

# THE MUNICIPAL TRAMWAYS TRUST ACT, 1935.

No. 2225 of 1935.

An Act to consolidate the law relating to the Municipal Tramways Trust.

[Assented to 28th November, 1935.]

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.

### INTRODUCTORY.

1. This Act may be cited as "The Municipal Tramways Trust Act, 1935."

Short title.  
Of. U.K.  
33 & 34  
Vict. c. 78.

2. This Act is divided into Parts as follows:—

Division into  
Parts.

PART I.—Introductory:

PART II.—The Municipal Tramways Trust:

PART III.—Electric Trams:

PART IV.—Motor Omnibuses:

PART V.—Financial:

PART VI.—Liability of Metropolitan Councils:

PART VII.—General Powers and Obligations:

PART VIII.—General Provisions:

PART IX.—Offences:

PART X.—Legal Procedure.

3. This Act is a consolidation of the Acts mentioned in the Schedule hereto and the said Acts are hereby repealed to the extent therein mentioned.

Repeal.

4. (1) The Chairman and all members of the Trust in office at the commencement of this Act under or by virtue

Saving  
clause.

of the said repealed Acts or any of them shall continue in and hold the said offices under and subject to the provisions of this Act.

(2) All lands, tenements, and hereditaments at the commencement of this Act vested in the Trust shall, subject to the provisions of this Act, continue to be vested in and be the property of the Trust.

(3) All other property belonging to the Trust at the commencement of this Act shall, subject as aforesaid, continue to be the property of the Trust.

(4) All by-laws of the Trust which are in force at the commencement of this Act shall continue in force as if they were by-laws made under this Act.

Interpreta-  
tion.

913, 1906,  
s. 3.  
1098, 1912,  
s. 3.  
1286, 1917,  
s. 3.  
1839, 1927,  
s. 4.  
1888, 1928,  
s. 4.

5. (1) In this Act, except where otherwise clearly intended—

“area” means municipality or district council district:

“Commissioner” means the Minister of the Crown for the time being performing the duties of Commissioner of Public Works of the State:

“carriage” includes any motor omnibus owned by the Trust:

“clerk” means town clerk or district clerk:

“councils of group ‘A’ ” means the councils of the corporations of the City of Port Adelaide, the Town of Kensington and Norwood, the City of Unley, the Town of St. Peters, the Town of Hindmarsh, the Town of Thebarton, the Town of Henley and Grange, the Town of Glenelg, and the Town of Brighton:

“councils of group ‘B’ ” means the council of the corporation of the city of Burnside; the district council of Campbelltown; the district council of Mitcham; the district council of Payneham; the district council of Walkerville; the district council of West Torrens; the district council of Enfield; the district council of Marion; the council of the corporation of the city of Prospect; and the council of the corporation of the town of Woodville:

“district” means a district as defined by “The Local Government Act, 1934”:

“general post office” means the General Post Office in Adelaide:

“motor omnibus” means any motor vehicle within the meaning of that term as defined in the Road Traffic Act, 1934, which plies for hire for the purposes of carrying passengers at separate and distinct fares for each passenger, and not in consideration of a lump sum paid for the use of the vehicle:

“member” means a member of the Trust:

“metropolitan councils” means the councils of groups “A” and “B” and the council of the corporation of the City of Adelaide:

“municipality” means a municipality as defined by the Local Government Act, 1934:

“prescribed” means prescribed by regulation made under this Act:

“present tram systems” includes the tramways and undertakings authorised by any Act mentioned in the Schedule:

“proclamation” means a Proclamation authorised by this Act and published in the *Gazette*:

“road authority” includes the municipal corporation, district council, or associated district councils, the Commissioner of Highways, or other body or person having authority with regard to the roads in the place in question:

“road” includes any highway, public or private street, and public road, and any part thereof, respectively:

“town clerk of Adelaide” includes any person for the time being performing the duties of Town Clerk of the Municipality of Adelaide:

“tramway” means a tramway belonging to the Trust:

“Treasurer” means the Minister of the Crown for the time being performing the duties of Treasurer of the said State:

“Trust” means the Municipal Tramways Trust created by The Municipal Tramways Trust Act, 1906, and continued under this Act and any person authorised by the Trust to do the particular matter.

(2) In the construction of any other Act or any regulation, by-law, debenture, or other instrument or document—

(a) any reference to the “suburban corporations” within the meaning of the Acts repealed by this Act shall be construed as a reference to the councils of group “A” within the meaning of this Act:

(b) any reference to the “district councils” within the meaning of the Acts repealed by this Act shall be construed as a reference to the councils of group “B” within the meaning of this Act:

(c) any reference to the “corporations” (where used to indicate the corporation of the City of Adelaide, the suburban corporations and the district councils within the meaning of the Acts repealed by this Act) shall be construed as a reference to the metropolitan councils within the meaning of this Act.

Penalties.  
913, 1906,  
s. 4.

6. Where a penalty or a term of imprisonment is mentioned in or at the foot of any section, any contravention of the section, whether by an act or omission, shall be an offence against this Act, punishable upon conviction by a penalty or a term of imprisonment not exceeding that mentioned.

General Tram-  
ways Act not  
incorporated.  
913, 1906,  
s. 5.

7. The General Tramways Act, 1884, is not incorporated with this Act.

## PART II.

## PART II.

### THE MUNICIPAL TRAMWAYS TRUST.

Continuation  
of the Trust.

8. The Trust called “The Municipal Tramways Trust” constituted under “The Municipal Tramways Trust Act, 1906,” is hereby continued subject to the provisions of this Act.

Its constitu-  
tion.  
913, 1906,  
s. 10.

9. The Trust shall consist of eight members, of whom two shall be appointed by the Governor, two by the corporation of the City of Adelaide, two by the councils of group “A” and two by the councils of group “B”.

10. (1) The members to be appointed by the corporation of the City of Adelaide shall be appointed by the council of such corporation by resolution of the majority of the members of that body present at a meeting convened and held for the purpose.

Method of  
appointing  
representatives  
of the Cor-  
poration of  
the City of  
Adelaide.  
913, 1906  
s. 11.

(2) Every such meeting shall be convened by advertisement, inserted at least three days prior to such meeting in two daily newspapers published in Adelaide.

(3) No person shall be so appointed who has not previously, by writing signed by him, signified to the Town Clerk of Adelaide his willingness to act as a member.

(4) Every appointment shall be certified in writing, under the common seal of the corporation of the City of Adelaide, delivered to the Commissioner.

(5) The Commissioner shall give notice of such appointment in the *Gazette*.

(6) The *Gazette* notifying such appointment shall be conclusive evidence that the same was duly made.

11. (1) The Governor may from time to time, by proclamation, direct the nomination on or before a day mentioned in the proclamation, of the number of members required to be appointed by the councils of groups "A" and "B" respectively.

Method of  
appointing  
representatives  
of the other  
councils.  
913, 1906,  
s. 12.

(2) Such day of nomination mentioned in the proclamation shall be a date at least fourteen days after the date of the proclamation.

(3) Thereupon every council of groups "A" and "B" may nominate a person or persons, not in excess of the number required, who have signified in writing to the clerk of such council their willingness to act as members. The nominations of every council shall be made by resolution of the majority of members present at a meeting of the council, convened and held for the purpose. Such resolution shall be certified in writing under the seal of the council, and delivered to the Commissioner within twenty-eight days from the publication of the proclamation.

(4) The Commissioner shall publish in the *Gazette* a notice, which shall state the names of the persons nominated respectively by the councils of groups "A" and "B" respectively, and shall, in the event of there being more nominations than the number of members required to be appointed by the

councils of those groups respectively, appoint a time and place for election of members to be appointed by the councils of group "A", and a time and place for election of members to be appointed by the councils of group "B", and a person to act as returning officer at each election.

(5) At the time and place appointed for election of members to be appointed by a group of councils, every member of a council of that group may attend and vote by ballot for the number of members required.

(6) Such ballots shall be taken in the prescribed manner.

(7) The persons to the required number for whom the highest number of votes are cast at any ballot shall be deemed to have been appointed members by the particular group of councils.

(8) If, by reason of an equal number of votes being cast for two or more persons at any ballot, the returning officer is unable to certify as provided in subsection (13) of this section that one or more particular candidate or candidates has or have been appointed a member or members—

(a) the names of the persons for whom an equal number of votes has been cast shall be notified in writing by the returning officer to the group of councils concerned:

(b) the returning officer shall, by writing, request each council of the group concerned to resolve which one or two, as the case may require, of such persons shall receive the vote of such council.

(9) Each council so requested shall, within fourteen days after receipt of such request, at a meeting convened and held for the purpose, resolve which one or two, as the case may require, of such persons shall receive the vote of such council.

(10) Within three days after such resolution, a certificate thereof, under the seal of the council, and the hand of the clerk thereof, shall be forwarded by the council to the returning officer.

(11) The person or the persons to the required number, as the case may be, who receive the highest number of votes of the particular group of councils, shall be deemed to have been appointed a member or members by that group of councils.

(12) If an equal number of votes by resolution have been given for two or more persons—

(a) the Commissioner shall have a casting vote, and shall notify the same to the returning officer in writing:

(b) the vote of the Commissioner shall be deemed a resolution of a council of the group concerned.

(13) The returning officer shall certify in writing to the Commissioner the names of the persons appointed members of the Trust under this section.

(14) The Commissioner shall notify the appointment in the *Gazette*.

(15) In any case where nominations of not more than the number of members required to be appointed by the councils of any group have been received by the Commissioner, he shall notify the appointment of the members so nominated in the *Gazette*.

(16) The *Gazette* containing a notification by the Commissioner of the appointment of a member or members by any group of councils, shall be conclusive evidence of such appointment.

(17) Every meeting of a council to be held in pursuance of this section shall be convened by advertisement, inserted at least three days prior to such meeting in two daily newspapers published in Adelaide.

12. (1) In any case where there has, in the opinion of the Commissioner, been unreasonable delay in the appointment of a member or members by the corporation of the City of Adelaide, or by a group of councils, the Commissioner may, on behalf of the delaying corporation, or councils, appoint the member or members.

Power of  
Commissioner  
to appoint  
members in  
case of  
unreasonable  
delay.  
913, 1906,  
s. 13.

(2) A member so appointed by the Commissioner shall be deemed to have been duly appointed by the corporation of the City of Adelaide, or a group of councils, according to the tenor of appointment by the Commissioner.

(3) The Commissioner shall notify such appointment in the *Gazette*, stating on whose behalf it has been made and the *Gazette* shall be conclusive evidence of such appointment.

Method of  
filling  
vacancies.  
913, 1906,  
s. 14.

13. (1) Where any vacancy occurs in the Trust it shall be filled up in manner hereinbefore provided, so far as applicable, by appointment by the Governor, the corporation of the City of Adelaide, or a group of councils, according to whether such vacancy has been caused in respect of a member appointed by the Governor, the corporation of the City of Adelaide, or a group of councils.

(2) A member appointed to fill any vacancy caused otherwise than pursuant to section 15 shall only hold office during the period for which his immediate predecessor would have held such office.

Term of office.  
913, 1906,  
s. 15.

14. Every member shall, subject as herein mentioned, be deemed to have been appointed for six years.

Retirements  
every three  
years.  
913, 1906,  
s. 16.

15. On the twenty-ninth day of January, nineteen hundred and thirty-seven, and thereafter at the end of every three years from the twenty-ninth day of January, nineteen hundred and thirty-seven, a member appointed by the Governor, the corporation of the City of Adelaide, the councils of groups "A" and "B", respectively, shall retire. As between the members appointed respectively by the Governor, the corporation of the City of Adelaide, and the councils of groups "A" and "B" respectively, the member to retire shall, subject to subsection (2) of section 13, be the one who has been longest in office since last appointed, and in case of equality in length such retirement shall be determined by lot.

Retiring  
member  
eligible for re-  
appointment.  
913, 1906,  
s. 17.

16. A retiring member shall be eligible for re-appointment.

Disqualifica-  
tion of  
member.  
913, 1906,  
s. 18.

17. No person shall be or continue a member who—

(a) holds any office or place of profit in the gift or disposal of the Trust:

(b) by himself, his partner, or otherwise, has any interest in any contract (except for advertisements or printing, or in respect of any lease, sale, or purchase of land, or the loan of money, or any security for the payment of money) with or employment under the Trust: Provided that no person shall be disqualified by being a proprietor, member, or shareholder, of or in any company incorporated under any Act of Parliament, or registered under any Act for registering joint



stock companies and limiting the liability of the members thereof, by reason of any contract entered into by such company with the Trust; but no member interested by himself, his partner, or otherwise, in any contract with the Trust, or being a proprietor, member, or shareholder of or in any such company, shall vote at any meeting of the Trust on any question relating to any contract in which such member or company is interested:

- (c) is an infant or undischarged bankrupt:
- (d) is a member of the Legislature, either at the time of appointment, or within six months prior thereto.

18. The office of a member shall be vacated in case of his—

Vacation of  
office.  
913, 1906.  
s. 19.

- (a) death, lunacy, bankruptcy, execution of a statutory deed of assignment for the benefit of creditors, composition with creditors for less than twenty shillings in the pound, or conviction for felony or misdemeanour:
- (b) absence without leave of the Trust from three consecutive ordinary meetings of the Trust, followed by resolution of the Trust declaring the office vacant, which resolution the Trust may pass, if it thinks fit, but not later than six weeks after the last of such three consecutive meetings:
- (c) absence from the State for three consecutive months without leave of the Trust:
- (d) disqualification as herein provided:
- (e) retirement by rotation as herein provided:
- (f) resignation by notice in writing delivered to the Trust: or
- (g) the judgment or order of any duly authorised court or justices declaring his office vacant.

19. The Trust may from time to time make, amend, add to, and annul regulations for or relating to—

Power of  
Trust to make  
regulations.  
913, 1906,  
s. 20.

- (a) the times and places of its meetings:
- (b) the conduct of its proceedings and business:

(c) the duties, control, supervision, and guidance of its officers and servants:

(d) the use of its common seal.

All such regulations shall be published in the *Gazette*; and the *Gazette* purporting to contain any such regulation, amendment, addition, or annulment shall be evidence thereof, and that it was duly made or effected.

Power to act  
notwithstanding  
vacancy.

913, 1906,  
s. 21.

**20.** The Trust may act notwithstanding a vacancy in its membership.

Quorum.

913, 1906,  
s. 22.

**21.** Any five members of the Trust shall form a quorum for the transaction of business.

Appointment  
of chairman.

913, 1906,  
s. 23.

**22.** The Governor shall, from time to time, appoint a member to be chairman of the Trust, and may revoke such appointment at pleasure. The chairman shall have a casting as well as a deliberative vote. When the chairman is absent from any meeting, the members present shall appoint one of their number to be chairman to act during such absence, and he shall preside and have a casting as well as a deliberative vote.

Payment to  
members of  
Trust.

913, 1906,  
s. 24.

**23.** (1) Each member of the Trust, other than the chairman, shall be paid out of the funds of the Trust, by way of remuneration for his services, the sum of one pound for each meeting he attends: Provided that no member, other than the chairman, shall be paid by the Trust more than seventy-eight pounds in any one year.

(2) The chairman shall be paid out of the funds of the Trust, by way of remuneration for his services, at the rate of two hundred and fifty pounds per annum.

(3) No person shall vacate any office or place in any municipal or district council, or become ineligible for any such office or place, or be in any way prejudiced or affected by reason merely of his holding office as member or chairman of the Trust, and receiving the remuneration hereby provided.

Incorporation  
of Trust.

913, 1906,  
s. 25.

**24.** The Trust shall continue to be a body corporate by the name of "The Municipal Tramways Trust," and shall have perpetual succession and a common seal.

Judicial  
notice of seal.

913, 1906,  
s. 26.

**25.** All courts, Judges, and persons acting judicially shall take judicial notice of such seal, and shall presume that it was properly affixed.

26. The Trust—

Special powers  
and duties  
as to pro-  
perty, officials,  
minutes, ac-  
counts, audi-  
tor, &c.

913, 1906,  
s. 27.

- (a) may, in its corporate name, acquire, hold, and alienate property, and sue and be sued in all courts, and be a party to arbitration:
- (b) may, from time to time, appoint or employ, at salaries or wages, officers and servants, as it thinks fit, and may remove and dismiss any officer or servant at pleasure; but this section shall not affect the rights of any person wrongfully removed or dismissed:
- (c) may delegate to any officer or servant any of its powers as it thinks fit, and may alter, vary, or revoke such delegation:
- (d) may do all such acts and things as are necessary or expedient for carrying out the purposes of this Act:
- (e) shall cause proper minutes or records of all its proceedings to be kept. Every minute or record purporting to be signed by the chairman or acting chairman of the Trust, and every document purporting to be certified as a correct copy of any minute or record under the hand of the chairman or acting chairman, shall be presumed to be the minute or record or a correct copy thereof, and shall be evidence of the matters therein stated according to its purport:
- (f) shall, within one month after the thirty-first day of January and the thirty-first day of July in every year, lay before the Governor and publish in the *Gazette* a financial statement, setting forth, under convenient headings, the receipts and payments of the Trust during the six months ending on the said thirty-first day of January and the thirty-first day of July, and also the assets and liabilities of the Trust as on those days. Every such statement shall be signed as correct by all the members of the Trust and the auditors of the Trust, and laid before Parliament within twenty-one days if Parliament is then sitting, or within twenty-one days of the next meeting of Parliament:

- (g) shall, in addition to the financial statements mentioned in the preceding subsection, keep, render, make, and publish all such books, accounts, records, returns, and statements as the Trust thinks necessary and as are required by the Treasurer or prescribed:
- (h) shall each year cause the accounts of the Trust to be audited by two fit and proper persons appointed for the purpose by the Trust, with the approval of the Treasurer, at a remuneration to be fixed from time to time by the Trust. The auditors shall have access to the books of account and vouchers whenever they shall think necessary. No auditor shall hold office for more than two consecutive years:

Provided that the Governor may at any time cause the accounts of the Trust to be audited by the Auditor-General or any other person appointed by the Governor; and the Auditor-General or person so appointed shall, for the purpose of such audit and accounts, have all the powers for the time being vested by law in the Auditor-General in relation to the audit of public accounts.

## PART III.

## PART III.

## ELECTRIC TRAMS.

Exclusive  
right of Trust  
to work  
present tram-  
ways.

913, 1906.  
s. 35 (part).

Exclusive  
right of Trust  
within a  
radius of 10  
miles to work  
electric trams.

913, 1906,  
s. 35 (part).

27. The Trust shall have the exclusive right to work the present tram systems by trams propelled by electric energy.

28. The Trust shall have the exclusive right to form, lay down, make, construct, maintain, remove, and alter tramways, and work trams thereon propelled by electric energy, within a radius of ten miles from the General Post Office; and within such radius may, with the consent of the Governor, form, lay down, construct, maintain, remove, alter, and work, in addition to the present tramways, such other tramways as will, in the opinion of the Trust, be profitable.

s. 28. MUNICIPAL TRAMWAYS TRUST v. BUCKLEY (1911) S.A.L.R. 66; affirmed by MUNICIPAL TRAMWAYS TRUST v. BUCKLEY (1912) 14 C.L.R. 731; 18 A.L.R. 373. Other vehicles meeting or passing tramcars must give them precedence; but apart from

PART IV.

MOTOR OMNIBUSES.

PART IV.

29. (1) In this Part and in section 94—

“prescribed area” means the areas of the municipality of Adelaide and of the councils of groups “A” and “B” and any additional territory proclaimed by the Governor under this section.

Definitions.  
913, 1906,  
s. 53A (1).  
1888, 1928.  
s. 6.  
Of. U.K.  
14 & 15  
Geo. 5 c. 34.

(2) The Governor may, by proclamation, add any territory to the prescribed area as existing for the time being and may revoke or vary any proclamation made under this section.

30. The Trust shall have the exclusive right—

(a) to carry passengers by motor omnibus for hire or reward on any route wholly or partially within the prescribed area at separate and individual fares for each passenger of not more than one shilling and sixpence for a single journey, or three shillings for a return journey:

Right of  
Trust to  
operate and  
license omni-  
buses.  
913, 1906,  
s. 53A (2)  
and (3).  
1888, 1928.  
s. 6.  
Of. U.K.  
14 & 15  
Geo. 5 c. 34,  
s. 6.

(b) to grant to any person a licence to carry passengers by motor omnibus for hire or reward on any such route as aforesaid, and at the fares or payment aforesaid.

31. Any licence granted under section 30 may be granted upon such terms as to duration of the licence, the routes to be followed, the timetables to be observed, and the fares or rates to be charged, as the Trust thinks proper. The said terms and any other conditions which the Trust considers necessary shall be set out in the licence. Notwithstanding the provisions of section 67 it shall not be necessary for the Trust to obtain the consent of the Governor to the granting of any licence under section 30.

Terms of  
licences.  
913, 1906,  
s. 53A (4)  
and (7).  
1888, 1928.  
s. 6.

32. The Trust shall have full power to fix the routes to be followed by any motor omnibus of the Trust and the fares to be paid by passengers travelling on any motor omnibus of the Trust, but so that such fares shall not exceed one

Routes and  
fares for  
Trust  
omnibuses.  
913, 1906,  
s. 53A (5).  
1888, 1928.  
s. 6.

s. 28. this right and the right to lay down, maintain and use rails on the road, tram-  
(contd.) way proprietors are in no better position than other persons on the highway.

ATTORNEY-GENERAL AND CORPORATION OF CITY OF ADELAIDE V. MUNICIPAL TRAMWAYS TRUST (1931) S.A.S.R. 99; 10 Austn. Digest 171. Held, on the facts, that nineteen parallel tram tracks running from lines on a street into a tramcar depot in that street did not constitute a nuisance. Held also that the Municipal Tramways Trust Act only authorised the Municipal Tramways Trust to commit a nuisance, where the nuisance was the inevitable result of exercising its statutory powers.

shilling and sixpence for each passenger for a single journey, or three shillings for each passenger for a return journey.

Condition of  
roads on  
which omni-  
buses operate.  
913, 1906,  
s. 53A (6).  
1888, 1928,  
s. 6.

**33.** Before the Trust operates any motor omnibus or licences any motor omnibus to operate on any road on which the Trust did not operate motor omnibuses on the ninth day of October, 1928, the Trust shall satisfy itself that the said road is sufficiently strong to bear motor omnibuses thereon without unreasonable damage thereto, and shall for that purpose confer with the council of every municipality and district in which the said road is situated; and if any council objects that any road is not sufficiently strong to bear motor omnibuses without unreasonable damage that objection shall, if the Trust so requires, be referred to the Highways Commissioner, who shall decide the same and whose decision thereon shall be final. In this section "road" includes road, street, or part of a road or street.

Non-applica-  
tion of certain  
laws.  
913, 1906,  
s. 53A (8).  
1888, 1928,  
s. 6.

**34.** The provisions of paragraph (17) of section 669, and paragraph (8) of section 670 of the Local Government Act, 1934, shall not apply to any motor omnibus owned or licensed by the Trust.

#### PART V.

#### PART V.

#### FINANCIAL.

Debentures  
issued under  
repealed Acts,  
1887, 1928,  
s. 2.

**35.** (1) All debentures issued by the Trust to the Treasurer pursuant to any repealed Act and which were in force immediately before the commencement of this Act are hereby preserved and continued subject to the provisions of this Act.

(2) The rate at which sinking fund contributions shall be made under the provisions of any debentures issued by the Trust to the Treasurer, pursuant to any repealed Act, shall, as from the second day of August, nineteen hundred and twenty-eight, be ten shillings per centum per half-year of the capital moneys for the time being owing under such debentures.

36. (1) The Treasurer is authorised to pay to the Trust any moneys required for the purpose of doing anything authorised by this Act. Such moneys are hereinafter referred to as "cost of construction moneys."

Power for  
Treasurer to  
advance fur-  
ther moneys.  
1812, 1927,  
s. 6.

(2) The Treasurer may raise any moneys intended to be paid to the Trust under this section by the issue and sale of inscribed stock or other securities. Such inscribed stock or other securities shall bear interest at such rate and be of such currency and be issued at such price as the Treasurer thinks fit; and the principal and interest of any such stock or other security shall be payable to the holder thereof at such place and at such times as are provided in such stock or other security.

(3) Debentures shall be issued by the Trust in favour of the Treasurer to secure repayment of all cost of construction moneys advanced pursuant to this section.

(4) The amount for which such debentures are issued shall include the amount which the Treasurer certifies to the Trust in writing to be the fair cost of raising such moneys, and such debentures shall have such currency and bear interest at such rates the Treasurer certifies in writing to be the currency and rate of interest applicable for the time being to South Australian inscribed stock issued to ordinary investors.

(5) Interest on such debentures shall be payable half-yearly on the thirty-first day of January and the thirty-first day of July in each year.

(6) Each such debenture shall make provision for the payment by the Trust to the Treasurer on the thirty-first day of January and the thirty-first day of July, in every year, of a contribution to a sinking fund at the rate of ten shillings per centum per half-year of the capital moneys for the time being owing under such debenture.

(7) The debentures shall secure the repayment by the Trust to the Treasurer of the capital moneys and interest thereon as hereinbefore provided, and such capital moneys together with such interest are hereby charged on the assets of the Trust in favour of the Treasurer.

37. When any debenture under this Act or any repealed Act matures and is not paid off the Trust shall issue and the Treasurer shall accept in lieu thereof another debenture

Power to  
renew debentures.  
1812, 1927,  
s. 7.

for the same amount having such currency and bearing interest at such rate as the Treasurer certifies in writing to be the currency and rate of interest applicable for the time being to South Australian inscribed stock issued to ordinary investors.

Right of  
Trust to elect  
as to rate  
and currency  
of debentures  
in certain  
cases.

1812, 1927,  
s. 8.

**38.** Where at the time of the issue of any debentures under this Act different classes of South Australian inscribed stock varying as to rate of interest and/or currency are offered to ordinary investors, the following provisions shall, notwithstanding any other provisions of this Act, apply with respect to determining the rate of interest and the currency applicable to such debentures:—

- (a) The Treasurer shall certify in writing to the Trust, the fact that such different classes of stock are offered to ordinary investors and what is the rate of interest and currency of each class; and
- (b) The Trust shall elect what rate of interest and currency, being the rate of interest and currency applicable to one of the classes of stock certified as aforesaid, shall apply with respect to the said debentures, and the rate and currency so chosen shall apply accordingly.

Control of  
sinking fund  
contributions  
by Public  
Debt Commis-  
sion.

1812, 1927,  
s. 9.

**39.** (1) All moneys received by the Treasurer by way of sinking fund contributions under any debenture shall be paid to the Public Debt Commission appointed under the Sinking Fund Act, 1924.

(2) The Public Debt Commission shall be entitled to pay from such moneys all sums due or becoming due to the National Debt Commission appointed under the Act of the Commonwealth Parliament known as the National Debt Sinking Fund Act, 1923, in respect of sinking funds on account of loans at any time raised by the Treasurer for the purposes of the Trust; and upon all moneys so paid to the said National Debt Commission the Trust shall be credited with interest at the rate of four pounds ten shillings per centum per annum.

(3) The said Public Debt Commission shall invest in manner provided by section 13 of the said Sinking Fund Act,

s. 39. The Sinking Fund Act, 1924, has been repealed and superseded by the Public Finance Act, 1936, Part IV. of which relates to the Public Debt Commission. S. 23 of the Act of 1936 corresponds to s. 13 of the Act of 1924.



1924, all moneys paid to it under this section, not being moneys paid to the said National Debt Commission, and shall credit the Trust in each financial year with its due proportion of the total interest received during that year by the Commission from its investments.

(4) Any moneys held by the Commission on behalf of the Trust under this section shall be used for the purpose of repaying to the Treasurer at such times as the Trust requires the capital moneys secured by any debenture.

40. The Trust shall, on the thirty-first day of January and the thirty-first day of July in every year, after making provision or allowance in account—

Duty of Trust  
to pay net  
receipts to  
Treasurer.  
913, 1906,  
s. 41.  
1812, 1927,  
s. 10.

(a) for payment of current expenses incurred during the preceding six months in connection with the business of the Trust, including maintenance:

(b) for a renewal fund at two and a half per centum per annum on the capital cost of the renewable parts of the undertaking then constructed:

(c) for estimated future current expenses during the next following month in connection with such business,

pay to the Treasurer the residue of its receipts for such six months.

41. The Treasurer shall apply the same when received to the following purposes, and in the following priorities:—

Application  
of net  
receipts by  
Treasurer.  
1812, 1927,  
s. 11.

(a) in defraying the interest then payable under debentures issued by the Trust to the Treasurer pursuant to this Act or any repealed Act:

(b) in defraying the Sinking Fund payments of the Trust provided for by sections 35 and 36 of this Act:

(c) in or towards satisfaction of any such debentures held by the Treasurer.

42. When all moneys advanced by the Treasurer to the Trust, pursuant to this Act or any repealed Act, together with interest as aforesaid, have been repaid—

Cessation of  
Government  
control on  
repayment of  
advances.  
1812, 1927,  
s. 12.

(a) the Treasurer shall, in writing, certify the fact to the Trust and thereupon—

(b) the assets of the Trust shall be held for the benefit of all the metropolitan councils as they may agree,

or in default of such agreement as may be determined by Act of Parliament:

- (c) the members of the Trust appointed by the Governor shall retire. Thereafter the Trust shall consist of six members, of whom two shall be appointed by the corporation of the City of Adelaide, two by the councils of group "A", and two by the councils of group "B" in manner provided in Part II. of this Act with regard to the appointment of members by such councils:
- (d) the Trust (in lieu of the Governor as provided in section 22 of this Act) shall appoint the chairman.

Borrowing  
power of  
Trust.  
913, 1906,  
ss. 46, 47.  
1812, 1927,  
s. 18.

43. (1) With the consent of the metropolitan councils, evidenced by certificates under their respective common seals, the Trust may borrow money—

- (a) to extinguish any liability, present or future, to the Treasurer; or
- (b) to do anything authorised by this Act and may issue debentures in favour of the lender on such terms as the Trust may determine.

(2) Such debentures shall not affect any right of Treasurer against the Trust or its assets, or otherwise in respect of any moneys paid by the Treasurer.

#### PART VI.

#### PART VI.

#### LIABILITY OF METROPOLITAN COUNCILS.

Liability of  
corporations  
on debentures.  
913, 1906,  
s. 49.

44. The metropolitan councils shall, in manner herein mentioned, be liable to pay to the Treasurer the money secured by any debentures issued by the Trust pursuant to this Act or any repealed Act.

45. (1) Such liability shall be borne by the metropolitan councils—

Apportion-  
ment of  
liability on  
debentures.

913, 1906,  
s. 50.  
1331, 1918,  
s. 3.

(a) as to one-third by the corporation of the City of Adelaide:

(b) as to one-third by the councils of group "A" severally in the proportion which the assessed annual value, as shown by the assessment for the time being in force, of the ratable property in the area of each such council bears to the total assessed annual value, as shown by the sum of the various assessments for the time being in force, of the ratable property in the areas of all the councils of group "A": Provided that the council of the corporation of Brighton shall not be subject to any liability under this Part and shall not be deemed to be a council for the purposes of this subsection unless and until a tramway is constructed pursuant to this Act within the municipality of such corporation:

(c) as to the remaining one-third, by the councils of group "B" severally in the proportion which the assessed value, as shown by the assessment for the time being in force, of the ratable property in the area of each such council bears to the total assessed annual value, as shown by the sum of the various assessments for the time being in force of the ratable property in the area of all such councils.

In any case where Division III. of Part X. of the Local Government Act, 1934, is in operation within the area of any metropolitan council, the assessed annual value for the purposes of this section of the ratable property therein shall be the assessed value of such property as shown by an assessment made for the purpose under Division II. of Part X. of the Local Government Act, 1934, as if Division III. of the said Part X. were not in operation within the area. Any of the said councils may object to any such assessment on the ground that it is too low, and may give notice of its objection to the Commissioner, who shall refer the objection to the Governor, and if the Governor is of opinion that the assessment is too low he shall, by proclamation, fix the assessed annual value of the ratable property in the area of the council whose assessment is objected to at such sum as, in the opinion of the Governor, is fair and just, and such sum shall be deemed to be the assessed annual value for the purposes of this section.

(2) In the event of the district of any district council becoming a municipality or part of a municipality, the corporation or the council of such municipality, as the case may require, shall, for all the purposes of this Act, take the place of such district council.

(3) In the event of the Governor exercising any of the powers conferred on him by Part II. of the Local Government Act, 1934, relating to—

- (a) the constitution of a new district;
- (b) the uniting of districts;
- (c) the severance of part of a district; or
- (d) the alteration and adjustment of the boundaries of adjoining districts;

or, in the event of the Governor exercising any of the powers conferred on him by Part II. of the Local Government Act, 1934, relating to—

- (a) the constitution of a new municipality, or
- (b) the alteration of the boundaries of any municipality, the Governor shall, by the order exercising such powers, have power to and shall declare what shall be the liability of such new district, united district, severed district, districts whose boundaries shall have been so altered and adjusted, new municipality, or municipalities whose boundaries shall have been so altered, with respect to the payment to the Treasurer of the moneys secured by the debentures; and the Governor may, by proclamation, alter, apportion, settle, adjust, and impose any liability on any district council or corporation, or any new or altered district council or municipality, which is, in the opinion of the Governor, fair and just.

(4) From and after any such proclamation the liability of any council to pay to the Treasurer a proportion of the moneys secured by the debentures shall be the liability mentioned in the proclamation, and such liability shall be deemed to be imposed by this Act.

(5) Nothing done hereunder shall prejudice any right of the Treasurer or the Trust to recover any liability which immediately prior to any proclamation shall be owing and payable to the Treasurer or the Trust.

46. (1) The liability hereby imposed on any metropolitan council shall, notwithstanding any Act heretofore passed, be paid by such council, and shall be defrayed out of a sufficient special rate of such council.

Special rate  
to meet  
liability.  
913, 1906,  
s. 51.

Every such council, notwithstanding anything to the contrary contained in any Act of Parliament, is hereby authorised and required to declare, levy, and get in such special rate, and pay the proceeds, or so much thereof as may be required for the purpose, to the Treasurer, and shall hold any surplus to answer any future liability imposed on such council by this Act.

(2) In anticipation of the declaration or getting in of such special rate, the council may discharge all or any portion of such liability out of any funds for the time being in its hands, or may borrow such moneys as it may require for the purpose of meeting such liability.

47. (1) All the provisions of Parts XII., XIII., and XIV. of the Local Government Act, 1934, with regard to the rates thereby respectively authorised to be declared, shall, subject to this Act, apply to a rate declared under this Act.

Method of  
making and  
collecting  
rates.  
913, 1906,  
s. 52.

(2) Upon default by any council in discharging the liability hereby imposed on it, the Treasurer shall, in addition to all other rights and remedies conferred by law, have all the rights and remedies of a holder of a debenture or coupon thereof conferred by section 444 of the Local Government Act, 1934.

(3) If the Treasurer, after three months' written notice under the seal of the Trust to recover payment of the full amount of such liability, fail so to do, the Trust may, in its own name or in the name and on behalf of the Treasurer, sue for and recover from the council in default the amount of such liability, or any unpaid portion thereof, and may enforce payment thereof (together with all costs as between solicitor and client) to the Trust by such council, and may exercise all of the rights and remedies hereby conferred on the Treasurer in respect of such liability, and such rights shall be deemed to have been transferred from the Treasurer to the Trust.

(4) All moneys other than costs recovered by the Trust under subsection (3) shall be paid by the Trust to the Treasurer.

## PART VII.

## PART VII.

## GENERAL POWERS AND OBLIGATIONS.

General  
powers of the  
Trust.  
918, 1906,  
s. 53.  
1888, 1928,  
s. 5.  
Cf. U.K.  
33 & 34 Vict.  
c. 78, s. 26.

## 48. The Trust may, for the purposes of this Act—

- (1) break up, open, and alter the surface or level of any road:
- (2) temporarily stop traffic upon any road:
- (3) place, erect, lay down, work and maintain in, over, or under any road, and with the consent of the owner and occupier thereof, attach to any building any apparatus or thing which in the opinion of the Trust may be necessary or expedient in connection with the transmission of electric energy, and may from time to time repair, renew, remove, and replace the same:
- (4) make openings, ways and subways in, on, or under any road, with openings and ways into the same:
- (5) open, break up, and alter the position of sewers, drains, tunnels, gaspipes, or waterpipes in or under any road, or with the consent of the Commonwealth Postmaster-General, raise, lower, alter, or remove any telegraphic, telephonic, or electric apparatus, whether under the control of the Commonwealth Postmaster-General or not:
- (6) alter, remove, replace, or relay in any position or situation any existing or future tram system, or any part thereof, or anything connected therewith:
- (7) extend or vary any future or existing tram system:
- (8) make, renew, remove, replace, or alter as to position or otherwise any junction, siding, station, turntable, or turnout:
- (9) purchase and take, under the provisions of the Compulsory Acquisition of Land Act, 1925, and any Acts amending the same, any land or buildings (except land subject to a public right-of-way)

s. 48. ATTORNEY-GENERAL AND CORPORATION OF CITY OF ADELAIDE v. MUNICIPAL TRAMWAYS TRUST (1931) S.A.S.R. 99; 10 Austn. Digest 171. Held, on the facts, that nineteen parallel tram tracks running from lines on a street into a tramcar depot in that street did not constitute a nuisance. Held also that the Municipal Tramways Trust Act only authorised the Municipal Tramways Trust to commit a nuisance where the nuisance was the inevitable result of exercising its statutory powers.

which in the opinion of the Trust may be necessary or convenient to be purchased or taken for any purpose authorised by or under this Act, and for any such purpose all the provisions of those Acts are incorporated in this Act.

- (10) with the consent of the Governor, and for the purpose of shortening any route or avoiding curves, form, make and pave a road through any square or park lands, and thereon make, form, lay down, maintain, remove, renew, and work any tramway: Provided that such road shall be formed, made and paved, and kept in repair and fenced at the expense of the Trust, to the satisfaction of the road authority:
- (11) erect, repair, alter, remove, pull down, or make additions to any power house, storage stations, tramsheds, stables, or buildings, with all proper offices, conveniences, and appurtenances:
- (12) carry on the business of tramway proprietors and of buyers, generators and users of electric power or light, and with power to sell and supply to the Government only electric power and light:
- (13) carry on the business of omnibus proprietors, and purchase, acquire, and use any vehicles, horses, motors and things which in the opinion of the Trust may be required for the purpose of carrying on such business:
- (14) for the purpose of stimulating or developing traffic, establish or keep and maintain, or assist in establishing, keeping or maintaining, and rent, let, lease, buy, sell, or grant licences in respect of public parks, garden restaurants, rest-houses, or places of entertainment, or amusement, to which passengers may conveniently resort:
- (15) sell or dispose of any property of the Trust which, in the opinion of the Trust, it is desirable to dispose of, with power to exchange such property for other property of any kind:
- (16) receive and give effectual receipts or discharges for any gift, devise, legacy or bequest.

Repair of  
roads used as  
tramways.  
918, 1906,  
s. 54.  
Cf. U.K.  
33 & 34  
Vict. c. 78,  
s. 28.

49. The Trust shall, at its own expense, at all times keep in good condition and repair, with such materials and in such manner as the road authority shall direct to its satisfaction—

- (a) so much of any road whereon any tramway belonging to the Trust is laid as lies between the rails of the tramway:
- (b) where any two tramways are laid by the Trust on any road at a distance of not more than four feet from each other, the portion of the road between the tramways:
- (c) so much of the road as extends eighteen inches beyond the rails on each side of any such tramway.

Liability of  
Trust for  
part of the  
cost of con-  
structing  
roads of  
special  
materials.  
918, 1906,  
s. 55.

50. In the event of any road authority forming, making, or paving any road or such portion thereof as the Trust is not hereby required to repair, with any material other than macadam, the Trust shall, as and when required by the road authority, at its own expense, form with such material and maintain and keep in good condition and repair, to the satisfaction of the road authority so much of such road as by this Act is directed to be kept by the Trust in good condition and repair.

Notice before  
interfering  
with roads.  
918, 1906,  
s. 56.

51. The Trust shall not—

- (a) except in cases of emergency, open or break up any road or bridge, or stop any traffic, without giving at least three days' notice to the road authority:
- (b) alter the level of any road without altering such level over the whole width of such road, and shall remake the same to the satisfaction of the road authority.

Notice in  
case of  
emergency.  
918, 1906,  
s. 57.

52. In cases of emergency as mentioned in the last preceding section, notice to the road authority shall be given as soon as possible after the work has been begun or the necessity for the same has arisen.

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S. 49. MUNICIPAL TRAMWAYS TRUST v. STEPHENS (1912) 15 C.L.R. 104; 18 A.L.R. 377; 10 Austn, Digest 148; affirming MUNICIPAL TRAMWAYS TRUST v. STEPHENS (1911) S.A.L.R. 40. S. 49 imposes a duty on the Trust to keep in good condition and repair so much of the roadway as mentioned in s. 49 even if no direction has been given by the road authority. The Trust is liable for non-repair amounting to breach of the statutory duty.



53. When the Trust has opened or broken up any portion of any road the Trust shall—

Restoration  
of broken-up  
roads.

913, 1906,  
s. 58.

- (a) with all convenient speed, and to the satisfaction of the road authority, restore the portion of the road to as good condition as before it was opened or broken up, and remove all surplus material to a place directed by the road authority:
- (b) cause the place where the road is opened or broken up to be fenced and watched, and at night to be properly lighted:
- (c) bear or pay all reasonable expenses of the repair of the road for six months after it is restored, so far as these expenses have been increased by such opening or breaking up.

54. The Trust shall not alter the level of any road so as to make the ascent of any main road more than one foot in thirty feet, or to make the ascent of any other public road more than one foot in twenty feet; and the Trust shall, in making any such alteration form, make, and/or pave the road to the level furnished by the road authority, which is hereby required to furnish to the Trust all necessary information as to the same.

Provisions as  
to the level of  
roads.

913, 1906,  
s. 59.

55. Every bridge erected by the Trust shall have on each side thereof a good and sufficient fence at least four feet high.

Fences to  
bridges.

913, 1906,  
s. 60.

56. The Trust and the road authority may make, alter, renew, or vary contracts or arrangements with one another with respect to the paving and keeping in repair of any road or portion of any road on which there shall be a tramway.

Contracts as  
to repair of  
roads.

913, 1906,  
s. 61.

57. (1) For the purpose of making, forming, laying down, maintaining, repairing, or renewing any part of its undertaking, the Trust may from time to time, where and as far as it is necessary or may appear expedient for the purpose of preventing frequent interruption of the carrying on of such undertaking by repairs or works in connection with the same, alter the position of any mains or pipes for the supply of gas or water, or any wires or apparatus for the transmission of electricity or for other purposes, subject to the other provisions of this Act and also subject to the restrictions in this section.

Provisions as  
to gas and  
water  
companies.

913, 1906,  
s. 62.  
Cf. U.K.  
83 & 34  
Vict. c. 78,  
s. 30.

(2) Before doing any such work in a road in which any mains or pipes, wires, or apparatus are laid, the Trust shall, whether it contemplates altering the position of any such mains or pipes, wires, or apparatus or not, give seven days' notice to the company, person or persons, or authority to whom such main or pipes, wires, or apparatus belong, or by whom they are controlled, of the intention to do such work, and shall at the same time deliver a plan and section of the proposed work.

(3) If it appears to any such company, person or authority that the proposed work would endanger any such main or pipe, wire, or apparatus or interfere with or impede the supply of water or gas, or the transmission of electricity, such company, person or authority (as the case may be) may give notice to the Trust to lower or otherwise alter the position of the said mains or pipes, wires or apparatus, in such manner as is considered necessary.

(4) Any difference as to the necessity of any such lowering or alteration shall be settled in manner provided by this Act for the settlement of differences between the Trust and other persons.

(5) All alterations to be made under this section shall be made—

(a) with as little detriment and inconvenience to the company, person, or authority, to whom such mains or pipes, wires, or apparatus belong or by whom the same are controlled, or to the inhabitants of the district, as the circumstances will admit; and

(b) under the superintendence of such company, person, or authority, or of their surveyor, or engineer, if they or he thinks fit to attend after receiving not less than forty-eight hours' notice for that purpose which notice the Trust is hereby required to give.

(6) The Trust shall not—

(a) remove or displace any of the mains or pipes, valves, syphons, plugs, wires, or apparatus, or other works belonging to or controlled by any such company, person, or authority; or

- (b) do anything to impede the passage of water or gas, or the transmission of electricity, into or through such mains, pipes, wires, or apparatus,

without the consent of such company, person, or authority, or in any other manner than such company, person, or authority shall approve, until good and sufficient mains, pipes, wires, valves, syphons, plugs, apparatus, and other works necessary or proper for continuing the supply of water or gas or the transmission of electricity as sufficiently as the same was supplied or transmitted by the mains or pipes, wires, or apparatus, proposed to be removed or displaced have, at the expense of the Trust, been first made and laid down in lieu thereof and ready for use, and to the satisfaction of the surveyor or engineer of such water or gas or other company, person, or authority, or, in case of disagreement between such surveyor or engineer and the Trust, as an engineer or other fit person appointed by the parties shall direct. In the event of the parties failing to agree as to such appointment, the matter in dispute shall be determined by arbitration.

(7) The Trust shall not lay down any such pipes or wires contrary to the regulations of any Act relating to such water, or gas, or electric, or other company or relating to telegraphs.

(8) The Trust shall—

- (a) make good all damage done by the Trust to property belonging to or controlled by any such company, person, or authority; and
- (b) make full compensation to all parties for any loss or damage which they may sustain by reason of any interference with such property or with the private service pipes, wires, or apparatus of any person supplied by any such company, person, or authority with water, gas, or electricity.

(9) If, by any such operations as aforesaid, the Trust interrupts the supply of water, gas, or electricity in or through any main, or main pipe, or wire, it shall be liable to a penalty not exceeding twenty pounds for every day upon which such supply shall be so interrupted.

Protection of  
sewers, &c.  
918, 1906,  
s. 68.  
Cf. U.K.  
33 & 34  
Vict. c. 78,  
s. 31.

58. (1) Where any work authorised by this Act interferes with any sewer, drain, watercourse, subway, defence, or work, or in any way affects sewerage or drainage, the Trust shall not commence any such work until—

(a) it has given to the proper authority fourteen days' previous notice in writing of its intention to commence the same, by leaving such notice at the principal office of such authority, with all necessary particulars relating thereto; and

(b) that authority has signified its approval of the same, unless that authority does not signify its approval, disapproval, or other direction within fourteen days after service of the said notice and particulars as aforesaid.

(2) The Trust shall—

(a) comply with and conform to all reasonable directions and regulations of the said authority in the execution of the said works;

(b) provide by new, altered, or substituted works in such manner as that authority shall reasonably require for the proper protection of and for preventing injury or impediment to the sewers and works hereinbefore referred to by or by reason of the work; and

(c) save harmless the said authority against the expense to be occasioned thereby.

(3) All such works shall be done under the direction, superintendence, and control of the engineer or other officer or officers of the said authority, at the reasonable costs, charges, and expenses in all respects of the Trust.

(4) When any such new, altered, or substituted work, or any works, or defence connected therewith, has been completed by or at the expense of the Trust under the provisions of this Act, it shall thereafter be as completely under the direction, jurisdiction, and control of the said authority, and be maintained by such authority as any sewers or works.

59. Nothing in this Act shall take away or abridge any power to open or break up any road along or across which any tramway is laid, or any other power vested in any road authority or other authority for any of the purposes for which such authority is respectively constituted, or in any company, body, or person for the purpose of laying down, repairing, altering, or removing any pipe or line for the supply of gas, electricity, or water, or any tubes, wires, or apparatus for electric or other purposes; but, in the exercise of such power, every such road or other authority, company, body, or person shall be subject to the following restrictions, that is to say:—

Rights of  
authorities  
and com-  
panies, &c.,  
to open  
roads.  
918, 1906,  
s. 64.  
Of. U.K.  
33 & 34  
Vict. c. 78,  
s. 32.

- (a) They shall cause as little detriment or inconvenience to the Trust as circumstances admit:
- (b) Before they commence any work whereby the traffic on the tramway or any other work hereby authorised will be interrupted, they shall (except in cases of urgency, in which case no notice shall be necessary) give to the Trust at least forty-eight hours' notice of their intention to begin such work, specifying the time at which they will begin it:
- (c) They shall pay to the Trust compensation for injury done, whether by loss of traffic or otherwise, by the execution of such work:
- (d) Whenever, for the purpose of enabling it to execute such work, the road authority so requires, the Trust shall either stop traffic on the tramway, to which the notice shall refer, where it would otherwise interfere with such work, or the road or other authority, company, body or person (as the case may be) shall shore up and secure the same at their own risk and cost during the execution of the work there. Such work shall be completed by the road authority with all reasonable expedition:
- (e) Any company, body, person, or authority shall not execute such work so far as it immediately affects any property or right of the Trust, except under the superintendence of the Trust, unless it refuses or neglects to give such superintendence at the time specified in the notice for the commencement

of the work, or discontinues the same during the progress of the work; and such company, body, person, or authority shall execute such work at its or his own expense, and to the reasonable satisfaction of the Trust.

Difference  
between pro-  
motors and  
road authority,  
etc.

918, 1906,  
s. 65.  
Cf. U.K.  
33 & 34  
Vict. c. 78,  
s. 33.

**60.** If any difference arises between the Trust on the one hand, and any road authority, or any gas company, or the Commissioner of Waterworks, or the Commissioner of Sewers, or any company, body, person, or authority, to whom any pipe, sewer, drain, wires, or apparatus for electrical or other purposes may belong, or any other company or authority, on the other hand with respect to—

- (a) any interference or control exercised or claimed to be exercised by them or him, or on their or his behalf, or by the Trust, by virtue of this Act in relation to any tramway or work, or in relation to any work or proceeding of the road authority, or other authority, company, body, or person; or
- (b) the propriety of or the mode of execution of any work; or
- (c) the amount of any compensation to be made by or to the Trust; or
- (d) whether any work is such as ought reasonably to satisfy the local authority, or other authority, or body, company, or persons concerned; or
- (e) any other subject or thing regulated by, or comprised, in this Part of this Act;

the matter in difference shall (unless otherwise specially provided for) be settled by an engineer or other fit person appointed by the parties. In the event of the parties failing to agree as to such appointment, the matter in dispute shall be determined by arbitration.

Repair of  
Trust's  
undertakings  
918, 1906,  
s. 66.

**61.** The Trust shall at all times keep all its undertakings in good repair and working order.

Arbitration  
Act to apply.  
918, 1906,  
s. 67.

**62.** The Arbitration Act, 1891, shall, subject to this Act, apply to every arbitration, reference, and award under this Act, and this Act shall be deemed a submission within the meaning of the said Arbitration Act.

PART VIII.

PART VIII.

GENERAL PROVISIONS.

63. Except with the consent of the Governor, the work of making, forming, and laying down any tramways hereby authorised shall be done by contract.

Tramway  
construction  
to be by  
contract.  
913, 1906,  
s. 68.

64. No tender in relation to any such contract shall be accepted, nor shall any such contract be made without the consent of the Governor.

Control of the  
Government  
as to  
contracts.  
913, 1906,  
s. 70.

65. The consent of the Governor may be evidenced by writing under the hand of the Commissioner addressed to the Trust, and the production of any written consent purporting to be under the hand of the Commissioner shall be conclusive evidence of the consent of the Governor.

Evidence of  
consent to  
contract.  
913, 1906,  
s. 71.

66. Neither the Trust nor its property shall be subject to general, special, or local taxation.

Exemption  
from  
taxation.  
913, 1906,  
s. 72.

67. Except with the consent of the Governor, the Trust shall not assign, lease, or grant licences to work its business or any part thereof.

Rights of  
the Trust to  
be personal.  
913, 1906,  
s. 73.

68. The Trust may from time to time make, repeal, and alter by-laws as to the following matters:—

By-laws of  
Trust.  
913, 1906,  
s. 74.  
Cf. U.K.  
33 & 34  
Vict. c. 78,  
s. 46.

- (1) Prescribing tolls, fares, or charges which may be demanded or taken by the Trust from any passenger, or in respect of the carriage of goods, animals and things:
- (2) Regulating the number of passengers that may be carried on any carriage (distinguishing, if the Trust think fit, the platforms, top, and inside of such carriage) and for preventing such number being exceeded, and generally for regulating passenger traffic:
- (3) Fixing stopping-places and making time-tables showing the times of starting and arrival of carriages:
- (4) Regulating the conduct and punishing the misconduct of any persons employed by the Trust:
- (5) Preventing smoking or spitting in or upon any carriage or part of a carriage belonging to the Trust:

- (6) Preventing the committing of any nuisance upon any part of the property of the Trust:
- (7) Regulating the ordinary traffic on that portion of the roads on which any tramway is laid:
- (8) Making periodical deductions from the salaries or wages of all officers and servants so as to provide for sums of money or annuities to be payable to officials or servants on retirement from the service of the Trust, or to the widows, children, or nominees of deceased officials or servants, and prescribing the management, control, investment, and distribution by a Board of the moneys so deducted, and for the appointment of such Board:
- (9) Generally such matters for carrying out the purposes of this Act as, in the opinion of the Trust, may conveniently be made the subject matter of a by-law.

Confirmation  
of by-laws.  
913, 1906,  
s. 75.

**69.** No by-law shall be repugnant to the law in force in South Australia, or shall take effect until confirmed by the Governor.

Gazetting of  
by-laws.  
913, 1906,  
s. 76.

**70.** On confirmation the by-law shall be published in the *Gazette*.

Evidence of  
by-laws.  
913, 1906,  
s. 77.

**71.** The *Gazette* purporting to contain any by-law shall be evidence thereof that the by-law was duly made and confirmed.

Penalties  
imposed by  
by-laws.  
913, 1906,  
s. 78.  
Cf. U.K.  
33 & 34  
Vict. c. 78,  
s. 47

**72.** Any by-law may impose a maximum, but not a fixed penalty, not exceeding fifty pounds for an offence against the same, with or without further maximum, but not fixed penalties, for any continuing offence not exceeding one pound per day during which the offence continues.

Power of  
Trust to  
interfere in  
certain cases.  
913, 1906,  
s. 79.

**73.** If the infraction or non-observance of any by-law is attended with danger or annoyance to the public or hindrance to the Trust in the conduct of its business the Trust, or any officer, servant, or agent thereof may summarily interfere to obviate, remove, or stop such danger, annoyance, or hindrance, and that without affecting any penalty incurred by the offender.



74. The Trust shall repair and make good any damage to subterranean water pipes and sewers, the property of the Government, caused by any works constructed under the authority of this Act, and shall likewise make full compensation to the South Australian Gas Company and the Adelaide Electric Supply Company, Limited, for any loss or damage which occurs to any mains, branch and service pipes, wires or other works belonging to either of such companies, owing to or arising from the supply of and use of electrical power under the provisions of this Act, including damage to or arising from electricity in, or escaping from any of the works of the Trust, and shall free and relieve the South Australian Gas Company and the Adelaide Electric Supply Company, Limited, from all liability in respect of any loss or damage due to or arising therefrom.

Liability of Trust for damage caused by escape of electricity, &c.  
913, 1906, s. 80.

75. Notwithstanding anything in this Act contained, the Trust shall not, except where otherwise expressly hereby enacted, acquire or be deemed to acquire any right other than that of user of any road along or across which they construct any tramway or do any work.

Rights of Trust over highway.  
913, 1906, s. 81.  
Cf. U.K. 33 & 34  
Vict. c. 78, s. 57.

76. Nothing in this Act shall take away from or affect any power which any local authority or other authority may have to widen, alter, divert, or improve any road or railway.

Powers of local authorities to control roads.  
913, 1906, s. 82.  
Cf. U.K. 33 & 34  
Vict. c. 78, s. 60.

77. Nothing in this Act shall limit the powers of the road authority or police to regulate the passage of traffic along or across any road; and such authority or police may exercise their authority as well on as off any tramway, and with respect as well to the traffic of the Trust as to the traffic of other persons.

Power of local authorities to control traffic.  
913, 1906, s. 83.  
Cf. U.K. 33 & 34  
Vict. c. 78, s. 61.

78. Nothing in this Act or any by-law shall take away or abridge the right of the public to pass along or across any road, whether on or off any tramway, with carriages not having flange wheels or wheels suitable to run on the rail of the tramway, as mentioned in section 93.

Right of the public to the highways.  
913, 1906, s. 84.  
Cf. U.K. 33 & 34  
Vict. c. 78, s. 62.

S. 175. ATTORNEY-GENERAL AND CORPORATION OF CITY OF ADELAIDE V. MUNICIPAL TRAMWAYS TRUST (1931) S.A.S.R. 99; 10 Austn. Digest 171. Held, on the facts, that nineteen parallel tram tracks running from lines on a street into a tramcar depot in that street did not constitute a nuisance. Held also that the Municipal Tramways Trust Act only authorised the Municipal Tramways Trust to commit a nuisance where the nuisance was the inevitable result of exercising its statutory powers.

Right of the public to use the tramways.  
913, 1906,  
s. 85.

79. Subject to the provisions of this Act and of any by-laws made hereunder, all persons shall have a right to use any tramway for travelling and for the carriage of goods thereon, and, where the tramway is not laid on a road, shall also have a free right to pass on foot along so much of the vacant land, not exceeding ten feet in width on the outer side of each rail of the tramways as is owned or used by the Trust in connection with the tramway: Provided that such free right shall be so used as not to interfere with the working of the tramways.

Acquisition of railway undertakings.  
913, 1906,  
s. 86.

80. The Trust may, with the consent of the Governor and the South Australian Railways Commissioner, purchase or otherwise acquire any railway, together with all property and rights of or relating to such railway.

Right of South Australian Railways Commissioner to use electrical energy.  
913, 1906,  
s. 87.

81. Nothing contained in this Act shall prevent the South Australian Railways Commissioner working trains propelled by electric energy on any railways vested in such Commissioner.

Rubbish destructor.  
913, 1906,  
s. 88.

82. The Trust may receive, collect, or pay for rubbish for the purpose of consumption as fuel, and purchase, construct, erect, maintain, use, alter, remove, or add to one or more rubbish destructors.

Protection of annuities.  
913, 1906,  
s. 89.

83. No annuity provided for by by-law made pursuant to section 68, subsection (8) shall be anticipated, assigned, transferred, charged, encumbered, or otherwise parted with by the person entitled, or contingently entitled thereto, in possession, expectancy or otherwise; nor shall any such annuity be attached or taken in execution under the process of any court, nor, in the event of the bankruptcy or statutory assignment of such person, vest in the assignee or trustee of his estate; but every such annuity shall be unalienable personal provision for the person entitled thereto.

Protection of Superannuation Fund.  
913, 1906,  
s. 90.

84. (1) No sum of money provided for by by-law made pursuant to section 68, subsection (8), shall be subject to be seized or taken in execution or attached under the process of any court, or shall, in the event of the bankruptcy or statutory assignment of the person entitled thereto before actual payment of such money to him, vest in the Official Receiver of any Court of Bankruptcy or in the trustee or assignee of his estate or under the assignment.

(2) No such sum of money not actually paid to the person entitled thereto shall, on the death of such person, unless in pursuance of an express direction in his will, be assets for the payment of his debts, but such sum of money shall, subject to any voluntary disposition thereof during his life, be held by his personal representatives in trust for the person or persons entitled thereto under his will or codicil, or in case of intestacy in trust for the person or persons entitled thereto under the Statutes for the distribution of the estates of intestates.

85. (1) The Governor may from time to time make, amend, add to, and annul regulations prescribing the manner of taking any ballot under this Act, and any regulations expedient for carrying this Act into execution.

Regulations.  
913, 1906,  
s. 91.

(2) Any such regulation, amendment, addition, or annulment published in the *Gazette* shall be of the same force as if hereby enacted, and shall be judicially noticed.

86. This Act shall bind His Majesty, his heirs and successors.

Act to bind  
the Crown.  
913, 1906,  
s. 92.

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## PART IX.

PART IX.

### OFFENCES.

87. (1) No person shall wilfully obstruct any person acting under the authority of the Trust in the lawful exercise of its powers in setting out, or making, forming, laying down, repairing, or renewing a tramway, or any work hereby authorised, or deface or destroy any mark made for the purpose of setting out the line of the tramway or work, or damage or destroy any property of the Trust. Penalty, fifty pounds.

Penalty for  
interfering  
with Trust  
property.  
913, 1906,  
s. 93.  
Cf. U.K.  
33 & 34  
Vict. c. 78,  
s. 49.

(2) Any person offending against this section shall, in addition, be liable to pay to the Trust compensation for the actual damage done.

## PART IX.

Penalties for  
various  
offences.

918, 1906,  
s. 94.  
Ct. U.K.  
33 & 34  
Vict. c. 78,  
s. 50.

**88.** No person shall, without lawful excuse, do any of the following things, namely—

- (a) interfere with, remove, or alter any part of the property of the Trust or of the works connected therewith;
- (b) place any stones, dirt, wood, refuse or other material on any part of a tramway;
- (c) do or cause to be done anything in such manner as to obstruct any carriage using a tramway, or endanger the lives of persons therein or thereon; or
- (d) obstruct, hinder, or interfere with the exercise of any power hereby conferred; or
- (e) knowingly aid or assist in doing any such thing.

Penalty, one hundred pounds; or imprisonment for a term of five years.

Penalties for  
offences  
relating to  
fares and  
other matters.

918, 1906,  
s. 95.  
Ct. U.K.  
33 & 34  
Vict. c. 78,  
s. 51.

**89.** No person shall—

- (a) while travelling, or after having travelled in any carriage belonging to the Trust, avoid or attempt to avoid payment of his fare; or
- (b) having paid his fare for a certain distance, knowingly and wilfully proceed in any such carriage beyond such distance, and neglect to pay the additional fare for the additional distance, or attempt to avoid payment thereof; or
- (c) knowingly and wilfully refuse or neglect, on arriving at the point to which he has paid his fare, to quit such carriage;
- (d) deface any notice placed by the Trust on any part of a tramway or of any carriage belonging to the Trust; or
- (e) obstruct any person employed on a tramway or any such carriage in the performance of his duty; or
- (f) behave in a violent or offensive manner to the annoyance of others on a tramway or any such carriage; or

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s. 89. MUNICIPAL TRAMWAYS TRUST AND OTHERS v. SCOTT (1919) 26 C.L.R. 501; 13 Austl. Digest 1092. The refusal by a passenger to give his name and address upon request by a conductor to do so does not amount to obstruction of the conductor in the performance of his duty, and does not justify the seizure and detention of the passenger.

- (g) refuse to leave the platform or steps of any such carriage when required to do so by the conductor.

Penalty, two pounds.

90. Any officer or servant of the Trust, and all persons called by him to his assistance, may seize any person discovered either in or after committing or attempting to commit any offence mentioned in any of the three last preceding sections, whose name or residence is unknown to such officer or servant, and may detain him until he can be conveniently taken before a justice, or until he is lawfully discharged.

Power to summarily prevent offences.

913, 1906, s. 96.  
Cf. U.K. 33 & 34 Vict. c. 78, s. 52.

91. No person shall be entitled to carry or to require to be carried on any carriage belonging to the Trust any goods which may be of a dangerous or objectionable nature; and no person shall send by any tramway or any such carriage any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the bookkeeper or other servant with whom the same are left at the time of such sending.

Penalty for taking dangerous goods in trams.

913, 1906, s. 97.  
Cf. U.K. 33 & 34 Vict. c. 78, s. 53.

Penalty, one hundred pounds.

92. The Trust may refuse to take any parcel suspected to contain goods of a dangerous or objectionable nature, or may require the same to be opened.

Refusal to convey dangerous goods.

913, 1906, s. 98.

93. No person shall, without the permission of the Governor and the Trust—

Protection of rights of Trust to user of the Tramways.

- (a) use a tramway, or any part thereof, with carriages having flange wheels or other wheels suitable only to run on the rail of such tramway; or

913, 1906, s. 99.  
Cf. U.K. 33 & 34 Vict. c. 78, s. 54.

- (b) use upon the rails of any tramway, or any part of such rails, any vehicle for the conveyance of passengers or goods for hire having the gauge of all its wheels or the gauge of two of its wheels corresponding with or nearly corresponding with the gauge of such tramway, so as to be suitable to run with one or more of its wheels at each side simultaneously on the rails of such tramway.

Penalty, twenty pounds.

Penalty for  
offences  
relating to  
unlicensed  
motor omni-  
buses.

913, 1906,  
s. 53 (b),  
1888, 1928,  
s. 6.

**94.** (1) No person shall, within the prescribed area as defined by section 29, drive any motor omnibus or any motor vehicle drawing a motor omnibus, nor employ any person to drive any motor omnibus or any such motor vehicle as aforesaid for the purpose of carrying passengers for hire or reward—

- (a) unless a licence under section 30 has been obtained for that motor omnibus and that licence is for the time being in force:
- (b) on any route not mentioned in such a licence nor otherwise than in accordance with the terms and conditions of such a licence.

Penalty—For a first offence, not exceeding one hundred pounds; for any subsequent offence, not exceeding two hundred pounds:

Provided that it shall be defence to any charge for an offence against this subsection if the defendant shows that every passenger on the motor omnibus at the material time paid a separate fare of more than one shilling and sixpence for a single journey, or more than three shillings for a return journey.

(2) In any proceedings for an offence against this section the allegation in the complaint—

- (a) that a vehicle is a motor omnibus:
- (b) that the place at which it is alleged that an offence was committed is within the prescribed area:
- (c) that a motor omnibus is not licensed under section 30;
- (d) that any person is the employer of the driver of a motor omnibus in respect of which an offence is alleged to have been committed,

shall be deemed proved in the absence of proof to the contrary.

General  
penalty and  
provisions as  
to offences.  
913, 1906,  
s. 100.

**95.** (1) The Trust or any person by act or omission guilty of any contravention of this Act, or any regulation made by the Governor under this Act, for which no other penalty is provided, shall be liable to a penalty of not more than fifty pounds.

(2) Any attempt to commit an offence against this Act or any such regulation shall be an offence against this Act or such regulation, punishable as if the offence had been committed.

(3) Whoever aids, abets, counsels, or procures, or by act or omission is directly or indirectly concerned in the commission of any offence against this Act, or any such regulation, shall be deemed to have committed such offence and shall be punishable accordingly.

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PART X.

PART X.

LEGAL PROCEDURE.

96. Copies of or extracts from any book certified under the seal of the Trust to be true copies of or extracts from any book, shall be received as sufficient evidence in all courts and before all justices and tribunals of the contents of such book, or so much thereof as any such extracts shall contain.

Proof of  
contents of  
books.  
913, 1906,  
s. 101.

97. Nothing in this Act shall prevent proof being given of the tenure of any office by evidence of acting in such office, or prevent any notice purporting to be a notice given by the Trust and published or posted as by this Act directed, or a copy thereof being given in evidence in any proceeding against the Trust or any officer or servant thereof, or shall negative any statutory or other rule of law as to evidence or presumption therefrom.

Saving of  
rules of  
evidence.  
913, 1906,  
s. 102.

98. No writ of *quo warranto*, or information in the nature of a *quo warranto*, or other proceeding shall issue or be filed or had or taken in the Supreme Court to try or question the title of the Trust, or the title of any person to act as a member or in any office or place in or in the gift of the Trust.

Abolition  
of *quo  
warranto*.  
913, 1906,  
s. 103.

99. No mandamus shall issue from the Supreme Court to admit or restore to office any member, officer, or servant of the Trust, or to compel the Trust, or any council to proceed to the election or appointment of any member, officer, or other person to any office or place in or in the gift of the Trust, or

Abolition of  
mandamus.  
913, 1906,  
s. 104.

to compel any council or person to proceed to ballot, or to compel the production or delivery of any books, voting papers, or other documents or papers, to the production or possession whereof the Trust, or any council or person may be entitled under this Act.

Abolition of  
*certiorari*.  
918, 1906,  
s. 105.

**100.** No loan, or proceedings in relation thereto, shall be removed by *certiorari* or otherwise to the Supreme Court.

Proceedings  
for trying  
title to  
office.  
918, 1906,  
s. 106.

**101.** The proceedings for trying the title of a member, officer, or other person to his office or place, or trying the right of any person to be admitted or restored to any such office or place, or to compel his restoration or admission, or to compel the Trust, or any council to proceed to any election or appointment, or to pass any resolution in respect of any election or appointment, or to try the validity of any loan, or to compel the production or delivery of any books, voting papers, or other documents or papers to the production or possession whereof the Trust, or any council or person may be entitled under this Act, shall be had and taken before and determined by two justices in a summary way.

Jurisdiction  
of justices.  
918, 1906,  
s. 107.

**102.** (1) The complaint for the purposes of the last preceding section may be laid at the instance of the Trust, or of any metropolitan council or by any ratepayer of the area of any such council or by any person interested.

(2) The justices may make an order—

- (a) declaring any person to be not entitled to the office or place then possessed by him, and that such office or place is vacant, or that the complainant is entitled to the said office or place; or
- (b) commanding the Trust, or any council to proceed to take the necessary steps for and hold any election, or to make any appointment; or
- (c) compelling any council or person to proceed to any ballot, or to pass any resolution that may be necessary; or
- (d) quashing any loan which for any reason is invalid; or
- (e) compelling the production or delivery of any books, voting papers, or documents by or to the Trust, or any council, or any officer thereof, or by or to any other person.



(2) No order to admit or restore any person to any office or place shall be made whilst any other person is in possession of such office or place.

**103.** On non-compliance with any order made by any justices of the peace under the provisions hereof on complaint laid at the instance of the Trust, or of any council, or by any ratepayer, or by any person interested, any two justices of the peace may order any sum of money to be paid by or to the Trust, or any council, ratepayer, or person, as compensation for any injury sustained by reason of the non-compliance with such order, and may order any such person to be imprisoned, either for a specified time not exceeding six calendar months, or until the order aforesaid is obeyed, and such imprisonment may be ordered in addition to or without any order for payment of money as aforesaid; and on non-compliance with any order commanding anything to be done by the Trust, or by any council, any two justices of the peace may order the payment of any sum of money by or the imprisonment of any person who would, before the passing of this Act, have been liable to attachment or subject to process of contempt for disobedience to any peremptory writ of mandamus issued out of the Supreme Court commanding the Trust, or council to do the act directed by such order.

Punishment  
for non-  
compliance  
with order.  
913, 1906,  
s. 108.

**104.** (1) No proceedings to try the title of any person to any office or place in, or in the gift of the Trust shall be taken, except upon a complaint laid within three months from the time at which the person whose title is disputed was appointed or elected, or the cause arose by reason whereof such person shall be liable to be ousted, whichever shall last happen.

Limitation of  
time within  
which pro-  
ceedings may  
be taken.  
913, 1906,  
s. 109.

(2) No proceedings to try the validity of any loan shall be taken except upon a complaint laid within three months from the time when the loan was authorised.

**105.** (1) If any person desires to dispute the validity of any by-law to be made, or purporting to be made, under this Act, such person may apply to the Supreme Court, upon an affidavit setting out the facts, for a rule calling upon the Trust to show cause why such by-law should not be quashed for illegality, and the court may make such rule absolute or discharge it, with or without costs, as to the court shall seem fit.

Facilities for  
testing  
by-laws.  
913, 1906,  
s. 110.

(2) No such rule to show cause shall be drawn up until such person shall have paid into the Supreme Court the sum of fifteen pounds as security for the cost of the proceedings.

Service of  
notices, &c.  
913, 1906,  
s. 111.

**106.** Any notice, summons, writ, or legal process whatsoever, civil or criminal, may be served upon the Trust, or any council, by leaving the same at the principal office of the Trust, or council with some officer or servant of the Trust or council.

Service of  
notices.  
913, 1906,  
s. 112.

**107.** (1) Every notice by this Act required to be given by or to the Trust shall be in writing, and signed by some duly authorised person; and such notice shall be deemed to have been duly given if left at the office or principal office of the Trust, authority, or person to whom the same shall be intended to be given, or the last known place of abode in South Australia of such person, or if posted in a registered letter, prepaid, addressed to the Trust, authority, or person, at its or his office or principal office, or at the last known place of abode in South Australia of such person.

(2) If such notice shall be so posted, it shall be deemed to have been given at the last moment of the day on which the same ought to be delivered at such office or principal office, or such place of abode, in the ordinary course of post.

Proof of  
service.  
913, 1906,  
s. 113.

**108.** Whenever it is necessary, on the hearing of any complaint for any offence against this Act or against any by-law or regulation thereunder, to prove service of any notice, an affidavit of the service of such notice, sworn before a justice of the peace or commissioner for taking affidavits in the Supreme Court, shall be sufficient proof of such service.

Authentica-  
tion of  
documents  
by Trust.  
913, 1906,  
s. 114.

**109.** Every order, summons, notice or other such document requiring to be authenticated by the Trust, or by any council, may, except when otherwise provided, be sufficiently authenticated without the common seal of the Trust or council if signed by a member of the Trust, or by two councillors, or by the town clerk or district clerk.

Representa-  
tion of Trust  
in cases of  
bankruptcy.  
913, 1906,  
s. 115.

**110.** In the event of any person against whom the Trust has any claim or demand being adjudicated bankrupt or making a statutory assignment for the benefit of or composition with his creditors, any officer or servant appointed

by the Trust in that behalf under its common seal may represent the Trust in all proceedings relating to the bankruptcy, assignment, or composition, as if such claim or demand had been the claim or demand of such officer or servant.

111. In all proceedings before justices or any local court, any officer or servant of the Trust appointed in that behalf by the Trust under its common seal may represent the Trust in all respects as though such officer or servant had been the party concerned.

Representa-  
tion of Trust  
in courts.  
913, 1906,  
s. 116.

112. Such officer or servant shall be reimbursed by the Trust for all damages, costs, and expenses to which he may be put, or with which he may become chargeable, by reason of anything contained in either of the last two preceding sections.

Reimburse-  
ment of officer.  
913, 1906,  
s. 117.

113. The Trust shall, for the purposes of this Act, have power by its members, officers, servants, or agents to enter at all reasonable hours in the daytime into and upon any building or land within the radius of ten miles from the General Post Office for the purpose of executing any work, or making any inspection, authorised to be executed or made by the Trust under this Act, without being liable to any legal proceedings on account thereof: Provided that, except as herein otherwise provided, the Trust shall not make any such entry upon occupied premises, unless with the consent of the occupier, until after the expiration of twenty-four hours' notice for that purpose given to the occupier.

Powers of  
entry by  
officers of  
Trust.  
913, 1906,  
s. 118.

114. No member shall be subject to be sued or prosecuted by any person, and the body, goods, or lands of a member shall not be liable to any execution of any legal process by reason for any contractual or other instrument entered into by the Trust, or by reason of any other lawful act done by the Trust, in the execution of any of its powers; and every member, his heirs, executors, and administrators shall be indemnified by the Trust for all payments made or liabilities incurred in respect of any acts done by him, and of all losses, costs, and damages, which he may incur in the execution in good faith of the powers granted to him by this or any other Act.

Exemption of  
members from  
personal  
liability on  
contracts.  
913, 1906,  
s. 119.

Description of  
property in  
information.  
913, 1906,  
s. 120.

**115.** In any information to be preferred by the Trust, or by the Attorney-General against any person who shall steal or wilfully injure, and in any criminal proceedings to be instituted in relation to any property belonging to or under the management of the Trust, it shall be sufficient to state generally the property or thing in respect of which such information shall be preferred, or proceedings instituted to be the property of the Trust, and for the purposes of such information or proceedings such property shall be deemed to be the property of the Trust.

Time for  
commencing  
proceedings.  
913, 1906,  
s. 121.

**116.** (1) All actions against any member, auditor, officer, or servant of the Trust for anything done, or omitted to be done in pursuance of this Act shall be commenced within six months after the happening of the cause of action.

(2) The defendant may plead the general issue and give this Act and the special matter in evidence at the trial.

(3) The plaintiff shall not recover in such action if tender of sufficient amends has been made before action brought, or if, after action brought, the defendant pays into court sufficient amends; but, in such last-mentioned case, the plaintiff shall recover his costs of suit up to the time of payment into court.

Summary  
proceedings.  
913, 1906,  
ss. 122, 124  
to 129.

**117.** (1) Every proceeding under this Act, for any omission, default, offence, or act, to which any penalty is attached, or to recover any money where no other mode of proceeding is by this Act provided, shall be disposed of summarily.

(2) A court of summary jurisdiction may, in case any penalty is imposed, order the defendant, in default of payment thereof, to be imprisoned for any period not exceeding six months.

Summary  
recovery of  
fares.  
913, 1906,  
s. 123.

**118.** All tolls and charges under this Act, or under any by-law made in pursuance thereof, may be recovered and enforced summarily.

## THE SCHEDULE.

## ACTS REPEALED.

Reference to Acts.	Title.	Extent of Repeal.
No. 913 of 1906 . . .	The Municipal Tramways Trust Act, 1906 ..	The whole
No. 936 of 1907 . . .	The Tramways Trust Crown Lease Act, 1907 ..	The whole
No. 1098 of 1912 . . .	The Port Adelaide Electric Tramways Act, 1912	The whole
No. 1286 of 1917 . . .	Henley and Grange Electric Tramways Act, 1917	The whole
No. 1331 of 1918 . . .	Municipal Tramways Trust Act Amendment Act, 1918 . . . . .	The whole
No. 1812 of 1927 . . .	Municipal Tramways Trust Act Amendment Act, 1927 . . . . .	The whole
No. 1839 of 1927 . . .	Glenelg, Brighton, and Marion Electric Tram- ways Act, 1927 . . . . .	The whole
No. 1887 of 1928 . . .	Municipal Tramways Trust Debentures Act, 1928 . . . . .	The whole
No. 1888 of 1928 . . .	Municipal Tramways Trust Act Amendment Act, 1928 . . . . .	The whole
No. 1902 of 1929 . . .	Municipal Tramways Trust Lease Act, 1929 ..	The whole

## By-laws and Regulations.

On the 24th day of May, 1937, the following by-laws and regulations were in force under this Act:—

## BY-LAWS AS TO FARES AND ROUTES—

*Gazette*—14th July, 1910, p. 47.  
 18th September, 1919, p. 665.  
 8th June, 1922, p. 1478.  
 18th October, 1923, p. 901.  
 16th April, 1925, p. 681.  
 8th August, 1929, p. 342.  
 7th November, 1929, p. 1048.  
 19th December, 1929, p. 1343.  
 26th December, 1929, p. 1362.  
 30th January, 1930, p. 186.  
 20th February, 1930, p. 374.  
 21st August, 1930, p. 357.

BY-LAWS REGULATING PASSENGER TRAFFIC GENERALLY, AND  
THE CONDUCT OF PASSENGERS—

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MUSEUM

see Public Library, Museum, and Art Gallery, and Institutes.