



ANNO SECUNDO

ELIZABETHAE II REGINAE

A.D. 1953

No. 21 of 1953.

An Act for the regulation of certain building contracts
and for incidental purposes.

[Assented to 26th November, 1953.]

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

Short title.

1. This Act may be cited as the "Building Contracts (Deposits) Act, 1953".

Commencement.

2. This Act shall come into operation on the first day of January, nineteen hundred and fifty-four.

Requirements
as to deposits
under certain
building
contracts.
cf. 30, 1952,
s. 12.

3. (1) If—

- (a) any contract is made which provides that some person (hereinafter in this section referred to as "the builder") contracts to construct, alter or add to a dwellinghouse or any building, structure or fence which is appurtenant to a dwellinghouse for some other person (hereinafter in this section referred to as "the owner"); and
- (b) under or in pursuance of the contract the owner pays or agrees to pay any sum of money to the builder before the construction, alteration or addition, as the case may be, is commenced; and
- (c) the contract does not provide—
 - (i.) that the construction, alteration or addition, as the case may be, is to be commenced within a time stated in the contract; and

- (ii.) that any sum paid as aforesaid is to be paid by the builder into a special purpose account in a bank in South Australia in the joint names of the owner and the builder,

the contract shall be voidable at the option of the owner at any time before the construction, alteration or addition, as the case may be, is commenced.

(2) Whether or not any contract such as is referred to in subsection (1) provides for the payment of the money aforesaid into a special purpose account, the builder shall, within three days after its receipt by him, pay into a special purpose account in a bank in South Australia in the joint names of the owner and the builder any sum of money which is, before the construction, alteration or addition, as the case may be, is commenced, paid to him by the owner in pursuance of the contract.

(3) If any builder fails to pay any money aforesaid into a special purpose account as provided by this section, he shall be guilty of an offence and liable for a first offence to a penalty not exceeding one hundred pounds or to imprisonment for any term not exceeding six months and for a second or subsequent offence to imprisonment for any term not exceeding twelve months.

(4) Whilst any money is held in a special purpose account as aforesaid any interest which may accrue upon the money shall be added to the capital thereof and shall be the property of the owner.

(5) Any money held in a special purpose account as aforesaid may be withdrawn on the order of the builder and the owner for payment to the builder on account of any work performed by him under the contract and for which he is not otherwise paid in pursuance of the contract, and all such money which is not withdrawn as aforesaid shall be the property of the owner.

(6) Nothing in this section shall require any bank with which any money is deposited as aforesaid to inquire whether any money withdrawn from the special purpose account is withdrawn pursuant to this section nor shall the provisions of this section impose any liability upon the bank in respect of any such money.

(7) Nothing in this section shall apply to any contract made by an institution to which sections 11 to 17 (inclusive) of the

Homes Act, 1941-1952, apply and which is made in pursuance of any of the provisions of those sections for the construction or alteration of or addition to a dwellinghouse or any building, structure or fence which is appurtenant to a dwellinghouse by the institution.

Proceedings
for offences.

4. All proceedings for offences against this Act shall be disposed of summarily.

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

R. A. GEORGE, Governor.