

# South Australia



## **LOCAL GOVERNMENT FINANCE AUTHORITY (REVIEW) AMENDMENT ACT 1996**

**No. 1 of 1996**

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A.D. 1996

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No. 1 of 1996

An Act to amend the Local Government Finance Authority Act 1983.

[Assented to 7 March 1996]

The Parliament of South Australia enacts as follows:

**Short title**

1. (1) This Act may be cited as the *Local Government Finance Authority (Review) Amendment Act 1996*.

(2) The *Local Government Finance Authority Act 1983* is referred to in this Act as "the principal Act".

**Commencement**

2. This Act will come into operation on a day to be fixed by proclamation.

**Amendment of s. 3—Interpretation**

3. Section 3 of the principal Act is amended by striking out "Part XIX" from paragraph (a) of the definition of "prescribed local government body" and substituting "Part XIII".

**Amendment of s. 4—Establishment of the Authority**

4. Section 4 of the principal Act is amended by inserting after subsection (3) the following subsections:

(4) The Authority is a statutory authority established for the benefit of councils and other prescribed local government bodies within the State. It is not part of the Crown, nor is it an agency or instrumentality of the Crown.

(5) The Authority cannot be brought under the operation of the *Public Corporations Act 1993*.

**Amendment of s. 7—Constitution of the Board**

5. Section 7 of the principal Act is amended—

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

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- (c) one is a person appointed by the Minister;
  - (d) one is a person appointed by the Treasurer;;
- (b) by inserting after subsection (1) the following subsection:

(2) At least one member of the Board must be a woman and at least one member must be a man.

**Amendment of s. 8—Terms and conditions of office**

6. Section 8 of the principal Act is amended by inserting after subsection (6) the following subsection:

(7) The following provisions apply with respect to the appointment of members of the Board by the Minister or the Treasurer:

- (a) an appointment will be made on conditions determined by the Minister or the Treasurer (as the case may be) and for a term, not exceeding two years, specified in the instrument of appointment; and
- (b) a person who has been appointed by the Minister or the Treasurer is eligible for reappointment at the expiration of a term of office; and
- (c) if a casual vacancy occurs in the office of a member appointed by the Minister or the Treasurer, the Minister or the Treasurer (as the case may be) may appoint a suitable person to the vacant office; and
- (d) a person who has been appointed by the Minister or the Treasurer may be removed from office by the Minister or the Treasurer (as the case may be)—
  - (i) for breach of, or non-compliance with, a condition of appointment; or
  - (ii) on the ground that the person has become mentally or physically incapable of satisfactorily carrying out official duties; or
  - (iii) for neglect of duty or dishonourable conduct; and
- (e) the office of a person appointed by the Minister or the Treasurer becomes vacant if the person—
  - (i) dies; or
  - (ii) completes a term of office and is not reappointed; or
  - (iii) resigns by written notice to the Minister or the Treasurer (as the case may be); or
  - (iv) is removed from office pursuant to paragraph (d).

**Amendment of s. 12—Disclosure of interest**

7. Section 12 of the principal Act is amended by striking out the penalty at the foot of subsection (1) and substituting:

Maximum Penalty: \$10 000 or imprisonment for 2 years.

**Amendment of s. 13—Allowances and expenses for members**

8. Section 13 of the principal Act is amended by striking out subsection (2) and substituting the following subsection:

(2) An amount payable by way of allowances in respect of a member appointed by the Minister or the Treasurer must be paid in accordance with an arrangement approved by the Minister or the Treasurer (as the case may be) and an amount payable in respect of the Secretary-General of the Local Government Association must be paid to the Local Government Association.

**Amendment of s. 21—Functions and powers of the Authority**

9. Section 21 of the principal Act is amended by inserting in subsection (1)(b) ", after consultation with the Local Government Association," after "Minister".

**Amendment of s. 22—Financial management**

10. Section 22 of the principal Act is amended—

(a) by inserting ", and for any liability under section 31A," after "allowance for the costs of the Authority" in subsection (2);

(b) by striking out from paragraph (c) of subsection (2) ", with the approval of the Minister,".

**Amendment of s. 26—Power of councils, etc., to borrow money from or deposit money with Authority**

11. Section 26 of the principal Act is amended by striking out from paragraph (c) "Minister" and substituting "Treasurer".

**Repeal of s. 27**

12. Section 27 of the principal Act is repealed.

**Amendment of s. 29—Staff**

13. Section 29 of the principal Act is amended by striking out subsection (3).

**Repeal of s. 30**

14. Section 30 of the principal Act is repealed.

**Insertion of s. 31A**

15. The following section is inserted after section 31 of the principal Act:

**Tax equivalents**

31A. (1) The Treasurer may require the Authority to make payments under this section of amounts that the Treasurer determines from time to time to be equivalent in effect to income tax and other taxes or imposts that the Authority does not pay to the Commonwealth but would be liable to pay under the law of the Commonwealth if it were constituted and organised in such manner as the Treasurer determines to be appropriate for the purposes of this section as a public company.

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(2) Amounts determined to be payable under this section must be paid to a deposit account established with the Treasurer under section 21 of the *Public Finance and Audit Act 1987* entitled the "Local Government Taxation Equivalents Fund" at times, and in a manner, determined by the Treasurer.

(3) Interest, at the standard commercial rate for accounts established under section 21 of the *Public Finance and Audit Act 1987*, will be payable on amounts held under subsection (2) and no fees or imposts will apply with respect to the maintenance or operation of the account.

(4) Amounts held under subsection (2), together with interest accrued under subsection (3), will be applied for local government development purposes recommended by the Local Government Association and agreed to by the Minister in accordance with principles agreed between the Minister and the Local Government Association.

(5) This section will apply from 1 July 1996.

**Substitution of s. 33**

16. Section 33 of the principal Act is repealed and the following section is substituted:

**Accounts and audit**

33. (1) The Authority must—

- (a) keep proper accounts of its financial affairs; and
- (b) have annual financial statements prepared in respect of each financial year; and
- (c) ensure that its financial statements and reports fairly represent the financial position of the Authority; and
- (d) comply with any instructions of the Treasurer under the *Public Finance and Audit Act 1987*.

(2) The Auditor-General may at any time audit the accounts of the Authority and must audit the annual financial statements.

(3) For the purposes of an audit, the Auditor-General may exercise in relation to the accounts of the Authority and the members and staff of the Authority the powers vested in the Auditor-General under the *Public Finance and Audit Act 1987* in respect of accounts, accounting information and accounting officers.

**Amendment of s. 34—Annual report**

17. Section 34 of the principal Act is amended by striking out subsection (2) and substituting the following subsection:

(2) The report must—

- (a) incorporate the audited financial statements of the Authority for the relevant period; and
- (b) contain any other information required by this Act,

and may contain such other reports or information as the Authority thinks fit.

**Substitution of s. 35**

18. Section 35 of the principal Act is repealed and the following section is substituted:

**Activities with prescribed bodies**

35. (1) The Authority must, on or before 30 September in each year, deliver a special report to the Minister on the nature and scope of its business with prescribed local government bodies.

(2) If it appears to the Authority that a body that is a prescribed local government body by virtue of being prescribed by the regulations should no longer be so prescribed, the Authority must report to the Minister on the matter.

**Amendment of s. 37—Rules of the Authority**

19. Section 37 of the principal Act is amended by striking out subsection (3) and substituting the following subsections:

(3) However, the rules, and any amendments to the rules, have no force or effect unless and until—

(a) approved at a general meeting of the Authority; or

(b) approved by a majority of the members of the Authority in accordance with a procedure set out in the rules.

(4) The annual report must include details of any amendments made to the rules during the relevant financial year.

**Transitional provision—Rules**

20. The amendment effected to section 37 of the principal Act by this Act does not affect the validity of the rules of the Authority in force immediately before the commencement of this section.

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

ROMA MITCHELL Governor