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**ELIZABETHAE II REGINAE**

A.D. 1978

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**No. 33 of 1978**

An Act to amend the Local Government Act, 1934 as amended.

[Assented to 6th April, 1978]

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 "Local Government Act Amendment Act (No. 2), 1978".

(2) The Local Government Act, 1934, as amended, is hereinafter referred, to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Local Government Act, 1934-1978".

**Commencement.**

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

(2) The Governor may, in a proclamation made for the purposes of subsection (1) of this section, suspend the operation of any specified provisions of this Act until a day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

**Amendment of principal Act, s. 3—  
Arrangement of Act.**

3. Section 3 of the principal Act is amended by striking out the item—

PART XXIIA—Parking Meters and Parking Stations in Municipalities  
and inserting in lieu thereof the item—

PART XXIIA—Regulation of Parking and Standing of Vehicles in  
Public Places.

**Repeal of ss. 370 and 373 of principal Act.**

4. Section 370 and section 373 of the principal Act are repealed.

**Repeal of Part XXIIA of principal Act and enactment of Part in its place—**

5. Part XXIIA of the principal Act and the headings thereto are repealed and the following Part and headings are enacted and inserted in their place:—

## PART XXIIA

REGULATION OF PARKING AND STANDING OF VEHICLES  
IN PUBLIC PLACES

475a. (1) The Governor may make such regulations as are contemplated by this Part or as are necessary or expedient for the purposes of this Part.

Governor may  
make  
regulations  
under this  
Part.

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

- (a) regulating, restricting or prohibiting the parking or standing of vehicles in any public places, or parts thereof, within council areas;
- (b) providing that a council may regulate, restrict or prohibit the parking or standing of vehicles in any public place or part thereof, within the area of the council;
- (c) prescribing the classes of areas and zones a council may create for the parking or standing of vehicles, or for prohibiting the parking or standing of vehicles;
- (d) prescribing the conditions or limitations a council may place upon the use of areas or zones created by a council;
- (e) providing for the fixing and collection by a council of fees for the parking of vehicles in public places;
- (f) providing for the installation by a council of mechanical devices for the recording of parking time or for the reception or collection of parking fees;
- (g) regulating the manner in which a council must denote, whether by the erection of signs or the placing of marks on foot-paths or roadways, any area or zone created by the council, any conditions or limitations upon the use of an area or zone, or any other restriction or prohibition relating to the parking or standing of vehicles imposed by the regulations under this Part;
- (h) providing for the time at which areas or zones created by a council, and any conditions or limitations upon the use of areas or zones, come into operation;
- (i) providing for the temporary control by the clerk of a council of the parking or standing of vehicles in public places;
- (j) prescribing the obligations of owners or drivers of vehicles in relation to the parking or standing of vehicles in public places;
- (k) exempting, conditionally or unconditionally, persons of any specified class, or vehicles of any specified class, from any provisions of the regulations under this Part;
- (l) fixing, and providing for the payment of, fees for any such exemptions;
- (m) prescribing penalties, not exceeding two hundred dollars in each case, for breaches of the regulations under this Part.

(3) The Governor may, by proclamation, suspend the operation of the regulations, or any specified regulations, under this part in relation to any council specified in the proclamation, until a day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

Council may grant special exemptions.

475b.(1) A council may exempt any person, or any persons of a specified class, or any specified vehicle, or any vehicles of a specified class, from any provisions of the regulations under this Part.

(2) An exemption under this section may be granted subject to the payment of such fee, and to such other conditions (if any) as the council thinks fit and specifies in the exemption.

Parking signs, etc., need only substantially conform with regulations.

475c. A sign erected, or a mark placed on any footpath or roadway, by a council in relation to the parking or standing of vehicles shall for all purposes be deemed to have been erected or placed in accordance with the regulations under this Part if the sign or mark substantially conforms with—

(a) the requirements of those regulations;

or

(b) the requirements of any regulations under the Road Traffic Act, 1961-1976.

Vehicle registered in the name of a business.

475d. Where a vehicle that is registered in the name of a business registered under the Business Names Act, 1963, is involved in the commission of an offence against the regulations under this Part, any person who was carrying on that business at the time the offence was committed shall, for the purposes of any proceedings for that offence, be deemed to be the registered owner of the vehicle.

Evidentiary provisions.

475e. (1) In any proceedings for an offence against the regulations under this Part, an allegation in the complaint—

(a) that a specified person was the owner, or one of the owners, of a specified vehicle on a specified day;

(b) that a specified vehicle was registered in the name of a specified business registered under the Business Names Act, 1963, as at a specified day;

(c) that a specified person was carrying on a specified business registered under the Business Names Act, 1963, as at a specified day;

or

(d) that on any specified day any specified area or zone was denoted by signs or marks erected or placed in accordance with the regulations under this Part,

shall, in the absence of proof to the contrary, be proof of the matters so alleged.

(2) Where, in any proceedings against the owner of a vehicle for an offence against the regulations under this Part, it is proved that the vehicle was parked or was standing in contravention of those regulations, it shall be presumed, in the absence of proof to the contrary, that the owner of the vehicle was the person who so contravened the regulations.

(3) In any proceedings for an offence against the regulations under this Part, a certificate produced by the prosecution, purporting to be signed by the clerk of the council or any other officer of the council authorized for the purpose, and stating that a sign had been erected by the council, or a mark had been placed by the council on a footpath or roadway, shall be conclusive proof of the facts so stated.

(4) In any proceedings for an offence against the regulations under this Part, it shall not be competent for any person to tender evidence as to the validity, or otherwise, of any resolution of the council, or any declaration of an officer of the council, under this Part, or to tender evidence as to whether or not any signs or marks erected or placed by a council in relation to the parking or standing of vehicles had been erected or placed pursuant to a resolution of the council, or a declaration of an officer of the council, under this Part.

475f. It shall be a defence for any person who is charged with an offence against the regulations under this Part to prove that the act constituting the alleged offence was done—

Defences.

(a) to avoid injury to any person or property;

or

(b) to comply with any directions of a member of the police force or an officer of the council.

475g. Subject to this Act, no liability shall attach to a council, or any officer of the council, by reason of the exercise in good faith by the council, or any officer of the council, of its or his powers under this Part.

Immunity from liability.

475h. (1) A council may construct, provide and manage on land vested in, leased by, or under the care, control or management of, the council (other than park lands) such car parks, garages, parking stations and other similar places in which vehicles may be left as it thinks fit, and may fix the fees or charges for the use thereof and for any services rendered thereat by the council.

Management of car parks, etc.

(2) A car park, garage, parking station or other similar place provided pursuant to this section shall, for the purposes of this Act, be deemed to be—

(a) a public place;

and

(b) a permanent work and undertaking.

(3) A council may, in accordance with Division I of Part XXXIX of this Act, make by-laws with respect to the management of any car park, garage, parking station or other similar place provided pursuant to this section, and the conduct of persons therein, and the by-laws may provide penalties, not exceeding two hundred dollars in any case, for any offence against or breach of any by-law.

6. Section 667 of the principal Act is amended—

Amendment of principal Act, s. 667—  
By-laws.

(a) by striking out from subparagraph ii of paragraph 7 the passage “vehicles and”;

- (b) by striking out from subparagraph II of paragraph 7 the passage “vehicles, horses,” and inserting in lieu thereof the word “horses”;  
and
- (c) by striking out subparagraphs XII, XIII and XIV of paragraph 7.

Amendment of  
principal Act,  
s. 679—  
Application to  
by-laws.

7. Section 679 of the principal Act is amended by striking out from subsection (1) the passage “to which this section applies”.

Enactment of  
ss. 794a and  
794b of  
principal Act—

8. The following sections are enacted and inserted in the principal Act after section 794 thereof:—

Expiation of  
offences.

794a. (1) If an authorized officer believes on reasonable grounds that a person has committed a prescribed offence against this Act, he may give that person a written notice to the effect that the offence may be expiated by payment to the council of the area in which the offence is alleged to have been committed the appropriate expiation fee before any day, or within any period, specified in the notice.

(2) A notice given under subsection (1) of this section—

(a) need not identify the person alleged to have committed the offence;

and

(b) may be given to a person personally, or by post addressed to his last known place of residence or business, or, where a vehicle is involved in the commission of the offence, by affixing or placing the notice on that vehicle.

(3) An authorized officer may give a notice under subsection (1) of this section notwithstanding that he, or some other authorized officer, has previously given such a notice in relation to that same offence.

(4) Where an offence is expiated in accordance within the terms of a notice under subsection (1) of this section, the person alleged to have committed the offence shall not be prosecuted in any court for that offence.

(5) Where an expiation fee is paid to a council under this section pursuant to the reporting of an offence by a member of the police force, the council shall pay to the Treasurer one-half of the amount of that expiation fee.

(6) Any amount received by the Treasurer under subsection (5) of this section shall be paid into the general revenue of the State.

(7) In this section—

“appropriate expiation fee” means—

(a) a fee of the prescribed amount;

or

(b) where the council has, by resolution, fixed a lesser amount than that prescribed, a fee of that lesser amount:

“authorized officer” means—

(a) a person authorized by the council to exercise the powers conferred by this section;

or

(b) a member of the police force.

794b. No person shall commence proceedings against a person for an offence against a regulation under Part XXIIA of this Act without the prior approval of the Commissioner of Police, or the clerk of the council of the area in which the alleged offence was committed.

No proceedings may be commenced without approval of Commissioner of Police or clerk of council.

9. Section 874 of the principal Act is amended by striking out from subsection (2) the passage “section 686” twice occurring and inserting in lieu thereof, in each case, the passage “section 679”.

Amendment of principal Act, s. 874—  
Right of ratepayers to signed copy of by-laws.

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

K. SEAMAN, Governor