



LOCAL GOVERNMENT (REFORM) AMENDMENT ACT 1992

No. 29 of 1992

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ANNO QUADRAGESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1992

No. 29 of 1992

An Act to amend the Local Government Act 1934 and to make related amendments to the Subordinate Legislation Act 1978.

[Assented to 21 May 1992]

The Parliament of South Australia enacts as follows:

Short title

- 1. (1) This Act may be cited as the *Local Government (Reform) Amendment Act 1992*.
- (2) The *Local Government Act 1934* is referred to in this Act as “the principal Act”.

Commencement

- 2. (1) Subject to subsections (2) and (3), this Act will come into operation on a day to be fixed by proclamation.
- (2) Sections 4, 6 and 12 will come into operation on 1 July 1992.
- (3) Section 28 will come into operation on assent.

Amendment of s. 5—Interpretation

- 3. Section 5 of the principal Act is amended—
 - (a) by striking out from subsection (1) the definition of “the Commission”;
 - and
 - (b) by inserting after subsection (5) the following subsection:
 - (6) For the purposes of this Act, a reference to a chairperson, when used in relation to a council that does not have a mayor, will be taken to be a reference to the principal member of the council.

Substitution of Divisions

- 4. Divisions I to XII (inclusive) of Part II of the principal Act, and the headings to those Divisions, are repealed and the following Divisions are substituted:

DIVISION I—CONSTITUTION OF COUNCILS

Constitution of councils

6. (1) A council may be constituted in relation to any part of the State by proclamation.

(2) A proclamation under subsection (1) must—

(a) determine whether the council is to be a municipal council or a district council;

(b) assign a name to the area of the council;

and

(c) assign a name to the council.

(3) In addition to the matters referred to in subsection (2), the proclamation under subsection (1), or a subsequent proclamation, must—

(a) determine whether the council is to have a mayor or a chairperson;

(b) determine the number of councillors who are to constitute, or to be included in, the membership of the council;

(c) determine whether the area is to be divided into wards and, if so—

(i) determine the boundaries of each ward, the name of each ward, and the number of councillors to be elected for each ward (which number may vary from ward to ward);

and

(ii) determine whether the membership of the council is to include aldermen and, if so, how many;

and

(d) appoint, or provide for the election of, the first members of the council.

(4) If a proclamation makes provision for the appointment of the first members of the council, the proclamation, or a subsequent proclamation, may also make provision for the first election of members of that council.

DIVISION II—AMALGAMATION OF COUNCILS

Amalgamation of councils

7. (1) Two or more councils may be amalgamated by proclamation.

(2) An amalgamation may, according to the terms of the proclamation, result in the formation of a single council or of two or more councils (being a lesser number than the number of councils subject to amalgamation).

(3) A proclamation under subsection (1) must—

(a) define the area in relation to which the council to be formed by the amalgamation or each such council is to be constituted;

(b) determine in relation to the council to be formed by the amalgamation or each such council whether it is to be a municipal council or a district council;

(c) assign a name to the area of the council or each of the councils to be formed by the amalgamation;

and

(d) assign a name to the council or each of the councils to be formed by the amalgamation.

(4) In addition to the matters referred to in subsection (3), the proclamation under subsection (1), or a subsequent proclamation, must—

(a) determine in relation to the council to be formed by the amalgamation or each such council—

(i) whether it is to have a mayor or a chairperson;

and

(ii) the number of councillors who are to constitute, or to be included in, its membership;

(b) determine in relation to the council to be formed by the amalgamation or each such council whether its area is to be divided into wards and, if so—

(i) determine the boundaries of each ward, the name of each ward, and the number of councillors to be elected for each ward (which number may vary from ward to ward);

and

(ii) determine whether the membership of the council is to include aldermen and, if so, how many;

(c) appoint, or make provision for the election of, the first members of the council to be formed by the amalgamation or each such council;

and

(d) except where the councils that are to be amalgamated under this section employ the same method of assessing rateable property throughout their combined areas—determine the method or methods of assessment to apply in relation to the council to be formed by the amalgamation or each such council.

(5) If a proclamation makes provision for the appointment of the first members of a council, the proclamation, or a subsequent proclamation, may also make provision for the first election of members of that council.

(6) A proclamation under this section may—

(a) make any provision in relation to the by-laws that are to apply in an area in relation to which a council is to be constituted;

and

(b) make, subject to the provisions of any relevant Act, award or industrial agreement, any provision designed to protect the various rights and interests of the officers and employees of the councils which are to be amalgamated under this section.

(7) Where two or more councils are amalgamated under this section so as to form a single council, the rights and liabilities of the councils subject to the amalgamation are, on the amalgamation, vested in or attached to the council formed by the amalgamation.

(8) Where three or more councils are amalgamated under this section so as to form more than one council, the rights and liabilities of the councils subject to the amalgamation are, on the amalgamation, apportioned between the councils formed by the amalgamation in such manner as is specified by proclamation.

DIVISION III—ALTERATION OF THE BOUNDARIES OF COUNCIL AREAS

Alteration of the boundaries of council areas

8. (1) The boundaries of the area of a council may be altered by proclamation.
- (2) Where the alteration of boundaries affects the areas of two or more councils, the proclamation under subsection (1), or a subsequent proclamation, may—
- (a) make, or make provision for, an adjustment of rights and liabilities as between those councils;
 - (b) make any special provision that may be necessary or desirable in relation to the by-laws that are to apply in parts of the areas affected by the alteration of boundaries.

DIVISION IV—ABOLITION OF COUNCILS

Abolition of councils

9. (1) A council may be abolished by proclamation.
- (2) If the Governor so directs by the proclamation abolishing a council, the rights and liabilities of the council, as at the date of abolition, vest in, or attach to, some other council or councils named in the proclamation or, if no such direction is given, they vest in, or attach to, the Crown.

DIVISION V—ALTERATION OF THE COMPOSITION OF A COUNCIL

Alteration of the composition of a council

10. (1) The following changes may be made in relation to the composition of a council:
- (a) where a council has a chairperson—that office may be replaced by the office of mayor;
 - (b) where a council has no aldermen but its area is divided into wards—provision may be made for one or more aldermen;
 - (c) where a council has aldermen—the office of aldermen may be abolished or the number of aldermen increased or decreased;
 - (d) the number of councillors for an area, or for each or any ward in an area, may be increased or decreased;
 - (e) where a new ward or wards are formed in the area of a council—provision may be made for the numbers of councillors for the new ward or each new ward (which number may vary from ward to ward);
 - (f) where the division of the area of a council into wards is abolished—provision may be made for the number of councillors for the area.
- (2) A change under this section may be effected—
- (a) by proclamation;
- or
- (b) by notice published by the council in the *Gazette* pursuant to Division XI.
- (3) Where the Governor—
- (a) makes a proclamation under this section providing for new or additional offices in the membership of a council;

and

(b) thinks it desirable to fill those offices by making appointments under this subsection,

the Governor may, by the same or a subsequent proclamation, appoint the first persons to fill those offices.

DIVISION VI—FORMATION, ALTERATION OR ABOLITION OF WARDS

Formation, alteration or abolition of wards

11. (1) The following changes may be made in relation to the division of a council into wards:

(a) the area of a council may be divided into wards;

(b) the area of a council may be redivided into wards, or the division of an area into wards may be altered, including, where land is added to an area as a result of the alteration of its boundaries—

(i) the constitution of the additional land, or part of it, as an additional ward or wards;

(ii) the incorporation of the additional land, or part of it, within an existing ward or existing wards;

(c) the division of an area into wards may be abolished.

(2) A change under this section may be effected—

(a) by proclamation;

or

(b) by notice published by the council in the *Gazette* pursuant to Division XI.

(3) A proclamation or notice under subsection (2) may assign a name to a ward created by the proclamation or notice.

DIVISION VII—STATUS OF A COUNCIL

Status of a council

12. (1) A district council may be changed to a municipal council and a municipal council may be changed to a district council.

(2) A change under this section may be effected—

(a) by proclamation;

or

(b) by notice published by the council in the *Gazette* pursuant to Division XI.

DIVISION VIII—NAMES

Names

13. The name of a council, the name of the area of a council, or the name of a ward of a council, may be changed—

(a) by proclamation;

or

(b) by notice published by the council in the *Gazette* pursuant to Division XI.

DIVISION IX—OBJECTS AND PRINCIPLES

Objects and principles

14. (1) The objects of local government include—

- (a) to provide an informed and responsible decision-maker in the interests of developing the community and its resources in a socially just and environmentally sustainable manner;
 - (b) to ensure a responsive and effective provider and co-ordinator of public services at the local level;
 - (c) to provide an initiator and promoter of effort within a local community;
- and
- (d) to represent the interests of a local community to the wider community,

and these objects must be taken into account, as far as practicable, in the formulation of a proposal under this Part.

(2) The following principles must be taken into account, as far as practicable, in the formulation of a proposal under this Part that relates to the composition of a council, or to the boundaries of a ward of a council:

- (a) the desirability of reflecting communities of interest of an economic, social, regional or other kind;
- (b) the population of each area or ward affected or envisaged by the proposal;
- (c) the topography of each area or ward affected or envisaged by the proposal;
- (d) the feasibility of communication between electors affected by the proposal and their elected representatives;
- (e) the nature of substantial demographic changes that may occur in the foreseeable future;
- (f) the total size and composition of the council in relation to the total number of electors in order to ensure adequate and fair representation.

(3) Any proposal that relates to the formation or alteration of wards of a council must observe the principle that the number of electors represented by a councillor must not, as at the relevant date (assuming that the proposal were in operation), vary from the ward quota by more than 10 per cent and, for the purposes of this subsection—

- (a) if it is proposed that two or more councillors represent a particular ward, the number of electors represented by each councillor will be taken to be the number of electors for the ward (as at the relevant date) divided by the number of proposed councillors for the ward (ignoring any fractions that result from the division);
- (b) the ward quota will be taken to be the number of electors for the area (as at the relevant date) divided by the number of councillors for the area (assuming that the proposal were in operation and ignoring any fractions that result from the division);

and

- (c) the relevant date, in relation to a proposal that relates to the formation or alteration of wards of a council, will be taken to be the date on which the proposal is finalized under this Part for presentation to the Governor, or for referral to the Electoral Commissioner (as the case may be).

(4) The 10 per cent tolerance referred to in subsection (3) may be exceeded if, on the basis of demographic changes predicted by a Commonwealth or State government agency, it appears that the ward quota will not, as at the next periodical elections, be exceeded by more than 10 per cent (the relevant date in this case being the date of the next periodical elections).

DIVISION X—PROVISIONS AS TO MAKING OF PROCLAMATIONS

Proclamations

15. (1) The Governor may make a proclamation under any of the preceding Divisions of this Part—

(a) in pursuance of an address from both Houses of Parliament;

or

(b) in pursuance of a proposal recommended under subdivision 1 of Division XI.

(2) If the Governor by proclamation under Division I or II makes provision for the appointment or election of the members of a council, the Governor may also, by proclamation, cancel (for a particular year) the holding of periodical elections for the council.

(3) Subsection (1) extends to a proclamation under subsection (2).

(4) Matters for which provision may be made by proclamations under separate provisions of this Part may, if the Governor thinks fit, be provided for by the same proclamation.

(5) A proclamation under this Part may also make provision for any related or ancillary matter necessary, desirable or expedient in view of the circumstances of the particular case.

(6) The provisions of a proclamation under this Part have effect as from the date or dates fixed in the proclamation or, if no date or dates are so fixed, as from the date of the publication of the proclamation.

(7) No proclamation purporting to be made under this Part, and within the powers conferred on the Governor under this Act, is invalid on account of any non-compliance with any of the matters required by this Act as preliminary to the proclamation.

DIVISION XI—FORMULATION OF PROPOSALS (OTHER THAN BY PARLIAMENT)

Subdivision 1—Creation, amalgamation, boundaries or abolition of a council

Application of subdivision

16. (1) This subdivision applies to a proposal that relates to—

(a) the constitution of a council (Division I);

(b) the amalgamation of two or more councils (Division II);

(c) the alteration of the boundaries of a council area (Division III);

or

(d) the abolition of a council (Division IV).

(2) A proposal to which this subdivision applies may incorporate a proposal to—

(a) alter the composition of a council;

(b) form, alter or abolish any ward of a council;

(c) alter the status of a council;

or

(d) alter the name of a council, the name of the area of a council, or the name of a ward of a council,

(without the need to comply with subdivisions 2 or 3).

Initiation of proposal

17. (1) A proposal to which this subdivision applies may be initiated—

(a) where the proposal relates to an area or a portion of an area—

(i) if it only affects one area—by the council for the area;

(ii) if it affects two or more areas—by all of the councils for those areas;

or

(iii) in any event—by 10 per cent or more of the electors for an area affected by the proposal or, if the proposal directly affects a portion of the area of a council (but not the whole area), by 25 per cent or more of the electors for that portion (whether or not the proposal affects any other portion or any other area);

(b) where the proposal relates to a part of the State that is not within the area of a council—by 10 per cent or more of the persons who would, if the part were within an area, be electors for the area;

or

(c) where the proposal relates to a part of the State that is partly within an area and partly outside an area—

(i) if it only affects one area—by the council for the area;

(ii) if it affects two or more areas—by all of the councils for those areas;

or

(iii) in any event—by 10 per cent or more of the persons who would, if the part were a distinct area, be electors for the area.

(2) For the purposes of subsection (1), a person is an elector for portion of an area if enrolled on the voters roll for the area as an elector in respect of a place of residence or rateable property within that portion of the area.

(3) A proposal initiated other than by a council (or councils) must nominate three persons who are willing to represent the interests of persons who would be directly affected by the proposal.

(4) A proposal must—

(a) set out in general terms its proposed nature and effect;

and

(b) comply with any guidelines published by the Local Government Association of South Australia in the *Gazette*.

Constitution of special panel

18. (1) Subject to subsection (2), a proposal initiated under this subdivision must be referred to the Local Government Association of South Australia for the constitution of a panel of four persons to deal with the proposal in accordance with this section.

(2) The Local Government Association of South Australia is not required to constitute a panel if, in its opinion, a previous proposal to the same or similar effect has been reported on by another panel within three years before the date of the referral of the proposal to the Local Government Association of South Australia.

(3) A panel will consist of—

- (a) a member or former member of a council nominated by the Local Government Association of South Australia as the presiding member of the panel;
- (b) a person with extensive experience in management or financial matters (other than a member or an officer of a council) nominated by the Minister;
- (c) the chief executive officer of a council or a person (other than a chief executive officer of a council) with extensive experience in local government administration, nominated by the Local Government Association of South Australia;

and

(d) a person nominated by the United Trades and Labor Council after consultation with—

- (i) the Australian Services Union (South Australian and Northern Territory Branch);

and

- (ii) the Australian Workers Union (South Australian Branch).

(4) A person is disqualified from appointment to a panel, or from continuing to act as a member of a panel, if—

- (a) in the case of a person appointed under subsection (3) (a), (b) or (c)—the person has at any time been employed or engaged by a council affected by the proposal;
- (b) in the case of a person appointed under subsection (3) (d)—the person has within the previous 12 months been employed or engaged by such a council;
- (c) the person is, or becomes, a member or officer of such a council;
- (d) the person holds, or accepts, any other remunerated office with such a council;

or

(e) the person is, or becomes, interested (directly or indirectly) in a contract with such a council.

(5) A person will not be regarded as having an interest in a contract with a council if the interest exists only by reason of the fact that the person is a director or shareholder in a company with 20 or more shareholders that is a party to, or otherwise interested in, the contract.

(6) The following provisions apply in relation to the practices and procedures of a panel under this subdivision:

- (a) a quorum at a meeting of the panel is three;

- (b) the presiding member will preside at meetings of the panel or, in the absence of that member, a member chosen by those present will preside;
- (c) each member present at a meeting of the panel has one vote on any question arising for decision (and, in the event of an equality of votes, the member presiding at the meeting does not have a second or casting vote);
- (d) the panel must have accurate records kept of its proceedings and decisions;
- (e) if a member of the panel dies or is for any other reason unable to act or continue as a member, the person or body that nominated the member must nominate another person to replace that member (and the proceedings will not be affected by the fact that a member has been replaced);
- (f) subject to this section, the panel may determine its own procedures.

(7) Subject to subsection (8)—

- (a) a member of the panel, other than the member appointed by the Minister, is entitled to allowances and expenses determined by the Local Government Association of South Australia after consultation with the council or councils affected by the proposal, and those allowances and expenses will be payable by that council or those councils according to a determination of the Local Government Association of South Australia;

and

- (b) any council affected by the proposal must, at the request of the panel, to such extent as may be reasonable in the circumstances, allow the panel to make use of the staff and facilities of the council.

(8) Where a proposal relates to the constitution of a council for a part of the State that is not within the area of a council—

- (a) the allowances and expenses to which a member of the panel is entitled;
- (b) the responsibility for the payment of those allowances and expenses;

and

- (c) the provision of services and facilities to the panel,

will be as determined by agreement between the Minister and the Local Government Association of South Australia.

(9) No liability attaches to a member of a panel for an act or omission by the member in good faith and in the exercise, performance or discharge, or purported exercise, performance or discharge, of powers, functions or duties under this subdivision.

Representatives of parties

19. (1) The following persons are entitled to act as representatives of the parties to the proposal:

- (a) a representative of each council affected by the proposal;
- (b) any person nominated under section 17 (3);

and

- (c) unless the proposal affects two or more councils—a representative of the local government sector nominated by the Local Government Association of South Australia.

(2) A legally qualified person is not entitled to act as a representative.

(3) For the purposes of subsection (1)—

(a) a representative under subsection (1) (a) or (c) may be appointed or nominated from time to time;

and

(b) if a person referred to in subsection (1) (b) dies or is for any other reason unable to continue to act as a representative, the panel may appoint a suitable person to replace him or her.

Consideration of proposal

20. (1) The panel will oversee the preparation of a report on the proposal by the representatives of the parties referred to in section 19.

(2) The purpose of the report is to facilitate the assessment of the proposal by examining the advantages and disadvantages of the proposal.

(3) The report must (insofar as is relevant to the subject-matter of the proposal)—

(a) take into account the objects and principles set out in Division IX;

(b) examine the effect that the proposal might have on—

(i) communities of interest and local community groups;

(ii) the provision of services;

(iii) the representation of electors;

(iv) the ability of a member of the local community to gain access to his or her council;

(v) the revenue, expenditure and net financial position of any council affected or envisaged by the proposal;

(vi) the officers and employees of any council affected by the proposal, including the effect that the proposal might have on tenure, remuneration, conditions of service and the place of work of those officers and employees;

and

(c) if the proposal affects two or more councils—address the adjustment of rights and liabilities between those councils,

and may refer to or discuss such other matters as may be appropriate to assist in the assessment of the proposal.

(4) When the report has been prepared to the satisfaction of the panel, the representatives of the parties must, to the satisfaction of the panel, undertake or initiate a programme of—

(a) public consultation;

and

(b) consultation with any organization or association that represents persons who have a particular interest in the matter (whether as ratepayers or residents, officers or employees of a council, employers within the local community, persons who are interested in relevant environmental issues, or otherwise),

on the proposal (using the report as the basis for this consultation).

(5) Any costs reasonably incurred under subsection (4)—

- (a) unless paragraph (b) applies—will be payable by the council or councils affected by the proposal according to a determination of the panel;
- (b) if the proposal relates to the constitution of a council for a part of the State that is not within the area of a council—will be payable in accordance with an agreement between the Minister and the Local Government Association of South Australia.
- (6) The panel must then prepare a report on the outcome of the consultation and its recommendations in relation to the proposal.
- (7) The representatives of the parties must, at the request of the panel, assist the panel in its preparation of the report.
- (8) The panel may recommend in its report—
- (a) that the proposal be carried into effect;
- (b) that some alternative proposal be carried into effect;
- or
- (c) that the proposal should not be carried into effect,
- (including in its report such related or ancillary recommendations as it thinks fit).
- (9) The report must, at the request of a member of the panel who is in the minority on any recommendation of the panel, outline any such minority opinion.
- (10) Before the panel may recommend an alternative proposal that in the opinion of the panel differs significantly from the original proposal, it must initiate a further programme of—
- (a) public consultation;
- and
- (b) consultation with any organization or association that represents persons who have a particular interest in the matter (whether as ratepayers or residents, officers or employees of a council, employers within the local community, persons who are interested in relevant environmental issues, or otherwise),
- (to be undertaken by the representatives of the parties).
- (11) If a representative of a party expresses serious opposition to a recommendation of the panel that a proposal, or some alternative proposal, be carried into effect and the panel and the parties cannot resolve the matter within a reasonable time, then, subject to subsection (26), the proposal cannot proceed.
- (12) On completion of the processes described above, the panel must—
- (a) make copies of its report available for public inspection at a place or places determined by the panel;
- and
- (b) by public notice—
- (i) inform the public of the completion of the report and its availability;
- and
- (ii) specify a day (being at least eight weeks after publication of the notice in the *Gazette*) before which electors may, if they think fit, demand a poll in relation to the matter.

(13) A member of the public is entitled, on payment of a fee fixed by the panel, to obtain a copy of the report.

(14) If during the period referred to in subsection (12) (b) (ii), 10 per cent or more of the electors for an area affected by a proposal (being either the original proposal or an alternative proposal (if any) recommended by the panel), by petition presented to the presiding member of the panel, demand that a poll be held in relation to the matter, the presiding member must arrange for the poll to be conducted.

(15) Where a poll is to be conducted—

(a) if—

(i) the original proposal was initiated other than by a council (or councils);

(ii) the panel has recommended—

(A) that an alternative proposal be carried into effect;

or

(B) that the proposal not be carried into effect (and the panel has not recommended an alternative);

and

(iii) a person nominated under section 17 (3) has maintained serious opposition to the recommendation under subsection (11),

then—

(iv) if subparagraph (ii) (A) applies—the original proposal, the alternative proposal and a proposal that no change occur must be submitted to the poll;

(v) if subparagraph (ii) (B) applies—the original proposal and a proposal that no change occur must be submitted to the poll;

(b) in any other case, the recommendation of the panel must be submitted to the poll.

(16) The poll will be held in the areas of the councils affected by the original proposal, or by an alternative proposal (if any) recommended by the panel (on a day fixed by the presiding member of the panel in consultation with the councils).

(17) Any question as to the manner in which the poll is to be conducted will be determined by the presiding member of the panel.

(18) The panel must arrange for the preparation of a summary of the arguments for and against any question to be submitted to the poll.

(19) The council for any relevant area must—

(a) publish the summary of arguments in a newspaper circulating in the area of the council;

or

(b) send a copy of the summary to each elector at the address of the elector's place of residence shown in the voters roll,

and copies of the summary must be made available for public inspection at the principal office of the council.

(20) Subject to subsection (21), the councils for the relevant areas must conduct the poll.

(21) A council may arrange for the Electoral Commissioner to conduct the poll within its area.

(22) Where subsection (15) (a) (iv) applies to the poll—

- (a) a ballot paper for the poll must contain three squares, one being clearly differentiated as the square to be marked by voters desiring to vote in favour of the original proposal, one being clearly differentiated as the square to be marked by voters desiring to vote in favour of the alternative proposal, and one being clearly differentiated as the square to be marked by voters desiring to vote in favour of no change;
- (b) a person voting at the poll must make a vote on a ballot paper by placing the number 1 in the square opposite the voter's first preference, the number 2 in the square opposite the voter's second preference, and the number 3 in the square opposite the voter's third preference;

and

(c) the result of the poll will be determined as follows:

- (i) all ballot papers that contain an informal vote will be rejected;
- (ii) the remaining ballot papers will be arranged into three parcels according to the first preference indicated on each ballot paper;
- (iii) the number of ballot papers in each parcel will be counted;
- (iv) the ballot papers in the parcel with the fewest ballot papers must be redistributed to the parcels next in order of the voter's preference;
- (v) the number of ballot papers in the remaining two parcels will be counted;

and

- (vi) the result will be determined according to the parcel with the greatest number of ballot papers.

(23) Where subsection (15) (a) (v) or (b) applies to the poll—

(a) a ballot paper for the poll must contain two squares—

- (i) in the case of subsection (15) (a) (v)—one being clearly differentiated as the square to be marked by voters desiring to vote in favour of the original proposal and the other being clearly differentiated as the square to be marked by voters desiring to vote in favour of no change;
- (ii) in the case of subsection (15) (b)—one being clearly differentiated as the square to be marked by voters desiring to vote in favour of the recommendation and the other being clearly differentiated as the square to be marked by voters desiring to vote against the recommendation;

(b) a person voting at the poll must vote by placing an X on the ballot paper in a square opposite the voter's preference;

and

(c) the result of the poll will be determined as follows:

- (i) all ballot papers that contain an informal vote will be rejected;
- (ii) the remaining ballot papers will be arranged into two parcels according to the vote indicated on each ballot paper;

(iii) the number of ballot papers in each parcel will be counted;

and

(iv) the result will be determined according to the parcel with the greatest number of ballot papers.

(24) A ballot paper is not informal by reason of non-compliance with subsection (22) or (23) if the voter's intention is clearly indicated on the ballot paper.

(25) Subsections (22) and (23) do not preclude the preliminary counting of ballot papers at various polling booths after the close of voting.

(26) If 25 per cent or more of the electors for the relevant area or areas vote at the poll, then the result of the poll (disregarding the area or areas in which the electors are voting) is binding (notwithstanding any opposition under subsection (11)), and the panel must, if necessary, in consultation with the representatives of the parties, revise its report to such extent as is appropriate to enable the outcome of the poll to be brought into effect.

(27) If less than 25 per cent of the electors for the relevant area or areas vote at the poll, the result of the poll is not binding but if a majority of electors voting at the poll indicate opposition to a recommendation of the panel—

(a) the panel must reconsider the recommendation in consultation with the representatives of the parties (and may, if it thinks fit, alter its report);

and

(b) if the panel decides to maintain its recommendation in any event, the panel must set out its reasons for the decision in its report.

Referral of report to Minister

21. After complying with the requirements of the preceding provisions of this subdivision, a panel must forward its report to the Minister, and any proposal for the making of a proclamation under this Part (other than a proposal that cannot proceed by virtue of section 20) must then, as soon as is reasonably practicable after its receipt by the Minister, be referred to the Governor.

Resolution of certain disputes

22. (1) The Local Government Association of South Australia or the Minister may refer any dispute that arises in relation to the implementation of a proposal under this subdivision to the panel that dealt with the proposal or, if that is not reasonably practicable, to another panel constituted by the Local Government Association of South Australia (which other panel may, but need not, include one or more persons who were members of the first panel).

(2) The panel must take such steps as appear appropriate with a view to resolving the dispute and must then report back to the Local Government Association of South Australia or the Minister (as the case may be).

(3) A report under subsection (2) may include a recommendation that a further proclamation be made to resolve the dispute.

(4) The Governor may, by proclamation, give effect to any recommendation under subsection (3).

(5) A proclamation under this section will, if it so provides, be taken to have had effect as from the making of an earlier proclamation under this subdivision.

Subdivision 2—Composition and wards of a council

Application of subdivision

23. (1) This subdivision applies to a proposal that relates to—

(a) the composition of a council (Division V);

or

(b) the formation, alteration or abolition of wards of a council (Division VI).

(2) A proposal to which this subdivision applies may incorporate a proposal to—

(a) alter the status of a council;

or

(b) alter the name of a council, the name of the area of a council, or the name of a ward of a council,

(without the need to comply with subdivision 3).

Initiation of proposal

24. (1) A proposal to which this subdivision applies may be initiated by the relevant council after the completion of a review under this section.

(2) A review may relate to a specific aspect of the composition of the council, or of the wards of the council, or may relate to those matters generally, subject to the qualification that a council must ensure that all aspects of the composition of the council, and the formation, alteration or abolition of wards of the council, are the subject of a review under this subdivision at least once in every seven years.

(3) A council must give public notice of a review and the notice must contain an invitation to interested persons to make written submissions to the council on the subject of the review within six weeks of the date of the notice or such longer period as may be allowed by the notice.

(4) A council must give any person who makes written submissions in response to an invitation under subsection (3) an opportunity to appear personally or by representative before the council or a council committee and to be heard on those submissions.

(5) On completion of the review, the council must prepare a report on the public consultation undertaken by the council and any proposal that the council considers should be carried into effect under this subdivision.

(6) The report must (insofar as is relevant to the subject-matter of the proposal) take into account the objects and principles set out in Division IX.

(7) The council must—

(a) make copies of its report available for public inspection at the principal office of the council;

and

(b) by public notice—

(i) inform the public of the completion of the report and its availability;

and

(ii) invite interested persons to make written submissions to the council on the report within three weeks of the date of the notice or such longer period as may be allowed by the notice.

(8) The council must give any person who makes written submissions in response to an invitation under subsection (7) an opportunity to appear personally or by representative before the council or a council committee and to be heard on those submissions.

(9) The council must then finalize its report (including in its report recommendations with respect to such related or ancillary matters as it thinks fit).

(10) The council must refer the report to the Electoral Commissioner.

(11) On receipt of the report, the Electoral Commissioner must determine whether, in his or her opinion, the requirements of this section have been satisfied and then—

(a) if he or she determines that the requirements have been satisfied—give an appropriate certificate;

or

(b) if he or she determines that the requirements have not been satisfied—refer the matter back to the council together with a written explanation as to why he or she cannot give a certificate under this provision.

(12) The validity of a determination of the Electoral Commissioner under subsection (11) cannot be called into question.

(13) If a certificate is given by the Electoral Commissioner under subsection (11) (a)—

(a) the Electoral Commissioner must specify in the certificate a day by which an appropriate notice (or notices) for the purposes of this Part must be published by the council in the *Gazette*;

and

(b) the council may then, by notice (or notices) in the *Gazette*, provide for the operation of any proposal under this section that it has recommended in its report.

(14) If the matter is referred back to the council under subsection (11) (b), the council—

(a) must take such action as is appropriate in the circumstances (and may, as it thinks fit, alter its report);

and

(b) may then refer the report back to the Electoral Commissioner.

(15) A proposal under this section takes effect as from the day of the first general election held after the expiration of five months from the date of the publication of the relevant notice in the *Gazette*.

(16) If a council—

(a) fails to undertake a review in accordance with this section;

(b) fails to take appropriate action if a matter is referred back to the council by the Electoral Commissioner under subsection (11) (b);

or

(c) fails to publish an appropriate notice in the *Gazette* by the day specified by the Electoral Commissioner in a certificate under this section,

the chief executive officer must refer the matter to the Electoral Commissioner.

Penalty: \$2 000.

(17) On the referral of a matter under subsection (16), the Electoral Commissioner may take such action as, in the circumstances of the particular case, appear appropriate to the Electoral Commissioner and may then, by notice in the *Gazette*, give effect to any proposal that could have been carried into effect by the council under this section.

(18) The Electoral Commissioner may recover from councils any costs reasonably incurred by the Electoral Commissioner in performing his or her functions under this section.

Subdivision 3—Status of a council or change of various names

Application of subdivision

25. This subdivision applies to a proposal that relates to—

(a) the status of a council (Division VII);

or

(b) the name of a council, the name of the area of a council, or the name of a ward of a council (Division VIII).

Initiation of proposal

26. (1) A proposal to which this subdivision applies may be initiated by the relevant council after compliance with the following requirements:

(a) the council must give public notice of the proposal;

(b) the notice must contain an invitation to interested persons to make written submissions to the council on the matter within six weeks of the date of the notice or such longer period as may be allowed by the notice;

and

(c) the council must give any person who makes written submissions in response to an invitation under paragraph (b) an opportunity to appear personally or by representative before the council or a council committee and to be heard on those submissions.

(2) After considering any submissions received, and the outcome of any consultation undertaken, under subsection (1), the council may, by notice in the *Gazette*, according to the nature of the proposal—

(a) —

(i) where the council is a district council—change to a municipal council;

(ii) where the council is a municipal council—change to a district council;

(b) —

(i) change the name of the council;

(ii) change the name of the area of the council;

(iii) change the name of a ward of the council.

(3) A notice published by a council under subsection (2) has effect as from the date or dates fixed in the notice or, if no date or dates are so fixed, as from the date of the publication of the notice.

*Subdivision 4—Ancillary Provisions***Related or ancillary matters**

27. A proposal framed so as to support the exercise of a power under subdivisions 1, 2 or 3 will be taken to be sufficient to also make provision for any related or ancillary matter necessary, desirable or expedient in view of the circumstances of the particular case.

Reports and expiry

28. (1) The Local Government Association of South Australia must, on or before 31 October in each year, deliver to the Minister a report on the operation of this Division during the preceding financial year.

(2) The Minister must cause a copy of the report to be laid before both Houses of Parliament within four sitting days after his or her receipt of the report.

(3) The Minister and the Local Government Association of South Australia must, on or before 31 October 1997, present a report to Parliament on any legislative changes to this Division that appear appropriate in the circumstances.

(4) This Division expires on 30 June 1998.

DIVISION XII—SUPPLEMENTARY PROVISIONS

Error or deficiency in an address, recommendation, notice or proclamation

29. (1) Where, in the opinion of the Governor, there is an error or deficiency in an address from both Houses of Parliament or in a report of a panel constituted by the Local Government Association of South Australia, the Governor may, by proclamation, correct the error or supply the deficiency.

(2) The power conferred by subsection (1) may be exercised notwithstanding that a proclamation has been made under a preceding Division of this Part on the basis of the address or report.

(3) Where, in the opinion of the Governor, there is an error or deficiency in a proclamation under this Part, the Governor may, by subsequent proclamation, correct the error or supply the deficiency.

(4) The Governor may, by proclamation, correct an error or deficiency in a notice of a council under this Part if requested to do so by the council.

(5) A proclamation under this section will, if it so provides, be taken to have had effect as from the making of the address, report, proclamation or notice to which it relates.

Amendment of s. 43—The principal member of council

5. Section 43 of the principal Act is amended by inserting after subsection (1) the following subsection:

(1a) The title of the office of the principal member of a council that does not have a mayor is at the discretion of the council.

Amendment of s. 47—Term of office

6. Section 47 of the principal Act is amended by striking out from subsection (2) "Division V or VII" and substituting "Division V or VI".

Insertion of s. 70b

7. The following section is inserted after section 70a of the principal Act:

Register of interests

70b. (1) Each council must establish a Register of Interests relating to prescribed classes of officers and employees of the council.

(2) The Register must be maintained in accordance with the regulations.

(3) The regulations may make any provision in relation to—

(a) the provision of information for the purposes of the Register;

(b) the disclosure of information contained on the Register;

(c) such other matters as may be necessary or expedient for the purposes of this provision.

Amendment of s. 73—Local Government Superannuation Scheme

8. Section 73 of the principal Act is amended by striking out subsections (1), (2), (3) and (4) and substituting the following subsections:

(1) The scheme known as the *Local Government Superannuation Scheme* (in existence under this section immediately before the commencement of this subsection) continues in existence.

(2) The Local Government Superannuation Board may, by regulation, amend the scheme.

Amendment of s. 74—Local Government Superannuation Board

9. Section 74 of the principal Act is amended by striking out subsection (3) and substituting the following subsections:

(3) The Board consists of six members appointed by the Governor as follows:

(a) two will be persons nominated by the Minister (one being a person with extensive experience in financial matters);

(b) two will be persons nominated by the Local Government Association of South Australia;

(c) one will be a person nominated by the Australian Services Union (South Australian and Northern Territory Branch);

and

(d) one will be a person nominated by the Australian Workers Union (South Australian Branch).

(3a) The Minister may, after consultation with the Local Government Association of South Australia and both of the employee associations referred to in subsection (3), appoint one of the Minister's nominees as the presiding member of the Board.

Amendment of s. 75—Investment of funds

10. Section 75 of the principal Act is amended by striking out "with the approval of the Minister".

Amendment of s. 80—Disclosure of private interests

11. Section 80 of the principal Act is amended by striking out subsection (5) and substituting the following subsections:

(5) Subsection (1) does not apply to matters in relation to which the council has, by a resolution supported at a meeting of the council where at least two-thirds of the members of the council are present, granted an exemption from that subsection.

(6) An exemption under subsection (5)—

(a) cannot be kept confidential under Part V;

and

(b) unless sooner revoked by the council, expires at the first meeting of the council held after the conclusion of the general election next following the granting of the exemption (although the council may, at that or a subsequent meeting, renew the exemption).

Amendment of s. 94—Date of elections

12. Section 94 of the principal Act is amended by striking out subsection (1a).

Amendment of s. 122—Determination of method of counting at elections

13. Section 122 of the principal Act is amended by striking out from subsection (3) (d) “given to the Minister and”.

Amendment of s. 176—Basis of differential rates

14. Section 176 of the principal Act is amended—

(a) by striking out paragraph (d) of subsection (1) and substituting the following paragraph:

(d) on some other basis determined by the council;

and

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

(2) A determination under subsection (1) (d)—

(a) may only be made if—

(i) the council has been formed by the amalgamation of two or more councils, or the boundaries of the area of the council have been altered;

and

(ii) the council has resolved that differential rating under that subsection is appropriate in order to allow rating relativities within the area of the council to be gradually realigned as a result of that amalgamation or alteration;

and

(b) may not apply for more than five financial years or, in the case of an amalgamation, such longer period (if any) as may be specified by a proclamation made for the purposes of the amalgamation under Part II.

Amendment of s. 184—Payment of rates

15. Section 184 of the principal Act is amended by striking out subsection (12) and substituting the following subsection:

(12) A council may, in relation to the payment of separate rates or service rates, by written notice incorporated in an account for the payment of those rates sent to the

principal ratepayer shown in the assessment book in respect of the land at the address shown in the assessment book at least 30 days before any amount is payable in respect of the rates for a particular financial year, impose a requirement that differs from the requirements of this section.

Amendment of s. 194—Certificate of liabilities

16. Section 194 of the principal Act is amended by striking out paragraph (e) of subsection (3) and substituting the following paragraph:

(e) must be accompanied by the fee fixed under this Act.

Amendment of s. 195—Fees and charges

17. Section 195 of the principal Act is amended—

(a) by inserting after paragraph (f) of subsection (1) the following paragraph:

(fa) in respect of any matter for which some other Act provides that a fee fixed under this Act is to be payable;;

and

(b) by inserting after subsection (7) the following subsection:

(8) The Local Government Association of South Australia may prepare guidelines relating to the fixing of fees and charges by councils under this section.

Amendment of s. 364—Power of council to construct certain works

18. Section 364 of the principal Act is amended—

(a) by striking out from subsection (1) “, with the consent of the Minister,”;

and

(b) by striking out subsection (2).

Amendment of s. 365—Power of council to authorize certain works

19. Section 365 of the principal Act is amended—

(a) by striking out from subsection (1) “, with the consent of the Minister,”;

(b) by striking out from subsection (2) “, with the consent of the Minister,”;

and

(c) by striking out from subsection (6) “, with the approval of the Minister,”.

Amendment of s. 366—Installation of pipes and equipment

20. Section 366 of the principal Act is amended by striking out from subsection (1) (b) “, with the consent of the Minister,”.

Amendment of s. 375—Power of council to allow persons to fence in and use roads on certain conditions

21. Section 375 of the principal Act is amended—

(a) by striking out subsection (1a);

and

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

(3a) Where it is proposed that a council grant or renew a lease or licence for cultivation purposes under this section, the council must, at least 21 days before resolving to grant or renew the lease or licence—

(a) by notice in a newspaper circulating in the area of the council—

(i) inform the public of the proposed lease or licence (describing the extent to which the road would be enclosed under the lease or licence);

and

(ii) invite interested persons to make written submissions to the council on the proposal within 21 days of the date of the notice or such longer period as may be allowed by the notice;

and

(b) consult with the Department of Recreation and Sport in relation to the matter.

(3b) If a submission is received under subsection (3a) within the time specified under that subsection, the council must consider the submission before deciding whether or not to grant or renew the lease or licence.

Substitution of ss. 668 and 669

22. Sections 668 and 669 of the principal Act are repealed and the following sections are substituted:

Principles to be observed in relation to by-laws

668. (1) A by-law must—

(a) accord with the letter and intent of the enabling Act;

(b) be directed towards the objectives of the provision that authorizes the by-law, and not beyond those objectives;

(c) adopt a means of achieving those objectives that does not unreasonably burden the community;

and

(d) be expressed plainly and in gender neutral language.

(2) A by-law must not—

(a) exceed the power conferred by the Act under which the by-law purports to be made;

(b) be inconsistent with this or any other Act, or with the general law of the State;

(c) without clear and express authority in the enabling Act—

(i) have retrospective effect;

(ii) impose any tax;

(iii) purport to shift the onus of proof to a person accused of an offence;

or

(iv) provide for any further delegation of powers delegated under an Act;

- (d) make unusual or unexpected use of the powers conferred by the Act under which the by-law is made having regard to the general purpose or object of that Act;
 - (e) unreasonably interfere with rights and liberties of the person established by law;
 - (f) unreasonably make rights and liberties of the person dependent on administrative and not judicial decisions;
 - (g) be inconsistent with principles of justice and fairness;
- or
- (h) duplicate, overlap or conflict with other statutory rules or legislation.

(3) If a by-law is inconsistent with any trust that applies to any real or personal property held by the council, the by-law does not, to the extent of the inconsistency, apply in relation to that property.

(4) This section does not affect the validity of a by-law made before the commencement of this section.

Ability to incorporate other material

669. (1) A by-law may apply, adopt or incorporate any matter contained in a document, code, standard or rule formulated, issued, prescribed or published by any authority or body—

- (a) wholly or partially or as amended by the by-law;
 - (b) as formulated, issued, prescribed or published at the time the by-law is made or at any time before then;
- or
- (c) as formulated, issued, prescribed or published from time to time.

(2) If a by-law has applied, adopted or incorporated any matter contained in a document, code, standard or rule as formulated, issued, prescribed or published from time to time and that document, code, standard or rule is amended, the amendment does not have effect for the purposes of the by-law until the council causes notice of the amendment to be published in the *Gazette*.

(3) The council must keep a copy of any document, code, standard or rule applied, adopted or incorporated by a by-law under this section available for public inspection, without charge and during ordinary office hours, at the principal office of the council.

Reference of powers

670. (1) A by-law that provides for the granting or issue of a licence, permit or authority may provide that the licence, permit or authority may be—

- (a) granted or issued subject to compliance with any examination or determination of the council, a council committee or an officer of the council appointed for the purpose by the council;
- or
- (b) granted or issued at the discretion of, or subject to any requirement of, the council, a council committee or an officer of the council appointed for the purpose by the council.

(2) A by-law may provide that any form required for the purposes of the by-law may be determined from time to time by the council.

(3) A by-law may provide that the by-law, or any provision of the by-law, applies only within such portion or portions of the area as the council may determine from time to time.

(4) A resolution cannot be made for the purposes of subsection (3) except at a meeting of the council where at least two-thirds of the members of the council are present.

(5) A council must cause notice of a resolution made for the purposes of subsection (3) to be published in a newspaper circulating in the area of the council.

Passing of by-laws

671. (1) Where it is proposed that a council make a by-law, the council must, at least 21 days before resolving to make the by-law—

(a) make copies of the proposed by-law (and any document, code, standard or rule proposed to be applied, adopted or incorporated by the by-law) available for public inspection, without charge and during ordinary office hours, at the principal office of the council;

and

(b) by notice in a newspaper circulating in the area of the council—

(i) inform the public of the availability of the proposed by-law;

and

(ii) set out in general terms the by-law's nature and effect.

(2) A by-law cannot be made under this Act unless—

(a) the by-law is made at a meeting of the council where at least two-thirds of the members of the council are present;

and

(b) the relevant resolution is supported by an absolute majority of members of the council.

(3) A council must not make a by-law unless or until the council has obtained a certificate, in the prescribed form, signed by a legal practitioner certifying that, in the opinion of the legal practitioner—

(a) the council has power to make the by-law by virtue of a statutory power specified in the certificate;

and

(b) the by-law is not in conflict with this Act.

(4) Subject to subsection (5), a by-law comes into operation four months after the day on which it is published in the *Gazette* or from such later day or days fixed in the by-law.

(5) A by-law may take effect from an earlier day specified in the by-law if—

(a) it revokes a by-law without making any provision in substitution for that by-law;

(b) it corrects an error or inaccuracy in a by-law;

(c) it is required for the purposes of an Act that will come into operation on assent or less than four months after assent;

or

(d) it confers a benefit on a person (other than the council or an authority of the council) and does not operate so as—

(i) to affect, in a manner prejudicial to any person (other than the council or an authority of the council), the rights of that person existing before the date of commencement of the by-law;

or

(ii) to impose a liability on any person (other than the council or an authority of the council) in respect of anything done or omitted to be done before the date of commencement of the by-law.

Expiry of regulations

672. (1) A by-law will, unless it has already expired or been revoked, expire as follows:

(a) a by-law made before the commencement of this section, and all subsequent by-laws varying that by-law, will expire on 1 January 1996;

(b) a by-law made after the commencement of this section, and all subsequent by-laws varying that by-law, will expire on 1 January of the year following the year in which the seventh anniversary of the day on which the by-law was made falls.

(2) For the purposes of this section, a by-law will be taken to have been made on the day on which it was published in the *Gazette*.

Repeal of ss. 675 and 676

23. Sections 675 and 676 of the principal Act are repealed.

Repeal of ss. 678 and 679

24. Sections 678 and 679 of the principal Act are repealed.

Insertion of s. 685

25. The following section is inserted immediately after section 684 of the principal Act:

Model by-laws prepared by the L.G.A.

685. The Local Government Association of South Australia may prepare model by-laws with a view to their adoption by councils under this Act.

Amendment of s. 855c—Constructions over or under roads

26. Section 855c of the principal Act is amended by striking out “(but subject to the consent of the Minister and in accordance with any condition expressed in the Minister’s consent)”.

Amendment of s. 874—Certified copies of by-laws

27. Section 874 of the principal Act is amended by striking out from subsection (3) “679” twice occurring and substituting, in each case, “670 (3)”.

Transitional provisions

28. (1) Subject to subsection (2), no proposal may be referred to the Commission after the proclaimed day.

(2) Subsection (1) does not apply to a proposal contained in a report of a council under section 28 of the principal Act (as in force immediately before the enactment of this Act) if the report is given to the Minister within one month after the proclaimed day.

(3) The following provisions apply in relation to proceedings before the Commission on 1 June 1992 that relate to the report of a council under section 28 of the principal Act (as in force immediately before the enactment of this Act):

- (a) the proceedings may, according to the determination of the council—
- (i) continue before the Commission;
 - or
 - (ii) be referred to the Electoral Commissioner,
- (but if no determination is made by the council by 1 July 1992, the council will be taken to have determined that the proceedings continue before the Commission);
- (b) if the council determines that the proceedings are to continue before the Commission—
- (i) the costs of the proceedings from 1 July 1992 will be payable by the council (and any question as to the amount payable will be determined by the Under-Treasurer);
- and
- (ii) the proceedings may be dealt with by the Commission, and any consequential recommendation may be the subject of a proclamation by the Governor, as if this Act had not been enacted;
- (c) if the council determines that the proceedings are to be referred to the Electoral Commissioner—
- (i) the proceedings will be referred on 1 July 1992;
 - (ii) the matter may proceed as if it had been referred to the Electoral Commissioner under section 24 of the principal Act (as enacted by this Act);
- and
- (iii) the Electoral Commissioner may give directions (which will have effect according to their terms) as to the procedures to be followed to determine the matter under section 24 (including directions varying a procedure prescribed by section 24).

(4) The following provisions apply in relation to proceedings before the Commission on 1 June 1992 (other than proceedings that are subject to the operation of subsection (3)):

- (a) the parties to the proceedings may agree that the proceedings—
- (i) continue before the Commission;
 - (ii) be transferred to a panel constituted under section 18 of the principal Act (as enacted by this Act);
- or
- (iii) lapse;
- (b) if the parties agree that the proceedings are to continue before the Commission—
- (i) the costs of the proceedings from 1 July 1992 will be payable by the council or councils to which those proceedings relate (and any dispute as to the amount payable by a particular council will be determined by the Under-Treasurer);
- and

- (ii) the proceedings may be dealt with by the Commission, and any consequential recommendation may be the subject of a proclamation by the Governor, as if this Act had not been enacted;
- (c) if the parties agree that the proceedings be transferred to a panel constituted under section 18 of the principal Act (as enacted by this Act)—
- (i) the Local Government Association of South Australia will constitute a panel to deal with the matter as if a proposal had been referred to it under section 18 (as enacted by this Act);
 - (ii) the Local Government Association of South Australia will determine who is to act as representatives of the parties to the proposal;
 - (iii) any documents in the possession of the Commission relevant to the determination of the proposal must be transferred to the panel;
- and
- (iv) the panel may give directions (which will have effect according to their terms) as to the procedures to be followed to determine the matter (including directions varying a procedure prescribed by sections 18, 19 or 20);
- and
- (d) if no agreement is reached under paragraph (a) by 1 July 1992, the parties will be taken to have agreed that the proceedings be transferred to a panel under section 18 of the principal Act (as enacted by this Act).
- (5) If a report of a council under section 28 of the principal Act (as in force immediately before the enactment of this Act) is given to the Minister more than one month after the proclaimed day—
- (a) the Minister will refer the report to the Electoral Commissioner;
 - (b) from 1 July 1992 the matter may proceed as if it had been referred to the Electoral Commissioner under section 24 of the principal Act (as enacted by this Act);
- and
- (c) the Electoral Commissioner may give directions (which will have effect according to their terms) as to the procedures to be followed to determine the matter (including directions varying a procedure prescribed by section 24).
- (6) Any recommendation of the Commission made before 1 July 1992 may be the subject of a proclamation by the Governor as if this Act had not been enacted.
- (7) The Local Government Association of South Australia is not required to refer a proposal to a panel under section 18 of the principal Act (as enacted by this Act) if in its opinion a previous proposal of the same or a similar effect has been reported on by the Commission since 1 July 1989.
- (8) In this section—
- “**the Commission**” means the Local Government Advisory Commission;
- “**the proclaimed day**” means a day declared by proclamation to be the proclaimed day for the purposes of this section.

SCHEDULE

Amendment of the Subordinate Legislation Act 1978

The *Subordinate Legislation Act 1978* is amended—

(a) by striking out from the definition of “regulation” in section 4 “, other than a by-law made under the *Local Government Act, 1934-1977*”;

and

(b) by inserting after paragraph (a) of section 16a the following paragraph:

(ab) any of the following made under the *Local Government Act 1934*:

(i) by-laws;

(ii) regulations made by the Local Government Superannuation Board;

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

ROMA MITCHELL Governor