ACTS OF THE PARLIAMENT OF SOUTH AUSTRALIA

—

1972

PART I



ACTS

OF

THE PARLIAMENT

OF

SOUTH AUSTRALIA

1972

With Tables and Indexes

PART I

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ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 1 of 1972

An Act to amend the Births, Deaths and Marriages Registration Act, 1966.

[*Assented to* 16*th March,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Births, Deaths and Marriages Registration Act Amendment Act, 1971-1972".

(2) The Births, Deaths and Marriages Registration Act, 1966, as amended by this Act, may be cited as the "Births, Deaths and Marriages Registration Act, 1966-1972.

(3) The Births, Deaths and Marriages Registration Act, 1966, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 24—

3. Section 24 of the principal Act is amended—

Change of surname

(*a*) by striking out from subsection (1) the passage "twenty-one" and inserting in lieu thereof the word "eighteen";

and

(*b*) by striking out subsection (4) and inserting in lieu thereof the following subsection:—

(4) The parents of any child under the age of eighteen years who has not previously been married and—

(*a*) whose birth is registered in the register of births;

or

(*b*) in respect of whom an entry has been made in the Adopted Children Register under the provisions of the Adoption of Children Act,

may by signing an instrument in accordance with the form in the Eleventh Schedule change the surname of the child.

Amendment of eleventh schedule.

4. The eleventh schedule to the principal Act is amended—

(*a*) by inserting under the passage "the general register of births, book.... page....", so as to be read as an alternative thereto, the passage "the adopted children register, entry no.....";

and

(*b*) by inserting under the passage "the appropriate column of the relevant register of births" (wherever it occurs), so as to be read as an alternative thereto, the passsage "the appropriate entry in the adopted children register".

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 2 of 1972

An Act to amend the Law of Property Act, 1936-1969.

[*Assented to* 16*th March,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Law of Property Act Amendment Act, 1972".

(2) The Law of Property Act, 1936-1969, as amended by this Act, may be cited as the "Law of Property Act, 1936-1972".

(3) The Law of Property Act, 1936-1969, is hereinafter referred to as "the principal Act".

Commencement.

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

Repeal of s. 41 of principal Act and enactment of section in its place—

3. Section 41 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Execution and attestation of deeds.

41. (1) Where a person proposes to execute a deed, he must sign or place his mark upon the deed.

(2) A deed must be attested by at least one witness who is not a party to the deed.

(3) Indenting shall not be necessary in any case.

(4) Every instrument expressed to be an indenture or a deed, or to be sealed, which is executed and attested in accordance with this section, shall be deemed to be sealed.

(5) This section does not affect—

(*a*) the law relating to the execution of a deed by a corporation;

(*b*) the validity, operation or effect of a deed executed before the commencement of the Law of Property Act Amendment Act, 1972;

(*c*) the manner in which a deed is proved;

or

(*d*) the law relating to undelivered deeds or deeds in escrow.

(6) Where it appears in any proceedings that a deed has not been duly executed by a party to the deed, or the signature or mark of a party to the deed has not been duly attested, but that the party purported or intended to execute the deed and has taken a benefit under the deed, the execution of the deed by that party shall be deemed to have been duly made and attested in accordance with this section.

Enactment of ss. 55a and 55b of principal Act—

4. The following sections are enacted and inserted in the principal Act immediately after section 55 thereof:—

Enforcement of rights against mortgagor.

55a. (1) A right of sale or foreclosure in respect of mortgaged land, a right to enter into possession of mortgaged land or a right to appoint a receiver in respect of mortgaged land shall not be enforceable by the mortgagee against the mortgagor by action or otherwise unless—

(*a*) the mortgagee has served upon the mortgagor a notice in writing—

(i) alleging a breach of a covenant or condition of the mortgage by the mortgagor;

(ii) if the breach is capable of remedy, requiring the mortgagor within twenty-eight days after service of the notice, or such longer period as may be stipulated in the notice, to remedy the breach;

and

(iii) if the mortgagee seeks compensation for the breach, requiring the mortgagor within twenty-eight days after service of the notice or such longer period as may be stipulated in the notice, to pay to the mortgagee the amount of the cost and expenses, stipulated in the notice, that the mortgagee has reasonably incurred in consequence of the breach;

and

(*b*) the mortgagor has failed to comply with the requirements of the notice.

(2) Where a mortgage contains a provision by virtue of which a liability to repay moneys under the mortgage falls due in the event of a breach of a covenant or condition of the mortgage at an earlier date than if there were no such breach, that provision shall be inoperative unless a notice has been served upon the mortgagor in conformity with the provisions of subsection (1) of this section and the mortgagor has failed to comply with the requirements of the notice.

(3) In any proceedings brought by a mortgagee for the recovery of a mortgage debt or for the enforcement of a mortgage, or in proceedings instituted by a mortgagor within twenty-one days after service of a notice under this section, a court may, upon such fair and equitable terms as it may determine, grant relief to a mortgagor against the enforcement of rights of a kind referred to in subsection (1) of this section, and may re-instate the position of the mortgagor in all respects as if no breach of a covenant or condition of the mortgage had occurred.

(4) The jurisdiction conferred by this section is exercisable—

(*a*) by the Supreme Court;

or

(*b*) where the mortgage is for an amount not exceeding eight thousand dollars, by a local court of full jurisdiction.

Collateral covenants.

55b. (1) Notwithstanding any covenant to the contrary, a mortgagee shall be deemed to have covenanted with the mortgagor that where the mortgagee makes demand of any amount in pursuance of the mortgage, he will at the request of the mortgagor, supply him with reasonable particulars of how the amount of the demand is arrived at.

(2) Where a mortgage is entered into after the commencement of the Law of Property Act Amendment Act, 1972, and a covenant collateral to a mortgage is made between the mortgagor and mortgagee, the collateral covenant shall become invalid upon extinguishment of the mortgage debt.

(3) Any covenant by which a mortgagee might enforce a personal right to the repayment of a debt secured by a mortgage after and without re-opening the foreclosure is invalid.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 3 of 1972

An Act to amend the Public Supply and Tender Act, 1914-1940.

[*Assented to 16th March,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Public Supply and Tender Act Amendment Act, 1971-1972".

(2) The Public Supply and Tender Act, 1914-1940, as amended by this Act, may be cited as the "Public Supply and Tender Act, 1914-1972".

(3) The Public Supply and Tender Act, 1914-1940, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 3—Interpretation.

3. Section 3 of the principal Act is amended by inserting after the present contents thereof (which are hereby designated subsection (1) thereof) the following subsection:—

(2) On and after the day of commencement of the Public Supply and Tender Act Amendment Act, 1971-1972, a reference, in any Act, rule, regulation or document of any kind whatsoever, to the chief storekeeper by that name, shall, unless from the context of that Act, rule, regulation or document, a contrary intention appears, be read as a reference to the Director, State Supply Department.

Amendment of principal Act, s. 14— Officers.

4. Section 14 of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "chief storekeeper" and inserting in lieu thereof the passage "Director, State Supply Department";

(*b*) by inserting immediately after subsection (1) the following subsection:—

(1a) The chief storekeeper in office under this Act immediately before the commencement of the Public Supply and Tender Act Amendment Act, 1971-1972, shall, on the commencement of that Act, be deemed for the purposes of this Act to be a Director, State Supply Department, appointed under subsection (1) of this section.;

and

(*c*) by striking out from subsection (2) the passage "chief storekeeper" and inserting in lieu thereof the passage "Director, State Supply Department".

Amendment of principal Act s. 16— Regulations.

5. Section 16 of the principal Act is amended by striking out from paragraph IV of subsection (1) the passage "Chief Storekeeper" and inserting in lieu thereof the passage "Director, State Supply Department".

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 4 of 1972

An Act to amend the University of Adelaide Act, 1971.

[*Assented to* 16*th March,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "University of Adelaide Act Amendment Act, 1971-1972".

(2) The University of Adelaide Act, 1971, as amended by this Act, may be cited as the "University of Adelaide Act, 1971-1972".

(3) The University of Adelaide Act, 1971, is hereinafter referred to as "the principal Act".

Amendment of principal Act s. 2— Repeal and saving provisions.

2. Section 2 of the principal Act is amended by inserting after the present contents thereof (which are hereby designated subsection (1) thereof) the following subsections:—

(2) Except as in this Act expressly or by necessary implication provided, any repeal effected by this section—

(*a*) shall not disturb, and shall be deemed never to have disturbed, the continuity of status, operation or effect of any person, thing or circumstance appointed or created by or under the repealed Act, or existing or continuing under the repealed Act immediately before the commencement of this Act, and they shall,

under and subject to this Act, continue to have, and shall be deemed always to have had, the same status, operation and effect as they respectively would have had if the repeal had not been effected;

and

(*b*) shall not disturb, and shall be deemed never to have disturbed, the continuity of status, operation or effect of any statute, regulation, rule or by-law, or any order, degree, diploma, certificate, licence, election, contract, appointment, investigation, inquiry, report, decision, lease, mortgage, charge, permission, delegation, grant of land, alienation, investment, grant, loan, account, liability or right made, held, effected, issued, conferred, granted, entered into, given, paid, accrued, incurred or acquired or existing or continuing under the repealed Act before the commencement of this Act.

(3) The statutes, regulations, rules and by-laws made under the repealed Act and in force immediately before the commencement of this Act shall be deemed to be statutes, regulations, rules and by-laws lawfully made under this Act and shall have force and effect for the purposes of this Act as from the time of its commencement and may be amended or revoked by statute, regulation, rule or by-law, as the case may require, made under this Act.

Amendment of principal Act, s. 3—Interpretation.

3. Section 3 of the principal Act is amended by striking out the definition of "University grounds" and inserting in lieu thereof the following definition:—

"University grounds" means—

(*a*) all land in which the University holds an estate of fee simple, all land held by the University under lease, and all land reserved pursuant to statute, or otherwise according to law, for the occupation or use of the University;

(*b*) all land occupied or used by the University or The Adelaide University Union under licence;

(*c*) all land that the University uses for the purpose of education or research or for any other activity declared by the Council to be appropriate to the functions or purposes of the University;

and, without limiting the generality of the foregoing, includes—

(*d*) all roads, ways, tracks, paths, parking areas, open spaces and buildings on, and appurtenances to, that land.

Amendment of principal Act, s. 12—Constitution of Council.

4. Section 12 of the principal Act is amended—

(*a*) by inserting after subsection (2) the following subsections:—

(2a) For the purposes of this section, a person shall not be regarded as being engaged in the employment of the University unless he derives remuneration for services rendered as an employee of the University in excess of limits determined for the purposes of this subsection by the Council.;

(2b) The limits of remuneration determined under subsection (2a) of this section shall not be such as to admit thereunder any person whose remuneration, derived from the University, exceeds, or would exceed, in the course of a year, fifteen per centum of the lowest annual salary payable to a person engaged full time in the employment of the University as a Lecturer.

(*b*) by striking out from subsection (3) the passage "or to hold office";

and

(*c*) by striking out subsection (5) and inserting in lieu thereof the following subsection:—

(5) Subject to this section—

(*a*) the term of office of a member of the Council, other than a postgraduate member, elected by the convocation of electors shall be four years;

(*b*) the term of office of a postgraduate member shall be two years;

and

(*c*) the term of office of an undergraduate member shall be two years.

Amendment of principal Act, s. 13—Casual vacancies.

5. Section 13 of the principal Act is amended by striking out subsection (2) and inserting in lieu thereof the following subsection:—

(2) Except as otherwise provided in this Act, where a member of the Council elected by the convocation of electors does not continue in the capacity in which he was elected a member of the Council, he may nevertheless continue as a member of the Council until the day on which an election of candidates in any capacity is next held by the convocation of electors, but shall then vacate his office.

Amendment of principal Act, s. 18—The Senate.

6. Section 18 of the principal Act is amended by striking out subsection (4) and inserting in lieu thereof the following subsubsection:—

(4) The term of office of a warden shall be determined by, or in accordance with, the constitution and rules of the Senate but a term so determined must expire on or before the expiration of the calendar year next ensuing after the date of election of the warden.

(4a) Upon the expiration of the term of office of a warden, a person who has previously held that office shall be eligible for re-election.

Amendment of principal Act, s. 22—Statutes, regulations and rules.

7. Section 22 of the principal Act is amended—

(*a*) by inserting after paragraph (*c*) of subsection (1) the following paragraph:—

(*ca*) providing for, and regulating, the admission and matriculation of students;;

and

(*b*) by striking out subsections (2) and (3) and inserting in lieu thereof the following subsections:—

(2) Any proposed statute or regulation under this section, or any proposed alteration or repeal of an existing statute or regulation must be submitted to, and approved by, the Senate.

(3) Upon approval by the Senate a proposed statute or regulation, or a proposed alteration or repeal of an existing statute or regulation may be submitted to the Governor, and upon confirmation by the Governor shall come into operation.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 5 of 1972

An Act to amend the Administration and Probate Act, 1919-1971

[*Assented to 23rd March,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Administration and Probate Act Amendment Act, 1972".

(2) The Administration and Probate Act, 1919-1971, as amended by this Act, may be cited as the "Administration and Probate Act, 1919-1972".

(3) The Administration and Probate Act, 1919-1971, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 88a—Court may direct that amount of judgement, etc., be paid to Public Trustee.

3. Section 88a of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "in any cause or matter the Court" and inserting in lieu thereof the passage "any court";

(*b*) by striking out from subsection (1) the passage "the Court" where it occurs for the second time in subsection (1) and inserting in lieu thereof the passage "that court";

(*c*) by striking out from subsection (3) the passage "the Court" and inserting in lieu thereof the passage "the court by which the judgment, order or decree was made";

(*d*) by striking out from subsection (4) the passage "the Court" and inserting in lieu thereof the passage "the court by which the judgment order or decree was given or made";

and

(*e*) by inserting after subsection (4) the following subsection:—

(5) In this section—

"court" means any court, or person acting judicially, exercising jurisdiction either within or outside this State.

Amendment of principal Act, s. 102—Moneys received by Public Trustee.

4. Section 102 of the principal Act is amended—

(*a*) by striking out from subsection (4) the passage "belonging to any estate received by the Public Trustee under this Act" and inserting in lieu thereof the passage "received by the Public Trustee under this Act, any other Act or law, any judgment or order of a court, or any judicial authority";

(*b*) by striking out from subsection (8) the passage "Administration and Probate Act Amendment Act, 1932" and inserting in lieu thereof the passage "Administration and Probate Act Amendment Act, 1972";

and

(*c*) by striking out paragraph (*a*) of subsection (8) and inserting in lieu thereof the following paragraph:—

(*a*) to pay into a common fund all moneys (other than moneys directed to be invested in specified securities) received by him;.

Amendment of principal Act, s. 102a—Power to borrow on overdraft.

5. Section 102a of the principal Act is amended by striking out the passage "one hundred thousand pounds" and inserting in lieu thereof the passage "one million dollars".

Amendment of principal Act, s. 112—Charges of Public Trustee.

6. Section 112 of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "in force under rules made under section 122: Provided that, until a scale is prescribed by rule so made and in force, the scale in force at the commencement of the Administration and Probate Act Amendment Act, 1937, shall apply" and inserting in lieu thereof the passage "fixed by regulation under this section";

and

(*b*) by inserting after subsection (5) the following subsections:—

(6) The Governor may from time to time fix by regulation a scale of commission for the purposes of this section.

(7) Until a scale of commission is fixed pursuant to subsection (6) of this section, the scale of commission in force under this Act immediately before the commencement of the Administration and Probate Act Amendment Act, 1972, shall continue in force.

Amendment of principal Act, s. 22—Court may make rules.

7. Section 122 of the principal Act is amended by striking out paragraph (*e*1).

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 6 of 1972

An Act to amend the Criminal Injuries Compensation Act, 1969.

[*Assented to 23rd March,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Criminal Injuries Compensation Act Amendment Act, 1972".

(2) The Criminal Injuries Compensation Act, 1969, as amended by this Act, may be cited as the "Criminal Injuries Compensation Act, 1969-1972".

(3) The Criminal Injuries Compensation Act, 1969, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 3—Interpretation.

3. Section 3 of the principal Act is amended by inserting after the word "information" in the definition of "offence" the passage "and includes conduct on the part of any person that would constitute an offence but for the insanity of that person, or for the fact that grounds of excuse or justification exist at law in respect of that conduct".

Amendment of principal Act, s. 5—

Application for payment out of General Revenue.

4. Section 5 of the principal Act is amended by striking out the word "Treasurer" and inserting in lieu thereof the words "Attorney-General".

Amendment of principal Act, s. 6—

Certificate may be granted on acquittal.

5. Section 6 of the principal Act is amended by striking out from subsection (4) the word "Treasurer" and inserting in lieu thereof the words "Attorney-General".

Amendment of principal Act, s. 7—

Claim where offence has not been tried.

6. Section 7 of the principal Act is amended—

(*a*) by striking out subsection (3);

and

(*b*) by striking out from subsection (7) the word "Treasurer" and inserting in lieu thereof the words "Attorney-General".

Enactment of ss. 7a, 7b and 7c of principal Act—

7. The following sections are enacted and inserted in the principal Act immediately after section 7 thereof:—

Justices not to determine proceedings under this Act.

7a. (1) Where an application is made under this Act to a court of summary jurisdiction constituted of justices or of a special justice, the court shall not proceed to hear and determine the application but shall, by memorandum, refer the application to a court of summary jurisdiction constituted of a special magistrate by which it may be conveniently heard and determined.

(2) The court to which an application is so referred shall proceed to hear and determine the application.

Right of Crown to be heard upon application.

7b. The Crown shall be entitled to be heard upon any application under this Act.

Service.

7c. (1) An applicant for an order or certificate in respect of compensation under this Act should cause notice of his application to be served at least seven days before the day on which the application is to be heard—

(*a*) upon the Crown Solicitor;

and

(*b*) where an order is sought against any person, upon that person.

(2) The court may, by order dispense with service of the notice under paragraph (*b*) of subsection (1) of this section on the ground that—

(*a*) the whereabouts of the person against whom the order is sought, is unknown to, and not readily ascertainable by, the applicant;

or

(*b*) there is no reasonable likelihood of that person satisfying the order for which application is made.

Amendment of principal Act, s. 8—Inquiry by Master.

8. Section 8 of the principal Act is amended—

(*a*) by striking out from subsection (1) the word "Treasurer" and inserting in lieu thereof the words "Attorney-General";

(*b*) by striking out from subsection (2) the word "Treasurer" and inserting in lieu thereof the words "Attorney-General";

and

(*c*) by striking out from subsection (4) the word "Treasurer" wherever it occurs and inserting in lieu thereof in each case the words "Attorney-General".

Amendment of principal Act, s. 10—Subrogation of rights to Attorney-General.

9. Section 10 of the principal Act is amended—

(*a*) by striking out from subsection (1) the word "Treasurer" wherever it occurs and inserting in lieu thereof in each case the words "Attorney-General";

and

(*b*) by striking out from subsection (2) the word "Treasurer" and inserting in lieu thereof the words "Attorney-General".

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 7 of 1972

An Act to amend the Justices Act, 1921-1969.

[*Assented to 23rd March,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Justices Act Amendment Act, 1972".

(2) The Justices Act, 1921-1969, as amended by this Act, may be cited as the "Justices Act, 1921-1972".

(3) The Justices Act, 1921-1969, is hereinafter referred to as "the principal Act".

Commencement.

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

Enactment of s. 39b of principal Act—

3. The following section is enacted and inserted in the principal Act immediately after section 39a thereof:—

Proof of recognizance.

39b. An apparently genuine document purporting to be a recognizance under this Act or the Offenders Probation Act, 1913, as amended, shall, upon production and without proof of any signature, be admitted before any court or justice as *prima facie* evidence of all matters recorded or stated therein.

Enactment of s. 62ba of principal Act—

4. The following section is enacted and inserted in the principal Act immediately after section 62b thereof:—

Ex parte proceedings where defendant neither appears nor returns written plea of guilty.

62ba. (1) Where in any proceedings under this Act—

(*a*) a complaint has been made by a member of the police force or a public officer within the meaning of section 57a of this Act;

and

(*b*) the defendant has been duly served with a summons but does not appear at the time and place appointed for the hearing or determination of the complaint or at a time and place at which the complaint is subsequently heard or determined, or, in the case of a complaint and summons served under section 57a of this Act, he neither so appears nor pleads guilty in the manner provided by that section,

the court may proceed *ex parte* to adjudicate upon the complaint in the manner provided by, and subject to the conditions in, section 62 of this Act, but may in so doing regard any allegation contained in the summons, or complaint and summons, (as served upon the defendant) as sufficient evidence of the matter alleged.

(2) Allegations are contained in a summons, or complaint and summons, for the purposes of subsection (1) of this section if they are contained in, annexed to, or accompany, the summons or complaint and summons.

(3) The allegations referred to in subsection (1) of this section may include particulars of the alleged offence and of the circumstances in which it is alleged to have been committed.

(4) Where a complaint purports to have been made by a member of the police force or a public officer within the meaning of section 57a of this Act, it shall be presumed to have been so made in the absence of proof to the contrary.

(5) The provisions of this section are supplementary to, and do not derogate from, any other statutory provisions regulating the hearing and determination of a complaint.

Amendment of principal Act s. 62c—*Ex parte* proceedings.

5. Section 62c of the principal Act is amended by striking out subsection (1) and inserting in lieu thereof the following subsection:—

(1) Where a defendant fails to appear in obedience to a summons and is convicted (whether upon a plea of guilty under section 57a of this Act or after an *ex parte* hearing) the court shall not impose upon the defendant—

(*a*) any disqualification from holding or obtaining a licence to drive a motor vehicle;

or

(*b*) any sentence of imprisonment (except a sentence that is conditional upon default being made in the payment of a fine),

unless the court has first adjourned the hearing of the complaint to a time and place appointed and stated by the court in order to enable the defendant to appear for the purpose of making submissions on the question of penalty.

Enactment of s. 62d of principal Act—

6. The following section is enacted and inserted in the principal Act immediately after section 62c thereof:—

Proof of previous conviction.

62d. (1) Where a defendant is served, at least three days before the hearing of the complaint, with a notice signed by the complainant and—

(*a*) stating particulars of any previous convictions of the defendant;

and

(*b*) stating that those particulars may be alleged against him at the hearing of the complaint,

the prosecutor may, after the court has convicted the defendant of the offence alleged in the complaint, tender a copy of the notice in evidence before the court.

(2) The court may regard an allegation contained in any such notice as sufficient evidence of the matter alleged.

Repeal of s. 72 of principal Act and enactment of section in its place—

7. Section 72 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Copies of proceedings.

72. (1) The clerk shall, upon receipt of a request in writing, accompanied by the appropriate fee, furnish in accordance with the request a copy, or copies of a complaint, depositions, conviction or order in any proceedings—

(*a*) to a party to the proceedings;

or

(*b*) to a person whom a special magistrate has certified to have a proper interest in the proceedings.

(2) A special magistrate may give a certificate for the purposes of subsection (1) of this section without formal proceedings after receipt of a request in writing for such a certificate and consideration of any matters upon which the request is based and any other relevant matters.

Repeal of s. 81 of principal Act and enactment of section in its place—

8. Section 81 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Term of imprisonment in default of payment of fine.

81. (1) The term of any imprisonment for the enforcement of, or in default of payment of any fine or sum adjudged to be paid by a conviction or order shall, in the absence of any express statutory provision to the contrary, be determined by the court imposing the term of imprisonment, or the court or justice issuing the warrant of commitment, subject to the provisions of this section.

(2) Subject to subsection (3) of this section, the term of imprisonment shall be determined within the following limits:—

(*a*) where the sum adjudged to be paid is ten dollars or less, the term of imprisonment shall not exceed one day;

(*b*) where the sum adjudged to be paid exceeds ten dollars the term of imprisonment shall not exceed a period arrived at on the basis of one day for each multiple of ten dollars constituting that sum and where it is not exactly divisible into multiples of ten dollars, a further day for any remainder.

(3) A term of imprisonment determined under this section shall not exceed six months.

Repeal of s. 106 of principal Act and enactment of section in its place—

9. Section 106 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Examination before justices.

106. (1) Where a defendant appears before a justice charged upon an information with an indictable offence, the justice, before he commits the defendant to trial, or admits him to bail, shall, in the presence of the defendant, take the statements of witnesses for the prosecution.

(2) Where the statement of a witness for the prosecution has been reduced to writing and verified in accordance with subsection (3) of this section, and the written statement is submitted to the justice and a copy thereof has been received by the defendant or his counsel, the statement shall, for the purposes of this section, be deemed to have been duly taken by the justice.

(3) A written statement submitted under subsection (2) of this section must be verified by affidavit of the person by whom the statement was made.

(4) The relevance to the proceedings of any object tendered as an exhibit by the prosecutor may be proved for the purposes of those proceedings by affidavit.

(5) Where a written statement has been submitted pursuant to the provisions of this section, the justice shall, before the completion of the case for the prosecution, allow the defendant a reasonable opportunity to study the statement.

(6) The defendant, or his counsel, may before the completion of the case for the prosecution, request—

(*a*) that a person by whom a written statement, submitted under this section, was made;

or

(*b*) that a person by whom an affidavit relating to an object tendered as an exhibit under this section, was made,

appear for the purpose of cross-examination, and where such a request is made, that person shall be called, or summoned to appear, for that purpose.

(7) Where a person is cross-examined under subsection (6) of this section, the prosecutor shall have the usual rights of re-examination in relation to that person.

(8) This section shall not apply where the defendant pleads guilty in accordance with section 106a of this Act and the justices proceed to deal with the matter pursuant to the provisions of that section.

10. Section 108 of the principal Act is repealed and the following section is enacted and inserted in its place:— Repeal of s. 108 of principal Act and enactment of section in its place—

108. (1) Where a witness is to be examined orally, the usual oath shall be administered to him. Examination of witnesses.

(2) Where a witness is examined orally, his statement shall be taken down in writing in the presence of the defendant, and his deposition shall be read over to the witness and shall be signed by him and by the justice.

(3) The deposition of a witness may, if the justice so directs, be read over to the witness elsewhere than in the room in which the examination is conducted.

11. Section 109 of the principal Act is amended by inserting in subsection (1) after the word "heard" the passage "or submitted". Amendment of principal Act, s. 109—

Procedure on completion of the case for the prosecution.

Amendment of principal Act, s. 110—

Accused to be asked whether he desires to give evidence.

12. Section 110 of the principal Act is amended by striking out from subsection (1) the passage "Having heard the evidence for the prosecution" and inserting in lieu thereof the passage "Now that the evidence for the prosecution has been taken".

Repeal of ss. 122 and 123 of principal Act and enactment of section in their place—

13. Sections 122 and 123 of the principal Act are repealed and the following section is enacted and inserted in their place:—

Exercise of jurisdiction under s. 120.

122. (1) The jurisdiction conferred upon a court of summary jurisdiction under section 120 of this Act shall be exercisable subject to the provisions of this section.

(2) At any time in the course of proceedings in respect of a minor indictable offence up to and including the completion of the case for the prosecution, the defendant may elect to be tried upon indictment and upon the making of that election the court shall not proceed to convict the defendant but may commit him for trial upon indictment.

(3) If it appears to the court that the offence, by reason of its seriousness, the intricacy of the facts in issue, the difficulty of any questions of law likely to arise at the trial, or for any other reason, ought to be tried upon indictment, it shall not proceed to convict the defendant but may commit him for trial upon indictment.

(4) Where a defendant appears before a court of summary jurisdiction charged with a minor indictable offence, the court shall, if the defendant does not elect to be tried upon indictment, inform him, at the completion of the case for the prosecution, whether or not it proposes to deal with the case in a summary way.

(5) If the defendant duly elects to be tried upon indictment, or the court determines not to deal with the case in a summary way, the court shall complete the preliminary examination.

Amendment of principal Act, s. 140—

Procedure where defendant is to appear for sentence in the Supreme Court or the District Criminal Court.

14. Section 140 of the principal Act is amended—

(*a*) by inserting in paragraph (*a*) of subsection (1) after the passage "to be next held" the passage "after the expiration of fourteen days from the date of the record";

(*b*) by inserting in paragraph (*b*) of subsection (1) after the passage "to be held" the passage "after the expiration of fourteen days from the date of the record";

and

(*c*) by inserting after subsection (1) the following subsection:—

(1a) A Judge of the Supreme Court may, by order, reduce or extend the period of fourteen days referred to in paragraph (*a*) and paragraph (*b*) of subsection (1) of this section in any appropriate case.

Repeal of ss. 158-160 of principal Act and of heading.

15. Sections 158 to 160 (inclusive) of the principal Act and the heading immediately preceding section 158 are repealed.

Amendment of principal Act, s. 163—

Right to appeal to Supreme Court.

16. Section 163 of the principal Act is amended by inserting after subsection (1a) the following subsections:—

(1b) An appeal to the Supreme Court from any conviction, sentence or order recorded, imposed or made upon the hearing of proceedings relating to a minor indictable offence shall be heard and determined by the Full Court unless the notice of appeal contains a request that the appeal be heard and determined by a single judge of the Supreme Court.

(1c) A request that an appeal be heard by a single judge of the Supreme Court under subsection (1b) of this section, shall not derogate from the power of a judge to refer an appeal to the Full Court for hearing and determination.

Repeal of ss. 171, 172 and 173 of principal Act and enactment of sections in their place—

Institution of appeal.

17. Sections 171, 172 and 173 of the principal Act are repealed and the following sections are enacted and inserted in their place:—

171. (1) An appeal must be instituted in accordance with the provisions of this section.

(2) A notice of appeal must be served upon the respondent, and two copies of the notice accompanied by the fee prescribed by rules of the Supreme Court, must be served upon the clerk to the justices whose decision is subject to the appeal.

(3) A notice of appeal under this section must state—

(*a*) that the appellant appeals to the Supreme Court against the conviction, order or adjudication referred to in the notice;

and

(*b*) the nature and grounds of appeal.

(4) The appeal shall be deemed to have been duly instituted when the copies of the notice of appeal are served upon the clerk to the justices in accordance with this section, but if the notice of appeal is not served upon the respondent before the

expiration of seven days after the date of service upon the clerk, or such longer period as the Supreme Court may allow, the institution of the appeal shall be rendered void.

Time for instituting appeal and hearing thereof.

172. (1) An appeal must be instituted within one month after the date of the conviction, order or adjudication subject to appeal.

(2) An appeal shall be heard by the Supreme Court in accordance with the appropriate rules of the Supreme Court.

Amendment of principal Act, s. 174—Order, etc. to be transmitted to Supreme Court.

18. Section 174 of the principal Act is amended by striking out from subsection (1) the passage "When notice of appeal is served pursuant to subsection (2) of section 172 and the fee mentioned therein is paid" and inserting in lieu thereof the passage "When an appeal has been duly instituted under this Part".

Amendment of principal Act, s. 175—Evidence to be sent to Supreme Court.

19. Section 175 of the principal Act is amended by striking out the passage "paid pursuant to section 172".

Amendment of principal Act, s. 177—Powers of Supreme Court upon appeal.

20. Section 177 of the principal Act is amended by inserting after subsection (2) the following subsections:—

(2a) In determining any question raised upon the hearing of an appeal relating to any penalty, forfeiture or disqualification awarded against, or imposed upon, the appellant or respondent, the Supreme Court may, if it considers that it is in the interests of justice to do so, take into account, and exercise any of its powers under subsection (2) of this section in relation to, any penalty, order or adjudication awarded or made in respect of the appellant or respondent by justices—

(*a*) in the proceedings from which the appeal arises;

(*b*) in proceedings heard concurrently with those proceedings;

or

(*c*) in proceedings arising from the same circumstances as those proceedings, or from circumstances that together with those circumstances constitute or form part of a series of offences of the same or similar character,

notwithstanding that no appeal has been instituted in relation to that penalty, order or adjudication.

(2b) The Supreme Court may make any ancillary order or direction that is preliminary to or incidental to, or consequent upon, the exercise of the powers conferred by subsection (2a) of this section.

Enactment of s. 200a of principal Act—

21. The following section is enacted and inserted in the principal Act immediately after section 200 thereof:—

Certificate of compensation.

200a. (1) At the conclusion, or in the course, of any proceedings under this Act, the justices, at the request of the prosecutor or any witness for the prosecution, may, if they think fit, subject to this Act and any other Act or regulations, grant a certificate of compensation in favour of that person for any expense, trouble or loss of time reasonably incurred by him in connection with the proceedings.

(2) A certificate under subsection (1) of this section may be granted in respect of the expenses of apprehending the defendant and of detaining him in custody and of such other expenses incurred prior to commitment for trial or sentence as are by law certifiable under this section.

(3) Where the proceedings in which the certificate is granted are in the nature of a preliminary examination, the certificate under this section shall be forwarded to the sheriff for payment.

(4) The amount of any certificate of compensation shall—

(*a*) where the proceedings in which the certificate is granted are proceedings in the nature of a preliminary examination be paid by the sheriff to a person apparently entitled to payment in accordance with the certificate;

or

(*b*) in any other case, be paid by the clerk to a person apparently entitled to the payment in accordance with the certificate,

and a payment made under this subsection shall effectually discharge the sheriff or the clerk from any claim made by the person named in the certificate or any person claiming under him.

(5) Any payment by the sheriff or the clerk under this section shall be made out of moneys provided by Parliament for the purpose.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 8 of 1972

An Act to Amend the Places of Public Entertainment Act, 1913-1971

[*Assented to 23rd March,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Places of Public Entertainment Act Amendment Act, 1971-1972".

(2) The Places of Public Entertainment Act, 1913-1971, as amended by this Act, may be cited as the "Places of Public Entertainment Act, 1913-1972".

(3) The Places of Public Entertainment Act, 1913-1971, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 3—Interpretation.

3. Section 3 of the principal Act is amended—

(*a*) by inserting after the definition of "drive-in-theatre" the following definition:—

"exempted place of public entertainment" means a place of public entertainment in respect of which an exemption has been granted and is in force under section 4a of this Act:;

(*b*) by striking out the definition of "inspector" and inserting in lieu thereof the following definition:—

"inspector" means the chief inspector of places of public entertainment, or an inspector of places of public entertainment appointed under this Act:;

(*c*) by striking out from subsection (3) the passage "with the exception of the provisions relating to entertainment tax";

and

(*d*) by inserting after subsection (3) the following subsection:—

(4) The provisions of this Act relating to entertainment tax enacted by the Places of Public Entertainment Act, 1971, and subsequently repealed by the Places of Public Entertainment Act, 1971-1972, shall be deemed never to have had any operation or effect.

Amendment of principal Act, s. 4—

4. Section 4 of the principal Act is amended by striking out from subsection (1) the passage "of this Act and the provisions relating to entertainment tax".

Exemption to certain clubs.

Enactment of s. 4a of principal Act—

5. The following section is enacted and inserted in the principal Act immediately after section 4 thereof:—

Exemption in respect of ovals, etc.

4a. (1) The Minister may, by instrument in writing, grant an exemption from all or any of the provisions of this Act and the regulations in respect of any oval, sportsground or racecourse.

(2) An exemption may be granted under this section upon such terms and conditions as the Minister thinks fit and stipulates in the instrument.

(3) An exemption under this section may be revoked upon breach of any condition upon which it was granted.

Repeal of s. 5 of principal Act and enactment of section in its place—

6. Section 5 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Certain exemptions from provisions of the Act.

5. (1) The provisions of this Act shall not apply in respect of any church or place of public worship.

(2) A place of public entertainment in which public entertainment is conducted—

(*a*) by, or solely for the purposes of, a religious congregation, body or denomination;

or

(*b*) by, or solely for the purposes of, a university, college, school, or other educational institution,

shall not be required to be licensed under this Act for the purposes of public entertainment so conducted.

Repeal of s. of of principal Act and enactment of section in its place—

Licence fees.

7. Section 9 of the principal Act is repealed and the following section is enacted and inserted in its place:—

9. (1) Subject to subsection (2) of this section, the fees payable upon the granting or renewal of licences shall be at the prescribed rates.

(2) Where a place of public entertainment is the property of a municipal or district council, or an institute established under the Libraries and Institutes Act, 1939, as amended, the fee payable upon the granting or renewal of a licence in respect of that place of public entertainment shall be one-fifth (calculated to the nearest dollar) of the prescribed rate.

Amendment of principal Act, s. 13—

Plans.

8. Section 13 of the principal Act is amended—

(*a*) by striking out subsection (1b) and inserting in lieu thereof the following subsection:—

(1b) On submission of any such plans a fee of fifteen dollars shall be paid to the Crown.;

and

(*b*) by striking out subsection (2a).

Repeal of s. 16 of principal Act and enactment of sections in its place—

Power to cancel licence.

9. Section 16 of the principal Act is repealed and the following sections are enacted and inserted in its place:—

16. (1) If the Minister is of the opinion that any premises licensed under this Act—

(*a*) have been allowed to fall into disrepair;

(*b*) have been altered without the approval of the Minister as required by this Act;

(*c*) have been encumbered with scenery, properties or combustible matter;

or

(*d*) do not conform with any of the prescribed conditions,

and the Minister, having considered the report of an inspector upon the condition of the premises, is satisfied that the continued use of the premises as a place of public entertainment would be dangerous to any person, or prejudicial to public health, he may make a determination cancelling a licence in respect of the place of public entertainment, and the licence shall, from the date of the determination, be of no force or effect.

(2) If the Minister is satisfied—

(*a*) that the proprietor of a place of public entertainment is guilty of an offence against this Act, or is not a fit and proper person to be the proprietor of a place of public entertainment licensed under this Act;

or

(*b*) that offences against this Act, or any other Act or law are habitually or frequently committed in a place of public entertainment licensed under this Act,

the Minister may make a determination cancelling a licence in respect of that place of public entertainment, and the licence shall, from the date of the determination, be of no force or effect.

(3) Where a licence in respect of a place of public entertainment is cancelled under this section, no further licence shall be granted in respect of the place of public entertainment until the determination has been revoked by the Minister, or by order of a court.

(4) The proprietor of a place of public entertainment in respect of which a determination has been made under this section may appeal to a local court of full jurisdiction against the determination, and if the court is satisfied that proper grounds for the cancellation of the licence do not exist, it may, by order, revoke the determination.

Order for the closure, etc. of place of public entertainment.

16a. (1) Where the Minister is of the opinion that a public entertainment has been, or is about to be, conducted in a place of public entertainment in contravention of the provisions of this Act, or any other Act or law, he may apply to a local court of full jurisdiction for an order under this section.

(2) The Minister, the proprietor of the place of public entertainment, and any person by whom the public entertainment was, or is to be, conducted may appear personally or by counsel upon the hearing of an application under this section.

(3) Where the court is satisfied upon the hearing of an application under this section that a public entertainment has been, or is about to be, conducted in a place of public entertainment in contravention of the provisions of this Act, or any other Act or law, and that an order should, in the interests of the public, be made under this section, it may order—

(*a*) that the place of public entertainment be closed, and kept closed, for a period specified in the order, or until further order of the court;

or

(*b*) that the place of public entertainment be not used for the conduct of the entertainment, or an entertainment of the kind, specified in the order.

(4) Where an order has been made under this section, the Commissioner of Police shall ensure that the order is complied with, and any members of the Police Force acting under his authority may enter any place or premises, and exercise such force as may be reasonably necessary to give effect to the order.

Amendment of principal Act, s. 17—Governor may make regulations for the safety and convenience of places of public entertainment.

10. Section 17 of the principal Act is amended by inserting immediately after paragraph (*g*) the following paragraph:—

(*ga*) the circumstances in which theatre firemen shall be employed, the conditions under which theatre firemen shall be registered and the circumstances in which the registration of theatre firemen may be cancelled, the form of certificates of registration and the design of badges for theatre firemen and the fees or deposits payable in respect thereof.

Amendment of principal Act, s. 20—Limitation upon Sunday entertainment.

11. Section 20 of the principal Act is amended—

(*a*) by striking out subsections (1) and (2) and inserting in lieu thereof the following subsection:—

(1) If a place of public entertainment is open to the public, or is used for any public entertainment between the hours of three o'clock in the morning and one o'clock in the afternoon on a Sunday without the consent of the Minister, the proprietor of the place of public entertainment, and the person by whom any such entertainment is conducted shall each be guilty of an offence and liable to a penalty not exceeding two hundred dollars.;

(*b*) by inserting in subsection (4) after the passage "licensed place of public entertainment" the passage "or exempted place of public entertainment";

and

(*c*) by inserting after subsection (5) the following subsection:—

(6) An application for a permit, or the consent of the Minister under this section, must be accompanied by a fee of five dollars.

Amendment of principal Act, s. 21—Entertainments on Good Friday and Christmas Day.

12. Section 21 of the principal Act is amended—

(*a*) by striking out the second and third sentences thereof; and

(*b*) by inserting after the present contents thereof, as amended by this section, (which are hereby designated subsection (1) thereof) the following subsection:—

(2) An application for the consent of the Minister under this section must be accompanied by a fee of five dollars.

Amendment of principal Act, s. 26—Chief inspector and inspectors.

13. Section 26 of the principal Act is amended by striking out subsection (1) and inserting in lieu thereof the following subsection:—

(1) The Minister may appoint a chief inspector of places of public entertainment and such inspectors of places of public entertainment as he thinks fit.

Repeal of heading and of ss. 27a to 27j of principal Act.

14. The heading "*Entertainment Tax*" and sections 27a to 27j (inclusive) of the principal Act are repealed.

Amendment of principal Act, s. 28—General regulations.

15. Section 28 of the principal Act is amended by striking out from subsection (1) the passage "sections 14, 17 and 27j" and inserting in lieu thereof the passage "section 14 and section 17".

Repeal of s. 31 of principal Act.

16. Section 31 of the principal Act is repealed.

Repeal of second schedule to principal Act.

17. The second schedule to the principal Act is repealed.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1971

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No. 9 of 1972

An Act to amend the Bagot's Executor Company Act; the Elder's Executor Company's Act, 1910, as amended; the Executors Company's Act, 1885, and Executors Company's Amendment Act, 1900, as amended, and the Farmers' Co-operative Executors Act, 1919.

[*Assented to 23rd March,* 1972]

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

PART 1

PART I

PRELIMINARY

Short title and arrangement.

1. (1) This Act may be cited as the "Statutes Amendment (Executor Companies) Act, 1971-1972".

(2) This Act is arranged as follows:—

PART I—PRELIMINARY, s. 1

PART II—AMENDMENT OF BAGOT'S EXECUTOR COMPANY ACT, ss. 2-20

PART III—AMENDMENT OF ELDER'S EXECUTOR COMPANY'S ACT, 1910, AS AMENDED, ss. 21-35

PART IV—AMENDMENT OF EXECUTORS COMPANY'S ACT, 1885, AND EXECUTORS COMPANY'S AMENDMENT ACT, 1900, AS AMENDED, ss. 36-51

PART V—AMENDMENT OF FARMERS' CO-OPERATIVE EXECUTORS ACT, 1919, ss. 52-66.

PART II

PART II

AMENDMENT OF BAGOT'S EXECUTOR COMPANY ACT

Definition of "principal Act"

2. In this Part the Bagot's Executor Company Act, a Private Act passed in the year 1910, is referred to as "the principal Act".

Citation.

3. The Bagot's Executor Company Act, a Private Act passed in the year 1910, as amended by this Act, may be cited as the "Bagot's Executor Company Act, 1910-1972".

Repeal of s. 2 of principal Act and enactment of section in its place.

4. Section 2 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Interpretation.

2. (1) In this Act, unless the contrary intention appears—

"administrator" means administrator to whom letters of administration have been granted:

"estate" includes all real and personal property of whatever nature or kind committed to the administration or management of the Company:

"letters of administration" means letters of administration with or without the will annexed:

"officer", in relation to the Company, means the manager or the managing director, general manager, acting or assistant general manager, State manager, assistant manager or secretary of the Company and, for the purposes of this Act, includes any other employee of the Company for the time being designated as such by the board of directors of the Company:

"Registrar" means the Registrar of Probates and includes an acting or deputy Registrar of Probates:

"the Company" means Bagot's Executor and Trustee Company Limited:

"the Court" means the Supreme Court of South Australia or a judge:

"the manager" means the manager or acting manager for the time being of the Company and, where there is no manager or acting manager, includes an officer for the time being of the Company:

"will" includes codicil.

(2) The powers conferred on the Company by this Act are in addition to and not in derogation of any powers conferred on the Company or on executors, administrators, trustees, receivers, committees, managers, guardians, guarantors or sureties or attorneys by any other Act.

Amendment of principal Act, s. 5—
Persons entitled to probate or letters of administration may authorize Company to obtain administration.

5. Section 5 of the principal Act is amended by striking out the word "twenty-one" and inserting in lieu thereof the word "eighteen".

Repeal of s. 7 of principal Act and enactment of section in its place.

6. Section 7 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Court may receive and act upon affidavit of officer of the Company.

7. In any case in which the Company has power under this Act to apply for probate or for letters of administration, the Court or the Registrar may receive and act upon an affidavit made by an officer of the Company in place of any affidavit required by the Court or under any law to be made by persons making application for probate or for letters of administration.

Amendment of principal Act, s. 12—
Executor may appoint Company to act in his stead.

7. Section 12 of the principal Act is amended by striking out the passage "the said Company" wherever it occurs and inserting in lieu thereof in each case the passage "the Company".

Amendment of principal Act, s. 15—
Where personal attendance and duties of executor required Company to be entitled to make such attendance and perform such duties through officer.

8. Section 15 of the principal Act is amended—

(*a*) by striking out the passage "the manager" firstly occurring and inserting in lieu thereof the passage "an officer";

(*b*) by striking out the passage "the manager" secondly occurring and inserting in lieu thereof the passage "an officer of the Company";

and

(*c*) by striking out the passage "the manager" thirdly occurring and inserting in lieu thereof the passage "an officer".

9. Section 16 of the principal Act is repealed and the following sections are enacted and inserted in its place:— Repeal of s. 16 of principal Act and enactment of sections in its place.

Commission chargeable by the Company.

16. (1) Subject to this Act, in respect of every estate which is or has been committed to the administration or management of the Company, whether as executor, administrator, trustee, receiver, committee, manager, guardian, or in any other capacity, the Company shall be entitled to receive, in addition to all moneys properly expended by the Company and chargeable against the estate, a commission at a rate to be fixed from time to time by the board of directors of the Company but not in any case exceeding—

(*a*) five dollars for every one hundred dollars of the capital value of the estate;

and

(*b*) five dollars for every one hundred dollars of the income received by the Company on account of the estate.

(2) Except as otherwise provided by this Act—

(*a*) the commission shall be accepted by the Company in full satisfaction of any claim to remuneration for acting as such executor, administrator, trustee, receiver, committee, manager, guardian, or in such other capacity, as the case may be;

and

(*b*) no other charges beyond such commission and moneys so expended by the Company shall be made or allowed.

(3) Where the Court is of opinion that the rate or amount of commission charged in respect of any estate is excessive, the Court may, on the application of any person interested in the estate, review the rate or amount of commission and may, on such review, reduce the rate or amount of commission.

(4) The rate of the commission charged by the Company against any estate shall not exceed that set out in the published scale of charges of the Company at the time when the commission became payable.

(5) In the case of income received in respect of any perpetual trust committed to the Company (whether before or after the commencement of the Statutes Amendment (Executor Companies) Act, 1971-1972) the scale of charges published from time to time by the Company as being applicable to income of trust estates is applicable to the income received in respect of the trust while that published scale of charges is current.

(6) Nothing in this section shall prevent—

(*a*) the payment with the approval of the Court of any commission which a testator in his will or a settlor has directed to be paid;

or

(*b*) the payment with the approval of the Court of any commission or fee which has been agreed upon between the Company and the parties interested therein,

either in addition to or in lieu of any other commission provided for by this section.

(7) In this section, the expression "capital value" means the gross amount realized for the assets real and personal of the estate in question, without deduction in respect of debts or liabilities secured or unsecured and for this purpose—

(*a*) the gross amount realized for assets—

(i) specifically devised or bequeathed without any intervening life interest or other intervening interest or condition that would have the effect of postponing the distribution thereof for a period of over twenty-four months after the vesting thereof in possession in the beneficiary;

or

(ii) distributed, transferred or appropriated to beneficiaries *in specie* whether by or as a result of agreement between beneficiaries or otherwise, where such distribution, transfer or appropriation occurs within twenty-four months after the vesting thereof in possession in the beneficiary,

is the amount at which the same are valued and accepted for purposes of succession duty or any other duty (in substitution therefor) levied under any Act or, where such duty is not applicable, shall be the value as at the date of distribution, transfer or appropriation, as the case may be, put upon such assets for the purposes of such distribution, transfer or appropriation or, in so far as no such value has been put upon the same for such purpose, the value of such assets at that date as fixed by the valuation of a valuer appointed for that purpose by the Company;

and

(*b*) the gross amount realized for assets—

(i) specifically devised or bequeathed subject to an intervening life interest or other intervening interest or condition that would have the effect of postponing the distribution thereof for a period of over twenty-four months after the vesting thereof in possession in the beneficiary;

or

(ii) distributed, transferred or appropriated to beneficiaries *in specie*, whether by or as a result of agreement between beneficiaries or otherwise, where such distribution, transfer or appropriation occurs after a period of twenty-four months after the vesting thereof in possession in the beneficiary,

is the value as at the date of the distribution, transfer or appropriation, as the case may be, put upon such assets for the purposes of such distribution, transfer or appropriation or, in so far as no such value has been put upon the same for such purpose, the value of such assets at that date as fixed by the valuation of a valuer appointed for that purpose by the Company.

(8) The commission which the Company is entitled to receive under this section shall not in any way be affected or diminished by the fact that any other person may, or may not, be entitled to, or be allowed, commission or other remuneration in respect of the same estate or any part thereof.

When commission payable.

16a. (1) Subject to subsection (2) of this section, any commission which the Company is entitled to receive in respect of the capital value of an estate, the administration or management of which is committed to it on or after the date of the commencement of the Statutes Amendment (Executor Companies) Act, 1971-1972, may be paid out of or deducted from the estate at any time after the administration or management of the estate has been committed to the Company.

(2) In respect of any portion of the estate that has not been realized the Company shall not be entitled to retain or be paid commission over and above the amount of commission calculated on the value of that portion at the time the administration or management of the estate was committed to the Company

and the amount of commission so retained or paid shall be adjusted when that portion of the estate has been realized or distributed, transferred or appropriated *in specie* to beneficiaries.

(3) The commission shall be calculated at the rate chargeable at the time when the commission becomes payable.

Additional fee for carrying on business.

16b. Where in the administration or management of any estate granted or committed to the Company after the commencement of this Act, the Company is authorized to carry on any business or undertaking which belongs wholly to the estate, or in which the estate has an interest as partner, the Company whether acting solely or jointly with any person, may (in lieu of the commission on income received as hereinbefore mentioned) in respect of each year of the carrying on of such business or undertaking either alone or in partnership (a "year" for this purpose being the period of twelve calendar months adopted as the annual accounting period of the estate concerned) charge and be paid such salary or remuneration as the Court (on the application of the Company) thinks fit for its pains and trouble in carrying on or joining in carrying on that business or undertaking or partnership.

Amendment of principal Act, s. 17—
Company to be subject to same control and liable to removal as private individual acting as executor.

10. Section 17 of the principal Act is amended by striking out the passage "the said Company" and inserting in lieu thereof the passage "the Company".

Amendment of principal Act, s. 18—
Trustee, *cestui que trust* entitled to apply to Supreme Court upon motion for order of account.

11. Section 18 of the principal Act is amended by striking out the passage "the said Company" wherever occurring therein and inserting in lieu thereof in each case the passage "the Company".

Amendment of principal Act, s. 20—
While estates unadministered Company not to be wound up voluntarily unless with consent of Court.

12. Section 20 of the principal Act is amended by striking out the passage "the said Company" and inserting in lieu thereof the passage "the Company".

Amendment of principal Act, s. 21—
Solicitor may conduct legal business of estate where directed by testator.

13. Section 21 of the principal Act is amended by striking out the passage "the said Company" and inserting in lieu thereof the passage "the Company".

Enactment of ss. 22a and 22b of principal Act.

14. The following sections are enacted and inserted in the principal Act immediately after section 22 thereof:—

Common funds.

22a. (1) Without limiting the generality or effect of section 22 of this Act, the Company may establish and keep in its books one or more funds each to be called a common fund and, if more than one, with an appropriate distinguishing number.

(2) A common fund established or kept in the books of the Company shall be invested in such class or classes of investments as is determined by the Company prior to the establishment of the fund and a separate class or separate classes of investments may be adopted for separate common funds.

(3) The Company may in its discretion invest any moneys in its hands either—

(*a*) on the separate account of the estate, trust, property or person to which or to whom the moneys belong;

or

(*b*) if the moneys are not directed to be invested in some other specified manner and investment in a common fund is not inconsistent with the terms of the trust instrument (if any) governing the moneys, as part of a common fund established and kept in the books of the Company the investment of which is limited to such class or classes of investments as the moneys might lawfully be invested in on the separate account of the estate, trust, property or person to which or to whom the moneys belong.

(4) Moneys in the hands of the Company (whether forming part of a common fund or not) may be invested—

(*a*) in any manner in which trust moneys may be invested by a trustee under any Act;

or

(*b*) on interest bearing deposit with the Savings Bank of South Australia or any bank or savings bank duly authorized under a law of the Commonwealth relating to banking to carry on business in South Australia.

(5) Investments made from moneys forming part of a common fund shall not be made in the name or on account of, nor shall they belong to, any particular estate, trust, property or person, but the Company shall keep an account in its books showing at

all times the current amount for the time being at credit in the common fund on account of each estate, trust, property or person.

(6) The Company may sell investments belonging to a common fund and may withdraw any of the moneys belonging to a common fund for any purpose of or relating to the exercise and discharge of its powers, authorities, duties and functions.

(7) The Company may at any time withdraw from a common fund any amount at credit in the common fund on account of any estate, trust, property or person and invest such amount on the separate account of that estate, trust, property or person.

(8) Amounts withdrawn under subsection (7) of this section from a common fund shall, as from the date of the withdrawal, cease to have any claim for income or otherwise from the common fund.

(9) Any profits or losses upon realization of any investment in a common fund shall be credited or debited (as the case may require) to the common fund and be received or borne proportionately by the several amounts invested in the common fund at the time of the realization.

(10) As on the first day of every month the Company shall determine the value of the investments in each common fund on that day.

(11) For the purposes of a valuation under subsection (10) of this section, in respect of investments listed on a Stock Exchange the quotations published by that Stock Exchange on the first day of the month in question are conclusive evidence of value and if there are no such quotations on that day, the valuation of a member of The Stock Exchange of Adelaide Limited is conclusive evidence of value but where at any time any of the investments is listed on more than one Stock Exchange the Company shall from time to time nominate the Stock Exchange the quotations of which shall be used in relation to the investment for the purposes of this subsection.

(12) Investments in and withdrawals from a common fund shall, during any month, be effected on the basis of the valuation made pursuant to subsection (10) of this section as on the first day of that month.

(13) The Company shall pay or allocate the income arising from a common fund proportionately to or among the estates, trusts, properties or persons entitled to the income arising from the capital sums invested in the common fund according to the several sums so invested and the periods for which they remain so invested.

(14) Where the Company is appointed and acts jointly with any other person as executor or administrator or as the holder of any of the offices mentioned in section 9 of this Act—

(*a*) the Company may, with the consent in writing of such other person, exercise and discharge, in relation to any of the property jointly held or controlled all or any of the powers, authorities, duties and functions conferred or imposed by this section which the Company, if acting alone, would have had or might have exercised or discharged;

(*b*) all moneys under the control of the Company and such other person jointly may, with the consent in writing of such other person, be dealt with by the Company alone in the same manner as moneys under the control of the Company alone;

and

(*c*) the person acting jointly with the Company shall be exonerated from any liability which, but for this paragraph, might have arisen in consequence of the exercise of the powers conferred by this subsection.

Division V of Part IV of the Companies Act not to apply to certain funds kept in books of Company.

22b. Division V of Part IV of the Companies Act, 1962, as amended, does not apply and shall be deemed never to have applied to any fund established in the books of the Company before the commencement of the Statutes Amendment (Executor Companies) Act, 1971-1972, or to any common fund established or kept in the books of the Company, whether before or after such commencement, or to any interest in such fund.

Amendment of principal Act, s. 23—

Declaration by manager.

15. Section 23 of the principal Act is amended—

(*a*) by striking out the passage "or other authorized officer";

and

(*b*) by striking out the passage "One shilling" and inserting in lieu thereof the passage "ten cents".

Amendment of principal Act, s. 25—On winding-up of estate Company to advertise notice that estate has been closed.

16. Section 25 of the principal Act is amended by striking out the word "Sixpence" and inserting in lieu thereof the passage "five cents".

Amendment of principal Act, s. 26—Company may act alone or jointly in fiduciary capacity.

17. Section 26 of the principal Act is amended by inserting after the word "property" lastly occurring the passage "or interest in property".

Amendment of principal Act, s. 27—Company may act solely though instrument creating the office may provide for more than one person.

18. Section 27 of the principal Act is amended by striking out the word "twenty-one" and inserting in lieu thereof the word "eighteen".

Enactment of ss. 27a to 27c of principal Act.

19. The following sections are enacted and inserted in the principal Act immediately after section 27 thereof:—

Power of the Company acting in representative capacity to hold its own shares, etc.

27a. (1) The Company acting in any representative capacity may, unless expressly prohibited by or under the terms of the instrument (if any) creating the trust or constituting such capacity, and notwithstanding any other Act or law, hold in its own name alone or jointly with any other person any stock, shares, debentures, notes or other securities of or issued by the Company where any such securities form part of any estate committed to the administration or management of the Company.

(2) The power conferred by this section is in addition to and not in restriction of any other powers conferred on the Company by this Act or by the instrument (if any) creating the trust or conferred on any trustee by any Act or otherwise howsoever.

Certificate by the Company as to its legal status in any matter.

27b. (1) Where the Company is executor or administrator of or is by law authorized to administer the estate of any deceased person, a certificate by the Company under the seal of the Company certifying the name, residence and occupation of the deceased person at the time of his death, and the date of his death, and certifying that the Company has obtained a grant of probate or letters of administration or is otherwise authorized to administer the estate and stating the date when the probate or letters of administration was granted and the reference number thereof or the manner in which and the time at which the Company became authorized to administer, which certificate is accompanied by a photographic copy of the probate, letters of administration with or without the will annexed or other

order or document of appointment, may, notwithstanding any Act or law to the contrary, and without any other proof, be accepted by all courts, officers and persons, whether acting under any Act or not, as sufficient evidence of the respective matters so certified or stated.

(2) Where the Company is acting as executor, administrator, trustee, receiver, committee, manager, guardian, or in any other capacity, a certificate by the Company under the seal of the Company certifying that the Company is authorized to act as such executor, administrator, trustee, receiver, committee, manager, guardian, or in such other capacity, and stating the manner in which and the time at which it became so authorized to act, which certificate is accompanied by a photographic copy of the trust instrument or other order or document of appointment, may, notwithstanding any Act or law to the contrary, and without any other proof, be accepted by all courts, officers and persons, whether acting under any Act or not, as sufficient evidence of the respective matters so certified or stated.

(3) Such certificate together with the production of the relevant photographic copy shall be sufficient for the purpose of The Real Property Act, 1886, as amended, or of registering the Company as proprietor of any shares, stock, or property in any company, corporation, body or association.

(4) Such certificate together with the production of the relevant photographic copy shall be equivalent for registration purposes to the probate, letters of administration with or without the will annexed, trust instrument or other order or document of appointment, as the case may be.

Exercise of powers conferred by Statutes Amendment (Executor Companies) Act, 1971-1972.

27c. (1) The powers conferred upon the Company by virtue of the provisions of the Statutes Amendment (Executor Companies) Act, 1971-1972, may be exercised in relation to an estate, trust or property whether or not the estate, trust or property was constituted or created or was committed to the administration or management of the Company before or after the commencement of that Act and whether or not the instrument (if any) governing the estate, trust or property was made before or after the commencement of that Act.

(2) The powers referred to in subsection (1) of this section may also be exercised by the Company and any person holding office in any representative capacity jointly with the Company.

Repeal of first and second schedules of principal Act and enactment of new schedules in their place.

20. The first schedule and the second schedule to the principal Act are repealed and the following schedules are enacted and inserted in their places respectively:—

FIRST SCHEDULE

.....LIMITED

I, , Manager (*or as the case may be*),

of

do solemnly and sincerely declare—

1. That the liability of the members is limited.

2. That the capital of the company is divided into shares of each.

3. That the number of shares issued is

4. That calls to the amount of per share have been made, under which the sum of has been received.

5. That the liabilities of the company on the 1st day of April (*or October*) last were: Debts owing by the company to sundry persons, viz:

A. On judgment,	$
B. On specialty,	$
C. On notes or bills,	$
D. On simple contracts,	$
E. On estimated liabilities,	$
Total liabilities	$

6. That the assets of the company on that day were:—

A. Government Securities,	$
B. Loans on Mortgage,	$
C. Bills of Exchange and Promissory Notes,	$
D. Cash at Bankers,	$
E. Other Property,	$
Total assets	$

And I make this solemn declaration, conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act, 1936.

DECLARED before me at this
day of 19

SECOND SCHEDULE

AUDITORS REPORT

We have examined the annexed (or above) balance-sheet, made up to the day of 19 , and report as follows:—

1. That as regards the accounts of the Company we have separately reported thereon in the manner prescribed by the Companies Act, 1962, as amended;

and

2. That we have made inquiries as to the internal control in relation to Trust Accounts of estates committed to the administration or management of the Company and in our opinion the internal control of the Company is adequate and effective.

Adelaide this day of , 19 .

Auditors.

PART III

PART III

AMENDMENT OF ELDER'S EXECUTOR COMPANY'S ACT, 1910, AS AMENDED

Definition of "principal Act".

21. In this Part, the Elder's Executor Company's Act, 1910, as amended by the Elder's Executor Company's Amendment Act, 1915, is referred to as "the principal Act".

Citation.

22. The Elder's Executor Company's Act, 1910, as amended by the Elder's Executor Company's Amendment Act, 1915, and by this Act, may be cited as the "Elder's Executor Company's Act, 1910-1972".

Repeal of s. 2 of principal Act and enactment of section in its place.

23. Section 2 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Interpretation.

2. (1) In this Act, unless the contrary intention appears—

"administrator" means administrator to whom letters of administration have been granted:

"estate" includes all real and personal property of whatever nature or kind committed to the administration or management of the Company:

"letters of administration" means letters of administration with or without the will annexed:

"officer", in relation to the Company, means the manager or the managing director, general manager, acting or assistant general manager, State manager, assistant manager or secretary of the Company and, for the purposes of this Act, includes any other employee of the Company for the time being designated as such by the board of directors of the Company:

"Registrar" means the Registrar of Probates and includes an acting or deputy Registrar of Probates:

"the Company" means Elder's Trustee and Executor Company, Limited:

"the Court" means the Supreme Court of South Australia or a judge:

"the manager" means the manager or acting manager for the time being of the Company and, where there is no manager or acting manager, includes an officer for the time being of the Company:

"will" includes codicil.

(2) The powers conferred on the Company by this Act are in addition to and not in derogation of any powers conferred on the Company or on executors, administrators, trustees, receivers, committees, managers, guardians, guarantors or sureties or attorneys by any other Act.

Amendment of principal Act, s. 6—

Persons entitled to probate or letters of administration may authorize Company to obtain administration.

24. Section 6 of the principal Act is amended by striking out the word "twenty-one" and inserting in lieu thereof the word "eighteen".

Amendment of principal Act, s. 10—

Company may act jointly.

25. Section 10 of the principal Act is amended by inserting after the word "property" lastly occurring the passage "or interest in property".

Amendment of principal Act, s. 11—

Company may be appointed to act solely in the place of retiring trustees.

26. Section 11 of the principal Act is amended by striking out the word "twenty-one" and inserting in lieu thereof the word "eighteen".

Repeal of s. 14 of principal Act and enactment of section in its place.

Court may receive and act upon affidavit of officer of the Company.

27. Section 14 of the principal Act is repealed and the following section is enacted and inserted in its place:—

14. In any case in which the Company has power under this Act to apply for probate or for letters of administration, the Court or the Registrar may receive and act upon an affidavit made by an officer of the Company in place of any affidavit required by the Court or under any law to be made by persons making application for probate or for letters of administration.

Amendment of principal Act, s. 15—

Directors and manager responsible to Court.

28. Section 15 of the principal Act is amended—

(*a*) by striking out the passage "the manager" firstly occurring and inserting in lieu thereof the passage "an officer";

(*b*) by striking out the passage "the manager" secondly occurring and inserting in lieu thereof the passage "an officer of the Company";

and

(*c*) by striking out the passage "the manager" thirdly occurring and inserting in lieu thereof the passage "an officer".

Repeal of s. 20 of principal Act and enactment of sections in its place.

29. Section 20 of the principal Act is repealed and the following sections are enacted and inserted in its place:—

Commission chargeable by the Company.

20. (1) Subject to this Act, in respect of every estate which is or has been committed to the administration or management of the Company, whether as executor, administrator, trustee, receiver, committee, manager, guardian, or in any other capacity, the Company shall be entitled to receive, in addition to all moneys properly expended by the Company and chargeable against the estate, a commission at a rate to be fixed from time to time by the board of directors of the Company but not in any case exceeding—

(*a*) five dollars for every one hundred dollars of the capital value of the estate;

and

(*b*) five dollars for every one hundred dollars of the income received by the Company on account of the estate.

(2) Except as otherwise provided by this Act—

(*a*) the commission shall be accepted by the Company in full satisfaction of any claim to remuneration for acting as such executor, administrator, trustee, receiver, committee, manager, guardian, or in such other capacity, as the case may be;

and

(*b*) no other charges beyond such commission and moneys so expended by the Company shall be made or allowed.

(3) Where the Court is of opinion that the rate or amount of commission charged in respect of any estate is excessive, the Court may, on the application of any person interested in the estate, review the rate or amount of commission and may, on such review, reduce the rate or amount of commission.

(4) The rate of the commission charged by the Company against any estate shall not exceed that set out in the published scale of charges of the Company at the time when the commission became payable.

(5) In the case of income received in respect of any perpetual trust committed to the Company (whether before or after the commencement of the Statutes Amendment (Executor

Companies) Act, 1971-1972, the scale of charges published from time to time by the Company as being applicable to income of trust estates is applicable to the income received in respect of the trust while that published scale of charges is current.

(6) Nothing in this section shall prevent—

(*a*) the payment with the approval of the Court of any commission which a testator in his will or a settlor has directed to be paid;

or

(*b*) the payment with the approval of the Court of any commission or fee which has been agreed upon between the Company and the parties interested therein,

either in addition to or in lieu of any other commission provided for by this section.

(7) In this section, the expression "capital value" means the gross amount realized for the assets real and personal of the estate in question, without deduction in respect of debts or liabilities secured or unsecured and for this purpose—

(*a*) the gross amount realized for assets—

(i) specifically devised or bequeathed without any intervening life interest or other intervening interest or condition that would have the effect of postponing the distribution thereof for a period of over twenty-four months after the vesting thereof in possession in the beneficiary;

or

(ii) distributed, transferred or appropriated to beneficiaries *in specie*, whether by or as a result of agreement between beneficiaries or otherwise, where such distribution, transfer or appropriation occurs within twenty-four months after the vesting thereof in possession in the beneficiary,

is the amount at which the same are valued and accepted for purposes of succession duty or any other duty (in substitution therefor) levied under any Act or, where such duty is not applicable, shall be the value as at the date of distribution, transfer or appropriation, as the case may be, put upon such assets for the purposes of such distribution, transfer or appropriation or, in so far as no such value has

been put upon the same for such purpose, the value of such assets at that date as fixed by the valuation of a valuer appointed for that purpose by the Company;

and

(*b*) the gross amount realized for assets—

(i) specifically devised or bequeathed subject to an intervening life interest or other intervening interest or condition that would have the effect of postponing the distribution thereof for a period of over twenty-four months after the vesting thereof in possession in the beneficiary;

or

(ii) distributed, transferred or appropriated to beneficiaries *in specie*, whether by or as a result of agreement between beneficiaries or otherwise, where such distribution, transfer or appropriation occurs after a period of twenty-four months after the vesting thereof in possession in the beneficiary,

is the value as at the date of the distribution, transfer or appropriation, as the case may be, put upon such assets for the purposes of such distribution, transfer or appropriation or, in so far as no such value has been put upon the same for such purpose, the value of such assets at that date as fixed by the valuation of a valuer appointed for that purpose by the Company.

(8) The commission which the Company is entitled to receive under this section shall not in any way be affected or diminished by the fact that any other person may, or may not, be entitled to, or be allowed, commission or other remuneration in respect of the same estate or any part thereof.

When commission payable.

20a. (1) Subject to subsection (2) of this section, any commission which the Company is entitled to receive in respect of the capital value of an estate, the administration or management of which is committed to it on or after the date of the commencement of the Statutes Amendment (Executor Companies) Act, 1971-1972, may be paid out of or deducted from the estate at any time after the administration or management of the estate has been committed to the Company.

(2) In respect of any portion of the estate that has not been realized the Company shall not be entitled to retain or be paid commission over and above the amount of commission calculated

on the value of that portion at the time the administration or management of the estate was committed to the Company and the amount of commission so retained or paid shall be adjusted when that portion of the estate has been realized or distributed, transferred or appropriated *in specie* to beneficiaries.

(3) The commission shall be calculated at the rate chargeable at the time when the commission becomes payable.

20b. Where in the administration or management of any estate granted or committed to the Company after the commencement of this Act, the Company is authorized to carry on any business or undertaking which belongs wholly to the estate, or in which the estate has an interest as partner, the Company whether acting solely or jointly with any person, may (in lieu of the commission on income received as hereinbefore mentioned) in respect of each year of the carrying on of such business or undertaking either alone or in partnership (a "year" for this purpose being the period of twelve calendar months adopted as the annual accounting period of the estate concerned) charge and be paid such salary or remuneration as the Court (on the application of the Company) thinks fit for its pains and trouble in carrying on or joining in carrying on that business or undertaking or partnership.

Enactment of ss 25a and 25b of principal Act.

30. The following sections are enacted and inserted in the principal Act immediately after section 25 thereof:—

Common funds.

25a. (1) Without limiting the generality or effect of section 25 of this Act, the Company may establish and keep in its books one or more funds each to be called a common fund and, if more than one, with an appropriate distinguishing number.

(2) A common fund established or kept in the books of the Company shall be invested in such class or classes of investments as is determined by the Company prior to the establishment of the fund and a separate class or separate classes of investments may be adopted for separate common funds.

(3) The Company may in its discretion invest any moneys in its hands either—

(*a*) on the separate account of the estate, trust, property or person to which or to whom the moneys belong;

or

(*b*) if the moneys are not directed to be invested in some other specified manner and investment in a common fund is not inconsistent with the terms of the trust instrument (if any) governing the moneys, as part

of a common fund established and kept in the books of the Company the investment of which is limited to such class or classes of investments as the moneys might lawfully be invested in on the separate account of the estate, trust, property or person to which or to whom the moneys belong.

(4) Moneys in the hands of the Company (whether forming part of a common fund or not) may be invested—

(*a*) in any manner in which trust moneys may be invested by a trustee under any Act;

or

(*b*) on interest bearing deposit with the Savings Bank of South Australia or any bank or savings bank duly authorized under a law of the Commonwealth relating to banking to carry on business in South Australia.

(5) Investments made from moneys forming part of a common fund shall not be made in the name or on account of, nor shall they belong to, any particular estate, trust, property or person, but the Company shall keep an account in its books showing at all times the current amount for the time being at credit in the common fund on account of each estate, trust, property or person.

(6) The Company may sell investments belonging to a common fund and may withdraw any of the moneys belonging to a common fund for any purpose of or relating to the exercise and discharge of its powers, authorities, duties and functions.

(7) The Company may at any time withdraw from a common fund any amount at credit in the common fund on account of any estate, trust, property or person and invest such amount on the separate account of that estate, trust, property or person.

(8) Amounts withdrawn under subsection (7) of this section from a common fund shall, as from the date of the withdrawal, cease to have any claim for income or otherwise from the common fund.

(9) Any profits or losses upon realization of any investment in a common fund shall be credited or debited (as the case may require) to the common fund and be received or borne proportionately by the several amounts invested in the common fund at the time of the realization.

(10) As on the first day of every month the Company shall determine the value of the investments in each common fund on that day.

(11) For the purposes of a valuation under subsection (10) of this section, in respect of investments listed on a Stock Exchange the quotations published by that Stock Exchange on the first day of the month in question are conclusive evidence of value and if there are no such quotations on that day, the valuation of a member of The Stock Exchange of Adelaide Limited is conclusive evidence of value but where at any time any of the investments is listed on more than one Stock Exchange the Company shall from time to time nominate the Stock Exchange the quotations of which shall be used in relation to the investment for the purposes of this subsection.

(12) Investments in and withdrawals from a common fund shall, during any month, be effected on the basis of the valuation made pursuant to subsection (10) of this section as on the first day of that month.

(13) The Company shall pay or allocate the income arising from a common fund proportionately to or among the estates, trusts, properties or persons entitled to the income arising from the capital sums invested in the common fund according to the several sums so invested and the periods for which they remain so invested.

(14) Where the Company is appointed and acts jointly with any other person as executor or administrator or as the holder of any of the offices mentioned in section 5 of this Act—

(*a*) the Company may, with the consent in writing of such other person, exercise and discharge, in relation to any of the property jointly held or controlled all or any of the powers, authorities, duties and functions conferred or imposed by this section which the Company, if acting alone, would have had or might have exercised or discharged;

(*b*) all moneys under the control of the Company and such other person jointly may, with the consent in writing of such other person, be dealt with by the Company alone in the same manner as moneys under the control of the Company alone;

and

(*c*) the person acting jointly with the Company shall be exonerated from any liability which, but for this paragraph, might have arisen in consequence of the exercise of the powers conferred by this subsection.

Division V of Part IV of Companies Act not to apply to certain funds kept in books of Company.

25b. Division V of Part IV of the Companies Act, 1962, as amended, does not apply and shall be deemed never to have applied to any fund established in the books of the Company before the commencement of the Statutes Amendment (Executor Companies) Act, 1971-1972, or to any common fund established or kept in the books of the Company, whether before or after such commencement, or to any interest in such fund.

Amendment of principal Act, s. 26—Declaration by manager.

31. Section 26 of the principal Act is amended—

(*a*) by striking out the passage "or other authorized officer"; and

(*b*) by striking out the passage "One shilling" and inserting in lieu thereof the passage "ten cents".

Amendment of principal Act, s. 28—Notice of winding-up estate.

32. Section 28 of the principal Act is amended by striking out the passage "Six Pence" and inserting in lieu thereof the passage "five cents".

Amendment of principal Act, s. 31—Yearly dividends and bonuses not to exceed ten per centum per annum on paid up capital unless reserve fund amounts to $100,000.

33. Section 31 of the principal Act is amended by striking out the passage "Fifty Thousand Pounds sterling" wherever it occurs and inserting in lieu thereof in each case the passage "$100,000".

Enactment of ss. 33 to 35 of principal Act.

34. The following sections are enacted and inserted in the principal Act immediately after section 32 thereof:—

Power of the Company acting in representative capacity to hold its own shares, etc.

33. (1) The Company acting in any representative capacity may, unless expressly prohibited by or under the terms of the instrument (if any) creating the trust or constituting such capacity, and notwithstanding any other Act or law, hold in its own name alone or jointly with any other person any stock, shares, debentures, notes or other securities of or issued by the Company where any such securities form part of any estate committed to the administration or management of the Company.

(2) The power conferred by this section is in addition to and not in restriction of any other powers conferred on the Company by this Act or by the instrument (if any) creating the trust or conferred on any trustee by any Act or otherwise howsoever.

Certificate by the Company as to its legal status in any matter.

34. (1) Where the Company is executor or administrator of or is by law authorized to administer the estate of any deceased person, a certificate by the Company under the seal of the Company certifying the name, residence and occupation of the deceased person at the time of his death, and the date of

his death, and certifying that the Company has obtained a grant of probate or letters of administration or is otherwise authorized to administer the estate and stating the date when the probate or letters of administration was granted and the reference number thereof or the manner in which and the time at which the Company became authorized to administer, which certificate is accompanied by a photographic copy of the probate, letters of administration with or without the will annexed or other order or document of appointment, may, notwithstanding any Act or law to the contrary, and without any other proof, be accepted by all courts, officers and persons, whether acting under any Act or not, as sufficient evidence of the respective matters so certified or stated.

(2) Where the Company is acting as executor, administrator, trustee, receiver, committee, manager, guardian, or in any other capacity, a certificate by the Company under the seal of the Company certifying that the Company is authorized to act as such executor, administrator, trustee, receiver, committee, manager, guardian, or in such other capacity, and stating the manner in which and the time at which it became so authorized to act, which certificate is accompanied by a photographic copy of the trust instrument or other order or document of appointment, may, notwithstanding any Act or law to the contrary, and without any other proof, be accepted by all courts, officers and persons, whether acting under any Act or not, as sufficient evidence of the respective matters so certified or stated.

(3) Such certificate together with the production of the relevant photographic copy shall be sufficient for the purpose of The Real Property Act, 1886, as amended, or of registering the Company as proprietor of any shares, stock, or property in any company, corporation, body or association.

(4) Such certificate together with the production of the relevant photographic copy shall be equivalent for registration purposes to the probate, letters of administration with or without the will annexed, trust instrument or other order or document of appointment, as the case may be.

Exercise of powers conferred by Statutes Amendment (Executor Companies) Act, 1971-1972.

35. (1) The powers conferred upon the Company by virtue of the provisions of the Statutes Amendment (Executor Companies) Act, 1971-1972, may be exercised in relation to an estate, trust or property whether or not the estate, trust or property was constituted or created or was committed to the administration or management of the Company before or after the commencement of that Act and whether or not the instrument (if any) governing the estate, trust or property was made before or after the commencement of that Act.

(2) The powers referred to in subsection (1) of this section may also be exercised by the Company and any person holding office in any representative capacity jointly with the Company.

Repeal of first and second schedules of principal Act and enactment of new schedules in their place.

35. The first schedule and the second schedule to the principal Act are repealed and the following schedules are enacted and inserted n their places respectively:—

FIRST SCHEDULE

.....LIMITED

I, , Manager (*or as the case may be*),

of

do solemnly and sincerely declare—

1. That the liability of the members is limited.

2. That the capital of the company is divided into shares of each.

3. That the number of shares issued is

4. That calls to the amount of per share have been made, under which the sum of has been received.

5. That the liabilities of the company on the 1st day of April (*or October*) last were: Debts owing by the company to sundry persons, viz:

A. On judgment,	$
B. On specialty,	$
C. On notes or bills,	$
D. On simple contracts,	$
E. On estimated liabilities,	$
Total liabilities	$

6. That the assets of the company on that day were:—

A. Government Securities,	$
B. Loans on Mortgage,	$
C. Bills of Exchange and Promissory Notes,	$
D. Cash at Bankers,	$
E. Other Property,	$
Total assets	$

And I make this solemn declaration, conscientiously believing the same to b true and by virtue of the provisions of the Oaths Act, 1936.

DECLARED before me at this
day of 19

SECOND SCHEDULE

AUDITORS REPORT

We have examined the annexed (or above) balance-sheet, made up to the day of 19 , and report as follows:—

1. That as regards the accounts of the Company we have separately reported thereon in the manner prescribed by the Companies Act, 1962, as amended;

and

2. That we have made inquiries as to the internal control in relation to Trust Accounts of estates committed to the administration or management of the Company and in our opinion the internal control of the Company is adequate and effective.

Adelaide this day of , 19 .

Auditors.

PART IV

PART IV

AMENDMENT OF EXECUTORS COMPANY'S ACT, 1885, AND EXECUTORS COMPANY'S AMENDMENT ACT, 1900, AS AMENDED

Definition of "principal Act".

36. In this Part the Executors Company's Act, 1885, as amended by section 5 of the Executors Company's Amendment Act, 1900, and by the Executors Company's Amendment Act, 1915, is referred to as "the principal Act".

Citation.

37. The Executors Company's Act, 1885, as amended—

(*a*) by section 5 of the Executors Company's Amendment Act, 1900;

(*b*) by the Executors Company's Amendment Act, 1915;

and

(*c*) by this Act,

and the Executors Company's Amendment Act, 1900, may together be cited as the "Executors Company's Act, 1885-1972".

Enactment of s. 1a of principal Act.

38. The following section is enacted and inserted in the principal Act immediately after section 1 thereof:—

Interpretation.

1a. (1) In this Act, unless the contrary intention appears—

"administrator" means administrator to whom letters of administration have been granted:

"estate" includes all real and personal property of whatever nature or kind committed to the administration or management of the Company:

"letters of administration" means letters of administration with or without the will annexed:

"officer", in relation to the Company, means the manager or the managing director, general manager, acting or assistant general manager, State manager, assistant manager or secretary of the Company and, for the purposes of this Act, includes any other employee of the Company for the time being designated as such by the board of directors of the Company:

"Registrar" means the Registrar of Probates and includes an acting or deputy Registrar of Probates:

"the Company" means Executor, Trustee, and Agency Company of South Australia, Limited:

"the Court" means the Supreme Court of South Australia or a judge:

"the manager" means the manager or acting manager for the time being of the Company and, where there is no manager or acting manager, includes an officer for the time being of the Company:

"will" includes codicil.

(2) The powers conferred on the Company by this Act are in addition to and not in derogation of any powers conferred on the Company or on executors, administrators, trustees, receivers, committees, managers, guardians, guarantors or sureties or attorneys by any other Act.

Amendment of principal Act, s. 3—
Company may obtain letters of administration and act as administrators.

39. Section 3 of the principal Act is amended by inserting after the word "with" the passage "or without".

Repeal of s. 4 of principal Act and enactment of section in its place.

40. Section 4 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Court may receive and act upon affidavit of officer of the Company.

4. In any case in which the Company has power under this Act to apply for probate or for letters of administration, the Court or the Registrar may receive and act upon an affidavit made by an officer of the Company in place of any affidavit required by the Court or under any law to be made by persons making application for probate or for letters of administration.

Amendment of principal Act, s. 9—
Officer may attend on behalf of Company and directors, and manager shall be personally responsible to Court.

41. Section 9 of the principal Act is amended—

(*a*) by striking out the passage "the manager" firstly occurring and inserting in lieu thereof the passage "an officer";

(*b*) by striking out the passage "the manager" secondly occurring and inserting in lieu thereof the passage "an officer of the Company";

and

(*c*) by striking out the passage "the manager" thirdly occurring and inserting in lieu thereof the passage "an officer".

Repeal of s. 10 of principal Act and enactment of sections in its place.

42. Section 10 of the principal Act is repealed and the following sections are enacted and inserted in its place:—

Commission chargeable by the Company.

10. (1) Subject to this Act, in respect of every estate which is or has been committed to the administration or management of the Company, whether as executor, administrator, trustee,

receiver, committee, manager, guardian, or in any other capacity, the Company shall be entitled to receive, in addition to all moneys properly expended by the Company and chargeable against the estate, a commission at a rate to be fixed from time to time by the board of directors of the Company but not in any case exceeding—

(*a*) five dollars for every one hundred dollars of the capital value of the estate;

and

(*b*) five dollars for every one hundred dollars of the income received by the Company on account of the estate.

(2) Except as otherwise provided by this Act—

(*a*) the commission shall be accepted by the Company in full satisfaction of any claim to remuneration for acting as such executor, administrator, trustee, receiver, committee, manager, guardian, or in such other capacity, as the case may be;

and

(*b*) no other charges beyond such commission and moneys so expended by the Company shall be made or allowed.

(3) Where the Court is of opinion that the rate or amount of commission charged in respect of any estate is excessive, the Court may, on the application of any person interested in the estate, review the rate or amount of commission and may, on such review, reduce the rate or amount of commission.

(4) The rate of the commission charged by the Company against any estate shall not exceed that set out in the published scale of charges of the Company at the time when the commission became payable.

(5) In the case of income received in respect of any perpetual trust committed to the Company (whether before or after the commencement of the Statutes Amendment (Executor Companies) Act, 1971-1972 the scale of charges published from time to time by the Company as being applicable to income of trust estates is applicable to the income received in respect of the trust while that published scale of charges is current.

(6) Nothing in this section shall prevent—

(*a*) the payment with the approval of the Court of any commission which a testator in his will or a settlor has directed to be paid;

or

(*b*) the payment with the approval of the Court of any commission or fee which has been agreed upon between the Company and the parties interested therein,

either in addition to or in lieu of any other commission provided for by this section.

(7) In this section, the expression "capital value" means the gross amount realized for the assets real and personal of the estate in question, without deduction in respect of debts or liabilities secured or unsecured and for this purpose—

(*a*) the gross amount realized for assets—

(i) specifically devised or bequeathed without any intervening life interest or other intervening interest or condition that would have the effect of postponing the distribution thereof for a period of over twenty-four months after the vesting thereof in possession in the beneficiary;

or

(ii) distributed, transferred or appropriated to beneficiaries *in specie*, whether by or as a result of agreement between beneficiaries or otherwise, where such distribution, transfer or appropriation occurs within twenty-four months after the vesting thereof in possession in the beneficiary,

is the amount at which the same are valued and accepted for purposes of succession duty or any other duty (in substitution therefor) levied under any Act or, where such duty is not applicable, shall be the value as at the date of distribution, transfer or appropriation, as the case may be, put upon such assets for the purposes of such distribution, transfer or appropriation or, in so far as no such value has been put upon the same for such purpose, the value of such assets at that date as fixed by the valuation of a valuer appointed for that purpose by the Company;

and

(*b*) the gross amount realized for assets—

(i) specifically devised or bequeathed subject to an intervening life interest or other intervening interest or condition that would have the effect of postponing the distribution thereof for a period of over twenty-four months after the vesting thereof in possession in the beneficiary;

or

(ii) distributed, transferred or appropriated to beneficiaries *in specie*, whether by or as a result of agreement between beneficiaries or otherwise, where such distribution, transfer or appropriation occurs after a period of twenty-four months after the vesting thereof in possession in the beneficiary,

is the value as at the date of the distribution, transfer or appropriation, as the case may be, put upon such assets for the purposes of such distribution, transfer or appropriation or, in so far as no such value has been put upon the same for such purpose, the value of such assets at that date as fixed by the valuation of a valuer appointed for that purpose by the Company.

(8) The commission which the Company is entitled to receive under this section shall not in any way be affected or diminished by the fact that any other person may, or may not, be entitled to, or be allowed, commission or other remuneration in respect of the same estate or any part thereof.

When commission payable.

10a. (1) Subject to subsection (2) of this section, any commission which the Company is entitled to receive in respect of the capital value of an estate, the administration or management of which is committed to it on or after the date of the commencement of the Statutes Amendment (Executor Companies) Act, 1971-1972, may be paid out of or deducted from the estate at any time after the administration or management of the estate has been committed to the Company.

(2) In respect of any portion of the estate that has not been realized the Company shall not be entitled to retain or be paid commission over and above the amount of commission

calculated on the value of that portion at the time the administration or management of the estate was committed to the Company and the amount of commission so retained or paid shall be adjusted when that portion of the estate has been realized or distributed, transferred or appropriated *in specie* to beneficiaries.

(3) The commission shall be calculated at the rate chargeable at the time when the commission becomes payable.

Additional fee for carrying on business.

10b. Where in the administration or management of any estate granted or committed to the Company after the commencement of this Act, the Company is authorized to carry on any business or undertaking which belongs wholly to the estate, or in which the estate has an interest as partner, the Company whether acting solely or jointly with any person, may (in lieu of the commission on income received as hereinbefore mentioned) in respect of each year of the carrying on of such business or undertaking either alone or in partnership (a "year" for this purpose being the period of twelve calendar months adopted as the annual accounting period of the estate concerned) charge and be paid such salary or remuneration as the Court (on the application of the Company) thinks fit for its pains and trouble in carrying on or joining in carrying on that business or undertaking or partnership.

Enactment of ss. 16a and 16b of principal Act.

43. The following sections are enacted and inserted in the principal Act immediately after section 16 thereof:—

Common funds.

16a. (1) Without limiting the generality or effect of section 16 of this Act, the Company may establish and keep in its books one or more funds each to be called a common fund and, if more than one, with an appropriate distinguishing number.

(2) A common fund established or kept in the books of the Company shall be invested in such class or classes of investments as is determined by the Company prior to the establishment of the fund and a separate class or separate classes of investments may be adopted for separate common funds.

(3) The Company may in its discretion invest any moneys in its hands either—

(*a*) on the separate account of the estate, trust, property or person to which or to whom the moneys belong;

or

(*b*) if the moneys are not directed to be invested in some other specified manner and investment in a common fund is not inconsistent with the terms of the trust

instrument (if any) governing the moneys, as part of a common fund established and kept in the books of the Company the investment of which is limited to such class or classes of investments as the moneys might lawfully be invested in on the separate account of the estate, trust, property or person to which or to whom the moneys belong.

(4) Moneys in the hands of the Company (whether forming part of a common fund or not) may be invested—

(*a*) in any manner in which trust moneys may be invested by a trustee under any Act;

or

(*b*) on interest bearing deposit with the Savings Bank of South Australia or any bank or savings bank duly authorized under a law of the Commonwealth relating to banking to carry on business in South Australia.

(5) Investments made from moneys forming part of a common fund shall not be made in the name or on account of, nor shall they belong to, any particular estate, trust, property or person, but the Company shall keep an account in its books showing at all times the current amount for the time being at credit in the common fund on account of each estate, trust, property or person.

(6) The Company may sell investments belonging to a common fund and may withdraw any of the moneys belonging to a common fund for any purpose of or relating to the exercise and discharge of its powers, authorities, duties and functions.

(7) The Company may at any time withdraw from a common fund any amount at credit in the common fund on account of any estate, trust, property or person and invest such amount on the separate account of that estate, trust, property or person.

(8) Amounts withdrawn under subsection (7) of this section from a common fund shall, as from the date of the withdrawal, cease to have any claim for income or otherwise from the common fund.

(9) Any profits or losses upon realization of any investment in a common fund shall be credited or debited (as the case may require) to the common fund and be received or borne proportionately by the several amounts invested in the common fund at the time of the realization.

(10) As on the first day of every month the Company shall determine the value of the investments in each common fund on that day.

(11) For the purposes of a valuation under subsection (10) of this section, in respect of investments listed on a Stock Exchange the quotations published by that Stock Exchange on the first day of the month in question are conclusive evidence of value and if there are no such quotations on that day, the valuation of a member of The Stock Exchange of Adelaide Limited is conclusive evidence of value but where at any time any of the investments is listed on more than one Stock Exchange the Company shall from time to time nominate the Stock Exchange the quotations of which shall be used in relation to the investment for the purposes of this subsection.

(12) Investments in and withdrawals from a common fund shall, during any month, be effected on the basis of the valuation made pursuant to subsection (10) of this section as on the first day of that month.

(13) The Company shall pay or allocate the income arising from a common fund proportionately to or among the estates, trusts, properties or persons entitled to the income arising from the capital sums invested in the common fund according to the several sums so invested and the periods for which they remain so invested.

(14) Where the Company is appointed and acts jointly with any other person as executor or administrator or as the holder of any of the offices mentioned in section 6 of this Act—

(*a*) the Company may, with the consent in writing of such other person, exercise and discharge, in relation to any of the property jointly held or controlled all or any of the powers, authorities, duties and functions conferred or imposed by this section which the Company, if acting alone, would have had or might have exercised or discharged;

(*b*) all moneys under the control of the Company and such other person jointly may, with the consent in writing of such other person, be dealt with by the Company alone in the same manner as moneys under the control of the Company alone;

and

(*c*) the person acting jointly with the Company shall be exonerated from any liability which, but for this paragraph, might have arisen in consequence of the exercise of the powers conferred by this sub-section.

Division V of Part IV of Companies Act not to apply to certain funds kept in books of Company.

16b. Division V of Part IV of the Companies Act, 1962, as amended, does not apply and shall be deemed never to have applied to any fund established in the books of the Company before the commencement of the Statutes Amendment (Executor Companies) Act, 1971-1972, or to any common fund established or kept in the books of the Company, whether before or af er such commencement, or to any interest in such fund.

Amendment of principal Act, s. 17—

Declaration by manager.

44. Section 17 of the principal Act is amended—

(*a*) by striking out the passage "or other authorized officer"; and

(*b*) by striking out the passage "One Shilling" and inserting in lieu thereof the passage "ten cents".

Amendment of principal Act, s. 19—

Notice of winding-up estate.

45. Section 19 of the principal Act is amended by striking out the word "Sixpence" and inserting in lieu thereof the passage "five cents".

Enactment of ss. 19a to 19c of principal Act.

46. The following sections are enacted and inserted in the principal Act immediately after section 19 thereof:—

Power of the Company acting in representative capacity to hold its own shares, etc.

19a. (1) The Company acting in any representative capacity may, unless expressly prohibited by or under the terms of the instrument (if any) creating the trust or constituting such capacity, and notwithstanding any other Act or law, hold in its own name alone or jointly with any other person any stock, shares, debentures, notes or other securities of or issued by the Company where any such securities form part of any estate committed to the administration or management of the Company.

(2) The power conferred by this section is in addition to and not in restriction of any other powers conferred on the Company by this Act or by the instrument (if any) creating the trust or conferred on any trustee by any Act or otherwise howsoever.

Certificate by the Company as to its legal status in any matter.

19b. (1) Where the Company is executor or administrator of or is by law authorized to administer the estate of any deceased person, a certificate by the Company under the seal of the Company certifying the name, residence and occupation of the deceased person at the time of his death, and the date

of his death, and certifying that the Company has obtained a grant of probate or letters of administration or is otherwise authorized to administer the estate and stating the date when the probate or letters of administration was granted and the reference number thereof or the manner in which and the time at which the Company became authorized to administer, which certificate is accompanied by a photographic copy of the probate, letters of administration with or without the will annexed or other order or document of appointment, may, notwithstanding any Act or law to the contrary, and without any other proof, be accepted by all courts, officers and persons, whether acting under any Act or not, as sufficient evidence of the respective matters so certified or stated.

(2) Where the Company is acting as executor, administrator, trustee, receiver, committee, manager, guardian, or in any other capacity, a certificate by the Company under the seal of the Company certifying that the Company is authorized to act as such executor, administrator, trustee, receiver, committee, manager, guardian, or in such other capacity, and stating the manner in which and the time at which it became so authorized to act, which certificate is accompanied by a photographic copy of the trust instrument or other order or document of appointment, may, notwithstanding any Act or law to the contrary, and without any other proof, be accepted by all courts, officers and persons, whether acting under any Act or not, as sufficient evidence of the respective matters so certified or stated.

(3) Such certificate together with the production of the relevant photographic copy shall be sufficient for the purpose of The Real Property Act, 1886, as amended, or of registering the Company as proprietor of any shares, stock, or property in any company, corporation, body or association.

(4) Such certificate together with the production of the relevant photographic copy shall be equivalent for registration purposes to the probate, letters of administration with or without the will annexed, trust instrument or other order or document of appointment, as the case may be.

Exercise of powers conferred by Statutes Amendment (Executor Companies) Act 1971-1972.

19c. (1) The powers conferred upon the Company by virtue of the provisions of the Statutes Amendment (Executor Companies) Act, 1971-1972, may be exercised in relation to an estate, trust or property whether or not the estate, trust or property was constituted or created or was committed to the administration or management of the Company before or after the commencement of that Act and whether or not the instrument (if any) governing the estate, trust or property was made before or after the commencement of that Act.

(2) The powers referred to in subsection (1) of this section may also be exercised by the Company and any person holding office in any representative capacity jointly with the Company.

Repeal of first and second schedules of principal Act and enactment of new schedules in their place.

47. The first schedule and the second schedule to the principal Act are repealed and the following schedules are enacted and inserted in their places respectively:

FIRST SCHEDULE

.....LIMITED

I, , Manager (*or as the case may be*),

of

do solemnly and sincerely declare—

1. That the liability of the members is limited.

2. That the capital of the company is divided into shares of each.

3. That the number of shares issued is

4. That calls to the amount of per share have been made, under which the sum of has been received.

5. That the liabilities of the company on the 1st day of April (*or October*) last were: Debts owing by the company to sundry persons, viz:

A. On judgment,	$
B. On specialty,	$
C. On notes or bills,	$
D. On simple contracts,	$
E. On estimated liabilities,	$
Total liabilities	$

6. That the assets of the company on that day were:—

A. Government Securities,	$
B. Loans on Mortgage,	$
C. Bills of Exchange and Promissory Notes,	$
D. Cash at Bankers,	$
E. Other Property,	$
Total assets	$

And I make this solemn declaration, conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act, 1936.

DECLARED before me at this day of 19

SECOND SCHEDULE

AUDITORS REPORT

We have examined the annexed (or above) balance-sheet, made up to the day of 19 , and report as follows:—

1. That as regards the accounts of the Company we have separately reported thereon in the manner prescribed by the Companies Act, 1962, as amended;

and

2. That we have made inquiries as to the internal control in relation to Trust Accounts of estates committed to the administration or management of the Company and in our opinion the internal control of the Company is adequate and effective.

Adelaide this day of , 19

Auditors.

48. Section 3 of the Executors Company's Amendment Act, 1900, is amended by striking out the word "twenty-one" and inserting in lieu thereof the word "eighteen".

Amendment of s. 3 of Executors Company's Amendment Act, 1900—

Persons entitled to probate or letters of administration may authorize Company to obtain administration

49. Section 9 of the Executors Company's Amendment Act, 1900, as amended by the Executors Company's Amendment Act, 1915, is further amended by inserting after the word "property" lastly occurring the passage "or interest in property".

Amendment o s. 9 of Executors Company's Amendment Act, 1900—

Company may act jointly.

50. Section 10 of the Executors Company's Amendment Act, 1900, is amended by striking out the word "twenty-one" and inserting in lieu thereof the word "eighteen".

Amendment o s. 10 of Executors Company's Amendment Act, 1900—

Company may be appointed to act solely in the place of retiring trustees

51. Section 11 of the Executors Company's Amendment Act, 1900, is amended by striking out the passage "Fifty Thousand Pounds sterling" wherever it occurs and inserting in lieu thereof the passage "$100,000".

Amendment of s. 11 of Executors Company's Amendment Act, 1900—

Yearly dividends etc., not to exceed 10 per cent per annum on paid up capital unless reserve fund amounts to $100,000.

PART V

PART V

AMENDMENT OF FARMERS' CO-OPERATIVE EXECUTORS ACT, 1919

Definition of "principal Act."

52. In this Part the Farmers' Co-operative Executors Act, 1919, is referred to as "the principal Act".

Citation.

53. The Farmers' Co-operative Executors Act, 1919, as amended by this Act, may be cited as the "Farmers' Co-operative Executors Act, 1919-1972".

Repeal of s. 2 of principal Act and enactment of section in its place.

54. Section 2 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Interpretation.

2. (1) In this Act, unless the contrary intention appears—

"administrator" means administrator to whom letters of administration have been granted:

"estate" includes all real and personal property of whatever nature or kind committed to the administration or management of the Company:

"letters of administration" means letters of administration with or without the will annexed:

"officer", in relation to the Company, means the manager or the managing director, general manager, acting or assistant general manager, State manager, assistant manager or secretary of the Company and, for the purposes of this Act, includes any other employee of the Company for the time being designated as such by the board of directors of the Company:

"Registrar" means the Registrar of Probates and includes an acting or deputy Registrar of Probates:

"the Company" means Farmers' Co-operative Executors and Trustees, Limited:

"the Court" means the Supreme Court of South Australia or a judge:

"the manager" means the manager or acting manager for the time being of the Company and, where there is no manager or acting manager, includes an officer for the time being of the Company:

"will" includes codicil.

(2) The powers conferred on the Company by this Act are in addition to and not in derogation of any powers conferred on the Company or on executors, administrators, trustees, receivers, committees, managers, guardians, guarantors or sureties or attorneys by any other Act.

Amendment of principal Act, s. 6—

55. Section 6 of the principal Act is amended by striking out the word "twenty-one" and inserting in lieu thereof the word "eighteen".

Persons entitled to probate or letters of administration may authorize Company to obtain administration.

Amendment of principal Act, s. 10—

56. Section 10 of the principal Act is amended by inserting after the word "property" lastly occurring the passage "or interest in property".

Company may act jointly.

Amendment of principal Act, s. 11—

57. Section 11 of the principal Act is amended by striking out the word "twenty-one" and inserting in lieu thereof the word "eighteen".

Company may be appointed to act solely in the place of retiring trustees.

Repeal of s. 14 of principal Act and enactment of section in its place.

58. Section 14 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Court to act upon affidavit of officer of the Company in application for probate or administration.

14. In any case in which the Company has power under this Act to apply for probate or for letters of administration, the Court or the Registrar may receive and act upon an affidavit made by an officer of the Company in place of any affidavit required by the Court or under any law to be made by persons making application for probate or for letters of administration.

Amendment of principal Act, s. 15—

59. Section 15 of the principal Act is amended—

Directors and manager responsible to Court.

(*a*) by striking out the passage "the manager" firstly occurring and inserting in lieu thereof the passage "an officer";

(*b*) by striking out the passage "the manager" secondly occurring and inserting in lieu thereof the passage "an officer of the Company";

and

(*c*) by striking out the passage "the manager" thirdly occurring and inserting in lieu thereof the passage "an officer".

Repeal of s. 20 of principal Act and enactment of sections in its place.

60. Section 20 of the principal Act is repealed and the following sections are enacted and inserted in its place:—

Commission chargeable by the Company.

20. (1) Subject to this Act, in respect of every estate which is or has been committed to the administration or management of the Company, whether as executor, administrator, trustee, receiver, committee, manager, guardian, or in any other capacity, the Company shall be entitled to receive, in addition to all moneys properly expended by the Company and chargeable against the estate, a commission at a rate to be fixed from time to time by the board of directors of the Company but not in any case exceeding—

(*a*) five dollars for every one hundred dollars of the capital value of the estate;

and

(*b*) five dollars for every one hundred dollars of the income received by the Company on account of the estate.

(2) Except as otherwise provided by this Act—

(*a*) the commission shall be accepted by the Company in full satisfaction of any claim to remuneration for acting as such executor, administrator, trustee, receiver, committee, manager, guardian, or in such other capacity, as the case may be;

and

(*b*) no other charges beyond such commission and moneys so expended by the Company shall be made or allowed.

(3) Where the Court is of opinion that the rate or amount of commission charged in respect of any estate is excessive, the Court may, on the application of any person interested in the estate, review the rate or amount of commission and may, on such review, reduce the rate or amount of commission.

(4) The rate of the commission charged by the Company against any estate shall not exceed that set out in the published scale of charges of the Company at the time when the commission became payable.

(5) In the case of income received in respect of any perpetual trust committed to the Company (whether before or after the commencement of the Statutes Amendment (Executor Companies Act, 1971-1972) the scale of charges published from time

to time by the Company as being applicable to income of trust estates is applicable to the income received in respect of the trust while that published scale of charges is current.

(6) Nothing in this section shall prevent—

(*a*) the payment with the approval of the Court of any commission which a testator in his will or a settlor has directed to be paid;

or

(*b*) the payment with the approval of the Court of any commission or fee which has been agreed upon between the Company and the parties interested therein,

either in addition to or in lieu of any other commission provided for by this section.

(7) In this section, the expression "capital value" means the gross amount realized for the assets real and personal of the estate in question, without deduction in respect of debts or liabilities secured or unsecured and for this purpose—

(*a*) the gross amount realized for assets—

(i) specifically devised or bequeathed without any intervening life interest or other intervening interest or condition that would have the effect of postponing the distribution thereof for a period of over twenty-four months;

or

(ii) distributed, transferred or appropriated to beneficiaries *in specie*, whether by or as a result of agreement between beneficiaries or otherwise, where such distribution, transfer or appropriation occurs within twenty-four months after the vesting thereof in possession in the beneficiary,

is the amount at which the same are valued and accepted for purposes of succession duty or any other duty (in substitution therefor) levied under any Act or, where such duty is not applicable, shall be the value as at the date of distribution, transfer or appropriation, as the case may be, put upon such assets for the purposes of such distribution, transfer or appropriation or, in so far as no such value has been put upon the same for such purpose, the

value of such assets at that date as fixed by the valuation of a valuer appointed for that purpose by the Company;

and

(*b*) the gross amount realized for assets—

(i) specifically devised or bequeathed subject to an intervening life interest or other intervening interest or condition that would have the effect of postponing the distribution thereof for a period of over twenty-four months;

or

(ii) distributed, transferred or appropriated to beneficiaries *in specie*, whether by or as a result of agreement between beneficiaries or otherwise, where such distribution, transfer or appropriation occurs after a period of twenty-four months after the vesting thereof in possession in the beneficiary,

is the value as at the date of the distribution, transfer or appropriation, as the case may be, put upon such assets for the purposes of such distribution, transfer or appropriation or, in so far as no such value has been put upon the same for such purpose, the value of such assets at that date as fixed by the valuation of a valuer appointed for that purpose by the Company.

(8) The commission which the Company is entitled to receive under this section shall not in any way be affected or diminished by the fact that any other person may, or may not, be entitled to, or be allowed, commission or other remuneration in respect of the same estate or any part thereof.

When commission payable.

20a. (1) Subject to subsection (2) of this section, any commission which the Company is entitled to receive in respect of the capital value of an estate, the administration or management of which is committed to it on or after the date of the commencement of the Statutes Amendment (Executor Companies) Act, 1971-1972, may be paid out of or deducted from the estate at any time after the administration or management of the estate has been committed to the Company.

(2) In respect of any portion of the estate that has not been realized the Company shall not be entitled to retain or be paid commission over and above the amount of commission

calculated on the value of that portion at the time the administration or management of the estate was committed to the Company and the amount of commission so retained or paid shall be adjusted when that portion of the estate has been realized or distributed, transferred or appropriated *in specie* to beneficiaries.

(3) The commission shall be calculated at the rate chargeable at the time when the commission becomes payable.

Additional fee for carrying on business.

20b. Where in the administration or management of any estate granted or committed to the Company after the commencement of this Act, the Company is authorized to carry on any business or undertaking which belongs wholly to the estate, or in which the estate has an interest as partner, the Company whether acting solely or jointly with any person, may (in lieu of the commission on income received as hereinbefore mentioned) in respect of each year of the carrying on of such business or undertaking either alone or in partnership (a "year" for this purpose being the period of twelve calendar months adopted as the annual accounting period of the estate concerned) charge and be paid such salary or remuneration as the Court (on the application of the Company) thinks fit for its pains and trouble in carrying on or joining in carrying on that business or undertaking or partnership.

Enactment of ss. 25a and 25b of principal Act.

61. The following sections are enacted and inserted in the principal Act immediately after section 25 thereof:—

Common funds.

25a. (1) Without limiting the generality or effect of section 25 of this Act, the Company may establish and keep in its books one or more funds each to be called a common fund and, if more than one, with an appropriate distinguishing number.

(2) A common fund established or kept in the books of the Company shall be invested in such class or classes of investments as is determined by the Company prior to the establishment of the fund and a separate class or separate classes of investments may be adopted for separate common funds.

(3) The Company may in its discretion invest any moneys in its hands either—

(*a*) on the separate account of the estate, trust, property or person to which or to whom the moneys belong;

or

(*b*) if the moneys are not directed to be invested in some other specified manner and investment in a common fund is not inconsistent with the terms of the trust

instrument (if any) governing the moneys, as part of a common fund established and kept in the books of the Company the investment of which is limited to such class or classes of investments as the moneys might lawfully be invested in on the separate account of the estate, trust, property or person to which or to whom the moneys belong.

(4) Moneys in the hands of the Company (whether forming part of a common fund or not) may be invested—

(*a*) in any manner in which trust moneys may be invested by a trustee under any Act;

or

(*b*) on interest bearing deposit with the Savings Bank of South Australia or any bank or savings bank duly authorized under a law of the Commonwealth relating to banking to carry on business in South Australia.

(5) Investments made from moneys forming part of a common fund shall not be made in the name or on account of, nor shall they belong to, any particular estate, trust, property or person, but the Company shall keep an account in its books showing at all times the current amount for the time being at credit in the common fund on account of each estate, trust, property or person.

(6) The Company may sell investments belonging to a common fund and may withdraw any of the moneys belonging to a common fund for any purpose of or relating to the exercise and discharge of its powers, authorities, duties and functions.

(7) The Company may at any time withdraw from a common fund any amount at credit in the common fund on account of any estate, trust, property or person and invest such amount on the separate account of that estate, trust, property or person.

(8) Amounts withdrawn under subsection (7) of this section from a common fund shall, as from the date of the withdrawal, cease to have any claim for income or otherwise from the common fund.

(9) Any profits or losses upon realization of any investment in a common fund shall be credited or debited (as the case may require) to the common fund and be received or borne proportionately by the several amounts invested in the common fund at the time of the realization.

(10) As on the first day of every month the Company shall determine the value of the investments in each common fund on that day.

(11) For the purposes of a valuation under subsection (10) of this section, in respect of investments listed on a Stock Exchange the quotations published by that Stock Exchange on the first day of the month in question are conclusive evidence of value and if there are no such quotations on that day, the valuation of a member of The Stock Exchange of Adelaide Limited is conclusive evidence of value but where at any time any of the investments is listed on more than one Stock Exchange the Company shall from time to time nominate the Stock Exchange the quotations of which shall be used in relation to the investment for the purposes of this subsection.

(12) Investments in and withdrawals from a common fund shall, during any month, be effected on the basis of the valuation made pursuant to subsection (10) of this section as on the first day of that month.

(13) The Company shall pay or allocate the income arising from a common fund proportionately to or among the estates, trusts, properties or persons entitled to the income arising from the capital sums invested in the common fund according to the several sums so invested and the periods for which they remain so invested.

(14) Where the Company is appointed and acts jointly with any other person as executor or administrator or as the holder of any of the offices mentioned in section 5 of this Act—

(*a*) the Company may, with the consent in writing of such other person, exercise and discharge, in relation to any of the property jointly held or controlled all or any of the powers, authorities, duties and functions conferred or imposed by this section which the Company, if acting alone, would have had or might have exercised or discharged;

(*b*) all moneys under the control of the Company and such other person jointly may, with the consent in writing of such other person, be dealt with by the Company alone in the same manner as moneys under the control of the Company alone;

and

(*c*) the person acting jointly with the Company shall be exonerated from any liability which, but for this paragraph, might have arisen in consequence of the exercise of the powers conferred by this subsection.

Division V of Part IV of Companies Act not to apply to certain funds kept in books of Company.

25b. Division V of Part IV of the Companies Act, 1962, as amended, does not apply and shall be deemed never to have applied to any fund established in the books of the Company before the commencement of the Statutes Amendment (Executor Companies) Act, 1971-1972, or to any common fund established or kept in the books of the Company, whether before or after such commencement, or to any interest in such fund.

Amendment of principal Act, s. 26—Declaration by manager.

62. Section 26 of the principal Act is amended—

(*a*) by striking out the passage "or other authorized officer"; and

(*b*) by striking out the passage "One Shilling" and inserting in lieu thereof the passage "ten cents".

Amendment of principal Act s. 28—Notice of winding-up estate.

63. Section 28 of the principal Act is amended by striking out the passage "Six Pence" and inserting in lieu thereof the passage "five cents".

Enactment of ss. 28a and 28 of principal Act.

64. The following sections are enacted and inserted in the principal Act immediately after section 28 thereof:—

Power of the Company acting in representative capacity to hold its own shares, etc.

28a. (1) The Company acting in any representative capacity may, unless expressly prohibited by or under the terms of the instrument (if any) creating the trust or constituting such capacity, and notwithstanding any other Act or law, hold in its own name alone or jointly with any other person any stock, shares, debentures, notes or other securities of or issued by the Company where any such securities form part of any estate committed to the administration or management of the Company.

(2) The power conferred by this section is in addition to and not in restriction of any other powers conferred on the Company by this Act or by the instrument (if any) creating the trust or conferred on any trustee by any Act or otherwise howsoever.

Certificate by the Company as to its legal status in any matter.

28b. (1) Where the Company is executor or administrator of or is by law authorized to administer the estate of any deceased person, a certificate by the Company under the seal of the Company certifying the name, residence and occupation of the deceased person at the time of his death, and the date of his

death, and certifying that the Company has obtained a grant of probate or letters of administration or is otherwise authorized to administer the estate and stating the date when the probate or letters of administration was granted and the reference number thereof or the manner in which and the time at which the Company became authorized to administer, which certificate is accompanied by a photographic copy of the probate, letters of administration with or without the will annexed or other order or document of appointment, may, notwithstanding any Act or law to the contrary, and without any other proof, be accepted by all courts, officers and persons, whether acting under any Act or not, as sufficient evidence of the respective matters so certified or stated.

(2) Where the Company is acting as executor, administrator, trustee, receiver, committee, manager, guardian, or in any other capacity, a certificate by the Company under the seal of the Company certifying that the Company is authorized to act as such executor, administrator, trustee, receiver, committee, manager, guardian, or in such other capacity, and stating the manner in which and the time at which it became so authorized to act, which certificate is accompanied by a photographic copy of the trust instrument or other order or document of appointment, may, notwithstanding any Act or law to the contrary, and without any other proof, be accepted by all courts, officers and persons, whether acting under any Act or not, as sufficient evidence of the respective matters so certified or stated.

(3) Such certificate together with the production of the relevant photographic copy shall be sufficient for the purpose of The Real Property Act, 1886, as amended, or of registering the Company as proprietor of any shares, stock, or property in any company, corporation, body or association.

(4) Such certificate together with the production of the relevant photographic copy shall be equivalent for registration purposes to the probate, letters of administration with or without the will annexed, trust instrument or other order or document of appointment, as the case may be.

Enactment of s. 32 of principal Act.

65. The following section is enacted and inserted in the principal Act immediately after section 31 thereof:—

Exercise of powers conferred by Statutes Amendment (Executor Companies) Act, 1971-1972.

32. (1) The powers conferred upon the Company by virtue of the provisions of the Statutes Amendment (Executor Companies) Act, 1971-1972, may be exercised in relation to an estate, trust or property whether or not the estate, trust or property

was constituted or created or was committed to the administration or management of the Company before or after the commencement of that Act and whether or not the instrument (if any) governing the estate, trust or property was made before or after the commencement of that Act.

(2) The powers referred to in subsection (1) of this section may also be exercised by the Company and any person holding office in any representative capacity jointly with the Company.

Repeal of first and second schedules of principal Act and enactment of new schedules in their place.

66. The first schedule and the second schedule to the principal Act are repealed and the following schedules are enacted and inserted in their places respectively:—

FIRST SCHEDULE

.....LIMITED

I, , Manager (*or as the case may be*),

of

do solemnly and sincerely declare—

1. That the liability of the members is limited.

2. That the capital of the company is divided into shares of each.

3. That the number of shares issued is

4. That calls to the amount of per share have been made, under which the sum of has been received.

5. That the liabilities of the company on the 1st day of April (*or October*) last were: Debts owing by the company to sundry persons, viz:

A. On judgment,	$
B. On specialty,	$
C. On notes or bills,	$
D. On simple contracts,	$
E. On estimated liabilities,	$
Total liabilities	$

6. That the assets of the company on that day were:—

A. Government Securities,	$
B. Loans on Mortgage,	$
C. Bills of Exchange and Promissory Notes,	$
D. Cash at Bankers,	$
E. Other Property,	$
Total assets	$

And I make this solemn declaration, conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act, 1936.

DECLARED before me at
this
day of 19

SECOND SCHEDULE

AUDITORS REPORT

We have examined the annexed (or above) balance-sheet, made up to the day of 19 , and report as follows:—

1. That as regards the accounts of the Company we have separately reported thereon in the manner prescribed by the Companies Act, 1962, as amended;

and

2. That we have made inquiries as to the internal control in relation to Trust Accounts of estates committed to the administration or management of the Company and in our opinion the internal control of the Company is adequate and effective.

Adelaide this day of , 19 .

Auditors.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 10 of 1972

An Act to amend the Wills Act, 1936-1966.

[*Assented to 23rd March,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Wills Act Amendment Act, 1972".

(2) The Wills Act, 1936-1966, as amended by this Act, may be cited as the "Wills Act, 1936-1972".

(3) The Wills Act, 1936-1966, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 3—Interpretation.

3. Section 3 of the principal Act is amended by inserting after the definition of "real estate" the following definitions:—

"the Court" means the Supreme Court of South Australia:

"the Registrar" means the Registrar of Probates or a deputy Registrar of Probates:.

Repeal of s. 17 of principal Act and enactment of section in its place.

4. Section 17 of the principal Act is repealed and the following section is enacted and inserted in its place:—

17. (1) No will or testamentary provision therein shall be void by reason only of the fact that the execution of the will is attested by a person, or the spouse of a person, who has or may acquire, in terms of the will or provision, any interest in property subject thereto.

(2) Where the execution of a will has been so attested the following provisions shall apply:—

(*a*) any application for probate of the will, or letters of administration of the estate, of the deceased must be accompanied by an affidavit reciting the fact that the execution of the will has been so attested;

(*b*) the Registrar may require one or more of the attesting witnesses to furnish an affidavit or affidavits setting forth in detail the circumstances surrounding the execution and attestation of the will;

(*c*) the Registrar, if not completely satisfied of the due execution of the will may refer the matter to a Judge of the Court;

(*d*) the Court may—

(i) upon the reference of proceedings under paragraph (*c*) of this subsection;

or

(ii) upon application by any beneficiary under the will or a previous will of the deceased, or a person who would be interested in the estate of the deceased upon intestacy,

grant probate of the will of the deceased in solemn form, or make any other order that it is competent for the Court to make upon an application for proof of the will in solemn form.

(3) Any three or more Judges of the Supreme Court may, subject to, and in accordance with, the Supreme Court Act, 1935, as amended, make rules of Court regulating the practice and procedure of the Court in proceedings under this section.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 11 of 1972

An Act for the further appropriation of the revenue of the State for the financial year ending on the thirtieth day of June 1972, and for other purposes.

[*Assented to* 30*th March*, 1972]

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 "Appropriation Act (No. 1), 1972".

Further issue.

2. Out of the moneys paid to the State by the Commonwealth and any other General Revenue of the State, not otherwise by law specially appropriated, there may be further issued, in addition to all sums by any other Act authorized to be issued and applied for defraying the charges of the Government of the State for the financial year ending on the thirtieth day of June, 1972, any further sum or sums not exceeding in the aggregate one million seven hundred and forty-six thousand dollars.

Appropriation of General Revenue issued under this Act.

3. All moneys issued under this Act, not exceeding the aggregate amount referred to in section 2 of this Act, shall be applied and appropriated for the following purposes:—

	$
Treasurer—	
Miscellaneous	390,000
Minister of Works—	
Public Buildings Department	500,000
Minister of Education—	
Education Department	300,000
Minister of Agriculture and Minister of Forests—	
Agriculture Department	316,000
Miscellaneous	40,000
Minister of Social Welfare and Minister of Aboriginal Affairs—	
Department of Social Welfare and of Aboriginal Affairs	200,000
	$1,746,000

Treasurer to pay the orders of Governor and discharge by receipt of party.

4. The issue and payment by the Treasurer, from time to time, of any sums of money for the purposes hereinbefore mentioned, not exceeding in the aggregate the amount specified in section 2 of this Act, in such portions as the Governor directs by any orders in writing signed by him and countersigned by the Chief Secretary, is hereby authorized; and the Treasurer shall, in his accounts, be allowed credit for all sums paid by him in pursuance of such orders accordingly; and the receipts of the persons to whom such sums are so paid shall be to him a full discharge for the sums for which the receipts are given, and the amounts thereof shall be passed to his credit in account accordingly.

Power to issue money other than Revenue or money received from the Commonwealth.

5. If the moneys paid to the State by the Commonwealth and the General Revenue of the State are insufficient to make the payments authorized by section 3 of this Act, moneys may be issued to make good the deficiency out of loan funds or other public funds or out of moneys raised by way of bank overdraft.

Power to make payments.

6. The Treasurer may out of the money appropriated by this Act make any payment for which money has been included in the supplementary estimates of expenditure for the financial year ending on the thirtieth day of June, 1972, notwithstanding that the payment is in respect of a period prior to the first day of July, 1971.

7. Any amount appropriated by this Act may be paid for the purpose for which it is so appropriated, in addition to any other amount appropriated by law for that purpose. Payments to be in addition to other payments.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 12 of 1972

An Act to amend the Cattle Compensation Act, 1939-1971

[*Assented to 30th March*, 1972]

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

Short titles.

1. (1) This Act may be cited as the "Cattle Compensation Act Amendment Act, 1972".

(2) The Cattle Compensation Act, 1939-1971, as amended by this Act, may be cited as the "Cattle Compensation Act, 1939-1972".

(3) The Cattle Compensation Act, 1939-1971, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 4a—Proclamation of disease, etc.

3. Section 4a of the principal Act is amended—

(*a*) by striking out from subsection (2) the passage "proclaimed as such by a previous proclamation";

(*b*) by inserting in subsection (2) after the passage "this Act" first occurring the passage "and upon the publication of that proclamation that disease shall cease to be a disease as defined in subsection (1) of section 4 of this Act;

(*c*) by striking out from subsection (2) the second sentence therein;

and

(*d*) by inserting immediately after subsection (2), as amended, the following subsection:—

(3) At any time after a disease has, pursuant to a proclamation under this section, ceased to be a disease as defined in subsection (1) of section 4 of this Act, the Governor may by proclamation under subsection (1) of this section declare that disease to be a disease for the purposes of this Act.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 13 of 1972

An Act to amend the Highways Act, 1926-1971.

[*Assented to* 30*th March*, 1972]

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

Short titles.

1. (1) This Act may be cited as the "Highways Act Amendment Act, 1972".

(2) The Highways Act, 1926-1971, as amended by this Act, may be cited as the "Highways Act, 1926-1972".

(3) The Highways Act, 1926-1971, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 6—Arrangement of Act.

3. Section 6 of the principal Act is amended by striking out from the description of the heading to Part III the passage "relating to the construction and maintenance of roads".

Amendment of principal Act, s. 7—Interpretation of terms.

4. Section 7 of the principal Act is amended—

(*a*) by inserting immediately after the definition of "inspector" the following definition:—

"local-access road" in relation to a controlled-access road means—

(*a*) any road that provides access to land which abuts or is adjacent to that controlled-access road;

or

(*b*) any road that provides access to or egress from the means of passage over or the means of passage under the controlled-access road:;

and

(*b*) by inserting immediately after the definition of "main road" the following definition:—

"means of access" in relation to land abutting a road, means the travelled way, path or crossover leading from the edge of the vehicular carriageway of the road to any part of the boundary of that land from which access can be had to that land and includes the earth, formation, paving and structures or other surfaces together with any gate, structure or supports appurtenant thereto:.

5. Section 20 of the principal Act is amended— Amendment of principal Act, s. 20— General powers fo Commissioner.

(*a*) by inserting in subsection (1) immediately after paragraph (*b*) the following paragraphs:—

(*ba*) subject to the approval of the Minister, establish and maintain ferry services or enter into and carry out any arrangement with any person for the operation of any ferry service and for that purpose he may—

(i) make and construct a ferry across any river, creek, stream, tidal waters or strait;

(ii) instal and maintain cables, wires, chains and other appliances;

(iii) make and construct such wharves, retaining walls, causeways, embankments, canals, landing stages and such other works as are in his opinion necessary or desirable;

(iv) make, construct or otherwise acquire any punts, barges or ferry boats;

(v) erect and place masts, posts and other plant or equipment for carrying on or operating a ferry;

and

(vi) with the approval of the Minister, make and levy fees and charges for the carriage of persons, vehicles or cargo by any such ferry service;

(*bb*) subject to the approval of the Minister, establish and maintain, or enter into and carry out any arrangements with any person for the establishment and maintenance of a sea transport service for the purpose of carrying persons and cargo between such ports and places within the State as the Minister from time to time approves and for that purpose he may—

(i) build, construct or otherwise acquire ships or plant necessary or convenient for the operation of the service;

(ii) make and construct such wharves, retaining walls, causeways, embankments, landing stages and such other works as are in his opinion necessary or desirable for the operation of the service;

and

(iii) with the approval of the Minister, make and levy fees and charges for the carriage of persons, vehicles or cargo by any such sea transport service;;

and

(*b*) by inserting after subsection (1) the following subsection:—

(2) Nothing in paragraph (*ba*) of subsection (1) of this section shall be read and construed as authorizing the Commissioner to cause any obstruction of the free use of any navigable waters by any ship or vessel passing and repassing a ferry.

Amendment of principal Act, s. 27a— Powers of Commissioner to open and close roads.

6. Section 27a of the principal Act is amended by striking out from subsection (1) the word "main".

Enactment of ss. 27aa, 27ab and 27ac of principal Act— Closing of roads.

7. The following sections are enacted and inserted in the principal Act immediately after section 27a thereof:—

27aa. If the Commissioner—

(*a*) is of opinion that it is expedient that any road or any part of a road should be closed or that any easement over or restrictive covenant on any land should be extinguished;

(*b*) has served on the owner of any land which the Commissioner after making inquiry into the matter, considers is likely to be substantially affected by such closing of a road or part of a road or extinguishment of an easement or restrictive covenant, notice of such proposed closing or extinguishment and has given to all such owners an opportunity of setting forth their objections to such closing or extinguishment;

and

(*c*) has made provision—

(i) with respect to pipes, wires, apparatus, sewers, drains, tunnels, conduits, poles, posts and fixtures lawfully upon, over, across or under any such road or part thereof;

(ii) for access to any land likely to be prejudicially affected by any such closing or extinguishment;

(iii) for the payment of compensation to any person (other than a council) in whom the land comprised in any such road or part thereof is vested and to the owner of land abutting such road or part thereof likely to be prejudicially affected by the closing and to any person having an interest in the easement or restrictive covenant that is likely to be substantially affected by the extinguishment;

and

(iv) for the rectification or other alteration of documents of title to lands the descriptions of which are likely to be affected by any closing or extinguishment,

the Commissioner may, after considering all objections made pursuant to paragraph (*b*) of this section and if he is of opinion that such closing or extinguishment will not substantially injure the public or any person so objecting, with the approval of the Minister, make a recommendation to the Governor and the Governor may, by proclamation, close such road or part thereof or extinguish such easement or restrictive covenant accordingly.

Effect of proclamation under s. 27aa.

27ab. (1) On the publication in the *Gazette* of a proclamation under section 27aa of this Act closing a road or part thereof, the road or part thereof (whether it is the property of the Crown or not) shall cease to be a road and thereupon all rights, easements,

or privileges existing or claimed as regards the land comprised therein either in or by the public or any person or body of persons whomsoever or whatsoever as incident to any past dedication or supposed dedication thereof or by express grant or by statute or by any past user thereof or by any fiction of law shall cease and determine and the land comprised therein shall be vested in fee simple in the Commissioner freed and discharged from all trusts, encumbrances, limitations or restrictions whatsoever.

(2) On the publication of any proclamation under section 27aa of this Act extinguishing an easement or restrictive covenant, such easement or restrictive covenant shall cease and determine.

(3) The Commissioner shall, after the publication of any such proclamation, give to the Registrar-General notice thereof in writing under his common seal.

Duty, etc., of Registrar-General.

27ac. (1) Where the land comprised in any road so closed under section 27ab of this Act or any part thereof is land under the Real Property Act, 1886-1969, the Registrar-General is hereby directed and empowered to cancel the existing grant or certificate of title therefor and any instrument, entry or memorial in the register book and any plan of subdivision altogether or to such extent as is necessary in consequence of the proclamation and the Registrar-General may issue to the Commissioner a certificate of title in respect of any such land.

(2) In cancelling any grant, certificate of title, instrument, memorial or entry in the register book or any plan of subdivision in pursuance of the power hereby conferred on him in that behalf the Registrar-General shall endorse thereon a memorandum stating the circumstances and authority under which the cancellation is made.

(3) If any such proclamation for closing a road or part thereof or extinguishing an easement or restrictive covenant affects the right, estate or interest of the registered proprietor of land under the Real Property Act, 1886-1969, included in any certificate of title in respect of any easement or restrictive covenant appearing thereon or implied by statute appurtenant to such land the Registrar-General shall cancel such easement or restrictive covenant to the extent to which it has been determined or extinguished upon the original of such certificate, and also upon the duplicate certificate of title when brought to him for that purpose or when the same is lodged in the Lands Titles Registration Office for the purpose of any dealing with the land comprised therein.

(4) The Registrar-General may call in such duplicate certificate of title for the purpose of such cancellation and may retain the duplicate until such cancellation is effected and refuse to register any dealing with the land comprised therein or any part thereof until the duplicate has been so brought in and lodged.

(5) Where the description of any land under the Real Property Act, 1886-1969, or any certificate of title is or may be affected by any proclamation closing a road or part thereof or extinguishing an easement or restrictive covenant the Registrar-General is hereby empowered to make an amendment in such description or certificate which is in his opinion necessary or desirable.

(6) Where the land comprised in any road so closed or any part thereof is not land under the Real Property Act, 1886-1969, the Registrar-General may, upon a request in writing from the Commissioner and upon payment of such fees and charges as would have been payable if the request had been an application to bring the land under the Real Property Act, 1886-1969, issue to and in the name of the Commissioner a certificate of title under the Real Property Act, 1886-1969, for the said land but before issuing a certificate of title as aforesaid the Registrar-General may require the Commissioner of Highways to deposit with him a plan or map of the land, as if the request had been an application to bring the land under the Real Property Act, 1886-1969.

(7) No provision of section 27aa, 27ab or this section shall be read and construed as disentitling the Registrar-General to demand any fees specified in or under the Real Property Act, 1886-1969, and the provisions of those sections shall apply notwithstanding the provisions of the Real Property Act, 1886-1969.

(8) In this section "the Registrar-General" means the person for the time being holding the office of Registrar-General under the Real Property Act, 1886-1969, or the Registrar-General of Deeds under the Registration of Deeds Act, 1935, as amended.

Amendment of principal Act, s. 27b—Widening and deviation of roads.

8. Section 27b of the principal Act is amended—

(*a*) by inserting in subsection (1) after the passage "is desirable to widen" the passage "or to make any deviation of";

(*b*) by inserting in paragraph (*b*) of subsection (5) immediately before the passage "the owner" the passage "where the whole of such land is clear of buildings";

(*c*) by inserting after the word "section" in subsection (11) the following passage:—

—

"building" includes a part of a building:;

and

(*d*) by inserting after the word "Crown" being the last word in paragraph (*c*) of the definition of "owner" the following passage:—

"structure" includes part of a structure.

Amendment of principal Act, s. 27c—
Duty to register effect of plan.

9. Section 27c of the principal Act (as enacted by Act No. 6 of 1949 and incorrectly referred to as section 27ba on page 13 of the South Australian Statutes, 1949 Volume) is amended by inserting after paragraph II the following paragraph:—

III. If any such land is under the provisions of any of the Acts relating to Crown lands and is included in any current registered lease or agreement with covenant to purchase, the Commissioner shall register with the Registrar-General an instrument requesting the Registrar-General to make an endorsement as provided by this paragraph and, notwithstanding the provisions of the Real Property Act, 1886-1969, the Registrar-General shall endorse on the relevant Crown lease or agreement with covenant to purchase a memorandum referring to the said plan and to the effect that the land is subject to acquisition by the Commissioner of Highways pursuant to section 27b of this Act.

Amendment of principal Act, s. 30a—
Power to proclaim controlled-access roads.

10. Section 30a of the principal Act is amended—

(*a*) by inserting immediately after subsection (1) the following subsection:—

(1a) Every proclamation under paragraph (*a*) of subsection (1) of this section shall specify the routes and means of access by which persons and vehicles may enter or leave the controlled-access road.;

and

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

Enactment of s. 30ab of principal Act—

11. The following section is enacted and inserted in the principal Act immediately after section 30a thereof:—

Notice of proclamations, etc.

30ab. Where in the opinion of the Commissioner, the making of any proclamation under this Part or the granting or amending of any permit or the taking by him of any other action under

this Part is reasonably likely to effect the interests of the owners or occupiers of land abutting or adjacent to a controlled-access road, the Commissioner shall as soon as practicable after the making of the proclamation or the granting or amendment of the permit or the taking of the action serve by post a notice, setting out the substance of the proclamation, permit, amendment or action, on those owners or occupiers together with a statement of the rights of the owners or occupiers in the matter.

Amendment of principal Act, s. 30b—Provision for compensation

12. Section 30b of the principal Act is amended—

(*a*) by striking out from subsection (3) the passage "proclamation of the controlled-access road concerned and the market value of the said estate or interest after such proclamation" and inserting in lieu thereof the passage "occurrence of the direct prejudice and the market value of the said estate or interest after that occurrence";

and

(*b*) by striking out from subsection (4) the passage "declaration of the controlled-access road" and inserting in lieu thereof the passage "occurrence of the direct prejudice to the estate or interest in the land in respect of which compensation is claimed".

Amendment of principal Act, s. 30d—Closure of access to controlled-access roads.

13. Section 30d of the principal Act is amended—

(*a*) by inserting immediately after subsection (1) the following subsection:—

(1a) In addition to the powers conferred by section 26a of this Act and notwithstanding the provisions of the Local Government Act, 1934-1971, the Commissioner may construct, erect and maintain kerbs, fences, walls, posts or barriers on a controlled-access road, on the boundary of any such road including a distance of up to thirty metres along any road abutting or adjacent to any controlled-access road, between the carriageway of a controlled-access road and the carriageways of adjacent local access roads, or (with the consent of the owner) on any land adjoining such a controlled-access road, for the purposes of separating the movement of traffic on the carriageways of the controlled-access road from the movement of traffic entering or leaving land abutting, or adjacent to, the controlled-access road whether such movement takes place on a local access road or otherwise.;

and

(*b*) by striking out subsection (2) and inserting in lieu thereof the following subsection:—

(2) Where in relation to a controlled-access road, a means of access to any land abutting that road has been closed off by an owner of the land, neither that owner nor any subsequent owner of that land nor any person claiming through or under that owner or subsequent owner has a right to re-open that means of access.

Enactment of s. 30da of principal Act—

14. The following section is enacted and inserted in the principal Act immediately after section 30d thereof:—

Access to property.

30da (1) In addition to the powers conferred by section 26 of this Act, the Commissioner may construct means of access to land abutting a controlled-access road and may construct any local access road.

(2) Subject to subsection (3) of this section, the Commissioner may—

(*a*) close by fencing or otherwise a means of access to any land from a controlled-access road;

or

(*b*) provide a new means of access to any land from a controlled-access road.

(3) Nothing in subsection (2) of this section shall authorize the Commissioner to close off the means of access to any land from a controlled-access road unless he is satisfied that—

(*a*) no such means of access is reasonably required for the land;

or

(*b*) other reasonably convenient means of access from that controlled-access road are available for that land.

(4) Where the Commissioner is of the opinion that access to a controlled-access road is not reasonably available for land abutting that controlled access road, he may by permit in writing give permisson for the construction and use of a means of access to that controlled-access road from that land.

(5) A permit under subsection (4) of this section may—

(*a*) be issued subject to such conditions—

(i) as to the type and construction of the means of access;

(ii) as to the location of the means of access;

(iii) as to the times at which the means of access may be used;

(iv) as to persons, vehicles or animals that may use the means of access either generally or at specified times,

as to the Commissioner seem necessary or expedient;

and

(*b*) be revoked or amended at any time.

Amendment of principal Act, s. 30e—Offences in relation to controlled-access road.

15. Section 30e of the principal Act is amended—

(*a*) by inserting in paragraph (*a*) after the passage "provided for" the passage "or approved";

and

(*b*) by striking out from paragraph (*b*) the passage "or egress from".

Amendment of heading to Part III of principal Act.

16. The heading to Part III of the principal Act is amended by striking out the passage "RELATING TO THE CONSTRUCTION AND MAINTENANCE OF ROADS".

Amendment of principal Act, s. 31—Highways Fund.

17. Section 31 of the principal Act is amended by striking out from paragraph (*i*) of subsection (2) the passage "the ferry service to Kangaroo Island" and inserting in lieu thereof the passage "any ferry or sea transport service operated under this Act".

Amendment of principal Act, s. 32—Application of Highways Fund.

18. Section 32 of the principal Act is amended—

(*a*) by striking out the word "and" occurring immediately after paragraph (*m*);

(*b*) by striking out from paragraph (*n*) the passage "a ferry service to Kangaroo Island" and inserting in lieu thereof the passage "any ferry service or sea transport service operated under this Act";

and

(*c*) by inserting after paragraph (*n*) the following paragraph:—

and

(*o*) in defraying the cost of installing, maintaining, operating or removing any traffic control devices that the Commissioner is authorized or required by the Road Traffic Act, 1961, as amended, to install, maintain, operate or remove.

Amendment of principal Act, s. 35—Commissioner to determine amount of each council's contribution

19. Section 35 of the principal Act is amended—

(*a*) by striking out from paragraph (*d*) of subsection (2) the word "mileage" and inserting in lieu thereof the word "distance";

and

(*b*) by striking out from paragraph (*e*) of subsection (2) the word "mileage" and inserting in lieu thereof the word "distance".

Amendment of principal Act, s. 36a—Payment by Municipal Tramways Trust.

20. Section 36a of the principal Act is amended—

(*a*) by striking out paragraph I from subsection (1);

(*b*) by striking out from paragraph II of subsection (1) the passage "every month subsequent to the month first mentioned in paragraph I hereof" and inserting in lieu thereof the passage "the month immediately following the commencement of the Highways Act Amendment Act, 1972, and during each succeeding month";

and

(*c*) by striking out from paragraph II of subsection (1) the passage "one penny for every mile" and inserting in lieu thereof the passage "half of one cent for every kilometre".

Amendment of principal Act, s. 43—Regulations.

21. Section 43 of the principal Act is amended by inserting in subsection (1) after paragraph (*j*) the following paragraph:—

(*k*) for controlling or regulating any matter or thing connected with the operation of a ferry service or sea transport service under this Act.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 14 of 1972

An Act to prohibit certain practices in relation to sales purporting to be sales by auction.

[*Assented to* 30*th March*, 1972]

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

1. This Act may be cited as the "Mock Auctions Act, 1972". Short title.

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

3. In this Act, unless the contrary intention appears— Interpretation.

"competitive bidding" in relation to the sale of goods, includes any mode of sale whereby prospective purchasers are enabled to compete for the purchase of goods whether by way of increasing bids or by the offer of goods to be bid for at successively decreasing prices or otherwise:

"lot to which this Act applies" means a lot consisting of or including one or more prescribed articles:

"prescribed articles" means any plate, plated articles, linen, china, glass, books, pictures, prints, furniture, jewellery, articles of household or personal use or ornament or any musical or scientific instrument or apparatus and includes any articles for the time being prescribed as being articles to which this Act applies:

"sale of goods by way of competitive bidding" means any sale of goods at which the persons present, or some of them, are invited to buy articles by way of competitive bidding:

"stated" in relation to a sale of goods by way of competitive bidding means stated by or on behalf of the person conducting the sale by an announcement made to the persons for the time being present at the sale.

(2) For the purposes of this Act—

(*a*) any bid stated to have been made at a sale of goods by way of competitive bidding shall be conclusively presumed to have been made and to have been a bid of the amount stated;

(*b*) any reference in this Act to the sale of a lot to a person who has made a bid for it includes a reference to a purported sale thereof to a person stated to have made a bid for it, whether that person exists or not;

and

(*c*) anything done in or about the place where a sale of goods by way of competitive bidding is held, if done in connection with the sale, shall be taken to be done during the course of the sale whether it is done at the time when any goods are being sold or offered for sale by way of competitive bidding or before or after any such time.

Prohibition on mock auctions.

4. (1) A person shall not promote or conduct or assist in the promotion or conduct of a mock auction at which one or more lots to which this Act applies are offered for sale.

Penalty: One thousand dollars.

(2) For the purposes of this section and subject to subsection (3) of this section a sale of goods by way of competitive bidding shall be a mock auction if, but only if, during the course of the sale—

(*a*) any lot to which this Act applies is sold to a person and either—

(i) it is sold to him at a price lower than the amount of his highest bid for that lot;

or

ii) part of the price at which it is sold to him is repaid or credited to him or is stated to be so repaid or credited;

(*b*) the right to bid for any lot to which this Act applies is restricted, or is stated to be restricted, to persons who have bought or agreed to buy one or more articles;

or

(*c*) any articles are given away or offered as gifts.

(3) A sale of goods shall not be a mock auction by virtue of paragraph (*a*) of subsection (1) of this section if it is proved that the reduction in price or the repayment or credit, as the case may be—

(*a*) was on account of a defect discovered after the highest bid in question had been made, being a defect of which the person conducting the sale was unaware when the bid was made;

or

(*b*) was on account of damage sustained after that bid was made.

Offences by bodies corporate.

5. Where a person charged with an offence against this Act is a body corporate, a person who is concerned or takes part in the management of the body corporate may be charged with a like offence and where the body corporate is convicted of the offence a person who is so concerned or takes part in the management of the body corporate may be convicted of the like offence unless he proves that the act or omission constituting the offence took place without his knowledge or consent.

Savings of other remedies or actions.

6. Nothing in this Act shall derogate from any right of action or other remedy, whether civil or criminal, in proceedings instituted otherwise than under this Act.

Summary proceedings.

7. Proceedings for offences against this Act shall be disposed of summarily.

Regulations.

8. (1) The Governor may make such regulations as are necessary or expedient for the purposes of giving effect to the provisions and objects of this Act.

(2) Without limiting the generality of subsection (1) of this section, the regulations may—

(*a*) prescribe any articles or articles of a class to be articles to which this Act applies;

and

(*b*) provide for and prescribe penalties not exceeding in each case two hundred dollars for a breach of any provisions of the regulations.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 15 of 1972

An Act to amend the Packages Act, 1967-1969.

[*Assented to* 30*th March*, 1972]

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

Short titles.

1. (1) This Act may be cited as the "Packages Act Amendment Act, 1972".

(2) The Packages Act, 1967-1969, as amended by this Act, may be cited as the "Packages Act, 1967-1972".

(3) The Packages Act, 1967-1969, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 4—Definitions.

3. Section 4 of the principal Act is amended—

(*a*) by striking out from paragraph (*b*) of the definition of "article" in subsection (1) the word "goods" and inserting in lieu thereof the word "foods";

(*b*) by inserting in the definition of "pack" in subsection (1) after the passage "any pack" the passage "or article";

and

(*c*) by inserting immediately after subsection (2) the following subsections:—

(2a) For the purposes of this Act, an article shall be deemed to be pre-packed if it is packed in advance ready for sale.

(2b) Subject to subsection (2c) of this section for the purposes of this Act, where articles of any description are packed or are kept or stored for sale after being so packed on premises and any article of that description (being an article that is contained in a pack) is found on those premises that article shall, unless the contrary is proved, be deemed to be pre-packed.

(2c) It shall not be sufficient proof to the contrary for the purposes of subsection (2b) of this section to prove that the articles in question were not packed in a pack marked in accordance with the provisions of this Act for packs of that description.

Amendment of principal Act, s. 8— Power of Inspectors.

4. Section 8 of the principal Act is amended by inserting after the figure "8" the figure and symbols "(1)".

Amendment of principal Act, s. 20— Incorrect weight or measure.

5. Section 20 of the principal Act is amended—

(*a*) by striking out from paragraph (*a*) of subsection (3) the word "or" occurring after the passage "eight fluid ounces" and inserting in lieu thereof the symbol ",";

and

(*b*) by inserting in paragraph (*a*) of subsection (3) after the passage "eight ounces," the passage "250 millilitres or 250 grams".

Amendment of principal Act, s. 21— Net weight when packed.

6. Section 21 of the principal Act is amended by striking out subsection (4) and inserting in lieu thereof the following subsection:—

(4) For the purposes of this section the regulations may provide—

(*a*) in relation to a prescribed article or a prescribed article of a class, for a permissible deficiency expressed in parts per centum of the weight of that prescribed article;

and

(*b*) for the marking of a prescribed article or a prescribed article of a class, with the day on which that prescribed article was packed or an indication of that day.

Amendment of principal Act, s. 32—

Selling short weight or measure.

7. Section 32 of the principal Act is amended—

(*a*) by striking out from paragraph (*a*) of subsection (3) the word "or" occurring after the passage "eight fluid ounces" and inserting in lieu thereof the symbol ",";

(*b*) by inserting in paragraph (*a*) of subsection (3) after the passage "eight ounces," the passage "250 millilitres or 250 grams";

and

(*c*) by inserting after subsection (3) the following subsection:—

(3a) Where the true weight or measure of an article is found by an Inspector to be less than the weight or measure stated on the pack containing that article the packer of that article—

(*a*) shall be deemed to have sold that article to that Inspector at the time at which and the place where the Inspector so found that the true weight or measure of the article was less than the weight or measure on the pack containing that article;

and

(*b*) shall be liable for the same penalty as he would have been if he had so sold that article to the Inspector.

Enactment o s. 37a of principal Act—

8. The following sections are enacted and inserted in the principal Act immediately after section 37 thereof:—

Sales to be by net weight or measure.

37a. Except as expressly provided by this Act, or by any other Act or regulation, a person shall not—

(*a*) sell an article by weight or measure otherwise than by net weight or measure;

or

(*b*) mark a pack containing an article, or cause, suffer or permit such a pack to be marked with the expression "gross weight" or any expression having a like meaning.

Penalty: Two hundred dollars.

Delivery of invoices or delivery notes

37b. (1) Except as provided in subsection (2) of this section the seller of an article shall, if the article is sold by weight or measure and is delivered to the purchaser at a place other than

the premises of the seller, deliver with that article an invoice or delivery note showing the weight or measure of the article so delivered.

(2) Subsection (1) of this section does not apply to or in relation to a pre-packed article contained in a pack marked with the weight or measure of the article.

Enactment of s. 42a of principal Act—

9. The following section is enacted and inserted in the principal Act immediately after section 42 thereof:—

General provisions as to offences.

42a. (1) Where by or under this Act, an act is directed to be done or directed not to be done, a person, who fails to do that act or, as the case may be, does that act in contravention of any such direction, is guilty of an offence against this Act.

(2) A prosecution for an offence against this Act may be presented—

(*a*) within the period of twelve months from the day on which the offence is alleged to have been committed;

or

(*b*) within the period of six months from the day on which the alleged offence comes to the knowledge of the complainant,

whichever period is the later, but no such prosecution shall be presented more than two years after the day on which the offence is alleged to have been committed.

(3) Where it appears to the Warden of Standards that—

(*a*) an offence against this Act has been committed by a person;

(*b*) the offence was due to an act or default of some other person;

and

(*c*) the first mentioned person could establish a defence under this Act in proceedings for that offence,

the Warden of Standards may take or cause to be taken proceedings against that other person without taking or causing to be taken proceedings against that first mentioned person and in any such proceedings that other person may be charged with the offence referred to in paragraph (*a*) of this subsection and on proof that the commission of the offence was due to the default of that other person that other person may be convicted of that offence and in any such proceedings that first mentioned person shall be a competent and compellable witness.

Enactment of s. 45a of principal Act—

10. The following section is enacted and inserted in the principal Act immediately after section 45 thereof:—

Evidentiary provision.

45a. (1) In any prosecution or legal proceedings under this Act no proof shall, unless evidence is given to the contrary, be required of the appointment of the Warden of Standards or any other officer or person employed in the administration of this Act.

(2) Any document apparently certifying that—

(*a*) specified weights or measures in the possession of an Inspector are Inspectors' Standards within the meaning of the Weights and Measures Act, 1971;

(*b*) such weights or measures have been verified or reverified within a period set out in the document;

or

(*c*) a specified person is or was acting under this Act in the capacity stated therein,

and any other document relating to or arising out of the administration of this Act shall, if purporting to be signed by the Warden of Standards be received as evidence in all courts and be deemed to be issued or written by or under the direction of the Warden of Standards without proof unless the contrary is shown.

Amendment of principal Act, s. 47—Regulations.

11. Section 47 of the principal Act is amended by inserting in subsection (1) immediately after paragraph (*b*) the following paragraphs:—

(*ba*) regulating, controlling and restricting the sale or supply of articles by means of a vending machine (as defined in the regulations) and prohibiting the sale or supply of articles by means of such a machine otherwise than in accordance with the regulations;

(*bb*) for ensuring that articles that are sold by means of a vending machine (as defined in the regulations) are so sold only if there is displayed in or on the machine such particulars or statements, with respect to such matters, as may be prescribed, and the manner in which the particulars or statements so prescribed shall be so displayed;

(*bc*) for or with respect to the units of weight or measurement to be used in marking or displaying on packs or vending machines (as defined in the regulations) any particulars or statements required to be marked or displayed thereon, either generally or in respect of any prescribed description

of articles, and the manner in which those units of weight or measurement shall or may be expressed (whether in figures or words or figures and words) and the abbreviations that may or may not be used for the purposes of expressing those units;

(*bd*) for or with respect to the method in which, and the conditions under which, the weight or measure of articles is to be determined in connection with the marking or displaying on packs or on vending machines (as defined in the regulations) of any particulars or statements referred to in the foregoing provisions of this subsection;

(*be*) permitting, in the case of such articles and in such circumstances as may be specified in the regulations, the weight or measure of any articles used in packing the first mentioned articles for sale as may be so specified to be included in the net weight or measure of the first mentioned articles;

(*bf*) exempting (either wholly or to such extent as may be prescribed) or authorizing a prescribed person to exempt (either unconditionally or subject to such conditions and restrictions as that person may determine) from all or any of the provisions of this Act—

(i) articles of any description prescribed or referred to in the regulations and packs containing any such articles;

or

(ii) prescribed transactions or sales of a prescribed class.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 16 of 1972

An Act to amend the Pharmacy Act, 1935-1971, the Pharmacy Act Amendment Act, 1965, and the Age of Majority (Reduction) Act, 1970-1971.

[*Assented to* 30*th March*, 1972]

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

Short titles.

1. (1) This Act may be cited as the "Pharmacy Act Amendment Act, 1972".

(2) The Pharmacy Act, 1935-1971, as amended by this Act, may be cited as the "Pharmacy Act, 1935-1972".

(3) The Pharmacy Act, 1935-1971, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 4—Interpretation.

3. Section 4 of the principal Act is amended by inserting after the definition of "board" the following definition:—

"friendly society" means a society as defined in the Friendly Societies Act, 1919, as amended, a branch of such a society or a body corporate formed under section 41 of that Act:.

Amendment of principal Act, s. 9—
Vacancies.

4. Section 9 of the principal Act is amended by striking out paragraph (*a*) and inserting in lieu thereof the following paragraph:—

(*a*) ceases to hold a current certificate under section 24 of this Act;

or.

Enactment of s. 13a of principal Act—

5. The following section is enacted and inserted in Part II of the principal Act immediately after section 13 thereof:—

Protection of certain persons.

13a. (1) No suit, prosecution or other legal proceedings shall lie against any person, in his personal capacity in respect of any act or thing done or performed by that person in good faith in the exercise or performance, or the purported exercise or performance, of his powers, functions or duties as—

(*a*) a member of the board;

or

(*b*) a registrar, examiner or other officer of the board,

whether that act or thing was done or performed before or after the commencement of the Pharmacy Act Amendment Act, 1972.

Repeal of s.17 of principal Act and enactment of section in its place—

6. Section 17 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Registration of premises.

17. (1) On and after the commencement of the Pharmacy Act Amendment Act, 1972, a registered pharmaceutical chemist shall not (whether as principal or manager for a principal) carry on, in any premises, the business of compounding and dispensing the prescriptions of legally qualified medical practitioners unless those premises are registered under this section and a registered pharmaceutical chemist who carries on business in contravention of this subsection shall be guilty of an offence against this Act and, upon conviction, be liable to a penalty not exceeding ten dollars for each day or part of a day on which he so carried on business.

(2) Any premises—

(*a*) the full address of which was registered with the board under section 17 of this Act as in force before the commencement of the Pharmacy Act Amendment Act, 1972;

and

(*b*) in which immediately before that commencement the business of compounding and dispensing the prescriptions of legally qualified medical practitioners was carried on by a registered pharmaceutical chemist,

shall, for all purposes, be deemed to be premises registered under this section.

(3) Subject to subsection (4) of this section, the board may, on application being made in the prescribed form, register, without fee, any premises under this section.

(4) The board shall—

(*a*) not register any premises under this section;

and

(*b*) cancel the registration of any premises registered under this section,

where it appears to the board that those premises do not, or, as the case may be, have ceased to comply with the provisions of the regulations relating to the registration, or as the case may be, the continuance of registration of premises under this section.

(5) On the cancellation of the registration of premises registered under this section those premises shall cease to be premises registered under this section.

Amendment of principal Act, s. 19—
Power to cancel registration, etc.

7. Section 19 of the principal Act is amended by inserting in subsection (1) after the passage "revoke the certificate" the passage "granted under section 24 of this Act".

Amendment of principal Act, s. 20—
Annual list.

8. Section 20 of the principal Act is amended by striking out the passage "section 21" and inserting in lieu thereof the passage "section 24 of this Act".

Repeal of Part IV of principal Act and enactment of Part in its place.

9. Part IV of the principal Act consisting of sections 21, 22, 23 and 24, and the heading thereto, is repealed and the following Part and heading are enacted and inserted in its place:—

PART IV

REGISTRATION OF PHARMACEUTICAL CHEMISTS

Previous registration to continue.

21. A person, who was immediately before the commencement of the Pharmacy Act Amendment Act, 1972, entitled to be entered on the register kept pursuant to this Act, shall for all purposes be deemed to be registered as a pharmaceutical chemist under this Act.

Application for registration.

22. A person may apply to the board for registration as a pharmaceutical chemist if—

(*a*) he—

(i) holds a degree or diploma in pharmacy granted or conferred by a University in this State or by the South Australian Institute of Technology;

and

(ii) has, or will have, at the time his application for registration is considered by the board, served for the prescribed period as a trainee in the business of a pharmaceutical chemist, in a public hospital within the meaning of the Hospital Act, 1934, as amended, in an institution within the meaning of the Mental Health Act, 1935-1958, as amended, or in an industrial establishment approved in writing by the Minister on the recommendation of the board;

(*b*) he—

(i) holds a degree or diploma in pharmacy which any university, college, institute or other body in any State or Territory of the Commonwealth is authorized by law to grant and which has been granted to him on his passing of the examination prescribed in relation to that degree or diploma by that university, college, institute or other body;

and

(ii) has had either in this State or in the State or Territory in which the university, college, institute or other body, whose degree or diploma he holds, is situate, for a period of not less than the prescribed period referred to in subparagraph (ii) of paragraph (*a*) of this section, experience in the dispensing and compounding of medical prescriptions that the board regards as sufficient to enable him satisfactorily to carry on the business of a pharmaceutical chemist in this State;

(*c*) he—

(i) holds a degree, diploma or other academic qualification in pharmacy which entitled him to be registered, under the law of a prescribed country or place, as a pharmacist or pharmaceutical chemist and that degree, diploma or other academic qualification has been lawfully granted by a university, college, institute or other body situate in that country or place upon his passing examination held in that country or place for that degree, diploma or other academic qualification;

and

(ii) is or was by the law of that country or place registered or entitled to practise as a pharmacist or pharmaceutical chemist in that country or place;

or

(*d*) he—

(i) has completed some other course of academic and practical training that is, in the opinion of the board, the substantial equivalent of the requirements set out in paragraph (*a*) of this subsection;

and

(ii) he has passed such examination or examinations (if any) as the board may direct or approve.

Registration.

23. (1) Where a person has pursuant to section 22 of this Act applied for registration as a pharmaceutical chemist and the board is satisfied that the person—

(*a*) has paid the fee prescribed for registration;

(*b*) possesses the qualifications set out in paragraphs (*a*), (*b*), (*c*) or (*d*) of that section;

(*c*) in the case of an applicant possessing the qualifications referred to in paragraph (*c*) of that section, has not ceased to be registered or to be entitled to practise as a pharmacist or pharmaceutical chemist in a country or place for a reason that would disqualify him for registration under this Act or for a reason that would entitle the board to suspend or cancel his registration under this Act, if he were so registered;

(*d*) has sufficient knowledge of the English language to be able to readily and intelligibly speak, read and write that language;

and

(*e*) has an adequate knowledge of, or if required by the board, has passed such examination or examinations approved of by the board relating to the law affecting the practice of pharmacy and the sale or supply of drugs or medicines in this State,

then the board may cause that person to be registered as a pharmaceutical chemist under this Act.

(2) Registration as a pharmaceutical chemist shall be effected by entering the name of the person to be registered on the register kept pursuant to section 14 of this Act.

(3) Where the board refuses to register an applicant for registration as a pharmaceutical chemist under this Act the board shall, at the request of the applicant, give reasons in writing for its refusal.

Practising certificate.

24. (1) The board shall from time to time on payment of the prescribed fee grant to any registered pharmaceutical chemist a certificate in the form of the third schedule to this Act.

(2) The certificate granted under subsection (1) of this section shall entitle the holder thereof to carry on the business of a pharmaceutical chemist during the currency of the certificate.

(3) A certificate granted under section 21 of this Act and in force immediately before the commencement of the Pharmacy Act Amendment Act, 1972, shall for all purposes be deemed to be a certificate granted under subsection (1) of this section and be deemed to be current until the first day of January next following that commencement.

Enactment of s. 25a of principal Act—

10. The following section is enacted and inserted in the principal Act immediately after section 25 thereof:—

Prohibition on unregistered persons owning etc., business.

25a. (1) Except as is provided in subsection (2) of this section, in section 31 or in section 31a of this Act, a person who is not a registered pharmaceutical chemist shall not own or take part in the control or management of a business that consists wholly or partly of retailing, compounding or dispensing of drugs or medicines on the orders or prescriptions of legally qualified medical practitioners.

Penalty: Two hundred dollars.

(2) Subsection (1) of this section does not apply to a person who owns or takes part in the control or management of a business referred to in subsection (1) of this section and who—

(*a*) owned or took part in the control or management of that business immediately before the commencement of the Pharmacy Act Amendment Act, 1972;

and

(*b*) has, since the commencement of that Act, continued to so own or take part in the control or management of that business,

where that business is under the constant supervision and management of a registered pharmaceutical chemist and the name of that registered pharmaceutical chemist is kept painted or affixed in a conspicuous position in letters easily legible on the outside of the premises where that business is carried on.

Amendment of principal Act, s. 26a—Restriction on companies and associations.

11. Section 26a of the principal Act is amended by striking out paragraph (*b*) from the proviso to subsection (1) and inserting in lieu thereof the following paragraph:—

(*b*) any friendly society;

or.

Amendment of principal Act, s. 26b—Name of person carrying on pharmacy.

12. Section 26b of the principal Act is amended—

(*a*) by inserting after the word "person" in subsection (1) the passage "or association of persons whether corporate or unincorporate";

(*b*) by striking out from subsection (1) the passage "his own name" and inserting in lieu thereof the passage "his or its name";

and

(*c*) by striking out subsections (2) and (3) and inserting in lieu thereof the following subsection:—

(2) For the purposes of subsection (1) of this section the name—

(*a*) of a natural person, shall be his full name or his surname together with—

(i) his christian name or names;

(ii) the initial letter of his christian name or names;

(iii) a combination of one or more of his christian names and the initial letter or initial letters of his remaining christian name or christian names;

or

(iv) the christian name or names by which he is commonly known or a combination of any one or more of such names and the initial letters of such names;

(*b*) of a partnership, the name of each person constituting the partnership;

and

(*c*) of body corporate, the name of that body corporate.

Amendment of principal Act, s. 26c—Restriction on number of shops.

13. Section 26c of the principal Act is amended by striking out from subsection (4) all the words in that subsection occurring after the passage "friendly society" first occurring.

Amendment of principal Act. s. 26f—Interpretation ss. 26d-26e.

14. Section 26f of the principal Act is amended—

(*a*) by striking out the passage "the words" and inserting in lieu thereof the passage "the expression";

(*b*) by striking out the passage " 'friendly society' " and the definition thereof;

and

(*c*) by striking out from the definition of "child" the word "child" and inserting in lieu thereof the word "person".

Amendment of principal Act, s. 29—Chemists not to carry on business without a certificate.

15. Section 29 of the principal Act is amended by striking out from subsection (1) the passage "section 21" and inserting in lieu thereof the passage "section 24 of this Act".

Amendment of principal Act, s. 30—Branch business.

16. Section 30 of the principal Act is amended—

(*a*) by striking out from paragraph (*a*) of subsection (1) the figures "21" and inserting in lieu thereof the figures "24";

and

(*b*) by striking out from subsection (2) the figures "21" and inserting in lieu thereof the passage "24 of this Act".

17. Section 37 of the principal Act is amended by inserting after paragraph (*j*) the following paragraph:— Amendment of principal Act, s. 37— Regulations.

(*ja*) the registration and the continuation of the registration of premises under section 17 of this Act and without limiting the generality of the foregoing the type and construction of premises that may be registered under that section;.

18. The third schedule to the principal Act is amended by striking out the passage "*for Registration*" and inserting in lieu thereof the passage "*to Practise*". Amendment of third schedule of principal Act.

19. Section 4 of the Pharmacy Act Amendment Act, 1965, is repealed and shall be deemed never to have been enacted. Amendment of Pharmacy Act Amendment Act, 1965.

20. Section 3 of Part XXIX of the schedule to the Age of Majority (Reduction) Act, 1970-1971, is repealed and shall be deemed never to have been enacted. Amendment of Age of Majority (Reduction) Act, 1970-1971.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 17 of 1972

An Act to amend the Rural Industry Assistance (Special Provisions) Act, 1971.

[*Assented to 30th March*, 1972]

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

Short titles.

1. (1) This Act may be cited as the "Rural Industry Assistance (Special Provisions) Act Amendment Act, 1972".

(2) The Rural Industry Assistance (Special Provisions) Act, 1971, as amended by this Act, may be cited as the "Rural Industry Assistance (Special Provisions) Act, 1971-1972".

(3) The Rural Industry Assistance (Special Provisions) Act, 1971, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 3—Division of Act.

3. Section 3 of the principal Act is amended by inserting after the passage "PART III—PROTECTION CERTIFICATES." the passage "PART IIIA—REHABILITATION LOANS."

Enactment of Part IIIA of principal Act—

4. The following Part, heading and sections are enacted and inserted in the principal Act immediately after Part III thereof:—

PART IIIA

REHABILITATION LOANS

Rehabilitation Loan.

24a. In this Part—

"rehabilitation loan" means a payment or advance of money by way of loan made pursuant to the agreement:

"recipient" means a person to whom a rehabilitation loan is granted.

Protection of rehabilitation loans.

24b. Any moneys comprised in a rehabilitation loan granted to a recipient—

(*a*) shall not pass to any person by virtue of an assignment made before they are paid or advanced to the recipient;

(*b*) shall not be subject to any lien, right of set off or appropriation or charge, which lien, right or charge exists or is claimed in respect of any debt incurred before they are paid or advanced to the recipient;

and

(*c*) shall not be taken or applied by virtue of any legal process in or towards satisfaction of any debt incurred before they are paid or advanced to the recipient.

Enactment of new s. 25a of principal Act—

5. The following section is enacted and inserted in the principal Act immediately after section 25 thereof—

Exemption from stamp duty and registration fees.

25a. Stamp duty shall not be payable upon—

(*a*) any document made or executed by any applicant for assistance under this Act or under the scheme in connection with an application for such assistance;

or

(*b*) any document made or executed by any person for the purposes of giving security for the repayment of any advance under this Act or under the scheme,

and no fees shall be payable under any Act for the registration of any document in relation to which pursuant to this section stamp duty is not payable.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 18 of 1972

An Act to provide for the appointment of a Solicitor-General, to provide for the terms and conditions of service of a person appointed to that office and for matters incidental thereto.

[*Assented to* 30*th March*, 1972]

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 "Solicitor-General Act, 1972".

Commencement.

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

Definition.

3. In this Act, unless the contrary intention appears—

"service as Solicitor-General" means service as Solicitor-General under this Act, and where that service was not continuous includes the aggregate of any periods of such service as Solicitor-General:

"Solicitor-General" means the person for the time being holding the office of Solicitor-General of the State of South Australia.

Appointment of Solicitor-General.

4. (1) The Governor may appoint a legal practitioner of not less than seven years' standing to be Solicitor-General of the State of South Australia.

(2) The person who was immediately before the commencement of this Act holding the office of Solicitor-General under the Public Service Act, 1967, as amended, shall on that commencement for all purposes be deemed to have been appointed under subsection (1) of this section to be the Solicitor-General of the State of South Australia.

(3) The office of Solicitor-General under the Public Service Act, 1967, as amended, is, by force of this subsection, abolished.

Terms and conditions of appointment of Solicitor-General.

5. (1) Subject to this Act, the Solicitor-General shall be appointed and hold office on such terms and conditions as the Governor from time to time determines.

(2) The Solicitor-General shall be paid such salary and allowances as the Governor from time to time determines.

(3) The moneys required to be paid for the purposes of this section shall be payable out of the General Revenue of the State on the warrant of the Governor which warrant the Governor is by this subsection authorized and required to issue from time to time.

(4) The Public Service Act, 1967, as amended, shall not apply to or in relation to the Solicitor-General.

Duties and obligations of Solicitor-General.

6. The Solicitor-General—

(*a*) shall at the request of the Attorney-General—

(i) act as Her Majesty's counsel;

and

(ii) perform such other duties as are ordinarily performed by counsel;

and

(*b*) shall not, except with the consent of the Attorney-General, engage in any other remunerative employment.

Removal from office of Solicitor-General.

7. The Governor may by writing under his hand remove the Solicitor-General from office on the ground—

(*a*) that the Solicitor-General is, otherwise than by reason of temporary illness, incapable of performing the duties of his office;

or

(*b*) that the Solicitor-General has been guilty of misconduct,

and upon such removal the office of the Solicitor-General shall become vacant.

Resignation and retirement.

8. (1) The Solicitor-General may resign his office by writing signed by him and delivered to the Governor and upon that delivery the office of the Solicitor-General shall become vacant.

(2) The Solicitor-General shall retire from office on the day on which he attains the age of sixty-five years and on that day the office of the Solicitor-General shall become vacant.

Leave on retirement.

9. (1) Subject to this section, the Governor may grant to the Solicitor-General immediately prior to his retirement on attaining the age of sixty-five years not more than six months leave of absence on full salary.

(2) Where the Solicitor-General retires without taking any leave which had been or could have been granted to him under subsection (1) of this section, the Governor may direct that a cash payment be made to him in lieu of the leave not so taken, but the payment shall not exceed the amount of the salary of the Solicitor-General for a period equal to the period of the leave not so taken, calculated at the rate at which he was being paid at the time of the retirement.

(3) A direction under subsection (2) of this section may be given before or after the retirement of the Solicitor-General and a payment under that subsection may be made before or after that retirement.

(4) If the Solicitor-General dies before the commencement or during the currency of any leave granted or before such leave has been granted pursuant to subsection (1) of this section, the Governor may, in respect of the period of the leave so granted or the unexpired portion thereof, or in respect of the period of the leave which might have been granted (according to the circumstances of the case), pay to the dependants (if any) of the Solicitor-General the amounts of salary which would have been payable to the Solicitor-General himself if he had survived and if the Solicitor-General died without leaving any dependants the Governor may pay the said amounts of salary to his personal representative.

(5) Any question as to—

(*a*) whether there are any dependants in any particular case, or who are the dependants;

or

(*b*) what dependant or dependants shall be entitled to the benefit of payments made under this subsection, and in what proportions if more than one dependant,

shall be settled by the Governor, as he deems proper.

(6) In subsection (5) of this section the terms—

"dependants" means those members of the family of the Solicitor-General who were wholly or in part dependant upon his earnings at the time of his death:

"members of the family" includes widow or widower, parents, grand-parents, step-parents, children, grand-children, step-children, brothers, sisters, half-brothers and half-sisters.

(7) Where leave is granted to the Solicitor-General under this section, the Solicitor-General may, at the commencement of such leave, be paid the total salary which would be payable to him during the currency of the leave.

Pension rights of Solicitor-General, application of Judges' Pensions Act.

10. (1) The Judges' Pensions Act, 1971, shall in all respects apply to and in relation to the Solicitor-General as if—

(*a*) he were a Judge as defined in that Act;

and

(*b*) his service as Solicitor-General were judicial service as defined in that Act.

(2) A pension payable to a person who was Solicitor-General or to the widow or child of any such person by virtue of subsection (1) of this section, shall for all purposes be deemed to be a pension payable under the Judges' Pensions Act, 1971.

(3) Notwithstanding anything in this section, unless the Governor otherwise directs, no pension shall be payable under the Judges' Pensions Act, 1971, to or in relation to a Solicitor-General who has been removed from office pursuant to section 7 of this Act.

Solicitor-General appointed Judge.

11. (1) Where a person who is or has been Solicitor-General is appointed a Judge as defined in the Judges' Pensions Act, 1971, that Act shall apply to and in relation to that person as if—

(*a*) the service as Solicitor-General of that person were judicial service as defined in that Act;

and

(*b*) section 5 of that Act had not been enacted.

(2) Where a person referred to in subsection (1) of this section was, immediately before his appointment as a Judge, in receipt of a pension under the Judges' Pensions Act, 1971, that pension shall upon that appointment cease and determine.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 19 of 1972

An Act to amend the Law of Property Act, 1936-1969; and the Wrongs Act, 1936-1959.

[*Assented to 30th March,* 1972]

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

Short title.

1. This Act may be cited as the "Statutes Amendment (Law of Property and Wrongs) Act, 1972".

Commencement.

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

Arrangement.

3. This Act is arranged as follows:—

PART I—PRELIMINARY

PART II—AMENDMENT OF THE LAW OF PROPERTY ACT, 1936-1969

PART III—AMENDMENT OF THE WRONGS ACT, 1936-1959

PART II

PART II

AMENDMENT OF LAW OF PROPERTY ACT, 1936-1969

Short titles.

4. (1) The Law of Property Act, 1936-1969, as amended by this Act, may be cited as the "Law of Property Act, 1936-1972".

(2) The Law of Property Act, 1936-1969, is in this Part referred to as "the principal Act".

Amendment of principal Act, s. 92—Status of married women.

5. Section 92 of the principal Act is amended—

(*a*) by striking out the passage "Subject as regards actions in tort between husband and wife to the provisions of section 101, a married woman shall" and inserting in lieu thereof the passage "A married woman shall";

and

(*b*) by inserting after paragraph (*b*) the following paragraph:—

(*ba*) be capable of appointing an agent or attorney to act on her behalf

and.

Amendment of principal Act, s. 93—Married women.

6. Section 93 of the principal Act is amended by striking out the proviso.

Enactment of s. 95a of principal Act—

7. The following section is enacted and inserted in the principal Act immediately after section 95 thereof:—

Husband and wife to be treated as separate persons for purpose of taking property.

95a. A husband and wife shall, for the purposes of the acquisition of any interest in property pursuant to a disposition that comes into operation after the commencement of the Statutes Amendment (Law of Property and Wrongs) Act, 1971, be treated as two persons.

Amendment of principal Act, s. 99—Married woman may effect policy of insurance.

8. Section 99 of the principal Act is amended by striking out the word "ensure" and inserting in lieu thereof the word "enure".

Amendment of principal Act, s. 101—Married women to have the same civil and criminal redress as *feme sole*.

9. Section 101 of the principal Act is amended by striking out from subsection (1) the passage "but, except as aforesaid, no husband or wife shall be entitled to sue the other for a tort".

Enactment of s. 105a of principal Act—

10. The following section is enacted and inserted in the principal Act immediately after section 105 thereof:—

Property in domestic allowance.

105a. If any question arises as to the right of a husband or wife to money derived from an allowance made by the husband to the wife for the purpose of defraying domestic expenses,

or to property acquired with such money, the money or property shall, in the absence of agreement to the contrary, be treated as belonging to the husband and wife in equal shares.

Repeal of s. 110 of principal Act and enactment of section in its place—

11. Section 110 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Invalidity of restraints upon anticipations.

110. Any restraint or restriction upon anticipation or alienation affecting the enjoyment of property by a woman that could not have been validly made or imposed in respect of the enjoyment of property by a man, is invalid.

PART III

PART III

AMENDMENT OF THE WRONGS ACT, 1936-1959

Short titles.

12. (1) The Wrongs Act, 1936-1959, as amended by this Act, may be cited as the "Wrongs Act, 1936-1972".

(2) The Wrongs Act, 1936-1959, is in this Part referred to as "the principal Act".

Enactment of headings and ss. 32-35.

13. The following headings and sections are enacted and inserted in the principal Act immediately after section 31 thereof:—

Actions in tort relating to husband and wife

Abolition of rule as to unity of spouses.

32. (1) Subject to this section, where any injury or damage is suffered by any person by reason of the wrongful act, neglect or default of his spouse, the spouse shall be liable in respect of that injury or damage in all respects as if the injured person and the person by reason of whose wrongful act neglect or default the injury or damage is suffered were not married.

(2) This section shall not be construed as entitling any person to maintain an action in trespass or ejectment against his spouse in respect of a matrimonial home.

(3) Where proceedings are brought pursuant to this section, the court may dismiss the proceedings if it appears to the court—

(*a*) that no substantial benefit would accrue to either party from the continuation of the proceedings;

or

(*b*) that the question or questions in issue could be more conveniently disposed of on an application under section 105 of the Law of Property Act.

Wife may claim for loss or impairment of consortium.

33. (1) Where a person causes injury to another by wrongful act, neglect or default, he shall (whether or not the injury results in death) be liable in damages to the wife of the injured person for loss or injury suffered by her as a result of the loss or impairment of the consortium of husband and wife.

(2) The damages shall be assessed in the same manner as upon a claim by a husband for damages in tort in respect of loss or impairment of consortium.

Damages where injured spouse participated in a business.

34. (1) Where a husband and wife are engaged in the conduct of a business, and either of them suffers an injury as a result of which his or her participation in the conduct of the business ceases or is impaired, the other spouse shall be entitled to recover from a person whose wrongful act, neglect or default caused the injury compensation for loss that he or she has suffered or continues to suffer by reason of the fact that the participation of his or her spouse in the conduct of the business has ceased or has been impaired.

(2) In this section—

"business" includes any professional or commercial undertaking:

"injury" includes an injury that results in the death of a spouse.

Abolition of actions of seduction, enticement and harbouring

Abolition of actions for enticement, seduction and harbouring.

35. The following actions at common law are abolished—

(*a*) the action for seduction;

(*b*) the action for enticement;

and

(*c*) the action for harbouring.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 20 of 1972

An Act to apply, out of the General Revenue, the sum of Sixty Million Dollars to the Public Service for the year ending on the thirtieth day of June, 1973.

[*Assented to* 30*th March*, 1972]

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 "Supply Act (No. 1), 1972".

Issue and application of $60,000,000.

2. Out of the General Revenue of the State there shall be issued and applied, from time to time, for the public service of the State for the financial year ending on the thirtieth day of June, 1973, any moneys not exceeding in the aggregate sixty million dollars.

Payments not to exceed last year's Estimates except in certain respects.

3. (1) No payments for any establishment or service shall be made out of the moneys referred to in section 2 of this Act in excess of the rates voted for similar establishments or services on the Estimates for the financial year ended on the thirtieth day of June, 1972, but there may be paid out of those moneys increases of salaries or wages payable by the Government of the State pursuant to any return made under the Acts relating to the public service, or pursuant to any regulation, or any award, order, or determination of a court or other body empowered to fix salaries or wages.

(2) The Treasurer is hereby authorized to pay such increases out of those moneys.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 21 of 1972

An Act to amend the Swine Compensation Act, 1936-1971.

[*Assented to 30th March*, 1972]

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

Short titles.

1. (1) This Act may be cited as the "Swine Compensation Act Amendment Act, 1972".

(2) The Swine Compensation Act, 1936-1971, as amended by this Act, may be cited as the "Swine Compensation Act, 1936-1972".

(3) The Swine Compensation Act, 1936-1971, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 4—Interpretation.

3. Section 4 of the principal Act is amended by striking out from the definition of "disease" the passage "swine fever,".

Amendment of principal Act, s. 4a—Proclamation of disease, etc.

4. Section 4a of the principal Act is amended—

(*a*) by striking out from subsection (2) the passage "proclaimed as such by a previous proclamation";

(*b*) by inserting in subsection (2) after the passage "this Act" first occurring the passage "and upon the publication of that proclamation that disease shall cease to be a disease as defined in section 4 of this Act";

(*c*) by striking out from subsection (2) the second sentence therein;

and

(*d*) by inserting immediately after subsection (2) the following subsection:—

(3) At any time after a disease has, pursuant to a proclamation under this section, ceased to be a disease as defined in section 4 of this Act, the Governor may by proclamation under subsection (1) of this section declare that disease to be a disease for the purposes of this Act.

Amendment of principal Act, s. 8— Application for compensation.

5. Section 8 of the principal Act is amended by striking out from subsection (4) paragraph (*d*) thereof.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 22 of 1972

An Act relating to the sending of unordered goods, the making of charges for directory entries and the rendering of certain unrequested services and for other purposes.

[*Assented to* 30*th March*, 1972]

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

Short titles.

1. This Act may be cited as the "Unordered Goods and Services Act, 1972".

Commencement.

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

Interpretation.

3. (1) In this Act, unless the contrary intention appears—

"directory entry" means an entry in a directory or other similar publication relating to a person or relating to the trade, business, profession or calling of a person but does not include an entry in a newspaper or periodical that is published in good faith as a newspaper or periodical at regular intervals:

"prescribed directory or prescribed publication" means a directory or other similar publication for the time being prescribed as a directory or publication for the purposes of subsection (4) of this section:

"prescribed publisher" means a person for the time being prescribed as a publisher for the purposes of subsection (4) of this section:

"prescribed service" means a service for the time being prescribed as being a service to which this Act applies:

"recipient" in relation to unordered goods means the person to whom those goods were sent by the sender:

"send" includes deliver:

"sender" in relation to unordered goods means the person who sent those goods whether from a place within or without the State and includes a person on whose behalf those goods were sent and a person claiming through or under that first or second mentioned person:

"unordered goods" means goods that have been sent whether from a place within or without the State by a person in the course of a trade or business to a person within the State with a view to that person acquiring or hiring those goods or an interest in those goods where that person has not requested that the goods be so sent to him.

(2) For the purposes of the definition of "unordered goods", where goods of a kind similar to the goods that a person has requested be sent to him are sent with a view to satisfying that request, those goods are not for that reason alone unordered goods.

(3) For the purposes of this Act, a person shall be deemed not to have requested that goods be sent to him if the request was made on or constituted by a form provided by or that appears to have been provided by the sender of the goods and the form or any part of the form or any document of which the form is a part directly or indirectly relates to, affects or evidences the creation of rights or obligations of the first-mentioned person other than rights or obligations relating to goods described in the form.

(4) This Act does not apply to or in relation to—

(*a*) a contract or agreement for the making of a directory entry—

(i) in a directory or other similar publication published or to be published by or under the authority of the Postmaster-General for the Commonwealth or by or under the authority of a prescribed publisher;

or

(ii) in a prescribed directory or prescribed publication;

or

(*b*) the assertion of a right to payment of a charge or fee under such a contract or agreement.

Effect of sending unordered goods.

4. (1) Subject to subsection (2) of this section, where after the commencement of this Act a recipient receives unordered goods, the goods shall, upon the expiration of the relevant period, by operation of this section, become the property of the recipient freed and discharged from all liens and charges of any description.

(2) Subsection (1) of this section does not apply to or in relation to unordered goods—

(*a*) of which the recipient has at any time during the relevant period unreasonably refused to permit the sender or the owner of the goods to take possession;

(*b*) of which the sender or the owner of the goods has within the relevant period taken possession;

or

(*c*) that were received by the recipient in circumstances in which the recipient knew, or might reasonably be expected to have known, that the goods were not intended for him.

(3) In this section "relevant period" means—

(*a*) where the recipient of the unordered goods gives notice with respect to the goods to the sender in accordance with subsection (4) of this section the period of one month next following the day on which the notice is given or the period of three months next following the day on which the recipient received the goods, whichever first expires;

and

(*b*) in any other case, the period of three months next following the day on which the recipient received the goods.

(4) A notice under subsection (3) of this section shall be in writing and shall—

(*a*) state the name and address of the recipient of the goods;

(*b*) state the address at which possession may be taken of the goods if it is an address other than that of the recipient;

and

(*c*) contain a statement to the effect that the goods are unordered goods.

Assertion of right to payment for unordered goods.

5. (1) A person shall not assert a right to payment from a recipient for unordered goods.

Penalty: Five hundred dollars.

(2) In proceedings for an offence that is a contravention of subsection (1) of this section, without limiting the generality of that subsection:—

(*a*) the receipt by a recipient of a prescribed document relating to unordered goods that was sent by or on behalf of a person shall be deemed to be an assertion by that person of a right to payment from the recipient for the goods;

and

(*b*) a prescribed document purporting to have been sent by or on behalf of a person shall be deemed to have been sent by that person unless the contrary is proved.

(3) It is a defence to a prosecution for a contravention of subsection (1) of this section if the defendant proves—

(*a*) that his contravention was due to his believing on reasonable grounds that a request had been made by the recipient of the unordered goods that the goods be sent to him;

(*b*) that if the goods had been sent as a result of that request, they would not have been unordered goods;

and

(*c*) in a case where he became aware or ought on reasonable grounds to have become aware after sending the goods that such a request had not been made, that he informed that recipient to the effect that the recipient was not liable to pay for the goods.

(4) In this section "prescribed document" in relation to unordered goods means a writing that asserts or implies that payment should be made for the goods or that sets out the price of the goods.

Liability of recipient.

6. Notwithstanding any Act or law to the contrary, the recipient of unordered goods is not liable to make any payment for the goods and is not liable for any loss of or injury to the goods other than loss or injury arising from his wilful and unlawful disposal, wilful and unlawful destruction or wilful and unlawful damaging of the goods during the relevant period as defined in section 4 of this Act.

Directory entries and prescribed services.

7. (1) Subject to section 9 of this Act, a person is not liable to make any payment and is entitled to recover a payment made by him in full or part satisfaction of a charge or fee under a contract or agreement to or in relation to which this subsection applies unless there has been signed by that person or a person authorized by him in that behalf a note complying with this section and that first-mentioned person has been supplied with a copy of the note as signed by him or on his behalf.

(2) Subsection (1) of this section applies to and in relation to a contract or agreement for the making of a directory entry or the rendering of a prescribed service if the offer to enter into the contract or agreement was made or accepted in this State or at the time the offer was made or accepted a party to the contract or agreement was resident or carrying on business in the State.

(3) In order to comply with this section a note referred to in subsection (1) of this section shall, in relation to a contract or agreement for the making of a directory entry, specify—

(*a*) the particulars of the entry inserted or proposed to be inserted;

(*b*) the amount of the charge or fee or the basis on which the charge or fee to be charged is or is to be calculated;

(*c*) the name of the directory or other similar publication in relation to an entry in which the charge or fee is payable;

and

(*d*) the name and address of the person publishing the directory or other similar publication.

(4) In order to comply with this section a note referred to in subsection (1) of this section shall, in relation to a contract or agreement for the rendering of a prescribed service, specify—

(*a*) the particulars of the service rendered or proposed to be rendered;

and

(*b*) the amount of the charge or fee for the service or the basis on which the charge or fee to be charged is or is to be calculated.

Asserting a right to payment for directory entries or prescribed services.

8. (1) A person shall not assert a right to payment of any charge or fee for the making of a directory entry or the rendering of a prescribed service, whether made or to be made or rendered or to be rendered by him or another person and whether made or to be made or rendered or to be rendered wholly or partly in the State, unless he has reasonable cause to believe (proof of which shall lie upon him) that a note complying with section 7 of this Act has been signed by or on behalf of the person against or in relation to whom that right is asserted.

Penalty: Five hundred dollars.

(2) In proceedings for an offence that is a contravention of subsection (1) of this section without limiting the generality of that subsection, the receipt by a person of a prescribed document relating to a directory entry or prescribed service that was sent or purports

to have been sent by or on behalf of the person who made or proposes to make that entry or rendered or proposes to render that service shall be deemed to be an assertion by that person of a right to payment from the first-mentioned person of a charge or fee for the making of the directory entry or the rendering of the prescribed service as the case may be.

(3) In this section "prescribed document" in relation to a directory entry or prescribed service means a writing that asserts or implies that the payment of a charge or fee should be made for the making of the directory entry or the rendering of the prescribed service or that sets out the price for the making of the directory entry or rendering of the prescribed service.

Sections 7 and 8 not to apply to certain matters.

9. Sections 7 and 8 of this Act do not apply to or in relation to—

(*a*) the making of a payment or the assertion of a right to payment pursuant to a contract or agreement relating to the making of a directory entry or the rendering of a prescribed service—

(i) made or entered into before the commencement of this Act;

or

(ii) arising from the acceptance of an offer made before the commencement of this Act;

or

(*b*) the making of a payment or the assertion of a right to payment pursuant to a contract or agreement relating to the rendering of a service that became a prescribed service after the commencement of this Act being a contract or agreement—

(i) made or entered into before the service became a prescribed service;

or

(ii) arising from the acceptance of an offer made before the service became a prescribed service.

Certain acts Prohibited.

10. Any person who—

(*a*) asserts an intention to bring legal proceedings to enforce payment for unordered goods, the making of a directory entry or the rendering of a prescribed service;

(*b*) publishes or causes to be published the name of a person not liable to make payment for unordered goods, the making of a directory entry or the rendering of a prescribed service on a list or record of debtors or defaulters or asserts an intention of so doing;

or

(*c*) invokes any other collection procedure to enforce payment for unordered goods, the making of a directory entry or the rendering of a prescribed service or asserts an intention so to do,

unless he has reasonable cause to believe that he has a right to assert a right to payment for the unordered goods, the making of the directory entry or the rendering of the prescribed service is guilty of an offence.

Penalty: Five hundred dollars.

False orders.

11. A person shall not make a request in the name of another person that goods be sent to that other person where, if those goods were sent to that other person, those goods would be unordered goods unless the first-mentioned person has the authority (proof of which lies on him) of that other person to make that request.

Penalty: Two hundred dollars.

Certain proceedings not to be commenced or continued.

12. Proceedings shall not be commenced or continued before a court in this State to enforce payment for—

(*a*) goods sent to a person outside the State where, had the goods been sent to a person in this State, the goods would be unordered goods;

or

(*b*) making a directory entry or rendering outside this State a service which, if rendered in this State, would have been a prescribed service, unless in relation to the contract for making the directory entry or rendering the service subsection (1) of section 7 of this Act or a provision in the law of another State or Territory of the Commonwealth that corresponds to that subsection had been complied with.

Offences by bodies corporate.

13. Where a person charged with an offence against this Act is a body corporate, a person who is concerned or takes part in the management of the body corporate may be charged with a like offence and where the body corporate is convicted of the offence

a person who is so concerned or takes part in the management of the body corporate may be convicted of the like offence unless he proves that the act or omission constituting the offence took place without his knowledge or consent.

Evidentiary.

14. (1) In proceedings for an offence against this Act, where it appears to the court before which those proceedings are brought, from a perusal of a writing, that—

(*a*) the writing is relevant to the facts in issue;

and

(*b*) the writing has been sent or published by a person whose name appears thereon,

the writing may be admitted in evidence in those proceedings without formal proof of the sending or publishing thereof, or of the authentication thereof and the writing shall be *prima facie* evidence that any statement, representation, assertion or implication contained therein—

(*c*) was actually made;

(*d*) was made on the day on which it is alleged that it was made;

and

(*e*) was made by the person whose name appears thereon as sending or publishing the writing.

(2) In proceedings for an offence against this Act, an allegation that the defendant is a body corporate incorporated under the law of a State or Territory of the Commonwealth, not being this State shall be *prima facie* evidence that the defendant is a body corporate incorporated under the law of that State or Territory.

Summary proceedings.

15. Proceedings for offences against this Act shall be disposed of summarily.

Regulations.

16. (1) The Governor may make such regulations as are necessary or expedient for the purpose of giving effect to the provisions and objects of this Act.

(2) Without limiting the generality of subsection (1) of this section, the regulations may—

(*a*) prescribe a directory or other similar publication as a directory or publication to and in relation to which the Act does not apply;

(*b*) prescribe a publisher as a publisher to and in relation to whom this Act does not apply;

(*c*) prescribe a service as a service to which this Act applies; and

(*d*) provide for and prescribe penalties not exceeding in each case two hundred dollars for a breach of a provision of the regulations.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 23 of 1972

An Act to amend the Acts Republication Act, 1967.

[*Assented to 6th April,* 1972]

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 "Acts Republication Act Amendment Act, 1972".

(2) The Acts Republication Act, 1967, as amended by this Act, may be cited as the "Acts Republication Act, 1967-1972". Short titles.

(3) The Acts Republication Act, 1967, is hereinafter referred to as "the principal Act".

2. Section 3 of the principal Act is amended by inserting in the definition of "the Commissioner" after the word "Revision" the passage "and, where there is no person holding or acting in that office, means the person (being a legal practitioner as defined in the Legal Practitioner's Act, 1936, as amended) for the time being authorized in writing by the Attorney-General to supervise the preparation of Acts for reprint under this Act". Amendment of principal Act s. 3—Interpretation.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 24 of 1972

An Act to amend the Adelaide Festival Centre Trust Act, 1971.

[*Assented to 6th April,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Adelaide Festival Centre Trust Act Amendment Act, 1972".

(2) The Adelaide Festival Centre Trust Act, 1971, as amended by this Act, may be cited as the "Adelaide Festival Centre Trust Act, 1971-1972".

(3) The Adelaide Festival Centre Trust Act, 1971, is hereinafter referred to as "the principal Act".

Amendment of principal Act, s. 24—

2. Section 24 of the principal Act is amended by inserting immediately after subsection (1) the following subsection:—

Construction of Drama Facilities.

(1a) In addition to and without derogating from the powers conferred on the Trust by subsection (1) of this section, the Trust may out of moneys to be provided by Parliament for the purpose or out of moneys borrowed pursuant to section 26 of this Act, construct and provide on, over or under any land, not vested and not to be vested in the Trust, with the consent of the owner of that land—

(*a*) such means of access to land vested in the Trust or which may be vested in the Trust as are, in the opinion of the Trust, necessary or desirable;

and

(*b*) such buildings, works and conveniences, the construction and provision of which, in the opinion of the Trust, is necessary or desirable to secure to the Trust the full and convenient use of land vested in the Trust or which may be vested in the Trust.

Amendment of principal Act, s. 26—Power to borrow.

3. Section 26 of the principal Act is amended by inserting in subsection (1) after the passage "The Trust may" the passage "with the consent of the Treasurer".

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 25 of 1972

An Act to amend the Enfield General Cemetery Act, 1944-1966

[*Assented to 6th April,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Enfield General Cemetery Act Amendment Act, 1972".

(2) The Enfield General Cemetery Act, 1944-1966, as amended by this Act, may be cited as the "Enfield General Cemetery Act, 1944-1972".

(3) The Enfield General Cemetery Act, 1944-1966, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 5—Membership of trust.

3. Section 5 of the principal Act is amended—

(*a*) by striking out the word "The" being the first word in that section and inserting in lieu thereof the following passage:—

"(1) Subject to subsection (2) of this section, the";

(*b*) by inserting at the end thereof the following subsections:—

(2) Notwithstanding any other provision of this Act, on the appointed day the members appointed and

holding office as such pursuant to paragraphs (*d*), (*e*) and (*f*) of subsection (1) of this section shall retire from office as members and their offices shall be abolished, and, on and after the appointed day, the trust shall consist of—

(*a*) the chairman appointed pursuant to paragraph (*a*) of subsection (1) of this section;

(*b*) the member appointed pursuant to paragraph (*b*) of subsection (1) of this section;

(*c*) the two members appointed pursuant to paragraph (*c*) of subsection (1) of this section;

(*d*) two members appointed by the Governor, one of whom shall be nominated by the Treasurer and the other nominated by the Minister;

and

(*e*) one member appointed by the Governor in accordance with subsection (3) of this section who will represent the religious denominations in South Australia.

(3) The member referred to in paragraph (*e*) of subsection (2) of this section shall be appointed in accordance with the following provisions:—

(*a*) the member to be first appointed pursuant to that paragraph or to be appointed to succeed a member appointed under paragraph (*c*) of this subsection at the end of his term of office shall be appointed upon the nomination of the person for the time being administering the Diocese of Adelaide of the Church of England in Australia;

(*b*) the member to be appointed to succeed a member appointed under paragraph (*a*) of this subsection at the end of his term of office shall be appointed upon the nomination of the person for the time being administering the Archdiocese of Adelaide of the Roman Catholic Church;

and

(*c*) the member to be appointed to succeed a member appointed under paragraph (*b*) of this subsection at the end of his term of office shall be appointed upon the nomination of the Minister and shall be a person who, in the opinion of the Minister, is representative of other religious denominations in South Australia.

(4) In this section—

"the appointed day" means the day which shall be fixed by proclamation as the appointed day for the purposes of this section.

Amendment of principal Act, s. 6—Term of Office.

4. Section 6 of the principal Act is amended—

(*a*) by striking out subsection (1);

and

(*b*) by striking out from subsection (2) the word "other".

Amendment of principal Act, s. 10—Casual vacancies.

5. Section 10 of the principal Act is amended by striking out from paragraph (*a*) the passage "twenty shillings in the pound" and inserting in lieu thereof the passage "one hundred cents in the dollar".

Amendment of principal Act, s. 14—Ancillary powers of trust.

6. Section 14 of the principal Act is amended by striking out from subsection (1a) the passage "the Act" and inserting in lieu thereof the passage "this Act".

Enactment of s. 16a of principal Act—

7. The following section is enacted and inserted in the principal Act immediately after section 16 thereof:—

Trust to be under Ministerial control.

16a. The trust shall be subject to the control and directions of the Minister who may give any direction to the trust by communicating the same, orally or in writing, to the chairman, the secretary or some other responsible officer of the trust.

Amendment of principal Act, s. 22—Provision as to balance of land transferred.

8. Section 22 of the principal Act is amended by striking out subsection (2) and inserting in lieu thereof the following subsection:—

(2) The proceeds of the sale of the land or any portion of such proceeds shall be applied in such manner as the Minister may, from time to time, by writing addressed to the trust, direct.

Amendment of principal Act, s. 22a—

Power to sell land not used for burial purposes.

9. Section 22a of the principal Act is amended by striking out subsection (2) and inserting in lieu thereof the following subsection:—

(2) The proceeds of every sale under this section or any portion of such proceeds shall be applied in such manner as the Minister may, from time to time, by writing addressed to the trust, direct.

Amendment of principal Act, s. 23—

Advance to trust.

10. Section 23 of the principal Act is amended—

(*a*) by striking out from subsection (2) the passage "the manner provided by the fourth schedule" and inserting in lieu thereof the passage "such manner as the Minister may on the recommendation of the Treasurer, from time to time, by writing addressed to the trust, direct";

(*b*) by striking out from subsection (3) the passage "the manner provided by the fourth schedule" and inserting in lieu thereof the passage "such manner as the Minister may on the recommendation of the Treasurer, from time to time, by writing addressed to the trust, direct";

and

(*c*) by inserting after subsection (3) the following subsections:—

(4) The Minister may, upon such terms and conditions as he thinks fit, from time to time extend the time for payment of any amount the trust is liable to pay to the Minister under this Act.

(5) Any interest payable by the trust to the Minister shall, if the Minister so directs, and from such date as may from time to time be fixed by the Minister, be capitalized and added to the amount advanced to the trust.

(6) The trust may at any time pay off the whole or any part of the amount owing by the trust to the Minister.

Repeal of s. 24 of principal Act and enactment of section in its place—

Power of trust to borrow on overdraft.

11. Section 24 of the principal Act is repealed and the following section is enacted and inserted in its place:—

24. (1) The trust may borrow from any bank by way of overdraft any moneys for the purposes of carrying out its duties and functions under this Act or of conducting the affairs of the trust.

(2) The Treasurer may, upon such terms and conditions as he thinks fit, guarantee the repayment of any moneys borrowed by the trust under this section.

Repeal of s. 25 of principal Act and enactment of new section in its place—

Application of revenue.

12. Section 25 of the principal Act is repealed and the following section is enacted and inserted in its place:—

25. The trust shall apply its revenue in such manner as the Minister approves.

Amendment of principal Act, s. 26—

Reserve fund.

13. Section 26 of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage ", after providing for the matters referred to in section 25,";

and

(*b*) by striking out from subsection (1) the passage "trust thinks fit to form" and inserting in lieu thereof the passage "Minister may approve as a reserve fund or a contribution towards".

Amendment of principal Act, s. 27—

Books and accounts.

14. Section 27 of the principal Act is amended by striking out from subsection (1a) the passage "Fifty pounds" and inserting in lieu thereof the passage "One hundred dollars".

Amendment of principal Act, s. 39—

General power of maintenance, etc.

15. Section 39 of the principal Act is amended by inserting after the passage "this Act" the passage "or with any direction of the Minister".

Amendment of principal Act, s. 43—

Regulations.

16. Section 43 of the principal Act is amended by striking out from paragraph VIII of subsection (1) the passage "fifty pounds" and inserting in lieu thereof the passage "one hundred dollars".

Amendment of principal Act, s. 44—

Liability of trust for Local Government rates, etc.

17. Section 44 of the principal Act is amended by striking out from subsection (2) the passage "the Corporation of the Town of Enfield" and inserting in lieu thereof the passage "The Corporation of the City of Enfield".

Repeal of fourth schedule to principal Act.

18. The fourth schedule to the principal Act is repealed.

Amendment of principal Act—

Fifth schedule.

19. The fifth schedule to the principal Act is amended by striking out the items designated (*a*), (*b*), (*c*), (*d*) and (*e*) and inserting in their place the following items:—

(*a*) During each financial year up to and including the financial year commencing on 1st July, 1979—$150.

(*b*) During each subsequent financial year—$200.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 26 of 1972

An Act to amend the Lottery and Gaming Act, 1936-1971.

[*Assented to 6th April,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Lottery and Gaming Act Amendment Act, 1972".

(2) The Lottery and Gaming Act, 1936-1971, as amended by this Act, may be cited as the "Lottery and Gaming Act, 1936-1972".

(3) The Lottery and Gaming Act, 1936-1971, is hereinafter referred to as "the principal Act".

Commencement.

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

Repeal of s. 63 of principal Act.

3. Section 63 of the principal Act is repealed.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 27 of 1972

An Act to amend the Police Offences Act, 1953-1967.

[*Assented to 6th April,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Police Offences Act Amendment Act, 1972".

(2) The Police Offences Act, 1953-1967, as amended by this Act, may be cited as the "Police Offences Act, 1953-1972".

(3) The Police Offences Act, 1953-1967, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 18—Loitering in public place.

3. Section 18 of the principal Act is amended by inserting after the present contents thereof (which are hereby designated subsection (1) thereof) the following subsections:—

(2) Where a person is loitering in a public place and a member of the police force believes or apprehends on reasonable grounds—

(*a*) that an offence has been or is about to be committed by that person or by others in the vicinity;

(*b*) that a breach of the peace has occurred, is occurring or is about to occur in the vicinity of that person;

(*c*) that the movement of pedestrians or vehicular traffic is obstructed, or is about to be obstructed, by the presence of that person or of others in the vicinity;

or

(*d*) that the safety of that person or of others in the vicinity is in danger,

the member of the police force may request that person to cease loitering.

(3) A person of whom a request is made under subsection (2) of this section shall cease loitering and shall leave the place in which he was loitering and the area in the vicinity thereof.

Penalty: Fifty dollars or imprisonment for three months.

Repeal of s. 58 of principal Act and enactment of section in its place—

4. Section 58 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Obstruction of public places.

58. (1) Subject to subsection (2) of this section, a person who wilfully obstructs the free passage of a public place shall be guilty of an offence.

Penalty: Fifty dollars.

(2) This section shall not be construed as prohibiting any person from, or restricting any person in, the exercise of rights arising by reason of any legal or equitable interest that he has in any property constituting, or forming part of, a public place.

Amendment of principal Act, s. 59—

5. Section 59 of the principal Act is amended—

Regulation of crowds.

(*a*) by striking out from subsection (2) the passage "give directions" and inserting in lieu thereof the passage "give reasonable directions";

and

(*b*) by striking out subsection (6) and inserting in lieu thereof the following subsections:—

(6) A direction under this section must be given—

(*a*) by publication of the direction in a newspaper circulating generally throughout the State;

or

(*b*) in such other manner as to ensure as far as reasonably practicable that, prior to the special occasion, the direction will come to the attention of those who, by their actions or presence, are likely to cause, or contribute to, the crowding of the street, road or public place.

(7) Where a direction has been given under this section, a member of the police force may, upon the occurrence of the special occasion, give to any person, orally or in writing, such orders as are reasonably calculated to ensure compliance with the direction.

(8) A person who fails to comply forthwith with an order under this section shall be guilty of an offence.

Penalty: Forty dollars.

Repeal of s. 60 of principal Act.

6. Section 60 of the principal Act is repealed.

Amendment of principal Act, s. 80—

7. Section 80 of the principal Act is amended by striking out subsection (1) and inserting in lieu thereof the following subsection:—

Right of arrested person to apply for bail.

(1) Where a person arrested without a warrant is delivered into the custody of a member of the police force at a police station who does not, on application, admit the arrested person to bail, the member of the police force—

(*a*) shall inform the arrested person that he is entitled to make an application for bail to a justice;

and

(*b*) shall, if so requested by the arrested person, bring him as soon as practicable before a justice in order that an application for bail may be made to, and dealt with by, that justice.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 28 of 1972

An Act to provide for the orderly conduct of assemblies and processions in public places; and to make various provisions incidental thereto.

[*Assented to 6th April,* 1972]

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 "Public Assemblies Act, 1972".

Commencement.

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

Interpretation.

3. In this Act, unless the contrary intention appears—

"approved proposals" in relation to an assembly means—

(*a*) proposals of which notice has been given in accordance with section 4 of this Act and against which no objection has been made under that section;

or

(*b*) proposals approved by a Judge upon the hearing of an application under this Act:

"assembly" means any assembly, convention, gathering or procession:

"council" means a municipal or district council and includes any body corporate that is, by virtue of any Act, deemed to be, or vested with the powers of, a municipal or district council:

"Judge" means a Judge of the Local and District Criminal Court:

"public place" includes—

(*a*) a place to which free access is permitted to the public with the express or implied consent of the owner or occupier of that place;

and

(*b*) any road, street, footway, court, alley or thoroughfare to which free access is permitted to the public whether or not the road, street, footway, court, alley or thoroughfare is on private property.

Notice of assembly.

4. (1) Where an assembly is to be held in, or to proceed through, any public place, any person who is engaged in the organization of the assembly, or who proposes to participate in the assembly, may give notice, in accordance with this section, containing the following proposals—

(*a*) the date of the assembly;

(*b*) the time at which the assembly will convene and the time at which it will disband;

and

(*c*) the place in which the assembly will be held, and the boundaries of the area to be occupied by the assembly, or if it is to move in procession, the route that it will follow, the extent to which it will occupy the public places through which it will pass, the places (if any) at which it will halt and the time for which it will remain stationary in each such place.

(2) The notice must also contain the following information:—

(*a*) the name and address of the person by whom the notice is given;

(*b*) the name of the person or body of persons by whom the assembly is being, or is to be, organized;

(*c*) the purpose of the assembly;

and

(*d*) an estimate of the number of persons who will participate in the assembly.

(3) The proposals and information must be given with as much particularity as is reasonably practicable.

(4) The notice must be served personally or by post, at least four days before the date of the assembly on—

(*a*) the Chief Secretary;

(*b*) the Commissioner of Police;

or

(*c*) the clerk of the council for the area in which the assembly is to be held,

and the recipient of the notice must forthwith inform the other persons referred to in this subsection of the contents of the notice.

(5) Where two or more notices are given under this section in respect of the same assembly—

(*a*) only one of those notices shall be valid and effective for the purposes of this Act;

and

(*b*) the Chief Secretary shall determine finally and conclusively which of the notices is to be valid and effective for the purposes of this Act.

(6) An objection may be made by or on behalf of the Chief Secretary, the Commissioner of Police or the council referred to in subsection (4) of this section to any proposal contained in a notice under subsection (1) of this section on the ground that it would, if effectuated, unduly prejudice any public interest.

(7) Any such objection must set forth the grounds upon which the objector alleges that the proposal would unduly prejudice the public interest.

(8) A copy of the objection—

(*a*) must be served at least two days before the proposed date of the assembly upon the person by whom the notice of the assembly was given;

and

(*b*) must be published at least two days before the date of the assembly—

(i) in a newspaper circulating generally throughout the State;

or

(ii) in such other manner as to ensure as far as reasonably practicable that prior to the assembly, it will come to the attention of those who intend to participate in the assembly.

Application to Judge.

5. (1) Where an objection has been made to a proposal under this Act, any person who desires to participate in the proposed assembly may apply to a Judge for a determination under this section.

(2) The Judge may upon the hearing of an application under this section—

(*a*) if he is not satisfied that proper ground for any objection made to the proposal exists, quash the objection and approve the proposal;

or

(*b*) may approve any other proposals submitted to him before, or at the hearing of, the application.

(3) Proceedings under this section may be heard and determined by a Judge without formality.

Exemption for participants acting in accordance with approved proposals.

6. (1) Where the conduct of an assembly conforms with approved proposals, a person participating in the assembly—

(*a*) may, in accordance with the proposals, position himself, or proceed over, any portion of a public place defined or described in the proposals;

and

(*b*) in acting in conformity with the proposals does not incur any civil or criminal liability by reason of the obstruction of a public place.

(2) An act permitted by this section is lawful notwithstanding the provisions of any other Act or law regulating the movement of traffic or pedestrians, or relating to the use or obstruction of a public place.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 29 of 1972

An Act to amend the Dairy Cattle Improvement Act, 1921-1968.

[*Assented to 13th April,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Dairy Cattle Improvement Act Amendment Act, 1972".

(2) The Dairy Cattle Improvement Act, 1921-1968, as amended by this Act, may be cited as the "Dairy Cattle Improvement Act, 1921-1972".

(3) The Dairy Cattle Improvement Act, 1921-1968, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 6—Every bull over twelve months old to be licensed.

3. Section 6 of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "six months" and inserting in lieu thereof the passage "twelve months";

(*b*) by striking out from paragraph (*a*) of subsection (1) the passage "-1958" and inserting in lieu thereof the passage ", as amended";

(*c*) by striking out from paragraph (*b*) of subsection (1) the passage "-1957" and inserting in lieu thereof the passage ", as amended";

and

(*d*) by striking out from subsection (2) the passage "six months" and inserting in lieu thereof the passage "twelve months".

Amendment of principal Act, s. 7—Licence fee.

4. Section 7 of the principal Act is amended by inserting after the passage "every licence" the passage "issued after the day of commencement of the Dairy Cattle Improvement Act Amendment Act, 1972".

Amendment of principal Act, s. 8—Issue of licences.

5. Section 8 of the principal Act is amended by striking out the passage "and every member of the police force who is for the time being in charge of any police station".

Amendment of principal Act, s. 9—Licence to issue on application.

6. Section 9 of the principal Act is amended—

(*a*) by striking out the passage "or member of the police force";

and

(*b*) by striking out the passage "or member".

Amendment of principal Act, s. 11—Duplicate licences.

7. Section 11 of the principal Act is amended by striking out from subsection (1) the passage "or member of the police force".

Amendment of principal Act, s. 22—Protection to officers.

8. Section 22 of the principal Act is amended by striking out subsection (2).

Amendment of First Schedule of principal Act.

9. The First Schedule to the principal Act is amended—

(*a*) by striking out the passage "six months" and inserting in lieu thereof the passage "twelve months";

and

(*b*) by striking out the passage "$2" and inserting in lieu thereof the passage "$4".

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

J. M. NAPIER, Governor's Deputy

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 30 of 1972

An Act to amend the Dairy Industry Act, 1928-1969, and for purposes incidental thereto.

[*Assented to* 13*th April,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Dairy Industry Act Amendment Act, 1972".

(2) The Dairy Industry Act, 1928-1969, as amended by this Act, may be cited as the "Dairy Industry Act, 1928-1972".

(3) The Dairy Industry Act, 1928-1969, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 7—Licensing.

3. Section 7 of the principal Act is amended—

(*a*) by striking out from paragraph (*c*) of subsection (2) the passage ", or the officer in charge of a police station,";

(*b*) by striking out subsection (4) and inserting in lieu thereof the following subsection:—

(4) The fee for a licence under this section for a year shall be—

(*a*) for a dairy farm—$4.00;

(*b*) for a factory—$10.00;

and

(*c*) for a creamery, store or milk depot—$4.00.;

(*c*) by striking out subsections (5), (6), (7), (8) and (9);

and

(*d*) by striking out subsection (13)

Amendment of principal Act, s. 11—Powers of inspection.

4. Section 11 of the principal Act is amended by inserting in paragraph (*d*) after the passage "or premises" the passage ", or at any airport or seaport,".

Amendment of principal Act, s. 13—Powers of inspector as to water.

5. Section 13 of the principal Act is amended by inserting after the word "store" the passage ", milk depot".

Enactment of s. 27a of principal Act—Dairy Cattle Improvement Fund.

6. The following section is enacted and inserted in the principal Act immediately after section 27 thereof:—

27a. All moneys received or collected under this Act—

(*a*) for or on account of fees or charges;

and

(*b*) for or on account of penalties imposed for offences against this Act,

shall be paid to the Treasurer, to be paid by him to the credit of the Dairy Cattle Fund constituted under the Dairy Cattle Improvement Act, 1921, as amended.

Amendment of principal Act, s. 28—Power to make regulations.

7. Section 28 of the principal Act is amended—

(*a*) by inserting immediately after paragraph (4) of subsection (1) the following paragraph:—

(4a) Prescribing requirements to be observed in the construction, provision and location of equipment and utensils used in connection with the carriage or storage of dairy produce in or about any dairy farm, factory, milk depot, store or creamery.;

and

(*b*) by inserting immediately after subsection (1) the following subsection:—

(1a) Where in any regulation a reference is made to a standard set by the Standards Association of

Australia applicable to a matter that reference may be expressed to relate to any variations of or substitutions for that standard that, after the making of the regulation, may become applicable to that matter.

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

J. M. NAPIER, Governor's Deputy

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 31 of 1972

An Act to provide for compensation for loss arising from measures to eradicate fruit fly.

[*Assented to 13th April,* 1972]

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 "Fruit Fly (Compensation) Act, 1972".

Incorporation.

2. This Act is incorporated with the Fruit Fly Act, 1947-1955, and that Act and this Act shall be read as one Act.

Compensation.

3. (1) Any person who suffers loss by reason of—

(*a*) any of the acts to which this section applies;

or

(*b*) being prohibited from removing fruit from any land by the operation of—

(i) a proclamation made under the Vine, Fruit and Vegetable Protection Act, 1885-1959, on the seventeenth day of January, 1972, and published in the *Gazette* on the seventeenth day of January, 1972, at pages 149 and 150 and also published in the *Gazette* on the twentieth day of January, 1972, at page 153;

(ii) a proclamation made under the Vine, Fruit and Vegetable Protection Act, 1885-1959, on the twentieth day of January, 1972, and published in the *Gazette* on the twentieth day of January, 1972, at pages 153 and 154;

or

(iii) a proclamation made under the Vine, Fruit and Vegetable Protection Act, 1885-1959, on the seventh day of March, 1972, and published in the *Gazette* on the seventh day of March, 1972, at pages 829 and 830,

shall be entitled to compensation for that loss as provided in the Fruit Fly Act, 1947-1955.

(2) This section shall apply to—

(*a*) any act done pursuant to the exercise or intended exercise of powers conferred by the fruit fly regulations, if such act is done on land while the removal of fruit therefrom is prohibited by the proclamation referred to in subsection (1) of this section;

or

(*b*) any act done in the course of or incidentally to the doing of any act of the kind mentioned in paragraph (*a*) of this subsection.

(3) This section shall apply to acts done and loss suffered before or after the commencement of this Act.

Time limit for claims.

4. Notwithstanding the provisions of subsection (1a) of section 5 of the Fruit Fly Act, 1947-1955, a notice of claim under that section for compensation under section 3 of this Act shall be delivered to the Committee on or before the thirty-first day of August, 1972.

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

J. M. NAPIER, Governor's Deputy

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 32 of 1972

An Act to assure to the family of a deceased person adequate provision out of his estate.

[*Assented to 13th April,* 1972]

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 "Inheritance (Family Provision) Act, 1972".

Commencement.

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

Repeal of Testator's Family Maintenance Act, 1918-1943 and saving provision.

3. (1) The following Acts are repealed:—

the Testator's Family Maintenance Act, 1918;

the Testator's Family Maintenance Act, 1943.

(2) Any proceedings instituted in the Court pursuant to the Acts repealed by this Act and pending at the commencement of this Act may be continued and determined, and, subject to subsection (3) of this section, the law to be applied and the practice and procedure to be followed in relation to those proceedings shall be the same as if this Act had not been passed.

(3) In any such proceedings the Court may, subject to such conditions as it thinks fit, permit an amendment of those proceedings so as to include an application for the benefit of this Act and, in

relation to any such application, the provisions of this Act shall apply and have effect as if the proceedings had been instituted under this Act.

Interpretation.

4. In this Act, unless the contrary intention appears—

"administration" means probate of the will of a deceased person or letters of administration of the estate of a deceased person whether with or without the will annexed and whether granted for general, special or limited purposes:

"administrator" means any person to whom administration has been granted:

"legally adopted child" means a child adopted according to the law of this State or a child adopted according to the law of another place, whose adoption is recognized under the law of this State:

"legitimated child" means a child legitimated according to the law of the Commonwealth or a State or Territory of the Commonwealth, or a child legitimated according to the law of another place, whose legitimation is recognized under the law of the Commonwealth or of this State:

"the Court" means the Supreme Court or a judge thereof.

Application.

5. (1) Subject to subsection (2) of this section, this Act shall apply in relation to the estates of all deceased persons, whether they died before or after the commencement of this Act.

(2) Where the whole or any part of the estate of a deceased person has been lawfully distributed before the commencement of this Act, no person shall, in respect of that estate or that part thereof, as the case may be, be entitled to claim the benefit of this Act unless he would have been entitled to the benefit of an order under the Acts repealed by this Act.

Persons entitled to claim under this Act.

6. The following persons are, in respect of the estate of a deceased person, entitled to claim the benefit of this Act:—

(*a*) the spouse of the deceased person;

(*b*) a person who has been divorced from the deceased person;

(*c*) a child of the deceased person;

(*d*) a legally adopted child of the deceased person;

(*e*) a legitimated child of the deceased person;

(*f*) an illegitimate child of the deceased person—

(i) if the deceased person was the mother or was by an affiliation order adjudged the father;

(ii) whom the deceased person either has been ordered by a court to maintain wholly or partly or has in writing agreed to maintain wholly or partly;

or

(iii) who satisfies the court that the deceased person acknowledged him as his child, or contributed to his maintenance;

(*g*) a child of a spouse of the deceased person by any former marriage of the spouse being a child who was maintained wholly or partly or who was legally entitled to be maintained wholly or partly by the deceased person immediately before his death;

(*h*) a child or a legally adopted child of any child or legally adopted child of the deceased person;

(*i*) where the deceased person was a legitimate child, a parent of the deceased person if the deceased person died without leaving a spouse or any children;

(*j*) where the deceased person was an illegitimate child who died without leaving a spouse or any children—

(i) the mother of the deceased person;

and

(ii) a person who satisfies the Court that he was the father of the deceased person and that he contributed to the maintenance of the deceased person during his lifetime.

Spouse or children may obtain order for maintenance, etc., out of estate of deceased person.

7. (1) Where—

(*a*) a person has died domiciled in the State or owning real or personal property in the State;

and

(*b*) by reason of his testamentary dispositions or the operation of the laws of intestacy or both, a person entitled to claim the benefit of this Act is left without adequate provision for his proper maintenance, education or advancement in life,

the Court may in its discretion, upon application by or on behalf of a person so entitled, order that such provision as the Court thinks fit be made out of the estate of the deceased person for the maintenance, education or advancement of the person so entitled.

(2) Notice of an application under subsection (1) of this section shall be served by the applicant on the administrator of the estate of the deceased person, and on such other persons as the Court may direct.

(3) The Court may refuse to make an order in favour of any person on the ground that his character or conduct is such as, in the opinion of the Court, to disentitle him to the benefit of this Act, or for any other reason that the Court thinks sufficient.

(4) The Court may, in making any order under this Act, impose such conditions, restrictions and limitations as it thinks fit.

(5) If, in respect of an application under subsection (1) of this section, it appears to the Court that the matter would be more appropriately determined by proceedings outside the State, the Court may (without limiting the powers conferred on it by the preceding provisions of this section) refuse to make an order under this section or adjourn the hearing of the application for such period as the Court thinks fit.

(6) In making the order the Court may, if it thinks fit, order that the provision shall consist of a lump sum or periodic or other payments or a lump sum and periodic or other payments.

Time within which application to be made.

8. (1) Subject to this section, an application shall not be heard by the Court at the instance of a person claiming the benefit of this Act unless the application is made within six months from the date of the grant in this State of probate of the will, or letters of administration of the estate, of the deceased person.

(2) The Court may, after hearing such of the persons affected as the Court thinks necessary, extend the time for making an application for the benefit of this Act.

(3) An extension of time granted pursuant to this section may be granted—

(*a*) upon such conditions as the Court thinks fit;

and

(*b*) whether or not the time for making an application pursuant to subsection (1) of this section has expired.

(4) An application for extension of time pursuant to this section shall be made before the final distribution of the estate.

(5) Any distribution of any part of the estate made before the application for extension of time shall not be disturbed by reason of that application or any order made thereon.

(6) An application for the benefit of this Act shall be deemed to be made on the day when the summons by which it is instituted is served on the administrator of the estate.

(7) Where an application has been made for the benefit of this Act, the Court may, if satisfied that it is just and expedient to do so, permit at any time prior to the final determination of the proceedings, the joinder of further claimants as parties to the application.

Contents of order.

9. (1) Every order that provision be made for the maintenance, education or advancement of any person out of the estate of a deceased person must, *inter alia*—

(*a*) specify the amount and nature of the provision thereby made;

(*b*) specify the part or parts of the estate of the deceased person out of which that provision shall be raised or paid, and prescribe the manner of raising and paying that provision;

and

(*c*) state the conditions, restrictions or limitations imposed by the Court.

(2) Subject to subsection (3) of this section and unless the Court otherwise orders, the burden of any such provision shall, as between the persons beneficially entitled to the estate of the deceased person, be borne by those persons in proportion to the values of their respective interests in the estate.

(3) Where the deceased person died leaving a will under which two or more persons are successively entitled to any property, the successive interests shall not, unless the Court otherwise orders, be separately valued for the purposes of subsection (2) of this section, but the proportion of the provision to be borne by that property shall be raised or charged against the *corpus* thereof.

(4) The Court shall, in every case in which an order is made, direct that a certified copy of the order be made upon the probate of the will, or letters of administration of the estate, of the deceased person, and for that purpose may require the production of the probate or letters of administration.

(5) The Court may at any time, and from time to time, on the application of the administrator or of any person beneficially entitled to or interested in any part of the estate of the deceased person, rescind or alter any order.

(6) Notice of an application under subsection (5) of this section must be served upon all persons entitled to any benefit under the order in respect of which the application is made.

(7) Upon any order being made under this Act, the portion of the estate affected by the order shall be held subject to the provisions of the order.

(8) The Court may make such order as to the costs of any proceeding under this Act as it considers just.

Order to operate as will or codicil.

10. Every provision made by an order shall, subject to this Act, operate and take effect as if it had been made—

(*a*) if the deceased person died leaving a will, by a codicil to that will executed immediately before his death;

or

(*b*) if the deceased person died intestate, by a will executed immediately before his death.

Court may fix periodic payment or lump sum.

11. (1) The Court shall have power at any time to fix a periodic payment, or lump sum, or a periodic payment and a lump sum, to be paid by any person, to represent, or in commutation of, the proportion of the sum ordered to be paid that falls upon the portion of the estate to which he is entitled, and to exonerate that portion of the estate from further liability.

(2) The Court may give incidental directions as to the payment or investment of the lump sum or the manner in which the periodic payments are to be made or secured.

Court may vary or discharge order.

12. Where the Court has ordered periodic payments, or has ordered a lump sum to be invested for the benefit of any person, it shall have power to inquire whether at any subsequent date the party benefited by the order has otherwise become possessed of, or entitled to, provision for his proper maintenance, education and advancement, and into the adequacy of that provision, and may discharge, vary, or suspend the order, or make such other order as is just in the circumstances.

Mortgage or assignment of provision invalid.

13. No mortgage, charge, or assignment of any kind whatsoever of or over the provision made by an order under this Act shall, unless made with the prior permission of the Court, be of any force, validity, or effect.

Liability of administrators after distribution of estate.

14. (1) An administrator of the estate of a deceased person who has lawfully distributed the estate or any part thereof shall not be liable to account for that estate or that part thereof, as the case may be, to any person claiming the benefit of this Act, unless the administrator had notice of the claim at the time of the distribution.

(2) For the purposes of this section, notice of the claim—

(*a*) shall be in writing signed by the claimant or his solicitor;

and

(*b*) shall lapse and be incapable of being renewed unless, before the expiration of three months after the administrator receives notice of the claim a copy of an application by the claimant for the benefit of this Act has been served on him.

(3) Subsection (1) of this section shall not prevent the Court from ordering that any provision under this Act be made out of the estate, or any part thereof, after it has been distributed.

Method of apportioning duty on estate.

15. (1) For the purpose of apportioning the duty payable on the estate of the deceased person, any provision made under this Act by an order of the Court shall be deemed to be a bequest made by the deceased person—

(*a*) if he died leaving a will, by a codicil to that will executed immediately before his death;

or

(*b*) if he died intestate, by a will executed immediately before his death.

(2) Notwithstanding the provisions of any other Act, where an order is discharged, rescinded, altered or suspended, a due adjustment of the duty payable on the estate of the deceased person shall be made.

Public Trustee deemed to be administrator where order has been made authorizing him to administer estate.

16. Where an order has been made under the Administration and Probate Act, 1919, as amended, authorizing the Public Trustee to administer the estate of a deceased person who has died leaving a will, then, for the purposes of this Act—

(*a*) the Public Trustee shall be deemed to be the administrator of the estate of the deceased person;

and

(*b*) the order shall be deemed to be the grant of probate of the will, or letters of administration with the will annexed of the estate, of the deceased person.

Rules of Court.

17. (1) The judges of the Court may, subject to and in accordance with the Supreme Court Act, 1935, as amended, make such rules as may be necessary or expedient for regulating the practice and procedure of the Court to be adopted for the purposes of this Act.

(2) Until rules are made in pursuance of this section the general practice and procedure of the Court shall, so far as applicable and not inconsistent with this Act, apply to all proceedings of the Court under this Act.

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

J. M. NAPIER, Governor's Deputy

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 33 of 1972

An Act to amend the Lottery and Gaming Act, 1936-1971, and for other purposes.

[*Assented to* 13*th April,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Lottery and Gaming Act Amendment Act (No. 2), 1972".

(2) The Lottery and Gaming Act, 1936-1971, as amended by this Act and by all other amendments (if any) amending the same prior to the commencement of this Act, may be cited as the "Lottery and Gaming Act, 1936-1972".

(3) The Lottery and Gaming Act, 1936-1971, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 2—Division of Act.

3. Section 2 of the principal Act is amended by inserting after the item—

"PART IV—Licensing of Bookmakers."

the item—

"PART IVA—Racecourses Development Board".

4. The following section is enacted and inserted in the principal Act immediately after section 3 thereof:— Enactment of s. 3a of principal Act—

3a. The proclamation purporting to fix a day as the day on which the Lottery and Gaming Act Amendment Act, 1966, was to come into operation and published in the *Gazette* on the 8th day of December, 1966, at page 2152, is hereby cancelled and shall be deemed never to have been made, and, notwithstanding section 2 of the Lottery and Gaming Act Amendment Act (No. 2), 1966, that Act shall for all purposes be deemed to have come into operation on the eighth day of December, 1966. Commencement of Lottery and Gaming Act Amendment Act (No. 2), 1966.

5. Section 16 of the principal Act is amended by striking out the passage "twenty miles" and inserting in lieu thereof the passage "30 kilometres". Amendment of principal Act, s. 16— Restriction on licences in metropolitan area.

6. Section 17 of the principal Act is amended— Amendment of principal Act, s. 17— Restriction on licences.

(*a*) by striking out from subsection (1) the passage "ten miles" and inserting in lieu thereof the passage "15 kilometres"; and

(*b*) by striking out from subsection (1) the passage "twenty miles" and inserting in lieu thereof the passage "30 kilometres".

7. Section 18 of the principal Act is amended by striking out from paragraph (*a*) and from paragraph (*b*) the passage "ten miles" and inserting in lieu thereof in each case the passage "20 kilometres". Amendment of principal Act, s. 18— Conditions of issue of licence.

8. Section 19 of the principal Act is amended by striking out from paragraph (*e*) of subsection (1) the passage "fifty miles" and inserting in lieu thereof the passage "80 kilometres". Amendment of principal Act, s. 19— Limitation on use of totalizator.

9. Section 20 of the principal Act is amended by striking out from subsection (1) the passage "twenty miles" and inserting in lieu thereof the passage "30 kilometres". Amendment of principal Act, s. 20— Totalizator on the flat.

10. Section 20a of the principal Act is amended by striking out the passage "one hundred miles" twice occurring and inserting in lieu thereof in each case the passage "160 kilometres". Amendment of principal Act, s. 20a— Permits for trotting races at horse race meetings.

Amendment of principal Act, s. 21—
Use of totalizator at trotting races.

11. Section 21 of the principal Act is amended—

(*a*) by striking out from paragraph (*b*) of the definition of "Eyre Peninsula" in subsection (3) the passage "five miles" twice occurring and inserting in lieu thereof in each case the passage "10 kilometres";

and

(*b*) by striking out from the definition of "metropolitan area" in subsection (3) the passage "twenty miles" and inserting in lieu thereof the passage "30 kilometres".

Amendment of principal Act, s. 22—
Permits to hold trotting races.

12. Section 22 of the principal Act is amended by striking out from subsection (5) the passage "twenty miles" and inserting in lieu thereof the passage "30 kilometres".

Amendment of principal Act, s. 28—
Mode of dealing with moneys paid into a totalizator used by a club.

13. Section 28 of the principal Act is amended—

(*a*) by inserting after the word "Act" in paragraph (*a*) of subsection (1) the passage "and not being moneys invested at the race meeting on or after the appointed day on a totalizator conducted by that club for the purpose of betting on any contingency known as a double, treble or jackpot to which rules referred to in subsection (4) of this section apply where betting on that contingency is conducted by the Totalizator Agency Board as the agent of the club whether at or outside the race course where the race meeting is held";

(*b*) by inserting after paragraph (*a*) of subsection (1) the following paragraph:—

(*aa*) shall, in the case of moneys invested at a race meeting on or after the appointed day on a totalizator conducted by that club for the purpose of betting on any contingency known as a double, treble or jackpot to which paragraph (*a*) of this subsection refers where betting on that contingency is conducted by the Totalizator Agency Board as the agent of the club whether at or outside the race course where the race meeting is held, deduct (for the purpose of being dealt with in accordance with this section) fifteen per centum of such moneys;;

(*c*) by inserting after the passage "paragraph (*a*)" in subsection (5) the passage "or paragraph (*aa*)";

(*d*) by striking out subsection (11) and inserting in lieu thereof the following subsections:—

(11) Subject to section 31q of this Act—

(*a*) out of the moneys deducted in accordance with paragraphs (*a*) and (*aa*) of subsection (1) of this section, the club shall pay to the Commissioner of Stamps the duty payable under the Stamp Duties Act, 1923, as amended, in respect of the gross takings of the totalizator from which takings the moneys were deducted;

and

(*b*) out of the moneys deducted in accordance with paragraph (*aa*) of subsection (1) of this section, the club shall pay to the Racecourses Development Board for credit of such of the funds established under section 48e of this Act as is appropriate in accordance with subsection (11a) of this section an amount representing one per centum of the gross takings of the totalizator from which takings the moneys were deducted,

and the balance of the moneys so deducted shall be dealt with in accordance with subsection (12) of this section.

(11a) Out of the moneys paid to the Racecourses Development Board under paragraph (*b*) of subsection (11) of this section—

(*a*) such proportion thereof as is derived from or attributable to betting on horse races, other than trotting races, shall be paid by the club to that board for credit of the Horse Racing Grounds Development Fund;

(*b*) such proportion thereof as is derived from or attributable to betting on trotting races shall be paid by the club to that board for credit of the Trotting Grounds Development Fund;

and

(*c*) such proportion thereof as is derived from or attributable to betting on dog races shall be paid by the club to that board for credit of the Dog Racing Grounds Development Fund.;

and

(*e*) by inserting after subsection (13) the following subsection:—

(14) In subsection (1) of this section "the appointed day" means the day which shall be fixed by proclamation as the appointed day for the purposes of this section.

Amendment of principal Act, s. 29—Club to render account.

14. Section 29 of the principal Act is amended—

(*a*) by inserting after paragraph (*b*) of subsection (1) the following paragraph:—

(*ba*) the amount (if any) paid to the Racecourses Development Board under subsection (11a) of section 28 of this Act and the name of each fund for the credit of which any such amount is so paid;;

and

(*b*) by redesignating paragraph (*b*1) of subsection (1) as paragraph (*bb*).

Amendment of principal Act, s. 30b—Restriction on licences in respect of dog racing.

15. Section 30b of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "fifteen miles" and inserting in lieu thereof the passage "25 kilometres";

(*b*) by striking out from subsection (2) the passage "fifteen miles" and inserting in lieu thereof the passage "25 kilometres";

(*c*) by striking out from subsection (3) the passage "fifteen miles" and inserting in lieu thereof the passage "25 kilometres";

and

(*d*) by striking out from paragraph (*a*) of subsection (3) the passage "seven miles" twice occurring and inserting in lieu thereof in each case the passage "10 kilometres".

Amendment of principal Act, s. 31b—Constitution of the Board.

16. Section 31b of the principal Act is amended—

(*a*) by striking out from subsection (6) the passage "twenty miles" and inserting in lieu thereof the passage "30 kilometres";

(*b*) by striking out from subsection (7) the passage "thirty miles" and inserting in lieu thereof the passage "45 kilometres";

and

(*c*) by striking out from subsection (8) the passage "twenty miles" and inserting in lieu thereof the passage "30 kilometres".

Amendment of principal Act, s. 31m—Provisions as to off-course totalizator betting.

17. Section 31m of the principal Act is amended by striking out subsection (3) and inserting in lieu thereof the following subsection:—

(3) No agent, officer or servant of the Board shall pay out to a person who has made a bet at an office, branch or agency of the Board where off-course totalizator betting is conducted any dividend in respect of that bet before the conclusion of the race meeting at which the event on which the bet is made is determined nor shall he pay out such dividend except in accordance with the rules of the Board.

Penalty: Two hundred dollars.

Amendment of principal Act, s. 31n—Application of moneys invested with the Board.

18. Section 31n of the principal Act is amended—

(*a*) by inserting after the word "event" wherever it occurs in subsection (1) the passage "or contingency";

(*b*) by striking out paragraph (*a*) of subsection (1) and inserting in lieu thereof the following paragraphs:—

(*a*) shall, in the case of moneys invested with the Board on off-course totalizator betting on that event or contingency, (not being moneys invested on or after the appointed day with the Board on off-course totalizator betting on any event or contingency known as a double, treble or jackpot to which rules under subsection (4) of section 28 or section 31u apply) deduct fourteen per centum of that money;

(*aa*) shall, in the case of moneys invested on or after the appointed day with the Board on off-course totalizator betting on an event or contingency known as a double, treble or jackpot to which paragraph (*a*) of this subsection refers, deduct fifteen per centum of that money; ;

(*c*) by inserting after the word "event" wherever it occurs in subsection (3) and subsection (4) the passage "or contingency";

(*d*) by inserting after the passage "paragraph (*a*)" in subsection (4) the passage "or paragraph (*aa*)";

and

(*e*) by inserting after subsection (5) the following subsection:—

(6) In subsection (1) of this section "the appointed day" has the same meaning as that expression in subsection (1) of section 28 of this Act.

Amendment of principal Act, s. 31na—Calculation and payment of dividends where off-course betting conducted on totalizator used by club.

19. Section 31na of the principal Act is amended—

(*a*) by inserting after the word "events" in paragraph (*a*) the passage "or contingencies";

and

(*b*) by inserting after the word "event" the passage "or contingency".

Amendment of principal Act, s. 31p—Disposal of amount deducted from investments made with the Board.

20. Section 31p of the principal Act is amended—

(*a*) by inserting after the passage "paragraph (*a*)" in subsection (1) the passage "or paragraph (*aa*)";

(*b*) by inserting after the word "event" in subsection (1) the passage "or contingency";

(*c*) by inserting after the word "Act" lastly occurring in paragraph (*a*) of subsection (1) the passage ", the amount deducted under paragraph (*aa*) of that subsection being at the same time also applied in payment to the Racecourses Development Board for credit of such of the funds established under section 48e of this Act as is appropriate in accordance with subsection (1a) of this section of an amount representing one per centum of the gross takings from which that amount was deducted";

and

(*d*) by inserting after subsection (1) the following subsection:—

(1a) Out of the moneys paid to the Racecourses Development Board under paragraph (*a*) of subsection (1) of this section—

(*a*) such proportion thereof as is derived from or attributable to betting on horse races, other than trotting races, shall be paid by the Board to the Racecourses Development Board for credit of the Horse Racing Grounds Development Fund;

(*b*) such proportion thereof as is derived from or attributable to betting on trotting races shall be paid by the Board to the Racecourses Development Board for credit of the Trotting Grounds Development Fund;

and

(*c*) such proportion thereof as is derived from or attributable to betting on dog races shall be paid by the Board to the Racecourses Development Board for credit of the Dog Racing Grounds Development Fund.

Amendment of principal Act, s. 31xc—Powers of the Board.

21. Section 31xc of the principal Act is amended by striking out from paragraph (*c*) of subsection (1) the passage "twenty miles" and inserting in lieu thereof the passage "30 kilometres".

Amendment of principal Act, s. 32—Interpretation.

22. Section 32 of the principal Act is amended—

(*a*) by striking out from the definition of "country racing club" the passage "twenty miles" and inserting in lieu thereof the passage "30 kilometres";

and

(*b*) by striking out from the definition of "metropolitan racing club" the passage "twenty miles" and inserting in lieu thereof the passage "30 kilometres".

Amendment of principal Act, s. 38—Applications and effect of licences.

23. Section 38 of the principal Act is amended by striking out from subsection (6) the passage "nor to any person whose usual place of abode throughout the whole of the period of twelve months immediately before his application for a licence is made was not within the State" and inserting in lieu thereof the passage "nor, in the case of a bookmaker's licence, to any person whose usual place of abode throughout the whole of the period of twelve months immediately preceding the time of his application for the licence was outside South Australia".

Amendment of principal Act, s. 40—Payment of commission on bets and returns.

24. Section 40 of the principal Act is amended by striking out from subsection (1a) the passage "twenty miles" and inserting in lieu thereof the passage "30 kilometres".

Amendment of principal Act, s. 42—Registration of premises.

25. Section 42 of the principal Act is amended—

(*a*) by inserting in subsection (6) after the passage "race meeting" the passage "at which horse races (other than trotting races) are conducted";

(*b*) by striking out from subsection (6) the passage "ten miles" and inserting in lieu thereof the passage "15 kilometres";

and

(*c*) by striking out from subsection (7) the passage "twenty miles" and inserting in lieu thereof the passage "30 kilometres".

Amendment of principal Act, s. 44—Stamp duty on betting tickets.

26. Section 44 of the principal Act is amended by striking out from paragraph (*b*) of subsection (1a) the passage "twelve miles" and inserting in lieu thereof the passage "20 kilometres".

Amendment of principal Act, s. 48—
Control of trotting races.

27. Section 48 of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "the Board" and inserting in lieu thereof the passage "the Trotting Control Board";

(*b*) by striking out from subsection (2) the passage "the Board" and inserting in lieu thereof the passage "the Trotting Control Board";

and

(*c*) by striking out from paragraph (*b*) of subsection (5) the passage "twenty-five miles" and inserting in lieu thereof the passage "30 kilometres".

Enactment of Part IVA of principal Act—

28. The following sections and heading thereto are enacted and inserted in the principal Act immediately before Part V thereof:—

PART IVA

RACECOURSES DEVELOPMENT BOARD

Establishment of Racecourses Development Board.

48d. (1) There shall be a board which shall be called the "Racecourses Development Board" (in this Part referred to as "the board").

(2) Subject to this Act, the board shall—

(*a*) be a body corporate with perpetual succession and a common seal;

(*b*) be capable of suing and being sued and of purchasing, acquiring, taking or letting on lease, holding, selling and otherwise disposing of real and personal property of any kind whatsoever;

and

(*c*) have the powers, duties, functions and authorities conferred, imposed or prescribed by or under this Act or any other Act.

(3) Where an apparently genuine document purports to bear the common seal of the board, it shall be presumed, in the absence of evidence to the contrary, that the common seal of the board was duly affixed to that document.

(4) The board shall consist of seven members appointed by the Governor, of whom—

(*a*) one shall also be appointed by the Governor to be the chairman;

(*b*) two shall represent the interests of horse racing, other than trotting—

(i) one of whom being nominated jointly by the governing bodies of the South Australian Jockey Club Incorporated, the Adelaide Racing Club Incorporated and the Port Adelaide Racing Club Incorporated;

and

(ii) the other nominated by the governing body of the South Australian Country Racing Clubs Incorporated;

(*c*) two shall represent the interests of trotting—

(i) one of whom being nominated by the governing body of the South Australian Trotting Club Incorporated;

and

(ii) the other nominated by the governing body of the Country Trotting Clubs Association of S.A.;

and

(*d*) two shall represent the interests of dog racing—

(i) one of whom being nominated by the governing body of the National Coursing Association of South Australia Incorporated;

and

(ii) the other nominated in such manner as the Minister directs by such other dog racing clubs as the Minister may think fit.

(5) Whenever a nomination is required for the appointment of a member, the Minister may, by notice in writing addressed to the associations or clubs concerned, request that the nomination be made within the period of twenty-eight days after the date of the notice or such other longer period as may be specified in the notice and, if that request is not complied with, the Governor may, on the recommendation of the Minister, appoint a person who, in the opinion of the Minister, is suitable, to be a member of the board and a person so appointed shall for all purposes be deemed to have been duly appointed.

(6) A member of the board shall be appointed for such term as the Governor may fix when making the appointment and at the expiration of that term shall be eligible for re-appointment.

(7) The Governor may, as occasion requires and on such nomination as the case may require, appoint a person to fill a casual vacancy in the office of a member for the balance of the term of office of that member and a person so appointed shall for all purposes be deemed to have been duly appointed as a member of the board.

(8) The Governor may, by notice in writing served on a member, remove that member from office on grounds of misconduct or incapacity to perform his duties as a member of the board.

(9) In the event of a member of the board being unable to perform his duties as such, the Governor may, on the recommendation of the Minister, appoint a deputy to act for that member during his incapacity and a person so appointed shall, while so acting, be deemed to be a member of the board in lieu of the member for whom he is so acting.

(10) A member of the board shall be entitled to be paid out of such of the separate funds established by the board pursuant to section 48e of this Act as the Minister thinks fit such remuneration, allowances or expenses, or such proportion thereof, as the Minister may determine.

Establishment of the funds.

48e. (1) The board shall establish, maintain and administer three separate and distinct funds, of which—

(*a*) one shall be called the "Horse Racing Grounds Development Fund";

(*b*) one shall be called the "Trotting Grounds Development Fund";

and

(*c*) one shall be called the "Dog Racing Grounds Development Fund".

(2) All moneys from time to time belonging to a fund shall be deposited in a separate account which shall be kept at the Treasury.

(3) A fund shall consist of—

(*a*) amounts paid to the board for credit of that fund pursuant to sections 28 and 31p of this Act;

(*b*) income from investment of any moneys belonging to that fund;

(*c*) amounts paid to the board in repayment of any loan made from that fund;

and

(*d*) all other moneys paid to or received by the board which should properly be paid into that fund.

(4) Any moneys in a fund that are not for the time being required for the purposes of the fund or its administration may, with the approval of the Treasurer, be invested by the board in any investments authorized by law for the investment of trust moneys.

(5) The board may appoint such officers and employees on such terms and conditions as it thinks fit.

Appropriation of moneys in funds.

48f. (1) The moneys in each fund established by the board shall be charged with the payment of the expenses incurred by the board in the administration of the funds in such proportions as the Minister may approve.

(2) After payment of the proportion of the remuneration, allowances and expenses referred to in subsection (10) of section 48d of this Act and the expenses referred to in subsection (1) of this section—

(*a*) the moneys in the Horse Racing Grounds Development Fund may be used for the purposes of providing, erecting, improving or repairing such public facilities in the grounds of any racecourse used or to be used for horse racing, other than trotting, as the Minister may from time to time approve, or for assisting in the provision, erection, improvement or repair of any such facility;

(*b*) the moneys in the Trotting Grounds Development Fund may be used for the purposes of providing, erecting, improving or repairing such public facilities in the grounds of any racecourse used or to be used for trotting as the Minister may from time to time approve or for assisting in the provision, erection, improvement or repair of any such facility;

and

(*c*) the moneys in the Dog Racing Grounds Development Fund may be used for the purposes of providing, erecting, improving or repairing such public facilities in the grounds of any racecourse used or to be used

for dog racing as the Minister may from time to time approve or for assisting in the provision, erection, improvement or repair of any such facility.

(3) The board may, for the purpose of providing, erecting, improving or repairing an approved public facility on any racecourse, or for assisting in any such provision, erection, improvement or repair, with the approval of the Treasurer—

(*a*) make a grant of any amount to any racing club;

(*b*) provide subsidies to any racing club;

(*c*) discharge the whole or part of any liability incurred by a racing club with respect to an approved public facility;

and

(*d*) make interest-free loans to any racing club upon such terms and conditions as the Treasurer may approve.

(4) In this section "approved public facility" means a public facility approved by the Minister.

Meetings of the board.

48g. (1) At any meeting of the board for the disposal of business arising out of the establishment, maintenance or administration of any of the funds established pursuant to section 48e of this Act, there shall be present not more than three members, one of whom shall be the chairman or his deputy, and the other two being—

(*a*) in the case of the establishment, maintenance or administration of the Horse Racing Grounds Development Fund and any matters ancillary thereto relating to horse racing, other than trotting, the members referred to in paragraph (*b*) of subsection (4) of section 48d of this Act;

(*b*) in the case of the establishment, maintenance or administration of the Trotting Grounds Development Fund and any matters ancillary thereto relating to trotting, the members referred to in paragraph (*c*) of subsection (4) of section 48d of this Act;

and

(*c*) in the case of the establishment, maintenance or administration of the Dog Racing Grounds Development Fund and any matters ancillary thereto relating to dog racing, the members referred to in paragraph (*d*) of subsection (4) of section 48d of this Act.

(2) At any meeting of the board when sitting as a whole for the disposal of any business other than business referred to in subsection (1) of this section, four members of the board, (of whom one is the chairman or his deputy, one is a member appointed to represent the interests of horse racing, other than trotting, one is a member appointed to represent the interests of trotting and one is a member appointed to represent the interests of dog racing), shall constitute a quorum.

(3) At any meeting of the board for the disposal of business referred to in subsection (1) of this section, two members of the board required to be present, one of whom shall be the chairman or his deputy, shall constitute a quorum.

(4) In the event of an equality of votes at any meeting of the board, the chairman or his deputy shall have a casting, as well as a deliberative, vote.

(5) Subject to this Act, the board may regulate the procedure of its meetings.

Annual report.

48h. On or before the thirty-first day of October in each year, the board shall furnish the Minister with a report signed by the chairman on the administration of the funds established by the board pursuant to section 48e of this Act during the year or part of the year that ended on the thirtieth day of June preceding the report.

Accounts.

48i. (1) The board shall keep proper books of account showing accurately and in detail all the financial transactions of each fund established by it and shall in each year prepare a profit and loss account for the period of twelve months or part thereof ending on the thirtieth day of June in that year and a balance sheet showing the assets and liabilities of each fund as at that thirtieth day of June.

(2) The Auditor-General shall audit the accounts of the board relating to each fund annually and for the purpose of such audit may exercise any of the powers which he could exercise for the purpose of auditing the accounts of a Government Department, and the provisions of the Audit Act, 1921, as amended, shall, with such modifications as are necessary in that behalf, apply and have effect accordingly.

Amendment of principal Act, s. 54a—Minors in betting enclosures.

29. Section 54a of the principal Act is amended by striking out from paragraph (*b*) the passage "six feet" and inserting in lieu thereof the passage "2 metres".

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

J. M. NAPIER, Governor's Deputy

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 34 of 1972

An Act to amend the Metropolitan Area (Woodville, Henley and Grange) Drainage Act, 1964.

[*Assented to* 13*th April,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Metropolitan Area (Woodville, Henley and Grange) Drainage Act Amendment Act, 1972".

(2) The Metropolitan Area (Woodville, Henley and Grange) Drainage Act, 1964, as amended by this Act, may be cited as the "Metropolitan Area (Woodville, Henley and Grange) Drainage Act, 1964-1972".

(3) The Metropolitan Area (Woodville, Henley and Grange) Drainage Act, 1964, is hereinafter referred to as "the principal Act".

Amendment of principal Act, s. 2—Interpretation.

2. Section 2 of the principal Act is amended by inserting in the definition of "works" after the passage "of the report" the passage "and includes works substituted for the works referred to in the report by arrangement between the councils or with the agreement of the councils".

Amendment of principal Act, s. 4—
Cost of construction of works.

3. Section 4 of the principal Act is amended by striking out subsection (5) and inserting in lieu thereof the following subsection:—

(5) When the sum of seven hundred and seventy-two thousand six hundred dollars has been expended on the works, the Treasurer shall publish in the *Gazette* a statement certified by the Auditor-General certifying that that sum has been expended and that amount shall be the total cost for the purposes of subsection (4) of this section.

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

J. M. NAPIER, Governor's Deputy

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 35 of 1972

An Act to authorize the acquisition by the State Planning Authority of not more than ten thousand hectares of land for the purpose of establishing a new town and for purposes connected therewith.

[*Assented to* 13*th April,* 1972]

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

1. This Act may be cited as the "Murray New Town (Land Acquisition) Act, 1972". Short title.

2. (1) In this Act, unless the contrary intention appears— Definitions.

"designated site" means the area of land declared by proclamation under section 3 of this Act to be the designated site for the purposes of this Act:

"establishment area" means the whole of the land that lies within the circumference of a circle having its centre the Murray Bridge Post Office and having a radius of thirty kilometres:

"the Authority" means the State Planning Authority, established by section 8 of the Planning and Development Act, 1966-1971:

"the Board" means the Planning Appeal Board established by the Planning and Development Act, 1966-1971:

"the date of the proclamation" means the day on which the proclamation under section 3 of this Act is published in the *Gazette*:

"the Director" means the person for the time being holding office as Director of Planning under the Planning and Development Act, 1966-1971:

"the Deputy Director" means the person for the time being holding office as Deputy Director of Planning under the Planning and Development Act, 1966-1971.

(2) During the absence of the Director by reason of illness or any other cause or during a vacancy in the office of the Director, the Deputy Director shall perform all such functions as are assigned to the Director under this Act.

(3) Where pursuant to subsection (2) of this section the Deputy Director performs the functions of the Director, references in this Act to the Director shall be read as a reference to the Deputy Director.

Declaration of designated site.

3. The Governor may by proclamation declare an area of land, of not more than ten thousand hectares, within the establishment area to be the designated site for the purposes of this Act.

Acquisition of land.

4. (1) The Authority may, with the approval of the Minister, either by agreement or compulsorily acquire any land within the boundaries of the designated site for the purposes of establishing a new town.

(2) In this section "land" includes any estate or interest (legal or equitable) in land and any easement, right, power or privilege in, under, over, affecting, or in connecton with, land.

Control of land subdivision.

5. (1) In addition to and without derogating from the powers conferred on the Director by Part VI of the Planning and Development Act, 1966-1971, the Director may refuse approval to a plan of subdivision or a plan of re-subdivision of any land that lies wholly or partly within the establishment area if, in the opinion of the Director, the approval of that plan would be prejudicial to the establishment of a new town within the establishment area.

(2) The Planning and Development Act, 1966-1971, shall apply to and in relation to a decision of the Director under subsection (1) of this section in all respects as if that decision were a decision of the Director under that Act.

Alterations to existing use.

6. (1) Subject to subsection (2) of this section on and after the date of the proclamation a person shall not, in relation to any land within the boundaries of the designated site—

(*a*) change the existing use to which land or any buildings or structures thereon were being put immediately before that day;

or

(*b*) construct, convert or alter any building or structure thereon,

without the consent in writing of the Authority.

(2) For the purposes of this Act, the construction, conversion or alteration of any building or structure on any land referred to in subsection (1) of this section which any person or body is required and authorized by any Act to carry out shall be deemed to be a construction, conversion or alteration of the building or structure carried out with the consent in writing of the Authority pursuant to that subsection.

(3) The Authority may refuse to give its consent under this section in any case where it is satisfied that the giving of that consent would be prejudicial to the establishment of a new town within the boundaries of the designated site.

(4) A consent under this section may be given absolutely or subject to conditions imposed by the Authority and where any person purports to do or causes or permits an act of any kind to be done in pursuance of such a consent and such act is in breach of a condition to which the consent is subject, such act shall be deemed to have been done without the consent of the Authority and the consent may be revoked by the Authority and upon such revocation shall, for the purposes of this Act and the Land Acquisition Act, 1969, be deemed never to have been given by the Authority.

(5) The Planning and Development Act, 1966-1971, shall apply to and in relation to a decision of the Authority under this section in all respects as if that decision were a decision of the Authority under that Act.

Immediate acquisition in cases of hardship.

7. (1) The owner of any land within the boundaries of the designated site may apply to the Minister for the grant by the Minister of a certificate in respect of that land and subject to this section the Minister may grant such a certificate but no proceedings shall be instituted and heard in any court or tribunal in respect of the grant of such a certificate or the failure or refusal of the Minister to grant such a certificate.

(2) The Minister shall not grant a certificate in respect of any land unless upon such evidence as he considers adequate he is satisfied that the owner of the land has in consequence of the proclamation under section 3 of this Act suffered financial hardship or is likely to suffer financial hardship.

(3) Upon a certificate being granted under subsection (1) of this section the Authority shall forthwith either by agreement or compulsorily acquire the land the subject of the certificate.

(4) A certificate under this section shall set out—

(*a*) the name of the owner;

(*b*) a description of the land;

and

(*c*) a statement that the Minister is satisfied as to the matter set out in subsection (2) of this section.

Attribution of price for land.

8. Where any sale of land the whole or any part of which is situated within the establishment area takes place on or after the twenty-ninth day of March, 1972, and the Minister is satisfied that the price paid in relation to that sale was by reason of the enactment of this Act higher or lower than the price that would have been paid for that land had this Act not been enacted, the Minister may, after consulting with the Valuer-General, attribute in relation to that sale a price that in his opinion would have been a fair price for the land had this Act not been enacted and for the purposes of determining the value of any land acquired under this Act the price so attributed shall be deemed to be the price paid in relation to that sale.

Modification of the Land Acquisition Act, 1969.

9. The Land Acquisition Act, 1969, in its application to the acquisition of land under this Act shall be read and construed as if—

(*a*) paragraph (*k*) were omitted from section 25 of that Act and the following paragraph were inserted in its stead—

(*k*) on and after the twenty-ninth day of March, 1972, any sales, transactions, arrangements, licences or approvals effected or obtained with respect to the land, and any improvements to the land effected, on or after that day shall not be taken into account unless it is proved that they were effected or obtained *bona fide*;

and

(*b*) there were inserted after paragraph (*k*) of section 25 of that Act the following paragraph:—

(l) where the value of the land is enhanced by reason of all or any of the following matters—

(i) the change of any use to which the land or any building or structure thereon was put that occurred on or after the twenty-ninth day of March, 1972, and before the date of the proclamation as defined for the purposes of the Murray New Town (Land Acquisition) Act, 1972

(ii) the construction, conversion or alteration of any building or structure on the land that occurred on or after the twenty-ninth day of March, 1972, and before the date of the proclamation as defined for the purposes of the Murray New Town (Land Acquisition) Act, 1972;

(iii) the change of any use to which the land or any building or structure thereon was put that had the consent in writing of the Authority pursuant to section 6 of the Murray New Town (Land Acquisition) Act, 1972, and that occurred on or after the date of the proclamation as defined for the purposes of that Act and before the date of acquisition;

or

(iv) the construction, conversion or alteration of any building or structure on the land that had the consent in writing of the Authority pursuant to section 6 of the Murray New Town (Land Acquisition) Act, 1972, and that occurred on or after the date of the proclamation as defined for the purposes of that Act and before the date of acquisition,

the amount of that enhancement shall be taken into account.

Power to inspect land or premises.

10. (1) Any of the following persons, that is to say—

(*a*) any member of the Authority;

(*b*) any member of the board;

or

(*c*) the Director, or any person authorized by him,

may at any reasonable time enter upon and inspect any land or buildings or structures within the establishment area for the purposes of this Act but no building or structure shall be so entered pursuant to this subsection unless the owner or occupier thereof has been given reasonable notice of intention to enter the same.

(2) A person shall not obstruct any person in the exercise of any power conferred by this section.

Penalty: One hundred dollars.

Financial provisions.

11. Part VIII—Financial Provisions of the Planning and Development Act, 1966-1971, shall apply and have effect in all respects as if—

(*a*) the purposes of this Act were the purposes of that Act;

(*b*) the functions and duties of the Authority under this Act were the functions and duties of the Authority under that Act;

and

(*c*) the acquisition of land under this Act by the Authority were the acquisition of land under that Act by the Authority.

Expiration of Act.

12. (1) This Act shall expire on the 1st day of March, 1982.

(2) The expiration of this Act shall not affect anything done under or pursuant to this Act before the day upon which this Act expires.

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

J. M. NAPIER, Governor's Deputy

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 36 of 1972

An Act relating to the Marketing of Oats, to establish and constitute the South Australian Oats Board and to provide for matters incidental thereto.

[*Assented to 13th April,* 1972]

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

Short title

1. This Act may be cited as the "Oats Marketing Act, 1972".

Commencement.

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

Division of Act.

3. This Act is divided as follows:—

PART I—PRELIMINARY
PART II—THE BOARD
PART III—ADMINISTRATION
PART IV—DELIVERY AND MARKETING OF OATS
PART V—MISCELLANEOUS
PART VI—POLLS ON CONTINUATION OF THE ACT.

PART I

Definitions.

4. In this Act unless the contrary intention appears—

"licensed receiver" means a person licensed under this Act to receive oats on behalf of the Board:

"member of the Board" includes the member of the Board for the time being appointed chairman of the Board:

"oats" includes the grain known by that name, not being wild oats, growing crops of that grain, gristed grain of that name and grain of that name treated in any other manner or by any process converted into the product of grain of that name:

"the Board" means the South Australian Oats Board established under section 5 of this Act:

"wild oats" means the following species of the genus *avena* that is to say—

(*a*) *A. barbata*, Pott ex Link.;

(*b*) *A. fatua*, L.;

(*c*) *A. ludoviciana*, Durieu.;

and

(*d*) *A. sterilis* L.

PART II

PART II

The Board.

THE BOARD

5. (1) A board by the name of the "South Australian Oats Board" is hereby established.

(2) The Board—

(*a*) shall be a body corporate with perpetual succession and a common seal;

(*b*) subject to this Act, shall be capable of acquiring, taking or letting out on lease, holding, selling or otherwise disposing of real or personal property;

(*c*) may in its corporate name and capacity sue and be sued;

and

(*d*) shall have the powers, duties, functions and authorities conferred, imposed or prescribed by or under this Act.

(3) Where a document purporting to bear the common seal of the Board is produced before any court or person acting judicially that court or that person, as the case may be, shall, unless the contrary is proved, presume—

(*a*) that the document purporting to bear the common seal of the Board bears the common seal of the Board;

and

(*b*) that the common seal was duly affixed and properly attested to.

Composition of the Board.

6. (1) Subject to this section the Board shall consist of five members of whom—

(*a*) two shall be persons appointed by the Governor;

and

(*b*) three shall be persons elected tri-ennially by growers of oats in accordance with the regulations.

(2) At an election of members of the Board every person, who in the last season before the election harvested for sale oats grown on not less than twelve hectares of land shall, subject to the regulations, be entitled to vote.

(3) From amongst the persons referred to in paragraph (*a*) of subsection (1) of this section the Governor shall appoint a person to be the chairman of the Board.

(4) Every member of the Board—

(*a*) appointed by the Governor shall hold office as such until the day expressed in his instrument of appointment (not being more than three years from the day on which he was last appointed) as being the day on which he shall cease to hold office, but a member of the Board appointed to fill a casual vacancy in the office of such a member shall hold office only for the unexpired portion of the term of the member in whose place he was appointed;

or

(*b*) elected by growers of oats in accordance with the regulations shall hold office until the conclusion of the election next succeeding the election at which he was elected.

(5) If a casual vacancy occurs in the office of a member of the Board elected by growers of oats—

(*a*) before the expiration of twelve months from the day on which the last occupant of the office was elected, an election of a member shall be held in accordance with the regulations to fill that vacancy, but the person elected shall hold office only for the unexpired portion of the term of the member in whose place he was elected;

or

(*b*) on or after the expiration of twelve months from the day on which the last occupant of the office was elected, the Governor may appoint a person to fill that vacancy and the person so appointed shall for all purposes be deemed to be a member elected by the growers of oats but that member shall hold office only for the unexpired portion of the term of the member in whose place he was appointed.

(6) A member of the Board is eligible for re-appointment or re-election as the case may be.

Acceptance of office as a member not to be a bar to the holding of any other office.

7. Notwithstanding any other Act or law, a person shall not be disqualified by appointment as a member of the Board from holding office as a member of the Board and also any other office or place or from accepting or retaining any fees or other remuneration provided for by or under this Act, or otherwise, in respect of his service as such a member.

Removal from office of member.

8. The Governor may, by notice in writing served on a member of the Board remove the member from office on grounds of misconduct or incapacity to perform his duties and functions as a member.

Casual vacancies.

9. The office of a member of the Board shall become vacant if—

(*a*) he dies;

(*b*) he resigns by written notice given to the Minister;

(*c*) he is removed from office by the Governor pursuant to section 8 of this Act;

(*d*) he is absent without leave of the Minister from three consecutive meetings of the Board;

(*e*) he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors or compounds with his creditors for less than one hundred cents in the dollar;

(*f*) he is convicted of an indictable offence;

or

(*g*) he is convicted of any other offence and receives notice in writing from the Minister discharging him from office on the ground of that conviction.

Common seal, meetings and quorum.

10. (1) The common seal of the Board shall not be affixed to any instrument except in pursuance of a resolution of the Board.

(2) Any instrument executed in pursuance of such a resolution shall be attested by the signature of two members of the Board.

(3) The procedure for the calling of meetings of the Board and for the conduct of business at such meetings shall, subject to this Act, be as determined by the Board.

(4) Any three members of the Board of whom not less than one shall be a person referred to in paragraph (*a*) of subsection (1) of section 6 of this Act shall constitute a quorum at any meeting of the Board and any duly convened meeting at which a quorum is present shall be competent to transact any business of the Board and shall have and may discharge all the powers, duties and functions of the Board.

(5) A decision carried by the majority of the votes cast by the members of the Board present at a meeting of the Board shall be the decision of the Board.

(6) The Board shall cause accurate minutes to be kept of its proceedings at meetings.

Salary and allowances of members of the Board.

11. Each member of the Board shall be paid, out of the funds of the Board, remuneration for his services, and allowances and reimbursements for travelling and living away from home on journeys taken in the course of his duties at such rates as are determined by the Minister.

Chairman and presiding member.

12. (1) The chairman of the Board shall preside at all meetings of the Board at which he is present and in addition to a deliberative vote, shall, in the event of equality of votes, have a second or casting vote.

(2) In the absence of the chairman of the Board from any meeting of the Board the members of the Board present shall, from amongst their own number, elect a member to preside at that meeting and at that meeting the member so elected shall have and may exercise the powers and functions conferred on the chairman of the Board by this section.

Validity of acts, etc., of Board.

13. No act, proceeding or determination of the Board shall be invalid on the ground only of any vacancy in the office of any member of the Board or of any defect in the appointment of any such member.

Secretary to the Board.

14. (1) In the exercise of its powers under section 19 of this Act, the Board shall appoint a person to be the secretary to the Board.

(2) The secretary to the Board shall have and may exercise, perform and carry out such powers, functions and duties as are conferred on him by or under this Act or as are directed to be exercised, performed or carried out by the Board.

Board may make use of services of employees of public service.

15. The Board may, with the approval of the Minister and the consent of the Minister controlling any department of the public service of the State and on such terms as may be mutually arranged make use of the services of any of the officers or employees of that department.

Members not, as such, subject to Public Service Act.

16. A member of the Board shall not, as such, be subject to the Public Service Act, 1967, as amended, but this section does not affect the rights, duties and obligations under that Act of any such member who is otherwise an officer in the public service of the State.

Member to declare interest.

17. Where a member of the Board becomes aware that he has a financial interest other than such an interest as a grower of oats in any matter before the Board he shall not—

(*a*) refuse or fail to declare that interest to the secretary to the Board;

or

(*b*) act as such a member in relation to any such matter.

PART III

PART III

ADMINISTRATION

Administration of Act.

18. (1) The Board shall, under the Minister, have the administration of this Act.

(2) For the purposes of any Act or law, the Board shall not be the Crown or an instrumentality of the Crown.

Officers.

19. (1) For the purpose of the administration of this Act the Board may appoint officers and other employees.

(2) The terms and conditions of appointment and employment of the officers and employees of the Board shall be as determined by the Board.

(3) Without limiting the generality of subsection (2) of this section, the Board may, with the approval of the Minister, determine that for the purposes of the accrual of, or the payment of a lump sum in lieu of the grant of, long service leave or for the purposes of the accrual of leave on account of illness or other pressing necessity, previous service under the Public Service Act, 1967, as amended, or under any Act repealed by that Act, by an officer or employee of the Board shall to the extent and for the purposes determined be regarded as service as an officer or employee of the Board.

(4) The remuneration and allowances of the officers and employees of the Board engaged in the administration of this Act shall be paid out of the funds of the Board.

Licensed receivers.

20. (1) The Board may license any person to receive oats on behalf of the Board.

(2) A licence granted pursuant to this section may contain such terms and conditions as are fixed by the Board and such a licence may be revoked or suspended upon breach by the holder thereof of any such term or condition.

Powers of Board.

21. The Board may do all or any of the following things, namely—

(*a*) purchase or otherwise acquire, sell or otherwise dispose of, prepare for sale, treat, store, protect, transport or handle any oats, oat skins, oat bran, oat pollard, cornsacks, jute or jute products;

(*b*) borrow money to enable it to exercise any of the powers or functions conferred on it by this Act, and give security over any of its assets for repayment of money so borrowed;

(*c*) exercise in relation to oats any functions usually exercised by shipping agents;

(*d*) act as agent for the Commonwealth or any State in connection with the purchase and sale of oats;

(*e*) expend money derived from the sale of oats on experiments, research, operations or work, whether carried out by the Board or any other person, the object of which is to improve or discover means of improving the quality of seed oats;

(*f*) charter ships or other vessels, and transport therein oats and other cargo;

and

(*g*) do any other acts or things and enter into and carry out any transactions (including the purchase or sale of any property) which are necessary or convenient to be done, entered into or carried out for giving effect to this Act, or which are incidental to the exercise of any power or function of the Board.

Inspection of oats and books.

22. (1) For the purposes of this Act any person authorized in writing by the Board to act under this section may enter any premises and inspect any stocks of oats, and any accounts, books and documents relating to oats.

(2) Any person who hinders or prevents any entry or inspection by any person duly authorized under this section shall be guilty of an offence.

Care of property of Board.

23. Any person having any property of the Board in his possession or under his care shall take all reasonable precautions to prevent damage to or the deterioration or loss of that property.

Accounts and audit.

24. (1) The Board shall keep proper accounts of all its financial transactions and shall prepare a balance-sheet and a statement of its receipts and payments at least once a year.

(2) The Board shall at all times keep a copy of its last annual balance-sheet and statement of receipts and payments affixed in a conspicuous place in that part of its office which is open to the public.

(3) The Board shall have its accounts and balance-sheet audited by a qualified auditor approved by the Minister.

(4) The accounts of the Board relating to oats of each season shall be kept separately from the accounts relating to oats of other seasons, and in each season separate accounts shall be kept for milling and feed grade oats respectively.

Appeals against decision of Board.

25. (1) A person dissatisfied with a decision or action or proposed decision or action of the Board, may in writing request the Minister to review that decision, or action, or proposed decision or action.

(2) The Minister—

(*a*) shall give the person making the request, and the Board, an opportunity to submit to him any information or arguments relevant to the matter of the request;

and

(*b*) may give the Board a direction relating to the matter of the request.

(3) Any such direction shall be binding on the Board.

PART IV

DELIVERY AND MARKETING OF OATS

Sale and delivery of oats.

26. (1) The Board may by notice published in the *Gazette* fix a day to be the appointed day for the purposes of this section.

(2) Subject to this section, after the appointed day a person shall not sell or deliver oats to any person other than the Board.

(3) Subsection (2) of this section shall not apply to or in relation to oats—

(*a*) retained by the grower thereof for use on the farm where they were grown;

(*b*) sold or delivered to a person by the Board;

(*c*) sold or delivered to any person with the approval of the Board;

(*d*) sold or delivered to any primary producer for use by that primary producer in his business of primary production;

(*e*) sold or delivered in consequence of a sale at an auction market in accordance with a permit granted by the Board;

or

(*f*) the subject of trade, commerce or intercourse between States or oats acquired by the purchaser thereof for any of the purposes of such trade, commerce or intercourse.

(4) A person shall not, without the written approval of the Board, buy oats, to which subsection (2) of this section apply, from the grower thereof.

(5) A person shall not transport oats bought in contravention of subsection (4) of this section and in any prosecution for an offence that is such a contravention it shall lie upon the defendant to prove that the oats, in relation to which it is alleged that the contravention occurred, were not bought in contravention of that subsection.

(6) In this section—

"appointed day" means the day fixed as the appointed day by notice under subsection (1) of this section:

"primary producer" means a person, firm or partnership whose business is wholly or mainly that of primary production:

"primary production" means the business of agriculturist, pastoralist, grazier, dairy farmer, pig farmer, poultry farmer or mixed farmer.

Return of certain oats sold or delivered.

27. (1) A grower of oats who, after the appointed day as defined in section 26 of this Act, sells or delivers oats to any primary producer for use by that primary producer in his business of primary production shall not later than the last day of July and the last day of January in each year forward to the Board a return in the prescribed form containing the prescribed particulars of all such sales or deliveries that occurred in the six months ending respectively on the last day of June and the last day of December immediately preceding that last day of July and that last day of January.

(2) Where a person fails to comply with subsection (1) of this section, for the purposes of subsection (1) of section 33 of this Act that failure shall be deemed to continue so long as the return required by that subsection has not been forwarded notwithstanding that the time for so forwarding that return has elapsed.

Delivery of oats.

28. (1) Any person may deliver oats to the licensed receiver who is authorized by the Board to accept oats from the area where those oats were grown, or to accept those oats.

(2) Delivery of oats to a licensed receiver shall for purposes of this Act be delivery to the Board.

(3) Upon delivery of oats to the Board, unless it is otherwise agreed—

(*a*) the property in the oats shall pass to the Board forthwith; and

(*b*) the owner of the oats shall be deemed to have sold them to the Board at the price to be paid under this Act.

Receiver to hold oats.

29. A licensed receiver—

(*a*) shall hold, on behalf of the Board, all oats the property of the Board which are at any time in his possession; and

(*b*) shall not part with the possession of any such oats except in accordance with instructions from the Board or from a person authorized by the Board to give such instructions.

Declaration to be provided as to old season's oats.

30. (1) Any person who, after the prescribed day, consigns or delivers to a licensed receiver any oats harvested before that day, shall make and forward to the licensed receiver a declaration correctly stating the season during which those oats were harvested.

(2) For the purposes of this section "the prescribed day" means the day which, in respect of each season, is declared by the Board by notice published in the *Gazette* to be the final day of that season.

Duty of Board to market oats.

31. (1) The Board shall market or otherwise dispose of to the best advantage all oats delivered to it under this Act.

(2) In marketing or disposing of oats the Board shall have regard to the reasonable requirements of persons requiring oats for use or consumption in this State.

(3) Subject to this Act, the whole of the money received by the Board from the sale or other disposal of oats shall be applied by the Board in making payments to growers and paying the expenses of administering this Act.

Price to be paid for oats.

32. (1) The Board shall pay the owner of any oats sold to it the price of those oats as determined by the Board.

(2) In determining the price to be paid for oats the Board shall take into account—

(*a*) the amount received or to be received by the Board from the sale of oats of the same classification and season;

(*b*) the expenditure incurred by the Board in connection with transporting and marketing the oats and the administration of this Act;

(*c*) the expenditure incurred by the Board in connection with the establishment of a reserve fund or any scheme for the amortization of the capital amounts and interest thereon expended for or in relation to facilities for the storage of oats;

(*d*) the place at which the oats are delivered to the Board;

and

(*e*) any other circumstances that, in the opinion of the Board, affects the value of the oats.

(3) The Board may make progress payments, of such amount as the Board deems reasonable, on account of any money payable or about to become payable by the Board to any person as the price of oats.

(4) If after the Board has made payments to growers for oats of any season, there remains a balance of the proceeds of the sale of such oats which is so small that, in the Board's opinion, it is inexpedient to make a separate distribution of it among the growers, the Board may transfer that balance to a reserve fund to meet unforeseen contingencies and any such reserve fund may be invested by the Board in such securities as it deems suitable, and the income thereof shall also be paid into the reserve fund.

(5) If at any time the Board considers that the reserve fund is greater than the amount required to meet unforeseen contingencies, it may transfer any portion of the fund into the current year's revenue from the sale of oats and deal with the amount so transferred as if it were such revenue.

(6) The Board may use any money in the reserve fund to meet such liabilities or expenditure of the Board as it deems proper.

(7) The Board may deduct from any money payable to a person under this section any amount specified in a written request made to the Board by any such person and may apply any amount so deducted towards the provision of bulk storage facilities for oats.

PART V

PART V

MISCELLANEOUS

Offences and penalties.

33. (1) Any person who commits a contravention of, or fails to comply with, any provision of this Act, shall be guilty of an offence.

(2) Any person who is guilty of an offence against this Act shall be liable to a penalty of not more than two hundred dollars.

(3) Proceedings for offences against this Act shall be disposed of summarily.

Regulations.

34. (1) The Governor may make regulations for or with respect to—

(*a*) requiring any growers of oats to register and reregister with the Board at the prescribed times their names and such other particulars as are prescribed, and requiring growers of oats on ceasing to grow oats to notify the Board thereof;

(*b*) elections to be held under this Act;

and

(*c*) prescribing all matters or things which are required or permitted by this Act to be prescribed or which are necessary or expedient to be prescribed for carrying out or giving effect to this Act.

(2) Any such regulations may prescribe penalties (not exceeding one hundred dollars) for any breach thereof.

PART VI

POLLS ON CONTINUATION OF THE ACT

Polls on continuation of this Act.

35. (1) Subject to subsection (2) of this section, if at any time after the expiration of a period of two years next following the commencement of this Act there is presented to the Minister a petition signed by not less than two hundred growers of oats, being persons who would be entitled to vote at a poll under this section, requesting that a poll of growers be taken on the question whether this Act shall continue in operation, the Returning Officer for the State shall, as soon as practicable after he receives the register of growers as provided by subsection (3) of this section, hold a poll of growers accordingly.

(2) A poll under this section shall not be held within two years after the holding of any previous poll under this section.

(3) The Minister shall, within three months after the presentation of the petition under this section, transmit the register of growers to the Returning Officer.

(4) Subject to this Act, a poll under this section shall be held and conducted by the Returning Officer for the Sta e—

(*a*) by post;

and

(*b*) in such manner as the Returning Officer deems proper.

(5) The Governor may, on the recommendation of the Returning Officer for the State or the Board, make regulations prescribing and providing for any matters necessary or convenient to be prescribed or provided for in relation to polls to be held under this section.

(6) A person shall have the same rights of voting at any poll under this section as he would have if the poll were an election held and conducted under the regulations for the election of a member of the Board.

(7) If not less than thirty per cent of the growers who are entitled to vote at the poll so vote and of the growers so voting not less than sixty per cent vote against the continuance of this Act, the Governor shall, by proclamation or by successive proclamations—

(*a*) declare that the Board shall be wound up and appoint a person to be liquidator of the Board;

(*b*) fix a day or days upon which the provisions of this Act will cease to have any force or effect and may so fix different days in respect of different provisions of this Act;

and

(*c*) fix a day (not being earlier than any day fixed under paragraph (*b*) of this subsection) as the day upon which this Act shall expire.

(8) A poll under this section shall not be invalid by reason of any defect or any informality unless that defect or informality has affected the decision given on the question submitted at the poll.

Expiration of this Act.

36. This Act shall expire upon the day (if any) fixed for the expiration of this Act under paragraph (*c*) of subsection (7) of section 35 of this Act.

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

J. M. NAPIER, Governor's Deputy

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 37 of 1972

An Act to amend the Police Regulation Act, 1952-1971.

[*Assented to* 13*th April,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Police Regulation Act Amendment Act, 1972".

(2) The Police Regulation Act, 1952-1971, as amended by this Act, may be cited as the "Police Regulation Act, 1952-1972".

(3) The Police Regulation Act, 1952-1971, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 21—

Control and management of police force.

3. Section 21 of the principal Act is amended—

(*a*) by inserting after the word "Act" the passage "and the directions of the Governor";

and

(*b*) by inserting after the present contents thereof as amended by this section (which are hereby designated subsection (1) thereof) the following subsections:—

(2) The Chief Secretary shall cause a copy of every direction under subsection (1) of this section to be laid before each House of Parliament within six sitting days of the date of the direction if Parliament is then in session, or if not, within six sitting days after the commencement of the next session of Parliament.

(3) The Chief Secretary shall cause a copy of any direction under subsection (1) of this section to be included in an edition of the *Gazette* published not more than eight days after the date of the direction.

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

J. M. NAPIER, Governor's Deputy

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 38 of 1972

An Act to establish the South Australian Theatre Company, to constitute a Board of Governors thereof and for matters incidental thereto.

[*Assented to 13th April,* 1972]

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 "South Australian Theatre Company Act, 1972". Short title.

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

3. This Act is divided as follows:— Division of Act.

PART I—PRELIMINARY
PART II—THE COMPANY AND THE BOARD
DIVISION I—GENERAL
DIVISION II—POWERS AND FUNCTIONS, ETC., OF COMPANY
PART III—EMPLOYEES OF COMPANY
PART IV—THE COMPANY OF PLAYERS
PART V—FINANCIAL
PART VI—MISCELLANEOUS.

PART I

Definitions.

4. In this Act, unless the contrary intention appears—

"financial year" means any period of twelve months concluding on the thirtieth day of June in a year:

"governor" means a governor referred to in section 6 of this Act and includes such a governor for the time being appointed chairman of the Board:

"subscriber" means a person for the time being a subscriber to the Company within the meaning of the regulations:

"the Board" means the Board of Governors comprised of the governors appointed or elected under section 6 of this Act:

"the Company" means the South Australian Theatre Company established under section 5 of this Act.

"the company of players" means the persons whose names are, for the time being, shown on the register kept and maintained by the Board pursuant to section 24 of this Act.

PART II

PART II

THE COMPANY AND THE BOARD

DIVISION I

DIVISION I—GENERAL

The Company.

5. (1) For the purposes of this Act, a body by the name of the "South Australian Theatre Company" is hereby established.

(2) The Company—

(*a*) shall be a body corporate with perpetual succession and a common seal;

(*b*) subject to this Act, shall be capable of acquiring, taking or letting out on lease, holding, selling and otherwise disposing of real and personal property;

(*c*) may in its corporate name and capacity sue and be sued;

and

(*d*) shall have the powers, duties, functions and authorities conferred, imposed or prescribed by or under this Act.

(3) Where a document purporting to bear the common seal of the Company is produced before any court or person acting judicially the court or the person, as the case may be, shall, unless the contrary is proved, presume—

(*a*) that the document purporting to bear the common seal of the Company bears the common seal of the Company;

and

(*b*) that the common seal was duly affixed and properly attested to.

The Board of Governors.

6. (1) The powers, duties, functions and authorities of the Company conferred, imposed or prescribed by or under this Act may be exercised, performed and discharged by the Board of Governors.

(2) Subject to this section the Board shall consist of six governors—

(*a*) of whom three shall be persons appointed as such by the Governor;

(*b*) of whom two shall be elected, in the manner provided for by the regulations, by subscribers;

and

(*c*) of whom one shall be elected by the company of players in the manner provided for by this Act.

(3) From amongst the persons referred to in paragraph (*a*) of subsection (2) of this section the Governor may appoint a governor to be chairman of the Board.

(4) If the secretary to the Board has given to the company of players notice in writing requiring the company of players within the time specified in the notice (being not less than six weeks) to elect a governor of the Board and the company of players fails to so elect a governor within the time specified, the Board may appoint a member of the company of players to be a governor to occupy the office of governor in respect of which the failure to elect a governor occurred and that governor shall be deemed for all purposes to be a governor elected by the company of players.

(5) For the purposes of subsection (4) of this section a notice under that section shall be deemed to have been duly given, without prejudice to any other method of giving the notice, if it is exhibited and kept so exhibited for not less than one week at some conspicuous place at the principal place of operations of the company.

(6) Every governor appointed by the Governor shall, subject to this Act, hold office as such until the day expressed in the instrument of his appointment (not being more than three years from the day on which he was last appointed) as being the day on which he shall cease to hold office, but such a governor appointed to fill a casual vacancy in the office of a governor shall hold office only for the unexpired portion of the term of office of the governor in whose place he was appointed.

(7) Every governor elected by subscribers shall, subject to this Act, hold office as such until the conclusion of the next election of governors elected by subscribers.

(8) A governor elected by the company of players shall, subject to this Act, hold office as such until the conclusion of the next election of a governor elected by the company of players.

(9) On the expiration of his term of office as a governor, a governor shall be eligible for re-appointment or re-election as the case may be.

Acceptance of office as a governor not to be a bar to the holding of any other office.

7. Notwithstanding any other Act or law, a person shall not be disqualified by appointment as a governor from holding office as a governor and also any other office or place or from accepting or retaining any fees or other remuneration provided for by or under this Act, or otherwise, in respect of his service as a governor.

Removal from office of governor.

8. The Governor may, by notice in writing served on a governor, remove the governor from office on grounds of misconduct or incapacity to perform his duties and functions as a governor.

Casual vacancies.

9. The office of a governor shall become vacant if—

(*a*) he dies;

(*b*) he resigns by written notice given to the Minister;

(*c*) he is removed from office by the Governor pursuant to section 8 of this Act;

(*d*) he is absent without leave of the Minister from three consecutive meetings of the Board;

(*e*) he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors or compounds with his creditors for less than one hundred cents in the dollar;

(*f*) being a governor elected by the company of players, his name ceases to be on the register kept and maintained pursuant to subsection (1) of section 24 of this Act;

or

(*g*) he is convicted of any offence and receives notice in writing from the Minister discharging him from office on the ground of that conviction.

Common seal, meetings and quorum.

10. (1) The common seal of the Company shall not be affixed to any instrument except in pursuance of a resolution of the Board.

(2) Any instrument executed in pursuance of such a resolution shall be attested by the signature of any two governors.

(3) The procedure for the calling of meetings of the Board and for the conduct of business at such meetings shall, subject to this Act, be as determined by the Board.

(4) Any three governors shall constitute a quorum at any meeting of the Board and any duly convened meeting at which a quorum is present shall be competent to transact any business of the Company and shall have and may discharge all the powers, duties and functions of the Company.

(5) A decision carried by the majority of the votes cast by the governors present at a meeting of the Board shall be the decision of the Board.

(6) The Board shall cause accurate minutes to be kept of its proceedings at meetings.

Remuneration of governors.

11. A governor shall, if the Governor thinks fit, be paid such fees or other remuneration as may from time to time be fixed by the Governor and shall be entitled to receive such travelling and other expenses as are from time to time approved by the Minister.

Delegation of powers to governors.

12. (1) The Board may by instrument over its common seal delegate to not less than two governors any of the powers and functions conferred on the Board by or under this Act (except this power of delegation) so that the delegated powers and functions may be exercised by the delegates with respect to the matters or matters of a class or in relation to a locality specified in the instrument of delegation.

(2) A delegation under subsection (1) of this section is revocable in writing at will and no delegation shall prevent the exercise of any power or function by the Board conferred on it by or under this Act.

(3) Notwithstanding anything in this Act, where the delegates are unanimous in the exercise or performance of any power or function delegated under subsection (1) of this section the exercise or performance of that power or function by the delegates shall for the purposes of this Act or of any proceedings under this Act be deemed to be an exercise or performance of that power or function by the Board.

Chairman and presiding governor.

13. (1) The chairman of the Board shall preside at all meetings of the Board at which he is present and in addition to a deliberative vote, shall, in the event of equality of votes, have a second or casting vote.

(2) In the absence of the chairman of the Board from any meeting of the Board the governors present shall, from amongst their own number, elect a governor to preside at that meeting and at that meeting the governor so elected shall have and may exercise the powers and functions conferred on the chairman of the Board by his section.

DIVISION I

Validity of act, etc., of Board.

14. No act, proceedings or determination of the Board shall be invalid on the ground only of any vacancy in the office of any governor or of any defect in the appointment of any governor.

Governor not as such, subject to Public Service Act.

15. A governor shall not, as such, be subject to the Public Service Act, 1967, as amended, but this section does not affect the rights, duties and obligations under that Act of any governor who is otherwise an officer in the public service of the State.

Governor to declare interest.

16. (1) Subject to subsection (2) of this section where a governor becomes aware that he has a financial interest in any matter before the Board he shall not—

(*a*) refuse or fail to declare that interest to the secretary to the Board;

or

(*b*) act as such a governor in relation to any such matter.

Penalty: Five hundred dollars.

(2) For the purposes of subsection (1) of this section the governor elected by the company of players shall be deemed not to have a financial interest in any matter relating to the terms and conditions of employment including remuneration of any person, including himself, comprised in the company of players and the governor elected by subscribers shall be deemed not to have a financial interest in a matter where that financial interest arises only by reason of the fact that he is a subscriber.

DIVISION II

DIVISION II—POWERS AND FUNCTIONS, ETC., OF COMPANY

Company to absorb former company.

17. (1) In this section the "former company" means the South Australian Theatre Company Incorporated being an association incorporated under the Associations Incorporation Act, 1956, as amended.

(2) On the day of commencement of this Act the former company shall for all purposes be wound up and dissolved and thereafter all claims, actions or proceedings which—

(*a*) but for that dissolution, could have been made or commenced by or against the former company may be made or commenced by or against the Company in all respects as if the former company had not been dissolved and the Company were the former company;

and

(*b*) before that dissolution had been made or commenced by or against the former company may be continued by or against the Company in all respects as if the former

company had not been dissolved and the Company were the former company,

and the name of the Company shall be substituted for the name of the former company in any such claim, action or proceeding.

(3) All real and personal property vested in, belonging to or under the control of the former company shall on and from the day of commencement of this Act cease to vest in, belong to or be under the control of the former company and vest in, belong to or be under the control of the Company.

Objects, powers, etc., of Company.

18. (1) Subject to this Act, the Company may—

(*a*) present, produce, manage and conduct theatrical performances, operas, plays, dramas, ballets and entertainments of any kind as may in its opinion tend to promote the art of theatre;

(*b*) promote or commission the writing of plays or dramas, the scoring and writing of operas, the scoring, writing and choreography of ballets and other works for theatrical performance;

(*c*) promote the training of all persons concerned in the production, presentation or performance of theatrical presentations;

(*d*) assist financially or otherwise in the presentation, production, management or conduct of any art of the theatre in this State;

(*e*) do all things necessary or expedient to promote public interest and participation in the art of the theatre;

(*f*) establish and conduct schools, courses, lectures, seminars and discussions on the art of the theatre;

(*g*) enter into contracts or agreements with artists, entertainers and performers or employ such persons;

(*h*) employ writers, composers, choreographers, designers and directors;

(*i*) purchase and install any fittings or equipment in any theatre;

(*j*) make charges for admission to any theatrical performance;

(*k*) grant or dispose of rights to televise, broadcast or record any theatrical performances undertaken under its auspices;

(*l*) enter into agreement or arrangements with any other person or body for the promotion of any theatrical activity;

(*m*) acquire patents to use any inventions or devices that may be used in connection with any theatrical activity and dispose of such patents or licence for the use of any such inventions or devices;

and

(*n*) do all things which in its opinion are necessary for or incidental to the exercise and performance of any of its powers or to the fulfilment of any of its objects.

Company may make use of services of employees of public service.

19. The Company may, with the approval of the Minister and the consent of the Minister controlling any Department of the public service of the State and on such terms as may be mutually arranged make use of the services of any of the officers or employees of that Department.

PART III

PART III

EMPLOYEES OF THE COMPANY

Employment of employees.

20. (1) For the purposes of this Act the Board may employ such persons as employees of the Company as it thinks necessary.

(2) The terms and conditions of employment of the employees of the Company shall be as determined by the Board.

(3) Without limiting the generality of subsection (2) of this section, the Board may, with the approval of the Minister, determine that, for the purposes of the accrual of, or the payment of a lump sum in lieu of the grant of, long service leave or for the purposes of the accrual of leave on account of illness, previous service of an employee of the Company with an employer other than the Company for the purposes and to the extent approved of by the Minister shall be regarded as service as an employee of the Company.

(4) For the purposes of this section the Company may enter into an arrangement or supplementary arrangement of a kind contemplated by section 6 of the Superannuation Act, 1969, as amended, with the South Australian Superannuation Board.

Artistic director of the Company.

21. (1) Subject to this section the Board shall appoint a suitably qualified person to be the artistic director of the Company and upon that appointment the artistic director shall become an employee of the Company.

(2) The terms and conditions of employment of the artistic director shall be as determined by the Board and approved of by the Minister.

Secretary to the Board.

22. (1) The Board shall appoint a person to be the secretary to the Board and upon that appointment that person shall become an employee of the Company.

(2) The secretary to the Board shall have and may exercise, perform and carry out such powers, functions and duties as are conferred on him by or under this Act or as are directed to be exercised, performed or carried out by the Board.

PART IV

THE COMPANY OF PLAYERS

The company of players.

23. The company of players shall consist of all persons who are employed by the Company in the production, direction or performance of theatrical productions other than any such person who is so employed by the Company on a contract of employment expressed to apply to a period of employment of less than six months.

Register of company of players.

24. (1) The Board shall cause to be kept and maintained a register showing the names of the persons who are for the time being comprised in the company of players.

(2) If a dispute arises between the Board and any person as to whether or not the name of that person should be inserted in or remain on the register referred to in subsection (1) of this section that dispute shall be referred to the Minister who may determine that dispute and whose determination shall be final.

Election of governor by company of players.

25. (1) As soon as practicable after the commencement of this Act the Board shall cause an election to be held by the company of players for the purposes of the election of the governor referred to in paragraph (*c*) of subsection (2) of section 6 of this Act, and whenever a vacancy in the office of that governor occurs and at any case at intervals of not less than twelve months the Board shall cause further elections to be held.

(2) No person shall—

(*a*) stand for an election under this section;

or

(*b*) vote at any such election,

unless his name is for the time being on the register referred to in subsection (1) of section 24 of this Act.

(3) Subject to this Act, a governor elected pursuant to this section, shall hold office until the election under subsection (1) of this section next following the election at which he was last elected and any governor elected under this section shall be eligible for re-election.

(4) The form and manner of conducting an election under this section shall be as from time to time determined by the Board with the approval of the Minister.

PART V

PART V

FINANCIAL

Company to keep proper accounts.

26. (1) The Company shall keep proper accounts showing accurately and in detail all its financial transactions, assets and liabilities.

(2) The Auditor-General may at any time examine the accounts of the Company and shall as soon as practicable after the end of each financial year make a report to the Minister on the state of the affairs of the Company as at the end of that financial year.

(3) The Minister shall cause every report of the Auditor-General made in accordance with subsection (2) of this section to be laid before each House of Parliament within fourteen days of his receipt thereof if Parliament is then in session or if Parliament is not then in session within fourteen days of the commencement of the next session of Parliament.

Power to borrow.

27. (1) The Company may with the consent of the Treasurer, for the purposes of exercising or performing its powers and functions under this Act, borrow money at interest from any person upon such security (if any) by way of mortgage or charge over any of the assets of the Company as the Company may think fit to grant.

(2) The Treasurer may upon such terms and conditions as he thinks fit guarantee the repayment of any moneys (together with interest thereon) borrowed by the Company under this section.

(3) Any moneys required to be paid in satisfaction of a guarantee given pursuant to subsection (2) of this section may be paid out of the general revenue of the State which is hereby to the necessary extent appropriated accordingly.

Funds of the Company

28. (1) The moneys required by the Company for the purposes of the exercise and performance of its powers and functions under this Act shall be—

(*a*) all moneys received by the Company in the exercise and performance of its powers or functions;

(*b*) all moneys borrowed by the Company pursuant to section 27 of this Act;

(*c*) all moneys being gifts to the Company or derived from the disposition by the Company of gifts to the Company;

and

(*d*) all moneys paid to the Company by way of grants by the Treasurer out of moneys to be provided by Parliament for the purpose.

(2) Such of the moneys of the Company as are not immediately required by the Company may be lodged on deposit with the Treasurer or invested in any other manner approved of by the Treasurer.

Budget.

29. (1) As soon as practicable after the commencement of this Act the Company shall present to the Minister a budget showing its estimates of revenue and expenditure over the balance of the financial year within which the budget is presented and thereafter the Company shall before the commencement of each succeeding financial year present to the Minister a budget showing its estimates of its revenue and expenditure for that succeeding financial year.

(2) The Minister may approve of any budget presented to him pursuant to subsection (1) of this section or may direct or allow the Company to amend a budget before so approving of the budget.

(3) The Company shall not, without the consent of the Minister, incur any expenditure that is not authorized by an approved budget.

(4) In this section—

"approved budget" means a budget that has been approved of by the Minister or a budget that, having been amended, has been approved of by the Minister.

PART VI

PART VI

MISCELLANEOUS

Protection of governors.

30. No action, suit or proceeding shall be brought or maintained against any governor in respect of any act or thing done or omitted to be done in his capacity as such in the exercise or purported exercise in good faith of his powers or functions under this Act.

Reports.

31. (1) As soon as practicable after the end of each financial year the Company shall present a report to the Minister on its activities during the year and setting out in a form approved by the Minister a statement as to its financial position.

(2) The Minister shall cause every report of the Company made in accordance with subsection (1) of this section to be laid before each House of Parliament within fourteen days of his receipt thereof if Parliament is then in session or if Parliament is not then in session within fourteen days of the commencement of the next session of Parliament.

Gifts, etc.

32. (1) The Company may accept—

(*a*) grants, conveyances, transfers and leases of land whether from the Crown or any instrumentality thereof or any other person;

(*b*) rights to the use, control, management or occupation of any land;

and

(*c*) gifts of personal property of any kind to be used or applied by it for the purposes of this Act.

(2) Notwithstanding anything contained in the Stamp Duties Act, 1923, as amended, no stamp duty shall be payable on any instrument by which land or any interest in or right over land is granted or assured to or vested in the Company or on any contract or instrument executed by the Company for the purpose of disposing of any property.

(3) Notwithstanding anything contained in the Succession Duties Act, 1929, as amended, no succession duty shall be payable in respect of any property or interest passing to the Company on or by reason of the death of any person, and any such property shall not be subject to succession duty under that Act.

(4) Notwithstanding anything in the Gift Duties Act, 1968, as amended, no gift duty under that Act shall be payable in respect of the gift of any real or personal property to the Company.

Summary procedure for offences.

33. Proceedings for offences against this Act shall be disposed of summarily.

Regulations.

34. (1) The Governor may, on the recommendation of the Company, make such regulations as are necessary or expedient for the purposes of giving effect to the provisions or objects of this Act.

(2) Without limiting the generality of the provisions of subsection (1) of this section, the regulations may—

(*a*) provide for the disposition by the Company of any unclaimed property left in or on any premises owned or controlled by the Company;

(*b*) provide for persons to be subscribers to the Company, for the rights and obligations of such subscribers for the subscriptions to be paid by subscribers, for holding of elections of governors to be elected by subscribers and in the event of a vacancy in the office of a governor so elected, for holding of by-elections and for all matters incidental to all or any of the forgoing matters;

(*c*) provide for the securing of decency and order in or on any premises owned or controlled by the Company;

and

(*d*) provide for and prescribe penalties, in each case, not exceeding two hundred dollars, for a contravention of or failure to comply with any provision of the regulations.

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

J. M. NAPIER, Governor's Deputy

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 39 of 1972

An Act to amend the Supreme Court Act, 1935-1971; the Industrial Code, 1967-1971; the Local and District Criminal Courts Act, 1926-1971, and the Licensing Act, 1967-1971.

[*Assented to 13th April,* 1972]

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

Short title.

1. This Act may be cited as the "Statutes Amendment (Judges' Salaries) Act, 1972".

Arrangement of Act.

2. This Act is arranged as follows:—

PART I—PRELIMINARY

PART II—AMENDMENT OF THE SUPREME COURT ACT, 1935-1971

PART III—AMENDMENT OF THE INDUSTRIAL CODE, 1967-1971

PART IV—AMENDMENT OF THE LOCAL AND DISTRICT CRIMINAL COURTS ACT, 1926-1971

PART V—AMENDMENT OF THE LICENSING ACT, 1967-1971.

PART II

PART II

AMENDMENT OF THE SUPREME COURT ACT, 1935-1971

Short titles.

3. (1) The Supreme Court Act, 1935-1971, as amended by this Act, may be cited as the "Supreme Court Act, 1935-1972".

(2) The Supreme Court Act, 1935-1971, is in this Part referred to as "the principal Act".

Amendment of principal Act, s. 12—Salaries of Judges.

4. Section 12 of the principal Act is amended—

(*a*) by striking out subsection (1) and inserting in lieu thereof the following subsection:—

> (1) Until the date of commencement of the Statutes Amendment (Judges' Salaries) Act, 1972, the salary of the Chief Justice or acting Chief Justice and the salary of every puisne judge or acting puisne judge shall be at the rates respectively prescribed by this Act as in force immediately prior to that date and on and after that date the salary of the Chief Justice or acting Chief Justice shall be at the rate of twenty-eight thousand two hundred dollars a year and the salary of every puisne judge or acting puisne judge shall be at the rate of twenty-five thousand seven hundred and fifty dollars a year.;

and

(*b*) by striking out from subsection (2) the passage "Supreme Court Act Amendment Act (No. 2), 1970" and inserting in lieu thereof the passage "Statutes Amendment (Judges' Salaries) Act, 1972".

PART III

PART III

AMENDMENT OF THE INDUSTRIAL CODE, 1967-1971

Short titles.

5. (1) The Industrial Code, 1967-1971, as amended by this Act and by all other amendments (if any) amending the same prior to the commencement of this Act, may be cited as the Industrial Code, 1967-1972.

(2) The Industrial Code, 1967-1971, is in this Part referred to as "the principal Act".

Amendment of principal Act, s. 11— Salary of President and Deputy President.

6. Section 11 of the principal Act is amended by striking out subsection (1) and inserting in lieu thereof the following subsection:—

(1) Until the date of commencement of the Statutes Amendment (Judges' Salaries) Act, 1972, the salary of the President and every Deputy President shall be at the rates respectively prescribed by this Act as in force immediately prior to that date and on and after that date the salary of the President shall be at the rate of twenty-two thousand dollars a year and the salary of every Deputy President shall be at the rate of twenty thousand two hundred dollars a year.

PART IV

PART IV

AMENDMENT OF THE LOCAL AND DISTRICT CRIMINAL COURTS ACT, 1926-1971

Short titles.

7. (1) The Local and District Criminal Courts Act, 1926-1971, as amended by this Act and by all other amendments (if any) amending the same prior to the commencement of this Act, may be cited as the Local and District Criminal Courts Act, 1926-1972.

(2) The Local and District Criminal Courts Act, 1926-1971, is in this Part referred to as "the principal Act".

Amendment of principal Act, s. 5e— Salaries, etc.

8. Section 5e of the principal Act is amended by striking out subsection (1) and inserting in lieu thereof the following subsection:—

(1) Until the date of commencement of the Statutes Amendment (Judges' Salaries) Act, 1972, the salary of the Senior Judge or Acting Senior Judge appointed and performing any duties under or for the purposes of this Part and the salary of every Judge or Acting Judge appointed and performing any duties under or for the purposes of this Part shall be at the rates respectively prescribed by this Act as in force immediately prior to that date and on and after that date the salary of the Senior Judge or Acting Senior Judge appointed and performing any duties under or for the purposes of this Part shall be at the rate of twenty-two thousand dollars a year and the salary of every Judge or Acting Judge appointed and performing any duties under or for the purposes of this Part shall be at the rate of twenty thousand two hundred dollars a year.

PART V

AMENDMENT OF THE LICENSING ACT, 1967-1971

Short titles.

9. (1) The Licensing Act, 1967-1971, as amended by this Act and by all other amendments (if any) amending the same prior to the commencement of this Act, may be cited as the "Licensing Act, 1967-1972".

(2) The Licensing Act, 1967-1971, is in this Part referred to as "the principal Act".

Amendment of principal Act, s. 5— Constitution of Licensing Court.

10. Section 5 of the principal Act is amended by striking out subsection (6) and inserting in lieu thereof the following subsection:—

(6) Until the commencement of the Statutes Amendment (Judges' Salaries) Act, 1972, the salary of the Chairman and a Deputy Chairman who is appointed as such after the commencement of the Licensing Act Amendment Act, 1971, shall be at the rates respectively prescribed by this Act as in force immediately prior to that date and on and after that date the salary of the Chairman shall be at the rate of twenty thousand two hundred dollars a year and the salary of a Deputy Chairman who is appointed as such after the commencement of the Licensing Act Amendment Act, 1971, shall be at the rate of eighteen thousand four hundred dollars a year.

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

J. M. NAPIER, Governor's Deputy

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 40 of 1972

An Act to amend the Supreme Court Act, 1935-1971.

[*Assented to* 13*th April,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Supreme Court Act Amendment Act, 1972".

(2) The Supreme Court Act, 1935-1971, as amended by this Act, may be cited as the "Supreme Court Act, 1935-1972".

(3) The Supreme Court Act, 1935-1971, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 7—Judges of the Supreme Court.

3. Section 7 of the principal Act is amended by striking out from subsection (1) the passage "and not more than seven puisne judges" and inserting in lieu thereof the passage "and the puisne judges appointed, and for the time being holding office, under this Act".

Enactment of s. 30c of principal Act—

4. The following section is enacted and inserted in the principal Act immediately after section 30b:—

Power to award interest

30c. (1) Unless good cause is shown to the contrary, the court shall, upon the application of a party in favour of whom a judgment for the payment of damages, compensation or any

other pecuniary amount has been, or is to be, pronounced, include in the judgment an award of interest in favour of the judgment creditor in accordance with the provisions of this section.

(2) The interest—

(*a*) shall be at the rate of seven per centum per annum or such lower rate as may be fixed by the court;

(*b*) shall be calculated—

(i) where the judgment is given upon an unliquidated claim—from the date of the commencement of the proceedings to the date of the judgment;

or

(ii) where the judgment is given upon a liquidated claim—from the date upon which the liability to pay the amount of the claim fell due to the date of the judgment,

or in respect of such other period as may be fixed by the court;

and

(*c*) shall be payable in respect of the whole or any part of the amount for which judgment is given in accordance with the determination of the court.

(3) No interest shall be awarded in respect of—

(*a*) damages or compensation in respect of loss or injury to be incurred or suffered after the date of the judgment;

or

(*b*) exemplary or punitive damages.

(4) This section does not—

(*a*) authorize the award of interest upon interest;

(*b*) apply in relation to any sum upon which interest is recoverable as of right by virtue of an agreement or otherwise;

(*c*) affect the damages recoverable upon the dishonour of a negotiable instrument;

(*d*) authorize the award of any interest otherwise than by consent upon any sum for which judgment is pronounced by consent;

or

(*e*) limit the operation of any other enactment or rule of law providing for the award of interest.

Amendment of principal Act, s. 57— Committal for trial or sentence.

5. Section 57 of the principal Act is amended—

(*a*) by striking out from subsection (1) the word "Every" and inserting in lieu thereof the passage "Subject to any direction of the court or commissioner, every";

and

(*b*) by striking out from subsection (1) the passage "seven days" and inserting in lieu thereof the passage "fourteen days".

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

J. M. NAPIER, Governor's Deputy

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 41 of 1972

An Act to provide for suits by and against the Crown; to amend the Supreme Court Act, 1935-1971; and for other purposes.

[*Assented to 20th April,* 1972]

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

Short title.

1. This Act may be cited as the "Crown Proceedings Act, 1972".

Commencement.

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

Arrangement of Act.

3. This Act is arranged as follows:—

PART I—PRELIMINARY

PART II—PROCEEDINGS BY AND AGAINST THE CROWN

PART III—AMENDMENT OF THE SUPREME COURT ACT, 1935-1971.

Interpretation.

4. (1) In this Act, unless the contrary intention appears—

"judgment" means any judgment or order of a court except and interlocutory order:

"proceedings" means civil proceedings at law or in equity including proceedings in respect of a set-off or counter-claim, or by way of interpleader:

"proper officer" in relation to a court means—

(*a*) in the case of the Supreme Court—the Master or a deputy Master;

(*b*) in the case of a local court—the clerk;

or

(*c*) in any other case—the Registrar, clerk or other like officer of the court:

"the Crown" means—

(*a*) the Crown in right of this State;

(*b*) any Minister of the Crown in right of this State;

(*c*) any instrumentality or agency of the Crown in right of this State;

and

(*d*) any person, body or authority declared by proclamation to be an instrumentality of the Crown to which this Act applies.

(2) The Governor may, by proclamation, declare any person, body or authority to be an instrumentality of the Crown to which this Act applies, and may by subsequent proclamation, vary or revoke any such proclamation previously made.

PART II

PROCEEDINGS BY AND AGAINST THE CROWN

Proceedings by and against the Crown.

5. (1) Subject to this Act, and any relevant rules of court, proceedings by or against the Crown may be instituted and prosecuted in any court in accordance with the ordinary practice and procedure of the court in proceedings between subject and subject.

(2) Any proceedings by or against the Crown may, subject to the regulations, be brought under the title "The State of South Australia".

Service, etc.

6. (1) Where any proceedings are instituted against the Crown, a statement must be endorsed upon or annexed to, the process by which the proceedings are instituted, setting forth such information as may be prescribed either generally or in respect of proceedings of a particular class.

(2) A failure to comply with subsection (1) of this section does not render proceedings void unless the court by which the proceedings are entertained is of the opinion that the Crown has been prejudiced by that failure.

(3) Subject to the regulations, any process or document relating to proceedings by or against the Crown that is required to be served upon the Crown shall be served upon the Crown Solicitor.

Interlocutory orders.

7. (1) Subject to this Act, and any rules of court, in any proceedings to which the Crown is a party, the Crown may be required by the court—

(*a*) to make discovery of documents and to produce documents for inspection;

or

(*b*) to answer interrogatories,

in the same manner as if the proceedings were between subjects.

(2) An order under subsection (1) of this section shall specify the person by whom the documents are to be discovered or produced, or by whom the interrogatories are to be answered.

(3) This section does not affect the operation of any rule of law under which a person may refuse to discover or produce documents or to answer an interrogatory on the ground that to do so would be prejudicial to the public interest.

PART II

Enforcement of judgments against the Crown.

8. (1) No execution, attachment or similar process shall be issued out of any court against the Crown or any property of the Crown.

(2) Where judgment is given against the Crown, the proper officer of the court shall transmit to the Governor a copy of the judgment of the court.

(3) The Governor may give directions as to the manner in which the judgment is to be satisfied.

(4) The Treasurer or instrumentality of the Crown directed to satisfy the judgment is hereby authorized and required—

(*a*) to pay out of the General Revenue of the State, or the funds of that instrumentality, as the case may require, any moneys to be paid by the Crown in pursuance of the judgment;

and

(*b*) to perform any other act required to satisfy the judgment.

(5) The General Revenue of other moneys referred to in paragraph (*a*) of subsection (4) of this section are hereby appropriated to the extent necessary for the purposes of that subsection.

Enforcement of judgments by the Crown.

9. Subject to this Act, and any relevant rules of court, any judgment recovered by the Crown in any proceedings may be enforced in the same manner as a judgment in proceedings between subjects, and not otherwise.

Liability in contract and tort.

10. (1) Subject to this Act and any other Act—

(*a*) the Crown shall be liable in respect of any contract made on its behalf in the same manner and to the same extent as a private person of full age and capacity is liable in respect of his contracts;

and

(*b*) the Crown shall be liable in tort in the same manner and to the same extent as a private person of full age and capacity—

(i) for any tort committed by a servant, agent or other person acting in the employment, or on behalf, of the Crown;

(ii) in respect of any breach of duty that would, as between subjects, give rise to liability in tort.

(2) In any proceedings in tort against the Crown no defence based upon an actual or presumed independent discretion on the part of the person whose act or default is alleged to constitute the tort shall be admitted unless a similar defence would be admitted in the case of proceedings between subject and subject.

Abolition of special periods of limitation, etc., in proceedings against the Crown.

11. (1) Notwithstanding the provisions of any other Act, the time for bringing proceedings against the Crown in tort or contract shall be the same as in the case of proceedings between subject and subject.

(2) Notwithstanding the provisions of any other Act, but subject to this Act, no notice of claim, or notice of proceedings, in any case of tort or contract shall be required unless that notice would be required in the case of an action between subject and subject.

Right of Attorney-General to appear on behalf of the Crown.

12. (1) The Attorney-General may appear in any court and act for and represent the Crown in any action, proceeding or matter (whether civil or criminal) in which the Crown is interested.

(2) No action, proceeding or matter (whether civil or criminal) by or against the Attorney-General shall abate or be affected by any change in the person holding the office.

(3) Upon production by the Attorney-General to the Supreme Court of the commission of his appointment as Attorney-General it shall be noted in the record book of the court.

(4) Where an apparently genuine document purports to bear the signature of the Attorney-General, it shall be presumed in the absence of evidence to the contrary, that the document has been duly signed by the Attorney-General.

Rules of court.

13. Rules of court may be made subject to and in accordance with the Supreme Court Act, or the Local and District Criminal Courts Act regulating the practice and procedure of the Supreme Court or the local court in proceedings under this Act.

Resolution of procedural difficulties.

14. Where any doubt or difficulty arises with respect to the practice or procedure to be adopted, or the form of process to be used for the purpose of proceedings under this Act, any party or person interested in the proceedings may apply to the court before

which the proceedings have been, or are proposed to be, brought or any judge thereof, for such directions as may be necessary or expedient in view of the doubt or difficulty, and the ordinary practice, procedure or form of process shall be modified, for the purpose of the proceedings, as the court or judge may approve.

Application of Act.

15. This Act does not affect—

(*a*) any proceedings for the recovery or enforcement of any fine, penalty or forfeiture (including the estreatment of a recognizance) imposed or adjudged by any court of competent jurisdiction;

(*b*) any law, custom or procedure under which the Attorney-General is entitled or liable to sue, or be sued, or to intervene in any proceedings on behalf of the Crown, on the relation, or on behalf of, any other person or persons or in any other capacity or for any other purposes whatsoever;

or

(*c*) any proceedings instituted before the commencement of this Act.

Regulations.

16. (1) The Governor may make such regulations as are contemplated by this Act, or as he considers necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of the foregoing, those regulations may—

(*a*) prescribe the particulars to be endorsed upon or annexed to process to be served on the Crown;

and

(*b*) regulate the service of process or other documents under this Act.

PART III

AMENDMENT OF THE SUPREME COURT ACT, 1935-1971

Short titles.

17. (1) The Supreme Court Act, 1935-1971, as amended by this Part, may be cited as the "Supreme Court Act, 1972".

(2) The Supreme Court Act, 1935-1971, is referred to in this Part as "the principal Act".

Repeal of Part V of principal Act.

18. (1) Part V of the principal Act (except section 79a) is repealed.

(2) Section 79a of the principal Act is transposed into Part VII of the principal Act to follow section 118 and is redesignated section 118a.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 42 of 1972

An Act to amend the Dried Fruits Act, 1934-1966.

[*Assented to 20th April,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Dried Fruits Act Amendment Act, 1972".

(2) The Dried Fruits Act, 1934-1966, as amended by this Act, may be cited as the "Dried Fruits Act, 1934-1972".

(3) The Dried Fruits Act, 1934-1966, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act s. 10—Districts for election of representative members.

3. Section 10 of the principal Act is amended by striking out from subsection (2) the passage "fifteen miles" and inserting in lieu thereof the passage "24.140 kilometres".

Amendment of principal Act, s. 18—Contribution towards administration costs

4. Section 18 of the principal Act is amended by striking out subsection (2) and subsection (2a) and inserting in lieu thereof the following subsections:—

(2) Towards the expenditure first so estimated after the commencement of the Dried Fruits Act Amendment Act, 1972, and towards the expenditure so estimated for each succeeding year every person in whose name a packing house is registered shall contribute to the board such sum as the board determines but such sum shall not exceed—

(*a*) in the case of dried vine fruits, an amount of three dollars for each tonne;

and

(*b*) in the case of any other dried fruits, an amount of six dollars for each tonne,

of such fruits which, during the year in respect of which the contribution is required, has been or will be packed in the packing house registered in the name of that person.

(2a) In making a determination for the purposes of subsection (2) of this section the board may fix a different sum in respect of any one or more varieties of dried fruits.

Amendment of principal Act, s. 19—
General powers of the board.

5. Section 19 of the principal Act is amended by inserting in paragraph (*d*) after the word "provide" the passage "or register".

Amendment of principal Act, s. 23—
Registration of dealer.

6. Section 23 of the principal Act is amended—

(*a*) by inserting in paragraph (*c*) of subsection (2) after the word "prescribed" the passage "or required by the board";

and

(*b*) by inserting after subsection (5) the following subsection:—

(6) Every application for registration or for the renewal of registration as a dealer made on or after the commencement of the Dried Fruits Act Amendment Act, 1972, shall be accompanied by a fee of twenty-five dollars and no such application shall be dealt with by the Board unless it is so accompanied by that fee.

Amendment of principal Act, s. 24—
Registration of packing houses.

7. Section 24 of the principal Act is amended—

(*a*) by inserting in subsection (7) after the passage "transfer of registration" the following passage "made on or after the commencement of the Dried Fruits Act Amendment Act, 1972";

(*b*) by striking out from paragraph (*a*) of subsection (7) the passage "two dollars" and inserting in lieu thereof the passage "ten dollars";

and

(*c*) by striking out from paragraph (*b*) of subsection (7) the passage "fifty cents" and inserting in lieu thereof the passage "five dollars".

Amendment of principal Act, s. 33—Regulation.

8. Section 33 of the principal Act is amended—

(*a*) by inserting in subsection (1) after the passage "respect to" the passage "all or any of the following matters";

(*b*) by striking out from subsection (1) the word "and" immediately following paragraph (*l*);

and

(*c*) by inserting in subsection (1) immediately after paragraph (*m*) the word "and".

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 43 of 1972

An Act to amend the Explosives Act, 1936-1968.

[*Assented to 20th April,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Explosives Act Amendment Act, 1972".

(2) The Explosives Act, 1936-1968, as amended by this Act, may be referred to as the "Explosives Act, 1936-1972".

(3) The Explosives Act, 1936-1968, is hereinafter referred to as "the principal Act".

Amendment of principal Act, s. 23—
Keeping of explosives.

2. Section 23 of the principal Act is amended by striking out from subsection (2) the passage "twenty-five pounds, or in the case of any other explosive, five pounds: Provided" and inserting in lieu thereof the passage "15 kilograms, or in the case of any other explosive, 3 kilograms, but".

Amendment of principal Act, s. 29—
Vessels arriving with explosives to hoist flag.

3. Section 29 of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "twenty-five pounds in weight of gunpowder or five pounds" and inserting in lieu thereof the passage "15 kilograms in weight of gunpowder or 3 kilograms";

(*b*) by striking out from paragraph (*a*) of subsection (2) the passage "twenty-five pounds in weight of gunpowder or five pounds" and inserting in lieu thereof the passage "15 kilograms in weight of gunpowder or 3 kilograms";

and

(*c*) by striking out from paragraph (*b*) of subsection (2) the passage "twenty-five pounds in weight of gunpowder or five pounds" and inserting in lieu thereof the passage "15 kilograms in weight of gunpowder or 3 kilograms".

Amendment of principal Act, s. 31— Ships carrying explosives.

4. Section 31 of the principal Act is amended by striking out from subsection (1) the passage "twenty-five pounds in weight of gunpowder or five pounds" and inserting in lieu thereof the passage "15 kilograms in weight of gunpowder or 3 kilograms".

Amendment of principal Act, s. 33— Explosives on arrival to be reported.

5. Section 33 of the principal Act is amended by striking out from subsection (1) the passage "twenty-five pounds in weight of gunpowder or five pounds" and inserting in lieu thereof the passage "15 kilograms in weight of gunpowder or 3 kilograms".

Amendment of principal Act, s. 35— Penalty on going alongside wharves.

6. Section 35 of the principal Act is amended by striking out from subsection (1) the passage "twenty-five pounds in weight of gunpowder or five pounds" and inserting in lieu thereof the passage "15 kilograms in weight of gunpowder or 3 kilograms".

Amendment of principal Act, s. 37— Explosives not to be shipped within certain limits.

7. Section 37 of the principal Act is amended by striking out from subsection (1) the passage "twenty-five pounds in weight of gunpowder or five pounds" and inserting in lieu thereof the passage "15 kilograms in weight of gunpowder or 3 kilograms".

Amendment of principal Act, s. 38— Control over ships and boats in ports.

8. Section 38 of the principal Act is amended by striking out from subsection (1) the passage "twenty-five pounds in weight of gunpowder or five pounds" and inserting in lieu thereof the passage "15 kilograms in weight of gunpowder or 3 kilograms".

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 44 of 1972

An Act to amend the Licensing Act, 1967-1971.

[*Assented to 20th April,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Licensing Act Amendment Act, 1972".

(2) The Licensing Act, 1967-1971, as amended by this Act, may be cited as the "Licensing Act, 1967-1972".

(3) The Licensing Act, 1967-1971, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 2—Arrangement of Act.

3. Section 2 of the principal Act is amended by inserting after the item:—

PART VII—HISTORIC INNS

the item:—

PART VIIA—PRESCRIBED TOURIST HOTELS.

Amendment of principal Act, s. 4—Interpretation.

4. Section 4 of the principal Act is amended—

(*a*) by striking out from the definition of "liquor" in subsection (1) the passage "more than two per centum of proof spirit" and inserting in lieu thereof the passage "more than 1.15 per cent alcohol by volume at twenty degrees Celsius";

(*b*) by inserting after the definition of "owner of licensed premises" in subsection (1) the following definition:—

"prescribed tourist hotel" means any premises, or proposed premises, declared to be a prescribed tourist hotel pursuant to the provisions of this Act:;

(*c*) by striking out from subsection (1) the definition of "proof spirit";

(*d*) by striking out from the definition of "Superintendent of Licensed Premises" in subsection (1) the passage "appointed under section 178 of this Act" and inserting in lieu thereof the passage "or an Assistant Superintendent of Licensed Premises appointed under section 178 of this Act";

and

(*e*) by striking out subsection (2) and inserting in lieu thereof the following subsection:—

(2) For the purposes of this Act—

(*a*) one dozen containers each containing not less than seven hundred and forty millilitres or two dozen containers each containing not less than three hundred and seventy millilitres, shall be deemed to contain a total quantity of nine litres;

and

(*b*) six containers each containing not less than seven hundred and forty millilitres or one dozen containers each containing not less than three hundred and seventy millilitres shall be deemed to contain a total quantity of four and one-half litres.

Amendment of principal Act, s. 13— Exceptions to application of Act.

5. Section 13 of the principal Act is amended by striking out subsections (2) and (3).

Amendment of principal Act, s. 14— Licences.

6. Section 14 of the principal Act is amended by striking out paragraph (*p*) of subsection (1) and inserting in lieu thereof the following paragraph:—

(*p*) Twenty litre licence.

Amendment of principal Act, s. 15—

Licences for national pleasure resorts and national parks.

7. Section 15 of the principal Act is amended—

(*a*) by striking out subsection (1) and inserting in lieu thereof the following subsections:—

(1) Notwithstanding the provisions of any other Act, the court may grant to the lessee of the chalet at the Wilpena National Pleasure Resort a licence authorizing him to sell and supply liquor in accordance with such terms and conditions as the court thinks fit and includes in the licence.

(1a) The provisions of section 168 of this Act shall apply *mutatis mutandis* to the holder of a licence under subsection (1) of this section in the same manner as they apply to the holder of a limited publican's licence.

(1b) The fee for a licence under subsection (1) of this section shall be determined in accordance with the rules of the court.

(1c) Notwithstanding the provisions of any other Act, the court may grant a full publican's licence, a limited publican's licence or a restaurant licence to the proprietor or lessee of premises situated upon the national pleasure resort at Windy Point, or, with the approval of the Minister of Lands, to the proprietor or lessee of any premises situated upon any other lands that constitute a national pleasure resort or a national park.;

and

(*b*) by striking out from subsection (2) the passage "subsection (1)" and inserting in lieu thereof the passage "subsection (1c)".

Enactment of ss. 16a and 16b of principal Act—

8. The following sections are enacted and inserted in the principal Act immediately after section 16 thereof:—

Commonwealth Railways Commissioner may hold licence.

16a. (1) Notwithstanding any other provision of this Act, a licence may be granted to the Commonwealth Railways Commissioner authorizing him to sell and supply liquor to persons engaged in the construction, maintenance, repair or operation of works connected with railways under the management or control of the Commissioner.

(2) A licence may be granted under this section subject to conditions—

(*a*) stipulating the places at which and the manner in which liquor to be sold or supplied in pursuance of the licence is to be stored;

(*b*) stipulating the kinds of liquor that may be sold or supplied in pursuance of the licence and the manner in which it is to be supplied;

(*c*) restricting the places at which liquor may be sold or supplied in pursuance of the licence,

and to such other conditions as the court thinks fit.

(3) A licence under this section shall not authorize the sale or supply of liquor within six kilometres, by the shortest practicable route, from premises in respect of which a full publican's licence is in force.

(4) A licence under this section must be subject to such conditions as will ensure, in the opinion of the court that—

(*a*) the class of persons to whom liquor may be sold or supplied in pursuance of the licence consists wholly or substantially of persons who, if it were not for the sale or supply of liquor in pursuance of the licence, could not, without undue inconvenience obtain adequate supplies of liquor;

and

(*b*) the sale or supply of liquor in pursuance of the licence will not unduly impair the business of any person conducted in pursuance of a full publican's licence under this Act.

(5) The fee for a licence under this section shall be determined in accordance with the rules of the court.

Licence for prescribed authority.

16b. (1) Where in the opinion of the court the location and nature of any works that are being or are to be, carried out by a prescribed authority are such that the grant of a licence under this section is justified, the court may grant to the authority a licence authorizing it to sell and supply liquor to persons engaged in the performance of those works at such times as may be specified in the licence.

(2) Subject to subsection (3) of this section the licence shall authorize the sale and supply of liquor in such canteens or other premises as may be specified in the licence.

(3) Any such canteen or premises must be situated at least six kilometres by the shortest practicable route from premises in respect of which a full publican's licence is in force.

(4) A licence may be subject to—

(*a*) conditions requiring the licensee to purchase the liquor or a proportion of the liquor to be disposed of in pursuance of the licence from the holder of a full publican's licence, under this Act;

and

(*b*) such other conditions as the court thinks fit and specifies in the licence.

(5) The fee for a licence under this section shall be determined in accordance with the rules of the court.

(6) In this section—

"prescribed authority" means any person, body or authority engaged in works of mining, excavation, building or construction of a substantial character.

Amendment of principal Act s. 18— Special licences.

9. Section 18 of the principal Act is amended by inserting after subsection (2c) the following subsection:—

(2d) Notwithstanding any other provision of this Act, but subject to this section, a licence may be granted in each year by the court to any body or authority administering the Cornish Festival authorizing it subject to such conditions as the court thinks fit and specifies in the licence, to sell or supply liquor of any kind and in any quantities to the public during the continuance of the Cornish Festival at such times over a period not exceeding three days (which may include a Sunday) and at such places, as the court thinks fit and specifies in the licence.

Amendment of principal Act, s. 19— Full publican's licence.

10. Section 19 of the principal Act is amended—

(*a*) by striking out from paragraph (*c*) of subsection (1) the passage "half past eleven o'clock in the evening" wherever it occurs and inserting in lieu thereof, in each case, the passage "half past one o'clock in the following morning";

(*b*) by striking out from paragraph (*e*) of subsection (1) the passage "half past eleven o'clock in the evening" and inserting in lieu thereof the passage "half past one o'clock in the following morning";

and

(*c*) by inserting after subsection (1a) the following subsection:—

(1b) In the case of a prescribed tourist hotel the court may, by order, authorize the licensee to sell and dispose of liquor for consumption in portions of the licensed premises specified by the court between the hours of nine o'clock in the morning and three o'clock in the following morning on any day except Good Friday.

Amendment of principal Act, s. 20—Limited publican's licence.

11. Section 20 of the principal Act is amended—

(*a*) by striking out from paragraph (*a*) of subsection (1) the passage "half past eleven o'clock in the evening" and inserting in lieu thereof the passage "half past one o'clock in the following morning";

and

(*b*) by striking out from paragraph (*b*) of subsection (1) the passage "half past eleven o'clock in the evening" and inserting in lieu thereof the passage "half past one o'clock in the following morning".

Amendment of principal Act, s. 21—Wholesale storekeeper's licence.

12. Section 21 of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "one gallon of spirits, or two gallons of wine" and inserting in lieu thereof the passage "four and a half litres of spirits or nine litres of wine";

and

(*b*) by inserting after subsection (4) the following subsection:—

(5) In determining whether the trade conducted in pursuance of a licence is in accordance with subsection (2) or subsection (4) of this section, the sale and disposal of liquor to persons who are genuinely employees of the licensee shall not be taken into account.

Amendment of principal Act, s. 23—Wine licence.

13. Section 23 of the principal Act is amended—

(*a*) by inserting after paragraph (*a*) of subsection (1b) the following paragraph:—

(*ab*) on any day (other than Sunday, Good Friday and Christmas Day) between the hours of nine o'clock in the morning and half past one o'clock in the following morning for consumption by persons taking *bona fide* meals in the premises, with or ancillary to such meals;

(*b*) by striking out from paragraph (*c*) of subsection (1b) the passage "half past eleven o'clock in the evening" and inserting in lieu thereof the passage "half past one o'clock in the following morning";

and

(*c*) by striking out from paragraph (*c*) of subsection (1e) the passage "paragraph (*b*) or (*c*)" and inserting in lieu thereof the passage "paragraph (*ab*), (*b*), or (*c*)".

Amendment of principal Act, s. 24—Brewer's Australian ale licence.

14. Section 24 of the principal Act is amended by striking out from subsection (1) the passage "two gallons of spirits or two gallons of wine" and inserting in lieu thereof the passage "nine litres of spirits or nine litres of wine".

Amendment of principal Act, s. 25—
Distiller's storekeeper's licence.

15. Section 25 of the principal Act is amended—

(*a*) by striking out from subsection (1) the word "Every" and inserting in lieu thereof the passage "Subject to subsection (1a) of this section, every";

(*b*) by striking out from subsection (1) the passage "in quantities of not less at one time than one gallon of spirits, or two gallons of wine or other fermented liquor to be taken away at one time by one person" and inserting in lieu thereof the passage "to be taken away";

and

(*c*) by inserting after subsection (1) the following subsections:—

(1a) The aggregate quantity of liquor sold and disposed of to any one person on any one occasion—

(*a*) where the liquor consists of wine or brandy, or wine and brandy—must be not less than two litres;

(*b*) where the liquor consists of spirits (other than brandy)—must be not less than four and a half litres;

and

(*c*) in any other case—must be not less than nine litres.

(1b) In this section—

"wine" includes mead, cider, perry and any other fermented liquor derived from fruit or vegetables.

Amendment of principal Act, s. 26—
Vigneron's licence.

16. Section 26 of the principal Act is amended—

(*a*) by striking out subsection (1) and inserting in lieu thereof the following subsections:—

(1) Subject to this section, a vigneron's licence shall authorize the person thereby licensed to sell or supply wine or brandy on any day (except Sunday, Good Friday and Christmas Day) between the hours of five o'clock in the morning and six o'clock in the evening to any person.

(1a) Where the wine or brandy is sold or supplied otherwise than to a licensed person the aggregate quantity of liquor sold or supplied on any one occasion must be not less than two litres.

(1b) The wine or brandy sold or supplied in pursuance of the licence—

(*a*) must be the produce of honey, fruit or vegetables produced or grown in Australia;

and

(*b*) must be sold or supplied in the premises in which the licensee makes wine or brandy or where the wine or brandy is sold or supplied to a licensed person, either in those premises or in the premises of that licensed person.

(1c) Subject to subsection (1d) of this section liquor must not be sold or supplied for consumption on the premises in which it is sold or supplied.

(1d) The holder of a vigneron's licence may, if so authorized by the licence, supply free of charge for consumption on any specified portion of the licensed premises any wine or brandy by way of sample.;

(*b*) by striking out from subsection (2) the word "tons" and inserting in lieu thereof the word "tonne";

(*c*) by striking out from subsection (3) the word "tons" and inserting in lieu thereof the word "tonne";

and

(*d*) by inserting after subsection (4) the following subsection:—

(5) In this section—

"wine" includes mead, cider, perry and any other fermented liquor derived from fruit or vegetables.

Amendment of principal Act, s. 27— Club licence.

17. Section 27 of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "and at the expense";

(*b*) by inserting in paragraph (*a*) of subsection (1) before the passage "upon any day" the passage "subject to subsection (1a) of this section";

(*c*) by inserting in subsection (1) after the passage "paragraphs (*a*) or (*b*) of this subsection or within fifteen minutes thereafter" the passage ", between hours fixed by the court under subsection (1a) of this section or within fifteen minutes thereafter,";

and

(*d*) by inserting after subsection (1) the following subsection:—

(1a) The court may upon the application of the holder of a club licence, or an applicant for a club licence, fix such hours of trading in lieu of those stipulated in paragraph (*a*) of subsection (1) of this section as the court thinks fit.

(1b) The hours so fixed may include hours falling upon Sunday or Christmas Day but shall not include hours falling upon Good Friday.

(1c) The aggregate hours so fixed shall not exceed seventy-eight for any one week.

Amendment of principal Act, s. 28—Packet licence.

18. Section 28 of the principal Act is amended by striking out from paragraph (*b*) of subsection (1) the passage "forty miles" and inserting in lieu thereof the passage "sixty-five kilometres".

Amendment of principal Act, s. 29—Twenty litre licence.

19. Section 29 of the principal Act is amended—

(*a*) by striking out the passage "five gallon" and inserting in lieu thereof the passage "twenty litre";

(*b*) by striking out the passage "five gallons" and inserting in lieu thereof the passage "twenty litres";

and

(*c*) by inserting after the present contents thereof, as amended by this section (which are hereby designated subsection (1) thereof) the following subsection:—

(2) A licence granted under this section and in force immediately before the commencement of the Licensing Act Amendment Act, 1972, shall become, upon the commencement of that Act, a twenty litre licence and shall continue in operation subject to the provisions of this Act for the remainder of the term for which it was granted or last renewed.

Amendment of principal Act, s. 31—Restaurant licence.

20. Section 31 of the principal Act is amended—

(*a*) by striking out from paragraphs (*a*) and (*b*) of subsection (1) the passage "half past eleven o'clock in the evening" wherever it occurs and inserting in lieu thereof, in each case, the passage "half past one o'clock in the following morning";

and

(*b*) by striking out subsections (4) and (5) and inserting in lieu thereof the following subsections:—

(4) The court may grant a restaurant licence subject to such conditions as it thinks fit, and, without limiting the generality of the foregoing, subject to a condition limiting the types or kinds of liquor that may be sold or disposed of in pursuance of the licence.

(5) The court—

(*a*) shall upon the application of the holder of a restaurant licence declare that he shall be exempt from the requirements of section 168 of this Act on a particular day of each week, specified by the court;

and

(*b*) may upon the application of the holder of a restaurant licence or of its own motion, limit the hours during which liquor may be sold or disposed of in pursuance of the licence.

(5a) The court may in exercising its powers under subsection (5) of this section impose such conditions upon the holder of the licence as it thinks reasonable and in the public interest.

(5b) The holder of a restaurant licence shall be exempt from the requirements of section 168 of this Act—

(*a*) on any day on which he is declared to be exempt from the requirements of that section in pursuance of subsection (5) of this section;

and

(*b*) at any time when liquor may not be sold or disposed of in pursuance of the licence by reason of a limitation under that subsection.

Amendment of principal Act, s. 33—Theatre licence.

21. Section 33 of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "half past seven o'clock" and inserting in lieu thereof the passage "half past six o'clock";

(*b*) by striking out subsection (2) and inserting in lieu thereof the following subsection:—

(2) A theatre licence shall not authorize the licensee to sell or dispose of liquor on any day on which the theatre is not being used—

(*a*) in providing an entertainment in which those, or most of those, whose words or actions constitute the entertainment are actually present in the theatre and actually perform the entertainment;

or

(*b*) in providing a cinematographic entertainment;

and

(*c*) by inserting after subsection (3) the following subsection:—

(4) An applicant for a theatre licence must, in addition to fulfilling any other requirements of this Act, satisfy the court that the premises for which the licence is sought satisfy proper standards of design and construction and are appropriate and properly maintained both for the purposes of the entertainments for which the premises are, or are likely to be, used, and for the supply and consumption of liquor.

Amendment of principal Act, s. 34—Payment of fees, etc.

22. Section 34 of the principal Act is amended—

(*a*) by striking out from subsection (2) the passage "other than a packet licence";

and

(*b*) by striking out subsection (3).

Amendment of principal Act, s. 37—Licence fees.

23. Section 37 of the principal Act is amended—

(*a*) by striking out from paragraph (*g*) of subsection (1) the passage "five gallon" and inserting in lieu thereof the passage "twenty litre";

and

(*b*) by inserting after subsection (1) the following subsection:—

(1a) The fee—

(*a*) for a club licence subject to a condition requiring the licensee to purchase the liquor required for the purposes of the club from the holder of a full publican's licence;

or

(*b*) for a club licence where the club is entitled in pursuance of this Act to purchase liquor from the Returned Sailors' Soldiers' and Airmen's Imperial League of Australia (South Australian Branch) Club,

shall be an amount of not less than fifty dollars and not more than two hundred and fifty dollars, fixed in accordance with the rules of the Court.

Amendment of principal Act, s. 39—Declarations as to liquor purchases.

24. Section 39 of the principal Act is amended by inserting in subsection (3) after the passage "at the time of the application" the passage "or within such period as the Court may fix".

Amendment of principal Act, s. 41—Licence for previously unlicensed premises.

25. Section 41 of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "five gallon" and inserting in lieu thereof the passage "twenty litre";

and

(*b*) by striking out from subsection (3) the passage "twenty-four inches" and inserting in lieu thereof the passage "sixty centimetres".

Amendment of principal Act, s. 46—Notice of objection.

26. Section 46 of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "No person" and inserting in lieu thereof the passage "Subject to subsection (2) of this section, no person";

(*b*) by striking out the word "fourteen" and inserting in lieu thereof the word "seven";

and

(*c*) by inserting after the present contents thereof, as amended by this section (which are hereby designated subsection (1) thereof) the following subsections:—

(2) The court may permit a notice of objection to be given at any time before the determination of the proceedings if the court considers in its discretion that it is appropriate to do so.

(3) The court may, upon such conditions as it thinks fit, permit an objector to amend the notice of objection.

(4) An objection may be made to the unconditional grant, renewal, transfer or removal of a licence and where an objection is so made the notice of objection must state the conditions that should, in the opinion of the objector, be included in the licence.

Amendment of principal Act, s. 48—
Objections to grant or renewal of licence.

27. Section 48 of the principal Act is amended—

(*a*) by striking out the word "or" immediately preceding subparagraph (*f*) of paragraph (1);

and

(*b*) by inserting after subparagraph (*f*) the following subparagraph:—

or

(*g*) that proper grounds for the grant or renewal of the licence to the applicant in accordance with this Act do not exist.

Amendment of principal Act, s. 48a—
Alterations affecting trading conditions.

28. Section 48a of the principal Act is amended by inserting after subsection (2) the following subsection:—

(3) The objection may be made upon any ground referred to in section 48 of this Act or on any other ground that the court may allow.

Amendment of principal Act, s. 49—
Effect of non-payment of fee.

29. Section 49 of the principal Act is amended by inserting after the present contents thereof (which are hereby designated subsection (1) thereof) the following subsection:—

(2) Where a licence fee, or a quarterly instalment, remains unpaid for more than fourteen days after the day on which it falls due, the amount of the fee or instalment shall be increased by an additional amount of ten per centum of the fee of instalment.

(3) The court may for any reason that it considers sufficient remit the whole or any portion of an additional amount for which any person has become liable under subsection (2) of this section.

Amendment of principal Act, s. 51—
Application to transfer licence.

30. Section 51 of the principal Act is amended—

(*a*) by striking out from subsection (2) the word "fourteen" and inserting in lieu thereof the words "twenty-one";

and

(*b*) by striking out from subsection (3) the passage "ten dollars" and inserting in lieu thereof the passage "fifty dollars".

Amendment of principal Act, s. 52—
Transfer of licence.

31. Section 52 of the principal Act is amended—

(*a*) by inserting after subsection (1) the following subsection:—

(1a) Notice in writing of an application under this section must be given to the clerk at least twenty-one days before the day on which the application is made.;

and

(*b*) by striking out from subsection (3) the passage "ten dollars" and inserting in lieu thereof the passage "fifty dollars".

Amendment of principal Act, s. 65— Booth certificate.

32. Section 65 of the principal Act is amended by inserting after subsection (2) the following subsections:—

(2a) Notwithstanding any of the provisions of this Act, the holder of a full publican's licence may agree with any person or body of persons whose consent and approval is required under subsection (1) of this section that in consideration of receiving that consent and approval he will pay to that person or body of persons a specified percentage of the gross receipts obtained by him from the sale of liquor in pursuance of the certificate.

(2b) No such agreement shall be valid unless it has been submitted to, and approved by, the court.

Enactment of s. 65a of principal Act— Outdoors permit.

33. The following section is enacted and inserted in the principal Act immediately after section 65 thereof:—

65a. (1) The holder of a full publican's licence, a limited publican's licence or a restaurant licence may, upon application to the court accompanied by the fee prescribed by the rules of court, be granted a permit for the sale and supply of liquor, at such times as the court thinks fit and specifies in the permit, for consumption in areas, defined by the court, outside the licensed premises.

(2) Subject to the terms and conditions of the permit, the permit shall authorize the sale and supply of liquor for consumption in the defined areas according to the tenor of the licence in all respects as if that area constituted part of the licensed premises.

(3) No permit shall be granted by the court under this section unless the council for the area in which the licensed premises are situated has approved the grant of the permit.

(4) The court may grant a permit under this section upon such terms and conditions as it thinks fit and specifies in the permit.

(5) Subject to any exception or modification authorized by the court, the provisions of this Act shall apply in relation to the areas defined in the permit in all respects as if they were part of the licensed premises.

Amendment of principal Act, s. 66— Permits.

34. Section 66 of the principal Act is amended by inserting after subsection (1) the following subsections:—

(1a) Where the holder of a full publican's licence, a limited publican's licence, or a restaurant licence desires a permit for the purposes of the sale and supply of liquor on the licensed premises on any special occasion, he may apply to the court for a special permit for the sale, supply and consumption of liquor during hours, or in circumstances in which the sale, supply or consumption of liquor would otherwise be unlawful.

(1b) A permit shall not be granted upon applications under subsection (1a) of this section more than six times in any period of twelve months in respect of the same licensed premises but this subsection does not affect the frequency with which permits may be granted under subsection (1) of this section.

Amendment of principal Act, s. 67—Club permits.

35. Section 67 of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "that was in existence at the date of the commencement of this Act";

(*b*) by striking out paragraphs (*a*) and (*b*) of subsection (2) and inserting in lieu thereof the following paragraphs:—

(*a*) the club has been in existence for a period of at least twelve months before the date of the application;

(*b*) there are adequate restrictions upon admission to membership of the club;

(*c*) there is adequate reason for the grant of the permit;

(*c*) by striking out from subsection (3) the passage "and at the expense";

(*d*) by inserting after subsection (3) the following subsection:—

(3a) A permit under this section shall not authorize the sale or supply of liquor to a visitor unless the name of the visitor has been entered in a book kept for this purpose and the member at whose invitation the visitor is present in the club premises has signed his name opposite the name of the visitor in that book.;

and

(*e*) by inserting after subsection (10) the following subsections:—

(11) Subject to subsection (12) of this section, the court shall not grant a permit to a club under this section where the club has previously held a permit under this section and the gross amount realized upon the sale of liquor in pursuance of a previous permit or permits under this section has in any period of twelve months exceeded fifteen thousand dollars.

(12) The court may, notwithstanding the provisions of subsection (11) of this section, grant a permit under this section where the court is satisfied—

(*a*) that the gross amount realized upon the sale of liquor exceeded the limit prescribed by subsection (11) of this section by reason of circumstances that are unlikely to recur regularly;

or

(*b*) that the club has applied or intends to apply for a club licence under this Act and that

the permit is necessary to permit the club to continue trading in liquor prior to the determination of the application for the licence.

Amendment of principal Act, s. 67a—Permit for keeping liquor.

36. Section 67a of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "that was in existence at the date of the commencement of the Licensing Act, 1967";

and

(*b*) by striking out paragraphs (*a*) and (*b*) of subsection (2) and inserting in lieu thereof the following paragraphs:—

(*a*) the club has been in existence for a period of at least twelve months before the date of the application;

(*b*) there are adequate restrictions upon admission to membership of the club;

and

(*c*) there is adequate reason for the grant of the permit.

Amendment of principal Act, s. 71—Certificate to sell liquor on goldfield.

37. Section 71 of the principal Act is amended by striking out from subsection (2) the passage "one mile" and inserting in lieu thereof the passage "two kilometres".

Amendment of principal Act, s. 73—Breach of permit or certificate, etc.

38. Section 73 of the principal Act is amended by striking out subsection (2) and inserting in lieu thereof the following subsections:—

(2) The court may, of its own motion or upon the application of the Superintendent of Licensed Premises cancel or suspend a certificate or permit for any of the following reasons:—

(*a*) that the holder of the certificate or permit has contravened or failed to comply with any term or condition of the certificate or the permit;

(*b*) that the holder of the certificate or permit made a false statement in, or in respect of, or in the course of, his application for the certificate or permit;

or

(*c*) that any other circumstances exist that justify, in the opinion of the court, the cancellation or suspension of the certificate or permit.

(3) The court may cancel or suspend a certificate or permit under paragraph (*a*) or paragraph (*b*) of subsection (2) of this section whether or not the holder of the certificate or permit has been charged with, or convicted of, an offence under this section.

Repeal of s. 84 of principal Act.

39. Section 84 of the principal Act is repealed.

Enactment of s. 86b of principal Act—

40. The following section is enacted and inserted in the principal Act immediately after section 86a thereof:—

Suspension of licence.

86b. (1) The court may, upon the application of the licensed person, or of its own motion, suspend the operation of a licence for such period as it thinks fit.

(2) Where the operation of a licence is suspended under this section, the rights, privileges, duties and obligations imposed upon the licensed person under this Act shall not, during the period of suspension, apply to that person.

(3) Where a licence has been suspended under this section, the court may make such adjustment of the fee payable in respect of the licence as the court thinks fit.

Amendment of principal Act, s. 87—
Licensing of clubs.

41. Section 87 of the principal Act is amended—

(*a*) by striking out from subsection (2) the passage "and at the expense";

and

(*b*) by inserting after subsection (2) the following subsection:—

(2a) A club licence shall not authorize the sale or supply of liquor to a visitor unless the name of the visitor has been entered in a book kept for the purpose and the member at whose invitation the visitor is present in the club premises has signed his name opposite the name of the visitor in that book.

Amendment of principal Act, s. 89—
Rules of club.

42. Section 89 of the principal Act is amended by striking out from paragraph (*f*) of subsection (1) the passage "and at the expense".

Amendment of principal Act, s. 97—
Powers of court to grant licence.

43. Section 97 of the principal Act is amended by striking out subsection (3) and inserting in lieu thereof the following subsections:—

(3) At the time of granting the licence the court must approve a person whose name has been submitted to the court by the applicant as the secretary, steward or manager of the club.

(4) No change of secretary, steward or manager shall be made by a club without the prior approval in writing of the court.

Amendment of principal Act, s. 98—
Duty to notify change of rules.

44. Section 98 of the principal Act is amended by striking out paragraph (*a*) of subsection (1).

Amendment of principal Act, s. 100—Duty to produce licence at hearing.

45. Section 100 of the principal Act is amended by inserting after the word "himself" in subsection (1) the passage ", the club,".

Repeal of s. 103 of principal Act and enactment of section in its place—Criminal liability of club management

46. Section 103 of the principal Act is repealed and the following section is enacted and inserted in its place:—

103. Where the holder of a club licence is guilty of an offence against this Act—

(*a*) the secretary, steward or manager approved by the court;

and

(*b*) any member of the board or committee of management of the club who knowingly authorized, suffered or permitted the commission of the offence,

shall each be guilty of an offence and liable to the same penalty as is prescribed for the principal offence.

Amendment of principal Act, s. 118—Notices to be displayed.

47. Section 118 of the principal Act is amended—

(*a*) by inserting after the passage "' Licensed Dealer in Australian Wines' " wherever it occurs in subsection (1) and subsection (2), the passage "or 'Licensed Dealer in Wines' ";

and

(*b*) by striking out the passage "three inches" wherever it occurs in subsection (1) and subsection (2) and inserting in lieu thereof, in each case, the passage "eighty millimetres".

Amendment of principal Act, s. 138—Consumption of liquor near dance.

48. Section 138 of the principal Act is amended by striking out the passage "three hundred yards" wherever it occurs in subsection (1) and subsection (3) and inserting in lieu thereof, in each case, the passage "two hundred and seventy-five metres".

Amendment of principal Act, s. 153—Age limit for drinking upon licensed premises.

49. Section 153 of the principal Act is amended—

(*a*) by striking out subsection (1) and inserting in lieu thereof the following subsection:—

(1) Where liquor is sold or supplied upon licensed premises to a person under the age of eighteen years, the licensee and the person by whom the liquor was sold or supplied, shall each be guilty of an offence;

(*b*) by striking out from paragraph (*a*) of subsection (2) the passage "person charged" and inserting in lieu thereof the passage "person by whom the liquor was sold or supplied";

and

(*c*) by inserting after subsection (2) the following subsection:—

(2a) It shall be a defence to proceedings against a licensee for an offence under subsection (1) of this section to prove—

(*a*) that the defendant did not personally sell or supply the liquor;

and

(*b*) that he exercised proper diligence to prevent the sale or supply of liquor in contravention of the provisions of subsection (1) of this section.

Amendment of principal Act, s. 158— Times when premises may not be open.

50. Section 158 of the principal Act is amended by striking out from subsection (1) the passage "sixty miles" and inserting in lieu thereof the passage "ninety-five kilometres".

Amendment of principal Act, s. 167— Permits for liquor testing.

51. Section 167 of the principal Act is amended by striking out from paragraph (*j*) the words "twenty-one" and inserting in lieu thereof the word "eighteen".

Amendment of principal Act, s. 178— Superintendent and Assistant Superintendent.

52. Section 178 of the principal Act is amended—

(*a*) by inserting in subsection (1) after the passage "Superintendent of Licensed Premises" the passage ", an Assistant Superintendent of Licensed Premises";

(*b*) by inserting in subsection (2) after the passage "Superintendent of Licensed Premises" the passage "or an Assistant Superintendent of Licensed Premises";

and

(*c*) by inserting in subsection (3) after the passage "Superintendent of Licensed Premises" wherever it occurs the passage "or an Assistant Superintendent of Licensed Premises".

Enactment of Part VIIA of principal Act.

53. The following Part comprising the following section is enacted and inserted in the principal Act immediately after Part VII thereof:—

PART VIIA

PRESCRIBED TOURIST HOTELS

Prescribed tourist hotel.

192a. (1) Where the Minister for the time being responsible for tourist activity is satisfied—

(*a*) that any premises or proposed premises, and the service provided for those who may resort thereto, is or will be of an exceptionally high standard;

(*b*) that a full publican's licence is in force, or has been, or will be, sought in relation to those premises or proposed premises;

and

(*c*) that it is necessary or expedient for the purpose of promoting the tourist industry to make a declaration under this section,

the Minister may, by notice published in the *Gazette*, declare that those premises constitute a prescribed tourist hotel.

(2) The Minister may, at any time, by subsequent notice published in the *Gazette* vary or revoke a notice under this section.

(3) No objections may be made in pursuance of section 48 of this Act to the grant of a full publican's licence in respect of a prescribed tourist hotel.

Amendment of principal Act, s. 203— Proof of licence, etc.

54. Section 203 of the principal Act is amended by inserting after subsection (2) the following subsection:—

(3) An apparently genuine document purporting to be under the hand of the clerk of the court and to certify—

(*a*) that a person named in the certificate was or was not on a date referred to therein the holder of a licence, permit or certificate under this Act;

and

(*b*) that the licence, permit or certificate was subject to a condition stated in the certificate,

shall be accepted in any legal proceedings as proof of any matter so certified in the absence of proof to the contrary.

Amendment of principal Act, s. 205—Evidentiary provision.

55. Section 205 of the principal Act is amended by inserting after subsection (4) the following subsection:—

(5) In any proceedings under this Act an allegation in a complaint that the defendant is of a specified age, or under a specified age, shall be deemed to be proved in the absence of proof to the contrary.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 45 of 1972

An Act to amend the Metropolitan Taxi-Cab Act, 1956-1963.

[*Assented to 20th April,* 1972]

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. (1) This Act may be cited as the "Metropolitan Taxi-Cab Act Amendment Act, 1972".

(2) The Metropolitan Taxi-Cab Act, 1956-1963, as amended by this Act and by all other amendments amending the same prior to the commencement of this Act, may be cited as the "Metropolitan Taxi-Cab Act, 1956-1972".

(3) The Metropolitan Taxi-Cab Act, 1956-1963, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 4—Constitution of Board.

3. Section 4 of the principal Act is amended—

(*a*) by striking out subsection (2) and inserting in lieu thereof the following subsection:—

(2) Until the appointed day, the board shall consist of twelve members and shall be constituted in the manner provided for by subsection (2) of section 4

of this Act as in force immediately before the commencement of the Metropolitan Taxi-Cab Act Amendment Act, 1972, and on the appointed day the members of the board in office immediately before that day shall vacate their respective offices and on and from that day the board shall consist of eight members who shall be elected or appointed as follows:—

I. Two members shall, in the manner prescribed by regulation, be elected by the councillors holding office in the Adelaide City Council:

II. Two members shall be appointed by the Governor—

(A) one on the nomination of the Local Government Association of South Australia Incorporated;

and

(B) one on the nomination of the Minister as being a person who in the opinion of the Minister has knowledge of and experience in matters relating to and affecting local government:

III. Two members shall be appointed by the Governor on the nomination of the section of the South Australian Employers Federation known as the Taxi-Cab Operators' Association:

IV. One member shall be appointed by the Governor on the nomination of the Taxi Owner-Drivers section of the Transport Workers' Union:

V. One member shall be appointed by the Governor who shall be the Commissioner of Police or an officer of the Police Force.;

(*b*) by inserting in subsection (5) after the passage "appointed as a member pursuant to" the passage "subparagraph (A) of";

and

(*c*) by inserting immediately after subsection (5) the following subsection:—

(6) The Minister may by notice published in the *Gazette* appoint a day, in this section referred to as "the appointed day", to be the appointed day for the purposes of this section.

Amendment of principal Act, s. 6—Casual vacancies.

4. Section 6 of the principal Act is amended by inserting in paragraph (*d*) of subsection (1) after the passage "appointed pursuant to" the passage "subparagraph (A) of".

Amendment of principal Act, s. 12—Quorum and presiding at meetings.

5. Section 12 of the principal Act is amended—

(*a*) by striking out from subsection (1) the word "six" and inserting in lieu thereof the word "five";

(*b*) by striking out from subsection (3) the word "only" and inserting in lieu thereof the passage "and in the event of an equality of votes shall have a second or casting vote";

(*c*) by striking out subsection (4) and inserting in lieu thereof the following subsection:—

(4) A decision carried by a majority of the votes cast by the members present at a meeting of the board shall be the decision of the board.

Enactment of s. 12a of principal Act—Board subject to directions of the Minister.

6. The following section is enacted and inserted in the principal Act immediately after section 12 thereof:—

12a. Notwithstanding any other provision of this Act or of any other Act the board is subject to the control of the Minister and in the exercise of the powers, functions, authorities and duties conferred or imposed on the board by or under this Act or any other Act, the board shall comply with the directions, if any, given by the Minister.

Amendment of Principal Act, s. 42—Allegations in complaint.

7. Section 42 of the principal Act is amended by inserting after paragraph (*b*) the word "or".

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 46 of 1972

An Act to provide criminal sanctions against misrepresentation in certain commercial transactions; to expand the remedies available at common law and in equity for misrepresentation; to amend the Sale of Goods Act, 1895-1952; and for other purposes.

[*Assented to 20th April,* 1972]

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

Short title.

1. This Act may be cited as the "Misrepresentation Act, 1971-1972".

Commencement.

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

Arrangement.

3. This Act is arranged as follows:—

PART I—PRELIMINARY

PART II—CRIMINAL SANCTIONS AGAINST MISREPRESENTATIONS IN CERTAIN COMMERCIAL TRANSACTIONS

PART III—EXPANSION OF REMEDIES AVAILABLE AT COMMON LAW AND IN EQUITY FOR MISREPRESENTATION

PART IV—AMENDMENT OF THE SALE OF GOODS ACT, 1895-1952.

PART II

PART II

CRIMINAL SANCTIONS AGAINST MISREPRESENTATION IN CERTAIN COMMERCIAL TRANSACTIONS

Misrepresentation made in the course of a trade or business.

4. (1) Where, in the course of a trade or business, a misrepresentation is made by the person by whom the trade or business is conducted, a person duly authorized to act on his behalf, or a person acting in the course of his employment—

(*a*) for the purpose of causing or inducing any other person to enter into a contract;

or

(*b*) for the purpose of causing or inducing any other person to pay any pecuniary amount, or to make over or transfer any real or personal property, to the person by whom the representation is made or any other person,

the person by whom the trade or business is conducted, and the person by whom the representation is made, shall each be guilty of an offence and liable to a penalty not exceeding five hundred dollars.

(2) Where in any proceedings under this section it is proved that a misrepresentation in fact acted as a material inducement to any person—

(*a*) to enter into a contract;

or

(*b*) to pay any pecuniary amount, or to make over or transfer any real or personal property, to the person by whom the representation was made, or any other person,

and that, in consequence, the person by whom the representation was made, or a person on whose behalf, or in whose employment, that person was acting, derived any direct or indirect consideration or material advantage, it shall be presumed, in the absence of proof to the contrary, that the representation was made for the purpose of inducing the person to whom it was made to enter into that contract, to pay that pecuniary amount, or to make over or transfer that real or personal property, as the case may require.

(3) It shall be a defence to a prosecution under this section—

(*a*) that the person by whom the representation was made believed upon reasonable grounds that the representation was true ;

or

(*b*) where the defendant is not the person by whom the representation was made—

(i) that the defendant took all reasonable precautions to prevent the commission of offences against this section by persons acting on his behalf, or in his employment;

or

(ii) that the defendant did not know, and could not reasonably be expected to have known, that the representation had been made, or that it was untrue.

(4) For the purposes of this section a representation constitutes a misrepresentation if it is false in any material particular.

(5) Where a body corporate is guilty of an offence under this section, each member of the governing body of the body corporate who knowingly authorizes, suffers or permits the commission of the offence shall be guilty of an offence and liable to a penalty not exceeding five hundred dollars.

(6) This section does not affect any civil remedy, or any other statutory sanction or remedy, in respect of a misrepresentation.

(7) This section does not apply to an advertisement subject to the provisions of the Unfair Advertising Act, 1970.

(8) Proceedings for an offence against this section shall be disposed of summarily.

(9) Proceedings for an offence against this section shall not be commenced unless the Attorney-General has consented to the commencement of those proceedings.

(10) In any proceedings for an offence against this section, an apparently genuine document purporting to record the consent of the Attorney-General to the commencement of those proceedings shall be accepted as proof of that consent in the absence of evidence to the contrary.

PART III

PART III

EXPANSION OF REMEDIES AVAILABLE AT COMMON LAW AND IN EQUITY FOR MISREPRESENTATION

Interpretation.

5. In this Part—

"court" includes an arbitrator.

Removal of certain bars to rescission.

6. (1) Where a misrepresentation has been made by reason of which any party to a contract would, but for any one or more of the following considerations—

(*a*) that the misrepresentation has become a term of the contract;

(*b*) that the contract has been performed;

or

(*c*) that conveyances, transfers or other documents have been registered at any public registry office in pursuance of the contract,

be entitled to rescind the contract, that contracting party shall be entitled to rescind the contract notwithstanding that consideration or those considerations.

(2) This section does not invest a contracting party with a right to rescind a contract where, in equity, such a right would be barred by reason of the fact that a third party has in good faith and for valuable consideration acquired an interest in the subject-matter of the contract.

(3) This section shall not affect any remedy available under the provisions of the Land Agents Act, 1955-1964, or the Business Agents Act, 1938-1963.

Damages for misrepresentation.

7. (1) Where a contracting party is induced to enter into a contract by a misrepresentation made—

(*a*) by another party to the contract;

(*b*) by a person acting for, or on behalf of, another party to the contract;

or

(*c*) by a person who receives any direct or indirect consideration or material advantage as a result of the formation of the contract,

and any person (whether or not he is the person by whom the misrepresentation was made) would, if the misrepresentation had been made fraudulently, be liable for damages in tort to the contracting party subjected to the misrepresentation in respect of loss

suffered by him as a result of the formation of the contract, that person shall, subject to subsection (2) of this section, be so liable to that contracting party, in all respects as if the misrepresentation had been made fraudulently and were actionable in tort.

(2) It shall be a defence to an action under subsection (1) of this section—

(*a*) that the person by whom the representation was made had reasonable grounds to believe, and did believe, that the representation was true;

or

(*b*) that the defendant was not the person by whom the representation was made and did not know, and could not reasonably be expected to have known, that the representation had been made, or that it was untrue.

(3) Where in any proceedings before a court, it is proved that a party to a contract has rescinded, or is entitled to rescind, the contract on the ground of misrepresentation, the court after consideration of the consequences of recission, and the consequences of a declaration under this section, in the circumstances of the case, may, if it considers it just and equitable to do so, declare the contract to be subsisting and award such damages as it considers fair and reasonable in view of the misrepresentation.

(4) A declaration under subsection (3) of this section shall have effect according to its terms and shall be a bar to rescission.

(5) Where a contract has been rescinded but is subsequently declared to be subsisting under subsection (3) of this section, the respective rights and liabilities of the contracting parties shall be determined in all respects as if the contract had never been rescinded.

(6) In assessing any damages under this section, a court shall take into consideration any award of damages under any other provision of this section, or of damages or compensation under any other law, and in assessing damages or compensation in any proceedings under any other law relating to a contract, a court shall take into consideration any award of damages under this section.

Exclusion clauses.

8. If any contract contains a provision that would, but for this section, exclude or restrict—

(*a*) any liability to which a party to a contract may be subject by reason of any misrepresentation made by him before the contract was made;

or

(*b*) any remedy available to another party to the contract by reason of such a misrepresentation,

PART III

that provision shall be of no effect except to the extent (if any) to which, in any proceedings arising out of the contract, the court may allow reliance on it as being fair and reasonable in the circumstances of the case.

Application of Part.

9. This Part shall not apply in relation to a misrepresentation, or a contract, made before the commencement of this Act.

PART IV

PART IV

AMENDMENT OF THE SALE OF GOODS ACT, 1895-1952

Short titles.

10. (1) The Sale of Goods Act, 1895-1952, as amended by this Part, may be cited as the "Sale of Goods Act, 1895-1971".

(2) The Sale of Goods Act, 1895-1952, is hereinafter referred to as "the principal Act".

Amendment of principal Act, s. 11— Where conditions to be treated as warranty.

11. Section 11 of the principal Act is amended by striking out from subsection (3) the passage "or where the contract is for specific goods, the property in which has passed to the buyer".

Amendment of principal Act, s. 35— Acceptance.

12. Section 35 of the principal Act is amended by inserting after the passage "he has accepted them, or" the passage "(subject to section 34 of this Act)".

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 47 of 1972

An Act to establish a Board of Advanced Education; to define its powers and functions; and for other purposes.

[*Assented to 20th April,* 1972]

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

Short title.

1. This Act may be cited as the "South Australian Board of Advanced Education Act, 1972".

Commencement.

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

Arrangement of Act.

3. This Act is arranged as follows:—

PART I—PRELIMINARY

PART II—ADMINISTRATION

PART III—POWERS AND FUNCTIONS OF THE BOARD

PART IV—MISCELLANEOUS.

Interpretation.

4. In this Act, unless the contrary intention appears—

"accredit" in relation to a course of advanced education, or an affiliated course, means—

(*a*) to recognize and approve that course;

and

(*b*) to recognize and approve the award of any specific degree, diploma or other award to those who may successfully complete that course of advanced education:

"advanced education" means education at a tertiary level of the kind provided by colleges of advanced education:

"affiliated college" means a college, institute, body or department (not being a University or college of advanced education) by which an affiliated course is provided:

"affiliated course" means a course of advanced education provided otherwise than at a college of advanced education:

"appointed member" means a member of the Board appointed by the Governor under paragraph (*i*) or (*j*) of subsection (1) of section 8 of this Act:

"elected member" means a member of the Board elected under paragraph (*g*) or (*h*) of subsection (1) of section 8 of this Act:

"college of advanced education" means a college, institute, body or department (not being a University) declared by proclamation to be a college of advanced education:

"course of advanced education" means a course of advanced education provided at a college of advanced education:

"the Board" means the South Australian Board of Advanced Education constituted under this Act:

"the Chairman" means the person for the time being holding the office of Chairman of the Board under this Act:

"the Minister" means the Minister of Education or any other Minister of the Crown to whom the administration of this Act is for the time being committed.

Declaration of colleges of advanced education.

5. The Governor may, by proclamation—

(*a*) declare any existing or proposed college, institute, body or department to constitute a college of advanced education;

or

(*b*) vary or revoke any proclamation previously made under this section.

PART II

ADMINISTRATION

Constitution of the Board.

6. (1) There shall be a board entitled the "South Australian Board of Advanced Education".

(2) The Board—

(*a*) shall be a body corporate with perpetual succession and a common seal;

(*b*) shall be capable in its corporate name of acquiring, holding and disposing of, real and personal property;

(*c*) shall be capable of acquiring or incurring any other legal rights or liabilities, and of suing and being sued;

(*d*) shall hold its property on behalf of the Crown;

and

(*e*) shall have the powers, authorities, duties and obligations prescribed by or under this Act.

(3) Where an apparently genuine document purports to bear the common seal of the Board, it shall be presumed, in the absence of evidence to the contrary, that the common seal of the Board was duly affixed to that document.

The Chairman.

7. (1) The Governor may, by instrument published in the *Gazette*, appoint a suitable person to be Chairman of the Board.

(2) The Chairman shall be the principal executive officer of the Board.

(3) The Chairman shall be appointed for a term of office, not exceeding seven years, specified in the instrument of his appointment, and shall, subject to this section, be eligible for re-appointment upon the expiration of his term of office.

(4) Where, in the opinion of the Governor, there are special circumstances justifying him in so doing, he may, by instrument published in the *Gazette*, extend the term of office of the Chairman.

(5) Subject to this section, the salary of the Chairman, and the terms and conditions upon which he holds office shall be as determined by the Governor.

(6) A person who is of, or above, the age of sixty-five years shall not be eligible for appointment or re-appointment as Chairman of the Board.

(7) The Governor may remove the Chairman from office upon the presentation of an address by both Houses of Parliament praying for his removal.

(8) The Governor may, at any time, suspend the Chairman from office on the ground of his incompetence or misbehaviour and upon such suspension—

(*a*) a full statement of the reason for the suspension shall be laid before both Houses of Parliament within six sitting days, if Parliament is then in session or if not, within six sitting days of the commencement of the next session of Parliament;

and

(*b*) if within one month of the statement being laid before Parliament, neither House of Parliament presents an address to the Governor praying for the removal of the Chairman from office, he shall be restored to office, but if either House does present such an address, the Governor may remove him from office.

(9) The office of the Chairman shall become vacant if—

(*a*) he dies;

(*b*) he resigns by written notice addressed to the Governor, or his term of office expires;

(*c*) he is removed from office by the Governor under subsection (7) or subsection (8) of this section;

(*d*) he engages, without the consent of the Minister, in any other remunerated employment;

(*e*) he is convicted of an indictable offence or sentenced to imprisonment for an offence;

(*f*) he becomes a member of the Parliament of the State or the Commonwealth;

or

(*g*) he becomes, in the opinion of the Governor, incapable by reason of physical or mental illness, of performing his functions and duties under this Act.

(10) Except as provided in this section, the Chairman shall not be removed from office, nor shall the office of the Chairman become vacant.

Membership of the Board.

8. (1) The Board shall consist of the following members:—

(*a*) the Chairman;

(*b*) the Director-General of Education, or a person nominated by him;

(*c*) the Director of Further Education, or a person nominated by him;

(*d*) the Vice-Chancellor of The University of Adelaide, or a member of the academic staff of that University nominated by him after consultation with the Minister;

(*e*) the Vice-Chancellor of The Flinders University of South Australia, or a member of the academic staff of that University nominated by him after consultation with the Minister;

(*f*) the Director of the South Australian Institute of Technology, or a member of the academic staff of that Institute nominated by the Director;

(*g*) two principals of colleges of advanced education (other than the South Australian Institute of Technology) elected by the principals of those colleges;

(*h*) two persons elected from amongst their own membership by the full-time academic staff of the colleges of advanced education of whom—

(i) one shall be elected by the academic staff of the South Australian Institute of Technology and the Roseworthy Agricultural College;

and

(ii) one shall be elected by the academic staff of the other colleges of advanced education;

(*i*) one person with extensive experience of primary or secondary education nominated after consultation with the South Australian Institute of Teachers by the Minister and appointed by the Governor;

and

(*j*) four persons who are not professionally engaged in educational institutions, appointed by the Governor.

(2) If for any reason a member of the Board is unable, or fails, to act in his capacity as a member of the Board, the Governor may appoint a suitable person to be a deputy of that member, and such a person, while so acting, shall be deemed to be a member of the Board, and shall have all the powers, authorities, duties and obligations of the member of whom he has been appointed a deputy.

(3) Where any persons, who are entitled under this Act to make an election of members of the Board, and have been requested to do so by the Minister, fail to comply with that request, the Governor may appoint, in place of such members, suitable persons as members of the Board and any persons so appointed shall be deemed to be elected members of the Board.

Conditions of membership.

9. (1) The office of a member of the Board (other than an elected or appointed member) shall become vacant if he ceases to hold the office by virtue of which he became entitled to membership of the Board, or his nomination as a member of the Board is revoked by the person by whom he was nominated, or by any other person for the time being holding the office by virtue of which the nomination was made.

(2) Subject to this Act, an elected or appointed member of the Board shall hold office for a term of two years and upon the expiration of his term of office, shall be eligible for re-election or re-appointment.

(3) The office of an elected member shall become vacant if he ceases to hold the qualification under which he was eligible for election as a member of the Board.

(4) The Governor may remove an elected or appointed member of the Board from office for—

(*a*) mental or physical incapacity;

(*b*) neglect of duty;

(*c*) dishonourable conduct;

or

(*d*) any other cause considered sufficient by the Governor.

(5) The office of an elected member or an appointed member of the Board shall become vacant if—

(*a*) he dies;

(*b*) his term of office expires;

(*c*) he resigns his office by written notice addressed to the Governor;

or

(*d*) he is removed from office by the Governor pursuant to subsection (4) of this section.

Convening of meetings of the Board.

10. The Minister, or the Chairman, may at any time convene a meeting of the Board.

Quorum, etc.

11. (1) Eight members of the Board shall constitute a quorum of the Board, and no business shall be transacted unless a quorum is present.

(2) The Chairman shall preside at each meeting of the Board at which he is present.

(3) In the absence of the Chairman from a meeting of the Board, the members present shall elect one of their number to preside at that meeting.

(4) A decision carried by a majority of the votes cast by the members present at a meeting of the Board shall be a decision of the Board.

(5) Each member present at a meeting of the Board shall be entitled to one vote on any matter arising for decision at that meeting, and, in the event of an equality of votes, the person presiding shall have a second or casting vote.

(6) Subject to this Act, the business of the Board shall be conducted in such manner as the Board may determine.

Saving provision.

12. (1) An act or proceeding of the Board shall not be invalid by reason only of a vacancy or vacancies in its membership, and notwithstanding the subsequent discovery of a defect in the election or appointment of a member or purported member of the Board, any such act or proceeding shall be as valid and effectual as if that member or purported member had been duly elected or appointed.

(2) No liability shall attach to a member of the Board, for any act or omission by him, or by the Board, in good faith and in the exercise or purported exercise of his or its powers or functions, or in the discharge or purported discharge of his or its duties under this Act.

Allowances, etc.

13. A member of the Board shall be entitled to receive such allowances and expenses as may be determined by the Minister.

PART III

POWERS AND FUNCTIONS OF THE BOARD

General principles to be observed by the Board.

14. (1) The Board shall in the exercise and discharge of its powers and functions under this Act, act in the furtherance of the following objectives:—

(*a*) the promotion, development and co-ordination of advanced education in this State;

(*b*) the promotion of a balanced system of advanced education in the State;

(*c*) the promotion of the public interest by the provision of education and technological training at an advanced level;

and

(*d*) the promotion of the interests of students at colleges of advanced education by the provision of courses of education and training appropriate to their chosen vocations, and calculated to achieve the fullest possible development of their capacity and aptitude for education and training.

(2) The Board shall, in the exercise and discharge of its powers and functions under this Act, collaborate where it is appropriate to do so with—

(*a*) the governing bodies or principals of the colleges of advanced education;

(*b*) The Australian Commission on Advanced Education;

(*c*) The Australian Council on Awards in Advanced Education;

(*d*) any other body constituted under the law of the State or the Commonwealth with which collaboration is desirable in the interests of promoting the objects of this Act.

General review by the Board.

15. (1) The Board shall—

(*a*) keep under review all aspects of advanced education;

(*b*) promote or foster research into problems of advanced education;

(*c*) for the purpose of encouraging research into problems of advanced education, recommend in appropriate cases the award of scholarships and fellowships, and recommend the provision of financial assistance to institutions conducting or promoting such research;

and

(*d*) report to the Minister on any matters referred by him to the Board for advice.

(2) The Board shall, of its own motion, or at the request of the Minister or the governing body of a college of advanced education, make an investigation into any proposed extension of a college of advanced education, the amalgamation of colleges of advanced education, the division or subdivision of a college of advanced education, or into the feasibility of establishing further colleges of advanced education.

Accreditation of courses.

16. (1) The governing body of any college of advanced education or affiliated college may submit to the Board a memorandum—

(*a*) describing a course of advanced education or affiliated course that is provided or is to be provided at that college;

(*b*) setting forth any degree, diploma or other award that may be conferred upon, or awarded to, those who undertake the course.

(2) The Board may—

(*a*) accredit any such course subject to such conditions or modifications (if any) as it thinks fit;

(*b*) refer the memorandum back to the college for consideration of any conditions or modifications suggested by the Board;

or

(*c*) refuse to accredit the course.

(3) The Board may, by instrument in writing require the governing body of a college of advanced education to submit a memorandum under subsection (1) of this section in respect of any course or proposed course of advanced education at the college.

(4) The governing body of a college of advanced education shall comply with a requirement under subsection (3) of this section.

(5) The Board shall maintain a register of all accredited courses of advanced education and affiliated courses.

(6) The register shall be available for inspection at the office of the Board by any member of the public at such times as that office is open to the public.

(7) This section does not apply in respect of courses approved by the South Australian Technicians Certificate Board.

Recommendations upon financial matters.

17. (1) The Board shall receive and review representations from the colleges of advanced education upon the following matters:—

(*a*) the apportionment or allocation of the moneys available to the Government for the purposes of advanced education between the various colleges of advanced education;

(*b*) any proposed re-apportionment or re-allocation of any such moneys;

(*c*) any conditions upon which a grant of moneys to a college of advanced education should be made;

(*d*) the conditions of appointment of, and the salaries to be paid to, the staff of colleges of advanced education declared by proclamation to be colleges to which this paragraph applies;

and

(*e*) any other matters that the Board considers relevant to the administration of finance available for the purposes of advanced education.

(2) The Board shall, after considering any relevant submissions make representations to the Minister on the matters referred to in subsection (1) of this section.

(3) The Board may recommend to the Minister that moneys be not provided to a college of advanced education for the purpose of conducting a course that has not been accredited by the Board.

(4) The Governor may make, vary or revoke a proclamation for the purposes of paragraph (*d*) of subsection (1) of this section.

PART IV

MISCELLANEOUS

Committees.

18. (1) For the purposes of this Act, the Board may appoint committees to investigate, and advise it upon, any aspect of tertiary education in this State.

(2) A committee appointed under this section shall consist of such persons as the Board thinks fit.

(3) The terms and conditions upon which a member of a committee holds office shall be as determined by the Board.

(4) A member of a committee appointed under this section shall be entitled to receive such allowances and expenses as may be determined by the Board and approved by the Minister.

Officers and servants.

19. (1) The Board may, with the approval of the Minister, appoint such officers and servants as may be necessary or expedient for the due administration of this Act.

(2) The terms and conditions upon which any such person is employed shall be such as may be determined by the Board, and approved by the Minister.

Officers, etc., not to be subject to Public Service Act.

20. No person appointed to any office or position under this Act shall, in respect of that office or position, be subject to the provisions of the Public Service Act.

Superannuation.

21. The Chairman, and any other person appointed to a salaried office or position under this Act shall be an employee within the meaning, and for the purposes, of the Superannuation Act.

Report of Board.

22. (1) The Board shall, on or before the thirty-first day of March in each year submit a report to the Minister upon the administration of this Act during the year ending on the preceding thirty-first day of December.

(2) The Minister shall cause a copy of each report under this section to be laid before each House of Parliament within fourteen sitting days of his receipt thereof, if Parliament is then in session, or if not, within fourteen sitting days of the commencement of the next session of Parliament.

Accounts and audit.

23. (1) The Board shall cause proper accounts to be kept of all its financial transactions.

(2) The Auditor-General may at any time, and shall at least once in any calendar year, audit the accounts of the Board and furnish the Minister with a report upon the audit.

(3) The Minister shall cause every report of the Auditor-General made in pursuance of subsection (2) of this section to be laid before each House of Parliament within six sitting days if Parliament is then in session, or if not, within six sitting days of the commencement of the next session of Parliament.

Financial provision.

24. The moneys required for the purposes of this Act shall be paid out of moneys provided by Parliament for those purposes.

Regulations.

25. (1) The Governor may make such regulations as he considers necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of subsection (1) of this section, those regulations may—

(*a*) prescribe the manner in which an election of members of the Board is to be held under this Act, and define the qualifications of the electors;

(*b*) regulate the convening of meetings of the Board, or of committees appointed under this Act;

(*c*) prescribe and provide for the payment of fees for any services provided by the Board under this Act.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 48 of 1972

An Act to make provision for the establishment of a corporation to be known as the South Australian Film Corporation, to define its powers and functions; and for other purposes.

[*Assented to 20th April,* 1972]

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

Short title.

1. This Act may be cited as the "South Australian Film Corporation Act, 1972".

Commencement.

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

Arrangement of this Act.

3. This Act is arranged as follows:—

PART I—PRELIMINARY
PART II—THE SOUTH AUSTRALIAN FILM CORPORATION
PART III—THE DIRECTOR
PART IV—THE ADVISORY BOARD
PART V—FINANCIAL PROVISIONS
PART VI—MISCELLANEOUS.

Interpretation.

4. In this Act, unless the contrary intention appears—

"council" means a municipal or a district council and includes a body corporate which is, by virtue of any Act, deemed to be, or vested with the powers of, a municipal council or district council:

"film" means a recording on material of any kind (including magnetic tape) of moving images, with or without associated sounds, including such a recording for use in, or as, a television programme:

"producer", in relation to a film, means the person by whom the arrangements necessary for the making of the film are undertaken; and "to produce" and "production" have corresponding meanings:

"the advisory board" means the South Australian Film Advisory Board established under this Act:

"the Corporation" means the South Australian Film Corporation established under this Act:

"the Director" means the person for the time being holding the office of Director under this Act and includes the person for the time being acting in that office.

PART II

PART II

THE SOUTH AUSTRALIAN FILM CORPORATION

Establishment of the Corporation.

5. (1) There shall be a corporation which shall be known as the South Australian Film Corporation which shall be established on the day on which the first members thereof take office as such.

(2) Subject to this Act, the Corporation—

(*a*) shall be a body corporate with perpetual succession and a common seal;

(*b*) shall be capable of suing and being sued, and of taking or acquiring, taking or letting on lease, holding, selling and otherwise disposing of land and property of all kinds;

(*c*) shall hold all its property for and on behalf of the Crown;

and

(*d*) shall have the powers, duties, functions and authorities conferred, imposed or prescribed by or under this Act or any other Act.

(3) Where an apparently genuine document purports to bear the common seal of the Corporation, it shall be presumed, in the absence of evidence to the contrary, that the common seal of the Corporation was duly affixed to that document.

(4) Subject to this Act, the Corporation shall consist of three members, being—

(*a*) the Director, who shall also be the chairman;

and

(*b*) two other persons appointed by the Governor on the recommendation of the Minister, one of whom shall be nominated by the Minister of Education.

(5) If the person holding office as the chairman of the Corporation ceases to be the Director, he shall thereupon cease to be the chairman of the Corporation.

(6) A member of the Corporation, other than the chairman, shall be appointed for such term of office as the Governor fixes at the time of making the appointment and may be removed from office by the Governor by notice in writing.

(7) When a member of the Corporation, other than the chairman, is unable to perform his duties as such, the Governor may at any time, upon the recommendation of the Minister, appoint a deputy to act for that member during his incapacity and a person so appointed shall, while so acting, be deemed to be a member of the Corporation in lieu of the member for whom he is so acting.

(8) A person is eligible for re-appointment as a member of the Corporation on the expiration of his term of office as a member.

(9) The Governor may, as occasion requires, and on the recommendation of the Minister, make such appointments as may be necessary to fill any vacancies occurring in the membership of the Corporation.

(10) The office of member of the Corporation may be held in conjunction with any other appointment or office under the Government.

(11) The Public Service Act, 1967, as amended, shall not apply to or in relation to the appointment of a member of the Corporation, and he shall not, as a member, be subject to that Act, but this provision shall not affect the rights, privileges, duties and obligations under that Act of any person who is otherwise subject to that Act.

(12) A member of the Corporation, other than the Director, shall be entitled to be paid out of the funds of the Corporation such remuneration, allowances and expenses as may be determined by the Governor.

Chairman of the Corporation.

6. (1) The chairman of the Corporation or, in his absence, his deputy shall preside at every meeting of the members of the Corporation at which he is present.

(2) If both the chairman and his deputy are not present for any reason at a meeting of the members of the Corporation, the members present may elect one of their number to be chairman for that meeting and the person so elected shall accordingly act as and have the powers of chairman for that meeting.

(3) At any meeting of the members of the Corporation two members shall constitute a quorum.

(4) In respect of any matter before a meeting of the members of the Corporation—

(*a*) the decision of the majority of the votes cast by the members present at the meeting shall be the decision of the Corporation;

and

(*b*) the chairman or the person acting as chairman shall have a deliberative vote and, in the case of an equality of votes, a second or casting vote also.

Validity of proceedings of the Corporation.

7. (1) An Act or proceeding of the Corporation shall not be regarded as invalid for the reason only that there was at the time thereof a vacancy in the office of any member.

(2) Every act or proceeding of the Corporation shall, notwithstanding any defect in the appointment of a person as a member of the Corporation, be as valid and effective as if that person had been validly appointed a member of the Corporation.

Corporation to be subject to general control of Minister.

8. In the exercise and performance of its powers, duties, functions and authorities the Corporation shall, except where it is required to make a recommendation to the Minister, be subject to the general control and direction of the Minister.

Power to appoint officers, etc.

9. (1) The Corporation may, subject to such terms and conditions as it thinks fit, employ its own officers and servants for the purposes of this Act.

(2) All officers and servants employed by the Corporation shall be entitled to be paid out of the funds of the Corporation such remuneration, allowances and other emoluments as the Corporation from time to time determines, and shall not in relation to their respective appointments, offices or positions on the staff of the Corporation be subject to the Public Service Act, 1967, as amended.

(3) The Corporation may, with the approval of the Minister and the consent of the Minister controlling any department of the public service of the State, and on such terms and conditions as may be mutually agreed upon by the Minister and the Minister administering that department, employ or make use of the services of any of the officers or employees of that department.

Functions of the Corporation.

10. The functions of the Corporation are, generally—

(*a*) to undertake the production of films;

(*b*) to provide library and other services and facilities relating to films and their screening;

(*c*) to provide information services about films and their availability;

(*d*) to offer and arrange courses of instruction for persons who are interested in film projection;

(*e*) to store, distribute and sell or otherwise dispose of films;

and

(*f*) to carry out research into the distribution of films and the effectiveness of films to meet the purposes for which they are made with a view to improving such distribution and effectiveness.

Powers of the Corporation.

11. The Corporation has power to do all things necessary for the administration of this Act and, without limiting the generality of the foregoing—

(*a*) shall have the sole and exclusive right to produce, or arrange for the production of, film for or on behalf of the Government of the State or for or on behalf of any instrumentality or agency of the State or the Government of the State;

(*b*) may undertake film production on its own behalf or for any other person or organization;

(*c*) may enter into and carry out arrangements and agreements for the making of films;

(*d*) may acquire and lend films and any periodicals, books and equipment for use in connection with film making, producing, projecting and screening;

(*e*) may establish regional film libraries throughout South Australia;

and

(*f*) may do all such other things as it is authorized or empowered to do by or under this Act or any other Act.

Power of Corporation to delegate powers.

12. (1) The Corporation may, by writing under its common seal, but subject to the approval of the Minister, delegate any of its powers, other than this power of delegation, to the chairman of the Corporation or to any of its officers.

(2) A power so delegated may be exercised by the delegate in accordance with the instrument of delegation and, when so exercised, shall, for the purposes of this Act, be deemed to have been exercised by the Corporation.

(3) A delegation of power under this section is revocable at will and does not prevent the exercise of the power by the Corporation.

The Corporation may borrow for purposes of his Act.

13. (1) For the purposes of this Act the Corporation may, upon such terms and conditions as are approved by the Treasurer, borrow money—

(*a*) from the Treasurer;

or

(*b*) with the consent of the Treasurer, from any other person.

(2) The repayment of all moneys borrowed under paragraph (*b*) of subsection (1) of this section together with any interest payable thereon is hereby guaranteed by the Treasurer.

(3) The Treasurer is hereby authorized, without further appropriation than this section, to pay out of the General Revenue of the State any amount required to satisfy a liability under a guarantee by virtue of subsection (2) of this section.

PART III

THE DIRECTOR

The Director.

14. (1) For the purposes of this Act there shall be a Director who shall be appointed by the Governor on the recommendation of the Minister.

(2) The Director shall hold office as such for such term as is fixed by the Governor at the time of making the appointment.

(3) The Governor may, by notice in writing suspend or remove the Director from office.

(4) The Director shall be entitled to be paid out of the funds of the Corporation, such remuneration, allowances and expenses as may be determined by the Governor.

Casual vacancy in office of Director.

15. The Governor may, on the recommendation of the Minister, fill any casual vacancy which occurs in the office of Director, and any appointment to such vacancy may be for such term as is fixed by the Governor at the time of making the appointment.

Deputy Director.

16. (1) In case of the illness, suspension, or absence from the State of the Director, the Governor may, on the recommendation of the Minister, appoint some other person to act as the deputy of the Director during that illness, suspension or absence.

(2) A person so appointed shall, during the time for which he acts as such deputy, have all the powers and perform all the duties of the Director.

Director to be principal executive officer of Corporation.

17. (1) The Director shall be the principal executive officer of the Corporation and, subject to the control and directions of the Minister, be responsible for the administration of this Act.

(2) Neither the Director nor a deputy of the Director as such shall be subject to the Public Service Act, 1967, as amended.

PART IV

THE ADVISORY BOARD

The advisory board.

18. (1) There shall be a board, to be known as the South Australian Film Advisory Board, which shall be established on the day on which the first members thereof take office as such.

(2) The advisory board shall consist of seven members appointed by the Minister, one of whom shall also be appointed chairman.

(3) A member of the advisory board shall be appointed for such term of office as the Minister fixes at the time of making the appointment and may be removed from office by the Minister by notice in writing.

(4) One of the members of the advisory board shall be appointed on the recommendation of the Minister of Education and, with respect to the other members of the advisory board, one shall be appointed to represent the Australian Broadcasting Commission, one to represent commercial television, one to represent universities in South Australia, one to represent industry and commerce, one to represent the arts and one to represent the public service.

(5) When a member of the advisory board is unable to perform his duties as such, the Minister may at any time appoint a deputy to act for that member during his incapacity and a person so appointed shall, while so acting, be deemed to be a member of the advisory board in lieu of the member for whom he is so acting.

(6) A person is eligible for re-appointment as a member of the advisory board on the expiration of his term of office as a member.

(7) The Minister may, as occasion requires, make such appointments as may be necessary to fill any vacancies occurring in the membership of the advisory board.

(8) The office of member of the advisory board may be held in conjunction with any other appointment or office under the Government.

(9) The Public Service Act, 1967, as amended, shall not apply to or in relation to the appointment of a member of the advisory board, and he shall not, as a member, be subject to that Act, but this provision shall not affect the rights, privileges, duties and obligations under that Act of any person who is otherwise subject to that Act.

(10) A member of the advisory board shall be entitled to be paid out of the funds of the Corporation such out-of-pocket expenses as may be determined by the Governor.

Chairman of the advisory board.

19. (1) The chairman of the advisory board or, in his absence, his deputy shall preside at every meeting of the members of the board at which he is present.

(2) If both the chairman and his deputy are not present for any reason at a meeting of the members of the advisory board, the members present may elect one of their number to be chairman for that meeting and the person so elected shall accordingly act as and have the powers of chairman for that meeting.

(3) At any meeting of the members of the advisory board four members shall constitute a quorum.

(4) In respect of any matter before a meeting of the members of the advisory board—

(*a*) the decision of the majority of the votes cast by the members present at the meeting shall be the decision of the advisory board;

and

(*b*) the chairman or the person acting as chairman shall have a deliberative vote and, in the case of an equality of votes, a second or casting vote also.

Validity of proceedings of the advisory board.

20. (1) An act or proceeding of the advisory board shall not be regarded as invalid for the reason only that there was at the time thereof a vacancy in the office of a member.

(2) Every act or proceeding of the advisory board shall, notwithstanding any defect in the appointment of a person as a member of the advisory board, be as valid and effective as if that person had been validly appointed a member of the advisory board.

Functions of the advisory board.

21. The functions of the advisory board are to inquire into and report upon all matters relating to films, either generally or specifically, or relating to the objects and purposes of this Act, which it thinks fit or which are referred to it by the Minister or the Corporation.

PART V

PART V

FINANCIAL PROVISIONS

Moneys required for purposes of this Act.

22. Except to the extent that the funds of the Corporation might otherwise be sufficient for the purposes of this Act, the moneys required for those purposes shall be paid out of moneys provided by Parliament for those purposes.

The funds of the Corporation.

23. (1) The Treasurer may, from time to time, make available to the Corporation from moneys appropriated by Parliament for the purposes of the administration of this Act and the carrying out by the Corporation of its functions, duties and authorities under this Act, such moneys on such terms and conditions as he thinks fit.

(2) The funds of the Corporation shall be kept and maintained at the Treasury and shall consist of—

(*a*) all moneys made available by the Treasurer to the Corporation, out of appropriations authorized by Parliament, for the purposes of the administration of this Act and the carrying out by the Corporation of its functions, duties and authorities;

(*b*) all moneys derived by the Corporation from the sale, leasing and other disposal by the Corporation of any property which it has power to sell, lease or otherwise dispose of;

(*c*) all moneys borrowed by the Corporation under this Act;

(*d*) all other moneys received by the Corporation;

and

(*e*) all moneys, other than moneys referred to in paragraphs (*a*) to (*d*) (inclusive) of this subsection that are required to be paid to the Corporation by this Act or any other Act.

(3) The funds of the Corporation may, with the approval of the Minister, be used by the Corporation for all or any of the following purposes:—

(*a*) the acquisition and development of any property for the purposes of this Act;

(*b*) the payment of moneys which the Corporation becomes liable to pay;

(*c*) the establishment of any special fund or funds for any purposes connected with the functions, duties and authorities of the Corporation;

(*d*) the transfer to any reserve for the repayment of any moneys borrowed by the Corporation for the purposes of this Act;

(*e*) the payment of principal, interest and expenses in respect of moneys borrowed by the Corporation for the purposes of this Act;

(*f*) the maintenance and improvement of any property owned or held by or vested in the Corporation;

and

(*g*) any purposes authorized by or under this Act as a purpose for which the funds of the Corporation may be used.

Budget.

24. (1) As soon as practicable after the commencement of this Act, the Corporation shall present to the Minister a budget showing estimates of its revenue and expenditure over the balance of the financial year within which that budget is presented and thereafter the Corporation shall, before the commencement of each succeeding financial year, present to the Minister a budget showing estimates of its revenue and expenditure for that financial year.

(2) The Minister may approve of a budget presented to him pursuant to subsection (1) of this section or may direct or allow the Corporation to amend a budget before he approves of that budget.

(3) The Corporation shall not, without the consent of the Minister, make any expenditure that is not provided for by a budget that has been approved by the Minister under this section.

PART VI

PART VI

MISCELLANEOUS

Service with the State or Commonwealth Government or approved employer to count as service with the Corporation, if continuous.

25. Where the service of a person in the employment of the Corporation is continuous with his service in the employment of the Government of the Commonwealth or of this State or any other State of the Commonwealth or in the employment of any other employer approved by the Minister, the Corporation shall, when calculating the recreation leave, sick leave and long service leave to be granted to that person in respect of his service in the employment of the Corporation—

(*a*) grant in addition to that leave any accrued leave to which that person is entitled in respect of his service in that previous employment;

or

(*b*) if that person has no such entitlement to any accrued leave, take into account his period of service in that previous employment as if it were service in the employment of the Corporation.

Superannuation.

26. The Director and the officers and servants of the Corporation shall, for the purposes of the Superannuation Act, 1969, as amended, be deemed to be employees within the meaning of that Act and, subject to that Act, may become contributors within the meaning of that Act, if accepted as such by the South Australian Superannuation Fund Board.

Films and equipment of Government departments may be vested in Corporation.

27. (1) The Governor may, by proclamation, subject to such terms and conditions, if any, as he may state therein, vest in the Corporation the ownership or custody of any films and any periodicals, books and equipment for use in connection with film making, producing, projecting and screening which are owned by or vested in the Government or any instrumentality or agency of the Government.

(2) Subject to this Act and to the terms and conditions of the vesting, the Corporation may utilize for the purposes of this Act the films, periodicals, books and equipment so vested in it.

(3) Upon application to the Corporation by or on behalf of a department, instrumentality or agency of the Government to borrow any film, periodical, book or equipment of which the applicant has been divested pursuant to this section, the Corporation shall, so far as is practicable and unless otherwise directed by the Minister, give the applicant immediate access to the required film, periodical, book or equipment and permit the applicant to borrow it for the period of time for which it is required.

Preferences in the lending of films, etc.

28. Unless otherwise directed by the Minister, the Corporation shall, when determining conflicting applications to borrow any film, periodical, book or equipment of or in the custody of the Corporation—

(*a*) give priority to any applicant that is a department, instrumentality or agency of the Government which has been divested of the film, periodical, book or equipment pursuant to this Act;

and

(*b*) have regard to the purposes for which the applicants require the film, periodical, book or equipment.

Temporary closure of roads, etc.

29. The Commissioner of Police shall—

(*a*) if he thinks fit, upon the application of the Corporation and the approval of the appropriate council;

or

(*b*) upon the direction of the Minister made upon application made to him by any person including the Corporation, and after consultation with the appropriate council,

temporarily close any road or part of any road or cause such directions to be given as are necessary to control the movement of pedestrians and vehicular traffic on any road or part of any road during the making of any film being produced by or on behalf of the Corporation or that other person, as the case may be.

Annual report.

30. (1) On or before the thirty-first day of October in each year the Corporation shall furnish the Minister with a report signed by the chairman on its administration and the work that had been undertaken by the Corporation during the year or part of the year ended on the thirtieth day of June preceding the report.

(2) The Minister shall cause each report to be laid before both Houses of Parliament within three weeks after receiving the same, if Parliament is then sitting, or, if Parliament is not then sitting, within two weeks after the commencement of the next sitting of Parliament.

Accounts and Audit.

31. (1) The Corporation shall keep proper books of account showing accurately and in detail all its financial transactions and shall in each year prepare a profit and loss account for the period of twelve months or part thereof ending on the thirtieth day of June in that year and a balance sheet showing its assets and liabilities as at that thirtieth day of June.

(2) The Auditor-General shall audit the accounts of the Corporation annually and for the purpose of such audit may exercise any of the powers which he could exercise for the purpose of auditing the accounts of a Government department.

(3) The Corporation shall pay to the Treasurer, as a fee for every such audit, such sum as the Treasurer thinks reasonable.

Summary proceedings.

32. Proceedings for offences against this Act or any provision of this Act shall be disposed of summarily.

Regulations.

33. (1) The Governor may make such regulations as are necessary or expedient for the purpose of giving effect to the provisions and objects of this Act.

(2) Without limiting the generality of the provisions of subsection (1) of this section, the regulations may—

(*a*) prescribe all matters required to be prescribed or authorized by or under this Act and such other matters as are necessary or convenient for carrying out the provisions and objects of this Act;

(*b*) provide for fees and charges to be payable under this Act and, if necessary, prescribe the fees and charges so payable;

(*c*) prescribe additional powers and duties of the Corporation, the Director or any officer of the Corporation and the advisory board;

and

(*d*) provide for and prescribe penalties not exceeding in each case, one hundred dollars, for an offence against this Act or any provision of this Act.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 49 of 1972

An Act to make provision for the conservation and protection of the beaches and coast of this State; and for other purposes.

[*Assented to 27th April,* 1972]

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

Short title.

1. This Act may be cited as the "Coast Protection Act, 1972".

Commencement.

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

Arrangement of Act.

3. This Act is arranged as follows:

PART I—PRELIMINARY

PART II—ADMINISTRATION

PART III—COAST PROTECTION DISTRICTS

PART IV—POWERS OF BOARD

PART V—CONTROL OF DEVELOPMENT

PART VI—FINANCIAL PROVISIONS

PART VII—MISCELLANEOUS

Interpretation.

4. In this Act, unless the contrary intention appears—

"appointed member" of the Board means a member of the Board appointed by the Governor under paragraph (*d*) or paragraph (*e*) of subsection (1) of section 8 of this Act:

"coast" means all land that is—

(*a*) within the mean high water mark and the mean low water mark on the seashore at spring tides;

(*b*) above and within one hundred metres of that mean high water mark;

(*c*) below and within three nautical miles of that mean low water mark;

(*d*) within any estuary, inlet, river, creek, bay or lake and subject to the ebb and flow of the tide;

or

(*e*) declared by regulation to constitute part of the coast for the purposes of this Act:

"coast facility" means any building, structure or works—

(*a*) for the use or enjoyment of those who may resort to the coast;

or

(*b*) of a kind declared by regulation to constitute a coast facility:

"consultative committee" means a consultative committee constituted under Part II of this Act:

"owner" in relation to private land, means the holder of an estate or interest in the land:

"private land" means—

(*a*) land lawfully granted or contracted to be granted for an estate of freehold by or on behalf of the Crown;

or

(*b*) land subject to a perpetual lease lawfully granted by or on behalf of the Crown:

"storm repairs" means works for the repair of damage to the coast caused by storm or pollution, but does not include the repair of a coast facility:

"the Board" means the Coast Protection Board constituted under Part II of this Act:

"the Court" means the Land and Valuation Court:

"the Planning Appeal Board" means the Planning Appeal Board constituted under the Planning and Development Act:

"works of a prescribed nature" means building, construction, mining or excavation of a kind or extent declared by regulation to constitute works of a prescribed nature for the purposes of this Act or works changing the nature, configuration or use of the coast in a manner or to an extent prescribed by regulation.

5. This Act binds the Crown. Act to bind the Crown.

PART II

PART II

ADMINISTRATION

6. (1) There shall be a Board entitled the "Coast Protection Board". Establishment of Board.

(2) The Board—

(*a*) shall be a body corporate with perpetual succession and a common seal;

(*b*) shall be capable of acquiring, holding, selling and otherwise disposing of real and personal property;

(*c*) shall be capable of acquiring or incurring any other legal rights and liabilities, and of suing and being sued;

and

(*d*) shall hold its property on behalf of the Crown.

(3) Where an apparently genuine document purports to bear the common seal of the Board, it shall be presumed, in the absence of evidence to the contrary, that the common seal of the Board was duly affixed to that document.

Control and direction of Board.

7. The Board shall be subject to the control and direction of the Minister.

Membership of Board.

8. (1) The Board shall consist of five members of whom—

(*a*) one shall be the Director of Planning;

(*b*) one shall be the Director of Marine and Harbors or his nominee;

(*c*) one shall be the Director of the South Australian Government Tourist Bureau, or his nominee;

(*d*) one shall be a person who is, in the opinion of the Governor, qualified for membership of the Board by reason of extensive knowledge of, and experience in, local government and has been appointed a member of the Board by the Governor;

and

(*e*) one shall be a person who is, in the opinion of the Governor, qualified for membership of the Board by reason of extensive knowledge of, and experience in, the technical problems of coast protection and has been appointed a member of the Board by the Governor.

(2) The Director of Planning shall be the chairman of the Board.

(3) Subject to this Act, an appointed member of the Board shall be appointed for such term of office, not exceeding four years, as the Governor may determine and specifies in the instrument of his appointment and, upon the expiration of his term of office, shall be eligible for re-appointment.

(4) If any member of the Board is unable, or fails for any reason, to act in his capacity as a member of the Board, the Governor may appoint a suitable person to be a deputy of the member, and such

a person, while so acting, shall be deemed to be a member of the Board, and shall have all the powers, authorities, duties and obligations of the member of whom he has been appointed a deputy.

(5) The Governor may remove an appointed member of the Board from office for—

(*a*) mental or physical incapacity;

(*b*) neglect of duty;

(*c*) dishonourable conduct;

or

(*d*) any other cause considered sufficient by the Governor.

(6) The office of an appointed member of the Board shall become vacant if—

(*a*) he dies;

(*b*) his term of office expires;

(*c*) he resigns his office by written notice addressed to the Governor;

or

(*d*) he is removed from office by the Governor pursuant to subsection (5) of this section.

(7) Upon the office of an appointed member of the Board becoming vacant, a person shall be appointed in accordance with this Act, to the vacant office, but where the office of a member of the Board becomes vacant before the expiration of the term for which he was appointed, a person appointed in his place shall be appointed only for the balance of the term of his predecessor.

Quorum, etc.

9. (1) Three members of the Board shall constitute a quorum of the Board, and no business shall be transacted unless a quorum is present.

(2) A decision carried by a majority of the votes cast by the members present at a meeting of the Board, shall be a decision of the Board.

(3) The chairman shall preside at a meeting of the Board, and in the event of an equality of votes, shall have a second or casting vote.

(4) In the absence of the chairman or a deputy of the chairman from a meeting of the Board, the members present shall elect one of their number to be chairman for that meeting, and a member so elected shall perform and discharge the functions and obligations of the chairman for that meeting.

(5) Subject to this Act, the business of the Board shall be conducted in such manner as the Board determines.

Validation of acts of Board.

10. (1) An act or proceeding of the Board shall not be invalid by reason only of a vacancy in its membership and, notwithstanding the subsequent discovery of a defect in the appointment of a member, any such act or proceeding shall be as valid and effectual as if the member had been duly appointed.

(2) No liability shall attach to a member of the Board for any act or omission by him, or by the Board, in good faith and in the exercise or purported exercise of his or its powers or functions, or in the discharge or purported discharge, of his or its duties under this Act.

Allowances and expenses.

11. An appointed member of the Board shall be entitled to receive such allowances and expenses as may be determined by the Governor.

Secretary.

12. (1) The Governor may, subject to, and in accordance with the Public Service Act, appoint a suitable person to be secretary to the Board.

(2) A person so appointed shall hold office subject to the provisions of the Public Service Act.

(3) The office of secretary to the Board may be held in conjunction with any other office in the Public Service of the State.

Officers and servants.

13. (1) The Governor may, subject to, and in accordance with the Public Service Act, appoint such officers and servants as may be necessary or expedient for the due administration of this Act.

(2) A person so appointed shall hold office subject to the provisions of the Public Service Act.

(3) With the consent of the Minister administering any Department of the Public Service, the Board may make use of the services of the officers of that Department.

General duties of the Board.

14. (1) The duties of the Board are as follows:—

(*a*) to protect the coast from erosion, damage, deterioration, pollution and misuse;

(*b*) to restore any part of the coast that has been subjected to erosion, damage, deterioration, pollution or misuse;

(*c*) to develop any part of the coast for the purpose of aesthetic improvement, or for the purpose of rendering that part of the coast more appropriate for the use or enjoyment of those who may resort thereto;

(*d*) to report to the Minister upon any matters that the Minister may refer to the Board for advice;

(*e*) to carry out research, to cause research to be carried out, or to contribute towards research, into matters relating to the protection, restoration or development of the coast;

and

(*f*) to carry out such other duties as are imposed upon the Board by or under this Act.

(2) The Board may prepare and issue bulletins, memoranda, maps and plans for the information of the public.

Consultative Committees

Constitution of consultative committees.

15. (1) Where a coast protection district has been established under this Act, the Minister shall appoint a consultative committee in respect of that district.

(2) A council for any area comprising any portion of the coast protection district shall be entitled to nominate a person for appointment as a member of the committee.

(3) Where a council has been requested by instrument in writing under the hand of the Minister to make a nomination under this section, and fails to make a nomination in accordance with the request within one month of the date of the request, or such longer period as may be allowed by the Minister, the Minister may appoint a suitable person to be a member of the consultative committee in lieu of a nominee of that council.

Terms and conditions of office.

16. (1) The term of office of a member of a consultative committee shall be such term, not exceeding three years, as may be fixed by the Minister in the instrument of his appointment.

(2) A member of a consultative committee shall hold office upon such terms and conditions as may be determined by the Minister.

Duties of consultative committee.

17. The duties of a consultative committee are as follows:—

(*a*) to advise the Board upon any matters referred to the consultative committee for advice;

and

(*b*) to consider any matters pertinent to the protection, restoration or development of any portion of the coast within the coast protection district in respect of which the

committee is established, and to advise the Board on any matters that should in the opinion of the committee be considered by the Board.

Advisory Committees

Advisory Committees.

18. (1) The Board may appoint such advisory committees as the Board considers necessary for the purpose of providing the Board with expert advice on matters pertinent to the protection, restoration or development of the coast.

(2) A member of an advisory committee shall hold office upon such terms and conditions as may be determined by the Minister.

PART III

PART III

COAST PROTECTION DISTRICTS

Constitution of coast protection districts.

19. (1) Subject to subsection (2) of this section, the Governor may, by proclamation—

(*a*) constitute any part of the coast defined or described in the proclamation as a coast protection district;

(*b*) assign a name to a coast protection district so constituted;

(*c*) amalgamate any two or more coast protection districts;

or

(*d*) vary or revoke a previous proclamation under this section.

(2) A proclamation shall not be made under this section except upon the recommendation of the Board.

(3) The Board shall not make a recommendation under this section until it has invited representations from the councils (if any) for the areas comprising any portion of the proposed coast protection district, and has forwarded to the Minister a report upon any representations made by any such council in respect of the proposals to constitute the coast protection district.

Management plan.

20. (1) The Board shall in respect of any coast protection district constituted under this Part, make an investigation, or cause an investigation to be made, in order to determine the most appropriate measures to be taken to protect, restore or develop the coast comprised in the coast protection district in the best interests of the public.

(2) In preparing a management plan, the Board shall consult with, and take into account the interests of, any council whose area comprises the whole or any part of the coast protection district.

(3) Upon completion of an investigation, the Board shall prepare a management plan setting forth in general terms the measures that the Board considers necessary or expedient for the protection, restoration or development of the coast comprised in the coast protection district.

(4) The Board shall, upon completion of a management plan—

(*a*) send, or cause to be sent, to each council whose area comprises any portion of the coast protection district, a copy of the management plan;

(*b*) arrange for the display of the management plan in an office or offices readily accessible to members of the public; and

(*c*) cause an advertisement to be published in a newspaper circulating generally throughout the State stating that the management plan may be inspected at the office or offices specified in the advertisement and that representations may be made to the Board in respect of the proposals contained in the plan at any time within two months after the date of the advertisement.

(5) Any council to which a notice is sent under subsection (4) of this section, and any other person, may within two months after receipt of the management plan, or publication of the advertisement, make written representations to the Board in respect of the proposals contained in the management plan.

(6) The Board shall consider the representations and may alter the management plan in such manner as it thinks fit.

(7) The Board shall, after consideration of the representations (if any) made in respect of the management plan, refer the statement with a summary of the representations, and the amendments (if any) made to the plan, to the Minister.

(8) The Minister may submit the management plan to the Governor.

(9) The Governor may, by proclamation, declare a management plan submitted to him under this section to be an approved management plan.

(10) An approved management plan may be varied or revoked by a subsequent management plan prepared and approved in accordance with this section.

(11) The Board shall supply each council whose area comprises any portion of a coast protection district with a copy of the management plan relating to that district, and shall at the request of any other person, and upon payment of the prescribed fee, supply him with a copy of a management plan.

PART IV

PART IV

POWERS OF BOARD

Authorized works.

21. (1) The Board is hereby authorized to execute all works in relation to land constituting or forming part of a coast protection district, as may be necessary or expedient for the purpose of implementing an approved management plan.

(2) The Board is hereby authorized to execute any works that are in the opinion of the Board necessary or expedient for the purpose of repairing or restoring any damage to any portion of the coast resulting from a storm, or from pollution.

Powers of acquisition.

22. (1) Where the Board is satisfied that it is necessary or expedient for the purpose of execution works authorized under this Act to acquire any part of the coast the Board may, with the approval of the Minister, acquire any land constituting or forming part of, that part of the coast.

(2) The Land Acquisition Act shall apply in respect of the acquisition of land under subsection (1) of this section.

Powers of entry.

23. (1) For the purposes of this Act, any member of the Board, or any person authorized by the Board may—

(*a*) enter and remain on any land with any assistants, vehicles, machinery or equipment;

(*b*) make any inspection necessary for the purposes of this Act;

(*c*) affix or establish any trigonometrical stations, survey pegs, marks or poles and from time to time alter, remove or re-instate them;

and

(*d*) dig or bore into the land.

(2) At least seven days before any private land is entered pursuant to subsection (1) of this section, the Board must serve on the occupier of the land, or where there is no occupier, the owner of the land, a notice of intention to enter the land.

(3) A person who—

(*a*) wilfully and without authorization from the Board, interferes with any trigonometrical stations, survey pegs, marks or poles;

or

(*b*) wilfully obstructs any person acting in accordance with this section,

shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

Temporary occupation.

24. (1) For the purposes of this Act, a person authorized in writing by the Board may occupy and use any land constituting or forming part of the coast and may carry out upon that land any works authorized by this Act.

(2) The Board shall, at least seven days before private land is occupied pursuant to subsection (1) of this section, serve upon the occupier of the land, or if there is no occupier, upon the owner of the land, notice of its intention to exercise its powers of temporary occupation in relation to the land.

(3) A person interested in the land may apply to the Court for an order that the authority acquire his interest in the land.

(4) The Court, if satisfied that it is just to do so, may order the Board to acquire the interest upon such terms and conditions as may be determined by the Court, and may make such incidental or consequential orders as the Court thinks fit.

PART IV

Compensation for entry or temporary occupation.

25. (1) A person interested in land that is entered or temporarily occupied pursuant to this Part may, at any time before the expiration of three months from the day on which the Board, or any person authorized by the Board, was last in occupation of, or upon, the land, by notice in writing served upon the Board, claim compensation.

(2) If after the expiration of three months from the day on which a notice was served under subsection (1) of this section, the Board and the claimant are not agreed upon the amount of compensation that should be paid, either the Board or the claimant may refer the matter to the Court for determination.

(3) The Court shall, upon the reference of any such matter, determine the amount of compensation that should be paid by the Board, and order the payment of that amount to the claimant.

(4) The compensation shall be determined in accordance with the appropriate provisions of the Land Acquisition Act.

PART V

PART V

CONTROL OF DEVELOPMENT

Approval for works of prescribed nature.

26. (1) No works of a prescribed nature shall be carried out in a coast protection district without the approval in writing of the Board.

(2) A person who carries out works of a prescribed nature in contravention of the provisions of subsection (1) of this section shall be guilty of an offence and liable to a penalty of five hundred dollars and a further penalty of fifty dollars for every day for which the offence continues.

(3) The works to which this section apply may be prescribed generally in relation to a coast protection district, or coast protection districts, or in relation to any specified part or parts of a coast protection district, or coast protection districts.

Application for approval.

27. (1) An application for the approval of the Board in respect of proposed works of a prescribed nature must be made in a manner and form determined by the Board.

(2) An applicant must furnish the Board with such plans and specifications in relation to the proposed works as the Board may require.

(3) The Board may approve the proposed works with or without conditions, or may refuse to approve the proposed works.

(4) The Board shall not refuse its approval for any proposed works, unless, in the opinion of the Board—

(*a*) those works are inconsistent with, or would prejudice the proper implementation of, an approved management plan;

or

(*b*) those works would otherwise adversely prejudice the proper protection, restoration or development of the coast.

Appeal to Planning Appeal Board.

28. (1) Any person aggrieved by a decision of the Board under this Part may appeal against the decision to the Planning Appeal Board.

(2) The Planning Appeal Board may upon the hearing of an appeal under this section reverse or vary the decision of the Board.

PART VI

FINANCIAL PROVISIONS

Coast Protection Fund.

29. (1) There shall be a fund entitled the "Coast Protection Fund".

(2) The fund shall be established and maintained at the Treasury.

(3) The following moneys shall be paid into the fund:—

(*a*) all moneys appropriated by Parliament for the purposes of the fund;

and

(*b*) all moneys received or recovered by the Board in pursuance of the provisions of this Act.

(4) The fund shall be applied by the Board towards the costs incurred by the Board in the administration of this Act.

Power to borrow.

30. (1) The Board may borrow moneys—

(*a*) from the Treasurer;

or

(*b*) with the consent of the Treasurer, from any other person.

(2) The Treasurer may guarantee the repayment of any moneys borrowed by the Board under paragraph (*b*) of subsection (1) of this section, and any interest thereon.

(3) The Treasurer is hereby authorized, without further appropriation, to satisfy any liability arising under any such guarantee out of the General Revenue of the State.

Accounts and audit.

31. (1) The Board shall cause proper accounts to be kept of its financial affairs.

(2) The Auditor-General may at any time, and shall at least once in each year, audit the accounts of the Board.

Contribution towards works to be performed by council.

32. (1) Where a council proposes to carry out works for the protection, restoration or development of any part of the coast and seeks a grant from the Board under this section, it shall apply to the Board for its approval of the proposed works.

(2) Where the Board approves the proposed works it may make a grant to the council under this section.

(3) The amount of the grant shall be determined by the Board subject to the following provisions:—

(*a*) where the works consist in storm repairs, the grant may cover the whole or any portion of the cost to be incurred by the council;

(*b*) where the works consist in the provision or repair of a coast facility, the grant may cover up to one-half of the costs to be incurred by the council;

and

(*c*) in any other case, the grant may cover up to four-fifths of the costs to be incurred by the council.

Contribution to works of the Board.

33. (1) Where the Board carries out works within the area of a council or the areas of two or more councils, or benefiting that area or those areas, for the protection, restoration or development of any part of the coast within a coast protection district the Board may recover, as a debt, from the council or councils contribution towards the expense incurred in carrying out those works.

(2) The amount of the contribution shall be determined by the Board subject to the following provisions:—

(*a*) where the works consist in the provision of a coast facility, the contribution may be an amount of up to one-half of the expense incurred by the Board;

and

(*b*) in any other case the contribution may be an amount of up to one-fifth of the expense incurred by the Board.

(3) Where the works are carried out in the areas of two or more councils, or benefit the areas of two or more councils, the contribution to which the Board is entitled under this section may be apportioned between the councils in such manner as the Board may determine.

PART VII

MISCELLANEOUS

Restricted area.

34. (1) The Minister may, by notice published in the *Gazette*, declare any part of a coast protection district to be a restricted area.

(2) No declaration shall be made under subsection (1) of this section in respect of private land, or land constituting a public road.

(3) The notice may contain such prohibitions and restrictions upon access to the area as the Minister thinks fit.

(4) The Board shall cause notices to be erected upon or in the vicinity of a restricted area informing the public of the prohibitions or restrictions upon access to the area.

(5) A person who enters or remains upon a restricted area in contravention of any such prohibition or restriction shall be guilty of an offence and liable to a penalty not exceeding fifty dollars.

PART VII

Report.

35. (1) The Board shall on or before the thirty-first day of October in each year submit a report to the Minister upon the administration of this Act during the year ended on the preceding thirtieth day of June in that year.

(2) The Minister shall cause a copy of a report under this section to be laid before each House of Parliament within six sitting days if Parliament is then in session, or if not, within six sitting days after the commencement of the next session of Parliament.

Inquiry.

36. (1) The Minister may require the Board to make such inquiries pertinent to the administration of this Act as he considers necessary or expedient.

(2) The Board shall comply with any requirement under this section.

Regulations.

37. (1) The Governor may make such regulations as are contemplated by this Act, or as he considers necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of subsection (1) of this section, those regulations may—

(*a*) regulate the meetings and procedure of the Board and consultative committees;

(*b*) prescribe the practice and procedure to be observed in relation to an appeal to the Planning Appeal Board under this Act;

(*c*) prescribe and provide for the recovery of fees for the purposes of this Act;

and

(*d*) prescribe penalties not exceeding one hundred dollars for breach of, or non-compliance with, any regulation.

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

J. M. NAPIER, Governor's Deputy

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 50 of 1972

An Act to provide for the licensing and control of commercial and private agents; to repeal the Bailiffs and Inquiry Agents Licensing Act, 1945; and for other purposes.

[*Assented to 27th April,* 1972]

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

Short title.

1. This Act may be cited as the "Commercial and Private Agents Act, 1972".

Commencement.

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

Arrangement of Act.

3. This Act is arranged as follows:—

PART I—PRELIMINARY

PART II—THE COMMERCIAL AND PRIVATE AGENTS BOARD AND THE REGISTRAR

PART III—LICENSING OF AGENTS

PART IV—PROVISIONS SPECIFICALLY APPLICABLE TO COMMERCIAL AGENTS

PART V—PROVISIONS APPLICABLE TO AGENTS GENERALLY

PART VI—INVESTIGATIONS, INQUIRIES AND APPEALS

PART VII—GENERAL PROVISIONS

Repeal and transitional provision.

4. (1) The Bailiffs and Inquiry Agents Licensing Act, 1945, is repealed.

(2) A person who was, immediately before the commencement of this Act licensed under the repealed Act, is not, for a period of six months after the commencement of this Act, or the remainder of the term for which the licence was granted, whichever is the lesser, required to be licensed under this Act.

(3) A person is not, for a period of six months after the commencement of this Act required to be licensed under this Act for the purpose of performing any action for which a licence was not required under the repealed Act.

Interpretation.

5. In this Act, unless the contrary intention appears—

"accountant" means a person who holds prescribed qualifications in accountancy:

"agent" means any person who is required to hold a licence under this Act:

"the Board" means the Commercial and Private Agents Board constituted under this Act:

"commercial agent" means a person who, for monetary or other consideration, performs any of the following functions:—

(*a*) ascertaining the whereabouts of, or repossessing any goods or chattels that are the subject of a hire purchase agreement or bill of sale;

(*b*) collecting, or requesting the payment of, debts;

(*c*) executing any legal process for the enforcement of any judgment or order of a court;

or

(*d*) executing any distress for the recovery of rates, taxes or moneys,

on behalf of any other person:

"commercial sub-agent" means a person in the employment of, or acting for or by arrangement with, a commercial agent who for monetary or other consideration performs for that agent any of the functions of a commercial agent:

"document" includes book, record, register, account, paper and card:

"harassment" means any act or conduct that tends to intimidate, embarrass, ridicule or shame any person, and without limiting the generality of the foregoing, includes—

(*a*) any act or omission (including the positioning of a vehicle) from which it might reasonably be inferred by a person visiting or passing any premises that an occupant of the premises is being visited, or under surveillance by, an agent;

(*b*) unduly frequent visiting of premises or communication with the occupants of premises;

(*c*) any suggestion made to, or intended to be communicated to, a debtor that if he fails to pay any debt action may be taken that would embarrass or shame him, or prejudice him in his employment:

"inquiry agent" means a person who, for monetary or other consideration, performs any of the following functions:—

(*a*) obtaining or providing information as to the personal character or actions of any person, or as to the business or occupation of any person;

(*b*) obtaining evidence for the purpose of any legal proceedings;

or

(*c*) searching for missing persons,

on behalf of any other person:

"licence" means a licence under this Act:

"loss assessor" means a person who, for payment or other consideration, performs any of the following functions:—

(*a*) the investigation of any loss or injury arising from the use of a motor vehicle or any personal injury arising out of, or in the course of, the employment of the person by whom the injury was sustained;

(*b*) the assessment of any pecuniary compensation or damages likely to be awarded in respect of any such loss or injury;

or

(*c*) the making, commencing, resisting, negotiating, compromising, or settling, of any claim in respect of any such loss or injury:

"officer" in relation to a corporation, means any director, manager, or secretary of the corporation:

"order" includes decision, direction or declaration:

"process server" means a person who, for monetary or other consideration, performs the function of serving any writ, summons or other legal process on behalf of any other person:

"the register" means the register of agents required to be kept under this Act:

"registered address" means the address for the time being entered in the register in respect of a commercial or private agent as the address to which all communications with, and notices to, that person may be sent:

"Registrar" means the person for the time being holding, or acting in, the office of Registrar of Commercial and Private Agents under this Act:

"security agent" means a person who, for monetary or other consideration, performs the function of guarding property or keeping property under surveillance:

"security guard" means a person in the employment of, or acting for or by arrangement with, a security agent who for monetary or other consideration performs for the security agent the function of guarding property or keeping property under surveillance.

Application of Act.

6. (1) This Act shall not apply to:—

(*a*) a member of the police force of this State;

(*b*) any person while acting in the performance of his functions as an officer of the Public Service of this State or as an employee of the Crown or any instrumentality of the Crown;

(*c*) any legal practitioner while acting in the ordinary course of his profession or any clerk of a legal practitioner while acting in the ordinary course of his employment as such;

(*d*) any accountant while acting in the ordinary course of his profession;

(*e*) a person licensed under the Land Agents Act, or the Business Agents Act, while acting in the ordinary course of the business conducted in pursuance of the licence;

(*f*) any sheriff, deputy sheriff, sheriff's officer, bailiff or other officer of any court while acting in the performance of his functions as such;

(*g*) a trustee company, a building society, or friendly society, a person carrying on the business of insurance, insurance broking or banking, while acting in the ordinary course of business as such, or an employee of any such company, society or person while acting in the ordinary course of his employment;

(*h*) any person employed under a contract of service by a person who is not an agent while acting in the ordinary course of that employment;

(*i*) any person who performs only clerical or secretarial functions on behalf of an agent.

(2) The Governor may, by proclamation, exempt any persons, or persons of any specified class, from the provisions of this Act to such extent as may be specified in the proclamation, and the operation of this Act shall be modified accordingly.

(3) The Governor may, by subsequent proclamation, vary or revoke a proclamation under this section.

PART II

THE COMMERCIAL AND PRIVATE AGENTS BOARD AND THE REGISTRAR

Establishment of board.

7. (1) There shall be a board entitled the "Commercial and Private Agents Board".

(2) The Board shall consist of five members appointed by the Governor, of whom—

(*a*) one, who shall be the chairman, shall be a legal practitioner of at least seven years standing nominated by the Minister;

(*b*) two shall be persons nominated by the Minister who are, in the opinion of the Minister, properly qualified for membership of the Board;

(*c*) one shall be a person nominated by the Fire and Accident Underwriters Association of South Australia;

and

(*d*) one shall be a person nominated by the Commissioner of Police.

(3) Where the Fire and Accident Underwriters Association of South Australia, or the Commissioner of Police, has been requested by the Minister by instrument in writing to nominate a person for appointment as a member of the Board, and fails within one month, or such longer period as may be allowed by the Minister, to make a nomination in accordance with the request, the Minister may nominate a suitable person for appointment to the Board in lieu of a nominee of the Fire and Accident Underwriters Association of South Australia, or the Commissioner of Police, as the case may require.

Terms and conditions of office.

8. (1) Subject to this Act, a member of the Board shall be appointed for such term of office, not exceeding three years as the Governor may determine and specifies in the instrument of his appointment, and, upon the expiration of his term of office, shall be eligible for re-appointment.

(2) If a member of the Board is unable, or fails, for any reason to act in his capacity as a member of the Board, the Governor may appoint a suitable person to be a deputy of the member, and such a person, while so acting, shall be deemed to be a member of the Board, and shall have all the powers, authorities, duties and obligations of the member of whom he has been appointed a deputy.

(3) The Governor may remove a member of the Board from office for—

(*a*) mental or physical incapacity;

(*b*) neglect of duty;

(*c*) dishonourable conduct;

or

(*d*) any other cause considered sufficient by the Governor.

(4) The office of a member of the Board shall become vacant if—

(*a*) he dies;

(*b*) his term of office expires;

(*c*) he resigns by written notice addressed to the Minister;

or

(*d*) he is removed from office by the Governor pursuant to subsection (3) of this section.

(5) Upon the office of a member of the Board becoming vacant, a person shall be appointed, in accordance with this Act, to the vacant office, but where the office of a member of the Board becomes vacant before the expiration of the term for which he was appointed, a person appointed in his place shall be appointed only for the balance of the term of his predecessor.

Quorum, etc

9. (1) Three members of the Board shall constitute a quorum of the Board, and no business shall be transacted at a meeting unless a quorum is present.

(2) A decision carried by a majority of the votes cast by the members present at a meeting of the Board, shall be a decision of the Board.

(3) The chairman shall preside at a meeting of the Board and, in addition to a deliberative vote, shall, in the event of an equality of votes, have a second or casting vote.

(4) In the absence of the chairman from a meeting of the Board, the members present shall elect one of their number to be chairman for that meeting and a member so elected shall perform and discharge the functions and obligations of the chairman at that meeting.

(5) Subject to this Act, the business of the Board shall be conducted in such manner as the Board determines.

Validity of acts of Board and immunity of its members

10. (1) An act or proceeding by the Board shall not be invalid by reason only of a vacancy in its membership, and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of a member, any such act or proceeding shall be as valid and effectual as if the member had been duly nominated or appointed.

(2) No liability shall attach to a member of the Board for any act or omission by him, or by the Board, in good faith and in the exercise or purported exercise of his or its powers or functions, or in the discharge, or purported discharge of his or its duties under this Act.

Allowances and expenses.

11. The members of the Board shall be entitled to receive such allowances and expenses as may be determined by the Governor.

Board may employ legal assistance.

12. With the approval of the Minister, the Board may employ legal practitioners and other persons to assist it in the performance and discharge of its functions and duties.

PART II

The Registrar.

13. (1) There shall be a Registrar of Commercial and Private Agents.

(2) The Registrar shall be appointed subject to and in accordance with the Public Service Act.

(3) The office of the Registrar may be held in conjunction with any other office in the public service of the State.

PART III

PART III

LICENSING OF AGENTS

Licences and obligation to be licensed.

14. (1) Licences shall be granted under separate categories for—

(*a*) commercial agents;

(*b*) commercial sub-agents;

(*c*) inquiry agents;

(*d*) loss assessors;

(*e*) process servers;

(*f*) security agents;

and

(*g*) security guards.

(2) No person shall act as, or hold himself out as being, or perform, or hold himself out as willing to perform, any of the functions of—

(*a*) a commercial agent;

(*b*) a commercial sub-agent;

(*c*) an inquiry agent;

(*d*) a loss assessor;

(*e*) a process server;

(*f*) a security agent;

or

(*g*) a security guard,

unless he is licensed under the appropriate category pursuant to this Act.

Penalty: Five hundred dollars, or imprisonment for six months, or both.

(3) For the purposes of this section a person acts as, or holds himself out as being, or performs or holds himself out as willing to perform any of the functions of, an agent whether he does so personally or through the agency or instrumentality of other persons.

Application.

15. (1) An application for a licence must be made in writing and in the prescribed manner and form and must contain the prescribed information.

(2) The information contained in the application must be verified by a statutory declaration made by the applicant, or where the applicant is a corporation, by an officer of the corporation.

(3) The applicant must furnish the Board with such further information, verified, if the Board so requires, by statutory declaration, as the Board may require.

(4) An application for a commercial agent's licence must be accompanied by a bond in conformity with this Part.

Entitlement to be granted a licence.

16. (1) Subject to this Act, a person (not being a corporation) is entitled to hold a licence of a particular category if he has proved to the satisfaction of the Board that—

(*a*) he is over the age of eighteen years;

(*b*) he is resident in this State;

(*c*) he is a fit and proper person to hold a licence of that category.

and

(*d*) he has attained or complied with any standards or requirements of education practical skill or experience prescribed by regulation in relation to a licence of that category.

(2) Subject to this Act, a corporation is entitled to hold a licence of a particular category if it has proved to the satisfaction of the Board that—

(*a*) the officers of the corporation;

and

(*b*) any other person who in the opinion of the Board substantially controls or could substantially control the affairs of the corporation,

are fit and proper persons to manage, direct or control the affairs of a corporation holding a licence of that category.

(3) Where due application has been made for a licence and the applicant is entitled to hold the licence in accordance with this section, the Board shall grant to the applicant the appropriate licence

PART III

Renewal of licence.

17. (1) A licence shall, subject to this Act, remain in force until the thirtieth day of June next ensuing after the grant of the licence, and may from time to time be renewed for successive periods of one year expiring on the thirtieth day of June.

(2) An application for the renewal of a licence must be made in the prescribed form and must be accompanied by such statutory declarations and other documents as may be prescribed or as the Board may require.

(3) The application must be delivered to the Registrar not earlier than the first day of April and not later than the last day of May preceding the expiry of the licence but the Board may, if it thinks fit, determine an application notwithstanding that it is delivered out of time.

(4) Where the holder of a licence duly applies for the renewal of the licence, and pays the prescribed fee, the licence shall be renewed for a term of one year in accordance with this section.

Business may be carried on by unlicensed person.

18. (1) Where a person carrying on business in pursuance of a licence dies, an unlicensed person may, with the consent of the Board and subject to any conditions imposed by the Board, continue to carry on the business until the business is sold or the expiration of six months, whichever first occurs, and while the unlicensed person is carrying on business in accordance with the conditions imposed by the Board he shall for the purposes of this Act be deemed to be the holder of a licence.

(2) The holder of a licence under this Act may at any time, with the consent of the Board, surrender his licence and the licence shall thereupon cease to have any effect.

Fidelity bond.

19. (1) A commercial agents licence shall not be granted unless a bond conforming with the provisions of this section is lodged with the Board, accompanied by such security for the satisfaction of the bond as the Board may require.

(2) The bond shall be in the prescribed form and—

(*a*) where the applicant, or the holder of the licence, is a corporation, in the sum of fifteen thousand dollars;

(*b*) where the applicant, or the holder of the licence, is a person other than a corporation, who proposes to carry on, or carries on, the business of a commercial agent in partnership with another person, in the sum of four thousand dollars;

and

(*c*) in any other case, in the sum of six thousand dollars.

(3) The sum recoverable under the fidelity bond is not a penalty, but is liquidated damages, and shall accordingly be recoverable in full as a debt due jointly and severally by the licensee, and the surety or sureties, to the Crown unless performance of every condition of the bond is proved.

(4) Every sum so recovered shall be paid into the general revenue and without further appropriation than this Act, be applied by the Minister—

(*a*) in payment of any costs and expenses;

(*b*) in compensating any person for any loss sustained by reason of any breach of any condition of the bond;

and

(*c*) in refunding to the surety or sureties any remaining balance.

(5) If at any time during the currency of a licence the board determines that the bond is not adequately secured by sureties or other security, the holder of the licence shall, until an appropriate security is delivered to the Registrar, be deemed to be unlicensed.

(6) Where the holder of a commercial agent's licence, who has entered into a bond under paragraph (*b*) of subsection (1) of this section, ceases to carry on business in pursuance of the licence in partnership with another person, he must within one month enter into a bond in the prescribed form in the sum of six thousand dollars.

(7) A commercial agent's licence shall be of no force or effect for the duration of any period for which the holder of the licence is in default under the provisions of subsection (6) of this section.

Corporation must employ licensed person as manager.

20. (1) Where a corporation holds a licence of a particular category the business of the corporation conducted in pursuance of that licence must be managed by a natural person who is resident in this State and—

(*a*) holds a licence of the same category as that of the corporation;

or

(*b*) where the corporation is licensed as a commercial agent, holds a commercial agent's licence or a commercial sub-agent's licence.

(2) Where the business of a corporation is not managed as required by subsection (1) of this section, the corporation must, within fourteen days, or such longer period as may be allowed by the Board, appoint a manager resident in this State to manage, in accordance with that subsection, the business of the corporation conducted in pursuance of the licence.

(3) The licence of a corporation shall be of no force or effect for the duration of any period for which the corporation is in default under the provisions of subsection (2) of this section.

Licence not to be transferable.

21. A licence shall not be transferable.

More than one licence may be held by the one person.

22. A person may simultaneously hold a number of licences of differing categories.

PART IV

PROVISIONS SPECIFICALLY APPLICABLE TO COMMERCIAL AGENTS

Trust account.

23. (1) All moneys received for or on behalf of any person by a commercial agent shall be held by that commercial agent exclusively for that person, and until paid to, or as directed by, that person, shall be paid into a trust account in a bank in this State in the name of the commercial agent, and retained therein.

Penalty: Five hundred dollars or imprisonment for six months, or both.

(2) The account shall be established under the designation "trust account" and that designation shall appear in the description of that account in the books and records of the commercial agent, and on cheques drawn on that account.

(3) The commercial agent shall not remove the moneys from the trust account except for the purpose of paying them to, or in accordance with the directions of, the person on whose behalf they were received, or except in accordance with the order of a court of competent jurisdiction.

Penalty: Five hundred dollars, or six months imprisonment, or both.

(4) The moneys shall not be liable to be attached, or taken in execution, under the order or process of any court at the instance of any creditor, other than the person on whose behalf the moneys were received by the commercial agent.

(5) This section shall not be construed as preventing the removal of moneys from the trust account to satisfy a lawful claim or lien that the commercial agent has upon those moneys.

Records to be kept.

24. (1) A commercial agent shall keep or cause to be kept fully and correctly prescribed records and other prescribed documents in relation to the functions performed by him in his capacity as an agent.

(2) Where—

(*a*) a commercial agent fails to keep, or to cause to be kept, any record or other document as required under subsection (1) of this section;

or

(*b*) the agent destroys, falsifies, or mutilates any such record or other document, or causes or permits any such record or other document to be destroyed, falsified or mutilated within the period of five years after it was made, or to be removed from his possession during that period,

the agent shall be guilty of an offence against this Act and liable to a penalty not exceeding five hundred dollars or imprisonment for six months.

Inspection of records.

25. (1) All prescribed records and other prescribed documents of a commercial agent, or a person who has ceased to be a commercial agent, shall at all reasonable times be open to inspection by the Registrar, by any member of the police force, or by a person duly authorized in writing by the Minister to inspect those records and other documents.

(2) The Registrar, the member of the police force, or the person so authorized, may require the commercial agent, or, where the agent is a corporation, the person who manages the business of the corporation conducted in pursuance of the licence, or in the absence of that person, any person having apparent control of the business—

(*a*) to produce for inspection all or any prescribed records and other prescribed documents;

and

(*b*) to furnish such other documents in his custody or control as may be reasonably required for the purpose of ascertaining whether there has been any contravention of, or failure to comply with, this Act or any other Act or law in connection with the trust moneys.

(3) The Registrar, the member of the police force, or the person so authorized, may make any notes concerning, or take any copies or extracts from, any records or other documents subject to inspection.

(4) A person who—

(*a*) wilfully delays or obstructs any inspection under this section;

(*b*) wilfully mutilates or destroys, or in any way alters any record or other document to delay or obstruct any inspection under this section;

or

(*c*) on demand refuses or fails to comply with a requirement duly made of him under this section,

shall be guilty of an offence under this Act and liable to a penalty not exceeding five hundred dollars or imprisonment for six months.

Prohibition of dealing in trust moneys.

26. (1) The Board may, by order in writing served upon a banker or other person having the custody or control of trust moneys affected by the provisions of this Part, restrict or prohibit any dealing in, or disposition of, those moneys.

(2) A person who acts in contravention of an order under subsection (1) of this section shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars or imprisonment for six months.

Repossession of motor vehicles to be reported.

27. A commercial agent who takes possession of a motor vehicle that is subject to a hire purchase agreement or a bill of sale—

(*a*) shall as soon as practicable after taking possession of the motor vehicle, inform an officer of police on duty at a police station nearest to the place where he took possession of the vehicle;

and

(*b*) within twenty-four hours after taking possession of the motor vehicle, deliver or send by post to the officer in charge of the police station nearest to the commercial agent's registered address, written particulars in duplicate of the motor vehicle, including particulars of the registered number of the vehicle.

Sub-agents not to be employed unless licensed.

28. No commercial agent shall employ as a commercial sub-agent a person who is not duly licensed as such.

Penalty: Five hundred dollars.

Place of business.

29. A commercial agent shall not invite the public, or any debtor from whom he is seeking to recover a debt, to deal with him at any place other than the place of his registered address or any other place approved by the Board.

Recovery of moneys from debtors.

30. (1) A commercial agent, or a commercial sub-agent acting on his behalf, shall not ask or demand (whether directly or indirectly) from any debtor any payment in addition to the amount of the debt other than the fee, or part of the fee, that the commercial agent has charged or agreed to charge, the creditor in respect of the commercial agent's services in recovering or attempting to recover the debt.

Penalty: Five hundred dollars.

(2) In this section—

"creditor" means any person on behalf of whom a commercial agent is acting, or has been engaged to act, in recovering or attempting to recover a debt:

"debt" includes any interest, costs or other charges for which a debtor is legally liable to a creditor:

"debtor" means a person from whom a commercial agent has recovered or is attempting to recover a debt on behalf of a creditor.

PART V

PROVISIONS APPLICABLE TO AGENTS GENERALLY

Licence not to confer additional authority.

31. (1) A licence does not confer upon an agent any power or authority to act in contravention of, or in disregard of, any law or any rights or privileges guaranteed or arising under, or protected by, any law.

(2) An agent who in any way suggests or implies that by virtue of his licence he may exercise any power or authority that is in fact not conferred by the licence shall be guilty of an offence against this Act and liable to a penalty of five hundred dollars or imprisonment for three months.

Name in which agent carries on business.

32. An agent shall not carry on business as such in a name other than the name in which he is licensed or a business name registered by the agent in accordance with the provisions of the Business Names Act, 1963.

Penalty: Two hundred dollars.

Misrepresentation.

33. An agent shall not, by any false, misleading or deceptive statement, representation or promise, or by any wilful concealment of a material fact, induce, or attempt to induce, any person to enter into an agreement or contract in connection with his business as an agent.

Penalty: Five hundred dollars or imprisonment for three months.

Publication of advertisements.

34. An agent shall not publish, or cause to be published, any advertisement relating to his business (other than an advertisement relating solely to the recruiting of staff) unless the advertisement specifies the name of the agent appearing in the licence, and the registered address of the agent.

Penalty: Five hundred dollars.

Notice to be displayed.

35. An agent (other than a commercial sub-agent or a security guard) shall maintain in a conspicuous position in each place from which he carries on business, a notice clearly showing—

(*a*) the name of the agent (and in the case of a corporation, the name of the agent who manages the business conducted in pursuance of the licence);

(*b*) the category of the licence that the agent holds;

and

(*c*) such other matters as may be prescribed.

Penalty: Five hundred dollars.

Excessive charges may be reduced by the Board.

36. (1) Where an agent claims payment of any amount from any person in respect of services rendered by him as an agent, the person liable to make that payment may apply to the Board for a review of the agent's charges.

(2) The Board in considering any such application, may, by order, reduce the agent's charges to such amount as it considers reasonable.

(3) Where an order has been made under subsection (2) of this section, the agent shall not be entitled to recover an amount in excess of the amount to which his charges have been reduced by the Board.

Licence to be produced upon demand.

37. An agent shall, on demand, produce his licence for inspection—

(*a*) to the Registrar, or to a member of the police force;

or

(*b*) to any person with whom he has dealings as an agent.

Penalty: Two hundred dollars.

Registered address.

38. (1) Service of any notice, communication, process or document upon an agent may be effected by sending or delivering the notice, communication, process or document to the registered address of the agent.

(2) The Registrar may alter the registered address of an agent upon receipt of an instrument in writing signed by the agent requesting that the registered address be changed to an address (which must be an address in this State) specified in the notice.

PART VI

INVESTIGATIONS, INQUIRIES AND APPEALS

Registrar's powers of investigation.

39. (1) The Registrar may of his own motion, and shall at the direction of the Board, make any investigation that he or the Board considers necessary or expedient for the purpose of determining any application, or other matter before the Board.

(2) The Registrar shall make a written report upon every such investigation to the Board.

Investigations by the Commissioner of Police.

40. (1) The Commissioner of Police shall at the request of the Registrar cause his officers to make an investigation and report relating to any matter being investigated by the Registrar or the Board.

(2) The report shall be forwarded to the Registrar.

Inquiries.

41. (1) The Board may, upon the application of any person made in the prescribed manner, or of its own motion, inquire into the conduct of any person licensed under this Act.

(2) If after conducting an inquiry under subsection (1) of this section the Board is satisfied that proper cause exists for disciplinary action, the Board may do one or more of the following—

(*a*) reprimand the person in relation to whom the inquiry was held;

(*b*) impose a fine not exceeding one hundred dollars on that person;

and

(*c*) cancel the licence and, in addition, disqualify the person who held the licence either temporarily or permanently, or, until the fulfilment of a condition imposed by the Board, or until the further order of the Board from holding a licence under this Act.

(3) There shall be proper cause for disciplinary action if—

(*a*) the licence was improperly obtained;

(*b*) the agent or any person acting with the authority, or upon the instructions, of the agent has been guilty of conduct that constitutes in the opinion of the Board unfair or improper harassment;

(*c*) the agent or any person acting with the authority, or upon the instructions, of the agent—

(i) has been convicted, or is guilty of any offence against this Act, or any offence involving dishonesty;

or

(ii) is guilty of any fraudulent, dishonest or discreditable conduct, or any neglect of duty;

(*d*) the agent is an undischarged bankrupt, or is bound by any subsisting composition or deed or scheme of arrangement with or for the benefit of his creditors or, in the case of a corporation, has insufficient funds for the payment of its creditors;

or

(*e*) any other cause exists (whether like or unlike those specifically referred to in this subsection) that the Board considers sufficient.

Procedure in relation to inquiry.

42. (1) The Board shall give to the agent whose conduct is the subject of an inquiry under this Part, and to any person upon whose application an inquiry is to be held, not less than seven days' notice of the time and place at which it intends to conduct the inquiry and shall afford any such person a reasonable opportunity to call or give evidence, to examine or cross-examine witnesses and to make submissions to the Board.

(2) If a person to whom notice has been given pursuant to subsection (1) of this section does not attend at the time and place fixed by the notice, the Board may hold the inquiry in his absence

(3) The procedure at an inquiry shall be determined by the Board.

(4) Where the conduct of any agent becomes the subject of any inquiry conducted by the Board under this Part, the agent may be represented by counsel at the inquiry.

Powers of Board.

43. (1) For the purposes of an inquiry under this Part, the Board may—

(*a*) by summons signed on behalf of the Board by a member of the Board, require the attendance before the Board of any person whom the Board thinks fit to call before it;

(*b*) by summons signed on behalf of the Board by a member of the Board, require the production of any books, papers or documents;

(*c*) inspect any books, papers or documents produced before it, and retain them for such reasonable period as it thinks fit, and make copies of any of them or of any of their contents;

(*d*) require any person to make an oath or affirmation that he will truly answer all questions put to him by the Board relevant to any matter being inquired into by the Board, which oath or affirmation may be administered by any member of the Board;

or

(*e*) require any person appearing before the Board including the person whose conduct is the subject of the inquiry (whether he has been summoned to appear or not) to answer any relevant questions put to him by any member of the Board or by any other person appearing before the Board.

(2) Subject to subsection (3) of this section, if any person—

(*a*) who has been served with a summons to attend before the Board neglects or fails to attend in obedience to the summons;

(*b*) who has been served with a summons to produce any books, papers or documents, neglects or fails to comply with the notice;

(*c*) misbehaves himself before the Board, wilfully insults the Board or any member thereof, or interrupts the proceedings of the Board;

or

(*d*) refuses to be sworn or to affirm, or to answer any relevant question, when required to do so by the Board,

he shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

(3) A person shall not be obliged to answer a question put to him by the Board if the answer to that question would tend to incriminate him or to produce any books, papers or documents if their contents would tend to incriminate him.

(4) In the course of an inquiry the Board may receive in evidence, and act upon—

(*a*) any transcript of evidence in proceedings before a court;

or

(*b*) any findings or judgment of a court,

that may be relevant to the proceedings.

PART VI

Costs.

44. (1) The Board may, upon the determination of an inquiry under this Part, make such orders as to costs as the Board thinks just and reasonable.

(2) Where the Board makes an order for the payment of a fine or costs against a person licensed under this Act and the fine or costs is or are not paid within the time fixed by the Board, the Board may suspend the licence or registration of that person until the fine or costs is or are paid, or for such period as the Board thinks fit.

(3) Where the Board has ordered the payment of a fine or costs, the fine or costs shall be recoverable summarily.

Appeal.

45. (1) A right of appeal to the Supreme Court shall lie against any order of the Board made in the exercise or purported exercise of any of its powers or functions under this Act.

(2) The appeal must be instituted within one month of the making of the order appealed against but the Supreme Court may, if it is satisfied that it is just and reasonable in the circumstances to do so, dispense with the requirement that the appeal should be so instituted.

(3) The Supreme Court may, on the hearing of the appeal, do one or more of the following, according to the nature of the case—

(*a*) affirm, vary or quash the order appealed against, or substitute, or make in addition, any order that should have been made in the first instance;

(*b*) remit the subject matter of the appeal to the Board for further hearing or consideration;

(*c*) make any further or other order as to costs or any other matter that the case requires.

(4) The Board shall, if so required by any person against whom an order has been made, state in writing the reasons for its order.

(5) If the reasons of the Board are not given in writing at the time of making an order and the appellant then requested the Board to state its reasons in writing, the time for instituting the appeal shall run from the time when the appellant receives the written statement of those reasons.

Operation of order may be suspended.

46. (1) Where an order has been made by the Board and the Board or the Supreme Court is satisfied that an appeal against the order has been instituted, it may suspend the operation of the order until the determination of the appeal.

(2) Where the Board has suspended the operation of an order under subsection (1) of this section the Board may terminate the suspension, and where the Supreme Court has done so, the Supreme Court may terminate the suspension.

PART VII

GENERAL PROVISIONS

Agent not entitled to fees, etc., unless licensed.

47. No person shall be entitled to sue for, or recover, any fee, commission or other consideration for any service performed by him as an agent unless at the time of performing that service he was duly licensed under this Act.

Limitations upon functions of loss assessor.

48. (1) Subject to subsection (2) of this section a loss assessor shall not settle or compromise or attempt to settle or compromise any claim in respect of loss or injury arising out of the use of a motor vehicle or injury arising out of, or in the course of employment, after proceedings have been instituted in any court in respect of that loss or injury.

Penalty: Five hundred dollars.

(2) This section does not apply unless the process by which the proceedings are instituted has been served upon the defendant to those proceedings.

(3) It shall be a defence to a prosecution for an offence under subsection (1) of this section that the defendant did not know, and could not by the exercise of reasonable diligence have discovered, that proceedings had been instituted in a court in respect of the loss or injury.

Evidentiary provision.

49. (1) In any legal proceedings, a document purporting to be a licence granted under this Act, shall be accepted as such a licence in the absence of contrary evidence.

(2) An allegation in a complaint that a person was or was not licensed at any time mentioned in the complaint shall, in the absence of contrary evidence, be accepted as proved.

(3) An apparently genuine document purporting to be signed by the Registrar stating that any person named in the document is or is not, or was or was not at any specified time, the holder of a licence under this Act shall be accepted as proof of that fact in the absence of contrary evidence.

Criminal liability of corporations, etc.

50. Where a corporation is guilty of an offence under this Act, every person concerned in the management or control of the corporation who knowingly causes, authorizes or permits the commission of the offence shall be guilty of an offence and liable to any penalty prescribed to the principal offence.

PART VII

Regulations.

51. The Governor may make such regulations as are contemplated by this Act, or as he deems necessary or expedient for the purposes of this Act, and without limiting the generality of the foregoing, those regulations may—

(*a*) prescribe any form for the purposes of this Act;

(*b*) prescribe and provide for the recovery of fees for the purposes of this Act;

(*c*) provide for applications for licences under this Act to be advertised, and provide for objections to be made to such applications, and prescribe the manner in which and the grounds upon which, such objections may be made;

(*d*) provide for records to be kept, and returns to be made to the Board, by agents or any category of agents, and provide for the inspection of those records;

(*e*) prescribe the forms, terms and conditions of fidelity bonds;

(*f*) provide for an annual audit of the trust accounts of every commercial agent, and the manner in which and the persons or class of persons by whom the audit is to be conducted, and provide for a report of the result of the audit to be made to the Board;

(*g*) require that such books, papers, and accounts, and other documents as may be specified in the regulations be produced for the inspection of the auditor;

(*h*) make such other provision as may be necessary or desirable to ensure that all such trust accounts are properly kept and audited;

(*i*) prescribe various maximum rates of commission and charges for services of various kinds defined in the regulations;

(*j*) prescribe penalties (recoverable summarily) not exceeding two hundred dollars for contravention of, or non-compliance with, any regulation.

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

J. M. NAPIER, Governor's Deputy

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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PART VII—PROVISIONS OF GENERAL APPLICATION.

Transitional provisions.

5. (1) The Minister is the successor to the Minister administering the repealed Social Welfare Act and the repealed Aboriginal Affairs Act, and any rights that were at law or in equity vested in, or enforceable by or against, that Minister immediately before the commencement of this Act under, or as a result of action taken under, the repealed Social Welfare Act or the repealed Aboriginal Affairs Act shall be vested in, or enforceable by or against, the Minister.

(2) Any decision, order or adjudication of a court made, or having effect, under the provisions of any of the repealed Acts, shall be deemed to be a decision, order or adjudication made pursuant to, or having effect under, this Act in all respects as if this Act had been in force when the decision, order or adjudication was made.

(3) Any proceeding under, or act done in pursuance of, any of the repealed Acts in connection with the enforcement of an order or adjudication (whether made pursuant to the law of this State, any other State or Territory of the Commonwealth, or any other country) shall be valid and effective in all respects as if this Act had been in force when the proceeding or act was taken or done, and it had then been taken or done in pursuance of this Act.

(4) Any legal proceedings commenced under any of the repealed Acts shall be deemed to be proceedings commenced under the corresponding provisions of this Act, and may, subject to this Act, be dealt with and disposed of, accordingly.

(5) Any application made to the Minister administering the repealed Social Welfare Act, and the repealed Aboriginal Affairs Act, the Department constituted under the repealed Social Welfare Act, or any officer of that Department, and not finally disposed of at the commencement of this Act, shall be deemed to be an application to the Minister of Community Welfare, the Department for Community Welfare, or any officer of that Department, as the case may require, and may be dealt with and disposed of in accordance with the provisions of this Act.

(6) A person who was, immediately before the commencement of this Act, a State child, within the meaning of the repealed Social Welfare Act shall be deemed to be a child under the care and control of the Minister in all respects as if the decision, order or adjudication by virtue of which the child became a State child were a decision, order or adjudication placing the child under the care and control of the Minister, and any such child shall be dealt with accordingly pursuant to the provisions of this Act.

(7) Any home established or set apart by proclamation under the repealed Social Welfare Act shall be deemed to be a home established by the Minister pursuant to the provisions of this Act.

(8) The proprietor of a children's home in respect of which a licence was in force under the repealed Social Welfare Act immediately before the commencement of this Act shall, for the unexpired portion of the term of the licence, be deemed to be the holder of a licence under this Act in respect of the children's home.

(9) A person licensed as a foster-parent under the repealed Social Welfare Act immediately before the commencement of this Act, shall, for the unexpired portion of the term of the licence, be deemed to be a foster-parent approved under the provisions of this Act.

(10) Any authority or permit issued, given or made under the repealed Social Welfare Act, or the repealed Aboriginal Affairs Act and in force immediately before the commencement of this Act shall be deemed to be an authority or permit under the provisions of this Act.

(11) Any lands declared pursuant to the repealed Aboriginal Affairs Act to be reserved for Aborigines shall be deemed to be an Aboriginal reserve under the provisions of this Act.

(12) Any agreement or arrangement made pursuant to the repealed Social Welfare Act, or the repealed Aboriginal Affairs Act, and in force immediately before the commencement of this Act, shall, subject to this Act, remain effective under the provisions of this Act.

(13) Except as otherwise provided in this Act, any officer of the Department constituted under the repealed Social Welfare Act, or the Department constituted under the repealed Aboriginal Affairs Act, who was in office immediately before the commencement of this Act, shall, subject to this Act, and the Public Service Act, 1967, as amended, be deemed to have been appointed to a corresponding office in the Department for Community Welfare established under this Act.

(14) Any reference in any contract, instrument, document, proclamation, regulation, rule or by-law, to any of the repealed Acts or to a provision of any of those Acts shall, unless the contrary intention appears, be deemed to be a reference to this Act, or the corresponding provision (if any) of this Act.

(15) Subject to this Act, the provisions of the Acts Interpretation Act, 1915, as amended, shall apply in respect of the repeals effected by this Act.

Interpretation.

6. (1) In this Act, unless the contrary intention appears—

"Aboriginal" means a person who is wholly or partly descended from those who inhabitated Australia prior to European colonization:

"Aboriginal reserve" means an area declared to be an Aboriginal reserve pursuant to the provisions of this Act:

"adopted child" means a child—

(*a*) adopted in accordance with the law of this State, or the law of another State or of a Territory of the Commonwealth;

or

(*b*) adopted in accordance with the law of any other country or State if the adoption is recognized under the law of this State as being effective in this State,

and "adoptive parent" has a correlative meaning:

"affiliation case" means proceedings against the alleged father of an illegitimate child for assistance, maintenance, or preliminary expenses:

"assessment centre" means a centre established under this Act for the examination of children, the evaluation of their personal circumstances and social background and the assessment of the most appropriate treatment or rehabilitative correction or education for each child:

"child" means a person who has not attained the age of eighteen years and includes any person above that age who is under the care and control of the Minister:

"child care centre" means any premises or place in which children under the age of six years are cared for apart from their parents or relatives:

"child under the care and control of the Minister" means a child placed under, or received into, the care and control of the Minister pursuant to this Act, the Juvenile Courts Act, or any other Act and includes a child remanded in custody pursuant to the provisions of the Juvenile Courts Act:

"children's home" means any premises or place in which more than five children under the age of fifteen years are maintained and cared for apart from their parents and near relatives:

"complainant" means a person by, or on whose behalf, or for whose benefit, a complaint is laid under this Act:

"Department" means the Department for Community Welfare:

"Deputy Director-General" means the person for the time being holding, or acting in, the office of Deputy Director-General of Community Welfare under this Act:

"Director-General" means the person for the time being holding or acting in, the office of Director-General of Community Welfare under this Act:

"foster-parent" means a person, not being a near relative of a child or a person to whom the custody or guardianship of a child has been committed by order of a court, who has received the child into his custody or charge for the purpose of maintaining and caring for the child, but does not include the licensee of a licensed children's home, or child care centre:

"guardian" means a parent of a child or any person having the immediate custody or control of a child;

"home" means any premises or place established as a home or centre under this Act for the reception, care, maintenance, or support of persons in need or distress or for the reception, detention, care, correction, maintenance, support or training of children:

"juvenile court" means any court exercising jurisdiction pursuant to the Juvenile Courts Act:

"Juvenile Courts Act" means the Juvenile Courts Act, 1971, as amended from time to time:

"maintenance" includes the cost of clothing, support, training and education:

"maintenance order" means an order of a court (made before or after the commencement of this Act either in this State or elsewhere) whereby a person is ordered to pay money in a lump sum or by instalment or periodic payment for or towards the maintenance of another person, or by way of recoupment of moneys expended in, or provided for, the maintenance of another person and includes any order for the payment of money under Part VI of this Act:

"Minister" means the Minister of Community Welfare:

"near relative", in relation to a legitimate child, means the father, mother, step-father or step-mother of the child; and in relation to an illegitimate child means the mother, father, or husband of the mother of the child; and in relation to a person who is not a child, means the husband, wife, father, mother, or children of that person:

"neglected child" means a child who—

(*a*) is under the guardianship of any person whom the court considers unfit to have the guardianship of the child;

(*b*) has apparently no sufficient means of support, and whose guardians or near relatives are unable or unwilling to maintain him or are dead or unknown or cannot be found or are not in the State or are detained in a prison or home;

or

(*c*) has no guardian, or is not cared for or maintained adequately, or is ill-treated by his guardian and in need of care:

"parent" includes an adoptive parent:

"preliminary expenses" in respect of the confinement of a woman, means the expenses of the maintenance of the woman during the period of three months immediately preceding the confinement, the reasonable medical, surgical, hospital and nursing expenses attendant upon the confine-

ment, and the expense of the maintenance of the woman and the child or children born to the woman for three months after the birth of the child or children:

"relative", in relation to a legitimate child, means the father, mother, stepfather, stepmother, brother, sister, uncle, aunt, grandfather or grandmother of the child; and in relation to an illegitimate child, means the mother, father, husband of the mother, brother, sister, uncle or aunt, of the child; and in relation to a person who is not a child, means the husband, wife, father, grandfather, mother, grandmother, child or grandchild of that person:

"review board" means a board established by the Director-General pursuant to Part IV of this Act:

"the repealed Aboriginal Affairs Act" means the Aboriginal Affairs Act, 1962-1968, repealed by this Act:

"the repealed Acts" means the Aboriginal Affairs Act, 1962-1968, the Children's Protection Act, 1936-1969, and the Social Welfare Act, 1926-1971, repealed by this Act:

"the repealed Social Welfare Act" means the Social Welfare Act, 1926-1971, repealed by this Act:

"uncontrolled child" means a child—

(*a*) whose parents or guardians appear to be unable or unwilling to exercise adequate supervision and control of the child;

and

(*b*) who is in need of care and control:

"woman" means any female person:

"youth project centre" means a non-residential centre established by the Minister under Part IV of this Act for the treatment and training of children.

(2) For the purposes of this Act, where a marriage exists between a man and a woman, whether the marriage is monogamous or polygamous, the man and woman shall, if the marriage is lawful and valid in the place in which it was solemnized, be regarded as husband and wife.

(3) The relationship of parent and child shall, for the purposes of this Act, be deemed to exist between a child and any person who is, or has been, a party to a marriage, if the child is a natural or adopted child of either party to the marriage and the child shall be deemed to be a child of any family of which any such person is for the time being a member.

(4) Any references in this Act to an order shall be read and construed, where the order has been varied under this Act or any other Act, by a subsequent order having effect in this State, as a reference to the order as so varied.

PART II

PART II

THE PROMOTION OF COMMUNITY WELFARE

DIVISION I—OBJECTIVES

DIVISION I

Objectives of the Minister and Department.

7. Without limiting in any way the operation of this Act, it is declared that the objectives of the Minister and the Department, in the administration of this Act, include the following—

(*a*) to promote the well-being of the community by assisting individuals, families and sections of the community to overcome social problems with which they are confronted and to promote the effective use of human resources and the full realization of human potentialities;

(*b*) to promote the welfare of the family as the basis of community welfare, to reduce the incidence of disruption of family relationships and to mitigate the effects of such disruption where it occurs;

(*c*) to assist voluntary agencies engaged in the provision of services designed to promote the well-being of the community;

(*d*) to collaborate with other departments of Government whose activities directly affect the health or well-being of the community;

(*e*) to establish, promote and co-ordinate services and facilities within the community designed to advance the well-being of children and young persons;

(*f*) to collaborate with agencies engaged in the provision of assistance to those in need or distress and to promote rationalization and co-ordination of the assistance provided for those persons;

(*g*) to promote research into problems of community welfare and to promote education and training in matters of community welfare;

(*h*) to promote generally an interest in community welfare.

DIVISION II—THE MINISTER AND THE DEPARTMENT

DIVISION II

Incorporation of the Minister.

8. (1) The Minister of Community Welfare and his successors in office shall be a corporation sole.

(2) The Minister shall, in his corporate name, be capable of suing and being sued and of acquiring, holding and disposing of real and personal property of any kind and no limitation or deficiency of legal competence or capacity shall be imputed to the Minister.

(3) In any legal proceedings, where a document purports to bear the signature or the common seal of the Minister, the document shall, in the absence of evidence to the contrary, be deemed to have been duly executed by the Minister.

PART II
DIVISION II

General powers of the Minister.

9. Without limiting in any way the powers conferred upon the Minister under any other provision of this Act, the Minister shall have and may exercise the following powers—

(*a*) to employ the resources of the Department in such manner as he thinks fit towards the promotion of community welfare;

(*b*) to establish any instrumentality or facility that will, in the opinion of the Minister, conduce to the well-being of the community, and to acquire and maintain land and premises that may be necessary for the purpose;

(*c*) to acquire land in accordance with the provisions of the Land Acquisition Act, 1969;

and

(*d*) to perform any action that may be necessary or expedient for the purpose of giving effect to the provisions or objects of this Act.

The Department, Director-General and Deputy Director-General.

10. (1) There shall be a Department entitled the "Department for Community Welfare".

(2) There shall be a Director-General of Community Welfare and a Deputy Director-General of Community Welfare.

Delegation.

11. (1) The Minister may, from time to time, by instrument in writing, delegate to the Director-General such of his powers, duties, responsibilities and functions under this Act as the Minister thinks fit, and may at any time revoke any such delegation.

(2) The Director-General may delegate to the Deputy Director-General, or to any officer of the Department, any of the powers, duties, responsibilities and functions vested in, or delegated to, the Director-General under this Act.

(3) A delegation under this section shall be revocable at will, and shall not prevent the exercise or performance of any power, duty, responsibility or function by the Minister or Director-General.

(4) Any power, duty, responsibility or function vested in, or delegated to, the Director-General may, if the Director-General is absent or otherwise unable to perform the duties of his office, be exercised or discharged by the Deputy Director-General.

Report.

12. (1) The Director-General shall submit on or before the thirty-first day of October in each year to the Minister a report on the administration of this Act and of the work of the department during the year ending on the preceding thirtieth day of June and information upon such other matters as the Minister may direct.

(2) The Minister shall cause the report to be laid before both houses of Parliament within fourteen days after the day on which

he receives it, if Parliament is then in session, but if Parliament is not then in session, within fourteen days after the commencement of the next session of Parliament.

DIVISION III—COMMUNITY WELFARE ADVISORY COMMITTEES

DIVISION III

Appointment of advisory committee.

13. (1) The Minister may, at any time, appoint community welfare advisory committees to advise him upon any matters pertaining to community welfare.

(2) A committee so appointed shall consist of a chairman and not more than five other members.

(3) A community welfare advisory committee must consist of persons with special knowledge or experience of the matters to be referred to the committee for advice.

(4) At least one of the members of a community welfare advisory committee must be an officer of the department.

(5) The Director-General shall provide such secretarial and other services and facilities as may be reasonably required for the purposes of the committee.

Terms of office.

14. (1) A member of a community welfare advisory committee shall, subject to subsection (2) of this section, hold office at the pleasure of the Minister.

(2) The term of office of any such member shall not exceed two years.

(3) The Minister may pay to the members of such a committee such allowances and expenses as he thinks fit.

Procedure, etc.

15. (1) Subject to this Act, and any direction of the Minister, the procedure of a community welfare advisory committee shall be such as is determined by the committee.

(2) At the conclusion of the deliberations of a committee the chairman shall report to the Minister on the conclusions reached by the committee as soon as practicable.

DIVISION IV—COMMUNITY AIDES

DIVISION IV

Appointment of community aides.

16. (1) The Director-General may appoint such persons as he thinks fit to act in a voluntary capacity as community aides.

(2) A community aide shall be appointed upon such terms and conditions as the Director-General thinks fit and specifies in the instrument of his appointment.

(3) The Director-General may, at any time, by instrument in writing addressed to a person appointed as a community aide under this section, remove him from his position as a community aide.

PART II
DIVISION IV

Duties and functions.

17. A community aide shall have the following duties and functions:—

(*a*) to act subject to the direction and supervision of an officer of the Department in the establishment and furtherance of programmes designed to promote any aspect of community welfare;

and

(*b*) any other duties and functions that the Director-General may determine to be appropriate to a community aide.

Allowances in respect of expenses.

18. The Director-General may, with the approval of the Minister, pay to a community aide such allowances to reimburse the community aide for expenses incurred or to be incurred in the course of his duties as the Director-General thinks fit.

Training of community aides.

19. The Director-General shall arrange for a community aide to receive such education, training and supervision as he thinks fit.

Register.

20. (1) The Director-General shall cause a register of community aides to be kept.

(2) The name of any person who has ceased to be a community aide by reason of the expiration of the term for which he was appointed to act as such, the resignation or removal of the community aide from his position as such, or any other reason, shall be removed from the register.

DIVISION V

DIVISION V—EDUCATION AND TRAINING IN RELATION TO COMMUNITY WELFARE

Programmes of education and training in matters of community welfare.

21. (1) The Director-General may institute, and provide for the conduct of programmes of education and training for those who are engaged, or propose to engage, in the provision of services designed to overcome or ameliorate social disabilities or problems.

(2) The Director-General may arrange with any other person or body for the conduct of such educational or practical courses, lectures or seminars as he thinks necessary or desirable for the purposes of this Act or generally for the promotion of the welfare of the community.

DIVISION VI

DIVISION VI—RESEARCH INTO MATTERS OF COMMUNITY WELFARE

Department to carry out research.

22. The Director-General shall make provision within the Department for the conduct of research into problems affecting the welfare of the community, and the adequacy and efficacy of measures taken under this Act, or any other Act administered by the Minister, that are designed to overcome or ameliorate any such problems or to promote any aspect of community welfare.

Director-General may co-operate with other persons or bodies in the conduct of research.

23. The Director-General may co-operate with any person or body of persons in carrying out research that is, in his opinion, of value to the Department, or generally to the welfare of the community, and may, in his discretion, make available to any person, or body of persons, the results of research undertaken under this Division.

PART III

THE PROVISION OF COMMUNITY WELFARE SERVICES

DIVISION I—COMMUNITY WELFARE CENTRES AND CONSULTATIVE COUNCILS

Community welfare centres.

24. (1) The Minister may establish community welfare centres in such localities throughout the State as he thinks fit.

(2) A community welfare centre may be used by the department, or, with the approval of the Minister, by any other department, person, agency or organization, for the furtherance of community welfare within the locality in which the centre is established.

Consultative councils.

25. The Minister may establish community welfare consultative councils in such localities throughout the State as the Minister thinks fit.

Functions of the consultative council.

26. The functions of a consultative council shall be:—

(*a*) to inquire into any matters affecting the welfare of the local community and to report to the Minister upon any matters that justify, in the opinion of the council, his consideration;

(*b*) to give advice and guidance in the rationalization and co-ordination of services designed to promote the welfare of the local community so as to achieve the most effective utilization of those services;

(*c*) to report upon any matter affecting the welfare of the local community referred to the consultative council for consideration and report by the Minister or the Director-General.

Membership of consultative council.

27. (1) A consultative council shall consist of not less than eight nor more than twelve persons appointed by the Minister.

(2) The members of a consultative council must be persons interested in the furtherance of community welfare within the local community.

(3) The Minister shall, wherever possible, appoint to a consultative council at least two representatives of municipal or district councils whose areas comprise, or are included in, the locality for which the consultative council is established.

(4) At least one member of a consultative council must be an officer of the Department.

(5) The Minister shall, at the request of a member of the House of Assembly within whose electoral district a consultative council is established, appoint that member or his nominee as a member of the consultative council.

Conditions of membership.

28. (1) The term of office of a member of a consultative council shall be such term, not exceeding four years, as is specified in the instrument of his appointment.

(2) A member of a consultative council shall hold office upon such conditions as are specified in the instrument of his appointment.

Chairman of Consultative Council.

29. (1) A consultative council shall in each year appoint a chairman from amongst its members.

(2) The chairman shall preside at any meeting of the consultative council at which he is present and if he is not for any reason present at a meeting of the council the members present shall elect one of their own number to act as chairman for that meeting.

(3) The Director-General shall arrange for an officer of the Department to act as secretary to a consultative council.

Meetings of council.

30. (1) Subject to subsection (2) of this section, a consultative council shall meet at such times as may be determined by the council, and at such other times as the secretary may have convened a meeting of the council.

(2) A consultative council must meet at least six times in each year and at least once in any period of four months.

Quorum, etc.

31. (1) A quorum at a meeting of a consultative council shall be constituted of not less than one-half of the total number of members of the council and no business shall be transacted by the council unless a quorum is present.

(2) Any matter arising for decision at a meeting of a consultative council shall be decided by a majority of the votes cast by the members present at that meeting.

(3) Each member present at a meeting of a consultative council shall be entitled to one vote on any matter arising for decision at that meeting and the chairman shall have, in addition to that vote, a second or casting vote in the event of an equality of votes.

DIVISION II—ASSISTANCE TO FAMILIES AND PERSONS IN NEED

Power of Director-General to provide assistance.

32. (1) The Director-General may, subject to any directions of the Minister, provide assistance for such families or persons in need or distress as he may determine.

(2) The assistance may be provided in any of the following ways—

(*a*) the Director-General may provide a family or person in need of assistance with money or commodities for maintenance and may provide services that may conduce to the welfare of that family or person;

(*b*) the Director-General may provide, or arrange for a person in need of assistance to receive such care or treatment as he may require;

or

(*c*) the Director-General may receive a person in need of assistance into a suitable home.

(3) In determining an application for assistance under this Act, account shall not be taken of any gift of food, or any gift or loan of household goods or commodities to the applicant by any person or agency.

Recovery of cost of assistance.

33. (1) In any case where—

(*a*) assistance has been provided for any person pursuant to this Division or the corresponding provisions of the repealed Social Welfare Act;

and

(*b*) that person, or a near relative of that person, is at any time within six years after the provision of that assistance, able to repay the whole or any part of the cost of that assistance,

a court of summary jurisdiction may, upon complaint by an officer of the Department, inquire into the matter.

(2) If the court is of the opinion that the person who received the assistance, or the near relative, is able to repay any amount towards the cost of the assistance provided, and that in the circumstances repayment is desirable, it may order him to pay that amount to the Director-General, either in one sum, or by instalments.

(3) An order under this section may be enforced in the same manner as a maintenance order under this Act.

(4) Where two or more persons of whom the defendant is a near relative have received assistance under this Division, a single complaint may be laid under this section in respect of that assistance.

PART III
DIVISION II

Evidentiary provision.

34. An allegation in a complaint for the recovery of any amount towards the cost of assistance under this Division—

(*a*) that assistance has been provided for any person named in the complaint under this Division;

(*b*) that an amount specified in the complaint was the cost of that assistance;

(*c*) that the person against whom the complaint is laid is able to repay the cost of that assistance;

or

(*d*) that the defendant is a near relative of the person for whom assistance has been provided,

shall be deemed to be proved in the absence of proof to the contrary.

Deduction from maintenance payments.

35. (1) The Director-General shall not deduct from moneys in his hands received as payments of maintenance for or on behalf of any person any amount towards the repayment of the cost of assistance granted under this Division except upon the written authority of that person, or upon the order of a court of summary jurisdiction.

(2) A court of summary jurisdiction may, on complaint of the Director-General, or an officer of the department, alleging that the means of the defendant are sufficient to permit deductions under this section without causing hardship, order that such deductions be made of an amount, or amounts, specified in the order of the court.

DIVISION III

DIVISION III—COMMUNITY GRANTS SCHEME

Community Grants Scheme.

36. (1) The Minister shall establish a fund entitled the "Community Welfare Grants Fund".

(2) The fund shall consist of such moneys as are, from time to time, provided by Parliament for the purpose of the fund and moneys appropriated to the fund by the Minister from any other sources.

(3) The Minister may apply any portion of the fund—

(*a*) towards the cost of establishing, adding to, improving, or providing equipment for, any home or centre for the care, treatment, training or rehabilitation of children;

(*b*) towards the cost of providing training in leadership and youth work for those who are engaged, or propose to engage, in work designed to assist, or promote the development of, young persons;

or

(*c*) towards the cost of promoting, advancing or establishing any service, project, home or facility that will conduce to the welfare of any section of the community.

(4) An application for a grant of moneys under this section shall be made to the Minister in a manner and form determined by the Minister.

PART IV

PART IV

FAMILY CARE

DIVISION I

DIVISION I—FAMILY CARE SERVICES

Foundation of the administration of this Part.

37. The administration of this Part by the Minister and the Department shall be founded upon the principle that the welfare of the family is the basis of the welfare of the community, and should be protected and promoted as far as may be possible.

General powers of Minister and Department.

38. Without limiting in any way the operation of any provision of this Act, the Minister and the Department may, in seeking to promote family welfare, provide such substitute and supportive care and guidance as may protect, or conduce to, healthy family relationships, and, in particular, may—

(*a*) provide counselling services from which families, and members of families, may obtain the advice and guidance necessary to enable them to overcome domestic problems with which they are confronted;

(*b*) provide supervision and counselling for children, either upon a voluntary basis, or in accordance with the Juvenile Courts Act;

(*c*) provide psychological, psychiatric and medical services for children where they are under the care and control of the Minister, or in such other circumstances as the Minister may approve;

and

(*d*) provide for adequate care and guidance of children who are, for any reason, separated from the care of their near relatives and ensure as far as possible that such children receive the advantage of a healthy and balanced family environment;

DIVISION II—THE CARE OF CHILDREN

Subdivision 1—Reception of a Child into the Care and Control of the Minister

Request the child be placed under the care and control of the Minister.

39. (1) A parent, guardian, or person having the custody, of a child may apply in the prescribed form to the Minister for an order that the child be placed under the care and control of the Minister.

(2) The Minister may, if satisfied that the child may otherwise become neglected or uncontrolled, by order in writing, place the child under the care and control of the Minister for any period expiring on or before the day on which the child attains the age of eighteen years.

(3) Except as provided in subsection (4) of this section, no such order shall be made—

(*a*) with respect to a legitimate child, except with the consent of both parents of the child;

or

(*b*) with respect to an illegitimate child, except with the consent of the mother of the child.

(4) If the whereabouts of a parent whose consent is required under subsection (3) of this section cannot after reasonable inquiry by the Minister be ascertained, an order may be made under subsection (2) of this section without the consent of that parent.

(5) An order shall not be made under subsection (2) of this section with respect to any child over the age of fifteen years, except with the consent of that child.

Temporary custody of the child.

40. (1) The Minister may, upon receipt of a request under this section, receive a child into his care and control where, in the opinion of the Minister, it would be in the interest of the child to do so.

(2) A request may be made under this section by a parent or guardian of the child or, where the child is of or above the age of fifteen years, by the child himself.

(3) Where a child is of or above the age of fifteen years, he shall not, unless he has consented thereto, be received into the care and control of the Minister under this section.

(4) A child shall not be received into the care and control of the Minister under this section for a period in excess of three months.

(5) A child received into the care and control of the Minister under this section shall not be detained in a home for any period in excess of three weeks except with the approval of the person upon whose application the child was received into that care and control.

(6) The child shall be discharged from the care and control of the Minister—

(*a*) at the expiration of the period for which he was received into the care and control of the Minister;

or

(*b*) at any time prior to the expiration of that period where a parent or guardian has applied for the return of the child, or the Director-General has directed that he be discharged from the care and control of the Minister, or the child, if he is over the age of fifteen years, has requested that he be so discharged.

Orders with respect to children from other States.

41. (1) The Minister may, on request by or on behalf of an authority having the custody and control in any other State or Territory of the Commonwealth of a child who has entered or is about to enter this State, by order in writing, receive the child into his care and control for so long as he remains in this State.

(2) The Minister may make financial or other arrangements with an authority in any other State or Territory of the Commonwealth for the care or control of a child while in this State and may, subject to those arrangements cause the child at any time while he remains under the care and control of the Minister, to be removed from this State and returned to the custody or control of the authority in that other State or Territory.

(3) Where a child has been received into the care and control of the Minister under this section, the Minister shall have the custody and be the lawful guardian of the child to the exclusion of any other person or authority.

(4) The child shall not remain under the care and control of the Minister for a period in excess of that for which he would, if he had not been received into the care and control of the Minister, have remained subject to the custody or control of the authority from which he was received.

Subdivision 2—Provisions relating to Children under the Care and Control of the Minister

Principles upon which powers are to be exercised.

42. In exercising the powers conferred by this Division, the Minister and the Director-General shall treat the interests of the child in respect of whom the powers are to be exercised as the paramount consideration and shall adopt a course calculated to—

(*a*) secure for the child such care, guidance and (where necessary) correction, as will conduce to the welfare of the child and the public interest;

and

(*b*) conserve or promote as far as may be possible a satisfactory relationship between the child and other members of, or persons within, his family or domestic environment.

Rights of custody of child under care and control of the Minister.

43. While a child is under the care and control of the Minister, the Minister shall be entitled to the custody and guardianship of the child to the exclusion of the rights of any other person.

Manner in which Director-General may deal with the child.

44. (1) Subject to this Act, the Director-General may deal with the child under the care and control of the Minister in any of the following ways—

(*a*) he may place the child, or permit the child to remain, in the care or custody of a parent, near relative, or guardian of the child;

(*b*) he may place the child in the care or custody of an approved foster parent or other suitable person;

(*c*) he may, subject to this Act, direct that the child be placed in any home established or licensed under this Act;

(*d*) he may, if it is necessary for the sake of the physical or mental health of the child, place the child to any hospital, receiving house or mental hospital;

or

(*e*) he may otherwise deal with the child as the circumstances of the case require.

(2) Whenever a child is dealt with by the Director-General pursuant to the provision of subsection (1) of this section (otherwise than by placing the child in the custody of his parents) the Director-General shall advise the parents, in writing, at their last address known to him, of the manner in which the child has been dealt with under that subsection.

(3) Where a child under the care and control of the Minister has been placed in the custody of any person or in any home or hospital under subsection (1) of this section, the child may be removed from the custody of that person, or from that home or hospital by any officer of the department authorized for the purpose by the Director-General.

(4) For the purpose of removing a child under subsection (3) of this section, the authorized officer may enter upon any land or premises and any person who hinders his entry upon land or premises for the purpose of removing the child, or hinders the removal of the child, shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

Apprehension of child.

45. (1) Where the Director-General has directed that any child under the care and control of the Minister be placed in a home, any member of the police force or an officer of the Department authorized in writing by the Director-General, may, without any warrant, apprehend the child, and bring him to the home specified in the direction, and for the purposes of apprehending the child, may enter upon or into any land or premises on which he knows or reasonably suspects the child to be.

(2) A person who hinders a member of the police force or an officer of the Department in the exercise of powers under this section shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

Detention of child in home.

46. (1) Where a child is placed in a home, he shall, subject to subsection (2) of this section, be detained in the home in accordance with the directions of the Director-General.

(2) A child shall not be detained in a home beyond the period for which he is under the care and control of the Minister.

(3) The Director-General may direct that a child be removed from a home and placed in another home, and the child shall be removed and placed in that other home in accordance with the direction.

Review Boards.

47. (1) The Director-General shall establish within the Department such Review Boards as may be necessary to keep under consideration and review the progress and personal circumstances of children under the care and control of the Minister.

(2) Where a child has been under the care and control of the Minister for a period in excess of one year, a Review Board shall obtain and review reports upon the progress and personal circumstances of that child during the year, and further reports in respect of each subsequent year for which the child remains under the care and control of the Minister.

(3) The reports referred to in subsection (2) of this section shall be available for examination by the Minister and the Director-General.

Extension of period for which a child is placed under the care and control of the Minister.

48. (1) Where a child has been placed under the care and control of the Minister until he attains the age of eighteen years, or for a period extending beyond the time in which he attains that age, and it is, in the opinion of the Director-General, desirable that the child should remain under the care and control of the Minister for a further period, the Director-General may apply to a juvenile court constituted of a judge or special magistrate for an order under this section.

(2) The Director-General shall, at least twenty-eight days before the hearing of an application under this section, notify the child, and notify the parents of the child in writing, at their last address known to him, of the fact that he has made an application for an order under this section.

(3) The Director-General shall supply the juvenile court with a report setting out the grounds upon which he considers an extension of the period of care and control desirable.

(4) The Director-General shall supply the juvenile court with such other reports as the court may require.

(5) The court, after considering the reports, and any representations made by or on behalf of the child or the parents of the child, may, if it is of the opinion that it is in the interests of the child to do so, order that the period of care and control be extended in accordance with the application.

(6) Subject to subsection (7) of this section, no order shall be made extending the period for which a person is to be under the care and control of the Minister beyond the time at which he will attain the age of twenty years.

(7) Where the court is of the opinion that a person under the care and control of the Minister is incapable of managing his own affairs, the court may order that he remain under the care and control of the Minister for a period extending beyond the time at which he attains the age of twenty years.

Discharge of child from care and control of the Minister.

49. (1) The Minister may, on receipt of a report from the Director-General, order that a child be discharged from the care and control of the Minister.

(2) A parent of a child who is under the care and control of the Minister may apply in the prescribed form to the Minister for an order that the child be discharged from the care and control of the Minister.

(3) Where an application has been duly made for an order under this section, and the application has been refused, the applicant may, subject to this section, appeal to a juvenile court constituted of a judge against that refusal.

(4) An appeal to a juvenile court under this section may be made after the expiration of the first year for which the child has been under the care and control of the Minister and after the expiration of each subsequent year but no such appeal shall be made more than once in any one year.

(5) The juvenile court shall not be bound by the rules of evidence in the hearing and determination of an appeal under this section, but shall consider all matters that it regards as relevant and determine the appeal in what it considers to be the best interests of the child.

(6) Where an appeal has been instituted under this section, the Director-General shall supply the court with a report upon the personal circumstances of the child and his parents, and the court may require such further reports to be prepared as it thinks fit.

(7) Upon the hearing of an appeal under this section the court may order that the child in respect of whom the appeal has been instituted be discharged from the care and control of the Minister.

Subdivision 3—Foster Care

Purpose of subdivision.

50. The purpose of this subdivision is to provide a means by which children whose parents are for any period unable to care for them may receive adequate care, support and guidance in a proper family environment as a substitute for the parental care, support and guidance of which they are deprived.

Foster parents to be approved.

51. A person shall not, for any monetary or other consideration, be or act as foster parent to any child under the age of fifteen years unless he is approved as a foster parent under this subdivision.

Application for approval as foster parents.

52. In considering any application for approval as a foster parent the Director-General shall attempt to assess the capacity and willingness of the applicant to care for a child according to adequate principles and standards of child care, and shall satisfy himself as far as reasonably possible that—

(*a*) the applicant will have adequate interest in, and affection and respect for a child placed in his care;

(*b*) that the applicant will treat the child in a consistent manner and will provide a stable family environment for the child;

(*c*) that the applicant will adequately understand the developing personality of the child, and will provide opportunities to develop the abilities of the child;

(*d*) that the applicant will provide adequate accommodation for the child and any other material provision necessary for the welfare of the child;

(*e*) that, where appropriate, the applicant will provide opportunities for the child to maintain or recover his identity as a member of his own family and will allow the child reasonable access to his parents;

and

(*f*) any other matters that the Director-General may consider relevant.

Approval of foster parents.

53. (1) A person is an approved foster parent for the purposes of this Part, if he is so approved in writing under the hand of the Director-General.

(2) The written approval of a person as a foster parent must state the number of foster children that the foster parent is permitted to have in his custody.

(3) The foster parent shall not be permitted to have more than five foster children under the age of fifteen years in his custody unless the children are all of the same family.

(4) A foster parent shall not have in his custody more foster children than the number permitted under the approval.

Duty of the Director-General in relation to foster children.

54. It shall be the duty of the Director-General to satisfy himself as to the welfare of all foster children.

The powers of entry.

55. (1) The Director-General, or any officer authorized in writing by the Director-General, may, at any reasonable time, enter any place or premises for the purpose of providing advice and guidance as to the care of a foster child and of ascertaining whether a foster child is being adequately cared for, and whether the provisions of this Part are being complied with.

(2) A person shall not hinder the Director-General, or any such officer, in the exercise of powers under this section.

Cancellation of approval.

56. (1) Where in the opinion of the Director-General, a foster child is not being adequately cared for, or the provisions of this Part are not being complied with by the foster parent, the Director-General may cancel the approval of the foster parent.

(2) Where the Director-General exercises his powers under this section to cancel the approval of a foster parent, the person in respect of whom the approval was given shall thereupon cease to be an approved foster parent.

(3) The Director-General shall give the foster parent notice in writing of his intention to cancel the approval under this section at least twenty-eight days before he does so.

Information to be furnished.

57. An approved foster parent —

(*a*) shall advise the Director-General as soon as practicable of any change in his address;

and

(*b*) shall furnish the Director-General with such information in relation to the foster child as he may require.

Subdivision 4—Establishment of Homes, Assessment Centres and Youth Project Centres

Establishment of homes and centres.

58. (1) The Minister may establish such homes as he thinks necessary for the care, correction, detention, training and treatment of children.

(2) The Minister may establish such assessment centres as he thinks necessary for the examination of children, the evaluation of their personal circumstances and social background, and the assessment of the most appropriate treatment or rehabilitative correction or education for each child.

(3) The Minister may establish such youth project centres as he thinks fit in which children may, without going into residence, receive training and treatment.

Management and control of home.

59. A home established under this subdivision shall be under the control of the Minister, and the Director-General shall, subject to any instructions of the Minister, manage every such home, and shall ensure that proper standards are observed in the administration of every home.

Ex officio visitors to homes.

60. All members of the Executive Council and members of the Legislature, any Judge, and any person authorized in writing for the purpose by the Minister shall be entitled to visit every home established under this Subdivision and the persons detained or resident therein.

Subdivision 5—Licensed Children's Homes

Licensed children's homes.

61. (1) No person shall have the conduct or control of any children's home in which more than five children under the age of fifteen years are, for monetary or other consideration, maintained and cared for apart from their parents or relatives unless that person is the holder of a valid licence granted under this section in respect of the children's home.

(2) The Director-General may grant a licence under this section subject to such terms and conditions (which shall include terms and conditions as to the standard to be observed in the management and operation of the children's home) as the Director-General thinks fit and specifies in the licence.

(3) A licence granted under this section shall, subject to this section, have effect for a term of twelve months from the day on which it was granted and may be renewed from time to time for successive periods of twelve months.

(4) A person who contravenes subsection (1) of this section, or any term or condition upon which the licence was granted, shall be guilty of an offence and liable, for a first offence, to a penalty not exceeding two hundred dollars, and for a subsequent offence to a penalty not exceeding five hundred dollars or imprisonment for twelve months.

(5) This section does not apply in respect of—

(*a*) a home established by the Minister under this Act;

(*b*) any premises or place in which foster children are cared for by an approved foster parent in accordance with the approval;

or

(*c*) a licensed child care centre.

Cancellation of licence.

62. (1) Where the Director-General is satisfied that proper cause for the cancellation of a licence under this Subdivision exists, he may, by notice in writing served personally or by post upon the licensee, cancel the licence.

(2) The Director-General shall not cancel a licence under this Subdivision unless he has given notice in writing to the licensee of his intention to cancel the licence at least twenty-eight days before he does so.

(3) The licensee may at any time within twenty-one days after service of a notice under subsection (2) of this section, appeal to the Minister against the proposed cancellation of the licence.

(4) The Minister may upon consideration of any such appeal, revoke the decision of the Director-General to cancel the licence.

Register.

63. A person licensed under this Subdivision to have the conduct or control of a children's home shall keep a register containing the following particulars with respect to every child received by him, so far as those particulars are reasonably ascertainable by him—

(*a*) the name, age, place of birth and religion (if any) of the child;

(*b*) the names, and addresses of the parents of the child;

(*c*) the names and addresses of any persons other than the parents from whom the child was received and their relationship to the child;

(*d*) the date on which the child was received, and the date on which the child left the children's home;

and

(*e*) such other particulars as may be prescribed.

Inspection of children's homes.

64. (1) The Director-General, or any officer of the Department authorized in writing by him, may at any reasonable time enter and inspect any licensed children's home.

(2) The licensee of a children's home shall, if so required by the Director-General or any such officer, produce for his inspection the register that he is required to keep under this Subdivision, and shall furnish the Director-General, or the officer so authorized, with such information in relation to any child as he may require.

(3) A person shall not hinder the Director-General or an officer of the Department in the exercise of powers conferred under subsection (1) of this section or fail to comply with a requirement made of him pursuant to subsection (2) of this section.

Agreement.

65. (1) A person licensed under this Subdivision shall not receive a child into a children's home to be cared for in the home unless a parent, or person having the custody of the child has signed an agreement in the prescribed form relating to the period for which the child will remain in the home and the care and control of the child while he remains in the home.

(2) The licensee shall, at the request of the Director-General, or an officer of the Department produce any such agreement for inspection.

Subdivision 6—Child Care Centres

Business of child care not to be carried on without licence.

66. (1) No person shall have the conduct or control of a child care centre in which more than three children under the age of six years are, for monetary or other consideration, cared for apart from their parents or relatives unless that person is the holder of a valid licence granted under this section in respect of the child care centre.

(2) The Director-General may grant a licence under this section subject to such terms and conditions as he thinks fit and specifies in the licence.

(3) A licence shall, subject to this section, remain in operation for a period of twelve months after the day on which it was issued, and may be renewed for successive periods of twelve months.

(4) A person who contravenes subsection (1) of this section, or any condition upon which a licence is granted under this Subdivision, shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

(5) This section does not apply in respect of—

(*a*) a home established by the Minister under this Act;

(*b*) any premises or place in which foster children are cared for by an approved foster parent in accordance with the approval;

or

(*c*) a licensed children's home;

(6) This section does not apply where the children who are cared for apart from their parents or relatives are all of the same family.

Cancellation of licence.

67. (1) Where the Director-General is satisfied that proper cause for the cancellation of a licence under this Subdivision exists, he may, by notice in writing served personally or by post upon the licensee, cancel the licence.

(2) The Director-General shall not cancel a licence under this Subdivision unless he has given notice in writing to the licensee of his intention to cancel the licence at least twenty-eight days before he does so.

(3) The licensee may at any time within twenty-one days after service of a notice under subsection (2) of this section, appeal to the Minister against the proposed cancellation of the licence.

(4) The Minister may upon consideration of any such appeal, revoke the decision of the Director-General to cancel the licence.

Period for which child may be left in child care centre.

68. (1) A person shall not leave a child under the age of six years to be cared for in a licensed child care centre for more than a prescribed number of consecutive hours over a prescribed period.

Penalty: Fifty dollars.

(2) The licensee of a child care centre shall notify the Director-General in writing of any breach of subsection (1) of this section.

Penalty: Two hundred dollars.

Register.

69. The licensee of a child care centre shall keep a register containing the following particulars with respect to every child received by him so far as those particulars are reasonably ascertainable by him—

(*a*) the name and date of birth of the child;

(*b*) the name and address of the person from whom the child was received;

and

(*c*) such other particulars as may be prescribed.

Powers of entry and inspection.

70. (1) The Director-General, or any officer of the Department authorized in writing by him, may at any reasonable time enter and inspect a licensed child care centre.

(2) The licensee of a child care centre shall, if so required by the Director-General or any such officer, produce for his inspection the register that he is required to keep under this Subdivision, and shall furnish the Director-General, or the officer so authorized, with such information in relation to any child as the Minister may require.

(3) A person shall not hinder the Director-General or any officer so authorized, in the exercise of powers conferred on him under subsection (1) of this section, or to comply with a requirement made of him pursuant to subsection (2) of this section.

Approval for premises to be used for child minding in respect of which no licence is required.

71. (1) The Director-General may, upon the application of any person, approve any premises in respect of which no licence is required under this Act, but in which he cares for, or proposes to care for, a child, or children under the age of six years in a family environment for monetary or other consideration.

(2) The Director-General may, at any time, revoke an approval under this section.

(3) This section is not to be construed as requiring the approval of the Director-General in respect of any premises.

(4) A person shall not falsely represent that any premises have been approved by the Director-General under this section, nor make any representation that might reasonably be expected to cause to induce any other person falsely to believe that the premises have been so approved.

Subdivision 7—Protection of Children

Cruelty to children.

72. Any person having the care, custody, control or charge of a child, who without lawful excuse—

(*a*) neglects to provide such food, clothing and lodging for the child as the court thinks reasonably sufficient;

or

(*b*) ill-treats, neglects, abandons, or exposes the child, or causes the child to be ill-treated, neglected, abandoned or exposed, in a manner that the court thinks likely to subject the child to unnecessary risk, danger, injury or suffering,

shall be guilty of an offence and be liable to a fine not exceeding five hundred dollars or imprisonment for any period not exceeding twelve months.

Reports of cruelty.

73. (1) If a person to whom this section applies suspects upon reasonable grounds that an offence under section 72 of this Act has been committed against a child under the age of fifteen years, that person shall, as soon as is reasonably practicable, report to a member of the police force or an officer of the Department that he suspects the commission of such an offence and the observations and opinions upon which the suspicion is based.

(2) Where a report has been made pursuant to subsection (1) of this section—

(*a*) the making of the report shall not in any proceedings before any court or tribunal be held to constitute a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct;

(*b*) in any proceedings for defamation, the report shall be regarded as absolutely privileged;

(*c*) the making of the report shall not constitute a ground for civil proceedings for malicious prosecution or conspiracy;

(*d*) the report shall not be admissible in evidence before any court or tribunal except where it is tendered in evidence by the person by whom it was made in answer to a charge or allegation against him;

and

(*e*) a person shall not be compelled in any proceedings before any court or tribunal to produce the report, any copy of or extract from the report or to disclose any of the contents of the report.

(3) For the purposes of subsection (1) of this section, a person to whom this section applies is—

(*a*) any legally qualified medical practitioner;

(*b*) any registered dentist;

and

(*c*) any person, or any person of a class declared by proclamation to be a person or a class of persons to whom or to which this section applies.

(4) The Governor may by proclamation declare that this section shall apply to any person or class of persons and may by subsequent proclamation vary or revoke any such proclamation.

Subdivision 8—Miscellaneous

Assistance to foster parents, etc.

74. (1) Subject to this Act, the Director-General may grant to the foster parent, or to any other person in charge, of any child who is—

(*a*) under the care and control of the Minister;

or

(*b*) under the guardianship of the Director-General under the Adoption of Children Act, 1966-1971,

such financial or other assistance for the care and maintenance of the child as may be determined by the Minister.

(2) For the purposes of this section, the governing authority or person in charge of any home or place in which any such child is cared for shall be deemed to be the person in charge of the child.

Restriction upon children living outside the custody of their parents.

75. (1) No person, other than a parent, shall care for or keep in his immediate custody any child under the age of fifteen years for a continuous period exceeding six months, or for periods aggregating more than six months in any period of twelve months, unless—

(*a*) he is a relative of the child;

(*b*) he is an approved foster parent under this Part;

(*c*) he is licensed under this Part to conduct a children's home;

(*d*) he is authorized in writing by the Director-General to care for the child or to keep the child in his immediate custody;

(*e*) he is entitled to have the care, custody or guardianship of the child in pursuance of the order of a court of competent jurisdiction;

(*f*) he is the principal or person in charge of a school or hospital, and the child is a student or patient at that school or hospital;

or

(*g*) the child is with the permission of his parent or guardian, boarding with him for the purpose of attending school or for the purpose of undergoing any medical treatment that a legally qualified medical practitioner has certified to be necessary for the sake of the health of the child.

Penalty: Two hundred dollars.

(2) In any proceedings for an offence against subsection (1) of this section it is immaterial that the parent or guardian of the child has consented to, or acquiesced in, the child being cared for, or kept in the custody of, any person in contravention of that subsection.

(3) The Director-General may, at any time, in his discretion make or revoke an authorization under paragraph (*d*) of subsection (1) of this section in respect of any person.

Absconders.

76. (1) A child under the care and control of the Minister who absconds from any home, or the custody of any person in whose custody the child has been placed by the Director-General, may be apprehended without a warrant by a member of the police force or an officer of the Department, and placed in any home nominated by the Director-General.

(2) A person of or above the age of eighteen years who is under the care and control of the Minister, and who absconds from any home or centre, or from the custody of any person in whose custody he has been placed by the Director-General, shall be guilty of an offence and liable upon conviction to be imprisoned for any period not exceeding six months.

(3) A person who is sentenced to imprisonment under this section shall, on his release from prison, continue to be under the care and control of the Minister for any unexpired portion of the period for which he was placed under the care and control of the Minister.

Unlawful taking of child from home, etc.

77. A person who—

(*a*) without the authority of the Director-General takes a child, or induces a child to abscond, from a home, or from the custody of a foster parent before the expiration of the term for which the child was placed in the home in pursuance of this Act, or any other Act, or for which the child was placed in the custody of the foster parent;

or

(*b*) harbours or conceals any such child,

shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars or imprisonment for three months.

Unlawful communication with child, etc.

78. A person who—

(*a*) without the authority of the Director-General, holds any communication with a child in a home;

(*b*) having entered any home or centre, or the grounds thereof, does not depart therefrom when required to do so by an officer of the Department;

or

(*c*) having been forbidden to do so by the Director-General, holds any communication with any child under the care and control of the Minister,

shall be guilty of an offence and liable to a penalty not exceeding one hundred dollars.

Power of entry.

79. (1) The Director-General, or any officer of the Department authorized in writing by the Director-General, may, where he suspects on reasonable grounds that there is a neglected or uncontrolled child in any place or premises, enter and remain in that place or premises for the purpose of inquiring into the circumstances of the child.

(2) A person shall not hinder the Director-General or any such officer in the exercise of powers under subsection (1) of this section.

Penalty: Two hundred dollars.

Tobacco not to be sold, etc., to child under sixteen years of age.

80. Any person who sells, lends, or gives, or offers to sell, lend or give, to any child under the age of sixteen years any tobacco, cigar or cigarette shall be guilty of an offence and liable to a penalty not exceeding twenty dollars.

PART IV
DIVISION II.

Payment of moneys to the Director-General.

81. (1) The Director-General may, by notice in writing served personally or by post upon the employer of a child under the care and control of the Minister, require him to pay the whole or any portion of the wages or other remuneration that become due to the child to the Director-General.

(2) An employer shall comply with the requirement under subsection (1) of this section.

(3) The Director-General may receive moneys (whether paid pursuant to a requirement under subsection (1) of this section or not) on behalf of a child.

(4) The Director-General shall cause any moneys received on behalf of the child to be deposited in the Treasury in the name of the Director-General on account of the child or in any banking account in the name of the child.

(5) All such moneys deposited in the Treasury shall bear interest at a rate determined by the Treasurer.

(6) The whole, or any portion of, moneys deposited in the Treasury, and any interest thereon, may be expended by the Director-General for the benefit of the child when, and in such manner, as the Director-General thinks fit.

(7) All moneys deposited in the Treasury, and not expended as provided by this section, shall be payable to the child upon his ceasing to be under the care and control of the Minister, but if not claimed by the child, or any person lawfully claiming under him, before the expiration of seven years after that date, may be appropriated by the Director-General and shall not thereafter be recoverable.

Transfer of child to prison.

82. (1) A juvenile court constituted of a Judge or special magistrate may, on the application of the Director-General, order that a child who is under the care and control of the Minister be held in custody in a prison.

(2) No order shall be made under this section unless the court is satisfied that the conduct of the child has been such that the child cannot be properly controlled in any of the homes established by the Minister under this Act for the reception and detention of children.

(3) No order shall be made under this section in respect of a child who has not attained the age of sixteen years.

(4) Where a juvenile court makes an order under this section, the Comptroller of Prisons shall detain the child in any prison that he thinks appropriate.

(5) A child shall not be detained in a prison pursuant to an order under this section beyond the expiration of the period for which the child was placed under the care and control of the Minister.

(6) A child so detained shall, subject to the provisions of the Prisons Act, 1936-1969, be eligible for remission of portion of the period of detention and may be released upon parole, in all respects as if he had been sentenced to imprisonment for the period of that detention.

(7) A child shall not cease to be under the care and control of the Minister by reason of the fact that he is held in custody in, or released from a prison under this section.

PART V

SPECIAL PROVISIONS RELATING TO ABORIGINAL AFFAIRS

Powers and functions of the Minister.

83. (1) The powers and functions of the Minister under this Part shall include the following:—

(*a*) to promote, in consultation and collaboration with the Aboriginal people, the cultural, social, economic and political welfare and development of the Aboriginal people;

(*b*) to encourage and assist the Aboriginal people to preserve and develop their own languages, traditions and arts;

(*c*) to formulate and implement programmes of research into matters relating to the Aboriginal people;

(*d*) to establish, and foster the development of, Aboriginal councils and associations;

(*e*) to foster or promote the establishment or conduct of any business, trade or industry by the Aboriginal people;

(*f*) to provide grants of money or other assistance to advance the development of Aboriginal people;

and

(*g*) to provide technical and other assistance to advance the development of the Aboriginal people.

(2) The Minister shall establish a division of the Department with the specific purpose of providing consultative, planning and advisory services in relation to the economic, social and cultural development of the Aboriginal people and to advise upon the implementation, adequacy and co-ordination of services provided, or to be provided, for the welfare or advancement of the Aboriginal people.

Establishment of aboriginal reserves.

84. (1) The Governor may, by proclamation—

(*a*) declare any Crown lands to be an Aboriginal reserve;

(*b*) with the consent of the owner of any land, declare that land to be an Aboriginal reserve;

or

(*c*) add to, or vary, the provisions of a proclamation under this section, or the corresponding provision of the repealed Aboriginal Affairs Act.

(2) A proclamation under this section may contain such prohibitions and restrictions as to the persons, or class of persons who may be within the reserve, as the Governor considers appropriate to the reserve.

Management of reserves, etc.

85. (1) Subject to this Act, the Minister shall have the management and control of all Aboriginal reserves, but not so as to alienate any portion of any such reserve from the use or benefit of Aboriginals.

(2) The Minister may grant a licence over any land, or premises, within an Aboriginal reserve—

(*a*) for the purpose of occupation or use as a dwelling;

or

(*b*) for the purpose of establishing or carrying on any industry, business or trade.

(3) A licence shall not be granted under this section unless the Minister is satisfied that the conditions of the licence are such as to ensure that the enjoyment of the rights conferred by the licence is and will remain restricted to Aboriginals, to near relatives of Aboriginals, or to persons who have habitually resided on the reserve and been accepted by the Aboriginal community.

Acquisition of land.

86. The Minister may, subject to, and in accordance with, the provisions of the Land Acquisition Act, 1969, as amended, acquire land for occupation or use by Aboriginals.

Aboriginal reserve may be public place.

87. A place shall not be deprived of its character as a public place within the meaning of any Act or law by reason only of the fact that the place constitutes an Aboriginal reserve, or portion thereof.

Exclusion of unauthorized persons from aboriginal reserve.

88. (1) A person who is within the boundaries of an Aboriginal reserve without the written permission of the Minister, except—

(*a*) an Aboriginal who is, in terms of the proclamation establishing the reserve, permitted to be within the reserve;

(*b*) any person of a class declared by instrument in writing under the hand of the Minister and published in the *Gazette* to be a class of persons permitted to be within a reserve without a permit;

(*c*) an officer of the Department acting in the course of his duties as such;

(*d*) an officer of any Department of the Government who is authorized in writing by the Director-General;

or

(*e*) a member of the police force acting in the course of his duties as such,

shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

(2) The Minister may, in his discretion delegate authority to grant permission to any person to be within the boundaries of an Aboriginal reserve to any group or association of Aborigines living on the reserve, where he is of the opinion that it is in the best interests of the Aborignal community on the reserve to do so.

(3) Any person who without any such permission, the proof of which shall lie on him, is found within the boundaries of an Aboriginal reserve shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

(4) The Minister may after consultation with the Aboriginals living on a reserve, and satisfying himself that the majority of those Aboriginals desire him to do so, recommend to the Governor that a proclamation be made removing all restrictions under this Act upon access to the reserve.

(5) Where such a proclamation has been made, no offence is committed by any person by reason of the fact that he is within the reserve to which the proclamation relates without a permit.

(6) The Governor may, upon the recommendation of the Minister, make or revoke a proclamation under this section.

(7) Subject to subsection (8) of this section, the Mining Act and the Petroleum Act shall not confer any right of entry, prospecting, exploration or mining in respect of land within an Aboriginal reserve.

(8) The Governor may declare by proclamation that the rights of entry, prospecting, exploration or mining conferred by the Mining Act, or the Petroleum Act shall be exercisable, subject to such conditions and modifications (if any) as may be specified in the proclamation upon an Aboriginal reserve or any part thereof.

(9) A proclamation under this section shall have effect according to its terms, and may be varied or revoked by subsequent proclamation.

Power of entry.

89. (1) An officer of the Department, authorized in writing by the Director-General may at any reasonable time enter upon any pastoral lands for the purpose of inquiring into the welfare of any Aboriginal person whom he has reasonable cause to suspect to be in the place or premises.

(2) A person shall not hinder any such officer in the exercise of powers under subsection (1) of this section.

(3) In this section—

"pastoral lands" means lands subject to the provisions of the Pastoral Act, 1936-1971:

Aboriginal charged with offence.

90. (1) Where an Aboriginal appears before a court charged with an indictable offence, and the Aboriginal is not represented by counsel and no officer of the Department is present in the court, the court shall inform the Director-General who may, if he thinks it necessary, request the adjournment of the hearing to enable him to arrange legal representation of the Aboriginal, or the presence of an officer of the Department, or an interpreter, in the court to advise and assist the Aboriginal.

(2) Where an Aboriginal appears before a court charged with an offence that is not an indictable offence, and the Aboriginal is not represented by counsel, and no officer of the Department is present in the court, the court may inform the Director-General, who may, if he thinks it necessary, request an adjournment of the hearing to enable him to arrange legal representation of the Aboriginal or the presence of an officer of the Department, or an interpreter, in the court to assist the Aboriginal.

(3) A court to which a request is made under subsection (1) or subsection (2) of this section shall grant the adjournment requested.

Power of Minister to act as agent of aboriginal.

91. (1) Where the Minister has been requested in writing to do so by an Aboriginal, he may undertake the general care, protection or management of his property, and may—

(*a*) take possession of, retain, sell, or dispose of any such property, whether real or personal, and, upon any such sale or disposition, pass a valid title to the property;

(*b*) sue for, recover, or receive any money or other property due or belonging to, or held in trust for, any Aboriginal or damages for any conversion of, or injury to any such property;

and

(*c*) appoint any person to act as agent or attorney for the Aboriginal in any matter connected with the management or administration of his property, and exercise any other power that the Aboriginal might himself exercise.

(2) The Minister shall keep proper records and accounts of moneys and other property received or dealt with by him under the provisions of this section.

PART VI

PART VI

MAINTENANCE OBLIGATION

DIVISION I

DIVISION I—THE MAINTENANCE OF PERSONS IN NEED

Subdivision I—*Orders Generally*

Duty of relatives to maintain destitute persons.

92. (1) A near relative of any person who is, by reason of poverty, unable to support himself shall, at his own expense, according to his financial capacity and material resources, maintain any such person and, in default of so doing, shall be subject to the provisions of this Division.

(2) A near relative who is a married woman shall be liable to maintain or contribute to the maintenance of any such person.

(3) This section does not apply to the maintenance of any child.

ssue of summons on application of destitute person.

93. Upon complaint made by or on behalf of any person who is, by reason of poverty unable to support himself, any justice may issue a summons requiring the relative or relatives therein named to appear before a court of summary jurisdiction, at a time and place to be specified in the summons, to show cause why he or they should not maintain, or contribute to the maintenance, of that person.

Proceedings on hearing of complaint.

94. (1) At the time and place appointed for the hearing of the complaint, the court shall inquire as to the person or persons who by this Act are bound to maintain his or their relatives, and as to his or their financial capacity and material resources and the court may, if it thinks fit, adjourn the hearing of the complaint, and appoint a time and some other place for the adjourned hearing, and may summon any other persons alleged to be near relatives to appear at the time appointed for the adjourned hearing; and if it is satisfied at the original or any adjourned hearing that the persons summoned or any of them are near relatives of the person in respect of whom the proceedings are brought and are able to pay for, or contribute towards, his maintenance, may order payment to be made by those near relatives or any one or more of them of such amount or periodical amounts for the maintenance of that person as the court thinks reasonable.

(2) In making any such order the court shall fix the periods at which, the place where, and person to whom the amount allowed is payable, and in case two or more persons are ordered to contribute to the support of the person in respect of whom the proceedings are brought the court shall fix the amount or proportions payable by each.

Issue of summons to husband on application of wife.

95. (1) When any husband unlawfully deserts his wife, or leaves her without adequate means of support, any justice may, upon complaint made by or on behalf of the wife, issue a summons to the

husband, to show cause why he should not support his wife, and the justice, may, in his discretion, issue his warrant for the apprehension of the husband.

(2) Upon the day appointed for the hearing, any court of summary jurisdiction may hear and determine the matter of complaint in a summary way; and if it is satisfied that the wife is in fact without adequate means of support, and that the husband is able to maintain her, or to contribute to her maintenance, the court shall make an order in writing, directing him to pay weekly, fortnightly, or monthly, at its discretion, and to such person and in such manner for her use as the court may think fit, such sum or allowance for the past or future maintenance of the wife as it considers proper.

(3) Where any children of the family are in fact under the wife's custody and control, the court may, in fixing the amount payable to her under this section, include such amount as is reasonably necessary for the support of the children.

(4) The provisions of this section shall not limit or affect the operation of any other provision of this Act.

Maintenance of husband by wife.

96. (1) When any wife leaves her husband without adequate means of support, any justice may, upon complaint made by or on behalf of the husband, issue a summons to the wife, to show cause why she should not support her husband.

(2) Upon the day appointed for the hearing, any court of summary jurisdiction may hear and determine the matter of the complaint in a summary way; and if it is satisfied that the husband is in fact without adequate means of support and that the wife is able to maintain her husband, or to contribute to his maintenance, the court shall make an order directing her to pay weekly, fortnightly, or monthly, at its discretion, and to such person and in such manner for his use as the court may think fit, such sum or allowance for the past or future maintenance of the husband as it considers proper.

(3) The provisions of this section shall not limit or affect the operation of any other provision of this Act.

Variation of amount payable under order.

97. (1) On the complaint of any person liable upon or entitled to the benefit of any order made under this Subdivision the court may, while the order continues in force, make further inquiry as to the financial capacity and material resources of the person liable upon the order or as to the means of the person entitled to the benefit of the order, and may make an order increasing, reducing, or entirely remitting the amount so ordered to be paid.

(2) Where, upon the complaint of any person liable upon any order made under this Subdivision, it appears to the court that he has *bona fide* made to his wife an offer to maintain her adequately in his home, the court may, in its discretion, discharge the order.

PART VI
DIVISION I

Order of liability of near relatives for maintenance of any child.

98. The near relatives of any child (including a child under the care and control of the Minister) shall be liable to pay for, or contribute towards, the cost of maintenance of the child according to their financial capacity and in the following order:—

(*a*) in the case of a legitimate child—father, mother, stepfather, stepmother;

(*b*) in the case of an illegitimate child—father, mother's husband, mother.

Issue of summons for maintenance.

99. (1) Upon complaint that any persons are near relatives of any child, and are able to pay for or contribute towards the maintenance or past maintenance of the child, any justice may summon those persons or any of them to appear before a court of summary jurisdiction, at a time and place to be specified in the summons, to show cause why they or he should not pay for or contribute towards, the past or future maintenance of the child.

(2) Every complaint under this section in respect of a child under the care and control of the Minister shall be made by or on behalf of the Minister.

(3) A justice may, instead of issuing a summons issue a warrant under his hand for the apprehension of any person against whom a complaint has been made under this section, and for his detention until the hearing of the complaint, unless that person enters into a recognizance with one or more sureties, in such sums as the justice directs, conditioned upon his appearance at the hearing of the complaint.

Order for payment of maintenance.

100. (1) At the time and place appointed for the hearing of the complaint the court may adjourn the hearing, and may summon any other persons alleged to be near relatives to appear at the time appointed for the adjourned hearing; and may, at the original or any adjourned hearing, if it is satisfied that the persons summoned, or any of them, are near relatives of the child, and are able to pay for, or contribute towards, the past or future maintenance of the child, order payment to be made by those near relatives, or one or more of them, to the Director-General—

(*a*) of such sum (which the court may order to be paid by instalments) for past maintenance of the child as the court considers sufficient;

and

(*b*) of such weekly or other periodical sum for the future maintenance of the child, and for such period, as the court consider sufficient.

(2) If an order is made against two or more near relatives, the sums or proportions payable by each shall be fixed by the court.

(3) Notwithstanding any provision in any other Act to the contrary an order for the payment of money for past maintenance under this section shall not be limited to payment of money for maintenance in respect of the period of six months prior to the making of the complaint, but may also relate to the payment of money for maintenance in respect of any period prior to that period of six months.

Complaints in respect of maintenance of two or more children.

101. (1) Where a person is a near relative of two or more children, a complaint under this Division may be made against that person in relation to the maintenance of all or any of the children; and the court may, upon that complaint, make orders in accordance with this Division for the payment of money for the maintenance of all or any of the children.

(2) A separate order shall be made in respect of each child for whose maintenance a payment is ordered.

(3) A complaint under this section may be made against any number of persons alleged to be liable for the maintenance of the same children.

Subdivision 2—Orders, etc., in Affiliation Cases

Court may adjudge defendant to be father of illegitimate child.

102. Upon the hearing of an affiliation case, the court may, if satisfied upon the evidence that the defendant is the father of the child, adjudge him to be the father of the child.

Warrant may issue in lieu of summons.

103. Upon complaint made in an affiliation case, a justice may, instead of issuing a summons issue a warrant under his hand for the apprehension of any person against whom a complaint has been made under this subdivision, and for his detention until the hearing of the complaint unless that person enters into a recognizance, with one or more sureties, in such sums as the justice directs, conditioned upon his appearance at the hearing of the complaint.

Order for payment of preliminary expenses.

104. (1) Where a court of summary jurisdiction, upon complaint made by or on behalf of a woman, is satisfied—

(*a*) that she is pregnant by the defendant (not being her husband) or has been delivered of a child or a stillborn child of of whom the defendant (not being her husband) is the father;

and

(*b*) that he has not made adequate provision for the payment of the preliminary expenses in respect of the confinement,

the court may order the defendant to pay to the Director-General such amount as it thinks reasonable for or towards those preliminary expenses.

(2) A complaint under this section may be made at any time during the pregnancy of the woman, or within two years after the birth of the child, but the court shall not make an order under this section before the birth of the child unless it is satisfied by the evidence, or by the certificate, of a legally qualified medical practitioner that the woman is pregnant.

(3) The court shall not receive in evidence the certificate of a legally qualified medical practitioner unless the defendant consents to the admission of that certificate.

Where order made during pregnancy.

105. (1) Where an order is made for payment of, or contribution towards, preliminary expenses during the pregnancy of the woman, the order shall—

(*a*) specify a date on which the order will cease to have effect if the woman has not then been delivered of a child;

and

(*b*) direct that all moneys payable for preliminary expenses shall be paid to the Director-General.

(2) Where—

(*a*) the woman is not delivered of a child before the date specified in the order;

or

(*b*) the woman is delivered of a stillborn child before the date so specified, and there is no other surviving child born to the woman during the same confinement,

the order ceases to have effect on the date specified in the order, or at the end of the third month after the delivery of the stillborn child, as the case may require.

(3) Where an order ceases to have effect on a date specified in it pursuant to the provisions of subsection (1) of this section, any moneys paid under the order and not disbursed shall be repaid to the defendant.

(4) Where an order ceases to have effect at the end of the third month after the delivery of a stillborn child any moneys paid under the order and not disbursed shall, as directed by the court—

(*a*) be paid to the woman;

(*b*) be repaid to the defendant;

or

(*c*) be divided between the woman and the defendant in such proportions as the court thinks fit.

(5) Where an order is made for payment of, or contribution towards, preliminary expenses during the pregnancy of a woman, the court or any justice may, at any time while the order is in force, give such directions in writing as it or he thinks proper with respect to the disbursement of any amounts paid under the order, but not so as to direct the disbursement, before the woman is delivered of a child or a stillborn child, of amounts that exceed in aggregate one-half of the amount to be paid under the order.

Order may be made, without complaint, in proceedings against father.

106. Notwithstanding any other provision of this Act, an order for preliminary expenses may be made by a court of summary jurisdiction, without any complaint in respect thereof, in any proceedings against the father for the maintenance of the child and the order may be made separately, or may be included in any other order against the father.

Power of court to make order for future maintenance of child upon complaint for preliminary expenses.

107. (1) Where an order for payment of, or contribution towards, preliminary expenses is made before the birth of the child to which it relates and it appears desirable to the court making the order to provide the child with adequate means of support, the court may order the father to pay such amount as it thinks reasonable for or towards the maintenance of the child from the expiration of three months after its birth.

(2) An order made under subsection (1) of this section shall not be enforceable under this Act and shall have no force or effect unless a certified copy of the registration of the birth of the child is produced to the clerk of the court by which the order is made.

(3) An order made under subsection (1) of this section shall not take effect if the child to whom it relates is stillborn, or dies, or is adopted before the order would otherwise take effect.

(4) An order under subsection (1) of this section shall not be made requiring a person to make payments for or towards the maintenance of a child unless—

(*a*) the person has consented to the making of the order;

or

(*b*) the person has been given notice of the complainant's intention to apply for the order.

(5) Where a certified copy of the registration of the birth of the child in relation to whom an order has been made under subsection (1) of this section is produced to the clerk of the court, the clerk shall forthwith send by post to the defendant at his usual or last-known place of residence or business notice in writing of the name of the child (if shown in the certified copy of the registration of the birth of the child) and of the date and place of birth of the child and the date on which and the place at which the first payment under the order is required to be made.

Compellability of defendant as witness in affiliation cases.

108. (1) On the hearing of any affiliation case, the defendant shall be compellable to give evidence, and may be summoned as a witness for that purpose.

(2) The defendant shall not be excused from giving evidence relevant to the matter of the complaint on the ground that the evidence might prove or tend to prove him guilty of the matter alleged against him.

Liability of persons admitting sexual intercourse with mother of illegitimate child.

109. (1) If on the hearing of any complaint in respect of any affiliation case it is proved to the satisfaction of the court that the defendant, or any male person over the age, or apparently over the age, of eighteen years had sexual intercourse with the mother of the illegitimate child at any time so that, in the opinion of the court, the male person may possibly be the father of the illegitimate child, the court may, upon the hearing (and, in the case of a male person other than the defendant, without the necessity of any complaint against that person) make an order against the defendant or other male person for contribution towards the preliminary expenses in respect of the mother's confinement and also, if the court thinks fit, towards the maintenance of the illegitimate child.

(2) No order shall be made under subsection (1) of this section unless the male person has been given the opportunity of being heard by the court in respect of the making of the order.

(3) An order or orders may be made under subsection (1) of this section against any number of male persons as provided in that subsection.

(4) An order made pursuant to this section may be enforced and all further proceedings in relation to the order may be taken as if it were an order made against a near relative of the child for the payment of money for the maintenance of the child.

(5) In every case where a complaint is made to the court for the making of an order under this section and the complaint is dismissed by the court, a memorandum of dismissal shall then be made by the court.

(6) The court shall not make an order under this section if it is satisfied that at the time of the conception of the child, the mother was a common prostitute.

Power to lay complaint for support of illegitimate child against one or more persons.

110. (1) A complaint may be made under this Act by or on behalf of the Minister or by any officer of the department against one or more male persons over the age of eighteen years at the time of the making of the complaint alleging that the male person or persons have had sexual intercourse with the mother of an illegitimate child at a time or times such that the male person or any one of the male persons may possibly be the father of the illegitimate child.

(2) Upon complaint under this section, any justice may summon the male person or persons or any of them to appear before a court of summary jurisdiction, at a time and place to be specified in the summons, to show cause why he or they should not contribute towards or pay for the past or future maintenance of the illegitimate child and the preliminary expenses in respect of the confinement of the mother.

(3) A justice may, instead of issuing a summons, issue a warrant under his hand for the apprehension of any person against whom a complaint has been made under this section and for his detention until the hearing of the complaint, unless that person enters into a recognizance with one or more sureties, in such sums as the justice directs, conditioned upon his appearance at the hearing of the complaint.

(4) At the hearing of the complaint, if the court is satisfied that any one or more of the male persons had sexual intercourse with the mother of the illegitimate child at a time such that he or any of them may possibly be the father of the illegitimate child, the court may make an order against him or them for contribution towards the maintenance of the illegitimate child and also, if the court thinks fit, towards the preliminary expenses in respect of the confinement of the mother.

(5) An order made pursuant to this section may be enforced and all further proceedings in relation to the order may be taken as if it were an order made against a near relative of the child for the payment of money for the maintenance of the child.

(6) In any proceedings under this section, an allegation in the complaint that any specified person was at the time of the making of the complaint over the age of eighteen years shall be deemed proved in the absence of proof to the contrary.

Power of Director to accept settlement in full.

111. (1) Where a person is liable or, without a complaint being made against him under this Act, admits liability to pay for or contribute towards the preliminary expenses in respect of the confinement of the mother of an illegitimate child or the maintenance of the child, the Director-General may, with the approval of the Minister, accept from that person a sum of money in full settlement of all such liability.

(2) On payment of that sum no proceedings shall be commenced or proceeded with by or on behalf of the mother or any other person in respect of the liability or expenses.

(3) Where the Director-General accepts a sum of money in settlement of liability under this section, that sum shall be retained by the Director-General and applied at his discretion for the maintenance of the illegitimate child or for the preliminary expenses in respect of the confinement, or both.

Provision for blood tests.

112. (1) This section shall come into operation on a day to be fixed by proclamation.

(2) In this section "blood test" means a test for the purpose of ascertaining the inheritable characteristics of blood.

(3) A court of summary jurisdiction shall, at the request of the defendant in an affiliation case, direct that the illegitimate child in respect of whom the complaint was made, the mother of the child and the defendant submit to blood tests.

(4) No such direction shall be given unless the child has been born and the child, the mother and the defendant are all living.

(5) In any such direction, the court shall nominate a medical practitioner to take such blood samples as may be necessary for the purpose of making the blood tests and an analyst to make the blood tests and shall also fix a period within which the child, the mother and the defendant shall attend upon the medical practitioner to enable him to take the samples.

(6) Any period so fixed may be extended by the court from time to time as the court thinks fit.

(7) The analyst so nominated must be a person whose name is on a panel of names prepared by the Minister on the recommendation of the Director-General of Public Health and published in the *Gazette*.

(8) Subject to subsection (10) of this section, the fees of the medical practitioner and the analyst nominated in the direction and the costs and expenses in connection with the blood tests shall, in the first instance, be paid by the Minister.

(9) Where a direction has been given by a court pursuant to this section—

(*a*) the proceedings in connection with the affiliation case shall be stayed until the expiration of the period or extended period fixed under subsection (5) or subsection (6) of this section;

(*b*) if the mother and child referred to in the direction do not, or either of them does not, within that period or extended period, attend upon the medical practitioner nominated in the direction and permit him to take the necessary blood samples for the purposes of the blood tests, the complaint, if made by or on behalf of the mother, shall be dismissed, but otherwise shall be set down for hearing;

and

(*c*) if the defendant does not within that period or extended period attend upon the medical practitioner so nominated and permit him to take the necessary blood samples for the purposes of the blood tests, the complaint shall be set down for hearing.

(10) If, at the hearing, the court is satisfied that the facts alleged against the defendant are proved, the defendant shall reimburse the Minister to the extent of all moneys paid by the Minister under subsection (8) of this section in connection with the blood tests referred to in the direction, including the amount of the fees so paid to the medical practitioner and the analyst, and those moneys may be recovered by the Minister as a debt due to him by the defendant.

(11) The medical practitioner nominated in the direction given under this section shall, in the manner and within the time prescribed forward all blood samples taken by him pursuant to the direction to the analyst nominated in the direction and the blood tests shall be made by the analyst and the results of the tests shall be embodied in a certificate in the prescribed form signed by the analyst.

(12) The analyst shall forward the certificate to the clerk of the court that made the direction who, within seven days after the receipt by him of the certificate, shall furnish a copy thereof to the complainant and to the defendant.

(13) The certificate shall be admissible as evidence in any proceedings under this Part and shall be evidence of the facts and conclusions stated therein, but the court shall on the application of the complainant or the defendant, or may of its own motion, order the medical practitioner or the analyst to attend as a witness in the proceedings to be examined on such issues relating to the blood test and in such manner as the court thinks necessary and proper in the interests of justice.

Subdivision 3—Orders for Payment of Medical and Hospital Expenses in Connection with Lawful Termination of Pregnancy.

113. (1) Where a court of summary jurisdiction is satisfied on complaint made by or on behalf of a female person—

(*a*) that the complainant has been pregnant but her pregnancy has been lawfully terminated otherwise than by the birth of a child;

and

(*b*) that the defendant has had sexual intercourse with the complainant at such a time that the act of intercourse may have resulted in the pregnancy of the complainant,

the court may order the defendant to pay such amount as it considers reasonable for or towards the medical and hospital expenses incurred by the complainant in connection with the termination of the pregnancy.

(2) The court shall not make an order under this section if it is satisfied that at the time of the act of sexual intercourse, the complainant was a common prostitute.

Subdivision 4—Orders for Funeral, Medical and other Expenses

Power to make order for funeral expenses of child.

114. (1) Where a court of summary jurisdiction—

(*a*) upon complaint made by or on behalf of a parent of a legitimate child or an adopted child, is satisfied that the child was a child of the family who has died and—

(i) that, at the date of the death, the complainant was entitled to receive payments from the other parent of the child for the maintenance of the child or there was in existence an order of a court against the other parent for the maintenance of the child;

(ii) that, at the date of the death, the complainant was entitled to receive payments for his or her maintenance from the other parent or there was in existence an order under which that other parent was directed to make payments for the benefit of the complainant;

or

(iii) that at the date of the death there was in existence an order directing the payment by the other parent of a nominal amount in respect of the child or the complainant;

or

(*b*) upon complaint made by or on behalf of a parent of a legitimate stillborn child, is satisfied that the child had quickened and that at the date of the stillbirth the complainant was entitled to receive payments for his or her maintenance from the other parent or there was in existence an order for the maintenance of the complainant by the other parent,

and the court is further satisfied that the other parent of the child has not made adequate provision for the funeral expenses of the child, the court may order the other parent to pay such amount as it thinks reasonable for or towards the funeral expenses of the child.

(2) Where a parent of a child might, but for that parent's death, have made a complaint under subsection (1) of this section, the complaint may be made by or on behalf of the Minister, or by any person who has paid, or is liable to pay, the funeral expenses of the child.

(3) Where a court of summary jurisdiction, upon complaint made by or on behalf of the mother of an illegitimate child, is satisfied that the child was stillborn, or died either before attaining the age of eighteen years, or, in the case of a child for whose maintenance an order has been made in his lifetime, while the mother was entitled to receive payments under the order, and that the defendant—

(*a*) was the father of the child or had been adjudged to be the father of the child in any legal proceedings;

and

(*b*) has not made adequate provision for the funeral expenses of the child,

the court may order him to pay such amount as it thinks reasonable for or towards the funeral expenses of the child.

(4) Where the mother of an illegitimate child has died, a complaint under subsection (3) of this section may be made by or on behalf of the Minister, or by any person who has paid, or is liable to pay, the funeral expenses of the child.

(5) An order shall not be made under subsection (3) of this section in relation to a stillborn child unless the court is satisfied that the child had quickened.

(6) An order shall not be made under this section upon a complaint made more than twelve months after the stillbirth or the death of the child to whom the complaint relates.

Power to make order against father for funeral expenses of mother of illegitimate child.

115. (1) Where a court of summary jurisdiction, upon complaint made by any person, is satisfied—

(*a*) that the defendant is the father of an illegitimate child, whether living or not (including a child that had quickened but was stillborn) or has been so adjudged in any legal proceedings;

(*b*) that the mother of the child died during and in consequence of her pregnancy or in consequence of the birth of the child;

and

(*c*) that the defendant has not made adequate provision for the funeral expenses of the mother,

the court may order him to pay such amount for or towards the funeral expenses of the mother as it thinks reasonable.

(2) An order shall not be made under this section upon a complaint made more than twelve months after the death of the mother.

Order against surviving spouse for funeral expenses of deceased person.

116. (1) Where a court of summary jurisdiction, upon complaint made by or on behalf of a near relative of a deceased person or by or on behalf of the Minister, is satisfied that the surviving spouse of a deceased person (which person was before his or her death entitled to receive payments for his or her maintenance from that spouse) has not made adequate provision for the funeral expenses of that person, the court may order the spouse to pay to the complainant such amount as it thinks reasonable for or towards the funeral expenses of that person.

(2) An order shall not be made under this section upon a complaint made more than twelve months after the death of the deceased person.

Order for payment of medical and like expenses.

117. (1) Where a court of summary jurisdiction, upon application made by or on behalf of any person for whose maintenance an order is for the time being in existence, is satisfied—

(*a*) that any medical, surgical, psychiatric, dental, hospital or nursing care or treatment by way of physiotherapy or chiropractic is or was reasonably required in respect of that person;

(*b*) that the financial position of that person is and has been such as to preclude the person from making provision for or towards the cost of that care or treatment;

and

(*c*) that the person against whom the order was made has not made adequate provision for or towards that cost and it is just and equitable in all the circumstances of the case that he pay, or contribute towards, that cost,

the court may order the person against whom the order was made to pay to the applicant or to the Director-General for or towards that cost such amount as it thinks reasonable.

(2) For the purposes of subsection (1) of this section, "medical care" includes—

(*a*) the supply of medicines, skiagrams, artificial limbs, eyes or teeth, crutches, splints, spectacles and other medical and surgical aids and curative appliances or apparatus including necessary renewals or replacements thereof;

and

(*b*) transport by a vehicle to a hospital or other place for medical examination or medical treatment and where necessary, transport from the hospital or place on the return journey.

(3) For the purposes of this section, but without limiting the generality of its application—

(*a*) a child under the age of three months in respect of whose birth an order for the payment of preliminary expenses has been made under this Act and is in existence;

and

(*b*) a person in respect of whom an order for the payment of a merely nominal amount is in existence,

shall be deemed to be persons for whose maintenance an order is in existence.

(4) Where an order is made under this section for the payment of moneys for or towards the cost of any care or treatment referred to in subsection (1) of this section, the court or a justice may, at any time, give such directions in writing as the court or justice thinks proper for the disbursement of the amount ordered to be paid but so that no moneys are disbursed before the care or treatment to which the payment relates has been rendered.

DIVISION II—THE SUMMARY PROTECTION OF MARRIED WOMEN

DIVISION II

118. (1) Any married woman—

Summary relief to married women.

(*a*) whose husband during the preceding six months has been guilty of—

(i) cruelty to her or any of her children;

(ii) persistent indecent behaviour before her children;

(iii) adultery;

(iv) desertion;

or

(v) wilful neglect to provide reasonable maintenance for her or any of her children;

or

(*b*) whose husband is a person who is, by reason of habitual intemperate drinking of intoxicating liquor or habitual use of drugs, at times dangerous to himself or others, or incapable of managing himself or his affairs,

may apply for summary protection under this Division, and an order for summary protection may be made accordingly.

(2) When a complaint has been made under this section, a justice may, in his discretion, issue his warrant for the apprehension of the husband.

(3) The court may order summary protection under this section on the grounds of desertion notwithstanding that the desertion has not continued for two years or upwards.

PART VI
DIVISION II

Constitution of court.

119. Except as otherwise specifically provided, every application under this Division shall be heard and determined by a court of summary jurisdiction constituted of a special magistrate.

Provisions of orders.

120. (1) Any order for protection under this Division may—

(*a*) relieve the applicant from any obligation to cohabit with her husband;

(*b*) grant to the applicant the legal custody of her children;

(*c*) grant to the husband of the applicant such rights of access to the children of the applicant and her husband as the court deems proper;

or

(*d*) direct the husband to pay to the applicant personally, or for her use, to any officer of the court, or any person on her behalf, such weekly or other periodical sum as the court, having regard to the means both of the husband and the wife, consider reasonable for the past or future maintenance of herself and also of all children (if any) whose custody is granted to her.

(2) The court may direct that such security be given for payments directed under subsection (1) of this section as the court thinks fit.

Complaints, etc.

121. (1) An application may be made under this Division on more than one ground in the same complaint.

(2) Costs may be ordered against a complainant in respect of any matter of complaint not established at the hearing.

No order in certain cases.

122. No order shall be made under this Division on the application of a married woman, if—

(*a*) the adultery complained of has been condoned and not revived;

or

(*b*) the applicant is intemperate in the use of intoxicating liquor or drugs or has committed adultery and the husband has not condoned, or connived at, or, by his cruelty, wilful neglect or misconduct, conduced to the applicant's adultery or intemperate habits.

Effect of order.

123. (1) No order under this Division shall affect the order of any court of superior jurisdiction.

(2) A court shall not make an order under this Division granting the custody of a child to its mother—

(*a*) where there is in force an order for the legal custody of the child made by the Supreme Court of South Australia or the Supreme Court of any other State or of a Territory of the Commonwealth;

(*b*) where the child is under the care and control of the Minister;

or

(*c*) unless either the applicant or the respondent was resident in the State at the time the application was made and the child is present in the State at the time the order is made.

Means of support.

124. In determining the amount that a defendant is to be ordered to pay under this Division for the maintenance of any person the court shall have regard, where practicable, to—

(*a*) the accustomed condition in life of the person for whose maintenance the order is sought;

(*b*) the earning capacity and financial position of the person for whose benefit the order is sought but the court shall not attribute to the wife of the defendant a greater earning capacity than that which could, in the opinion of the court, be exercised consistently with the proper discharge of her obligations to her family or dependants;

and

(*c*) the earning capacity and financial position of the defendant.

Proof of wilful neglect.

125. Upon proof, in any application under this Division, that the husband has omitted to supply reasonable maintenance, wilful neglect shall be presumed, unless the husband proves the contrary.

Variation and discharge of order.

126. (1) Any court of summary jurisdiction constituted of a special magistrate may, on the due application of a married woman or of her husband, and upon cause being shown upon fresh evidence to the satisfaction of the court, at any time alter, vary or discharge any order under this Division, and may, upon any such application increase or diminish the amount of any payment ordered.

(2) If any married woman upon whose application an order has been made under this Division voluntarily resumes cohabitation with her husband, or commits adultery, the order shall, upon application and proof, be discharged.

Immediate order for relief.

127. In case of the conviction of a husband in any court for any offence involving cruelty to his wife or children, an application for protection under this Division may, by leave of the court, be heard immediately after the conviction without any summons.

PART VI
DIVISION II

Molestation of wife by husband.

128. (1) If a husband molests or interferes with or attempts to molest or interfere with his wife in her manner of living contrary to any order for relief from cohabitation he shall be guilty of an offence against this section.

(2) Where an order made under this Division commits the legal custody of a child to the mother of the child, any person who, without just cause or excuse, molests or interferes with or attempts to molest or interfere with, the child, contrary to the order for the custody or, having the care or control of the child, without just cause or excuse, refuses or fails on demand to deliver the child to the mother, shall be guilty of an offence against this section.

(3) Where an order made under this Division makes provision for access by any person to a child, any person who, without just cause or excuse, refuses to afford, or prevents, or interferes with, access to that child in accordance with that order, shall be guilty of an offence against this section.

(4) Any person guilty of an offence against this section shall be liable to a penalty not exceeding two hundred dollars or to imprisonment for a term not exceeding six months.

(5) It shall be a defence to a prosecution for an offence against this section if the defendant satisfies the court that he did not know and could not reasonably be expected to have known of the making of the order in respect of which the offence is alleged to have occurred.

(6) A person who is guilty of an offence against this section may (in addition to, or in lieu of, any penalty that may be awarded) be required forthwith to enter into a recognizance, with or without sureties, in such reasonable amount as the court thinks fit, to abide by the provision of the order, and in default of entering into the recognizance, he may be imprisoned for a term not exceeding three months.

(7) Any court of summary jurisdiction may exercise jurisdiction under this section whether or not it is constituted of a special magistrate.

Enforcement of orders made under this Division.

129. The payment of any sum of money ordered to be paid under this Division may be enforced in the same manner as an order for the payment of maintenance.

DIVISION III

DIVISION III—JURISDICTION AND POWERS OF COURTS OF SUMMARY JURISDICTION

General jurisdiction of courts of summary jurisdiction in respect of orders under this Part.

130. (1) Subject to this Act, but without limiting the jurisdiction of any court, a court of summary jurisdiction shall have jurisdiction to hear and determine any complaint and to make and to discharge, suspend or vary any order of a kind provided for in this Part.

(2) Subject to this Act, the court shall have jurisdiction to make an order under this Part by reason of facts and circumstances, whether or not those facts or circumstances, or some of them, took place before the commencement of this Act or outside this State—

(*a*) if the person against whom the order is sought is resident in this State;

or

(*b*) if the person for whose benefit the order is sought is resident in this State.

(3) Nothing in this Act shall limit or affect the operation of any provision of any other Act by which any person is or may be required to make contribution to, or payment on account of, the maintenance or support of any other person.

Orders directing payment of nominal sum only.

131. (1) Where, upon the hearing of a complaint under Division I or Division II of this Part upon which an order for maintenance may be made, a court of summary jurisdiction is satisfied that it would make an order for the maintenance of the complainant but for the fact—

(*a*) that that person is not presently without adequate means of support;

or

(*b*) that the defendant is not presently able to contribute to the support of that person,

the court may nevertheless make an order setting out its findings on the complaint and directing the payment by the defendant of a merely nominal amount in respect of that person.

(2) Proceedings shall not be taken under this Act to enforce payment of the nominal amount directed to be paid by an order where the sum due under the order is less than ten dollars but, if that amount is varied under any provision of this Part, proceedings may be taken to enforce payment of any amount payable under the order as varied.

Ex parte order for maintenance of child.

132. (1) Upon *ex parte* application made to the court of summary jurisdiction at any time after complaint made against a near relative of a child for the maintenance of a child of the family the court may order the defendant to pay for the maintenance of the child such amount (being not more than six dollars per week) as the court thinks reasonable until the expiration of three months from the making of the order or until the making or refusal of an order for the maintenance of the child upon complaint under this Division (whichever first occurs).

(2) The evidence of any person in support of the application shall be by affidavit.

PART VI
DIVISION III

(3) Any order under this section shall be in writing signed by the justices, or the magistrate constituting the court, and if necessary, shall forthwith be sent by the court together with the affidavits in support of the application, to the clerk of the court at which proceedings in the complaint are returnable and shall, subject to subsection (1) of this section, be enforceable and all proceedings in relation thereto may be taken as if it were an order made by that court.

Interim orders for payment of maintenance.

133. (1) Where the hearing of a complaint under Division I or Division II of this Part is adjourned for a period of not less than seven days the court may order the defendant to pay for or towards the maintenance of the wife, husband or child to whom the complaint relates such amount as it thinks reasonable.

(2) An order under this section shall not be subject to suspension, variation or appeal and shall remain in force until the expiration of a period of three months from the date on which the order is made or until the complaint again comes before the court (whichever first occurs).

DIVISION IV

DIVISION IV—PROVISIONS RELATING TO THE COMMENCEMENT AND DURATION OF ORDERS AND TO EVIDENTIARY MATTERS

Subdivision 1—Commencement and Duration of Orders

Orders for maintenance of children, etc.

134. Except as otherwise provided in this Division—

(*a*) an order shall not be made under this Part in respect of a child who has attained the age of eighteen years;

and

(*b*) except where arrears are due thereunder and to the extent of those arrears, an order for the maintenance of a child shall cease to have effect when the child attains the age of eighteen years, dies or is adopted or the person against whom the order was made dies, whichever first occurs.

Extension of maintenance orders after child's eighteenth year.

135. (1) This section applies to any child for whose maintenance an order is or, at the time the child attained the age of eighteen years, was in existence under this Act.

(2) Where, upon application made to a court of summary jurisdiction by or on behalf of a child to whom this section applies, it appears to the court that, in the case of a child who has not attained the age of eighteen years, the child will be engaged in a course of education or training after he attains that age that will fit him for some profession, trade or occupation in which to earn his livelihood or, in the case of a child who has attained that age, the child is or will be so engaged, or in the case of any child, the child is, because of physical disability or mental incapacity, unable to earn his livelihood, the court may order—

(*a*) where the child has not attained the age of eighteen years—that the maintenance order continue and be in force for such amount and for such period not exceeding two years from the date on which he attains that age as may be specified in the order under this section;

or

(*b*) where the child has attained the age of eighteen years—that the maintenance order revive on and from a date to be specified in the order under this section (not being a date earlier than the date on which the order is made) and that the maintenance order thereafter be in force for such amount and for such period, not exceeding two years from the date so specified, as may be specified in the order made under this section.

(3) A court may, from time to time, by a subsequent order under this section extend the period specified in any previous order so made for such further period not exceeding two years from the date of expiry of the previous order as may be specified in the subsequent order.

(4) An application under this section shall be heard by a court at the place where the maintenance order was made unless—

(*a*) the parties to the application consent to the hearing of the application by a court sitting at another place;

or

(*b*) the hearing of the application is adjourned, upon the application of either party, to a court sitting at another place.

(5) The amount specified in an order under this section may include such allowance for or towards the expenses incurred or to be incurred in undertaking a course of education or training as the court thinks proper.

Orders for support of wife, husband or child may include provision for past maintenance.

136. Unless otherwise provided by this Act an order under this Part for the maintenance of a person may, whether or not an application for that purpose has been made, be made to take effect from a past date, not being earlier than a date that the court thinks reasonable, and where an order takes effect from a past date the court may direct the past maintenance to be paid in one sum or by such instalments as the court directs.

Duration of order for support of wife or husband.

137. An order under this Part for the maintenance of a wife by her husband, or a husband by his wife shall, if not earlier discharged or terminated, cease to have effect upon the death of the wife or husband (whichever death first occurs).

PART VI
DIVISION IV

Recovery of arrears after cessation of order.

138. (1) The fact that an order under this Act for the maintenance of a person ceases to have effect by virtue of this Act shall not prevent the enforcement of the order or the recovery of any moneys due under the order, so far as it relates to any period, or to past maintenance of a person during any period, before it ceased to have effect.

(2) Subsection (1) of this section shall not apply where the order ceased to have effect by reason of the death of the defendant.

Subdivision 2—Evidentiary Provisions

Constructive desertion by conduct.

139. (1) Where—

(*a*) the conduct of a party to a marriage constitutes just cause and excuse for the other party to the marriage to live separately or apart and—

(i) occasions the other party to live separately or apart;

(ii) occasions the other party to live separately or apart and to take with him or her a child of the family from the matrimonial home;

or

(*b*) the conduct of a parent constitutes just cause and excuse for a child of the family to live separately or apart and occasions the child to live separately or apart,

the party or parent shall, for the purposes of this Part, be deemed to have unlawfully deserted the other party, or the other party and the child, or the child, as the case may be, notwithstanding that that party or parent may not in fact have intended the conduct to occasion the other party or the child to live separately or apart.

(2) Where—

(*a*) the conduct of a party to a marriage constitutes just cause and excuse for the spouse of that party to live separately or apart and—

(i) occasions the spouse to live separately or apart;

or

(ii) occasions the spouse to live separately or apart and to take a child of the family from the matrimonial home;

or

(*b*) the conduct of a parent constitutes just cause and excuse for a child of the family to live separately or apart and occasions the child to live separately or apart,

an offer made *bona fide* by that party or parent to provide a home for the spouse, the spouse and child or the child, as the case may be, is not of itself a sufficient answer to a complaint under Division II of

this Part for the maintenance of the spouse or child, or a sufficient reason for the discharge, suspension or variation of an order under that Division for the maintenance of the spouse or child.

(3) Where a husband and wife are parties to an agreement for separation whether oral or in writing or constituted by conduct, the refusal by one party to the marriage, without reasonable justification, to comply with a request made *bona fide* by the other party to resume cohabitation shall for the purposes of this Part as from the date of the refusal constitute unlawful desertion on the part of the party so refusing.

(4) For the purposes of subsection (3) of this section, "reasonable justification" means reasonable justification in all the circumstances, including the conduct of the other party since the marriage, whether that conduct took place before or after the agreement for separation.

Evidence of mother as to paternity of illegitimate child, etc., not to be accepted without corroboration except in certain cases.

140. Upon the hearing of a complaint under this Part with respect to an illegitimate child the evidence of a woman that the defendant is the father of her illegitimate child or that she is pregnant by the defendant (not being her husband) shall not be accepted without corroboration in a material particular except in the following cases—

(*a*) where the defendant is present in court during the hearing of the complaint and does not give evidence on oath denying that he is the father of the child or that she is pregnant by him;

and

(*b*) where the defendant is not present in court during the hearing of the complaint and the court is satisfied that he was duly served personally with a summons to attend the court,

and in either case the court may, subject to this Act in its discretion accept the uncorroborated evidence of the woman as sufficient evidence of the fact that the defendant is the father of the child or that she is pregnant by him.

Proof of marriage.

141. Upon the hearing of a complaint under this Part by one party to a marriage against the other party to the marriage, the person making the complaint shall—

(*a*) produce direct evidence of the marriage with the person against whom the complaint is made;

or

(*b*) give evidence on oath of the time, place and circumstances of the marriage.

Evidentiary effect of allegations in complaint.

142. Upon the hearing of any complaint made by or on behalf of the Minister, the Director-General or an officer of the Department an allegation in the complaint—

(*a*) that the person complained against is a near relative of a child and liable to maintain the child;

(*b*) that the person complained against is able to contribute to the maintenance of the child;

(*c*) that any sum has been expended upon, or is due or owing for, or in respect of, the maintenance of a child;

(*d*) that a child is a legitimate child;

or

(*e*) that a child is under the care and control of the Minister,

shall be deemed to be proved in the absence of proof to the contrary.

DIVISION V

DIVISION V—PROVISIONS RELATING TO THE DISCHARGE, SUSPENSION, VARIATION AND REVIVAL OF ORDERS

Application of Division.

143. This Division shall apply and have effect subject to any other provision of this Act relating to the discharge, suspension or variation of any order made under this Part.

General power to discharge, suspend or vary order.

144. (1) Upon application made by an officer of the Department or by or on behalf of a person in whose favour or against whom an order (including an order as varied) has been made or is deemed to have been made (being an order of a kind provided for in this Part), a court of summary jurisdiction may, subject to this Division, at any time make an order discharging the order, suspending the order in whole or in part until a specified day or until further order, or varying the order.

(2) An application under subsection (1) of this section shall be heard by a court at the place where the order, the subject of the application, was made—

(*a*) unless the parties to the application consent to the hearing of the application by a court sitting at another place;

or

(*b*) unless the hearing of the application is adjourned, upon the application of either party, to a court sitting at another place.

(3) An order shall not be discharged, suspended or varied under this Division unless the court is satisfied—

(*a*) that the order or, if the order has been varied, the original order or any order varying the original order was obtained by fraud or upon the basis of the existence of a marriage that did not in fact exist;

(*b*) that the means of the person for whose benefit the order was made or the means and ability to pay of the person against whom the order was made have so altered as to justify the discharge, suspension or variation of the order;

(*c*) that new facts or circumstances have arisen that have not previously been disclosed to a court in any proceedings in connection with the order and that by reason of those facts or circumstances it is reasonable to discharge, vary or suspend the order;

or

(*d*) that facts or circumstances were in existence at the time of the making of the order or, if the order has been varied, the original order or any order varying the original order, that have not previously been disclosed to a court in any proceedings in connection with the order and that were not and could not by the exercise of reasonable diligence have previously been known to the party by whom or on whose behalf the discharge, suspension or variation of the order is presently sought and that by reason of those facts or circumstances it is reasonable to discharge, vary or suspend the order.

(4) An order provided for under this Part that is in force may be discharged or varied from any past or future day or may be suspended from any past or future day or in respect of any past or future period.

(5) An order that has ceased to have effect may be discharged or varied from any past day or may be suspended from any past day or in respect of any past period.

(6) The fact that the defendant is in default in complying with an order shall not preclude the discharge, suspension or variation of that order.

Variation of order against near relative of child.

145. (1) Any justice, on the complaint of a near relative liable upon an order for the maintenance of a child made under this Part, may summon all or any of the persons alleged in the complaint to be near relatives of the child named in the order to appear before a court of summary jurisdiction at a time and place to be appointed in the summons, and shall give notice thereof to the Director-General.

(2) At the time and place so appointed, or at any adjourned hearing of the complaint, the court may make further inquiry as to the relationship to the child of the complainant and the persons summoned and as to their respective financial capacity to maintain or contribute to the maintenance of the child, and may make such order as appears just—

(*a*) increasing, reducing, or varying the periodical sum to be thereafter paid by the complainant;

(*b*) suspending for a specified time, or annulling, the previous order;

or

(*c*) directing that the persons so summoned, or any one or more of them, shall thereafter pay for or contribute towards the maintenance of the child,

or may make such other order not inconsistent with the provisions of this Act as appears just.

(3) Subsection (2) of this section shall not authorize any court of summary jurisdiction to annul an adjudication that any person is the father of an illegitimate child.

Effect of suspension order.

146. (1) Where an order provided for under this Part is suspended until a specified day, the order, unless earlier revived pursuant to this Division shall without any further or other order revive and again take effect upon the specified day.

(2) Where an order is suspended until further order, it shall not again take effect unless and until an order reviving it is made under this Division.

(3) Subject to subsection (4) of this section, the fact that an order provided for under this Part is suspended shall not prevent the enforcement of the order so far as it relates to any period before the day as from which the suspension took or takes effect.

(4) Where an order provided for under this Part is suspended, the court may order that the whole or any part of any moneys owing under the order as at the day from which the suspension took or takes effect shall not be recoverable under this Act during the period of the suspension.

Plural births.

147. Where an order under this Part for the maintenance of an illegitimate child is made before the birth of the child and two or more children are born, an application may be made under this Part for variation of the order to provide for the maintenance of the additional child or children.

Power of court to revive suspended order.

148. (1) Where an order under this Part has been made and has been suspended under this Division until a specified day or until further order, a court of summary jurisdiction may, upon application made by an officer of the department or by or on behalf of any person for whose benefit the order was made, make an order reviving the suspended order in whole or in part, with or without variation, as the court thinks fit.

(2) An application under subsection (1) of this section shall be heard by a court at the place where the suspending order was made unless—

(*a*) the parties to the application consent to the hearing of the application by a court sitting at another place;

or

(*b*) the hearing of the application is adjourned, upon the application of either party, to a court sitting at another place.

(3) A suspended order may be revived from any past day or any future day (not being a day subsequent to the expiration of the period of the suspension) specified in the reviving order and shall from that day have and (where necessary) be deemed to have effect accordingly.

(4) Where the court revives an order from a past day it may direct that payment in respect of any period before the date of the reviving order be made in one sum or by such instalments as the court specifies in the reviving order.

DIVISION VI—PROCEDURAL

Complaints.

149. (1) Where a complaint is made under this Act and unless express provision is otherwise made by this Act, a justice—

(*a*) may issue a summons addressed to the defendant commanding him to attend the court upon the hearing of the complaint;

or

(*b*) if satisfied by oath that the whereabouts of the defendant is unknown to the complainant, or that the defendant has moved or is about to move out of the State or to a distant part of the State, may issue a warrant for the apprehension of the defendant and for his being brought before a court pursuant to this Act.

(2) Two or more complaints made against a defendant by a complainant, whether on the complainant's own behalf, on behalf of other persons or both on the complainant's own behalf and on the behalf of other persons, may be joined in the one form of complaint.

(3) Where two or more complaints are joined in the one form of complaint—

(*a*) one summons or warrant may be issued in respect of those complaints;

(*b*) those complaints shall, unless the court otherwise orders, be heard and determined by the court at the same time;

and

(*c*) the court may make one order in respect of those complaints but the order shall be deemed to be a separate order in respect of each of the complaints in respect of which it was made.

(4) Where complaints—

(*a*) for maintenance of a child are made by the same complainant against the father and the mother or the adoptive father and adoptive mother of that child;

or

(*b*) for the maintenance of an illegitimate child are made by the same complainant against a person alleged to be the father of that child as well as against the mother of that child,

the complaints may, if the court thinks fit, be heard and determined by the court at the same time.

Complaints against father of illegitimate child.

150. No complaint under this Part against the father or alleged father of an illegitimate child shall be made except—

(*a*) by or on behalf of the mother of the child in relation to whom the complaint is made;

(*b*) by or on behalf of the child itself;

or

(*c*) by an officer of the Department.

Orders may direct mode of payment.

151. Except as otherwise provided by this Act, an order made by a court under this Act directing the payment of moneys may direct that—

(*a*) the moneys be paid to the Director-General or to some other person at a place specified in the order;

or

(*b*) the moneys payable under the order be paid in a lump sum, or periodically or by instalments in accordance with the direction of the court, or partly in a lump sum and partly periodically or by instalments in accordance with the direction of the court.

Non-appearance of defendant.

152. (1) If a defendant to whom a summons has been issued does not appear in accordance with the summons or on any day to which the hearing of the summons is adjourned, the court, upon proof of the service of the summons, may issue a warrant for the apprehension of the defendant and for his being brought before the court, or may proceed with the hearing of the complaint in the absence of the defendant.

(2) Where a warrant has been issued for the apprehension of the defendant (whether in the first instance or upon the defendant failing to appear in accordance with a summons) and the court is satisfied that after strict inquiry and search the defendant cannot be found, the court may proceed to hear the complaint in the absence of the defendant.

(3) The inquiry and search made for the defendant for the purposes of this section may be proved by evidence given orally or by the affidavit of the person or persons who made the inquiry and search.

Court may set aside order made in the absence of the defendant.

153. (1) Where the court proceeds pursuant to the provisions of this Division to make an order against the defendant in his absence, the defendant may, within twenty-eight days after the order comes to his knowledge, make application to the court that made the order to set aside the order and to re-hear the matter of the complaint in respect of which the order was made.

(2) Notice in writing of intention to make any such application shall be lodged with the clerk of the court and a copy thereof shall be served on the complainant either personally or by registered

post a reasonable time in the circumstances before the day specified in the notice for the making of the application.

(3) Upon proof of service of the notice the court may, if it thinks it just in the circumstances of the case so to do, set aside the order made in the absence of the defendant on such terms as to costs as it thinks fit and may proceed to hear and determine the matter of the complaint or, in the absence of the complainant, may adjourn the matter of the application to some other time or place and may direct such notice as the court thinks fit of the adjourned hearing to be given to the complainant.

Court may require defendant to state his employer, etc.

154. (1) In any proceedings in which maintenance is sought, or in which the enforcement of an order for maintenance is sought, the court may—

(*a*) direct the defendant to attend before the court at a time fixed by the court to be examined concerning his means and ability to comply with the order;

(*b*) direct the defendant to state to the court or to furnish to the court within any time fixed by the court a statement signed by the defendant setting out—

(i) the name and address of his employer or, if he has more than one employer, of each of his employers;

(ii) particulars as to the defendant's earnings;

and

(iii) such other particulars as the court thinks necessary for the enforcement of the order;

or

(*c*) direct any person who appears to the court to be indebted to the defendant or to be the employer of the defendant to give to the court, within any time fixed by the court, a statement signed by him or on his behalf containing such particulars as are specified in the direction of his indebtedness to the defendant or of all the earnings of the defendant that became payable by that person during a specified period.

(2) If the defendant fails to comply with the direction, the court may, upon proof that the direction was served personally upon the defendant, or that the direction was duly posted to the defendant

at his last address of which the court has notice, issue a warrant for the apprehension of the defendant.

(3) A document purporting to be a statement referred to in subsection (1) of this section shall be admissible in evidence in any proceedings under this Act relating to maintenance.

(4) Every person who—

(*a*) without reasonable cause or excuse refuses or fails to comply with a direction under this section that is applicable to him;

or

(*b*) in any statement made or notice furnished to a court pursuant to the provisions of this section, makes a statement that he knows to be false or misleading in a material particular or does not believe on reasonable grounds to be true,

shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

DIVISION VII—ENFORCEMENT OF ORDERS AND SUPPLEMENTARY PROVISIONS

DIVISION VII

Subdivision 1—Attachment of Property, Caveats, Warrants, Disobedience of Orders, Etc.

Attachment of property of persons against whom order is sought.

155. Where proceedings have been commenced by complaint under this Act in which—

(*a*) an order for maintenance;

(*b*) an order for the enforcement of an order for maintenance;

or

(*c*) an order for the recovery of moneys in repayment of the cost of assistance provided by the Director-General under this Act,

is, or will be sought, notice may be given to—

(*d*) any banker or other person having, or supposed to have, the care, custody, or control of any money or property, belonging or payable to any person complained against;

or

(*e*) any person against whom the person complained against has any civil or statutory right to the payment of money,

not to pay or part with the possession of that money or property until the complaint has been heard and determined, and the money and property shall thereby become and be attached in the hands of

the person having the care, custody, or control thereof, who shall be compellable to give evidence on the hearing of the complaint as to all matters relating to or concerning the money or property.

Order for delivery of attached property.

156. (1) The court hearing any complaint, upon the making of which notice has been given to any such banker or other person under this Subdivision may, by order, direct that the money or property attached, or such portion thereof as it orders, be paid or handed over to the Director-General, or to the person entitled to receive the money under a maintenance order.

(2) The person having the care, custody, or control of the money or property attached shall pay or hand it over accordingly, and shall be thereby discharged from all liability to the owner thereof, or any person claiming under him in respect of the money or property so paid or handed over, and, except as to such portion of the money or property attached as the court may, within one month from the service of the notice of attachment, order to be so paid or handed over, the attachment shall be determined.

Attachment may be pleaded.

157. (1) Any person who has received any notice attaching money or property in his care, custody, or control may, before the hearing of the complaint, after giving notice in writing of the application to the person by whom notice was given apply to a court of summary jurisdiction for an order setting aside the notice with respect to the whole or any part of the property or money subject to the notice.

(2) Any such person may plead the notice in bar to any action, suit, or other proceeding that may be instituted against him for the recovery of any such money or property by the owner or any person claiming under him.

Liability of persons contravening order.

158. Any person who, after receipt of a notice attaching money or property in his care, custody or control—

(*a*) pays or hands over any such money or property otherwise than in accordance with the order made by the court;

or

(*b*) neglects or refuses to comply with the order made,

shall be personally liable to pay to the Director-General or the payee mentioned in the maintenance order the amount of money or an amount equal to the value of the property ordered to be paid or handed over, and such an amount may be recovered before a court in a summary way.

Collection by police of moneys due to Director-General.

159. (1) Subject to the provisions of a maintenance order, any member of the police force shall, when so directed in writing signed by the Director-General and countersigned by the Commissioner of Police, demand, collect, and receive from any person all sums of money due to the Director-General for which that person is liable under any maintenance order.

(2) The receipt in writing of any such member of the police force shall be a sufficient discharge for the person from whom the moneys were received of his liability to pay those moneys to the Director-General.

Caveats.

160. (1) If any person against whom a maintenance order has been made is the registered proprietor of any land, estate, or interest in land subject to the Real Property Act, 1886, as amended, the Director-General may lodge with the Registrar-General a caveat signed by the Director-General against any dealings with that land, estate or interest.

(2) Particulars of the order shall be set out in the caveat and the Registrar-General shall forthwith register the caveat, and it shall not be lawful for the Registrar-General without the consent of the Director-General to remove or discharge the caveat—

(*a*) unless and until he is satisfied that all moneys due under the order have been fully paid and satisfied;

or

(*b*) unless he is ordered by the Supreme Court, or a Judge thereof, to remove the caveat.

Warrant to enforce payments under orders.

161. If any money payable under a maintenance order is in arrear for one month, a court of summary jurisdiction may, upon the application of the Director-General or any person to whom money is payable under the maintenance order, issue a warrant authorizing the Director-General or that person to receive the whole or any part of the rents, profits, and income of the real and personal estate of the person against whom the order was made, or to take or sell the estate and interest of that person in the real or personal estate, or in such part thereof as the court may direct.

Registration of warrant and effect thereof

162. Every such warrant may be registered in the same manner as a writ of *fieri facias*, and shall, from the time of registration, bind the estate or interest of the person liable under the order for maintenance in his real estate and chattel real property.

Sale under warrant.

163. Any sale under the warrant may be by public auction or private contract for cash or on credit, or partly for cash and partly on credit, and subject to any conditions that the Director-General thinks expedient.

PART VI
DIVISION VII

Assurances to purchaser.

164. (1) The Director-General or person authorized by the warrant to sell, may execute to the purchaser all such conveyances, assignments, memoranda of transfer, or other assurances of the property sold as the person against whom the order was made might have executed but for this Act, and the property so conveyed or assured shall vest in the purchaser accordingly.

(2) The Registrar-General shall forthwith register every such memorandum of transfer, and cause such entries to be made and acts to be done, as may be necessary for giving effect to the sale.

Issue of warrant without previous demand.

165. (1) No notice or demand shall be necessary before a warrant in respect of the real or personal estate of a person against whom a maintenance order has been made, or before any powers conferred by the warrant are exercised, but the court of summary jurisdiction may before issuing any such warrant, require such notice (whether by post, advertisement, or otherwise) to be given to the person against whom the maintenance order is made as the court considers just.

(2) Upon any application for the issue of a warrant, the person against whom the maintenance order was made shall be entitled to appear and be heard.

(3) The warrant shall be conclusive evidence that the power to sell is vested in the Director-General or in the person named in the warrant.

Effect of payment under warrant.

166. The payment to the Director-General or to the person named in any such warrant, shall be a good discharge to any tenant, purchaser, or other person for all moneys paid by him pursuant to the warrant.

Application of moneys received under warrant.

167. The rents, profits, and income, and the proceeds of any sale, received under any such warrant and the estate or interest in any real or personal estate taken under any such warrant shall be applied firstly in payment of the costs of collection or sale; secondly, in payment of the costs of obtaining the warrant; thirdly, in paying any money due under the original order; and the balance shall be applied in or towards future maintenance, or in such other manner as a court of summary jurisdiction may direct.

Power of court to require security for compliance with order.

168. (1) The court making any maintenance order may, by the same or a separate order, and any court, on complaint that any person liable upon any such order has made default thereunder, or intends to evade compliance therewith, may by a subsequent order, require the person liable for the maintenance to find such good and sufficient sureties or security as it thinks fit, that he will comply with the order made against him, and the court may, in default of such sureties or security being found, commit him to gaol for any period not exceeding six months.

(2) A justice may at any time determine the sufficiency of any proposed sureties, or security, and in what manner the security is to be given, and, upon being satisfied that security has been duly made and perfected, order the discharge of that person from gaol.

Power to commit defendant to prison for failure to pay maintenance.

169. (1) Where a court of summary jurisdiction is satisfied, upon complaint made by or on behalf of any person for whose benefit a maintenance order has been made, that the defendant (being a male person) has disobeyed or failed to comply with the order and that an amount of money (in this section called the "arrears of maintenance") is presently due and payable and has not been paid, the court may order that the defendant be committed to gaol in default of payment of the arrears of maintenance for such term as the court thinks proper in the circumstances, but not in any case exceeding twelve months.

(2) The defendant shall not be liable to serve a term of imprisonment because of his failure to pay an amount of arrears of maintenance in respect of which he has already served a term of imprisonment pursuant to an order made under this section, but the liability to pay any such arrears shall not be discharged by imprisonment in respect thereof and the amount of any such arrears shall, until paid, remain a sum that may be recovered under any other provision of this Act.

(3) Where the court orders a person to be committed to gaol under subsection (1) of this section, the court or a justice may, upon the making of the order or at any time thereafter, order that the issue of the warrant of commitment shall be suspended upon the condition that the defendant makes such payments in respect of the arrears of maintenance as are specified by the court, and duly pays all sums becoming payable under the maintenance order or the order for costs after the order for commitment.

(4) Where the court has ordered that the issue of a warrant of commitment shall be suspended as provided in subsection (3) of this section, the complainant may apply to any justice for the issue of the warrant; and upon proof that the defendant has made default in compliance with any of the conditions on which the issue of the warrant was ordered to be suspended, the justice shall issue the warrant of commitment.

(5) Notwithstanding anything to the contrary in any Act where an order has been made under this section committing the defendant to gaol in respect of arrears of maintenance and it appears to the clerk of the court of summary jurisdiction to which application is made for the issue of a warrant of commitment that the amount of the arrears of maintenance in respect of which the commitment order was made has been reduced, the fact of such reduction shall be stated in the warrant of commitment, and the term of imprisonment for which the defendant may be committed shall be reduced by the number of days bearing as nearly as possible the same proportion to the total number of days in the term of imprisonment as the amount paid bears to the whole arrears of maintenance.

(6) Notwithstanding anything to the contrary in any Act or in any warrant of commitment, where any person is imprisoned for non-payment of arrears of maintenance, he may pay or cause to be paid to the keeper of the gaol in which he is imprisoned—

(*a*) the whole of the arrears of maintenance or, having regard to subsection (5) of this section, the amount of those arrears remaining to be paid;

or

(*b*) any lesser amount,

and in either case the keeper shall receive the payment.

(7) Where the amount mentioned in paragraph (*a*) of subsection (6) of this section is paid to the keeper, the keeper shall thereupon discharge that person if he is in custody for no other cause.

(8) Where an amount mentioned in paragraph (*b*) of subsection (6) of this section is paid to the keeper, the term of imprisonment fixed by the commitment order shall be reduced by the number of days bearing to the total number of days in the term of imprisonment a proportion that is the same as, or most nearly approximates to, the proportion that the amount paid bears to the whole of the arrears of maintenance and on the expiration of the term as so reduced the person imprisoned shall, if in custody for no other cause, be discharged.

(9) A court shall not commit a defendant to gaol pursuant to this section if it is satisfied—

(*a*) that the defendant has not and has not had the means and ability and could not by reasonable effort have had the means and ability to comply with the original order;

or

(*b*) that for any other reason the original order or, if the order is varied, the order as so varied should not be enforced by imprisonment.

(10) Where the court referred to in subsection (1) of this section is aware that a court has previously refused to commit the defendant to gaol under this section for non-payment of a sum (in this subsection referred to as "the original sum") included in the amount of arrears of maintenance in respect of which the complaint is made, the court shall only have regard to the amount by which the sum still due and unpaid exceeds the original sum unless it is satisfied that, since that refusal, the means and ability of the defendant to pay the original sum have so altered as to make it reasonable for him now to be committed to gaol for non-payment of the original sum.

Warrant in first instance.

170. Upon a complaint in respect of any alleged disobedience of, or neglect to comply with, any maintenance order, a justice may, instead of issuing a summons, issue a warrant under his hand for the apprehension of the person against whom the complaint is made, and for the detention of that person until the hearing of the complaint, unless he enters into a recognizance, with one or more sureties, in such sum as the justice directs, conditioned upon his appearance at the hearing of the complaint.

Registration of arrears in Local Court of Adelaide.

171. (1) Where a maintenance order has been made and it appears to a court of summary jurisdiction, after consideration of evidence given on oath, that default has been made by the defendant in making the payments directed by the maintenance order, the court may, upon application by or on behalf of the Director-General or any person for whose maintenance, or for whose benefit, the order was made, and subject to subsection (5) of this section, grant a certificate stating the amount due under the maintenance order at the date thereof without requiring notice of the application to be given to the defendant.

(2) The Director-General or person for whose maintenance, or for whose benefit, the maintenance order was made, may file the certificate or cause the certificate to be filed in the Local Court of Adelaide and the clerk of the court shall enter judgment for that person in the Record Book of the court for the amount stated in the certificate to be due together with the fees paid for the certificate and for filing and entering the judgment and shall forthwith send notice in writing of the entry of the judgment to the clerk of the court of summary jurisdiction at the place where payments under the maintenance order are for the time being required to be made.

(3) Subject to the following provisions of this section, the judgment may be enforced in any manner in which a final judgment in an action in the Local Court may be enforced.

(4) Where judgment is entered under this section, proceedings for enforcement of the judgment shall not be commenced unless an affidavit has been filed stating that no proceedings are pending in another court for the recovery of any of the arrears of maintenance included in the amount of the judgment and that the maintenance order has not been discharged, suspended or varied since the date of the certificate referred to in subsection (1) of this section in any way affecting any of the arrears of maintenance included in the amount of the judgment.

(5) Where a court has suspended a maintenance order and ordered that any moneys owing under the maintenance order shall not be recoverable during a period for which the order is suspended, no certificate shall be issued in respect of those moneys under this section.

(6) Subject to this Act, rules of court may be made under the Local and District Criminal Courts Act, 1926-1971, prescribing the practice and procedure to be observed in connection with the filing of certificates and the entering and enforcement of judgments in pursuance of this section.

Disobedience of order and quitting State.

172. Every person who disobeys or neglects to comply with any maintenance order made against him under this Act and goes to reside beyond the State, either permanently or temporarily, shall be guilty of a misdemeanour, punishable by imprisonment, with or without hard labour, for any period not exceeding twelve months.

Desertion of child under certain circumstances a misdemeanour.

173. Every near relative liable to maintain any child who leaves the child without, or fails to provide the child with, adequate means of support, and goes to reside either temporarily or permanently, outside the State, shall be guilty of a misdemeanour, punishable by imprisonment for any period not exceeding twelve months.

Warrant for arrest of deserter.

174. (1) Upon complaint on oath by any officer of the department, that he has reasonable grounds for believing that any person is about to commit a misdemeanour under this Subdivision any justice, if satisfied that there are reasonable grounds for believing that the misdemeanour has been or is about to be committed, may issue his warrant for the apprehension of the person complained against.

(2) Upon the hearing of a complaint made under this section a court of summary jurisdiction may hear and determine the matter in a summary way, and, if satisfied that the defendant was about to commit the offence mentioned in the complaint may order the defendant to find an adequate surety or security to the satisfaction of the court that he will comply with the maintenance order, or that he will not leave the child without, or will provide the child with adequate means of support.

(3) The court, in default of such a surety or security being found, may commit the defendant to gaol for any term not exceeding six months.

(4) A justice may at any time determine the sufficiency of any proposed sureties, or security, and in what manner the security is to be given, and upon being satisfied that security has been duly made and perfected, order the discharge of that person from gaol.

Subdivision 2—Attachment of Earnings

Interpretation.

175. (1) In this subdivision, except where the context or subject matter or some other provision requires a different construction—

"attachment of earnings order" means an order made under section 176 of this Act or such an order as varied from time to time:

"defendant", in relation to a maintenance order or to proceedings in connection with a maintenance order, means a person against whom the order was made:

"earnings", in relation to a defendant, means any sums payable to the defendant—

(*a*) by way of wages or salary (including any fees bonus, commission, overtime pay, any payment in lieu of leave or other emolument payable in addition to wages or salary);

or

(*b*) by way of pension, including—

(i) an annuity in respect of past services, whether or not the services were rendered to the person paying the annuity;

and

(ii) periodical payments in respect of or by way of compensation for the loss, abolition or relinquishment, or any diminution in the emoluments, of any office or employment,

but does not include any pension, benefit or sum payable to the defendant under the Commonwealth Acts known as the *Social Services Act* 1947, as amended by subsequent Acts, the *Repatriation Act* 1920, as amended by subsequent Acts, or the *Seaman's War Pensions and Allowances Act*, 1940, as amended by subsequent Acts:

"employer", in relation to a defendant, means a person (including the Crown whether in right of the Commonwealth or in right of the State, a Minister of the Crown, whether in right of the Commonwealth or in right of the State and any statutory authority representing the Crown whether in right of the Commonwealth or in right of the State) by whom, as a principal and not as a servant or agent, earnings are payable or likely to become payable to the defendant:

"net earnings", in relation to a pay-day, means the amount of the earnings becoming payable by a particular employer on that pay-day, after deduction from those earnings of—

(*a*) any sum deducted from those earnings under Division 2 of Part VI of the Commonwealth Act known as the *Income Tax and Social Services Contribution Assessment Act* 1936, as amended by subsequent Acts;

and

(*b*) any sum deducted from those earnings that would be an allowable deduction—

(i) under section 82H of that Act as so amended other than life insurance premiums, not being life insurance premiums payable in respect of superannuation;

or

(ii) under section 82HA of that Act as so amended:

"normal deduction", in relation to an attachment of earnings order and in relation to a pay-day, means an amount representing a payment at the normal deduction rate specified in the order in respect of the period between that pay-day and either the last preceding pay-day, or, where there is no last preceding pay-day, the date on which the employer became, or last became, the defendant's employer:

"pay-day" means an occasion on which earnings to which an attachment of earnings order relates become payable:

"protected earnings", in relation to an attachment of earnings order and in relation to a pay-day, means the amount representing a payment at the protected earnings rate specified in the order in respect of the period between that pay-day and either the last preceding pay-day, or where there is no last preceding pay-day the date on which the employer became, or last became, the defendant's employer.

(2) In this subdivision—

(*a*) a reference to a person entitled to receive payments under a maintenance order shall be read as a reference to a person entitled to receive payments under the maintenance order either directly or through another person or for transmission to another person;

and

(*b*) a reference to proceedings relating to an order shall be read as including a reference to proceedings in which the order may be made.

Application for attachment of earnings order.

176. (1) An officer of the Department or a person entitled to receive payments under a maintenance order may apply in writing—

(*a*) to the court that made the order;

or

(*b*) to any court in which the order is for the time being enforceable or in which further proceedings in relation to the order may be brought under this Act,

for an attachment of earnings order.

(2) An application under subsection (1) of this section may be made without specifying the name of any particular employer.

(3) If the court is satisfied that the defendant is a person to whom earnings are payable or are likely to become payable and that the defendant has persistently failed to comply with the requirements of the order, or that, at the time when the application was made, there was due under the maintenance order and unpaid an amount equal to not less than—

(*a*) in the case of an order for weekly payments—four payments;

or

(*b*) in any other case—two payments,

the court may order a person who appears to the court to be the defendant's employer in respect of those earnings or a part of those earnings to make out of those earnings or that part of those earnings payments in accordance with this Subdivision.

(4) An attachment of earnings order shall specify, either generally or in relation to any particular pay-day or pay-days, the normal deduction rate, that is to say, the rate at which the court considers it to be reasonable that the earnings to which the order relates should be applied in satisfying the requirements of the maintenance order but not exceeding the rate that appears to the court to be necessary for the purpose of—

(*a*) securing payment of the sums from time to time falling due under the maintenance order;

and

(*b*) securing payment within a reasonable time of any sums already due and unpaid under the maintenance order and any costs incurred in proceedings relating to the maintenance order that are payable by the defendant.

(5) An attachment of earnings order may specify a higher normal deduction rate to apply for a specified number of pay-days after the order comes into force and a lower normal deduction rate to apply to any other pay-days.

(6) An attachment of earnings order shall also specify the protected earnings rate, that is to say, the rate below which, having regard to the resources and needs of the defendant and of any person for whom he must or reasonably may provide, the court considers it to be reasonable that the earnings to which the order relates should not be reduced by a payment under the order.

(7) An attachment of earnings order shall provide that payments under the order are to be made to the Director-General at his office at Adelaide.

(8) An attachment of earnings order shall contain such particulars as the court thinks proper for the purpose of enabling the person to whom the order is directed to identify the defendant.

(9) Upon the making of an attachment of earnings order by a court, the clerk of the court shall cause a copy of the order to be served on—

(*a*) the defendant;

(*b*) the person to whom the attachment of earnings order is directed;

and

(*c*) if an officer of the Department is not a party to the application for the order, the Director-General,

but the order shall not come into force until the expiration of seven days after the day on which a copy of the order is served on the person to whom the order is directed.

Employer to make payments under order.

177. (1) An employer to whom an attachment of earnings order is directed shall, so long as the order is in force and the net earnings of the defendant in relation to each pay-day after the making of the order exceed the amount of the protected earnings of the defendant in relation to that pay-day, pay to the Director-General, so far as the amount of the excess permits, the normal deduction in relation to that pay-day, but where—

(*a*) on any such pay-day the amount of that excess is insufficient to permit the payment of the normal deduction in relation to that pay-day;

or

(*b*) in respect of any such pay-days the net earnings of the defendant were less than the protected earnings of the defendant and the amount by which those net earnings were less than those protected earnings has not been paid to the defendant,

the employer shall, so long as the order is in force, and if on any subsequent pay-day the net earnings of the defendant are sufficient after providing, if necessary, for the making good of any deficiency in the protected earnings referred to in paragraph (*b*) of this subsection, pay to the Director-General the normal deduction in relation to that subsequent pay-day and, so far as the balance of the defendant's net earnings permits, all the arrears of the normal deductions.

(2) A payment made by the employer under subsection (1) of this section to the Director-General shall be a valid discharge to him as against the defendant to the extent of the amount paid.

Power to make attachment of earnings order instead of other order.

178. (1) Where any proceedings in relation to, or for the enforcement of, a maintenance order already made are brought in a court of summary jurisdiction the court may, instead of making any other order, make an attachment of earnings order.

(2) Unless the court otherwise orders, where an attachment of earnings order is in force, no warrant or other process shall be issued or order made in proceedings for the enforcement of the maintenance order that were begun before the making of the attachment of earnings order.

Discharge or variation of order.

179. (1) The court by which an attachment of earnings order has been made may, in its discretion, on the application of the defendant, an officer of the Department or a person entitled to receive payments under the maintenance order, make an order discharging, suspending or varying the attachment of earnings order.

(2) Upon the court making an order discharging, suspending or varying an attachment of earnings order, the clerk of the court shall cause a copy of the order to be served on—

(*a*) the respondent to the application;

(*b*) the person to whom the attachment of earnings order is directed;

and

(*c*) if an officer of the Department is not a party to the application, the Director-General,

but the order shall not come into force until the expiration of seven days after the day on which a copy of the order is served on the person to whom the order is directed.

Cessation of attachment of earnings order.

180. (1) An attachment of earnings order shall cease to have effect—

(*a*) upon being discharged by an order under this Subdivision;

(*b*) subject to subsection (2) of this section, upon the discharge or variation of the maintenance order in relation to which the attachment of earnings order was made;

or

(*c*) unless the court otherwise orders, upon the making of any other order for the enforcement of the maintenance order in relation to which the attachment of earnings order was made.

(2) Where it appears to the court discharging or varying a maintenance order that arrears under the order will remain to be recovered under the order, the court may direct that the attachment of earnings order shall not cease to have effect until those arrears have been paid.

(3) Where an attachment of earnings order ceases to have effect the clerk of the court that made the order by virtue of which the attachment of earnings order ceases to have effect shall forthwith give notice accordingly to the Director-General and to the person to whom the order was directed.

(4) Where an attachment of earnings order ceases to have effect, the person to whom the attachment of earnings order is directed shall not incur any liability in consequence of his treating the order as still in force at any time before the expiration of seven days after the date on which the notice required by subsection (3) of this section or a copy of the discharging order, as the case may be, is served on him.

Compliance with order.

181. An attachment of earnings order made under this Subdivision shall have priority over any other order directed to the defendant's employer with respect to any earnings payable, or likely to become payable, to the defendant, and the defendant's employer shall, notwithstanding anything in any other law, but subject to this Subdivision comply with the order.

Where two or more orders are in force.

182. (1) Where, on any occasion on which earnings become payable to a defendant, there are in force two or more orders for the attachment of those earnings (whether made under this Act or otherwise) the person to whom the orders are directed—

(*a*) shall comply with those orders according to the respective dates on which they took effect and shall disregard any order until each earlier order has been complied with;

and

(*b*) shall comply with any order as if the earnings to which the order relates were the residue of the defendant's earnings after the making of any payment under any earlier order.

(2) For the purposes of this section, an attachment of earnings order which has been varied shall be deemed to have been made as so varied on the day upon which the attachment of earnings order was made.

Notice to defendants of payments made.

183. (1) A person who makes a payment in compliance with an attachment of earnings order shall give to the defendant a notice specifying particulars of the payment.

(2) Where a person served with an attachment of earnings order directed to him—

(*a*) is not the defendant's employer at the time of service of the order;

or

(*b*) is the defendant's employer at that time but ceases to be the defendant's employer at any time thereafter,

that person shall give notice in writing accordingly to the Director-General and the clerk of the court that made the order, and shall give that notice—

(i) where paragraph (*a*) of this subsection applies forthwith after service on that person of the order;

and

(ii) where paragraph (*b*) of this subsection applies forthwith after that person ceases to be the defendant's employer.

Determination as to what payments are earnings.

184. (1) The court by which an attachment of earnings order has been made shall, on the application of the person to whom the order is directed, determine whether payments to the defendant of a particular class or description specified in the application are earnings for the purpose of that order.

(2) A person to whom an attachment of earnings order is directed who makes an application under subsection (1) of this section does not incur any liability for failing to comply with the order with respect to any payments of the class or description specified in the application that are made by him to the defendant while the application, or any appeal from a determination made on the application, is pending.

(3) Subsection (2) of this section does not apply in respect of any payment made after the application has been withdrawn or an appeal from a determination made on the application has been abandoned.

Service.

185. Any order or document that is required or permitted to be served on a person under this Subdivision may be served on that person—

(*a*) by delivering a copy thereof to that person;

(*b*) by leaving a copy thereof at the usual or last known place of residence or business of that person with some person apparently over the age of sixteen years who apparently resides therein or is employed thereat;

or

(*c*) by sending a copy thereof to him at his usual or last known place of residence or business by registered post.

Offence.

186. (1) Any person who fails to comply with a requirement of this Subdivision or of any attachment of earnings order under this Subdivision that is applicable to him shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

(2) It shall be a defence to a prosecution for an offence arising under subsection (1) of this section if the defendant proves that he took all reasonable steps to comply with the requirement or order.

(3) Subsection (1) of this section does not apply to the Crown in right of the Commonwealth or in right of the State.

Dismissing an employee, etc., by reason of the making of an attachment of earnings order.

187. (1) Any person who dismisses an employee or injures him in his employment, or alters his position to his prejudice, by reason of the circumstance that an attachment of earnings order has been made in relation to the employee or that the person is required to make payments under such an order in relation to the employee shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

(2) Subsection (1) of this section does not apply to the Crown in right of the Commonwealth or in right of the State.

(3) Where any person is convicted of an offence arising under this section, the court by which he is convicted may order that the employee be reimbursed any wages lost by him and may also direct that the employee be reinstated in his old position or in a similar position.

(4) Any amount ordered to be reimbursed under subsection (1) of this section may be recovered from the person convicted as if it were a penalty to which that person is liable under this section.

Application of Subdivision.

188. This Subdivision shall have effect in relation to a defendant notwithstanding any Act or law that would otherwise prevent the attachment of his earnings.

Payments by Crown, etc.

189. The provisions of this Subdivision shall have effect in relation to deductions from earnings falling to be paid by the Crown whether in right of the Commonwealth or in right of the State, a Minister of the Crown whether in right of the Commonwealth or in right of the State or a statutory authority representing the Crown whether in right of the Commonwealth or in right of the State, and those earnings shall be treated as falling to be paid by the permanent head or principal officer of the Department, office or other body concerned.

Subdivision 3—General

Provision where defendant supported wife, husband or child during any period.

190. Where proceedings are taken under this Part in respect of a failure to make payments for or towards the maintenance of a person it shall be a sufficient answer to those proceedings so far as the failure to make payments during any period is concerned if it is proved that during that period the defendant adequately supported that person.

Duties of clerk of court in relation to orders.

191. Upon application made to him by or on behalf of any person for whose maintenance or for whose benefit a maintenance order is enforceable in the State, the clerk of the court of summary jurisdiction by which the order was made or in which it is enforceable or in which further proceedings in relation to the order may be brought shall, subject to this Act, take all steps necessary or expedient to assist in the enforcement of the order on behalf of that person.

Penalty for molesting child contrary to interstate custody order.

192. (1) Where an order made in any other State or a Territory of the Commonwealth under any Act or ordinance corresponding with this Act commits the legal custody of a child to the father or mother of the child, any person who in this State, without just cause or excuse, molests or interferes with or attempts to molest or interfere with, the child contrary to the order for custody or, having the care or control of the child in this State, without just cause or excuse, refuses or fails on demand to deliver the child to the person entitled to such custody under the order shall be guilty of an offence against this section.

(2) Any person guilty of an offence against this section shall be liable to a penalty not exceeding two hundred dollars or to imprisonment for a term not exceeding six months.

(3) It shall be a defence to a prosecution for an offence against this section if the defendant satisfies the court that he did not know and could not reasonably be expected to have known of the making of the order in respect of which the offence is alleged to have occurred.

(4) A person who is convicted of an offence against this section may (in addition to, or in lieu of, a penalty under this section) be required forthwith to enter into a recognizance, with or without sureties, in such reasonable amount as the court thinks fit, to abide by the provision of the order and in default of entering into the recognizance, that person may be imprisoned for a term not exceeding three months unless the recognizance is sooner entered into.

Recovery of penalties.

193. Proceedings for an offence against any of the provisions of this Division may be taken by any member of the police force or any officer of the Department.

Compellability of defendant as witness at hearing of complaint for non-compliance

194. (1) On the hearing of any complaint in which the defendant is charged with non-compliance with any maintenance order, the defendant shall be compellable to give evidence, and may be summoned as a witness for that purpose.

(2) The defendant shall not be excused from giving evidence relevant to the matter of the complaint on the ground that the evidence might prove or tend to prove him guilty of the matter alleged or charged against him.

Proof of payment or non-payment under maintenance order.

195. Whenever in any proceedings under this Act it is material to inquire whether any, or how much, money has been paid or is owing to the Director-General by any person liable under a maintenance order to make any such payment to the Director-General, any officer of the Department may on oath state his information and belief as to whether any, and how much, money has been paid, or is owing, and the court shall accept that statement as evidence of the facts stated.

DIVISION VIII—RECIPROCAL ENFORCEMENT OF ORDERS

Subdivision 1—Interpretation and Administration

Interpretation.

196. (1) In this Division unless the contrary intention appears—

"another Australian State" means an Australian State other than this State:

"Australian State" means a State or Territory of the Commonwealth:

"certified copy"—

(*a*) in relation to a maintenance order or other order of a court (not being an order made under the *Matrimonial Causes Act* 1959, as amended, of the Commonwealth)—means a copy of the order certified to be a true copy by an officer of the court that made the order or a copy of such a copy certified to be a true copy by an officer of a court in or by which the order has been registered or confirmed;

(*b*) in relation to a maintenance order or other order made under the *Matrimonial Causes Act* 1959, as amended, of the Commonwealth—means a certificate of the order or a copy of the decree nisi issued under the rules made under that Act, or a copy of such a certificate certified to be a true copy by an officer of a court in which the order has been registered under that Act;

and

(*c*) in relation to a record of the evidence of a witness in proceedings before a court—means a copy of the record certified to be a true copy by an officer of that court:

"Collector"—

(*a*) in relation to this State—means the Collector of Maintenance or the Deputy Collector of Maintenance or an Assistant Collector of Maintenance appointed under this Act;

and

(*b*) in relation to another Australian State—means an officer appointed under the law of that Australian State whose duties, or part of whose duties, are similar to those of the Collector of Maintenance, the Deputy Collector of Maintenance or an Assistant Collector of Maintenance appointed under this Act:

"Collector's certificate"—

(*a*) in relation to a South Australian order, or an overseas order enforceable in this State—means a certificate in or to the effect of the prescribed form signed by the Collector;

and

(*b*) in relation to a maintenance order made in another Australian State, or an overseas order that is or has been enforceable in another Australian State—means a certificate in or to the effect of such form prescribed by or under the law of that other Australian State as corresponds with the form of Collector's certificate prescribed for the purposes of this Act:

"complainant", in relation to a maintenance order or to proceedings in connection with a maintenance order, means the person for whose benefit the maintenance order was made, or a person acting on behalf of that person:

"country" includes any State, Province or other part of a country outside Australia, or any Territory of such a country:

"country having restricted reciprocity" means a reciprocating country that is for the time being declared by a proclamation in force under this Division to have restricted reciprocity with this State:

"court" means a court, or a magistrate, justices or any other person or persons exercising judicial power, whether constituted or acting under the law of this State, any other Australian State, the Commonwealth, or a reciprocating country:

"defendant", in relation to a maintenance order or to proceedings in connection with a maintenance order, means the person against whom the order was made:

"depositions", in relation to a witness in proceedings, means the record, or a certified copy of the record, of the evidence of that witness in those proceedings:

"interstate order" means a maintenance order—

(*a*) made in another Australian State by a court of summary jurisdiction or by a magistrate or justices;

or

(*b*) made by the Supreme Court of another Australian State (whether under the law of that Australian State or under the law of the Commonwealth) and registered, for the purposes of enforcement, in a court of summary jurisdiction in another Australian State:

"officer" in relation to a court, includes a person, or one of the persons, constituting the court:

"overseas order", in relation to a reciprocating country, means—

(*a*) in any case where in a proclamation under this Division declaring that country to be a reciprocating country it is declared that maintenance orders made in that country shall be enforceable in this State in accordance with the provisions of this Act from a date specified in the proclamation—a maintenance order made on or after that date in that country by a court of competent jurisdiction;

and

(*b*) in any other case—a maintenance order made in that country (whether before or after the making of the proclamation) by a court of competent jurisdiction:

"reciprocating country" means a country that is for the time being a country declared by a proclamation in force under this Division to be a reciprocating country for the purposes of this Act:

"South Australian order" means a maintenance order—

(*a*) made in this State by a court of summary jurisdiction;

or

(*b*) made by the Supreme Court of South Australia (whether under the law of this State or under the law of the Commonwealth) and registered, for the purposes of enforcement in a court of summary jurisdiction in this State (whether under the law of this State or under the law of the Commonwealth).

(2) A reference in this Division to a certified copy of an order shall, where the order has been varied or otherwise affected by a provisional order of one court that has effect by virtue of the fact that it has been confirmed (whether with or without modification) by another court, be read as including reference to both a certified copy of the provisional order and a certified copy of the confirming order.

(3) A reference in this Division to an order made by a court shall be read as including a reference to an order made by another court on an appeal in connection with proceedings that originated in the first-mentioned court.

(4) For the purposes of this Division, where a person is working in a place, whether temporarily or permanently, he shall be deemed to be resident in that place as well as in the place where he is in fact resident.

Collector of Maintenance Deputy Collector of Maintenance and Assistant Collectors of Maintenance.

197. (1) For the purposes of this Division—

(*a*) the Director-General shall be the Collector of Maintenance;

and

(*b*) the Minister may appoint, from officers of the Department, a Deputy Collector of Maintenance and as many Assistant Collectors of Maintenance as shall be necessary.

(2) The Deputy Collector of Maintenance and every Assistant Collector of Maintenance shall have and may exercise, subject to the directions of the Collector of Maintenance, all the powers, authorities, duties and functions of the Collector of Maintenance.

Powers of Collector.

198. (1) The Collector shall have power to do all things necessary or convenient to be done for the enforcement in this State of maintenance orders that are enforceable in this State by virtue of this Division.

(2) The Collector shall—

(*a*) receive moneys payable to him pursuant to orders enforceable under this Division and moneys remitted to him by Collectors for other Australian States and authorities in reciprocating countries, and give receipts for moneys so received;

(*b*) keep proper accounts of all moneys received, remitted or paid by him;

(*c*) remit to Collectors for other Australian States and to the proper authorities in reciprocating countries moneys received by him in respect of maintenance orders made for the maintenance or benefit of persons residing in those Australian States or in those countries and payable to or for the benefit of those persons, together with proper accounts in respect of those moneys;

and

(*d*) pay other moneys received by him to the persons entitled thereto,

and has such other powers, authorities, duties and functions as are specified in this Act or are prescribed.

(3) In all proceedings under this Division, the Collector shall be entitled to appear, to be heard, to give evidence and to call, examine and cross-examine witnesses.

Protection of Collector.

199. The provisions of sections 190 to 199 (inclusive) of the Justices Act, 1921, as amended, shall, so far as those provisions are applicable and with such modifications as are necessary, extend and apply to and in relation to acts done by a person in the exercise of

the powers and the performance of the duties of the Collector, the Deputy Collector or an Assistant Collector, in pursuance of this or any other Act.

(2) No order for costs shall be made against the Collector in proceedings for the enforcement of an interstate or overseas order.

Subdivision 2—Interstate Maintenance

Transmission of South Australian orders for enforcement in other States.

200. (1) Where a South Australian order is presently enforceable in this State but not in any other Australian State, and it appears to the Collector that the defendant is resident in, or proceeding to, another Australian State, the Collector may send to the Collector for that other Australian State—

(*a*) three certified copies of the order;

(*b*) a Collector's certificate relating to the order;

(*c*) such information and material as the Collector possesses for facilitating the identification, and ascertaining the whereabouts, of the defendant;

and

(*d*) a request in writing that the order be made enforceable in that other Australian State.

(2) Where—

(*a*) a South Australian order is, under the law of another Australian State, enforceable in that other Australian State;

and

(*b*) the Collector is satisfied that there are reasonable grounds for believing that the defendant is not resident in, or proceeding to, that other Australian State or it appears to the Collector that there is some other good reason why the order should no longer be enforceable in that other Australian State,

he may send to the Collector for that other Australian State, a request in writing that the order be made no longer enforceable in that other Australian State and, for the purposes of this Act, the order shall, upon the sending of the request, cease to be enforceable in that other Australian State.

(3) The fact that a South Australian order has ceased to be enforceable in another Australian State by reason of action taken in that other Australian State as a result of a request made under subsection (2) of this section does not prevent a further request under subsection (1) of this section that the order be again made enforceable in that other Australian State.

(4) Where a South Australian order is, in pursuance of a request under subsection (1) of this section, made enforceable in another Australian State—

(*a*) the order becomes unenforceable in this State;

(*b*) the order remains unenforceable in this State, and no proceedings for the enforcement thereof shall lie, unless and until it ceases to be enforceable in that other Australian State;

and

(*c*) every warrant or other process under this Act arising out of the order previously issued in this State and not executed ceases to have effect.

Enforcement in this State of orders made in other Australian States.

201. (1) Where the Collector receives from the Collector for another Australian State—

(*a*) three certified copies of an interstate order made in that State;

(*b*) a Collector's certificate relating to the order;

and

(*c*) a request in writing that the order be made enforceable in this State,

he shall, if it appears to him that there are reasonable grounds for believing that the defendant is resident in, or proceeding to, this State, send the documents to the clerk of the court of summary jurisdiction at Adelaide known as the Adelaide Magistrates' Court, with a request that the order be registered in that court.

(2) Where a request is so made to the clerk, the clerk shall (whether or not the order is of such a kind as could be made in this State) register the order and file in the court a certified copy of the order and the Collector's certificate.

(3) An interstate order so registered, shall until the registration is cancelled and subject to any order for the suspension thereof, be enforceable in this State, both as regards any arrears payable under

the order and as regards amounts becoming due under the order after it is so registered and the provisions of section 209 of this Act shall apply to and in relation to such order accordingly.

(4) Upon registration of the interstate order, the Collector shall notify the Collector for the other Australian State accordingly and shall cause a certified copy of the order to be served upon the defendant, together with a notice of registration of the order in this State—

(*a*) specifying the amount, if any, of the arrears due under the order;

(*b*) stating that payments under the order are to be made to the Collector;

and

(*c*) giving an address at which those payments may be made.

(5) Where—

(*a*) an interstate order is registered in this State under this section;

and

(*b*) the Collector receives from the Collector for the other Australian State a request in writing that the order be made no longer enforceable in this State,

the Collector shall request the clerk of the court of summary jurisdiction at Adelaide known as the Adelaide Magistrates' Court to cancel the registration of the order, and the clerk shall thereupon cancel the registration.

(6) Where the registration of an interstate order is so cancelled—

(*a*) the order shall become unenforceable in this State;

(*b*) the order shall remain unenforceable in this State and no proceedings for the enforcement thereof shall lie, unless and until it is again registered in this State;

and

(*c*) every warrant or other process under this Act arising out of the order previously issued in this State, and not executed shall cease to have effect.

Collector to notify original State when defendant leaves this State.

202. Where an interstate order has been registered in this State under this Act and the Collector has reasonable grounds for believing that the defendant is no longer resident in this State, but is resident in, or proceeding to, another Australian State, he shall forthwith notify the Collector in the State in which the order was made of the fact and shall give him such information as he possesses concerning the whereabouts and intended movements of the defendant.

Application for provisional order of variation.

203. (1) Where an interstate order made by a court of summary jurisdiction, or by a magistrate or justices, is enforceable in this State by virtue of this Subdivision, application in writing in accordance with the prescribed form may be made by or on behalf of the complainant or the defendant to a prescribed court of summary jurisdiction in this State constituted of a special magistrate for an order discharging, suspending, varying or reviving the interstate order, and that court has jurisdiction to hear and determine the application.

(2) Where a South Australian order made by a court of summary jurisdiction is enforceable in another Australian State by virtue of any enactment in that State corresponding with this Subdivision, application in writing in accordance with the prescribed form may be made by or on behalf of the complainant or the defendant to any court of summary jurisdiction in this State constituted of a special magistrate (being a court that would have jurisdiction to make an order under this Act in relation to the South Australian order) for an order discharging, suspending, varying or reviving the South Australian order.

(3) The applicant shall cause notice of an application under this section to be served personally or by post not less than fourteen days before the hearing of the application, upon the Collector at his office at Adelaide, and the Collector shall, forthwith upon receipt by him of the notice, notify the Collector for the Australian State in which the interstate order was made or the South Australian order is enforceable (as the case may be).

(4) Except where the complainant and the defendant both appear upon the hearing, the evidence of any witness who is examined at the hearing of any such application shall be put into writing and shall be read over to and signed by him.

(5) While a South Australian order is enforceable in another Australian State under the law of that other Australian State, no application for the discharge, suspension, variation or revival of the order shall be made in this State except in accordance with this section.

Discharge, suspension or variation of order made in absence of defendant.

204. Where—

(*a*) an application is made under subsection (1) of section 203 of this Act by a defendant for the discharge, suspension or variation of an interstate order;

(*b*) the defendant did not appear at the hearing of the complaint upon which the original interstate order was made and was not served personally in the Australian State in which the order was made with the summons upon that complaint;

and

(*c*) the application is made within six months after service on the defendant of notice of registration of the order in this State,

the defendant may, in addition to raising any matter that could have been raised on an application under section 144 of this Act, raise any ground of opposition that he could have raised in the original proceedings.

Law to be applied.

205. In an application under section 203 of this Act, the law to be applied shall, except in matters of practice or procedure, be the law of the Australian State in which the original order was made.

Order of variation to be provisional only.

206. (1) Except as provided in subsection (2) of this section, an order made on an application under section 203 of this Act discharging, suspending, varying or reviving a maintenance order shall be provisional only and shall have no effect unless and until confirmed by a competent court of the appropriate Australian State in which the maintenance order was made or is enforceable, and shall be expressed accordingly.

(2) Where the respondent to an application under section 203 of this Act has been served personally in this State with notice of the application or appears on the hearing of the application, any order made on the application shall recite that fact, and the order shall, subject to subsection (4) of section 200 of this Act, be enforceable and have effect forthwith in this State according to the tenor thereof.

(3) Where an order made on an application under section 203 of this Act is expressed to be provisional, the clerk of the court making the provisional order shall send a certified copy of the order, together with the depositions of the witnesses, to the Collector for the other Australian State.

(4) Where an order referred to in subsection (3) of this section has been confirmed (whether with or without modification) by a competent court of the other Australian State, the order shall, subject to subsection (4) of section 200 of this Act, be enforceable and have effect in this State as so confirmed.

Procedure where provisional order remitted by court of other Australian State.

207. (1) Where a provisional order made under the foregoing provisions of this Subdivision is remitted by a court in another Australian State to the court in this State that made the provisional order for the taking of further evidence, the court in this State, or, if requested by that court, another court in this State shall, after notice has been given to such persons in such manner as the court thinks fit, proceed to take the evidence, and shall cause the depositions of the witnesses to be sent to the court in the other Australian State.

(2) If, upon the taking of the further evidence, it appears to the court taking the further evidence that the order ought not to have been made, the court may rescind the order and may, if it thinks fit, make a fresh provisional order in its stead.

Confirmation in this State of provisional orders made in other Australian States.

208. (1) Where the Collector receives—

(*a*) a certified copy of—

(i) a provisional order made by a court in another Australian State discharging, suspending, varying or reviving a South Australian order enforceable in that other Australian State;

or

(ii) a provisional order made by a court in another Australian State discharging, suspending, varying or reviving an interstate order made in that Australian State and enforceable in this State by virtue of this Subdivision;

and

(*b*) the depositions of the witnesses who gave evidence at the hearing of the application upon which the provisional order was made,

the Collector shall, on behalf of the party on whose application the provisional order was made in the other Australian State, apply to the court in this State by or in which the maintenance order was made or is registered for an order confirming the provisional order.

(2) The Collector shall cause notice, in accordance with the prescribed form, of the application under this section to be served on the respondent to the application not less than seven days before the hearing of the application.

(3) Upon the hearing of such an application, the court may—

(*a*) confirm the provisional order, either with or without modification;

(*b*) discharge the provisional order;

or

(*c*) adjourn the proceedings and remit the provisional order to the court that made it with a request that that court take further evidence and further consider its provisional order.

(4) Where a provisional order is confirmed under this section (whether with or without modification), the order as so confirmed shall, subject to subsection (4) of section 200 of this Act, be

enforceable and have effect in this State as if it were an order to the like effect validly made by the court in this State.

(5) Each party to an application for confirmation of a provisional order under this section shall have the same right of appeal against an order confirming or discharging the provisional order as he would have had on the making of, or the refusal to make, the original order.

Proceedings for enforcement.

209. (1) Where an interstate order is enforceable in this State by virtue of this Subdivision—

(*a*) all proceedings may be taken for the enforcement of the order;

and

(*b*) the provisions of this Part shall, so far as they are applicable and with such modifications as are necessary, apply and have effect,

as if it were a maintenance order made under this Part by the court of summary jurisdiction in which it is registered or by which it was confirmed, as the case may be.

(2) The Collector may take any proceedings that are authorized by or by virtue of subsection (1) of this section.

(3) Where proceedings are so taken by the Collector, the court shall, unless it is satisfied by evidence to the contrary, presume that the enforcement of the order is required for the actual support of the person for whose benefit the order was made and that since the order became enforceable in this State no moneys have been paid under the order otherwise than to the Collector.

Subdivision 3—Overseas Maintenance

Transmission of maintenance orders made in this State for enforcement in reciprocating countries.

210. Where a South Australian order is presently enforceable in this State but not in any other Australian State and it appears to the Collector that the defendant is resident in, or proceeding to, a reciprocating country, the Collector may send to an appropriate authority in that reciprocating country—

(*a*) three certified copies of the South Australian order;

(*b*) a Collector's certificate relating to the South Australian order;

(*c*) such information and material as the Collector possesses for facilitating the identification, and ascertaining the whereabouts, of the defendant;

and

(*d*) a request in writing that the South Australian order be made enforceable in that reciprocating country.

Power to make provisional order against person resident in reciprocating country.

211. (1) This section applies to an application for a maintenance order under this Act—

(*a*) against a husband for the maintenance of his wife;

(*b*) against a wife for the maintenance of her husband;

or

(*c*) against a near relative of a child for the maintenance of that child.

(2) Upon application made in writing in accordance with the prescribed form to a court of summary jurisdiction constituted of a special magistrate for a maintenance order to which this section applies and upon proof that the person against whom the order is sought is resident in, or proceeding to, a reciprocating country, the court may, in the absence of that person, make any order it could have made if a summons had been duly served on that person and he had failed to appear at the hearing.

(3) An order made under subsection (2) of this section shall be provisional only and shall have no effect unless and until confirmed (either with or without modification) by a competent court in a reciprocating country in which the defendant is resident at the time of that confirmation, and shall be expressed accordingly.

(4) The evidence of any witness who is examined on any such application shall be put into writing and shall be read over to and signed by him.

(5) Where a court makes an order under subsection (2) of this section, the clerk of the court shall send to the Collector for transmission to the reciprocating country referred to in subsection (2) of this section—

(*a*) the depositions of the witnesses;

(*b*) three certified copies of the order;

and

(*c*) a statement of the grounds on which the making of the order could have been opposed if the defendant had appeared at the hearing.

(6) Where any provisional order made under this section has come before a court in a reciprocating country for confirmation and the order has by that court been remitted to the court in this State that made the order for taking of further evidence that court, or, if

requested by that court, another court in this State shall, after notice has been given to such persons and in such manner as the court thinks fit, proceed to take the evidence, and shall send the depositions of the witnesses to the Collector for transmission to the court in the reciprocating country.

(7) If, upon the taking of the further evidence, it appears to the court taking that further evidence that the order ought not to have been made, that court may rescind the order and may, if it thinks fit, make a fresh provisional order in its stead.

(8) Where a court takes evidence in pursuance of a request of another court made under subsection (6) of this section, the first-mentioned court may, for the purposes of subsection (7) of this section have regard to the evidence given at the hearing in the second-mentioned court.

(9) Where a court in a reciprocating country in which the defendant is for the time being resident confirms (either with or without modification) a provisional order made under this section, the order shall be enforceable and have effect in this State as so confirmed as if it were an order validly made under this Part by the court of summary jurisdiction referred to in subsection (2) of this section.

(10) Where a court in a reciprocating country confirms (either with or without modification) a provisional order made under this section, then, in any proceedings arising out of or relating to the order, it shall be presumed, unless the contrary is proved, that the defendant was resident in that reciprocating country at the time when the order was confirmed.

(11) The applicant shall have the same right of appeal (if any) against a refusal to make a provisional order as he would have had against a refusal to make the order had a summons been duly served on the person against whom the order is sought.

Cancellation of registration.

212. Where—

(*a*) a South Australian order is, under the law of a reciprocating country, enforceable in that reciprocating country;

and

(*b*) the Collector is satisfied that there are reasonable grounds for believing that the defendant is not resident in, or proceeding to, that reciprocating country or it appears to the Collector that there is some other good reason why the order should no longer be enforceable in that reciprocating country,

the Collector may send to an appropriate authority in that reciprocating country a request in writing that the order be made no longer enforceable in that reciprocating country and, for the purposes of this Act, the order shall, upon the sending of the request, cease to be enforceable in that reciprocating country.

Registration of overseas orders.

213. (1) Where the Collector receives—

(*a*) a certified copy of an overseas order;

and

(*b*) a certificate signed by an officer of a court or by an appropriate authority in the reciprocating country relating to the order and containing—

(i) a statement that the order is, at the date of the certificate, enforceable in that reciprocating country;

and

(ii) a statement as to the amount of any arrears due under the order, distinguishing any amount in respect of which the defendant has been imprisoned,

the Collector shall, subject to subsection (2) of this section, if it appears to him that there are reasonable grounds for believing that the defendant is resident in or proceeding to this State send those documents to the clerk of the court of summary jurisdiction at Adelaide known as the Adelaide Magistrates' Court with a request that the order be registered in that court.

(2) In the case of an overseas order originating in a country having restricted reciprocity, the Collector shall not send the documents as required by subsection (1) of this section unless the Collector is satisfied that the order is a maintenance order of such a kind as can be made under this Part.

(3) Upon a request made under subsection (1) of this section, the clerk shall register the order and file in the court a certified copy of the order and the certificate relating thereto.

(4) An overseas order so registered shall, until the registration is cancelled and subject to any order for the suspension thereof, be enforceable in this State, both as regards any arrears payable under the order and as regards amounts becoming due under the order after it is so registered.

(5) Upon registration of an overseas order, the Collector shall notify the officer of the court or other appropriate authority in the reciprocating country accordingly and cause a certified copy of the order to be served upon the defendant, together with a notice of registration of the order in this State—

(*a*) specifying the amount, if any, of the arrears due under the order;

(*b*) stating that payments under the order are to be made to the Collector;

and

(*c*) giving an address at which such payments may be made.

Confirmation of provisional orders made overseas.

214. (1) Where—

(*a*) an overseas order (other than an order in an affiliation case or an order consequent upon such an order) has no effect under the law of the reciprocating country in which it is made unless and until confirmed by a court outside that reciprocating country (whether or not it appears from the order that it may be confirmed by a court in this State);

(*b*) a certified copy of the order and the depositions of the witnesses in the proceedings in which the order was made, together with a statement of the grounds on which the making of the order could have been opposed if the defendant had appeared at the hearing, have been received by the Collector;

and

(*c*) it appears to the Collector that—

(i) there are reasonable grounds for believing that the defendant is resident in, or proceeding to, this State;

and

(ii) the order will have effect under the law of the reciprocating country if it is confirmed by a court in this State,

a summons may, subject to subsection (2) of this section, on the application of the Collector, be issued by any justice calling upon the defendant to appear before a convenient court of summary jurisdiction specified in the summons and constituted of a special magistrate to show cause why the provisional order should not be confirmed.

(2) In the case of a provisional order made in a country having restricted reciprocity, the Collector shall not make an application as provided by subsection (1) of this section unless he is satisfied that the order is of such a kind (apart from its provisional nature) as could be made under this Part.

(3) At the hearing the defendant may raise any ground of opposition which he could have raised in the original proceedings or any ground of opposition which he could have raised if those proceedings had been heard in this State, and the statement referred to in subsection (1) of this section shall be conclusive evidence that the grounds referred to in that statement are grounds on which the making of the order might have been refused in the original proceedings.

(4) If the defendant, having been served in this State with the summons, does not appear at the hearing, or if the defendant appears at the hearing but fails to satisfy the court that the order ought not to be confirmed, the court may—

(*a*) confirm the provisional order (either with or without modification);

or

(*b*) adjourn the proceedings and remit the provisional order to the court that made it, with a request that that court take further evidence and further consider its provisional order,

but the court may, if it thinks it just to do so, discharge the provisional order.

(5) Where a provisional order is confirmed under this section (whether with or without modification), the order as so confirmed shall be enforceable and have effect in this State as if it were an order to the like effect validly made by the court in this State.

(6) If, at the hearing, the court is of opinion that it is necessary to remit the case to the court that made the provisional order for the taking of further evidence, the case may be so remitted.

Order enforceable in this State may be sent to another Australian State.

215. (1) Where an overseas order is enforceable in this State under this Subdivision, and it appears to the Collector that there are reasonable grounds for believing that the defendant has ceased to reside in this State and is resident in, or proceeding to, another Australian State, the Collector may send to the Collector for that Australian State—

(*a*) three certified copies of the overseas order;

(*b*) a Collector's certificate relating to the order;

(*c*) such information and material as the Collector possesses for facilitating the identification, and ascertaining the whereabouts, of the defendant;

and

(*d*) a request in writing that the order be made enforceable in that Australian State,

and if he does so, shall forthwith notify the officer of the appropriate court or the appropriate authority in the reciprocating country of the fact that he has so sent the documents.

(2) Where a request is made under subsection (1) of this section—

(*a*) the order shall become unenforceable in this State, and, if the order has been registered in a court in this State, that registration shall be deemed to be cancelled;

(*b*) the order shall remain unenforceable in this State and no proceedings for the enforcement thereof shall lie, unless and until it is registered, or again registered, in this State;

and

(*c*) every warrant or other process under this Act arising out of the order previously issued in this State and not executed shall cease to have effect.

Registration of overseas orders registered or confirmed in another Australian State.

216. (1) Where—

(*a*) the Collector receives from the Collector for another Australian State—

(i) three certified copies of an overseas order;

(ii) a Collector's certificate signed by the Collector for that Australian State relating to the order;

and

(iii) a request in writing that the order be made enforceable in this State;

and

(*b*) it appears from the Collector's certificate that—

(i) the order has been registered in, or confirmed by, a court in that Australian State under a law of that Australian State corresponding with this Subdivision;

and

(ii) the order was, at the date of the certificate, presently enforceable in that Australian State in accordance with that law,

the Collector shall if it appears to him that there are reasonable grounds for believing that the defendant is residing in, or proceeding to, this State, send the documents to the clerk of the court of summary jurisdiction at Adelaide known as the Adelaide Magistrates' Court with a request that the order be registered in that court.

(2) Where a request is so made, the clerk shall (whether or not the order is of such a kind as could be made under this Part) register the order and file in the court a certified copy of the order and the Collector's certificate.

(3) An overseas order so registered shall, until the registration is cancelled, be enforceable in this State, both as regards any arrears payable under the order and as regards amounts becoming due under the order after it is so registered.

(4) Upon registration of an overseas order, the Collector shall notify the officer of the appropriate court or the other appropriate authority in the reciprocating country accordingly, and shall cause a certified copy of the order to be served upon the defendant, together with a notice of registration of the order in this State—

(*a*) specifying the amount, if any, of the arrears due under the order;

(*b*) stating that payments under the order are to be made to the Collector;

and

(*c*) giving an address at which such payments may be made.

Transmission of documents where defendant not in this State.

217. Where the Collector receives documents relating to an overseas order (including a provisional order) that have been transmitted to this State for the purpose of having the order made enforceable or confirmed in this State and it appears to him that the defendant is not resident in, or proceeding to, this State but is resident in, or proceeding to another Australian State or a reciprocating country other than that in which the order was made, the Collector may, instead of taking steps with a view to the registration or confirmation of the order in this State—

(*a*) transmit the documents to the Collector for that other Australian State or an appropriate authority in that other reciprocating country together with such information as he possesses concerning the whereabouts and intended movements of the defendant;

and

(*b*) give to the officer of the appropriate court or other appropriate authority in the reciprocating country in which the order was made notice of the fact that he has so transmitted the documents.

Cancellation of registration.

218. (1) Where—

(*a*) an overseas order is registered or confirmed under this Subdivision;

and

(*b*) the Collector receives a request in writing made by an officer of the Court that made the order or some other appropriate authority in the reciprocating country that the order be made no longer enforceable in this State,

the Collector shall send the request to the clerk of the court of summary jurisdiction at Adelaide known as the Adelaide Magistrates' Court, who shall file the request and, if the order is registered under this Subdivision, cancel the registration of the order.

(2) Where such a request has been so filed—

(*a*) the overseas order shall become unenforceable in this State;

(*b*) the order shall remain unenforceable in this State unless and until it is registered, or again registered, in this State;

and

(*c*) every warrant or other process under this Act arising out of the order previously issued in this State and not executed shall cease to have effect.

Proceedings for enforcement.

219. (1) Where an overseas order is enforceable in this State by virtue of this Subdivision—

(*a*) all proceedings may be taken for the enforcement of the order;

and

(*b*) the provisions of this Part shall, so far as they are applicable and with such modifications as are necessary, apply and have effect,

as if it were a maintenance order made under this Part by the court in this State in which the order is registered or by which it was confirmed, as the case may be.

(2) The Collector may take any proceedings that are authorized by or by virtue of subsection (1) of this section.

(3) Where proceedings are so taken by the Collector, the court shall, unless it is satisfied by evidence to the contrary, presume that the enforcement of the order is required for the actual support of the person for whose benefit the order was made and that since the order became enforceable in this State no moneys have been paid under the order otherwise than to the Collector.

Defendant in this State may apply for order of variation.

220. (1) Where an overseas order is enforceable in this State by virtue of this Subdivision, the defendant may make an application in writing, in accordance with the prescribed form, to a prescribed court of summary jurisdiction constituted of a special magistrate for an order discharging, suspending or varying the overseas order, and that court has jurisdiction to hear and determine the application.

(2) Where a South Australian order is enforceable under the law of a reciprocating country in which the defendant is for the time being resident, the complainant may make an application in writing, in accordance with the prescribed form, to the court that made the order for an order varying or (if the order has been suspended) reviving, the order.

(3) The applicant shall cause notice of an application under this section to be served personally or by post upon the Collector at his office at Adelaide not less than fourteen days before the hearing of the application.

(4) The evidence of any witness who is examined at the hearing of any such application shall be put into writing and shall be read over to, and signed by, him.

(5) The court shall, as far as practicable, hear and determine an application under this section as if it were a similar application under Division V of this Part.

Discharge, suspension or variation of order made in absence of defendant.

221. Where—

(*a*) an application is made by a defendant for the discharge, suspension or variation of an overseas order;

(*b*) the defendant did not appear at the hearing of the proceedings upon which the overseas order was made and was not served personally in the reciprocating country with notice of those proceedings;

and

(*c*) the application is made within six months after service on the defendant, of notice of registration of the order in this State,

the defendant may, in addition to raising any matter that could have been raised on an application under section 144 of this Act, raise any ground of opposition that he could have raised had the proceedings on which the overseas order was made been heard in this State.

Law to be applied.

222. In an application under section 220 of this Act the law to be applied shall be the law of this State.

PART VI
DIVISION VIII

Certain orders to be provisional only.

223. (1) Where the court proposes to make an order on an application under section 220 of this Act and any court in the reciprocating country will, if the order is provisional only, have jurisdiction to confirm the order, the order shall be provisional only and shall have no effect unless and until confirmed (either with or without modification) by such a court, and shall be expressed accordingly.

(2) Where a provisional order is made in accordance with this section, the Collector shall send a certified copy of the provisional order, together with the depositions of the witnesses, to an officer of a court in the reciprocating country having jurisdiction to confirm the provisional order, or to an appropriate authority in that country for transmission to such court.

(3) Where a court in the reciprocating country confirms (either with or without modification) a provisional order made on an application under section 220 of this Act, the order shall be enforceable and have effect in this State as so confirmed.

(4) Notwithstanding anything contained in this section, if a provisional order made on an application under subsection (2) of section 220 of this Act is confirmed (either with or without modification, by a court of a reciprocating country being a country other than the country specified in the order) in which the defendant is resident at the time of the confirmation, the order shall be enforceable and have effect in this State as so confirmed.

Procedure where provisional order remitted by court in reciprocating country.

224. (1) Where a provisional order made in accordance with section 223 of this Act is remitted by a court in a reciprocating country to the court in this State that made the provisional order, for the taking of further evidence, the court in this State, or, if requested by that court, another court in this State, shall, after notice has been given to such persons and in such manner as the court thinks fit, proceed to take the evidence, and shall send the depositions of the witnesses to the Collector for transmission to the court in the reciprocating country.

(2) If, upon the taking of the further evidence, it appears to the court taking that further evidence that the order ought not to have been made, that court may rescind the order and may, if it thinks fit, make a fresh provisional order in its stead.

Confirmation in this State of provisional orders of variation made in reciprocating countries.

225. (1) Where the Collector receives—

(*a*) a certified copy of—

(i) a provisional order made by a court of a reciprocating country discharging, suspending, varying or reviving a South Australian order enforceable in that reciprocating country;

or

(ii) a provisional order made by a court in a reciprocating country discharging, suspending, varying or reviving an overseas order made in that reciprocating country and enforceable in this State by virtue of this Subdivision;

and

(*b*) the depositions of the witnesses who gave evidence at the hearing of the application upon which the provisional order was made,

the Collector shall, on behalf of the party on whose application the provisional order was made in the reciprocating country, apply to the court in this State by or in which the maintenance order was made, registered or confirmed for an order confirming the provisional order.

(2) The Collector shall cause notice in accordance with the prescribed form of the application under this section to be served on the respondent to the application not less than seven days before the hearing of the application.

(3) Upon the hearing of any such application, the court may—

(*a*) confirm the provisional order (either with or without modification);

(*b*) discharge the provisional order;

or

(*c*) adjourn the proceedings and remit the provisional order to the court that made it with a request that the court take further evidence and further consider its provisional order.

(4) Where a provisional order is confirmed under this section (whether with or without modification) the order as so confirmed shall be enforceable and have effect in this State as if it were an order to the like effect validly made by the court in this State.

Power of Governor to declare reciprocating countries.

226. (1) Where the Governor is satisfied that the law of a country makes provision for the enforcement in that country of maintenance orders made in another country and that under that law South Australian orders may be made enforceable in that country, the Governor may, by proclamation, declare that country to be a reciprocating country for the purposes of this Act.

(2) If it appears to the Governor that the jurisdiction of the courts of a country specified, or to be specified, in a proclamation under subsection (1) of this section to make maintenance orders extends to the making of orders that are not of the same kind as orders that may be made in this State under this Part he may, by the same or a subsequent proclamation, declare that that country has restricted reciprocity with this State.

(3) In a proclamation made under subsection (1) or subsection (2) of this section the Governor may specify, in relation to the country to which the proclamation applies, a date, which may be before or after or the same day as the date of the proclamation, and declare that maintenance orders made in that country on or after that date shall be enforceable in this State in accordance with the provisions of this Act.

(4) The Governor may, by the like proclamation, revoke or vary or further vary any proclamation made under subsection (1) or subsection (2) of this section or any corresponding previous enactment.

(5) Where, by virtue of any proclamation made pursuant to this section, a country that has been a reciprocating country ceases to be a reciprocating country—

(*a*) a maintenance order made in that country and enforceable in this State by virtue of this Subdivision shall cease to be so enforceable and no further proceedings for the enforcement thereof shall lie;

and

(*b*) every warrant or other process under this Act arising out of any such order previously issued in this State and not executed shall cease to have effect,

but this subsection shall not affect the validity of anything done under this Act for the enforcement of a maintenance order while that country was a reciprocating country.

(6) At least once in every year the Collector shall cause to be published in the *Gazette* a list of the names of the reciprocating countries, showing the respective dates upon which they became reciprocating countries, the dates, if any, on or after which maintenance orders made in those countries are enforceable in this State and indicating which of those countries are countries having restricted reciprocity.

(7) A copy of the *Gazette* containing such a list shall be accepted in any proceedings as evidence of the matters stated in the list and of the fact that a country shown in the list as a reciprocating country of either class continues to be a reciprocating country of that class.

Subdivision 4—General

Payments to be made to Collector.

227. While a maintenance order is enforceable in this State under Subdivision 2 or Subdivision 3 of this Division, all moneys directed by the order to be paid are payable and shall be paid by the person against whom the order is made to the Collector, and the receipt of the Collector for any such moneys shall be a sufficient discharge of the liability of the person to pay those moneys in accordance with the order.

Collector to notify changes in orders enforceable in other Australian States or reciprocating countries.

228. Where the operation of a South Australian order enforceable in another Australian State or in a reciprocating country, or the operation of an interstate order or overseas order enforceable in this State, is affected by an order (other than a provisional order), event or other matter made, occurring or arising in this State of which the Collector has notice, the Collector shall send to the Collector for the other Australian State, or to an appropriate authority in that reciprocating country, a certified copy of the order, or a notice in writing giving particulars of the event or other matter, by which the operation of the order so enforceable has been so affected.

Collector to note changes in orders made or enforceable in South Australia.

229. (1) Where the Collector receives from the Collector for another Australian State or from an appropriate authority in a reciprocating country a certified copy of an order (other than a provisional order), or a notice in writing giving particulars of an event or other matter, made, occurring or arising in that other Australian State or in that reciprocating country and affecting, in a manner appearing from the certified copy or notice, the operation of a South Australian order enforceable in that other Australian State or in that reciprocating country, or of an interstate order or overseas order enforceable in this State under this Division, the Collector shall—

(*a*) file the certified copy or notice in the court in which the order affected was made or confirmed or is registered;

and

(*b*) if the complainant or defendant is resident in this State, cause a copy of the certified copy or notice to be served on the complainant or defendant, as the case may require.

(2) Where a certified copy or notice is filed in accordance with subsection (1) of this section in relation to a maintenance order, the order, event or matter shall have the like effect in this State as it appears from the certified copy or notice to have in the other Australian State or reciprocating country.

(3) This section shall not apply in relation to an order (in this subsection referred to as "the first-mentioned order") made in a reciprocating country affecting a maintenance order in a manner adverse to the defendant unless it appears from the documents received by the Collector that the defendant appeared on the hearing of the proceedings in connection with which the first-mentioned order was made.

Conversion of currency.

230. (1) For the purposes of this Division, an overseas order (including a provisional order) or a certificate or notice originating in a reciprocating country, that refers to an amount of money (including an amount of arrears) expressed in the currency of a reciprocating country shall be deemed to refer to the amount that was the equivalent amount in Australian currency on the prescribed date on the basis of the telegraphic transfer rate of exchange that prevailed on that date.

(2) For the purposes of this section, a certificate signed by the Collector, or the Collector for another Australian State, and purporting to be based on information obtained by him from a bank, stating that a specified amount in Australian currency was, on a specified date, the equivalent of a specified amount in another currency on the basis of the telegraphic transfer rate of exchange prevailing on that date shall be evidence of the matter stated in the certificate.

(3) Where a certificate of a Collector in accordance with subsection (2) of this section has been filed in a court in this State in relation to an order, certificate or notice, every copy of that order, certificate or notice served on any person shall be accompanied by a copy of the first-mentioned certificate.

(4) Where, under this Division, the Collector is required to remit an amount of money to a country outside the Commonwealth, he shall remit such amount in the currency of that country as he is able to remit by the expenditure of that first-mentioned amount.

(5) In this section "the prescribed date" means—

(*a*) in relation to a maintenance order registered under this Division, or a certificate with respect to the arrears payable under a maintenance order sought to be so registered—the day upon which the order is registered;

(*b*) in relation to a provisional order confirmed under this Division—the day upon which the order is confirmed;

or

(*c*) in relation to an order or notice referred to in subsection (1) of section 239 of this Act—the day upon which the certified copy of the order or the notice is filed in a court in accordance with that subsection,

Translation of orders and records.

231. Where a certified copy of an order of a court (including a provisional order), a record of the evidence of a witness or other document arising out of, or relating to, proceedings in a court outside the Commonwealth is not in the English language, it shall not be used for the purpose of registering an order under this Division or received in evidence in a court in this State in proceedings under this Division, unless it is accompanied by a translation of the document into the English language certified under the hand of an officer of the court outside the Commonwealth to be a correct translation, or bearing the seal of that court, and where such a document is accompanied by such translation—

(*a*) the translation may be received in evidence to the same extent as the document of which it is a translation and shall, unless the contrary is proved, be deemed to be a correct translation;

(*b*) all notations made on the document shall be made also on the translation;

and

(*c*) any copy of the document served on any person shall be accompanied by a copy of the translation.

Certificate of payment of arrears.

232. In any proceedings under or for the purposes of this Division, a certificate purporting to be signed by the Collector or the Collector for another Australian State, or the like officer of a reciprocating country in which a maintenance order was made or is enforceable, concerning amounts paid or unpaid under a maintenance order shall be evidence of the facts stated in the certificate.

Evidentiary.

233. (1) For the purposes of this Division and in proceedings under or arising out of this Division, a document purporting to be—

(*a*) a certified copy of an order (including a provisional order) of a court;

(*b*) the record, or a certified copy of the record, of the evidence of a witness in proceedings before a court;

or

(*c*) a certificate or notice of a kind referred to in this Division,

shall, unless the contrary is proved, be taken to be such a certified copy, record, certificate or notice, and shall be admitted in evidence without proof of the signature of the person purporting to have signed it or of his official position.

(2) The depositions of a witness in proceedings before a court in another Australian State or in a reciprocating country, received in this State for the purposes of this Act, shall be admissible in evidence in proceedings under this Act in a court in this State.

Service of documents.

234. (1) Except where the contrary intention appears in this Division, any document required or permitted by this Division to be served on a person shall be served on that person personally.

(2) A document required by subsection (4) of section 201, subsection (5) of section 213, subsection (4) of section 216 or subsection (1) of section 229 of this Act to be served on a person may be served on that person—

(*a*) personally;

or

(*b*) by post at his usual or last-known place of residence or business.

(3) Where, under this Division, any document is required or permitted to be served on a person personally, it may be served by—

(*a*) delivering a copy of the document to that person;

or

(*b*) leaving a copy of the document at the usual or last-known place of residence or business of that person with some person who apparently resides therein or is employed thereat, and is apparently over the age of sixteen years.

Audit.

235. The accounts of the Collector shall, once at least in every year be audited by the Auditor-General and, for the purposes of this section, the Audit Act, 1921, as amended, shall apply and have effect as if the moneys received or held by the Collector were public moneys as defined by that Act.

PART VII

PROVISIONS OF GENERAL APPLICATION

Limitation upon tortious liability.

236. No liability in tort shall attach to the Minister or any officer of the Department in respect of an act or omission on the part of a child under the care and control of the Minister unless the act or omission occurs while the child is acting as the servant or agent of the Minister, or that officer and within the scope of his employment or authority as such.

Exclusion of persons from the hearing of certain cases.

237. (1) Where in any proceedings there are circumstances that make it desirable, in the interests of the proper administration of justice, that the proceedings, or any part of the proceedings should not be heard in open court, the court may order that any persons (not being party to the proceedings, their counsel or solicitors, or officers of the Department) be excluded during the hearing of those proceedings, or that part of the proceedings.

(2) At the hearing of a complaint in an affiliation case no person shall be permitted to be present in the court, except the following:—

(*a*) the adjudicating judge, magistrate, or justices, and the officers of the court;

(*b*) the complainant and the defendant and their respective counsel and solicitors, and the clerks of the counsel or solicitors;

(*c*) the mother, sister, or friend of the complainant, if the complainant desires the presence of any such person;

(*d*) any person while being examined as a witness;

(*e*) the mother, sister, or female friend of any female witness if she desires the presence of any such person while she is being examined as a witness;

and

(*f*) officers of the Department,

unless the court thinks fit to permit any other person to be present.

Restriction on publication of reports on affiliation proceedings, etc.

238. (1) Any person who prints or publishes or causes or procures to be printed or published any particulars whatsoever in relation to any complaint or proceedings under this Act concerning an illegitimate child or the mother of an illegitimate child or concerning an affiliation case, or in relation to any proceedings incidental to such a complaint or proceedings, shall be guilty of an offence against this section.

(2) Any person who sells, or distributes or causes or procures to be sold or distributed or who has in his possession for sale or distribution any newspaper or document containing or purporting to contain any matter or details or particulars the printing or publication of which would be a contravention of the provisions of this section shall be guilty of an offence against this section.

(3) Any person guilty of an offence against this section shall, in respect of each offence, be liable to a penalty not exceeding one thousand dollars or to imprisonment for a term not exceeding six months.

(4) This section does not apply to—

(*a*) the printing, sale, distribution or possession of any pleading, transcript of evidence or other document for the purposes of the proceedings;

(*b*) the printing or publishing of any notice or report in pursuance of the directions of the adjudicating court;

(*c*) any matter that forms part of a genuine series of reports of proceedings in courts of law which reports do not form part of any other publication;

or

(*d*) any publication of a technical character primarily intended for circulation amongst members of the legal or medical professions or amongst persons engaged in community welfare work.

(5) No prosecution for an offence against this section shall be commenced by any person without the authority in writing of the Minister.

Institution and conduct of proceedings.

239. (1) Where a person is entitled to bring proceedings under this Act, the Director-General may, upon the request of that person, institute and conduct those proceedings in the name, and on behalf, of that person.

(2) Any proceedings under the provisions of this Act that may be taken by or on behalf of the Minister, or the Director-General (including proceedings under subsection (1) of this section) may be taken by an officer of the Department who is authorized by the Director-General to take the proceedings, and any such proceedings may be conducted by that officer, or by any other officer of the Department.

(3) It shall be competent for the Crown Solicitor to represent any party in proceedings under this Act.

(4) The Director-General, or an officer of the Department, shall be entitled to be present in any proceedings in which a child is alleged to have committed an offence, and may examine or cross-examine witnesses, and shall be entitled to make representations upon any matter arising for determination in those proceedings.

Evidentiary provision.

240. (1) An apparently genuine document purporting to be an order, authorization or document under the hand or seal of the Minister, or under the hand of the Director-General, shall, in any legal proceedings, be deemed, in the absence of evidence to the contrary to be an order, authorization or document duly made or executed by the Minister or the Director-General, as the case may require.

(2) In any proceedings under this Act taken by an officer of the Department, an allegation that any premises or place referred to in the complaint were or was a childrens home or an assessment centre established or licensed under this Act shall, in the absence of evidence to the contrary, be deemed to be proved.

Power of Director-General to act in the affairs of certain persons.

241. (1) Where the Minister is of the opinion that any person who has been received into a home under this Act, or any child under the care and control of the Minister, is incapable of properly managing his affairs, he may grant to the Public Trustee an authority under this section.

(2) The Public Trustee may, subject to any terms and conditions upon which the authority is granted take possession of any real or personal property of the person to whom the authority relates and may transact any business on behalf of that person, and act in the administration of his affairs, in such manner as the Public Trustee considers in the best interests of that person.

The Director-General may require report.

242. (1) The Director-General may require any person whom he believes to be in a position to do so, to furnish him with a report as to the financial circumstances or transactions of—

(*a*) any person who has applied for financial assistance under this Act, or on whose behalf such an application has been made;

(*b*) any person who is in receipt of any such assistance;

(*c*) a near relative of any such person;

(*d*) any person from whom maintenance is sought under this Act;

or

(*e*) any person who is pursuant to any provision of this Act, or the order of any court, required to pay any moneys to the Director-General.

(2) A person who fails to comply with a requirement under subsection (1) of this section or who furnishes a report that is false or misleading in any material particular shall be guilty of an offence and be liable to a penalty not exceeding two hundred dollars.

Ascertainment of earnings.

243. (1) Where in any proceedings under this Act, it is material to ascertain the earnings of a person, the court may receive as evidence of those earnings a statement in writing signed by—

(*a*) the employer of that person;

(*b*) a person employed by that employer as manager, secretary, accountant, or in such other capacity as, in the opinion of the court, qualifies him to testify of his own knowledge to the earnings of the person whose earnings are in question;

or

(*c*) a member of the police force of this State, any other State or Territory of the Commonwealth, or of the Commonwealth, who has ascertained, or claims in the statement to have ascertained, from a person referred to in paragraph (*a*) or (*b*) of this section, any information as to the earnings of that person.

(2) Where in any proceedings under this Act, it is material to ascertain the financial position of any person, the court may receive as evidence of his financial position a statement in writing signed by him.

(3) A document purporting to be a statement in writing under subsection (1) or subsection (2) of this section shall, in any proceedings under this Act, in the absence of evidence to the contrary, be accepted without further proof as a statement under this section.

Appropriation of maintenance payments.

244. Any moneys paid in pursuance of an order for maintenance, (whether made in pursuance of this Act, or any other Act or law) shall, subject to any order of a court, or any direction of the defendant, as to the appropriation of the moneys, be deemed to have been paid towards the discharge—

(*a*) first, of any liability (apart from a liability to pay costs) arising under the order, a liability falling due at an earlier date being discharged before the moneys are applied towards the discharge of a liability falling due at a later date;

and

(*b*) secondly, towards the discharge of any liability to pay costs in the proceedings in which the order was made.

Evidence of husbands and wives.

245. The wife or husband of any person shall be competent and compellable to give evidence for or against that person in any proceedings under this Act.

Officer of Department not to be compelled to give certain evidence, etc.

246. No officer of the Department, or other person holding any office or position under this Act, shall, in any proceedings before a court, be compelled to give evidence, or produce any document relating to any matter in connection with which any officer of the Department or other person has in the course of his duties given advice to, or been consulted by, any person, except—

(*a*) where the evidence or document relates specifically to the payment or non-payment of maintenance or financial assistance;

or

(*b*) where the evidence relates to, or the document constitutes, correspondence between an officer of the Department and a party to the proceedings who is not represented by an officer of the Department.

Application of Act to persons residing outside the State.

247. (1) Subject to the Service and Execution of Process Act, 1901, as amended, of the Commonwealth, the obligations created by this Act may be enforced against defendants who reside outside the boundaries of this State.

(2) A summons or other process issued under this Act may be served either in this State or in any other State or Territory of the Commonwealth.

Continuity of order.

248. Subject to this Act, an order made pursuant to this Act is not revoked by a subsequent order unless the subsequent order expressly or by necessary implication revokes or varies the former order.

Orders need not be served.

249. Except as otherwise expressly provided by this Act, an order shall be valid notwithstanding that no copy of the order or any minute thereof has been served on the defendant.

Protection of property of the Minister.

250. (1) Any person who obtains or attempts to obtain from the Minister, the Director-General, the Department or any officer of the Department any pecuniary or other assistance or benefit by

means of any false pretence shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars or imprisonment for three months.

(2) Any person who wilfully wastes or damages any property of the Minister shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars or imprisonment for three months.

(3) The provisions of this section are in addition to, and do not derogate from, the provisions of any other Act or law.

Regulations.

251. The Governor may make such regulations as are contemplated by this Act, or as he thinks necessary or expedient for the purposes of this Act and, without limiting the generality of the foregoing, regulations may be made with respect to the following matters—

(*a*) the duties, powers authorities, and privileges, of persons employed in the administration of this Act;

(*b*) the meetings and proceedings of community welfare advisory committees and consultative councils;

(*c*) the management, control and supervision of homes;

(*d*) the management, control and supervision of Aboriginal reserves;

(*e*) the care, maintenance, education, employment and supervision of children under the care and control of the Minister;

(*f*) the visitation of children in homes, or in the custody of foster-parents, or in child care centres;

(*g*) communication and correspondence with children in homes or in the custody of foster parents;

(*h*) the manner in which children under the care and control of the Minister may be dealt with;

(*i*) the provision of wages and rewards for children under the care and control of the Minister;

(*j*) the management and control of property vested in, or in the control of the Minister;

(*k*) the issue of licences in respect of homes and child care centres, and the approval of foster parents;

(*l*) the record to be kept in respect of homes and child care centres;

(*m*) the manner in which a person may apply for assistance under this Act;

(*n*) the regulation of any matters relating to blood tests made for the purposes of affiliation cases;

(*o*) the regulation of any matters or procedures relating to the recovery of moneys in connection with maintenance;

(*p*) the establishment and constitution of Aboriginal councils, and associations in respect of Aboriginal reserves, and the definition of the rights, duties, powers and functions of those councils and associations;

(*q*) providing for the establishment, constitution, incorporation, management, regulation and registration of Aboriginal organizations for carrying on industries, trades or businesses;

(*r*) prescribing penalties, not exceeding two hundred dollars for breach of, or non-compliance with, any regulation.

Offences.

252. (1) Proceedings in respect of offences under this Act (not being misdemeanours) shall be disposed of summarily.

(2) Where a person contravenes or fails to comply with any provision of this Act and no penalty is prescribed in relation to a contravention of or failure to comply with that provision, he shall (whether or not a contravention of, or failure to comply with, that provision is declared to be an offence) be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

THE SCHEDULE

The Acts repealed by this Act are as follows:—

the Aboriginal Affairs Act, 1962;
the Aboriginal Affairs Act Amendment Act, 1966-1967;
the Aboriginal Affairs Act Amendment Act, 1968;
the Children's Protection Act, 1936;
the Children's Protection Act Amendment Act, 1961;
the Children's Protection Act Amendment Act, 1969;
the Maintenance Act, 1926;
the Maintenance Act Amendment Act, 1930;
the Maintenance Act, 1937;
the Maintenance Act Amendment Act, 1937;
the Maintenance Act Amendment Act, 1941;
the Maintenance Act Amendment Act, 1946;
the Maintenance Act Amendment Act, 1948;
the Maintenance Act Amendment Act, 1950;
the Maintenance Act Amendment Act, 1952;
the Maintenance Act Amendment Act, 1957;
the Maintenance Act Amendment Act, 1958;
the Maintenance Act Amendment Act, 1963;
the Maintenance Act Amendment Act, 1965.

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

J. M. NAPIER, Governor's Deputy

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 52 of 1972

An Act to amend the Companies Act, 1962-1971

[*Assented to 27th April,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Companies Act Amendment Act, 1971-1972."

(2) The Companies Act, 1962-1971, as amended by this Act, may be cited as the "Companies Act, 1962-1972".

(3) The Companies Act, 1962-1971, is hereinafter referred to as "the principal Act".

Commencement.

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

(2) The Governor may in the proclamation made for the purposes of subsection (1) of this section suspend the operation of any specified portion of this Act until a date specified in the proclamation or a date to be fixed by subsequent proclamation.

Arrangement.

3. Section 3 of the principal Act is amended—

(*a*) by striking out the passage "PART I.—Preliminary, ss. 1-6." and inserting in lieu thereof the passage "PART I.—Preliminary, ss. 1-6a.";

(*b*) by inserting after the passage "DIVISION III—Shares, ss. 54-69." the passage "DIVISION IIIA—Substantial Shareholdings, ss. 69a-69n:";

and

(*c*) by striking out the passage:—

PART VI—Accounts, Audit and Investigation, ss. 161-180—

DIVISION I—Accounts, ss. 161-164:

DIVISION II—Audit, ss. 165-167:

DIVISION III—Inspection, ss. 168-171:

DIVISION IV—Special Investigations, ss. 172-180:

and inserting in lieu thereof the passage:—

PART VI—Accounts and Audit, ss. 161-167c—

DIVISION I—Preliminary, s. 161:

DIVISION II—Accounts, ss. 161a-164:

DIVISION III—Audit, ss. 165-167b:

DIVISION IV—Special Provisions relating to Banking and Life Insurance Corporations, s. 167c:

PART VIA—Special Investigations, ss. 168-180aa:

PART VIB—Take-overs, ss. 180a-180za.

Amendment of principal Act, s. 4—Repeal and savings.

4. Section 4 of the principal Act is amended by striking out subsections (5) and (6).

Amendment of principal Act, s. 5—Interpretation.

5. Section 5 of the principal Act is amended—

(*a*) by striking out from subsection (1) the definition of "books" and inserting in lieu thereof the following definition:—

"books" includes any account, deed, writing or document and any other record of information however compiled recorded or stored whether in written or printed form on microfilm by electronic process or otherwise:;

(*b*) by inserting after the definition of "creditors' voluntary winding up" in subsection (1) the following definition:—

"current liability", in relation to any accounts or group accounts, means a liability which would, in the ordinary course of events, be payable within twelve months after the end of the financial year to which the accounts or group accounts relate:;

(*c*) by striking out from subsection (1) the definition of "emoluments" and inserting in lieu thereof the following definition:—

"emoluments" includes fees, percentages and other payments made, and the money value of any consideration allowances and perquisites given, directly or indirectly to a director of a company, in connection with the management of the affairs of the company or of any holding company or subsidiary of that company whether as a director or otherwise but does not include amounts in payment or reimbursement of out-of-pocket expenses incurred for the benefit of the company:;

(*d*) by inserting after the definition of "no-liability company" in subsection (1) the following definition:—

"non-current liability" means a liability that is not a current liability:;

(*e*) by inserting immediately after paragraph (*b*) of the definition of "officer" in subsection (1) and before the word "and" immediately preceding paragraph (*c*) of that definition the following paragraph:—

(*ba*) any official manager or deputy official manager of the company appointed under the provisions of Part IX.;

(*f*) by inserting after the passage "for a period" in the definition of "profit and loss account" in subsection (1) the passage "and, if the corporation concerned is engaged in the development or exploration of natural resources, also includes an operations account or any like account and a development account or any like account";

(*g*) by inserting immediately after the definition of "Registrar" in subsection (1) the following definition:—

"related corporation", in relation to a corporation, means a corporation that is deemed to be related to the first-mentioned corporation by virtue of subsection (5) of section 6 of this Act:;

(*h*) by inserting after the definition of "Table B" in subsection (1) the following definition:—

"the profit or loss" means—

(*a*) in relation to a corporation that—

(i) is not a holding company;

or

(ii) is a holding company for which group accounts are not required—

the profit or loss resulting from the operations of that corporation;

(*b*) in relation to a corporation that is a holding company for which group accounts are required—the profit or loss resulting from the operations of that corporation;

and

(*c*) in relation to a corporation referred to paragraph (*b*) and its subsidiaries—the profit or loss resulting from the operations of the group of companies of which the corporation is the holding company:;

and

(*i*) by inserting after the definition of "unlimited company" in subsection (1) the following definition:—

"voting share", in relation to a body corporate, means an issued share in the body corporate not being—

(*a*) a share to which, in no circumstances, is there attached a right to vote;

or

(*b*) a share to which there is attached a right to vote only in one or more of the following circumstances:—

(i) during a period during which a dividend (or part of a dividend) in respect of the share is in arrear;

(ii) upon a proposal to reduce the share capital of the body corporate;

(iii) upon a proposal that affects rights attached to the share;

(iv) upon a proposal to wind up the body corporate;

(v) upon a proposal for the disposal of the whole of the property, business and undertaking of the body corporate;

(vi) during the winding up of the body corporate.

Enactment of s. 6a of principal Act.

6. The following section is enacted and inserted in the principal Act immediately after section 6 thereof:—

Interests in shares.

6a. (1) The following subsections have effect for the purposes of Division IIIA of Part IV, sections 126 and 127, and for the purposes of Part VIB.

(2) Where the property subject to a trust consists of or includes shares and a person knows or has reasonable grounds for believing—

(*a*) that he has an interest under the trust;

and

(*b*) that the property subject to the trust consists of or includes those shares,

he shall be deemed to have an interest in those shares.

(3) Where a right (being a right or an interest described in the definition of "interest" in section 76 or in the definition of that word in the corresponding provision of the law of another State or of a Territory of the Commonwealth)—

(*a*) was issued or offered to the public for subscription or purchase, or the public was invited to subscribe for or purchase such a right and the right was so subscribed for or purchased;

or

(*b*) was issued for the purposes of an offer to the public by and is held by the management company, within the meaning of that section or corresponding provision,

that right does not constitute an interest in a share.

(4) Where a body corporate has an interest in a share and—

(*a*) the body corporate is, or its directors are, accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of a person in relation to that share;

(*b*) a person has a controlling interest in the body corporate;

or

(*c*) a person is, the associates of a person are, or a person and his associates are, entitled to exercise or control the exercise of not less than fifteen per centum of the votes attached to the voting shares in the body corporate,

that person shall be deemed to have an interest in that share.

(5) For the purposes of paragraph (*c*) of subsection (4), a person is an associate of another person if the first-mentioned person is—

(*a*) a corporation that, by virtue of subsection (5) of section 6, is deemed to be related to that other person;

(*b*) a person in accordance with whose directions, instructions or wishes that other person is accustomed or is under an obligation, whether formal or informal, to act in relation to the share referred to in subsection (4);

(*c*) a person who is accustomed or is under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of that other person in relation to that share;

(*d*) a body corporate that is, or the directors of which are, accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of that other person in relation to that share;

or

(*e*) a body corporate in accordance with the directions, instructions or wishes of which, or of the directors of which, that other person is under an obligation, whether formal or informal, to act in relation to that share.

(6) Where a person—

(*a*) has entered into a contract to purchase a share;

(*b*) has a right, otherwise than by reason of having an interest under a trust, to have a share transferred to himself or to his order, whether the right is exercisable presently or in the future and whether on the fulfilment of a condition or not;

(*c*) has the right to acquire a share, or an interest in a share, under an option, whether the right is exercisable presently or in the future and whether on the fulfilment of a condition or not;

or

(*d*) is entitled (otherwise than by reason of his having been appointed a proxy or representative to vote at a meeting of members of a corporation or of a class of its members) to exercise or control the exercise of a right attached to a share, not being a share of which he is the registered holder,

that person shall be deemed to have an interest in that share.

(7) A person shall not be deemed not to have an interest in a share by reason only that he has the interest in the share jointly with another person.

(8) It is immaterial, for the purposes of determining whether a person has an interest in a share, that the interest cannot be related to a particular share.

(9) There shall be disregarded—

(*a*) an interest in a share if the interest is that of a person who holds the share as bare trustee;

(*b*) an interest in a share of a person whose ordinary business includes the lending of money if he holds the interest only by way of security for the purposes of a transaction entered into in the ordinary course of business in connection with the lending of money;

(*c*) an interest of a person in a share, being an interest held by him by reason of his holding a prescribed office;

and

(*d*) a prescribed interest in a share, being an interest of such person, or of the persons included in such class of persons, as is prescribed.

(10) An interest in a share shall not be disregarded by reason only of—

(*a*) its remoteness;

(*b*) the manner in which it arose;

or

(*c*) the fact that the exercise of a right conferred by the interest is or is capable of being made subject to restraint or restriction.

Amendment of principal Act, s. 9—Companies Auditors Board.

7. Section 9 of the principal Act is amended by striking out subsections (1), (2), (3), (4), (5) and (6).

Amendment of principal Act, s. 14—Formation of companies.

8. Section 14 of the principal Act is amended by striking out subsection (3) and inserting in lieu thereof the following subsection:—

(3) An association or partnership consisting—

(*a*) in the case of an association or partnership formed for the purpose of carrying on any profession or calling declared by proclamation of the Governor published in the *Gazette* to be a profession or calling which is not customarily carried on in the Commonwealth by a corporation—of more than one hundred persons;

or

(*b*) in any other case, of more than twenty persons,

which has for its object the acquisition of gain by the association or partnership or individual members thereof shall not be formed unless it is incorporated under this Act or is formed in pursuance of some other Act or letters patent.

Repeal of s. 25 of principal Act and enactment of section in its place.

9. Section 25 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Registration of unlimited company as limited, etc.

25. (1) Subject to this section—

(*a*) an unlimited company may convert to a limited company if it was not previously a limited company that became an unlimited company in pursuance of paragraph (*d*);

(*b*) a no-liability company all the issued shares in which are fully paid-up may convert to a company limited by shares;

(*c*) a company limited by guarantee may convert to a company limited both by shares and guarantee;

and

(*d*) a limited company may convert to an unlimited company if it was not previously an unlimited company that became a limited company in pursuance of paragraph (*a*) or any corresponding previous enactment.

(2) Where a company applies in writing to the Registrar for a change of status as provided by subsection (1) and, subject to subsections (8) and (9) of section 28 as applied by subsection (7), lodges with the application the prescribed documents relating to the application, the Registrar shall, upon registration of such prescribed documents so lodged as are registrable under this Act, issue to the company a certificate of incorporation—

(*a*) appropriate to the change of status applied for;

and

(*b*) specifying, in addition to the particulars prescribed in respect of a certificate of incorporation of a company of that status, that the certificate is issued in pursuance of this section,

and, upon the issue of such a certificate of incorporation the company shall be deemed to be a company having the status specified therein.

(3) Where the status of a company is changed in pursuance of this section, notice of the change of status shall be published in such manner (if any) as the Registrar directs.

(4) In subsection (2) "prescribed documents" in relation to an application referred to in that subsection means—

(*a*) a printed copy of a special resolution of the company—

(i) resolving to change the status of the company and specifying the status sought;

(ii) making such alterations to the memorandum of the company as are necessary to bring the memorandum into conformity with the requirements of this Act relating to the memorandum of a company of the status sought;

(iii) making—where the company has registered articles—such alterations and additions to the articles, if any, as are necessary to bring the articles into conformity with the requirements of this Act relating to the articles of a company of the status sought;

(iv) adopting—where the company has no registered articles—such articles, if any, as are required by this Act to be registered in respect of a company of the status sought or are proposed by the company as the registered articles of the company upon the change in its status;

and

(v) changing the name of the company to a name by which it could be registered if it were a company of the status sought;

(*b*) where, by a special resolution referred to in paragraph (*a*), the memorandum of the company is altered or the articles of the company are altered or added to, or articles are adopted by the company—a printed copy of the memorandum as altered, the articles as altered or added to, or the articles adopted, as the case may be;

and

(*c*) in the case of an application by a limited company to convert to an unlimited company—

(i) the prescribed form of assent to the application subscribed by or on behalf of all the members of the company;

and

(ii) a statutory declaration by a director or secretary of the company verifying that the persons by whom or on whose behalf such a form of assent is subscribed constitute the whole membership of the company and, if a member has not subscribed the form himself, that the director or secretary making the declaration has taken all reasonable steps to satisfy himself that each person who subscribed the form was lawfully empowered so to do.

(5) The provisions of subsections (2) to (6), both inclusive, of section 21 do not apply to or in relation to an application under this section or to any prescribed documents in relation to the application.

(6) A special resolution passed for the purposes of an application under this section shall take effect only upon the issue under this section of a certificate of incorporation of the company to which the resolution relates.

(7) With such modifications as may be necessary, section 28 (except subsection (1)) applies to and in respect of the proposal, passing and lodging, and the cancellation or confirmation by the Court, of a special resolution relating to a change of status as if it were a special resolution under that section.

(8) A change in the status of a company in pursuance of this section does not operate—

(*a*) to create a new legal entity;

(*b*) to prejudice or affect the identity of the body corporate constituted by the company or its continuity as a body corporate;

(*c*) to affect the property, or the rights or obligations, of the company;

or

(*d*) to render defective any legal proceedings by or against the company,

and any legal proceedings that could have been continued or commenced by or against it prior to the change in its status may, notwithstanding the change in its status, be continued or commenced by or against it after the change in its status.

10. Section 26a of the principal Act is repealed. Repeal of s. 26a of principal Act.

11. Section 42 of the principal Act is amended— Amendment of principal Act, s. 42— Registration of prospectus.

(*a*) by striking out the word "and" immediately preceding paragraph (*c*) of subsection (2);

(*b*) by inserting after paragraph (*c*) of subsection (2) the following paragraph:—

and

(*d*) in the case of a prospectus pursuant to which the public is to be invited to deposit money with, or to lend money to, a corporation which is a subsidiary of another corporation—

(i) the prospectus contains a statement as to whether or not that other corporation is under any liability to repay those moneys or to pay any interest thereon;

and

(ii) where that other corporation is so stated to be under such liability, the prospectus also gives full particulars of the nature and extent of that liability, of the circumstances under which that liability arose, and the manner in which that liability is to be discharged;

and

(*c*) by inserting after subsection (2) the following subsection:—

(2a) The Registrar may refuse to register a copy of a prospectus if, in the opinion of the Registrar, any statement contained therein, or any portion of its contents, is misleading in the form or context in which it is included.

12. The following new Division is enacted and inserted in the principal Act immediately after section 69 thereof:— Enactment of Division IIIA of Part IV of principal Act—

DIVISION IIIA—SUBSTANTIAL SHAREHOLDINGS

69a. (1) This section has effect for the purposes of this Division. Application and interpretation of Division.

(2) A reference to a company is a reference—

(*a*) to a company all or any of the shares in which are listed for quotation on the official list of a Stock Exchange in Australia;

(*b*) to a body corporate, being a body incorporated in the State, that is for the time being declared by the Governor by notice published in the *Gazette*, to be a company for the purposes of this Division;

or

(*c*) to a body, not being a body corporate, formed in the State, that is for the time being declared by the Governor, by notice published in the *Gazette*, to be a company for the purposes of this Division.

(3) The Governor may by notice published in the *Gazette* revoke or vary a notice published under subsection (2) of this section.

(4) In relation to a company the whole or a portion of the share capital of which consists of stock, an interest of a person in any such stock shall be deemed to be an interest in an issued share in the company having the same nominal amount as the amount of that stock and having attached to it the same rights as are attached to that stock.

(5) A reference in the definition of "voting share" in subsection (1) of section 5 to a body corporate includes a reference to a body referred to in paragraph (*c*) of subsection (2).

Persons obliged to comply with Division.

69b. (1) The obligation to comply with this Division extends to all natural persons, whether resident in the State or in Australia or not and whether Australian citizens or not, and to all bodies corporate, whether incorporated or carrying on business in the State or in Australia or not.

(2) This Division extends to acts done or omitted to be done outside the State, whether in Australia or not.

Substantial shareholdings and substantial shareholders.

69c. (1) For the purposes of this Division, a person has a substantial shareholding in a company if he has an interest or interests in one or more voting shares in the company and the nominal amount of that share, or the aggregate of the nominal amounts of those shares, is not less than one-tenth of the aggregate of the nominal amounts of all the voting shares in the company.

(2) For the purposes of this Division, a person has a substantial shareholding in a company, being a company the share capital of which is divided into two or more classes of shares, if he has an interest or interests in one or more voting shares included in one of those classes and the nominal amount of that share, or the aggregate of the nominal amounts of those shares, is not less than one-tenth of the aggregate of the nominal amounts of all the voting shares included in that class.

(3) For the purposes of this Division, a person who has a substantial shareholding in a company is a substantial shareholder in that company.

Substantial shareholder to notify company of his interests.

69d. (1) A person who is a substantial shareholder in a company shall give notice in writing to the company stating his name and address and full particulars of the voting shares in the company in which he has an interest or interests (including, unless the interest or interests cannot be related to a particular share or shares, the name of the person who is registered as the holder) and full particulars of each such interest and of the circumstances by reason of which he has that interest.

(2) The notice shall be given—

(*a*) if the person was a substantial shareholder on the date on which this Division came into operation—within one month after that date;

or

(*b*) if the person became a substantial shareholder after that date—within fourteen days after becoming a substantial shareholder.

(3) The notice shall be so given notwithstanding that the person has ceased to be a substantial shareholder before the expiration of whichever period referred to in subsection (2) is applicable.

Substantial shareholder to notify company of acquisition or disposal of interest in voting shares, etc.

69e. (1) Where a substantial shareholder acquires or disposes of an interest in voting shares in a company, or there is any change in the nature of his interest in voting shares in a company, the substantial shareholder shall give notice in writing to the company stating his name and full particulars of the acquisition or disposal of the interest, or the change in the nature of the interest, and of any transaction resulting in the acquisition or disposal of the interest, or the circumstances by reason of which the change in the nature of the interest occurred.

(2) The notice shall be given within fourteen days after the day on which the interest is acquired or disposed of, or the change in the nature of the interest occurs.

Person who ceases to be substantial shareholder to notify company.

69f. (1) A person who ceases to be a substantial shareholder in a company shall give notice in writing to the company stating his name and the date on which he ceased to be a substantial shareholder and full particulars of the circumstances by reason of which he ceased to be a substantial shareholder.

(2) The notice shall be given within fourteen days after the person ceased to be a substantial shareholder.

References to operation of section 6a.

69g. The circumstances required to be stated in a notice under section 69d, 69e or 69f include circumstances by reason of which, having regard to the provisions of section 6a—

(*a*) a person has an interest in voting shares;

(*b*) a change has occurred in an interest in voting shares;

or

(*c*) a person has ceased to be a substantial shareholder in a company,

respectively.

Persons holding shares as trustees.

69h. (1) A person who holds voting shares in a company, being voting shares in which a non-resident has an interest, shall—

(*a*) give to the non-resident a notice in the prescribed form as to the requirements of this Division;

or

(*b*) where the first-mentioned person knows or has reasonable grounds for believing that an interest of the non-resident in the shares is an interest that the non-resident holds for another person, give to the non-resident a notice in the prescribed form as to the requirements of this Division and direct the non-resident to give the notice or a copy of the notice to that other person.

(2) The notice shall be given—

(*a*) if the first-mentioned person holds the shares on the date on which this Division came into operation—within fourteen days after that date;

or

(*b*) if the first-mentioned person did not hold the shares on that date—within fourteen days after becoming the holder of the shares.

(3) In this section, "non-resident" means a person who is not resident in Australia or a body corporate that is not incorporated in Australia.

(4) Nothing in this section affects the operation of section 69b.

Registrar may extend time for giving notice under this Division.

69j. The Registrar may, on the application of a person who is required to give a notice under this Division, in his discretion, extend, or further extend, the time for giving the notice.

Company to keep register of substantial shareholders.

69k. (1) A company shall keep a register in which it shall forthwith enter—

(*a*) in alphabetical order the names of persons from whom it has received a notice under section 69d;

and

(*b*) against each name so entered, the information given in the notice and, where it receives a notice under section 69e or 69f, the information given in that notice.

(2) The register shall be kept at the registered office of the company, or, if the company does not have a registered office, at the principal place of business of the company in the State, and shall be open for inspection by a member of the company without charge and by any other person on payment for each inspection of a sum of fifty cents or such lesser sum as the company requires.

(3) A person may request the company to furnish him with a copy of the register or any part of the register on payment in advance of a sum of twenty cents or such lesser sum as the company requires for every one hundred words or fractional part thereof required to be copied and the company shall send the copy to that person, within fourteen days or such longer period as the Registrar thinks fit, after the day on which the request is received by the company.

(4) The Registrar may at any time in writing require the company to furnish him with a copy of the register or any part of the register and the company shall furnish the copy within fourteen days after the day on which the requirement is received by the company.

(5) If default is made in complying with this section, the company and every officer of the company who is in default is guilty of an offence.

Penalty: One thousand dollars. Default penalty: Two hundred dollars.

(6) A company is not, by reason of anything done under this Division—

(*a*) to be taken for any purpose to have notice of;

or

(*b*) put upon inquiry as to.

a right of a person to or in relation to a share in the company.

Offences against certain sections.

691. A person who fails to comply with section 69d, 69e or 69f is guilty of an offence.

Penalty: One thousand dollars. Default penalty: Two hundred dollars.

Defence to prosecutions.

69m. (1) It is a defence to a prosecution for failing to comply with section 69d, 69e or 69f if the defendant proves that his failure was due to his not being aware of a fact or occurrence the existence of which was necessary to constitute the offence and that—

(*a*) he was not so aware on the date of the information or summons;

(*b*) he became so aware less than fourteen days before the date of the information or summons;

or

(*c*) he became so aware not less than fourteen days before the date of the information or summons and gave the notice under the relevant section within fourteen days after becoming so aware.

(2) For the purposes of subsection (1), a person shall in the absence of proof to the contrary be presumed to have been aware at a particular time of a fact or occurrence of which a servant or agent of the person, being a servant or agent having duties or acting in relation to his master's or principal's interest or interests in a share or shares in the company concerned, was aware at that time.

Powers of court with respect to defaulting substantial shareholders.

69n. (1) Where a person (in this section referred to as "the substantial shareholder"), is, or at any time after the date on which this Division came into operation has been, a substantial shareholder in a company and has failed to comply with section 69d, 69e or 69f, the Court may, on the application of the Minister, whether or not that failure still continues, make one or more of the following orders—

(*a*) an order restraining the substantial shareholder from disposing of any interest in shares in the company in which he is or has been a substantial shareholder;

(*b*) an order restraining a person who is, or is entitled to be registered as, the holder of shares referred to in paragraph (*a*) from disposing of any interest in those shares;

(*c*) an order restraining the exercise of any voting or other rights attached to any share in the company in which the substantial shareholder has or has had an interest;

(*d*) an order directing the company not to make payment, or to defer making payment, of any sum due from the company in respect of any share in which the substantial shareholder has or has had an interest;

(*e*) an order directing the sale of all or any of the shares in the company in which the substantial shareholder has or has had an interest;

(*f*) an order directing the company not to register the transfer or transmission of specified shares;

(*g*) an order that any exercise of the voting or other rights attached to specified shares in the company in which the substantial shareholder has or has had an interest be disregarded;

(*h*) for the purposes of securing compliance with any other order made under this section, an order directing the company or any other person to do or refrain from doing a specified act.

(2) Any order under this section may include such ancillary or consequential provisions as the Court thinks just.

(3) An order under this section directing the sale of a share may provide that the sale shall be made within such time and subject to such conditions, if any, as the Court thinks fit, including if the Court thinks fit, a condition that the sale shall not be made to a person who is, or, as a result of the sale, would become, a substantial shareholder in the company.

(4) The Court may direct that, where a share is not sold in accordance with an order of the Court under this section, the share shall vest in the Registrar.

(5) The Court shall, before making an order under this section and in determining the terms of such an order, satisfy itself, so far as it can reasonably do so, that the order would not unfairly prejudice any person.

(6) The Court shall not make an order under this section, other than an order restraining the exercise of voting rights, if it is satisfied—

(*a*) that the failure of the substantial shareholder to comply as mentioned in subsection (1) was due to his inadvertance or mistake and that the failure ought to be excused;

or

(*b*) on any other grounds, the failure ought to be excused.

(7) The Court may, before making an order under this section, direct that notice of the application be given to such persons as it thinks fit or direct that notice of the application be published in such manner as it thinks fit, or both.

(8) The Court may rescind, vary or discharge an order made by it under this section or suspend the operation of such an order.

(9) Section 311 applies in relation to a share that vests in the Registrar under this section as the first-mentioned section applies in relation to an estate or interest in property referred to in the first-mentioned section.

(10) A person shall not contravene or fail to comply with an order under this section that is applicable to him.

Penalty: One thousand dollars. Default penalty: Two hundred dollars.

(11) Subsection (10) does not affect the powers of the Court in relation to the punishment of contempts of the Court.

Amendment of principal Act, s. 74f— Obligations of borrowing corporation.

13. Section 74f of the principal Act is amended by striking out from subsection (5) the passage "subsections (4) to (13), both inclusive, of section 162 and of subsections (1), (2) and (4) of section 167" and inserting in lieu thereof the passage "section 162 (other than subsections (5) and (6)), subsections (1), (2) and (3) of section 162a, section 162c, subsections (1), (2), (3), (4), (5), (6), (8) and (9) of section 167 and section 167c (other than any provision which requires the laying of accounts or group accounts within the meaning of those sections before an annual general meeting).

Amendment of principal Act, s. 76— Interpretation.

14. Section 76 of the principal Act is amended by striking out paragraphs (i), (ii) and (iii) of the definition of "interest" and inserting in lieu thereof the following paragraphs:—

(*d*) any share in or debenture of a corporation;

(*e*) any interest in or arising out of a policy of life assurance; or

(*f*) an interest in a partnership agreement other than any interest in a partnership agreement that is a prescribed interest or is an interest included in a class of prescribed interests.

Amendment of principal Act, s. 80— Covenants to be included in deeds.

15. Section 80 of the principal Act is amended by striking out from paragraph (*d*) of subsection (1) the passage "subsection (5) of section 38" and inserting in lieu thereof the passage "subsection (7) of section 38".

Amendment of principal Act, s. 81—

Interests to be issued by companies only.

16. Section 81 of the principal Act is amended by inserting after the present provisions thereof (which are hereby designated subsection (1) thereof), the following subsection:—

(2) Subsection (1) does not apply to or in relation to an offer to the public for purchase of an interest—

(*a*) that is an interest in a partnership agreement;

and

(*b*) that was subscribed for or purchased before the commencement of the Companies Act Amendment Act, 1971-1972.

Amendment of principal Act, s. 83—

No issue without approved deed.

17. Section 83 of the principal Act is amended by inserting after the word "interest" (where first occurring) in subsection (1) the passage "(not being an interest referred to in subsection (2) of section 81 of this Act)".

Amendment of principal Act, s. 122—

Power to restrain certain persons from managing companies.

18. Section 122 of the principal Act is amended—

(*a*) by striking out from paragraph (*a*) of subsection (1) the passage "on indictment of an offence" and inserting in lieu thereof the passage "of an indictable offence";

and

(*b*) by striking out paragraph (*c*) of subsection (1) and inserting in lieu thereof the following paragraph:—

(*c*) of an offence under section 47, section 124, section 180j, section 374b, section 374c or any of the corresponding provisions of the law of another State or of a Territory of the Commonwealth.

Repeal of s. 124 of principal Act and enactment of sections in its place.

19. Section 124 of the principal Act is repealed and the following sections are enacted and inserted in its place:—

Duty and liability of officers.

124. (1) A director shall at all times act honestly and use reasonable diligence in the discharge of the duties of his office.

(2) An officer of a corporation shall not make improper use of information acquired by virtue of his position as such an officer to gain directly or indirectly an advantage for himself or for any other person or to cause detriment to the corporation.

(3) An officer of a corporation who commits a breach of a provision of this section is—

(*a*) liable to the corporation for—

(i) profit made by him;

and

(ii) damage suffered by the corporation,

as a result of the breach;

and

(*b*) guilty of an offence against this Act.

Penalty: Two thousand dollars.

(4) This section has effect in addition to and not in derogation from any other enactment or rule of law relating to the duty or liability of a director or officer of a corporation.

Dealings by officers in securities.

124a. (1) An officer of a corporation who in or in relation to a dealing in securities of the corporation by himself or another person makes use to gain directly or indirectly an advantage for himself or another person of specific confidential information acquired by virtue of his position as such an officer which if generally known might reasonably be expected to affect materially the value of the subject-matter of the dealing is liable to a person for loss suffered by that person by reason of the payment by him of a consideration in respect of the securities greater than the consideration that would have been reasonable if the information had been generally known at the time of the dealing.

(2) An officer of a corporation is not liable under subsection (1) to a person for loss suffered by that person if that person knew or ought reasonably to have known of the information referred to in subsection (1) before entering into the transaction relating to the dealing in securities of the corporation.

(3) An action for the recovery of the amount of a loss referred to in subsection (1) may not be commenced after the expiration of the period of two years after the date of the completion of the dealing in securities in respect of which the loss was suffered.

(4) In this section "dealing in securities" in relation to a corporation means a transaction relating to—

(*a*) shares in debentures of or interests within the meaning of section 76 made available by the corporation or by a related corporation;

or

(*b*) rights or options in respect of the acquisition or disposal of such shares debentures or interests.

Repeal of ss. 126 and 127 of principal Act and enactment of sections in their place.

20. Sections 126 and 127 of the principal Act are repealed and the following sections are enacted and inserted in their place:—

Register of directors' shareholdings, etc.

126. (1) A company shall keep a register showing with respect to each director of the company (other than a director that is its holding company) particulars of—

(*a*) shares in the company or in a related corporation being shares in which the director has an interest and the nature and extent of that interest;

(*b*) debentures of or participatory interests made available by the company or a related corporation in which the director has an interest and the nature and extent of that interest;

(*c*) rights or options of the director or of the director and another person or other persons in respect of the acquisition or disposal of shares in, debentures of, or participatory interests made available by the company or a related corporation;

and

(*d*) contracts to which the director is a party or under which he is entitled to a benefit being contracts under which a person has a right to call for or to make delivery of shares in, debentures of, or participatory interests made available by the company or a related corporation.

(2) A company need not show in its register with respect to a director particulars of shares in a related corporation that is the wholly owned subsidiary of the company or of another corporation.

(3) A company that is a wholly owned subsidiary of another company shall be deemed to have complied with this section in relation to a director who is a director of that other company if the particulars required by this section to be shown in the register of the first-mentioned company with respect to the director are shown in the register of the second-mentioned company.

(4) For the purposes of subsections (2) and (3) a company is a wholly owned subsidiary of another company if none of the members of the first-mentioned company is a person other than—

(*a*) the second-mentioned company;

(*b*) a nominee of the second-mentioned company;

(*c*) a subsidiary of the second-mentioned company being a subsidiary none of the members of which is a person other than the second-mentioned company or a nominee of the second-mentioned company;

or

(*d*) a nominee of such a subsidiary.

(5) A company shall within seven days after receiving notice from a director under paragraph (*a*) of subsection (1) of section 127 enter in its register in relation to the director the particulars referred to in subsection (1) including the number and description

of shares debentures participatory interests rights options and contracts to which the notice relates and in respect of shares debentures participatory interests rights or options acquired or contracts entered into after he became a director—

(*a*) the price or other consideration for the transaction (if any) by reason of which an entry is required to be made under this section;

and

(*b*) the date of—

(i) the agreement for the transaction or if it is later, the completion of the transaction;

or

(ii) where there was no transaction, the occurrence of the event by reason of which an entry is required to be made under this section.

(6) A company shall, within three days after receiving a notice from a director under paragraph (*b*) of subsection (1) of section 127, enter in its register the particulars of the change referred to in the notice.

(7) A company is not, by reason of anything done under this section, to be taken for any purpose to have notice of or to be upon inquiry as to the right of a person to or in relation to a share in debenture of or participatory interest made available by the company.

(8) A company shall subject to this section keep its register at the registered office of the company and the register shall be open for inspection by a member of the company without charge and by any other person on payment for each inspection of a sum of fifty cents or such lesser sum as the company requires.

(9) A person may request a company to furnish him with a copy of its register or any part of its register on payment in advance of a sum of twenty cents or such lesser sum as the company requires for every hundred words or fractional part of one hundred words required to be copied and the company shall send the copy to that person within twenty-one days or such longer period as the Registrar thinks fit after the day on which the request is received by the company.

(10) The Registrar may at any time in writing require a company to furnish him with a copy of its register or any part of its register and the company shall furnish the copy within seven days after the day on which the requirement is received by the company.

(11) A company shall produce its register at the commencement of each annual general meeting of the company and keep it open and accessible during the meeting to all persons attending the meeting.

(12) It is a defence to a prosecution for failing to comply with subsection (1) or (5) in respect of particulars relating to a director if the defendant proves that the failure was due to the failure of the director to comply with section 127 with respect to those particulars.

(13) In this section a reference to a participatory interest is a reference to an interest within the meaning of section 76.

(14) In determining, for the purposes of this section whether a person has an interest in a debenture or participatory interest the provisions of section 6a, except subsections (1) and (3) of that section, have effect and in applying those provisions a reference to a share shall be read as a reference to a debenture or participatory interest.

(15) If default is made in complying with this section the company and every officer of the company who is in default shall be guilty of an offence against this Act.

Penalty: One thousand dollars. Default penalty: Two hundred dollars.

General duty to make disclosure.

127. (1) A director of a company shall give notice in writing to the company—

(*a*) unless the director is the holding company of the company, of such particulars relating to shares debentures participatory interests rights options and contracts as are necessary for the purposes of compliance by the first-mentioned company with the provisions of section 126;

(*b*) of particulars of any change in respect of the particulars referred to in paragraph (*a*) of which notice has been given to the company including the consideration (if any) received as a result of the event giving rise to the change;

and

(*c*) of such events and matters affecting or relating to himself as are necessary for the purposes of compliance by the company with any of the provisions of section 134 or 184 (as in force immediately before the commencement of the Companies Act Amendment Act, 1971-1972) or Part VIB or the Tenth Schedule that are applicable in relation to him.

Penalty: One thousand dollars. Default penalty: Two hundred dollars.

(2) A person required to give a notice under subsection (1) shall give the notice—

(*a*) in the case of a notice under paragraph (*a*) of that subsection, within fourteen days after—

(i) the commencement of the Companies Act Amendment Act, 1971-1972;

(ii) the date on which the director became a director;

or

(iii) the date on which the director acquired an interest in the shares debentures participatory interests rights options or contracts,

whichever last occurs;

and

(*b*) in the case of a notice under paragraph (*b*) of that subsection, within fourteen days after the occurrence of the event giving rise to the change referred to in that paragraph.

Penalty: One thousand dollars. Default penalty: Two hundred dollars.

(3) A company shall within seven days after the receipt by it of a notice given under subsection (1) send a copy of the notice to each of the other directors of the company.

Penalty: One thousand dollars. Default penalty: Two hundred dollars.

(4) It is a defence to a prosecution for failing to comply with paragraph (*a*) or (*b*) of subsection (1) or with subsection (2) if the defendant proves that his failure was due to his not being aware of a fact or occurrence the existence of which was necessary to constitute the offence and that—

(*a*) he was not so aware on the date of the information or summons;

(*b*) he became so aware less than fourteen days before the date of the information or summons;

or

(*c*) he became so aware not less than fourteen days before the date of the information or summons and gave the notice under the relevant subsection within fourteen days after becoming so aware.

(5) For the purposes of subsection (4) a person shall, in the absence of proof to the contrary, be presumed to have been aware at a particular time of a fact or occurrence of which a servant or agent of the person, being a servant or agent having duties or acting in relation to his master's or principal's interest or interests in a share in or a debenture of or a participatory interest made available by the company concerned, was aware at that time.

(6) In this section a reference to a participatory interest is a reference to an interest within the meaning of section 76.

(7) In determining, for the purposes of this section whether a person has an interest in a debenture or participatory interest the provisions of section 6a, except subsections (1) and (3) of that section, have effect and in applying those provisions a reference to a share shall be read as a reference to a debenture or participatory interest.

Amendment of principal Act, s. 129—
Payments to director for loss of office, etc.

21. Section 129 of the principal Act is amended by striking out from subsection (2) the passage "section 184." and inserting in lieu thereof the passage "section 184 as in force immediately before the commencement of the Companies Act Amendment Act, 1971-1972".

Amendment of principal Act, s. 131—
Power to require disclosure of director's emoluments.

22. Section 131 of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "the emoluments of the directors of the company or of a subsidiary" and inserting in lieu thereof the passage "the emoluments and other benefits received by the directors of the company or of a subsidiary";

and

(*b*) by striking out from paragraph (i) of subsection (1) the passage "total emoluments paid to each of the directors of the company and to each director" and inserting in lieu thereof the passage "total amount of emoluments and other benefits paid to or received by each of the directors of the company and each director".

Amendment of principal Act, s. 136—Annual general meeting.

23. Section 136 of the principal Act is amended—

(*a*) by striking out subsection (2) and inserting in lieu thereof the following subsections:—

(2) The Registrar may, on application made by a company in accordance with a resolution of the directors and signed by a director or secretary, subject to such conditions as the Registrar thinks fit—

(*a*) extend the period of fifteen months or eighteen months referred to in subsection (1);

or

(*b*) permit an annual general meeting to be held in a calendar year other than the calendar year in which it would otherwise be required by subsection (1) to be held.

(2a) A company is not in default in holding an annual general meeting under subsection (1) if, in pursuance of an extension or permission under subsection (2), an annual general meeting is not held within the period or in the calendar year in which it would otherwise be required by subsection (1) to be held, as the case may be, but is held within the extended period or in the calendar year in which under subsection (2) it is permitted to be held.

(2b) An application by a company for an extension of a period or for permission under subsection (2) shall be made before the expiration of that period or of the calendar year in which the annual general meeting would otherwise be required by subsection (1) to be held, as the case may be.

(2c) Where in a calendar year (other than the year of its incorporation or the following year) a company does not hold an annual general meeting, an annual general meeting of the company shall, for the purposes of calculating the period within which the next annual general meeting is, under subsection (1), required to be held, be deemed to have been held on the 31st day of December in that calendar year unless the Registrar otherwise directs or on such other date in that calendar year as the Registrar determines.;

and

(*b*) by inserting in subsection (4) after the passage "annual general meeting" the passage "under this section or in complying with any conditions of the Registrar under subsection (2)".

Enactment of s. 159a of principal Act—

24. The following section is enacted and inserted in the principal Act immediately after section 159 thereof:—

Certificate.

159a. (1) A company which is not required by this Act to lodge accounts with the Registrar shall include in or attach to its annual return under section 158 or 159 (as the case may be) a statement relating to the accounts of the company required to be laid before the company at its annual general meeting held on the date to which the return is made up or, if an annual general meeting is not held on that date, the annual general meeting last preceding that date, signed by the auditor of the company—

(*a*) stating whether the company has, in his opinion, kept proper accounting records and other books during the period covered by those accounts;

(*b*) stating whether the accounts have been audited in accordance with this Act;

and

(*c*) stating whether he referred in his report to any defect or irregularity in the accounts and if so, giving particulars of those defects and irregularities.

(2) This section does not apply to an exempt proprietary company that is an unlimited company that in pursuance of section 165a did not appoint an auditor to audit the accounts referred to in subsection (1).

(3) If a company fails to comply with this section the company and every officer of the company who is in default shall be guilty of an offence against this Act.

Penalty: Two hundred dollars. Default penalty.

Repeal of Divisions I and II of Part VI of principal Act and enactment of Divisions in their place

25. Division I and Division II of Part VI of the principal Act (including the headings to those Divisions) are repealed and the following Divisions are enacted and inserted in their place:—

DIVISION I—PRELIMINARY

Interpretations.

161. In this Part and the Ninth Schedule unless the contrary intention appears—

"accounting records" in relation to a corporation includes such working papers and other documents as are necessary to explain the methods and calculations by which accounts of the corporation are made up:

"accounts" means profit and loss accounts and balance-sheets and includes notes (other than auditors' reports or directors' reports) attached to or intended to be read with any of those profit and loss accounts or balance-sheets:

"group accounts" in relation to a holding company means—

(*a*) a set of consolidated accounts for the group of companies of that holding company;

(*b*) two or more sets of consolidated accounts together covering that group;

(*c*) separate accounts for each corporation in that group;

or

(*d*) a combination of one or more sets of consolidated accounts and one or more separate accounts together covering that group:

"group of companies" in relation to a holding company means the holding company and the corporations which are subsidiaries of the holding company:

"holding company" means a corporation which is the holding company within the meaning of section 6 of another corporation.

Transitional provision for companies existing before commencement of new provisions.

161aa. (1) The provisions of this Act relating to accounts and audit shall apply to a company that was in existence at the commencement of the Companies Act Amendment Act, 1971-1972, in respect of the first financial year of the company that commences after the commencement of that Act.

(2) The provisions of this Act relating to accounts and audit, as in force immediately before the commencement of the Companies Act Amendment Act, 1971-1972, shall continue to apply to a company that was in existence at the commencement of the Companies Act Amendment Act, 1971-1972, until the commencement of the first financial year of the company that commences after the commencement of that Act.

Division II—Accounts

Accounts to be kept.

161a. (1) A company shall—

(*a*) keep such accounting records as correctly record and explain the transactions and financial position of the company;

(*b*) keep its accounting records in such a manner as will enable true and fair accounts of the company to be prepared from time to time;

and

(*c*) keep its accounting records in such a manner as will enable the accounts of the company to be conveniently and properly audited in accordance with this Act.

(2) A company shall retain the accounting records kept under this section for a period of seven years after the completion of the transactions to which they relate.

(3) The company shall keep the accounting records at such place or places as its directors think fit.

(4) If any accounting records of a company are kept at a place outside the State the company shall keep at a place within the State determined by the directors such statements and records with respect to the matters dealt with in the records kept outside the State as will enable true and fair accounts and any documents required by this Act to be attached to the accounts to be prepared.

(5) The accounting records of the company and any statements and records referred to in subsection (4) shall be kept in written or printed form in the English language or so as to enable the accounting records statements and records to be readily accessible and readily convertible into written or printed form in the English language.

(6) A company shall give to the Registrar notice in writing of the place in the State where any statements and records referred to in subsection (4) are kept, unless the statements and records are kept at the registered office of the company.

(7) The Court may on application by a director of a company authorize a registered company auditor acting for the director to inspect the accounting records of the company and any statements and records referred to in subsection (4).

(8) A company shall make its accounting records and any statements and records referred to in subsection (4) available in written or printed form in the English language at all reasonable times for inspection without charge by the directors of the company and by other persons authorized or permitted by or under this Act to inspect the accounting records of the company.

(9) Where a registered company auditor inspects the accounting records or the statements and records referred to in subsection (4) in pursuance of an order of the Court under

subsection (7) he shall not disclose to a person other than the director on whose application the order was made any information acquired by him in the course of his inspection.

Penalty: Two hundred dollars.

(10) If default is made in complying with a provision of this section other than subsection (9) the company, a director of the company who failed to take all reasonable steps to secure compliance by the company with the provision, and every officer of the company who is in default shall be guilty of an offence.

Penalty: One thousand dollars or imprisonment for six months.
Default penalty: Fifty dollars.

(11) In any proceedings against a person for failure to take all reasonable steps to secure compliance by a company with a provision of this section, it is a defence to prove that he had reasonable grounds to believe and did believe that a competent and reliable person was charged with the duty of seeing that that provision was complied with, and was in a position to discharge that duty.

Financial years of grouped companies.

161b. (1) Subject to this section the directors of a holding company that is not a foreign company shall take such steps as are necessary to ensure that—

(*a*) within twelve months after a corporation becomes a subsidiary of the holding company the financial year of that corporation coincides with the financial year of the holding company;

and

(*b*) the financial year of each of its other subsidiaries coincides with the financial year of the holding company.

(2) Where the financial year of a holding company that is not a foreign company and the financial year of each of its subsidiaries coincide, the directors of the holding company shall at all times take such steps as are necessary to ensure that, except with the consent of the Registrar, the financial year of the holding company or any of its subsidiaries is not altered in such a way that all of those financial years no longer coincide.

(3) Where the directors of a holding company that is not a foreign company are of the opinion that there is good reason why the financial year of any of its subsidiaries should not coincide with the financial year of the holding company, they may apply in writing to the Registrar for an order authorizing

the subsidiary to continue to have or to adopt (as the case requires) a financial year that does not coincide with that of the holding company.

(4) The application shall be supported by a statement in writing of the reasons for seeking the order made in accordance with a resolution of the directors of the holding company and signed by not less than two directors.

(5) The Registrar may require the directors making the application to supply such information relating to the operations of the holding company, and of any related corporation, as the Registrar thinks necessary for the purpose of determining the application.

(6) The Registrar may request a registered company auditor to investigate and report to him on the application.

(7) The costs of an investigation and report under subsection (6) are payable by the holding company of which the applicants are directors.

(8) The Registrar may make an order granting or refusing the application or granting the application subject to such limitations terms or conditions as he thinks fit, and shall serve a copy of the order on the holding company.

(9) Where the applicants are aggrieved by an order made by the Registrar, the applicants may, within two months after the service of the order upon the holding company, appeal against the order to the Board.

(10) The Board shall determine the appeal and, in determining the appeal, may make any order that the Registrar had power to make on the original application and may exercise any of the powers that the Registrar might have exercised in relation to the original application.

(11) Where the directors of a holding company have applied to the Registrar for an order under this section, subsection (1) shall be deemed not to apply to or in relation to the subsidiary to which the application relates until the determination of the application and of any appeal arising out of the application.

(12) Where an order is made authorizing a subsidiary to have or to adopt a financial year that does not coincide with that of its holding company, compliance with the terms of the order of the Registrar, or where there has been an appeal, compliance with the terms of any order made on the determination of the appeal, shall be deemed to be compliance with the provisions of subsection (1) in relation to the subsidiary.

(13) Where an application for an order by the Registrar under this section has been refused and there is no appeal, or where there has been an appeal and the appeal has been dismissed, the time within which the directors of the holding company are required to comply with the provisions of subsection (1) in relation to the subsidiary shall be deemed to be the period of twelve months after the date upon which the order of the Registrar is served on the holding company, or where there has been an appeal the period of twelve months after the determination of the appeal.

(14) Where the directors of a holding company have applied to the Registrar for an order under this section, and the application has been refused and the appeal (if any) arising out of the refusal has been dismissed, the directors of the holding company shall not be entitled to make an application under this section with respect to the subsidiary within three years after the refusal of the first-mentioned application or, where there was an appeal after the dismissal of the appeal, unless the Registrar is satisfied that there has been a substantial change in the relevant facts or circumstances since the refusal of the former application or the determination of the appeal, as the case may be.

Profit and loss account balance-sheet and group accounts.

162. (1) The directors of a company shall cause to be made out and laid before the company at each annual general meeting a profit and loss account for the period since the date to which the last preceding profit and loss account so laid was made up (or, in the case of the first profit and loss account, since the date of the incorporation of the company) made up for a period ending on a date not earlier than six months before the date of the meeting, giving a true and fair view of the profit or loss of the company for that period.

(2) Notwithstanding the provisions of subsection (1), the Registrar may, on application made in accordance with a resolution of the directors, and signed on behalf of the company by a director or secretary allow, subject to such conditions as the Registrar thinks fit, a profit and loss account to be made up to a date earlier than six months before the date of the annual general meeting before which it is to be laid.

(3) The directors of a company shall cause to be made out and laid before the company at each annual general meeting a balance-sheet as at the end of the financial year, giving a true and fair view of the state of affairs of the company as at the end of the financial year.

(4) Where, at the end of its financial year, a company is a holding company, the directors of the company shall, subject

to subsection (5), also cause to be made out and laid before the company at its annual general meeting, group accounts dealing with—

(*a*) the profit or loss of the company and its subsidiaries for their respective last financial years;

and

(*b*) the state of affairs of the company and its subsidiaries as at the end of their respective last financial years,

and giving a true and fair view of the profit or loss and state of affairs so far as they concern members of the holding company.

(5) Group accounts are not required to be made out and laid before a company in accordance with subsection (4) where the company is, at the end of its financial year, a wholly owned subsidiary of another corporation incorporated in any State or Territory of the Commonwealth.

(6) For the purposes of subsection (5) a company is a wholly owned subsidiary of another corporation if none of the members of the company is a person other than—

(*a*) that other corporation;

(*b*) a nominee of that other corporation;

(*c*) a subsidiary of that other corporation being a subsidiary none of the members of which is a person other than that other corporation or a nominee of that other corporation;

or

(*d*) a nominee of such a subsidiary.

(7) The directors shall (before the profit and loss account and balance-sheet referred to in subsections (1) and (3) are made out) take reasonable steps—

(*a*) to ascertain what action has been taken in relation to the writing off of bad debts and the making of provisions for doubtful debts and to cause all known bad debts to be written off and adequate provision to be made for doubtful debts;

(*b*) to ascertain whether any current assets (other than current assets to which paragraph (*a*) applies) are unlikely to realize in the ordinary course of business their value as shown in the accounting records of the company and if so, to cause—

(i) those assets to be written down to an amount which they might be expected so to realize;

or

(ii) adequate provision to be made for the difference between the amount of the value as so shown and the amount which they might be expected so to realize;

and

(*c*) to ascertain whether any non-current asset is shown in the books of the company at an amount which, having regard to its value to the company as a going concern, exceeds the amount which it would have been reasonable for the company to spend to acquire that asset as at the end of the financial year and (unless adequate provision for writing down that asset is made) to ensure that the accounts contain such information and explanations as will prevent the accounts from being misleading by reason of the overstatement of the amount of that asset.

(8) Not less than fourteen days before each annual general meeting of a company the accounts of the company and, if it is a holding company for which group accounts are required, the group accounts shall except in the case of a company that in pursuance of section 165a or 165ab did not appoint an auditor to audit those accounts be audited as required by this Part and the auditor's report required by section 167 shall be attached to or endorsed upon the accounts and group accounts.

(9) Without affecting the generality of the preceding provisions of this section, the accounts of a company and, if it is a holding company for which group accounts are required, the group accounts shall comply with such of the requirements of the Ninth Schedule as are applicable to them, but where accounts or group accounts prepared in accordance with those requirements would not otherwise give a true and fair view of the matters required by this section to be dealt with in the accounts or group accounts, the directors of the company shall add such information and explanations as will give a true and fair view of those matters.

(10) There shall be attached to any accounts to be laid before a company at its annual general meeting, before the auditor reports on the accounts under this Part, a statement made in accordance with a resolution of the directors and signed by not less than two directors (or in the case of a proprietary company that has only one director, by that director) stating whether in the opinion of the directors—

(*a*) the profit and loss account is drawn up so as to give a true and fair view of the profit or loss of the company for the financial year;

and

(*b*) the balance-sheet is drawn up so as to give a true and fair view of the state of affairs of the company as at the end of the financial year.

(11) There shall be attached to group accounts of a holding company to be laid before the company at its annual general meeting, before the auditor reports on the group accounts under this Part, a statement made in accordance with a resolution of the directors of the company and signed by not less than two directors (or in the case of a proprietary company that has only one director, by that director) stating whether in the opinion of the directors the group accounts are drawn up so as to give a true and fair view of—

(*a*) the profit or loss of the company and its subsidiaries for their respective last financial years;

and

(*b*) the state of affairs of the company and its subsidiaries as at the end of their respective last financial years,

so far as they concern members of the holding company.

(12) The directors of a company shall cause to be attached to any accounts of the company and, if it is a holding company, group accounts to be laid before the company at its annual general meeting, before the auditor reports on the accounts or group accounts under this Part, a statement signed by the principal accounting officer of the company or other person in charge of the preparation of the company's accounts or of the group accounts, stating whether to the best of his knowledge and belief the accounts or group accounts as the case may be give a true and fair view of the matters required by this section to be dealt with in the accounts or group accounts as the case may be.

Directors' reports.

162a. (1) The directors of a company (other than a holding company for which group accounts are required) shall cause to be attached to every balance-sheet made out under subsection (3) of section 162 a report made in accordance with a resolution of the directors and signed by not less than two of the directors (or in the case of a proprietary company that has only one director, by that director) with respect to the profit or loss of the company for the financial year and the state of the company's affairs as at the end of the financial year stating—

(*a*) the names of the directors in office at the date of the report;

(*b*) the principal activities of the company in the course of the financial year and any significant change in the nature of those activities during that period;

(*c*) the net amount of the profit or loss of the company for the financial year after provision for income tax;

(*d*) the amounts and particulars of any material transfers to or from reserves or provisions during the financial year;

(*e*) where, during the financial year, the company has issued any shares or debentures—the purposes of the issue, the classes of shares or debentures issued, the number of shares of each class and the amount term and rate of debentures of each class, and the terms of issue of each class of the shares;

(*f*) the amount, if any, which the directors recommend should be paid by way of dividend, and any amounts which have been paid or declared by way of dividend since the end of the previous financial year, indicating which of those amounts (if any) have been shown in a previous report under this subsection or subsection (2) or under a corresponding previous enactment;

(*g*) whether the directors (before the profit and loss account and balance-sheet were made out) took reasonable steps to ascertain what action had been taken in relation to the writing off of bad debts and the making of provisions for doubtful debts, and to cause all known bad debts to be written off and adequate provision to be made for doubtful debts;

(*h*) whether at the date of the report the directors are aware of any circumstances which would render the amount written off for bad debts or the amount of the provision for doubtful debts inadequate to any substantial extent (and, if so, giving particulars of the circumstances);

(*i*) whether the directors (before the profit and loss account and balance-sheet were made out) took reasonable steps to ascertain whether any current assets (other than current assets to which paragraph (*g*) applies) were unlikely to realize in the ordinary course of business their value as shown in the accounting records of the company and, if so, to cause—

(i) those assets to be written down to an amount that they might be expected so to realize;

or

(ii) adequate provision to be made for the difference between the amount of the value as so shown and the amount that they might be expected so to realize;

(*j*) whether at the date of the report the directors are aware of any circumstances which would render the values attributed to current assets in the accounts misleading (and, if so, giving particulars of the circumstances);

(*k*) whether there exists at the date of the report—

(i) any charge on the assets of the company which has arisen since the end of the financial year and secures the liabilities of any other person (and, if so, giving particulars of any such charge and, so far as practicable, of the amount secured);

and

(ii) any contingent liability which has arisen since the end of the financial year (and if so, stating the general nature thereof and, so far as practicable, the maximum amount, or an estimate of the maximum amount, for which the company could become liable in respect thereof);

(*l*) whether any contingent or other liability has become enforceable, or is likely to become enforceable, within the period of twelve months after the end of the financial year which, in the opinion of the directors, will or may affect the ability of the company to meet its obligations when they fall due (and, if so, giving particulars of any such liability);

(*m*) whether at the date of the report the directors are aware of any circumstances not otherwise dealt with in the report or accounts which would render any amount stated in the accounts misleading (and, if so, giving particulars of the circumstances);

(*n*) whether the results of the company's operations during the financial year were, in the opinion of the directors, substantially affected by any item, transaction or event of a material and unusual nature (and, if so, giving particulars of that item, transaction or event and the amount or the effect thereof, if known or reasonably ascertainable);

and

(*o*) whether there has arisen in the interval between the end of the financial year and the date of the report any item, transaction or event of a material and unusual nature likely, in the opinion of the directors, to affect substantially the results of the company's operations for the financial year in which the report is made (and, if so, giving particulars of the item, transaction or event).

(2) The directors of a holding company shall cause to be attached to all group accounts made out under subsection (4) of section 162, a report made, in accordance with a resolution

of the directors, and signed by not less than two of the directors (or in the case of a proprietary company that has only one director, by that director) with respect to the profit or loss of the group of companies of the holding company for the financial year, and the state of affairs of the group of companies of the holding company as at the end of the financial year of the holding company, stating—

(*a*) the names of the directors of the holding company in office at the date of the report;

(*b*) the principal activities of the corporations in the group in the course of the financial year and any significant change in the nature of those activities during that period;

(*c*) the net amount of the consolidated profit or loss of the group for the financial year after provision for income tax, showing separately the extent to which each corporation in the group contributed to that consolidated profit or loss, and after deducting from that consolidated profit or loss any amounts which should properly be attributed to any person other than a corporation in the group;

(*d*) the names of any subsidiaries acquired or disposed of during the financial year, the consideration for each such acquisition or disposal and the amount in each case of the net tangible assets of the subsidiary acquired or disposed of and, in the case of a subsidiary not being a wholly owned subsidiary, the extent of the holding company's interest therein;

(*e*) the amounts and particulars of any material transfers to or from reserves or provisions of any corporation in the group during the financial year;

(*f*) where, during the financial year, any corporation in the group has issued any shares or debentures—the purposes of the issue, the classes of shares or debentures issued, the number of shares of each class and the amount term and rate of debentures of each class, and the terms of issue of each class of the shares;

(*g*) the amount, if any, which the directors of the holding company recommend should be paid by way of dividend, and any amounts which have been paid or declared by way of dividend since the end of the previous financial year of the holding company, indicating which of those amounts (if any) have been shown in a previous report under this subsection or subsection (1) or under a corresponding previous enactment;

(*h*) the amount, if any, of dividends paid to or declared in favour of the holding company by each of the subsidiaries since the end of the previous financial year and up to the date of the report except so far as any such dividends are shown in the group accounts in accordance with the Ninth Schedule;

(*i*) whether, so far as debts owing to the holding company are concerned, the directors of the holding company (before the profit and loss account and balance-sheet were made out) took reasonable steps to ascertain what action had been taken in relation to the writing off of bad debts and the making of provisions for doubtful debts, and to cause all known bad debts to be written off and adequate provision to be made for doubtful debts;

(*j*) whether at the date of the report the directors of the holding company are aware of any circumstances which would render the amount written off for bad debts, or the amount of the provisions for doubtful debts, in the group of companies inadequate to any substantial extent (and, if so, giving particulars of the circumstances);

(*k*) whether the directors of the holding company (before the profit and loss account and balance-sheet were made out) took reasonable steps to ascertain whether the current assets of the holding company (other than current assets to which paragraph (*i*) applies) were unlikely to realize in the ordinary course of business their value as shown in the accounting records of the company, and, if so, to cause—

(i) those assets to be written down to an amount that they might be expected so to realize;

or

(ii) adequate provision to be made for the difference between the amount of the value as so shown and the amount that they might be expected so to realize;

(*l*) whether at the date of the report the directors of the holding company are aware of any circumstances which would render the values attributed to current assets in the group accounts misleading (and, if so, giving particulars of the circumstances);

(*m*) whether there exists at the date of the report—

(i) any charge on the assets of any corporation in the group which has arisen since the end of the financial year and secures the liabilities

of any other person (and, if so, giving particulars of any such charge and, so far as practicable, of the amount secured);

and

(ii) any contingent liability of any corporation in the group which has arisen since the end of that financial year (and, if so, stating the general nature thereof and, so far as practicable, the maximum amount, or an estimate of the maximum amount, for which the corporation could become liable in respect thereof);

(*n*) whether any contingent or other liability of any corporation in the group has become enforceable or is likely to become enforceable within the period of twelve months after the end of the financial year, which, in the opinion of the directors of the holding company, will or may affect the ability of the corporation to meet its obligations as and when they fall due (and, if so, giving particulars of any such liability);

(*o*) whether, at the date of the report, the directors of the holding company are aware of any circumstances, not otherwise dealt with in the report or group accounts, which would render any amount stated in the group accounts misleading (and, if so, giving particulars of the circumstances);

(*p*) whether the results of the operations of the group or of a corporation in the group during the financial year were, in the opinion of the directors of the holding company, substantially affected by any item, transaction or event of a material and unusual nature (and, if so, giving particulars of that item, transaction or event and the amount or the effect thereof, if known or reasonably ascertainable);

and

(*q*) whether there has arisen in the interval between the end of the financial year and the date of the report any item, transaction or event of a material and unusual nature likely, in the opinion of the directors of the holding company, to affect substantially the results of the operations of any corporation in the group for the financial year in which the report is made (and, if so, giving particulars of the item, transaction or event).

(3) In subsections (1) and (2) the expression "any item, transaction or event of a material and unusual nature" includes but is not limited to—

(*a*) any change in accounting principles adopted since the last report;

(*b*) any material change in the method of valuation of the whole or any part of the trading stock;

(*c*) any material item appearing in the accounts or group accounts for the first time or not usually included in the accounts or group accounts;

and

(*d*) any absence from the accounts or group accounts of any material item usually included in the accounts or group accounts.

(4) The provisions of—

(*a*) paragraphs (*a*), (*b*), (*d*), (*i*) and (*m*) of subsection (1);

and

(*b*) paragraphs (*a*), (*b*), (*e*), (*k*) and (*l*) of subsection (2),

do not apply to or in relation to an exempt proprietary company.

(5) Where, at the end of its financial year, a company is the subsidiary of another corporation, the directors of the company shall state in, or in a note on or statement annexed to, the company's accounts laid before the company at its annual general meeting, the name of the corporation that they believe to be the company's ultimate holding company and, if known to them, the country in which that holding company is incorporated.

(6) Where a company other than a holding company for which group accounts are required has at any time granted to a person an option to have issued to him shares in the company the directors shall state in the report made under this section—

(*a*) in the case of an option so granted during the financial year or since the end thereof—

(i) the name of the person to whom the option was granted, or where it was granted generally to all the holders of shares or debentures or of a class of shares or debentures of that company or of another corporation, that the option was so granted;

(ii) the number and classes of shares in respect of which the option was granted;

(iii) the date of expiration of the option;

(iv) the basis upon which the option is or was to be exercised;

and

(v) whether any person entitled to exercise the option had or has any right, by virtue of the option, to participate in any share issue of any other corporation;

(*b*) particulars of shares issued, during the financial year or since the end thereof, by virtue of the exercise of any option;

and

(*c*) the number and classes of unissued shares under option as at the date of the report, the prices, or the method of fixing the prices, of issue of those shares, the dates of expiration of the options and particulars of the rights, if any, of the holders of the options to participate by virtue of the options in any share issue of any other corporation.

(7) Where any of the particulars required by subsection (6) have been stated in a previous report, they may be stated by reference to that report.

(8) Where a company is a holding company and it or any of its subsidiaries has at any time granted to a person an option to have issued to him shares in the company or subsidiary the directors of the holding company shall state in the report made under this section the name of the corporation in respect of shares in which the option was granted and the other particulars referred to in subsection (6).

(9) The directors of a company shall state in the report whether since the end of the previous financial year a director of the company has received or become entitled to receive a benefit (other than a benefit included in the aggregate amount of emoluments received or due and receivable by directors shown in the accounts or, if the company is a holding company, the group accounts in accordance with the Ninth Schedule, or the fixed salary of a full-time employee of the company) by reason of a contract made by the company or a related corporation with the director or with a firm of which he is a member, or with a company in which he has a substantial financial interest, and, if so, the general nature of the benefit.

(10) Every statement, report or other document relating to the affairs of a company or any of its subsidiaries attached to or included with a report of the directors laid before the company at its annual general meeting or sent to the members under section 164 (not being a statement, report or document required by this Act to be laid before the company in general meeting) shall, for the purposes of section 375, be deemed to be part of that last-mentioned report.

(11) For the purposes of this section a corporation is a wholly owned subsidiary of another corporation if none of the members of the corporation is a person other than—

(*a*) that other corporation;

(*b*) a nominee of that other corporation;

(*c*) a subsidiary of that other corporation being a subsidiary none of the members of which is a person other than that other corporation or a nominee of that other corporation;

or

(*d*) a nominee of such a subsidiary.

Group accounts not to be issued, etc., until receipt of subsidiaries accounts, etc.

162b. (1) Subject to subsection (6) the directors of a holding company shall not cause to be made out the group accounts referred to in subsection (4) of section 162 or make the report referred to in subsection (2) of section 162a unless they have received from each subsidiary its audited accounts, the statements required under section 162, directors' report in accordance with section 162a and auditor's report in accordance with section 167.

(2) The directors of a holding company shall take reasonable steps to ensure that, when they make their report under section 162a they will have available to them a report which has been made by the directors of each subsidiary and (if necessary) revised or added to by the directors of the subsidiary and which represents the state of affairs of the subsidiary not more than one month earlier than the date on which the report of the directors of the holding company is made.

(3) Where a subsidiary of a holding company is incorporated outside the State it is sufficient compliance with this section if the directors of the holding company receive from the subsidiary accounts and reports corresponding to those required under this section and in accordance with the law of the place of incorporation of the subsidiary.

(4) The directors of a subsidiary shall, at the request of the directors of the holding company, supply all such information as is required for the preparation of group accounts of the holding company and its subsidiaries, and of the report of the directors of the holding company.

(5) The directors of a holding company are, unless they know or have reason to suspect that any matter in any accounts, report or information furnished by the directors of a subsidiary is false or misleading, entitled to rely on the accounts, report or information for the purpose of the preparation of the group accounts and their report so far as they relate to the affairs of the subsidiary.

(6) Where the directors of a holding company, having taken all such steps as are reasonably available to them, are unable to obtain from the directors of a subsidiary any accounts, report or other information required for the preparation of the group accounts and the directors' report of the group, they may cause to be made out the group accounts and make the directors' report without incorporating therein or including therewith the first-mentioned accounts report or other information relating to the subsidiary but with such qualifications and explanations as are necessary to prevent the group accounts and report from being misleading.

(7) Where the directors of a holding company have caused to be made out the group accounts and have made the directors' report in accordance with subsection (6) they shall send to the shareholders of the holding company, within one month after receiving the accounts report or other information from the directors of the subsidiary, a copy of the accounts or report or a statement embodying the other information (as the case may be) together with a statement by the directors of the holding company containing such qualifications and explanations of the group accounts and of their report as are necessary having regard to the accounts, report or information received from the subsidiary.

Relief from requirements as to form and content of accounts and reports.

162c. (1) The directors of a company may apply to the Registrar in writing for an order relieving them from compliance with any specific requirement of this Act relating to the form and content of accounts or group accounts or to the form and content of the report required by subsection (1) or (2) of section 162a and the Registrar may make an order relieving the directors from compliance with all or any of those requirements either unconditionally or on condition that the directors comply with such other requirements relating to the form and content of the accounts or group accounts or report as the Registrar thinks fit to impose.

(2) The Registrar may where he considers it appropriate make an order in respect of a specified class of companies relieving the directors of a company in that class from compliance with any specified requirements of this Act relating to the form and content of accounts or group accounts or to the form and content of the report required by subsection (1) or (2) of section 162a and the order may be made either unconditionally or on condition that the directors of the company comply with such other requirements relating to the form and content of accounts or group accounts or report as the Registrar thinks fit to impose.

(3) The Registrar shall not make an order under subsection (1) or (2) unless he is of the opinion that compliance with the requirements of this Act would render the accounts or group accounts or report (as the case may be) misleading or

inappropriate to the circumstances of the company or would impose unreasonable burdens on the company or any officer of the company.

(4) The Registrar may make an order under subsection (1) or (2) which may be limited to a specific period and—

(*a*) in the case of an order under subsection (1) may from time to time either on application by the directors or without any such application (in which case the Registrar shall give to the directors an opportunity of being heard) revoke or suspend the operation of the order;

or

(*b*) in the case of an order under subsection (2) may from time to time revoke or suspend the operation of the order.

(5) In determining any application under subsection (1) or making, revoking, or suspending the operation of, any order made under this section the Registrar shall take into account any views that he knows to be held by the persons who in the other States and Territories of the Commonwealth exercise under the corresponding laws of those States and Territories functions similar to those exercised by the Registrar under this section.

(6) Notice of an order made under subsection (1) of this section and of any revocation or suspension of the operation thereof shall be served on the company concerned and the order, revocation or suspension, as the case may be, shall be deemed to have been made on the date on which it is so served.

(7) Notice of an order made under subsection (2) of this section and of any revocation or suspension of the operation thereof shall be published in the *Gazette* and the order revocation or suspension, as the case may be, shall be deemed to have been made on the date on which it is so published.

(8) A person aggrieved by—

(*a*) an order made under subsection (1) or subsection (2) of this section;

(*b*) the revocation or suspension of the operation of such an order;

or

(*c*) the refusal of an application for an order or for revocation or suspension of the operation of an order,

may, within two months after the making of the order, revocation, suspension or refusal as the case may be, appeal to the Court, and the Court may confirm, set aside or modify the order, revocation, suspension or refusal and may make such further order as it thinks just.

Failure to comply with this Division.

163. (1) Subject to the succeeding provisions of this section, if a director of a company fails to take all reasonable steps to comply with or to secure compliance with any of the preceding provisions of this Division other than section 161a, or has by his own wilful act been the cause of any default under any of those provisions, he shall be guilty of an offence against this Act.

Penalty: One thousand dollars or imprisonment for six months.

(2) In any proceedings against a person for failure to take all reasonable steps to comply with or to secure compliance with, the preceding provisions of this Division relating to the form and content of the accounts of a company or group accounts of a holding company by reason of an omission from the accounts or group accounts, it is a defence to prove that the omission was not intentional and that the information omitted was immaterial and did not affect the giving of a true and fair view of the matters required by section 162 to be dealt with in the accounts or group accounts as the case may be.

(3) If an offence against this section is committed with intent to deceive or defraud creditors of the company or creditors of any other person or for a fraudulent purpose, the offender shall be liable to a penalty not exceeding two thousand dollars or to imprisonment for a term of not more than one year, or to both such penalty and imprisonment.

(4) A person shall not be sentenced to imprisonment for an offence against this section unless in the opinion of the court the offence was committed wilfully.

Members of company entitled to balance-sheet, etc.

164. (1) A company shall, not less than fourteen days before each annual general meeting, send a copy of all accounts and, if it is a holding company, group accounts which are to be laid before the company at the meeting accompanied by a copy of the statements required under section 162, a copy of the directors' report required under section 162a and a copy of the auditor's report or reports required by section 167, to all persons entitled to receive notice of general meetings of the company.

(2) Any member of a company, whether or not he is entitled to have sent to him copies of the accounts or group accounts to whom copies have not been sent, and any holder of debentures, shall on request in writing being made by him to the company be furnished by the company as soon as practicable and without charge with a copy of the last accounts and group accounts (if any) laid or to be laid before the company at its annual general meeting, together with copies of the other documents required under subsection (1) to accompany those accounts and group accounts (if any).

(3) If default is made in complying with subsection (1) or subsection (2), the company and every officer of the company who is in default shall be guilty of an offence against this Act, unless it be proved that the person concerned had already been furnished with a copy of the accounts or group accounts and all documents referred to in subsection (1) or (2) before the default was made.

Penalty: Four hundred dollars. Default penalty: Fifty dollars.

(4) This section shall not apply to or in relation to a mutual life assurance company limited by guarantee registered under the law of the Commonwealth relating to life insurance.

Division III—Audit

Qualifications of auditors.

165. (1) Subject to this section, a person shall not—

(*a*) consent to be appointed as auditor of a company;

(*b*) act as auditor of a company;

or

(*c*) prepare a report required by this Act to be prepared by a registered company auditor or by an auditor of a company,

if the person—

(*d*) is not a registered company auditor;

(*e*) is indebted in an amount exceeding one thousand dollars to the company or to a related corporation;

or

(*f*) except where the company is an exempt proprietary company—

(i) is an officer of the company;

(ii) is a partner, employer or employee of an officer of the company;

or

(iii) is a partner or employee of an employee of an officer of the company.

Penalty: Two hundred dollars. Default penalty.

(2) A firm shall not—

(*a*) consent to be appointed as auditor of a company;

(*b*) act as auditor of a company;

or

(*c*) prepare a report required by this Act to be prepared by a registered company auditor or by an auditor of a company,

unless—

(*d*) at least one member of the firm is ordinarily resident in a State or Territory of the Commonwealth;

(*e*) all the members of the firm ordinarily so resident are registered company auditors;

(*f*) where the business name under which the firm is carrying on business is not registered under the Business Names Act, 1963, a return in the prescribed form showing the full names and addresses of all the members of the firm has been lodged with the Registrar;

(*g*) no member of the firm is indebted in an amount exceeding one thousand dollars to the company or to a related corporation;

(*h*) except where the company is an exempt proprietary company no member of the firm is—

(i) an officer of the company;

(ii) a partner employer or employee of an officer of the company;

or

(iii) a partner or employee of an employee of an officer of the company;

and

(*i*) no officer of the company receives any remuneration from the firm for acting as a consultant to it on accounting or auditing matters.

(3) For the purposes of subsections (1) and (2), a person shall be deemed to be an officer of a company—

(*a*) if he is an officer of a related corporation;

or

(*b*) except where the Board, if it thinks fit in the circumstances of the case, directs otherwise, he has, at any time within the immediately preceding period of twelve months, been an officer or promoter of the company or of such a corporation.

(4) For the purposes of this section, a person shall not be deemed to be an officer of a company by reason only of his being or having been the liquidator of that company or of a related corporation.

(5) For the purposes of this section, a person shall not be deemed to be an officer of a company by reason only of his having been appointed as auditor of that company or of a related corporation or, for any purpose relating to taxation, a public officer of that company or a related corporation or by reason only of his being or having been authorized to accept on behalf of the company or a related corporation service of process or any notices required to be served on the company or related corporation.

(6) The appointment of a firm as auditor of a company shall be taken to be an appointment of all persons who are members of the firm, whether resident in a State or Territory of the Commonwealth or not, at the date of the appointment.

(7) Where a firm has been appointed as auditor of a company, and the members constituting the firm change by reason of the death, retirement or withdrawal of a member or by reason of the admission of a new member, the firm as newly constituted shall, if it is not disqualified from acting as auditor of the company by virtue of subsection (2), be deemed to be appointed under section 166 as auditor of the company and that appointment shall be taken to be an appointment of all persons who are members of the firm as newly constituted.

(8) A report required to be signed on behalf of a firm appointed as auditor of a company shall be signed in the firm name and in his own name by a member of the firm who is a registered company auditor.

(9) If, in contravention of this section, a firm consents to be appointed or acts as auditor of a company or prepares a report required by this Act to be prepared by a registered company auditor or by an auditor of a company, each member of the firm shall be guilty of an offence against this Act.

Penalty: Two hundred dollars.

(10) Where it is, in the opinion of the Board, impracticable for an exempt proprietary company to obtain the services of a registered company auditor as auditor of the company in view of the place where the company carries on business, a person who is, in the opinion of the Board, suitably qualified or experienced and is approved by the Board for the purposes of this Act in relation to the audit of the company's accounts, may be appointed as auditor of the company, subject to such terms and conditions as are specified in the approval.

(11) A person appointed in accordance with subsection (10) shall, in relation to the auditing of the company's accounts and if it is a holding company for which group accounts are required, group accounts but subject to the terms and conditions of the approval under that subsection, be deemed to be a registered company auditor and the provisions of this Act shall, with the necessary modifications, apply to and in relation to him accordingly.

(12) Where a person approved by the Board under subsection (10) is acting as auditor of a company the Board may at any time by notice in writing given to the company—

(*a*) amend, revoke or vary the terms and conditions of its approval;

or

(*b*) determine the appointment of that person as auditor of the company.

(13) A notice under subsection (12) determining the appointment of a person as auditor of a company shall take effect as if, on the date on which the notice is received by the company, the company had received from the person notice of his resignation as auditor taking effect from that date.

(14) A person shall not—

(*a*) if he has been appointed auditor of a company—wilfully disqualify himself while the appointment continues from acting as auditor of the company;

or

(*b*) if he is a member of a firm that has been appointed auditor of a company—wilfully disqualify the firm while the appointment continues from acting as auditor of the company.

Penalty: One hundred dollars.

Appointment of auditor in relation to exempt proprietary company.

165a. (1) The directors of an exempt proprietary company that is an unlimited company are not required to appoint an auditor under subsection (1) of section 165b or subsection (1) of section 166 if—

(*a*) between the date of the commencement of this Part, or of incorporation of the company, and the date referred to in paragraph (*b*) of this subsection, no member of the company is a person other than a natural person or an exempt proprietary company that is an unlimited company, or a corporation that, under the law of another State or of a Territory of the Commonwealth, is an exempt proprietary company that is an unlimited company;

and

(*b*) all members of the company have agreed on a date not more than fourteen days after the commencement of this Part, or the incorporation of the company, that it is not necessary for the company to appoint an auditor.

(2) An exempt proprietary company that is an unlimited company is not required to appoint an auditor under subsection (3) of section 166 at an annual general meeting, whether that meeting is the first annual general meeting held after the company is incorporated as, or converts to, such a company or is a subsequent annual general meeting, if—

(*a*) at the date of the annual general meeting no member of the company is a person other than a natural person, or an exempt proprietary company that is an unlimited company or a corporation that, under the law of another State, or of a Territory of the Commonwealth, is an exempt proprietary company that is an unlimited company;

and

(*b*) not more than one month before the annual general meeting all members of the company have agreed that it is not necessary for the company to appoint an auditor.

(3) Where a company that by reason of the circumstances referred to in subsection (1) or (2) does not have an auditor the secretary of the company shall record a minute to that effect in the book containing the minutes of proceedings of general meetings of the company.

(4) An exempt proprietary company that at an annual general meeting did not appoint an auditor shall at the next annual general meeting of the company appoint an auditor unless the conditions referred to in subsection (2) are satisfied.

(5) Within one month after—

(*a*) a company that by reason of the circumstances referred to in subsection (1) or (2) does not have an auditor ceases to be an exempt proprietary company or ceases to be an unlimited company;

or

(*b*) a body corporate other than—

(i) an exempt proprietary company that is an unlimited company;

or

(ii) a corporation that under the law of another State or of a Territory of the Commonwealth is an exempt proprietary company that is an unlimited company,

becomes a member of an exempt proprietary company that by reason of the circumstances referred to in subsection (1) or (2) does not have an auditor,

the directors of the company shall appoint (unless the company at a general meeting has appointed) a person or persons or a firm as auditor or auditors of the company.

(6) A person or firm appointed as auditor of a company under subsection (5) shall, subject to this Part, hold office until the next annual general meeting of the company.

Exempt proprietary company need not appoint an auditor in certain circumstances.

165ab. (1) Notwithstanding the provisions of this Part, an exempt proprietary company that is not an unlimited company is not required to appoint an auditor at an annual general meeting, whether that meeting is the first annual general meeting held after the company is incorporated as, or becomes, such a company or is a subsequent annual general meeting, if not more than one month before the annual general meeting all the members of the company have agreed that it is not necessary for the company to appoint an auditor.

(2) The directors of an exempt proprietary company that is not an unlimited company are not required to comply with subsection (1) of section 165b or subsection (1) of section 166 if all the members of the company have agreed on a date not later than fourteen days after the date of commencement of this Part or of the incorporation of the company that it is not necessary to appoint an auditor.

(3) Where a company, by reason of the circumstances referred to in subsection (1) or (2), does not have an auditor the secretary of the company shall record a minute to that effect in the book containing the minutes of proceedings of general meetings of the company.

(4) An exempt proprietary company that is not an unlimited company and that at an annual general meeting did not appoint an auditor shall at the next annual general meeting of the company appoint an auditor unless the conditions referred to in subsection (1) are satisfied.

(5) The directors of a company that by reason of the circumstances referred to in subsection (1) or (2) does not have an auditor shall lodge with the Registrar with each annual return under section 158 or 159 a copy of all accounts and group accounts (if any) laid before the company at the annual general meeting held on the date to which the return is made up, or if an annual general meeting is not held on that date the annual general meeting last preceding that date and shall include in or attach to each annual return a certificate signed by not less than two directors of the company stating whether—

(*a*) the company has, in respect of the financial year to which the return relates—

(i) kept such accounting records as correctly record and explain the transactions and financial position of the company;

(ii) kept its accounting records in such a manner as would enable true and fair accounts of the company to be prepared from time to time;

and

(iii) kept its accounting records in such a manner as would enable the accounts of the company to be conveniently and properly audited in accordance with this Act;

(*b*) the accounts have been properly prepared by a competent person;

and

(*c*) the accounts give a true and fair view of the profit or loss and state of affairs of the company as at the end of the financial year.

(6) Where—

(*a*) directors of a company state in a certificate in respect of a financial year of a company that—

(i) the company did not keep such accounting records as are required by this Act to be kept;

(ii) the accounting records of the company were not kept in the manner required by this Act;

(iii) the accounts of the company have not been properly prepared by a competent person;

or

(iv) the accounts of the company do not give a true and fair view of the profit or loss or state of affairs of the company;

or

(*b*) a director of a company has been convicted under subsection (2) of section 375 of an offence in relation to a certificate under subsection (5),

the directors of the company shall within one month after the date of the annual return or the conviction (as the case requires) appoint (unless the company at a general meeting has appointed) a person or persons or a firm as auditor or auditors of the company.

(7) Within one month after a company that by reason of the circumstances referred to in subsection (1) or (2) does not have an auditor ceases to be an exempt proprietary company the directors of the company shall appoint (unless the company at a general meeting has appointed) a person or persons or a firm as auditor or auditors of the company.

(8) A person or firm appointed as auditor of a company under subsection (6) or (7) shall, subject to this Division, hold office until the next annual general meeting of the company and subsection (1) shall not apply to or in relation to that company.

Obligation to appoint auditor upon company incorporated prior to commencement of new Part.

165b. (1) The directors of a company incorporated before the date of commencement of this Part that does not have an auditor, shall within one month after that date of commencement appoint (unless the company in general meeting has appointed) a person or persons or a firm as auditor or auditors of the company.

(2) If a director of a company fails to take all reasonable steps to comply with, or to secure compliance with, subsection (1) he shall be guilty of an offence.

Penalty: One hundred dollars. Default penalty: Ten dollars.

(3) A person or firm appointed as auditor of a company under subsection (1) shall, subject to this Part, hold office until the next annual general meeting of the company.

Appointment of auditors.

166. (1) Within one month after the date on which a company is incorporated, the directors of the company shall appoint (unless the company at a general meeting has appointed) a person or persons or a firm as auditor or auditors of the company.

(2) A person or firm appointed as auditor of a company under subsection (1) shall, subject to this Division, hold office until the first annual general meeting of the company.

(3) A company shall—

(*a*) at its first annual general meeting appoint a person or persons or a firm as auditor or auditors of the company;

and

(*b*) at each subsequent annual general meeting, if there is a vacancy in the office of auditor of the company appoint a person or persons or a firm to fill the vacancy.

Penalty: One hundred dollars.

(4) An auditor of a company appointed under subsection (3) shall hold office until death or removal or resignation from office in accordance with section 166b or until ceasing to be capable of acting as auditor by reason of subsection (1) or (2) of section 165.

(5) Within one month after a vacancy (other than a vacancy caused by the removal of an auditor from office) occurs in the office of auditor of the company, if there is no surviving or continuing auditor of the company, the directors shall appoint (unless the company at a general meeting has appointed) a person or persons or a firm to fill the vacancy.

(6) While a vacancy in the office of auditor continues, the surviving or continuing auditor or auditors (if any) may act.

(7) A company or the directors of a company shall not appoint a person or firm as auditor of the company unless that person or firm has, before the appointment, consented by notice in writing given to the company or to the directors to act as auditor and has not withdrawn his or its consent by notice in writing given to the company or to the directors.

(8) A notice under subsection (7) given by a firm shall be signed in the firm name and in his own name by a member of the firm who is a registered company auditor.

(9) If a company appoints a person or firm as auditor of a company in contravention of subsection (7) the company and every officer of the company who is in default shall be guilty of an offence against this Act.

(10) Where an auditor of a company is removed from office under section 166b and, not less than seven days before the meeting at which he is removed, notice of intention to nominate at that meeting as auditor a specified person or specified persons or specified firm has been given to each member of the company to whom notice of the meeting was sent—

(*a*) the company may at the meeting (without adjournment) by a resolution passed by a majority of not less than three-fourths of such members of the company as, being entitled so to do, vote in person or, where proxies are allowed, by proxy, forthwith appoint as auditor a person or persons or a firm specified in the firstmentioned notice and nominated at the meeting;

or

(*b*) if such a resolution is not passed the meeting may be adjourned to a date not earlier than twenty days and not later than thirty days after the day of the meeting and the company may, at the adjourned meeting, by ordinary resolution, appoint as auditor or auditors a person or persons or a firm, notice of whose nomination for appointment as auditor has been received by the company from a member of the company at least fourteen clear days before the date to which the meeting is adjourned.

(11) A company shall, forthwith after the removal of an auditor from office, give notice in writing to the Board of the removal.

(12) If after the removal from office of an auditor of a company the company fails to appoint another auditor under subsection (10) the company shall, within seven days after the failure, notify the Board accordingly whereupon the Board shall unless there is another auditor of the company whom the Board believes to be able to carry out the responsibilities of auditor alone and who agrees to continue as auditor, appoint a person or persons or a firm as auditor or auditors of the company.

(13) Subject to subsection (12), if a company does not appoint an auditor when required by this Act to do so, the Board may, on the application in writing of any member of the company, appoint a person or persons or a firm as auditor or auditors of the company.

(14) A person or firm appointed as auditor of a company under subsection (5), (10), (12) or (13) shall subject to this Division, hold office until the next annual general meeting of the company.

(15) Notwithstanding subsection (4), an auditor of a company that becomes a subsidiary of another company shall, unless he sooner resigns or is sooner removed, retire at the annual general meeting of that subsidiary next held after it becomes such a subsidiary but, subject to this Division, shall be eligible for re-appointment.

(16) If a director of a company fails to take all reasonable steps to comply with or to secure compliance with subsection (1), (5) or (7) he shall be guilty of an offence against this Act and

liable to a penalty not exceeding one hundred dollars and, in the case of an offence against subsection (1) or (5), to a default penalty not exceeding ten dollars.

(17) An auditor appointed by a company before the date of the commencement of this Part and holding office immediately before that date of commencement, shall, subject to section 166b of this Act, hold office until the annual general meeting next held after that date of commencement, but shall be eligible for re-appointment.

Nomination of auditors.

166a. (1) Subject to this section, a company shall not appoint a person or firm as auditor of the company at its annual general meeting (not being a meeting at which an auditor is removed from office) unless notice in writing of his or its nomination as auditor was given to the company by a member of the company—

(*a*) before the meeting was called;

or

(*b*) not less than twenty-one days before the meeting.

(2) If a company appoints a person or firm as auditor of the company in contravention of subsection (1) the company and every officer of the company who is in default shall be guilty of an offence against this Act.

(3) Where notice of nomination of a person or firm for appointment as auditor of a company is received by the company (whether for appointment at an adjourned meeting referred to in subsection (10) of section 166 or at an annual general meeting), the company shall—

(*a*) not less than seven days before the meeting;

or

(*b*) at the time notice of the meeting is given,

send a copy of the notice of nomination to each person or firm nominated, to each auditor of the company and to each person entitled to receive notice of general meetings of the company.

Removal and resignation of auditors.

166b. (1) An auditor of a company may be removed from office by resolution of the company at a general meeting of which special notice has been given, but not otherwise.

(2) Where special notice of a resolution to remove an auditor is received by a company, it shall forthwith send a copy of the notice to the auditor and to the Board.

(3) Within seven days after receiving a copy of the notice, the auditor may make representations in writing to the company (not exceeding a reasonable length) and request that, before the meeting at which the resolution is to be considered, a copy of the representations be sent by the company at its expense to every member of the company to whom notice of the meeting is sent.

(4) Unless the Board on the application of the company otherwise orders, the company shall send a copy of the representations in accordance with the auditor's request and the auditor may (without prejudice to his right to be heard orally or where a firm is the auditor to have a member of the firm heard orally on its behalf) require that the representations be read out at the meeting.

(5) An auditor of a company may, by notice in writing given to the company resign as auditor of the company if—

(*a*) he has by notice in writing to the Board applied for consent to his resignation and at or about the same time as he gave notice to the Board notified the company in writing of his application to the Board;

and

(*b*) he has received the consent of the Board.

(6) The Board shall as soon as practicable after receiving a notice from an auditor under subsection (5) notify the auditor and the company whether it consents to the resignation of the auditor.

(7) A statement made by an auditor in an application to the Board under subsection (5) or in answer to an inquiry by the Board relating to the reasons for the application—

(*a*) is not admissible in evidence in any civil or criminal proceedings against the auditor;

and

(*b*) may not be made the ground of a prosecution action or suit against the auditor,

and a certificate signed by the chairman of the Board that the statement was made in the application or in the answer to the inquiry by the Board shall be conclusive evidence that the statement was so made.

(8) A person aggrieved by the refusal of consent by the Board to the resignation of an auditor of a company may, within one month after the date of the refusal, appeal to the Court from the refusal, and thereupon the Court (after hearing the company, if the company so desires) may confirm or reverse the refusal and may make such further order in the matter as to it seems proper.

(9) Subject to any order of the Court under subsection (8) and to subsection (10), the resignation of an auditor takes effect—

(*a*) on the date (if any) specified for the purpose in the notice of resignation;

(*b*) on the date on which the Board gives its consent to the resignation;

or

(*c*) on the date (if any) fixed by the Board for the purpose,

whichever last occurs.

(10) The resignation of an auditor of an exempt proprietary company does not require the consent of the Board under subsection (5), and takes effect—

(*a*) on the date (if any) specified for the purpose in the notice of resignation;

or

(*b*) on the date on which the notice is received by the company,

whichever is the later.

(11) Where on the retirement or withdrawal from a firm of a member the firm will no longer be capable, by reason of the provisions of paragraph (*d*) of subsection (2) of section 165 of acting as auditor of a company, the member so retiring or withdrawing shall (if not disqualified from acting as auditor of the company) be deemed to be the auditor of the company until he obtains the consent of the Board to his retirement or withdrawal.

(12) Within fourteen days after the receipt of a notice of resignation of an auditor of a company, or, where an auditor of a company is removed from office, within fourteen days after the removal, the company shall lodge a notice of the resignation or removal in the prescribed form with the Registrar, and in the case of the resignation or removal from office of an auditor of a borrowing corporation, give a copy of the notice lodged with the Registrar to the trustee for the holders of debentures of the borrowing corporation.

Penalty: One hundred dollars. Default penalty: Ten dollars.

Fees and expenses of auditors.

166c. The reasonable fees and expenses of an auditor of a company shall be payable by the company.

Powers and duties of auditors as to reports on accounts.

167. (1) An auditor of a company shall report to the members on the accounts required to be laid before the company in general meeting and on the company's accounting records and other records relating to those accounts and if it is a holding company for which group accounts are required shall also report to the members on the group accounts.

(2) An auditor shall, in a report under this section, state—

(*a*) whether the accounts and, if the company is a holding company for which group accounts are required, the group accounts are in his opinion properly drawn up—

(i) so as to give a true and fair view of the matters required by section 162 (or in the case of a prescribed corporation within the meaning of section 167c, by this Part) to be dealt with in the accounts and if there are group accounts, in the group accounts;

and

(ii) in accordance with the provisions of this Act;

(*b*) whether the accounting records and other records and the registers required by this Act to be kept by the company, and if it is a holding company, by the subsidiaries other than those of which he has not acted as auditor have been, in his opinion, properly kept in accordance with the provisions of this Act or, in the case of a subsidiary incorporated in

another State or in a Territory of the Commonwealth, in accordance with the provisions of the corresponding law of that State or Territory;

(*c*) in the case of group accounts—

(i) the names of the subsidiaries (if any) of which he has not acted as auditor;

(ii) whether he has examined the accounts and auditors' reports of all subsidiaries of which he has not acted as auditor being accounts that are included (whether separately or consolidated with other accounts) in the group accounts;

(iii) whether he is satisfied that the accounts of the subsidiaries that are to be consolidated with other accounts are in form and content appropriate and proper for the purposes of the preparation of the consolidated accounts and whether he has received satisfactory information and explanations as required by him for that purpose;

and

(iv) whether the auditors' report on the accounts of any subsidiary was made subject to any qualification, or included any comment made under subsection (3), and, if so, particulars of the qualification or comment;

(*d*) any defect or irregularity in the accounts or group accounts and any matter not set out in the accounts or group accounts without regard to which a true and fair view of the matters dealt with by the accounts or group accounts would not be obtained;

and

(*e*) if he is not satisfied as to any matter referred to in paragraphs (*a*), (*b*) or (*c*), his reasons for not being so satisfied.

(3) It is the duty of an auditor of a company to form an opinion as to each of the following matters:—

(*a*) whether he has obtained all the information and explanations that he required;

(*b*) whether proper accounting records and other records (including registers) have been kept by the company as required by this Act;

(*c*) whether the returns received from branch offices of the company are adequate;

(*d*) whether the procedures and methods used by a holding company or a subsidiary in arriving at the amounts taken into any consolidated accounts were appropriate to the circumstances of the consolidation;

and

(*e*) where group accounts are prepared otherwise than as one set of consolidated accounts for the group—whether he agrees with the reasons for preparing them in the form in which they are prepared as given by the directors in the accounts,

and he shall state in his report particulars of any deficiency, failure or short-coming in respect of any matter referred to in this subsection.

(4) An auditor of a company has a right of access at all reasonable times to the accounting records and other records (including registers) of the company, and is entitled to require from any officer of the company such information and explanations as he desires for the purposes of audit.

(5) An auditor of a holding company for which group accounts are required has a right of access at all reasonable times to the accounting records and other records (including registers) of any subsidiary, and is entitled to require from any officer or auditor of any subsidiary, at the expense of the company, such information and explanations in relation to the affairs of the subsidiary as he requires for the purpose of reporting on the group accounts.

(6) The auditor's report shall be attached to or endorsed on the accounts or group accounts and shall, if any member so requires, be read before the company in general meeting, and is open to inspection by any member at any reasonable time.

(7) An auditor of a company or his agent authorized by him in writing for the purpose is entitled to attend any general meeting of the company and to receive all notices of, and other communications relating to, any general meeting which a

member is entitled to receive, and to be heard at any general meeting which he attends on any part of the business of the meeting which concerns the auditor in his capacity as auditor.

(8) If an auditor, in the course of the performance of his duties as auditor of a company is satisfied that—

(*a*) there has been a breach or non-observance of any of the provisions of this Act;

and

(*b*) the circumstances are such that in his opinion the matter has not been or will not be adequately dealt with by comment in his report on the accounts or group accounts or by bringing the matter to the notice of the directors of the company or, if the company is a subsidiary, of the directors of its holding company,

he shall forthwith report the matter in writing to the Registrar.

(9) An officer or auditor of a corporation who refuses or fails without lawful excuse to allow an auditor of the corporation or of its holding company access, in accordance with this section, to any accounting records and other records (including registers) of the corporation in his custody or control, or to give any information or explanation as and when required under this section, or otherwise hinders, obstructs or delays an auditor in the performance of his duties or the exercise of his powers, is guilty of an offence against this Act.

Penalty: One hundred dollars. Default penalty: Ten dollars.

Special provisions relating to borrowing and guarantor corporations.

167a. (1) The auditor of a borrowing corporation shall, within seven days after furnishing the corporation or its members with any report, certificate or other document that he is required by this Act or by the debentures or trust deed to give to the corporation or its members, send to every trustee for the holders of debentures of the borrowing corporation a copy of the report, certificate or document, together with a copy of each document accompanying the report, certificate or document so furnished.

(2) Where, in the performance of his duties as auditor of a borrowing corporation or a guarantor corporation, the auditor becomes aware of any matter which, in his opinion, is or is likely to be prejudicial to the interests of the holders of debentures of the borrowing corporation and is relevant to the exercise and performance of the powers and duties imposed by this Act or by any trust deed upon any trustee for the holders of the debentures, the auditor shall, within seven days after

becoming aware of the matter, send a report in writing on the matter to the corporation of which he is auditor and a copy of the report to the trustee.

Penalty: One hundred dollars. Default penalty: Ten dollars.

Auditors and other persons to enjoy qualified privilege in certain circumstances.

167b. (1) An auditor shall not, in the absence of malice on his part, be liable to any action for defamation at the suit of any person in respect of any statement which he makes in the course of his duties as auditor, whether the statement is made orally or in writing.

(2) A person shall not, in the absence of malice on his part, be liable to any action for defamation at the suit of any person in respect of the publishing of any document prepared by an auditor in the course of his duties and required by or under this Act to be lodged with the Registrar or required by or under a law in force in another State or in a Territory of the Commonwealth to be lodged with a person who under that law exercises functions similar to those exercised by the Registrar under this Part, whether or not the document has been so lodged.

(3) This section does not limit or affect any other right, privilege or immunity that an auditor, or other person, has as defendant in an action for defamation.

Division IV—Special Provisions Relating to Banking and Life Insurance Corporations

Exemption from accounts provisions.

167c. (1) In this section "prescribed corporation" means—

(*a*) a banking corporation;

or

(*b*) a corporation that is registered under a law of the Commonwealth relating to life insurance.

(2) Subject to this section, this Part applies to and in relation to a prescribed corporation that is a company or is a corporation that is a subsidiary of the holding company or a group of companies.

(3) Where, under a law of the Commonwealth relating to banking a prescribed corporation is required to prepare accounts annually, accounts of the corporation that comply with the provisions of that law shall be deemed to comply with the provisions of this Act relating to accounts.

(4) Subsection (1) of section 162a does not apply to or in relation to a prescribed corporation or its directors.

(5) Where, under a law of the Commonwealth relating to life insurance, a prescribed corporation is required to prepare accounts annually, the prescribed corporation and the directors and auditors thereof shall not be deemed to have failed to comply with such of the provisions of this Part as are applicable to it or them by reason only that no accounts are laid before the annual general meeting of the corporation other than accounts that—

(*a*) comply with the provisions of that law;

or

(*b*) comply with such conditions as are specified by the Registrar,

and that there is no auditor's report to the members on accounts referred to in paragraph (*b*) of this subsection.

(6) Subsection (2) of section 167 does not apply to or in relation to the accounts of a prescribed corporation that is registered under the law of the Commonwealth relating to life insurance where those accounts comply with that law.

(7) Where a company is a holding company of another corporation and is, under section 162, required to cause group accounts to be made out, the company and the directors and auditors of the company—

(*a*) shall not be deemed to have failed to comply with the provisions of this Act relating to group accounts by reason only that the group accounts do not contain, whether separately or consolidated with other accounts, accounts of a prescribed corporation that is a corporation in the group of companies other than accounts that—

(i) comply with a law of the Commonwealth relating to the preparation of annual accounts of the prescribed corporation;

or

(ii) in the case of a prescribed corporation registered under a law of the Commonwealth relating to life insurance, comply with such conditions as are specified by the Registrar;

(*b*) shall not be deemed to have failed to comply with the provisions of subsection (2) of section 162a by reason only that the directors' report referred to therein relates only to corporations in the group of companies other than prescribed corporations;

and

(*c*) shall not be deemed to have failed to comply with the provisions of subsection (8) of section 162 or of section 167 by reason only that those provisions are not complied with in relation to prescribed corporations in the group of companies that are registered under a law of the Commonwealth relating to life insurance.

(8) A prescribed corporation shall not be deemed to have failed to comply with section 164 in relation to an annual general meeting by reason only that it does not send to a person entitled to receive notice of general meetings of the company accounts or documents referred to in that section other than accounts and documents so referred to that, in compliance with the provisions of this Part, whether by the operation of this section or otherwise, are to be laid before that annual general meeting.

(9) Where a prescribed corporation registered under a law of the Commonwealth relating to life insurance does not lay before its annual general meeting accounts and an auditor's report that comply with the provisions of that law, it shall lodge a copy of those accounts and a copy of that report with the Registrar on or before a day that is not later than nine months after the end of the period to which they relate.

Repeal of Divisions III and IV of Part VI of principal Act.

26. Division III and Division IV of Part VI of the principal Act are repealed.

Enactment of Part VIA and Part VIB of principal Act—

27. The following new Parts are enacted and inserted in the principal Act immediately after Part VI thereof:—

PART VIA

SPECIAL INVESTIGATIONS

Interpretation and application.

168. (1) In this Part, unless the contrary intention appears—

"affairs" in relation to a company, includes—

(*a*) the promotion, formation, membership, control, trading, dealings, business and property of the company;

(*b*) the ownership of shares in debentures of and interests made available by the company;

(*c*) matters concerned with the ascertainment of the persons who are or have been financially interested in the success or failure or apparent

success or failure of the company or are or have been able to control or materially to influence the policy of the company;

and

(*d*) the circumstances under which a person acquired or disposed of or became entitled to acquire or dispose of shares in debentures of or interests made available by the company:

"company" means a company as defined by subsection (1) of section 5 and includes—

(*a*) a foreign company registered under Division III of Part XI;

and

(*b*) where the Governor has appointed an inspector under subsection (2) of section 170 to investigate affairs of a corporation, that corporation:

"inspector" means an inspector appointed under this Part:

"interest" has the same meaning as in section 76:

"officer", in relation to a company, means an officer as defined by subsection (1) of section 5 and includes—

(*a*) a person who acts or has at any time acted as banker, solicitor, auditor or in any other capacity for the company;

(*b*) a person who—

(i) has, or has at any time had, in his possession any property of the company;

(ii) is indebted to the company;

or

(iii) is capable of giving information concerning the affairs of the company;

and

(*c*) where an inspector has reasonable grounds for suspecting or believing that a person is a person referred to in paragraph (*b*)—that person.

(2) This Part does not authorize an investigation into affairs of a corporation in relation to business of the corporation that is life insurance business for the purposes of the *Life Insurance Act* 1945-1966 of the Commonwealth as amended or re-enacted from time to time.

Application for appointment of inspector.

169. (1) An application for the appointment of an inspector to investigate—

(*a*) affairs of a company;

or

(*b*) such of the affairs of a company as are specified in the application,

may be made to the Minister by instrument in writing.

(2) The application may be made—

(*a*) where the company not being a banking corporation has a share capital—

(i) by not less than one hundred members of the company;

(ii) by members holding not less than one-tenth of the issued shares in the company;

or

(iii) by members holding not less than one-tenth of the paid up capital of the company;

(*b*) where the company is a banking corporation that has a share capital—by members holding not less than one-third of the issued shares in the company;

(*c*) where the company does not have a share capital—by not less than one-tenth of the members of the company;

(*d*) where the company not being a banking corporation has issued debentures—by the trustee for the holders of the debentures or by the holders of not less than one-tenth in nominal value of the debentures;

(*e*) where the company has made available interests—by the trustee for or representative of the holders of interests or by not less than one-tenth of the holders of the interests;

or

(*f*) by the company in pursuance of a special resolution.

(3) Where an application is made under this section the applicants shall—

(*a*) furnish such information in connection with the application as the Governor requires to enable him to determine whether there are reasonable grounds for appointing an inspector:

and

(*b*) where the Governor so requires give security of such amount and in such manner as he determines for payment of the expenses of and incidental to the investigation.

(4) Where an application is made under this section and the Governor is satisfied that there are reasonable grounds for appointing an inspector and the applicants have complied with the provisions of this section he shall by instrument in writing appoint an inspector to investigate the affairs of the company to which the application relates or if he is of the opinion that an investigation ought not to be made into all those affairs, into such of those affairs as he is satisfied ought to be investigated and specifies in the instrument.

Appointment of inspector by Governor.

170. (1) Where it appears to the Governor that—

(*a*) it is desirable for the protection of the public or of the members or creditors of a company or of the holders of debentures of a company or of interests made available by a company;

(*b*) it is in the public interest because fraud or misfeasance or other misconduct by a person who is or has been concerned with affairs of a company is alleged;

or

(*c*) in any case it is in the public interest,

to appoint an inspector to investigate affairs of a company he may by instrument in writing appoint an inspector.

(2) Where—

(*a*) under a law of another State or of a territory of the Commonwealth corresponding to this Part a person has been appointed to investigate affairs of a corporation;

and

(*b*) the Governor is satisfied that in connection with that investigation it is expedient that an investigation be made into affairs of that corporation in the State,

the Governor may by instrument in writing appoint that person an inspector to investigate affairs of the corporation in the State, or if he is of the opinion that an investigation ought not to be made into all those affairs, into such of those affairs as he is satisfied ought to be investigated and specifies in the instrument.

(3) Where under subsection (2) the Governor has appointed a person to investigate affairs of a corporation in the State he may by instrument in writing declare that that person shall have such of the powers of an inspector appointed under subsection (1) in relation to the investigation of the affairs of the corporation subject to such terms and conditions as the Governor specifies in the instrument, as if that corporation were a company within the meaning of this Part and the inspector had been appointed under this section and thereupon the inspector shall have those powers.

Conditions, etc., of appointment of inspector.

171. (1) The Governor shall in the instrument appointing an inspector specify full particulars of the appointment including—

(*a*) the matters into which the investigation is to be made being all the affairs or particular affairs of a company;

(*b*) the period in respect of which the investigation is to be made;

and

(*c*) the terms and conditions of the appointment of the inspector including terms and conditions relating to remuneration.

(2) The Governor may by notice in writing given to an inspector terminate his appointment at any time.

(3) Notice of the appointment and notice of the termination of the appointment of an inspector shall be published in the *Gazette*.

Investigation of affairs of related corporation.

172. Where an inspector thinks it necessary for the purposes of the investigation of affairs of a company to investigate affairs of a corporation which is or has at any relevant time been a related corporation he may with the consent in writing of the Governor investigate affairs of that corporation.

Powers of inspectors.

173. (1) An inspector may require an officer of a company affairs of which are being investigated under this Part by notice in writing in accordance with the prescribed form given in the prescribed manner—

(*a*) to produce to the inspector such books of the company and other books relating to affairs of the company as are in the custody or under the control of the officer;

(*b*) to give to the inspector all reasonable assistance in connection with the investigation;

and

(*c*) to appear before the inspector for examination on oath.

(2) An inspector may administer the oath referred to in paragraph (*c*) of subsection (1).

(3) An inspector shall not exercise his powers under subsection (1) in respect of an officer of a company affairs of which he is investigating under section 172 unless he has furnished to the officer a certificate in accordance with the prescribed form stating that he is investigating affairs of the company under that section and that the officer is an officer of the company.

(4) Where books are produced to an inspector under this Part the inspector may take possession of the books for such period as he considers necessary for the purposes of the investigation and during that period he shall permit a person who would be entitled to inspect any one or more of those books if they were not in the possession of the inspector to inspect at all reasonable times such of those books as that person would be so entitled to inspect.

Examination of officers.

174. (1) Where affairs of a company are being investigated under this Part, an officer of the company shall not—

(*a*) refuse or fail to comply with a requirement of an inspector under section 173 to the extent to which he is able to comply with it;

(*b*) in purported compliance with such a requirement knowingly furnish information that is false or misleading in a material particular;

or

(*c*) when appearing before an inspector for examination in pursuance of such a requirement—

(i) make a statement that is false or misleading in a material particular;

or

(ii) refuse or fail to be sworn.

Penalty: One thousand dollars.

(2) A duly qualified legal practitioner acting for the officer—

(*a*) may attend the examination;

and

(*b*) may, to the extent that the inspector permits—

(i) address the inspector;

and

(ii) examine the officer,

in relation to matters in respect of which the inspector has questioned the officer.

(3) The officer is not excused from answering a question put to him by the inspector on the ground that the answer might tend to incriminate him but, where the officer claims before answering the question, that the answer might tend to incriminate him, neither the question nor the answer is admissible in evidence against him in criminal proceedings other than proceedings under subsection (1) or in relation to a charge of perjury in respect of the answer.

(4) A person who complies with the requirement of an inspector under section 173 shall not incur any liability to any person by reason only of that compliance and for the purposes of this subsection a certificate under subsection (3) of section 173 is conclusive evidence of the facts required to be stated in that certificate.

(5) A person required to attend for examination under this Part is entitled to such allowances and expenses as are prescribed.

Officer failing to comply with requirement of this Part.

175. (1) Where an officer of a company fails to comply with a requirement of an inspector appointed to investigate affairs of the company, the inspector may, unless the officer proves that he had a lawful excuse for the failure, certify the failure by writing under his hand to the Court.

(2) Where an inspector gives a certificate under subsection (1) the Court may inquire into the case and—

(*a*) order the officer to comply with the requirement of the inspector within such period as is fixed by the Court;

or

(*b*) if the Court is satisfied that the officer failed without lawful excuse to comply with the requirement of the inspector punish him in like manner as if he had been guilty of contempt of the Court and, if it sees fit, also make an order pursuant to paragraph (*a*) of this subsection.

Notes of examination.

176. (1) An inspector may cause notes of an examination made by him under this Part to be recorded in writing and be read to or by the person examined and may require that person to sign the notes and, subject to this section, notes signed by that person may be used in evidence in any legal proceedings against that person.

(2) A copy of the notes signed by a person shall be furnished without charge to that person upon request made by him in writing.

(3) Notes made under this section that relate to a question the answer to which a person has claimed might tend to incriminate him shall not be used as evidence in criminal proceedings other than proceedings under subsection (1) of section 174 or in relation to a charge of perjury in respect of the answer.

(4) Nothing in this section affects or limits the admissibility of other written evidence or of oral evidence.

(5) The Minister may give a copy of notes made under this section to a duly qualified legal practitioner who satisfies the Minister that he is acting for a person who is conducting or is, in good faith, contemplating legal proceedings in respect of affairs of a company, being affairs investigated by an inspector under this Part.

(6) A duly qualified legal practitioner to whom a copy of notes is given under subsection (5) shall use the notes only in connection with the institution of, and in the course of, legal proceedings and shall not publish or communicate for any other purpose the notes or any part of the contents of them to any person.

Penalty: Two hundred dollars.

(7) Where a report is made under section 178 any notes recorded under this section relating to that report shall be furnished with the report.

Delegation of powers, etc., by inspector.

177. (1) An inspector may by instrument in writing—

(*a*) delegate all or any of his powers or functions under this Part except this power of delegation the power to administer oaths and the power to examine on oath;

and

(*b*) vary or revoke a delegation given by him.

(2) A power or function delegated by an inspector may be exercised or performed by the delegate in accordance with the instrument of delegation as in force from time to time.

(3) A delegate shall on request by an officer of a company affairs of which are being investigated under this Part produce the instrument of delegation for inspection.

(4) A delegation under this section by an inspector of a power or function does not prevent the exercise of the power or the performance of the function by the inspector.

Report of inspector.

178. (1) An inspector—

(*a*) may make one or more reports in writing to the Minister during an investigation of affairs of a company and if so directed in writing by the Governor shall make such reports as are specified in the direction;

and

(*b*) shall, on the completion or termination of the investigation, report in writing to the Governor and to the Minister on the result of the investigation.

(2) A report shall include a statement of the opinion of the inspector in relation to the affairs of the company and the facts on which that opinion is based.

(3) An inspector shall not include in a report any recommendation relating to the institution of criminal proceedings or any statement to the effect that in his opinion a specified person has committed a criminal offence but, where an inspector is of the opinion that criminal proceedings ought to be instituted or that a person has committed a criminal offence, he shall state that opinion in writing given to the Minister.

(4) Subject to subsection (5) a copy of a report made to the Minister under this section shall be given to the company and upon the request in writing of any member of the company who was one of the members upon whose application the inspector was appointed, to that member.

(5) Subject to subsection (6) the Minister shall not give a copy of a report under this Part to a company the subject of the report or a member of the company if he believes that legal proceedings which have been or which in his opinion might be instituted might be prejudiced by the report.

(6) The court before which legal proceedings are brought against a company or other person for or in respect of matters dealt with in a report under this Part may order that a copy of the report be given to that company or person.

(7) The Governor may if he is of the opinion that it is in the public interest so to do cause the whole or any part of a report to be printed and published.

(8) If from a report under this section or from a statement of the opinion of an inspector given under subsection (3) it appears to the Minister that an offence may have been committed

by a person and that a prosecution ought to be instituted the Minister shall cause a prosecution to be instituted and prosecuted.

(9) Where it appears to the Minister that a prosecution ought to be instituted, he may, by notice in writing given before or after the institution of a prosecution in accordance with subsection (8), require an officer of the company affairs of which were investigated (not being an officer who is or, in the opinion of the Minister, is likely to be, a defendant in the proceedings) to give all assistance in connection with the prosecution or proposed prosecution that he is reasonably able to give.

(10) Where a person to whom a notice has been given under subsection (9) fails to comply with a requirement specified in the notice the Court may, on the application of the Minister, direct that person to comply with the requirement.

(11) A person to whom a notice has been given under subsection (9) may object to compliance with any requirement contained in the notice on the ground that he would, in order to satisfy the requirement, be obliged to furnish information tending to incriminate himself of an offence, and where such an objection is in the opinion of the Court, *bona fide*, taken upon that ground, he shall not be directed to comply with that requirement.

(12) If from a report by an inspector made under this section or from a statement of the opinion of an inspector given under subsection (3) it appears to the Minister that proceedings ought in the public interest to be brought by a company, affairs of which were investigated by the inspector, for the recovery of damages in respect of fraud, misfeasance or other misconduct in connection with affairs of the company or for the recovery of property of the company the Minister may institute and conduct proceedings for the recovery of those damages or that property in the name and on behalf of the company.

(13) In any proceedings under subsection (12) of this section, the court may make any order and may pronounce judgment against, or in favour of, the company in all respects as if the proceedings had been instituted and conducted by the company.

(14) The court may, in any such proceedings, make an order for costs against or in favour of the Minister but an order for costs shall not be made against the Minister except where the court is of the opinion that the resources of the company are insufficient to satisfy the order.

(15) The provisions of subsection (14) of this section do not derogate from the generality of the powers exercisable by a court under subsection (13) of this section.

(16) The Minister may recover as a debt due to him from the company any costs (not being costs for which he is indemnified by order of a court under subsection (14) of this section) incurred by him in proceedings under subsection (12) of this section.

(17) The Minister may settle or compromise any proceedings under subsection (12) of this section.

(18) A copy of a report of an inspector purporting to be certified as such a report by the Minister is admissible in legal proceedings as evidence of the inspector's report of his opinion for the purposes of paragraph (*g*) of subsection (1) of section 222.

Expenses of investigation.

179. (1) Subject to this section, the expenses of and incidental to an investigation under this Part (including the expenses incurred and payable by the Minister in any proceedings brought by him in the name of a company) shall be paid out of moneys provided by Parliament.

(2) The Court may, upon the application of the Minister, order that the whole or any part of those expenses be paid to the Treasurer by a person named in the order.

(3) An order shall not be made under subsection (2) unless the Court is of the opinion that—

(*a*) the application for the investigation was made in consequence of a wrongful act or omission on the part of the person against whom the order is made;

(*b*) the circumstances subject to the investigation arose wholly or in part from a wrongful act or omission on the part of the person against whom the order is made;

or

(*c*) the person against whom the order is made acted vexatiously, or without proper grounds, in making, or joining in, the application for an investigation.

(4) For the purpose of facilitating the enforcement of an order under subsection (2) of this section, the Court may order that any security given for payment of the expenses of and incidental to the investigation by the person against whom the order is made, be forfeited to the Crown.

Concealing, etc., books of company.

179a. (1) A person who—

(*a*) conceals, destroys, mutilates or alters a book of or relating to a company affairs of which are being investigated under this Part;

or

(*b*) sends, causes to be sent or conspires with another person to send, out of the State such a book or any property belonging to or under the control of the company,

is guilty of an offence against this Act.

Penalty: Five thousand dollars or imprisonment for two years.

(2) In a prosecution for an offence under subsection (1) it is a defence if the person charged with the offence proves that he did not act with intent to defeat the purposes of this Part or to delay or obstruct the carrying out of an investigation under this Part.

Orders may be made by Governor.

179b. (1) Where an investigation into affairs of a company is being made under this Part and it appears to the Governor that facts concerning shares in debentures of or interests made available by the company or rights relating to the issue of shares by the company cannot be ascertained because an officer of the company has failed or refused to comply with a requirement of an inspector under section 173, the Governor may by proclamation make one or more of the following orders—

(*a*) an order restraining a person from disposing of any interest in shares in, debentures of or interests made available by the company or in rights relating to the issue of shares by the company;

(*b*) an order restraining a person from acquiring shares in, debentures of or interests made available by the company or rights relating to the issue of shares by the company;

(*c*) an order restraining the exercise of any voting or other rights attached to shares in the company;

(*d*) an order directing a person who is registered as the holder of shares in respect of which an order under this section is in force to give notice in writing of that order to any person whom he knows to be entitled to exercise a right to vote attached to those shares;

(*e*) an order directing the company not to make payment, except in the course of winding up, of any sum due from the company in respect of shares in debentures of or interests made available by the company;

(*f*) an order directing the company not to register the transfer or transmission of shares in or debentures of or interests made available by the company;

(*g*) an order directing the company not to issue shares to a person who holds shares in the company by reason of his holding shares in the company nor in pursuance of an offer made to such person by reason of his holding shares in the company.

(2) The Governor may by proclamation vary or revoke an order made under subsection (1).

(3) A copy of an order under subsection (1) or (2) shall be served on the company to which it refers.

(4) Where an order made under subsection (1) is in force a person aggrieved by the order may apply to the Court for revocation of the order and the Court may if it is satisfied that it is reasonable to do so revoke the order.

(5) A person shall not contravene or fail to comply with an order under subsection (1).

Penalty: One thousand dollars. Default penalty: Two hundred dollars.

(6) Where an offence against this section is committed by a company the company and every officer of the company who is in default is guilty of an offence against this Act.

Penalty: One thousand dollars. Default penalty: Two hundred dollars.

(7) A prosecution under this section shall not be instituted without the consent in writing of the Minister.

Application for winding up.

180. (1) Where a report of an investigation under this Part has been made by an inspector in respect of a company or foreign company application may be made to the Court on the petition of the Minister—

(*a*) if the company is incorporated pursuant to this Act or any corresponding previous enactment, for the winding up of the company;

or

(*b*) if the company is a foreign company, for the winding up of the company so far as its assets in the State are concerned.

(2) Upon the making of the application, the provisions of this Act shall, with such adaptations as are necessary, apply as if—

(*a*) in the case of a company not being a foreign company—a winding up petition had been presented to the Court by the company;

and

(*b*) in the case of a foreign company—a petition for an order for the affairs of the company so far as assets in the State are concerned to be wound up in the State had been presented to the Court by a creditor or contributory of the company upon the liquidation of the company in the place in which it is incorporated.

(3) Where, in the case of a foreign company, on an application under subsection (1) an order is made for the company so far as its assets in the State are concerned to be wound up within the State, the company shall not carry on business or establish or keep a place of business in the State.

(4) A copy of a petition of the Minister under subsection (1) shall be served on the company to which it refers.

Transitional provision.

180aa. (1) This Part applies to and in relation to an investigation to which Division III or IV of Part VI of this Act as in force immediately before the commencement of the Companies Act Amendment Act, 1971-1972, applied and which had not been completed before that commencement.

(2) An inspector to whom Division III or IV of Part VI of this Act as in force immediately before the commencement of this Part applied shall be deemed to have been appointed under this Part.

(3) Where before the commencement of this Part an act, matter or thing had been done or had arisen in the course of an investigation to which Division III or IV of Part VI of this Act as in force immediately before that commencement applied and which had not been completed, that act, matter or thing shall have the same status, operation and effect in relation to the completion of the investigation after that commencement as if that act, matter or thing had been done or had arisen after that commencement.

(4) In particular and without affecting the generality of subsection (3) an order, application, examination, deposition, writ, summons, proceeding, record, note or report made, effected, issued or given in relation to an investigation to which Division III or IV of Part VI of this Act as in force immediately before the commencement of this Part applied shall have the same status, operation and effect in relation to the completion of the investigation after that commencement as if the order, application, examination, deposition, writ, summons, proceeding, record, note or report had been made, effected, issued or given after that commencement.

PART VIB

TAKE-OVERS

Interpretation.

180a. (1) This section has effect for the purposes of this Part and of the Tenth Schedule.

(2) Unless the contrary intention appears—

"company" means a company as defined by subsection (1) of section 5 and includes a body corporate incorporated in this State that has a share capital:

"dispatch" includes communicate by any means whatsoever:

"invitation" means a statement, however expressed, that is not an offer but expressly or impliedly invites a holder of shares to offer to dispose of shares or a holder of a right, being a right to acquire a share or an interest in a share under an option, to dispose of the right:

"invitor" means—

(*a*) a person who dispatches, or proposes to dispatch, an invitation, whether he dispatches or proposes to dispatch the invitation himself or by an agent;

or

(*b*) two or more persons who together dispatch, or propose to dispatch, an invitation, whether they dispatch, or propose to dispatch, the invitation themselves or by an agent:

"offeree", in relation to an invitation, means a holder of shares to which the invitation relates:

"offeree company" means—

(*a*) in relation to a take-over offer that is constituted by an offer to which subsection (1) of section 180c applies—a company for the acquisition of shares in which that offer has been, or is proposed to be, dispatched;

(*b*) in relation to a take-over offer that is constituted by an invitation—a company in relation to shares in which that invitation has been, or is proposed to be, dispatched;

and

(*c*) in relation to a take-over scheme—a company shares in which are proposed to be acquired under the scheme:

"offeror" means—

(*a*) a person who dispatches, or proposes to dispatch, an offer to acquire shares, whether he dispatches, or proposes to dispatch, the offer himself or by an agent;

or

(*b*) two or more persons who together dispatch, or propose to dispatch, an offer to acquire shares, whether they dispatch, or propose to dispatch, the offer themselves or by an agent,

and includes an invitor:

"Part A statement" means a statement in writing that complies with the requirements of Part A of the Tenth Schedule:

"Part B statement" means a statement in writing that complies with the requirements of Part B of the Tenth Schedule:

"Stock Exchange" means a prescribed Stock Exchange:

"take-over offer" means—

(*a*) an offer to which subsection (1) of section 180c applies;

or

(*b*) an invitation to which subsection (3) of section 180c applies:

"take-over scheme" means a take-over scheme as referred to in subsection (4).

(3) In relation to a company the whole or a portion of the share capital of which consists of stock, a reference to a number of shares includes a reference, in relation to an amount of stock, to a number of shares equal to the number of shares from which that amount of stock was converted.

(4) Where an offeror has dispatched, or proposes to dispatch, two or more take-over offers that relate to shares in a company and the same period is specified in those offers as the period during which those shares are proposed to be acquired, those take-over offers together constitute a take-over scheme and each of those offers is an offer under that scheme.

(5) The shares in a company to which a person is entitled include—

(*a*) shares in which that person has an interest;

and

(*b*) shares in which an associate of that person has an interest.

(6) A reference in paragraph (*b*) of subsection (5) to an associate of a person is a reference to—

(*a*) a corporation that, by virtue of subsection (5) of section 6, is deemed to be related to that person;

(*b*) a person in accordance with whose directions, instructions or wishes the first-mentioned person is accustomed or is under an obligation, whether formal or informal, to act in relation to shares in the company referred to in subsection (5);

(*c*) a person who is accustomed or is under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the first-mentioned person in relation to shares in that company;

(*d*) a body corporate that is, or the directors of which are, accustomed or under an obligation, whether formal or informal to act in accordance with the directions, instructions or wishes of that person in relation to shares in that company;

(*e*) a body corporate in accordance with the directions, instructions or wishes of which, or of the directors of which, that person is accustomed or under an obligation, whether formal or informal, to act in relation to shares in that company;

or

(*f*) a person who is associated with the first-mentioned person as provided by subsection (7).

(7) For the purposes of paragraph (*f*) of subsection (6), a person is associated with another person—

(*a*) if—

(i) he has an agreement, arrangement or undertaking, whether formal or informal and whether expressed or implied, with that other person;

and

(ii) he or that other person may, by reason of that agreement, arrangement or undertaking, exercise, directly or indirectly control the exercise of, or substantially influence the exercise of, the voting power attached to a share in the company referred to in subsection (5);

or

(*b*) if he is associated, whether formally or informally, with that other person in relation to the proposed acquisition by that other person of shares in that company otherwise than solely as a holder of shares in that company.

(8) For the purposes of subparagraph (ii) of paragraph (*a*) of subsection (7), it is immaterial that the power of a person to exercise, control the exercise of or influence the exercise of voting power is in any way qualified.

(9) An offer to acquire a right to acquire a share or an interest in a share under an option shall be deemed to be an offer to acquire a share.

(10) A reference to a person who holds shares includes a reference to a person who holds a right to acquire a share or an interest in a share under an option.

(11) A reference to a person associated with an offeror or an invitor is—

(*a*) a reference to a corporation that, by virtue of subsection (5) of section 6, is deemed to be related to the offeror or invitor;

(*b*) in relation to an offer or invitation relating to shares in a company, a reference to a person—

(i) who is under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of, or with the authority of, the offeror or invitor;

(ii) who is under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of or with the authority of, a person in accordance with whose directions, instructions or wishes or under whose authority the offeror or invitor is under an obligation, whether formal or informal to act in relation to the offer or invitation;

(iii) who has an agreement, arrangement or undertaking whether formal or informal and whether express or implied with the offeror or invitor by reason of which he or the offeror or invitor may exercise, or directly or indirectly control the exercise of, the voting power attached to a share in the company;

or

(iv) in accordance with whose directions, instructions or wishes, or under whose authority, the offeror or invitor is under an obligation, whether formal or informal to act in relation to the offer or invitation;

or

(*c*) a reference to a person who is associated whether formally or informally with the offeror or invitor in relation to an offer or invitation relating to shares in a company made or proposed to be made by the offeror or invitor.

(12) For the purposes of subsection (11), where two or more persons constitute an offeror or an invitor, a person is associated with the offeror or invitor if he is associated with any of those persons.

Application of Part.

180b. (1) The application of this Part extends to and in relation to all natural persons, whether resident in the State or in Australia or not and whether Australian citizens or not, and to all bodies corporate, whether incorporated or carrying on business in the State or in Australia or not, and extends to acts done or omitted to be done outside the State, whether in Australia or not.

(2) Nothing in subsection (1) extends the definition of "company" in subsection (2) of section 180a so as to include a body corporate, that is not incorporated in the State.

Take-over offers.

180c. (1) Subject to subsection (2), a person, or two or more persons together, shall not dispatch an offer to acquire shares in a company unless—

(*a*) the offer is in writing that—

(i) specifies the number and other particulars of the shares in the company proposed to be acquired during a period specified in the offer;

(ii) specifies the terms of that offer and of all other offers dispatched, or to be dispatched, in respect of shares referred to in subparagraph (i);

(iii) specifies the number and other particulars of the shares in the company to which that person, or any of those persons, was entitled immediately before the offer was dispatched;

(iv) sets out how and by what date the obligations of the offeror are to be satisfied;

(v) sets out all other particulars of the offer, including terms that this Part requires to be terms;

(vi) bears a date which is not more than three days before the date on which the offer is dispatched;

and

(vii) is accompanied by a copy of the statement referred to in subparagraph (i) of paragraph (*b*) and, if the offeree company has given to the offeror a Part B statement, a copy of that statement;

(*b*) the offeror has, not earlier than twenty-eight days and not later than fourteen days before the offer is dispatched, given to the offeree company—

(i) a Part A statement relating to that offer that is signed, where the offeror is a natural person or includes one or more natural persons, by that person or by each of those persons, and where the offeror is or includes one or more corporations, by not less than two directors of the corporation, or by two directors of each of those corporations, authorized so to sign pursuant to a resolution passed at a meeting of the directors, or in the case of a corporation that has only one director, by that director;

and

(ii) in respect of each report referred to in paragraph (*e*) of clause 2 of Part A of the Tenth Schedule that is set out in the Part A statement referred to in subparagraph (i), a notice in writing signed by the person or persons by whom the report is made to the effect that the person consents, or that each of those persons consents, to the inclusion of the report in the statement in the form and context in which it is included;

and

(*c*) the offeror has, before the offer is dispatched, lodged with the Registrar a copy of the Part A statement given under paragraph (*b*).

(2) Subsection (1) does not apply to—

(*a*) an offer to acquire voting shares in a company if the number derived from the formula set out in section 180d calculated as at the time immediately before the offer is dispatched is less than fifteen;

(*b*) an offer to acquire shares in a company (not being an offer that is dispatched at the same time as another offer to acquire shares in the company is dispatched) if—

(i) the offeror has not or, where two or more persons constitute the offeror, none of those persons has;

and

(ii) no person associated with the offeror has—

dispatched offers to acquire shares in the company, or an invitation or invitations relating to the acquisition of shares in the company, to more than three members of the company within the period of four months immediately preceding the dispatch of the first-mentioned offer;

(*c*) an offer to acquire shares in a company that are not voting shares unless the offeror proposes to acquire—

(i) all the shares in the company that are not voting shares;

or

(ii) all the shares, not being voting shares, included in a class of shares in the company,

other than shares to which the offeror, or, where two or more persons constitute the offeror, any of those persons, is entitled immediately before the offer is dispatched;

(*d*) an offer to acquire shares in a company that does not have more than fifteen members;

or

(*e*) an offer to acquire shares in a proprietary company that has more than fifteen members if the members of the company have consented in writing to the provisions of this Part not applying to or with respect to the offer.

(3) A person, or two or more persons together, shall not dispatch an invitation relating to shares in a company unless—

(*a*) the invitation is in writing that—

(i) specifies the maximum number and other particulars of the shares in the company proposed to be acquired during a period specified in the invitation;

(ii) specifies the terms upon which the shares referred to in subparagraph (i) are proposed to be acquired;

(iii) specifies the number and other particulars of the shares in the company to which that person or any of those persons was entitled immediately before the invitation was dispatched;

(iv) bears a date that is not more than three days before the invitation is dispatched;

and

(v) is accompanied by a copy of the statement referred to in subparagraph (i) of paragraph (*b*) and, if the offeree company has given to the invitor a Part B statement, by a copy of that statement;

(*b*) the invitor has, not earlier than twenty-eight days and not later than fourteen days before the invitation is dispatched, given to the offeree company—

(i) a Part A statement relating to that invitation that is signed, where the invitor is a natural person or includes one or more natural persons, by that person or by each of those persons and, where the invitor is or includes one or more corporations, by not less than two directors of the corporation, or by two directors of each of those corporations, authorized so to sign pursuant to a resolution passed at a meeting of the directors, or in the case of a corporation that has only one director, by that director;

and

(ii) in respect of each report referred to in paragraph (*e*) of clause 2 of Part A of the Tenth Schedule that is set out in the Part A statement, a notice in writing signed by the person or persons by whom the report is made to the effect that the person consents or that each of those persons consents to the inclusion of the report in the statement in the form and context in which it is included;

(*c*) the invitor has, before the invitation is dispatched, lodged with the Registrar a copy of the Part A statement given under paragraph (*b*);

(*d*) the invitor includes in the invitation, or dispatches with the invitation, a statement setting out how and by what date the obligations of the invitor arising from his acceptance of an offer made by an offeree are to be satisfied;

and

(*e*) the invitor includes in the invitation, or dispatches with the invitation, a statement setting out all other particulars of the invitation, including the matters that have effect under section 180f.

(4) Any of the following persons, that is to say—

(*a*) an invitor who has dispatched an invitation relating to shares in a company;

(*b*) a person associated with such an invitor;

or

(*c*) where two or more persons constitute such an invitor, any of those persons—

shall not during the period specified in the invitation or during the period of four months after the invitation is dispatched, whichever is the longer, acquire for valuable consideration (otherwise than in pursuance of a take-over offer or in the ordinary course of trading at an official meeting of a Stock Exchange) a share in the company if the number derived from the formula set out in section 180d calculated as at the time immediately before the acquisition of the share is fifteen or more.

(5) The person who records the minute of a resolution referred to in subparagraph (i) of paragraph (*b*) of subsection (1) or (3) of this section shall record in the minute the name of any director who is absent from the meeting when the resolution is passed, the name of any director who votes against the resolution, and the name of any director who is present when the resolution is passed and abstains from voting on the resolution.

(6) In subsections (3) and (4) "invitation" does not include—

(*a*) an invitation relating to voting shares in a company if the number derived from the formula set out in section 180d, calculated as at the time immediately before the invitation is dispatched, is less than fifteen;

(*b*) an invitation relating to shares in a company (not being an invitation that is made to more than three people or that is dispatched at the same time as another invitation relating to shares in the company is dispatched) if—

(i) the invitor has not or where two or more persons constitute the invitor, none of those persons has;

and

(ii) no person associated with the invitor has—

dispatched offers to acquire shares in the company or an invitation or invitations relating to the acquisition of shares in the company to more than three members of the company within the period of four months immediately preceding the dispatch of the first-mentioned invitation;

(*c*) an invitation relating to shares in a company that are not voting shares unless the invitor proposes to acquire—

(i) all the shares in the company that are not voting shares;

or

(ii) all the shares, not being voting shares, included in a class of shares in the company,

other than shares to which the invitor or, where two or more persons constitute the invitor, any of those persons, is entitled immediately before the invitation is dispatched;

or

(*d*) an invitation relating to shares in the company that does not have more than fifteen members.

(7) In this section, "offer" does not include an offer made at an official meeting of a Stock Exchange in the ordinary course of trading on the Stock Exchange.

(8) For the purposes of this section—

(*a*) an invitation relating to the acquisition of shares in a company that is dispatched otherwise than to a person or persons named in the invitation shall be deemed to be dispatched to more than three members of the company;

and

(*b*) an offer or invitation that is dispatched within three days before or within three days after another offer or invitation is dispatched shall be deemed to be dispatched at the same time as that other offer or invitation.

Formula for calculating voting power.

180d. (1) For the purposes of section 180c, the formula is the formula $\frac{100(A + B)}{C}$, where—

(*a*) A is a number equal to the maximum number of votes that might be exercised at a general meeting of the company in respect of the voting shares in the company to which the offeror is entitled, or where two or more persons constitute the offeror, the aggregate of the number of—

(i) voting shares in the company to which each of those persons is entitled;

and

(ii) if one or more of those persons is entitled to voting shares in the company with another person—those shares;

(*b*) B is a number equal to the maximum number of votes that might be exercised at a general meeting of the company in respect of—

(i) the voting shares in the company, not being voting shares referred to in paragraph (*a*), in respect of which the offeror or a person associated with the offeror (or, where two or more persons constitute the offeror, any of those persons) has, during the preceding period of four months dispatched offers (being offers that have not been withdrawn) or proposes to dispatch offers during the ensuing period of four months;

and

(ii) voting shares in the company, not being voting shares referred to in subparagraph (i), that the offeror or a person associated with the offeror (or, where two or more persons constitute the offeror, any of those persons) might acquire for valuable consideration (otherwise than in the ordinary course of trading at an official meeting of a Stock Exchange) as the result of an invitation or invitations made by any of those persons during the preceding period of four months or as the result of an invitation or invitations proposed to be made by any of those persons during the ensuing period of four months;

and

(*c*) C is a number equal to the maximum number of votes that might be exercised at a general meeting of the company in respect of all the voting shares in the company.

(2) For the purposes of paragraph (*a*) of subsection (1), a voting share—

(*a*) that a person referred to in that paragraph has a right to acquire;

or

(*b*) an interest in which a person so referred to has a right to acquire,

shall be deemed to be a voting share to which that person is entitled.

(3) For the purposes of paragraph (*b*) of subsection (1), votes that might be exercised in respect of voting shares to which the offeror, or, where two or more persons constitute the offeror, any of those persons, is entitled shall be disregarded.

(4) For the purposes of this section, voting shares shall be deemed to be held by such person or persons and in such manner as would enable the greatest number of votes to be exercised at a general meeting of the company in respect of them.

Terms and conditions of take-over offers.

180e. (1) The following subsections have effect in respect of a take-over offer that is constituted by an offer.

(2) It shall be a term of the take-over offer that it will, unless withdrawn, remain open during a period ending on a specified date, being a date that is not less than one month after the date that the take-over offer bears.

(3) The take-over offer shall not be conditional upon the offeree approving or consenting to a payment or other benefit being made or given to a director of the offeree company, or of a corporation that is deemed by virtue of subsection (5) of section 6 to be related to the offeree company, as compensation for loss of office or as consideration for or in connection with his retirement from office.

(4) If a take-over offer under the take-over scheme is withdrawn, a contract arising from the acceptance of any other take-over offer under the take-over scheme is voidable at the option of the offeree by notice in writing given to the offeror not later than one month after the first-mentioned take-over offer is withdrawn.

(5) Where a take-over offer is subject to a condition in relation to which section 180n applies, the offer shall specify a date, being a date that is not less than seven days before the end of the period during which the offer remains open, for the publication of the notice referred to in subsection (3) of that section.

Terms and conditions of invitations.

180f. (1) The following subsections have effect in respect of a take-over offer that is constituted by an invitation.

(2) The invitation shall be expressed to remain open until a specified date, being a date that is not less than one month after the date that the invitation bears.

(3) The invitor shall not indicate or imply, whether by statement in the invitation or in any other manner, that an offer made by an offeree will not be accepted by the invitor unless the offeree approves or consents to a payment or other benefit being made or given to a director of the offeree company, or of a corporation that is deemed by virtue of subsection (5) of section 6 to be related to the offeree company, as compensation for loss of office or as consideration for or in connection with his retirement from office.

(4) The invitor shall not—

(*a*) indicate or imply, whether by statement in the invitation or in any other manner, that the order in which offers made by offerees are dispatched or received may have an effect in relation to the determination of the offers that will be accepted;

(*b*) accept an offer to dispose of shares made in consequence of the invitation before the expiration of the period during which the invitation is expressed, under subsection (2), to remain open;

or

(*c*) accept an offer or offers made in consequence of the invitation in such a manner as to be unfair to persons who so made offers.

(5) If the invitor accepts an offer for the reason only that it was received before another offer, he shall, unless he satisfies the Court that he had reasonable grounds for doing so, be deemed for the purposes of paragraph (*c*) of subsection (4), to have accepted that offer in such a manner as to be unfair to other persons who made offers in consequence of the invitation.

Statement by offeree company.

180g. (1) Where an offeree company receives a Part A statement given under section 180c, the company shall—

(*a*) not later than fourteen days after receipt of the statement, give to the offeror;

or

(*b*) not later than fourteen days after the first take-over offer, or the invitation, to which the statement relates, as the case may be, is dispatched, give to each holder of shares to which the statement refers,

a Part B statement signed by all the directors of the company or by not less than two directors of the company authorized so to sign pursuant to a resolution passed at a meeting of the directors or, in the case of a corporation that has only one director, by that director.

(2) The Part B statement may contain such information in addition to that referred to in Part B of the Tenth Schedule as the directors of the offeree company think fit.

(3) The offeree company shall, forthwith after giving a Part B statement under subsection (1), lodge with the Registrar—

(*a*) a copy of the statement;

and

(*b*) where the statement is not signed by all the directors of the company, a copy of the resolution passed at a meeting of the directors authorizing the signing of the statement and a statement showing the names of the directors who were present at the meeting at which the resolution was agreed to and the names of any directors who voted against the resolution.

Notice to offeree company.

180h. (1) Where a take-over offer has been dispatched, the offeror shall—

(*a*) on the day on which the take-over offer is dispatched, give notice in writing to the offeree company that the offer has been dispatched and of the date that it bears;

and

(*b*) on the same day or, if the office of the Registrar is not open on that day, on the next day on which that office is open, lodge with the Registrar a copy of the notice.

(2) Subsection (1) does not apply where the requirements of that subsection have already been complied with in respect of another take-over offer under the take-over scheme.

Liability for mis-statements in Part A statements.

180j. (1) Where—

(*a*) there is, in a Part A statement given under section 180c, matter that is false in a material particular or materially misleading in the form and context in which it appears;

or

(*b*) there is an omission of material matter from such a statement,

a person to whom this section applies is, subject to this section, guilty of an offence against this Act.

Penalty: Two thousand dollars or imprisonment for one year, or both.

(2) A person to whom this section applies is, in the circumstances referred to in subsection (1), whether he has been convicted of an offence under that subsection or not, liable, subject to this section, to pay compensation to a person who accepts a take-over offer on the faith of the contents of the statement for any loss or damage sustained by reason of the false or misleading matter or by reason of the omission.

(3) The persons to whom this section applies are—

(*a*) the offeror;

(*b*) where the offeror is or includes a corporation, a person who was a director of that corporation at the time the statement was given, not being—

(i) a director who was not present at the meeting at which the resolution authorizing the signing of the statement was agreed to;

(ii) a director who voted against that resolution;

or

(iii) a director who abstains from voting on the resolution;

and

(*c*) subject to subsection (4), a person a notice of whose consent to the inclusion in the statement of a report made by him has been given to the offeree company under paragraph (*b*) of subsection (1) or under paragraph (*b*) of subsection (3), of section 180c.

(4) A person referred to in paragraph (*c*) of subsection (3) is guilty of an offence under subsection (1), and liable to pay compensation under subsection (2), only in respect of false or misleading matter in the report referred to in that paragraph or an omission of material matter from that report.

(5) It is a defence to a prosecution of a person for an offence under subsection (1) if the person proves—

(*a*) that, when the statement was given, he—

(i) believed on reasonable grounds that the false matter was true;

(ii) believed on reasonable grounds that the misleading matter was not misleading;

(iii) in the case of an omission, believed on reasonable grounds that no material matter had been omitted;

or

(iv) in the case of an omission, did not know that the omitted matter was material;

and

(*b*) that—

(i) on the date of the information or summons, he so believed or did not so know;

or

(ii) before that date he ceased so to believe or came to know that the omitted matter was material, and forthwith gave reasonable public notice containing such matters as were necessary to correct the false or misleading statement or the omission.

(6) It is a defence to an action under subsection (2) if the defendant proves—

(*a*) any matter referred to in paragraph (*a*) of subsection (5);

and

(*b*) that—

(i) when the plaintiff accepted the take-over offer, the defendant believed as mentioned in subparagraph (i), (ii) or (iii) of paragraph (*a*) of subsection (5) or did not know that the omitted matter was material;

or

(ii) before the plaintiff accepted the take-over offer, the defendant ceased so to believe or came to know that the omitted matter was material, and forthwith gave reasonable public notice containing such matters as were necessary to correct the false or misleading statement or the omission.

(7) In this section, a reference to a statement includes a reference to a statement as modified by modifications referred to in subsection (6) of section 180I.

(8) Nothing in this section affects any cause of action existing apart from this section.

Acceptance of take-over offers by third parties.

180k. Where, at the time when a take-over offer is made to a person or at any time during the period during which the offer is open, another person is, or is entitled to be registered as, the holder of shares to which the offer relates, then, except in so far as the offer otherwise provides—

(*a*) a corresponding take-over offer shall be deemed to have been made to that other person in respect of those shares;

and

(*b*) a corresponding take-over offer shall be deemed to have been made to the first-mentioned person in respect of any other shares to which the offer relates.

Variation of take-over offers.

180l. (1) An offeror may not vary a take-over offer except in accordance with this section.

(2) An offeror may vary a take-over offer that is constituted by an offer by doing one or more of the following in relation to the whole or a part of the consideration that is offered for the shares proposed to be acquired—

(*a*) where a cash sum is so offered—by increasing the amount of that sum;

(*b*) where shares are so offered—by increasing the number of those shares;

(*c*) where stock is so offered—by increasing the amount of that stock;

(*d*) where debentures are so offered—by increasing the rate of interest payable under those debentures;

(*e*) where debentures are so offered—by increasing the amount of those debentures;

(*f*) where an option to acquire unissued shares is so offered—by varying the option by increasing the number of unissued shares that may be acquired under that option.

(3) An offeror may vary a take-over offer by extending the period during which it remains open and, where an offeror so varies a take-over offer that contains a condition in relation to which section 180n applies, he may correspondingly vary the date specified for the publication of the notice referred to in subsection (3) of that section.

(4) Where the consideration that is offered for the shares proposed to be acquired under a take-over offer is varied under subsection (2), each person whose shares are acquired before or after the variation under a like take-over offer (that is to say, a take-over offer that, disregarding the person who is the offeree and the number of shares to which the offer relates, is the same as the first-mentioned take-over offer) is entitled to receive consideration as varied accordingly.

(5) Where an offeror varies a take-over offer, he shall forthwith give to the offeree company, to the offeree and to each other offeree to whom a like take-over offer within the meaning of subsection (4) has been made a notice in writing in accordance with subsection (6) and shall forthwith lodge with the Registrar a copy of the notice.

(6) The notice shall set out in an appropriate form particulars of such modifications of the Part A statement given under section 180c as are necessary having regard to the variation.

Offerees not to be given benefits except under take-over scheme.

180m. (1) While a take-over offer under a take-over scheme remains open—

(*a*) the offeror;

(*b*) where the offeror is or includes a corporation, a corporation that, by virtue of subsection (5) of section 6 is deemed to be related to the firstmentioned corporation;

(*c*) a person who has an agreement, arrangement or undertaking whether formal or informal and whether express or implied with the offeror by reason of which he or the offeror may exercise, or directly or indirectly control the exercise of, the voting power attached to a share in the company to which the take-over scheme relates;

or

(*d*) a person in accordance with whose directions, instructions or wishes, or under whose authority, the offeror is under an obligation whether formal or informal to act in relation to the take-over scheme,

shall not, except in pursuance of a variation made in accordance with section 180l, give, offer to give or agree to give to a person whose shares may be acquired under the take-over scheme any benefit (whether by payment of cash or otherwise) not provided for in the particulars of the take-over scheme as set out in the Part A statement given in respect of the take-over scheme under section 180c.

(2) For the purposes of this section, where two or more persons constitute an offeror, a reference in subsection (1) to the offeror shall be read as a reference to each of those persons.

(3) Nothing in this section prevents the acquisition of shares in a company at an official meeting of a Stock Exchange in the ordinary course of trading on the Stock Exchange.

Declaration where take-over offers are conditional.

180n. (1) Where two or more take-over offers that, disregarding the persons who are the offerees and the number of shares to which the offers relate, are the same, are subject to a particular condition, the offeror may not declare any of the take-over offers to be free from the condition unless it is a term of each offer that he may do so not less than seven days before the end of the period during which it is open.

(2) If the offeror declares one of the offers to be free from the condition, he shall forthwith declare the other offers to be free from the condition and shall forthwith cause to be published a notice—

(*a*) stating that the offers are free from the condition;

and

(*b*) specifying—

(i) the proportion that the number of shares to which, to his knowledge, he is entitled at the time of lodging the notice for publication bears to the number of issued shares in the company;

or

(ii) if offers were made in respect of shares included in one or more classes of shares—the proportion that the number of shares included in that class or in each of those classes, to which he is so entitled bears to the number of issued shares included in that class, or in each of those classes, as the case may be.

(3) The offeror shall, whether or not he has caused a notice to be published under subsection (2), cause to be published, on the date specified in the take-over offer in accordance with subsection (5) of section 180e, a notice—

(*a*) stating whether the offeror has declared the offers to be free from the condition;

or

(*b*) stating whether, to his knowledge, the condition was, at the time of lodging the notice for publication, fulfilled or not.

(4) Where a notice under subsection (3) states that the offeror has declared the offers to be free from the condition or that the condition has been fulfilled, the notice shall also specify—

(*a*) the proportion that the number of shares to which, to his knowledge, he is entitled at the time of lodging the notice for publication bears to the number of issued shares in the company;

or

(*b*) if offers were made in respect of shares included in one or more classes of shares—the proportion that the number of shares included in that class or in each of those classes, to which he is so entitled bears to the number of issued shares included in that class, or in each of those classes, as the case may be.

(5) A notice under subsection (2) or (3) shall be published in a newspaper circulating generally in the State and, if shares in the offeree company are listed for quotation on the official list of a Stock Exchange in another State or in a Territory of the Commonwealth and that newspaper does not circulate generally in that State or Territory, in a newspaper that does so circulate.

(6) Where by subsection (2) or (3) an offeror is required to cause a notice to be published and, due to circumstances beyond the control of the offeror, the notice is not published in accordance with the subsection, the subsection shall be deemed to have been complied with if the offeror—

(*a*) did all things that would, but for those circumstances, have resulted in publication of the notice in accordance with the subsection;

and

(*b*) causes the notice to be published on the first practicable date after those circumstances cease to exist.

(7) On the first day on which a notice referred to in subsection (2) or (3) is lodged for publication, the offeror shall send, by telegraph, a message to the effect of the notice to each Stock Exchange on the official list of which shares in the offeree company are listed for quotation.

(8) Where a condition referred to in subsection (1) has not been fulfilled and a notice referred to in subsection (3) has not been published as required by this section, all contracts formed by the acceptance of take-over offers under the take-over scheme are void.

Expenses of directors of offeree company.

180p. Notwithstanding anything in the articles of a company, or in the document by which a company is constituted, the directors of the company are entitled to have refunded to them by the company any expenses reasonably incurred by them in the interest of the members of the company in relation to a take-over scheme involving the acquisition of shares in the company.

Statements as to proposed take-over offers.

180q. (1) A person who does not intend to make an offer in the nature of a take-over offer shall not give notice or publicly announce that he intends to make a take-over offer, or an offer in the nature of a take-over offer, whether under this Act or otherwise.

(2) Persons who do not intend to make an offer in the nature of a take-over offer shall not give notice or publicly announce that they intend to make together a take-over offer, or an offer in the nature of a take-over offer, whether under this Act or otherwise.

(3) A person shall not make a take-over offer or an offer in the nature of a take-over offer, or give notice or publicly announce that he intends to make such an offer if he has no reasonable or probable grounds for believing—

(*a*) that he will be able to perform his obligations if the offer is accepted;

or

(*b*) in the case of a take-over offer, or an offer in the nature of a take-over offer, that is constituted by an invitation—that he will be able to perform his obligations if he accepts some or all of the offers that may be made to him in consequence of the invitation.

(4) Persons shall not together make a take-over offer or an offer in the nature of a take-over offer, or give notice or publicly announce that they intend to make together such an offer, if they have no reasonable or probable grounds for believing—

(*a*) that they will be able to perform their obligations if the offer is accepted;

or

(*b*) in the case of a take-over offer, or an offer in the nature of a take-over offer, that is constituted by an invitation—that they will be able to perform their obligations if they accept some or all of the offers that may be made to them in consequence of the invitation.

Orders to protect rights under take-over schemes.

180r. (1) Where two or more take-over offers that constitute a take-over scheme have been made, the Court may, on the application of the Minister or of the offeree company, where the Court is satisfied that a provision of this Part has not been complied with, make such orders as it thinks necessary or expedient to protect the rights of a person affected by the take-over scheme, including, but without limiting the generality of the foregoing, one or more of the following orders:—

(*a*) an order restraining the registration of transfers of shares in the offeree company;

(*b*) an order restraining the disposal of any interest in shares in the offeree company;

(*c*) an order cancelling a contract, arrangement or offer relating to the take-over scheme;

(*d*) an order declaring a contract, arrangement or offer relating to the take-over scheme to be voidable;

and

(*e*) for the purpose of securing compliance with any other order under this section, an order directing a person to do or refrain from doing a specified act.

(2) A person shall not contravene or fail to comply with an order under subsection (1) that is applicable to him.

(3) Subsection (2) does not affect the powers of the Court in relation to the punishment of contempts of the Court.

Court may excuse non-compliance due to inadvertance, etc.

180s. (1) Where a person has failed to comply with a provision of this Part and the Court is satisfied that the non-compliance was due to inadvertence, mistake or circumstances beyond his control and that the failure ought to be excused, or is satisfied on any other grounds that the failure ought to be excused, the Court may, on the application of an interested person, make such order as it thinks fit declaring any act or matter not to be invalid by reason of the failure to comply, and declaring any act or matter to have force and effect as if there had been no such failure.

(2) An order under subsection (1) may include such ancillary or consequential provisions as the Court thinks just.

Powers of Court.

180t. (1) The Court shall, before making an order under section 180r or 180s, satisfy itself, so far as it can reasonably do so, that the order would not unfairly prejudice any person.

(2) The Court may before making an order under section 180r or 180s, direct that notice of the application be given to such persons as it thinks fit or direct that notice of the application be published in such manner as it thinks fit, or both.

(3) The Court may rescind, vary or discharge an order made by it under section 180r or 180s or suspend the operation of such an order.

Regulations may be made with respect to certain matters.

180u. (1) The regulations may vary the requirements set out in any part of the Tenth Schedule, either by omitting or altering any such requirement or by adding additional requirements, and any reference in this Part to the requirements of a part of the Tenth Schedule shall be read as a reference to those requirements as so varied for the time being.

(2) The regulations may require the lodging, as prescribed, with one or more Stock Exchanges, or with the Registrar, or with both, of—

(*a*) a signed copy of a prescribed document, being a document made or given in pursuance of this Part;

or

(*b*) a notice in the prescribed form, and containing the prescribed particulars, of such a document.

Power to exempt from compliance with Part.

180v. The Minister may, by notice in writing published in the *Gazette*, exempt a person, as specified in the notice and subject to such terms and conditions (if any) as are specified in the notice, from compliance with all or any of the provisions of this Part or of the requirements set out in the Tenth Schedule.

Offences.

180w. (1) A person who contravenes or fails to comply with a provision of this Part is guilty of an offence against this Act.

(2) If a take-over offer or an invitation is dispatched in contravention of this Part, the offeror, or, where the offeror is two or more persons, each of those persons, is guilty of an offence against this Act.

(3) Where an offence against this Part is committed by a corporation, an officer of the corporation who is in default is guilty of an offence against this Act.

(4) The penalty for an offence against this Act arising under this section is a fine not exceeding five hundred dollars or imprisonment for a period not exceeding three months, or both.

(5) Subsection (1) of section 379 does not apply in relation to this Part.

Acquisition of shares of shareholders dissenting from a take-over scheme.

180x. (1) For the purposes of this section—

(*a*) where two or more take-over offers (not being take-over offers constituted by invitations) that constitute a take-over scheme have been made in respect of all the shares included in a class of shares (other than shares to which the offeror, or, where two or more persons constitute the offeror, any of those persons, is entitled), the shares in respect of which those take-over offers were made are shares subject to acquisition;

(*b*) outstanding shares are shares subject to acquisition in respect of which a take-over offer was made but has not been accepted;

and

(*c*) a dissenting offeree is a person who is, or is entitled to be registered as, a holder of outstanding shares.

(2) Where the shares in a company are not divided into two or more classes, those shares shall be deemed to constitute a class.

(3) Where—

(*a*) take-over offers in respect of shares included in the class of shares referred to in paragraph (*a*) of subsection (1) representing not less than nine-tenths of the nominal amount of shares subject to acquisition have been accepted;

and

(*b*) if the shares subject to acquisition represent less than nine-tenths of the nominal amount of all the shares included in that class—take-over offers in respect of those shares have been accepted by not less than three-quarters of the offerees,

the offeror may, within two months after the last day upon which a take-over offer under the take-over scheme was open for acceptance (disregarding any extension under subsection (3) of section 180I of the period during which the take-over offer remains open), give notice as prescribed to a dissenting offeree to the effect that take-over offers have been accepted as mentioned in paragraphs (*a*) and (*b*) and that the offeror desires to acquire the outstanding shares held by the dissenting offeree.

(4) For the purposes of paragraph (*b*) of subsection (3), two or more persons holding jointly shares in respect of which a take-over offer has been made shall be deemed to be one offeree.

(5) Where such a notice is so given, the offeror is entitled and bound, subject to this section, to acquire those shares on the terms applicable under the take-over offer.

(6) Subsection (5) does not have effect where, on an application made by the dissenting offeree—

(*a*) within one month after the date on which the notice was given;

or

(*b*) within fourteen days after a statement is supplied to the dissenting offeree under subsection (9),

whichever is the later, the Court orders that that subsection is not to have effect.

(7) Where alternative terms were offered under the take-over offer, the dissenting offeree may, by notice in writing given to the offeror—

(*a*) within one month after the date on which the notice was given under subsection (3);

or

(*b*) within fourteen days after the giving to him of a statement under subsection (9),

whichever is the later, specify which of those terms he prefers and the terms so specified shall apply to the acquisition of the outstanding shares held by him.

(8) If the dissenting offeree fails to give the notice within the time allowed by subsection (7), the offeror may, unless the Court otherwise orders, determine which of those terms is to apply to the acquisition of the outstanding shares of the dissenting offeree.

(9) Where the offeror has given notice under subsection (3), the dissenting offeree may, by notice in writing served on the offeror within one month after the date on which the first-mentioned notice was given, ask for a statement in writing of the names and addresses of all other dissenting offerees and the offeror shall forthwith give a statement in writing accordingly.

(10) Where the offeror has given notice under subsection (3) and the Court has not, on an application made by the dissenting offeree, ordered to the contrary, the offeror shall, within fourteen days after—

(*a*) the expiration of one month after the notice was given;

(*b*) the expiration of fourteen days after the last day on which a statement under subsection (9) was given;

or

(*c*) where an application has been made to the Court by the dissenting offeree—the application has been disposed of,

whichever last happens, give a copy of the notice to the offeree company together with an instrument of transfer of the outstanding shares held by the dissenting offeree executed on behalf of the dissenting offeree by a person appointed by the offeror and also executed by the offeror and pay, allot or transfer to the offeree company the consideration for the transfer and the offeree company shall thereupon register the offeror as the holder of those shares.

(11) The consideration so received shall be held by the offeree company in trust for the dissenting offeree.

(12) Where consideration held as provided by subsection (11) consists of or includes money, that money shall be paid into a bank account established for that purpose only.

(13) Where money or other property is held in trust by a company for a person under this section and has been so held for not less than two years, the company shall, before the expiration of ten years after the date on which the money or other property was received by the company, pay the money or transfer the property and any accretions (or, if any property has been substituted for the whole or any part of that sum or property—that property) to the Treasurer of the State.

(14) The Treasurer of the State shall sell or dispose of any property other than money so received and any property that becomes substituted for the whole or any part of that property as he thinks fit and shall deal with the proceeds of the sale or disposal and any money so received and any income derived from that property as if they were moneys paid to him under the Unclaimed Moneys Act, 1891-1962.

(15) Where any property other than money transferred to the Treasurer of the State under this section includes shares in a corporation, the Treasurer is not subject to any obligation—

(*a*) to pay any calls;

(*b*) to make any contribution to the debts and liabilities of the corporation;

or

(*c*) to discharge any other liability,

in respect of the shares, whether the obligation arises before or after the date of the transfer, but this subsection does not affect the right of the corporation to forfeit a share.

(16) Where, under the law of another State or Territory of the Commonwealth that corresponds to this section, shares in a company are transferred to an authority specified in that law, that authority is not subject to any obligation as specified in subsection (15) in respect of those shares, but this subsection does not affect a right of the company to forfeit a share.

(17) Neither the Crown nor the Treasurer is liable for any loss or damage suffered by a person arising out of the exercise of any of the powers of the Treasurer under this section.

Rights of remaining shareholder

180y. (1) The following subsections have effect where the aggregate nominal value of—

(*a*) shares included in a class of shares in an offeree company to which the offeror, or, where two or more persons constitute the offeror, any of those persons, becomes entitled in consequence of take-over offers under a take-over scheme;

and

(*b*) any other shares included in that class to which the offeror, or, where two or more persons constitute the offeror, any of those persons, was entitled before the take-over offers were dispatched,

is not less than nine-tenths of the nominal value of the issued shares included in that class.

(2) The offeror shall, within one month after the date on which the aggregate nominal value of the shares referred to in paragraphs (*a*) and (*b*) of subsection (1) becomes not less than nine-tenths of the nominal value of the shares last-mentioned in that subsection, give notice of the fact as prescribed to the holders of the remaining shares included in that class who, when the notice was given, had not been given notice under subsection (3) of section 180x.

(3) A holder of remaining shares referred to in subsection (2) may, within three months after the giving of notice to him under that subsection, require the offeror to acquire shares included in that class of which he is the holder and, where alternative terms were offered in respect of shares included in that class in take-over offers under the take-over scheme, elect which of those terms he will accept.

(4) Where a shareholder gives notice under subsection (3) with respect to his shares, the offeror is entitled and bound to acquire those shares—

(*a*) on the terms on which shares were acquired under the take-over scheme and, where alternative terms were offered to the holders of those shares, on the terms for which the shareholder has elected or where he has not so elected for whichever of the terms the offeror determines;

or

(*b*) on such other terms as are agreed or as the Court, on the application of the offeror or the shareholder, thinks fit to order.

(5) Where the shares in a company are not divided into two or more classes, those shares shall be deemed to constitute a class.

Transitional provision.

180z. (1) Notwithstanding the enactment of the Companies Act Amendment Act, 1971-1972, this Act as in force before the commencement of that Act shall continue to operate in relation to a take-over scheme in respect of which a notice had been given under paragraph (*a*) of subsection (2) of section 184 of this Act, as then in force, as if that Act had not been enacted.

(2) Subject to subsection (1) of this section, this Act, as amended by the Companies Act Amendment Act, 1971-1972, shall operate in respect of every take-over scheme

Expenses.

180za. Where before the commencement of the Companies Act Amendment Act, 1971-1972, the directors of a company have reasonably incurred expenses in the interest of the members of the company in relation to a take-over scheme as defined by section 184 of the Act as in force before that date, being a take-over scheme involving the acquisition of shares in the company, the directors of the company are entitled, and shall be deemed to have been at all times entitled, to have the expenses refunded to them by the company.

Repeal of s. 184 of principal Act.

28. Section 184 of the principal Act is repealed.

Repeal of s. 185 of principal Act and enactment of s. 185 in its place—

29. Section 185 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Acquisition of shares of shareholders dissenting from scheme or contract approved by majority.

185. (1) Where a scheme or contract (not being a take-over scheme as referred to in subsection (4) of section 180a) involving a transfer of the shares included in a class of shares in a company (in this section referred to as "the transferor company") to a person (in this section referred to as "the transferee") has, within four months after the making of the offer in that behalf by the transferee been approved by the holders of not less than nine-tenths in nominal value of the shares included in that class of shares (other than shares already held at the date of the offer by or by a nominee for the transferee or, where the transferee is a company, its subsidiary), the transferee may at any time within two months after the offer has been so approved give notice as prescribed to a dissenting shareholder that he desires to acquire the shares of that shareholder and, when such a notice is given, the transferee is, unless on an application made by a dissenting shareholder within one month after the date on which the notice was given or within fourteen days after a statement is supplied to a dissenting shareholder in pursuance of subsection (5) (whichever is the later), the Court thinks fit to order otherwise, entitled and bound, subject to this section, to acquire those shares on the terms on which, under the scheme or contract, the shares of the approving shareholders are to be transferred to the transferee.

(2) Where the shares in a company are not divided into two or more classes, those shares shall be deemed to constitute a class.

(3) Where alternative terms were offered to the approving shareholders, the dissenting shareholder is entitled to elect not later than the expiration of one month after the date on which the notice is given under subsection (1) or fourteen days after the date on which a statement is supplied in pursuance of subsection (5) (whichever is the later) which of those terms he prefers and if the dissenting shareholder fails to make the election within the time allowed by this subsection, the transferee may, unless the Court otherwise orders, determine which of those terms is to apply to the acquisition of the shares of the dissenting shareholder.

(4) Notwithstanding anything in subsection (1), where shares in the transferor company of the same class as the shares whose transfer is involved are already held as mentioned in subsection (1), to a nominal value greater than one-tenth of the aggregate of their nominal value and that of the shares (other than those already held as mentioned in subsection (1)) whose transfer is involved, the provisions of subsection (1) do not apply unless—

(*a*) the transferee offers the same terms to all holders of the shares (other than those already held as mentioned in subsection (1)) the transfer of which is involved;

and

(*b*) the holders who approve the scheme or contract, besides holding not less than nine-tenths in nominal value of the shares (other than those already held as mentioned in subsection (1)) the transfer of which is involved, are not less than three-fourths in number of the holders of those shares.

(5) Where the transferee has given notice to a dissenting shareholder that he desires to acquire that shareholder's shares, that shareholder is entitled to require the transferee, by a demand in writing served on the transferee within one month after the date on which the notice was given, to furnish to him a statement in writing of the names and addresses of all other dissenting shareholders as shown in the register of members.

(6) Where, in pursuance of such a scheme or contract, the transferee becomes beneficially entitled to shares in the transferor company which, together with any other shares in the transferor company to which the transferee or, where the transferee is a company, any corporation that, by virtue of subsection (5) of section 6, is deemed to be related to the transferee is beneficially entitled, comprise or include nine-tenths in nominal value of the shares included in the class of shares concerned, then—

(*a*) the transferee shall, within one month after the date on which he becomes beneficially entitled to those shares (unless in relation to the scheme or contract he has already complied with this requirement), give notice of the fact as prescribed to the holders of the remaining shares included in that class who, when the notice was given, had not assented to the scheme or contract or been given notice by the transferee under subsection (1);

and

(*b*) such a holder may, within three months after the giving of the notice to him, require the transferee to acquire his shares and, where alternative terms were offered to the approving shareholders, elect which of those terms he will accept,

and, where a shareholder gives notice under paragraph (*b*) with respect to his shares, the transferee is entitled and bound to acquire those shares—

(*c*) on the terms on which under the scheme or contract the shares of the approving shareholders were transferred to him and, where alternative terms were offered to those shareholders, on the terms for which the shareholder has elected, or where he has not so elected, for whichever of the terms the transferee determines;

or

(*d*) on such other terms as are agreed or as the Court, on the application of the transferee or of the shareholder, thinks fit to order.

(7) Where a notice has been given by the transferee under subsection (1) and the Court has not, on an application made by the dissenting shareholder, ordered to the contrary, the transferee shall, within fourteen days after—

(*a*) the expiration of one month after the date on which the notice is given;

(*b*) the expiration of fourteen days after a statement under subsection (5) is supplied;

or

(*c*) where an application has been made to the Court by a dissenting shareholder, the application is disposed of,

whichever last happens, transmit a copy of the notice to the transferor company together with an instrument of transfer executed, on behalf of the shareholder, by a person appointed by the transferee and, on its own behalf, by the transferee, and

pay, allot or transfer to the transferor company the consideration representing the price payable by the transferee for the shares that, by virtue of this section, the transferee is entitled to acquire and the transferor company shall thereupon register the transferee as the holder of those shares.

(8) All sums received by the transferor company under this section shall be paid into a separate bank account and those sums, and any other consideration so received, shall be held by that company in trust for the several persons entitled to the shares in respect of which they were respectively received.

(9) Where a sum or other property is held in trust by a company for a person under this section or under any corresponding previous enactment and has been so held for not less than two years, the company shall before the expiration of ten years after the date on which the sum was paid or the consideration was allotted or transferred to the company pay the sum or transfer the consideration, and any accretions to it and any property that may become substituted for it, to the Treasurer of the State.

(10) The Treasurer of the State shall sell or dispose of any property other than cash transferred to him under this section or any corresponding previous enactment and any property that becomes substituted for it that he comes to hold in right of any property other than cash received under subsection (9) in such manner as he thinks fit and shall deal with the proceeds of the sale or disposal and any cash so received and any dividends paid to him in respect of shares in a corporation as if they were moneys paid to him under the Unclaimed Moneys Act, 1891-1962.

(11) Where any property other than cash transferred to the Treasurer of the State under this section or any corresponding previous provision includes shares in a corporation, the Treasurer is not subject to any obligation—

(*a*) to pay any calls;

(*b*) to make any contribution to the debts and liabilities of the corporation;

or

(*c*) to discharge any other liability,

in respect of the shares, whether the obligation arises before or after the date of the transfer, and is not liable to be sued for any calls, contribution or other liability, but this subsection does not affect the right of a corporation to forfeit a share upon which a call or contribution remains unpaid or a liability undischarged.

(12) Where, under the law of another State or of a Territory of the Commonwealth that corresponds to this section, shares in a company are transferred to an authority specified in that law, that authority is not subject to any obligation as specified in subsection (11), and is not liable to be sued as so specified, in respect of those shares, but this subsection does not affect a right of the company to forfeit a share.

(13) Neither the State nor the Treasurer of the State is liable for any loss or damage suffered by a person arising out of the exercise of any of the powers of the Treasurer under this section.

(14) In this section "dissenting shareholder" means a shareholder who has not assented to the scheme or contract and a shareholder who has failed or refused to transfer his shares to the transferee in accordance with the scheme or contract.

30. Section 196 of the principal Act is amended—

Amendment of principal Act s. 196—

Payment of certain debts out of assets subject to floating charge in priority to claims under charge.

(*a*) by striking out from subsection (1) the passage "debts which in every winding up are preferential debts and are due by way of wages, salary, annual leave or long service leave and any amount which in a winding up is payable in pursuance of subsection (3) or subsection (5) of section 292" and inserting in lieu thereof the passage "any debt or amount which in a winding up is payable in priority to other unsecured debts pursuant to paragraph (*b*) or (*d*) of subsection (1), subsection (3) or subsection (5) of section 292";

(*b*) by striking out subsection (2) and inserting in lieu thereof the following subsection:—

(2) For the purposes of this section—

(*a*) "floating charge" includes a floating charge within the meaning of section 292;

and

(*b*) the periods of time mentioned in section 292 shall be reckoned from the date of the appointment of the receiver or of possession being taken, as the case may be;

and

(*c*) by inserting after subsection (3) the following subsection:—

(4) This section binds the Crown.

Repeal of Part IX of principal Act and enactment of Part IX in its place—

31. Part IX of the principal Act (including the headings thereto) is repealed and the following new Part is enacted and inserted in its place:—

PART IX

OFFICIAL MANAGEMENT

Interpretations.

198. (1) In this Part—

"special resolution", in relation to a meeting of creditors of a company, means a resolution passed by a majority of the creditors voting either in person or by proxy on the resolution, being a majority consisting of creditors representing at least three-fourths in value and one-half in number of creditors entitled to vote and so voting on the resolution, every creditor to whom the company owes a debt of less than twenty dollars being reckoned in value only for the purpose of calculating such majority:

"special notice", in relation to a meeting of creditors of a company, means notice of the meeting posted to each of the creditors not less than fourteen days nor more than twenty-one days before the date of the meeting.

(2) For the purposes of any special resolution required under this Part to be passed at a meeting of creditors of a company no corporation that is deemed by virtue of subsection (5) of section 6 to be related to the company shall be entitled to vote on such resolution.

(3) Subject to the provisions of subsection (2) of this section nothing in this Part shall prejudice or otherwise affect the rights of any secured creditor of the company.

Transitional provision.

198a. (1) Where at the commencement of the Companies Act Amendment Act, 1971-1972, a company is under official management, the company shall, subject to the provisions of this Act, continue under official management—

(*a*) for a period of two years from the date on which it was placed under official management;

or

(*b*) for a period of six months from the date of commencement of the Companies Act Amendment Act, 1971-1972,

whichever period later expires, unless the period of official management is sooner terminated or is extended under section 203c of the principal Act as amended by the Companies Act Amendment Act, 1971-1972.

(2) For the purposes of subsection (1) of this section the date on which a company is placed under official management shall be the date on which a meeting of creditors of the company called for the purpose of placing the company under official management and appointing an official manager passed a special resolution under section 201 of this Act as in force immediately before the date of commencement of the Companies Act Amendment Act, 1971-1972, determining that the company shall be under the sole management of an official manager.

(3) Where before the date of commencement of the Companies Act Amendment Act, 1971-1972, a meeting of creditors of a company has been called for the purpose of placing the company under official management and appointing an official manager, and before that date a special resolution under section 201 of this Act as in force immediately before that date determining that the company shall be under the sole management of an official manager has not been passed by the creditors of the company, the meeting shall be deemed not to have been duly called.

(4) The purported appointment of a person to a committee of management under this Part as in force immediately before the commencement of the Companies Act Amendment Act, 1971-1972, shall be and shall be deemed always to have been a valid and effective appointment if the appointment would be a valid and effective appointment under this Act as amended by that Act.

(5) All persons, things and circumstances appointed or created by or under Part IX of this Act as in force immediately before the commencement of the Companies Act Amendment Act, 1971-1972, or existing or continuing under that Part immediately before that commencement shall under and subject to this Act as amended by the Companies Act Amendment Act, 1971-1972, continue to have the same status, operation and effect as they respectively would have had if the Companies Act Amendment Act, 1971-1972, had not been passed.

(6) Except where otherwise expressly provided the provisions of this Part shall apply to and in relation to a company placed under official management before or after the re-enactment of that Part.

Power of company to call meeting of creditors to appoint Official Manager.

199. (1) Where it is resolved by the majority of the directors of a company present at a meeting of the directors specially called for that purpose that the company is unable to pay its debts as and when they become due and payable, the company may, and, where the company is so requested in writing by a creditor of the company who has a judgment against the company unsatisfied to the extent of not less than five hundred dollars the company shall, by giving notice thereof in accordance with subsection (9), within forty-two days of the passing of the resolution of the directors or the receipt by the company of the request by the judgment creditor or, where in the opinion of the Registrar the company would not be able properly to comply with the requirements of this section, within such further period as the Registrar allows, call a meeting of its creditors for the purpose of placing the company under official management and appointing an official manager of the company.

(2) If default is made in complying with subsection (1) of this section the company and every officer of the company who is in default shall be guilty of an offence against this Act.

Penalty: Four hundred dollars. Default penalty: One hundred dollars.

(3) The company shall prepare a statement of the affairs of the company in the prescribed form made up to a date not earlier than the date of the passing of the resolution of the directors or the receipt by the company of the request by the judgment creditor under subsection (1) of this section.

(4) Each director of the company shall furnish to the company a certificate under his hand certifying whether the statement of affairs does or does not, to the best of his knowledge, information and belief, give a true and fair view of the state of affairs of the company as at the date to which it is made up and, subject to subsection (7) of this section, a company shall be deemed not to have prepared a statement of its affairs in accordance with the last preceding subsection unless each director has furnished to the company such a certificate.

(5) Where a director certifies that the statement does not give a true and fair view of the state of affairs of the company, he shall also state in the certificate the grounds on which he formed that opinion.

(6) A director of a company shall not furnish a certificate concerning a statement of the affairs of a company for the purpose of subsection (4) of this section unless he has made such inquiries as are reasonably necessary to determine whether the statement does or does not give a true and fair view of the state of affairs of the company as at the date to which it is made up.

(7) Where the Registrar is satisfied that it is impracticable for a company to obtain the certificate of a director of the company, the Registrar may dispense with the obtaining of the certificate from that director.

(8) A company or a director who fails to comply with, or a director who fails to take all reasonable steps to secure compliance by the company with, any provision of subsections (3), (4), (5) and (6) of this section, shall be guilty of an offence against this Act.

Penalty: Four hundred dollars. Default penalty: One hundred dollars.

(9) Notice of the meeting shall be given to the creditors of the company by means of a notice in the prescribed form—

(*a*) posted to each of the creditors;

and

(*b*) published at least once in a daily newspaper circulating generally throughout the State,

not less than ten days nor more than twenty-one days before the day fixed for the holding of the meeting.

(10) The company shall attach to every notice posted to the creditors under subsection (9) of this section—

(*a*) a summary of the affairs of the company in the prescribed form;

(*b*) a notice that the statement required to be prepared by the company under subsection (3) of this section is available at the registered office of the company and that a copy of the statement will be posted by return mail to any creditor who requests it or will be handed to any creditor who calls at the office and requests it;

and

(*c*) a copy of the certificate furnished by each director of the company in accordance with subsection (4) of this section.

(11) If default is made in complying with subsection (10) of this section, or with any request made under paragraph (*b*) of that subsection, the company and every officer of the company who is in default shall be guilty of an offence against this Act.

Penalty: Four hundred dollars. Default penalty.

(12) Notwithstanding subsection (10) of this section, the company may attach to every notice posted to the creditors under subsection (9) of this section a complete copy of the statement of affairs of the company required to be prepared by the company under subsection (3) of this section and if the company does so attach the complete copy it will not be required to comply with paragraphs (*a*) and (*b*) of subsection (10) of this section.

(13) The meeting shall be called for a time and place convenient to the majority in value of the creditors.

(14) The chairman of the meeting shall be appointed by a resolution of the creditors of the company present at the meeting who are entitled to vote on a special resolution under section 198 and the chairman so appointed shall at the meeting determine whether the time and place of the meeting are convenient to the majority in value of the creditors and his decision shall be final; but if the chairman decides that the time and place of the meeting are not convenient to that majority, the meeting shall lapse.

(15) Within seven days after the first notice calling the meeting is posted to any creditor, the company shall lodge with the Registrar a copy of that notice and shall attach thereto a certified copy of the statement of affairs of the company required to be prepared by the company under subsection (3) of this section and certified copies of the certificates furnished by the directors under subsection (4) of this section.

Statement of affairs of company to be submitted to meeting.

200. (1) At the meeting of creditors of the company called under section 199 the directors of the company shall submit to the meeting the statement of affairs of the company required to be prepared by the company under subsection (3) of section 199.

(2) The directors of the company shall appoint one of their number to attend the meeting.

(3) The director so appointed shall attend the meeting and disclose to the meeting the company's affairs and the circumstances leading up to the proposed official management.

(4) If default is made in complying with any provision of this section the company and every director who is in default shall be guilty of an offence against this Act.

Penalty: Four hundred dollars.

Power to adjourn meeting.

201. (1) A meeting called under section 199 may by resolution be adjourned from time to time to a time and date specified in the resolution but shall not be adjourned to a date later than thirty days after the date for which the meeting was called.

(2) Where a meeting is adjourned, the adjourned meeting shall, unless it is otherwise provided by the resolution by which it is adjourned, be held at the same place as the original meeting.

(3) Where a meeting is adjourned to a date later than eight days after the passing of the resolution by which it is so adjourned the company shall cause notice of the time and place of the resumption thereof to be published at least once in a daily newspaper circulating generally throughout the State at least seven days before the date of that resumption.

Power of creditors to place company under official management.

202. (1) Where at a meeting of creditors of a company called under section 199 the creditors have passed a resolution to the effect that in their opinion the company is unable to pay its debts as and when they become due and payable but that if the company were placed under official management there would in their opinion be a reasonable probability that it would be able to pay its debts, the creditors may at the meeting by special resolution—

(*a*) determine that the company shall be placed under official management for such period commencing on the date of the passing of the resolution and not exceeding two years from that date, as is specified in the resolution;

(*b*) appoint a person named in the resolution who—

(i) has consented in writing to act as official manager of the company;

(ii) is not the auditor of the company;

and

(iii) has furnished to the company a certificate under his own hand that he is neither an undischarged bankrupt nor a person who has made any arrangement or composition with his creditors generally and has not been released from his indebtedness,

to be the official manager of the company during the period of the official management;

and

(*c*) determine the amount of the salary or remuneration of the official manager or delegate the fixing of the amount to a committee of management appointed under this Part.

(2) Within seven days of the passing of the resolutions referred to in subsection (1) of this section the company shall—

(*a*) cause a notice in the prescribed form of the passing of the resolutions to be lodged with the Registrar;

(*b*) cause notice that the company has been placed under official management and of the full name of the official manager to be published in a daily newspaper circulating generally throughout the State;

and

(*c*) send by post to each of the creditors and members of the company a notice in the prescribed form of—

(i) the special resolution;

and

(ii) the right to apply to the Court under section 211.

(3) If default is made in complying with subsection (2) of this section the company and every officer of the company who is in default shall be guilty of an offence against this Act.

Penalty: One hundred dollars. Default penalty.

(4) Any creditor to whom the company owes, or any representative of a group of creditors to whom the company owes collectively, more than ten per centum of the total unsecured debts of the company, may within fourteen days of the appointment of a person as official manager of the company under subsection (1) of this section or subsection (3) of section 204 apply to the Court for the termination of that appointment and if in the opinion of the Court the person so appointed is not suitable for the position the Court may make an order terminating his appointment and appointing as official manager a registered company auditor (other than the auditor of the company) who has consented in writing to act as official manager.

(5) Where under subsection (4) of this section the Court has made an order appointing a person to be the official manager of a company the provisions of this Part shall apply to that person as if he had been appointed official manager of the company at a meeting of creditors under subsection (1) of this section as at the date of the order of the Court.

(6) Where the Court makes an order under subsection (4) of this section the person obtaining the order shall—

(*a*) within seven days after the making of the order lodge with the Registrar notice in the prescribed form of the making of the order and its date;

and

(*b*) within seven days of the passing and entering of the order lodge with the Registrar an office copy of the order.

(7) A person who fails to comply with the provisions of subsection (6) of this section shall be guilty of an offence against this Act.

Penalty: One hundred dollars. Default penalty.

Appointment of committee of management.

202a. (1) At any meeting of the creditors of a company held under this Part the creditors may determine that a committee of management be appointed for the purposes of this Part.

(2) A committee of management of a company shall consist of five natural persons, of whom three shall be appointed by the creditors of the company by special resolution and two shall be appointed by the members of the company at a general meeting of the company.

(3) A person shall not be eligible to be appointed a member of a committee of management of a company—

(*a*) by the creditors of the company—unless he is—

(i) a creditor of the company;

(ii) the attorney of a creditor of the company by virtue of a general power of attorney given by the creditor;

or

(iii) a person authorized in writing by a creditor of the company to be a member of the committee of management;

or

(*b*) by the members of the company—unless he is—

(i) a member of the company;

(ii) the attorney of a member of the company by virtue of a general power of attorney given by the member;

or

(iii) a person authorized in writing by a member of the company to be a member of the committee of management.

Notice of appointment and address of official manager.

202b. (1) A person who has been appointed official manager of a company shall, within fourteen days thereafter lodge with the Registrar notice in the prescribed form of his appointment as official manager and of the situation of his office and, in

the event of any change in the situation of his office, shall, within fourteen days after the change, lodge with the Registrar notice thereof in the prescribed form.

(2) A person shall, within fourteen days after his resignation or removal from office as official manager of a company, lodge with the Registrar notice thereof in the prescribed form.

(3) A person who fails to comply with any of the provisions of this section shall be guilty of an offence against this Act.

Penalty: One hundred dollars. Default penalty.

Effect of resolution.

203. (1) Where a special resolution placing a company under official management has been duly passed by the creditors of the company under subsection (1) of section 202—

(*a*) the company shall be under official management for the period specified in the special resolution unless the official management is extended or earlier terminated under this Part;

(*b*) the directors of the company shall cease to hold office;

(*c*) the person appointed official manager of the company shall assume and be responsible for the management of the company and shall perform all of the duties and may perform any of the functions and exercise any of the powers of the directors of the company;

and

(*d*) the affairs of the company shall be conducted subject to the provisions of this Part.

(2) The official manager shall be chairman of any meeting or adjourned meeting of the company or its creditors which takes place while he holds office as official manager.

Six-monthly meetings of creditors and members.

203a. (1) Subject to subsection (2) of this section within two months after the expiration of the period of six months commencing on the date of his appointment as official manager and of each subsequent period of six months, or, if the Registrar, at any time before the expiration of any such period requires or permits him to do so in respect of a lesser period specified by the Registrar, within two months after the expiration of the period so specified, the official manager of a company shall—

(*a*) prepare a statement showing the assets and liabilities of the company as at the last day of the period and a report containing such other information as he thinks necessary to enable the creditors and members of the company to assess the financial position of the company as at the last day of the period;

and

(*b*) call a meeting of the creditors and members of the company to consider the statement and report so prepared.

(2) Where under subsection (1) of this section the Registrar has required or permitted the preparation of a statement and report at the end of a period of less than six months the next period of six months shall commence at the expiration of that lesser period.

(3) With each statement referred to in subsection (1) of this section the official manager shall furnish statements signed by him and, where the company is required under this Act to appoint a person to be its auditor, by that auditor, stating whether or not in his or their opinion, as the case requires, the statement is drawn up so as to give a true and fair view of the affairs of the company.

(4) Notice of a meeting called under subsection (1) of this section shall be given to the creditors and the members of the company by advertisement published at least once in a daily newspaper circulating generally throughout the State and the advertisement shall specify the time (being a time not less than fourteen days after the date of publication of the advertisement), place and object of the meeting and the address at which and the hours between which the statements and report referred to in this section may be inspected.

(5) Copies of the statements and report referred to in this section shall be kept by the official manager of the company and shall be open to the inspection of any creditor or member of the company at the registered office of the company.

(6) The official manager shall—

(*a*) give written notice that the statement referred to in subsection (1) of this section has been made up to every creditor and member of the company when next forwarding any report, notice of meeting, notice of call or dividend relating to the company;

and

(*b*) in the notice inform creditors and members of the company at what address and between what hours the statement may be inspected.

(7) Within seven days after a meeting is held under subsection (1) of this section the official manager shall lodge with the Registrar a notice in the prescribed form of the holding of the meeting and of its date with copies of the statements and report referred to in this section.

(8) Where the statement referred to in subsection (1) of this section is not accompanied by a statement signed by a registered company auditor, the Registrar may cause the statement referred to in subsection (1) to be audited by a registered company auditor appointed by the Registrar, and, for the purposes of the audit, the official manager shall furnish that auditor with such books, vouchers and information as the auditor may require.

(9) The costs of an audit under subsection (8) of this section shall be fixed by the Board and shall be part of the costs of the official management.

(10) An official manager who fails to comply with any provision of this section and any auditor of a company who fails to supply to the official manager at his request the statement that the auditor is required to provide under subsection (3) of this section shall be guilty of an offence against this Act.

Penalty: One hundred dollars. Default penalty.

Stay of proceedings.

203b. (1) Where a company is under official management, no action or proceedings in any court shall, except with the leave of the Court and in accordance with such terms and conditions as the Court may impose, be commenced or proceeded with against the company.

(2) Where a foreign company incorporated in any other State or Territory of the Commonwealth is registered in this State and is placed under official management in the State or Territory of its incorporation no action or proceedings in any court shall, except with the leave of the Court and in accordance with such terms and conditions as the Court may impose, be commenced or proceeded with against the company until the company ceases to be under official management in the State or Territory of its incorporation.

(3) At any time after a company has, in accordance with section 199, called a meeting of its creditors for the purpose of placing the company under official management, and before the passing of a special resolution by the creditors under subsection (1) of section 202 determining that the company be placed under official management, the company or any creditor thereof may, if any action or proceeding against the company is pending, apply to the Court to stay or restrain further proceedings in the action or proceedings, and the Court may stay or restrain the proceedings accordingly on such terms and conditions as it thinks fit.

Power to extend period of official management.

203c. (1) Whenever the period of official management of a company is due to expire, the official manager shall call a meeting of creditors of the company to be held on a date not

earlier than three months and not later than one month before the date on which the period is due to expire to consider and, if thought fit, pass a special resolution extending the official management for such further period, not exceeding twelve months, as is specified in the resolution.

(2) Where a special resolution extending the period of official management of a company is passed at a meeting called in accordance with this section, the company shall continue under official management during the period specified in the resolution unless the official management is extended or earlier terminated under this Part.

(3) The meeting shall be called by the official manager by—

(*a*) posting to each of the creditors a notice stating the place, date, time and purpose of the meeting;

and

(*b*) publishing a copy of the notice at least once in a daily newspaper circulating generally throughout the State,

not less than seven days nor more than fourteen days before the day of the meeting.

(4) The official manager shall within seven days after the passing of a special resolution under subsection (1) of this section lodge with the Registrar a copy of that resolution.

Termination of appointment of official manager.

204. (1) The appointment of a person as official manager of a company may be determined—

(*a*) by his resignation in writing signed by him and tendered to either—

(i) the committee of management appointed pursuant to this Part;

or

(ii) a meeting of creditors of the company;

(*b*) by special resolution of the creditors passed at a meeting of creditors of which special notice stating the purpose of the meeting has been given;

or

(*c*) by an order of the Court.

(2) The appointment of a person as official manager of a company shall be determined by the committee of management or, if there is no committee of management, by the Court on the application of any creditor or member of the company if—

(*a*) the official manager is bankrupt or has made any arrangement or composition with his creditors generally;

(*b*) the official manager is of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;

or

(*c*) having been appointed official manager by an order of the Court under subsection (4) of section 202 he ceases to be a registered company auditor.

(3) Where a vacancy occurs in the office of official manager of a company the committee of management may appoint, or, if there is no committee of management, a meeting of creditors of the company called for that purpose by any two of their number may by special resolution appoint, as official manager a person who is qualified for appointment as such.

(4) The provisions of paragraph (*c*) of subsection (1) of section 203 shall apply to a person appointed official manager under subsection (3) of this section.

Appointment of official manager not to affect appointment and duties of auditor.

205. Notwithstanding the appointment of an official manager of a company and for so long as the company is under official management, the provisions of this Act relating to the appointment and re-appointment of auditors and the rights and duties of auditors shall continue to apply to and in relation to the company, and in the application of those provisions to and in relation to the company any reference therein to the directors of a company shall be read as a reference to the official manager of the company.

Duties of official manager.

206. (1) Subject to the provisions of this Act, the official manager of a company shall—

(*a*) as soon as may be after his appointment as such take into his custody or under his control all the property and things in action to which the company is or appears to be entitled;

(*b*) subject to any direction given pursuant to paragraph (*c*) of this subsection conduct the business and management of the company in such manner as he may think most economical and most beneficial to the interests of the members and creditors of the company;

(*c*) comply with any directions of the creditors of the company that are agreed to by special resolution at any meeting of creditors of which the creditors of the company have been given special notice;

(*d*) comply with all requirements of this Act applicable to the company or the directors of the company relating to the keeping of accounts and the lodging of annual returns and perform all such other duties as are so applicable and are imposed on a company or on the directors of a company by or under this Act;

(*e*) if so directed by the committee of management of the company acting under subsection (4) of section 214 or by a creditor or creditors of the company to whom the company owes not less than twenty per centum in value of the total unsecured debts of the company, by notice posted to each of the creditors, call a meeting of creditors of the company;

(*f*) if a meeting of creditors held under subsection (1) of section 203c does not resolve to extend the period of the official management, within seven days of such failure to extend the period, by notice posted to each of the members of the company, call a meeting of the members to be held on a date not later than twenty-one days after the meeting of creditors under subsection (1) of section 203c for the purpose of—

(i) reporting to the members accordingly;

and

(ii) enabling the members if they think fit to elect directors of the company to take office upon the termination of the period of official management.

(2) A meeting called under paragraph (*f*) of subsection (1) of this section shall be deemed to have been properly called and empowered under the memorandum and articles of the company to appoint or elect directors, and directors so appointed or elected shall take office on the termination of the period of official management of the company.

(3) If at any time the official manager is of the opinion that the continuance of the official management of the company will not enable the company to pay its debts he shall call a meeting of the members of the company for the purpose of considering and, if thought fit, passing a special resolution that the company be wound up voluntarily.

(4) Upon determining to call a meeting of members under subsection (3) of this section the official manager shall—

(*a*) call a meeting of the creditors of the company for the day, or the day next following the day on which the meeting of members is proposed to be held;

(*b*) cause the notice of the meeting of creditors to be sent by post to the creditors simultaneously with the sending of the notices of the meeting of the members;

(*c*) call the meeting of creditors for a time and place convenient to the majority in value of the creditors and give the creditors at least seven clear days' notice by post of the meeting;

and

(*d*) cause notice of the meeting of the creditors to be advertised at least seven days before the date of the meeting in the *Gazette* and in a daily newspaper circulating generally throughout the State.

(5) At the meeting of creditors of the company called under subsection (4) of this section the official manager shall lay before the meeting a full statement of the company's affairs showing in respect of assets the method and manner in which the valuation of the assets was arrived at, together with a list of the creditors of the company and the estimated amount of their claims.

(6) Where a meeting of members called under subsection (3) of this section has passed a special resolution to the effect that the company be wound up voluntarily the company shall, and the creditors may, at their respective meetings called under subsections (3) and (4) of this section, nominate a person to be liquidator for the purpose of winding up the affairs and distributing the assets of the company, and if the creditors and the company nominate different persons the person nominated by the creditors shall be liquidator, but if no person is nominated by the creditors the person nominated by the company shall be liquidator.

(7) Notwithstanding the provisions of subsection (6) of this section, where different persons are nominated any member or creditor may, within seven days after the date on which the nomination was made by the creditors, apply to the Court for an order directing that the person nominated as liquidator by the company shall be liquidator instead of or jointly with the person nominated by the creditors.

(8) On the appointment of a liquidator the company shall cease to be under official management.

(9) The person who immediately prior to the appointment of the liquidator was the official manager shall within seven days after the holding of the meetings referred to in subsections (3) and (4) of this section lodge with the Registrar a notice in the prescribed form of the holding of the meetings and the dates thereof with a copy of the statement referred to in subsection (5) of this section attached to such notice.

(10) Every person who fails to comply with any of the provisions of subsections (1), (3), (4), (5) and (9) of this section shall be guilty of an offence against this Act.

Penalty: Four hundred dollars. Default penalty: One hundred dollars.

Undue preferences in case of official management.

207. (1) Any transfer, mortgage, delivery of goods, payment, execution or other act relating to property made or done by or against a company which, had it been made or done by or against an individual, would in his bankruptcy be void or voidable shall, in the event of the company being placed under official management, be void or voidable in like manner.

(2) For the purposes of this section the date which corresponds with the date of presentation of the bankruptcy petition in the case of an individual shall be the date of the commencement of the official management of the company.

Application and disposal of assets during official management.

208. (1) The official manager may sell or otherwise dispose of any assets of the company if the sale or disposition is in the ordinary course of the business of the company.

(2) The official manager may sell or otherwise dispose of any assets of the company otherwise than in the ordinary course of the business of the company if the value of the assets in question together with the sale price of any other assets previously sold or disposed of otherwise than in the ordinary course of the business of the company during the period of official management does not exceed in the aggregate four hundred dollars.

(3) The official manager may with the consent of the committee of management sell or otherwise dispose of any assets of the company otherwise than in the ordinary course of the business of the company if the value of the assets in question together with the sale price of any other assets previously sold or disposed of otherwise than in the ordinary course of the business of the company during the period of official management does not exceed in the aggregate two thousand dollars.

(4) The official manager may with the leave of the Court sell or otherwise dispose of any assets of the company.

(5) The moneys of the company that become available to the official manager during the official management shall be applied by him in the following order:—

(*a*) firstly, in payment of the costs of the official management including his remuneration the remuneration

of the deputy official manager (if any) and that of an auditor (if any) appointed in accordance with the provisions of Division III of Part VI;

(*b*) secondly, in payment of the liabilities of the company incurred in the course of the official management; and

(*c*) thirdly, in payment of any other liabilities of the company.

(6) Subject to subsection (5) of this section, the claims of the creditors of the company referred to in paragraph (*c*) of subsection (5) of this section shall be paid in accordance with Part X, as if those claims were claims against a company being wound up and the provisions of that Part with necessary adaptations shall apply to and in relation to those claims accordingly.

Official manager may apply to Court for directions.

208a. The official manager may apply to the Court for directions in relation to any particular matter, arising out of the exercise of his powers or functions as official manager.

Application o certain provisions in winding up to official management.

209. Where a company is under official management, the provisions of paragraph (*g*) of subsection (1) of section 218 and of sections 248, 249, 306, 374c and 374d shall apply as if the company under official management were a company being wound up and the official manager were the liquidator and any reference in those sections to contributories shall be read as a reference to members.

Power of Court to terminate official management and give directions.

210. (1) If at any time, on the application of the official manager or of any creditor or member of a company, it appears to the Court that the purpose for which the company was placed under official management has been fulfilled, or for any reason it is undesirable that the company should continue to be under official management, the Court may by order terminate the official management on the date specified in the order and upon that date the official manager shall cease to be the official manager of the company.

(2) On making an order under subsection (1) of this section, the Court may also give such directions as it deems fit for the resumption of the management and control of the company by its officers, including directions for the calling of a general meeting of members of the company to elect directors to take office upon the termination of the official management.

(3) The costs of any proceeding before the Court under this section and the costs incurred in calling a meeting of members of the company pursuant to an order of the Court under this section shall, if the Court so directs, be part of the costs of the official management of the company.

Resolution to place company under official management effective, subject to appeal.

211. (1) Notwithstanding that a resolution has been passed under subsection (1) of section 202 determining that a company shall be placed under official management, and notwithstanding anything contained in subsection (1) of section 203—

(*a*) any creditor to whom the company owes, or any representative of a group of creditors to whom the company owes collectively, more than ten per centum of the total unsecured debts of the company;

(*b*) any member holding, or any representative of a group of members holding collectively, not less than ten per centum of the paid up capital of the company;

or

(*c*) in the case of a company not having a share capital, any member holding, or any representative of a group of members holding collectively, not less than ten per centum of the total voting rights of all members having a right to vote at all general meetings,

may apply to the Court for the variation or cancellation of the resolution at any time within a period of fourteen days after the passing thereof and the Court may if it is of the opinion that there is no reasonable prospect of the company being rehabilitated or that the resolution is not in the interests of the creditors and the members of the company vary or cancel the resolution.

(2) Where the Court makes an order cancelling the resolution under subsection (1) of this section the Court may give such directions as it considers necessary for the resumption of the management and control of the company by the persons who were officers of the company immediately prior to its being placed under official management.

(3) Upon cancellation of the resolution by the Court under subsection (1) of this section, the company shall cease to be under official management and the person appointed official manager of the company shall cease to be the official manager and upon any variation of the resolution by the Court under this section, the resolution shall have effect as so varied; but notwithstanding that the resolution may be so varied or cancelled by the Court, the acts of an official manager prior to any such variation or cancellation shall be valid and binding on the company and on the members and creditors thereof.

Lodgement of office copy of Court order.

211a. (1) Where the Court makes an order under section 210 or section 211 the person obtaining the order shall within seven days after the order is made lodge with the Registrar notice in the prescribed form of the making of the order and the date thereof.

(2) The person who obtained the order shall lodge with the Registrar an office copy of the order within seven days of the passing and entering of the order.

(3) Where the Court makes an order under section 210 or section 211 terminating the official management of a company the person obtaining the order shall within seven days after the passing and entering of the order publish a copy of the order at least once in a daily newspaper circulating generally throughout the State.

(4) A person who fails to comply with any of the provisions of this section shall be guilty of an offence against this Act.

Penalty: One hundred dollars. Default penalty.

Release of official manager.

212. (1) Where a person ceases to be official manager of a company he shall notwithstanding that he has ceased to be official manager, within fourteen days thereafter, prepare a report showing how the official management was conducted by him and for this purpose shall have a right of access to the records and books of the company.

(2) A person shall within twenty-eight days after ceasing to be official manager call a meeting of the creditors of the company.

(3) Notice of the meeting shall be given to the creditors of the company by—

(*a*) posting to each of the creditors a notice and a copy of the report referred to in subsection (1) of this section;

and

(*b*) publishing a copy of the notice at least once in a daily newspaper circulating generally throughout the State,

not less than seven days nor more than fourteen days before the day of the meeting.

(4) At the meeting of creditors called under subsection (2) of this section the person who was official manager shall present his report to the meeting and shall give such explanations thereof as may be reasonably requested by any creditor.

(5) Within seven days after the holding of the meeting the person who was official manager shall lodge with the Registrar notice of the holding of the meeting and of its date with a copy of the report prepared by him under subsection (1) of this section.

Penalty: One hundred dollars. Default penalty.

(6) The expenses incurred by the person who was official manager in connection with the preparation of the report referred to in subsection (1) of this section and in relation to the calling and the holding of the meeting referred to in subsection (2) of this section shall be deemed to be part of the costs of the official management and deemed to have been incurred during the period of the official management.

(7) Subject to subsection (8) of this section where a person ceases to be the official manager of a company, the adoption by the meeting of creditors of the company of the report prepared by him under subsection (1) of this section and of his explanations shall discharge him from all liability in respect of any act or omission by him in the management of the company or otherwise in relation to his conduct as official manager.

(8) The adoption of the report referred to in subsection (1) of this section and the explanations thereof shall not so discharge the person who was official manager if such adoption was obtained by fraud or by suppression or concealment of any material fact nor discharge him from any liability that by virtue of any enactment or rule of law would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the company.

(8a) Within seven days after the passing of a resolution adopting the report referred to in subsection (1) of this section, the person who was the official manager shall cause a notice in the prescribed form of the passing of the resolution to be lodged with the Registrar.

Penalty: One hundred dollars. Default penalty.

(9) If the report referred to in subsection (1) of this section and the explanations thereof are not, within two months after being presented to the meeting of creditors of the company, adopted by a meeting of creditors the person who was official manager may apply to the Court for an order of release.

(10) The Court may grant or refuse the application and may direct that court costs incurred by the person who was official manager in connection with his application for release following his ceasing to be official manager shall be part of the costs of the

official management and deemed to have been incurred during the period of the official management, and the order, if granted, shall have effect as if the statement, reports and explanations had been adopted by a meeting of creditors of the company.

(11) Where the Court makes an order under subsection (10) of this section, the person who was the official manager shall lodge with the Registrar an office copy of the order within seven days after the passing and entering of the order.

Penalty: One hundred dollars: Default penalty.

Documents of company under official management to state that fact.

213. (1) Where a company is under official management, every invoice, order for goods or business letter issued by or on behalf of the company or the official manager thereof, being a document on or in which the name of the company appears, shall have the words "Under Official Management" immediately following the name of the company where it first appears therein.

(2) If default is made in complying with subsection (1) of this section, the company and every officer of the company who knowingly and wilfully authorizes or permits the default shall be guilty of an offence against this Act.

Penalty: One hundred dollars.

Functions of committee of management and appointment of deputy official manager.

214. (1) A committee of management appointed pursuant to this Part shall assist and advise the official manager on any matters relating to the management of the company on which he requests their advice and assistance.

(2) Either a committee of management or a meeting of creditors convened by the official manager—

(*a*) may appoint a person who—

(i) has consented in writing to act as deputy official manager of the company;

(ii) is not the auditor of the company;

and

(iii) has certified in writing that he is neither an undischarged bankrupt nor a person who has made any arrangement or composition with his creditors generally and has not been released from his indebtedness,

to be a deputy official manager who, in the absence of the official manager, shall, subject to any written directions given to him by the official manager, act as the official manager and, while so acting, shall have the powers, duties and functions of the official manager;

(*b*) may remove the deputy official manager and may, if it feels it is necessary, appoint another person to be deputy official manager in his place;

(*c*) may determine the amount of the salary or the remuneration of the deputy official manager.

(3) A person who is appointed deputy official manager of a company shall within fourteen days after his appointment lodge with the Registrar a notice in the prescribed form of his appointment as deputy official manager and of the situation of his office; and in the event of any change in the situation of his office, shall within fourteen days thereof, lodge with the Registrar notice thereof in the prescribed form.

Penalty: One hundred dollars. Default penalty.

(3a) A person who ceases to be deputy official manager shall within fourteen days after he so ceases to be deputy official manager, lodge with the Registrar notice thereof in the prescribed form.

Penalty: One hundred dollars. Default penalty.

(4) A committee of management may at any time and from time to time direct the official manager of the company to call a meeting of the creditors of the company or the members thereof or of both and the official manager shall give effect to the direction.

(5) Subject to this section and to the regulations, the provisions of subsections (2) to (9), both inclusive, of section 242 shall apply to and with respect to a committee of management and the proceedings of and vacancies in a committee of management and to and with respect to the removal of members thereof any reference in those provisions to the committee of inspection being read as a reference to the committee of management, any reference therein to the liquidator being read as a reference to the official manager, and any reference therein to a contributory being read as a reference to a member of the company.

Accidental omission to give notice.

215. The accidental omission to give notice of a meeting held for the purposes of this Part to, or the non-receipt of a notice of the meeting by, any person shall not invalidate the meeting or the proceedings at the meeting unless the Court, on the application of a creditor or member of the company or the official manager of the company concerned, otherwise declares.

Amendment of principal Act, s. 218—

32. Section 218 of the principal Act is amended—

Liability as contributories of present and past members.

(*a*) by striking out from paragraph (*a*) of subsection (1) the passage "A past" and inserting in lieu thereof the passage "Subject to paragraph (*aa*), a past";

(*b*) by inserting after paragraph (*a*) of subsection (1) the following paragraph:—

(*aa*) where the company is a limited company and became a limited company by virtue of a change of status in pursuance of paragraph (*a*) of subsection (1) of section 25, a past member of the company who was a member thereof at the time of the change of status shall, notwithstanding paragraph (*a*)—

(*i*) if the winding up commences within the period of three years commencing with the change of status—be liable to contribute in respect of debts and liabilities contracted before the change of status;

and

(ii) if no persons who were members of the company at the time of the change of status are members at the commencement of the winding up within that period—be liable so to contribute notwithstanding that the existing members have satisfied the contribution required to be made by them in pursuance of this section;

(*c*) by inserting after paragraph (*e*) of subsection (1) the following paragraphs:—

(*ea*) notwithstanding paragraphs (*d*) and (*e*), where the company is a limited company and became a limited company by virtue of a change of status in pursuance of paragraph (*a*) of subsection (1) of section 25, the amount that a member of the company at the time of the change of status, or a person who at that time was a past member of the company, is liable to contribute in respect of the debts and liabilities of the company contracted before that time is unlimited;

(*eb*) where a company changes its status in pursuance of paragraph (*d*) of subsection (1) of section 25, a person who, at the time the company applied to the Registrar for the change of status was a past member of the company and did not thereafter again become a member of the company shall not, if the company is wound up,

be liable to contribute to the assets of the company more than he would have been liable to contribute thereto had the company not changed its status.

Amendment of principal Act, s. 221—Application for winding up.

33. Section 221 of the principal Act is amended by striking out from paragraph (*e*) of subsection (1) the passage "section 175" and inserting in lieu thereof the passage "section 180".

Amendment of principal Act, s. 222—Winding up by Court.

34. Section 222 of the principal Act is amended by striking out from paragraph (*g*) of subsection (1) the passage "section 169 or section 170 or section 173" and inserting in lieu thereof the passage "Part VIA".

Amendment of principal Act, s. 292—Priorities.

35. Section 292 of the principal Act is amended—

(*a*) by striking out from paragraph (*b*) of subsection (1) the passage "One thousand dollars" and inserting in lieu thereof the passage "one thousand five hundred dollars";

(*b*) by striking out from paragraph (*b*) of subsection (1) the passage "within a period of six months before the commencement of the winding up" and inserting in lieu thereof the passage "before the relevant date";

(*c*) by striking out from paragraph (*c*) of subsection (1) the passage "the commencement of the winding up" and inserting in lieu thereof the passage "the relevant date";

(*d*) by striking out paragraph (*d*) of subsection (1) and inserting in lieu thereof the following paragraph:—

(*d*) fourthly, all amounts due or accruing due on or before the relevant date to or in respect of an employee of the company (whether remunerated by way of salary, wages, commission or otherwise) by virtue of—

(i) a contract of employment;

or

(ii) a law of the Commonwealth or a State or Territory of the Commonwealth,

relating to long service leave, extended leave, annual leave, recreation leave, or sick leave;

(*e*) by striking out from paragraph (*e*) of subsection (1) the passage "date of the commencement of the winding up" wherever it occurs in that paragraph and inserting in lieu thereof, in each case, the passage "relevant date";

(*f*) by striking out from subsection (3) the passage "wages salary annual leave or long service leave" and inserting in lieu thereof the passage—

(i) a contract of employment;

or

(ii) a law of the Commonwealth or of a State or Territory of the Commonwealth,

relating to long service leave, extended leave, annual leave, recreation leave or sick leave;

(*g*) by inserting after subsection (9) the following subsection:—

(10) In this section—

"floating charge" includes a charge conferring a floating security at the time of its creation which has become a fixed or specific charge:

"relevant date" means—

(i) in the case of a company ordered to be wound up by the Court which has not previously commenced to be wound up voluntarily—the date of the winding-up order;

and

(ii) in any other case—the date of the commencement of the winding-up.

Amendment of principal Act, s. 293—Undue preference.

36. Section 293 of the principal Act is amended by striking out subsection (2) and inserting in lieu thereof the following subsection:—

(2) For the purposes of this section, the date that corresponds with the date of presentation of the petition in any proceedings in bankruptcy in the case of an individual shall be—

(*a*) in the case of a winding up by the Court—

(i) where before the presentation of the petition for the winding up a resolution has been passed by the company for winding up the company voluntarily, the date upon which the resolution to wind up the company voluntarily is passed;

(ii) where on the presentation of the petition for the winding up the company is under official management or has been under official management at any time within six

months prior to the presentation of the petition, the date of the commencement of the official management;

or

(iii) in any other case, the date of presentation of the petition for the winding-up,

whichever is the earliest;

and

(*b*) in the case of a voluntary winding-up—

(i) where on the date of the passing of the resolution that the company be wound up voluntarily, the company is under official management or had been under official management at any time within six months prior to the passing of that resolution, the date of the commencement of the official management;

or

(ii) in any other case, the date on which the resolution to wind up the company voluntarily is passed.

Repeal of ss. 300 to 305 of principal Act.

37. Sections 300 to 305 (inclusive) of the principal Act are repealed.

Amendment to principal Act, s. 331—Distribution of surplus where cessation of business within twelve months.

38. Section 331 of the principal Act is amended by inserting after the present contents thereof (which are hereby designated subsection (1) thereof) the following subsection:—

(2) In subsection (1) of this section "no-liability company" includes a company that having been incorporated as a no-liability company changes its status under section 25.

Amendment to principal Act, s. 332—As to rights attaching to preference shares issued to promoters.

39. Section 332 of the principal Act is amended by inserting after the present contents thereof (which are hereby designated subsection (1) thereof) the following subsection:—

(2) In subsection (1) of this section "no-liability company" includes a company that having been incorporated as a no-liability company changes its status under section 25.

Amendment of principal Act, s. 341—Balance-sheets and accounts.

40. Section 341 of the principal Act is amended by striking out from subsection (1) the passage "paragraph (*h*) of clause 2" and inserting in lieu thereof the passage "paragraphs (*d*), (*e*) and (*f*) of subclause (4) of clause 5".

Amendment of principal Act, s. 349—Suspension of fee where foreign company opens share registry but does not carry on business.

41. Section 349 of the principal Act is amended by inserting after subsection (3) the following subsection:—

(4) Where the Minister is satisfied that a company has become liable to pay a fee under subsection (1) of this section by reason of the fact that the company has failed to comply with subsection (2) of this section, the Minister may, if he considers it just to do so, remit that fee wholly or partly.

Amendment of principal Act, s. 350—Obligation to state name of foreign company.

42. Section 350 of the principal Act is amended by inserting after the present contents thereof (which are hereby designated subsection (1) thereof) the following subsections:—

(2) If a foreign company incorporated under the law of any other State or Territory of the Commonwealth is placed under official management in its place of incorporation by any law or enactment corresponding to Part IX of this Act or is being wound up every invoice, order for goods or business letter issued by or on behalf of the company, or an official manager or liquidator of the company or a receiver or manager of the property of the company being a document on or in which the name of the company appears shall have the words "under official management", or "in liquidation" (whichever is appropriate) added after the name of the company where it first appears therein.

(3) If default is made in complying with subsection (2) of this section, the company and every officer of the company who knowingly and wilfully authorizes or permits the default shall be guilty of an offence against this Act.

Penalty: Forty dollars.

Enactment of section 352a of principal Act—

43. The following section is enacted and inserted in the principal Act immediately after section 352 thereof:—

Cesser of business in the State.

352a. If a foreign company incorporated under the law of any other State or Territory of the Commonwealth is placed under official management in its place of incorporation by any law or enactment corresponding to Part IX of this Act or if such period of official management is terminated the company shall, within one month after such commencement or termination or within such further time as the Registrar in special circumstances allows, lodge or cause to be lodged with the Registrar notice in the prescribed form of that fact.

Amendment of principal Act, s. 366—Irregularities in proceedings.

44. Section 366 of the principal Act is amended—

(*a*) by striking out from subsection (3) the word "thereof" where it first occurs;

and

(*b*) by inserting after the word "directors" first and secondly occurring the passage "of the company or of the creditors of the company or at a joint meeting of the creditors and members of the company".

45. Section 367 of the principal Act is repealed and the following section is enacted and inserted in its place:— Repeal of s. 367 of principal Act and enactment of section in its place—

Privileged communication.

367. Neither an inspector within the meaning of Part VIA nor a person authorized by him pursuant to section 177 shall require disclosure by a duly qualified legal practitioner of any privileged communication, whether oral or written, made to or by him in that capacity, except as respects the name and address of his client.

46. The following sections are enacted and inserted in the principal Act immediately after section 367 thereof as enacted by this Act:— Enactment of ss. 367a, 367b and 367c of principal Act—

Power to examine defaulting officers.

367a. (1) Where it appears to the Attorney-General that any officer or former officer of a company to which this section applies has conducted himself in such a way that the officer or former officer has rendered himself liable to action by the company in relation to the performance of his duties as an officer of the company the Attorney-General, or any person who is authorized in that behalf by the Attorney-General, may apply *ex parte* to the Court for an order that the officer or former officer shall attend before the Court on a day to be appointed by the Court to be examined as to his conduct and dealings as an officer of the company.

(2) Any examination under this section shall not be held in open Court unless the Court otherwise orders.

(3) The Court on making the order under subsection (1) or at any subsequent time on the application of any person concerned may give such directions as to the matters to be inquired into and as to the procedure to be followed in relation to the examination as it thinks fit.

(4) The applicant and with the leave of the Court, any creditor or member of the company may take part in the examination either personally or by a solicitor or counsel.

(5) The person examined shall be examined on oath and shall answer all questions which the Court puts or allows to be put to him and shall not be entitled to refuse to answer any question which is relevant or material to the examination on the ground that his answer might tend to incriminate him; but if he claims that the answer to any question might incriminate him and but for this subsection he would have been entitled to refuse to answer the question the answer shall not be used in any

subsequent criminal proceedings against him except in the case of a charge against him for perjury committed by him in answer to that question.

(6) A person ordered to be examined under this section may be represented by a solicitor with or without counsel who shall be at liberty to put to him questions for the purpose of enabling him to explain or qualify any answer given by him.

(7) Notes of the examination—

(*a*) shall be reduced to writing;

(*b*) shall be read over to or by and signed by the person examined;

(*c*) may thereafter, subject to subsection (5) of this section, be used in evidence in any legal proceedings against the person examined;

and

(*d*) may be inspected and copied by the person examined the Attorney-General the Registrar or applicant or with the consent of the Court by any creditor or member of the company.

(8) The Court may, if it thinks fit, adjourn the examination from time to time.

(9) Where the Court is satisfied that an order for an examination under this section was obtained without reasonable cause it may order the whole or any part of the costs incurred by the person ordered to be examined to be paid by the applicant or by any other person who with the consent of the Court takes part in the examination.

Power of Court to assess damages against delinquent officers.

367b. (1) Where it appears to the Attorney-General that any person who has taken part in the formation, promotion, administration, management or winding-up of a company to which this section applies has misapplied or retained or become liable or accountable for any money or property of the company or has been guilty of any misfeasance or breach of trust in relation to the company the Attorney-General or any person who is authorized in that behalf by the Attorney-General may apply to the Court to examine into the conduct of that person and for an order that that person do repay or restore the money or property or such part thereof as the Court thinks fit together with interest at such rate as the Court thinks just or to pay to the company such sum by way of damages in respect of the misapplication, retainer, misfeasance or breach of trust as the Court thinks just.

(2) This section shall extend and apply to the receipt of any money or property by any officer or former officer of the company whether by way of salary or otherwise which appears to the Court to have been unfair or unjust to the company or its members.

(3) The provisions of this section apply notwithstanding that the person concerned may be criminally liable in respect of the matters in respect of which the order is sought.

Interpretation.

367c. (1) In sections 367a and 367b "company to which this section applies" means a company—

(*a*) which is in course of being wound up;

(*b*) which is under official management;

(*c*) in respect of which there is an inspector within the meaning of Part VIA;

(*d*) in respect of which a receiver or manager has been appointed whether by the Court or pursuant to the powers contained in any instrument;

(*e*) which has ceased to carry on business or is unable to pay its debts.

(2) For the purposes of the last preceding subsection a company shall be deemed—

(*a*) to have ceased to carry on business if the Registrar has—

(i) sent to the company by post a letter pursuant to the provisions of subsection (1) of section 308 and has not received an answer within one month of the date of the letter to the effect that the company is carrying on business;

or

(ii) published in the *Gazette* a notice pursuant to the provisions of subsection (3) of section 308;

and

(*b*) to be unable to pay its debts if execution or other process issued on a judgment decree or order of any court in favour of a creditor of the company is returned unsatisfied in whole or in part.

Amendment of principal Act, s. 374—Restriction upon offering shares, etc., for subscription or purchase.

47. Section 374 of the principal Act is amended by striking out subparagraph (i) of paragraph (*b*) of subsection (14) of that section.

Enactment of ss. 374a to 374g of principal Act—

48. The following sections are enacted and inserted in the principal Act immediately after section 374 thereof:—

Offences by officers of certain companies.

374a. (1) Every person who, being a past or present officer of a company to which this section applies—

(*a*) does not to the best of his knowledge and belief fully and truly discover to the appropriate officer all the property real and personal of the company, and how and to whom and for what consideration and when the company disposed of any part thereof, except such part as has been disposed of in the ordinary course of the business of the company;

(*b*) does not deliver up to the appropriate officer, or as he directs—

(i) all the real and personal property of the company in his custody or under his control and which he is required by law to deliver up;

or

(ii) all books and papers in his custody or under his control belonging to the company and which he is required by law to deliver up;

(*c*) within five years next before the relevant day or at any time on or after that day—

(i) has concealed any part of the property of the company to the value of one hundred dollars or upwards, or has concealed any debt due to or from the company;

(ii) has fraudulently removed any part of the property of the company to the value of one hundred dollars or upwards;

(iii) has concealed, destroyed, mutilated or falsified, or has been privy to the concealment, destruction, mutilation or falsification of, any book or paper affecting or relating to the property or affairs of the company;

(iv) has made or has been privy to the making of any false entry in any book or paper affecting or relating to the property or affairs of the company;

(v) has fraudulently parted with altered or made any omission in, or has been privy to fraudulent parting with altering or making

any omission in, any document affecting or relating to the property or affairs of the company;

(vi) by any false representation or other fraud, has obtained any property for or on behalf of the company on credit which the company has not subsequently paid for;

(vii) has obtained on credit, for or on behalf of the company, under the false pretence that the company is carrying on its business, any property which the company has not subsequently paid for;

or

(viii) has pawned, pledged or disposed of any property of the company which has been obtained on credit and has not been paid for, unless such pawning, pledging or disposing was in the ordinary course of the business of the company;

(*d*) wilfully makes any material omission in any statement relating to the affairs of the company;

(*e*) knowing or believing that a false debt has been proved by any person fails for a period of one month to inform the appropriate officer of his knowledge or belief;

(*f*) prevents the production of any book or paper affecting or relating to the property or affairs of the company;

(*g*) within five years next before the relevant day or at any time on or after that day has attempted to account for any part of the property of the company by making entries in the books of the company showing fictitious transactions losses or expenses;

or

(*h*) within five years next before the relevant day or at any time on or after that day has been guilty of any false representation or other fraud for the purpose of obtaining the consent of the creditors of the company or any of them to an agreement with reference to the affairs of the company or to the winding-up,

shall be guilty of an offence against this Act.

Penalty: Imprisonment for two years or five thousand dollars.

(2) It shall be a good defence to a charge under paragraphs (*a*), (*b*) or (*d*) or subparagraphs (i), (vii) or (viii) of paragraph (*c*) of subsection (1) if the accused proves that he had no intent to defraud, and to a charge under paragraph (*f*) or subparagraphs (iii) or (iv) of paragraph (*c*) of subsection (1) if he proves that he had no intent to conceal the state of affairs of the company or to defeat the law.

(3) Where any person pawns, pledges or disposes of any property in circumstances which amount to an offence under subparagraph (viii) of paragraph (*c*) of subsection (1) every person who takes in pawn or pledge or otherwise receives the property knowing it to be pawned, pledged or disposed of in those circumstances shall be guilty of an offence against this Act.

Penalty: Imprisonment for one year or two thousand five hundred dollars.

Liability where proper accounts not kept.

374b. Where the provisions of section 161a have not been complied with in respect of a company to which this section applies throughout the period of two years immediately preceding the relevant day or the period between the incorporation of the company and the relevant day, whichever is the shorter, every officer who is in default shall, unless he acted honestly and shows that in the circumstances in which the business of the company was carried on the default was excusable, be guilty of an offence against this Act.

Penalty: Imprisonment for one year or two thousand five hundred dollars.

Offences.

374c. (1) If an officer of a company to which this section applies was knowingly a party to the contracting of a debt by the company and had, at the time the debt was contracted no reasonable or probable grounds of expectation after taking into consideration the other liabilities, if any, of the company at the time, of the company being able to pay the debt the officer shall be guilty of an offence against this Act.

Penalty: Imprisonment for three months or five hundred dollars.

(2) If any business of a company to which this section applies has been carried on with intent to defraud creditors of the company or creditors of any other person or for any fraudulent purpose any person who was knowingly a party to the carrying on of the business in that manner shall be guilty of an offence against this Act.

Penalty: Imprisonment for one year or two thousand five hundred dollars.

Powers of Court.

374d. (1) Where a person has been convicted of an offence under subsection (1) or subsection (2) of section 374c the Court on the application of the appropriate officer or, with the consent of the Attorney-General, any creditor or contributory of the company may if it thinks proper to do so declare that the person shall be personally responsible without any limitation of liability—

(*a*) in the case of a conviction under subsection (1) of section 374c for the payment to the company of an amount equal to the whole or such part of the debt as the Court thinks fit in respect of which the conviction was made;

and

(*b*) in the case of a conviction under subsection (2) of section 374c for the payment to the company of the amount required to satisfy all or any of the debts of the company as the Court directs.

(2) Where the Court makes any declaration under subsection (1) in relation to a person it may give such further directions as it thinks proper for the purpose of giving effect to that declaration, and in particular may order that the liability of the person under the declaration is a charge on any debt or obligation due from the company to him, or on any charge or any interest in any charge on any assets of the company held by or vested in him or any corporation or person on his behalf, or any person claiming as assignee from or through the person liable or any corporation or person acting on his behalf, and may from time to time make such further order as is necessary for the purpose of enforcing any charge imposed under this subsection.

(3) For the purpose of subsection (2) of this section "assignee" includes any person to whom or in whose favour by the directions of the person liable the debt, obligation, or charge was created issued or transferred or the interest created, but does not include an assignee for valuable consideration, not including consideration by way of marriage, given in good faith and without notice of any of the matters upon which the conviction or declaration was made.

(4) The provisions of this section shall have effect notwithstanding that the person concerned is criminally liable in respect of the matters on the ground of which the declaration is made.

(5) On the hearing of an application under subsection (1) of this section the appropriate officer may himself give evidence or call witnesses.

Interpretations.

374e. (1) In sections 374a to 374d (both inclusive)—

"appropriate officer" means—

(*a*) in relation to a company which is being wound up, the liquidator;

(*b*) in relation to a company which is under official management, the official manager;

(*c*) in relation to a company in respect of which there is an inspector within the meaning of Part VIA, the person nominated as the appropriate officer in the particular case by the Attorney-General;

(*d*) in relation to a company in respect of which a receiver or manager of all or any of the property of the company has been appointed whether by the Court or pursuant to the powers contained in any instrument, the receiver or manager;

and

(*e*) in relation to any company which has ceased to carry on business or is unable to pay its debts, the Registrar:

"company to which this section applies" means a company—

(*a*) which is in course of being wound up;

(*b*) which is under official management;

(*c*) in respect of which there is an inspector within the meaning of Part VIA;

(*d*) in respect of which a receiver or manager has been appointed whether by the Court or pursuant to the powers contained in any instrument;

(*e*) which has ceased to carry on business or is unable to pay its debts:

"the relevant day" means—

(*a*) in relation to a company which is being wound up, the day upon which under the provisions of this Act the winding-up is or is deemed to have commenced;

(*b*) in relation to a company which is under official management, the day upon which it is determined that the company shall be placed under official management;

(*c*) in relation to a company in respect of which there is an inspector within the meaning of Part VIA the day upon which the inspector was appointed;

(*d*) in relation to a company in respect of which a receiver or manager has been appointed, the day upon which the receiver or manager was appointed;

(*e*) in relation to a company which is unable to pay its debts the day upon which the execution or other process was returned unsatisfied in whole or in part;

and

(*f*) in relation to any company which has ceased to carry on business, the day upon which the last return was lodged by the company pursuant to the requirements of sections 158 or 159, as the case requires.

(2) For the purposes of the last preceding subsection a company shall be deemed—

(*a*) to have ceased to carry on business if the Registrar has—

(i) sent to the company by post a letter pursuant to the provisions of subsection (1) of section 308 and has not received an answer within one month of the date of the letter to the effect that the company is carrying on business;

or

(ii) published in the *Gazette* a notice pursuant to the provisions of subsection (3) of section 308;

and

(*b*) shall be deemed to be unable to pay its debts if execution or other process issued on a judgment decree or order of any court in favour of a creditor of the company is returned unsatisfied in whole or in part.

Inducement to be appointed liquidator or official manager.

374f. (1) Any person who gives or agrees or offers to give to any member or creditor of a company any valuable consideration with a view of securing his own appointment or nomination, or to securing or preventing the appointment or nomination of some person other than himself, as the company's liquidator or official manager shall be guilty of an offence against this Act.

Penalty: Five hundred dollars.

Penalty for falsification of books.

(2) Every officer or contributory of any company who destroys, mutilates, alters or falsifies any books, papers or securities, or makes or is privy to the making of any false or fraudulent entry in any register or book of account or document belonging to the company with intent to defraud or deceive any person shall be guilty of an offence against this Act.

Penalty: Imprisonment for two years or five thousand dollars.

Frauds by officers.

374g. Every person who while an officer of a company—

(*a*) has by false pretences or by means of any other fraud induced any person to give credit to the company;

(*b*) with intent to defraud creditors of the company, has made or caused to be made any gift or transfer of or charge on, or has caused or connived at the levying of any execution against, the property of the company;

or

(*c*) with intent to defraud creditors of the company, has concealed or removed any part of the property of the company since or within two months before the date of any unsatisfied judgment or order for payment of money obtained against the company,

shall be guilty of an offence against this Act.

Penalty: Imprisonment for two years or five thousand dollars.

Court may disqualify person from acting as director, etc., in certain circumstances.

374h. (1) Unless cause to the contrary is shown the Court may on an application by the Registrar and on being satisfied as to the matters referred to in subsection (2), make an order prohibiting a person specified in the order from acting as a director of or from being concerned in the management of a company during such period not exceeding five years after the date of the order as is specified in the order.

(2) The Court shall not make an order under subsection (1) unless it is satisfied—

(*a*) that the person to whom the application for an order relates was given notice of the application;

(*b*) that within the period of seven years before notice of the application was given to the person referred to in paragraph (*a*), whether that period commenced before or after the commencement of the Companies Act Amendment Act, 1971-1972, that person was a director of or was concerned in the management of two or more companies to which this section applies;

and

(*c*) that in the case of each company referred to in paragraph (*b*) the manner in which the affairs of the company had been managed was wholly or partly responsible for the company being wound up, under official management, ceasing to carry on business, being unable to satisfy a levy of execution, being subject to the appointment of a receiver or manager or entering into a compromise or scheme of arrangement with its creditors.

(3) A person shall not contravene or fail to comply with an order under this section that is applicable to him.

Penalty: One thousand dollars or imprisonment for six months.

(4) Subsection (3) does not affect the powers of the Court in relation to the punishment of contempts of the Court.

(5) In this section "company to which this section applies" means a company—

(*a*) that has been wound up or is in the course of being wound up because of the inability to pay its debts as and when they became due;

(*b*) that has been or is under official management;

(*c*) that has ceased to carry on business because it was unable to pay its debts as and when they became due;

(*d*) in respect of which a levy of execution was not satisfied;

(*e*) in respect of the property of which a receiver or manager has been appointed whether by the Court or pursuant to the powers contained in an instrument;

or

(*f*) that has entered into a compromise or scheme of arrangement with its creditors.

Amendment of principal Act, s. 375—
False and misleading statements.

49. Section 375 of the principal Act is amended by striking out subsection (2) and inserting in lieu thereof the following subsections:—

(2) A person who, in a return, report or certificate or in accounts or in any other document required by or for the purposes of this Act, wilfully makes or authorizes the making of a statement which is false or misleading in a material particular knowing it to be false or misleading or wilfully omits or authorizes the omission of any matter or thing without which the document is misleading in a material respect and is known by him to be misleading shall be guilty of an offence against this Act.

Penalty: On conviction upon indictment, five thousand dollars or imprisonment for two years, or both; on summary conviction, one thousand dollars or imprisonment for six months, or both.

(2a) For the purposes of subsection (2), where a person at a meeting votes in favour of the making of a statement referred to in that subsection he shall be deemed to have authorized the making of the statement.

Enactment of s. 375a of principal Act—
False reports.

50. The following section is enacted and inserted in the principal Act immediately after section 375 thereof:—

375a. An officer of a corporation who, with intent to deceive, makes or furnishes, or knowingly and wilfully authorizes or permits the making or furnishing of, any false or misleading statement or report to—

(*a*) a director, auditor, member, debenture holder or trustee for debenture holders of the corporation;

(*b*) in the case of a corporation that is a subsidiary, an auditor of the holding company;

or

(*c*) a prescribed Stock Exchange in Australia or elsewhere or an officer thereof,

relating to the affairs of the corporation is guilty of an offence against this Act.

Penalty: On conviction upon indictment, five thousand dollars or imprisonment for two years, or both; on summary conviction, one thousand dollars or imprisonment for six months, or both.

Enactment of s. 378a of principal Act—
Reciprocation in relation to offences under corresponding laws.

51. The following section is enacted and inserted in the principal Act immediately after section 378 thereof:—

378a. (1) If, in the State, a person does an act, or omits to do an act, and that person would, if he had done that act, or had omitted to do that act, in another State or in a Territory of

the Commonwealth, have been guilty of an offence against the law of that State or Territory that corresponds to this Act, that person is guilty of an offence against this Act punishable as the first-mentioned offence is punishable.

(2) Where an act or omission constitutes an offence both under this Act and under the law of another State or of a Territory of the Commonwealth and the offender has been punished for the offence under that law, he is not liable to be punished in respect of the offence under this Act.

Amendment of principal Act, s. 383—Application of Act.

52. Section 383 of the principal Act is amended by striking out from subsection (2) the passage "and sections 45 to 49 (both inclusive)" and inserting in lieu thereof the passage ", sections 45 to 49 (both inclusive) and section 374".

Amendment of second schedule of principal Act.

53. The Second Schedule to the principal Act is amended—

(*a*) by striking out from items 29a and 29b the passage "section 161a" and by inserting in lieu thereof the passage "section 161b";

and

(*b*) by inserting after item 29b the following item:—

29c. On lodging an application to the Registrar under section 162c..... 25.00

Amendment of eighth schedule of principal Act.

54. The Eighth Schedule to the principal Act is amended—

(*a*) by inserting immediately after paragraph 10 the following paragraph:—

11. A statement whether the company has complied with the requirements of the Act relating to the laying of accounts before the company at its annual general meeting held on the date to which the return is made up, or if an annual general meeting was not held on that date, the annual general meeting last preceding that date.;

(*b*) by inserting in Part II after the passage "The date of the annual general meeting of the company was 19 ." the following passage:—

The accounts of the company were / were not* laid before the annual general meeting of the company.;

(*c*) by inserting in Part II after the passage "The address of the place at which the register of members is kept if other than the registered office is ." the following passage:—

*Strike out whichever is inapplicable.;

(*d*) by striking out from Part II the heading "*Copy of last audited Balance-sheet and Profit and Loss Account of the Company*" and the passage appearing beneath that heading and inserting in lieu thereof the following:—

Copy of last Accounts of the Company

The return must include a copy of all accounts and group accounts (if any) laid before the company at the annual general meeting together with a copy of every document required by law to be attached or annexed thereto unless, during the whole of the period covered by the accounts—

(*a*) the company was an exempt proprietary company and an unlimited company,

or

(*b*) the company was an exempt proprietary company and the accounts and group accounts (if any) of the company laid before that meeting had been audited in accordance with this Act.;

(*e*) by striking out paragraph (*e*) appearing under the heading "*Certificate*" and inserting in lieu thereof the following paragraph:—

(*e*)(5) that to the best of our knowledge and belief the company was an exempt proprietary company within the meaning of section 5 of the Companies Act, 1962, as amended, during the whole of the period covered by the accounts and section 165ab did not apply to the company;;

(*f*) by striking out paragraph (*h*) appearing under the heading "*Certificate*" and inserting in lieu thereof the following paragraph:—

(*h*)(8) that all the members agreed pursuant to section 165a of the Companies Act, 1962, as amended, not to appoint an auditor at the annual general meeting;;

(*g*) by inserting after paragraph (*h*) appearing under the heading "Certificate" the following paragraph:—

(*i*)(8a) that all the members agreed pursuant to section 165ab of the Companies Act, 1962, as amended, not to appoint an auditor at the annual general meeting.;

(*h*) by striking out from Part II the item:—

(6) Strike out if not appropriate.

and

(*i*) by striking out from Part II the item:—

(8) Strike out this paragraph if inapplicable. Note this paragraph is only applicable to an exempt proprietary company.

and inserting in lieu thereof the following items:—

(8) Strike out this paragraph if inapplicable. Note this paragraph is only applicable to an exempt proprietary company that is an unlimited company no member of which was, at the date of the annual general meeting, a person other than a natural person or an exempt proprietary company that is an unlimited company, or a corporation that, under the law of another State or of a Territory of the Commonwealth, is an exempt proprietary company that is an unlimited company where all the members agreed not more than one month before that meeting not to appoint an auditor.

(8a) Strike out this paragraph if inapplicable. Note this paragraph is only applicable to an exempt proprietary company that is not an unlimited company, all the members of which agreed not more than one month before the annual general meeting not to appoint an auditor.

Repeal of ninth schedule of principal Act and enactment of new schedule in its place.

55. The Ninth Schedule to the principal Act is repealed (including the headings thereto) and the following schedule is enacted and inserted in its place:—

NINTH SCHEDULE

ACCOUNTS AND GROUP ACCOUNTS

1. (1) In this Schedule—

(*a*) "reserve" does not include any amount written off or retained by way of providing for depreciation, renewal or diminution in value of assets or retained by way of providing for any known liability, or any amount set aside for the purpose of its being used to counter the effect of undue fluctuations in charges for taxation.

(*b*) a reference to a financial year in relation to group accounts of a holding company is—where the financial year of any one or more of the companies in the group of companies does not end on the date on which the financial year of the holding company ends—a reference to the financial year of the holding company and the financial year of each other company in the group of companies that does not end on that date.

(2) The term "reserve" shall not be included in any accounts or group accounts to describe any amount which is excluded by the provisions of subclause (1) of this clause from the meaning of that term for the purposes of this Schedule.

2. (1) There shall be shown separately in the accounts or group accounts (whether by way of note or otherwise), in addition to any other matters necessary to present a true and fair view of the profit or loss of the company or of the company and its subsidiaries—

(*a*) the amounts of income received, or due and receivable, as dividends declared on shares in—

(i) related corporations;

and

(ii) other corporations,

separate amounts being shown in respect of each subsidiary;

(*b*) the amounts of income received, or due and receivable, as interest on debentures, deposits, loans or advances, from—

(i) the holding company;

(ii) subsidiaries;

and

(iii) other related corporations;

(*c*) the amount of—

(i) any profit arising from the sale of assets (other than current assets);

and

(ii) any profit arising from the revaluation of assets (other than current assets),

and in respect of each such profit a statement whether it has been brought into account in determining the net amount of the profit or loss of the company or of the company and its subsidiaries;

(*d*) the amount of any other profit arising otherwise than in the ordinary course of business;

(*e*) the amounts of interest paid, or due and payable, on debentures, deposits, loans or advances, or otherwise, to—

(i) the holding company;

(ii) subsidiaries;

(iii) other related corporations;

and

(iv) other persons;

(*f*) the amount of—

(i) any loss arising from the sale of assets (other than current assets);

and

(ii) any loss arising from the revaluation of assets (other than current assets),

and in respect of each such loss a statement whether it has been brought into account in determining the net amount of the profit or loss of the company or of the company and its subsidiaries;

(*g*) the amount of any other loss arising otherwise than in the ordinary course of business;

(*h*) the amount charged for, or set aside to a provision for, depreciation, diminution in value or amortization of—

(i) fixed assets;

(ii) investments;

and

(iii) intangible assets;

(*i*) the amount charged for, or set aside for, the renewal or replacement of fixed assets;

(*j*) in respect of each class of debtors' accounts shown separately in the accounts or group accounts—

(i) the amount of bad debts written off in the profit and loss account;

and

(ii) the amount of bad debts written off against any provision, reserve or other account, stating the name of the provision, reserve or account and the amount written off against it;

(*k*) in respect of each class of debtors' accounts shown separately in the accounts or group accounts, the amount set aside to any provision for doubtful debts;

(*l*) separately, the total of the emoluments received, or due and receivabl whether from the company or from a related corporation) by—

(i) directors of the company engaged in the full-time employment of the company and its related corporations (including all bonuses and commissions received or receivable by them as employees but not including the amount received or receivable by them by way of fixed salary as employees);

and

(ii) other directors of the company,

including, in each case, commissions for subscribing for or agreeing to procure subscriptions for, any shares in or debentures of the company or any related corporation, and the portion, if any, of the total amount contributed or to be contributed otherwise than by the company;

(*m*) the amounts (including benefits in kind) received or due and receivable by the auditors for their services to the company, separate amounts being shown in respect of—

(i) the auditing of the accounts or group accounts;

and

(ii) other services,

and the portion of each such amount contributed or to be contributed otherwise than by the company, with a statement whether the auditors receive any other benefits, and, if so, the general nature thereof.

(2) There shall also be shown in the accounts or group accounts in respect of the financial year (whether by way of note or otherwise) the amount set aside for the payment of income tax attributable to the financial year.

3. There shall be shown in the accounts or group accounts in respect of the financial year (whether by way of note or otherwise), separately—

(*a*) the amount of unappropriated profits or accumulated losses (however described) at the beginning of the financial year;

(*b*) the net amount of profit or loss after providing for payment of income tax attributable to the financial year;

(*c*) any amount set aside to any provision for the payment of income tax attributable to a period other than the financial year;

(*d*) any amount set aside or proposed to be set aside to any reserve stating the origin of that amount;

(*e*) any amount withdrawn, or proposed to be withdrawn, from any reserve;

(*f*) any amount set aside to a provision (other than a provision specifically provided for in this Schedule);

(*g*) any amount withdrawn from any provision where the amount withdrawn was not applied for the purposes of the provision;

(*h*) any amount set aside for redemption of share capital or of loans;

(*i*) the amount of dividends paid during the financial year and the amount of dividends proposed to be paid, excluding any amount shown in a profit and loss account or balance-sheet relating to a previous financial year as an amount proposed to be paid by way of dividends;

(*j*) the amount of any appropriation or adjustment which affects the amount of unappropriated profits or accumulated losses at the end of the financial year;

and

(*k*) the amount of unappropriated profits or accumulated losses (however described) at the end of the financial year.

4. Where in the accounts of a company or in group accounts the amounts set aside for the payment of income tax attributable to the financial year differs, or but for compensatory items would differ, by more than fifteen per centum from the amount of income tax that would be payable by the company or by the company and its subsidiaries if its taxable income for that year were equal to the amount shown in or ascertainable from the accounts or group accounts as being the amount of the net profit or loss before provision is made for the payment of income tax attributable to that year, there shall be set out an explanation of the difference, including a statement of the major items responsible for the difference and the amount, or estimated amount, of those items.

5. (1) There shall be shown separately in the accounts or group accounts as at the end of the financial year (whether by way of note or otherwise)—

(*a*) the amount and particulars of authorized capital, calls in arrear and paid-up capital, a distinction being drawn in those amounts and particulars between any different classes of shares;

(*b*) where any part of the capital consists of preference shares—

(i) the rate of dividend on each class of preference shares;

(ii) the amount of arrears of dividend on each class of preference shares;

(iii) whether the preference shares are cumulative, non-cumulative, participating or non-participating;

(iv) whether the preference shares are to be redeemed or at the option of the company are liable to be redeemed;

and

(v) if the preference shares are to be redeemed or at the option of the company are liable to be redeemed—the date on or before which they are to be redeemed or are liable to be redeemed, the earliest date on which the company has power to redeem them, and the amount of the premium (if any) at which they are to be redeemed or are liable to be redeemed;

(*c*) the amount of capital which is not capable of being called up except in the event of, and for the purposes of, the winding up of the company;

(*d*) the amount of capital upon which interest has been paid out of capital during the financial year (and the rate of interest so paid);

(*e*) where the company is a no-liability company—

(i) the number of shares forfeited and remaining unsold;

and

(ii) the number of shares forfeited during the financial year, showing the number of shares forfeited in respect of each call and the amount of each such call;

(*f*) the amount of reserves of all descriptions, a separate amount being shown for each class;

(*g*) the amount of the share premium account;

(*h*) the amount of unappropriated profits or accumulated losses (if any) as shown under paragraph (*k*) of clause 3 of this Schedule, any accumulated losses (insofar as they have not been written off) being shown as a deduction from the amount of paid-up capital and reserves;

(*i*) the amount and particulars of provisions, there being shown separately—

(i) the amount of any provision for depreciation, diminution in value or amortization of assets shown as deductions from the amounts of the respective assets;

(ii) the amount of any provision for doubtful debts shown as deductions from the amounts of the respective debtors' accounts to which the provision relates;

(iii) the amount of provision for income tax, a distinction being drawn between the amount provided for current liability and that provided for future liability, and any amount provided for the purpose of its being used to counter the effect of undue fluctuations in liability for income tax being shown separately;

and

(iv) the amount and purpose of any other provision shown, if appropriate, as a deduction from the amount of the asset to which the provision relates.

(2) There shall be shown in the accounts or group accounts as at the end of the financial year (whether by way of note or otherwise) the amounts and descriptions of all current liabilities and non-current liabilities, under headings appropriate to the business of the company or of the company and its subsidiaries, and arranged in classes under those headings according to their nature or function in the business, the following being shown separately:—

(*a*) bank loans;

(*b*) bank overdrafts;

(*c*) debentures held by—

(i) subsidiaries;

(ii) the holding company;

(iii) other related corporations;
and
(iv) other persons;

(*d*) the amount due to trade creditors and on bills payable;

(*e*) other amounts payable to—
(i) subsidiaries;
(ii) the holding company;
and
(iii) other related corporations;

(*f*) the aggregate amount, or estimated aggregate amount, and particulars of capital expenditure contracted for, so far as the amount has not been provided for;

(*g*) the amounts and descriptions of other liabilities and particulars of their nature.

(3) There shall be shown in the accounts or group accounts, if not otherwise shown, as at the end of the financial year (whether by way of note or otherwise), contingent liabilities, with a statement as to the general nature thereof and, so far as practicable, the maximum amount, or an estimate of the maximum amount, for which the company or the company and its subsidiaries could become liable in respect thereof.

(4) There shall be shown separately in the accounts or group accounts as at the end of the financial year (whether by way of note or otherwise) the amounts and descriptions of all fixed assets, intangible assets, current assets, investments and assets of any other kind, under headings appropriate to the business of the company or of the company and its subsidiaries, and arranged in classes under those headings according to their nature or function in the business, the following being shown separately:—

(*a*) cash at bank and in hand;

(*b*) stock on hand;

(*c*) work in progress;

(*d*) government, municipal and other public debentures, stock and bonds;

(*e*) shares in—
(i) the holding company;
(ii) subsidiaries;
(iii) other related corporations;
and
(iv) other corporations;

(*f*) debentures of—
(i) the holding company;
(ii) subsidiaries;
(iii) other related corporations;
and
(iv) other corporations;

(*g*) the amount due from trade debtors and on bills receivable;

(*h*) other amounts receivable from—
(i) the holding company;
(ii) subsidiaries;
(iii) other related corporations;
and
(iv) other persons;

(*i*) the total amount outstanding of any loans made, guaranteed or secured by the company or by the company and its subsidiaries, being loans made to the directors of the company or of a related corporation, or loans made to any other corporation in which a director or directors of the company, or of a related corporation, owns or own a controlling interest;

(*j*) the aggregate of the amounts of any items of goodwill and of any patents and trademarks, to the extent that they have not been written off;

(*k*) the amounts of each of the following, to the extent that they have not been written off—

(i) preliminary expenses;

(ii) expenses incurred in connection with any issue of shares or debentures;

(iii) sums paid by way of commission in respect of any shares or debentures;

(iv) sums allowed by way of discount in respect of debentures;

and

(v) sums allowed by way of discount on any issue of shares;

and

(*l*) the amounts and descriptions of other assets, with particulars of their nature.

6. (1) In respect of each liability or contingent liability shown in the accounts or group accounts being a liability the payment of which is secured by a charge on assets of the company or of the company and its subsidiaries, whether registered or unregistered, there shall be shown a statement that it is so secured and the extent to which it is secured, and each such liability or contingent liability shall be distinguished from any other liabilities or contingent liabilities the payment of which is not so secured.

(2) Current liabilities and current assets shall be clearly distinguished from other liabilities and assets.

(3) Where by reason of the manner in which the records of a company were kept before the date of commencement of the Companies Act Amendment Act 1971-1972, it is not possible to show separately the amounts of any classes of assets or liabilities required by this Schedule to be separately shown, there shall be shown the total amount of assets or liabilities of those classes acquired or incurred before that date, and the separate amounts of assets or liabilities of those classes acquired or incurred after that date.

7. (1) In respect of all fixed assets, investments, stock on hand and work in progress shown in the balance-sheet there shall be stated the method of arriving at the amount thereof, and when more than one method is used a separate total shall be shown in respect of each of the methods used.

(2) There shall be shown in respect of each class of fixed assets or investments referred to in the accounts or group accounts—

(*a*) the cost thereof, or (at the option of the directors) where they have been valued, the amount thereof as so valued, and, where the valuation applies only to part of such a class, separate totals for such of the assets as have been valued and for the remainder of the assets of that class;

(*b*) the aggregate amount written off in respect of each class or part of a class since the date of acquisition or valuation, as the case may be;

and

(*c*) the difference between the amounts shown under paragraph (*a*) and paragraph (*b*) of this subclause.

(3) For the purposes of subclause (2) of this clause, the net amount at which any assets stood in the company's records at the date of commencement of the Companies Act, 1962, as amended (after deduction of the amounts previously provided or written off for depreciation, diminution in value or amortization) shall, if the figures relating to the period before that date cannot be obtained without unreasonable expense or delay, be treated until, a valuation is made, as if it were the amount of a valuation of those assets made on that date, and where any of those assets are sold, that net amount (less the net amount at which the assets sold stood in the records as at that date, or if no separate amount is available, their estimated value as at that date) shall be treated as if it were the amount of a valuation of the remaining assets made on that date.

(4) Subparagraphs (*b*) and (*c*) of subclause (2) of this clause do not apply to fixed assets the replacement of which is dealt with wholly or partly—

(*a*) by making any provision for renewal or replacement and charging the cost of renewal or replacement against that provision;

or

(*b*) by charging the cost of renewal or replacement directly against revenue, but in respect of those assets there shall be stated—

(*c*) the method by which their renewal or replacement is dealt with;

and

(*d*) the aggregate amount of the provisions (if any) made for renewal or replacement and not used.

(5) If any investments of a class for which paragraph (*d*), (*e*) or (*f*) of subclause (4) of clause 5 requires a separate amount to be shown are quoted on any prescribed Stock Exchange in Australia or elsewhere, a separate total shall be shown for the quoted investments of each class, and there shall also be shown the aggregate quoted market value, calculated on the official quotation of that Exchange, of the quoted investments of each class.

(6) Where the amount of any fixed asset or investment (other than an investment the quoted market value of which has been included in an aggregate market value in accordance with subclause (5) of this clause) is shown at a valuation or at a valuation less amounts written off, there shall be shown (whether by way of note or otherwise) the date of the valuation, and whether the valuation was made by an officer of the company or of a related corporation or by a person not being such an officer.

(7) If the valuation referred to in subclause (6) of this clause was made after the date of commencement of the Companies Act Amendment Act, 1971-1972, by a person not being such an officer, the name of the person who valued it and particulars of his qualifications shall be shown in the first accounts in which reference is made to the valuation.

(8) For the purposes of subclause (6) of this clause, the expression "officer's valuation" may be used to indicate a valuation made by an officer of the company or of a related corporation, and the expression "independent valuation" may be used to indicate a valuation made by a person not being such an officer.

(9) In addition to any other information required to be shown, there shall be shown separately (whether by way of note or otherwise), in respect of land or interests in land acquired or held for sale or resale to the extent to which they have not been written off—

(*a*) the total cost of acquisition (exclusive of any costs of surveys, roads and drainage and other development expenses);

(*b*) the total of any development expenses capitalized;

and

(*c*) the total of any amounts of rates, taxes or interest and any other amounts capitalized.

8. There shall be shown (whether by way of note or otherwise) in the balance-sheet of every company which is a borrowing corporation or a guarantor corporation a schedule setting out, separately, estimates of the amounts payable by, and the debts payable to, the company—

(*a*) not later than two years;

(*b*) later than two years but not later than five years;

and

(*c*) later than five years,

after the end of the financial year.

9. (1) Group accounts of a holding company shall state (whether by way of note or otherwise)—

(*a*) the name and place of incorporation of each subsidiary, and if any business of the subsidiary is carried on in a country other than Australia, the name of that country;

(*b*) the amount of the holding company's investment in each class of the share capital of each subsidiary;

(*c*) the percentage of each class of the shares in each subsidiary held by the holding company;

and

(*d*) where the financial year of a subsidiary does not coincide with the financial year of the holding company, the date on which the financial year of the subsidiary ends.

(2) Where any consolidated accounts are to be laid before a holding company at its annual general meeting, transactions and balances between the corporations covered by the consolidated accounts shall be eliminated in determining any amounts to be stated in the consolidated accounts.

(3) Subject to subclause (4) of this clause, where separate accounts of a subsidiary are to be laid before the holding company at its annual general meeting as part of the group accounts, the accounts of the subsidiary shall as far as practicable be in the same form as the accounts of the holding company.

(4) In the case of a subsidiary incorporated outside the State (whether or not it has established a place of business in the State), it shall be sufficient compliance with the provisions of subclause (3) of this clause if the accounts of the subsidiary—

(*a*) are in such form;

(*b*) are reported on by an auditor in such manner;

(*c*) contain such particulars;

and

(*d*) include or are accompanied by such documents (if any),

as is or are required by the law of its place of incorporation concerning accounts to be laid before the subsidiary in general meeting.

(5) Where group accounts are prepared otherwise than as one set of consolidated accounts covering the group, the directors of the holding company shall certify on, or in a certificate attached to, the accounts—

(*a*) that the preparation of one such set of consolidated accounts is impracticable or that it is preferable, in the interests of the shareholders, that the accounts be prepared in the form in which they are prepared (as the case may be), for reasons to be stated in the certificate;

and

(*b*) that, in the opinion of the directors, the accounts so prepared are not significantly affected by transactions and balances between the corporations covered by the accounts, except to the extent stated in any notes forming part of the accounts.

(6) Where any accounts included in group accounts laid before a holding company at its annual general meeting are presented in a form or grouping different from that in which the immediately preceding group accounts (if any) were so laid, the directors shall certify on, or in a certificate attached to, the accounts the names of the corporations the accounts of which have been so presented and the reasons for presenting them in that form or grouping.

(7) A certificate under subclause (5) or (6) of this clause shall be signed by not less than two directors.

10. All amounts shown in the accounts or group accounts shall be expressed in Australian currency, and where any conversion has been made otherwise than on the basis of the rate of exchange current at the end of the financial year of the company or holding company an explanation of the methods used in calculating the conversion shall be given.

11. (1) Except in the case of the first accounts after the incorporation of the company, and in the case of the first group accounts after a company becomes a holding company there shall be shown—

(*a*) in every balance-sheet the corresponding amounts as at the end of the immediately preceding financial year;

and

(*b*) in every profit and loss account the corresponding amounts for the corresponding period of the immediately preceding financial year,

and where the respective financial years are not equal in length, the periods covered shall be clearly indicated by way of note or otherwise.

(2) If—

(*a*) the balance-sheet does not include an item corresponding to an item in the balance-sheet as at the end of the immediately preceding financial year;

or

(*b*) the profit and loss account does not include an item corresponding to an item in the profit and loss account covering the corresponding period of the immediately preceding financial year,

that previous item and the amount thereof shall be shown.

12. Where the accounts or group accounts could be misleading by reason of a failure to explain the method used in dealing with, or calculating the amount of, any item or information included in or excluded from the accounts or group accounts, there shall be stated (whether by way of note or otherwise) the method used to deal with, or calculate the amount of, the item or information.

(2) Any sums which consist of or are in the nature of interest, accommodation charges, service charges, maintenance charges or insurance premiums, being income that has not been earned at the end of the financial year, shall not be included in the gross amount of debts owing to the company or the company and its subsidiaries unless that unearned income is shown as a deduction from that gross amount.

(3) A short statement of the method by which the amount of unearned income has been calculated shall be included in the accounts or group accounts (whether by way of note or otherwise).

56. The Tenth Schedule to the principal Act is repealed and the following schedule is enacted and inserted in its place:— **Repeal of tenth schedule of principal Act and enactment of schedule in its place.**

TENTH SCHEDULE

PART A

Section 180c.

Requirements with which Statement Given by Offeror to Comply

1. The statement shall set out full particulars of the take-over offer and, if that offer and one or more other take-over offers constitute a take-over scheme, full particulars of those offers.

2. The statement shall—

(*a*) where the offeror is or includes one or more corporations, specify the names, occupations and addresses of all the directors of the corporation or of each corporation;

(*b*) where the offeror is or includes one or more corporations, contain a summary of the principal activities of the corporation or of each corporation;

(*c*) set out full particulars of the shares in the offeree company to which the offeror is entitled or, if there are no such shares, set out a statement to that effect;

(*d*) set out full particulars of marketable securities of the offeree company (not being shares referred to in paragraph (*c*) of this clause) to which the offeror is entitled or, if there are no such securities, set out a statement to that effect;

(*e*) where the offeror is or includes one or more corporations and shares may be acquired for a consideration that is or includes shares in, or marketable securities, of that corporation or of any of those corporations, set out, in respect of that corporation or of each such corporation—

(i) the reports that, if the statement were a prospectus issued on the date on which the statement is given to the offeree company, would be required to be set out in a statement under paragraphs 20 and 23 of the Fifth Schedule;

and

(ii) full particulars of any alterations in the capital structure of the corporation and of any subsidiary of the corporation during the period of five years immediately preceding the date the statement is given to the offeree company and particulars of the source of any increase in capital;

and

(*f*) where the offeror is or includes one or more natural persons, specify the name, address and occupation of that person or of each of those persons and set out a summary of the principal business activities of that person or of each of those persons and specify the corporations (if any) of which that person or any of those persons is a director or officer, it being sufficient, where he is a director of one or more subsidiaries of the same holding company to specify that he holds one or more directorships in a group of companies that may be described by the name of the holding company with the addition of the word "Group".

3. The statement shall set out particulars of any restriction on the right to transfer shares to which an offer under the take-over scheme relates contained in the memorandum or articles or other instrument constituting or defining the constitution of the offeree company which has the effect of requiring the holders of the shares, before transferring them, to offer them for purchase to members of the offeree company or to any other person and, if there is any such restriction, the arrangements, if any, being made to enable the shares to be transferred.

4. If the consideration for the acquisition of shares is to be satisfied in whole or in part by the payment of cash, the statement shall set out particulars of the source or sources from which that cash will be obtained.

5. The statement shall set out—

(*a*) whether it is proposed in connection with the take-over scheme that any payment or other benefit shall be made or given to any director of the offeree company or of any corporation that is, by virtue of subsection (5) of section 6, deemed to be related to that company as compensation for loss of office or as consideration for, or in connection with, his retirement from office and, if so, particulars of the proposed payment or benefit in respect of each such director;

(*b*) whether there is any other agreement or arrangement made between the offeror, or, where the offeror is two or more persons, any of those persons, and any of the directors of the offeree company in connection with or conditional upon the outcome of the scheme and, if so, particulars of any such agreement or arrangement;

(*c*) whether, within the knowledge of the offeror or, where the offeror is two or more persons, within the knowledge of any of those persons, the financial position of the offeree company has materially changed since the date of the last balance-sheet laid before the company in general meeting and, if so, full particulars of the change known to the offeror or to any of those persons;

and

(*d*) where there is any agreement or arrangement whereby any shares acquired by the offeror or, where the offeror is two or more persons, by any of those persons, in pursuance of the scheme will or may be transferred to any other person and, if so—

(i) the names of the persons who are parties to the agreement or arrangement and the number, description and amount of the shares which will or may be so transferred and the name of the transferee;

and

(ii) the number, description and amount of any shares in the offeree company held by or on behalf of each of those persons or of the transferee or, if no such shares are so held, a statement to that effect.

6. The succeeding provisions of this Part of this Schedule apply only where the consideration to be offered in exchange for shares in the offeree company consists, in whole or in part, of marketable securities issued, or to be issued, by a corporation.

7. Where marketable securities are issued or are to be issued by a corporation that is not, or is not included in the offeror, the statement shall so far as the information is available to the offeror or, where the offeror is two or more persons, is available to any of them contain the same information as would have to be given if that corporation were the offeror.

8. Where the marketable securities are listed on or dealt in on a Stock Exchange, the statement shall state the fact and specify the Stock Exchanges concerned and specify—

(*a*) the latest available market sale price before the date on which the statement is given to the offeree company;

(*b*) the highest and lowest market sale price during the three months immediately preceding that date and the respective dates of the relevant sales;

and

(*c*) where the take-over scheme has been the subject of a public announcement in newspapers or by any other means before the statement is given to the offeree company, the latest available market sale price immediately before the public announcement.

9. Where the securities are listed on or dealt in on more than one Stock Exchange, it is sufficient compliance with paragraphs (*a*) and (*c*) of clause 8 if information with respect to the securities is given in relation to the Stock Exchange at which there have been the greatest number of recorded dealings in the securities in the three months immediately preceding the date on which the statement is given to the offeree company.

10. Where the securities are not listed on or dealt in on a Stock Exchange, the statement shall set out all the information that the offeror, or, where the offeror is two or more persons, any of those persons, has as to the number of, amount and price at which the securities have been sold in the three months immediately preceding the date on which the statement is given to the offeree company and, if neither the offeror nor any of those persons has any such information, a statement to that effect.

11. Where marketable securities are to be issued, the information required under clauses 8, 9 and 10 shall be given in respect of such marketable securities as have been issued and are of the same class as those to be issued.

PART B

Requirements with which Statement Given by Offeree Company to Comply

1. The statement shall set out—

(*a*) whether the board of directors of the offeree company recommends to shareholders the acceptance of take-over offers made, or to be made, by the offeror under the take-over scheme;

or

(*b*) that the board of directors of the offeree company does not desire to make a recommendation or consider themselves not justified in making a recommendation.

2. The statement shall set out—

(*a*) the number, description and amount of marketable securities of the offeree company held by or on behalf of each director of that company or, in the case of a director where none are so held, that fact;

(*b*) in respect of each director of the offeree company by whom, or on whose behalf, shares in the offeree company are held—

(i) whether the director intends to accept any take-over offer that may be made in respect of those shares;

or

(ii) that the director has not decided whether he will accept such a take-over offer;

(*c*) where the offeror is or includes one or more corporations, whether any marketable securities of that corporation or of any of those corporations are held by, or on behalf of, any director of the offeree company and, if so, the number, description and amount of those securities;

(*d*) whether it is proposed that any payment or other benefit shall be made or given to any director of the offeree company or of any corporation that is, by virtue of subsection (5) of section 6, deemed to be related to that company as compensation for loss of office or as consideration for, or in connection with, his retirement from office and, if so, particulars of the proposed payment or benefit;

(*e*) whether there is any other agreement or arrangement made between any director of the offeree company and any other person in connection with or conditional upon the outcome of the take-over scheme and, if so, particulars of any such agreement or arrangement;

(*f*) whether any director of the offeree company has an interest in any contract entered into by the offeror or, where the offeror is two or more persons, any of those persons and, if so, particulars of the nature and extent of each such interest;

(*g*) if the shares to which the scheme relates are not listed on or dealt in on a Stock Exchange, all the information that the offeree company has as to the number, amount and price at which any such shares have been sold in the six months preceding the date on which the statement under paragraph (*b*) of subsection (1), or under paragraph (*b*) of subsection (3), of section 180c was given to the offeree company;

and

(*h*) whether the financial position of the offeree company has materially changed since the date of the last balance-sheet laid before the company in general meeting and, if so, full particulars of the change.

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

J. M. NAPIER, Governor's Deputy

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 53 of 1972

An Act to amend the Evidence Act, 1929-1969.

[*Assented to 27th April,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Evidence Act Amendment Act, 1972".

(2) The Evidence Act, 1929-1969, as amended by this Act, may be cited as the "Evidence Act, 1929-1972".

(3) The Evidence Act, 1929-1969, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act s. 2—Arrangement.

3. Section 2 of the principal Act is amended by inserting after the item "PART VI—Telegraphic Messages" the item "PART VIA—Computer Evidence".

Amendment of principal Act, s. 4—Interpretation.

4. Section 4 of the principal Act is amended—

(*a*) by striking out the definition of "electric telegraph" and inserting in lieu thereof the following definition:—

"electric telegraph" means any system of telecommunication operated by the Postmaster General of the Commonwealth or any other authority approved by proclamation:;

and

(*b*) by striking out the definition of "telegraph station" and inserting in lieu thereof the following definition:—

"telegraph station" means a station established or used by the Postmaster General of the Commonwealth or other authority approved by proclamation for the receipt or transmission of telegraphic messages.

Amendment of principal Act, s. 8—

Affirmation in lieu of oath.

5. Section 8 of the principal Act is amended by striking out subsection (1) and inserting in lieu thereof the following subsections:—

(1) A person who objects to being sworn and states as the ground of his objection—

(*a*) that he has no religious belief;

(*b*) that the taking of the oath is contrary to his religious belief or his conscience;

or

(*c*) any other ground that the court thinks sufficient,

shall be permitted to make a solemn affirmation instead of an oath in all circumstances in which, and for all purposes for which, an oath is required or permitted by law.

(1a) Where a person requests that an oath be administered to him otherwise than upon the Christian Bible and the book upon which, or the means by which, he requests that the oath be administered is not readily available to the court, he shall be permitted to make a solemn affirmation instead of an oath.

Repeal of ss. 9 to 11 of principal Act and enactment of section in their place—

6. Sections 9 to 11 (inclusive) of the principal Act are repealed and the following section is enacted and inserted in their place:—

Evidence without formality.

9. (1) Where in any proceedings (including proceedings in the nature of a preliminary examination) it appears to a judge that a person does not understand the obligation of an oath, he may permit that person to give evidence without an oath and without formality.

(2) Before the judge receives any such evidence he must explain or cause to be explained to the person by whom the evidence is to be given that he is required to be truthful in anything that he may say before the court.

(3) Where it appears to a judge that a person called as an interpreter does not understand the obligation of an oath, he may, if he is satisfied of the ability of that person duly to

interpret the evidence that may be given, and of his impartiality, permit that person to act as an interpreter without the administration of an oath.

(4) A person who in giving evidence under this section wilfully makes any false statement shall be guilty of an offence and liable to be imprisoned for a term not exceeding two years.

(5) A justice to whom it appears that any person who desires to lay a complaint or information does not understand the obligation of an oath may ascertain by inquiry the subject matter thereof and reduce it into the form of a complaint or information and any action or proceedings may be taken upon the complaint or information in all respects as if the complainant or informant had deposed to the truth of the contents thereof upon oath.

7. Section 12 of the principal Act is repealed and the following section is enacted and inserted in its place:— Repeal of s. 12 of principal Act and enactment of section in its place—

12. (1) A child under the age of ten years shall not be required to submit to the obligation of an oath, but may give evidence in any proceedings without an oath and without formality. Evidence of child under the age of ten years.

(2) Before the judge receives any such evidence, he must explain or cause to be explained to the child that he is required to be truthful in anything that he may say before the court.

8. Section 13 of the principal Act is amended by striking out from subsection (1) the passage "the unsworn evidence of an aboriginal or a child" and inserting in lieu thereof the passage "unsworn evidence under section 9 or section 12 of this Act". Amendment of principal Act, s. 13— Effect of unsworn evidence.

9. Section 14 of the principal Act is repealed. Repeal of s. 14 of principal Act.

10. Section 45 of the principal Act is repealed and the following sections are enacted and inserted in its place:— Repeal of s. 45 of principal Act and enactment of sections in its place—

45. (1) An apparently genuine document purporting to be a document of a prescribed nature and to relate to the transportation or shipment of any person or goods, from one place to another— Documents relating to transportation of persons or goods.

(*a*) shall be admissible in evidence on production without further proof;

and

(*b*) shall be evidence of any fact stated, or referred to, in the document, or to be inferred from the document, and where the document relates to the shipment of goods, shall be evidence that the ownership of goods referred to in the document is in the consignee named in the document or his assignee.

(2) Evidence of the description of any package or property, or of any inscription or mark upon any package or property shall be admissible (without production of the original inscription or mark) for the purpose of raising an inference as to the identity of the package or property with that referred to in a document admissible in evidence under this section.

(3) For the purpose of determining the evidentiary weight, if any, of a document admitted in evidence under this section, consideration shall be given to the source from which the document is produced, the safeguards (if any) that have been taken to ensure its accuracy and any other relevant matters.

(4) In this section—

"document of a prescribed nature" means—

(*a*) bill of lading, manifest, shipping receipt, consignment note, way-bill, delivery sheet, register or order, invoice, ticket, passenger list or register, and any document of a like nature;

or

(*b*) any reproduction of any such document by photographic, photostatic, lithographic or other like process:

"shipment" means carriage by any means by air, land or water.

Admission of business records in evidence.

45a. (1) An apparently genuine document purporting to be a business record—

(*a*) shall be admissible in evidence without further proof;

and

(*b*) shall be evidence of any fact stated in the record, or any fact that may be inferred from the record (whether the inference arises wholly from the matter contained in the record, or from that matter in conjunction with other evidence).

(2) A document shall not be admitted in evidence under this section if the court is of the opinion—

(*a*) that the person by, or at whose direction, the document was prepared can and should be called by the party tendering the document to give evidence of the matters contained in the document;

(*b*) that the evidentiary weight of the document is slight and is outweighed by the prejudice that might result to any of the parties from the admission of the document in evidence;

or

(*c*) that it would be otherwise contrary to the interests of justice to admit the document in evidence.

(3) For the purpose of determining the evidentiary weight, if any, of a document admitted in evidence under this section, consideration shall be given to the source from which the document is produced, the safeguards (if any) that have been taken to ensure its accuracy, and any other relevant matters.

(4) In this section—

"business" means business, occupation, trade or calling and includes the business of any governmental or local governmental body or instrumentality:

"business record" means—

(*a*) any book of account or other document prepared or used in the ordinary course of a business for the purpose of recording any matter relating to the business;

or

(*b*) any reproduction of any such record by photographic, photostatic, lithographic or other like process.

Admission of certain documents in evidence.

45b. (1) An apparently genuine document purporting to contain a statement of fact, or written, graphical or pictorial matter in which a statement of fact is implicit, or from which a statement of fact may be inferred shall, subject to this section, be admissible in evidence.

(2) A document shall not be admitted in evidence under this section where the court is not satisfied that the person by whom, or at whose direction, the document was prepared could, at the time of the preparation of the document, have deposed of his own knowledge to the statement that is contained or implicit in, or may be inferred from, the contents of the document.

(3) A document shall not be admitted in evidence under this section if the court is of the opinion—

(*a*) that the person by, or at whose direction, the document was prepared can and should be called by the party tendering the document to give evidence of the matters contained in the document;

(*b*) that the evidentiary weight of the document is slight and is outweighed by the prejudice that might result to any of the parties from the admission of the document in evidence;

or

(*c*) that it would be otherwise contrary to the interests of justice to admit the document in evidence.

(4) In determining whether to admit a document in evidence under this section, the Court may receive evidence by affidavit of any matter pertaining to the admission of that document in evidence.

(5) For the purpose of determining the evidentiary weight, if any, of a document admitted in evidence under this section, consideration shall be given to the source from which the document was produced, the safeguards (if any) that have been taken to ensure its accuracy, and any other relevant matters.

(6) In this section—

"document" means—

(*a*) any original document;

or

(*b*) any reproduction of an original document by photographic, photostatic or lithographic or other like process.

Amendment of principal Act, s. 53—Notice of introduction of telegraphic message in evidence.

11. Section 53 of the principal Act is amended by striking out from subsection (1) the passage "other than criminal proceedings".

Amendment of principal Act, s. 55—Proof of sending of message.

12. Section 55 of the principal Act is amended by striking out the passage "other than criminal proceedings".

Amendment of principal Act, s. 56—

Certain documents may be transmitted by telegraph.

13. Section 56 of the principal Act is amended—

(*a*) by inserting after the passage "the Under Treasurer" in subsection (2) the passage ", the Solicitor-General, the Crown Solicitor";

and

(*b*) by striking out from subsection (2) the passage "the President of the Marine Board".

Enactment of Part VIA of principal Act—

14. The following Part comprising the following sections is enacted and inserted in the principal Act immediately after section 59 thereof:—

PART VIA

COMPUTER EVIDENCE

Interpretation.

59a. In this Part, unless the contrary intention appears—

"computer" means a device that is by electronic, electro-mechanical, mechanical or other means capable of recording and processing data according to mathematical and logical rules and of reproducing that data or mathematical or logical consequences thereof:

"computer output" or "output" means a statement or representation (whether in written, pictorial, graphical or other form) purporting to be a statement or representation of fact—

(*a*) produced by a computer;

or

(*b*) accurately translated from a statement or representation so produced:

"data" means a statement or representation of fact that has been transcribed by methods, the accuracy of which is verifiable, into the form appropriate to the computer into which it is, or is to be, introduced.

Admissibility of computer output.

59b. (1) Subject to this section, computer output shall be admissible as evidence in any civil proceedings.

(2) The court must be satisfied—

(*a*) that the computer is correctly programmed and regularly used to produce output of the same kind as that tendered in evidence pursuant to this section;

(*b*) that the data from which the output is produced by the computer is systematically prepared upon the basis of information that would normally be acceptable in a court of law as evidence of the statements or representations contained in or constituted by the output;

(*c*) that, in the case of the output tendered in evidence, there is, upon the evidence before the court, no reasonable cause to suspect any departure from the system, or any error in the preparation of the data;

(*d*) that the computer has not, during a period extending from the time of the introduction of the data to that of the production of the output, been subject to a malfunction that might reasonably be expected to affect the accuracy of the output;

(*e*) that during that period there have been no alterations to the mechanism or processes of the computer that might reasonably be expected adversely to affect the accuracy of the output;

(*f*) that records have been kept by a responsible person in charge of the computer of alterations to the mechanism and processes of the computer during that period;

and

(*g*) that there is no reasonable cause to believe that the accuracy or validity of the output has been adversely affected by the use of any improper process or procedure or by inadequate safeguards in the use of the computer.

(3) Where two or more computers have been involved, in combination or succession, in the recording of data and the production of output derived therefrom and tendered in evidence under this section, the court must be satisfied that the

requirements of subsection (2) of this section have been satisfied in relation to each computer so far as those requirements are relevant in relation to that computer to the accuracy or validity of the output, and that the use of more than one computer has not introduced any factor that might reasonably be expected adversely to affect the accuracy or validity of the output.

(4) A certificate under the hand of a person having prescribed qualifications in computer system analysis and operation or a person responsible for the management or operation of the computer system as to all or any of the matters referred to in subsection (2) or (3) of this section shall, subject to subsection (6) of this section, be accepted in any legal proceedings, in the absence of contrary evidence, as proof of the matters certified.

(5) An apparently genuine document purporting to be a record kept in accordance with subsection (2) of this section, or purporting to be a certificate under subsection (4) of this section shall, in any legal proceedings, be accepted as such in the absence of contrary evidence.

(6) The court may, if it thinks fit, require that oral evidence be given of any matters comprised in a certificate under this section, or that a person by whom such a certificate has been given attend for examination or cross-examination upon any of the matters comprised in the certificate.

Regulations.

59c. The Governor may make such regulations as he deems necessary or expedient for the purposes of this Part, and without limiting the generality of the foregoing those regulations may—

(*a*) make any provision for the purposes of this Part with respect to the preparation, auditing or verification of data, or the methods by which it is prepared;

and

(*b*) prescribe the qualifications of a person by whom a certificate may be given, or a translation made, under this Part.

Enactment of s. 63a of principal Act—

15. The following section is enacted and inserted in the principal Act immediately after section 63 thereof:—

Evidence as to foreign law.

63a. Where upon trial of any proceedings by judge and jury it is necessary to ascertain the law of any other country or state applicable to the proceedings, any question as to the effect of evidence given with respect to that law shall, instead of being submitted to the jury, be decided by the judge.

Repeal of second schedule to principal Act.

16. The second schedule to the principal Act is repealed.

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

J. M. NAPIER, Governor's Deputy

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 54 of 1972

An Act to amend the Local and District Criminal Courts Act, 1926-1971; and to make consequential amendments to the Criminal Law Consolidation Act, 1935-1971; the Evidence Act, 1929-1969; the Juries Act, 1927-1971; the Justices Act, 1921-1969; the Poor Persons Legal Assistance Act, 1925-1969; and the Prisons Act, 1936-1971.

[*Assented to 27th April,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Local and District Criminal Courts Act Amendment Act, 1972".

(2) The Local and District Criminal Courts Act, 1926-1971, as amended by this Act, may be cited as the "Local and District Criminal Courts Act, 1926-1972".

(3) The Local and District Criminal Courts Act, 1926-1971, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 4— Interpretation.

3. Section 4 of the principal Act is amended—

(*a*) by striking out from subsection (3) the definition of "District Criminal Court" and inserting in lieu thereof the following definitions:

"District Criminal Court" means a court constituted of a District Criminal Court Judge:

"District Criminal Court Judge" means a Judge acting in the exercise of the jurisdiction conferred on him by the district criminal court provisions:;

and

(*b*) by striking out the definition of "Recorder".

Amendment of principal Act, s. 51— Local Court Judges and District Criminal Court Judges.

4. Section 51 of the principal Act is amended by striking out the word "Recorder" and inserting in lieu thereof the passage "District Criminal Court Judge".

Amendment of principal Act, s. 26— Duties of clerk.

5. Section 26 of the principal Act is amended by striking out from subsection (1) the passage "at or near the place where the court is held".

Amendment of principal Act, s. 35b— Incidental equitable rights and remedies.

6. Section 35b of the principal Act is amended by inserting after the present contents thereof (which are hereby designated subsection (1) thereof) the following subsections:—

(2) A local court shall have—

(*a*) jurisdiction to pronounce any declaratory judgment;

and

(*b*) jurisdiction in equity to pronounce or make any judgment, decree or order,

that is, in the opinion of the court, incidental or ancillary to, and necessary or expedient for the just determination of, proceedings before the court.

(3) This section does not confer on a local court jurisdiction to entertain any principal claim for declaratory or equitable relief that it would not otherwise have had jurisdiction to entertain, or in any event, jurisdiction to make any order or adjudication otherwise than in accordance with established principles upon which declaratory or equitable relief may be granted.

(4) The provisions of subsection (2) of this section are supplementary to, and do not derogate from, the equitable jurisdiction otherwise conferred upon a local court under this Act.

Amendment of principal Act, s. 35f—Application of ss. 30a and 30b of the Supreme Court Act extended to this Act.

7. Section 35f of the principal Act is amended by inserting after the present contents thereof (which are hereby designated subsection (1) thereof) the following subsections:—

(2) A plaintiff or his solicitor must before the hearing of proceedings in which the plaintiff seeks a declaratory judgment under the provisions referred to in subsection (1) of this section, file in the court a certificate that at the date of the commencement of the action the evidence available to him was not such as to induce him to believe that the total damages awarded in the proceedings would exceed the jurisdictional limit of a local court of full jurisdiction.

(3) Where proceedings, in which a declaratory judgment is sought or has been pronounced pursuant to the provisions referred to in subsection (1) of this section, are before a local court any party to the proceedings may apply, at any time before or after the entry of the declaratory judgment, to a Judge of the Supreme Court for an order that the proceedings be removed into the Supreme Court.

(4) The Judge to whom the application is made shall—

(*a*) upon production of a certificate signed by the plaintiff or his solicitor to the effect that the total award of damages or compensation required to do justice between the parties is likely to exceed the jurisdictional limit of a local court of full jurisdiction;

or

(*b*) upon being satisfied by such other evidence as the Judge may require that the total award of damages or compensation required to do justice between the parties is likely to exceed the jurisdictional limit of a local court of full jurisdiction,

order that the proceedings be removed into the Supreme Court.

(5) The Judge may make any ancillary order that he considers necessary to give effect to the removal of the proceedings.

(6) Upon removal of proceedings under this section they may be continued and completed before the Supreme Court in all respects as if they had been originally commenced before that Court.

Enactment of s. 35g of principal Act—

8. The following section is enacted and inserted in the principal Act immediately after section 35f thereof:—

Power to award interest.

35g. (1) Unless good cause is shown to the contrary, a local court shall, upon the application of a party in favour of whom a judgment for the payment of damages, compensation or any other pecuniary amount has been, or is to be, pronounced, include in the judgment an award of interest in favour of the judgment creditor in accordance with the provisions of this section.

(2) The interest—

(*a*) shall be at the rate of seven per centum per annum or such lower rate as may be fixed by the court;

(*b*) shall be calculated—

(i) where the judgment is given upon an unliquidated claim—from the date of the commencement of the proceedings to the date of the judgment;

or

(ii) where the judgment is given upon a liquidated claim—from the date upon which the liability to pay the amount of the claim fell due to the date of the judgment,

or in respect of such other period as may be fixed by the court;

and

(*c*) shall be payable in respect of the whole or any part of the amount for which judgment is given in accordance with the determination of the court.

(3) No interest shall be awarded in respect of—

(*a*) damages or compensation in respect of loss or injury to be incurred or suffered after the date of the judgment;

or

(*b*) exemplary or punitive damages.

(4) This section does not—

(*a*) authorize the award of interest upon interest;

(*b*) apply in relation to any sum upon which interest is recoverable as of right by virtue of an agreement or otherwise;

(*c*) affect the damages recoverable upon the dishonour of a negotiable instrument;

(*d*) authorize the award of any interest otherwise than by consent upon any sum for which judgment is pronounced by consent;

or

(*e*) limit the operation of any other enactment or rule of law providing for the award of interest.

9. Section 57 of the principal Act is amended— Amendment of principal Act, s. 57— Reservation of question of law.

(*a*) by striking out from subsection (1) the passage "Full Court" and inserting in lieu thereof the passage "Supreme Court";

(*b*) by striking out from subsection (2) the passage "Full Court" and inserting in lieu thereof the passage "Supreme Court";

and

(*c*) by inserting after subsection (2) the following subsection:—

(3) A question of law reserved for the decision of the Supreme Court by a local court of full jurisdiction shall be decided by the Full Court and a question of law so reserved by a local court of limited or special jurisdiction shall be decided by a Judge of the Supreme Court.

10. Section 58 of the principal Act is amended— Amendment of principal Act, s. 58— Appeal from local court to Supreme Court.

(*a*) by striking out from subsection (1) the passage "Full Court" and inserting in lieu thereof the passage "Supreme Court";

(*b*) by striking out from subsection (2) the passage "Full Court" and inserting in lieu thereof the passage "Supreme Court";

(*c*) by striking out from subsection (3) the passage "the Full Court, in such special circumstances as the Full Court thinks fit, appeal to the Full Court" and inserting in lieu

thereof the passage "a Judge of the Supreme Court (which may be granted in such special circumstances as the Judge thinks fit) appeal to the Supreme Court";

and

(*d*) by inserting after subsection (3) the following subsections:—

(4) Where the proceedings to which the appeal relates are proceedings of a local court of full jurisdiction the appeal shall be to the Full Court, and where those proceedings are proceedings of a local court of limited or special jurisdiction the appeal shall be, in the first instance, to a single Judge of the Supreme Court.

(5) This section does not derogate from the power of a Judge of the Supreme Court to refer an appeal to the Full Court for hearing and determination.

Amendment of principal Act, s. 63— Hearing of appeal.

11. Section 63 of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "Full Court" and inserting in lieu thereof the passage "Supreme Court";

(*b*) by striking out the passage "Full Court" wherever it occurs in subsection (2) and inserting in lieu thereof, in each case, the passage "Supreme Court";

and

(*c*) by striking out from subsection (3) the passage "Full Court" and inserting in lieu thereof the passage "Supreme Court".

Amendment of principal Act, s. 125— Proceedings where one or both parties do not attend.

12. Section 125 of the principal Act is amended by striking out subsection (2) and inserting in lieu thereof the following subsections:—

(2) If, at the time appointed for hearing an action the defendant attends, but not the plaintiff, the court may—

(*a*) if the defendant admits the plaintiff's claim and pays the court fees, enter judgment for the plaintiff accordingly;

or

(*b*) order that the action be placed at the bottom of the cause list for the day.

(3) Where the court orders that an action be placed at the bottom of the cause list pursuant to subsection (2) of this section, and the plaintiff is not in attendance when the action is again called on, the court may—

(*a*) order that the action be struck out (in which case no further proceedings shall be taken in the action unless a Judge or special magistrate reinstates it);

or

(*b*) adjourn the hearing of the action.

Amendment of principal Act, s. 127—Court may nonsuit.

13. Section 127 of the principal Act is amended by striking out the passage "without prejudice to the defendant's right to elect to proceed under section 125".

Amendment of principal Act, s. 214—Disposal of interpleader proceedings.

14. Section 214 of the principal Act is amended by striking out from paragraph (*c*) the passage "requests him to do so" and inserting in lieu thereof the passage "requests it to do so".

Amendment of principal Act, s. 234—Form of defence.

15. Section 234 of the principal Act is amended by striking out from paragraph III of the proviso the passage "under section 97" and inserting in lieu thereof the passage "under section 98".

Amendment of principal Act, s. 272—Duty to file claim and pay fees.

16. Section 272 of the principal Act is amended by striking out from paragraph (*b*) the passage "the Local Court Judge" and inserting in lieu thereof the passage "a Local Court Judge".

Amendment of principal Act, s. 277—Procedure where debtor brought before court.

17. Section 277 of the principal Act is amended by striking out from subsection (3) the passage "the Local Court Judge" and inserting in lieu thereof the passage "a Local Court Judge".

Amendment of principal Act, s. 291—Costs.

18. Section 291 of the principal Act is amended by striking out from subsection (2) the passage "by the Judge or special magistrate making the order for the examination, or".

Amendment of principal Act, s. 303—Penalty on taking fees beyond those allowed.

19. Section 303 of the principal Act is amended by striking out the passage "as hereinafter provided" and inserting in lieu thereof the passage "as provided in this Part".

Amendment of principal Act, s. 318—Constitution of District Criminal Courts.

20. Section 318 of the principal Act is amended—

(*a*) by striking out from paragraph (*b*) of subsection (1) the word "Recorder" and inserting in lieu thereof the passage "District Criminal Court Judge";

and

(*b*) by striking out from subsection (2) the word "Recorder" and inserting in lieu thereof the word "Judge".

Amendment of principal Act, s. 319—Division of State into districts.

21. Section 319 of the principal Act is amended—

(*a*) by striking out from paragraph (*d*) of subsection (2) the passage "Recorder or Recorders" and inserting in lieu thereof the passage "Judge or Judges";

and

(*b*) by striking out from subsection (7) the word "Recorder" and inserting in lieu thereof the word "Judge".

Amendment of principal Act, s. 320—Judges to be assigned to districts.

22. Section 320 of the principal Act is amended by striking out the word "Recorders" wherever it occurs and inserting in lieu thereof, in each case, the word "Judges".

Amendment of principal Act, s. 321—Rules of Court.

23. Section 321 of the principal Act is amended by striking out from paragraph (*a*) of subsection (1) the word "Recorders" and inserting in lieu thereof the passage "District Criminal Court Judges".

Amendment of principal Act, s. 322—Execution of process.

24. Section 322 of the principal Act is amended by striking out the word "Recorder" and inserting in lieu thereof the word "Judge".

Amendment of principal Act, s. 324—Appointment of officers.

25. Section 324 of the principal Act is amended—

(*a*) by striking out from subsection (4) the word "Recorders" and inserting in lieu thereof the word "Judges";

and

(*b*) by striking out from subsection (4) the passage "a Recorder" and inserting in lieu thereof the passage "any other Judge".

Amendment of principal Act, s. 325—Functions of principal Registrar.

26. Section 325 of the principal Act is amended by striking out from subsection (2) the word "Recorder" and inserting in lieu thereof the word "Judge".

27. Section 326 of the principal Act is amended by striking out from subsection (1) the word "Recorder" and inserting in lieu thereof the word "Judge".

Amendment of principal Act, s. 326— Duties of Registrar of Court.

28. Section 327 of the principal Act is amended—

(*a*) by striking out from subsection (4) the word "Recorder" and inserting in lieu thereof the word "Judge";

and

(*b*) by striking out from subsection (5) the word "Recorder" and inserting in lieu thereof the word "Judge".

Amendment of principal Act, s. 327— Representation of parties.

29. Section 329 of the principal Act is amended by striking out from subsection (1) the word "Recorder" and inserting in lieu thereof the word "Judge".

Amendment of principal Act, s. 329— Habitual criminals.

30. Section 330 of the principal Act is amended by striking out from paragraph (*b*) of subsection (2) the word "Recorder" and inserting in lieu thereof the passage "District Criminal Court Judge"

Amendment of principal Act, s. 330— Pleading, practice and procedure of District Criminal Courts.

31. Section 331 of the principal Act is amended by striking out the word "Recorder" and inserting in lieu thereof the word "Judge".

Amendment of principal Act, s. 331— Accused to be tried by Judge and jury.

32. Section 332 of the principal Act is amended by striking out from subsection (2) the word "Recorder" and inserting in lieu thereof the word "Judge".

Amendment of principal Act, s. 332— Registrar to act as clerk of arraigns.

33. Section 333 of the principal Act is amended—

(*a*) by striking out from subsection (2) the word "Recorder" wherever it occurs and inserting in lieu thereof, in each case, the passage "District Criminal Court Judge";

(*b*) by striking out from subsection (3) the word "Recorder" and inserting in lieu thereof the passage "District Criminal Court Judge";

(*c*) by striking out from subsection (4) the word "Recorder" wherever it occurs, and inserting in lieu thereof, in each case, the passage "District Criminal Court Judge";

and

(*d*) by striking out from subsection (6) the word "Recorder" wherever it occurs and inserting in lieu thereof, in each case, the passage "District Criminal Court Judge".

Amendment of principal Act, s. 333— Punishment for contempt.

Amendment of principal Act, s. 334—
Powers of compelling obedience to orders.

34. Section 334 of the principal Act is amended—

(*a*) by striking out the word "Recorder" wherever it occurs, and inserting in lieu thereof, in each case, the passage "District Criminal Court Judge";

and

(*b*) by striking out the word "Recorders" and inserting in lieu thereof the passage "District Criminal Court Judges".

Amendment of principal Act, s. 337—
Change of venue of trial.

35. Section 337 of the principal Act is amended by striking out from subsection (1) the passage "The Senior Judge" and inserting in lieu thereof the passage "A Judge".

Amendment of Criminal Law Consolidation Act—
Removal of references to "Recorder".

36. (1) The Criminal Law Consolidation Act, 1935-1971, is amended—

(*a*) by striking out from the definition of "District Criminal Court" in section 348 the passage "or a Recorder";

(*b*) by striking out the definition of "judge" in section 348 and inserting in lieu thereof the following definition:—

"judge" means a judge of the Supreme Court or the District Criminal Court:;

(*c*) by striking out the definition of "Recorder" from section 348;

(*d*) by striking out from the definition of "sentence" in section 348 the passage "or Recorder";

(*e*) by striking out the passage "or Recorder" wherever it occurs in subsection (1) and subsection (3) of section 350;

(*f*) by striking out from subsection (1) of section 351 the passage "or Recorder";

(*g*) by striking out from paragraph (*b*) of section 352 the passage "or Recorder" and inserting in lieu thereof the passage "or District Criminal Court";

(*h*) by striking out from section 358 the passage "or Recorder" and inserting in lieu thereof the passage "or District Criminal Court";

(*i*) by striking out from section 360 the passage "or Recorder" wherever it occurs;

(*j*) by striking out from section 366 the passage "or Recorder" wherever it occurs;

(*k*) by striking out from subsection (5) of section 368 the passage "and Recorders" and inserting in lieu thereof the passage "and District Criminal Court Judges";

and

(*l*) by striking out from subsection (5) of section 368 the passage "or Recorders".

(2) The Criminal Law Consolidation Act, 1934-1971, as amended by this section, may be cited as the "Criminal Law Consolidation Act, 1934-1972".

Amendment of Evidence Act—Removal of references to "Recorder".

37. (1) The Evidence Act, 1929-1969, is amended—

(*a*) by striking out from the definition of "court" in section 4 the word "Recorder";

(*b*) by inserting in paragraph (*d*) of section 52 after the passage "local court judge" the passage ", District Criminal Court Judge,";

(*c*) by striking out paragraph (*e*) of section 52 and the word "and" immediately preceding that paragraph;

and

(*d*) by striking out from subsection (1) of section 56 the passage "a Recorder" and inserting in lieu thereof the passage ", a local Court Judge, or District Criminal Court Judge".

(2) The Evidence Act, 1929-1969, as amended by this section, may be cited as the "Evidence Act, 1929-1972".

Amendment of Juries Act—Removal of references to "Recorder".

38. The Juries Act, 1927-1971, is amended—

(*a*) by striking out from section 3 the definition of "Recorder";

(*b*) by striking out from subsection (3) of section 29 the word "Recorder" and inserting in lieu thereof the word "Judge";

(*c*) by striking out from paragraph (*b*) of subsection (4) of section 29 the passage "or Recorder";

(*d*) by striking out from subsection (4) of section 29 the passage "or the Recorder" and inserting in lieu thereof the passage "or the Judge";

(*e*) by striking out from section 30 the passage "or the Recorder" and inserting in lieu thereof the passage "or the Judge assigned to preside over the District Criminal Court";

(*f*) by striking out from section 31 the word "Recorder" and inserting in lieu thereof the word "Judge";

(*g*) by striking out from section 68 the passage "or the Recorder" and inserting in lieu thereof the passage "of the Supreme Court, or the District Criminal Court";

(*h*) by striking out from section 79 the passage "or Recorder" wherever it occurs;

and

(*i*) by striking out from subsection (1) of section 88 the passage "or the Recorder" wherever it occurs.

(2) The Juries Act, 1927-1971, as amended by this Act, may be cited as the "Juries Act, 1927-1972".

Amendment of Justices Act— Removal of references to "Recorder".

39. (1) The Justices Act, 1921-1969, is amended—

(*a*) by striking out from subsection (1) of section 4 the definition of "Recorder";

(*b*) by striking out from subsection (2) of section 116 the passage "or Recorder";

(*c*) by striking out from subsection (3) of section 137 the passage "or Recorder";

(*d*) by striking out from subsection (1) of section 141 the passage "or Recorder";

and

(*e*) by striking out from section 142 the passage "or Recorder".

(2) The Justices Act, 1921-1969, as amended by this section, may be cited as the "Justices Act, 1921-1972".

Amendment of Poor Persons Legal Assistance Act— Removal of references to "Recorder".

40. The Poor Persons Legal Assistance Act, 1925-1969, is amended—

(*a*) by striking out from section 3 the passage "or Recorder" wherever it occurs;

(*b*) by inserting after subsection (3) of section 3 the following subsection:—

(4) In this section—

"judge" means a Judge of the Supreme Court or the District Criminal Court:;

and

(*c*) by inserting in subsection (1) of section 6 after the passage "Supreme Court" the passage "or the District Criminal Court".

(2) The Poor Persons Legal Assistance Act, 1925-1969, as amended by this section, may be cited as the "Poor Persons Legal Assistance Act, 1925-1972".

Amendment of Prisons Act—Removal of references to "Recorder".

41. (1) The Prisons Act, 1936-1971, is amended—

(*a*) by striking out from section 17 the word "Recorder" and inserting in lieu thereof the word "Judge";

(*b*) by striking out from subsection (3) of section 24 the word "Recorder";

(*c*) by striking out from subsection (6) of section 38 the passage "Recorder or";

and

(*d*) by striking out from section 43 the passage ", Judges who are exercising, or have exercised the jurisdiction, of Recorders" and inserting in lieu thereof the passage "and the District Criminal Court".

(2) The Prisons Act, 1936-1971, as amended by this section, may be cited as the "Prisons Act, 1936-1972".

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

J. M. NAPIER, Governor's Deputy

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 55 of 1972

An Act to amend the Motor Vehicles Act, 1959-1971

[*Assented to 27th April,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Motor Vehicles Act Amendment Act, 1972".

(2) The Motor Vehicles Act, 1959-1971, as amended by this Act, may be cited as the "Motor Vehicles Act, 1959-1972".

(3) The Motor Vehicles Act, 1959-1971, is hereinafter referred to as "the principal Act".

Commencement.

2. (1) Subject to subsection (2) of this section, this Act shall come into operation on the day on which it is assented to.

(2) Sections 11, 13, 14 and 16 shall come into operation on a day to be fixed by proclamation.

Amendment of principal Act, s. 5—Interpretation.

3. Section 5 of the principal Act is amended—

(*a*) by inserting after the definition of "licence" the following definition:—

"Minister" means the Minister of Roads and Transport or any other Minister to whom the administration of this Act is committed by the Governor:;

and

(*b*) by inserting after the definition of "mobile fork lift" the following definitions:—

"motor car" means a motor vehicle—

(*a*) designed for the principal purpose of carrying passengers;

and

(*b*) designed to carry not more than eight adult passengers (including the driver):

"motor cycle" means a motor vehicle (not being a trailer) that moves upon only two wheels, or where a side car or side box is attached, upon not more than three wheels:

"motor omnibus" means a motor vehicle—

(*a*) designed for the principal purpose of carrying passengers;

and

(*b*) designed to carry more than eight adult passengers (including the driver):.

Repeal of s. 6 of principal Act.

4. Section 6 of the principal Act is repealed.

Enactment of s. 17a of principal Act—

5. The following section is enacted and inserted in the principal Act immediately after section 17 thereof:—

Short term permit.

17a. (1) Where, upon application to the Registrar for a permit under this section, the Registrar is satisfied that it would in the circumstances be unreasonable or inexpedient to require registration of the motor vehicle to which the application relates, he may, in his discretion, upon payment of the prescribed fee, grant to the applicant a permit permitting the motor vehicle specified in the permit to be driven on roads over any period, not exceeding three days, specified in the permit.

(2) The permit must throughout the period for which it remains in force be affixed to the vehicle to which it relates in the position prescribed for the carrying of a registration label.

(3) A person shall not drive a motor vehicle in respect of which a permit is in force under this section unless the permit is affixed to the vehicle in accordance with subsection (2) of this section.

Penalty: Fifty dollars.

(4) Any such permit may contain a provision exempting any person from the duty to comply in respect of the vehicle with any specified provisions of this Act, or any other Act relating to road traffic.

Amendment of principal Act, s. 20— Application for registration.

6. Section 20 of the principal Act is amended by inserting after subsection (2) the following subsections:—

(3) It shall not be competent for a person under the age of sixteen years to apply for, or be granted, registration in respect of a motor vehicle.

(4) If the Registrar purports to register a motor vehicle upon an application that is invalid by reason of subsection (3) of this section, a policy of insurance under Part IV of this Act shall, notwithstanding the invalidity of the registration, come into operation in respect of the motor vehicle in all respects as if it had been validly registered.

Amendment of principal Act, s. 29— Registration fees.

7. Section 29 of the principal Act is amended by striking out from subsection (6) the passage "an additional $5.20 for each P.W. or fractional part of 5 P.W. in excess of 40 P.W." and inserting in lieu thereof the passage "an additional $5.20 for each 5 P.W. or fractional part of 5 P.W. in excess of 40 P.W.".

Amendment of principal Act, s. 33a— Separate registrations for parts of articulated motor vehicles.

8. Section 33a of the principal Act is amended by striking out from paragraph (*c*) the passage "subsection (3) of section 29 of this Act" and inserting in lieu thereof the passage "subsection (6) of section 29 of this Act".

Amendment of principal Act, s. 41— Misuse of vehicles registered at reduced fee or without fee.

9. Section 41 of the principal Act is amended by striking out subsections (3) and (4).

Amendment of principal Act, s. 46— Duty to carry number plates, etc.

10. Section 46 of the principal Act is amended by inserting after subsection (8) the following subsections:—

(9) After a date to be fixed by proclamation for the purposes of this section, a person shall not sell a number plate for attachment to a motor vehicle under this section unless the number plate has been manufactured by a person licensed under this section.

Penalty: One hundred dollars.

(10) After the date fixed for the purposes of subsection (9) of this section a person shall not drive a motor vehicle to which a number plate is attached unless the number plate—

(*a*) was manufactured by a licensed manufacturer;

or

(*b*) was manufactured before that date.

Penalty: One hundred dollars.

(11) The Minister may, upon such terms and conditions as he thinks fit, license any person as a manufacturer of number plates.

Repeal of s. 72 of principal Act and enactment of section in its place—Classification of licences.

11. Section 72 of the principal Act is repealed and the following section is enacted and inserted in its place:—

72. (1) A licence granted or renewed on or after the commencement of this section must be endorsed with one or more of the following classifications:—

Class 1
Class 2
Class 3
Class 4
Class 5.

(2) Subject to this Act, a licence endorsed with the classification "Class 1" shall authorize the holder of the licence to drive—

(*a*) any motor car;

or

(*b*) any other motor vehicle the weight of which (excluding the weight of any trailer) does not exceed thirty-five hundredweights except an articulated motor vehicle, a motor cycle or a motor omnibus.

(3) Subject to this Act, a licence endorsed with the classification "Class 2" shall authorize the holder of the licence to drive any motor vehicle except an articulated motor vehicle, a motor cycle or a motor omnibus.

(4) Subject to this Act, a licence endorsed with the classification "Class 3" shall authorize the holder of the licence to drive any motor vehicle except a motor cycle or a motor omnibus.

(5) Subject to this Act, a licence endorsed with the classification "Class 4" shall authorize the holder of the licence to drive a motor cycle.

(6) Subject to this Act, a licence endorsed with the classification "Class 5" shall authorize the holder of the licence to drive a motor omnibus.

(7) A licence in force under this Act immediately before the commencement of this section, shall remain in force for the remainder of the term for which it was granted or last renewed and shall confer the same rights (subject to any conditions upon which it may have been granted or renewed) as it conferred under this Act immediately before the commencement of this section.

(8) Subject to this section, where the Registrar is satisfied that an applicant for the grant or renewal of a licence has held a licence under this Act (other than a licence endorsed with a restrictive condition that the holder is authorized to drive motor cycles only) within the period of three years immediately preceding the date of the application, a licence, if granted upon the application—

(*a*) shall, where the applicant prior to the commencement of this section, passed a practical driving test under this Act appropriate to a licence of Class A, be endorsed with the classification "Class 2";

and

(*b*) in any other case, shall be endorsed with the classification "Class 1".

(9) Where an applicant for the grant or renewal of a licence seeks the endorsement of any further or other classification upon the licence and he satisfies the Registrar by such evidence as he may require—

(*a*) in the case of an application made within twelve months after the commencement of this section, that the applicant has, during the period of twelve months immediately preceding the date of his application, lawfully driven a motor vehicle in respect of which that further or other classification is required under this Act;

or

(*b*) in the case of an application whenever made, that the applicant is competent to drive a motor vehicle in respect of which that further or other classification is required under this Act,

a licence, if granted upon the application, shall be endorsed with the further or other classification sought in the application.

Amendment of principal Act, s. 74a—Tow-truck certificates.

12. Section 74a of the principal Act is amended—

(*a*) by inserting after subsection (3) the following subsection:—

(3a) If the Registrar is not satisfied of the applicant's good character, he shall refer the matter to the consultative committee for inquiry, and if the consultative committee is satisfied that the applicant is not guilty of any dishonest or dishonourable conduct by reason of which he is unfit to hold the licence, the Registrar shall not refuse to issue the licence on the ground that he is not satisfied of the applicant's good character.;

and

(*b*) by inserting after subsection (5) the following subsection:—

(5a) Where the Registrar is of the opinion that proper grounds exist for the cancellation of a certificate under subsection (5) of this section, he shall not proceed to cancel the certificate unless he has referred the matter to the consultative committee and the committee has concurred in his opinion that proper grounds exist for cancellation of the certificate under that subsection.

Amendment of principal Act, s. 76— Licence and learner's permit fee.

13. Section 76 of the principal Act is amended by striking out the passage "of Class A or a licence of Class B".

Amendment of principal Act, s. 78— Age of drivers to whom learner's permits may be issued.

14. Section 78 of the principal Act is amended by inserting after the present contents thereof (which are hereby designated subsection (1) thereof) the following subsections:—

(2) A licence endorsed with the classification "Class 2" shall not be issued to a person under the age of seventeen years who did not hold a licence under this Act before the commencement of this subsection.

(3) A licence endorsed with the classification "Class 3" or the classification "Class 5" shall not be issued to a person under the age of eighteen years who did not hold a licence under this Act before the commencement of this subsection.

Repeal of s. 82 of principal Act and enactment of section in its place—

15. Section 82 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Cancellation or suspension of licence or learner's permit.

82. The Registrar shall, upon the recommendation of the consultative committee—

(*a*) refuse to issue or renew a licence or a learner's permit to any person;

or

(*b*) cancel the licence or learner's permit of any person,

who—

(*c*) has been convicted of driving a motor vehicle while he is so much under the influence of intoxicating liquor or a drug as to be incapable of exercising effective control of the vehicle;

(*d*) has been convicted of driving a motor vehicle recklessly, or at a speed or in a manner dangerous to the public, or of any offence that, in the opinion of the consultative committee, shows him to be unfit to hold a licence or a learner's permit;

or

(*e*) is, in the opinion of the consultative committee, otherwise unfit to hold a licence or a learner's permit.

Repeal of s. 85 of principal Act and enactment of section in its place—

16. Section 85 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Exchange of licence.

85. If a person who holds a licence satisfies the Registrar by such evidence as the Registrar may require that he is competent to drive motor vehicles for which a licence endorsed with any further or other classification is required under this Act, he may surrender his licence to the Registrar, and the Registrar shall issue to him, without fee, a licence endorsed with the appropriate further or other classification.

Amendment of principal Act, s. 98a—Instructors' licences.

17. Section 98a of the principal Act is amended—

(*a*) by striking out from subsection (2) the passage "over the age of eighteen years";

(*b*) by inserting after subsection (2) the following subsection:—

(2a) If the Registrar is not satisfied of the applicant's good character, he shall refer the matter to the consultative committee for inquiry, and if the consultative committee is satisfied that the applicant is not guilty of any dishonest or dishonourable conduct by reason of which he is unfit to hold the licence, the Registrar shall not refuse to issue the licence upon the ground that he is not satisfied of the applicant's good character.;

and

(*c*) by inserting after subsection (7) the following subsection:—

(7a) Where the Registrar is of the opinion that proper grounds exist for the cancellation of an instructor's licence under subsection (7) of this section, he shall not proceed to cancel the certificate unless he has referred the matter to the consultative committee and the committee has concurred in his opinion that proper grounds exist for cancellation of the certificate under that subsection.

Enactment of s. 139b of principal Act—

18. The following section is enacted and inserted in the principal Act immediately after section 139a:—

Consultative committee.

139b. (1) The Minister shall appoint a consultative committee for the purposes of this Act.

(2) The consultative committee shall consist of—

(*a*) the Registrar or his nominee;

(*b*) the Commissioner of Police or his nominee;

and

(*c*) a legal practitioner of at least five years standing.

(3) The members of the consultative committee shall hold office upon such terms and conditions as the Minister may determine.

(4) It shall be the duty of the consultative committee to determine any matters upon which its opinion or decision is required under this Act.

(5) Two members of the consultative committee shall constitute a quorum at any meeting of the committee and any decision concurred in by two members of the committee shall be the decision of the committee.

(6) A member of the consultative committee shall be entitled to receive such remuneration, allowances and expenses as the Minister may determine.

Amendment of principal Act, s. 145—Regulations.

19. Section 145 of the principal Act is amended by striking out from paragraph (*d*) the passage "fifty dollars" and inserting in lieu thereof the passage "one hundred dollars".

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

J. M. NAPIER, Governor's Deputy

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 56 of 1972

An Act to provide for the establishment and management of reserves for public benefit and enjoyment; to provide for the conservation of wildlife in a natural environment; to repeal the Fauna and Flora Reserve Act, 1919-1940; the Fauna Conservation Act, 1964-1965; the National Parks Act, 1966; the National Pleasure Resorts Act, 1914-1960; the Native Plants Protection Act, 1939; to amend The Lands for Public Purposes Acquisition Act, 1914-1966 and the Statute Law Revision Act, 1935; and for other purposes.

[*Assented to 27th April,* 1972]

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

Short title.

1. This Act may be cited as the "National Parks and Wildlife Act, 1972".

Commencement.

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

Repeal and amendment of certain Acts.

3. (1) The Acts referred to in the first schedule to this Act are repealed.

(2) The Acts referred to in the second schedule to this Act are amended as shown in that schedule.

Arrangement of Act.

4. This Act is arranged as follows:—

PART I—PRELIMINARY

PART II—ADMINISTRATION

DIVISION I—THE MINISTER, DIRECTOR AND OFFICERS OF THE DEPARTMENT

DIVISION II—THE NATIONAL PARKS AND WILDLIFE ADVISORY COUNCIL

DIVISION III—APPOINTMENT AND POWERS OF WARDENS

PART III—RESERVES AND SANCTUARIES

DIVISION I—NATIONAL PARKS

DIVISION II—CONSERVATION PARKS

DIVISION III—GAME RESERVES

DIVISION IV—RECREATION PARKS

DIVISION V—CONTROL AND MANAGEMENT OF RESERVES

DIVISION VI—PROVISIONS GENERALLY APPLICABLE TO RESERVES

DIVISION VII—SANCTUARIES

PART IV—CONSERVATION OF NATIVE PLANTS AND WILD FLOWERS

PART V—CONSERVATION OF NATIVE ANIMALS

DIVISION I—APPLICATION OF THIS PART

DIVISION II—RESTRICTIONS UPON THE TAKING OF PROTECTED ANIMALS

DIVISION III—ANIMALS OF RARE, PROHIBITED AND CONTROLLED SPECIES

DIVISION IV—PROHIBITIONS AND RESTRICTIONS UPON THE KEEPING OF PROTECTED ANIMALS AND CERTAIN DEALINGS IN PROTECTED ANIMALS

DIVISION V—ROYALTY

DIVISION VI—GENERAL PROVISIONS

PART VI—MISCELLANEOUS PROVISIONS.

Interpretation.

5. In this Act, unless the contrary intention appears—

"animal" includes any species of animal:

"appointed member" of the Advisory Council means a member appointed as such by the Governor under this Act:

"carcass" means the whole or any part of the flesh, feathers, wool, skin, hide, bones, hair, hooves and offal of any animal:

"conservation park" means land constituted, and for the time being continuing, as a conservation park under Part III of this Act:

"controlled species" means a species of animal declared to be a controlled species pursuant to the provisions of this Act:

"Crown lands" means lands that are Crown lands for the purposes of the Crown Lands Act;

"day" means any period of twenty-four hours, commencing at midnight:

"device" means any trap, net, snare or other device for taking or facilitating the taking of animals:

"egg" includes any part of an egg or egg shell:

"firearm" includes any device from which any kind of shot, bullet, or other missile can be discharged:

"forest reserve" means a forest reserve within the meaning of the Forestry Act:

"game reserve" means land constituted, and for the time being continuing, as a game reserve under Part III of this Act:

"land" includes waters:

"land under the jurisdiction of the Minister of Marine" means land that is under the jurisdiction of the Minister of Marine within the meaning of the Harbors Act:

"national park" means land constituted, and for the time being continuing as a national park under Part III of this Act:

"native plant" means any plant that is indigenous to Australia and includes any plant of a species declared by regulation to be a native plant:

"owner" in relation to land, means the holder of any estate or interest in the land, and includes the occupier of the land:

"plant" means vegetation of any species, and includes any part of any such vegetation or the seed or seeds thereof:

"private land" means—

(*a*) land lawfully granted or contracted to be granted for an estate of freehold by or on behalf of the Crown;

or

(*b*) land subject to any lease or licence lawfully granted by or on behalf of the Crown (except a lease or licence granted in pursuance of the Mining Act, or the Petroleum Act),

but does not include land constituting or included within a street or road:

"prohibited species" means a species of animal declared to be a prohibited species pursuant to the provisions of this Act:

"protected animal" means—

(*a*) any mammal, bird or reptile indigenous to Australia;

(*b*) any migratory mammal, bird or reptile that periodically migrates to, and lives in, Australia;

(*c*) any animal declared by regulation to be a protected animal,

but does not include animals of the species referred to in the ninth schedule to this Act, or any animals declared by regulation to be unprotected:

"protected native plant" means a native plant of any species referred to in the seventh schedule to this Act or any species declared by regulation to be a protected species:

"protected wildflower" means any wildflower of a species declared by regulation to be a protected wildflower:

"rare species" means a species of animal referred to in the eighth schedule to this Act and includes any species of animals declared by regulation to be a rare species:

"recreation park" means land constituted, and for the time being continuing, as a recreation park under Part III of this Act:

"reserve" means any national park, conservation park, game reserve, or recreation park constituted under this Act:

"sell" means—

(*a*) sell, barter or exchange;

(*b*) agree or offer to sell, barter or exchange;

(*c*) receive, expose, store, have in possession, send, consign or deliver for or in pursuance of sale, barter or exchange,

and "sale" has a corresponding meaning:

"take"—

(*a*) with reference to an animal, includes any act of hunting, catching, restraining, killing or injuring, and any act of attempting or assisting to hunt, catch, restrain, kill or injure;

and

(*b*) with reference to a native plant or wildflower, includes any act of detaching or removing from the place where the plant or wildflower is growing or is found, or from a plant of which it forms a part, and any act of attempting or assisting so to detach or remove and also any act of damaging, or attempting or assisting to damage:

"the Advisory Council" or "the Council" means the National Parks and Wildlife Advisory Council constituted under Part II of this Act:

"the Department" means the Department of the Public Service known at the commencement of this Act as the "Department of Environment and Conservation":

"the Director" means the person for the time being holding, or acting in, the office of, Director of National Parks and Wildlife under this Act:

"the Minister" means the Minister of Environment and Conservation:

"the Permanent Head" in relation to the Department means the person who is, pursuant to the Public Service Act, for the time being holding, or acting in, the office of Permanent Head of the Department:

"the repealed Fauna and Flora Reserve Act" means the Fauna and Flora Reserve Act, 1919-1940, repealed by this Act:

"the repealed National Parks Act" means the National Parks Act, 1966, repealed by this Act:

"warden" means a person for the time being holding the office of warden under this Act:

"wildflower" means the flower of any native plant:

"wildlife" means all native plants and animals indigenous to Australia existing apart from cultivation or domestication.

PART II

PART II

ADMINISTRATION

DIVISION I—THE MINISTER, DIRECTOR AND OFFICERS OF THE DEPARTMENT

DIVISION I

Constitution of Minister as a corporation sole.

6. (1) The Minister and his successors in office are hereby constituted a corporation sole.

(2) The Minister shall, in his corporate capacity, be capable of acquiring, holding and disposing of real and personal property and of performing any other acts that lie within the capacity of a person of full age and capacity.

(3) In any legal proceedings a document purporting to bear the signature or the common seal of the Minister shall, in the absence of evidence to the contrary, be deemed to have been duly executed by the Minister.

Subrogation of The Minister to the rights and liabilities of The National Parks Commission.

7. (1) The body corporate known as "The National Parks Commission" constituted under the repealed National Parks Act (and referred to in this section as "the former corporation") is hereby abolished.

(2) All property rights, powers, duties and liabilities of the former corporation are, subject to this Act, hereby transferred to and vested in the Minister.

(3) Any proceedings commenced by or against the former corporation and not finally disposed of at the commencement of this Act, may be continued and completed by or against the Minister.

(4) A reference to the former corporation in any Act, regulation, rule, by-law, order of a court, instrument, agreement or document of any kind shall be read, where the context admits, as a reference to the Minister.

Subrogation of the Minister to the rights and liabilities of the Fauna and Flora Reserve Board of South Australia.

8. (1) The body corporate known as "The Fauna and Flora Board of South Australia" constituted under the repealed Fauna and Flora Reserve Act (and referred to in this section as "the former corporation") is hereby abolished.

(2) All property, rights, powers, duties and liabilities of the former corporation are, subject to this Act, hereby transferred to and vested in the Minister.

(3) Any proceedings commenced by or against the former corporation and not finally disposed of at the commencement of this Act, may be continued and completed by or against the Minister.

(4) A reference to the former corporation in any Act, regulation, rule, by-law, order of a court, instrument, agreement or document of any kind shall be read, where the context admits, as a reference to the Minister.

Power of acquisition.

9. The Minister may, subject to and in accordance with the Land Acquisition Act, acquire land for the purposes of this Act.

Research and investigations.

10. (1) The Minister may—

(*a*) cause research to be carried out into problems relating to the conservation of wildlife;

(*b*) collaborate with any other person, body or authority in the conduct of any such research;

or

(*c*) cause an investigation to be made into the possibility of establishing further reserves or adding to existing reserves.

(2) The Minister may make available to the public, in such manner and form as he thinks fit, the results of any research or investigation conducted under this section.

Wildlife Conservation Fund.

11. (1) The Minister shall establish a fund entitled the "Wildlife Conservation Fund".

(2) The fund shall consist of—

(*a*) any moneys derived by the Minister from any donation or grant made for the purposes of the fund;

and

(*b*) any moneys provided by Parliament for the purposes of the fund;

(3) The Minister may apply any portion of the moneys constituting the fund towards—

(*a*) the conservation of wildlife and land constituting the natural environment or habitat of wildlife in such manner as he may, upon the recommendation of the Advisory Council, determine;

and

(*b*) the promotion of research into problems relating to the conservation of wildlife.

Delegation.

12. (1) The Minister may delegate to the Permanent Head, the Director or any other person any of his powers under this Act (except this power of delegation).

(2) The Permanent Head may, with the consent of the Minister, delegate any of the powers delegated to him, to the Director or any other person.

(3) The Director may, with the consent of the Permanent Head, delegate any of the powers delegated to him under this Act to any other person.

(4) A delegation under this section may be revoked at will by the delegator and shall not prevent the exercise of any power by the delegator.

Report.

13. The Minister shall as soon as practicable after the thirtieth day of June in each year cause a report upon the administration of this Act to be presented to each House of Parliament.

The Department.

14. (1) The Governor may, subject to and in accordance with the Public Service Act, appoint such officers to the Department as he deems necessary or expedient for the administration of this Act.

(2) A person so appointed shall hold office subject to and in accordance with the Public Service Act.

(3) The person who, immediately before the commencement of this Act, held the position of Director of National Parks in the employment of The National Parks Commission constituted under the repealed National Parks Act shall, upon the commencement of this Act, be deemed to have been appointed to the office of Director of National Parks and Wildlife pursuant to the provisions of this section.

(4) A person who was, immediately before the commencement of this Act, a full-time employee of The National Parks Commission, or The Fauna and Flora Board of South Australia shall, upon the commencement of this Act, become—

(*a*) an officer of the Department;

or

(*b*) an employee of the Minister,

in accordance with the determination of the Public Service Board.

(5) The Public Service Board may make a direction in accordance with section 99 of the Public Service Act in respect of the previous service in the employment of The National Parks Commission or The Fauna and Flora Board of South Australia of a person who becomes an officer of the Department under subsection (4) of this section.

(6) The Minister may, upon the recommendation of the Public Actuary continue to contribute to a policy of insurance in respect of any person upon which The National Parks Commission or The Fauna and Flora Board of South Australia had previously made contributions.

PART II
DIVISION I

(7) Where the Minister does not proceed to make contributions in respect of a policy of insurance under subsection (6) of this section, any amount realized upon the policy shall be paid to the person to whom the policy relates.

DIVISION II

DIVISION II—THE NATIONAL PARKS AND WILDLIFE ADVISORY COUNCIL

Establishment of Council.

15. (1) There shall be a Council entitled the "National Parks and Wildlife Advisory Council".

(2) The Council shall consist of seventeen members appointed by the Governor of whom—

(*a*) one shall be the Permanent Head, (who shall be a member *ex officio*);

(*b*) one shall be the Director (who shall be a member *ex officio*);

and

(*c*) fifteen shall be persons who are, in the opinion of the Governor, qualified by knowledge and experience to be members of the Council.

(3) The members of the Council shall, in each year, appoint one of their number to be chairman.

(4) A person so appointed shall hold office as chairman for a term determined by the Council but not exceeding eighteen months, and at the expiration of his term of office shall be eligible for re-appointment.

(5) Neither the Permanent Head nor the Director shall be eligible for appointment as chairman of the Council.

Terms and conditions of office.

16. (1) Subject to this Act, an appointed member of the Council shall hold office for such term, not exceeding three years, as the Governor may determine and specifies in the instrument of his appointment, and, upon the expiration of his term of office, shall be eligible for re-appointment.

(2) If a member of the Council is unable, or fails, for any reason, to act in his capacity as a member of the Council, the Governor may appoint a suitable person to be a deputy of the member, and such a person, while so acting, shall be deemed to be a member of the Council, and shall have all the powers, authorities, duties and obligations of the member of whom he has been appointed a deputy.

(3) The Governor may remove an appointed member of the Council from office for—

(*a*) mental or physical incapacity;

(*b*) neglect of duty;

(*c*) dishonourable conduct;

or

(*d*) any other cause considered sufficient by the Governor.

(4) The office of an appointed member of the Council shall become vacant if—

(*a*) he dies;

(*b*) his term of office expires;

(*c*) he resigns by written notice addressed to the Minister;

(*d*) he fails to attend three consecutive meetings of the Council without leave of the Council;

or

(*e*) he is removed from office by the Governor pursuant to subsection (3) of this section.

(5) Upon the office of an appointed member of the Council becoming vacant, a person shall be appointed, in accordance with this Act, to the vacant office, but where the office of a member of the Council becomes vacant before the expiration of the term for which he was appointed, a person appointed in his place shall be appointed only for the balance of the term of his predecessor.

Quorum, etc.

17. (1) Ten members of the Council shall constitute a quorum of the Council, and no business shall be transacted at a meeting unless a quorum is present.

(2) A decision carried by a majority of the votes cast by the members present at a meeting of the Council, shall be a decision of the Council.

(3) The chairman shall preside at a meeting of the Council and, in addition to a deliberative vote, shall in the event of an equality of votes, have a second or casting vote.

(4) In the absence of a chairman from a meeting of the Council, the members present shall elect one of their number to be chairman for that meeting and a member so elected shall perform and discharge the functions and obligations of the chairman at that meeting.

(5) The Council must meet at least six times a year and at least once in any period of three months.

PART II

DIVISION II

(6) Subject to this Act, business of the Council shall be conducted in such manner as the Council determines.

Allowances and expenses.

18. The members of the Council shall be entitled to receive such allowances and expenses as may be determined by the Minister.

Functions of the Council.

19. (1) The Council shall, at the request of the Minister, investigate and advise the Minister upon any matter referred by him to the Council for advice.

(2) The Council may, of its own motion, refer any matter affecting the administration of this Act to the Minister for his consideration.

DIVISION III

DIVISION III—APPOINTMENT AND POWERS OF WARDENS

Appointment of warden.

20. (1) The Minister may, by instrument in writing, appoint any person to be a warden under this Act.

(2) A warden shall be appointed for such term as may be specified in the instrument of his appointment.

(3) The Minister may, in the instrument of appointment, authorize the warden to exercise his powers in respect of the whole, or any specified portion, of the State.

(4) Where the authority of a warden is limited by the instrument of his appointment to any specified portion of the State, the powers conferred on him under this Act shall be exercisable only within that portion of the State.

(5) Every member of the police force shall, while holding office as such, be a warden competent to exercise his powers as such in any part of the State.

Identity card.

21. (1) The Minister shall, subject to subsection (2) of this section, issue to every person appointed as a warden a card (referred to in this Act as an "identity card") stating the name of that person and the fact that he is a warden appointed pursuant to the provisions of this Act.

(2) The issue of an identity card is not required in the case of a warden who is a member of the police force.

22. (1) A warden may for the purpose of the administration and enforcement of this Act—

(*a*) require any person whom he finds committing, or whom he suspects on reasonable grounds of having committed, an offence against this Act, to state his full name and usual place of residence;

(*b*) require any person whom he finds committing, or whom he suspects on reasonable grounds of having committed, an offence against this Act on a reserve to leave that reserve;

(*c*) enter and search any land, building, structure, vehicle, vessel or place in which he suspects on reasonable ground that there is any animal, carcass or plant, or any records or papers, that is or are likely to afford evidence of an offence against this Act;

(*d*) search for and seize any such animal, carcass, plant, records or papers;

or

(*e*) require any person whom he suspects on reasonable grounds of having done any act for which that person is required to hold a permit under this Act to produce his permit.

(2) A warden shall—

(*a*) upon demand of the owner or occupier of any land that the warden has entered or proposes to enter in pursuance of this section;

(*b*) upon the demand of the owner or an occupant of any vehicle or vessel that the warden has entered or proposes to enter in pursuance of this section;

or

(*c*) upon demand of any person of whom the warden has made or proposes to make requirements in pursuance of this section,

produce his identity card or, where the warden is a member of the Police Force, his warrant card, for the inspection of that person.

(3) Any person who fails to comply with a requirement made of him by a warden under this section shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

Confiscation of certain devices.

23. (1) A warden may seize any firearm or other device that he reasonably suspects to have been used in the execution or furtherance, or the intended execution or furtherance, of any offence against this Act.

(2) Where the owner of any firearm or other device seized under this section satisfies the Minister, within three months after the day on which the firearm or other device was seized, that the firearm or other device has not in fact been used in the execution or furtherance, or the intended execution or furtherance of an offence against this Act, the firearm or other device shall be returned to the owner but otherwise the Minister may, by instrument in writing, forfeit the firearm or other device to the Crown.

(3) A warden may seize any animal, carcass, egg, plant or wildflower that he reasonably suspects to have been taken in contravention of this Act.

(4) Where any person from whose possession any animal, carcass, egg, plant or wildflower is seized under this section satisfies the Minister within three months after the day on which it was seized that it was not, in fact, taken in contravention of this Act, it shall be returned to that person, but otherwise the Minister may, by instrument in writing, forfeit the animal, carcass, egg, plant or wildflower to the Crown.

(5) The Minister may sell or otherwise dispose of any firearm or other device, or any animal, carcass, egg, plant or wildflower, forfeited to the Crown under this section.

Hindering warden, etc.

24. (1) A person shall not hinder a warden in the exercise of his powers or functions under this Act.

Penalty: Two hundred dollars.

(2) A person shall not use abusive, threatening or insulting language to a warden acting in the exercise of his powers or functions under this Act.

Penalty: One hundred dollars.

(3) A person shall not assault a warden acting in the exercise of his powers or functions under this Act.

Penalty: Five hundred dollars or imprisonment for three months.

Power of arrest.

25. (1) A warden may arrest without warrant any person—

(*a*) who fails to comply with the requirement lawfully made of that person under this Act;

or

(*b*) who hinders the warden in the exercise of his powers or functions under this Act.

(2) Upon arresting any person in pursuance of this section, a warden shall forthwith convey him, or cause him to be conveyed, to the nearest police station.

False representation.

26. A person shall not, by words or conduct, falsely represent that he is a warden.

Penalty: Five hundred dollars or imprisonment for three months.

PART III

RESERVES AND SANCTUARIES

DIVISION I—NATIONAL PARKS

Constitution of national parks by statute.

27. (1) The areas declared in the third schedule to this Act to be national parks are hereby constituted national parks.

(2) The names assigned in the third schedule to the national parks constituted under subsection (1) of this section shall, subject to this Division, be the names of those national parks.

(3) The Governor may, by proclamation—

(*a*) abolish a national park constituted under this section;

(*b*) alter the boundaries of a national park constituted under this section;

or

(*c*) alter the name assigned to a national park under this section.

(4) A proclamation shall not be made under paragraph (*a*) or (*b*) of subsection (3) of this section by virtue of which any land ceases to be, or to be included in, a national park except in pursuance of a resolution passed by both Houses of Parliament.

(5) Notice of a motion for a resolution under subsection (4) of this section must be given at least fourteen sitting days before the motion is passed.

PART III

DIVISION I

Constitution of national parks by proclamation.

28. (1) The Governor may, by proclamation—

(*a*) constitute as a national park any specified Crown lands that he considers to be of national significance by reason of the wildlife or natural features of those lands;

and

(*b*) assign a name to a national park so constituted.

(2) The Governor may, by subsequent proclamation—

(*a*) abolish a national park constituted under this section;

(*b*) alter the boundaries of a national park constituted under this section;

or

(*c*) alter the name of a national park constituted under this section.

(3) A proclamation shall not be made under paragraph (*a*) or (*b*) of subsection (2) of this section by virtue of which any land ceases to be, or to be included in, a national park except in pursuance of a resolution passed by both Houses of Parliament.

(4) Notice of a motion for a resolution under subsection (3) of this section must be given at least fourteen sitting days before the motion is passed.

DIVISION II

DIVISION II—CONSERVATION PARKS

Constitution of conservation parks by statute.

29. (1) The areas declared in the fourth schedule to this Act to be conservation parks are hereby constituted conservation parks.

(2) The names assigned in the fourth schedule to the conservation parks constituted under subsection (1) of this section shall, subject to this Division, be the names of those conservation parks.

(3) The Governor may, by proclamation—

(*a*) abolish a conservation park constituted under this section;

(*b*) alter the boundaries of a conservation park constituted under this section;

or

(*c*) alter the name assigned to a conservation park under this section.

(4) A proclamation shall not be made under paragraph (*a*) or (*b*) of subsection (3) of this section by virtue of which any land ceases to be, or to be included in, a conservation park, except in pursuance of a resolution passed by both Houses of Parliament.

(5) Notice of a motion for a resolution under subsection (4) of this section must be given at least fourteen sitting days before the motion is passed.

Constitution of conservation parks by proclamation.

30. (1) The Governor may, by proclamation—

(*a*) constitute as a conservation park any specified Crown lands that should, in his opinion, be protected or preserved for the purpose of conserving any wildlife or the natural or historic features of those lands;

and

(*b*) assign a name to a conservation park so constituted.

(2) The Governor may, by subsequent proclamation—

(*a*) abolish a conservation park constituted under this section;

(*b*) alter the boundaries of a conservation park constituted under this section;

or

(*c*) alter the name of a conservation park constituted under this section.

(3) A proclamation shall not be made under paragraph (*a*) or (*b*) of subsection (2) of this section by virtue of which any land ceases to be, or to be included in, a conservation park, except in pursuance of a resolution passed by both Houses of Parliament.

(4) Notice of a motion for a resolution under subsection (3) of this section must be given at least fourteen sitting days before the motion is passed.

DIVISION III—GAME RESERVES

DIVISION III

Constitution of game reserves by statute.

31. (1) The areas declared in the fifth schedule to this Act to be game reserves are hereby constituted game reserves.

(2) The names assigned in the fifth schedule to the game reserves constituted under subsection (1) of this section shall, subject to this Division, be the names of those game reserves.

PART III

DIVISION III

(3) The Governor may, by proclamation—

(*a*) abolish a game reserve constituted under this section;

(*b*) alter the boundaries of a game reserve constituted under this section;

or

(*c*) alter the name of a game reserve constituted under this section.

(4) A proclamation shall not be made under paragraph (*a*) or (*b*) of subsection (3) of this section by virtue of which any land ceases to be, or to be included in, Katarapko Game Reserve, or Coorong Game Reserve, except in pursuance of a resolution passed by both Houses of Parliament.

(5) Notice of motion for a resolution under subsection (4) of this section must be given at least fourteen sitting days before the motion is passed.

Constitution of game reserves by proclamation.

32. (1) The Governor may, by proclamation—

(*a*) constitute as a game reserve any Crown lands that should in his opinion be preserved for the conservation of wildlife and management of game;

and

(*b*) assign a name to a game reserve so constituted.

(2) The Governor may, by subsequent proclamation—

(*a*) abolish a game reserve constituted under this section;

(*b*) alter the boundaries of a game reserve constituted under this section;

or

(*c*) alter the name assigned to a game reserve under this section.

DIVISION IV

DIVISION IV—RECREATION PARKS

Constitution of recreation parks by statute.

33. (1) The areas declared in the sixth schedule to this Act to be recreation parks are hereby constituted recreation parks.

(2) The names assigned in the sixth schedule to the recreation parks constituted under subsection (1) of this section shall, subject to this Division, be the names of those recreation parks.

(3) The Governor may, by proclamation—

(*a*) abolish a recreation park constituted under this section;

(*b*) alter the boundaries of a recreation park constituted under this section;

or

(*c*) alter the name assigned to a recreation park under this section.

(4) A proclamation shall not be made under paragraph (*a*) or (*b*) of subsection (3) of this section by virtue of which any land ceases to be, or to be included in, the Belair Recreation Park, or the Para Wirra Recreation Park except in pursuance of a resolution passed by both Houses of Parliament.

(5) Notice of a motion for a resolution under subsection (4) of this section must be given at least fourteen sitting days before the motion is passed.

Constitution of recreation parks by proclamation.

34. (1) The Governor may, by proclamation—

(*a*) constitute as a recreation park any specified Crown lands that should in his opinion be conserved and managed for public recreation and enjoyment;

and

(*b*) assign a name to a recreation park so constituted.

(2) The Governor may, by subsequent proclamation—

(*a*) abolish a recreation park constituted under this section;

(*b*) alter the boundaries of a recreation park constituted under this section;

or

(*c*) alter the name assigned to a recreation park constituted under this section.

DIVISION V—CONTROL AND MANAGEMENT OF RESERVES

DIVISION V

Control and administration of reserves.

35. (1) The Minister shall have the control and administration of all reserves constituted under this Act.

(2) All such reserves are vested in the Crown.

(3) The Minister may upon such terms and conditions as he thinks fit grant to any person a lease or licence entitling him to exercise such rights of entry, use, or occupation in respect of a reserve as may be specified in the lease or licence.

(4) Any lease or licence granted in respect of land constituted as a reserve under this Act, and in force immediately before the land is so constituted shall, subject to its terms and conditions, continue in force for the remainder of the term for which it was granted in all respects as if it had been granted by the Minister under this section.

PART III

DIVISION V

Management of reserves.

36. (1) Subject to subsection (2) of this section all reserves shall be under the management of the Director.

(2) The Director shall observe any direction given to him by the Minister or the Permanent Head relating to the management of any particular reserve, or of reserves generally.

Objectives of management.

37. The Minister, the Permanent Head and the Director shall have regard to the following objectives in managing reserves:—

(*a*) the preservation and management of wildlife;

(*b*) the preservation of historic sites, objects and structures of historic or scientific interest within reserves;

(*c*) the preservation of features of geographical, natural or scenic interest;

(*d*) the destruction of dangerous weeds and the eradication or control of noxious weeds and exotic plants;

(*e*) the control of vermin and exotic animals;

(*f*) the control and eradication of disease and injurious affection of animals and vegetation;

(*g*) the prevention of bush fires and other hazards;

(*h*) the encouragement of public use and enjoyment of reserves and education in, and a proper understanding and recognition of, their purpose and significance;

and

(*i*) generally the promotion of the public interest.

Management plans.

38. (1) The Minister shall—

(*a*) with respect to each reserve in existence at the commencement of this Act, prepare a plan of management as soon as practicable after the commencement of this Act;

and

(*b*) with respect to each reserve constituted after the commencement of this Act, prepare a plan of management as soon as practicable after the constitution of the reserve.

(2) The Minister may, at any time, prepare an amendment to a plan of management, or prepare a plan of management to be substituted for a previous plan.

(3) Where the Minister has prepared a plan of management in respect of a reserve (whether the plan is the original plan of management or in substitution for a previous plan of management) or any amendment to a plan of management he shall cause notice to be published in the *Gazette* that the plan of management, or the amendment, has been prepared.

(4) The plan of management shall—

(*a*) set forth proposals of the Minister in relation to the management and improvement of the reserve;

and

(*b*) set forth any other proposals by which the Minister proposes to accomplish the objectives of this Act in relation to the reserve.

(5) The notice shall—

(*a*) specify an address at which copies of the plan of management may be inspected;

and

(*b*) specify an address to which representations in connection with the plan of management may be forwarded.

(6) Any person may within one month after publication of the notice, or such longer period as may be specified in the notice, make representations to the Minister in connection with the plan of management.

(7) At the expiration of the period during which representations may be made, the Minister shall refer the plan of management together with any representations received by him to the Advisory Council for its consideration and advice.

(8) After consideration by the Advisory Council, the plan of management shall be forwarded to the Minister together with any comments or suggestions of the Council.

(9) The Minister may adopt a plan of management without alteration or with such alterations as he thinks reasonable, having regard to the representations received by him, or may refer the plan back for further consideration by the Advisory Council.

(10) When the Minister has adopted a plan of management he shall cause notice of that fact to be published in the *Gazette*.

(11) The Director shall, upon the application of any member of the public and payment of the prescribed fee, furnish that person with a copy of a plan of management adopted under this section.

Creation of zones within a reserve.

39. (1) A management plan may provide for the division of a reserve into zones.

(2) Where a zone is created within a reserve the land within that zone shall be kept and maintained in accordance with the conditions, declared by the plan of management to be appropriate to that zone.

PART III

DIVISION V

Implementation of management plan.

40. (1) Where the Minister has adopted a plan of management in relation to a reserve—

(*a*) the provisions of the plan shall be carried out in relation to that reserve;

and

(*b*) no operations shall be undertaken in relation to that reserve unless those operations are in accordance with the plan of management.

DIVISION VI

DIVISION VI—PROVISIONS GENERALLY APPLICABLE TO RESERVES

Approval of proposal for constitution of reserve.

41. (1) Any proposal to constitute, or to alter the boundaries of, a reserve must be submitted to, and approved by, the Minister of Lands.

(2) Any proposal to constitute, or to alter the boundaries of, a reserve where the reserve includes, or is to include, lands under the jurisdiction of the Minister of Marine must be submitted to, and approved by, the Minister of Marine.

(3) No proclamation for the purpose of constituting, or altering the boundaries of, a reserve shall be made without the approval or approvals required by this section.

Prohibited areas.

42. (1) Where the Minister is satisfied that it is expedient for the purpose of protecting human life or conserving native plants or animals he may, by notice published in the *Gazette*, declare any portion of the reserve to be a prohibited area.

(2) Any notice published under subsection (1) of this section must state the grounds upon which the declaration is made.

(3) A person shall not be within a prohibited area unless he has been authorized to enter the area by a permit issued by the Minister under this section.

Penalty: One hundred dollars.

(4) The Minister may, upon such terms and conditions as he thinks fit, issue to any person a permit to be within a prohibited area.

Rights of prospecting and mining.

43. (1) Subject to subsection (2) of this section, no rights of entry, prospecting, exploration, or mining shall be acquired or exercised pursuant to the Mining Act, or the Petroleum Act in respect of lands constituting a reserve.

(2) The Governor may, by proclamation, declare that subject to any conditions specified in the proclamation rights of entry, prospecting, exploration, or mining may be acquired and exercised in respect of lands constituting a reserve, or portion of a reserve, and specified in the proclamation.

(3) A proclamation under subsection (2) of this section shall have effect in accordance with its terms.

(4) The Governor may, by proclamation, vary or revoke a proclamation under subsection (2) of this section.

(5) A proclamation under this section in respect of lands constituting a national park, a conservation park, the Belair Recreation Park, the Para Wirra Recreation Park, the Katarapko Game Reserve or the Coorong Game Reserve (except a proclamation revoking a previous proclamation) shall not be made unless—

(*a*) the proclamation is made for the purpose of continuing rights of entry, prospecting, exploration or mining vested in any person immediately before the commencement of this Act in respect of those lands;

(*b*) the proclamation is made simultaneously with the proclamation constituting those lands a national park or a conservation park;

or

(*c*) the proclamation is made in pursuance of a resolution passed by both Houses of Parliament.

(6) Notice of a motion for a resolution under paragraph (*c*) of subsection (5) of this section must be given at least fourteen sitting days before the resolution is passed.

DIVISION VII—SANCTUARIES

DIVISION VII

Establishment of sanctuaries.

44. (1) If the Minister is of the opinion that it is desirable to conserve the animals or plants for which any land is a natural habitat or environment and—

(*a*) where the land is reserved for or dedicated to, a public purpose, the person to whom the care, control and management of those lands have been committed has consented to a declaration under this section;

or

(*b*) where the land is private land, the owner and occupier of the land have consented to a declaration under this section,

the Minister may by notice in the *Gazette* declare the land to be a sanctuary.

(2) The Minister may, and at the request of the owner of private land constituting a sanctuary shall, revoke a declaration under this section.

Protection of animals within a sanctuary.

45. (1) A person shall not take any animal within a sanctuary unless the animal is of a prescribed species.

Penalty: Two hundred dollars.

(2) Where the Minister is satisfied that it is desirable in the interests of conserving wildlife to do so, he may grant to any person a permit to take an animal (other than an animal of a prescribed species) within a sanctuary.

(3) In this section—

"animal of a prescribed species" means—

(*a*) a dog or cat;

or

(*b*) any other animal of a species prescribed by regulation for the purposes of this section.

PART IV

PART IV

CONSERVATION OF NATIVE PLANTS AND WILDFLOWERS

Application of this Part.

46. (1) Subject to this section, the provisions of this Part shall apply throughout the State.

(2) The Governor may, by proclamation, declare that this Part, or any provisions of this Part specified in the proclamation, shall not apply at any time or during periods specified in the proclamation—

(*a*) within a part of the State specified in the proclamation;

(*b*) to a specified species of wildflower or native plant;

or

(*c*) to a specified species of wildflower or native plant in a specified part of the State,

and the operation of this Part shall be modified accordingly.

(3) The Governor may by proclamation revoke or vary a proclamation under this section.

Interference with native plants and wildflowers.

47. (1) Any person who takes a protected wildflower or protected native plant—

(*a*) on any reserve;

(*b*) on any Crown land;

(*c*) on any land reserved for or dedicated to public purposes;

(*d*) on any forest reserve;

or

(*e*) on any street or road,

shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

(2) Any person who takes a protected wildflower or protected native plant on private land without the consent of the owner of the land shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

(3) In any prosecution under this section proof that any protected wildflower or protected native plant was found in the possession of the defendant shall, in the absence of proof to the contrary, be accepted as proof that the defendant took the wildflower or native plant in contravention of this Act.

(4) In any prosecution under this section it shall be a defence that the defendant did not wilfully or negligently commit the act subject to the charge.

Sale of protected wildflower or native plant.

48. (1) Any person who sells any protected wildflower or protected native plant shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

(2) It shall be a defence in any prosecution under this section that the wildflower or native plant—

(*a*) had been growing upon a forest reserve and was taken pursuant to a licence under the Forestry Act;

(*b*) had been growing upon private land and was taken by, or with the consent in writing of the owner of that land;

or

(*c*) was taken in a place in which wildflowers or native plants of that species are not protected.

PART IV

(3) The consent referred to in paragraph (*b*) of subsection (2) of this section must have been given not more than six months before the wildflower or native plant was taken.

Permits.

49. The Minister may grant a permit authorizing any person named therein to take protected wildflowers or protected native plants of a species specified in the permit.

PART V

PART V

CONSERVATION OF NATIVE ANIMALS

DIVISION I

DIVISION I—APPLICATION OF THIS PART

Application of this Part.

50. (1) Subject to this section the provisions of this Part shall apply throughout the State.

(2) The Governor may by proclamation declare that this Part or any provisions of this Part specified in the proclamation shall not apply—

(*a*) within a part of the State defined or referred to in the proclamation;

(*b*) to a specified species of animal;

or

(*c*) to a specified species of animal in a specified part of the State.

(3) The Governor may by proclamation revoke or vary any proclamation under this Part.

DIVISION II

DIVISION II—RESTRICTIONS UPON THE TAKING OF PROTECTED ANIMALS

Protected animals.

51. (1) Subject to this Part, a person shall not take a protected animal, or the eggs of a protected animal.

Penalty: Five hundred dollars.

(2) In any prosecution under this section, it shall be a defence that the defendant did not wilfully or negligently commit the act subject to the charge.

Open season.

52. (1) The Governor may, by proclamation, declare an open season for the taking of any specified species of protected animal.

(2) A proclamation under this section:—

(*a*) shall state the period of the open season;

(*b*) may specify the hours of any day during which animals may be taken in pursuance of the proclamation;

(*c*) shall state the parts of the State to which the open season applies;

(*d*) shall state whether the eggs of the protected animals to which the proclamation applies may be taken during the open season;

and

(*e*) may prescribe any other restrictions or conditions applicable to the open season.

(3) It shall be lawful for a person to take a protected animal of a species to which a proclamation under this Act applies in accordance with the terms and conditions of a proclamation under this section.

(4) A proclamation under this section—

(*a*) shall not be made in respect of any animal of a rare species;

and

(*b*) shall not have any effect in relation to any animal within a national park, conservation park or recreation park.

(5) A proclamation under this section shall not have any effect in relation to a game reserve unless the proclamation expressly provides that it is applicable to that reserve.

(6) The Governor may, by subsequent proclamation, revoke or vary a proclamation under this section.

Permits to take protected animals.

53. (1) The Minister may grant to any person a permit to take protected animals or the eggs of protected animals, if he is satisfied that it is desirable to grant the permit:—

(*a*) to facilitate scientific research;

(*b*) to enable the person to place bands, marks or tags upon such animals and then to release them;

(*c*) to permit the destruction of animals that are causing, or are likely to cause, damage to the environment or to crops, stock, or other property;

or

(*d*) for any other purpose (other than for sale) that the Minister considers proper and not inconsistent with the objectives of this Act.

(2) A permit under this section shall be in force for such term, not exceeding twelve months, as is specified in the permit.

(3) The Minister may at any time revoke a permit granted under this section.

(4) A person to whom a permit to take protected animals has been granted shall, within fourteen days after the expiration or revocation of the permit, deliver to the Minister a report in the prescribed form stating the number of animals of each species taken in pursuance of the permit and the number of eggs of any protected animal taken in pursuance of the permit.

Penalty: Two hundred dollars.

(5) Without limiting the conditions subject to which a permit may be granted under this section those conditions may—

(*a*) limit the areas in which protected animals or the eggs of protected animals may be taken;

and

(*b*) limit the number of animals or eggs that may be taken in pursuance of the permit.

(6) Where a permit relates to animals in respect of which a royalty is payable under this Act, the Minister may require the applicant to pay in advance to him an amount equal to the amount of royalty that would be payable in respect of all the animals in respect of which the permit is granted.

The Australian magpie.

54. (1) It shall be lawful for any person without any permit or other authority under this Act, to take any Australian magpie that has attacked or is attacking any person.

(2) A person shall not sell an Australian magpie taken pursuant to this section.

Penalty: One hundred dollars.

DIVISION III

DIVISION III—ANIMALS OF RARE, PROHIBITED AND CONTROLLED SPECIES

Animals of rare species.

55. (1) A person shall not, without a permit granted by the Minister, have in his possession or under his control an animal of a rare species, or the carcass or eggs of an animal of a rare species.

Penalty: One thousand dollars.

(2) Where the Minister is satisfied—

(*a*) that it is in the interests of scientific research;

or

(*b*) that it is desirable for the sake of conserving animals of a rare species,

to grant a permit under this section to any person, he may grant such a permit to that person.

Prohibited species.

56. (1) The Governor may, by proclamation, declare any species of animal to be a prohibited species.

(2) A person shall not, without a permit granted by the Minister, have in his possession or under his control an animal of a prohibited species.

Penalty: Two hundred dollars.

(3) The Minister may grant to any person a permit to have in his possession or under his control an animal of a prohibited species.

(4) A person who has in his possession or under his control an animal of a prohibited species in pursuance of a permit under this section, shall not export the animal from the State, or release the animal from his possession or control unless he is specifically authorized to do so by the permit.

Penalty: Two hundred dollars.

(5) The Governor may, by proclamation, vary or revoke a proclamation under this section.

Controlled species.

57. (1) The Governor may, by proclamation, declare any species of animal to be a controlled species.

(2) A person shall not, without a permit granted by the Minister, release from captivity or control an animal of a controlled species.

Penalty: One hundred dollars.

(3) The Minister may grant to any person a permit to release from captivity or control animals of a controlled species.

(4) The Governor may, by proclamation, vary or revoke a proclamation under this section.

DIVISION IV—PROHIBITIONS AND RESTRICTIONS UPON THE KEEPING OF PROTECTED ANIMALS AND CERTAIN DEALINGS IN PROTECTED ANIMALS

DIVISION IV

Keeping and sale of protected animals.

58. (1) A person shall not—

(*a*) keep in confinement or under his control more than one protected animal;

or

(*b*) sell a protected animal or the carcass skin or egg of a protected animal,

unless he holds a permit for the purpose granted under this section.

Penalty: Five hundred dollars.

(2) The Minister may grant a permit for the purposes of this section to any person whom he considers to be a fit and proper person to hold such a permit.

(3) A permit may be granted under this section for either or both of the purposes referred to in subsection (1) of this section.

(4) A permit under this section shall not entitle any person to keep or sell protected animals that have been taken in, or imported into, this State in contravention of this Act, or the carcasses or eggs of any such protected animals.

(5) The holder of a permit under this section shall, in accordance with the regulations, furnish the Minister with such returns as are prescribed.

Export and import of protected animals.

59. (1) A person shall not—

(*a*) export a protected animal or the carcass or egg of a protected animal from a place within the State to a place outside the State except in pursuance of the permit to export such an animal granted under this section;

or

(*b*) import into the State a protected animal or the carcass or egg of a protected animal from a place outside the State except in pursuance of the permit granted under this section.

Penalty: Five hundred dollars.

(2) The Minister may grant to any person a permit to export from the State or to import into the State protected animals of such species as are specified in the permit.

(3) A permit to export protected animals under this section shall not authorize any person—

(*a*) to export from the State any animal, carcass or egg taken in contravention of this Act;

or

(*b*) to export any animal, carcass or egg to a country or State where the importation of that animal, carcass or egg into that country or State would be in contravention of the laws thereof.

(4) A permit to import protected animals shall not authorize the holder of the permit to import any animal, carcass or egg taken in contravention of the law of any other State or country.

Illegal possession of animals, etc.

60. (1) A person shall not have in his possession or under his control any animal, carcass or egg, taken in this State, or imported into this State, in contravention of this Act.

Penalty: Two hundred dollars.

(2) In any proceedings under this section, an allegation in a complaint that an animal, carcass or egg was taken in this State, or imported into this State in contravention of this Act shall be accepted as proved in the absence of proof to the contrary.

DIVISION V—ROYALTY

DIVISION V

Royalty.

61. (1) The Governor may, by proclamation, declare that royalty shall be payable—

(*a*) upon any animal of a specified species;

(*b*) upon the carcass or skin of an animal of a specified species;

or

(*c*) upon any egg of an animal of a specified species,

by any person by whom any such animal, carcass, skin or egg is taken.

(2) The amount of royalty shall be fixed in the proclamation and may vary according to the size, age, quality, standard or condition of the animal, carcass, skin or egg in respect of which it is payable.

(3) A proclamation under this section may provide that it applies only in respect of an animal, or the carcass, skin or egg of an animal, taken in a game reserve.

(4) A proclamation under this section shall have effect according to its terms.

(5) The Governor may, by proclamation vary or revoke a proclamation under this section.

Demand for royalty.

62. (1) The Director or a warden may demand orally or in writing that any person pay to the Director all royalty for which he is liable under this Act.

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DIVISION V

(2) Where a person fails to comply with a demand under subsection (1) of this section within forty-eight hours after the time of the demand, he shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

(3) In any proceedings under this section the court may order the defendant to pay to the Director any amount fixed by the court by way of royalty under this Act.

(4) Where a person fails to comply with a demand under subsection (1) of this section, the Director or a warden may seize any animals, carcasses, skins or eggs upon which royalty is unpaid.

(5) The Minister may sell any animals, carcasses, skins or eggs seized under this section and shall apply any proceeds of the sale in payment of the unpaid royalty and any amount remaining to the owner of the animals, carcasses, skins or eggs.

Recovery of royalty by civil action.

63. (1) The Minister may, by action in any court of competent jurisdiction, recover, as a debt, from any person an amount of royalty for which that person is liable under this Act.

(2) This section does not derogate from any other remedy available to the Minister for the recovery of royalty.

DIVISION VI

DIVISION VI—GENERAL PROVISIONS

Unlawful entry on land.

64. (1) A person shall not be on any private land for the purpose of taking a protected animal, or the eggs of a protected animal, unless the owner of that land has given him, not more than six months beforehand, permission in writing to be on the land for that purpose.

Penalty: One hundred dollars.

(2) If the owner or occupier of any land, or the servant or agent of the owner of the land, suspects that a person trespassing on the land is committing, has committed, or is about to commit an offence against this Act, he may request that person—

(*a*) to state his full name and usual place of residence;

and

(*b*) to leave the land.

(3) A person of whom any request is made under subsection (2) of this section shall comply with it forthwith.

Penalty: Two hundred dollars.

(4) A person who has been requested to leave land under this section shall not re-enter the land without the permission of the owner.

Penalty: Two hundred dollars.

(5) In any proceedings for an offence against this section proof that a person had in his possession or under his control a dog, firearm, or device capable of being used for the purpose of taking a protected animal shall be evidence of the fact that that person was on the land for the purpose of taking a protected animal.

Use of poison.

65. (1) Where a person, without the consent in writing of the Minister uses poison for the purpose of killing or injuring a protected animal, he shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

(2) Where a protected animal is killed or injured as a result of the use of poison by any person without a permit granted by the Minister, that person shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

(3) It shall be a defence to a charge under subsection (2) of this section that the defendant—

(*a*) used the poison in good faith for the purpose of destroying vermin in pursuance of the Vermin Act;

or

(*b*) exercised such precautions as he might reasonably be expected to have exercised in the circumstances to avoid endangering protected animals by the use of poison.

(4) In this section "poison" means any substance that might endanger the life or health of a protected animal.

Restriction upon use of certain devices.

66. (1) The Governor may, by proclamation, restrict or prohibit the use of certain devices by which animals may be taken.

(2) A person shall not use any device in contravention of a restriction or prohibition imposed under subsection (1) of this section.

Penalty: Two hundred dollars.

Traps.

67. (1) A warden may dismantle and remove any trap by which animals have been taken illegally or by which animals are in his opinion likely to be taken illegally.

(2) Any trap removed by a warden pursuant to this section shall be forfeited to the Crown and may be sold or otherwise disposed of by the Director.

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DIVISION VI

Dogs not to molest protected animals.

68. A person shall not cause or permit a dog to injure or molest a protected animal.

Penalty: Two hundred dollars.

PART VI

PART VI

MISCELLANEOUS PROVISIONS

Permits.

69. (1) An applicant for a permit under this Act—

(*a*) must make his application in a manner and form determined by the Minister;

and

(*b*) must, subject to subsection (2) of this section, pay to the Minister the appropriate fee fixed by regulation in respect of the permit at the time of his application.

(2) The Minister may, where in his opinion special circumstances justify him in so doing, remit the whole or any portion of any fee payable in respect of the grant of a permit under this Act.

(3) A permit—

(*a*) shall be subject to such limitations, restrictions and conditions as the Minister thinks fit and includes in the permit;

and

(*b*) may, if the holder of the permit has in the opinion of the Minister contravened or failed to comply with any limitation, restriction or condition of the permit, be revoked by the Minister by instrument in writing served personally or by post upon that person.

(4) Without limiting the conditions upon which a permit relating to animals may be granted under this Act, those conditions may—

(*a*) provide for marking, or otherwise identifying, animals to which the permit relates;

(*b*) require the holder of the permit to report the escape, illness or death of any animal to which the permit relates;

and

(*c*) require the holder of the permit to report to the Minister the birth of any progeny to the animals to which the permit relates.

(5) A permit shall—

(*a*) come into force on the day fixed therein for its commencement, or if no day is so fixed, on the day on which it was granted;

and

(*b*) expire on the day fixed therein for its expiry, or if no day is so fixed, upon the expiration of twelve months after the day on which it came into operation.

Obligation to carry permit.

70. (1) A person who holds a permit entitling him to take, export or import protected animals under this Act shall on any day on which he purports to exercise rights in pursuance of that permit, carry the permit on his person.

Penalty: Fifty dollars.

(2) A person who holds a permit under this Act—

(*a*) shall if so required by a warden on a day on which he must carry the permit on his person under subsection (1) of this section, produce the permit forthwith;

or

(*b*) shall if so required by a warden on any other day, produce the permit for the inspection of the warden within forty-eight hours after the time at which the requirement is made.

Penalty: Fifty dollars.

Duplicate.

71. (1) If the Minister is satisfied—

(*a*) that any permit or other document issued to any person by him under this Act has been lost, destroyed or defaced;

and

(*b*) that no improper use has been made of that permit or document,

he may on the application of that person, and on payment of the prescribed fee, issue to him a duplicate of the permit or other document.

(2) A duplicate issued under this section shall have the same force and effect as the original of which it is a duplicate.

False or misleading statement.

72. (1) A person shall not make a false or misleading statement in any application, return, or other document under this Act.

Penalty: Five hundred dollars.

(2) It shall be a defence to a charge for an offence under subsection (1) of this section that the defendant believed on reasonable grounds that the statement was true.

Offences against provisions of proclamations or permits.

73. A person shall not contravene, or fail to comply with, any provision or condition of proclamation, or permit under this Act.

Penalty: Two hundred dollars.

Additional penalty.

74. (1) Where a person is convicted of an offence involving any unlawful act in relation to animals and the court is satisfied that more than one animal was involved in the offence, it shall, in addition to imposing a fine for the principal offence, impose an additional fine based on the number of animals involved in the commission of the offence.

(2) The amount of the additional fine shall be—

(*a*) not more than two hundred dollars for each protected animal of a rare species involved in the commission of the offence;

and

(*b*) not more than fifty dollars for each animal (other than a protected animal of a rare species) involved in the commission of the offence.

Evidentiary proceedings.

75. (1) In any proceedings for an offence against this Act, an apparently genuine document purporting to be signed by the Director, and to state that at any specified time or during any specified period a person was or was not the holder of a permit under this Act shall be proof of the matter so stated in the absence of proof to the contrary.

(2) In any proceedings for an offence against this Act, an allegation in a complaint that a place referred to in the complaint is, or was at a time specified in the complaint, a reserve or sanctuary under this Act, shall be accepted as proved in the absence of proof to the contrary.

(3) Where in any proceedings for an offence against this Act, any question arises as to whether the defendant was duly authorized pursuant to this Act to perform the action subject to the charge, the onus of proving that authorization shall lie upon him.

Summary disposal of proceedings.

76. (1) Proceedings in respect of offences under this Act shall be disposed of summarily.

(2) A complaint for an offence against this Act, may be laid within twelve months after the offence was committed by the defendant.

Powers of court.

77. Upon convicting any person for an offence against this Act, the court may, in addition to imposing any other penalty, order—

(*a*) that any permit of the convicted person be cancelled;

and

(*b*) that the convicted person be disqualified for such period as the court may specify from holding and obtaining a permit under this Act.

Financial provision.

78. (1) The moneys required for the purposes of this Act shall be paid out of moneys provided by Parliament for those purposes.

(2) Any moneys received or recovered by the Minister, the Permanent Head or the Director under this Act shall, except as otherwise provided by this Act, be paid into the General Revenue of the State.

Minister may recover compensation for damage to reserve, etc.

79. (1) Any person who causes damage to any portion of a reserve or any building, equipment or facility on a reserve shall be liable to compensate the Minister for that damage.

(2) The Minister may, by action in any court of competent jurisdiction recover compensation to which he is entitled under subsection (1) of this section.

Regulations.

80. (1) The Governor may make such regulations as are contemplated by this Act, or as he deems necessary or expedient for the purposes or objects of this Act.

(2) Without limiting the generality of subsection (1) of this section, the regulations may—

(*a*) confer any powers, authorities, duties and the obligations upon the Minister, the Permanent Head, the Director, or any officers appointed under this Act, that may be necessary or expedient for the enforcement of this Act;

(*b*) regulate the use and enjoyment of reserves;

(*c*) provide for the safety of persons in reserves;

(*d*) establish standards of conduct to which those who may resort to any reserve must conform while on the reserve;

(*e*) provide for the removal of trespassers from reserves;

(*f*) restrict or prohibit access to reserves or any portions of reserves;

(*g*) provide for the preservation and protection of natural features of reserves;

(*h*) provide for the protection, conservation and management of animals and plants in reserves;

(*i*) regulate, restrict or prohibit the taking of animals and plants into reserves or the removal of animals and plants from reserves;

(*j*) provide for the impounding, removal, destruction, or disposal of animals found straying upon reserves;

(*k*) regulate restrict or prohibit the taking of firearms or other devices into, or the use of firearms or other devices in, a reserve or sanctuary;

(*l*) provide for the collection of scientific specimens and the pursuit of research in reserves;

(*m*) reserve the whole or any portion of a reserve for a separate or exclusive use prescribed by the regulations;

(*n*) restrict or prohibit access to a reserve or any portion of a reserve by any person or class of persons;

(*o*) regulate, restrict or prohibit the use of roads or tracks in reserves;

(*p*) regulate, restrict or prohibit the use of motor vehicles or other vehicles in reserves;

(*q*) provide for the impounding, removal or disposal of any vehicle or property found in a reserve in contravention of a regulation;

(*r*) prescribe, and provide for the collection or recovery of, charges or entrance fees to be made of persons entering or desiring to enter a reserve or desiring to use facilities provided on a reserve;

(*s*) regulate, restrict or prohibit the parking of vehicles in a reserve;

(*t*) regulate, restrict or prohibit camping within a reserve;

(*u*) regulate, restrict or prohibit the erection of buildings, signs or other structures in reserves;

(*v*) provide for the protection and preservation of buildings, structures, signs and other improvements in reserves;

(*w*) exempt Aboriginal persons generally, or Aboriginal persons of a specified class, from all or any of the provisions of this Act in such portions of the State as may be specified in the regulations;

(*x*) make any other provision that may in the opinion of the Governor conduce to the preservation or conservation of wildlife;

(*y*) prescribe penalties, recoverable summarily, for breach of, or non-compliance with, any regulation;

and

(*z*) provide that all or any of the offences arising under the regulations may be expiated by the payment of a fee, stipulated in the regulations, to the Minister within a period specified in the regulations, and that if an offence is so expiated, no proceedings shall be brought in any court for the recovery of a penalty in respect of that offence.

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

J. M. NAPIER, Governor's Deputy

THE SCHEDULES

FIRST SCHEDULE

ACTS REPEALED

Fauna and Flora Reserve Act, 1919
Fauna and Flora Reserve Act Amendment Act, 1940
Fauna Conservation Act, 1964
Fauna Conservation Act Amendment Act, 1965
National Parks Act, 1966
The National Pleasure Resorts Act, 1914
National Pleasure Resorts Act Amendment Act, 1960
Native Plants Protection Act, 1939

SECOND SCHEDULE

ACTS AMENDED

The following Acts are amended, and as so amended may be cited, as shown hereunder:—

Act Amended	How Amended	Citation of Amended Act
The Lands for Public Purposes Acquisition Act, 1914-1966	By striking out paragraph Ia of section 4	Lands for Public Purposes Acquisition Act, 1914-1972
Statute Law Revision Act, 1935	By striking out so much of the second schedule as relates to the Fauna and Flora Reserve Act, 1919, and The National Pleasure Resorts Act, 1914	No change in citation

THIRD SCHEDULE

The following lands are hereby constituted National Parks:—

Lincoln National Park.....	Hundred Flinders, Section 2, 3, 5, 6, 12-14
	Smith Island, Hopkins Island, Lewis Island, Little Island, Owen Island, Albatross Island, Liguanea Island, Rabbit Island (being section 395, North out of Hundreds)
	Curta Rocks
	Hundred Flinders, Section 4
Flinders Ranges National Park .	Hundred Edeowie, Section 148
	Hundred Bunyeroo, Section 177
	Hundred Parachilna, Section 61
	North out of Hundreds, Section 473
	North out of Hundreds, Section 333
	North out of Hundreds, Section 106
Gammon Ranges National Park	North out of Hundreds, Section 464
	North out of Hundreds, Section 35
Innes National Park	Hundred Warrenben, Section 99-102
	Islands of Pondalowie Bay (excluding South Island, being Section 88, Hundred Warrenben)
Coorong National Park	Hundred Glyde, Section 17, 60
	Hundred Santo, Section 6
	Hundred Glyde, Section 59
	Hundred Santo, Section 43
	Hundred Santo, Section 52
Canunda National Park	Hundred Rivoli Bay, Section 377, 378, 379, 396
	Hundred Mayurra, Section 157
	Hundred Benara, Section 386
Flinders Chase National Park ...	Hundred Border, Section 11
	Hundred Gosse, Section 64
	Hundred McDonald, Section 17
	South out of Hundreds, Section 66
	Casuarina Islets (The Brothers)
Mount Remarkable National Park	Hundred Winninowie, Section 176
	Hundred Wongyarra, Section 471
	Hundred Wongyarra, Section 474, 489
	Hundred Wongyarra, Section 488
	Hundred Baroota, Section 218
	Hundred Baroota, Section 216, 217
	Hundred Baroota, Section 180, 210, 219

FOURTH SCHEDULE

The following lands are hereby constituted Conservation Parks:—

Nixon-Skinner Conservation Park	Hundred Myponga, Section 245
Ferries-McDonald Conservation Park	Hundred Freeling, Section 266-268, 103, 271, 272, 238, 241, 242, 245, 246
Fairview Conservation Park	Hundred Woolumbool, Section 93, 98
Waitpinga Conservation Park	Hundred Waitpinga, Section 355
Eric Bonython Conservation Park	Hundred Waitpinga, Section 356, 357
Spring Gully Conservation Park	Hundred Clare, Section 568, 572 Hundred Clare, Section 365
Hincks Conservation Park	Hundred Hincks, Section 2 Hundred Murlong, Section 25 Hundred Nicholls, Section 11 Hundred Nicholls, Section 12 North out of Hundreds, Section 365
Peebinga Conservation Park	Hundred Peebinga, Section 21, 22, 31, 19, 30
Hambidge Conservation Park	Hundred Hambidge, Section 7 North out of Hundreds, Section 364
Kellidie Bay Conservation Park	Hundred Lake Wangary, Section 1-13, 21, 273-277, 295
Mount Rescue Conservation Park	Hundred Archibald, Section 7, 8, 9, 10 Hundred Makin, Section 3, 4
Billiatt Conservation Park	Hundred Auld, Section 26 Hundred Billiatt, Section 15, 18
Cleland Conservation Park	Hundred Adelaide, Section 608 Hundred Adelaide, Section 637 Hundred Adelaide, Section 500 Hundred Onkaparinga, Section 424 Hundred Adelaide, Section 920
Horsnell Gully Conservation Park	Hundred Adelaide, Section 609, 618
The Knoll Conservation Park	Hundred Adelaide, Section 612
Penguin Island Conservation Park	Hundred Rivoli Bay, Section 374 South out of Hundreds, Un-numbered Section (Penguin Island)
Mundoora Conservation Park	Hundred Mundoora, Section 439-441 Hundred Mundoora, Section 442
Torrens Island Conservation Park	Hundred Port Adelaide, Section 467
Messent Conservation Park	Hundred Messent, Section 1 Hundred Colebatch, Section 1
Hale Conservation Park	Hundred Barossa, Section 119, 124, 125, 135, 138, 315
Big Heath Conservation Park	Hundred Spence, Section 17-20, 169
Sandy Creek Conservation Park	Hundred Barossa, Section 72 Hundred Barossa, Section 317, 319
Spring Mount Conservation Park	Hundred Encounter Bay, Section 633, 715
Warren Conservation Park	Hundred Barossa, Section 321 Hundred Para Wirra, Section 118, 387, 388
Calectasia Conservation Park	Hundred Short, Section 157
Desert Camp Conservation Park	Hundred Marcollat, Section 87 Hundred Marcollat, Section 105
Guichen Bay Conservation Park	Hundred Waterhouse, Section 360, 361
Jip Jip Conservation Park	Hundred Peacock, Section 86
Mount Magnificent Conservation Park	Hundred Kuitpo, Section 293
Morialta Conservation Park	Hundred Adelaide, Section 833 Hundred Adelaide, Section 834
Elliot Price Conservation Park	North out of Hundreds, Section 49
Mount Boothby Conservation Park	Hundred Colebatch, Section 3

Simpson Desert Conservation Park	North out of Hundreds, Section 48
Ridley Conservation Park	Hundred Ridley, Section 479, 480, 483 Hundred Fisher, Section 144
Yumbarra Conservation Park	North out of Hundreds, Section 457
Beachport Conservation Park	Hundred Lake George, Section 5, 31, 32, 40, 58
Parndana Conservation Park	Hundred Seddon, Section 58
Warrenben Conservation Park	Hundred Warrenben, Section 97 Hundred Warrenben, Section 44, 45, 54
Wittelbee Conservation Park	Hundred Bonython, Section 101
Scott Conservation Park	Hundred Goolwa, Section 218, 347
White's Dam Conservation Park	Hundred Lindley, Section 202 Hundred Lindley, Section 197, 199, 201 Hundred Maude, Section 252
Carcuma Conservation Park	Hundred Carcuma, Section 23
Karte Conservation Park	Hundred Kingsford, Section 3, 4
Piccaninnie Ponds Conservation Park	Hundred Caroline, Section 598, 692
Sleaford Mere Conservation Park	Hundred Sleaford, Section 36
Unnamed Conservation Park	Hundred Messent, Section 14 Hundred Santo, Section 19
Cox's Scrub Conservation Park	Hundred Kondoparinga, Section 1972, 1979-1985
Dudley Conservation Park	Hundred Dudley, Section 294-296, 302, 303
Unnamed Conservation Park	North out of Hundreds, Section 50
Pooginook Conservation Park	Hundred Pooginook, Section 7, 8, 14
Swan Reach Conservation Park	Hundred Fisher, Section 38, 39, 55, 56, 59, 60
Mount Taylor Conservation Park	Hundred Newland, Section 102
Bascombe Well Conservation Park	Hundred Kappawanta, Section 2 Hundred Barwell, Section 29 Hundred Blesing, Section 11 Hundred Cowan, Section 39, 65
Scorpion Springs Conservation Park	Hundred Fisk, Section 16 Hundred Quirke, Section 9, 10 South out of Hundreds, Section 65
Gum Lagoon Conservation Park	Hundred Wells, Section 9, 30 Hundred Petherick, Section 8, 37
Telowie Gorge Conservation Park	Hundred Telowie, Section 439, 491
Penola Conservation Park	Hundred Monbulla, Section 255, 256
Clinton Conservation Park	Hundred Clinton, Section 568
Glen Roy Conservation Park	Hundred Comaum, Section 276, 279, 479
Pinkawillinie Conservation Park	Hundred Pinkawillinie, Section 114 Hundred Panitya, Section 29
Gower Conservation Park	Hundred Hindmarsh, Section 517
Cape Torrens Conservation Park	Hundred Borda, Section 10
Cape Hart Conservation Park	Hundred Dudley, Section 377, 384
Cape Gantheaume Conservation Park	Hundred Haines, Section 258, 275-279, 284 Hundred MacGillivray, Section 66, 67 Hundred Seddon, Section 52 plus Pelorus Island (s.e. from Vivonne Bay)
Western River Conservation Park	Hundred Gosse, Section 8, 47
Vivonne Bay Conservation Park	Hundred Newland, Section 7, 8, 106
Kelly Hill Conservation Park	Hundred Ritchie, Section 5 Hundred Ritchie, Section 9 and 10
Seddon Conservation Park	Hundred Seddon, Section 67
Port Gawler Conservation Park	Hundred Port Gawler, Section 616 Hundred Port Adelaide, Section 483
Kelvin Powrie Conservation Park	Hundred Archibald, Section 34 Hundred Stirling, Section 475

Padthaway Conservation Park ..	Hundred Parsons, Section 136
Cudlee Creek Conservation Park	Hundred Talunga, Section 57
Montacute Conservation Park ..	Hundred Onkaparinga, Section 473, 523, 524, 5586, 5587, 5589, 5590
Lowan Conservation Park	Hundred Bowhill, Section 71
Deep Creek Conservation Park .	Hundred Waitpinga, Section 130, 216, 217, 365
Lake Gilles Conservation Park ..	Hundred O'Connor, Section 1-14, 16-20, 43 North out of Hundreds, Pastoral Block 958, Section 316
Whyalla Conservation Park	Hundred Cultana, Section 14
Mount Shaugh Conservation Park	Hundred Shaugh, Section 5
Black Hill Conservation Park ..	Hundred Adelaide, Section 669, 670, 671 Hundred Onkaparinga, Section 526
Dingley Dell Conservation Park	Hundred MacDonnell, Part Section 138, C.T. Vol. 1231, Fol. 123
Fort Glanville Conservation Park	Hundred Port Adelaide, Part Section 415, C.T. Vol. 1987, Fol. 104
Naracoorte Caves Conservation Park	Hundred Jessie, Section 466 Hundred Joanna, Section 392, 395, 396, 398, 397
Tantanoola Caves Conservation Park	Hundred Hindmarsh, Section 213
Tumby Island Conservation Park	North out of Hundreds, Section 682
Kapunda Island Conservation Park	Hundred Bookpurnong (Kapunda Island) in River Murray
Media Island Conservation Park	Hundred Gordon (Media Island) in River Murray
Rilli Island Conservation Park ..	Hundred Gordon (Rilli Island) in River Murray
Seal Bay Conservation Park	That portion of Hundred of Seddon, bounded as follows:—Commencing at S.W. corner of Section 2, Hundred Seddon, thence generally E. along S. boundary of latter section and across road to S.W. corner of Section 52; generally S.E. along S.W. boundary of latter Section to its intersection with E. boundary of said Hundred; S. along portion of latter boundary to L.W.M.; generally N.W. and W. along portion of said L.W.M. to its intersection with production S.E. of S.W. boundary of Section 2, Hundred Seddon; thence N.W. along said production to point of commencement Nobby Island
Eba Island Conservation Park ..	In Streaky Bay, adjacent to Hundred Scott, out of Hundreds
West Island Conservation Park .	Hundred Waitpinga, Section 360
Nuyt's Archipelago Conservation Park	Eyre Island Franklin Islands, Goat Island, Lacey Island, Lound Island, Purdie Island
Isles of St. Francis Conservation Park	Freeling Island, Smooth Island St. Francis Island (excluding Section 220, North out of Hundreds) Dog Island, Egg Island, Fenelong Island, Masillon Island, West Island, Hart Island
Investigator Group Conservation Park	Topgallant Island, Ward Island, Pearson Island, (excluding Section 12 and 13, North out of Hundreds)
Gambier Islands Conservation Park	Three islets S. and W. from Wedge Island North Island

Sir Joseph Banks Group Conservation Park	Blyth Island, Boucaut Island, Duffield Island, English Island, Sibsey Island
Whidbey Isles Conservation Park	Four Hummocks Islands (excluding Southernmost Island) Perforated Island, Price Island Unnamed Island south from Pt. Avoid
Beatrice Islet Conservation Park	Beatrice Islet, N.N.E. from Kingscote
Busby Islet Conservation Park	Busby Islet, N.N.E. from Kingscote
The Pages Conservation Park	The Pages Islands, S.E. from Cape Jervis
Pullen Island Conservation Park	Pullen Island, adjacent Port Elliot
Neptune Islands Conservation Park	North and South Neptunes (excluding southernmost Island of South Neptunes)
Althorpe Islands Conservation Park	Althorpe Islands (excluding Section 13 and 61, South out of Hundreds)
Lipson Island Conservation Park	Lipson Island (N.E. from Tumby Bay)
Olive Island Conservation Park	Olive Island (N.W. from Streaky Bay)
Rocky Island (north) Conservation Park	Rocky Island (N. from Coffin Bay)
Rocky Island (south) Conservation Park	Rocky Island (W. from Four Hummocks)
Sinclair Island Conservation Park	Sinclair Island (E.S.E. from Fowlers Bay)
Cap Island Conservation Park	Cap Island (N.W. from Mount Hope)
Baird Bay Islands Conservation Park	Hundred Wrenfordsley, Section 181, island in Baird Bay Jones Island
Nuyt's Reef Conservation Park	Hundred Wookata, Nuyt's Reefs south of Cape Adieu
Greenly Island Conservation Park	Hundred Lake Wangary, Greenly Island, 20 miles W.S.W. from Port Whidbey
Mount Dutton Bay Conservation Park	All Islands in Mount Dutton Bay The Brothers, Goat Island and Rabbit Island
Waldegrave Islands Conservation Park	Waldegrave Island and small island west of Waldegrave Island adjacent to Hundred Ward
Pelican Lagoon Conservation Park	Hundred Dudley, Section 475, 476, 477, 478 and 479
Pigface Island Conservation Park	Pigface Island, Hundred Scott, adjacent to Section 54
Avoid Bay Islands Conservation Park	Black Rocks adjacent Coffin Bay Peninsula and small unnamed islands, S.E. from Section 107 and 108, Hundred Lake Wangary
Bird Islands Conservation Park	Bird Islands, S.W. from Wallaroo, Hundred of Wallaroo
Salt Lagoon Islands Conservation Park	Islands E. of Section 78 and 80, Hundred Baker and waters within 5 chains
Maize Island Lagoon Conservation Park	Section 365, 427, Waikerie Irrigation Area, Holder Division, Hundred Holder
Baudin Rocks Conservation Park	Godfrey Islands, north of town of Robe and west from Hundred Waterhouse
Myponga Conservation Park	Hundred Myponga, Section 269 and 270
Belt Hill Conservation Park	Hundred Rivoli Bay, Section 339
Carribie Conservation Park	Hundred Carribie, Section 153
Goose Island Conservation Park	Goose Island and White Rocks Island N.W. of Wardang Island and N.W. from Port Victoria
Kyeema Conservation Park	Hundred Kuitpo, Section 92, 522, 688, 850 and 320
Hacks Lagoon Conservation Park	Hundred Robertson, Section 249

FIFTH SCHEDULE

The following lands are hereby constituted Game Reserves:—

Katarapko Game Reserve	Hundred Katarapko, Cobdogla Irrigation Area, Weigall Division, Section 73, 74
Bool Lagoon Game Reserve	Hundred Robertson, Section 223, 224, Section 356
Coorong Game Reserve	Hundred Santo, that portion of the Coorong situate between a straight line joining Jacks Point to the N.E. corner of Section 5 and a straight line, being the productionof the S.E. boundary of Section 5 to the Eastern boundary of the Coorong Teal Island, North Pelican Island, Halfway Island, Pelican Island and Mellor Island Hundred Santo, Section 1, 5, 36 and 37, and 150 link reserve adjacent to Section 5 and 13, Pelican Reef, South Reef, Seagull Island, Snipe Island and Wild Dog Island Hundred Santo, Section 31, 40, 44-48, 50 and 51
Mud Islands Game Reserve	Hundred Baker, Section 642-644, 646-652
Tolderol Game Reserve	Hundred Freeling, Section 349 and 150 link reserve adjacent to section 349
Bucks Lake Game Reserve.....	Hundred Kongorong, Section 618

SIXTH SCHEDULE

The following lands are hereby constituted Recreation Parks:—

Belair Recreation Park	Hundred Adelaide, Section 675
Para Wirra Recreation Park.....	Hundred Barossa, Section 311 Hundred Barossa, Section 183-185, 217, 181, 237, 238 and 299 Hundred Para Wirra, Section 423 Hundred Para Wirra, Section 428 Hundred Para Wirra, Section 429
Glossop Recreation Park	Berri Irrigation Area, Section 1444
Totness Recreation Park	Hundred Macclesfield, Section 124
Caratoola Recreation Park	Hundred Haslam, Section 53
Brownhill Creek Recreation Park	Hundred Adelaide, Section 676
Coulthard Recreation Park	Hundred Moorooroo, Part Section 161, C.T. 2362/58
The Elbow Recreation Park	Hundred Adelaide, Part Section 1285, C.T. 1655/79
Ferguson Recreation Park	Hundred Adelaide, Part Section 289, C.T. 367/196, C.T. 2051/195
Greenhill Recreation Park	Hundred Adelaide, Section 578 ..
Kingston Park Recreation Park..	Hundred Noarlunga, Section 1540, 1541
Lenswood Recreation Park	Hundred Onkaparinga, Part Section 5148, C.T. 2126/186
Loftia Recreation Park	Hundred Noarlunga, Part Section 421 and 422, C.T. 3635/150
Windy Point Recreation Park ...	Hundred Adelaide, Section 597
Shepherds Hill Recreation Park .	Hundred Adelaide, Part Section 14 and Part Section 35, C.T. 2396/141 Hundred Adelaide, Part Section 15, C.T. 3481/181 Hundred Adelaide, Part Section 36, C.T. 2201/97

SEVENTH SCHEDULE

Protected Native Plants

Emu Bush	*Eremophila longifolia*
Bullock Bush	*Heterodendron oleifolium*
Native Pittosporum	*Pittosporum phillyreoides*
Sugar Wood	*Myoporum platycarpum*
Native Orange	*Capparis mitchellii*
Native Peach	*Eucarya acuminata*
Bitter Quondong	*Eucarya murrayana*
King Fern	*Todea barbara*
Coral or Birdnest Fern	*Gleichenia circinata*
Hand Flower	*Cheiranthera linearis*
Hovea	*Hovea longifolia*
Orchids	All species
Sturt Pea	*Clianthus formosus*

EIGHTH SCHEDULE

Rare Species

Major Mitchell Cockatoo (*Kakatoe leadbeateri*)
Beautiful Firetail Finch (*Zonaeginthus bellus*)
Mallee Fowl (*Leipoa ocellata*)
Plain Wanderer (Turkey Quail) (*Pedionomus torquatus*)
Australian Bustard (Wild Turkey) (*Eupodotis australis*)
Brolga (Native Companion) (*Megalornis rubicundus*)
Southern Stone Curlew (*Burhinus magnirostris*)
Glossy Black Cockatoo (*Calyptorhynchus lathami*)
Ground Parrot (*Pezoporus wallicus*)
Night Parrot (*Geopsittacus occidentalis*)
Western Whipbird (*Psophodesnigrogularis*)
Eyrean Grass-Wren (*Amytornis goyderi*)
Princess Parrot (*Polytelis alexandrae*)
Scarlet-chested Parrot (*Neophema splendida*)
Orange-breasted Parrot (*Neophema chrysogaster*)
Red-throated Whistler (*Pachycephala rufogularis*)
Spotted Quail-Thrush (*Cinclosoma punctatum*)
Spotted Bower Bird (*Chlamydera maculata*)
Western Bower Bird (*Chlamydera guttata*)
Platypus (*Ornithorhynchus anatinus*)
Tiger Cat (*Dasyurus maculatus*)
Common Native Cat (*Dasyurus quoll*)
Black-tailed Native Cat (*Dasyurus geoffreyi*)
Brush-tailed Pouched Mouse (*Phascogale penicillata*)
Banded Ant-eater (*Myrmecobius fasciatus*)
Marsupial Mole (*Notoryctes typhlops*)
Nuyt's Islands Bandicoot (*Isoodon nauticus*)
Barred Bandicoot (*Perameles myosura*)
Rabbit Bandicoot (*Thylacomys lagotis*)
White-tailed Bilby (*Thylacomys leucurus*)
Lesser Bilby (*Thylacomys minor*)
Pig-footed Bandicoot (*Chaeropus ecaudatus*)
Koala (*Phascolarctos cinereus*)
Pigmy Gliding Possum (*Acrobates pygmaeus*)
Plain Rat-Kangaroo (*Caloprymnus campestris*)
Toolach Wallaby (*Protemnodon greyi*)
Pearson Island Rock-Wallaby (*Petrogale pearsoni*)
Flinders Island Wallaby (*Thylogale flindersi*)
Yellow-footed Rock-Wallaby (*Petrogale xanthopus*)

NINTH SCHEDULE

UNPROTECTED SPECIES

Zebra Finch (*Taeniopyguia castanotis*)
Budgerygah (*Melopsittacus undulatus*)
Red Wattlebird (*Anthochaera carunculata*)
Grey-backed Silvereye (*Zosterops halmaturina*)
Galah (*Kakatoe roseicapilla*)
Little Corella (*Kakatoe sanguinea*)
Australian Raven (*Corvus coronoides*)
Little Crow (*Corvus bennetti*)
Australian Crow (*Corvus orru cecilae*)
Little Raven (*Corvus mellori*)
Wild Dog (Dingo) (*Canis familiaris*)
All poisonous snakes

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 57 of 1972

An Act to provide for the continuation of the South Australian Institute of Technology; to provide for its administration and define its powers, functions, duties and obligations; to repeal the South Australian Institute of Technology Act, 1892-1967; and for other purposes.

[*Assented to 27th April,* 1972]

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 "South Australian Institute of Technology Act, 1972".

Commencement.

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

Interpretation.

3. In this Act, unless the contrary intention appears—

"appointed member" of the Council, means a member of the Council appointed by the Governor:

"elected member" of the Council means a member of the Council elected by the academic staff, the ancillary staff, or the students of the Institute:

"student" means a person enrolled as a student of the Institute:

"student member" of the Council means a member of the Council elected by the students of the Institute:

"the academic staff" means the persons holding office in the Institute as Heads of Schools, Heads of Departments, Principal Lecturers, Senior Lecturers, Lecturers and Assistant Lecturers and such other persons as are classified by the Council as members of the academic staff:

"the ancillary staff" means all persons in the full-time employment of the Council other than the academic staff:

"the Council" means the Council of the South Australian Institute of Technology:

"the Director" means the Director of the Institute:

"the Institute" means the South Australian Institute of Technology:

"the Institute grounds" means all land—

(*a*) held under any tenure by the Council;

(*b*) placed under the care, control and management of the Council under this Act, or the repealed Act, and for the time being continuing under that care, control and management;

or

(*c*) used by the Council for, or in connection with, the performance of the functions of the Institute,

and includes all buildings and structures on, and appurtenances to, that land:

"statutes" means statutes made under this Act:

"the repealed Act" means the Institute of Technology Act, 1892-1967, repealed by this Act.

Repeals.

4. (1) The following Acts are repealed:—

the School of Mines and Industries Act, 1892;

the School of Mines and Industries Act Amendment Act, 1959;

the Institute of Technology Act Amendment Act, 1967.

(2) Subject to this Act, the repeals effected by this Act do not affect—

(*a*) the continuity of status of any member, officer or employee of the Council holding office immediately before the commencement of this Act;

(*b*) the validity of any degree, diploma, certificate or award conferred or granted pursuant to the repealed Act;

(*c*) the validity of any decision or act of the Council made or performed under the repealed Act;

or

(*d*) the validity of any instrument conferring or imposing legal rights or obligations, made in pursuance of the repealed Act.

(3) The rules and regulations made pursuant to the repealed Act and in force immediately before the commencement of this Act shall remain in force until revoked or superseded by statutes or by-laws under this Act.

Continuance and functions of the Institute.

5. (1) Notwithstanding the repeals effected by this Act, the South Australian Institute of Technology shall continue to exist and shall have the functions, powers, duties, rights and obligations prescribed by this Act.

(2) The functions of the Institute shall be:—

(*a*) to provide advanced education and training in applied science, technologies, applied arts, administration, commerce and such other fields of knowledge as the Council may determine;

(*b*) to develop liberally-conceived educational programmes and and an active corporate life;

(*c*) to promote the dissemination and practical application of knowledge in the fields with which the Institute is concerned, for the advancement of industry and commerce and the benefit of the general community.

Continuance of status of the Council.

6. (1) The Council of the South Australian Institute of Technology shall continue to exist without change of its corporate identity and—

(*a*) shall have perpetual succession and a common seal;

(*b*) may take, purchase, receive, hold and dispose of real and personal property of any kind or any interest therein;

(*c*) shall be capable of acquiring or incurring any other legal rights or liabilities;

and

(*d*) may institute, defend or otherwise be a party to legal proceedings of any kind.

(2) Where an apparently genuine document purports to bear the common seal of the Council, it shall be presumed in the absence of evidence to the contrary that the common seal of the Council was duly affixed to that document.

Constitution of the Council.

7. (1) Until a day to be fixed by the Governor by proclamation, the Council shall continue to be constituted in accordance with the repealed Act.

(2) On and after the day so fixed the Council shall consist of twenty-one members namely—

(*a*) the Director, who shall be a member by virtue of his office as Director;

(*b*) five members of the academic staff elected by the academic staff;

(*c*) one member of the ancillary staff elected by the ancillary staff;

(*d*) two students of the Institute elected by the students of the Institute;

and

(*e*) twelve persons (of whom at least two shall be persons holding an award of the Institute or of the South Australian School of Mines and Industries) appointed by the Governor on the nomination of the Minister of Education.

Terms and conditions of office.

8. (1) Subject to this section, an appointed member of the Council shall hold office for such term, not exceeding three years, as the Governor specifies in the instrument of his appointment.

(2) Subject to this section, an elected member (other than a student member) shall hold office for a term of three years.

(3) Subject to this section, a student member shall hold office for a term of two years.

(4) An appointed member or an elected member shall, at the expiration of his term of office be eligible for re-appointment or re-election.

(5) A member of the Council shall hold office subject to such conditions as may be prescribed by the statutes.

(6) A person appointed or elected to a casual vacancy on the Council shall hold office for the balance of the term of his predecessor.

(7) Where an elected member of the Council does not continue in the capacity in which he was elected a member of the Council, he may continue as a member of the Council until the day on which an election of candidates in that capacity is next held, but shall then vacate his office.

The President and Vice-President of the Council.

9. (1) The Council shall, from time to time as occasion requires, appoint from its own membership a President and a Vice-President.

(2) The term of office of a President or Vice-President, the conditions upon which they shall hold their respective offices, and the powers, functions and duties appertaining to their respective offices shall be as prescribed by the statutes.

(3) The President and Vice-President of the Council holding office immediately before the commencement of this Act shall, subject to this Act and the statutes, continue in office until other appointments are made to their respective offices.

Conduct of Council's business.

10. (1) Every matter arising for the decision of the Council shall be decided by the votes of a majority of the members of the Council present at a meeting of the Council.

(2) A question shall not be decided at a meeting of the Council unless at least eleven members of the Council are present.

(3) The President, or if he is not present, the Vice-President, or if the President and Vice-President are not present, a Chairman elected by the members present, shall preside at any meeting of the Council.

(4) Each member shall be entitled to one vote on every matter arising for decision at a meeting of the Council, and in the event of an equality of votes, the person presiding at that meeting shall have, and may exercise, a second or casting vote.

Validity of decisions and acts.

11. A decision or act of the Council or of any committee or board appointed by the Council shall not be invalid solely on the ground of a vacancy in the office of any member of the Council, committee or board.

Management of Institute by Council.

12. (1) Subject to this Act and the statutes in force under this Act, the Council:—

(*a*) shall be the governing authority of the Institute;

(*b*) may appoint and dismiss members of the academic staff, examiners, officers and other employees;

(*c*) shall have full power to perform any other act necessary or expedient for the due administration of the Institute and the execution of the functions for which it is established.

(2) The Council may delegate any of its powers under this Act (except this power of delegation) to any member, officer or employee of the Council.

(3) The delegation of powers under this section shall not derogate from the power of the Council itself to act in any matter.

Degrees and awards.

13. (1) The Council may—

(*a*) confer degrees recognized and approved by the South Australian Board of Advanced Education upon those who have completed courses of advanced education accredited by the Board;

and

(*b*) confer fellowships, diplomas, certificates or other awards of such kinds as are prescribed by the statutes or determined by the Council upon persons who comply with requirements so prescribed or determined.

(2) The Council may also confer honorary fellowships, degrees or diplomas, or degrees or diplomas *ad eundem gradum*, on persons whom the Council deems deserving of them by reason of their attainments or public services.

(3) The Council may award scholarships granting such privileges or concessions in relation to tuition and such financial assistance as the Council determines.

The Director of the Institute.

14. (1) The Council shall, upon the occurrence of a vacancy in the office of Director of the Institute, appoint a suitable person to that office.

(2) The Director shall be responsible to the Council for the management and conduct of the Institute.

(3) The Director shall hold office subject to conditions prescribed by the statutes.

(4) The person holding office as Director of the Institute immediately before the commencement of this Act shall, subject to this Act, and the statutes, continue in that office.

Power to make Crown land available to Institute.

15. (1) Subject to this section, the Governor may, by proclamation:—

(*a*) direct that any unalienated Crown land be placed under the care, control and management of the Council for purposes of this Act;

(*b*) resume any such land previously placed under the care, control and management of the Council by proclamation under this Act or the repealed Act.

(2) Land shall not be placed under the care, control and management of the Council, or resumed, by proclamation under this section unless a notice of intention to make the proclamation and plans of the land are laid before each House of Parliament at least twenty-one sitting days before the making of the proclamation.

(3) The Minister may, subject to, and in accordance with the Land Acquisition Act, 1969, acquire land for the purposes of the Institute.

Accounts and audit.

16. (1) The Council shall keep proper accounts of its income, expenditure and other financial transactions.

(2) The accounts shall be annually audited by the Auditor-General of the State.

(3) For the purpose of the audit the Auditor-General shall have and may exercise in respect of the moneys and accounts of the Institute and the officers of the Institute and other persons dealing with the Institute the same powers as are vested by the Audit Act, 1921, as amended, in the Auditor-General in respect of public moneys, public accounts and accounting officers.

Annual report.

17. (1) The Council shall, not later than the thirtieth day of June in each year, prepare and present to the Governor a report on the work and proceedings of the Institute during the previous calendar year, and containing an abstract of the accounts of the Institute.

(2) The report shall be laid before Parliament.

Statutes.

18. (1) The Council may make, alter and repeal statutes for any of the following purposes or with respect to all or any of the following matters:—

(*a*) the conduct of the business and proceedings of the Council;

(*b*) the election of members of the Council;

(*c*) the conditions upon which the President, Vice-President, the Director or any other member, officer or employee of the Council shall hold office;

(*d*) the management, government and discipline of the Institute;

(*e*) the academic staff and the examiners, officers and other members of the staff of the Institute;

(*f*) the qualifications required for admission to any course or courses at the Institute;

(*g*) fellowships, degrees, diplomas, certificates, scholarships, exhibitions and other awards which may be granted by the Institute including the conditions to be complied with in order to obtain any such award;

(*h*) fees payable to the Institute for lectures and other instruction or any facility or service provided by the Institute, or for the grant of any fellowship, degree, diploma, certificate or other award;

(*i*) lectures, classes and examinations;

(*j*) residential accommodation for students;

(*k*) the establishment and management of branches of the Institute;

(*l*) co-operation between the Institute and any university or college or other educational institution;

(*m*) the maintenance of good order and discipline in the Institute;

(*n*) the establishment of a board of discipline, and its practice, procedure, jurisdiction and powers (which may include powers to punish by a monetary penalty, by expulsion or suspension from the Institute, or by exclusion from rights, privileges or benefits conferred by, or arising under, this Act, or the statutes);

(*o*) any matter incidental to any of those previously mentioned in this section;

(*p*) any other matter necessary or expedient for the management of the Institute or any other matter arising in the administration of this Act.

(2) Every statute made pursuant to this section:—

(*a*) shall be sealed with the seal of the Council and submitted to the Governor for confirmation;

(*b*) after confirmation shall be published in the *Gazette* and laid before Parliament;

(*c*) shall take effect on the day when it is published in the *Gazette* or any later day prescribed in the statute.

(3) A monetary penalty imposed for an offence against a statute shall be a debt due to the Council and may be recovered by the Council by action in a local court.

By-Laws.

19. (1) The Council may make, alter and revoke by-laws for all or any of the following purposes:—

(*a*) to prohibit persons from trepassing on the Institute grounds;

(*b*) to prevent damage to the Institute grounds (including any fixtures, chattels, trees, shrubs, bushes, flowers, gardens and lawns on those grounds);

(*c*) to regulate the speed at which vehicles or animals may be driven or ridden on the Institute grounds;

(*d*) to prohibit dangerous or careless driving or riding of vehicles or animals on the Institute grounds;

(*e*) to restrict or prohibit the driving of vehicles upon the Institute grounds according to the laden weight of the vehicle, or any part of the vehicle;

(*f*) to prescribe the route to be followed by traffic on roads, ways or tracks within the Institute grounds and the gates to be used for the entrance and exit of vehicles and pedestrians and to require the observance of one-way traffic rules on specific roads, ways or tracks;

(*g*) to prohibit or regulate the parking, ranking, placing and arranging of vehicles on the Institute grounds and to empower authorized persons to remove any vehicle from the Institute grounds without assigning any reason;

(*h*) requiring drivers and persons in charge of vehicles on the Institute grounds to comply with traffic directions (which may include directions as to the speed of vehicles, the course and direction of vehicles, the parking or standing of vehicles, and any other matters required for order or safety);

(*i*) generally to regulate traffic of all kinds on the Institute grounds;

(*j*) to prohibit disorderly or offensive behaviour by persons on the Institute grounds and to empower persons authorized by the Director to remove from those grounds persons guilty of disorderly or offensive behaviour thereon;

(*k*) to prohibit, restrict or regulate the consumption of alcoholic liquor on the Institute grounds and the bringing of alcoholic liquor on to those grounds, and to empower authorized persons to remove from the Institute grounds any intoxicated person and to search the Institute grounds and vehicles thereon for alcoholic liquor and to seize any liquor reasonably suspected of having been brought on to the Institute grounds contrary to any by-law;

(*l*) to empower the Council to take possession of any liquor brought on to the Institute grounds contrary to any by-law and to retain such possession until the liquor is removed or delivered for removal from those grounds;

(*m*) to prevent persons from climbing on fences or buildings or walking over gardens or lawns on the Institute grounds;

(*n*) to regulate the conduct of open air and indoor meetings held on the Institute grounds;

(*o*) to prevent the interruption of lectures or meetings by noise or unseemly behaviour on the Institute grounds (whether within or outside buildings) and to prevent undue noise from motor vehicles on the Institute grounds;

(*p*) to prescribe fines recoverable summarily not exceeding fifty dollars for any contravention of any by-law;

(*q*) to prescribe any other matters necessary or expedient for the maintenance of good order on the Institute grounds or for protection of the property of the Institute or for preventing hindrance to or interference with the work or other activities conducted on the Institute grounds;

(*r*) to declare that any by-law shall apply only in relation to a specified part of the Institute grounds.

(2) Every by-law made under this section:—

(*a*) shall be sealed with the seal of the Council and submitted to the Governor for confirmation;

(*b*) after confirmation shall be published in the *Gazette* and laid before each House of Parliament within the first fourteen sitting days of that House after the said publication;

(*c*) shall subject to subsection (3) of this section take effect from the day of publication in the *Gazette* or any later day prescribed in the by-law.

(3) If either House of Parliament, pursuant to a notice of motion given within fourteen sitting days after the by-law has been laid before that House, passes a resolution disallowing the by-law, it shall cease to have effect but without affecting the validity or curing the invalidity of anything done or omitted since it came into effect.

(4) Notice of a resolution passed as mentioned in subsection (3) of this section shall be forthwith published in the *Gazette*.

(5) Proceedings in respect of offences against a by-law shall, subject to subsection (6) of this section, be heard and determined summarily.

(6) The statutes may provide for proceedings against students or staff of the Institute in respect of offences against a by-law to be heard and determined by a board of discipline established under the statutes.

(7) An allegation in a complaint that any specified place was within the Institute grounds shall be deemed to be proved in the absence of proof to the contrary.

Validity and effect of statutes and by-laws.

20. (1) When a statute or by-law has been confirmed by the Governor and published in the *Gazette* all conditions precedent to the making thereof shall be conclusively deemed to have been fulfilled.

(2) Section 38 of the Acts Interpretation Act, 1915-1919, shall not apply to statutes and by-laws made under this Act.

(3) A statute or by-law made under this Act shall not take away or restrict any civil or criminal liability under any other Act or at common law.

(4) Where an act or omission is an offence against a statute and a by-law made under this Act, the offender may be charged and punished under either the statute or by-law, but not both.

21. The Council shall not discriminate against or in favour of any person on grounds of sex, race, or religious or political belief.

Council not to discriminate on grounds of sex, race, or religious or political belief.

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

J. M. NAPIER, Governor's Deputy

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 58 of 1972

An Act to amend the Legal Practitioners Act, 1936-1969; the Limitation of Actions Act, 1936-1959; the Local Government Act, 1934-1971; the Motor Vehicles Act, 1959-1971; and the Wrongs Act, 1936-1959.

[*Assented to 27th April,* 1972]

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

Short title.

1. This Act may be cited as the "Statutes Amendment (Miscellaneous Provisions) Act, 1972".

Commencement.

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

Arrangement of Act.

3. This Act is arranged as follows:—

PART I—PRELIMINARY

PART II—AMENDMENT OF THE LEGAL PRACTITIONERS ACT, 1936-1969

PART III—AMENDMENT OF THE LIMITATION OF ACTIONS ACT, 1936-1959

PART IV—AMENDMENT OF THE LOCAL GOVERNMENT ACT, 1934-1971

PART V—AMENDMENT OF THE MOTOR VEHICLES ACT, 1959-1971

PART VI—AMENDMENT OF THE WRONGS ACT, 1936-1959

PART II

PART II

AMENDMENT OF THE LEGAL PRACTITIONERS ACT, 1936-1969

Short titles.

4. (1) The Legal Practitioners Act, 1936-1969, as amended by this Part, may be cited as the "Legal Practitioners Act, 1936-1972".

(2) The Legal Practitioners Act, 1936-1969, is referred to in this Part as "the principal Act".

Amendment of principal Act, s. 3—Arrangement of Act.

5. Section 3 of the principal Act is amended by inserting after the item "PART VI.—Public Notaries: sections 61-67" the item "PART VII.—General Provisions—s. 68".

Enactment of Part VII of principal Act.

6. The following heading and section are enacted and inserted in the principal Act immediately after section 67:—

PART VII

GENERAL PROVISIONS

Abrogation of rule in *Yonge v. Toynbee* (1910) 1 K.B. 215.

68. (1) The authority of a legal practitioner to act on behalf of any person is not abrogated by reason only of the fact that that person becomes of unsound mind.

(2) When the mental unsoundness of a person on behalf of whom a legal practitioner is acting comes to the knowledge of the legal practitioner, his authority to act on behalf of that person shall, subject to subsection (3) of this section, cease and determine.

(3) Where it is necessary for the purpose of protecting the interests of a person of unsound mind in any legal proceedings or other business, the authority of a legal practitioner shall, notwithstanding that he knows of the mental unsoundness of a person on behalf of whom he is acting, continue for the purpose of completing those proceedings or that business.

PART III

AMENDMENT OF THE LIMITATION OF ACTIONS ACT, 1936-1959

Short titles.

7. (1) The Limitation of Actions Act, 1936-1959, as amended by this Part, may be cited as the "Limitation of Actions Act, 1936-1972".

(2) The Limitation of Actions Act, 1936-1959, is referred to in this Part as "the principal Act".

Repeal of ss. 45 and 46 of principal Act and enactment of sections in their place—

8. Sections 45 and 46 of the principal Act are repealed and the following sections and headings are enacted and inserted in their place:—

Persons under legal disability.

45. (1) Where the time for bringing on action or proceeding is limited by this Act, or any other Act or law, and the person who is entitled to bring the action or proceeding is under a legal disability, the time for bringing that action or proceeding shall, subject to subsection (3) of this section, be extended by the period or periods for which the disability exists or continues after the time at which the right to bring the action or proceeding arose.

(2) For the purposes of this section a person is under a legal disability in relation to an action or proceeding while he remains an infant or while he is subject to a mental deficiency, disease or disorder by reason of which he is incapable of reasoning or acting rationally in relation to the action or proceeding that he is entitled to bring.

(3) No period of limitation shall be extended by this section to more than thirty years from the time at which the right to bring the action or proceeding arose.

Imprisonment or absence of persons entitled to action.

46. No person shall be entitled to any further time beyond the period fixed by this Act within which to bring any action or proceeding by reason of the fact that he has been absent from the State or imprisoned.

Actions pursuant to the survival of Causes of Action Act

Extension of period of limitation where cause of action survives.

46a. Where a cause of action survives for the benefit of the estate of a deceased person, the time limited for the commencement of the action shall be extended by a period equal to the period between the death of the deceased and the grant of probate or letters of administration to the executor or administrator of his estate, or by a period of twelve months, whichever is the lesser.

9. The following section is enacted and inserted in the principal Act immediately after section 47 thereof:— Enactment of s. 48 of principal Act—

48. (1) Subject to this section, a court by which an action could, if it were not out of time, be entertained, may extend the time for bringing the action. Extension of period of limitation.

(2) An extension of time shall not be granted by a court under subsection (1) of this section unless it is satisfied that facts material to the plaintiff's case were not ascertained by him until—

(*a*) after, or within twelve months before, the expiration of the period of limitation;

and

(*b*) within twelve months before the commencement of the action,

and that in all the circumstances of the case it is fair and equitable to grant the extension of time.

(3) Where an extension of time is sought pursuant to this section in respect of an action, the action may be initiated in the normal manner, but the process by which it is initiated must be endorsed with a statement to the effect that the plaintiff seeks an extension of time pursuant to this section.

(4) The proceedings relating to the extension of time may be determined by the court at any time before or after the close of pleadings.

PART IV

PART IV

AMENDMENT OF THE LOCAL GOVERNMENT ACT, 1934-1971

10. (1) The Local Government Act, 1934-1971, as amended by this Part, may be cited as the "Local Government Act, 1934-1972". Short titles.

(2) The Local Government Act, 1934-1971, is referred to in this Part as "the principal Act".

11. Section 719 of the principal Act is repealed. Repeal of s. 719 of principal Act.

PART V

PART V

AMENDMENT OF THE MOTOR VEHICLES ACT, 1959-1971

Short titles.

12. (1) The Motor Vehicles Act, 1959-1971, as amended by this Part, may be cited as the "Motor Vehicles Act, 1959-1972".

(2) The Motor Vehicles Act, 1959-1971, is referred to in this Part as "the principal Act".

Amendment of principal Act, s. 115—

Claims against nominal defendant where vehicle not identified.

13. Section 115 of the principal Act is amended—

(*a*) by striking out subsection (1) and inserting in lieu thereof the following subsection:—

(1) Where—

(*a*) the driver of a motor vehicle has caused death or bodily injury by negligence in the use of that vehicle;

and

(*b*) the identity of the driver and the vehicle has not after due inquiry and search been ascertained,

a person who could have obtained a judgment in respect of that death or bodily injury against the driver may recover by action against a nominal defendant named by the Minister the amount of the judgment that he could have recovered against the driver.;

and

(*b*) by inserting after subsection (2) the following subsections:—

(3) A person who proposes to proceed against the nominal defendant in pursuance of this section must as soon as reasonably practicable after it becomes apparent that the identity of the vehicle or the driver is not readily ascertainable give to the Minister notice in writing of his claim and a short statement of the grounds thereof.

(4) Where a claimant fails to give notice of his claim in accordance with the requirements of subsection (3) of this section, and the court before which the action is brought is satisfied on the balance of probabilities that the defendant has been prejudiced in the conduct of his defence by that failure, it may, if the justice of the case so requires, dismiss the action.

14. Section 116 of the principal Act is amended by striking out from subsection (2) the passage "within six months after the accident causing that death or bodily injury". Amendment of principal Act, s. 116— Claim against nominal defendant where vehicle uninsured.

PART VI

AMENDMENT OF THE WRONGS ACT, 1936-1959

15. (1) The Wrongs Act, 1936-1959, as amended by this Part, may be cited as the "Wrongs Act, 1936-1972". Short titles.

(2) The Wrongs Act, 1936-1959, is referred to in this Part as "the principal Act".

16. Section 25 of the principal Act is amended— Amendment of principal Act, s. 25— Contribution between tort feasors.

(*a*) by striking out subparagraphs (iii) and (iv) of paragraph (*ca*) of subsection (1) and inserting in lieu thereof the following subparagraphs:—

(iii) that the plaintiff has not duly given any notice that would be required if the plaintiff were to recover judgment against that person;

or

(iv) that the time within which the plaintiff may commence action against the third party has expired;;

(*b*) by striking out from subsection (2) the passage "subsection (1) of";

(*c*) by inserting after the definition of "plaintiff" in subsection (2) the following definition:—

"proceedings" means proceedings before a court.;

and

(*d*) by inserting after subsection (2) the following subsection:—

(3) Any proceedings by a tort feasor for the recovery of contribution from a third-party under this section must be instituted before the expiration of two years from the day on which the amount of damages or other compensation payable by the tort feasor to the plaintiff is determined by the judgment of a court of competent jurisdiction, or by agreement between the plaintiff and the tort feasor.

Enactment of s. 27c of principal Act.

17. The following heading and section are enacted and inserted in the principal Act immediately after section 27b thereof:—

Rights as between employer and employee in cases of vicarious liability

Rights as between employer and employee.

27c. (1) Notwithstanding any Act or law, or the provisions express or implied of any contract or agreement, where an employee commits a tort for which his employer is vicariously liable—

(*a*) the employee shall not be liable to indemnify the employer in respect of the vicarious liability incurred by the employer;

and

(*b*) unless the employee is otherwise entitled to indemnity in respect of his liability, the employer shall be liable to indemnify the employee in respect of liability incurred by the employee in respect of the tort.

(2) Where an employer is proceeded against for the tort of his employee, and the employee is entitled pursuant to a policy of insurance or contract of indemnity to be indemnified in respect of liability that he may incur in respect of the tort, the employer shall be subrogated to the rights of the employee under that policy or contract in respect of the liability incurred by him (the employer), arising from the commission of the tort.

(3) Where a person commits serious and wilful misconduct in the course of his employment and that misconduct constitutes a tort, the provisions of this section shall not apply in respect of that tort.

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

J. M. NAPIER, Governor's Deputy

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 59 of 1972

An Act relating to the rationing of liquid fuel during the present emergency and for other purposes.

[*Assented to* 31*st July*, 1972

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—PRELIMINARY

PART I

Short title.

1. This Act may be cited as the "Liquid Fuel (Rationing) Act, 1972".

Division of Act.

2. This Act is divided as follows—

PART I—PRELIMINARY

PART II—THE PROCLAMATION

PART III—PERMITS, ETC.

PART IV—BULK FUEL

PART V—MISCELLANEOUS

Interpretation.

3. In this Act, unless the contrary intention appears—

"condition" in relation to a permit, includes any condition, limitation or restriction, however expressed:

PART I

"liquid fuel" means—

(*a*) motor spirit or the motor fuel known as distillate;

and

(*b*) any substance, whether or not of the same kind as the foregoing, for the time being declared by proclamation to be liquid fuel for the purpose of this Act:

"Minister" means the Minister of Labour and Industry:

"permit holder", in relation to a permit, means the holder of that permit:

"permit" means a permit issued under section 7 of this Act that is for the time being in force and includes a permit that was granted for the purposes of the Proclamation that is for the time being in force:

"sell" includes—

(*a*) offer or expose for sale;

(*b*) keep or have in possession for sale;

(*c*) barter or exchange;

(*d*) deal in or agree to sell;

(*e*) send forward or deliver for sale or on sale;

and

(*f*) the act of authorizing, directing, causing, permitting or suffering any of the acts referred to in paragraphs (*a*) to (*e*) of this definition,

and the expressions "sale" and "sold" have corresponding meanings:

"the appointed day" means the day next following the day on which this Act is assented to by the Governor:

"the Proclamation" means a proclamation made on the twenty-eighth day of July, 1972 and published in *Gazette* No. 36 of the twenty-eighth day of July, 1972 at page 746A.

PART II

PART II—THE PROCLAMATION

Validation of the proclamation.

4. (1) The Proclamation is deemed to be and always to have been as valid and effectual in all respects as it would have been if, at the time when it was made, there had been express power conferred by the Industrial Code, 1967-1972, to make the Proclamation.

(2) Without otherwise limiting the generality of subsection (1) of this section, no proceedings, under the Industrial Code, 1967-1972, shall be brought in respect of an offence under that Act where those proceedings depend for their efficacy on the validation of the Proclamation by that subsection.

Revocation of the proclamation.

5. (1) On the appointed day the Proclamation shall, by force of this section, be revoked.

(2) The revocation effected by subsection (1) of this section shall not—

(*a*) affect the operation of the Proclamation or alter the effect of the doing, suffering or omission of anything prior to such revocation;

(*b*) affect any right, interest, title, power or privilege created, acquired, accrued, established or exercisable or any status or capacity existing prior to such revocation;

(*c*) affect any duty, obligation, liability or burden of proof imposed, created or incurred or any penalty, forfeiture or punishment incurred or imposed or liable to be incurred or imposed, prior to such revocation; or

(*d*) affect any investigation, legal proceeding or remedy in respect of any such right, interest, title, power, privilege, status, capacity, duty, obligation, liability, burden of proof, penalty, forfeiture, or punishment as aforesaid.

(3) Any investigation, legal proceeding, or remedy referred to in subsection (2) of this section may be instituted, continued, or enforced, and any such penalty, forfeiture, or punishment may be imposed and enforced as if the proclamation had not been revoked.

Expiration of certain permits.

6. The revocation effected by subsection (1) of section 5 of this Act shall not affect the efficacy of any permit granted for the purposes of the Proclamation and unless that permit is sooner revoked pursuant to this Act that permit shall continue in full force and effect as if it were a permit issued under subsection (1) of section 7 of this Act until the fourth day of August, 1972 but thereafter that permit shall have no further force or effect.

PART III—PERMITS, ETC.

Power to issue permits.

7. (1) The Minister may, in his absolute discretion, issue a permit to any person if the Minister is satisfied that it is in the public interest that the person should be issued with a permit.

(2) A permit shall be in the form provided in the schedule to this Act.

(3) A permit under this section may be issued subject to such conditions as the Minister thinks fit.

PART III

Revocation of permits.

8. (1) The Minister may in his absolute discretion revoke a permit (including a permit granted for the purposes of the Proclamation) and upon that revocation that permit shall have no further force or effect.

(2) Without limiting the generality of subsection (1) of this section, the Minister may revoke any permit referred to in that subsection if he believes, on reasonable grounds, that the permit holder has committed or is likely to commit an offence against this Act.

(3) A person who has possession, custody or control of a permit that has been revoked under this section shall forthwith deliver that permit to the Minister or to a person directed by the Minister.

Penalty: One thousand dollars.

Authorization to sell liquid fuel.

9. (1) The Minister may authorize a person to sell or deliver liquid fuel to another person notwithstanding that the other person is not a permit holder and a person who sells or delivers liquid fuel in accordance with that authorization will, notwithstanding any other Act or law, not, by reason of that sale or delivery, commit an offence.

(2) The Minister may, by notice in writing, revoke an authorization given under subsection (1) of this section.

(3) Upon the revocation of an authorization pursuant to subsection (2) of this section that authorization shall have no further force or effect.

Prohibition on the sale of liquid fuel.

10. (1) Subject to this section, on or after the appointed day a person shall not—

(*a*) sell by retail any liquid fuel to a person other than a permit holder;

or

(*b*) sell by retail any liquid fuel in contravention of a condition applicable to the seller set out in that permit.

Penalty: One thousand dollars.

(2) Subsection (1) of this section shall not apply to or in relation to the sale of liquid fuel to a person where that sale is authorized by the Minister under section 9 of this Act.

PART III

Liquid fuel restriction on use.

11. (1) A permit holder who has been sold liquid fuel under a permit shall not, on or after the appointed day, use that liquid fuel for a purpose other than the purpose referred to in that permit or for a purpose necessarily incidental to that purpose.

Penalty: One thousand dollars.

(2) A person to whom liquid fuel has been sold or delivered pursuant to an authorization of the Minister under section 9 of this Act shall not, on or after the appointed day, use that liquid fuel for a purpose other than the purpose for which that liquid fuel was sold or delivered or for a purpose necessarily incidental to that purpose.

Penalty: One thousand dollars.

Unlawful disposition of liquid fuel.

12. A permit holder shall not sell or otherwise part with to any other person any liquid fuel sold to him under a permit.

Penalty: One thousand dollars.

Lending permit, etc.

13. Except as provided by this Act, a permit holder shall not lend, hire or otherwise part with his permit to another person.

Penalty: Five hundred dollars.

Persons other than permit holders not to purchase fuel.

14. Except as is provided by this Act, a person other than a permit holder shall not, on or after the appointed day, buy, by retail, any liquid fuel.

Penalty: One thousand dollars.

Permit holder to carry permit.

15. A permit holder shall at all times while he is in charge of a vehicle using fuel that has been sold under a permit, carry that permit and shall not refuse or fail to produce that permit for inspection by a member of the police force on demand by that member.

Penalty: Twenty dollars.

Power to stop vehicle and ask questions.

16. (1) A member of the police force may—

(*a*) request the driver of a vehicle on a road to stop that vehicle;

and

(*b*) ask a driver or the person apparently in charge of a vehicle (whether on a road or elsewhere) questions for the purpose of ascertaining the name and place of residence or place of business of that driver or

PART III

person or of the owner of the vehicle and questions relating to any liquid fuel in or on the vehicle including questions relating to the circumstances in which the liquid fuel was obtained.

(2) A person shall forthwith—

(*a*) comply with a request made to him under subsection (1) of this section to stop the vehicle; and

(*b*) truly answer all questions put to him under subsection (1) of this section.

Penalty: Two hundred dollars.

False statements.

17. (1) A person shall not make any statement or representation whether express or implied in connection with an application for a permit that is false or inaccurate in a material particular.

Penalty: One thousand dollars.

(2) In any prosecution for a contravention of subsection (1) of this section, it shall be a defence for the defendant to prove that he did not know and could not by the exercise of all reasonable diligence have known that the statement or representation was false or inaccurate.

PART IV

PART IV—BULK FUEL

Definition of bulk fuel.

18. In this Part—

"bulk fuel" means the liquid fuel in a container having a capacity of not less than forty gallons.

Notice by Minister.

19. (1) The Minister may, by notice in writing, prohibit or restrict the movement of any particular consignment of bulk fuel, of any class of consignments of bulk fuel, or of consignments of bulk fuel generally.

(2) A person shall not move or suffer or permit to be moved a consignment of bulk fuel in contravention of a notice under subsection (1) of this section.

Penalty: One dollar for every gallon of bulk fuel comprised in the consignment.

(3) In any prosecution for a contravention of subsection (2) of this section, a certificate purporting to be signed by the Minister authenticating a notice purporting to have been made under subsection (1) of this section shall in the absence of proof to the contrary be proof of the due making of the notice and of the contents thereof.

PART V—MISCELLANEOUS

Powers of Minister.

20. The powers of the Minister under this Act may be exercised on his behalf by any person for the time being so authorized by the Minister and where the exercise of those powers is expressed to depend on a discretion or a state of mind of the Minister that reference shall be read as if it referred to a discretion or a state of mind of the person authorized to exercise those powers.

Acts, etc. not actionable.

21. No proceedings of any kind shall be instituted or heard in any court in respect of any act or decision of the Minister or any person authorized by him in the exercise or purported exercise of his powers under this Act or under the Proclamation.

Allegations in complaint.

22. In proceedings for an offence against this Act, an allegation in a complaint—

(*a*) that any substance was liquid fuel;

(*b*) that any liquid fuel was bulk fuel;

(*c*) that any liquid fuel was of a quantity specified;

(*d*) that a person was or was not at a particular time a permit holder;

or

(*e*) that a person was or was not at a particular time authorized under section 9 of this Act,

shall be *prima facie* evidence of the matter so alleged.

Cessation of operation of Parts III and IV.

23. (1) The Governor may, by proclamation, declare that, on and from a day specified therein the operation of Part III and Part IV of this Act shall cease.

(2) The cessation effected by subsection (1) of this section shall not—

(*a*) revive anything not in force or existing at the time at which such cessation took effect;

(*b*) affect the operation of a provision of this Act which has ceased, or alter the effect of the doing, suffering, or omission of anything prior to that cessation;

(*c*) affect any right, interest, title, power or privilege created, acquired, accrued, established or exercisable, or any status or capacity existing, prior to that cessation;

(*d*) affect any duty, obligation, liability or burden of proof imposed, created, or incurred, or any penalty, forfeiture or punishment incurred or imposed, or liable to be incurred or imposed, prior to that cessation;

or

(*e*) affect any investigation, legal proceeding or remedy in respect of any such right, interest, title, power, privilege, status, capacity, duty, obligation, liability, burden of proof, penalty, forfeiture or punishment as aforesaid.

(3) Any investigation, legal proceeding or remedy referred to in subsection (2) of this section may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed and enforced, as if the proclamation referred to in subsection (1) of this section had not been made.

Profiteering.

24. Notwithstanding anything in paragraph (*a*) of subsection (3) of section 50 of the Prices Act, 1948-1971, the punishment for an offence prosecuted summarily that is a contravention or failure to comply with subsection (1) of section 25 of that Act where that offence related to declared goods being liquid fuel and occurred before the cessation of operation of Part III of this Act shall be a fine not exceeding one thousand dollars or imprisonment for a term not exceeding six months or both.

Consent of Attorney-General.

25. (1) A prosecution for a contravention of this Act shall not be commenced without the consent of the Attorney-General.

(2) In any prosecution referred to in subsection (1) of this section a document purporting to be a consent referred to in that subsection shall in the absence of proof to the contrary be deemed to be such a consent.

Forfeiture of liquid fuel.

26. Any liquid fuel in relation to which an offence was committed against this Act shall be forfeited to the Crown.

Summary proceedings.

27. Proceedings for an offence against this Act shall be disposed of summarily.

Regulations.

28. (1) The Governor may make such regulations as are necessary or expedient for the purpose of giving effect to the provisions and objects of this Act.

(2) Without limiting the generality of subsection (1) of this section the regulations may—

(*a*) create offences; and

(*b*) impose a penalty not exceeding five hundred dollars for contravention of or failure to comply with any regulation.

Expiry of Act.

29. This Act shall expire on the thirty-first day of August, 1972 and on and after that day shall, for all purposes, be deemed to have been repealed.

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

M. L. OLIPHANT, Governor

S.7

THE SCHEDULE

No.

PERMIT FOR EMERGENCY LIQUID FUEL

PURSUANT to the provisions of the Liquid Fuel (Rationing) Act, 1972, I, a person authorized by the Minister of Labour and Industry hereby issue a permit to—

.....
(Name)

.....
(Address)

.....

to purchase liquid fuel being.....

Conditions of this Permit

1. That liquid fuel purchased under this permit may be used only for the following purpose .....

   .....

   and in vehicle(s) No.(s): .....

2. That the quantity of liquid fuel purchased under this permit shall not exceed.....gallons in the aggregate.

3. That no liquid fuel shall be purchased under this permit after ..../..../1972.

4. .....

.....
(Here insert any other conditions)

.....
Authorized person

.....
Specimen signature of permit holder

It is a further condition of this permit that a person who sells liquid fuel under this permit shall complete the following record of the purchase:

Date	Quantity sold in gallons	Name and address of seller	Signature of seller
.....			
.....			
.....			
.....			
.....			

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 60 of 1972

An Act to provide for compensation for loss arising from measures to eradicate fruit fly.

[*Assented to* 10*th August*, 1972]

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 "Fruit Fly (Compensation) Ac (No. 2), 1972".

Incorporation.

2. This Act is incorporated with the Fruit Fly Act, 1947-1955, and that Act and this Act shall be read as one Act.

Compensation.

3. (1) Any person who suffers loss by reason of—

(*a*) any of the acts to which this section applies;

or

(*b*) being prohibited from removing fruit from any land by the operation of a proclamation made under the Vine, Fruit and Vegetable Protection Act, 1885-1959, on the twentieth day of April, 1972 and published in the *Gazette* on the twentieth day of April, 1972 at page 1498,

shall be entitled to compensation for that loss as provided by the Fruit Fly Act, 1947-1955.

(2) This section shall apply to—

(*a*) any act done pursuant to the exercise or intended exercise of powers conferred by the fruit fly regulations, if such act is done on land while the removal of fruit therefrom is prohibited by the proclamation referred to in subsection (1) of this section;

or

(*b*) any act done in the course of, or incidentally to, the doing of any act of the kind mentioned in paragraph (*a*) of this subsection.

(3) This section shall apply to acts done and loss suffered before or after the commencement of this Act.

Time limit for claims.

4. Notwithstanding the provisions of subsection (1a) of section 5 of the Fruit Fly Act, 1947-1955, a notice of claim under that section for compensation under section 2 of this Act shall be delivered to the Committee on or before the thirty-first day of August, 1972.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 61 of 1972

An Act to amend the Liquid Fuel (Rationing) Act, 1972.

[*Assented to* 10*th August,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Liquid Fuel (Rationing) Act Amendment Act, 1972".

(2) The Liquid Fuel (Rationing) Act, 1972, as amended by this Act, may be cited as the "Liquid Fuel (Rationing) Act, 1972".

(3) The Liquid Fuel (Rationing) Act, 1972, is hereinafter referred to as "the principal Act".

Amendment of principal Act, s. 3—Interpretation.

2. Section 3 of the principal Act is amended by striking out from paragraph (*a*) of the definition of "liquid fuel" the passage "or the motor fuel known as distillate".

Amendment of principal Act, s. 14—Persons other than permit holders not to purchase fuel.

3. Section 14 of the principal Act is amended by inserting after the present contents thereof (which are hereby designated subsection (1) thereof) the following subsection:—

(2) Subsection (1) of this section shall not apply to or in relation to the sale of liquid fuel to a person where that sale is authorized by the Minister under section 9 of this Act.

Amendment of principal Act, s. 19— Notice by Minister.

4. Section 19 of the principal Act is amended by inserting immediately after subsection (3) the following subsection:—

(4) A notice under subsection (1) of this section—

(*a*) may be withdrawn by the Minister at any time and upon such withdrawal shall cease to have any further force or effect;

and

(*b*) shall, if not already withdrawn, cease to have any further force or effect on and after the day on which this Act expires.

Repeal of s. 23 of principal Act and enactment of section in its place—

5. Section 23 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Suspension of operation of Part III and Part IV, etc.

23. (1) The Governor may from time to time by proclamation declare that, on and from a day specified therein, the operation of the provisions of Part III and Part IV of this Act shall be suspended—

(*a*) in relation to all liquid fuel or to liquid fuel of a class or kind specified in the proclamation;

and

(*b*) in relation to the State or to an area of the State described in the proclamation,

and the Governor may by a subsequent proclamation revoke any such suspension.

(2) During the currency of any suspension of the operation of the provisions of Part III and Part IV of this Act, this Act shall apply and have effect, for all purposes, as if those provisions were, to the extent set out in the proclamation so suspending the operation of those provisions, repealed by an Act.

(3) Where by a subsequent proclamation, referred to in subsection (1) of this section, any suspension of operation of the provisions of Part III and Part IV of this Act is revoked this Act shall apply and have effect for all purposes as if the revival of the operation of those provisions was effected by an Act amending this Act.

Amendment of principal Act, s. 29— Expiry of Act.

6. Section 29 of the principal Act is amended—

(*a*) by inserting after the passage "This Act" the passage ", as amended,";

and

(*b*) by inserting after the present contents thereof, as amended, (which are hereby designated subsection (1) thereof) the following subsection:—

(2) On and after the thirty-first day of August, 1972, the Liquid Fuel (Rationing) Act Amendment Act, 1972, shall, for all purposes, be deemed to have been repealed.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 62 of 1972

An Act to amend the Constitution Act, 1934-1971.

[*Assented to 24th August,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Constitution Act Amendment Act, 1972".

(2) The Constitution Act, 1934-1971, as amended by this Act, may be cited as the "Constitution Act, 1934-1972".

(3) The Constitution Act, 1934-1971, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 42—

3. Section 42 of the principal Act is amended—

Oath of allegiance.

(*a*) by striking out subsection (1) and inserting in lieu thereof the following subsection:—

(1) No member of Parliament, elected a member of Parliament on or after the commencement of the Constitution Act Amendment Act, 1972, shall be permitted to sit or vote therein until he has taken and

subscribed the following oath before the Governor, or before some person or persons authorized by the Governor to administer such oath:—

"I, , do swear that I will be faithful and bear true allegiance to Her Majesty, Queen Elizabeth the Second, Her Heirs and Successors, according to law. SO HELP ME GOD!";

and

(*b*) by inserting immediately after subsection (3) the following subsection:—

(4) In the case of a member of Parliament elected before the commencement of the Constitution Act Amendment Act, 1972, section 42 of the Constitution Act, 1934-1971, as in force immediately before that commencement, shall, during so much of the term of office for which that member was elected as occurs after that commencement, apply in respect of that member as if the Constitution Act Amendment Act, 1972, had not been enacted.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 63 of 1972

An Act to apply, out of the General Revenue, a further sum of Sixty Million Dollars to the Public Service for the financial year ending on the thirtieth day of June, 1973.

[*Assented to 24th August,* 1972]

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 "Supply Act (No. 2), 1972".

Issue and application of $60,000,000.

2. Out of the General Revenue of the State there shall be issued and applied, from time to time, for the public service of the State for the financial year ending on the thirtieth day of June, 1973, in addition to any moneys so issued and applied pursuant to the Supply Act (No. 1), 1972, any moneys not exceeding in the whole sixty million dollars.

Payments not to exceed last year's Estimates except in certain respects.

3. (1) No payments for any establishment or service shall be made out of the moneys referred to in section 2 of this Act in excess of the rates voted for similar establishments or services on the Estimates for the financial year ended on the thirtieth day of June, 1972, but there may be paid out of those moneys increases of salaries or wages payable by the Government of the State pursuant to any return made under the Acts relating to the public service, or pursuant to any regulation, or any award, order, or determination of a court or other body empowered to fix salaries or wages.

(2) The Treasurer is hereby authorized to pay such increases out of those moneys.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 64 of 1972

An Act to amend the Textile Products Description Act, 1953-1969.

[*Assented to 24th August,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Textile Products Description Act Amendment Act, 1972".

(2) The Textile Products Description Act, 1953-1969, as amended by this Act, may be cited as the "Textile Products Description Act, 1953-1972".

(3) The Textile Products Description Act, 1953-1969, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 4—Interpretation.

3. Section 4 of the principal Act is amended by striking out from paragraph (*c*) of the definition of "textile product" the passage "of wearing apparel".

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 65 of 1972

An Act to amend the Parliamentary Superannuation Act, 1948-1971.

[*Assented to* 31*st August,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Parliamentary Superannuation Act Amendment Act, 1972".

(2) The Parliamentary Superannuation Act, 1948-1971, as amended by this Act, may be cited as the "Parliamentary Superannuation Act, 1948-1972".

(3) The Parliamentary Superannuation Act, 1948-1971, is hereinafter referred to as "the principal Act".

Amendment of principal Act, s. 9—Contributions by members.

2. Section 9 of the principal Act is amended by striking out the subsection designated (1a) thereof as inserted by section 3 of the Parliamentary Superannuation Act Amendment Act, 1953.

Enactment of s. 16c of principal Act—

3. The following section is enacted and inserted in the principal Act immediately after section 16b thereof:—

Supplementation of certain pensions.

16c. (1) In this section "determination day", in relation to a pension, means "determination day" as defined in subsection (2) of section 16b of this Act.

(2) Every pension payable under this Act—

(*a*) that had a determination day that occurred before the thirtieth day of June, 1971;

and

(*b*) that was payable immediately before the day fixed by proclamation for the purposes of this section,

shall on and from the day so fixed by proclamation be increased by five per cent.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 66 of 1972

An Act to amend the Police Pensions Act, 1971.

[*Assented to* 31*st August,* 1972]

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 "Police Pensions Act Amendment Act, 1972". Short titles.

(2) The Police Pensions Act, 1971, as amended by this Act, may be cited as the "Police Pensions Act, 1971-1972".

(3) The Police Pensions Act, 1971, is hereinafter referred to as "the principal Act".

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

3. Section 27 of the principal Act is amended— Amendment to principal Act, s. 27—

(*a*) by inserting immediately after subsection (1) the following subsection:— Widow's pension.

(1a) A pension of a widow, that pursuant to any of the repealed Acts ceased on her re-marriage, shall, if she again became or becomes a widow, subject to subsection (2) of this section, again be payable on and from the day of commencement of this Act if she

again became a widow before that commencement or on and from the day on which she again becomes a widow if that event occurred or occurs on or after that commencement.;

(*b*) by inserting in subsection (2) after the passage "referred to in subsection (1)" the passage "or subsection (1a)";

(*c*) by inserting in paragraph (*a*) of subsection (2) after the passage "subsection (1)" the passage "or subsection (1a)";

and

(*d*) by inserting immediately after subsection (2) the following subsection:—

(3) Where pursuant to this section a widow's pension again became or becomes payable that pension shall from time to time be payable at the rate at which it would have been payable had it not ceased or, as the case may be, ceased to be payable.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 67 of 1972

An Act to authorize the Treasurer to borrow and expend money for public purposes, and to enact other provisions incidental thereto.

[*Assented to* 31*st August,* 1972]

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

1. This Act may be cited as the "Public Purposes Loan Act, 1972". Short title.

2. This Act shall be deemed to have come into operation on the first day of July, 1972. Commencement of Act.

3. In this Act, unless the context otherwise requires— Interpretation.

"schedule" means schedule to this Act:

"the financial agreement" means the Financial Agreement made between the Commonwealth and the States as set out in the schedule to the Agreement contained in the Appendix to the Amending Financial Agreement Act, 1944, as amended by the Agreement set out in the schedule to the Amending Financial Agreement Act, 1966:

"the loan fund" means the moneys mentioned in section 4 of this Act.

The loan fund.

4. For the purposes of this Act the loan fund shall consist of—

(*a*) all money which immediately before the commencement of this Act was standing to the credit of the loan fund as defined in the Public Purposes Loan Act, 1971;

and

(*b*) all money credited after the commencement of this Act to the Loan Fund Account pursuant to the Public Finance Act, 1936, as amended.

Power to borrow.

5. On or before the thirtieth day of June, 1973, the Treasurer may borrow, on behalf of the State and in accordance with the financial agreement, the sum of one hundred million five hundred and fifty-four thousand dollars and such other sums as may be approved by the Australian Loan Council.

Issue and application of money from loan fund.

6. (1) On or before the thirtieth day of June, 1973, there may be issued out of the loan fund any sums not exceeding one hundred and fifty-nine million five hundred and sixty thousand dollars.

(2) The sums so issued shall be applied for the purposes mentioned in the first schedule.

(3) If the amount mentioned in any line of the first schedule as the proposed expenditure for the purpose mentioned in that line is insufficient for that purpose, the Treasurer may issue additional money from the loan fund for that purpose but so that the total amount issued under this Act from the loan fund during the financial year ending on the thirtieth day of June, 1973, for purposes mentioned in the first schedule shall not exceed one hundred and fifty-nine million five hundred and sixty thousand dollars.

(4) Any amount appropriated by this Act may be paid for the purpose for which it is so appropriated, in addition to any other amount appropriated by law for that purpose.

Authority for advances under Public Finance Act.

7. The borrowing on behalf of the State of the sum of nine million nine hundred and forty-three thousand two hundred and forty-nine dollars, being the amount advanced by the Treasurer during the financial year that ended on the thirtieth day of June, 1972, pursuant to section 32b of the Public Finance Act, 1936, as amended, and its application for the purposes mentioned in the second schedule are hereby authorized: But the borrowing shall form part of the borrowing authorized by section 5 of this Act.

Validation of certain borrowings.

8. The arrangements made by the Treasurer during the financial year that ended on the thirtieth day of June, 1972, for the sum of three million one hundred and twenty thousand dollars, in addition to the sum set out in section 4 of the Public Purposes Loan Act, 1971, to be borrowed on behalf of the State, in accordance with the financial agreement, are, by force of this section, validated.

Temporary finance for loan purposes.

9. If the money in the loan fund is at any time insufficient for carrying out the purposes mentioned in the first schedule the Treasurer may use other money in his hands for those purposes, but any money so used shall be repaid from the loan fund as soon as there is sufficient money in that fund to make the repayment.

Power to borrow and apply loan money in 1973-74.

10. (1) The Treasurer may borrow, during the period between the thirtieth day of June, 1973, and the commencement of the Act authorizing the raising and expenditure of loan money for the financial year ending on the thirtieth day of June, 1974, on behalf of the State and in accordance with the financial agreement, any sums not exceeding fifty million dollars.

(2) There may be issued out of the loan fund during that period any sums not exceeding fifty million dollars.

(3) Any sum so issued shall be applied to meet expenditure on all or any of the loan purposes mentioned in the first schedule during that period and the amount to be allocated to each such purpose shall be determined by the Treasurer.

Power to borrow against Treasury Bills or by overdraft.

11. The Treasurer may during each of the financial years commencing on the first day of July, 1972 and on the first day of July, 1973, borrow in accordance with the financial agreement—

(*a*) Any sum or sums against the issue of Commonwealth Treasury Bills, for the purpose of financing any temporary deficit in the Consolidated Revenue Account of the State and any amounts so borrowed shall be repaid on or before the thirtieth day of June next following the date of the borrowing;

and

(*b*) any sum or sums not exceeding two million dollars for any purpose by way of overdraft from the Reserve Bank of Australia and any amounts so borrowed shall be repaid within seven days.

Authority to spend Commonwealth Aid Roads Grants.

12. All money received by the State from the Commonwealth by way of grants under the *Commonwealth Aid Roads Act*, 1969, as amended, or any Act substituted therefor, shall be paid to a special account in the books of the Treasurer, and the Treasurer shall issue and pay out of the money so credited such sums as are required for purposes specified in that Act.

SCHEDULES

FIRST SCHEDULE

Amounts proposed to be expended from the loan fund during the financial year ending 30th June, 1973

Loan Purposes	Estimated Expenditure	
	$	$
STATE BANK		
Advances for Homes	20,000	
Loans to Producers	1,750,000	
Advances to Settlers	80,000	
Loans for Fencing and Water Piping	10,000	
Advances to State Bank	1,000,000	
Student Hostels	40,000	
		2,900,000
HIGHWAYS AND LOCAL GOVERNMENT		
Roads and Bridges	800,000	
South-Western Suburbs Drainage	1,300,000	
Other Urban Drainage	1,500,000	
Public Parks	300,000	
		3,900,000
LANDS, IRRIGATION AND DRAINAGE		
Lands Department—Buildings, Plant, etc.	400,000	
Irrigation and Reclamation of Swamp Lands	1,800,000	
South-Eastern Drainage	80,000	
Renmark Irrigation Trust	540,000	
National Reserves	400,000	
		3,220,000
WOODS AND FORESTS		
Afforestation and Timber Milling		3,200,000
RAILWAYS		
Railway Accommodation		7,900,000
MARINE AND HARBORS		
Harbors Accommodation	5,375,000	
West Lakes Development	10,000	
Fishing Havens and Foreshore Improvements	200,000	
		5,585,000
ENGINEERING AND WATER SUPPLY		
Waterworks and Sewers	31,925,000	
River Murray Weirs, Dams, Locks, etc.	725,000	
		32,650,000
PUBLIC BUILDINGS		
Government Buildings, Land and Services		48,675,000
ADVANCES FOR HOUSING		
Home Builders Account No. 2	15,500,000	
South Australian Housing Trust	14,000,000	
		29,500,000

FIRST SCHEDULE—*continued*

Amounts proposed to be expended from the loan fund during the financial year ending 30*th June*, 1973—continued

Loan Purposes	Estimated Expenditure	
	$	$
OTHER CAPITAL ADVANCES AND PROVISIONS		
Electricity Trust of South Australia—Loan to	3,000,000	
Municipal Tramways Trust—Loan to	400,000	
Metropolitan and Export Abattoirs Board—Loan to	50,000	
State Planning Authority—Loan to	500,000	
Industries Assistance Corporation—Loan to	50,000	
Festival Theatre	880,000	
Transport Research	500,000	
Foreshore Protection	450,000	
University and Advanced Education Buildings	7,500,000	
Non-Government Hospital and Institution Buildings	6,000,000	
		19,330,000
MISCELLANEOUS		
Expenses and Discounts of Floating Conversion and Public Loans	400,000	
Mines Department—Buildings, Plant, etc.	350,000	
Government Printing Department—Plant, Machinery, Stores, etc.	300,000	
Produce Department—Buildings, Plant, etc.	100,000	
Education Department—School Buses	450,000	
Department of the Public Service Board—Data Processing Equipment	1,050,000	
Department of Fisheries—Boats and Equipment	50,000	
		2,700,000
Total		$159,560,000

SECOND SCHEDULE

Advances by the Treasurer authorized by warrants issued since the commencement of the Public Purposes Loan Act, 1971, pursuant to section 32b of the Public Finance Act, 1936, as amended

Loan Purposes	Advances
	$
Government Buildings, Land and Services	8,268,249
Home Builders Account No. 2	350,000
South Australian Housing Trust	850,000
State Planning Authority—Loan to	350,000
Supply and Tender Board—Stores	125,000
Total	$9,943,249

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 68 of 1972

An Act to amend the Book Purchasers Protection Act, 1963-1964.

[*Assented to 7th September,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Book Purchasers Protection Act Amendment Act, 1972".

(2) The Book Purchasers Protection Act, 1963-1964, as amended by this Act, may be cited as the "Book Purchasers Protection Act, 1963-1972".

(3) The Book Purchasers Protection Act, 1963-1964, is hereinafter referred to as "the principal Act".

Commencement of Act.

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

Enactment of s. 4a of principal Act—

3. The following section is enacted and inserted in the principal Act immediately after section 4 thereof:—

Confirmation clause to be printed above place for purchaser's signature.

4a. Every contract to which this Act applies made on or after the commencement of the Book Purchasers Protection Act Amendment Act, 1972, shall be unenforceable against the purchaser unless the words referred to in paragraph (*c*) of section 4 of this Act are printed immediately above the place provided for the signature of the purchaser and the purchaser has signed in that place.

4. Section 5 of the principal Act is amended by striking out the passage "Not exceeding one hundred pounds" and inserting in lieu thereof the passage "Two hundred dollars". Amendment of principal Act, s. 5—Receipt of deposits.

5. Section 6 of the principal Act is amended by striking out the passage "Not exceeding one hundred pounds" and inserting in lieu thereof the passage "Two hundred dollars". Amendment of principal Act, s. 6—Soliciting notice of confirmation.

6. The following sections are enacted and inserted in the principal Act immediately after section 6:— Enactment of ss. 6a, 6b, 6c and 6d of principal Act—

6a. (1) A person who enters any place to which this section applies with intent to enter into any negotiations leading to or which may lead to the making of a contract to which this Act applies shall forthwith inform the purchaser or prospective purchaser of— Certain information to be disclosed.

(*a*) the name and business address of the vendor of the book or books proposed to be the subject of the contract;

and

(*b*) the fact that he intends to enter into negotiations which may lead to the making of such a contract.

Penalty: Two hundred dollars.

(2) This section applies to a place where a purchaser or prospective purchaser resides or is employed by his employer.

6b. If a contract to which this Act applies contains a provision that, or from which it may reasonably be inferred that, the contract may be enforced by the vendor against the purchaser in any place other than this State or that any matter affecting or arising out of the contract may be determined in accordance with the law of any place other than this State or that the law of any place other than this State is the law that shall apply or shall be applied in relation to any matter affecting or arising out of the contract, the vendor, his agent, and every person who on behalf of the vendor took part in negotiations with the purchaser in connection with the contract shall be guilty of an offence against this Act and shall, on conviction, be liable to a penalty not exceeding two hundred dollars. Prohibition of provision that foreign law is to apply to contract.

Demands or assertions based on unenforceable contracts.

6c. A vendor or his agent who, in relation to a contract to which this Act applies—

(*a*) asserts an intention to bring legal proceedings to enforce such a contract;

(*b*) places or causes to be placed the name of any person who would, were the contract an enforceable contract, be liable under the contract on any list of defaulters or debtors or who asserts any intention of so doing;

or

(*c*) invokes or causes to be invoked any other procedure for the enforcement or giving effect to such a contract,

unless he has reasonable cause to believe that he has a right to assert a right to payment pursuant to such a contract (proof of which reasonable cause shall lie upon him) shall be guilty of an offence against this Act and shall be liable upon conviction to a fine not exceeding two hundred dollars.

Defence of reasonable belief that Act does not apply to contract.

6d. In proceedings for an offence that is a contravention of section 6b or 6c of this Act, it shall be a defence for the defendant to prove that he had reasonable grounds for believing and did in fact believe that the contract the subject of the proceedings was not a contract to which this Act applies.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 69 of 1972

An Act to amend the Judges' Pensions Act, 1971.

[*Assented to 7th September,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Judges' Pensions Act Amendment Act, 1972".

(2) The Judges' Pensions Act, 1971, as amended by this Act, may be cited as the "Judges' Pensions Act, 1971-1972".

(3) The Judges' Pensions Act, 1971, is hereinafter referred to as "the principal Act".

Commencement.

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

Insertion of heading to Part II of principal Act.

3. The principal Act is amended by inserting immediately after section 4 the following heading:—

PART II

PENSIONS

Enactment of s. 14a of principal Act—

4. The following section is enacted and inserted in the principal Act immediately after section 14 thereof:—

Variation in rates of pensions.

14a. (1) Subject to this section, the Governor may, from time to time, by proclamation direct that on and from a day specified therein any rate of pension provided for by this Act, not being a rate of pension provided for by section 12 of this Act, shall be varied and on and from the day so specified the rate of that pension shall be varied accordingly.

(2) A proclamation under subsection (1) of this section shall not be made if it would have the effect of reducing the rate of a pension payable under this Act to a person to a rate less than the rate of pension that was first payable under this Act to that person.

(3) This section shall not be held or construed as affecting the power of the Governor to make a proclamation of a kind referred to in subsection (3) of section 12 of this Act.

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

J. M. NAPIER, Governor's Deputy

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 70 of 1972

An Act to amend the Police Offences Act, 1953-1972.

[*Assented to 7th September,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Police Offences Act Amendment Act (No. 2), 1972".

(2) The Police Offences Act, 1953-1972, as amended by this Act, may be cited as the "Police Offences Act, 1953-1972".

(3) The Police Offences Act, 1953-1972, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 7—Disorderly and offensive conduct and language.

3. Section 7 of the principal Act is amended by striking out from the definition of "public place" in subsection (3) the passage "licensed under the Licensing Act, 1932-1949" and inserting in lieu thereof the passage "in respect of which a licence or permit, granted under the Licensing Act, 1967, as amended, or under any Act repealed by that Act, is in force".

Repeal of s. 11 of principal Act and enactment of section in its place—

4. Section 11 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Refusal to pay for liquor, meals, etc.

11. A person who has been supplied—

(*a*) by the holder of a licence granted under, or deemed to have been granted under the authority of, the Licensing Act, 1967, as amended, with liquor, meals or accommodation on licensed premises within the meaning of that Act or within the meaning of any Act repealed by that Act;

or

(*b*) by the proprietor of a motel, guest house, private hotel or restaurant with meals or accommodation,

shall not fail or refuse, on demand made by the holder of the licence or by the proprietor or by a servant or agent of the holder of the licence or the proprietor to pay a reasonable sum for the liquor, meals or accommodation.

Penalty: One hundred dollars or imprisonment for three months.

Amendment of principal Act, s. 26—

Persons living on prostitution and soliciting.

5. Section 26 of the principal Act is amended—

(*a*) by striking out from subsection (1) the word "male";

(*b*) by striking out from subsection (2) the passage "The fact that a male" and inserting in lieu thereof the passage "In proceedings for an offence that is a contravention of subsection (1) of this section the fact that a";

and

(*c*) by striking out from subsection (2) the word "he" and inserting in lieu thereof the passage "that person".

Amendment of principal Act, s. 59—

Regulation of crowds.

6. Section 59 of the principal Act is amended by inserting after subsection (8) the following subsection:—

(9) An allegation in a complaint, for an offence that is a contravention of a provision of this section, that a direction under subsection (6) of this section was given or published and was given or published in a particular manner shall in the absence of evidence to the contrary be proof that that direction was given or published and that it was given or published in that manner.

7. Section 74 of the principal Act is repealed and the following section is enacted and inserted in its place:— Repeal of s. 74 of principal Act and enactment of section in its place—

74. (1) A member of the police force, when called upon by the holder of a licence or permit granted under the Licensing Act, 1967, as amended, may— Power to enter licensed premises, etc.

(*a*) enter the premises to which the licence or permit relates;

and

(*b*) without any warrant, apprehend any person whom he finds drunk and behaving in a riotous or indecent manner, or whom he finds fighting or using threatening, abusive or insulting words, or behaving in a threatening, abusive or insulting manner.

(2) The powers conferred by subsection (1) are additional to powers conferred on a member of the police force by or under any other Act.

8. Section 78 of the principal Act is amended by striking out from the proviso in subsection (1) the passage "section 48 or section 121a of the Road Traffic Act, 1934-1956," and inserting in lieu thereof the passage "section 47 of the Road Traffic Act, 1961, as amended,". Amendment of principal Act, s. 78— Proceedings on arrest without warrant.

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

J. M. NAPIER, Governor's Deputy

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

No. 71 of 1972

An Act to amend the Road Traffic Act, 1961-1971.

[*Assented to 7th September,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Road Traffic Act Amendment Act, 1972".

(2) The Road Traffic Act, 1961-1971, as amended by this Act, may be cited as the "Road Traffic Act, 1961-1972".

(3) The Road Traffic Act, 1961-1971, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 5—Interpretation.

3. Section 5 of the principal Act is amended—

(*a*) by inserting after the definition of "inspector" the following definition:

"installation" in relation to a traffic control device includes the painting or formation of any marks or structure that constitute or form part of the traffic control device: ;

and

(*b*) by striking out paragraph (*b*) of the definition of "traffic control device" and the word "and" immediately preceding that paragraph and inserting in lieu thereof the following paragraphs:—

(*b*) any other sign, signal, device, mark or structure the purpose of which is to regulate or guide the movement of traffic or the standing of vehicles;

and

(*c*) any other sign, signal, device, mark or structure declared by proclamation to be a traffic control device.

Repeal of ss. 16-19 of principal Act and enactment of sections in their place—

4. Sections 16 to 19 (inclusive) of the principal Act are repealed and the following sections are enacted and inserted in their place:—

Meaning of "Authority".

16. (1) In this Part—

"Authority" means—

(*a*) the Commissioner of Highways;

(*b*) any council;

(*c*) the South Australian Railways Commissioner;

(*d*) The Municipal Tramways Trust;

or

(*e*) any other authority, body or person in whom the care, control or management of a road is vested.

(2) For the purposes of this Part, a road is under the care, control and management of the Commissioner of Highways if he has, pursuant to the Highways Act, taken over the maintenance and repair of that road.

Installation, etc., of traffic control devices.

17. (1) An Authority may, with the approval of the Board, install, maintain or operate, or cause to be installed, maintained or operated a traffic control device on or near a road in accordance with this Part.

(2) An Authority may, with the approval of the Board, remove a traffic control device, or cause a traffic control device to be removed.

(3) An applicant for the approval of the proposed installation, maintenance, operation or removal of a traffic control device must supply the Board with such information relevant to the proposal as the Board may reasonably require.

(4) The Board shall consider every application for its approval under this section and the information submitted by the applicant, and may approve the proposal unconditionally, approve the proposal upon conditions or with modifications, or refuse to approve the proposal.

(5) The Board may delegate (or revoke a delegation of) its powers of approval under this section, but any such delegation shall not derogate from the power of the Board to act under this section itself.

(6) If the Board—

(*a*) refuses its approval for the installation, maintenance, operation or removal of any traffic control device;

or

(*b*) gives its approval upon conditions or with modifications,

the Board shall, if requested by the applicant, state the reasons for its decision.

(7) The applicant may, within twenty-eight days after receipt of the Board's reasons, apply to the Board for a review of its decision.

(8) Upon a review of the decision, the Board—

(*a*) shall give the applicant an opportunity of submitting information and arguments and may further inform itself in such manner as it thinks fit of any matters relevant to the proposal subject to the appeal;

and

(*b*) shall report to the Minister.

(9) The Minister may, after consideration of the report of the Board, and after affording the applicant and the Board an opportunity of making further representations to him, affirm, vary or quash the decision of the Board, and may approve an alternative proposal submitted by the applicant.

Direction to install traffic control device.

18. (1) The Board may, if it thinks fit, direct an Authority to install, maintain, operate or remove a traffic control device on or near a road under the care, control or management of that Authority in accordance with the direction of the Board.

(2) An Authority to which any such direction has been given may, within one month after the date of the direction, appeal to the Minister against the direction, on the ground of financial hardship.

(3) The appellant must supply the Minister with such information relevant to the appeal as the Minister may require.

(4) The Minister shall consider the appeal and may uphold the appeal and quash the direction, vary the direction in such manner as he thinks fit, or dismiss the appeal.

(5) The Authority to which a direction is given under this section is, subject to this section, obliged to comply with the direction.

(6) Where an Authority fails to comply with a direction under this section, the Board may direct—

(*a*) the Commissioner of Highways;

or

(*b*) the council for the area in which the work is to be carried out,

to carry out the direction with which the Authority has failed to comply.

(7) Subject to subsection (8) of this section, the Commissioner of Highways or a council may recover, as a debt due from the defaulting Authority, any expenses incurred in carrying out a direction under subsection (6) of this section.

(8) The Commissioner or the Council shall not be entitled to recover under subsection (7) of this section any amount that is to be borne by the Commissioner or the Council, as the case may be, in accordance with this Part.

Cost of traffic control devices.

19. (1) The cost of installing, maintaining, operating or removing traffic lights and pedestrian crossings in accordance with this Part shall be borne in the following manner:—

(*a*) where the care, control or management of the road to which the traffic lights or pedestrian crossing relates is vested in the Commissioner of Highways and the road is within the area of a council—two-thirds of the cost shall be borne by the Commissioner and one-third by the council;

(*b*) where the care, control or management of the road is vested in a council, and not the Commissioner—two-thirds of the cost shall be borne by that council and one-third by the Commissioner;

(*c*) in the case of any other road—the whole of the cost shall be borne by the Authority having the care, control or management of the road.

(2) The cost of installing, maintaining, operating or removing other traffic control devices in accordance with this Part shall be borne by the Authority in which the care, control or management of the road to which the device relates, is vested.

(3) The Commissioner may recover from a council, or a council may recover from the Commissioner, as a debt, any amount that the Minister certifies to be due, in accordance with this section, to the Commissioner from that council, or to be due to that council from the Commissioner, in respect of the installation, maintenance, operation or removal of a traffic control device.

(4) This section shall not apply in respect of traffic control devices within the area of the Corporation of the City of Adelaide.

Repeal of ss. 21 and 22 of principal Act.

5. Sections 21 and 22 of the principal Act are repealed.

Amendment of principal Act, s. 23—Exhibition of sign at pedestrian crossing.

6. Section 23 of the principal Act is amended—

(*a*) by striking out subsection (1);

(*b*) by striking out the words "flag or" in subsection (2); and

(*c*) by striking out the words "flag or" in subsection (3).

Repeal of ss. 23a and 24 of principal Act.

7. Sections 23a and 24 of the principal Act are repealed.

Amendment of principal Act, s. 25—Maintenance of traffic control devices.

8. Section 25 of the principal Act is amended by striking out subsection (4) and inserting the following subsection in its place:—

(4) An Authority in which the care, control or management of a road is vested, shall maintain all traffic control devices installed on or near the road in good order.

Repeal of ss. 26, 27, 28, 29 and 30 of principal Act.

9. Sections 26, 27, 28, 29, and 30 of the principal Act are repealed.

Repeal of s. 31a of principal Act.

10. Section 31a of the principal Act is repealed.

Amendment of principal Act, s. 32—Erection of speed zone signs.

11. Section 32 of the principal Act is amended by striking out subsections (3a), (3b), (3c), (3d) and (4).

12. Section 61 of the principal Act is amended— Amendment of principal Act, s. 61— Driving on footpaths.

(*a*) by striking out the passage "A driver" and inserting in lieu thereof the passage "Subject to subsection (2) of this section, a driver";

and

(*b*) by inserting after the present contents thereof as amended by this section (which are hereby designated subsection (1) thereof) the following subsection:—

(2) Where a person by reason of some physical infirmity reasonably requires the use of a wheelchair, it shall be lawful for that person to operate a self-propelled wheelchair on a footpath notwithstanding the provisions of subsection (1) of this section.

13. Section 74 of the principal Act is repealed and the following section is enacted and inserted in its place:— Repeal of s. 74 of principal Act and enactment of section in its place—

74. (1) A driver shall not diverge to the right or left, turn his vehicle to the right or left, stop, apply the brake of his vehicle, suddenly decrease speed, or make a U turn, without giving a signal in accordance with the regulations. Signals.

Penalty: One hundred dollars.

(2) A signal shall not be regarded as being in conformity with the requirements of subsection (1) of this section unless it is given in such a manner and for such time as is necessary to give reasonable warning to persons who may be affected by the manoeuvre.

14. Section 76 of the principal Act is amended— Amendment of principal Act, s. 76— Signs prohibiting turns.

(*a*) by striking out the passage "or other words to the same effect as any of the said words" and inserting in lieu thereof the passage "or other words or symbol to which this section applies":

and

(*b*) by inserting after the present contents thereof, as amended by this section, (which are hereby designated subsection (1) thereof) the following subsection:—

(2) The Board may, by notice published in the *Gazette*, declare that this section shall apply to any words or symbol referred to in the notice, and this section shall apply to those words or that symbol accordingly.

Amendment of principal Act, s. 82— Unauthorized standing of vehicles.

15. Section 82 of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "A person" and inserting in lieu thereof the passage "Except as authorized by this section, a person";

(*b*) by striking out paragraph (*c*) of subsection (1) and the word "or" immediately preceding that paragraph and inserting in lieu thereof the following paragraphs:—

(*c*) within a temporary parking zone established in pursuance of a permit under this section at any time at which the permit authorizes the use of the temporary parking zone;

or

(*d*) on a footpath.;

(*c*) by striking out the proviso from subsection (1);

and

(*d*) by inserting after subsection (2) the following subsections:—

(3) Where it is, in the opinion of the Board, in the public interest to do so, it may grant to any person a permit authorizing him to establish temporary parking zones at such places as may be specified in the permit.

(4) The permit must specify the times at which the use of the temporary parking zone is authorized by the permit and shall be subject to such other terms and conditions as the Board thinks fit to include in the permit.

(5) A temporary parking zone must be indicated or marked by such signs or markings as the Board may require and specifies in the permit.

(6) The Board may, at any time, by instrument in writing, revoke a permit under this section.

(7) It shall be lawful—

(*a*) for the holder of a permit under subsection (3) of this section, or a person authorized by him, to cause or permit a vehicle to stand in accordance with the terms and conditions of the permit in a temporary parking zone at such times as the permit authorizes the use of the temporary parking zone;

or

(*b*) for a person to cause or permit a vehicle to stand in accordance with a by-law or resolution of a council in a place marked out by the council for the standing of vehicles by markings, a sign or a notice.

16. Section 91 of the principal Act is repealed and the following section is enacted and inserted in its place:— Repeal of s. 91 of principal Act and enactment of section in its place—

91. (1) An authorized person may give to the driver of a vehicle that has entered or is about to enter a ferry reasonable directions relating to— Obedience to ferryman's directions.

(*a*) the order in which vehicles are to be driven onto, or off, the ferry;

or

(*b*) the position to be occupied by the vehicle on the ferry.

(2) An authorized person may request the driver of a vehicle that has entered, or is about to enter, a ferry, to inform him of the laden weight of the vehicle, or to supply him with any information from which that weight might be estimated.

(3) A person who fails forthwith to comply with a direction or request under this section or gives false information, shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

(4) In this section—

"authorized person" means the person in charge of the ferry or any other person engaged in the loading or operation of the ferry:

"laden weight" means the weight of the vehicle and if a trailer is attached to the vehicle, the weight of the vehicle, and of the trailer or trailers drawn thereby, together with the weight of the load (if any) including passengers, fuel and equipment carried in or on the vehicle and the trailer or trailers.

17. Sections 136, 137 and 137a of the principal Act are repealed and the following sections are enacted and inserted in their place:— Repeal of ss. 136, 137 and 137a of principal Act and enactment of sections in their place—

136. Every motor vehicle (other than a motor bicycle) having a windscreen must be equipped in accordance with the regulations with a windscreen wiper or windscreen wipers and a windscreen washer or windscreen washers. Windscreen wipers and washers.

Rear vision mirrors.

137. Every motor vehicle must be equipped in accordance with the regulations with a mirror or mirrors by means of which the driver may obtain a clear view of traffic to the rear and to the sides of the motor vehicle.

Enactment of heading and s. 138b of principal Act.

18. The following heading and section are enacted and inserted in the principal Act immediately after section 138a thereof:—

Power of Exemption

Exemption.

138b. The Board may, if it is satisfied that proper cause exists for so doing, by instrument in writing under the hand of the secretary, or by notice published in the *Gazette*, exempt, subject to such conditions (if any) as may be specified in the instrument or notice any vehicle, or vehicles of any class, from all or any of the provisions of sections 111 to 137 (inclusive) of this Act, and thereafter, subject to the conditions (if any) specified in the instrument or notice being complied with, the provisions from which the exemption is granted shall not apply to or in relation to that vehicle or vehicle of that class.

Amendment of principal Act, s. 144— Duty to comply.

19. Section 144 of the principal Act is amended—

(*a*) by inserting after the passage "of this Act" in subsection (1) the passage "or the regulations under those sections";

(*b*) by striking out from subsection (1) the passage "provisions of those sections" and inserting in lieu thereof the passage "those requirements".

and

(*c*) by inserting after subsection (2) the following subsections:—

(3) Where the Minister after consideration of reports from the Commissioner of Highways and the Board considers that reasonable cause exists for doing so he may grant to any person a permit to operate a motor omnibus notwithstanding that it does not comply with the requirements referred to in subsection (1) of this section.

(4) Where such a permit is in force in relation to a motor omnibus it shall, subject to subsection (6) of this section, be lawful for the vehicle to be driven on a road notwithstanding that it does not comply with the requirements referred to in subsection (1) of this section.

(5) Any such permit must define or identify the roads upon which the motor omnibus may be driven in pursuance of the permit and may be subject to such other conditions or restrictions as the Minister thinks fit and includes in the permit.

(6) If a motor omnibus in respect of which a permit has been granted under this section is driven on a road otherwise than in accordance with the permit and the conditions and restrictions (if any) to which the permit is subject, the holder of the permit shall be guilty of an offence and liable to a penalty not exceeding five hundred dollars.

(7) A permit under this section may relate to one or more motor omnibuses.

(8) The Minister may at any time by notice in writing addressed to the holder of a permit under this section revoke the permit.

20. Section 160 of the principal Act is amended— Amendment of principal Act, s. 160— Defect notices.

(*a*) by inserting in subsection (1) after the definition of "defect notice" the following definition:—

"inspector" means a person authorized in writing by the Minister to exercise the powers conferred on an inspector under this section:;

(*b*) by inserting in subsection (2) after the passage "member of the police force" the passage "or an inspector";

(*c*) by striking out from subsection (2) the passage "the said member" and inserting in lieu thereof the passage "the member of the police force or the inspector";

(*d*) by inserting in subsection (2a) after the passage "member of the police force" the passage "or an inspector";

(*e*) by inserting in subsection (3) after the passage "member of the police force" the passage "or an inspector";

(*f*) by inserting in subsection (4) after the passage "member of the police force" the passage "or an inspector";

(*g*) by inserting in subsection (5) after the passage "member of the police force" first occurring the passage "or an inspector";

and

(*h*) by striking out from paragraph (*b*) of subsection (5) the passage "and the member of the police force" and inserting in lieu thereof the passage "or an inspector and he".

Amendment of principal Act, s. 161a—Certain vehicles not to be driven on a road without consent of Board.

21. Section 161a of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "an air-cushioned vehicle" and inserting in lieu thereof the passage "a vehicle to which this section applies";

and

(*b*) by inserting after subsection (2) the following subsection:—

(3) This section applies to—

(*a*) air-cushioned vehicles;

and

(*b*) any other vehicle of a class declared by regulation to be a class of vehicles to which this section applies.

Repeal of s. 162a of principal Act, and enactment of section in its place—Seat belts.

22. Section 162a of the principal Act is repealed and the following section is enacted and inserted in its place:—

162a. (1) Subject to this section and the regulations, every motor vehicle must be equipped in accordance with the regulations with seat belts.

(2) A person shall not drive a motor vehicle if in any respect it does not comply with the requirements of this section.

Penalty: Fifty dollars.

(3) The Governor may by regulation—

(*a*) declare that any vehicle or vehicles of any class shall be exempt from the provisions of this section;

(*b*) prescribe specifications as to the design, materials, strength, construction and installation of seat belts and anchorages for seat belts;

(*c*) prescribe the seating positions for which seat belts or anchorages for seat belts are required;

and

(*d*) prescribe any other matters or specifications relating to seat belts and anchorages for seat belts.

(4) The Board may, in respect of any particular vehicle or vehicles of any particular class, approve specifications in relation to the seat belts with which that vehicle or vehicles of that class, are to be equipped.

(5) A vehicle equipped with seat belts in accordance with specifications approved under subsection (4) of this section, shall be deemed to comply with this section.

23. Section 176 of the principal Act is amended— Amendment of principal Act, s. 170— Regulations.

(*a*) by striking out from paragraph (*n*) the passage "sections 132 to 137" and inserting in lieu thereof the passage "sections 111 to 137";

and

(*b*) by inserting after subsection (3) the following subsection:—

(4) A discretionary power may be conferred upon the Board or any other person or body of persons by regulation under this Act.

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

J. M. NAPIER, Governor's Deputy

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 72 of 1972

An Act to amend the Superannuation Act, 1969-1971.

[*Assented to 7th September*, 1972]

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

Short titles.

1. (1) This Act may be cited as the "Superannuation Act Amendment Act, 1972".

(2) The Superannuation Act, 1969-1971, as amended by this Act, may be cited as the "Superannuation Act, 1969-1972".

(3) The Superannuation Act, 1969-1971, is hereinafter referred to as "the principal Act".

Commencement.

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

Repeal of s. 100c of principal Act and enactment of sections in its place—

3. Section 100c of the principal Act is repealed and the following sections are enacted and inserted in its place:—

Supplementation of certain pensions.

100c. (1) In this section "determination day" means determination day as defined for the purposes of section 100a of this Act.

(2) Subject to this section, every pension payable under this Act—

(*a*) that was payable on the day fixed by proclamation for the purposes of this section;

and

(*b*) that had a determination day that occurred on or before the thirtieth day of June, 1971,

shall, on and from the day referred to in paragraph (*a*) of this subsection, be increased by five per centum.

(3) The increase of pension provided for by subsection (2) of this section shall for all purposes be regarded as part of a pension payable under this Act.

(4) For the purposes of calculating the amount of any increases in pension provided for by subsection (2) of this section—

(*a*) any increase in pension, whether by way of supplementary pension or otherwise, provided for before the commencement of the Superannuation Act Amendment Act, 1972, shall be regarded as part of the pension;

and

(*b*) any pension or part of a pension, represented by an amount payable to or in respect of a child or student child, shall not be regarded as a pension or part of a pension.

(5) The amount of any increase in pension provided for by this section shall be calculated to the nearest whole cent and any fraction of a cent equal to one-half of a cent shall be regarded as one cent.

Portion of supplement payable from account.

100d. Notwithstanding anything in this Part, on and after the commencement of the Superannuation Act Amendment Act, 1972, any supplementary pension, or increase in pension—

(*a*) referred to in section 99 of this Act;

or

(*b*) payable pursuant to section 100, section 100a, section 100b or section 100c of this Act,

shall as to thirty per centum of the supplementary pension or increase in pension be payable from the Account and as to the remaining seventy per centum of the supplementary pension or increase in pension be payable out of the general revenue of the State which is hereby to the necessary extent appropriated accordingly.

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

J. M. NAPIER, Governor's Deputy

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 73 of 1972

An Act to amend the Planning and Development Act, 1966-1971.

[*Assented to 14th September,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Planning and Development Act Amendment Act (No. 2), 1972".

(2) The Planning and Development Act, 1966-1971, as amended by this Act and by all other amendments, if any, amending the same prior to the commencement of this Act, may be cited as the "Planning and Development Act, 1966-1972".

(3) The Planning and Development Act, 1966-1971, as amended by all other amendments, if any, amending the same prior to the commencement of this Act, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 5—Interpretation.

3. Section 5 of the principal Act is amended—

(*a*) by striking out from the definition of "commissioner" in subsection (1) the passage "a commissioner" and inserting in lieu thereof the passage "a full-time commissioner or a part-time commissioner";

(*b*) by inserting in subsection (1) immediately after the definition of "development plan" the following definition:—

"full-time commissioner" means a commissioner of the Planning Appeal Board appointed under Division 3 of Part II of this Act who is, in the terms of his appointment required to give his full-time to the duties of his office:;

and

(*c*) by inserting in subsection (1) immediately after the definition of "Land Office plan" the following definitions:—

"member" in relation to the Planning Appeal Board, means the Chairman, an Associate Chairman or a commissioner:

"part-time commissioner" means a commissioner of the Planning Appeal Board appointed under Division 3 of Part II of this Act who is in the terms of his appointment not required to give his full-time to the duties of his office:.

Amendment of principal Act, s. 21—

Constitution of board from appointed day.

4. Section 21 of the principal Act is amended—

(*a*) by inserting in subsection (6) after the word "A", being the first word in that subsection, the word "part-time";

(*b*) by striking out from subsection (6) the passage "but a commissioner" and inserting in lieu thereof the passage "but a part-time commissioner";

(*c*) by inserting in subsection (6) after the passage "casual vacancy" the passage "in the office of a part-time commissioner";

(*d*) by inserting in subsection (6) after the passage "the term of office of the" the word "part-time";

(*e*) by inserting in subsection (7) after the passage "A member of the Board" the passage ", other than a full-time commissioner,";

and

(*f*) by inserting in subsection (7) after the passage "of any" the word "such".

Enactment of section 21aa of principal Act—

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

Full-time commissioners.

21aa. (1) In the exercise of the powers conferred on him by subsection (1) of section 21 of this Act the Governor may appoint not more than six full-time commissioners.

(2) Each full-time commissioner shall be paid such remuneration and allowances as the Governor from time to time determines.

(3) A full-time commissioner appointed under this Act shall, except as is provided in this section, hold office under and subject to the Public Service Act, 1967, as amended.

(4) The Minister may, from time to time, by notice published in the *Gazette* determine that the provisions of the Public Service Act, 1967, as amended, and the provisions of the regulations made thereunder specified in the *Gazette* shall not apply to or in relation to the office of full-time commissioner and determine what provisions, if any, shall apply to or in relation to that office in lieu of those provisions and that notice shall apply and have effect as if it were enacted in this Act.

(5) The Office of a full-time commissioner shall not be allocated to any Department of the Public Service to which any Office, as defined in the Public Service Act, 1967, as amended—

(*a*) of a person holding judicial office;

or

(*b*) of a person having the administration of or duties under this Act other than the administration of, or duties connected with, the affairs of the board,

is for the time being allocated.

(6) Where pursuant to the Public Service Act, 1967, as amended, a full-time commissioner is entitled to retire and desires to retire that full-time commissioner may, with the approval of the Chairman, complete the hearing and determination of any appeal or matter part-heard by him before reaching that age and for that purpose he shall be deemed to continue as a full-time commissioner.

(7) A person may be appointed a full-time commissioner under this Act notwithstanding that immediately before that appointment he was a part-time commissioner.

(8) A full-time commissioner shall be an "employee" within the meaning of the Superannuation Act, 1969, as amended.

Amendment of principal Act, s. 21b— Remuneration and allowances of members of the board.

6. Section 21b of the principal Act is amended—

(*a*) by inserting in subsection (1) after the passage "A member of the board" the passage "other than a full-time commissioner";

and

(*b*) by inserting in subsection (1) after the passage "in relation to" the word "such".

Amendment of principal Act, s. 21c—Removal from office of member.

7. Section 21c of the principal Act is amended by inserting after the passage "served on a member," the passage "other than a full-time commissioner".

Amendment of principal Act, s. 21d—Casual vacancies.

8. Section 21d of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "or an Associate Chairman" and inserting in lieu thereof the passage ", an Associate Chairman or a full-time commissioner";

and

(*b*) by inserting immediately after subsection (2) the following subsection:—

(3) The office of a member of the board being a full-time commissioner shall become vacant if—

(*a*) he dies;

or

(*b*) he ceases to be a full-time commissioner.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 74 of 1972

An Act to amend the Criminal Law Consolidation Act, 1935-1972.

[*Assented to 21st September,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Criminal Law Consolidation Act Amendment Act, 1972".

(2) The Criminal Law Consolidation Act, 1935-1972, as amended by this Act, may be cited as the "Criminal Law Consolidation Act Amendment Act, 1935-1972".

(3) The Criminal Law Consolidation Act, 1935-1972, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 77a—Sexual offenders.

3. Section 77a of the principal Act is amended—

(*a*) by striking out paragraph (*b*) of subsection (3) and inserting in lieu thereof the following paragraph:—

(*b*) shall not be released unless—

(i) the Governor is satisfied, on the recommendation of the Parole Board, that he is fit to be at liberty and terminates his detention;

or

(ii) the Governor releases him upon licence in pursuance of this section.;

(*b*) by striking out paragraph (*b*) of the second sentence of subsection (4) and inserting in lieu thereof the following paragraph:—

(*b*) where the detention is ordered during Her Majesty's pleasure, shall not be released unless—

(i) the Governor is satisfied, on the recommendation of the Parole Board, that he is fit to be at liberty and terminates his detention;

or

(ii) the Governor releases him upon licence in pursuance of this section.;

and

(*c*) by inserting after subsection (7) the following subsections:—

(7a) Where an offender has been detained in an institution pursuant to this section, the Governor may, on the recommendation of the Parole Board, release that person upon licence.

(7b) The terms and conditions upon which a person is released upon licence under this section shall be determined by the Governor upon the recommendation of the Parole Board.

(7c) Where—

(*a*) the period for which a person was released on licence under this section has expired;

or

(*b*) the Parole Board has reasonable cause to suspect that any such person has contravened or failed to comply with any term or condition upon which he was released,

a person authorized by warrant signed by two members of the Parole Board may apprehend the person so released, and return him to custody or detain him for examination by the Parole Board, in accordance with the terms of the warrant.

Enactment of section 293a of principal Act—Release upon licence.

4. The following section is enacted and inserted in the principal Act immediately after section 293 thereof:—

293a. (1) Where the Governor has ordered the safe custody, during his pleasure, of any person found to be insane, he may, upon the recommendation of the Parole Board, release that person upon licence.

(2) The terms and conditions upon which a person is released upon licence under this section shall be determined by the Governor upon the recommendation of the Parole Board.

(3) Where—

(*a*) the period for which a person was released on licence under this section has expired;

or

(*b*) the Parole Board has reasonable cause to suspect that any such person has contravened or failed to comply with any term or condition upon which he was released,

a person authorized by warrant signed by any two members of the Parole Board may apprehend the person so released and return him to custody, or detain him for examination by the Parole Board, in accordance with the terms of the warrant.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 75 of 1972

An Act to amend the Stock Foods Act, 1941-1948, as amended by the Stock Licks Act Repeal Act, 1956.

[*Assented to 21st September,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Stock Foods Act Amendment Act, 1972".

(2) The Stock Foods Act, 1941-1948, as amended by the Stock Licks Act Repeal Act, 1956, and by this Act, may be cited as the "Stock Foods Act, 1941-1972".

(3) The Stock Foods Act, 1941-1948, as amended by the Stock Licks Act Repeal Act, 1956, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 3—Interpretation.

3. Section 3 of the principal Act is amended—

(*a*) by striking out the word "and" immediately following paragraph (*a*) of the definition of "manufactured stock food";

(*b*) by striking out paragraph (*b*) from the definition of "manufactured stock food";

and

(*c*) by inserting after the definition of "package" the following definition:—

"seed grain" means any grain that has been treated with a prescribed substance or treated in a prescribed manner for the purposes of enhancing its use as seed:.

Amendment of principal Act, s. 7—Power to prescribe standards.

4. Section 7 of the principal Act is amended—

(*a*) by inserting in subsection (1) immediately after paragraph (*a*) the following paragraphs:—

(*ab*) prescribe any substance as a prescribed substance used for the treatment of grain for the purposes of enhancing its use as seed;

(*ac*) prescribe any manner of treatment as a prescribed manner of treatment of grain for the purposes of enhancing its use as seed;

and

(*b*) by striking out from subsection (2) the passage "twenty pounds" and inserting in lieu thereof the passage "one hundred dollars".

Amendment of principal Act, s. 8—Penalties for breach of duty by seller.

5. Section 8 of the principal Act is amended by striking out from subsection (1) the passage "twenty pounds" and inserting in lieu thereof the passage "one hundred dollars".

Enactment of s. 8a of principal Act—

6. The following section is enacted and inserted in the principal Act immediately after section 8 thereof:—

Offences in relation to seed grain.

8a. (1) A person shall not feed seed grain to stock or suffer or permit any seed grain to be fed to stock.

Penalty: One hundred dollars.

(2) A person shall not sell or deliver any seed grain for use for a purpose other than as seed.

Penalty: One hundred dollars.

(3) Subject to subsection (5) of this section in proceedings for an offence that is a contravention of subsection (2) of this section it shall lie upon the defendent to prove that he had reasonable grounds for believing and did in fact believe that after the sale or delivery in question the seed grain would be used as seed.

(4) Except for the purposes of using the resultant mixture as seed, a person shall not mix seed grain with any grain that is not seed grain.

Penalty: Fifty dollars.

(5) In proceedings for an offence that is a contravention of a provision of this section it shall be a defence for the defendant to prove that he did not know and that he could not, by the exercise of reasonable diligence, have been expected to know, that the grain in question was seed grain.

Amendment of principal Act, s. 9—
Powers of Inspectors.

7. Section 9 of the principal Act is amended—

(*a*) by inserting in subsection (1) after the passage "stock food" the passage "or seed grain";

and

(*b*) by inserting in subsection (2) after the passage "stock food" the passage "or seed grain".

Amendment of principal Act, s. 10—
Publication of results of analysis.

8. Section 10 of the principal Act is amended by inserting after the passage "stock food" the passage "or seed grain".

Amendment of principal Act, s. 11—
Tampering with sample.

9. Section 11 of the principal Act is amended—

(*a*) by inserting in paragraph (*a*) after the passage "stock food" the passage "or seed grain";

and

(*b*) by striking out the passage "twenty pounds" and inserting in lieu thereof the passage "one hundred dollars".

Amendment of principal Act, s. 12—
Certificate of analyst.

10. Section 12 of the principal Act is amended by striking out from subsection (1) the passage "1908-1939" and inserting in lieu thereof the passage "1908, as amended".

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 76 of 1972

An Act to amend the Audit Act, 1921-1971; the Police Regulation Act, 1952-1972; the Public Service Act, 1967-1971; the Valuation of Land Act, 1971; and the Agent-General Act, 1901-1971; and for other purposes.

[*Assented to 28th September,* 1972]

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

Short title.

1. This Act may be cited as the "Statutes Amendment (Public Salaries) Act, 1972".

Arrangement of Act.

2. This Act is arranged as follows:—

PART I—PRELIMINARY

PART II—AMENDMENT OF AUDIT ACT

PART III—AMENDMENT OF POLICE REGULATION ACT

PART IV—AMENDMENT OF PUBLIC SERVICE ACT
PART V—AMENDMENT OF VALUATION OF LAND ACT
PART VI—AMENDMENT OF AGENT-GENERAL ACT

PART II

PART II

AMENDMENT OF AUDIT ACT

Short titles.

3. (1) The Audit Act, 1921-1971, as amended by this Act, may be cited as the "Audit Act, 1921-1972".

(2) The Audit Act, 1921-1971, is in this Part referred to as "the principal Act".

Amendment of principal Act, s. 6—Salary of Auditor-General.

4. Section 6 of the principal Act is amended by striking out subsection (1) and inserting in lieu thereof the following subsection:—

(1) As from, and including, the twenty-sixth day of June, 1972, the Auditor-General shall receive a salary at the rate of twenty-one thousand three hundred dollars a year.

PART III

PART III

AMENDMENT OF POLICE REGULATION ACT

Short titles.

5. (1) The Police Regulation Act, 1952-1972, as amended by this Act, may be cited as the "Police Regulation Act, 1952-1972".

(2) The Police Regulation Act, 1952-1972, is in this Part referred to as "the principal Act".

Amendment of principal Act, s. 8—Salary of Commissioner.

6. Section 8 of the principal Act is amended by striking out subsection (1) and inserting in lieu thereof the following subsection:—

(1) As from, and including, the twenty-sixth day of June, 1972, the salary of the Commissioner shall be at the rate of nineteen thousand seven hundred dollars a year.

PART IV

PART IV

AMENDMENT OF PUBLIC SERVICE ACT

Short titles.

7. (1) The Public Service Act, 1967-1971, as amended by this Act, may be cited as the "Public Service Act, 1967-1972".

(2) The Public Service Act, 1967-1971, is in this Part referred to as "the principal Act".

Amendment of principal Act, s. 15— Salaries and expenses of Commissioners

8. Section 15 of the principal Act is amended by striking out subsection (1) and inserting in lieu thereof the following subsection:—

(1) As from, and including, the twenty-sixth day of June, 1972, the salary of the Commissioner nominated Chairman of the Board shall be at the rate of twenty-one thousand three hundred dollars a year and the salary of each other Commissioner shall be at the rate of eighteen thousand two hundred dollars a year.

PART V

PART V

AMENDMENT OF VALUATION OF LAND ACT

Short titles.

9. (1) The Valuation of Land Act, 1971, as amended by this Act, may be cited as the "Valuation of Land Act, 1971-1972".

(2) The Valuation of Land Act, 1971, is in this Part referred to as "the principal Act".

Amendment of principal Act, s. 8— Salary of Valuer-General.

10. Section 8 of the principal Act is amended by striking out subsection (1) and inserting in lieu thereof the following subsection:—

(1) As from, and including, the twenty-sixth day of June, 1972, the Valuer-General shall receive a salary at the rate of thirteen thousand four hundred dollars a year.

PART VI

AMENDMENT OF AGENT-GENERAL ACT

Short titles.

11. (1) The Agent-General Act, 1901-1971, as amended by this Act, may be cited as the "Agent-General Act, 1901-1972".

(2) The Agent-General Act, 1901-1971, is in this Part referred to as "the principal Act".

Amendment of principal Act, s. 5—Salary and allowances of Agent-General.

12. Section 5 of the principal Act is amended by striking out paragraph (*b*) from subsection (1) and inserting in lieu thereof the following paragraph:—

(*b*) as from and including the twenty-sixth day of June, 1972, an expense allowance at the rate of four thousand seven hundred and fifty pounds sterling a year.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 77 of 1972

An Act to amend the Police Regulation Act, 1952-1972.

[*Assented to 5th October,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Police Regulation Act Amendment Act (No. 2), 1972".

(2) The Police Regulation Act, 1952-1972, as amended by this Act and by all other amendments, if any, amending the same prior to the commencement of this Act, may be cited as the "Police Regulation Act, 1952-1972".

(3) The Police Regulation Act, 1952-1972, as amended by all other amendments, if any, amending the same prior to the commencement of this Act, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 10—

3. Section 10 of the principa Act is amended—

Appointment of officers.

(*a*) by inserting in subsection (1) after the passage "qualified persons to be" the passage "assistant commissioners,";

and

(*b*) by inserting in subsection (2) after the passage "Every such" the passage "assistant commissioner,".

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 78 of 1972

An Act to amend the Land Tax Act, 1936-1971.

[*Assented to 5th October,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Land Tax Act Amendment Act, 1972".

(2) The Land Tax Act, 1936-1971, as amended by this Act, may be cited as the "Land Tax Act, 1936-1972".

(3) The Land Tax Act, 1936-1971, is hereinafter referred to as "the principal Act".

Commencement.

2. This Act shall be deemed to have come into operation at midnight on the thirtieth day of June, 1972.

Amendment of principal Act, s. 4—Interpretation.

3. Section 4 of the principal Act is amended—

(*a*) by inserting in subsection (1) after the definition of "liquidator" the following definition:—

"improvements" in relation to land means houses and buildings, fixtures and other building improvements of any kind whatsoever, fences, bridges, roads, tanks, wells, dams, fruit trees, bushes, shrubs and other plants planted or sown (whether for trade or other purposes) draining of land, ringbarking, clearing of timber or scrub and any other actual improvements:;

and

(*b*) by inserting in subsection (1) after the definition of "returns" the following definition:—

"site improvements" in relation to land means reclamation of land by draining or filling, and any retaining walls or other structures or works appertaining thereto, the excavation, grading or levelling of land, the removal of rocks, stone, sand or soil, and the clearing of timber, scrub or other vegetation:.

Amendment of principal Act, s. 10—Exempt land.

4. Section 10 of the principal Act is amended by inserting after paragraph (*f*) of subsection (1) the following paragraph:—

(*fa*) Land that—

(i) is owned by an association whose object is, or whose objects include, the conservation of native fauna and flora;

and

(ii) is in the opinion of the Commissioner used, without profit to the association or any other person, solely or mainly as a reserve for the purpose of conserving native fauna or flora.

Amendment of principal Act, s. 12c—Special provision for rural land.

5. Section 12c of the principal Act is amended—

(*a*) by striking out subsection (4) and inserting in lieu thereof the following subsection:—

(4) If—

(*a*) the Commissioner is satisfied that any declared rural land, or any part thereof, has ceased to be land used for primary production;

or

(*b*) the taxpayer in respect of any declared rural land applies for the revocation of the declaration in respect of that land, or any part thereof,

the Commissioner may, by notice in writing given personally or by post to the taxpayer, revoke the declaration in respect of the land or revoke the declaration in so far as it relates to a part of the land, as the case may require.;

and

(*b*) by striking out subsection (6) and inserting in lieu thereof the following subsections:—

(6) If the Commissioner revokes a declaration under subsection (4) of this section, the prescribed amount of differential land tax shall forthwith become due and payable.

(7) If any estate or interest of a taxpayer in declared rural land, or any part thereof, is transferred to, or vests in, any other person (whether or not that other person is also a taxpayer in respect of the land prior to the transfer or vesting of the estate or interest) the prescribed amount of differential land tax shall forthwith become due and payable.

(8) Subsection (7) of this section does not apply to—

(*a*) the transfer or vesting of an estate or interest in declared rural land, in pursuance of a gift or devise, to or in the spouse, a parent, grandparent or descendant of the taxpayer or a person in whose ownership the land is wholly or partially exempt from land tax under the provisions of this Act;

or

(*b*) the vesting of an estate or interest in declared rural land in the Official Receiver or a trustee in pursuance of the laws for the time being in force relating to bankruptcy.

(9) For the purposes of subsection (6) of this section, the prescribed amount of differential land tax—

(*a*) where the declaration is wholly revoked, is the whole of the differential land tax;

and

(*b*) where the declaration is revoked in so far as it relates to a part of the declared rural land, is the proportion of the differential land tax that the value of that part of the land bears to the value of the whole of the land that was subject to the declaration immediately before the revocation.

(10) For the purposes of subsection (7) of this section, the prescribed amount of differential land tax—

(*a*) where the whole of the estate or interest, upon which liability for land tax arises under section 31 of this Act, in the whole of the declared rural land is the subject of the transfer or vesting—is the whole of the differential land tax;

or

(*b*) in any other case—is the proportion of differential land tax that the value of the estate or interest, the subject of the transfer or vesting, bears to the value of an estate of fee simple in the whole of the declared rural land.

(11) Where it is necessary to determine the values referred to in subsection (9) or (10) of this section, they shall be determined by the Commissioner upon the assumption that any improvements (not being site improvements) to the land had not been made.

(12) For the purpose of determining values under this section, the Commissioner may, by instrument in writing served personally or by post, require any person to furnish him with a written statement of any facts of which that person has knowledge relevant to the determination of those values.

(13) A person who fails to comply with a requirement under subsection (12) of this section shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

(14) Differential land tax is payable under subsection (7) of this section jointly and severally by the person from whom the estate or interest referred to in that subsection was transferred or divested and the person to whom the estate or interest was transferred or in whom it was vested notwithstanding that, by reason of the transfer or vesting of the estate or interest, a person may have been entirely divested of the estate or interest by virtue of which he was a taxpayer in respect of the land.

(15) Differential land tax is not payable under this section in respect of land by any person in whose ownership the land is wholly or partially exempt from land tax under the provisions of this Act.

(16) For the purposes of this section—

"differential land tax" in respect of land means an amount of land tax being the difference between the amount of land tax that would, but for the provisions of subsection (5) of this section, have been payable in respect of the land and the amount of land tax actually paid in respect of the land for—

(*a*) the financial year in which the relevant date occurs and the preceding financial years in respect of which the taxpayer was liable for the payment of land tax upon the land after the date of the declaration under this section and before the relevant date;

or

(*b*) the financial year in which the relevant date occurs and the preceding four financial years,

whichever is the lesser:

"the relevant date" means—

(*a*) the date of the revocation of a declaration under subsection (4) of this section;

or

(*b*) the date of the transfer or vesting of an estate or interest in land that attracts the operation of subsection (7) of this section,

whichever is applicable to the circumstances of the particular case.

(17) The Commissioner may by notice in writing given to the person who is for the time being the taxpayer in respect of declared rural land, or a part thereof, wholly revoke the declaration, or revoke the declaration in so far as it relates to that part of the land—

(*a*) where the declared rural land, or the part thereof, has ceased to be within a defined rural area;

or

(*b*) where—

(i) the person who was the taxpayer in respect of declared rural land at the time of the declaration, or all of the persons who were the taxpayers in respect of the declared rural land, has or have ceased to be the taxpayer or taxpayers in respect of the land or the part thereof;

and

(ii) no person (being the spouse, a parent, grandparent, or descendant of any such taxpayer) is in consequence of a gift or devise the holder of an estate or interest in the land or part thereof by virtue of which he is a taxpayer in respect of the land or that part of the land.

(18) All the provisions of this Act applicable to the recovery of land tax shall apply to the recovery of differential land tax payable under this section.

6. Section 58a of the principal Act is amended—

Amendment of principal Act, s. 58a—Postponement and remission of tax.

(*a*) by striking out from subsection (1) the passage "and in addition, he may entirely remit any proportion of the total land tax payable by the taxpayer that is referable to the operation of subsection (5) of section 12 of this Act but the amount of any such remission shall not exceed two dollars in respect of any financial year";

and

(*b*) by inserting after subsection (4) the following subsections:—

(5) If the Commissioner is satisfied that a taxpayer is a member of a class, determined by the Commissioner as being a class of persons to whom the payment of the metropolitan levy is likely to cause hardship, he may, subject to subsection (9) of this section, remit payment of the metropolitan levy.

(6) The Commissioner may, by instrument in writing, make, vary or revoke a determination for the purposes of subsection (5) of this section.

(7) A remission granted under subsection (5) of this section shall continue in operation for so long as the Commissioner is satisfied that the taxpayer remains a member of the class under which he became entitled to the remission.

(8) Where a taxpayer ceases to be a member of a class by virtue of which he has obtained remission of the metropolitan levy, he shall forthwith inform the Commissioner in writing of that fact.

Penalty: Two hundred dollars.

(9) The amount of a remission granted under this section shall not exceed two dollars in respect of any financial year, and where the metropolitan levy that would be payable by a taxpayer but for a remission under this section exceeds two dollars in respect of a financial year, the remission shall not operate in respect of the excess.

(10) In this section—

"metropolitan levy" means a component of land tax referable to the operation of subsection (5) of section 12 of this Act.

Amendment of principal Act, s. 65—Transfer to the Crown, and cancellation of title.

7. Section 65 of the principal Act is amended—

(*a*) by striking out from subsection (3) the passage "Registration of Deeds Act, 1936" and inserting in lieu thereof the passage "Registration of Deeds Act, 1935, as amended";

and

(*b*) by striking out from subsection (4) the passage "Land Tax Amendment Act, 1942" wherever it occurs and inserting in lieu thereof in each case the passage "Land Tax Act Amendment Act, 1942".

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 79 of 1972

An Act to amend the Land Tax Act, 1936-1971; the Local Government Act, 1934-1971; the Waterworks Act, 1932-1971; the Sewerage Act, 1929-1970; the Water Conservation Act, 1936-1969, and the Valuation of Land Act, 1971.

[*Assented to 5th October,* 1972]

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

PRELIMINARY

1. This Act may be cited as the "Statutes Amendment (Valuation of Land) Act, 1972". Short title.

2. This Act shall be deemed to have come into operation on the first day of June, 1972. Commencement.

3. This Act is arranged as follows:— Arrangement of Act.

PART I—PRELIMINARY

PART II—AMENDMENT OF THE LAND TAX ACT, 1936-1971

PART III—AMENDMENT OF THE LOCAL GOVERNMENT ACT, 1934-1971

PART IV—AMENDMENT OF THE WATERWORKS ACT, 1932-1971

PART V—AMENDMENT OF THE SEWERAGE ACT, 1929-1970

PART VI—AMENDMENT OF THE WATER CONSERVATION ACT, 1936-1969

PART VII—AMENDMENT OF THE VALUATION OF LAND ACT, 1971.

PART II

PART II

AMENDMENT OF THE LAND TAX ACT, 1936-1971

Short titles.

4. (1) The Land Tax Act, 1936-1971, as amended by this Part, may be cited as the "Land Tax Act, 1936-1972".

(2) The Land Tax Act, 1936-1971, is in this Part referred to as "the principal Act".

Amendment of principal Act, s. 2—Repeal and savings.

5. Section 2 of the principal Act is amended by striking out subsection (3).

Amendment of principal Act, s. 3—Division of Act.

6. Section 3 of the principal Act is amended—

(*a*) by striking out the passage "Assessments and Liability: sections 20 to 44" and inserting in lieu thereof the passage "Liability and Distribution of Liability: sections 31 to 44";

and

(*b*) by striking out the passage "PART V—Objections and Appeals: sections 45 to 55".

Amendment of principal Act, s. 4—Interpretation.

7. Section 4 of the principal Act is amended—

(*a*) by inserting after the definition of "defined rural area" the following definition:—

"determination of unimproved value" in relation to land means a determination or assessment of unimproved value in force under the Valuation of Land Act, 1971-1972:;

(*b*) by striking out the definition of "general notice";

(*c*) by striking out the definition of "unimproved value" and inserting in lieu thereof the following definition:—

"unimproved value" in relation to land means unimproved value within the meaning of the Valuation of Land Act, 1971-1972:;

and

(*d*) by striking out the definition of "the Land and Valuation Court".

Amendment of principal Act s. 12a— Partial exemption.

8. Section 12a of the principal Act is amended by striking out paragraph (*a*) of subsection (3) and inserting after the word "section" in that subsection the passage "shall be separately taxed in accordance with a separate determination of unimproved value, and shall not be taken into account in fixing the rate of tax on any other land owned by the same owner".

Repeal of heading and ss. 20-30 of principal Act.

9. The heading "ASSESSMENTS AND LIABILITY" immediately preceding section 20 of the principal Act is struck out and the heading "LIABILITY AND DISTRIBUTION OF LIABILITY" is inserted in lieu thereof and sections 20 to 30 (inclusive) of the principal Act are repealed.

Repeal of Part V of principal Act.

10. PART V of the principal Act (including the headings thereto) is repealed.

Amendment of principal Act, s. 56— Basis of tax calculation.

11. Section 56 of the principal Act is amended—

(*a*) by inserting after the word "levied" in subsection (1) the passage "on the basis of determinations of the unimproved value of land subject to land tax then in force";

(*b*) by inserting after subsection (1) the following subsections:—

(1a) A determination of unimproved value shall be deemed to be in force at the time referred to in subsection (1) of this section if it is in force as at that time under the Valuation of Land Act, 1971-1972, whether the determination is actually made before or after that time.

(1b) Where a determination of unimproved value, in force at the time referred to in subsection (1) of this section, is subsequently corrected or amended pursuant to the provisions of the Valuation of Land Act, 1971-1972, (whether in pursuance of an objection

or appeal under that Act, or otherwise) the determination of value, as corrected or amended, shall be deemed to have been in force at the time referred to in subsection (1) of this section.;

and

(*c*) by striking out from subsection (3) the passage "due on any assessment" and inserting in lieu thereof the passage "for which he is, or is to be, liable".

Enactment of s. 56a of principal Act—

12. The following section is enacted and inserted in the principal Act after section 56:—

Request for detailed statement of tax claim.

56a. The Commissioner shall, upon receipt of a request in writing made by a taxpayer, render to him a full and detailed statement of his liability to pay the amount of tax shown in a particular notice served upon him.

Amendment of principal Act, s. 59—Recovery by ordinary process.

13. Section 59 of the principal Act is amended by inserting after subsection (2) the following subsection:—

(3) In any proceedings under this section, if the person against whom proceedings for the recovery of tax in respect of any land are taken, is a person who is or was named in a valuation roll compiled under the Valuation of Land Act, 1971-1972, as the owner of the land, then it shall be presumed, unless the contrary is proved, that that person is liable to pay the tax for the recovery of which the proceedings are taken.

Repeal of s. 60 of principal Act.

14. Section 60 of the principal Act is repealed.

Repeal of s. 68 of principal Act and enactment of section in its place—

15. Section 68 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Alteration to valuations or assessments of tax.

68. (1) The right of the Commissioner to recover tax under this Act shall not be suspended or delayed by an objection to, or appeal against, a valuation under the Valuation of Land Act, 1971-1972, and the Commissioner may recover tax on the assumption that the valuation is correct, but if any alteration to a valuation affecting the amount of land tax payable in respect of any land is made under that Act (whether in consequence of an objection or appeal, or otherwise) the Commissioner shall refund to the taxpayer any excess tax recovered, or may recover any additional tax, recoverable on the basis of the altered valuation, as arrears.

(2) The Commissioner may, at any time, correct an assessment of tax and recover tax on the basis of the corrected assessment.

(3) The Commissioner, if satisfied that an overpayment of tax has been made, shall, whether an application for a refund has been made or not, refund to the taxpayer the sum overpaid.

(4) This section shall, without any further appropriation, be sufficient authority for the Commissioner to refund any tax in accordance with this section.

Amendment of principal Act, s. 75— Evidence.

16. Section 75 of the principal Act is amended by striking out subsection (2).

PART III

PART III

AMENDMENT OF THE LOCAL GOVERNMENT ACT, 1934-1971

Short titles.

17. (1) The Local Government Act, 1934-1971, as amended by this Part, may be cited as the "Local Government Act, 1934-1972".

(2) The Local Government Act, 1934-1971, is in this Part referred to as "the principal Act".

Amendment of principal Act, s. 5— Interpretation

18. Section 5 of the principal Act is amended—

(*a*) by striking out from subsection (1) the definition of "annual value" and inserting in lieu thereof the following definition:—

"annual value" means annual value as defined in the Valuation of Land Act, 1971-1972:;

(*b*) by striking out from subsection (1) the definition of "Government assessment" and inserting in lieu thereof the following definitions:—

"Government assessment" means the Government assessment of annual value or the Government assessment of land value as the context may require:

"Government assessment of annual value" in relation to an area means the determinations or assessments of annual value in force under the Valuation of Land Act, 1971-1972, and relating to ratable property within the area:

"Government assessment of land value" in relation to an area means the determinations or assessments of land value in force under the Valuation of Land Act, 1971-1972, and relating to ratable property within the area:;

(*c*) by striking out from subsection (1) the definition of "land value" and inserting in lieu thereof the following definition:—

"land value" means unimproved value as defined in the Valuation of Land Act, 1971-1972:;

and

(*d*) by inserting after subsection (7) the following subsection:—

(8) Notwithstanding the amendment of this Act by the Statutes Amendment (Valuation of Land) Act, 1972, a determination or assessment of annual value or land value, as defined in this Act prior to such amendment, made or adopted under this Act prior to the day on which that amending Act was assented to in respect of the financial year commencing on the first day of July, 1972, shall, for the purposes of this Act, be a valid determination or assessment of annual value or land value, as the case may be, in respect of that financial year.

Amendment of principal Act, s. 173— Duty of council to make assessment.

19. Section 173 of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "to be made of all ratable property within the area" and inserting in lieu thereof the passage "of the annual value of all ratable property within the area to be made";

and

(*b*) by striking out subsections (2), (3), (3a), (3b), (4) and (5).

Repeal of s. 173a of principal Act.

20. Section 173a of the principal Act is repealed.

Enactment of s. 178b of principal Act.

21. The following section is enacted and inserted in the principal Act immediately after section 178a:—

Adoption of Government assessment.

178b. (1) The council may, in accordance with the Valuation of Land Act, 1971-1972, request the Valuer-General to supply it with a copy of a valuation roll for the time being in force under that Act, relating to any ratable property within the area of the council.

(2) The council shall pay to the Valuer-General the fee prescribed under the Valuation of Land Act, 1971-1972, for supplying it with the copy of the valuation roll.

(3) The council, instead of causing an assessment to be made under this Division, may, in respect of any financial year, adopt the Government assessment of annual value in relation to the area.

(4) If the council adopts or proposes to adopt the Government assessment of annual value in relation to the area, the council may, in accordance with the Valuation of Land Act, 1971-1972, request the Valuer-General to assess the annual value of—

(*a*) any ratable property in relation to which a determination or assessment of annual value is not for the time being in force under the Valuation of Land Act, 1971-1972;

(*b*) any ratable property within its area that has been valued in conjunction with property not within its area and for which there is no independent determination or assessment of annual value in force under the Valuation of Land Act, 1971-1972;

and

(*c*) any pieces of ratable property subject to a single valuation that are separately owned or occupied.

(5) If the council adopts the Government assessment of annual value in pursuance of this section, the annual value assigned to ratable property within the area in pursuance of the Valuation of Land Act, 1971-1972, shall be entered in the assessment book.

(6) If the Government assessment of annual value is adopted by the council, the council shall cause notice of that fact to be published in the *Gazette*, and the determinations or assessments of annual value comprising that assessment (subject to alteration under the Valuation of Land Act, 1971-1972) shall as from a day specified in the notice become and be the assessment of the council and shall be deemed to have been duly made in accordance with this Division.

(7) If the Government assessment of annual value is adopted by the council, the right of the council to recover rates on the basis of that assessment shall not be suspended or delayed by an objection to, or appeal against, a valuation under the Valuation of Land Act, 1971-1972, and the council may recover rates on the assumption that the valuation is correct, but if any alteration to a valuation affecting the amount of rates payable in respect of any ratable property is made under that Act (whether in consequence of an objection or appeal or otherwise) the council shall refund any excess amount recovered, or may recover any additional amount payable on the basis of the altered valuation, as arrears.

(8) Where the Government assessment of annual value is adopted by the council, a determination or assessment of annual value that relates to ratable property in the area of the council and is in force under the Valuation of Land Act, 1971-1972, as at the day specified in the notice under subsection (6) of this section shall be deemed to have been validly adopted under this section whether or not the determination or assessment had actually been made at that date.

Repeal of ss. 180-183 of principal Act and enactment of section in their place—

22. Sections 180 to 183 (inclusive) of the principal Act are repealed and the following section is enacted and inserted in their place:—

Council may adopt assessment of Valuer-General.

180. (1) The council may, in accordance with the Valuation of Land Act, 1971-1972, request the Valuer-General to supply it with a copy of a valuation roll for the time being in force under that Act relating to any ratable property within the area of the council.

(2) The council shall pay to the Valuer-General the fee prescribed under the Valuation of Land Act, 1971-1972, for supplying it with the copy of the valuation roll.

(3) The council may in respect of any financial year, by notice published in the *Gazette*, adopt the Government assessment of land value in relation to its area.

(4) If the council adopts, or proposes to adopt, the Government assessment of land value, the council may in accordance with the Valuation of Land Act, 1971-1972, request the Valuer-General to assess the land value of—

(*a*) any ratable property in relation to which a determination or assessment of land value is not for the time being in force under the Valuation of Land Act, 1971-1972;

(*b*) any ratable property within its area that has been valued in conjunction with property not within its area and for which there is no independent determination or assessment of land value in force under the Valuation of Land Act, 1971-1972;

and

(*c*) any pieces of ratable property subject to a single valuation that are separately owned or occupied.

(5) If the Government assessment of land value is adopted by the council, the council shall cause notice of that fact to be published in the *Gazette*, and the determinations or assessments of land value comprising that assessment (subject to alteration

under the Valuation of Land Act, 1971-1972) shall as from a day specified in the notice become and be the assessment of the council and shall be deemed to have been duly made in accordance with this Division.

(6) If the Government assessment of land value is adopted by the council, the right of the council to recover rates on the basis of that assessment shall not be suspended or delayed by an objection to, or appeal against, a valuation under the Valuation of Land Act, 1971-1972, and the council may recover rates on the assumption that the valuation is correct, but if any alteration to a valuation affecting the amount of rates payable in respect of any ratable property is made under that Act (whether in consequence of an objection or appeal or otherwise) the council shall refund any excess amount recovered, or may recover any additional amount payable on the basis of the altered valuation, as arrears.

(7) Where the Government assessment of land value is adopted by the council, a determination or assessment of land value that relates to ratable property in the area of the council and is in force under the Valuation of Land Act, 1971-1972, as at the day specified in the notice under subsection (5) of this section shall be deemed to have been validly adopted under this section whether or not the determination or assessment had actually been made at that date.

23. Section 184 of the principal Act is amended— Amendment of principal Act, s. 184—

(*a*) by striking out subsection (2) and inserting in lieu thereof the following subsection:— Power of council to make its own assessment.

(2) Where any such assessment has been prepared—

(*a*) a minute of the council's approval of the assessment must be inserted in the assessment book and signed by the mayor or chairman and the clerk;

and

(*b*) the assessment shall be deemed to have been made at the time the minute is so signed and shall, subject to the provisions of this Act, remain binding on the area and the ratepayers until an assessment is subsequently made or adopted under this Division.;

and

(*b*) by striking out subsection (8) and inserting in lieu thereof the following subsection:—

(8) If the council makes its own assessment of land value under this section in respect of any financial year, it may nevertheless, in accordance with this Division, adopt the assessment of land value in force under the Valuation of Land Act, 1971-1972, in respect of any subsequent financial year.

Repeal of s. 185 of principal Act and enactment of section in its place—

24. Section 185 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Land value to be entered in assessment book.

185. Where an assessment of land value in force under the Valuation of Land Act, 1971-1972, is adopted by the council, or where an assessment of land value is made by the council under this Division, the land value assigned to ratable property within the area shall be entered in the assessment book.

Amendment of principal Act, s. 186— Exhibition of assessment book.

25. Section 186 of the principal Act is amended by striking out from subsection (1) the passage "and the copies exhibited pursuant to this Division shall remain so exhibited until the expiration of the time for hearing appeals".

Repeal of s. 188 of principal Act.

26. Section 188 of the principal Act is repealed.

Amendment of principal Act, s. 203— Appeals against assessment.

27. Section 203 of the principal Act is amended—

(*a*) by striking out the word "Any" being the first word of subsection (1) and inserting in lieu thereof the passage "Subject to subsection (1a) of this section, any";

and

(*b*) by inserting after subsection (1) the following subsection:—

(1a) A ratepayer shall not appeal upon the ground that the ratable property is assessed below or above its full and fair value if the value assigned thereto has been assessed under the Valuation of Land Act, 1971-1972, and duly adopted by the council under this Act.

Amendment of principal Act, s. 212—
Appeal from assessment.

28. Section 212 of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "section 181, has caused an assessment to be made, adopting the Government assessment" and inserting in lieu thereof the passage "section 180, has adopted the Government assessment";

(*b*) by striking out from subsection (2) the passage "section 182, 183 or 184" and inserting in lieu thereof the passage "section 184";

and

(*c*) by striking out from subsection (2a) the passage "section 181, has caused an assessment to be made adopting the Government assessment, or pursuant to sections 182, 183 or 184" and inserting in lieu thereof the passage "section 180, has adopted the Government assessment or pursuant to section 184".

PART IV

PART IV

AMENDMENT OF THE WATERWORKS ACT, 1932-1971

Short titles.

29. (1) The Waterworks Act, 1932-1971, as amended by this Part, may be cited as the "Waterworks Act, 1932-1972".

(2) The Waterworks Act, 1932-1971, is in this Part referred to as "the principal Act".

Amendment of principal Act, s. 2— Arrangement.

30. Section 2 of the principal Act is amended by striking out the passage "Assessments and rates" and inserting in lieu thereof the word "Rates".

Amendment of principal Act, s. 4— Interpretation.

31. Section 4 of the principal Act is amended—

(*a*) by striking out the definition of "adjacent land or premises" and inserting in lieu thereof the following definition:—

"adjacent land" means—

(*a*) land abutting upon part of a street in, or adjacent to, which a gazetted main pipe has been laid;

(*b*) land abutting upon, or traversed by, a gazetted main pipe;

or

(*c*) land that is, pursuant to section 121 of this Act, deemed to be adjacent land,

but does not include any such land to which the Minister is not prepared to supply water by means of a direct service:;

(*b*) by striking out from the definition of "direct service" the passage "or premises" and the passage "or those premises";

(*c*) by inserting after the definition of "gazetted main pipe" the following definition:—

"land" includes premises:;

(*d*) by striking out the definition of "ratable supplied land or premises" and inserting in lieu thereof the following definition:—

"ratable supplied land" means land (not being adjacent land, or land supplied with water by measure pursuant to an agreement under section 37 of this Act) in respect of which—

(*a*) water is supplied directly or indirectly from a gazetted main pipe;

or

(*b*) the Minister has, at any time, at the request of an owner or occupier of the land, provided a supply of water to a point, determined by the Minister, from which the land may receive a supply of water:;

and

(*e*) by striking out the definition of "the Land and Valuation Court".

Amendment of principal Act, s. 10—Power to make by-laws.

32. Section 10 of the principal Act is amended by striking out from paragraph III of subsection (1) the passage "and premises".

Amendment of principal Act, s. 35—Duty to lay communication pipe.

33. Section 35 of the principal Act is amended—

(*a*) by striking out the passage "or premises" wherever it occurs in subsection (1);

(*b*) by striking out from subsection (1) the word "are" and inserting in lieu thereof the word "is";

and

(*c*) by striking out from subsection (2) the passage "or premises" wherever it occurs.

Amendment of principal Act, s. 37—Supply of water by measure.

34. Section 37 of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "or premises" wherever it occurs;

(*b*) by striking out from subsection (2) the passage "and premises";

and

(*c*) by striking out from subsection (3) the passage "and premises".

Amendment of principal Act, s. 39—Power to let meters.

35. Section 39 of the principal Act is amended by striking out from subsection (2) the passage "of the premises where the same are used".

Amendment of principal Act, s. 42—Procedure on failure of meter.

36. Section 42 of the principal Act is amended by striking out the passage "or premises" wherever it occurs.

Amendment of principal Act, s. 43—Interference with meter.

37. Section 43 of the principal Act is amended by striking out the passage "or premises".

Amendment of principal Act, s. 45—
Duty to keep pipes, etc., in repair.

38. Section 45 of the principal Act is amended by striking out from subsection (1) the passage "or premises".

Amendment of principal Act, s. 46—
Use of fittings.

39. Section 46 of the principal Act is amended by striking out from subsection (1) the passage "or premises".

Amendment of principal Act, s. 47—
Wastage of water.

40. Section 47 of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "and into any premises to which water is supplied by the Minister under agreement or otherwise" and inserting in lieu thereof the passage "to which water is supplied by the Minister under agreement or otherwise and into any building or structure upon the land";

(*b*) by striking out from subsection (1) the passage "on or in such land or premises" and inserting in lieu thereof the passage "on the land or in the building or structure";

(*c*) by striking out from subsection (2) the passage "land or premises" and inserting in lieu thereof the passage "land, building or structure";

and

(*d*) by striking out from subsection (3) the passage "and premises" and the passage "or premises".

Amendment of principal Act, s. 49—
Unauthorized fittings.

41. Section 49 of the principal Act is amended by striking out the passage "or premises" wherever it occurs.

Amendment of principal Act, s. 54—
Power to cut off water.

42. Section 54 of the principal Act is amended by striking out the word "premises" and inserting in lieu thereof the word "land".

Amendment of principal Act, s. 65—
Trespassing.

43. Section 65 of the principal Act is amended by striking out the passage "or premises".

Amendment of heading.

44. The heading immediately preceding section 66 of the principal Act is amended by striking out the passage "ASSESSMENT, RATING AND RECOVERY OF".

Repeal of ss. 66-82 of principal Act and enactment of sections in their place—
Fixation of rates.

45. Sections 66 to 82 (inclusive) of the principal Act are repealed and the following sections are enacted and inserted in their place:—

66. (1) The Minister may, by notice published in the *Gazette*, fix the scale upon which the water rates to be levied under this Act in respect of land subject thereto within a water district, shall be calculated.

(2) The notice may also specify the manner in which the rebate allowance to which a consumer is entitled in respect of water rates under section 86 of this Act is calculated, and the price of water consumed in excess of that rebate allowance.

(3) Subject to subsection (4) of this section, water rates shall be calculated, in accordance with the scale fixed under subsection (1) of this section, on the basis of determinations of the annual value of land subject thereto, in force under the Valuation of Land Act, 1971-1972, at the first day of July last preceding the publication of the notice.

(4) A determination of annual value shall be deemed to be in force at the time referred to in subsection (3) of this section if it is in force as at that time under the Valuation of Land Act, 1971-1972, whether the determination is actually made before or after that time.

(5) Where a determination of annual value, in force at the time referred to in subsection (3) of this section is subsequently corrected or amended pursuant to the provisions of the Valuation of Land Act, 1971-1972, (whether in pursuance of an objection or appeal under that Act, or otherwise) the determination of value, as corrected or amended shall be deemed to have been in force at the time referred to in subsection (3) of this section.

Right to recover rates not to be suspended.

67. The water rates calculated under section 66 of this Act may be recovered by the Minister in accordance with this Act and his right so to recover them shall not be suspended or delayed by an objection to, or an appeal against, a valuation under the Valuation of Land Act, 1971-1972, and the Minister may recover water rates on the assumption that the valuation is correct, but if any alteration to a valuation affecting the amount of water rates payable in respect of any land is made under that Act (whether in consequence of an objection or appeal, or otherwise) the Minister shall refund any excess amount recovered to the person from whom it was recovered, and may recover any additional amount, recoverable on the basis of the altered valuation, as arrears.

Scale of water by measure.

68. (1) The Minister may, either in addition to, or instead of, levying water rates under this Act, sell and supply water to consumers by measure.

(2) The Minister may determine the conditions on which the water will be supplied, the price of the water and the other charges to be paid by a consumer supplied with water under subsection (1) of this section.

(3) The quantity of water supplied under this section shall be measured by a meter upon or near the land of the consumer.

Reduction of rates.

69. Where water rates are not payable in respect of any land at the commencement of a financial year, but become payable in respect thereof before the expiration of that financial year, the Minister may reduce the amount of the water rates payable for that financial year in respect of the land by so much as he deems just.

Repeal of s. 83 of principal Act and enactment of section in its place—

46. Section 83 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Minimum rates.

83. (1) The Minister may, by notice published in the *Gazette*, fix the minimum water rates payable in respect of any land.

(2) The minimum water rates fixed under subsection (1) of this section may be differential and may vary according to the water district or portion thereof in which the land is situated, according to whether water is, or is not, laid on to the land and according to whether the land is vacant land or not.

Amendment of principal Act, s. 84—
Reduced scale of water rates.

47. Section 84 of the principal Act is amended by striking out from paragraph (*a*) the passage "or premises assessed under this Act".

Amendment of principal Act, s. 85—
Agreement for water supply.

48. Section 85 of the principal Act is amended by striking out from subsection (1), subsection (2) and subsection (3) the passage "or premises" wherever it occurs.

Amendment of principal Act, s. 86—
Payment for excess water.

49. Section 86 of the principal Act is amended by striking out from subsections (1) and (2) the passage "or premises" wherever it occurs.

Amendment of principal Act, s. 87—
Recovery of amount due.

50. Section 87 of the principal Act is amended—

(*a*) by inserting in subsection (1) after the word "Act" secondly occurring the passage "(which notice may also contain particulars of an amount payable to the Minister under the Sewerage Act, 1929-1972)";

(*b*) by striking out from paragraph (*b*) of subsection (2) the passage "or premises";

and

(*c*) by striking out from paragraph (*b*) of subsection (4) the word "premises" and inserting in lieu thereof the word "land".

Amendment of principal Act, s. 88—
Property exempted from rates.

51. Section 88 of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "or premises";

and

(*b*) by striking out from subsection (1) the passage "rates on assessments to be levied in respect of such lands and buildings" and inserting in lieu thereof the passage "water rates under this Act".

Amendment of principal Act, s. 89—
Land subject to rates.

52. Section 89 of the principal Act is amended—

(*a*) by striking out from subsections (1) and (2) the passage "or premises" wherever it occurs;

and

(*b*) by striking out from subparagraph (ii) of paragraph (*b*) of subsection (2) the word "premises" and inserting in lieu thereof the word "land".

Amendment of principal Act, s. 90—
Imposition of rates.

53. Section 90 of the principal Act is amended by striking out from subsection (1) the passage "or premises".

Amendment of principal Act, s. 92—
Power to collect from tenants.

54. Section 92 of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "the land or premises assessed" and inserting in lieu thereof the passage "any land";

and

(*b*) by striking out from subsection (1) the passage "or premises" secondly occurring.

Amendment of principal Act, s. 93—
Recovery of amounts due.

55. Section 93 of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "or premises";

and

(*b*) by striking out from subsection (3) the passage "or premises".

Amendment of principal Act, s. 94—
Time for payment.

56. Section 94 of the principal Act is amended by striking out from subsection (2) the passage "or premises".

Amendment of principal Act, s. 95—Recovery of rates.

57. Section 95 of the principal Act is amended—

(*a*) by striking out from paragraph (*b*) of subsection (1) the passage "or premises";

and

(*b*) by striking out from subsections (2) and (3) the passage "or premises" wherever it occurs.

Amendment of principal Act, s. 96—Tenant may recover amounts paid by him from landlord.

58. Section 96 of the principal Act is amended by striking out from subsection (1) the passage "or premises assessed".

Amendment of principal Act, s. 98—Power to sell land when water rates in arrear.

59. Section 98 of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "or premises";

(*b*) by striking out from paragraph (*a*) of subsection (2) the passage "or premises";

and

(*c*) by striking out from paragraph (*a*) of subsection (3) the passage "or premises".

Amendment of principal Act, s. 99—Power of lessee to recover certain expenses.

60. Section 99 of the principal Act is amended—

(*a*) by striking out the passage "or premises assessed under this Act";

and

(*b*) by striking out from paragraph (*a*) the passage "or premises".

Amendment of principal Act, s. 103—Power to levy annual construction rate.

61. Section 103 of the principal Act is amended by striking out subsections (2), (3), (4) and (5) and inserting in lieu thereof the following subsections:—

(2) A construction rate shall be based on the average unimproved value per unit of area of the land, calculated upon a determination of the unimproved value of that land in force under the Valuation of Land Act, 1971-1972, at the first day of July last preceding the declaration of the construction rate.

(3) A determination of unimproved value shall be deemed to be in force at the time referred to in subsection (2) of this section if it is in force as at that time under the Valuation of Land Act, 1971-1972, whether the determination is actually made before or after that time.

(4) Where a determination of unimproved value, in force at the time referred to in subsection (2) of this section, is subsequently corrected or amended pursuant to the provisions of the Valuation of Land Act, 1971-1972, (whether in pursuance of an objection or appeal under that Act or otherwise) the determination of value, as corrected or amended, shall be deemed to have been in force at the time referred to in subsection (2) of this section.

Enactment of s. 104a of principal Act—

62. The following section is enacted and inserted in the principal Act immediately after section 104 thereof:—

Right to recover rate not to be suspended.

104a. A rate declared and calculated in accordance with section 103 of this Act may be recovered by the Minister in accordance with this Act and his right so to recover it shall not be suspended or delayed by an objection to, or an appeal against, a valuation under the Valuation of Land Act, 1971-1972, and the Minister may recover the rate on the assumption that the valuation is correct, but if any alteration to a valuation affecting the amount of the construction rate payable in respect of any land is made under that Act (whether in consequence of an objection or appeal or otherwise) the Minister shall refund any excess amount to the person from whom it was recovered, and may recover any additional amount, recoverable upon the basis of the altered valuation, as arrears.

Amendment of principal Act, s. 112a—
Certificate of Minister.

63. Section 112a of the principal Act is amended by striking out from subsection (1) the passage "or premises".

Amendment of principal Act, s. 118—
Gazette to be evidence.

64. Section 118 of the principal Act is amended by striking out the passage "or assessment" wherever it occurs.

Amendment of principal Act, s. 120—
Evidence.

65. Section 120 of the principal Act is amended by striking out the passage "or premises" wherever it occurs.

Amendment of principal Act, s. 121—
Tod River and Coonalpyn Downs Water District.

66. Section 121 of the principal Act is amended—

(*a*) by striking out the passage "or premises" wherever it occurs; and

(*b*) by striking out the passage "or are".

PART V

PART V

AMENDMENT OF THE SEWERAGE ACT, 1929-1970

Short titles.

67. (1) The Sewerage Act, 1929-1970, as amended by this Part, may be cited as the "Sewerage Act, 1929-1972".

(2) The Sewerage Act, 1929-1970, is in this Part referred to as "the principal Act".

Amendment of principal Act, s. 2—Arrangement.

68. Section 2 of the principal Act is amended by striking out the passage "Assessment and Rating and Recovery of".

Amendment of principal Act, s. 4—Interpretation.

69. Section 4 of the principal Act is amended—

(*a*) by striking out the definition of "land" and inserting in lieu thereof the following definition:—

"land" includes premises:;

(*b*) by striking out from the definition of "owner" the passage "or premises" wherever it occurs;

(*c*) by striking out from the definition of "payment day" the passage "or premises";

and

(*d*) by striking out the definition of "the Land and Valuation Court".

Amendment of principal Act, s. 13—Regulations.

70. Section 13 of the principal Act is amended by striking out from paragraph VI of subsection (1) the passage "lands and premises which are exempt from assessment and" and inserting in lieu thereof the passage "land that is exempt from".

Amendment of principal Act, s. 19—Purchase or lease of land.

71. Section 19 of the principal Act is amended by striking out from paragraph (*a*) the passage "or premises".

Amendment of principal Act, s. 20—Power to construct sewers.

72. Section 20 of the principal Act is amended by striking out from paragraph (*b*) and paragraph (*g*) of subsection (1) the passage "or premises".

Amendment of principal Act, s. 33—Drains to be made to public sewer.

73. Section 33 of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "or premises" wherever it occurs;

(*b*) by striking out from subsection (2) the passage "at the said land or premises" and inserting in lieu thereof the passage "at or upon the land";

and

(*c*) by striking out from subsection (4) the passage "lands and premises" and inserting in lieu thereof the word "land".

Amendment of principal Act, s. 34—Repair, etc., of drains.

74. Section 34 of the principal Act is amended by striking out the passage "or premises".

Amendment of principal Act, s. 35—Default in compliance with order.

75. Section 35 of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "or premises" and the passage "and premises";

and

(*b*) by striking out from subsection (2) the passage "or premises".

Amendment of principal Act, s. 36—Prohibition of cesspit.

76. Section 36 of the principal Act is amended by striking out from subsection (1) the passage "or premises".

Amendment of principal Act, s. 39—Drains to be cleansed.

77. Section 39 of the principal Act is amended by striking out from subsection (1) the passage "or premises".

Amendment of principal Act, s. 40—De-odorizing sewage.

78. Section 40 of the principal Act is amended by striking out the passage "premises are" and inserting in lieu thereof the passage "land is".

Amendment of principal Act, s. 42—Owners beyond drainage area.

79. Section 42 of the principal Act is amended—

(*a*) by striking out the passage "or premises";

and

(*b*) by striking out the passage "such premises" and inserting in lieu thereof the passage "that land".

Amendment of principal Act, s. 43—Agreement with Minister.

80. Section 43 of the principal Act is amended by striking out the passage "or premises".

Amendment of principal Act, s. 44—Agreement to drain.

81. Section 44 of the principal Act is amended by striking out from subsections (1), (2) and (3) the passage "or premises" wherever it occurs.

Amendment of principal Act, s. 51—
Power to authorize inspection.

82. Section 51 of the principal Act is amended—

(*a*) by striking out the passage "or premises" first occurring; and

(*b*) by striking out from paragraph (*a*) the passage "or premises, or the premises".

Amendment of principal Act, s. 55—
Rain water.

83. Section 55 of the principal Act is amended by striking out from subsection (1) the passage "or premises" wherever it occurs.

Amendment of principal Act, s. 56—
Removal of fittings.

84. Section 56 of the principal Act is amended—

(*a*) by striking out from subsections (1), (2) and (3) the passage "or premises" wherever it occurs; and

(*b*) by striking out from subsection (3) the passage "said premises" and inserting in lieu thereof the word "land".

Amendment of principal Act, s. 60—
Obstruction by occupier.

85. Section 60 of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "or premises" wherever it occurs; and

(*b*) by striking out from subsection (2) the word "premises" wherever it occurs and inserting in lieu thereof, in each case, the word "land".

Amendment of heading.

86. The heading immediately preceding section 61 of the principal Act is amended by striking out the passage "ASSESSMENT AND RATING AND RECOVERY OF".

Repeal of ss. 61-64 of principal Act.

87. Sections 61 to 64 (inclusive) of the principal Act are repealed.

Repeal of s. 65 of principal Act and enactment of section in its place—
Exemption from sewerage rates.

88. Section 65 of the principal Act is repealed and the following section is enacted and inserted in its place:—

65. No land—

(*a*) used exclusively for charitable purposes;

(*b*) used exclusively for the purposes of public worship; or

(*c*) occupied and used by any municipal corporation within a drainage area exclusively for municipal purposes, and not underlet to, or occupied for other than municipal purposes by, any tenant of the corporation,

shall be subject to sewerage rates.

Amendment of principal Act, s. 66—

89. Section 66 of the principal Act is amended—

Government land and premises to be rated.

(*a*) by striking out from subsection (1) the passage "The Minister shall include in every such assessment all lands and premises" and inserting in lieu thereof the passage "All land";

(*b*) by inserting in subsection (1) after the word "schools" the passage "shall be subject to sewerage rates";

and

(*c*) by striking out subsection (2) and inserting in lieu thereof the following subsection:—

(2) The Treasurer shall pay sewerage rates upon the land referred to in subsection (1) of this section to the Minister out of the general revenue of the State.

Repeal of s. 67 of principal Act.

90. Section 67 of the principal Act is repealed.

Amendment of principal Act, s. 68—

91. Section 68 of the principal Act is amended—

Fees where land or premises exempt from rating.

(*a*) by striking out the passage "lands and premises which are" and inserting in lieu thereof the passage "land that is";

(*b*) by striking out the passage "assessment and";

(*c*) by striking out the passage "said lands and premises" and inserting in lieu thereof the word "land";

and

(*d*) by striking out the passage "lands or premises owned or occupied by him had been assessed and" and inserting in lieu thereof the passage "land owned or occupied by him had been".

Repeal of ss. 69-74 of principal Act and enactment of sections in their place—

92. Sections 69 to 74 (inclusive) of the principal Act are repealed and the following sections are enacted and inserted in their place:—

Determination of rates.

73. (1) Subject to section 74a of this Act, the Minister may, by notice published in the *Gazette*, fix the scale upon which sewerage rates to be levied in respect of land subject thereto within a drainage area, shall be calculated.

(2) Sewerage rates shall be calculated, in accordance with the scale fixed under subsection (1) of this section, on the basis of determinations of the annual value of land subject thereto, in force under the Valuation of Land Act, 1971-1972, at the first day of July last preceding the publication of the notice.

(3) A determination of annual value shall be deemed to be in force at the time referred to in subsection (2) of this section if it is in force as at that time under the Valuation of Land Act, 1971-1972, whether the determination is actually made before or after that time.

(4) Where a determination of annual value, in force at the time referred to in subsection (2) of this section, is subsequently corrected or amended pursuant to the provisions of the Valuation of Land Act, 1971-1972, (whether in pursuance of an objection or appeal under that Act, or otherwise) the determination of value, as corrected or amended, shall be deemed to have been in force at the time referred to in subsection (2) of this section.

Recovery not to be delayed.

74. The sewerage rates calculated under section 73 of this Act may be recovered by the Minister in accordance with this Act, and his right so to recover them shall not be suspended or delayed by an objection to or appeal against a valuation under the Valuation of Land Act, 1971-1972, and the Minister may recover sewerage rates on the assumption that the valuation is correct, but if any alteration to a valuation affecting the amount of sewerage rates payable in respect of any land is made under that Act (whether in consequence of an objection or appeal, or otherwise) the Minister shall refund any excess amount recovered to the person from whom it was recovered, and may recover any additional amount, recoverable on the basis of the altered valuation, as arrears.

Amendment of principal Act, s. 75—Power to fix minimum rate.

93. Section 75 of the principal Act is amended—

(*a*) by striking out subsections (1) and (2) and inserting in lieu thereof the following subsections:—

(1) The Minister may fix a minimum sewerage rate in respect of any land.

(2) The minimum rate may vary according to whether the land to which it relates is vacant land or not, and according to the situation of the land or any other factor.;

(*b*) by striking out from subsection (3) the passage "or any land and premises";

and

(*c*) by inserting after subsection (3) the following subsection:—

(4) Where land ceases to be vacant land to which a minimum rate applies, the minimum rate for vacant land shall cease to apply in relation to that land as from the payment day next ensuing after it ceases to be vacant land.

Repeal of s. 76 of principal Act.

94. Section 76 of the principal Act is repealed.

Amendment of principal Act, s. 77— Power to reduce scale of sewerage rates.

95. Section 77 of the principal Act is amended by striking out from subsection (1) the passage "assessed under this Act".

Amendment of principal Act, s. 78— Limitation of liability to rates.

96. Section 78 of the principal Act is amended by striking out from subsections (2) and (4) the passage "or premises" wherever it occurs.

Amendment of principal Act, s. 79— Power to make rates payable quarterly.

97. Section 79 of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "and premises";

and

(*b*) by striking out from subsection (2) the passage "or premises".

Amendment of principal Act s. 80— Service of notice.

98. Section 80 of the principal Act is amended—

(*a*) by inserting in subsection (1) after the word "Act" secondly occurring the passage "(which notice may also contain particulars of an amount payable to the Minister under the Waterworks Act, 1932-1972)";

(*b*) by striking out from paragraph (*b*) of subsection (2) the passage "or premises";

and

(*c*) by striking out from paragraph (*b*) of subsection (3) the passage "or premises".

Amendment of principal Act, s. 81— Where several premises drained by the same sewer.

99. Section 81 of the principal Act is amended—

(*a*) by striking out the passage "or premises in the separate occupation of several persons are drained by one common drain or sewer, the several owners or occupiers of the land or premises" and inserting in lieu thereof the passage "in the separate occupation of several persons is drained by one common drain or sewer, the several owners or occupiers of the land";

and

(*b*) by striking out the passage "or each of such premises";

Amendment of principal Act, s. 82—Recovery against tenant.

100. Section 82 of the principal Act is amended by striking out from subsection (1) the passage "or premises" wherever it occurs.

Amendment of principal Act, s. 83—Reimbursement of tenant.

101. Section 83 of the principal Act is amended by striking out from subsection (1) the passage "or premises".

Amendment of principal Act, s. 84—Rates paid by tenant.

102. Section 84 of the principal Act is amended by striking out the passage "or premises" wherever it occurs.

Amendment of principal Act, s. 85—Water and sewerage rates both included in one notice.

103. Section 85 of the principal Act is amended by striking out the figures "64" and inserting in lieu thereof the figures "80".

Repeal of ss. 86-89 of principal Act.

104. Sections 86 to 89 (inclusive) of the principal Act are repealed.

Repeal of s. 91 of principal Act.

105. Section 91 of the principal Act is repealed.

Amendment of principal Act, s. 92—Power to distrain.

106. Section 92 of the principal Act is amended—

(*a*) by striking out from paragraph (*b*) of subsection (1) the passage "or premises";

and

(*b*) by striking out from subsections (2) and (3) the word "premises" wherever it occurs and inserting in lieu thereof, in each case, the word "land".

Amendment of principal Act, s. 93—Rates to be charged on land.

107. Section 93 of the principal Act is amended by striking out the passage "or premises" wherever it occurs in subsections (1) and (3).

Amendment of principal Act, s. 94—Land may be sold.

108. Section 94 of the principal Act is amended by striking out from subsections (1) and (2) the passage "or premises" wherever it occurs.

Amendment of principal Act, s. 100a—Evidentiary provision.

109. Section 100a of the principal Act is amended by striking out from subsection (1) the passage "or premises".

Amendment of principal Act, s. 101—Service.

110. Section 101 of the principal Act is amended—

(*a*) by striking out from subsections (1) and (2) the passage "or premises" wherever it occurs;

and

(*b*) by striking out from subsection (3) the passage "and premises".

PART VI

AMENDMENT OF THE WATER CONSERVATION ACT, 1936-1969

Short titles.

111. (1) The Water Conservation Act, 1936-1969, as amended by this Part, may be cited as the "Water Conservation Act, 1936-1972".

(2) The Water Conservation Act, 1936-1969, is in this Part referred to as "the principal Act".

Amendment of principal Act, s. 4— Arrangement.

112. Section 4 of the principal Act is amended by striking out the passage "Assessments, rates and charges" and inserting in lieu thereof the word "Charges".

Amendment of principal Act, s. 5— Interpretation.

113. Section 5 of the principal Act is amended—

(*a*) by striking out the definition of "Commissioner";

(*b*) by inserting before the definition of "owner" the following definition:—

"the Minister" means the Minister of Works:;

and

(*c*) by striking out the definition of "the Land and Valuation Court".

Repeal of s. 7 of principal Act.

114. Section 7 of the principal Act is repealed.

Amendment of principal Act, s. 8— Powers of Minister.

115. Section 8 of the principal Act is amended by striking out the passage "The Commissioner and his successors in office shall be a body corporate under the name of "The Commissioner of Water Conservation", and by that name shall have perpetual succession and a seal, and shall" and inserting in lieu thereof the passage "The Minister may".

Amendment of principal Act, s. 10— Powers outside water district.

116. Section 10 of the principal Act is amended by striking out the passage "except the levying of rates".

Amendment of principal Act, s. 14— Power to vest Crown lands in Minister.

117. Section 14 of the principal Act is amended by striking out the passage "His Majesty" and inserting in lieu thereof the passage "the Crown".

Amendment of principal Act, s. 16— Power to sell waterworks.

118. Section 16 of the principal Act is amended by striking out from subsection (2) the passage "His Majesty" and inserting in lieu thereof the passage "the Crown".

Amendment of heading and repeal of ss. 22-33 of principal Act.

119. The heading immediately preceding section 22 of the principal Act is amended by striking out the passage "ASSESSMENTS, RATES AND" and sections 22 to 33 (inclusive) of the principal Act are repealed.

Repeal of ss. 36-39 of principal Act.

120. Sections 36 to 39 (inclusive) of the principal Act are repealed.

Repeal of ss. 41-42 of principal Act.

121. Sections 41 and 42 of the principal Act are repealed.

Amendment of principal Act, s. 43—Recovery of amounts.

122. Section 43 of the principal Act is amended by striking out the word "Rates" and inserting in lieu thereof the passage "Any amount payable to the Minister under this Act".

Repeal of ss. 44-51 of principal Act.

123. Sections 44 to 51 (inclusive) of the principal Act are repealed.

Repeal of s. 71 of principal Act.

124. Section 71 of the principal Act is repealed.

Amendment of principal Act—Substitution of "Minister" for "Commissioner".

125. The principal Act is amended by striking out the word "Commissioner" wherever it occurs and inserting in lieu thereof, in each case, the word "Minister".

PART VII

AMENDMENT OF THE VALUATION OF LAND ACT, 1971

Short titles.

126. (1) The Valuation of Land Act, 1971, as amended by this Act, may be cited as the "Valuation of Land Act, 1971-1972".

(2) The Valuation of Land Act, 1971, is in this Part referred to as "the principal Act".

Amendment of principal Act, s. 4—Transitional provision.

127. Section 4 of the principal Act is amended—

(*a*) by striking out subsection (3) and inserting in lieu thereof the following subsection:—

(3) Every assessment of unimproved value in force under the Land Tax Act, 1936-1971, immediately before the commencement of this Act, shall be deemed to be a determination of unimproved value under this Act, and every assessment of annual value to the making of which the notice published in the *Gazette* on the 18th day of May, 1972, related, shall (subject to any correction or amendment made thereto by the Chief Government Valuer before the commencement of this Act) be deemed to be a determination of annual value under this Act.;

and

(*b*) by striking out subsection (5).

Amendment of principal Act, s. 5—Interpretation.

128. Section 5 of the principal Act is amended by inserting in the definition of "annual value" after the word "shall" in paragraph (*c*) the passage "(where the annual value is computed on the basis of gross annual rental, but not otherwise)".

Amendment of principal Act, s. 13—Notice of general valuation.

129. Section 13 of the principal Act is amended by striking out subsection (3) and inserting in lieu thereof the following subsection:—

(3) The determinations of value comprising the general valuation shall come into force and supersede any previous determinations of value in force under this Act and affecting the land to which the general valuation relates as from such day, (either before or after the completion of the general valuation) as may be determined by the Valuer-General.

Amendment of principal Act, s. 15—Power to value land.

130. Section 15 of the principal Act is amended—

(*a*) by striking out from paragraph (*a*) of subsection (2) the passage "in all respects as if that valuation were made in the course of the last preceding general valuation" and

inserting in lieu thereof the passage "in accordance with the level of values prevailing in relation to land of the same or a similar character at the time of the completion of the last general valuation";

and

(*b*) by striking out subsection (3) and inserting in lieu thereof the following subsection:—

(3) A determination of value made under this section shall come into force and supersede any previous determination of value in force under this Act and affecting the land to which the determination relates as from such day (either before or after the day on which the determination of value is made) as may be determined by the Valuer-General.

Amendment of principal Act, s. 17—Valuations for departments, etc.

131. Section 17 of the principal Act is amended by striking out subsection (2).

Amendment of principal Act, s. 18—Form of valuation roll.

132. Section 18 of the principal Act is amended by striking out from paragraph (*a*) the passage "and his last postal address of which the Valuer-General has received notice".

Amendment of principal Act, s. 20—Valuation list to be available for public inspection.

133. Section 20 of the principal Act is amended by striking out the passage "the valuation roll, or a true copy thereof" and inserting in lieu thereof the passage "a valuation list containing such particulars from the valuation roll as the Valuer-General may determine".

Amendment of principal Act, s. 22—Adoption of valuations.

134. Section 22 of the principal Act is amended by striking out subsections (2) and (3) and inserting in lieu thereof the following subsections:—

(2) A valuation adopted under this section shall have effect as a valuation of the Valuer-General and shall be entered in a valuation roll.

(3) A valuation adopted under this section shall come into force under this Act as from such day (either before or after the date of adoption) as may be determined by the Valuer-General.

(4) Where a valuation adopted under this section was made under an Act that allows a right of appeal in respect of the valuation, Part IV of this Act shall not apply in respect of the valuation.

135. Section 34 of the principal Act is amended by inserting after paragraph (*a*) the following paragraph:— Amendment of principal Act, s. 34—Regulations.

(*ab*) provide that specified fixtures or improvements, or fixtures or improvements of a specified class, shall not be taken into account in determining or assessing the annual value or capital value of land generally, or land of a particular class, where the determination or assessment is to be used for the purpose of raising, levying or imposing any rate, tax or impost;.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 80 of 1972

An Act for the appropriation of revenue of the State for the financial year ending on the thirtieth day of June, 1973, and for other purposes.

[*Assented to 12th October,* 1972]

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 "Appropriation Act (No. 2), 1972".

Further issue.

2. Out of the moneys paid to the State by the Commonwealth, and any other General Revenue of the State not otherwise by law specially appropriated, there may be issued and applied such a further sum as will, together with all sums issued and applied pursuant to the Acts (other than this Act) authorizing the issue and application out of the General Revenue of any moneys for the public service of the State for the financial year ending on the thirtieth day of June, 1973, amount to the sum of four hundred and one million, six thousand dollars.

Appropriation of General Revenue.

3. (1) The sum of four hundred and one million, six thousand dollars referred to in section 2 of this Act is appropriated for the public service of the State for the financial year ending on the thirtieth day of June, 1973, for the purposes mentioned in the schedule.

(2) If—

(*a*) during the financial year ending on the thirtieth day of June, 1973, any increases of salaries or wages become payable by the State pursuant to any return made under the Acts relating to the public service, or pursuant to any regulation or any award, order or determination of a court or other body empowered to fix salaries or wages;

and

(*b*) those increases were not provided for in the estimates of expenditure for that financial year,

the Governor may, by warrant under section 32a of the Public Finance Act, 1936, as amended, appropriate out of the General Revenue of the State such amounts as are equal to those increases, and those appropriations shall be additional to the appropriations made by virtue of subsection (1) of this section, and the aggregate amount which may be appropriated under section 32a of the Public Finance Act, 1936, as amended, for that financial year shall be increased by the amount appropriated pursuant to this subsection.

(3) The Governor may, by warrant under section 32a of the Public Finance Act, 1936, as amended, appropriate out of the General Revenue of the State any money required to meet further expenditure beyond the amounts provided in the estimates of expenditure for the financial year ending on the thirtieth day of June, 1973, for costs of electricity supplied to the Engineering and Water Supply Department for pumping water through the Mannum-Adelaide pipeline, the Murray Bridge-Onkaparinga pipeline, the Morgan-Whyalla pipeline and the Swan Reach-Stockwell pipeline, and the aggregate amount which may be appropriated under section 32a of the Public Finance Act, 1936, as amended, for that financial year shall be increased by the amount appropriated pursuant to this subsection.

Treasurer to pay the orders of Governor, and discharge by receipt of party.

4. The issue and payment by the Treasurer, from time to time, of any sums of money for the purposes hereinbefore mentioned, not exceeding in the whole the amount hereinbefore specified, in such portions as the Governor directs by any orders in writing signed by him and countersigned by the Chief Secretary, is hereby authorized; and the Treasurer shall, in his accounts, be allowed credit for all sums paid by him in pursuance of such orders accordingly; and the receipts of the persons to whom such sums are so paid shall be to him a full discharge for the sums for which the receipts are given, and the amounts thereof shall be passed to his credit in account accordingly.

Power to issue money other than revenue or money received from the Commonwealth.

5. If the moneys paid to the State by the Commonwealth and the General Revenue of the State are insufficient to make the payments authorized by section 3 of this Act, moneys may be issued to make good the deficiency out of loan funds or other public funds or out of moneys raised by way of bank overdraft.

Power to make payments.

6. The Treasurer may—

(*a*) out of the moneys appropriated by this Act and included in the estimates of expenditure for the financial year ending on the thirtieth day of June, 1973;

or

(*b*) out of any money which may be appropriated pursuant to subsection (2) of section 3 of this Act,

make any payment notwithstanding that the payment is in respect of a period prior to the first day of July, 1972.

Expenditure from Hospitals Fund.

7. The Treasurer may out of the account in the Treasury known as the "Hospitals Fund" expend such sums as may, in accordance with any Act, be available therein for the purposes of the provision, maintenance, development and improvement of public hospitals and equipment for public hospitals: But such expenditure shall not exceed in the aggregate—

(*a*) during the financial year ending on the thirtieth day of June, 1973, the sum of six million, two hundred thousand dollars;

(*b*) during the period between the thirtieth day of June, 1973, and the commencement of the Act for the appropriation of revenue of the State for the financial year ending on the thirtieth day of June, 1974, the sum of two million dollars.

Payments to be in addition to other payments.

8. Any amount appropriated by this Act may be paid for the purpose for which it is so appropriated, in addition to any other amount appropriated by law for that purpose.

SCHEDULE

Amounts proposed to be expended from General Revenue during the Financial year ending 30th June, 1973

Purposes of Appropriation	Estimated Expenditure	
	$	
Legislative Council	62,045	Estimates 1972-73.
House of Assembly	141,200	
Parliamentary Library	38,081	
Joint House Committee	69,012	
Electoral	386,034	
Government Reporting	325,551	
Parliamentary Standing Committee on Public Works	14,046	
Parliamentary Committee on Land Settlement	4,100	
Legislature, Miscellaneous	338,500	
Premier and Development	1,574,366	
Agent-General in England	193,437	
Public Service Board	1,263,150	
Mines	2,679,060	
Premier and Minister of Development and Mines, Miscellaneous	815,695	
State Governor's Establishment	75,137	
Chief Secretary	102,788	
Public Actuary	54,264	
Auditor-General	484,542	
Government Printing	1,404,734	
Police	15,953,111	
Prisons	3,136,039	
Hospitals	51,239,464	
Public Health	2,457,000	
Chief Secretary and Minister of Health, Miscellaneous	10,725,471	
Attorney-General	801,028	
Crown Law	452,955	
Public Trustee	582,625	
Supreme Court	450,999	
Local and District Criminal Courts	1,518,555	
Registrar-General	806,657	
Attorney-General, Miscellaneous	201,249	
Treasury	229,713	

SCHEDULE—*continued*

Amounts proposed to be expended from General Revenue during the Financial year ending 30th June, 1973

Purposes of Appropriation	Estimated Expenditure
	$
Prices and Consumer Affairs Branch	271,007
Superannuation	241,568
Valuation	873,360
State Taxes	654,522
Treasurer, Miscellaneous	38,334,080
Lands	5,220,059
Botanic Garden	450,306
Minister of Lands, Minister of Repatriation, and Minister of Irrigation, Miscellaneous	252,750
Minister of Works	69,301
Engineering and Water Supply	18,996,449
Public Buildings	16,223,223
State Supply	643,320
Minister of Works, Miscellaneous	549,000
Minister of Education	42,642
Education	105,820,319
Libraries	1,701,000
Art Gallery	249,667
Minister of Education, Miscellaneous	29,999,715
Labour and Industry	1,204,161
Minister of Labour and Industry, Miscellaneous	26,000
Minister of Agriculture	55,597
Agriculture	4,247,421
Agricultural College	601,986
Produce	1,110,900
Fisheries	360,912
Chemistry	357,948
Minister of Agriculture and Minister of Forests, Miscellaneous	253,650
Environment and Conservation	2,246,098
Minister of Environment and Conservation, Miscellaneous	178,902
Marine and Harbors	4,539,304
Minister of Marine, Miscellaneous	5,200

SCHEDULE—*continued*

Amounts proposed to be expended from General Revenue during the Financial year ending 30th June, 1973

Purposes of Appropriation	Estimated Expenditure
	$
Minister of Roads and Transport and Minister of Local Government	688,717
Highways	7,453,291
Railways	45,367,151
Motor Vehicles	1,515,395
Minister of Roads and Transport and Minister of Local Government, Miscellaneous	318,900
Community Welfare	10,451,753
Minister of Community Welfare, Miscellaneous	849,818
Total	$401,006,000

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 81 of 1972

An Act to amend the Daylight Saving Act, 1971, and for other purposes.

[*Assented to 12th October,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Daylight Saving Act Amendment Act, 1972".

(2) The Daylight Saving Act, 1971, as amended by this Act, may be cited as the "Daylight Saving Act, 1971-1972".

(3) The Daylight Saving Act, 1971, is hereinafter referred to as "the principal Act".

Amendment of principal Act, s. 3— Advance of time.

2. Section 3 of the principal Act is amended by striking out from subsection (1) the passage "last Sunday in the month of February" and inserting in lieu thereof the passage "first Sunday in the month of March".

Repeal of s. 6 of principal Act.

3. Section 6 of the principal Act is repealed.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 82 of 1972

An Act to amend the Footwear Regulation Act, 1969.

[*Assented to 19th October,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Footwear Regulation Act Amendment Act, 1972".

(2) The Footwear Regulation Act, 1969, as amended by this Act, may be cited as the "Footwear Regulation Act, 1969-1972".

(3) The Footwear Regulation Act, 1969, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act s. 4—

3. Section 4 of the principal Act is amended—

Interpretation.

(*a*) by inserting immediately after the definition of "inspector" the following definition:—

"quarter lining" in relation to a shoe, means the material used to line the inside of the upper from the waist on one side of the shoe around the heel of the shoe to the waist on the other side of the shoe:;

(*b*) by inserting in paragraph (*c*) of the definition of "sole" after the passage "pegs, nails," the passage "heel tips, heel caps,";

and

(*c*) by inserting immediately after the definition of "the repealed Act" the following definition:—

"upper" in relation to a shoe, means the outer covering of the part of the shoe that is above the sole, but does not include any thread, lace, eyelet, buckle, button or other adornment:.

Amendment of principal Act, s. 5— Marking of footwear.

4. Section 5 of the principal Act is amended—

(*a*) by striking out paragraph (*b*), the word "and" immediately following paragraph (*b*) and paragraph (*c*) of subsection (1) and inserting in lieu thereof the following paragraphs:—

(*b*) in the case of shoes—

(i) the soles of which consist entirely of leather, the words "all leather sole";

(ii) the uppers of which consist entirely of leather, the words "all leather upper";

and

(iii) the quarter linings of which consist entirely of leather, the words "all leather quarter lining";

(*c*) in the case of shoes, the soles of which do not consist entirely of leather—

(i) a true statement of the materials comprising the sole;

(ii) in the case of shoes consisting entirely of synthetic material, the words "synthetic sole";

or

(iii) the words "non-leather sole";

(*d*) in the case of shoes the uppers of which do not consist entirely of leather but consist entirely or partly of material resembling leather—

(i) a true statement of the material comprising the upper;

(ii) in the case of uppers consisting entirely of synthetic material the words "synthetic upper";

or

(iii) the words "non-leather upper";

and

(*e*) in the case of shoes the quarter linings of which do not consist entirely of leather but consist entirely or partly of a material resembling leather—

(i) a true statement of the materials comprising the quarter lining;

(ii) in the case of quarter linings consisting entirely of synthetic material the words "synthetic quarter lining";

or

(iii) the words "non-leather quarter lining".;

(*b*) by striking out subsection (2);

and

(*c*) by striking out paragraph (*d*) from subsection (3) and inserting in lieu thereof the following paragraph:—

(*d*) wood, plastic or metal used in heels including heel tips or caps;.

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

J. M. NAPIER, Governor's Deputy

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 83 of 1972

An Act to amend the Highways Act, 1926-1972.

[*Assented to* 19*th October,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Highways Act Amendment Act (No. 2), 1972".

(2) The Highways Act, 1926-1972, as amended by this Act, may be cited as the "Highways Act, 1926-1972".

(3) The Highways Act, 1926-1972, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 27b—Widening of main roads.

3. Section 27b of the principal Act is amended—

(*a*) by striking out subsections (6) and (7) and inserting in lieu thereof the following subsections:—

(6) Any compensation payable by the Commissioner on the acquisition of any land pursuant to subsection (5) of this section shall not include—

(*a*) the value of any building, fence or other structure or any well, dam or other water supply erected or constructed upon or in the land after the day of deposit;

or

(*b*) any enhancement of the value of the land by reason of any alteration of, addition to or repair of any such building, fence, other structure, well, dam or other water supply carried out after the day of deposit and without the consent of the Commissioner.

(7) For the purposes of this section and of any proceedings thereunder—

(*a*) the plan deposited by the Commissioner shall be *prima facie* evidence as to what buildings, fences and other structures and wells, dams and other water supplies were erected or constructed upon or in the land at the day of deposit;

and

(*b*) it shall lie upon the person claiming compensation to prove that any alteration, addition or repair referred to in paragraph (*b*) of subsection (6) of this section was carried out with the consent of the Commissioner.;

and

(*b*) by inserting after subsection (8) the following subsection:—

(8a) The Commissioner may by notice in writing consent to any owner adding to, altering or repairing any building, fence or structure or well, dam or other water supply upon or in any such land, after the day of deposit and in any such notice the Commissioner may agree to any special arrangements in relation to any such addition, alteration or repair as shall apply upon the acquisition of the land by the Commissioner or otherwise as appears just to the Commissioner.

Amendment of principal Act, s. 36a—Payment by Municipal Tramways Trust.

4. Section 36a of the principal Act is amended by striking out subsection (1) and inserting in lieu thereof the following subsection:—

(1) The Municipal Tramways Trust shall by way of contribution towards the cost of the maintenance and lighting of such roads as are hereinafter mentioned in this section pay to the Commissioner in respect of the month next occurring after the commencement of the Highways Act Amendment Act (No. 2), 1972, and in respect of each succeeding month an amount equal to .95 of one cent for every kilometre travelled upon any road by every motor omnibus or other omnibus of the Municipal Tramways Trust during the month in respect of which the amount is payable.

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

J. M. NAPIER, Governor's Deputy

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 84 of 1972

An Act to amend the Juvenile Courts Act, 1971.

[*Assented to 19th October,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Juvenile Courts Act Amendment Act, 1972".

(2) The Juvenile Courts Act, 1971, as amended by this Act, may be cited as the "Juvenile Courts Act, 1971-1972".

(3) The Juvenile Courts Act, 1971, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 5—Interpretation

3. Section 5 of the principal Act is amended by striking out from the definition of "the Community Welfare Act" the figures "1971" and inserting in lieu thereof the figures "1972".

Amendment of principal Act, s. 69— Age of criminal responsibility.

4. Section 69 of the principal Act is amended by striking out the passage "eight years" and inserting in lieu thereof the passage "ten years".

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

J. M. NAPIER, Governor's Deputy

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 85 of 1972

An Act to amend the Legal Practitioners Act, 1936-1972.

[*Assented to* 19*th October,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Legal Practitioners Act Amendment Act, 1972".

(2) The Legal Practitioners Act, 1936-1972, as amended by this Act, may be cited as the "Legal Practitioners Act, 1936-1972".

(3) The Legal Practitioners Act, 1936-1972, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 3—Division of Act.

3. Section 3 of the principal Act is amended by striking out the passage "sections 25-60" and inserting in lieu thereof the passage "sections 25-60a".

Amendment of principal Act, s. 24a—Duty to make deposit with Society.

4. Section 24a of the principal Act is amended by striking out from the definition of "the prescribed proportion" in subsection (9) the words "one-half" and inserting in lieu thereof the words "two-thirds".

Amendment of principal Act, s. 24c— The statutory interest account.

5. Section 24c of the principal Act is amended by striking out from subsection (5) the passage "as to one-half, to the assistance fund, and, subject to subsection (6) of this section, as to one-half" and inserting in lieu thereof the passage "as to five-eighths to the assistance fund, and, subject to subsection (6) of this section, as to three-eighths".

Amendment of principal Act, s. 24i— Provision of legal assistance.

6. Section 24i of the principal Act is amended by striking out subsections (4) and (5) and inserting in lieu thereof the following subsections:—

(4) An arrangement for the provision of legal assistance may be made upon terms that the assisted person will make such payments on account of costs, disbursements and out-of-pocket expenses—

(*a*) to the legal practitioner to whom he is assigned;

or

(*b*) to the Society,

as the Society determines, and any such arrangement may be varied by the Society from time to time.

(5) Any amount due under an arrangement made pursuant to subsection (4) of this section may be recovered as a debt in any court of competent jurisdiction and, in any proceedings for the recovery of such an amount, an apparently genuine document purporting to be signed by the Secretary or other authorized officer of the Society and certifying that a specified amount is payable to a particular legal practitioner or to the Society under the terms of an arrangement made pursuant to subsection (4) of this section shall be *prima facie* evidence of the matter so certified.

Amendment of principal Act, s. 24j— Costs.

7. Section 24j of the principal Act is amended by inserting after subsection (2) the following subsection:—

(3) Where the Society has instituted proceedings for the recovery of any amount in respect of legal assistance, and the Society is entitled to reimbursement of its costs of the proceedings the costs shall be assessed in all respects as if a legal practitioner had acted for the Society in the institution and conduct of the proceedings whether or not the Society in fact engaged a legal practitioner so to act.

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

J. M. NAPIER, Governor's Deputy

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 86 of 1972

An Act to amend the Planning and Development Act, 1966-1971.

[*Assented to* 19*th October*, 1972]

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

Short titles.

1. (1) This Act may be cited as the "Planning and Development Act Amendment Act, 1972".

(2) The Planning and Development Act, 1966-1971, as amended by this Act, may be cited as the "Planning and Development Act, 1966-1972".

(3) The Planning and Development Act, 1966-1971, is hereinafter referred to as "the principal Act".

Commencement.

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

Enactment of Part Va of principal Act—

3. The following new Part comprising the following new sections is enacted and inserted in the principal Act immediately after Part V:—

PART Va

INTERIM DEVELOPMENT CONTROL WITHIN THE CITY OF ADELAIDE

Interpretation.

42a. In this Part, unless the contrary intention appears—

"building work" means—

(*a*) work for which the consent or approval of a council is required under the Building Act, 1923-1965, or any Act that may be substituted for that Act;

and includes—

(*b*) the demolition of any building or structure:

"floor area index" means the ratio between the area of total floor space of a building and the area of the site upon which the building is situated:

"the Committee" means the City of Adelaide Development Committee constituted under this Part:

"the Council" means the Corporation of the City of Adelaide:

"the defined area" means the area of the City of Adelaide:

"zone" means a zone constituted by a directive of the Committee under this Part.

Establishment of the Committee.

42b. (1) There shall be a Committee entitled the "City of Adelaide Development Committee".

(2) The Committee shall consist of the following members:—

(*a*) the Lord Mayor for the time being of the Council who shall be the Chairman of the Committee *ex officio*; and

(*b*) six other members appointed by the Governor of whom three shall be persons nominated by the Council.

(3) Subject to this section, a member of the Committee shall hold office at the pleasure of the Governor.

(4) The office of a member of the Committee appointed on the nomination of the Council shall be vacated if the Council by instrument in writing addressed to the Governor revokes the nomination of that member.

(5) The Governor may, subject to this Part, make such appointments as may be necessary to fill any vacancy occurring in the membership of the Committee.

(6) The Governor may appoint a suitable person to be a deputy of a member of the Committee in the absence of that member from the duties of his office, and such a person while so appointed shall be deemed to be a member of the Committee.

Remuneration, etc.

42c. A member of the Committee shall be entitled to receive such remuneration, allowances and expenses as may be determined in relation to that member by the Governor.

Chairman, etc.

42d. (1) The chairman shall preside at any meeting of the Committee at which he is present.

(2) If the chairman is not present for any reason at a meeting of the Committee, the members present may elect one of their number to preside at that meeting.

(3) At any meeting of the Committee, four members shall constitute a quorum, and no business shall be transacted unless a quorum is present.

(4) Any decision of the Committee must be supported by the votes of at least three members.

(5) In the event of an equality of votes upon any matter, consideration of that matter shall be adjourned until the next meeting of the Committee.

Saving provision.

42e. (1) No act or proceeding of the Committee shall be invalid or illegal by reason only of the number of members of the Committee not being complete at the time of the act or proceeding.

(2) Every act or proceeding of the Committee shall, notwithstanding any defect in the nomination or appointment of a member of the Committee, be as valid and effective as if that member had been validly appointed to the Committee.

Officers assisting the Committee.

42f. With the consent of the Minister administering any Department of the Public Service of the State, the Committee may make use of the services of any officer of that Department.

Planning directives.

42g. (1) The Committee may issue such planning directives as it considers necessary to ensure the proper planning and development of the defined area or any part thereof.

(2) Without limiting the generality of subsection (1) of this section, those planning directives may—

(*a*) restrict or prohibit the performance of building work or any change in the use of any land or building within any part or parts of the defined area over a period, specified in the directive, that the Committee has determined as being necessary to permit adequate research to be carried out into the manner in which that part, or those parts of the defined area should be developed;

(*b*) establish zones within the defined area, and make special provision with respect to any zone;

(*c*) regulate or restrict the height of any proposed buildings within the defined area, or within any zone;

(*d*) stipulate maximum floor area indexes (which may vary according to the location, nature or design of the building or any other circumstances defined in the directive) with which any proposed building within the defined area, or any zone, must conform;

(*e*) stipulate standards of design to which any proposed building work within the defined area, or any zone must conform and the types and standards of materials to be used in the course of any such building work;

and

(*f*) restrict or prohibit the use of any land or building within the whole, or any portion of, the defined area, or any zone—

(i) for any use defined in the directive;

(ii) for any use other than a use defined in the directive;

or

(iii) for any use other than a use approved by the Committee or the Council or by a committee of members of the Council, any officer of the Council or a building surveyor employed by the Council to which or to whom the Council has delegated its powers of approval under the directive.

(3) No provision of any planning directive shall be construed as preventing the continued use of any land or building for the purposes for which the land or building was being lawfully used at the time the planning directive took effect, or as preventing the carrying out of completion of any building work for which every consent, permission or approval required under any Act had then been obtained, and was then in force.

(4) Before a planning directive is issued under this section, the Committee shall have regard to—

(*a*) any scheme of development approved under section 382d or section 855b of the Local Government Act;

(*b*) the provisions of any relevant planning regulation;

(*c*) the reports or proposals of any other committee, body or person established or engaged by the Government or the Council to advise upon the proper development of the defined area or any part thereof;

(*d*) any relevant opinions that have been expressed by the Council and have been communicated to the Committee (either in pursuance of subsection (5) of this section or otherwise);

(*e*) the aesthetic and sociological effects of the directive upon the development of the defined area;

(*f*) the health, safety and convenience of the community within that part or those parts of the defined area affected by the directive;

(*g*) the effect (if any) of the proposed planning directive upon any building or structure or architectural or historical interest;

(*h*) the economic and other advantages and disadvantages (if any) that are likely to result from the directive.

and

(*i*) the interests and welfare of the owners and occupiers of any land or building affected by the directive.

(5) The Committee shall, at least twenty-eight days before a planning directive is issued under this section, submit the proposed directive to the Council and the Committee shall consider any representation made by the Council in relation to the provisions of the directive.

(6) Any planning directive issued under this section shall be published in the *Gazette*, and shall come into operation upon publication in the *Gazette*, or upon such later date as may be stipulated in the directive.

(7) The Council or any other person affected by a planning directive may appeal to the Planning Appeal Board against the directive, or any provision thereof, at any time within sixty days after the publication of the directive.

(8) Where upon the hearing of an appeal under this section, the Planning Appeal Board, after consideration of the nature and effect of the directive or the provision thereof subject to appeal and the matters to which the Committee is required to have regard under this section, is satisfied that the prejudice to the appellant and the other persons (if any) affected by the directive or provision is not justified by the objectives that the planning directive would achieve it may, by order—

(*a*) quash the directive;

or

(*b*) modify the directive in such manner as it thinks fit.

(9) The Planning Appeal Board shall cause any order under subsection (8) of this section to be published in the *Gazette*.

(10) The operation of a planning directive under this section is not suspended by an appeal.

(11) Any person who contravenes or fails to comply with a planning directive under this section shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars.

(12) The Committee may, by instrument published in the *Gazette*, revoke a planning directive issued under this section.

Approval for building work.

42h. (1) Any person who proposes to carry out building work within the defined area must seek the approval of the Committee for the proposed building work.

(2) Any such person shall, at the request of the Committee, furnish such plans, specifications and other information in relation to the proposed building work as the Committee may require.

(3) After consideration of the proposed building work, the Committee may—

(*a*) approve the building work unconditionally;

or

(*b*) if in the opinion of the Committee the building work would adversely affect the proper development of the defined area, or any part thereof—

(i) approve the building work subject to modifications or conditions (or both) designed to safeguard the proper development of the defined area;

or

(ii) refuse to approve the building work.

(4) Before granting or refusing its approval of any proposed building work, the Committee shall have regard to—

(*a*) any scheme of development approved under section 382d or section 855b of the Local Government Act;

(*b*) the provisions of any relevant planning directive in force under this Part;

(*c*) the provisions of any relevant planning regulation;

(*d*) the reports or proposals of any other committee, body or person established or engaged by the Government or the Council to advise upon the proper development of the defined area or any part thereof;

(*e*) any relevant opinions that have been expressed by the Council, and have been communicated to the Committee;

(*f*) the aesthetic and sociological effects of the building work;

(*g*) the health, safety and convenience of the community within, and in the vicinity of, the locality in which the building work is to be performed;

(*h*) the effect (if any) of the proposed building work upon any building or structure of architectural or historical interest;

(*i*) the economic and other advantages and disadvantages (if any) that are likely to result from the performance of the building work.

and

(*j*) the interests and welfare of the owners and occupiers of any land or building affected by the proposed building work.

(5) Where the Committee approves building work subject to any modification or condition, or refuses to approve building work under this section, it shall at the request of the applicant for its approval furnish him with a written statement of the reasons for imposing that modification or condition, or refusing its approval.

(6) Where a person applies for the approval of the Committee under this section and the application has not been disposed of by the Committee—

(*a*) at the expiration of six months from the day on which the application was made;

or

(*b*) at the expiration of such longer period as may be determined by the Minister in relation to any particular application,

the application shall be deemed to have been unconditionally approved by the Committee.

(7) Where the Committee approves building work subject to any modification or condition or refuses to approve the building work under this section the applicant may, within thirty days after the date on which the decision of the Committee is communicated to him, or such longer period as the Planning Appeal Board may allow, appeal to the Planning Appeal Board under this section.

(8) Upon the hearing of any such appeal, the Committee, the applicant, and any other person joined as a party pursuant to the provisions of this Act, shall be entitled to be represented.

(9) Where the Planning Appeal Board is satisfied that the decision of the Committee is not justified by the considerations upon which it is based, the Planning Appeal Board may uphold the appeal and—

(*a*) approve the building work unconditionally;

or

(*b*) approve the building work subject to such modifications or conditions (or both) as the Planning Appeal Board thinks fit.

(10) The Committee may delegate to the Council, a committee of members of the Council, any officer of the Council or a building surveyor employed by the Council its powers under this section in respect of any building work or class of building work and, in the event of any such delegation, the provisions of this section shall apply to the delegate in the same manner as they apply to the Committee.

(11) The delegation of powers under this section by the Committee shall not prevent the Committee from itself acting in any matter.

(12) A person—

(*a*) who carries out building work that has not been approved as required by this section;

or

(*b*) who in carrying out building work approved under this section does not observe any modification or condition imposed under this section,

shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars.

(13) This section shall not apply in respect of building work—

(*a*) for which every consent, permission or approval required under any Act had been obtained prior to the commencement of the Planning and Development Act Amendment Act, 1972;

and

(*b*) which is performed in pursuance of that consent, permission or approval.

Regulations.

42i. (1) The Governor may make such regulations as he considers necessary or expedient for the purposes of this Part.

(2) Without limiting the generality of subsection (1) of this section, those regulations may modify the practice and procedure of the Planning Appeal Board so far as may be necessary or expedient for the purpose of hearing and determining appeals under this Part.

Expiry of this Part.

42j. This Part shall expire on the thirtieth day of June, 1975.

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

J. M. NAPIER, Lieutenant-Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 87 of 1972

An Act to amend the Prevention of Pollution of Waters by Oil Act, 1961-1969.

[*Assented to 19th October,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Prevention of Pollution of Waters by Oil Act Amendment Act, 1972".

(2) The Prevention of Pollution of Waters by Oil Act, 1961-1969, as amended by this Act, may be cited as the "Prevention of Pollution of Waters by Oil Act, 1961-1972".

(3) The Prevention of Pollution of Waters by Oil Act, 1961-1969, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 5— Discharge of Oil into waters.

3. Section 5 of the principal Act is amended by striking out the passage "one thousand pounds" and inserting in lieu thereof the passage "fifty thousand dollars".

Amendment of principal Act, s. 8— Equipment in ships to prevent oil pollution.

4. Section 8 of the principal Act is amended by striking out from subsection (5) the passage "one thousand dollars" and inserting in lieu thereof the passage "ten thousand dollars".

Amendment of principal Act, s. 9— Keeping of Oil Records.

5. Section 9 of the principal Act is amended by striking out from subsection (7) the passage "one thousand dollars" and inserting in lieu thereof the passage "five thousand dollars".

Amendment of principal Act, s. 10— Reporting and Investigation of discharges of oil, etc.

6. Section 10 of the principal Act is amended—

(*a*) by inserting in subsection (1) after the passage "against this section" the passage "and shall be liable upon conviction to a fine not exceeding ten thousand dollars";

(*b*) by striking out from subsection (6) the word "The", being the first word in that subsection, and inserting in lieu thereof the passage "Except as otherwise provided by this section, the";

and

(*c*) by striking out from subsection (6) the passage "four hundred dollars" and inserting in lieu thereof the passage "two thousand dollars".

Amendment of principal Act, s. 11— Oil reception Facilities.

7. Section 11 of the principal Act is amended by inserting in subsection (6) after the passage "may be prescribed" the passage ", and, if any owner or occupier contravenes or fails to comply with any such regulation, he shall be guilty of an offence against this section and shall be liable upon conviction to a fine not exceeding five thousand dollars".

Amendment of principal Act, s. 12— Restrictions on transfer of oil at night.

8. Section 12 of the principal Act is amended by striking out from subsection (3) the passage "four hundred dollars" and inserting in lieu thereof the passage "two thousand dollars".

Amendment of principal Act, s. 13— Regulations.

9. Section 13 of the principal Act is amended by striking out from subsection (1) the passage "in such regulations may prescribe for the payment of such fees and the imposition of such penalties for breach as it deems appropriate" and inserting in lieu thereof the passage "and, in any regulations made under any power conferred by this Act, may provide for the payment of any fee or fees and may prescribe a fine, not exceeding two thousand dollars, or other penalty for a contravention of or a failure to comply with any provision of those regulations".

Amendment of principal Act, s. 14— Inspection and Report.

10. Section 14 of the principal Act is amended by striking out from subsection (3) the passage "four hundred dollars" and inserting in lieu thereof the passage "two thousand dollars".

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

J. M. NAPIER, Governor's Deputy

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 88 of 1972

An Act to amend the River Torrens Acquisition Act, 1970.

[*Assented to 19th October,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "River Torrens Acquisition Act Amendment Act, 1972".

(2) The River Torrens Acquisition Act, 1970, as amended by this Act, may be cited as the "River Torrens Acquisition Act, 1970-1972".

(3) The River Torrens Acquisition Act, 1970, is hereinafter referred to as "the principal Act".

Commencement.

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

Enactment of s. 2a of principal Act—

3. The following section is enacted and inserted in the principal Act immediately after section 2 thereof:—

Minister may direct the preparation of a plan delineating the top of the river bank.

2a. (1) The Minister may, at any time, by instrument in writing, direct the Surveyor-General to prepare a plan delineating the top of the river bank in respect of any part of the river specified in the instrument.

(2) The Surveyor-General shall comply with any direction under subsection (1) of this section.

(3) The provisions of Part V of the Land Acquisition Act, 1969, shall apply in respect of any survey undertaken by the Surveyor-General for the purpose of preparing a plan under this section.

Amendment of principal Act, s. 3—Plan of proposed acquisition.

4. Section 3 of the principal Act is amended by striking out from subsection (2) the passage "two hundred feet" and inserting in lieu thereof the passage "sixty metres".

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

J. M. NAPIER, Governor's Deputy

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 89 of 1972

An Act to enable the Government of the State to enter into, carry out and generally give effect to an Agreement with the Government of the Commonwealth to provide certain assistance to the Fruitgrowing Industry; and for other purposes.

[*Assented to 26th October,* 1972]

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 "Fruitgrowing Industry (Assistance) Act, 1972".

Commencement.

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

Application of Rural Industry Assistance (Special Provisions) Act, 1971-1972, not affected.

3. Nothing in this Act contained shall limit, restrict or otherwise affect the application or effect of the Rural Assistance (Special Provisions) Act, 1971-1972, or the application or effect of any agreement or scheme to which that Act applies.

Interpretation.

4. In this Act, unless the contrary intention appears—

"the Agreement" means the agreement that the Government of this State is authorized to enter into pursuant to subsection (1) of section 5 of this Act and includes that agreement as from time to time amended:

"the Fund" means the Fruitgrowing Assistance Fund kept and maintained pursuant to subsection (1) of section 8 of this Act.

Agreement with the Commonwealth.

5. (1) The Government of the State may enter into an agreement with the Government of the Commonwealth where that agreement provides for a scheme of assistance for the reconstruction of the fruitgrowing industry.

(2) The Government of the State may enter into an agreement with the Government of the Commonwealth amending the Agreement.

(3) The Premier may execute any agreement referred to in this section for and on behalf of the Government of the State.

Government may carry out and give effect to the Agreement, etc.

6. (1) The Government of the State may do all things necessary, convenient or expedient to carry out or give effect to the Agreement.

(2) The Minister shall be the Authority within the meaning of the Agreement.

Moneys required for the purposes of this Act.

7. The moneys required for the purposes of giving effect to this Act shall, except where they are provided from other sources, be payable out of moneys to be appropriated by Parliament for the purposes.

Fund to be maintained at the Treasury.

8. (1) There shall be kept and maintained at the Treasury a fund to be called the "Fruitgrowing Assistance Fund".

(2) The fund shall consist of—

(*a*) all moneys received by the Government of the State from the Government of the Commonwealth pursuant to the Agreement;

and

(*b*) all moneys received by the Treasurer in repayment of advances or loans made pursuant to the Agreement and interest thereon.

(3) There shall be paid out of the Fund—

(*a*) all advances, loans or grants that may be made pursuant to the Agreement;

and

(*b*) all moneys and interest thereon required to be repaid to the Government of the Commonwealth pursuant to the Agreement.

Exemption from stamp duty.

9. Stamp duty shall not be payable upon—

(*a*) any document made or executed by any applicant for assistance under the Agreement in connection with an application for such assistance;

or

(*b*) any document made or executed by any person for the purposes of giving security for the repayment of any advance or loan made or granted pursuant to the Agreement,

and no fees shall be payable under any Act for the registration of any document in relation to which, pursuant to this section, stamp duty is not payable.

Procedure on making of Agreement.

10. Within fourteen days of—

(*a*) the Agreement being entered into;

or

(*b*) the Agreement being amended by a further agreement,

the Minister shall cause a copy of the Agreement or, as the case may be, the agreement amending the Agreement to be laid before each House of Parliament if Parliament is then in session or if Parliament is not then in session he shall cause a copy of the Agreement or any agreement amending the Agreement to be laid before each House of Parliament within fourteen days of the commencement of the next session of Parliament.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 90 of 1972

An Act to amend the Industries Development Act, 1941-1971.

[*Assented to 26th October,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Industries Development Act Amendment Act, 1972".

(2) The Industries Development Act, 1941-1971, as amended by this Act, may be cited as the "Industries Development Act, 1941-1972".

(3) The Industries Development Act, 1941-1971, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 2—Interpretation.

3. Section 2 of the principal Act is amended by inserting immediately before the definition of "the Committee" the following definitions:—

"business" in relation to an industry, includes the carrying on of any activity referred to in the definition of "industry" whether or not that activity is carried on for, or in the expectation of, profit or reward:

"industry" includes any sporting, cultural or social activity whether or not that activity is carried on for, or in the expectation of, profit or reward:.

4. Section 14 of the principal Act is amended— Amendment of principal Act, s. 14— Guarantees.

(*a*) by striking out from subsection (1) the word "enabling" and inserting in lieu thereof the word "assisting";

(*b*) by inserting in paragraph (*b*) of subsection (2) after the word "profitable" the passage "except in the case of a business being the carrying on of any sporting, cultural or social activity not for, or in the expectation of, profit or reward, where it shall be sufficient compliance with this provision if the Committee has reported to the Treasurer that there is a reasonable prospect that the business or proposed business in connection with which the guarantee is to be given is capable of earning an income sufficient to meet its liabilities and commitments";

and

(*c*) by striking out paragraph (*c*) from subsection (2) and the word "and" immediately following that paragraph and inserting in lieu thereof the following paragraph and word:—

(*c*) the Committee has reported to the Treasurer that, in its opinion—

(i) the effect of giving the guarantee will be to increase or maintain employment in the State at the recognized award rates of pay;

or

(ii) the giving of the guarantee will be in the public interest,

and the Committee has recommended that the guarantee be given: and.

5. Section 16g of the principal Act is amended— Amendment of principal Act, s. 16g— Powers of corporation.

(*a*) by striking out from paragraph (*d*) of subsection (1) the word "enabling" and inserting in lieu thereof the word "assisting":

and

(*b*) by striking out from paragraph (*d*) of subsection (1) the word "enable" and inserting in lieu thereof the word "assist".

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 91 of 1972

An Act to constitute the Methodist Church (S.A.) Property Trust, to define its Powers, Authorities, Duties and Functions, to make Provision for and in relation to the Vesting in the Methodist Church (S.A.) Property Trust of Land held for and on behalf of the Methodist Church in South Australia, to repeal The South Australian Wesleyan Methodists Act, 1887, and The Methodist Union Act, 1900, and for other purposes.

[*Assented to 26th October,* 1972]

Preamble.

WHEREAS land held in trust for or for the use or benefit of or for the purposes of the Methodist Church of Australasia in South Australia is vested in many different bodies of trustees and owing to deaths appointment of new trustees and other causes frequent changes take place in the personnel of such bodies of trustees: AND WHEREAS for the purpose of simplifying the holding of land by or on behalf of the Methodist Church of Australasia in South Australia and of facilitating and rendering less expensive conveyancing transactions in respect of land so held it is expedient to create a body corporate for the holding managing and dealing with land so held and to make provision for the vesting in the body corporate of all such land: AND WHEREAS it is desirable that provision should be made in respect of certain personal property: AND WHEREAS it is desirable to make provision for land vested in the body corporate to be made available for use in schemes of co-operation between the Methodist Church of Australasia in South Australia and churches of other

denominations: BE IT THEREFORE 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 "Methodist Church (S.A.) Property Trust Act, 1972".

Repeal of Acts.

2. (1) The South Australian Wesleyan Methodists Act, 1887, and The Methodist Union Act, 1900, are hereby repealed.

(2) The repeal of The Methodist Union Act, 1900, shall not affect the union of the Wesleyan Methodist Church, the Primitive Methodist Church and the Bible Christian Church in the Church known as the Methodist Church of Australasia nor, except as expressly provided, shall it affect any of the consequences of such union as set forth in that Act.

Interpretation.

3. In this Act, unless the context otherwise requires—

"Church" means the Methodist Church of Australasia and includes any congregation, circuit, department, society, auxiliary, activity, fund, service, institution or interest thereof:

"Conference" means the Annual Conference of the Church duly constituted by the General Conference of the Church and embracing within its jurisdiction the State of South Australia whether alone or combined with any other territory:

"the General Fund" means the moneys from time to time received by the Trust or held by it in pursuance of section 16 of this Act:

"land" includes any estate or interest in land:

"Model Deed" means The Methodist Model Deed of South Australia referred to in The Methodist Union Act, 1900, together with any duly authorized alterations or modifications thereof since the commencement of the said Act:

"regulations" mean regulations made pursuant to section 23 of this Act:

"Trust" means the Methodist Church (S.A.) Property Trust constituted under this Act:

"trust property" means any property vested in the Trust by this Act or pursuant to any deed will or other instrument and any property acquired by the Trust.

4. (1) There is hereby constituted a body to be known as the "Methodist Church (S.A.) Property Trust". Methodist Church (S.A.) Property Trust.

(2) The Methodist Church (S.A.) Property Trust shall be a body corporate under that name and shall have perpetual succession and a common seal and may sue and be sued in its corporate name and shall be capable of acquiring, holding, granting, demising, disposing of or otherwise dealing with real and personal property and of doing and suffering all such other acts and things as bodies corporate may by law do and suffer.

5. (1) The Trust shall consist of— Members of the Trust.

(*a*) the President of the Conference;

(*b*) the Connexional Secretary of the Conference;

(*c*) the Secretary of the Property Department of the Conference or the Secretary of such other committee of the Conference as is determined by the Conference;

and

(*d*) four other persons, being one minister and three laymen, appointed by the Conference.

(2) If at any time there is a vacancy in an office referred to in paragraphs (*a*), (*b*), or (*c*) of subsection (1) of this section or two of these offices are held by the same person, the Conference shall appoint a further person to be a member of the Trust until the next Conference is held.

(3) Edwin George Croft, Vernon Harold Marchant, John Peters Petherick and Keith Smith shall be deemed to have been appointed pursuant to paragraph (*d*) of subsection (1) of this section as members of the Trust and shall hold office subject to this Act until the end of the Conference next held after the commencement of this Act.

(4) The members of the Trust appointed pursuant to paragraph (*d*) of subsection (1) of this section shall take office as members of the Trust immediately after the end of the Conference next held after the commencement of this Act.

(5) At the end of the fourth Conference held after the commencement of this Act and at the end of every third Conference held thereafter one of the members appointed under paragraph (*d*) of subsection (1) of this section shall retire and shall be replaced by a member appointed by the Conference.

(6) A member appointed under subsection (5) of this section shall take office immediately after the end of the Conference at which he is appointed.

(7) The Conference shall determine the order in which members of the Trust appointed under paragraph (*d*) of subsection (1) of this section shall retire.

(8) Subject to subsection (10) of this section, the appointed members of the Trust shall be eligible for re-appointment as members of the Trust.

(9) In appointing members of the Trust pursuant to this section or section 9 of this Act, the proportion of one minister to three laymen shall at all times be retained.

(10) No person who—

(*a*) is under the age of eighteen years or over the age of seventy years shall be eligible to be appointed a member of the Trust;

or

(*b*) is over the age of seventy years shall be eligible to be re-appointed a member of the Trust, but a member of the Trust who attains that age shall not, by reason thereof, cease to be a member.

Chairman.

6. (1) The Conference shall appoint the chairman of the Trust from among the members of the Trust for such term as the Conference may prescribe.

(2) Samuel Keith Wiseman shall be deemed to have been appointed pursuant to subsection (1) of this section as the chairman of the Trust and shall hold office subject to this Act until the end of the Conference next held after the commencement of this Act.

Quorum.

7. Four members of the Trust shall constitute a quorum and all decisions of the Trust shall be made by a simple majority of those members present and voting.

Vacation of office.

8. The office of an appointed member shall become vacant if the member—

(*a*) dies;

(*b*) resigns his office by notice in writing to the Trust;

(*c*) becomes bankrupt or makes any arrangement or composition with his creditors generally;

or

(*d*) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law for the time being relating to mental health.

Continuing members may act notwithstanding vacancy.

9. (1) The continuing members of the Trust may act notwithstanding any vacancy or vacancies in their number.

(2) The continuing members shall have power at any time and from time to time to appoint a person to fill a vacancy in the membership of the Trust arising pursuant to section 8 of this Act.

(3) A person appointed under subsection (2) of this section shall hold office until the end of the Conference next held after his appointment.

(4) The continuing members of the Trust shall not be under any obligation to exercise the power of appointment conferred by subsection (2) of this section unless the number of members falls below four.

Connexional Secretary to be secretary of the Trust.

10. (1) The Connexional Secretary of the Conference shall be the secretary of the Trust and shall have custody of all documents of title and other documents of the Trust.

(2) Any person having custody of any title deed, certificate of title, document or writing relating to property vested in the Trust pursuant to this Act shall deliver such title deed, certificate of title, document or writing to the Connexional Secretary of the Conference.

Common seal.

11. (1) The members for the time being of the Trust shall have the custody of its common seal, and, subject to this Act, the form of such seal and all other matters relating thereto shall be from time to time determined by the Trust.

(2) The common seal of the Trust shall not be affixed to any instrument except in pursuance of a resolution passed at a meeting of members of the Trust.

(3) Every instrument to which the common seal is so affixed shall be signed by not less than two members of the Trust.

(4) A document which purports to be executed in accordance with the requirements of this section shall in all cases in favour of the Crown and the Registrar-General be *prima facie* evidence and in all cases in favour of every person who deals for value with the Trust be conclusive evidence that such document was executed in accordance with the requirements of this section.

Instruments to be executed under the common seal.

12. (1) Any deed, instrument, contract or agreement relating to any property or matter which, if made or executed by a private person, would be by law required to be in writing under seal, may be made on behalf of the Trust in writing under the common seal of the Trust.

(2) A contract which if made between private persons would be by law required to be in writing signed by the parties to be charged therewith may be made on behalf of the Trust in writing signed by any person acting under its authority express or implied.

(3) A contract which if made between private persons would by law be valid although made by parol only (and not reduced into writing) may be made by parol on behalf of the Trust by any person acting under its authority express or implied.

(4) Any contract which is entered into, or any instrument, contract or agreement which is signed, in relation to any trust property shall, if the same is entered into or signed in accordance with the regulations, be deemed to have been entered into or signed with the express authority of the Trust.

Trust may empower person to act as agent.

13. (1) The Trust may by writing under its common seal expressly empower any person in respect of any specified matter as its agent or attorney to execute any deed, instrument, contract or agreement on its behalf.

(2) Any deed signed by such an agent or attorney on behalf of the Trust and under his seal or under the appropriate official seal of the Trust shall bind the Trust and have the same effect as if it were under its common seal.

Property held on the Trusts of the Model Deed to vest in the Trust.

14. Subject to this Act, all real and personal property situate in South Australia which is at the commencement of this Act held upon the trusts of the Model Deed shall without any conveyance or transfer vest in the Trust freed from the provisions and trusts of the Model Deed.

Land held for the Church to vest in the Trust.

15. Subject to this Act, all land which is situate in South Australia and which at the commencement of this Act is held by any person or persons for the Church shall without any conveyance or transfer vest in the Trust.

Payment of moneys into the General Fund.

16. The Trust may receive and hold in the General Fund moneys from any Department, College, Property Board, Circuit or other institution of the Church or from any person or persons or other sources on such terms and subject to such conditions (if any) as to the payment of interest or otherwise as may from time to time be determined by the Trust.

Administration of the General Fund.

17. The Trust shall hold, manage, administer and otherwise deal with the General Fund subject to the control and in accordance with the directions of the Conference.

Certain lands not to vest in the Trust.

18. Notwithstanding the provisions of section 15 of this Act, nothing contained therein shall cause to vest in the Trust any lands the property of Prince Alfred College, Methodist Ladies College or The Spicer Cottages Trust or the property of any association of the Church incorporated, whether before or after the passing of this Act, under the provisions of the Associations Incorporation Act, 1956.

Property to vest subject to any special trusts.

19. Except in relation to the trusts of the Model Deed, the real or personal property (as the case may be) referred to in sections 14 and 15 of this Act shall vest, subject to—

(*a*) any special trusts upon which the same may be held;

(*b*) any reservation, mortgage, charge, encumbrance, lien or lease affecting the property;

and

(*c*) any resulting trust or any trust over the property in favour of a donor or any person or corporation other than the Church.

Certain wills, deeds, etc., to take effect as if Trust named therein as devisee donee or beneficiary.

20. (1) Subject to this Act, whenever by any will, deed or other instrument any land situate in South Australia—

(*a*) is devised, given, or granted to the Church;

(*b*) is devised, given, granted, released, conveyed or appointed or is declared or directed to be held upon trust for or for the benefit of the Church;

(*c*) is recoverable by the Church or any person on behalf of the Church;

or

(*d*) is devised, given, granted, released, conveyed or appointed or is declared or directed to be held for or upon trust for the religious, social, educational or charitable work of the Church,

that will, deed or instrument shall be construed and operate and take effect as though the Trust had been named therein as the devisee, donee or beneficiary.

(2) All such land shall be held and dealt with by the Trust subject to the provisions of this Act and the regulations and subject to the trusts concerning the land declared in the will, deed or other instrument insofar as those trusts are capable of taking effect.

Trust to hold property on behalf of the Church.

21. (1) The Trust shall hold the trust property on behalf of the Church and shall hold, manage, administer and otherwise deal with the same in accordance with this Act and the regulations and subject to the control and directions of the Conference.

(2) Subject to subsection (1) of this section, the Trust may demise the trust property for any term (whether upon building leases or other leases or tenancies), borrow moneys on the security of the trust property, and give easements over, alienate, exchange, partition or sell the trust property as fully and effectually as if the Trust were the beneficial owner thereof.

Trust to have power to act in relation to resumption, etc., of property vested in it.

22. The Trust shall, subject to any regulation or any direction from the Conference, have full power to act in relation to the exchange, dedication or resumption of any property vested in it under this Act and to make claims for compensation in respect of the same and agree to and settle such claims for such considerations and on and subject to such terms and conditions as may appear advisable to it.

Regulations.

23. (1) For the purposes of regulating or controlling any matter which by virtue of this Act it is empowered to regulate or control, the Conference may, with the approval of the General Conference of the Church, make regulations and may revoke or amend those regulations.

(2) A certificate signed by the President of the Conference certifying that any regulation or regulations attached to such certificate is a regulation or are regulations made by the Conference pursuant to this Act and in force on a day specified in the certificate, shall for all purposes be conclusive evidence that the regulation or regulations was or were duly made and was or were in force on that day.

Rights of trustees, etc., to vest in Trust.

24. Any rights (including choses in action) arising out of contract or tort relating in any way to real and personal property which was immediately prior to the commencement of this Act vested in any trustees pursuant to the Model Deed or in any other person or persons divested of property by this Act and which relate to that property are hereby vested in the Trust and may be enforced by it.

Receipt for moneys received by the Trust.

25. A receipt for moneys paid to the Trust shall exonerate the mortgagee, purchaser or other person by or on whose behalf the moneys are so paid from any liability to see to the application thereof and from any liability, loss, mis-application or non-application thereof, if the receipt—

(*a*) is executed in accordance with this Act under the common seal of the Trust;

(*b*) is in writing signed by two members of the Trust;

or

(*c*) is in writing signed by a person or persons purporting to be duly authorized for the purpose by the Trust or two members thereof.

Persons dealing with the Trust not required to inquire into propriety of Trust's actions.

26. No purchaser, mortgagee, lessee or other person dealing with the Trust and neither the Registrar-General nor any other person registering or certifying title shall, upon any sale, exchange, mortgage, lease or other dealing purporting to be entered into by the Trust, be concerned to see or inquire into the necessity for such a transaction or the propriety thereof or the mode of effectuating the same or to inquire whether that sale, exchange, mortgage, lease or other dealing is in accordance with this Act or the regulations or the directions of the Conference or is prohibited by any subsisting trust and such a person shall not be affected by notice that the exercise of the power is unauthorized, irregular or improper.

Nothing in Act to deprive any person of any right arising out of contract or tort.

27. Nothing that is contained in or may be done under this Act shall be deemed prejudicially to affect or to deprive any person of any right arising out of contract or tort and any such right which was at the time of the passing of this Act enforceable against any trustees under the Model Deed or against any other person or persons in respect of any property vested in the Trust pursuant to this Act may be enforced against the Trust.

Persons exercising powers or duties in relation to Trust property entitled to be indemnified against all expenses and liabilities.

28. Each member of the Trust and any person exercising any powers or duties in relation to the trust property pursuant to this Act or pursuant to any regulation or direction of the Conference and the executors and administrators of that member or person shall be entitled to be indemnified out of the trust property against all expenses and liabilities incurred by that member or person in connection with the performance by him of those powers and duties.

Legal proceedings.

29. (1) The Trust may bring or defend in its own name any legal proceedings and the service of any writ, statement of claim, summons or other legal process on the Trust may be effected by serving the document on—

(*a*) the President of the Conference;

(*b*) the Connexional Secretary of the Conference;

or

(*c*) any other person authorized by the President of the Conference to accept service of legal process.

(2) Legal proceedings for ejectment or eviction or otherwise relating to any trust property or to any contract or other matter arising out of the management or administration or development of any trust property may be brought in the name of the Trust or, in his own name on behalf of the Trust, by any person authorized so to do in accordance with the regulations of the Conference.

(3) In any action or proceeding affecting the rights or interests of the Church in respect of any property real or personal, the President of the Conference shall (if the Church or its members ought to be a party or parties as distinct from the Trust) represent the Church or the members thereof as plaintiff or as defendant as the case may require.

Registrar-General to give effect to vesting.

30. (1) Where the Registrar-General is satisfied that land registered under the Real Property Act, 1886, as amended, has vested in the Trust by virtue of this Act he shall without fee give effect in the register book to that vesting by registering the Trust as proprietor of that land.

(2) A certificate, duly signed by the Connexional Secretary of the Conference, that any property or land described in the certificate was, at the commencement of this Act, held on the trusts of the Model Deed or that any land is, or was at the commencement of this Act, held by any person or persons for the Church, shall be *prima facie* evidence that the property or land is or was so held in any action suit or other proceeding, whether civil or criminal and for the purpose of any dealing or application relating to any land which comes before the Registrar-General, including any application to the Registrar-General that any land be registered in the name of the Trust pursuant to the provisions of the Real Property Act, 1886, as amended, and the Registrar-General on receipt of such a certificate shall not be bound to inquire further as to the trusts upon which the land described in the certificate is held.

Co-operation with other Churches.

31. Where it has been decided in accordance with the laws of the Church to enter into a scheme of co-operation with or involving a church of any other denomination, or any congregation or activity thereof, involving the use of any land vested in the Trust by virtue of this Act, then so long as the scheme of co-operation continues the Trust may permit such land to be used, managed and administered in connection with the scheme in such manner and upon such conditions as the Conference or any committee appointed by the Conference in that behalf may determine or prescribe and the

proceeds of the sale or mortgage of or any other dealing with that land and all moneys collected or held in respect of such scheme of co-operation may be paid and applied in such manner as may be determined or prescribed by the Conference or by such committee with the approval of the Trust.

Section 31 not to apply to certain land.

32. The provisions of section 31 of this Act shall apply to and in regard to all land at any time held by the Trust save and except to the extent only that any such land be held subject to provisions expressly forbidding its use in any of the ways therein set forth and the fact that any such land be directed to be held on trust for Methodist worship or purposes shall not in itself be such a provision.

Delegation by Conference to Standing Committee.

33. The Conference may from time to time delegate to the Standing Committee of the Conference all or any of the authorities, powers and discretions vested in the Conference under and by virtue of this Act and the exercise by the Standing Committee of any of the authorities, powers and discretions so delegated shall be as valid and effectual as if such authorities, powers or discretions had been exercised by the Conference.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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"industrial offence" means a simple offence that is for the time being declared by proclamation under section 4a of this Act to be an industrial offence for the purposes of this Act:;

and

(*b*) by inserting after the definitions of "sum adjudged to be paid by a conviction" and "sum adjudged to be paid by an order" the following definition:

"the Industrial Court" means the Industrial Court of South Australia continued in existence by the Industrial Conciliation and Arbitration Act, 1972.

Enactment of s. 4a of principal Act—

4. The following section is enacted and inserted in the principal Act immediately after section 4 thereof:—

Declaration of industrial offence.

4a. The Governor may from time to time by proclamation declare any simple offence to be an industrial offence for the purposes of this Act and may by proclamation revoke or amend any such declaration.

Enactment of s. 43a of principal Act—

5. The following section is enacted and inserted in the principal Act immediately after section 43 thereof:—

Special provisions relating to industrial offences.

43a. (1) Where a form of complaint being a complaint alleging the commission of an industrial offence is endorsed, by or on behalf of the complainant, with the words "Set down before an Industrial Magistrate" the clerk to whom the complaint is referred shall set down or cause to be set down the matter o complaint for hearing and determination by a court constituted of an Industrial Magistrate.

(2) Where a defendant is charged before a court, not constituted of an Industrial Magistrate, with an industrial offence the defendant may, before any plea is taken, request that the matter be heard and determined by an Industrial Magistrate and thereupon the court shall—

(*a*) forthwith desist from proceeding further with the hearing of the matter;

and

(*b*) adjourn the hearing to such time and place as it thinks fit, then and there to be heard and determined by a court constituted of an Industrial Magistrate.

Amendment of principal Act, s. 162—

Points of law may be reserved for consideration of the Supreme Court.

6. Section 162 of the principal Act is amended—

(*a*) by striking out from subsection (1) the word "Any" being the first word in that subsection and inserting in lieu thereof the following passage "Subject to subsection (5) of this section any";

and

(*b*) by inserting immediately after subsection (4) the following subsection:—

(5) In the application of the preceding provisions of this section to or in relation to proceedings in respect of an industrial offence a reference in those provisions to the Supreme Court shall be read as a reference to the Industrial Court.

Amendment of principal Act, s. 163— Right of appeal to Supreme Court in every other case unless taken away.

7. Section 163 of the principal Act is amended—

(*a*) by striking out from subsection (1) the word "There", being the first word in that subsection, and inserting in lieu thereof the passage "Except as provided in subsection (1aa) of this section, there";

(*b*) by striking out the proviso to subsection (1);

and

(*c*) by inserting immediately after subsection (1) the following subsection:—

(1aa) In the case of a conviction, order or adjudication of a court of summary jurisdiction in respect of an industrial offence an appeal from that conviction, order or adjudication shall lie to the Industrial Court and for the purposes of every such appeal all references in this Part to—

(*a*) the Supreme Court shall be read as a reference to the Industrial Court;

and

(*b*) the Master of the Supreme Court shall be read as references to the Registrar as defined for the purposes of the Industrial Conciliation and Arbitration Act, 1972.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 93 of 1972

An Act to amend the Cigarettes (Labelling) Act, 1971.

[*Assented to 9th November,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Cigarettes (Labelling) Act Amendment Act, 1972".

(2) The Cigarettes (Labelling) Act, 1971, as amended by this Act, may be cited as the "Cigarettes (Labelling) Act, 1971-1972".

(3) The Cigarettes (Labelling) Act, 1971, is hereinafter referred to as "the principal Act".

Commencement.

2. This Act shall come into operation on the day fixed by proclamation for the purposes of section 2 of the principal Act or if that day has already occurred before the enactment of this Act this Act shall for all purposes be deemed to have come into operation on that day.

Amendment of principal Act, s. 5—Regulations.

3. Section 5 of the principal Act is amended by striking out from paragraph (*a*) the passage "section 3" and inserting in lieu thereof the passage "section 4".

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 94 of 1972

An Act to amend the Criminal Law Consolidation Act, 1935-1971, and for other purposes.

[*Assented to 9th November,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Criminal Law Consolidation Act Amendment Act, 1972".

(2) The Criminal Law Consolidation Act, 1935-1971, as amended by this Act, may be cited as the "Criminal Law Consolidation Act, 1935-1972".

(3) The Criminal Law Consolidation Act, 1935-1971, is hereinafter referred to as "the principal Act".

Arrangement of Act.

2. Section 3 of the principal Act is amended by striking out from the heading commencing "*Unnatural Offences*" the passage "(Sections 69-72)" and inserting in lieu thereof the passage "(Sections 68a-72)".

Enactment of s. 68a of principal Act—

3. The following section is enacted and inserted in the part of the principal Act headed "*Unnatural Offences*" immediately before section 69 thereof:—

Certain homosexual acts not offences.

68a. (1) Where a male person is charged with an offence that consists in the commission of a homosexual act, it shall be a defence for that person to prove that the homosexual act was committed with another male person, in private, and that both he and the other male person consented to the act and had attained the age of twenty-one years.

(2) A homosexual act shall not be held to have been done in private if it is done—

(*a*) when more than two persons take part in or are present at the commission of the act;

or

(*b*) in any lavatory to which the public have or are permitted to have access, whether free of charge or otherwise.

(3) A homosexual act includes—

(*a*) an act of buggery between two male persons;

or

(*b*) an act of gross indecency between two male persons.

Repeal of ss. 69-71 of principal Act and enactment of section in their place—

4. Sections 69, 70 and 71 of the principal Act are repealed and the following section is enacted and inserted in their place:—

Offences against male persons.

69. (1) Subject to section 68a of this Act—

(*a*) any person who commits buggery, either with a human being or an animal, shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding ten years;

(*b*) any person who—

(i) attempts to commit buggery either with a human being or an animal;

(ii) assaults any person with intent to commit buggery;

or

(iii) indecently assaults any male person,

shall be guilty of a misdemeanour and liable to be imprisoned for a term not exceeding seven years;

and

(*c*) any male person who commits an act of gross indecency with another male person shall be guilty of an offence and liable to be imprisoned for a term not exceeding three years.

(2) Unless a male person has attained the age of twenty-one years, he shall not be considered capable of consenting to an indecent assault on his person by a male person and unless a male person has attained the age of seventeen years he shall not be considered capable of consenting to an indecent assault on his person by a female person.

(3) Any person who procures or attempts to procure the commission of an act of buggery or gross indecency between two other persons shall (notwithstanding that a good defence to a charge relating to that act, or proposed act, of buggery or gross indecency could be made out under section 68a of this Act) be guilty of an offence and liable to be imprisoned for a term not exceeding three years.

(4) Any person who solicits with a view to inducing any other person to commit an act of buggery or gross indecency and in so doing causes offence to the person whom he seeks to induce to commit that act, shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars or imprisonment for three months.

(5) Proceedings for an offence against subsection (4) of this section shall be disposed of summarily.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 95 of 1972

An Act to amend the Advances to Settlers Act, 1930-1970.

[*Assented to 9th November,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Advances to Settlers Act Amendment Act, 1972".

(2) The Advances to Settlers Act, 1930-1970, as amended by this Act, may be cited as the "Advances to Settlers Act, 1930-1972".

(3) The Advances to Settlers Act, 1930-1970, is hereinafter referred to as "the principal Act".

Amendment of principal Act, s. 12a—Special provision for the making of advances for the erection of dwellinghouses.

2. Section 12a of the principal Act is amended—

(*a*) by striking out from subsection (2) the passage "nine thousand dollars" and inserting in lieu thereof the passage "the prescribed amount";

and

(*b*) by inserting after subsection (2) the following subsection:—

(2a) For the purposes of subsection (2) of this section "the prescribed amount" means the maximum amount that for the time being, otherwise than under this Act, the bank advances, out of moneys provided by Parliament for the purpose, for a housing loan.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 96 of 1972

An Act to constitute an Environmental Protection Council; to provide for its powers and functions; and for other purposes.

[*Assented to 9th November,* 1972]

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 "Environmental Protection Council Act, 1972".

Commencement.

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

Interpretation.

3. In this Act, unless the contrary intention appears—

"member" in relation to the Council, includes the person who is, for the time being, chairman of the Council:

"the environment" in relation to the State, includes any matter or thing that determines or affects the conditions or influences under which any animate thing lives or exists in the State:

"the Council" means the Environmental Protection Council established by section 4 of this Act.

Environmental Protection Council.

4. (1) For the purposes of this Act a council by the name of the "Environmental Protection Council" is hereby established.

(2) The Council—

(*a*) shall be a body corporate with perpetual succession and a common seal;

(*b*) subject to this Act, shall be capable of acquiring, taking or letting out on lease, holding, selling and otherwise disposing of real and personal property;

(*c*) may, with the approval of the Minister, enter into any contract or agreement with any person for the purpose of the exercise and performance of its powers and functions under this Act;

and

(*d*) shall have the powers, duties, functions and authorities conferred, imposed or prescribed by or under this Act.

(3) In the exercise and discharge of its powers, duties, functions and authorities, the Council shall, except where the Council makes or is required to make a recommendation to the Minister, be subject to the general control and direction of the Minister.

(4) Where a document purporting to bear the common seal of the Council is produced before any court or person acting judicially the court or the person, as the case may be, shall, unless the contrary is proved, presume—

(*a*) that the document, purporting to bear the common seal of the Council, bears the common seal of the Council;

and

(*b*) that the common seal was duly affixed and properly attested to.

(5) The Council shall consist of eight members, that is to say—

(*a*) the person for the time being holding the office of Director of Environment and Conservation in the public service of the State who shall be the chairman of the Council;

(*b*) the person for the time being holding the office of Director and Engineer-in-Chief of the Engineering and Water Supply Department in the public service of the State;

(*c*) the Director, Department of Premier and of Development in the public service of the State;

(*d*) the Director-General of Public Health in the public service of the State;

and

(*e*) four other members appointed by the Governor of whom—

(i) one shall be a person with knowledge of and experience in industry;

(ii) one shall be a person with knowledge of biological conservation;

and

(iii) two shall be persons qualified in a field of knowledge of matters relating to the environment.

(6) A member of the Council shall not, as such, be subject to the Public Service Act, 1967, as amended, but this provision does not affect the rights, duties and obligations under that Act of any such member who is otherwise an Officer in the public service of the State.

(7) Every member of the Council appointed by the Governor shall be appointed as such for such term of office not exceeding four years as the Governor specifies in the instrument of his appointment, but a member appointed to fill a casual vacancy shall be appointed only for the balance of the term of office of the member in whose place he was appointed.

(8) Where a person, who is a member of the Council by virtue of paragraph (*a*), (*b*), (*c*) or (*d*) of subsection (5) of this section, is, for any reason, unable to perform his duties or functions as a member, he may, by notice in writing given to the secretary to the Council, appoint a person as his deputy to act for him during the period of such inability, and the person so appointed shall, while so acting, be deemed to be a member of the Council.

(9) On the expiration of his term of office as a member of the Council, a person appointed by the Governor shall, subject to subsection (5) of this section, be eligible for re-appointment.

Removal from office of member.

5. The Governor may, by notice in writing served on a member of the Council, remove him from office on grounds of misconduct or incapacity to perform his duties or functions as a member.

Casual vacancies.

6. The office of a member of the Council appointed by the Governor shall become vacant if—

(*a*) he dies;

(*b*) he resigns by written notice given to the Minister;

(*c*) he is removed from office by the Governor pursuant to section 5 of this Act;

(*d*) he is absent without leave of the Minister from four consecutive meetings of the Council;

(*e*) he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors or compounds with his creditors for less than one hundred cents in the dollar;

(*f*) he is convicted of any indictable offence;

or

(*g*) he is convicted of any other offence and receives a notice in writing from the Minister discharging him from office on the ground of that conviction.

Common seal, meetings and quorum.

7. (1) The common seal of the Council shall not be affixed to any instrument except in pursuance of a resolution of the Council.

(2) Any instrument executed in pursuance of such a resolution shall be attested by the signature of any two members.

(3) The procedure for the calling of meetings of the Council and for the conduct of business at such meetings shall, subject to this Act, be as determined by the Council.

(4) Any five members of the Council shall constitute a quorum at any meeting of the Council and any duly convened meeting at which a quorum is present shall be competent to transact any business of the Council and shall have and may exercise and discharge all the powers, duties, functions and authorities of the Council.

(5) A decision carried by a majority of the votes cast by the members present at a meeting of the Council shall be the decision of the Council.

(6) The Council shall cause accurate minutes to be kept of its proceedings at meetings.

Chairman.

8. (1) The chairman shall preside at all meetings of the Council at which he is present and in addition to a deliberative vote, shall, in the event of an equality of votes, have a second or casting vote.

(2) At any meeting of the Council at which the chairman of the Council is not present, the members present may, from amongst their own number, elect a member to act as chairman for the meeting and while so acting that member shall have and may exercise and perform all the powers and functions of the chairman of the Council.

Validity of acts of Council.

9. No act, proceeding or determination of the Council shall be invalid on the ground only of any vacancy in the office of any member or of any defect in the appointment of any member.

Remuneration of members.

10. A member of the Council shall, if the Governor thinks fit, be paid such fees or other remuneration as may from time to time be fixed by the Governor and shall be entitled to receive such travelling and other expenses as are from time to time approved by the Minister.

Acceptance of office as member of Council not to be bar to holding other office.

11. Notwithstanding anything contained in any other Act, no person shall be disqualified by acceptance of office, or by appointment, as a member of the Council from holding the office of a member of the Council under this Act and also any other office, or from accepting and retaining any fees or other remuneration or payment payable to a member under this Act, but no member of either House of Parliament shall be appointed or hold office as a member of the Council.

Secretary to the Council.

12. (1) There shall be a secretary to the Council who shall be appointed by the Governor.

(2) The person so appointed shall be subject to the Public Service Act, 1967, as amended.

(3) The office of secretary to the Council may, if the Governor thinks fit, be held in conjunction with any other office in the public service of the State.

Authority may use the services of employees of the Crown, statutory bodies and councils.

13. (1) With the approval of the Minister, the Council may make use of the services of any of the officers in the branch of the public service of the State known as the Department of Environment and Conservation.

(2) The Council may, with the approval of the Minister and the consent of the Minister controlling any department of the public service of the State, and on such terms as may be mutually arranged, make use of the services of any of the officers or employees of that department.

(3) The Council may, with the approval of the Minister and the consent of any body corporate created by or under any Act or of any council, as defined for the purposes of the Local Government Act, 1934, as amended, and on such terms as may be mutually arranged, make use of the services of any of the officers or employees of such body or council.

Powers and functions, etc., of Council.

14. (1) Subject to this Act, the Council is charged with the responsibility of considering and reporting on matters affecting the environment of the State referred to it by the Minister and to consider and report on such other matters as, in its opinion, affect the environment of the State.

(2) Without limiting the generality of subsection (1) of this section the Council may—

(*a*) investigate and report upon existing and potential problems of environmental deterioration and protection referred to it by the Minister, or considered by it to require investigation and if possible suggest or advise upon methods for the control or elimination of any such problems;

(*b*) consider, develop and report upon means of enhancing the quality of the environment and the means of preventing, controlling, abating or mitigating pollution;

(*c*) consult with and obtain the advice of persons having special knowledge, experience or responsibility in regard to environmental protection;

and

(*d*) recommend or promote research on matters connected with the environment and co-ordinate any such research whether or not carried out under the auspices of the Council.

(3) Without limiting the generality of the powers and functions conferred on it otherwise under this section the Council shall, in the exercise and performance of those powers and functions, have regard to the desirability of preserving the natural beauty of the countryside, of conserving flora, fauna and geological and physiographical features of special interest and of protecting buildings and other objects of architectural or historic interest and the Council shall take into account the effect which any proposals that it makes may have on the natural beauty of the countryside or on any such flora, fauna, features, buildings or objects.

Council to have powers of Royal Commission in certain matters.

15. (1) The Governor may, from time to time, by proclamation direct the Council to inquire into a matter specified in the proclamation.

(2) Where a proclamation referred to in subsection (1) has been made, the Royal Commissions Act, 1917, shall apply and have effect, in all respects, as if—

(*a*) the Council were a commission as defined in that Act;

and

(*b*) the proclamation were a commission of inquiry issued by the Governor under his hand and the public seal of the State.

Delegation of powers.

16. (1) The Council may, with the approval of the Minister, by writing over its seal delegate to any person any of the powers or functions of the Council (except this power of delegation) so that the delegated powers or functions may be exercised by the delegate with respect to the matter or class of matters specified or the place or locality defined in the instrument of delegation.

(2) A delegation under subsection (1) of this section shall be revocable in writing at will, and no delegation shall prevent the exercise or performance by the Council of any of its powers or functions.

Reports.

17. (1) As soon as practicable after the thirtieth day of June in each year the Council shall present a report to the Minister—

(*a*) in the case of the thirtieth day of June next following the day on which this Act came into operation, on its activities during the period commencing on that day and concluding on that thirtieth day of June;

and

(*b*) in the case of each such succeeding thirtieth day of June, on its activities during the period of twelve months immediately preceding that thirtieth day of June.

(2) The Minister shall cause every report of the Council made in accordance with subsection (1) of this section to be laid before each House of Parliament within fourteen days of his receipt thereof if Parliament is then in session, or if Parliament is not then in session, within fourteen days of the commencement of the next session of Parliament.

Moneys for the purposes of the Act.

18. The moneys required for the purposes of this Act shall be paid out of moneys provided by Parliament for the purpose.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 97 of 1972

An Act to amend the Lower River Broughton Irrigation Trust Act, 1938-1940.

[*Assented to 9th November,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Lower River Broughton Irrigation Trust Act Amendment Act, 1972".

(2) The Lower River Broughton Irrigation Trust Act, 1938-1940, as amended by this Act, may be cited as the "Lower River Broughton Irrigation Trust Act, 1938-1972".

(3) The Lower River Broughton Irrigation Trust Act, 1938-1940, is hereinafter referred to as "the principal Act".

Amendment of principal Act, s. 17—Casual vacancies.

2. Section 17 of the principal Act is amended by striking out from paragraph (*b*) of subsection (1) the passage "twenty shillings in the pound" and inserting in lieu thereof the passage "one hundred cents in the dollar".

Amendment of principal Act, s. 40—Evidence of minutes.

3. Section 40 of the principal Act is amended by striking out from subsection (2) the passage "one shilling" and inserting in lieu thereof the passage "ten cents".

Amendment of principal Act, s. 43— Banking of money.

4. Section 43 of the principal Act is amended—

(*a*) by striking out from subsection (2) the passage "five pounds" and inserting in lieu thereof the passage "ten dollars";

(*b*) by striking out from subsection (3) the passage "one pound" and inserting in lieu thereof the passage "two dollars";

and

(*c*) by striking out from subsection (4) the passage "one pound" and inserting in lieu thereof the passage "two dollars".

Amendment of principal Act, s. 45— By-laws.

5. Section 45 of the principal Act is amended by striking out from paragraph (i) the passage "fifty pounds" and inserting in lieu thereof the passage "one hundred dollars".

Amendment of principal Act, s. 86— Basis of rates.

6. Section 86 of the principal Act is amended—

(*a*) by striking out from paragraph (*a*) of subsection (1) the word "acre" and inserting in lieu thereof the word "hectare";

and

(*b*) by striking out from subsection (2) the word "pound" and inserting in lieu thereof the word "dollar".

Amendment of principal Act, s. 91— Fine in default of payment.

7. Section 91 of the principal Act is amended by striking out the word "pounds" and inserting in lieu thereof the word "dollars".

Amendment of principal Act, s. 98— Notice of loan.

8. Section 98 of the principal Act is amended by striking out the passage "five hundred pounds" and inserting in lieu thereof the passage "one thousand dollars".

Amendment of principal Act, s. 99a— Power of Treasurer to make loans to trust.

9. Section 99a of the principal Act is amended by striking out from subsection (1) the passage "seven thousand pounds" and inserting in lieu thereof the passage "fourteen thousand dollars".

Amendment of principal Act, s. 115— Right to vote.

10. Section 115 of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "twenty-one years" and inserting in lieu thereof the passage "eighteen years";

(*b*) by striking out from subsection (2) the passage "twenty-one years" and inserting in lieu thereof the passage "eighteen years";

and

(*c*) by striking out from subsection (3) the passage "twenty miles" and inserting in lieu thereof the passage "30 kilometres".

11. Section 131 of the principal Act is amended by striking out the passage "two hundred pounds" and inserting in lieu thereof the passage "four hundred dollars".

Amendment of principal Act, s. 131— Bribery and corruption by other than authorized agent.

12. Section 132 of the principal Act is amended by striking out the passage "two hundred pounds" and inserting in lieu thereof the passage "four hundred dollars".

Amendment of principal Act, s. 132— Rewards for voting or withholding vote.

13. Section 133 of the principal Act is amended by striking out the passage "one hundred pounds" and inserting in lieu thereof the passage "two hundred dollars".

Amendment of principal Act, s. 133— Offences by voters.

14. Section 139 of the principal Act is amended by striking out the passage "fifty pounds" and inserting in lieu thereof the passage "one hundred dollars".

Amendment of principal Act, s. 139— General penalty.

15. The second schedule to the principal Act is amended by striking out from the third column the symbols "£ s. d." and inserting in lieu thereof the symbols "$. c.".

Amendment of second schedule of principal Act.

16. The fourth schedule to the principal Act is amended by striking out from the third and fifth column the symbols "£ s. d." and inserting in lieu thereof in each case the symbols "$. c.".

Amendment of fourth schedule of principal Act.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 98 of 1972

An Act to provide for the preparation of a Metropolitan Adelaide Road Widening Plan and for purposes connected therewith or incidental thereto.

[*Assented to 9th November,* 1972]

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 "Metropolitan Adelaide Road Widening Plan Act, 1972".

Commencement.

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

Definitions.

3. In this Act, unless the contrary intention appears—

"building" includes part of a building:

"building work" means—

(*a*) the erection or construction of any new building or structure;

and

(*b*) any addition to, repair or alteration of any existing building or structure;

"Council" means a municipal or district council and includes any body corporate vested with the powers of a municipal or district council pursuant to any Act:

"road" means any street, road, thoroughfare, terrace, court, lane, alley, cul-de-sac or place commonly used by the public, or to which the public are permitted to have access:

"structure" includes part of a structure:

"the Commissioner" means the Commissioner of Highways appointed by or pursuant to the Highways Act, 1926-1972:

"the Plan" means the Metropolitan Adelaide Road Widening Plan as deposited pursuant to section 5 of this Act and includes that plan as from time to time amended or varied by an amendment or variation as so deposited.

Application of Act.

4. (1) This Act shall apply to and in relation to the land abutting any road shown on the Plan to be subject to road widening until the day of deposit referred to in section 27b of the Highways Act, 1926-1972, of a plan that relates to that road or until so much of that land as is shown on the Plan as being required for road widening has been acquired by the Commissioner, whichever day first occurs.

(2) Nothing in this Act contained shall limit or restrict the generality of the application of the Highways Act, 1926-1972.

Commissioner to prepare Plan.

5. (1) The Commissioner shall prepare a plan to be known as the "Metropolitan Adelaide Road Widening Plan" and the Commissioner may from time to time amend or vary that plan.

(2) The Plan shall be deposited with the Registrar-General of Deeds in the General Registry Office at Adelaide pursuant to the provisions of the Registration of Deeds Act, 1935, as amended, and any amendments or variations to the Plan shall be deposited in a like manner.

Certain building work not to be carried out without the consent of the Commissioner.

6. A person shall not, without the consent of the Commissioner, suffer or permit any building work to be carried out on land to which this Act applies—

(*a*) in the case of building work being the erection or construction of any new building or structure, within six metres of the boundary of that portion of that land shown on the Plan as being required for road widening;

and

(*b*) in the case of building work being any addition to, repair or alteration of any existing building or structure, on that portion of that land shown on the Plan as being required for road widening.

Effect of building work carried out in contravention of s. 6.

7. Notwithstanding any other Act or law, the value of any building work carried out in contravention of section 6 of this Act and (without limiting the generality of the foregoing) any enhancement in the value of any building or structure arising from that building work shall not be taken into account in fixing the compensation payable in respect of land acquired by the Commissioner pursuant to subsection (5) of section 27b of the Highways Act, 1926-1972.

Applications for consent, etc.

8. (1) An application for the consent of the Commissioner under this Act shall be made in the prescribed manner and shall contain the prescribed particulars.

(2) The Commissioner shall within thirty days of receipt of an application for consent—

(*a*) grant his consent;

(*b*) refuse his consent;

or

(*c*) grant his consent subject to such conditions as are contained therein.

(3) If within the period of thirty days referred to in subsection (2) of this section the Commissioner has not taken any of the steps referred to in that subsection it shall be presumed that he has granted his consent.

(4) For the purposes of this Act, building work carried out in contravention of, or a breach of any condition of a consent given under this section shall be deemed to have been carried out without the consent of the Commissioner.

(5) In any proceedings under section 27b of the Highways Act, 1926-1972, it shall lie upon the person claiming compensation to prove that building work referred to in section 7 of this Act was carried out with the consent of the Commissioner.

(6) Any condition that is imposed in a consent given under this section shall be binding on the person in relation to whom the consent was given and upon the successors in title or occupancy of that person.

Powers of Commissioner.

9. The Commissioner may enter into any arrangements with any Council for the purposes of facilitating the making of application by any person for the consent of the Commissioner under this Act

and such arrangements shall have effect as if they were enacted in this Act.

10. The Governor may make such regulations as are necessary or expedient for giving effect to the powers and objects of this Act. Regulations.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 99 of 1972

An Act to amend the Metropolitan and Export Abattoirs Act, 1936-1964

[*Assented to 9th November,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Metropolitan and Export Abattoirs Act Amendment Act, 1972".

(2) The Metropolitan and Export Abattoirs Act, 1936-1964, as amended by this Act, may be cited as the "South Australian Meat Corporation Act, 1936-1972".

(3) The Metropolitan and Export Abattoirs Act, 1936-1964, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 2—

3. Section 2 of the principal Act is amended—

Division.

(*a*) by striking out the passage—

PART II—The Metropolitan and Export Abattoirs Board: sections 9-52.

and inserting in lieu thereof the passage—

PART II—The South Australian Meat Corporation: sections 9-52a.;

(*b*) by striking out the passage "sections 94-96" and inserting in lieu thereof the passage "sections 94-96b";

(*c*) by striking out the passage "Extension of the Metropolitan Abattoirs Area" and inserting in lieu thereof the passage "Alteration of the Metropolitan Abattoirs Area";

and

(*d*) by striking out the passage "Regulations: sections 112-114" and inserting in lieu thereof the passage "Resolutions and Regulations: sections 111a-114".

4. Section 3 of the principal Act is amended— Amendment of principal Act, s. 3— Interpretation.

(*a*) by striking out from subsection (1) the definition of "board";

(*b*) by striking out from paragraph (*b*) of the definition of "inspector" in subsection (1) the word "board" and inserting in lieu thereof the word "Corporation";

(*c*) by striking out from subsection (1) the definition of "Master Butchers Limited";

(*d*) by inserting after the definition of "meat" in subsection (1) the following definition:—

"member" in relation to the Corporation includes the person for the time being appointed chairman of the Corporation:;

(*e*) by striking out from subsection (1) the definition of "Pig Breeders' Society";

(*f*) by striking out from the definition of "stock" in subsection (1) the passage ", and poultry of all kinds";

(*g*) by striking out from subsection (1) the definition of "Stockowners' Association";

(*h*) by striking out from subsection (1) the definition of "Stock Salesmen's Association";

(*i*) by inserting immediately before the definition of "Treasurer" in subsection (1) the following definition:—

"the Corporation" means the body corporate continued in existence under section 9 of this Act:;

and

(*j*) by striking out from the definition of "Treasurer" in subsection (1) the passage "the said State" and inserting in lieu thereof the passage "the State".

Amendment of principal Act, s. 5—Administration and construction of Act.

5. Section 5 of the principal Act is amended by striking out the word "board" and inserting in lieu thereof the word "Corporation".

Amendment of heading to Part II of principal Act.

6. The principal Act is amended by striking out the heading to Part II thereof and inserting in lieu thereof the following heading:—

THE SOUTH AUSTRALIAN MEAT CORPORATION.

Amendment of principal Act, s. 9—Continuance of Corporation.

7. Section 9 of the principal Act is amended—

(*a*) by inserting in subsection (1) after the passage "under that name" the passage "and on and after the commencement of the Metropolitan and Export Abattoirs Act Amendment Act, 1972, the body corporate known as the "Metropolitan and Export Abattoirs Board" shall continue in existence under the name of the "South Australian Meat Corporation" ";

(*b*) by striking out from subsection (2) the passage "The board shall be" and inserting in lieu thereof the passage "The Corporation shall continue to be";

(*c*) by striking out from subsection (3) the passage "The board" and inserting in lieu thereof the passage "The Corporation";

and

(*d*) by inserting immediately after subsection (3) the following subsections:—

(4) Where in any other Act or in any regulation, rule or by-law whether made under this Act or any other Act, or in any other document of any kind whatsoever a reference is made to the "Metropolitan and Export Abattoirs Board" that reference shall so far as it is applicable be read as a reference to the South Australian Meat Corporation".

(5) On and after the commencement of the Metropolitan and Export Abattoirs Act Amendment Act 1972, all claims, actions and proceedings which—

(*a*) could have been made or commenced by or against the Metropolitan and Export Abattoirs Board may be made or commenced by or against the South Australian Meat Corporation;

or

(*b*) before that commencement had been made or commenced by or against the Metropolitan and Export Abattoirs Board may be continued by or against the South Australian Meat Corporation and the name of the Corporation shall be substituted for the name of the Metropolitan and Export Abattoirs Board in any such claim, action or proceeding.

Repeal of s. 10 of principal Act and enactment of section in its place—

8. Section 10 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Composition of Corporation.

10. (1) On the day of commencement of the Metropolitan and Export Abattoirs Act Amendment Act, 1972, the chairman and members of the Metropolitan and Export Abattoirs Board in office immediately before that day shall, by operation of this section, vacate their respective offices.

(2) On and from the day of commencement of the Metropolitan and Export Abattoirs Act Amendment Act, 1972, the Corporation shall consist of a chairman and five members appointed by the Governor.

Amendment of principal Act, s. 11—

9. Section 11 of the principal Act is amended—

Term of office.

(*a*) by striking out subsection (1) and inserting in lieu thereof the following subsection:—

(1) The chairman and each member of the Corporation shall, subject to this Act, hold office for three years.;

(*b*) by striking out subsections (2), (3) and (3a);

(*c*) by striking out from subsection (4) the word "board" and inserting in lieu thereof the word "Corporation";

(*d*) by striking out from subsection (4) the passage "or elected";

(*e*) by striking out from subsection (5) the passage "or elected";

and

(*f*) by striking out from subsection (6) the word "board" and inserting in lieu thereof the word "Corporation".

Amendment of principal Act, s. 12—Remuneration of the Corporation.

10. Section 12 of the principal Act is amended—

(*a*) by striking out from subsection (1) the word "board" and inserting in lieu thereof the word "Corporation";

and

(*b*) by striking out from subsection (2) the word "board" and inserting in lieu thereof the word "Corporation".

Amendment of principal Act, s. 14—Casual vacancies.

11. Section 14 of the principal Act is amended—

(*a*) by striking out from subsection (1) the word "board" and inserting in lieu thereof the word "Corporation";

(*b*) by striking out from paragraph (*d*) of subsection (1) the word "board" twice occurring and inserting in lieu thereof in each case the word "Corporation";

and

(*c*) by striking out from subsection (2) the word "board" and inserting in lieu thereof the word "Corporation".

Repeal of ss. 15, 16, 19, 20 and 21 of principal Act.

12. Sections 15, 16, 19, 20 and 21 of the principal Act are repealed.

Amendment of principal Act, s. 22—Right of councillors to be member of Corporation.

13. Section 22 of the principal Act is amended by striking out the word "board" and inserting in lieu thereof the word "Corporation".

Amendment of principal Act, s. 23—Quorum and chairman.

14. Section 23 of the principal Act is amended by striking out from subsection (1) the word "four" and inserting in lieu thereof the word "three".

Amendment of principal Act, s. 24—Meetings of Corporation.

15. Section 24 of the principal Act is amended—

(*a*) by striking out from subsection (1) the word "board" twice occurring and inserting in lieu thereof in each case the word "Corporation";

(*b*) by striking out from subsection (1) the passage ", not being less than once in every six weeks";

(*c*) by striking out from subsection (2) the word "board" twice occurring and inserting in lieu thereof in each case the word "Corporation";

and

(*d*) by striking out from subsection (3) the word "board" and inserting in lieu thereof the word "Corporation".

Repeal of s. 25 of principal Act and enactment of section in its place—

16. Section 25 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Delegation.

25. (1) The Corporation may by writing under its seal delegate to any person any of its powers, functions or duties under this Act (except this power of delegation) so that the delegated powers, functions or duties may be exercised or performed by the delegate with respect to the matters or class of matters specified, or the place or locality defined, in the instrument of delegation.

(2) A delegation under subsection (1) of this section is revocable in writing, under the seal of the Corporation, at will and no delegation shall prevent the exercise or performance by the Corporation of any of its powers, functions or duties.

Amendment of principal Act, s. 26—

Effect of defects in appointment.

17. Section 26 of the principal Act is amended—

(*a*) by striking out from subsection (1) the word "board" twice occurring and inserting in lieu thereof in each case the word "Corporation";

(*b*) by striking out from subsection (2) the word "board" first occurring and inserting in lieu thereof the word "Corporation";

(*c*) by striking out from subsection (2) the passage "or election";

(*d*) by striking out from subsection (2) the passage "or elected";

and

(*e*) by striking out from subsection (2) the word "board" secondly and thirdly occurring and inserting in each case the word "Corporation".

Amendment of principal Act, s. 27—

Receipt of fees, penalties, etc.

18. Section 27 of the principal Act is amended—

(*a*) by striking out from subsection (1) the word "board" and inserting in lieu thereof the word "Corporation";

and

(*b*) by striking out from subsection (2) the word "board" twice occurring and inserting in lieu thereof in each case the word "Corporation".

Amendment of principal Act, s. 28—

Officers.

19. Section 28 of the principal Act is amended—

(*a*) by striking out from subsection (1) the word "board" three times occurring and inserting in lieu thereof in each case the word "Corporation";

and

(*b*) by striking out from subsection (2) the word "board" twice occurring and inserting in lieu thereof in each case the word "Corporation".

Amendment of principal Act, s. 29— Payment of salaries.

20. Section 29 of the principal Act is amended by striking out the word "board" twice occurring and inserting in lieu thereof in each case the word "Corporation".

Amendment of principal Act, s. 29a— Arrangements between Corporation and the Commonwealth.

21. Section 29a of the principal Act is amended—

(*a*) by striking out from subsection (1) the word "board" twice occurring and inserting in lieu thereof in each case the word "Corporation";

(*b*) by striking out from paragraph (*a*) of subsection (2) the word "board" and inserting in lieu thereof the word "Corporation";

(*c*) by striking out from paragraph (*b*) of subsection (2) the word "board" and inserting in lieu thereof the word "Corporation";

and

(*d*) by striking out from subsection (3) the word "board" and inserting in lieu thereof the word "Corporation".

Amendment of principal Act, s. 30— Powers of Corporation to contribute to superannuation funds.

22. Section 30 of the principal Act is amended—

(*a*) by striking out the word "board" first occurring and inserting in lieu thereof the word "Corporation";

(*b*) by striking out from paragraph (*a*) the word "board" twice occurring and inserting in lieu thereof in each case the word "Corporation";

(*c*) by striking out from paragraph (*b*) the word "board" three times occurring and inserting in lieu thereof in each case the word "Corporation";

and

(*d*) by inserting after paragraph (*b*) the following passage:—

and

(*c*) enter into an arrangement or supplementary arrangement of a kind referred to in section 6 of the Superannuation Act, 1969, as amended.

Amendment of principal Act, s. 31— Travelling expenses.

23. Section 31 of the principal Act is amended by striking out the word "board" three times occurring and inserting in lieu thereof in each case the word "Corporation".

Repeal of s. 32 of principal Act.

24. Section 32 of the principal Act is repealed.

Amendment of principal Act, s. 33— Basis of assessment of Corporation's lands for rates.

25. Section 33 of the principal Act is amended by striking out the word "board" twice occurring and inserting in lieu thereof in each case the word "Corporation".

Repeal of s. 34 of principal Act.

26. Section 34 of the principal Act is repealed.

Amendment of principal Act, s. 36— Corporation and members not to be personally liable in certain circumstances.

27. Section 36 of the principal Act is amended by striking out the word "board" three times occurring and inserting in lieu thereof in each case the word "Corporation".

Repeal of s. 37 of principal Act.

28. Section 37 of the principal Act is repealed.

Amendment of principal Act, s. 38— Execution of deeds and instruments.

29. Section 38 of the principal Act is amended by striking out the word "board" twice occurring and inserting in lieu thereof in each case the word "Corporation".

Amendment of principal Act, s. 39— Minute-book.

30. Section 39 of the principal Act is amended by striking out the word "board" twice occurring and inserting in lieu thereof in case the word "Corporation".

Amendment of principal Act, s. 40— Custody of books and documents.

31. Section 40 of the principal Act is amended by striking out the word "board" three times occurring and inserting in lieu thereof in each case the word "Corporation".

Amendment of principal Act, s. 41— Appointment of auditors.

32. Section 41 of the principal Act is amended—

(*a*) by striking out from subsection (1) the word "board" twice occurring and inserting in lieu thereof in each case the word "Corporation";

(*b*) by striking out from subsection (2) the word "board" and inserting in lieu thereof the word "Corporation";

(*c*) by striking out from subsection (3) the word "board" and inserting in lieu thereof the word "Corporation";

and

(*d*) by striking out from subsection (4) the word "board" and inserting in lieu thereof the word "Corporation".

Amendment of principal Act, s. 42—Report on efficiency.

33. Section 42 of the principal Act is amended—

(*a*) by striking out from subsection (1) the word "board" and inserting in lieu thereof the word "Corporation";

(*b*) by striking out from subsection (1) the passage "The first investigation shall be made in the last three months of the year 1934.";

and

(*c*) by striking out from subsection (2) the word "board" and inserting in lieu thereof the word "Corporation".

Amendment of principal Act, s. 43—Accounts of Corporation.

34. Section 43 of the principal Act is amended—

(*a*) by striking out from subsection (1) the word "board" twice occurring and inserting in lieu thereof in each case the word "Corporation";

(*b*) by striking out from subsection (2) the word "board" and inserting in lieu thereof the word "Corporation";

and

(*c*) by striking out from subsection (2) the passage ", within thirty days next after that day,".

Amendment of principal Act, s. 44—Auditor's duties.

35. Section 44 of the principal Act is amended by striking out the word "board" and inserting in lieu thereof the word "Corporation".

Amendment of principal Act, s. 45—Balance-sheet to be laid before Parliament and distribution.

36. Section 45 of the principal Act is amended by striking out from subsection (2) the word "board" and inserting in lieu thereof the word "Corporation".

Amendment of principal Act, s. 46—Date of establishment of Metropolitan and Export Abattoirs Board.

37. Section 46 of the principal Act is amended by striking out the word "board" and inserting in lieu thereof the passage "Metropolitan and Export Abattoirs Board, continued in existence by this Act as in force before the commencement of the Metropolitan and Export Abattoirs Act Amendment Act, 1972,".

Amendment of principal Act, s. 47—Transfer to board of certain right and powers.

38. Section 47 of the principal Act is amended—

(*a*) by inserting in paragraph (*a*) of subsection (1) after the passage "in the board" the passage ", referred to in section 46 of this Act,";

and

(*b*) by inserting in subsection (2) after the passage "the board" the passage ", referred to in section 46 of this Act,".

Amendment of principal Act, s. 48—
Transfer of property of Government Produce Department.

39. Section 48 of the principal Act is amended by striking out from subsection (1) the word "board" and inserting in lieu thereof the passage "Metropolitan and Export Abattoirs Board".

Amendment of principal Act, s. 49—
Duty of Corporation as to fees and charges.

40. Section 49 of the principal Act is amended by striking out the word "board" and inserting in lieu thereof the word "Corporation".

Amendment of principal Act, s. 50—
Sole right of Corporation to slaughter meat.

41. Section 50 of the principal Act is amended—

(*a*) by striking out from subsection (1) the word "board" and inserting in lieu thereof the word "Corporation";

and

(*b*) by striking out subsections (2), (3) and (4).

Amendment of principal Act, s. 51—
Power of Corporation to deal in stock.

42. Section 51 of the principal Act is amended by striking out the word "board" and inserting in lieu thereof the word "Corporation".

Amendment of principal Act, s. 52—
Maximum number of stock to be sold in one day.

43. Section 52 of the principal Act is amended by striking out the word "board" twice occurring and inserting in lieu thereof in each case the word "Corporation".

Repeal of ss. 53-66 of principal Act and enactment of section in their place—

44. Sections 53, 54, 55, 56, 57, 58, 59, 59a, 60, 61, 62, 63, 64, 65 and 66 of the principal Act are repealed and the following section is enacted and inserted in their place:—

Power of Corporation to borrow money, etc.

53. (1) The Corporation may borrow money from the Treasurer or, with the consent of the Treasurer, from any person—

(*a*) for the purposes of the exercise and performance of any of its powers, functions and duties under this Act;

or

(*b*) to satisfy any liability of the Corporation.

(2) The Corporation may issue debentures to secure the repayment of any money borrowed by it pursuant to subsection (1) of this section and all interest due thereon.

(3) Any amount borrowed by the Metropolitan and Export Abattoirs Board before the commencement of the Metropolitan and Export Abattoirs Act Amendment Act, 1972, and any amount borrowed by the Corporation after that commencement and in each case with interest thereon shall be a first charge on all the property and revenue, whether accrued or still to accrue, of the Corporation.

(4) The due repayment of all principal sums together with interest thereon borrowed by the Metropolitan and Export Abattoirs Board before the commencement of the Metropolitan and Export Abattoirs Act Amendment Act, 1972, and the due repayment of all principal sums together with interest thereon borrowed by the Corporation on and after that commencement is hereby guaranteed by the Government of South Australia.

(5) The Treasurer is hereby authorized—

(*a*) out of moneys to be appropriated by Parliament for the purpose, to make advances by way of loan to the Corporation, subject to such terms and conditions as he thinks fit, for any of the purposes mentioned in subsection (1) of this section;

and

(*b*) to pay out of the General Revenue of the State any sum required for fulfilling any guarantee referred to in subsection (4) of this section (and this section without further appropriation is sufficient authority for any such payment) and any sum paid under this paragraph shall, when moneys are properly available for the purpose, be repaid by the Corporation to the Treasurer and, when so repaid, shall form part of the General Revenue of the State.

Amendment of principal Act, s. 67—Banking account.

45. Section 67 of the principal Act is amended—

(*a*) by striking out from subsection (1) the word "board" and inserting in lieu thereof the word "Corporation";

(*b*) by striking out from subsection (1) the passage "in Adelaide";

and

(*c*) by striking out from subsection (2) the word "board" eight times occurring and inserting in lieu thereof in each case the word "Corporation".

Amendment of principal Act, s. 68—Erection of abattoirs.

46. Section 68 of the principal Act is amended—

(*a*) by striking out the word "board" first occurring and inserting in lieu thereof the word "Corporation";

and

(*b*) by striking out from paragraph (*b*) the word "board" and inserting in lieu thereof the word "Corporation".

Amendment of principal Act, s. 69—Letting of land for hide and skin market.

47. Section 69 of the principal Act is amended by striking out the word "board" twice occurring and inserting in lieu thereof in each case the word "Corporation".

Amendment of principal Act, s. 70—
Restriction on slaughter of and sale of stock in metropolitan abattoirs area.

48. Section 70 of the principal Act is amended by striking out from paragraph (*c*) the word "board" and inserting in lieu thereof the word "Corporation".

Amendment of principal Act, s. 70a—
Licence to slaughter elsewhere than at abattoir of the Corporation.

49. Section 70a of the principal Act is amended by striking out from subsection (1) the word "board" and inserting in lieu thereof the word "Corporation".

Amendment of principal Act, s. 74—
Time when abattoirs available.

50. Section 74 of the principal Act is amended by striking out the word "board" twice occurring and inserting in lieu thereof in each case the word "Corporation".

Amendment of principal Act, s. 76—
Exemptions.

51. Section 76 of the principal Act is amended—

(*a*) by striking out from paragraph (*b*) of subsection (1) the word "board" and inserting in lieu thereof the word "Corporation";

(*b*) by striking out from subsection (2) the word "board" twice occurring and inserting in lieu thereof in each case the word "Corporation";

and

(*c*) by striking out from subsection (3) the word "board" and inserting in lieu thereof the word "Corporation".

Amendment of principal Act, s. 77—
Conditions under which meat may be brought into metropolitan abattoirs area.

52. Section 77 of the principal Act is amended—

(*a*) by striking out from subsection (1) the word "board" and inserting in lieu thereof the word "Corporation";

(*b*) by striking out from subsection (2) the word "board" twice occurring and inserting in lieu thereof in each case the word "Corporation";

and

(*c*) by striking out from paragraph (*c*) of subsection (2) the word "board's" and inserting in lieu thereof the word "Corporation's".

Amendment of principal Act, s. 77a—
Permits to slaughter stock for consumption by dogs.

53. Section 77a of the principal Act is amended by striking out from subsection (1) the word "board" three times occurring and inserting in lieu thereof in each case the word "Corporation".

Amendment of principal Act, s. 78a—
Permits to slaughter stock on farms for consumption thereon.

54. Section 78a of the principal Act is amended—

(*a*) by striking out from subsection (1) the word "board" twice occurring and inserting in lieu thereof in each case the word "Corporation";

(*b*) by striking out from paragraph (*c*) of the proviso to subsection (1) the word "board" and inserting in lieu thereof the word "Corporation";

and

(*c*) by striking out from subsection (3) the word "board" and inserting in lieu thereof the word "Corporation".

Amendment of principal Act, s. 78d—Sale in metropolitan abattoirs area of certain carcasses and meat.

55. Section 78d of the principal Act is amended—

(*a*) by striking out from paragraph (*d*) of the first sentence in subsection (1) the word "board" and inserting in lieu thereof the word "Corporation";

(*b*) by striking out from the second sentence in subsection (1) the word "board" and inserting in lieu thereof the word "Corporation";

and

(*c*) by striking out from subsection (3) the word "board" twice occurring and inserting in lieu thereof in each case the word "Corporation".

Amendment of principal Act, s. 80—Licensing of slaughtermen.

56. Section 80 of the principal Act is amended—

(*a*) by striking out from subsection (1) the word "board" and inserting in lieu thereof the word "Corporation";

(*b*) by striking out from subsection (5) the word "board" and inserting in lieu thereof the word "Corporation";

(*c*) by striking out from subsection (6) the word "board" and inserting in lieu thereof the word "Corporation";

and

(*d*) by striking out from subsection (7) the word "board" twice occurring and inserting in lieu thereof in each case the word "Corporation".

Amendment of principal Act, s. 82—Exclusive right of corporation to slaughter stock.

57. Section 82 of the principal Act is amended—

(*a*) by striking out the word "board" and inserting in lieu thereof the word "Corporation";

and

(*b*) by inserting after the passage "for slaughtering" the passage "and other services".

Amendment of principal Act, s. 83—Inspection of livestock and carcasses.

58. Section 83 of the principal Act is amended by striking out from subsection (5) the word "board" and inserting in lieu thereof the word "Corporation".

Amendment of principal Act, s. 84—Mode of dealing with diseased stock after slaughter.

59. Section 84 of the principal Act is amended by striking out from subsection (2) the word "board" twice occurring and inserting in lieu thereof in each case the word "Corporation".

Amendment of principal Act, s. 87—Carcasses slaughtered to be branded.

60. Section 87 of the principal Act is amended by striking out from subsection (1) the word "board" twice occurring and inserting in lieu thereof in each case the word "Corporation".

Amendment of principal Act, s. 89—Buildings may be entered where stock or carcass is supposed to be.

61. Section 89 of the principal Act is amended by striking out from subsection (1) the word "board" and inserting in lieu thereof the word "Corporation".

Amendment of principal Act, s. 90—Seizure of unbranded carcasses.

62. Section 90 of the principal Act is amended—

(*a*) by striking out from subsection (1) the word "board" and inserting in lieu thereof the word "Corporation";

(*b*) by striking out from subsection (4) the word "board" and inserting in lieu thereof the word "Corporation";

(*c*) by striking out from the proviso to subsection (4) the word "board" and inserting in lieu thereof the word "Corporation";

(*d*) by striking out from subsection (5) the word "board" and inserting in lieu thereof the word "Corporation";

(*e*) by striking out from subsection (6) the word "board" and inserting in lieu thereof the word "Corporation";

and

(*f*) by striking out from subsection (7) the word "board" and inserting in lieu thereof the word "Corporation".

Amendment of principal Act, s. 91—Delivery of meat.

63. Section 91 of the principal Act is amended—

(*a*) by striking out from subsection (1) the word "board" and inserting in lieu thereof the word "Corporation";

(*b*) by striking out from subsection (1) the passage "shall have the exclusive right to" and inserting in lieu thereof the word "may";

and

(*c*) by striking out from subsection (2) the word "board" three times occurring and inserting in lieu thereof in each case the word "Corporation".

Amendment of principal Act, s. 92—Blood, etc., to be rendered merchantable.

64. Section 92 of the principal Act is amended by striking out the word "board" twice occurring and inserting in lieu thereof in each case the word "Corporation".

Amendment of principal Act, s. 93—
Meat slaughtered outside abattoirs area to be inspected at abattoirs.

65. Section 93 of the principal Act is amended by striking out from subsection (1) the word "board" twice occurring and inserting in lieu thereof in each case the word "Corporation".

Amendment of principal Act, s. 94—
Establishment of markets.

66. Section 94 of the principal Act is amended by striking out the word "board" twice occurring and inserting in lieu thereof in each case the word "Corporation".

Amendment of principal Act, s. 95—
Restriction on the sale of stock.

67. Section 95 of the principal Act is amended—

(*a*) by striking out the word "board" twice occurring and inserting in lieu thereof in each case the word "Corporation";

and

(*b*) by striking out from paragraph (*b*) of the proviso to that section the word "board" and inserting in lieu thereof the word "Corporation".

Repeal and re-enactment of s. 96 of principal Act—
Control of stock markets.

68. Section 96 of the principal Act is repealed and re-enacted as follows:—

96. No markets for the sale of stock, other than those referred to in section 94 of this Act, shall be established, erected or proclaimed within the metropolitan abattoirs area, any provision to the contrary in any Act notwithstanding.

Amendment of principal Act, s. 96a—
Power of Corporation to establish stores.

69. Section 96a of the principal Act is amended—

(*a*) by striking out the word "board" and inserting in lieu thereof the word "Corporation";

and

(*b*) by inserting after the passage "prescribed by regulation" the passage "or determined by the Corporation".

Amendment of principal Act, s. 96b—
Power of Corporation to treat meat.

70. Section 96b of the principal Act is amended—

(*a*) by striking out the word "board" and inserting in lieu thereof the word "Corporation";

and

(*b*) by inserting after the passage "prescribed by regulation" the passage "or determined by the Corporation".

Amendment of principal Act, s. 97—
Power to take land compulsorily.

71. Section 97 of the principal Act is amended—

(*a*) by inserting after the passage "this Act" the passage "subject to and in accordance with the Land Acquisition Act, 1969, as amended";

and

(*b*) by striking out the word "board" and inserting in lieu thereof the word "Corporation".

Repeal of s. 98 of principal Act.

72. Section 98 of the principal Act is repealed.

Amendment of principal Act, s. 99— Enhancement of owner's land to be considered in estimating compensation.

73. Section 99 of the principal Act is amended by striking out the word "board" and inserting in lieu thereof the word "Corporation".

Amendment of principal Act, s. 100— Power to take temporary possession of land.

74. Section 100 of the principal Act is amended by striking out from subsection (1) the word "board" and inserting in lieu thereof the word "Corporation".

Amendment of principal Act, s. 101— Power to take timber, clay etc., from land.

75. Section 101 of the principal Act is amended—

(*a*) by striking out from subsection (1) the word "board" and inserting in lieu thereof the word "Corporation";

(*b*) by striking out from subsection (2) the word "board" and inserting in lieu thereof the word "Corporation";

and

(*c*) by striking out from subsection (3) the word "board" and inserting in lieu thereof the word "Corporation".

Amendment of principal Act, s. 102— Corporation to separate lands if required.

76. Section 102 of the principal Act is amended—

(*a*) by striking out from subsection (1) the word "board" and inserting in lieu thereof the word "Corporation";

and

(*b*) by striking out from subsection (2) the word "board" twice occurring and inserting in lieu thereof in each case the word "Corporation".

Amendment of principal Act, s. 103— Compensation to be made for temporary occupation.

77. Section 103 of the principal Act is amended—

(*a*) by striking out from subsection (1) the word "board" three times occurring and inserting in lieu thereof in each case the word "Corporation";

(*b*) by striking out from subsection (2) the word "board" and inserting in lieu thereof the word "Corporation";

and

(*c*) by striking out from subsection (3) the word "board" twice occurring and inserting in lieu thereof in each case the word "Corporation".

Amendment of principal Act, s. 104—Compensation, how to be ascertained.

78. Section 104 of the principal Act is amended—

(*a*) by striking out the word "board" and inserting in lieu thereof the word "Corporation";

and

(*b*) by striking out the passage "Compulsory Acquisition of Land Act, 1925," and inserting in lieu thereof the passage "Land Acquisition Act, 1969, as amended,".

Amendment of principal Act, s. 105—Corporation may make surveys.

79. Section 105 of the principal Act is amended by striking out the word "board" and inserting in lieu thereof the word "Corporation".

Amendment of principal Act, s. 106—Power to lease and sell surplus land and property.

80. Section 106 of the principal Act is amended—

(*a*) by striking out from subsection (1) the word "board" first occurring and inserting in lieu thereof the word "Corporation";

(*b*) by striking out from paragraph (*b*) of subsection (1) the word "board" and inserting in lieu thereof the word "Corporation";

and

(*c*) by striking out from subsection (2) the word "board's" and inserting in lieu thereof the word "Corporation's".

Amendment of principal Act, s. 107—Extension of metropolitan abattoirs area.

81. Section 107 of the principal Act is amended by striking out from subsection (3) the word "board" and inserting in lieu thereof the word "Corporation".

Amendment of principal Act, s. 109a—Exclusion of territory from abattoirs area.

82. Section 109a of the principal Act is amended—

(*a*) by striking out from paragraph (*a*) of subsection (1) the word "board" and inserting in lieu thereof the word "Corporation";

and

(*b*) by striking out from subsection (3) the word "board" twice occurring and inserting in lieu thereof in each case the word "Corporation".

Repeal of heading to Part VIII of principal Act and enactment of heading in its place.

83. The heading to Part VIII of the principal Act is repealed and the following heading is enacted and inserted in its place:—

RESOLUTIONS AND REGULATIONS.

Enactment of ss. 111a and 111b of principal Act.

84. The following sections are enacted and inserted in Part VIII of the principal Act immediately before section 112 thereof:—

Resolutions of the Corporation.

111a. In addition to and not in derogation of the powers elsewhere conferred on it by this Act the Corporation may from time to time by resolution—

(*a*) fix the rates of slaughtering fees or dues payable for the use of the abattoirs and of the markets under Part V of this Act and of sustenance fees for stock;

(*b*) fix the fees for examining stock, for examining and branding of carcasses, and for giving certificates as to any examination of stock or of any carcass or meat made by or under the direction of an inspector;

(*c*) fix the fees payable in respect of any condemned carcasses or meat dealt with under regulations made pursuant to the powers conferred by paragraph (12) of section 112 of this Act;

(*d*) fix the fees to be charged for the storage of any fruit or other perishable commodities on the Corporation's premises;

and

(*e*) fix the fees to be charged for the treatment of meat or poultry by canning, dehydration or otherwise and for the receipt and delivery of that meat or poultry.

Effect of resolution fixing fees, etc.

111b. (1) Except as is provided in this section nothing in section 111a of this Act shall affect the validity or efficacy of any regulation made under this Act whether made before or after the commencement of the Metropolitan and Export Abattoirs Act Amendment, 1972.

(2) Where a fee, rate of fee or charge fixed by resolution under section 111a of this Act is different from a fee, rate of fee or charge for the same service fixed under the regulations referred to in subsection (1) of this section the fee, rate of fee or charge so fixed by resolution shall prevail over the fee, rate of fee or charge fixed by regulation.

Amendment of principal Act, s. 112—Regulations.

85. Section 112 of the principal Act is amended—

(*a*) by striking out the word "board" first and second occurring and by inserting in lieu thereof in each case the word "Corporation";

(*b*) by striking out from paragraph (2) the word "board" and inserting in lieu thereof the word "Corporation";

(*c*) by striking out from paragraph (23) the word "board" and inserting in lieu thereof the word "Corporation";

(*d*) by striking out from paragraph (25) the word "board" and inserting in lieu thereof the word "Corporation";

(*e*) by striking out from paragraph (26) the word "board's" and inserting in lieu thereof the word "Corporation's";

(*f*) by striking out from paragraph (26) the word "board" and inserting in lieu thereof the word "Corporation";

and

(*g*) by striking out from paragraph (27) the word "board" and inserting in lieu thereof the word "Corporation".

Amendment of principal Act, s. 114— Regulations unchangeable unless quashed.

86. Section 114 of the principal Act is amended by striking out from subsection (1) the word "board" and inserting in lieu thereof the word "Corporation".

Amendment of principal Act, s. 115— Definition of "offence".

87. Section 115 of the principal Act is amended by striking out from paragraph (3) the word "board" and inserting in lieu thereof the word "Corporation".

Amendment of principal Act, s. 118— Recovery of charges.

88. Section 118 of the principal Act is amended by striking out the word "board" twice occurring and inserting in lieu thereof in each case the word "Corporation".

Amendment of principal Act, s. 120— Hearing of complaints and information.

89. Section 120 of the principal Act is amended by striking out from subsection (2) the word "board" and inserting in lieu thereof the word "Corporation".

Amendment of principal Act, s. 121— Legal proceedings, in whose name.

90. Section 121 of the principal Act is amended by striking out the word "board" twice occurring and inserting in lieu thereof in each case the word "Corporation".

Amendment of principal Act, s. 122— Authority.

91. Section 122 of the principal Act is amended by striking out the word "board" and inserting in lieu thereof the word "Corporation".

Amendment of principal Act, s. 123— Proof.

92. Section 123 of the principal Act is amended by striking out from subsection (1) the word "board" twice occurring and inserting in lieu thereof in each case the word "Corporation".

Amendment of principal Act, s. 124— Contents of books may be proved by certified copies.

93. Section 124 of the principal Act is amended by striking out the word "board" and inserting in lieu thereof the word "Corporation".

Amendment of principal Act, s. 125— Service of notices etc., on Corporation.

94. Section 125 of the principal Act is amended by striking out the word "board" three times occurring and inserting in lieu thereof in each case the word "Corporation".

Amendment of principal Act, s. 126— Service of notices.

95. Section 126 of the principal Act is amended by striking out from subsection (1) the word "board" three times occurring and inserting in lieu thereof in each case the word "Corporation".

Amendment of principal Act, s. 128— Authentication of certain documents.

96. Section 128 of the principal Act is amended by striking out the word "board" three times occurring and inserting in lieu thereof in each case the word "Corporation".

Repeal of second schedule of principal Act.

97. The second schedule to the principal Act is repealed.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 100 of 1972

An Act to amend the Renmark Irrigation Trust Act, 1936-1971.

[*Assented to 9th November,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Renmark Irrigation Trust Act Amendment Act, 1972".

(2) The Renmark Irrigation Trust Act, 1936-1971, as amended by this Act, may be cited as the "Renmark Irrigation Trust Act, 1936-1972".

(3) The Renmark Irrigation Trust Act, 1936-1971, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 123b—Provision for further grant for irrigation water and drainage

3. Section 123b of the principal Act is amended by striking out from subsection (1) the passage "not exceeding the amount paid by the trust towards that cost:" and the proviso to that subsection and inserting in lieu thereof the passage "which when aggregated

with any amount paid pursuant to this subsection before the commencement of the Renmark Irrigation Trust Act Amendment Act, 1972, does not exceed in total the sum of one million eight hundred thousand dollars.

Enactment of ss. 123ba and 123bb of principal Act—

4. The following sections are enacted and inserted in the principal Act immediately after section 123b thereof :—

Loan or irrigation water and drainage.

123ba. (1) Subject to this section, the Treasurer may pay to the trust from time to time such amounts not exceeding in total the sum of one million four hundred and fifty thousand dollars by way of loan, as shall be required by the trust, towards the cost of the rehabilitation of the irrigation works of the trust and of the provision of additional drainage within the district in accordance with plans from time to time approved by the Minister.

(2) The amount paid to the trust by way of loan pursuant to subsection (1) of this section shall be repaid by the trust to the Treasurer with interest at the rate of five per centum per annum, computed from the thirtieth day of June, 1978, by forty equal annual payments to be made on the first day of July in each year commencing on and including the first day of July, 1979.

Loan for domestic water supply.

123bb. (1) Subject to this section, the Treasurer may pay to the trust from time to time such amounts not exceeding in total the sum of three hundred and thirteen thousand dollars by way of loan, as shall be required by the trust, towards the cost of the provision of a reticulated water supply within the district in accordance with plans from time to time approved by the Minister.

(2) The amount paid to the trust by way of loan pursuant to subsection (1) of this section shall be repaid by the trust to the Treasurer with interest at the rate of five per centum per annum, computed from the thirtieth day of June, 1978, by forty equal annual payments to be made on the first day of July in each year commencing on and including the first day of July, 1979.

Appropriation.

123bc. This Act, without further appropriation, shall be sufficient authority for making any payment mentioned in subsection (1) of section 123ba or subsection (1) of section 123bb of this Act.

Amendment of principal Act, s. 123d—
Trust to keep special account.

5. Section 123d of the principal Act is amended by inserting in subsection (1) immediately after paragraph (*c*) the following paragraphs:—

(*ca*) All amounts paid to the trust from time to time by the Treasurer pursuant to subsection (1) of section 123ba.

(*cb*) All amounts paid to the trust from time to time by the Treasurer pursuant to subsection (1) of section 123bb..

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 101 of 1972

An Act to amend the River Torrens (Prohibition of Excavations) Act, 1927-1934.

[*Assented to 9th November,* 1972]

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

Short titles

1. (1) This Act may be cited as the "River Torrens (Prohibition of Excavations) Act Amendment Act, 1972".

(2) The River Torrens (Prohibition of Excavations) Act, 1927-1934, as amended by this Act, may be cited as the "River Torrens (Prohibition of Excavations) Act, 1927-1972".

(3) The River Torrens (Prohibition of Excavations) Act, 1927-1934, is hereinafter referred to as "the principal Act".

Amendment of principal Act, s. 2—Prohibition of certain excavations.

2. Section 2 of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "fifty feet" and inserting in lieu thereof the passage "15 metres";

and

(*b*) by striking out from subsection (2) the passage "fifty pounds" and inserting in lieu thereof the passage "one hundred dollars".

Amendment of principal Act, s. 8—Facilitation of proof.

3. Section 8 of the principal Act is amended by striking out from paragraph (*a*) the passage "fifty feet" and inserting in lieu thereof the passage "15 metres".

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 102 of 1972

An Act to amend the Criminal Law Consolidation Act, 1935-1972.

[*Assented to 16th November,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Criminal Law Consolidation Act Amendment Act (No. 3), 1972".

(2) The Criminal Law Consolidation Act, 1935-1971, as amended by this Act and by all Acts amending the same prior to the commencement of this Act, may be cited as the "Criminal Law Consolidation Act, 1935-1972".

(3) The Criminal Law Consolidation Act, 1935-1971, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 3—Arrangement of Act.

3. Section 3 of the principal Act is amended by inserting after the item "*Costs, Witness Fees, and Compensations* (Sections 297-299)" the item "*Firearms and Offensive Weapons* (Section 299a)";

Amendment of principal Act, s. 297—
Fees for witnesses.

4. Section 297 of the principal Act is amended—

(*a*) by striking out from subsection (2) the passage "preliminary inquiry" and inserting in lieu thereof the passage "preliminary examination";

(*b*) by inserting after subsection (2) the following subsection:—

(2a) This section does not derogate from the powers conferred on an examining magistrate or justice under the Justices Act, 1921-1971, to order payment of any fees or compensation to witnesses in the course, or at the conclusion, of a preliminary examination.;

and

(*c*) by striking out from subsection (6) the passage "the person entitled to receive the same, and the sheriff" and inserting in lieu thereof the passage "the sheriff who".

Enactment of s. 299a of principal Act—

5. The following heading and section are enacted and inserted in the principal Act immediately after section 299 thereof:—

Firearms and Offensive Weapons

Orders as to firearms and offensive weapons.

299a. (1) Where a court is satisfied by evidence adduced before it that—

(*a*) a firearm or other offensive weapon was used in the commission of an offence;

(*b*) the commission of an offence was facilitated by the use of a firearm or other offensive weapon;

or

(*c*) in the circumstances it is expedient that an order or orders be made under this section,

the court may make any one or more of the following orders:—

(*d*) an order that the firearm or other weapon be forfeited to the Crown;

(*e*) an order that the firearm or other weapon be delivered into the custody of the Commissioner of Police for a period specified in the order, or until further order;

(*f*) any other order as to the custody or disposition of the firearm;

(*g*) an order prohibiting any person or persons specified in the order from using or possessing a firearm or offensive weapon of any kind, or of a kind specified in the order, for a period specified in the order, or until further order.

(2) Upon application by a person with a proper interest in the matter, the court may vary or revoke an order under paragraph (*e*), (*f*) or (*g*) of subsection (1) of this section.

(3) Where an application is made under subsection (2) of this section, the court shall not vary or revoke the order in respect of which the application is made unless it is satisfied that it is not inimical to the safety of the community to do so.

(4) A person who contravenes or fails to comply with an order under this section shall be guilty of an offence cognizable by the court by which the order was made and liable to a penalty not exceeding five hundred dollars or imprisonment for twelve months.

(5) Subsection (4) of this section shall not derogate from the power of a court to punish for contempt.

(6) In this section "court" means the Supreme Court, the District Criminal Court, or a court of summary jurisdiction, and includes any judge or special magistrate, or justices entitled to preside over, or constitute the court.

Amendment of principal Act, s. 331—Curator of prisoner's property.

6. Section 331 of the principal Act is amended by inserting after subsection (4) the following subsections:—

(5) The Curator may institute and carry through any legal proceedings on behalf of a prisoner, or may continue on behalf of a prisoner any legal proceedings instituted by him before he became subject to the operation of this Part.

(6) If any legal proceedings instituted under this section have not been finally disposed of when the person on whose behalf the proceedings were brought ceases to be subject to the operation of this Part, that person may continue the proceedings in his own name and right in all respects as if they had been originally commenced in his own name and right.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 103 of 1972

An Act to amend the Marketing of Eggs Act, 1941-1966.

[*Assented to 16th November,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Marketing of Eggs Act Amendment Act, 1972".

(2) The Marketing of Eggs Act, 1941-1966, as amended by this Act, may be cited as the "Marketing of Eggs Act, 1941-1972".

(3) The Marketing of Eggs Act, 1941-1966, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 2—Interpretation.

3. Section 2 of the principal Act is amended—

(*a*) by inserting in subsection (1) after the definition of "the board" the following definition:—

"declared organization" means an organization for the time being declared by notice under subsection (2) of section 4c of this Act:;

(*b*) by inserting in subsection (1) after the definition of "eggs" the following definition:—

"eligible candidate" means a person who is pursuant to section 4c of this Act eligible to stand for election as a member of the board:;

(*c*) by striking out from subsection (1) the definition of "licensed collector";

(*d*) by striking out from subsection (1) the definition of "producer" and inserting in lieu thereof the following definition:—

"producer" means a person who keeps more than twenty female fowls which have commenced laying eggs:;

(*e*) by inserting in subsection (1) immediately after the definition of "producer", as so inserted the following definition:—

"Producer Agent" means a Producer Agent licensed by the board under section 20 of this Act whose licence is for the time being in force:;

and

(*f*) by inserting in subsection (1) after the definition of "sell" the following definition:—

"the appointed day" means the day appointed under section 2a of this Act to be the appointed day.

Enactment of s. 2a of principal Act—

4. The following section is enacted and inserted in the principal Act immediately after section 2 thereof:—

Appointed day.

2a. The Minister may by notice published in the *Gazette* fix a day as being the appointed day for the purposes of subsection (2) of section 4 of this Act.

Amendment of principal Act, s. 4— Constitution of board.

5. Section 4 of the principal Act is amended by striking out subsections (2), (3), (4) and (5) and inserting in lieu thereof the following subsections:—

(2) Until the appointed day the board shall consist of six members and shall be constituted as provided by this Act as in force immediately before the commencement of the Marketing of Eggs Act Amendment Act, 1972, on the appointed day the members of the board in office immediately before that day shall vacate their respective offices and on and after the appointed day the board shall consist of six members who shall be—

(*a*) one person representing each of the three electoral districts specified in the schedule to this Act who shall be elected in accordance with section 4a of this Act;

and

(*b*) three persons appointed by the Governor.

(3) From amongst the persons referred to in paragraph (*b*) of subsection (2) of this section the Governor may appoint a person to be the chairman of the board and a person to be the deputy chairman of the board.

(4) Where a casual vacancy occurs in the office of an elected member of the board, the Governor may appoint a person to fill that vacancy and the person so appointed shall, subject to this subsection, be deemed to have been elected as a member of the board but a person so appointed shall hold office only for the balance of the term of office of the member in whose place he was appointed.

(5) Where a casual vacancy occurs in the office of an appointed member of the board the Governor may appoint a person to fill that vacancy but a person so appointed shall hold office only for the balance of the term of office of the member in whose place he was appointed.

Amendment of principal Act, s. 4a—Election of members of the board.

6. Section 4a of the principal Act is amended—

(*a*) by inserting in subsection (1a) after the passage "under this section" the passage "and for the purposes of constituting the board on and after the appointed day";

(*b*) by striking out from subsection (3) the word "producer" and inserting in lieu thereof the passage "eligible candidate";

(*c*) by striking out subsections (5) and (6) and inserting in lieu thereof the following subsections:—

(5) A natural person—

(*a*) who on at least thirteen levy days in the year last preceding the date fixed for the election was keeping on his own account not less than five hundred hens within an electoral district, shall subject to subsection (6) of this section be entitled to have his name included in the roll of electors for that district;

or

(*b*) who is for the time being nominated in the prescribed manner, by a firm, partnership or other body whether corporate or unincorporate that on at least thirteen levy days in the year last preceding the day fixed for the election was keeping on its own account not less than five hundred hens within an electoral district, as the person who is to vote on behalf of that firm, partnership or body, shall be entitled to have his name included in the roll of electors for that district.

(6) Where but for this subsection a person would, pursuant to paragraph (*a*) of subsection (5) of this section, be entitled to have his name included on the roll of electors for more than one electoral district that person shall only be entitled to have his name included on the roll of electors for such one of these electoral districts as the board determines.

(*d*) by striking out from subsection (6a) the word "producer" and inserting in lieu thereof the word "person";

(*e*) by striking out from subsection (7) the passage "name of a producer" and inserting in lieu thereof the passage "name of a person";

(*f*) by striking out from subsection (7) the word "and" occurring immediately after paragraph (*a*);

(*g*) by striking out paragraph (*b*) from subsection (7) and inserting in lieu thereof the following paragraph:—

(*b*) specifying the grounds on which he believes he is entitled to have his name added to the roll for that district;

and;

(*h*) by striking out from subsection (8) the passage "(No. 2), 1963," and inserting in lieu thereof the figures ", 1972,";

(*i*) by striking out from subsection (8) the word "producer" and inserting in lieu thereof the passage "eligible candidate";

(*j*) by striking out from subsection (8) the passage "who shall be appointed by the Governor to be a member of the board";

(*k*) by striking out from subsection (9) the passage "producers elected and appointed" and inserting in lieu thereof the passage "persons elected";

and

(*l*) by striking out from subsection (10) the passage "of producers".

Repeal of section 4b of principal Act and enactment of sections in its place—

7. Section 4b of the principal Act is repealed and the following sections are enacted and inserted in its place:—

Nomination of elector.

4b. (1) A firm, partnership or other body whether corporate or unincorporate that, on at least thirteen levy days in the year (being the period of twelve months beginning on the first day of January) last preceding the day fixed for the election, was keeping on its own account not less than five hundred hens within an electoral district, may by notice in writing in the prescribed form served by post on the board nominate a person as the person who is to vote on behalf of the firm, partnership or body.

(2) A nomination under subsection (1) of this section is revocable by notice in writing served by post on the board and on the revocation being received by the board, the person to whom the notice relates shall cease to have his name included on the roll of electors as such a nominee.

(3) For the purposes of this section the number of hens kept by a firm, partnership or other body on a levy day shall be determined by reference to the amount of the levy that is imposed on it or, but for subsection (3) of section 6 of the *Poultry Industry Levy Act* 1965 of the Commonwealth, that could have been imposed on it on that day in accordance with the Commonwealth Act.

(4) Where the name of a person is included in the roll of electors both as a nominee of a firm, partnership or body and also in his own right that person shall be entitled to vote in each capacity but a person shall not otherwise be entitled to vote more than once on an election.

Eligible candidate, etc.

4c. (1) A person shall be eligible to stand for election to the board if his name is included on the roll of electors for any electoral district and—

(*a*) if—

(i) he has on his own account marketed through the board or an agent of the board during the year (being a period of twelve months

beginning on the first day of January) immediately preceding the day of his nomination for election the equivalent of ten dozen eggs per leviable hen;

or

(ii) being the nominee of a firm, partnership or other body, that firm, partnership or other body has on its account marketed through the board or an agent of the board during the year (being a period of twelve months beginning on the first day of January) immediately preceding the day of his nomination for election the equivalent of ten dozen eggs per leviable hen;

and

(*b*) if at the time of his nomination he does not hold an executive or administrative position in a declared organization.

(2) The Minister may, by notice published in the *Gazette*, declare an organization, that has amongst its objects or functions the marketing, processing or otherwise dealing with eggs not produced by the organization to be a declared organization for the purposes of this section and may by notice published in a like manner revoke or vary any such declaration.

(3) The nomination of a person for election as a member of the board shall—

(*a*) be in the prescribed form;

(*b*) shall be signed by the candidate for election and not less than two nominators who shall be persons entitled to vote at that election;

and

(*c*) set out the grounds on which the person is eligible to stand for election to the board verified by a statutory declaration.

(4) In this section—

"leviable hen" means a hen in respect of which a levy is, or which but for subsection (3) of section 6 of the *Poultry Industry Levy Act* 1965 of the Commonwealth could have been, payable pursuant to the Commonwealth Acts.

(5) For the purposes of this section and section 8 of this Act eggs produced by person, firm, partnership or other body from a leviable hen that have been retained by or disposed of by that person, firm, partnership or other body for the purposes of hatching shall be regarded as eggs marketed through the board by that person, firm, partnership or other body.

Evidentiary.

4d. If any question arises as to whether or not a person is or was an eligible candidate it shall lie on that person to prove that, at the material time, he was an eligible candidate.

Repeal of section 7 of principal Act and enactment of section in its place—

8. Section 7 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Term of office of members of the board.

7. (1) Subject to this Act the first members of the board elected after the commencement of the Marketing of Eggs Act Amendment Act, 1972, shall hold office for the periods respectively ascertained by reference to subsection (2) of this section calculated as from the first day of April next after the appointed day and every subsequent member elected shall hold office for three years calculated from the first day of April in the year in which he is elected.

(2) One member shall hold office for two years, one member shall hold office for three years and one member shall hold office for four years and the period for which each member shall hold office shall be determined by lot in accordance with the directions of the Minister.

(3) Subject to this Act, a member of the board appointed by the Governor after the commencement of the Marketing of Eggs Act Amendment Act, 1972, shall hold office for the term, being not more than three years, specified in the instrument of his appointment.

(4) A member of the board shall be eligible for re-appointment or re-election, as the case may be.

Amendment of principal Act, s.8—

Casual vacancies.

9. Section 8 of the principal Act is amended by striking out paragraph (*d*1), the word "or" immediately following that paragraph and paragraph (*e*) and inserting in lieu thereof the following paragraph:—

or

(*e*) being a member referred to in paragraph (*a*) of subsection (2) of section 4 of this Act—

(i) he is removed from office by the Governor (which removal the Governor is hereby empowered to effect) on the ground of his failure to pay the levy as required by the Commonwealth Acts;

(ii) he ceases to be entitled to have his name included on the roll of electors for a district;

(iii) he holds an executive or an administrative position in a declared organization;

or

(iv) during any year (being a period of twelve months commencing on the first day of January) of his membership he or as the case may be the firm, partnership or body of which he is the nominee, has failed to market the equivalent of ten dozen eggs per leviable hen, as defined for the purposes of section 4c of this Act, through the board or an agent of the board.

Amendment of principal Act, s. 10—Chairman.

10. Section 10 of the principal Act is amended by striking out subsection (1) and inserting in lieu thereof the following subsection:—

(1) The chairman of the board shall preside at every meeting of the board at which he is present and in his absence from a meeting the deputy chairman of the board shall act as chairman at that meeting and in the absence of both the chairman of the board and the deputy chairman from a meeting the members of the board present at that meeting shall select one of their number to act as chairman at that meeting.

Amendment of principal Act, s. 14—Staff of board.

11. Section 14 of the principal Act is amended by inserting immediately after subsection (2) the following subsection:—

(3) The board may in relation to all or any of its employees enter into an arrangement or supplementary arrangement of a kind contemplated by section 6 of the Superannuation Act, 1969, as amended, with the South Australian Superannuation Board.

Repeal of ss. 18 and 18a of principal Act and enactment of section in their place—Further powers of board.

12. Section 18 and section 18a of the principal Act are repealed and the following section is enacted and inserted in their place:—

18. (1) Subject to this section the board may establish and maintain such facilities as it considers necessary or desirable for the purposes of the collection, handling, grading, processing, dealing with or marketing eggs.

(2) On and after the commencement of the Marketing of Eggs Act Amendment Act, 1972, the board shall not establish or maintain an egg floor unless not less than twelve months before the day on which it proposes to establish that egg floor it has given notice in writing of its intention to any registered agent likely to be affected by the establishment of that egg floor.

(3) The board may undertake, cause to be undertaken or assist financially or otherwise, any project or research that in the opinion of the board will assist in the production, marketing or processing of eggs.

Amendment of heading of principal Act.

13. The heading appearing in the principal Act immediately before section 19 thereof is amended by striking out the passage "*and Licensed Collectors*".

Amendment of principal Act, s. 19—Registered agents of the board.

14. Section 19 of the principal Act is amended—

(*a*) by striking out subsection (3);

(*b*) by striking out from subsection (4) the passage "other than an applicant holding a licence to export eggs under the laws of the Commonwealth";

(*c*) by striking out from subsection (6) the passage "if he ceases to hold a licence to export eggs under the laws of the Commonwealth, or";

and

(*d*) by inserting after subsection (6) the following subsections:—

(6a) An agent or former agent aggrieved by a decision of the board under subsection (6) of this section may in the prescribed manner and within the prescribed time appeal to the Minister.

(6b) The Minister may hear and determine an appeal made pursuant to subsection (6a) of this section or the Minister may appoint some competent person to hear and determine the appeal.

(6c) The Minister or the person referred to in subsection (6b) of this section may by direction confirm, annul or vary the decision of the board appealed against and the board shall forthwith give effect to that direction.

(6d) A direction given under subsection (6c) of this section is final.

15. Section 20 of the principal Act is repealed and the following section is enacted and inserted in its place:— Repeal of s. 20 of principal Act and enactment of section in its place—

20. (1) For the purposes of this Act the board may licence suitable persons to be Producer Agents. Producer Agents.

(2) A licence shall be in the prescribed form and shall be issued subject to such terms and conditions as are prescribed or as are imposed by the board.

(3) The fee for a Producer Agent Licence shall be determined in the prescribed manner.

(4) A person desiring a Producer Agent Licence shall make application in the prescribed form.

(5) The board shall have a discretion to grant or refuse a Producer Agent Licence to any applicant therefor but shall not capriciously refuse an application.

(6) Subject to this section, a licence under this section shall remain in force until it is cancelled or the Producer Agent surrenders it or dies.

(7) The board may cancel the licence of any Producer Agent who has failed in any way to comply with this Act or with any term or condition of the licence or to carry out any of his duties as such a Producer Agent or who has become bankrupt or in any way, as a debtor, has taken the benefit of the laws relating to bankruptcy.

(8) A Producer Agent or former Producer Agent aggrieved by a decision of the board under subsection (7) of this section may, in the prescribed manner and within the prescribed time, appeal to the Minister.

(9) The Minister may hear and determine an appeal made pursuant to subsection (8) of this section or the Minister may appoint some competent person to hear and determine the appeal.

(10) The Minister or the person referred to in subsection (9) of this section may by direction confirm, annul or vary the decision of the board appealed against and the board shall forthwith give effect to that direction.

(11) A direction given under subsection (10) of this section is final.

Repeal of s. 21 of principal Act and enactment of ss. 21 and 21a in its place—

16. Section 21 of the principal Act is repealed and the following sections are enacted and inserted in its place:—

Duty to sell and deliver eggs to board.

21. (1) On and from the day of commencement of the Marketing of Eggs Act Amendment Act, 1972, a producer shall not sell or deliver any eggs to any person other than the board or registered agent of the board and a person other than the board or a registered agent of the board shall not purchase or take delivery of eggs from a producer, but this subsection does not apply to or in relation to—

(*a*) any eggs sold or delivered to any person by a Producer Agent under and in accordance with terms and conditions of his licence;

or

(*b*) any eggs sold or delivered by a producer in accordance with an exemption under section 23 of this Act or otherwise disposed of by a producer in the manner provided for in that section.

(2) The board shall accept delivery of all eggs tendered to it pursuant to this Act if such eggs are of merchantable quality and comply with any prescribed requirements.

(3) Without in any way limiting the ordinary meaning of the expression "merchantable quality" in subsection (2) of this section the regulations may prescribe standards of merchantable quality of eggs for the purposes of this Act and eggs that do not attain or comply with those standards shall not be of merchantable quality for the purposes of this Act.

Ungraded eggs not to be sold in shops.

21a. A person shall not offer or expose for sale any eggs in any shop unless those eggs bear a stamp evidencing the fact that they have been graded under and in accordance with this Act.

Penalty: Two hundred dollars.

Amendment of principal Act, s. 23—Exemptions.

17. Section 23 of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "the last two preceding sections" and inserting in lieu thereof the passage "sections 21, 21a or 22 of this Act";

and

(*b*) by striking out subsection (4) and inserting in lieu thereof the following subsection:—

(4) On and from the expiration of the period of twelve months next following the day of commencement of the Marketing of Eggs Act Amendment Act, 1972—

(*a*) no further documents entitled Producer Exemption shall be issued or given by the board;

and

(*b*) any such document having effect immediately before that day shall, by force of this section, cease to have any further effect.

Amendment of principal Act, s. 24—Mode of delivery to board.

18. Section 24 of the principal Act is amended—

(*a*) by striking out from subsection (1) the word "shall" and inserting in lieu thereof the word "may";

(*b*) by striking out from subsection (1) the passage "or to a licensed collector";

and

(*c*) by striking out from subsection (2) the passage "or to a licensed collector".

Amendment of principal Act, s. 30—Settlement with producers.

19. Section 30 of the principal Act is amended by inserting in subsection (2) immediately after paragraph (*a*) the following paragraph:—

(*aa*) the characteristics or qualities of eggs, the development of which is, in the opinion of the board, desirable to encourage;.

Enactment of ss. 31a and 31b of principal Act—

20. The following sections are enacted and inserted in the principal Act immediately after section 31 thereof:—

Delivery of certain eggs for grading and stamping.

31a. (1) A person to whom any eggs are sold or delivered in the course of trade and commerce between the States may deliver those eggs to the board for grading and stamping.

(2) The board shall cause all eggs delivered to it pursuant to subsection (1) of this section to be graded and stamped as if they were eggs sold or delivered to the board pursuant to subsection (2) of section 21 of this Act.

(3) When eggs delivered to the board pursuant to subsection (1) of this section have been graded and stamped as provided in subsection (2) of this section the board shall cause those eggs to be re-delivered, at the place where they were so delivered, to—

(*a*) the person who so delivered those eggs;

or

(*b*) a person nominated by the person who so delivered those eggs.

(4) There shall be payable to the board, in respect of the grading and stamping of eggs delivered pursuant to subsection (1) of this section, by the person who so delivered those eggs, a charge of an amount fixed by the board as being, in the opinion of the board, an amount equal to the cost of the grading and the stamping of the eggs.

Prohibition on the sale of certain eggs.

31b. (1) A person shall not sell by retail any eggs which may be delivered to the board pursuant to subsection (1) of section 31a of this Act for grading and stamping unless those eggs have been graded and stamped as provided in that section.

(2) In proceedings for an offence that is a contravention of subsection (1) of this section it shall lie upon the defendant to prove that the sale was not a sale by retail.

(3) In this section "sale by retail" means a sale made in the reasonable expectation by the seller that the eggs the subject of the sale are to be used or consumed by the buyer and "sell by retail" has a corresponding meaning.

Enactment of s. 32a of principal Act—

21. The following section is enacted and inserted in the principal Act immediately after section 32 thereof:—

Evidence that defendant was a producer.

32a. In any proceedings for an offence against this Act an allegation that at the material time the defendant was a producer shall be *prima facie* evidence of the fact so alleged.

Amendment of principal Act, s. 34—Regulations.

22. Section 34 of the principal Act is amended—

(*a*) by inserting after paragraph (*a*) the following paragraphs:—

(*aa*) for regulating and controlling the conditions under and the circumstances in which eggs are stored, displayed for sale, sold or delivered;

(*ab*) for regulating and controlling the packing of eggs and the type or kind of packing material that may be used for packing eggs;;

(*b*) by inserting after paragraph (*b*) the following paragraph:—

(*ba*) for regulating, controlling and licensing the drying, pulping or other processing of eggs and for regulating and controlling matters incidental to such drying, pulping or other processing;;

(*c*) by striking out from paragraph (*c*) the passage "licensed collectors" and inserting in lieu thereof the passage "Producer Agents";

(*d*) by striking out from paragraph (*d*) the passage "One hundred dollars" and inserting in lieu thereof the passage "two hundred dollars";

and

(*e*) by striking out paragraphs (*e*), (*f*) and (*g*) and inserting in lieu thereof the following paragraphs:—

(*e*) for prescribing the manner of conducting elections under this Act and matters incidental thereto;

(*f*) with respect to the preparation of the roll of voters for any election under this Act, the qualifications of persons to be included on any such roll and the form and mode of application by a person for inclusion on any such roll;

and

(*g*) providing for inspection by persons of an electoral roll prepared for the purposes of this Act.

Repeal of s. 35 of principal Act.

23. Section 35 of the principal Act is repealed.

Amendment of schedule of principal Act.

24. The schedule to the principal Act is amended—

(*a*) by striking out the passage "The County of Adelaide" and inserting in lieu thereof the passage "The Counties of Adelaide and Gawler";

and

(*b*) by striking out the passage "Eyre,".

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 104 of 1972

An Act to amend the Prices Act, 1948-1971.

[*Assented to* 16*th November,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Prices Act Amendment Act, 1972".

(2) The Prices Act, 1948-1971, as amended by this Act, may be cited as the "Prices Act, 1948-1972".

(3) The Prices Act, 1948-1971, is hereinafter referred to as "the principal Act".

Amendment of principal Act s. 53— Duration of Act.

2. Section 53 of the principal Act is amended by striking out the passage ", 1973" and inserting in lieu thereof the passage ", 1974".

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 105 of 1972

An Act to amend the Unfair Advertising Act, 1970-1971.

[*Assented to 16th November,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Unfair Advertising Act Amendment Act, 1972".

(2) The Unfair Advertising Act, 1970-1971, as amended by this Act, may be cited as the "Unfair Advertising Act, 1970-1972".

(3) The Unfair Advertising Act, 1970-1971, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 2—Interpretation.

3. Section 2 of the principal Act is amended—

(*a*) by striking out the definition of "publish";

and

(*b*) by inserting after the present contents thereof, as amended by this section, (which are hereby designated subsection (1) thereof) the following subsections:—

(2) For the purposes of this Act an advertisement shall be deemed to be published when it is placed before the public or any member of the public by any means whatsoever.

(3) For the purposes of this Act, a statement or representation contained in an advertisement is an unfair statement if—

(*a*) the statement specifies an amount payable as portion of the consideration for goods, services or land offered for sale in the advertisement;

and

(*b*) the advertisement does not contain a statement of the total consideration for which the goods, services or land may be obtained for cash.

Amendment of principal Act, s. 3—Prohibition of misleading advertising.

4. Section 3 of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "or services" twice occurring and inserting in lieu thereof in each case the passage ", services or land";

(*b*) by striking out subsection (2) and inserting in lieu thereof the following subsection:—

(2) It shall be a defence to proceedings in respect of an offence that is a contravention of subsection (1) of this section for the defendant to prove that—

(*a*) he took all reasonable precautions to ensure that the advertisement complained of did not contain an unfair statement;

and

(*b*) he believed on reasonable grounds that the advertisement did not contain an unfair statement.;

and

(*c*) by striking out subsections (4), (5) and (6).

Enactment of ss. 3a, 3b and 3c of principal Act—

5. The following sections are enacted and inserted in the principal Act immediately after section 3 thereof:—

Liability of advertiser when advertisement is for purposes of business of advertiser.

3a. (1) Where an advertisement of any kind relating to goods, services or land or to the extension of credit for any transaction relating to goods, services or land is published for the purposes of the business of an advertiser and that advertisement contains an unfair statement that advertiser shall be guilty of an offence and shall be liable to a penalty not exceeding one thousand dollars.

(2) In proceedings in respect of an offence that is a contravention of subsection (1) of this section an allegation in the complaint—

(*a*) that a person is the advertiser in relation to an advertisement;

or

(*b*) that an advertisement was published for the purposes of the business of the advertiser,

shall, in the absence of proof by the defendant to the contrary, be deemed to be proved.

General defence.

3b. It shall be a defence to proceedings in respect of an offence against this Act for the defendant to prove that the unfair statement complained of was of such a nature that no reasonable person would rely on it.

Consent of Attorney-General.

3c. (1) A prosecution for an offence against this Act shall not be commenced except with the consent of the Attorney-General.

(2) In any proceedings in connection with a prosecution referred to in subsection (1) of this section a document purporting to be a consent referred to in that subsection shall, in the absence of proof to the contrary, be deemed to be such a consent.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 106 of 1972

An Act to amend the Murray New Town (Land Acquisition) Act, 1972.

[*Assented to 16th November,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Murray New Town (Land Acquisition) Act Amendment Act, 1972".

(2) The Murray New Town (Land Acquisition) Act, 1972, as amended by this Act, may be cited as the "Murray New Town (Land Acquisition) Act, 1972".

(3) The Murray New Town (Land Acquisition) Act, 1972, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 2—Definitions.

3. Section 2 of the principal Act is amended by inserting in subsection (1) immediately before the definition of "designated site" the following definition:—

"adjoining area" in relation to the designated site, means the area comprising all lands that lie outside of the boundaries of the designated site within a distance of not more than ten kilometres from any point on the boundary of the designated site:.

Amendment of principal Act, s. 3—Declaration of designated site.

4. Section 3 of the principal Act is amended by striking out the word "ten" and inserting in lieu thereof the word "sixteen".

Amendment of principal Act, s. 4—
Acquisition of land.

5. Section 4 of the principal Act is amended by inserting immediately after subsection (1) the following subsection:—

(1a) The Authority may, with the approval of the Minister by agreement acquire any land within the adjoining area for the purposes of facilitating the establishment of a new town on the designated site.

Amendment of principal Act, s. 5—
Control of land subdivision.

6. Section 5 of the principal Act is amended—

(*a*) by inserting in subsection (1) after the passage "1966-1971," the passage "at any time before the date of the proclamation";

and

(*b*) by inserting in subsection (1) after the passage "the establishment area" last occurring the passage "and on and after the date of proclamation the Director may refuse approval to a plan of subdivision or a plan of re-subdivision of any land that lies wholly or partly within the designated site or wholly or partly within the adjoining area if, in the opinion of the Director, the approval of the plan would be prejudicial to the establishment of a new town within the boundaries of the designated site.

Amendment of principal Act, s. 6—
Alteration of existing use.

7. Section 6 of the principal Act is amended by inserting in subsection (1) after the passage "designated site" the passage "or within the adjoining area".

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 107 of 1972

An Act for the further appropriation of the revenue of the State for the financial year ending on the thirtieth day of June 1973, and for other purposes.

[*Assented to 23rd November,* 1972]

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 "Appropriation Act (No. 3), 1972".

Further issue.

2. Out of the moneys paid to the State by the Commonwealth and any other General Revenue of the State, not otherwise by law specially appropriated, there may be further issued, in addition to all sums by any other Act authorized to be issued and applied for defraying the charges of the Government of the State for the financial year ending on the thirtieth day of June, 1973, any further sum or sums not exceeding in the aggregate six million one hundred and fifty thousand dollars.

Appropriation of General Revenue issued under this Act.

3. All moneys issued under this Act, not exceeding the aggregate amount referred to in section 2 of this Act, shall be applied and appropriated for the purposes mentioned in the schedule.

Treasurer to pay the orders of Governor and discharge by receipt of party.

4. The issue and payment by the Treasurer, from time to time, of any sums of money for the purposes hereinbefore mentioned, not exceeding in the aggregate the amount specified in section 2 of this Act, in such portions as the Governor directs by any orders in writing signed by him and countersigned by the Chief Secretary, is hereby authorized; and the Treasurer shall, in his accounts, be allowed credit for all sums paid by him in pursuance of such orders accordingly; and the receipts of the persons to whom such sums are so paid shall be to him a full discharge for the sums for which the receipts are given, and the amounts thereof shall be passed to his credit in account accordingly.

Power to issue money other than Revenue or money received from the Commonwealth.

5. If the moneys paid to the State by the Commonwealth and the General Revenue of the State are insufficient to make the payments authorized by section 3 of this Act, moneys may be issued to make good the deficiency out of loan funds or other public funds or out of moneys raised by way of bank overdraft.

Power to make payments.

6. The Treasurer may out of the money appropriated by this Act make any payment for which money has been included in the supplementary estimates of expenditure for the financial year ending on the thirtieth day of June, 1973, notwithstanding that the payment is in respect of a period prior to the first day of July, 1972.

Payments to be in addition to other payments.

7. Any amount appropriated by this Act may be paid for the purpose for which it is so appropriated, in addition to any other amount appropriated by law for that purpose.

SCHEDULE

Supplementary Estimates, 1972-73.

Further Amounts proposed to be expended from General Revenue during the Financial Year ending 30th June, 1973

Purposes of Appropriation	Estimated Expenditure
	$
Hospitals	840,000
Treasurer, Miscellaneous	240,000
Lands	50,000
Minister of Lands, Minister of Repatriation and Minister of Irrigation, Miscellaneous	2,300,000
Engineering and Water Supply	515,000
Public Buildings	345,000
Education	65,000
Agriculture	27,000
Produce	48,000
Marine and Harbors	75,000
Railways	1,570,000
Community Welfare	75,000
	$6,150,000

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 108 of 1972

An Act to amend the Bush Fires Act, 1960-1968.

[*Assented to 23rd November,* 1972]

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 "Bush Fires Act Amendment Act, 1972". Short titles.

(2) The Bush Fires Act, 1960-1968, as amended by this Act, may be cited as the "Bush Fires Act, 1960-1972".

(3) The Bush Fires Act, 1960-1968, is hereinafter referred to as "the principal Act".

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

3. Section 6 of the principal Act is amended— Amendment of principal Act, s. 6—Interpretation.

(*a*) by inserting in subsection (1) immediately after the definition of "member" the following definition:—

"nominated council" in relation to a firefighting organization means the council for the time being nominated by the Minister under section 27a of this Act as the council responsible for that fire fighting organization:;

and

(*b*) by striking out from the definition of "portable water spray" in subsection (1) the passage "two gallons" and inserting in lieu thereof the passage "9 litres".

Enactment of s. 27a of principal Act—

4. The following section is enacted and inserted in the principal Act immediately after section 27 thereof:—

Nominated councils and members of firefighting organizations.

27a. (1) The Minister may by notice published in the *Gazette* nominate for each firefighting organization registered under section 27 of this Act, that operates in an area or more than one area, a council that is responsible for that firefighting organization and the Minister may by notice published in a like manner vary, amend or revoke any such notice.

(2) Every firefighting organization, registered under section 27 of this Act shall keep and maintain a list of members for the time being of that firefighting organization and each such firefighting organization shall from time to time inform its nominated council (if any) as to the names and addresses of the persons who are members of the firefighting organization.

(3) Where there is no council nominated as the council responsible for a firefighting organization registered under section 27 of this Act, that firefighting organization shall from time to time inform the Minister of the names and addresses of the persons who are members of the firefighting organizations.

Insertion of heading in principal Act.

5. The following heading is enacted and inserted in the principal Act immediately after section 35 thereof:—

"Compensation".

Repeal of ss. 36 and 37 of principal Act and enactment of sections in their place—

6. Sections 36 and 37 of the principal Act are repealed and the following sections are enacted and inserted in their place:—

Compensation.

36. (1) This section applies to persons engaged in the following capacities:—

(*a*) as a fire control officer appointed under section 28, 29 or 30 of this Act;

(*b*) as a fire party leader appointed under section 37a of this Act;

or

(*c*) as a member of a firefighting organization registered under section 27 of this Act whose name is for the time being included in the list of members kept and maintained by that firefighting organization under subsection (2) of section 27a of this Act,

but this section does not apply to any such person who receives any remuneration on account of his engagement in any of those capacities.

(2) The Workmen's Compensation Act, 1971, applies to and in relation to a person to whom this section applies in all respects as if—

(*a*) his engagement in the capacity referred to in subsection (1) of this section were his employment;

(*b*) his wages payable in respect of that employment were the living wage plus such additional amount as is for the time being prescribed;

and

(*c*) his employer in that employment were the employer ascertained by reference to the following table:—

Capacity	Employer
Fire control officer appointed or deemed to be appointed by a council.	The council which appointed him or is deemed to have appointed him.
Fire control officer appointed by the Minister for any portion of the State not comprised in an area.	The corporation known as The Minister of Agriculture.
Fire party leader appointed by a council or by a person acting under the written authority of a council.	The council which appointed him or the council which gave the written authority for his appointment.
Fire party leader appointed by the Minister or on the written authority of the Minister.	The corporation known as The Minister of Agriculture.

Capacity	Employer
Member of a firefighting organization registered under section 27 of this Act in respect of which there is a nominated council and whose name is for the time being included on the list of members kept and maintained by the fire-fighting organization under section 27a of this Act.	The nominated council.
Member of a firefighting organization registered under section 27 of this Act in respect of which there is not a nominated council and whose name is for the time being included on a list of members kept by the firefighting organization under section 27a of this Act.	The Corporation known as The Minister of Agriculture.

(3) In this section "the living wage" means the living wage for adult male employees in force in the part of the State where and at the time which the injury or disease giving rise to a claim under the Workmen's Compensation Act occurred.

Liability of the corporation for compensation.

37. Any liability for workmen's compensation arising under this Act payable by the corporation known as The Minister of Agriculture shall be met out of the general revenue of the State which is hereby to the necessary extent appropriated accordingly.

Amendment of principal Act, s. 37a— Fire party leaders.

7. Section 37a of the principal Act is amended by striking out subsection (3).

Amendment of principal Act, s. 43— Restriction on burning stubble.

8. Section 43 of the principal Act is amended—

(*a*) by striking out the passage "two hundred dollars" and inserting in lieu thereof the passage "four hundred dollars";

and

(*b*) by striking out the passage "four hundred dollars" and inserting in lieu thereof the passage "eight hundred dollars".

Amendment of principal Act, s. 44—
Burning stubble for firebreaks during prohibited period.

9. Section 44 of the principal Act is amended by striking out from paragraph (*a*) thereof the passage "two chains" and inserting in lieu thereof the passage "40 metres".

Amendment of principal Act, s. 47—
Burning stubble in irrigation areas during prohibited or conditional burning period.

10. Section 47 of the principal Act is amended—

(*a*) by striking out from paragraph (*a*) of subsection (1) the word "inflammable" and inserting in lieu thereof the word "flammable";

and

(*b*) by striking out from paragraph (*a*) of subsection (1) the passage "twelve feet" and inserting in lieu thereof the passage "four metres".

Amendment of principal Act, s. 49—
Rules for burning stubble.

11. Section 49 of the principal Act is amended—

(*a*) by striking out from paragraph (*a*) of subsection (1) the word "inflammable" twice occurring and inserting in lieu thereof in each case the word "flammable";

(*b*) by striking out from paragraph (*a*) of subsection (1) the passage "six feet" and inserting in lieu thereof the passage "2 metres";

(*c*) by striking out from paragraph (*a*) of subsection (1) the passage "twelve feet" and inserting in lieu thereof the passage "4 metres";

(*d*) by striking out from paragraph (*b*) of subsection (1) the passage "five miles" and inserting in lieu thereof the passage "8 kilometres";

and

(*e*) by striking out from paragraph (*d*) of subsection (1) the passage "one mile" and inserting in lieu thereof the passage "2 kilometres".

Amendment of principal Act, s. 52—
Restriction on burning scrub.

12. Section 52 of the principal Act is amended—

(*a*) by striking out the passage "two hundred dollars" and inserting in lieu thereof the passage "four hundred dollars";

and

(*b*) by striking out the passage "four hundred dollars" and inserting in lieu thereof the passage "eight hundred dollars".

Amendment of principal Act, s. 54—
Rules for burning scrub.

13. Section 54 of the principal Act is amended—

(*a*) by striking out from paragraph (*a*) of subsection (1) the word "inflammable" and inserting in lieu thereof the word "flammable";

(*b*) by striking out from paragraph (*a*) of subsection (1) the passage "twelve feet" and inserting in lieu thereof the passage "4 metres";

(*c*) by striking out from paragraph (*b*) of subsection (1) the passage "five hundred acres" and inserting in lieu thereof the passage "200 hectares";

(*d*) by striking out from paragraph (*c*) of subsection (1) the passage "five miles" and inserting in lieu thereof the passage "8 kilometres";

(*e*) by striking out from paragraph (*e*) of subsection (1) the passage "one mile" and inserting in lieu thereof the passage "2 kilometres";

and

(*f*) by striking out from paragraph (*f*) of subsection (1) the passage "one mile" and inserting in lieu thereof the passage "2 kilometres".

Amendment of principal Act, s. 59—
Burning scrub or stubble on Good Friday, Christmas Day and Sundays.

14. Section 59 of the principal Act is amended—

(*a*) by striking out the passage "one hundred dollars" and inserting in lieu thereof the passage "two hundred dollars";

and

(*b*) by striking out the passage "two hundred dollars" and inserting in lieu thereof the passage "four hundred dollars".

Amendment of principal Act, s. 60—
Burning scrub or stubble on Saturdays and holidays.

15. Section 60 of the principal Act is amended by striking out from paragraph (*b*) the passage "one hundred dollars" and inserting in lieu thereof the passage "two hundred dollars".

Amendment of principal Act, s. 61—
Power of councils to restrict fires in open air.

16. Section 61 of the principal Act is amended—

(*a*) by striking out from subsection (3) the passage "one hundred dollars" and inserting in lieu thereof the passage "two hundred dollars";

and

(*b*) by striking out from subsection (3) the passage "two hundred dollars" and inserting in lieu thereof the passage "four hundred dollars".

17. Section 62 of the principal Act is amended— Amendment of principal Act, s. 62— Clearance around certain fires in open air.

(*a*) by striking out from subsection (1) the passage "twelve feet" and inserting in lieu thereof the passage "4 metres";

(*b*) by striking out from subsection (1) the word "inflammable" and inserting in lieu thereof the word "flammable";

(*c*) by striking out from subsection (1) the passage "one hundred dollars" and inserting in lieu thereof the passage "two hundred dollars";

(*d*) by striking out from subsection (1) the passage "two hundred dollars" and inserting in lieu thereof the passage "four hundred dollars";

(*e*) by striking out from paragraph (*b*) of subsection (2) the passage "twelve feet" and inserting in lieu thereof the passage "4 metres";

(*f*) by striking out from paragraph (*b*) of subsection (2) the word "inflammable" and inserting in lieu thereof the word "flammable";

(*g*) by striking out from subsection (3) the passage "one hundred dollars" and inserting in lieu thereof the passage "two hundred dollars";

and

(*h*) by striking out from subsection (3) the passage "two hundred dollars" and inserting in lieu thereof the passage "four hundred dollars".

18. Section 63 of the principal Act is amended— Amendment of principal Act, s. 63— Fires for lime and charcoal burning.

(*a*) by striking out from paragraph (*a*) the word "inflammable" and inserting in lieu thereof the word "flammable";

(*b*) by striking out from paragraph (*a*) the passage "fifty feet" and inserting in lieu thereof the passage "15 metres";

(*c*) by striking out the passage "one hundred dollars" and inserting in lieu thereof the passage "two hundred dollars";

and

(*d*) by striking out the passage "two hundred dollars" and inserting in lieu thereof the passage "four hundred dollars".

Amendment of principal Act, s. 64—
Fires in honey houses, etc.

19. Section 64 of the principal Act is amended—

(*a*) by striking out the passage "twelve feet" and inserting in lieu thereof the passage "4 metres";

(*b*) by striking out the word "inflammable" and inserting in lieu thereof the word "flammable";

and

(*c*) by striking out the passage "one hundred dollars" and inserting in lieu thereof the passage "two hundred dollars".

Amendment of heading in principal Act.

20. The heading in the principal Act immediately preceding section 65 is amended by striking out the passage "Serious Fire Risk" and inserting in lieu thereof the passage "Extreme Fire Danger".

Amendment of principal Act, s. 65—
Warning of day of extreme fire danger.

21. Section 65 of the principal Act is amended—

(*a*) by striking out from subsection (2) the word "section" secondly occurring and inserting in lieu thereof the word "subsection";

(*b*) by striking out from subsection (3) the passage "serious fire risk" and inserting in lieu thereof the passage "extreme fire danger";

(*c*) by striking out from subsection (4) the passage "two hundred dollars" and inserting in lieu thereof the passage "four hundred dollars";

and

(*d*) by striking out from subsection (4) the passage "four hundred dollars or three" and inserting in lieu thereof the passage "eight hundred dollars or six".

Amendment of principal Act, s. 67—
Requirement as to stationary engines.

22. Section 67 of the principal Act is amended—

(*a*) by striking out from subsection (2) the passage "One hundred dollars" and inserting in lieu thereof the passage "Two hundred dollars";

(*b*) by striking out from subsection (3) the word "non-inflammable" and inserting in lieu thereof the word "non-flammable";

(*c*) by striking out from paragraph (*a*) of subsection (3) the passage "twelve feet" and inserting in lieu thereof the passage "4 metres";

(*d*) by striking out from paragraph (*a*) of subsection (3) the word "inflammable" and inserting in lieu thereof the word "flammable";

(*e*) by striking out from paragraph (*b*) of subsection (3) the passage "fifty feet" and inserting in lieu thereof the passage "15 metres";

and

(*f*) by striking out from subsection (4) the word "non-inflammable" and inserting in lieu thereof the word "non-flammable".

23. Section 68 of the principal Act is repealed and the following section is enacted and inserted in its place:— Repeal of s. 68 of principal Act and enactment of section in its place—

Equipment on engines used in harvesting, etc.

68. A person shall not during the prohibited burning period or the conditional burning period use an internal combustion engine for—

(*a*) harvesting a flammable crop on a holding;

(*b*) moving or transporting a flammable crop within the boundaries of the holding on which it was harvested:

or

(*c*) spreading lime or fertilizer,

unless—

(*d*) the internal combustion engine is fitted with a spark arrester;

and

(*e*) a shovel or rake and a portable water spray fully charged with water are attached to or carried on the internal combustion engine or are attached to or carried on any machine drawn by that internal combustion engine.

Penalty: Two hundred dollars.

24. Section 69 of the principal Act is amended— Amendment of principal Act, s. 69—

Spark arrestors on vehicles near flammable material.

(*a*) by striking out from subsection (1) the passage "six feet" and inserting in lieu thereof the passage "2 metres";

(*b*) by striking out from subsection (1) the word "inflammable" and inserting in lieu thereof the word "flammable";

and

(*c*) by striking out from subsection (1) the passage "One hundred dollars" and inserting in lieu thereof the passage "Two hundred dollars".

Amendment of principal Act, s. 70— Fire extinguishers on caravans.

25. Section 70 of the principal Act is amended by striking out the passage "Fifty dollars" and inserting in lieu thereof the passage "One hundred dollars".

Repeal of s. 71 of principal Act and enactment of section in its place— Movement of aircraft.

26. Section 71 of the principal Act is repealed and the following section is enacted and inserted in its place:—

71. (1) Subject to subsection (2) of this section, a person shall not cause or permit any aircraft to alight or take off from any land during the prohibited burning period or a conditional burning period unless—

(*a*) the land on which the aircraft alights or takes off is cleared of all flammable materials;

(*b*) the land adjoining on all sides the whole of the land on which the aircraft alights or takes off is either ploughed and cleared of all flammable material to a width of at least 2 metres or cleared of all flammable material to a width of at least 4 metres;

or

(*c*) there are adjacent to the said land at the time when the aircraft alights or takes off two men able to assist in controlling fires, and two portable water sprays fully charged with water, and a motor vehicle in readiness to transport the men and water sprays.

Penalty: Two hundred dollars.

(2) This section does not apply to or in relation to—

(*a*) any aircraft alighting on or taking off from any Government or licensed airfield;

(*b*) any aircraft on a mercy flight or fire fighting operations under the direction of a fire control officer;

(*c*) any aircraft alighting or taking off in circumstances where the alighting or taking off is reasonably necessary to avoid hazard to the aircraft or its occupants;

and

(*d*) any aircraft operations carried out under an exemption given pursuant to subsection (3) of this section where those operations are carried out in accordance with the requirements, if any, set out in that exemption.

(3) The Minister may by notice in writing exempt the aircraft operations specified in the notice subject to those operations complying with the requirements, if any, set out in the notice and the Minister may by a like notice revoke any such exemption or vary or amend any requirements so set out.

(4) In this section "mercy flight" means a flight regarded as a mercy flight under an Aeronautical Information Publication issued under the authority of the Air Navigation Regulations of the Commonwealth.

Amendment of principal Act, s. 72— Smoking near flammable matter.

27. Section 72 of the principal Act is amended—

(*a*) by striking out from subsection (1) the passage "six feet" and inserting in lieu thereof the passage "2 metres";

(*b*) by striking out from subsection (1) the word "inflammable" and inserting in lieu thereof the word "flammable";

and

(*c*) by striking out from subsection (1) the passage "One hundred dollars" and inserting in lieu thereof the passage "Two hundred dollars".

Amendment of principal Act, s. 73— Throwing burning material from vehicles.

28. Section 73 of the principal Act is amended by striking out from subsection (1) the passage "One hundred dollars" and inserting in lieu thereof the passage "Two hundred dollars".

Amendment of principal Act, s. 74— Using fire in rabbit fumigators.

29. Section 74 of the principal Act is amended by striking out the passage "One hundred dollars" and inserting in lieu thereof the passage "Two hundred dollars".

Amendment of principal Act, s. 75— Blasting trees, etc.

30. Section 75 of the principal Act is amended—

(*a*) by striking out from paragraph (*b*) the passage "fifty feet" and inserting in lieu thereof the passage "15 metres";

and

(*b*) by striking out the passage "One hundred dollars" and inserting in lieu thereof the passage "Two hundred dollars".

Amendment of principal Act, s. 76— Ignitable wadding prohibited.

31. Section 76 of the principal Act is amended—

(*a*) by striking out from subsection (2) the passage "Fifty dollars" and inserting in lieu thereof the passage "One hundred dollars";

and

(*b*) by striking out from the penalty set out at the end of subsection (4) the passage "Fifty dollars" and inserting in lieu thereof the passage "One hundred dollars".

Amendment of principal Act, s. 77— Fire protection at saw mills and other premises.

32. Section 77 of the principal Act is amended—

(*a*) by striking out from subsection (7) the passage "one hundred and fifty dollars" and inserting in lieu thereof the passage "three hundred dollars";

(*b*) by striking out from subsection (7) the passage "three hundred dollars" and inserting in lieu thereof the passage "six hundred dollars";

(*c*) by striking out from subsection (8) the passage "one hundred and fifty dollars" and inserting in lieu thereof the passage "three hundred dollars";

and

(*d*) by striking out from subsection (8) the passage "three hundred dollars" and inserting in lieu thereof the passage "six hundred dollars".

Amendment of principal Act, s. 78— Prohibition on the sale of certain matches.

33. Section 78 of the principal Act is amended—

(*a*) by inserting after the passage "of phosphorus" in subsection (1) the passage "or matches which have an after glow exceeding three seconds as specified by British Standard 3795: 1964";

and

(*b*) by striking out from subsection (1) the passage "Fifty dollars" and inserting in lieu thereof the passage "One hundred dollars".

Amendment of principal Act, s. 79— Removal of debris from roads.

34. Section 79 of the principal Act is amended—

(*a*) by striking out from subsection (1) the word "inflammable" and inserting in lieu thereof the word "flammable";

and

(*b*) by striking out from paragraph (*a*) of subsection (2) the word "inflammable" and inserting in lieu thereof the word "flammable".

Amendment of principal Act, s. 80—
Power of council to clear roads.

35. Section 80 of the principal Act is amended by striking out from paragraph (*a*) the word "inflammable" and inserting in lieu thereof the word "flammable".

Amendment of principal Act, s. 81—
Power to order destruction of shrubs or bushes.

36. Section 81 of the principal Act is amended by striking out from the second sentence in subsection (1) the passage "one chain" and inserting in lieu thereof the passage "20 metres".

Enactment of s. 81a of principal Act—

37. The following section is enacted and inserted in the principal Act immediately after section 81 thereof:—

Power of the council to order the creation of fire breaks.

81a. (1) If a council is of the opinion that the creation of a fire break on any land within its area is likely to inhibit the starting or spreading of fires, the council may by notice in writing given to the owner or occupier of that land, require the owner or occupier to create such a fire break in the manner specified in the notice within the time specified in the notice.

(2) There shall be an appeal to the Minister against any requirement of a council under this section, and any such appeal shall be lodged in writing at the office of the Minister within fourteen days of the giving of the notice by the council.

(3) The Minister may hear and determine an appeal made under subsection (2) of this section or may appoint some person to do so and the Minister or person appointed by him shall make such order as to the Minister or such other person seems fair and reasonable and the order when made shall be final.

(4) Any person who, without reasonable excuse, proof of which shall lie upon him—

(*a*) refuses or fails to comply with any requirement under this section that has not been appealed against in the manner set out in subsection (2) of this section;

or

(*b*) refuses or fails to comply with any order made by the Minister or person appointed by him pursuant to subsection (3) of this section,

shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

(5) Where an owner or occupier has been convicted of an offence under this section and the requirement or order has not been complied with the council which gave the notice referred to in subsection (1) of this section may do or cause to be done all acts and things that the owner or occupier was required to do pursuant to the requirement or order and may recover its costs and expenses incurred therein as a debt due to the council from the owner or occupier.

Amendment of principal Act, s. 82—
Provision of firefighting equipment by council.

38. Section 82 of the principal Act is amended by striking out from subsection (4) the passage "One hundred dollars" and inserting in lieu thereof the passage "Two hundred dollars".

Amendment of principal Act, s. 86—
Powers of fire control officers and fire party leaders.

39. Section 86 of the principal Act is amended—

(*a*) by striking out from subsection (1) the word "only";

(*b*) by striking out from paragraph (*c*) of subsection (1) the passage "not adequately controlled" and inserting in lieu thereof the passage "reasonably likely to get out of control";

(*c*) by inserting in subsection (1) immediately after paragraph (*d*) the passage "and this section applies in circumstances where there is an imminent danger that a fire to which this section applies will occur.";

(*d*) by striking out from subsection (2) the passage "to fires";

(*e*) by inserting in subsection (3) after the passage "of controlling" the passage ", preventing";

(*f*) by striking out from subsection (3) the passage ", subject to subsection (3a) of this section,";

(*g*) by striking out from paragraph (*b*) of subsection (3) the word "inflammable" and inserting in lieu thereof the word "flammable";

(*h*) by striking out paragraph (*g*) from subsection (3) and inserting in lieu thereof the following paragraph:—

(*g*) In the absence of a member of the police force, prohibit or regulate the movement of vehicles, persons or animals in the vicinity of any fire or in the vicinity of any place where there is an imminent danger of fire;;

(*i*) by striking out from paragraph (*h*) the passage "(other than water contained in a tank at a dwellinghouse and apparently required for domestic purposes)";

(*j*) by striking out paragraph (*l*) of subsection (3) and inserting in lieu thereof the following paragraph:—

(*l*) Do anything which is in his opinion necessary for or incidental to—

(i) the exercise of any of the powers referred to in this subsection;

(ii) the preventing of the outbreak of any fire to which this subsection applies;

(iii) the controlling or extinguishing of any such fire or preventing the spread of any such fire;

or

(iv) the protecting of life and property from injury arising from the likely outbreak or continuance of any such fire;;

(*k*) by striking out subsection (3a) and inserting in lieu thereof the following subsection:—

(3a) In addition to and without derogating from the powers conferred on a fire control officer by subsection (3) of this section, a fire control officer may light or cause to be lit fires on any land for the purposes of creating a fire break.;

and

(*l*) by inserting in subsection (5) after the passage "or person" the passage "and whether or not that land is a public place".

Amendment of principal Act, s. 89—Power of fire control officers as to certain fires.

40. Section 89 of the principal Act is amended—

(*a*) by striking out from subsection (2) the passage "one hundred dollars" and inserting in lieu thereof the passage "three hundred dollars";

and

(*b*) by striking out from subsection (2) the passage "two hundred dollars or three" and inserting in lieu thereof the passage "five hundred dollars or six".

Amendment of principal Act, s. 90—Power of fire control officer to prohibit fires.

41. Section 90 of the principal Act is amended—

(*a*) by striking out from paragraph (*a*) of subsection (2) the passage "one mile" and inserting in lieu thereof the passage "2 kilometres";

(*b*) by striking out from paragraph (3) the passage "one hundred dollars" and inserting in lieu thereof the passage "three hundred dollars";

and

(*c*) by striking out from subsection (3) the passage "two hundred dollars or imprisonment for three" and inserting in lieu thereof the passage "five hundred dollars or imprisonment for six".

Amendment of principal Act, s. 91—Hindering fire control officer or fire party leader.

42. Section 91 of the principal Act is amended by striking out from subsection (1) the passage "One hundred dollars or imprisonment for two months" and inserting in lieu thereof the passage "Two hundred dollars or imprisonment for three months".

Repeal of s. 92 of principal Act and enactment of section in its place—

43. Section 92 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Powers of member of the police force.

92. (1) A member of the police force may—

(*a*) give directions prohibiting or regulating the movement of vehicles or persons in the vicinity of any fire or in the vicinity of any place where in his opinion there is imminent danger of a fire occurring;

(*b*) where he has reasonable cause to believe that a contravention of or failure to comply with any provision of this Act has occurred, enter and remain upon any premises or place for the purposes of making such inquiries as to the contravention or failure to comply as to him seems necessary;

and

(*c*) in the absence of a fire control officer or a fire party leader where he has reasonable cause to believe that a fire has been lighted or maintained in contravention of this Act, take such measures as are necessary in his opinion to extinguish that fire or cause that fire to be extinguished and may give such directions as to him seem reasonable for that purpose.

(2) A person shall not without reasonable excuse, proof of which shall lie upon him, refuse or fail to comply with a direction given by a member of the police force acting under subsection (1) of this section.

Penalty: One hundred dollars.

Amendment of principal Act, s. 93—Power to demand name and address.

44. Section 93 of the principal Act is amended by striking out from subsection (2) the passage "Forty dollars" and inserting in lieu thereof the passage "One hundred dollars".

Amendment of principal Act, s. 94—Covering or interfering with fire plugs.

45. Section 94 of the principal Act is amended by striking out the passage "One hundred dollars" and inserting in lieu thereof the passage "Two hundred dollars".

Amendment of principal Act, s. 95—Misuse of fire alarms.

46. Section 95 of the principal Act is amended by striking out from subsection (1) the passage "twenty dollars or seven days imprisonment" and inserting in lieu thereof the passage "two hundred dollars or twenty-one days imprisonment".

Amendment of principal Act, s. 96—Coronial inquiry into certain fires.

47. Section 96 of the principal Act is amended—

(*a*) by striking out the passage "by which injury or damage or loss has been caused to any person";

and

(*b*) by striking out the passage "injury, damage or loss" and inserting in lieu thereof the word "fire".

Amendment of principal Act s. 97—
Immunity of fire control officers, etc.

48. Section 97 of the principal Act is amended by inserting in subsection (1) after the passage "fire control officer" twice occurring in each case the passage ", a member of the police force".

Amendment of principal Act, s. 99—
Liability of South Australian Railways Commissioner.

49. Section 99 of the principal Act is amended by striking out from paragraph (*b*) of subsection (1) the word "inflammable" and inserting in lieu thereof the word "flammable".

Amendment of principal Act, s. 100—
Damage by fire to dividing fence.

50. Section 100 of the principal Act is amended—

(*a*) by striking out from paragraph (*a*) of subsection (1) the word "inflammable" and inserting in lieu thereof the word "flammable";

(*b*) by striking out from paragraph (*a*) of subsection (1) the passage "twelve feet" and inserting in lieu thereof the passage "4 metres";

and

(*c*) by striking out from paragraph (*b*) of subsection (1) the passage "twelve feet" and inserting in lieu thereof the passage "4 metres".

Amendment of principal Act, s. 101—
Power of occupier to clear portion of road.

51. Section 101 of the principal Act is amended by striking out the passage "nine feet" and inserting in lieu thereof the passage "3 metres".

Amendment of principal Act, s. 107—
Regulations.

52. Section 107 of the principal Act is amended—

(*a*) by striking out paragraph (*d*) and inserting in lieu thereof the following paragraph:—

(*d*) the design, construction, control, maintenance and use of fire danger indicator signs:;

and

(*b*) by striking out from paragraph (*g*) the passage "one hundred" and inserting in lieu thereof the passage "two hundred".

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 109 of 1972

An Act to amend the Criminal Law Consolidation Act, 1935-1972.

[*Assented to 23rd November,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Criminal Law Consolidation Act Amendment Act (No. 5), 1972".

(2) The Criminal Law Consolidation Act, 1935-1972, as amended by this Act, and by all other amendments (if any) amending the same prior to the commencement of this Act, may be cited as the "Criminal Law Consolidation Act, 1935-1972".

(3) The Criminal Law Consolidation Act, 1935-1972, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 260—Conspiracy in relation to industrial disputes.

3. Section 260 of the principal Act is amended by striking out from subsection (1) the passage "a trade dispute between master and servant" and inserting in lieu thereof the passage "an industrial dispute as defined in the Industrial Conciliation and Arbitration Act, 1972".

4. Section 266 of the principal Act is amended by striking out from paragraph II the passage "Industrial Code, 1967, as amended" and inserting in lieu thereof the passage "Industrial Conciliation and Arbitration Act, 1972". Amendment of principal Act, s. 266—Interpretation.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 110 of 1972

An Act to amend the Crown Lands Act, 1929-1971.

[*Assented to 23rd November,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Crown Lands Act Amendment Act, 1972".

(2) The Crown Lands Act, 1929-1971, as amended by this Act, may be cited as the "Crown Lands Act, 1929-1972".

(3) The Crown Lands Act, 1929-1971, is hereinafter referred to as "the principal Act".

Commencement.

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

Amendment of principal Act, s. 107—Restriction on further advances to association.

3. Section 107 of the principal Act is amended by striking out the word "No" and inserting in lieu thereof the passage "Except as is provided by section 107a of this Act, no".

Enactment of s. 107a of principal Act—

4. The following section is enacted and inserted in the principal Act immediately after section 107 thereof:—

Advances to association.

107a. (1) The purposes of this section are the construction, installation and rehabilitation of irrigation and drainage

headworks and ancillary works associated therewith by or on behalf of the association in accordance with plans and specifications from time to time approved by the Minister.

(2) Subject to this section, the Treasurer may pay to the association from time to time such amount or amounts not exceeding in total the sum of one hundred and thirty-eight thousand dollars by way of grant or by way of loan as shall be required by the association for the purposes of this section.

(3) The total sum paid to the association by way of grant pursuant to subsection (2) of this section shall not exceed the sum of fifty-five thousand dollars.

(4) The amount paid to the association by way of loan pursuant to subsection (2) of this section shall be repaid by the association to the Treasurer with interest at the rate of five per centum per annum, computed from the thirtieth day of June, 1974, by forty equal annual payments to be made on the first day of July in each year commencing on and including the first day of July, 1975.

(5) This Act, without further appropriation, shall be sufficient authority for making any payment mentioned in subsection (2) of this section.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

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No. 111 of 1972

An Act to amend the Dairy Cattle Improvement Act, 1921-1968, as amended by the Dairy Cattle Improvement Act Amendment Act, 1972.

[*Assented to 23rd November,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Dairy Cattle Improvement Act Amendment Act (No. 2), 1972".

(2) The Dairy Cattle Improvement Act, 1921-1968, as amended by the Dairy Cattle Improvement Act Amendment Act, 1972, and as amended by this Act, may be cited as the "Dairy Cattle Improvement Act, 1921-1972".

(3) The Dairy Cattle Improvement Act, 1921-1968, as amended by the Dairy Cattle Improvement Act Amendment Act, 1972, is hereinafter referred to as "the principal Act".

Commencement.

2. This Act shall come into operation on the day on which the Dairy Cattle Improvement Act Amendment Act, 1972, comes into operation.

3. Section 6 of the principal Act is amended by striking out subsection (1) and inserting in lieu thereof the following subsection:— Amendment of principal Act, s. 6— Bulls over twelve months old to be licensed.

(1) A licence is hereby required for every bull over the age of twelve months used as a herd sire for dairy purposes.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 112 of 1972

An Act to regulate the Use of Listening Devices and for other purposes.

[*Assented to 23rd November,* 1972]

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 "Listening Devices Act, 1972".

Commencement.

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

Interpretation.

3. In this Act, unless the contrary intention appears—

"declared listening device" means a listening device or a listening device of a class or kind to which for the time being, section 8 of this Act applies:

"listening device" means any electronic or mechanical instrument, apparatus, equipment or other device capable of being used to overhear, record, monitor or listen to a

private conversation or words spoken to or by any person in private conversation but does not include a hearing aid or similar device used by a person with impaired hearing to overcome the impairment and to permit him only to hear sounds ordinarily audible to the human ear:

"private conversation" means any conversation carried on in circumstances that may reasonably be taken to indicate that any party to the conversation desires it to be confined to the parties to the conversation.

Prohibition on use of listening device.

4. Except as is provided in this Act a person shall not intentionally use any listening device to overhear, record, monitor or listen to any private conversation, whether or not he is a party thereto, without the consent, express or implied, of the parties to that conversation.

Penalty: Two thousand dollars or imprisonment for six months or both.

Prohibition on communication or publication.

5. A person shall not knowingly communicate or publish any information or material derived from the use of a listening device in contravention of section 4 of this Act.

Penalty: Two thousand dollars or imprisonment for six months or both.

Lawful use of listening devices by members of the police force.

6. (1) Section 4 of this Act does not apply to or in relation to the use of a listening device by, or at the direction of, a member of the police force, acting in the performance of his duty.

(2) The Commissioner of Police shall, at intervals of not more than one month, furnish to the Minister a report containing such particulars, as the Minister from time to time requires, of each use of any listening device by a member of the police force under this section during the period to which the report relates.

(3) A member of the police force shall not, otherwise than in the course of his duty as such a member, knowingly communicate or publish any information or material derived from the use of a listening device under this section.

Penalty: Two thousand dollars or imprisonment for six months or both.

(4) A person who uses a listening device at the direction of a member of the police force under this section shall not, except to the extent necessary to give full effect to the purposes for which the listening device is used or except for the purposes of giving evidence, communicate or publish any information or material derived from the use of that listening device.

Penalty: Two thousand dollars or imprisonment for six months or both.

Lawful use of a listening device by a party to a private conversation.

7. (1) Section 4 of this Act does not apply to or in relation to the use of a listening device by a person (including a member of the police force) where that listening device is used—

(*a*) to overhear, record, monitor or listen to any private conversation to which that person is a party;

and

(*b*) in the course of duty of that person, in the public interest or for the protection of the lawful interests of that person.

(2) A person referred to in subsection (1) of this section shall not otherwise than in the course of his duty, in the public interest or for the protection of his lawful interests, communicate or publish any information or material derived from the use of a listening device under that subsection.

Penalty: Two thousand dollars or imprisonment for six months or both.

Possession, etc., of declared listening device.

8. (1) The Minister may by notice published in the *Gazette* declare that this section shall apply to a listening device or a listening device of a class or kind specified in that notice and the Minister may by a notice published in a like manner revoke or amend any such declaration.

(2) A person shall not without the consent of the Minister (which the Minister is hereby empowered to give) have in his possession, custody or control any declared listening device.

Penalty: Two thousand dollars or imprisonment for six months or both.

(3) The consent of the Minister under subsection (2) of this section—

(*a*) may be expressed to relate to the possession, custody or control of a listening device or to any listening device of a class or kind;

and

(*b*) may be expressed to be subject to such conditions, limitations or restrictions as the Minister considers necessary or expedient.

(4) The Minister may at any time revoke any consent given under this section and upon that revocation that consent shall cease to have effect.

(5) For the purposes of this section having the possession, custody or control of any listening device in contravention of a condition, limitation or restriction imposed by the Minister shall be deemed to be having the possession, custody or control of that device without the consent of the Minister.

(6) The Minister may by notice in writing delegate any of his powers under subsections (2), (3) and (4) of this section to any Officer as defined in the Public Service Act, 1967, as amended, and those powers may be exercised by the delegate accordingly but the exercise of any such power shall not affect the exercise of that power by the Minister.

Annual report.

9. (1) The Minister shall in respect of the twelve months ending on the thirty-first day of December in each year cause a report to be prepared specifying, in relation to that period of twelve months the number of occasions on which a listening device was used under section 6 of this Act and the general purposes for which a listening device was used on each such occasion.

(2) The Minister shall cause a copy of the report prepared under subsection (1) of this section to be laid before each House of Parliament within fourteen days of his receipt thereof if Parliament is then in session or if Parliament is not then in session within fourteen days of the commencement of the next session of Parliament.

Offences.

10. (1) Except as is provided in this section, proceedings for an offence against this Act shall be disposed of summarily.

(2) In proceedings for an offence against this Act the defendant may, at any time up to and including the close of the case for the prosecution, elect to have the offence treated as an indictable offence.

(3) Upon an election being made under subsection (2) of this section the defendant shall be dealt with in all respects as if—

(*a*) the offence were an indictable offence;

and

(*b*) the proceedings in relation to which the election was made were a preliminary examination of a person charged on an information with an indictable offence.

(4) Proceedings for an offence against this Act may be brought within two years from the day on which it is alleged that the act or omission constituting the offence was done or omitted.

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

M. L. OLIPHANT, Governor

ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

****

No. 113 of 1972

An Act to amend the Local Government Act, 1934, as amended, and certain other Acts relating to local government.

[*Assented to 23rd November,* 1972]

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

Short titles.

1. (1) This Act may be cited as the "Local Government Act Amendment Act (No. 2), 1972".

(2) The Local Government Act, 1934-1972, as amended by this Act and by all Acts amending the same prior to the commencement of this Act, may be cited as the "Local Government Act, 1934-1972".

(3) The Local Government Act, 1934-1972, is hereinafter referred to as "the principal Act".

Amendment of principal Act.

2. (1) The various provisions of the principal Act set out in the first column of the first schedule to this Act are amended in the manner indicated in that schedule.

(2) Section 895 of the principal Act is repealed.

(3) The tenth schedule to the principal Act is repealed and the following schedule is enacted and inserted in its place:—

Section 263

THE TENTH SCHEDULE

Fees and Charges upon Distress for Rates, and for any Sale consequent upon any such Distress

	$
For every levy	1.00
Man in possession per diem	2.00
Inventory per folio	0.03

Sale and delivery of goods (including auctioneer's charges) 3 cents in the dollar on the net proceeds of sale.

Charge for executing warrant and effecting sale 5 cents in the dollar on the net proceeds of sale.

Amendment of Local Government Act Amendment Act, 1946.

3. The Local Government Act Amendment Act, 1946, is amended by striking out from the first column of the schedule thereto the passage "Section 206, VII" and from the second column thereof the words purporting to constitute the amendment relating thereto.

Amendment of Local Government Act Amendment Act (No. 1), 1954.

4. The Local Government Act Amendment Act (No. 1), 1954, is amended—

(*a*) by inserting in section 6 thereof immediately after the section designation "6" the passage "The following section is enacted and inserted in the principal Act immediately after section 319 thereof:—

319a.";

(*b*) by striking out from subsection (1) of section 6 the passage "this Act" and inserting in lieu thereof the passage "the Local Government Act Amendment Act (No. 1), 1954";

and

(*c*) by striking out from subsection (1) of section 6 the passage "the principal Act" wherever it occurs and inserting in lieu thereof in each case the passage "this Act".

Amendment of Local Government Act Amendment Act, 1968.

5. The Local Government Act Amendment Act, 1968, is amended by striking out from paragraph (*d*) of section 12 thereof the word "before" and inserting in lieu thereof the word "after".

Amendment of Local Government Act Amendment Act (No. 3), 1969.

6. The Local Government Act Amendment Act (No. 3), 1969, is amended by striking out paragraph (*a*) of section 4 thereof.

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

M. L. OLIPHANT, Governor

THE FIRST SCHEDULE

Amendments to the principal Act (Local Government Act, 1934-1972)

Provision Amended	How Amended
Section 7 (2)	By striking out "five thousand pounds" wherever occurring therein and inserting in lieu thereof in each case "ten thousand dollars".
Section 54 II	By striking out "twenty shillings in the pound" and inserting in lieu thereof "one hundred cents in the dollar".
Section 83 (2)	By striking out "twenty pounds" and inserting in lieu thereof "forty dollars".
Section 86 II	By striking out "twenty shillings in the pound" and inserting in lieu thereof "one hundred cents in the dollar".
Section 105 (1) VIIIa	By striking out "three pounds" and inserting in lieu thereof "six dollars".
Section 126 II	By striking out "twenty pounds" and inserting in lieu thereof "forty dollars".
Section 153 (4)	By striking out "two hundred pounds" and inserting in lieu thereof "four hundred dollars".
Section 155 (1)	By striking out "one shilling" and inserting in lieu thereof "ten cents".
Section 157 (1) (*b*) .	By striking out from the proviso "one hundred thousand pounds" and inserting in lieu thereof "two hundred thousand dollars".
Section 157 (2)	By striking out "twenty shillings in the pound" and inserting in lieu thereof "one hundred cents in the dollar".
Section 163 (2)	By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 163p (1) (*a*)	By striking out "twenty shillings in the pound" and inserting in lieu thereof "one hundred cents in the dollar".
Section 163y (3) and (4)	By striking out "twenty pounds" wherever occurring therein and inserting in lieu thereof in each case "forty dollars".
Section 163gg	By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 163mm (2) .	By striking out "twenty pounds" and inserting in lieu thereof "forty dollars".
Section 163nn	By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Section 166 (2)	By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Section 167	By striking out "one shilling" and inserting in lieu thereof "ten cents".
Section 213	By striking out "pounds".
Section 234 (ii) (*a*) .	By striking out "four shillings and six pence in the pound" and inserting in lieu thereof "twenty-three cents in the dollar".
Section 234 (ii) (*b*) .	By striking out "two shillings and four pence in the pound" and inserting in lieu thereof "twelve cents in the dollar".

The First Schedule—continued

Provision Amended	How Amended
Section 236	By striking out "twenty-five pounds or under, one vote; from twenty-five pounds to thirty-five pounds, two votes; from thirty-five pounds to forty-five pounds, three votes; from forty-five pounds to fifty-five pounds, four votes; from fifty-five pounds to sixty-five pounds, five votes; and from sixty-five pounds" and inserting in lieu thereof "fifty dollars or under, one vote; from fifty dollars to seventy dollars, two votes; from seventy dollars to ninety dollars, three votes; from ninety dollars to one hundred and ten dollars, four votes; from one hundred and ten dollars to one hundred and thirty dollars, five votes; and from one hundred and thirty dollars".
Section 237 (1)	By striking out "five shillings in the pound" and inserting in lieu thereof "twenty-five cents in the dollar".
Section 238	By striking out "six shillings in the pound" and inserting in lieu thereof "thirty cents in the dollar".
Section 239 (1) . . .	(*a*) By striking out "one shilling in the pound" and inserting in lieu thereof "five cents in the dollar". (*b*) By striking out "four shillings in the pound" and inserting in lieu thereof "twenty cents in the dollar".
Section 240	By striking out "four shillings and six pence in the pound" and inserting in lieu thereof "twenty-three cents in the dollar".
Section 242	By striking out "five hundred pounds or under, one vote; from five hundred pounds to seven hundred pounds, two votes; from seven hundred pounds to nine hundred pounds, three votes; from nine hundred pounds to eleven hundred pounds, four votes; from eleven hundred pounds to thirteen hundred pounds, five votes; and from thirteen hundred pounds" and inserting in lieu thereof "one thousand dollars or under, one vote; from one thousand dollars to one thousand four hundred dollars, two votes; from one thousand four hundred dollars to one thousand eight hundred dollars, three votes; from one thousand eight hundred dollars to two thousand two hundred dollars, four votes; from two thousand two hundred dollars to two thousand six hundred dollars, five votes; and from two thousand six hundred dollars".
Section 243 (1) . . .	By striking out "two shillings in the pound" and inserting in lieu thereof "ten cents in the dollar".
Section 244	By striking out "two shillings and four pence in the pound" and inserting in lieu thereof "twelve cents in the dollar".
Section 244a (2) . . .	By striking out "pound" wherever occurring therein and inserting in lieu thereof in each case "dollar".
Section 245	(*a*) By striking out "one shilling in the pound" and inserting in lieu thereof "five cents in the dollar". (*b*) By striking out "four pence in the pound" and inserting in lieu thereof "two cents in the dollar".
Section 246 (1) . . .	(*a*) By striking out "one penny one halfpenny in the pound" and inserting in lieu thereof "one half cent in the dollar". (*b*) By striking out "two shillings in the pound" and inserting in lieu thereof "ten cents in the dollar".

The First Schedule—continued

Provision Amended	How Amended
Section 247	(*a*) By striking out "pound" firstly and secondly occurring therein and inserting in lieu thereof in each case "dollar".
	(*b*) By striking out "two shillings and four pence in the pound" and inserting in lieu thereof "twelve cents in the dollar".
Section 248	(*a*) By striking out "one shilling in the pound" and inserting in lieu thereof "five cents in the dollar".
	(*b*) By striking out "four pence in the pound" and inserting in lieu thereof "two cents in the dollar".
Section 259 (1) . . .	By striking out "pounds".
Section 264 (3) . . .	By striking out "poundage of one shilling" and inserting in lieu thereof "charge of ten cents".
Section 264 (5) . . .	By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Section 287 (1) (*k*1)	By striking out "two hundred pounds" and inserting in lieu thereof "four hundred dollars".
Section 289a (3) . . .	By striking out "three hundred pounds" and inserting in lieu thereof "six hundred dollars".
Section 300a (1) . . .	By striking out "twenty thousand pounds" and inserting in lieu thereof "forty thousand dollars".
Section 307	(*a*) By inserting "the Planning and Development Act, 1966-1967" after "1929,".
	(*b*) By inserting "as amended," after "1932,".
Section 313 (2)	By striking out "two shillings and sixpence" and inserting in lieu thereof "twenty-five cents".
Section 319 (3)	By striking out "pounds".
Section 319 (11) . . .	By striking out "ten shillings" and inserting in lieu thereof "one dollar".
Section 323 (2)	By striking out "two pounds" and inserting in lieu thereof "four dollars".
Section 324	By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 325 (4)	By striking out "twenty pounds" and inserting in lieu thereof "forty dollars".
Section 328 (2)	By striking out from the proviso "three shillings" and inserting in lieu thereof "thirty cents".
Section 328 (3)	By striking out "pounds".
Section 330 (3)	By striking out "pounds".
Section 331	By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 333 (2) (*b*) .	By striking out "twenty pounds" and inserting in lieu thereof "forty dollars".
Section 334	By striking out "twenty pounds" and inserting in lieu thereof "forty dollars".
Section 338 (2)	(*a*) By striking out "fifty pounds" and inserting in lieu thereof "one hundred dollars".
	(*b*) By striking out "twenty pounds" and inserting in lieu thereof "forty dollars".

The First Schedule—continued

Provision Amended	How Amended
Section 339 (2)	By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Section 342 (10) . . .	By striking out "pounds".
Section 342 (11a) . .	(*a*) By striking out from paragraph I "three pounds" and inserting in lieu thereof "six dollars". (*b*) By striking out from paragraph II "five pounds" and inserting in lieu thereof "ten dollars". (*c*) By striking out from paragraph III "eight pounds" and inserting in lieu thereof "sixteen dollars". (*d*) By striking out from paragraph IV "fifty pounds" and inserting in lieu thereof "one hundred dollars".
Section 343 (5)	By striking out "pounds".
Section 344a (3) . . .	By striking out "pounds".
Section 355b (3) . . .	By striking out "twenty pounds" and inserting in lieu thereof "forty dollars".
Section 358 (2) . . .	By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Section 367 (4)	By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Section 368 (2)	By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 369	By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 371 (2)	(*a*) By striking out "two pounds" and inserting in lieu thereof "four dollars". (*b*) By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 373 (3)	By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 375 (5)	By striking out "two pounds" and inserting in lieu thereof "four dollars".
Section 376 (3)	By striking out "two pounds" and inserting in lieu thereof "four dollars".
Section 399 (2)	By striking out "twenty pounds" and inserting in lieu thereof "forty dollars".
Section 424 (1) I . .	(*a*) By striking out "nineteen shillings" and inserting in lieu thereof "ninety-five cents". (*b*) By striking out "sixteen shillings in the pound" and inserting in lieu thereof "eighty cents in the dollar".
Section 424 (1) II . .	(*a*) By striking out "four shillings and sixpence in the pound" and inserting in lieu thereof "twenty-three cents in the dollar". (*b*) By striking out "two shillings in the pound" and inserting in lieu thereof "ten cents in the dollar".
Section 424 (1) IV .	(*a*) By striking out "three shillings" and inserting in lieu thereof "fifteen cents". (*b*) By striking out "two shillings in the pound" and inserting in lieu thereof "ten cents in the dollar".

The First Schedule—continued

Provision Amended	How Amended
Section 424 (1) V ..	(*a*) By striking out "eight pence" and inserting in lieu thereof "four cents". (*b*) By striking out "three pence, in the pound" and inserting in lieu thereof "one and one half cents in the dollar".
Section 425 (1)	By striking out "or" firstly occurring.
Section 456 (2)	By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 458 (3)	By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 466 IIIa	By striking out "five pounds five shillings" and inserting in lieu thereof "ten dollars fifty cents".
Section 470 (4)	By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Section 475a V	By striking out "twenty pounds" and inserting in lieu thereof "forty dollars".
Section 475g (3)	By striking out "twenty pounds" and inserting in lieu thereof "forty dollars".
Section 477 (2)	By striking out "twenty pounds" and inserting in lieu thereof "forty dollars".
Section 488 (*a*)	By striking out "four pence in the pound" and inserting in lieu thereof "two cents in the dollar".
Section 488 (*b*)	By striking out "one halfpenny in the pound" and inserting in lieu thereof "one quarter of a cent in the dollar".
Section 503	By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Section 512	By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Section 517 (3)	By striking out "fifty pounds" and inserting in lieu thereof "one hundred dollars".
Section 523 (4)	(*a*) By striking out "two pounds" and inserting in lieu thereof "four dollars". (*b*) By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Section 524 (2)	(*a*) By striking out "two pounds" and inserting in lieu thereof "four dollars". (*b*) By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Heading immediately preceding section 528	By striking out the heading "Division II—Provisions Applicable Generally".
Section 536 (1)	By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Section 536 (2)	By striking out "five pounds" and inserting in lieu thereof "ten dollars".

The First Schedule—continued

Provision Amended	How Amended
Section 536a (2) . . .	(*a*) By striking out "fifty pounds" and inserting in lieu thereof "one hundred dollars". (*b*) By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Section 540a (1)	(*a*) By striking out "five pounds" and inserting in lieu thereof "ten dollars". (*b*) By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Section 541 (4)	(*a*) By striking out "twenty pounds" and inserting in lieu thereof "forty dollars". (*b*) By striking out "two pounds" and inserting in lieu thereof "four dollars".
Section 543 (2)	By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Section 546 (2)	By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 546 (3)	By striking out "one pound" and inserting in lieu thereof "two dollars".
Section 548 (2)	By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Section 550 (6)	(*a*) By striking out "twenty pounds" and inserting in lieu thereof "forty dollars". (*b*) By striking out "two pounds" and inserting in lieu thereof "four dollars".
Section 550a (6)	By striking out "two pounds" and inserting in lieu thereof "four dollars".
Section 550b (6) . . .	(*a*) By striking out "twenty pounds" and inserting in lieu thereof "forty dollars". (*b*) By striking out "two pounds" and inserting in lieu thereof "four dollars".
Section 552 (2)	By striking out "fifty pounds" and inserting in lieu thereof "one hundred dollars".
Section 580	By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 581	By striking out "twenty pounds" and inserting in lieu thereof "forty dollars".
Section 586 (4)	(*a*) By striking out "twenty pounds" wherever occurring therein and inserting in lieu thereof in each case "forty dollars". (*b*) By striking out "fifty pounds" wherever occurring therein and inserting in lieu thereof in each case "one hundred dollars".
Section 593	(*a*) By striking out "twenty pounds" wherever occurring therein and inserting in lieu thereof in each case "forty dollars". (*b*) By striking out "fifty pounds" wherever occurring therein and inserting in lieu thereof in each case "one hundred dollars".
Section 595 (1) (*j*) . .	By striking out "fifty pounds" and inserting in lieu thereof "one hundred dollars".

The First Schedule—continued

Provision Amended	How Amended
Section 598 (4)	By striking out "twenty pounds" and inserting in lieu thereof "forty dollars".
Section 598 (5)	(*a*) By striking out "twenty pounds" and inserting in lieu thereof "forty dollars". (*b*) By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Section 600 (2)	(*a*) By striking out "five pounds" and inserting in lieu thereof "ten dollars". (*b*) By striking out "one pound" and inserting in lieu thereof "two dollars".
Section 602 (1)	By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Section 603 (1)	(*a*) By striking out "ten pounds" and inserting in lieu thereof "twenty dollars". (*b*) By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 603 (3)	(*a*) By striking out "ten pounds" and inserting in lieu thereof "twenty dollars". (*b*) By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 604 (4)	(*a*) By striking out "ten pounds" and inserting in lieu thereof "twenty dollars". (*b*) By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 604 (5)	By striking out "twenty pounds" and inserting in lieu thereof "forty dollars".
Section 607 (2)	(*a*) By striking out "ten pounds" and inserting in lieu thereof "twenty dollars". (*b*) By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 608 (2)	By striking out "twenty pounds" and inserting in lieu thereof "forty dollars".
Section 609 (3)	By striking out "twenty pounds" and inserting in lieu thereof "forty dollars".
Section 610 (3)	By striking out "twenty pounds" and inserting in lieu thereof "forty dollars".
Section 611 (1)	By striking out "twenty pounds" and inserting in lieu thereof "forty dollars".
Section 615	By striking out "five pounds" twice occurring therein and inserting in lieu thereof in each case "ten dollars".
Section 621	By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Section 622 (2)	By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 624 (1)	By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 627	(*a*) By striking out "twenty pounds" and inserting in lieu thereof "forty dollars". (*b*) By striking out "five pounds" and inserting in lieu thereof "ten dollars".

The First Schedule—continued

Provision Amended	How Amended
Section 629 (2)	By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Section 632	By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 637 (2)	By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 638	(*a*) By striking out "ten pounds" and inserting in lieu thereof "twenty dollars". (*b*) By striking out "one pound" and inserting in lieu thereof "two dollars".
Section 640	By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 641 (1)	By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 641 (2)	By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 659	By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Section 667 (35) IV (*a*)	(*a*) By striking out "one pound one shilling" and inserting in lieu thereof "two dollars ten cents". (*b*) By striking out "ten pounds ten shillings" and inserting in lieu thereof "twenty-one dollars".
Section 667 (35) IV (*b*)	By striking out "ten shillings" and inserting in lieu thereof "one dollar".
Section 667 (52)	(*a*) By striking out "twenty pounds" and inserting in lieu thereof "forty dollars". (*b*) By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 669 (28)	(*a*) By striking out "twenty pounds" and inserting in lieu thereof "forty dollars". (*b*) By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 670 (13)	(*a*) By striking out "twenty pounds" and inserting in lieu thereof "forty dollars". (*b*) By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 684	By striking out "twenty pounds" and inserting in lieu thereof "forty dollars".
Section 704 (1)	By striking out "pounds".
Section 749	By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Section 750	By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Section 751	By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Section 752	By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Section 753	By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Section 755	By striking out "twenty pounds" and inserting in lieu thereof "forty dollars".

The First Schedule—continued

Provision Amended	How Amended
Section 755a	By striking out "twenty pounds" and inserting in lieu thereof "forty dollars".
Section 756	By striking out "one hundred pounds" and inserting in lieu thereof "two hundred dollars".
Section 757	By striking out "one hundred pounds" and inserting in lieu thereof "two hundred dollars".
Section 758	(*a*) By striking out "two hundred pounds" and inserting in lieu thereof "four hundred dollars". (*b*) By striking out "one hundred pounds" and inserting in lieu thereof "two hundred dollars".
Section 759	By striking out "fifty pounds" and inserting in lieu thereof "one hundred dollars".
Section 760	By striking out "fifty pounds" and inserting in lieu thereof "one hundred dollars".
Section 761	By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Section 762	By striking out "twenty pounds" and inserting in lieu thereof "forty dollars".
Section 763	By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Section 767	By striking out "twenty pounds" and inserting in lieu thereof "forty dollars".
Section 768	By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Section 769	By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Section 769a	By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Section 770 (1)	By striking out "fifty pounds" and inserting in lieu thereof "one hundred dollars".
Section 770 (3)	By striking out "twenty pounds" and inserting in lieu thereof "forty dollars".
Section 773	By striking out "twenty pounds" and inserting in lieu thereof "forty dollars".
Section 774	By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 775	By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Section 778	By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 778a	By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 779	By striking out "fifty pounds" and inserting in lieu thereof "one hundred dollars".
Section 779a (2)	By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 779b (4)	By striking out "fifty pounds" and inserting in lieu thereof "one hundred dollars".

The First Schedule—continued

Provision Amended	How Amended
Section 780	By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Section 780a (1)	By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Section 781 (2)	By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Section 781a	By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 782 (1)	By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 782a (2)	By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 784 (1)	By striking out "fifty pounds" and inserting in lieu thereof "one hundred dollars".
Section 785 (1)	By striking out "twenty pounds" and inserting in lieu thereof "forty dollars".
Section 786 (2)	By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 787	(*a*) By striking out "ten pounds" twice occurring therein and inserting in lieu thereof in each case "twenty dollars". (*b*) By striking out "fifty pounds" and inserting in lieu thereof "one hundred dollars". (*c*) By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 788	By striking out "ten pounds" and inserting in lieu thereof "twenty dollars".
Section 789 (1)	By striking out "fifty pounds" and inserting in lieu thereof "one hundred dollars".
Section 789a (2)	By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 791	By striking out "twenty pounds" and inserting in lieu thereof "forty dollars".
Section 824 II	By striking out "twenty pounds" and inserting in lieu thereof "forty dollars".
Section 842	By striking out "one hundred pounds" and inserting in lieu thereof "two hundred dollars".
Section 843	By striking out "one hundred pounds" and inserting in lieu thereof "two hundred dollars".
Section 844	By striking out "fifty pounds" and inserting in lieu thereof "one hundred dollars".
Section 845 (2)	By striking out "one hundred pounds" and inserting in lieu thereof "two hundred dollars".
Section 858 VIII	By striking out "twenty pounds" twice occurring therein and inserting in lieu thereof in each case "forty dollars".
Section 866 (2)	By striking out "five pounds" and inserting in lieu thereof "ten dollars".
Section 868	By striking out "two pounds" and inserting in lieu thereof "four dollars".

The First Schedule—continued

Provision Amended	How Amended
Section 874 (1)	By striking out "one shilling" and inserting in lieu thereof "ten cents".
Section 875 (1)	By striking out "one shilling" and inserting in lieu thereof "ten cents".
Section 883 (1) and (1a)	By striking out "Corporation of the Town" wherever occurring therein and inserting in lieu thereof in each case "District Council".
Ninth schedule	By striking out "£" and inserting in lieu thereof "$".
Thirteenth schedule	
Form No. 1	(*a*) By striking out "£" wherever occurring therein and inserting in lieu thereof in each case "$". (*b*) By striking out "pounds" wherever occurring therein and inserting in lieu thereof in each case "dollars".
Form No. 2	(*a*) By striking out "£" wherever occurring therein and inserting in lieu thereof in each case "$". (*b*) By striking out "pounds" wherever occurring therein and inserting in lieu thereof in each case "dollars".
Form No. 3	(*a*) By striking out "£" wherever occurring therein and inserting in lieu thereof in each case "$". (*b*) By striking out "pounds" wherever occurring therein and inserting in lieu thereof in each case "dollars".
Form No. 4	(*a*) By striking out "pounds" wherever occurring therein and inserting in lieu thereof in each case "dollars". (*b*) By striking out "£" wherever occurring therein and inserting in lieu thereof in each case "$".
Thirteenth schedule	By striking out Form No. 5 and inserting in lieu thereof the form set out in the second schedule to this Act.
Fourteenth schedule	
Form No. 1	By striking out "£" wherever occurring therein and inserting in lieu thereof in each case "$".
Twentieth schedule	
Form No. 1	By striking out "£" wherever occurring therein and inserting in lieu thereof in each case "$".
Form No. 2	By striking out "£" wherever occurring therein and inserting in lieu thereof in each case "$".

THE SECOND SCHEDULE

(Form to be inserted in the thirteenth schedule to the principal Act)

Section 436

FORM No. 5

Form of Table to be Incorporated with Debenture for Repayment of Principal and Interest by Instalments

Table showing Repayment of Principal and Interest, etc.

Series and Number of Debenture	Amount of Half-yearly Instalments	Date of Payment of Half-yearly Instalments	Principal Outstanding at Beginning of Each Year	Portion of Half-yearly Instalment Applied to Interest	Portion of Half-yearly Instalment Applied to Interest
	$		$	$	$
Series	11,898.90	21st August, 1972	101,500.00	3,045.00	8,853.90
No. 1	11,898.90	21st February, 1973	92,646.10	2,779.39	9,119.51
Debenture	11,898.90	21st August, 1973	83,526.59	2,505.80	9,393.10
No. 1	11,898.90	21st February, 1974	74,133.49	2,224.01	9,674.89
—	11,898.90	21st August, 1974	64,458.60	1,933.76	9,965.14
—	11,898.90	21st February, 1975	54,493.46	1,634.81	10,264.09
—	11,898.90	21st August, 1975	44,229.37	1,326.88	10,572.02
—	11,898.90	21st February, 1976	33,657.35	1,009.72	10,889.18
—	11,898.90	21st August, 1976	22,768.17	683.05	11,215.85
—	11,898.90	21st February, 1977	11,552.32	346.58	11,552.32

NOTE—The figures in the above table have reference to a loan of $101,500 repayable in 5 years with interest at 6 per centum per annum by means of 10 half-yearly instalments.