*eligible person*, in respect of a body corporate or group, means a natural person, of or above the age of majority, who is—

- (a) in the case of a body corporate—an officer of the body corporate who is authorised to act on behalf of the body corporate for the purposes of voting; or
- (b) in the case of a group—a member of the group, or an officer of a body corporate that is a member of the group, who is authorised to act on behalf of the group for the purposes of voting,

and who is not already on the voters roll or otherwise entitled to be enrolled on the voters roll;

*nominated person*, in respect of a body corporate or group, means an eligible person who has been nominated by the body corporate or group under Schedule 1 clause 3A(3) or 3C(2) to vote on behalf of the body corporate or group in an election or poll.

## 5—Interaction with Local Government Act

- (1) This Act, the *Local Government Act 1999* and the *Local Government (Elections) Act 1999* will be read together and construed as if the three Acts constituted a single Act.
- (2) In the event of an inconsistency between this Act and the *Local Government Act 1999* or the *Local Government (Elections) Act 1999*, the provisions of this Act prevail.

## Part 2—Collaborative arrangements for the strategic development of the City of Adelaide

### Division 1—Establishment of the Capital City Committee

#### 6—Establishment of the Capital City Committee

The *Capital City Committee* is established.

#### 7—Membership of the Capital City Committee

- (1) The Capital City Committee consists of the following members:
  - (a) —
    - (i) the Premier, or a Minister nominated by the Premier; and
    - (ii) two other Ministers nominated by the Premier; and
  - (b) —
    - (i) the Lord Mayor or, if the Lord Mayor chooses not to be a member of the Committee, another member of the Adelaide City Council nominated by the Council; and
    - (ii) two other members of the Adelaide City Council nominated by the Council.
- (2) A person ceases to be a member of the Committee if—
  - (a) in the case of a person holding office as a member under subsection (1)(a)—
    - (i) in the case of a nominee of the Premier under subsection (1)(a)(i)—the nomination is withdrawn by the Premier; or
    - (ii) the person ceases to be a Minister; or
    - (iii) another Minister is nominated in substitution for the person;
  - (b) in the case of a person holding office as a member under subsection (1)(b)—
    - (i) in the case of a nominee of the Adelaide City Council under subsection (1)(b)(i)—the Lord Mayor chooses to become a member of the Committee, or another member of the Council is nominated in substitution for the person; or

- (ii) the person ceases to be a member of the Adelaide City Council; or
  - (iii) in the case of a nominee of the Adelaide City Council under subsection (1)(b)(ii)—another member of the Adelaide City Council is nominated in substitution for the person.
- (3) The performance of a function or the exercise of a power by the Committee is not affected by a vacancy or vacancies in the membership of the Committee.
- (4) Anything done by or in relation to a person purporting to act under a nomination under this section is not invalid merely because there was a defect or irregularity in connection with the nomination.
- (5) A member of the Committee incurs no civil liability for an honest act or omission in the performance or exercise, or purported performance or exercise, of the member's or the Committee's functions or powers under this Act.
- (6) A civil liability that would, but for subsection (5), attach to a member attaches instead to—
  - (a) in the case of a member holding office under subsection (1)(a)—the Crown;
  - (b) in the case of a member holding office under subsection (1)(b)—the Adelaide City Council.

## **8—Chairperson of the Capital City Committee**

The Premier, or another member of the Committee nominated by the Premier from time to time, will be the Chairperson of the Capital City Committee.

## **9—Deputies**

- (1) The Premier may nominate a Minister to be a deputy of the Premier, or of another Minister, for the purposes of the Capital City Committee.
- (2) The Adelaide City Council may nominate a member of the Council to be a deputy of a member of the Capital City Committee under section 7(1)(b), for the purposes of the Committee.
- (3) A deputy may act as a member of the Committee in the event of the absence or unavailability of the member of the Committee in relation to whom the deputy is appointed.
- (4) Anything done by or in relation to a person purporting to act under a nomination under this section is not invalid merely because—
  - (a) there was a defect or irregularity in connection with the nomination; or
  - (b) the occasion to act had not arisen or had ceased.

## **Division 2—Function of the Capital City Committee**

### **10—Function of the Capital City Committee**

- (1) The Capital City Committee is established as an intergovernmental body to enhance and promote the development of the City of Adelaide as the capital city of the State and, for that purpose, may—
  - (a) identify and promote key strategic requirements for the economic, social, physical and environmental development and growth of the City of Adelaide as the primary focus for the cultural, educational, tourism, retail and commercial activities of South Australia; and
  - (b) promote and assist in the maximisation of opportunities for the effective co-ordination of public and private resources to meet the key strategic requirements identified by the Committee, and recommend priorities for joint action by the State Government and the Adelaide City Council (within established budget processes and programs); and
  - (c) monitor the implementation of programs designed to promote the development of the City of Adelaide; and
  - (d) make provision for the publication (as appropriate) of key strategies, goals and commitments relevant to the development and growth of the City of Adelaide that have been agreed by the parties who are (or will be) required to undertake responsibility for their implementation or delivery; and
  - (e) collect, analyse and disseminate information about the economic, social, physical and environmental development of the City of Adelaide, with particular emphasis on assessing outcomes and identifying factors that will encourage or facilitate future development within the City of Adelaide; and
  - (f) take on other tasks incidental to the preceding paragraphs.
- (2) The Committee must convene a forum ("the Capital City Forum") drawn from members of the City of Adelaide community determined by the Committee, and seek advice from, or share information with, the members of the forum.

### **11—Programs**

- (1) The Capital City Committee must prepare a Capital City Development Program for consideration by the State Government and the Adelaide City Council.
- (2) The Committee may prepare or adopt other programs.
- (3) A program prepared or adopted by the Committee—
  - (a) is subject to endorsement or adoption by the State Government and the Adelaide City Council (unless already so endorsed); and
  - (b) is to be taken to be an expression of policy that does not derogate from the ability or power of the State Government or the Adelaide City Council to act in any matter itself, and that does not affect rights or liabilities (whether of a substantive, procedural or other nature).

- (4) The Committee must monitor the implementation of the Capital City Development Program (once endorsed or adopted under subsection (3)) on a regular basis and, to the extent that is appropriate and necessary, ensure that it is revised by the end of February in each year for the purposes of the ensuing financial year.

### **Division 3—Proceedings and operations**

#### **12—Proceedings**

- (1) The Capital City Committee must meet at least four times in each year.
- (2) The proceedings of the Committee will be—
  - (a) as prescribed by regulation; or
  - (b) insofar as the proceedings are not prescribed by regulation—as determined by the Committee.
- (3) A regulation cannot be made for the purposes of subsection (2) except after agreement between the Minister and the Adelaide City Council.

#### **13—Subcommittees**

- (1) The Capital City Committee may establish subcommittees.
- (2) The membership of a subcommittee will be determined by the Committee and may, but need not, consist of, or include, members of the Committee.
- (3) The proceedings of a subcommittee will be—
  - (a) as determined by the Committee; or
  - (b) insofar as the proceedings are not determined by the Committee—as determined by the subcommittee.

#### **14—Staff etc**

- (1) The Premier and the Adelaide City Council will jointly determine the administrative and staffing arrangements for the Capital City Committee.
- (2) The Committee may—
  - (a) by arrangement with the appropriate authority, make use of the services, facilities or staff of a government department, agency or instrumentality;
  - (b) by arrangement with the Adelaide City Council, make use of the services, facilities or staff of the Council.
- (3) The administrative and staffing costs of the Committee must be shared equally between the State and the Adelaide City Council.

#### **15—Delegation**

- (1) The Capital City Committee may delegate a function or power under this Act—
  - (a) to a specified person or body; or
  - (b) to a person occupying a specified position.

- (2) A delegation—
  - (a) may be made subject to conditions and limitations specified in the instrument of delegation; and
  - (b) if the instrument of delegation so provides—may be further delegated by the delegate; and
  - (c) is revocable at will and does not prevent the Committee from acting itself in a matter.

## **Division 4—Reporting and review**

### **16—Reporting**

- (1) The Capital City Committee must ensure that a report is prepared by 31 October in each year on the operation of the collaborative arrangements established under or pursuant to this Act during the financial year ending on the preceding 30 June.
- (2) The Premier must ensure that copies of a report prepared under subsection (1) are laid before both Houses of Parliament within 12 sitting days after the report is completed.
- (3) The Lord Mayor must ensure that copies of a report prepared under subsection (1) are presented to the Adelaide City Council within four weeks after the report is completed.

### **17—Review**

- (1) The Premier must ensure that a report is prepared by 30 June 2002 on the operation of the collaborative arrangements established under or pursuant to this Act, and on any changes that should be considered or implemented to improve or enhance those arrangements.
- (2) The Premier must ensure—
  - (a) that the Adelaide City Council is consulted during the preparation of the report under subsection (1); and
  - (b) that any matters raised by the Adelaide City Council for inclusion in the report are so included; and
  - (c) that the Adelaide City Council is given a reasonable opportunity to comment on a final draft of the report.
- (3) The Premier must ensure that copies of the report prepared under subsection (1) are laid before both Houses of Parliament within 12 sitting days after the report is completed.

## **Division 5—Other matters**

### **18—Access to information**

- (1) The following will be taken to be exempt documents for the purposes of the *Freedom of Information Act 1991*:
  - (a) a document that has been specifically prepared for submission to the Capital City Committee (whether or not it has been so submitted);
  - (b) a preliminary draft of a document referred to in paragraph (a);

- (c) a document that is a copy of a part of, or contains an extract from, a document referred to in paragraph (a) or (b);
  - (d) an official record of the Committee;
  - (e) a document that contains matter the disclosure of which would disclose information concerning any deliberation or decision of the Committee.
- (2) A document is not an exempt document under subsection (1) if—
- (a) it merely consists of factual or statistical material that does not disclose information concerning any deliberation or decision of the Committee; or
  - (b) it is within a class of documents excluded from the operation of subsection (1) by the regulations.
- (3) The Crown and the Adelaide City Council are entitled to access to—
- (a) a document referred to in subsection (1); and
  - (b) any other document in the possession or control of the Committee under this Act.
- (4) However—
- (a) access to a document is not available under subsection (3) in breach of a duty of confidence; and
  - (b) access to a document under subsection (3) may be given on conditions determined by the Committee.
- (5) In this section, a reference to the Committee includes a reference to a subcommittee or delegate of the Committee acting under this Act.

### **19—Committee not to be subject to Parliamentary Committees Act**

The functions and operations of the Capital City Committee may not be subject to inquiry under the *Parliamentary Committees Act 1991*.

## **Part 3—Special arrangements for the Adelaide City Council**

### **Division 1—Constitution of Council**

#### **20—Constitution of Council**

- (1) The Adelaide City Council will be constituted of—
- (a) the Lord Mayor; and
  - (b) other members.

~~(3) A person cannot hold office as Lord Mayor for more than two consecutive terms.~~

- (4) The Council may resolve to have a Deputy Lord Mayor in accordance with the provisions of the *Local Government Act 1999*.

## Division 2—Role of members

### 21—Lord Mayor

- ~~The Subject to this Act, the role of the Lord Mayor as leader of the council is—~~
- ~~—(a) as the principal elected member of the Council representing the capital city of South Australia—~~
    - ~~—(i) to provide leadership and guidance to the City of Adelaide community;~~
    - ~~—(ii) to participate in the maintenance of inter-governmental relationships at regional, State and national levels;~~
    - ~~—(iii) to carry out civic and ceremonial duties associated with the office of Lord Mayor; and~~
  - ~~—(b) as the principal member of the Council—~~
    - ~~—(i) to provide leadership and guidance to the Council;~~
    - ~~—(ii) to preside at meetings of the Council;~~
    - ~~—(iii) to advise the chief executive officer on the implementation of decisions of the Council between council meetings (as necessary);~~
    - ~~—(iv) to act as the principal spokesperson of the Council;~~
    - ~~—(v) to exercise other functions of the Council as the Council determines.~~
- (a) as the principal member of the Council—
- (i) to provide leadership and guidance to the Council; and
  - (ii) to lead the promotion of positive and constructive working relationships among members of the council; and
  - (iii) to provide guidance to council members on the performance of their role, including on the exercise and performance of their official functions and duties; and
  - (iv) to support council members' understanding of the separation of responsibilities between elected representatives and employees of the council; and
  - (v) to preside at meetings of the Council; and
  - (vi) to liaise with the chief executive officer on the implementation of decisions of the Council between Council meetings (as necessary); and
  - (vii) to act as the principal spokesperson of the Council; and
  - (viii) to exercise other functions of the Council as the Council determines; and
- (b) as the principal elected member of the Council representing the capital city of South Australia—
- (i) to provide leadership and guidance to the City of Adelaide community; and

- (ii) to participate in the maintenance of inter-governmental relationships at regional, State and national levels; and
- (iii) to carry out civic and ceremonial duties associated with the office of Lord Mayor.

## 22—Members

(1) The role of a member of the Council is—

~~(a) as a member of the governing body of the Council—~~

- ~~—(i) to participate in the deliberations and activities of the Council;~~
- ~~—(ii) to provide community leadership and guidance to the City of Adelaide community and to participate in achieving a vision for the desired future of the City through the formulation of strategic plans and policies;~~
- ~~—(iii) to keep the Council's goals and policies under review to ensure that they are appropriate and effective;~~
- ~~—(iv) to keep the Council's resource allocation, expenditure and corporate strategies, and the efficiency and effectiveness of its service delivery, under review;~~
- ~~—(v) to participate in setting and assessing performance standards to be met under the Council's contract with the chief executive officer;~~
- ~~—(vi) to serve the overall public interest of the City of Adelaide;~~

(a) as a member of the governing body of the Council—

- (i) to act with integrity; and
- (ii) to ensure positive and constructive working relationships within the Council; and
- (iii) to recognise and support the role of the Lord Mayor under the Act; and
- (iv) to develop skills relevant to the role of a member of the Council and the functions of the Council as a body; and
- (v) to participate in the deliberations and activities of the Council; and
- (vi) to provide community leadership and guidance to the City of Adelaide community and to participate in achieving a vision for the desired future of the City through the formulation of strategic plans and policies; and
- (vii) to keep the Council's goals and policies under review to ensure that they are appropriate and effective; and
- (viii) to keep the Council's resource allocation, expenditure and activities, and the efficiency and effectiveness of its service delivery, under review; and
- (ix) to participate in the oversight of the chief executive officer's performance under the Council's contract with the chief executive officer; and
- (x) to serve the overall public interest of the City of Adelaide; and

- (b) as a person elected to the Council—to represent the interests of residents and ratepayers **of the Council** and to facilitate communication between the community and the Council.
- (2) The Lord Mayor may authorise another member of the Council to act in place of, or to represent, the Lord Mayor in the performance of a particular function.
- (3) An authorisation under subsection (2) cannot derogate from the role of a Deputy Lord Mayor under the *Local Government Act 1999*.
- (4) A member of the Council has no direct authority over an employee of the Council with respect to the way in which the employee performs his or her duties.

## Division 4—Allowances and benefits

### 24—Allowances

- (1) Subject to this ~~section~~ **Act**, a member of the Council is entitled to the allowance determined by the Remuneration Tribunal in relation to the member's office and indexed in accordance with this section.
- (2) The Remuneration Tribunal must make determinations under this section on a 4 yearly basis before the designated day in relation to each periodic election for the City of Adelaide held under the *Local Government (Elections) Act 1999*.
- (3) The Remuneration Tribunal must, in making a determination under this section, have regard to the following:
  - (a) the role of members of the Council as members of the Council's governing body and as representatives of their area;
  - (b) the size, population and revenue of the Council, and any relevant economic and social factors in the council area;
  - (c) the fact that an allowance under this section is not intended to amount to a salary for a member;
  - (d) the fact that an allowance under this section should reflect the nature of a member's office;
  - (e) the provisions of this Act providing for the reimbursement of expenses of members.
- (4) For the purposes of the proceedings before the Remuneration Tribunal but without derogating from the operation of subsection (3), the allowances to be determined under this section will be taken to be in the nature of a fee under the definition of **remuneration** in the *Remuneration Act 1990*.
- (5) Without limiting section 10 of the *Remuneration Act 1990*, the Remuneration Tribunal must allow persons who are entitled to be enrolled on the voters roll for the City of Adelaide, and the LGA, a reasonable opportunity to make submissions orally or in writing to the Tribunal in relation to any determination under this section.
- (6) Nothing in subsection (5) requires the Remuneration Tribunal, for the purposes of making all determinations required under this section in any 4 year period, to hold more than 1 hearing to receive any oral submissions that persons may care to make (and the Tribunal is not required to hold any hearing if it appears to the Tribunal that no one is seeking to make oral submissions).

- (7) The rates of allowances may vary from office to office.
- (8) An allowance determined under this section will be payable for the period—
- (a) commencing on the conclusion of the relevant periodic election; and
  - (b) concluding at the time at which the last result of the next periodic election for the City of Adelaide held under the *Local Government (Elections) Act 1999* is certified by the returning officer under that Act (including in respect of a member of the Council for whom the conclusion of the next periodic election is, for other purposes, the last business day before the second Saturday of November of the year of the periodic election as a result of the operation of section 4(2)(a) of the *Local Government Act 1999*).
- (9) An allowance determined under this section is to be adjusted on the first, second and third anniversaries of the relevant periodic election to reflect changes in the Consumer Price Index ~~under a scheme prescribed by the regulations~~.
- (10) Sections 17 and 19 of the *Remuneration Act 1990* do not apply in relation to a determination under this section.
- (11) Subject to subsection (8), a member of the Council who holds an office for part only of the period in respect of which an allowance is payable is entitled to the proportion of the allowance that the period for which the member held the office bears to the total period.
- (12) An allowance under this section is to be paid in accordance with any requirement set out in the regulations (unless the member declines to accept payment of an allowance).
- (13) Despite any other Act or law, the reasonable costs of the Remuneration Tribunal in making a determination under this section are to be paid by the LGA under an arrangement established by the ~~Minister from time to time after consultation with the President of the LGA and the President of the Tribunal~~ President of the Tribunal after consultation with the LGA.
- (13a) ~~The LGA may recover the reasonable costs incurred by the Remuneration Tribunal in making a determination under this section as a debt from the Council.~~
- (14) Regulations made for the purposes of this section may make different provisions according to the offices to which they are expressed to apply.
- (15) In this section—
- Consumer Price Index** means the Consumer Price Index (All groups index for Adelaide) published by the Australian Bureau of Statistics;
- designated day**, in relation to a particular periodic election, means the day that is 14 days before the day on which nominations close for that election.

## 25—Reimbursement of expenses

- (1) A member of the Council is entitled to receive from the Council—
- (a) reimbursement of expenses of a kind prescribed for the purposes of this paragraph incurred in performing or discharging official functions and duties; and

- (b) reimbursement of expenses of a kind prescribed for the purposes of this paragraph, and approved by the Council (either specifically or under a policy established by the Council for the purposes of this section), incurred in performing or discharging official functions and duties.
- (2) A policy under subsection (1)(b) lapses at a general election of the Council.

## **26—Provision of facilities and support**

- (1) The Council may provide facilities and other forms of support to its members to assist the members in performing or discharging official functions and duties.
- (2) The provision of facilities and services under this section is at the discretion of the Council subject to complying with the following requirements:
- (a) the Council must specifically resolve that the provision of the facilities or services is necessary or expedient to the performance or discharge of official functions or duties;
  - (b) facilities and services must be available to members on a uniform basis (other than facilities or services specifically provided for the benefit of the Lord Mayor);
  - (c) any property provided to a member remains the Council's.
- (3) A member of the Council must not use a facility or service provided by the Council under this section for a purpose unrelated to the performance or discharge of official functions or duties (unless the use has been approved by the Council and the member has agreed to reimburse the Council for any additional costs or expenses associated with this use).

## **Division 5—Specific provisions relating to the chief executive officer**

### **27—Role of the chief executive officer**

The functions of the chief executive officer of the Council include—

- (a) to ensure that the policies and lawful decisions of the Council are implemented in a timely and efficient manner;
- (b) to undertake responsibility for the day-to-day operations and affairs of the Council;
- (c) to provide advice and reports to the Council on the exercise and performance of its powers and functions under this or any other Act;
- (d) to co-ordinate proposals for consideration by the Council for developing objectives, policies and programs for the area;
- (e) to provide information to the Council to assist the Council to assess performance against its strategic, corporate and operational plans;
- (f) to ensure that timely and accurate information about Council policies and programs is regularly provided to the City of Adelaide community, and to ensure that appropriate and prompt responses are given to specific requests for information made to the Council;
- (g) to support and advance the role that the City of Adelaide plays as the capital city of South Australia;

- (h) to ensure that the assets and resources of the Council are properly managed and maintained;
- (i) to ensure that records required under this or another Act are properly kept and maintained;
- (j) to give effect to the principles of human resource management prescribed by the *Local Government Act 1999* and to apply proper management practices;
- (ja) to ensure that effective policies, systems and procedures are established and maintained for the identification, assessment, monitoring, management and annual review of strategic, financial and operational risks;
- (jb) to report annually to the relevant audit and risk committee on the Council's internal audit processes;
- (k) to exercise, perform or discharge other powers, functions or duties conferred on the chief executive officer by or under this or other Acts, and to perform other functions lawfully directed by the Council.

## 28—Appointment of staff

- (1) The chief executive officer is responsible for appointing, managing, suspending and dismissing the other employees of the Council (on behalf of the Council).
- (2) The chief executive officer must ensure that an appointment under subsection (1) is consistent with strategic policies and budgets adopted or approved by the Council.

## Division 6—Administrative and financial matters

### 29—Objectives

The Council must, in the performance of its roles and functions—

- (a) provide open, responsive and accountable government;
- (b) be sensitive to the needs, interests and aspirations of individuals and groups within the City of Adelaide community;
- (c) participate with other councils, and with State and national governments, in setting regional, State and national objectives;
- (d) give due weight, in all its plans, policies and activities, to regional, State and national objectives and strategies concerning the economic, social, physical and environmental development and management of the City of Adelaide;
- (e) seek to co-ordinate with State and national governments in the planning and delivery of services in which those governments have an interest;
- (f) seek to ensure a proper balance within its community between economic, social, environmental and cultural considerations;
- (g) manage its operations and affairs in a manner that emphasises the importance of service to the community;
- (h) seek to ensure that Council resources are used fairly, effectively and efficiently;
- (i) provide services, facilities and programs that are adequate and appropriate and seek to ensure equitable access to its services, facilities and programs.

### 30—Strategic plans

- (1) The Council should take reasonable steps to undertake, or to participate in, strategic planning for its area, and the State more generally (so far as is relevant to the City of Adelaide).
- (2) The Council should, in undertaking, or participating in, strategic planning seek—
  - (a) to include an assessment of local and wider issues affecting the City of Adelaide and the Council's responses to those issues (including by co-operation with other councils and bodies); and
  - (b) to develop policy statements and proposals to address issues associated with the economic, social, physical and environmental development and management of the City of Adelaide; and
  - (c) to ensure consistency with the Planning Strategy for the Metropolitan Adelaide under the *Development Act 1993* and other relevant policies and plans; and
  - (d) to address other relevant issues.

### 34—Financial reporting

- (1) The Adelaide City Council must include in its financial statements under Chapter 8 Part 3 Division 3 of the *Local Government Act 1999* for each financial year specific information that shows its expenditure, in actual terms and as a percentage of the total expenditure of the Council, in relation to—
  - (a) the Council's commitments under the Capital City Development Program; and
  - (b) works, services and activities that are directly related to the Council's economic development program for the City of Adelaide.
- (2) The Adelaide City Council must include in its annual report under Chapter 8 Part 4 of the *Local Government Act 1999* specific information on the relationship between its annual business plan, general revenue raising policies and expenditure policies.
- (3) The Council must, at the request of the Minister, furnish the Minister with such additional information as the Minister may reasonably require concerning the relationship between its annual business plan, general revenue raising policies and expenditure policies.

## Part 4—Miscellaneous

### 37A—Rundle Mall

- (1) Rundle Mall (the *Mall*) continues as a pedestrian mall.
- (2) A person must not—
  - (a) drive a vehicle on any part of the Mall; or
  - (b) allow a vehicle to be or remain on any part of the Mall,

otherwise than in accordance with a notice or permit published or given by the Adelaide City Council under this section.

Maximum penalty: \$750.

Expiation fee: \$105.

- (3) The Council may, by notice published in the Gazette—
  - (a) specify the vehicles that may enter or remain in the Mall (and those vehicles may be defined by reference to vehicles generally, vehicles of a specified class, vehicles used for a specified purpose or by a specified person or persons of a specified class, or vehicles used in specified circumstances);
  - (b) specify the hours or occasions during which vehicles may enter or remain in the Mall (and the hours so specified may vary according to a vehicle or class of vehicles or according to other specified circumstances).
- (4) The Council may, by notice in writing, permit a vehicle to enter and remain in the Mall for the purpose and for the period, and subject to the conditions (if any), specified in the permission.
- (5) A person must not contravene or fail to comply with a condition imposed under subsection (4).

Maximum penalty: \$750.  
Expiation fee: \$105.
- (6) The Council may, by further notice, vary or revoke a notice or permit published or given under this section.
- (7) In addition to any other power to make by-laws, the Council may make by-laws—
  - (a) regulating, controlling or prohibiting any activity in the Mall, or any activity in the vicinity of the Mall, that is, in the opinion of the Council, likely to affect the use or enjoyment of the Mall; and
  - (b) providing for the fixing, and varying or revoking, by resolution of the Council, of fees and charges for the use of the Mall or any part of the Mall for any display, activity or entertainment, or for any service provided or permit issued in or in connection with the Mall, and providing for any matter or thing in connection with the collection or remission of those fees or charges; and
  - (c) regulating any matter or thing connected with the external appearance of a building or structure on, abutting or visible from the Mall; and
  - (d) regulating, controlling or prohibiting the movement or standing of vehicles on access or egress areas to the Mall; and
  - (e) fixing a penalty not exceeding \$250 for a breach of a by-law.
- (8) In any proceedings for an offence against this section, an allegation that a person is the owner of a specified vehicle will, in the absence of proof to the contrary, be taken to be proved.
- (9) If in any proceedings for an offence against this section it is proved that a vehicle was driven, parked, standing or stationary in any place in contravention of this section, it will, in the absence of proof to the contrary, be presumed that the vehicle was driven, parked, left standing or allowed to remain stationary by the owner of the vehicle.

- (10) The *Local Government Act 1999* applies to and in relation to by-laws made under this section as if they were by-laws made under that Act.

### **37B—Corporate name**

The corporate name of the Corporation of Adelaide continues to be *The Corporation of the City of Adelaide*.

### **37C—The Corporation Acre**

The land known as "The Corporation Acre" within the City of Adelaide is vested in the Adelaide City Council.

### **38—Regulations**

- (1) The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), the regulations may make specific provision concerning the furnishing of reports and other information to the Adelaide City Council by council members who are members of the Capital City Committee.

## **Schedule 1—Special provisions for elections and polls**

### **Part 1—Preliminary**

#### **1—Interaction with *Local Government (Elections) Act 1999***

- (1) In this Schedule—
  - (a) Part 2 operates, in relation to the Council and the City of Adelaide in substitution for the provisions of Part 4 of the *Local Government (Elections) Act 1999*; and
  - (b) Part 3 operates, in relation to the Council and the City of Adelaide, in substitution for the provisions of Part 5 of the *Local Government (Elections) Act 1999*; and
  - (c) clause 18 operates, in relation to the Council and the City of Adelaide, in substitution for the provisions of section 39 of the *Local Government (Elections) Act 1999*;
  - (d) clause 19 operates, in relation to the Council and the City of Adelaide, in substitution for the provisions of section 47 of the *Local Government (Elections) Act 1999*;
  - (e) Part 8 operates, in relation to the Council and the City of Adelaide, in substitution for the provisions of Part 14 of the *Local Government (Elections) Act 1999*.
- (2) Section 13A(2)(a) of the *Local Government (Elections) Act 1999* does not apply in relation to the Council.

## Part 2—Enrolment

### 2—Qualifications for enrolment

- (1) Subject to this Schedule<sup>1</sup>—
  - (a) a natural person of or above the age of majority is entitled to be enrolled on the voters roll for an area or ward if that person—
    - (i) is enrolled as an elector for the House of Assembly in respect of a place of residence within the area or ward; or
    - (ii) has lodged the prescribed application with the chief executive officer of the Council, is resident at a place of residence within the area or ward and has been so resident for a continuous period of at least 1 month immediately preceding the date of the application; or
    - (iii) is a ratepayer in respect of rateable property within the area or ward and is the sole owner of that rateable property; or
    - (iv) is a ratepayer in respect of rateable property within the area or ward, is the sole occupier of that rateable property, and is not a resident in respect of that rateable property; and
  - (b) a body corporate is entitled to be enrolled on the voters roll for an area or ward if it is a ratepayer in respect of rateable property within the area or ward and is the sole owner or sole occupier of the rateable property; and
  - (c) a group of persons (consisting of natural persons, bodies corporate or partly of natural persons and partly of bodies corporate) is entitled to be enrolled as a group on the voters roll for an area or ward if—
    - (i) the members of the group are all ratepayers in respect of rateable property within the area or ward; and
    - (ii) the members of the group are joint owners, owners in common or joint occupiers of the rateable property; and
    - (iii) at least 1 member of the group (being a natural person of or above the age of majority or a body corporate) is not enrolled on the relevant voters roll under paragraph (a) or (b), and no member of the group is enrolled on the relevant voters roll under paragraph (a)(i) or (ii) as a resident in respect of the rateable property; and
    - (iv) no member of the group who is an occupier of the rateable property but not an owner is a resident in respect of the rateable property.
- (2) A natural person is entitled, without application, to provisional enrolment on the voters roll for an area or ward if he or she is provisionally enrolled as an elector for the House of Assembly in respect of a place of residence within the area or ward.
- (3) No enrolment will be made on the voters roll on the basis of a claim or application received between the time at which rolls for an election or poll close and polling day for the election or poll.
- (4) If—
  - (a) a person has been enrolled as an elector under subclause (1)(a)(ii) on the basis of residence at a particular place of residence; and

- (b) the chief executive officer sends a notice to the relevant address asking the elector to indicate whether he or she is still resident at that address; and
- (c) the chief executive officer receives no reply within 28 days of the date of the notice or receives a reply indicating that the elector is no longer resident at that address,

it may be presumed, for the purposes of the revision of the voters roll, that the elector is not still resident in the area or ward.

- (5) A group of persons may, on application to the chief executive officer in a form determined by the chief executive officer—
  - (a) nominate a name for the group for the purposes of the voters roll;
  - (b) change the name for the group for the purposes of the voters roll.
- (6) The chief executive officer may reject an application under subclause (5) if the name is, in the opinion of the chief executive officer, obscene or frivolous.
- (7) Subject to the adoption of a name under subclause (5), the chief executive officer may determine the name of a group for the purposes of the voters roll.
- (8) The name of a group must include the word "Group" at the end.
- (9) For the purposes of subclause (1)(a)(iv) and (c)(iv), the chief executive officer is entitled to assume (in the absence of any information in the hands of the chief executive officer to the contrary) that a ratepayer in respect of rateable property used for residential purposes who is a natural person and who is (or who appears to be) an occupier but not an owner of that rateable property is a resident in respect of that rateable property (and the voters roll may have effect accordingly).
- (10) A person must not make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular) in any information provided under this clause.

Maximum penalty: \$10 000.

**Note—**

- 1 Subclause (1) does not apply to the Crown (see section 302 of the *Local Government Act 1999*).

### 3—The voters roll

- (1) The chief executive officer is responsible for the maintenance of a voters roll for the area.
- (2) Subject to this clause, the voters roll must set out in relation to each person, body corporate or group enrolled—
  - ~~(a) the full name of the person, body corporate or group; and~~
  - ~~(b) in the case of a natural person—the address of the person's place of residence; and~~
  - (a) in the case of a natural person—the full name of the person and the address of the person's place of residence; and
  - (b) in the case of a body corporate or group—
    - (i) the full name of the body corporate or group; and

- (ii) —
- (A) if the body corporate or group has nominated an eligible person under clause 3A(3) or 3C(2)—the full name and date of birth of the nominated person for the body corporate or group; or
- (B) if a default person has been nominated for the body corporate or group under clause 3B(1)—the full name and date of birth of the default person for the body corporate or group; and
- (c) the address of the place of residence or rateable property (as the case may be) by virtue of which the person, body corporate or group is entitled to be enrolled; and
- (d) at the option of the person, body corporate or group—an additional address nominated by the person, body corporate or group (in a manner and form determined by the chief executive officer) for the service of postal voting papers under clause 18; and
- (e) any prescribed particulars.
- (2a) The chief executive officer must redact the full name and date of birth of a default person for a body corporate or group from any copy of the voters roll available for inspection by the public or provided to any person (other than a copy of the voters roll supplied to the returning officer in accordance with subclause (16)).
- (3) If the chief executive officer is satisfied that the inclusion on the voters roll of the address of the place of residence of a person or the address of a place of residence or rateable property (as the case may be) by virtue of which a person is entitled to be enrolled would place at risk the personal safety of that person, a member of that person's family or any other person, the chief executive officer may suppress the address from the voters roll.
- (4) If the chief executive officer is satisfied that the address of the place of residence of a person entitled to be enrolled to vote is suppressed from a roll under the *Electoral Act 1985*, the chief executive officer must also suppress that address from the voters roll.
- (5) If an area is divided into wards, the voters roll must differentiate the electors enrolled on the roll according to the wards in respect of which they are entitled to vote.
- (6) The voters roll must be maintained in a form that allows for the roll to be brought into an up-to-date form (including by the merger of enrolment information for the House of Assembly) within 3 weeks after the supply of relevant information by the Electoral Commissioner under subclause (10).
- (7) The voters roll must be brought up-to-date whenever an election or poll is to be held so as to reflect entitlements as they exist—
- (a) in the case of a periodic election—on a day fixed by the returning officer for the close of the roll;
- (b) in the case of any other election, or a poll—on a day fixed for the close of the roll by the proclamation or notice fixing polling day for the election or poll.
- (8) A day that falls within the ambit of subclause (7) will be the ***closing date*** for the roll.

- (9) The closing date must not be less than—
- (a) in the case of the closing date under subclause (7)(a)— 13 weeks before polling day for the relevant election;
  - (b) in the case of the closing date under subclause (7)(b)—8 weeks before polling day for the relevant election or poll.
- (10) The Electoral Commissioner ~~must, within 7 days after a closing date, supply the chief executive officer with a list of the persons who are, as at the closing date, enrolled (including those provisionally enrolled) as electors for the House of Assembly in respect of a place of residence within the area. —~~
- (a) must, within 7 days after a closing date; and
  - (b) may, at any other time,
- supply the chief executive officer with a list of the persons who are, as at the closing date or relevant time, enrolled (including those provisionally enrolled) as electors for the House of Assembly in respect of a place of residence within the area.
- A list may be supplied in electronic form, or in another manner agreed between the Electoral Commissioner and the chief executive officer.
- (11) If the area of the Council is divided into wards, the list supplied under subclause (10) must differentiate the electors according to the wards in relation to which they are enrolled.
- (12) The Electoral Commissioner is entitled to recover as a debt from the Council a fee of an amount determined by the Electoral Commissioner for the supply of a list under this clause.
- (13) The voters roll must be brought up-to-date in accordance with the requirements of subclause (7) within 4 weeks after the relevant closing date.
- ~~A voters roll will be taken to have been brought up-to-date when copies of the roll are available for public inspection under this clause.~~
- (13a) For the purposes of subclause (13), a voters roll will be taken to have been brought up-to-date when copies of the roll are available for public inspection under this clause.
- (14) The Council must ensure that copies of the roll are available for inspection (without charge) by the public at the principal office of the Council.
- (15) At any time between the close of nominations and polling day for an election, a nominated candidate for the election is entitled to obtain from the relevant council a copy of the voters roll ~~in printed form~~ for the area (and he or she may, during that period, obtain further copies of the voters roll ~~in printed form~~ from the Council on payment of the fees fixed by the Council).
- (16) The chief executive officer must supply the returning officer with sufficient copies of the voters roll, certified by the chief executive officer, for use at an election or poll.
- (17) The chief executive officer is not responsible to check the accuracy of a list supplied by the Electoral Commissioner under this clause and is entitled to assume that such a list is accurate.
- (18) The validity of a voters roll is not affected by a misdescription or other error in the roll.

- (19) A voters roll is conclusive evidence of the entitlement of a person, body corporate or group whose name appears in the roll as an elector to vote at an election or poll at which the roll is used.<sup>1</sup>
- (20) If a copy of the voters roll is provided to a person under this clause, a person who uses that copy of the roll, or information contained in that copy of the roll, for a purpose other than the distribution of matter calculated to affect the result of a local government election or a purpose related to the holding of such an election is guilty of an offence.

Maximum penalty: \$10 000.

**Note—**

- 1 Part 3 is also relevant to determining entitlements to vote.

### **3A—Nominating person to vote on behalf of body corporate or group**

- (1) The chief executive officer must, by notice in writing to each body corporate and group on the voters roll, request that the body corporate or group nominate, in the form determined by the Electoral Commissioner (the *nomination form*), an eligible person to vote on its behalf.
- (2) The notice in subclause (1) must—
- (a) be issued to each body corporate or group—
    - (i) in the case of a periodic election—not later than 7 weeks before the relevant closing date; or
    - (ii) in the case of any other election, or a poll—not later than 4 weeks before the relevant closing date; and
  - (b) enclose the nomination form.
- (3) A body corporate or group may nominate an eligible person to vote on its behalf by providing the completed nomination form to the chief executive officer by the relevant closing date.

### **3B—Nominating default person to vote on behalf of body corporate or group**

- (1) If the chief executive officer has not received a nomination under clause 3A(3) by the relevant closing date, or the person nominated is not an eligible person, the chief executive officer must—
- (a) in the case of a body corporate—nominate the first officer of the body corporate (to be taken alphabetically); or
  - (b) in the case of a group—nominate the first member of the group or officer of a body corporate that is a member of the group (to be taken alphabetically) (as the chief executive officer thinks fit),
- to vote on behalf of the body corporate or group (a *default person*).
- (2) Despite subclause (1), the chief executive officer must not nominate a person under that subclause if the person is already on the voters roll or otherwise entitled to be enrolled on the voters roll.
- (3) For the purposes of subclause (1), the chief executive officer may—

- (a) in the case of a body corporate (including a body corporate that is a member of a group)—use the most recent information that is available after the relevant closing date from the Australian Securities and Investments Commission concerning the name and age of the persons specified in that subclause; or
- (b) in the case of a group—use the most recent information held by the council after the relevant closing date concerning the name and age of the persons specified in that subclause.

### 3C—Notice of default person and further nomination of person to vote on behalf of body corporate or group

- (1) The chief executive officer must, within 14 days after the relevant closing date, give notice in writing to each body corporate or group enrolled on the voters roll in respect of which there is no nominated person—
  - (a) if a default person has been nominated by the chief executive officer under clause 3B(1)—of the name of the default person; or
  - (b) if a default person has not been nominated—that no default person has been nominated,
 and of the option for the body corporate or group to nominate an eligible person (if any) in the form determined by the Electoral Commissioner (the *nomination form*) and within the prescribed period.
- (2) A body corporate or group may nominate an eligible person to vote on its behalf by providing the completed nomination form to the chief executive officer within the prescribed period.
- (3) If the chief executive officer does not receive a nomination from the body corporate or group within the prescribed period, or receives a nomination but the person nominated is not an eligible person—
  - (a) where a default person has been nominated under clause 3B(1)—the default person remains the person nominated to vote on behalf of the body corporate or group; or
  - (b) where a default person has not been nominated—no person is nominated to vote on behalf of the body corporate or group (and ballot papers will not be issued to the body corporate or group under clause 18).
- (4) In this clause—
 

*prescribed period* means 21 days after the relevant closing date.

## Part 3—Entitlement to vote

### 4—Entitlement to vote

- (1) Subject to subclause (2), a natural person who has his or her name on the voters roll used for an election or poll as an elector in his or her own right is entitled to vote at that election or poll.
- (2) A natural person is not entitled to vote at an election if—
  - (a) he or she was provisionally enrolled; and

- (b) he or she is not, as at polling day, of or above the age of majority.
- ~~(3) A natural person is entitled to vote at an election or poll for a body corporate which has its name on the voters roll if—~~
- ~~(a) the natural person is an officer of the body corporate; and~~
- ~~(b) the natural person is acting on behalf of the body corporate (which may be assumed on the basis of a declaration under clause 18).~~
- ~~(4) A natural person is entitled to vote at an election or poll for a group which has its name on the voters roll if—~~
- ~~(a) the natural person is a member of the group or an officer of a body corporate that is a member of the group; and~~
- ~~(b) the natural person is acting on behalf of the group (which may be assumed on the basis of a declaration under clause 18).~~
- ~~(5) A natural person is not entitled to vote under subclause (3) or (4) unless he or she is of or above the age of majority.~~
- (3) A natural person is entitled to vote at an election or poll for a body corporate or group which has its name on the voters roll if—
- (a) the natural person is the nominated person on the voters roll for the body corporate or group; or
- (b) the natural person is the default person on the voters roll for the body corporate or group.
- (6) If the name of a natural person has been omitted in error from a voters roll used for an election or poll, the person is, subject to this Schedule, entitled to vote at the election or poll as if the error had not occurred.
- (7) If the name of a body corporate has been omitted in error from a voters roll used for an election or poll, a person is, subject to this Schedule, entitled to vote at the election or poll under subclause (3) as if the error had not occurred.
- (8) If the name of a group has been omitted in error from a voters roll used for an election or poll, a person is, subject to this Schedule, entitled to vote at the election or poll under subclause (4) as if the error had not occurred.
- (9) A natural person cannot vote at an election or poll for another natural person pursuant to a power of attorney.
- (10) A natural person may only vote in 1 capacity at an election or poll for the City of Adelaide (but this clause does not prevent a person voting at 2 or more elections for the City of Adelaide held on the same day).

## 5—Entitlement to stand for election

- (1) Subject to this Schedule and the *Local Government Act 1999*, a person is eligible to be a candidate for election as a member of the Council if—
- ~~(a) the person is—~~
- ~~(i) an Australian citizen; or~~
- ~~(ii) a prescribed person; and~~

- (a) the person is an Australian citizen; and
- (b) —
  - (i) the person is an elector for the area; or
  - (ii) the person is the nominee of a body corporate which has its name on the voters roll for the area; or
  - (iii) the person is the nominee of a group which has its name on the voters roll for the area; or
  - (iv) the person's name has been omitted in error from the voters roll for the area, or the person is the nominee of a body corporate or group which has had its name omitted in error from the voters roll for the area (and would be eligible for nomination under subparagraph (ii) or (iii) (as the case may be) were the name on the roll).
- (2) Subclause (1)(b) operates subject to the following qualifications:
  - (a) a nominee of a body corporate must be an officer of the body corporate;
  - (b) a nominee of a group must be a member of the group, or an officer of a body corporate that is a member of the group;
  - (c) a body corporate or group cannot nominate more than one person for a particular election;
  - (d) a body corporate or group cannot nominate a person who has not attained the age of majority.
- (3) A person is not eligible to be a candidate for election as a member of the Council if the person—
  - (a) is a member of an Australian Parliament; or
  - (b) is an undischarged bankrupt or is receiving the benefit of a law for the relief of insolvent debtors; or
  - (c) has been sentenced to imprisonment and is, or could on the happening of some contingency become, liable to serve the sentence or the remainder of the sentence; or
  - (d) is an employee of the Council; or
  - (e) is disqualified from election by court order under the *Local Government Act 1999*.
- (4) A person is not eligible to be a candidate for election as a member of the Council if the person—
  - (a) in the case of a supplementary election—is a member of another council; or
  - (b) in the case of any election—is a candidate for election as a member of another council.

~~(5) In this clause—~~

~~*prescribed person* means a person who has held office as a member of a council at any time between 5 May 1997 and the commencement of this clause.~~

## Part 7—Special provisions relating to postal voting

### 18—Issue of postal voting papers

- ~~(1) The returning officer must, as soon as practicable after the twenty first day before polling day, and in any event not later than 14 days before polling day, issue to every natural person, body corporate or group who or which has his, her or its name on the voters roll used for the purposes of the election or poll postal voting papers consisting of—~~
- ~~—(a) a ballot paper (or, in an appropriate case, ballot papers) authenticated to the satisfaction of the returning officer; and~~
  - ~~—(b) an opaque envelope bearing a declaration (in a form determined by the Electoral Commissioner), to be completed by the voter, declaring the voter's date of birth and—~~
    - ~~—(i) that the ballot paper contained in the envelope contains his or her vote; and~~
    - ~~—(ii) that he or she has not already voted at the election or poll; and~~
    - ~~—(iii) if the voting papers are issued to a body corporate or group that he or she is eligible to vote and is acting on behalf of the body corporate or group.~~
- (1) Subject to subclause (1a), the returning officer must, as soon as practicable after the twenty eighth day before polling day, and in any event not later than 21 days before polling day, issue to every natural person, body corporate or group who or which has their or its name on the voters roll used for the purposes of the election or poll postal voting papers consisting of—
- (a) a ballot paper (or, in an appropriate case, ballot papers) authenticated to the satisfaction of the returning officer; and
  - (b) an opaque envelope bearing a declaration (in a form determined by the Electoral Commissioner), to be completed by the voter, declaring the voter's date of birth and—
    - (i) that the ballot paper contained in the envelope contains their vote; and
    - (ii) that they have not already voted at the election or poll; and
    - (iii) if the voting papers are issued to a body corporate or group—
      - (A) the voter's full name; and
      - (B) that the voter is the nominated person or default person for the body corporate or group.
- (1a) Postal voting papers must not be issued under this clause to a body corporate or group which has its name on the voters roll for the election or poll if there is no nominated person or default person for the body corporate or group.
- (2) The declaration under subclause (1) must appear on a tear-off extension to the envelope flap.

- (3) An envelope used under subclause (1) must be—
- (a) a pre-paid post envelope addressed to the returning officer; or
  - (b) accompanied by a pre-paid post envelope addressed to the returning officer, and must comply with any prescribed requirement.
- ~~(4) Postal voting papers must also be issued to any person, body corporate or group of persons whose name does not appear on the voters roll but who claims to be entitled to vote at the election or poll and applies to the returning officer for voting papers not later than—~~
- ~~(a) in the case of an application made by post—5 pm on the second business day before polling day;~~
  - ~~(b) in the case of an application made personally—the close of voting on polling day.~~
- (4) Postal voting papers must also be issued to any person, body corporate or group of persons whose name does not appear on the voters roll but who claims to be entitled to vote at the election or poll and applies to the returning officer for voting papers not later than 5 pm on the seventh day before polling day.
- (5) Postal voting papers issued under subclause (4) must also include a declaration (in a form determined by the Electoral Commissioner) for the voter to set out the grounds on which an entitlement to vote is claimed.
- (6) Postal voting papers issued under this clause must be accompanied by an explanatory notice and a set of candidate profiles that comply with the regulations and may be accompanied by other material determined by the returning officer.
- (7) ~~Postal~~ Subject to subclause (1a), postal voting papers may be issued under this clause—
- (a) by giving them to the prospective voter personally; or
  - (b) by sending them by post—
    - (i) to a prospective voter at the appropriate address on the voters roll; or
    - (ii) in the case of a body corporate or group (without limiting any other method of delivery)—to the body corporate or group at an address nominated by the body corporate or group in a manner determined or approved by the returning officer; or
    - (iii) in the case of a prospective voter whose name and address do not appear on the voters roll—at some other address of which the returning officer has received notice in a manner determined or approved by the returning officer.
- (8) The returning officer must keep a record of the electors and other persons to whom voting papers are issued under this clause.
- (9) If postal voting papers are returned because they have not been able to be successfully delivered, the returning officer must retain those voting papers in a secure place.<sup>1</sup>
- (10) The returning officer is not obliged to check the date of birth of a voter, or any other information, provided under this clause (but may do so on a selective, random or other basis determined by the returning officer).

- (11) A vote may be admitted to the count notwithstanding that the voter's date of birth has not been declared (or accurately declared) under this clause, or that there has been some other formal defect or error on the part of the voter in complying with the requirements of this clause (unless the returning officer is of the opinion that the defect or error is sufficiently significant to warrant the rejection of the vote).
- (12) The returning officer is not required to issue postal voting papers under this clause with respect to a person who the returning officer has reason to believe has died.

**Note—**

- 1 Fresh voting papers may be subsequently issued under section 43 of the *Local Government (Elections) Act 1999*.

**19—Arranging postal papers**

- (2) For the purposes of the scrutiny of voting papers for each election or poll, the returning officer will, with the assistance of any other electoral officers who may be present, and in the presence of any scrutineers who may be present—
- (a) examine the declarations on all envelopes used for voting (and validly returned) and determine which votes are to be accepted for further scrutiny and which rejected from further scrutiny, rejecting unopened—
- (i) any envelope that forms part of a set of voting papers that have been cancelled under this Schedule;
- (ii) any two or more envelopes where it appears to the returning officer that the voter has acted in more than one capacity at the particular election or poll;
- (iii) any envelope where the voter's name does not appear on the voters roll, unless the voter is ~~voting on behalf of a body corporate or group of persons in accordance with this Schedule~~ the nominated person or default person for a body corporate or group, or unless the voter's name has been omitted from the roll in error;
- ~~(iv) any envelope where the voter is purporting to be voting on behalf of a body corporate or group of persons but the returning officer concludes that the voter is in fact attempting to exercise an unauthorised vote;~~
- (v) any envelope where the signature does not, to the satisfaction of the returning officer, correspond with the signature on the application (if any) of the voter for the relevant voting papers;
- (b) tear off the extensions to the envelope flaps on the envelopes accepted under paragraph (a);
- (c) rearrange the envelopes that no longer bear their tear-off extensions so that the anonymity of voters is maintained;
- (d) remove the ballot papers from those envelopes;

- (e) if an envelope contains more than one ballot paper and a scrutineer challenges the number of ballot papers contained in the envelope—satisfy himself or herself that the envelope does not contain more ballot papers than the number to which the voter is entitled and, if the returning officer is not so satisfied, return all of those ballot papers to the envelope and reject them from the count;
- (f) examine the remaining ballot papers and reject any informal ballot papers;
- (g) arrange all unrejected ballot papers into appropriate parcels for counting.

## Part 8—Campaign donations and expenditure

### Division 1—Preliminary

#### 22—Interpretation

In this Part—

***disposition of property*** means a conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, and includes—

- (a) the allotment of shares in a company; and
- (b) the creation of a trust in property; and
- (c) the grant or creation of a lease, mortgage, charge, servitude, licence, power or partnership or any interest in property; and
- (d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of a debt, contract or chose in action or any interest in property; and
- (e) the exercise by a person of a general power of appointment of property in favour of another person; and
- (f) a transaction entered into by a person with intent thereby to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of another person;

***electoral advertisement*** means an advertisement containing electoral material;

***electoral material*** means an advertisement, notice, statement or representation calculated to affect the result of an election or poll;

***gift*** means a disposition of property made by a person to another person, otherwise than by will, being a disposition made without consideration in money or money's worth or with inadequate consideration, and includes the provision of a service (other than volunteer labour) for no consideration or for inadequate consideration;

***journal*** means a newspaper, magazine or other periodical, whether published for sale or for distribution without charge;

***property*** includes money;

~~***registered industrial organisation*** means an organisation registered under the Industrial and Employee Relations Act 1994 or under a law of the Commonwealth or another State or a Territory concerning the registration of industrial organisations.~~

## Division 2—Returns

### ~~23—Returns for candidates~~

- ~~(1) A person who is a candidate for election to an office of the Adelaide City Council must, within 30 days after the conclusion of the election, furnish to the chief executive officer of the Council, in accordance with the requirements of this Part—~~
- ~~(a) a campaign donations return under this Division; and~~
  - ~~(b) a campaign expenditure return under this Division.~~
- ~~(2) The returns must be in the prescribed form and completed in the prescribed manner.~~

### 23—Returns for candidates

- (1) A person who is a candidate for election to an office of the Adelaide City Council must furnish to the returning officer, in accordance with the requirements of this Part—
- (a) at the prescribed times—a campaign donations return under this Division; and
  - (b) within 30 days after the conclusion of the election—a campaign expenditure return under this Division; and
  - (c) within the period applying under clause 24A(1)—a large gifts return under this Division.
- (2) A return under this Division must be in the form determined by the returning officer and completed and furnished in the manner determined by the returning officer.
- (3) For the purposes of this clause, the *prescribed times* for furnishing a campaign donations return are—
- (a) within 7 days of the end of the period commencing from the start of the disclosure period for the election (within the meaning of clause 24B(a)) and ending—
    - (i) in the case of a periodic election—21 days after the close of nominations; or
    - (ii) in any other case—7 days after the close of nominations; and
  - (b) within 30 days after the conclusion of the election.

### 24—Campaign donations returns

- (1) Subject to this clause and clause 24B, a campaign donations return for a candidate for election to an office of the Adelaide City Council must set out—
- (a) the total amount or value of all gifts received by the candidate during the disclosure period; and
  - (b) the number of persons who made those gifts; and
  - (c) the amount or value of each gift; and
  - (d) the date on which each gift was made; and
  - (e) in the case of each gift made on behalf of the members of an unincorporated association, ~~other than a registered industrial organisation—~~

- (i) the name of the association; and
    - (ii) the names and addresses of the members of the executive committee (however described) of the association; and
  - (f) in the case of each gift purportedly made out of a trust fund or out of the funds of a foundation—
    - (i) the names and addresses of the trustees of the fund or of the funds of the foundation; and
    - (ii) the title or other description of the trust fund or the name of the foundation, as the case requires; and
  - (g) in the case of each other gift—the name and address of the person who made the gift.
- (2) A campaign donations return need not set out any details required by subclause (1) in respect of—
- (a) a private gift made to the candidate; or
  - (b) a gift if the amount or value of the gift is less than \$500; or
  - (c) a gift disclosed in a large gifts return under clause 24A.
- ~~(3) For the purposes of this clause—~~
- ~~—(a) the disclosure period is the period that commenced—~~
    - ~~—(i) in relation to a candidate in an election who was a new candidate (other than a candidate referred to in subparagraph (ii))—12 months before polling day for the election;~~
    - ~~—(ii) in relation to a candidate in an election who was a new candidate and when he or she became a candidate in the election was a member of the Council by virtue of having been appointed under the *Local Government Act 1999*—on the day on which the person was so appointed as a member of the Council;~~
    - ~~—(iii) in relation to a candidate in an election who was not a new candidate—at the end of 21 days after polling day for the last preceding election in which the person was a candidate,~~  
and that ended, in any of the above cases, at the end of 21 days after polling day for the election;
  - ~~—(c) a candidate is a new candidate, in relation to an election, if the person had not been a candidate in the last general election of the Council and had not been elected at a supplementary election held after the last general election of the Council;~~
  - ~~—(d) two or more gifts (excluding private gifts) made by the same person to a candidate during the disclosure period are to be treated as one gift;~~
  - ~~—(e) a gift made to a candidate is a private gift if it is made in a private capacity to the candidate for his or her personal use and the candidate has not used, and will not use, the gift solely or substantially for a purpose related to an election.~~

- (4) If no details are required to be included in a return under this clause for a candidate, the return must nevertheless be lodged and must include a statement to the effect that no gifts of a kind required to be disclosed were received.

### 24A—Large gifts returns

- (1) If—
- (a) a candidate for election to an office of the Adelaide City Council receives a gift or gifts from a person during the disclosure period; and
  - (b) the total amount or value of the gift or gifts is more than the prescribed amount, the candidate must, within the prescribed period, furnish a return to the returning officer.
- (2) A large gifts return must set out—
- (a) the amount or value of each gift; and
  - (b) the date on which each gift was made; and
  - (c) —
    - (i) if the gift or gifts were made on behalf of the members of an unincorporated association—
      - (A) the name of the association; and
      - (B) the names and addresses of the members of the executive committee (however described) of the association; or
    - (ii) if the gift or gifts were purportedly made out of a trust fund or out of the funds of a foundation—
      - (A) the names and addresses of the trustees of the fund or of the funds of the foundation; and
      - (B) the title or other description of the trust fund or the name of the foundation, as the case requires; or
    - (iii) in any other case—the name and address of the person who made the gift or gifts.
- (3) A large gifts return need not be furnished in respect of a private gift made to the candidate.

### 24B—Disclosure period etc for returns

For the purposes of clauses 24 and 24A—

- (a) the *disclosure period* is the period that commenced—
  - (i) in relation to a candidate in an election who was a new candidate (other than a candidate referred to in subparagraph (ii))—12 months before polling day for the election; or
  - (ii) in relation to a candidate in an election who was a new candidate and when they became a candidate in the election was a member of the Council by virtue of having been appointed under the Local Government Act 1999—on the day on which the person was so appointed as a member of the Council; or
  - (iii) in relation to a candidate in an election who was not a new candidate—at the end of 21 days after polling day for the last preceding election in which the person was a candidate,

and that ended, in any of the above cases, at the end of 21 days after polling day for the election; and

- (b) a candidate is a new candidate, in relation to an election, if the person had not been a candidate in the last general election of a council and had not been a candidate at a supplementary election held after the last general election of a council; and
- (c) 2 or more gifts (excluding private gifts) made by the same person to a candidate during the disclosure period are to be treated as 1 gift; and
- (d) a gift made to a candidate is a private gift if it is made in a private capacity to the candidate for their personal use and the candidate has not used, and will not use, the gift solely or substantially for a purpose related to an election.

## 25—Campaign expenditure return

- (1) Subject to this clause, a campaign expenditure return for a candidate for election to an office of the Adelaide City Council must set out details of all campaign expenditure in relation to the election incurred by or with the authority of the candidate.
- (2) For the purposes of this clause, campaign expenditure, in relation to an election, is expenditure incurred on—
  - (a) the broadcasting of an electoral advertisement relating to the election; or
  - (b) the publishing in a journal of an electoral advertisement relating to the election; or
  - (c) the display at a theatre or other place of entertainment, of an electoral advertisement relating to the election; or
  - (d) the production of an electoral advertisement relating to the election, being an advertisement that is broadcast, published or displayed as mentioned in paragraph (a), (b) or (c); or
  - (e) the production of any material (not being material referred to in paragraph (a), (b) or (c)) that is required under section 27 of the *Local Government (Elections) Act 1999* to include the name and address of the author of the material or of the person who is the printer of the material (in the case of printed electoral material); or
  - (f) consultants' or advertising agents' fees in respect of—
    - (i) services relating to the election; or
    - (ii) material relating to the election; or
  - (g) the carrying out of an opinion poll, or other research, relating to the election; or
  - (h) the production and distribution of electoral material that is addressed to particular persons or organisations; or
  - (i) other matters or items of a prescribed kind.
- (3) If a candidate incurred campaign expenditure of a total amount not exceeding \$500 in relation to an election (or incurred no campaign expenditure), the return may be lodged as a "Nil" return.

**26—Certain gifts not to be received**

- (1) It is unlawful for a member of the Adelaide City Council to receive a gift made to or for the benefit of the member the amount or value of which is not less than \$500 unless—
  - (a) the name and address of the person making the gift are known to the member; or
  - (b) at the time when the gift is made, the person making the gift gives to the member his or her name and address and the member has no grounds to believe that the name and address so given are not the true name and address of the person making the gift.
- (2) It is unlawful for a candidate in an election, or a person acting on behalf of a candidate in an election, to an office of the Adelaide City Council to receive a gift made to or for the benefit of the candidate the amount or value of which is not less than \$500 unless—
  - (a) the name and address of the person making the gift are known to the person receiving the gift; or
  - (b) at the time when the gift is made, the person making the gift gives to the person receiving the gift his or her name and address and the person receiving the gift has no grounds to believe that the name and address so given are not the true name and address of the person making the gift.
- (3) For the purposes of this clause—
  - (a) a reference to a gift made by a person includes a reference to a gift made on behalf of the members of an unincorporated association;
  - (b) a reference to the name and address of a person making a gift is—
    - (i) in the case of a gift made on behalf of the members of an unincorporated association, ~~other than a registered industrial organisation~~—a reference to—
      - (A) the name of the association; and
      - (B) the names and addresses of the members of the executive committee (however described) of the association; and
    - (ii) in the case of a gift purportedly made out of a trust fund or out of the funds of a foundation—a reference to—
      - (A) the names and addresses of the trustees of the fund or of the funds of the foundation; and
      - (B) the title or other description of the trust fund or the name of the foundation, as the case requires;
  - (c) a person who is a candidate in an election is to be taken to remain a candidate for 30 days after the polling day for the election;
  - (d) a reference to a candidate in an election includes a reference to a person who is already a member of the Council.

- (4) If a person receives a gift that, by virtue of this clause, it is unlawful for the person to receive, an amount equal to the amount or value of the gift is payable by that person to the Crown and may be recovered by the Crown as a debt by action, in a court of competent jurisdiction, against the person.

## 27—Inability to complete returns

If a person who is required to furnish a return under this Division considers that it is impossible to complete the return because he or she is unable to obtain particulars that are required for the preparation of the return, the person may—

- (a) prepare the return to the extent that it is possible to do so without those particulars; and
- (b) furnish the return so prepared; and
- (c) give to the ~~chief executive returning~~ officer notice in writing—
  - (i) identifying the return; and
  - (ii) stating that the return is incomplete by reason that he or she is unable to obtain certain particulars; and
  - (iii) identifying those particulars; and
  - (iv) setting out the reasons why he or she is unable to obtain those particulars; and
  - (v) if the person believes, on reasonable grounds, that another person whose name and address he or she knows can give those particulars—stating that belief and the reasons for it and the name and address of that other person,

and a person who complies with this clause is not, by reason of the omission of those particulars, to be taken, for the purposes of this Division, to have furnished a return that is incomplete.

## 28—Amendment of returns

- (1) A person who has furnished a return under this Division may request the permission of the ~~chief executive returning~~ officer to make a specified amendment of the return for the purpose of correcting an error or omission.
- (2) A request under subclause (1) must—
  - (a) be by notice in writing signed by the person making the request; and
  - (b) be lodged with the ~~chief executive returning~~ officer.
- (3) If—
  - (a) a request has been made under subclause (1); and
  - (b) the ~~chief executive returning~~ officer is satisfied that there is an error in, or omission from, the return to which the request relates,the ~~chief executive returning~~ officer must amend the return, or permit the person making the request to amend the return, in accordance with the request.
- (4) The amendment of a return under this clause does not affect the liability of a person to be convicted of an offence arising out of the furnishing of the return.

## 29—Offences

- (1) A person who fails to furnish a return that the person is required to furnish under this Division within the time required by this Division is guilty of an offence.  
Maximum penalty: \$10 000.
- (2) A person who furnishes a return or other information—
  - (a) that the person is required to furnish under this Division; and
  - (b) that contains a statement that is, to the knowledge of the person, false or misleading in a material particular,is guilty of an offence.  
Maximum penalty: \$10 000.
- (3) A person who furnishes to another person who is required to furnish a return under this Division information—
  - (a) that the person knows is required for the purposes of that return; and
  - (b) that is, to that person's knowledge, false or misleading in a material particular,is guilty of an offence.  
Maximum penalty: \$10 000.
- (4) An allegation in a complaint that a specified person had not furnished a return of a specified kind as at a specified date will be taken to have been proved in the absence of proof to the contrary.

## 30—Failure to comply with Division

- (1) If a person who is required to furnish a return under this Division fails to submit the return within the time required by this Division, the ~~chief executive~~ returning officer must as soon as practicable notify the person of that fact.
- (2) A notification under subclause (1) must be given by letter sent to the person by registered mail.
- (3) A failure of a person to comply with a provision of this Division in relation to an election does not invalidate that election.

### Note—

The office of a member of a council who fails to submit a return may become vacant under Chapter 5 Part 2 of the *Local Government Act 1999*.

## Division 3—Public access to information

### 31—Public inspection of returns

- ~~(1) The chief executive officer of the Adelaide City Council must keep at the principal office of the Council each return furnished to the chief executive officer under Division 2.~~
- ~~(2) Subject to this clause, a person is entitled to inspect a copy of a return under Division 2, without charge, during ordinary business hours at the principal office of the Council.~~

- ~~(3) Subject to this clause, a person is entitled, on payment of a fee fixed by the Council, to obtain a copy of a return under Division 2.~~
- ~~(4) A person is not entitled to inspect or obtain a copy of a return until the end of eight weeks after the day before which the return was required to be furnished to the chief executive officer.~~
- (1) The returning officer must keep at their principal office each return furnished to the returning officer under Division 2.
- (2) The returning officer must—
- (a) in the case of a large gifts return—within the prescribed period after the return is received by the returning officer; and
  - (b) in the case of a campaign donations return required to be furnished at the prescribed time applying under clause 23(3)(a)—within 7 days after that prescribed time; and
  - (c) in the case of a campaign donations return required to be furnished at the prescribed time applying under clause 23(3)(b)—within 8 weeks after that prescribed time; and
  - (d) in any other case—at the end of 8 weeks after the day before which the return was required to be furnished to the returning officer,
- make a copy of each return available on a website maintained by the returning officer.
- (5) The ~~chief executive~~ returning officer is only required to keep a return under this clause for a period of 4 years following the election to which the return relates.

### 32—Restrictions on publication

- (1) A person must not publish—
- (a) information derived from a return under Division 2 unless the information constitutes a fair and accurate summary of the information contained in the return and is published in the public interest; or
  - (b) comment on the facts set forth in a return under Division 2 unless the comment is fair and published in the public interest and without malice.
- (2) If information or comment is published by a person in contravention of subclause (1), the person, and any person who authorised the publication of the information or comment, is guilty of an offence.

Maximum penalty: \$10 000.

### Division 4—Related matters

#### 33—Requirement to keep proper records

- (1) A person must take reasonable steps to keep in his or her possession all records relevant to completing a return under this Part.

Maximum penalty: \$5 000.

- (2) A person must keep a record under subclause (1) for at least 4 years after the date on which the relevant return is required to be furnished to the ~~chief executive officer of the Council~~ returning officer under this Part.

Maximum penalty: \$5 000.

### 34—Related matters

- (1) For the purposes of this Part, the amount or value of a gift consisting of or including a disposition of property other than money is, if the regulations so provide, to be determined in accordance with principles set out or referred to in the regulations.
- (2) For the purposes of this Part—
- (a) a body corporate and any other body corporate that is related to the first-mentioned body corporate is to be taken to be the same person; and
  - (b) the question whether a body corporate is related to another body corporate is to be determined in the same manner as under the *Corporations Law*.
- (3) For the purposes of this Part, an act performed by a person or committee appointed or formed to assist the campaign of a candidate in an election will be taken to be an act performed by the candidate.