



ANNO VICESIMO

GEORGII V REGIS.

A.D. 1929.

No. 1919.

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

[Assented to, November 27th, 1929.]

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

1. (1) This Act may be cited as the " Building Act Amendment Act, 1929 ". Short titles.

(2) The Building Act, 1923, and this Act may be cited together as the " Building Acts, 1923 and 1929 ". No. 1800 of 1923.

(3) The Building Act, 1923, is hereinafter called " the principal Act ".

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

3. Section 5 of the principal Act is amended—

(a) by inserting therein the following definition :—

" Gallery " means a structure partially dividing a building in a plane other than vertical so that the projected floor area of the same does not exceed one-half of the floor area of projected floor area of the storey immediately below :

(b) by striking out of the definition of " ' Height ' in relation to storeys " therein :

(c) by inserting therein the following definition :—

" Sky-sign " means any model, sign, lettering, or device in the nature of an advertisement, announcement, or direction supported

Amendment of
principal Act, s. 5—
Interpretation.

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supported on or attached to any post, pole, standard, framework, or other support so that any part of the sky-sign is visible against the sky from some point in any street or way: the term does not include any flag, flagstaff, pole, vane, weathercock, cresting, or balustrade:

(d) by striking out the definition of "Street" therein and by inserting in lieu thereof the following definition:—

"Street" means—

(a) any public street or public road:

(b) any private street or private road which is dedicated to the public or which is vested in or under the control of any Municipal Corporation or District Council:

(c) any street, road, lane, footway, square, court or alley—

I. to or over which the public has the right of access or user; or

II. over which there has been uninterrupted user by the public for at least five years and over which the public are permitted to have access:

(e) by striking out the definition of "Storey" therein and by inserting in lieu thereof the following definition:—

"Storey" means the space or distance or portion of a building included between the underside of a concrete or fire-resisting floor or the floor-joists of any other floor and the underside of the concrete or fire-resisting floor or floor-joists next above it, or the underside of the tie beam, or collar tie, or half the vertical height of the rafters above, as the case may be; but a gallery shall not be deemed to divide a wall or building into storeys:

Amendment of
principal Act,
Part II.

4. The heading to Part II. of the principal Act is amended so as to read as follows:—

DUTY TO FURNISH PLANS AND COMPLY WITH CERTAIN REQUIREMENTS.

Amendment of
principal Act, s. 8—

5. Section 8 of the principal Act is amended so as to read as follows:—

Duty to furnish
plans.

8. (1) Every person who intends to erect, construct, add to, or alter any building on land of which he is the owner or to underpin any building erected on land adjoining any such land as first mentioned, shall before commencing such erection, construction, addition, alteration, or underpinning, give to the Council notice in writing of the said intention which shall be delivered or sent to the surveyor at his office, and shall at the same time deliver or send to the surveyor at his office two complete sets of plans and working drawings of the erection, construction, addition, alteration, or underpinning of the said building

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building which shall be drawn to a scale of not less than one inch to every eight feet and shall show the position, elevation, form, and dimensions of the building and the several parts thereof, or of any addition or alteration thereto, or underpinning thereof, and of every water closet and all other appurtenances.

(2) In the case of any iron or steel skeleton frame building or of any re-inforced concrete building, there shall be supplied as aforesaid with the said plans or working drawings any calculations of the stresses required in writing by the surveyor to be supplied; and in any case with respect to a building of any kind where, in the opinion of the surveyor, there is any reasonable cause for doubt as to the strength of any part of the structure or work, there shall be supplied as aforesaid on request in writing by the surveyor complete calculations relating to the said part.

(3) The said person shall at the same time deliver or send to the surveyor at his office a statement in writing signed by him setting out the purpose or purposes for which the said building to be erected, constructed, added to, or altered as aforesaid, and the said lands are intended to be used, and the said building and lands shall not, without the written consent of the Council first had and received and subject to any conditions or provisions imposed by the Council when granting the said consent being fully complied with, be used for any other purpose.

(4) The said person shall at the same time deliver or send to the surveyor at his office two copies in writing of the specifications for the erection, construction, or alteration of or addition to the said building and for the underpinning of any adjoining building as aforesaid, and of the materials which it is intended to use in the said erection, construction, addition, alteration, or underpinning, and of the intended mode of drainage, and the said person shall also deliver or send as aforesaid a written statement of the probable cost of the work and, if known to him, the name and address of the builder.

(5) The said person shall at the same time deliver or send to the surveyor at his office a block plan drawn to a scale of not less than one inch to every forty feet—

(a) showing the land upon which the building is proposed to be erected, constructed, added to, or altered, or, in the case of a building already erected, of the land upon which the same is erected:

(b) giving the Lands Titles Office reference to the said land or otherwise sufficiently identifying the said land:

(c) showing the land intended to be used in connection with the said building:

(d) showing

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- (d) showing the position of the buildings and appurtenances on the land immediately adjoining the land first-mentioned in this subsection :
 - (e) showing the width of all streets and ways adjoining the said first-mentioned land and building and the relative level of the lowest floor of the said building with respect to all of such streets and ways :
 - (f) in the case of the underpinning of any building, showing the land upon which the said building is erected.
- (6) The said person shall forthwith upon entering into any contract for the erection, construction, addition to, alteration, or underpinning of any building as aforesaid, deliver or send to the surveyor at his office a statement in writing setting forth the contract price for the said work and the name and address of the builder.
- (7) A complete copy of all such plans, working drawings, and specifications shall be filed by the surveyor for permanent record.
- (8) No person shall commence to erect, construct, add to, alter, or underpin any building, or shall erect, construct, add to, alter, or underpin any building, until the plans, drawings, and specifications have been approved in writing by the Council : Provided that the Council may, pending the approval of any such plans, drawings, or specifications, consent in writing (subject to any conditions fixed by the Council) to the commencement or carrying out by any such person of any such work as aforesaid, in which case the provisions of this subsection shall, subject to any conditions fixed as aforesaid, not apply to any such person.
- (9) No person shall, without the written consent of the Council, erect, construct, add to, alter, or underpin any building the plans, drawings, and specifications in respect of which have been approved by the Council except in accordance with the plans, drawings, and specifications as so approved.
- (10) In any case where in the opinion of the Council it is desirable so to do, the Council may, in the discretion of the Council, by notice in writing exempt the person required by this section to deliver or send any plans, drawings, specifications, or statement from any particular requirement of this section or may, if the case so requires, accept in lieu of any such plans, drawings, or specifications a written description of the work in question.
- (11) Where any person proposes to erect, construct, add to, or alter any building in accordance with an order of the Central Board of Health or of a Local Board of Health, or to erect a building to be used exclusively as a greenhouse, conservatory, summerhouse, fuel shed, tool house, cycle shed, aviary, or for some similar purpose, the Council may, in the discretion of the Council, by notice in writing exempt that person from the obligation to comply with this section.

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6. Section 9 of the principal Act is amended so as to read as follows:—

Amendment of
principal Act, s. 9—

9. (1) The surveyor shall examine all plans, drawings and specifications delivered to him under the next preceding section and report thereon to the Council. If, however, any such plans, drawings, or specifications in the opinion of the surveyor are not clear or not easily legible or do not contain sufficient information, the surveyor may, within fourteen days of their delivery to him, return them to the owner for amendment without reporting to the Council.

Duty of Council
with regard to plans.

(2) The Council shall consider the plans, drawings, and specifications together with the surveyor's report thereon and may, subject to the provisions of this Act, approve the same with or without conditions, or disapprove thereof.

(3) If the Council approves the plans, drawings, and specifications the approval shall be signified by a statement thereof in writing signed by the Clerk and countersigned by the surveyor and indorsed upon the plans, drawings and specifications, or written upon a document attached thereto.

(4) The Council may, upon application made, approve any modification of any plans, drawings and specifications approved under this Act. Unless so approved, such a modification shall be of no effect.

(5) If the Council disapproves of any plan, drawing, or specification it shall give notice in writing thereof to the owner stating the reasons for disapproval: Provided that where the plan, drawing, or specification is disapproved on the ground that it does not comply with this Act, it shall not be obligatory upon the Council to state every particular in which it does not so comply.

(6) The approval of the Council to any plans, drawings, or specifications shall become void if the erection, construction, addition to, alteration, or underpinning, as the case may be, of the building is not substantially commenced within one year of the date of the approval: Provided that at any time after the expiration of the said period the approval of the Council to the erection, construction, addition to, alteration, or underpinning, as the case may be, of the building may be obtained without payment of any further fees or (unless the Council otherwise requires) the lodging of any further plans, drawings, or specifications.

7. Section 10 of the principal Act is repealed.

Repeal of
principal Act, s. 10.

8. Section 12 of the principal Act is amended by adding at the end thereof the words "and unless the same is constructed of brick, stone, concrete, or some similar material".

Amendment of
principal Act, s. 12—
Construction of
stables.

9. Section

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Amendment of
principal Act, s. 13—
Compliance with
Act.

9. Section 13 of the principal Act is amended—

- (a) by inserting before the word “Every” in the first line thereof the words “Subject to section 101”;
- (b) by striking out the words “or alters” in the first line thereof and by inserting in lieu thereof the words “adds to, alters, or underpins”; and
- (c) by striking out the words “or alteration” in the second line thereof and by inserting in lieu thereof the words “addition, alteration, or underpinning”.

Amendment of
principal Act, s. 15—
Demolition of
buildings.

10. Section 15 of the principal Act is amended by inserting at the end of paragraph (1) thereof the words “unless otherwise directed by the surveyor, in which case he shall comply with any such direction”.

Amendment of
principal Act, s. 18—
Repairs, &c.

11. Section 18 of the principal Act is amended by adding at the end thereof the following proviso:—

Provided that in any case where in the opinion of the Council the general safety of the building is not thereby impaired, the Council may consent in writing thereto and the said work may thereupon be carried out in a manner so that the standard of the work complies with the standard of work in the existing building.

Amendment of
principal Act, s. 10—
Consents to
conversion of
buildings.

12. Section 19 of the principal Act is amended by striking out the word “surveyor” wherever it occurs in the first and last lines thereof and inserting in lieu thereof in each case the word “Council”.

Amendment of
principal Act, s. 20—
Obstructions in
streets.

13. Section 20 of the principal Act is amended—

- (a) by striking out the word “surveyor” wherever it occurs in the fifth and eighth lines of paragraph (b) of subsection (1) thereof and inserting in lieu thereof in each case the word “Council”;
- (b) by striking out the word “surveyor” wherever it occurs in the sixth and eighth lines of paragraph (c) of subsection (1) thereof and inserting in lieu thereof in each case the word “Council”;
- (c) by striking out the word “surveyor” wherever it occurs in the fifth and seventh lines of paragraph (e) of subsection (1) thereof and inserting in lieu thereof in each case the word “Council”; and
- (d) by adding at the end thereof the following subsections:—

(4) The granting or refusal of any such licence shall be in the discretion of the Council and any licence may be granted subject to such conditions as the Council thinks fit.

(5) In

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(5) In any case where, but for this section, it would be lawful for a person to erect any building, structure, wall-fence, or fence so that it encroaches upon or projects over any street or way, then, notwithstanding the provisions of subsection (1) hereof, the said person may, with the consent in writing of the Council (which said consent may be granted subject to any reasonable condition thought fit by the Council), erect any such building, structure, wall-fence, or fence. If the Council refuses to grant such consent as aforesaid or fails to grant such consent within one month after the making of an application to the Council for such consent, or if the Council in giving any such consent annexes any condition to the consent, the said person may apply by summons to a Judge of the Supreme Court who shall make such order as to him shall seem just in the circumstances. Any such order may empower such person as aforesaid to erect any such building, structure, wall-fence, or fence or may direct that any consent given as aforesaid by any Council to which any condition has been annexed by the Council, shall be freed from any such condition.

14. Section 22 of the principal Act is hereby repealed.

Repeal of s. 22
of principal Act.

15. Section 23 of the principal Act is amended by striking out all the words therein after the word "building" and by inserting in lieu thereof the words "or structure unless the design of the sky-sign and means of attachment thereof have been approved by the Council".

Amendment of
principal Act, s. 23—
Sky-signs.

16. Section 25 of the principal Act is amended by adding at the end thereof the passage "and unless complete plans thereof have first been submitted to and approved by the Council and the Council has granted its licence in writing for the erection, construction, or placing of the said show case. The granting or refusal of any such licence shall be in the discretion of the Council and any licence may be granted subject to such conditions as the Council thinks fit".

Amendment of
principal Act, s. 25—
Show cases.

17. Sections 24 and 26 of the principal Act are hereby repealed.

Repeal of ss. 24 and
26 of principal Act.

18. Section 27 of the principal Act is amended by adding at the end thereof the following passage:—

Amendment of
principal Act, s. 27—

If in the opinion of the surveyor the person making the excavation has not taken any or sufficient precautions to prevent such subsidence as aforesaid, the surveyor may take such precautions or further precautions as he deems necessary for that purpose and recover the cost of so doing from the owner of the land on which the excavation is made, in the manner in which fees are recoverable under this Act.

Dangerous excava-
tions.

19. Section

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Amendment of
principal Act, s. 23—
Application to
Council.

19. Section 28 of the principal Act is amended by inserting after the word "erecting" in the first line thereof the words "on any land of which he is the owner".

Amendment of
principal Act, s. 30—
Duties as to
hoardings.

20. Section 30 of the principal Act is amended by striking out the words "except hoardings on vacant land not within twelve feet of the street alignment of any street or way and not exceeding in any part ten feet in height" in the third, fourth, and fifth lines thereof.

Repeal of s. 31 of
principal Act.

21. Section 31 of the principal Act is repealed.

Amendment of
principal Act,
Part V.—

22. Part V. of the principal Act is amended by inserting therein after section 33 thereof the following section :—

Right to acquire
easement for
party wall.

33A. When lands of different owners adjoin and a party wall was at the time of the commencement of this Act on any part of the line of junction and either owner is about to build and use the said wall, the owner of the land upon which the party wall is erected, shall grant an easement of support in respect of the said wall over the said land and appurtenant to the other land upon which the party wall is built, and shall cause the said easement to be registered upon the folium of the Register Book relating to the said land, if the land is under the provisions of the Real Property Act, 1886, or shall cause the easement to be registered in the General Registry Office, if the land is not under the said provisions. The building owner shall bear the expenses of registering the said easement and any other expenses incidental thereto.

Amendment of
principal Act, s. 41—
Party walls.

23. Section 41 of the principal Act is amended—

(a) by inserting after the word "floor" in the first line of paragraph (d) of subsection (2) thereof the words "or any projection"; and

(b) by striking out the word "way" in the second line of the proviso to subsection (2) thereof and by inserting in lieu thereof the word "wall".

Amendment of
principal Act, s. 49—
Overloading.

24. Section 49 of the principal Act is amended by adding at the end of subsection (2) thereof the following passage :—

If the surveyor certifies that in his opinion the structure is in a dangerous state by reason of the overloading of the structure, he shall cause notice to be served on the owner requiring him forthwith to remove the load or such portion thereof as is necessary to make safe the structure.

Amendment of
principal Act, s. 69—
Referees.

25. Section 69 of the principal Act is amended—

(a) by striking out the word "shall" in the first line thereof and by inserting in lieu thereof the word "may"; (b) by

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- (b) by inserting after the word "referees" in the second line thereof the words "in respect of any Municipality or District";
- (c) by inserting after the word "or" in the fifth line thereof the word "building"; and
- (d) by adding at the end thereof the following subsection :—

(4) In any case where the Minister by notice in writing by post requires a Council to appoint a referee under this section and within one month after the giving of the notice the Council fails to appoint a referee, a referee appointed by the Minister for the Municipality or District in question shall, until such time as the Council appoints a referee, be the sole referee for that Municipality or District and shall have and may exercise all the powers given by this Act to referees. Upon the Council appointing a referee the referees appointed by the Minister and the Council shall have and may exercise the powers given by this Act to referees.

26. Subsection (1) of section 82 of the principal Act is amended—

Amendment of
principal Act, s. 82—
By-laws.

- (a) by striking out the words "of the erection or construction" in the first line of paragraph (f) thereof;
- (b) by inserting after the word "of" in the second line of paragraph (f) thereof the words "the erection, construction, or alteration of or addition to";
- (c) by striking out the word "or" in the first line of paragraph (g) thereof; and
- (d) by striking out the word "of" last occurring in the first line of paragraph (g) thereof and inserting in lieu thereof the words "or alteration of, or addition to".

27. Subsection (2) of section 83 of the principal Act is amended by striking out the word "Fifth" in the third line thereof.

Amendment of
principal Act, s. 83—
Regulations.

28. Section 84 of the principal Act is amended by striking out the word "wilful" in the first line thereof.

Amendment of
principal Act, s. 84—
Penalty for non-
compliance with Act.

29. Part X. of the principal Act is amended by inserting therein after section 85 thereof the following section :—

Amendment of
principal Act,
Part X.—

85A. Any person who obstructs or causes the obstruction of any fire door in any party-wall shall be liable to a penalty not exceeding Ten Pounds.

Penalty for
obstructing fire
doors.

30. Part X. of the principal Act is amended by inserting therein after section 95 the following section :—

New section of
principal Act, s.
95A—

95A. (1) In any proceedings for an offence against this Act, the allegation in the complaint that any act has been done without the

Evidentiary pro-
visions.

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the sanction, consent, approval, or allowance of the Council or the surveyor shall be *prima facie* evidence of the matter alleged.

(2) A document purporting to be a copy of any by-law made by any Council by virtue of this Act, and purporting to be signed by the clerk thereof, shall, without any other proof, be received as *prima facie* evidence of the existence, contents, and validity of such by-law.

(3) A certificate in writing purporting to be signed by the clerk of a Council or by the surveyor thereof and stating that any place within the Municipality or District, as the case may be, of the Council is a street or way within the meaning of this Act shall, without any other proof, be received as *prima facie* evidence that such place is a street or way, as the case may be, within the meaning of this Act.

Amendment of
principal Act, s. 98—

31. Section 98 of the principal Act is amended so as to read as follows:—

Notice to be
evidence.

98. Any notice served or given pursuant to this Act, and any publication therein contained, shall be deemed in any question relative to any building, structure, or work or relative to the ownership of any building, structure, or land, to be *prima facie* evidence, as against the person by whom the notice was given or served, of the nature of the building, structure, or work proposed to be built or done or as to the ownership of the building, structure, or land.

Amendment of
principal Act, s.
100—
Fees.

32. Subsection (2) of section 100 of the principal Act is amended—

- (a) by inserting before the word "The" first occurring in the first line thereof the words "Subject to section 9";
- (b) by striking out the word "surveyor" in the fourth line thereof and inserting in lieu thereof the word "Council"; and
- (c) by inserting after the word "approval" in the fifth line thereof the words "or have been disapproved".

Amendment of
principal Act.
s. 101—
Annexing of
conditions.

33. Section 101 of the principal Act is amended—

- (a) by striking out the words "when accepted" in the first line of subsection (2) thereof;
- (b) by inserting after the word "any" in the fourth line of subsection (2) thereof the word "such";
- (c) by striking out the words "so accepted" in the fourth line of subsection (2) thereof; and
- (d) by adding at the end thereof the following subsection:—

(3) In any case where any plans, working drawings, specifications, or proposed building does not or will not comply with any provision of this Act, but the Council

is

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is of opinion that the said plans, working drawings, specifications, or building substantially complies or will substantially comply with the requirements of this Act, and that it is in accordance with the true intent and spirit of this Act so to do, the Council may, on the recommendation in writing of the surveyor, by notice in writing, approve of any such plans, working drawings, specifications, or building and thereupon the said plans, working drawings, specifications, or building shall be deemed to comply with this Act. Any such approval may be given subject to any conditions the Council may think fit. If the Council refuses to give any such approval in any particular case or if the Council annexes any condition to any such approval, the decision of the Council with respect thereof shall, notwithstanding the provisions of Part VIII., be final and conclusive.

34. Section 103 of the principal Act is amended—

- (a) by inserting after the word "surveyor" whenever it occurs in the second and seventh lines thereof in each case the words "or the Council";
- (b) by striking out the word "him" in the ninth line thereof and inserting in lieu thereof the passage "the Council or surveyor, as the case may be,"; and
- (c) by striking out the words "his discovering" in the penultimate line thereof and inserting in lieu thereof the words "the discovery by the surveyor".

Amendment of
principal Act,
s. 103—
Consequential
amendment.

35. Section 104 of the principal Act is amended—

- (a) by striking out the words "and the fees are paid" in the fifth line of subsection (1) thereof;
- (b) by striking out the word "they" in the penultimate line of subsection (1) thereof and inserting in lieu thereof the words "one copy, if more than one copy has been so delivered,";
- (c) inserting at the end of the subsection (1) thereof the words "on payment of the proper fees"; and
- (d) by striking out subsection (2) thereof.

Amendment of
principal Act,
s. 104—
Return of plans and
documents.

36. Section 105 of the principal Act is amended by inserting after the word "shall" in the second line thereof, the words "unless otherwise by this Act provided."

Amendment of
principal Act,
s. 105—
Mode of giving
approval of Council.

37. Section 107 of the principal Act is amended—

- (a) by inserting after the word "casks" in the third line of subsection (1) thereof the words "packing cases":
- (b) by

Amendment of
principal Act,
s. 107—
Storing of timber,
etc.

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(b) by inserting after the word “casks” whenever it occurs in the second and last lines of subsection (2) in each case the words “packing cases”:

(c) by striking out subsection (3) thereof and inserting in lieu thereof the following subsection:—

(3) No person shall pile, stack, or store any cut or uncut timber, lathwood, firewood, casks, packing cases or barrels in such manner that the pile, stack, or store thereof exceeds twenty feet in height from the ground or floor level.

(d) by inserting after the word “casks” in the second line of subsection (4) thereof the words “packing cases”.

Amendment of
principal Act, s.
108—

Window.

38. Section 108 of the principal Act is amended by inserting after the word “door” in the fourth line thereof the words “and an adequate opening for light and ventilation”.

Amendment of
principal Act,
Part XI.—

Delegation of
powers of
Council.

39. Part XI. of the principal Act is amended by inserting therein the following section:—

111A. The Council may by resolution delegate to any committee of its members or to any of its officers such of its powers and duties under this Act as it thinks fit, and may, by resolution revoke or vary any such resolution.

Repeal of principal
Act, Fifth Schedule.

40. The Fifth Schedule to the principal Act is hereby repealed.

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

A. HORE-RUTHVEN, Governor.