

## LOCAL GOVERNMENT (No. 3).

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No. 57 of 1979.

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AN ACT to amend the Local Government Act,  
1960-1978.

[Assented to 12th November, 1979.]

**B**E 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 (No. 3), 1979.*

Short title  
and  
citation.

(2) In this Act the Local Government Act, 1960-1978 is referred to as the principal Act.

Reprinted as  
approved for  
reprint 21st  
November,  
1977 and  
amended by  
Acts Nos. 5,  
7 and 56 of  
1977 and 31,  
76 and 82 of  
1978.

(3) The principal Act as amended by this Act may be cited as the Local Government Act, 1960-1979.

Section 3  
amended.

2. Section 3 of the principal Act is amended by deleting the passage "s. 259" in line two of the reference to Division 3 of Part VIII, and inserting in lieu thereof the passage "ss. 259 to 259A".

Section 174  
amended.

3. Section 174 of the principal Act is amended—

(a) as to paragraph (b) of subsection (4)—

(i) by deleting the word "the", being the first word in the paragraph, and inserting in lieu thereof the word "a"; and

(ii) by inserting immediately after the word "majority", being the last word in the paragraph, the passage "of the members of the council or committee, as the case may be"; and

(b) as to subsection (4a)—

(i) by deleting the words "an absolute" in line five and inserting in lieu thereof the word "a"; and

(ii) by deleting the passage "matter." at the end of the subsection and inserting in lieu thereof a passage as follows—

matter,

and that majority is an absolute majority of the members of the council or committee, as the case may be.

Section 174A  
amended.

4. Subsection (1) of section 174A of the principal Act is amended, as to item (B) of subparagraph (ii) of paragraph (b)—

(a) by deleting the words "an absolute" in lines three and four and inserting in lieu thereof the word "a"; and

- (b) by inserting immediately after the word “rezoning” in the last line, the passage “, that majority being an absolute majority of the members of the council or committee, as the case may be”.

5. Section 200 of the principal Act is repealed and re-enacted as follows—

Section 200  
repealed and  
re-enacted.

200. (1) In this section—

Caravans  
and  
camping.

“camp”, when used as a noun, includes any portable shed or hut, tent, tent fly, awning, blind or other thing used as, or capable of being used as, a habitation or for dwelling or sleeping purposes; and the verb “to camp” shall be construed accordingly;

“caravan” means a vehicle designed, or fitted, or being capable of use, as a habitation or for dwelling or sleeping purposes.

(2) A council may so make by-laws—

(a) prohibiting, either absolutely or except in specified circumstances or by authority of a license issued by the council, or regulating—

(i) the use of caravans;

(ii) camping;

(iii) the use of land for the parking of caravans or camping;

(b) prescribing the facilities to be provided on land used for the parking of caravans or camping, and regulating the conduct of persons thereon;

(c) for providing that a council may, by way of conditions attached to any license granted, or approval or consent given, by the council under by-laws made under this section, impose such requirements or restrictions, in

addition to those prescribed, as the council thinks fit, including requirements as to the facilities to be provided on land used for the parking of caravans or camping;

- (d) providing for licenses issued by the council to be of different classes;
- (e) generally for making such requirements, imposing such conditions and prohibiting or controlling such matters as may appear to be necessary or convenient for the preservation of good order in and about land used for the parking of caravans or camping, for the enhancement of the land for such use, or for the safety, comfort or convenience of persons so using the land.

(3) The Governor may make uniform general by-laws for all or any of the purposes for which by-laws may be made under this section by a council and the provisions of section two hundred and fifty-nine A shall apply to and in relation to those uniform general by-laws.

(4) Where, pursuant to this section, uniform general by-laws are made by the Governor, wherein provision is included for the grant, renewal, or cancellation of, or the imposition of conditions in respect of, licenses, there shall also be included therein provision that a person aggrieved by a decision of the council relating to the grant, renewal, or cancellation of, or the imposition of conditions in respect of, any license may, within the time and in the manner specified, appeal to the Minister against that decision, and provision—

- (a) that in such circumstances as are specified the failure of a council to notify a person who has made application for the grant or renewal of a license as to the council's decision in

relation to that application is deemed to be a decision of the council to refuse the application;

- (b) that in determining an appeal the Minister may uphold the decision appealed from, or substitute for the decision appealed from his decision which shall have effect according to its tenor as if it were the decision of the council (except that it shall not be subject to any further right of appeal);
- (c) that in determining an appeal the Minister may, where in his opinion the circumstances of the particular case warrant his so doing, order that any provision of by-laws made under this section by a council or of uniform general by-laws made under this section does not apply in that particular case or shall apply as modified by the order in that particular case and thereupon that order has effect according to its tenor, notwithstanding any provision to the contrary in, or in force under, this Act;
- (d) that the determination of an appeal by the Minister shall be final;
- (e) that where the council has made a decision to cancel, to refuse renewal of, or to impose further or different conditions in respect of, a license, no action or proceedings shall be taken under this Act in respect of anything that was done or omitted to be done while—
  - (i) an appeal against that decision had been lodged but not determined, unless that action or proceeding would have been properly taken had the appeal been determined and upheld before the time of the act or omission;

(ii) the time for lodging an appeal against that decision had not elapsed, unless that action or proceeding would have been properly taken had any such appeal been lodged, and determined and upheld, before the time of the act or omission;

(f) for such procedural matters as it may be necessary or convenient to prescribe. .

Section 222  
amended.

6. Subsection (3) of section 222 of the principal Act is amended by inserting immediately after the word "apply" in line one, the passage "to a license in relation to which a right of appeal is conferred under subsection (4) of section two hundred or".

Section 244A  
amended.

7. Subsection (1) of section 244A of the principal Act is amended—

(a) by deleting the words "and publish in the *Gazette*" in line four; and

(b) by deleting the passage commencing with the word "all" in line nine and ending with the word "section" in the last line and inserting in lieu thereof the passage "the provisions of section two hundred and fifty-nine A shall apply to and in relation to those uniform general by-laws".

Section 245A  
amended.

8. Subsection (3) of section 245A of the principal Act is repealed and re-enacted as follows—

(3) The Governor may make uniform general by-laws for all or any of the purposes for which by-laws may be made under this section by a council and the provisions of section two hundred and fifty-nine A shall apply to and in relation to those uniform general by-laws. .

9. The principal Act is amended by adding immediately after section 259, a section as follows—

Section 259A  
added.

259A. Where by any section of this Act (in this section referred to as "the relevant section") it is provided that the Governor may make uniform general by-laws for any purposes mentioned in that section—

Uniform  
general  
by-laws.

- (a) any provision that could be included in by-laws made for those purposes under this Act by a council may be included in uniform general by-laws made under the relevant section;
- (b) the Minister shall cause a uniform general by-law made by the Governor under the relevant section to be published in the *Gazette* and laid before each House of Parliament as required by section thirty-six of the Interpretation Act, 1918;
- (c) subject to paragraphs (e) and (g) of this section uniform general by-laws made under the relevant section and published under this section shall apply in the whole of each district within the State and have the same force and effect in each district as if made under this Act by the council of the district;
- (d) the Governor may from time to time by order declare that any provision of uniform general by-laws made under the relevant section that is specified in the order shall not apply to the whole or such part or parts of such district or districts as is or are specified in the order and may from time to time by subsequent order vary or revoke any order made under this paragraph;
- (e) where an order is made under paragraph (d) of this section neither the provision specified in the order nor

any amendment thereto or substitution thereof (whether effected before, on, or after the date of the making of the order) shall apply in any district or part of a district so specified until the order is varied so as to allow such application or is revoked;

- (f) the Governor may from time to time by order declare that the whole or any part or parts of any district or districts shall be exempt from the operation of uniform general by-laws made under the relevant section and may from time to time by subsequent order vary or revoke any order made under this paragraph;
- (g) where an order is made under paragraph (f) of this section no uniform general by-law made under the relevant section (whether published before, on, or after the date of the making of the order) shall apply in any district or part of a district specified in the order until the order is varied so as to allow such application or is revoked;
- (h) where and to the extent that there is inconsistency between the provisions of a uniform general by-law made under the relevant section and having effect pursuant to this section and a by-law made by a council under this Act, the former provisions prevail;
- (i) a council may enforce any uniform general by-law that is made under the relevant section and has effect pursuant to this section in its district or part of its district in the same manner as it may enforce a by-law made by it under this Act. .

10. Section 266 of the principal Act is amended— Section 266 amended.

(a) as to subsection (1), by deleting the passage “, with the consent of the Governor,” in lines one and two;

(b) by repealing subsection (1a) and re-enacting it as follows—

(1a) Unless the Governor otherwise directs, a council shall not subdivide land under the Town Planning and Development Act, 1928 for the purpose of selling the land as so subdivided, or any of it, under this section. ; and

(c) as to subsection (3), by inserting immediately after the word “subsection” in line two, the passage “(1a) or”.

11. Section 267 of the principal Act is amended— Section 267 amended.

(a) as to subsection (1), by deleting the passage “subsections (2) and” in lines two and three and inserting in lieu thereof the word “subsection”; and

(b) by repealing subsection (2).

12. Subsection (2) of section 374 of the principal Act is amended as to paragraph (b) by deleting the words “in force” in line six and inserting in lieu thereof the word “made”. Section 374 amended.

13. Section 433A of the principal Act is repealed and re-enacted as follows— Section 433A repealed and re-enacted.

433A. The Governor may make uniform general by-laws for all or any of the purposes for which by-laws may be made under this Part by a council and the provisions of section two hundred and fifty-nine A shall apply to and in relation to those uniform general by-laws. . Governor may make uniform general by-laws.

Section 550A  
amended.

14. Section 550A of the principal Act is amended by repealing subsection (5) and re-enacting it as follows—

(5) No penalty shall be added to an amount payable in respect of a rate if a person is entitled under the Pensioners (Rates Rebates and Deferments) Act, 1966 to a rebate or deferment in respect of that amount. .

Section 578  
amended.

15. Subsection (3) of section 578 of the principal Act is amended by deleting the passage “, notwithstanding section two hundred and sixty-seven,” in lines one and two of paragraph (a).

Section 626  
amended.

16. Subsection (5) of section 626 of the principal Act is amended—

(a) by deleting the passage “Unless under paragraph (c) or (d) of this subsection he is permitted to do otherwise,” in—

(i) lines one and two of paragraph (a) and inserting in lieu thereof the passage “Subject to paragraphs (c) and (d) of this subsection —”;

(ii) lines one and two of paragraph (b) and inserting in lieu thereof the passage “Subject to paragraphs (ca) and (d) of this subsection —”; and

(b) by deleting paragraphs (c) and (d) and inserting in lieu thereof paragraphs as follows—

(c) A council may—

(i) entrust to its clerk or treasurer a sum of money to be used as a petty cash or other advance;

- (ii) place to the credit of a banking account a sum of money to be used as an advance and applied to such uses as the council, by resolution, may direct.
- (ca) Subject to paragraph (d) of this subsection, a banking account referred to in subparagraph (ii) of paragraph (c) of this subsection shall be used on the imprest system and operated upon the signature of the clerk or the treasurer.
- (d) Where the Minister, having taken into consideration the circumstances of a particular case, is of the opinion that there are sufficient grounds for doing so, he may permit such modification of a provision of paragraph (a), (b) or (ca) of this subsection as to him appears reasonable. .

17. Section 669B of the principal Act is amended by deleting the passage "element." in the last line and substituting a passage as follows—

Section 669B  
amended.

element;

"owner" in relation to a vehicle means the person who is the holder of the requisite vehicle licence under the Road Traffic Act, 1974 in respect of that vehicle, or, if the vehicle is not licensed under that Act, the person who owns the vehicle or is entitled to its possession. .