



ANNO VICESIMO SECUNDO

**ELIZABETHAE II REGINAE**

A.D. 1973

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**No. 42 of 1973**

An Act to establish the South Australian Land Commission; to prescribe its powers and functions; and for purposes incidental thereto.

[Assented to 1st November, 1973]

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

PART I

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the "Land Commission Act, 1973".

Commencement.

2. This Act shall come into operation on a day to be fixed by proclamation.

Arrangement.

3. This Act is arranged as follows:—

PART I—PRELIMINARY

PART II—THE SOUTH AUSTRALIAN LAND COMMISSION

DIVISION I—ESTABLISHMENT AND CONSTITUTION OF THE COMMISSION

DIVISION II—POWERS AND FUNCTIONS OF THE COMMISSION

DIVISION III—STAFF, ETC.

PART III—FINANCIAL PROVISIONS

PART IV—MISCELLANEOUS.

**4. In this Act, unless the contrary intention appears—**

- “commercial development” in relation to land, means commercial building development or commercial housing development:
- “commercial building development” in relation to land means development of the land by the erection thereupon of premises that are to be used for industrial or commercial purposes:
- “commercial housing development” in relation to land means the development of the land by the erection thereupon of dwelling-houses, flats or home units intended for sale, but does not include any such development where the nature or extent of the development does not conform with criteria established by regulation:
- “land” includes any estate or interest in land and any easement, right, power, or privilege in, under, over, affecting or in connection with land:
- “member” of the Commission includes the Chairman:
- “planning unit” means any land that the proprietor proposes to use for the purpose of commercial development:
- “proprietor” in relation to land means the proprietor of a legal or equitable estate of fee simple in the land:
- “the Chairman” means the Chairman of the Commission:
- “the Commission” means the South Australian Land Commission constituted under this Act:
- “the Fund” means the South Australian Land Commission Fund established under Part III of this Act:
- “the Land and Valuation Court” means the Land and Valuation Court established under the Supreme Court Act, 1935-1972.
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PART II

## PART II

## THE SOUTH AUSTRALIAN LAND COMMISSION

DIVISION I DIVISION I—ESTABLISHMENT AND CONSTITUTION OF THE COMMISSION

Establishment  
and  
incorporation  
of the South  
Australian Land  
Commission.

5. (1) There shall be a Commission entitled the "South Australian Land Commission".

(2) The Commission—

(a) shall be a body corporate with perpetual succession and a common seal;

(b) shall be capable of suing and of being sued;

(c) shall be capable of holding, dealing with, and disposing of real and personal property;

(d) shall be capable of acquiring or incurring any other rights or liabilities;

(e) shall hold all its property for and on behalf of the Crown;

and

(f) shall have the powers, duties, functions and authorities conferred, imposed or prescribed by or under this Act.

(3) Where a document purports to bear the common seal of the Commission, it shall be presumed in any legal proceedings, in the absence of proof to the contrary, that the common seal of the Commission has been duly affixed to that document.

Constitution of  
the  
Commission.

6. (1) The Commission shall consist of three members appointed by the Governor upon the nomination of the Minister.

(2) One member of the Commission shall be appointed by the Governor to be Chairman of the Commission.

Terms and  
conditions upon  
which members  
hold office.

7. (1) The Chairman shall be appointed for such term of office, and upon such conditions, as may be determined by the Governor.

(2) A member of the Commission, other than the Chairman, shall be appointed for such term of office, not exceeding four years, and upon such conditions as the Governor may determine and, upon the expiration of his term of office, shall be eligible for re-appointment.

(3) The Governor may appoint a suitable person to be a deputy of a member of the Commission, and such a person, while acting in the absence of that member, shall be deemed to be a member of the Commission, and shall have all the powers, authorities, duties and obligations of the member of whom he has been appointed a deputy.

(4) The Governor may remove a member of the Commission from office for—

- (a) any breach of, or non-compliance with, the conditions of his appointment;
  - (b) mental or physical incapacity;
  - (c) neglect of duty;
- or
- (d) dishonourable conduct.

(5) The office of a member of the Commission shall become vacant if—

- (a) he dies;
  - (b) his term of office expires;
  - (c) he resigns by written notice addressed to the Minister;
- or
- (d) he is removed from office by the Governor pursuant to subsection (4) of this section.

(6) Upon the office of a member of the Commission becoming vacant, a person shall be appointed, in accordance with this Act, to the vacant office, but where the office of a member of the Commission becomes vacant before the expiration of the term for which he was appointed, the person appointed in his place shall be appointed only for the balance of the term of his predecessor.

8. (1) The Chairman shall be entitled to receive such salary, allowances and expenses, and the other members of the Commission shall be entitled to receive such allowances and expenses as may be determined by the Governor. Salary, allowances and expenses.

(2) Any amount to which a member of the Commission is entitled under this section shall be paid out of the Fund.

9. (1) Two members of the Commission shall constitute a quorum of the Commission, and no business shall be transacted at a meeting unless a quorum is present. Quorum, etc.

(2) A decision in which any two members of the Commission concur shall be a decision of the Commission.

(3) The Chairman shall preside at any meeting of the Commission at which he is present, and in the absence of the Chairman from a meeting of the Commission, the members present shall decide who is to preside at that meeting.

**PART II**  
**DIVISION I**

(4) The Commission shall meet for the transaction of business at least eight times in each year.

(5) Subject to this Act, the business of the Commission shall be conducted in such manner as the Commission determines.

**Validity of acts  
of the  
Commission  
and immunity  
of its members.**

10. (1) An act or proceeding of the Commission shall not be invalid by reason only of a vacancy, in its membership, and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of a member, any such act or proceeding shall be as valid and effectual as if the member had been duly nominated or appointed.

(2) No liability shall attach to a member of the Commission for any act or omission by him, or by the Commission, in good faith and in the exercise or purported exercise of his or its powers or functions, or in the discharge, or purported discharge, of his or its duties under this Act.

**Disclosure of  
interest.**

11. (1) A member of the Commission who is in any way directly or indirectly interested in a contract or proposed contract made by, or in the contemplation of, the Commission shall disclose the nature of his interest at a meeting of the Commission, and the disclosure shall be recorded in the minutes of the Commission.

(2) A member of the Commission who is in any way directly or indirectly interested in a contract or proposed contract made by, or in the contemplation of, the Commission shall not take part in any decision of the Commission with respect of that contract.

**DIVISION II**

**DIVISION II—POWERS AND FUNCTIONS OF THE COMMISSION**

**Powers and  
functions of the  
Commission.**

12. (1) The functions of the Commission are as follows:—

- (a) to acquire land for present or future urban expansion or development, or for the establishment of new urban areas;
- (b) to manage and develop or re-develop the land so acquired;
- (c) from time to time, as prevailing circumstances require, to make available such of its land as the Commission considers necessary or expedient for the orderly establishment, expansion or development of urban areas, or for other public purposes;
- (d) to promote integration and economy in the development of land for urban purposes;

(e) to provide, or arrange for the provision of, services and amenities for the use or benefit of the present or future community in new urban areas;

and

(f) to perform such other functions—

(i) as may be necessary or incidental to the foregoing;

or

(ii) as may be assigned to the Commission by the Minister and approved by a resolution passed by both Houses of Parliament.

(2) In the performance of its functions under this Act, the Commission may, subject to this section—

(a) acquire, in accordance with the provisions of the Land Acquisition Act, 1969-1972, such land as the Commission considers necessary or expedient for the effective performance of its functions;

(b) sell, lease, mortgage, charge, encumber or otherwise deal with any land that is the property of the Commission;

(c) subdivide any land and develop it for urban use;

and

(d) enter into contracts or arrangements with any person or body of persons with respect to the acquisition or development of land that is, or may be, required for urban use or with respect to the performance of any other functions of the Commission.

(3) The Commission—

(a) shall conduct its business in accordance with established principles of financial management and economy;

(b) shall not conduct its business with a view to making a profit;  
and

(c) shall have as its primary object the provision of land to those members of the community who do not have large financial resources.

(4) An allotment or parcel of land of less than one-fifth of a hectare in area shall not be leased by the Commission to any person for a period exceeding, or for periods exceeding in aggregate, ten years.

(5) Where the Commission acquires land in pursuance of this Act and proposes to lease the land before it is developed for urban expansion or use, it shall offer the person from whom the land was acquired the opportunity to lease the land on fair terms.

**PART II**  
**DIVISION II**

- (6) The Commission shall not acquire by compulsory process—
- (a) any dwellinghouse that is occupied by the owner as his principal place of residence;
  - (b) any factory, workshop, warehouse, shop or other premises used for industrial or commercial purposes;
- or
- (c) any premises used as an office or rooms for the conduct of any business or profession.

(7) Where a notice of intention to acquire land is served by or on behalf of the Commission on the proprietor of land constituting a planning unit, and no such notice has previously been served in relation to that land, the proprietor may, within three months after the date of the service of that notice, serve personally or by post upon the Commission prescribed particulars of the commercial development proposed by him in relation to the planning unit, and in that event, land comprised in the planning unit shall not be acquired by compulsory process within a period of two years after the date of service of those particulars, and if a substantial commencement of the commercial development has been made during that period, the land shall not be acquired by compulsory process after the expiration of that period.

(8) Where the acquisition of any land has been delayed or postponed for any period by reason of the provisions of subsection (7) of this section, but the land is subsequently acquired by the Commission by compulsory process, within three years after service of the first notice of intention to acquire the land served by or on behalf of the Commission, then notwithstanding the provisions of the Land Acquisition Act, 1969-1972, the compensation to which the proprietor of the land is entitled shall be assessed in all respects as if the acquisition had been effected as soon as practicable after service of that first notice of intention to acquire the land.

**Power of  
delegation.**

13. (1) The Commission may delegate to any member, officer or employee of the Commission any of its powers or functions under this Act.

(2) Any such delegation shall be revocable at will and shall not derogate from the power of the Commission to act itself in any matter.

**DIVISION III**

**DIVISION III—STAFF, ETC.**

**Officers and  
employees.**

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15  
(1) The Governor may, subject to and in accordance with the Public Service Act, 1967-1972, appoint such officers as he considers necessary or expedient for the proper administration of this Act.

(2) An officer so appointed shall, subject to this section, hold office in accordance with the provisions of the Public Service Act, 1967-1972.

(3) The Minister may by notice published in the *Gazette* determine—

(a) that specified provisions of the Public Service Act, 1967-1972, and of the regulations thereunder, shall not apply to or in relation to officers appointed pursuant to subsection (1) of this section;

and

(b) that provisions contained, or referred to, in the notice shall apply to and in relation to those officers in lieu of those provisions,

and the notice shall have effect in accordance with its terms.

(4) The Minister may, by notice published in the *Gazette*, vary or revoke a notice published under subsection (3) of this section.

(5) The Commission may, with the approval of the Minister, appoint such officers and employees as it considers necessary or expedient for the proper administration of this Act.

(6) A person appointed under subsection (5) of this section shall hold office upon terms and conditions determined from time to time by the Governor, and the Public Service Act, 1967-1972, shall not apply to or in relation to persons so appointed.

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### PART III

### PART III

#### FINANCIAL PROVISIONS

15. (1) The Commission may borrow money from the Treasurer, or, with the consent of the Treasurer, from any other person for the purpose of carrying out any of its functions under this Act.

Power of the  
Commission to  
borrow.

(2) Any liability incurred with the consent of the Treasurer under subsection (1) of this section is hereby guaranteed by the Treasurer.

(3) Any liability incurred by the Treasurer under a guarantee arising by virtue of subsection (2) of this section shall be satisfied out of the general revenue of this State which is hereby, to the necessary extent, appropriated accordingly.



**PART III**

Establishment  
and control  
of the Fund.

**16. (1)** A Fund shall be established at the Treasury entitled the "South Australian Land Commission Fund".

(2) The following moneys shall be paid into the Fund:—

- (a) any moneys paid to the Commission by the Government of the Commonwealth;
- (b) any moneys appropriated for the purposes of the Commission by Parliament;
- (c) any moneys borrowed by the Commission under this Act;
- (d) the proceeds of any sale or dealing in land by the Commission;
- (e) the rent derived from the leasing of land by the Commission;
- (f) any income derived from investment of the Fund;
- (g) any moneys received by the Commission by way of gift, bequest or otherwise;
- (h) any other moneys received by the Commission.

(3) The Fund shall be applied by the Commission in the administration of this Act.

(4) Subject to this Act, the Commission may draw upon, and otherwise deal with, the Fund in such manner as may be approved by the Treasurer.

Investment of  
moneys in the  
Fund.

**17.** The Commission may, with the approval of the Treasurer, invest any of the moneys standing to the credit of the Fund that are not immediately required for the purposes of this Act in such manner as may be approved by the Treasurer.

Accounts and  
audit.

**18. (1)** The Commission shall cause proper accounts to be kept of the income and expenditure under this Act.

(2) The Auditor-General may at any time, and shall at least once in every year, audit the accounts of the Commission.

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## PART IV

PART IV

## MISCELLANEOUS

19. (1) The Commission shall as soon as practicable after the thirtieth day of June in each year submit a report to the Minister upon the conduct of the business of the Commission during the financial year ending on that day together with the audited accounts of the Commission for that financial year. <sup>Report.</sup>

(2) The Minister shall, as soon as practicable after receipt of the report and audited accounts cause copies of the report and accounts to be transmitted to the Prime Minister and to be laid before each House of Parliament.

20. (1) A person authorized in writing by the Commission to do so may enter upon any land and conduct any survey, test, or examination that the Commission considers necessary or expedient for the purposes of this Act. <sup>Powers of entry, etc.</sup>

(2) A person shall not enter upon any land under this section unless he has given reasonable notice of his intention to do so to the occupier of the land.

(3) A person shall not hinder any authorized person in the execution of his powers under subsection (1) of this section.

Penalty: Two hundred dollars.

(4) The Commission shall be liable to pay to the owner of any estate or interest in land that has been entered in pursuance of this section compensation for any damage or disturbance caused by the entry or by any survey, test or examination conducted on the land in pursuance of this section.

(5) The Land and Valuation Court may, upon the application of any interested person, assess and order payment of compensation for which the Commission is liable under subsection (4) of this section.

(6) Proceedings in respect of an offence under this section shall be disposed of summarily.

21. (1) The Governor may make such regulations as he thinks necessary or expedient for the purposes of this Act. <sup>Regulations.</sup>

(2) Without limiting the generality of subsection (1) of this section, those regulations may—

(a) provide for the manner in which meetings of the Commission are to be convened;

- (b) regulate the proceedings of the Commission;
  - (c) lay down conditions upon which the Commission may acquire, deal with, or dispose of land or other property;
- and
- (d) otherwise regulate the transaction of business by the Commission.

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

M. L. OLIPHANT, Governor