

WESTERN AUSTRALIA

**ACTS AMENDMENT (LOCAL
GOVERNMENT AND VALUATION
OF LAND) ACT 1994**

No. 69 of 1994

**AN ACT to amend the *Local Government Act 1960* and the
Valuation of Land Act 1978.**

[Assented to 9 December 1994.]

The Parliament of Western Australia enacts as follows:

PART 1 — PRELIMINARY

Short title

1. This Act may be cited as the *Acts Amendment (Local Government and Valuation of Land) Act 1994*.

Commencement

2. (1) Subject to subsection (2), this Act comes into operation on the day on which it receives the Royal Assent.

(2) Sections 7 to 17 come into operation on such day as is, or days as are respectively, fixed by proclamation.

PART 2 — LOCAL GOVERNMENT ACT 1960

Principal Act

3. In this Part the *Local Government Act 1960** is referred to as the principal Act.

[* *Reprinted as at 24 June 1983.*

For subsequent amendments see 1993 Index to Legislation of Western Australia, Table 1, pp. 123-5 and Acts Nos. 40 of 1993 and 6 and 27 of 1994.]

Section 157A amended

4. Section 157A of the principal Act is amended in subsection (6) by deleting paragraph (b) and substituting the following paragraphs —

- “
- (b) a function under Part III or VII;
 - (ba) a function under Part VI, other than the functions conferred on the council —
 - (i) under section 157 (2) (b), (c), (d) and (e) in relation to the appointment of certain persons; and
 - (ii) under section 158 in relation to the terms and conditions of appointment and termination of appointment of those persons;

”.

Validation of certain appointments

5. (1) In this section “**commencement day**” means the day upon which section 4 of this Act comes into operation.

(2) Any appointment made under section 157 (2) (b), (c), (d) or (e) of the principal Act (as in force before the commencement day) by a person purporting to act as the delegate of a council, that would have been lawful if section 157A (6) of the principal Act (as amended by section 4 of this Act) had been in force at the time when the appointment was made is hereby validated and declared to have been lawfully made.

(3) The validity of any act or thing done before the commencement day by a person purporting to act under an appointment made under section 157 (2) (b), (c), (d) or (e) of the principal Act (as in force before the commencement day), shall not be called in question on the ground that the appointment of the person was not lawfully made.

Section 229A inserted

6. After section 229 of the principal Act the following section is inserted —

“

Offensive or indecent conduct

229A. A council may make by-laws for regulating or prohibiting either absolutely or unless under authority of a licence issued by the council, such conduct on any business premises (which are not subject to licences and conditions issued under the *Liquor Licensing Act 1988*) which in the opinion of the council is offensive or indecent.

”

Section 533AA inserted

7. After section 533A of the principal Act the following section is inserted —

“

Application of section 533B

533AA. (1) In this section “**the commencement**” means the day on which section 8 of the

Acts Amendment (Local Government and Valuation of Land) Act 1994 comes into operation.

(2) Section 533B applies to an owner of any land who —

- (a) made an election before the commencement; or
- (b) within 3 months of the commencement, makes an election,

under subsection (1) of that section.

”.

Section 533B amended

8. Section 533B of the principal Act is amended —

(a) in subsection (1) by inserting after “Subject to” the following —

“ section 533AA and ”; and

(b) by repealing subsections (2) and (3).

Section 540 amended

9. Section 540 of the principal Act is amended in subsection (1) by deleting paragraph (c) and substituting the following paragraph —

“

(c) if differentiating general rates are imposed under section 548 (4b) the characteristics of the land which form the bases for imposing those differentiating general rates;

”.

Section 542 amended

10. Section 542 of the principal Act is amended —

- (a) in subsection (6) (b) by deleting subparagraphs (i), (ii) and (iii) and substituting the following subparagraphs —

“

- (i) the particular general rate applicable to the property; and
- (ii) the characteristics of the land which form the bases for imposing differentiating general rates.

”;

and

- (b) after subsection (6) by inserting the following subsection —

“

(7) The council shall include in or attach to the notice a statement setting out details of all rates imposed by council and the objects of and reasons for the rates.

”.

Section 547 amended

11. Section 547 of the principal Act is amended —

- (a) by inserting after subsection (1) the following subsection —

“

(1a) A budget referred to in subsection (1) shall contain details of the rates

imposed by the council and the objects of
and reasons for each rate.

”;

and

- (b) in subsection (13) by deleting “and the details of the rates and charges imposed in respect of them”.

Section 547A inserted

12. After section 547 of the principal Act the following section is inserted —

“

Council to give notice of certain rates

547A. (1) Before imposing any rates under section 548 (4b) or a minimum rate under section 552 (1) for rateable land as defined in paragraph (b) of the definition of “district” in subsection (1a) of that section, the council shall advertise its intention to do so by notice published in a newspaper circulating in the district.

(2) Unless otherwise directed by the Minister under section 546 (1), the council shall ensure that a notice referred to in subsection (1) is published in sufficient time to allow compliance with the requirements specified in this section and section 548 (1).

(3) A notice referred to in subsection (1) —

- (a) may be published within the period of 2 months preceding the commencement of the financial year to which the proposed rates are to apply on the basis of the council’s estimate of the budget deficit;

- (b) shall contain —
- (i) details of each rate the council intends to impose; and
 - (ii) an invitation for submissions to be made by an elector or a ratepayer in respect of the proposed rates and any related matters within 21 days of the notice;
- (c) shall advise electors and ratepayers of the time and place where, a document describing the objects of and reasons for each proposed rate, may be inspected; and
- (d) shall contain any further information in relation to the matters specified in paragraph (b) which may be prescribed in regulations.

(4) The council shall consider any submissions received in accordance with subsection (3) (b) (ii) and may proceed to adopt the proposed rates with or without modification.

(5) A council that modifies the proposed rates after considering any submissions under subsection (3) (b) (ii) is not required to advertise the modified rates.

”.

Section 548 amended

13. Section 548 of the principal Act is amended —

- (a) in subsection (1) by deleting “Having” and substituting the following —

“ Subject to section 547A, having ”;

- (b) after subsection (3) by inserting the following subsections —

“

(3aa) Subject to subsection (3ab), if a mining tenement held under the *Mining Act 1978* or a petroleum production licence or exploration permit held under the *Petroleum Act 1967* is located in a gross rental value area the council shall rate the tenement, licence or permit, as the case may be, at the unimproved value.

(3ab) If a tenement, licence or permit referred to in subsection (3aa) is located in a district for which only gross rental values apply, the council shall impose an unimproved valuation rate for the purpose of subsection (3aa).

”;

- (c) in subsection (4a) —

- (i) by deleting “subsections (4b), (4e) and (4f) of this section, and sections 540 (8),” and substituting the following —

“

subsections (4b), (4c), (4d) and (4e)
and sections

”;

- (ii) in paragraph (b) by inserting after “zoned” wherever it occurs in subparagraphs (i), (ii) and (iii) the following —

“ or used ”; and

(iii) by deleting paragraphs (c) and (d) and substituting the following paragraphs —

“

(c) “**use**” means the predominant purpose for which the land is held or used as determined by the council; and

(d) “**zone**” means all the land within a municipal district that is zoned for the same purpose.

”;

and

(d) by repealing subsections (4b), (4c), (4d), (4e) and (4f) and substituting the following subsections —

“

(4b) Subject to subsections (4c), (4d) and (4e) a council may by absolute majority impose general rates that differ according to any or all of the following characteristics —

(a) the purpose for which the land is zoned;

(b) the purpose for which the land is used;

(c) whether or not the land referred to in paragraph (a) or (b) is improved land; or

(d) any other characteristic or combination of characteristics prescribed in regulations.

(4c) Regulations may be made —

- (a) specifying the characteristics under subsection (4b) which a council shall use; or
- (b) limiting the characteristics under subsection (4b) which a council is permitted to use.

(4d) In imposing a differentiating general rate under subsection (4b) a council shall not, without the approval of the Minister, impose a differentiating general rate which is more than twice the lowest differentiating general rate imposed under that subsection.

(4e) If during a financial year, in relation to any land, the characteristics of the land which form the bases for the imposition of differentiating general rates have changed, the council shall not, on account thereof, amend the assessment of rates payable on that land in respect of that financial year, but this subsection does not apply in any case where, in consequence of an interim valuation of the land under the *Valuation of Land Act 1978* coming into force in the financial year, section 534 applies.

Section 552 amended

14. Section 552 of the principal Act is amended —

- (a) by inserting before subsection (1) the following subsection —

“

(1a) In this section “**district**” includes —

(a) rateable land within the district in which the same system of valuation as defined in section 548 (6) applies; and

(b) if the council imposes differentiating general rates under section 548 (4b), rateable land to which a particular differentiating general rate applies.

”;

- (b) in subsection (1) by inserting after “may,” the following —

“ in respect of a district, ”; and

- (c) by repealing subsections (6), (7) and (8) and substituting the following subsection —

“

(6) If a council imposes differentiating general rates under section 548 (4b) it may, with the approval of the Minister, impose a minimum rate in a manner that does not comply with subsections (2), (3) and (4) for unimproved rateable land to which an

unimproved differentiating general rate
applies.

”.

Section 555 amended

15. Section 555 of the principal Act is amended in subsection (1) by deleting paragraph (c) and substituting the following paragraph —

“

- (c) if the council imposes differentiating general rates under section 548 (4b), that the characteristics of the land recorded in the rate book as the bases for imposing differentiating general rates should be deleted and other characteristics substituted.

”.

PART 3 — VALUATION OF LAND ACT 1978

Principal Act

16. In this Part the *Valuation of Land Act 1978** is referred to as the principal Act.

[* *Reprinted as approved 2 February 1983.
For subsequent amendments see 1993 Index to
Legislation of Western Australia, Table 1, p. 220.*]

Section 4 amended

17. Section 4 of the principal Act is amended in subsection (1) —

- (a) in the definition of “improvements” by deleting “include machinery, whether fixed to land or not;” and substituting the following —

“ include —

- (a) machinery, whether fixed to the land or not; or
- (b) any below ground works used in the extraction of minerals or petroleum;

”;

- (b) in the definition of “unimproved value” —

- (i) in paragraph (a) by inserting after “townsite,” the following —

“ except land referred to in paragraph
(b) (ii),

”;

- (ii) by deleting subparagraph (i) in paragraph (b) and substituting the following subparagraph —

“

(i) land —

(I) held under a lease granted under the *Land Act 1933* for grazing purposes;

(II) held under a lease, licence or permit under the *Conservation and Land Management Act 1984*; or

(III) other than a mining tenement, held pursuant to an agreement made with the Crown in the right of the State and scheduled to an Act approving the agreement,

the value thereof is an amount equal to 20 times the annual rental reserved by the lease or agreement or the value of the land in fee simple, whichever is the lesser sum;

”;

and

- (iii) by deleting subparagraphs (ia), (ii) and (iii) in paragraph (b) and substituting the following subparagraph —

“

(ii) land in respect of which —

(I) a mining tenement is held pursuant to an agreement made with the Crown in

the right of the State
and scheduled to an
Act approving the
agreement —

5 times the annual rent
per hectare for the first
1 000 hectares or part
thereof;

2.5 times the annual rent
per hectare for the next
9 000 hectares or part
thereof;

0.25 times the annual rent
per hectare for each
hectare in excess of 10 000
hectares;

(The annual rent referred
to is the rent that would be
payable if the mining
tenement were held under
the *Mining Act 1978*.)

(II) an exploration licence is
held under the *Mining Act
1978* — 2.5 times the rent
payable for the exploration
licence under that Act;

(III) a petroleum production
licence is held under the
Petroleum Act 1967 — 2.5
times the rent payable for
the petroleum production
licence under that Act;

- (IV) any other leases or licences are held under the *Mining Act 1978* or exploration permits held under the *Petroleum Act 1967* — 5 times the rent payable for those leases, licences or permits under the relevant Act;

- (V) any mineral estate or interest in land is issued under the *Transfer of Land Act 1893* — 5 times the rent that would be payable if the land were held as a mining lease under the *Mining Act 1978*;

”.