



LOCAL GOVERNMENT (MISCELLANEOUS) AMENDMENT ACT 1997

No. 66 of 1997

SUMMARY OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of s. 21—Formulation of proposals by the Board
4. Amendment of s. 22E—Protection from proceedings
5. Amendment of s. 22G—Expiry of Division
6. Amendment of s. 34—The Local Government Association of South Australia
7. Amendment of s. 34a—Local government indemnity schemes
8. Amendment of s. 73—Local Government Superannuation Scheme
9. Amendment of s. 83—Powers of authorized persons
10. Amendment of s. 171—Valuation of land for the purposes of rating
11. Amendment of s. 172—Valuation of land
12. Amendment of s. 173—Objections to valuations made by council
13. Amendment of s. 174A—Limitation on general rates—1997/1998 and 1998/1999 financial years
14. Insertion of s. 201
 201. Application of Subordinate Legislation Act to rules
15. Amendment of s. 721—Differences between councils
16. Amendment of s. 748a—Depositing of rubbish, etc.
17. Amendment of s. 748b—Apparently abandoned vehicles and farm implements



ANNO QUADRAGESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1997

No. 66 of 1997

An Act to amend the Local Government Act 1934.

[Assented to 7 August 1997]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Local Government (Miscellaneous) Amendment Act 1997*.

(2) The *Local Government Act 1934* is referred to in this Act as "the principal Act".

Commencement

2. (1) This Act, other than sections 11(c) and 12(b) and (c), will come into operation on the date of assent to this Act.

(2) Sections 11(c) and 12(b) and (c) will come into operation on a day to be fixed by proclamation.

Amendment of s. 21—Formulation of proposals by the Board

3. Section 21 of the principal Act is amended by inserting at the end of that section the following subsections:

(17) The Board must not exercise its power to formulate a structural reform proposal under this section after 30 September 1997.

(18) However, subsection (17) does not affect a proposal (or the powers of the Board in relation to a proposal or any process or procedure under this Act in relation to a proposal) if—

(a) the proposal is the subject of a public notice under subsection (5) on or before 30 September 1997; or

(b) the proposal is an alternative proposal under subsection (10) where the original proposal is the subject of a public notice under subsection (5) on or before 30 September 1997; or

- (c) the proposal is a new proposal under subsection (15) where the original proposal is the subject of a public notice under subsection (5) on or before 30 September 1997.

Amendment of s. 22E—Protection from proceedings

4. Section 22E of the principal Act is amended by striking out from subsection (2)(b) "18(3)" and substituting "18(4)".

Amendment of s. 22G—Expiry of Division

5. Section 22G of the principal Act is amended by striking out "1997" and substituting "1998".

Amendment of s. 34—The Local Government Association of South Australia

6. Section 34 of the principal Act is amended by inserting after subsection (4) the following subsection:

(5) The *Subordinate Legislation Act 1978* does not apply to the constitution or rules of the Association.

Amendment of s. 34a—Local government indemnity schemes

7. Section 34a of the principal Act is amended by inserting after subsection (8) the following subsection:

(9) The *Subordinate Legislation Act 1978* does not apply to the rules of a scheme under this section.

Amendment of s. 73—Local Government Superannuation Scheme

8. Section 73 of the principal Act is amended by inserting after paragraph (d) of subsection (4) the following paragraph:

(da) it confers a benefit or right on a person (other than the Local Government Superannuation Board); or.

Amendment of s. 83—Powers of authorized persons

9. Section 83 of the principal Act is amended by striking out paragraph (a) of subsection (1) and substituting the following paragraph:

(a) require a person whom the authorized person reasonably suspects to have committed, or to be committing or about to commit, a breach of this Act to state the person's full name and address and to produce evidence of the person's identity;.

Amendment of s. 171—Valuation of land for the purposes of rating

10. Section 171 of the principal Act is amended—

(a) by striking out from paragraph (b) of subsection (2) "licensed";

(b) by striking out from paragraph (b) of subsection (3) "licensed";

(c) by inserting after subsection (4) the following subsection:

(5) A valuer employed or engaged by a council for the purposes of this section must be a person who is able to act as a land valuer under the *Land Valuers Act 1994*.

Amendment of s. 172—Valuation of land

11. Section 172 of the principal Act is amended—

- (a) by striking out from subsection (2) "licensed valuer" and substituting "valuer who is able to act as a land valuer under the *Land Valuers Act 1994*";
- (b) by striking out from subsection (3) "licensed" twice occurring;
- (c) by striking out from paragraph (c) of subsection (3) "the owner of the land" and substituting "the principal ratepayer in respect of the land".

Amendment of s. 173—Objections to valuations made by council

12. Section 173 of the principal Act is amended—

- (a) by striking out from subsection (1) "licensed";
- (b) by striking out paragraph (b) of subsection (3) and substituting the following paragraph:
 - (b) must be made—
 - (i) within 60 days after the date of service of the notice of the valuation to which the objection relates; or
 - (ii) by 30 September in the financial year in which the notice is served; or
 - (iii) if notice of the valuation is given in an account or notice for rates in respect of a financial year and that account or notice is served in the preceding financial year—by 30 September in the financial year following the financial year in which the account or notice is served,whichever is the later (unless the council, in its discretion, allows an extension of time for making the objection).;
- (c) by inserting after subsection (3) the following subsection:
 - (3a) For the purposes of determining the period within which an objection to a valuation must be made—
 - (a) a notice of the valuation sent by post to a person at the address for the person shown in the assessment book will be taken to be served at that address at the end of the second day after the day on which it was sent by post unless it is proved that it was not delivered to that address at all; and
 - (b) an apparently genuine document purporting to be issued by a council and to certify that a specified notice was sent by post on a specified day to a specified person at a specified address will, in the absence of proof to the contrary, constitute proof of the matters so certified.;
- (d) by striking out from subsections (9), (10) and (11) "licensed", wherever occurring.

Amendment of s. 174A—Limitation on general rates—1997/1998 and 1998/1999 financial years

13. Section 174A of the principal Act is amended—

(a) by inserting before paragraph *(a)* of subsection (2) the following paragraph:

(aa) for the purposes of subsection (1), the following may be disregarded:

- (i)* an amount that represents additional revenue to a council due to growth in value that has occurred in relation to land in the area of the council in the 1995/1996 financial year, or a subsequent year, other than—
 - (A)* growth attributable to the improvement of domestic premises existing at the beginning of the relevant financial year; and
 - (B)* growth attributable to changes in the market for land in the area; and
- (ii)* an amount that represents additional revenue to a council due to general rates being charged on land in the area of the council that was not rateable in the 1995/1996 financial year (and that became rateable in the 1996/1997 financial year, or a subsequent financial year);;

(b) by inserting after subsection (2) the following subsections:

(2a) For the purposes of subsection (2)*(aa)**(i)*—

- (a)* growth attributable to the completion of previously uncompleted domestic premises is excluded from the operation of subsection (2)*(aa)**(i)**(A)*; and
- (b)* information provided to a council under this subsection by—
 - (i)* the Valuer-General; or
 - (ii)* in the case of a council that does not propose to adopt valuations made by the Valuer-General for the relevant financial year—a valuer employed or engaged by the council,

after consultation with the council will be taken to represent an acceptable basis for determining—

- (iii)* growth in value that has occurred in relation to land in the area of the council in a particular financial year; and
- (iv)* growth attributable to the improvement of domestic premises in a particular financial year; and
- (v)* growth attributable to changes in the market for land in the area of the council in a particular financial year; and

- (c) the Governor may, by regulation, prescribe other principles and assumptions that must be applied by councils in connection with the operation of that subsection.

(2b) A regulation cannot be made under subsection (2a)(c) except after consultation by the Minister with the Local Government Association of South Australia.

Insertion of s. 201

14. The following section is inserted in Part XIII of the principal Act after section 200:

Application of Subordinate Legislation Act to rules

201. (1) Subject to subsection (2), Part 2 of the *Subordinate Legislation Act 1978*, other than section 10AA, applies to the rules of a controlling authority under this Part.

(2) The *Subordinate Legislation Act 1978* does not apply to the rules of—

- (a) a controlling authority prescribed by the regulations; or
- (b) a controlling authority of a class prescribed by the regulations.

Amendment of s. 721—Differences between councils

15. Section 721 of the principal Act is amended—

(a) by striking out from subsection (1) "the Minister or";

(b) by inserting after subsection (1) the following subsections:

(1a) The Minister must, before making an appointment under subsection (1), provide to the councils that are parties to the proceedings the name of the person whom the Minister intends to appoint and give those councils a reasonable opportunity to make submissions to the Minister on the matter (and the Minister may then appoint a person (being either the person whose name was provided to the councils, or another person) as the Minister thinks fit).

(1b) No interim action can be taken by the Minister on a petition while the appointment of a person is under consideration under subsections (1) and (1a).;

(c) by striking out from subsection (2) "Minister or person appointed by the Minister may for that purpose" and substituting "person appointed by the Minister under subsection (1) may";

(d) by striking out from subsection (2)(a) "the Minister or";

(e) by striking out from subsection (2)(b) "the Minister or";

(f) by inserting after subsection (2) the following subsections:

(2a) If the person appointed by the Minister makes an order in the proceedings that a council that is a party to the proceedings pay the costs of another council in the matter, then the council against which the order is made must also pay to the Minister an amount determined by the Minister to cover the costs of the proceedings (including the fees and expenses of any person appointed under subsection (1)) (and if an order is made against more than one council then each council against which the order is made must pay to the Minister an equal share of the relevant amount determined by the Minister).

(2b) If an order of the kind referred to in subsection (2a) is not made, each council that is a party to the proceedings must pay to the Minister an equal share of an amount determined by the Minister to cover the costs of the proceedings (including the fees and expenses of any person appointed under subsection (1)).

(2c) An amount payable by a council under subsection (2a) or (2b) is recoverable by the Minister as a debt.;

(g) by striking out from subsection (3) "Minister or".

Amendment of s. 748a—Depositing of rubbish, etc.

16. Section 748a of the principal Act is amended by striking out the penalty provision at the foot of subsection (1) and substituting the following:

Penalty:	\$4 000.
Expiation fee:	\$200.

Amendment of s. 748b—Apparently abandoned vehicles and farm implements

17. Section 748b of the principal Act is amended by striking out the penalty provision at the foot of subsection (1) and substituting the following:

Penalty:	\$4 000.
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In the name and on behalf of Her Majesty, I hereby assent to this Bill.

E. J. NEAL Governor