

WESTERN AUSTRALIA

LOCAL GOVERNMENT AMENDMENT ACT (No. 2)

No. 39 of 1988

AN ACT to amend the *Local Government Act 1960*.

[Assented to 30 November 1988]

The Parliament of Western Australia enacts as follows:

Short title

1. This Act may be cited as the *Local Government Amendment Act (No. 2) 1988*.

Commencement

2. The provisions of this Act shall come into operation on such day as is, or days as are respectively, fixed by proclamation.

Principal Act

3. In this Act the *Local Government Act 1960** is referred to as the principal Act.

*[*Reprinted as approved 24 June 1983 and amended by Acts Nos. 6 and 84 of 1983, 17, 25, 42 and 79 of 1984, 35, 98, 99, 105 and 109 of 1985, 9 and 26 of 1986, 42 of 1987, and 10 of 1988.]*

Section 6 amended

4. Section 6 of the principal Act is amended in subsection (1) by inserting after the definition of “cattle” the following definition—

“ “chief executive officer” means chief executive officer of the department principally assisting the Minister to whom the administration of this Act is for the time being committed by the Governor with that administration; ”.

Section 136A inserted

5. After section 136 of the principal Act the following section is inserted—

Returning officer may use other assistance

“ 136A. For the purposes of facilitating the carrying out of the functions conferred on the returning officer under this Subdivision the returning officer may use such officers and other persons and such mechanical and electronic devices as are necessary. ”.

Section 259A amended

6. Section 259A of the principal Act is amended—

- (a) in subsection (1), by deleting “, and subject to subsection (2) of this section,”; and
- (b) by repealing subsection (2).

Section 433A repealed and substituted

7. Section 433A of the principal Act is repealed and the following section is substituted—

Building regulations

“ 433A. (1) The Governor may make regulations for all or any of the purposes for which by-laws may be made under this Part by a council.

(2) Without affecting the application of section 678A to regulations made under subsection (1), regulations adopting a code, standard or requirement (hereinafter referred to as “the adopted code”)—

- (a) may adopt all or any part of the adopted code;
- (b) may adopt the adopted code as amended by the regulations;
- (c) may adopt the adopted code as set out in the adopted code as amended from time to time;
- (d) may provide that any matter or thing referred to in the adopted code shall conform with any code, standard or requirement referred to in the adopted code as set out in the code, standard or requirement so referred to (hereinafter referred to as “the referred code”) as amended from time to time;
- (e) may contain such incidental, supplementary, savings and transitional provisions as are necessary or convenient.

(3) The chief executive officer—

- (a) shall cause a copy of every adopted code and every referred code to be available for inspection by members of the public at the office of the chief executive officer without charge during normal office hours; and
- (b) may cause copies of every adopted code and referred code, or any part thereof to be available for the public on payment of such charge as may be imposed by the chief executive officer.

(4) In any legal proceedings a copy of the adopted code, or the referred code, or any part thereof, certified or purporting to be certified by the chief executive officer or an officer of the department authorized in that behalf by the chief executive officer to be a true copy of the adopted code or the referred code, as the case may be, shall be evidence of the adopted code or the referred code, as the case requires.

(5) Notwithstanding anything in section 678A the provisions of section 259A apply to and in relation to regulations made under this section as though the regulations were uniform general by-laws.

(6) Where a by-law made under this Division (not being a by-law made under section 248 (1)) is inconsistent with regulations made under this section the latter prevails to the extent of the inconsistency. ”.

Section 435 amended

8. Section 435 of the principal Act is amended by repealing subsection (6) and substituting the following—

“ (6) The chief executive officer or an officer nominated in writing by the chief executive officer shall be the secretary of the Committee. ”.

Section 530 amended

9. Section 530 of the principal Act is amended in paragraph (c) by deleting “establishing and maintaining” in subparagraph (iv) and substituting the following—

“ establishing or maintaining, or both establishing and maintaining ”.

Section 569 amended

10. Section 569 of the principal Act is amended—

(a) in subsection (1)—

(i) in the definition of “lease” by deleting “premises” wherever occurring and substituting in each case the following—

“ land ”; and

(ii) by deleting the definition of “premises”;

(b) in subsection (2)—

(i) by deleting “in respect of premises” and substituting the following—

“ in respect of any land ”; and

(ii) by deleting “premises” wherever occurring and substituting in each case the following—

“ land ”; and

(c) by inserting the following subsection—

“ (7) This section does not apply in respect of land of which the lessor or lessee is—

(a) the Crown in right of the Commonwealth or of the State;

(b) a department, agency, or instrumentality of the Crown in right of the Commonwealth or of the State;

(c) the State Housing Commission constituted pursuant to the *Housing Act 1980*;

(d) The Rural and Industries Bank of Western Australia constituted under *The Rural and Industries Bank of Western Australia Act 1987*. ”.

Miscellaneous amendments

11. The provisions of the principal Act specified in column 1 of the Table to this section are amended by deleting the passage opposite and corresponding to those provisions in columns 2 and 3 of that Table.

TABLE

Column 1 Provision	Column 2 Delete (wherever occurring)	Column 3 Substitute
245A (3)	“uniform general by-laws”	“regulations”
245A (5)	“uniform general by-laws”	“regulations”
248 (2)	“uniform general by-laws”	“regulations”
248 (3)	“uniform general by-laws”	“regulations”
373 (4)	“(whether uniform general by-laws or otherwise)”	“, regulations or other subsidiary legislation”
374 (2)(b)	“uniform general by-law”	“regulation”
400 (1) (a)	“uniform general by-law”	“regulations”
433AA	“Uniform general by-laws”	“Regulations”