



Western Australia.

ANNO QUADRAGESIMO OCTAVO

VICTORIÆ REGINÆ.

No. XV.

AN ACT to regulate the construction of Buildings in Perth and Fremantle, and other Towns within the Colony.

[Assented to, 10th September, 1884.]

WHEREAS it is expedient that the Construction of Houses and other Buildings in the city of Perth and the town of Fremantle, and under certain circumstances in other towns within the Colony of Western Australia, should be regulated by law: Be it enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows:—

1. THIS Act may be cited for all purposes as “The Building Act, 1884.” Short title.

2. IN this Act, unless the context otherwise requires,—

(1.) The word “council” shall mean the mayor and councillors of Perth or of Fremantle, or of any other municipality within the Colony declared and proclaimed to be a municipality under the provisions of “The Municipal Institutions Act, 1876,” or of any other Act in that behalf, and brought under this Act in manner hereinafter mentioned.

Interpretation of terms.

(2.)

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- (2.) The word "municipality" shall mean the city of Perth or the town of Fremantle, or any other town or place declared and proclaimed to be a municipality under the provisions of the aforesaid Acts in that behalf, and brought under this Act in manner hereinafter mentioned.
- (3.) The word "mayor" shall include the mayor, chairman, or other similar officer of the municipality by whatever name he may be called.
- (4.) The words "town clerk" shall mean and include the town clerk of any municipality, or any officer of a municipality performing similar duties to those of a town clerk by whatever name he may be called.
- (5.) The word "surveyor" shall mean and include the surveyor of any municipality, or any officer appointed in pursuance of this Act to perform the duties of such a surveyor, and any deputy of such surveyor.
- (6.) The word "person" shall include a body corporate.
- (7.) The words "public street" shall mean and include every public street, road, footway, square, thoroughfare or other place within the municipality.
- (8.) The words "public building" shall mean and include every building used as a church, chapel, or other place of public worship; also every building used for purposes of public instruction; also every building used as a college, public hall, hospital, theatre, public concert room, public exhibition room, or for any other public purposes.
- (9.) The word "party-wall" shall apply to every wall used or built as a separation of any building from any other building, such buildings being occupied by different persons.
- (10.) The word "owner" shall apply to every person in possession or receipt either of the whole or of any part of the rents or profits of any house, building, land, or tenement.
- (11.) The words "Director of Public Works" shall mean the Director of Public Works, or any person who may hereafter perform similar duties to those now devolving upon the said director.

Application of Act.

3. THIS Act shall only apply to such portions of Perth and Fremantle as are included within the limits set forth in the Schedule to this Act annexed, and shall not apply to any other town or place

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place within the Colony, except as hereinafter provided for. Provided that it shall be lawful for the Governor, with the advice of the Executive Council, upon a petition signed by not less than two-fifths of the ratepayers in any town declared and proclaimed to be a municipality under the aforesaid Acts, by notice in the *Government Gazette*, to apply the provisions of this Act, or any of the said provisions, to any such municipality or to portions thereof, or to any other portions of Perth or Fremantle not included within the limits in the said Schedule, and thenceforth this Act or such provisions thereof as aforesaid shall apply to such municipality or portions thereof or to such further portions of Perth or Fremantle respectively, in as full and ample a manner as if such municipality or such portions thereof as aforesaid were specially named in this Act; and the production of a copy of the *Government Gazette* containing any notice as aforesaid, and purporting to be printed by the Government Printer, shall be received in all courts of justice and elsewhere as evidence that this Act, or such provisions thereof as aforesaid, apply to the municipality or portions of the municipality mentioned in such notice, and from the date therein expressed.

4. NO person shall commence to build, take down, alter, add to, or repair any building, or to make any excavation, or to do any other act whereby any public street may be obstructed or rendered dangerous or inconvenient to persons passing over or near thereto, unless he shall have given three clear days previous notice in writing to the surveyor of his intention to commence such building or other work, or do such other act, and shall have put up a proper hoarding or fence to the satisfaction of the surveyor, as a protection to passengers, and also a platform and handrail to serve as a footway for passengers if it shall be required by the surveyor, and in such place and in such manner as the surveyor shall direct.

Notice to be given before commencing to build or alter a building by which obstruction to a street may be occasioned.

5. NO person shall deposit any stones, bricks, lime, rubbish, timber, iron, or other materials on any public street, nor make any excavation on any land abutting on or adjoining or contiguous to any public street, unless he shall first have obtained from the surveyor a license in writing for that purpose, or shall, in the case of an excavation as aforesaid, have securely fenced off the same from the said street. Such license shall state the purpose for which and the conditions upon which it has been granted, and the surveyor may grant the license subject to the condition that the licensee shall erect, for the safety and convenience of the public, such hoardings or fences at such places, and of such form, character, and dimensions as to the surveyor shall seem fit. And the council is hereby authorised to fix, charge, and recover fees to be paid for such license.

No materials to be deposited on streets without license from the surveyor.

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Maintenance and lighting of hoardings and fences.

6. EVERY person erecting any such hoarding or fence as aforesaid shall keep and maintain the same, with the platform and handrail (if any) thereto, standing and in good condition, to the satisfaction of the surveyor, during such time as shall be necessary for the public safety and convenience; and every person erecting or causing to be erected any hoarding, fence, or obstruction of any kind whatever, on any public street, or at any excavation as aforesaid, shall cause the same to be well and sufficiently lighted every night from sunset to sunrise to prevent accidents, and shall remove the same and fill up any excavation, and shall repair any damage done to the public street, within a reasonable time after being required in writing so to do by the surveyor.

Penalty for disobeying preceding sections.

7. IF any person shall do any act contrary to, or shall neglect or omit to do any act required to be done by, any of the three next preceding sections, such person shall incur a penalty not exceeding Ten pounds for every such offence, to be recovered summarily as hereinafter provided for.

Hoardings erected and materials deposited, in any manner otherwise than permitted by license, may be removed and sold.

8. IF any person shall erect or set up in or on any public street or place any hoarding, fence, or scaffold, or any enclosure, for any purpose whatever, or shall make any excavation on any land abutting on, or adjoining, or contiguous to, any public street (except such excavation shall be securely fenced off from such public street), or shall deposit any stone, bricks, lime, rubbish, timber, iron, or other materials in or on any public street, without a license from the surveyor, or do any such act as aforesaid in any other manner than as permitted by such license, or continue the same beyond the time stated in such license, or fail to keep any hoarding, fence, platform, or handrail in good repair, it shall be lawful for the council to cause any such excavation to be filled up, and by an order of the council to order the costs and expenses of such filling up to be paid, and to cause such hoarding, fence, scaffold, or enclosure to be pulled down, and the materials thereof, and also all the stone, bricks, mortar, lime, or other building materials, and all other matters and things contained within any such enclosure to be removed and deposited in such place as the council may think fit, and to be kept until the charges of pulling down and removing the same be paid to the council; and in case the said materials, matters, and things be not claimed and the said charges paid within the space of eight days next after such seizure thereof, it shall be lawful for the council to order the same to be sold, and by and out of the net proceeds of such sale to pay such charges, and to render any surplus to the owner or other person by law entitled thereto; and in case the proceeds of such sale be insufficient to cover such charges, and the charges of selling and disposing of such materials, matters, and things, the deficiency shall be repaid by the owner of such materials.

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materials, matters, or things, to the council on demand, and may, by an order of the council under the hand of the mayor or town clerk, be ordered to be paid.

9. ANY person erecting or setting up in any public street any hoarding, or fence, or scaffolding, for any purpose whatever, and injuring or destroying any footway or roadway of any such street, or any kerbing, or watertabling, or drain, shall make good the same to the satisfaction of the surveyor, and in case the person to whom such hoarding, fence, or scaffold shall belong, or who shall have erected the same, shall neglect or fail to make good and repair to the satisfaction of the surveyor such footway, roadway, kerb, water-table, or drain, it shall be lawful for the council to cause such repairs to be done, and, by order under the hand of the mayor or town clerk, to order the costs, charges, and expenses thereof, together with any such further costs, charges, and expenses as may have been incurred by reason of such neglect, to be paid by such owner or other person as aforesaid to the council.

Damage done to footways, drains, &c., by erection of hoardings to be made good.

10. WHENEVER any builder or other person shall have erected the first story of any building abutting on any footpath of any public street, or whenever any plastering operations are in progress above the first story of any building, such builder, other person, or plasterer, shall cause the adjoining footway to be covered, and kept covered until the completion of the work then in progress to the satisfaction of the surveyor, so that no danger or inconvenience may arise to the public from falling materials; and every builder, plasterer, or other person neglecting to comply with the written directions of the surveyor in any of the above respects shall incur a penalty not exceeding Ten pounds, to be recovered summarily as aforesaid.

While building is in progress footway to be covered.

11. NO roof of any house or other building shall, after the passing of this Act, be covered with any other material than slate, tiles, metal, glass, artificial stone, cement, or shingles.

Materials with which roofs shall be covered.

12. ALL partitions between separate houses or other buildings, whether such houses or other buildings shall belong to one or more owners, which shall be built after the passing of this Act, shall be of brick or of stone, and shall be carried up above the roofs of such houses or buildings to such a height and in such a manner as may be directed by any by-laws or regulations of the municipality, and if any house or other building not now partitioned by such a party wall as aforesaid shall hereafter be partially rebuilt by having the front thereof taken down, or if the said house or building shall be raised in height, then in every such case a party wall of brick or of stone between such houses or buildings and carried up to the height and
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Party-walls to be of brick or of stone.

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in the manner aforesaid shall be built; and every owner or builder neglecting to comply with any of the provisions of this or of the next preceding section shall incur a penalty not exceeding Twenty pounds, recoverable as aforesaid.

Buildings, partitions, ceilings, and verandahs of inflammable materials prohibited.

13. NO building shall, after the passing of this Act, be erected within any municipality, the external walls of which building shall be wholly or in part of wood, canvas, thatch, or other inflammable material, or the internal partitions or ceilings whereof shall consist either wholly or in part of calico, canvas, paper, or other inflammable material, nor shall any verandah or balcony to any house or building be roofed with canvas, or other inflammable material; and in case any building, partition, ceiling, verandah, or balcony shall be erected or constructed of material contrary to the provisions hereof, the council may at any time cause notice to be served upon the owner or occupier thereof, requiring the removal of the same within such time as the council may deem proper, and in default of such removal any two or more Justices of the Peace upon due proof of the service of such notice, and of non-compliance therewith, may order any such building, roof, verandah, or balcony, ceiling, or partition to be forthwith removed, either wholly or in part, as the case may require, under the superintendence of the surveyor, and at the expense and charges of the owner thereof, which, upon the order of the council in writing under the hand of the mayor or town clerk, shall be paid by such owner to the council.

No building to project on any footway.

14. NO building to be hereafter erected shall encroach or project on or over any public street, nor shall any building which may now so encroach or project be rebuilt, either wholly or in part, except according to a plan, to be approved by the surveyor, whereby such building shall be placed clear of and without the distance defined for the breadth of such public street; but nothing herein contained shall prevent any person, with the consent of the surveyor, from placing an awning or verandah in front of his building, according to plans to be settled and approved by the council, provided that such awning or verandah be eight feet, at the least, in height above the footway in front of such building, and that the posts for the support thereof be placed close to the kerbstone or outer edge of such footway as the council shall direct. Provided also, that nothing herein contained shall prevent any person, with the consent in writing of the council (after plans have been submitted to and approved by the council), from placing in front of his house a balcony, with a framework constructed of iron, and securely fixed with iron brackets or other supports, to the satisfaction of the surveyor; provided that such balcony be eight feet at the least in height above the footway in front of such building, and that the posts

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posts for the support thereof be placed close to the kerbstone or outer edge of such footway, as the council shall direct.

15. IF, within one month after notice by the surveyor to remove any building or part thereof hereafter erected or re-built which may encroach as aforesaid shall have been served on the owner or occupier thereof, the same shall not be accordingly removed, any two Justices may grant a warrant under their hands and seals to the surveyor for the time being and his assistants forthwith to cause the said building, so far as the same shall encroach upon the public street, to be taken down, and the same may be taken down accordingly and removed, and the owner or occupier shall, upon the order in writing of the council, under the hand of the mayor or town clerk, pay the costs and expenses of such taking down and removal to the council.

Justices may, after notice, cause encroachment to be removed.

16. IF any building or anything thereon affixed shall be deemed by the surveyor to be in a ruinous or dangerous condition so as to render either the occupiers of adjoining buildings or any other persons liable to any injury in any way therefrom, he is hereby empowered to cause a hoarding or fence for preventing nearer approach thereto than may be safe to be forthwith put up, and to take any such other measure of protection as the exigency of the case in his discretion shall require; but if circumstances shall so admit, he shall cause notice in writing to be served on the owner or occupier of such ruinous or dangerous building, and if such owner or occupier cannot be found, to be fixed on the door or other conspicuous part thereof, requiring such ruinous or dangerous building or other thing to be taken down, repaired, or secured as the case may require; and if such taking down, repairing, or securing shall not be commenced within the time by such notice required, or being so commenced any delay shall take place in the completion thereof as speedily as the nature of the case may demand, the surveyor may make complaint thereof before any two or more Justices of the Peace, who are hereby empowered to order the owner, or, in his default, the occupier (if any) of such ruinous or dangerous building or other thing to take down, rebuild, repair, or otherwise secure the same, or such part thereof as shall appear to such Justices to be ruinous or dangerous, within a time to be fixed by such Justices, and to the satisfaction of the surveyor; and in case the same be not so taken down, repaired, rebuilt, or otherwise secured, within the time so limited, or if no owner or occupier can be found on whom to serve such order, the council shall with all convenient speed cause all or so much of such building or other thing as shall be in a ruinous condition, or dangerous as aforesaid, to be taken down, repaired, rebuilt, or otherwise secured in such manner as shall be requisite, in which case all expenses of putting up such hoard or fence and of taking down, repairing,

Measures to be taken in case of ruinous or dangerous buildings.

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repairing, rebuilding, or securing such building or other thing as the case may be, shall be paid upon the order of the council, by writing under the hand of the mayor or town clerk, by such owner or occupier to the council.

Council may sell materials of buildings pulled down in payment of expenses incurred.

17. IF any building shall be taken down either wholly or in part under the provisions herein contained, the council in their discretion may sell the materials thereof, or so much thereof as shall be taken down; and the money to arise from such sale shall be applicable so far as the same may extend to the reimbursement to the council of any outlay and expenditure which shall have been incurred by reason of every such taking down respectively, or incidental thereto, and the surplus, if any, shall be paid to the owner of the property taken down, on demand; but if the money to arise from any such sale of materials shall be insufficient to satisfy and defray the expenses incurred by the council in any such taking down, then the owner of the property shall be liable to make good the deficiency to the council and to pay the same as the council, by any order in writing under the hand of the mayor or town clerk, shall direct.

Houses to have sewers and drains.

18. EVERY house or other building hereafter to be erected or rebuilt within any municipality shall have such covered drain or drains leading to such sewer or other place, having such a fall and constructed of such materials as the council of the municipality shall, by written notice as aforesaid to the owner or builder, direct; and such council may, in the case of there not being any sufficient drain from any house or other building (whether erected at any time before or after the coming into operation of this Act), cause notice in writing to be given to the owner to construct a drain or drains of such nature and description as such council shall think necessary and shall specify in such notice; and if such drains, at the expiration of the time to be named in any such notice as aforesaid for the completion thereof, shall not have been constructed, the council may cause such drain to be constructed at the expense of such owner; and such expense shall be paid upon the order of the council by writing under the hand of the mayor or town clerk, by the owner to the council.

Houses to have privies.

19. EVERY house or other building shall have attached to it such water-closets, earth-closets or privies, with proper doors, coverings, drains, and cesspools, and so constructed as shall be in the opinion of the council sufficient for such house or building. If at any time it shall be made to appear to the council that any house or building, whether built at any time before or after the coming into operation of this Act, has not a sufficient water-closet, earth-closet, or privy, with proper doors, coverings, drains, cesspools; and the owner, on notice in writing to that effect from such council, shall

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shall not erect such sufficient water-closet, earth-closet, or privy, with proper doors, coverings, drains, and cesspools, within the time to be named in such notice, such council may cause a privy or water-closet, or earth-closet, with proper doors, coverings, drains, and cess-pools, to be erected at the expense of such owner; and such expense shall be paid, upon the order of the council by writing under the hand of the mayor or town clerk, by the owner to the council; and every owner of a house or building violating the provisions of this or of the next preceding section shall incur a penalty not exceeding Five pounds, recoverable as aforesaid.

20. EVERY house or other building hereafter to be erected or rebuilt within any municipality shall have such a pit or place for the deposit of ashes and other refuse or rubbish of such a size and character as the council shall by written notice as aforesaid to the owner or builder order. Provided that the said pit or place shall be constructed of incombustible materials and carried up on all sides with the same material two feet at least above the surface of the ground. If such pit or place as aforesaid shall not have been constructed within the time to be named by the written notice aforesaid, the council may cause the said pit or place to be constructed at the expense of the owner, and such expense shall be paid, upon the order of the council by writing under the hand of the mayor or town clerk, by the owner to the council.

Houses to have ash-pits.

21. IT shall be lawful for the council to provide public urinals, waterclosets, privies, and like conveniences, in situations where they deem such accommodation to be required, and to supply such conveniences with water, and to maintain and keep the same in good order, and to defray the expenses thereof, and to pay any damage occasioned to any person by the erection thereof, out of the general revenues of the council.

Power to Council to provide public conveniences.

22. EVERY public building which shall be built in any municipality after this Act shall come into operation shall be constructed with doors opening outwards from the said building, and so that there may be rapid and easy exit from such building in the event of fire, panic, or any other similar cause.

Public buildings to be constructed for rapid and easy exit therefrom.

23. WHENEVER a public building is being constructed, it shall be the duty of the surveyor to inform the Director of Public Works of the fact, and the Director of Public Works shall, by the report of the surveyor or other person, or by personal inspection, make himself acquainted with the condition of the building, with regard to its means of exit and to its stability; and if the Director shall be satisfied that the said public building is properly constructed, so as to afford rapid and easy exit from the same, in the event

Director of Public Works to certify that public buildings are fit for public use.

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event of fire, panic, or other similar cause, and is of sufficient stability as to its floors, galleries, staircases, and other parts thereof, he shall give to the owner of such building a certificate under his hand, to the effect that the said building is properly constructed for use as a public building.

No public building to be used by the public unless it is fit for public use.

24. IF the Director of Public Works shall be of opinion, from the report of the surveyor or other person, or from personal inspection, that any public building in any municipality, whether built before or after the coming into operation of this Act, is improperly constructed so as not to afford rapid and easy exit from the same, or that it is not then of sufficient stability as aforesaid, the Director shall cause a notice to be served upon the owner, or occupier of the building, to the effect that the same is not fit to be used as a public building and stating in what particulars the said building is not fit to be so used, and the said building shall not be used by the public or for public purposes until it has been made fit to be so used, and until the Director has granted a certificate as aforesaid.

Penalty for permitting a public building to be used by the public which is not fit for public use.

25. IF any public building built after the coming into operation of this Act shall be used by the public or for any public purpose whatever, before the Director of Public Works shall have given such a certificate as aforesaid, or if any public building, whether built before or after the coming into operation of this Act, shall be so used after such a notice by the Director of Public Works, as in the last preceding section mentioned, has been served upon the owner or occupier of such building and before a certificate that the building is fit for use as a public building has been granted as aforesaid, the owner and occupier thereof shall be each liable to a penalty not exceeding Twenty pounds for every time he or they shall so permit the building to be used, to be recovered summarily as aforesaid.

Inflammatory buildings in public or other places may, by Proclamation, be rendered liable to removal.

26. IF it shall be deemed by the council to be expedient for the public safety, with a view to the prevention of fire, that any public or other place within any municipality shall be brought under the operation of the next following three sections in order to remove all or any buildings therein, the external walls of which shall be wholly or partially of wood, or the coverings of the roofs of which shall be wholly or partially of thatch, canvas, or other inflammable material, the council may, either separately or in conjunction with any insurance companies or other persons, cause any such public or other place to be surveyed by three competent surveyors or architects, of whom the surveyor shall be one, another of whom shall be nominated by the Director of Public Works, and the third by the fire insurance companies established within or nearest to such municipality, or any of such companies as aforesaid,

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or in default of such last appointment being made as aforesaid within seven days after the appointment of a surveyor by the Director of Public Works, the third surveyor or architect shall be appointed by the council; and if such surveyors and architects shall unanimously report that it is desirable for the public safety that such public or other place, or any part thereof, shall be brought under the operation of the next following three sections, the Governor, at the instance of the council, and on the application of three or more ratepayers, being owners or occupiers of land or property assessed at a sum exceeding Twenty pounds per annum in any such public or other place, may, with the advice of the Executive Council, declare such public or other place, or any part thereof, by a Proclamation in the *Government Gazette*, to be and the same shall thereupon become subject to the provisions of the next following three sections.

27. WHEN any building within any municipality shall be constructed wholly, or the external walls thereof shall be constructed wholly or partially of wood, thatch, canvas, or other inflammable material, and the said building shall either internally or externally be in such a state as to be liable to immediate ignition in the event of contact with fire, the council may cause immediate notice to be given, under the hand of the mayor or town clerk, to the owner or occupier of such building that such building is dangerous by reason of its liability to ignite, and requiring such building, or the portion specified in such notice as dangerous, to be removed within such time as the council shall in such notice specify.

Inflammatory buildings may be ordered to be removed.

28. WITHIN one month after any such notice shall have been given, or within such further time as the arbitrators or their umpire, or the arbitrator proceeding alone, hereinafter mentioned, may, by any writing under their or his hand, appoint, the amount of compensation for the injury to be occasioned to the owner or occupier by such removal shall be ascertained by a reference to arbitration unless such amount shall be previously agreed upon. One arbitrator shall be appointed by the council and one by the owner or occupier or his authorised agent; and the arbitrators so appointed shall, before entering upon the reference, appoint an umpire, who shall inquire with the arbitrators into the matters referred, and the award of any two of such arbitrators and umpire shall be final. In the event of either party neglecting or refusing to appoint an arbitrator within seven days after being thereunto required, or if either arbitrator after appointment shall refuse or neglect to proceed with, or shall in any way hinder the reference, the other arbitrator may proceed alone, and his award shall be final and conclusive between the parties.

Compensation to be ascertained by arbitration.

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Justices may, in default of compliance with notice, order removal.

29. IN default of compliance with the notice and requisition directed to be given by section 27, any two or more Justices, on the complaint of the town clerk or surveyor, and on proof of the service of such notice and requisition, may order the immediate removal by the surveyor, or other persons appointed by the council, of the building or portion specified in such notice, and the same shall be removed accordingly; and after such removal the parties entitled shall be paid by the council, out of the general revenue of the municipality, the compensation ascertained as aforesaid, together with the costs of the inquiry, if awarded, and, if necessary, they may recover the amount thereof from the municipality by action.

Director of Public Works and Surveyor may enter and inspect buildings.

30. IT shall be lawful for the Director of Public Works and for the surveyor and for any person authorised in writing by either of them in that behalf to enter and inspect, at all reasonable times, all houses, buildings, and premises which are subject to this Act and as to which any duty is by this Act imposed upon them or either of them, and if any person refuses to admit them or either of them to any such house, building, or premises, or impedes or obstructs them or either of them in the exercise of his or their duty, such person shall incur a penalty not exceeding Ten pounds, recoverable as aforesaid.

Council may paint or affix names of streets on any house.

31. THE council may cause to be painted or colored, or may affix upon the walls of any house, building, or premises, within the municipality, any board or plate, legibly showing thereon the name of any street or place, or such notice as may be conducive to the public convenience, or may affix on such house, building, or premises any letters in wood, iron, or other material by which such names of streets or notice may be expressed so as to be clearly legible.

Council may assign a number to each house.

32. THE council may assign a number to each house in every public street or place within the municipality, and may from time to time, whenever they may deem it expedient, assign any other number to such house in lieu of the previously assigned number; and the occupier of every such house is hereby required to paint or affix every such number upon the door of such house within fourteen days after notice to that effect, signed by the town clerk or surveyor, shall have been served on such occupier.

Crossing places from public streets over footways to be regulated by Council.

33. THE council may fix the places at which crossing places for vehicles and animals from any public street to private residences, or other premises on either side of the said street, shall be made over any footway, and may make such by-laws or regulations with regard to the repairing and keeping in repair of such crossing places
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by the owners or occupiers of such residences or other premises as to the council may seem fit.

34. IF any person shall be desirous of having any footway abutting on rateable property belonging to or occupied by him made, paved, or kerbed, he shall apply to the council, in writing, signifying such his desire, and the council may thereupon pave or make such footway, or put a kerb to the footway, with such materials as they may deem best, and may charge, take, and recover such portion of the cost of such work as they may deem fair and just from the applicant desiring such work to be done, and may order payment thereof under the hand of the mayor or town clerk.

Footways may be paved at request of owner or occupier.

35. EVERY person who intends to lay out or make any new street in any municipality shall give written notice of such intention to the council, in order that the levels of such street may be fixed by the said council.

Notice of laying out new streets.

36. THE levels of every new street shall be fixed under the direction of the surveyor, and the levels so fixed shall be kept thereafter by every person raising any house or other building in such street.

Levels, how fixed.

37. NO person shall hereafter make or lay out any new street unless the same, being a carriage road, be at least thirty feet wide, or, not being a carriage road, be at least twenty feet wide, and no person shall erect or cause to be erected for human habitation, or use or allow, suffer or permit, to be used for human habitation, any building or erection fronting or abutting on any such street as aforesaid being a carriage road of less than thirty feet in width, or on any street not being a carriage road of less than twenty feet in width.

Width of private streets.

38. EVERY person who shall do any act contrary to, or who shall omit or neglect to do any act required to be done by, any of the three next preceding sections shall incur a penalty not exceeding Twenty pounds for every such offence, recoverable summarily as hereinafter provided for; and if any person shall not keep the levels so fixed as aforesaid, or shall lay out any street, or build or cause to be built any building, contrary to any of the provisions of the said sections, it shall be lawful for the council to give notice in writing under the hand of the mayor or town clerk to such person, requiring him forthwith to keep proper levels, or to remove such building; and upon failure of such person to comply with such requisition within one month after service of such notice, it shall be lawful for any two or more Justices of the Peace upon due proof of the service of such notice and of non-compliance therewith, by order in writing under their hands, to empower the council to pull down and remove such building, and to make proper levels, and to do all necessary works for

Penalties and proceedings upon non-compliance with provisions of the three preceding sections.

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for carrying into effect the said provisions, at the expense of the owner of the premises in question; and all expenses incurred by the council in executing any of the works aforesaid shall be paid upon the order of the council in writing under the hand of the mayor or town clerk, by the owner to the council.

Chimnies of manufactory to be constructed and used so as not to be a nuisance.

39. EVERY chimney shaft of any mill, manufactory, or other similar building shall be of such a height, and constructed in such a manner, and shall be so used as not to cause any nuisance or annoyance to the persons dwelling in the neighborhood thereof and in accordance with the by-laws or regulations which may be made by the Council in that behalf. Any occupier of any such mill, manufactory, or other building as aforesaid, offending against any of the provisions of this section, or of any of the said by-laws or regulations, shall be liable to a penalty not exceeding Twenty pounds for every such offence, recoverable as aforesaid.

Power to councils to make by-laws.

40. EVERY council of a municipality, subject to this Act or to any of its provisions, shall have power at all times to make, repeal, alter, or amend such by-laws or regulations as to the said council may seem fit for regulating the construction and erection of walls, parapets, flues and fireplaces, and the situation thereof in any buildings which may be hereafter taken down and rebuilt, or which may hereafter be built or erected in the municipality, and for removing any wall, parapet, flue or fireplace constructed or erected contrary to any such by-law, and generally for the carrying out of this Act or of any of the provisions thereof as aforesaid, and to impose a penalty for the breach of any of the said by-laws; provided that such penalty shall not exceed Twenty pounds. Such by-laws or amendments or alterations thereof shall be submitted to the Governor; and if they shall be approved by the Governor in Executive Council, they shall be published in the *Government Gazette*, and they shall thenceforth be of the same force and validity as if they were enacted in this Act, and a copy of the *Government Gazette*, purporting to be printed by the Government Printer, and containing any such by-laws as aforesaid, shall be received in all courts and in all places as evidence of the same.

Service of notices and orders.

41. WHENEVER any notice or order is required to be served upon any person under this Act, such service may be effected by delivery of the notice or order to the person to whom it is directed, or by delivering it at his dwelling house or place of usual business, or by posting it to such person addressed to him at his dwelling house or place of usual business, and evidence of such delivery or posting shall be evidence of the due service of such notice or order.

Penalties and moneys may be enforced and recovered summarily.

42. ALL penalties under this Act, and all orders for the payment of money or otherwise may be enforced and recovered summarily

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summarily before any two or more Justices of the Peace in Petty Sessions, according to the provisions of the Acts in that behalf; and sections A, C, F, G, H, and I of the Shortening Ordinance shall be incorporated with and taken to form a part of this Act to all intents and purposes, and in as full and ample a manner as if the said sections had been introduced and fully set forth in this Act. Provided that any person who shall think himself aggrieved by any order made under this Act for the payment by such person of any sum exceeding Five pounds or by the infliction of any penalty exceeding Five pounds, or of any term of imprisonment, shall have the right of appeal mentioned in section I aforesaid.

43. ALL penalties and other sums of money recovered summarily or otherwise under this Act, or under any of the by-laws made under the provisions of this Act, shall be paid to the council of the municipality, and shall become the property and part of the ordinary income of the municipality.

Penalties and other moneys recovered under the Act to be the property of the council.

44. ALL houses and buildings the property of, or occupied by, or under the control or management of, Her Majesty's Government or any department thereof, shall be exempt from the operation of this Act.

Act not to apply to Government buildings.

In the name and on behalf of the Queen I hereby assent to this Act.

F. NAPIER BROOME, Governor.

SCHEDULE.

SCHEDULE.

Portion of the City of Perth to which this Act applies.

All that portion of Perth which is within a district bounded on the *South* by Perth water; on the *East* by Bennett Street; on the *West* by Spring, Milligan, and Melbourne Streets; and on the *North* by Hardinge, James, Moore, and Wellington Streets.

Portion of the Town of Fremantle to which this Act applies.

All that portion of Fremantle which is within a district bounded on the *North* by the River Swan extending to the North Fremantle Bridge; on the *South* by the South Bay extending to and embracing Howard Street to its intersection with South Terrace; thence along South Terrace as far as Henderson Street and Eastward along Henderson, Queen, and Hill Streets, as far as Stirling Street; thence by Stirling Street down Ellen Street along Parry and Quarry Streets to the North Fremantle Bridge.

Such districts to include the houses, buildings, and premises abutting upon and adjoining both sides of the aforesaid Streets.