

TOWN PLANNING AND DEVELOPMENT.

No. 89 of 1979.

AN ACT to amend the Town Planning and Development Act, 1928-1978.

[Assented to 11th December, 1979.]

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 *Town Planning and Development Act Amendment Act, 1979.*

Short title
and citation.

(2) In this Act the Town Planning and Development Act, 1928-1978 is referred to as the principal Act.

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by Acts Nos.
94 of 1972 (as
amended by
No. 19 of
1973), 30 of
1973, 14 of
1974, 69 of
1975, 103 of
1976, 32 of
1978 and 76
of 1978.

(3) The principal Act as amended by this Act may be cited as the Town Planning and Development Act, 1928-1979.

Section 4
amended.

2. Section 4 of the principal Act is amended—

(a) in subsection (2a)—

(i) by inserting after the word “section” in line six the passage “, or of a deputy of a member in accordance with paragraph (a) of subsection (3c) of this section,”; and

(ii) by inserting, after the words “to act as a member” in the last line, the passage “or, as the case may be, may nominate for appointment a person to act as a deputy for the member referred to in paragraph (a) of subsection (3c)”;

(b) in subsection (3), by deleting the whole of that part of the subsection which follows the word “Minister” in line seven and inserting a full stop after that word; and

(c) by inserting after subsection (3) the following new subsections—

(3a) The Governor may, in accordance with subsection (3c) of this section, appoint for each member of the Board, other than the Commissioner, a person to be the deputy of that member.

(3b) A deputy so appointed may attend any meeting of the Board in the event of the absence from that meeting of the member of whom he is the deputy, and shall in respect of that meeting be treated for all purposes as if he were a member of the Board.

(3c) The appointment of a deputy for each member shall be made as follows—

(a) in the case of the member whose name is selected from a panel referred to in subsection (2) of this section or who is appointed pursuant to subsection (2a) of this section, the deputy shall likewise be a person whose name

is selected from a panel of three names submitted to the Minister by the Local Government Association of Western Australia (Inc.) for the purpose;

- (b) in every other case, the deputy of a member shall be a person who holds the same qualification for appointment as is required of the member for whom he is appointed to be deputy. .

3. Section 10 of the principal Act is amended by deleting subsection (4) and substituting the following subsection—

Section 10
amended.

(4) (a) A person who—

- (i) contravenes or fails to comply with the provisions of a town planning scheme; or
- (ii) commences or continues to carry out any development which is required to comply with a town planning scheme otherwise than in accordance with that scheme or otherwise than in accordance with any condition imposed with respect to the development by the responsible authority pursuant to its powers under that scheme,

is guilty of an offence.

Penalty: Two thousand dollars.

- (b) Where a continuing state of affairs is created by a wrongful act or omission referred to in paragraph (a) of this subsection, and that state of affairs continues after conviction and after the court considers that the same could

reasonably have been removed, the person is guilty of a further offence and is liable to a further fine not exceeding two hundred dollars in respect of each day on which that further offence so continues. .

Section 20
amended.

4. Section 20 of the principal Act is amended—

(a) in subsection (1) by deleting the words “except as a lot or as lots” in line eleven, and substituting the passage “, unless the land is dealt with by way of such lease, license, sale or option of purchase as a lot or lots”;

(b) in subsection (5) by inserting, after paragraph (b), the following paragraph—

(c) In the event of a dispute between a local authority and a person who may pay a sum of money to it under subsection (4) of this section as to the amount to be so paid, the dispute shall be determined under Part IV of the Valuation of Land Act, 1978, and for that purpose the said person shall be deemed to be a person liable to pay a rate or tax in respect of land and the date of approval of the plan of subdivision shall be deemed to be the date of issue of an assessment for the purposes of subsection (1) of section thirty-two of that Act. ; and

(c) in paragraph (c) of subsection (6)—

(i) by deleting the words “of any such land” in lines two and three; and

(ii) by inserting after the word “generally” in the last line, the words “of any land in the said locality vested in or administered by the local authority for any of those purposes”.

5. The principal Act is amended by repealing section 27 and substituting the following section—

Section 27
substituted.

27. (1) Any person who contravenes or fails to comply with subsection (1) of section twenty of this Act is guilty of an offence.

Offences
under this
Part.

Penalty: Two thousand dollars.

(2) Where a continuing state of affairs is created by wrongful act or omission referred to in subsection (1) of this section, and that state of affairs continues after conviction and after the court considers that the same could reasonably have been removed, the person is guilty of a further offence and is liable to a further fine not exceeding two hundred dollars in respect of each day on which that further offence so continues.

6. Section 28A of the principal Act is amended, in paragraph (a) of subsection (6) by deleting the word "fourteen" in line four, and substituting the word "sixty".

Section 28A
amended.

7. Section 37 of the principal Act is amended by deleting subparagraphs (ii) and (iii) of paragraph (a) in the interpretation of "appeal" and substituting the following paragraphs—

Section 37
amended.

(ii) subsection (6) of section seven B of this Act;

(iii) subsection (1) of section twenty-six of this Act; and

(iv) subsection (6) of section twenty-eight A of this Act; .

8. Section 44 of the principal Act is amended by adding after the word "regulations", in line three, the words "or rules".

Section 44
amended.