

CITY OF PERTH (RATING APPEALS).

4° and 5° GEO. VI., No. XLIX.

No. 49 of 1940.

AN ACT relating to Appeals against Municipal Rating in the City of Perth.

[Assented to 30th December, 1940.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title and commencement.

1. This Act may be cited as the *City of Perth (Rating Appeals) Act*, 1940, and shall come into operation on a day to be fixed by proclamation.

Act to be read in conjunction with Municipal Corporations Act, 1906-1939.

2. This Act shall be read in conjunction with the Municipal Corporations Act, 1906-1939 (No. 32 of 1906 as reprinted under the amendments Incorporation Act, 1938, in Volume I of the Reprinted Acts of the Parliament of Western Australia for the year 1939 and amended by the Act No. 19 of 1939), hereinafter referred to as the principal Act.

Ss. 401 to 404 of Municipal Corporations Act, 1906-1939, not to apply to city of Perth.

3. After the commencement of this Act, sections four hundred and one to four hundred and four, inclusive, of the principal Act shall not apply to the city of Perth.

4. In this Act, unless the context otherwise indicates or requires:— Interpretation.

“Board” means the City of Perth Rating Appeal Board constituted by this Act.

“Council” means the Municipal Council of the City of Perth.

“Town Clerk” means the town clerk or acting town clerk of the city of Perth.

5. (1) There is hereby constituted for the purposes of this Act a Board, to be called “The City of Perth Rating Appeal Board.” Constitution of Board.

(2) The Board shall consist of a chairman and two other members, all of whom shall be appointed by the Governor.

(3) The person appointed as chairman of the Board shall be a legal practitioner in actual practice and of not less than ten years’ standing.

(4) Of the other two members, one shall be a person who is a member of the Commonwealth Institute of Valuers in actual practice, and the other shall be a person who is a ratepayer of the city of Perth but not a member of the council, and is nominated by the Minister charged with the administration of the principal Act as a representative of the ratepayers of the said city.

6. (1) The chairman and each other member of the Board shall— Tenure of office and remuneration of Board.

(a) be appointed for a period of three years and shall be eligible for reappointment; and

(b) be paid out of the municipal funds of the council such fees or other remuneration for their services as the Governor shall from time to time determine.

7. (1) The Board shall have power to hear and determine all appeals in the first instance made by ratepayers in relation to— Powers of Board.

(a) the valuation of any rateable land assessable to municipal rates; or

(b) the amount of any rate assessed in respect of any rateable land.

(2) In the exercise of its said power the Board may:—

- (a) take evidence on oath or affirmation;
- (b) issue summonses under the hand of the chairman and cause the same to be served on the persons named therein, requiring such persons to appear personally before the Board to give evidence at a time and place to be appointed in the summons and to produce all books, instruments, and papers in their possession or under their control, as may appear necessary, for the purpose of their examination or for the information of the Board;

(c) for the purpose of compelling:—

(i) the attendance of persons summoned to appear before the Board;

(ii) the taking of oaths or affirmations and the submission to examination by such persons; and

(iii) the answering by such persons of questions material to an appeal

exercise and enforce the like powers as by any law in force at the time may be exercised by justices in the course of exercising summary jurisdiction.

(3) The chairman of the Board may issue and cause to be served any summons authorised to be issued and served by subsection (2) hereof at any time after a time has been appointed for the sitting of the Board.

Power to
Board to
make rules.

8. The Board may make rules, to be approved by the Governor, to govern and regulate its proceedings.

Appeals to
Board.

9. (1) If any person affected by or liable in respect of—

(a) the valuation by the council of any rateable land situate within the city of Perth; or

(b) the amount of municipal rates assessed upon any such rateable land,

objects to such valuation or to such amount on the ground that the same is unfair or incorrect, he may, subject to this Act and the regulations, appeal to the Board against such valuation or such amount of municipal rates, as the case may be, and the Board shall hear and determine such appeal.

(2) If all the members of the Board are not unanimous in their decision on any appeal, the decision of the majority of such members shall be deemed to be the decision of the Board and shall have effect accordingly.

(3) The appellant may appear and conduct his appeal before the Board, either in person or by his agent, solicitor, or counsel, and if the council desires to oppose the appeal it may be similarly represented.

10. (1) Every appeal to the Board shall be commenced by a notice of appeal in writing signed by the appellant in the Form No. 1 in the Schedule to this Act, and shall contain therein a statement of the grounds of the appeal.

Notice of appeal to Board.

(2) Two copies of such notice of appeal shall be served upon the town clerk at his office in Perth within thirty days after the service upon the appellant of the notice of valuation, or of the rate assessment notice, as the case may be, against which the appeal is made.

(3) Simultaneously, with the service of the notice of appeal upon the town clerk as aforesaid, the appellant shall deposit with the town clerk the amount of the first moiety of the municipal rates (if any) then assessed and payable in respect of the rateable land in relation to which the appeal is made.

(4) Unless the requirements of subsection (3) hereof are duly complied with in every respect, the appeal shall be deemed not to have been properly instituted, and the Board shall not hear or determine the appeal.

(5) Subject to due compliance with the requirements of subsection (3) hereof, the town clerk shall deliver to the Board forthwith, after the receipt thereof by him, one copy of the notice of appeal served upon him as provided in subsection (2) hereof.

(6) Upon receipt of the copy notice of appeal from the town clerk, the Board shall appoint a day, time, and place for the hearing of the appeal, being not less than fourteen days after the receipt by the Board of the notice of appeal as aforesaid and shall cause not less than seven days' notice thereof to be served upon the appellant and the council.

Appeals to
local court
from decision
of Board.

11. (1) Any person who has appealed to the Board under section nine of this Act and is dissatisfied with the decision of the Board in such appeal, may, subject to this Act and the regulations, appeal against such decision to the local court held in Perth.

(2) Such appeal shall be commenced by a notice of appeal in writing, signed by the appellant in the Form No. 2 in the Schedule to this Act, and shall contain therein a statement of the grounds of the appeal.

(3) A copy of the notice of appeal shall be served on the town clerk at his office in Perth, and also upon the clerk of the local court aforesaid, within ten days after the delivery by the Board of its decision against which the appeal to the local court is made, and, simultaneously with the service of the notice of the appeal on the clerk of the court, the appellant shall pay to such clerk the sum of one pound one shilling as security for costs of the appeal.

Local court
jurisdiction
to hear
appeal.

12. (1) The local court held at Perth shall have and may exercise jurisdiction to hear and determine any appeal made under and in accordance with section eleven of this Act.

(2) Such appeal shall be heard and determined by the court in a summary way at its sitting held next after the expiration of ten days from the service of the notice of appeal upon the clerk of the court, or as soon thereafter as possible.

(3) The court may make such order as to the costs of the appeal (to be paid by either party to the appeal to the other party) as the court may deem reasonable, and such order may be enforced by the like means and in like manner as an order for costs made by the court in its ordinary jurisdiction may be enforced.

Decision of
local court
final.

Special case
may be
stated.

13. (1) Subject to subsection (2) of this section, the decision of the local court in any appeal instituted under section eleven of this Act shall be final and conclusive, and shall not be subject to any appeal therefrom.

(2) The local court, instead of pronouncing a final decision in an appeal instituted under section eleven of this act, may, and shall, if required so to do by either party to the appeal, state the facts by way of a special case for the determination of the Supreme Court thereon.

(3) The Supreme Court, upon a special case being stated under subsection (2) hereof, shall determine the appeal, and may make any order as to costs, not only in relation to the proceeding in that court but also in relation to the proceedings in the local court.

14. In all appeals to the local court under section eleven of this Act, it shall not be competent, except by the special leave of the Court— Special provisions relating to appeals to local court.

(a) for the appellant to raise on the appeal to the court any ground of appeal which he had not previously raised in his original appeal to the Board; or

(b) for either the appellant or the council, during the hearing of the appeal by the Court, to lead any fresh evidence or call any witnesses which was not led or who were not called during the hearing of the original appeal to the Board.

15. The Governor may make any regulations, not inconsistent with this Act, prescribing all matters required or permitted to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act. Governor may make regulations.

SCHEDULE.

Form No. 1.

Western Australia.

CITY OF PERTH (RATING APPEALS) ACT, 1940.

Notice of Appeal to City of Perth Rating Appeal Board.

To The Town Clerk,
The City of Perth.

TAKE NOTICE that I, the undersigned, appeal to the City of Perth Rating Appeal Board against—

* (a) the valuation made by the council

or

(b) the amount of municipal rates assessed by the council in respect of the rateable land described hereunder.

*Strike out the paragraph which does not apply.

Rateable Land.

(a) (a) Insert description and situation of land.
.....
.....

Grounds of Appeal.

(b) Insert in items numbered separately the grounds upon which the appeal is made.

(b)
.....
.....
.....

The sum of £....., being the first moiety of the municipal rates assessed and payable, accompanies this notice.

Dated the..... day of.....19...

Name of Appellant.....
(To be signed in full.)

Address.....

Note.—The appeal will not be heard by the Board unless the appellant deposits with the town clerk, together with this notice, the amount of the first moiety of the municipal rates (if any) assessed and payable in relation to the rateable land described in this notice.

Form No. 2.
Western Australia.

CITY OF PERTH (RATING APPEALS) ACT, 1940.

Notice of Appeal to Local Court.

To the Town Clerk,
The City of Perth,
and
The Clerk of Courts,
Local Court, Perth.

(a) Insert date when Board's decisions delivered.

TAKE NOTICE that I, the undersigned, appeal to the Local Court held at Perth against the decision of the City of Perth Rating Appeal Board delivered on the (a).....day of.....19.. in the appeal brought by me against—

*Strike out paragraph which does not apply.

*(a) the valuation made by the council
or

(b) the amount of municipal rates assessed by the council in respect of the rateable land described hereunder.

Rateable Land.

(b) Insert description and situation of land.

(b)
.....

Grounds of Appeal.

(See note hereunder.)

(c) Insert in items numbered separately the grounds upon which the appeal is made.

(c)
.....

Dated the.....day of.....19..

Name of Appellant.....
(To be signed in full.)

Address.....

Note.—Except by special leave of the Local Court, the appellant is not entitled to raise in this appeal any ground of appeal which he did not raise in the original appeal to the Board.