



ASER (RESTRUCTURE) (MISCELLANEOUS) AMENDMENT ACT 1999

No. 45 of 1999

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ELIZABETHAE II REGINAE

A.D. 1999

No. 45 of 1999

An Act to amend the ASER (Restructure) Act 1997.

[Assented to 12 August 1999]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *ASER (Restructure) (Miscellaneous) Amendment Act 1999*.
- (2) The *ASER (Restructure) Act 1997* 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 by inserting after the definition of "Site" the following definition:

"special resolution" means a resolution passed at a general meeting of the Corporation by a number of votes equivalent to at least 75% of the total number of votes exercisable by the members of the Corporation;

Substitution of Division 2 of Part 2

4. Division 2 of Part 2 (comprising section 7) of the principal Act is repealed and the following Divisions are substituted:

Division 2—Casino site, the subsidiary sites and the common area

The casino site

7. (1) The casino site is the part of the Site defined by regulation as the casino site.
- (2) The casino site must include the premises licensed as a casino.
- (3) A regulation redefining a common boundary between the casino site and the common area or a subsidiary site may only be made—

- (a) in the case of a common boundary between the casino site and the common area—with the agreement of all stakeholders;
- (b) in the case of a common boundary between the casino site and a subsidiary site—with the agreement of the stakeholder occupying the site.

The subsidiary sites and the common area

7A. (1) The subsidiary sites and the common area are (subject to this section) the parts of the Site respectively defined by regulation as the subsidiary sites and the common area as at the commencement of this section.

(2) The Corporation may, by notice in the *Gazette*, redefine the boundaries of a subsidiary site or the common area—but not so as to affect a common boundary with the casino site or to include land outside the Site.

(3) However—

- (a) a boundary of the common area may only be altered with the agreement of all of the stakeholders; and
- (b) a boundary of a subsidiary site may only be altered with the agreement of the stakeholder occupying the site.

Division 3—Development by stakeholders

Development of subsidiary sites

7B. (1) A stakeholder may, with the necessary approvals, develop the stakeholder's subsidiary site.

(2) The necessary approvals are—

- (a) any authorisation or approval required under the *Development Act 1993*; and
- (b) if the subsidiary site is occupied under a lease—any authorisation or approval required under the lease; and
- (c) if the development will require support from another subsidiary site—the approval of the occupier¹ of the other subsidiary site; and
- (d) if the development encroaches on the common area—the Corporation's approval.

1. See definition of "occupier" in section 3.

Division 4—Statutory rights of support

Statutory rights of support

7C. (1) Statutory rights of support exist between the relevant sites so far as the support may be necessary for—

- (a) buildings and structures existing as at the commencement of this section; and

- (b) buildings and structures lawfully erected, or to be erected, after the commencement of this section; and
- (c) buildings and structures (whether existing at the commencement of this section or erected later) lawfully modified, or to be modified, after the commencement of this section.

(2) The rights of support exist in favour of the occupiers of a dominant site and are enforceable against the owner and occupiers of a servient site.

(3) The Supreme Court may make orders (including an order in the nature of a mandatory injunction) for the enforcement of rights under this section.

(4) For example, the occupier of a servient site may be required to permit the construction or installation on the site of appropriate foundations or structural supports to enable the construction or reinstatement of a building or structure on a dominant site.

(5) The Supreme Court may make an order under this section—

- (a) on application by the occupier of a dominant site; or
- (b) on application by the Corporation in its own right as the occupier of the common area or on behalf of the occupier of a subsidiary site.

(6) In this section—

"dominant site" means a relevant site for the benefit of which rights of support exist under this section;

"occupier" of a relevant site means—

- (a) for the common area—the Corporation;
- (b) for a subsidiary site—the stakeholder or a person who derives rights of occupation from the stakeholder under a sub-lease or a series of subleases;

"relevant site" means—

- (a) a subsidiary site (including all buildings and structures on the subsidiary site); or
- (b) the common area (including all buildings and structures on the common area);

"servient site" means a relevant site from which support is required for an existing or proposed building or structure.

Substitution of heading to Part 4

5. The heading to Part 4 of the principal Act is repealed and the following heading is substituted:

**PART 4
THE CORPORATION AND ITS FUNCTIONS**

Substitution of heading to Division 2 of Part 4

6. The heading to Division 2 of Part 4 of the principal Act is repealed and the following heading is substituted:

Division 2—Insurance

Amendment of s. 14—Insurance

7. Section 14 of the principal Act is amended by inserting after subsection (1) the following subsection:

(1a) The Corporation may, at the request and on behalf of a stakeholder or stakeholders generally, insure the stakeholder or stakeholders against—

- (a) public liability;
- (b) damage to, or destruction of, buildings, structures, plant, equipment or other facilities;
- (c) any other insurable risk.

Amendment of s. 15—Common area

8. Section 15 of the principal Act is amended—

(a) by inserting after paragraph (b) of subsection (3) the following paragraph:

and

- (c) the Corporation may grant rights of exclusive occupation over parts of the common area if—
 - (i) the Corporation is satisfied that to do so would enhance the use or enjoyment of the common area; and
 - (ii) the grant is authorised by special resolution.;

(b) by inserting after subsection (3) the following subsection:

(4) The term for which the Corporation grants rights of exclusive occupation over a part of the common area is not to exceed three years.

Amendment of s. 17—The shared facilities and basic services

9. Section 17 of the principal Act is amended—

(a) by striking out subsections (1) and (2) and substituting the following subsections:

(1) The shared facilities are—

- (a) the facilities identified in the regulations as in force at the commencement of this subsection as the shared facilities; or
- (b) if the Corporation has published a schedule of shared facilities under subsection (2)—the facilities described as shared facilities in the schedule last published under that subsection.

(2) The Corporation may, with unanimous agreement of the stakeholders, publish in the *Gazette* a schedule identifying facilities that are to be provided by the Corporation for the benefit of stakeholders generally, or one or more stakeholders, as shared facilities.

(2a) A schedule published under subsection (2) supersedes an earlier regulation or schedule identifying shared facilities.;

(b) by inserting after paragraph (d) of subsection (3) the following paragraph:

- (e) any other service that is to be provided by the Corporation for the benefit of stakeholders by unanimous agreement of the stakeholders.

Insertion of Division 4A of Part 4

10. The following Division is inserted after section 20 of the principal Act:

Division 4A—Other functions

Riverbank Precinct Master Plan

20A. (1) The Corporation is responsible for—

- (a) consulting with stakeholders about the formulation and implementation of proposals for the Riverbank Precinct Master Plan;
- (b) consulting on behalf of stakeholders about the formulation and implementation of the Riverbank Precinct Master Plan with agencies responsible for its formulation or implementation;
- (c) making on behalf of stakeholders voluntary contributions towards the implementation of the Riverbank Precinct Master Plan;
- (d) generally assisting with the implementation of the Riverbank Precinct Master Plan to the benefit of the State and the stakeholders.

(2) In this section—

"Riverbank Precinct Master Plan" means the plan proposed in the *Riverbank Precinct Adelaide, Master Plan Report February 1999* commissioned by the State Government of South Australia, as amended from time to time.

(3) This section expires on 30 June 2004.

Adjacent facilities

20B. The Corporation may maintain and operate facilities, and make provision for the safety of persons and property, in areas adjacent to the Site associated with the use and enjoyment of the Site if authorised to do so by unanimous agreement of the stakeholders.

Amendment of s. 21—Budget of income and expenditure

11. Section 21 of the principal Act is amended by striking out subsections (4) and (5).

Amendment of s. 22—Compulsory contributions

12. Section 22 of the principal Act is amended—

(a) by striking out from subsection (1) "approved by the Treasurer";

(b) by striking out paragraph (b) of subsection (2) and substituting the following paragraph:

(b) if the Corporation by unanimous vote of its members decides to change the basis of contribution—the basis of contribution last fixed by the Corporation.;

(c) by inserting after subsection (3) the following subsection:

(3a) If a particular service is provided at the request of, and on behalf of, a stakeholder, a separate contribution may be levied against the stakeholder for the provision of that service.

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

E. J. NEAL Governor