

WESTERN AUSTRALIA

LOCAL GOVERNMENT AMENDMENT ACT

No. 9 of 1986

AN ACT to amend the *Local Government Act 1960*.

[Assented to 15 July 1986.]

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:—

Short title

1. This Act may be cited as the *Local Government Amendment Act 1986*.

Commencement

2. (1) This Act, other than section 5, shall come into operation, or be deemed to have come into operation, on 1 July 1986.

(2) Section 5 shall come into operation on the day on which this Act receives the Royal Assent.

Principal Act

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

[*Reprinted as approved 24 June 1983 and amended by Acts Nos. 6 and 84 of 1983, 17, 25, 42 and 79 of 1984 and 35, 99, 105 and 109 of 1985.]

Application

4. The amendments to section 548A of the principal Act that are made by section 16 of this Act shall apply only with respect to the phasing in of a general valuation under the *Valuation of Land Act 1978* that comes into force in a district on or after 30 June 1986.

Section 180 amended

5. Section 180 of the principal Act is amended by repealing subsection (1) and substituting the following subsection—

“ (1) Where a council thinks fit, the council may appoint persons, whether members of the council or not, as an advisory committee for the purpose of advising the council regarding any matter relevant to the purposes of this Act or the exercise of any power conferred on the council by this or another Act or the performance of a duty imposed on the council by this or another Act. ”

Section 505 amended

6. Section 505 of the principal Act is amended in subsection (2)—

(a) by deleting “money received as”;

(b) by deleting “in payment of” in paragraph (a) and substituting the following—

“ towards ”;

- (c) by deleting “in payment of” in paragraph (b) and substituting the following—

“ towards ”; and

- (d) by deleting in paragraph (d) “money as it thinks reasonable, and investing it” and substituting the following—

“ amounts as it thinks reasonable, for investment ”.

Section 521A inserted

7. After section 521 of the principal Act the following section is inserted in Part XXIII—

Powers in respect of television services

“ 521A. (1) Subject to compliance with the *Broadcasting and Television Act 1942* of the Commonwealth, a council may provide, operate and maintain, or join with some other person in the provision, operation and maintenance of, facilities for the re-broadcasting or re-transmission, or both, within its district, or a defined portion of its district, of radio or television broadcasts, or both.

(2) A council may, by resolution passed by an absolute majority, impose on owners or occupiers of land within the district, or a defined portion of the district, as the case may be, a charge for a financial year in respect of the service provided or contributed to under subsection (1) and such a charge shall be calculated and payable in the manner or according to the principles set out in the resolution.

(3) A council shall ensure that a charge imposed under subsection (2) for a financial year is sufficient to yield an amount equivalent to, but not more than, that necessary to meet the expenditure estimated to be necessary, including any principal and interest loan repayments, in respect of the service in that financial year.

(4) For the purposes of this section, a defined portion of a district shall be such part of the district as is determined by the council to be a defined portion for the purposes of this section and delineated on a map which shall be retained at the office of the council and made available for inspection by the public during office hours.

(5) A council that imposes a charge under subsection (2) shall establish a separate account in the municipal fund for the purposes of this section and the account shall identify clearly the expenditure incurred by the council in providing the service referred to in subsection (1) and the income receivable from the charge imposed under subsection (2).

(6) A council may recover the amount of a charge imposed on an owner or occupier under this section in a court of competent jurisdiction. ”.

Section 522 amended

8. Section 522 of the principal Act is amended in subsection (1) by deleting paragraph (a) and substituting the following paragraph—

“ (a) a municipal fund; ”.

Section 523 amended

9. Section 523 of the principal Act is amended—

(a) in subsection (1)—

(i) by deleting “received by” and substituting the following—

“ payable to ”;

(ii) by deleting “recovered” where it appears in paragraphs (f) and (h) and substituting in each case the following—

“ recoverable ”;

(iii) by deleting “the council receives” in paragraph (j) and substituting the following—

“ is receivable by the council ”;

(iv) by deleting “received” where it appears in paragraphs (k) and (la) and substituting in each case the following—

“ receivable ”; and

(v) by deleting “receipts” where it appears in paragraphs (m), (n), and (o) and substituting in each case the following—

“ moneys receivable ”;

- (b) in subsection (2), by deleting “it receives to its” and substituting the following—

“ into the ”; and

- (c) by repealing subsection (3) and substituting the following subsection—

“ (3) Proceeds from the sale or disposal of assets of a capital nature, or the sale of plant which is to be replaced, is not ordinary revenue but the council shall account for such proceeds in the municipal fund and may by subsequent resolution direct that all or any of those proceeds be transferred to the reserve fund. ”.

Section 525A amended

10. Section 525A of the principal Act is amended in subsection (2) by deleting “received by the council from, and all charges paid to or recovered” and substituting the following—

“ receivable by the council from, and all charges payable to or recoverable ”.

Section 529 amended

11. Section 529 of the principal Act is amended by deleting “expend money out of its” and substituting the following—

“ incur expenditure from the ”.

Section 530 amended

12. Section 530 of the principal Act is amended in paragraph (a) by deleting “payments under this paragraph, or make in place of them, the payment of” and substituting the following—

“ expenditure under this paragraph, or in place of it, expenditure for ”.

Section 531 repealed and substituted

13. Section 531 of the principal Act is repealed and the following section is substituted—

Ward accounts not to be kept, except for
specific works and services

- “ 531. In applying its revenue, a council shall have regard to the needs of the inhabitants of the district as a whole and shall not keep ward accounts, but this section does not preclude the council from keeping a separate account of the expenditure of the sum raised by specified area rating under section 548(4) for specific works for the benefit of a ward or other specified portion of the district, or for loan charges in respect of a loan raised for the benefit of a ward or other specified portion of the district. ”.

Section 547 amended

14. Section 547 of the principal Act is amended—

- (a) by repealing subsections (1) and (3) and substituting the following subsection—

“ (1) Not later than 31 August in each year, each council shall prepare, in the form and manner prescribed, and adopt its budgets for the financial year ending on the next following 30 June and shall impose rates or charges or both on the basis of the budgets. ”;

- (b) in subsection (4)—

- (i) by deleting “budgets for the municipal fund” and substituting the following—

“ municipal fund budget ”;

- (ii) by deleting “for disbursement” in paragraph (a) and substituting the following—

“ to be expended ”; and

- (iii) by deleting “several sources of ordinary” in paragraph (b);

- (c) by repealing subsection (5);

- (d) in subsection (6)—

- (i) by deleting “shire” and substituting the following—

“ municipality ”; and

- (ii) by deleting “budget” and substituting the following—

“ municipal fund budget ”;

- (e) by repealing subsection (8);
- (f) in subsection (9), by deleting “and as nearly as possible balance the budget” and substituting the following—
 - “ as nearly as possible ”;
- (g) by repealing subsections (11) and (12) and substituting the following subsections—
 - “ (11) Ordinary expenditure by the council before the adoption of the budgets in each financial year in accordance with this Act is authorized and the council shall include such expenditure in the budgets for that year.
 - (12) If the council incurs expenditure in a financial year from a fund, which expenditure has not been provided for in the budget relating to that fund for that year, the expenditure, unless authorized by an absolute majority of the council, is unauthorized expenditure. ”; and
- (h) in subsection (13), by inserting after “rates” the following—
 - “ and charges ”.

Section 548 amended

15. Section 548 of the principal Act is amended—

- (a) by repealing subsections (1), (1a) and (1b) and substituting the following subsections—
 - “ (1) Having estimated the deficiency in the municipal fund budget under section 547(4), the council shall not later than 31 August in each year impose a general rate on rateable property in the district that will yield the amount of that deficiency.

- (1a) Notwithstanding subsection (1), the council may impose a general rate that will yield an amount exceeding by not more than 10% the amount of the deficiency referred to in that subsection or an amount less than the amount of that deficiency by not more than 10% provided that the municipal fund budget clearly discloses the amount of the surplus or the deficit that will be so yielded, as the case may be.

(1b) Notwithstanding subsections (1) and (1a), the council may apply in writing to the Minister for approval to impose a general rate that will yield an amount that is less than the amount of the deficiency referred to in subsection (1) by more than 10%. ”;

(b) in subsection (1c), by deleting paragraph (b) and substituting the following paragraph—

“ (b) a report that—

(i) explains the budget provision for revenue receivable from all sources and the extent to which the budget confines expenditure to urgent or essential purposes;

(ii) gives details of the general rate that would be sufficient to yield an amount equivalent to the amount of the budget deficiency less 10% and of the extent to which the amount that would be yielded by the general rate proposed in the application would be less than the amount of the budget deficiency less 10%;

(iii) sets out the reasons why, in the opinion of the council, it would be impracticable or unreasonable to impose a general rate sufficient to yield an amount within the limits set out in subsection (1a); and

(iv) sets out the council’s opinion as to the first occasion when it would be practicable and reasonable in a succeeding financial year to impose a general rate sufficient to yield an amount within the limits set out in subsection (1a). ”;

(c) in subsection (1e)—

(i) by deleting “the collection of revenue and confine disbursements” in paragraph (a) and substituting the following—

“ revenue receivable and confine expenditure ”; and

(ii) by deleting “of an amount sufficient to yield the budget deficiency” in paragraph (b) and substituting the following—

“ that yields an amount within the limits set out in subsection (1a) ”;

- (d) in subsection (1g), by deleting “of an amount sufficient to yield the budget deficiency” in paragraph (a) and substituting the following—

“ that will yield an amount within the limits set out in subsection (1a) ”;

- (e) in subsection (1j), by deleting “of an amount sufficient to yield the budget deficiency” and substituting the following—

“ that will yield an amount within the limits set out in subsection (1a) ”;

- (f) in subsection (4), by deleting “differential rate” in paragraph (c) (iii) and substituting the following—

“ rate payable in the specified area ”; and

- (g) in subsection (4f)—

- (i) by deleting “, after notice of assessment of a differentiating general rate imposed on land under subsection (4b) of this section has been served in respect of a financial year” and substituting the following—

“ during a financial year ”; and

- (ii) by inserting after “that financial year” the following—

“ , 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 548A amended

16. Section 548A of the principal Act is amended—

- (a) by repealing subsection (2) and substituting the following subsection—

“ (2) For the purposes of subsection (1)—

“former valuation” means—

- (a) the valuation that was in force immediately prior to the coming into force of the general valuation to which the phasing in applies; or

- (b) in relation to rateable land where an interim valuation of the land under the *Valuation of Land Act 1978* comes into force on or after 1 July 1986, the valuation determined for the purposes of this section in accordance with subsection (7); and

“new valuation”—

- (a) means the valuation determined or assessed for the purposes of the general valuation to which the phasing in applies; or
- (b) in relation to rateable land in respect of which an interim valuation under the *Valuation of Land Act 1978* comes into force after the general valuation referred to in paragraph (a) comes into force, means that interim valuation. ”;

and

- (b) by inserting after subsection (4) the following subsections—

“ (5) Where on or after 1 July 1986 an interim valuation of rateable property in a district comes into force during the period when a general valuation of rateable property in that district is being phased in under this section, subsection (1) shall be construed so that the interim valuation is phased in in a like manner under this section for the remainder of the phasing in period.

(6) Where on or after 1 July 1986 the council resolves under subsection (1) that a general valuation shall be phased in over a 3 year period, the council shall immediately request the Valuer-General, at the same time as he determines an interim valuation of rateable land that will come into force in the district during the first 2 years of the phasing in period, to determine a valuation of that land in accordance with subsection (7); and the council shall give notice in writing immediately to the Valuer-General when such last-mentioned valuations are no longer required for the purposes of this section.

(7) A valuation of land that is requested to be made by the Valuer-General for the purposes of this section under subsection (6) shall be determined in accordance with the level of values prevailing in relation to land of the same or a similar character as the level used for the valuations that

were last used by the council for rating purposes prior to the coming into force of the general valuation that is currently in force in the district. ”.

Section 548B amended

17. Section 548B of the principal Act is amended—

- (a) in subsection (2) by inserting after “of subsection (1)” the following—

“ and in relation to rateable land where an interim valuation of the land under the *Valuation of Land Act 1978* comes into force on or after 1 July 1986, means the valuation determined for the purposes of this section in accordance with subsection (6) ”;

and

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

“ (4) Where on or after 1 July 1986 an interim valuation of rateable property in a district or portion of a district comes into force during the period when a change to rating on the basis of valuation on gross rental value in that district or portion of a district is being phased in under this section, subsection (1) shall be construed so that the interim valuation is phased in in a like manner under this section for the remainder of the phasing in period.

(5) Where on or after 1 July 1986 the council resolves under subsection (1) that a change to rating on the basis of valuation on gross rental value in a district or portion of a district shall be phased in over a 3 year period, the council shall immediately request the Valuer-General, at the same time as he determines an interim valuation of rateable land that will come into force in that district or portion of a district during the first 2 years of the phasing in period, to determine a valuation of that land in accordance with subsection (6); and the council shall give notice in writing immediately to the Valuer-General when such last-mentioned valuations are no longer required for the purposes of this section.

(6) A valuation of land that is requested to be made by the Valuer-General for the purposes of this section under subsection (5) shall be determined as a valuation on unimproved value in accordance with the level of values prevailing in relation to land of the same or a similar character as

the level of valuations on unimproved value used for the valuations that were last used by the council for rating purposes in respect of the financial year immediately preceding the year of assessment for which rating would otherwise be wholly on the basis of valuation on gross rental value. ”.

Section 626 amended

18. Section 626 of the principal Act is amended in subsection (2)(a) by deleting subparagraph (i) and substituting the following subparagraph—

- “ (i) true and regular accounts of the sums of money received or receivable and paid or payable on account of and for the municipality, as the case may require, and of the several purposes for which the sums of money have been received and paid or are receivable or payable; ”.

Section 630 amended

19. Section 630 of the principal Act is amended in subsection (1)(a) by deleting “the amount received from every source of income” and substituting the following—

- “ the amount of income from every source ”.

Section 721 amended

20. Section 721 of the principal Act is amended—

- (a) in subsection (3)—

(i) by deleting “for disbursement” in paragraph (a) and substituting the following—

“ to be expended ”; and

(ii) by deleting “several sources of ordinary” in paragraph (b);

- (b) by repealing subsection (5); and

- (c) by repealing subsections (8) and (9) and substituting the following subsections—

“ (8) Ordinary expenditure by the regional council before the adoption of the budgets in each financial year in accordance with this Act is authorized and the regional council shall include such expenditure in the budgets for that year.

(9) If the regional council incurs expenditure in a financial year from a fund, which expenditure has not been provided for in the budget relating to that fund for that year, the expenditure, unless authorized by an absolute majority of the regional council, is unauthorized expenditure. ”.

Validations

21. (1) The general rate imposed by the council (as defined in subsection (5)) for the financial year commencing on 1 July 1985 in relation to rateable land in respect of which an interim valuation under the *Valuation of Land Act 1978* came into force on or after 1 July 1985 shall be deemed to be as valid as if the arrangements adopted by resolution of the council for the phasing in of valuation on gross rental value in relation to such rateable land had been duly authorized by law.

(2) All actions of the council in assessing and collecting the rate validated by subsection (1) are validated and declared to have been lawful.

(3) All money received by the council in payment of the rate so validated is hereby declared to have been lawfully paid to and received by it.

(4) Such part of the rate so validated as has not yet been paid shall be lawfully payable to the council.

(5) In this section “council” means the council of the Town of Albany, a municipality constituted under the *Local Government Act 1960*.

(6) Any act or thing done on or after 1 July 1986 but before the day on which this Act receives the Royal Assent that would have been lawful if this Act had been in force at the time when it was done is hereby validated and declared to have been lawfully done.