

LEGISLATIVE ASSEMBLY

Read 1^o 16 April 1980

(Brought from the Legislative Council)

A BILL

for

An Act to amend the *Local Government Act 1958*, to amend the *Melbourne (Widening of Streets) Act 1940* and for other purposes.

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 Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

1. (1) This Act may be cited as the *Local Government (General Amendment) Act 1980*. Short title.

(2) In this Act the *Local Government Act 1958* is called the Principal Act. Principal Act No. 6299.

Reprinted to No. 8781.

Subsequently amended by Nos. 8794, 8811, 8862, 8875, 8893, 8958, 8970, 9019, 9022, 9078, 9079, 9116, 9126, 9129, 9143, 9148, 9159, 9162, 9178, 9180, 9182, 9212, 9224, 9225, 9254, 9283, 9354 and 9356.

10 (3) This Act shall come into operation on a day or the respective days to be fixed by proclamation or successive proclamations of the Governor in Council published in the *Government Gazette*. Commencement.

Amendment of
No. 6299 s. 24.

2. In section 24 (4) of the Principal Act after the word "petition" there shall be inserted the word "application".

Amendment of
No. 6299
s. 89.

3. In section 89 (1) of the Principal Act paragraph (ca) is repealed.

Amendment of
No. 6299
s. 149.

4. Section 149 of the Principal Act shall be amended as follows: 5

(a) In sub-section (2), in paragraph (b)—

(i) for the expression "\$2" (wherever occurring) there shall be substituted the expression "\$4";

(ii) for the expression "\$4" there shall be substituted the expression "\$8"; 10

(iii) for the expression "\$10" there shall be substituted the expression "\$20";

(b) In sub-section (2B) for the expression "\$40" there shall be substituted the expression "\$80".

Amendment of
No. 6299
s. 151.

5. In section 151 (1) of the Principal Act the words "with or 15
without hard labour" shall be repealed.

Amendment of
No. 6299
s. 161.

6. Section 161 of the Principal Act shall be amended as follows:

(a) In sub-section (1) for the words "in this Act" there shall be substituted the words "in this or any other Act";

(b) In sub-section (1) after the word "clerk" (where third 20
appearing) there shall be inserted the words "under this or any other Act";

(c) After sub-section (2) there shall be inserted the following sub-section:

"(2A) The council may at any time authorize a 25
person who is the holder of a certificate of competency or certificate of qualification issued by the Municipal Clerks Board to do and have all acts and things which may or are required to be done or had by or with regard to the clerk of the municipality during such times as there is no clerk of the municipality or the clerk is absent, incapable of acting or refuses to act as in this or 30
any other Act provided.";

(d) In sub-section (3) after the word "competency" there shall be inserted the words "or certificate of 35
qualification";

(e) After sub-section (3) there shall be inserted the following sub-section:

"(4) This section shall apply to the city of Melbourne 40
and the city of Geelong.".

7. In

7. In section 162 (1) of the Principal Act after the expression "certificate of competency" there shall be inserted the expression 'or a "certificate of qualification"'. Amendment of
No. 6299
s. 162.

8. In section 166 (3) (i) of the Principal Act the expression "or Division five of Part IV. of the *Health Act* 1958" shall be repealed. Amendment of
No. 6299
s. 166.

9. In section 167A (11) of the Principal Act in paragraph (c) for the expression commencing with the words "service with the council" and ending at the end of the paragraph there shall be substituted the words "all service with the council which is his employer at the time such period is computed shall be taken into account." Amendment of
No. 6299
s. 167A.

10. Section 167C of the Principal Act shall be amended as follows: Amendment of
No. 6299
s. 167C.

- 15 (a) In sub-section (6) for the expression commencing "(a) where the municipal employé" and ending at the end of the sub-section there shall be substituted the expression "an amount equal to one-fortieth of one month's pay for each completed month of service of that municipal employé with that council and with any other council person or body where service with that other council person or body would be included in computing the period of service entitling the municipal employé to long service leave under the regulations made under paragraph (a) or paragraph (b) of section 167A (11)";
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- 25 (b) In sub-section (7) the expression "paragraph (a) of" is repealed.

11. In section 185 (a) of the Principal Act for the words "seven clear days" there shall be substituted the words "two clear days". Amendment of
No. 6299
s. 185.

12. Section 186 (2) of the Principal Act shall be amended as follows: Amendment of
No. 6299
s. 186.

- (a) the words "in case of a borough" are repealed;
- 35 (b) the expression "and in case of a shire four clear days' notice" is repealed.

13. In section 222 of the Principal Act for the expression "\$100" (where twice occurring) there shall be substituted the expression "\$400". Amendment of
No. 6299
s. 222.
Increased
penalty to
enforce
by-laws.

14. At

Amendment of
No. 6299
s. 236.

14. At the end of section 236 of the Principal Act there shall be inserted the following expression:

“(3) Prior to the sale and conveyance of any land which the municipality is empowered to sell and convey pursuant to sub-section (1) the municipality may with the consent of the Governor in Council make streets and roads and supply or cause to be supplied essential services for or in connexion with the land. 5

(4) The making of streets and roads and the supply of essential services shall be deemed and taken to be permanent works and undertakings within the meaning of Part XV.”. 10

Amendment of
No. 6299
s. 241.

15. In section 241 of the Principal Act after sub-section (2) there shall be inserted the following sub-sections:

Accounts and
Audit to be
undertaken by
a Council or
trustee of a
cemetery.

“(3) Notwithstanding the provisions of the *Cemeteries Act* 1958 where the council of any municipality is appointed trustee of any cemetery the council in its capacity as trustee of that cemetery shall— 15

- (a) cause to be kept proper accounts and records of the transactions and affairs which it undertakes as trustee of the cemetery;
- (b) cause the accounts to be balanced to the 30th day of September in every year; 20
- (c) cause a statement of income and expenditure for the preceding twelve months and a balance sheet as at 30th day of September to be prepared and incorporated in the annual statement of accounts prepared pursuant to section 473. 25

(4) The accounts of a cemetery trust shall be audited by the person appointed by the Minister pursuant to section 489 as auditor of the municipality.”.

Amendment of
No. 6299
s. 246.

16. Section 246 of the Principal Act shall be amended as follows: 30

- (a) Sub-section (1) is repealed;
- (b) In sub-section (7) after the expression “any other Act” there shall be inserted the expression “and information as to the total amount applied and the purposes for which it was applied each year shall be included in the annual statement prepared pursuant to section 473”. 35

Amendment of
No. 6299
s. 247.

17. In section 247 (1) of the Principal Act for the expression “\$40” there shall be substituted the expression “\$200”.

Amendment of
No. 6299
s. 248.

18. In section 248 of the Principal Act after sub-section (1) there shall be inserted the following sub-section: 40

“(1A) Notwithstanding anything in any Act it shall be lawful for any municipality to advance for a period not exceeding twelve months

months in any instance any part of its municipal fund not immediately required for the purposes of this Act to any Sewerage Authority under the *Sewerage Districts Act 1958* or to any authority to which the provisions of Division 2 of Part VII. of the *Water Act 1958* extend and apply in whole or in part.”

19. Section 249 of the Principal Act is repealed.

Repeal of
No. 6299
s. 249.

20. At the end of section 251 (1) (e) of the Principal Act there shall be inserted the following expression:

Amendment of
No. 6299
s. 251 (1).

“ or

10 (iv) the Air Force Association (Victoria Division).”

21. In section 255 (6) of the Principal Act for the words “being portion on which a building is erected” there shall be substituted the expression “not being any rateable property referred to in section 254 (3) but being portion on which a building is erected”.

Amendment of
No. 6299
s. 255.

15 22. In section 258 (3) (a) of the Principal Act for the expression “paragraphs (a), (b), (c), (d), (e), (f), (g) and (h) of sub-section (2)” there shall be substituted the expression “sub-section (2) other than paragraph (i)”.

Amendment of
No. 6299
s. 258.

20 23. After section 266 (3) of the Principal Act there shall be inserted the following sub-section:

Amendment of
No. 6299
s. 266.

25 “(3AA) Where a property is rateable at the minimum amount payable referred to in paragraph (a) of sub-section (3) and is rateable for a lesser period than twelve months the rate to be paid shall be one-twelfth of the minimum amount payable under the general rate for each month or part of a month for which the property is rateable.”

24. In section 266 of the Principal Act for sub-sections (5), (5A) and (6) there shall be substituted the following sub-sections:

Amendment of
No. 6299
s. 266.

30 “(5) Where appropriate the council may classify rateable property as farm land and may at any time revoke any such classification, but where the owner or occupier of that property is aggrieved by the classification, the failure or refusal of the council to classify the property or the revocation of the classification of the property he may lodge an appeal against the classification, the failure or refusal to classify the property or the revocation of the classification of the property and the provisions of the *Valuation of Land Act 1960* and the rules thereunder shall with such adaptations as are necessary extend and apply to the determination of the appeal which shall be heard and determined by a Land

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40 Valuation Board of Review constituted by a chairman sitting alone.

(6) Where

(6) Where the owner or occupier of a property is aggrieved by the inclusion or exclusion of that property in or from the list of properties declared by the valuer to be urban farm land or residential use land he may lodge an appeal against the decision of the valuer and the provisions of the *Valuation of Land Act 1960* and the rules thereunder shall with such adaptations as are necessary extend and apply to the determination of the appeal which shall be heard and determined by a Land Valuation Board of Review constituted by a chairman sitting alone.” 5

Amendment of No. 6299 s. 273.

25. In section 273 (1) (b) of the Principal Act after the words “any rateable property whatsoever within” there shall be inserted the words “the subdivision or such portion or portions thereof of”. 10

Amendment of No. 6299 s. 276.

26. In section 276 (3) of the Principal Act paragraph (b) is repealed. 15

Amendment of No. 6299 s. 372.

27. In section 372 (2) of the Principal Act for the words “any person” there shall be substituted the words “the proprietor or owner of the land or an authorized agent of the proprietor or owner”.

Amendment of No. 6299 s. 386A.

28. In section 386A (2) of the Principal Act for the expression “section 299” there shall be substituted the expression “section 300”. 20

Amendment of No. 6299 s. 387.

29. In section 387 (2) of the Principal Act for the expression “\$3” there shall be substituted the expression “\$5”.

Amendment of No. 6299 s. 469.

30. In section 469 (1) of the Principal Act for the words “Governor in Council” there shall be substituted the word “Minister”. 25

Amendment of No. 6299 s. 504.

31. Section 504 of the Principal Act shall be amended as follows:

- (a) Sub-section (2) is repealed; and
- (b) In sub-section (3) the expression “or in the United Kingdom (as the case may be)” is repealed. 30

Amendment of No. 6299 s. 505.

32. Section 505 (2A) of the Principal Act shall be amended as follows:

- (a) After the words “The council of any municipality” there shall be inserted the words “or an officer authorized for that purpose by the council”; 35
- (b) After the words “in the opinion of the council” there shall be inserted the words “or of the officer”.

33. After

33. After section 505 of the Principal Act there shall be inserted the following section: Amendment of
No. 6299
s. 505.

5 “505A. The council of any municipality may in the name and on behalf of the municipality purchase bulk containers for the deposit and storage of house and trade refuse and other rubbish and may in the name and on behalf of the municipality enter into a contract with any occupier or owner of a building or with a body corporate established pursuant to the provisions of the *Strata Titles Act* 1967 or the *Cluster Titles Act* 1974 for the hire or sale of such
10 containers.”.

34. Section 535 of the Principal Act shall be amended as follows: Amendment of
No. 6299
s. 535.

15 (a) In sub-section (4) after the words “The council of a municipality may” there shall be inserted the expression “subject to sub-section (4A).”;

(b) After sub-section (4) there shall be inserted the following sub-section:

20 “(4A) The council of a municipality shall before resolving to change the name of a street or road within its municipal district—

(a) give one month’s notice in writing through the certified mail service to every occupier of premises in the street or road; and

25 (b) consider all objections received from the occupiers to the proposed change of name.”.

35. In section 555 (1) of the Principal Act for paragraph (a) there shall be substituted the following paragraphs: Amendment of
No. 6299
s. 555.

30 “(a) plant trees, shrubs or flowers or provide trees, shrubs or flowers in containers and erect guards to protect the trees, shrubs or flowers;

(ab) subject to such conditions as it thinks fit permit trees, shrubs or flowers to be planted by any person;

35 (ac) subject to such conditions as it thinks fit permit trees, shrubs or flowers to be provided in containers by any person;

(ad) provide children’s play equipment, barbecues and other recreational facilities;”.

36. Section 555A of the Principal Act shall be amended as follows: Amendment of
No. 6299
s. 555A.

40 (a) At the end of sub-section (2A) there shall be inserted the words “or ticket dispensing machines”;

(b) In

(b) In sub-section (5A) after the words "single coin or two" there shall be inserted the words "or more"; and

(c) In sub-section (5c) after paragraph (b) there shall be inserted the following expression:

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"—

but no period or combination of periods shall be longer than the period fixed pursuant to sub-section (1) as the period for which vehicles may be left standing in the parking area in connexion with which the ticket dispensing machine is used."

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Amendment of No. 6299 s. 556.

37. In section 556 of the Principal Act for sub-section (1) there shall be substituted the following sub-sections:

"(1) The council of any municipality may make garden plots or subject to such conditions as it thinks fit permit any person to make garden plots in or upon any pathway or footway in the municipal district without unduly obstructing the thoroughfare or interfering with reasonable facilities for access to ingress into or egress from any land or building.

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(1A) The council of any municipality may install planters or other receptacles for holding plants or subject to such conditions as it thinks fit permit any person to install such planters or other receptacles in or upon any pathway or footway in the municipal district without unduly obstructing the thoroughfare or interfering with reasonable facilities for access to ingress into or egress from any land or building."

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Amendment of No. 6299 s. 569B.

38. In section 569B (8AD) of the Principal Act after the words "shall be in writing" there shall be inserted the expression ", shall be accompanied by a fee of \$3".

Amendment of No. 6299 s. 573.

39. In section 573 of the Principal Act after sub-section (1) there shall be inserted the following sub-sections:

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"(1A) Where the council makes an order on the owner of the premises under sub-section (1), the owner of the premises may within 21 days of the order being made appeal to an arbitrator appointed under section 569AA (1A) against the proposed formation, completion or continuance of a lane, right-of-way or passage through his premises.

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(1AA) The arbitrator shall have power to determine the appeal and may cancel or confirm the order of the council."

40. Section

40. Section 605A of the Principal Act shall be amended as follows:

Amendment of
No. 6299
s. 605A.

5 (a) In sub-section (1) for the expression "subdivision of land, the major portion of which is vacant and unoccupied" there shall be substituted the expression "parcel of land";

(b) For sub-section (2) there shall be substituted the following sub-section:

10 "(2) Where the Minister administering the *Town and Country Planning Act* 1961 is satisfied that having regard to the size, location and topography of the parcel of land, its possible uses and any other matter, the application of the council should be granted he may certify that the parcel of land is an inappropriate subdivision for the purposes of this section."

15 (c) In sub-section (3)—

(i) for the word "subdivision" (where first appearing) there shall be substituted the words "specified parcel of land";

20 (ii) the words "with respect to the land in the subdivision" are repealed;

(iii) for paragraph (a) there shall be substituted the following paragraph:

25 "(a) lend to the owner of any land a sum required to enable him to purchase the whole or any discrete part of the inappropriate subdivision adjoining his land and take appropriate security for repayment of the loan;"

30 (iv) for paragraph (b) there shall be substituted the following paragraph:

"(b) purchase or compulsorily take the whole or any discrete part of the inappropriate subdivision;"

41. Section 651 of the Principal Act shall be amended as follows:

Amendment of
No. 6299
s. 651.

35 (a) For sub-section (1A) there shall be substituted the following sub-section:

40 "(1A) Where the council is of the opinion that it is necessary or desirable that a drain, channel, pumping station, drainage retarding basin or other related works be made or constructed on any land or any street or road (whether or not there is an easement or reserve as specified in sub-section (1) over or on the whole or

part of the land or street or road) for the proper drainage of any lands or premises which, being within a designated area will be benefited by the making or construction of the drain, channel, pumping station, drainage retarding basin or other related works, the council may as hereinafter provided make or construct the drain, channel, pumping station, drainage retarding basin or other related works or part thereof either wholly or partly (as the council thinks fit) at the cost of the owners of the lands or premises.”;

- (b) In sub-section (1B) for the words “drains or sewers” there shall be substituted the expression “a drain, channel, pumping station, drainage retarding basin or other related works”;
- (c) In sub-section (1B) for the words “drain or channel is” there shall be substituted the expression “drain, channel, pumping station, drainage retarding basin or other related works are”;
- (d) In sub-section (1c) for the words “drain or channel” there shall be substituted the expression “drain, channel, pumping station, drainage retarding basin or other related works”;
- (e) In sub-section (1D) for the words “drain or channels” there shall be substituted the expression “drain, channel, pumping station, drainage retarding basin or other related works”;
- (f) In sub-section (1E) for the words “drain or channel” (where twice appearing) there shall be substituted the expression “drain, channel, pumping station, drainage retarding basin or other related works”;
- (g) In sub-sections (3), (4) and (5) for the words “or channel” (wherever occurring) there shall be substituted the words “channel, pumping station, drainage retarding basin or other related works”.

Amendment of
No. 6299
s. 696.

42. In section 696 (1) of the Principal Act for the word “inflammable” (where twice appearing) there shall be substituted the word “flammable”.

Amendment of
No. 6299
s. 696C.

43. Section 696C of the Principal Act shall be amended as follows:
- (a) After the expression “696C” there shall be inserted the expression “(1)”;
 - (b) After the words “an offence against this Act” there shall be inserted the expression “and liable to a penalty of not more than \$200 and in the case of a continuing offence to a daily penalty of not more than \$20 for each day the offence continues after conviction”;

(c) After

- (c) After the end of the section there shall be inserted the following sub-sections:

5 “(2) The council of any municipality may by notice in writing require any person who lawfully uses any land in the municipality for the purpose or purposes specified in paragraph (a) and (b) of sub-section (1) to enclose the land with a sufficient fence of such material and of such height and in such manner as the council shall approve or to screen such land with trees to the satisfaction of the council.

10 (3) If such person does not comply with a notice under sub-section (2) within the period specified he shall be guilty of an offence against this Act and liable to a penalty of not more than \$200 and in the case of a continuing offence to a daily penalty of not more than \$20 for each day the offence continues after conviction.”

15 44. In section 756 (1) of the Principal Act for the words “special order” there shall be substituted the word “resolution”.

Amendment of
No. 6299
s. 756.

20 45. In section 762 of the Principal Act after paragraph (b) there shall be inserted the following paragraph:

Amendment of
No. 6299
s. 762.

“(c) every person who uses any building place or machine provided by the council for weighing; and”.

25 46. Section 765 of the Principal Act shall be amended as follows:

Amendment of
No. 6299
s. 765.

(a) The words “any articles or” are repealed; and

(b) For the expression “\$4” there shall be substituted the expression “\$200”.

30 47. Section 800 of the Principal Act shall be amended as follows:

Amendment of
No. 6299
s. 800.

(a) In sub-section (1) the words “with the consent of the Governor in Council” are repealed; and

(b) Sub-section (2) is repealed.

35 48. Section 803 (1) of the Principal Act shall be amended as follows:

Amendment of
No. 6299
s. 803.

(a) For the words “any other premises” there shall be substituted the expression “any other buildings or premises”;

40 (b) After the words “against air-raids” there shall be inserted the words “or in connexion with the State Emergency Service for facilitating appropriate action in natural or other disasters or emergencies”.

49. Section

Amendment of
No. 6299
s. 807.

49. Section 807 (4) of the Principal Act shall be amended as follows:

- (a) In paragraph (a) in sub-paragraph (ii) the words "up to the age of six years" are repealed;
- (b) In paragraph (c) the words "up to the age of six years" are repealed; and
- (c) In paragraph (d) the words "up to the age of six years" are repealed.

Amendment of
No. 6299
s. 891.

50. In section 891 of the Principal Act for the expression "\$200" there shall be substituted the expression "\$400".

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Amendment of
No. 6299
s. 926.

51. Section 926 (1) of the Principal Act shall be amended as follows:

- (a) In paragraph (l) for the expression "\$200" (where twice appearing) there shall be substituted the expression "\$400";
- (b) In paragraph (m) for the expression "\$50" there shall be substituted the expression "\$100".

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Amendment of
Melbourne
(Widening of
Streets) Act
1940.

52. After section 8 of the *Melbourne (Widening of Streets) Act* 1940 there shall be inserted the following section:

"8A. In lieu of any amount of compensation payable pursuant to section 8 for land acquired for the purposes of this Act the council in the exercise of powers conferred upon it by the *Town and Country Planning Act* 1961 or under any planning scheme or interim development order made pursuant to that Act may permit the owner, if he so desires, to erect on his land abutting on the new alignment a building of a height or size greater than the council would otherwise permit."

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