

LOCAL GOVERNMENT (No. 2).

No. 65 of 1975.

AN ACT to amend the Local Government Act, 1960-1975.

[Assented to 24th October, 1975.]

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 Act Amendment Act (No. 2), 1975.*

Short title and citation.

(2) In this Act the Local Government Act, 1960-1975, is referred to as the principal Act.

Reprinted as approved for reprint 9th August, 1973, and amended by Acts No. 12, 74, 83 and 105 of 1973, 27 and 65 of 1974 and 36 of 1975.

(3) The principal Act as amended by this Act may be cited as the Local Government Act, 1960-1975.

Commence-
ment.

2. This Act shall come into operation on such date or dates as is or are, respectively, fixed by proclamation.

Section 10
amended.

3. Section 10 of the principal Act is amended by repealing subsection (6).

Section 20
amended.

4. Paragraph (a) of subsection (1) of section 20 of the principal Act is amended —

- (a) by deleting the words “relating to the number of offices of member of a council” in lines five and six; and
- (b) by adding after the word “district” in line two of subparagraph (i) the words “or ward”.

Section 41
amended.

5. Section 41 of the principal Act is amended—

- (a) by deleting the passage “of a poll;” in line ten of subsection (2) and substituting a passage as follows—

of a poll,

except where subsection (3a) of this section provides otherwise; ;

- (b) by adding after subsection (3) a subsection as follows—

(3a) Where a person is elected to an office of member of a council at an election held to fill an extraordinary vacancy occurring by operation of subsection (2) of section ninety-eight on the death of a candidate for an annual election, for the purpose of determining the date on which the person so elected shall retire from the office the term for which he is so elected commences, although he does not occupy the office in the meantime, on the first Sunday after the fourth Saturday in May next preceding his election. ; and

(c) as to subsection (5)—

(i) by adding after the subsection designation (5) the paragraph designation (a); and

(ii) by adding a paragraph as follows—

(b) This subsection does not apply to or in relation to an extraordinary vacancy occurring by operation of subsection (2) of section ninety-eight on the death of a candidate for an annual election.

6. Section 73 of the principal Act is amended— Section 73
amended.

(a) by adding after the section designation “73.” the subsection designation “(1)”;

(b) by adding after the word “election” in line three of paragraph (a), the passage “, or of a meeting of the council held on a day appointed by the Minister pursuant to subsection (2) of this section”;

(c) by deleting the words “at the annual election of councillors” in lines one and two of paragraph (j), and substituting the words “on the fourth Saturday in May”;

(d) by deleting the passage “subject to the provisions of section seventy-six,” in lines one and two of paragraph (k); and

(e) by adding a subsection as follows—

(2) Where—

(a) the mode of election to the office of mayor or president is by the council; and

- (b) there is no annual election in a year by reason of the annual election being void by operation of subsection (2) of section ninety-eight,

the Minister shall appoint a day, time and place for the holding of a meeting of the council to elect a councillor to the office of mayor or president, as the case requires. .

Section 174
amended.

7. Section 174 of the principal Act is amended—

- (a) by adding after subsection (3) a subsection as follows—

(3a) Subject to subsection (5) of this section, a person who is liable to disclose the fact that he has an interest in a matter shall not vote on that matter at the meeting. ;

- (b) by deleting the word “other” in line one of paragraph (b) of subsection (4); and

- (c) by repealing subsection (6) and re-enacting that subsection as follows—

(6) Where a motion permitting a person to speak has been passed in accordance with paragraph (b) of subsection (4) of this section, there shall be recorded in the minutes of the meeting particulars of the motion and of the moving and carrying of the motion and the facts that the member so permitted to speak was not entitled to vote, and did not vote, on the matter. .

Section 222A
added.

8. The principal Act is amended by adding after section 222 a section as follows—

Lights.

222A. A council may so make by-laws generally for prohibiting, regulating and abating nuisances caused by floodlighting or

other bright lighting and, in particular, for regulating the erection and use of floodlights or other exterior lights used to illuminate land or buildings or signs on or over land or buildings. .

9. Section 244 of the principal Act is amended by deleting paragraph (o) and substituting a paragraph as follows—

Section 244
amended.

- (o) for prohibiting persons from leaving animals or vehicles in a street, way, footpath, or other public place so as to obstruct portion of the street, way, footpath, or public place, for authorising persons appointed by the council for the purpose and members of the Police Force of the State to remove into custody animals and vehicles so left, for authorising persons so appointed and members of that Police Force to use such force as is necessary to enter a vehicle for the purpose of so removing it, for providing for the custody of animals and vehicles so removed, for prescribing a scale of charges to be paid by the owner of such an animal or vehicle in order to recover the animal or vehicle from custody, for providing that where such an animal or vehicle is not recovered from custody within a prescribed period the council may sell or otherwise dispose of the animal or vehicle, for providing that the proceeds of the sale of such an animal or vehicle may be applied towards recouping the costs of the removal, custody and sale of that animal or vehicle, for providing that the costs of the removal, custody and disposal of such an animal or vehicle (less the proceeds of its sale, if any) may be recovered from the owner of the animal or vehicle in a court of competent jurisdiction, and for providing that where the proceeds of the sale of such an animal or vehicle exceed the costs of its removal, custody and sale the amount of the excess shall be paid

to the owner of the animal or vehicle or, where the identity or whereabouts of that owner is unknown, placed in a trust fund and dealt with according to the provisions of section five hundred and twenty-six; .

Section 271
amended.

10. Section 271 of the principal Act is amended by deleting the word "two" in line three of each of subsections (2) and (3) and substituting the word "five" in each case.

Section 274
amended.

11. Subsection (1) of section 274 of the principal Act is amended by deleting the word "two" in line three and substituting the word "four".

Section 287
amended.

12. Section 287 of the principal Act is amended—

(a) as to paragraph (a) of subsection (1)—

(i) by adding after subparagraph (i) the word "or";

(ii) by deleting the passage "use; or" at the end of subparagraph (ii) and substituting the passage "use.";

(iii) by deleting subparagraph (iii);

(b) by repealing paragraph (b) of subsection (i); and

(c) by deleting the passage "requirement of paragraph (b) of that subsection and" in lines seven and eight of subsection (2) and substituting the word "requirements".

Sections
288A and
288B added.

13. The principal Act is amended by adding after section 288 sections as follows—

Permanent
closure of
streets.

288A. (1) In order to conduce to the co-ordination mentioned in section two hundred and eighty-seven, where a council wishes to have a street that is dedicated to public use closed otherwise than temporarily the council may, subject to subsection (2) of this section, request the Governor to declare the street to be closed.

(2) A council shall not resolve to make a request pursuant to subsection (1) of this section until after a period of thirty-five days has elapsed from the publication in a newspaper circulating in the district of notice of the motion for the resolution, and the council has considered objections, if any, to the proposals in the notice.

(3) Where a council resolves to make a request pursuant to subsection (1) of this section, the council shall, in accordance with the regulations, prepare and deliver the request to the Minister for Lands, who shall, if satisfied that the council has complied with the requirements of subsection (2) of this section and of the regulations, present the request to the Governor.

(4) The Governor may grant the request, or may direct that the council be invited to reconsider the request having regard to such matters as he thinks fit to mention in the direction, or may refuse the request.

(5) Where the Governor grants the request the Under Secretary for Lands in the Public Service of the State shall publish notice of the granting of the request in the *Gazette* and, by force of that notice, the street is closed under this Act on and from the day of the publication of the notice or such later day as is specified in the notice.

288B. Where—

Validation.

- (a) at any time before the coming into operation of section twelve of the Local Government Act Amendment Act (No. 2), 1975 a council has requested the Governor to approve, under section two hundred and eighty-seven, the closure of a street;
- (b) the Governor has granted that request;
and

- (c) a person holding or acting in the office of Under Secretary for Lands in the Public Service of the State has published notice of the closure of that street in the *Gazette*,

the closure of that street is hereby declared to be, and to have always been, valid, and to have had effect on and from the day of the publication of that notice. .

Section 289 amended.

14. Section 289 of the principal Act is amended—

- (a) by deleting the words “and two hundred and eighty-eight” in the last line of paragraph (a), and substituting the passage “, two hundred and eighty-eight and two hundred and eighty-eight A”; and
- (b) by deleting the word “each” in the first line of paragraph (c), and substituting the words “more than one”.

Section 294A added.

15. The principal Act is amended by adding after section 294 a section as follows—

Subdivisions under the Land Act, 1933.

294A. (1) Where, pursuant to section seventeen of the Land Act, 1933,—

- (a) the Minister directs that lands in the district of a municipality shall be surveyed into lots; and
- (b) the plan of such a survey is certified as correct by the Surveyor General, or other officer duly authorised in that behalf,

then as from the date of that certification, any land delineated and shown on the plan as a new street shall be dedicated as a street and thereupon the council has the care, control and management of it; but no way not exceeding six metres in width shall be dedicated by virtue of this section.

(2) In this section “the Minister” means the responsible Minister of the Crown for the time being charged with the administration of the Land Act, 1933 and the Department of Lands and Surveys. .

16. Section 561 of the principal Act is amended— Section 561
amended.

(a) by deleting paragraph (a) of subsection (1) and substituting paragraphs as follows—

(a) Subject to subsection (5) of this section, a person who is a pensioner may claim to be exempt from liability for the payment of rates or charges under this Act in respect of land of which he is in actual occupation as owner.

(aa) In this section the term “pensioner” means a pensioner as defined under the National Health Act 1953 of the Parliament of the Commonwealth but does not include a person who comes within that definition by reason only that he is a person to whom or in respect of whom—

(i) there is being paid a sheltered employment allowance under the Social Services Act 1947 of the Parliament of the Commonwealth or that allowance would be payable if he were not receiving vocational training under Part VIII of that Act; or

(ii) there is being paid an allowance under the Tuberculosis Act 1948 of the Parliament of the Commonwealth. ; and

(b) by repealing subsection (5) and substituting a subsection as follows—

(5) A person is not entitled to be exempt under this section from liability for payment of rates and charges under this Act in respect of any land if—

(a) the land is occupied by that person and a person who is neither a pensioner nor a dependant of the firstmentioned person; or

(b) the land is partly owned by that person and partly owned by a person who is neither a pensioner nor a dependant of the firstmentioned person. .

Section 626
amended.

17. Subsection (5) of section 626 of the principal Act is amended by deleting paragraph (d) and substituting a paragraph as follows—

(d) Where the Minister, having taken into consideration the particular circumstances existing in relation to a council or a district, is of the opinion that strict compliance with a provision of paragraph (a) or (b) of this subsection is either impracticable or unreasonably difficult, the Minister may permit such modification of that provision as he thinks fit. .
