

(Reprint No. 4)

**SOUTH AUSTRALIA**

**SUBORDINATE LEGISLATION ACT, 1978**

*This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at 1 August 1992.*

*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.*

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# SUBORDINATE LEGISLATION ACT, 1978

being

Subordinate Legislation Act, 1978, No. 3 of 1978 [Assented to 23 February 1978]<sup>1</sup>

as amended by

Acts Interpretation Act Amendment Act, 1983, No. 41 of 1983 [Assented to 16 June 1983]<sup>2</sup>  
Subordinate Legislation Act Amendment Act, 1987, No. 28 of 1987 [Assented to 23 April 1987]  
Parliamentary Committees Act 1991 No. 50 of 1991 [Assented to 21 November 1991]<sup>3</sup>  
Local Government (Reform) Amendment Act 1992 No. 29 of 1992 [Assented to 21 May 1992]<sup>4</sup>  
Subordinate Legislation (Expiry) Amendment Act 1992 No. 31 of 1992 [Assented to 21 May 1992]<sup>5</sup>

**An Act relating to the making, printing, publishing and consolidation of certain subordinate legislation; to repeal the Consolidation of Regulations Act, 1937-1974; to amend the Statute Law Revision Act, 1974, and the Acts Interpretation Act, 1915-1975; 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:

## PART I

### PRELIMINARY

#### Short title

1. This Act may be cited as the *Subordinate Legislation Act, 1978*.

#### Commencement

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

#### Arrangement of Act

3. This Act is divided as follows:  
PART I—PRELIMINARY  
PART II—MAKING OF REGULATIONS, ETC.  
PART III—CONSOLIDATION OF REGULATIONS  
PART IIIA—EXPIRY OF REGULATIONS  
PART IV—MISCELLANEOUS.

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<sup>1</sup>Came into operation 1 June 1978: *Gaz.* 11 May 1978, p. 1652.

<sup>2</sup>Came into operation 1 July 1983: *Gaz.* 30 June 1983, p. 1754.

<sup>3</sup>Came in operation 11 February 1992: *Gaz.* 5 December 1991, p. 1668.

<sup>4</sup>Para. (b) of Sched. came into operation 21 May 1992, para. (a) of Sched. came into operation 1 July 1992: *Gaz.* 21 May 1992, p. 1468.

<sup>5</sup>Came into operation 1 August 1992: *Gaz.* 9 July 1992, p. 561.

*Note:* 1. Asterisks indicate repeal or deletion of text.

2. For the legislative history of the Act see Appendix. Entries appearing in the Appendix in bold type indicate the amendments incorporated since the last reprint.

**Interpretation**

4. In this Act, unless the contrary intention appears—

“authorized legal practitioner” means an authorized legal practitioner for the time being appointed under section 8 of this Act:

“regulation” means any regulation, rule or by-law made under an Act.

**Repeals and savings**

5. (1) The *Consolidation of Regulations Act, 1937*, is repealed.

(2) The repeal effected by subsection (1) of this section does not affect the operation or effect of any regulation, or any consolidation under the *Consolidation of Regulations Act, 1937*, as in force from time to time, of previously existing regulations to which that Act applied, and that regulation or that consolidation shall, subject to any amendment lawfully made thereto, and, unless and until it is revoked or otherwise ceases to have effect, continue to have the same operation and effect, as it would have had if that Act had not been repealed.

**Amendment of Statute Law Revision Act, 1974**

6. (1) The *Statute Law Revision Act, 1974*, is amended by striking out all matter in the second schedule to that Act relating to the *Consolidation of Regulations Act, 1937*.

(2) The *Statute Law Revision Act, 1974*, as amended by this Act, may be cited as the *Statute Law Revision Act, 1974-1978*.

**Amendment of Acts Interpretation Act**

7. (1) Section 38 of the *Acts Interpretation Act, 1915-1975*, is repealed.

(2) The *Acts Interpretation Act, 1915-1975*, as amended by this Act, may be cited as the *Acts Interpretation Act, 1915-1978*.

(3) Where in any Act passed before the commencement of this Act a reference express or implied is made to section 38 of the *Acts Interpretation Act, 1915*, as in force from time to time, that reference shall, on and after that commencement, be read as a reference to section 10 of this Act.

**Appointment of authorized legal practitioners**

8. The Attorney-General may, by notice in writing, appoint a legal practitioner as defined in the *Legal Practitioners Act, 1936-1977*, to be an authorized legal practitioner for the purposes of this Act.

**Application of this Act to other subordinate legislation**

9. The Governor may, by proclamation, declare that this Act or any specified provision of this Act shall, in addition to applying to regulations, apply to and in relation to any other enactment of a legislative character made pursuant to any Act, whether that Act was passed before, on or after the commencement of this Act, and this Act shall apply and have effect accordingly and the Governor may by a subsequent proclamation amend, vary or revoke any such declaration.

## PART II

## MAKING OF REGULATIONS, ETC.

**Making of regulations**

10. (1) Where, by any Act passed after the sixteenth day of December, 1915, it is provided that regulations shall or may be made and it is not provided by whom such regulations shall or may be made, any regulation made under, or by virtue of, such provision, shall be made by the Governor.

\* \* \* \* \*

(3) Except as is expressly provided in any other Act, every regulation shall be laid before both Houses of Parliament within fourteen days after the making thereof if Parliament is in session, or, if Parliament is not then in session, within fourteen days after the commencement of the next session of Parliament.

(4) If either House of Parliament passes a resolution disallowing any such regulation, of which resolution notice has been given at any time within fourteen sitting days of such House after such regulation has been laid before it notwithstanding that those fourteen sitting days, or some of them, do not occur in the same session of Parliament as that in which the regulation is laid before that House, then that regulation shall thereupon cease to have effect.

\* \* \* \* \*

(6) When a resolution referred to in subsection (4) of this section has been passed, notice of that resolution shall forthwith be published in the *Gazette*.

(7) Notwithstanding anything in this section, where in any Act, whether passed before or after the commencement of this Act, it is provided that any regulation shall be made by an authority other than the Governor and that that regulation shall be confirmed by the Governor or some other authority before it shall have the force of law, that regulation shall not take effect unless it has been confirmed as required.

**Commencement of regulations**

10aa. (1) Subject to this and any other Act, a regulation that is required to be laid before Parliament comes into operation four months after the day on which it is made or from such later date as is specified in the regulation.

(2) A regulation that is required to be laid before Parliament—

(a) may come into operation on an earlier date specified in the regulation if the Minister responsible for the administration of the Act under which the regulation is made certifies that, in his or her opinion, it is necessary or appropriate that the regulation come into operation on an earlier date;

but

(b) may not come into operation earlier than the date on which it is made unless that earlier operation is authorized by the Act under which the regulation is made.

(3) Subject to any other Act, a regulation that is not required to be laid before Parliament comes into operation on the day on which it is made or from such later date as is specified in the regulation.

(4) A document appearing to be a certificate under subsection (2) will, in the absence of proof to the contrary, be accepted as such in any legal proceedings.

(5) A certificate under subsection (2) cannot be called in question in any legal proceedings.

#### **Regulations to be referred to Legislative Review Committee**

**10a.** (1) Every regulation that is required to be laid before Parliament is, when made, referred by force of this section to the Legislative Review Committee of the Parliament.

(1a) If a Minister issues a certificate under section 10aa(2) in relation to a regulation, the Minister must cause a report setting out the reasons for the issue of the certificate to be given to the Committee as soon as practicable after the making of the regulation.

(2) The Committee must inquire into and consider all regulations referred to it.

(3) The Committee must consider all regulations as soon as conveniently practicable after they are referred to the Committee and, if Parliament is then in session, must do so before the end of the period within which any motion for disallowance of the regulations may be moved in either House of Parliament.

(4) If the Committee forms the opinion that any regulations ought to be disallowed—

(a) it must report the opinion and the grounds for the opinion to both Houses of Parliament before the end of the period within which any motion for disallowance of the regulations may be moved in either House;

and

(b) if Parliament is not in session, it may, before reporting to Parliament, report the opinion and the grounds for the opinion to the authority by which the regulations were made.

#### **Publishing of regulations**

**11.** Every regulation shall, forthwith after it is made, be published in the *Gazette* in the prescribed form and manner.

#### **Reprinting of regulations**

**12.** Where any regulations which have been printed and not amended or varied are out of print or likely to become so, the Government Printer may and shall when so directed by the Attorney-General reprint those regulations.

#### **Numbering of regulations**

**13.** (1) For the purposes of this section the Governor may by proclamation appoint a day.

(2) Regulations (other than regulations made by an authority other than the Governor) made on and after the day appointed under subsection (1) of this section shall be numbered consecutively as nearly as may be in the order in which they were made beginning with the number "1" in each year.

## PART III

## CONSOLIDATION OF REGULATIONS

**Consolidation of regulations**

14. (1) Where any regulations, in this section called “the principal regulations”, have, before or after the commencement of this Act, been amended or varied by a regulation, the Attorney-General may cause a consolidated text of those regulations, as amended or varied, to be prepared.

(2) A consolidated text referred to in subsection (1) of this section shall be prepared by or under the supervision of an authorized legal practitioner.

(3) In the preparation of a consolidated text the authorized legal practitioner may do all or any of the following things—

- (a) a reference in the principal regulations, as amended or varied, to an Act or portion of an Act for which some other Act or portion of an Act has been substituted may be altered to a reference to the substituted Act or portion of an Act;
- (b) a reference in the principal regulations, as amended or varied, to a name, style, title or citation of any place, person, body corporate or authority which name, style, title or citation has been changed pursuant to any Act or law, may be altered to the name, style, title or citation as so changed;
- (c) a reference in the principal regulations, as amended or varied, to an amount of money in the old currency as defined for the purposes of the *Decimal Currency Act, 1965-1973*, or to a percentage or other proportion expressed in terms of money in that old currency, may, if the context so admits, be altered by the substitution of the equivalent amount of money or the percentage or other proportion expressed in terms of money in the new currency as defined in that Act;
- (d) any printing errors or errors in spelling or numbering in the principal regulations, as amended or varied, may be corrected;
- (e) a marginal note to any of the principal regulations, as amended or varied, may be altered so as to accord with the true effect of the regulation;

and

- (f) where the principal regulations have been amended or varied by the repeal, insertion therein or the making of any part, division, regulation, sub-regulation, rule, sub-rule, by-law, sub-by-law, paragraph, sub-paragraph, schedule or appendix, the parts, divisions, regulations, sub-regulations, rules, sub-rules, by-laws, sub-by-laws, paragraphs, sub-paragraphs, schedules and appendices of the principal regulations as reprinted may be renumbered arithmetically or alphabetically, as the case may be, and the cross-references may be adjusted accordingly.

(4) The authorized legal practitioner may assign to a consolidated text a short title or description.

(5) The consolidated text shall show—

- (a) the appropriate reference to all the principal regulation and all regulations amending or varying those regulations;
- (b) where the principal regulations have been amended or varied by a regulation, a note in the margin opposite the particular regulation indicating the appropriate reference to the regulation which so amended or varied those regulations.

(6) In this section—

“appropriate reference” in relation to regulations means—

- (a) a reference to the day and date appearing on the face of the *Gazette* in which those regulations were published;
- (b) if those regulations were made on or after the day on which the day appointed under section 13 of this Act and were required to be numbered, a reference to the number assigned to those regulations and the year in which they were made.

#### **Print of consolidated text**

15. On being satisfied that a consolidated text of regulations, as amended or varied, has been prepared in accordance with section 14 of this Act, the Attorney-General may order that the consolidated text be printed in the prescribed form and manner.

#### **Evidence of consolidated text of regulations**

16. A document purporting to embody the text of regulations consolidated in pursuance of this Act and to be printed by the Government Printer shall be deemed in any legal proceedings in the absence of proof to the contrary to set out correctly the text of those regulations.

## PART IIIA

## EXPIRY OF REGULATIONS

**Regulations to which this Part applies**

**16a.** This Part applies in relation to all regulations except—

(a) regulations that are not required to be laid before Parliament;

(ab) any of the following made under the *Local Government Act 1934*:

(i) by-laws;

(ii) regulations made by the Local Government Superannuation Board;

\* \* \* \* \*

(c) regulations amending an Act;

(d) regulations made pursuant to an agreement for uniform legislation between this State and the Commonwealth or other States or Territories of the Commonwealth;

\* \* \* \* \*

and

(f) regulations made by a person, body or authority other than the Governor.

**Expiry of regulations to which this Part applies**

**16b.** (1) Subject to this Part, a regulation to which this Part applies will, unless it has already expired or been revoked, expire as follows:

(a) a regulation made before 1 January 1976, and all subsequent regulations amending that regulation, will expire on 1 September 1992;

(b) a regulation made on or after 1 January 1976 but before 1 January 1980, and all subsequent regulations amending that regulation, will expire on 1 September 1993;

(c) a regulation made on or after 1 January 1980 but before 1 June 1982, and all subsequent regulations amending that regulation, will expire on 1 September 1994;

(d) a regulation made on or after 1 June 1982 but before 1 April 1984, and all subsequent regulations amending that regulation, will expire on 1 September 1995;

(e) a regulation made on or after 1 April 1984 but before 1 June 1985, and all subsequent regulations amending that regulation, will expire on 1 September 1996;

(f) a regulation made on or after 1 June 1985 but before 1 January 1987, and all subsequent regulations amending that regulation, will expire on 1 September 1997;

(g) a regulation made on or after 1 January 1987, and all subsequent regulations amending that regulation, will expire on 1 September of the year following the year in which the tenth anniversary of the day on which the regulation was made falls.

(2) For the purposes of this section, a regulation will be taken to have been made on the day on which it was published in the *Gazette*.

**Postponement of expiry**

**16c.** (1) The regulations may postpone the expiry of a regulation under this Part for a period or periods not exceeding two years at a time and not exceeding four years in aggregate.

(2) If a regulation postponing the expiry of another regulation is disallowed, that other regulation ceases to have effect—

(a) on the date on which the notice of disallowance is published in the *Gazette*;

or

(b) on the date of expiry,

whichever occurs last.

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PART IV  
MISCELLANEOUS

**Regulations**

17. (1) The Governor may make such regulations as are necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of subsection (1) of this section, the regulations may provide for and prescribe the form and manner in which regulations and consolidated texts of principal regulations, as amended or varied, shall be printed and published.

**APPENDIX**

## Legislative History

*(entries in bold type indicate amendments incorporated since the last reprint)*

Section 3:	amended by 28, 1987, s. 2
Section 4:	definition of "regulation" amended by 28, 1987, s. 3; 29, 1992, Sched.
<b>Section 10(2):</b>	<b>repealed by 31, 1992, s. 3</b>
Section 10(5):	repealed by 41, 1983, s. 28
<b>Section 10aa:</b>	<b>inserted by 31, 1992, s. 4</b>
Section 10a:	inserted by 50, 1991, Sched. Pt. II
<b>Section 10a(1a):</b>	<b>inserted by 31, 1992, s. 5</b>
	Part IIIA comprising ss. 16a, 16b and heading inserted by 28, 1987, s. 4
<b>Section 16a:</b>	<b>amended by 29, 1992, Sched.; 31, 1992, s. 6(b)</b>
<b>Section 16a(b):</b>	<b>repealed by 31, 1992, s. 6(a)</b>
<b>Section 16a(e):</b>	<b>repealed by 31, 1992, s. 6(a)</b>
<b>Section 16b(1):</b>	<b>substituted by 31, 1992, s. 7</b>
<b>Section 16c:</b>	<b>inserted by 31, 1992, s. 8</b>