

## LOCAL GOVERNMENT.

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No. 65 of 1974.

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### AN ACT to amend the Local Government Act, 1960-1973.

[Assented to 9th December, 1974.]

**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, 1974*. Short title and citation.

(2) In this Act the Local Government Act, 1960-1973 is referred to as the principal Act. Reprinted as approved for reprint 9th August, 1973 and further amended by Acts Nos. 12, 74, 83 and 105 of 1973.

(3) The principal Act as amended by this Act may be cited as the Local Government Act, 1960-1974.

Commence-  
ment.

2. (1) Subject to subsection (2) of this section, the provisions of this Act shall come into operation on such day or days as is or are, respectively, fixed by proclamation.

(2) Sections 1, 2, and 26 of this Act shall come into operation on the day that this Act receives the Royal Assent.

Section 6  
amended.  
(Interpre-  
tation.)

3. Subsection (1) of section 6 of the principal Act is amended by repealing the interpretation "absolute majority" and substituting the following interpretation—

"absolute majority" in relation to—

- (a) the members of a council, means a total majority of the members for the time being of the council, whether present and voting or not;
- (b) the members of a committee of the council, means a total majority of the members of that committee of the council, whether present and voting or not; .

Section 20  
amended.  
(New election  
on change of  
number of  
offices of  
councillor or  
boundaries.)

4. Subsection (1) of section 20 of the principal Act is amended by deleting the passage "section twelve," in line three, and substituting the passage "section ten or section twelve or by both section ten and section twelve,".

Section 37  
amended.  
(Disqualifi-  
cation.)

5. Subsection (2) of section 37 of the principal Act is amended by deleting the passage "(g) or (h)" in line two of subparagraph (iii) of paragraph (a) and substituting the passage "(g), (h), or (ha)".

Section 135  
amended.  
(Payment of  
expenses of  
returning  
officer.)

6. Subsections (2) and (3) of section 135 of the principal Act are revoked and the following subsections substituted—

(2) The council shall pay out of the municipal fund for services rendered in connection with the election to a vacancy in office of member

of the council by a returning officer, deputy returning officer, presiding officer, poll clerk or other electoral officer a fee that is not less than the minimum fee prescribed in relation to each of those offices.

(3) The fees prescribed under subsection (2) of this section may be fixed by reference to the number of electors on a mayoral roll, district roll or ward roll as the case may be. .

7. Subsection (4) of section 174 of the principal Act is amended by deleting paragraph (b) and substituting the following paragraph—

Section 174  
amended.  
(Members  
prohibited  
from taking  
part in  
considera-  
tion of or  
voting on  
a matter  
in which  
they are  
interested.)

(b) the majority of the other persons who are present at that meeting and who are entitled to vote on that matter determine by motion, which may be moved without notice, that he is permitted to speak on the matter, and that majority is an absolute majority. .

8. Subsection (1) of section 181 of the principal Act is amended by adding after the word "museum" in line six the passage ", aged persons' home, recreation ground".

Section 181  
amended.  
(Managing  
committees.)

9. Subsection (5) of section 190 of the principal Act is amended by deleting paragraph (e) and substituting the following paragraph—

Section 190  
amended.  
(By-laws.)

(e) for a period of twenty-one days commencing on the day of the publication of the notice in a newspaper pursuant to the requirements of paragraph (d) of this subsection, cause—

(i) a copy of the notice referred to in paragraph (d) of this subsection to be kept posted on the official notice board of the council; and

- (ii) a copy of the full text of the by-law to be available free of charge for public inspection during office hours at the office of the council; .

Section 231  
amended.  
(Parking  
stations,  
parking  
facilities,  
etc.)

10. Subsection (2) of section 231 of the principal Act is amended by deleting the word "forty" in line one of paragraph (q) and substituting the word "eighty".

Section 234  
amended.  
(Protection  
and use of  
municipal  
property.)

11. Subsection (2) of section 234 of the principal Act is amended by deleting paragraph (i) and substituting the following paragraph—

- (i) for prohibiting or regulating the admission of vehicles and cattle on property and providing, in addition to any other method of recovering a penalty prescribed in a by-law made pursuant to the powers conferred by this subsection, in respect of an offence that has as an element the parking of a vehicle contrary to the provisions of a by-law made pursuant to the powers conferred by this paragraph—

- (i) the method of notifying a person alleged to have committed an offence of that alleged offence and how it may or shall be dealt with and prohibiting the removal by any person other than the driver of a vehicle in respect of which an offence is alleged to have been committed against the by-law of any notice relating to the alleged offence affixed to the vehicle or left in or on the vehicle by a person duly authorised by the council; and

- (ii) a modified penalty or modified penalties payable to the council by a person or class of person who does not contest an allegation that he committed the offence against the by-law and providing that the

production of an acknowledgment from the council of the payment of a modified penalty is a defence to a charge of the offence in respect of which that modified penalty is paid; .

12. Subsection (2) of section 245A of the principal Act is amended—

Section 245A amended.  
(Private swimming pools.)

- (a) by adding after the word “pool” in line two of paragraph (a) the passage “to register the swimming pool, pay the prescribed fee in respect of the registration of the swimming pool and”; and
- (b) by deleting the word “one” in line one of paragraph (b) and substituting the word “two”.

13. Subsection (2) of section 254 of the principal Act is amended by deleting the word “Ten” in line five and substituting the word “Twenty”.

Section 254 amended.  
(Inquiry as to licensing of vehicles may be made.)

14. Subsection (3) of section 281 of the principal Act is amended by deleting the word “Twenty” in line three of paragraph (c) and substituting the word “Forty”.

Section 281 amended.  
(Council may take materials for road making and enter to inspect.)

15. Subsection (3) of section 295 of the principal Act is amended by adding after paragraph (c) a paragraph as follows—

Section 295 amended.  
(Notice of subdivision of land required.)

(ca) A person who contravenes the provisions of paragraph (c) of this subsection commits an offence and is liable to a penalty not exceeding one hundred dollars and in the case of a continuing offence to a further penalty not exceeding ten dollars for each day during which the offence continues. .

Section 345  
amended.  
(Trees  
obstructing  
or injuring  
streets.)

16. Subsection (2) of section 345 of the principal Act is amended by deleting the word "one" in line five and substituting the word "two".

Section 374  
amended.  
(Plans of  
buildings  
to be  
approved  
by council.)

17. Section 374 of the principal Act is amended by repealing subsection (1b) and substituting subsections as follows—

(1b) The authority to approve or refuse to approve plans and specifications submitted under this section may be delegated by a council to a person appointed to the office of building surveyor, but where a plan and specifications so submitted conform to—

(a) all by-laws in force in the relevant district or part of a district in respect of building matters, and the council's pre-determined policy in respect of building matters; and

(b) all by-laws and schemes in force in the relevant district or part of a district in respect of town and regional planning matters, and the council's pre-determined policy in respect of town and regional planning matters,

the building surveyor shall not refuse to approve that plan or those specifications without first obtaining the consent of the council.

(1ba) The council may vary or revoke a delegation made under subsection (1b) of this section. .

Section 470  
amended.  
(Pound-  
keeper may  
charge for  
service of  
notice.)

18. Subsection (2) of section 470 of the principal Act is amended by deleting the passage commencing with the word "fifteen" and ending with the word "kilometres" where occurring in—

(a) lines four and five; and

(b) lines thirteen and fourteen,  
and substituting the words “twenty cents or such  
sum as is prescribed by the regulations for every  
kilometre” in each case.

19. Section 513 of the principal Act is amended—

Section 513  
amended.  
(Pay loss  
of earnings  
and  
expenses.)

(a) by adding after the word “expenses” in line  
eight of paragraph (h) the word “and”; and

(b) by adding after paragraph (h) a paragraph  
as follows—

(ha) pay for each day to a member who  
necessarily incurs loss of earnings in  
or in consequence of travelling to or  
attending a civil defence school with  
the authority of the council the  
amount of—

(i) where the loss of earnings so  
incurred is less than twenty  
dollars, the amount of the loss;  
or

(ii) where the loss of earnings so  
incurred exceeds twenty dollars  
or cannot be accurately cer-  
tified, the sum of twenty  
dollars; .

20. Paragraph (c) of section 530 of the principal  
Act is amended—

Section 530  
amended.  
(Other  
powers of  
expendi-  
ture of  
municipal  
fund.)

(a) by deleting the word “and” after subpara-  
graph (iii);

(b) by deleting the passage “swimming pools,”  
in line eight of subparagraph (iv);

(c) by deleting the passage “district.” at the  
end of subparagraph (iv) and substituting  
the passage “district; and”; and

(d) by adding after subparagraph (iv) the  
following subparagraph—

- (v) maintaining or subsidising the maintenance of swimming pools and, subject to the approval of the Minister, establishing swimming pools, whether within the district or elsewhere, when in the opinion of the council the expenditure will directly or indirectly benefit the inhabitants of its district.

Section 533 amended.  
(Councils must adopt valuations.)

21. Subsection (3) of section 533 of the principal Act is amended by deleting the words "one dollar" in line seven of paragraph (h) and substituting the words "one dollar and fifty cents".

Section 534A added.

22. The principal Act is amended by adding after section 534 the following section—

Increase or decrease in value of land rateable on unimproved value or annual value and time of value.

534A. (1) Where after the adoption of a district valuation by a council it appears to the council that by reason of any one or more of the following events, namely—

- (a) the zoning or re-zoning of the land;
- (b) the subdivision or re-subdivision of the land;
- (c) a change in the boundaries of the land,

the value of land that is rateable is greater or less than the value at which it was assessed prior to the occurrence of any one or more of the events referred to in paragraphs (a), (b) and (c) of this subsection the council may cause the unimproved value or annual value of the land as the case requires to be re-assessed.

(2) A re-assessment of the value of rateable land pursuant to subsection (1) of this section shall be made as if the increase or decrease in the unimproved value or annual value had occurred at the time of the assessment of the last valuation in respect of that land adopted by the council.



(3) For the purposes of this section, it is immaterial that any rateable land to which this section applies is at the time that the re-assessment is carried out identified by a description other than the description it was given at the time of the assessment of the last valuation in respect of that land adopted under subsection (9) of section five hundred and thirty-three of this Act.

23. Subsection (2) of section 538 of the principal Act is amended by deleting the word "ten" in line three of paragraph (b) and substituting the word "twenty".

Section 538 amended.  
(Valuation of gas mains and electric lines.)

24. The principal Act is amended by adding after section 545 a section as follows—

Section 545A. added.

545A. (1) Where during a financial year—

Proportionate rating.

- (a) land that was not rateable becomes rateable land; or
- (b) rateable land becomes land that is not liable to rates,

the owner thereof—

- (c) is liable for rates proportionate to the portion of the year during which the land is rateable land; or
- (d) is entitled to a refund of an amount proportionate to the portion of the year during which the land is not rateable land,

as the case requires.

(2) The value of land referred to in paragraph (a) of subsection (1) of this section shall be assessed as if it were rateable land as at the time of the assessment of the last valuation in respect of that land adopted under subsection (9) of section five hundred and thirty-three of this Act.

Section 559  
amended.  
(Provision  
of pro-  
cedural  
matters by  
enactment.)

25. Section 559 of the principal Act is amended—

- (a) as to subsection (1), by deleting the passage commencing with the passage “, firstly” in line eighteen and ending with the passage “situated.” in the last line and substituting the following passage—

on—

- (c) the clerk of the council in whose district the land is situated;
- (d) the Registrar of the Valuation Appeal Court having jurisdiction in the portion of the State where the land in respect of which the appeal is brought is situated; and
- (e) if the land in respect of which the appeal is made is not owned by the appellant, the owner of the land or the agent or attorney of the owner of the land. ;
- (b) as to subsection (5), by deleting the words “and the clerk of the council” in line four and substituting the passage “, the clerk of the council and, if the appellant is not the owner of the land or the agent or attorney of the owner of the land the subject of the appeal, on the owner of the land or the agent or the attorney of the owner of the land the subject of the appeal”; and
- (c) by repealing and re-enacting subsection (5a) as follows—

(5a) The appellant may not less than three days before the day appointed for the hearing of his appeal withdraw the appeal by serving a written notice addressed to the Court and signed by the appellant on the Registrar of the Valuation Appeal Court in which the appeal is brought and, if the appellant

is not the owner of the land or the agent or attorney of the owner of the land in respect of which the appeal is brought, by serving a copy of that notice on the owner of the land or on the agent or attorney of the owner of the land, and if the notice is received by the Registrar and, where the case so requires, a copy thereof is received by the owner of the land or the agent or attorney of the owner of the land not less than three days before the day appointed for the hearing of the appeal the Court shall strike out the appeal. .

26. Section 561 of the principal Act is amended—

Section 561  
amended.  
(Exemption  
from  
rates.)

(a) by deleting paragraph (a) of subsection (1) and substituting the following paragraph—

(a) Subject to subsection (5) of this section, a person who is a pensioner as defined under the National Health Act 1953 of the Parliament of the Commonwealth other than a person who comes within that definition by reason only that he is a person to whom or in respect of whom—

- (i) there is being paid a sheltered employment allowance under the Social Services Act 1947 of the Parliament of the Commonwealth or that allowance would be payable if he were not receiving vocational training under Part VIII of that Act; or
- (ii) there is being paid an allowance under the Tuberculosis Act 1948 of the Parliament of the Commonwealth,

may claim to be exempt from liability for the payment of rates or charges under this Act in respect of land of which he is in actual occupation as owner. ;

- (b) by adding after the expression "(2)" in line two of subsection (2a) the passage "or (6)"; and
- (c) by adding after subsection (5) a subsection as follows—

(6) Notwithstanding any other provision of this section, where the payment by a person of rates and charges in respect of periods before the 1st July, 1975 was, immediately before the coming into operation of section twenty-six of the Local Government Act Amendment Act, 1974 postponed pursuant to subsection (2) of this section, such payment shall continue to be postponed until the sale or transfer by the person of the land concerned, or his death, whichever first occurs, or until the person ceases to hold the qualifications which entitled him to be exempt from liability for such payment pursuant to the provisions of this section in force immediately before the coming into operation of section twenty-six of the Local Government Act Amendment Act, 1974. .

Section 640  
amended.  
(Power to  
demand  
production  
of books,  
etc.)

27. Subsection (2) of section 640 of the principal Act is amended by deleting the word "twenty" in line four and substituting the word "forty".

Section 692  
amended.  
(Application  
of Part IV  
to polls.)

28. Subsection (2) of section 692 of the principal Act is amended by deleting the word "two" in line seven and substituting the word "four".