



ANNO DECIMO TERTIO

ELIZABETHAE II REGINAE

A.D. 1964

No. 38 of 1964

An Act to amend the Libraries and Institutes Act,
1939-1950.

[Assented to 22nd October, 1964.]

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

Short titles.

1. (1) This Act may be cited as the "Libraries and Institutes Act Amendment Act, 1964".

(2) The Libraries and Institutes Act, 1939-1950, as amended by this Act, may be cited as the "Libraries and Institutes Act, 1939-1964".

(3) The Libraries and Institutes Act, 1939-1950, is hereinafter referred to as "the principal Act".

Incorporation.

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

Repeal and re-enactment of s. 65 of principal Act—

3. Section 65 of the principal Act is repealed and re-enacted as follows:—

Powers of inspection, etc.

65. (1) Any member of the council of the association, the secretary of the association or any officer authorized by the council in that behalf may do all or any of the following things:—

(a) He may enter and inspect any institute and the library thereof:

- (b) He may examine the papers, books and records of any institute :
- (c) He may require the secretary or any member of the committee of any institute or any other person who may have them in his possession or under his control to produce to him any of the papers, books and records of the institute :
- (d) He may remove and, for a period not exceeding three months, retain for the purpose of further examination any of the papers, books or records of an institute.

(2) If—

- (a) the secretary or any member of the committee of an institute prevents any member of the council of the association, the secretary of the association or any officer authorized as aforesaid from entering or inspecting the institute or the library thereof or from examining any of the papers, books or records of the institute ; or
- (b) the secretary or any member of the committee of an institute or any other person who has them in his possession or under his control refuses or neglects to produce all or any of the papers, books or records of the institute upon being required to do so pursuant to paragraph (c) of subsection (1) of this section,

he shall be guilty of an offence against this Act and liable to a penalty not exceeding Five pounds.

4. Section 78 of the principal Act is amended—

- (a) by striking out subsections (1) and (2) thereof and inserting in lieu thereof the following subsection :—

(1) The person or persons—

- (a) in whom the real property of any institute becomes vested as trustee or trustees ;
- or

- (b) who dispose of (by sale or other transaction) any real property of any institute,

shall, within three months after the vesting or the disposal, as the case may be, make out and deliver to the council of the association a return containing the particulars set out in the form in the Fourth Schedule.

Amendment of
principal Act,
s. 78—
Returns of real
property.

(b) by striking out the proviso to subsection (3) thereof.

Amendment of
principal Act,
s. 97—
Limitation of
right of
foreclosure.

5. Subsection (3) of section 97 of the principal Act is amended by striking out the words "three months" and inserting in lieu thereof the words "one month".

Amendment of
principal Act,
s. 98—
Power to sell
institute
property.

6. Section 98 of the principal Act is amended—

(a) by inserting after the passage "transfer or let" in subsection (1) the passage "all or";

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

(3) The provisions of subsection (2) of this section shall apply only to—

(a) the letting for any period of the whole or any part of the real property of the institute which is or has been used by the institute for library purposes ; and

(b) the letting for a period exceeding three years of any other real property of the institute or any part thereof.

(c) by inserting after subsection (4) the following subsection :—

(4a) Within one month after any sale or letting is effected under this section, a copy of the conveyance or other instrument shall be deposited with the council of the association by the trustees or the council by whom the sale or letting was effected.

Repeal and
re-enactment of
s. 105 of
principal Act—

Dissolution of
institute.

7. Section 105 of the principal Act is repealed and re-enacted as follows :—

105. (1) Except as provided by section 107 of this Act, an institute shall not be dissolved unless—

(a) a resolution that the institute be dissolved is passed at a general meeting of the institute called by notice to consider the matter and not less than three-fourths of the members present at that meeting vote in favour of that resolution; and

(b) that resolution (which is hereinafter referred to as "the first-mentioned resolution") is confirmed by a resolution passed by a majority of the members present at a subsequent general

meeting of the institute called for the purpose of considering the confirmation of the first-mentioned resolution and held not less than seven days nor more than one month after the passing of the first-mentioned resolution.

(2) The notice referred to in paragraph (a) of subsection (1) of this section shall not be valid unless—

(a) it is signed by not less than one-sixth of the existing members ; and

(b) it is advertised and served in accordance with the requirements (if any) of the constitution or rules of the institute and, in addition, is published not less than one month before the day of the meeting referred to in that paragraph—

(i) by posting the same in some conspicuous place in the reading room or library of the institute ;

(ii) by delivering a copy to the secretary to the association or sending a copy to him by post ; and

(iii) by advertisement in the *Government Gazette*.

(3) Where the first-mentioned resolution is confirmed as provided by subsection (1) of this section—

(a) the committee of the institute shall,

(i) within thirty days after the first-mentioned resolution is so confirmed, deliver or forward to the council of the association the papers, books and records of the institute in its possession or under its control ; and

(ii) forthwith deliver and transfer to the trustees of the institute all other property of the institute in its possession or under its control for disposal in accordance with the provisions of section 106 of this Act ; and

(b) any other person who has in his possession any property of the institute shall at the request of the committee forthwith deliver that property to the committee.

(4) If the committee or any other person commits a breach of any of the provisions of subsection (3) of this section, each member of the committee who knowingly and wilfully authorizes or permits the commission of the breach or that other person, as the case may be, shall be guilty of an offence against this Act and liable to a penalty not exceeding Five pounds.

Amendment of
principal Act,
s. 106—
Disposal of
property upon
dissolution.

8. Section 106 of the principal Act is amended—

(a) by striking out the passage “majority of the members present at the meeting mentioned in the next preceding section decide, by resolution carried at the meeting” in subdivision II of subsection (1) of that section and inserting in lieu thereof the passage “members of the institute, by resolution, decide”; and

(b) by inserting at the end thereof the following subsections :—

(4) Upon receipt of—

(a) a copy of each of the resolutions required by section 105 of this Act for the dissolution of an institute ; and

(b) a copy of the resolution for the disposal of any real property thereof in accordance with this section,

the Minister may at any time effect a transfer thereof or, if the real property is not subject to the provisions of the Real Property Act, 1886-1963, a conveyance thereof in accordance with the resolution for the disposal, notwithstanding that the real property is vested in trustees.

(5) The copies of all such resolutions shall be verified by a certificate in writing signed by the secretary of the institute stating that each resolution was passed and confirmed, or was passed, as the case may be, as provided by this section.

(6) In respect of any such transfer or conveyance the Registrar-General shall have the powers conferred and duties imposed on him by section 114 of this Act.

9. Section 107 of the principal Act is amended—

Amendment of
principal Act,
s. 107—
Dissolution of
institute when
less than ten
members.

- (a) by striking out the passage “may thereupon” in subsection (2) of that section and inserting in lieu thereof the passage “shall thereupon be forwarded by the secretary of the association to a person who then, or immediately before the passing thereof, was the secretary of the institute, a trustee of the institute or any member of the committee of the institute who shall, within seven days after the receipt thereof, cause it to ” ;
- (b) by striking out the word “Forthwith” in subsection (5) of that section and inserting in lieu thereof the passage “Within thirty days” ;
- (c) by inserting after the word “institute” first occurring in subsection (5) of that section the passage “or any other person who has them in his possession” ; and
- (d) by inserting after subsection (5) the following subsection :—

(5a) If the committee or any other person commits a breach of any of the provisions of this section, each member of the committee who knowingly and wilfully authorizes or permits the commission of the breach or that other person, as the case may be, shall be guilty of an offence against this Act and liable to a penalty not exceeding Five pounds.

10. Section 116 of the principal Act is amended by adding after subsection (2) the following subsection :—

Amendment of
principal Act,
s. 116—
Purposes for
which council
to hold the
property.

(3) Where any real property of an institute has been sold, conveyed or transferred to a council pursuant to this Division and the council holds the same upon trust to permit the same or a sufficient part thereof to be used for the purposes of the institute, the council may, with the Minister's approval, set apart and make available for use for the purposes of the institute some other premises of the council approved by the Minister in lieu of that real property or part thereof, and, upon the issue by the Minister of a certificate to that effect, that real property or that part thereof, as the case may be, shall cease to be subject to that trust and those other premises shall thereupon become subject to that trust.

Amendment of
principal Act,
s. 143 (2)—
Moneys of
library.

11. Subsection (2) of section 143 of the principal Act is amended by striking out the passage "two members" therein and inserting in lieu thereof the passage "one member".

Amendment of
principal Act,
Fourth
Schedule.

12. The Fourth Schedule to the principal Act is amended by inserting after the table appearing therein the passage—

The abovementioned real estate was (*state whether bought or sold or whether otherwise acquired or disposed of*) on behalf of the institute on the day of , 19 .

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

EDRIC BASTYAN, Governor.