



ANNO SEXTO

ELIZABETHAE II REGINAE

A.D. 1957.

No. 54 of 1957.

An Act to amend the Local Government Act, 1934-1957.

[Assented to 28th November, 1957.]

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 "Local Government Act Amendment Act, 1957". Short titles.

(2) The Local Government Act, 1934-1957, as amended by this Act, may be cited as the "Local Government Act, 1934-1957".

(3) The Local Government Act, 1934-1957, is hereinafter referred to as "the principal Act".

2. The definition of "ratable property" in subsection (1) of section 5 of the principal Act is amended—

Amendment of
principal Act,
s. 5—
Definition of
ratable
property.

(a) by inserting after paragraph (c) of part (1) of the said definition the following paragraph :—

(c1) any hospital partly used for the purpose of affording gratuitous assistance or relief to poor or helpless persons if not more than one quarter of the annual income of the hospital is derived from charges made to patients for treatment in the hospital :

(b) by inserting after paragraph (d) of part (2) of the said definition the following paragraph :—

(d1) any land used for the purposes of a hospital which hospital is partly used for the purpose of affording gratuitous assistance or relief to poor or helpless persons if not more than one quarter of the annual income of the hospital is derived from charges made to patients for treatment in the hospital:

Amendment of principal Act, s. 78—

Mayor or chairman acting as justice.

3. Section 73 of the principal Act is amended by adding at the end thereof the following proviso :—

Provided that a mayor or chairman shall by virtue of this section continue to be a justice without again taking the aforesaid oaths so long as he continues to be re-elected or re-chosen for successive terms of office.

Amendment of principal Act, s. 83—

Local government auditors' certificates.

4. Section 83 of the principal Act is amended—

(a) by striking out the word "and" in the first line thereof;

(b) by inserting after the word "purpose" in the third line thereof "and another person appointed by the Minister for the purpose".

Amendment of principal Act, s. 155—

Inspection of minute books.

5. (1) Subsection (1) of section 155 is amended by adding the following words at the end thereof :—

"and where such minutes refer to or adopt the recommendation of any committee of the council, to copies of such recommendation."

(2) Subsection (2) of section 155 of the principal Act is repealed.

Amendment of principal Act, s. 158—

Allowance to chairman.

6. (1) Subsection (2) of section 158 of the principal Act is repealed.

(2) Subsection (1) of section 289 of the principal Act is amended by striking out the words "not exceeding the sum of one hundred pounds in respect of any financial year" in paragraph (a) thereof.

Amendment of principal Act, s. 163z—

Commencement of proceedings.

7. Section 163z of the principal Act is amended by adding at the end of subsection (2) thereof the words :—

"A notice in the *Gazette* published at least fourteen days before the board sits as aforesaid and giving notice of the time and place of the intended sitting shall be deemed to be reasonable notice to the parties interested".

8. Section 163dd of the principal Act is amended by adding at the end thereof the following proviso:—

Amendment of s. 163dd of principal Act—

Provided further that if the board is satisfied that, by reason of special circumstances, it is equitable so to do, the board may, in the determination or variation declare that the salaries fixed thereunder shall be payable as from any day not earlier than the day on which the board commenced the hearing of the matter in question.

Commencement of determination.

9. (1) Subsection (2) of section 180 of the principal Act is amended by striking out the words "eight pence" therein and by inserting in lieu thereof the words "two shillings".

Amendment of principal Act, ss. 180 and 188—

(2) Subsection (1) of section 188 of the principal Act is amended by striking out the words "eight pence" therein and by inserting in lieu thereof the words "two shillings".

Cost of assessment under Land Tax Act.

10. Section 287 of the principal Act is amended by inserting after paragraph (k) of subsection (1) thereof the following paragraph:—

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

(k1) in making any payment for any purpose approved by the council but other than a purpose specifically provided for in this Act: Provided that the total amount which may be paid as aforesaid during any financial year shall not exceed two hundred pounds or one per centum of the rate revenue for the previous financial year whichever is the lesser.

11. (1) Subsection (2) of section 296 of the principal Act is amended by striking out the word "published" first occurring in the said subsection and by inserting in lieu thereof the words "forwarded to the Government Printer for publication".

Amendment of principal Act, ss. 296 and 297—
Publication of balance-sheet.

(2) Subsection (1) of section 297 of the principal Act is amended by striking out the word "published" first occurring in the said subsection and by inserting in lieu thereof the words "forwarded to the Government Printer for publication".

12. (1) Section 308 of the principal Act is amended—

Amendment of principal Act, ss. 308, 310a, and 310b—
Alignment of public streets.

(a) by inserting after the word "Surveyor-General" in the third line thereof the words ", or the Commissioner of Highways";

(b) by inserting after the word "Surveyor-General" in the second and third lines of subsection (4) thereof the words "Commissioner of Highways".

(2) Section 310a of the principal Act is amended by striking out the words "or Surveyor-General" in the second line of subsection (2) thereof and by inserting in lieu thereof the words "Surveyor-General, or Commissioner of Highways".

(3) Section 310b of the principal Act is amended by inserting after the word "Surveyor-General" in the first line thereof the words "Commissioner of Highways".

Amendment of
principal Act,
s. 319—
Cost of streets.

13. Section 319 of the principal Act is amended by striking out subsection (9) thereof.

Amendment of
principal Act,
s. 325—
Damaging
barriers, etc.

14. Section 325 of the principal Act is amended by striking out the word "ten" in the last line thereof and by inserting in lieu thereof the word "twenty".

Amendment of
principal Act,
s. 332—
Petrol pumps
on roadways.

15. Section 332 of the principal Act is amended—

(a) by striking out the words "any corner formed by" in the fourth and fifth lines of subsection (3) thereof;

(b) by adding at the end thereof the following subsection :—

(4) In this section "junction" shall have the meaning ascribed to that term by section 130a of the Road Traffic Act, 1934-1956.

Amendment of
principal Act,
s. 383—
Works and
undertakings.

16. Section 383 of the principal Act is amended by inserting after paragraph XXII of subsection (1) thereof the following paragraph :

XXIII. Construct and provide fire stations, buildings for the storage of fire fighting equipment and buildings for the storage of goods and chattels of any kind of the council.

Amendment of
principal Act,
s. 424—
Borrowing
powers.

17. Section 424 of the principal Act is amended—

(a) by striking out the word "three" in the third line of paragraph I of subsection (1) thereof and by inserting in lieu thereof the word "six" ;

(b) by inserting after the word "exceed" in the third line of paragraph II of subsection (1) thereof the word "twice" ;

(c) by inserting after the word "exceed" in the sixth line of paragraph IV of subsection (1) thereof the words "four times".

(d) by inserting after the word "exceed" in the sixth line of paragraph v of subsection (1) thereof the words "four times".

(e) by adding the following subsection (4) after subsection (3):

(4) Where a council under this section obtains the consent of ratepayers to a proposed loan the amount borrowed may exceed the amount of the proposed loan by any amount not exceeding ten per centum of such proposed loan.

18. (1) Section 425 of the principal Act is amended by inserting therein after the figure "424" in the second line thereof the passage "or 435".

Amendment of
principal Act,
ss. 425 and
435—

Poll for loan.

(2) Section 435 of the principal Act is amended by striking out the proviso to subsection (4) thereof.

19. Section 442 of the principal Act is amended by striking out subsection (5) thereof and by inserting the following subsection in lieu thereof:—

Amendment of
principal Act,
s. 442—
Redemption of
debentures.

(5) If the loan in respect of which any payment proposed to be made under subsection (1) hereof has been raised on the security of a special or separate rate, the council may from time to time declare a special or separate rate, as the case may be, which shall be of an amount which is at all times such as will result in a rate revenue therefrom sufficient to repay the principal outstanding of the loan (either by way of periodical instalments or by way of payments into the sinking fund) and the interest payable thereon.

20. The following section is enacted and inserted in Division I of Part XXII of the principal Act after section 459 thereof:—

Enactment of
s. 474c of
principal Act—

459a. (1) If any land not exceeding one-half an acre in area is shown as a reserve in any plan deposited in the Lands Titles Registration Office or the General Registry Office and is vested in the council and if the council is of opinion that the said land is not required as a reserve the council may give public notice stating the council's opinion and that it is proposed, with the consent of the Minister, to sell or otherwise dispose of the reserve and stating that any person interested may make representations to the council in the matter within the time stated in the notice.

Power to
dispose of
small reserves.

(2) After considering all such representations the council, with the consent in writing of the Minister, may sell or otherwise dispose of the land.

(3) Upon the sale or disposition of the land by the council, the land shall cease to be a reserve and shall be freed from any trusts relating thereto.

Enactment of
s. 514a of
principal Act—

21. The following section is enacted and inserted in the principal Act after section 514 thereof :—

Repayment of
loan on sale
of under-
taking.

514a. If any gas or electric supply undertaking is sold by the council and at the time of the sale any debentures issued by the council on the security of the general rate or a special or separate rate for the purpose of the undertaking are still outstanding the council shall apply the proceeds of the sale, or so much of the proceeds as is necessary for the purpose, in repaying the principal of every such debenture or, if any holder of any such debenture does not consent to payment of the principal thereof before the due date, in setting aside in a sinking fund the amount necessary to repay the principal of the debenture upon the due date.

Enactment of
s. 530a of
principal Act—

22. The following section is enacted and inserted in the principal Act after section 530 thereof :

Provision of
treatment unit
in lieu of
bacteriolytic
tank.

530a. In any case where, pursuant to this Division, an owner is required to provide and instal a bacteriolytic tank, the council may, by notice in writing, permit the owner to provide and instal in lieu thereof a method of treatment approved by the Central Board of Health. Any such permit may be given subject to any conditions deemed desirable by the council and may be withdrawn by the council.

Amendment of
principal Act,
s. 537—

Fees for
removal of
nightsoil.

23. Section 537 of the principal Act is amended by adding at the end thereof the following subsection :

(3) If pursuant to this section an annual fee is payable for the removal of nightsoil from any property and during the year in respect of which the fee is payable a bacteriolytic tank or method of treatment approved by the Central Board of Health is installed on the property so that the necessity to remove nightsoil ceases, the fee payable shall be calculated in proportion to the part of the year during which nightsoil was removed, and if a fee for the full year has been paid by any owner or

occupier, the council shall refund to the owner or occupier that part of the annual fee attributable to the part of the year during which nightsoil is not removed.

24. (1) Section 666 of the principal Act is amended by striking out the words "The council may in any court of competent jurisdiction recover from the owner of the vehicle all the expenses in connection with the removal, custody, and maintenance of the vehicle".

Amendment of
principal Act,
s. 666—
Vehicles left
in street.

(2) Section 666 of the principal Act is amended by adding at the end thereof the following subsections (the preceding portion of the said section being read as subsection (1) thereof):—

(2) Forthwith after any such removal, the council shall give to the owner of the vehicle written notice of the removal and the place to which the vehicle was removed. The notice shall, where practicable be served upon the owner personally; but if the notice is not so served within fourteen days after the removal or if the owner is unknown or cannot be found, notice shall, forthwith on the expiration of the said fourteen days, be given by advertisement in two newspapers circulating generally in the State.

(3) If the owner of the vehicle does not, within one month after the service or advertisement of the notice, pay all expenses in connection with the removal, custody, and maintenance of the vehicle, and of serving or advertising the notice, and take possession of the vehicle, the council shall sell the vehicle by public auction, and apply the proceeds as follows:—

- (a) Firstly, in payment of the expenses of the sale:
- (b) Secondly, in payment of the cost of removal, custody, and maintenance of the vehicle and of the notice served or advertised under this section:
- (c) Thirdly, in payment of the balance to the owner or if, after reasonable inquiry, an owner cannot be found, to the Treasurer in aid of the general revenue of the State.

25. (1) The following section is enacted and inserted in Part XXXVIII of the principal Act after section 666a thereof:—

666b. (1) If the council is of opinion that any chattel or structure upon any land within the municipality or any

Enactment of
s. 666b of
principal Act
and conse-
quential
repeals—
Unightly
chattels and
structures.

township within the district is unsightly and that its presence is likely to affect adversely the value of adjoining land or be prejudicial to the interests of the public, the council may give notice in writing to the owner or occupier of the land to remove the chattel or structure from the land.

(2) Any owner or occupier to whom notice is given as aforesaid may, within twenty-eight days after the service of the notice, appeal to the local court of full jurisdiction nearest the land.

(3) The appeal shall be commenced by notice served on the council and the clerk of the local court.

(4) The local court shall hear and determine the appeal and shall consider whether the chattel or structure is unsightly and whether its presence is likely to affect adversely the value of adjoining land or is prejudicial to the interests of the public, and shall by its order confirm, vary, or set aside the notice given by the council.

(5) For the purposes of the appeal the local court may do all such matters and things relating thereto and in the same manner and to the same intent as it is empowered to do in the exercise of its ordinary jurisdiction.

(6) Rules of court may be made under the Local Courts Act, 1926-1947, for carrying into effect the provisions of this section.

(7) If any owner or occupier to whom notice is given as aforesaid fails to comply with the notice, the council may remove the chattel or structure from the land and may, by action in any court of competent jurisdiction, recover from the owner or occupier, as the case may be, the cost of so doing.

(8) In this section "chattel" means—

- (a) any vehicle or machinery which is unfit for use ;
- (b) any article of furniture which is unfit for use ;
- (c) any packing case, tin, drum, carton, box or other container ;
- (d) any chattel being rubbish or debris.

(9) In this section 'structure' includes a fence, wall, erection, building, or other structure which is unfit for use, but does not include any building of historical significance.

(2) Paragraph (48a) of section 667 of the principal Act and section 721a of the principal Act are repealed.

26. The following section is enacted and inserted in Part XXXVIII of the principal Act after section 666b thereof :—

Enactment of
s. 666c of
principal Act—

666c. (1) In any case in which the council is of opinion that it is desirable so to do, it may constitute a controlling body to undertake the care, control, and management on behalf of the council of any undertaking being a reserve, oval, hall, hospital, cemetery or similar building or place which is the property of or under the care, control or management of the council.

Appointment of
controlling
body for
reserve, etc.

(2) The members of the controlling body may be comprised either wholly or partly of members of the council or of other than members of the council.

All members of the controlling body shall be appointed from time to time by the council and the council may remove any member from the controlling body and appoint another member in his stead.

(3) The council may from time to time determine the following :—

- I. The number of members of which the controlling body shall consist :
- II. The term of office of those members :
- III. The number of those members which shall constitute a quorum of the controlling body :
- IV. The powers, duties and functions of the controlling body :
- V. The name, if any, of the controlling body :
- VI. Rules for the conduct of the business of the controlling body.

(4) The council may from time to time delegate to the controlling body but subject to any conditions imposed by the council, power to receive and expend all or any of the revenue derived from the undertaking.

(5) The council shall from time to time appoint one of the members of the controlling authority to be the chairman of the controlling authority and may appoint another member to be the deputy chairman thereof.

(6) The controlling body shall, subject to any conditions from time to time imposed by the council, have the care, control and management of the undertaking but no property in the undertaking shall pass to the controlling body.

(7) The controlling body may, subject to any conditions from time to time imposed by the council, enter into contracts for the supply of goods or services for the purpose of the undertaking and may fix and recover such charges for the use of the undertaking as could be lawfully fixed by the council.

(8) The council may at any time abolish the controlling authority but, in that event, all rights and liabilities possessed or incurred by the controlling body under any contract or otherwise shall vest in and attach to the council and all such rights and liabilities may be enforced by or against the council.

(9) No member of the controlling authority shall be personally liable in respect of any transaction, act or omission of the controlling authority entered into, done or made in good faith for the purpose of the care, control or management of the undertaking.

Amendment of
principal Act,
s. 667—
Inflammable
undergrowth.

27. Paragraph (23) of section 667 of the principal Act is amended by inserting after the word "property" first occurring in the said paragraph the words "and for requiring any such owners and occupiers to destroy grass, weeds and other growth upon their property which, whilst not then inflammable, will, if not destroyed, become inflammable in the ordinary course of the season".

Amendment of
principal Act,
ss. 667, 669,
and 670—
Penalty for
breach of
by-laws.

28. (1) Paragraph (52) of section 667 of the principal Act is amended by striking out the word "ten" in the first line thereof and by inserting in lieu thereof the word "twenty".

(2) Paragraph (28) of section 669 of the principal Act is amended by striking out the word "ten" in the first line thereof and by inserting in lieu thereof the word "twenty".

(3) Paragraph (13) of section 670 of the principal Act is amended by striking out the word "ten" in the first line thereof and by inserting in lieu thereof the word "twenty".

Repeal of
s. 676 of
principal
Act—
Validity of
certain by-laws.

29. Section 676 of the principal Act is repealed.

Amendment of
principal Act,
s. 695—
Service.

30. Section 695 of the principal Act is amended by adding at the end thereof the words "Service of any such summons, notice, writ or other proceeding may be accepted by a solicitor acting for a council".

31. Subsection (3) of section 719 of the principal Act is repealed.

Amendment of principal Act, s. 719—
Proceedings against mayor, etc.

32. Section 783 of the principal Act is amended—

Amendment of principal Act, s. 783—
Deposit of rubbish on roads.

- (a) by inserting after the word "rubbish" in the second line thereof the words "dead animal or bird" ;
- (b) by inserting after the word "metal" in paragraph (a1) of subsection (1) thereof the words "bricks, stones"
- (c) by striking out the words "or rubbish or earth, building spoil, road metal" in subsection (1) thereof and by inserting in lieu thereof the words "rubbish or dead animal or bird or earth, building spoil, road metal, bricks, stones," ;
- (d) by inserting after the word "rubbish" wherever occurring in subsection (2) thereof in each case the words "dead animal or bird" ;
- (e) by inserting after the words "road metal" wherever occurring in subsection (2) thereof in each case the words "bricks, stones" ;
- (f) by adding at the end of subsection (2) thereof the words "and shall, in addition, be liable to pay to the council the cost of removing the filth, dung, ashes, rubbish, dead animal or bird, or earth, building spoil, road metal, bricks, stone, gravel or substance. Payment of any such cost to the council may be ordered by a court imposing any such penalty as aforesaid or may be recovered by the council by action in any court of competent jurisdiction".

33. Section 785 of the principal Act is amended by striking out the word "five" in the fourth line thereof and by inserting in lieu thereof the word "twenty".

Amendment of principal Act, s. 785—
Beehives in streets.

34. Section 833 of the principal Act is amended by striking out the words "an authorized witness" in the second line of paragraph (c) of subsection (2) and inserting in lieu thereof the words "a ratepayer within the area :"

Amendment of principal Act, s. 833—
Application for postal vote.

35. Section 834 of the principal Act is amended by striking out paragraph (aa) of subsection (1) and inserting in lieu thereof the following paragraph :—

Amendment of principal Act, s. 834—
Duty of witnesses.

- (aa) he is a ratepayer within the area, or in the case of an application by a person who is outside the State, by an authorized witness as provided by section 840.

Amendment of principal Act, s. 840 and nineteenth schedule—
Authorized witnesses.

36. (1) Subsection (1) of section 840 of the principal Act is amended by inserting after the word "Justices" in the third line thereof, after the word "practitioners" in the fourth line thereof, after the word "Postmasters" in the fifth line thereof, after the word "force" in the sixth line thereof, and after the word "managers" in the seventh line thereof, in every case the words "of any State", and by inserting after "VII. Any town clerk or district clerk" at the end of the subsection the words and figures "VIII. Ministers of Religion of any State".

(2) The paragraph headed "Authorized Witnesses" in form No. 3 in the nineteenth schedule to the principal Act is amended by inserting after the words "peace", "practitioners", "postmasters", "force", and "managers" in every case the words "of any State" and by inserting after "(g) Any town clerk or district clerk" the words "(h) Ministers of Religion of any State".

Enactment of s. 871t of principal Act—

37. The following section is enacted and inserted in Division IV of Part XLV of the principal Act after section 871s thereof:

Application of Division to other councils.

871t. The Governor may by proclamation, declare that the provisions of this Division shall apply with respect to any other municipal council named in the proclamation.

Enactment of s. 886b of principal Act—

38. The following section is enacted and inserted in the principal Act after section 886a thereof:—

Henley and Grange Regatta Fund.

886b. The trustees of the fund known as the Henley and Grange 1928 and 1929 Regatta Committee Trust Fund may pay to the Corporation of the Town of Henley and Grange all amounts held by the trustees for the purposes of the said fund and the said Corporation may apply the said amounts for the purposes of the Henley and Grange Community Hospital.

Enactment of s. 889 of principal Act—

39. The principal Act is amended by the addition of the following words after section 888.

Drive-in theatres.

889. (1) No drive-in picture theatre shall be erected within any area unless permission for such erection shall have been granted by the council pursuant to this section.

(2) On receipt of an application for permission to erect a drive-in picture theatre, the council shall not grant the said application unless it is satisfied that the erection and management of the proposed theatre will not be an inconvenience to ratepayers within the said local government area.

(3) The council shall, if it proposes to grant the application, give public notice that it so proposes.

(4) The said notice shall be published in the *Gazette*, and twice in some newspaper circulating in the neighbourhood, not less than one month nor more than three months before the adoption of the motion for granting the said permission, and shall state :—

- (a) The name of the applicant ;
- (b) The site of the proposed drive-in theatre.

(5) (a) Within one month after the last publication of the notice under this section, the requisite number of ratepayers may, by writing under their hands delivered to its mayor or chairman or clerk, demand that the question whether or not the said permission shall be granted be submitted to poll of ratepayers in accordance with this section.

(b) If no such demand is made the consent of ratepayers shall be deemed to be obtained and the Council may grant the application.

(c) If any such demand is made the question shall be submitted to poll of ratepayers in respect of property situated within a radius of one quarter of a mile from the site of the proposed theatre, to be held as provided by Part XLIII.

(d) The requisite number of ratepayers for the purposes of subsection (5) (a) shall be twenty-one ratepayers who are ratepayers in respect of property situated within a radius of one quarter of a mile from the site of the proposed theatre.

(6) Where the consent of the ratepayers has been obtained at a poll, the council may grant permission, and where consent of the ratepayers has been refused, the council shall not grant permission.

40. The tenth schedule to the principal Act is amended—

- (a) by striking out the figures "1. 0" therein and by inserting in lieu thereof the figures "10. 0" ;
- (b) by striking out the figures "7. 0" therein and by inserting in lieu thereof the figures "20. 0".

Amendment of
principal Act,
Tenth
schedule—
Fees in
distress for
rates.

Amendment of
principal Act.

41. The principal Act is amended in the manner shown in the schedule to this Act.

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

HERBERT MAYO, Governor's Deputy.

THE SCHEDULE.

AMENDMENTS TO THE LOCAL GOVERNMENT ACT, 1934-1957.

| Provision Amended. | How Amended. |
|-------------------------------|--|
| Section 3 | The line "Part XXIIA—Parking Meters and Parking Stations in Municipalities" is inserted in section 3 before the line "Part XXIII—Foreshores and Jetties". The line "Part XXIII—Parking Meters and Parking Stations in Municipalities" is struck out. The line "Division II—Provisions Applicable to Districts Only" appearing in the next line but one after the line "Part XXII—Squares, Parklands and Reserve" is struck out. |
| Heading after section 459.... | The heading "Division II—Provisions Applicable to Districts Only" appearing after section 459 is struck out. |
| Heading after section 475.... | The heading appearing before section 475a is amended to read "Part XXIIA—Parking Meters and Parking Stations in Municipalities". |
| Section 528 | The words "as the case may be" in subsection (1a) of section 528 are struck out. |
| Section 841 | The words "or deliver" in the ninth line of paragraph vi of section 841 are struck out. |
| Nineteenth schedule | The paragraph in the nineteenth schedule commencing with the words "The signature of a ratepayer to an application" and ending with the words "any ratepayer making an application" is struck out and the following paragraph is inserted in lieu thereof :— "The signature of a ratepayer to an application must be witnessed by a ratepayer within the area, unless the person making the application is outside the State when his signature may be witnessed by a justice of the peace of any State, a legally qualified medical practitioner of any State, a postmaster of any State, a member of the police force of any State, a bank manager of any State, the returning officer for the election or poll, any town clerk or any district clerk, or any Minister of Religion of any State." |