

House of Assembly—No 118

As received from the Legislative Council and read a first time, 20 February 2013

South Australia

**Subordinate Legislation (Miscellaneous)
Amendment Bill 2012**

A BILL FOR

An Act to amend the *Subordinate Legislation Act 1978*.

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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 (Miscellaneous) Amendment Act 2012*.

5 2—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 *Subordinate Legislation Act 1978*

3—Amendment of section 10—Making of regulations

- 10 (1) Section 10(5a)—delete "disallowed by resolution of either House of Parliament and will cease to have effect" and substitute:
 - wholly or partly disallowed by resolution of either House of Parliament and will cease to have effect to extent of the disallowance
- (2) Section 10—after subsection (6) insert:
 - 15 (6a) If a regulation is wholly or partly disallowed by resolution of a House of Parliament, no regulation of substantially the same effect as the disallowed regulation, or the disallowed part of the regulation, may be made within 6 months after the disallowance unless that House of Parliament resolves to allow the making of the regulation.

- (6b) A regulation made in contravention of subsection (6a) is, to the extent that it is of substantially the same effect as the disallowed regulation, or the disallowed part of a regulation, void and of no effect.

5 **4—Amendment of section 10A—Regulations to be referred to Legislative Review Committee**

Section 10A(4)—after "ought to be" insert:

wholly or partly

5—Amendment of section 10AA—Commencement of regulations

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

commencement on the specified date, or at the specified time, is required due to the exceptional circumstances specified in the certificate

6—Insertion of section 10B

15 After section 10A insert:

10B—Parliament may vary or substitute regulations

(1) If—

- (a) a regulation has been laid before each House of Parliament in accordance with section 10(3); or
- (b) a report has been made in respect of a regulation by the Legislative Review Committee of the Parliament in accordance with section 10(5),

that regulation may be varied by resolution of both Houses of Parliament.

25 (2) A resolution of a House of Parliament is not effective for the purposes of this section unless—

- (a) in the case of a regulation that has been laid before the House in accordance with section 10(3)—the resolution is passed in pursuance of 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
- (b) in the case of a regulation that has been the subject of a report by the Legislative Review Committee of the Parliament in accordance with section 10(5)—the resolution is passed in pursuance of a notice of motion given within 6 sitting days (which need not fall within the same session of Parliament) after the report of the Legislative Review Committee of the Parliament has been made to the House.

40 (3) When a resolution referred to in this section has been passed, notice of that resolution must forthwith be published in the Gazette.

- (4) A variation of a regulation under this section has effect—
- (a) if the regulation that is to be varied has come into operation before both notices required under subsection (3) have been published in the Gazette—
 - (i) 7 days after the second of the notices is published; or
 - (ii) on such later date as may be specified in the notices; or
 - (b) if the regulation that is to be varied has not come into operation before both notices required under subsection (3) have been published in the Gazette—on the commencement of the regulation.
- (5) Nothing in this section affects the validity of anything done, or omitted to be done, in accordance with a regulation before a variation of the regulation under this section has effect.

10C—References to disallowance in other Acts

Unless the contrary intention appears, a reference in any other Act or statutory instrument to the disallowance of a regulation includes a reference to the disallowance of part of a regulation.

7—Amendment of section 16C—Postponement of expiry

Section 16C(2)—after "regulation" first occurring insert:

, or part of a regulation,

Schedule 1—Transitional provision

1—Transitional provision

The *Subordinate Legislation Act 1978*, as amended by this Act, applies in relation to a regulation made before or after the commencement of this Act.