

LOCAL GOVERNMENT.

11° Elizabeth II., No. XXXVIII.

No. 38 of 1962.

AN ACT to amend the Local Government Act, 1960-1961.

[Assented to 29th October, 1962.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Local Government Act Amendment Act, 1962.* Short title and citation..

(2) In this Act the Local Government Act, 1960-1961, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Local Government Act, 1960-1962.

S. 35
amended.

2. Subsection (3) of section thirty-five of the Principal Act is repealed and re-enacted as follows:—

(3) Where in any district to which the Governor has, at the written request of the council thereof, by order directed that this subsection applies—

- (a) the owner of land in that district who does not reside on the land; or
- (b) a corporation that is the owner of land in the district,

has nominated in writing a person residing in the district to represent the owner or the corporation for the purposes of this Act if the person so nominated—

- (c) is over twenty-one years of age;
- (d) is a natural born or naturalised British subject; and
- (e) is not disqualified from being elected a member under section thirty-six or thirty-seven,

he is qualified to be elected and act as a member notwithstanding that he has not any of the qualifications set out in paragraph (c) of subsection (1) of this section.

S. 37
amended.

3. Subsection (2) of section thirty-seven of the principal Act is amended by adding after the word, "council", being the last word in subparagraph (vii) of paragraph (b), the passage, "or he agrees with the municipality for the council thereof to carry out work for him under subsection (2) of section five hundred and twenty".

4. Section forty-one of the principal Act is amended by adding after subsection (7) the following subsection:—

S. 41
amended.

(8) When in a district the order of retirement of any member will not be in accordance with the provisions of this section, the Governor may by order declare the date on which that member shall retire, being a date in accordance with those provisions, and on that date the member shall retire from office and the term of office shall expire.

Power of
Governor
to declare
date of
retirement
of member.

5. Paragraph (j) of section one hundred and thirteen of the principal Act is amended by adding after the word, "latitude", being the last word in the paragraph, the passage, "or other district to which the Governor has, by order, directed that this paragraph applies".

S. 113
amended.

6. Paragraph (f) of subsection (5) of section one hundred and ninety of the principal Act is amended by adding after the word, "subsection" in line six, the words, "and he considers the by-law to which the form relates is necessary and desirable".

S. 190
amended.

7. Subsection (5) of section two hundred and fifty-eight of the principal Act is amended by deleting the passage, " , on payment of the cost of publication by the council," in lines two and three.

S. 258
amended.

8. Paragraph (d) of subsection (3) of section two hundred and seventy-one of the principal Act is amended by substituting for, "highest" in line one, the word, "highest".

S. 271
amended.

S. 286
amended.

9. Subsection (1) of section two hundred and eighty-six of the principal Act is amended by adding after the word, "Crown", being the last word in the subsection, the passage, "and is removed from the operation of the Transfer of Land Act, 1893".

S. 287
amended.

10. Section two hundred and eighty-seven of the principal Act is amended—

(a) by repealing paragraph (a) of subsection (5) and re-enacting it as follows:—

(a) Where a request for the approval of the Governor of the exercise of a power mentioned in this section has been granted to a council, the council may exercise the power at any time after public notice by the Minister for Lands of that approval. ; and

(b) by substituting for the words, "a council" in line one of paragraph (b) of subsection (5), the words, "the Minister for Lands".

S. 284
amended.

11. Paragraph (a) of subsection (1) of section two hundred and ninety-four of the principal Act is repealed and re-enacted as follows:—

(a) the absolute property in the land comprising the street so closed is by this section revested in the Crown, freed from rights of passage by the public and rights, if any, to mines of coal or other minerals in the land and is removed from the operation of the Transfer of Land Act, 1893, and no compensation is payable because of the operation of this paragraph; .

S. 382
amended.

12. Subsection (1) of section three hundred and eighty-two of the principal Act is amended by adding after the word, "floor" in line nine, the passage, "or, where the floor is an impermeable concrete floor, that the admission of a free current of air passing under that floor is unnecessary".

13. Section four hundred and two of the principal Act is amended— S. 402
amended.

- (a) by adding after the word, “manufactory” in line two of subsection (1), the passage, “, refuse destructor, incinerator”; and
- (b) by adding after the word, “manufactory” in line two of subsection (2), the passage, “, refuse destructor, incinerator”.

14. Section five hundred and thirteen of the principal Act is amended— S. 513
amended.

- (a) by adding after the word, “practitioner” in line five of paragraph (d), the passage, “, dentist or veterinary surgeon”; and
- (b) by adding after paragraph (d) a paragraph as follows—

- (da) if the prior approval of the electors of its municipal district is obtained at a meeting called by the council for the purpose, enter into an agreement guaranteeing any medical officer, dentist or veterinary surgeon practising his profession within any part of that district, a minimum gross income from such practice and may expend any money required by it, for fulfilling any such guarantee, out of its municipal fund; .
- Guarantee of minimum income to medical practitioners, etc.

15. Section five hundred and thirty-two of the principal Act is amended by adding after subsection (2) the following subsection:— S. 532
amended.

(2a) Land otherwise exempted from rates by virtue of section eighty-eight of the Government Railways Act, 1904, is rateable property under this Act while it is leased under section sixty-three of the Government Railways Act, 1904, but this subsection does not apply—

- (a) to any such land while it is leased under section sixty-four of that Act; or

- (b) to any such land while it is leased to Co-operative Bulk Handling Limited under section sixty-three of that Act.

s. 533
amended.

16. Section five hundred and thirty-three of the principal Act is amended—

- (a) by adding after the word, “purchase” in line two of paragraph (b) of subsection (3), the words, “or held under perpetual lease whether with or without a right to acquire the fee simple”;
- (b) by deleting the word, “or” immediately following paragraph (e) of subsection (3);
- (c) by adding after paragraph (f) of subsection (3) a passage as follows—
; or
(g) land held or used under a lease (not being a pastoral lease under any of the Acts mentioned in paragraph (b) of this subsection or a mining lease under the Mining Act, 1904), license, or concession from the Crown for cutting and removing timber or with the right to take any other profit from the land—a sum equal to five shillings for every acre of the land that is so subject. ;
- (d) by deleting the words, “or occupied” in line two of paragraph (c) of subsection (4);
- (e) by repealing subparagraph (i) of paragraph (f) of subsection (4), and deleting the word, “and” immediately following that subparagraph.

s. 537
amended.

17. Section five hundred and thirty-seven of the principal Act is amended by adding after subsection (5) a subsection as follows:—

- (6) For the purpose of determining in accordance with Subdivision B of Division 4 of Part IV. the number of votes that the owner

of a railway to which this section applies, is entitled to cast at an election, in respect of that railway—

- (a) the amount paid in a year under subsection (5) of this section in respect of the railway in a district; or
- (b) where portion only of the railway is within the district, that amount paid in respect of the portion,

shall be multiplied by twenty and the amount resulting therefrom, shall be treated as the annual value of the railway or the portion, for the district.

18. Section five hundred and thirty-eight of the principal Act is amended by adding after subsection (4) a subsection as follows:—

S. 538
amended.

(5) For the purpose of determining in accordance with Subdivision B of Division 4 of Part IV. the number of votes that a supply authority to which this section applies, is entitled to cast at an election, in respect of pipes, electric lines, lands, buildings and works used by it exclusively in connection with the manufacture and supply of gas or electricity, the amount paid in a year under subsection (4) of this section shall be multiplied by twenty and the amount resulting therefrom, shall be treated as the annual value of those pipes, electric lines, lands, buildings and works.

19. Section five hundred and forty-five of the principal Act is amended—

S. 545
amended.

- (a) by adding after the section number, "545", the subsection designation, "(1)"; and
- (b) by adding a subsection as follows:—

(2) Where the Commissioner of Taxation—

- (a) has caused to be supplied to a council of a municipality a re-assessed value that is less than

the value then recorded in the rate book of the municipality; and

- (b) has advised that the lesser value has been assessed as from the last preceding first day of July or from some date earlier than that date,

the council shall amend the rate book and record the lesser value as operating from that first day of July and shall re-assess the rate so as to accord with that lesser value for the financial year commencing on that day.

S. 548
amended.

20. Subsection (4) of section five hundred and forty-eight of the principal Act is amended—

- (a) by deleting the words, “of a shire” in subparagraph (i) of paragraph (a);
- (b) by substituting for the words, “the district of a shire” in line one of subparagraph (ii) of paragraph (a), the words, “a district”;
- (c) by repealing paragraph (b) and re-enacting it as follows:—

(b) The Governor may at the request of a council of a municipality by order declare portion of its district the boundaries of which portion are not co-terminus with the boundaries of a ward or two or more wards of the municipality to be an area to which this subsection applies. ;

- (d) by deleting the words, “of a shire” in line one of subparagraph (i) of paragraph (c); and
- (e) by deleting the words, “of the shire” in line fourteen of paragraph (c).

21. Section five hundred and fifty-two of the principal Act is repealed and re-enacted as follows:—

S. 552
repealed and
re-enacted.

552. (1) Notwithstanding that if imposed under other provisions of this Part, the rate payable in respect of any land would be less, a council may impose in respect of that land a minimum rate of such sum, being not more than five pounds per annum, as the council thinks fit.

Power to
change
minimum
rate and
differentiate
minimum
rate.

(2) The council may, when imposing a minimum rate, differentiate between a ward of its district or a portion of a ward by imposing a higher or lower minimum in respect of that ward or that portion.

22. Section five hundred and fifty-nine of the principal Act is amended by adding after subsection (5) a subsection as follows:—

S. 559
amended.

(5a) The appellant may at any time before the day appointed for the hearing of his appeal withdraw the appeal by serving on the Registrar of the Valuation Appeal Court in which the appeal is brought, a written notice addressed to the Court and signed by the appellant and if the notice is received by the Registrar before that day the court shall strike out the appeal.

23. Section five hundred and sixty-one of the principal Act is amended—

S. 561
amended.

- (a) by substituting for the word, "A", being the first word in the section, the passage, "Subject to subsection (5) of this section, a";
- (b) by repealing and re-enacting subsection (2) as follows:—

(2) On receipt of the claim the municipality to which the rates and charges are payable shall postpone the payment

of them until the sale or transfer of the land by the person, or his death, whichever first occurs, or until the person ceases to be entitled to be exempt from liability for payment of rates or charges under this Act in respect of the land. ; and

(c) by adding after subsection (4) a subsection as follows:—

(5) A person is not entitled to be exempt under this section from liability for payment of rates and charges under this Act in respect of any land if—

(a) the land is occupied by the person and another person who is not entitled to claim such exemption and who is not a dependant of the firstmentioned person; or

(b) the land is partly owned by another person who is not entitled to so claim and who is not such a dependant.

S. 605
amended.

24. Section six hundred and five of the principal Act is amended by adding after the word, "payable", being the last word in the section, the passage, "but a person to whom a debenture is issued or transferred may, if he thinks fit, cross the debenture by marking it as "not transferable" and payable only to or to the order of a specified person".

S. 614
amended.

25. Section six hundred and fourteen of the principal Act is amended by adding after subsection (2) a subsection as follows:—

(3) Where, in accordance with subsection (1) of this section, a council has determined and included a different amount in the general rate

to be imposed under section five hundred and forty-eight, the Governor may, notwithstanding that subsection, by order direct that—

- (a) the portion of a district in respect of which the different amount may be levied may be extended to include other portions of the district; or
- (b) the council may be relieved from the obligation to determine and include the different amount in the general rate.

26. Subsection (6) of section six hundred and fifty-seven of the principal Act is amended by substituting for the words, "statutory declaration" in lines nine and sixteen, the word, "certificate".

S. 657
amended.

27. Paragraph (c) of section six hundred and sixty of the principal Act is amended by adding after the word, "served", being the last word in the paragraph, the following passage—

S. 660
amended.

but the failure to so serve any notice required to be served by this section, within the relevant period prescribed by this section, is not a bar to the maintenance of the action, if it is shown that the municipality, member, officer or servant has not been prejudiced in his defence by that failure, or if it is found that the failure was occasioned by some reasonable cause.

28. The Ninth Schedule to the principal Act is repealed and the following schedule substituted—

Ninth
Schedule
repealed
and
schedule
subs.

NINTH SCHEDULE.

Western Australia.

Local Government Act, 1960.

NOMINATION OF MAYOR, PRESIDENT, OR
COUNCILLOR.

To the Returning Officer of the
of :

Sir,

I ()* of () †
hereby nominate myself as a fit and proper person to

be Mayor, President or Councillor** of the Municipality
of or of the Ward of the
Municipality of (as the case may be).

I consent to act if elected and declare that I am
qualified to act if elected to the office for which I now
nominate.

.....
Signature of Candidate or of
agent authorised in writing to
sign on behalf of the candidate.

* Insert name. † Insert residence, calling and number
on the roll (if enrolled). ** Strike out whichever is
not applicable.

29. Part 4 of the Fifteenth Schedule to the
principle Act is amended by inserting between the
second and third columns a column as follows—

Fifteenth
Schedule
amended.

Trespass in other enclosed land	
s.	d.
10	0
10	0
1	0
1	0
