



ANNO VICESIMO

ELIZABETHAE II REGINAE

A.D. 1971

No. 107 of 1971

An Act to amend the Local Government Act, 1934-1970.

[Assented to 9th December, 1971]

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, 1971".

(2) The Local Government Act, 1934-1970, as amended by this Act, may be cited as the "Local Government Act, 1934-1971".

(3) The Local Government Act, 1934-1970, is hereinafter referred to as "the principal Act".

Amendment of principal Act, s. 5— Interpretation.

2. Section 5 of the principal Act is amended—

(a) by striking out the proviso from subparagraph (b) of paragraph (1) of the definition of "ratable property" in subsection (1);

and

(b) by inserting after subsection (1) the following subsections:—

(1a) The term "ratable property" shall, notwithstanding any exception of property belonging to, or used by, the Crown in the definition of that term, be deemed to include any land and buildings, held by or on behalf of the Crown, or any part of any such land and

buildings, occupied, or if unoccupied, intended for occupation within a period of twelve months, as a dwellinghouse or for any other purpose, not being a public or educational purpose.

(1b) For the purposes of subsection (1a) of this section, land shall be deemed to be occupied if it is used (continuously or intermittently) solely for the agistment of sheep or cattle.

3. Section 8 of the principal Act is amended by inserting after the present contents thereof (which are hereby designated subsection (1) thereof) the following subsection:—

Amendment of principal Act, s. 8—
General power of the Governor to adjust rights, etc.

(2) Where any council becomes liable to pay or re-pay any amount of moneys in consequence of a proclamation under subsection (1) of this section, it may (without the necessity of obtaining the consent of the ratepayers) borrow at interest by debentures issued on the security of the general rate declared, or to be declared under this Act, any sum not exceeding the amount of that liability.

4. Section 26 of the principal Act is amended—

Amendment of principal Act, s. 26—
Petition for change of status or for union.

(a) by inserting in subsection (2) after the passage “common seals” the passage “of any one or more”;

and

(b) by striking out paragraph (a) of subsection (3) and inserting in lieu thereof the following paragraph:—

(a) unless the council, or councils, that desire to present the petition has or have caused to be given one month's public notice of the intention to present the petition;

5. Section 27a of the principal Act is repealed and the following section is enacted and inserted in its place:—

Repeal of s. 27a of principal Act and enactment of section in its place—
Petition for severance.

27a. (1) A petition to sever a portion of an area and to annex the portion so severed to another area—

(a) must be signed by persons who constitute a majority of the ratepayers in that portion of the area and who are in occupation of ratable property that exceeds in ratable value one-half of the total ratable value of property in that portion of the area;

or

(b) must be under the common seal either of the council of the area from which the portion is to be severed or of the council of the area to which the portion is to be annexed.

(2) Before a petition is presented under this section by a council, the council shall give notice in writing of the petition to every owner or occupier of ratable property, whose name and address are known to the council, within the portion to be severed.

(3) The notice shall state what is proposed in the petition of the council and shall inform the person to whom it is given that any persons concerned may, within six weeks of the presentation of the petition, present to the Minister a counter-petition as provided by this Act.

(4) The notice shall also be published in a newspaper circulating generally in the areas affected by the petition.

Amendment of
principal Act,
s. 52—
Qualification
of aldermen
and coun-
cillors.

6. Section 52 of the principal Act is amended by striking out from subsection (1) the passage "twenty-one" wherever it occurs and inserting in lieu thereof, in each case, the word "eighteen".

Repeal of
s. 53 of
principal Act.

7. Section 53 of the principal Act is repealed.

Amendment of
principal Act,
s. 54—
How vacancies
occasioned.

8. Section 54 of the principal Act is amended by striking out from paragraph VI the passage "with the licence of the council" and the passage "to the mayor or to the chairman or".

Amendment of
principal Act,
s. 88—
Qualification
to be enrolled
as a voter.

9. Section 88 of the principal Act is amended by striking out from subsection (1) the passage "twenty-one" and inserting in lieu thereof the word "eighteen".

Repeal of
s. 101a of
principal Act.

10. Section 101a of the principal Act is repealed.

Amendment of
principal Act,
s. 115—
Rights of
voting.

11. Section 115 of the principal Act is amended—

(a) by striking out from paragraph I of subsection (1) the passage "twenty-one" first occurring and inserting in lieu thereof the word "eighteen";

and

(b) by striking out the proviso to paragraph I of subsection (1).

12. Section 122 of the principal Act is amended by striking out from paragraph III of subsection (1) the passage "twenty-one" and inserting in lieu thereof the word "eighteen".

Amendment of principal Act, s. 122—
Inquiries which may be made of voter.

13. Section 126 of the principal Act is amended by striking out subparagraphs (a) and (b) of paragraph I and inserting in lieu thereof the following subparagraphs:—

Amendment of principal Act, s. 126—
Counting of votes by deputy returning officer.

- (a) in the presence of any scrutineers who are in attendance, open every ballot box in which voting papers have been deposited at the polling-place at which he presided, remove the voting papers, and exhibit the ballot box empty;
- (b) examine the voting papers so removed;

14. Section 127 of the principal Act is amended by striking out subparagraphs (a) and (b) of paragraph II and inserting in lieu thereof the following subparagraphs:—

Amendment of principal Act, s. 127—
Counting of votes by returning officer.

- (a) as soon as practicable after the close of voting, at the place of nomination, or if votes have been taken at only one place, at that polling-place, in the presence of any scrutineers who are in attendance, open every ballot box in which voting papers have been deposited, remove the voting papers, and exhibit the ballot box empty;
- (b) examine the voting papers so removed;

15. Section 139 of the principal Act is amended by striking out the passage "whether he consents thereto or not; and the person so elected shall serve accordingly".

Amendment of principal Act, s. 139—
Procedure upon failure of supplementary election.

16. Section 157 of the principal Act is amended—

- (a) by striking out from paragraph (a) of subsection (1) the passage "twenty-one years" and inserting in lieu thereof the passage "eighteen years";

Amendment of principal Act, s. 157—
Appointment, removal and salaries of officers.

and

- (b) by striking out from the proviso to paragraph (b) of subsection (1) the passage "and shall be of the age of twenty-three years or more".

17. Section 218 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Repeal of s. 218 of principal Act and enactment of section in its place—
Memorial for specific works.

218. A majority of the ratepayers for any portion of an area may address a memorial to the council requesting that any works specified in the memorial be carried out for the benefit of that portion of the area.

Amendment of
principal Act
s. 219—
Contents of
memorial.

18. Section 219 of the principal Act is amended—

- (a) by inserting the word “and” between paragraph (a) and paragraph (b);
- and
- (b) by striking out paragraphs (c) and (d).

Amendment of
principal Act,
s. 222—
Liability for
payment of
separate rate.

19. Section 222 of the principal Act is amended by striking out subsection (1).

Amendment of
principal Act,
s. 230—
Contents of
memorial.

20. Section 230 of the principal Act is amended by striking out paragraphs (b), (c) and (d) and inserting in lieu thereof the following paragraph:—

- and
- (b) define the position in which it is proposed that the works be carried out.

Amendment of
principal Act,
s. 232—
Power of
council to
comply with
memorial.

21. Section 232 of the principal Act is amended by striking out paragraph (a) and inserting in lieu thereof the following paragraph:—

- (a) for the purpose of the works declare for one year, or annually for not more than five years, a separate rate;

Amendment of
principal Act,
s. 233—
Payment for
special works.

22. Section 233 of the principal Act is amended—

- (a) by striking out subsection (1);
- and
- (b) by striking out from subsection (2) the passage “specified in the memorial which is at the time of the presentation of the memorial the property of any ratepayers being a signatory to the memorial” and inserting in lieu thereof the passage “abutting upon the public street, road or place in which the lighting is, or is to be, provided”.

Amendment of
principal Act,
s. 286—
Payment of
moneys into
bank.

23. Section 286 of the principal Act is amended by striking out subsection (3) and inserting in lieu thereof the following subsection:—

(3) Except as provided in this section, a payment on behalf of a council of any amount exceeding ten dollars shall be by cheque drawn on the council’s bank—

- (a) signed by the mayor or chairman, or by a councillor, or, if the Minister approves, by an officer of the council approved by the auditor;
- and
- (b) countersigned by an officer of the council appointed by the council for the purpose.

24. Section 287 of the principal Act is amended—

(a) by inserting after paragraph (h1) the following paragraph:—

(h2) the employment of social workers and the provision of means by which problems relating to the social welfare of the community within the area of the council may be overcome or ameliorated;

(b) by striking out paragraph (j4) of subsection (1) and inserting in lieu thereof the following paragraph:—

(j4) subscribing to the funds of any organization that has as its principal object the development of any part of the State including, or comprised within, the area of the council, or the furtherance of the interests of local government in the State and (if the Minister approves in writing of expenditure for that purpose) to the funds of any organization that has as its principal object the furtherance of the interests of local government generally throughout Australia;

(c) by striking out paragraph (k) of subsection (1) and inserting in lieu thereof the following paragraph:—

(k) defraying legal and administrative expenses reasonably incurred by the council in examining, and obtaining advice upon the effect of, proposed legislation, in the preparation of a Bill and its introduction into Parliament, or in the preparation of amendments to any Bill before Parliament;

and

(d) by inserting after paragraph (k1) of subsection (1) the following paragraph:—

(k2) the payment of expenses or allowances on account of expenses incurred or to be incurred by members of the council in connection with attendance at meetings of the council or committees appointed by the council, or in the performance of any special business that a member has been requested to undertake by the council.

25. The following section is enacted and inserted in the principal Act immediately after section 287a thereof:—

287b. (1) A council may expend any portion of its revenue in the provision of dwellinghouses, home units, hospitals, infirmaries, nursing homes, chapels, recreational facilities,

Amendment of
principal Act,
s. 287—
Expenditure of
revenue.

Enactment of
s. 287b of
principal Act—

Homes and
services for the
aged and infirm.

domiciliary services of any kind whatsoever, and any other facilities or services for the use or enjoyment of aged, handicapped or infirm persons.

(2) A council shall not expend moneys under subsection (1) of this section in the provision of any hospital, infirmary, nursing home or domiciliary service of a therapeutic nature unless the Chief Secretary has consented in writing to the expenditure of moneys for that purpose.

(3) A council by which a dwellinghouse or home unit is provided for the occupation of any person may require, as a condition precedent to the occupation of that dwellinghouse or home unit by that person, that he pay to the council a donation of an amount not exceeding—

(a) one-third of the cost of acquiring or building the dwellinghouse or home unit and of acquiring the land on which it is situated;

or

(b) such greater amount as the Minister may approve.

(4) Where more than one donation have been received by the council in respect of the same dwellinghouse or home unit, and the total amount so received exceeds the maximum donation payable by any person in respect of the dwellinghouse or home unit under subsection (3) of this section, the amount of the excess, and any further donations shall be paid into a fund to be applied to the provision or maintenance of an infirmary or nursing home for the use of persons for whom dwellinghouses or home units are provided under this section, or for such other purposes as may be approved by the Minister.

(5) For the purposes of subsection (4) of this section, any amount received by way of donation and subsequently returned to the donor or his legal representatives, shall not be taken into account.

(6) Where a council has received a donation under this section it may, if in the opinion of the council circumstances justify it in so doing, pay an amount not exceeding the amount of the donation to the person by whom the donation was paid.

(7) A council may charge a rental in respect of any dwellinghouse or home unit provided under this section and may recover that rental as a debt due to it from the occupant.

(8) A council shall pay at least one-third of any rental received by it under this section into a fund to be applied to the maintenance or improvement of any land or buildings held by the council for the purposes of this section or for such other purposes as the Minister may approve.

(9) Notwithstanding any other provision of this Act, any portion of a council's revenue expended, or any fund established under this section shall not be subject to any statutory charge.

26. Section 288 of the principal Act is amended by striking out paragraph (f) of subsection (1).

Amendment of principal Act, s. 288—
Additional power of expenditure.

27. Section 289 of the principal Act is amended by striking out paragraph (b) of subsection (1).

Amendment of principal Act, s. 289—
Additional powers of expenditure.

28. Section 290a of the principal Act is amended by inserting after the passage "the State" the passage "or in any investment in which trustees are by the law of the State authorized to invest trust funds".

Amendment of principal Act, s. 290a—
Investment of surplus funds.

29. Section 292 of the principal Act is amended—

(a) by striking out from subsection (4) the passage " , and of the statements and balance-sheets mentioned in sections 296 and 297";

Amendment of principal Act, s. 292—
Accounts.

and

(b) by striking out subsection (5) and inserting in lieu thereof the following subsection:—

(5) The council shall, upon request by a ratepayer for the area, furnish him free of charge with a copy of the statements and balance-sheets referred to in sections 296 and 297 of this Act.

30. Section 296 of the principal Act is amended by striking out subsection (2) and inserting in lieu thereof the following subsection:—

Amendment of principal Act, s. 296—
Publication of balance-sheet.

(2) The statement and balance-sheet shall be signed by the mayor or chairman and the clerk, and certified by the auditor, and may be published by the council in any manner that it thinks appropriate.

Amendment of
principal Act,
s. 297—
Additional
balance-sheet.

31. Section 297 of the principal Act is amended—

(a) by striking out the whole of the second sentence in subsection (1);

and

(b) by inserting after subsection (1) the following subsection:—

(1a) The statement and balance-sheet referred to in subsection (1) shall be signed by the mayor or chairman, and certified by the auditor, and may be published by the council in any manner that it thinks appropriate.

Amendment of
principal Act,
s. 301—
Public streets.

32. Section 301 of the principal Act is amended by striking out from paragraph VI of subsection (1) the passage “a local court of full jurisdiction” and inserting in lieu thereof the passage “a Court”.

Amendment of
principal Act,
s. 305—
Notice of
resolution or
order.

33. Section 305 of the principal Act is amended—

(a) by striking out from subsection (2) the passage “local court” and inserting in lieu thereof the passage “Land and Valuation Court”;

(b) by striking out from subsection (3) the passage “local court” and inserting in lieu thereof the passage “Land and Valuation Court”;

and

(c) by inserting after subsection (4) the following subsections:—

(5) Where the Registrar-General has made an entry in a register book, or issued a certificate of title in purported compliance with subsection (3) of this section or a memorial has been registered in the General Registry Office in purported compliance with subsection (4) of this section, the land shall be conclusively presumed to be a public street or road vested in the council.

(6) Any person who had a freehold interest in the land, and to whom notice should have been, but was not, given prior to the declaration of the land as a public street or road, may subject to appropriate rules of Court, apply to the Land and Valuation Court for compensation for loss of that interest in consequence of the operation of subsection (5) of this section.

(7) Any such compensation shall be assessed in accordance with the appropriate provisions of the Land Acquisition Act, 1969.

34. Section 336 of the principal Act is amended—Amendment of
principal Act,
s. 336—
Communication
with street.

(a) by striking out the passage “owner, or the majority in number of any owners of property, who require” and inserting in lieu thereof the passage “person who requires”;

and

(b) by striking out the passage “the owners of such property” and inserting in lieu thereof the passage “that person”.

35. Section 415 of the principal Act is amended—Amendment of
principal Act,
s. 415—

(a) by striking out from subsection (1) the passage “The Compulsory Acquisition of Land Act, 1925, except sections 49, 79, 80, 81 and 82” and inserting in lieu thereof the passage “The Land Acquisition Act, 1969”;

and

(b) by striking out subsection (2) and inserting in lieu thereof the following subsection:—

(2) The provisions of this Part shall, in the case of any inconsistency between this Part and the Land Acquisition Act, 1969, prevail.

Incorporation
of Land
Acquisition
Act.

36. Section 420 of the principal Act is amended by striking out the passage “Compulsory Acquisition of Land Act, 1925” and inserting in lieu thereof the passage “Land Acquisition Act, 1969”.

Amendment of
principal Act,
s. 420—
Compensation.

37. Section 437 of the principal Act is amended by striking out from subsection (2) the passage “of seven pounds ten shillings per centum per annum” and inserting in lieu thereof the passage “fixed at the time of the issue of the debentures by the Australian Loan Council for local government borrowing”.

Amendment of
principal Act,
s. 437—
Repayment of
borrowed
money.**38. Section 454 of the principal Act is amended—**

(a) by striking out the word “and” immediately preceding paragraph (c);

and

(b) by inserting after paragraph (c) the following paragraph:—

and

(d) use any such park lands, squares, reserves or land, or any portion thereof, as a camping ground or caravan park.

Amendment of
principal Act,
s. 454—Powers of
councils to
improve park
lands and
reserves.

Amendment of
principal Act,
s. 459a—
Power to
dispose of
small reserves.

39. Section 459a of the principal Act is amended—

(a) by striking out from subsection (1) the passage “not exceeding one-half an acre in area”;

and

(b) by inserting after the word “reserve” wherever it occurs in subsections (1) and (3) the passage “or portion thereof”.

Amendment of
principal Act,
s. 471—
Compensation.

40. Section 471 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “Compulsory Acquisition of Land Act, 1925” and inserting in lieu thereof the passage “Land Acquisition Act, 1969”;

and

(b) by striking out subsection (2).

Repeal of
s. 475d of
principal Act
and enactment
of section in
its place—

41. Section 475d of the principal Act is repealed and the following section is enacted and inserted in its place:—

Marking of
metered spaces.

475d. Every metered space must be indicated by markings on the public street, road or place on which it is situated.

Amendment of
principal Act,
s. 483—
Power to lay
pipes through
streets.

42. Section 483 of the principal Act is amended by striking out from subsection (2) the passage “Compulsory Acquisition of Land Act, 1925” and inserting in lieu thereof the passage “Land Acquisition Act, 1969”.

Amendment of
principal Act,
s. 530c—
Sewerage
effluent
disposal
schemes.

43. Section 530c of the principal Act is amended by inserting in subsection (12) after the word “rates” the passage “(which rate or rates may consist of, or include a fixed amount)”.

Amendment of
principal Act,
s. 666—
Removal of
vehicles.

44. Section 666 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “street or road or public place” and inserting in lieu thereof the passage “street, road or public place, or of any land or building owned by, or under the care, control and management of, the council”;

(b) by striking out from subsection (3) the passage “sell the vehicle by public auction” and inserting in lieu thereof the passage “, subject to subsection (3a) of this section, sell the vehicle”;

(c) by striking out from paragraph (c) of subsection (3) the passage "to the Treasurer in aid of the general revenue of the State" and inserting in lieu thereof the passage "to the general funds of the council";

(d) by inserting after subsection (3) the following subsection:—

(3a) Where in the opinion of the council it is not practicable or convenient to sell the vehicle it may dispose of it in any manner that it thinks fit.;

and

(e) by striking out subsection (4) and inserting in lieu thereof the following subsection:—

(4) The owner of the vehicle shall be liable to the council for any expenses incurred by the council in the removal, custody, maintenance, sale or attempted sale or otherwise in the disposal, of the vehicle under this section and the council may recover so much of those expenses as have not been satisfied by any proceeds from the sale of the vehicle as a debt due to it.

45. Section 667 of the principal Act is amended—

Amendment of principal Act, s. 667—
Power to make by-laws.

(a) by inserting after subparagraph XV of paragraph (34) the following subparagraph:—

xvi. For regulating, restricting or prohibiting the parking of vehicles in any parklands, public squares, plantations, ornamental grounds or reserves;;

and

(b) by striking out paragraph (48a) and inserting in lieu thereof the following paragraph:—

(48a) For regulating, restricting or prohibiting the effluxion of water onto, into or under any public street or road.

46. Section 691 of the principal Act is amended by striking out from paragraph (f) of subsection (1) the passage "or overseers" and inserting in lieu thereof the passage ", overseers, inspectors or other officers".

Amendment of principal Act, s. 691—
Regulations.

47. Section 715 of the principal Act is repealed.

Repeal of s. 715 of principal Act.

Repeal of
s. 743a of
principal Act
and enactment
of section in
its place—

Evidentiary
presumption.

48. Section 743a of the principal Act is repealed and the following section is enacted and inserted in its place:—

743a. If in any proceedings for an offence against a by-law it is proved that any vehicle or animal was driven, parked, standing or stationary in any place in contravention of the by-law, it shall be presumed in the absence of contrary evidence that the vehicle or animal was parked or placed in that position or was so driven in contravention of the by-law by the owner thereof.

Amendment of
principal Act,
s. 752—
Absence
without leave.

49. Section 752 of the principal Act is amended by striking out paragraphs (a) and (b) and the word "or" immediately preceding paragraph (c).

Repeal of
s. 754 of
principal Act.

50. Section 754 of the principal Act is repealed.

Repeal of s. 783
of principal
Act and
enactment of
section in its
place—

Depositing of
rubbish, etc.

51. Section 783 of the principal Act is repealed and the following section is enacted and inserted in its place:—

783. (1) Any person who—

(a) deposits any litter, refuse, or waste matter on any street, road or public place;

(b) without the consent of the council, deposits any goods, materials, earth, stone, gravel, or other substance on any street, road or public place;

or

(c) without the consent of the council, makes or causes to be made any drain, gutter, sink, or watercourse in, over or across any street, road or public place, or fills up or obstructs any ditch, drain, or water-table in any street, road or public place,

shall be guilty of an offence and liable to a penalty of not less than ten dollars and not more than two hundred dollars.

(2) Where any—

(a) litter, refuse or waste matter;

or

(b) goods, materials, earth, stone, gravel, or other substance,

falls from a vehicle onto any street, road or public place, the person by, or on whose behalf, the vehicle is driven shall be deemed to have deposited it on the street, road or public place.

(3) In any proceedings for an offence under this section in which it is alleged that any litter, refuse, waste matter, goods, materials, earth, stone, gravel or other substance fell from a vehicle, it shall be a defence that the defendant could not, by the exercise of reasonable care and diligence, have prevented that alleged occurrence.

(4) The court by which any person is convicted of an offence under this section may order the convicted person to pay to the council any costs incurred by the council in removing and disposing of any litter, refuse, waste matter, goods, materials, earth, stone, gravel or other substance deposited in contravention of this section.

52. Section 819 of the principal Act is amended—

(a) by striking out the passage “twenty-one” first occurring in subsection (2) and inserting in lieu thereof the word “eighteen”;

and

(b) by striking out the proviso to subsection (2).

Amendment of
principal Act,
s. 819—
Voting rights.

53. Section 820 of the principal Act is amended by striking out from paragraph III of subsection (1) the passage “twenty-one” and inserting in lieu thereof the word “eighteen”.

Amendment of
principal Act,
s. 820—
Inquiries which
may be made
of voter.

54. Section 824 of the principal Act is amended by striking out subparagraphs (a) and (b) of paragraph I and inserting in lieu thereof the following subparagraphs:—

Amendment of
principal Act,
s. 824—
Count by
deputy
returning
officer.

(a) in the presence of any scrutineers who are in attendance, open every ballot box in which voting papers have been deposited at the polling place at which he presided, remove the voting papers and exhibit the ballot box empty;

(b) examine the voting papers so removed;

55. Section 825 of the principal Act is amended by striking out subparagraphs (a) and (b) of paragraph II and inserting in lieu thereof the following subparagraphs:—

Amendment of
principal Act,
s. 825—
Count by
returning
officer.

(a) as soon as practicable after the close of voting, in the presence of any scrutineers who are in attendance, open every ballot box in which voting papers have been deposited, remove the voting papers, and exhibit the ballot box empty;

(b) examine the voting papers so removed;

Amendment of
the fifth
schedule to
the principal
Act.

56. The fifth schedule to the principal Act is amended by striking out from Form No. 2A the passage "21 years or more" and inserting in lieu thereof the passage "eighteen years or more".

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

M. L. OLIPHANT, Governor