

South Australia



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A.D. 2002

**LEGISLATION REVISION AND PUBLICATION ACT 2002**

No. 32 of 2002

[Assented to 28 November 2002]

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An Act to provide for the revision and publication of South Australian legislation; to repeal the Acts Republication Act 1967; to amend the Evidence Act 1929 and the Subordinate Legislation Act 1978; and for other purposes.

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The Parliament of South Australia enacts as follows:

**Short title**

1. This Act may be cited as the *Legislation Revision and Publication Act 2002*.

**Commencement**

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

**Interpretation**

3. In this Act—

"**Commissioner**" means the person holding or acting in the office of the Commissioner for Legislation Revision and Publication;

"**consolidate**" means incorporate into legislation amendments or variations made by subsequent instrument;

"**legislation**" means—

- (a) an Act; or
- (b) a regulation made under an Act; or
- (c) an instrument of a kind prescribed by regulation;

"**minor error**" means—

- (a) a typographical or clerical error;
- (b) a grammatical error, spelling error or error of punctuation;
- (c) an error in numbering or designation, cross-referencing or alphabetical ordering;

"**publish**" includes republish;

"**revise**" includes consolidate.

**Commissioner for Legislation Revision and Publication**

4. (1) The Governor may appoint the Parliamentary Counsel or a legal practitioner employed in the Office of Parliamentary Counsel as Commissioner for Legislation Revision and Publication.

(2) The Attorney-General may appoint a legal practitioner employed in the Office of Parliamentary Counsel to act as Commissioner for Legislation Revision and Publication if there is no Commissioner or if the Commissioner is for any reason unable to act.

**Program for revision and publication of legislation**

5. (1) There is to be an ongoing program for the revision and publication of legislation.

(2) The principal object of the program is to consolidate public general legislation and make up-to-date copies of the public general legislation available to members of the public in printed and electronic form.

(3) The following legislation may be excluded from the program:

- (a) private Acts;
- (b) legislation that, owing to its restricted or local application or nature, is not, in the opinion of the Commissioner, of sufficient importance to justify inclusion in the program;
- (c) legislation the operation of which has expired or which has been or the operation of which has been superseded;
- (d) legislation that, except for provisions relating to short titles or citations or other preliminary, formal or transitional matter, consists of repeals, revocations, amendments or variations of legislation.

#### **Supervision by Commissioner**

6. Legislation may only be revised or published under this Act under the supervision of the Commissioner.

#### **Alterations that may be made in revising legislation**

7. (1) In revising legislation under this Act—

- (a) the following may be omitted:
  - (i) provisions setting out the arrangement of the legislation or its provisions;
  - (ii) provisions (that have commenced) consisting of repeals, revocations, amendments or variations of legislation;
  - (iii) saving, transitional or validation provisions that apply only to a time or event that has passed;
  - (iv) other provisions that are spent or have expired or otherwise ceased to have effect; and
- (b) the long title to an Act and any relevant headings may be altered so as to take account of the omission of provisions under this Act; and
- (c) obsolete headings may be omitted; and
- (d) if the legislation contains a minor error or would contain a minor error if consolidated in a particular way, the legislation may be expressed in a different way so as to correct or avoid the error; and
- (e) a reference to legislation or a legislative provision for which some other legislation or provision has been substituted may be altered to a reference to the substituted legislation or provision; and
- (f) a reference to a name, title or citation of any place, person, authority or legislation that has been changed by or under an Act or law may be altered to the name, title or citation as so changed; and

- (g) figures that indicate a year of the 20th century may be replaced with figures that indicate a year of the 21st century if the figures relate to an act to be performed in future; and
- (h) to achieve consistency with current practice or uniformity in style—
  - (i) the enacting words in an Act may be altered and, where the enacting words are included in a preamble, they may be separated from the preamble; and
  - (ii) a heading may be inserted above a preamble to indicate that it is a preamble; and
  - (iii) the style of references to legislation or to non-legislative works may be altered; and
  - (iv) spelling may be altered; and
  - (v) numbering may be altered, deleted or added; and
  - (vi) expressions of a number, year, date or time or of a quantity or measurement may be expressed differently; and
  - (vii) an amount of money that is not expressed as an amount in decimal currency may be expressed as an amount in decimal currency if, according to the provisions of the *Decimal Currency Act 1965*, it is to be read as such; and
  - (viii) a penalty at the foot of a provision may be stated to be a maximum penalty if it is so by virtue of the *Acts Interpretation Act 1915*; and
  - (ix) formatting or any other matter related to presentation may be altered (including, for example, the setting out of provisions, the type, the use of symbols in place of words having the same meaning, the placement of conjunctives and disjunctives and the use of capital letters, punctuation, hyphens, italics, bolding and quotation marks); and
- (i) alterations of a kind prescribed by regulation may be made.

(2) Subsection (1) does not permit alterations to legislation that would change the effect of the legislation.

(3) Nothing prevents the alteration or removal in the course of revision of material that appears within legislation but does not form part of the legislation for interpretation purposes (such as section headings, contents lists, notes about commencement or footnotes), nor does anything prevent the inclusion of further such material in the course of revision.

(4) If legislation is revised under this Act, legislative history notes must be made publicly available recording—

- (a) the instruments by which the legislation has been amended or varied; and
- (b) how the provisions of the legislation have been affected by those instruments; and
- (c) relevant assent and commencement dates for those instruments; and
- (d) the omission of provisions under this section.

**Publication of legislation**

8. (1) Legislation revised under this Act may be published under this Act by publishing a printed copy of the legislation.

(2) Legislation whether or not revised under this Act may be published under this Act by publishing an electronic copy of the legislation, from a website or otherwise, in accordance with the regulations.

(3) If legislation is published in accordance with the regulations by making it accessible from a website and conditions prescribed by regulation are satisfied, then an electronic copy of the legislation downloaded from the website or a print of that electronic copy will, for the purposes of this and any other Act, be taken to be published under this Act.

(4) Where the Commissioner considers it appropriate, legislation that has been revised may be republished in parts so that only those parts affected are substituted, and, in that event, the republication will be taken to comprise the substituted parts together with the most recent republication of each other part of the legislation.

(5) Legislation revised and republished under this Act has effect as if alterations made in the course of the revision to material that forms part of the legislation for interpretation purposes had been made by legislation that came into operation immediately before the date of republication.

(6) Legislation must be published under this Act without reference to the Latin regnal year.

**Evidence**

9. (1) In any legal proceedings, legislation revised and published under this Act or any former Act or provision of an Act that provided for the revision and publication of legislation is, in the absence of proof to the contrary, to be taken to set out correctly the contents of the legislation as in force at the date, or for the period, specified in the document.

(2) In any legal proceedings, legislation published under this Act that has not been amended or varied or altered in material that forms part of the legislation for interpretation purposes is, in the absence of proof to the contrary, to be taken to set out correctly the contents of the legislation.

**Regulations**

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

**SCHEDULE***Repeals, Amendments and Transitional Provisions***Repeal of Acts Republication Act**

1. The *Acts Republication Act 1967* is repealed.

**Amendment of Evidence Act**

2. The *Evidence Act 1929* is amended by inserting after paragraph (d) of the definition of "legislative instrument" in section 35(2) the following paragraph:

- (e) an Act or other instrument of a kind referred to in a preceding paragraph as published or republished under—
  - (i) the *Legislation Revision and Publication Act 2002*; or
  - (ii) a former Act, or provision of an Act, of this State that provided for the reprinting or consolidation of any such instruments; or
  - (iii) a corresponding Act or ordinance of any other State or a Territory of the Commonwealth.

**Amendment of Subordinate Legislation Act**

3. The *Subordinate Legislation Act 1978* is amended—

- (a) by striking out the long title and substituting the following long title:

An Act relating to the making, printing and publishing of certain subordinate legislation; and for other purposes.;

- (b) by striking out section 3;
- (c) by striking out the definition of "authorised legal practitioner" from section 4;
- (d) by striking out sections 5 and 6;
- (e) by striking out subsections (1) and (2) of section 7;
- (f) by striking out section 8;
- (g) by striking out from section 11 "in the prescribed form and manner";
- (h) by striking out section 12;
- (i) by striking out Part 3 (comprising sections 14, 15 and 16);
- (j) by striking out subsection (2) of section 17.

**Transitional provision**

4. A person holding the office of the Commissioner of Statute Revision immediately before the commencement of this clause continues as the Commissioner for Legislation Revision and Publication under this Act without further appointment.