

LOCAL GOVERNMENT (No. 5).

No. 107 of 1969.

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

[Assented to 25th 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. 5), 1969.*

Short title
and citation.

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

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

Reprinted as
approved for
reprint, 3rd
May, 1968
and amended
by Acts Nos.
21 of 1968
and 35
and 83
of 1969.

Commence-
ment.

2. This Act shall come into operation on a date to be fixed by proclamation.

S. 3
amended.

3. Section 3 of the principal Act is amended by adding after the passage, "*Division 18.—Safety of Platforms and Viewpoints on Public Occasions, s. 421.*" under the heading "*PART XV.—BUILDINGS, ss. 373 to 434.*" the passage, "*Division 18A.—Appeals to Minister, s. 421A.*"

S. 12
amended.

4. Section 12 of the principal Act is amended—

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

(3a) Notwithstanding anything contained in this section, the Governor by Order which may be made without a petition may—

(a) divide a district into wards and fix the boundaries of the wards;

(b) alter the boundaries of, or abolish wholly or in part, wards existing in a district;

(c) create new wards in a district. ;
and

(b) by adding after paragraph (k) of subsection (6) the following paragraph—

(ka) Notwithstanding anything contained in this section, where—

(i) the Minister has referred a question to the Commission for its consideration and report;

(ii) the need or occasion for the reference of the question to the Commission has arisen from the effective presentation to the Governor of a petition; and

(iii) after considering the question so referred to it, the Commission reports to the Minister and in its report recommends that a power conferred upon the Governor by this section be exercised in a manner or to an extent different from that sought by the petition,

the Minister may recommend the exercise by the Governor of such a power as sought by the petition or as recommended by the Commission, as the Minister thinks fit, and the Governor may, by Order, exercise the power as recommended by the Minister, accordingly. .

5. Section 111 of the principal Act is amended— S. 111
amended.

(a) by substituting for the passage, “so much of Form 1 in the Twelfth Schedule as is appropriate to the case” in lines five and six of paragraph (a) of subsection (3), the words, “the prescribed form” ;

(b) by substituting for the passage, “election.” in the last line of subsection (3), the following passage—

election,

and so that, except in the case of an application under subsection (4) of this section, it is delivered to, or received by, the returning officer not more than thirty-five days prior to the day appointed for the holding of the election. ;

and

(c) by substituting for the passage, “Form No. 2 and Form No. 3 respectively in the Twelfth Schedule” in lines seven and eight of paragraph (g) of subsection (4), the words, “the prescribed form”.

S. 112
amended.

6. Section 112 of the principal Act is amended—

- (a) by substituting for the words, “deliver or post to the applicant” in lines seven and eight of subsection (1), the words, “post to the applicant or deliver to him at the place of issue” ;
- (b) by substituting for the words, “forms in the Twelfth Schedule” in lines eleven and twelve of subsection (1), the words, “prescribed form” ; and
- (c) by adding after subsection (1), the following subsection—
 - (1a) Where the returning officer rejects an application mentioned in subsection (3) of section one hundred and eleven, he shall forthwith give a notice in writing to that effect, setting out the reasons for the rejection, to the applicant. .

S. 113
amended.

7. Section 113 of the principal Act is amended by substituting for the word, “votes” in line three, the words, “vote certificates”.

S. 114
amended.

8. Subsection (1) of section 114 of the principal Act is amended—

- (a) by substituting for the words, “seal that envelope and hand it to the authorised witness” in lines seven and eight of paragraph (d), the words, “and seal that envelope” ;
- (b) by substituting for the words, “authorised witness” in line one of paragraph (e), the word, “elector” ;
- (c) by deleting the words, “hand it to the elector who shall forthwith” in lines four and five of paragraph (e); and

- (d) by substituting for the words, "authorised witness" in line eleven of paragraph (f), the word, "elector".

9. Section 117 of the principal Act is amended— S. 117
amended.

- (a) by substituting for the passage commencing with the word, "if" in line nine of paragraph (e) of subsection (1) and ending with the word, "cast", being the last word in that paragraph, the passage, "he shall mark on each inner envelope the number of votes which the elector using the voting paper or papers is entitled to cast, and if on the subsequent scrutiny any inner envelope contains a number of voting papers in excess of the number marked on the inner envelope, all the ballot papers contained in that inner envelope shall be disallowed, be replaced in the inner envelope and set aside";
- (b) by deleting the word, "and" appearing immediately after subparagraph (ii) of paragraph (a) of subsection (2); and
- (c) by adding after subparagraph (iii) of paragraph (a) of subsection (2) a subparagraph as follows—
 - (iv) the opened inner envelopes which contain absent voting papers disallowed pursuant to paragraph (e) of subsection (1) of this section; and .

10. Subsection (2) of section 135 of the principal Act is amended by substituting for the words, "of one dollar twenty cents for each hour they so attend" in the penultimate and last lines, the passage, "for the time being prescribed in the regulations made under the Electoral Act, 1907, for the performance of similar duties by corresponding officers with respect to elections conducted under that Act, with a minimum of two hours' payment". S. 135
amended.

S. 179
amended.

11. Subsection (1) of section 179 of the principal Act is amended by deleting the passage, "subsection (2) of section one hundred and eighty-two," in paragraph (a), and substituting the passage, "section one hundred and eighty-two if there is such a member," .

S. 182
amended.

12. Section 182 of the principal Act is amended—

(a) by repealing subsection (2) and re-enacting that subsection as follows—

(2) Subject to subsections (2a) and (2b) of this section, the mayor or president is *ex officio* a member of a committee so appointed. ; and

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

(2a) The mayor or president shall not be *ex officio* a member of a committee so appointed, unless at the time of the appointment of the committee, he indicates his intention to be such a member.

(2b) When the mayor or president does not indicate his intention to be *ex officio* a member of a committee at the time of the appointment thereof, he may, notwithstanding the provisions of subsection (2a) of this section, become such a member of the committee if—

(a) at the first meeting of the committee held after any declaration of the annual election of members of the council that takes place after the appointment of the committee; or

(b) at any meeting of the council at which the constitution of the committee is altered,

he indicates his intention to be such a member.

(2c) The mayor or president is *ex officio* chairman of any committee so appointed of which he is *ex officio* a member. .

13. The principal Act is amended by adding after section 245 the following section— S. 245A added.

245A. (1) In this section—

“swimming pool” means a place or premises provided for the purpose of swimming, wading or like activities which the public are not entitled to use.

Private
swimming
pools.

(2) A council may so make by-laws—

- (a) for requiring the owner or occupier of land on which there is a swimming pool to instal or provide such structures as the council considers necessary for the protection of the safety of persons who may, with or without the knowledge or consent of the owner or occupier, enter upon that land; and
- (b) imposing a penalty not exceeding one hundred dollars for a breach of any of the by-laws so made, with or without provision of a daily penalty not exceeding ten dollars for each day during which the offence continues.

(3) The Governor may make and publish in the *Gazette* uniform general by-laws for all or any of the purposes for which by-laws may be made by a council under this section and all of the provisions of section four hundred and thirty-three A apply to and in relation to uniform general by-laws made under the provisions of this section as if those provisions were enacted in this section. .

Div. 18A
added.

14. Part XV of the principal Act is amended by adding after Division 18 the following Division—

Part XV.
Div. 18A.

Division 18A.—Appeals to Minister.

Minister may
refer
appeals to
certain
persons for
consideration
and report.

421A. (1) Notwithstanding the provisions of sections three hundred and seventy-four and four hundred and one, where an appeal is made to the Minister under either of those sections, the Minister may, before considering the appeal, refer the appeal to two or more persons appointed by him under subsection (3) of this section, and those persons shall as soon as practicable consider the appeal and deliver to the Minister their report in writing concerning the appeal.

(2) Where, pursuant to subsection (1) of this section, the Minister refers an appeal to persons appointed under subsection (3) of this section, the Minister shall not decide the appeal until he has received and considered the report thereon made by those persons, but, in deciding the appeal, the Minister is not obliged to adopt or give effect to the report of those persons.

(3) The Minister may appoint persons to consider, and report to him upon, appeals referred to in subsection (1) of this section, and may so appoint persons either to consider and report upon a particular appeal or generally to consider and report upon such appeals as are so referred to them.

(4) The persons appointed by the Minister under subsection (3) of this section shall receive such remuneration and allowances as the Governor determines, and any costs incurred by or with respect to those persons in carrying out their functions under this section shall be paid out of the Consolidated Revenue Fund which is hereby appropriated accordingly.

15. Subsection (1) of section 559 of the principal Act is amended by substituting for the words, "form of the Eighteenth Schedule" in line eighteen, the words "prescribed form".

S. 559
amended.

16. Subsection (1) of section 665A of the principal Act is amended—

S. 665A
amended.

- (a) by deleting the word, "or" appearing immediately after paragraph (a);
- (b) by substituting for the passage, "litter," in line four of paragraph (b), the passage, "litter; or"; and
- (c) by adding after paragraph (b) the following paragraph—
 - (c) drives a vehicle carrying a load unless the load is so arranged, contained, fastened or covered that the load or any part of it cannot fall or otherwise escape from the vehicle, .

17. The principal Act is amended by deleting the Twelfth and Eighteenth Schedules thereto.

Twelfth and
Eighteenth
Schedules
deleted.
