

South Australia



LOCAL GOVERNMENT (MISCELLANEOUS) AMENDMENT ACT 1998

No. 52 of 1998

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ELIZABETHAE II REGINAE

A.D. 1998

No. 52 of 1998

An Act to amend the Local Government Act 1934.

[Assented to 3 September 1998]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Local Government (Miscellaneous) Amendment Act 1998*.
- (2) The *Local Government Act 1934* is referred to in this Act as "the principal Act".

Commencement

2. (1) This Act (except sections 3 to 31 (inclusive), 33 and 35) will come into operation on assent.
- (2) Sections 3 to 31, and 33, will come into operation on 1 October 1998.
- (3) Section 35 will come into operation on a day to be fixed by proclamation.

Amendment of s. 5—Interpretation

3. Section 5 of the principal Act is amended—

- (a) by striking out from subsection (1) the definition of "**Board**";
- (b) by inserting after the definition of "**owner**" in subsection (1) the following definition:

"**Panel**" means the Boundary Adjustment Facilitation Panel;

Amendment of s. 14—Proclamations

4. Section 14 of the principal Act is amended by striking out from subsection (1)(b) "**Board**" and substituting "**Panel**".

Substitution of heading

5. The heading to Division 10 of Part 2 of the principal Act is repealed and the following heading is substituted:

DIVISION X—THE BOUNDARY ADJUSTMENT FACILITATION PANEL

Substitution of heading

6. The heading to Subdivision 2 of Division 10 of Part 2 of the principal Act is repealed and the following heading is substituted:

Subdivision 2—The Boundary Adjustment Facilitation Panel

Amendment of s. 16—The Panel

7. Section 16 of the principal Act is amended—

- (a) by striking out from subsection (1) "is established" and substituting "continues in existence as the *Boundary Adjustment Facilitation Panel*";
- (b) by striking out from subsection (2) "Board" and substituting "Panel";
- (c) by striking out from subsection (3) "Board" twice occurring and substituting, in each case "Panel";
- (d) by striking out from subsection (4) "Board" and substituting "Panel".

Substitution of 16A

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 Section 16A of the principal Act is repealed and the following section is substituted:

Composition of Panel

16A. (1) The Panel will be constituted in relation to the conduct of any business of the following members:

- (a) two persons appointed by the Minister; and
- (b) two persons selected by the Minister from a panel of six persons nominated by the Local Government Association of South Australia.

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

(3) A member of the Panel appointed under subsection (1)(a) will be appointed by the Minister to chair the Panel.

Amendment of s. 16B—Conditions of membership

9. Section 16B of the principal Act is amended—

(a) by striking out subsections (1) and (2) and substituting the following subsections:

(1) A member of the Panel is appointed on terms (including as to term of office) and conditions determined by the Minister (and, at the expiration of a term of office, is eligible for reappointment).

(2) The Minister may remove a member of the Panel from office—

- (a) for breach of, or non-compliance with, a term or condition of appointment; or

- (b) for misconduct; or
- (c) for failure or incapacity to carry out duties satisfactorily; or
- (d) if the Panel has, in the opinion of the Minister, failed to function effectively and the Panel's membership should therefore (in the Minister's opinion) be reconstituted for that reason.;

(b) by striking out from subsection (3) "Board" and substituting "Panel";

(c) by striking out from subsection (4) "Board" twice occurring and substituting, in each case "Panel";

(d) by striking out subsection (6) and substituting the following subsection:

(6) If a casual vacancy occurs in the office of a member of the Panel, the Minister may appoint a suitable person to fill the vacancy (subject to the qualification that a person appointed under this subsection to fill the vacancy of a person nominated by the Local Government Association of South Australia will be selected from a panel of two persons nominated by that body).

Substitution of s. 16C

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

Fees and expenses

16C. A member of the Panel is entitled to receive fees and expenses determined by the Minister.

Amendment of s. 16D—Protection of information, etc.

11. Section 16D of the principal Act is amended by striking out "Board" wherever it occurs and substituting, in each case "Panel"

Amendment of s. 16E—Validity of acts and immunity of members

12. Section 16E of the principal Act is amended—

(a) by striking out "Board" wherever it occurs and substituting, in each case "Panel";

(b) by striking out from subsection (2) "Board's" and substituting "Panel's".

Amendment of s. 16F—Proceedings

13. Section 16F of the principal Act is amended—

(a) by striking out from subsection (1) "Board" twice occurring and substituting, in each case "Panel";

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

(2) A quorum of the Panel consists of three members (and no business may be transacted at a meeting of the Panel unless a quorum is present).;

(c) by striking out from subsection (3) "Board" twice occurring and substituting, in each case "Panel";

- (d) by striking out from subsection (4) "Board" twice occurring and substituting, in each case "Panel";
- (e) by striking out from subsection (5) "Board" wherever it occurs and substituting, in each case "Panel";
- (f) by striking out from subsection (6) "Board" and substituting "Panel";
- (g) by striking out from subsection (7) "Board" twice occurring and substituting, in each case "Panel";
- (h) by striking out from subsection (8) "Board" twice occurring and substituting, in each case "Panel";
- (i) by striking out from subsection (9) "Board" and substituting "Panel".

Repeal of s. 16G

14. Section 16G of the principal Act is repealed.

Amendment of s. 16H—Staffing arrangements

15. Section 16H of the principal Act is amended—

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

(1) The Minister will determine the staffing arrangements for the Panel.;

(b) by striking out from subsection (2) "Board" and substituting "Panel";

(c) by striking out from subsection (3) "Board" and substituting "Panel".

Amendment of heading

16. The heading to Subdivision 3 of Division 10 of Part 2 of the principal Act is amended by striking out "*Board*" and substituting "*Panel*".

Substitution of s. 17

17. Section 17 of the principal Act is repealed and the following section is substituted:

Functions

17. (1) The functions of the Panel are—

- (a) to consider proposals for the making of proclamations under this Part submitted by councils by agreement, and to make recommendations to the Minister on the basis of those proposals; and
- (b) to complete any work associated with any proposal formulated under section 21 (subject to the operation of subsection (17) of that section).

(2) The Panel may, in connection with the operation of subsection (1)—

- (a) assist councils in the development, formulation and implementation of proposals under this Part; and

- (b) make recommendations to the Minister about proposals for the making of proclamations under this Part in respect of matters that have not otherwise been dealt with by proclamations based on proposals submitted by councils; and
 - (c) provide advice to the Minister on matters referred to the Panel by the Minister; and
 - (d) consider other matters relevant to the operation of this Part.
- (3) The Panel's functions do not extend to any matter under Division XIII or XIV.

Repeal of s. 17A

18. Section 17A of the principal Act is repealed.

Amendment of s. 17B—Principles

19. Section 17B of the principal Act is amended by striking out "Board" and substituting "Panel".

Amendment of s. 18—Procedures and powers

20. Section 18 of the principal Act is amended by striking out "Board" wherever it occurs and substituting, in each case "Panel".

Amendment of s. 19—Committees

21. Section 19 of the principal Act is amended—

- (a) by striking out from subsection (1) "Board" and substituting "Panel";
- (b) by striking out subsections (2), (3) and (4);
- (c) by striking out from subsection (5) "Board" and substituting "Panel";
- (d) by striking out from subsection (6) "The Board" and substituting "The Panel";
- (e) by striking out from subsection (6)(a) "(other than under subsection (2))";
- (f) by striking out from subsection (6)(b) ", or a deputy member, of the Board" and substituting "of the Panel";
- (g) by striking out from subsection (7) "Board" and substituting "Panel";
- (h) by striking out from subsection (9) "Board" and substituting "Panel".

Amendment of s. 19A—Delegation

22. Section 19A of the principal Act is amended by striking out "Board" twice occurring and substituting, in each case "Panel".

Amendment of s. 20—Submission of proposals by councils

23. Section 20 of the principal Act is amended by striking out "Board" wherever it occurs and substituting, in each case "Panel".

Substitution of heading

24. The heading to Subdivision 7 of Division 10 of Part 2 of the principal Act is repealed and the following heading is substituted:

Subdivision 7—Proposals by the Panel

Amendment of s. 21—Proposals by the Panel

25. Section 21 of the principal Act is amended by striking out "Board" wherever it occurs and substituting, in each case "Panel".

Amendment of s. 22—Reference of proposals to Minister and Governor

26. Section 22 of the principal Act is amended by striking out "Board" wherever it occurs and substituting, in each case "Panel".

Repeal of s. 22A

27. Section 22A of the principal Act is repealed.

Amendment of s. 22B—Draft proposals

28. Section 22B of the principal Act is amended by striking out "Board" wherever it occurs and substituting, in each case "Panel".

Amendment of s. 22D—Report if proposal submitted to poll

29. Section 22D of the principal Act is amended by striking out "Board" wherever it occurs and substituting, in each case "Panel".

Amendment of s. 22E—Protection from proceedings

30. Section 22E of the principal Act is amended by striking out "Board" wherever it occurs and substituting, in each case "Panel".

Amendment of s. 22F—Provision of reports to councils

31. Section 22F of the principal Act is amended by striking out "Board" wherever it occurs and substituting, in each case "Panel".

Substitution of s. 22G

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

Special report

22G. (1) The Local Government Boundary Reform Board must ensure that a report is prepared by 30 September 1998 on—

- (a) the extent to which the objectives set out in section 17A have been achieved under this Part; and
- (b) further or future opportunities that in the opinion of the Board exist for structural reform in local government in the State.

(2) The report must be presented to the Minister on its completion (and on or before 30 September 1998).

(3) The Minister must, within 12 sitting days after receiving a report under this section, have copies of the report laid before both Houses of Parliament.

Amendment of s. 29—Error or deficiency in an address, recommendation, notice or proclamation

33. Section 29 of the principal Act is amended by striking out from subsection (1) "Board" and substituting "Panel".

Amendment of s. 75—Investment of funds

34. Section 75 of the principal Act is amended by inserting after its present contents (now to be designated as subsection (1)) the following subsection:

(2) Subsection (1) does not apply to investments, or classes of investments, prescribed by the rules of the superannuation scheme for the purposes of this subsection.

Insertion of s. 666

35. The following section is inserted after section 665 of the principal Act:

Orders concerning European wasps

666. (1) In this section—

"European wasp nest" means the nest of an insect of the species *Vespula germanica*.

(2) A council may order the owner or occupier of land to take such action as the council considers necessary to destroy a European wasp nest located on the land.

(3) An order must specify a reasonable period (of at least 14 days) within which compliance with the order is required.

(4) An order may be served on any owner or occupier of the land.

(5) A person on whom an order is served may, within 14 days after service of the order, appeal to the Environment, Resources and Development Court.

(6) The operation of an order is suspended pending the determination of an appeal under this section.

(7) The Court may, if satisfied that it is appropriate and just in the circumstances, vary or set aside an order.

(8) If the person on whom an order is served fails to comply with the order within the period for which compliance with the order is required or, if there is an appeal, within 14 days after the determination of the appeal, the council itself may take the action specified in the order.

(9) Action taken by a council under subsection (8) may be taken on the council's behalf by an employee of the council or by another person authorised by the council for the purpose.

(10) The reasonable costs and expenses (not exceeding any limit prescribed by the regulations) incurred by a council in taking action under this section may be recovered by the council as a debt from the person who failed to comply with the requirements of the relevant order.

(11) An employee of a council or other person authorised by a council for the purpose may enter land at any reasonable time—

- (a) to ascertain whether a European wasp nest is present on the land; or
- (b) to ensure that a person has complied with an order under section (2); or
- (c) to take action authorised under subsection (8).

(12) No civil liability attaches to a council, an employee of a council, or a person acting under the authority of a council, for anything done by the council, employee or person under this section.

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

E. J. NEAL Governor