



ANNO DECIMO NONO

ELIZABETHAE II REGINAE

A.D. 1970

No. 45 of 1970

An Act to amend The Festival Hall (City of Adelaide)
Act, 1964.

[Assented to 10th December, 1970.]

BE IT ENACTED by the Governor of the State of South
Australia, with the advice and consent of the Parliament thereof,
as follows:

1. (1) This Act may be cited as "The Festival Hall (City of Adelaide) Act Amendment Act, 1970". Short titles.

(2) The Festival Hall (City of Adelaide) Act, 1964, as amended
by this Act, may be cited as the "Adelaide Festival Theatre Act,
1964-1970".

(3) The Festival Hall (City of Adelaide) Act, 1964, is hereinafter
referred to as "the principal Act".

2. The long title to the principal Act is amended by striking out
the word "Hall" and inserting in lieu thereof the word "Theatre". Amendment of
long title to
principal Act.

3. The following heading is enacted and inserted in the principal
Act immediately before section 1 thereof:— Enactment of
heading of
principal Act.

PART I

PRELIMINARY

Enactment of
s. 1a of
principal Act—

4. The following section is enacted and inserted in the principal Act immediately after section 1 thereof:—

Arrangement
of Act.

1a. This Act is arranged as follows—

PART I—PRELIMINARY, ss. 1-2.

PART II—FESTIVAL THEATRE, ss. 3-4.

PART III—FINANCIAL, ss. 5-10.

PART IV—VESTING OF LAND, ss. 11-16.

PART V—MISCELLANEOUS, s. 17.

Amendment of
principal Act,
s. 2—
Interpretation.

5. Section 2 of the principal Act is amended—

(a) by striking out from the definition of “the council” the passage “the Corporation” and inserting in lieu thereof the passage “The Corporation”;

(b) by inserting after the definition of “the council” the following definition:—

“the 1970 amending Act” means The Festival Hall
(City of Adelaide) Act Amendment Act, 1970;;

and

(c) by striking out the definition “the Festival Hall” and inserting in lieu thereof the following definitions:—

“the Festival Theatre” means the Festival Theatre,
buildings, furniture, instruments, fittings and
equipment, works and conveniences authorized by
this Act to be constructed and provided:

“the fund” means the “Adelaide Festival Theatre
Appeal Fund” established by the Lord Mayor of
the City of Adelaide:

“the trustees” means the trustees of the fund appointed
under section 17 of this Act.

Enactment of
heading of
principal Act.

6. The following heading is enacted and inserted in the principal Act immediately after section 2 thereof:—

PART II

FESTIVAL THEATRE

7. Section 3 of the principal Act is amended—**Amendment of
principal Act,
s. 3—**

- (a) by striking out from subsection (1) the word “Hall” and inserting in lieu thereof the word “Theatre”;
 - (b) by striking out from subsection (2) the word “Hall” and inserting in lieu thereof the word “Theatre”;
 - (c) by striking out from subsection (3) the word “Hall” and inserting in lieu thereof the word “Theatre”;
 - (d) by striking out from subsection (3) the word “Treasurer” twice occurring and inserting in lieu thereof in each case the word “Minister”;
 - (e) by striking out from subsection (4) the word “Hall” and inserting in lieu thereof the word “Theatre”;
 - (f) by inserting in subsection (5) after the word “borrow” the passage “, on the security of the general rates,”;
 - (g) by striking out from subsection (5) the passage “£600,000” and inserting in lieu thereof the passage “\$1,800,000”;
- and
- (h) by striking out from subsection (5) the word “Hall” and inserting in lieu thereof the word “Theatre”.

**Power to
construct
Festival
Theatre.****8. Section 4 of the principal Act is amended—****Amendment of
principal Act,
s. 4—**

- (a) by striking out the word “Hall” and inserting in lieu thereof the word “Theatre”;
- and
- (b) by inserting after the passage “management thereof” the passage “and notwithstanding any other Act the council may do all things necessary for and incidental and ancillary to such care, control and management”.

**Vesting and
control of
Festival
Theatre.****9. The following heading is enacted and inserted in the principal Act immediately after section 4 thereof:—****Enactment of
heading of
principal Act.****PART III****FINANCIAL**

Enactment of
ss. 6-18 of
principal Act—

10. The following sections and headings are enacted and inserted in the principal Act immediately after section 5 thereof:—

The Carclew
property, etc.

6. (1) In this section—

“current expenditure” means the net amounts expended by the council from time to time for the purposes of or connected with—

(a) the sale of or other dealing with the whole or any portion of the Carclew property;

and

(b) the holding and maintaining of the whole or any portion of the Carclew property during the period elapsing between the commencement of the 1970 amending Act and the day of that sale or dealing:

“the Carclew expenditure” means the net total amount expended by the council before the commencement of the 1970 amending Act on and in relation to the Carclew property in pursuance of the powers conferred on it by section 3 of this Act as then in force including all amounts paid by the council in pursuance of those powers by way of rates and taxes in respect of the whole or any portion of the Carclew property and includes an amount of \$7,640 paid by the Treasurer to the council in respect of an investigation and report by Bolt, Beranek and Newman Inc. of New York but does not include any current expenditure:

“the Carclew property” means those lands situated in the City of Adelaide known as town acres numbers 749 and 750 together with all buildings and structures thereon and includes any property acquired by the council in pursuance of the powers conferred on it by section 3 of this Act as in force before the commencement of the 1970 amending Act for the purposes of or connected with the construction and provision of a Festival Hall on those lands:

“the Government’s contribution” means the total of the amounts paid or borne by the Treasurer pursuant to subsection (1) or (2) of section 5 of this Act and the amount of \$7,640 paid by the Treasurer to the council which is included in the Carclew expenditure.

(2) After the commencement of the 1970 amending Act—

(a) no further moneys shall be paid by the Treasurer to the council pursuant to section 5 of this Act;

and

(b) that section shall apply and have effect to and in relation to the repayment of the amounts paid by the Treasurer pursuant to subsection (3) thereof as if the construction and provision of the Festival Hall, buildings, furniture, fittings and equipment referred to in subsection (4) thereof had been completed on the day on which the 1970 amending Act commenced.

(3) Notwithstanding any other Act, the council may, with the consent of the Treasurer, sell or otherwise deal with the whole or any portion of the Carclew property and, shall deduct from the proceeds of any such sale or dealing such portion of the current expenditure as, in the opinion of the council, is attributable to such sale or dealing.

(4) Out of the balance of the proceeds of any sale or dealing referred to in subsection (3) of this section after the deduction provided for in that subsection is made the council shall so often as the Treasurer requires pay to the Treasurer an amount which bears to the balance the same relationship as the Government's contribution bears to the Carclew expenditure and the council may retain the unpaid amount of each such balance for its own purposes.

7. (1) Subject to this section, the Treasurer may pay to the council an amount not exceeding \$3,950,000 for the purposes of assisting the council to construct and provide a Festival Theatre.

Further
financial
provision.

(2) If the amount expended by the council in the exercise of the powers conferred on it by section 3 of this Act does not exceed \$5,750,000 the amount payable by the Treasurer pursuant to subsection (1) of this section shall not exceed \$3,950,000 less two-thirds of the amount by which the amount so expended by the council is less than \$5,750,000.

(3) In calculating the amount expended by the council for the purposes of subsection (2) and subsection (4) of this section no regard shall be had to—

(a) the Carclew expenditure as defined for the purposes of section 6 of this Act;

or

- (b) any expenditure by the council of moneys paid to the council by the trustees pursuant to subsection (4) of section 17 of this Act that exceeds \$100,000.

(4) If the Treasurer is satisfied that the amount expended by the council in the exercise of the powers conferred on it by section 3 of this Act exceeds \$5,750,000 as a consequence of unavoidable increases in costs arising from increases in prices or wages above the levels of prices or wages prevailing on the first day of September, 1970, the amount payable by the Treasurer pursuant to subsection (1) of this section shall not exceed the amount of \$3,950,000 plus two-thirds of the amount by which the amount so expended by the council, as a consequence of those increases in costs, exceeds \$5,750,000.

Operating
losses.

8. (1) If the Treasurer is satisfied that in respect of any financial year, the whole or any part of which occurs within ten years after the day specified by the council to the Treasurer as the day upon which the Festival Theatre has been completed and is ready for operation, the council has incurred a loss in operating and maintaining the Festival Theatre as such the Treasurer may pay to the council so much of the amount of that loss—

- (a) in respect of any whole financial year, as does not exceed \$40,000;

or

- (b) in respect of any such part of a financial year, as does not exceed the amount of \$110 multiplied by the number of days comprised in that part of the financial year.

(2) Where—

- (a) in respect of any whole financial year referred to in subsection (1) of this section, the loss referred to in that subsection exceeds \$40,000;

or

- (b) in respect of any part of a financial year referred to in subsection (1) of this section the loss referred to in that subsection exceeds \$110 multiplied by the number of days comprised in that part of the financial year,

the Treasurer may pay to the council the amount by which the loss exceeds \$40,000 or, as the case may be, the amount by which the loss exceeds an amount of \$110 multiplied by the number of days comprised in that part of the financial year so long as the

aggregate of the amounts paid by the Treasurer pursuant to this section do not at any time exceed the amount of \$110 multiplied by the number of days falling within the period of ten years referred to in subsection (1) of this section which have elapsed.

(3) For the purpose of calculating the loss referred to in subsection (1) of this section—

(a) no regard shall be had to the amount of any repayments made by the council in relation to principal or interest on moneys borrowed by the council for the purposes of the Festival Theatre;

and

(b) the council may bring into account such water and sewerage rates paid and such council rates as may be levied by the council based on an assessed annual value of the Festival Theatre not exceeding \$50,000.

(4) Notwithstanding any other Act, in respect of the period of ten years referred to in subsection (1) of this section no amount in respect of council rates or water and sewerage rates shall be payable in respect of the Festival Theatre, that exceeds the amount of such rates as would be payable if the assessed annual value of the Festival Theatre were \$50,000.

9. All payments by the Treasurer authorized by this Act, as in force after the commencement of the 1970 amending Act shall be paid out of moneys which have been appropriated to a deposit account at the Treasury for the purpose prior to the commencement of the 1970 amending Act, or which may be subsequently appropriated by Parliament for the purpose.

Payments by
the Treasurer.

10. (1) If any dispute arises between the Treasurer and the council in or in relation to any money payable pursuant to this Act by the Treasurer to the council that dispute shall be resolved by arbitration.

Arbitration.

(2) The Arbitration Act, 1891-1934, shall apply to and in relation to the dispute referred to in subsection (1) of this section as if in relation to that dispute the Treasurer and the council were parties to a submission as defined in that Act.

PART IV

VESTING OF LAND

Definition.

11. In this Part—

- (a) “the railway land” means the land described in the schedule to Act No. 126 of 1878 being an Act intituled An Act to authorize the Commissioner of Railways to take possession of portion of the Adelaide Park Lands, and for other purposes;

and

- (b) a reference—

- (i) to section 654 shall be read as a reference to the land in the hundred of Adelaide delineated on the plan in the schedule to this Act bounded by a line joining the points marked C, D, E, F and C on that plan;

- (ii) to section 655 shall be read as a reference to the land in the hundred of Adelaide delineated on the plan in the schedule to this Act bounded by a line joining the points marked B, C, F, G, H and B on that plan;

and

- (iii) to section 656 shall be read as a reference to the land in the hundred of Adelaide delineated on the plan in the schedule to this Act bounded by a line joining the points marked A, B, H, J, K, L, M and A on that plan.

Partial
cancellation of
land grant and
divesting, etc.,
of certain land.

12. (1) Land Grant Register Book volume 756 folio 114, except in so far as it relates to lands which lie outside section 654, section 655 and section 656, is by operation of this section cancelled and the land in respect of which that land grant is so cancelled shall on and after the commencement of the 1970 amending Act cease to be vested in the South Australian Railways Commissioner as provided in the grant and shall revert in the Crown freed and discharged from any trust, estate, right, title, interest, claim or demand of any description whatsoever.

(2) On and after the commencement of the 1970 amending Act, the land vested in the South Australian Railways Commissioner for an estate of fee simple pursuant to section 3 of the Adelaide Park Lands Act, 1928, shall cease to be so vested.

13. On and after the commencement of the 1970 amending Act the land on the western side of King William Road appropriated as City Public Baths and containing one acre and a half or thereabouts and referred to in section 368 of The Municipal Corporation Act, 1890, shall cease to be so appropriated and so much of that land as does not lie within section 654 shall revert in the Crown freed and discharged from any trust, estate, right, title, interest, claim or demand of any description whatsoever.

City Public
Baths.

14. On and after the commencement of the 1970 amending Act section 654 shall vest in The Corporation of the City of Adelaide for an estate in fee simple freed and discharged from any trust, estate, right, title, interest, claim or demand of any description whatsoever.

Vesting of
certain land in
The Corpora-
tion of the City
of Adelaide.

15. (1) On and after the commencement of the 1970 amending Act so much of the railway land comprised in section 655 and section 656 as was immediately before that commencement vested in the South Australian Railways Commissioner for any purpose shall cease to be so vested.

Vesting of
certain lands
in the Crown.

(2) On and after the commencement of the 1970 amending Act section 655 and section 656 shall revert in the Crown freed and discharged from any trust, estate, right, title, interest, claim or demand of any description whatsoever.

(3) On and after the commencement of the 1970 amending Act and notwithstanding anything in any Act—

(a) section 655 and section 656;

and

(b) the land reverted in the Crown pursuant to section 13 of this Act,

shall not be under the care, control and management of the council.

16. (1) The Registrar-General shall upon the application of—

(a) the council;

Duty of
Registrar-
General.

(b) the South Australian Railways Commissioner;

or

(c) the Minister,

as the case requires, upon being furnished with such information as he considers necessary, cause to be made such entries and endorsements in any register book or other record in his custody and on any document of title and cause to be issued such certificates of title as he considers appropriate for giving full effect to this Act without being obliged to make any further investigation of title or to make any public advertisement.

(2) In this section "the Registrar-General" means the person for the time being holding the office of Registrar-General under the Real Property Act, 1886-1969, or the Registrar-General of Deeds under the Registration of Deeds Act, 1935-1962.

PART V

MISCELLANEOUS

The Adelaide
Festival Theatre
Appeal Fund,
etc.

17. (1) There shall be two trustees of the fund—

(a) one of whom shall be appointed by the Lord Mayor of the City of Adelaide;

and

(b) one of whom shall be appointed by the Treasurer.

(2) A person who before the commencement of the 1970 amending Act had been—

(a) appointed as a trustee of the fund by the Lord Mayor of the City of Adelaide and who was immediately before that commencement in office as such a trustee;

or

(b) appointed as a trustee of the fund by the Treasurer and who was immediately before that commencement in office as such a trustee,

shall for the purposes of this Act be deemed to have been appointed a trustee of the fund by the Lord Mayor or the Treasurer, as the case may be, pursuant to subsection (1) of this section.

(3) The Trustees shall—

- (a) receive donations to the fund;
- (b) bank or cause to be banked any such donations;
- (c) place any moneys standing to the credit of the fund and not immediately required on deposit on advantageous terms;

and

- (d) render a true account of moneys received by and paid from the fund whenever required by the Treasurer and the Lord Mayor of the City of Adelaide.

(4) The trustees shall—

- (a) pay out of the fund to the council a sum of \$100,000 to be applied by the council in the exercise of the powers conferred on it by section 3 of this Act;

and

- (b) at the request of the council pay out of the fund to the council from the balance remaining after the payment referred to in paragraph (a) of this subsection has been made such amounts as the council may from time to time require for the purchase or acquisition by the council of works of art for or in connection with the Festival Theatre,

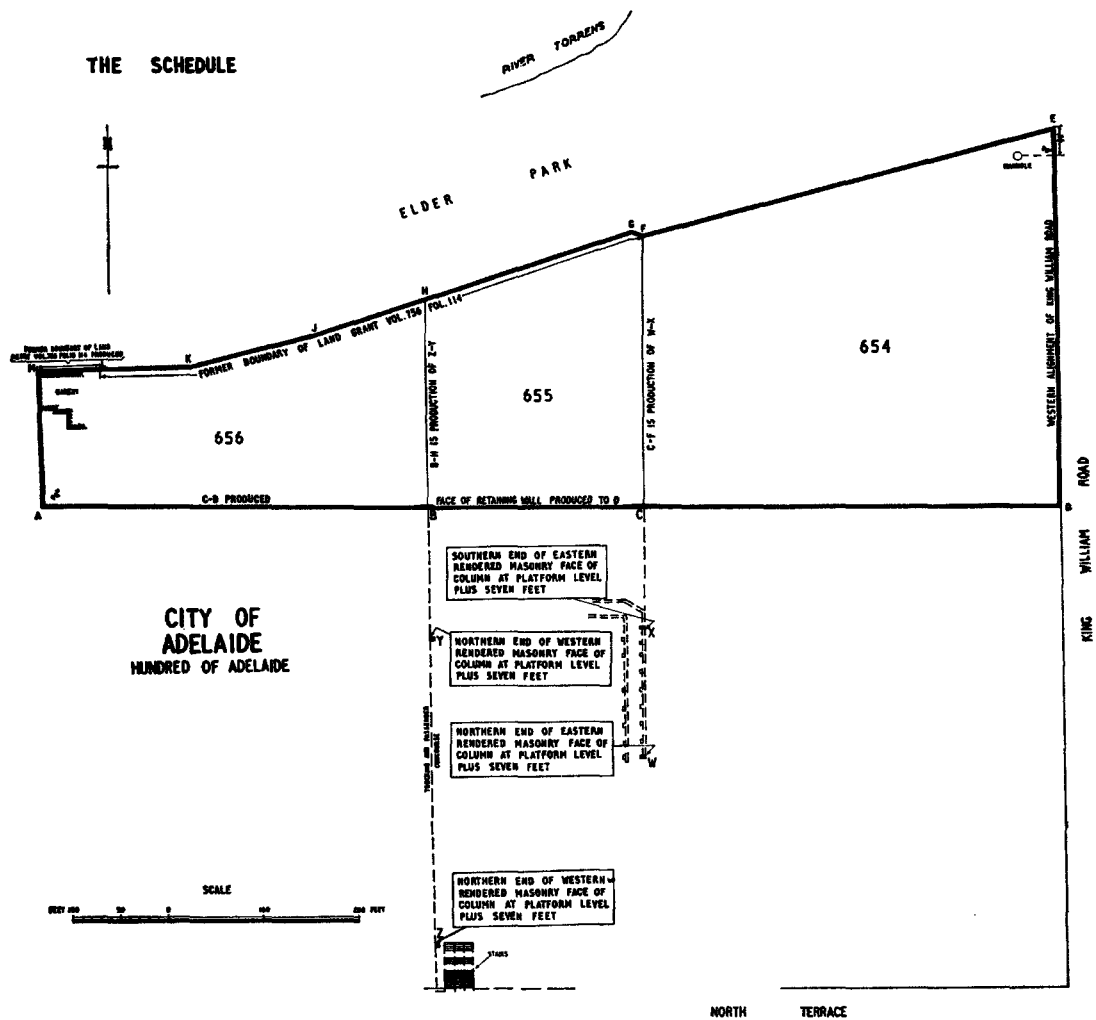
and the receipt of the council for any moneys paid by the trustees pursuant to this subsection shall be a good and sufficient discharge to the trustees of their duty under this section and the trustees shall not be obliged to satisfy themselves as to the application of any moneys so paid.

(5) No action or proceeding shall lie against the trustees or any one of them for any act or thing done by the trustees or any one of them in the exercise or purported exercise of the powers and functions conferred on them by this section.

11. The following schedule is enacted and inserted in the principal Act immediately after section 17 thereof as enacted by section 10 of this Act—

Enactment of
schedule of
principal Act.

Section 11.



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

J. W. HARRISON, Governor.