

## EXTRAORDINARY GAZETTE



THE SOUTH AUSTRALIAN  
GOVERNMENT GAZETTE

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PUBLISHED BY AUTHORITY

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ALL PUBLIC ACTS appearing in this GAZETTE are to be considered official, and obeyed as such

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ADELAIDE, TUESDAY, 15 JANUARY 2002

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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@saugov.sa.gov.au](mailto:governmentgazette@saugov.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.

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ADMINISTRATIVE ARRANGEMENTS ACT 1994 SECTION 5: ADMINISTRATION OF CRIMINAL LAW (LEGAL REPRESENTATION) ACT 2001 COMMITTED TO THE ATTORNEY-GENERAL

*Proclamation By The Governor*

(L.S.) MARJORIE JACKSON-NELSON

PURSUANT to section 5 of the *Administrative Arrangements Act 1994* and with the advice and consent of the Executive Council, I commit the administration of the *Criminal Law (Legal Representation) Act 2001* to the Attorney-General.

Given under my hand and the Public Seal of South Australia, at Adelaide, 15 January 2002.

By command,

ROB KERIN, Premier

AGCS 60-00

ADMINISTRATIVE ARRANGEMENTS ACT 1994 SECTION 5: ADMINISTRATION OF GENE TECHNOLOGY ACT 2001 COMMITTED TO THE MINISTER FOR HUMAN SERVICES

*Proclamation By The Governor*

(L.S.) MARJORIE JACKSON-NELSON

PURSUANT to section 5 of the *Administrative Arrangements Act 1994* and with the advice and consent of the Executive Council, I commit the administration of the *Gene Technology Act 2001* to the Minister for Human Services.

Given under my hand and the Public Seal of South Australia, at Adelaide, 15 January 2002.

By command,

ROB KERIN, Premier

DHS 003/01/0308

ADMINISTRATIVE ARRANGEMENTS ACT 1994 SECTION 5: ADMINISTRATION OF GRAFFITI CONTROL ACT 2001 COMMITTED TO THE ATTORNEY-GENERAL

*Proclamation By The Governor*

(L.S.) MARJORIE JACKSON-NELSON

PURSUANT to section 5 of the *Administrative Arrangements Act 1994* and with the advice and consent of the Executive Council, I commit the administration of the *Graffiti Control Act 2001* to the Attorney-General.

Given under my hand and the Public Seal of South Australia, at Adelaide, 15 January 2002.

By command,

ROB KERIN, Premier

CSA 14/01 CS

ADMINISTRATIVE ARRANGEMENTS ACT 1994 SECTION 5: ADMINISTRATION OF VOLUNTEERS PROTECTION ACT 2001 COMMITTED TO THE MINISTER FOR VOLUNTEERS

*Proclamation By The Governor*

(L.S.) MARJORIE JACKSON-NELSON

PURSUANT to section 5 of the *Administrative Arrangements Act 1994* and with the advice and consent of the Executive Council, I commit the administration of the *Volunteers Protection Act 2001* to the Minister for Volunteers.

Given under my hand and the Public Seal of South Australia, at Adelaide, 15 January 2002.

By command,

ROB KERIN, Premier

VR 01/0004CS

CRIMINAL LAW (LEGAL REPRESENTATION) ACT 2001 (Act No. 36 of 2001): DAY OF COMMENCEMENT

*Proclamation By The Governor*

(L.S.) MARJORIE JACKSON-NELSON

WITH the advice and consent of the Executive Council, I fix 11 February 2002 as the day on which the *Criminal Law (Legal Representation) Act 2001* will come into operation.

Given under my hand and the Public Seal of South Australia, at Adelaide, 15 January 2002.

By command,

ROB KERIN, Premier

AGCS 60-00

FREEDOM OF INFORMATION (MISCELLANEOUS) AMENDMENT ACT 2001 (Act No. 61 of 2001): DAY OF COMMENCEMENT

*Proclamation By The Governor*

(L.S.) MARJORIE JACKSON-NELSON

WITH the advice and consent of the Executive Council, I fix 1 July 2002 as the day on which the *Freedom of Information (Miscellaneous) Amendment Act 2001* will come into operation.

Given under my hand and the Public Seal of South Australia, at Adelaide, 15 January 2002.

By command,

ROB KERIN, Premier

MAS 02/001 CS

GENE TECHNOLOGY ACT 2001 (Act No. 62 of 2001): DAY OF COMMENCEMENT

*Proclamation By The Governor*

(L.S.) MARJORIE JACKSON-NELSON

WITH the advice and consent of the Executive Council, I fix 1 February 2002 as the day on which the *Gene Technology Act 2001* will come into operation.

Given under my hand and the Public Seal of South Australia, at Adelaide, 15 January 2002.

By command,

ROB KERIN, Premier

DHS 003/01/0308

GRAFFITI CONTROL ACT 2001 (Act No. 46 of 2001): DAY OF COMMENCEMENT

*Proclamation By The Governor*

(L.S.) MARJORIE JACKSON-NELSON

WITH the advice and consent of the Executive Council, I—

(a) fix 1 February 2002 as the day on which the *Graffiti Control Act 2001* (except for section 4) will come into operation;

(b) fix 1 April 2002 as the day on which section 4 of the *Graffiti Control Act 2001* will come into operation.

Given under my hand and the Public Seal of South Australia, at Adelaide, 15 January 2002.

By command,

ROB KERIN, Premier

CSA 14/01 CS

NATIONAL PARKS AND WILDLIFE ACT 1972 SECTION 28(1): CONSTITUTION OF GAWLER RANGES NATIONAL PARK

*Proclamation By The Governor*

(L.S.) MARJORIE JACKSON-NELSON

PURSUANT to section 28(1) of the *National Parks and Wildlife Act 1972*, being of the opinion that the Crown land described in the schedule is of national significance by reason of the wildlife and natural features of the land and with the advice and consent of the Executive Council, I constitute the Crown land described in the schedule as a national park and assign to it the name *Gawler Ranges National Park*.

SCHEDULE

Allotment 100 of DP 54815, Hundred of Pinbong, County of Le Hunte and Out of Hundreds (Yardea).

Block 1231, Out of Hundreds (Yardea).

Allotment 3 of DP 56946, Out of Hundreds (Yardea).

Given under my hand and the Public Seal of South Australia, at Adelaide, 15 January 2002.

By command,

ROB KERIN, Premier

EH 02/0004CS

NATIONAL PARKS AND WILDLIFE ACT 1972 SECTION 30(1): CONSTITUTION OF RED BANKS CONSERVATION PARK

*Proclamation By The Governor*

(L.S.) MARJORIE JACKSON-NELSON

PURSUANT to section 30(1) of the *National Parks and Wildlife Act 1972*, being of the opinion that the Crown land described in the schedule should be protected and preserved for the purpose of conserving any wildlife and the natural features of the land and with the advice and consent of the Executive Council, I constitute the Crown land described in the schedule as a conservation park and assign to it the name *Red Banks Conservation Park*.

SCHEDULE

Allotment 21 of DP 42518 and sections 244, 277, 278, 280 and 294, Hundred of Baldina, County of Burra.

Given under my hand and the Public Seal of South Australia, at Adelaide, 15 January 2002.

By command,

ROB KERIN, Premier

EH 02/0003CS

NATIONAL PARKS AND WILDLIFE ACT 1972 SECTION 43: CONTINUATION AND ACQUISITION OF RIGHTS OF PROSPECTING AND MINING IN GAWLER RANGES NATIONAL PARK

*Proclamation By The Governor*

(L.S.) MARJORIE JACKSON-NELSON

*Preamble*

The Crown land described in the schedule is, by another proclamation made on this day, constituted as a national park under section 28(1) of the *National Parks and Wildlife Act 1972* and assigned the name *Gawler Ranges National Park*.

It is intended that, by this proclamation, certain existing and future rights of entry, prospecting, exploration or mining be preserved in relation to the land constituting the national park.

*Proclamation*

PURSUANT to section 43 of the *National Parks and Wildlife Act 1972* and with the advice and consent of the Executive Council, I declare, in relation to the land in the schedule constituting the *Gawler Ranges National Park*, as follows:

1. Subject to clause 3, existing rights of entry, prospecting, exploration or mining under the *Mining Act 1971* or the *Petroleum Act 2000* may continue to be exercised in respect of the land constituting the national park.

2. Subject to clause 3, rights of entry, prospecting, exploration or mining may, with the approval of the Minister for Minerals and Energy and the Minister for Environment and Heritage, be acquired pursuant to the *Mining Act 1971* or the *Petroleum Act 2000* in respect of the land constituting the national park.

3. A person in whom rights of entry, prospecting, exploration or mining are vested pursuant to the *Mining Act 1971* or the *Petroleum Act 2000* (whether those rights were acquired before or after the making of this proclamation) must not exercise those rights in respect of the land constituting the national park unless the person complies with the following conditions:

- (a) if work to be carried out in relation to the land of the park in the exercise of rights vested pursuant to the *Petroleum Act 2000* is a regulated activity within the meaning of that Act, the person must ensure that—
  - (i) the work is not carried out until a statement of environmental objectives in relation to the activity that has been approved under that Act has also been approved by the Minister for Environment and Heritage; and
  - (ii) the work is carried out in accordance with the statement as so approved;
- (b) if any drilling, excavation, vegetation clearance, construction or other work in relation to the land of the park in the exercise of rights under the *Mining Act 1971* or the *Petroleum Act 2000* has not previously been authorised (whether by inclusion in an approved statement of environmental objectives referred to in paragraph (a) or otherwise), the person must give at least 3 months notice of that proposed work to the Minister for Minerals and Energy and the Minister for Environment and Heritage and supply each Minister with such information in relation to the proposed work as the Minister may require;
- (c) if directions are agreed upon by the Minister for Minerals and Energy and the Minister for Environment and Heritage and given to the person in writing in relation to—
  - (i) carrying out work in relation to the land of the park in a manner that minimises damage to the land (including vegetation or wildlife on the land) and the environment generally; or
  - (ii) preserving objects, structures or sites of historical, scientific or cultural interest; or
  - (iii) rehabilitating the land (including vegetation or wildlife on the land) on completion of the work; or
  - (iv) (where the work is being carried out in exercise of rights acquired after the making of this proclamation) prohibiting or restricting access to any specified area of the land that the Ministers believe would suffer significant detriment as a result of carrying out the work,
 (being directions that do not reduce or otherwise detract from any requirement in respect of any of those matters contained in an approved statement of environmental objectives referred to in paragraph (a)), the person must comply with those directions in carrying out the work;
- (d) if a plan of management is in operation under section 38 of the *National Parks and Wildlife Act 1972* in respect of the land, the person must have regard to the provisions of the plan of management;
- (e) in addition to complying with the other requirements of this proclamation, the person—
  - (i) must take such steps as are reasonably necessary to ensure that objects, structures and sites of historical, scientific or cultural interest and any vegetation or wildlife on the land are not unduly affected by any work; and

- (ii) must maintain all work areas in a clean and tidy condition; and
- (iii) must, upon the completion of any work, obliterate or remove all installations and structures (other than installations and structures designated by the Minister for Minerals and Energy and the Minister for Environment and Heritage as suitable for retention) used exclusively for the purposes of that work;
- (f) if no direction has been given by the Minister for Minerals and Energy and the Minister for Environment and Heritage under paragraph (c)(iii), the person must (in addition to complying with any approved statement of environmental objectives referred to in paragraph (a)) rehabilitate the land (including vegetation or wild-life on the land) on completion of the work to the satisfaction of the Minister for Environment and Heritage.

4. If—

- (a) the Minister for Minerals and Energy and the Minister for Environment and Heritage cannot agree as to whether—
  - (i) approval should be granted or refused under clause 2; or
  - (ii) a direction should be given under clause 3(c); or
- (b) the Minister for Environment and Heritage does not approve a statement of environmental objectives referred to in clause 3(a),

the Governor may, with the advice and consent of the Executive Council—

- (c) grant or refuse the necessary approval under clause 2; or
- (d) give a direction in writing under clause 3(c); or
- (e) grant or refuse the necessary approval under clause 3(a).

SCHEDULE

1. Allotment 100 of DP 54815, Hundred of Pinbong, County of Le Hunte and Out of Hundreds (Yardea).
2. Block 1231, Out of Hundreds (Yardea).
3. Allotment 3 of DP 56946, Out of Hundreds (Yardea).

Given under my hand and the Public Seal of South Australia, at Adelaide, 15 January 2002.

By command,

ROB KERIN, Premier

EH 02/0004 CS

RETAIL AND COMMERCIAL LEASES (MISCELLANEOUS) AMENDMENT ACT 2001 (Act No. 43 of 2001): DAY OF COMMENCEMENT

*Proclamation By The Governor*

(L.S.) MARJORIE JACKSON-NELSON

WITH the advice and consent of the Executive Council, I fix 4 February 2002 as the day on which the *Retail and Commercial Leases (Miscellaneous) Amendment Act 2001*, will come into operation.

Given under my hand and the Public Seal of South Australia, at Adelaide, 15 January 2002.

By command,

ROB KERIN, Premier

OCBA CS 007/01

RETIREMENT VILLAGES (MISCELLANEOUS) AMENDMENT ACT 2001 (Act No. 59 of 2001): DAY OF COMMENCEMENT

*Proclamation By The Governor*

(L.S.) MARJORIE JACKSON-NELSON

WITH the advice and consent of the Executive Council, I fix 1 July 2002 as the day on which the *Retirement Villages (Miscellaneous) Amendment Act 2001* will come into operation.

Given under my hand and the Public Seal of South Australia, at Adelaide, 15 January 2002.

By command,

ROB KERIN, Premier

MHS 002/01CS

SHOP TRADING HOURS ACT 1977 SECTION 13: ALTERATION OF SHOP TRADING HOURS—LOXTON SHOPPING DISTRICT—FEBRUARY 2002

*Proclamation By The Governor*

(L.S.) MARJORIE JACKSON-NELSON

PURSUANT to section 13 of the *Shop Trading Hours Act 1977* and with the advice and consent of the Executive Council, I authorise the opening of all shops in the *Loxton Shopping District* from 10 a.m. until 5 p.m. on Sunday, 24 February 2002, subject to the conditions specified in the Schedule.

SCHEDULE

This proclamation only authorises the opening of a shop if—

- (a) all relevant industrial awards, workplace agreements and enterprise agreements are observed by the shopkeeper and persons employed in the business of the shop during and in relation to the hours specified in this proclamation during which the shop is open; and
- (b) subject to an industrial award, workplace agreement or enterprise agreement to the contrary—a person who is employed in the business of the shop is entitled to refuse to work at the shop during the hours specified in this proclamation unless he or she has agreed with the shopkeeper to work during those hours.

Given under my hand and the Public Seal of South Australia, at Adelaide, 15 January 2002.

By command,

ROB KERIN, Premier

MWR 01/012 CS

SHOP TRADING HOURS ACT 1977 SECTION 13: ALTERATION OF SHOP TRADING HOURS—LOXTON SHOPPING DISTRICT—EASTER 2002

*Proclamation By The Governor*

(L.S.) MARJORIE JACKSON-NELSON

PURSUANT to section 13 of the *Shop Trading Hours Act 1977* and with the advice and consent of the Executive Council, I authorise the opening of all shops in the *Loxton Shopping District* from 8.30 a.m. until 12.30 p.m. on Saturday, 30 March 2002, subject to the conditions specified in the Schedule.

SCHEDULE

This proclamation only authorises the opening of a shop if—

- (a) all relevant industrial awards, workplace agreements and enterprise agreements are observed by the shopkeeper and persons employed in the business of the shop during and in relation to the hours specified in this proclamation during which the shop is open; and

(b) subject to an industrial award, workplace agreement or enterprise agreement to the contrary—a person who is employed in the business of the shop is entitled to refuse to work at the shop during the hours specified in this proclamation unless he or she has agreed with the shopkeeper to work during those hours.

Given under my hand and the Public Seal of South Australia, at Adelaide, 15 January 2002.

By command,

ROB KERIN, Premier

MWR 01/012 CS

SHOP TRADING HOURS ACT 1977 SECTION 13: ALTERATION OF SHOP TRADING HOURS—PORT LINCOLN SHOPPING DISTRICT—EASTER 2002

*Proclamation By The Governor*

(L.S.) MARJORIE JACKSON-NELSON

PURSUANT to section 13 of the *Shop Trading Hours Act 1977* and with the advice and consent of the Executive Council, I authorise, subject to the conditions specified in the Schedule, the opening of all shops in the *Port Lincoln Shopping District* as follows:

from 6 a.m. until 5 p.m. on Saturday, 30 March 2002  
from 11 a.m. until 5 p.m. on Sunday, 31 March 2002.

SCHEDULE

This proclamation only authorises the opening of a shop if—

- (a) all relevant industrial awards, workplace agreements and enterprise agreements are observed by the shopkeeper and persons employed in the business of the shop during and in relation to the hours specified in this proclamation during which the shop is open; and
- (b) subject to an industrial award, workplace agreement or enterprise agreement to the contrary—a person who is employed in the business of the shop is entitled to refuse to work at the shop during the hours specified in this proclamation unless he or she has agreed with the shopkeeper to work during those hours.

Given under my hand and the Public Seal of South Australia, at Adelaide, 15 January 2002.

By command,

ROB KERIN, Premier

MWR 01/024 CS

SHOP TRADING HOURS ACT 1977 SECTION 13: ALTERATION OF SHOP TRADING HOURS—PORT LINCOLN SHOPPING DISTRICT—EASTER MONDAY 2002

*Proclamation By The Governor*

(L.S.) MARJORIE JACKSON-NELSON

PURSUANT to section 13 of the *Shop Trading Hours Act 1977* and with the advice and consent of the Executive Council, I authorise the opening of all shops in the *Port Lincoln Shopping District* from 11 a.m. until 5 p.m. on Monday, 1 April 2002, subject to the conditions specified in the Schedule.

SCHEDULE

This proclamation only authorises the opening of a shop if—

- (a) all relevant industrial awards, workplace agreements and enterprise agreements are observed by the shopkeeper and persons employed in the business of the shop during and in relation to the hours specified in this proclamation during which the shop is open; and

(b) subject to an industrial award, workplace agreement or enterprise agreement to the contrary—a person who is employed in the business of the shop is entitled to refuse to work at the shop during the hours specified in this proclamation unless he or she has agreed with the shopkeeper to work during those hours.

Given under my hand and the Public Seal of South Australia, at Adelaide, 15 January 2002.

By command,

ROB KERIN, Premier

MWR 01/024 CS

SHOP TRADING HOURS ACT 1977 SECTION 13: ALTERATION OF SHOP TRADING HOURS—PORT LINCOLN SHOPPING DISTRICT—JUNE 2002

*Proclamation By The Governor*

(L.S.) MARJORIE JACKSON-NELSON

PURSUANT to section 13 of the *Shop Trading Hours Act 1977* and with the advice and consent of the Executive Council, I authorise the opening of all shops in the *Port Lincoln Shopping District* from 11 a.m. until 5 p.m. on Sunday, 9 June 2002, subject to the conditions specified in the Schedule.

SCHEDULE

This proclamation only authorises the opening of a shop if—

- (a) all relevant industrial awards, workplace agreements and enterprise agreements are observed by the shopkeeper and persons employed in the business of the shop during and in relation to the hours specified in this proclamation during which the shop is open; and
- (b) subject to an industrial award, workplace agreement or enterprise agreement to the contrary—a person who is employed in the business of the shop is entitled to refuse to work at the shop during the hours specified in this proclamation unless he or she has agreed with the shopkeeper to work during those hours.

Given under my hand and the Public Seal of South Australia, at Adelaide, 15 January 2002.

By command,

ROB KERIN, Premier

MWR 01/024 CS

SOUTH AUSTRALIAN CO-OPERATIVE AND COMMUNITY HOUSING (ASSOCIATED LAND OWNERS) AMENDMENT ACT 2001 (Act No. 34 of 2001): DAY OF COMMENCEMENT

*Proclamation By The Governor*

(L.S.) MARJORIE JACKSON-NELSON

WITH the advice and consent of the Executive Council, I fix 17 January 2002 as the day on which the *South Australian Co-Operative and Community Housing (Associated Land Owners) Amendment Act 2001* will come into operation.

Given under my hand and the Public Seal of South Australia, at Adelaide, 15 January 2002.

By command,

ROB KERIN, Premier

MHS 001/01CS

STATE SUPPLY (MISCELLANEOUS) AMENDMENT ACT  
2001 (Act No. 68 of 2001): DAY OF COMMENCEMENT*Proclamation By The Governor*

(L.S.) MARJORIE JACKSON-NELSON

WITH the advice and consent of the Executive Council, I fix 15 January 2002 as the day on which the *State Supply (Miscellaneous) Amendment Act 2001* will come into operation.

Given under my hand and the Public Seal of South Australia, at Adelaide, 15 January 2002.

By command,

ROB KERIN, Premier

MAS 01/018/CS

VOLUNTEERS PROTECTION ACT 2001 (Act No. 65 of 2001):  
DAY OF COMMENCEMENT*Proclamation By The Governor*

(L.S.) MARJORIE JACKSON-NELSON

WITH the advice and consent of the Executive Council, I fix 15 January 2002 as the day on which the *Volunteers Protection Act 2001* will come into operation.

Given under my hand and the Public Seal of South Australia, at Adelaide, 15 January 2002.

By command,

ROB KERIN, Premier

VR 01/0004CS

Department of the Premier and Cabinet  
Adelaide, 15 January 2002

HER Excellency the Governor in Executive Council has been pleased to appoint the undermentioned to the Residential Tenancies Tribunal, pursuant to the provisions of the Residential Tenancies Act 1995:

Registrar: (from 29 January 2002)  
Sharon Margaret Callaghan

Deputy Registrar: (from 17 January 2002)  
Craig Matthew Wilton

By command,

ROB KERIN, Premier

OCBA 0002/93CS

Department of the Premier and Cabinet  
Adelaide, 15 January 2002

HER Excellency the Governor in Executive Council has been pleased to appoint the undermentioned to the Art Gallery Board, pursuant to the provisions of the Art Gallery Act 1939:

Member: (from 20 January 2002 until 19 January 2004)  
Michael John Maxwell Carter

By command,

ROB KERIN, Premier

ACD 001/94CS

Department of the Premier and Cabinet  
Adelaide, 15 January 2002

HER Excellency the Governor in Executive Council has been pleased to appoint the undermentioned to the South Australian Council on Reproductive Technology, pursuant to the provisions of the Reproductive Technology Act 1988:

Member: (from 15 January 2002 until 23 December 2003)  
Peter George Woolcock

By command,

ROB KERIN, Premier

MHS 030/075/009PT2

Department of the Premier and Cabinet  
Adelaide, 15 January 2002

HER Excellency the Governor in Executive Council has been pleased to appoint the undermentioned to the Institute of Medical and Veterinary Science Council, pursuant to the provisions of the Institute of Medical and Veterinary Science Act 1982:

Member: (from 15 January 2002 until 14 January 2005)  
Thomas John Stubbs

By command,

ROB KERIN, Premier

MHS 03/99CS

Department of the Premier and Cabinet  
Adelaide, 15 January 2002

HER Excellency the Governor in Executive Council has been pleased to appoint the undermentioned to the Construction Industry Training Board, pursuant to the provisions of the Construction Industry Training Fund Act 1993:

Deputy Member: (from 15 January 2002 until 30 June 2002)  
Nigel Lean

By command,

ROB KERIN, Premier

MET 0011/01CS

Department of the Premier and Cabinet  
Adelaide, 15 January 2002

HER 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 15 January 2002 until 14 January 2005)  
Brian Hayes  
Leonie Evans Millard

Presiding Member: (from 15 January 2002 until 2 April 2003)  
Timothy Russell Anderson

Deputy Presiding Member: (from 15 January 2002 until 14 January 2005)  
Brian Hayes

By command,

ROB KERIN, Premier

ATTG 02/02CS

Department of the Premier and Cabinet  
Adelaide, 15 January 2002

HER Excellency the Governor in Executive Council has been pleased to appoint Andrew William Daniels to the office of Chief Executive of the South Australian Motor Sport Board for an initial term expiring on 31 March 2002 upon the terms and conditions set out in the Employment Agreement between the said Andrew William Daniels and Robert Gerard Kerin, Premier, pursuant to section 13 of the South Australian Motor Sport Act 1984.

By command,

ROB KERIN, Premier

MTOR 0006/98CS

Department of the Premier and Cabinet  
Adelaide, 15 January 2002

THE council recommends Her Excellency to make the Rules of the Warden's Court as set out, pursuant to the Mining Act 1971.

By command,

ROB KERIN, Premier

MME 0059/01CS

Department of the Premier and Cabinet  
Adelaide, 15 January 2002

HER Excellency the Governor in Executive Council has been pleased to appoint the Honourable Diana Vivienne Laidlaw, Minister for Transport and Urban Planning, Minister for the Arts and Minister for the Status of Women to be also Acting Minister for Human Services, Acting Minister for Disability Services and Acting Minister for the Ageing for the period 11 January 2002 to 22 January 2002, inclusive, during the absence of the Honourable Dean Craig Brown, MLC.

Her Excellency the Governor in Executive Council has been pleased to appoint the Honourable Iain Frederick Evans, Minister for Environment and Heritage to be also Acting Minister for Police, Correctional Services and Emergency Services, Acting Minister for Gambling and Acting Minister for Volunteers for the period 11 January 2002 to 22 January 2002, inclusive, during the absence of the Honourable Robert Lawrence Brokenshire, MP.

Her Excellency the Governor in Executive Council has been pleased to appoint the Honourable Mark Kennion Brindal, Minister for Water Resources, Minister for Employment and Training, Minister for Local Government and Minister for Youth to be also Acting Minister for Education and Children's Services for the period 21 January 2002 to 28 January 2002, inclusive, during the absence of the Honourable Malcolm Robert Buckby, MP.

By command,

ROB KERIN, Premier

DPC 82/94CS

Department of the Premier and Cabinet  
Adelaide, 15 January 2002

HER Excellency the Governor in Executive Council has been pleased to appoint Catherine Jane O'Loughlin as Public Trustee for a period from 4 March 2002 until 3 March 2007, pursuant to the provisions of the Public Trustee Act 1995.

By command,

ROB KERIN, Premier

ATTG 01/02CS

Department of the Premier and Cabinet  
Adelaide, 15 January 2002

HER Excellency the Governor in Executive Council has been pleased to approve the appointment of Grant Lupton as Chief Officer of the South Australian Metropolitan Fire Service for a period from 25 February 2002 until 24 February 2007, pursuant to section 40 (7) of the South Australian Metropolitan Fire Service Act 1936.

By command,

ROB KERIN, Premier

MES 01/02CS

Department of the Premier and Cabinet  
Adelaide, 15 January 2002

THE Minister for Tourism advises of the expiration of the appointments of the following members of the Adelaide Convention Centre Board, effective from 30 September 2001:

Bill Spurr  
Wendy Greiner  
Phillip Styles

The Minister for Tourism advises of the appointment of the following members to the Adelaide Convention Centre Board for the terms specified:

For a term of 1 year commencing on 1 October 2001:  
Colin Dunsford (Chair)  
Jill Wilson  
Max Harris

For a term of 2 years commencing on 1 October 2001:  
Jane Jeffreys (Deputy Chair)  
Jeff Ellison  
Michael Dean Keelan  
Jan Turbill

By command,

ROB KERIN, Premier

Department of the Premier and Cabinet  
Adelaide, 15 January 2002

THE Minister for Tourism advises of the appointment of the following members to the Adelaide Entertainments Corporation Board for the terms specified:

For a term of 1 year commencing on 4 February 2002:  
Andrew Fletcher (Chair)  
Allison Ashby  
Andrew Killey

For a term of 2 years commencing on 4 February 2002:  
Michael Burgess

For a term of 2 years commencing on 1 October 2001:  
Bob Foord

By command,

ROB KERIN, Premier

Department of the Premier and Cabinet  
Adelaide, 15 January 2002

HER Excellency the Governor in Executive Council has revoked the appointment of Acting Ministers as listed:

Hon. Diana Vivienne Laidlaw, Minister for Transport and Urban Planning, Minister for the Arts and Minister for the Status of Women as Acting Minister for Human Services, Acting Minister for Disability Services and Acting Minister for the Ageing for the period 16 January 2002 to 22 January 2002, inclusive, during the absence of the Honourable Dean Craig Brown, MLC.

Hon. Iain Frederick Evans, Minister for Environment and Heritage as Acting Minister for Police, Correctional Services and Emergency Services, Acting Minister for Gambling and Acting Minister for Volunteers for the period 16 January 2002 to 22 January 2002, inclusive, during the absence of the Honourable Robert Lawrence Brokenshire, MP.

Hon. Mark Kennion Brindal, Minister for Water Resources, Minister for Employment and Training, Minister for Local Government and Minister for Youth as Acting Minister for Education and Children's Services for the period 21 January 2002 to 28 January 2002, inclusive, during the absence of the Honourable Malcolm Robert Buckby, MP.

Hon. Robert Ivan Lucas, Treasurer, Minister for Industry and Trade and Minister for Government Enterprises as Acting Minister for Minerals and Energy for the period 17 January 2002 to 20 January 2002, inclusive, during the absence of the Honourable Wayne Anthony Matthew, MP.

By command,

ROB KERIN, Premier

DPC 82/94CS

#### FISHERIES ACT 1982: SECTION 59

TAKE notice that pursuant to Section 59 of the Fisheries Act 1982, Dr Bronwyn Gillanders (hereinafter referred to as the 'exemption holder') or persons acting as her agents from the Faculty of Science, Department of Environmental Biology, The University of Adelaide, Adelaide, S.A. 5005 is exempt from the provision of clause 65 of Schedule 1 of the Fisheries (General) Regulations 2000 but only insofar as to engage in the collection of marine organisms from the waters of Gulf St Vincent including intertidal 'rocky' reefs and aquatic reserves (hereinafter referred to as the 'exempted activity'), using the gear specified in Schedule 1, subject to the conditions set out in Schedule 2 from the date of gazettal of this notice until 28 February 2003.

## SCHEDULE 1

One pop net with maximum dimensions of 5 m x 5 m, maximum height of 1.4 m and a minimum mesh size of 1 mm  
One dab net per person.

## SCHEDULE 2

1. The specimens collected by the exemption holder are for scientific research purposes only and may not be sold.

2. All specimens collected pursuant to this notice must be retained by the University of Adelaide or transferred to the South Australian Museum.

3. Before collecting any specimens pursuant to this notice, the exemption holder must advise the PIRSA Fisheries Compliance Unit on 1800 065 522, at least 24 hours prior to undertaking the exempted activity, with details of the persons undertaking the exempted activity, proposed locations and the dates on which the collections are to be made.

4. While engaging in the exempted activity, the exemption holder or her agents must be in possession of a copy of this notice. Such notice must be produced to a PIRSA Fisheries Compliance Officer if such an officer requests that it be produced.

5. The exemption holder shall not contravene or fail to comply with the Fisheries Act 1982 or any regulations made under that Act, except where specifically exempted by this notice.

Dated 14 January 2002.

W. ZACHARIN, Director of Fisheries

## FISHERIES ACT 1982: SECTION 59

TAKE notice that pursuant to section 59 of the Fisheries Act 1982, Helen Tassie, Education Officer of the Malacological Society of South Australia Inc. (hereinafter referred to as the 'exemption holder') c/o Marine Invertebrates Section, South Australian Museum, North Terrace, Adelaide, S.A. 5000, or her agents are exempt from the provisions of clause 65 of Schedule 1 of the Fisheries (General) Regulations 2000 to engage in the activities specified in Schedule 1 (hereinafter referred to as the 'exempted activity'), subject to the conditions set out in Schedule 2 from 25 January 2002 to 31 January 2002 inclusive.

## SCHEDULE 1

The collection of aquatic organisms from South Australian coastal waters (including intertidal rocky reefs) adjacent to the Fleurieu Peninsula.

## SCHEDULE 2

1. All specimens collected by the exemption holder pursuant to this notice must not be sold.

2. Before collecting any specimens pursuant to this notice, the exemption holder must notify PIRSA Fisheries Compliance Unit on 1800 065 522 with details of the proposed locations and the dates on which the collections are to be made.

3. While engaging in the exempted activity, the exemption holder must carry identification proving membership of the Malacological Society.

4. Within 14 days of the collection of organisms pursuant to this notice, the exemption holder must provide a report in writing to the Director of Fisheries, (Attention: Roger Hill, GPO Box 1625, Adelaide, S.A. 5001), giving the following details:

- the date and time of collection;
- the description of all species collected; and
- the number of each species collected.

5. While engaging in the exempted activity, the exemption holder must be in possession of a copy of this notice. Such notice must be produced to a PIRSA Fisheries Compliance Officer if such an officer requests that it be produced.

6. The exemption holder shall not contravene or fail to comply with the Fisheries Act 1982 or any regulations made under that Act, except where specifically exempted by this notice.

Dated 14 January 2002.

W. ZACHARIN, Director of Fisheries



## **RULES OF THE WARDEN'S COURT**

*At the Executive Council Office at Adelaide, 15 January 2002*

PURSUANT to the *Mining Act 1971* and with the advice and consent of the Executive Council, I make the following Rules.

MARJORIE JACKSON-NELSON, Governor

PURSUANT to section 10AA(2) of the *Subordinate Legislation Act 1978*, I certify that, in my opinion, it is necessary or appropriate that the following Rules come into operation as set out below.

WAYNE MATTHEW, Minister for Minerals and Energy

---

### **SUMMARY OF PROVISIONS**

#### **PART 1 PRELIMINARY**

1. Citation
2. Commencement
3. Interpretation

#### **PART 2 GENERAL PROCEDURE**

4. Failure to comply with Rules
5. Court may dispense with observance of certain Rules
6. Commencement of action
7. Procedure on receipt of plaint note
8. Practice on hearing of suit
9. Adjournments
10. Representation at proceedings
11. Particulars
12. Survey
13. Extract from Mining Register

#### **PART 3 SPECIAL APPLICATIONS**

14. Objection by owner to entry by mining operator
15. Objection by owner to use of declared equipment
16. Application for amalgamation or suspension of working conditions
17. Objection to application for amalgamation or suspension of working conditions

#### **PART 4 MISCELLANEOUS**

18. Contempt of Court
19. Summons
20. Service
21. Fees
22. Record of Warden's order or decision
23. Seal
24. Enforcement of orders

## SCHEDULE 1

## SCHEDULE 2

---

**PART 1  
PRELIMINARY****Citation**

1. These Rules may be cited as the *Warden's Court Rules 2001*.

**Commencement**

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

**Interpretation**

3. (1) In these Rules, unless a contrary intention appears—

"**Act**" means the *Mining Act 1971*;

"**Court**" means the Warden's Court;

"**Registrar**" means the Registrar of the Court;

"**regulations**" means the regulations made under the Act and for the time being in force;

"**suit**" includes application or objection.

(2) Nothing in these Rules may be construed to diminish or take away any power or authority conferred on the Court or a Warden by an Act.

(3) These Rules must be construed, interpreted and applied, to the fullest extent that their context will allow, in a manner that will best ensure the attainment of the following objects:

- (a) the simplification of practice and procedure;
- (b) the identification and clarification of material issues between the parties;
- (c) the saving of expense; and
- (d) the expeditious disposal of the business of the Court.

## PART 2 GENERAL PROCEDURE

### **Failure to comply with Rules**

4. (1) Subject to any statutory requirements, non-compliance with any one or more of these Rules does not, unless the Court directs, render void the proceedings to which the Rule or Rules relates or relate.

(2) However, those proceedings may be set aside wholly or in part as irregular, or amended, or otherwise dealt with in such manner, on such terms (if any), as the Court deems just.

### **Court may dispense with observance of certain Rules**

5. If reasonable cause exists the Court may, at any stage of any proceedings, and subject to any statutory requirements, dispense with the observance of any Rule that relates to or governs powers that the Court may exercise of its own motion.

### **Commencement of action**

6. (1) A suit is commenced by lodging a plaint note in the form set out in schedule 1.

(2) A plaint note may be drawn up by or under the direction of a Warden in any case where the Warden considers it appropriate to do so.

### **Procedure on receipt of plaint note**

7. (1) On the receipt of a plaint note, the Court must conduct a preliminary examination for the purpose of—

- (a) making any necessary interlocutory orders; and
- (b) setting a closing date for the lodgement with the Registrar of any objection to an application; and
- (c) fixing the day, hour and place of the hearing; and
- (d) such other matters as may be appropriate in the particular action.

(2) The Court must, at least 7 days before the day on which a hearing is to take place, cause a copy of the plaint note to be given or sent by post to the defendant and to all persons who may be affected by the proceedings together with notice of the time and place of the hearing.

(3) On an application for an injunction whether ancillary to another remedy claimed or not, the Court may, where reasonable cause exists, dispense with any Rule relating to the service of proceedings and may give to the applicant such direction as to service or the time for effecting service as the circumstances of the matter may require.

### **Practice on hearing of suit**

8. (1) Subject to these Rules, the practice generally on the hearing of a suit must, as far as practicable, conform to the practice of a court of summary jurisdiction.

(2) The Court may, at any stage of a hearing, direct or allow any departure from the practice that appears to it to be desirable having regard to the nature of the case and the circumstances generally.

(3) The Court at its discretion may, in appropriate circumstances, direct that any matter be heard *ex parte*.

(4) The Court at its discretion may, in appropriate circumstances, permit evidence to be given by affidavit.

(5) The Court may, if it thinks it just, hear concurrently two or more complaints if they arise out of the same set of circumstances.

### **Adjournments**

**9.** The Court may adjourn the hearing of a suit to any other time or place, and may, either at the original hearing or at any adjournment, proceed in the absence of any party.

### **Representation at proceedings**

**10.** A party to proceedings is entitled to be represented at the hearing of those proceedings by legal counsel or, with leave of the Court, by another person.

### **Particulars**

**11.** The Court may, at any stage of any proceedings, order any party to provide another party with particulars or further and better particulars.

### **Survey**

**12.** (1) The Court may, if satisfied a survey is necessary—

- (a) for the prevention or rectification of differences as to the boundaries of land included in any mining tenement; or
- (b) for securing a proper definition of any area included in any mining tenement; or
- (c) in connection with any plaint before the Court,

give to the holder of the mining tenement a notice in writing that a survey is required to be made of the land included in the tenement.

(2) The holder of the mining tenement must, within the time specified by the Court, furnish to the Court a detailed plan of the land in question.

(3) The Court may require that the plan be prepared by a surveyor licensed under the *Survey Act 1992*, at the expense of the holder of the mining tenement, and may require the licensed surveyor to furnish a report on all matters incidental to preparation of the plan.

### **Extract from Mining Register**

**13.** The Court may at any time during the course of any proceedings require the Mining Registrar to produce an extract from the Mining Register to the Court and the Court may take judicial notice of its contents.

**PART 3**  
**SPECIAL APPLICATIONS**

**Objection by owner to entry by mining operator**

**14.** A notice of objection lodged by an owner pursuant to section 58A(3) of the Act must—

- (a) include full particulars of the objection;
- (b) have annexed to it—
  - (i) a copy of the written notice given to the owner by the mining operator pursuant to section 58(1) of the Act; and
  - (ii) a supporting affidavit as to the relevant facts; and
- (c) be lodged with the Registrar.

**Objection by owner to use of declared equipment**

**15.** A notice of objection lodged by an owner pursuant to section 59(3) of the Act must—

- (a) include full particulars of the objection;
- (b) have annexed to it—
  - (i) a copy of the written notice given to the owner by the mining operator pursuant to section 59(2) of the Act; and
  - (ii) a supporting affidavit as to the relevant facts; and
- (c) be lodged with the Registrar.

**Application for amalgamation or suspension of working conditions**

**16.** (1) An application for amalgamation or suspension of working conditions pursuant to the regulations must contain particulars of the persons who may be affected by the relevant order.

(2) On receipt of an application for amalgamation or suspension of working conditions, notice of the application must be publicly displayed in the office of the Registrar and in the offices of the Mining Registrar.

(3) The Court may give notice of the application to any person who may be affected by an order made by the Court on the application or may, by notice to the applicant, direct that notice of the application be published in a newspaper or in such other manner as the Court may direct.

**Objection to application for amalgamation or suspension of working conditions**

**17.** (1) An objection to an application for amalgamation or suspension of working conditions must be made within 7 days of the publication of the notice of application or within such longer period as the Court may allow in the circumstances of the particular case.

(2) On receipt of an objection, the Court must give to all persons who may be affected by the application notice of—

- (a) the hearing of the application; and
- (b) the particulars of any objection.

**PART 4  
MISCELLANEOUS**

**Contempt of Court**

**18.** Sections 45 and 46 of the *Magistrates Court Act 1991* apply, with such modifications as may be necessary, with respect to any suit which is or has been before the Court.

**Summons**

**19.** (1) A summons to defendants issued by the Court will be in the appropriate form set out in schedule 1.

(2) A summons to witnesses issued by the Court will be in the appropriate form set out in schedule 1.

**Service**

**20.** (1) Service of a document may be effected by serving the document on the solicitor of a party.

(2) If the solicitor for a party is a member of, or entitled to use, a document exchange, entitling the solicitor to the exclusive use of a box or receptacle for the deposit and collection of documents, any document of the kind referred to in subrule (1) may be left in the box or receptacle.

(3) In the event of a document being left in a box or receptacle of the kind referred to in subrule (2), that document will be taken to have been served at the address for service of the party represented by the solicitor entitled to use of the box or receptacle on the day following the day on which the document was left in the box.

**Fees**

**21.** The fees set out in schedule 2 are charged in respect of the matters referred to in the schedule.

**Record of Warden's order or decision**

**22.** (1) A Warden's order or decision need not be formally drawn up unless the Warden otherwise directs.

(2) However, the Warden must maintain a Warden's book in which a record is kept of all decisions and orders of the Court.

(3) Record of an order or decision in the Warden's book is conclusive evidence of the order or decision.

**Seal**

**23.** The Court will have such seals as are necessary for the transaction of its business (and may use such seals as it thinks appropriate).

**Enforcement of orders**

**24.** (1) The provisions of the *Enforcement of Judgments Act 1991* apply in respect of an order of the Court as if the order were an order of the District Court or Magistrates Court (as appropriate).

(2) On receipt of an affidavit from a person seeking to enforce an order of the Court setting out full particulars of the order sought to be enforced, the Warden must—

- (a) in the case of an order for payment of a monetary amount in excess of \$30 000, transmit the order to the Registrar of the District Court;
- (b) in the case of any other order, transmit the order to the Registrar of the Magistrates Court nearest to the place at which the Court made the order,

and proceedings may then be taken on the order, or any other action taken, as if it were a judgement or order of the Court to which it has been transmitted.

- (3) In this Rule, "**order**" includes injunction.



**SCHEDULE 1**

Form No. 1

SOUTH AUSTRALIA

MINING ACT 1971

PLAINT NOTE

..... of .....

complains of ..... of .....

objects to.....

makes application for.....

and says:

1. That (*etc*).....  
.....  
.....

2. That (*etc*).....  
.....  
.....

(Describe the subject matter of complaint/objection/application in paragraphs)

The complainant seeks (*state relief sought*) or such other relief as may be just: .....

.....

.....

The amount of any pecuniary claim is \$ .....

Dated ..... day of ..... 20.....

Signature .....

Form No. 2  
SOUTH AUSTRALIA  
MINING ACT 1971  
SUMMONS TO DEFENDANT(S)

Plaint No .....

To *(insert names of all defendants)* of.....  
.....

You are summoned to appear before me, or some other warden, at .....  
on the ..... day of ..... 20 ..... at ..... o'clock  
in the ..... noon to answer the plaint of *(insert names, addresses, and occupations of all the complainants)* by  
which plaint the complainant seeks *(insert nature of plaint)*.....  
.....  
.....  
.....

You may have a summons to compel the attendance of any witness or for the production of any books or documents, by  
applying at my office.

Bring this summons with you when you come to my office.

Given under my hand this ..... day of ..... 20 .....  
..... Warden

Form No. 3
SOUTH AUSTRALIA
MINING ACT 1971
SUMMONS TO WITNESS

Plaint No .....

To .....of .....
.....of .....

has made a complaint/lodged an objection/filed an application by which he/she seeks (insert nature of complaint/objection/application).....

I, the undersigned Warden, am satisfied that you are likely to give material evidence or to have in your possession or power certain articles required for the purposes of evidence on behalf of the complainant (or defendant). You are therefore summoned to appear at ..... on ..... the ..... day of ..... 20 ..... at the hour of ..... o'clock in the ..... noon before the Court to give evidence concerning the matter of the complaint/objection/application (or/and) to produce to the Court all books, plans, papers, documents, articles, goods and things likely to be material evidence on the hearing of the complaint/objection/application, and especially .....

(NOTE: Section 65 of the Mining Act 1971 provides: (1a) Subject to subsection (1b) of this section, if any person—

- (a) who has been served with a summons to attend before the Court neglects or fails to appear in obedience to the summons;
(b) who has been served with a summons to produce any books, papers or documents neglects or fails to comply with the summons;
(c) .....
(d) .....

he shall be guilty of a contempt of the Warden's Court.)

Dated the ..... day of ..... 20 .....

..... Warden

**SCHEDULE 2**  
**FEEES**

1. Taking out a plaint seeking forfeiture of a mining tenement or a determination in accordance with the provisions of section 67(1) of the Act.....\$46.00
2. Taking out a plaint (all other matters).....\$18.00

MME 01/0059 CS

R. DENNIS, Clerk of the Council

**REGULATIONS UNDER THE GRAFFITI CONTROL ACT 2001**

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No. 3 of 2002

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*At the Executive Council Office at Adelaide, 15 January 2002*

PURSUANT to the *Graffiti Control Act 2001* and with the advice and consent of the Executive Council, I make the following regulations.

MARJORIE JACKSON-NELSON, Governor

PURSUANT to section 10AA(2) of the *Subordinate Legislation Act 1978*, I certify that, in my opinion, it is necessary or appropriate that the following regulations come into operation as set out below.

ROBERT LAWSON, Attorney-General

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**SUMMARY OF PROVISIONS**

1. Citation
  2. Commencement
  3. Prescribed types of cans of spray paint—section 4(2)
- 

**Citation**

1. These regulations may be cited as the *Graffiti Control Regulations 2002*.

**Commencement**

2. These regulations will come into operation on the day on which section 4 of the *Graffiti Control Act 2001* comes into operation.

**Prescribed types of cans of spray paint—section 4(2)**

3. Pursuant to section 4(2) of the *Graffiti Control Act 2001*, subsection (1) of that section does not apply in relation to the sale of cans containing paint that—

- (a) does not contain a pigment; and
- (b) is transparent when sprayed onto a surface.

CSA14/01CS

R. DENNIS, Clerk of the Council

**REGULATIONS UNDER THE SUMMARY OFFENCES ACT 1953**

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No. 4 of 2002

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*At the Executive Council Office at Adelaide, 15 January 2002*

PURSUANT to the *Summary Offences Act 1953* and with the advice and consent of the Executive Council, I make the following regulations.

MARJORIE JACKSON-NELSON, Governor

PURSUANT to section 10AA(2) of the *Subordinate Legislation Act 1978*, I certify that, in my opinion, it is necessary or appropriate that the following regulations come into operation as set out below.

ROBERT LAWSON, Attorney-General

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**SUMMARY OF PROVISIONS**

1. Citation
  2. Commencement
  3. Revocation of Part 2
- 

**Citation**

1. The *Summary Offences (General) Regulations 2001* (see *Gazette* 23 August 2001 p. 3283) are referred to in these regulations as "the principal regulations".

**Commencement**

2. These regulations will come into operation immediately after the commencement of the principal regulations.

**Revocation of Part 2**

3. Part 2 of the principal regulations is revoked.

CSA 14/01 CS

R. DENNIS, Clerk of the Council

## REGULATIONS UNDER THE RETAIL AND COMMERCIAL LEASES ACT 1995

No. 5 of 2002

*At the Executive Council Office at Adelaide, 15 January 2002*

PURSUANT to the *Retail and Commercial Leases Act 1995* and with the advice and consent of the Executive Council, I make the following regulations.

MARJORIE JACKSON-NELSON, Governor

PURSUANT to section 10AA(2) of the *Subordinate Legislation Act 1978*, I certify that, in my opinion, it is necessary or appropriate that the following regulations come into operation as set out below.

ROBERT LAWSON, Minister for Consumer Affairs

### SUMMARY OF PROVISIONS

1. Citation
2. Commencement
3. Variation of reg. 3—Preliminary
4. Variation of reg. 4—Exclusions from application of Act
5. Insertion of reg. 9A
  - 9A. Assignor's disclosure statement
6. Variation of Sched. 1—Disclosure statement—regulation 5
7. Variation of Sched. 2—Model certificate for exclusionary clause—regulation 7A
8. Variation of Sched. 3
9. Variation of Sched. 4—Regulation 9
10. Insertion of Sched. 4A
11. Variation of Sched. 5

### SCHEDULE

#### SCHEDULE 4A

*Assignor's disclosure statement—regulation 9A*

#### Citation

1. The *Retail and Commercial Leases Regulations 1995* (see *Gazette* 29 June 1995 p. 3101), as varied, are referred to in these regulations as "the principal regulations".

#### Commencement

2. These regulations will come into operation on the day on which the *Retail and Commercial Leases (Miscellaneous) Amendment Act 2001* comes into operation.

#### Variation of reg. 3—Preliminary

3. Regulation 3 of the principal regulations is varied by striking out from the definition of "the Act" in subregulation (1) "*Retail Shop Leases Act 1995*" and substituting "*Retail and Commercial Leases Act 1995*".

#### Variation of reg. 4—Exclusions from application of Act

4. Regulation 4 of the principal regulations is varied—

- (a) by striking out from subregulation (3) "*Liquor Licensing Act 1985*" and substituting "*Liquor Licensing Act 1997*";
- (b) by striking out from subregulation (3) "and 43 to 46," and substituting "43, 44, 45, 45A and 46";

- (c) by striking out from subregulation (4) "*Liquor Licensing Act 1985*" and substituting "*Liquor Licensing Act 1997*".

#### **Insertion of reg. 9A**

5. The following regulation is inserted after regulation 9 of the principal regulations:

##### **Assignor's disclosure statement**

**9A.** For the purposes of section 45A of the Act, an assignor's disclosure statement must be presented in the form set out in Schedule 4A.

#### **Variation of Sched. 1—Disclosure statement—regulation 5**

6. Schedule 1 of the principal regulations is varied—

- (a) by striking out from the heading commencing "**DISCLOSURE STATEMENT UNDER "RETAIL SHOP LEASES ACT 1995"**" and substituting "**RETAIL AND COMMERCIAL LEASES ACT 1995**";
- (b) by striking out "*Retail Shop Leases Act 1995*" (wherever occurring) and substituting, in each case, "*Retail and Commercial Leases Act 1995*".

#### **Variation of Sched. 2—Model certificate for exclusionary clause—regulation 7A**

7. Schedule 2 of the principal regulations is varied—

- (a) by striking out from the heading commencing "**CERTIFIED EXCLUSIONARY CLAUSE UNDER "RETAIL SHOP LEASES ACT 1995"**" and substituting "**RETAIL AND COMMERCIAL LEASES ACT 1995**";
- (b) by striking out "*Retail Shop Leases Act 1995*" (wherever occurring) and substituting, in each case, "*Retail and Commercial Leases Act 1995*".

#### **Variation of Sched. 3**

8. Schedule 3 of the principal regulations is varied—

- (a) by striking out "*Retail Shop Leases Act 1995*" and substituting "*Retail and Commercial Leases Act 1995*";
- (b) by striking out "*Retail Shop Leases Regulations 1995*" and substituting "*Retail and Commercial Leases Regulations 1995*".

#### **Variation of Sched. 4—Regulation 9**

9. Schedule 4 of the principal regulations is varied—

- (a) by striking out from the heading in the model form "**RETAIL SHOP LEASES ACT 1995**" and substituting "**RETAIL AND COMMERCIAL LEASES ACT 1995**";
- (b) by striking out "*Retail Shop Leases Act 1995*" (wherever occurring) and substituting, in each case, "*Retail and Commercial Leases Act 1995*".



**Insertion of Sched. 4A**

**10.** The Schedule set out in the Schedule of these regulations is inserted after Schedule 4 of the principal regulations.

**Variation of Sched. 5**

**11.** Schedule 5 of the principal regulations is varied—

- (a) by striking out from the heading "RETAIL SHOP LEASES ACT 1995" and substituting "RETAIL AND COMMERCIAL LEASES ACT 1995";
- (b) by striking out from the heading "RETAIL SHOP LEASES REGULATIONS 1995" and substituting "RETAIL AND COMMERCIAL LEASES REGULATIONS 1995".

**SCHEDULE**

**SCHEDULE 4A**

*Assignor's disclosure statement—regulation 9A*

**ASSIGNOR'S DISCLOSURE STATEMENT UNDER SECTION 45A OF THE RETAIL AND COMMERCIAL LEASES ACT 1995**

\* Strike out the item that is not applicable.

If there is insufficient space to provide details required, continue on attachments.

- 1. Details of retail shop in respect of which the lease is to be assigned:

Address: .....

Description of shop: .....

- 2. The assignor \*has/has not provided the assignee with a copy of the lessor's disclosure statement in respect of the lease together with details of any changes to the information contained in the disclosure statement since the statement was given.

- 3. There \*are/are no outstanding notices in respect of the lease.  
*[If so, provide details for each notice]*

Name of person giving notice: .....

Date of notice: .....

Details of notice: .....

.....

.....

- 4. There \*are/are no outstanding notices from any authority in respect of the retail shop.  
*[If so, provide details for each notice]*

Authority giving notice: .....

Date of notice: .....

Details of notice: .....

.....

.....

- 5. There \*are/are no encumbrances on the lease.  
*[If so, provide details for each encumbrance]*

Name of holder of encumbrance: .....

Nature of encumbrance.....

.....

.....

Is encumbrance to be discharged or satisfied prior to assignment of the lease? \*YES/NO

- 6. There \*are/are no encumbrances on, or interests of a third party in, any fixtures or fittings within the retail shop.  
[If so, provide details for each encumbrance or interest]

Name of holder of encumbrance or interest: .....

.....

Details of fixtures/fittings affected: .....

.....

Nature of encumbrance or interest:.....

.....

.....

Is encumbrance/interest to be discharged or satisfied prior to the assignment? \*YES/NO

- 7. The lessor \*has/has not conferred any rent concessions or other benefits on the assignor during the term of the lease.  
[If so, provide details of concession or benefit]

.....

.....

.....

- 8. The total (aggregate) annual sales figures for the past three years (or such lesser period as the lease has been in operation) in relation to the retail shop are as follows:

(a) .....(period/year)                      \$.....

(b) .....(period/year)                      \$.....

(c) .....(period/year)                      \$.....

- 9. The following further information has been provided to the assignee in relation to the trading performance of the retail shop for the last three years (or such lesser period as the lease has been in operation): .....

.....

.....

.....

Date: .....

Assignor:..... [name]

..... [signature]

**ACKNOWLEDGMENT OF RECEIPT OF ASSIGNOR'S DISCLOSURE STATEMENT**

I received an assignor's disclosure statement under section 45A of the *Retail and Commercial Leases Act 1995*

on.....  
from..... [name of assignor]  
relating to .....  
..... [address/description of shop]

Assignee:

..... [name]  
..... [address]  
.....  
..... [signature]  
..... [date]

I received an assignor's disclosure statement under section 45A of the *Retail and Commercial Leases Act 1995*

on.....  
from..... [name of assignor]  
relating to .....  
..... [address/description of shop]

Lessor:

..... [name]  
..... [address]  
.....  
..... [signature]  
..... [date]

## REGULATIONS UNDER THE SOUTH AUSTRALIAN CO-OPERATIVE AND COMMUNITY HOUSING ACT 1991

No. 6 of 2002

*At the Executive Council Office at Adelaide, 15 January 2002*

PURSUANT to the *South Australian Co-operative and Community Housing Act 1991* and with the advice and consent of the Executive Council, I make the following regulations.

MARJORIE JACKSON-NELSON, Governor

PURSUANT to section 10AA(2) of the *Subordinate Legislation Act 1978*, I certify that, in my opinion, it is necessary or appropriate that the following regulations come into operation as set out below.

DEAN BROWN, Minister for Human Services

### SUMMARY OF PROVISIONS

1. Citation
2. Commencement
3. Interpretation
4. Terms to be included in associated land owner agreement

#### Citation

1. These regulations may be cited as the *South Australian Co-operative and Community Housing (Associated Land Owners) Regulations 2002*.

#### Commencement

2. These regulations will come into operation on the day on which the *South Australian Co-operative and Community Housing (Associated Land Owners) Amendment Act 2001* comes into operation.

#### Interpretation

3. In these regulations—

"Act" means the *South Australian Co-operative and Community Housing Act 1991*;

"associated land owner agreement" means an agreement entered into between the Authority and an associated land owner under clause 1 of Schedule 2 of the Act;

"related housing association agreement", in relation to an associated land owner agreement, means the agreement relating to the construction, development or improvement of housing on the land the subject of the associated land owner agreement, entered into under Division 3 of Part 7 of the Act (*see* clause 7 of Schedule 1) between the Authority and the registered housing association to which the land is leased.

#### Terms to be included in associated land owner agreement

4. (1) For the purposes of clause 1 of Schedule 2 of the Act and subject to subregulation (2), the following are prescribed terms to be contained in an associated land owner agreement:

- (a) terms requiring the land to be leased to a registered housing association approved by the Authority on terms approved by the Authority, at all times during the term of the agreement (except as approved by the Authority);

- (b) terms prohibiting the associated land owner from selling, transferring, assigning, mortgaging or otherwise dealing with the land (except as referred to in paragraph (a)) without the Authority's approval;
- (c) terms requiring the associated land owner to facilitate, insofar as it is in a position to do so, performance of the related housing association agreement;
- (d) terms prohibiting the associated land owner from developing or making improvements to the land (other than those required or authorised by or under the related housing association agreement) without the Authority's approval;
- (e) terms providing that all improvements on the land required or authorised by or under the related housing association agreement will be owned by, and be the responsibility of, the associated land owner;
- (f) terms requiring the associated land owner to keep the land and all improvements on the land in good order and repair;
- (g) terms requiring the associated land owner to maintain insurance (including public liability insurance) in respect of the land to a specified extent;
- (h) terms requiring the associated land owner to make available, or cause to be made available, services to tenants or potential tenants of the registered housing association that leases the land of a kind and standard specified in the agreement;
- (i) terms requiring the associated land owner to provide an annual report to the Minister relating to the provision of services of the kind referred to in paragraph (h) in the manner and form required by the Minister;
- (j) terms requiring the associated land owner to maintain records and provide information to the Authority as specified in the agreement or as the Authority may from time to time require;
- (k) terms requiring the associated land owner to facilitate the Authority gaining access to the land at any reasonable time following reasonable notice;
- (l) terms specifying the term of the agreement;
- (m) terms specifying the circumstances in which the agreement may be terminated earlier and the consequences of early termination (which may include, in relation to early termination by the associated land owner, a requirement to pay a specified amount or an amount determined in a specified manner to the Authority).

(2) The prescribed terms apply only to the extent that the matters are not covered by terms of the related housing association agreement.

**REGULATIONS UNDER THE RETIREMENT VILLAGES ACT 1987**

No. 7 of 2002

*At the Executive Council Office at Adelaide, 15 January 2002*

PURSUANT to the *Retirement Villages Act 1987* and with the advice and consent of the Executive Council, I make the following regulations.

MARJORIE JACKSON-NELSON, Governor

PURSUANT to section 10AA(2) of the *Subordinate Legislation Act 1978*, I certify that, in my opinion, it is necessary or appropriate that the following regulations come into operation as set out below.

DEAN BROWN, Minister for the Ageing

**SUMMARY OF PROVISIONS**

1. Citation
2. Commencement
3. Revocation
4. Interpretation
5. "Premium"—excluded payments
6. Residence contracts
7. Termination of residence rights
8. Application for extension of prescribed period
9. Meetings of residents—financial information
10. Standards for financial information
11. Remarketing policy
12. Resolution of disputes
13. Endorsement of certificates of title
14. Fees
15. Code of conduct
16. Forms generally
17. Offence

**SCHEDULE 1***Forms***SCHEDULE 2***Fees***SCHEDULE 3***Code of Conduct to be Observed by the Administering Authority of a Retirement Village***Citation**

1. These regulations may be cited as the *Retirement Villages Regulations 2002*.

**Commencement**

2. These regulations will come into operation on the day on which the *Retirement Villages (Miscellaneous) Amendment Act 2001* comes into operation.

**Revocation**

3. The *Retirement Villages Regulations 1987* (see *Gazette* 25 June 1987 p. 1662), as varied, are revoked.

**Interpretation**

4. (1) In these regulations—

"Act" means the *Retirement Villages Act 1987*.

(2) In these regulations, a reference to a form of a particular number is a reference to a form of that number set out in Schedule 1.

**"Premium"—excluded payments**

5. A payment of less than \$1 000 is excluded from the ambit of the definition of "premium" in section 3 of the Act.

**Residence contracts**

6. (1) For the purposes of section 6 of the Act—

- (a) a notice of a person's rights under section 6 of the Act must be in the form of Form 1; and
- (b) a statement that must be completed by the administering authority must be in the form of Form 2<sup>1</sup>; and

<sup>1</sup> This form may be signed by a person duly authorised to act on behalf of the administering authority.

(c) the following documents are prescribed:

- (i) a copy of the proposed residence contract; and
- (ii) a copy of the code of conduct set out in Schedule 3; and
- (iii) the statements and other financial information last presented to residents of the retirement village under section 10(5)(a) of the Act; and
- (iv) a written statement of any subsequent change which affects, to a material degree, any statement or other information provided under subparagraph (iii) and which could reasonably be expected to influence the prospective resident's decision to enter the village; and
- (v) a copy of the administering authority's remarketing policy under regulation 11; and
- (vi) a *Premises Condition Report* relating to the relevant unit (*see* Form 2).

(2) A residence contract should, insofar as is reasonably practicable, be expressed plainly and in gender neutral language and, without limiting any other terms or conditions agreed between the parties, must include the following headings (printed below in capital letters) and comply with the following requirements:

(a) **NAMES OF PARTIES**

The contract must include the full names of all parties to the contract, and the full address of the administering authority;

(b) **NAME AND ADDRESS OF THE RETIREMENT VILLAGE**

The contract must set out the name of the retirement village and its full address;



- (c) **DESCRIPTION OF ACCOMMODATION**  
The contract must identify the unit to be occupied by the resident and give a reasonable description of its features;
- (d) **TENURE**  
The contract must specify the form of tenure that will apply to the resident under the retirement village scheme, and the terms and conditions of that tenure;
- (e) **PREMIUM**  
The contract must specify the amount of any premium payable by the resident, the basis on which the premium is paid, and the date on which the premium is payable. The contract must also set out the terms and conditions under which the premium will be repaid and the basis on which the amount of any repayment will be calculated;
- (f) **FEES AND CHARGES**  
The contract must specify the various fees and charges payable by the resident, distinguishing between recurrent charges, deferred fees and other fees. The contract must specify when each fee or charge is payable and the amount of the fee or charge, or its method of calculation. Any right to vary the fee or charge must be specified. The contract must also identify any fee or charge that will continue to be payable if the resident is absent from the retirement village, or ceases to reside in the retirement village. The contract must specify when any such fee or charge will cease to be payable;
- (g) **FACILITIES AND SERVICES**  
The contract must specify any facilities that are to be specifically provided for the benefit of the resident, and any work to be undertaken by the administering authority. The contract must also specify all services that the administering authority will provide for the benefit of the resident;
- (h) **COMMUNAL FACILITIES**  
The contract must describe the communal facilities available to residents of the retirement village;
- (i) **TERMINATION OF RESIDENCE RIGHTS**  
The contract must specify the action which must be taken in order to terminate the contract and the steps, if any, that a party agrees to undertake after a termination;
- (j) **OTHER ACCOMMODATION**  
The contract must specify any agreement as to any further care or accommodation that may be provided to the resident in the future;
- (k) **SETTLING-IN PERIOD**  
The contract must specify any agreement between the parties with respect to the resident's settling-in period (including any amounts that may be payable by the resident if he or she terminates the contract during that period and, if relevant, any extension to the settling-in period specified by the Act);
- (l) **DISPUTES**  
The contract must specify the procedures for the resolution of a dispute within the retirement village;

(m) TRUSTEE

The contract must set out the terms of conditions on which a trustee has been appointed for the purposes of the retirement village scheme (insofar as any such trustee is involved in holding moneys paid by the resident on trust, or is available or responsible to represent the interests of the resident), and any rights that the resident may have by virtue of that appointment.

**Termination of residence rights**

7. (1) An application to the Tribunal under section 7(3) or (4) of the Act must—

- (a) be made within 60 days after the date of the notice under section 7(8) of the Act; and
- (b) be in the form of Form 4 and be accompanied by the prescribed fee under Schedule 2.

(2) An order for ejectment under section 7(7) of the Act may be made on the application of the administering authority and—

- (a) the application must be in the form of Form 5 and be accompanied by the prescribed fee under Schedule 2; and
- (b) section 93 of the *Residential Tenancies Act 1995* applies to an order for ejectment as if it were an order for possession of premises.

(3) A notice under section 7(8) of the Act must be in the form of Form 3.

**Application for extension of prescribed period**

8. An application to the Tribunal under section 9A(2c) of the Act must be in the form of Form 6 and be accompanied by the prescribed fee under Schedule 2.

**Meetings of residents—financial information**

9. The following information is prescribed for the purposes of section 10(5)(a)(iv) of the Act:

- (a) a statement of the proportion (if any) of premiums received during the previous financial year used, or to be used, for purposes similar to those for which recurrent charges are used;
- (b) a statement of the amount of money received from residents and held in reserve for establishment, or maintenance, refurbishment or replacement, of facilities at the retirement village, stating what payments were made from those reserves during the previous financial year;
- (c) a statement of the amount of any expenditure during the previous financial year for which residents were or will be liable, being expenditure not otherwise accounted for under this regulation or section 10(5) of the Act.

**Standards for financial information**

10. Any information provided under section 10(5)(a) or 10AAA(1) of the Act must be in a form that shows specific information for the particular retirement village (and if the retirement village has more than one site, this information must specifically relate to the site at which the relevant resident or residents reside).

**Remarketing policy**

11. An administering authority must have a policy that sets out the procedures to be followed, and the rights, responsibilities and obligations of each party, in relation to the remarketing of a unit after the resident has given notice of a decision to vacate the unit, or after some other event that means that the resident will no longer be residing in the retirement village.

**Resolution of disputes**

12. An application to the Tribunal under section 14 of the Act must be in the form of Form 7 and must be accompanied by the prescribed fee under Schedule 2.

**Endorsement of certificates of title**

13. An application to the Registrar-General under section 15(2) or (4) of the Act must—

- (a) be in a form determined by the Registrar-General; and
- (b) be endorsed with a certificate as required by section 273(1) of the *Real Property Act 1886*; and
- (c) be accompanied by the appropriate fee under the *Real Property Act (Fees) Regulations 1991*.

**Fees**

14. The fees prescribed in Schedule 2 are payable for the purposes specified.

**Code of conduct**

15. Pursuant to section 21A of the Act, the code set out in Schedule 3 is prescribed as a code of conduct to be observed by administering authorities.

**Forms generally**

16. (1) A form to be completed by an administering authority may be completed by a person duly authorised to act on behalf of the administering authority.

(2) A form—

- (a) must be completed in accordance with the instructions contained in the form; and
- (b) must include the information indicated as being required,

and, if a form indicates that a particular document is to accompany the form, that document must be attached to the form or otherwise lodged with the form.

(3) Form 2, and any document accompanying that form, must be signed and dated—

- (a) by the administering authority (or by a person duly authorised to act on behalf of the administering authority); and
- (b) by the resident.

(4) Pursuant to section 23(2)(ba) of the Act, a residence contract or other document required to be given to a person under section 6(2) of the Act must be printed in not less than 12 point type face (and must be in either Roman, Italic or Sans Serif style).

**Offence**

**17.** A person who breaches, or fails to comply with, a provision of these regulations is guilty of an offence.

Maximum penalty:       \$2 500.

**SCHEDULE 1**

*Forms*

Form 1

NOTICE TO A PROSPECTIVE RESIDENT OF A RETIREMENT VILLAGE

*(Retirement Villages Act 1987, section 6(2)(b))*

TO: *(name)* ..... of *(address)* .....

.....

.....

THIS NOTICE SETS OUT VARIOUS LEGAL RIGHTS YOU WILL HAVE IF YOU ENTER INTO A CONTRACT TO BECOME A RESIDENT OF THE *(name)*..... RETIREMENT VILLAGE AT *(address)*.....

.....

NOTE: The administering authority of the village is *(name, in block letters)* .....

of *(address)* .....

.....

1. "COOLING-OFF" RIGHTS

You have the right to rescind (*i.e.*, cancel) a contract to become a resident of the above retirement village.

If you receive this notice *before* you enter into such a contract, you may rescind the contract within 15 business days after the date of the contract.

If you receive this notice *after* you enter into such a contract, you may rescind the contract within 15 business days after you receive this notice.

To rescind a contract, you must give notice in writing to the above administering authority. This notice should state that you have decided to rescind the contract, and it must be delivered personally or posted.

If you rescind a contract, you are entitled to a refund of any money paid by you under the contract.

Before deciding to enter into a contract or to rescind a contract, you should read and consider carefully the rest of this notice and the documents you received with this notice, including the checklist of questions relating to retirement villages generally and the rules binding residents at the above retirement village ("the residence rules").

2. RIGHTS UNDER THE RETIREMENT VILLAGES ACT 1987

The *Retirement Villages Act 1987* sets out various rights you will have if you enter into a contract to become a resident of a retirement village, and these rights cannot be excluded by contract. Some of these statutory rights are briefly described below.

(You can buy a copy of the Act from Information SA or inspect it at the Office for the Ageing or most Public Libraries. You may also find a copy of the Act on the Internet. For example, go to [www.sacentral.sa.gov.au](http://www.sacentral.sa.gov.au).)

*Section 7—The Right to Stay*

As a resident at a retirement village, you will have a right of occupation of a unit that will continue until your death unless it is terminated before then. It can be terminated by agreement between you and the administering authority. The administering authority may ask you to leave but if you do not want to go, your right of occupation can only be terminated if the administering authority convinces the Residential Tenancies Tribunal that you have committed a serious breach of the residence rules or that you are mentally or physically incapable of remaining at the village.

If the retirement village fails financially, your right of occupation cannot be terminated except by a mortgagee under a mortgage that was in existence at the date the Act came into effect—30 June 1987.

You will also be entitled to a settling-in period after you begin to occupy your unit. You cannot be required to pay any monetary penalty if you decide to leave the retirement village during this settling-in period, but may be required to pay rent (at market rates) and other amounts for your occupation of the unit. The usual settling-in period is 90 days from the day on which you commence to occupy your unit. Your contract may specify a longer period.

*Section 9—Service Contracts and Premiums*

You will be able to enforce your rights under a service contract, or for repayment of your premium (*i.e.*, the lump sum paid on entry into the retirement village), against the administering authority or the owner of the land used for the village.

*Section 10—Recurrent Charges and Specific Purpose Fund(s)*

The administering authority of the retirement village must hold an annual residents' meeting within four months of the end of each financial year. At that meeting it must present (a) audited financial statements showing income and expenditure for each fund for the retirement village for the last financial year; and (b) a statement showing projected income and expenditure for the ensuing financial year. Residents must have a reasonable opportunity to put questions. A special, or extraordinary, levy can be imposed only if it is authorised by a special resolution (*i.e.*, three-quarter's majority) at a residents' meeting.

*Section 11—Harsh or unconscionable residence rules*

A harsh or unconscionable residence rule will be void, *i.e.* of no effect. A dispute as to whether a rule is harsh or unconscionable may be taken to the Residential Tenancies Tribunal (see below) or to a court.

*Section 12—Copies of residence rules*

You will be entitled to receive a copy of the residence rules and other relevant documents (*see* Form 2). If the residence rules are altered, an amended set will be issued to you.

*Section 14—Disputes*

If a dispute arises between you and the administering authority of the retirement village, either party will be entitled to apply to the Residential Tenancies Tribunal for resolution of the matter. However, the Tribunal can refuse to hear the dispute if it appears that the dispute could be adequately dealt with under rules for the resolution of disputes established by the administering authority. Normally the internal procedures for resolving disputes should be followed before an application is made to the Residential Tenancies Tribunal. Other matters may also be brought before the Residential Tenancies Tribunal for resolution.

### 3. RIGHTS UNDER THE CONTRACT

If you enter into a contract to become a resident of a retirement village, you will have various rights and duties under that contract in addition to the rights referred to above.

You should read such a contract carefully and seek legal advice if you are uncertain as to the meaning or effect of any terms.

You should also be certain that you understand the rights and liabilities that are set out in the documents you received with this notice. These rights and liabilities may, in certain circumstances, have contractual force.

**If you are uncertain as to any of the matters set out above, or about your rights and duties under contract or the provisions of the *Retirement Villages Act 1987*, you should seek independent advice from a solicitor, the Legal Services Commission, a community legal service, a financial adviser, or the Office for the Ageing.**

**If, after you become a resident of a retirement village, you believe that any of your rights have been infringed, you should first approach the administering authority, and if you are still not satisfied you should seek independent advice.**

## Form 2

## DISCLOSURE STATEMENT

(Retirement Villages Act 1987, section 6(2)(a))

**You should seek independent legal advice from a solicitor, the Legal Services Commission, or a community legal service about your rights and duties under the proposed contract and any matters set out in this form.**

**You have a period of fifteen (15) business days after the date on which you receive a completed Form 1 entitled "Notice to a Prospective Resident of a Retirement Village" in which you may withdraw from the contract and receive a full refund of any monies you have paid to the administering authority. However, should you seek to withdraw from the contract after the period of fifteen (15) business days have passed, your rights, particularly to any refund of monies, and your obligations will be subject to the conditions of the contract you have signed.**

**You are advised to read and carefully consider these documents.**

This document must be attached to a completed Form 1 entitled "Notice to a Prospective Resident of a Retirement Village" and must also be accompanied by the following documents:

1. a copy of the proposed residence contract; and
2. a copy of the code of conduct that applies to administering authorities under the *Retirement Villages Act 1987*; and
3. a copy of the residence rules; and
4. a copy of the financial statements presented at the last annual meeting of residents in accordance with section 10(5)(a) of the *Retirement Villages Act 1987*, including a written statement of any subsequent change in the affairs of the retirement village and the administering authority that may significantly affect the prospective resident's decision to enter the village; and
5. a copy of Schedule 2 of the *Retirement Villages Act 1987*; and
6. a copy of the administering authority's remarketing policy; and
7. a "Premises Condition Report" relating to the relevant unit.

(In all sections of this form, cross out items that are not applicable, including because of an exemption under the Act, and add information where required.)

An administering authority may provide information required by this form by reference to an attached document.

This form, and any attachment, must be signed and dated by the administering authority (or by a person duly authorised to act on behalf of the administering authority), and by the resident.



1. YOUR ACCOMMODATION

1.1 You will be occupying Unit No. . . . . at .....  
.....  
(full address and name of retirement village).

1.2 The unit is an Independent Living Unit/Serviced Apartment/Other Type (specify)  
..... of approximately ..... square metres in accordance with Plan B  
attached to this form.

1.3 The location of the unit within the village is noted on Plan A attached.

1.4 The layout of the unit is detailed in Plan B attached, and also consult section 5 of this document.

2. YOUR TENURE

2.1 The title to the land on which the village or collection of units is located has/has not been endorsed in accordance  
with the Retirement Villages Act 1987.

2.2 You will receive a:

- \* Community title
- \* Strata title
- \* Lease
- \* Licence to occupy
- \* Other tenure (describe).....  
.....

2.3 The land on which the village is located is owned by:  
.....

2.4 It is endorsed with:

- \* a mortgage (or mortgages) to .....  
.....  
totalling \$ ..... registered on .....

This mortgage does/does not take priority over the interests of residents.

- \* a lease (or leases) to .....  
.....

Other endorsements (Give full details)  
.....  
.....

2.5 You are entitled to a settling-in period. If you terminate your right to occupy your unit during this period, you are  
liable to pay—

(a) fair market rent for your period of occupation of the unit, less any amounts paid for services that would  
otherwise have been included in an assessment of fair market rent; and

(b) the following additional amounts:  
.....

However, no penalty will be imposed if you terminate your right to occupy the unit during your settling-in period.

The length of the settling-in period is .....

3. YOUR PAYMENTS

3.1 Premium

**NOTE: You may not receive all of the premium, fees and/or charges back if you decide to leave the village. You are advised to calculate your refund amount by consulting the administering authority and section 4 of this document, and by obtaining independent legal or financial advice as necessary.**

The amount of the premium required to occupy your unit is \$ .....

This premium is:

- \* a loan to the administering authority with no interest payable/interest rate payable at ..... % per annum
- \* a non-refundable gift or donation to the administering authority of \$ .....
- \* a purchase price of \$ .....
- \* other (specify) .....

In addition, you will be required to pay the following fees and charges to secure initial occupation of your unit. (The description and amount of each additional fee and/or charge must be disclosed.)

<i>Description</i> .....	<i>Amount</i>
.....	\$ .....
.....	\$ .....
.....	\$ .....

3.2 Recurrent Charges—(Ongoing fees paid regularly during occupation)

**NOTE: Under the Retirement Villages Act 1987, the administering authority cannot increase these fees by more than an amount that is justifiable. The amount of any increase must be shown as justifiable by the administering authority presenting an estimate of expenditure to a proper meeting of residents. You should be aware, however, that the administering authority does not need the approval of residents to increase fees to any justifiable amount.**

This section must be completed for each applicable type of recurrent charge.

Name of Fee .....

Amount \$ .....

This fee covers the following items/services:

.....  
.....

The fee was last adjusted on the following date

.../.../..., when the fee was adjusted by \$ .....

In respect of the last adjustment to this fee, residents were given . . . . . days/months notice of the adjustment.

The estimated date of the next adjustment of this fee will be on the following date . . / . . / . . . . .

Name of Fee .....

Amount \$ .....

This fee covers the following items/services:

.....  
.....

The fee was last adjusted on the following date

. . / . . / . . . . ., when the fee was adjusted by \$ .....

In respect of the last adjustment to this fee, residents were given . . . . . days/months notice of the adjustment.

The estimated date of the next adjustment of this fee will be on the following date . . / . . / . . . . .

3.3 Deferred Fees—(Any amount deducted, charged or retained on termination of occupancy)

This section must be completed for each applicable type of deferred fee.

Name of Fee .....

\* Amount or formula for calculation .....

\* Details of all conditions applying to fee—  
.....  
.....

\* This fee is deducted, charged or retained for the following purposes:  
.....  
.....

Name of Fee .....

\* Amount or formula for calculation .....

\* Details of all conditions applying to fee—  
.....  
.....

\* This fee is deducted, charged or retained for the following purposes:  
.....  
.....

3.4 Recurrent charges—If your occupation of the accommodation ends, the administering authority will take over the payment of the following recurrent charges, and then recover a contribution from you at the time that your premium is to be repaid.

The contribution may relate to the period that it takes to relicense your unit, or six months, whichever is shorter (although the Tribunal may extend this period in exceptional circumstances on application by the administering authority).

Details of these recurrent charges are as follows:

Name of charge for which a contribution may be claimed after you leave .....

3.5 Amounts to be paid into any specific purpose fund or account—This section must be completed for each fund or account.

Name of account .....

\* Relevant amount .....

\* Purpose for which fund or account is maintained: .....

Name of account .....

\* Relevant amount .....

\* Purpose for which fund or account is maintained: .....

These funds will only be used for these purposes.

4. YOUR REFUND

**NOTE: This section is very important in the event that you decide to leave the village. For example, you may find that the accommodation or lifestyle is not to your liking. Please consider the situation carefully to ensure that the level of refund and the timing of its payment is in accordance with your financial needs after you move out.**

4.1 Calculation of your refund amount is usually based on the length of time you legally occupy your unit. For the purposes of this section, occupation is the time between your official date of occupation and your official date of termination.

\* Your official "date of occupation" for the calculation of refunds will be established as follows: .....

\* Your official "date of termination" for the calculation of refunds will be established as follows: .....

4.2

**NOTE: The timing of the payment of your refund may depend on the resale or relicensing of the unit you occupied prior to leaving the village. If so, you may need to rely on the ability and effort of the administering authority to effect the sale or relicensing on your behalf. The *Retirement Villages Act 1987* imposes no time limit in which the unit is to be resold or relicensed by the administering authority. Therefore, you should carefully consider this matter before you make any decision to enter into occupation of the unit.**

Before the refund can be made to you, the following conditions must be met:

- \* your unit has to be resold/relicensed and the administering authority has received a deposit/the premium;
- \* the trustees must approve the refund amount;
- \* other .....

4.3 Should you terminate your contract, you are entitled to the following refund of money:

- \* *Within the first six months (or lesser period as the contract may specify) of occupancy* from the date of occupation, the formula for calculating your refund is—

.....  
.....

The following fees or other deductions will be made from this refund:

.....  
.....

- \* *At the end of one year of occupancy* from the date of occupation, the formula for calculating your refund is—

.....  
.....

The following fees or other deductions will be made from this refund:

.....  
.....

- \* *At the end of two years of occupancy* from the date of occupation, the formula for calculating your refund is—

.....  
.....

The following fees or other deductions will be made from this refund:

.....  
.....

- \* *At the end of five years of occupancy* from the date of occupation, the formula for calculating your refund is—

.....  
.....

The following fees or other deductions will be made from this refund:

.....  
.....

\* *At the end of fifteen years of occupancy* from the date of occupation, the formula for calculating your refund is—

.....  
.....

The following fees or other deductions will be made from this refund:

.....  
.....

4.4 If you or your partner were to die during occupation, the above refund arrangement will/will not vary for payment to your estate.

Details (where a variation will occur)

.....  
.....

4.5 The refund will be paid at the following time and in the following manner:

.....  
.....

4.6 These provisions may be varied in certain cases if you must move to a higher level of care and require the repayment of your premium in order to finance the move. You may also request earlier payment if you must leave the unit because of circumstances beyond your control. Various rules and procedures apply in relation to these matters. You should seek assistance or advice if you are unsure about your rights in these matters.

5. *YOUR FACILITIES*

5.1 The floor plan of your unit is contained in the attached Plan B clearly showing the significant dimensions of your accommodation.

5.2 The Plan B also shows the location, size and other features of any separate carport, garage, storage or other area allocated to you as resident.

5.3 Attached is a detailed description of the condition of the fixtures, fittings and furnishings provided in your accommodation in the form of a *Premises Condition Report*. This report also provides information about items that are to be repaired or replaced and, if relevant, how the cost of repairing or replacing an item is to be funded.

6. *YOUR SERVICES*

6.1 Occupation of your unit and payment of the recurrent charges and deferred fees described above entitles you to the following minimum services supplied or arranged by the administering authority without additional charges:

(Delete where not applicable and add as necessary)

- \* Maintenance for the correction of "fair wear and tear" problems inside your unit, including fixtures and fittings provided by the administering authority
- \* Maintenance of all communal structures
- \* Maintenance of your garden and driveway
- \* Maintenance of communal gardens and common areas
- \* Access to all community facilities provided by the administering authority

- \* Emergency call access for . . . . . hours per day including/excluding weekends

Other details— .....

.....

- \* 1/2/3 meals per day. Meals prepared within village/externally

- \* Linen change . . . . . per week/fortnight/month

- \* Cleaning of unit . . . . . per week/fortnight/month

Other— .....

.....

.....

6.2 In addition, the following services to you will be arranged by the administering authority at additional costs to you, should you request or need them:

- \* .....
- \* .....
- \* .....
- \* .....

6.3 The following restrictions may affect the provision of the above services:

.....

.....

6.4 Any service not listed in this section is not offered by the administering authority and is your responsibility to arrange and pay for.

7. *YOUR FUTURE POSITION*

7.1 Your residence contract must be terminated in writing. The residence contract calls for you to take the following action in order to terminate:

.....

.....

7.2 The following provisions will apply if you desire to, or need to, move to another kind or level of accommodation or care. (The information provided by an administering authority must include details about the various levels of accommodation or care that the administering authority may be able to provide to, or arrange for, the resident, and whether or not a new contract will be required.)

The following costs and conditions may apply:

Cost calculation

.....

.....

Conditions

.....

.....

7.3 Aged care facilities

**You should be aware that current Commonwealth policy guidelines on aged care facilities require places to be allocated on a *needs basis*. It is impossible for any organisation providing services for older people to *guarantee* admission to an aged care facility.**

7.4 If you agree to leave or the Residential Tenancies Tribunal in accordance with the *Retirement Villages Act 1987* orders that you leave your unit, the administering authority will take the following action to obtain alternative accommodation for you:

.....  
.....  
.....

7.5 Remarketing

- The administering authority undertakes to remarket your unit in accordance with its *Remarketing Policy*.
- A copy of the *Remarketing Policy* is attached.

8. *YOUR FUTURE OBLIGATIONS*

8.1 Living in a Retirement Village commits you to observe a number of rules and conditions.

**Please ensure you have read a copy of the residence rules for your village before you agree to sign your documents.**

9. TRUSTEE (*if applicable*)

A trustee has been appointed to perform the following functions: .....

The trustee's fees are payable as follows: .....

You have the right to seek the assistance of the trustee in respect of the following matters:  
.....  
.....



10. FINANCIAL YEAR

The financial year that applies in relation to the retirement village begins on .....  
in each year and ends on .....

Signed: .....  
(Administering Authority)

Date: .....

Signed: .....  
(Resident)

Date: .....

Signed: .....  
(Resident)

Date: .....

## PLAN "A"

(not to scale)

PLAN SHOWING LOCATION OF ACCOMMODATION DETAILED  
IN ITEMS 1.1 AND 1.2 OF THIS DISCLOSURE STATEMENT

## PLAN "B"

(not to scale)

## PLAN SHOWING THE LAYOUT AND MEASUREMENT OF THE ABOVE ACCOMMODATION

*Attachment A to Disclosure Statement*(In all sections, delete comments where not applicable and add comments  
where required.)*For villages still under construction**The village's future*

It is not always possible for the administering authority to provide accurate information regarding the future of a village which is still under construction.

This Attachment to the Disclosure Statement requires the administering authority to provide you with its best available information and best estimates regarding work yet to be completed. There is not necessarily any guarantee that this work will be completed as planned. In making your decision whether or not to reside in this particular village, you are advised to consider that the administering authority may one day not be in the position to complete all the work described in this Attachment.

If this occurs, there may be no legal way it can be forced to proceed, and you may be left without the level of facilities you expected.

Prospective residents considering residing in a village which is not yet complete should treat the matter with caution.

In addition to facilities already completed at the time you inspected the village, the following facilities are under construction or are planned:

1. *FACILITIES*

1.1 Accommodation	Development Stage No. (if applicable)
Independent units—	.....
No. of units . . . . . Est. completion date	. . . / . . . / . . . .
No. of units . . . . . Est. completion date	. . . / . . . / . . . .
No. of units . . . . . Est. completion date	. . . / . . . / . . . .
Serviced apartments—	
No. of units . . . . . Est. completion date	. . . / . . . / . . . .
No. of units . . . . . Est. completion date	. . . / . . . / . . . .

No. of units . . . . . Est. completion date . . . / . . . / . . . .

1.2 Communal facilities (describe fully) Development Stage No. (if applicable)

.....

.....

..... Est. completion date . . . / . . . / . . . .

.....

..... Est. completion date . . . / . . . / . . . .

.....

..... Est. completion date . . . / . . . / . . . .

.....

..... Est. completion date . . . / . . . / . . . .

1.3 Gardens

.....

1.4 Outdoor facilities

.....

2. APPROVALS

All necessary statutory approvals have been obtained for the construction of . . . . . independent units and . . . . . serviced apartments.

3. DEVELOPMENT CONSENTS

The following information describes any conditions or requirements of development consent affecting the construction and/or services to be provided by the administering authority or its agent(s):

.....

.....

Signed: ..... (Administering Authority)

Date: .....

*Retirement Villages Regulations 2002*

Form 3

NOTICE OF DECISION TO TERMINATE RESIDENCE

*(Retirement Villages Act 1987, section 7(8))*

To: .....  
(name of resident)

You are hereby given notice of the decision to terminate your right of occupation in the .....  
retirement village.

The reasons for this decision are as follows: .....  
.....  
.....

YOU ARE ADVISED THAT THIS DECISION IS NOT EFFECTIVE  
UNTIL IT IS CONFIRMED BY THE RESIDENTIAL TENANCIES TRIBUNAL

The Tribunal will conduct a hearing into the matter and you will be notified of the time and place of the hearing. You will be able to attend and present to the Tribunal any matters related to the proposed termination of your right of occupation. If the Tribunal confirms the decision, it will set a date for you to leave the retirement village.

Signed: .....  
(Administering Authority)

Date: .....

Retirement Villages Regulations, 2002

Form 4

APPLICATION TO THE RESIDENTIAL TENANCIES TRIBUNAL FOR CONFIRMATION OF A DECISION TO TERMINATE RESIDENCE IN A RETIREMENT VILLAGE

(Retirement Villages Act 1987, section 7(3) and (4))

I/We ..... Phone No. ....
(full name/s—block letters)

of ..... Post Code .....

an administering authority under the Retirement Villages Act 1987 with .....

..... Phone No. ....
(full name of other party—block letters)

of ..... Post Code .....

in respect of the .....retirement village situated at .....
(name)

..... Post Code .....

hereby apply for confirmation of a decision to terminate right of occupation.

Details of Application

Grounds for issuing notice of decision to terminate right of occupation are as follows: (see section 7(1)(c) and (d) of the Act): ..

Evidence in support: .....

Date of notice of decision to terminate (Form 3): .....

Signature of applicant: .....

Date: .....

NOTE—This application must be accompanied by the prescribed fee and the following documents:

- a copy of the residence contract
— a copy of the residence rules
— a copy of the notice of decision to terminate (Form 3)

*Retirement Villages Regulations 2002*

Form 5

APPLICATION TO THE RESIDENTIAL TENANCIES TRIBUNAL FOR AN ORDER FOR EJECTMENT

*(Retirement Villages Act 1987, section 7(7))*

I/We ..... Phone No. ....  
(full name/s—block letters)

of ..... Post Code .....  
an administering authority under the *Retirement Villages Act 1987* with .....

..... Phone No. ....  
(full name of other party—block letters)

of ..... Post Code .....  
in respect of the .....retirement village situated at .....  
(name)

..... Post Code .....

apply to the Tribunal for an order of ejectment.

*Details of Application*

Date of confirmation by the Tribunal of the decision to terminate the right of occupation:

.....

Period set by the Tribunal for the resident to vacate: .....

.....

Signed: .....

(Administering Authority)

Date: .....

NOTE—This application must be accompanied by the prescribed fee.

*Retirement Villages Regulations 2002*

Form 6

APPLICATION TO THE RESIDENTIAL TENANCIES TRIBUNAL FOR THE  
EXTENSION OF THE PRESCRIBED PERIOD UNDER  
SECTION 9A(2C) OF THE ACT

I/We ..... Phone No. ....  
(full name/s—block letters)

of ..... Post Code .....

an administering authority under the *Retirement Villages Act 1987* in respect of the .....

..... retirement village situated at .....  
(name)

..... Post Code .....

hereby apply for an extension of the prescribed period under section 9A(2c) of the Act on the ground that it would be harsh and unreasonable on the administrating authority for the retirement village to limit that period to six months in this particular case.

*Details of Application*

Evidence in support: .....  
.....  
.....  
.....

Period of extension sought by this application: .....

Name of resident: .....

Address for service of notices on resident: .....

Signature of applicant: .....

Date: .....

NOTE—This application must be accompanied by the prescribed fee and a copy of the residence contract.

Retirement Villages Regulations 2002

Form 7

APPLICATION TO THE RESIDENTIAL TENANCIES TRIBUNAL FOR RESOLUTION OF A DISPUTE

(Retirement Villages Act 1987, section 14)

I/We ..... Phone No. ....
(full name/s—block letters)

of ..... Post Code.....

an administering authority/resident under the Retirement Villages Act 1987 with .....

..... Phone No. ....
(full name of other party—block letters)

of ..... Post Code.....

in respect of the ..... retirement village situated at
(name)

..... Post Code.....

HEREBY APPLY to the Tribunal in respect of the following matter:
.....

The reasons for this application are as follows:
.....

The following relief is sought from the Tribunal:
.....

Has the other party been advised of this application? YES / NO

Signature of applicant.....

Date: .....

NOTE—This application must be accompanied by the prescribed fee and the following documents:

- a copy of the residence contract
— a copy of the residence rules



**SCHEDULE 2***Fees*

Application for an exemption under section 4(2) of the Act .....	\$250
Application to the Residential Tenancies Tribunal under section 7(3) or (4) of the Act .....	\$400
Application to the Tribunal under section 7(7) of the Act .....	\$100
Application for an exemption under section 8(2) of the Act .....	\$80
Application to the Residential Tenancies Tribunal for an extension of the prescribed period under section 9A(2c) of the Act .....	\$400
Application to the Residential Tenancies Tribunal under section 14(1) of the Act .....	\$100
Application for an authorisation under section 16 of the Act .....	\$80

**SCHEDULE 3***Code of Conduct to be Observed by the Administering Authority of a Retirement Village***Premiums****1. (1) If—**

- (a) a resident leaves the retirement village because of mental or physical illness or incapacity, as certified by an Aged Care Assessment Team appointed under the *Aged Care Act 1997* of the Commonwealth; and
- (b) the resident moves (or is moving) to an aged care facility that provides a higher level of care; and
- (c) the resident must pay an accommodation bond or accommodation charge within the meaning of the *Aged Care Act 1997* of the Commonwealth; and
- (d) the resident does not have ready access to funds to pay the bond or charge, or the payment of the bond or charge would have a serious effect on his or her personal finances; and
- (e) the resident has paid a premium to the administering authority; and
- (f) the resident applies to the administering authority under this provision—
  - (i) before he or she leaves the retirement village; or
  - (ii) within two weeks after he or she leaves the retirement village,

the administering authority must, despite the terms of any agreement between the resident and the administering authority, within 60 days after the resident leaves the retirement village, or within such longer period, not exceeding an additional 30 days, as the Minister may allow, repay to the resident so much of the premium as the resident requires to enter that aged care facility and to pay that accommodation bond or accommodation charge (up to (and not exceeding) an amount which is a reasonable assessment of the amount that the person would be entitled to on account of the repayment of the premium in any event).

**(2) If—**

- (a) a resident leaves the retirement village because of circumstances which were not reasonably within his or her control; and
- (b) the resident has paid a premium to the administering authority; and
- (c) the resident applies to the administering authority under this provision for the refund of all, or a part, of the premium notwithstanding that, at the time of the application, the administering authority is not required to make the repayment,

the administering authority must, within 60 days after the receipt of the application, or within such longer period not exceeding an additional 30 days, as the Minister may allow—

- (d) refund the amount to which the application relates; or
- (e) by written notice to the resident—
  - (i) reject the application; and
  - (ii) notify the resident as to whether the administering authority would support the referral of the matter to the Tribunal for resolution.

(3) If—

- (a) a resident ceases to reside in the retirement village in circumstances in which there is no reasonable prospect of the resident returning to reside in the retirement village; and
- (b) the resident is entitled to the repayment (in whole or in part) of a premium,

then, despite the terms of any agreement between the resident and the administering authority, interest will not be charged on any amount in respect of charges that accrue after the resident has ceased to reside in the retirement village.

(4) In this clause—

"resident" of a retirement village includes a former resident of a retirement village.

#### **Remarketing of the right to occupy a unit**

2. (1) The administering authority may take preliminary steps for the remarketing of a unit as soon as the administering authority receives notice of the decision of the resident ("the outgoing resident") to vacate the unit (or of any other circumstance that means that the resident will no longer be residing in the retirement village).

(2) The administering authority must act under its remarketing policy as soon as the administering authority receives notice of the decision of the outgoing resident to vacate the unit (or of any other circumstance referred to in subclause (1)).

(3) The requirements under the administering authority's remarketing policy will at least include or address—

- (a) arrangements to meet with the outgoing resident, or an agent, nominated person or personal representative of the outgoing resident, to view the unit, complete the *Premises Condition Report*, and explain and discuss the remarketing process (unless this is not reasonably practicable to do in view of the resident's circumstances); and
- (b) procedures to identify any work that should be undertaken to ensure that the unit is in a reasonable condition for remarketing, and to determine when and how any such work will be undertaken, and who will be responsible for organising the work, and for the cost of the work; and
- (c) the fixing of the price at which the unit will initially be remarketed, and when and how changes to that price will be considered and made; and
- (d) the type, level and frequency of advertising that will be undertaken in relation to the marketing of the unit; and
- (e) who will be responsible for any costs associated with the valuation of the unit, any advertising, and other relevant matters, and how any such costs are to be calculated or determined; and
- (f) what will be required of the outgoing resident in relation to the remarketing of the unit, and the extent to which the resident may or will assume responsibility for any aspect of the remarketing process; and
- (g) what action will be taken if the unit is not sold or relicensed—
  - (i) after 90 days;
  - (ii) after six months; and

- (h) what steps are to be undertaken by—
    - (i) the administering authority; and
    - (ii) the outgoing resident,when the unit is sold or relicensed; and
  - (i) settlement procedures, including what fees, charges and costs will be deducted by the administering authority at the time of settlement, and the provision to the outgoing resident of a statement at (or at an appropriate time after) the settlement.
- (4) In addition to any requirement or undertaking in a remarketing policy, the administering authority must—
- (a) provide ongoing written reports to the outgoing resident on the progress of the matter at least monthly; and
  - (b) if new units within the retirement village are on the market at the same time, at least match the level of marketing for the unit of the outgoing resident that applies to those new units.

**Premises condition report**

3. (1) The administering authority will provide to the resident a *Premises Condition Report*.

(2) A *Premises Condition Report*—

- (a) must provide information about—
  - (i) the condition of the fixtures, fittings and furnishings provided at the unit; and
  - (ii) who will be responsible for repairing or replacing any item; and
  - (iii) when any item is due to be repaired or replaced; and
  - (iv) how the cost of repairing or replacing any item is to be funded; and
- (b) must be completed at the time that the resident is taking possession of the unit, and reviewed at the time that the resident is vacating the unit; and
- (c) must be signed and dated—
  - (i) by the administering authority (or by a person duly authorised to act on behalf of the administering authority); and
  - (ii) if or when the resident is satisfied as to the information contained in the report—by the resident.

**Payment after settlement**

4. The administering authority must ensure that all amounts due to a former resident of a unit on the resale or relicensing of the unit are paid to the former resident within 25 business days after the date of settlement of the unit.

**Residents' committees**

5. The administering authority will undertake reasonable consultation with a residents' committee established under the Act in relation to the following matters:

- (a) the management of the property comprising the retirement village;
- (b) maintenance issues raised by residents;
- (c) the preparation of an annual budget for the retirement village;
- (d) any proposed change to a service or facility provided at the retirement village that is reasonably expected to result in—
  - (i) increased costs to residents beyond any increase shown in the annual budget; or
  - (ii) a loss of amenity;
- (e) any proposal to alter or improve a building, fixture or fitting where residents will be expected to finance some or all of the capital or recurrent costs of the work, except where—
  - (i) the costs have already been included in the annual budget for the retirement village; or
  - (ii) the costs will not exceed \$2 000 in total;
- (f) the establishment of a disputes committee, or of any other procedure for dealing with disputes;
- (g) any proposal to formulate or alter rules for the retirement village;
- (h) the distribution of information to residents;
- (i) the establishment of social or recreational programmes at the retirement village;
- (j) the appointment of a trustee (or new trustee) for the purposes of the retirement village scheme, or any proposal to alter the functions or duties of such a trustee;
- (k) any other matter agreed between the committee and the administering authority.

**Consultation with residents**

6. The administering authority must, in addition to the requirements of clause 5, take steps to ensure that there is reasonable consultation with residents at the retirement village in relation to any matter that could have a significant impact on their financial affairs, the amenity of the village or their way of life.

**Dispute procedures**

7. The administering authority must provide to each resident a document setting out the policies and procedures that are applied by the administering authority in the event of a dispute and, if or when those policies or procedures are altered, a revised version of such a document.

**REGULATIONS UNDER THE GENE TECHNOLOGY ACT 2001**

No. 8 of 2002

*At the Executive Council Office at Adelaide, 15 January 2002*

PURSUANT to the *Gene Technology Act 2001* and with the advice and consent of the Executive Council, I make the following regulations.

MARJORIE JACKSON-NELSON, Governor

PURSUANT to section 10AA(2) of the *Subordinate Legislation Act 1978*, I certify that, in my opinion, it is necessary or appropriate that the following regulations come into operation as set out below.

DEAN BROWN, Minister for Human Services

**SUMMARY OF PROVISIONS****PART 1  
PRELIMINARY**

1. Citation
2. Commencement
3. Definitions
- 3A. Numbering
- 3B. Notes

**PART 2  
INTERPRETATION AND GENERAL OPERATION**

4. Techniques not constituting gene technology
5. Organisms that are not genetically modified organisms

**PART 3  
DEALINGS WITH GMOs****DIVISION 1—LICENSING SYSTEM**

6. Dealings exempt from licensing
7. Application for licence—prescribed information
8. Time limit for deciding an application
9. Prescribed authorities
10. Risk assessment—matters to be taken into account
11. Prescribed conditions of licence

**DIVISION 2—NOTIFIABLE LOW RISK DEALINGS**

12. Notifiable low risk dealings
13. Requirements in relation to notifiable low risk dealings

**DIVISION 3—CERTIFICATION AND ACCREDITATION**

14. Regulator to decide certification application within 90 days
15. Application for certification—failure to provide section 85 information
16. Regulator to decide accreditation application within 90 days
17. Application for accreditation—failure to provide section 93 information

**PART 4**  
**GENE TECHNOLOGY TECHNICAL ADVISORY COMMITTEE**

**DIVISION 1—CONDITIONS OF APPOINTMENT**

- 18. GTTAC members and advisers—term of appointment
- 19. GTTAC members and advisers—resignation
- 20. GTTAC members—disclosure of interests
- 21. GTTAC members and advisers—termination of appointment
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**DIVISION 2—COMMITTEE PROCEDURES**

- 24. Committee procedures generally
- 25. Committee meetings
- 26. Presiding member
- 27. Quorum
- 28. Voting
- 29. Records and Reports

**DIVISION 3—SUBCOMMITTEES**

- 30. Operation of subcommittees

**PART 5**  
**GENE TECHNOLOGY COMMUNITY CONSULTATIVE COMMITTEE**

- 31. GTCCC—conditions of appointment
- 32. GTCCC—Consultative Committee procedures
- 33. GTCCC—operation of subcommittees

**PART 6**  
**GENE TECHNOLOGY ETHICS COMMITTEE**

- 34. GTEC—Conditions of appointment
- 35. GTEC—Committee procedures
- 36. GTEC—operation of subcommittees

**PART 7**  
**MISCELLANEOUS**

- 37. Reviewable State decisions
- 38. Review of decisions
- 39. Record of GMO and GM Product Dealings
- 40. Inspector identity card

**PART 8**  
**TRANSITIONAL**

- 41. Existing facilities—certification
- 42. Existing organisations—accreditation
- 43. Advices to proceed

**SCHEDULE 1**  
*Organisms that are not genetically modified organisms*

**SCHEDULE 2**  
*Dealings exempt from licensing*

**SCHEDULE 3**

*Notifiable low risk dealings in relation to a GMO*

**SCHEDULE 4**

*Prescribed information—Application for a licence*

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**PART 1  
PRELIMINARY****Citation**

1. (1) These regulations may be cited as the *Gene Technology Regulations 2002*.
- (2) These regulations may also be referred to as the *Gene Technology Regulations*.

**Commencement**

2. These regulations will come into operation when the *Gene Technology Act 2001* comes into operation.

**Definitions**

3. In these regulations—

"**Act**" means the *Gene Technology Act 2001*;

"**advice to proceed**", being an instrument so named issued by the Genetic Manipulation Advisory Committee, has the same meaning as in section 190(3) of the Commonwealth Act;

"**animal**" includes every kind of organism in the animal kingdom, including non-vertebrates but not including human beings;

"**Commonwealth Regulations**" means the *Gene Technology Regulations 2001* of the Commonwealth;

"**expert adviser**" means—

- (a) in Part 4, an expert adviser appointed under section 102(1) of the Commonwealth Act; and
- (b) in Part 6, an expert adviser appointed under section 113(1) of the Commonwealth Act;

"**Genetic Manipulation Advisory Committee**" means the Committee of that name administered by the Minister for Health and Aged Care of the Commonwealth;

"**physical containment level**", followed by a numeral, is a specified containment level under guidelines made by the Regulator, under section 90 of the Act, for the certification of facilities.

**Numbering**

3A. (1) In order to maintain consistent numbering between these regulations and the Commonwealth Regulations—

- (a) if the Commonwealth Regulations contain a regulation that is not required in these regulations, the provision number and heading to the regulation appearing in the Commonwealth Regulations are included in these regulations despite the omission of the body of the regulation; and



- (b) if these regulations contain a regulation that is not included in the Commonwealth Regulations, the regulation is numbered so as to maintain consistency in numbering between regulations common to both regulations.

(2) A provision number and heading referred to in subregulation (1)(a) form part of these regulations.

Note 1: A note appears under each heading of a kind referred to in subregulation (1)(a) describing the omitted regulation of the Commonwealth Regulations.

Note 2: A note appears under each regulation of a kind referred to in subregulation (1)(b) highlighting the non-appearance of an equivalent regulation in the Commonwealth Regulations.

Note 3: This regulation does not appear in the Commonwealth Regulations.

### Notes

**3B.** Notes do not form part of these regulations.

Note: This regulation does not appear in the Commonwealth Regulations.

**PART 2**  
**INTERPRETATION AND GENERAL OPERATION**

**Techniques not constituting gene technology**

**4.** For the purposes of paragraph (c) in the definition of "**gene technology**" in section 10 of the Act, gene technology does not include somatic cell nuclear transfer if the transfer does not involve genetically modified material.

**Organisms that are not genetically modified organisms**

**5.** For the purposes of paragraph (e) in the definition of "**genetically modified organism**" in section 10 of the Act, an organism listed in Schedule 1 is not a genetically modified organism.

**PART 3  
DEALINGS WITH GMOs**

**DIVISION 1—LICENSING SYSTEM**

**Dealings exempt from licensing**

**6.** (1) For the purposes of section 32(3) of the Act, a dealing, in relation to a GMO, is an exempt dealing if—

- (a) it is a dealing of a kind referred to in Part 1 of Schedule 2; and
- (b) it does not involve a genetic modification other than a modification described in Part 1 of Schedule 2; and
- (c) it is conducted in accordance with Australian Standard AS/NZS 2243.3:1995 (Safety in laboratories: microbiology) for physical containment Level 1; and
- (d) it does not involve an intentional release of the GMO into the environment.

(2) For the avoidance of doubt, exemption under subregulation (1) does not apply to a dealing that does not comply with subregulation (1), whether or not that dealing is related to a dealing that does so comply.

Note 1: A dealing affected by this regulation could be any of the forms of dealing mentioned in the definition of "**deal with**" in section 10(1) of the Act.

Note 2: Exemption from provisions of the Act does not preclude the application of other Commonwealth and State laws.

Note 3: "**Intentional release of the GMO into the environment**" is defined in section 11 of the Act.

**Application for licence—prescribed information**

**7.** (1) For the purposes of section 40(2)(a) of the Act, the following information must be contained in an application for a licence:

- (a) for an application to which Division 3 of Part 5 of the Act applies, the information specified in Part 1 of Schedule 4;
- (b) for an application to which Division 4 of Part 5 of the Act applies, the information specified in Part 2 of Schedule 4.

(2) In preparing that information, an applicant must take account of risks that the proposed dealing, or dealings, with a GMO may incur in relation to the health and safety of people and the environment.

(3) The information to be given in the application must be—

- (a) as comprehensive as existing scientific knowledge, when the application is made, permits; and
- (b) supported by whatever relevant data and references are available to the applicant.

(4) To the extent that compliance with subregulation (3)(b) does not provide relevant data and references, the applicant must include in the application—

- (a) a statement that specified information is incomplete or unavailable, as the case may be; and
- (b) an indication of the significance of the incomplete or unavailable information to the evaluation of the possible risks of the proposal in relation to the health and safety of people and the environment; and
- (c) a summary of known existing scientific evidence relevant to such evaluation; and
- (d) applying that summary, an evaluation of the possible risks based on theoretical approaches, and research methods, that are generally accepted in the scientific community.

Note 1: Additional information, specified in writing by the Regulator, may also be required.

Note 2: At the commencement of the regulations, there is no fee payable for an application for a GMO licence.

#### **Time limit for deciding an application**

**8.** (1) For the purposes of section 43(3) of the Act, the period within which the Regulator must issue, or refuse to issue, a licence is—

- (a) in relation to an application to which Division 3 of Part 5 of the Act applies, 90 days after the day the application is received by the Regulator; or
- (b) in relation to an application to which Division 4 of Part 5 of the Act applies, 170 days after the day the application is received by the Regulator.

(2) For the purpose of determining the end of a period mentioned in subregulation (1), the following days are not counted:

- (a) a Saturday, a Sunday or a public holiday in the Australian Capital Territory;
- (b) a day on which the Regulator cannot proceed with the decision-making process, or a related function, because the Regulator is awaiting information that the applicant has been requested, in writing, to give;
- (c) if, in relation to the application, the Regulator publishes notice of a public hearing under section 53 of the Act, a day in the period that—
  - (i) begins on the day of publication; and
  - (ii) ends on the day when the public hearing ends;
- (d) a day on which the Regulator cannot proceed with the decision-making process, or a related function, because—
  - (i) the applicant has requested, under section 184 of the Act, that information given in relation to the application be declared confidential commercial information for the purposes of the Act; and

- (ii) the Regulator is—
  - (A) considering the application; or
  - (B) waiting until any review rights under section 181 or 183 of the Act, in relation to the application, are exhausted;
- (e) if, in relation to the application, the Regulator requests the Gene Technology Ethics Committee to provide advice on an ethical issue, a day in the period that—
  - (i) begins on the day the request is made; and
  - (ii) subject to subregulation (3), ends on the day when the advice is given or, if the advice is not given within the period, if any, specified under subregulation (3), on the last day of that period.

(3) The Regulator, when seeking advice under section 50(3) or 52(3) of the Act, or from the Gene Technology Ethics Committee, may specify a reasonable period within which the advice must be received, and, if the advice is not received within that period, must proceed without regard to that advice.

#### **Prescribed authorities**

**9.** For the purposes of sections 50(3)(c) and 52(3)(c) of the Act, the following Commonwealth authorities and agencies are prescribed:

- (a) Australia New Zealand Food Authority;
- (b) Australian Quarantine and Inspection Service;
- (c) National Health and Medical Research Council;
- (d) National Industrial Chemical Notification and Assessment Scheme, National Occupational Health and Safety Commission;
- (e) National Registration Authority for Agricultural and Veterinary Chemicals;
- (f) Therapeutic Goods Administration, Department of Health and Aged Care of the Commonwealth.

#### **Risk assessment—matters to be taken into account**

**10.** (1) For the purposes of sections 51(1)(g) and 51(2)(g) of the Act, other matters to be taken into account in relation to dealings proposed to be authorised by a licence include—

- (a) any previous assessment, in Australia or overseas, in relation to allowing or approving dealings with the GMO; and
- (b) the potential of the GMO concerned to—
  - (i) be harmful to other organisms; and
  - (ii) adversely affect any ecosystems; and
  - (iii) transfer genetic material to another organism; and
  - (iv) spread, or persist, in the environment; and

- (v) have, in comparison to related organisms, selective advantage in the environment; and
- (vi) be toxic, allergenic or pathogenic to other organisms.

(2) In taking into account a risk mentioned in section 51(1) of the Act, or a potential capacity mentioned in subregulation (1), the Regulator must consider both the short term and the long term.

### **Prescribed conditions of licence**

**11.** Note: At the commencement of these regulations, no conditions are prescribed under section 61(b) of the Act.

## **DIVISION 2—NOTIFIABLE LOW RISK DEALINGS**

### **Notifiable low risk dealings**

**12.** (1) For the purposes of section 74(1) of the Act, a dealing with a GMO is a notifiable low risk dealing if—

- (a) it is a dealing of a kind mentioned in Part 1 of Schedule 3 (other than a dealing also mentioned in Part 2 of Schedule 3); and
- (b) it does not involve an intentional release of the GMO into the environment.

(2) For the avoidance of doubt, subregulation (1) does not apply to a dealing that does not comply with subregulation (1), whether or not that dealing is related to a dealing that does so comply.

Note 1: A dealing affected by this regulation could be any of the forms of dealing mentioned in the definition of "deal with" in section 10(1) of the Act.

Note 2: "Intentional release of the GMO into the environment" is defined in section 11 of the Act.

### **Requirements in relation to notifiable low risk dealings**

**13.** (1) A person must not undertake a notifiable low risk dealing unless—

- (a) the proposed dealing has been assessed, by an Institutional Biosafety Committee, to be a dealing of a kind mentioned in Part 1 of Schedule 3; and
- (b) within 14 days after completion of the assessment, the Committee has notified the Regulator, by giving the Regulator, in relation to the proposed notifiable low risk dealing, the information specified in Part 3 of Schedule 3; and
- (c) the person, and the project supervisor for the proposed dealing, have received written notice from the Committee that paragraph (b) has been complied with.

(2) A notifiable low risk dealing, when undertaken, must comply with the following requirements:

- (a) the dealing must be conducted in a facility that—

- (i) is certified by the Regulator to—
  - (A) at least physical containment level 2; or
  - (B) any other containment level that the Regulator considers suitable for conducting the dealing; and
- (ii) is of appropriate design for the kind of dealing being undertaken;
- (b) the conduct of the dealing must be properly supervised, and a record of details of the dealing kept;
- (c) if the dealing involves human pathogens, it must be conducted only in accordance with the recommendations for vaccination given in Australian Standard AS/NZS 2243.3:1995 (Safety in laboratories: microbiology);
- (d) to the extent that the dealing involves transporting a GMO, the transporting must be conducted in accordance with any relevant guidelines, as in force from time to time, issued by the Regulator.

(3) For the purposes of subregulation (1)(a), a proposed dealing is taken to be assessed if the assessment applies to—

- (a) in relation to the dealing, the particular GMO concerned, or a class of GMOs that includes that GMO; or
- (b) in relation to the particular GMO, or class of GMOs, a class of dealings that includes that dealing.

(4) From the commencement of these Regulations, until two years after the commencement, a person who complies with subregulation (2) may undertake a notifiable low risk dealing although any, or all, of the provisions of subregulation (1) have not been complied with if there is in force a notice issued by, or on behalf of, the Genetic Manipulation Advisory Committee declaring that the dealing is a notifiable low risk dealing.

### DIVISION 3—CERTIFICATION AND ACCREDITATION

#### **Regulator to decide certification application within 90 days**

**14.** Note: The Commonwealth Regulations provide the period within which the Regulator must consider and decide an application for certification of a facility.

#### **Application for certification—failure to provide section 85 information**

**15.** If an applicant for certification fails to provide information required under section 85(1) of the Act within the period specified in a notice given under section 85(2) of the Act, and gives no reasonable explanation for the failure, the Regulator may refuse to certify the facility that is the subject of the application.

Note: A refusal to certify a facility is a reviewable decision (see Division 2 of Part 12 of the Act).

#### **Regulator to decide accreditation application within 90 days**

**16.** Note: The Commonwealth Regulations provide the period within which the Regulator must consider and decide an application for accreditation of an organisation.

**Application for accreditation—failure to provide section 93 information**

**17.** If an applicant for accreditation fails to provide information required under section 93(1) of the Act within the period specified in a notice given under section 93(2) of the Act, and gives no reasonable explanation for the failure, the Regulator may refuse to accredit the organisation that is the subject of the application.

Note: A refusal to accredit an organisation is a reviewable decision (see Division 2 of Part 12 of the Act).



**PART 4**  
**GENE TECHNOLOGY TECHNICAL ADVISORY COMMITTEE**

**DIVISION 1—CONDITIONS OF APPOINTMENT**

**GTTAC members and advisers—term of appointment**

**18.** Note: Regulation 18 of the Commonwealth Regulations provides for the term of appointment of members of the Gene Technology Technical Advisory Committee and expert advisers to the GTTAC.

**GTTAC members and advisers—resignation**

**19.** Note: Regulation 19 of the Commonwealth Regulations provides for the resignation of members of the Gene Technology Technical Advisory Committee and expert advisers to the GTTAC.

**GTTAC members—disclosure of interests**

**20.** Note: Regulation 20 of the Commonwealth Regulations sets out when and how members of the Gene Technology Technical Advisory Committee must disclose any interests of a kind likely to be considered at a meeting of the GTTAC.

**GTTAC members and advisers—termination of appointment**

**21.** Note: Regulation 21 of the Commonwealth Regulations sets out the circumstances of terminating the appointment of members of the Gene Technology Technical Advisory Committee and expert advisers to the GTTAC.

**GTTAC members—leave of absence**

**22.** Note: Regulation 22 of the Commonwealth Regulations provides when the Chairperson and members of the Gene Technology Technical Advisory Committee may be granted leave.

**Expert advisers—disclosure of interests**

**23.** Note: Regulation 23 of the Commonwealth Regulations sets out when and how expert advisers to the Gene Technology Technical Advisory Committee must disclose any interests of a kind likely to be considered at a meeting of the GTTAC.

**DIVISION 2—COMMITTEE PROCEDURES**

**Committee procedures generally**

**24.** Note: Regulation 24 of the Commonwealth Regulations provides that the Gene Technology Technical Advisory Committee must perform its functions as informally as the Commonwealth Regulations allow and how the GTTAC may obtain information.

**Committee meetings**

**25.** Note: Regulation 25 of the Commonwealth Regulations provides when the Gene Technology Technical Advisory Committee may have meetings and provides that in certain circumstances meetings may be by videoconference or teleconference.

**Presiding member**

**26.** Note: Regulation 26 of the Commonwealth Regulations provides that the Chairperson of the Gene Technology Technical Advisory Committee presides at its meetings and who presides in the Chairperson's absence.

**Quorum**

**27.** Note: Regulation 27 of the Commonwealth Regulations provides that half the members of the Gene Technology Technical Advisory Committee comprises the GTTAC's quorum.

**Voting**

**28.** Note: Regulation 28 of the Commonwealth Regulations provides that decisions of the Gene Technology Technical Advisory Committee must be made by a majority of members present and voting and that the Chairperson has a deliberative and casting vote.

**Records and Reports**

**29.** Note: Regulation 29 of the Commonwealth Regulations provides that records must be kept of the Gene Technology Technical Advisory Committee's proceedings and when reports must be prepared.

**DIVISION 3—SUBCOMMITTEES****Operation of subcommittees**

**30.** Note: Regulation 30 of the Commonwealth Regulations states that regulations 24, 25, 26 and 28 of those regulations apply to a subcommittee established under section 105(1) of the Commonwealth Act.

**PART 5**  
**GENE TECHNOLOGY COMMUNITY CONSULTATIVE COMMITTEE**

**GTCCC—conditions of appointment**

**31.** Note: Regulation 31 of the Commonwealth Regulations provides that Division 1 of Part 4 of the Commonwealth Regulations applies to the conditions of appointment of members of the Gene Technology Community Consultative Committee.

**GTCCC—Consultative Committee procedures**

**32.** Note: Regulation 32 of the Commonwealth Regulations provides that Division 2 of Part 4 of the Commonwealth Regulations applies to the procedures of the Gene Technology Community Consultative Committee.

**GTCCC—operation of subcommittees**

**33.** Note: Regulation 33 of the Commonwealth Regulations provides that regulations 24, 25, 26 and 28 of the Commonwealth Regulations apply to a subcommittee established under section 110A(1) of the Commonwealth Act.

**PART 6**  
**GENE TECHNOLOGY ETHICS COMMITTEE**

**GTEC—Conditions of appointment**

**34.** Note: Regulation 34 of the Commonwealth Regulations provides that Division 1 of Part 4 of the Commonwealth Regulations applies to the conditions of appointment of members of and advisers to the Gene Technology Ethics Committee.

**GTEC—Committee procedures**

**35.** Note: Regulation 35 of the Commonwealth Regulations provides that Division 2 of Part 4 of the Commonwealth Regulations applies to the procedures of the Gene Technology Ethics Committee.

**GTEC—operation of subcommittees**

**36.** Note: Regulation 36 of the Commonwealth Regulations provides that regulations 24, 25, 26 and 28 of the Commonwealth Regulations apply to a subcommittee established under section 116(1) of the Commonwealth Act.

**PART 7**  
**MISCELLANEOUS**

**Reviewable State decisions**

**37.** Note: The scheme for reviewable State decisions under the Commonwealth Act does not apply under the South Australian legislation.

**Review of decisions**

**38.** Note: Regulation 38 of the Commonwealth Regulations provides that a person whose interests are affected by a decision in relation to the termination of the appointment of a member to a committee under those regulations may apply to the Administrative Appeals Tribunal for review of the decision.

**Record of GMO and GM Product Dealings**

**39.** (1) For the purposes of section 138(2) of the Act, the following particulars are prescribed in relation to a notifiable low risk dealing that is notified to the Regulator:

- (a) the name of the organisation proposing to undertake the notified dealing;
- (b) in terms of Part 1 of Schedule 3, the kind of notifiable low risk dealing proposed;
- (c) the identifying name given to the proposed undertaking by the organisation;
- (d) the date of the notification.

(2) For the purposes of section 138(3) of the Act, the following particulars are prescribed in relation to a GM product mentioned in a designated notification:

- (a) the name of the organisation producing the GM product;
- (b) a description of the GM product, with reference to—
  - (i) the "**applicable Act**", being the *Agricultural and Veterinary Chemicals (South Australia) Act 1994*; and
  - (ii) its common name as a product, or type or class of product (for example, bread or insulin);
- (c) information about the GM product, including—
  - (i) the common name and the scientific name of the parent organism involved; and
  - (ii) details of the introduced trait in the GM product; and
  - (iii) the identity of the introduced gene responsible for conferring the introduced trait;
- (d) the date on which a decision under the applicable Act, that enables supply of the GM product in Australia, takes effect;
- (e) details of any conditions attaching to that permission.

Note: This regulation differs from regulation 39 of the Commonwealth Regulations.

**Inspector identity card**

**40.** For the purposes of section 151(2)(a) of the Act, an inspector's identity card must—

- (a) display a recent photograph of the inspector's face; and
- (b) state the date of issue; and
- (c) state the period of its validity.

## PART 8 TRANSITIONAL

### Existing facilities—certification

**41.** (1) If, at the commencement of Part 7 of the Act, there is in force for an existing facility a notice from the Genetic Manipulation Advisory Committee that the facility provides a specified physical containment level, the facility is taken to be certified to that physical containment level under section 84 of the Act.

(2) Subregulation (1) applies—

- (a) subject to sections 86(b), 86(c), 87 and 88 of the Act; and
- (b) for a facility in relation to which the notice specifies that it is a physical containment level 2 facility (other than a PC2 Large Scale facility), until the end of two years after the commencement of Part 7 of the Act, provided the facility maintains compliance with the Regulator's guidelines about the requirements for certification at that level; and
- (c) for a facility in relation to which the notice specifies that it is a physical containment level 3 or level 4 facility, a PC2 Large Scale facility or a facility providing appropriate physical containment for a specified purpose, until the end of one year after the commencement of Part 7 of the Act, provided the facility maintains compliance with the Regulator's guidelines about the requirements for certification at its specified containment level.

(3) For the purposes of subregulation (2)—

"**PC2 Large Scale facility**" means a physical containment level 2 facility so described by the notice given in relation to the facility by the Genetic Manipulation Advisory Committee.

### Existing organisations—accreditation

**42.** (1) If, at the commencement of Part 7 of the Act, there is in force for an existing organisation a notice from the Genetic Manipulation Advisory Committee that the organisation is an accredited organisation, the organisation is taken to be an accredited organisation under section 92 of the Act.

(2) Subregulation (1) applies—

- (a) subject to sections 94(b), 94(c), 95 and 96 of the Act; and
- (b) until the end of two years after the commencement of Part 7 of the Act, provided the organisation maintains compliance with the Regulator's guidelines, if any, under section 98 of the Act.

### Advices to proceed

**43.** For the purposes of the definition of "**transition period**" in section 190(3) of the Act, the period of two years from the commencement of the Act is prescribed.

**SCHEDULE 1***Organisms that are not genetically modified organisms*

Regulation 5

**PART 1—ORGANISMS**

<b>Item</b>	<b>Description of organism</b>
1	A mutant organism in which the mutational event did not involve the introduction of any foreign nucleic acid (that is, non-homologous DNA, usually from another species).
2	A recombinant organism formed through integration into chromosomal or extrachromosomal DNA sequences of a genetic element that— <ol style="list-style-type: none"> <li>(a) occurs naturally in the species concerned; and</li> <li>(b) moves sporadically between genome sites.</li> </ol>
3	An organism that— <ol style="list-style-type: none"> <li>(a) results from the fusion of 2 animal cells; and</li> <li>(b) is unable to form a viable whole animal.</li> </ol> <p>Example: Organisms of the kind described include hybridomas created to produce monoclonal antibodies.</p>
4	An organism that results from protoplast fusion involving only non-pathogenic bacteria or non-pathogenic yeast.
5	A plant formed by— <ol style="list-style-type: none"> <li>(a) embryo rescue; or</li> <li>(b) <i>in vitro</i> fertilisation; or</li> <li>(c) zygote implantation; or</li> <li>(d) protoplast fusion.</li> </ol>
6	An organism that results from an exchange of DNA if— <ol style="list-style-type: none"> <li>(a) the donor species is also the host species; and</li> <li>(b) the vector DNA does not contain any heterologous DNA.</li> </ol>
7	An organism that results from an exchange of DNA between the donor species and the host species if— <ol style="list-style-type: none"> <li>(a) such exchange can occur by naturally occurring processes; and</li> <li>(b) the donor species and the host species are both mentioned in the same group in Part 2 of this Schedule; and</li> <li>(c) the vector used in the exchange does not contain heterologous DNA from any organism other than an organism that is involved in the exchange.</li> </ol>



**PART 2—SPECIES KNOWN TO EXCHANGE DNA BY  
A KNOWN PHYSIOLOGICAL PROCESS**

**Group 1**

Alcaligenes  
Campylobacter coli  
Campylobacter fetus  
Campylobacter jejuni  
Citrobacter (including levinea)  
Enterobacter  
Erwinia  
Escherichia  
Klebsiella  
Pseudomonas aeruginosa  
Pseudomonas fluorescens  
Pseudomonas mendocina  
Pseudomonas putida  
Rhizobium  
Salmonella (including arizona)  
Serratia marcescens  
Shigella  
Yersinia enterocolitica

**Group 2**

Bacillus amyloliquefaciens  
Bacillus atterimus  
Bacillus globigii  
Bacillus licheniformis  
Bacillus nato  
Bacillus niger  
Bacillus pumilus  
Bacillus subtilis

**Group 3**

Streptomyces aureofaciens  
Streptomyces coelicor  
Streptomyces rimosus

**Group 4**

Streptomyces cyaneus  
Streptomyces griseus  
Streptomyces venezuela

**Group 5**

Streptococcus mutans DNA and Streptococcus lactis DNA, in a one-way transfer into  
Streptococcus sanguis

**Group 6**

Streptococcus faecalis  
Streptococcus mutans  
Streptococcus pneumoniae  
Streptococcus pyogenes  
Streptococcus sanguis

**Group 7**

Bacillus cereus  
Bacillus thuringiensis

**SCHEDULE 2**  
*Dealings exempt from licensing*

Regulation 6

Note: Regulation 6(1) sets out other requirements for exempt dealings.

**PART 1—EXEMPT DEALINGS**

<b>Item</b>	<b>Description of dealing</b>
1	<p>Any dealing with gene-knockout mice (that is, mice whose genetic modification involves deletion or inactivation of a specific gene), if no advantage is conferred on the adult animal—</p> <p style="margin-left: 40px;">(a) by the deletion or inactivation of the gene concerned; or</p> <p style="margin-left: 40px;">(b) for mice that also carry a selectable marker gene, by the selectable marker gene.</p>
2	<p>Any dealing with a whole animal, if—</p> <p style="margin-left: 40px;">(a) naked recombinant nucleic acid has been introduced into its somatic cells; and</p> <p style="margin-left: 40px;">(b) the introduced nucleic acid is incapable of giving rise to infectious agents.</p>
3	<p>Any dealing with an animal into which genetically modified somatic cells have been introduced, unless the cells—</p> <p style="margin-left: 40px;">(a) are capable of giving rise to recombinant infectious agents; or</p> <p style="margin-left: 40px;">(b) contain viral sequences that could recombine with, or be complemented by, genomes of introduced superinfecting viruses.</p>
4	<p>Any dealing involving a host/vector system mentioned in Part 2 of this Schedule and producing no more than 10 litres of GMO culture, if—</p> <p style="margin-left: 40px;">(a) the donor DNA—</p> <p style="margin-left: 80px;">(i) is not derived from micro-organisms capable of causing disease in human beings, other animals, plants or fungi, or is fully characterised and will not increase the virulence or host range of the host or vector; and</p> <p style="margin-left: 80px;">(ii) is not an oncogene; and</p> <p style="margin-left: 80px;">(iii) does not code for a toxin for vertebrates with an LD50 of less than 100 µg/kg; and</p> <p style="margin-left: 80px;">(iv) does not code for a toxin for vertebrates with an LD50 of 100 µg/kg or more, if the intention is to express the toxin at high levels; and</p> <p style="margin-left: 80px;">(v) is not uncharacterised DNA from a micro-organism that produces toxins with an LD50 of 100 µg/kg or less; or</p>

Item	Description of dealing
	(b) the donor DNA includes a viral sequence or viral sequences, but—
	(i) is missing at least 1 gene essential for viral multiplication that is not available in the cell into which the DNA is introduced and that will not become available through subsequent breeding; and
	(ii) is incapable of complementing a defect in the host/vector system.
5	Any dealing involving shot-gun cloning of mammalian DNA in a host/vector system mentioned in Part 2 of this Schedule.

#### PART 2—HOST/VECTOR SYSTEMS FOR EXEMPT DEALINGS

Item	Class	Host	Vector
1	Bacteria	<i>Escherichia coli</i> K12 or <i>E. coli</i> B— any derivative that does not contain— (a) conjugative or generalised transducing phages; or (b) genes able to complement the conjugation defect in a non- conjugative plasmid	1. Non-conjugative plasmids 2. Bacteriophage (a) lambda (b) lambdoid (c) Fd or F1 (eg M13)
2		<i>Bacillus subtilis</i> or <i>B. licheniformis</i> — an asporogenic strain with a reversion frequency of less than $10^{-7}$	Plasmids and phages whose host range does not include <i>B. cereus</i> , <i>B. anthracis</i> or any other pathogenic strain of bacillus
3		<i>Pseudomonas putida</i> —strain KT 2440	Certified plasmids: pKT 262, pKT 263, pKT 264
4		<i>Streptomyces</i> —specified species— (a) <i>S. coelicolor</i> (b) <i>S. lividans</i> (c) <i>S. parvulus</i> (d) <i>S. griseus</i>	1. Certified plasmids: SCP2, SLP1, SLP2, PIJ101 and derivatives 2. Actinophage phi C31 and derivatives
	Fungi	<i>Neurospora crassa</i> —laboratory strains <i>Pichia pastoris</i> <i>Saccharomyces cerevisiae</i> <i>Schizosaccharomyces pombe</i> <i>Kluyveromyces lactis</i> <i>Trichoderma reesei</i>	All vectors All vectors All vectors All vectors All vectors All vectors
	Slime moulds	<i>Dictyostelium</i> species	<i>Dictyostelium</i> shuttle vectors, including those based on the endogenous plasmids Ddp1 and Ddp2

Item	Class	Host	Vector
	Tissue culture	Mammalian (including human) cells and cells of aquatic organisms	Non-viral vectors or defective viral vectors (including retrovirus or retroviral-helper combinations that cannot infect human cells)
		Avian cells	Avipoxvirus vectors (attenuated vaccine strains)
		Plant cell cultures	Non-tumorigenic disarmed Ti plasmid vectors in <i>Agrobacterium tumefaciens</i> and non-pathogenic viral vectors
		Insect cell cultures, such as <i>Spodoptera frugiperda</i> , if the recombinants are also inclusion-negative (eg polyhedrin minus)	Baculovirus ( <i>Autographa californica</i> nuclear polyhedrosis virus), polyhedrin minus
5		Any host mentioned, or of a kind mentioned, in any of items 1 to 4	Any non-biological vector (for example, electrocorporation or particle bombardment)

### PART 3—DEFINITIONS

In this Schedule—

"**advantage**", in relation to an adult animal that is genetically modified, means a superior ability in its modified form, relative to the unmodified parental organism, to survive, reproduce or otherwise contribute to the gene pool;

"**characterised**", in relation to DNA, means that the DNA has been sequenced and that there is an understanding of potential gene products of the DNA;

"**code for**", in relation to a toxin, means to specify the amino acid sequence of the toxin;

"**inclusion-negative**", in relation to a recombinant of insect cell cultures, means the vector baculovirus used is in a mutant form that is unable to make polyhedrin (a material surrounding a virus and protecting it from adverse environmental effects such as UV radiation);

"**recombinant**", in relation to matter that is a sequence or an organism, means matter of that kind containing recombinant DNA (that is, DNA formed by joining, *in vitro*, segments of DNA from different organisms);

"**shot-gun cloning**", in relation to mammalian DNA, means the production of a large random collection of cloned fragments of the DNA from which genes of interest can later be selected;

"**toxin producing organism**" means an organism producing toxin with an LD50 of less than 100 µg/kg.

**SCHEDULE 3***Notifiable low risk dealings in relation to a GMO*

Regulations 12 and 13

**PART 1—DEALINGS THAT ARE NOTIFIABLE LOW RISK DEALINGS**

Note: Because of regulation 12(1) a dealing mentioned in this Part is not a notifiable low risk dealing if it is also a dealing of a kind mentioned in Part 2 of this Schedule.

**1.1 Kinds of dealings**

The following kinds of dealings are notifiable low risk dealings—

- (a) any dealing involving whole animals (including non-vertebrates) that—
  - (i) involves genetic modification of the genome of the oocyte or zygote or early embryo by any means to produce a novel whole organism; and
  - (ii) does not involve gene-knockout mice;
- (b) any dealing involving a genetically modified flowering plant, if—
  - (i) the dealing does not involve the plant being grown to flowering stage; or
  - (ii) for a dealing that does involve the plant being grown to flowering stage—
    - (A) the plant is male sterile and is unable to set seed; or
    - (B) if the plant is male sterile and can set seed, all vents and drains in the facility are screened with mesh or filters that block the escape of viable pollen and seed; or
    - (C) before flowering, all inflorescences are wholly enclosed in bags designed to prevent escape of viable pollen and seed; or
    - (D) if the plant can be wind-pollinated, all vents and drains in the facility are screened with mesh or filters that block the escape of viable pollen and seed; or
    - (E) if the plant can be vector-pollinated only, all vents and drains in the facility are screened with mesh or filters that block the escape of viable seed and exclude pollen vectors from the facility;
- (c) any dealing involving a host and vector that are not mentioned as a host/vector system in Part 2 of Schedule 2, if—
  - (i) the host is incapable of causing disease in human beings, animals, plants or fungi; and
  - (ii) the vector is incapable of causing disease in human beings, animals, plants or fungi;
- (d) any dealing involving a host and vector that are not mentioned as a host/vector system in Part 2 of Schedule 2, if, although the host or vector is capable of causing disease in human beings, animals, plants or fungi, the donor DNA is fully characterised and will not increase the virulence of the host or vector;

- (e) any dealing involving a host/vector system mentioned in Part 2 of Schedule 2, if the gene inserted—
  - (i) is a pathogenic determinant; or
  - (ii) is uncharacterised DNA from a micro-organism that is capable of causing disease in human beings, animals, plants or fungi; or
  - (iii) is an oncogene.

## 1.2 Definitions

In this Part—

**"characterised"**, in relation to DNA, means that the DNA has been sequenced and that there is an understanding of potential gene products of the DNA;

**"gene-knockout mice"**, has the same meaning as in item 1 in Part 1 of Schedule 2.

### PART 2—DEALINGS (HIGHER RISK) THAT ARE NOT NOTIFIABLE LOW RISK DEALINGS

Note 1: The following list qualifies the list in Part 1, and is not an exhaustive list of dealings that are not notifiable low risk dealings.

Note 2: A dealing that is not a notifiable low risk dealing, or an exempt dealing, can be undertaken only by a person who is licensed, under the Act, for the dealing (*see* section 32 of the Act).

## 2.1 Kinds of dealings

A dealing of any of the following kinds, or involving a dealing of the following kinds, is not a notifiable low risk dealing—

- (a) a dealing involving cloning of DNA encoding a toxin for vertebrates having an LD50 of less than 100 µg/kg;
- (b) a dealing involving high level expression of toxin genes, even if the LD50 is greater than 100 µg/kg;
- (c) a dealing involving cloning of uncharacterised DNA from toxin-producing micro-organisms;
- (d) a dealing involving a viral vector (except a vector that is used in the dealing as part of a host/vector system mentioned in Part 2 of Schedule 2), containing one or more inserted sequences, that codes for a product known to play a role in the regulation of cellular growth or to be toxic to mammalian cells;
- (e) a dealing involving, as host or vector, a micro-organism that is capable of causing disease in humans, animals plants or fungi, unless—
  - (i) the host/vector system is a system mentioned in Part 2 of Schedule 2; or
  - (ii) the dealing involves only the cloning of DNA that is fully characterised and is known not to increase the virulence of the host and vector;
- (f) a dealing involving the introduction into a micro-organism, other than a host mentioned in Part 2 of Schedule 2, of genes that determine pathogenicity;

- (g) a dealing involving the introduction into a micro-organism, other than a host mentioned in Part 2 of Schedule 2, of genes whose expressed products have a heightened risk of inducing an autoimmune response;
- (h) a dealing involving cloning or transfer of fragments of a viral or viroid genome that are capable, in the host/vector system to be used, of giving rise to infectious agents that are capable of infecting cells of human, animal, plant or fungal origin;
- (i) a dealing involving recombination between whole viral genomes, viroids or complementing fragments of such genomes (if one or more fragments contain virulence or pathogenic determinants);
- (j) a dealing involving use of a viral vector to produce a transgenic animal, plant or fungus that secretes or produces infectious recombinant viral agents;
- (k) a dealing involving the production of more than 10 litres of GMO culture;
- (l) a dealing that is inconsistent with a policy principle issued by the Ministerial Council.

**PART 3—PRESCRIBED INFORMATION—NOTIFICATION OF  
PROPOSED NOTIFIABLE LOW RISK DEALING**

**3.1** *Information about proponent and proposed dealing*

For a notification made under regulation 13(1)(b) of these regulations, the following information must be included—

**3.1.1** *General information*

- (a) name, address, telephone number and other contact details, of the proponent organisation;
- (b) name, position within the organisation and contact details, of the proponent's project supervisor for the proposed dealing, or dealings, with the GMO or GMOs involved;
- (c) title of the project involving the proposed dealing or dealings;
- (d) with reference to the kinds of dealings set out in Part 1 of this Schedule, the kind of dealing or dealings proposed;
- (e) description of each GMO involved—
  - (i) the common name of the parent organism; and
  - (ii) the scientific name of the parent organism; and
  - (iii) the modified trait; and
  - (iv) the identity of the gene responsible for the modified trait;
- (f) description of the proposed dealing or dealings;
- (g) description of the purposes and aims of the proposed dealing or dealings;
- (h) address of the premises where the dealing is, or dealings are, proposed to be undertaken;
- (i) proposed date of commencement, and proposed date of completion, of the dealing or dealings.



*3.1.2 Genetics of GMO*

- (a) details of the biological system intended to be used, including—
  - (i) the biological source of the donor DNA; and
  - (ii) the intended host organism, or tissue; and
  - (iii) the vector or vectors, or the method, intended to be used for the transfer of DNA; and
  - (iv) whether the intended host/vector system is a system mentioned in Part 2 of Schedule 2.

*3.1.3 Risk assessment information*

- (a) details of all risks that could arise from the genetic modification, including occupational health and safety risks for persons involved;
- (b) details of all risks that could arise from an unintentional release of the GMO or GMOs into the environment, including—
  - (i) risks to the health and safety of people; and
  - (ii) risks to the environment.

*3.1.4 Risk management information*

- (a) details of the facility in which the proposed dealing or dealings are to be undertaken, and of its physical containment level (as certified under Division 2 of Part 7 of the Act);
- (b) in relation to certification of the facility—
  - (i) the date of certification; and
  - (ii) the certification number allocated to the facility by the Regulator; and
  - (iii) the date of the most recent inspection of the facility by the Regulator or the facility's Institutional Biosafety Committee;
- (c) if the GMO is, or GMOs are, intended to be transported or moved outside the facility, details of the arrangements for that transport or movement;
- (d) details of any arrangements for disposal of the GMO or GMOs;
- (e) details of action proposed to be taken in the case of an unintentional release of the GMO, or GMOs, from containment;
- (f) details of other actions and precautions proposed to be taken by the applicant to minimise any risks posed by the proposed dealing or dealings;
- (g) details of the qualifications and experience of the project supervisor for the proponent organisation.

**3.2 Additional information if GMO is a whole plant, or is to be used in conjunction with a whole plant**

For a notification about a proposed notifiable low risk dealing that will involve a GMO that is a whole plant, or the use of a GMO in conjunction with a whole plant, the following additional information must be included—

- (a) a statement on whether the parent organism is a weed or closely related to plants that are weeds and, if so, identification of the weeds that are closely related;
- (b) details of the stage of development that the plant, or plants, used in the dealing will be allowed to reach;
- (c) details of the method that will be used to dispose of the plant, or plants, used in the dealing;
- (d) a statement on whether soil, or soil substitute, will be used as the growing medium for the plant, or plants, used in the dealing, and, if so, details of how that medium will be subsequently sterilised or disposed of.

**3.3 Supporting information from IBC for a proponent**

The information required for a notification about a proposed notifiable low risk dealing includes the following information to be given in relation to the Institutional Biosafety Committee (IBC) concerned—

- (a) confirmation that the information given to the Regulator in relation to the proponent has been checked by the IBC and found to be complete;
- (b) confirmation that the IBC considers that personnel intended to be involved in dealing with the GMO or GMOs have adequate training and experience for the task;
- (c) a statement that the IBC has evaluated the proposed project, and that includes the following details—
  - (i) the date of the evaluation;
  - (ii) the full name of the IBC;
  - (iii) the name and contact details of the chairperson and of the secretary of the IBC;
- (d) a copy of the evaluation report, prepared in accordance with any guidelines issued by the Regulator;
- (e) a statement that the IBC is established in accordance with the Regulator's guidelines under section 98 of the Act.

Note: The IBC giving the information could be an IBC established by the proponent, or by another accredited organisation.

**SCHEDULE 4***Prescribed information—Application for a licence*

Regulation 7

**PART 1—DEALINGS NOT INVOLVING AN INTENTIONAL  
RELEASE OF A GMO INTO THE ENVIRONMENT (DIVISION 3 OF  
PART 5 OF THE ACT)****1.1 Information to be given by all applicants**

For an application to which Division 3 of Part 5 of the Act applies (a "Division 3 application"), the following information is required—

*1.1.1 General information*

- (a) name, address, telephone number and other contact details, of applicant;
- (b) name, position within the organisation and contact details, of applicant's project supervisor in relation to the proposed dealing, or dealings, with the GMO or GMOs involved;
- (c) title of the project involving the proposed dealing or dealings;
- (d) description of the GMO or GMOs involved, including—
  - (i) the common name of the parent organism; and
  - (ii) the scientific name of the parent organism; and
  - (iii) the modified trait; and
  - (iv) the identity of the gene responsible for the modified trait;
- (e) description of the proposed dealing or dealings;
- (f) description of the purposes and aims of the dealing or dealings;
- (g) address of the premises where the dealing is, or dealings are, proposed to be undertaken;
- (h) proposed date of commencement, and proposed date of completion, of the dealing or dealings.

*1.1.2 Genetics of the GMO*

- (a) details of the biological system intended to be used, including—
  - (i) the biological source of the donor DNA; and
  - (ii) the intended host organism, or tissue; and
  - (iii) the vector or vectors, or the method, intended to be used for the transfer of DNA; and
  - (iv) whether the intended host/vector system is a system mentioned in Part 2 of Schedule 2.

*1.1.3 Risk assessment information*

- (a) details of all risks that could arise from the genetic modification, including occupational health and safety risks for persons involved;
- (b) details of all risks that could arise from an unintentional release of the GMO or GMOs into the environment, including—
  - (i) risks to the health and safety of people; and
  - (ii) risks to the environment;
- (c) details of all previous applications (whether successful or unsuccessful) made under the Act, or to the Genetic Manipulation Advisory Committee, in relation to a proposed dealing with the GMO or GMOs, setting out in relation to each—
  - (i) any reference number given to the application by the Regulator or the Genetic Manipulation Advisory Committee; and
  - (ii) the date of the application; and
  - (iii) the name of the applicant's project supervisor, or intended supervisor.

*1.1.4 Risk management information*

- (a) details of the facility in which the dealing or dealings are to be undertaken, and of its physical containment level (as certified under Division 2 of Part 7 of the Act);
- (b) in relation to certification of the facility—
  - (i) the date of certification; and
  - (ii) the certification number allocated to the facility by the Regulator; and
  - (iii) the date of the most recent inspection of the facility by the Regulator or the facility's Institutional Biosafety Committee;
- (c) if the GMO is, or GMOs are, intended to be transported or moved outside the facility, details of the arrangements for that transport or movement;
- (d) details of any arrangements for disposal of the GMO or GMOs;
- (e) details of action proposed to be taken in the case of an unintentional release of the GMO, or GMOs, from containment;
- (f) details of other actions and precautions proposed to be taken by the applicant to minimise any risks posed by the proposed dealing or dealings;
- (g) details of the qualifications and experience of the project supervisor for the proponent organisation.

*1.1.5 Suitability of the applicant*

(if the information is not already provided to the Regulator for any other purpose)

- (a) a copy of the applicant's statutory annual report, or other information about the financial viability of the applicant;
- (b) for section 58 of the Act, details of any relevant convictions (within the meaning of that section) of the applicant or the project supervisor;
- (c) for section 58 of the Act, details of any failure to comply with—
  - (i) a provision of the Act or the regulations; or
  - (ii) a condition of a licence or permit (within the meaning of section 58(1)(b) or 58(2)(c) of the Act), particularly if resulting in a revocation or suspension;
- (d) details of any failure to comply with an advice to proceed issued by the Genetic Manipulation Advisory Committee;
- (e) details of applicant's capacity to manage any risks posed by the proposed dealing or dealings.

**1.2 Additional information if volume of GMO culture exceeds 10 litres**

If a GMO will be produced as a culture of cells exceeding 10 litres in volume, the following additional information is required for a Division 3 application—

- (a) details of the size of the proposed project, in terms of the volume of GMO culture to be produced and the area of the facility affected;
- (b) details of the main product, or products, of the intended dealing, or dealings, by-products (if any, including effluents) and the concentrations of those products and by-products at different stages of the production process;
- (c) details of precautions proposed to be taken to prevent any unintended dispersal of the GMO;
- (d) details of how genetic stability of the GMO will be checked, and at what frequency;
- (e) details of the plan, procedures and data collection program to be used to ensure the purity of the main product or products;
- (f) details of the facility to be used for the proposed project, including—
  - (i) the physical arrangements for each working unit involved; and
  - (ii) the operational procedures of each unit; and
  - (iii) how the intended level of physical confinement of GMOs is to be achieved;
- (g) details of arrangements for personnel management, including—
  - (i) supervision; and
  - (ii) training; and
  - (iii) health surveillance; and

- (iv) emergency care;
- (h) details of the justification for the containment level proposed;
- (i) details of the project designs dealing with the risks mentioned in paragraphs (a) and (b) of item 1.1.3;
- (j) a statement on whether the site, within the host genome, of integration of the resultant transgene is known, and, if so, details of any secondary effects that could result from the integration, or further integration, at the site.

**1.3 Additional information—GMO that is a whole plant, or is to be used in conjunction with a whole plant**

If a Division 3 application relates to a GMO that will be a whole plant, or is to be used in conjunction with a whole plant, the following additional information is required for the application—

- (a) a statement on whether the parent organism is a weed or closely related to plants that are weeds and, if so, identification of the weeds that are closely related;
- (b) details of the stage of development that plants used in the proposed dealing, or dealings, will be allowed to reach;
- (c) details of the method that will be used to dispose of plants used in the proposed dealing or dealings;
- (d) a statement on whether soil, or soil substitute, will be used as the growing medium for the plants, and, if so, details of how that medium will be subsequently sterilised or disposed of.

**1.4 Additional information—GMO that is an animal, or is to be used in connection with an animal**

If a Division 3 application relates to a GMO that will be an animal, or that is to be used in connection with an animal, the following additional information is required for the application—

- (a) details of the number of—
  - (i) GM animals to be involved in the proposed dealing or dealings; and
  - (ii) other animals to be involved;
- (b) details of proposed arrangements—
  - (i) for breeding the animals; or
  - (ii) for ensuring that the animals do not breed;
- (c) details of how the animals will be able to be readily identified (for example, the use of labels on cages or, for larger animals, branding or tattooing).

**1.5 Additional information—GMO that is for use in clinical trials with human beings**

If a Division 3 application relates to a GMO that will be used in a clinical trial with a human being (as a vaccine or, in a gene therapy trial, as a vector), the following additional information is required for the application—

*1.5.1 Information about the purpose of the trial*

- (a) details of the disease to be treated, or prevented, by use of the GMO;
- (b) details of the host range of the parent organism from which the vaccine or vector is constructed.

*1.5.2 Information about the vaccine or vector*

- (a) details of the potential for the genetic material of the vaccine organism or gene therapy construct to become incorporated in whole, or in part, into the genome of any cells of a treated person;
- (b) details of the factors that prevent multiplication or spread of the vaccine organism or the vector in a treated person;
- (c) details of the period over which the GMO will be detectable in a person, or his or her excretions;
- (d) if the GMO is a defective virus, details of its potential for acquiring the capacity for viral replication by complementation or recombination with intracellular viruses;
- (e) details of any deleterious effects the GMO may have on a pregnant person;
- (f) a statement on whether the GMO has a teratogenic effect on a foetus at any stage of gestation and, if so, details of the effect;
- (g) a statement on whether the use of the GMO is likely to preclude its use for vaccination against other diseases subsequently;
- (h) a statement on whether the GMO produces spores;
- (i) a statement on whether the viability of the GMO is compromised by desiccation;
- (j) a list of sterilising and anti-microbial agents (if any) that are active against the GMO;
- (k) a statement on whether the GMO is susceptible to ultraviolet or ionising radiation.

*1.5.3 Information about the effect of the GMO on the environment*

- (a) details of—
  - (i) the potential for the GMO to spread from persons to whom the GMO has been administered to other persons or to other species; and
  - (ii) if the potential exists, the likely mechanism and frequency of such spread;

- (b) a statement on whether a person who undergoes the treatment could be more susceptible to an adverse outcome because of—
  - (i) the state of health of the person at the time of treatment (for example, the person presents with immunosuppression or superimposition of disease); or
  - (ii) other treatments, such as drugs;
- (c) details of the potential for the GMO to be disseminated into the environment through human waste during or after the trial;
- (d) details of proposed methods for disposing of waste containing the GMO;
- (e) a statement on whether, at the end of the trial, live GMOs will be carried by a person to whom the GMO has been administered and, if so, details of—
  - (i) the potential for their dissemination through family contact, or to the general population; and
  - (ii) measures intended to be taken to minimise the potential for dissemination; and
  - (iii) the potential for the organisms to cross the placenta of a pregnant person or animal.

Note: For persons relying on National Health and Medical Research Council funding, additional requirements may apply (through the Gene and Related Therapies Research Advisory Panel) to dealings of the kind to which this item applies.

#### **1.6 *Supporting information to be given by IBC***

Information required for a Division 3 application includes the following information to be given by an Institutional Biosafety Committee (IBC)—

- (a) confirmation that the information given to the Regulator by the applicant has been checked by the IBC and found to be complete;
- (b) confirmation that the IBC considers that personnel intended to be involved in dealing with the GMO or GMOs have adequate training and experience for the task;
- (c) a statement that the IBC has evaluated the proposed project, and that includes the following details—
  - (i) the date of the evaluation;
  - (ii) the full name of the IBC;
  - (iii) the name and contact details of the chairperson and of the secretary of the IBC;
- (d) a copy of the evaluation report, prepared in accordance with any guidelines issued by the Regulator;
- (e) a statement that the IBC is established in accordance with the Regulator's guidelines under section 98 of the Act.

Note: If the applicant is an accredited organisation, the IBC giving the information could be an IBC established by that organisation.



**PART 2—DEALINGS INVOLVING AN INTENTIONAL RELEASE  
OF A GMO INTO THE ENVIRONMENT (DIVISION 4 OF PART 5  
OF THE ACT)**

**2.1 Information to be given by all applicants**

For an application to which Division 4 of Part 5 of the Act applies (a "Division 4 application"), the following information is required—

**2.1.1 General information**

- (a) details of the name, address, telephone number and other contact details, of applicant;
- (b) details of the name, position within the organisation and contact details, of applicant's project supervisor for the proposed dealing, or dealings, with a GMO, or GMOs;
- (c) title of the project involving the proposed dealing or dealings;
- (d) description of the GMO or GMOs;
- (e) description of the proposed dealing, or dealings, in terms of section 40(4)(a), 40(4)(b) or 40(a)(c) of the Act, as applicable;
- (f) description of the aims and purposes of the proposed dealing, or dealings;
- (g) identification of the person, persons or class of persons, intended to be authorised to undertake the dealing, or dealings;
- (h) the proposed date of commencement, and proposed date of completion, of the dealing or dealings.

**2.1.2 Risk assessment information—the parent organism**

- (a) details of the species to be released including, if relevant, information about the strain, cultivar etc;
- (b) an assessment of whether the parent organism is capable of causing disease or other ill-health in people, plants or animals and, if so, details of the possible effects;
- (c) details of the natural habitat of the parent organism, and its range;
- (d) details of the location where the parent organism was originally isolated for the purpose of the proposed dealing or dealings;
- (e) details of the distribution of the parent organism, and closely related organisms, in Australia;
- (f) a statement on whether the parent organism, or a closely related organism, is present at or near the site of the proposed release and, if so, details of the population or populations;
- (g) a statement on whether the parent organism is exotic in Australia;
- (h) details of any known predators, or parasites, of the parent organism in Australia.

2.1.3 *Risk assessment information—the GMO*

- (a) details of the origin of the DNA to be inserted;
- (b) if the inserted DNA will come from an organism that causes disease or other ill-health in humans, animals, plants or fungi, details of the effects;
- (c) details of the genetic modification that will be made, including details of the steps to be undertaken in its construction;
- (d) details of the stability of the genotype of the GMO or GMOs, including a statement on whether it has a potentially unstable genotype;
- (e) details of the extent to which the genetic modification has been characterised (that is, the DNA sequenced, and the potential gene products understood);
- (f) details of the intended location of the inserted DNA in the final construct, and the number of copies that will be present;
- (g) details of the markers or sequences that will enable the GMO or GMOs to be identified in the laboratory and under field conditions;
- (h) details of the type of vector to be used in the transfer (including a description of the vector), showing the position of the inserted DNA and any other control sequences or markers in the vector;
- (i) details of whether the vector has the ability to transfer to other hosts and, if so, details of the host range;
- (j) details of whether the recombinant vector will be present in the final construct and if not, how it will be removed;
- (k) if no vector will be involved, details of how the DNA will be introduced and how many copies of the gene will be inserted;
- (l) details of how the modification will change the phenotype of the organism to be released, including information to demonstrate the effect of the modification;
- (m) details of secondary genetic effects that may be anticipated;
- (n) a statement on whether the site, within the host genome, of integration of the resultant transgene is known;
- (o) details of the intrinsic genetic features, if any, of the GMO or GMOs that will regulate survival in the environment, including a statement on how stable those features are;
- (p) details of the genetic changes, if any, that will be included in the GMO or GMOs to limit or eliminate any capacity to reproduce or transfer genes to other organisms.

2.1.4 *Risk assessment information—proposed dealing with the GMO*

- (a) a description of the proposed dealing, or dealings, with the GMO or GMOs, including a description of the proposed intentional release into the environment;
- (b) a statement of—
  - (i) the proposed date or dates for the intentional release into the environment; or

- (ii) if release is to occur over a number of days, the proposed commencement and completion dates;
- (c) a statement of the number of GMOs to be released;
- (d) a statement of the number of releases of the GMO that are proposed;
- (e) details of—
  - (i) the number of sites for proposed release; and
  - (ii) the area of land to be used; and
  - (iii) the location of the proposed release or releases, including identification of the local government area in which any release will take place and the geographical location, grid references and GPS coordinates of the site or sites;
- (f) details of the reasons for the choice of location or locations for the release or releases;
- (g) details of how the GMO or GMOs will be released;
- (h) details of the methods to be used to test for batch to batch consistency, if large scale production is required to produce GMOs for release;
- (i) details of the measures that have been taken, or will be taken, in the production process to ensure quality and purity of GMOs intended to be released;
- (j) details of the arrangements for conducting any other dealings in association with the proposed release, such as importation of a GMO and transportation of a GMO to or from a release site;
- (k) details of proposed uses of the GMO or GMOs, or of things derived or produced from the GMO or GMOs, following release into the environment;

Example:

1. Collecting field trial material for laboratory analysis.
2. Giving GM product to animals as stockfeed.

- (l) details of all previous applications (whether successful or unsuccessful) made under the Act, or to the Genetic Manipulation Advisory Committee, in relation to a proposed dealing with the GMO or GMOs, setting out in relation to each—
  - (i) any reference number given to the application by the Regulator or the Genetic Manipulation Advisory Committee; and
  - (ii) the date of the application; and
  - (iii) the name of the applicant's project supervisor, or intended supervisor.

2.1.5 *Risk assessment information—interaction between GMO and the environment*

- (a) a statement on whether release of a proposed GMO could prejudice any beneficial function of the parent organism in the environment;
- (b) on the basis of contained experiments, details of—
  - (i) the survival times of the GMO in habitats relevant to the release; and

- (ii) the growth rate (or generation time) of the parent organism and GMO in the ranges of environmental conditions characteristic for the place and date of release; and
- (iii) the frequency of reversion or loss of the genetic change;
- (c) details of the capability of the GMO to disperse from the release area or areas, and, if any, the dispersal mechanism;
- (d) a statement on whether the GMO is likely to be able to establish in the environment outside the release site or sites;
- (e) a statement on whether the GMO will be able to form long-term survival structures, such as seeds or spores;
- (f) a statement on whether the inserted genetic trait will be able to be transferred to other organisms found at the release site and surrounding environment and, if so, details of—
  - (i) the organisms the trait can be transferred to and the frequencies at which it can be transferred, including information about the species that have been tested for transfer and the rationale for selecting the test species; and
  - (ii) the transfer mechanisms involved; and
  - (iii) the techniques that have been used to demonstrate transfer; and
  - (iv) any possible adverse effects of the transfer, including—
    - (A) any advantage that affected organisms are likely to have over members of the species that do not contain the transgene; and
    - (B) environmental risks posed by such an advantage;
- (g) a statement on whether interactions between pathogens and the transgene are possible (for example, gene silencing) and, if so, details of—
  - (i) the incidence and distribution of relevant pathogens; and
  - (ii) possible effects of interaction;
- (h) a statement on whether the GMO is likely to show any competitive advantages over its unmodified parent in mixed populations under the conditions at the release site or sites, and, if so, details of the nature of the advantages;
- (i) a statement on whether the modified trait will confer a selective advantage on the GMO under certain conditions and, if so, details of the conditions, including data on growth rates with and without selection pressure;
- (j) details of features of the physical environment of the release site or sites, particularly features that may minimise or exacerbate any undesirable effects of the GMO;
- (k) details of the proximity of the release site, or sites, to population centres, centres of agricultural activity, or the habitat of biota that might affect, or be affected by, the proposed release;

- (l) a statement on whether the GMO is expected to remain in the environment after release and, if so, details of—
  - (i) the period of time; and
  - (ii) any environmental risks posed by the GMO during that period;
- (m) details of any other environmental risks that may be posed by the GMO.

2.1.6 *Risk assessment information—risks GMO may pose to the health and safety of people*

- (a) details of any allergens or toxins that may be expressed by the proposed GMO that are not found in the parent organism;
- (b) details of any pathogenic properties in the GMO that are not found in the parent organism;
- (c) details of any occupational health and safety risks to personnel dealing with the GMO and safety risks to the wider community.

2.1.7 *Risk management information*

- (a) details of proposed measures for monitoring any risks posed by the proposed GMO, including monitoring for—
  - (i) the survival or presence of the GMO, or transferred genetic material, beyond the proposed release site or sites, including specificity, sensitivity and reliability of detection methods; and
  - (ii) impacts on the characteristics, or abundance, of other species; and
  - (iii) transfer of the introduced gene to other species; and
  - (iv) any other hazards or deleterious effects;
- (b) details of proposed measures for limiting the dissemination or persistence of the GMO, or its genetic material, in the environment;
- (c) details of the methods that will be used to minimise the effects of any transfer of the modified genetic trait to other organisms;
- (d) details of the specific experimental methods proposed for detecting the presence of the GMO, or transferred genetic material, in the recipient organism;
- (e) details of proposed measures for disposing of—
  - (i) the GMO when the release is complete; and
  - (ii) any waste deriving from the GMO;
- (f) details of proposed release-site supervision procedures and any safety procedures to be undertaken by staff, including a description of procedures for on-site supervision of the release if the release site is located at some distance from the location of the IBC;
- (g) details of proposed measures for—
  - (i) informing persons covered by the licence of any licence conditions; and
  - (ii) informing the public about the proposed dealing or dealings;

- (h) details of proposed procedures for auditing, monitoring and reporting on compliance with any conditions imposed by the Regulator;
- (i) details of any contingency measures that will be in place to rectify any unintended consequence if a hazard becomes evident during the course of the release;
- (j) details of ongoing monitoring to be undertaken after the release is completed.

*2.1.8 Information about previous assessments or approvals*

- (a) details of results of any applications made for approval of the GMO, or any derived GM products, by any other regulator in Australia or overseas, including information about conditions (if any) attaching to the approval;
- (b) details of any previous licence under the Act for dealing with the GMO, or of a notification of a dealing under the Act, from which the work in the present application has developed;
- (c) if the GMO has been previously released in Australia or overseas, details of any adverse consequences of the release, including identifying references and reports of assessments;
- (d) a list of Commonwealth and State government authorities that have been consulted about the proposed dealings with the GMO (including names of contact officers);
- (e) for an imported GMO, the date of importation or intended importation, including, if possible, a copy of documentation of clearance or assessment from the Australian Quarantine and Inspection Service (AQIS).

*2.1.9 Suitability of the applicant*

(if the information is not already provided to the Regulator for any other purpose)

- (a) details of qualifications, experience and proposed role of each person to be involved in the dealing or dealings;
- (b) a copy of the applicant's statutory annual report, or other information about the financial viability of the applicant;
- (c) for section 58 of the Act, details of any relevant convictions (within the meaning of that section) of the applicant or the project supervisor;
- (d) for section 58 of the Act, details of any failure to comply with—
  - (i) a provision of the Act or the regulations; or
  - (ii) a condition of a licence or permit (within the meaning of sections 58(1)(b) or 58(2)(c) of the Act), particularly if resulting in a revocation or suspension;
- (e) details of any failure to comply with an advice to proceed issued by the Genetic Manipulation Advisory Committee;
- (f) details of applicant's capacity to manage any risks posed by the proposed dealing or dealings.

## 2.2 *Additional information—GMO that is a plant*

If a Division 4 application relates to a proposed GMO that is a plant, the following additional information is required for the application—

### 2.2.1 *Information about the use of the parent plant*

- (a) statement about whether the parent plant has an extended history of cultivation and safe use.

### 2.2.2 *Information about any unintended pleiotropic effects*

- (a) details of undesirable effects on the parent plant that may result from expression of the transgene, or an associated insertion-related mutation, in the GMO (for example, reduced fertility, increased disease prevalence, production loss, grain shedding), including the likelihood of any such events.

### 2.2.3 *Information about pollen and cross-pollination*

- (a) details of the mechanism of pollen spread (by insect vectors or by other means) in the plant population;
- (b) details of pollen viability for the parent plant and the GMO;
- (c) details of any potential pollinators for the parent plant and the GMO, and their range and distribution in Australia;
- (d) quantitative data on successful cross-pollination between the parent plant, the GMO and its wild relatives;
- (e) if sexually compatible plants live near a site of the proposed release, details of the quantity and the chances for cross-pollination with the GMO;
- (f) if cross-pollination with the GMO were to occur, details of the likely resulting plants and an assessment of whether they would survive and compete well with unaffected plants.

### 2.2.4 *Information about weeds*

- (a) details of members of the family of unmodified parent plants that are known to be weeds in any environment;
- (b) details of cross-pollination between the species to which the GMO belongs and relatives known to be weeds, including a copy of any peer-reviewed reports that support the information.

### 2.2.5 *Information about the possible result of the imparted characteristics being integrated into other species*

- (a) a statement on whether the novel characteristics of the GMO could be integrated into other species and, if so, details of its potential to affect—
  - (i) the distribution and abundance of populations of the affected species; and
  - (ii) factors that normally control populations of the affected species in the environment (for example, pathogens, herbivory and physiological stress);
- (b) details of any other possible adverse consequences;

- (c) details of proposed measures to minimise the risk (for example, by imparting male sterility or other means of reproductive isolation).

2.2.6 *Information about the seeds of the GMO*

- (a) a statement on whether the GMO proposed to be released will be allowed to set seed and, if not, whether setting seed is planned for a later release;
- (b) if the GMO is to be allowed to set seed, a statement on whether mature seed is expected to be shed (from, for example, an ear, capsule or pod), and, if so, an indication of the proportion of seed likely to remain in the environment following harvest;
- (c) a statement on whether the seed has the potential to be dispersed by natural mechanisms and, if so, details of the mechanisms;
- (d) details of the length of time the seeds will be capable of being dormant.

2.2.7 *Information about whether the GMO can be dispersed by vegetative propagation*

- (a) a statement on whether the GMO proposed to be released can be dispersed by vegetative propagation and, if so, the possible mechanisms.

2.2.8 *Information about whether the capacity of the GMO to add substances to, or subtract substances from, soil will change*

- (a) a statement on whether the novel characteristic of the proposed GMO will change the capacity of the plant to add substances to, or subtract substances from, soil (for example, nitrogen or toxic compounds) and, if so, details of all such change.

2.2.9 *Information about toxicity*

- (a) an assessment of whether there is any likelihood that the introduced trait could cause the proposed GMO to have greater toxicity (for animals, including human beings) than would an unmodified plant and, if so, details of that likely effect;
- (b) an assessment of whether any products of the GMO could concentrate in the natural or human food chain to levels which become toxic, and available data (if any) on that subject;
- (c) an assessment of whether the biodegradability of the GMO will be different to that of the parent organism and, if so, details of the differences.

2.2.10 *Information about any secondary ecological effects that might result from the release*

- (a) an assessment of possible effects of the proposed release on—
  - (i) native species; and
  - (ii) resistance of insect populations to an insecticide; and
- (b) abundance of prey or parasites.

2.2.11 *Information about resistance of the GMO to a chemical agent (other than selective agents, such as antibiotics, used in strain construction)*

- (a) for a GMO that, as a result of the modification, will have resistance to a chemical agent (for example, a herbicide, but not a selective agent, such as an antibiotic, used in strain construction), details of any environmental risks related specifically to that resistance.



2.2.12 *Information about resistance of GMO to a biological agent*

- (a) for a GMO that, as a result of the modification, will have resistance to a biological agent (for example, an insect or a fungal disease), details of any environmental risks related specifically to that resistance.

**2.3 Additional information—GMO that is a micro-organism (not living in or on animals and not a live vaccine)**

If a Division 4 application is in relation to a proposed GMO that is a micro-organism—

- (a) including a micro-organism associated with plants, and a micro-organism that might be applied to modify the physical or chemical environment (for example, to modify soil properties); but
- (b) not including a micro-organism living in or on animals, or a micro-organism that is a live vaccine—

the following additional information is required for the application—

2.3.1 *Information about GM micro-organisms associated with plants*

- (a) details of any partner species of plant, including information about the specificity of the interaction and the range of plant species with which the proposed GMO can interact;
- (b) an assessment of the effect of the proposed GMO on the partner plant species, and details of how it will be monitored;
- (c) an assessment of any secondary effects that the proposed GMO might have on the partner plant species;
- (d) an assessment of whether the modification is likely to cause any change to the range of host plant species susceptible to infection by the organism;
- (e) an assessment of the effect, if any, of the proposed GMO on the distribution and abundance of host plant species or other species with which the proposed GMO can interact;
- (f) an assessment of the effect the proposed GMO might have on insects, birds, animals or humans that may eat the plant.

2.3.2 *Information if the parent organism has an extended history of use in agriculture*

- (a) if the parent organism has an extended history of use in agriculture, a description of the use.

2.3.3 *Information if the GM micro-organism is associated with plant species that are food crops*

- (a) if the GM micro-organism is associated with plant species that are food crops, an assessment of whether the proposed GMO could affect the suitability of the resultant produce for consumption by animals or human beings and, if so, details of the effect.

2.3.4 *Information about the impact of the GMO on soil and water*

- (a) details of the expected effects of the proposed GMO on local soil chemistry (for example, pH, mineral leaching and nutrient levels);
- (b) details of the possible effects of the proposed GMO on local water quality;

- (c) details of the effects the proposed GMO might have on soil organisms that are known to be beneficial to plants (for example, *Rhizobium*, *Azospirillum*, *Frankia* and mycorrhizal fungi) and that are likely to be in a release site.

2.3.5 *Information about any interactions between the GMO and closely related micro-organisms*

- (a) details of any known interaction between the proposed GMO and closely related micro-organisms in any partner plant (if applicable) and in the environment of the release site.

2.3.6 *Information about known genetic exchange between parent organism and plant pathogens*

- (a) details of any known exchange of genetic material between the parent organism and plant pathogens.

2.3.7 *Other information*

- (a) information about the expected survival and dispersal of the proposed GMO, including dispersal in natural waters, soil and on other natural surfaces;
- (b) a statement about whether the proposed GMO will produce spores;
- (c) a statement about whether the proposed GMO will be resistant to desiccation;
- (d) a list of sterilising and anti-microbial agents (if any) that are expected to be active against the proposed GMO;
- (e) a statement about whether the proposed GMO will be susceptible to ultraviolet or ionising radiation.

**2.4 *Additional information—GMO that is a micro-organism that lives in or on animals***

If a Division 4 application is in relation to a proposed GMO that is a micro-organism living in or on animals (including an organism such as gut biota living in larger hosts, and a micro-organism applied externally to an animal (for example, bacteria to prevent fleece rot)), the following additional information is required for the application—

2.4.1 *Information about the impact of the GMO on the host*

- (a) identification of the animal host species;
- (b) a statement about whether the parent organism has an extended history of use in agriculture and, if so, details of the use;
- (c) an assessment of any new capacity the proposed GMO will provide for the host species (for example, ability to degrade plant or pasture toxins);
- (d) an assessment of whether the competitive advantage, ecological fitness, biology or distribution, of the host will be altered, and relevant data (if any) on the subject;
- (e) details of any secondary effects expected to result from the introduction of the proposed GMO into or onto the host (for example, information about any possibility of the genetic insert being transferred to other organisms in the host, or to host cells).

2.4.2 *Information about the impact of the GMO on the environment (particularly the impact on other animals, plants, soil and water)*

- (a) any evidence that the proposed GMO might be capable of establishing in, or on, other animals, including feral animals;
- (b) any evidence of other likely effects (including secondary effects) on other plants or animals in the agricultural and natural environments;
- (c) if the proposed GMO will establish in an animal, information about whether the GMO will be excreted or otherwise leave the animal and, if so, the time period that it is expected the GMO can survive outside the animal;
- (d) an assessment of the possible effects of the GMO on local water quality.

2.4.3 *Other information*

- (a) a statement about whether the proposed GMO will produce spores;
- (b) a statement about whether the proposed GMO will be resistant to desiccation;
- (c) a list of sterilising and anti-microbial agents (if any) that are expected to be active against the proposed GMO;
- (d) a statement about whether the proposed GMO will be susceptible to ultraviolet or ionising radiation.

**2.5 *Additional information—GMO that is a live vaccine for use in animals***

If a Division 4 application is in relation to a GMO that is a live vaccine for use in animals, the following additional information is required for the application—

2.5.1 *Information about the purpose of the vaccine*

- (a) identification of the disease to be treated, or prevented, by use of the vaccine;
- (b) identification of the host species on which the vaccine is to be used;
- (c) details of the host range of the parent organism from which the vaccine is constructed;
- (d) details of the level, and duration, of immunity produced in the host species after administration of the vaccine.

2.5.2 *Information about the vaccine*

- (a) an assessment of the potential for the genetic material of the vaccine organism to become incorporated in whole, or in part, into the genome of any cells of the vaccinated host;
- (b) an assessment of the period over which the vaccine GMO will be detectable in a test animal, or its excretions;
- (c) if the GMO is a viral vaccine, information about the potential for the nucleic acid of the virus in the vaccine to be rescued, or to be restored to wild type, by recombination or complementation with intracellular viruses;
- (d) details of any deleterious effects the vaccine GMO may have on a pregnant animal;

- (e) a statement on whether the vaccine GMO has a teratogenic effect on a foetus at any stage of gestation;
- (f) a statement on whether the use of the vaccine GMO is likely to—
  - (i) preclude its use for vaccination against other diseases subsequently; or
  - (ii) affect its usefulness for other vaccinations;
- (g) a statement on whether the vaccine GMO produces spores;
- (h) a statement on whether the vaccine GMO is resistant to desiccation;
- (i) a list of sterilising and anti-microbial agents (if any) that are active against the GMO;
- (j) a statement on whether the GMO is susceptible to ultraviolet or ionising radiation.

### 2.5.3 *Information about the effect of the GMO on the environment*

- (a) details of—
  - (i) the potential for the vaccine GMO to spread from vaccinated to unvaccinated animals or to other species (including human beings); and
  - (ii) if the potential exists, the likely mechanism and frequency of such spread;
- (b) an assessment of whether the susceptibility of the host to the vaccine organism could be affected by—
  - (i) the state of the host at the time of vaccination (for example, immunosuppression, or superimposition of other disease); or
  - (ii) other treatments, such as drugs;
- (c) details of proposed methods for disposing of waste containing vaccine GMO;
- (d) details of the intended fate of vaccinated animals at the end of the trial;
- (e) information about whether live vaccine organisms will be carried by an animal at the end of the trial and, if so—
  - (i) the potential for dissemination of the live vaccine organisms through the animal's family contact, or to the general population of the species; and
  - (ii) measures intended to be taken to minimise the potential for dissemination; and
  - (iii) the potential for the organisms to cross the placenta of a pregnant animal.

## 2.6 *Additional information—GMO that is a vertebrate animal*

If a Division 4 application is in relation to a GMO that is a vertebrate animal (other than aquatic organisms), the following additional information is required for the application—

### 2.6.1 *Information about the effects of the GMO on the environment*

- (a) information about the likelihood of any unintended effect on an animal resulting from the release;

- (b) information about any intended gains that are directly linked to changes in other characteristics of the subject species.

2.6.2 *Information about any effects the expression of the modified trait might have on the animal*

- (a) information about expected effects on the physiology, behaviour and reproduction of the animal or animals.

2.6.3 *Information about future dealings with the GMO*

- (a) a statement on whether an animal in the experiment is intended to be allowed to breed and, if not, whether breeding is planned in the future;
- (b) a statement on whether the proposed arrangements for handling any offspring are the same as those for the experimental animal or animals, and, if not, the proposed different arrangements.

2.6.4 *Information about feral populations of subject species, if any, that exist in Australia or that may be established*

- (a) details of any agricultural, environmental or disease-control problems caused by feral populations of the subject species;
- (b) details of any experimental work that has been done on expression of the novel genetic material in feral animals (such as cross-breeding of GMOs with captive feral animals), and the results of such work;
- (c) an assessment of the likelihood of the novel genetic material entering the feral gene pool (for example, by interbreeding with modified farm animals);
- (d) an assessment of the effect that the entry of the novel genetic material into a feral gene pool might have—
  - (i) on the distribution and abundance of the feral population; or
  - (ii) on the ability of the feral population to cause agricultural or environmental problems; or
  - (iii) in contributing to the spread of infectious disease;
- (e) if no feral population exists in Australia, information about—
  - (i) the likelihood of the imparted characteristic enhancing the ability of the species to establish feral populations; and
  - (ii) if there is a likelihood, the arrangements in place to prevent this from occurring.

2.6.5 *Information about the capacity of the GMO to interbreed*

- (a) details of the capacity of the GMO to interbreed with any species native to, or currently present in, Australia.

2.6.6 *Information about requirements for optimal expression of the introduced trait*

- (a) details of the management procedures and environmental factors, if any, that would be required for optimal expression of the introduced trait or traits.

Note: All work involving animals should be conducted according to the NHMRC *Australian Code of Practice for the Care and Use of Animals for Scientific Purposes*, under which it requires review by an Institutional Animal Ethics Committee and by the relevant authority administering State animal welfare legislation.

2.7 ***Additional information—GMO that is an aquatic organism***

If a Division 4 application is in relation to a GMO that is an aquatic organism (for example, fish, crustaceans and molluscs), the following additional information must be included—

2.7.1 *Information about effects of the GMO on the environment*

- (a) a statement on whether the GMO could produce any novel metabolites, or toxins, that are likely to have deleterious effects on parasites or predators and, if so, the likely effect;
- (b) details of any unintended effects that may result from the release;
- (c) a statement on whether the expression of the modified gene is expected to be directly linked to undesirable changes in other characteristics of the subject organisms (for example, a decrease in nutritional value);
- (d) information about—
  - (i) whether the modified genetic material can be transmitted to any other species; and
  - (ii) if so, the expected mechanism of transfer, the likely affected species and any likely consequences.

2.7.2 *Information about any impact on natural populations*

- (a) information about whether natural populations of the parental organism, or a closely related species, exist in Australia (including in rivers, lakes, dams or coastal waters) and, if so, details about any problems the natural populations cause with other organisms;
- (b) if no natural populations of the organism to be modified exist in Australia, information about the potential for the modified traits to enhance the ability of the species to establish populations in aquatic habitats;
- (c) information about the results of any experimental work that has been done on phenotypic expression of the modified genetic material in naturally occurring organisms (such as cross-breeding of GMOs with wild or farmed stocks);
- (d) an assessment of the likelihood of the modified genetic material entering the gene pool of natural populations;
- (e) information about any impact the entry of the modified genetic material into the gene pool of a natural organism could have on—
  - (i) the distribution and abundance of the organism; or
  - (ii) associated aquatic farms; or
  - (iii) the environment; or

- (iv) public health;
- (f) information about mechanisms intended to be used to prevent dispersal of the GMO into other ecosystems.

2.7.3 *Information about future dealings with the GMO*

- (a) a statement about whether an organism in the experiment is intended to be allowed to breed and, if not, whether breeding is planned in the future;
- (b) a statement about whether the proposed arrangements for handling any offspring are the same as those for the experimental organisms and, if not, the proposed different arrangements.

**2.8** *Additional information—GMO that is an invertebrate animal*

If a Division 4 application is in relation to a GMO that is an invertebrate animal, the following additional information must be included—

- (a) information about the effect the GMO might have on the food chain;
- (b) information about the potential for the GMO to produce any novel metabolites, or toxins, that are likely to have deleterious effects on parasites or predators;
- (c) information about other unintended effects that may result from the release;
- (d) a statement on whether the GMO will be fertile and, if not, whether it is intended to use fertile organisms in later releases;
- (e) information about whether populations of the parental organism, or a closely related species, exist in Australia and, if so, any environmental or public health problems, or benefits, caused by the populations;
- (f) information about—
  - (i) whether the modified, genetic material can be transmitted by means other than by reproduction normal for the species; and
  - (ii) if so, the likelihood of that genetic material entering gene pools of natural populations;
- (g) information about—
  - (i) whether the modified, genetic material can be transmitted to any other species; and
  - (ii) if so, the expected mechanism of transfer, and the likely affected species;
- (h) information about any experimental work that has been done on the phenotypic expression of the novel genetic material in other genetic backgrounds (such as cross-breeding of modified strains with wild or caught stock);
- (i) information about the effect, on the distribution and abundance of the natural populations of the organism, of the entry of the novel genetic material into the gene pool of those populations;
- (j) details of the mechanisms proposed to be used to prevent dispersal of the GMO into other ecosystems.

**2.9 Additional information—GMO that is to be used for biological control**

If a Division 4 application is in relation to a GMO that is to be used for biological control, the following additional information must be included—

**2.9.1 Information about the expected interaction between the GMO and the species targeted for biological control**

- (a) the name of the species targeted for biological control;
- (b) details of any direct effects the parent organism has on the target species;
- (c) details of any direct effects the GMO is expected to have on the target species;
- (d) details of how the GMO is intended to be transferred from one target organism to another, and what factors affect the transferability;
- (e) details of the genetic response that may be invoked in populations of the target organism as a result of the use of the GMO (for example, increased resistance to the modified organism), and the expected evidence for the response.

**2.9.2 Information on the possible effects of the GMO on non-target organisms**

- (a) details of the host range of the GMO, and details of any difference between that host range and the host range of the parent organism;
- (b) a list of the non-target organisms that have been tested for susceptibility to the GMO, and the rationale for the choice of species tested;
- (c) if the modified traits can be transmitted to other organisms that are likely to be in the environment, details of any effects those other organisms are likely to have on non-target species.

**2.9.3 Information on other possible effects of the GMO on the environment**

- (a) a statement about the secondary effects that can be envisaged on competitors, predators, prey or parasites of the target species;
- (b) an assessment of the consequence of the removal, or reduction, of the target species on the management of agriculturally significant plants or farm animals;
- (c) details of any predicted change in the ecosystem resulting from a reduction in the population of the target organism;
- (d) information about—
  - (i) whether the GMO produces metabolites that may have deleterious effects on other organisms, including human beings—
    - (A) directly; or
    - (B) indirectly, through concentration in the food chain; and
  - (ii) if so, the likely effect.



**2.10 Additional information—GMO that is to be used for bioremediation**

If a Division 4 application is in relation to a GMO that is to be used for bioremediation, the following additional information must be included—

**2.10.1 Information about the expected interaction between the GMO and the target substrate for bioremediation**

- (a) identification of the target substrate for bioremediation;
- (b) details of the effect the parent organism has on the target substrate;
- (c) details of the effect the GMO is expected to have on the target substrate;
- (d) a list of the substances other than the target substrate that can be metabolised by the GMO and that cannot be metabolised by the parent organism.

**2.10.2 Information about the GMO and its impact on the environment**

- (a) a statement about whether the GMO will be self-sufficient if added to the contaminated site or whether additional measures may be required (for example, provision of supplementary nutrients and growth factors, or other environmental modifications);
- (b) a list of any metabolites produced by the GMO that may have deleterious effects on other organisms—
  - (i) directly; or
  - (ii) indirectly, through concentration in the food chain;
- (c) details of effects the GMO might have on water, air or soil quality;
- (d) details of effects the GMO might have on organisms that ingest it;
- (e) a statement on whether the GMO will be dispersed from the site of application and, if so, the proposed mechanisms involved and the likely consequences.

**2.11 Additional information—GMO intended to be used as food for human or vertebrate animal consumption**

If a Division 4 application is in relation to a GMO that is intended to be developed for use as a food for consumption by human beings or animals, the following additional information must be included—

- (a) details of—
  - (i) whether the parent organism or the donor organism is of a kind already in use as a food for consumption by human beings or animals, or used in the production of such a food; and
  - (ii) whether any processing is needed, or is commonly applied, before consumption;
- (b) details of any metabolites produced by the GMO that may have adverse effects on the consumer (human or animal), including available data on toxicology, allergenicity and other possible adverse effects;
- (c) details of any products of the GMO that are expected to concentrate in the food chain to levels which may become toxic;

- (d) details of any expected changes to the nutritional quality of such food as a result of the genetic modification;
- (e) a statement on whether the GMO is a major component of such food as consumed, or a minor component (for example, yeast cells in beer).

Note: For a food for human consumption that contains GMOs or GM products, see also the assessment requirements under the *Australia New Zealand Food Authority Act 1991* of the Commonwealth.

#### **2.12 Supporting information to be given by IBC**

Information required for a Division 4 application includes the following information to be given by an Institutional Biosafety Committee (IBC)—

- (a) confirmation that the information given to the Regulator by the applicant has been checked by the IBC and found to be complete;
- (b) confirmation that the IBC considers that personnel intended to be involved in dealing with the GMO or GMOs have adequate training and experience for the task;
- (c) a statement that the IBC has evaluated the proposed project, and that includes the following details—
  - (i) the date of the evaluation;
  - (ii) the full name of the IBC;
  - (iii) the name and contact details of the chairperson and of the secretary of the IBC;
- (d) a copy of the evaluation report, prepared in accordance with any guidelines issued by the Regulator;
- (e) a statement that the IBC is established in accordance with the Regulator's guidelines under section 98 of the Act.

Note: If the applicant is an accredited organisation, the IBC giving the information could be an IBC established by that organisation.

**REGULATIONS UNDER THE CHIROPRACTORS ACT 1991**

No. 9 of 2002

*At the Executive Council Office at Adelaide, 15 January 2002*

PURSUANT to the *Chiropractors Act 1991* and with the advice and consent of the Executive Council, I make the following regulations.

MARJORIE JACKSON-NELSON, Governor

PURSUANT to section 10AA(2) of the *Subordinate Legislation Act 1978*, I certify that, in my opinion, it is necessary or appropriate that the following regulations come into operation as set out below.

DEAN BROWN, Minister for Human Services

**SUMMARY OF PROVISIONS**

1. Citation
2. Commencement
3. Substitution of reg. 11
  11. Qualifications for registration
4. Variation of reg. 15—Recognised training courses
5. Substitution of Sched. 1

**SCHEDULE 1***Prescribed Qualifications***Citation**

1. The *Chiropractors Regulations 1992* (see *Gazette* 14 May 1992 p. 1397), as varied, are referred to in these regulations as "the principal regulations".

**Commencement**

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

**Substitution of reg. 11**

3. Regulation 11 of the principal regulations is revoked and the following regulation is substituted:

**Qualifications for registration**

11. For the purposes of section 18(1) of the Act, a natural person is eligible for registration as a chiropractor if he or she—

- (a) holds any of the qualifications set out in Schedule 1; or
- (b) has successfully completed a competency examination in chiropractic or osteopathy administered by the Board or the Council on Chiropractic Education Australasia.

**Variation of reg. 15—Recognised training courses**

4. Regulation 15 of the principal regulations is varied by striking out the table and substituting the following table:

<i>Institution</i>	<i>Course</i>
RMIT University	Bachelor of Applied Science degree (Clinical Science) <i>and</i> Bachelor of Chiropractic Science degree
	Bachelor of Applied Science degree (Clinical Science) <i>and</i> Bachelor of Osteopathic Science degree
Macquarie University	Master of Chiropractic degree
Victoria University of Technology	Bachelor of Science degree (Clinical Science) <i>and</i> Master of Health Science degree (Osteopathy)

**Substitution of Sched. 1**

5. Schedule 1 of the principal regulations is revoked and the following schedule is substituted:

**SCHEDULE 1**  
*Prescribed Qualifications*

**SOUTH AUSTRALIA**

<i>Institution</i>	<i>Qualification</i>
Chiropractic & Osteopathic College of SA Incorporated	Diploma in Chiropractic & Osteopathy
Chiropractic & Osteopathic Institute Incorporated	Diploma in Chiropractic & Osteopathy

**VICTORIA**

<i>Institution</i>	<i>Qualification</i>
Chiropractic College of Australasia	Diploma of Chiropractic
Pax Chiropractic College	Diploma of Doctor of Chiropractic
International College of Chiropractic, Preston Institute of Technology	Diploma in Applied Science (Human Biology) <i>and</i> Diploma in Applied Science (Chiropractic)
Phillip Institute of Technology	Bachelor of Applied Science degree in Chiropractic
	Bachelor of Applied Science degree in Osteopathy
Royal Melbourne Institute of Technology	Bachelor of Applied Science degree in Chiropractic
	Bachelor of Applied Science degree in Osteopathy

RMIT University

Bachelor of Applied Science degree (Clinical Science)  
and Bachelor of Chiropractic Science degree  
(undertaken at Bundoora Campus, Victoria)

Bachelor of Applied Science degree (Clinical Science)  
and Bachelor of Osteopathic Science degree  
(undertaken at Bundoora Campus, Victoria)

Victoria University of Technology

Bachelor of Science degree (Clinical Science) and  
Master of Health Science degree (Osteopathy)

**NEW SOUTH WALES**

*Institution*

*Qualification*

Sydney College of Chiropractic

Diploma of Chiropractic

Diploma of Doctor of Chiropractic

Graduate Diploma in Chiropractic

Macquarie University

Master of Chiropractic degree

Sydney College of Osteopathy

Diploma of Osteopathy

Diploma of Doctor of Osteopathy

The International Colleges of Osteopathy

Graduate Diploma of Osteopathy

MHS004/01 CS

R. DENNIS, Clerk of the Council

**REGULATIONS UNDER THE BOTANIC GARDENS AND STATE  
HERBARIUM ACT 1978**

No. 10 of 2002

*At the Executive Council Office at Adelaide, 15 January 2002*

PURSUANT to the *Botanic Gardens and State Herbarium Act 1978*, on the recommendation of the Board of the Botanic Gardens and State Herbarium and with the advice and consent of the Executive Council, I make the following regulations.

MARJORIE JACKSON-NELSON, Governor

PURSUANT to section 10AA(2) of the *Subordinate Legislation Act 1978*, I certify that, in my opinion, it is necessary or appropriate that the following regulations come into operation as set out below.

IAIN EVANS, Minister for Environment and Heritage

**SUMMARY OF PROVISIONS**

1. Citation
2. Commencement
3. Revocation of reg. 13
4. Variation of reg. 15—Conservatory
5. Variation of Sched.—Charges

**Citation**

1. The *Botanic Gardens and State Herbarium (General) Regulations 1993* (see *Gazette* 15 July 1993 p. 569), as varied, are referred to in these regulations as "the principal regulations".

**Commencement**

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

**Revocation of reg. 13**

3. Regulation 13 of the principal regulations is revoked.

**Variation of reg. 15—Conservatory**

4. Regulation 15 of the principal regulations is varied by inserting before subregulation (1) the following subregulation:

(a1) A person must not enter or remain in the Conservatory unless the appropriate charge for admission has been paid (*see regulation 8 and the schedule*).

**Variation of Sched.—Charges**

5. The schedule of the principal regulations is varied by striking out clause 1 and substituting the following clause:

**1. ADMISSION CHARGES**

The Conservatory (during usual opening hours)—

\$3.30 per adult  
\$1.65 per child or concession holder  
\$7.70 per family

**REGULATIONS UNDER THE HOUSING AND URBAN DEVELOPMENT  
(ADMINISTRATIVE ARRANGEMENTS) ACT 1995**

No. 11 of 2002

*At the Executive Council Office at Adelaide, 15 January 2002*

PURSUANT to the *Housing and Urban Development (Administrative Arrangements) Act 1995* and with the advice and consent of the Executive Council, I make the following regulations.

MARJORIE JACKSON-NELSON, Governor

PURSUANT to section 10AA(2) of the *Subordinate Legislation Act 1978*, I certify that, in my opinion, it is necessary or appropriate that the following regulations come into operation as set out below.

DEAN BROWN, Minister for Human Services

**SUMMARY OF PROVISIONS**

1. Citation
2. Commencement
3. Variation of reg. 6—Functions of HomeStart

**Citation**

1. The *Housing and Urban Development (Administrative Arrangements) (HomeStart Finance) Regulations 1995* (see *Gazette* 15 June 1995 p. 2869), as varied, are referred to in these regulations as "the principal regulations".

**Commencement**

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

**Variation of reg. 6—Functions of HomeStart**

3. Regulation 6 of the principal regulations is varied by inserting after paragraph (f) of subregulation (1) the following paragraph:

- (g) to acquire and hold land for rental accommodation in regional areas (and to carry out any necessary construction for that purpose) or to provide, manage or facilitate finance for the development of rental accommodation in regional areas.

MHS012/01CS

R. DENNIS, Clerk of the Council