

# LEGISLATIVE ASSEMBLY

Read 1° 9 December 1981

(Brought in by Mr Lieberman and Mr Wood)

## A BILL

To amend the *Local Government Act 1958*, the *Town and Country Planning Act 1961*, the *Local Government (Further Amendment) Act 1981* 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 1981*. Short title.

(2) In this Act the *Local Government Act 1958* is referred to as 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, 9356,  
9385, 9390, 9402,  
9425, 9512, 9537,  
9539, 9544, 9552,  
9567, 9573, 9574,  
9575 and 9576.

Commence-  
ment.

(3) The several provisions of 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*.

Amendment of  
No. 6299  
s. 8 (1).

2. In section 8 (1) of the Principal Act the words “with the approval of the Governor in Council” shall be repealed. 5

Amendment of  
No. 6299.  
Election of  
Chairman to  
be by secret  
ballot of  
councillors.

3. The Principal Act shall be amended as follows:

- (a) In section 65 (1) for the words “the council” there shall be substituted the words “a secret ballot of the councillors”; 10
- (b) In section 66 (1) for the words “the council shall at its first meeting elect” there shall be substituted the words “the councillors shall at the first meeting of the council elect by a secret ballot”; 15
- (c) In section 66 (2) for the words “the council shall elect” there shall be substituted the words “the councillors shall elect by a secret ballot”; and 15
- (d) In the Fifteenth Schedule in clause 47 after the words “a show of hands” there shall be inserted the words “except in respect of the election of a chairman which shall be by secret ballot”. 20

Amendment of  
No. 6299  
s. 132 (3).  
Polling booths.

4. In section 132 for sub-section (3) there shall be substituted the following sub-section:

- “(3) There shall be at least one booth for every—
- (a) thousand voters enrolled on the roll in respect of an election in a municipality which has adopted compulsory voting; and 25
- (b) one thousand five hundred voters in respect of an election in a municipality which has not adopted compulsory voting.” 30

Amendment of  
No. 6299  
s. 137.  
Scrutineers.

5. (1) Section 137 of the Principal Act shall be amended as follows:

- (a) For the expression “137. Each” there shall be substituted the expression— 35  
“137. (1) Subject to sub-section (2), each”;
- (b) For the words “or other person and” there shall be substituted the expression “or other person appointed pursuant to section 136 and”; and 35
- (c) At the end of the section there shall be inserted the following sub-section: 40  
“(2) A candidate shall not be entitled to act as a scrutineer for himself or on behalf of any other candidate.”

(2) In

(2) In section 143 (1) of the Principal Act the words “candidate or” shall be repealed.

Amendment of  
No. 6299  
s. 143 (1).

6. For section 160 (3) of the Principal Act there shall be substituted the following sub-section:

Amendment of  
No. 6299  
s. 160 (3).

5 “(3) Where the council—

(a) orders an inquiry to consider the removal discharge or termination of the employment of an officer referred to in sub-section (1); or

(b) suspends an officer referred to in sub-section (1)—

10 the council shall state its reasons in writing.”.

7. In section 173 (5) of the Principal Act after the words “provisions of” there shall be inserted the expression “sections 14 to 16 of”.

Amendment of  
No. 6299  
s. 173 (5).

15 8. (1) In the Principal Act, immediately preceding section 179 there shall be inserted the following section:

Amendment of  
No. 6299.

New section  
178 inserted.

Notice of  
meeting to be  
in writing.

“178. Unless express provision is made to the contrary in this Part, any notice of a meeting of the council under this Part shall be given in writing to each of the councillors by the municipal clerk or by another officer of the council authorized for that purpose by the council.”.

20

(2) For section 182 (3) of the Principal Act there shall be substituted the following sub-section:

Amendment of  
No. 6299  
s. 182 (3)  
substituted.

25 “(3) Except where any meeting is adjourned to a subsequent hour on the same day, notice of such adjourned meeting and of the time to which such meeting has been adjourned shall be given pursuant to section 178.”.

(3) In section 1 of the Principal Act in the table of contents—

Amendment of  
No. 6299 s. 1.  
Consequential.

(a) in the part relating to Part V.—

30

(i) for the expression “ss. 158–178.” there shall be substituted the expression “ss. 158–175.”; and

(ii) for the expression “ss. 168–178.” there shall be substituted the expression “ss. 168–175.”; and

35

(b) in the part relating to Part VI. for the expression “ss. 179–196.” there shall be substituted the expression “ss. 178–196.”.

9. In section 187 (2) of the Principal Act for the expression “liable to a penalty of not more than \$40” there shall be substituted the words “guilty of an offence against this Act”.

Amendment of  
No. 6299  
s. 187 (2).

10. (1) For

Amendment of No. 6299 s. 188 substituted.

10. (1) For section 188 of the Principal Act there shall be substituted the following section:

Ouster from office of councillor who refuses or neglects to attend council meetings.

“188. (1) Where any councillors refuse or neglect to attend or to remain in attendance at any meeting of the council (which meeting is in this section referred to as “the first meeting”) so that a quorum of the council cannot be formed or maintained, the clerk of the municipality shall within three days after the first meeting make a call of the whole council to attend a further meeting of the council to be held not more than seven days after the day on which the first meeting was held or was to have been held. 5 10

(2) If any councillor refuses or neglects to attend or to remain in attendance at the further meeting the clerk of the municipality shall forthwith advise the Minister in writing of that refusal or neglect.

(3) The Minister shall advise the councillor and the council that he has received notification pursuant to sub-section (2) and that any submissions may be made to him within fourteen days or such further period as the Minister may specify. 15

(4) The Minister may—

- (a) after considering any submissions made to him by the councillor and the council; and 20
- (b) if he is not satisfied that the councillor had a reasonable excuse for that failure or neglect—

order that the councillor is from the date specified in the order incapable of being or continuing to be a councillor and the Minister shall send a copy of the order to the clerk of the municipality and the councillor. 25

(5) The councillor referred to in the order made under sub-section (4) shall from the date specified in the order be incapable of being or continuing to be a councillor. 30

(6) The Minister may after the date specified in the order made under sub-section (4) apply to the Supreme Court to have that councillor ousted from office.”

Amendment of No. 6299 s. 156 (1). Consequential.

(2) In section 156 (1) of the Principal Act after the words “on the application” there shall be inserted the words “of the Minister or”. 35

Amendment of No. 6299 s. 197 (1). Purposes for which by-laws may be made.

11. In section 197 (1) of the Principal Act after paragraph (xia) there shall be inserted the following paragraphs:

“(xib) Controlling and regulating building and construction operations to prevent objectionable noises at unreasonable times; 40

(xic) Regulating

(xic) Regulating the times during which incinerators may be used on property used wholly or partly for residential purposes.”.

5 12. For section 197 (9) of the Principal Act there shall be substituted the following sub-section:

“(9) All by-laws made under—

- (a) paragraph (xi);
- (b) paragraph (xviiia);
- (c) sub-paragraph (g) of paragraph (xxxi);
- 10 (d) sub-paragraph (a) of paragraph (xxxviii); or
- (e) paragraph (xliia)—

of sub-section (1) shall be subject to the approval of the Governor in Council.”.

Amendment of  
No. 6299  
s. 197 (9).  
substituted.  
Approval of  
Governor in  
Council  
required in  
respect of  
certain by-laws.

15 13. In section 239 (2) (a) of the Principal Act after the words “Minister of Education” there shall be inserted the words “or to any public statutory body which is constituted under the law of Victoria or in trustees appointed pursuant to an Act of the Parliament of Victoria to hold the land on trust for public or municipal purposes”.

Amendment of  
No. 6299  
s. 239 (2).  
Power to  
convey land  
to Crown, &c.

20 14. Section 240A of the Principal Act shall be amended as follows:

Amendment of  
No. 6299  
s. 240A.

- (a) In sub-section (1) the words “with the consent of the Governor in Council” shall be repealed;
- 25 (b) In sub-section (2) for the words “Before any application is made to the Governor in Council by the council of a municipality” there shall be substituted the words “Before the council of a municipality uses the land or the part of the land in question for some other purpose for which the municipality is authorized to hold land”; and
- 30 (c) Sub-sections (3) and (4) shall be repealed.

15. In section 251 (1) (e) of the Principal Act after sub-paragraph (iv) there shall be inserted the following word and sub-paragraph:

Amendment of  
No. 6299.  
Non-rateable  
property.

“or

35 (v) the Australian Legion of Ex-Servicemen and Women (Victorian Branch).”.

16. In

Amendment of  
No. 6299,  
New ss. (7)  
inserted.

16. In section 290 of the Principal Act after sub-section (6) there shall be inserted the following sub-section:

“(7) During the currency of any separate rate, whether made before or after the commencement of section 16 of the *Local Government (General Amendment) Act* 1981, the council may— 5

(a) with the approval of the Governor in Council; and

(b) if it is satisfied that because of a substantial change in circumstances the works or undertakings or part thereof or the purchase of land required for that purpose in respect of which the separate rate is levied should not 10  
be proceeded with—

discontinue the works or undertakings or part thereof or the purchase of land required for that purpose.”.

Amendment of  
No. 6299  
s. 319,  
substituted.  
Alteration of  
basis of rating.

17. (1) For section 319 of the Principal Act there shall be substituted the following section: 15

“319. The council of a municipality may by a determination as provided in section 320 or by a proposal for the purpose carried at a poll—

(a) rescind the adoption of the use of site value of rateable property for the levying of rates in whole or in part; 20

(b) change the basis of the levying of rates from the use of site value of rateable property to the use of site value of rateable property with respect to a specified percentage of the estimated revenue from such rates and of net annual value of rateable property with respect 25  
to the remainder of such revenue;

(c) alter the percentages of the total rates which may be levied on net annual value of rateable property and site value of rateable property respectively;

(d) change the basis of levying rates from the use of site 30  
value of rateable property with respect to a specified percentage of total rates and of net annual value of rateable property with respect to the remainder to the use of net annual value of rateable property; or

(e) change the basis of levying rates from the use of site 35  
value of rateable property with respect to a specified percentage of total rates and of net annual value of rateable property with respect to the remainder to the use of site value of rateable property.”

Amendment of  
No. 6299  
s. 320 (1).  
Consequential.

(2) In section 320 (1) of the Principal Act the expression 40  
“paragraph (a) of” shall be repealed.

Amendment of  
No. 6299  
s. 386.

Rates of  
interest on  
unpaid rates.

18. (1) In section 386 (1) (a) of the Principal Act for the expression “section 21” there shall be substituted the expression “section 28”.

(2) In

(2) In section 386 of the Principal Act sub-section (5) shall be repealed.

19. In section 386A of the Principal Act for the words “fourteen days” (where twice occurring) there shall be substituted the expression “twenty-one days”. Amendment of No. 6299 s. 386A.

20. In section 520 (1) of the Principal Act—

- (a) for the words “the Governor in Council at any time and from time to time upon the request of the council of any municipality” there shall be substituted the words “the council of any municipality at any time and from time to time”; and Amendment of No. 6299 s. 520 (1). Declaring breadth of carriage and footways.
- (b) after the words “accordingly” there shall be inserted the words “and shall from the date of such notice operate as a dedication to the public of the land referred to in the notice as a public street and highway”. Amendment of No. 6299 s. 523 (2). Width of new roads.

21. In section 523 of the Principal Act sub-section (2) shall be repealed. Amendment of No. 6299 s. 523 (2). Width of new roads.

22. In section 535 of the Principal Act for sub-sections (4) and (4A) there shall be substituted the following sub-sections: Amendment of No. 6299 s. 535.

“(4) The council of a municipality may by resolution change the name of any street or road within its municipal district if it has— Ss. (4) and (4A) substituted. Change of street name.

(a) not less than one month before the date of the resolution—

- (i) published a notice of its intention in a newspaper circulating generally in the municipal district; and
- (ii) given notice of its intention in writing to every occupier of any premises in the street or road; and

(b) considered all objections to the proposed change of name from occupiers of any premises in the street or road received by the council within twenty-eight days of the giving of notice under paragraph (a) (ii).

(4A) The council of a municipality shall after making a resolution pursuant to sub-section (4) publish a notice in the *Government Gazette* showing the old name and the new name of the street or road.”. Notice of change of street name.

23. In section 555 (1) of the Principal Act—

- (a) after paragraph (i) there shall be inserted the following paragraph: Amendment of No. 6299 s. 555.
- “(ia) subject to such conditions as it thinks fit, permit any person to leave receptacles exceeding a capacity

capacity of 2 cubic metres for the reception and collection of litter and waste, and to fix fees to be paid for the granting of any such permit;" and

- (b) after paragraph (m) there shall be inserted the following paragraph: 5

"(n) subject to such conditions as it thinks fit, permit the placement of movable boards, signs or hoardings for the purpose of advertising, and to fix fees to be paid for the granting of any such permit."

Amendment of  
No. 6299  
s. 555A.

24. Section 555A of the Principal Act shall be amended as follows: 10

- (a) In sub-section (5F)—
- (i) for the words "Any person" there shall be substituted the expression "Except as otherwise provided in sub-section (7A), any person";
- (ii) for the expression "for a period longer than is so fixed (which period" there shall be substituted the expression "for a period longer than the period fixed in relation to the parking area (which latter period"; and 15
- (iii) in paragraph (b) for the word "during" there shall be substituted the word "for"; 20
- (b) In sub-section (6) (a) before the words "leaves any vehicle" there shall be inserted the expression "except as otherwise provided in sub-section (7A)";
- (c) In sub-section (7) for the expression "the last preceding sub-section" there shall be substituted the expression "sub-section (5F) or (6)"; and 25
- (d) After sub-section (7) there shall be inserted the following sub-sections:

"(7A) A disabled person may leave a vehicle standing in a parking area (whether unattended or not) on any day during the hours fixed in relation to that parking area for a period not longer than twice the period that is so fixed if— 30

- (a) there is displayed on the front windscreen of the vehicle a special permit in the prescribed form issued in respect of that vehicle; and 35
- (b) where a fee is fixed in respect of the parking area, the disabled person has paid the fee for the fixed period. 40

(7B) A disabled person may make application in the prescribed form to any council of a municipality including the City of Melbourne and the City of Geelong for a special permit referred to in sub-section (7A)."

Parking by  
disabled  
persons.

25. Section

25. Section 582 of the Principal Act shall be amended as follows:

Amendment of  
No. 6299  
s. 582.  
Payment by  
instalments.

(a) In sub-section (1A) for paragraph (a) there shall be substituted the following paragraph:

5 “(a) by quarterly instalments of principal together with interest (as from one month after the date of the commencement of the works *in situ*) on the balance for the time being remaining unpaid calculated at a rate fixed by the council—

10 (i) which shall not exceed ten per centum per annum; or

(ii) where the council has obtained an advance or borrowed the money for the works, which shall not exceed by more than one per centum the rate of interest being paid for the time being in respect of that advance or loan—

15 and the council may from time to time vary the rate of interest but so as not to exceed the appropriate rate specified in sub-paragraph (i) or (ii);” and

(b) Sub-section (1B) shall be repealed.

20 26. In section 648 (1) the words “with the consent of the Governor in Council” shall be repealed.

Amendment of  
No. 6299  
s. 648 (1).  
Floods.

27. (1) The Principal Act shall be amended as follows:

Amendment of  
No. 6299.  
Fees and  
deposits to be  
prescribed.

25 (a) In section 98 for the expression “40 cents (\$0.40)” there shall be substituted the words “the prescribed fee”;

(b) In sections 126, 154 (1) (a) and 155 (2) (a) (i) for the expression “the sum of \$50” (wherever occurring) there shall be substituted the words “the prescribed deposit”;

30 (c) In sections 154 (8) (a) and 155 (9) (a) for the expression “the sum of \$40” (wherever occurring) there shall be substituted the words “the prescribed sum of money”;

(d) In section 157 (1) for the expression “the sum of \$40” there shall be substituted the words “the prescribed deposit”;

35 (e) In section 200A for the expression “\$10” there shall be substituted the words “the prescribed fee”;

(f) In section 207 (d) for the expression “the sum of \$1” there shall be substituted the words “the prescribed fee”;

40 (g) In section 232 (1) for the expression “the sum of \$30” there shall be substituted the words “the prescribed deposit”;

(h) In

- (h) In section 324—
- (i) in sub-section (2) for the expression “a sum of \$150 which sum” there shall be substituted the words “the prescribed deposit which”; and
  - (ii) in sub-sections (3) and (4) for the expression “sum of \$150” (wherever occurring) there shall be substituted the words “prescribed deposit”; 5
- (i) In sections 401 (1) and 403 (1) for the expression “the sum of \$100” (wherever occurring) there shall be substituted the words “the prescribed deposit”; 10
- (j) In section 403 (2) for the words “said sum” there shall be substituted the words “prescribed deposit”;
- (k) In section 494 (1) for the expression “\$100” there shall be substituted the words “the prescribed deposit”;
- (l) In section 555A (1) (b) for the expression “Ninety cents (\$0.90) for one day or fifty cents (\$0.50) for any fixed period less than one day” there shall be substituted the expression “the prescribed fee for one day or the prescribed fee for any fixed period less than one day”; 15
- (m) In section 555A (1) (c) for the expression “\$50” there shall be substituted the words “the prescribed fee”; 20
- (n) In section 555C (3) for the expression “(not exceeding \$100) together with an additional \$4” there shall be substituted the expression “(not exceeding the prescribed fee) together with the additional prescribed fee”; 25
- (o) In section 682 (1) for the expression “a fee of fifty cents (\$0.50)” there shall be substituted the expression “the prescribed fee”; and
- (p) In section 696 (2) (a) for the expression “such fees, not in any case exceeding \$10,” there shall be substituted the word “fees”. 30

Amendment of  
No. 6299.  
Division 4 of  
Part XLVII.  
substituted.

(2) In Part XLVII. of the Principal Act for Division 4 there shall be substituted the following Division:

“DIVISION 4—REGULATIONS

Governor in  
Council may  
make  
regulations.

898. (1) The Governor in Council may make regulations for or with respect to— 35

- (a) prescribing the form of any notice or order which any council of any municipality is authorized to give or make under any Act;
- (b) prescribing any matter or thing required to be prescribed pursuant to the provisions of Division 2 of Part II. and Division 5 of Part III.; 40

(c) prescribing

- (c) prescribing the form of a nomination paper pursuant to section 124 and the form of ballot-papers pursuant to section 133 (2);
- 5 (d) prescribing fees authorized to be prescribed by this Act;
- (e) prescribing deposits and sums of money authorized to be prescribed by this Act;
- (f) prescribing the form of a special permit and the form of application for such a permit pursuant to sub-sections (7A) and (7B) of section 555A; and
- 10 (g) prescribing the form of applications and certificates and prescribing fees to be forwarded with such applications for the purposes of Part XLVIA.

(2) Any form prescribed pursuant to paragraph (a) of sub-section (1) or any form to the like effect varied as the circumstances of the case may require shall be good and binding in law and no objection shall be taken by any person thereto.

15

(3) Where any form is prescribed under this Act, substantial compliance therewith shall be sufficient for the purposes of this Act.

(4) Regulations made pursuant to paragraph (g) of sub-section (1) may—

20

- (a) prescribe a composite form of application for more than one or for all the certificates referred to in Part XLVIA.;
- (b) prescribe a composite form of certificate for more than one or for all the matters in respect of which a certificate may be obtained pursuant to Part XLVIA.; and
- 25 (c) prescribe a composite fee in respect of a composite application.

(5) Notwithstanding anything in any Act the provisions of this Division and of any regulations made under this Division shall extend and apply to the city of Melbourne and the city of Geelong.”

30

(3) The Principal Act shall be amended as follows:

- (a) In section 1 in the table of contents in the part relating to Part XLVII.—
- 35 (i) for the expression “Legal Proceedings and Enforcement of Act,” there shall be substituted the expression “Legal Proceedings, Enforcement of Act and Power to make Regulations,”; and
- (ii) for the expression “Power to prescribe Forms,” there shall be substituted the expression “Regulations,”;
- 40 (b) In section 3 (1) after the interpretation of “Part” there shall be inserted the following interpretation:
- “Prescribed” means prescribed by regulations made pursuant to Division 4 of Part XLVII.’; and

Amendment of  
No. 6299.  
Consequential  
amendments.

“Prescribed.”

(c) In

- (c) In Part XLVII. in the heading for the words “AND ENFORCEMENT OF ACT” there shall be substituted the expression “, ENFORCEMENT OF ACT AND POWER TO MAKE REGULATIONS”.

Amendment of  
No. 6299.  
New Part  
XLVIA.  
inserted.

28. (1) In the Principal Act after Part XLVI. there shall be inserted the following Part: 5

Certificates.

“PART XLVIA.—CERTIFICATES

861A. (1) Any person may upon payment of the prescribed fee make application in the prescribed form to the municipal clerk of a municipality for any of the following certificates which shall be in the prescribed form— 10

Valuation  
certificate.

- (a) a certificate of the most recent valuation of any rateable property in the municipality made under Division 2 of Part X. specifying the date as at which the value of the property was assessed pursuant to section 7 (2) of the *Valuation of Land Act 1960*; 15

Rate  
certificate.

- (b) a certificate giving particulars of—
- (i) the rates and other moneys due and payable in respect of any property;
- (ii) any notice in respect of works proposed to be carried out pursuant to Division 10 or Division 11 of Part XIX. or Division 5 of Part XXI. which has been served on the owner of such property by the council of the municipality; and 20
- (iii) whether or not the property is presently liable to become charged in the future with a liability by the operation of section 251 (6) or 266 (7) of this Act or of section 4 (5) of the *Cultural and Recreational Lands Act 1963*; 25

Status of  
streets  
certificate.

- (c) a certificate showing in respect of the street or streets on which the property abuts— 30
- (i) whether or not such street has or streets have been constructed pursuant to Division 10 of Part XIX. or Part XLII. or any corresponding previous enactment; 35
- (ii) whether or not any works (and, if so, what works) have been carried out in such street or streets pursuant to section 588;
- (iii) whether or not such street has or streets have been fully constructed pursuant to section 569E or any corresponding previous enactment; and 40

(iv) whether

- (iv) whether or not the street has or streets have been partly constructed pursuant to section 569E or any corresponding previous enactment and, if so, what works have been executed;

5 (d) a certificate stating—

Water drainage certificate.

10 (i) (where the land or part thereof would be affected thereby) whether the council has received from the Dandenong Valley Authority a copy of any notice under section 22 of the *Dandenong Valley Authority Act* 1963 or notification of the prescription of any building line under section 24 of that Act or notification of any proclamation under section 27 of that Act;

15 (ii) whether any land is affected by an approved scheme under Division 8 of Part XXI. and, if so, whether the provisions of section 656B relating to drainage courses affect such land;

20 (iii) whether any land is within a proclaimed area in respect of which the council is exercising powers delegated under section 33D of the *Water Act* 1958;

25 (iv) (where the land is within the area of such a scheme) whether pursuant to section 33B of the *Water Act* 1958, a copy of the scheme under that section has been forwarded to the council;

30 (v) (where the land or part thereof would be affected thereby) whether the particulars of any proclamation under section 35 of the *Drainage of Land Act* 1975 have been notified to the council; and

35 (vi) (where the land or part thereof would be affected thereby) whether the council is the responsible authority for any drainage course under section 38 of the *Drainage of Land Act* 1975 and, if not, whether the council has received notification of the proclamation of any drainage course under paragraph (c) of sub-section (5) of that section;

40 (e) a certificate specifying—

Flood level certificates.

(i) the specified flood level (if any) within the meaning of section 925AA;

(ii) whether that land is situated within an area in respect of which a notice has been published under section 925AA (5);

45 (iii) whether such a permit as is described in section 925AA (4) has been granted in respect of that land; and

(iv) particulars

Certificate as to  
fitness for  
human  
habitation and  
state of  
disrepair.

Planning  
certificate.

- (iv) particulars of any relevant flood levels designated pursuant to section 27B of the *Dandenong Valley Authority Act 1963* or section 37A of the *Drainage of Land Act 1975*;
- (f) a certificate specifying— 5
- (i) whether the council has served on the owner of any property any notice or taken any step under Division 4 of Part III. of the *Building Control Act 1981* and giving particulars of any notice so served or step so taken; and 10
- (ii) whether any moneys are charged on the property under Division 4 of Part III. of the *Building Control Act 1981* and giving particulars thereof and stating when the moneys are due and payable and when the property became so charged; and 15
- (g) where the municipal council is the responsible authority, a certificate stating—
- (i) whether at the date specified in the certificate the land described in the application and referred to in the certificate is or is not land to which an interim development order, planning scheme or local development scheme applies under the *Town and Country Planning Act 1961* or is within an area in respect of which the Governor in Council has authorized the preparation of an urban renewal proposal; 25
- (ii) where the municipal district of the municipal council is within the metropolitan area, whether at the date specified in the certificate a planning scheme or interim development order of the Board of Works applies to the land; and 30
- (iii) such other information with respect to the operation and effect of the interim development order, planning scheme or local development scheme at the date specified in the certificate as is prescribed by regulations made under the *Town and Country Planning Act 1961*. 35
- (2) The council may, in addition to the matters referred to in sub-section (1), provide with any certificate such other information concerning the land or property the subject of the application as the council in its absolute discretion deems relevant. 40
- (3) A council shall not incur any liability in respect of any information included in a statement in good faith pursuant to sub-section (2).
- (4) An application under sub-section (1)— 45
- (a) shall be in the prescribed form;
- (b) shall

- (b) shall state the name and address of the person making the application; and
- (c) shall give particulars of the land or property in respect of which the information is required.

5 (5) Upon receipt of the application and payment of the prescribed fee, the municipal clerk or some other person authorized by the council in that behalf shall procure, sign and give to or send by post to the person so applying the certificate or certificates applied for.

10 861B. (1) A certificate under section 861A (1) (b) shall— Rate certificate.

- (a) be in the prescribed form;
- (b) where the property is chargeable under any Act for the time being in force with rates or other moneys and interest state—

15 (i) what rates and other moneys and interest (if any) are due or payable to such municipality in respect of such property;

(ii) particulars of such rates and other moneys and interest; and

20 (iii) when the same became due or payable or that no such rates or other moneys are due or payable (as the case may be);

(c) where the council of the municipality has served notice in respect of works to be carried out pursuant to Division 10 or Division 11 of Part XIX. or Division 5 of Part XXI. state—

25 (i) the estimated cost of such works as shown in such notice; and

30 (ii) the date on which such notice was served on the owner of such land; and

(d) state the name of the person shown in the rate-book as the owner of the property.

35 (2) The production of such certificate so signed shall for all purposes whatsoever be deemed conclusive proof that at the date thereof—

(a) no rates or other moneys were due and payable to the municipality other than those stated in the certificate in respect of such property;

40 (b) no notice of intention in respect of works proposed to be carried out pursuant to Division 10 or Division 11 of Part XIX. or Division 5 of Part XXI. has been served on the owner of such property other than a notice (if any) referred to in the certificate;

(c) the

- (c) the amount shown thereon (if any) as the estimated cost of any works referred to in paragraph (c) of sub-section (1) is the amount specified in the notice served on such owner in respect of such works; and
- (d) no potential liability existed in respect of the property by the operation of section 251 (6) or 266 (7) of this Act or section 4 (5) of the *Cultural and Recreational Lands Act* 1963 other than the potential liability (if any) referred to in the certificate. 5

(3) Notwithstanding sub-section (2) where a certificate so signed shows that the land may become charged with a liability by the operation of section 251 (6) or 266 (7) of this Act or section 4 (5) of the *Cultural and Recreational Lands Act* 1963 any amount which becomes charged on the land by the operation of those provisions may be recovered by the municipality notwithstanding that the precise amount of the potential liability was not disclosed on the certificate. 10 15

Status of street certificate.

861C. (1) For the purposes of a certificate under section 861A (1) (c)—

- (a) where any street in the municipal district of a municipality has been constructed, and the municipal clerk is unable to ascertain from the municipal records the circumstances in which the street was constructed, the street shall be deemed to have been constructed under Division 10 of Part XIX. and the municipal clerk shall certify accordingly; and 20 25
- (b) and in this section, "street" does not include a street which is not more than 4.6 metres in width.

(2) The production of such a certificate so signed shall be deemed to be conclusive evidence that any street specified therein has not been constructed or has been constructed to the extent described in the certificate. 30

Certificate as to fitness for human habitation and state of disrepair.

861D. A certificate issued pursuant to section 861A (1) (f) shall for all purposes be deemed conclusive proof as at the date thereof of any step taken under Division 4 of Part III. of the *Building Control Act* 1981 in respect of the property or of any money which is a charge on the property under that Division of that Act." 35

Amendment of No. 6299. Consequential amendments.

(2) The principal Act shall be amended as follows:

- (a) In section 1 in the table of contents after the part relating to Part XLVI. there shall be inserted the following part: 40  
"Part XLVIA.—Certificates ss. 861A—861D."; and

(b) Section

(b) Section 265A, sub-sections (2), (3), (4), (5), (6) and (6A) of section 387, and sections 600C, 656E and 926A shall be repealed.

(3) The *Building Control Act* 1981 shall be amended as follows:

Amendment of  
*Building Control Act* 1981.

5 (a) In section 36 (1) for the expression "section 41" there shall be substituted the expression "section 861A (1) (f) of the *Local Government Act* 1958"; and

(b) Section 41 shall be repealed.

10 (4) Section 38 of the *Town and Country Planning Act* 1961 shall be amended as follows:

Amendment of  
No. 6849.  
Consequential  
amendment of  
s. 38.

(a) In sub-section (1)—

(i) after the words "responsible authority" (where first and secondly occurring) there shall be inserted the expression "(other than a municipal council)";

15 (ii) the word "and" after paragraph (aa) shall be repealed; and

(iii) paragraph (ab) shall be repealed; and

20 (b) In sub-section (2) after the words "to be so signed" there shall be inserted the expression "pursuant to sub-section (1) or section 861A (1) (g) of the *Local Government Act* 1958".

29. (1) Section 1 of the *Local Government (Further Amendment) Act* 1981 shall be amended as follows:

Amendment of  
No. 9575 s. 1.

25 (a) In sub-section (3) for the expression "and 47" there shall be substituted the expression "47, 51, 52 and 53"; and

(b) For sub-section (4) there shall be substituted the following sub-sections:

"(4) Sections 45, 46 and 47 shall come into operation on 1 July 1981.

30 (5) Sections 51, 52 and 53 shall be deemed to have come into operation on 21 May 1969."

(2) The *Local Government (Further Amendment) Act* 1981 shall be deemed to have been enacted as amended by this section.

