

SOUTH AUSTRALIA

ENVIRONMENTAL PROTECTION COUNCIL ACT, 1972

This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at 1 July 1991.

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

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APPENDIX LEGISLATIVE HISTORY

ENVIRONMENTAL PROTECTION COUNCIL ACT, 1972

being

Environmental Protection Council Act, 1972, No. 96 of 1972
[Assented to 9 November 1972]¹

as amended by

Environmental Protection Council Act Amendment Act, 1980, No. 9 of 1980 [Assented to 3 April 1980]²

¹ Came into operation 23 November 1972: *Gaz.* 23 November 1972, p. 2406.

² Came into operation 4 September 1980: *Gaz.* 4 September 1980, p. 763.

An Act to constitute an Environmental Protection Council; to provide for its powers and functions; and for other purposes.

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. This Act may be cited as the *Environmental Protection Council Act, 1972*.

Commencement

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

Interpretation

3. In this Act, unless the contrary intention appears—

"member" in relation to the Council, includes the person who is, for the time being, chairman of the Council:

"the environment" in relation to the State, includes any matter or thing that determines or affects the conditions or influences under which any animate thing lives or exists in the State:

"the Council" means the Environmental Protection Council established by section 4 of this Act.

Environmental Protection Council

4. (1) For the purposes of this Act a council by the name of the "Environmental Protection Council" is hereby established.

(2) The Council—

- (a) shall be a body corporate with perpetual succession and a common seal;
- (b) subject to this Act, shall be capable of acquiring, taking or letting out on lease, holding, selling and otherwise disposing of real and personal property;
- (c) may, with the approval of the Minister, enter into any contract or agreement with any person for the purpose of the exercise and performance of its powers and functions under this Act;

and

- (d) shall have the powers, duties, functions and authorities conferred, imposed or prescribed by or under this Act.

(3) In the exercise and discharge of its powers, duties, functions and authorities, the Council shall, except where the Council makes or is required to make a recommendation to the Minister, be subject to the general control and direction of the Minister.

3.

(4) Where a document purporting to bear the common seal of the Council is produced before any court or person acting judicially the court or the person, as the case may be, shall, unless the contrary is proved, presume—

(a) that the document, purporting to bear the common seal of the Council, bears the common seal of the Council;

and

(b) that the common seal was duly affixed and properly attested to.

(5) On the commencement of the *Environmental Protection Council Act Amendment Act, 1980*, the offices of the members of the Council shall be vacated.

(5a) On and after the commencement of the *Environmental Protection Council Act Amendment Act, 1980*, the Council shall consist of nine members appointed by the Governor of whom—

(a) one shall be a person with knowledge of biological conservation;

(b) one shall be a person engaged at a university in teaching or research in a field related to environmental protection;

(c) one shall be a representative of the Conservation Council of South Australia, Incorporated;

(d) one shall be a person having a special interest in environmental protection;

(e) one shall be a person with knowledge of and experience in manufacturing or mining industry;

(f) one shall be a person with knowledge of and experience in rural industry;

(g) one shall be a person with knowledge of and experience in local government;

(h) one shall be an officer of the public service of the State with knowledge of and experience in environmental protection;

and

(i) one shall be an officer of the public service of the State with knowledge of and experience in public health.

(5b) The membership of the Council shall not include more than three persons who are officers of the public service of the State.

(5c) One member of the Council, not being an officer of the public service of the State, shall be appointed by the Governor to be the chairman of the Council.

(6) A member of the Council shall not, as such, be subject to the *Public Service Act, 1967*, as amended, but this provision does not affect the rights, duties and obligations under that Act of any such member who is otherwise an Officer in the public service of the State.

4.

(7) Every member of the Council appointed by the Governor shall be appointed as such for such term of office not exceeding four years as the Governor specifies in the instrument of his appointment, but a member appointed to fill a casual vacancy shall be appointed only for the balance of the term of office of the member in whose place he was appointed.

(8) The Governor may appoint a suitable person to be a deputy of a member and that person, while acting in the absence of that member, shall be deemed to be a member and to have all the powers, authorities, duties and obligations of a member.

(9) On the expiration of his term of office as a member of the Council, a person appointed by the Governor shall, subject to subsection (5) of this section, be eligible for re-appointment.

Removal from office of member

5. The Governor may, by notice in writing served on a member of the Council, remove him from office on grounds of misconduct or incapacity to perform his duties or functions as a member.

Casual vacancies

6. The office of a member of the Council appointed by the Governor shall become vacant if—

- (a) he dies;
- (b) he resigns by written notice given to the Minister;
- (c) he is removed from office by the Governor pursuant to section 5 of this Act;
- (d) he is absent without leave of the Minister from four consecutive meetings of the Council;
- (e) he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors or compounds with his creditors for less than one hundred cents in the dollar;
- (f) he is convicted of any indictable offence;

or

- (g) he is convicted of any other offence and receives a notice in writing from the Minister discharging him from office on the ground of that conviction.

Common seal, meetings and quorum

7. (1) The common seal of the Council shall not be affixed to any instrument except in pursuance of a resolution of the Council.

(2) Any instrument executed in pursuance of such a resolution shall be attested by the signature of any two members.

(3) The procedure for the calling of meetings of the Council and for the conduct of business at such meetings shall, subject to this Act, be as determined by the Council.

5.

(4) Any five members of the Council shall constitute a quorum at any meeting of the Council and any duly convened meeting at which a quorum is present shall be competent to transact any business of the Council and shall have and may exercise and discharge all the powers, duties, functions and authorities of the Council.

(5) A decision carried by a majority of the votes cast by the members present at a meeting of the Council shall be the decision of the Council.

(6) The Council shall cause accurate minutes to be kept of its proceedings at meetings.

Chairman

8. (1) The chairman shall preside at all meetings of the Council at which he is present and in addition to a deliberative vote, shall, in the event of an equality of votes, have a second or casting vote.

(2) At any meeting of the Council at which the chairman of the Council is not present, the members present may, from amongst their own number, elect a member to act as chairman for the meeting and while so acting that member shall have and may exercise and perform all the powers and functions of the chairman of the Council.

Validity of acts of Council

9. No act, proceeding or determination of the Council shall be invalid on the ground only of any vacancy in the office of any member or of any defect in the appointment of any member.

Remuneration of members

10. A member of the Council shall, if the Governor thinks fit, be paid such fees or other remuneration as may from time to time be fixed by the Governor and shall be entitled to receive such travelling and other expenses as are from time to time approved by the Minister.

Acceptance of office as member of Council not to be bar to holding other office

11. Notwithstanding anything contained in any other Act, no person shall be disqualified by acceptance of office, or by appointment, as a member of the Council from holding the office of a member of the Council under this Act and also any other office, or from accepting and retaining any fees or other remuneration or payment payable to a member under this Act, but no member of either House of Parliament shall be appointed or hold office as a member of the Council.

Secretary to the Council

12. (1) There shall be a secretary to the Council who shall be appointed by the Governor.

(2) The person so appointed shall be subject to the *Public Service Act, 1967*, as amended.

(3) The office of secretary to the Council may, if the Governor thinks fit, be held in conjunction with any other office in the public service of the State.

Authority may use the services of employees of the Crown, statutory bodies and councils

13. (1) With the approval of the Minister, the Council may make use of the services of any of the officers in the branch of the public service of the State known as the Department of Environment and Conservation.

(2) The Council may, with the approval of the Minister and the consent of the Minister controlling any department of the public service of the State, and on such terms as may be mutually arranged, make use of the services of any of the officers or employees of that department.

(3) The Council may, with the approval of the Minister and the consent of any body corporate created by or under any Act or of any council, as defined for the purposes of the *Local Government Act, 1934*, as amended, and on such terms as may be mutually arranged, make use of the services of any of the officers or employees of such body or council.

Powers and functions, etc., of Council

14. (1) Subject to this Act, the Council is charged with the responsibility of considering and reporting on matters affecting the environment of the State referred to it by the Minister and to consider and report on such other matters as, in its opinion, affect the environment of the State.

(2) Without limiting the generality of subsection (1) of this section the Council may—

- (a) investigate and report upon existing and potential problems of environmental deterioration and protection referred to it by the Minister, or considered by it to require investigation and if possible suggest or advise upon methods for the control or elimination of any such problems;
- (b) consider, develop and report upon means of enhancing the quality of the environment and the means of preventing, controlling, abating or mitigating pollution;
- (c) consult with and obtain the advice of persons having special knowledge, experience or responsibility in regard to environmental protection;

and

- (d) recommend or promote research on matters connected with the environment and co-ordinate any such research whether or not carried out under the auspices of the Council.

(3) Without limiting the generality of the powers and functions conferred on it otherwise under this section the Council shall, in the exercise and performance of those powers and functions, have regard to the desirability of preserving the natural beauty of the countryside, of conserving flora, fauna and geological and physiographical features of special interest and of protecting buildings and other objects of architectural or historic interest and the Council shall take into account the effect which any proposals that it makes may have on the natural beauty of the countryside or on any such flora, fauna, features, buildings or objects.

Council to have powers of Royal Commission in certain matters

15. (1) The Governor may, from time to time, by proclamation direct the Council to inquire into a matter specified in the proclamation.

(2) Where a proclamation referred to in subsection (1) has been made, the *Royal Commissions Act, 1917*, shall apply and have effect, in all respects, as if—

- (a) the Council were a commission as defined in that Act;

and

- (b) the proclamation were a commission of inquiry issued by the Governor under his hand and the public seal of the State.

Delegation of powers

16. (1) The Council may, with the approval of the Minister, by writing over its seal delegate to any person any of the powers or functions of the Council (except this power of delegation) so that the delegated powers or functions may be exercised by the delegate with respect to the matter or class of matters specified or the place or locality defined in the instrument of delegation.

(2) A delegation under subsection (1) of this section shall be revocable in writing at will, and no delegation shall prevent the exercise or performance by the Council of any of its powers or functions.

Reports

17. (1) As soon as practicable after the thirtieth day of June in each year the Council shall present a report to the Minister—

- (a) in the case of the thirtieth day of June next following the day on which this Act came into operation, on its activities during the period commencing on that day and concluding on that thirtieth day of June;

and

- (b) in the case of each such succeeding thirtieth day of June, on its activities during the period of twelve months immediately preceding that thirtieth day of June.

(2) The Minister shall cause every report of the Council made in accordance with subsection (1) of this section to be laid before each House of Parliament within fourteen days of his receipt thereof if Parliament is then in session, or if Parliament is not then in session, within fourteen days of the commencement of the next session of Parliament.

Moneys for the purposes of the Act

18. The moneys required for the purposes of this Act shall be paid out of moneys provided by Parliament for the purpose.

8.

APPENDIX

Legislative History

Section 4(5):	substituted by 9, 1980, s. 3(a)
Section 4(5a) - (5c):	inserted by 9, 1980, s. 3(a)
Section 4(8):	substituted by 9, 1980, s. 3(b)