



ANNO DECIMO OCTAVO

ELIZABETHAE II REGINAE

A.D. 1969

No. 94 of 1969

An Act to amend the Local Government Act,
1934-1969.

[Assented to 11th December, 1969.]

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

Short titles.

1. (1) This Act may be cited as the "Local Government Act Amendment Act (No. 4), 1969".

(2) The Local Government Act, 1934-1969, as amended by this Act, may be cited as the "Local Government Act, 1934-1969".

(3) The Local Government Act, 1934-1969, is hereinafter referred to as "the principal Act".

Amendment of
principal Act,
s. 3—
Arrangement
of Act.

2. Section 3 of the principal Act is amended by inserting immediately before the passage—

"PART XLVI—Miscellaneous Matters"

the passage—

"PART XLVA—City of Whyalla".

Enactment of
s. 346a of
principal Act—

3. The following section is enacted and inserted in the principal Act immediately after section 346 thereof :—

Fencing, etc.,
of swimming
pools.

346a. (1) If a swimming pool, for want of a sufficient fence or enclosure, is, in the opinion of the council, dangerous

to persons, the council may, by notice in writing, require the owner thereof to cause the same to be forthwith fenced or enclosed.

(2) If a swimming pool referred to in subsection (1) of this section is not, within one month after service of the notice on the owner thereof, sufficiently fenced or enclosed so as to be no longer dangerous, the council may fence or enclose that swimming pool.

(3) If the exigency of the case so requires, the council may, without notice, forthwith fence or enclose any swimming pool referred to in subsection (1) of this section.

(4) In any case in which the council fences or encloses any swimming pool referred to in subsection (1) of this section pursuant to subsection (2) or subsection (3) of this section the expense of so doing shall be paid by the owner to the council and until fully paid or recovered shall be a charge upon the land on which the swimming pool is situated.

(5) In this section "swimming pool" includes any excavation or structure capable of being filled with water and used for the purpose of swimming and includes an excavation or structure capable of being used as a paddling pool.

4. The following Part, heading and sections are enacted and inserted in the principal Act immediately after section 871t thereof :

Enactment of
Part XLVA of
principal Act—

PART XLVA.

CITY OF WHYALLA.

871ta. In this Part, unless the contrary intention appears—

Definitions.

"the appointed day" means the fourth day of July, 1970 :

"the Commission" means the Commission established by the Whyalla Town Commission Act, 1944 and then known as The Whyalla Town Commission the name of which was, pursuant to the Whyalla Town Commission Act Amendment Act, 1961, altered to The City of Whyalla Commission :

"the council" means the council of the municipality :

“the municipality” means the municipality constituted pursuant to section 871te of this Act :

“the repealed Act” means the City of Whyalla Commission Act, 1944-1964 :

“the Whyalla abattoirs” means the abattoirs carried on by the Whyalla Abattoirs Co-operative Society Limited, and situated on sections 26 and 27, Hundred of Cultana :

“the Whyalla abattoirs area” means the area of land that, pursuant to section 871w of this Act is continued to be constituted as the Whyalla abattoirs area as from time to time altered pursuant to that section.

Repeal of
certain Acts.

871tb. On the appointed day the—

Whyalla Town Commission Act, 1944 ;

Whyalla Town Commission Act Amendment Act, 1949;

Whyalla Town Commission Act Amendment Act, 1961;

City of Whyalla Commission Act Amendment Act, 1961 ;

City of Whyalla Commission Act Amendment Act, 1963 ;

and

City of Whyalla Commission Act Amendment Act, 1964,

shall be repealed.

Dissolution of
Commission.

871tc. (1) On the appointed day—

(a) the Commission shall be wound up and dissolved and the Chairman of the Commission and each Commissioner holding office under the repealed Act immediately before the appointed day shall vacate their respective offices ;

and

(b) all real and personal property of any kind whatsoever vested in or belonging to the Commission, immediately before the appointed day shall vest in and belong to the council.

(2) On the dissolution of the Commission and thereafter all claims, actions and proceedings which—

(a) but for that dissolution could have been made or commenced by or against the Commission may be made or commenced by or against the

council in all respects as if the Commission had not been dissolved and the council were the Commission ;

and

- (b) before that dissolution had been made or commenced by or against the Commission may be continued by or against the council in all respects as if the Commission had not been dissolved and the council were the Commission and the name of the corporation comprised of the mayor and councillors of the council shall be substituted for the name of the Commission in any such claim, action or proceeding.

871td. (1) The Registrar-General shall, on the application of the council, in relation to any land that has pursuant to paragraph (b) of subsection (1) of section 871tc of this Act become vested in the council register that vesting to the extent of the estate so vested.

Alterations to register.

(2) In this section "the Registrar-General" means the person for the time being holding the office of—

- (a) Registrar-General under the Real Property Act, 1886-1969 ;
or
(b) Registrar-General of Deeds under the Registration of Deeds Act, 1935-1962.

871te. (1) On the appointed day—

- (a) the portion of the State described in Part I of the twenty-fourth schedule to this Act shall be constituted a municipality under the name of "The City of Whyalla" ;

Constitution of municipality.

and

- (b) the municipality shall be divided into four wards having the names and descriptions as respectively set out in Part II of that schedule.

(2) Subject to this Part, this Act and every other enactment shall apply and have effect to and in relation to the municipality as if the constitution of the municipality and its division into wards had been effected by proclamation pursuant to section 7 of this Act.

(3) The name of the corporation comprised of the mayor and councillors of the municipality shall be "The Corporation of the City of Whyalla".

Election of
first mayor and
councillors for
the
municipality.

871u. (1) Notwithstanding anything in paragraph (f) of subsection (1) of section 10 of this Act the first mayor for the municipality and the first councillors for each ward of the municipality shall be elected.

(2) For the purposes of the first election of the mayor and councillors the Commission is empowered to do all things necessary for that election and for those purposes this Act shall apply to and in relation to the Commission as if—

(a) the Commission were the municipality ;

(b) the area of the Commission were the area proposed to be the area of the municipality ;

(c) the area was divided into the wards proposed as the wards of the municipality ;

and

(d) the appointed day were the day fixed for the taking of votes for that election.

Application of
s. 69 to
elections.

871ua. In the application of section 69 of this Act to the first or subsequent elections for the municipality service as a Commissioner or Chairman of the Commission under the repealed Act shall be deemed to be service as a councillor in some municipality.

Retirement of
mayor and
councillors.

871ub. (1) At the conclusion of the election next following the first election of the mayor and councillors for the municipality the mayor and one councillor for each ward shall retire and thereafter subsections (2) and (3) of section 55 of this Act shall apply and have effect to and in relation to the municipality.

(2) For the purposes of deciding which of the councillors for each ward shall retire pursuant to subsection (1) of this section lots shall be drawn between them to so decide and retirement shall take place accordingly.

Appointment
of town clerk.

871uc. The person for the time being holding or acting in the office of Secretary for Local Government under the Public Service Act, 1967, as amended, shall in such manner as he sees fit call for applications for appointment as town clerk of the municipality and that person shall place or cause to be placed all such applications received by him before the council as soon as may be after the appointed day.

871ud. All persons employed by the Commission immediately before the appointed day shall on the appointed day be deemed to be employed by the council in the same capacity and under the same terms and conditions of employment (including, but without limiting the generality of the foregoing, the same wages, salary or remuneration) as they were so employed by the Commission and for all purposes the service of those persons with the Commission shall be deemed to be service with the council.

Employees of
the Com-
mission.

871v. (1) All by-laws made by the Commission in pursuance of the powers conferred on it by or under the repealed Act or any other enactment shall continue in full force and effect as if they had been made by the council and except as expressly provided to the contrary in any such by-law the by-laws shall apply and have effect to and in relation to the area of the council.

Continuation
of by-laws.

(2) Subject to this Act, the council may revoke or amend any by-law referred to in subsection (1) of this section as if it were a by-law made by the council.

871va. (1) Division III of Part X of this Act shall on and from the appointed day be in operation as regards the area of the council as if a proclamation referred to in section 179 of this Act had been made as provided in Division IV of that Part.

Assessments
for rating.

(2) For the purposes of subsection (1) of this section the Commission shall before the appointed day prepare an assessment of any lands comprised in the proposed area of the municipality which are not comprised in the area of the Commission and for those purposes this Act shall apply to and in relation to the Commission as if—

(a) the Commission were the council ;

and

(b) the proposed area of the council were the area of the Commission.

871vb. (1) Without derogating from the generality of the application of subsection (2) of section 871tc of this Act, any arrangement entered into by the Commission pursuant to the powers conferred on it by subsection (4) of section 27 of the repealed Act and subsisting immediately before the appointed day may on and after that day be carried out and given effect to in all respects by the council as if—

Moneys
borrowed for
hospital.

(a) the council were the Commission ;
and

(b) the powers conferred on the Commission by that subsection had been conferred on the council and the Acts repealed by section 871tb of this Act had not been so repealed.

(2) The powers conferred on the council by subsection (1) of this section shall be in addition to and not in derogation of the powers elsewhere by this Act or by any other enactment conferred on the council in or in relation to the borrowing of money and the amount of money from time to time unpaid pursuant to any arrangement referred to in subsection (1) of this section shall not be taken into account in limiting or restricting the amount of money that the council is otherwise empowered to borrow.

Agreement
with the South
Australian
Housing Trust.

871vc. (1) Notwithstanding anything in Part XXI of this Act the council may enter into an agreement with the South Australian Housing Trust for the carrying out of any work relating to the construction or drainage of any streets, roads or footways in the neighbourhood of land owned by the Trust.

(2) Any agreement referred to in subsection (1) of this section may provide that any cost incurred by the South Australian Housing Trust in carrying out the work the subject thereof or any part of such cost shall be by way of prepayment by the Trust to the council of rates on ratable property of the Trust in respect of such financial years as agreed upon between the Trust and the council.

(3) The council and the South Australian Housing Trust are hereby authorized to enter into and carry out any agreement of the kind referred to in subsection (1) of this section.

(4) Any agreement entered into between the Commission and the South Australian Housing Trust pursuant to subsection (5) of section 27 of the repealed Act and in force immediately before the commencement of this Act shall for the purposes of this section continue in force as if it were an agreement between the council and the South Australian Housing Trust.

(5) The powers and functions conferred on the council shall be in addition to and not in derogation of the powers

and functions conferred on it by Part XXI of this Act and that Part shall not apply to or in relation to any agreement referred to in this section.

871w. (1) The area of land constituted by proclamation pursuant to section 27a of the repealed Act as the Whyalla abattoirs area shall on and after the appointed day continue to be constituted as the Whyalla abattoirs area.

The Whyalla
abattoirs area.

(2) The Governor may by proclamation—

(a) alter the Whyalla abattoirs area as constituted for the time being by adding any land thereto or by severing any part thereof;

and

(b) abolish the Whyalla abattoirs area.

871wa. (1) A person shall not—

(a) at any place within the Whyalla abattoirs area, other than the Whyalla abattoirs, slaughter any stock for sale, or dress any carcass for sale;

Slaughtering
and sale of
meat within
the Whyalla
abattoirs
area.

(b) within the Whyalla abattoirs area sell, offer for sale, or expose for sale any meat derived from stock slaughtered at any place within the Whyalla abattoirs area other than the Whyalla abattoirs;

or

(c) within the Whyalla abattoirs area sell, offer for sale, or expose for sale any meat derived from stock slaughtered outside the Whyalla abattoirs area unless the carcass of which that meat formed part, together with the pleura, peritoneum, lungs, heart, kidneys, tongue, and any other prescribed organs and in the case of cows the udder also, attached in natural connection, was brought to the Whyalla abattoirs and inspected and branded by an inspector appointed by the council.

(2) In this section “stock” means cattle, horses, sheep, swine, goats and all other animals and birds which the Governor by proclamation declares to be stock for the purposes of this section.

(3) The Governor may by proclamation declare any animals or birds to be stock for the purposes of this section and may revoke any such proclamation.

(4) A proclamation made pursuant to subsection (3) of section 27b of the repealed Act and in force immediately before the appointed day shall be deemed to be a proclamation made pursuant to subsection (3) of this section.

(5) A person who contravenes subsection (1) of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding two hundred dollars.

Inspection of
meat at
Whyalla
abattoirs

871wb. (1) The council shall employ a fit and proper person as an inspector for the purpose of inspecting all meat derived from stock slaughtered at the Whyalla abattoirs, and of ensuring that no such meat which is diseased, unsound or unwholesome shall be sold for human consumption.

(2) The inspector so employed shall inspect all carcasses and meat derived from stock slaughtered at the Whyalla abattoirs before such carcasses and meat are removed from those abattoirs.

(3) Any inspector employed under this section shall, in relation to carcasses and meat derived from stock slaughtered at the Whyalla abattoirs, have and exercise both within and outside the area of the municipality all the powers and authorities of an inspector under the Health Act, 1935-1968, and the Food and Drugs Act, 1908-1967.

Fees for
inspection.

871x. (1) The council may by notice published in the *Gazette* fix reasonable fees to be paid to the council for the inspection of carcasses and meat at the Whyalla abattoirs and shall be entitled to charge and recover such fees from the owner of the carcasses or meat and may by a notice published in a like manner from time to time vary those fees.

(2) Until any fees are fixed pursuant to subsection (1) of this section, the fees fixed by the Commission pursuant to section 27d of the repealed Act shall be deemed to be the fees fixed pursuant to that subsection.

Exemptions.

871xa. (1) The following stock and meat shall be exempted from the operation of section 871wa of this Act—

- (a) bacon and any other dried, salted or smoked flesh of swine not slaughtered within the Whyalla abattoirs area ;

(b) tinned meat ;

or

(c) any other stock or meat declared by the Governor by regulation to be exempt from section 871wa of this Act.

(2) Notwithstanding the repeal of the Acts effected by section 871tb of this Act any regulation made pursuant to paragraph (c) of section 27c of the repealed Act and in force immediately before that repeal—

(a) shall have effect as if it were a regulation made under this section declaring stock or meat, as the case may be, to be exempt from section 871wa of this Act ;

and

(b) may be revoked or varied by a regulation made pursuant to paragraph (c) of subsection (1) of this section.

871xb. If any doubt or difficulty arises in relation to any matter, thing or circumstances arising out of or in connection with—

General power
to remove
doubts.

(a) the establishment of the municipality ;

(b) the first elections for the municipality ;

or

(c) the application of this Act or any other enactment to the council or the municipality,

for which adequate provision is not made in this Act the Governor may, for the purpose of giving full effect to the objects of this Part, by proclamation resolve the doubt or difficulty or give directions for the removing of the doubt or difficulty or declaring what is to be done or omitted and by whom and any such proclamation shall have effect as if it were a provision of this Act.

871xc. Except as expressly provided in this Part, the provision of this Part shall not be construed as limiting, restricting or abrogating the application of this Act or any other enactment to or in relation to the council or the municipality.

Scope of this
Part.

5. The following schedule is enacted and inserted in the principal Act immediately after the twenty-third schedule thereof :—

Enactment of
twenty-fourth
schedule to
principal Act—

s. 871to.

THE TWENTY-FOURTH SCHEDULE.

PART I.

THE CITY OF WHYALLA.

Comprises that portion of the Hundred of Randell, county of York, bounded as follows:— Commencing at the northern corner of section 2, hundred of Randell; thence south-westerly and south-easterly along the north-western and south-western boundaries of said section and production of latter boundary to the sea coast; generally west-south-westerly following said sea-coast to its intersection with the production southerly of the western boundary of Playford Avenue, town of Whyalla; northerly along latter production to the southern boundary of Broadbent Terrace; generally westerly along latter boundary to the north-western corner of section 289; southerly along the western boundary of latter section, a western boundary of section 40, the western boundary of section 288 and a further western boundary of section 40 aforesaid and production to the sea coast; south-westerly following the said sea coast to intersect the production south-easterly of the north-eastern boundary of section 10; north-westerly along latter production and boundary to the northern corner of said section 10; south-westerly along portion of the north-western boundary of section 10 aforesaid to intersect the production south-easterly of the south-western boundary of section 114; north-westerly along latter production and boundary and northerly along the western boundary of said section 114 to the south-eastern boundary of Lincoln Highway; east-north-easterly along portion of latter boundary to the production southerly of the eastern boundary of section 8; northerly along latter production and boundary to the north-eastern corner of said section 8; north-north-easterly along a north-western boundary of the Hundred of Randell to its northern most corner; south-easterly along a north-eastern boundary of the said hundred to the southern-most corner of section 261, north out of hundreds, county of York; south-south-easterly along portion of the south-western boundary of section 66, hundred of Cultana to its south-western corner; generally south-easterly along the south-western boundaries of the said section 66 and section 34, hundred of Cultana and the south-western boundaries of sections 34 and 35, hundred of Randell and portion of the north-eastern boundary of McBryde Terrace, town of Whyalla to the south-eastern boundary of Jamieson Street; south-westerly along latter boundary to the north-eastern boundary of Gay Street; thence south-easterly along latter boundary to the point of commencement, crossing all intervening roads and excluding that portion of the hundred of Randell, county of York being portion of section 70 contained in Certificate of Title, Register Book Volume 3243, Folio 123.

PART II.

Whyalla Ward.

Comprises that portion of the hundred of Randell, county of York, bounded as follows:— Commencing at the northern corner of section 2, hundred of Randell; thence south-westerly and south-easterly along the north-western and south-western boundaries of said section and production of latter boundary to the sea coast; generally west-south-westerly following said sea coast to its intersection with the production southerly of the western boundary of Playford Avenue, town of Whyalla; northerly along latter production and boundary to its intersection with the production south-westerly of the south-eastern boundary of said Playford Avenue; north-easterly along latter production and boundary and production to a south-western boundary of section 35, hundred of Randell; south-easterly along latter boundary and portion of the north-eastern boundary of McBryde Terrace to the south-eastern boundary of Jamieson Street; south-westerly along latter boundary to the north-eastern boundary of Gay Street; thence south-easterly along latter boundary to the point of commencement, crossing all intervening roads.

Playford Ward.

Comprises that portion of the hundred of Randell, county of York bounded as follows:— Commencing at a point on the south-western boundary of section 35, hundred of Randell, being its intersection with the production north-easterly of the south-eastern boundary of Playford Avenue, town of Whyalla; thence south-westerly along latter production and boundary and production to a western boundary of the said Playford Avenue; southerly along latter boundary and production to the southern boundary of Broadbent Terrace; generally westerly along latter boundary to its intersection with the production southerly of the eastern boundary of Norrie Avenue; generally northerly and north-easterly following latter boundary and production to the south-western boundary of section 35, hundred of Randell aforesaid; thence south-easterly along portion of latter boundary to the point of commencement, crossing all intervening roads.

Norrie Ward.

Comprises that portion of the hundred of Randell, county of York, bounded as follows:— Commencing at a point on the south-western boundary of section 35, hundred of Randell, being its intersection with the production north-easterly of the eastern boundary of Norrie Avenue, town of Whyalla; generally south-westerly and southerly following latter

boundary and production to the southern boundary of Broadbent Terrace; west-south-westerly along latter boundary to its intersection with the production southerly of the eastern boundary of McDouall Stuart Avenue; generally northerly following latter production and boundary to its intersection with the northern boundary of Jenkins Avenue; east-north-easterly along portion of latter boundary to the south-western boundary of Travers Street; north-north-westerly along latter boundary to the northern boundary of Charles Avenue; generally easterly following latter boundary to the north-western boundary of Garrard Street; north-north-easterly along latter boundary and east-south-easterly along a north-eastern boundary of said Garrard Street to a north-western boundary of George Avenue; north-north-easterly along latter boundary and production to the south-western boundary of section 35, hundred of Randell aforesaid; thence south-easterly along latter boundary to the point of commencement, crossing all intervening roads.

Stuart Ward.

Comprises that portion of the hundred of Randell, county of York bounded as follows:— Commencing at a point on the south-western boundary of section 35, hundred of Randell, being its intersection with the production north-north-easterly of the north-western boundary of George Avenue, town of Whyalla; thence north-westerly along the said south-western boundary of section 35 and the south-western boundary of section 34, hundred of Randell and the south-western boundaries of sections 34 and 66, hundred of Cultana, to the south-western corner of latter section; north-north-westerly along portion of the south-western boundary of said section 66 to its intersection with the south-western boundary of section 261, north out of hundreds, county of York (a north-eastern boundary of the hundred of Randell); north-westerly along portion of latter boundary to the northern most corner of the hundred of Randell; south-westerly along the north-western boundary of the said hundred and production to the north-eastern corner of section 8, hundred of Randell; southerly along the eastern boundary of said section 8 and production to the south-eastern boundary of Lincoln Highway; west-south-westerly along portion of latter boundary to the north-western corner of section 114; southerly along a western boundary and south-easterly along a south-western boundary of said section and production to the north-western boundary of section 10; north-easterly along portion of latter boundary to the northern corner of said section 10; south-easterly along the north-eastern boundary of section 10 aforesaid and production to the sea coast; north-easterly following the said sea coast to intersect the production southerly of the western boundary of section 40; northerly along a western boundary of section 40, the western boundary of section 288, a further western boundary of section 40 and the western boundary of section 289 to the south-eastern boundary of Lincoln Highway aforesaid; south-westerly along portion of the said boundary to intersect the production southerly of the eastern boundary of McDouall Stuart Avenue; generally northerly following the latter boundary to its intersection with the northern boundary of Jenkins Avenue; east-north-easterly along portion of latter boundary to the south-western boundary of Travers Street; north-north-westerly along latter boundary to the northern boundary of Charles Avenue; easterly along portion of latter boundary to the south-western boundary of part section 70, hundred of Randell; north-north-westerly along the said boundary to the north-western corner of the said part section; generally easterly and south-easterly following northern and north-eastern boundaries of said part section 70 to the production north-north-easterly of the north-western boundary of George Avenue aforesaid; thence north-north-easterly along a further production of the latter boundary to the point of commencement, crossing all intervening roads.

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

J. W. HARRISON, Governor.