

10 GEO. VI. No. 5, 1945. *Local Government Acts, Etc., Act.*

LOCAL AUTHORITIES.

- (1) *The Local Government Acts and Another Act Amendment Act of 1945* 10 *Geo. VI. No. 5*
- (2) *The Local Government Acts Amendment Act of 1946* 10 *Geo. VI. No. 11*

An Act to Amend "The Local Government Acts, 1936 to 1943," in certain particulars and "The City of Brisbane Acts, 1924 to 1944," in certain particulars, and for other incidental purposes.

10 GEO. VI.
NO. 5.
THE LOCAL
GOVERNMENT
ACTS AND
ANOTHER
ACT
AMENDMENT
ACT OF 1945.

[ASSENTED TO 13TH DECEMBER, 1945.]

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

PART I.—PRELIMINARY.

**PART I.—
PRELIMINARY.**

1. This Act may be cited as "*The Local Government Acts and Another Act Amendment Act of 1945.*"

Short title.

2. This Act is divided into Parts, as follows:—

Parts of
Act.

PART I.—PRELIMINARY;

PART II.—AMENDMENTS OF "THE LOCAL GOVERNMENT ACTS, 1936 TO 1943";

PART III.—AMENDMENT OF "THE CITY OF BRISBANE ACTS, 1924 TO 1944."

PART IV.—GENERAL.

PART II.—AMENDMENTS OF "THE LOCAL GOVERNMENT ACTS, 1936 TO 1943."

**PART II.—
AMENDMENTS
OF "THE
LOCAL
GOVERNMENT
ACTS,
1936 TO 1943."**

3. (1.) This Part of this Act shall be read as one with "*The Local Government Acts, 1936 to 1943,*" herein in this Part referred to as the Principal Act.

Construction
of Part II.

(2.) The Principal Act and the amendments made thereto by this Part may collectively be cited as "*The Local Government Acts, 1936 to 1945.*"

Collective
title.

* 1 G. 6 No. 1 and amending Acts, v. 5, p. 826 *et seq.*

PART II.—
AMENDMENTS
OF "THE
LOCAL
GOVERNMENT
ACTS,
1936 TO 1943."
Amendment
of s. 3.

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4. Subsection one of section three of the Principal Act is amended by repealing the definition of the term "Undertaking" therein and the substitution of the following definition in lieu thereof, namely:—

Undertaking.

“ “Undertaking” (in relation to a Local Authority or Joint Local Authority)—The provision of water, gas, electricity, or transport, or the undertaking by any Local Authority or Joint Local Authority of any other function which such Local Authority or Joint Local Authority is authorised by this Act or any other Act to undertake and any other undertaking which the Governor in Council by Order in Council declares to be an undertaking of such Local Authority or Joint Local Authority for the purposes of the Act.”

Amendment
of s. 4C.

5. A proviso is added to subsection one of section 4C of the Principal Act as follows, namely:—

“Provided that, notwithstanding anything hereinbefore contained, the Local Authority shall not be required to bear any costs, charges, and expenses incurred by the Minister—

(i.) In or in relation to any supervision by the Minister of any such undertaking or function or any part thereof which is being carried out by the Local Authority under its own supervision; or

(ii.) For or in relation to any preliminary inquiries, inspections, or investigations made by the Minister for the purpose of determining whether a proposed undertaking or function should be undertaken by the Local Authority.”

Amendment
of s. 20.

6. Section twenty of the Principal Act is amended as follows, namely:—

(a) The following proviso is added to the first paragraph of subsection nine of the said section:—

“Provided that a Joint Local Authority constituted for the purpose of the provision of any undertaking shall have power to make and levy rates on the rateable value of land.”

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(b) In paragraph (ii.) of subsection ten of the said section the words "or rate" are inserted after the words "or charge."

7. The provisoes added to paragraph (iii.) of subsection four of section twenty-five of the Principal Act by section four of **The Local Government Acts and Other Acts Amendment Act of 1943** are repealed: Amendment of s. 25.

Provided that notwithstanding such repeal—

- (i.) All moneys which at the passing of this Act stand to the credit of "The Post-War Reconstruction Works and Services Reserve Fund" established by the Local Authority pursuant to the provisions of section four of **The Local Government Acts and Other Acts Amendment Act of 1943** (and whether or not any of such moneys have been invested in any securities of, or guaranteed by, the Government of the Commonwealth or the State, or on fixed deposit in any bank, or in such other securities as may have been approved by the Treasurer of Queensland) shall continue to stand to the credit of the said Fund until the same are expended as hereinafter provided;
- (ii.) Any moneys standing to the credit of the said Fund may be invested in any securities of, or guaranteed by, the Government of the Commonwealth or the State or on fixed deposit in any bank, or in such other securities as may be approved by the Treasurer of Queensland;
- (iii.) Any moneys standing to the credit of the said Fund, and the proceeds on maturity or sale or realisation of the said investments, or any part of such moneys or proceeds, may be expended in the financial year ending on the thirtieth day of June, one thousand nine hundred and forty-six, or in any subsequent financial year as the Council may determine. All such expenditure shall be on works or services of a nature chargeable to the particular division of the

General Fund or to the particular Undertaking Fund, as the case may be, in respect of which the Fund was established. The expenditure of money from the said Fund in any financial year shall appear in the Council's budget for that year as a separate estimate or budget relating to the last-mentioned Fund, and shall be accounted for accordingly: Provided that nothing herein shall be deemed to prevent the Local Authority transferring such moneys to the particular division of the General Fund or the particular Undertaking Fund, as the case may be, nor from making any disbursement from the said Fund in the financial year ending on the thirtieth day of June, one thousand nine hundred and forty-six, on the grounds that no provision has been made for such disbursement in the budget for such year.

Amendment
of s. 27.

8. (a) In paragraph (i.) of subsection four of section twenty-seven of the Principal Act all words from and including the words "returned soldier" to and including the words "war service" are repealed and the following words are inserted in lieu thereof, namely:—
"returned member of the Naval, Military, or Air Forces of the Commonwealth, or is a merchant seaman incapacitated from causes arising out of operations of war, or is the widow of a person or a widowed mother of an unmarried son whose death was the result of, or aggravated by, war service (which shall be deemed to include service as a merchant seaman in the war which commenced on the third day of September, one thousand nine hundred and thirty-nine)".

(b) The following words are also added to the said paragraph, namely:—"For the purposes of this paragraph, "merchant seaman" includes every person employed or engaged in any capacity in sea-going service on board any ship."

Amendment
of s. 39.

9. (1.) Paragraph (iii.) of subsection six of section thirty-nine of the Principal Act is amended as follows:—

(a) After the words "disease or" the words "infested or suspected to be infested with lice, bugs, or any other vermin whatsoever, or" are inserted.

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(b) The following paragraph is added to the said paragraph, namely:—

"If the owner fails to comply with the notice within the time specified in such notice, whether such notice was to cleanse, purify or repair, or alter such building, or to take down such building, the Local Authority may cause the building to be cleansed, purified, repaired, altered, or taken down."

(2.) The aforesaid amendment made to the said subsection shall be in aid of, extend to, and be incorporated, *mutatis mutandis*, in the relevant Ordinance of the Brisbane City Council for the time being in force relating to the subject-matter of the said subsection.

Application
to Brisbane
City Council.

10. The following paragraph is added to paragraph (ii.) of subsection eight of section forty-one of the Principal Act, namely:—

Amendment
of s. 41.

"The Local Authority may pay sums by way of bonus for the destruction of the pest at such rate as may from time to time be determined by the Local Authority, and the rate so determined shall be published in the *Gazette* and in one or more newspapers circulating in the Area."

11. Rules forty-nine to fifty-seven inclusive of the rules contained in the Third Schedule to the Principal Act are repealed and the following rules are inserted in lieu thereof, namely:—

Amendment
of Third
Schedule.

49. (1.) Any elector who—

- (i.) By reason of illness or infirmity or approaching maternity will be unable on polling day to attend at a polling-place to vote; or
- (ii.) Throughout the hours of polling on polling day will not be within five miles by the nearest practicable route of a polling-place; or
- (iii.) Has reason to believe that on polling day he will be absent from the Area or division, as the case may be, for which he is entitled to vote,

Postal
voting in
case of
illness, &c.

may, at any time after the publication of the notice of election and before six o'clock in the afternoon of the day immediately preceding polling day, apply in the prescribed form to the returning officer for a postal vote certificate.

The application must be signed by the applicant with his or her own hand, in the presence of and must be declared before and attested by the returning officer or by a justice of the peace or by any elector of the same Area for which the applicant is enrolled,

or by a duly qualified medical practitioner or qualified nurse who is in attendance on such elector, each of whom is hereby authorized to take such declaration.

Postal
voting for
electors
who are
members of
enclosed
religious
orders or
on account
of religious
beliefs.

(2.) (i.) Any elector who, by reason of the rules of any religious organisation, community, order, or association of which he is a member, will be prevented from voting on polling day otherwise than by means of a postal vote may, at any time after the issue of the publication of the notice of election and before six o'clock in the afternoon of the day immediately preceding polling day, apply to the returning officer for a postal vote certificate.

(ii.) Any elector who, by reason of his religious beliefs or convictions, will be prevented from voting at any time on polling day otherwise than by means of a postal vote may at any time after the issue of the publication of the notice of election and before six o'clock in the afternoon of the day immediately preceding polling day apply to the returning officer for a postal vote certificate.

(iii.) Any such application aforesaid shall be in the prescribed form and shall include or be accompanied by a certificate from a minister of the religious denomination of which such elector is an adherent and a solemn declaration made and subscribed by the elector before a justice, which certificate and declaration shall be in the forms respectively prescribed.

(iv.) For the purposes of this subclause, the term "minister of the religious denomination" means a minister of the religious denomination concerned whose name is for the time being registered under *"*The Marriage Acts, 1864 to 1928,*" in the register of ministers for celebrating marriages as a minister of such religious denomination, or in the case of a minister of a religious denomination to which such lastmentioned Acts do not extend, whose name is recorded by the Registrar-General as the person responsible for transmitting to a registrar of births, deaths, and marriages the original of the certificate prescribed by such Acts."

(3.) No such application by a voter who cannot write his or her own name shall be granted.

Grant and
form of
certificate.

50. Upon receipt of the application, the returning officer, if satisfied that the applicant is entitled to vote under these rules, shall grant a certificate, which shall be duly endorsed upon an envelope, and shall be in the prescribed form.

Certificate
and postal
ballot-paper.

51. Subject to the foregoing rule, the returning officer shall deliver or cause to be sent to such elector—

- (a) The certificate endorsed upon an envelope; and
- (b) An envelope addressed to the returning officer; and
- (c) A postal ballot-paper.

Every postal ballot-paper shall be of such material and opacity that the voter may effectually conceal the name of the person or persons for whom he has voted, and shall be in the prescribed form but when issued shall not bear a postal ballot-number. The ballot-paper for each Area or division, as the case may be, shall contain the names in full in alphabetical order of all the candidates nominated for such Area or division, respectively.

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No elector who has received any such certificate shall be entitled to vote except by means of a postal ballot-paper.

52. The returning officer shall keep a record in the prescribed form showing the prescribed particulars in respect of postal vote certificates issued by him. Upon receipt of an application for a postal vote certificate the returning officer shall number each application in regular arithmetical sequence, commencing with the figure "1" and prefix each number with the letter "P." Such letter and number shall be referred to as the postal ballot-number and shall be used as hereinafter provided.

Returning
officer to
mark
number on
roll and
postal
ballot-
number.

53. In the presence of any justice of the peace or elector of the same Area (not being a candidate or an agent paid by a candidate for services in connection with the election) or the duly qualified medical practitioner or qualified nurse who is in attendance on such voter or, if the voter is a member of His Majesty's Naval, Military, or Air Forces, or a female serving in any capacity with or with any service forming part of such Forces, including service as medical practitioner or nurse or masseuse or otherwise, another such member or female so serving and of no other person, the voter may, on or before the polling day but not after six o'clock in the afternoon of polling day, vote in manner following and not otherwise:—

How vote
recorded.

- (i.) The voter shall deliver to the person before whom he is voting the postal ballot-paper and the two envelopes aforesaid, in the same condition in which they were issued;
- (ii.) The voter shall then sign his name upon the certificate, and the person before whom he is voting shall then and there fill in the correct date and attest the signature;
- (iii.) The person before whom the voter is voting shall then deliver the postal ballot-paper to the voter, but shall retain the two envelopes aforesaid;
- (iv.) The voter shall then, in the presence of but not in the sight of the person before whom he is voting or in the sight of any other person, vote—in the case of the election of chairman, by placing the figure 1 in the square opposite the name of the candidate for whom he desires to vote; and in the case of the election of members, by placing the figures 1, 2, 3, 4 (and so on, as the case requires) in the squares respectively opposite the names of the candidates for whom he votes, equal to the number of candidates to be elected (each vote so numbered in consecutive order being a vote), and shall make no other mark or writing thereon;
- (v.) The voter shall then fold up the ballot-paper so as to conceal the name or names of the candidate or candidates and deliver it to the person before whom he is voting;
- (vi.) The person before whom the voter is voting shall then, without unfolding the ballot-paper, place it in the envelope which is endorsed with the certificate, and shall fasten up the envelope;

- (vii.) The person before whom the voter is voting shall then place such envelope in the envelope addressed to the returning officer, and forthwith deliver it to the voter for posting or for delivery on polling day before six o'clock in the afternoon to the returning officer or an assistant returning officer or presiding officer for the Area.

No person shall attest a postal vote except in the presence of the voter and at the place where the voter is voting.

Person
before whom
voter votes
not to look
at name of
candidate
for whom
voter votes.

54. (1.) The person before whom the voter votes shall not look at the name of any candidate for whom the voter votes.

(2.) If any person before whom a voter votes, in the discharge of his duties under this Act, learns for what candidate or candidates such voter has voted he shall not, by word or act or any other means whatsoever, directly or indirectly, divulge or discover, or aid in divulging or discovering, the fact, save in answer to some question which he is legally bound to answer.

Returning
officer to
notify issue
of
certificate.

55. If there is time conveniently to do so, the returning officer shall on all copies of rolls issued by him for use at the election make a note against the name of every elector to whom a postal vote certificate has been issued.

Advice to
presiding
officers.

If there is not time conveniently to note the facts aforesaid on the rolls, the returning officer shall immediately advise all presiding officers of such issue in such manner as he thinks fit.

Evidence of
voter's
signature.

A signature upon a postal vote certificate purporting to be the signature of a voter shall, upon a scrutiny, without further proof, be *primâ facie* evidence that such voter voted by post at the election.

The date and place of voting stated upon such certificate purporting to be the date on which and the place where the voter's signature is attested shall, upon a scrutiny, without further proof, be *primâ facie* evidence of the date on which such voter voted by post and of the place where such vote was given and attested.

The postal ballot-number of the ballot-paper as aforesaid shall, upon a scrutiny, be *primâ facie* evidence that such ballot-paper was issued to and used by the person to whom the postal vote certificate bearing the same number was issued.

Returning
officer, &c.,
to deal in
prescribed
manner
with postal
voter's
envelope
delivered on
polling day.

56. The returning officer and every assistant returning officer and presiding officer shall deal in the prescribed manner with any postal voter's envelope delivered to him on polling day.

Examination
and count of
votes.

57. At the scrutiny the returning officer shall produce, unopened, all postal voters' envelopes received by him by post or delivered to him or to an assistant returning officer or to any presiding officer for the Area and every outer envelope which was—

- (a) Delivered on polling day before six o'clock in the afternoon to the returning officer or to any assistant returning officer or presiding officer for the Area; or

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- (b) Received by post by the returning officer before six o'clock in the afternoon of polling day; or
- (c) Received by post by the returning officer and on which the postmark clearly indicates that such envelope was posted on or before polling day,

shall be opened and the enclosure shall be dealt with, as follows:—

- (i.) The returning officer shall produce the postal voters' applications;
- (ii.) The returning officer, without opening the envelope endorsed with the certificate, shall enter thereon the postal ballot-number and shall compare the signature of the voter with the signature to the application and allow the scrutineers who are present to inspect the same and shall determine whether the signature on such envelope is that of the applicant;
- (iii.) If the returning officer is satisfied that the voter is enrolled, and if the vote is allowed, the returning officer shall open the envelope and shall, without unfolding the ballot-paper, mark the postal ballot-number upon the right-hand corner of the front page of the ballot-paper and fold it down and secure it with gum so that the number is effectually concealed and shall place the postal ballot-paper in the ballot-box. He shall also forthwith attach the said envelope by gum or otherwise to the application relating thereto;
- (iv.) No postal ballot-paper shall be allowed at the scrutiny which is not enclosed in an envelope endorsed with the certificate duly signed, attested, and dated under these Rules;
- (v.) If the returning officer disallows a vote, then the envelope endorsed with the certificate unopened and the application relating thereto shall be attached together with gum or otherwise and shall be set apart for separate custody.

No outer envelope shall be opened at the scrutiny unless it was received by post or delivered as prescribed by paragraph (a) or paragraph (b) or paragraph (c) of this rule, and every such unopened envelope shall be set aside for separate custody.

57A. Save as they are inconsistent with the foregoing rules numbered forty-nine to fifty-seven, the provisions of rule forty-two setting forth for what causes ballot-papers shall be rejected shall, so far as they are applicable, apply to the examination of votes recorded in the manner directed by these rules for postal voting in cases set forth in rule forty-nine.

Causes for
rejection of
ballot-paper.

PART III.—
AMENDMENT
OF “THE
CITY OF
BRISBANE
ACTS,
1924 TO 1944.”

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PART III.—AMENDMENT OF “THE CITY OF BRISBANE ACTS, 1924 TO 1944.”

Construction
of Part III.

12. (1.) This Part of this Act shall be read as one with **“The City of Brisbane Acts, 1924 to 1944,”* herein in this Part referred as to the Principal Act.

Collective
title.

(2.) The Principal Act and the amendment made thereto by this Part may collectively be cited as *“The City of Brisbane Acts, 1924 to 1945.”*

Amendment
of s. 9 of
Act of
1943 (7
Geo. VI.
No. 13).

(3.) In section nine of †*“The Local Government Acts and Other Acts Amendment Act of 1943”* the words “subsection five of section forty-one of the Principal Act” are repealed and the words “subsection three of section forty-one of the Principal Act as inserted by Orders in Council dated sixth day of May, one thousand nine hundred and forty-one, and fifth day of February, one thousand nine hundred and forty-two,” are inserted in lieu thereof; and this amendment shall be deemed to have been made at the passing of †*“The Local Government Acts and Other Acts Amendment Act of 1943”* accordingly.

Amendment
of s. 41.

13. The provisos added to subsection three of section forty-one of the Principal Act (as referred to in subsection three of section twelve of this Act) are repealed:

Provided that notwithstanding such repeal—

- (i.) All moneys which at the passing of this Act stand to the credit of “The Post-War Reconstruction Works and Services Reserve Fund” established by the Council pursuant to the provisions of section nine of †*“The Local Government Acts and Other Acts Amendment Act of 1943”* (and whether or not any of such moneys have been invested in any securities of, or guaranteed by, the Government of the Commonwealth or the State or on fixed deposit in the Commonwealth Bank, or in such other securities as may have been approved by the Treasurer of Queensland) shall continue to stand to the credit of the said Fund until the same are expended as hereinafter provided;

* 15 G. 5 No. 32 and amending Acts, v 10, p. 6 *et seq.*

† 7 G. 6 No. 13, 1942–3 Sess. v., p. 155.

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- (ii.) Any moneys standing to the credit of the said Fund may be invested in any securities of, or guaranteed by, the Government of the Commonwealth or the State or on fixed deposit in the Commonwealth Bank, or in such other securities as may be approved by the Treasurer of Queensland;
- (iii.) Any moneys standing to the credit of the said Fund, and the proceeds on maturity or sale or realisation of the said investments, or any part of such moneys or proceeds, may be expended in the financial year ending on the thirtieth day of June, one thousand nine hundred and forty-six, or in any subsequent financial year as the Council may determine. All such expenditure shall be on works or services of a nature chargeable to the City Fund. The expenditure of money from the said Fund in any financial year shall appear in the Council's budget for that year as a separate estimate or budget relating to the last-mentioned Fund, and shall be accounted for accordingly;
- (iv.) Any moneys received from the Commonwealth or State Government as a subsidy on moneys expended from the said Fund shall be paid into that Fund.

PART IV.—GENERAL.

PART IV.—
GENERAL.

14. All acts, matters, and things done or executed, including any payments made, prior to the passing of this Act, which if done, executed, or made by the Local Authority or, as the case may be, Brisbane City Council, subsequent to the passing of this Act would be valid and lawful, are hereby approved, confirmed, and validated.

Ratification
of acts.