



ANNO TRICESIMO QUINTO

ELIZABETHAE II REGINAE

A.D. 1986

No. 13 of 1986

An Act to amend the Acts Interpretation Act, 1915.

[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 "Acts Interpretation Act Amendment Act, 1986". Short title

(2) The Acts Interpretation Act, 1915, is in this Act referred to as "the principal Act".

2. Section 16 of the principal Act is amended—

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

(2a) Where any office, court, tribunal or body would, apart from this section, cease to exist by reason of the repeal, amendment or expiry, then, for the purpose of instituting, continuing or enforcing any such investigation, legal proceeding or remedy, the office, court, tribunal, or body continues in existence (and, if necessary, new appointments may be made to it) as if the repeal or amendment had not been effected, or as if the expired Act or enactment had not expired (as the case may be);

Amendment of s. 16—
Saving of operation of repealed or expired Act as regards rights and liabilities thereunder.

(b) by striking out from subsection (3) the passage "under such repealed, amended or expired Act or enactment";

and

(c) by inserting after subsection (3) the following subsection:

(4) In this section—

"legal proceeding" includes any proceeding pursuant to an Act, enactment or law whether of a judicial or administrative nature.

3. The following section is inserted after section 17 of the principal Act:

Insertion of new s. 18.

Abrogation of presumption that re-enactment, etc., constitutes Parliamentary approval of prior interpretation.

18. The enactment or re-enactment of a provision that has been construed in a particular manner (judicially or otherwise) in this State or elsewhere creates no presumption that Parliament has sanctioned or approved that construction.

Repeal of s. 22 and substitution of new section.

4. Section 22 of the principal Act is repealed and the following section is substituted:

Construction that would promote purpose or object of an Act to be preferred.

22. (1) Subject to subsection (2), where a provision of an Act is reasonably open to more than one construction, a construction that would promote the purpose or object of the Act (whether or not that purpose or object is expressly stated in the Act) shall be preferred to a construction that would not promote that purpose or object.

(2) This section does not operate to create or extend any criminal liability.

Amendment of s. 26—
Words importing masculine gender and singular number to include feminine and plural, and vice versa.

5. Section 26 of the principal Act is amended—

(a) by inserting after paragraph (a) the following paragraph:

(ab) every word of the feminine gender shall be construed as including the masculine gender;;

and

(b) by inserting after paragraph (d) the following paragraph:

(e) every phrase consisting of a masculine pronoun and a feminine pronoun joined by the conjunction “or” shall, if the antecedent is capable of referring to a body corporate, be construed as applicable to a body corporate as well as a natural person.

SCHEDULE

The principal Act is further amended as follows:

Sections 2 and 3—

Sections 2 and 3 are repealed.

Heading preceding section 4—

The heading preceding section 4 is repealed.

Section 4—

Strike out the definition of "Act" and substitute the following definition:

"Act" means—

(a) an Act of the Parliament of South Australia or an Act or ordinance of some earlier legislative authority in South Australia;

or

(b) an Act of the Imperial Parliament that has been received into the law of South Australia or applies to South Australia by paramount force.

Definition of "Australian citizen"—

Strike out "*Citizenship Act 1948-1969 of the Commonwealth as amended from time to time, or any Act of the Commonwealth substituted for that Act*" and substitute "*Australian Citizenship Act 1948 of the Commonwealth*".

Strike out the definition of "British possession".

Definition of "Gazette"—

After "*The South Australian Government Gazette*" insert "(including any supplement to that gazette)".

Strike out "and includes any supplement thereto printed and published as aforesaid".

Definition of "judge"—

After "Court" insert "or a District Court Judge".

Strike out the definition of "naturalized British subject".

Strike out the definition of "statutory declaration" and substitute the following definition:

"statutory declaration" means—

(a) a declaration made under the Oaths Act, 1936;

or

(b) a declaration made outside the State—

(i) in pursuance of a law in force in the place where the declaration is made, being a law that renders the declarant liable to a criminal penalty for a false declaration;

and

(ii) before a person who has authority under that law to take declarations.

After the definition of "United Kingdom" insert the following definition:

"writing" includes any visible form in which words may be reproduced or represented.

Strike out "Expressions referring to writing, include references to printing, painting, engraving, type-writing, lithography, photography, and all other modes of representing or reproducing words in a visible form".

Section 7—

Section 7 is repealed and the following section is substituted:

7. (1) An Act that contains no provision fixing the date of its commencement, or providing for the fixing of that date, comes into operation on the day on which it is assented to by, or on behalf of, the Crown.

(2) Where a Bill is reserved for the signification of Her Majesty's assent, the Bill shall be deemed, for the purposes of subsection (1), to have been assented to on the day on which the assent is notified by proclamation in the State.

Section 8—

Section 8 is repealed.

Section 10—

Strike out "such date purporting to be" and substitute "as".

Strike out "or to a part thereof".

Strike out “, or part,”.

Section 15—

Section 15 is repealed and the following section is substituted:

15. Where an Act is repealed and the repealing Act contains provisions substantially corresponding to provisions of the repealed Act, then, unless the contrary intention appears, any administrative act done in pursuance of the repealed provisions (not being an administrative act the effect of which was exhausted at the time of the repeal) shall, insofar as is not inconsistent with the repealing Act, be regarded as an administrative act done for the purposes of the corresponding provisions of the repealing Act.

Section 21—

Strike out “part thereof” and substitute “provision”.

Section 24—

Strike out “such provision of such earlier Act (as the case may be)” and substitute “provision”.

Section 25—

Section 25 is repealed and the following section is substituted:

25. Whenever forms are prescribed by any Act, forms to the same effect are sufficient provided that deviations from the prescribed forms are not calculated to mislead.

Section 27 (1)—

Strike out “the day, or”.

Section 28—

Section 28 is repealed and the following section is substituted:

28. In the measurement of distance for the purposes of an Act, the distance shall, unless the contrary intention appears, be measured in a straight line on a horizontal plane.

Section 30—

Section 30 is repealed and the following section is substituted:

30. (1) A penalty set out at the foot of a section or subsection that contains words creating an offence indicates that the offence is punishable on conviction by a penalty not exceeding the penalty so set out or, where a minimum as well as a maximum penalty is so set out, by a penalty not less than the minimum and not more than the maximum.

(2) A penalty set out at the foot of a section or subsection that does not contain words creating an offence indicates that contravention of the section or subsection (whether by act or omission) constitutes an offence punishable on conviction by a penalty not exceeding the penalty so set out or, where a minimum as well as a maximum penalty is so set out, by a penalty not less than the minimum and not more than the maximum.

(3) In this section—

“penalty” includes punishment.

Section 33a—

Section 33a is repealed.

Section 33c (3)—

Strike out the definition of “Commonwealth Act” and substitute the following definition:

“the Commonwealth Act” means the *Australian Citizenship Act 1948* of the Commonwealth.

Section 36—

Section 36 is repealed and the following section is substituted:

36. Words giving power to appoint to any office or position, or to appoint a deputy, shall be deemed to include power, exercisable at the discretion of the person in whom the power to appoint is vested—

(a) to suspend or remove any person appointed under that power;

(b) to reinstate or reappoint any person so suspended or removed;

(c) to appoint some other person, temporarily or permanently, in the place of a person so suspended or removed;

or

(d) to appoint some other person, temporarily or permanently, to the office or position—

(i) where a person previously appointed is, for any reason, unable to carry out the duties of the office or position;

or

(ii) where the office or position is vacant.

Section 37—

After "thing" first occurring insert "(including the making of an appointment)".

Strike out "or to make any appointment,".

Section 39—

Strike out "(besides the power provided by section 37)".

Section 39 (a)—

Strike out "the same absolutely" and substitute "them".

Sections 43 to 47—

Sections 43, 44, 45, 46 and 47 are repealed and the following sections are substituted:

43. Where an offence is constituted by or under an Act and it does not appear whether the offence is a summary offence or an indictable offence, then—

(a) if the offence is punishable by a fine and not by imprisonment, the offence shall be deemed to be a summary offence;

(b) if the offence is punishable by imprisonment, the offence shall be deemed to be an indictable offence.

44. (1) Where it is provided in any Act or statutory instrument that proceedings for offences are to be dealt with, or disposed of, summarily or before a special magistrate or one or more justices, those offences shall be dealt with under the Justices Act, 1921, as simple offences.

(2) Where it is provided in any Act or statutory instrument that a pecuniary sum may be recovered summarily or before or on the award of a special magistrate or one or more justices, that sum may be recovered on complaint in proceedings under the Justices Act, 1921.

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

D. B. DUNSTAN, Governor