



ANNO TRICESIMO QUARTO

ELIZABETHAE II REGINAE

A.D. 1985

No. 13 of 1985

An Act to amend the Local Government Act, 1934.

[Assented to 14 March 1985]

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

Short title.

1. (1) This Act may be cited as the "Local Government Act Amendment Act, 1985".

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

Commencement.

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

(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.

Amendment of s. 3—
Arrangement of Act.

3. Section 3 of the principal Act is amended by striking out the item:
PART XXXVII—Destruction of Sparrows.

Amendment of s. 5—
Interpretation.

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

(1a) Where—

(a) a person is authorized or required by a provision of this Act to act in a particular office or position while the holder of the office or position is absent;

or

(b) a provision of this Act provides for the appointment of a person to act in a particular office or position while the holder of the office or position is absent,

the provision shall be construed as authorizing or requiring that person to act in the office or position while the holder of the office

or position is absent from the duties of the office or position or while the office or position is temporarily vacant.

5. Section 48 of the principal Act is amended—

Amendment of
s. 48—
Vacancies.

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

(ea) when required to submit a return to the chief executive officer under Part VIII, he fails to do so within the period of one month after the time allowed under that Part;;

and

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

(1a) Notwithstanding the provisions of subsection (1) (ea), where a court of summary jurisdiction determines, upon complaint, that failure by a member to submit a return within the time allowed under Part VIII was unavoidable in the circumstances, the office of the member shall be deemed not to have been vacated.

(1b) A complaint under subsection (1a) must be laid within one month after the vacation of office to which the complaint relates.

(1c) A supplementary election to fill the office of a member that has become vacant pursuant to subsection (1) (ea)—

(a) shall not be held within the period of one month after the vacation of the office;

and

(b) in any event, if a complaint is laid under subsection (1a)—shall not be held until the matter has been finally dealt with by a court of summary jurisdiction.

6. Section 50 of the principal Act is repealed and the following section is substituted:

Repeal of s. 50
and substitution
of new section.

50. A council shall take out a policy of insurance of a kind approved by the Minister insuring every member of the council, and a spouse or another person who may be accompanying a member of the council, against risks associated with the performance of official functions by members.

Insurance of
members.

7. Section 58 of the principal Act is amended—

Amendment of
s. 58—
Meetings of
council.

(a) by inserting in subsection (3) after the passage “all members of the council” the passage “and cause a copy of the notice and agenda to be placed on public display in the principal office of the council and kept on such display until the completion of the meeting”;

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

(5a) A person shall be entitled to inspect, and, on payment of a fee fixed by the council, to obtain a copy of, any notice and agenda on display pursuant to subsection (3).

and

(c) by inserting after subsection (11) the following subsection:

(12) In this section—

“agenda”, in relation to a meeting, means a list of items of business to be considered at the meeting.

Amendment of
s. 61—
Meetings of
council
committees.

8. Section 61 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “convening and”;

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

(1a) Subject to this section, ordinary meetings of a council committee shall be held at times and places appointed by the council or, subject to any decision of the council, the council committee.

(1b) At least three clear days before the date of an ordinary meeting of a council committee, the chief executive officer shall—

(a) give notice of the meeting;

and

(b) supply a copy of the agenda for that meeting,

to all members of the committee and cause a copy of the notice and agenda to be placed on public display in the principal office of the council and kept on such display until the completion of the meeting.;

(c) by inserting in subsection (2) before the word “meetings” the word “ordinary”;

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

(4) A person shall be entitled to inspect, and, on payment of a fee fixed by the council, to obtain a copy of, any notice and agenda on display pursuant to subsection (1b).

(5) The chief executive officer shall, at the request of the chairman or two other members of a council committee, call a special meeting of the committee.

(6) Special meetings of a council committee may be held at any time.

(7) Notice of a special meeting of a council committee shall be given to all members of the committee at least four hours before the commencement of the meeting.

(8) Notice of a meeting of a council committee under this section shall—

(a) be in writing;

(b) set out the date, time and place of the meeting;

(c) be signed by the chief executive officer;

and

(d) in the case of a special meeting—contain, or be accompanied by, the agenda for the meeting.

(9) Notice may be given under this section personally, or by delivery (whether by post or otherwise), to the usual place of residence of the member of the council committee or such other place as the member may authorize in writing.

(10) The chief executive officer shall maintain a record of all notices of meetings given under this section to members of council committees.

9. Section 64 of the principal Act is amended—

Amendment of
s. 64—
Minutes.

(a) by inserting after subsection (1) the following subsection:

(1a) Where the chief executive officer is excluded from attendance at a meeting of the council or a council committee pursuant to section 62, the person presiding at the meeting shall cause the minutes to be kept;

and

(b) by inserting in subsection (2) after the passage “subsection (1)” the passage “or (1a)”.

10. Section 66 of the principal Act is amended by striking out subsection (4) and substituting the following subsection:

Amendment of
s. 66—
Chief executive
officer.

(4) In the absence of the chief executive officer, the following provisions apply:

(a) if there is a deputy to the chief executive officer—he shall act in the office of the chief executive officer;

(b) if there is no deputy or he is absent—a suitable person shall be appointed by the council to act in the office;

(c) if a person is not appointed under paragraph (b)—a suitable person shall be appointed by the mayor or chairman to act in the office.

(d) if a person is not appointed under paragraph (c)—a suitable person shall be appointed by any three or more members of the council to act in the office.

11. Section 69 of the principal Act is amended by inserting after paragraph (d) of subsection (4) the following paragraph:

Amendment of
s. 69—
Issue, suspension
and cancellation
of certificates of
registration.

(e) prescribe, and provide for the payment of, fees that may be charged in relation to the performance by the Committee of its functions under this Act.

12. Section 93 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

Amendment of
s. 93—
Entitlement to
vote.

(1) A natural person whose name appears in the voters roll used for an election or poll as an elector in his own right or as a nominated agent shall be entitled to vote at that election or poll.

Amendment of
s. 106—
Issue of advance
voting papers.

13. Section 106 of the principal Act is amended by striking out from subsection (5) the passage “subsection (5)” and substituting the passage “subsection (4)”.

Amendment of
s. 122—
Council may
determine method
of counting at
elections.

14. Section 122 of the principal Act is amended—

(a) by striking out subsection (2);

and

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

(a) a council may make a determination before the close of nominations for the periodical elections for the council to be held on the first Saturday of May in 1985, but any subsequent determination may be made only within the period of two months following the conclusion of any periodical elections for the council;

Amendment of
s. 150—
Register of
interests.

15. Section 150 of the principal Act is amended by striking out subsections (3) and (4) and substituting the following subsections:

(3) Where a member of a council fails to submit a return to the chief executive officer within the time allowed under this Part, the chief executive officer shall as soon as practicable notify the member, the council and the Minister of that fact.

(4) A notification to be given to a member of the council pursuant to subsection (3) shall be given by letter sent to the member by registered mail.

Amendment of
s. 151—
Offences.

16. Section 151 of the principal Act is amended—

(a) by striking out from paragraph (a) of subsection (1) the passage “and statement”;

and

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

(2) Where a member of a council submits a return under this Part that is to his knowledge false or misleading in a material particular (whether by reason of information included in or omitted from the return), the member shall be guilty of an offence and liable to a penalty not exceeding five thousand dollars.

Amendment of
s. 213a—
Adjustment of
rates in event of
variation of
assessment.

17. Section 213a of the principal Act is amended—

(a) by striking out from subsection (3) the passage “from the date of payment”;

(b) by striking out paragraph (a) of the definition of “prescribed rate” in subsection (4) and substituting the following paragraph:

(a) the rate (expressed as a percentage per annum) which, on the day of payment of the amount that is credited under this section, may be charged upon that banking account of the council which is used by the council as its current account when it is in overdraft;

and

(c) by inserting after subsection (6) the following subsection:

(7) Interest payable on an amount that is credited to a ratepayer under this section shall be payable on so much of that amount as may from time to time stand to the credit of the ratepayer and shall accrue from the day that the ratepayer paid the amount to the council.

18. Section 214 of the principal Act is amended by inserting after subsection (1) the following subsection:

Amendment of s. 214—
Power to declare general rate.

(1aa) A council shall, before declaring a general rate or differential general rates for a financial year—

(a) consider and adopt an annual budget (prepared in accordance with this Act) for that financial year;

and

(b) approve or adopt the assessments in relation to which the rate or rates are to apply.

19. Section 288 of the principal Act is amended by striking out paragraphs (h) and (h1) of subsection (1).

Amendment of s. 288—
Additional powers of expenditure by municipal councils.

20. Section 289 of the principal Act is amended by striking out paragraphs (b2) and (b3) of subsection (1).

Amendment of s. 289—
Additional powers of expenditure by district councils.

21. Section 322 of the principal Act is amended by striking out the word “surveyor” twice occurring and substituting, in each case, the word “engineer”.

Amendment of s. 322—
Power of engineer to put up barriers, etc.

22. Section 324 of the principal Act is amended by striking out the word “surveyor” and substituting the word “engineer”.

Amendment of s. 324—
Penalty for damaging barrier, etc.

23. Section 331 of the principal Act is amended by striking out from paragraph (b) the word “surveyor” and substituting the word “engineer”.

Amendment of s. 331—
Penalty for paving without notice.

24. Section 336 of the principal Act is amended by striking out the word “surveyor” and substituting the word “engineer”.

Amendment of s. 336—
Owners of property requiring communication with a street.

25. Section 337 of the principal Act is amended by striking out from subsection (4) the word “surveyor” and substituting the word “engineer”.

Amendment of s. 337—
Power of council to require owners or occupiers of premises to make and repair crossing places from a street.

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

26. Section 358 of the principal Act is amended—

(a) by striking out from subsection (2) the passage “Any person” and substituting the passage “Subject to subsection (3), any person”;

and

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

(3) Subsection (2) does not apply to a person who rides or wheels a pedal cycle or rides or leads any horse or other animal over a safety island, safety zone, traffic island, roundabout or median strip that forms part of a crossing-place across a public street or road.

Amendment of
s. 363—
Power of council
to permit erection
of highway
lighthouses or
traffic beacons.

27. Section 363 of the principal Act is amended by striking out the passage “Control of Advertisements Act, 1916” and substituting the passage “Planning Act, 1982”.

Amendment of
s. 367—
Power to assign
numbers to
houses.

28. Section 367 of the principal Act is amended by striking out from subsection (2) the word “surveyor” and substituting the word “engineer”.

Amendment of
s. 392—
Effect of
publication of
consent.

29. Section 392 of the principal Act is amended by striking out from subsection (1) the passage “, from the day of the publication provided for by section 391” and substituting the passage “, as from a date fixed in the notice of the Minister’s consent to the scheme published in the *Gazette* or, if no date is so fixed, as from the date of the publication of that notice in the *Gazette*”.

Amendment of
s. 392a—
Amendment of
authorized
scheme and rules.

30. Section 392a of the principal Act is amended by striking out from subsection (5) the passage “come into effect upon the day notice thereof is published pursuant to subsection (3) of this section” and substituting the passage “have effect as from a date fixed in the notice referred to in subsection (3) or, if no date is so fixed, as from the date of the publication of that notice in the *Gazette*”.

Amendment of
s. 530c—
Sewerage effluent
disposal schemes.

31. Section 530c of the principal Act is amended—

(a) by striking out from subsection (1) the word “sewerage” and substituting the passage “septic tank”;

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

(2) The council shall, before submitting a scheme to the Minister for his authorization, obtain the approval of the Central Board of Health to the scheme.;

and

(c) by striking out from subsection (6) the passage “and the Engineer in Chief”.

Amendment of
s. 598—
Building
projecting on any
public street, road
or place.

32. Section 598 of the principal Act is amended—

(a) by striking out from subsection (3) the word “surveyor” and substituting the passage “building surveyor”;

and

(b) by striking out from subsection (5) the word “surveyor” and substituting the passage “building surveyor”.

33. Section 599 of the principal Act is amended by striking out from subsection (1) the word “surveyor” and substituting the passage “building surveyor”.

Amendment of s. 599—
Power of council after notice to cause encroachment to be removed.

34. Section 602 of the principal Act is amended by striking out from paragraph (a) of subsection (1) the word “surveyor” and substituting the passage “building surveyor”.

Amendment of s. 602—
Duties of persons erecting or pulling down buildings, etc.

35. Section 603 of the principal Act is amended—

(a) by striking out from subsection (1) the word “surveyor” wherever it occurs and substituting, in each case, the word “engineer”;

and

(b) by striking out from subsection (3) the word “surveyor” and substituting the word “engineer”.

Amendment of s. 603—
Licences for hoardings, etc.

36. Section 604 of the principal Act is amended—

(a) by striking out from subsection (1) the word “surveyor” and substituting the word “engineer”;

and

(b) by striking out from subsection (2) the word “surveyor” and substituting the word “engineer”.

Amendment of s. 604—
Hoardings to be kept in good condition, and lit up from sunset to sunrise.

37. Section 605 of the principal Act is amended by striking out from subsection (1) the word “surveyor” wherever it occurs and substituting, in each case, the word “engineer”.

Amendment of s. 605—
Power to remove and sell hoardings, etc., erected and materials deposited in any manner otherwise than permitted by licence.

38. Section 606 of the principal Act is amended—

(a) by striking out from subsection (1) the word “surveyor” and substituting the word “engineer”;

and

(b) by striking out from subsection (2) the word “surveyor” and substituting the word “engineer”.

Amendment of s. 606—
Damage done to footways, drains, etc., by erection of hoardings, etc., to be made good.

39. Section 610 of the principal Act is amended—

(a) by striking out from subsection (4) the word “surveyor” and substituting the passage “building surveyor”;

and

(b) by striking out from subsection (5) the word “surveyor” and substituting the passage “building surveyor”.

Amendment of s. 610—
Space between timbers in party-walls, etc.

40. Section 611 of the principal Act is amended by striking out from subsection (3) the word “surveyor” and substituting the passage “building surveyor”.

Amendment of s. 611—
Prohibition of erection, etc., of buildings, partitions, ceilings, and verandahs of inflammable materials.

Amendment of s. 615—
Penalty for allowing building material, etc., to remain in streets.

41. Section 615 of the principal Act is amended by striking out from paragraph (b) the word “surveyor” and substituting the passage “building surveyor”.

Amendment of s. 616—
Measures to be taken in case of ruinous or dangerous building.

42. Section 616 of the principal Act is amended—

(a) by striking out from subsection (1) the word “surveyor” twice occurring and substituting, in each case, the passage “building surveyor”;

and

(b) by striking out from subsection (3) the word “surveyor” and substituting the passage “building surveyor”.

Repeal of Part XXXVII.

43. Part XXXVII of the principal Act is repealed.

Amendment of s. 667—
By-laws.

44. Section 667 of the principal Act is amended—

(a) by striking out subparagraphs I and II of paragraph 2 of subsection (1);

(b) by striking out subparagraph XVI of paragraph 4 of subsection (1);

(c) by striking out from subparagraph XXIX of paragraph 4 of subsection (1) the word “surveyor” and substituting the passage “building surveyor”;

and

(d) by striking out from subparagraph XLII of paragraph 4 of subsection (1) the word “surveyor” and substituting the word “engineer”.

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

45. Section 668 of the principal Act is amended by inserting after subsection (2) the following subsection:

(3) A proposal for the making of a by-law with respect to—

(a) suspending or prohibiting traffic upon certain streets or roads;

or

(b) the temporary closure of streets or roads,

should be referred by the council to the Road Traffic Board of South Australia for consultation and advice before a by-law to give effect to the proposal is made by the council.

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

46. Section 679 of the principal Act is amended by striking out subsection (3) and substituting the following subsections:

(2a) Where a council passes a resolution under this section that relates to—

(a) the temporary suspension or prohibition of traffic upon certain streets or roads;

or

(b) the temporary closure of streets or roads,

the resolution shall not be brought into effect until the council has consulted with the Road Traffic Board of South Australia.

(3) A resolution passed in accordance with this section shall be published in the *Gazette* and in a newspaper circulating in the area.

47. Section 778 of the principal Act is amended by striking out the word "surveyor" and substituting the word "engineer".

Amendment of
s. 778—
Penalty for
extinguishing
light.

48. Section 781 of the principal Act is amended by striking out from subsection (4) the passage "Control of Advertisements Act, 1916" and substituting the passage "Planning Act, 1982".

Amendment of
s. 781—
Posting bills, etc.,
in public places
without
permission of
council.

49. Section 789 of the principal Act is amended by striking out from subsection (1) the word "surveyor" and substituting the word "engineer".

Amendment of
s. 789—
Blasting.

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

D. B. DUNSTAN, Governor