



ANNO QUADRAGESIMO

ELIZABETHAE II REGINAE

A.D. 1991

No. 26 of 1991

An Act to amend the Local Government Act, 1934.

[Assented to 18 April 1991]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Local Government (Management Provisions) Amendment Act, 1991*.

(2) The *Local Government Act, 1934*, 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.

Interpretation

3. Section 5 of the principal Act is amended—

(a) by inserting after the definition of “electoral officer” in subsection (1) the following definitions:

“engineer”, in relation to a council, means a person appointed by the council as the engineer of the council and includes a deputy or another person appointed by the council to act in the absence of the engineer:

“equal employment opportunity programme”, in relation to a council, means a programme designed to ensure that all persons have equal opportunities with others in securing employment with the council and subsequent promotion or advancement and in other respects in relation to employment with the council;

(b) by inserting after the definition of “member” in subsection (1) the following definition:

“merit”, in relation to the selection processes for the filling of offices or positions, means—

(a) the extent to which each of the applicants has abilities, aptitude, skills, qualifications, knowledge, experience (including commu-

nity experience), characteristics and personal qualities relevant to the carrying out of the duties in question;

and

(b) where relevant—

(i) the manner in which each of the applicants carried out the duties or functions of any position, employment or occupation previously held or engaged in by the applicant;

and

(ii) the extent to which each of the applicants has potential for development;

and

(c) by inserting after the definition of “returning officer” in subsection (1) the following definition:

“selection processes” means the processes by which applications are sought and applicants selected for the purpose of filling offices or positions:.

Insertion of s. 35a

4. The following section is inserted after section 35 of the principal Act:

General management functions and objectives

35a. (1) The functions of a council include the following:

(a) to determine policies (not inconsistent with this Act or any other applicable law) to be applied by the council in exercising its discretionary powers;

(b) to determine the type, range and scope of projects to be undertaken by the council;

and

(c) to develop comprehensive management plans, budgets, financial controls and performance objectives and indicators for the operations of the council.

(2) The operations and affairs of the council should be managed—

(a) in a manner which emphasises the importance of service to the community;

(b) so as to enable decisions to be made, and action taken, efficiently and effectively through clear division of administrative responsibilities, delegation of authority where appropriate, and flexible and responsive deployment of resources;

and

(c) with the goal of continued improvement in efficiency and effectiveness.

Insertion of Division VII of Part III

5. The following Division is inserted after section 42 of the principal Act:

DIVISION VII—ANNUAL REPORT

Annual Report

42a. (1) A council must, on or before the prescribed day in each year, prepare and adopt a report containing the prescribed information and documents relating to the operations of the council.

(2) The council must, as soon as practicable after it has prepared and adopted the report, cause a copy of the report to be made available for inspection (without fee) by

any member of the public at the principal office of the council during the hours for which the office is open to the public.

(3) A member of the public is entitled, on payment of a fee fixed by the council, to obtain a copy of the report or any part of the report.

Substitution of heading to Division I of Part VI

6. The heading to Division I of Part VI of the principal Act is repealed and the following heading is substituted:

DIVISION I—CHIEF EXECUTIVE OFFICER.

Appointment of chief executive officer

7. Section 66 of the principal Act is amended—

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

(1) There will be an officer for every area (in this Act referred to as the “chief executive officer”) who—

(a) is responsible to the council—

(i) for the execution of its decisions;

(ii) for the efficient and effective management of the operations and affairs of the council;

and

(iii) for giving effect to the general management objectives and principles of personnel management prescribed by this Act;

and

(b) has such other powers, functions and duties as may be conferred on the chief executive officer by or under this or any other Act;

and

(b) by striking out subsections (5), (5a) and (6).

Substitution of s. 67 and Division II of Part VI

8. Section 67 and Division II of Part VI of the principal Act are repealed and the following sections and Divisions are substituted:

Management plans, etc.

67. The functions of the chief executive officer of a council include the implementation of the management plans and budgets determined by the council and the development and implementation of other management and financial plans and controls including programmes for staff development and training.

Delegation

68. (1) The chief executive officer of a council may, by instrument in writing, delegate to any other officer or employee, or a committee of officers or employees, of the council any power, function or duty of his or her office.

(2) The power of delegation conferred by subsection (1) extends to the delegation of any power, function or duty delegated to the chief executive officer by resolution of the council provided that the terms or conditions of the council resolution do not prohibit subdelegation.

- (3) A delegation by the chief executive officer—
- (a) may be absolute or conditional;
 - (b) does not derogate from the power of the chief executive officer to act personally in any matter;
- and
- (c) is revocable at will by the chief executive officer.

DIVISION II—OTHER OFFICERS AND EMPLOYEES

Other officers and employees

69. (1) A council may appoint such other officers and employees as are necessary for the efficient and effective management of the operations and affairs of the council.

(2) Except as otherwise provided by this Act or any other Act, the same person may be appointed to two or more offices in the administration of a council.

DIVISION IIA—GENERAL PRINCIPLES OF PERSONNEL MANAGEMENT

General principles of personnel management

69a. The following principles of personnel management must be observed in relation to employment in the administration of a council:

- (a) all selection processes must be directed towards and based on a proper assessment of merit;
 - (b) there must be no unlawful discrimination against officers or employees or persons seeking employment in the administration of a council on the ground of sex, sexuality, marital status, pregnancy, race, physical impairment, intellectual impairment, age or any other ground nor may any form of unjustifiable discrimination be exercised against officers or employees or persons seeking such employment;
 - (c) officers and employees must be afforded equal opportunities to secure promotion and advancement in their employment and proper access to training and development;
 - (d) officers and employees must be afforded reasonable avenues of redress against improper or unreasonable administrative acts or decisions;
- and
- (e) fair and equitable practices must be followed with regard to recruitment and all other aspects of personnel management.

DIVISION IIB—EQUAL EMPLOYMENT OPPORTUNITY

The Local Government Equal Employment Opportunity Advisory Committee

69b. (1) The *Local Government Equal Employment Opportunity Advisory Committee* is established.

- (2) The Committee consists of five members of whom—
- (a) one (who will chair the Committee) will be the person for the time being holding or acting in the office of the Commissioner for Equal Opportunity;
- and
- (b) four will be persons appointed by the Governor—

-
- (i) two being persons nominated by the Local Government Association of South Australia;
 - (ii) one being a person nominated by the Municipal Officers Association of Australia (South Australia Branch);
- and
- (iii) one being a person nominated by the Australian Workers Union (S.A. Branch).
- (3) At least one member of the Committee must be a woman and at least one a man.
- (4) The appointed members of the Committee hold office on terms and conditions determined by the Governor.
- (5) Subject to the regulations, the Committee may conduct its business as it thinks fit.
- (6) This section will expire on 30 June, 1994.

Functions of Local Government Equal Employment Opportunity Advisory Committee

69c. (1) The functions of the Committee are—

- (a) to assist councils at their request in developing and implementing equal employment opportunity programmes and, for that purpose, provide councils with advice, guidelines and statements of objectives;
 - (b) to collate information as to the measures taken by councils to implement their equal employment opportunity programmes and any other related initiatives taken by councils;
 - (c) to promote the purposes and principles of equal employment opportunity within local government administration.
- (2) This section will expire on 30 June, 1994.

Responsibilities of chief executive officer and councils in relation to equal employment opportunity

69d. (1) The chief executive officer of a council is responsible to the council—

- (a) for developing and implementing an equal employment opportunity programme relating to employment with the council;
- and
- (b) for developing and implementing other initiatives to ensure that officers and employees of the council have equal opportunities in relation to their employment.

(2) A council must comply with such requirements relating to equal employment opportunity as are prescribed in relation to all councils or a class of councils to which the council belongs.

Draft programme and annual reports to be submitted to Advisory Committee

69e. (1) A council must—

- (a) submit to the Local Government Equal Employment Opportunity Advisory Committee for its advice and comment a draft equal employment opportunity programme for the council;

and

(b) present to the Committee an annual report containing prescribed information relating to the council's equal employment opportunity programme and any other measures taken by the council in relation to equal employment opportunity.

(2) The draft programme referred to in subsection (1) must be submitted to the Committee before expiration of one year from the commencement of this section and the annual report referred to in that subsection must be presented to the Committee on or before the prescribed day in each succeeding calendar year.

(3) This section will expire on 30 June, 1994.

Insertion of s. 81a

9. The following section is inserted after section 81 of the principal Act:

General principles relating to conduct of officers and employees

81a. The following principles of conduct must be observed by the officers and employees of a council:

- (a) officers and employees must be conscientious in the performance of official duties and scrupulous in the use of official information, equipment and facilities;
- (b) officers and employees must, in their dealings with the public, members of the council and their fellow officers and employees, exercise proper courtesy, consideration and sensitivity.

The auditor

10. Section 162 of the principal Act is amended—

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

(3) No person is eligible for appointment as a council's auditor except—

(a) the Auditor-General;

(b) a person who holds a practising certificate issued by a prescribed professional body;

or

(c) a person who was eligible for such appointment immediately prior to the commencement of this subsection.;

and

(b) by striking out paragraph (c) of subsection (7) and substituting the following paragraph:

(c) the auditor is not or ceases to be eligible for appointment as a council's auditor.;

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

ROMA MITCHELL Governor