

MUNICIPAL CORPORATIONS.

7° GEO. VI., No. XIII.

No. 18 of 1943.

AN ACT to amend the Municipal Corporations Act, 1906-1941.

[Assented to 20th October, 1943.]

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

1. This Act may be cited as the *Municipal Corporations Act Amendment Act*, 1943, and shall be read as one with the Municipal Corporations Act, 1906-1941 (No. 32 of 1906 as reprinted pursuant to the Amendments Incorporation Act, 1938, in Volume 1 of the Reprinted Acts of the Parliament of Western Australia and amended by the Acts No. 19 of 1939, No. 41 of 1940, and No. 11 of 1941), hereinafter referred to as the principal Act.

Short title.
cf. No. 11 of
1941, s. 9.

2. Section two of the principal Act is amended by adding to the item commencing with the words "Part III" after the words "Division 9—Procedure ss. 24-26" at the end of such item the words following:—

Amendment
of s. 2.

"Division 10—Appointment of Commissioner where no Council ss. 36A-36C."

New Division
added to
Part III.

3. A new Division is added to Part III. of the principal Act after section thirty-six as follows:—

Division 10—Appointment of Commissioner where no Council.

Power to
appoint Com-
missioner
where there
is no
Council or
quorum.
See Road Dis-
tricts Act,
1919-1942,
s. 30.

36A. (1) In case at any time there is in any district no council or not sufficient councillors to form a quorum, the Governor may by Order in Council appoint some fit and proper person to be a Commissioner of such district, and may remove every person so appointed.

Provided that this section shall not apply in the case of a new district until after the day appointed for the first election.

(2) Every such Commissioner shall be paid such remuneration out of the ordinary revenue of the district as the Governor may from time to time determine.

(3) Every Commissioner so appointed shall be deemed to be the Council and shall have and exercise all the powers and be subject to all the duties of the Council and the mayor thereof.

On appoint-
ment of Com-
missioner re-
maining Coun-
cillors to go
out of office.
ibid., s. 31.

36B. If when a Commissioner is appointed for any district the mayor or any councillors are in office in such district, such mayor and such councillors shall thereupon go out of office.

Power after
appointment
of Commis-
sioner to re-
store govern-
ment of dis-
trict to a
council.
ibid., s. 32.

36C. Whilst a Commissioner is in office for any district the Governor may, whenever he thinks fit, by Order in Council appoint a day for holding an election of mayor and councillors for the return of the mayor and the whole number of councillors assigned to the district or the wards thereof, and, if and when a quorum is elected all the powers and duties of the Commissioner shall cease.

Amendment
of s. 39.

4. Section thirty-nine of the principal Act is amended by adding thereto a subsection as follows:—

(4) Nothing in subsection (1) of this section shall apply to any mayor or councillor of a municipality who is appointed and acts as treasurer of the Council in an honorary capacity and is not paid any remuneration for his services as such treasurer.

5. A section is inserted in the principal Act after section eighty-two as follows:— New section.

82A. (1) Whenever an extraordinary vacancy (within the meaning of any of the provisions of this Act) occurs in the office of the mayor of a municipality the majority of the councillors may by a ballot appoint any councillor of the municipality to be the acting mayor thereof until the mayor is elected. Acting mayor may be appointed in certain cases.

(2) The councillor who is appointed acting mayor as aforesaid, while so acting, shall have and may exercise all the powers and shall be subject to all the duties of the mayor of the municipality under this Act.

6. Section one hundred and ten of the principal Act is amended by adding to subsection (1) a proviso as follows:— Amendment of s. 110.

Provided that, for the purposes of this section, an elector who resides outside the district but within a distance of five miles from the polling place in such district, shall, notwithstanding that he resides outside the district as aforesaid, be deemed not to be absent from the district within the meaning of paragraph (a) of this subsection merely by reason of such residence.

7. Section one hundred and forty-seven of the principal Act is amended as follows:— Amendment of s. 147.

(a) by inserting therein after subsection (1) a subsection as follows:—

(1a) The council may from time to time appoint the mayor or any councillor of the municipality as treasurer of the Council in an honorary capacity provided he is not paid any remuneration for his services as such treasurer.

(b) by adding to subsection (2) a proviso as follows:—

Provided that where the town clerk or any other officer appointed as an engineer or as a building surveyor is for any reason, other

than the expiration of his contract of service by effluxion of time, removed from his office the following provisions shall apply :—

- (i) The town clerk or other officer, who has been removed from office, shall have a right of appeal against such removal to the Magistrate of the local court held in or nearest to the district of the municipality.
- (ii) Such Magistrate shall have jurisdiction to hear the appeal.
- (iii) Notice of the appeal shall be given by the appellant both to the Council and to the Minister within fourteen days after the appellant has been removed or has received notice of the intention of the Council to remove him from his office or otherwise terminate his employment whichever shall sooner occur.
- (iv) The Magistrate may either dismiss or allow the appeal.
- (v) Whenever an appeal is allowed the Magistrate may make such order in respect of the reinstatement or continuation of the appellant in his office as the Magistrate may think just, and the Council shall give effect to such order according to the tenor thereof.
- (vi) The practice and procedure relating to appeals under this proviso shall be such as may from time to time be prescribed by regulations.

Amendment
of s. 156.

8. Section one hundred and fifty-six of the principal Act is amended by adding to subsection (1) thereof a proviso as follows:—

Provided that, where in any year a Council satisfies the Minister that the statement required by subsection (2) of section four hundred and seventy-eight of this Act to be prepared and presented to the rate-payers at the annual meeting to be held in accord-

ance with this subsection in the month of November in that year cannot by reason of particular circumstances be ready for presentation at such meeting if the same is held in such month of November, the Minister may by notice in writing published in the *Government Gazette* extend the time for holding such annual meeting to a date in the month of December then next following, and in such case such meeting may lawfully be held after the day of the annual election for that year.

9. Section four hundred and eighty-six of the principal Act is amended by inserting in subsection (1) after the word "resignation" in lines two and three of the said subsection, the words "or by reason of any other circumstances."

Amendment
of s. 486.

10. A section is inserted in the principal Act after section four hundred and eighty-six as follows:—

New section.

486A. (1) Whenever an extraordinary vacancy occurs in the office of an auditor for the municipality the Minister may do either one of the following things namely:—

Special provisions in case of extraordinary vacancy in office of auditor.

(a) Notwithstanding anything to the contrary contained in this Act, by notice in writing to the Council and published in the *Government Gazette*, direct that the auditor for the municipality then in office shall be the only auditor for such municipality until an auditor is elected to fill the vacancy at the next annual election of auditor held under subsection (1) of section four hundred and eighty-one of this Act; or

(b) Appoint a person qualified under subsection (2) of section four hundred and eighty-one aforesaid for election as auditor; as an acting auditor for the municipality until a person is elected as auditor to fill the said vacancy in accordance with section four hundred and eighty-six of this Act.

(2) When the Minister makes a direction under paragraph (a) of subsection (1) of this section all acts, matters and things done by the one auditor

then in office under the authority of such direction shall be as effective as if the same had been done by the two auditors for the municipality.

(3) When the Minister appoints an acting auditor under paragraph (b) of subsection (1) of this section, such acting auditor, while he so acts, shall have and exercise the same powers and be subject to the same duties as an auditor who has been duly elected as such under the provisions of this Act.

Citation of
principal Act
as amended.

11. The principal Act as amended by this Act may be cited as the Municipal Corporations Act, 1906-1943.
