



ANNO TRICESIMO TERTIO

# ELIZABETHAE II REGINAE

A.D. 1984

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No. 16 of 1984

An Act to amend the Sewerage Act, 1929.

[Assented to 3 May 1984]

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 "Sewerage Act Amendment Act, 1984". Short title.

(2) The Sewerage Act, 1929, is in this Act referred to as "the principal Act".

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

(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

3. Section 4 of the principal Act is amended—

(a) by inserting after the definition of "drainage area" the following definition:

"equipment" includes appliances and apparatus;

(b) by striking out from the definition of "fittings" the passage "connected with, and requisite to secure the safe and proper working of, any drain or sewer";

(c) by striking out the definition of "Minister";

and

(d) by inserting after its present contents as amended by this section (now to be designated as subsection (1)) the following subsection:

(2) For the purposes of this Act, a reference to connection to or disconnection from the undertaking includes a reference to connection to or disconnection from a drain or pipe

Amendment of  
s. 4—  
Interpretation.

through which waste material may be discharged into the undertaking.

Amendment of  
s. 13—  
Regulations.

4. Section 13 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “The Governor may make all such regulations as appear to him expedient for any or all of the following purposes, namely” and substituting the passage “The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act, and, without limiting the generality of that power, the Governor may make regulations”;

(b) by striking out paragraph IV of subsection (1) and substituting the following paragraphs:

IIIA. For regulating the—

(a) specifications, construction, number and position of pipes, fittings and equipment connected to the undertaking;

(b) installation and inspection of pipes, fittings and equipment connected to the undertaking;

IV. For regulating or preventing the sale or use of pipes, fittings or equipment that are capable of being connected to the undertaking;

(c) by striking out paragraph VII of subsection (1) and substituting the following paragraph:

VII. For fixing or empowering the Minister to fix charges or fees (including minimum charges or fees)—

(a) for the provision of works or services by the Minister;

(b) for inspections made by the Minister pursuant to this Act or at the request of an owner or occupier of land;

and

(c) otherwise in relation to the administration of this Act;

and

(d) by striking out subsections (2) and (3) and substituting the following subsections:

(2) A regulation made under subsection (1) may—

(a) empower the Minister to authorize the sale or use of pipes, fittings or equipment, subject to such conditions (if any) as he thinks fit, and to revoke or vary an authorization previously given by him;

and

(b) prescribe specifications, standards and procedures by reference to specifications, standards or procedures prescribed, from time to time, by the

Minister or published, from time to time, by a body or person named in the regulation.

(3) Specifications, standards or procedures prescribed by the Minister by reference to specifications, standards or procedures published, from time to time, by a person or body named by the Minister shall be deemed to have been validly prescribed by him for the purpose of the operation of a regulation pursuant to subsection (2) (b).

(4) The regulations may impose a penalty not exceeding two thousand dollars for contravention of, or failure to comply with, a regulation.

(5) Where a person contravenes or fails to comply with a regulation, the Minister may, by notice in writing, require him to desist from the contravention or remedy the default and if he fails to comply with the notice he shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars for every day for which that failure continues.

5. Sections 33, 34, 35, 36, 37, 38, 39, 40 and 41 of the principal Act are repealed and the following sections are substituted.

Repeal of ss. 33, 34, 35, 36, 37, 38, 39, 40 and 41 and substitution of new sections.

33. (1) In order—

(a) to provide for the removal of waste material from land in accordance with this Act;

or

(b) to improve the drains, fittings, equipment or works by means of which waste material is removed from land,

the Minister may, by notice in writing served on the owner or occupier of the land, require him, within the time stated in the notice, to carry out the work specified in the notice.

Drains, etc., to be provided by owner or occupier.

(2) A notice referred to in subsection (1) may require the person on whom it is served to—

(a) install or construct in such locations as are specified in the notice;

(b) connect to the undertaking;

(c) alter or replace;

(d) maintain, repair or cleanse,

such drains, fittings, equipment or works as are specified in the notice in the manner specified in the notice.

(3) The Minister may revoke or vary a notice referred to in subsection (1) by a subsequent notice in writing served on the owner or occupier of the land.

(4) A person who fails to comply with a notice served on him under this section is guilty of an offence and is liable to a penalty of one thousand dollars and to a further penalty of one hundred dollars for every day on which the failure continues.

(5) Where a person fails to comply with a notice served on him under this section, the Minister may take such action as is, in his

opinion, necessary to fulfil the requirements of the notice but, in taking that action, he must not damage the land or the premises concerned to a greater extent than necessary.

(6) A person on whom a notice has been served under this section shall be liable for the costs incurred by the Minister in taking action under subsection (5) but where the Minister has served a notice under this section on two or more persons he shall not recover a sum that exceeds the amount of those costs.

Responsibilities  
of owner and  
occupier when  
excavating street,  
etc.

34. (1) Where the owner or occupier of land does any work in a street adjoining that land in relation to a fitting or drain connected or that is intended to be connected to the undertaking he shall in relation to that work be subject to those provisions of this Act to which the Minister would be subject if he were carrying out that work and, on failure to comply with any of those provisions, the owner or occupier concerned shall be liable to a penalty of five hundred dollars.

(2) Where a person is in default under subsection (1), the Minister may take such action as is, in his opinion, necessary to remedy the default and the person in default shall be liable to the Minister for his costs in taking that action.

Construction, etc.,  
of new drains,  
etc., not to be  
undertaken  
without authority.

35. (1) No person shall—

(a) install or construct any drain, fitting, equipment or works for connection to the undertaking;

(b) connect any drain, fitting, equipment or works to the undertaking or disconnect it from the undertaking;

or

(c) alter, remove or block any drain, fitting, equipment or works connected to the undertaking,

unless he has been required or authorized to do so by or under this Act or unless he has been authorized by the Minister to do so under this section.

(2) The Minister may attach such conditions as he thinks fit to an authorization granted under this section and may vary or revoke an authorization at any time.

(3) A person who contravenes subsection (1) or contravenes or fails to comply with a condition attached to an authorization under subsection (2) shall be guilty of an offence.

Penalty: Five hundred dollars.

Waste material  
not to be  
discharged onto  
land or into pit,  
etc.

36. (1) After a drain connecting land to the undertaking has been installed or constructed, no person shall discharge, or permit the discharge of, any waste material that could be lawfully discharged into the undertaking by means of that drain—

(a) on to that land or into a pit, well or tank dug or erected on that land;

or

(b) from that land on to neighbouring land or into a pit, well or tank dug or erected on neighbouring land,

unless he has been authorized to do so by the Minister.

(2) The Minister may attach such conditions as he thinks fit to an authorization granted under this section and may vary or revoke an authorization at any time.

(3) A person who contravenes subsection (1) or contravenes or fails to comply with a condition attached to an authorization under subsection (2) shall be guilty of an offence.

Penalty: Five hundred dollars.

(4) Where a drain connecting land to the undertaking has been closed off or disconnected by the Minister pursuant to this Act, subsection (1) shall apply to the waste material that could have been lawfully discharged by means of that drain if it had not been closed off or disconnected.

6. Section 49 of the principal Act is amended by striking out from subsection (3) the passage "one hundred dollars" and substituting the passage "five hundred dollars".

Amendment of s. 49—  
Notice of building, etc., to be given to Minister.

7. Section 51 of the principal Act is repealed and the following section is substituted:

Repeal of s. 51 and substitution of new section.

51. (1) A person authorized by the Minister may—

Power of inspection.

- (a) inspect any land and any sewers, drains, fittings, equipment or works on that land;
- (b) inspect solid, liquid and gaseous materials that are being or may be discharged from that land into sewers or drains forming part of or connected to the undertaking;
- (c) take samples of material of the same kind as material that, in his opinion, has been, or is likely to be, discharged from that land into sewers or drains forming part of or connected to the undertaking,

and for those purposes he may, at any reasonable time, enter upon that land.

(2) A person authorized under this section may, if in his opinion it is necessary or desirable, excavate land for the purpose of an inspection or taking samples of material.

8. Section 52 of the principal Act is amended—

Amendment of s. 52—  
Penalties for encroachment.

- (a) by striking out from subsection (1) the passage " , in addition to any other penalty to which he may be liable thereby, pay to the Minister a sum not exceeding forty dollars." and substituting the passage "be guilty of an offence.

Penalty: One thousand dollars.";

- (b) by striking out subsection (3) and substituting the following subsections:

(3) The Minister may, by notice in writing served on a person who has committed an offence under subsection (1), require him to demolish and remove the building, wall, bridge, fence, obstruction, annoyance or encroachment con-

cerned or reinstate the sewer or drain so obstructed, filled in, closed up or diverted.

(3aa) A person who fails to comply with a notice served on him under subsection (3) is guilty of an offence and is liable to a penalty of one thousand dollars and to a further penalty of one hundred dollars for every day on which the offence continues.

Repeal of s. 54  
and substitution  
of new section.

Prohibition of  
discharge of  
certain material  
into sewer.

9. Section 54 of the principal Act is repealed and the following section is substituted:

54. (1) A person shall not discharge, or permit to be discharged, into a sewer or drain forming part of or connected to the undertaking any solid, liquid or gaseous material—

- (a) that is likely to damage or to be detrimental to the undertaking;
- (b) that is a waste product of a prescribed business or activity;
- (c) that has been prescribed by regulation as a material that may not be discharged into the undertaking;
- (d) at a temperature or in a concentration that exceeds the temperature or concentration prescribed by regulation in relation to that material;
- (e) at a rate that exceeds the rate fixed by the Minister in relation to that material;

or

(f) in a form that is prohibited by regulation.

(2) A person who contravenes a provision of subsection (1) is guilty of an offence.

Penalty: Five thousand dollars.

(3) The Minister may, by notice published in the *Gazette*, fix the rate at which material specified in the notice may be discharged into the undertaking and may, by subsequent notice published in the *Gazette*, vary or revoke a notice published under this subsection.

(4) The Minister may—

- (a) on the application of any person, authorize him to discharge waste material referred to in the authorization into the undertaking;
- (b) by notice in the *Gazette*, authorize the discharge of waste material referred to in the notice into the undertaking by members of the public generally or by members of a group referred to in the notice.

(5) The Minister may attach such conditions to an authorization as he thinks fit and may vary or revoke an authorization at any time.

(6) It shall be a defence to a prosecution for an offence against subsection (2) for the defendant to prove that the person who discharged the material concerned did so in accordance with an authorization under subsection (4) and that the authorization was in force and applied for the defendant's benefit at that time.

**10. Section 55 of the principal Act is amended—**

- (a) by striking out from subsection (1) the passage “ten dollars, and a further penalty not exceeding two dollars for every day on which the offence continues” and substituting the passage “two hundred dollars”;

and

- (b) by striking out subsection (2).

Amendment of s. 55—  
Rain water not to be admitted to sewer without Minister's consent.

**11. Section 56 of the principal Act is repealed and the following section is substituted:**

Repeal of s. 56 and substitution of new section.

**56. (1) In order—**

- (a) to provide for the proper treatment (including the deodorizing) of waste material before it is discharged from land into a drain connected to the undertaking;
- (b) to prevent the discharge of rain water, stormwater or surface water into the undertaking or to prevent the discharge into the undertaking of waste material that has been prescribed as material that may not be discharged into the undertaking or that is, in the opinion of the Minister, likely to damage or be detrimental to the undertaking;

or

- (c) to rectify any installation, construction, connection, alteration or other work done in relation to any drain, fitting, equipment or works in contravention of this Act,

the Minister may, by notice in writing served on the owner or occupier of the land, require him, within the time stated in the notice, to carry out work specified in the notice.

(2) A notice referred to in subsection (1) may require the person on whom it is served to—

- (a) install or construct in such locations as are specified in the notice;
- (b) connect to the undertaking;
- (c) alter or replace;
- (d) maintain, repair or cleanse;
- (e) remove, block or disconnect,

such drains, fittings, equipment or works as are specified in the notice in the manner specified in the notice.

(3) The Minister may revoke or vary a notice referred to in subsection (1) by a subsequent notice in writing served on the owner or occupier of the land.

(4) A person who fails to comply with a notice served on him under this section is guilty of an offence and is liable to a penalty of one thousand dollars and to a further penalty of one hundred dollars for every day on which the failure continues.

(5) Where a person fails to comply with a notice served on him under this section, the Minister may take such action as is, in his

Work to be carried out by owner or occupier on Minister's order.

opinion, necessary to fulfil the requirements of the notice but, in taking that action, he must not damage the land or the premises concerned to a greater extent than necessary.

(6) A person on whom a notice has been served under this section shall be liable for the costs incurred by the Minister in taking action under subsection (5) but where the Minister has served a notice under this section on two or more persons he shall not recover a sum that exceeds the amount of those costs.

Amendment of  
s. 57—  
Penalty for  
destroying sewers  
or fittings.

**12. Section 57 of the principal Act is amended—**

(a) by striking out the passage “pay to the Minister a sum not exceeding ten dollars, in addition to the amount of the expense to which the Minister may be put in respect thereof” and substituting the passage “be guilty of an offence and liable to a penalty of one thousand dollars and shall pay to the Minister his costs”;

and

(b) by striking out the passage “and the amount of the said expense shall be ascertained, determined, and recovered in the same manner as the said sum”.

Amendment of  
s. 58—  
Penalty for  
interference with  
works.

**13. Section 58 of the principal Act is amended by striking out the passage “ten dollars” and substituting the passage “five hundred dollars”.**

Amendment of  
s. 59—  
Penalty for  
obstruction of  
officers, etc.

**14. Section 59 of the principal Act is amended by striking out the passage “fifty cents, for a second offence to a penalty not exceeding two dollars, and for any subsequent offence to a penalty not exceeding ten dollars” and substituting the passage “one hundred and fifty dollars, for a second offence to a penalty not exceeding five hundred dollars and for a subsequent offence to a penalty not exceeding two thousand five hundred dollars”.**

Amendment of  
s. 60—  
Obstruction of  
works by  
occupiers.

**15. Section 60 of the principal Act is amended—**

(a) by striking out from subsection (1) the passage “liable to a penalty not exceeding ten dollars for every day during the continuance of such refusal or neglect.” and substituting the passage “guilty of an offence.

Penalty: Five hundred dollars.”;

and

(b) by striking out from subsection (3) the passage “ten dollars” and substituting the passage “fifty dollars”.

Insertion of new  
s. 61.

**16. The following section is inserted in Part V of the principal Act after section 60:**

Power to  
disconnect drains.

**61. (1) Where—**

(a) material has been discharged from land into the undertaking in contravention of this Act and it is likely, in the opinion of the Minister, that a similar contravention will occur in the future;

or

(b) a person authorized by or under this Act to enter land has, in contravention of this Act, been—

(i) prevented from entering that land or from performing his duties in accordance with the authorization;

or

(ii) hindered or obstructed in the performance of those duties,

the Minister, after giving to the owner or occupier of the land concerned not less than seven days notice in writing of his intention, may close off or disconnect from the undertaking any one or more of the drains on that land that are connected to the undertaking.

(2) The exercise by the Minister of his powers under this section shall be in addition to any other penalty that may be imposed under this Act.

(3) Before reopening or reconnecting a drain closed off or disconnected under this section, the Minister may require the owner or occupier of the land concerned to pay to him the prescribed fee.

(4) Sewerage rates shall continue to be payable in respect of land notwithstanding that a drain situated on the land has been closed off or disconnected under this section.

17. Section 65 of the principal Act is amended by striking out subsection (1) and substituting the following subsections:

Amendment of  
s. 65—  
Exemption from  
sewerage rates.

(1) Subject to this section, land that has been acquired or is used—

(a) exclusively for charitable purposes;

(b) exclusively for public worship;

or

(c) by a municipal corporation exclusively for the purposes of the corporation,

shall be exempt from sewerage rates.

(1a) Where land is acquired for a purpose referred to in subsection (1) but, before being used for that purpose, is used for a purpose not referred to in that subsection, the land shall cease to be exempt from sewerage rates under that subsection and the rates that have not been paid (if any) by virtue of that exemption shall, subject to subsection (1b), become payable.

(1b) Rates payable under subsection (1a) shall be reduced by the amount of the charges (if any) paid under subsection (2) in respect of the same period.

(1c) The Minister may remit the whole, or part, of the rates that become payable under subsection (1a).

18. Section 73 of the principal Act is amended—

Amendment of  
s. 73—  
Determination of  
rates.

(a) by striking out from subsection (1) the passage "Subject to subsection (6) of this section, the Minister" and substituting the passage "The Minister";

and

(b) by striking out subsection (6).

Insertion of new  
s. 78a.

**19.** The following section is inserted after section 78 of the principal Act:

Sewerage charges  
before rates are  
payable.

**78a.** (1) The Minister may require the owner or occupier of land to pay such charges as the Minister thinks fit for—

(a) the provision of drainage or sewerage services to the land;

or

(b) the provision of other related services,

by means of a sewer that the Minister has laid down in a drainage area if, at the time that those services are provided, the owner or occupier of the land is not liable to pay for them by way of sewerage rates or pursuant to an agreement made, or deemed to have been made, with the Minister.

(2) In the exercise of his powers under subsection (1), the Minister may impose—

(a) a charge determined according to the number of water closets on the land that drain into the sewer;

(b) a fixed charge or a fixed minimum charge;

(c) a charge determined on any other basis that the Minister thinks fit;

or

(d) a combination of two or more of the foregoing charges.

(3) The Minister may publish the charges payable under this section in the *Gazette*.

(4) A charge payable under this section may be recovered in the same manner as sewerage rates.

Insertion of new  
s. 100aa.

**20.** The following section is inserted after section 100 of the principal Act:

Certified plan to  
be evidence of  
drain.

**100aa.** A plan purporting to be certified by the Director-General and Engineer-in-Chief and to accurately delineate the position of a drain connected to the undertaking shall be accepted in legal proceedings, in the absence of proof to the contrary, as proof of the position of the drain and of its connection to the undertaking.

Repeal of s. 102.

**21.** Section 102 of the principal Act is repealed.

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

D. B. DUNSTAN, Governor