

## AGREEMENT

THIS AGREEMENT made this *nineteenth* day of *November* 2002

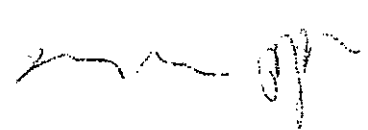
BETWEEN the Hon Mike Rann MP as Premier of South Australia and for and on behalf of the Labor Party ("**Premier**")

And Rory Mc Ewen MP ("**Minister**")

- (A) The Premier leads a minority Labor Government, which came into office on 6 March 2002.
- (B) The Premier and the Minister agree that it is the best interests of the people of South Australia that the Minister be appointed as a minister within the Rann Government. In particular they agree that such an appointment will:
  - (a) secure the position of the Government on the floor of the House of Assembly; and
  - (b) make available to the Government the Minister's skills and advice.
- (C) The Minister will not become a member of the Labor Party and will remain an independent member of the Parliament.
- (D) The purpose of this Agreement is to record the political understandings reached between the Premier and the Minister as to how the Minister can be a member of the Rann Government whilst remaining an independent member of the House of Assembly.
- (E) The parties agree that the Minister will have a special position in Cabinet in that, by reason of his independence, there is a class of issues in respect of which it will not always be possible for the Minister to be bound by a Cabinet decision (the class is defined in clause 3 and are referred to in this Agreement as "**Issues**"). The agreement reached between the parties is intended to reduce to a minimum any matters where the Minister will not be able to agree to a decision of Cabinet, but acknowledges that when such a circumstance arises, the parties will seek to identify it as early as possible and the Minister will absent himself from the Cabinet discussion at the earliest time.

1. This Agreement is conditional upon:

- 1.1 The approval of this Agreement by the Cabinet, the Labor Parliamentary caucus and the South Australian Branch of the Australian Labor Party (in accordance with its rules and procedures); and
- 1.2 The enactment by the Parliament of South Australia of an amendment to section 66(2) of the *Constitution Act, 1934* (SA) permitting the membership of Executive Council to include all Ministers even though the number of Ministers exceeds 13.



The parties agree that they will each use their best endeavours to obtain the relevant approvals and amendments and that, in the event that such approvals and amendments are not obtained, they will enter into discussions to ascertain if any other like Agreement can be made.

## 2. APPOINTMENT AS PORTFOLIO MINISTER

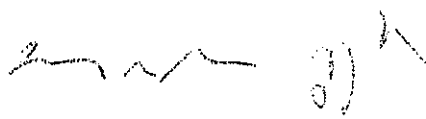
The Premier will advise Her Excellency the Governor to appoint the Minister to be the Minister for Trade and Regional Development, Minister for Local Government and the Minister assisting the Minister for Federal/State Relations.

- 2.1 The Minister will have authority to enter into contracts on behalf of the State for the purposes of his portfolios.
- 2.2 In each of his Ministerial capacities, the Minister will be serviced by and may give directions to the Departments to which his ministerial capacities relate in accordance with the *Public Sector Management Act, 1995*.
- 2.3 The Premier will, at the request of the Minister, engage personal staff selected by the Minister to assist the Minister.
- 2.4 In performing his portfolio responsibilities the Minister must give effect to (in order of priority):
  - 2.4.1 Any applicable laws or directions, instructions or orders having legal effect;
  - 2.4.2 Any decisions of the Executive Council;
  - 2.4.3 Any decisions of the Cabinet;
  - 2.4.4 Any policies agreed between the Minister and the Premier;
  - 2.4.5 Save as specified in para 2.7 of this Agreement, any relevant policies announced by the Labor Party in the 2002 South Australian election ("Labor policies"), or subsequently.
- 2.5 Where the Minister is unable or unwilling to perform his Ministerial responsibilities in accordance with 2.4, the Minister must immediately inform the Premier of that fact, together with his reasons, and will meet with the Premier as soon as may be convenient in order to seek some accommodation between them.
- 2.6 The Minister must make every effort to provide the Premier with as much notice as possible when the Minister is unwilling or unable to perform his Ministerial responsibilities in accordance with 2.4.

- 2.7 It is understood that the Minister may not have to comply with Labor policies in relation to:
- 2.7.1 significant matters affecting the business community; and
  - 2.7.2 issues believed to be matters of conscience.
- 2.8 The Minister affirms Labor's policy of no further privatisations of State assets.
- 2.9 The Minister will be bound by the Ministerial Code of Conduct except as provided for in this Agreement.

### 3. ATTENDANCE AT CABINET

- 3.1 The Minister will be provided the same Cabinet papers as every other Minister.
- 3.2 The Minister will peruse those Cabinet documents at his earliest opportunity.
- 3.3 If, after reading a Cabinet document, in the opinion of the Minister, it would be inconsistent with the Minister's independence for the Minister to be bound by a Cabinet decision in relation to an Issue, the Minister must immediately upon reaching that opinion, inform the Premier of that fact, together with his reasons, and will meet with the Premier as soon as may be convenient in order to seek some accommodation between them in relation to the policy and/or procedure to be followed.
- 3.4 The Minister must make every effort to provide the Premier with as much notice as possible when the Minister believes a matter for decision in Cabinet will be inconsistent with the Minister's independence.
- 3.5 The Minister agrees that in this Agreement, the Issues will be limited to:
- 3.5.1 issues with direct and immediate effect upon the Minister's electorate;
  - 3.5.2 significant matters affecting the business community;
  - 3.5.3 such other matters as the Minister has advised the Premier from time to time in writing.
- 3.6 If, after the meeting referred to in clause 3.3 of this Agreement, no other accommodation can be reached then the Minister will:

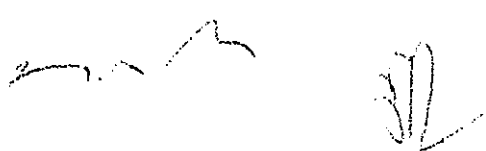
Handwritten signature and initials in the bottom right corner of the page.

- 3.6.1 immediately return to the Cabinet office all copies of the Cabinet documents and all notes or other records relating to the Cabinet documents or copies; and
- 3.6.2 absent himself from that part of the Cabinet discussion where the relevant matter will be or is being discussed.
- 3.7 Even where the Minister has absented himself from Cabinet in accordance with this clause, the Minister agrees that he will not criticise, comment on or disclose the relevant policy until the policy has been publicly announced by the Government.
- 3.8 The Premier agrees that the Minister, having complied with the arrangements in this Agreement, is not subject to the usual rules of Cabinet solidarity in respect of that particular matter. In particular, the Minister, whilst remaining a member of the Cabinet, may criticise the particular Government policy in relation to which the Minister absented himself from Cabinet after the policy has been publicly announced.
- 3.9 The Minister may not divulge any of the material in any Cabinet documents and is bound by Cabinet secrecy in the same way as any Minister, notwithstanding anything in this Agreement.
- 3.10 Except as provided in this Agreement:
  - (a) the Minister will be a full member of Cabinet with the same entitlements to take matters to Cabinet, to discuss matters within Cabinet and to vote on matters in Cabinet as any other Minister.
  - (b) the Minister will be subject to the usual rules of Cabinet solidarity.

**4. APPOINTMENT TO EXECUTIVE COUNCIL**

The Premier will advise Her Excellency to appoint the Minister as a member of Executive Council with all of the rights, entitlements and duties pertaining to such an appointment.

- 4.1 The Minister agrees that he will not provide advice directly to the Governor except with the prior approval of the Premier.
- 4.2 The Minister agrees that he will not attend an Executive Council meeting where there is on the agenda a matter upon which he absented himself from Cabinet in accordance with clause 3 of this Agreement.

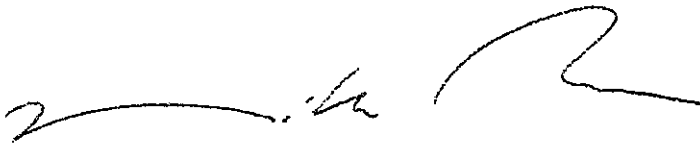


**5. VOTING IN PARLIAMENT**

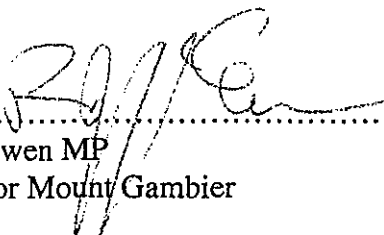
- 5.1 Save for a matter on which the Minister has absented himself from Cabinet in accordance with clause 3 of this Agreement, the Minister agrees to support the Government in the Parliament and to vote with the Government on any matter raised in the Parliament which has received the prior approval of Cabinet.
- 5.2 The Minister is not obliged to support the Government in the Parliament nor to vote with the Government in relation to:
  - 5.2.1 matters about which he has absented himself from Cabinet; or
  - 5.2.2 votes concerning Issues about which he has given notice to the Premier (unless he has voted in Cabinet in relation to that Issue).
- 5.3 Notwithstanding clauses 3 and 5 of this Agreement, the Minister agrees that for so long as the Minister shall remain a Minister in the Rann Government, the Minister will support the Government in relation to any "confidence" motion in the South Australian House of Assembly.

**6. EFFECT OF AGREEMENT**

The parties acknowledge that this Agreement represents their understandings and intentions, but that neither party is thereby constrained from acting in what he perceives at the time to be the best interests of the State of South Australia. However, both parties undertake, so far as is consistent with their duty, that before taking any action to bring this Agreement to an end that party will communicate with the other with a view to reaching some accommodation consistent with the intent and purpose of this Agreement.



.....  
Hon Mike Rann, MP  
Premier of South Australia



.....  
Rory McEwen MP  
Member for Mount Gambier