

South Australia

# Justices of the Peace (Miscellaneous) Amendment Act 2016

An Act to amend the *Justices of the Peace Act 2005*.

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**The Parliament of South Australia enacts as follows:**

## Part 1—Preliminary

### 1—Short title

This Act may be cited as the *Justices of the Peace (Miscellaneous) Amendment Act 2016*.

### 2—Commencement

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

### 3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

## **Part 2—Amendment of *Justices of the Peace Act 2005***

### **4—Amendment of section 4—Appointment of suitable persons as justices**

- (1) Section 4(1)—delete subsection (1) and substitute:
  - (1) The Attorney-General may, by notice in the Gazette, appoint a suitable person to be a justice of the peace for South Australia.
- (2) Section 4(2)—delete "Governor" and substitute:

Attorney-General
- (3) Section 4(5)—delete subsection (5) and substitute:
  - (5) The Attorney-General may require that information in, or accompanying, an application for appointment be verified by the applicant by statutory declaration.
- (4) Section 4(8)—delete "will not recommend the appointment of" and substitute:

must not appoint

### **5—Amendment of section 5—Appointment of persons occupying certain offices as justices**

- Section 5—delete "Governor" wherever occurring and substitute in each case:  
Attorney-General

### **6—Amendment of section 6—Justices must take oath before exercising official powers**

- (1) Section 6(2)(a)—delete paragraph (a) and substitute:
  - (a) be taken before—
    - (i) a Judge or Master of the Supreme Court; or
    - (ii) a Judge or Master of the District Court; or
    - (iii) a Magistrate; or
    - (iv) a commissioner for taking affidavits in the Supreme Court, within 3 months after the justice's appointment; and
- (2) Section 6—after subsection (2) insert:
  - (3) This section does not apply to a person who is re-appointed as a justice and has complied with this section in relation to the person's first appointment as a justice.

### **7—Amendment of section 10—Justice may apply for suspension of official duties for personal reasons**

- (1) Section 10(1)—delete "Governor" and substitute:

Attorney-General

(2) Section 10—after subsection (2) insert:

- (2a) A justice whose office has been suspended under this section by reason of a prolonged absence from the State must, on or before the period of suspension expires, notify the Attorney-General whether the justice intends to return to the State when the period of suspension expires.

### **8—Amendment of section 11—Disciplinary action, suspension and removal of justices from office**

(1) Section 11(1)—delete subsection (1) and substitute:

- (1) There is proper cause for taking disciplinary action against a justice if the justice breaches or fails to comply with—
- (a) this Act; or
  - (b) a condition of his or her appointment (whether as a justice or special justice); or
  - (c) a prescribed provision of a code of conduct.

(2) Section 11(2)—delete "Governor" wherever occurring and substitute in each case:  
Attorney-General

(3) Section 11(3)—delete "Governor" and substitute:  
Attorney-General

(4) Section 11(5)—delete "Governor" wherever occurring and substitute in each case:  
relevant authority

(5) Section 11(5)(d)—delete "Governor's" and substitute:  
relevant authority

(6) Section 11(6)—delete "Governor" and substitute:  
relevant authority

(7) Section 11—after subsection (6) insert:

- (7) In this section—
- relevant authority*—
- (a) in relation to a special justice—means the Governor;
  - (b) in relation to a justice who is not a special justice—means the Attorney-General.

### **9—Amendment of section 12—Disciplinary action—retired justices**

Section 12(2)—delete "Governor" wherever occurring and substitute in each case:  
Attorney-General

### **10—Amendment of section 16—Offence to hold out etc**

Section 16(4)(c)—delete "Governor" and substitute:  
Attorney-General

## **11—Insertion of sections 16A and 16B**

After section 16 insert:

### **16A—False statements**

A person must not make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular) in any information provided under this Act.

Maximum penalty:

- (a) if the person made the statement knowing that it was false or misleading—\$10 000 or imprisonment for 2 years; or
- (b) in any other case—\$5 000.

### **16B—Delegation**

- (1) The Attorney-General may delegate a power or function of the Attorney-General under this Act to the Commissioner for Consumer Affairs.
- (2) A delegation under this section—
  - (a) may be absolute or subject to conditions or limitations specified in the instrument of delegation; and
  - (b) is revocable at will and does not derogate from the power of the delegator to act in any matter.