

South Australia

Subordinate Legislation (Disallowance and Variation) Amendment Bill 2005

A BILL FOR

An Act to amend the *Subordinate Legislation Act 1978*; and to make a related amendment to the *Acts Interpretation Act 1915*.

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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 *Subordinate Legislation (Disallowance and Variation) Amendment Act 2005*.

5 2—Commencement

This Act will come into operation 6 months after the date of assent or on an earlier date 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 *Subordinate Legislation Act 1978*

4—Substitution of heading to Part 2

Heading to Part 2—delete the heading and substitute:

Part 2—Making of regulations

15 5—Amendment of section 10—Making of regulations

Section 10(5a), (5b) and (6)—delete subsections (5a), (5b) and (6)

6—Amendment of section 10AA—Commencement of regulations

Section 10AA(2)(a)—delete "it is necessary or appropriate that the regulation come into operation on an earlier date" and substitute:

there are exceptional circumstances justifying its earlier operation

5 **7—Amendment of section 10A—Regulations to be referred to Legislative Review Committee**

(1) Section 10A(1a)—after "the reasons for the issue" insert:

the exceptional circumstances that form the basis of the issue

(2) Section 10A(3)—after "disallowance" insert:

10 or variation

(3) Section 10A(4)—after "disallowed" insert:

or varied

(4) Section 10A(4)(a)—after "disallowance" insert:

or variation

15 **8—Insertion of Part 3**

After section 13 insert:

Part 3—Disallowance or variation of regulations

14—Regulations may be disallowed or varied

(1) A regulation or a provision of a regulation may—

20 (a) be disallowed by resolution of either House of Parliament;
or

(b) be varied by resolution of both Houses of Parliament (but not so as to have the effect of waiving or changing a fee, charge, penalty or other amount payable to the Crown or an agency of the Crown).

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(2) A resolution is not effective for the purposes of subsection (1) unless—

(a) in the case of a regulation that has been laid before a House of Parliament—the resolution is passed pursuant to a notice of motion given within 14 sitting days (which need not fall within the same session of Parliament) after the regulation was laid before the House; or

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(b) in the case of a regulation that has been the subject of a report by the Legislative Review Committee of the Parliament because it has not been laid before a House of Parliament—the resolution is passed pursuant to a notice of motion given within 6 sitting days (which need not fall within the same session of Parliament) after the report was made to the House.

(3) When a resolution referred to in subsection (1) has been passed, the Clerk of the House by which the resolution was passed must cause notice of the resolution to be published as soon as is reasonably practicable in the Gazette.

(4) If either House of Parliament passes a resolution to disallow a regulation or a provision of a regulation, the regulation or provision (as the case requires) is disallowed—

(a) 7 days after the day that notice of the disallowance is published in the Gazette; or

(b) if the resolution provides that it takes effect on some other day (not being a day before the resolution passed)—that day.

(5) If both Houses of Parliament pass a resolution to vary a regulation, it is varied—

(a) 7 days after the day that notice of the variation is published in the Gazette; or

(b) if the resolution provides that it takes effect on some other day (not being a day before the resolution passed)—that day.

15—Disallowed regulations not to be re-made unless House approves

(1) If a regulation or a provision of a regulation is disallowed, a regulation that is the same in substance as the disallowed regulation or provision must not be made within 6 months after the date of disallowance unless the House of Parliament that disallowed the regulation or provision, by resolution, approves the making of the regulation or a regulation that is the same in substance as the disallowed regulation or provision.

(2) A regulation made in contravention of this section has no effect to the extent that it is the same in substance as the disallowed regulation or provision.

Schedule 1—Amendment of *Acts Interpretation Act 1915*

1—Amendment of section 12—Disallowance or revocation of repealing statutory instrument revives instrument sought to be repealed

(1) Section 12—after "statutory instrument" first occurring insert:

, or provision of a statutory instrument,

(2) Section 12—after "disallowed" insert:

or revoked