



ANNO DECIMO SEXTO

## ELIZABETHAE II REGINAE

A.D. 1967

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## No. 51 of 1967

An Act to amend the Local Government Act, 1934-1966.

[Assented to 26th October, 1967]

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  
and  
commence-  
ment.

1. (1) This Act may be cited as the "Local Government Act Amendment Act (No. 2), 1967" and shall come into operation on the day on which the Real Property Act Amendment (Strata Titles) Act, 1967, comes into operation.

(2) The Local Government Act, 1934-1966, as amended by this Act, may be cited as the "Local Government Act, 1934-1967".

(3) The Local Government Act, 1934-1966, 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.

Amendment of  
principal Act,  
s. 5—  
Interpretation.

3. Subsection (1) of section 5 of the principal Act is amended—

(a) by inserting after subparagraph (h) of paragraph (1) of the definition of "ratable property" therein the following paragraph :—

(h1) the common property comprised in a deposited strata plan within the meaning of Part XIXB of the Real Property Act,

1886-1967 ; but, where in accordance with that Part of that Act a person is the owner of a unit defined on a deposited strata plan and, by virtue of such ownership, also owns a share of the equitable estate in the common property comprised in that strata plan, such unit and share of such equitable estate together shall be ratable property ; ;

and

(b) by inserting after subparagraph (f) of paragraph (2) of the definition of "ratable property" therein the following paragraph :—

(f1) the common property comprised in a deposited strata plan within the meaning of Part XIXB of the Real Property Act, 1886-1967 ; but, where in accordance with that Part of that Act a person is the owner of a unit defined on a deposited strata plan and, by virtue of such ownership, also owns a share of the equitable estate in the common property comprised in that strata plan, such unit and share of such equitable estate together shall be ratable property .:

4. Subsection (1) of section 301 of the principal Act is amended by striking out from paragraph iv thereof the passage "section 14 of the Town Planning Act, 1929, or section 35 of the Town Planning and Development Act, 1920" and inserting in lieu thereof the passage "section 223nn of the Real Property Act, 1886-1967, or section 48 of the Planning and Development Act, 1966-1967 or any corresponding previous enactment".

Amendment of principal Act, s. 301—  
What streets shall be public streets.

5. Subsection (2) of section 319 of the principal Act is amended by inserting after the word "road" lastly occurring therein the passage "; but, where land that abuts on a public street or road is common property comprised within a deposited strata plan within the meaning of Part XIXB of the Real Property Act, 1886-1967—

Amendment of principal Act, s. 319—  
Cost of constructing public street.

(a) the units defined on that plan shall, for the purposes of this section, be deemed to be ratable property abutting on that street or road ;

and

(b) the council may recover from the owners of the units at the time of the completion of the work the cost

of the work or of such part thereof as the council thinks fit ratably according to the frontage of the common property so abutting on the street or road and in accordance with the unit entitlements for the time being of the units as set out in the schedule to the plan.

Amendment of principal Act, s. 328—  
Power to pave footways.

6. Subsection (2) of section 328 of the principal Act is amended by inserting after the passage "frontage thereof" in the proviso therein the passage "; but, where land that abuts on the footway or the portion of the footway so formed or paved is common property comprised within a deposited strata plan within the meaning of Part XIXB of the Real Property Act, 1886-1967—

(a) the units defined on that plan shall, for the purposes of this section, be deemed to be ratable property abutting on the footway or portion of the footway, as the case may be ;

and

(b) the council may recover from the owners of the units at the time of the completion of the work the whole or such part of the expenses incurred by the council thereby as the council thinks fit ratably according to the lineal frontage of the common property abutting on the footway or portion and in accordance with the unit entitlements for the time being of the units as set out in the schedule to the plan".

Amendment of principal Act, s. 342—  
Construction and repair of private streets in City of Adelaide.

7. Section 342 of the principal Act is amended by inserting after subsection (12) thereof the following subsection :—

(12a) For the purposes of this section, where the land that abuts on a private street or road is common property comprised within a deposited strata plan within the meaning of Part XIXB of the Real Property Act, 1886-1967—

(a) the units defined on that plan shall be deemed to be property abutting on the private street or road ;

(b) the owners and occupiers of those units shall be deemed to be owners and occupiers of the property abutting on the private street or road ;

and

(c) any apportionment of the estimated cost that would, but for this subsection, be attributable to the common property or the part thereof

that abuts on the private street or road shall be payable by, and recoverable by the council from, the owners of those units in proportion to the respective unit entitlements for the time being of their units as set out in the schedule to the deposited strata plan.

8. Section 343 of the principal Act is amended by inserting after subsection (7) thereof the following subsection :—

Amendment of principal Act, s. 343—

Powers of other councils to make private streets and roads.

(7a) For the purposes of this section, where land that abuts on a private street or road, court, alley, lane or thoroughfare or any part thereof, is common property comprised within a deposited strata plan within the meaning of Part XIXB of the Real Property Act, 1886-1967—

(a) the units defined on that plan shall be deemed to be ratable property abutting on that private street or road, court, alley, lane or thoroughfare or part thereof ;

(b) the owners of those units shall be deemed to be the owners of such ratable property ;

and

(c) any proportion of the expenses incurred by the council that would, but for this subsection, be attributable to the common property or the part thereof that abuts on the private street or road, court, alley, lane or thoroughfare or part thereof shall be payable by, and recoverable by the council from, the owners of those units in proportion to the respective unit entitlements for the time being of their units as set out in the schedule to the deposited strata plan.

9. Section 344a of the principal Act is amended by inserting after subsection (5) thereof the following subsection :—

Amendment of principal Act s. 344a—

Construction and repair of private streets and roads.

(5a) For the purposes of this section, where land that abuts on a private street or road, or any part thereof, is common property comprised within a deposited strata plan within the meaning of Part XIXB of the Real Property Act, 1886-1967 —

(a) the units defined on that plan shall be deemed to be ratable property abutting on that private street or road, or part thereof ;

(b) the owners of those units shall be deemed to be the owners of such ratable property ;

and

- (c) any proportion of the expenses incurred by the council that would, but for this subsection, be attributable to the common property or any part thereof that abuts on the private street or road or part thereof shall be payable by, and recoverable by the council from, the owners of those units at the time of the completion of the work in proportion to the respective unit entitlements at that time of their units as set out in the schedule to the deposited strata plan.

Amendment of  
principal Act,  
s. 345—  
Power of  
council  
to order land  
adjoining  
street to be  
fenced.

**10.** Section 345 of the principal Act is amended by inserting after subsection (3) thereof the following subsection :—

(4) For the purposes of this section, where the land that adjoins or abuts upon the street or road is common property comprised within a deposited strata plan within the meaning of Part XIXB of the Real Property Act, 1886-1967—

- (a) the units defined on that plan shall be deemed to be the land adjoining or abutting upon that street or road ;
- (b) the owners of those units shall be deemed to be the owners of such land ;

and

- (c) the amount of the expenses referred to in subsection (3) of this section shall be payable by, and recoverable by the council from, the owners of those units in proportion to the respective unit entitlements for the time being of their units as set out in the schedule to the deposited strata plan and the amount of the expenses so attributable to each unit shall, until fully paid by, or recovered by the council from, the owner of that unit, be a charge upon that unit.

Amendment of  
principal Act,  
s. 348—  
Duty to  
construct  
retaining walls  
in certain  
cases.

**11.** Section 348 of the principal Act is amended by inserting after subsection (3) thereof the following subsection :—

(3a) For the purposes of this section, where the land that abuts on the public street or road is common property comprised within a deposited strata plan within the meaning of Part XIXB of the Real Property Act, 1886-1967—

- (a) the units defined on that plan shall be deemed to be the land abutting on that public street or road ;

(b) the owners of those units shall be deemed to be the owners of that land ;

and

(c) the amount of the cost of the construction referred to in subsection (3) of this section shall be payable by, and recoverable by the council from, the owners of those units in proportion to the respective unit entitlements for the time being of their units as set out in the schedule to the deposited strata plan and the amount of such cost of construction so attributable to each unit shall, until fully paid by, or recovered by the council from, the owner of that unit, be a charge upon that unit.

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

J. M. NAPIER, Governor's Deputy.