

WESTERN AUSTRALIA

**LOCAL GOVERNMENT (UNIFORM
LOCAL PROVISIONS)
REGULATIONS 1996**

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LOCAL GOVERNMENT ACT 1995
**LOCAL GOVERNMENT (UNIFORM LOCAL PROVISIONS)
REGULATIONS 1996**

Made by His Excellency the Governor in Executive Council under section 9.60.

Citation

1. These regulations may be cited as the *Local Government (Uniform Local Provisions) Regulations 1996*.

Commencement

2. These regulations come into operation on 1 July 1996.

These regulations operate as local laws

3. Under section 9.60 of the Act, these regulations apply as if they were local laws made by each local government.

Interpretation

4. In these regulations, unless the contrary intention appears —

“lawful authority” means —

- (a) the consent in writing of the local government; or
- (b) authority conferred by an Act.

Disturbing local government land or anything on it — Sch. 9.1, cl. 2

5. A person who, without lawful authority —

- (a) interferes with the soil of, or anything on, land that is local government property; or

(b) takes anything from land that is local government property,
commits an offence the penalty for which is a fine of \$1 000.

Obstructing public thoroughfare — Sch. 9.1, cl. 3 (1)

6. (1) A person who, without lawful authority, places on a public thoroughfare anything that obstructs it commits an offence if the person fails to remove the obstruction when requested by the local government to do so.

(2) If anything falls from land, or from anything on land, onto a public thoroughfare and obstructs it, a person who is the owner or occupier of the land commits an offence if the person fails to remove the obstruction when requested by the local government to do so.

(3) The penalty for an offence against subregulation (1) or (2) is a fine of \$1 000.

[Note: This regulation is of a kind prescribed in Schedule 3.1, Division 2, item 1. This means that an offender might be given a notice under section 3.25 (1) (b) of the Act and if the notice is not complied with the local government may, under section 3.26, itself do what the notice required and recover the cost from the offender.]

Encroaching on public thoroughfare — Sch. 9.1, cl. 3 (2)

7. (1) A person who is the owner or occupier of land and, without lawful authority —

(a) erects on the land a structure that encroaches upon a public thoroughfare; or

(b) permits a tree or other plant growing on the land to encroach upon a public thoroughfare,

commits an offence if the person fails to remove the structure or plant, to the extent that it is encroaching, when requested by the local government to do so.

(2) The penalty for an offence against subregulation (1) is a fine of \$1 000 and a further \$50 for each day or part of a day during which the offence continues.

[Note: This regulation is of a kind prescribed in Schedule 3.1, Division 2, item 1. This means that an offender might be given a notice under section 3.25 (1) (b) of the Act and if the notice is not complied with the local government may, under section 3.26, itself do what the notice required and recover the cost from the offender.]

See also Schedule 3.1, Division 1, items 7, 8, and 9 which may allow a similar notice relating to vegetation to be given even when no offence has been committed.

Schedule 3.2, item 7, could also be relevant.]

Separating land from public thoroughfare — Sch. 9.1, cl. 4

8. (1) A person who is the owner or occupier of land commits an offence if any fence or gate that separates the land from a public thoroughfare is not kept in good repair.

(2) The penalty for an offence against subregulation (1) is \$1 000.

[Note: See also Schedule 3.1, Division 1, item 4, which, for related reasons, allows a person to be given a notice under section 3.25 (1) (a) of the Act and if the notice is not complied with the local government may, under section 3.26, itself do what the notice required and recover the cost from the person.]

Permission to have gate across public thoroughfare — Sch. 9.1, cl. 5 (1)

9. (1) A person may apply to the local government for permission to have across a public thoroughfare under the control or management of the local government a gate or other device that enables motor traffic to pass across the public thoroughfare and prevents livestock from straying.

(2) The local government may, before dealing with the application, require the applicant to publish notice of the application in such manner as the local government thinks fit.

(3) Permission granted by the local government under this regulation is required to specify the period for which it is granted and may be renewed from time to time.

(4) The local government may impose such conditions as it thinks fit on the construction, placement and maintenance of the gate or other device across the public thoroughfare and may, when renewing the permission or at any other time, vary any condition.

(5) The local government may at any time withdraw permission granted under this regulation and request the person responsible for the gate or other device to remove it within a time specified in the request.

(6) A person to whom a request is made under subregulation (5) commits an offence if the person fails to comply with the request.

(7) The penalty for an offence under subregulation (6) is \$1 000.

(8) A local government is required to keep a register of gates and other devices constructed under this regulation.

[Note: Subregulation (6) is of a kind prescribed in Schedule 3.1, Division 2, item 1A. This means that an offender might be given a notice under section 3.25 (1) (b) of the Act and if the notice is not complied with the local government may, under section 3.26, itself do what the notice required and recover the cost from the offender.]

Gate across thoroughfare not to be left open — Sch. 9.1, cl. 5 (2)

10. (1) A person who leaves open a gate registered under regulation 9(8) commits an offence.

(2) The penalty for an offence against subregulation (1) is \$1 000.

Dangerous excavation in or near public thoroughfare — Sch. 9.1, cl. 6

11. (1) If there is, in a public thoroughfare or land adjoining a public thoroughfare, an excavation that the local government considers to be dangerous, the local government may —

(a) fill in or fence the excavation; or

(b) in writing request the owner or occupier of the land to fill in or securely fence the excavation.

(2) If a person who is the owner or occupier of land in which there is a dangerous excavation fails to fill in or securely fence the excavation when requested under subregulation (1) to do so, the person commits an offence.

(3) The penalty for an offence against subregulation (2) is \$1 000.

[Note: This regulation is of a kind prescribed in Schedule 3.1, Division 2, item 2. This means that an offender might be given a notice under section 3.25 (1) (b) of the Act and if the notice is not complied with the local government may, under section 3.26, itself do what the notice required and recover the cost from the offender.]

Crossing from public thoroughfare to private land or private thoroughfare — Sch. 9.1, cl. 7 (2)

12. (1) Upon the application of the sole owner, or a majority of the owners, of private land the local government may, subject to regulation 14(2) —

(a) approve the construction, under the supervision of, and to the satisfaction of, the local government, of a crossing giving access from a public thoroughfare to —

(i) the land; or

(ii) a private thoroughfare serving the land;

or

(b) agree to construct for the applicant a crossing giving access from a public thoroughfare to —

(i) the land; or

(ii) a private thoroughfare serving the land.

(2) A person is not to construct a crossing for vehicles from a public thoroughfare that is a Government road as defined in section 5 (1) of the *Road Traffic Act 1974* to —

(a) land on which premises have been or are about to be constructed; or

(b) a private thoroughfare serving the land,

unless the construction of the crossing has been approved by the local government under subregulation (1) and the crossing is constructed in accordance with the approval.

Penalty: \$1 000.

[Note: Subregulation (2) is of a kind prescribed in Schedule 3.1, Division 2, item 2A (a). This means that an offender might be given a notice under section 3.25 (1) (b) of the Act and if the notice is not complied with the local government may, under section 3.26, itself do what the notice required and recover the cost from the offender.]

Requirement to construct or repair crossing — Sch. 9.1, cl. 7 (3)

13. (1) A local government may, subject to regulation 14(2), give a person who is the owner or occupier of private land a notice in writing requiring the person to construct or repair a crossing from a public thoroughfare to the land or a private thoroughfare serving the land.

(2) If the person fails to comply with the notice, the local government may construct or repair the crossing as the notice required and recover 50% of the cost of doing so as a debt due from the person.

(3) A person to whom a notice is given under subregulation (1) commits an offence if the person fails to comply with the notice.

(4) The penalty for an offence under subregulation (3) is \$1 000.

Role of Commissioner of Main Roads in some cases — Sch. 9.1, cl. 7 (2)

14. (1) This regulation applies to a crossing for vehicles from a public thoroughfare that is a Government road as defined in section 5 (1) of the *Road Traffic Act 1974* to —

- (a) land on which premises have been or are about to be constructed; or
- (b) a private thoroughfare serving the land.

(2) A local government cannot —

- (a) under regulation 12 construct or approve the construction of; or
- (b) under regulation 13(1) require the construction of,

a crossing to which this regulation applies unless the local government has consulted with the Commissioner and the Commissioner has approved the construction of the crossing.

(3) If a person —

- (a) constructs a crossing to which this regulation applies other than in accordance with approval given by the Commissioner under this regulation; or
- (b) modifies a crossing to which this regulation applies in such a way that it is not in accordance with approval given by the Commissioner under this regulation,

the Commissioner may, by notice in writing, require the person to bring the crossing into accordance with the approval, if approval was given, or remove the crossing and restore the place where the crossing was to its former condition.

(4) If the person fails to comply with the notice, the Commissioner may do anything required by the notice to be done and recover the cost of doing it as a debt due from the person.

(5) A person to whom a notice is given under subregulation (3) commits an offence if the person fails to comply with the notice.

(6) The penalty for an offence under subregulation (5) is \$1 000.

(7) In this regulation —

“**Commissioner**” means the Commissioner of Main Roads.

[Note: Subregulation (5) is of a kind prescribed in Schedule 3.1, Division 2, item 2A (b). This means that an offender might be given a notice under section 3.25 (1) (b) of the Act and if the notice is not complied with the local government may, under section 3.26, itself do what the notice required and recover the cost from the offender.]

Contribution to cost of crossing — Sch. 9.1, cl. 7 (4)

15. (1) Where —

- (a) a local government —
 - (i) under regulation 12 constructs or approves the construction of; or
 - (ii) under regulation 13(1) requires the construction of,

a crossing giving access from a public thoroughfare to private land or a private thoroughfare serving the land;

- (b) the crossing is the first crossing in respect of the land; and
- (c) the crossing is a standard crossing or is of a type that is superior to a standard crossing,

the local government is obliged to bear 50% of the cost, as estimated by the local government, of a standard crossing, but otherwise the local government is not obliged to bear, nor prevented from bearing, any of the cost.

- (2) In subregulation (1) —

“first crossing”, in respect of land, means the first crossing to the land or a private thoroughfare serving the land constructed under regulation 12 or section 358 of the *Local Government Act 1960* as in force at any time before 1 July 1996;

“standard crossing” means, subject to any local law as to what is or is not a standard crossing, a crossing of a kind that the local government, by resolution, decides is a standard crossing.

Objections and appeals against decisions about crossings

16. Part 9, Division 9.1, applies to —

- (a) a decision of a local government made upon an application under regulation 12 or a decision by the Commissioner of Main Roads under regulation 14(2) relating to the application;
- (b) a notice given by a local government under regulation 13(1); or
- (c) a notice given by the Commissioner of Main Roads under regulation 14(3),

and the applicant or person to whom the notice was given, as the case requires, is an affected person for the purposes of applying that Division.

Private works on, over, or under public places — Sch. 9.1, cl. 8

17. (1) A person who constructs anything on, over, or under a public thoroughfare or other public place that is local government property without first obtaining written permission from the local government commits an offence.

- (2) A local government may —
- (a) grant permission to construct anything on, over, or under a public thoroughfare or other public place that is local government property; and
 - (b) impose conditions in respect of the permission, which may include a condition imposing a charge for any damage to the public thoroughfare or public place resulting from the construction.
- (3) It is a condition of the permission that the ordinary and reasonable use of the public thoroughfare or public place for the purpose to which it is dedicated is not to be permanently or unreasonably obstructed.
- (4) A person who fails to comply with a condition of the permission commits an offence.
- (5) A person who constructs anything in accordance with permission under this section is required to —
- (a) maintain it; and
 - (b) obtain from an insurance company approved by the local government an insurance policy, in the joint names of the local government and the person, indemnifying the local government against any claim for damages which may arise in, or out of, its construction, maintenance or use.
- (6) A person who fails to comply with subregulation (5) commits an offence.
- (7) The penalty for an offence under subregulation (1), (4), or (6) is \$1 000.

[Note: Subregulations (1) and (4) are of the kind prescribed in Schedule 3.1, Division 2, item 3. This means that an offender might be given a notice under section 3.25 (1) (b) of the Act and if the notice is not complied with the local government may, under section 3.26, itself do what the notice required and recover the cost from the offender. Schedule 9.1, item 8 (4) is relevant.]

See also Schedule 3.1, Division 1, item 3 which allows a similar notice to be given even when no offence has been committed.]

Protection of watercourses, drains, tunnels and bridges — Sch. 9.1, cl. 9

18. (1) A person who, without lawful authority, alters, obstructs, or interferes with, any watercourse, drain, tunnel, or bridge that is local government property, commits an offence.

(2) A person who, wilfully or negligently, causes or permits tree material that is, or has been, growing on land occupied by that person, to fall into a watercourse that is local government property commits an offence.

(3) The penalty for an offence under subregulation (1) or (2) is \$1 000.

(4) In this regulation —

“tree material” means leaves, timber, logs, and brushwood.

[Note: This regulation is of a kind prescribed in Schedule 3.1, Division 2, item 4. This means that an offender might be given a notice under section 3.25 (1) (b) of the Act and if the notice is not complied with the local government may, under section 3.26, itself do what the notice required and recover the cost from the offender.]

Protection of thoroughfares from water damage — Sch. 9.1, cl. 10

19. (1) A person who, without lawful authority, alters, obstructs, or interferes with the natural flow of surface water across any thoroughfare or other land in such a way as is likely to damage any thoroughfare that is local government property commits an offence.

(2) The penalty for an offence under subregulation (1) is \$1 000.

[Note: This regulation is of a kind prescribed in Schedule 3.1, Division 2, item 5. This means that an offender might be given a notice under section 3.25 (1) (b) of the Act and if the notice is not complied with the local government may, under section 3.26, itself do what the notice required and recover the cost from the offender.]

Works required for supply of gas or water — Sch. 9.1, cl. 11

20. (1) A local government that is responsible for supplying water or gas may carry out any works that are necessary for the purpose of providing, maintaining, or modifying the supply system.

(2) Before a local government carries out works under this regulation in a public thoroughfare or other public place that is not local government property, it is required to give at least 3 days' notice of its intention to carry out the works to the local government or other person having the management or control of the place.

(3) Notice is not required to be given under subregulation (2) if it is not practicable to give it because of exceptional circumstances and in that case notice of the works is required to be given as soon as is practicable after deciding to carry them out, but the works may be commenced before the notice is given.

(4) This regulation —

- (a) does not authorize a local government to interfere with a supply system that is not local government property without the consent of a person who has authority to consent; and
- (b) does not authorize a local government to carry out works in a public thoroughfare or other public place that is not local government property unless the person having the management or control of the place, or a representative of that person, is present while the work is being carried out.

Wind erosion and sand drifts — Sch. 9.1, cl. 12

21. (1) A local government may give a notice under this regulation to a person who is the owner or occupier of land (in this regulation called "**the person's land**") if the local government considers that clearing the person's land might cause land having a common boundary with it that is local government property to be adversely affected by wind erosion or sand drift.

(2) The notice may forbid the person, to the extent specified in the notice, to clear the person's land of vegetation without the consent of the local government.

(3) The notice cannot forbid the clearing of land that is more than 60 metres from the common boundary of the person's land with the land that is local government property.

(4) A person who is given a notice under subregulation (1) and contravenes the notice commits an offence the penalty for which is a fine of \$1 000.

(5) A person who is given a notice under subregulation (1) may object or appeal against the notice in accordance with Part 9.1, Division 1, of the Act, as if —

- (a) the person were an “affected person” as defined in that Division; and
- (b) the giving of the notice were the making of a “decision” as defined in that Division,

and the provisions of that Division are adopted accordingly.

[Note: This regulation is of a kind prescribed in Schedule 3.1, Division 2, item 6. This means that an offender might be given a notice under section 3.25 (1) (b) of the Act and if the notice is not complied with the local government may, under section 3.26, itself do what the notice required and recover the cost from the offender.]

See also Schedule 3.1, Division 1, item 6 which allows a similar notice to be given even when no offence has been committed.]

By His Excellency's Command,

J. PRITCHARD, Clerk of the Council.