



ANNO QUINTO

# GEORGII V REGIS.

A.D. 1914.

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## No. 1183.

An Act to further amend the Municipal Corporation Acts, and the Land Value Assessment Acts, and to amend "The Local Government Act, 1910," and for other purposes.

[Assented to, December 10th, 1914.]

**B**E 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 Municipal Corporations Act Amendment Act, 1914." Short title.

2. This Act is incorporated with "The Municipal Corporations Act, 1890" (hereinafter called "the principal Act"), and the Acts incorporated with that Act; and all the said Acts and this Act shall be read as one Act. Incorporation with other Acts.

3. In this Act "motor vehicle" means any vehicle driven or propelled, or ordinarily capable of being driven or propelled, either wholly or partly, by any volatile spirit, steam, or electricity, or by any means other than animal power, but does not include any vehicle run upon a railway or tramway. Meaning of "motor vehicle" in this Act.  
Cf. Motor Vehicles Act, 1907, s. 3.

4. The definition of the term "public notice" contained in section 6 of the principal Act is amended by adding thereto the words "or in a newspaper circulating in the Municipality." Amendment of section 6 of the principal Act.  
Meaning of "public notice."

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Amendment of definition of "ratable property" in section 6.

**5.** (1) The definition of the term "ratable property" contained in section 6 of the principal Act is amended by striking out the words—

Lands and buildings, and parts of lands and buildings, used exclusively by the Government for any public purpose, and not occupied as a place of private residence: Provided that where the Government occupy any property owned by a private person such property shall be ratable:

and inserting in lieu thereof the words—

Lands and buildings, and parts of lands and buildings, used by the Government for a public purpose: Provided that, notwithstanding any provision to the contrary in any special or general Act, such (if any) parts of any such building as are occupied by any person as a dwelling shall be ratable property, and the person so occupying the same shall be the ratepayer in respect thereof:

(2) The said definition of the term "ratable property" is further amended by adding thereto the words—"Any land which, under the provisions of 'The Recreation Grounds Taxation Exemption Act, 1910,' is exempt from rating."

Amendment of sections 10 and 11.

Publication of petitions and counter-petitions.

Cf. D.C. Act, 1887, s. 42.

**6.** Wherever by section 10 or 11 of the principal Act the publication in the *Government Gazette* of a petition or counter-petition is required, it shall be sufficient compliance with that requirement if the substance and prayer of the petition or counter-petition are so published.

Governor may, without petition, annex road to Municipality or District.

Cf. D.C. Act, 1887, sec. 36.

**7.** (1) Where any road, street, or highway, or any portion thereof, forms the boundary or part of the boundary of, or adjoins, any Municipality or Municipalities or District or Districts, or any part thereof, the Governor may, by proclamation, without any petition, annex such road, street, highway, or portion to any such Municipality or District as aforesaid, or in separate portions to such Municipalities or Districts, or any two or more of them, and the same shall thereupon be included in such Municipality or Municipalities, District or Districts, accordingly.

(2) The provisions of this section shall be read as if included in Part II. of the principal Act.

Amendment of section 22.

Female may be councillor.

Who entitled to vote when agent or attorney is enrolled on citizens' roll.

**8.** Section 22 of the principal Act is amended by striking out the words "any female" in the twenty-fifth line.

**9.** (1) Notwithstanding anything in section 30 or 49 of the principal Act, when a person is enrolled on the citizens' roll for any ward of a Municipality and another person is also so enrolled for the same ward as agent, trustee, or attorney for the first-mentioned person, only one of such persons shall be entitled to vote by virtue of such enrolment at an election or a meeting or poll of citizens. The person to be allowed so to vote shall be the one who first claims to vote at such election, meeting, or poll.

(2) When

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(2) When two or more persons are enrolled on the citizens' roll for any ward of a Municipality as the agents, trustees, or attorneys for the same person or persons, or one or some of them are so enrolled in one and another or others of them in another or others of those capacities, only one of the persons so enrolled shall be entitled to vote by virtue of such enrolment at an election or a meeting or poll of citizens, and his right so to vote shall be subject to subsection (1) hereof. The person (if any) to be allowed so to vote shall be the one who first claims to vote at such election, meeting, or poll.

10. The amendment, made by section 34 of "The Local Government Act, 1910," of section 31 of the principal Act, by striking out the last line of the said section 31, is hereby confirmed.

Amendment of section 31 confirmed.

Persons in receipt of public relief enrolled as citizens.

11. (1) Section 40 of the principal Act is amended—

Amendment of section 40.

i. by substituting for the words "annual election" in the third and fourth lines thereof the words "election or any poll of citizens or ratepayers"; and

Alterations and amendments of citizens' roll.

ii. by inserting after the word "citizens" in the eighth line thereof the words "or ratepayers".

(2) Section 21 of "The Land Value Assessment Act, 1893," is amended by substituting for the words "annual election" in the second line thereof the words "election or any poll of citizens or ratepayers".

Corresponding amendment of section 21 of Act 573 of 1893.

12. Section 45 of the principal Act is amended by inserting, after the word "admit" in the sixth line thereof, the words—"provided that the Returning Officer shall not reject any nomination paper by reason only of an error in date, or any other defect which he considers immaterial."

Amendment of section 45.

Immaterial defect in nomination paper not to invalidate.

13. Section 115 of the principal Act is amended by substituting the words "for the purpose of permanently" for the words "as aids in" in the last line thereof.

Amendment of section 115.

Marks indicating alignments.

14. Section 131 of the principal Act is amended by adding at the end thereof the words "and, until fully paid or recovered, such amount shall be a charge upon such land, notwithstanding any change in the ownership thereof, or of any part thereof."

Amendment of section 131.

Cost of fencing to be a charge on the land.

15. Section 136 of the principal Act is amended by substituting the words "one to five" for the words "one-half to one" in the seventh line thereof.

Amendment of section 136.

Batter in case of excavation near street.

16. Section 138 of the principal Act is amended by inserting after the word "house" in the seventh line thereof, the words "or on the front gate of the premises or such other fixture thereon as is approved by the Council or the Surveyor."

Amendment of section 138.

Position of number assigned to a house.

17. Any

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How amounts due for paving footways may be recovered.

17. Any sum payable by any person pursuant to section 142, section 143, or section 152 of the principal Act may be recovered by the Council by action, or by any process by which rates in arrear may be recovered; and, until fully paid or recovered, such sum shall be a charge upon the land by virtue of the ownership or occupation whereof such sum became payable, notwithstanding any change in the ownership thereof, or of any part thereof.

Amendment of sections 153 and 154.

18. Sections 153 and 154 of the principal Act are amended so as to read as follows:—

No plan of land in a Municipality to be deposited without certificate of approval.

153. (1) Notwithstanding the provisions of the Real Property Act—

(a) no map or plan of any land situated within a Municipality, dividing such land into allotments or otherwise, or showing any street, road, or right of way, or intended street, road, or right of way, over such land or any part thereof; and

(b) no map or plan subdividing any land already so divided or part thereof, or showing any street, road, or right of way, or intended street, road, or right of way, over such land or part, or over any part thereof,

shall be deposited in the Lands Titles Registration Office, or in the General Registry Office, unless such map or plan has been certified as approved by the Surveyor-General, or by some other person authorised by the Minister in that behalf, nor, in any case in which the certificate of the Surveyor-General or such person is expressed as subject to the condition that the positions of prescribed permanent marks shall be shown thereon, unless on such map or plan there are shown the positions of permanent marks, as points of reference for the purpose of defining the alignments, fixed at such points as are prescribed by regulations made under this Act.

How certificate of approval obtained.

154. (1) Every such map or plan as mentioned in section 153 shall be submitted in duplicate by the person desiring to deposit the same, to the Council of the Municipality in which the land is situated.

(2) The Council shall, within twenty-eight days, consider such map or plan and forward the same in duplicate to the Surveyor-General, with a memorandum under the hand of the Mayor and Clerk, stating whether the Council have or have not any objections to the map or plan, and (if any) the nature of such objections.

(3) If the Council have no such objection, the Surveyor-General, or some person to be authorised by the Minister in that behalf, shall certify the map or plan as approved, and shall return one part thereof to the Council.

(4) If

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(4) If the Council have any such objection, the Surveyor-General shall submit the same, with the map or plan, to the Minister, who may either confirm the objection or overrule the same, in which latter case the Surveyor-General or authorised person shall certify the plan as approved.

(5) If the Minister confirms the objection, he may at any time review his decision, and vary the same if he sees fit.

(6) Notwithstanding anything in this section, the Surveyor-General, or the person authorised as aforesaid, may, in certifying the map or plan, express his certificate as subject to the condition that the positions of prescribed permanent marks shall be shown thereon.

(7) The Registrar-General shall have power to permit the correction of any errors which have been proved to his satisfaction to have been made in any such map or plan which has been or is hereafter deposited in the Lands Titles Registration Office or the General Registry Office.

Correction of errors.  
Cf. D C. Amendment  
Act, 1904, sec. 3.

(8) In making such corrections the original map or plan shall not be altered, but the corrections shall be made by means of a new map or plan, certified to by a licensed surveyor.

(9) Such new map or plan shall be deposited and attached to the original map or plan, and shall show the required corrections.

**19.** (1) When a map or plan of any land is submitted to a Council under section 154 of the principal Act, and such land is bounded or partly bounded on any side by a strip of land, which strip is—

Strips of land on  
boundaries of land  
comprised in plans  
submitted for deposit.

(a) less than ten feet in width, and

(b) abuts on any public street, road, or right of way,

it shall not be incumbent on the Council to forward such map or plan to the Surveyor-General as required by the said section 154, unless the person submitting it, if the Council by notice in writing requires him so to do, has either—

- i. procured such strip, or the portion or portions thereof specified in such notice, to be vested in the Council in fee simple without any cost to the Council, or
- ii. paid to the Council, or given security to the satisfaction of the Council for the payment of, the amount of the compensation to be paid by the Council upon taking such strip or portion or portions, pursuant to subsection (2) hereof, and the costs of and incidental to the taking thereof, and of all proceedings connected therewith.

(2) When

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(2) When a Council has given notice under subsection (1) hereof with respect to a strip of land, and the person submitting the map or plan has not within one month after the giving of such notice procured such strip, or the portion or portions thereof specified in such notice, to be vested in the Council in fee simple, the Council—

(a) shall take such strip, or portion or portions, in fee simple, and shall make to the owners of, and all persons interested in, the strip or portion or portions so taken, full compensation for the value thereof, and

(b) may recover the amount of such compensation and the costs of and incidental to the taking of such strip, or portion or portions, and of all proceedings connected therewith, from the person who submitted such map or plan, unless he has already made payment thereof or given security therefor as mentioned in subdivision II. of subsection (1) hereof.

Sections 299 and 300 of the principal Act, but not the preceding provisions of Part XII. of that Act, shall apply for the purposes of such taking and compensation, and all things incidental thereto or connected therewith.

(3) When a map or plan of any land is submitted to a Council under section 154 of the principal Act, it shall not be incumbent upon the Council to forward it to the Surveyor-General, as required by that section, unless the person submitting it, if the Council by notice in writing requires him so to do, has made a declaration that the land comprised in such map or plan is not bounded or partly bounded, on any side, by a strip of land less than ten feet in width and under the same ownership as the land, or any part of the land, so comprised.

How permanent  
survey marks to be  
made.

**20.** Permanent marks, for defining alignments, fixed under or for the purposes of any provision of the principal Act or any amendment thereof, shall be constructed of materials prescribed by regulations made by the Governor under the principal Act, and shall be fixed in manner so prescribed.

Amendment of  
section 222.

Assessment of pastoral  
or agricultural land.

**21.** Section 222 of the principal Act is amended by substituting the word "five" for the words "two and a half" in the last line but one thereof.

Amendment of section  
232.

Decision of Local  
Court on assessment  
appeal to be final,  
subject to power  
to state cases for  
Supreme Court.

**22.** Section 232 of the principal Act is amended by striking out the words "and the decision of such Local Court shall be final," and it is hereby enacted as follows:—

(1) The decision of the Local Court on any appeal under Part VIII. of the principal Act shall be final: Provided that such Court may, if it thinks fit, at any stage of the appeal, and upon such terms as it thinks fit, state a case for the opinion of the Supreme Court upon any question which, in the opinion of such Local Court, is a question of law.

(2) The

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(2) The Supreme Court shall deal with such special case according to the practice of the Supreme Court on special cases, and may make such order therein, including any order as to the costs of the proceedings in that Court and in the Court below, as to the Supreme Court appears just.

(3) The Supreme Court may send the special case back for amendment, or may itself amend the same.

(4) The Local Court shall make an order in respect of the matters referred to the Supreme Court, in conformity with the certificate of the Supreme Court or a Judge thereof.

**23.** Section 238 of the principal Act is amended—

- i. by inserting the words “and Sixpence” after the word “Shilling” in the sixth line thereof; and
- ii. by adding at the end thereof the following new subdivision, namely:—

If “The Fire Brigades Act, 1913,” does not apply in the Municipality, a rate, not exceeding Threepence in the Pound in any one year, to defray the cost of the upkeep of any volunteer fire brigade which is registered under that Act.

Amendment of section 238.

Increase of maximum for general rate and power to levy fire brigade rate.

**24.** (1) Where the moneys collected in respect of a rate declared by a Council for general purposes are not wholly expended during the year for which such rate was declared, the unexpended balance of such moneys may be expended by such Council after such year for the general purposes of the principal Act and the Acts incorporated therewith.

How unexpended balance of rates may be used.

(2) Subject to any express provision to the contrary contained in any Act incorporated herewith or in any other Act, when the moneys collected in respect of a rate declared by a Council for any specific purpose are not wholly expended upon such purpose during the year for which such rate was declared, the unexpended balance of such moneys may be expended by such Council after such year for the said purpose, or for the general purposes of the principal Act and the Acts incorporated therewith.

(3) In this section the term “year” means financial year of the Council.

**25.** The following amendments are made in the principal Act and “The Municipal Corporations Amendment Act 1903,” namely:—

Amendment of sections of principal Act and Act No. 833 of 1903 as to debentures to secure loans.

(1) Section 272 of the principal Act is amended by adding thereto the following provision—

Notwithstanding anything in this Act, in case, by the accumulation of the proceeds of such special or separate rate and the interest thereon, a sum sufficient to discharge such

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such loan is obtained before the discharge thereof is due, the Council may, with the approval of the Minister and upon investing such sum in a manner to be approved by him (if not already so invested), discontinue the levying of such rate: Provided that—

- i. If, by any means, the investments of such sum (with the interest thereon added thereto), afterwards become insufficient for the discharge of such loan, the Minister may, and if thereunto required by any of the debenture holders shall, by notice in writing to the Council, require it to resume the levying of such rate for the period mentioned in such notice, and the Council shall levy the rate as so required:
- ii. Upon the appointment, on the application of any of the debenture or coupon holders, of a receiver under section 280, such rate shall, notwithstanding that the levying thereof has been discontinued under the foregoing provisions of this section and without the need of any requisition by the Minister, again be levied; and such receiver shall have the same powers in respect thereof as if the levying thereof had not been discontinued.

(2) Section 273 of the principal Act is amended by substituting, for the word “and” in the third line thereof, the following passage:—

“or, if the principal, with interest thereon, is repayable by periodical instalments, then to the payment of such instalments, and, in either case,”

(3) Section 274 of the principal Act is amended—

(a) by inserting, after the word “shall” in the first line of subsection (3) thereof, the words “except in such cases as mentioned in subsection (4) hereof”:

(b) by adding, at the end of the section, the following subsection:—

(4) In case the principal of any money borrowed under this section, with interest thereon, is made repayable by periodical instalments, the Council shall, from time to time and in the first instance, appropriate to the payment of such instalments such amounts of the rates on which such money has been borrowed as may be necessary for that purpose.

(4) Section 275 of the principal Act is amended so as to read as follows:—

275. (1) The debentures to be issued by the Council shall be under the corporate seal, and shall be in the form given in the Eighth Schedule hereto, subject to such



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such variations as may be necessary where the loan with interest thereon, is repayable by periodical instalments; and the coupons or vouchers for interest or for periodical instalments (according to the circumstances of the case), shall be annexed to such debentures, and, subject as aforesaid, shall be in the form given in the same Schedule.

(2) A register of all debentures issued shall be kept at the town office, and shall remain open for the inspection of ratepayers at all reasonable hours.

(5) Section 276 of the principal Act is amended by inserting, after the word “time” in the third line thereof, the words “or respective times”.

(6) Section 278 of the principal Act is amended so as to read as follows:—

278. The bearers for the time being of the debentures and coupons issued to secure the repayment of a loan raised pursuant to an order or resolution (as the case may be) of the Council, shall, in proportion to the amounts thereof, be creditors on the rates in respect of which such debentures were issued equally one with another, and shall have preference over the bearers of any debentures or coupons issued to secure the repayment of any loan raised pursuant to a subsequent order or resolution of the Council.

The amendment hereby made of the said section 278 shall not in any way affect the rights of the holders of debentures or coupons issued to secure the repayment of a loan raised pursuant to an order or resolution of a Council made before the passing of this Act; nor shall the making of the said amendment be regarded as any indication as to the true interpretation of said section 278 as passed in the principal Act.

(7) Section 279 of the principal Act is amended by inserting, after the word “aforesaid” in the fourth line thereof, the passage “(where required)”.

(8) Section 13 of “The Municipal Corporations Amendment Act, 1903,” is amended—

(a) by inserting, at the end of subdivision ii. thereof, the following passage—“unless the principal, with interest thereon, is made repayable within such period by periodical instalments, in which case such sums as may be necessary for the payment of such instalments shall be set aside from time to time :”

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(b) by making subdivision iv. thereof read as follows—

iv. The Corporation shall appropriate the general rates, in the first instance, to the payment of interest on the debentures and the establishment of the sinking fund, or the payment of the periodical instalments (according to the circumstances of the case), and the interest on the sinking fund (if any) shall every half-year be added to the sinking fund.

Validation of debentures heretofore issued providing for payment by instalments.

**26.** Any debentures issued by a Corporation before the passing of this Act to secure the repayment of a loan, whether such debentures were issued on the security of the general rates or of any special or separate rates, are, notwithstanding that under such debentures the principal, with the interest thereon, is payable by periodical instalments, hereby declared to be as valid and of the same effect as if this Act had been passed before they were issued.

Council may widen streets, and, for that purpose, proceed under Part XII. of the principal Act. Cf. D.C. Act, 1887, s. 108.

**27.** Any Council may, in all cases where it deems it expedient, widen any of the public streets, or any parts of the public streets, within its Municipality, and the widening thereof shall, within the meaning and for the purposes of Parts XI. and XII. and any other provisions of the principal Act, be deemed to be a work or undertaking which such Council is by the principal Act authorised to execute, and shall be deemed to be a permanent work or undertaking within the meaning and for the purposes of Division II. of Part III. of “The Municipal Corporations Amendment Act, 1903.”

No. 833 of 1903.

Amendment of section 337.

**28.** Section 337 of the principal Act is amended so as to read as follows :

Facilities for testing validity of by-laws.

337. (1) Any person who desires to dispute the validity of any by-law made or purporting to be made under this Act or any other Act relating to Municipal Corporations may apply to the Supreme Court, upon an affidavit setting out the facts, for a rule calling upon the Council concerned to show cause why such by-law should not be quashed, either wholly or in part, for illegality.

(2) The Court may make the said rule absolute or discharge it with or without costs, as to the Court seems fit.

(3) No such rule to show cause shall be drawn up until such person has paid into Court the sum of Fifteen Pounds, or such smaller sum as the Court or a Judge thereof directs, as security for the costs of the proceedings.

(4) No such by-law shall be challenged or disputed in any other manner.

Amendment of Second Schedule to the principal Act. Forms of nomination.

**29.** The forms in the Second Schedule to the principal Act are hereby repealed, and the forms in the First Schedule to this Act are hereby substituted in the said Second Schedule for the forms so repealed.

**30.** Section

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**30.** Section 13 of “The Municipal Corporations Amendment Act, 1903,” is amended—

Amendment of section 13 of Act No. 833 of 1903.

i. by inserting the words “and Sixpence” after the word “Shilling” in paragraph i. thereof:

Limits of borrowing power.

ii. by substituting the words “Fourpence Half-penny” for the words “Three Pence” in paragraph iii. thereof.

**31.** Section 14 of “The Municipal Corporations Amendment Act, 1903,” is amended by inserting at the end of subdivision i. thereof the words “and the re-making of footways with asphalt, cement, tarred metal, or other material.”

Amendment of section 14 of Act No. 833 of 1903.

Permanent works and undertakings.

**32.** Sections 20 and 22 of “The Municipal Corporations Amendment Act, 1903,” are hereby repealed.

Repeal of sections 20 and 22 of Act 833 of 1903.

Noxious weeds.

**33.** Section 10 of “The Municipal Corporations Amendment Act, 1903,” is amended by adding at the end thereof the following words:—“or by any process by which rates in arrear may be recovered, and until fully paid or recovered the amount of such expenses shall be a charge upon such land, notwithstanding any change in the ownership thereof, or of any part thereof.”

Amendment of section 10 of Act 833, of 1903.

Cost of fencing to be a charge on the land.

**34.** (1) Subdivision v. (a) of section 23 of “The Municipal Corporations Amendment Act, 1903,” is amended so as to read as follows:—

Amendment of section 23 of Act 833 of 1903.

By-laws as to motor vehicles.

v. (a) For appointing the stands for motor vehicles plying for hire, and regulating the conduct of the drivers, conductors, and other persons attendant thereon or in charge thereof, and the amount of fares to be charged.

(2) Subdivision v. (c) of the said section 23 is repealed.

**35.** Parts III. and IV. of “The Local Government Act, 1910,” are hereby repealed, to the extent that they apply to Municipal Councils and within Municipalities: Provided that—

Parts III. and IV. of Act No. 1033 of 1910 repealed with regard to Municipal Councils.

i. any by-law heretofore made under the said Part III. shall, until repealed by the Council whereby the same was made, be of the same force and effect as if this Act had not been passed;

ii. the repeal of the said Parts shall not affect any right, obligation, liability, or penalty already created, existing, incurred, imposed, or liable to be imposed, nor alter the effect of the doing or omitting of anything before the passing of this Act; and

iii. any proceeding in respect of any such right, obligation, liability, or penalty may be carried on, or commenced and carried on, as if such repeal had not taken place.

**36.** (1) In

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Powers to make by-laws as to traffic, and as to licensing of motor vehicles and the size of such vehicles.

**36.** (1) In addition to the powers with respect to by-laws conferred by the Acts with which this Act is incorporated, every Municipal Council may make, amend, and repeal by-laws for the following purposes, namely:—

Passage of vehicles.  
L.G. Act, 1033, 1910,  
s. 26 i.

i. To regulate, control, or prohibit the passing or travelling in or along the streets and roads of all vehicles, or vehicles of any particular class, kind, or description:

Route of traffic.  
Ibid. ii. (altered).

ii. To fix the route to be taken by persons, riding, driving, or conducting any animal or vehicle, or animals or vehicles of particular kinds, or vehicles laden with particular classes, kinds, or descriptions of materials, or with loads exceeding a particular weight, or laden in any particular manner, in or along any street or road; and to prohibit persons from riding, driving, or conducting any animal or vehicle, or animals or vehicles of particular kinds, or vehicles laden as aforesaid, in or along any street or road, or in or along any street or road except on such route as is fixed as aforesaid:

Speed of traffic.

iii. To regulate the speed of vehicles (other than a motor vehicle) and horses along streets and roads; to regulate the traffic and the standing of vehicles and horses and other animals in streets and roads; and to prescribe where and under what conditions vehicles and horses and other animals may be allowed to stand in streets and roads:

Loading of coal, &c.  
1033, 1910, s. 26, iii.

iv. To regulate, control, or prohibit the loading and unloading of coal, coke, firewood, timber, lime, casks and barrels (whether empty or otherwise), and other like commodities, materials, and things on or across any footway, or path, or in any street or road:

Control of traffic.

v. To regulate or control horse, cycle, and vehicular traffic in streets and roads and intersections of streets and roads; and to regulate or control pedestrian traffic on streets, roads, and footways:

Hawking.  
1033, 1910, s. 26, iv.

vi. (a) To regulate the use of streets, roads, and public places by street hawkers and itinerant traders, with power to prohibit any such persons during particular hours from using any streets, roads, or public places:

(b) To appoint stands in streets, roads, and public places for street hawkers and itinerant traders, with power from time to time to abolish, enlarge, or diminish any such stands; to limit the space to be occupied by each person on any such stand, and the number of persons who may occupy any particular stand:

(c) To fix the charges to be paid for the right to use such stands, with power to vary the charges according to the stand used, and from time to time to increase or decrease

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decrease such charges; and to fix the conditions upon which such stands shall be occupied, and the times during which they may be occupied:

- (d) To fix by priority of application, or by lot, tender, or otherwise, the positions on any such stand which persons are to occupy:
- (e) To make rules to be observed by persons occupying such stands:
- (f) To limit the nature and size of handtrucks, barrows, or other vehicles to be used on such stands; and to prohibit any animal, whether attached to any truck, barrow, or vehicle, or not, from standing on any such stand during the time fixed for occupation thereof by street hawkers and itinerant traders:
- (g) To provide the form of authority to be issued for occupying such stands, the conditions upon which such authorities are issued and under which they will be permitted to be transferred; to fix the fee to be paid for a transfer of any such authority; and to prohibit any person who is neither named in such an authority nor a permitted transferee of such an authority from occupying any such stand:

VII. For the licensing for use within the Municipality of motor vehicles plying for hire, or kept or let for hire, and for prohibiting the use thereof within the Municipality unless so licensed; and for licensing and regulating the conduct of the drivers of such motor vehicles, and for prohibiting the driving thereof within the Municipality, except by a person so licensed; and for fixing the fees to be paid for such licences respectively:

Motor vehicles used for hire.

VIII. For preventing or regulating, and for fixing the route to be taken in the case of, the riding, driving, or conducting of animals or vehicles, or animals or vehicles of particular kinds, on any park lands or reserves in the Municipality:

Traffic over park lands and reserves.

IX. For prohibiting the driving of cattle and sheep in or along specified roads or streets in the Municipality.

Traffic of livestock.

(2) Any by-laws made under the powers conferred by this section may be made to apply—

Application of such by-laws.  
Ibid., s. 27.

- (a) either generally, or except under specified conditions;
- (b) either at all times, or on specified days, or during specified times of all days or of specified days; and
- (c) either to all streets and roads or to any specified streets and roads or parts of specified streets and roads,

and unless otherwise provided or clearly intended shall apply generally, and at all times, and to all streets and roads and to the whole thereof.

(3) The

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Provisions of principal Act as to making and effect of by-law to apply.

(3) The provisions contained in "The Municipal Corporations Act, 1890," relating to by-laws and to the making and effect thereof shall apply to all by-laws made under the powers conferred by this section, and to the making and effect thereof.

No. 3 of 1863.

(4) Nothing contained in the "Licensed Hawkers Act, 1863," or any amendment thereof, or in section 37 of "The Municipal Corporations Amendment Act, 1903," shall affect the validity of any by-law made under the power conferred by subdivision VI. of subsection (1) hereof.

No. 833 of 1903.

No. 938 of 1907.

(5) Nothing contained in "The Motor Vehicles Act, 1907," shall affect the validity of any by-law made under the power conferred by subdivision VII. of subsection (1) hereof.

Validation of by-laws with minimum penalty.

**37.** No by-law heretofore or hereafter made by any Municipal Council shall be held to be invalid by reason only that it fixes a minimum as well as a maximum penalty, or a maximum penalty only, or a general maximum penalty applicable to several by-laws, provided in all cases that the maximum penalty so fixed does not exceed Ten Pounds.

Hospital not to be established without notice to Council.  
Act 1033, 1910, s. 31.  
No. 711 of 1898.

**38.** (1) No person shall establish a hospital or other institution (in this section called a "hospital") for the treatment of consumption or any infectious disease within the meaning of "The Health Act, 1898," at any place within a Municipality, until after the expiration of three months from his giving to the Council of such Municipality a notice stating—

- I. the intention to establish the hospital ;
- II. the proposed site thereof ;
- III. the purpose for which the hospital is to be used ; and
- IV. the name and address for service of the person intending to establish the hospital.

Petition by Council to the Governor.  
Ibid. s. 32.

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

The Governor may prohibit the hospital.

(3) Within three months after the receipt of such notice by the Council the Governor may, if he is of opinion that the existence of the proposed hospital would be likely to be injurious to the health or welfare of the inhabitants in the neighborhood of the proposed hospital, prohibit the establishment thereof by notice served on the person named in the notice under subsection (1) hereof. Such notice by the Governor shall be deemed to be duly served on the said person if served on him personally or left at the address for service stated in the notice under subsection (1) hereof.

If established contrary to Act deemed an "insanitary condition."  
Ibid., s. 33.

(4) If any person establishes a hospital contrary to the provisions of subsection (1) hereof, or after the service on him of a notice under subsection (3) hereof, such hospital shall be deemed to be a condition

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condition which the Local Board of Health of the Municipality has declared to be an insanitary condition; and the same consequences shall ensue, and the same proceedings may be taken under "The Health Act, 1898," as if it had been so declared an insanitary condition. No. 711 of 1898.

**39. (1) When—**

(a) any portion of any road within any Municipality, or under the care, control, or management of any Municipal Corporation, is opened or broken up, or any work is done thereon or thereto, by any person, company, or body corporate under the authority of any Act, and

(b) such road is not restored, or such work is not completed and the road restored, within twenty-four hours from the time of commencing such opening or breaking up or such work—

Works on roads under statutory powers to be carried out continuously until completed.

such person, company, or body corporate, if so required by the road authority by notice in writing, shall continuously, by means of shifts of workmen, working at least sixteen hours in every twenty-four hours (Sundays and public holidays excepted), carry on such opening or breaking up and the work for which such opening or breaking up is done, or carry on the work to be done on or to such road, as the case may be, and, in either case, also carry on the work of restoring such road, until such work and the restoration of the road are completed.

(2) Any person, company, or body corporate who or which fails to comply with the requirements of this section shall be liable to a penalty not exceeding Fifty Pounds, and to a further penalty not exceeding Twenty Pounds for every day after the first upon which the default exists.

(3) It shall be a sufficient defence to any proceedings under this section to show that the failure to comply with the requirements of this section was occasioned by shortage of suitable labor, provided that it is also shown that the defendant adopted all reasonable means to procure sufficient suitable labor.

(4) This section shall apply only with respect to a road, or portion of road, declared by the road authority, by notice made with the approval in writing of the Minister and published in the *Government Gazette*, to be within the application of this section.

(5) In this section the term "road authority" has the same meaning as in section 40 of this Act.

(6) This section shall not apply in the case of any portion of road opened or broken up, or on or to which any work is done, by the Municipal Tramways Trust under the powers conferred by "The Municipal Tramways Trust Act, 1906," or any Act incorporated therewith. No. 913 of 1906.

**40. (1) In**

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Final reinstatement of streets opened under statutory authority to be effected by Corporation at cost of person opening same.

**40.** (1) In all cases in which any portion of any road within any Municipality, or under the care, control, or management of any Municipal Corporation, is opened or broken up by any person, company, or body corporate under the authority of any Act, the final reinstatement of the portion of the road so opened or broken up may be effected by the road authority at the cost of such person, company, or body corporate, anything in any Act to the contrary notwithstanding: Provided that the road authority shall not commence such final reinstatement unless—

- (a) the road authority has given such person, company, or body corporate notice in writing stating in what respects the restoration of such portion of road is, in its opinion, defective, and
- (b) such person, company, or body corporate has not, within the time, not being less than seven days, stated in such notice, remedied the defects stated therein to the satisfaction of the road authority.

Notice of restoration.

(2) Not later than twenty-four hours after any portion of any road which has been opened or broken up as mentioned in subsection (1) hereof, has been restored, the person, company, or body corporate who or which opened or broke up the same shall give notice in writing of such restoration to the road authority, and in default thereof shall be liable to a penalty not exceeding Ten Pounds.

Recovery of cost of final reinstatement.

(3) The cost of the final reinstatement of any portion of any road opened or broken up as mentioned in subsection (1) hereof shall be recoverable by the road authority from the person, company, or body corporate who or which opened or broke up the same by action in any Court of competent jurisdiction, or in a summary way before any two or more Justices of the Peace.

Interpretation.

(4) In this section—

- (a) “road” includes any public street, road, footway, foot-crossing, passage, or other way:
- (b) “final reinstatement” means the making good of any faulty or insufficient work done by any person, company, or body corporate in the restoration of the portion of the road opened or broken up, and in making good any adjoining portions of the road damaged by or in consequence of the opening or breaking up, and the filling up or making good of any depression or subsidence in the said portion or any such adjoining portion which may be discovered or happen at any time within twelve months from such restoration:
- (c) “road authority” means the Corporation of the Municipality wherein the road is situated, or the Corporation having the care, control, and management of the road.

(5) This



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(5) This section shall not apply in the case of any portion of road opened or broken up by the Municipal Tramways Trust under the powers conferred by "The Municipal Tramways Trust Act, 1906," or any Act incorporated therewith.

No. 913 of 1906.

**41.** (1) In all cases where any water main or pipe, gas main or pipe, electric cable, or other work or thing has heretofore been or is hereafter laid under, on, or above the surface of any road under any power or duty conferred or imposed by any Act, and by or in consequence of the bursting, explosion, or fusion of such main, pipe, cable, work, or thing, or any other occurrence connected therewith, any damage is caused to such road, the road authority may make good the whole of such damage, and may recover the cost thereof from the person, company, or body corporate having control of or owning such main, pipe, cable, work, or thing by action in any Court of competent jurisdiction, or in a summary way before any two or more Justices of the Peace.

Damages caused by  
works constructed  
under statutory  
authority.

(2) In this section the term "road" and "road authority" respectively have the same meanings as in section 40 of this Act.

**42.** (1) If from any premises other than a private dwelling-house black smoke or any fumes or gases are sent forth in such quantity as to be a nuisance the owner or occupier of the premises shall be liable to a penalty not exceeding Five Pounds, and on a second conviction to a penalty not exceeding Ten Pounds, and on each subsequent conviction to a penalty not exceeding twice the amount of the maximum penalty which might have been imposed on the last preceding conviction.

Black smoke, fumes,  
and gases from  
premises other than  
dwelling-houses  
declared nuisances.  
Public Health  
(London) Act, 54 and  
55 Vic., c. 76, s. 24.

(2) In any proceedings under this section it shall be a sufficient defence to show—

- (a) that the defendant, at all times material to the alleged offence, has, in connection with the premises in question, made use of any means generally recognised as sufficient, having regard to the nature of the manufacture or trade carried on upon such premises, and to the character of the locality, for preventing the emission of black smoke, or such fumes or gases, or carried out the reasonable requirements of the Council for preventing the emission thereof, or
- (b) that the Council, after being requested in writing so to do by the defendant, has not made known to him its requirements for preventing the emission of black smoke, or such fumes or gases, from the premises in question.

Defence in proceed-  
ings.

(3) In proceedings under this section—

- (a) it shall not be necessary to prove that the smoke, or fumes, or gases sent forth are injurious to health; and
- (b) the premises from which the smoke, or fumes, or gases are sent forth shall be deemed not to be a private dwelling-house unless the contrary is shown.

Evidence in proceed-  
ings.

*The Municipal Corporations Act Amendment Act.—1914.*

Council to control foreshores, except where reserved by the Governor.

43. (1) Wherever any part of the foreshore of the sea, not being within a harbor within the meaning of Part II. of "The Harbors Act, 1913," is within a Municipality, such part of the foreshore shall be under the care, control, and management of the Council of such Municipality: Provided that the Governor may, by proclamation, reserve the whole or any part of such part of the foreshore for any purpose or purposes which the Governor deems expedient, and thereupon the part of the foreshore so reserved shall cease to be under the care, control, and management of the Council, and the Council shall not on account thereof have any claim for compensation.

With regard to foreshores in harbors.

(2) Wherever any part of the foreshore of the sea, being within a harbor within the meaning of Part II. of "The Harbors Act, 1913," is within a Municipality, and—

(a) has been used by the public for bathing, promenading, recreation, or similar purposes, or

(b) is naturally suitable for such purposes or any of them,

the Governor may, notwithstanding anything contained in the said Harbors Act, by proclamation, place such part of the foreshore under the care, control, and management of the Council of such Municipality: Provided that the Governor may afterwards, by proclamation, reserve the whole or any part of such part of the foreshore for any purpose or purposes which the Governor deems expedient, and thereupon the part of the foreshore so reserved shall cease to be under the care, control, and management of the Council, and the Council shall not on account thereof have any claim for compensation.

Powers to make by-laws as to foreshores.

(3) In addition to the powers with respect to by-laws conferred by Acts with which this Act is incorporated, every Council may make, amend, and repeal by-laws, with respect to any portion of the foreshore, which is under its care, control, and management, for all or any of the following purposes:—

(a) For regulating, controlling, or prohibiting the use or occupation thereof by any person:

(b) For regulating, controlling, or prohibiting the removal of sand, shells, seaweed, or other material therefrom:

(c) For fixing and regulating the collection of fees to be paid for licences to use or occupy the same, or to remove sand, shells, seaweed, or other material therefrom:

Provided that, with respect to any part of the foreshore within the specific or the general description contained in the Second Schedule to this Act, a by-law made by a Council—

i. shall have no effect unless such by-law has been approved in writing by the South Australian Harbors Board, and the Board's approval has been published in the *Government Gazette*:

ii. may, from time to time, be altered or repealed by the Governor, by proclamation.

(4) The

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(4) The provisions contained in "The Municipal Corporations Act, 1890," relating to by-laws and to the making and effect thereof, shall apply to all by-laws made under the powers conferred by this section, and to the making and effect thereof.

Provisions of principal Act as to making and effect of by-laws to apply.

(5) With respect to any part of the foreshore within the specific or the general description contained in the Second Schedule to this Act, no Council shall—

Use of certain parts of foreshores.

(a) erect, or suffer or permit to be erected thereon, any permanent structure :

(b) remove, or suffer or permit to be removed, or issue or permit to be issued any licence to remove, any sand, shells, seaweed, or other material therefrom :

(c) do, or suffer or permit to be done, or issue or permit to be issued any licence to do, any act, matter or thing whereby the surface of the foreshore may be in any way altered to the prejudice of the South Australian Harbors Board or of the discharge or exercise of any of the duties, powers, or authorities, or the jurisdiction, of the said Board,

without having first obtained the consent, in writing, of the said Board.

(6) If any rents, licence fees, or other moneys are received by a Council—

Application of revenue from foreshores.

(a) for the use or occupation of any foreshore, or any part thereof ;

(b) for the right to sell any articles or otherwise trade thereon ;

(c) for the right to remove sand, shells, seaweed, or other material therefrom ; or

(d) for any other purpose connected therewith,

such Council shall apply the whole of the net revenue arising from such rents, fees, and moneys towards the supply and improvement of conveniences, utilities, and facilities on such foreshore for the use of the public: Provided that such Council may apply such (if any) part of such revenue as is approved by the Minister towards subsidizing sports or other amusements to be held on such foreshore.

44. The definition of the term "ratable property" contained in section 13 of "The Land Value Assessment Act, 1893," is amended by inserting the word "educational" after the word "religious" in subdivision III. thereof.

Amendment of section 13 of Act 573 of 1893. "Ratable property."

45. Section 18 of "The Land Value Assessment Act, 1893," is amended by striking out all the words after the word "ratepayers" in the third line thereof.

Amendment of section 18 of Act 573 of 1893. Copies of assessment-book.

46. (1) Subsection

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Amendment of section 3 of Act No. 1007 of 1910. Provisions where Council makes its own assessment under Land Value Assessment Act.

**46.** (1) Subsection (1) of section 3 of "The Land Value Assessment Act Amendment Act, 1910," is amended by adding the following proviso at the end thereof :

Provided also that the Council may, in any year, instead of causing a new assessment to be made, adopt any preceding assessment made under this section, with such (if any) alterations and additions as appear to be necessary; in which case, the adoption thereof as aforesaid shall be deemed to be the making of an assessment, and the Council shall, with the particular notice of the making of such assessment given to any person appearing in the assessment-book as the owner or occupier of any property which has been added to the assessment or in the assessment whereof any alteration has been made, give notice of the particulars of such addition or alteration: Provided nevertheless that the Council shall, once at least in every period of seven years, cause a new assessment to be made.

(2) Subsection (2) of the said section 3 is repealed, and in lieu thereof it is hereby enacted as follows:—

Notwithstanding anything contained in section 3 of "The Land Value Assessment Act Amendment Act, 1910," in any case where a Council makes its own assessment under the power conferred by that section, sections 223 and 224 of the principal Act shall apply for the purposes of making such assessment, and sections 231 to 237 inclusive of the principal Act and section 22 of this Act (instead of section 16 of "The Land Value Assessment Act, 1893") shall apply with respect to such assessment and appeals therefrom.

Rating power under Land Value Assessment Acts.

**47.** In a Municipality in which Part II. of "The Land Value Assessment Act, 1893," is in operation, if the amount in the Pound of the rates which the Council declares for any year for general purposes, or for any particular purpose, is not more than will produce a sum equal to that which could have been raised by rates for general purposes or for such particular purpose (as the case may be) declared by the Council on the last assessment made under the provisions of "The Municipal Corporations Act, 1890," with Twenty Pounds per centum added thereto, then it shall not be necessary, as required for compliance with sections 5 and 6 of "The Land Value Assessment Act Amendment Act, 1910," for an assessment to be made in such year under the provisions of "The Municipal Corporations Act, 1890," in order to determine what sum could, if the said Part II. were not in operation in such Municipality, be raised under "The Municipal Corporations Act, 1890," by a rate for general purposes or for such particular purpose (as the case may be) for the same year declared under the provisions of the last-mentioned Act.

Particulars of various rates under Land Value Assessment Acts need not be specified.

**48.** In a Municipality in which Part II. of "The Land Value Assessment Act, 1893," is in operation, it shall not be necessary to enter in the assessment-book, nor to specify in any notice sent

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sent to any person liable for payment of any rate or rates in addition to any general rate, particulars of the amount in the Pound of such general rate or of such other rate or rates, or of the respective amounts payable by him in respect thereof; but it shall be sufficient to enter in the assessment-book and to specify in such notice the aggregate amount in the Pound of the general and other rate or rates, taken together, to which such person is liable, and the aggregate amount payable by him in respect thereof.

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

H. L. GALWAY, Governor.

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THE SCHEDULES.

Sec. 10.

FIRST SCHEDULE.

MUNICIPALITY OF (a)

*Nomination of Mayor.*

Day fixed for Nominations (b)

I (c), No. (d) on the Citizens' Roll for (e) Ward  
 hereby propose, and I (f), No. (d) on the Citizens'  
 Roll for (e) Ward, hereby second, (g), No. (d)  
 on Citizens' Roll for (e) Ward, as a fit and proper person to be,  
 Mayor.

(g)

(h)

I consent to act if elected.

(i)

(a) Insert name of city or town. (b) Insert day fixed for nominations. (c) Insert Christian names and surname of proposer, and his place of residence, and his occupation. (d) Insert number on the Citizens' Roll then in force. (e) Insert name of Ward. (f) Insert Christian names and surname of seconder, and his place of residence, and his occupation. (g) Insert Christian names and surname of person nominated, and his place of residence, and his occupation. (h) Usual signature of proposer. (i) Usual signature of seconder. (j) Usual signature of person nominated.

NOTE.—In the case of the nomination of an alderman, the above form is to be used but substituting the word "alderman" for the word "mayor" wherever it occurs.

MUNICIPALITY OF (a)

*Nomination of Councillor for (b)*

Ward.

Day fixed for Nominations (c)

I (d), No. (e) on the Citizens' Roll for (f)  
 Ward, hereby propose, and I (f), No. (e) on the Citizens'  
 Roll for (f) Ward, hereby second, (h)  
 No. (e) on the Citizens' Roll for (f) Ward, as a fit and proper person  
 to be a Councillor for the abovenamed ward.

(h)

(i)

I consent to act if elected.

(j)

(a) Insert the name of city or town. (b) Insert name of ward. (c) Insert day fixed for nominations. (d) Insert Christian names and surname of proposer, and his place of residence, and his occupation. (e) Insert number on the Citizens' Roll then in force. (f) Insert name of Ward. (g) Insert Christian names and surname of seconder, and his place of residence, and his occupation. (h) Insert Christian names and surname of person nominated, and his place of residence, and his occupation. (i) Usual signature of proposer. (j) Usual signature of seconder. (k) Usual signature of person nominated.

MUNICIPALITY OF (a)

*Nomination of Auditor.*

Day fixed for Nominations (b)

I (c), No. (d) on the Citizens' Roll for (e)  
 Ward, hereby propose, and I (f), No. (d) on the Citizens'  
 Roll for (e) Ward, hereby second, (g) as  
 a fit and proper person to be an Auditor.

(h)

(i)

I consent to act if elected.

(j)

(a) Insert name of city or town. (b) Insert day fixed for nominations. (c) Insert Christian names and surname of proposer, and his place of residence, and his occupation. (d) Insert number on the Citizens' Roll then in force. (e) Insert name of Ward. (f) Insert Christian names and surname of seconder, and his place of residence, and his occupation. (g) Insert Christian names and surname of person nominated, and his place of residence, and his occupation. (h) Usual signature of proposer. (i) Usual signature of seconder. (j) Usual signature of person nominated.

SECOND

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*The Municipal Corporations Act Amendment Act.—1914.*

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## SECOND SCHEDULE.

Sec. 43

(a) That portion of the foreshore of Port Glenelg bounded by a line commencing at the south-west corner of closed road, as confirmed December 21st, 1911, west of the Wigley Reserve, hundred of Noarlunga, distant 150½ links west of the south-west corner of the said reserve; thence northerly and north-easterly along the western and north-western sides of the said closed road for 558 links and 125 links respectively; thence true north across the Patawalonga Creek to high-water mark on its northern shore, and north-westerly following the said high-water mark, and high-water mark on the sea coast, for a total distance from point of commencement of 13 chains; thence true west to low-water mark; thence southerly following the said low-water mark to its intersection with the production westerly of the southern side of the said closed road; and thence easterly by the said production to the point of commencement.

(b) At each jetty within or partly within any municipality, a strip of land bounded to seaward by the low-water mark, and being one chain in width measured equally one half to the left and one half to the right of the centre line of such jetty, or being the whole of the land under such jetty (whichever is the greater), and extending shorewards parallel to the centre line of such jetty and terminating at the extreme in-shore end of such jetty and of all structures connected therewith.