



ANNO TRICESIMO QUINTO

ELIZABETHAE II REGINAE

A.D. 1986

No. 12 of 1986

An Act to amend the Local Government Act, 1934.

[Assented to 20 March 1986]

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

1. (1) This Act may be cited as the "Local Government Act Amendment Act, 1986". Short title.

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

2. (1) This Act shall come into operation on a day to be fixed by proclamation. Commencement.

(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

3. The following section is inserted after section 34 of the principal Act: Amendment of s. 34—

34a. The Association shall carry on the business of providing workers compensation insurance to councils and any other prescribed body. The Local Government Association of South Australia.

4. Section 47 of the principal Act is amended by striking out from subsection (2) the numerals "VI". Amendment of s. 47—
Term of office.

5. Section 48 of the principal Act is amended by inserting after subsection (3) the following subsection: Amendment of s. 48—
Vacancies.

(4) Where the office of a member of a council becomes vacant under subsection (1), the chief executive officer shall—

(a) notify the Minister as soon as practicable of the vacancy;

and

(b) unless the vacancy occurred under subsection 1 (e) notify the members of the council of the vacancy at the next meeting of the council.

Amendment of
s. 49—
Allowances and
expenses.

6. Section 49 of the principal Act is amended by striking out subsection (5) and substituting the following subsection:

(5) Allowances under this section shall be paid as follows:

- (a) an annual allowance payable to a mayor or chairman may be paid in monthly instalments in advance of each month in respect of which the allowance accrues;
- (b) all other allowances shall be paid on a monthly, quarterly, half-yearly or annual basis as the council determines.

Amendment of
s. 54—
Members to
disclose interests.

7. Section 54 of the principal Act is amended by striking out from paragraph (a) of subsection (4) the word "he" and substituting the passage "the member or a person closely associated with the member, within the meaning of section 53 (2) of this Act,".

Amendment of
s. 63—
Meetings of
electors.

8. Section 63 of the principal Act is amended by striking out subsection (8) and inserting the following subsection:

(8) Each elector present at the meeting shall be entitled to vote, on a question arising for decision at the meeting, in the elector's own capacity and where the elector is a nominated agent in the elector's capacity as nominated agent.

Amendment of
s. 66—
Chief executive
officer.

9. Section 66 of the principal Act is amended—

(a) by inserting after subsection (5) the following subsection:

(5a) A person shall not be appointed under subsection (4) to act in the office of chief executive officer for more than 3 calendar months unless—

(a) the person holds a certificate of registration issued by the Local Government Qualifications Committee in relation to the office of chief executive officer;

or

(b) the appointment has been approved by the Minister.;

and

(b) by striking out from subsection (6) the passage "subsection (5)" and substituting the passage "subsections (5) and (5a)".

Insertion of new
s. 68a.

10. The following section is inserted after section 68 of the principal Act:

Delegation.

68a. (1) The Committee may delegate any of its powers or functions to any member of the Committee, or to an advisory committee or a member of an advisory committee.

(2) A delegation under subsection (1)—

(a) may be made subject to conditions specified in the instrument of delegation;

(b) is revocable at will;

and

(c) does not derogate from the power of the Committee to act itself in any matter.

11. Section 92 of the principal Act is amended—

Amendment of
s. 92—
The voters roll.

(a) by striking out from subsection (2) the word “The” and substituting the passage “Subject to subsection (2a), the”;

and

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

(2a) Where the chief executive officer is satisfied that the inclusion on the voters roll of the address of the place of residence of a person entitled to be enrolled to vote or the address of a place of residence or ratable property (as the case may be) by virtue of which a person is entitled to be enrolled would place at risk the personal safety of that person, a member of that person’s family or any other person, the chief executive officer may suppress the address from the voters roll.

12. Section 101 of the principal Act is amended by inserting after subsection (1) the following subsection:

Amendment of
s. 101—
Appointment of
scrutineers.

(1a) A candidate in the election is not eligible for appointment as a scrutineer.

13. Section 150 of the principal Act is amended by striking out from subsection (3) the passage “, the council and the Minister”.

Amendment of
s. 150—
Register of
interests.

14. Section 286 of the principal Act is repealed.

Repeal of s. 286.

15. Section 292 of the principal Act is amended—

Amendment of
s. 292—
Accounts.

(a) by striking out from subsection (4) the passage “and every elector” and the passage “; but, except in the case of an auditor, no inspection in any one day shall be for longer than thirty minutes”;

and

(b) by striking out subsection (5).

16. Section 293 of the principal Act is amended by striking out from subsection (1a) the passage “and the Auditor-General”.

Amendment of
s. 293—
Auditing
accounts.

17. Section 305 of the principal Act is amended by inserting after subsection (2) the following subsection:

Amendment of
s. 305—
Notice of
resolution or
order.

(2a) Upon the vesting, under this section, of any street, road or land in fee simple in the council all rights, easements, privileges, trusts, encumbrances, limitations or restrictions existing or claimed over the land shall be discharged.

18. Division XIII of Part XVII of the principal Act is repealed.

Repeal of Div.
XIII of Part
XVII.

19. Section 358 of the principal Act is amended—

Amendment of
s. 358—
Erection of safety
islands, etc.

(a) by striking out from subsection (1) the passage "The council may" and substituting the passage "Subject to the provisions of this or any other Act, the council may";

and

(b) by striking out subsection (1a).

Insertion of new s. 359.

20. The following section is inserted after section 358 of the principal Act:

Temporary control or prohibition of traffic or closure of streets or roads.

359. (1) The council may by resolution, supported by a majority of all members of the council, exclude vehicles generally or vehicles of a particular class from a particular street, road or public place.

(2) The council may by resolution revoke or vary any such resolution.

(3) Subject to the Road Traffic Act, 1961, the council may erect such barricades or other traffic control devices as are necessary to give effect to a resolution passed under this section.

(4) A resolution passed under this section shall not take effect before it has been published in the *Gazette* and in a newspaper circulating in the area.

Repeal of s. 365b and substitution of new section.

21. Section 365b of the principal Act is repealed and the following section is inserted:

Erection of certain structures.

365b. (1) Subject to such terms and conditions as a council thinks fit, it may authorize the erecting or placing of a structure on a public street or road within the council area.

(2) The council may at any time—

(a) revoke an authority given under subsection (1) and remove the structure;

or

(b) remove a structure which has been erected or placed without the council's authority.

(3) A person who contravenes this section is guilty of an offence.

Penalty: \$1 000.

(4) For the purposes of this section—

"structure" means—

(a) a stand or shelter for milk or cream containers;

(b) a stand, platform or ramp for the loading or unloading of goods or animals;

(c) a rubbish container;

or

(d) a letter box.

Amendment of s. 377—
Power of council to make, vary, and discharge contracts.

22. Section 377 of the principal Act is amended by inserting in subsection (2) after the passage "person or council" the passage "(including a local government body established under the law of another state or a Territory of the Commonwealth)".

23. The following Part is inserted after section 383 of the principal Act:

Insertion of new
Part XVIII.A.

PART XVIII.A

**SCHEMES TO UNDERTAKE ANY ACTIVITY NOT
OTHERWISE AUTHORIZED**

383a. (1) A council may submit to the Minister a proposed scheme for carrying out an activity (not authorized by this Act or any other Act) for the benefit of its area or any part of its area.

A council may
create a scheme
to undertake any
activity.

(2) A proposal shall set out in general terms the nature and effect of the scheme and shall include the following information:

(a) who will benefit from the scheme;

(b) the estimated cost of the scheme;

(c) the manner in which the council proposes to finance the scheme;

and

(d) where the council proposes to levy a separate rate, fee or charge to finance the scheme, full particulars of the proposed separate rate, fee or charge.

(3) The council shall, prior to submission of a scheme to the Minister under subsection (1), give notice of the scheme—

(a) by publishing a copy of the scheme in a newspaper circulating in the area;

(b) by displaying a copy of the scheme at the principal office of the council;

and

(c) where the scheme affects portion only of the area, by serving a copy of the scheme on the owner or occupier of every property within that portion of the area.

(4) A notice under subsection (3) must contain an invitation to any interested member of the public to make submissions in writing on the scheme within a period (of not less than one month) from the date of the notice.

(5) After the expiration of the time allowed for submissions the mayor or chairman of the council shall call a meeting to hear submissions made in relation to the scheme and shall give all members of the council and all members of the public who have made a submission at least 7 days notice of the date of the meeting.

(6) At a meeting held pursuant to subsection (4) any person who made written submissions to the council shall be entitled to appear personally or by representative and be heard on the submissions made by the person.

(7) After the completion of the meeting and consideration of all the submissions the council may resolve that—

(a) the scheme be carried into effect;

(b) an alternative scheme be carried into effect;

or

(c) the scheme should not be carried into effect.

(8) Where the council resolves to adopt an alternative scheme the council shall cause fresh public notice to be given under subsection (3) and hold a further hearing, in accordance with this section, in relation to the alternative scheme unless the council is satisfied—

(a) that those who may be affected by the alternative scheme have had an opportunity to consider it and to make submissions to the council in relation to it;

or

(b) that the alternative scheme differs from the original scheme in minor respects only.

(9) When the hearing is completed a copy of the scheme, a report setting out the details of the submissions made to the council in response to the proposal and a copy of the council's resolution shall be forwarded to the Minister.

(10) The Minister may—

(a) require such additional information from the council in relation to the scheme as the Minister considers necessary;

and

(b) make any amendments to the scheme that are, in the opinion of the Minister, appropriate.

(11) If the Minister approves the scheme the Minister shall cause a copy of the scheme as approved to be published in the *Gazette*.

(12) When the scheme has been published in the *Gazette* the council may give effect to it.

Repeal of ss. 444 to 447 and 449b.

24. Sections 444, 445, 446, 447 and 449b of the principal Act are repealed.

Amendment of s. 475a—
Governor may make regulations under this Part.

25. Section 475a of the principal Act is amended by striking out from paragraph (ga) of subsection (2) the passage "by the Road Traffic Board of South Australia".

Amendment of s. 475i—
Interpretation.

26. Section 475i of the principal Act is amended by inserting in paragraph (b) of the definition of "owner" after the passage "motor vehicle" the passage "as a bailee or".

Repeal of s. 481.

27. Section 481 of the principal Act is repealed.

Repeal of ss. 521 to 527.

28. Sections 521 to 527 (inclusive) of the principal Act are repealed.

Repeal of Part XXIX.

29. Part XXIX of the principal Act is repealed.

Amendment of s. 628—
Entrance to alleys.

30. Section 628 of the principal Act is amended by striking out from subsection (2) the word "surveyor" and substituting the word "council".

Amendment of s. 667—
By-laws.

31. Section 667 of the principal Act is amended—

(a) by striking out subparagraphs XLI to XLIII (inclusive) of paragraph 4 of subsection (1);

- (b) by striking out subparagraph III of paragraph 7 of subsection (1);
and
(c) by striking out subparagraphs XXXV to XXXVII (inclusive) of paragraph 8 of subsection (1).

32. Section 668 of the principal Act is amended by striking out subsection (3).

Amendment of
s. 668—
Passing of
by-laws.

33. Section 679 of the principal Act is amended—

- (a) by striking out subsection (2a);
and

Amendment of
s. 679—
Application of
by-laws.

- (b) by striking out from subsection (3) the word “be” and substituting the passage “not take effect before it has been”.

34. Section 682 of the principal Act is amended—

- (a) by striking out from subsection (4) the passage “subsection (2) hereof” and substituting the passage “subsection (3)”;

Amendment of
s. 682—
Power to make
model by-laws.

and

- (b) by striking out subsection (5).

35. Section 691 of the principal Act is amended by inserting after paragraph (a4) of subsection (1) the following paragraph:

Amendment of
s. 691—
Power of
Governor to
make regulations.

- (a5) prescribing the manner in which money received by councils shall be dealt with and the manner in which payment of any money by councils shall be made;

36. Section 748d of the principal Act is amended—

- (a) by striking out from subsection (1) the passage “sum of twenty dollars” twice occurring and substituting, in each case, the passage “prescribed amount”;

Amendment of
s. 748d—
Expiation of
offences.

and

- (b) by striking out paragraph (a) of subsection (3) and substituting the following paragraph:

- (a) a person appointed as an authorized person under Division VI of Part VI;

37. Section 752 of the principal Act is repealed.

Amendment of
s. 752—
Mayor, alderman,
or councillor
resigning or
absent without
leave.

38. Section 794a of the principal Act is amended—

- (a) by striking out subsection (1) and substituting the following subsection:

Amendment of
s. 794a—
Expiation of
offences.

- (1) If an authorized person believes on reasonable grounds that a person has committed a prescribed offence against this Act or any other prescribed Act, the authorized person may give that person a written notice to the effect

that the offence may be expiated by payment to the council of the area in which the offence is alleged to have been committed of the appropriate expiation fee within 21 days from the date on which the notice was issued.;

and

(b) by striking out paragraph (a) of the definition of "authorized officer" in subsection (7) and substituting the following paragraph:

(a) a person appointed as an authorized person under Division VI of Part VI;

Amendment of
s. 855—
Power to lease
Adelaide Oval.

39. Section 855 of the principal Act is amended by striking out from subsection (1) the passage "not exceeding twenty-five years" and substituting the passage "not exceeding 50 years".

Repeal of ss. 877
and 883.

40. Sections 877 and 883 of the principal Act are repealed.

Repeal of ss. 886a
and 886b.

41. Sections 886a and 886b of the principal Act are repealed.

Repeal of Part
XLVII.

42. Part XLVII of the principal Act is repealed.

Repeal of Part
XLVIII.

43. Part XLVIII of the principal Act is repealed.

Repeal of
seventeenth
schedule.

44. The seventeenth schedule to the principal Act is repealed.

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

D. B. DUNSTAN, Governor