



ANNO TRICESIMO SECUNDO

ELIZABETHAE II REGINAE

A.D. 1983

No. 41 of 1983

An Act to amend the Acts Interpretation Act, 1915-1978, and the Subordinate Legislation Act, 1978.

[Assented to 16 June 1983]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the "Acts Interpretation Act Amendment Act, 1983". Short titles.

(2) The Acts Interpretation Act, 1915-1978, is in this Act referred to as "the principal Act".

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

3. The following heading is inserted before section 1 of the principal Act: Insertion of heading.

PART I
PRELIMINARY

4. Section 3 of the principal Act and the heading immediately preceding that section are repealed and the following sections are substituted: Repeal of s. 3 and heading and substitution of new section.

3. This Act is arranged as follows: Arrangement of Act.

PART I—PRELIMINARY

PART II—PROVISIONS OF SPECIAL APPLICATION TO ACTS AND BILLS

PART III—PROVISIONS OF SPECIAL APPLICATION TO STATUTORY INSTRUMENTS

PART IV—PROVISIONS GENERALLY APPLICABLE TO ACTS AND STATUTORY INSTRUMENTS.

3a. Subject to this Act, this Act applies to or in relation to an Act or statutory instrument whenever passed or made.

Application of this Act to Acts or statutory instruments whenever passed or made.

Amendment of
s. 4—
Interpretation.

5. Section 4 of the principal Act is amended—

(a) by striking out the passage “whenever passed” and substituting the passage “or statutory instrument”;

(b) by striking out the definition of “by-law”;

(c) by striking out the definition of “commencement of this Act”, “passing of this Act” and substituting the following definition:

“commencement”, in relation to an Act or statutory instrument, means the day on which the Act or statutory instrument comes into operation;

(d) by striking out the definition of “financial year” and substituting the following definition:

“financial year” means the period of twelve months ending upon the expiration of the thirtieth day of June;

(e) by striking out the definition of “Minister” and substituting the following definition:

“Minister” means—

(a) when used in an Act—the Minister of the Crown to whom the administration of the Act has been committed by the Governor, or in whom the administration of the Act is otherwise vested;

and

(b) when used in a statutory instrument—the Minister of the Crown to whom the administration of the Act under which the statutory instrument was made has been committed by the Governor, or in whom the administration of that Act is otherwise vested,

and includes a Minister of the Crown for the time being discharging the duties of that Minister or acting in the exercise of powers or functions delegated to him by that Minister;

(f) by striking out the definition of “prescribed” and substituting the following definition:

“prescribed” means—

(a) when used in an Act—prescribed by the Act or by a statutory instrument made or to be made under the Act;

and

(b) when used in a statutory instrument—prescribed by the Act under which the statutory instrument was made, by the statutory instrument itself, or by some further statutory instrument made or to be made under the Act under which the statutory instrument was made;

(g) by striking out the definition of “regulation”, “rule”, or “by-law” and substituting the following definition:

“regulation”, “rule” or “by-law” means—

(a) when used in an Act—a regulation, rule or by-law made under the Act in which the expression is used;

and

(b) when used in a statutory instrument—a regulation, rule or by-law made under the Act under which the statutory instrument was made;

(h) by inserting after the definition of “statutory declaration” the following definition:

“statutory instrument” means regulation, rule, by-law or statute made under an Act;

and

(i) by striking out the definition of “this Act” and substituting the following definition:

“this Act”, when used in an Act, includes statutory instruments made under the Act in which the expression is used.

6. The following section is inserted after section 4 of the principal Act:

4a. For the purposes of the law of the State, the State shall be deemed to have been established on the twenty-eighth day of December, 1836.

Insertion of new s. 4a.

Date of establishment of the State.

7. Sections 5 and 6 of the principal Act and the headings preceding those sections are repealed and the following heading and sections are substituted:

Repeal of ss. 5 and 6 and headings and substitution of new sections and heading.

PART II

PROVISIONS OF SPECIAL APPLICATION TO ACTS AND BILLS

5. Every Act passed after the first day of January, 1873, shall be deemed to be a public Act.

Acts to be deemed to be public Acts.

6. Every section of an Act shall, without introductory words, have effect as a substantive enactment.

Sections to have effect as substantive enactments.

8. Section 7 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “whenever passed”;

and

(b) by striking out subsection (2).

Amendment of s. 7—
Time of coming into operation of an Act.

9. The following section is inserted after section 7 of the principal Act:

7a. An Act may be amended or repealed in the Session of Parliament in which it was passed.

Insertion of new s. 7a.

Amendment or repeal of Act in Session in which it was passed.

10. Section 9 of the principal Act is repealed.

Repeal of s. 9.

Repeal of ss. 11, 12, 13 and 14 and heading and substitution of new headings and sections.

11. Sections 11, 12, 13 and 14 of the principal Act and the heading preceding section 11 are repealed and the following headings and sections are substituted:

PART III

PROVISIONS OF SPECIAL APPLICATION TO STATUTORY INSTRUMENTS

Saving of statutory instruments on repeal or amendment of an Act.

11. Where—

(a) a statutory or other instrument is in force under an Act;
and

(b) the Act, or the provision of the Act under which the instrument was made, is repealed by a subsequent Act which contains or provides the power to make instruments to the same or similar effect,

the instrument shall, subject to the provisions of the subsequent Act, remain in force as if the subsequent Act had been in force when the instrument was made and the instrument had then been made in pursuance of that Act.

Disallowance of repealing statutory instrument revives instrument sought to be repealed.

12. Where a statutory instrument that revokes another statutory instrument, or part of another statutory instrument, is disallowed pursuant to any Act, the statutory instrument or part sought to be revoked revives.

Construction of statutory instrument so as not to exceed power.

13. A statutory or other instrument made pursuant to a power conferred by or under an Act shall be read and construed so as not to exceed that power, to the intent that, where a provision of the instrument, or the application of a provision of the instrument to any person or circumstances, is in excess of that power, the remainder of the instrument, or the application of the provision to other persons and circumstances, is not affected.

Expressions in statutory and other instruments have same meanings as in the Act under which they are made.

14. An expression used in a statutory instrument or other instrument made under an Act shall, unless the contrary intention appears, have the same meaning as in the Act under which the instrument was made, and, where that Act is amended after the instrument is made, or is repealed and substituted by a subsequent Act for the purposes of which the statutory or other instrument continues in force, the same meaning as in the amended or substituted Act.

PART IV

PROVISIONS GENERALLY APPLICABLE TO ACTS AND STATUTORY INSTRUMENTS

Application of this Part to Acts and statutory instruments.

14a. (1) The provisions of this Part apply both to Acts and statutory instruments.

(2) For the purposes of the application of this Part to statutory instruments—

(a) a reference to an Act or an enactment extends to a statutory instrument;

(b) a reference to the passing of an Act extends to the making of a statutory instrument;

(c) a reference to the repeal of an Act extends to the revocation of a statutory instrument;

and

(d) a reference in section 16 to the repeal of an Act extends to the disallowance of a statutory instrument.

14b. (1) An Act, whether passed before or after the commencement of this Act, may be cited— Citation.

(a) by its short title;

or

(b) by its short title abbreviated by omitting reference to any year except the year in which it was passed.

(2) A reference in an Act to some other Act shall, unless the contrary intention appears, be deemed to include reference to statutory instruments made under that other Act and, where the reference is to a Part or provision of the other Act, the reference shall, unless the contrary intention appears, include a reference to statutory instruments made under the other Act insofar as they are relevant to that Part or provision.

(3) A reference in an Act to some other Act, or a Part or provision of some other Act, shall, unless the contrary intention appears, be construed—

(a) as a reference to that other Act, Part or provision as amended from time to time;

and

(b) where the Act, Part or provision is substituted—

(i) by a subsequent Act—as a reference to that subsequent Act;

(ii) by a subsequent Part of an Act—as a reference to that subsequent Part;

or

(iii) by a subsequent provision of an Act—as a reference to that subsequent provision.

(4) An Act of the Commonwealth or of a place outside this State, whether passed before or after the commencement of this Act, may, for the purposes of the law of this State, be cited by any method authorized by, or commonly used in, the statutes of the Commonwealth or that place.

(5) Nothing in this section renders unlawful or ineffective any citation or reference that is not made in a manner authorized by this section.

14c. (1) Where—

(a) an Act is passed but is not to come immediately into operation;

and

Exercise of powers conferred by Acts or statutory instruments prior to commencement date.

(b) it is expedient that a power expressed to be conferred by the Act be exercised before it comes into operation,

that power may be so exercised at any time after the Act is passed.

(2) Anything created, granted, issued, done or made under an Act by virtue of subsection (1) shall take effect upon the commencement of the Act and not before.

Time of commencement.

14d. Where an Act, or part of an Act, comes into operation on a particular day, it shall be deemed to have come into operation as from twelve o'clock midnight of the preceding day.

Amendment of s. 15—
Saving of existing districts, appointments, etc.

12. Section 15 of the principal Act is amended—

(a) by striking out paragraph (c);

(b) by striking out paragraph III;

and

(c) by striking out the passage “, made,” wherever occurring.

Amendment of s. 16—
Saving of operation of repealed, amended or expired Act as regards rights and liabilities thereunder.

13. Section 16 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “Where any Act, whenever passed, repeals or has repealed a former Act, or any provision or words thereof, or where any Act or enactment, whenever passed, expires or has expired” and substituting the passage “Where an Act is repealed or amended, or where an Act or enactment expires”;

(b) by inserting in subsection (1) after the passage “such repeal” wherever it occurs the passage “, amendment”;

(c) by striking out from paragraph II of subsection (1) the passage “any repealed” and substituting the passage “the repealed, amended”;

(d) by striking out from subsection (2) the passage “repealing Act had not been passed” and substituting the passage “repeal or amendment had not been effected”;

(e) by inserting in subsection (3) after the word “repeal” the passage “, amendment”;

and

(f) by inserting in subsection (3) after the word “repealed” the passage “, amended”.

Repeal of s. 17 and substitution of new section.

14. Section 17 of the principal Act is repealed and the following section is substituted:

Repeal not to revive previously repealed enactments.

17. Where a repealing enactment is repealed by an Act, there is no revival of any Act or enactment previously repealed unless the contrary intention is expressed.

Repeal of ss. 18, 19 and 20 and heading.

15. Sections 18, 19 and 20 of the principal Act and the heading preceding section 18 are repealed.

Amendment of s. 22a—
Construction of Acts so as not to exceed power of the State.

16. Section 22a of the principal Act is amended by striking out subsection (3).

17. The heading preceding section 23 of the principal Act is repealed. Repeal of heading preceding s. 23.
18. Section 24 of the principal Act is amended by striking out the passage "whenever passed". Amendment of s. 24—
When Act or provision deemed to be substituted for another.
19. Section 25 of the principal Act is amended by striking out the passage "or by any regulation, rule, or by-law made thereunder,". Amendment of s. 25—
Variation of forms.
20. Section 33c of the principal Act is amended by striking out from the definition of "law of the State" in subsection (3) paragraphs (b) and (c) and substituting the following paragraph: Amendment of s. 33c—
References to British subjects.
- or
- (b) any statutory instrument or other instrument made under an Act.
21. The heading preceding section 34 of the principal Act is repealed. Repeal of heading preceding s. 34.
22. The following section is inserted after section 37 of the principal Act: Insertion of new s. 37a.
- 37a. Where under an Act the exercise of a power or function by a person is dependent upon his state of mind, opinion or belief in relation to a particular matter— Manner in which certain powers and functions may be exercised by a delegate.
- (a) the power or function is not incapable of delegation by reason of the fact that it is so dependent;
- and
- (b) if the power or function is lawfully delegated, it may be exercised by the delegate upon the basis of his own state of mind, opinion or belief in relation to the matter.
23. The heading preceding section 39 of the principal Act is repealed. Repeal of heading preceding s. 39.
24. Section 40 of the principal Act is repealed. Repeal of s. 40.
25. The heading preceding section 41 of the principal Act is repealed. Repeal of heading preceding s. 41.
26. Sections 48 and 49 of the principal Act and the heading preceding section 48 are repealed. Repeal of ss. 48 and 49 and heading.
27. Section 52 of the principal Act is repealed. Repeal of s. 52.
28. The Subordinate Legislation Act, 1978, is amended by striking out subsection (5) from section 10. Amendment of Subordinate Legislation Act, 1978.

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

D. B. DUNSTAN, Governor