



LOCAL GOVERNMENT (IMPLEMENTATION) ACT 1999

No. 64 of 1999

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ELIZABETHAE II REGINAE

A.D. 1999

No. 64 of 1999

An Act to provide for the implementation of new legislation relating to the system of local government in the State by the repeal or amendment of certain legislation and the enactment of transitional provisions; and for other purposes.

[Assented to 18 November 1999]

The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

Short title

1. This Act may be cited as the *Local Government (Implementation) Act 1999*.

Commencement

2. (1) Subject to subsection (2), this Act will come into operation on a day to be fixed by proclamation.

(2) Section 12(5) will come into operation on assent.

Interpretation

3. In this Act—

"1934 Act" means the *Local Government Act 1934*;

"1999 Act" means the *Local Government Act 1999*;

"1999 Electoral Act" means the *Local Government (Elections) Act 1999*;

"general election" means a general election within the meaning of the 1999 Act;

"relevant day" means a day appointed by proclamation as the relevant day for the purposes of the provision in which the term is used.

PART 2
REPEAL OF CERTAIN ACTS

Acts repealed

4. The following Acts are repealed:

- (a) the *Klemzig Pioneer Cemetery (Vesting) Act 1983*;
- (b) the *Public Parks Act 1943*;
- (c) the *Reynella Oval (Vesting) Act 1973*.

PART 3
AMENDMENT OF VARIOUS ACTS

Amendment of City of Adelaide Act 1998

5. The *City of Adelaide Act 1998* is amended—

- (a) by striking out from section 5(1) "and the *Local Government Act 1934* will be read together and construed as if the two" and substituting ", the *Local Government Act 1999* and the *Local Government (Elections) Act 1999* will be read together and construed as if the three";
- (b) by striking out from section 5(2) "*Local Government Act 1934*" and substituting "*Local Government Act 1999* or the *Local Government (Elections) Act 1999*";
- (c) by striking out from section 20(4) "*Local Government Act 1934*" and substituting "*Local Government Act 1999*";
- (d) by striking out from section 20(5) "Part 2 of the *Local Government Act 1934*" and substituting "Chapter 3 of the *Local Government Act 1999*";
- (e) by striking out from section 20(5)(a) "Part 2 of the *Local Government Act 1934*" and substituting "Chapter 3 of the *Local Government Act 1999*";
- (f) by striking out from section 20(5)(b) "sections 23 and 24 of the *Local Government Act 1934* do" and substituting "section 12 of the *Local Government Act 1999* does";
- (g) by striking out from section 20(5)(c) "section 24 of the *Local Government Act 1934*" and substituting "section 12 of the *Local Government Act 1999*";
- (h) by striking out from section 22(3) "*Local Government Act 1934*" and substituting "*Local Government Act 1999*";
- (i) by striking out from section 24(1) "will" and substituting "is entitled to";
- (j) by striking out subsections (3), (4), (5), (6) and (7) of section 24 and substituting the following subsections:
 - (3) The rates of the annual allowances may vary from office to office.
 - (4) The rates must then be reviewed by the Council on an annual basis (but a resolution fixing the rates ceases to have effect at the conclusion of a general election).
 - (5) A member of the Council who holds an office for part only of the period in respect of which an allowance is payable is entitled to the proportion of the allowance that the period for which the member held the office bears to the total period.
 - (6) Allowances under this section must be paid at times, and in a manner, prescribed by the regulations (unless the member declines to accept payment of an allowance).
 - (7) The regulations may—
 - (a) prescribe minimum and maximum amounts within which rates must be set under this section;

- (b) prescribe a formula or formulas which must be applied in fixing rates under this section.

(8) Regulations made for the purposes of subsection (6) or (7) may make different provision according to the offices to which they are expressed to apply.

(9) In default of the Council fixing appropriate rates under this section, the prescribed minimum amounts will apply.;

- (k) by striking out section 25 and substituting the following section:

Reimbursement of expenses

25. (1) A member of the Council is entitled to receive from the Council—

- (a) reimbursement of expenses of a kind prescribed for the purposes of this paragraph incurred in performing or discharging official functions and duties; and
- (b) reimbursement of expenses of a kind prescribed for the purposes of this paragraph, and approved by the Council (either specifically or under a policy established by the Council for the purposes of this section), incurred in performing or discharging official functions and duties.

(2) A policy under subsection (1)(b) lapses at a general election of the Council.;

- (l) by striking out from section 27(j) "personnel management prescribed by the *Local Government Act 1934*" and substituting "human resource management prescribed by the *Local Government Act 1999*";

- (m) by striking out paragraph (i) of section 29 and substituting the following paragraph:

- (i) provide services, facilities and programs that are adequate and appropriate and seek to ensure equitable access to its services, facilities and programs.;

- (n) by striking out from section 32(1) "*Local Government Act 1934*" and substituting "*Local Government Act 1999*";

- (o) by inserting after paragraph (e) of section 32(2) the following paragraph:

- (ea) issues of equity arising from circumstances where ratepayers provide or maintain infrastructure that might otherwise be provided or maintained by the Council.;

- (p) by striking out paragraph (h) of section 32(2) and substituting the following paragraph:

- (h) the Council's policy on discretionary rebates and remissions, with particular reference to the rebates that will apply for more than one financial year and including information on how a rebate is designed to meet the purpose behind the rebate.;

- (q) by inserting after paragraph (j) of section 32(2) the following paragraph:

- (k) any other matter prescribed by regulation.;

- (r) by striking out from section 32(4) "*Local Government Act 1934*" and substituting "*Local Government Act 1999*";
- (s) by striking out from section 33(1) "section 193(4)(a) of the *Local Government Act 1934*" and substituting "section 166(1)(a) of the *Local Government Act 1999*";
- (t) by striking out from section 33(4) "section 185 of the *Local Government Act 1934*" and substituting "section 182 of the *Local Government Act 1999*";
- (u) by striking out from section 34(1) "section 161 of the *Local Government Act 1934*" and substituting "Chapter 8 Part 3 Division 3 of the *Local Government Act 1999*";
- (v) by striking out from section 34(2) "section 42a of the *Local Government Act 1934*" and substituting "Chapter 8 Part 4 of the *Local Government Act 1999*";
- (w) by striking out subsection (1) of section 35;
- (x) by striking out from section 35(2) "after the election held on the relevant day";
- (y) by striking out from section 37(1) "Part 8 of the *Local Government Act 1934*" and substituting "the provisions of Chapter 5 Part 4 Division 2 of the *Local Government Act 1999* (insofar as they relate to council members)";
- (z) by striking out from section 37(2) "*Local Government Act 1934* to a return under Part 8 of that Act will be taken to be" and substituting "*Local Government Act 1999* to a return under Chapter 5 Part 4 Division 2 of that Act will be taken to include";
- (za) by inserting in Part 4 before section 38 the following sections:

Corporate name

37B. The corporate name of the Corporation of Adelaide continues to be *The Corporation of the City of Adelaide*.

Boundaries of the City of Adelaide

37C. The boundaries of the City of Adelaide are the exterior boundaries of the park lands of the city, as delineated on the public maps and plans deposited in the Lands Titles Registration Office, the General Registry Office or the Surveyor-General's Office.;

- (zb) by striking out from section 39(2) "on the first Saturday of May in" and substituting "in May";
- (zc) by striking out clause 3 of schedule 1;
- (zd) by striking out from clause 4 of schedule 1 "under clause 3(1)" and substituting "on 14 December 1998";
- (ze) by striking out from clause 4 of schedule 1 "on the first Saturday of May in" and substituting "in May";
- (zf) by striking out subclauses (3) and (4) of clause 5 of schedule 1 and substituting the following subclauses:

(3) A group of persons may, on application to the chief executive officer in a form determined by the chief executive officer—

- (a) nominate a name for the group for the purposes of the voters roll;
- (b) change the name for the group for the purposes of the voters roll.

(4) The chief executive officer may reject an application under subclause (3) if the name is, in the opinion of the chief executive officer, obscene or frivolous.

(5) Subject to the adoption of a name under subclause (3), the chief executive officer may determine the name of a group for the purposes of the voters roll.;

(zg) by striking out clause 6 of schedule 1 and substituting the following clause:

Revision of roll

6. (1) Subject to this clause, the voters roll must be maintained in a form that allows the roll to be brought into an up-to-date form (including by the merger of enrolment information for the House of Assembly) within three weeks after the supply of relevant information by the Electoral Commissioner under subclause (5).

(2) The voters roll must be brought up-to-date whenever an election or poll is to be held so as to reflect entitlements as they exist—

- (a) the case of a periodic election—on the first Thursday of February in the year of the election;
- (b) in the case of any other election, or a poll—on a day fixed for the close of the roll by the proclamation or notice fixing polling day for the election or poll.

(3) A day that falls within the ambit of subclause (2) will be the **closing date** for the roll.

(4) The closing date (other than the closing date fixed by subclause (2)(a)) must not be less than eight weeks before polling day for the relevant election or poll.

(5) The Electoral Commissioner must, within seven days after a closing date, supply the chief executive officer with a list of persons who are, as at a closing date, enrolled as electors for the House of Assembly in respect of a place of residence within the City of Adelaide.

- A list may be supplied in electronic form, or in another manner agreed between the Electoral Commissioner and the chief executive officer.

(6) If the area of the Council is divided into wards, the list supplied under subclause (5) must differentiate the electors according to the wards in relation to which they are enrolled.

(7) The Electoral Commissioner is entitled to recover as a debt from the Council a fee for an amount determined by the Electoral Commissioner for the supply of a list under this clause.

(8) For the purposes of subclause (2)(a), a preliminary revision of the roll must be available for inspection by members of the public within three weeks after the relevant closing date.

(9) The chief executive officer must publish a notice in a newspaper circulating generally throughout the State on or before the date on which a preliminary revision is made available under subclause (8) stating when and where the revision is available for inspection.

(10) A person, body corporate or group may, within one week after a preliminary revision is made available under subclause (8), object to the chief executive officer on the ground that the name or the person, body corporate or group has been omitted in error from the roll.

(11) The chief executive officer must determine any object under subclause (10) as soon as practicable after receiving the objection and in any event in sufficient time to bring the roll up-to-date in accordance with the requirements of subclause (2)(a) within five weeks after the relevant closing date.

(12) For the purposes of subclause (2)(b), the voters roll must be brought up-to-date within four weeks after the relevant closing date.

(13) A voters roll will be taken to have been brought up-to-date when copies of the roll are available for public inspection and purchase.

(14) The chief executive officer is not responsible to check the accuracy of a list supplied by the Electoral Commissioner under this clause and is entitled to assume that such a list is accurate.;

(zh) by striking out subclause (8) of clause 7 of schedule 1 and substituting the following subclause:

(8) A person, body corporate or group is only entitled to one vote for each (or any) ward for which the person, body corporate or group is enrolled.;

(zi) by inserting in clause 7(9) of schedule 1 ", body corporate or group" after "A person";

(zj) by striking out subclause (10) of clause 7 of schedule 1 and substituting the following subclause:

(10) If a person, body corporate or group is entitled to vote in more than one ward, the person, body corporate or group is still only entitled to one vote for the area of the Council as a whole.;

(zk) by inserting after subclause (10) of clause 7 of schedule 1 the following subclause:

(11) A natural person cannot vote at an election or poll for another natural person pursuant to a power of attorney.;

(zl) by striking out subclause (1) of clause 8 of schedule 1 and substituting the following subclause:

(1) Subject to this Act and the *Local Government Act 1999*, a person is eligible to be a candidate for election as a member of a council if—

(a) the person is—

(i) an Australian citizen; or

(ii) a prescribed person; and

(b) —

(i) the person is an elector for the area; or

(ii) the person is the nominee of a body corporate which has its name on the voters roll for the area; or

(iii) the person is the nominee of a group which has its name on the voters roll for this area; or

(iv) the person's name has been omitted in error from the voters roll for the area, or the person is the nominee of a body corporate or group which has had its name omitted in error from the voters roll for the area (and would be eligible for nomination under subparagraph (ii) or (iii) (as the case may be) were the name on the roll).;

(zm) by inserting in clause 8(2) of schedule 1 "*(b)*" after "*(1)*";

(zn) by inserting after subclause (2) of clause 8 of schedule 1 the following subclause:

(3) In this clause—

"**prescribed person**" means a person who has held office as a member of a council at any time between 5 May 1997 and the commencement of this subclause.;

(zo) by inserting after subclause (3) of clause 9 of schedule 1 the following subclause:

(4) The returning officer may reject a nomination if in the opinion of the returning officer the name under which the candidate is nominated—

(a) is obscene; or

(b) is frivolous; or

(c) has been assumed for an ulterior purpose.;

(zp) by striking out paragraphs (a) and (b) of clause 12(1) of schedule 1 and substituting the following paragraphs:

(a) a ballot paper (or, in an appropriate case, ballot papers) authenticated to the satisfaction of the returning officer; and

(b) an opaque envelope bearing a declaration in the prescribed form, to be completed by the voter, declaring the voter's date of birth and—

- that the ballot paper contained in the envelope contains his or her vote; and
- that he or she has not already voted at the election or poll; and
- if the voting papers are issued to a body corporate or group—that he or she is eligible to vote and is acting on behalf of the body corporate or group.;

(zq) by striking out from clause 12(2) of schedule 1 "declarations" and substituting "declaration";

(zr) by striking out subclauses (3), (4), (5) and (6) of clause 12 of schedule 1 and substituting the following subclauses:

(3) An envelope used under subclause (1) must be—

(a) a pre-paid post envelope addressed to the returning officer; or

(b) accompanied by a pre-paid envelope addressed to the returning officer,

and must comply with any prescribed requirement.

(4) Postal voting papers must also be issued to any person, body corporate or group whose name does not appear on the voters roll but who claims to be entitled to vote at the election or poll and applies to the returning officer for voting papers not later than—

(a) in the case of an application made by post—5 p.m. on the fourth business day before polling day;

(b) in the case of an application made personally—10 a.m. on polling day.

(5) Postal voting papers issued under subclause (4) must also include a declaration in the prescribed form for the voter to set out the grounds on which an entitlement to vote is claimed.

(6) Postal voting papers issued under this clause must be accompanied by an explanatory notice that complies with the regulations and may be accompanied by other material determined by the returning officer.;

(zs) by inserting in clause 12(8) of schedule 1 ", bodies corporate and groups" after "the persons";

(zt) by striking out from clause 12(9) of schedule 1 "delivered to a particular person" and substituting "successfully delivered";

(zu) by striking out from the note to clause 12(9) of schedule 1 "to a person";

(zv) by striking out subclauses (10) and (11) of clause 12 of schedule 1 and substituting the following subclauses:

(10) The returning officer is not obliged to check the date of birth of a voter, or any other information, provided under this clause (but may do so on a selective, random or other basis determined by the returning officer).

(11) A vote may be admitted to the count notwithstanding that the voter's date of birth has not been declared (or accurately declared) under this clause, or that there has been some other formal defect or error on the part of the voter in complying with the requirements of this clause (unless the returning officer is of the opinion that the defect or error is sufficiently significant to warrant the rejection of the vote).;

- (zw) by striking out from clause 14(3) of schedule 1 "information appearing on the outside of the envelope" and substituting "relevant information";
- (zx) by striking out from clause 15 of schedule 1 "or may vote on behalf of the voter in accordance with his or her directions and, if necessary," and substituting "and may vote in accordance with his or her directions and";
- (zy) by striking out clause 20 of schedule 1;
- (zz) by striking out from clause 21(3) of schedule 1 "section 121(4) of the *Local Government Act 1934*" and substituting "section 48 of the *Local Government (Elections) Act 1999*";
- (zza) by inserting after subclause (4) of clause 31 of schedule 1 the following subclause:

(5) The chief executive officer is only required to keep a return under this clause for a period of three years following the election to which the return relates.;

- (zzb) by striking out from clause 33(2) of schedule 1 "two years" and substituting "three years";
- (zzc) by striking out from the definition of "financial benefit" in clause 1(1) of schedule 2 "*Local Government Act 1934*" and substituting "*Local Government Act 1999*".

Amendment of Local Government Act 1934

6. The *Local Government Act 1934* is amended—

- (a) by striking out from section 5(1) the following definitions:

"accounting records"
 "alderman"
 "annual value"
 "capital value"
 "councillor"
 "domestic premises"
 "the Electoral Commissioner"
 "equal employment opportunity programme"
 "extraordinary vacancy"
 "general election"
 "the Land and Valuation Court"
 "merit"
 "nominated agent"
 "nomination day" or "day of nomination"
 "Panel"
 "periodical election"
 "petrol pump"
 "presiding officer"
 "project"

"ratepayer"
"refuse"
"returning officer"
"selection process"
"site value"
"spouse"
"trustee investment"
"unalienated Crown land"
"valuation"
"voters roll";

- (b) by striking out from section 5(1) the definition of "authorised person" and substituting the following definition:

"authorised person" means an authorised person under the *Local Government Act 1999*;;

- (c) by striking out from section 5(1) the definition of "council" and substituting the following definition:

"council" means a council constituted under the *Local Government Act 1999*;;

- (d) by striking out from the definition of "council committee" in section 5(1) "established under this Act" and substituting "established under the *Local Government Act 1999*";

- (e) by striking out subsections (1b), (7) and (9) of section 5;

- (f) by striking out section 5A;

- (g) by striking out Parts 2 to 5 (inclusive);

- (h) by striking out Parts 6 to 13 (inclusive);

- (i) by striking out sections 301 to 321 (inclusive);

- (j) by striking out sections 326 to 358 (inclusive);

- (k) by striking out sections 360 to 376 (inclusive);

- (l) by striking out Part 22;

- (m) by striking out Part 23;

- (n) by striking out Part 24;

- (o) by striking out Part 31;

- (p) by striking out Part 33;

- (q) by striking out Part 35;

- (r) by striking out Part 36;

- (s) by striking out Part 38;
- (t) by striking out paragraph 2 of section 667(1);
- (u) by striking out subparagraphs I to XV (inclusive) of paragraph 3 of section 667(1);
- (v) by striking out subparagraphs XVII to XIX (inclusive) of paragraph 3 of section 667(1);
- (w) by striking out subparagraphs XLIII to XLV (inclusive) of paragraph 3 of section 667(1);
- (x) by striking out subparagraphs L to LIII (inclusive) of paragraph 3 of section 667(1);
- (y) by striking out subparagraphs VI to XXI (inclusive) and XXIII to XL (inclusive) of paragraph 4 of section 667(1);
- (z) by striking out subparagraphs I, II and III of paragraph 5 of section 667(1);
- (za) by striking out subparagraphs XV, XVII, XVIII, XIX, XX, XXI, XXVII, XXVIII to XLII (inclusive) and XLIV to XLVIII (inclusive) of paragraph 7 of section 667(1);
- (zb) by striking out subparagraphs I to XI (inclusive) and XIII to XXX (inclusive) of paragraph 8 of section 667(1);
- (zc) by striking out from paragraph (8) of section 667(1) "powers (subparagraphs XXXI to XXXIV) are" and substituting "power (subparagraph XXXII) is";
- (zd) by striking out subparagraph XXXI of paragraph 8 of section 667(1);
- (ze) by striking out subparagraphs XXXII to XXXIV (inclusive) of paragraph 8 of section 667(1) and substituting the following subparagraph:
 - (XXXII) for regulating the speed of motor vehicles along any portion of the foreshore under the care, control and management of the council;;
- (zf) by striking out subparagraphs XXXVIII to XLV (inclusive) of paragraph 8 of section 667(1);
- (zg) by striking out subparagraph XLVII of paragraph 8 of section 667(1);
- (zh) by striking out subparagraphs I to XV (inclusive) of paragraph 9 of section 667(1);
- (zi) by striking out from subparagraph XVIII of paragraph 9 of section 667(1) "\$200" and substituting "\$750";
- (zj) by striking out from section 667(2) "XLII" and substituting "XLI";
- (zk) by striking out sections 668 to 685 (inclusive) and substituting the following section:

Local Government Act 1999 applies

668. The *Local Government Act 1999* applies to and in relation to by-laws made under this Act as if they were by-laws made under that Act.;

- (zl)* by striking out paragraphs *(a)* to *(af)* (inclusive), *(b)*, and *(d)* to *(f)* (inclusive) of section 691(1);
- (zm)* by striking out section 697;
- (zn)* by striking out from section 699 "697 or";
- (zo)* by striking out sections 700 to 714 (inclusive);
- (zp)* by striking out section 721;
- (zq)* by striking out sections 722 and 723;
- (zr)* by striking out sections 729 to 734 (inclusive);
- (zs)* by striking out subsection (2) of section 739;
- (zt)* by striking out sections 740 and 742;
- (zu)* by striking out section 746;
- (zv)* by striking out Part 41A;
- (zw)* by striking out sections 749 to 779 (inclusive);
- (zx)* by striking out sections 780 to 781a (inclusive);
- (zy)* by striking out sections 784 to 789 (inclusive);
- (zz)* by striking out from section 791 "\$200" and substituting "\$750";
- (zza)* by striking out Part 45;
- (zzb)* by striking out sections 872;
- (zzc)* by striking out section 877 to 879a (inclusive);
- (zzd)* by striking out sections 880a to 881 (inclusive);
- (zze)* by striking out sections 886c to 887 (inclusive);
- (zzf)* by striking out all remaining schedules.

Amendment of Pulp and Paper Mills (Hundreds of Mayurra and Hindmarsh) Act 1964

7. The *Pulp and Paper Mills (Hundreds of Mayurra and Hindmarsh) Act 1964* is amended—

- (a) by striking out from section 4(2) "*Local Government Act 1934*" and substituting "*Local Government Act 1999*";
- (b) by striking out from section 4(4) "Part X of the *Local Government Act 1934*" and substituting "Chapter 10 Part 1 of the *Local Government Act 1999*";
- (c) by striking out from section 5 "*Local Government Act, 1934-1963*" and substituting "*Local Government Act 1999*".

Amendment of Real Property Act 1886

8. The *Real Property Act 1886* is amended—

- (a) by striking out section 51f;
- (b) by inserting after section 254 the following section:

Confused boundaries

255. (1) A plan of the boundaries of land within a Confused Boundary Area that is lodged in the Lands Titles Registration Office under section 51(2) of the *Survey Act 1992* must be accompanied by an application in a form approved by the Registrar-General.

(2) The Registrar-General must, on the lodging of a plan referred to in subsection (1), examine the plan as if it were a plan lodged under this Act.

(3) The Registrar-General may deposit a plan in the Lands Titles Registration Office pursuant to section 51 of the *Survey Act 1992* without the consent of a person who appears from the Register Book to have or to claim an estate or interest in land affected by the plan.

(4) On the deposit of a plan referred to in subsection (3)—

- (a) the boundaries of land affected by the plan are by force of this subsection altered to the extent necessary to give effect to the plan; and
- (b) the Registrar-General may amend the original certificate of title, or may issue a new certificate of title, without the production of any duplicate or other instrument and without the consent of a person who appears to have or to claim an estate or interest in the land, and may amend any other relevant instrument or record; and
- (c) if the Registrar-General so requires—any duplicate certificate of title or other instrument specified by the Registrar-General must be produced to the Registrar-General so that it can be amended or a new certificate issued.

(5) If the production of a certificate or other instrument is required under subsection (4), then, despite any agreement to the contrary, a person having possession of the certificate or other instrument is not entitled to demand or receive a fee or charge from any person for its production.

(6) Any amendment made to a certificate of title under this section will be taken to have been made prior to the registration of any instrument registered on the certificate.

Amendment of Roads (Opening and Closing) Act 1991

9. The *Roads (Opening and Closing) Act 1991* is amended—

(a) by striking out the definition of "council" in section 3(1) and substituting the following definition:

"council" means a council under the *Local Government Act 1999*;

(b) by striking out paragraph (a) of the definition of "road" in section 3(1) and substituting the following paragraphs:

(a) a public road within the meaning of section 4 of the *Local Government Act 1999*; or

(ab) an alley, laneway, walkway or other similar thoroughfare vested in a council;.

Amendment of Survey Act 1992

10. The *Survey Act 1992* is amended—

(a) by inserting after subsection (1) of section 50 the following subsection:

(1a) The Surveyor-General may make a declaration under subsection (1)—

(a) on the application of—

(i) the Registrar-General; or

(ii) the Commissioner for Highways; or

(iii) a council; or

(b) on his or her own motion.;

(b) by striking out from section 50(2) "A declaration" and substituting "However, a declaration";

(c) by striking out subsection (4) of section 50;

(d) by striking out from section 51(3) "forward a copy of any such plan" and substituting "examine a plan lodged under subsection (2) and then forward a copy of the plan";

(e) by inserting after paragraph (c) of subsection (4) of section 51 the following word and paragraph:

and

(d) to the council for the area in which the land is situated.;

(f) by inserting after subsection (5) of section 51 the following subsection:

(5a) The Surveyor-General must, in considering any objections received under this section, consult with the Registrar-General.

Amendment of Water Resources Act 1997

11. The *Water Resources Act 1997* is amended—

- (a) by striking out from section 136(1)(a) "Part 10 of the *Local Government Act 1934*" and substituting "Chapter 10 of the *Local Government Act 1999*";
- (b) by striking out from section 138(2) "Part 10 of the *Local Government Act 1934* applies to and in relation to the levy as though it were a separate rate under that Part" and substituting "Chapter 10 of the *Local Government Act 1999* applies to and in relation to the levy as though it were a separate rate under that Chapter";
- (c) by striking out subsection (10) of section 138 and substituting the following subsection:

(10) In this section—

"allotment" means—

- (a) the whole of the land comprised in a certificate of title; or
- (b) the whole of land subject to a lease or licence, other than a lease or licence of a prescribed class under section 152 of the *Local Government Act 1999*;

"capital value" has the same meaning as in Chapter 10 of the *Local Government Act 1999*;

"contiguous" has the meaning given to it by section 149 of the *Local Government Act 1999*;

"rateable land" means rateable land under Chapter 10 of the *Local Government Act 1999*.

PART 4
TRANSITIONAL PROVISIONS

Constitution of councils

12. (1) All councils, council committees, areas and wards in existence immediately before the relevant day continue under the 1999 Act (and, for the purposes of that or any other Act, will be taken to have been constituted under that Act).

(2) All persons (other than returning officers) holding office under or by virtue of the provisions of the 1934 Act immediately before the relevant day continue to hold office under the 1999 Act or the 1999 Electoral Act (as appropriate).

(3) A person holding the office of alderman under the 1934 Act immediately before the relevant day will be taken to be a councillor appointed or elected as a representative of the area as a whole for the relevant council under the 1999 Act and may continue to use the title of "alderman" until the conclusion of the general election for the council to be held in May 2000.

(4) Section 54(1)(e) of the 1999 Act does not apply to a member of a council holding office immediately before the relevant day until the conclusion of the general election for the Council to be held in May 2000.

(5) A reference in another Act to an authorised person as defined in the *Local Government Act 1999* will, until the relevant day, be taken to include a reference to an authorized person as defined in the *Local Government Act 1934*.

Structural proposals

13. (1) A proceeding or review commenced under Part 2 of the 1934 Act that has not been finally determined at the relevant day may be continued and completed under the 1934 Act as if this Act had not been enacted.

(2) The validity of a notice published by a council pursuant to Division 11 of Part 2 of the 1934 Act on the basis of a certificate of the Electoral Commissioner under section 24(11) of that Act cannot be called into question.

(3) A council cannot be required to undertake a review of its composition and ward structure under section 12(24) of the 1999 Act by virtue only of the fact that a variation in representation levels has occurred as a result of the enactment of the 1999 Electoral Act¹.

¹ This provision does not affect the powers of the Electoral Commissioner under section 12(4) of the 1999 Act.

Defaulting councils

14. If immediately before the relevant day a proclamation is in force under Division 13 of Part 2 of the 1934 Act declaring a council to be a defaulting council, section 273 of the 1999 Act will apply to the council from the relevant day as if the proclamation had been made under that section.

Delegations

15. A delegation of a council in operation under the 1934 Act immediately before the relevant day will continue in operation under or for the purposes of the 1999 Act or the 1999 Electoral Act (as the case may require).

Registers and codes

16. (1) Subject to subsection (2), any register or code of conduct or practice in force under the 1934 Act immediately before the relevant day may, to the extent that a corresponding register or code is required under the 1999 Act, be taken to have been made under the 1999 Act (but may still be used for the purposes of the 1934 Act, if required).

(2) For the purposes of Chapter 5 Part 4 Division 2 of the 1999 Act—

- (a) any person elected as a member of a council at the general election to be held in May 2000 (including a person who was a member of the council before that election) must, within six weeks after election, submit to the chief executive officer a primary return under that Division; and
- (b) a member of the public is not entitled to inspect the Register under that Division until six weeks after the general election to be held in May 2000.

Allowances

17. (1) A council may, at any time after the commencement of Part 5 of Chapter 5 of the 1999 Act, fix the annual allowances to be payable to council members according to the rates under that Part notwithstanding—

- (a) that the council is acting at a meeting that does not fall within the ambit of section 76(2) of the 1999 Act; and
- (b) that the annual allowances being paid to council members are not otherwise due to be reviewed.

(2) However—

- (a) an annual allowance fixed under subsection (1) for the principal member of a council cannot be less than the annual allowance payable to the member under the 1934 Act immediately before the relevant day (and if the regulations under the 1999 Act prescribe a lesser amount as the maximum allowance payable under section 76(2) of the 1999 Act, the regulations will not apply to the extent necessary to ensure compliance with this paragraph); and
- (b) the council must still proceed to fix rates of annual allowances under section 76(2) of the 1999 Act with respect to the period commencing at the conclusion of the periodic election to be held in May 2000 (and at that time the power to fix allowances under subsection (1) will expire).

(3) A council may, in fixing an allowance under subsection (1), determine that any increase in an allowance will be back-dated to 1 July 1999.

(4) A regulation made for the purposes of Part 5 of Chapter 5 of the 1999 Act before the periodic election to be held in May 2000 may be brought into operation on 1 July 1999 even if that date is earlier than the date of its publication in the *Gazette*.

(5) Unless or until a council fixes allowances under subsection (1), the allowances payable to members of the council under the 1934 Act immediately before the relevant day will continue as if they had been fixed under the 1999 Act (and will then be fixed or reviewed under the provisions of the 1999 Act).

(6) Subsection (3) of section 76 of the 1999 Act, insofar as it relates to the fixing of allowances at the first ordinary meeting of a council at the conclusion of the periodic election to be held in May 2000, operates subject to the qualification that any amount fixed at that meeting for the ensuing period of 12 months must not exceed the maximum allowance prescribed by the regulations for the purposes of that section.

Staff

18. Any process or proceeding commenced under Part 6 of the 1934 Act that has not been finally determined at the relevant day may be continued and completed as if the 1999 Act and this Act had not been enacted.

Elections

19. (1) All voters rolls for areas or wards in force under the 1934 Act immediately before the relevant day will, until revised, continue in force under the 1999 Electoral Act.

(2) An application for enrolment made under Part 7 of the 1934 Act that has not been finally determined before the relevant day may be considered and determined under the 1999 Electoral Act.

(3) If, immediately before the relevant day, an extraordinary vacancy exists in the membership of a council and a day has not been appointed for the nomination of persons as candidates for election to that vacancy, nominations will be made and the election held under the 1999 Electoral Act as if the vacancy occurred on the relevant day.

(4) If, immediately before the relevant day, an extraordinary vacancy exists in the membership of a council and a day has been appointed under the 1934 Act for the nomination of persons as candidates for election to that vacancy, nominations will be made and the election held as if the 1999 Electoral Act and this Act had not been enacted.

(5) A proclamation under the 1934 Act that refers to an election or elections to be held on the first Saturday of May in 2000 will be taken to refer to the periodic election to be held in May 2000 under the 1999 Electoral Act.

Investments

20. Any investment made by a council before the relevant day is not affected by the operation of the 1999 Act.

Auditors

21. A person holding office as the auditor of a council immediately before the relevant day but who is not qualified to be appointed as an auditor under the 1999 Act may nevertheless continue as the auditor of the council until the completion of the audit for the financial year ending on the 30 June next following the relevant day.

Assessment book

22. The assessment book under the 1934 Act will be taken on the relevant day to be the assessment record for the 1999 Act.

Rates

23. (1) The enactment of this Act and the 1999 Act does not affect the declaration or operation of a rate under the 1934 Act before the relevant day.

(2) Any process or proceeding for the recovery of a rate commenced under Part 10 of the 1934 Act that has not been finally completed at the relevant day may be continued and completed under the 1999 Act from the stage reached immediately before the relevant day.

(3) A remission or postponement of rates granted by a council before the relevant day will continue as a remission or postponement of rates under the 1999 Act (until varied or revoked by the council).

(4) A council must, in respect of each of the first three financial years for which the council has a rating policy under Division 7 of Part 1 of Chapter 10 of the 1999 Act, prepare and publish a report in accordance with the following requirements:

(a) the report must provide information on—

- (i) the number of applications for rebates of rates under section 166(1)(h) of the 1999 Act received from retirement villages in respect of the relevant financial year; and
- (ii) the results of those applications; and
- (iii) the way in which the council's policy on issues of equity arising from circumstances where ratepayers provide or maintain infrastructure that might otherwise be provided or maintained by the council has been applied in relation to each application (insofar as that policy is relevant to the application); and

(b) the council must ensure—

- (i) that a copy of the report is submitted to the Presiding Members of both Houses of Parliament in conjunction with the council's annual report for the relevant financial year; and
- (ii) that copies of the report are available for inspection (without charge) and purchase (on payment of a fee fixed by the council) by the public at the principal office of the council for at least 12 months following its publication under subparagraph (i).

(5) An exemption from rates by proclamation made under section 168(2)(h) of the 1934 Act for the 1999/2000 financial year will continue to apply, by force of this subsection, until 30 June 2005, provided that the relevant land continues to be used (wholly or predominantly) for the purpose or purposes for which it was being used on 1 July 1999.

Single council controlling authorities

24. (1) Subject to subsection (2), a controlling authority established by a council under section 199 of the 1934 Act and in existence immediately before the relevant day continues as a committee of the council under the 1999 Act.

(2) A controlling authority established by a council under section 199 of the 1934 Act in existence immediately before the relevant day and specified by the Minister by notice in the *Gazette* as being a controlling authority to which this subsection applies will continue as a subsidiary of the council under Part 1 of Schedule 2 of the 1999 Act (and, for the purposes of that or any other Act, will be taken to have been established under that Act).

(3) The following provisions apply to a subsidiary within the ambit of subsection (2):

- (a) the rules of the controlling authority in existence immediately before the relevant day will be taken to be the charter of the subsidiary; and
- (b) any non-compliance concerning the charter of the subsidiary with Schedule 2 of the 1999 Act may be disregarded until 1 January 2002; and
- (c) the persons constituting the membership of the controlling authority immediately before the relevant day will be taken to constitute the board of management of the subsidiary.

Regional controlling authorities

25. (1) A controlling authority established by two or more councils under section 200 of the 1934 Act and in existence immediately before the relevant day continues as a subsidiary of the councils under Part 2 of Schedule 2 of the 1999 Act (and, for the purposes of that or any other Act, will be taken to have been established under that Act).

(2) The following provisions apply to a subsidiary within the ambit of subsection (1):

- (a) the rules of the relevant controlling authority in existence immediately before the relevant day will be taken to be the charter of the subsidiary; and
- (b) any non-compliance concerning the charter of the subsidiary with the requirements of Schedule 2 of the 1999 Act may be disregarded until 1 January 2002; and
- (c) the persons constituting the membership of the relevant controlling authority immediately before the relevant day will be taken to constitute the board of management of the subsidiary; and
- (d) the subsidiary is not required to have a business plan until six months after the relevant day.

References to controlling authorities

26. A reference in another Act to controlling authorities established under the 1934 Act will be taken to be a reference to subsidiaries established under the 1999 Act.

Water reserves

27. A grant of a water or other reserve made under section 452 of the 1934 Act will, from the relevant day, be taken to be a grant under section 5AA of the *Crown Lands Act 1929*.

Evidence of proclamations

28. (1) A copy of the *Gazette* containing a proclamation made by the Governor under the 1934 Act is conclusive evidence of the fact, terms, and validity of the proclamation, and is evidence of the facts stated, recited or assumed in the proclamation.

(2) No proclamation purporting to be made under the 1934 Act and within the powers conferred on the Governor under that Act is invalid on account of any non-compliance with a matter specified by that Act as preliminary to the proclamation.

Evidence of appointments and elections

29. A copy of the *Gazette* containing a notice of the election or appointment of a person under the 1934 Act, or the appointment of an officer for a specified purpose, is conclusive evidence of the election or appointment (except in proceedings to try the title of the person who has been elected or appointed).

Evidence of resolutions, etc.

30. A copy of the *Gazette* containing a notice that a resolution was passed or order made at a meeting of a council, or that a proposition was adopted or affirmed at a meeting or poll of electors, under the 1934 Act is conclusive evidence—

- (a) of the resolution being passed or order made, or proposition adopted or affirmed;
- (b) of the meeting being lawfully convened and the poll lawfully taken;
- (c) of any fact stated in the notice relating to the majority by which the resolution was passed or proposition adopted or affirmed, and the number and proportion of members or electors present.

Evidence of making of a rate

31. A copy of the *Gazette* containing a notice of the declaration of a rate under the 1934 Act is conclusive evidence that the rate has been duly declared (except in proceedings to quash the rate).

Evidence of assessment record

32. A copy of, or extract from, the assessment book kept under the 1934 Act certified by the chief executive officer as a true copy or extract is conclusive evidence that an assessment referred to in the copy or extract was duly made (except in proceedings to quash the assessment).

Evidence of constitution of council, appointment of officers, etc.

33. It is not necessary in any legal proceedings to prove the existence or constitution of a council, the appointment of an officer of a council, or the appointment of an authorised person under the 1934 Act.

Local government land

34. (1) Any survey, process or other proceeding commenced under or for the purposes of Division 3 of Part 17 or section 871e of the 1934 Act that has not been finally determined at the relevant day may be continued and completed as if this Act had not been enacted.

(2) All land under the care, control and management of a council by virtue of the provisions of the 1934 Act immediately before the relevant day continues under the care, control and management of the council under the 1999 Act.

(3) Despite section 193 of the 1999 Act, if—

(a) a council had acquired land within five years before the relevant day; and

(b) the council is satisfied—

(i) that the land was acquired by the council for a specific commercial or operational purpose and was not intended to be retained for public or community use or for the provision of community facilities; and

(ii) that there was a reasonable opportunity for the community to make submissions to the council before the acquisition actually occurred; and

(c) the council resolves within six months after the relevant day that the land is to be excluded from classification as community land under the 1999 Act,

then the land will not be taken to be classified as community land.

(4) A council must give notice in the *Gazette* of a resolution under subsection (3).

(5) A council must, on the request of a person with an interest in the matter, provide information to substantiate the requirements of subsection (3)(b)(i) and (ii).

(6) A lease, license, permit or other authorisation granted or given by a council over land in force under the 1934 Act continues in force under the 1999 Act.

(7) A lease granted by The Corporation of the City of Adelaide under Part 45 of the 1934 Act may continue for its full term (and be renewed for any period that may be specified in the lease) even if the term (or period) exceeds 42 years.

(8) A register of public streets and roads under section 312 of the 1934 Act will continue as the register of public roads under Chapter 11 Part 2 Division 10 of the 1999 Act.

(9) Any process or proceeding commenced under Division 2A of Part 22 of the 1934 Act that has not been formally determined at the relevant day may be continued and completed as if this Act had not been enacted.

By-laws

35. (1) If—

(a) a by-law is in force under the 1934 Act immediately before the provision under which the by-law is made is struck out by or under this Act; and

(b) provision is made—

(i) under the 1999 Act or another Act; or

(ii) by regulation under this section,

for—

(iii) the making of by-laws concerning the same or substantially the same subject-matter as the subject-matter to which the by-law relates; or

(iv) the preservation of the by-law,

then, despite any other Act or law, the by-law continues in force as if made under the 1999 Act or other Act (as the case requires or as the regulations may prescribe).

(2) If—

(a) proceedings relating to the making of a by-law have been commenced but not finally completed before the provision under which the by-law is made is struck out by or under this Act; and

(b) provision is made—

(i) under the 1999 Act or another Act; or

(ii) by regulation under this section,

for—

(iii) the making of by-laws concerning the same or substantially the same subject-matter as the subject-matter to which the by-law relates; or

(iv) the preservation of the by-law,

then, despite any other Act or law, the proceedings may be completed as if this Act had not been enacted and the by-law will, if or when it is made, have effect as if made under the 1999 Act or other Act (as the case requires or as the regulations may prescribe).

(3) A by-law made under the 1934 Act (including by the operation of subsection (2)), and all subsequent by-laws altering that by-law, unless it has already expired or been revoked, expire on 1 January of the year following the year in which the seventh anniversary of the day on which the by-law was made falls.

(4) For the purposes of subsection (3), a by-law will be taken to have been made on the day on which it is published in the *Gazette* or, in the case of a model by-law, the day on which the notice of the resolution adopting the model by-law is published in the *Gazette*.

(5) A by-law of a prescribed class may take effect from a day specified in the resolution making the by-law (which must not be earlier than the day of publication of the resolution in the *Gazette*) despite any other Act or law.

Contracts and tenders policy

36. A council is not required to adopt a contracts and tenders policy under Chapter 4 Part 4 of the 1999 Act until six months after the relevant day.

Public consultation policies

37. A council is not required to adopt a public consultation policy under Chapter 4 Part 5 of the 1999 Act until six months after the relevant day subject to the qualification that if a council is proposing to take action in a case where it is required by the 1999 Act to follow a public consultation policy then the council must adopt a public consultation policy under Chapter 4 Part 5 in order to comply with the 1999 Act.

Code of conduct—members

38. A council is not required to adopt a code of conduct under Chapter 5 Part 4 Division 1 of the 1999 Act until six months after the conclusion of the general election for the council in May 2000.

Code of conduct—employees

39. A council is not required to adopt a code of conduct under Chapter 7 Part 4 of the 1999 Act until 1 January 2001.

Strategic management plans

40. A council is not required to have strategic management plans under Chapter 8 Part 1 of the 1999 Act until 1 July 2002.

Annual reports

41. (1) A council is not required to have an annual report that complies with the requirements of Chapter 8 Part 4 of the 1999 Act until the annual report for the 2000/2001 financial year.

(2) A council constituted or formed between 25 October 1994 and 1 July 1997 (inclusive) must include in its annual reports for the 1998/1999 financial year and the 1999/2000 financial year information relating to—

- (a) any savings that have been achieved during the relevant financial year on account of the constitution or formation of the council; and
- (b) any changes to the quality or extent of services delivered or provided within the relevant area on account of the constitution or formation of the council.

Orders

42. A council may make an order under Chapter 12 Part 2 of the 1999 Act in respect of a circumstance in existence before or after the relevant day.

Grievance procedures

43. A council must establish procedures under Chapter 13 Part 2 of the 1999 Act within six months after the conclusion of the general election for the council to be held in May 2000.

Reviews initiated by Minister

44. The powers conferred on the Minister under Chapter 13 Part 3 of the 1999 Act may be exercised in relation to a circumstance occurring before or after the relevant day.

PART 5
OTHER MATTERS

General provisions

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

(2) Without limiting subsection (1), the Governor may, by regulation, make additional provisions of a saving or transitional nature consequent on the enactment of this Act, the 1999 Act or the 1999 Electoral Act.

(3) A provision of a regulation made under subsection (2) may, if the regulation so provides, take effect from the commencement of the Act concerned or from a later day.

(4) To the extent to which a provision takes effect under subsection (3) from a day earlier than the day of the regulation's publication in the *Gazette*, the provision does not operate to the disadvantage of a person by—

- (a) decreasing the person's rights; or
- (b) imposing liabilities on the person.

(5) The *Acts Interpretation Act 1915* will, except to the extent of any inconsistency with the provisions of this Act (or regulations made under this Act), apply to any repeal or amendment effected by this Act.

(6) For the purpose of the application of the *Acts Interpretation Act 1915*, this Act, the 1999 Act and the 1999 Electoral Act will be read together and construed as if the three Acts constituted a single Act.

Further repeal—Local Government Act 1934

46. The Governor may, by proclamation—

- (a) suspend the repeal of specified provisions of the *Local Government Act 1934* which would otherwise be repealed by the operation of another provision of this Act until a subsequent day fixed in the proclamation, or until a day to be fixed by subsequent proclamation;
- (b) repeal specified provisions of the *Local Government Act 1934* (in addition to the provisions repealed by this Act);
- (c) if or when satisfied that it is appropriate to do so—repeal the *Local Government Act 1934*.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

E. J. NEAL Governor