



ANNO DECIMO TERTIO

ELIZABETHAE II REGINAE

A.D. 1964

No. 51 of 1964

An Act to amend the Building Act, 1923-1953.

[Assented to 5th November, 1964.]

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 "Building Act Amendment Act, 1964". Short titles.

(2) The Building Act, 1923-1953, as amended by this Act, may be cited as the "Building Act, 1923-1964".

(3) The Building Act, 1923-1953, is hereinafter referred to as "the principal Act".

2. This Act is incorporated with the principal Act and that Incorporation. Act and this Act shall be read as one Act.

3. Section 3 of the principal Act is amended by inserting at the end thereof the following subsections:— Amendment of principal Act, s. 3— Application of Act.

(4) If the Governor makes a proclamation under subsection (2) of this section, the Governor may by the same or any subsequent proclamation declare that this Act or such portions of this Act as are specified in the proclamation, as the case may be, shall apply within the specified municipality or district or the specified portion thereof, as the case may be—

(a) only in respect of buildings of a kind or kinds specified in the proclamation; or

(b) in respect of all buildings other than those of a kind or kinds specified in the proclamation.

(5) Any such proclamation may so declare whether or not a petition has been received by the council of the municipality or district, and may be varied or revoked by a subsequent proclamation.

Enactment of ss. 9b and 9c of principal Act—

4. The following sections are inserted in the principal Act after section 9a thereof :—

Notice to cease unlawful construction, etc.

9b. (1) If an owner of land has commenced to erect construct add to alter or underpin a building on his land—

- (a) without the approval in writing of the council ; or
- (b) otherwise than in accordance with any plans drawings or specifications approved by the council,

the council may, by notice in writing to all or any of the following persons :—

- I. the owner of the land ; or
- II. a person carrying out or employed or engaged in carrying out the erection construction addition alteration or underpinning,

require him or them, as the case may be, to cease carrying out any such work.

(2) If any such person who has received a notice under subsection (1) of this section does not comply therewith, he shall be guilty of an offence and liable to a penalty not exceeding fifty pounds for each day during which he so defaults.

Unlawful construction, etc., council may require plans.

9c. (1) If an owner of land has commenced to erect construct add to alter or underpin a building on his land—

- (a) without the approval in writing of the council ; or
- (b) otherwise than in accordance with any plans drawings or specifications approved by the council,

the council may by notice in writing to the owner of the land require him to submit to the council a complete set of plans and working drawings of the work as required by subsection (1) of section 8 of this Act.

(2) If an owner who has received a notice under subsection (1) of this section does not comply therewith within seven days after receipt thereof, he shall be guilty of an offence and liable to a penalty not exceeding fifty pounds for each day (after the period of seven days) until he complies with the notice.

(3) A penalty under this section may be imposed upon an owner in addition to a penalty under section 9b of this Act.

5. Section 12 of the principal Act is amended by inserting at the end thereof the following subsections (the preceding part of the section being designated as subsection (1) thereof):—

Amendment of principal Act, s. 12—
Removal of stables unlawfully erected.

(2) If a person erects or constructs a stable or alters or converts a building to a stable and—

(a) the stable is less than twenty-five feet from a dwelling-house; or

(b) the stable is not constructed of brick stone or concrete or some other material approved by the council,

the surveyor may, by notice in writing under his hand, require the owner (or the occupier, if the owner is unknown or cannot be found) within a time specified in the notice to pull down and remove the stable.

(3) If any such owner or occupier does not within the time specified in the notice pull down and remove the stable, he shall be guilty of an offence and liable to a penalty not exceeding fifty pounds.

(4) Subsections (3), (4), (5) and (6) of section 85 of this Act shall, *mutatis mutandis*, extend in relation to any such stable.

(5) In this section, “stable” includes any building used or intended to be used for the shelter of horses or cattle.

6. Section 19 of the principal Act is amended—

(a) by inserting after the word “use” in paragraphs (a), (c), (e) and (f) of subsection (1) thereof the passage “, or permit to be used,” in each case; and

(b) by inserting therein after subsection (1) thereof the following subsections:—

(1a) Any such approval may be given subject to such conditions as the council thinks fit.

Amendment of principal Act, s. 19—
Rules as to conversion of buildings.

(1b) If a person who has obtained approval subject to conditions as provided by this section, fails to comply with any of those conditions, he shall be guilty of an offence against this Act.

Amendment of
principal Act,
s. 56—
Removal of
dilapidated and
neglected
buildings.

7. Section 56 of the principal Act is amended—

(a) by striking out all the words after the words “carry out” first occurring in subsection (2) thereof and inserting in lieu thereof the words “, to the satisfaction of the surveyor and within the time specified in the notice, the works specified in the notice for the purpose of rebuilding or repairing the structure” ;

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

(2a) If the owner of the structure disputes the necessity of any of the requisitions comprised in the notice he may, by notice in writing, within seven days from the service of the notice upon himself, require that the subject shall be referred for determination to the referees provided for in Part VIII of this Act.

(2b) If—

(a) the owner or occupier on whom the notice is served fails to comply with the notice or to take down the structure within the time specified in the notice ;
or

(b) where the subject is referred for determination to referees as provided by subsection (2a) of this section, the owner fails to comply with any award made pursuant to such reference,

the council may make complaint thereof before a justice, who shall thereupon issue a summons requiring the owner or occupier, as the case may be, to appear before a special magistrate or two justices to answer the complaint. If the said complaint is proved to the satisfaction of the magistrate or justices, he or they may order the owner to rebuild or repair, to the satisfaction of the surveyor, the structure within a time to be fixed by the order ; and if the same is not so rebuilt or repaired, or is not taken down, within the time so limited, the council may, with all convenient speed, cause the structure to be rebuilt or repaired, as the case may be, or to be taken down ; and

- (c) by striking out the words "Where the order directs the taking down of a neglected structure or any part thereof the council, in executing the order," in subsection (3) thereof and inserting in lieu thereof the words "Where a council takes down a neglected structure or any part thereof, the council".

8. Subsection (1) of section 82 of the principal Act is amended by inserting therein after paragraph (f) thereof the following paragraph :—

Amendment of principal Act, s. 82—
Power of council to make by-laws.

- (f1) The prohibiting, within localities defined by such by-laws, of the use of buildings or structures for any purpose specified in the by-law or otherwise than for the purposes specified in the by-law, but any such by-law shall not prevent—

(a) the use of a building or structure existing at the commencement of the by-law for any purpose for which it was used before that commencement ; or

(b) the alteration of or addition to any such existing building or structure for any such purpose.

9. Subsection (1) of section 83 of the principal Act is amended by inserting therein after paragraph (h) thereof the following paragraph :—

Amendment of principal Act, s. 83—
Governor may make regulations.

- (h1) in respect of any buildings to which this paragraph applies and of any class specified in the regulations, provision for parking vehicles on the allotments of land upon which the buildings are erected or constructed. This paragraph applies only to buildings erected or constructed pursuant to the approval of the council granted after the commencement of the regulations.

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

EDRIC BASTYAN, Governor.