



ANNO VICESIMO SEXTO

GEORGII V REGIS.

A.D. 1935.

No. 2210.

An Act to consolidate certain Acts relating to The
Botanic Garden of Adelaide.

[Assented to, 24th October, 1935.]

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

1. This Act may be cited as the “ Botanic Garden Act, 1935 ”. Short title.

2. This Act is a consolidation of the Acts mentioned in the schedule and the said Acts are hereby repealed. Consolidation and repeal.

3. In this Act— Interpretation.
“ board ” means The Governors of the Botanic Garden :
“ garden ” means The Botanic Garden of Adelaide.

4. The garden and park laid out and established in the City of Adelaide and the additions thereto shall continue to be called “ The Botanic Garden of Adelaide ”. Continuance of garden.
8, 1860, s. 1 (part).

5. (1) The garden shall be managed by a board of governors which shall be called “ The Governors of the Botanic Garden ”. Control of garden.
8, 1860, ss. 1 and 2 (part).
(2) The board shall consist of eight persons, five of whom shall be appointed by the Governor.

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(3) The following persons shall be *ex officio* members of the board :—

- I. The Speaker for the time being of the House of Assembly :
- II. The Lord Mayor of the City of Adelaide for the time being :
- III. The chairman for the time being of the Royal Agricultural and Horticultural Society of South Australia, Incorporated.

(4) No person shall be appointed to or hold a seat on the board who is a nurseryman or seedsman or who is in any manner connected with the public sale of plants in the State either by himself or by an agent.

Powers of board.
8, 1860, s. 2
(part).

6. The board shall by the name aforesaid have perpetual succession, and shall and may sue and be sued, implead and be impleaded, grant and receive and shall hold in trust all lands, buildings, and property of whatsoever nature, dedicated to, or given up for, the purposes of, or in anywise belonging to, the board or the garden.

Retirements from board.
8, 1860, s. 4.

7. (1) On the twenty-fourth day of March in every year, the two members of the board (not being *ex officio* members) who have been present the least number of times at the meetings of the board, shall retire from office.

(2) Any member retiring as aforesaid shall be eligible for re-election.

(3) In the case of an equality between two or more members of the board in respect of the number of attendances as aforesaid the retiring member shall be decided by lot.

(4) On the annual retirement of the said two members, or in the case of the death, resignation, disqualification, or incapacity of any member or members, the successors or successor of the retiring members, or of any member dying, resigning, or becoming disqualified or incapable, shall be appointed by the Governor.

Quorum of board.
8, 1860, s. 5
(part).

8. Three members of the board shall form a quorum thereof and may exercise any of the powers of the board.

Powers as to garden.
8, 1860, s. 5
(part).

9. (1) Subject to subsection (2) the board shall have full power and authority to hold and retain all lands granted or occupied, whether before or after the passing of this Act, for the purposes of the board.

(2) If any part of the said lands are diverted from the said purpose by any Act of Parliament the power hereby given shall continue over the part not so diverted.

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(3) The board may, with the consent of the Governor, augment, diminish, or alter the boundaries of the garden.

10. (1) The board—

General
powers of
board.
8, 1860, s. 5
(part).

- (a) shall have full power and authority to receive, pay, apply, and dispose of all moneys annually granted for the purposes of the garden out of the general revenue of the State, and all such moneys as are, from time to time, granted for building or other special purposes :
- (b) may enter into contracts, and do all such other acts, deeds, matters, or things as may be requisite or proper to be done in the purchasing or otherwise collecting of plants, seeds, roots, implements, ornaments, materials, botanical books, and specimens, or erecting or completing suitable conservatories, lodges, fences, summer houses, and other buildings for the reception and safe custody of the library and other effects appertaining to the garden, and for all such other purposes as the board may decide to be required to carry into effect the objects of the garden :
- (c) may purchase, exchange, and otherwise collect animals, and may construct aviaries, cages, places of shelter and restraint, and enclosures therefor, and may provide any necessary food and labour :
- (d) may form and maintain a botanical and natural history museum in connection with the garden :
- (e) may do, manage, transact, and determine all such other acts, deeds, matters, and things as to the board appear necessary for effecting and properly carrying out the purposes of this Act and the garden, but so, nevertheless, that the same shall be in accordance with this Act.

(2) Any sum so expended on account of any such animals and museum in any one year shall not exceed one-sixth of the yearly income given for the support of the garden unless the Governor consents to the augmented expenditure upon special cause being shown.

11. (1) The board shall have power, with the consent of the Governor, to direct and order at what times, in what manner, and under what restrictions and conditions the public shall be admitted to the garden, and with the like consent may rescind or alter any such time, restriction, or conditions.

Admission of
public.
8, 1860, s. 5
(part).

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(2) A copy of every such order shall be laid before Parliament as soon as may be after the same has been approved by the Governor.

Officers.
8, 1860, s. 5
(part).

12. (1) The board may appoint a director, secretary, and other officers appertaining to the garden, and may fix and determine the salaries and emoluments thereof.

(2) All salaries paid by the board shall be annually submitted to Parliament.

By-laws.
8, 1860, s. 5
(part).
6, 1866, s. 3
(part).

13. (1) The board may with the consent of the Governor make, alter, or rescind by-laws—

(a) for the safety and preservation of the public property in the garden :

(b) for the distribution by gift, exchange, or public sale of any spare plants, seeds, specimens, and animals :

(c) for the repressing of such impropriety in the conduct of visitors as may tend to immorality, profanity, injury, or breach of the peace, or the discomfort of other visitors :

(d) otherwise for the more regular and efficient government of the garden.

(2) A copy of every such by-law shall be laid before Parliament as soon as may be after the same has been approved by the Governor.

(3) A copy of the *Government Gazette* purporting to contain a copy of any by-law made under this Act or any Act repealed by this Act shall be *prima facie* evidence of the lawful existence of the by-law.

Banking
account.
8, 1860, s. 6

14. (1) Every sum of money which is voted for the purposes of this Act by Parliament shall be paid into such bank in Adelaide as the board may appoint, to be held as a distinct account, called "The Botanic Garden Account".

(2) The said money shall be withdrawn only by cheques signed by two of the members of the board, and countersigned by the secretary.

(3) There shall be annually submitted to Parliament a full and true account of all moneys received and paid by the board. The accounts of the board shall be annually audited by the Auditor-General.

Liability of
owner of
animals
trespassing
8, 1860, s. 7.

15. In case of any injury to, or the destruction of any animal or plant belonging to the garden, by any dog, goat, fowl, or other animal trespassing within the garden, the owner of the dog, goat, fowl, or other animal shall be guilty of an offence against this Act and liable to a penalty not exceeding

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two pounds, and shall, in addition, be liable to pay the value of the animal or plant so injured or destroyed, and in default of payment may be imprisoned for any period not exceeding one month, unless the payment be sooner made.

16. Any person who commits any offence against any by-law or against any of the provisions of this Act, may be forthwith apprehended, without warrant, by any constable or other peace officer, or by any of the officers or servants employed by the board and shall be taken before some justice to be dealt with according to law.

Power to apprehend persons offending against by-laws.
6, 1866, s. 1.

17. Any person who commits any offence against any of the by-laws made and approved as aforesaid, shall—

Penalties.
8, 1866, s. 8.

(a) be liable to a penalty not exceeding ten pounds, and to be imprisoned for any term not exceeding three months :

(b) be liable also to pay the amount of any damage done by the said person, and in default of payment of the amount of damage, to be further imprisoned for any period not exceeding three months, unless the amount be sooner paid.

18. In any indictment, information, or complaint for any offence committed upon or in respect of any property, money, goods, chattels, or effects under the management or control of the board, it shall be sufficient to state or allege the property, money, goods, chattels, or effects to belong to, and any offence to have been done or committed with the intent to injure or defraud The Governors of the Botanic Garden, without any further or other name, addition, or description whatever.

Prosecution of offences.
6, 1866, s. 2.

19. All proceedings in respect of any offence against this Act shall be disposed of summarily.

Summary procedure.

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

H. ANGAS PARSONS, Deputy Governor.

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SCHEDULE.

ACTS REPEALED.

Reference to Act.	Short Title or Titles.
No. 8 of 1860	Botanic Garden Act
No. 6 of 1866	An Act to amend the Botanic Garden Act

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TABLE SHOWING HOW THE SECTIONS OF THE ACTS CONSOLIDATED HAVE BEEN DEALT WITH.

Section of Repealed Act.	Remarks.	Section of Consolidating Act.
Botanic Garden Act s. 1	Reference to "Mayor of Adelaide" altered to "Lord Mayor of Adelaide", and reference to "South Australian Agricultural and Horticultural Society" altered to "Royal Agricultural and Horticultural Society of South Australia, Incorporated".	4, 5
Ibid. s. 2	.....	6
" s. 3	Operation exhausted	—
" s. 4	Reference to first board omitted	7
" s. 5	.....	8, 9, 10, 11, 12, 13
" s. 6	.....	14
" s. 7	.....	15
" s. 8	.....	17
" s. 9	Commencement	—
" s. 10	Short title.....	—
An Act to amend the Botanic Garden Act s. 1	.....	16
Ibid. s. 2	.....	18
" s. 3	.....	13 (3)
" Schedule	Rescinded by by-law made 23rd November, 1921	—