



ANNO TRICESIMO SECUNDO

ELIZABETHAE II REGINAE

A.D. 1983

No. 27 of 1983

An Act to amend the Local Government Act, 1934-1982, and to make a related amendment to the Valuation of Land Act, 1971-1981.

[Assented to 16 June 1983]

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, 1983".

Short titles.

(2) The Local Government Act, 1934-1982, is in this Act referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Local Government Act, 1934-1983".

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

Commencement.

3. Section 3 of the principal Act is amended by striking out the item:

DIVISION IV—PAYMENT OF RATES ON APPEALS

Amendment of s. 3—
Arrangement of Act.

and substituting the item:

DIVISION IV—RECOVERY OF RATES UNAFFECTED BY VARIATION, OBJECTION OR APPEAL.

4. Section 69 of the principal Act is repealed.

Repeal of s. 69.

5. Section 105 of the principal Act is amended—

Amendment of s. 105—
Form of nomination, etc.

(a) by striking out paragraph I of subsection (1) and substituting the following paragraph:

I. The nomination shall be in the prescribed form;;

and

(b) by inserting after paragraph VI of subsection (1) the following paragraph:

VII. No person shall be entitled to be nominated for the office of mayor or alderman unless by the day of the election he will have had at least ten months' prior service as a councillor (whether for the same or a different council):.

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

6. Section 157 of the principal Act is amended by striking out subsection (10) and substituting the following subsections:

(10) Where an employee of a council is entitled to the benefit of subsection (9), the council with which the employee previously served shall, on the demand of the council with which the employee is presently serving, make a contribution to that council of an amount calculated in accordance with the regulations.

(10a) The amount of a contribution payable under subsection (10) may be recovered as a debt.

Amendment
of s. 158—
Salaries,
allowances, and
commissions to
mayor, chairman,
and officers.

7. Section 158 of the principal Act is amended by striking out from subsection (3) the passage "in respect of any financial year".

Amendment
of s. 178b—
Adoption of
Government
Assessment.

8. Section 178b of the principal Act is amended by striking out subsection (7).

Amendment
of s. 180—
Adoption of
Government
Assessment.

9. Section 180 of the principal Act is amended by striking out subsection (6).

Repeal of heading
and s. 213 and
substitution of
new heading and
section.

10. Section 213 of the principal Act and the heading immediately preceding that section are repealed and the following heading and sections are substituted:

DIVISION IV—RECOVERY OF RATES UNAFFECTED BY VARIATION, OBJECTION OR APPEAL

Recovery of rates
unaffected by
variation,
objection or
appeal.

Adjustment of
rates in event of
variation of
assessment.

213. The right of a council to recover rates shall not be suspended by an objection or appeal under the Valuation of Land Act, 1971-1981, or an appeal under this Part, and the council may recover the rates on the assumption that the relevant assessment is correct.

213a. (1) Where an assessment, on the basis of which rates have been calculated, is altered (whether upon an objection or appeal, or otherwise), a due adjustment of rates shall be made and any amount paid in excess of the amount that might lawfully have been recovered on the basis of the altered assessment shall, subject to this section, be refunded and if, on the basis of the altered assessment, a greater amount than that actually recovered might lawfully have been recovered, the difference may be recovered as arrears after sixty days from the date of alteration.

(2) No fine is payable in respect of arrears of rates recoverable under subsection (1).

(3) A council may, instead of refunding an amount under this section, credit that amount to the ratepayer by whom it was paid together with interest at the prescribed rate from the date of payment and that amount (together with interest) shall be set off against future liabilities of the ratepayer for payment of rates assessable on the same property to which the relevant assessment applied.

(4) For the purposes of subsection (3)—

“prescribed rate” means a rate equal to—

(a) the rate (expressed as a percentage per annum) which is being charged by the Reserve Bank of Australia upon bank overdrafts on the day of payment of the amount to be credited under this section;

or

(b) the rate of ten per centum per annum,

whichever is the greater.

(5) The council shall, on being satisfied by a person in whose favour an amount has been credited under subsection (3) that he has ceased to be a ratepayer in respect of the ratable property, refund the amount (including interest) then standing to his credit.

(6) If, when rates (being rates resulting from a declaration of a general rate) become due and payable, the amount (including interest) standing to the credit of the ratepayer under this section exceeds the amount that he is liable to pay by way of those rates, the amount of the excess shall be refunded.

11. Section 214 of the principal Act is amended—

(a) by inserting in subsection (1) after the passage “the council may” the passage “, by resolution passed by an absolute majority,”;

Amendment of s. 214—
Power to declare general rate.

and

(b) by striking out subsection (4).

12. Section 228 of the principal Act is amended by striking out from subsection (3) the word “municipalities” and substituting the word “areas”.

Amendment of s. 228—
Minimum rates.

13. Section 233a of the principal Act is amended by striking out from subsection (4) the word “districts” and substituting the word “areas”.

Amendment of s. 233a—
Minimum rates.

14. Section 248c of the principal Act is amended by inserting after subsection (3) the following subsection:

(4) In this section—

Amendment of s. 248c—
General provision.

“Minister” means the Minister to whom the administration of the Rates and Taxes Remission Act, 1974, is for the time being committed.

15. Section 342 of the principal Act is amended—

(a) by striking out subsection (10) and substituting the following subsection:

Amendment of s. 342—
Construction and repair of private streets in the City of Adelaide.

(10) Where notice of the final apportionment has been given—

(a) the amount apportioned to an owner shall, subject to paragraph (b)—

(i) be in arrears;

and

(ii) be recoverable by the council,
upon the expiration of sixty days from the day
on which the notice was given;

but

- (b) the council may, upon the application of an owner to which a portion of the expenses has been apportioned, permit him to pay off his liability by monthly, quarterly or other instalments over a period not exceeding twelve months and in that event an instalment shall be in arrears and recoverable by the council if not paid by the day fixed by the council for the payment of that instalment.;
 - (b) by inserting in subsection (10a) after the passage "Where any expenses" the passage "or instalment of expenses";
and
 - (c) by inserting after subsection (10b) the following subsection:
- (10ba) The council may, for proper cause, remit or reduce a fine under this section.

Amendment of
s. 343.—
Powers of other
councils to make
private streets
and roads.

16. Section 343 of the principal Act is amended—

- (a) by striking out subsection (5) and substituting the following subsection:
- (5) The council shall give notice to owners of abutting ratable properties of the apportionment of the expenses incurred by the council and thereafter—
- (a) the amount apportioned to an owner shall, subject to paragraph (b)—
 - (i) be in arrears;
and
 - (ii) be recoverable by the council,
upon the expiration of sixty days from the day on which the notice was given;
 - but
 - (b) the council may, upon the application of an owner to which a portion of the expenses has been apportioned, permit him to pay off his liability by monthly, quarterly or other instalments over a period not exceeding twelve months and in that event an instalment shall be in arrears and recoverable by the council if not paid by the day fixed by the council for the payment of that instalment.;
 - (b) by inserting in subsection (5a) after the passage "Where any expenses" the passage "or instalment of expenses";
and

(c) by inserting after subsection (5b) the following subsection:

(5ba) The council may, for proper cause, remit or reduce a fine under this section.

17. Section 344 of the principal Act is amended by inserting after subsection (5) the following subsection:

(6) Nothing in this section prevents the owner of property abutting on a private street or road from constructing or laying, by agreement with the council and at his own expense, any pipe, drain or channel through or under his property, which is required for the purposes of drainage work under section 342, 343 or 344a.

Amendment of
s. 344—
Drainage through
private lands.

18. Section 344a of the principal Act is amended—

(a) by striking out subsection (3) and substituting the following subsection:

(3) The council shall give notice to owners of abutting ratable property of the apportionment of the expenses incurred by the council and thereafter—

(a) the amount apportioned to an owner shall, subject to paragraph (b)—

(i) be in arrears;

and

(ii) be recoverable by the council,

upon the expiration of sixty days from the day on which the notice was given;

but

(b) the council may, upon the application of an owner to which a portion of the expenses has been apportioned, permit him to pay off his liability by monthly, quarterly or other instalments over a period not exceeding twelve months and in that event an instalment shall be in arrears and recoverable by the council if not paid by the day fixed by the council for the payment of that instalment.;

(b) by inserting in subsection (3a) after the passage "Where any expenses" the passage "or instalment of expenses";

and

(c) by inserting after subsection (3b) the following subsection:

(3ba) The council may, for proper cause, remit or reduce a fine under this section.

19. Section 368 of the principal Act is amended by striking out from subsection (1) the passage "paragraph (13) of section 669 or paragraph (7) of section 670" and substituting the passage "this Act".

Amendment of
s. 368—
Hawkers loitering
in streets.

20. Section 691 of the principal Act is amended by inserting after paragraph (f) of subsection (1) the following paragraph:

Amendment of
s. 691—
Power of
Governor to
make regulations.

Amendment of
s. 739—
Evidence of by-
laws.

Amendment of
s. 740—
Evidence of
model by-law.

Amendment of
s. 794a—
Expiation of
offences.

Amendment of
fifth schedule.

Amendment of
Valuation of
Land Act, 1971-
1981.

(g) providing for appeals against decisions of a committee constituted by virtue of paragraph (f).

21. Section 739 of the principal Act is amended by striking out from subsection (2) the passage "pursuant to section 686" and substituting the passage "under section 679".

22. Section 740 of the principal Act is amended by striking out the passage "pursuant to section 689 or to" and substituting the passage "under this Act or".

23. Section 794a of the principal Act is amended by striking out subsection (4a) and substituting the following subsection:

(4a) Notwithstanding that the time for payment specified in a notice under subsection (1) has expired, a council may—

(a) upon payment of the prescribed fee for late payment of the expiation fee;

or

(b) where the council has commenced proceedings in respect of the alleged offence—upon payment of the costs and expenses incurred by the council in relation to those proceedings,

accept late payment of the expiation fee.

24. The fifth schedule of the principal Act is amended by striking out from Form No. 2 the passage "that I am a natural born (or naturalized) British subject and".

25. (1) Section 25 of the Valuation of Land Act, 1971-1981, is amended—

(a) by striking out from subsection (4) the passage "or a council";
and

(b) by striking out from subsection (4) the passage "or council".

(2) The Valuation of Land Act, 1971-1981, as amended by this section, may be cited as the "Valuation of Land Act, 1971-1983".

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

D. B. DUNSTAN, Governor