

LOCAL GOVERNMENT.

No. 17 of 1984.

AN ACT to amend the Local Government Act
1960-1983.

[Assented to 31 May 1984.]

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 Amendment Act 1984*.
Short title and citation.
- (2) In this Act the Local Government Act 1960-1983 is referred to as the principal Act.
Reprinted as approved 24 June 1983 and amended by Act No. 6 of 1983.
- (3) The principal Act as amended by this Act may be cited as the Local Government Act 1960-1984.

Commencement.

2. This Act shall come into operation on such day or days as is or are respectively fixed by proclamation.

Section 98
amended.

3. Section 98 of the principal Act is amended by inserting after subsection (5) the following sub-section—

“(6) No part of any premises licensed for the sale of liquor shall be used for the purposes of any polling place.”.

Section 181
amended.

4. Section 181 of the principal Act is amended in subsection (3b), by deleting “section 179 and those of subsections (2)” and substituting the following—

“subsection (1) of section 179 and those of subsections (2), (3) ”.

Section 190
amended.

5. Section 190 of the principal Act is amended in paragraph (d) of subsection (7) by deleting “other than a by-law made under Part XV which relates to buildings, and which makes provisions for penalties for breach of by-laws made under that Part,” and substituting the following—

“unless otherwise specifically provided by a provision of this Act under which a by-law is made, ”.

Section 217
amended.

6. Section 217 of the principal Act is amended in subsection (1) in the definition of “hawker” by deleting “or is in any street there”.

Section 242
amended.

7. Section 242 of the principal Act is amended—

(a) in subsection (1), by deleting the definition of “stall” and substituting the following definitions—

““community association” means an institution, association, club, society or body, whether incorporated or not, the objects of which are of a charitable, benevolent,

religious, cultural, educational, recreational, sporting or other like nature and the members of which are not entitled or permitted to receive any pecuniary profit from the transactions thereof;

“stall” means a movable or temporarily fixed structure, stand or table in, on or from which goods, wares, merchandise or services are sold or offered for sale; ”;

and

- (b) by inserting after subsection (2) the following subsections—

“(3) Where a stall is set up by a community association and business is conducted at the stall by and for the purposes of the community association, fees or charges prescribed by by-laws made under paragraph (h) or (i) of subsection (2) of this section shall not be payable in respect of that stall or the licence under which it is set up.

(4) Notwithstanding section 190 (7) (d) (i), a by-law made under subsection (2) (g) of this section may impose, for a breach of the by-law so made where the offence is committed in respect of a stall set up in a street or other public place, a maximum penalty of \$1 000 or imprisonment for 6 months.”.

8. Section 244 of the principal Act is amended— Section 244
amended.

- (a) by inserting after the section designation “244.” the following subsection and subsection designation—

“(1) In this section—

“community association” has the same meaning as it has in section 242;

“trading” means selling goods, wares, merchandise or services, or offering goods, wares, merchandise or services for sale, in a street or other public place and includes displaying goods, wares or merchandise for the purpose of offering them for sale, inviting offers for sale, soliciting orders or carrying out any other transaction therein, but does not include the setting up of a stall, or the conducting of business at a stall, under the authority of a licence issued under by-laws made under section 242.

(2) ”;

(b) by inserting after paragraph (a) the following paragraph—

“ (aa) without limiting the powers conferred by paragraph (a) of this subsection, for—

- (i) regulating the positions or places at which, and the days and times during which, a person may carry on trading;
- (ii) requiring persons carrying on trading to do so under the authority of licences issued by the council;
- (iii) prescribing charges to be paid, in addition to any fees payable in respect of licences issued by the council under by-laws made under subparagraph (ii) of this paragraph, by persons to whom those licences are so issued; and

(iv) the regulation of trading generally; ”;

and

(c) by inserting the following subsections—

“ (3) Where trading is carried on by a community association for the purposes of that community association, fees or charges prescribed by by-laws made under section 222 or subsection (2) (aa) of this section shall not be payable in respect of that trading or the licence under which it is carried on.

(4) Notwithstanding section 190 (7) (d) (i), a by-law made under subsection (2) (aa) (ii) of this section may impose, for a breach of a by-law so made a maximum penalty of \$1 000 or imprisonment for 6 months. ”.

9. Section 247 of the principal Act is repealed. Section 247
repealed.

10. Section 259A of the principal Act is amended Section 259A
amended. in paragraph (h) of subsection (1) by deleting “, and subject to” and substituting the following—

“ , subject to ”.

11. Section 266 of the principal Act is amended Section 266
amended. in paragraph (c) of subsection (2) by inserting after “agency” the following—

“ or any public statutory body, corporate or unincorporate, established by or under a law of the State ”.

Section 266A
amended.

12. Section 266A of the principal Act is amended in paragraph (c) (iii) of subsection (2) by inserting after "agency" the following—

" or any public statutory body, corporate or unincorporate, established by or under a law of the State ".

Section 267
amended.

13. Section 267 of the principal Act is amended in paragraph (b) of subsection (5) by inserting after "agency" the following—

" or any public statutory body, corporate or unincorporate, established by or under a law of the State ".

Heading to
Part XV
Division 5
deleted.

14. The principal Act is amended by deleting after section 380 the following heading—

" *Division 5.—Roofing and Ventilation.* ".

Section 401
amended.

15. Section 401 of the principal Act is amended by repealing subsection (7) and substituting the following subsections—

" (7) If the builder or owner on whom a notice mentioned in subsection (1) of this section has been served does not—

(a) within 35 days of that on which the notice is served upon him, unless the requisitions in the notice are the subject of an appeal under this section; or

(b) if an appeal under this section is dismissed, within 14 days of the dismissal,

comply with the requisitions in the notice, a court of petty sessions on complaint by the council that he has not so complied with all

or any of the requisitions in the notice and that the requisitions in respect of which the complaint is made are not the subject of appeal under this section, may order the person on whom the notice has been served to comply with the requisitions within a time to be fixed by the order, and the court may make such order as to the costs of and incidental to the proceedings relating to the order as the court thinks fit.

(8) If an order made under subsection (7) of this section is not complied with by the person to whom it is directed within the time so fixed, the council may lawfully enter upon the land on which the building is erected or is in course of being erected and give effect to the requisitions and may, in a court of competent jurisdiction, recover the expense of so doing from the builder or owner on whom the notice was served.

(9) An order made under subsection (7) of this section is not subject to appeal. ”.

16. Section 408 of the principal Act is amended in subsection (4) by deleting “, (b) ”. Section 408
amended.

17. Section 446A of the principal Act is amended— Section 446A
amended.

(a) in subsection (2), by inserting after “subsidy,” the following—

“ loan, ”; and

(b) by inserting after subsection (3) the following subsection—

“(4) A loan made by a council under subsection (2) of this section may be made upon such terms and conditions as the council determines and without limiting the generality of the foregoing may provide for the payment of interest thereon. ”.

Section 512
amended.

18. Section 512 of the principal Act is amended by deleting paragraph (k).

Section 513
amended.

19. Section 513 of the principal Act is amended in subsection (1)—

(i) in paragraph (g), by deleting “twenty dollars” in subparagraph (i) and substituting the following—

“ \$50 ”,

(ii) in paragraph (h), by deleting subparagraphs (i) and (ii) and substituting the following subparagraphs—

“ (i) where the loss of earnings so incurred is less than \$50, the amount of the loss; or

(ii) where the amount of the loss of earnings exceeds \$50 or cannot accurately be certified, \$50; ”;

(iii) in paragraph (ha), by deleting subparagraphs (i) and (ii) and substituting the following subparagraphs—

“ (i) where the loss of earnings so incurred is less than \$50, the amount of the loss; or

(ii) where the loss of earnings so incurred exceeds \$50 or cannot accurately be certified, \$50. ”.

Section 531A
amended.

20. Section 531A of the principal Act is amended by inserting after the definition of “gross rental value” the following definition—

“ “interim valuation” has the same meaning as under the Valuation of Land Act 1978; ”.

21. Section 534 of the principal Act is repealed ^{Section 534 substituted.} and the following section is substituted—

- “ 534. (1) Where, as the result of an interim valuation, a determination of the unimproved value or the gross rental value of rateable land in a district comes into force under the Valuation of Land Act 1978 in any financial year and that unimproved value or gross rental value is an amount different from the amount entered for that year in the rate book of the municipality as the unimproved value or the gross rental value, as the case may be, of that land, the council of the municipality shall amend the rate book by entering therein the new value so determined.
- (2) Where a council amends a rate book under subsection (1) of this section it shall, on the basis of that amendment, re-assess the rates payable on the land in respect of the portion of the financial year unexpired as at the date the determination comes into force under the Valuation of Land Act 1978. ”.

22. After section 534 of the principal Act the ^{Section 535 inserted.} following section is inserted—

- “ 535. (1) Where under section 534 the rates payable on any land are reduced—
- ^{Effect of amendment of rate under s. 534.}
- (a) if notice of the former value and rate imposed on that value have already been served on the ratepayer, the council shall cause to be served upon him notice of the new value and reduced amount of rate; and
 - (b) if the ratepayer has already paid the amount of the rate imposed on the former value, the difference between that amount and the amount of the rate shown in the notice served pursuant to paragraph (a) of this subsection shall, if the ratepayer by

notice in writing to the council so elects within 30 days of the service of that notice on him, be appropriated by the council in satisfaction or part satisfaction of any amount payable for rates in the future by the ratepayer to the council, but otherwise the council shall refund the amount of the difference to the ratepayer.

(2) Where under section 534 the rates payable on any land are increased the ratepayer shall be liable to pay those increased rates. ”.

Section 601
amended.

23. Section 601 of the principal Act is amended—

- (a) in paragraph (b) of subsection (1)—
 - (i) by inserting after “or agency” where it first occurs the following—

“ or any public statutory body, corporate or unincorporate, established by or under a law of the State ”; and
 - (ii) by deleting “or agency” in the second place where it occurs and substituting the following—

“ , agency or body ”; and

(b) in subsection (4), by deleting “or agency” wherever it occurs and substituting the following—

“ , agency or body ”.

Section 669D
amended.

24. Section 669D of the principal Act is amended in paragraph (b) (i) of subsection (3), by deleting “authorized person” and substituting the following—

“ authorized officer ”.

1984.]

Local Government.

[No. 17.

25. The principal Act is amended by deleting the heading immediately before section 678 and substituting the following heading—

Heading to
Part XXVIII
Division 3
substituted.

“ *Division 3.—Making of Regulations.* ”.
