



# THE SOUTH AUSTRALIAN GOVERNMENT GAZETTE

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ADELAIDE, THURSDAY, 10 FEBRUARY 2011

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## GOVERNMENT GAZETTE NOTICES

ALL poundkeepers' and private advertisements forwarded for publication in the *South Australian Government Gazette* must be **PAID FOR PRIOR TO INSERTION**; and all notices, from whatever source, should be legibly written on one side of the paper only and sent to **Government Publishing SA** so as to be **received no later than 4 p.m. on the Tuesday preceding the day of publication. Phone 8207 1045 or Fax 8207 1040. E-mail: [governmentgazette@dpc.sa.gov.au](mailto:governmentgazette@dpc.sa.gov.au)**. Send as attachments in Word format and please confirm your transmission with a faxed copy of your document, including the date the notice is to be published and to whom the notice will be charged. The *Government Gazette* is available online at: [www.governmentgazette.sa.gov.au](http://www.governmentgazette.sa.gov.au)

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Department of the Premier and Cabinet  
Adelaide, 10 February 2011

HIS Excellency the Governor in Executive Council has been pleased to appoint the undermentioned to the Legal Practitioners Disciplinary Tribunal, pursuant to the provisions of the Legal Practitioners Act 1981:

Member: (from 10 February 2011 until 9 February 2014)  
Lesley Hastwell  
Pamela Jean McEwin

By command,

PAUL CAICA, for Premier

AGO0067/07CS

Department of the Premier and Cabinet  
Adelaide, 10 February 2011

HIS Excellency the Governor in Executive Council has been pleased to appoint the undermentioned to the Guardianship Board, pursuant to the provisions of the Guardianship and Administration Act 1993:

Section 8 (1) Panel Member: (from 10 February 2011 until 9 February 2014)  
Jennifer Ann Abbey

By command,

PAUL CAICA, for Premier

AGO0217/04CS

Department of the Premier and Cabinet  
Adelaide, 10 February 2011

HIS Excellency the Governor in Executive Council has been pleased to appoint the undermentioned to the History Trust of South Australia, pursuant to the provisions of the History Trust of South Australia Act 1981:

Member: (from 10 February 2011 until 9 February 2014)  
Bryan John Moulds

By command,

PAUL CAICA, for Premier

ASACAB006/02

Department of the Premier and Cabinet  
Adelaide, 10 February 2011

HIS Excellency the Governor in Executive Council has been pleased to appoint the undermentioned to the Correctional Services Advisory Council, pursuant to the provisions of the Correctional Services Act 1982:

Member: (from 16 February 2011 until 15 February 2016)  
Ian Laurie Shephard

Presiding Member: (from 16 February 2011 until 15 February 2016)  
Ian Laurie Shephard

By command,

PAUL CAICA, for Premier

MCS11/001 SC

Department of the Premier and Cabinet  
Adelaide, 10 February 2011

HIS Excellency the Governor in Executive Council has been pleased to appoint Antonio Piccolo, MP, as Parliamentary Secretary to the Premier, pursuant to section 67A of the Constitution Act 1934.

By command,

PAUL CAICA, for Premier

DPC11/006CS

## CONTROLLED SUBSTANCES ACT 1984

### *Erratum*

IN *Government Gazette* dated 3 February 2011 on page 328, notice *should* read as follows:

#### *Prohibition of Administering Prescription Drugs*

TAKE notice that on 25 January 2011, I, Simone Cormack, acting in the position Executive Director of Drug and Alcohol Services South Australia, having formed the opinion that Jacqueline Kay Roennfeldt has administered prescription drugs in an irresponsible manner, exercised the authority delegated by the Minister for Mental Health and Substance Abuse under section 62A of the Controlled Substances Act 1984 and made the following order under section 57 (1) of the Act:

Jacqueline Kay Roennfeldt, date of birth 7 January 1967,

is prohibited from supplying, administering, using or having possession of the following substances or class of substances:

- a drug of dependence as declared by Regulation 7A of the Controlled Substances (Poisons) Regulations 1996, pursuant to section 12 (3) of the Controlled Substances Act 1984, namely any poison listed in Schedule 8 of the Standard for the Uniform Scheduling of Medicines and Poisons as published and amended by the Secretary to the Department of Health and Ageing under the Commonwealth's Therapeutic Goods Act 1989.
- Prescription drugs that contain codeine or dextropropoxyphene;
- Prescription drugs that contain tramadol; and
- benzodiazepines.

This order does not apply to any of the above drugs or class of drugs lawfully supplied or prescribed for the treatment of Jacqueline Kay Roennfeldt by a dentist, medical practitioner or nurse practitioner or by a veterinary surgeon for administration to an animal in her care.

This order took effect when it was served on Jacqueline Kay Roennfeldt on 28 January 2011.

S. CORMACK, Delegate for the Minister,  
Mental Health and Substance Abuse

**FAIR WORK ACT 1994**

**INDUSTRIAL PROCEEDINGS RULES 2010**

We, WILLIAM DAVID JENNINGS, Senior Judge of the Industrial Relations Court of South Australia, and PETER DENNIS HANNON, President of the Industrial Relations Commission of South Australia, by virtue of the provisions of section 178 of the *Fair Work Act 1994* do hereby:

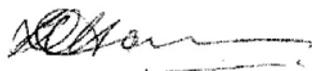
1. Make new rules titled *Industrial Proceedings Rules 2010* as attached hereto; and
2. Rescind the *Industrial Proceedings Rules 1995* as amended,

on and from 1 May 2011.

Given under our hands and the seals of the Industrial Relations Court and Commission of South Australia this twenty-second day of December 2010.



W.D. Jennings  
Senior Judge



P.D. Hannon  
President



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**CHAPTER 1 – PRELIMINARY****Part 1 – Preliminary****1. Citation**

These rules may be cited as the *Industrial Proceedings Rules 2010*.

**2. Commencement**

These rules commence on 1 May 2011.

**Part 2 – Purpose and Application of Rules****3. Purpose**

The purpose of these rules is to provide for the just, efficient and expeditious disposition of the business of the Industrial Relations Court of South Australia and the Industrial Relations Commission of South Australia at minimum expense.

**4. Application of rules**

- (1) These rules do not affect rules of procedure laid down by regulation unless they are expressed to apply to the exclusion of inconsistent statutory rules.
- (2) These rules do not derogate from any inherent jurisdiction of the Court or the Commission.
- (3) In any circumstances not provided for or fully provided for by these rules, the general principles of the practice of the Supreme Court and the rules of that Court in its civil jurisdiction, may be adopted and applied at the discretion of the Tribunal with such modifications as the circumstances may require.
- (4) The Tribunal will issue Guidelines for the assistance of the parties in relation to specific proceedings. It is expected that the Guidelines will provide sufficient information to the parties and their representatives in relation to the conduct of proceedings in most cases without the need to resort to the rules. To the extent that there is any inconsistency between the rules and the Guidelines, the rules will prevail.

**Part 3 – Interpretation****5. Interpretation**

Words defined in the Act shall also have the same meanings when used in these rules and, unless the contrary intention appears -

**the Act** means the "*Fair Work Act 1994*" as amended from time to time;

**agent** includes a lawyer or other duly appointed representative of a party;

**applicant** - a party that seeks relief in a proceeding is the applicant;

**approved form** - a document is in an approved form if it is in the appropriate form for a document of the relevant kind approved under Rule 25;

**business day** means a day on which the Registry is ordinarily open for business;

**the Commission** means the Industrial Relations Commission of South Australia however constituted and includes the Full Commission;

**the Court** means the Industrial Relations Court of South Australia however constituted and includes the Full Court;

**commencement date** means the date on which these rules came into operation;

**company** means any body corporate (including a corporation sole);

**computer data** means an ordered series of electromagnetic particles from which intelligible information can be produced or reproduced by a computer;

**contempt** includes -

- (a) a contempt in the face of the Tribunal;
- (b) disruption of the proceedings of the Tribunal;
- (c) obstruction or perversion of the course of justice -
  - (i) by intimidation of or interference with a witness; or
  - (ii) by making statements or publishing material that could prejudice the fair and impartial determination of any proceeding before the Tribunal; or
  - (iii) in any other way;
- (d) obstruction or interference with the proper performance of official duties by an officer of the court;
- (e) deliberate non-compliance with a judgment or order of the Tribunal;
- (f) an attempt to do anything that would, assuming the attempt had been carried successfully to conclusion, have constituted a contempt under any of the above paragraphs;

**document** - anything that records information is a document;

**electronic communication** means the transmission or reception of computer data by means of the Internet;

**electronic form** - a document is in electronic form if it exists in the form of computer data capable of electronic transmission from which a document can be produced in intelligible form;

**e-mail address** means an address from which an electronic communication may be transmitted, or at which an electronic communication may be received, by means of the Internet;

**file** - a document is filed in the Tribunal -

- (a) if the document has been lodged with the Registrar or transmitted in electronic form to the Registrar for filing in the Tribunal; and
- (b) the Registrar has accepted the document for filing and, in the case of a document transmitted in electronic form, issued a receipt for the document.

**hard copy** of a document is the written or printed form of a document that exists in electronic form;

**inspection** in relation to a document that is not in writing or otherwise capable of being inspected by visual means alone, includes the right to require the party making disclosure to supply a copy of the document in a form which is in writing or otherwise capable of being inspected by visual means alone;

**interlocutory proceeding** means a proceeding that is preliminary or ancillary to a proceeding currently before the Tribunal or to an intended proceeding in the Tribunal, but does not include any proceeding that results in the final disposal of an issue or issues between the relevant parties;

**lawyer** means a legal practitioner entitled to practice as a barrister or solicitor in South Australia;

**member** means the Senior Judge, the President, a Judge, a Deputy President, a Commissioner, a Magistrate, or a Registrar, as the case may be;

**officer** of the Tribunal includes -

- (a) a person whom the Tribunal has appointed to carry out a particular function;
- (b) a person who serves or executes process or an order of the Tribunal;

**old rules** mean the *Industrial Proceedings Rules 1995*;

**order** includes a direction or determination;

**originating process** means a document that initiates a proceeding in the Tribunal;

**the President** means the President of the Commission and includes a Deputy President appointed to act as President;

**physical address** of a person means -

- (a) an address at which the person resides or carries on business; or
- (b) if the person is a party to a proceeding an address recorded in the Tribunal's records as a physical address for service;

**possession** - a person is taken to be in possession of a document or object if -

- (a) the document or object is in the person's custody or control; or
- (b) it lies within the person's power to obtain immediate possession of the document or object or to control its disposition (whether or not the power is one that would be recognised at law or in equity);

**postal address** of a person means -

- (a) the person's last known postal address; or
- (b) if the person is a party an address recorded in the Tribunal's records as a postal address for service;

(see rule 31)

**presidential member** means the President or a Deputy President of the Commission;

**proceeding** includes any cause, claim, matter, application, conference, mediation, hearing, trial, reference, case stated, appeal or other step before the Tribunal or the Registrar pursuant to the Act or within any jurisdiction invested in the Tribunal or a member of the Tribunal by any other statute, whether in chambers or open court;

**procedural irregularity** includes -

- (a) failure to comply with a procedural obligation (whether arising under these rules, a practice direction, or an order of the Tribunal);
- (b) unnecessary delay;
- (c) prolixity in the statement of a party's case;
- (d) the unnecessary, vexatious or otherwise improper commencement of, or an unnecessary, vexatious or otherwise improper step in, a proceeding;
- (e) unreadiness to proceed with the hearing of a proceeding, or the taking of any other step in a proceeding, at the time fixed by or under these rules;

**the Registrar** means the Industrial Registrar appointed pursuant to the Act and includes a Deputy Industrial Registrar;

**the Regulations** mean the *Industrial and Employee Relations (General) Regulations 1994*;

**registered agent** means a person who is named on the list of registered agents maintained under section 152 of the Act;

**registry** means the Office of the Registrar wherever situated;

**respondent** - a respondent to a proceeding is a party against whose interest the proceeding lies or who is entitled to be heard in opposition to an applicant's claim;

**tele-conference** means a hearing at which the Tribunal and the party or the party's representative communicate by telephone, video-link or other electronic means;

**the Senior Judge** means the Senior Judge of the Court;

**transitional proceeding** means a proceeding commenced but not determined before the commencement date;

**Tribunal** includes the Court, the Commission, the Senior Judge, the President, a Judge, a Deputy President, a Commissioner, a Magistrate, or the Registrar when exercising or discharging any jurisdiction, power or duty conferred upon it or a member respectively by any Act, or an award or agreement;

**unincorporated association** includes any form of unincorporated association except a partnership;

**writing** - a document in electronic form from which a written document can be produced is to be regarded as a document in writing;

**written instrument** includes a statute, regulation, proclamation or other statutory instrument;

The *Acts Interpretation Act 1915* is to be applied to the construction of these rules in the same manner as if they had been enacted by Parliament.

## 6. Calculation of periods

- (1) A period within which something is required or permitted to be done under these rules or an order runs from the end of the day from which the calculation is made.

### Example -

Suppose that at 10 a.m. on 1 March, the Tribunal orders a party to file a document within 14 days and the party files the document at 3 p.m. on 15 March. In this case, the party has complied with the order because time does not begin to run against that party until midnight on 1 March.

- (2) If a period of time within which something is required or permitted to be done under these rules or an order is fixed at seven days or less, the reference is to a period made up of the stated number of days including any intervening non-business days.

*Example –*

Suppose that an order is made on Wednesday 1 March for the service of a document within seven days. The seven day period will expire by the end of the following Wednesday 8 March.

- (3) When a period within which something is required or permitted to be done under these rules or an order ends on a day on which the Registry is closed, the period is extended so that it ends on the next day on which the Registry is open for business.
- (4) A reference to a month in these rules or an order is a reference to a calendar month.

**Part 4 - Repeal and transitional provisions**

**7. Repeal**

The old rules are repealed.

**8. Transitional provision**

- (1) The general principle is that the old rules continue to apply to -
- (a) primary proceedings commenced before the commencement date; and
  - (b) appellate proceedings commenced before the commencement date.
- (2) However, the general principle may be displaced by direction of the Tribunal to the extent that the Tribunal may think fit.
- (3) The Tribunal may give directions to resolve uncertainty about which rule applies to a transitional proceeding or a particular step in a transitional proceeding.

**CHAPTER 2 - TRIBUNAL PROCEDURES AND INCIDENTAL POWERS**

**Part 1 – Tribunal Procedure**

**9. Power of the Tribunal to control procedure**

- (1) The Tribunal may, on its own initiative, or on application by a party, give directions about the procedure to be followed in a particular proceeding.
- (2) A direction may be given under this rule -
- (a) to resolve uncertainty about the correct procedure to be adopted; or
  - (b) to achieve procedural fairness in the circumstances of a particular case; or
  - (c) to expedite the hearing or determination of a particular case or to avoid unnecessary delay or expense.
- (3) A direction may be given under this rule irrespective of whether it involves some departure from these rules or the established procedures of the Tribunal.
- (4) A direction may be given under this rule superseding an earlier direction, but a step taken in a proceeding in accordance with a direction that has been superseded is to be regarded as validly taken.

**10. Practice Directions and Guidelines**

- (1) The Tribunal may make any **practice direction** contemplated by these rules or necessary for the regulation of proceedings in the Tribunal.
- (2) A practice direction is distinguished from other directions given by the Tribunal in that its operation is not confined to particular proceedings before the Tribunal but applies in relation to proceedings generally, or to a particular class of proceedings, according to its terms.
- (3) The Tribunal may issue **Guidelines** with respect to particular classes of proceedings in order to assist parties in the preparation and conduct of proceedings.
- (4) Practice directions and Guidelines are to be made by the Senior Judge or nominee in relation to the Court and by the President or nominee in relation to the Commission.
- (5) A practice direction or Guideline must be published in such manner as is directed by the Senior Judge or the President as the case may be.

**Part 2 - Enforcement of procedural obligations****11. Power to enforce compliance with procedural obligations**

- (1) A procedural irregularity does not make a proceeding void.
- (2) If a party commits a procedural irregularity in bringing or in the conduct of a proceeding the Tribunal may, on its own initiative or on application by a party -
  - (a) dismiss the proceeding; or
  - (b) set aside a particular step in the proceeding.
- (3) An application for an order dismissing a proceeding or setting aside a particular step in a proceeding under this rule must be made within 28 days after the date when the procedural irregularity should have become apparent to the applicant party.

**12. Power to deal with procedural irregularities**

Subject to the limitations set out in the Act on the powers of the Court and the Commission to award costs, if a party commits a procedural irregularity, the Tribunal may -

- (a) limit the party's right or potential right to costs; or
- (b) order the party to pay costs resulting from the irregularity.

**Part 3 – Conduct of the Tribunal's business****13. The Registrar**

- (1) The Registrar is the principal administrative officer of the Court and of the Commission.
- (2) In addition to functions specifically vested in the Registrar by the Act, the Registrar or a Deputy Registrar may:
  - (a) Exercise the jurisdiction of the Tribunal in relation to any adjudication upon costs; and
  - (b) If so directed, publish and deliver a decision on behalf of a member or the Full Court or the Full Commission.

**14. The seal**

- (1) The seals of the Court and of the Commission shall be in such form as shall from time to time be approved by the Senior Judge or the President as the case may be and shall be kept in the Registry under the control of the Registrar.
- (2) The appropriate seal shall be affixed by the Registrar or an officer of the Tribunal duly authorised by the Registrar to all summonses, orders of the Tribunal and such other documents as the Senior Judge or the President may direct.

**15. The Registry**

- (1) There is to be a Registry at which all documents shall be lodged either physically or by other means as permitted by these rules and from which all documents to be issued by the Tribunal shall be sent.
- (2) The Registry shall be situated at such location as shall from time to time be approved by the Senior Judge and the President.
- (3) It shall be open to the public between such hours as the Senior Judge and the President may direct.

**16. Registrar may seek directions from the Senior Judge or the President**

- (1) The Registrar may refer to the Senior Judge with respect to the Court, or the President with respect to the Commission, any question arising in the course of -
  - (a) the exercise of the functions of the Registrar; and
  - (b) the carrying out of administrative functions by any of the Tribunal's administrative officers.
- (2) The Senior Judge or the President may -
  - (a) give directions he or she considers appropriate; or
  - (b) assume control of the matter.

**Part 4 – Representation****17. General principles**

- (1) A person wishing to appear before the Tribunal by a registered agent or a person who provides representation gratuitously must appoint the registered agent or representative in writing. The written appointment must indicate the terms of representation (including all terms as to remuneration) agreed between the parties. Any such agreement is confidential as between the registered agent and the person represented and need only be disclosed upon the order of a member of the Tribunal.
- (2) A party appearing before the Tribunal by a representative who is not a lawyer is bound by the actions of that representative in the same manner and to the same extent as if the representative was a lawyer.
- (3) A party who appears personally in a proceeding may, with the Tribunal's permission, be assisted at a hearing in the presentation of his or her case by a person approved by the Tribunal.
- (4) Documents may only be filed in a proceeding by a party personally or an agent recorded in the Tribunal's records as the agent acting for the party.

**18. Agent acting for party**

- (1) An agent is to be recorded in the Tribunal's records as the agent acting for a party if -
  - (a) the agent's name appears on the first document to be filed in the Tribunal on behalf of the party as the name of the party's agent; or
  - (b) the agent gives notice to the Tribunal, in an **approved form**, that the agent is acting for the party.
- (2) The Tribunal will alter its records so that a particular agent no longer appears as the agent for a party if -
  - (a) the party files in the Tribunal a notice, in an **approved form**, to the effect that the party is no longer represented by an agent; or
  - (b) an agent files a notice, in an **approved form**, to the effect that the agent is to be recorded as the agent acting for the party in place of the agent previously recorded as the agent acting for the party; or
  - (c) the Tribunal orders on its own initiative, or on the application of a party or an agent, that the Tribunal's records be altered so that the agent no longer appears as the agent acting for the party.
- (3) If the Tribunal makes an order under subrule (2)(c) it may make ancillary orders -
  - (a) requiring that notice be given of the order; and
  - (b) providing that the order is not to take effect until notice has been given as required in it.

**19. Agent's presumptive authority**

An agent who appears in the Tribunal's records as the agent for a party is taken to have authority to represent the party as the party's agent, and to accept, on behalf of the party, service of documents related to the proceeding unless the contrary is established.

**20. Representation of a company**

- (1) The Tribunal may, on application on behalf of a company, authorise representation of that company by a director or an officer of the company.
- (2) The Tribunal must be satisfied that the person who is to represent the company has power to bind it in relation to the conduct of the proceeding.
- (3) If a company lodges an originating process or other document for filing and it does not appear from that document that an agent is acting for the company, the Registrar will accept it provisionally subject to the grant of an authorisation under subrule (1).

**CHAPTER 3 - PROCEEDINGS BEFORE THE TRIBUNAL****21. Assignment and place of hearing of proceedings**

- (1) It is the prerogative of the Senior Judge or the President to assign or re-assign any proceeding to a member of the Court or Commission as the case may be, either for interlocutory management or ultimate determination.
- (2) The Tribunal may fix any appropriate place within or outside the State as the place of hearing.

- (3) The place of hearing may change during the progress of the hearing.
- (4) Subject to any direction by the Tribunal under subrule (2), the place of hearing of a proceeding will be in Adelaide.
- (5) A party may at any time file a written request with the Registrar that a proceeding be heard at a place other than Adelaide. The member to whom the proceeding has been assigned will determine such request after hearing each party affected.
- (6) Proceedings may be conducted by **tele-conference** at the discretion of the Member concerned.

## 22. Originating Process

- (1) A proceeding is commenced in the Tribunal by the filing of an **originating process** in the **approved form**.
- (2) Subrule (1) does not apply:
  - (a) if the Tribunal or these rules requires otherwise; or
  - (b) to a proceeding started on the initiative of the Tribunal; or
  - (c) to a proceeding arising out of notification to the Commission of an industrial dispute under rule 92; or
  - (d) to a proceeding arising out of an industrial referral agreement under the *Commercial Arbitration and Industrial Referral Agreements Act 1986*;
- (3) Subject to the Act, an application for any award order or direction of the Tribunal may be made orally or on such other terms as the Tribunal deems proper and expedient, notwithstanding the provisions of these rules.

## 23. Time for service of originating process

- (1) Except where otherwise provided in these rules, an originating process must be served by the applicant on the respondent within fourteen days after it is filed in the Tribunal unless otherwise directed.
- (2) The Tribunal may, from time to time, extend the period for serving the originating process, or make an order for alternative or substituted service.
- (3) The Tribunal's discretion to extend the time for serving the originating process may be exercised -
  - (a) even though the time allowed for service by or under this rule has expired; and
  - (b) even though the time for commencing proceedings against the respondent has expired subject to the provisions of section 167 of the Act.
- (4) This subrule does not apply to:
  - (a) applications for approval of an enterprise agreement under s 79 of the Act; or
  - (b) applications for registration as a registered agent under s 52 of the Act.

## 24. Answer to originating process

- (1) If the Tribunal considers it appropriate to help effectively dispose of an application, the Tribunal may direct a party to file and serve an answer to an application within a specified time.

- (2) Such answer must be in the **approved form** and –
  - (a) admit or deny, either with or without qualification, each statement of fact made in the application; and
  - (b) state whether the relief claimed is agreed to or opposed.
- (3) An answer may contain a counter claim in response to the matters raised in the application.
- (4) If the answer contains a counter claim, the counter claim must be set out in enough detail to clearly specify the nature of the relief sought.
- (5) If the party fails to file and serve an answer within the time allowed under subrule (1), the Tribunal may impose terms on the party about the party's participation in the proceedings.

#### **CHAPTER 4 - DOCUMENTS AND SERVICE**

##### **Part 1 – Documents**

##### **25. Approved forms**

These Rules refer to Approved Forms for use in proceedings before the Tribunal. Approved Forms must be approved by the Senior Judge or the President and are published on the Forms page of the Tribunal's website [www.industrialcourt.sa.gov.au](http://www.industrialcourt.sa.gov.au).

##### **26. Form of documents to be filed**

- (1) A document to be filed in the Tribunal must be in an **approved form** and lodged at the Registry.
- (2) The Tribunal may, in a particular proceeding, give directions -
  - (a) about the form in which documents are to be filed in the Tribunal;
  - (b) imposing additional requirements about the filing or form of documents.
- (3) Documents may be filed physically or by other means including electronically in accordance with practice directions made in this regard by the Tribunal.

##### **27. Issue of sealed copy**

- (1) An officer of the Tribunal must issue a sealed copy of any document that has been filed in the Tribunal that is required for service on another party to the proceeding.
- (2) A document in electronic form is taken to bear the Tribunal's seal if, when called up in readable form, a computer-generated image of the Tribunal's seal appears on the document.
- (3) If the document is required for service on different parties, the officer of the Tribunal must, at the request of a party who is to serve the document, issue different versions of the same document with the variations appropriate to the circumstances in which service is to be effected.

##### **28. Issue of certified copy**

An officer of the Tribunal must, at the request of a party, issue a certified copy of a document filed in the Tribunal.

**29. Power to reject documents submitted for filing**

- (1) A document is an abuse of the process of the Tribunal if it contains matter that is scandalous, frivolous or vexatious.
- (2) If it appears to the Registrar that a document submitted for filing is an abuse of the process of the Tribunal, the Registrar must refer the matter to a judicial member of the Court or a presidential member of the Commission as the case may be.
- (3) If the judicial or presidential member so directs, the Registrar will reject the document.
- (4) If it appears to the Tribunal that a document that is an abuse of the process of the Tribunal has been filed, a judicial or presidential member may direct that it be struck from the file. Such a direction may be given either on the initiative of the Tribunal or on application by a party.

**30. Tribunal's power to amend**

- (1) The Tribunal may at any stage of a proceeding -
  - (a) order the amendment of any document; or
  - (b) itself amend a document.
- (2) The Tribunal may make an amendment, or order for amendment, on its own initiative or on application by a party.
- (3) An amendment, or an order for amendment, may be made on conditions the Tribunal considers appropriate.

**Part 2 – Service****31. Address for service**

- (1) The **address for service** of a party is an address recorded (or to be recorded) in the Tribunal's records as an address at which documents may be served on the party.
- (2) A party must submit a physical address as an address for service.
- (3) A **physical address** for service is an address of premises at which service may be effected on the party -
  - (a) by leaving the document for the party; or
  - (b) if there is no separate postal address for service - by sending the document by prepaid post in an envelope addressed to the party at that address.
- (4) A party may submit, in addition to a physical address, one or more of the following as an address for service -
  - (a) a postal address at which service may be effected on the party by sending the document by prepaid post in an envelope addressed to the party at that address (a **postal address**);
  - (b) a box number and a branch of the Australian Document Exchange at which service may be effected on the party by delivery of the document to the box in an envelope addressed to the party (a **DX address**);
  - (c) a fax number at which the party is prepared to accept service of documents transmitted by fax (a **fax address**);

- (d) an address at which the party is prepared to accept service of documents by the transmission of documents, in electronic form, to the relevant address (an **e-mail address**).

**32. Obligation to give address for service**

- (1) A document filed in the Tribunal by or on behalf of the party must be endorsed with the party's address for service.
- (2) The address for service shown on the first document filed in the Tribunal by a party is to be recorded as the party's address for service.
- (3) If a respondent does not file in the Tribunal an answer or other document showing the respondent's address for service within 14 days after service of any originating process on the respondent, the respondent must, within that period, file in the Tribunal a notification (in an **approved form**) of the respondent's address for service.
- (4) A party may change the party's address for service by giving the Registrar notice, in an **approved form**, of the change.
- (5) The Tribunal may strike out an address for service if it appears that documents served at that address are not being received by the party.
- (6) If service is effected by means of an address for service, the non-receipt of a document by the party to be served does not invalidate service.
- (7) However, if a document sent by post is returned unclaimed or the party serving the document has other evidence of non-receipt, the party must bring the relevant facts to the attention of the Tribunal and the Tribunal may direct that a further attempt be made to bring the document to the attention of the party.

**33. Service of other documents**

- (1) A party that files a document in the Tribunal after the proceeding has been commenced must, as soon as practicable after the document is filed, serve a copy of it on all other parties for whom a current address for service is on file in the Tribunal.
- (2) However, subrule (1) does not apply to -
  - (a) a document relating to an application that may be made without notice to other parties; or
  - (b) a request for the issue of a summons to attend or to produce documents or things; or
  - (c) a document excluded from the application of this rule by practice direction or by specific direction of the Tribunal.

**34. Companies**

A document is to be served on a company -

- (a) as authorised by any relevant statutory provisions; or
- (b) by serving the document on a director, the secretary or the public officer of the company.

**35. Service on partnership or unincorporated association**

- (1) If a proceeding is commenced against the members of an existing partnership in the partnership name, a document is taken to have been served on all members of the partnership if served on -

- (a) any member of the partnership; or
  - (b) a person who apparently has the management or control of the partnership business.
- (2) If, however, the partnership has been dissolved, all members against whom the party initiating the proceeding desires to pursue the relevant claim must be individually served.
- (3) If a proceeding is commenced against an unincorporated association in the name of the association, a document is taken to have been served on the association if served on -
- (a) any member of the committee of management of the association; or
  - (b) any person who holds property on trust for the purposes of the association; or
  - (c) a person who apparently has the management or control of the business of the association.

**36. How personal service is effected**

- (1) Personal service of a document is effected if -
- (a) the document is given to, and accepted by, the person to be served; or
  - (b) the person to be served is offered the document and, if he or she appears unwilling to accept it, is informed orally of the nature of the document; or
  - (c) an **agent** accepts service of the document on behalf of the person to be served (whether the agent is served personally with the document or not) and issues a written acknowledgement to that effect; or
  - (d) the document is served in accordance with an agreement between the parties as to the manner of service.
- (2) Personal service of a document will be presumed if -
- (a) an answering document is filed in the Tribunal or served on the party required to serve the document; or
  - (b) it is established in some other way that the document and its contents have come to the attention of the person to be served.

**37. Non-personal service**

- (1) If personal service of a document on a person is not required, the document may nevertheless be served personally or may be served as provided in this rule.
- (2) The document may be served on the person (irrespective of whether the person is a party with an address for service) -
- (a) by leaving a copy of the document for the person at the person's physical address for service with an adult person who normally resides, works or is present at that address; or
  - (b) by sending a copy of the document, by prepaid post, in an envelope addressed to the party, at the party's postal address for service; or
  - (c) in accordance with a method of service agreed by the person on whom service is to be effected; or

- (d) in any other way the Tribunal may direct.
- (3) If the person to be served is a party with an address for service, the document may be served on the party -
- (a) by transmitting the document in electronic form to the party at the party's e-mail address for service; or
  - (b) by delivering a copy of the document to the Australian Document Exchange, in an envelope addressed to the party at the party's DX address; or
  - (c) by electronic transmission of a copy of the document to the party's fax address.
- (4) If -
- (a) a document is served by fax and the document received at the fax address is not clear and legible; or
  - (b) a document is served by transmission to an e-mail address and the document is not received in a form that is complete and intelligible,

the party required to serve the document must, at the request of the person to be served, comply with a reasonable request to retransmit the document or to give the person a copy of the document personally or by post.

**38. Power to allow presumptive service**

- (1) The Tribunal may, on application by a party, make an order for presumptive service of a document.
- (2) An order for presumptive service provides that, if the conditions of the order are complied with, service of the document is to be presumed.

*Examples –*

- 1. An order for presumptive service might provide for service on a person who might reasonably be expected to bring the document to the attention of the party.
  - 2. An order for presumptive service might provide for the publication of notice of the document in a particular newspaper or newspapers or by other means (including electronically).
- (3) It is not necessary for the applicant to establish that the proposed alternative to personal or non-personal service will bring the document to the notice of the person to be served.

**39. Deemed time of service**

- (1) A document served by post is taken to have been served when the document would, in the ordinary course of post, reach the address to which it was posted.
- (2) A document served by delivery to the Australian Document Exchange is taken to have been served on the next business day after its delivery.
- (3) If the document is transmitted to a fax or e-mail address before 5 p.m. on a business day, it is taken to have been served on that day but otherwise is taken to have been served on the next business day after its transmission.
- (4) A document transmitted by the Registrar for service by transmission to the e-mail address of a party to be served is taken to have been served on that party at the time of the transmission of the document by the Registrar to the party's e-mail address.

- (5) A notice or other communication transmitted by the Registrar to the e-mail address of a registered user, will be taken to have been given at the time recorded by the Registrar as the time of transmission.

**40. Proof of service**

- (1) Service of a document and of any required advertisement or notice of the document may be proved by an affidavit made by the person who served the document setting out -
- (a) the date, time and place of service; and
  - (b) how the person to be served was identified; and
  - (c) how service was effected.
- (2) The Tribunal may, however, require oral evidence of service.

**CHAPTER 5 – PARTIES**

**Part 1 - Businesses, partnerships and unincorporated associations**

**41. Use of business name**

- (1) A person who carries on business in the business name may bring or defend proceedings in that name.
- (2) A person who brings proceedings in a business name must endorse on the originating process the name and address of the person carrying on that business.
- (3) A person who defends proceedings in a business name must, on taking the first step in the action, file in the Tribunal a notice setting out the name and address of the person carrying on business under that name at the time the cause of action is alleged to have arisen.

**42. Use of partnership name**

- (1) A partnership may bring or defend proceedings in the partnership name.
- (2) A partnership that brings proceedings in the partnership name must endorse on the originating process the names and addresses of the partners at the time the cause of action is alleged to have arisen.
- (3) A partnership that defends proceedings in the partnership name must, on taking its first step in the action, file in the Tribunal a notice setting out the names and addresses of the partners at the time the cause of action is alleged to have arisen.
- (4) The Tribunal may, on application by a person claiming not to be liable to the applicant's action as a member of the partnership – if the Tribunal upholds the claim –
- (a) order that the applicant is no longer to be regarded as a party to the proceedings; or
  - (b) order that the question of the applicant's liability in the proceedings be reserved until the hearing of the proceedings,
- and give any directions that may be appropriate in the circumstances.

**43. Unincorporated associations**

- (1) An unincorporated association may bring or defend proceedings in the name of the association.
- (2) An unincorporated association that brings an action in the name of the association must file in the Tribunal with the originating process a list of the members of the association at the time the course of action is alleged to have arisen.
- (3) An unincorporated association that defends proceedings in the name of the association must, on taking its first step in the action, file in the Tribunal a list setting out the names and addresses of the persons who were members of the association at the time the cause of action is alleged to have arisen.

**Part 2 – Intervention****44. Intervention by Minister**

If the Minister forms the opinion that he or she should intervene in a proceeding under section 153(1) of the Act, he or she shall file in the Tribunal and serve on each party as soon as is practicable a notice of intention to intervene in an **approved form**.

**45. Intervention by persons alleging an interest**

- (1) A person who asserts an interest in proceedings may apply for permission to intervene under section 153(2) of the Act by making application in an **approved form**.
- (2) Such application must be supported by an affidavit setting out the grounds upon which an interest is asserted, and the application and affidavit must be served on all parties.
- (3) The Tribunal may grant the application to intervene on such terms as it considers just, and may vary or discharge any permission to intervene at any time.
- (4) An oral application for permission to intervene may be made at any time during the proceedings subject to the right of any party asserting disadvantage as a consequence of the application having the opportunity to consider their position and be heard by the Tribunal.
- (5) The Tribunal may continue to hear the matter whilst it is considering its response to the application to intervene.

**CHAPTER 6 - CASE MANAGEMENT****Part 1 - Tribunal's powers to manage and control proceedings****46. Tribunal's power to manage proceedings**

- (1) The Tribunal has the power to manage litigation to the extent necessary to ensure that it is conducted -
  - (a) fairly; and
  - (b) as expeditiously and economically as is consistent with the proper administration of justice.
- (2) The Tribunal may, at any time, on its own initiative or on application of a party, review the progress of a proceeding in the Tribunal and -

- (a) exercise its power under subrule (1) by giving directions appropriate to the circumstances of the case; and
  - (b) make any other order that may be appropriate in the circumstances (including orders imposing penalties for non-compliance with these rules).
- (3) A member hearing a matter in open court may adjourn a proceeding for further consideration in Chambers or, if sitting in Chambers, may adjourn a proceeding to be heard in open court.
- (4) A member may, with the concurrence the Senior Judge or the President as the case may be, and for proper reason, direct that any interlocutory proceeding that is part heard before that member be assigned to another member for determination.

**47. Application for directions**

- (1) A party seeking directions about the conduct of proceedings must apply by an application for directions in an **approved form**.
- (2) The Registrar must, on receipt of an application for directions, list it for hearing by a Tribunal member.
- (3) The party filing the application must serve a copy on all other parties whose interests are affected and give them not less than five clear days written notice of the time and place appointed for the hearing of it.
- (4) The application for directions must specify each order sought. Where necessary, it shall be supported by an affidavit setting out all relevant facts. A copy of such affidavit shall be served with the notice required under subrule (3) of this rule.

**Part 2 – Disclosure and production of documents**

**48. Obligation to disclose documents**

- (1) The Tribunal may, on its own initiative or on application by a party, order a party to a proceeding to disclose the documents that are, or have been, in the party's possession and –
- (a) are directly relevant to any issue fairly arising in the proceeding; or
  - (b) are to be disclosed by order of the Tribunal.
- (2) The disclosure is made by delivering to each other party a list of documents in the **approved form** and by making the documents specified in the list available to any other parties by inspection and copying.
- (3) The disclosure is to be made as follows –
- (a) in the first instance, disclosure is to be made within the time allowed by the Tribunal and is to relate to documents that are in the party's possession or have previously been in the party's possession; and
  - (b) if documents come into the party's possession after the initial disclosure, supplementary disclosure is to be made as soon as practicable after they come into the party's possession.
- (4) If a document is no longer in the party's possession, the list must state how the document left the party's possession and any information the party may have about where the document might be found.
- (5) The following documents need not be disclosed –

- (a) an investigative film made for the purposes of the proceedings;
  - (b) documents that have been filed in the proceedings;
  - (c) communications between the parties' agents or notes of such communications;
  - (d) correspondence between a party and the party's agent, or notes of oral communications between a party and the party's agent
  - (e) opinions of counsel;
  - (f) copies of documents that have been disclosed or are not required to be disclosed.
- (6) If a party required to disclose a document claims that the document is privileged from production, the list must state the nature of the privilege and the grounds on which it is claimed.
- (7) If a party who has served a list of documents later becomes aware that the list is defective or incomplete, the party must serve a supplementary list as soon as practicable.
- (8) A party must produce non-privileged documents disclosed under these rules for inspection.

**49. Determination of objection to production**

- (1) If a party objects to producing a particular document, the Tribunal may order its production to the Tribunal so that the Tribunal can determine the objection.
- (2) The Tribunal has a discretion, on objection to the production of a document, to relieve the objector from the obligation to produce a document if satisfied that the document neither advances nor prejudices the case of any party to the proceeding.

**50. Non-party disclosure**

- (1) If the Tribunal is satisfied, on application by a party to a proceeding, that a person who is not a party (a "third-party") may be in possession of evidentiary material relevant to a question in issue in the proceeding, the Tribunal may order the third-party—
  - (a) to disclose to the Tribunal whether the third-party is or has been in possession of relevant evidentiary material; and
  - (b) if the third-party remains in possession of relevant evidentiary material, to produce it to the Tribunal; or,
  - (c) if the respondent has been but is no longer in possession of relevant evidentiary material, to give the Tribunal any information in the third-party's possession concerning the present whereabouts of the material.
- (2) Subject to any direction by the Tribunal to the contrary, the third party is entitled to reasonable compensation from the applicant for the time and expense involved in complying with the order.
- (3) The compensation is to be fixed by agreement between the applicant and the third-party or, in default of agreement, by the Tribunal.

**Part 3 – Entry and Inspection****51. Entry and Inspection**

- (1) A person is authorised to exercise powers under section 164 of the Act if that person has been issued a written instrument confirming the authority and setting out the nature and extent of the powers able to be exercised.
- (2) The written instrument shall be under the seal of the Tribunal which grants the authority and shall be signed by the Registrar on behalf of the Tribunal.

**Part 4 – Evidence****52. Oral and Affidavit Evidence**

- (1) The evidence of a witness at a hearing will be taken orally upon personal attendance of the witness unless the Tribunal orders that evidence may be taken by other means including by video-link, by telephone or by affidavit.
- (2) At or before the hearing the Tribunal may order that evidence of a particular fact be given in a particular manner including by affidavit or sworn transcript of evidence in other proceedings.
- (3) Any document purporting to be an award, order or determination of the Tribunal or any other court or tribunal and bearing the seal of the Tribunal or the relevant court or tribunal shall be accepted as such unless the Registrar certifies to the contrary.

**Part 5 – Summons to Attend or Produce documents or things****53. Issue of summons**

- (1) On the request of a party the Registrar may, and on the direction of the Tribunal, the Registrar must issue a summons ordering a person the subject of the summons to –
  - (a) attend to give evidence as directed by the summons; or
  - (b) to produce any document or thing as directed by the summons; or
  - (c) to do both those things; or
  - (d) to attend before the Tribunal to participate in a conciliation conference.
- (2) A summons to attend to give evidence or to produce any document or thing must –
  - (a) be in the **approved form**; and
  - (b) state the name or designation by office or position of the person to whom the summons is directed, unless the Tribunal directs otherwise; and
  - (c) be filed.
- (3) A summons requiring only the production of a document or thing must –
  - (a) adequately describe the document or thing;
  - (b) be served at least five days before the earliest date on which the addressee is required to comply with the summons or an earlier or later date fixed by the Tribunal;
  - (c) contain a notice, in the approved form, telling the person to whom the summons is directed that the person has the right to apply to the Tribunal to have the summons set aside on any sufficient grounds, including –

- (i) the document or thing is not relevant to the proceedings; or
  - (ii) the document or thing is privileged; or
  - (iii) oppressiveness, including the possible incurring of substantial expense which may not be reimbursed; or
  - (iv) non-compliance with these rules.
- (4) A summons may only be directed to a single person.

**54. Compliance with summons**

- (1) If a summons requires only the production of a document or thing it may be complied with by delivering the document or thing to the Registrar not less than two clear business days prior to the date for compliance.
- (2) Upon delivery of a document or thing to the Registrar following service of a summons to produce, the Registrar must forthwith notify the parties in order that they or any other interested person have the opportunity to consider taking action to restrict access to the document or thing in accordance with subrule (6).
- (3) If a document or thing is delivered to the Registrar prior to the date of hearing, the parties must, within not less than seven days of delivery, and subject to any contrary ruling by a member, be given unrestricted access to the document or thing subject to the giving of an undertaking that the document or thing will be returned to the Registrar in the same order and state as it was at the time access is taken.
- (4) A party may apply to the Registrar for permission to inspect the document or thing at a time earlier than seven days from delivery to the Registrar.
- (5) A party shall not be permitted to remove the document or thing from the Tribunal without permission and upon such terms as may be imposed.
- (6) If a party, the recipient of the summons or some other relevant and interested person seeks an order restricting access to the document or thing produced under this rule, an application seeking appropriate relief shall be filed within seven days of the filing of the document or thing and shall be referred to a member of the Court or a presidential member of the Commission as the case may be for determination. Pending such determination the parties shall not have access to the document or thing. If no such application is filed within the prescribed time, the parties shall be deemed to consent to all parties having unrestricted access to the document or thing.
- (7) Any application under this rule must be made on an application for directions.

**55. Setting aside summons**

The Tribunal may, by order, set aside part or all of a summons.

**56. Costs and expenses of compliance**

- (1) A person who attends the Tribunal under summons is entitled to –
  - (a) the person's reasonable expenses of travelling to attend; and
  - (b) the allowance payable to a witness in a civil action in the Supreme Court;
  - (c) any other reasonable costs.
- (2) If a party has required the person's attendance by summons that party is responsible for paying the allowance and the expenses to the person.

- (3) The costs and expenses are to be fixed by agreement between the responsible party and the person summonsed, or in default of agreement, by the Tribunal.

**57. Failure to comply with a summons**

- (1) A person who fails to comply with a summons without lawful excuse is in contempt of the Tribunal and may be dealt with accordingly.
- (2) The Tribunal may treat the failure of a party to pay the expenses of a person summonsed by that party as a reasonable and adequate excuse for the purposes of section 176(2) of the Act.

**Part 6 – Discontinuance of proceedings**

**58. Discontinuance of a proceeding or part of it**

- (1) An applicant may discontinue a proceeding by filing a notice of discontinuance in an **approved form**.
- (2) Subject to subrule (3), if the proceeding has been set down for trial, a party may only discontinue that proceeding with the consent of all other parties or with the leave of the Tribunal.
- (3) An applicant claiming relief under section 106 of the Act may file a notice of discontinuance at any time but will be subject to any costs orders the Commission may make under section 110(2) of the Act.

**59. Effect of discontinuance**

Subject to the following exceptions, a party who discontinues a proceeding is not prevented from bringing a further proceeding based on the same or substantially the same claim.

*Exceptions -*

1. If a party to the later proceeding is entitled to costs in relation to the earlier proceeding, the Tribunal may, on the application of that party, stay any proceeding based on the same or substantially the same claim until the costs have been paid.
2. The Tribunal may order that the discontinuance of a proceeding is to have the same effect as a final judgment against the party discontinuing if the discontinuance is for the purpose of giving effect to a final settlement agreed between the parties.
3. A further proceeding may not be brought if a relevant time limit has expired and the Tribunal has not granted an extension of time.

**CHAPTER 7 - THE HEARING**

**Part 1 Tribunal's power to control hearing**

**60. Tribunal's power to dismiss or deal summarily with a proceeding**

- (1) The Tribunal may dismiss a proceeding if -
  - (a) the relevant documents disclose no reasonable cause of action; or
  - (b) the proceeding is frivolous, vexatious or an abuse of the process of the Tribunal.
- (2) The Tribunal may, on application of a party, make a summary order in favour of that party if satisfied that -
  - (a) if the applicant is the applicant in the proceeding - there is no reasonable basis for resisting the applicant's claim; or

- (b) if the applicant is a respondent in the proceeding - there is no reasonable basis for pursuing a proceeding against that applicant.
- (3) The Tribunal may, in its discretion, make a summary order as to a particular issue without disposing of the proceeding as a whole.
- (4) If the Tribunal makes a summary order without disposing of the proceeding as a whole, the Tribunal may give directions about the determination of the remaining issues and, in the absence of any such direction, the proceeding will continue in the normal way as to the remaining issues.
- (5) If, when a proceeding is called on for hearing, the applicant does not attend (or no party attends) the Tribunal may make an order dismissing the proceeding for want of prosecution.
- (6) If, when a proceeding is called on for hearing, the applicant attends, but a respondent does not, the Tribunal may hear and dispose of the proceeding in a summary manner in the absence of that respondent.
- (7) The Tribunal may, on application by a party, make such summary order as it sees fit on the basis of admissions made by another party.
- (8) The Tribunal may make an order under subrule (7) even though the order does not resolve all issues between the parties.

**61. Tribunal's power to stay**

The Tribunal may stay a proceeding if the justice of the case so requires.

**62. The suspense list**

- (1) If, at any stage, all parties to a proceeding do not then seek any orders or assistance from the Tribunal or wish to defer progressing the proceeding for an indefinite period, the Tribunal may, on its own initiative or on the application of a party, direct that the proceeding be placed in the suspense list.
- (2) A proceeding cannot be removed from the suspense list except by order of the Tribunal.
- (3) If a proceeding has been in the suspense list for a period of twelve months the Registrar must, on not less than seven days notice to the parties, list it before a member for consideration as to whether it ought to be dismissed for want of prosecution.
- (4) The member may make such order as to the disposition of the proceeding as is appropriate in the circumstances.

**63. Death or incapacity of a member**

- (1) If a Tribunal member dies or becomes incapacitated before completing a hearing and determination of a proceeding, or, for some reason, it becomes impractical for such member to complete the hearing and determination the Senior Judge or the President as the case may be, may assign another member of the Tribunal to complete the hearing and determination.
- (2) The member so assigned may complete the hearing and determination having regard to the existing transcript and exhibits and such other evidence as the parties may wish to adduce.
- (3) Such member may on his or her own initiative or shall, if requested by party, recall any witness whose evidence is material and in dispute.

- (4) If reasons for decision in final form were prepared before the Tribunal member died or became incapacitated, the member to whom the proceeding is reassigned must publish the reasons and give a decision in accordance with them.

#### **CHAPTER 8 - ORDERS AND DETERMINATIONS**

##### **64. When orders and determinations take effect**

- (1) Subject to this rule, an order that the Tribunal makes following a process of adjudication takes effect when the Tribunal pronounces that order.
- (2) Subject to this rule, an order that is entered without adjudication takes effect when it is entered in the records of the Tribunal.
- (3) The Tribunal may order that an order take effect earlier or later than the time prescribed under subrule (1) or (2).

##### **65. Registrar to settle and record orders and determinations**

- (1) Subject to this rule, an order must be formally entered in the Tribunal's record.
- (2) The Registrar must cause all orders that finally determine an issue arising in a proceeding to be drawn up signed and sealed with the seal of the Tribunal.
- (3) Within seven days of receipt of a sealed order, either party, upon notification to the other of their intention to do so, may apply to the Registrar to be heard on the form of the order if it is contended that the sealed order does not properly reflect the terms of the final determination. Upon receipt of such application the Registrar shall list the matter for submissions as soon as is practicable and allow each party an opportunity to be heard, and if the Registrar sees fit, the terms of the order may be amended accordingly.
- (4) The Registrar may seek directions from the Tribunal as to the proper form of the order.

#### **CHAPTER 9 - COSTS OF PROCEEDINGS**

##### **66. Costs in discretion of Tribunal**

Subject to the provisions of the Act, the regulations or these rules, the costs of and incidental to any proceeding before the Tribunal shall be in the discretion of the Tribunal as to both liability and amount.

##### **67. Principles to be applied**

- (1) The following principles must be applied in determining the amount of a party's costs -
  - (a) regard shall be had to the amount of money involved, the importance of the proceeding and the complexity of the issues in dispute;
  - (b) the costs payable by one party to another with respect to the services of a lawyer must not exceed 95% of the amount that would be allowed in respect of proceedings heard and determined in the Supreme Court;
- (2) The Tribunal may depart from the provisions of subrule (1) if there is good reason to do so.

**68. Fixation of costs and referral for assessment**

In exercising its general discretion as to costs, the Tribunal may -

- (a) award costs by way of a lump sum; or
- (b) direct that costs be adjudicated upon by the Registrar or a Deputy Registrar (the **Adjudicating Officer**) of the Tribunal.

**69. Practice and procedure of Supreme Court applicable**

The Registrar shall conduct an adjudication upon costs in accordance with the practice and procedure for the time being of the Supreme Court, with such modifications as may be necessary in the circumstances.

**70. Certificate of costs**

- (1) At the conclusion of adjudication upon costs, the Adjudicating Officer shall prepare and transmit a certificate (the **certificate of costs**) as to the result of the adjudication to the presiding member who directed the adjudication, the claimant and the respondent.
- (2) The presiding member may, upon receipt of the certificate of costs, on his or her own initiative and without the attendance of the parties, make a formal order for payment of costs in terms of the certificate.

**71. Review of adjudication**

- (1) A party who is dissatisfied with the terms of the certificate of costs may, within 14 days after receipt of a copy of the certificate of costs, apply for a review of the adjudication by the presiding member. Upon such application being made, any order for payment made under rule 70(2) will be suspended pending the outcome of the application for review.
- (2) An application for review must specify, in detail, the applicant's objection to the decisions made on the adjudication.
- (3) On a review, the presiding member may -
  - (a) confirm the certificate of costs and make an order for payment of costs in terms of it; or
  - (b) vary the terms of the certificate of costs in such manner as may be appropriate in the circumstances and make an order for payment of costs in terms of the certificate as varied.

**CHAPTER 10 – APPELLATE PROCEEDINGS AND CASES STATED****72. Notice of appeal to be filed**

- (1) An appeal is commenced by filing a notice of appeal.
- (2) A notice of appeal -
  - (a) must be in an **approved form**; and
  - (b) must identify the decision subject to the appeal; and
  - (c) must state in detail the grounds of the appeal; and
  - (d) must state the orders sought by the appellant on the appeal; and

- (e) if an extension of time for commencing the appeal is necessary - must be endorsed with an application for the extension of time and the grounds on which the extension is sought.
  - (f) if a stay is sought in relation to the decision the subject of the appeal - may be endorsed with an application for a stay of operation (alternatively the application may be made separately by interlocutory application).
- (3) Unless the Tribunal otherwise directs, an appellant may not rely on grounds that are not stated in the notice of appeal.
  - (4) An application for permission to appeal under section 207 of the Act must be made by filing a notice in the **approved form**.
  - (5) If permission to appeal under subrule (4) is granted:
    - (a) the notice of application for permission shall stand as the notice of appeal which shall then be heard and determined under these rules;
    - (b) upon the granting of permission to appeal the appellant may make application for an order that the decision the subject of the appeal be stayed under section 190 or section 209 of the Act.

### **73. Parties to appeal**

- (1) A party to the proceeding in which the decision under appeal was given is a party to the appeal unless the party has no interest in the subject matter of the appeal.
- (2) The Tribunal may order the addition or removal of a person as a party to an appeal.
- (3) A person cannot be added as an appellant without the person's consent.

### **74. Notification to be given of appeal**

The appellant must, as soon as practicable after the filing of a notice of appeal or an application for permission to appeal, serve a copy of the notice of appeal or application on all parties to the appeal or application.

### **75. Notices of cross-appeal and contention**

- (1) If a respondent to an appeal also wants to appeal against the decision subject to the appeal, the respondent may, within 14 days after service of the notice of appeal, file a notice of cross-appeal.
- (2) A notice of cross-appeal must conform with the requirements for a notice of appeal (so far as applicable).
- (3) If a respondent wants to contend that the decision subject to appeal should be upheld for reasons that differ from those given by the member of the Tribunal from whose decision the appeal is brought, the respondent must, within 14 days after service of the notice of appeal, file notice of the respondent's contention stating in detail the grounds on which the respondent asserts the decision should be upheld.

### **76. Amendment of appeal notice**

- (1) In this Rule, an **appeal notice** means -
  - (a) the notice of appeal; or
  - (b) a notice of cross-appeal; or
  - (c) a notice of contention.

- (2) An appeal notice may be amended by filing a supplementary appeal notice.
- (3) However, after the appeal has been listed for hearing, an appeal notice may only be amended by permission of the Tribunal.
- (4) A party who amends an appeal notice must serve copies of the supplementary notice on all other parties.

**77. Appeal Book and Outlines of Argument**

- (1) The parties to the appeal must comply with the practice direction relating to the content of and time for filing and service of appeal books and outlines of argument.
- (2) The Tribunal may, in its discretion, decline to hear an appeal at the time listed if there is non-compliance with the relevant practice direction, and to the extent it is empowered to do so, the Tribunal may award costs of any adjournment against the defaulting party.

**78. Powers of Tribunal incidental to appeal**

- (1) The Tribunal may exercise any of the following powers in relation to an appeal –
  - (a) the Tribunal may extend the time for commencing the appeal or taking any step in the appeal;
  - (b) the Tribunal may permit a party to amend the notice of appeal or cross-appeal, a notice of contention or other document filed in the Tribunal in relation to the appeal;
  - (c) the Tribunal may make, vary or reverse interlocutory orders in relation to the appeal;
  - (d) the Tribunal may direct that notice of appeal be given to a nominated person;
  - (e) the Tribunal may direct a party to prepare and file in the Tribunal a written statement of its case prepared in accordance with the Tribunal's directions and to give copies of the statement of the case to the other parties to the appeal;
  - (f) the Tribunal may grant a stay of the decision the subject of the appeal in accordance with its powers under either section 190 or section 209 of the Act;
  - (g) the Tribunal may dismiss an appeal as incompetent if it is obvious that it cannot succeed.
- (2) In the hearing of an appeal under s 42(2)(a) of the *Magistrates Court Act 1991*, in addition to the powers set out above and those conferred on the Court under s 190 of the Act, the Court:
  - (a) is to have all the powers and duties as to amendment and otherwise as the Court appealed from had;
  - (b) may in its discretion receive further evidence upon any question of fact;
  - (c) may draw inferences of fact;
  - (d) may amend, set aside or discharge any judgment appealed from;
  - (e) may give any judgment, assessment or award or make any order which might have been made by the Court appealed from and make such further or other order as the justice of the case may require;

- (f) may direct that the proceedings be remitted for a new trial or further consideration with or without special direction, provided that where it appears to the Court that a wrong decision or miscarriage of justice affects part only of the matter in controversy, or some, or only one of the parties, the Court may give final judgment as to part thereof, for some or one only of the parties, and direct a new trial as to the other part only or as to the other party or parties;
  - (g) make such order as to the costs of the trial or appeal as it deems fit;
  - (h) may exercise its powers notwithstanding that:
    - (i) any party to the proceedings in the Court below has not appealed;
    - (ii) any ground for allowing or dismissing the appeal or varying the decision is not stated in any notice of appeal, notice of cross- appeal or notice of contention;
    - (iii) that there has been no appeal from some part of a decision;
  - (i) may reverse or vary any interlocutory orders on the appeal.
- (3) The Senior Judge or the President as the case may be may designate a single member of the Full Court or a single presidential member of the Full Commission to have the interlocutory management of an appeal to a Full Court or a Full Commission. Such member may exercise any of the powers of the Tribunal for that purpose.
- (4) The Senior Judge or the President as the case may be will appoint a time and date for the hearing of an appeal upon being satisfied that the matter is ready to proceed.

#### **79. Discontinuance of appeal**

- (1) An appellant may discontinue its appeal by filing a notice of discontinuance in the Tribunal.
- (2) The appellant must, as soon as practicable after filing a notice of discontinuance, serve a copy of the notice on all other parties to the appeal.
- (3) Subject to the provisions of the Act with respect to costs, an appellant discontinuing an appeal may be held liable by the Tribunal to the other parties to the appeal for the costs arising from the appeal.
- (4) The discontinuance of an appeal does not affect a cross-appeal in the same proceeding.

### **CHAPTER 11 - CONTEMPTS OF THE TRIBUNAL**

#### **80. Initiation of proceedings for contempt**

- (1) Proceedings to deal with a contempt of the Tribunal may be initiated by -
  - (a) a member of the Tribunal; or
  - (b) a party to a relevant proceeding; or
  - (c) the Senior Judge or the President on his or her own initiative.
- (2) A member of the Tribunal who alleges that a person (the accused) has committed a contempt of the Tribunal must refer the matter to the Senior Judge or the President as the case may be by written memorandum.

- (3) A party to a proceeding who claims to have been prejudiced by a contempt of the Tribunal committed by another party, a witness or another person in relation to the proceeding (the accused) may apply to the Senior Judge or the President by written memorandum to have the accused charged with contempt.
- (4) A written memorandum pursuant to either subrule (2) or (3) shall set out details of the asserted contempt and the circumstances in which it was said to have been committed by the accused.

#### **81. Hearing of charge of contempt**

- (1) The charge of contempt is to be dealt with by the Tribunal constituted of a judicial or a presidential member designated by the Senior Judge or the President for that purpose.
- (2) The Tribunal may require the Registrar or a party to the proceeding to which the contempt relates to prosecute the charge.
- (3) The Tribunal will deal with a charge of contempt as follows:
  - (a) the Tribunal will hear relevant evidence for and against the charge from the prosecutor and the accused; and
  - (b) the Tribunal may, on its own initiative, call witnesses who may be able to give relevant evidence; and
  - (c) at the conclusion of the evidence, the Tribunal will allow the prosecutor and the accused a reasonable opportunity to address the Tribunal on the question whether the charge has been established; and
  - (d) if, after hearing the evidence and representations from the prosecutor and the accused, the Tribunal is satisfied beyond reasonable doubt that the charge has been established, the Tribunal will find the accused guilty of the contempt; and
  - (e) the Tribunal will, if it finds the accused guilty of the contempt, allow the prosecutor and the accused a reasonable opportunity to make submissions on penalty; and
  - (f) the Tribunal will then determine and impose penalty.
- (4) A witness called by the Tribunal may be cross-examined by the prosecutor and the accused.
- (5) In proceedings founded on a charge of contempt evidence may be received by way of affidavit if the accused does not require attendance of the witness for cross-examination.

### **CHAPTER 12 – PROVISIONS OF SPECIAL APPLICATION TO THE COURT**

#### **Part 1 – Monetary Claims**

#### **82. Monetary Claims - General**

- (1) All monetary claims pursuant to Section 14 of the *Fair Work Act 1994* ("the Act") or the *Fair Work Act 2009 (Cth)* will be commenced by summons with particulars of claim in the **approved form**, and shall be lodged in the Registry.

- (2) Upon filing of the summons, the Registrar shall:
  - (a) in relation to claims pursuant to section 14 of the Act, set the matter down for a conciliation conference as required by Section 155B of the Act before a Member of the Commission; or
  - (b) in relation to monetary claims pursuant to the *Fair Work Act 2009 (Cth)* set the matter down for a directions hearing before an Industrial Magistrate.
- (3) The Registrar will cause the date of issue of the summons and the date and time of the conciliation conference or directions hearing to be entered on the summons which will be regarded as the notice of the date and time of the conference or hearing.
- (4) Unless otherwise directed by the Senior Judge, the Registrar must provide a copy of the summons and particulars of claim to the respondent as identified in the summons by registered mail.
- (5) Each respondent named on the summons, whether or not liability is denied wholly or in part, must within 14 days of being provided with a copy of the summons, file an Answer in the **approved form**, stating concisely the grounds upon and the extent to which, liability is denied or accepted. This Answer is to be lodged in the Registry.
- (6) The Registrar must provide a copy of any Answer lodged in accordance with these rules to the applicant at his or her address for service.
- (7) Unless otherwise ordered, each particular set forth in the summons and the liability of the respondent or respondents to pay the money claimed shall be taken to be admitted unless specifically denied in the answer.
- (8) For the purpose of the issuance of proceedings the named respondent will be the person or persons whom the applicant believes to be responsible at law to be liable to pay the sums sought in the summons, provided that the Court may amend the identity of the respondent to correct any error and make other and ancillary orders consequent thereon.
- (9) Due service of the summons and all other documents shall be deemed to be valid service if served on the named respondents, unless those named parties satisfy the Court of the identity of the person or persons who are properly liable to make payment.
- (10) The certificate provided for by Section 230 shall be in the **approved Form** and shall be issued upon the filing in the Registry of an affidavit proving the default.

**83. Section 14 Claims – Conciliation Process**

- (1) Where the Presiding Member has determined that the conciliation conference under Section 155B will be conducted outside of the metropolitan area of Adelaide, the proceedings will be conducted at a place that is as far as practicable within reasonable proximity of the location where the employment of the applicant was based.
- (2) All parties to the proceedings shall attend the conference pursuant to Section 155B at the date, time and place specified in the summons for the purpose of:
  - (a) exploring the possibility of resolving the matters in issue by conciliation;
  - (b) ensuring that the parties are fully informed of the possible consequences of taking the proceedings further; and
  - (c) if the proceedings are to progress further and the parties are involved in 2 or more sets of proceedings under the Act, exploring the possibility of hearing and determining some or all of the proceedings concurrently.

- (3) If a respondent is a body corporate, or the State of South Australia, or the Commissioner for Public Employment, it shall be represented at the conference by a duly authorised employee or officer who is familiar with the matters in issue and who has the authority to bind the respondent to any agreement.
- (4) The Member presiding at the conference will determine the manner in which the proceedings are to be conducted and in so doing may give directions as to the conduct of the parties and their representatives. The Member may also adjourn the conference to other times and places as the needs of the matter require.
- (5) Nothing said or done at the conference by either party or any other person attending is admissible on the hearing of the trial except by the consent of the parties.
- (6) If the conference resolves the matters in issue between the parties, the member presiding may record the terms of settlement or require the parties to record the terms of settlement. Such agreed terms of settlement will be binding on the parties but will not be an order of the Court unless an Industrial Magistrate, or another member of the Court, records the agreement as an order.
- (7) If the claim is not discontinued or settled and the Member considers that further conciliation would not be appropriate, then the Member will conclude the conference.
- (8) Before, or not more than 3 business days after the conclusion of the conference, the Member must prepare a memorandum to the parties;
  - (a) which will include a preliminary assessment of the merits of the claim (or, if there is more than 1 claim, of each claim) and any defence of the claim (or claims); and
  - (b) recommending to the parties how best to proceed to resolution of the questions in issue between them (or, if in the Member's opinion the application patently lacks merit, recommending that the claim be withdrawn), and forward it to the parties, provided that any memorandum so prepared is subject to subrule (5).
- (9) As soon as practicable after the issue of the memorandum by the Member pursuant to subrule (8), the Member will, in consultation with the relevant Member of the Court, give notice in the **approved form** to the parties of a directions hearing at which the Court may make such orders as are necessary with respect to the hearing including:
  - (a) An order requiring the applicant to provide better particulars concerning the claim or claims.
  - (b) An order that the respondent provide better particulars of the grounds for dispute of the claim or claims.
  - (c) An order requiring the respondent to confirm the basis of any jurisdictional challenge to the claim being heard and determined, a copy of which shall be filed in the Registry.
  - (d) An order that either or both parties provide discovery in accordance with Chapter 6 Part 2.
  - (e) Any other order that the Court thinks fit.
- (10) Nothing in this rule shall prevent the Court making such procedural and interlocutory orders as are reasonable for the effective conduct of proceedings.
- (11) Subject to the holding of a conference in accordance with Section 155B of the Act, nothing in this rule shall derogate from the power of the Senior Judge to direct that the claim be heard by the Court forthwith or at some other time.

- (12) A breach of either the terms of a memorandum to which subrule (6) applies or any other written agreement reached between the parties in consequence of the Section 155B conference will allow the aggrieved party to approach the Court for further and other relief by lodging an Application for Directions.
- (13) Nothing in this rule will prevent the Court from waiving compliance with the Rules or making directions for the processing of a claim in a matter not contemplated in the relevant rule where the circumstances warrant.

## **Part 2 – Compliance Notices**

### **84. Review of Compliance Notices**

- (1) An application under Section 104A(3) of the Act or Section 717 of the *Fair Work Act 2009 (Cth)* for review of a compliance notice issued by an inspector must:
  - (a) be in the **approved form**, and shall be lodged in the Registry; and
  - (b) be filed within 14 days of the receipt of the notice by the applicant
- (2) On filing of an application for review, the Registrar shall set the matter down for a directions hearing before the Court and shall endorse the date and time of the directions hearing on the application.
- (3) Unless otherwise directed by the Senior Judge, the Registrar must provide a copy of the application endorsed with the date and time of the application to the inspector who issued the notice by registered mail.
- (4) At the directions hearing the Court may:
  - (a) give directions with respect to service of the application on other persons who may have an interest in the proceedings;
  - (b) make such orders as are reasonable for the effective conduct of the proceedings.

## **Part 3 – Applications for interpretation and injunctive remedies**

### **85. Application for interpretation**

- (1) An application for the interpretation of an award or an agreement may be made by any party bound or who claims to derive an interest in or claims a benefit from the award or agreement and shall be made in the **approved form**.
- (2) The application shall set out the relevant facts relating to each clause of the award or agreement in relation to which an interpretation is sought and will state the reasons for seeking the interpretation.
- (3) The applicant either in the application or in a separate document will set out the particulars of all other parties who have or who may have an interest in the application.

### **86. Application for Injunctive Remedies and Questions of Law**

- (1) An application for an injunctive remedy or question of law shall be made in the **approved form**.
- (2) The application shall set out the relevant facts and will state the reasons for the application.

- (3) The applicant either in the application or in a separate document will set out the particulars of all other parties who have or who may have an interest in the application.

#### **Part 4 - Occupational Health Safety and Welfare Matters**

##### **87. Review Committees**

- (1) An application to the Industrial Court for determination by a review committee constituted under section 47 of the *Occupational Health Safety and Welfare Act 1986* ("OHSW Act") of a matter arising under sections 30(4), 37(6) or 42(1) of that Act shall be made in the form approved under Schedule 9 of the Occupational Health Safety and Welfare Regulations 1995 ("the OHSW Regulations").
- (2) Within three business days of receipt of an application the Senior Judge shall constitute a review committee in accordance with section 47 of the OHSW Act and shall refer the application to that review committee.
- (3) As soon as possible after it is constituted, the review committee will institute review proceedings in accordance with section 48 of the OHSW Act.

##### **88. Other OHSW Act remedies**

- (1) An appeal to the Industrial Court under section 69(4) or (5) of the OHSW Act shall be made in the form approved under Schedule 9 of the OHSW Regulations.
- (2) Within three business days of receipt of an appeal under subrule (1) the Senior Judge shall refer the matter to a judge.

#### **Part 5 - Outworker remuneration claims**

##### **89. Outworker remuneration claims**

A claim by an outworker for an amount payable by an apparent responsible contractor under section 99G of the Act, and a claim by an apparent responsible contractor against a related employer for recovery of an amount paid to an outworker under section 99H of the Act, shall be made and dealt with in accordance with the rules relating to monetary claims in Chapter 12 Part 1 of these rules with appropriate modifications.

### **CHAPTER 13 – PROVISIONS OF SPECIAL APPLICATION TO THE COMMISSION**

#### **Part 1 – Award Proceedings**

##### **90. Advertising of applications**

If the Commission directs, the substance of any application must be advertised by the applicant not less than five clear days prior to the hearing of the application, in a form approved by the Registrar, in a daily newspaper circulating throughout the State of South Australia.

##### **91. Settlement of Awards**

- (1) The Registrar must settle all minutes of awards (including variations, rescissions and any orders affecting awards) made by any member of the Commission.
- (2) The Registrar must give to all interested parties reasonable notice of the date of the proposed settlement of the minutes of an award, and after hearing submissions from any parties shall proceed to final settlement of the minutes.

- (3) Before final settlement of the award the Registrar may on his or her own initiative refer the proceeding to the member of the Commission who heard and determined the matter and must do so if requested by a party. In such circumstances, in the case of an award made by the Full Commission, the Registrar shall refer the proceeding to a member of the majority. Upon such referral the Full Commission or the member, as the case may be, shall record an advice upon the proper form of the said award and remit the same back to the Registrar.
- (4) The Commission may, on its own initiative, waive the requirement that the Registrar give notice of intention to settle any award made by it under subrule (2).
- (5) The Registrar shall, within seven days after the signature and (as necessary) sealing of any award or determination of the Commission to which section 220(1) relates, publish notice thereof in a newspaper circulating generally throughout the State.

## **Part 2 – Industrial Disputes**

### **92. Notification of Disputes**

- (1) Where a party seeks the assistance of the Commission to resolve an alleged industrial dispute the party shall provide notice to the Commission in the **approved form**.
- (2) A party who orally seeks the assistance of the Commission shall provide the Registrar with the details set out in the approved form and shall confirm the request in writing in the **approved form** within 2 business days.
- (3) Immediately after giving the notice, the party giving notice shall serve a copy on all other parties to the dispute.
- (4) Where a party requests that the Commission mediate pursuant to section 197 the provisions of rule 93 shall apply.

### **93. Mediation**

- (1) This rule applies to a mediation between parties to an industrial dispute conducted by the Commission under section 197 of the Act.
- (2) Mediation under this rule means a private and confidential process conducted by the Commission whereby the member attempts to facilitate an agreed outcome but does not become directly involved by making recommendations or orders as to the subject matter of the dispute.
- (3) Nothing in this rule or rule 105 prevents the Commission from acting on its own initiative to mediate an industrial dispute, or a party from making a verbal application for mediation during the course of other proceedings concerning an industrial dispute.
- (4) Mediation will only be undertaken where the proposed mediation has the support of all relevant parties.
- (5) When the Commission decides to conduct a mediation under this rule, the Commission will advise the parties of its decision and following consultation with the parties, will establish protocols and arrangements for the conduct of the mediation in accordance with the procedure set out in the practice direction.
- (6) Other than by consent of all parties, nothing said or done in the course of a mediation conducted under this rule will be admissible in relation to any subsequent conciliation or determination of the industrial dispute conducted under sections 200, 201 and 202 of the Act.

- (7) The parties to mediation may be represented in accordance with the Act. Any such representative must be familiar with the matters in issue and be accompanied by a party or by someone with appropriate authority to negotiate an agreement to resolve the dispute on behalf of the party.
- (8) The parties involved in the mediation will conduct themselves in a manner conducive to the resolution of the matters at issue.
- (9) Nothing in this rule will prevent the Commission from dealing with the industrial dispute by means other than mediation, including where permitted under the Act, the making of recommendations or orders as to the performance of work whilst a matter is subject to mediation.
- (10) Mediation of an industrial dispute under this rule will be taken to have concluded when the parties have resolved the dispute, agreed to an alternative course of action, or where one of the parties withdraws from the mediation.

### **Part 3 – Unfair Dismissal**

#### **94. Unfair Dismissal proceedings**

- (1) Except for referrals from other authorities which are governed by subrule (22), an application pursuant to Section 106 shall be made in accordance with the **approved form**, and shall be lodged in the Registry.
- (2) Subject to subrule (23), the Commission will fix a time and place for the conference required by Section 155B of the Act and provide the applicant and respondent with a notice confirming the hearing.
- (3) Where the Commission has determined that the conference will be conducted outside of the metropolitan area of Adelaide, the proceedings will be conducted at a place that is as far as practicable within reasonable proximity of the location where the employment of the applicant was based.
- (4) Unless otherwise directed by the President and subject to subrule (23), the Registrar must provide a copy of the Section 106 application to the respondent as identified in the application by any means contemplated by Chapter 4 Part 2 of these rules.
- (5) The respondent named in a Section 106 application must, within 10 days of being provided with a copy of the application, file a response in accordance with the **approved form**. This response is to be lodged in the Registry.
- (6) The Registrar must cause to be provided to the applicant at his or her address for service a copy of any response lodged in accordance with these rules.
- (7) All parties to the proceedings shall attend a conference pursuant to Section 155B to be presided over by a Member of the Commission at a date, time and place specified in the notice of sitting for the purpose of:
  - (a) exploring the possibility of resolving the matters in issue by conciliation;
  - (b) ensuring that the parties are fully informed of the possible consequences of taking the proceedings further; and
  - (c) if the proceedings are to progress further and the parties are involved in 2 or more sets of proceedings under the Act, exploring the possibility of hearing and determining some or all of the proceedings concurrently.
- (8) The respondent shall be represented at the conference by a duly authorised employee or officer who is familiar with the matters in issue and who has the authority to bind the respondent to any agreement.

- (9) The Commission Member presiding at the conference will determine the manner in which the proceedings are to be conducted and in so doing may give directions as to the conduct of the parties and their representatives. The Member may also adjourn the conference to other times and places as the needs of the matter require.
- (10) Subject to subrules (12), (13) and (18) nothing said or done at the conference by either party or any other person attending is admissible on the hearing of the arbitration except by the consent of the parties; save that it will become admissible in relation to any application for costs in respect of the proceedings.
- (11) If the conference resolves some or all of the matters in issue between the parties, the Member of the Commission may make and sign a written memorandum of the terms of settlement which shall be filed in the Registry and may be received in evidence in any proceedings.
- (12) If the application is not discontinued or settled and the Member of the Commission presiding at the conference considers that further conciliation would not be appropriate, then the Member will conclude the conference by issuing a written memorandum in accordance with the **approved form**, which may also contain:
- (a) an order requiring the parties to confirm the assertions and the basis of their positions as outlined in the application and response as lodged.
  - (b) an order requiring the applicant to provide better particulars concerning the Section 106 application or as to an application pursuant to Section 167 of the Act, a copy of which shall be filed in the Registry;
  - (c) an order that the respondent employer provide better particulars including written reasons for the dismissal of the employee, given at the time, or to be relied upon to the applicant if not already given, or if there is a denial of a dismissal then the grounds upon which the dismissal is denied, a copy of which shall be filed in the Registry;
  - (d) an order requiring the respondent employer to confirm the basis of any jurisdictional challenge to the application being heard and determined, a copy of which shall be filed in the Registry;
  - (e) a statement confirming the relevant costs provisions under the Act;
  - (f) an order that all parties provide discovery in accordance with Chapter 6 Part 2.
- (13) Before, or not more than 3 business days after the conclusion of the conference, the Member of the Commission must prepare a memorandum -
- (a) which will include a preliminary assessment of the merits of the claim (or, if there is more than 1 claim, of each claim) and any defence of the claim (or claims); and
  - (b) recommending to the parties how best to proceed to resolution of the questions in issue between them (or, if in the Member's opinion the application patently lacks merit, recommending that the claim be withdrawn),
- and forward it to the parties, provided that any memorandum so prepared is subject to subrule (10).
- (14) Upon the filing of the subrule (12) memorandum, the Commission will give directions as to the date, time and place of the hearing and determination of the application and the parties will be given notice.
- (15) Nothing in this rule shall prevent the Commission making procedural and interlocutory orders as are reasonable for the effective conduct of proceedings.

- (16) Nothing in this rule shall derogate from the power of the President to direct that the application be heard forthwith or at some other time or before some other Member of the Commission.
- (17) The Commission may where appropriate, including during proceedings conducted pursuant to Section 155B of the Act, grant leave to amend an application or a response lodged pursuant to the relevant subrule. This may include for example the alteration of particulars and with the consent of the parties, the name of the respondent so as to cite the correct employer of the applicant.
- (18) A breach of either the terms of a memorandum to which subrule (11) applies or any other written agreement reached between the parties in consequence of the Section 155B conference, will allow the aggrieved party to approach the Commission for further and other relief by lodging an application for directions.
- (19) Where an applicant in a proceeding relating to a Section 106 application fails to attend the proceeding in person or by a representative, the Commission may, if satisfied that the applicant had reasonable notice and a reasonable opportunity to be heard, dismiss the application.
- (20) Nothing in this rule will prevent the Commission from waiving compliance with the Rule or making directions for the processing of an application in a manner not contemplated in the relevant Rule where the circumstances warrant.
- (21) For the purposes of Section 155B proceedings under this Rule, reference to the Commission will where appropriate include the Court or a Stipendiary Magistrate where the President so directs.
- (22) Where an authority under another Act purports to refer a matter to the Commission pursuant to Chapter 3 Part 6 of the Act, the proceedings will be commenced by the filing of a statement by the authority setting out the nature of the matter and the parties said to be involved. Any such matter will then be conducted in a manner as directed by the Commission including where appropriate, as otherwise contemplated by this rule.
- (23) Where an applicant lodges an application under this Rule and in response to any clarification sought by the Registrar or a Member regarding their intention to proceed does not confirm such an intention within 10 days, the matter may be deemed to be discontinued without further notice.

#### **Part 4 – Industrial Referral Agreements**

##### **95. Definitions**

- (1) Except where a contrary intention appears for the purposes of this Part the words set out below will mean:

**The CAIRA Act** means the *Commercial Arbitration and Industrial Referral Agreements Act 1986*;

**general referral agreement** means a referral agreement relating to matters, disputes or questions of a specified class;

**particular referral agreement** means a referral agreement relating to a particular matter, dispute or question;

**party** means those persons identified in section 2 of Schedule 1 of the CAIRA Act;

**referral agreement** means an agreement in writing seeking the assistance of the Commission in accordance with Schedule 1 of the CAIRA Act;

**request for assistance** means a request in the **approved form**;

**96. Form and content of a Referral Agreement**

- (1) The parties may determine the form and content of any referral agreement except that compliance with the CAIRA Act requires that the Agreement-
  - (a) must be in writing;
  - (b) must contain the parties' agreement to the following matters:-
    - (i) identification of the particular dispute or the specified class of industrial matter, dispute or question for which the assistance of the Commission is sought;
    - (ii) the nature of the assistance sought and in particular whether the parties agree that the Commission may act as a conciliator, mediator or arbitrator, may make recommendations or a binding determination or order;
- (2) A model referral agreement is set out in the **approved form** which the parties may use or adapt to their needs.
- (3) A referral agreement may nominate a specific member of the Commission from whom the parties seek assistance in the resolution of the dispute or the parties may request the assignment of a member of the Commission for that purpose.

**97. Lodging a general referral agreement**

Referral agreements do not require registration or certification by the Commission. However, in the case of a general referral agreement, a copy of the agreement may be lodged with the Commission by forwarding a copy of that agreement under cover of a letter to the Industrial Registrar with a request that the document be received as a general referral agreement between the parties for the period of its duration.

**98. Seeking the assistance of the Commission**

- (1) A request for the assistance of the Commission must be in the **approved form** and will have attached a copy of the referral agreement unless one has already been lodged in accordance with rule 97.
- (2) The Registrar shall refer any request to either the Member of the Commission nominated by the parties, or to the President where the nominated Member is unavailable (the President may allocate the request to another available Member after consultation with the parties).
- (3) In the event that a request for assistance is not signed by each party to the relevant referral agreement, the party making the request shall serve a copy of it upon each party to the referral agreement with an interest in the subject matter of the request for assistance.

**99. Time within which the Commission will commence its assistance**

The member of the Commission nominated or assigned to provide assistance will contact the parties as soon as reasonably practicable but no later than three working days after being provided with the request for assistance.

**100. Conduct of the dispute resolution**

- (1) Conciliation and mediation will be conducted in private.
- (2) Arbitration may be conducted in public or in private in accordance with section 150 of the Act.

- (3) Unless the parties agree otherwise:
  - (a) the dispute resolution proceedings will not be published in the Commission case list; and
  - (b) any determination will not be published on the Commission website or distributed to subscribers.
- (4) The parties are entitled to be represented in conciliation, mediation or arbitration in accordance with section 151 of the Act.
- (5) The information or documents given during the course of the dispute resolution must not be used or disclosed except (for example) if the parties agree, or it is for the purpose of conducting dispute resolution.
- (6) Evidence of anything said or done during the dispute resolution is not admissible in related proceedings unless the parties agree.

#### **101. The Commission's powers**

- (1) Pursuant to the Commission's powers contained in Schedule 1 section 2(6) of the CAIRA Act and subject to any limitation or exclusion specified in the referral agreement the action of the member of the Commission may include:
  - (a) consulting with the parties as to the manner in which the referral will be conducted and giving directions as to the conduct of the referral to the parties or their representatives;
  - (b) arranging conferences of the parties or their representatives at which the member of the Commission is present;
  - (c) arranging for the parties or their representatives to confer among themselves at conferences at which the member of the Commission is not present;
  - (d) adjourning any conferences to other times and places as the needs of the matter require;
  - (e) ascertaining the identity of any other interested party (such as a party to the referral agreement who has not signed the request for assistance or been served with a copy of the request), notifying that party and where appropriate giving that party an opportunity to participate.
- (2) If the conference resolves some or all of the matters in issue between the parties the member of the Commission may make or sign a written memorandum of the terms of settlement which may be filed in the Registry or may be confidential between the parties.
- (3) In the event that the conference does not resolve all of the matters in issue and the parties have agreed to an arbitration, the member may require that a pre-arbitration conference be held and may give appropriate directions as to the conduct of the arbitration.

#### **102. Notification to parties pursuant to Schedule 1 section 2(13) CAIRA Act**

- (1) If the member of the Commission has formed a preliminary view that no action should be taken on the request for assistance or that action should be suspended or discontinued the member will before making any determination to that effect:
  - (a) advise the parties in writing of the preliminary view;
  - (b) provide the parties with a reasonable opportunity to be heard by oral or written submissions on the issue;

- (2) The member of the Commission will provide the parties with a written determination setting out the reasons for the determination.

### 103. Appeals

An appeal pursuant to Schedule 1 section 2(14) of the CAIRA Act will be made in the manner and time prescribed in section 207 and section 208 of the Act and shall be filed using the **approved form**.

## Part 5 – Referral of matters to the Commission under the Occupational, Health, Safety and Welfare Act 1986

### 104. Definitions

Except where a contrary intention appears, for the purposes of this Part, the words set out below will mean:

**the OHSW Act** means the *Occupational Health, Safety and Welfare Act 1986*, as amended;

**the Department** means the administrative Unit of the Minister to whom the administration of the OHSW Act is committed;

**inspector** means a public service employee authorised by the Minister to exercise the powers of an inspector under the OHSW Act;

**party** means those persons having a direct interest in the matter and includes the employer and where authorised under the Act, a registered association acting on behalf of an employee or group of employees in making an application to the Commission;

**referral instrument** in relation to matters referred to the Commission under section 55A(3)(d) of the OHSW Act means an instrument in the **approved form** or any other written instrument as determined by the President following consultation with the Department in accordance with section 55A(16) of the OHSW Act;

### 105. Referrals of alleged bullying behaviour for mediation and conciliation

- (1) For the purposes of this Rule "proceedings" includes the conduct by the Commission of the mediation or conciliation process defined in the OHSW Act, the interviewing of parties (separately or together) and any other actions taken by the Commission to inform itself as to the issues and their potential for resolution.
- (2) An inspector must commence a referral under section 55A(3)(d) of the OHSW Act by lodging the referral instrument with the Registrar. The matter will then be conducted by a member of the Commission who is assigned by the President to deal with the referral.
- (3) Upon the basis of the material set out in the referral instrument, the member will determine whether the matter is to be subject of conciliation or mediation and advise the parties accordingly.
- (4) The mediation or conciliation process must commence as soon as possible and the Commission will seek to do so within five business days of the referral. Where possible, the member will consult with the parties about the timing and location of the process prior to making the necessary arrangements.
- (5) Where the member has determined that a conciliation is to be conducted, the member may call a compulsory conference under section 55A(11) of the OHSW Act by providing written or verbal notice to those who are required to attend. Any person so notified is to attend the conference as required by the notice.

- (6) The mediation or conciliation proceedings will be conducted at a suitable venue determined by the member which may include the relevant workplace if considered appropriate by the member or if requested by a party pursuant to section 55A(10)(a) of the OHSW Act.
- (7) The mediation or conciliation proceedings will be conducted in private and subject to subrule (9) persons whose interests are not directly connected with the matter will not be permitted to attend or observe without leave of the member.
- (8) The Commission will conduct all proceedings under this rule with a minimum of formality and with the intention of constructively and fairly resolving the issues between the parties.
- (9) The parties to the proceedings may be represented as permitted by section 203 of the Act. For that purpose, all proceedings under this rule, with the exception of a compulsory conciliation conference, will be treated as being a voluntary conference. Any representative of a party must be familiar with the matters in issue and be accompanied by a party or by someone with the appropriate authority to bind the represented party to any resolution.
- (10) The parties and representatives involved with proceedings under this rule will conduct themselves in a manner conducive to the resolution of the matters at issue.
- (11) Other than by the consent of all parties and subject to subrule (13) nothing said or done in the course of mediation or conciliation conducted under this rule, including any recommendations made by the Commission in the course of conciliation, is to be given in evidence in any subsequent proceedings.
- (12) The mediation or conciliation of a matter under this rule will be taken to have concluded when the issues have been resolved or where the member considers that further proceedings will not result in a resolution of the matter.
- (13) Where the parties have resolved some or all of the issues in dispute, a record of that resolution may be created and any terms of agreement reached between the parties will be capable of being given in evidence in any subsequent proceedings.
- (14) Where proceedings have been concluded under this rule, the Commission will advise the Department in writing.
- (15) Subject to the terms of the Act, nothing in this Rule will prevent the parties, with the concurrence of the member, establishing protocols relating to a particular matter that might include requirements as to how parties will conduct themselves during the mediation or conciliation, as to what record of the outcome or process is to be made (if any) and whether any public statements regarding the matter will be made during the course of the proceedings or at a later time.
- (16) Nothing in this rule will prevent the member from changing the initial decision to whether to conduct a mediation process as opposed to a conciliation process, provided that any decision to change from one type of process to the other is made place prior to the commencement of the proceedings and that the parties are advised in advance of any such change.

**106. Referral of matters for determination under sections 26A, 31A, 31B or 34(6) of the OHSW Act**

- (1) The following matters will be dealt with in accordance with this rule:
  - Section 26A:** The determination of the composition of a group for the purposes of establishing a "*recognised member*" under Division 2 of the OHSW Act.
  - Section 31A:** The determination of a dispute concerning the entitlements relating to training of a prescribed person.
  - Section 31B:** The determination of a dispute in relation to the maintenance of pay and reimbursement of expenses of a prescribed person.
  - Section 34(6):** The determination of a dispute concerning the entitlements relating to time off to perform the functions, or training, of a Health and Safety Representative.
- (2) A party seeking to have a matter determined under this rule must file an application with the Registrar in an **approved form** and immediately must provide a copy of the application to the other parties nominated on the application form (or their representatives)..
- (3) The matter will be heard by a member of the Commission who is assigned by the President to deal with the application.
- (4) The conduct of the matter will be as directed by the member who may utilise the relevant powers of the Act to that end.
- (5) Where a determination of the matter is made, the member will advise the parties of that decision in writing as soon as possible after the conclusion of the hearing(s).

**107. Referral of matters for conciliation under sections 27, 28, or 31 of the OHSW Act**

- (1) The following matters will be dealt with in accordance with this rule:
  - Section 27(7):** The resolution of a dispute concerning the constitution of a work group for the purposes of appointing Health and Safety Representatives and Committees under Division 2 of the OHSW Act.
  - Section 28(8):** The resolution of a dispute concerning the election of a Health and Safety Representative.
  - Section 31(5):** The resolution of a dispute concerning the establishment or composition of a Health and Safety Committee.
- (2) A party seeking to have a matter determined under this rule must file an application with the Registrar in an **approved form** and immediately afterwards must provide a copy of the application to the other parties nominated on the application form (or their representatives).
- (3) A member of the Commission who is assigned by the President to deal with the application will conciliate the matter.
- (4) The conduct of the matter will be as determined by the member who may utilise the relevant conciliation powers of the Act to that end.
- (5) Other than by consent of all parties and subject to subrule (9), nothing said or done in the course of conciliation conducted under this rule, including any recommendations made by the Commission in the course of conciliation, is to be given in evidence in any subsequent proceedings.

- (6) Where the parties have resolved some or all of the issues in dispute, a record of that resolution may be created and any such record will be capable of being given in evidence in any subsequent proceedings.
- (7) Where the matter has not been resolved by conciliation within a reasonable time, the matter is to be assigned by the Commission to the Senior Judge for determination by a Review Committee constituted under Part 7 of the OHSW Act.

#### **Part 6 – Referral of Matters under the Training and Skills Development Act 2008**

##### **108. Definitions**

- (1) Except where a contrary intention appears for the purposes of this Part the words set out below will mean:

**assessor** means a person appointed by the Minister for Employment and Training to sit with members of the IRC in proceedings under the TSD Act;

**party** means those persons having a direct interest in the matter;

**TSD Act** means the *Training and Skills Development Act 2008*.

**TSC** means the Training and Skills Commission established under Part 2, Division 2 of the TSD Act.

**training contract** means a training contract under Part 4 of the TSD Act;

**training plan** means a training plan under Part 4 of the TSD Act;

##### **109. Review of a compliance notice under section 63 of the TSD Act**

- (1) A party seeking a review by the Industrial Relations Commission of a compliance notice issued under section 63(1) of the TSD Act, must file an application in the **approved form** at the Registry within 14 days from the issue of the compliance notice.
- (2) On the filing of an application for review, the Registrar will set a date and time for a directions conference before the Industrial Relations Commission. The Registrar will advise the parties of the hearing details and unless otherwise directed by the President, provide them with a copy of the application for review. The TSC will be regarded as the respondent to the review.
- (3) At the directions conference the Industrial Relations Commission will issue orders to facilitate the efficient conduct of proceedings, which may include:
  - (a) directions with respect to service of the application on other persons who may have an interest in the proceedings;
  - (b) directions to the parties as to any procedural matters relating to the hearing and determination of the application for review;
  - (c) allocation of a date (or dates) and place for the hearing of the application for review.
- (4) The review will be heard by a Member of the Industrial Relations Commission assigned by the President, sitting with assessors selected in accordance with s 68 and Schedule 1 of the TSD Act.
- (5) The conduct of the matter will be as directed by the Member utilising the relevant powers of the Fair Work Act 1994.

- (6) The parties to the review application, including the respondent TSC, will be advised by the Member of the decision upon review as soon as possible after it is made.

**110. Suspension of Apprentice/Trainee for serious misconduct under section 64 of the TSD Act**

**Commencement of proceedings**

- (1) Where an employer suspends an apprentice/trainee from employment under section 64 of the TSD Act, the employer must advise the Industrial Relations Commission immediately after the suspension by contacting the Registrar by phone, by personal attendance at the Registry, by facsimile transmission or by email. At that time the employer must state the date and time of the suspension, the name and contact details of the apprentice/trainee suspended, the employer's legal or trading name and the employer's contact person's name and contact details.
- (2) Immediately on receiving the advice in accordance with subrule (1), the Registrar will set a date and time for a conciliation conference before a Member of the Industrial Relations Commission and immediately advise the parties and the TSC of the hearing details. The assigned conciliation conference date will be within 7 days of the suspension taking effect.
- (3) The employer must confirm the reference under subrule (1) within three days of the suspension by written notice lodged at the Registry personally or by post, facsimile transmission or email which states:
- (a) the name, date of birth and the training contract id number of the apprentice/trainee suspended and his/her contact details including mobile telephone number and email address where available;
  - (b) the employer's legal name as stated on the training contract, the trading name and the employer's contact persons' name and details including fax and telephone numbers and email addresses;
  - (c) a summary of the nature of the wilful and serious misconduct alleged; and
  - (d) the date and time of the suspension.
- (4) Unless otherwise directed by the President, the Registrar will provide the apprentice/trainee with a copy of the notice given under subrule (3) and will confirm the date and time of the conciliation conference by notice in writing to the apprentice/trainee, the employer and the TSC.

**Conciliation conference**

- (5) A request by any party to change the date or location given for the conciliation conference must be directed to the Member assigned to preside at the conference and may only be changed at the direction of that Member.
- (6) Any person notified is required to attend the conciliation conference on the date and time and at the place specified.
- (7) The conciliation conference will be conducted within a minimum of formality and legal technicality by the Member who at their discretion will determine the manner in which the conference is conducted and may give directions as to who may attend and as to the conduct of the parties and their representatives.
- (8) Subject to the limitation imposed by s 65(2)(d) of the TSD Act, the Member who is to preside at the conference may, if in all the circumstances the Member considers it appropriate, extend the suspension until such time as a conference can be held where it cannot be held within seven days of the suspension occurring.

- (9) Nothing said or done at the conciliation conference by either party or any other person attending is admissible at the hearing of the matter except by the consent of the parties but if some or all of the issues in dispute are resolved between the parties, the Member may:
- (a) make and sign a written memorandum of that resolution and any such record will be capable of being given in evidence in any subsequent proceedings; or
  - (b) record the terms of settlement and direct the Registrar to draw up a consent order.
- (10) If the matter is not discontinued or settled and the Member considers that further conciliation would not be appropriate, the Member will conclude the conference and issue directions that may include:
- (a) an order requiring the parties to confirm their assertions and the basis of their position and where necessary, to file and serve one upon the other, further particulars of their position.
  - (b) an order that parties disclose relevant documents to the other parties, in accordance with Chapter 6 Part 2.
  - (c) allocate a date (or dates) and place for the hearing by the Industrial Relations Commission sitting with Assessors.
  - (d) hear the parties in respect to the same Member who presided at the conciliation continuing to hear the matter.
- (11) If the Member of the Industrial Relations Commission who presided at the conciliation decides not to hear the matter, the President will assign another Member of the Industrial Relations Commission to hear the matter.

#### Hearing

- (12) A Member of the Industrial Relations Commission sitting with assessors selected in accordance with s 68 and Schedule 1 of the TSD Act will hear and determine the matter.
- (13) The conduct of the matter will be as directed by the Member utilising the relevant powers of the *Fair Work Act 1994*.
- (14) Where an employer fails to attend the hearing in person or by a representative, the Commission may, if satisfied that the employer had reasonable notice and a reasonable opportunity to be heard, revoke the suspension and order that the employer pay any remuneration or compensation to which the apprentice/trainee would, but for the suspension, have been entitled.

### 111. Disputes and Grievances Relating to Training Contracts under Section 65 of the TSD Act

#### Commencement of proceedings

- (1) An application under section 65(1) of the TSD Act will be made in an **approved form** and will be filed in the Registry within the time prescribed by section 65(8) of the TSD Act (i.e. within the term of the training contract or within six months after expiry, termination or cancellation of the relevant training contract).
- (2) Where an applicant seeks an extension of time pursuant to section 65(9) of the TSD Act, the applicant must seek permission on the **approved form**, giving reasons for the extension sought.

- (3) Conciliation will be commenced as soon as possible and in any event within fourteen business days of the application under subrule (1).

**Conciliation Conference**

- (4) The member assigned to preside at the conference will consult the parties about the location of the conference prior to making the necessary arrangements for conduct of the conference. In the absence of agreement or proper facilities to conduct the conciliation conference, the conference will be held at a place as directed by the Member.
- (5) Unless otherwise directed by the President, the Registrar will immediately provide the parties identified in the application with a copy of the application including any attachments, and will notify them of the date and time of the conciliation conference.
- (6) A request by any party to change the date or location of the conciliation conference must be directed to the member assigned to preside at the conference and may only be changed at the direction of that Member.
- (7) Any person notified is required to attend the compulsory conference on the date and time and at the place specified.
- (8) The conciliation conference will be conducted with a minimum of formality and legal technicality. The member will at their discretion determine the manner in which the conference is conducted and may give directions as to who may attend and as to the conduct of the parties and their representatives. The member may further direct that:
- (a) a party provide a response to the application outlining the particulars of their position
  - (b) the conciliation conference be held by using video and/or telephone
  - (c) the conference be adjourned to other times and places as necessary.
- (9) Nothing said or done at the conciliation conference by either party or by any other person attending is admissible at the hearing of the matter except by the consent of the parties but if some or all of the issues in dispute are resolved between the parties, the member may, subject to this subrule:
- (a) make and sign a written memorandum of that resolution and any such record will be capable of being given in evidence in any subsequent proceedings; or
  - (b) record the terms of settlement and direct the Registrar to draw up a consent order.
- (10) If the application is not discontinued or settled and the member considers that further conciliation would not be appropriate, the member will conclude the conference and issue directions that may include:
- (a) an order requiring the parties to confirm their assertions and the basis of their positions and, where necessary to file and serve one upon the other, further particulars of their position
  - (b) an order that all parties make disclosure of documents in accordance with Chapter 6 Part 2.
  - (c) allocate a date (or dates) and place for the hearing of the application by the Industrial Relations Commission sitting with Assessors.
- (11) Before or not more than three business days after the conclusion of the conference, the Member must prepare a memorandum to the parties that:

- (a) includes a preliminary assessment of the merits of the claim and any defence to the claim; and
- (b) recommends to the parties how best to proceed to a resolution of the questions in issue between them (or, if in the member's opinion the application patently lacks merit, recommending that it be withdrawn), and forward it to the parties, provided that any memorandum so prepared is subject to subrule (10).

### Hearing

- (12) After the conclusion of conciliation, the application will be referred to the President who will assign another member to hear the matter. The assigned member will select assessors in accordance with s 68 and Schedule 1 of the TSD Act to hear and determine the matter.
- (13) The member to whom the matter is assigned will give directions as to the date, time and place of the hearing of the application and the parties will be given notice thereof.
- (14) The conduct of the matter will be as directed by the Member utilising the relevant powers of the *Fair Work Act 1994*.
- (15) Nothing in this rule shall prevent the Member making procedural orders for the effective conduct of the hearing.
- (16) The application lodged and any response provided will not be taken to be a formal statement of the parties' position. The member may direct the parties to provide written confirmation of their position on the matter(s) in dispute or the grievance and to provide the other party with a list of all relevant documents in their possession.
- (17) Where an applicant fails to attend the hearing in person or by a representative, the Commission may, if satisfied that the applicant had reasonable notice and a reasonable opportunity to be heard, dismiss the application.
- (18) Where an applicant lodges an application under this Rule, and in response to any clarification sought by the Registrar or a member regarding their intention to proceed does not confirm such an intention within ten days, the Registrar may deem the matter to be discontinued without further notice.

## Part 7 – Enterprise Agreements

### 112. Enterprise Agreements

- (1) Parties seeking approval of an enterprise agreement pursuant to section 79 of the Act are to file an original copy executed by or on behalf of all parties to the agreement, three other copies which may be unsigned, and an original completed application for approval of the enterprise agreement in the **approved form** and three copies.
- (2) Upon the filing of an application for approval, the Commission will determine whether the application will be subject to a hearing.
- (3) Where the Commission determines that a hearing of an application for approval is required, a notice of sitting will be issued to the parties and their representatives (if any) and to the Employee Ombudsman.
- (4) Where the Commission considers that the application for approval is capable of approval without proceeding to a formal hearing, a notice will be issued to the parties and their representatives (if any) and the Employee Ombudsman to that effect and will be published in a daily newspaper circulating throughout South Australia.

- (5) Where a notice is issued under subrule (4) and a person, including the Employee Ombudsman, who is eligible to intervene in any proceedings that might be conducted in relation to the matter wishes to be heard, that person must advise the Commission and the other parties in writing of their desire to be heard within the period specified in the notice.
- (6) Where written advice is provided as contemplated by subrule (5) the application will then proceed to a formal hearing in accordance with directions to be given by the Commission.
- (7) Where a party seeks to have the Commission conduct conciliation or issue directions in accordance with the Best Endeavours Bargaining principles set out in section 76A of the Act, such party must file an application in an **approved form** and provide a copy of the application to all other parties considered to have an interest in the matter.
- (8) An application to vary or rescind an enterprise agreement in consequence of the succession, assignment or transmission of a business or undertaking under section 81 of the Act must be lodged in the Registry in an **approved form**.
- (9) An application to vary an enterprise agreement under section 84 of the Act must be filed in the Registry in the **approved form**.
- (10) An application to rescind an enterprise agreement under section 84 must be filed in the Registry in an **approved form**.
- (11) An application to release a party from or vary an enterprise agreement under section 85 of the Act must be filed in the Registry in the **approved form** and the applicant must provide a copy of the application to all other parties to the agreement upon filing.
- (12) Upon the filing of an application pursuant to sections 76A, 81, 84 or 85 of the Act the Commission must issue the parties with a notice of hearing or give any other directions regarding the determination of the matter as considered appropriate.
- (13) The Commission will, in accordance with section 83(2) of the Act, issue a written notice to the parties who were represented at the approval proceedings, advising them that the term of the approved agreement is about to end. This notice may include, in circumstances considered appropriate by the Commission, the convening of a conference which the parties are expected to attend.
- (14) Where the parties to an approved enterprise agreement have received a notice issued under subrule (13) and a conference has not been convened, and such is sought by a party, that party shall notify the Commission of the same by written request.
- (15) Except in the case of a provisional enterprise agreement, the employer parties to an enterprise agreement must, upon receipt, display a copy of any notice issued by the Commission in accordance with this rule, at the relevant workplace(s) on a noticeboard(s) to which all the affected employees have access.

#### **Part 8 – Appeals under Part 3 Fire and Emergency Services Act**

##### **113. Appeal procedure**

- (1) Subject to the provisions of subrule (2), appeals under s 29(2) or s 49 of the *Fire and Emergency Services Act 2005* ("FES Act") are commenced by filing a notice of appeal in the relevant **approved form**.
- (2) Appeals shall be heard in accordance with the provisions of Chapter 10 of the rules relating to appellate proceedings.
- (3) The Registrar shall forward a copy of appeals to the other parties to the matter, including the Chief Officer of the Metropolitan Fire Service South Australia where that person is not named on the appeal as a party.

- (4) The President will assign the appeal for hearing by a judicial member of the Industrial Relations Commission together with two assessors selected by the presiding judicial member in accordance with s 29 and Schedule 1 of the FES Act.

#### **Part 9 – Full Commission Reviews and References**

##### **114. Review procedure**

- (1) An application by the Minister to the Full Commission for a review of a determination under section 211 of the Act shall be made in the **approved form**.
- (2) A copy of the application and notice of the hearing must be forwarded by the Commission to:
  - (a) the parties who appeared at the original proceedings in which the determination was made; and
  - (b) registered associations whose members are bound by the determination.
- (3) Subject to any necessary alterations, the provisions of Chapter 10 will apply as if the application was a notice of appeal under section 207(1) of the Act with the Minister as appellant.
- (4) A party wishing to be heard on an application by the Minister shall file in the Registry within 14 days of the matter being set down for hearing an appearance in the **approved form**.

##### **115. Reference Procedure**

- (1) Where a determination has been made by the President in accordance with section 212(1) of the Act that a matter before a member of the Commission is to be dealt with by the Full Commission, the member who was dealing with the matter must forward to the Registrar a statement of the relevant facts and copies of all relevant documents and exhibits.
- (2) The Registrar, as directed by the President, will give notice to all the parties concerned of the directions that the matter be dealt with by the Full Commission.
- (3) A party wishing to be heard on the matter by the Full Commission shall file in the Registry within 14 days of the matter being set down for hearing an appearance in the **approved form**.

#### **Part 10 – Application for External Review of an Employment Decision under the Public Sector Act 2009**

##### **116. Application to be Filed**

Applications for review of an employment decision by the Commission under s 62 of the *Public Sector Act 2009* are commenced by filing an application in the relevant **approved form** and shall be lodged in the Registry.

##### **117. Assignment for Hearing**

The Commission shall initially set the matter down for a directions hearing before a Member of the Commission.

##### **118. Procedure Upon Hearing**

The application will be heard and disposed of by the Commission in accordance with its powers with respect to the hearing of reviews under the *Public Sector Act*.

**CHAPTER 14 – ASSOCIATIONS****Part 1 – Locally Based Associations****119. Application for Registration**

- (1) An association wishing to obtain registration under Chapter 4, Part 2, Division 1 of the Act, must file in the Registry an application in the **approved form** together with a certified copy of the rules of the association and a statutory declaration by the President or Secretary of the association in the **approved form**.
- (2) The members of the applicant association must have subscribed to or otherwise agreed to be bound by written Rules constituting the association and regulating its affairs.
- (3) A majority of the members present and voting at a meeting of the association specially called under this rule must have resolved by simple majority that application be made for its registration under the Act. Notwithstanding any rule of the association to the contrary 14 clear days notice in writing must be given by the Committee of Management by prepaid post to all members at their last known address or by advertisement in a manner approved by the Commission. Not less than one twentieth of the total number of the members entitled to attend and vote at a general meeting of the association under its rules will constitute a quorum.
- (4) In order to comply with the requirements of section 124 of the Act, the rules of an association must:
  - (a) specify:
    - (i) the name of the association;
    - (ii) the ambit of its membership;
    - (iii) the purpose for which it is formed;
  - (b) provide for the following matters in relation to the administration of the association:
    - (i) the mode by which and terms upon which members may be admitted or their membership shall cease or be terminated;
    - (ii) the automatic termination of the membership of any member who ceases to be a person eligible for membership of the association;
    - (iii) the maintenance of a register of current members;
    - (iv) the constitution of a committee of management and the election, appointment and removal of members thereof;
    - (v) the powers and duties of the Committee of Management and the control of it by the members either in general meeting, or in district meetings or by a general governing body or otherwise;
    - (vi) the election and removal of officers and their respective powers and duties;
    - (vii) the maintenance of a register of officers;
    - (viii) the maintenance of a registered office and the hours during which it shall be open to the public;

- (ix) the control of the property and investment of the funds of the association, and the mode by which funds may be disbursed whether for ordinary and extraordinary purposes;
  - (x) the mode by which rules of the association may be rescinded, varied or added to;
  - (xi) the mode by which the association may be dissolved;
  - (xii) the calling of and procedure at general meetings;
  - (xiii) appointment of a registered company auditor who is not an officer or employee of the association.
- (5) The conditions set in subrules (2), (3) and (4) of this rule are the prescribed conditions for the purposes of section 122(1) of the Act and are to be met unless waived in accordance with subrule (6) of this rule.
- (6) The following provisions apply to an application for waiver of a condition:
- (a) An association seeking waiver of a condition must apply in writing to the Commission specifying any prescribed condition in relation to which a waiver is sought. Such application will be deemed to be a 'proceeding' as defined in rule 5 of these rules.
  - (b) The Commission will exercise its power of waiver of any prescribed condition under subsection (2) of section 122 of the Act on such terms and conditions it considers proper.
  - (c) The Commission will sign and issue a written determination if a waiver is granted under this subrule. Compliance with the determination by an association will constitute compliance with prescribed conditions.
- (7) The rules of an association may also provide for any other matters not contrary to law.

#### **120. Alteration to Rules**

- (1) An application to register an addition to or alteration or rescission of the rules of an association must be in an **approved form**.
- (2) On receipt of an application for alteration of rules the Commission, where in its opinion it is necessary to do so, will cause a notice of the application to be published by the Registrar in a daily newspaper circulating throughout the State of South Australia.
- (3) If the Commission is satisfied that it is impracticable for an association to alter its rules in accordance with its own rule(s), the Commission may approve an alteration on such terms as it considers appropriate upon application made to it by the applicant association.

#### **121. Objections to Alteration to Rules**

An objection to a proposed alteration will be made, heard and determined in the manner prescribed by rule 128 with such alterations as may be necessary. An objection shall be made within 21 days of the publication of the notice required by section 125 of the Act.

#### **122. Change of Name**

- (1) An application for a change of name of an association under subsection (2) of section 125 of the Act must be made by statutory declaration in the **approved form** and filed with the Registry.

- (2) The application must have the existing Certificate of Registration of the association annexed to it unless the Commission waives such requirement.
- (3) An application for waiver under rule 122(2) must be made in writing.

#### 123. Compliance with Rules

An application under section 127(1) of the Act by a member of a registered association or a person who has been expelled from membership of a registered association must be made by summons in the **approved form** and will constitute a 'proceeding' as defined in rule 5 of these rules.

#### 124. Amalgamation of Associations

- (1) An application to register a body comprised of amalgamating associations as a registered association under section 129 of the Act must be in the **approved form** accompanied by a copy of the applicant body's rules certified by its President and a statutory declaration of its President verifying the due observance of the procedure prescribed by section 129.
- (2) A request for the Registrar to conduct a ballot under section 129(4) of the Act must be made in writing and be signed by the requisite number of members and addressed to the Registrar.
- (3) A registered association must, at the request of the Registrar, furnish the Registrar with an up to date list of the members of the association with their most recent or last known address.
- (4) The Registrar shall conduct a ballot using such forms and procedures as the Registrar shall deem fit.

#### 125. Accounting Records

For the purposes of s 128 of the Act, an association must keep such accounting records as correctly record and explain the transactions of the association and the financial position of the association.

### Part 2 - Federally Based Associations

#### 126. Application for Registration

- (1) An association seeking registration under Division 1 Part 3 of Chapter 4 of the Act must file in the Registry at the same time:
  - (a) an application in the **approved form**;
  - (b) a copy of the rules of the association registered under the *Fair Work (Registered Organisations) Act 2009 (Cth)* ("the FW(RO) Act") certified by its President or Secretary to be the current rules, and, in the case of an association with a South Australian branch or where a branch of an association registered under the FW(RO) Act seeks registration, proof that its rules comply with section 131(2) or (3) of the Act;
  - (c) a statutory declaration, in the **approved form**, by the President or Secretary of the association stating:
    - (i) that a resolution was duly passed by the Committee of Management of the applicant association authorising the making of an application for registration under Division 1, Part 3 of Chapter 4 of the Act, and the date on which the resolution was passed;

- (ii) the full names, addresses and occupations of the officers of the association and the offices held by them respectively.

#### **127. Change of Name**

- (1) Where an association registered under section 134 of the Act changes its name, the secretary of the association must notify the Registrar of the change in writing, providing evidence of the change, within twenty-one days.
- (2) On receipt of the notification, the Registrar will cause all relevant records to be altered accordingly.

### **Part 3 – Associations - Generally**

#### **128. Objections to Registration**

- (1) An objection under section 121 or section 133 of the Act shall be in an **approved form** and be filed in the Registry within 21 days after the publication of the notice required by section 120(2)(a) or section 132(2)(a) of the Act.
- (2) An objection must be accompanied by a written statement setting out briefly the facts upon which the objector relies in respect of each ground of objection.
- (3) An objector will be restricted to the grounds specified in the notice of objection unless the Commission, on a further application made and for reasons shown by the objector, otherwise permits.
- (4) Within seven days after a notice of objection is filed in the Registry, the objector shall serve a copy of the notice and of the written statement accompanying it on the association applying for registration.
- (5) The Commission will proceed to hear and determine the application and all objections to it, without limit to its power to adjourn the proceeding from time to time.
- (6) On the date appointed for consideration by the Commission of any objection to an application the Commission will proceed to hear and determine the application and all objections to it, without limit to its power to adjourn the proceeding from time to time.

#### **129. Certificate of Registration**

- (1) A certificate of registration issued under section 143(1) of the Act shall be in an **approved form**.
- (2) On registration of an association by the Commission under Chapter 4 Parts 2 or 3 of the Act and on registration of alterations to the Rules of a locally based association by the Commission under Division 3 of Part 2 of the Act, the Registrar must make an entry in a Register Book kept for such purpose, or must make an electronic record.

#### **130. Change of Address**

- (1) Where an association changes the address of its registered office, the secretary of the association must, within fourteen days of such change, notify the Registrar in writing to such effect.
- (2) On receipt of the notification, the Registrar will cause all relevant records to be altered accordingly.

### **Part 4 – Conscientious Objection**

**131. Conscientious Objection**

- (1) Application to the Registrar for a certificate under section 118 of the Act shall be supported by an affidavit of the applicant as to the relevant facts.
  - (2) Any certificate granted pursuant to the said section shall be in an **approved form**.
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## GAMING MACHINES ACT 1992

*Notice of Application for the Grant of a Gaming Machine Service Licence*

NOTICE is hereby given, pursuant to section 29 of the Gaming Machines Act 1992 that Deborah Jane Younger, Lot 2, Ayers Road, Tungkillo, S.A. 5236 has applied to the Liquor and Gambling Commissioner for a Gaming Machine Service Licence in respect of premises situated at Lot 2, Ayers Road, Tungkillo, S.A. 5236 to be known as Deborah Jane Younger.

The application has been set down for hearing on 9 March 2011 at 9.30 a.m.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Liquor and Gambling Commissioner (and serving a copy of the notice on the applicant) at least seven days before the hearing date (viz: 20 July 2011).

The applicant's address for service is c/o Deborah Jane Younger, P.O. Box 119, Tungkillo, S.A. 5236

Plans in respect of the premises the subject of the application are open to public inspection without fee at the Office of the Liquor and Gaming Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000.

Dated 3 February 2011.

Applicant

## HYDROPONICS INDUSTRY CONTROL ACT 2009

*Notice of Exemption*

TAKE notice that, pursuant to section 9 of the Hydroponics Industry Control Act 2009 (the Act), I, Michael Wright, Minister for Police, hereby exempt Adelaide & Rural Salvage, 283 Hanson Road, Wingfield, S.A. 5013, to the legislative provisions of the Act.

This exemption granted under section 9, subsection (1) is subject to the following conditions:

*Condition 1*

That advertising of any prescribed items of equipment for sale by retail in connection with hydroponics or related activities is prohibited.

*Condition 2*

That the prescribed items to be sold, as indicated (described in Condition 3) in the application for Ministerial Exemption, do not change.

*Condition 3*

The exemption from the Act, applies to selling by retail:

- (a) metal halide lights, high pressure sodium lights and mercury vapour lights of 400 watts or greater;
- (b) ballast boxes designed or intended for the use in association with a light of a kind referred to in paragraph (a).

*Condition 4*

Subject to this exemption Adelaide & Rural Salvage must not sell prescribed equipment by retail to another person (the purchaser) unless the purchaser first produces identification. Identification to be produced consists of:

- (a) One of the following kinds of identification:
  - (i) a current photographic driver's licence issued under the Motor Vehicles Act 1959, or under a corresponding law of another State or a Territory;
  - (ii) a passport issued by the Commonwealth or under the law of another country, bearing a photograph of the person (being a current passport or a passport that has been expired for not more than two years);
  - (iii) a current photographic Proof of Age card issued by the Registrar of Motor Vehicles or by a corresponding public authority of the Commonwealth or another State or a Territory;

- (iv) a current photographic firearms licence;
  - (v) a current photographic licence or photographic permit issued under a law of the Commonwealth or a State or Territory;
  - (vi) a photographic student identification card issued by an Australian educational institution; and
- (b) Two of the following kinds of identification:
- (i) a certified copy of, or extract from, a register of births kept under an Australian law, or under the law of the country in which the purchaser was born;
  - (ii) a document issued or addressed to the purchaser by the Commonwealth or a State or Territory;
  - (iii) a document showing the name and residential address of the purchaser issued by a public utility, a bank or credit union or a similar body;
  - (iv) an identification card in the purchaser's name issued by the person's employer;
  - (v) an identification card in the purchaser's name issued by a professional or trade association;
  - (vi) any other document determined by the Commissioner to be a document included in the ambit of this paragraph.

*Condition 5*

Subject to this exemption, Adelaide & Rural Salvage must keep the information in relation to each transaction occurring in the course of, or for the purposes of Adelaide & Rural Salvage business. The information required to be kept must include:

- (i) the name, address and business name (if any) of the exempt business;
- (ii) the place at which the transaction occurred;
- (iii) the date and time of the transaction;
- (iv) a description of the prescribed equipment involved in the transaction including the quantity of prescribed equipment;
- (v) the full name, residential address and date of birth of the purchaser of the prescribed equipment and details of the identification produced by the purchaser;
- (vi) the name of the person to whom the purchaser produced the identification;
- (vii) the intended purpose of use; and
- (viii) for hire of prescribed equipment—the intended duration of hire.

*Condition 6*

The particulars of a transaction must be transferred to the Commissioner of Police within 72 hours of the transaction occurring and must be transferred in a manner and form determined from time to time by the Commissioner by notice in the *Government Gazette*.

*Condition 7*

The exempt business must keep this information at the address where the transaction occurred and for a period of not less than seven years after the date on which the record is made. The information required to be kept may be kept in written or electronic form and be available for inspection by an authorised officer upon request.

*Condition 8*

If any change to Corporate Structure, the Commissioner of Police must be advised within 14 days.

Dated 21 December 2010.

MICHAEL WRIGHT, Minister for Police

## LAND ACQUISITION ACT 1969

## (SECTION 16)

*Notice of Acquisition*

NOTICE is hereby given that The Commissioner of Highways (the Authority), of 136 North Terrace, Adelaide, S.A. 5000, acquires the following interest in the following land:

Comprising an unencumbered estate in fee simple in that piece of land situated at Victor Harbor Road, Mount Compass, S.A. 5210, being portion of the land contained in Certificate of Title volume 5882, folio 713 and being the whole of Allotment 11 in the plan lodged in the Registrar General's Office and numbered DP 73678.

This notice is given under section 16 of the Land Acquisition Act 1969.

*Compensation*

A person who has or had an interest in the land that is divested or diminished by the acquisition or the enjoyment of which is adversely affected by the acquisition who does not receive an offer of compensation from the Authority may apply to the Authority for compensation.

*Inquiries*

Inquiries should be directed to:

Carlene Russel,  
G.P.O. Box 1533,  
Adelaide, S.A. 5001  
Phone (08) 8343 2454.

Dated 4 February 2011.

The Common Seal of the Commissioner of Highways was hereto affixed by direction of the Commissioner of Highways in the presence of:

D. THOMAS, Manager, Transport Property  
(Authorised Officer) Department for  
Transport, Energy and Infrastructure

DTEI 2001/07376/02

## LIQUOR LICENSING ACT 1997 AND GAMING MACHINES ACT 1992

*Notice of Application*

NOTICE is hereby given, pursuant to section 52 of the Liquor Licensing Act 1997 and section 29 of the Gaming Machines Act 1992, that I. & D. Alexander Enterprises Pty Ltd as trustee for the Alexander Family Trust No. 2 has applied to the Licensing Authority for the transfer of a Hotel and Gaming Machine Licence in respect of premises situated at 98 Main Street, Hahndorf, S.A. 5245 and known as Hahndorf Old Mill.

The application has been set down for hearing on 15 March 2011 at 10.30 a.m.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Liquor and Gambling Commissioner and serving a copy of the notice on the applicant at the applicant's address, at least seven days before the hearing date (viz: 8 March 2011).

The applicant's address for service is c/o Lempriere Abbott McLeod Solicitors, P.O. Box 6806, Halifax Street, Adelaide, S.A. 5000 (Attention: Christine Crossman).

The application and certain documents and material relevant to the application may be inspected without fee at a place and during a period specified by the Liquor and Gambling Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000. Telephone 8226 8410, Facsimile: 8226 8512. Email: [olgc@agd.sa.gov.au](mailto:olgc@agd.sa.gov.au).

Dated 8 February 2011.

Applicant

## LIQUOR LICENSING ACT 1997

*Notice of Application*

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that Karinthia Pty Ltd as trustee for Karinthia Trust has applied to the Licensing Authority for a Restaurant Licence with Section 34 (1) (c) and Entertainment Consent in respect of premises situated at 22/3 Jan Street, Newton, S.A. 5074 and to be known as Caffe Di Crema.

The application has been set down for hearing on 15 March 2011 at 11 a.m.

*Conditions*

The following licence conditions are sought:

- Entertainment Consent for the licensed premises as per plans lodged with this office on any day from 11 a.m. to 11 p.m.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Liquor and Gambling Commissioner and serving a copy of the notice on the applicant at the applicant's address, at least seven days before the hearing date (viz: 8 March 2011).

The applicant's address for service is c/o David Watts & Associates, 1 Cator Street, Glenside, S.A. 5065 (Attention: David Watts).

The application and certain documents and material (including Plans) relevant to the application may be inspected without fee at a place and during a period specified by the Liquor and Gambling Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000. Telephone 8226 8410, Facsimile: 8226 8512. Email: [olgc@agd.sa.gov.au](mailto:olgc@agd.sa.gov.au).

Dated 7 February 2011.

Applicant

## LIQUOR LICENSING ACT 1997

*Notice of Application*

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that Renmark Club Inc. has applied to the Licensing Authority for a variation to Extended Trading Authorisation, variation to Conditions and variation to Entertainment Consent in respect of premises situated at Murray Avenue, Renmark, S.A. 5341 and known as Renmark Club.

The application has been set down for hearing on 9 March 2011 at 11 a.m.

*Conditions*

The following licence conditions are sought:

- Variation to Extended Trading Authorisation (including Entertainment Consent) to include Thursday night, Christmas Day and Good Friday from 12 midnight to 2 a.m.
- Variation to Conditions to add the following:

1 (d) Conditions 1 (a)-(c) are to only apply from 10 p.m. when a D.J. or live band of more than three performers or a night club/disco is operating in areas 2, 3, 4 or 8 (other than for private functions when they will not apply).

Any person may object to the application by lodging a notice of objection in the prescribed form with the Liquor and Gambling Commissioner and serving a copy of the notice on the applicant at the applicant's address, at least seven days before the hearing date (viz: 2 March 2011).

The applicant's address for service is c/o Wallmans Lawyers, G.P.O. Box 1018, Adelaide, S.A. 5001 (Attention: Ben Allen or Sam Ngai).

The application and certain documents and material (including Plans) relevant to the application may be inspected without fee at a place and during a period specified by the Liquor and Gambling Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000. Telephone 8226 8410, Facsimile: 8226 8512. Email: [olgc@agd.sa.gov.au](mailto:olgc@agd.sa.gov.au).

Dated 4 February 2011.

Applicant

## LIQUOR LICENSING ACT 1997

*Notice of Application*

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that Rashku Pty Ltd as trustee for Flinders Bar and Bistro Unit Trust, 60 Hallett Road, Stonyfell, S.A. 5066 has applied to the Licensing Authority for a Direct Sales Licence in respect of business to be known as Rashku.

The application has been set down for hearing on 16 March 2011 at 9 a.m.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Liquor and Gambling Commissioner and serving a copy of the notice on the applicant at the applicant's address, at least seven days before the hearing date (viz: 9 March 2011).

The applicant's address for service is c/o David Watts and Associates, 1 Cator Street, Glenside, S.A. 5065 (Attention: David Watts).

The application and certain documents and material relevant to the application may be inspected without fee at a place and during a period specified by the Liquor and Gambling Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000. Telephone 8226 8410, Facsimile: 8226 8512. Email: [olgc@agd.sa.gov.au](mailto:olgc@agd.sa.gov.au).

Dated 7 February 2011.

Applicant

## LIQUOR LICENSING ACT 1997

*Notice of Application*

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that Lasyam Pty Ltd as trustee for Lasyam Pty Ltd Trust has applied to the Licensing Authority for the transfer of a Restaurant Licence in respect of premises situated at 276 Main North Road, Prospect, S.A. 5082 and known as Shanker's South Indian Cuisine and to be known as Café Chennai.

The application has been set down for hearing on 15 March 2011 at 11.30 a.m.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Liquor and Gambling Commissioner and serving a copy of the notice on the applicant at the applicant's address, at least seven days before the hearing date (viz: 8 March 2011).

The applicant's address for service is c/o Siddharth Sundararaj, 30 Bowman Crescent, Enfield, S.A. 5085.

The application and certain documents and material (including Plans) relevant to the application may be inspected without fee at a place and during a period specified by the Liquor and Gambling Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000. Telephone 8226 8410, Facsimile: 8226 8512. Email: [olgc@agd.sa.gov.au](mailto:olgc@agd.sa.gov.au).

Dated 7 February 2011.

Applicant

## LIQUOR LICENSING ACT 1997

*Notice of Application*

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that Daren Paul Woods, 17 Tatiara Road, Happy Valley, S.A. 5159 has applied to the Licensing Authority for a Direct Sales Licence in respect of business to be known as Daren Paul Woods.

The application has been set down for hearing on 16 March 2011 at 9 a.m.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Liquor and Gambling Commissioner and serving a copy of the notice on the applicant at the applicant's address, at least seven days before the hearing date (viz: 9 March 2011).

The applicant's address for service is c/o David Watts and Associates, 1 Cator Street, Glenside, S.A. 5065 (Attention: David Watts).

The application and certain documents and material relevant to the application may be inspected without fee at a place and during a period specified by the Liquor and Gambling Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000. Telephone 8226 8410, Facsimile: 8226 8512. Email: [olgc@agd.sa.gov.au](mailto:olgc@agd.sa.gov.au).

Dated 7 February 2011.

Applicant

## LIQUOR LICENSING ACT 1997

*Notice of Application*

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that Anthony Wayne Whateley has applied to the Licensing Authority for a Special Circumstances Licence with Extended Trading Authorisation and Entertainment Consent in respect of premises situated at Lot 110, Deposited Plan 27597, Hundred of Katarapko, Barmera, S.A. 5345 and to be known as Loveday 4x4 Adventures.

The application has been set down for hearing on 2 March 2011 at 9.30 a.m.

*Conditions*

The following licence conditions are sought:

- The licence will authorise the license for the sale of liquor for consumption on the licensed premises for the following days and times including Extended Trading Authorisation:

Monday to Thursday: 9 a.m. to midnight;

Friday to Saturday: 9 a.m. to 2 a.m. the following day;

Sunday: 9 a.m. to midnight.

- Entertainment Consent for the licensed premises as per plans lodged with this office and for the following days times:

Friday: 6 p.m. to 1 a.m. the following day;

Saturday: 9 a.m. to 2 a.m. the following day;

New Year's Eve: 6 p.m. to 2 a.m. the following day;

Days preceding other Public Holidays: 6 p.m. to 2 a.m. the following day;

Sundays preceding Public Holidays: 6 p.m. to 2 a.m. the following day.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Liquor and Gambling Commissioner and serving a copy of the notice on the applicant at the applicant's address, at least seven days before the hearing date (viz: 1 March 2011).

The applicant's address for service is c/o Tony Whateley, P.O. Box 288, Barmera, S.A. 5345.

The application and certain documents and material (including Plans) relevant to the application may be inspected without fee at a place and during a period specified by the Liquor and Gambling Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000. Telephone 8226 8410, Facsimile: 8226 8512. Email: [olgc@agd.sa.gov.au](mailto:olgc@agd.sa.gov.au).

Dated 4 February 2011.

Applicant

## LIQUOR LICENSING ACT 1997

*Notice of Application*

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that Ardrossan & District Community Club Inc. has applied to the Licensing Authority for a variation to licence Conditions in respect of premises situated at Ardrossan Oval, Ardrossan, S.A. 5571 and known as Ardrossan & District Community Club.

The application has been set down for hearing on 1 March 2011 at 10 a.m.

*Conditions*

The following licence conditions are sought:

- Variation to licence Conditions from:

When Yorke Valley Football League or Yorke Peninsula Cricket Association matches are played at the oval, the licensed premises will be the area outlined in red on the plan (excluding the oval area cross hatched in red) for the period 11 a.m. to 6 p.m.

When the area under the club's control is authorised to be used for a scheduled function other than a sporting event, the licensed premises will include the oval as cross hatched in red on the plan for the period 11 a.m. to 6 p.m. for all days except Thursday when the period will be 11 a.m. to 10 p.m. Extended Trading Authorisation shall not apply to these areas.

To:

When Yorke Valley Football League or Yorke Peninsula Cricket Association matches are played at the oval, the licensed premises will be the area outlined in red on the plan (excluding the oval area cross hatched in red) for the period 11 a.m. to 10 p.m.

When the area under the club's control is authorised to be used for a scheduled function other than a sporting event, the licensed premises will include the oval as cross hatched in red on the plan for the period 11 a.m. to 10 p.m. for all days except Sunday when the period will be 11 a.m. to 8 p.m. Extended Trading Authorisation shall not apply to these areas.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Liquor and Gambling Commissioner and serving a copy of the notice on the applicant at the applicant's address, at least one day before the hearing date (viz: 28 February 2011).

The applicant's address for service is c/o John Hall, P.O. Box 24, Ardrossan, S.A. 5571.

The application and certain documents and material (including Plans) relevant to the application may be inspected without fee at a place and during a period specified by the Liquor and Gambling Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000. Telephone 8226 8410, Facsimile: 8226 8512. Email: [olgc@agd.sa.gov.au](mailto:olgc@agd.sa.gov.au).

Dated 3 February 2011.

Applicant

## LIQUOR LICENSING ACT 1997

*Notice of Application*

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that Millswood Croquet Club Incorporated has applied to the Licensing Authority for a Limited Club Licence in respect of premises situated at 18C Millswood Crescent, Millswood, S.A. 5034 and known as Millswood Croquet Club.

The application has been set down for hearing on 9 March 2011 at 10.30 a.m.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Liquor and Gambling Commissioner and serving a copy of the notice on the applicant at the applicant's address, at least seven days before the hearing date (viz: 2 March 2011).

The applicant's address for service is c/o Jane H. Lewis, 18C Millswood Crescent, Millswood, S.A. 5034.

The application and certain documents and material (including Plans) relevant to the application may be inspected without fee at a place and during a period specified by the Liquor and Gambling Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000. Telephone 8226 8410, Facsimile: 8226 8512. Email: [olgc@agd.sa.gov.au](mailto:olgc@agd.sa.gov.au).

Dated 3 February 2011.

Applicant

## LIQUOR LICENSING ACT 1997

*Notice of Application*

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that Garage Corporation Pty Ltd has applied to the Licensing Authority for a Wholesale Liquor Merchant's Licence in respect of premises situated at 1/235 Main Road, McLaren Vale, S.A. 5171 and to be known as Garage Vintners.

The application has been set down for hearing on 9 March 2011 at 10 a.m.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Liquor and Gambling Commissioner and serving a copy of the notice on the applicant at the applicant's address, at least seven days before the hearing date (viz: 2 March 2011).

The applicant's address for service is c/o Finlaysons, 81 Flinders Street, Adelaide, S.A. 5000 (Attention: Emma Cocks).

The application and certain documents and material (including Plans) relevant to the application may be inspected without fee at a place and during a period specified by the Liquor and Gambling Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000. Telephone 8226 8410, Facsimile: 8226 8512. Email: [olgc@agd.sa.gov.au](mailto:olgc@agd.sa.gov.au).

Dated 3 February 2011.

Applicant

## LIQUOR LICENSING ACT 1997

*Notice of Application*

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that Kangaroo Island Sealink Pty Ltd has applied to the Licensing Authority for Alterations and Redefinition in respect of premises situated at Lot 2, South Coast Road, Vivonne Bay, S.A. 5223 and known as Vivonne Bay Outdoor Education Centre.

The application has been set down for hearing on 8 March 2011 at 11 a.m.

*Conditions*

The following licence conditions are sought:

- Alterations and Redefinition to include new accommodation area, covered deck, lounge and surrounding outside areas as per plans lodged.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Liquor and Gambling Commissioner and serving a copy of the notice on the applicant at the applicant's address, at least seven days before the hearing date (viz: 1 March 2011).

The applicant's address for service is c/o Simon Ward, P.M.B. 1, Newlands SVC, Vivonne Bay, S.A. 5223.

The application and certain documents and material (including Plans) relevant to the application may be inspected without fee at a place and during a period specified by the Liquor and Gambling Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000. Telephone 8226 8410, Facsimile: 8226 8512. Email: [olgc@agd.sa.gov.au](mailto:olgc@agd.sa.gov.au).

Dated 3 February 2011.

Applicant

## LIQUOR LICENSING ACT 1997

*Notice of Application*

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that Ron Rake and Michelle Stojak have applied to the Licensing Authority for a Special Circumstances Licence in respect of premises situated at 51 Karoona Crescent, Seacombe Heights, S.A. 5047 and to be known as Adelaide Club Limousines.

The application has been set down for hearing on 8 March 2011 at 10 a.m.

*Conditions*

The following licence conditions are sought:

- The licence shall authorise the licensee for the sale and consumption of liquor to persons attending a pre-booked function for the following days and times including Extended Trading Authorisation:

Monday to Thursday: 9.30 a.m. to midnight;

Friday to Sunday: 9.30 a.m. to 2 a.m. the following day.

- There shall be no liquor in the vehicle except in the boot storage area whilst a minor is in the vehicle unless the minor is in the company of an adult guardian, or an adult spouse of the minor.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Liquor and Gambling Commissioner and serving a copy of the notice on the applicants at the applicants' address, at least seven days before the hearing date (viz: 1 March 2011).

The applicants' address for service is c/o Ron Rake, P.O. Box 178, Seacliff Park, S.A. 5049.

The application and certain documents and material (including Plans) relevant to the application may be inspected without fee at a place and during a period specified by the Liquor and Gambling Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000. Telephone 8226 8410, Facsimile: 8226 8512. Email: [olgc@agd.sa.gov.au](mailto:olgc@agd.sa.gov.au).

Dated 3 February 2011.

Applicants

## LIQUOR LICENSING ACT 1997

*Notice of Application*

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that Herbert Investments Pty Ltd has applied to the Licensing Authority for a Residential Licence in respect of premises situated at 1 Squire Drive, Robe, S.A. 5276 and to be known as Sea Vu Caravan Park.

The application has been set down for hearing on 8 March 2011 at 11.30 a.m.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Liquor and Gambling Commissioner and serving a copy of the notice on the applicant at the applicant's address, at least seven days before the hearing date (viz: 1 March 2011).

The applicant's address for service is c/o Foreman Legal, 69 Mount Barker Road, Stirling, S.A. 5152 (Attention: Phil Foreman).

The application and certain documents and material (including Plans) relevant to the application may be inspected without fee at a place and during a period specified by the Liquor and Gambling Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000. Telephone 8226 8410, Facsimile: 8226 8512. Email: [olgc@agd.sa.gov.au](mailto:olgc@agd.sa.gov.au).

Dated 2 February 2011.

Applicant

## LIQUOR LICENSING ACT 1997

*Notice of Application*

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that Ashish Batra and Vivek Dhir have applied to the Licensing Authority for a Restaurant Licence with a Section 34 (1) (c) Authorisation and Extended Trading Authorisation in respect of premises situated at 2/90 Beach Road, Christies Beach, S.A. 5165 and known as An Indian Affair.

The application has been set down for hearing on 8 March 2011 at 9.30 a.m.

*Conditions*

The following licence conditions are sought:

- Approval under Section 34 (1) (c) to sell liquor on any day except Good Friday and Christmas Day for consumption on the licensed premises by persons:

(a) seated at a table; or

(b) attending a function at which food is provided.

- Extended Trading Authorisation is sought in relation to the abovementioned condition for the following days and times:

Sunday: 8 p.m. to midnight;

Sunday Christmas Eve: 8 p.m. to midnight;

Sundays preceding Public Holidays: 8 p.m. to midnight.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Liquor and Gambling Commissioner and serving a copy of the notice on the applicants at the applicants' address, at least seven days before the hearing date (viz: 1 March 2011).

The applicants' address for service is c/o Vivek Dhir, 2/90 Beach Road, Christies Beach, S.A. 5165.

The application and certain documents and material (including Plans) relevant to the application may be inspected without fee at a place and during a period specified by the Liquor and Gambling Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000. Telephone 8226 8410, Facsimile: 8226 8512. Email: [olgc@agd.sa.gov.au](mailto:olgc@agd.sa.gov.au).

Dated 2 February 2011.

Applicants

## LIQUOR LICENSING ACT 1997

*Notice of Application*

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that Adelaide Winemakers Pty Ltd has applied to the Licensing Authority for a Producer's Licence in respect of premises situated at 59 Grants Gully Road, Clarendon, S.A. 5157 and to be known as Adelaide Winemakers.

The application has been set down for hearing on 9 March 2011 at 9 a.m.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Liquor and Gambling Commissioner and serving a copy of the notice on the applicant at the applicant's address, at least seven days before the hearing date (viz: 2 March 2011).

The applicant's address for service is c/o Nicholas Haselgrove, P.O. Box 72, Blackwood, S.A. 5051.

The application and certain documents and material (including Plans) relevant to the application may be inspected without fee at a place and during a period specified by the Liquor and Gambling Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000. Telephone 8226 8410, Facsimile: 8226 8512. Email: [olgc@agd.sa.gov.au](mailto:olgc@agd.sa.gov.au).

Dated 2 February 2011.

Applicant

## LIQUOR LICENSING ACT 1997

*Notice of Application*

NOTICE is hereby given, pursuant to section 52 (2) (b) of the Liquor Licensing Act 1997, that Gold Wine Sales Pty Ltd, 11 Barrowmans Drive, Robe, S.A. 5276 has applied to the Licensing Authority for a Direct Sales Licence in respect of business to be known as Gold Wine Sales.

The application has been set down for hearing on 8 March 2011 at 10.30 a.m.

Any person may object to the application by lodging a notice of objection in the prescribed form with the Liquor and Gambling Commissioner and serving a copy of the notice on the applicant at the applicant's address, at least seven days before the hearing date (viz: 1 March 2011).

The applicant's address for service is c/o Clelands Lawyers, 208 Carrington Street, Adelaide, S.A. 5000 (Attention: Sue Biggs).

The application and certain documents and material relevant to the application may be inspected without fee at a place and during a period specified by the Liquor and Gambling Commissioner, 9th Floor, East Wing, 50 Grenfell Street, Adelaide, S.A. 5000. Telephone 8226 8410, Facsimile: 8226 8512. Email: [olgc@agd.sa.gov.au](mailto:olgc@agd.sa.gov.au).

Dated 1 February 2011.

Applicant

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MINING ACT 1971

NOTICE is hereby given in accordance with section 28 (5) of the Mining Act 1971, that the Minister for Mineral Resources Development proposes to grant an Exploration Licence over the undermentioned area:

Applicant: Marmota Energy Limited  
 Location: Indooroopilly Outstation area—Approximately 170 km south-west of Coober Pedy.  
 Pastoral Leases: Port Commonwealth Hill, Mobella  
 Term: 2 years  
 Area in km<sup>2</sup>: 584  
 Ref.: 2010/00217

Plan and co-ordinates can be found on the PIRSA website: [http://www.pir.sa.gov.au/minerals/public\\_notices](http://www.pir.sa.gov.au/minerals/public_notices) or by phoning Mineral Tenements on (08) 8463 3103.

J. MARTIN, Mining Registrar

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MINING ACT 1971

NOTICE is hereby given in accordance with section 28 (5) of the Mining Act 1971, that the Minister for Mineral Resources Development proposes to grant an Exploration Licence over the undermentioned area:

Applicant: SM3 Iron Pty Ltd  
 Location: Carrick Hill area—Approximately 120 km east-north-east of Port Augusta.  
 Pastoral Leases: Witchitie, Minburra, Koonamore, Melton.  
 Term: 2 years  
 Area in km<sup>2</sup>: 380  
 Ref.: 2010/00225

Plan and co-ordinates can be found on the PIRSA website: [http://www.pir.sa.gov.au/minerals/public\\_notices](http://www.pir.sa.gov.au/minerals/public_notices) or by phoning Mineral Tenements on (08) 8463 3103.

J. MARTIN, Mining Registrar

MINING ACT 1971

NOTICE is hereby given in accordance with section 28 (5) of the Mining Act 1971, that the Minister for Mineral Resources Development proposes to grant an Exploration Licence over the undermentioned area:

Applicant: G E Resources Pty Ltd  
 Location: Outouie Hill area—Approximately 80 km east of Leigh Creek.  
 Pastoral Leases: Wertaloonna  
 Term: 2 years  
 Area in km<sup>2</sup>: 134  
 Ref.: 2010/00307

Plan and co-ordinates can be found on the PIRSA website: [http://www.pir.sa.gov.au/minerals/public\\_notices](http://www.pir.sa.gov.au/minerals/public_notices) or by phoning Mineral Tenements on (08) 8463 3103.

J. MARTIN, Mining Registrar

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PETROLEUM AND GEOTHERMAL ENERGY ACT 2000

*Temporary Cessation of Suspension of  
 Petroleum Exploration Licence—PEL 123*

PURSUANT to section 90 of the Petroleum and Geothermal Energy Act 2000, notice is hereby given that the suspension dated 20 January 2011, of the abovementioned Exploration Licence has been temporarily ceased under the provisions of the Petroleum and Geothermal Energy Act 2000, for the period from and including 14 February 2011 until 13 June 2011, pursuant to delegated powers dated 1 October 2009.

The suspension dated 20 January 2011 will resume with effect from 14 June 2011 until 24 May 2012 inclusive.

Dated 2 February 2011.

C. D. COCKSHELL,  
 Acting Director Petroleum and Geothermal  
 Minerals and Energy Resources  
 Primary Industries and Resources SA  
 Delegate of the Minister for Mineral  
 Resources Development

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## PETROLEUM AND GEOTHERMAL ENERGY ACT 2000

*Grant of Preliminary Survey Licence—PSL 21*

NOTICE is hereby given that the abovementioned Preliminary Survey Licence has been granted with effect from 7 February 2011, under the provisions of the Petroleum and Geothermal Energy Act 2000, pursuant to delegated powers dated 1 October 2009.

Licence No.	Licencees	Locality	Date of Expiry	Approx Area in km <sup>2</sup>	Reference
PSL 21	Beach Energy Limited Great Artesian Oil and Gas Pty Ltd	Cooper Basin	6.2.2012	24	F2010/001396

*General Description of Preliminary Survey Licence Area*

All that part of the State of South Australia, bounded as follows:

A line joining points of co-ordinates set out in the following table:

## MGA Zone 54

373169mE 6903836mN  
 374118mE 6903571mN  
 374414mE 6903400mN  
 374569mE 6903229mN  
 375316mE 6902015mN  
 379299mE 6901642mN  
 381913mE 6902078mN  
 382006mE 6902109mN  
 382240mE 6902062mN  
 382473mE 6901969mN  
 382660mE 6901797mN  
 382800mE 6901626mN  
 382909mE 6901440mN  
 382955mE 6901253mN  
 382971mE 6901082mN  
 382971mE 6900926mN  
 382955mE 6900786mN  
 382893mE 6900693mN  
 382800mE 6900537mN  
 382737mE 6900428mN  
 382566mE 6900288mN  
 382411mE 6900179mN  
 382146mE 6900102mN  
 379470mE 6899635mN  
 374554mE 6900086mN  
 374274mE 6900164mN  
 374102mE 6900273mN  
 373916mE 6900475mN  
 373122mE 6901782mN  
 372126mE 6902000mN  
 371815mE 6902264mN  
 371597mE 6902638mN  
 371520mE 6902855mN  
 371551mE 6903027mN  
 371629mE 6903276mN  
 371769mE 6903478mN  
 372018mE 6903742mN  
 372266mE 6903836mN  
 372438mE 6903867mN  
 372687mE 6903898mN  
 372842mE 6903898mN  
 373044mE 6903882mN  
 373169mE 6903836mN

Area: 24 km<sup>2</sup> approximately.

Dated 7 February 2011.

B. A. GOLDSTEIN,  
 Director Petroleum and Geothermal  
 Minerals and Energy Resources  
 Primary Industries and Resources SA  
 Delegate of the Minister for Mineral Resources Development

## RIVER MURRAY ACT 2003

*Notice of Revocation of Exemption from Requirement to Refer*

PURSUANT to section 22 (20) of the River Murray Act 2003, I, Paul Caica, Minister for the River Murray, hereby revoke the exemption from the requirement to refer to me under section 37 of the Development Act 1993 and Schedule 8 of the Development Regulations 2008, development applications previously exempted by gazettal notice dated 19 December 2006 and published in the *South Australian Government Gazette* dated 21 December 2006 at pages 4437 and 4438.

Dated 3 February 2011.

PAUL CAICA, Minister for the River Murray

ROADS (OPENING AND CLOSING) ACT 1991:  
SECTION 34G**ORDER BY THE MINISTER TO WIDEN ROAD***Park Terrace, North Adelaide*

PURSUANT to Section 34G of the Roads (Opening and Closing) Act 1991, the Minister for Infrastructure hereby makes an Order to make wider that portion of Park Terrace adjoining the Adelaide Parklands as shown on Deposited Plan 86067 upon the deposit of Deposited Plan 86067 by the Registrar-General.

Dated 10 February 2011.

P. M. KENTISH, Surveyor-General

DTEI 10/0031

ROADS (OPENING AND CLOSING) ACT 1991:  
SECTION 24**NOTICE OF CONFIRMATION OF ROAD  
PROCESS ORDER***Road Closure  
Pelican Point Road, Pelican Point*

BY Road Process Order made on 8 September 2010, the District Council of Grant ordered that:

1. Portion of the public road (Pelican Point Road) situate adjoining the eastern boundary of Section 727, Hundred of Kongorong, more particularly delineated and lettered 'A' in Preliminary Plan No. 10/0009 be closed.

2. Transfer the whole of the land subject to closure to Peter James Telford in accordance with agreement to transfer dated 6 April 2010 entered into between the District Council of Grant and P. J. Telford.

On 7 October 2010 that order was confirmed by the Minister for Infrastructure conditionally upon the deposit by the Registrar-General of Deposited Plan 85158 being the authority for the new boundaries.

Pursuant to section 24 (5) of the Roads (Opening and Closing) Act 1991, NOTICE of the order referred to above and its confirmation is hereby given.

Dated 10 February 2011.

P. M. KENTISH, Surveyor-General

ROADS (OPENING AND CLOSING) ACT 1991:  
SECTION 24**NOTICE OF CONFIRMATION OF ROAD  
PROCESS ORDER***Road Closure  
Mary Street, Woodville North*

BY Road Process Order made on 28 October 2010, the City of Charles Sturt ordered that:

1. The whole of Mary Street situate between Fletcher Street and Sheridan Street and adjoining allotment 123 in Deposited Plan 789 and allotment 19 in Filed Plan 115631, more particularly delineated and lettered 'A' and 'B' in Preliminary Plan No. 10/0018 be closed.

2. The whole of the land subject to closure lettered 'A' be transferred to Shona Eliza Wall in accordance with agreement for transfer dated 12 August 2010 entered into between the City of Charles Sturt and S. E. Wall.

3. The whole of the land subject to closure lettered 'B' be transferred to Daryl Ian Maddern in accordance with agreement for transfer dated 9 September 2010 entered into between the City of Charles Sturt and D. I. Maddern.

On 4 January 2011 that order was confirmed by the Minister for Infrastructure conditionally upon the deposit by the Registrar-General of Deposited Plan 85834 being the authority for the new boundaries.

Pursuant to section 24 (5) of the Roads (Opening and Closing) Act 1991, NOTICE of the order referred to above and its confirmation is hereby given.

Dated 10 February 2011.

P. M. KENTISH, Surveyor-General

ROADS (OPENING AND CLOSING) ACT 1991:  
SECTION 24**NOTICE OF CONFIRMATION OF ROAD  
PROCESS ORDER***Road Closure—Melton*

BY Road Process Order made on 3 December 2010, the District Council of Barunga West ordered that:

1. Portion of the unnamed public road situate west of B Daniels Road and adjoining the southern boundary of Allotment 92 in Filed Plan 204100, more particularly delineated and lettered 'A' on Preliminary Plan No. 09/0039 be closed.

2. The whole of the land subject to closure be transferred to Brian Dennis Rooney in accordance with agreement for transfer dated 10 November 2009 entered into between the District Council of Barunga West and B. D. Rooney.

On 4 January 2011 that order was confirmed by the Minister for Infrastructure conditionally upon the deposit by the Registrar-General of Deposited Plan 85741 being the authority for the new boundaries.

Pursuant to section 24 (5) of the Roads (Opening and Closing) Act 1991, NOTICE of the order referred to above and its confirmation is hereby given.

Dated 10 February 2011.

P. M. KENTISH, Surveyor-General

## NOTICE TO MARINERS

NO. 6 OF 2011

*South Australia South East Coast—Cape Jaffa Marina—  
Navigation Markers Installed*

THE following Navigation markers have been installed in the new Cape Jaffa Marina channel. The co-ordinates are in WGS 84 Datum:

Western Breakwater Starboard 1, latitude 36°56'16.831"S, longitude 139°41'52.328"E—Fl. (G) every 2 secs, 1 nautical mile.

Mid Western Breakwater Starboard 2, latitude 36°56'20.832"S, longitude 139°41'47.827"E—Fl. (G) every 2 secs, 1 nautical mile.

Eastern Breakwater Port 3, latitude 36°56'19.115"S, longitude 139°41'52.305"E—Fl. (R) every 5 secs, 1 nautical mile.

Starboard Channel 4, latitude 36°56'11.323"S, longitude 139°41'49.754"E—Fl. (G) every 3 secs, 3 nautical miles.

Port Channel 5, latitude 36°56'10.595"S, longitude 139°41'51.476"E—Fl. (R) every 3 secs, 3 nautical miles.

Inner Bay Mark Port 6, latitude 36°56'21.497"S, longitude 139°41'49.606"E—Fl. (R) every 2 secs, 1 nautical mile.

Port Entrance 7, latitude 36°56'16.687"S, longitude 139°41'54.685"S—Fixed Red, 1 nautical mile.

Charts affected: Aus 127.

Adelaide, 9 February 2011.

PATRICK CONLON, Minister for Transport

DTEI 2011/00735

## NOTICE TO MARINERS

NO. 7 OF 2011

*South Australia—Gulf St Vincent—Port Adelaide—Outer Rear  
Lead Beacon Damaged*

MARINERS are advised that the Outer Rear Lead Beacon for the Port Adelaide Channel at approximate WGS84 position latitude 34°46.71'S, longitude 138°21.59'E has broken off approximately 10 m below the surface of the water.

An unlit buoy is currently marking the site. The site will be marked with a lit buoy (with a flashing white light every 2 seconds) within the next seven days.

Mariners are advised to proceed with caution in the vicinity.

Navy Charts affected: Aus 130, Aus 138 and Aus 781.

Publications affected: Australian Pilot, Volume 1 (Second Edition, 2008) pages 402-406.

Admiralty List of Lights & Fog Signals  
Volume K (2010-11 Edition) No.  
2053.1.

Adelaide, 8 February 2011.

PATRICK CONLON, Minister for Transport

FP2001/1439

DTEI 2011/00735

## GOVERNMENT GAZETTE ADVERTISEMENT RATES

To apply from 1 July 2010

	\$		\$
Agents, Ceasing to Act as.....	44.25	Firms:	
Associations:		Ceasing to Carry on Business (each insertion) .....	29.50
Incorporation .....	22.40	Discontinuance Place of Business .....	29.50
Intention of Incorporation .....	55.50	Land—Real Property Act:	
Transfer of Properties .....	55.50	Intention to Sell, Notice of.....	55.50
Attorney, Appointment of.....	44.25	Lost Certificate of Title Notices .....	55.50
Bailiff's Sale .....	55.50	Cancellation, Notice of (Strata Plan).....	55.50
Cemetery Curator Appointed.....	32.75	Mortgages:	
Companies:		Caveat Lodgement .....	22.40
Alteration to Constitution .....	44.25	Discharge of .....	23.40
Capital, Increase or Decrease of .....	55.50	Foreclosures.....	22.40
Ceasing to Carry on Business .....	32.75	Transfer of .....	22.40
Declaration of Dividend.....	32.75	Sublet.....	11.30
Incorporation .....	44.25	Leases—Application for Transfer (2 insertions) each.....	11.30
Lost Share Certificates:		Lost Treasury Receipts (3 insertions) each.....	32.75
First Name.....	32.75	Licensing .....	65.50
Each Subsequent Name .....	11.30	Municipal or District Councils:	
Meeting Final.....	37.00	Annual Financial Statement—Forms 1 and 2 .....	618.00
Meeting Final Regarding Liquidator's Report on		Electricity Supply—Forms 19 and 20.....	439.00
Conduct of Winding Up (equivalent to 'Final		Default in Payment of Rates:	
Meeting')		First Name .....	88.00
First Name.....	44.25	Each Subsequent Name.....	11.30
Each Subsequent Name .....	11.30	Noxious Trade .....	32.75
Notices:		Partnership, Dissolution of.....	32.75
Call.....	55.50	Petitions (small) .....	22.40
Change of Name.....	22.40	Registered Building Societies (from Registrar-General).....	22.40
Creditors.....	44.25	Register of Unclaimed Moneys—First Name.....	32.75
Creditors Compromise of Arrangement .....	44.25	Each Subsequent Name .....	11.30
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Pages	Main	Amends	Pages	Main	Amends	
1-16	2.70	1.25	497-512	37.50	36.50	
17-32	3.60	2.25	513-528	38.50	37.25	
33-48	4.70	3.35	529-544	39.75	38.50	
49-64	5.95	4.55	545-560	40.75	39.75	
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97-112	9.20	7.85	593-608	44.50	42.75	
113-128	10.30	9.05	609-624	45.25	44.25	
129-144	11.50	10.20	625-640	46.50	44.75	
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161-176	13.70	12.40	657-672	48.25	47.00	
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241-257	19.50	17.80	737-752	54.00	52.50	
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273-288	21.70	20.40	769-784	56.50	55.50	
289-304	22.60	21.30	785-800	57.50	56.50	
305-320	24.00	22.50	801-816	59.00	57.00	
321-336	25.00	23.60	817-832	60.00	59.00	
337-352	26.20	24.90	833-848	61.00	60.00	
353-368	27.00	26.00	849-864	62.00	60.50	
369-384	28.50	27.00	865-880	63.50	62.00	
385-400	29.75	28.25	881-896	64.00	62.50	
401-416	30.75	29.25	897-912	65.50	64.00	
417-432	32.00	30.50	913-928	66.00	65.50	
433-448	33.00	31.75	929-944	67.00	66.00	
449-464	33.75	32.50	945-960	68.00	66.50	
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South Australia

## **Spent Convictions Act (Commencement) Proclamation 2011**

### **1—Short title**

This proclamation may be cited as the *Spent Convictions Act (Commencement) Proclamation 2011*.

### **2—Commencement of Act**

The *Spent Convictions Act 2009* (No 72 of 2009) will come into operation on 13 February 2011.

### **Made by the Governor**

with the advice and consent of the Executive Council  
on 10 February 2011

AGO0240/10CS

South Australia

## **Administrative Arrangements (Administration of Spent Convictions Act) Proclamation 2011**

under section 5 of the *Administrative Arrangements Act 1994*

### **1—Short title**

This proclamation may be cited as the *Administrative Arrangements (Administration of Spent Convictions Act) Proclamation 2011*.

### **2—Commencement**

This proclamation comes into operation on the day on which it is made.

### **3—Administration of Act committed to Attorney-General**

The administration of the *Spent Convictions Act 2009* is committed to the Attorney-General.

### **Made by the Governor**

with the advice and consent of the Executive Council  
on 10 February 2011

AGO0240/10CS

South Australia

## **National Parks and Wildlife (Innamincka Regional Reserve) Proclamation 2011**

under section 34A(2) of the *National Parks and Wildlife Act 1972*

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### **Preamble**

- 1 The following land forms part of the Innamincka Regional Reserve:
    - Sections 791, 1081-1084, Out of Hundreds (Innamincka);
    - Allotments 41, 44, 48, 63-72, 77-82, 84-100, 115-118, 127-132, 135, 136, 151-164, 168-175, 179-186, 188-194, 196, 198-201, Township of Innamincka, Out of Hundreds (Innamincka);
    - Allotments 51 and 52, Deposited Plan 84007, Out of Hundreds (Innamincka);
    - Allotment 54, Deposited Plan 84009, Out of Hundreds (Innamincka).
  - 2 It is intended that, by this proclamation, the land be excluded from the Reserve.
  - 3 A resolution requesting the making of this proclamation has been passed by both the House of Assembly and the Legislative Council.
- 

### **1—Short title**

This proclamation may be cited as the *National Parks and Wildlife (Innamincka Regional Reserve) Proclamation 2011*.

### **2—Commencement**

This proclamation comes into operation on the day on which it is made.

### **3—Alteration of boundaries of Innamincka Regional Reserve**

The boundaries of the Innamincka Regional Reserve are altered by excluding from the Reserve the land defined in clause 1 of the preamble to this proclamation.

### **Made by the Governor**

pursuant to a resolution of both Houses of Parliament and with the advice and consent of the Executive Council  
on 10 February 2011

MEC10/0015CS

South Australia

## **Liquor Licensing (Dry Areas—Short Term) Variation Regulations 2011**

under the *Liquor Licensing Act 1997*

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### **Contents**

#### **Part 1—Preliminary**

- 1 Short title
- 2 Commencement
- 3 Variation provisions

#### **Part 2—Variation of *Liquor Licensing (Dry Areas—Short Term) Regulations 1997***

- 4 Variation of Schedule 1—Short term dry areas
- 

### **Part 1—Preliminary**

#### **1—Short title**

These regulations may be cited as the *Liquor Licensing (Dry Areas—Short Term) Variation Regulations 2011*.

#### **2—Commencement**

These regulations come into operation on the day on which they are made.

#### **3—Variation provisions**

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

### **Part 2—Variation of *Liquor Licensing (Dry Areas—Short Term) Regulations 1997***

#### **4—Variation of Schedule 1—Short term dry areas**

Schedule 1, item headed "Adelaide—Area 3 (Rymill Park and Rundle Park)", column headed "Period"—delete "5 am on 1 January 2011 to 12.01 am on 2 January 2011." and substitute:

7 am on 14 March 2011 to 12.01 am on 15 March 2011.

#### **Note—**

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

**Made by the Governor**

with the advice and consent of the Executive Council  
on 10 February 2011

No 13 of 2011

11MCA0003CS

South Australia

# Spent Convictions Regulations 2011

under the *Spent Convictions Act 2009*

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## Contents

1	Short title
2	Commencement
3	Interpretation
4	Declaration of corresponding laws (section 3 of Act)
5	Definition of sex offence (section 3 of Act)
6	Prescribed exclusions (Schedule 1 clause 14 of Act)

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### 1—Short title

These regulations may be cited as the *Spent Convictions Regulations 2011*.

### 2—Commencement

These regulations will come into operation on the day on which the *Spent Convictions Act 2009* comes into operation.

### 3—Interpretation

In these regulations—

*Act* means the *Spent Convictions Act 2009*.

### 4—Declaration of corresponding laws (section 3 of Act)

For the purposes of the definition of *corresponding law* in section 3(1) of the Act, the following laws are declared to be corresponding laws:

*Annulled Convictions Act 2003* of Tasmania

*Crimes Act 1914* of the Commonwealth

*Criminal Law (Rehabilitation of Offenders) Act 1986* of Queensland

*Criminal Records Act 1991* of New South Wales

*Criminal Records (Spent Convictions) Act* of the Northern Territory

*Spent Convictions Act 1988* of Western Australia

*Spent Convictions Act 2000* of the Australian Capital Territory

### 5—Definition of sex offence (section 3 of Act)

For the purposes of the definition of *sex offence* in section 3(1) of the Act, the following are prescribed as sex offences:

(a) an offence against—

(i) Part 3 Division 11 (rape and other sexual offences); or

(ii) Part 3 Division 11A (child pornography and related offences); or

- (iii) Part 3 Division 12 (commercial sexual offences and related offences); or
- (iv) Part 3 Division 13 (miscellaneous sexual offences),  
of the *Criminal Law Consolidation Act 1935*;
- (b) an offence against section 23(2) (gross indecency) of the *Summary Offences Act 1953*;
- (c) an offence that is substantially similar to an offence referred to in paragraph (a) or (b), being an offence against a corresponding previous enactment;
- (d) an offence constituted of aiding, abetting, counselling or procuring an offence referred to in a preceding paragraph.

#### **6—Prescribed exclusions (Schedule 1 clause 14 of Act)**

Sections 10, 11 and 12 of the Act do not apply in relation to a person employed, or seeking employment, as a protective security officer under the *Protective Security Act 2007*.

**Note—**

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

#### **Made by the Governor**

with the advice and consent of the Executive Council  
on 10 February 2011

No 14 of 2011

AGO0240/10CS

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## ADELAIDE CITY COUNCIL

ADELAIDE PARK LANDS AUTHORITY  
(A SUBSIDIARY OF ADELAIDE CITY COUNCIL)

*Notice of Appointments*

ADELAIDE CITY COUNCIL, pursuant to Division 2 of Part 2 of the Adelaide Park Lands Act 2005 and Council Resolution 10257 of 6 December 2010, having undertaken the required consultation with the Minister for Environment and Conservation, appoints the following persons as members of the Board of Management of the Adelaide Park Lands Authority:

For the purposes of section 6 (1) (a) (i) of the Act:

The Lord Mayor, the Honourable Stephen Yarwood, who will be the Presiding Member of the Board.

For the purposes of section 6 (1) (a) (ii) of the Act:

Councillor Anne Moran;  
Councillor Tony Williamson;  
Councillor Michael Henningsen; and  
Deputy Lord Mayor and Councillor David Plumridge.

Pursuant to section 7 (2) of the Act, Council appoints the above members for the period commencing 10 February 2011 and concluding 30 November 2012.

Dated 10 February 2011.

P. SMITH, Chief Executive Officer

## THE CORPORATION OF THE CITY OF ADELAIDE

BY-LAW MADE UNDER THE LOCAL GOVERNMENT ACT 1999 AND  
THE CITY OF ADELAIDE ACT 1998

*By-law No. 6—Rundle Mall*

FOR the management of Rundle Mall.

1. *Definitions*

In this by-law:

- 1.1 *Authorised Person* has the same meaning as in the Local Government Act 1999;
- 1.2 *Building* includes any structure and/or fixture of any kind whether for human habitation or not;
- 1.3 *Electoral Matter* has the same meaning as in the Electoral Act 1985;
- 1.4 *Emergency Vehicle* has the same meaning as in the Australian Road Rules 1999 and the Road Traffic (Road Rules) Ancillary and Miscellaneous Provisions Regulations 1999;
- 1.5 *Harangue* means an Offensive public address;
- 1.6 *Liquor* has the same meaning as in the Liquor Licensing Act 1997;
- 1.7 *Livestock* has the same meaning as in the Livestock Act 1997 but does not include dogs and cats;
- 1.8 *Offensive* includes, but is not limited to, speech or other conduct that is aggressive, threatening or abusive and 'offend' has a complementary meaning;
- 1.9 *Open Container* means a container which:
  - 1.9.1 after the contents thereof have been sealed at the time of manufacture and:
    - 1.9.1.1 being a bottle, has had its cap, cork or top removed (whether or not it has since been replaced);
    - 1.9.1.2 being a can, it has been opened or punctured;
    - 1.9.1.3 being a cask, has had its tap placed in a position to allow it to be used;
    - 1.9.1.4 being any form of container, it has been opened, broken, punctured or manipulated in such a way as to allow access to the contents thereof; or
  - 1.9.2 is a flask, glass or mug or other container used for drinking purposes;
- 1.10 *Permission* means the permission of the Council, or such other person as the Council may by resolution authorise for that purpose, given in writing prior to the act, event or activity to which it relates;
- 1.11 *Vehicle* has the same meaning as in the Road Traffic Act 1961 and the Australian Road Rules 1999;
- 1.12 *Wheeled Recreational Device* has the same meaning as in the Road Traffic Act 1961 and the Australian Road Rules 1999.

2. *Activities Requiring Permission*

No person shall without Permission in Rundle Mall or in the vicinity of Rundle Mall:

2.1 *Amplification*

use an amplifier or other device whether mechanical or electrical for the purpose of amplifying sound;

2.2 *Athletic and Ball Sports and Games*

2.2.1 promote, organise or take part in any athletic sport, ball sport or game;

2.2.2 play or practice any game which is likely to cause damage to Rundle Mall or any fixtures or fittings thereon;

2.3 *Burials and Memorials*

2.3.1 spread the ashes of any human or animal remains;

2.3.2 erect any memorial;

2.4 *Camping and Tents*

2.4.1 camp or remain overnight whether in the open, a building, a Vehicle or otherwise;

2.4.2 erect any tent or other structure;

2.5 *Canvassing and Haranguing*

2.5.1 canvass; or

2.5.2 harangue;

except, subparagraph 2.5.1 shall not apply:

2.5.3 in any part of Rundle Mall where the Council has, by resolution, determined this restriction shall not apply; or

2.5.4 where the activity is related to a Commonwealth or State election and is conducted during the period commencing on the issue of the writ or writs for the election and ending at the close of polls on polling day; or

2.5.5 where the activity is related to an election under the Local Government Act 1999 or the Local Government (Elections) Act 1999 and is conducted during the period commencing four (4) weeks immediately before the date that has been set (either by or under either Act) for polling day and ending at the close of voting on polling day; or

2.5.6 where the activity is related to, and is conducted, during the course of and for the purpose of a Referendum;

2.6 *Closed Lands*

enter or remain on any part of Rundle Mall:

2.6.1 at any time during which the Council has declared that the part shall be closed to the public, and which is indicated by a sign adjacent to the entrance to that part of Rundle Mall;

2.6.2 where the part of Rundle Mall is enclosed with fences and/or walls, and gates have been closed and locked; or

2.6.3 where admission charges are payable, without paying those charges;

2.7 *Collections and Donations*

collect anything from any passer-by or ask for or receive or indicate that he or she desires a donation of money or any other thing;

2.8 *Depositing Rubbish etc*

deposit any structure, goods, materials, earth, soil, clay, gravel, sand, timber, stones, pebbles or any other matter or substance (including any liquid substance);

2.9 *Distribution*

give out or distribute any handbill, book, notice, leaflet, or other printed matter to any bystander, passer-by or other person except any hand bill, book, notice, leaflet or other printed matter:

2.9.1 that is related to a Commonwealth or State election and is placed, given out or distributed during the period commencing on the issue of the writ or writs for the election and ending at the close of polls on polling day; or

2.9.2 that is related to an election under the Local Government Act 1999 or the Local Government (Elections) Act 1999 and is placed, given out or distributed during the period commencing four (4) weeks immediately before the date that has been set (either by or under either Act) for polling day and ending at the close of voting on polling day; or

2.9.3 that is related to and placed, given out or distributed during the course of and for the purpose of a Referendum;

2.10 *Entertainment and Busking*

2.10.1 sing, busk, perform, chant, recite, mime or play any recording or upon any musical instrument so as to appear to be for the purpose of entertaining other persons;

2.10.2 conduct or hold any concert, festival, show, circus, performance or any other similar activity;

2.11 *Erection of Structures*

2.11.1 erect a fence or hoarding;

2.11.2 erect, place, use or allow to remain:

2.11.2.1 a ladder or trestle;

2.11.2.2 any other equipment, appliance, object or material likely to cause an obstruction or danger to any person;

2.11.3 park, place, use or allow to remain a mobile crane, scissor lift, elevated platform vehicle or cherry picker;

2.12 *Firearms and Fireworks*

use, discharge or explode any firearms or fireworks;

2.13 *Liquor*

consume any Liquor or carry or be in possession or in charge of any Open Container containing Liquor in Rundle Mall;

2.14 *Livestock*

cause or allow any Livestock to stray onto, move over, graze or be left unattended;

2.15 *Model Aircraft and Cars*

fly or operate a model aircraft or model/remote control car which by the use thereof may cause or be likely to cause injury or discomfort to any person being in Rundle Mall or detract from or be likely to detract from another person's lawful use of and enjoyment of Rundle Mall;

2.16 *Obstructions*

2.16.1 obstruct any part of Rundle Mall;

2.16.2 erect, place, use or allow to remain over any part of Rundle Mall any object including, but not limited to, any planter box, hoarding, crane, cherry picker, elevated platform vehicle, scaffolding, stage, ladder, trestle, appliance, or other equipment;

2.17 *Organised Ceremonies and Events etc.*

hold, conduct or participate in a funeral, marriage ceremony, picnic, other event or entertainment in Rundle Mall;

2.18 *Overhanging Articles*

suspend or hang any article or thing from any building, verandah, pergola, post or other structure;

2.19 *Preaching*

preach, except in any part of Rundle Mall or the vicinity of Rundle Mall where the Council has, by resolution, determined this restriction shall not apply;

2.20 *Public Exhibitions and Displays*

2.20.1 allow or cause any public exhibition or display;

2.20.2 allow or cause to be displayed any bills, advertisements or other papers or items or mark with any substance or apply any stickers or stencils to a building or structure in Rundle Mall except any bills, advertisements or other papers or items:

2.20.2.1 that are related to a Commonwealth or State election and are displayed during the period commencing on the issue of the writ or writs for the election and ending at the close of polls on polling day; or

2.20.2.2 that are related to an election under the Local Government Act 1999 or the Local Government (Elections) Act 1999 and are displayed during the period commencing four (4) weeks immediately before the date that has been set (either by or under either Act) for polling day and ending at the close of voting on polling day; or

2.20.2.3 that are related to and displayed during the course of and for the purpose of a Referendum;

2.21 *Rubbish and Rubbish Dumps*

remove, disperse or interfere with any rubbish (including bottles, newspapers, cans, containers or packaging etc) that has been discarded in a Council bin in Rundle Mall;

2.22 *Touting for Business*

tout for business or conduct any survey or opinion poll except:

2.22.1 in any part of Rundle Mall where the Council has, by resolution, determined this restriction shall not apply; or

2.22.2 where it is related to a Commonwealth or State election and is conducted during the period commencing on the issue of the writ or writs for the election and ending at the close of polls on polling day; or

2.22.3 where it is related to an election under the Local Government Act 1999 or the Local Government (Elections) Act 1999 and is conducted during the period commencing four (4) weeks immediately before the date that has been set (either by or under either Act) for polling day and ending at the close of voting on polling day; or

2.22.4 where it is related to and is conducted during the course of and for the purpose of a Referendum;

2.23 *Trading*

2.23.1 carry on the business of buying or selling, or offering or exposing for sale, or hiring or leasing any goods or services; or

2.23.2 set up a Vehicle, stall, stand, table, tray, carpet or other structure for the apparent purpose of buying or selling, or offering or exposing for sale, or hiring or leasing any goods or services;

### 2.24 *Venue Management*

allow patrons or potential patrons of a venue under their management or control to queue outside the venue.

### 3. *Prohibited Activities*

No person shall in Rundle Mall or in the vicinity of Rundle Mall:

#### 3.1 *Annoyances*

offend, annoy or unreasonably interfere with any other person's use of Rundle Mall;

#### 3.2 *Birds*

feed any bird;

#### 3.3 *Climbing*

climb on or over any fixture, fitting, plant, object or building;

#### 3.4 *Damaging or Defacing Property*

3.4.1 deface, damage, paint, write, cut names or make marks on any tree, rock, gate, fence, building, sign or other property of the Council;

3.4.2 attach any object, including an animal on a leash or a bike to any tree, gate, fence or other fixture other than a designated bicycle rack;

#### 3.5 *Glass*

wilfully break any glass, china or other brittle material;

#### 3.6 *Interference with Permitted Use*

interrupt, disrupt or interfere with any other person's use of Rundle Mall which is permitted or for which Permission has been granted;

#### 3.7 *Missiles*

throw, roll or discharge any stone, substance or missile to the danger of any person, property or animal;

#### 3.8 *Playing Games*

play or practice a game:

3.8.1 which is likely to cause damage to Rundle Mall or anything in it or in the vicinity of Rundle Mall;

3.8.2 which endangers the safety or interferes with the comfort of any person;

3.8.3 in any area where a sign indicates that the game is prohibited;

#### 3.9 *Toilets*

in any public convenience in Rundle Mall or in the vicinity of Rundle Mall:

3.9.1 urinate other than in a urinal or pan or defecate other than in a pan set apart for that purpose;

3.9.2 deposit anything in a pan, urinal or drain which is likely to cause a blockage;

3.9.3 use it for a purpose for which it was not designed or constructed;

3.9.4 enter any toilet that is set aside for use of the opposite gender except:

3.9.4.1 a child under the age of eight years accompanying an adult; or

3.9.4.2 to provide assistance to a disabled person; or

3.9.4.3 in the case of a genuine emergency;

#### 3.10 *Use of Council Rubbish Bins*

deposit any commercial waste or other rubbish emanating from commercial premises in any Council rubbish bin;

#### 3.11 *Use of Equipment*

use any form of equipment or property belonging to the Council other than in the manner and for the purpose for which it was designed;

### 3.12 *Waste*

3.12.1 deposit or leave thereon:

3.12.1.1 anything obnoxious or objectionable;

3.12.1.2 any offal, dead animal, dung or filth;

3.12.1.3 any mineral, mineral waste, industrial waste or by-products;

3.12.2 deposit any rubbish other than in receptacles provided by the Council for that purpose;

3.12.3 deposit in any receptacle any rubbish emanating from domestic or trade purposes, unless designated by a sign or signs;

### 3.13 *Wheeled Recreational Devices*

use a Wheeled Recreational Device in Rundle Mall.

### 4. *Directions*

A person must comply with any reasonable direction or request from an Authorised Person relating to:

4.1 that person's use of Rundle Mall;

4.2 that person's conduct and behaviour in Rundle Mall;

4.3 that person's safety in Rundle Mall;

4.4 the safety and enjoyment of Rundle Mall by other persons.

### 5. *Removal of Animals and Exclusion of Persons*

5.1 If any animal is found in Rundle Mall in breach of a by-law:

5.1.1 any person in charge of the animal shall forthwith remove it from Rundle Mall on the request of an Authorised Person; and

5.1.2 any Authorised Person may remove any animal from Rundle Mall if the person fails to comply with the request, or if no person is in charge of the animal.

5.2 An Authorised Person may direct any person who is considered to be committing, or has committed, a breach of a by-law to leave Rundle Mall. A failure to comply with that direction forthwith is a breach of this by-law.

### 6. *Removal of Obstructions*

If an object is obstructing any part of Rundle Mall then the Council may remove the object provided that this paragraph shall not apply to any object that has been placed in Rundle Mall with the Permission of the Council or the object has been placed in Rundle Mall by some other lawful authority.

### 7. *Building Facades*

7.1 The owner of a building or structure on, abutting or visible from Rundle Mall must ensure that the external appearance of the building or structure does not detract from the amenity of Rundle Mall.

7.2 If, in the opinion of the Council or such other person as the Council may by resolution authorise for that purpose, the external appearance of a building or structure detracts from the amenity of Rundle Mall, the Council or such other person so authorised may, by written notice, require the owner of the building to carry out such works as are deemed necessary.

### 8. *Permits*

8.1 Despite the Council's By-law No. 1—Permits and Penalties:

8.1.1 Where this by-law requires that Permission be obtained, any person seeking the grant of Permission must submit a written application to the Council in the form (if any) and accompanied by the fee (if any) prescribed by the Council.

8.1.2 The Council, or such other person as the Council may by resolution authorise for that purpose, may attach such conditions (including but not limited to time limits, renewal and transfer requirements) to a grant of Permission as it thinks fit, and may vary or revoke such conditions or impose new conditions by notice in writing to the permit holder.

8.1.3 Any permit holder shall comply with every such condition.

8.1.4 The Council, or such other person as the Council may by resolution authorise for that purpose, may suspend or revoke such grant of Permission at any time by notice in writing to the permit holder.

8.2 The Council may by resolution fix, vary or revoke fees or charges for the granting of Permission for any of the activities listed in paragraph 2 of this by-law.

8.3 For the avoidance of doubt, where Permission is required under this by-law, that Permission is granted under this paragraph 8 and the Council's By-law No. 1—Permits and Penalties shall not apply for the purposes of that Permission.

#### 9. Offences and Penalties

9.1 Despite the Council's By-law No. 1—Permits and Penalties:

9.1.1 Any person who commits a breach of this by-law shall be guilty of an offence and shall be liable to a maximum penalty being the maximum penalty referred to in the City of Adelaide Act 1998 that may be fixed by by-law for any breach of this by-law.

9.1.2 Any person who commits a breach of this by-law of a continuing nature shall be guilty of an offence and, in addition to any other penalty that may be imposed, shall be liable to a further penalty for every day on which the offence is continued, such penalty being the maximum amount referred to in the Local Government Act 1999 which may be prescribed by by-law for offences of a continuing nature.

9.2 For the avoidance of doubt, where a penalty is imposed for an offence against this by-law, that penalty is imposed under this paragraph 9 and the Council's By-law No. 1—Permits and Penalties shall not apply for the purposes of that penalty.

#### 10. Exemptions

The restrictions in this by-law do not apply to any Police Officer, Council Officer or employee acting in the course and within the scope of that person's normal duties, or to a contractor while performing work for the Council and while acting under the supervision of a Council Officer, or an emergency worker when driving an Emergency Vehicle in an emergency situation.

#### 11. Application of Paragraphs

11.1 For the avoidance of doubt, this by-law applies in Rundle Mall to the exclusion of the Council's By-law No. 4—Roads.

11.2 Subparagraph 2.6.1 of this by-law shall apply only in such portion or portions of the area as the Council may by resolution direct in accordance with section 246 (3) (e) of the Local Government Act 1999.

The foregoing by-law was duly made and passed at a meeting of the Corporation of the City of Adelaide held on 31 January 2011, by an absolute majority of the members for the time being constituting the Council, there being at least two-thirds of the members present.

P. SMITH, Chief Executive Officer

#### CITY OF PORT ADELAIDE ENFIELD

##### *Change of Name for a Public Road*

NOTICE is hereby given that the Council of the City of Port Adelaide Enfield at its meeting held on 18 January 2011, resolved pursuant to section 219 (1) of the Local Government Act 1999, that the name of a certain public road, being Hennessey Terrace, located in the suburb of Rosewater be changed to Hennessey Terrace.

A plan that delineates the public road that is subject to the change of street name, together with a copy of the Council's resolution are both available for inspection at the Council's Principal Office, 163 St Vincent Street, Port Adelaide; The Parks—Library Council Office, 2-46 Cowan Street, Angle Park; Enfield Library—Council Office, 1-9 Kensington Crescent, Enfield and Greenacres—Library Council Office, 2 Fosters Road, Greenacres, during their normal business hours.

H. J. WIERDA, City Manager

#### CITY OF SALISBURY

##### ROADS (OPENING AND CLOSING) ACT 1991

##### *Lipson Reach Road, Gulfview Heights*

NOTICE is hereby given pursuant to section 10 of the Roads (Opening and Closing) Act 1991, that Council proposes to make a Road Process Order to close and sell to V. T. Do and T. S. Nguyen a portion of road being:

- An irregularly-shaped portion of public road (Lipson Reach Road) adjoining the north-western boundary of Allotment 9 in Deposited Plan 51643 shown as 'A' on Preliminary Plan No. 11/0003.

A copy of the plan and statement of persons affected are available for public inspection at the Council Office, 12 James Street, Salisbury and at the office of the Surveyor-General, 101 Grenfell Street, Adelaide, during normal office hours. Any objection or representation must set out the full name, address and details of the submission and must be fully supported by reasons.

The objection or representation must be made in writing within 28 days of the date of this notice to the Council, P.O. Box 8, Salisbury, S.A. 5108 and the Surveyor-General, G.P.O. Box 1354, Adelaide, S.A. 5001, setting out full details.

Council will consider all submissions containing objections received by 10 March 2011. Where a submission is made, Council will give notification of a meeting at which the matter will be considered.

Any enquiries relating to the above proposal and requests for any plans may be directed to Tim Starr on 8406 8577 or Karen Pepe on 8406 8397.

Dated 10 February 2011.

S. HAINS, City Manager

#### CITY OF SALISBURY

##### *Declaration of Public Road*

NOTICE is hereby given that at a Council meeting held on Monday, 31 January 2011, Council resolved:

That pursuant to section 208 of the Local Government Act 1999, Council declared that Allotment 914 in Deposited Plan 74369 and Allotment 309 in Deposited Plan 81989 (foot thoroughfare) be public road and named Coventry Street.

S. HAINS, City Manager

## CITY OF WHYALLA

*Airport Fees*

NOTICE is hereby given that the Whyalla City Council wishes to advise the following new airport fee structure, in accordance with the Aerodrome Fees Act 1998.

EFFECTIVE 1 APRIL 2011

Description	New Aerodrome Fees \$
Passenger head taxes:	
Head tax per person .....	7.00
Private landing fees/1 000 kg per landing:	
Military	5.00
Aircraft < 5 700 kg .....	8.00
Aircraft > 5 700 kg .....	11.00
Regular user landing fee per annum .....	200.00
Hanger rental:	
Single engine monthly .....	75.00
Twin engine monthly .....	120.00
Casual weekly hire .....	30.00
Casual daily hire .....	10.00

For further information regarding the above, please contact Janine Hugo, Airport Manager on (08) 8640 3444.

I. BURFITT, City Manager

## ALEXANDRINA COUNCIL

## DEVELOPMENT ACT 1993

*Currency Creek Rural Living Development Plan Amendment—  
Public Consultation*

NOTICE is hereby given that the Alexandrina Council, pursuant to sections 24 and 25 of the Development Act 1993, has prepared a Development Plan Amendment Report (DPA) to amend its Development Plan.

The Amendment will change the Development Plan by proposing to remove the current Rural (Currency Creek) Zone as it applies to that section of land north of Wellington Road and a section of land south of Currency Creek and immediately east of the Strathalbyn to Goolwa Road, and replace it with a Rural Living Zone and a Currency Creek Policy Area. The proposed policies seek to ensure the amalgamation of allotments to facilitate potential additional dwellings in line with two Concept Plans. The policies will also provide for the protection of rural landscape character and the prevention of impacts to nearby environmentally sensitive areas. Additionally, the Currency Creek watercourse area is to be covered by a Conservation Zone.

The proposed changes are intended to maintain rural activities and character whilst granting restricted residential dwelling development rights to amalgamated properties within the 'Paper Township'. The DPA also takes advantage of the opportunity to protect and enhance environmentally and culturally sensitive areas along the Currency Creek watercourse.

The DPA report will be on public consultation from Thursday, 10 February 2011 until 5 p.m. on Friday, 8 April 2011.

Copies of the DPA report are available during normal office hours at the Alexandrina Council Offices, 11 Cadell Street, Goolwa and High Street, Strathalbyn. Alternatively, the DPA report can be viewed on the internet at [www.alexandrina.sa.gov.au](http://www.alexandrina.sa.gov.au) or during normal office hours at both of the Alexandrina Council Libraries located at 11 Cadell Street, Goolwa and Callington Road, Strathalbyn.

Written submissions regarding the DPA should be submitted no later than 5 p.m. on Friday, 8 April 2011. All submissions should be addressed to General Manager Planning and Development, P.O. Box 21, Goolwa, S.A. 5214 and should clearly indicate whether you wish to be heard in support of your submission at the public hearing. If you wish to lodge your submission electronically, please email it to [alex@alexandrina.sa.gov.au](mailto:alex@alexandrina.sa.gov.au) marked attention to General Manager Planning and Development.

Copies of all submissions will be available for inspection at the Alexandrina Council Offices, 11 Cadell Street, Goolwa from 17 February 2011 until the conclusion of the public hearing.

A public hearing will be held on Thursday, 14 April 2011 at 7 p.m. at the Alexandrina Council Community Chambers, 11 Cadell Street, Goolwa, at which time interested persons may be heard in relation to the DPA and the submissions. The public hearing will not be held if no submissions are received or if no submission makes a request to be heard.

If you would like further information about the DPA, please contact Sally Roberts on 8555 7000 or email:

[sally.roberts@alexandrina.sa.gov.au](mailto:sally.roberts@alexandrina.sa.gov.au)

Dated 10 February 2011.

P. DINNING, Chief Executive Officer

## COORONG DISTRICT COUNCIL

*Resolution of Adoption of Management Plans*

NOTICE is hereby given, that the Coorong District Council, at its meeting held on 18 January 2011, pursuant to section 197 (3) of the Local Government Act 1999, resolved pursuant to section 196 of the Act to adopt Management Plans in respect to the following parcels of Community Land that have recently come under the care and control of Council:

- Allotment 50 in Deposited Plan 82853, Hundred of Santo in the area named Coorong being certificate of title volume 6053, folio 864.
- Allotments 107, 108, 109 and 110 in Deposited Plan 83982, Hundred of Bonney in the area named Meningie being certificates of titles volume 6064, folios 298, 299, 300 and 301 respectively.
- Allotment 1 in Deposited Plan 75214, Hundred of Peake being certificate of title volume 6007, folio 494.

M. BOYD, Chief Executive Officer

## DISTRICT COUNCIL OF LOWER EYRE PENINSULA

## DEVELOPMENT ASSESSMENT PANEL

*Appointments*

NOTICE is hereby given that the District Council of Lower Eyre Peninsula in accordance with the requirements of section 56A of the Development Act 1993, that the Council at its meeting held on 28 January 2011, appointed the following persons to the Council's Development Assessment Panel for a two year term commencing on 27 February 2011:

M. L. Roberts;  
A. C. Chappell;  
J. Isle;  
I. J. Fitzsimons;  
Councillor J. K. Low;  
Councillor W. Holman;  
Councillor P. Mitchell.

Council has appointed M. L. Roberts as the Presiding Member.

*Appointment of Public Officer*

Pursuant to section 56A of the Development Act, the District Council of Lower Eyre Peninsula appoints Troy Smith as the Public Officer for the Development Assessment Panel.

## Contact Details:

Troy Smith, Public Officer  
District Council of Lower Eyre Peninsula Development  
Assessment Panel  
38 Railway Terrace, Cummins, S.A. 5631.  
Phone: 8676 2106.

Dated 10 February 2011.

R. PEARSON, Chief Executive Officer

IN the matter of the estate of the undermentioned deceased persons:

*Boothby, Brenton John*, late of 14 Pelham Road, Risdon Park South, retired police officer, who died on 30 November 2010.

*Cook, Annie Ellen*, late of 15 Halliday Street, Risdon Park, of no occupation, who died on 12 September 2010.

*D'Onghia, Giovanni*, late of 3 English Drive, Millicent, retired stock leading hand, who died on 21 November 2010.

*Daulby, Nellie Vera*, late of 6 Ellis Street, Enfield, of no occupation, who died on 29 November 2010.

*Ebert, Siegfried*, late of 80 Ashfield Road, Elizabeth, retired claims supervisor, who died on 1 February 2009.

*Gurney, Horace Charles*, late of 59 Ferguson Avenue, Myrtle Bank, retired labourer, who died on 5 May 2008.

*Hlipala, Margit*, late of Kennedy Court, Largs Bay, widow, who died on 4 December 2010.

*Phillips, Steven John*, late of 52 Warren Road, Para Vista, of no occupation, who died on 6 July 2010.

*Roberts, Zita Theodora*, late of 49 East Terrace, Henley Beach, home duties, who died on 5 November 2010.

*Strapps, Betty Eileen*, late of 25 Halmon Avenue, Everard Park, home duties, who died on 20 December 2010.

Notice is hereby given pursuant to the Trustee Act 1936, as amended, the Inheritance (Family Provision) Act 1972 and the Family Relationships Act 1975, that all creditors, beneficiaries, and other persons having claims against the said estates are required to send, in writing, to the Office of Public Trustee, G.P.O. Box 1338, Adelaide, S.A. 5001, full particulars and proof of such claims, on or before 11 March 2011, otherwise they will be excluded from the distribution of the said estate; and notice is also hereby given that all persons indebted to the said estates are required to pay the amount of their debts to the Public Trustee or proceedings will be taken for the recovery thereof; and all persons having any property belonging to the said estates are forthwith to deliver the same to the Public Trustee.

Dated 10 February 2011.

D. A. Contala, Public Trustee

IN the matter of the estate of the undermentioned deceased person:

*Hansberry, Bertrand Thomas*, late of 14 Coopers Avenue, Leabrook, who died on 23 November 2009.

Notice is hereby given by the executor and trustee of the estate that creditors or other persons having claims against the estate or property of the estate should send particulars of such claims, including supporting documentation to O'Loughlins Lawyers, Level 2, 99 Frome Street, Adelaide, S.A. 5000 within 31 days of the publication of this notice after which time the estate will be distributed having regard only to claims of which notice has been received.

#### SALE OF PROPERTY

Auction Date: Saturday, 26 February 2011 at 10 a.m.

Location: Auction Blue, 15-17 Kingston Avenue, Richmond.

Notice is hereby given that on the above date at the time and place stated, by virtue of the Fines Payment Unit of South Australia—Penalty No. EXREG 07/26570/1 and others, are directed to the Sheriff of South Australia in an action wherein Troy Ashford is the Defendant, I, Mark Stokes, Sherriff of the State of South Australia, will by my auctioneers, Auction Blue make sale of the following:

1985 Mazda 626 Coupe  
Registration No. UHV 544.

# ATTENTION

CUSTOMERS requiring a proof of their notice for inclusion in the *Government Gazette*, please note that the onus is on you to inform **Government Publishing SA** of any subsequent corrections.

For any corrections to your notice please phone 8207 1045 or Fax 8207 1040 **before 4 p.m. on Wednesday.**

If we do not receive any communication by 10 a.m. on Thursday (day of publication) we will presume the notice is correct and will print it as it is.

**Remember**—the onus is on you to inform us of any corrections necessary to your notice.

**NOTE: Closing time for lodging new copy (electronically, fax or hard copy) is 4 p.m. on Tuesday preceding the day of publication.**

Phone: 8207 1045

Fax: 8207 1040

Email: [governmentgazette@dpc.sa.gov.au](mailto:governmentgazette@dpc.sa.gov.au)