

LOCAL GOVERNMENT (No. 4).

No. 83 of 1969.

AN ACT to amend the Local Government Act,
1960-1969.

[Assented to 17th November, 1969.]

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), 1969.*

Short title
and citation.

(2) In this Act the Local Government Act, 1960-1969 is referred to as the principal Act.

Reprinted as
approved for
reprint, 3rd
May, 1968
and
amended by
Acts Nos. 21
of 1968 and
35 of 1969.

(3) The principal Act as amended by this Act may be cited as the Local Government Act, 1960-1969.

Commence-
ment.

2. This Act or any provision thereof shall come into operation on such date or such dates as are respectively fixed by proclamation.

S. 37
amended.

3. Subsection (2) of section 37 of the principal Act is amended—

(a) by substituting for the passage, "auction." in line three of subparagraph (xiii) of paragraph (b), the passage, "auction;" and

(b) by adding after subparagraph (xiii) of paragraph (b) the following subparagraphs—

(xiv) he supplies to the municipality, at a price and under conditions substantially the same as those usually paid and applied and accepted by the municipality, materials that a municipality may lawfully take under subsection (1) of section two hundred and eighty-one;

(xv) he accepts compensation made under section two hundred and eighty-one at the rate or rates usually paid by the municipality. .

S. 119
amended.

4. Section 119 of the principal Act is amended—

(a) by adding after the section number "119." the subsection designation (1); and

(b) by adding the following subsection—

(2) Without affecting the generality of subsection (1) of this section, the provisions of that subsection are expressly declared to apply to elections conducted pursuant to sections seventy-three, seventy-five and subsection (3) of section one hundred and eighty-two. .

5. Subsection (1) of section 179 of the principal Act is amended by adding after the word, "less" in line two of paragraph (a), the passage " , inclusive of the *ex-officio* member under subsection (2) of section one hundred and eighty-two," .

S. 179
amended.

6. Subsection (2) of section 234 of the principal Act is amended—

S. 234
amended.

- (a) by deleting the word, "and" appearing immediately after paragraph (m);
- (b) by substituting for the passage, "council." in line four of paragraph (n), the passage, "council; and"; and
- (c) by adding a paragraph as follows—
 - (o) providing—
 - (i) that the owner, as defined by the by-laws, of a vehicle shall, if required by a member of the Police Force or an officer of the council, inform the member or officer as to the identity and address of the driver or person in charge of the vehicle at the time when an offence, of which the use, parking or standing of a vehicle is an element, is alleged to have been committed by the driver or person in charge of the vehicle against a by-law made under this section;
 - (ii) that where the driver or person in charge of a vehicle is alleged to have committed such an offence against a by-law made under this section, and the owner of the vehicle at the time the offence was alleged to have been committed, fails, when required so to do, within seven days of the commission of the alleged offence, to

inform a member of the Police Force or an officer of the council as to the identity and address of the person who was the driver or person in charge of the vehicle at that time, the owner shall be deemed to be the person who committed that offence and shall then be liable to the penalty prescribed in respect thereof, unless the member of the Police Force or the clerk of the council is satisfied from information furnished by the owner, that the owner could not reasonably have been aware of the identity of the driver or person in charge, or that the vehicle was stolen or being unlawfully used at the time the offence was alleged to have been committed;

- (iii) that where the member of the Police Force or the clerk of the council is so satisfied, no proceedings shall be taken against the owner for the recovery of the penalty prescribed in respect of the offence;
- (iv) for the appointment of officers of the council to carry out the powers and duties conferred by the by-laws; and
- (v) for requiring officers of the council appointed to carry out the powers and duties conferred by the by-laws to carry and produce the prescribed badge, card or other means of identification.

7. Section 244 of the principal Act is amended by adding after paragraph (h) the following paragraph— S. 244
amended.

(ha) for requiring the owner or occupier of land—

(i) which is bounded in part by a section of a street that is at or nearby the intersection of that street with another street; and

(ii) on which there is standing a fence, wall, hedge, tree or like structure or thing that is so situated, in the opinion of the council, as to constitute an obstruction of or interference with the vision of persons driving vehicles approaching, entering or passing through that intersection of other such vehicles,

to take down or remove the fence, wall, hedge, tree or like structure or thing and for authorising the council, if the owner or occupier does not comply with the requirement, to do so at his expense and to recover the amount of the expense from him in a court of competent jurisdiction. .

8. Section 266 of the principal Act is amended— S. 266
amended.

(a) by deleting the words, “by Order” in line one of subsection (2); and

(b) by adding after subsection (2) the following subsection—

(3) Any direction made or given by the Governor under subsection (2) of this section does not have effect until notice of the making or giving thereof has been published in the *Gazette*.

S. 267
amended.

9. Section 267 of the principal Act is amended—

(a) by deleting the words, “by Order” in line one of subsection (3); and

(b) by adding after subsection (3) the following subsection—

(4) Any direction made or given by the Governor under subsection (3) of this section does not have effect until notice of the making or giving thereof has been published in the *Gazette*.

S. 267A
added.

10. The principal Act is amended by adding after section 267 a section as follows—

Certain
directions
validated.

267A. Any direction made or given by the Governor for the purposes of subsection (2) of section two hundred and sixty-six or subsection (3) of section two hundred and sixty-seven, at any time prior to the commencement of this section, notice of which was published in the *Gazette*, shall be deemed for all purposes to be, and to have always been, validly and effectually made or given, notwithstanding that the direction was not made or given by an Order.

S. 295
amended.

11. Section 295 of the principal Act is amended—

(a) by adding after subsection (3) the following subsections—

(3a) For the purposes of this section the Minister may from time to time by notice published in the *Gazette*—

(a) fix minimum standards of construction with respect to streets to be constructed pursuant to this section within the district or districts, or part or parts thereof, specified in the notice for the purpose; and

(b) vary or revoke any notice published pursuant to this subsection.

(3b) Any notice published pursuant to subsection (3a) of this section may set out particulars relating to the width, kerbing, thickness, surfacing and foundation of streets, and the materials to be used in the construction thereof.

(3c) Without limiting the powers conferred on a council by paragraph (b) of subsection (3) of this section, where—

(a) a person delivers drawings and specifications of a proposed street to a council pursuant to paragraph (a) of that subsection; and

(b) the proposed street, if constructed in accordance with those plans and specifications, would not satisfy the minimum standards for the time being fixed by the Minister pursuant to subsections (3a) and (3b) of this section applicable to the proposed street,

the council shall, pursuant to paragraph (b) of subsection (3) of this section, require the person to so amend the drawings or specifications, or both, as to cause the proposed street to satisfy those minimum standards. ; and

(b) by substituting for the passage, “, if a transfer of one or more lots, not being the whole of the land the subject of the plan, is registered, then as from the date of the registration of the transfer” in lines three, four, five and six of subsection (5), the words, “then as from the date of that approval”.

12. Section 313 of the principal Act is amended—

S. 313
amended.

(a) by repealing subsection (2); and

- (b) by deleting the words, "and traffic signs" where they occur in line four of subsection (3) and again in line four of subsection (4).

S. 334
amended.

13. Subsection (1) of section 334 of the principal Act is amended by deleting the words, "of a city or town" in line three.

S. 374A
added.

14. The principal Act is amended by adding after section 374 a section as follows—

Demolition
licenses.

374A. (1) No person shall commence to take down a building or part of a building until he has submitted to the council an application in prescribed form and the council has approved the application and issued a license for the work.

(2) The council shall not refuse an application made under subsection (1) of this section, but may include in the license issued by it for the work, such conditions as it considers necessary for the safe and proper execution of the work.

(3) A person who is dissatisfied with the conditions included by a council in a license issued under this section may appeal in writing to the Minister, who may confirm or vary the decision of the council as to the conditions of the license, and the order of the Minister is final and not subject to appeal. .

S. 433
amended.

15. Section 433 of the principal Act is amended by adding after paragraph (15) the following paragraph—

(15a) for regulating the taking down of buildings; .

S. 434
amended.

16. Section 434 of the principal Act is amended by adding after subsection (1) the following subsection—

(1a) A by-law may be made under this Division—

(a) so as to apply generally or in a particular class of case, or particular

- classes of cases, at all times or at a specified time or specified times;
- (b) so as to require a matter affected by it to be in accordance with a specified standard or specified requirement; or as approved by, or to the satisfaction of, a specified person or body, or class of person or body, and so as to delegate to or confer upon a specified person or body, or class of person or body, a discretionary authority;
- (c) so as to provide that in specified cases, or a specified class of case, or specified classes of cases, whether on specified conditions or unconditionally, persons or things or a class or classes of persons or things may be exempted from the provisions of the by-law either wholly or to such extent as is specified.

17. Section 435 of the principal Act is amended—

S. 435
amended.

- (a) by substituting for the word, "five" in line four of subsection (2), the word, "seven";
- (b) by adding after subsection (5) the following subsections—

(5a) The Minister may appoint a person who has experience in building or is conversant with the building trade to be the deputy of a member of the Committee, and may revoke the appointment of a person as the deputy of a member of the Committee.

(5b) A person who is the deputy of a member of the Committee has, at any meeting of the Committee at which the member is not present, all the powers and duties of the member. ; and

- (c) by adding after the word, "Committee" in line one of subsection (10), the words "and their deputies".

S. 511
amended.

18. Section 511 of the principal Act is amended by adding after subsection (1) the following subsection—

(1a) A council may with the consent of the Minister authorise a person to construct and maintain a bridge or overway for the use of pedestrians leading from land abutting a street to or onto that street or another street. .

S. 531A
amended.

19. Section 531A of the principal Act is amended—

(a) by adding after the section number, "531A.", the subsection designation "(1)";

(b) by adding immediately before the interpretation, "occupied", the following interpretation—

"farm land" means any single lot or portion of rateable property which is wholly or mainly maintained or used for the time being for carrying on one or more of the following businesses or industries, namely, grazing, dairying, pig-farming, poultry-farming, bee-keeping, viticulture, horticulture, fruit-growing or the growing of crops of any kind; ; and

(c) by adding after the interpretation, "occupied", the following interpretation—

"urban farm land" means any farm land that is for the time being declared by—

(a) the council of the municipality of the district within which the farm land is situated; or

(b) the appropriate Valuation Appeal Court,

to be urban farm land for the purposes of this Part.

20. The principal Act is amended by adding after section 533, the following section—

S. 533A
added.

533A. (1) A person who is the owner of farm land may, in writing, request the council of the municipality of the district within which the land is situated to declare that farm land to be urban farm land.

Declarations,
etc., of urban
farm land.

(2) Any request made under subsection (1) of this section shall contain a sufficient description of the farm land to which the request relates and may set out such other matters as the person making the request thinks relevant.

(3) The council shall, within sixty days of receiving any request made to it in accordance with subsection (1) of this section, consider the request and—

(a) shall declare the rateable property to which the request relates to be urban farm land for the purposes of this Part if it is satisfied that the rateable property is farm land the unimproved value or annual value of which has been materially increased by reason of the proximity of the farm land to land which has been or is being developed for residential, commercial, industrial or other urban uses; or

(b) if it is not so satisfied, shall refuse to make such a declaration,

and in either event shall, in writing, advise the person by whom the request was made of its decision.

(4) The owner of any rateable property declared to be urban farm land shall, within fourteen days of the rateable property ceasing to be farm land within the meaning of section five hundred and thirty-one A, give the council notice in writing to that effect, and after

receiving the notice the council shall revoke the declaration previously made by it or the appropriate Valuation Appeal Court, as the case may be, by virtue of which that rateable property had been declared to be urban farm land, and thereupon the land ceases to be urban farm land for the purposes of this Part.

(5) Where the council—

- (a) is of opinion that any rateable property declared to be urban farm land has ceased to be farm land within the meaning of section five hundred and thirty-one A; and
- (b) has not received a notice under subsection (4) of this section with respect to the rateable property,

it may, by notice served on the owner of the rateable property, require him to show cause, within such reasonable time as is specified in the notice, why the council should not revoke the declaration of the rateable property as urban farm land.

(6) Where the owner upon whom a notice has been served pursuant to subsection (5) of this section fails to satisfy the council, within the time specified in the notice, that the rateable property to which the notice relates is still farm land within the meaning of section five hundred and thirty-one A, the council may revoke the declaration previously made by it, or the appropriate Valuation Appeal Court, as the case may be, by virtue of which that rateable property has been declared to be urban farm land.

(7) Where, pursuant to subsection (6) of this section, the council revokes a declaration of any rateable property as urban farm land—

- (a) the rateable property shall cease to be urban farm land upon the expiration of a period of two months after the

revocation if no appeal is brought within that period under section five hundred and fifty-eight A; or

- (b) where such an appeal is so brought, and the Valuation Appeal Court dismisses the appeal, the rateable property shall cease to be urban farm land as from the date on which the Valuation Appeal Court dismisses the appeal. .

21. Section 540 of the principal Act is amended by adding after subsection (6) the following subsection—

S. 540
amended.

(7) The council shall also record and cause to be incorporated with the rate book particulars of any rateable property declared to be urban farm land pursuant to the provisions of this Part including particulars of the date on which any rateable property that had been so declared ceased to be urban farm land. .

22. Section 548 of the principal Act is amended—

S. 548
amended.

- (a) by adding after the word, "subsection" in line two of subsection (3), the passage, "(3a) or" ; and
- (b) by adding after subsection (3) the following subsections—

(3a) A council may, in respect of the financial year commencing on the first day of July, 1970 and any subsequent financial year, impose the general rate on urban farm land at a lesser rate, for each dollar of the unimproved value or annual value of such urban farm land, than the general rate imposed under the provisions of this section for other land.

(3b) Where any rateable property ceases to be urban farm land pursuant to the provisions of subsection (4) or subsection (7) of section five hundred and thirty-three A, the difference between the sum of rates paid or payable in respect of the land in each of the five financial years immediately preceding the date at which the rateable property ceased to be urban farm land and the sum of rates which would otherwise have been payable with respect to the rateable property in each of those financial years had it not been declared urban farm land in those years, shall thereupon become due and payable as rates, and may be recovered in any of the ways in which rates may be recovered under this Act. .

S. 558A
added.

23. The principal Act is amended by adding after section 558, the following section—

Appeals re
declarations
of urban
farm lands.

558A. (1) Notwithstanding anything contained in this Division, an owner of rateable property who is aggrieved by—

- (a) the refusal by a council, under subsection (3) of section five hundred and thirty-three A, to declare the rateable property to be urban farm land; or
- (b) the revocation by a council, under subsection (6) of section five hundred and thirty-three A, of a declaration by virtue of which the rateable property had been declared to be urban farm land,

may appeal to the appropriate Valuation Appeal Court constituted under this Division.

(2) A person who desires to appeal under the provisions of this section shall commence his appeal by serving written notice of the appeal stating the grounds of appeal firstly on

the clerk of the council and then on 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.

(3) On the hearing of any appeal brought under this section, the Court may dismiss the appeal or may—

- (a) if the appeal is an appeal to which paragraph (a) of subsection (1) of this section relates, declare the rateable property in respect of which the appeal is brought to be urban farm land; or
- (b) if the appeal is an appeal to which paragraph (b) of subsection (1) of this section relates, set aside the revocation by the council of the declaration by which the rateable property had been declared to be urban farm land.

(4) The provisions of this Division relating to other appeals brought thereunder, other than the provisions of—

- (a) sections five hundred and fifty-four and five hundred and fifty-five;
- (b) subsection (5) of section five hundred and fifty-six;
- (c) subsections (1), (2) and (3) of section five hundred and fifty-nine,

apply with such modifications and adaptations as are necessary to appeals brought under the provisions of this section. .

24. Section 611 of the principal Act is amended—

S. 611
amended.

- (a) by substituting for the word, "Where" in line one of subsection (1), the passage, "Subject to subsection (1a) of this section, where"; and

(b) by adding after subsection (1) a subsection as follows—

(1a) Any demand in writing or petition made or presented under subsection (1) of this section shall not have effect for the purposes of that subsection unless it contains a statement of the purpose of the proposed loan to which the demand or petition relates. .

S. 691
amended.

25. Section 691 of the principal Act is amended by adding after subsection (2a) the following subsection—

(2b) The Governor may, by Order, rectify any error in an Order made under any provision of an Act repealed by this Act. .
