

**House of Assembly—No 128**

As laid on the table and read a first time, 8 June 2016

South Australia

**Justices of the Peace (Miscellaneous) Amendment  
Bill 2016**

A BILL FOR

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

- 5 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

- 10 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:
  - 15 (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.

5 (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:

10 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—

- 15 (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

20 (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 7—Special justices**

25 (1) Section 7(1)—delete subsection (1) and substitute:

(1) The Attorney-General may appoint a justice to be a special justice.

(2) Section 7(2)—delete "Governor" and substitute:

Attorney-General

(3) Section 7(3)—delete "will not recommend that a justice be appointed" and substitute:

30 must not appoint a justice

(4) Section 7(5)—delete "Governor" and substitute:

Attorney-General

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

35 (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.

**9—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:

Attorney-General

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

Attorney-General's

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

Attorney-General

**10—Amendment of section 12—Disciplinary action—retired justices**

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

Attorney-General

**11—Amendment of section 16—Offence to hold out etc**

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

Attorney-General

## 12—Insertion of sections 16A and 16B

After section 16 insert:

### 16A—False statements

5 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:

- 10 (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.

(2) A delegation under this section—

15 (a) may be made—

(i) to a particular person or body; or

(ii) to the person for the time being occupying a particular office or position; and

20 (b) may be absolute or subject to conditions or limitations specified in the instrument of delegation; and

(c) if the instrument of delegation so provides, may be further delegated by the delegate; and

(d) is revocable at will and does not derogate from the power of the delegator to act in any matter.