

LOCAL GOVERNMENT (AMENDMENT) ACT.

New South Wales



ANNO VICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 30, 1972.

An Act relating to the fencing of swimming pools and the exercise and performance of certain powers, authorities, duties and functions of councils; for these and other purposes to amend the Local Government Act, 1919, and the Local Government (Appeals) Amendment Act, 1971; and for purposes connected therewith. [Assented to, 11th April, 1972.]

BE

Local Government (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by No. 30, 1972
and with the advice and consent of the Legislative
Council and Legislative Assembly of New South Wales in
Parliament assembled, and by the authority of the same, as
follows :—

1. (1) This Act may be cited as the "Local Government (Amendment) Act, 1972".

Short title,
construction
and com-
mencement.

(2) The Local Government Act, 1919, is in this Act referred to as the Principal Act.

(3) Subject to subsection four of this section, this Act shall commence upon the day on which it receives the Royal assent.

(4) Section five of this Act shall commence upon the day on which the Local Government (Appeals) Amendment Act, 1971, commences.

2. (1) Part IX of the Principal Act is amended by inserting next after subsection four of section two hundred and sixty-two the following new subsection :—

Amendment
of Act No.
41, 1919.

(Part IX.—
Public
Roads.)

(4A) Compensation payable in accordance with subsection four of this section shall, subject to this subsection, bear interest at the same rates and during the same periods as are provided in section one hundred and twenty-six of the Public Works Act, 1912, as if a reference in that section to the time of the notification in the Gazette were a reference to the date as at which the compensation became payable, but the date as from which the compensation shall commence so to bear interest shall—

Sec. 262.
(Realign-
ment.)

(a) where the claim for compensation was made not later than ninety days after the date as at which the compensation became payable—be that date;
or

(b)

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(b) where the claim for compensation was made after ninety days after the date as at which the compensation became payable—be the date of service of that claim.

(2) The provisions of subsection (4A) of section two hundred and sixty-two of the Principal Act, as amended by this section, apply only to and in respect of compensation payable as at a date that is not earlier than the commencement of this section.

(3) Where compensation payable in accordance with subsection four of section two hundred and sixty-two of the Principal Act as at a date that is before the commencement of this section bears interest by virtue of any law, nothing in this section shall be construed as affecting the operation of that law in as far as it applies to or in respect of that compensation.

Further amendment of Act No. 41, 1919. (Part X.—Public Health, Safety, and Convenience.)

3. Part X of the Principal Act is amended—

New sec. 288c.

(a) by inserting next after section 288B the following new section :—

Fencing of swimming pools.

288c. (1) In this section, "swimming pool" means an excavation or structure that is capable of holding water and that is solely or principally used, or designed or intended to be solely or principally used, by one or more persons for the purpose of swimming, wading or paddling.

(2) Where the council is, having regard to all the circumstances of the case, of the opinion that a swimming pool is or may be, by reason of

its

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its accessibility, dangerous to human life, the council may, by notice in writing served on the owner of the land on which the pool is located, either—

- (a) direct him to fence or enclose the pool; or
- (b) direct him to fence or enclose the land or any part thereof on which the pool is located,

in such manner, and within such reasonable time, as may be specified in the notice.

(3) The council may revoke any direction given by it under this section.

(4) A notice under this section shall indicate that the owner has a right of appeal under this section.

(5) Any owner of land who is aggrieved by a direction given to him by notice under this section in relation to a swimming pool located on that land may, within one month after service of the notice upon him, appeal—

- (a) if that land is within an area to which Division 4c of Part XI of this Act applies—to the Cumberland, Newcastle and Wollongong Board of Appeal; or
- (b) if that land is within an area, or part thereof, to which Division 4d of Part XI of this Act applies—to the Country Board of Appeal,

against the direction.

(6) Where an appeal is made under this section—

- (a) to the Cumberland, Newcastle and Wollongong Board of Appeal, the provisions of Division 4c of Part XI of this Act shall

apply

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apply to and in respect of the appeal in the same manner as they apply to and in respect of an appeal against a decision of a council dealt with under that Division; or

- (b) to the Country Board of Appeal, the provisions of Division 4D of Part XI of this Act shall apply to and in respect of the appeal in the same manner as they apply to and in respect of an appeal against a decision of a council dealt with under that Division,

and for the purposes of the appeal under this section, a reference in those provisions to a decision of the council, howsoever expressed, includes a reference to the direction of the council appealed against under this section.

(7) If a direction given under this section to the owner of land is not complied with within the time specified in the notice by which the direction was given, the council may enter upon the land and carry out the work which ought to have been carried out in compliance with the direction.

(8) All costs and expenses incurred by the council in connection with work carried out by it under subsection seven of this section upon any land shall be recoverable from the owner of the land as a debt in any court of competent jurisdiction.

Sec. 289.
(Various powers of the council.)

- (b) by inserting in the definition of "dangerous water-hole" in paragraph (m) of section two hundred and eighty-nine after the word "life" the words ", but does not include a swimming pool within the meaning of section 288c of this Act";

(c)

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- (c) by omitting section 299A and by inserting in lieu thereof the following section :—

Subst. sec.
299A.

299A. (1) Subject to subsection two of this section, the council may undertake the immunisation of persons voluntarily seeking immunisation against diphtheria or any other infectious or contagious disease.

Immunisation against disease.

(2) Immunisation under this section shall be carried out subject to and in accordance with the approval of the Board of Health as to—

- (a) the antigen to be used;
- (b) the method of administration of the antigen;
- (c) the qualifications of the persons who may administer the antigen;
- (d) the persons or groups or classes of persons voluntarily seeking immunisation to whom the antigen may be administered; and
- (e) the maintenance of records of immunisation.

4. Part XIII of the Principal Act is amended by omitting subsection five of section 365A and by inserting in lieu thereof the following subsection :—

Further amendment of Act No. 41, 1919.

(Part XIII.—Public Recreation.)

(5) The foregoing provisions of this section apply to and in respect of the Cenotaph, situated on land which, at the commencement of the subsection which this subsection replaces, was part of Martin Place in the City of Sydney, and those provisions so apply in the same manner as they apply to and in respect of other public monuments, memorials, statues and the like referred to in subsection two of this section.

Sec. 365A. (Control of Cenotaph, monuments and the like.)

5.

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No. 30, 1972 5. (1) The Local Government (Appeals) Amendment Act, 1971, is amended by inserting next after section seven the following new section :—

Amendment
of Act No.
78, 1971.

New sec.
7A.

Further
amendment
of Act No.
41, 1919.

(Part X.—
Public
Health,
Safety, and
Conven-
ience.)

Sec. 288c.
(Fencing of
swimming
pools.)

7A. Part X of the Principal Act, as amended by section three of the Local Government (Amendment) Act, 1972, is amended by omitting subsections five and six of section 288c and by inserting in lieu thereof the following subsections :—

(5) Any owner of land who is aggrieved by a direction given to him under this section may, within one month after service of the notice upon him, appeal against the direction to the Tribunal.

(6) Where an appeal is made under this section, a reference in Part XIIB of this Act to a decision of a council, howsoever expressed, includes a reference to that direction.

(2) A reference in section eleven of the Local Government (Appeals) Amendment Act, 1971, to the Principal Act includes a reference to the Local Government Act, 1919, as amended by section three of this Act.

MAINTENANCE