

LOCAL GOVERNMENT (No. 4).

No. 100 of 1979.

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

[Assented to 21st December, 1979.]

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

1. (1) This Act may be cited as the *Local Government Act Amendment Act (No. 4), 1979.*

Short title
and
citation.

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

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

Section 533
amended.

2. Section 533 of the principal Act is amended by repealing subsections (8), (10), (11), (12), (13), (14) and (15) and substituting the following subsections—

(8) A council of a municipality that is—

(a) a city or town shall for all rateable property in its district use valuations on gross rental value, unless the Governor makes an Order under subsection (17) of this section authorising that council to use valuations on unimproved value; and

(b) a shire shall for all rateable property in its district use valuations on unimproved value, unless the Governor makes an Order under subsection (17) of this section authorising the council to use valuations on gross rental value,

of rateable property in the whole or any portion of its district, in which case that council shall use the valuations so authorised within the area to which the Order applies.

(9) If the Minister is satisfied that the council of a municipality that is—

(a) a city or town should be authorised to use valuations on unimproved value of rateable property in any portion of the district of that municipality, which portion is, in the opinion of the Minister, used predominantly for rural purposes; or

(b) a shire should be authorised to use valuations on gross rental value of rateable property in any portion of the district of that municipality, which portion is, in the opinion of the Minister, used predominantly for non-rural purposes,

he may recommend to the Governor that an Order be made under subsection (17) of this section so authorising the council.

(10) When under subsection (2) of section twelve—

- (a) a municipality is declared to be a city or town; or
- (b) a municipality which is a town is declared to be a shire,

the Minister may, after that declaration but before the first imposition of a rate in the district of that municipality after that declaration and notwithstanding anything in subsection (11), (12), (13), (14), (15) or (16) of this section, recommend to the Governor that an Order be made under subsection (17) of this section authorising the council concerned to use the same system of valuation as was used in respect of that district immediately before that declaration.

(11) If a council wishes to be authorised—

- (a) in the case of the council of a municipality that is a city or town, to use valuations on unimproved value; or
- (b) in the case of the council of a municipality that is a shire, to use valuations on gross rental value,

of rateable property in the whole of the district of that municipality, it shall—

- (c) pass by an absolute majority a resolution to request the Minister to recommend to the Governor that an Order be made under subsection (17) of this section so authorising the council;
- (d) cause to be published first in a newspaper circulating in the district of that municipality and then in the *Gazette* a notice of its intention to make the request referred to in paragraph (c) of this subsection after the expiration of thirty-five days from the publication of that notice in the *Gazette*; and

- (e) if a demand is made under subsection (12) of this section for the taking of a poll of the ratepayers of its district on the question whether or not the council should make the request referred to in paragraph (c) of this subsection, take that poll.

(12) Within thirty-five days from the later of the two publications referred to in paragraph (d) of subsection (11) of this section, fifty ratepayers, or one-fifth of the ratepayers, of the municipality concerned, whichever number is the lesser, may—

- (a) in writing signed by them; or
- (b) by petition bearing their signatures and verified by the statutory declaration of the person presenting that petition,

delivered to the clerk demand that the question referred to in paragraph (e) of that subsection be submitted to a poll of the ratepayers of the district of that municipality.

(13) If a poll is demanded under subsection (12) of this section—

- (a) the returning officer shall—
 - (i) cause sufficient voting papers in or substantially in the form set out in the Twenty-sixth Schedule to be provided for the taking of the poll; and
 - (ii) for the purpose of taking the poll prepare a roll in accordance with the regulations;

and

- (b) such of the provisions of this Act relating to the taking of the poll at the election of members of a council, including those relating to persons

voting in their absence, as are appropriate apply with necessary modifications to the taking of the poll.

(14) If at a poll demanded under subsection (12) of this section the number of ratepayers who vote thereat is not less than fifteen per centum of those entitled so to vote and the number of valid votes cast in favour of the council requesting the Minister to recommend to the Governor that the Order in question be made is not more than one-half of the valid votes cast at that poll, the resolution of the council so to request the Minister is vetoed and the council shall not make that request.

(15) If a poll demanded under subsection (12) of this section is taken, the council shall not pass a resolution under subsection (11) of this section until after the expiration of five years from the taking of that poll.

(16) The council may, if it has complied with the requirements of subsection (11) of this section and its resolution to request the Minister to recommend to the Governor that the Order in question be made has not been vetoed under subsection (14) of this section, so request the Minister and the Minister may thereupon recommend to the Governor that an Order be made under subsection (17) of this section authorising the council to use the appropriate system of valuation referred to in subsection (11) of this section.

(17) The Governor may, on receiving a recommendation made under subsection (9), (10) or (16) of this section, make an Order in accordance with that recommendation.

(18) When an Order has been made under subsection (17) of this section, the Governor may, on the recommendation of the Minister at the request of the council concerned, by Order revoke the firstmentioned Order and the

provisions of subsections (11), (12), (13), (14), (15) and (16) of this section do not apply to or in relation to that request.

(19) When, under subsection (18) of this section, a council has requested the Minister to recommend to the Governor that an Order made as a result of a recommendation made under subsection (10) or (16) of this section be revoked and the Governor has revoked that Order, the council shall not pass a resolution under subsection (11) of this section until after the expiration of five years from the revocation of the Order so revoked.

(20) In this section—

“system of valuation” means valuation on unimproved value or gross rental value of rateable property. .

3. The principal Act is amended by inserting, after section 533B, the following sections—

Sections
533C, 533D,
533E, 533F
and 533G
inserted.

Validation
of certain
Orders and
systems of
valuation.

533C. (1) Subject to subsection (2) of this section, when at any time before the coming into operation of this section the Governor has made or purported to make an Order under section five hundred and thirty-three authorising a council to adopt or use a system of valuation in respect of the whole or any portion of the district of its municipality, that Order and the system of valuation adopted or used by the council in pursuance of that Order shall be deemed for all purposes of this Act to have been lawfully and properly made or adopted or used, as the case requires, notwithstanding—

- (a) any failure to comply with the requirements of section five hundred and thirty-three; or
- (b) that that Order was made for the purpose of enabling the council of a municipality in respect of which a declaration referred to in paragraph

(a) or (b) of subsection (2) of section twelve had been made to continue to use the same system of valuation as that council had used immediately before the making of that declaration.

(2) Subsection (1) of this section does not apply to or in relation to any Order or system of valuation quashed or otherwise declared to be invalid before the coming into operation of this section by a stipendiary magistrate constituting a court of summary jurisdiction, by a Land Valuation Tribunal or by any other court or tribunal of competent jurisdiction.

(3) In this section—

“system of valuation” means valuation on unimproved value or gross rental value of rateable property and, in relation to any time before the coming into operation of the Acts Amendment and Repeal (Valuation of Land) Act, 1978, includes valuation on any other type of value of rateable property adopted under this Act.

533D. (1) When at any time after the 1st January, 1979, a valuation is quashed or otherwise declared to be invalid by a stipendiary magistrate constituting a court of summary jurisdiction, by a Land Valuation Tribunal or by any other court or tribunal of competent jurisdiction, the council concerned shall, as soon as is practicable after that quashing or other declaration of invalidity, in the case of a valuation (in this section called “the quashed valuation”) so quashed or otherwise declared to be invalid in relation to—

Procedure
after
quashing of
valuation.

(a) a district or portion thereof, other than the district or portion thereof of the City of Perth, request the Valuer-General; or

- (b) the district or portion thereof of the City of Perth, request a valuer appointed under subsection (5) of section five hundred and thirty-three or the Valuer-General, as the case requires,

to furnish that council with a valuation certified by him to be the appropriate valuation in relation to the district or portion thereof in respect of the financial year in which the legal proceedings which resulted in that quashing or other declaration of invalidity were commenced and record the valuation so certified in lieu of the quashed valuation, and the valuation so certified shall be deemed to be a valuation in force under the Valuation of Land Act, 1978, until a superseding valuation comes into force under that Act.

(2) Subject to subsection (6) of this section, when a council records under subsection (1) of this section a valuation (in this section called "the new valuation") in lieu of the quashed valuation and any rate has been imposed on the basis of the quashed valuation, there shall be deemed to have been quashed, in addition to the rate so imposed, any other rate imposed in respect of the financial year concerned in relation to its district and that council shall, subject to subsection (3) of this section—

- (a) for the purpose of determining the rates referred to in paragraph (b) of this subsection, prepare a fresh budget for the financial year to which the quashed valuation relates and such provisions of section five hundred and forty-seven as are appropriate apply with necessary modifications to the preparation of that budget; and
- (b) determine the rate to be imposed on the basis of the new valuation and determine the rate to be imposed on the basis of any other valuation in

force in relation to its district in order to comply with the requirements of section five hundred and forty-eight in respect of the budget referred to in paragraph (a) of this subsection.

(3) Notwithstanding anything contained in subsection (2) of this section, when the Minister is satisfied that, in the case of a council which adopted or used within its district in respect of the financial year concerned not only the quashed valuation but also another valuation (in this subsection called "the valid valuation") which remains in force—

- (a) continuing in force the rate that was imposed on the basis of the valid valuation; and
- (b) imposing on the basis of the new valuation, in lieu of the rate that was imposed on the basis of the quashed valuation, the same rate as the rate that was imposed on the basis of the valid valuation,

would yield an amount not significantly greater or less than the amount sufficient to yield the budget deficiency ascertained in respect of the budget prepared for the financial year to which the quashed valuation related, the Minister may, at the request of that council, direct that the rate that was imposed on the basis of the valid valuation may be continued in force and that the same rate as the rate that was imposed on the basis of the valid valuation may be imposed on the basis of the new valuation in lieu of the rate that was imposed on the basis of the quashed valuation and the council concerned may take action in accordance with that direction.

(4) When a council takes action under subsection (2) or (3) of this section, it shall—

- (a) make such alterations or amendments to its rate book and other records as may be necessary in consequence of that action; and

- (b) serve fresh notices of valuation and rate under section five hundred and forty-two in respect of the financial year concerned and the provisions of this Part, including section five hundred and fifty, shall, subject to this section and to sections five hundred and thirty-three F and five hundred and thirty-three G, thereafter with necessary modifications apply and be followed.

(5) When a council takes action under subsection (3) of this section, the mayor or president thereof shall under section five hundred and fifty enter and sign a memorandum in respect of the imposition under that subsection of any rate on the basis of the new valuation and cause that memorandum to be published in the *Gazette* under that section.

(6) Notwithstanding anything contained in this section—

- (a) the quashing or other declaration of invalidity of a valuation shall be deemed not to have rendered invalid any rate imposed on the basis of the quashed valuation in respect of any financial year prior to the financial year in which the legal proceedings which resulted in that quashing or other declaration of invalidity were commenced; and
- (b) there shall not be imposed under this section any rate in lieu of the rate imposed on the basis of the quashed valuation in respect of a financial year prior to the financial year in which the legal proceedings referred to in paragraph (a) of this subsection were commenced.

533E. When at any time after the 1st January, 1979, a rate (in this section called "the quashed rate") is quashed or otherwise declared to be invalid by a stipendiary magistrate constituting a court of summary jurisdiction, by a Land Valuation Tribunal or by any other court or tribunal of competent jurisdiction, there shall be deemed to have been quashed, in addition to the quashed rate, any other rate imposed in respect of the financial year concerned in relation to the district of the council concerned and that council shall, as soon as is practicable after that quashing or other declaration of invalidity—

Procedure
after
quashing
of rate.

- (a) for the purpose of determining the rates referred to in paragraph (b) of this section, prepare a fresh budget for the financial year to which the quashed rate relates and such provisions of section five hundred and forty-seven as are appropriate apply with necessary modifications to the preparation of that budget;
- (b) determine the rate (in this section called "the new rate") to be imposed in lieu of the quashed rate and determine any other rate to be imposed in relation to its district in order to comply with the requirements of section five hundred and forty-eight in respect of the budget referred to in paragraph (a) of this section;
- (c) make such alterations or amendments to its rate book and other records as may be necessary in consequence of anything done under this section; and
- (d) serve fresh notices of valuation and rate under section five hundred and forty-two in respect of the financial year to which the quashed rate related and the provisions of this Part, including section five hundred and fifty, shall, subject to this section and

to sections five hundred and thirty-three F and five hundred and thirty-three G, thereafter with necessary modifications apply and be followed.

Persons liable to pay new rate and payment of new rate from amounts already paid.

533F. (1) On the imposition of a rate (in this section called "the new rate")—

- (a) determined under subsection (2), or continued in force or imposed under subsection (3), of section five hundred and thirty-three D; or
- (b) determined under section five hundred and thirty-three E,

a person who, but for the quashing or other declaration of invalidity of the valuation or rate concerned (in this section called "the quashed valuation" or "the quashed rate", as the case requires), is liable to pay a rate in respect of the financial year, and in respect of rateable property, to which the quashed valuation or the quashed rate related is liable to pay the new rate in respect thereof.

(2) Any amount paid by a person referred to in subsection (1) of this section to the municipality concerned in satisfaction of a rate imposed on the basis of the quashed valuation or in satisfaction of the quashed rate before the quashing or other declaration of invalidity of the quashed valuation or the quashed rate shall be applied in satisfaction of the new rate and any surplus remaining after the satisfaction of the new rate shall be refunded to that person.

Sections 533D, 533E and 533F to have effect notwithstanding time limits.

533G. The provisions of sections five hundred and thirty-three D, five hundred and thirty-three E and five hundred and thirty-three F shall have effect notwithstanding that any time limit otherwise applicable under any other provision of this Act to or in relation to any valuation or rate or to any procedure relating thereto may have expired. .