



ANNO PRIMO

GEORGII V REGIS.

A.D. 1910.

No. 1033.

An Act to further amend "The Municipal Corporations Act, 1890," and "The District Councils Act, 1887," and for other purposes.

[Assented to, December 7th, 1910.]

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

PART I.

PART I.

PRELIMINARY.

1. This Act may be cited as "The Local Government Act, 1910." Short title.

2. This Act is incorporated and shall be read with—

Incorporation.

1. "The Municipal Corporations Act, 1890," and all Acts amending or incorporated with that Act:

II. The "District Councils Act, 1887," and all Acts amending or incorporated with that Act.

3. The provisions of this Act are arranged as follows:—

Provisions.

PART I.—Preliminary.

PART II.—Local Government Works.

PART III.—By-Laws—Traffic.

PART IV.—Miscellaneous.

PART

PART II.**PART II.****LOCAL GOVERNMENT WORKS.**

Interpretation.

4. In this Part, except where some other meaning is clearly intended—

“Authorised scheme” means a scheme authorised by the Minister in accordance with the provisions of this Part:

“Constituent Council” means a Council bound by an authorised scheme:

“Controlling authority” means the person or persons appointed to control the execution of local government works:

“Council” means a Municipal Council as defined by this section, or a District Council:

No. 419 of 1887.

“District” means a District as defined by “The District Councils Act, 1887,” or a Municipality:

“Gazette” means *The South Australian Government Gazette*:

“Local government area” means the Districts which, in the opinion of the Minister, may be in any way interested or concerned in or affected by a scheme:

“Local government works” means an object or purpose to be executed wholly or partly without the limits of a District, which might lawfully be executed under the principal Acts, if such object or purpose were to be executed wholly within the limits of the District:

“Minister” means the Commissioner of Crown Lands of the said State, or the Minister of the Crown for the time being discharging the duties of such Commissioner:

No. 497 of 1890.

“Municipal Council” means the Mayor, Aldermen (if any), and Councillors of a Municipal Corporation or a quorum thereof, and the definition of “Municipal Council” in “The Municipal Corporations Act, 1890,” shall not apply to this Part:

No. 419 of 1887.

“Principal Acts” means “The Municipal Corporations Act, 1890” and all Acts amending that Act, ^{and} _{or} “The District Councils Act, 1887,” and all Acts amending that Act:

“Scheme” means a proposal, made in accordance with the provisions of this Part, for the undertaking of local government works.

Council may submit a scheme.

5. Any Council or Councils may submit to the Minister a scheme for the benefit of the District or Districts which they represent, or any part or parts thereof.

Particulars of the scheme.

6. Such scheme shall be in writing and shall clearly state—

- (a) The name or names of the Council or Councils submitting the scheme :
(b) The

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(b) The local government works proposed to be undertaken:

(c) The means by which the local government works are to be executed:

(d) The constitution of the controlling authority, or the mode of appointing the same:

(e) The estimated cost of the local government works:

(f) The parties by whom, and the proportions in which, the cost of the local government works is to be borne;

and shall be accompanied by a plan and specifications of the works and undertakings (if any) included in the scheme.

7. The Minister shall forward a copy of the scheme to all the Councils in the local government area other than those submitting the scheme.

Minister to forward copies to other Councils.

8. Any Council within the local government area may forward to the Minister notice of its approval of, or objection to, the scheme or any amendments to the scheme proposed to be made by the Minister as hereinafter provided, with the grounds of such objection (if any).

Councils may approve of or object to the scheme.

9. (1) The Minister may, at any time before granting his consent to the scheme, propose such amendments to the scheme as, having regard to the various interests of all the Councils in the local government area, he thinks proper.

Minister may amend the scheme.

(2) The Minister shall give to any Council in the local government area such notice of any amendments proposed to be made by him as in the circumstances he thinks proper.

10. The Minister shall not grant his consent to the scheme until after the expiration of thirty days from the publication provided for by section 7.

The Minister's consent not to be granted for thirty days.

11. (1) In order to investigate any matter connected with the scheme, or to ascertain whether the provisions of this Part and of the principal Acts have been observed, the Minister may appoint one or more Special Magistrates, by whom an inquiry shall be held; and for the purpose of such inquiry such Special Magistrate or Magistrates shall have every power that may be exercised by a Local Court of limited jurisdiction, and shall report to the Minister within thirty days. In any case in which a Special Magistrate or Magistrates is or are appointed to hold such an inquiry, the Minister shall not grant his consent to the scheme until such report has been received.

The Minister may direct inquiry.

(2) The costs of such inquiry shall be borne by such parties and in such proportions as the Special Magistrate or Magistrates decide, and may be provided for by the Minister in any amendments made by him to the scheme.

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The Minister's
consent.

12. (1) The Minister shall grant his consent to the scheme if he is satisfied, having regard to the various interests of all the Councils in the local government area, that the scheme, as submitted or as amended (as the case may be), is fair and reasonable, and that the execution of the local government works, in the manner provided for therein, will substantially benefit the local government area.

(2) All amendments to the scheme, made by the Minister prior to the granting of his consent to the scheme, shall be incorporated in and form part of the scheme.

(3) The Minister shall at the time of granting his consent to the scheme decide what are to be the constituent Councils.

Publication of con-
sent and service on
constituent Councils.

13. If the Minister grants his consent to the scheme he shall cause notice of such consent, together with a copy of the scheme, as submitted or as amended (as the case may be)—

(a) To be published in the *Gazette* at the cost of the Councils submitting the scheme, and

(b) To be served upon each of the constituent Councils.

Such notice shall state the names of the constituent Councils.

Scheme to be autho-
rised from day of
publication and to
have the effect of an
agreement.

14. (1) The scheme as so published shall take effect, and shall be deemed to be authorised, from the day of the publication provided for by section 13.

(2) An authorised scheme shall have the same force and effect as if it were an agreement made between and executed by the constituent Councils.

Constituent Councils
to be bound by the
scheme.

15. The powers, authorities, duties, and obligations conferred and imposed by an authorised scheme upon the constituent Councils shall be exercised and performed by such Councils, notwithstanding that such powers, authorities, duties, and obligations are to be exercised and performed wholly or partly without the limits of the Districts which such Councils represent, or any of them.

Controlling authority
may exercise powers,
etc., of constituent
Councils.

16. The powers, authorities, duties, and obligations, conferred and imposed by an authorised scheme upon the controlling authority, and such powers, authorities, duties, and obligations as may be necessary or expedient for executing the scheme, shall be exercised and performed by the controlling authority, in the name and on behalf of the constituent Councils or any of them.

In case of default
controlling authority
may apply to Minister
for order for payment.

17. If any constituent Council makes default in the payment of any sum or sums of money due under an authorised scheme to the controlling authority, or to another or other constituent Council or Councils, for the space of thirty days after the same becomes due, the controlling authority or such other Council or Councils, as the case may be, may apply to the Minister for an order for payment.

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18. The Minister may thereupon make an order for the payment of such sum or sums of money as are due by the constituent Council making default, within such time, being not less than thirty days from the making of such order, as in the circumstances he thinks proper. Such order shall be published in the *Gazette* at the cost of the controlling authority, or of the Council or Councils at whose instance the same is made.

Making of order and publication.

19. If after such publication the constituent Council continues in default for such time as is mentioned in the order, the Minister may deduct the whole or any part of the sum or sums due by the Council making default, together with all legal or other costs, charges, and expenses incurred by reason of such default by the controlling authority, or the Council or Councils at whose instance the order is made, from any moneys voted by Parliament and payable to the defaulting Council by way of subsidy; and may thereupon pay the amount so deducted to the controlling authority or the Council or Councils to which it is due. Upon every such payment the Council on whose account such payment is made shall be credited by the controlling authority, or the Council or Councils to which it is made, with the amount so paid.

Minister may deduct amount due from grant payable to defaulting Council.

20. Any constituent Council may, without further or other authority or consent than this Act and the consent of the Minister to the scheme, borrow money for permanent works and undertakings included in an authorised scheme on the security of the general rates by the issue of debentures or otherwise, notwithstanding that such permanent works and undertakings may be wholly or partly without the limits of the district which such Council represents. Such works and undertakings shall be deemed to be permanent works and undertakings within the meaning and for the purposes of section 13 of "The Municipal Corporations Amendment Act, 1903," in a case where money is so borrowed by a Municipal Council, or of section 27 of "The District Councils Amendment Act, 1904," in a case where money is so borrowed by a District Council.

Councils may borrow on debentures.

No. 497 of 1890.

No. 833 of 1903.

No. 419 of 1887.

No. 863 of 1904.

21. The Minister may require payment of the costs of any publication required by this Act, to be made by the Councils or the controlling authority by whom the same are due, before causing such publication to be made.

Payment of cost of publication.

22. The production of the *Gazette* purporting to contain any order or notice or other matter under the provisions of this Part shall be conclusive evidence of the making and publication of such order or notice or other matter.

Evidence of order or notice.

23. The Governor may from time to time make regulations prescribing the forms to be used for the purposes of this Part, and all such regulations as are by this Part contemplated or required to be made, or as may be necessary or convenient for carrying into effect all or any of the objects and purposes expressed or implied by this Part, or any thing incidental to or in any way connected with such objects and purposes, or any of them.

Governor may make regulations.

24. (1) All

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Publication of regulations.

24. (1) All such regulations shall—

- (a) Be published in the *Gazette* ;
- (b) Take effect from the date of publication, or a later date specified therein ; and
- (c) Be laid before both Houses of Parliament within fourteen days after publication, if Parliament is then in Session, and if not, then within fourteen days after the commencement of the next Session.

(2) Notwithstanding any publication thereof, no regulation shall continue to have any force or effect if the same is disapproved by resolution of either House of Parliament within thirty sitting days thereof after such regulation has been laid before it if Parliament is so long in Session : Provided that if Parliament is not in Session for thirty sitting days of either House after such regulation has been laid before it then such regulation shall not continue to have any force or effect if disapproved by such House within thirty sitting days thereof after the commencement of the next Session of Parliament.

Saving of powers, &c., under principal Acts.

25. Nothing in this Part contained shall in any way limit the powers, authorities, duties, or obligations which may be exercised or are liable to be performed by a Council under the principal Acts, unless, and except so far as, such limitation is expressly provided for by an authorised scheme or is necessarily consequent thereupon.

PART III.

PART III.

BY-LAWS—TRAFFIC.

By-laws for control of traffic.

No. 497 of 1890.

No. 833 of 1903.

No. 419 of 1887.

No. 863 of 1901.

26. (a) Every Municipal Council may, in addition to the powers conferred by Part XIV. of “The Municipal Corporations Act, 1890,” and the powers conferred by Part IV. of “The Municipal Corporations Amendment Act, 1903” :

(b) Every District Council may, in addition to the powers conferred by Part XVIII. of “The District Councils Act, 1887,” and the powers conferred by Part V. of “The District Councils Amendment Act, 1904 ”—make, amend, or repeal by-laws for any of the following purposes:—

- I. For regulating, controlling, or prohibiting the passing or travelling in or along the streets or roads of all vehicles, or vehicles of any particular class, kind, or description: Provided that no such regulation shall be valid unless the Council, before passing the same, has caused a public inquiry to be held with reference to the matters therein dealt with:
- II. For fixing the route to be taken by persons riding, driving, or conducting any animal or vehicle, or animals or vehicles of particular kinds, in or along the streets or roads, and for

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for prohibiting persons from riding, driving, or conducting any animal or vehicle, or animals or vehicles of particular kinds, in the streets or roads, except on such route:

- iii. For regulating, controlling, or prohibiting the loading and unloading of coal, coke, firewood, timber, lime, casks and barrels (whether empty or otherwise), and other like commodities, materials, and things on or across any footway or path or in any street or road:
- iv. For regulating the use of streets by street hawkers and itinerant traders, with power to prohibit any such persons during particular hours from using certain streets or parts of streets.

27. Any by-laws made under the powers conferred by this Part may be made to apply — Application of such by-laws.

- (a) Either generally, or except under particular conditions;
- (b) Either at all times, or on particular days, or during particular hours; and
- (c) Either to all streets and roads, or to any particular street or road or part of a street or road.

28. Nothing contained in this Part or in any by-laws made under the powers conferred by this Part shall apply to a motor vehicle as defined by "The Motor Vehicles Act, 1907," if such motor vehicle is not used exclusively for purposes of trade or commerce. Except as aforesaid this Part shall apply to all vehicles however driven or propelled, and the term "vehicles" whenever used in this Part shall include motor vehicles used exclusively for the purposes of trade or commerce and traction and transport engines. Vehicles to which Act applies.

29. The provisions contained in "The Municipal Corporations Act, 1890," or in "The District Councils Act, 1887" (according to the nature of the case), relating to by-laws and to the making thereof shall apply, *mutatis mutandis*, to all by-laws made under the powers conferred by this Part and to the making of such by-laws. General provisions as to by-laws to apply.

PART IV.**PART IV.****MISCELLANEOUS.**

30. In addition to the powers conferred by "The District Councils Act, 1887," or any other Act, any District Council is hereby empowered to grant, for such terms of years and subject to such conditions and reservations as it deems proper, leases or licences of portions of public roads for military purposes: Provided that nothing in this section shall be deemed to authorise the permanent closing of any public road against traffic otherwise than as provided by the said Acts or this Act. Lease of roads for military purposes.

Control

*The Local Government Act.—1910.***PART IV.***Control of Establishment of Hospitals.*

Hospital not to be established without notice to Council.

No. 711 of 1898.

31. No person shall, after the passing of this Act, establish a hospital or other institution (hereinafter called a "hospital"), for the treatment of consumption or any infectious disease within the meaning of "The Health Act, 1898" at any place within a Municipality or within the District under the jurisdiction of a District Council, until after the expiration of three months from his giving the Municipal or District Council a notice stating—

- i. The intention to establish the hospital;
- ii. The proposed site thereof;
- iii. The purpose for which the hospital is to be used; and
- iv. The name and address for service of the person intending to establish the hospital.

Petition to Governor and power to prohibit the hospital.

32. (1) Within six weeks after the receipt of a notice under section 31 the Council may present a petition to the Governor praying that the establishment of the proposed hospital may be prohibited.

(2) Within three months after the receipt of such notice by the Council the Governor may, if he is of opinion that the establishment of the proposed hospital would be likely to be injurious to the health or welfare of the inhabitants in the neighborhood of the proposed site, prohibit the establishment thereof by notice served on the person named in the notice under section 31.

(3) Such notice shall be deemed to be duly served on the said person if served on him personally or left at the address for service stated in the notice under section 31.

If established contrary to Act deemed an "insanitary condition."

No. 711 of 1898.

33. If any person establishes a hospital contrary to the provisions of section 31, or after the service on him of a notice under section 32, such hospital shall be deemed to be a condition which the Local Board of Health of the Municipality or District has declared to be an insanitary condition; and the same consequences shall ensue, and the same proceedings may be taken under "The Health Act, 1898," as if it had been so declared an insanitary condition.

Persons in Receipt of Relief may be Enrolled as Citizens.

Persons in receipt of public relief may be enrolled as citizens.
No. 17 of 1908 (Com.)

No. 497 of 1890.

34. Section 31 of "The Municipal Corporations Act, 1890," is hereby amended by striking out the last line thereof.

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

DAY H. BOSANQUET, Governor.