



ANNO VICESIMO SECUNDO

# GEORGI V REGIS.

## A.D. 1931.

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### No. 2040.

An Act to amend the District Councils Acts, 1929 and 1930.

[Assented to, December 2nd, 1931.]

**B**E 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 "District Councils Act Amendment Act, 1931". Short titles.

(2) The District Councils Acts, 1929 and 1930, and this Act may be cited together as the "District Councils Acts, 1929 to 1931".

(3) The District Councils Act, 1929, is hereinafter referred to as "the principal Act". No. 1924 of 1929.

2. Section 3 of the principal Act is amended by inserting therein after the heading "Part XIV.", the following heading :— Amendment of principal Act, s. 3—  
Arrangement of Act.

#### PART XIV<sub>A</sub>.—POWERS OF COUNCIL TO SELL LAND FOR NON-PAYMENT OF RATES.

3. Section 6 of the principal Act is amended by striking out the definition of "Occupier" therein and by inserting in lieu thereof the following definition :— Amendment of principal Act, s. 6—  
Definition of occupier.

"Occupier" includes leaseholder :

4. Division I. of Part IX. of the principal Act is amended by inserting therein the following section :— Amendment of principal Act, Part IX.—

134A. (1) Any officer or person authorised in writing by the Council may demand the name and address of any person who is found committing a breach of any of the provisions of this Act, or any by-law made thereunder. Power of officers of Council to demand name and address of certain offenders. Cf. 1558, 1923, s. 151.

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(2) If any such person refuses to give his true name and address, or gives a false name or address to any such officer or person authorised as aforesaid, he shall be liable to a penalty not exceeding Five Pounds.

(3) If any such person as mentioned in subsection (1) hereof refuses to give his true name or address or gives a false name or address, such officer or person authorised as aforesaid or any member of the Police Force may, without a warrant, apprehend such person.

Amendment of  
principal Act,  
s. 160—  
Extension of period  
for new assessment.

**5.** (1) Subsection (1) of section 160 of the principal Act is amended by adding at the end thereof the words, "For the purpose aforesaid, the Council may use such assessment by increasing or decreasing the assessed value of all the property comprised therein by any percentage fixed by the Council".

(2) Subsection (4) of section 160 of the principal Act is amended by adding at the end thereof the following passage:—

The Minister may in respect of any Council by notice in writing extend the said period of seven years within which the Council shall cause a new assessment to be made. Any such extension may apply to any period before the passing of the District Councils Act Amendment Act, 1931, but no such extension shall continue for any period after the thirtieth day of June, nineteen hundred and thirty-two.

Amendment of  
principal Act,  
s. 166—  
Extension of period  
for new assessment.

**6.** (1) Subsection (3) of section 166 of the principal Act is amended by adding at the end thereof the words, "For the purpose aforesaid, the Council may adopt such assessment by increasing or decreasing the assessed value of all the land comprised therein by any percentage fixed by the Council".

(2) Subsection (5) of section 166 of the principal Act is amended by adding at the end thereof the following passage:—

The Minister may, in respect of any Council, by notice in writing, extend the said period of seven years within which the Council shall cause a new assessment to be made. Any such extension may apply to any period before the passing of the District Councils Act Amendment Act, 1931, but no such extension shall continue for any period after the thirtieth day of June, nineteen hundred and thirty-two.

Amendment of  
principal Act, s. 233.

**7.** Subsection (1) of section 233 of the principal Act is amended by striking out the word "Ten" in the second line thereof and inserting in lieu thereof the word "Five".

Amendment of  
principal Act,  
s. 233  
Remission of fines.

**8.** Subsection (2) of section 233 (as enacted by section 2 of the District Councils Act Amendment Act, 1930) of the principal Act is amended by striking out—

(a) the word "undue" in the second line thereof; and

(b) all the words of the said subsection after the word "fine" in the fourth line thereof.

**9.** The

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9. The principal Act is amended by inserting therein after Part XIV. thereof the following new Part:—

Amendment of  
principal Act—  
Cf. 1911, 1929, s. 45.

PART XIV<sub>A</sub>.POWERS OF COUNCIL TO SELL LAND FOR  
NON-PAYMENT OF RATES.

247A. (1) In any case in which rates (whether becoming due before or after the passing of the District Councils Act Amendment Act, 1931), in respect of any land being ratable property (other than land of or belonging to the Crown) are in arrear for not less than five years and the land is and has been vacant and unoccupied for more than five years, the Council shall by virtue of this Act, have the following powers:—

Powers of  
Council.

- I. Power to sell the said land :
- II. Power to transfer or convey the land sold.

(2) The said power of sale shall include—

- (a) a power to sell the land or any part thereof either together or in lots by public auction or by private contract subject to such terms and conditions with respect to the payment of the purchase money or any other manner as the Council thinks fit :
- (b) power to vary any contract of sale and to buy in at any auction :
- (c) power to rescind any contract for sale and to resell without being answerable for any loss occasioned thereby :
- (d) power to make such streets and to grant such easements of right-of-way or drainage over the same as the circumstances of the case may require and the Council thinks fit :

Provided that the land shall not be sold by private contract unless or until the same has been first offered for sale by public auction.

247B. (1) A Council shall not exercise the power of sale conferred by this Part unless and until notice demanding payment of all rates owing in respect of the land has been—

Conditions for  
exercise of power  
of sale.

- (a) in the case of land under the Real Property Act, 1886, served on the person registered as the proprietor thereof by being delivered to him or by being sent in a registered letter posted to him at his address (if any) appearing in the Register Book ;
- (b) in the case of land not under the Real Property Act, 1886, served on the owner or person appearing by the last memorial relating to the land in the office

of

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of the Registrar-General to be the owner thereof, by being delivered to him or by being sent in a registered letter posted to him at his address (if any) appearing in the said memorial;

- (c) served on every person appearing by the Register Book or any memorial in the office of the Registrar-General to have any estate or interest in the land by being delivered to him or by being sent in a registered letter posted to him at his address (if any) appearing in the Register Book or memorial;
- (d) posted on the land for not less than one month; and
- (e) posted in a conspicuous place at the District Office for not less than one month.

(2) If in the case of any person required by this section to be served, no sufficient address appears in the Register Book or memorial, notice requiring payment shall be served on that person by being advertised once in a newspaper circulating in the neighbourhood of the land, once in a newspaper published in the City of Adelaide, and once in the *Gazette*. It shall be competent to include in any such notice lands within the same District belonging to more than one owner. Any such notice may be in the form in the Fifteenth Schedule, or in a form to the like effect.

**Contents of notice.**

247C. (1) Every such notice requiring payment shall—

- (a) be in writing and be dated and signed by the District Clerk on behalf of the Council;
- (b) specify the total amounts owing in respect of rates of which payment is required;
- (c) specify the land in respect of which the rates are owing by a sufficient description of the land; and
- (d) include a statement that in default of payment of the amounts therein specified, the land will be offered for sale by public auction after the expiration of three months from the date of notice at a time appointed by the Council.

(2) Subject to subsection (2) of section 247B, every such notice may be in the form in the Sixteenth Schedule, or in a form to the like effect.

**Fixing of time for sale by auction.**

247D. The Council shall appoint a time not less than three months and not more than twelve months from the service of the notice on the proprietor or owner at which the land may be offered for sale by public auction.

**Advertisement of sale.**

247E. (1) The sale shall be advertised—

- (a) once at least in a newspaper circulating in the neighbourhood of the land;
- (b) once

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- (b) once at least in a newspaper published in the City of Adelaide :
- (c) once at least in the *Gazette* :
- (d) by posting a copy of the advertisement in a conspicuous place at the District Office, and keeping the same so posted for not less than twenty-one days :
- (e) by such further and other means (if any) as in the circumstances are reasonable and proper.

(2) In the advertisement it shall be competent to include lands within the same District belonging to more than one owner.

247F. Up to the time of the actual sale of any land for non-payment of rates any person having any estate or interest in the land may pay the said rates, and the costs then incurred. Right to pay rates.

247G. A Council exercising the power of sale conferred by this Division shall have power by transfer (where the land is under the Real Property Act, 1886), and by deed (where the land is not under the Real Property Act, 1886), to transfer or convey an indefeasible estate in fee simple in the land sold free from any mortgage, lease, tenancy, or encumbrance other than as is mentioned in section 247J. Power of Council to transfer or convey land.

247H. A transfer or conveyance expressed to be in exercise of the power of sale conferred by this Part shall, if accompanied by a statutory declaration by the District Clerk that the provisions of this Part have been complied with, be accepted by the Registrar-General as sufficient evidence that the power of sale has been duly exercised. Statutory declaration.

247I. (1) Where the land sold is under the Real Property Act, 1886, the transfer shall be executed under the seal of the Council and shall be in the form in the Seventeenth Schedule, or in a form to the like effect. Duties of Council and Registrar-General.

(2) Where the land sold is not under the Real Property Act, 1886—

- (a) the conveyance shall be executed under the seal of the Council :
- (b) the Council shall forward the conveyance to the Registrar-General, together with a request in writing to the Registrar-General to issue to and in the name of the purchaser, a certificate of title under the Real Property Act, 1886, for the said land, free from any mortgage, lease, tenancy, or encumbrance, except as is mentioned in section 247J.

(3) The

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(3) The Registrar-General shall, on the receipt of any such conveyance and request and without any further evidence of title or the necessity of publishing any notice of the said request, forthwith issue to the purchaser a certificate of title as aforesaid.

(4) Notwithstanding the provisions of the Real Property Act, 1886, the registration of a memorandum of transfer as aforesaid or issue of a certificate of title as aforesaid shall vest in the purchaser an indefeasible estate in fee simple in the land free from any mortgage, lease, tenancy, or encumbrance (other than as mentioned in section 247J) and where any transfer or conveyance is made in professed exercise of the power of sale conferred by this Act, the title of the purchaser shall not be impeachable on the ground that no case had arisen to authorise the sale or that due notice was not given or that the power was otherwise improperly or irregularly exercised; but any person damnified by an unauthorised or improper or irregular exercise of the power shall have his remedy in damages against the Council in whose name the power was exercised.

Saving of certain mortgages, &c.

247J. Nothing in this Part and no sale, conveyance, or transfer in pursuance thereof shall discharge, cancel, or in anywise diminish or affect any mortgage, lease, tenancy, encumbrance, or charge of any kind in favour of the Crown, the Government of the State, or any instrumentality, branch, or department of the said Government.

Combination of all lands of same owner.

247K. If rates are owing for the period aforesaid in respect of more than one piece of land in the name of the same owner within the same District, all the said moneys and all the said lands may be set forth in one notice requiring payment and in one advertisement of sale.

Application of purchase-money.

247L. The money received by the Council arising from the sale shall be held by the Council to be applied as follows:—

Firstly, in payment of the costs, charges, and expenses properly incurred by the Council as incidental to the sale or any attempted sale or otherwise;

Secondly, in discharge of the rates and costs and other moneys (if any) due to the Council in respect of the land;

Thirdly, in discharge of any mortgages, encumbrances, and charges (other than as mentioned in section 247J), whether registered or not, according to their respective priorities, so far as the same can be ascertained by the Council; and

Fourthly, in payment of the residue of the money within twelve months after the receipt thereof to the registered proprietor or owner of the land or into the Supreme Court under the provisions of section 44 of the Trustee Act, 1893,

and

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and thereafter shall be subject to the provisions of the said Act so far as the same are applicable ; but any petition, claim, suit, or action for or in respect of any such moneys shall be presented within six years after payment as aforesaid of the residue into the Supreme Court, and after the expiration of the said period all moneys then in the Supreme Court to the credit of the particular trust concerned shall, if there is no such petition, claim, suit, or action pending or any order of the Supreme Court to the contrary, be paid into and form part of General Revenue.

247M. The receipt in writing of the Council, sealed with the seal of the Council, shall be a sufficient discharge for any money arising under the power of sale conferred by this Part, and a person paying the same to the Council shall not be concerned to inquire whether any money remains due to the Council for rates in respect of the land sold.

Receipt of Council  
a discharge.

247N. Where any alteration has been made in the boundaries or constitution of any District wherein the land was situate during the period when the rates or part thereof became due, the Council of the District within which the land is situate at the time the provisions of this Part are put into force shall be entitled to exercise all the powers conferred by this Part.

Change in  
boundaries of  
district.

247O. The powers conferred by this Part shall not affect any other remedy of a Council for the recovery of rates.

Extent of powers.

10. Division IV. of Part XVII. of the principal Act is amended by inserting therein after section 321 the following section :—

Amendment of  
principal Act,  
Part XVII.—

321A. The Council may construct, erect, or maintain on any public street or road or (with the consent of the owner thereof) on any land adjoining any such street or road all or any of the following things, namely :—

Power of Council  
to construct  
guard fences, &c.

- (a) guard fences :
- (b) walls, posts, rails :
- (c) direction signs :
- (d) traffic signs.

321B. For the purpose of the construction or maintenance of any public street or road, the Council may dig and take from any public street or road vested in the Council any clay, stone, gravel, or sand, but in every such case the Council shall fence or otherwise properly enclose any excavation, pit, or hole from which any such clay, stone, gravel, or sand is taken, or shall take any other steps reasonably necessary to secure that the existence of the excavation, pit, or hole shall not endanger persons using the street or road.

Power of Council to  
take road material  
from roads.

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Amendment of  
principal Act,  
s. 324—  
Drainage of streets  
and roads.

**11.** Section 324 of the principal Act is amended by striking out the word “district” in the first line thereof and by inserting in lieu thereof the words “any streets or”.

Amendment of  
principal Act—

**12.** The principal Act is amended by inserting therein after section 328 the following section :—

Actions for claims  
by Councils for  
certain works.

328A. In any action in any Court which is brought by a Council for the recovery by the Council of any amounts for any work done before the passing of the District Councils Act Amendment Act, 1931, under section 326, section 327, or section 328 of this Act or under section 285, section 286, or section 287 of the District Councils Act, 1914, and which comes on for trial after the passing of the District Councils Act Amendment Act, 1931, it shall not be a defence that tenders were not called by the Council prior to the execution by the Council of the said work, notwithstanding that any by-law of the Council in force at the time of the execution of the work required tenders to be called for any work exceeding in cost the sum of Ten Pounds.

Amendment of  
principal Act,  
s. 387—  
Advertising of  
abstract of accounts.

**13.** Section 387 of the principal Act is amended—

- (a) by striking out the words “in a newspaper circulating in the District and” in the second line thereof; and
- (b) by adding at the end thereof the words “and may, if the Council thinks fit, advertise the said yearly abstract in a newspaper circulating in the District”.

Amendment of  
principal Act,  
s. 439—  
By-laws.

**14.** Subsection (1) of section 439 of the principal Act is amended by inserting therein after paragraph xxxvi. the following paragraph :—

xxxvii. To regulate, control, or prohibit the keeping of bees in any part or parts of the District where the keeping of bees is or may be a nuisance or danger to persons within the District :

Amendment of  
principal Act,  
s. 450—  
Copies of by-laws.

**15.** Section 450 of the principal Act is amended—

- (a) by striking out the words “all by-laws” in the third line thereof and by inserting in lieu thereof the words “any by-law”; and
- (b) by adding at the end thereof the following proviso:—  
“Provided that the Council may by resolution (which may be revoked or varied by any subsequent resolution) provide that the amount payable for any printed copy as aforesaid shall be such sum as is fixed by the resolution in which case the said amount shall be payable accordingly”.

Amendment of  
principal Act,  
Part XXIII.—  
Penalty for  
damaging roads, &c.

**16.** Part XXIII. of the principal Act is amended by inserting therein after section 478 the following section :—

478A. Any person who wilfully or maliciously damages or injures, or causes any damage or injury, to any street, road, footpath



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footpath, bridge, culvert, guard fence, railing, post, tree, tree-guard, shrub, traffic sign, or direction sign, which is the property of or is vested in or is under the care, control, or management of a Council, shall be liable to a penalty not exceeding Twenty Pounds, and shall, in addition, be liable to pay to the Council the cost of repairing such damage or injury. Payment of any such cost to the Council may be ordered by a Court imposing any such penalty as aforesaid or may be recovered by the Council by action in any Court of competent jurisdiction.

17. The principal Act is amended by adding at the end thereof the following Schedules :—

Amendment of  
principal Act—

Schedules.

FIFTEENTH SCHEDULE.

[Name of District.]

*Notice requiring Payment of Rates under Part XIVA. of the District Councils Act, 1929.*

The several registered proprietors or owners or persons appearing by the last memorial in the office of the Registrar-General to be the owners respectively of the several pieces of land described in the fourth column of the Schedule hereto, and persons appearing in the Register Book or by memorial in the office of the Registrar-General to have respectively an estate or interest in such land, and whose names appear in the first column of the said Schedule.

Take Notice that—

1. Default has been made in the payment to the Council of the District above named of a rate charged on the several pieces of land described in the fourth column of the Schedule hereto, and the said default has continued in respect of each separate piece of land since the date in the second column of the Schedule hereto set opposite the description of the said of land ;
2. The total amount owing to the said Council in respect of rates charged on each piece of land is in the third column of the Schedule hereto set opposite the description of that piece of land ;
3. Payment of these amounts is hereby required ; and
4. In default of payment thereof, the said several pieces of land will be offered for sale by public auction after the expiration of three months from the date hereof at a time appointed by the said Council.

The pieces of land in respect of which the rates specified in the third column of the Schedule hereto are owing are those severally described in the fourth column of the said Schedule and set opposite the respective amounts so specified.

Dated the                      day of                      , 19                      .

(Signed)                      [Signature of District Clerk.]

District Clerk.

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SCHEDULE HEREINBEFORE REFERRED TO.

Names of Registered Proprietors or Owners, and also of all other Persons having an estate or interest in the land.	Date since which the default has continued.	Amount owing.	Description of the several pieces of land referred to.

SIXTEENTH SCHEDULE.

[Name of District.]

*Notice requiring Payment of Rates under Part XIV A. of the District Councils Act, 1929.*

Where the land is under the Real Property Act, 1886.

To A.B., the registered proprietor of the land hereinafter described, and

To C.D. [*and E.F.*], a person [*or persons*] appearing by the Register Book to have an estate or interest in the said land.

Where the land is not under the Real Property Act, 1886.

To A.B., the owner or the person appearing by the last memorial in the office of the Registrar-General to be the owner of the land hereinafter described, and

To C.D. [*and E.F.*] a person [*or persons*] appearing by a memorial in the office of the Registrar-General to have an estate or interest in the said land.

Take Notice that—

1. Default has been made in the payment to the Council of the District above named of a rate charged on the land hereinafter described, and the said default has continued since the \_\_\_\_\_ day of \_\_\_\_\_ [*insert date on which rate became payable*].

2. The total amount owing to the said Council in respect of rates charged on the land is [*state amount in figures*].

3. Payment of these amounts is hereby required ; and

4. In default of payment thereof, the said land will be offered for sale by public auction after the expiration of three months from the date hereof at a time appointed by the said Council.

The land in respect of which the rates are owing is :—

[*Specify the land by a sufficient description.*]

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

(Signed) [*Signature of District Clerk.*]

District Clerk.

SEVENTEENTH

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## SEVENTEENTH SCHEDULE.

## MEMORANDUM OF TRANSFER.

The District Council of \_\_\_\_\_ in exercise of the power of sale conferred upon the Council by Part XIVA. of the District Councils Act, 1929, and in consideration of the sum of [*state amount*] paid to it by A.B., of [*state address and occupation*], hereby transfers to the said A.B. an estate of fee simple in all that piece of land, &c. [*describe the land*].

Given under the seal of The District Council of \_\_\_\_\_, 19\_\_\_\_.  
the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.  
[*The seal of the Council.*]

The seal of the said Council was hereto affixed on the date hereof in the presence of—

C.D., Chairman.

E.F., District Clerk.

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

A. HORE-RUTHVEN, Governor.