

WESTERN AUSTRALIA.

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## LOCAL GOVERNMENT (No. 3).

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No. 81 of 1972.

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### AN ACT to amend the Local Government Act, 1960-1971.

[Assented to 20th November, 1972.]

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. 3)*, 1972.

Short title  
and citation.

(2) In this Act the Local Government Act, 1960-1971 is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Local Government Act, 1960-1972.

Reprinted as  
approved for  
reprint 3rd  
May, 1968 and  
amended by  
Acts Nos. 21  
of 1968; 35,  
83 and 107 of  
1969; 16, 21,  
49, 80 and  
120 of 1970,  
and 66 of  
1971.

Commence-  
ment.

2. (1) Subject to subsection (2) of this section, this Act shall come into operation on a date to be fixed by proclamation.

(2) It is not necessary that the whole of this Act be proclaimed to come into operation on the one day; and the several sections may be proclaimed to come into operation on such respective days as are fixed by proclamation.

Amendment  
to s. 86.  
(Occupant of  
the office of  
returning  
officer.)

3. Section 86 of the principal Act is amended—

- (a) by adding after the section number “86.” the subsection designation “(1)”;
- (b) by substituting for the word “The”, being the first word in the section, the passage “Subject to subsection (2) of this section, the”; and
- (c) by adding a subsection as follows—

(2) For any specific poll in a municipality the returning officer may be such officer of the municipality as the council, with the approval of the Minister, appoints for that poll.” .

Amendment  
to s. 135.  
(Payment of  
expenses of  
returning  
officer.)

4. Subsection (2) of section 135 of the principal Act is amended—

- (a) by substituting for the expression “14.70”, in paragraph (a), the expression “17.64”;
- (b) by substituting for the expression “16.80”, in paragraph (a), the expression “20.16”;
- (c) by substituting for the expression “23.10”, in paragraph (a), the expression “27.72”;
- (d) by substituting for the expression “14.70”, in paragraph (b), the expression “17.64”;

- (e) by substituting for paragraph (c) a paragraph as follows—

(c) Presiding officer—

Where there are more  
than eight tables ..... 21.70

Where the number of  
tables exceeds two but  
does not exceed eight ..... 20.70

Where the number of  
tables does not exceed  
two ..... 19.70

; and

- (f) by substituting for paragraph (d) a paragraph as follows—

(d) Poll clerk ..... 15.00 .

5. Subsection (1) of section 178 of the principal Act is amended by adding after the word “meeting”, being the last word in the subsection, the passage “or alternatively, in the case of a special meeting, may do so effectively by causing notice convening it and specifying the time of meeting or resumption and the object of the meeting to be given in a person to person telephone call to the mayor or president and each of the councillors before holding the meeting”.

Amendment  
to s. 178.  
(Notice of  
meeting.).

6. Section 265 of the principal Act is amended by substituting for paragraph (c) a paragraph as follows:—

Amendment  
to s. 265.  
(Municipality  
may accept  
trusts.)

- (c) With the approval, firstly of the electors of the municipality conferred at a special meeting of the electors convened for the purpose of considering, and if thought fit, granting the approval, and secondly of the

Minister, a council may vary the trust upon which it holds any property whether such trust was imposed when the property was conveyed, transferred, assigned, given, devised or bequeathed to the municipality or was otherwise imposed thereon and may apply such property subject to this Act, to any use in accordance with those approvals; .

Amendment  
to s. 292.  
(Permission  
for temporary  
closure of  
streets by  
fences.)

7. Section 292 of the principal Act is amended—

- (a) by adding after the word “by”, in line two of subsection (1), the passage “, or adjoins,” ; and
- (b) by adding after the word “by”, in line two of paragraph (a) of subsection (6), the passage “, or adjoining,”.

Amendment  
to s. 374.  
(Plans of  
buildings to  
be approved  
by council.)

8. Section 374 of the principal Act is amended—

- (a) by adding after the word “approved”, in line twelve of subsection (1), the passage “, by the issue to the person of a building license in the prescribed form and on payment of the prescribed fee,” ;
- (b) by adding after the word “drains”, in line twenty of subsection (1), the passage “and unless he complies with the conditions, if any, that are specified in the license” ; and
- (c) by adding after subsection (1) a subsection as follows—

(1a) A building license referred to in subsection (1) of this section may be issued subject to such conditions as are specified in it including any condition limiting the time within which the license is valid. .

9. The principal Act is amended by adding after section 412 a section as follows—

Addition of  
s. 412A.

412A. (1) When the council serves a written notice under subsection (1) of section four hundred and eleven, the council shall, in or with a memorial in the prescribed form, deliver a copy of the written notice to the Registrar of Titles, or to the Registrar of Deeds, as the case requires, who, without payment of a fee, shall register the memorial and endorse or note the title and land register or record, in respect of the land on which the building stands.

Prohibition  
on dealings  
in the land.

(2) When the memorial is registered the Registrar of Titles, or the Registrar of Deeds, as the case requires, is prohibited from registering and from accepting for registration an instrument affecting the land without the consent of the council, until the land ceases under subsection (3) of this section to be bound by this subsection.

(3) When the contravention, in respect of which the written notice was served, ceases, the council shall deliver to the Registrar of Titles, or to the Registrar of Deeds, as the case requires, a certificate signed and dated by the clerk, certifying that the contravention has ceased and the Registrar of Titles, or the Registrar of Deeds, as the case requires, shall endorse the title and land register or record to that effect and when the certificate is so noted, the land ceases to be bound by subsection (2) of this section. .

10. Section 433 of the principal Act is amended by adding after paragraph (27) a paragraph as follows—

Amendment  
to s. 433.  
(By-laws.)

(27a) for prescribing the forms of licenses required or permitted by this Part of this Act; .

Addition  
of s. 440A.

11. The principal Act is amended by adding at the end of Part XVII a section as follows—

Provision for  
recovery of  
costs of  
firebreaks.

440A. Without in any way derogating from the provisions of section thirty-three of the Bush Fires Act, 1954, where under those provisions a council may recover an amount as a debt due from the owner or occupier of land to the council, that amount—

- (a) is, until paid in full, a debt due to the council by every subsequent owner in succession of the same land;
- (b) is recoverable by the council in the same manner as rates imposed in respect of the land are recoverable under this Act; and
- (c) until paid, is a charge against the land.

Amendment  
to s. 513.  
(Private  
Bills.)

12. Section 513 of the principal Act is amended—

- (a) by deleting the words “loss of earnings to”, in line one of subparagraph (i) of paragraph (g);
- (b) by adding after the word “council”, in line six of subparagraph (i) of paragraph (g), the passage “, and one other member appointed by the council as an observer,”;
- (c) by adding after subparagraph (ii) of paragraph (g) a subparagraph as follows—
  - (iii) rental charges incurred by a member in relation to a telephone at his place of residence; ; and

- (d) by substituting for the word “ten”, in the last line of paragraph (h), the word “twenty”.

13. Subsection (3) of section 522 of the principal Act is amended by substituting for the passage “and (b) of subsection (1) of this section”, in lines three and four, the passage “, (b), and (ba) of subsection (1) of this section or any two of those funds”.

Amendment  
to s. 522.  
(Funds to be  
established.)

14. Section 533 of the principal Act is amended—

Amendment  
to s. 533.  
(Councils  
must adopt  
valuations.)

- (a) by substituting for the words “that Act”, in line five of paragraph (a) of subsection (2), the passage “the Land Tax Assessment Act, 1907”;

- (b) by repealing and re-enacting subsections (3a), (3b), and (3c) as follows—

(3a) Notwithstanding any of the provisions of subsections (1), (2) and (3) of this section but subject to subsections (3b), (3c), (3d), (3e) and (3f) of this section, where in relation to the financial year ending on the thirtieth day of June, 1973, or any financial year thereafter—

- (a) a person is the owner of rateable land not exceeding one acre in area which is deemed improved land and he is ordinarily resident thereon;
- (b) the improvements on the land consist of a dwelling house only or of a dwelling house and outbuildings only;
- (c) the land is used for residential purposes only; and

(d) the land is specifically zoned under the provisions of—

- (i) a town planning scheme in force under the Town Planning and Development Act, 1928, other than the Metropolitan Region Scheme; or
- (ii) by-laws made under section two hundred and forty-eight of this Act,

applicable to the land so as to permit it being then lawfully used for a purpose other than the purpose for which it is then being used,

rates shall not be levied or paid for that financial year in respect of the amount by which the unimproved value of the land as assessed exceeds the unimproved value that the land would have had on the thirtieth day of June immediately preceding that financial year if it had been land on which only a dwelling house could have been lawfully erected.

(3b) In subsection (3a) of this section—

“dwelling house” includes a building comprising two dwellings on ground level, each being complete and self-contained units for living purposes, but does not include any other building containing more than one self-contained unit for living purposes; and

“rateable land” includes land in respect of which the payment of rates is postponed pursuant to subsection (2) of section five hundred and sixty-one of this Act.



(3c) The provisions of subsection (3a) of this section shall not be applied in respect of any one financial year unless—

- (a) where the land exceeds one half acre in area the council is satisfied that on the thirtieth day of June immediately preceding that financial year, the land was incapable of subdivision into two or more lots or such a subdivision was impracticable; and
- (b) the owner of the land ordinarily residing on it on the thirtieth day of June immediately preceding that financial year—
  - (i) was also the owner of the land immediately it first became zoned as specified in paragraph (d) of subsection (3a) of this section; or
  - (ii) is the surviving spouse of the person who was the owner of the land immediately before it became so zoned. ;

(c) by adding subsections as follows—

(3d) The provisions of subsection (3a) of this section shall not be applied to any land until the owner thereof has made an application in writing to the council to have those provisions applied to that land, but where such an application has been made those provisions shall, insofar as they are capable of being applied to that land, be so applied in respect of the financial year during which the application is made.

(3e) The provisions of subsection (3a) of this section apply only in respect of rateable land for which the council adopts valuations assessed under paragraph (a) or (b) of subsection (2) of this section.

(3f) An application to have the provisions of subsection (3a) of this section applied to any land shall be referred by the council to the Commissioner of State Taxation who

shall, in respect of the application, make a determination which the council shall adopt as its own. ; and

- (d) by adding after the word "annual", in the last line of paragraph (d) of subsection (4), the word "rental".

Amendment  
to s. 552.  
(Power to  
change  
minimum  
rate and  
differentiate  
minimum  
rate.)

15. Subsection (1) of section 552 of the principal Act is amended by substituting for the word "ten", in the penultimate line, the word "twenty".

Amendment  
to s. 611.  
(Power to  
demand  
poll.)

16. Section 611 of the principal Act is amended—

- (a) by substituting for the passage "subsection (1a)", in line one of subsection (1), the passage "subsections (1a) and (1b)";
- (b) by substituting for the passage "at least fifty persons or one-tenth of the total number of persons, whichever is the lesser number," in lines five, six, and seven of subsection (1), the words "a sufficient number of persons";
- (c) by substituting for the passage "may, in writing", in line fourteen of subsection (1), the words "in writing"; and
- (d) by adding after subsection (1a) a subsection as follows—

(1b) In subsection (1) of this section "a sufficient number" in relation to persons who are ratepayers within the district or the portion of the district, as the case may be, means—

- (a) where the total number of such persons does not exceed five thousand—fifty per cent of the total number or fifty, whichever is the lesser;
- (b) where the total number of such persons exceeds five thousand but does not exceed ten thousand—one hundred; or

- (c) where the total number of such persons exceeds ten thousand—two hundred. .

17. Subsection (1) of section 656 of the principal Act is amended by substituting for the expression "XIII", in line two of paragraph (b), the expression "VIII".

Amendment to s. 656.  
(*Prima facie* proof of streets.)

18. Subsection (1) of section 665 of the principal Act is amended by adding at the end of the subsection a passage as follows—

Amendment to s. 665.  
(Protection of municipal property.)

Penalty: Six months' imprisonment or a fine of three hundred dollars or both. .

19. The principal Act is amended by adding after section 665A a section as follows—

Addition of s. 665B.

665B. (1) In this section "authorised person" means a person holding office as member, an officer, or other person employed by the council, or a member of the Police Force of the State, or an honorary inspector appointed under subsection (2) of section six hundred and sixty-five A.

Penalties exacted by way of notice to offender.

(2) Where an authorised person finds a person committing an offence under subsection (1) of section six hundred and sixty-five A and, having regard to the type and quantity of glass, metal or earthenware, refuse or litter, or the load, as the case may be, and to the place where the offence occurs, and the circumstances in which the offence occurs, the authorised person believes that proceedings under this section are adequate he may, upon ascertaining the offender's name and place of abode give the notice specified in this section.

(3) The notice—

- (a) shall be identified by a serial number;
- (b) shall identify the person to whom it is given by his name and place of abode;

- (c) shall state in general terms the offence which the person has been found committing;
- (d) shall inform the person in general terms that if he does not desire the matter to be determined in a court hearing he may complete the form attached to or appearing upon the notice and may forward or deliver that form together with a prescribed sum by way of penalty to the person named therein within the time appointed in the notice, which shall be not less than ten days from the date of giving the notice, whereupon he will not be liable to further costs or penalty in the matter;
- (e) shall inform the person in general terms that he has a right to decline to proceed in the manner described in paragraph (d) of this subsection and to allow the matter to be determined in a court hearing—
  - (i) if he desires to contest the question whether the offence alleged was in fact committed; or
  - (ii) if he wishes to submit to the court matters in extenuation of penalty; or
  - (iii) for any other reason,

in which event he need not reply or take further action in respect of the notice and that in such case court process will issue against him in due course.

(4) Where a person to whom notice is given pursuant to subsection (2) of this section proceeds in the manner described in paragraph (d) of subsection (3) of this section within the time

appointed in the notice a proceeding against him by way of prosecution for the offence alleged in the notice shall not be competent but otherwise such a proceeding may be commenced as if the notice had not been given. .

20. The principal Act is amended as set out in the Schedule to this Act. Amendments  
to penalties.

### THE SCHEDULE.

Provision Amended.	Amendment.
Section 111 (4) (1) ....	Delete "Ten", in last line, substitute "Twenty".
Section 111 (5) ....	Delete "Two", in last line, substitute "Four".
Section 111 (7) ....	Delete "One", in last line, substitute "Two".
Section 114 (2) ....	Delete "Two", in last line, substitute "Four".
Section 115 (1) ....	Delete "Two", in last line, substitute "Four".
Section 115 (2) ....	Delete "One", in last line, substitute "Two".
Section 116 (2) ....	Delete "Two", in last line, substitute "Four".
Section 139 (2) ....	Delete "four", in line 2, substitute "eight".
Section 144 (a) ....	Delete "four", in line 2, substitute "eight".
Section 144 (b) ....	Delete "two", in line 3, substitute "four".
Section 145 ....	Delete "One", in last line, substitute "Two".
Section 146 (2) ....	Delete "Forty", in last line, substitute "Eighty".
Section 147 Table (f) ....	Delete "one", in line 2 of second column, substitute "two".
Section 147 Table (h) ..	Delete "one", in line 2 of second column, substitute "two".
Section 147 Table (j) ....	Delete "one", in line 2 of second column, substitute "two".
Section 147 Table (k) ..	Delete "forty" in line 2 of second column, substitute "eighty".
Section 147 Table (l) ....	Delete "one", in line 2 of second column, substitute "two".
Section 147 Table (n) ..	Delete "one", in line 2 of second column, substitute "two".
Section 147 Table (o) ..	Delete "two", in line 2 of second column, substitute "four".

The Schedule—*continued*

Provision Amended.	Amendment.
Section 147 Table (p) .. ...	Delete "two", in line 2 of second column, substitute "four".
Section 147 Table (q) .. ...	Delete "one", in line 2 of second column, substitute "two".
Section 174 (3) (b) ....	Delete "Two", in last line, substitute "Four".
Section 174 (6) (b) ....	Delete "Two", in last line, substitute "Four".
Section 190 (7) (d) (i) ....	Delete "one", in line 1, substitute "two".
Section 190 (7) (d) (ii) ..	Delete "ten", in line 2, substitute "twenty".
Section 330 ....	Delete "One", in line 10, substitute "Two".
Section 330 ....	Delete "one", in line 11, substitute "two".
Section 332 (1) ....	Delete "One", in third last line, substitute "Two".
Section 332 (2) ....	Delete "One", in line 6, substitute "Two".
Section 332 (2) ....	Delete "four", in line 7, substitute "eight".
Section 339 (1) ....	Delete "Forty". in last line, substitute "Eighty".
Section 374 (1) ....	Delete "two", in seventh last line, substitute "four".
Section 374 (1) ....	Delete "eight", in fifth last line, substitute "sixteen".
Section 374 (1) ....	Delete "ten", in fourth last line, substitute "twenty".
Section 374 (1) ....	Delete "forty", in third last line, substitute "eighty".
Section 374 (3) ....	Delete "two", in fourth last line, substitute "four".
Section 374 (3) ....	Delete "eight", in third last line, substitute "sixteen".
Section 374 (4) (b) ....	Delete "two", in fourth last line, substitute "four".
Section 374 (4) (b) ....	Delete "eight", in third last line, substitute "sixteen".
Section 374 (5) ....	Delete "Two", in last line, substitute "Four".
Section 375 (1) ....	Delete "two", in fourth last line, substitute "four".
Section 375 (1) ....	Delete "eight", in third last line, substitute "sixteen".
Section 376 (2) ....	Delete "Twenty", in line 3, substitute "Forty".
Section 376 (2) ....	Delete "four", in line 4, substitute "eight".
Section 377 (1) ....	Delete "two", in fourth last line, substitute "four".
Section 377 (1) ....	Delete "eight", in third last line, substitute "sixteen".

The Schedule—*continued*

Provision Amended.	Amendment.
Section 377 (6) ....	Delete "two", in fourth last line, substitute "four".
Section 377 (6) ....	Delete "eight", in third last line, substitute "sixteen".
Section 377 (7) ....	Delete "two", in fourth last line, substitute "four".
Section 377 (7) ....	Delete "eight", in third last line, substitute "sixteen".
Section 401A (5) ....	Delete "Four", in last line, substitute "Eight".
Section 415 (2) ....	Delete "One", in last line, substitute "Two".
Section 434 (1) (a) ....	Delete "two", in line 1, substitute "four".
Section 434 (1) (b) ....	Delete "ten", in line 1, substitute "twenty".
Section 452 (2) ....	Delete "Twenty", in last line, substitute "Forty".
Section 454 ....	Delete "two", in line 10, substitute "four".
Section 454 ....	Delete "forty", in line 11, substitute "eighty".
Section 469 (6) ....	Delete "Twenty", in last line, substitute "Forty".
Section 474 (7) ....	Delete "One", in second last line, substitute "Two".
Section 481 (2) ....	Delete "Four", in last line, substitute "Eight".
Section 482 (1) ....	Delete "two", in third last line, substitute "four".
Section 482 (3) ....	Delete "Two", in second last line, substitute "Four".
Section 483 ....	Delete "Two", in last line, substitute "Four".
Section 484 (1) ....	Delete "One", in last line, substitute "Two".
Section 515 (4) ....	Delete "Two", in last line, substitute "Four".
Section 515 (7) ....	Delete "Two", in last line, substitute "Four".
Section 515 (8) ....	Delete "Two", in last line, substitute "Four".
Section 515 (9) (a) ....	Delete "Two", in last line, substitute "Four".
Section 664 ....	Delete "two", in last line, substitute "four".
Section 665A (1) ....	Delete "Two", in last line, substitute "Four".
Section 671 ....	Delete "one", in line 4, substitute "two".