



ANNO SECUNDO

## ELIZABETHAE II REGINAE

A.D. 1953

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### No. 48 of 1953.

An Act to amend the Building Act, 1923-1946,  
and to repeal sections 135 to 138 of the Police  
Act, 1936-1952.

[Assented to 17th December, 1953.]

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 Amend- Short titles.  
ment Act, 1953 "

(2) The Building Act, 1923-1946, as amended by this Act,  
may be cited as the " Building Act, 1923-1953 "

(3) The Building Act, 1923-1946, is hereinafter referred to  
as " the principal Act "

2. Section 8 of the principal Act is amended—

(a) by striking out the words " of the intended mode of  
drainage " in the seventh and eighth lines of  
subsection (4) thereof and by inserting in lieu  
thereof the words " in the case of the erection or  
construction of or addition to a building, of the  
mode of drainage of water from the roof thereof  
and of the mode of disposal of nightsoil and sullage  
and waste water therefrom " ;

(b) by inserting after the word " council " first occurring  
in subsection (8) thereof the words " and, in the  
case of the erection or construction of or addition  
to a building, the mode of drainage of water from

Amendment of  
principal Act,  
s. 8—  
Duty to  
furnish plans.

the roof of the building, and the mode of disposal of nightsoil and sullage waste water from the building have been approved in writing by the council” ;

(c) by adding at the end thereof the following subsections :—

(13) If approval is given by the council to any plans, drawings and specifications, then the person who carries out the work so approved shall during the time the work is carried out have available for inspection by the surveyor at or near the place where the work is carried out and during the whole time the work is being carried out, a working copy of the plans, drawings and specifications so approved and a copy of the approval of the council thereto.

(14) Any plans, working drawings or specifications in respect of any building which are delivered to the council or the surveyor pursuant to this section shall be signed by the owner of the building, and if the plans, drawings or specifications have been prepared by an architect, shall be also signed by the architect, and if a contract has been entered into with a builder for the carrying out of the work, shall also be signed by the builder.

Every working copy of any plans, drawings, and specifications which, pursuant to subsection (13) hereof, is required to be available for inspection, shall also be signed as is hereinbefore provided in this subsection.

Amendment of  
principal Act,  
s. 9—  
Approval of  
plans.

**3.** Section 9 of the principal Act is amended by adding at the end of subsection (3) thereof the words “ A duplicate of every such approval shall also be supplied by the council to the person by whom the plans, drawings and specifications have been submitted ”.

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

**4.** Section 20 of the principal Act is amended—

(a) by striking out the words “ No person shall ” in the first line thereof and by inserting in lieu thereof the words “ No person shall unless lawfully authorized ” ;

(b) by striking out the words “ unless lawfully authorized ” in the second line thereof ;

(c) by inserting at the end of subsection (1) thereof the following paragraph :—

(f) construct or erect any cellar or any opening, door or window in or beneath the surface of any street or way.

5. Section 27 of the principal Act is amended by inserting after the word " room " in the second line thereof the words " or vault or area " ;

Amendment of principal Act, s. 27—  
Excavations near streets.

6. The following section is enacted and inserted in Part III. of the principal Act after section 27 thereof :—

Enactment of s. 27a of principal Act—

27a. (1) If any area or opening to any part of any building is below the level of any street or way, the owner or occupier of the building—

Duty to secure entrances to cellars, etc.  
Cf. 2280, 1936, s. 135.

(a) shall safely and securely guard the area or opening by rails or bars so as to prevent damage to any persons passing along the street or way ;

(b) shall keep in good and substantial repair all rails or bars or other material over or otherwise enclosing the area or opening.

(2) If any cellar or basement of any building is below the level of any street or way, the owner or occupier of the building—

(a) shall safely and securely guard any doorway or entrance to the cellar or basement so as to prevent damage to any persons passing along the street or way ;

(b) shall not leave open and shall sufficiently and substantially cover and keep covered and secured any coal-hole or other hole or any trap-door or cellar-flap connected with the cellar or basement (except only during such reasonable times as any coal, wood, cask, or other thing is being put down or taken up out of the cellar or basement or during such reasonable time as the trap, flap, or covering is being altered or repaired) ;

(c) shall keep in good and substantial repair any such doorway, trap, flap, or other covering.

7. The following section is enacted and inserted in Part VII. of the principal Act after section 68 thereof :—

Amendment of s. 68a of principal Act—

68a. (1) In any case where the surveyor of the council is not employed by the council as a full-time officer of

Power of inspector to exercise powers of surveyor.

the council, the council may from time to time by resolution declare that an inspecting officer of the council may exercise all or any of the following powers and carry out all or any of the following duties of the surveyor :—

I. Any power given to or duty imposed upon the surveyor under any provision of this Act with relation to any single story building of ordinary construction the design of which building does not involve any computations :

II. Any power given to or duty imposed on the surveyor by section 15, section 27, or Part VI.

(2) Any inspecting officer to which this resolution applies may exercise the powers and undertake the duties of the surveyor in accordance with the resolution.

(3) Any such resolution of the council may from time to time be revoked or varied by a subsequent resolution of the council.

Amendment of  
principal Act,  
s. 79—  
Fees for  
referees.

8. Section 79 of the principal Act is amended by striking out the word “ two ” in the second line thereof and by inserting in lieu thereof the word “ three ”.

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

9. Section 82 is amended by inserting therein after paragraph (h1) of subsection (1) thereof the following paragraph :—

(h2) For regulating, controlling or prohibiting the erection or use for habitable purposes of buildings, tents, or other movable or immovable structures not conforming with the requirements of the second schedule.

Amendment of  
principal Act,  
s. 84—  
Penalty.

10. Section 84 of the principal Act is amended by inserting after the word “ Act ” in the second line thereof the words “ or failure to comply with any provision of this Act ”.

Amendment of  
principal Act,  
s. 85—  
Remedies  
additional to  
penalty.

11. Section 85 of the principal Act is amended by striking out subsections (2) and (3) thereof and by inserting in lieu thereof the following subsections :—

(2) If such owner or occupier does not within the time limited by the said notice make the building, wall or other thing conformable to the provisions of this Act or pull down and remove the same he shall be guilty of an offence and liable to a penalty not exceeding fifty pounds.

(3) On the hearing of a complaint for an offence under the provisions of subsection (2) hereof, the court, if satisfied that the building, wall or other thing does not conform to the provisions of this Act may, in addition to

imposing any penalty, make an order authorizing the council and it shall thereupon be lawful for the council or any person authorized by the council after expiry of fourteen days from the date of the order to enter upon the building or the land upon which the building, wall or other thing exists with a sufficient number of workmen and to cause all or so much of the building, wall or other thing as in the opinion of the council is not conformable to the provisions of this Act to be taken down, rebuilt or re-erected in such manner as may be requisite and may order that all the expenses of so doing shall be paid by the owner to the council.

(4) If no owner or occupier can be found on whom to serve a notice under the provisions of subsection (1) hereof, the surveyor shall report the matter to the council and the council may thereupon cause all or so much of the building, wall or other thing as in its opinion is not conformable to the provisions of this Act to be taken down, rebuilt or re-erected in such manner as may be requisite and all expenses of so doing shall be paid by the owner and may be recovered in any court of competent jurisdiction.

(5) If any building, wall or other thing as aforesaid or any part of the same is taken down, rebuilt or re-erected as aforesaid the council may sell the materials thereof or so much of the same as has been taken down and apply the proceeds of the sale in payment of the expenses incurred in respect of the building, wall or other thing and the council shall restore any surplus arising from the sale to the owner of the building, wall or other thing on demand.

(6) Any expenses ordered by the court under the provisions of subsection (3) hereof to be paid by the owner to the council may be recovered by the council in any court of competent jurisdiction.

**12.** Section 86 of the principal Act is amended by adding at the end thereof the following subsection :—

Amendment of principal Act, s. 86—

Proceedings for offences.

(3) A complaint in respect of any offence against this Act shall be made within twelve months from the time when the matter of complaint arose.

**13.** Sections 135, 136, 137 and 138 of the Police Act, 1936-1952, are hereby repealed.

Consequential repeal of ss. 135-138 of the Police Act.

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

R. A. GEORGE, Governor.