

**STATUTES AMENDMENT AND REPEAL  
(NATIONAL COMPETITION POLICY) BILL**

Second reading.

**The Hon. P. HOLLOWAY (Minister for Agriculture,  
Food and Fisheries):** I move:

That this bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

This Bill combines the repeal or minor amendment of a number of Acts to implement the recommendations of National Competition Policy legislation reviews ("NCP review").

Under the National Competition Policy agreements, all jurisdictions have an obligation to review and, where necessary, reform legislation which contains restrictions on competition. In South Australia, 178 Acts were identified, and, since 1997, 154 have been reviewed, including the following Acts which are the subject of this Bill:

- *Emergency Powers Act 1941*
- *Loans to Producers Act 1927*
- *Advances to Settlers Act 1930*

*Loans for Fencing and Water Piping Act 1938**Student Hostels (Advances) Act 1961**Local Government Act 1934**Conveyancers Act 1994*

In the case of all but the last two Acts, the recommendation of the NCP review was to repeal the Act. In the case of the *Local Government Act 1934* and the *Conveyancers Act 1994*, the recommendations consisted of the repeal or minor amendment of several sections.

An explanation of the function of each Act and the reasons for the Government's response to the recommendations arising out of the NCP review of that Act are given below.

*Emergency Powers Act 1941*

The Act was created as a wartime measure early in the Second World War, to provide additional statutory powers for the civil defence authorities because of a fear that voluntary measures for Civil Defence arrangements could not be relied upon in a time of crisis. Similar enactments were made in most Australian states, but none are known to be still in existence. It was intended that the Act would expire with the signing of peace treaties, but, as the Axis powers surrendered, no treaties were signed and the mechanism for triggering the expiry of the Act did not occur. In 1952, this Act and a number of other South Australian wartime Acts were amended to enable the State Governor to issue a proclamation declaring that the Second World War had ceased, but no proclamation to this effect has been located. The Act has not been used since soon after the end of World War 2.

The Act could be justified under the National Competition Policy agreements as being in the public interest on the basis of the interests of consumers generally, and the efficient allocation of resources during a time of war. However it is moribund and South Australia has alternative, extensive emergency services legislation in the *Essential Services Act 1981* and the *State Disaster Act 1980* that deal with civil emergencies or disasters during peacetime or armed conflict. In addition, the *State Disaster Act 1980* was amended in 1994 to include, among other things, provisions for civil defence measures, when and if required. Consequently the *Emergency Powers Act 1941* is to be repealed.

*Advances to Settlers Act 1930, Loans for Fencing and Water Piping Act 1938, Loans to Producers Act 1927, and Student Hostels (Advances) Act 1961*

These Acts were designed to provide support and funds for authorities or individuals that met the criteria set in the particular Act. All loans under these financing schemes were closed as of 30 June 1998. The Acts are no longer used, but the requirement to report on them continues to exist. Alternative programs and mechanisms to meet the Government's policy objectives are in place. For example, since 1995, the Rural Finance and Development Branch of Primary Industries and Resources SA provides loans to producer cooperatives, which formerly borrowed under the *Loans to Producers Act 1927*. Consequently the four acts are to be repealed.

*Local Government Act 1934*

The *Local Government Act 1999* repealed almost the entire *Local Government Act 1934*. Part XXX, which includes the regulation of cemeteries and a related by-law making power, was not repealed. The NCP review recommended the repeal of three sections:

Section 586, which provides for the establishment of cemeteries by a council, is to be repealed on the basis that this power is superseded by more comprehensive and contemporary provisions in the *Development Act 1993*.

Section 595(1)(f), which provides a power to make regulations setting the maximum charges and fees which may be charged by a council, is to be repealed so that Council cemetery fees are regulated by the contemporary provisions of the *Local Government Act 1999*.

Section 667(1)4XXII, which provides a power for a council to make by-laws for the management of cemeteries, crematoria and mortuaries, is to be repealed on the basis that the council by-law making provisions of the *Local Government Act 1999* should apply to a council's cemetery operations in the same way as for other council by-laws.

This Bill repeals those sections.

The NCP review also recommended that section 589, which confers certain powers on a council with respect to neglected cemeteries, either be repealed or revised to include rights of appeal and to reduce overlap with similar powers in other legislation. While there have been no known complaints about any abuse of section 589, it is not considered appropriate to simply repeal the section at this stage prior to a more extensive review of the cemetery provi-

sions. The Bill, therefore, amends the section to make the provisions relating to order-making procedures and rights of review contained in Divisions 2 and 3 of Part 2 of Chapter 12 of the *Local Government Act 1999* apply to an order, or a proposal to make an order, made under section 589.

*Conveyancers Act 1994*

Conveyancing consists of the creation of conveyancing instruments capable of registration under the provisions of the *Real Property Act 1886*, or which can be entered in the Register Book. In South Australia, conveyancing can be conducted by legal practitioners and registered conveyancers. The NCP review identified the objective of the Act as the protection of consumers from the risk of incompetent or dishonest conveyancers. This is achieved through the imposition of strict point of entry controls, the mandating of professional indemnity insurance, the regulation and supervision of trust accounts and disciplinary measures. While generally speaking these restrictions are justified in the public interest, some aspects of the Act were not, and the review recommended that sections 7(1)(b) and 7(2)(b)(i) be amended. These sections contain a prohibition against persons who have been convicted of an offence of dishonesty, or corporations with a director who has been convicted of an offence of dishonesty, being registered as a conveyancer. This applies to any offence of dishonesty, regardless of its gravity and imposes a life-time entry ban.

This Bill amends sections 7(1)(b) and 7(2)(b)(i) to provide that a person cannot be registered as a conveyancer if the person has been convicted of a summary offence of dishonesty within the 10 years preceding their application. However, a conviction for an indictable offence of dishonesty will continue to permanently prevent a person from being registered. This measure recognises the seriousness of prohibiting a person from a career for life and balances against it the need to protect the community from dishonest practitioners.

A consequential amendment is also made to the definition of 'legal practitioner' so that this term will have the same meaning as in the *Legal Practitioners Act 1981*. This will provide consistency in the definition and is required due to the amendment in 1998 of the definition of 'legal practitioner' in the *Legal Practitioners Act 1981* to include interstate legal practitioners and companies that hold practising certificates. The definition of "legal practitioner" in the *Land and Business (Sale and Conveyancing) Act 1994* is also amended by this measure so provide consistency in all legislation dealing with conveyancing.

I commend this Bill to the House.

## Explanation of clauses

## PART 1

## PRELIMINARY

*Clause 1: Short title*

*Clause 2: Commencement*

*Clause 3: Interpretation*

These clauses are formal.

## PART 2

## AMENDMENT OF CONVEYANCERS ACT 1994

*Clause 4: Amendment of s. 3—Interpretation*

This clause amends section 3 of the principal Act by amending the definition of "legal practitioner" so that that definition is consistent with the definition in the *Legal Practitioners Act 1981*.

*Clause 5: Amendment of s. 7—Entitlement to be registered*

This clause amends section 7(1)(b) of the principal Act to prevent a person who has ever been convicted of an indictable offence of dishonesty, or who has been convicted of a summary offence of dishonesty in the preceding 10 years, from gaining registration as a conveyancer.

The clause also amends section 7(2)(b)(i) of the principal Act to prevent a company from gaining registration as a conveyancer if a director of the company has ever been convicted of an indictable offence of dishonesty, or has been convicted of a summary offence of dishonesty in the preceding 10 years.

## PART 3

## AMENDMENT OF LAND AND BUSINESS (SALE AND CONVEYANCING) ACT 1994

*Clause 6: Amendment of s. 3—Interpretation*

This clause makes a consequential amendment to section 3 of the principal Act by amending the definition of "legal practitioner" in the same terms as clause 4, so that that definition is consistent throughout legislation dealing with conveyancers.

## PART 4

## AMENDMENT OF LOCAL GOVERNMENT ACT 1934

*Clause 7: Repeal of s. 586*

This clause repeals section 586 of the principal Act.

*Clause 8: Substitution of s. 589*

This clause amends section 589 of the principal Act so that the provisions found in Divisions 2 and 3 of Part 2 of Chapter 12 of the *Local Government Act 1999* apply to an order, or a proposal to make an order, made under the section. The provisions in Division 2 relate to the procedures which need to be followed by a council in relation to an order, rights in relation to a review of the order, the action that may be taken by a council in the event of non-compliance with an order and an offence provision in relation to non-compliance. Division 3 requires a council to develop certain policies in relation to the operation of Part 2 of Chapter 12 of the *Local Government Act 1999*.

*Clause 9: Amendment of s. 595—Regulations*

This clause amends section 595(1) of the principal Act by striking out paragraph (f).

*Clause 10: Amendment of s. 667—By-laws*

This clause amends section 667(1)4 of the principal Act by striking out subparagraph XXII.

## PART 5

## REPEAL OF ADVANCES TO SETTLERS ACT 1930

*Clause 11: Repeal*

This clause repeals the *Advances to Settlers Act 1930*.

## PART 6

## REPEAL OF EMERGENCY POWERS ACT 1941

*Clause 12: Repeal*

This clause repeals the *Emergency Powers Act 1941*.

## PART 7

## REPEAL OF LOANS FOR FENCING AND WATER PIPING ACT 1938

*Clause 13: Repeal*

This clause repeals the *Loans for Fencing and Water Piping Act 1938*.

## PART 8

## REPEAL OF LOANS TO PRODUCERS ACT 1927

*Clause 14: Repeal*

This clause repeals the *Loans to Producers Act 1927*.

## PART 9

## REPEAL OF STUDENT HOSTELS (ADVANCES) ACT 1961

*Clause 15: Repeal*

This clause repeals the *Student Hostels (Advances) Act 1961*.

## ADJOURNMENT

At 10.16 p.m. the council adjourned until Thursday 1 May at 11 a.m.