

SOUTH AUSTRALIA

PARKS COMMUNITY CENTRE ACT 1981

This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at 2 September 1991.

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PARKS COMMUNITY CENTRE ACT 1981

being

Parks Community Centre Act 1981 No. 111 of 1981
[Assented to 23 December 1981]¹

as amended by

Parks Community Centre Act Amendment Act 1985 No. 113 of 1985 [Assented to 10 November 1985]²
Parks Community Centre (Miscellaneous) Amendment Act 1991 No. 21 of 1991 [Assented to 18 April 1991]³

¹ Came into operation 14 January 1982: *Gaz.* 14 January 1982, p. 82.

² Came into operation 28 November 1985: *Gaz.* 28 November 1985, p. 1614.

³ Came into operation 8 August 1991: *Gaz.* 8 August 1991, p. 507.

Note: Asterisks indicate repeal or deletion of text. For further explanation see Appendix 1.

An Act to establish the Parks Community Centre; and to deal with other related matters.

The Parliament of South Australia enacts as follows:

Short title

1. This Act may be cited as the *Parks Community Centre Act 1981*.

* * * * *

Interpretation

3. In this Act, unless the contrary intention appears:

"the board" means the board of management appointed under section 5:

"the Centre" means the *Parks Community Centre* established under this Act:

* * * * *

"the Enfield Council" means the Corporation of the City of Enfield:

"Government authority" means a Department, instrumentality or agency of the Government:

"member of staff" in relation to the Centre means—

(a) an employee of the Centre;

(b) a Public Service employee assigned to assist the Centre;

or

(c) a person—

(i) who is an employee of any person, body or authority that provides facilities, amenities or services at the Centre;

and

(ii) who works at the Centre,

but does not include a person whose work is unremunerated:

"registered user" in relation to the Centre means a person whose name appears on the register maintained pursuant to this Act.

Note: For definition of divisional penalties see Appendix 2.

Establishment of the Centre

4. (1) The *Parks Community Centre* is established.

(2) The Centre—

(a) is a body corporate with full juristic capacity to exercise any powers that are by their nature capable of being exercised by a body corporate;

and

(b) holds its property on behalf of the Crown.

(3) Where an apparently genuine document purports to bear the common seal of the Centre, it will be presumed in any legal proceedings, in the absence of proof to the contrary, that the common seal of the Centre has been duly affixed to that document.

The board

5. (1) The Centre will be administered by a board of management.

(2) The board consists of 11 members as follows:

(a) six persons (three being women and three being men) appointed by the Governor on the nomination of the Minister;

(b) one person appointed by the Governor on the nomination of the Enfield Council;

(c) three persons elected by the registered users of the Centre in accordance with this Act;

and

(d) one person elected by the staff of the Centre in the prescribed manner.

(3) A person is not eligible for election under subsection (2)(c) unless he or she is a registered user of the Centre.

(4) A person is not eligible for election under subsection (2)(d) unless he or she is a member of the staff of the Centre.

(5) The chief executive officer of the Centre is not eligible for election under subsection (2)(d).

(6) The Governor will from time to time as required appoint one of the members appointed pursuant to subsection (2)(a) to be the presiding member of the board and, after consultation by the Minister with the board, one other member to be the deputy presiding member of the board.

Election of board members by registered users of the Centre

6. (1) The board must establish and maintain a register of the persons who use the Centre and are eligible to be placed on the register.

4.

(2) A person uses the Centre if—

(a) he or she uses any facility or amenity provided at the Centre;

or

(b) he or she avails himself or herself of any service provided at the Centre.

(3) A person who uses the Centre is eligible to be placed on the register if—

(a) he or she is entitled to vote at elections for the House of Assembly;

and

(b) he or she enters his or her name on the register, or causes it to be so entered.

(4) A member of the staff of the Centre is not eligible to be placed on the register.

(5) The board must cause the register to be revised from time to time, and upon any such revision, may remove from the register the name of any person—

(a) who has requested that his or her name be so removed;

(b) who has died, or resides in a place outside this State;

(c) whose name does not appear on a House of Assembly electoral roll;

(d) who no longer appears to reside at the address last known to the board;

(e) who has become a member of the staff of the Centre;

or

(f) who the board believes has not used the Centre for a period of at least three years.

(6) The Governor—

(a) may, by proclamation, declare that, upon a day specified in the proclamation, the register of users will be closed for the purposes of an election that is to be held under this section;

or

(b) may, by further proclamation, vary or revoke a proclamation under paragraph (a).

(7) The Electoral Commissioner will conduct the election of board members by the registered users of the Centre.

(8) Subject to subsections (9) and (10), any such election must be by ballot of the persons whose names appear on the register immediately prior to the closure of the register by the Governor for the purposes of that election.

(9) Where the number of candidates for election under this section is equal to or less than the number of vacant positions to be filled, the Electoral Commissioner will, without conducting a ballot, declare those candidates duly elected to the board.

(10) Where there are no candidates or less than the required number of candidates for an election under this section, the Governor may appoint such number of persons to be members of the board as may be necessary to fill the vacant positions, and a person so appointed will be taken to have been duly elected to the board.

(11) A ballot under this section will be conducted upon the basis of a system of preferential voting to be determined by the Electoral Commissioner.

(12) Subject to this section, an election of board members by the registered users of the Centre will be conducted in accordance with the directions of the Electoral Commissioner.

Terms of office of board members

7. (1) An appointed member of the board will be appointed for a term of office, not exceeding three years, specified by the Governor in the instrument of appointment.

(2) A member elected by the registered users of the Centre will be elected for a term of office determined in accordance with the regulations.

(3) The member elected by the staff of the Centre will be elected for a term of office of one year.

(4) Upon the expiration of the term of office of a member of the board, he or she is, subject to this Act, eligible for reappointment or re-election, as the case may require.

Deputies

8. (1) The Governor may appoint a suitable person to be a deputy of an appointed member of the board (other than the presiding member).

(2) The staff of the Centre may elect, in the prescribed manner, a member of the staff to be the deputy of the member of the board elected to office by the staff of the Centre.

(3) If a member of the board (other than the presiding member) is absent from official duties, his or her deputy may act as a member of the board during that absence.

Allowances and expenses

9. A member of the board is entitled to receive such allowances and expenses as the Governor may from time to time determine.

Removal from and vacancies of office

10. (1) The Governor may remove a member of the board from office on the grounds of—

- (a) in the case of an appointed member, any breach of, or non-compliance with, a condition of his or her appointment;
- (b) mental or physical incapacity to carry out satisfactorily official duties;
- (c) dishonourable conduct;

6.

or

(d) neglect of duty.

(2) The office of a member of the board becomes vacant if the member—

(a) dies;

(b) completes a term of office and is not reappointed or re-elected;

(c) ceases, in the case of the member elected by the staff of the Centre, to be a member of the staff of the Centre;

(ca) has, in the case of an appointed member, his or her nomination revoked by the nominating person or authority;

(d) resigns by notice in writing given to the Centre;

or

(e) is removed from office by the Governor pursuant to subsection (1).

(3) Subject to subsection (4), upon the office of a member of the board becoming vacant, a person must be appointed or elected, as the case may require, to that office in accordance with this Act.

(4) Where the office of a member of the board who was elected by the registered users of the Centre becomes vacant less than 12 months before the expiration of his or her term of office, the Governor must appoint a registered user nominated by the Minister to that vacant office, and a person so appointed will be taken to have been duly elected to the board.

(5) Where the office of a member of the board becomes vacant before the expiration of the term of office for which he or she was appointed or elected, the person appointed or elected in his or her place will be so appointed or elected only for the balance of that term.

Validity of acts of the board and immunity of members from liability

11. (1) An act or proceeding of the board is not invalid by reason of a vacancy in its membership or any defect in the appointment or election of a person to the board.

(2) No liability attaches to a member of the board for any act or omission of the member, or the board, in good faith and in the exercise of powers or functions, or in the discharge of duties, under this Act.

Meetings of the board

12. (1) The presiding member of the board will preside at all meetings of the board at which he or she is present.

(2) In the absence of the presiding member from a meeting of the board, the deputy presiding member will preside and, in his or her absence, the members present at the meeting must elect one of their number to preside at that meeting.

7.

(3) Six members of the board constitute a quorum of the board, and no business may be transacted at any meeting unless a quorum is present.

(4) A decision carried by a majority of the votes cast by the members present at a meeting is a decision of the board.

(5) The person presiding at a meeting of the board has, in the event of an equality of votes, a casting vote in addition to a deliberative vote.

(6) The board must cause accurate minutes to be kept of its meetings.

(7) Subject to this Act, the board may conduct its business in such manner as it thinks fit.

Board may delegate

13. (1) The board may, by instrument in writing, delegate any of its powers, functions or duties to any committee appointed by the board, or to any member of the board, the chief executive officer or any other member of the staff of the Centre.

(2) A delegation under this section—

(a) must be in writing;

(b) may be absolute or conditional;

(c) does not derogate from the power of the board to act in any matter;

and

(d) is revocable at will by the board.

Disclosure of interests by board members

14. (1) A member of the board who is in any way directly or indirectly interested in a contract made by the Centre, or a proposed contract in the contemplation of the Centre—

(a) must, as soon as he or she becomes aware of that interest, disclose the nature and extent of the interest to the board;

and

(b) must not take part in any deliberations or decision of the board with respect to the contract.

Penalty: Division 9 fine.

(2) A disclosure made under subsection (1)(a) must be recorded in the minutes of the board.

(3) Subsection (1) does not apply in relation to an interest that exists only by virtue of the fact that the member of the board is an employee of the Centre.

Functions

15. (1) The functions of the Centre are—

- (a) to manage and maintain the premises and property of the Centre;
- (b) to make the premises of the Centre available for the provision of a wide range of facilities, amenities and services for the benefit of the community served by the Centre;
- (c) to itself provide such facilities, amenities or services as it may think desirable;
- (d) to promote and encourage the use of all the facilities, amenities and services of the Centre;
- (e) to encourage and foster, wherever practicable, direct participation by members of the public in the provision of the facilities, amenities and services of the Centre;
- (f) to conduct, or assist in conducting, investigations into the recreational, cultural, social and welfare needs of the community served by the Centre, and to work towards the fulfilment of those needs;
- (g) to perform any other functions prescribed by this Act or assigned to the Centre by the Minister;

and

- (h) to perform such other functions as may be necessary or incidental to the foregoing.

(2) The Centre must not interfere with the operation of a facility, amenity or service provided on or from the premises of the Centre by any Government or local government authority, or by any person other than the Centre itself.

(2a) The Centre may, with the approval of the Minister, acquire any land or interest in land, or dispose of, lease or otherwise deal with any land, or interest in land, vested in the Centre.

(3) The Centre may apply for and hold any licence or permit under the *Liquor Licensing Act 1985*.

(4) The Centre may fix fees or charges for the use of any facility, amenity or service provided by the Centre itself, or for the leasing or hiring out of any part of the premises of the Centre.

The Centre is subject to the control of the Minister

16. The Centre is subject to the control and direction of the Minister.

Chief executive officer and other staff of the Centre

17. (1) There will be a chief executive officer of the Centre appointed by the Centre on terms and conditions approved by the Minister.

(2) The Centre may, for the purpose of carrying out its functions—

- (a) employ such number of persons as it thinks fit on terms and conditions approved by the Minister;

and

(b) make use of the services of Public Service employees assigned to assist the Centre.

(3) An approval may be given by the Minister under subsection (1) or (2)(a) either generally or in relation to a particular employee or class of employee.

(4) The chief executive officer and the other persons employed by the Centre are not Public Service employees.

(5) The Minister may, by notice in the *Gazette*—

(a) exclude Public Service employees who have been assigned to assist the Centre from specified provisions of the *Government Management and Employment Act 1985*;

and

(b) if the Minister thinks that certain provisions should apply to such employees instead of those from which they are excluded under paragraph (a), determine that those provisions will apply,

and such a notice has effect in accordance with its terms.

Functions of chief executive officer

17a. (1) The chief executive officer is responsible to the board for the effective and efficient management of the Centre.

(2) The functions of the chief executive officer include the following:

(a) the proper organization of the administration of the Centre;

(b) the implementation of management plans and budgets determined by the board, and the development and implementation of other management and financial plans and controls;

(c) the appropriate division of responsibilities between, and the assignment of duties to, the employees of the Centre;

(d) the establishment of effective procedures to ensure that the use of resources of the Centre is properly controlled and audited;

(e) the implementation of any equal employment opportunity programme approved by the board for the Centre and the devising and implementation of other initiatives to ensure that employees have equal opportunities in relation to their employment;

(f) the development and implementation of necessary management training and staff development programmes;

(g) the development and implementation of health and safety programmes for the employees of the Centre.

(3) In carrying out the functions or exercising the powers of a chief executive officer, the chief executive officer must—

- (a) endeavour to attain the performance objectives set by the board;
- (b) give effect to the principles of public management and of personnel management that apply within the public sector;
- (c) observe the directions given by the board;

and

- (d) observe any binding industrial award, determination or agreement.

Chief executive officer may delegate

17b. (1) The chief executive officer may delegate to any member of the staff of the Centre any power, function or duty of his or her office.

(2) The power of delegation conferred by subsection (1) extends to the delegation of any power, function or duty delegated to the chief executive officer by the board provided that the instrument of delegation does not prohibit subdelegation.

(3) A delegation by the chief executive officer—

- (a) must be in writing;
- (b) may be absolute or conditional;
- (c) does not derogate from the power of the chief executive officer to act in any matter;

and

- (d) is revocable at will by the chief executive officer.

Superannuation and continuity of leave rights

18. (1) The Centre is, for the purposes of the *Superannuation Act 1988*, an authority with which the South Australian Superannuation Board may enter into arrangements, and—

- (a) an employee of the Centre who was, immediately before becoming an employee of the Centre, a contributor under that Act will, subject to that Act, remain such a contributor;

and

- (b) any other employee of the Centre may, subject to that Act, become a contributor under that Act.

(2) Subject to subsection (3), where a person becomes an employee of the Centre within three months after ceasing to be employed—

(a) in the Public Service of the State;

or

(b) in prescribed employment,

his or her existing and accruing rights immediately before the cessation of that employment in respect of recreation leave, sick leave and long service leave will continue to the extent directed by the Centre and subject to such conditions as may be imposed by the Centre as if that previous employment had been employment by the Centre.

(3) Where a person becomes an employee of the Centre after ceasing to be employed in the Public Service of the State, and that employment with the Centre follows immediately upon the cessation of his or her employment in the Public Service, the following provisions apply:

(a) his or her existing and accruing rights immediately before the cessation of his or her employment in the Public Service in respect of recreation leave, sick leave and long service leave continue in full force and effect as if that employment had been employment with the Centre;

and

(b) he or she is not entitled to payment in lieu of those rights.

Land under the care and control of the Centre

19. * * * * *

* * * * *

(2) The Governor may, by instrument in writing—

(a) place any unalienated Crown land under the care, control and management of the Centre;

or

(b) resume any land placed under the care, control and management of the Centre pursuant to paragraph (a).

* * * * *

Financial provisions

20. (1) As soon as practicable after the commencement of this Act, the Centre must submit to the Minister a budget showing its estimates of receipts and payments over the balance of the financial year within which the budget is presented, and thereafter the Centre must, before the commencement of each succeeding financial year, submit to the Minister a budget showing its estimates of receipts and payments for that succeeding financial year.

(2) The Minister may approve, with or without amendment, a budget submitted under this section.

(3) The Centre must not, without the consent of the Minister, make any expenditure that is not authorized by a budget approved under this section.

(4) The Centre may, with the consent of the Treasurer, borrow money for the purpose of enabling it to perform its functions and discharge its duties under this Act.

(5) A liability incurred with the consent of the Treasurer pursuant to subsection (4) is, by virtue of this section, guaranteed by the Treasurer.

(6) A liability of the Treasurer under a guarantee arising by virtue of subsection (5) will be satisfied out of the Consolidated Account, which is, by virtue of this section, appropriated to the necessary extent.

(7) The Centre may, with the approval of the Treasurer, invest any of its money that is not for the time being required for the purposes of the Centre, in such investments as may be approved by the Treasurer.

The fund

21. (1) The Centre must establish, maintain and administer a fund.

(2) The fund consists of—

- (a) the money appropriated by Parliament for the purposes of the Centre;
- (b) income from investment of any money of the Centre;
- (c) any money borrowed by the Centre;
- (d) any fees or charges received by the Centre;
- (e) any money granted, donated or bequeathed to the Centre;

and

(f) all other money paid to or received by the Centre that should properly be paid into the fund.

(3) The Centre must apply the money in its fund (other than any money borrowed by the Centre) in defraying the administrative expenses incurred by the Centre and other costs and expenses incurred by it in the performance and discharge of its functions and duties.

Accounts and audit

22. (1) The Centre must cause proper accounts to be kept of its financial affairs.

(2) The Auditor-General may at any time, and must at least once in every year, audit the accounts of the Centre.

Annual report

23. (1) The board must, not later than 30 September in each year, present to the Minister a report on the administration and activities of the Centre during the previous financial year.

(2) The Minister must, as soon as practicable after receipt of a report submitted under subsection (1), cause a copy of the report to be laid before each House of Parliament.

By-laws

24. (1) The board may make, alter or repeal by-laws for all or any of the following purposes:

- (a) to prohibit persons from trespassing on the grounds of the Centre;
- (b) to prevent damage to the property, buildings or grounds of the Centre;
- (c) to regulate the speed at which vehicles may be driven in the grounds of the Centre;
- (d) to prohibit dangerous or careless driving in the grounds of the Centre;
- (e) to prescribe the routes to be followed by traffic within the grounds of the Centre;
- (f) to regulate, restrict or prohibit the standing, parking or ranking of vehicles within the grounds of the Centre, and to provide for the removal of vehicles from the grounds;
- (g) to require drivers of vehicles within the grounds of the Centre to comply with traffic directions;
- (h) generally to regulate traffic of all kinds within the grounds of the Centre;
- (i) to prohibit disorderly or offensive behaviour within the premises of the Centre, and to provide for the removal of persons guilty of disorderly or offensive behaviour;
- (j) to regulate, restrict or prohibit the consumption of alcoholic liquor within the premises of the Centre;
- (k) to prevent undue noise within the premises of the Centre;
- (l) to prescribe any other matters necessary or expedient for the maintenance of good order, the protection of property, or the prevention of hindrance to, or interference with, any activities conducted within the premises of the Centre;

and

- (m) to prescribe fines not exceeding a division 10 fine for contravention of any by-law.

(2) Every by-law made under this section must be sealed with the common seal of the Centre and submitted to the Minister for approval.

(3) On approving a by-law made under this section, the Minister must cause the by-law to be laid before both Houses of Parliament in accordance with the *Subordinate Legislation Act 1978*.

(4) In any proceedings for an offence against a by-law—

- (a) an allegation in the complaint that any specified place is or was within the grounds of the Centre will, in the absence of proof to the contrary, be taken to be proved;
- (b) an allegation in the complaint that a person named in the complaint was, at the time of the alleged offence, the owner of a vehicle referred to therein will, in the absence of proof to the contrary, be taken to be proved;

and

- (c) where it is proved that a vehicle was parked in the grounds of the Centre in contravention of a by-law, it will, in the absence of proof to the contrary, be presumed that the vehicle was so parked by the owner of the vehicle.

(5) Where it is alleged that a person has committed an offence against a by-law relating to vehicular traffic or the parking of vehicles on the grounds of the Centre, the board may cause to be served personally or by post upon that person a notice to the effect that he or she may expiate the offence by payment to the Centre of an amount specified in the notice (being an amount fixed by the by-law) within a time specified in the notice, and if the offence is so expiated, no proceedings may be commenced in any court in respect of the alleged offence.

Summary offences

25. Offences against this Act are summary offences.

Regulations

26. The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.

15.

SCHEDULE

Transitional Provisions

1. On the commencement of the *Parks Community Centre (Miscellaneous) Amendment Act 1991* the members of the board appointed to the board by the Governor pursuant to section 5(2)(a) of the Act (as in force immediately before that commencement) vacate their offices to enable new appointments to be made.

APPENDIX 1

Legislative History

Section 2:	repealed by 21, 1991, Sched.
Section 3:	definition of "the chairman" repealed by 113, 1985, s. 3(a) definition of "member of staff" amended by 113, 1985, s. 3(b); substituted by 21, 1991, s. 3
Section 4(1) and (2):	substituted by 21, 1991, Sched.
Section 4(3):	amended by 21, 1991, Sched.
Section 5:	amended by 113, 1985, s. 4; substituted by 21, 1991, s. 4
Section 6(1) - (3), (5), (7) - (12):	amended by 21, 1991, Sched.
Section 7(1):	substituted by 21, 1991, s. 5
Section 7(2) - (4):	amended by 21, 1991, Sched.
Section 8(1):	amended by 113, 1985, s. 5(a); 21, 1991, Sched.
Section 8(3):	amended by 113, 1985, s. 5(b); substituted by 21, 1991, Sched.
Section 10(1):	amended by 21, 1991, Sched.
Section 10(2):	amended by 113, 1985, s. 6; 21, 1991, Sched.
Section 10(3):	amended by 21, 1991, Sched.
Section 10(4):	amended by 21, 1991, s. 6, Sched.
Section 10(5):	amended by 21, 1991, Sched.
Section 11:	amended by 21, 1991, Sched.
Section 12(1):	amended by 21, 1991, Sched.
Section 12(2):	amended by 113, 1985, s. 7; 21, 1991, Sched.
Section 12(3):	amended by 21, 1991, s. 7, Sched.
Section 12(4) - (6):	amended by 21, 1991, Sched.
Section 13(1):	amended by 21, 1991, s. 8(a)
Section 13(2):	substituted by 21, 1991, s. 8(b)
Section 14(1) and (2):	amended by 21, 1991, Sched.
Section 15(2a):	inserted by 113, 1985, s. 8
Section 15(2):	amended by 21, 1991, Sched.
Section 15(3):	amended by 21, 1991, s. 9, Sched.
Section 17:	substituted by 21, 1991, s. 10
Sections 17a and 17b:	inserted by 21, 1991, s. 10
Section 18(1):	substituted by 21, 1991, Sched.
Section 18(2) and (3):	amended by 21, 1991, Sched.
Section 19(1):	substituted by 113, 1985, s. 9(a); repealed by 21, 1991, Sched.
Section 19(1a) and (1b):	inserted by 113, 1985, s. 9(a); repealed by 21, 1991, Sched.
Section 19(3):	repealed by 113, 1985, s. 9(b)
Section 20(1) - (3), (6) and (7):	amended by 21, 1991, Sched.
Section 21:	amended by 21, 1991, Sched.
Section 22(1) and (2):	amended by 21, 1991, Sched.
Section 22(3):	repealed by 21, 1991, Sched.
Section 23:	amended by 21, 1991, Sched.
Section 24:	amended by 21, 1991, Sched.
Section 25:	substituted by 21, 1991, Sched.
Schedule:	inserted by 21, 1991, s. 11

APPENDIX 2

Divisional Penalties

At the date of publication of this reprint divisional penalties are, as provided by section 28a of the *Acts Interpretation Act 1915*, as follows:

Division	Maximum imprisonment	Maximum fine
1	15 years	\$60 000
2	10 years	\$40 000
3	7 years	\$30 000
4	4 years	\$15 000
5	2 years	\$8 000
6	1 year	\$4 000
7	6 months	\$2 000
8	3 months	\$1 000
9	-	\$500
10	-	\$200
11	-	\$100
12	-	\$50

Note: This appendix is provided for convenience of reference only.