

MUNICIPAL CORPORATIONS.

9° and 10° GEO. VI., No. LIX.

No. 59 of 1945.

**AN ACT to amend the Municipal Corporations Act,
1906-1943.**

[Assented to 5th February, 1946.]

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.
Of. No. 18 of
1943, s. 11.

1. This Act may be cited as the *Municipal Corporations Act Amendment Act, 1945*, and shall be read as one with the Municipal Corporations Act, 1906-1943 (No. 32 of 1906 as reprinted pursuant to the Amendments Incorporation Act, 1938, in Volume 1 of the Reprinted Acts of the Parliament of Western Australia and amended by the Acts No. 19 of 1939, No. 41 of 1940, No. 11 of 1941, and No. 18 of 1943), hereinafter referred to as the principal Act.

Amendment
of s. 44.
Repeal and
new section.

2. Section forty-four of the principal Act is repealed, and a section is inserted in lieu thereof as follows:—

Tenure.

44. The mayor shall remain in office from the date of his entry upon his duties and until the thirtieth day of November in the second year after the date of his entry upon his said duties. Provided that if in any year the mayor then holding office ceases for any reason to hold such office before the expiration of his term of office, the mayor elected in succession

to such first mentioned mayor shall hold office only during the unexpired portion of the term of office of such first mentioned mayor.

3. Section seventy-seven of the principal Act is amended by inserting at the beginning thereof the words "Subject to section forty-four of this Act." Amendment of s. 77.

4. Section seventy-eight of the principal Act is amended by inserting at the beginning thereof the words "Subject to section forty-four of this Act." Amendment of s. 78.

5. Section eighty-one of the principal Act is amended as follows:— Amendment of s. 81.

- (a) By deleting from subsection (1) the word "day" in line two of the subsection and inserting in lieu thereof the word "Saturday";
- (b) by deleting from subsection (1) the word "twenty-five" in line four of the subsection and inserting in lieu thereof the word "twenty-seven";
- (c) by deleting from subsection (1) the word "twenty-first" in line eight of the subsection, and inserting in lieu thereof the words "Saturday next following the twentieth."

6. Section one hundred and seventy-nine of the principal Act is amended by deleting the words "one delegate" in lines three and four of the section and inserting in lieu thereof the words "two delegates." Amendment of s. 179.

7. Section one hundred and eighty of the principal Act is amended as follows:— Amendment of s. 180.

(a) By inserting therein after paragraph (29) a new paragraph as follows:—

(29a) For prohibiting or regulating the parking or allowing to remain stationary on any land, of any caravan or vehicle designed or fitted as a habitation for any person or capable of being used for dwelling or sleeping purposes without the written license of the Council; and authorising the granting by the Parking of caravans, etc.

Council of licenses for such period and upon such terms as the Council may from time to time determine.

(b) by deleting from paragraph (p) of subsection 42 of the section the words "or prohibiting."

(c) by inserting therein after paragraph (43) a new paragraph as follows:—

Superannuation and other funds.

(43a) For establishing on a voluntary basis, superannuation, sick, death, insurance, guarantee, or endowment funds for employees of the council and for the deduction of prescribed contributions thereto from the pay of such employees who become contributors.

Amendment of s. 187.

8. Section one hundred and eighty-seven of the principal Act is amended by adding to the first paragraph thereof a proviso as follows:—

Provided that a by-law shall not be submitted to the Governor for confirmation unless and until notification of the making thereof shall have been published in a newspaper circulating in the district of the Council making the same once a week for three consecutive weeks.

Amendment of s. 216.

9. Section two hundred and sixteen of the principal Act is amended as follows:—

(a) by inserting at the beginning of the section, after the section number, the figure and brackets as follows: "(1)."

(b) by adding to the section a subsection as follows:—

(2) Subject as hereinafter provided, it shall be lawful for the Council of any municipality in the name and on behalf of the municipality from time to time to contract upon such terms and conditions as they may think fit with the owner of any land for or with respect to the carrying out of any work upon such land under section two hundred and ninety-three of this Act whether by the Council for the owner or by the owner for the Council and to carry out such contract according to the tenor thereof.

Provided that where any such contract will commit the Council to the expenditure of a

sum of money exceeding one hundred and fifty pounds the Council shall not enter into such contract without the approval of the Governor.

10. New sections are inserted in the principal Act after section two hundred and nineteen as follows:—

New sections.

219A. The Council may erect on any land vested in or acquired by it for the purpose, houses to be leased to and used as homes by the employees of the Council and maintain and make use of such houses and land for the purposes aforesaid as long as the Council may deem expedient with power to sell and dispose of the same when no longer required for such purposes.

Provision of homes for employees.

Provided that no freehold estate in any such land shall be granted to any employee, and that the money required for the erection of any such house or the acquisition of any such land may, subject in every case to the approval of the Minister, be expended out of loan moneys raised for the purpose under Part XXIV. of this Act.

219B. (1) Subject to the approval of the Governor given on the recommendation of the Minister, the Council of any municipality may erect on any land vested in or acquired by it for the purpose, houses to be let on lease or sold under contract of sale to any persons to whom the Council may from time to time be willing to let on lease or to sell the same.

Provision of houses for letting or sale.

(2) A Council which proposes to exercise the power conferred by subsection (1) of this section shall in the first instance set out its proposal with all material particulars in writing and submit the same to the Minister for his consideration.

(3) On receipt of a proposal from a Council under subsection (2) of this section and after consideration thereof the Minister may—

- (a) decline to recommend the same to the Governor for approval; or
- (b) request the Council to amend its proposal in such manner as the Minister may require; or
- (c) recommend the proposal or the amended proposal (as the case may be) to the Governor for approval.

(4) If the Governor approves of a proposal submitted to him under this section, notice of such approval shall be notified to the Council and be published in the *Government Gazette*.

(5) The money required for the erection of a house or the acquisition of land for the carrying out of a proposal approved by the Governor under this section shall be expended out of loan moneys raised for the purpose under Part XXIV. of this Act.

(6) The rents and profits derived by the Council from the leasing of houses, and the net proceeds derived by the Council from the sale of houses, under this section shall be used and applied for payment of interest and sinking fund contributions or otherwise for the redemption of the loan from which such moneys were taken.

New section.

11. A section is inserted in the principal Act after section two hundred and thirty-four and in the same Division as that section as follows:—

Jetties.

234A. Any sea or river jetty the approach to which is within a district shall, if the Governor so directs, and the Council agrees be deemed to be within the district, and if such jetty is a public jetty, it shall, if the Governor so directs and the Council agrees, be under the management and control of the Council of the district.

Amendment
of s. 293.

12. Section two hundred and ninety-three of the principal Act is amended by adding thereto a proviso as follows:—

Provided that—

(a) in lieu of executing any works authorised by this section as aforesaid and as an alternative thereto but subject to paragraph (b) of this proviso, the Council may in respect of any land (whether the property of the Crown or of any other person) which requires drainage of surface or storm water, raise the level of the land by filling in the same with sand or other suitable material to a height sufficient to free the land from surface or storm water;

- (b) the Council shall not exercise the power conferred by paragraph (a) of this proviso in the case of land the property of a person other than the Crown except at the request or with the consent in writing of the owner of the land, and, in the case of land the property of the Crown except at the request or with the consent of the Minister for Lands;
- (c) all expenses incurred by the Council in exercising its power under paragraph (a) of this proviso at the request of the owner of the land or of the Minister as the case may be shall be repaid on demand to the Council by the owner of the land or by the Minister as the case may require, and if not so repaid shall be recoverable by the Council as a debt in any court of competent jurisdiction.

13. Section two hundred and ninety-eight of the principal Act is amended by deleting the whole of the first paragraph contained in lines one to eight of the section, and inserting in lieu thereof a paragraph as follows:—

Amendment
of s. 298.

- (a) No block of ground shall be laid out for building and no person shall commence or proceed with any building thereon; and
- (b) no building already erected on any land shall, in relation to its structure, be amended, altered, extended or enlarged, and no person shall commence or proceed with the amendment, alteration, extension or enlargement of the structure of any such building—

unless and until a plan showing clearly the house or building or the houses or buildings proposed to be built or the amendment, alteration, extension or enlargement proposed to be made (as the case may be) and the area of land to be occupied by each house or building or by the amendment, alteration, extension or enlargement of the existing building (as the case may be) and the position of every privy and drain and a copy of the specification have been laid before and approved by the Council.

14. Section three hundred and eleven of the principal Act is amended as follows:—

Amendment
of s. 311.

- (a) By inserting at the beginning of subsection (1) the words “subject to subsection (5) of this section”;

(b) by adding at the end of the section a new subsection as follows:—

(5) Notwithstanding anything to the contrary contained in this Act or in any by-laws made by a Council under this Act or any other Act, the Council may give its consent to the erection of any building intended to be used as a dwelling house if the external walls of such building are to be constructed wholly of wood, or partly of wood and partly of some fire-resisting material, provided that the design of such building is of such a nature as to be in conformity with the general standard of design of neighbouring dwelling houses.

New section.

General
building
regulations.

15. A section is inserted in the principal Act after section three hundred and thirty-eight as follows:—

338A. (1) The Governor may by Order in Council prescribe uniform general regulations with respect to all or any of the matters in relation to which a council may make by-laws under section three hundred and thirty-eight of this Act.

(2) Such uniform general by-laws shall have the force of law in such districts as the Governor may from time to time specify by notice published in the *Government Gazette*, and shall supersede any by-laws made by the Council of any district so specified; and the Governor may at any time repeal any by-law made under section three hundred and thirty-eight of this Act by the Council of any district in which the said uniform general regulations have the force of law as aforesaid.

(3) Notwithstanding anything to the contrary contained in subsection (2) of this section, where the Governor is satisfied that in relation to a particular district in which the uniform general regulations have the force of law as aforesaid some modification of such regulations is necessary or expedient to meet particular conditions existing in such district, he may prescribe and publish in the *Government Gazette* notification of such modifications of the uniform general regulations as he deems sufficient for the purposes of such particular district, and until such notification is revoked by a similar notification pub-

lished in like manner, the uniform general regulations shall have the force of law in such district subject to such modifications.

16. Section three hundred and fifty-five of the principal Act is amended as follows:—

Amendment
of s. 355.

(a) By inserting at the beginning of the section after the section number the figure in brackets as follows:—“(1).”

(b) by adding to the section a subsection as follows:—

(2) With the approval of the Minister in every case, but subject as hereinafter provided, the Council may exercise the power conferred by subsection (1) of this section upon or in relation to land situate outside its district.

Provided that where the land upon or in relation to which the Council proposes to exercise the said power is situate within the district of another municipality or the district of a road board or of a local authority within the meaning of the Health Act, 1911-1944, the Minister shall not approve of such proposal without first giving to the Council of such other municipality or to such road board or to such local authority as the case may require an opportunity to state its objections (if any) to the said proposal and giving due consideration to such objections.

17. Section four hundred and seventeen of the principal Act is amended by deleting therefrom the words “with interest thereon” in line four of the section.

Amendment
of s. 417.

18. Section four hundred and twenty-nine of the principal Act is amended by deleting therefrom the words “together with interest on all arrears of rates calculated as hereinbefore provided from the time when such rates became due respectively” in lines thirteen, fourteen, fifteen, and sixteen of the section.

Amendment
of s. 429.

Amendment
of s. 431.

19. Section four hundred and thirty-one of the principal Act is amended by deleting from subsection (1) the words "and interest thereon" in line nine of the said subsection.

Amendment
of s. 432.

20. Section four hundred and thirty-two of the principal Act is amended by deleting from subsection (1) the words "together with interest thereon calculated as hereinbefore provided at the rate of five pounds per centum per annum" in lines four, five and six of the subsection.

Amendment
of s. 434.

21. Section four hundred and fifty-four of the principal Act is amended by inserting therein after the word "land" in line five the words "or alternatively at the option of the Council not exceeding four pence in the pound upon the unimproved capital value of all rateable land."

Amendment
of s. 430.

22. Section four hundred and eighty of the principal Act is amended as follows:—

- (a) By deleting from subparagraph (i) of paragraph (b) of subsection (1) the words "aviation landing ground" in line eleven of the said subparagraph (i);
- (b) by deleting from subparagraph (ii) of paragraph (b) of subsection (1) the words "aviation landing ground" in line eight of the said subparagraph (ii);
- (c) by adding to paragraph (b) of subsection (1) after subparagraph (iii) new subparagraphs as follows:—

(iv) Establishing and maintaining or subsidising either alone or in conjunction with any other Council or any road board kindergartens, community centres, maternal health centres, infant health centres, creches, day nurseries, dental clinics and ambulance services whether within the district of the Council or elsewhere when in the opinion of the Council such expenditure will directly or indirectly benefit persons residing in the district of the Council;

(v) establishing and maintaining or subsidising either alone or in conjunction with any other Council or any road board air navigation landing grounds and aerodromes whether within the district of the Council or elsewhere when in the opinion of the Council such expenditure will directly or indirectly benefit persons residing in the district of the Council.

23. Section four hundred and eighty-three of the principal Act is amended by deleting the word "mayor" in the last line of the section and inserting in lieu thereof the word "councillors."

Amendment
of s. 483.

24. Section five hundred and twenty-one of the principal Act is amended by deleting the word "five" in the last line of the section and inserting in lieu thereof the word "twenty."

Amendment
of s. 521.

25. The Twenty-second Schedule to the principal Act is amended by deleting therefrom the words "and interest thereon" in line eight of the said Schedule.

Amendment
of Twenty-
second
Schedule.

26. The Twenty-third Schedule to the principal Act is amended by deleting therefrom the words "and interest thereon" in line eight of the said Schedule.

Amendment
of Twenty-
third
Schedule.

27. The Twenty-fifth Schedule to the principal Act is amended by deleting therefrom the words "and interest" in line thirteen of the said Schedule.

Amendment
of Twenty-
fifth
Schedule.

28. The Twenty-sixth Schedule to the principal Act is amended by deleting therefrom the words "and interest" in line twelve of the said Schedule.

Amendment
of Twenty-
sixth
Schedule.

29. The Twenty-seventh Schedule to the principal Act is amended by deleting therefrom the words "and interest" where the same appear in lines sixteen, thirty-three, and thirty-five respectively of the said Schedule.

Amendment
of Twenty-
seventh
Schedule.

30. The principal Act as amended by this Act may be cited as the Municipal Corporations Act, 1906-1945.

Citation of
principal
Act as
amended.