



ANNO DECIMO OCTAVO

GEORGI V REGIS.

A.D. 1927.

No. 1794.

An Act to amend the Sand Drift Act, 1923, and for other purposes.

[Assented to, November 2nd, 1927.]

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 "Sand Drift Act Amendment Act, 1927." Short titles.

(2) The Sand Drift Act, 1923 (which is hereinafter referred to as "the principal Act"), and this Act may be cited together as the "Sand Drift Acts, 1923 and 1927." No. 1598 of 1923.

2. Section 9 of the principal Act is amended—

(a) by inserting after the word "fallowed" in the third line thereof, the words "burnt over";

Amendment of principal Act, s. 9—
Prevention of sand drift.

(b) by inserting after the word "District" in the fifth line thereof the words "or whenever it appears to any Council that there exists on any land (not being Crown lands) which is not situated within any District but which abuts on a public road within or partly within the District of the Council, any sand which if such land is cleared, fallowed, burnt over, cultivated, or grazed is likely to drift on to, or to drift in greater quantities on to the said public road";

(c) by inserting after the word "fallowing" in the eighth line thereof the words "burning over";

(d) by

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(d) by striking out the passage “for every day on which any such requisition is not complied with, to a penalty not exceeding One Pound” in subsection (3) thereof and inserting in lieu thereof the words “to a penalty not exceeding Fifty Pounds”; and

(e) by adding at the end thereof the following subsection—

(4) If any such land is cleared, fallowed, burnt over, cultivated, or grazed contrary to any requirement of any such notice, and if, as a consequence of such clearing, fallowing, burning over, cultivating, or grazing, any sand drifts on to any public road, then the Council may remove the sand from the public road and the cost of the removal thereof shall be recoverable by the Council from the owner or occupier of the land in manner provided by Division III. of this Part for the recovery of amounts payable to the Council under this Part. In no case shall the amount recoverable under this subsection exceed the value of the said land at the time when the sand is removed as aforesaid.

Amendment of
principal Act, s. 13—
Consequential
amendment.

3. Section 13 of the principal Act is amended by inserting after the word “fallowed” in the fifth line thereof the words “burnt over”.

Amendment of
principal Act—
Power to exempt
land from operation
of Act.

4. Division III. of Part III. of the principal Act is amended by inserting therein the following section:—

13A. The Governor may by proclamation declare that Part III. of this Act shall not apply to any portion of the State specified in the proclamation and may by proclamation revoke or vary any such proclamation.

Amendment of
principal Act, s. 14—
Consequential
amendment.

5. Section 14 of the principal Act is amended by inserting after the word “fallowed” in the sixth line thereof the words “burnt over”.

Amendment of
principal Act, s. 17—
Recovery of costs
and expenses.

6. Subsection (1) of section 17 of the principal Act is amended by adding at the end thereof the words “and may be recovered by action in any Court of competent jurisdiction or in any manner provided in this Division”.

Amendment of
principal Act, s. 29—
Definitions.

7. Section 29 of the principal Act is amended—

(a) by striking out the words “application for relief under” in the third line thereof and by inserting in lieu thereof the words “notice pursuant to”; and

(b) by striking out the words “application for relief under” in the sixth line thereof and by inserting in lieu thereof the words “notice pursuant to”.

Amendment of
principal Act, s. 30—

8. Section 30 of the principal Act is repealed and the following sections are enacted in lieu thereof:—

Rights between
occupiers to prevent
sand drift.

30. (1) Whenever it appears to the occupier of any land that there exists on any other land (not being Crown lands) any sand

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sand which is drifting on to, or is likely to drift on to, or is likely to drift in greater quantities on to, his land, such occupier may with respect to such other land have and exercise the same rights, powers, discretions, and authorities as a Council has and may exercise under sections 8, 9, and 10 as if the land occupied by the applicant occupier were a public road.

(2) Any notice given by the applicant occupier under or pursuant to the said sections shall be in writing and in the prescribed form.

30A. (1) If the defendant occupier is of opinion that any requisition of such notice is unreasonable, he may within the prescribed time appeal to the Minister against such requisition by memorial, in the prescribed form, setting out the facts and the grounds of the appeal.

Appeal to Minister
against requisitions
of notice.

(2) Notice of such memorial and of the contents thereof shall be given by the defendant occupier to the applicant occupier, who shall be entitled to be heard on such appeal.

(3) The Minister shall hear and determine such appeal in such manner as he thinks just, and may for that purpose appoint any officer to hold an inquiry into the matter and make a report to him, and the Minister may act on such report.

(4) The Minister may uphold or disallow the appeal in whole or in part, and may vary the requisition appealed against in such manner and to such extent as he thinks just, and he shall give such directions as he thinks fit for carrying his determination into effect.

(5) Such determination shall be binding on the applicant occupier and the defendant occupier and shall not be liable to be called in question in any Court on any ground whatsoever.

(6) On the institution of any appeal as provided by this section, the operation of the notice containing the requisition appealed against shall be suspended.

9. Section 31 of the principal Act is amended by striking out the words "to the satisfaction of the Council or the Minister" in the second line thereof.

Amendment of
principal Act, s. 31—
Powers of owner.

10. Section 32 of the principal Act is amended—

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

(1) The cost and expense of complying with the requisitions of any notice given under section 30 shall be borne by the defendant occupier.

(b) by striking out the word "Half" in the first line of subsection (2) thereof.

Amendment of
principal Act, s. 32—
Cost of compliance
with notice.

11. Section

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Amendment of
principal Act, s. 33—
Action for nuisance.

11. Section 33 of the principal Act is amended by striking out the words “to the satisfaction of the Council or of the Minister” in the second and third lines thereof.

Amendment of
principal Act, s. 39—
Regulations.

12. Section 39 of the principal Act is amended—

(a) by inserting after the figures “12” in paragraph (d) thereof the passage “and section 30A”; and

(b) by striking out paragraph (e) thereof and inserting in lieu thereof the following paragraph:—

(e) prescribing the forms and contents of notices under section 30:

Amendment of
principal Act, s. 45—
Evidence of cost.

13. Section 45 of the principal Act is amended—

(a) by inserting after the word “by” in the second line thereof the words “a Council or”; and

(b) by inserting after the word “section” in the second line thereof the passage “9 or”.

Amendment of
principal Act, s. 47.
Informations.

14. Section 47 of the principal Act is amended by striking out the words “some other” in the second line thereof, and by inserting in lieu thereof the words “by some”.

Amendment of
principal Act.

15. The principal Act is amended by inserting therein after section 47 thereof the following section:—

Facilitation of
proof.

47A. In any summary proceedings under this Act or in any proceedings for the recovery of any costs and expenses incurred by a Council or inspector under Part III. of this Act—

(a) the averment that a specified person was at a specified time the owner or occupier, as the case may be, of a specified piece of land shall be *prima facie* evidence that the said person was at the said time the owner or occupier, as the case may be, of the said piece of land:

(b) the averment that a specified piece of land was at a specified time situated within a specified District shall be *prima facie* evidence that the said land was at the said time situated within the said District:

(c) the averment that a specified piece of land was at a specified time not situated within a District shall be *prima facie* evidence that the said land was at the said time not situated within a District:

(d) the averment that a specified road was at a specified time a public road situated within or partly within a specified District shall be *prima facie* evidence that the said road was at the specified time a public road situated within or partly within the said District:

(e) proof

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- (e) proof that at a specified time an inspector inspected any specified land and was of opinion that there existed on the said land any sand which was drifting on to or was likely to drift on to or to drift in greater quantities on to any public road and that the inspector made a report to a specified Council or to the Minister of the existence of sand as aforesaid shall be conclusive proof that at the said time it appeared to the Council or Minister, as the case may be, that there existed on the said land sand that was drifting on to, or was likely to drift on to or to drift in greater quantities on to the said public road :
- (f) proof that at a specified time an inspector inspected any specified land and was of opinion that any requisition of any notice given pursuant to Part III. had not been complied with and that the inspector made a report to a specified Council or to the Minister of the non-compliance with the said requisition, shall be conclusive proof that at the said time the requisition of the said notice had not been complied with to the satisfaction of the Council or Minister, as the case may be :
- (g) proof that any land is separated from any public road by a fence shall be *prima facie* evidence that the said fence is erected on the boundary line separating the said land from the said public road.

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

TOM BRIDGES, Governor.