

South Australia



MFP DEVELOPMENT (WINDING-UP) AMENDMENT ACT 1998

No. 31 of 1998

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ELIZABETHAE II REGINAE

A.D. 1998

No. 31 of 1998

An Act to amend the MFP Development Act 1992.

[Assented to 23 April 1998]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *MFP Development (Winding-Up) Amendment Act 1998*.

(2) The *MFP Development Act 1992* is referred to in this Act as "the principal Act".

Commencement

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

Amendment of s. 3—Interpretation

3. Section 3 of the principal Act is amended—

(a) by striking out from subsection (1) the definitions of "Advisory Committee" and "Commonwealth Minister" and substituting the following definition:

"asset" means—

(a) a present, contingent or future legal or equitable estate or interest in real or personal property; or

(b) a present, contingent or future right, power, privilege or immunity,

(and includes a present or future cause of action in favour of the Corporation);;

(b) by inserting after the definition of "industry" in subsection (1) the following definition:

"liability" means a present, contingent or future liability or obligation (including a non-pecuniary obligation and a present or future cause of action against the Corporation);;

(c) by striking out from subsection (1) the definition of "State Minister".

Repeal of s. 4

4. Section 4 of the principal Act is repealed.

Repeal of Part 2

5. Part 2 of the principal Act is repealed.

Amendment of s. 6—Corporation

6. Section 6 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

(1) The *MFP Development Corporation* continues in existence pending the disposing of its assets and liabilities.

Substitution of s. 7

7. Section 7 of the principal Act is repealed and the following section is substituted:

Constitution of Corporation

7. The Corporation is constituted of the Minister.

Amendment of s. 8—Functions of Corporation

8. Section 8 of the principal Act is amended—

(a) by striking out from subsection (1)(a) "in accordance with the objects of this Act";

(b) by inserting after subsection (2) the following subsection:

(3) The Corporation may continue to perform its functions pending the disposing of its assets and liabilities.

Amendment of s. 9—Powers of Corporation

9. Section 9 of the principal Act is amended—

(a) by striking out from subsection (2) ", with the consent of the State Minister,";

(b) by striking out subsection (3).

Repeal of s. 13

10. Section 13 of the principal Act is repealed.

Amendment of s. 14—Delegation

11. Section 14 of the principal Act is amended by striking out from subsection (1) ", with the consent of the State Minister,".

Substitution of ss. 15 to 23

12. Sections 15 to 23 of the principal Act are repealed and the following sections are substituted:

Common seal and execution of documents

15. (1) The common seal of the Corporation may be affixed to a document on the Corporation's authority.

(2) A document apparently bearing the common seal of the Corporation will be presumed, in the absence of evidence to the contrary, to have been duly executed by the Corporation.

Validity of transactions

16. (1) Subject to subsection (2), a transaction to which the Corporation is a party or apparently a party (whether made or apparently made under the Corporation's common seal or by a person with authority to bind the Corporation) is not invalid because of—

- (a) any deficiency of power on the part of the Corporation; or
- (b) any procedural irregularity on the part of the Corporation or an employee or agent of the Corporation or any procedural irregularity affecting the appointment of an employee or agent of the Corporation.

(2) This section does not validate a transaction in favour of a party—

- (a) who enters into the transaction with actual knowledge of the deficiency or irregularity; or
- (b) who has a connection or relationship with the Corporation such that the person ought to know of the deficiency or irregularity.

Repeal of Part 4

13. Part 4 of the principal Act is repealed.

Substitution of Part 6

14. Part 6 of the principal Act is repealed and the following Parts are substituted:

**PART 6
WINDING UP**

Disposal of assets or liabilities

33. (1) The Corporation may, by instrument in writing, vest assets or liabilities of the Corporation in—

- (a) the Crown; or
- (b) a Minister; or
- (c) an instrumentality of the Crown; or
- (d) another authority or person,

nominated in the instrument.

(2) An instrument under subsection (1) may make other provisions that in the opinion of the Corporation are necessary or expedient in connection with the vesting of assets or liabilities.

(3) The vesting of assets or liabilities under this section operates by force of this section and despite the provisions of any other law or instrument.

(4) The Registrar-General or another authority required or authorised under a law of the State to register or record transactions affecting assets or liabilities, or documents relating to such transactions, must, on application under this section, register or record in an appropriate manner a vesting under this section.

(5) No fee is payable in respect of an application under subsection (4).

(6) Nothing done under this section—

- (a) constitutes a breach of, or default under, an Act or other law; or
- (b) constitutes a breach of, or default under, a contract, agreement, understanding or undertaking; or
- (c) constitutes a breach of a duty of confidence (whether arising by contract, in equity or by custom or in any other way); or
- (d) constitutes a civil or criminal wrong; or
- (e) terminates an agreement or obligation or fulfils any condition that allows a person to terminate an agreement or obligation, or gives rise to any other right or remedy; or
- (f) releases a surety or other obligee wholly or in part from an obligation.

Transfer of staff

34. (1) The Governor may, by proclamation, transfer a person who is an employee of the Department for Administrative and Information Services and who was, immediately before 3 December 1997, employed by the Corporation to a position in the employment of an instrumentality of the Crown.

(2) The transfer of a person under subsection (1)—

- (a) does not constitute a termination of a pre-existing employment agreement; and
- (b) does not affect—
 - (i) existing conditions of employment or existing or accrued rights to leave; or
 - (ii) a process commenced for variation of those conditions or rights.

(3) The Governor may, by proclamation, make any transitional or ancillary provision that may be necessary or expedient in view of a transfer of a person under subsection (1).

**PART 7
REGULATIONS**

Regulations

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

**PART 8
EXPIRY OF ACT**

Expiry of Act

36. (1) The Governor may, by proclamation, fix a day on which this Act will expire.

(2) If a proclamation is made under subsection (1)—

- (a) this Act expires on the day fixed by the proclamation; and
- (b) immediately before the expiry, any remaining assets or liabilities of the Corporation vest in the Crown.

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

E. J. NEAL Governor