

SOUTH AUSTRALIA

PUBLIC WORKS STANDING COMMITTEE ACT, 1927

*This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at **15 November 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.

SUMMARY OF PROVISIONS

Section

1. Short title
2. Repeal and saving provisions
3. Interpretation
4. Parliamentary Standing Committee on Public Works to be appointed
5. Constitution of the committee—their appointment and tenure of office
6. Declaration of members of committee
7. Extraordinary vacancies
8. Chairman and vice-chairman
9. Quorum
10. Sub-committees
11. Remuneration of members
14. Amounts to be certified by chairman
15. Payments not to disqualify
16. Secretary and other officers may be appointed
17. Disqualification of members from taking part in certain proceedings
18. Power to sit during recess
19. Minutes
20. Powers of committee
21. Powers of committee in respect of witnesses
22. Punishment for false evidence
23. Assessors
24. Functions of committee
25. Duty to submit proposals for new public works to committee
26. Power to refer any matter involving expenditure of public moneys
27. Matters referred to previous committees may be completed by subsequent committees
28. Periodical report
29. Regulations
30. Expenses of Act to be provided by Parliament

SCHEDULES

APPENDIX LEGISLATIVE HISTORY

PUBLIC WORKS STANDING COMMITTEE ACT, 1927

being

Public Works Standing Committee Act, 1927, No. 1795 of 1927
[Assented to 2 November 1927]

as amended by

Statute Law Revision Act, 1935, No. 2246 of 1935 [Assented to 19 December 1935]
Public Works Standing Committee Act Amendment Act, 1940, No. 2 of 1940 [Assented to 25 July 1940]
Public Works Standing Committee Act Amendment Act, 1944, No. 9 of 1944 [Assented to 19 October 1944]
Public Works Standing Committee Act Amendment Act, 1951, No. 8 of 1951 [Assented to 6 September 1951]¹
Public Works Standing Committee Act Amendment Act, 1954, No. 61 of 1954 [Assented to 23 December 1954]
Statutes Amendment (Public Salaries) Act, 1955, No. 3 of 1955 [Assented to 23 June 1955]²
Public Works Standing Committee Act Amendment Act, 1955, No. 8 of 1955 [Assented to 29 September 1955]
Statutes Amendment (Public Salaries) Act, 1960, No. 8 of 1960 [Assented to 19 May 1960]³
Public Works Standing Committee Act Amendment Act, 1970, No. 28 of 1970 [Assented to 5 November 1970]
Statutes Amendment (Committee Salaries) Act, 1974, No. 80 of 1974 [Assented to 31 October 1974]⁴
Public Works Standing Committee Act Amendment Act, 1974, No. 94 of 1974 [Assented to 5 December 1974]
Statute Law Revision Act (No. 2), 1975, No. 118 of 1975 [Assented to 4 December 1975]
Statutes Amendment (Remuneration of Parliamentary Committees) Act (No. 2), 1978, No. 101 of 1978 [Assented to 7 December 1978]
Public Works Standing Committee Act Amendment Act, 1986, No. 23 of 1986 [Assented to 20 March 1986]⁵
Statutes Repeal and Amendment (Remuneration) Act, 1990, No. 18 of 1990 [Assented to 19 April 1990]⁶

¹ Came into operation 14 February 1952: *Gaz.* 14 February 1952, p. 329.

² Came into operation 1 June 1955: s. 16(2).

³ Came into operation 1 May 1960: s. 8.

⁴ Came into operation 1 July 1974: s. 2.

⁵ Came into operation 3 April 1986: *Gaz.* 3 April 1986, p. 780.

⁶ Came into operation 19 April 1990: *Gaz.* 19 April 1990, p. 1136.

N.B. The Statutes Amendment (Remuneration of Parliamentary Committees) Act, 1978, was repealed before it was brought into operation.

Note: Asterisks indicate repeal or deletion of text. For further explanation see Appendix.

An Act to provide for a Parliamentary Standing Committee on Public Works, and to define the functions and powers thereof, 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 *Public Works Standing Committee Act, 1927*.

Repeal and saving provisions

2. (1) The *Railways Standing Committee Act, 1912*, is hereby repealed.

(2) Notwithstanding such repeal the Parliamentary Standing Committee on Railways in office at the commencement of this Act shall continue to hold office until the appointment of the first committee under this Act, and shall until that time have the same powers, rights, privileges, and functions as it would have had if the *Railways Standing Committee Act, 1912*, were still in force.

(3) Upon the appointment of the first committee under this Act all inquiries pending before the Parliamentary Standing Committee on Railways and all other matters and things in course of being dealt with or done by the Parliamentary Standing Committee on Railways under the *Railways Standing Committee Act, 1912*, at that time shall be continued and completed under that Act by the committee appointed under this Act, and for the purpose of such continuance and completion the said *Railways Standing Committee Act, 1912*, shall, subject to this section, and with the necessary modifications, still remain in force.

Interpretation

3. In this Act, unless inconsistent with the context or some other meaning is clearly intended—

"chairman" means chairman of the committee:

"committee" means Parliamentary Standing Committee on Public Works appointed under the provisions of this Act:

"construction" includes—

(a) the making of any improvements or other physical changes to any building, structure or land;

and

(b) the acquisition and installation of fixtures, plant or equipment when carried out as part of, or in conjunction with, the construction of a work,

and "construct" has a corresponding meaning:

"member" means member of the committee, and includes the chairman and any temporary chairman of the committee:

"public work" means any work that is proposed to be constructed where the whole or a part of the cost of construction of the work is to be met out of moneys provided or to be provided by Parliament:

3.

"secretary" means secretary to the committee:

"work" means any building or structure or any improvements or other physical changes to any building, structure or land.

Parliamentary Standing Committee on Public Works to be appointed

4. (1) For the purposes of this Act there shall be a committee known as the Parliamentary Standing Committee on Public Works.

(2) The first committee shall be appointed as soon as practicable after the passing of this Act.

Constitution of the committee—their appointment and tenure of office

5. (1) The committee shall consist of seven members of Parliament appointed by the Governor.

(2) Two of the members of the committee shall be members of the Legislative Council, and five of the members of the committee shall be members of the House of Assembly. But no responsible Minister of the Crown, nor the holder of any office of profit under the Crown, shall be a member of the committee.

(3) Subject to section 7 the members of the committee shall hold office for five years, but any member shall be eligible for re-appointment on the expiry of his term of office: Provided that if the term of office of any committee expires and at the time of such expiry a new committee has not been appointed to take office from the date of such expiry the existing committee shall remain in office until a new committee is appointed.

(4) The members of the committee shall not be subject to the *Public Service Act, 1967*, as amended.

Declaration of members of committee

6. (1) Every person appointed a member of the committee, before entering on the duties of his office, shall make and sign a declaration in the form of the first schedule.

(2) Such declaration shall be made and signed before and shall be filed by the President or Deputy President of the Legislative Council, or the Speaker or Deputy Speaker of the House of Assembly, according to the House of Parliament of which the person so appointed is a member.

Provided that—

(a) if the offices of President and Deputy President of the Legislative Council are both vacant, a member of the Legislative Council, and

(b) if the offices of Speaker and Deputy Speaker are both vacant, a member of the House of Assembly,

may make the declaration required by this section, before a Commissioner for taking Affidavits in the Supreme Court. Any declaration so made, shall be filed by the Clerk of the Legislative Council or the Clerk of the House of Assembly, according to the House of Parliament of which the person making the declaration is a member.

Extraordinary vacancies

7. (1) The seat of any member on the committee shall become vacant upon—

- (a) delivery to the secretary of his resignation thereof by writing signed by him and addressed to the Governor; or
- (b) his ceasing to be a member of the House of Parliament from which he was appointed to the committee, unless he so ceases by reason only of the expiration or dissolution of the Parliament, or the expiration of the term for which he holds his seat in Parliament in which case subsection (1a) of this section shall apply; or
- (c) his becoming a responsible Minister of the Crown, or accepting any office of profit under the Crown; or
- (d) his absence, without the consent in writing of the Minister of Works, from three consecutive duly summoned meetings of the committee; or
- (e) the dismissal of such member from his seat on the committee by the Governor on the ground that he is incompetent to discharge his duties or that he has been neglectful in the discharge of his duties, or is otherwise not a fit and proper person to continue to be a member of the committee.

(1a) For the purposes of this Act a person who has ceased to be a member of a House of Parliament because that House has expired or been dissolved or because his term as such member has come to an end shall nevertheless be regarded as continuing to be a member of that House for the following period:—

- (a) if he is not elected to a seat in that House at the next election, until his successor is appointed as hereinafter provided:
- (b) if he is so elected, during the whole of the period between the time when he ceases to be a member of the House and his election.

The Governor shall, within three months after every election, make an appointment to the committee to fill the seat of each member of the committee who at that election was not elected to the House from which he was appointed to the committee.

(2) On the occurrence of any vacancy in the committee the same shall be filled by the appointment thereto of a member of the House of Parliament to which the member whose seat has become vacant belonged.

Chairman and vice-chairman

8. (1) The Governor may, from time to time, appoint one of the members of the committee to be the chairman thereof.

(2) The chairman shall preside at all meetings of the committee: Provided that at any meeting at which a quorum is present the members in attendance may, in the absence of the chairman, appoint one of their number then present to be temporary chairman during the absence of the chairman.

5.

(3) Any such temporary chairman, whilst presiding at any meeting of the committee shall, except where otherwise provided by this Act, have all the powers given by this Act to the chairman, but he shall not have a casting vote.

(4) All questions which arise at any meeting of the committee shall be decided by a majority of votes of the members present, who, having regard to section 17, are entitled to vote: Provided that when the votes are equal the chairman, if entitled as aforesaid, shall have a second or casting vote, and such vote shall decide the question. Provided also that the question of the adoption of a report of the Committee shall not be deemed to be decided in the affirmative unless at least four members present and entitled to vote as aforesaid vote in favour of such adoption.

(5) In all cases of divisions the names of the members voting on the respective sides shall be stated on the minutes and in the committee's report on any proposed work.

Quorum

9. (1) Subject to subsection (2) of this section, any four members shall form a quorum competent to exercise all powers and authorities and to incur all obligations conferred or imposed upon the committee.

(2) When the committee meet for the consideration of their report on any proposed public work, or of any periodical report to be made by the committee, the quorum shall consist of not less than five members.

Sub-committees

10. (1) The committee may constitute one or more sub-committees of itself for all purposes of this Act. Every such sub-committee shall be constituted at a duly convened meeting of the committee and shall consist of two or more members appointed for the purpose.

(2) Every sub-committee shall have, and may exercise, for the purpose of carrying out any business or inquiry delegated to them by the committee either at or after the time of their appointment, all the powers by this Act conferred on the committee.

(3) Every sub-committee shall appoint a chairman or temporary chairman, who shall be the person to exercise the powers conferred by this Act on the chairman of the committee.

Remuneration of members

11. The chairman of the committee and the other members of the committee are entitled to such salaries, allowances and expenses as are fixed by or under the *Parliamentary Remuneration Act, 1990*, in relation to the respective offices.

* * * * *

Amounts to be certified by chairman

14. The amounts to which any member is entitled in respect of that office shall be certified in writing signed by the chairman and the secretary, whose certificate shall be sufficient authority for the payment of all amounts so certified.

Payments not to disqualify

15. (a) The office of chairman or of member of the committee shall not, on account of any payment received in respect of that office, be deemed to be an office of profit within the meaning of section 45 of the *Constitution Act, 1934*; and

- (b) the chairman or a member of the committee shall not, on account of any such payment, be deemed to undertake, execute, hold, enjoy, enter into, or accept, any contract, agreement, or commission made or entered into with, under, or from any person or persons, for or on account of the Government of the said State, within the meaning of section 49, 50, 51, 52, or 53 of the *Constitution Act, 1934*,

so as to render vacant or void the seat in Parliament of such chairman or member, or to render null his election to Parliament, or to render him incapable of sitting or voting as a member of Parliament or liable to any forfeiture or penalty for so sitting or voting.

Secretary and other officers may be appointed

16. The Governor, on the recommendation of the committee, may from time to time appoint a secretary to the committee and such other officers as he deems necessary or proper for the purposes of this Act.

Disqualification of members from taking part in certain proceedings

17. No member shall take any part in the proceedings when the committee are taking evidence as to any proposed work in which he has a direct pecuniary interest, nor shall he vote or take any part in the proceedings when the committee are considering or reporting on such work.

Power to sit during recess

18. (1) The committee shall have power to sit and transact business during any adjournment or recess of Parliament and during the interval between two Parliaments as well as during any session of Parliament, but shall not sit during any sitting of either House of Parliament except by leave of such House.

(2) The committee may sit at such times and in such places, and conduct its proceedings in such manner as it deems most convenient for the proper and speedy dispatch of business.

Minutes

19. The committee shall keep full minutes of its proceedings in such manner as is prescribed.

Powers of committee

20. For the purposes of this Act the committee shall have the following powers, that is to say—

- (1) Any member thereof, or any person appointed by the committee to prosecute an inquiry, may enter and inspect any land, building, place, or material, the entry or inspection of which appears to him or them requisite, upon the prescribed notice being given to the owners or occupiers of such land, building, place, or material:
- (2) It may require, by summons under the hand of the chairman or of the secretary acting under the direction of the chairman, the attendance of all such persons as it thinks fit to call before it, and may require answers or returns to such inquiries as it thinks fit to make:
- (3) It may in the prescribed manner require and compel the production of all books, maps, plans, papers, and documents relating to the matters before it:
- (4) It may examine witnesses on oath, affirmation, or declaration, which may be administered by the chairman or temporary chairman.

Powers of committee in respect of witnesses

21. (1) If any person—

- (a) who has been duly served with a summons to attend before the committee, and whose expenses, as provided in subsection (4) hereof, have been paid or tendered to him, neglects to attend in obedience to such summons; or
- (b) wilfully insults the committee, or any member thereof; or
- (c) misbehaves himself before the committee; or
- (d) interrupts the proceedings of the committee; or
- (e) being called or examined as a witness in any inquiry or matter pending before the committee, refuses to be sworn or to affirm or declare, or to produce the documents mentioned in the summons served upon him, or any of them, or prevaricates in his evidence, or refuses to answer any lawful question,

the chairman or temporary chairman may commit such person to gaol for any time not exceeding one month, or may impose on him a penalty not exceeding one hundred dollars, and in default of immediate payment of such penalty, may commit the offender to gaol for any time not exceeding one month unless the fine is sooner paid.

(2) In any of the cases aforesaid a warrant in the form or to the effect of the second schedule may be issued by the chairman or temporary chairman, and such warrant shall be good and valid in law without any other warrant, order, or process whatsoever; and the Commissioner of Police and all members of the police force, and the Sheriff, and all gaolers may and shall obey the same.

(3) When any person who has been duly served with a summons to attend as a witness before the committee, and whose expenses, as provided in subsection (4) hereof, have been paid or tendered to him, fails to attend in obedience to such summons, the chairman or temporary chairman upon proof of such person having been duly served with such summons, and of such expenses having been paid or tendered to him, and that his non-appearance was without just cause or reasonable excuse, may issue a warrant in the form or to the effect of the third schedule to bring such person before the committee to give evidence. The provisions of subsection (2) of this section shall apply to any such warrant.

(4) Every person required by the committee to attend shall be allowed such expenses as would be allowed to a witness attending on subpoena before the Supreme Court, and in case of dispute as to the amount to be allowed the same shall be referred to the Master of the Supreme Court who, on request under the hand of the chairman shall ascertain and certify the proper amount of such expenses.

Punishment for false evidence

22. Any person who, upon oath, affirmation, or declaration taken or made under this Act, wilfully and corruptly gives any false evidence before the committee shall be guilty of perjury and, on conviction, may be imprisoned, with or without hard labour, for any term not exceeding four years.

Assessors

23. (1) The committee may from time to time in the exercise of any powers by this Act conferred on it call in the aid of one or more assessors, being persons of engineering or other technical knowledge or possessing special local knowledge or experience.

(2) There shall be paid to such assessors such remuneration as is prescribed and is recommended by the committee.

Functions of committee

24. (1) The committee shall, subject to the provisions of this Act, consider and report upon all public works which are referred to it under this Act.

(2) In considering and reporting on any such work, the committee shall have regard—

- (a) to the stated purpose thereof;
- (b) to the necessity or advisability of constructing it;
- (c) where the work purports to be of a reproductive or revenue-producing character, to the amount of revenue which such work may reasonably be expected to produce;
- (d) to the present and prospective public value of the work;
- (e) to the recurrent costs (including costs arising out of any loan or other financial arrangements) associated with the construction of the work and its proposed use;

and

- (f) to the estimated net effect upon Consolidated Account of the construction of the work and its proposed use,

and generally the committee shall, in all cases, take such measures and procure such information as may enable them to inform or satisfy the House of Assembly or Legislative Council (according to the circumstances of the case) as to the expediency of constructing the public work in question.

Duty to submit proposals for new public works to committee

25. (1) Where it is estimated that the total amount applied for the construction of a public work out of moneys provided by Parliament will, when all stages of the work are complete, exceed the declared amount, then no amount shall be applied for the actual construction of the work out of moneys provided by Parliament unless the work has first been inquired into by the committee under this section.

(2) A public work referred to in subsection (1) may be referred to the committee—

- (a) upon motion made in the usual manner by any Minister or any other member of either House of Parliament; or
- (b) by the Governor.

(3) Upon any public work being referred to the committee the committee shall with all convenient despatch deal with the matter and shall as soon as conveniently practicable, regard being had to the nature and importance of the proposed work, report to the Governor and to both Houses of Parliament the result of its inquiries.

(4) Any report presented by the committee to either House of Parliament may by resolution of that House be remitted to the committee for their further consideration and report; in which case the committee shall consider the matter of the new reference and report thereon accordingly.

(5) The provisions of this section as in force immediately before the commencement of the *Public Works Standing Committee Act Amendment Act, 1986*, shall apply to and in relation to any proposed public works referred to the committee before such commencement.

(6) The provisions of this section as amended by the *Public Works Standing Committee Act Amendment Act, 1986*, do not apply to a public work if construction of the work commenced, or a contract for the construction of the work was entered into, before the commencement of that Act.

(7) In this section—

"the declared amount" means—

(a) \$2 000 000;

or

(b) where a greater amount is declared by proclamation under subsection (8)—that amount.

(8) Subject to subsection (9), the Governor may, by proclamation, declare an amount for the purposes of subsection (7) and, by subsequent proclamation, vary or revoke a proclamation under this subsection.

(9) An amount declared by or as a result of a proclamation under subsection (8) must not exceed an amount (calculated to the nearest multiple of \$1 000) that bears to \$2 000 000 the same proportion as the price index applying at the date of the proclamation bears to the price index applying at the date of commencement of this subsection.

(10) In subsection (9)—

"price index" applying at a date means—

(a) the Price Index of Materials Used in Building Other than House Building—All Groups for Adelaide last published before that date by the Australian Bureau of Statistics under the *Australian Bureau of Statistics Act 1975* of the Commonwealth;

or

(b) if some other price index is prescribed—that price index.

Power to refer any matter involving expenditure of public moneys

26. Any question relating to any project whether a public work within the meaning of this Act or not, and irrespective of the estimated cost thereof, which, if carried out, will require the expenditure of moneys voted, or to be voted, by Parliament, may be referred to the committee by the Governor, or upon motion made in the usual manner by any Minister or any other member of either House of Parliament, for inquiry and report, and the committee shall inquire into and report upon such question in the same manner as a public work under section 25 of this Act.

Matters referred to previous committees may be completed by subsequent committees

27. A public work that has been referred to the committee as constituted at any time shall be deemed to have been referred to the committee as constituted from time to time thereafter (whether during the same or a subsequent Parliament) until the committee has completed its inquiry into and report on the work and for that purpose evidence taken before the committee as constituted at any time may be taken into account by the committee as subsequently constituted.

Periodical report

28. (1) The committee shall, on or before the thirty-first day of August in each year, make a general report to the Governor of its proceedings under this Act, and may in such report also call attention to any matter connected with the public works or proposed public works of the State on which, in its opinion, Parliament should be informed.

(2) Copies of such report shall be laid before both Houses of Parliament within fourteen days after it has been presented to the Governor, if Parliament is in session at the time of such presentation, and if Parliament is not then in session, within fourteen days after the commencement of the next ensuing session of Parliament.

Regulations

29. The Governor may make, alter, or repeal all such regulations as may be necessary or convenient for the purpose of giving effect to this Act.

Expenses of Act to be provided by Parliament

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

11.

THE SCHEDULES

THE FIRST SCHEDULE

I, _____, do solemnly and sincerely promise and declare that according to the best of my skill and ability I will faithfully, impartially, and truly execute the office and perform the duties of a member of the Parliamentary Standing Committee on Public Works.

[Signature]

THE SECOND SCHEDULE

FORM OF WARRANT

The Public Works Standing Committee Act, 1927

To the Commissioner of Police and all members of the Police Force of South Australia and to the Keeper of the Gaol at

These are to command you the Commissioner of Police and all members of the Police Force of South Australia to apprehend A.B. and to convey him to the above-mentioned gaol, and to deliver him to the keeper thereof, together with this warrant, and you the said keeper are hereby required to receive him into your custody in the said goal and him there safely to keep for the term of [unless the sum of is sooner paid] I the undersigned chairman [or temporary chairman] of the Parliamentary Standing Committee on Public Works, having adjudged the said A.B. to be imprisoned [or to pay a penalty of , and, he having made default in the immediate payment thereof, I having further adjudged him to be imprisoned] for the said term, for that he the said A.B. [*here state the offence to the following effect, as the case may require*].

That A.B. having been duly served with a summons to attend before the said committee, and having had his expenses paid or tendered, neglected to attend before the said committee [or] that A.B. wilfully insulted the said committee [or] C.D. one of the members of the said committee [or] that A.B. misbehaved himself before the said committee [or] that A.B. interrupted the proceedings of the said committee [or] that A.B. having been called or being examined as a witness in a certain inquiry or matter pending before the said committee refused to be sworn or affirm or declare or to produce a certain document mentioned in the summons served on him viz.:— [or] was guilty of prevarication in his evidence or refused to answer a certain lawful question.

Given under my hand at this day of in the year of our Lord
nineteen hundred and .

[Signature],

Chairman [or temporary chairman] of the
Parliamentary Standing Committee on Public Works.

APPENDIX

Legislative History

Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 9 of The Public General Acts of South Australia 1837-1975 at page 72.

Section 3:	definition of "construction" inserted by 23, 1986, s. 3(a) definition of "public work" substituted by 23, 1986, s. 3(b) definition of "work" inserted by 23, 1986, s. 3(c)
Section 11:	substituted by 101, 1978, s. 13; 18, 1990, s. 23
Sections 12 and 13:	repealed by 18, 1990, s. 23
Section 14:	amended by 18, 1990, s. 24
Section 25:	amended by 18, 1990, s. 25
Section 24(2):	amended by 23, 1986, s. 4
Section 25(1):	substituted by 23, 1986, s. 5(a)
Section 25(2):	amended by 23, 1986, s. 5(b)
Section 25(5):	amended by 23, 1986, s. 5(c)
Section 25(6) - (10):	inserted by 23, 1986, s. 5(d)
Section 25a:	repealed by 23, 1986, s. 6
Section 27:	substituted by 23, 1986, s. 7