

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1923.

A BILL

To regulate the making and publication of regulations, rules, by-laws, and ordinances; to enable their validity to be tested; to amend certain Acts; and for purposes connected therewith.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Regulations Act, short title. 1923."

2. In this Act, unless the context or subject-matter otherwise requires,— Definitions.

“Prescribed” means prescribed by regulations made under this Act.

“Regulation making authority” includes every authority authorised by any Act now or hereafter in force to make regulations.

“Regulations” means any rules, regulations, by-laws, general orders, or ordinances made by the Governor or by any body or person under the authority of any Act now or hereafter in force.

3. (1) All regulations made under any Act hereafter passed shall, unless the Act otherwise expressly provides, be made in accordance with this Act, and the provisions of this Act shall apply thereto. Application of Act.

(2) Notwithstanding any provision in any Act heretofore passed inconsistent with this Act all regulations hereafter made under that Act shall be made in accordance with this Act, and the provisions of this Act shall, except where otherwise in this Act provided, apply thereto.

4. (1) At least forty days before making any regulations, notice of the proposal to make the regulations and of the place where a copy of the draft regulations may be obtained, shall be published in the Gazette. Making of regulations. 56 & 57 Vic., c. 66, s. 1.

(2) During those forty days any public body may obtain a copy of the draft regulations on payment of the prescribed fees, and any representations or suggestions made in writing by a public body interested to the authority proposing to make the regulations shall be taken into consideration by that authority before finally settling the regulations; and on the expiration of those forty days the regulations may be made by the regulation making authority either as originally drawn or as amended by that authority.

(3) Any enactment which provides that any regulations to which this section applies shall not come into operation for a specified time after they are made is hereby repealed, but this repeal shall not affect section thirty-seven of the Interpretation Act, 1897.

(4)

(4) This section shall not apply to regulations if they or a draft thereof are by any Act required to be laid before Parliament for any period before the regulations come into operation, nor shall it apply to rules of court made by the judges of the Supreme Court.

Exemption of certain regulations. *Ibid.* s. 1, subsec. 4.

5. (1) When the Governor is the regulation making authority, and on account of urgency or any special reason it seems proper that the regulations should be brought into immediate operation, the Governor may make the regulations as provisional regulations to come into force forthwith or from such date as the Governor may fix.

Provisional regulations.

(2) When the regulation making authority is not the Governor, and certifies to the Governor that on account of urgency or any special reason the regulations should come into immediate operation, that authority, if the Governor approves, may make the regulations as provisional regulations to come into force forthwith or from such date as the Governor may fix.

(3) Regulations made as provisional regulations shall only continue in force until regulations are made in accordance with the preceding section, or until the expiration of a period of six months from the coming into force of the provisional regulations, whichever first occurs.

(4) A notification shall be published in the Gazette that the provisional regulations have been made, and of the place where copies of them may be purchased.

6. (1) All regulations made after the commencement of this Act shall—

Date of commencement—submission to Parliament.

- (a) come into force from a date to be stated in the regulations, or when no such date is so stated, from some other date to be fixed by the Governor and notified in the Gazette;
- (b) if the regulation making authority is not the Governor, be submitted to the Governor for approval;
- (c) be laid before both Houses of Parliament within fourteen sitting days of the making thereof if Parliament is in session, and if not, then within fourteen

fourteen sitting days after the commencement of the next session. If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

7. Where any regulations are required by any Act to be published or notified in the Gazette, a notice in the Gazette of the regulations having been made and of the place where copies of them can be purchased, shall be a sufficient compliance with that requirement.

Publication in Gazette unnecessary. *Ibid.* s. 3, subsec. 3.

8. Where by any Act hereafter passed power is given to make regulations, and no express provision is made in such Act as to the amount of the pecuniary penalties to be imposed for any breach of such regulations, or the manner in which the penalties are to be recovered, as the case may be, the following provisions shall have effect:—

Penalties and recovery.

- (a) The regulations may—
 - (i) impose a penalty for any breach thereof and also distinct penalties in case of successive breaches thereof, but no such penalty shall exceed *fifty* pounds;
 - (ii) impose also a daily penalty for any continuing breach thereof not exceeding *five* pounds per day;
 - (iii) fix a minimum as well as a maximum penalty.
- (b) Any penalty imposed by the regulations may be recovered in a summary manner before a police or stipendiary magistrate or any two or more justices.

9. Any printed paper purporting to be a copy of regulations made by a regulation making authority, and to be printed by the Government Printer, shall in all courts within New South Wales be evidence that such regulations have been duly made by the regulation making authority and are in force.

Evidence.

10. (1) All regulations made after the commencement of this Act shall forthwith, after they are made, be sent to the Government Printer, and shall, in manner prescribed, be numbered and (save as prescribed) printed and sold by him. Printing and sale. Ibid. s. 4.

(2) Any such regulations may, without prejudice to any other mode of citation, be cited by the number so given and the calendar year. Citation.

11. Regulations shall, save as therein otherwise expressly provided, be construed as if the Interpretation Act, 1897, applied mutatis mutandis to the interpretation thereof. Interpretation. 1919, No. 41, s. 579.

12. (1) Where any regulations are amended by— Incorporation of amendments. Ibid. s. 578.

- (a) the repeal or omission of certain words or figures; or
- (b) the substitution of certain words or figures in lieu of any repealed or omitted words or figures; or
- (c) the insertion of certain words or figures,

the regulations as so amended may be printed by the Government Printer in the form certified as correct by the Attorney-General.

(2) The provisions of the Amendments Incorporation Act, 1906, shall mutatis mutandis apply to any regulations so amended.

13. (1) Any person who shall pay into the Supreme Court the sum of twenty pounds as security for costs may apply, in accordance with rules of court, for a rule calling upon the regulation making authority by which any regulations have been made to show cause why such regulations should not be quashed either wholly or in part for the illegality thereof, and the court may make such rule absolute or discharge the same with or without costs as to the said court shall seem meet. Quashing. cf. Evidence Act (Vict.), 1890, s. 48.

(2) The rule to show cause shall, when the Governor is the regulation making authority, be directed to and served upon the Attorney-General.

14. (1) The Governor may make regulations for carrying this Act into effect. Governor to make regulations.

(2) Such regulations may prescribe the classes of cases in which the exercise of a statutory power by any regulation making authority constitutes or does not constitute the making of a regulation within the meaning of this Act. Rules. 56 & 57 Vic., c. 66, s. 3, subsec. 4.