

LOCAL GOVERNMENT.

No. 96 of 1966.

AN ACT to amend the Local Government Act, 1960-1965.

[Assented to 12th December, 1966.]

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, 1966.* Short title and citation

(2) In this Act the Local Government Act, 1960-1965 is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Local Government Act, 1960-1966.

Commence-
ment.

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

S. 3
amended.

3. Section three of the principal Act is amended by substituting for the passage, "Division 12.—Neglected Buildings and Dilapidated Buildings, ss. 407 to 409." in lines twenty-five and twenty-six of the paragraph commencing, "PART XV.—BUILDINGS, ss. 373 to 434.", the passage, "Division 12.—Neglected, Dilapidated and Uncompleted Buildings, ss. 407 to 409A.".

S. 6
amended.

4. Subsection (1) of section six of the principal Act is amended by substituting for the words, "in fee simple" in line two of subparagraph (i) of paragraph (a) of the interpretation, "owner" the words, "of freehold".

S. 38
amended.

5. Section thirty-eight of the principal Act is amended by adding after subsection (3) a subsection as follows—

(4) An oath or affirmation of allegiance required to be made and subscribed by, or a declaration required to be made by, a person for the purposes of this section may be administered by or made before any person before whom a statutory declaration may be made pursuant to section two of the Declarations and Attestations Act, 1913. .

S. 58
amended.

6. Subsection (1) of section fifty-eight of the principal Act is amended by repealing paragraph (b).

S. 117
amended.

7. Section one hundred and seventeen of the principal Act is amended—

(a) by substituting for the passage, "After the close of the poll the returning officer—", in lines one and two, the passage, "(1) At such times on the day of the poll as have been

notified before that day by the returning officer to each candidate, the returning officer—”;

- (b) by adding after the passage, “contained;” in the last line of paragraph (d), the word, “and”;
- (c) by substituting for the passage, “cast;” in the last line of paragraph (e), the passage, “cast.”;
- (d) by repealing paragraphs (f) and (g); and
- (e) by adding a subsection as follows—

(2) After the close of the poll the returning officer—

- (a) shall seal up in separate parcels, and until the result of the election can no longer be questioned, preserve—

- (i) the envelopes bearing absent vote certificates relating to absent voting papers accepted for further scrutiny pursuant to paragraph (d) of subsection (1) of this section;

- (ii) the unopened envelopes which contain absent voting papers and which are disallowed pursuant to that paragraph; and

- (iii) the outer envelopes which contained absent voting papers; and

- (b) shall proceed with the scrutiny of the absent voting papers accepted for further scrutiny. .

8. Subsection (1) of section one hundred and seventy-four of the principal Act is amended by adding after the word, “indirect” in the interpretation, “interest”, the word, “pecuniary”.

S. 174
amended.

S. 295
amended.

9. Paragraph (c) of subsection (3) of section two hundred and ninety-five of the principal Act is repealed and re-enacted as follows—

(c) A person shall not—

- (i) assign a name to the area or the street, unless the name is first approved by the Minister for Lands;
- (ii) alter or change a name that has been so assigned, whether initially or from time to time, to the area or the street unless the Minister for Lands first approves of the alteration or change of that name. .

S. 297A
amended.

10. Paragraph (a) of subsection (6) of section two hundred and ninety-seven A of the principal Act is amended by adding after the word, “approval” in line six, the passage, “, without fee,”.

S. 329
amended.

11. Section three hundred and twenty-nine of the principal Act is amended by adding after subsection (4) the following subsections—

(4a) Subject to subsection (4b) of this section, each constituent council may appoint a deputy for each member appointed by it pursuant to subsection (4) of this section, and any deputy so appointed may—

- (a) at the request of the member for whom he is a deputy, act on behalf of that member at any meeting of the county council or regional council at which the member is unable to be present; and
- (b) while so acting, exercise all the powers and functions of that member.

(4b) A person appointed to be a member of a county council or regional council may not be appointed the deputy of another member of that council. .

12. The principal Act is amended by adding after section three hundred and forty a section as follows—

S. 340A
added.

340A. (1) Where the owner or occupier of land uses that land for the storage or sale of wood, used building materials or scrap metals, or as a place for the wrecking and sale of used motor vehicles or parts thereof, and the council is of opinion that the appearance of the land so used is out of conformity with the general appearance of other buildings and land in the locality in which the land so used is situated, the council may, by order in writing served upon that owner or occupier order him—

Owner or
occupier
to fence
certain
land.

- (a) to erect on the land within such reasonable time as is specified in the order a fence of such dimensions and of such a type of construction as will, so far as is practicable, cause the appearance of that land to be in conformity with the general appearance of other buildings and land in the locality in which that land is situated;
- (b) to keep any fence erected pursuant to an order made under this subsection in good order and repair.

(2) The owner or occupier of land in respect of which an order has been made pursuant to subsection (1) of this section may, within thirty days of the service of the order, by causing notice in writing stating his grounds to be served upon the Minister, appeal against the making of the order or against all or any of the terms contained therein.

(3) The Minister shall consider the appeal and confirm or set aside the order of the council or may confirm the order with such variations as to all or any of the terms contained therein as he thinks fit.

(4) Where—

- (a) an order made under subsection (1) of this section against which no appeal has been made;
- (b) an order made under subsection (1) of this section as confirmed by the Minister; or
- (c) an order made under subsection (1) of this section as confirmed and varied by the Minister,

is not complied with, the council may erect a fence on the land to which the order relates so as to give effect to the order, and for that purpose may by its agents, servants and workmen lawfully enter upon the land and carry out necessary work, and the expense of so doing is recoverable by the council from the owner for the time being of the land in the same manner as rates are recoverable under this Act, and until recovered is a charge upon the land. .

Heading substituted.

13. The heading appearing immediately before section four hundred and seven of the principal Act is repealed and the following heading substituted—

Division 12.—Neglected, Dilapidated and Uncompleted Buildings. .

S. 409A added.

14. The principal Act is amended by adding after section four hundred and nine a section as follows—

Uncompleted buildings.

409A. (1) Where the erection of a building has been commenced but not completed within the time prescribed by the by-laws, if any, made under paragraph (16) of section four hundred and thirty-three of this Act, that are applicable to the building, the council may, by notice served on the owner of the building, require him to show cause, within sixty days of the service of the notice, why the building should not be demolished and removed.

(2) Where an owner on whom a notice has been served pursuant to subsection (1) of this section fails, within sixty days of the service of the notice, or within such further time as the council allows for the purpose, to satisfy the council that there are good and sufficient reasons for the failure to complete the erection of the building within the time referred to in subsection (1) of this section, the council may—

(a) by order served on the owner require him to have the building demolished and removed within such reasonable time as the council specifies in the order; and

(b) subject to subsection (3) of this section, where the owner fails to comply with the terms of the order referred to in paragraph (a) of this subsection, demolish and remove the building, and recover the costs incurred on account of the demolition and removal as a debt due to it.

(3) An owner on whom an order is served pursuant to paragraph (a) of subsection (2) of this section may, within fifteen days of the service upon him of the order, by causing notice in writing setting out his grounds to be served upon the Minister, appeal against the making of the order.

(4) The Minister shall consider the appeal and confirm or set aside the making of the order, and may in confirming the order, if he thinks fit, extend the time specified in the order for compliance with the order, and the provisions of paragraph (b) of subsection (2) of this section apply in relation to the order as so confirmed or as so confirmed and varied, as the case requires. .

S. 410
amended.

15. Subsection (1) of section four hundred and ten of the principal Act is amended by adding after the passage, "building," in line three, the passage, "otherwise than in pursuance of section four hundred and ten A of this Act,".

S. 410A
added.

16. The principal Act is amended by adding after section four hundred and ten a section as follows—

Undertakings
by councils
in certain
cases.

410A. (1) Where a council has served an order under section four hundred and eight or four hundred and nine of this Act, and the person in actual occupation as owner of the building to which the notice relates—

- (a) satisfies the council that he has insufficient means to carry out the work required to be done in order to comply with the order; and
- (b) requests the council in writing to carry out the work on his behalf,

the council may carry out the work and recover the costs thereof in the manner referred to in subsection (2) or subsection (3) of this section.

(2) For the purposes of recovering the costs incurred by it pursuant to subsection (1) of this section on behalf of an owner, the council and the owner shall enter into an agreement in writing under which the council shall receive the sum of those costs by half-yearly or monthly instalments of principal over a period not exceeding ten years, together with interest on the amount from time to time outstanding at a rate—

- (a) not exceeding by more than one per centum per annum the rate charged to the council at the time the costs were incurred—

- (i) on the loan raised by the council;
or

- (ii) the moneys borrowed on overdraft by the council,

from which those costs were met, as the case may be; or

- (b) where the costs were paid out of the Municipal Fund of the council, not exceeding by more than one per centum per annum the lowest rate at which the council could, at the time the costs were incurred, have raised money on loan by the issue of debentures.

(3) Where an owner on whose behalf a council has incurred costs pursuant to subsection (1) of this section is a person entitled under section five hundred and sixty-one of this Act to claim to be exempt from liability for the payment of rates or charges under this Act, the council may agree in writing to postpone payment of those costs by the owner until the sale or transfer of the land on which the building stands, or the death of that owner, whichever first occurs.

(4) Where a council has deferred payment of costs under subsection (3) of this section, nothing contained in the Limitation Act, 1935 prevents the council from recovering the amount of any of those costs which but for this subsection it would have been prevented from so doing by that Act.

(5) Where a council has entered into an agreement pursuant to subsection (2) of this section or has postponed the payment of costs pursuant to subsection (3) of this section—

- (a) the amount from time to time owing under the agreement or the amount of the costs so postponed that is from time to time unpaid, as the case may be, is a charge on the land on which the building stands, ranking equally with any other charge created by this or any other Act and before any other charge on that land; and
- (b) the right of the council to receive moneys under the agreement or to receive payment of the costs so postponed, as the case may be, is an interest

in that land for the purposes of section one hundred and thirty-seven of the Transfer of Land Act, 1893. .

S. 532
amended.

17. Section five hundred and thirty-two of the principal Act is amended—

- (a) by deleting the word, “or” appearing immediately after paragraph (b) of subsection (3);
- (b) by substituting for the passage, “purposes.” in line two of paragraph (c) of subsection (3) the passage, “purposes; or”;
- (c) by adding after paragraph (c) of subsection (3) the following paragraph—
 - (d) if it is land owned by Co-operative Bulk Handling Limited and used solely for the storage of grain, and that company has agreed in writing to make a contribution to the municipality in respect of the maintenance and construction of roads in the locality of the land. ; and
- (d) by adding after subsection (3) subsections as follow—

(3a) Where, in respect of any land, Co-operative Bulk Handling Limited has agreed to make a contribution pursuant to paragraph (d) of subsection (3) of this section, the council shall, in respect of each financial year for which the agreement remains in force, by notice in writing advise Co-operative Bulk Handling Limited of the amount it requires to be paid as a contribution in respect of the maintenance and construction of roads in the locality of that land.

(3b) Within thirty days of the receipt by it of a notice referred to in subsection (3a) of this section, Co-operative Bulk Handling Limited shall—

(a) deliver to the council its agreement in writing to pay the amount specified in the notice; or

(b) by instrument delivered to the Minister, appeal against the amount specified in the notice,

and where the Minister receives an instrument referred to in paragraph (b) of this subsection, he shall consider the appeal and confirm, or reduce, the amount specified in the notice, as he thinks fit.

(3c) Any amount agreed to be paid to a council, or any amount determined by the Minister, pursuant to subsection (3b) of this section is recoverable by the council as a debt due to the council in any court of competent jurisdiction. .

18. Section five hundred and thirty-three of the principal Act is amended—

S. 533
amended.

(a) by deleting the word, “or” appearing immediately after paragraph (f) of subsection (3);

(b) by substituting for paragraph (g) of subsection (3), the following passage—

(g) land held or used under a lease (not being a pastoral lease under any of the Acts mentioned in paragraph (b) of this subsection or a mining lease under the Mining Act, 1904), licence or concession from the Crown with the right to take any profit from the land other than a right to cut

or remove timber—a sum equal to one dollar for every acre of the land; or

- (h) land comprised in the annual cutting section allotted by the Forests Department in respect of areas of State forests, timber reserves or other Crown land and held under a sawmilling permit or licence from the Crown for cutting or removing timber—a sum equal to one dollar for every acre of the land,

and in assessing unimproved value under paragraph (b) or (c) of subsection (2) of this section—

- (i) subject to paragraph (j) of this subsection, where the same person is the owner of two or more lots or portions of rateable land, whether improved or unimproved, that adjoin one another, each of those lots or portions may be valued separately; and
 - (j) where a building equal in value to one-half of the unimproved value of those lots or portions referred to in paragraph (i) of this subsection is so built that it is built partly on two or more of those lots or portions, then the lots or portions on which the building is built shall be valued as one. ; and
- (c) by substituting for the words, “The members of a council and its officers and any valuer” in lines one and two of paragraph (a) of subsection (7), the words, “Any valuer”.

19. Subsection (1) of section six hundred and sixty of the principal Act is amended by substituting for the passage, "as soon as possible, but not more than twenty-one days," in lines one and two of paragraph (c), the words, "as soon as practicable".

S. 660
amended.

20. Section six hundred and ninety-one of the principal Act is amended by repealing subsection (2) and substituting the following subsections—

S. 691
amended.

(2) Power given by this Act to make Orders includes power from time to time—

(a) to revoke or cancel those Orders wholly or in part, either absolutely or for the purpose of substituting other Orders for those revoked or cancelled; and

(b) to otherwise vary those Orders,

unless the terms used in conferring that power, or the nature of the subject matter, or the objects, of that power indicate that it is intended to be exercised either finally in the first instance, or only subject to certain restrictions.

(2a) The provisions of subsection (2) of this section apply to Orders made under this Act whether made before or after the coming into operation of the Local Government Act Amendment Act, 1966. .

21. The Eighth Schedule to the principal Act is amended by deleting the column headed, "No." .

Eighth
Schedule
amended.
