

LEGISLATIVE ASSEMBLY

Read 1° 25 May 1982

(Brought in by Mr Wilkes and Mr Cathie)

A BILL

To amend the *Local Government Act 1958* 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 (Board of Review) Act 1982*. 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, 9356, 9385, 9390, 9402, 9425, 9512, 9537, 9539, 9544, 9552, 9567, 9573, 9574, 9575, 9576, 9590, 9658, 9667, 9684, 9699 and 9720.

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.
Part II. New
Divisions 1 to
4.

2. (1) For Divisions 1 to 4 of Part II. of the Principal Act there shall be substituted the following Divisions: 5

DIVISION 1.—INTERPRETATION AND APPLICATION

Interpretations.

16. (1) In this Part unless inconsistent with the context or subject-matter—

“Commission.”

“Commission” means the Local Government Commission established under this Part. 10

“Division.”

“Division” means a Division of the Local Government Commission established under this Part.

“Relevant
area.”

“Relevant area” means—

(a) in the case of a proposal which may be given effect to under paragraph (a) of section 24B the area proposed to be constituted as a shire, borough, town or city; 15

(b) in the case of a proposal which may be given effect to under paragraph (b) of section 24B— 20

(i) in the case of a proposal for unification, the area which is proposed to become the new municipal district; or

(ii) in the case of a proposal for abolition, the area proposed to be abolished and the municipal district in which that area is proposed to be included; 25

(c) in the case of a proposal which may be given effect to under paragraphs (c) to (e) and (g) of section 24B, the area which is proposed to be annexed or which is proposed to be included by the alteration in the boundaries; 30

(d) in the case of a proposal which may be given effect to under paragraph (f) of section 24B, the municipal district in which the proposed subdivision, re-subdivision or abolition is to take place; or 35

(e) in

(e) in the case of a proposal which may be given effect to under paragraphs (h) to (l) of section 24B, the municipal district concerned.

5 (2) Notwithstanding anything to the contrary in any other Act, the provisions of this Part shall apply with respect to the city of Melbourne.

10 (3) Notwithstanding anything to the contrary in any other Act the provisions of this Part shall apply with respect to the city of Geelong and for the purposes of the application of those provisions the municipal district of the said city shall be deemed to form one continuous area.

DIVISION 2.—LOCAL GOVERNMENT COMMISSION AND DIVISIONS OF THE LOCAL GOVERNMENT COMMISSION.

15 17. (1) There shall be established a Local Government Commission. Local
Government
Commission.

(2) The Governor in Council may appoint such members of the Commission as he thinks fit.

20 (3) Members of the Commission shall be appointed for the period (not exceeding three years) that is specified in their instrument of appointment and shall be eligible for re-appointment.

(4) A member of the Commission may at any time be removed from office by the Governor in Council or may resign by an instrument in writing under his hand addressed to the Governor in Council.

25 (5) If any member of the Commission—

(a) is absent without the permission of the Commission from two meetings of the Commission;

30 (b) becomes bankrupt or his property becomes in any manner subject to control under the law relating to bankruptcy;

(c) is convicted of an indictable offence;

(d) becomes permanently incapable of performing his duties; or

(e) is removed from office, resigns or dies—

35 his office as a member of the Commission shall become vacant and that member shall where he is at that time a member of a Division cease also to be a member of that Division.

(6) The Minister shall appoint one member of the Commission to be the Chairman of the Commission.

(7) The

(7) The Minister may, at any time, revoke an appointment made under sub-section (6).

(8) Not less than two meetings of the Commission shall be held in each year.

(9) The Chairman shall make arrangements for the holding of 5 meetings of the Commission.

(10) The functions of the Commission shall be—

- (a) to report to and advise the Minister on any proposal referred to it by the Minister or upon the work of a Division; and 10
- (b) to advise the Minister on a proposal which, in its opinion, should be the subject of an inquiry by a Division.

Meetings of Commission.

18. At any meeting of the Commission—

- (a) a majority is to constitute a quorum;
- (b) the Commission may regulate its own proceedings. 15

Staff to assist Panel subject to *Public Service Act 1974*.

19. Subject to the *Public Service Act 1974* there shall be appointed a secretary to the Commission and such other officers and employés as are necessary to assist the Commission and any Division in carrying out their duties.

Remuneration of Commission members.

20. A member of the Commission shall when carrying out any function required to be carried out by him as a member of the Commission or of a Division be paid— 20

- (a) where that person is not employed under the *Public Service Act 1974* or by any municipality, such remuneration as is fixed from time to time by the Governor in Council; and 25
- (b) in all cases such travelling and other allowances as are fixed from time to time by the Governor in Council.

Divisions of Local Government Commission.

21. (1) For the purposes of this Act the Minister may appoint one or more Divisions of the Local Government Commission. 30

(2) A Division shall consist of three members of the Commission appointed by the Minister.

(3) Where there is a vacancy on a Division as a result of a position on the Commission becoming vacant the Minister shall appoint another member of the Commission to fill that vacancy. 35

(4) The appointment of a person to fill a vacancy under sub-section (3) shall not affect the validity of any act, decision or recommendation made by the Division before the appointment of that person.

(5) An

(5) An act, decision or recommendation of a Division shall not be invalid by reason only of a defect or irregularity in the appointment of a member of that Division or in the original appointment of that member as a member of the Commission.

5 22. (1) The Minister shall appoint one member of a Division to be the chairman of the Division. Proceedings of a Division.

(2) Two members of a Division shall form the quorum.

(3) The function of a Division shall be to inquire into any proposal referred to it by the Minister.

10 (4) Subject to the provisions of this Part, a Division may regulate its own procedure and in doing so—

(a) shall not be bound by the rules of evidence; and

(b) may inform itself in such manner as it thinks fit.

15 23. (1) A Division shall when conducting an inquiry hold at least one public hearing. Public hearings.

(2) Where a Division is to hold a public hearing it shall at least 21 days before the commencement of the hearing—

20 (a) cause a public notice advising of the date of commencement of the hearing and the place at which the hearing is to be held to be published in a newspaper generally circulating in the area concerned; and

25 (b) cause all municipal councils which in its opinion may be affected by the proposal which is the subject of the hearing to be notified in writing of the date of commencement of the hearing and the place at which the hearing is to be held.

30 (3) A Division may give 21 days notice in writing of the commencement of a hearing and the place at which the hearing is to be held to such other persons as it considers necessary.

24. (1) Any person likely to be affected by a proposal before a Division may make a written submission to that Division. Submissions.

35 (2) Any person likely to be affected by a proposal before a Division may appear in person before the Division to make an oral submission.

(3) A person appearing before the Division may with the consent of the Division be represented by a person acting for fee or reward.

(4) An application for the consent of the Division under sub-section (3) shall be made in writing and *ex parte*.

(5) The

(5) The Division may in giving its consent under sub-section (3) impose any conditions it sees fit.

(6) Notwithstanding sub-section (3) where a Council is represented at a hearing by an employé it shall not be required to obtain the consent of the Division to that employé appearing before the Division. 5

Powers.

24A. (1) A Division for the purposes of conducting a public hearing under section 23 shall have and may exercise in respect of the summoning and examining of persons and the production of documents the same powers as are by the Evidence Act 1958 conferred on a Board appointed by the Governor in Council and the provisions of sections 14 to 16 of the Evidence Act 1958 with such adaptations as are necessary shall apply accordingly. 10

(2) An act, decision or recommendation of the Division shall not be invalid by reason only of a defect or irregularity in the conduct of a public hearing by the Division. 15

DIVISION 3—ALTERATIONS TO THE BOUNDARIES OF MUNICIPAL DISTRICTS

Orders.

24B. The Governor in Council on the recommendation of the Minister may by order provide for one or more of the following: 20

- (a) The constitution of an area of land as a shire, borough, town or city;
- (b) The unification of two or more municipal districts or the abolition of a municipal district and inclusion of the area of that municipal district in another municipal district; 25
- (c) The annexation of an area of one municipal district to another municipal district;
- (d) The alteration of the boundaries of a municipal district;
- (e) The alteration of any or all of the boundaries of a group of municipal districts which form one continuous area; 30
- (f) The subdivision, resubdivision or abolition of subdivisions of a municipal district;
- (g) The annexation of an outlying district to a municipal district; 35
- (h) The determination or alteration of the number of councillors to be assigned to a municipality;
- (i) The proclamation of a shire to be a borough;

(j) The

- (j) The proclamation of a shire or borough to be a town;
- (k) The proclamation of a shire or borough to be a city; or
- (l) The giving of a name to or alteration of the name of any shire, borough or subdivision.

5 24c. For the purposes of this Part—

Requirements
for constitution
of borough,
town or city.

- (a) a borough may not be constituted or proclaimed unless it is substantially urban in character and has a population of not less than 4000 inhabitants;
- 10 (b) a town may not be constituted or proclaimed unless it is substantially urban in character and has a population of not less than 5000 inhabitants;
- (c) a city may not be constituted or proclaimed unless it is substantially urban in character and has a population of not less than 10 000 inhabitants.

15 24d. (1) The Minister may consider making a recommendation that an order be made under section 24B to give effect to a proposal—

Method of
instituting
proposal.

- (a) of his own motion;
- (b) where he has received a written request to do so from—
 - 20 (i) the Commission;
 - (ii) the council of any municipality under its common seal; or
 - (iii) at least one-tenth of the voters enrolled in the relevant area to which the proposal relates; or
- 25 (c) where an inspector of municipal administration has reported that the general and extra rates made and levied by any municipality in the year which ended on the thirtieth day of September last past did not yield the sum of \$100 000.

30 (2) For the purposes of sub-paragraph (iii) of sub-section (1) (b) a request of voters shall be in the prescribed form and shall be signed by not less than one-tenth of the voters' whose names are enrolled on the voters' roll or rolls which relate to the municipalities (or parts thereof) comprised in the relevant area.

35 (3) Where the Minister has received a request of voters he shall cause a copy of that request to be sent to the municipal clerk of each municipality (or part thereof) comprised in the relevant area.

(4) Each municipal clerk shall within one month of receiving a copy of the request of voters advise the Minister as to whether or not the request is signed as required by sub-section (2).

40 (5) A person who is enrolled on more than one voters' roll in relation to a municipal district or part of a municipal district comprised in the relevant area in respect of which a request of voters under

under this section or a request for a poll under section 24L has been made shall be entitled to sign that request once only by reason of his enrolment in that municipal district, but where he is enrolled on a voters' roll in more than one municipal district comprised in the relevant area he shall be entitled to sign that request for each of the municipal districts in which he is enrolled. 5

Referral to a Division.

24E. (1) The Minister shall not make a recommendation with respect to any proposal which may be given effect to under paragraphs (a) to (e) of section 24B unless he has referred that proposal to a Division and that Division has reported to him on that proposal. 10

(2) The Minister may, before making a recommendation with respect to any proposal which may be given effect to under paragraphs (f) to (l) of section 24B, refer that proposal to a Division.

(3) Where a proposal has been referred to a Division under this section the Minister shall cause to be given notice in writing of that referral to— 15

(a) the council of every municipality which in his opinion may be affected by the proposal; and

(b) in the case of a request of voters, one of the persons making that request. 20

Notice to be given where Division not to examine proposal.

24F. Where the Minister is to make a recommendation to the Governor in Council with respect to any proposal which may be given effect to under paragraphs (f) to (l) of section 24B without referring the proposal which is the subject of that recommendation to a Division the Minister shall cause to be given notice of the impending order in the *Government Gazette* and in a newspaper generally circulating in the municipalities which in his opinion are likely to be affected by the proposal. 25

Matters to which the Division may have regard.

24G. In conducting an inquiry a Division may at its discretion have regard to all or any of the following considerations: 30

(a) Community or diversity of interest in the municipal districts likely to be affected by the proposal;

(b) The means of communication in the municipal districts likely to be affected by the proposal;

(c) The topography of the municipal districts likely to be affected by the proposal; 35

(d) Historic patterns and factors in the municipal districts likely to be affected by the proposal;

(e) Sociological patterns and factors in the municipal districts likely to be affected by the proposal; 40

(f) Demographic economic and employment patterns and factors in the municipal districts likely to be affected by the proposal;

(g) Where

- 5 (g) Where the proposal concerns the subdivision of or a
resubdivision of a municipal district, that the number
of electors in each proposed subdivision does not vary by
more than 5 per cent from the average number of
electors for all the subdivisions within the municipal
district;
- 10 (h) The financial position, including financial viability
efficiency of operation, levels of rates, rating capacity,
revenue and expenditure and assets and liabilities of
the municipalities in the municipal districts likely to be
affected by the proposal;
- 15 (i) The demand for and the supply of facilities and services
by municipalities and the capacity to supply such
facilities and services by the municipalities in the
municipal districts likely to be affected by the proposal;
- 20 (j) Any regional pattern of demand for and the supply of
facilities and services and the level of communication
and co-operation between neighbouring municipalities
in the supply of facilities and services in the municipal
districts likely to be affected by the proposal;
- (k) Community identity, expectations and involvement in
the municipal districts likely to be affected by the
proposal;
- (l) Any other matters that the Division considers relevant.
- 25 24H. (1) A Division may report to the Minister—
- (a) that the proposal be proceeded with;
- (b) that the proposal be altered; or
- (c) that the proposal be not proceeded with.
- 30 (2) In making its report the Division may include any matters
which in its opinion are necessary to give effect to its report.
- (3) Where a Division proposes to report that there should in
its opinion be a material alteration of the proposal referred to it
the Division shall give notice of that altered proposal—
- 35 (a) to every municipal council which in its opinion is likely
to be affected by the proposal; and
- (b) where the initial proposal originated as a request of
voters, to one of the persons who made that request—
and the Division shall provide an opportunity for the council and
those persons (as the case requires) to make written submissions to
40 it on the altered proposal.

Report of
Division.

24I. (1) As

24I. (1) As soon as practicable after the Division has reported on a proposal to the Minister, the Minister shall, except where the Minister refers the report back to the Division pursuant to section 24K, cause a copy of the report to be forwarded—

- (a) to the municipal clerk of each municipality whose municipal district is or in respect of which part of the municipal district is in the relevant area; and 5
- (b) where the report relates to a proposal following a request voters, to one of the voter's who made the request. 10

(2) A municipal clerk of a municipality referred to in sub-section (1) (a) shall within fourteen days of receiving a report pursuant to sub-section (1) give notice in a newspaper circulating generally in the municipal district of that municipality that any person may without fee inspect a copy of the report at the office of the council during ordinary office hours on any week day for a period of not less than fourteen days after the day on which notice is given. 15

Action Minister may take on receiving a Division's report.

24J. (1) Where a Division has reported to the Minister on any proposal which may be given effect to under paragraphs (f) to (l) of section 24B the Minister may— 20

- (a) take no further action;
- (b) make a recommendation to the Governor in Council that the proposal contained in the report be given effect to;
- (c) alter or amend the proposal contained in the report and recommend to the Governor in Council that the proposal as altered or amended be given effect to; or 25
- (d) refer the report back to the Division.

(2) Where a Division has reported to the Minister on any proposal which may be given effect to under paragraphs (a) to (e) of section 24B the Minister may— 30

- (a) take no further action;
- (b) cause to be given notice that a proposal has been made by the Division and that voters in the relevant area to which the proposal relates may request a poll to ascertain the extent of public opposition to that proposal; 35
- (c) alter or amend the proposal contained in the report and then cause to be given notice that voters in the relevant area to which proposal as altered or amended relates may request a poll to ascertain the extent of public opposition to that proposal; or 40
- (d) refer the report back to the Division.

(3) Notwithstanding sub-sections (1) and (2) the Minister shall not act upon a report between the months of April to August (inclusive) in any year. 45

(4) The

(4) The Minister shall not take any action on a report or a report which has been amended under section 24K after the expiration of two years from the day on which he receives the report or the amendments to the report.

5 (5) A notice under paragraph (b) or (c) of sub-section (2) shall—

10 (a) be published by the municipal clerk of each municipality or part thereof comprised in the relevant area to which the report relates, in a newspaper circulating generally within the relevant area within fourteen days after the municipal clerk receives a request from the Minister to publish that notice;

(b) shall contain a summary of the proposal in respect of which a poll may be requested prepared by the Minister.

15 24K. (1) Where the Minister refers a report back to the Division he shall specify those parts of the report which the Division is to re-examine. Re-examination of reports.

(2) The Division in carrying out a re-examination of the report or any part of it—

20 (a) may make any amendments it sees fit; and
(b) shall not be required to hold a public hearing or a discussion with any person likely to be affected by the proposal.

25 (3) When the Division has completed the re-examination, it shall submit a further report to the Minister incorporating any amendments (if any) made to the previous report.

24L. (1) The Minister shall cause a poll to be conducted in the relevant area where he has received a request for a poll and he is satisfied that the request complies with sub-section (2). Request for a poll.

(2) A request for a poll shall be—

30 (a) signed by not less than one-tenth of the voters enrolled on the voters' roll or rolls (or the parts thereof) which relate to the municipalities (or part thereof) comprised in the relevant area;
35 (b) in the prescribed form;
(c) accompanied by a fee of \$100; and
(d) lodged within 21 days of publication of the notice under section 24J (5) with the Minister.

40 24M. (1) For the purposes of ascertaining whether a request for a poll complies with section 24L (2) (a) the Minister shall cause a copy of that request to be forwarded to the Municipal clerk of each municipality (or part thereof) comprised in the relevant area within one month after receiving it. Ascertaining compliance with requirements for request.

(2) The

(2) The municipal clerk shall within one month advise the Minister as to whether or not the request is signed as required by section 24L (2) (a).

(3) Where the Minister is satisfied that the request complies with section 24L (2) (a) he shall cause the municipal clerk to be notified—

- (a) of the date on which the poll is to be held;
- (b) of any further conditions or requirements to be complied with in the conduct of the poll and the declaration of the result. 10

(4) Where the Minister is not satisfied that the demand complies with the requirements of section 24L (2) (a) he shall cause to be so notified—

- (a) the municipal clerk for each municipality or part thereof comprised in the relevant area; and 15
- (b) any one of the persons who signed the request.

Conduct of poll.

24N. (1) The following provisions shall apply to a poll conducted under this Division:

- (a) The municipal clerk for each municipality or part thereof comprised in the relevant area shall prepare a special voters' roll for that municipality or part from the voters' roll or the relevant part of the voters' roll of that municipality or part or where there is more than one voters' roll for that municipality or part, from those voters' rolls or parts thereof by— 20
 - (i) striking from the roll the name of any person who on 20 May last past was not entitled to be enrolled on the relevant voters' roll or rolls; and 25
 - (ii) where a person is enrolled more than once on the roll, striking from the roll that person's name where it appears a second or subsequent time; 30
- (b) The municipal clerk shall write his initials against every name struck out, sign the roll and deliver it to the chairman and the roll so delivered shall be the special voters' roll for the purposes of the poll; 35
- (c) Each person whose name is enrolled on the special voters' roll shall be entitled to one vote in the poll;
- (d) Ballot-papers to be used in the poll shall be in the prescribed form;
- (e) A scrutineer may by an instrument in writing addressed 40
 - (i) Three or more persons who have signed the request for the poll;
 - (ii) Three

(ii) Three or more persons who have each made a declaration in writing addressed to the municipal clerk that they are in favour of the proposal;

5

(iii) Any municipal council whose municipal district is wholly or partly in the relevant area;

(f) Each returning officer shall notify the Minister not later than seven days after the poll has been held—

(i) of the number of voters on the special voters' roll;

10

(ii) of the number of voters enrolled on the special voters' roll who voted for the proposal and of the number of voters enrolled on the special voters' roll who voted against the proposal; and

(g) Where—

15

(i) more than two-fifths of the valid votes recorded at the poll are against the proposal the fee of \$100 paid under section 24L (2) (c) shall be returned to the person who paid it;

20

(ii) in any other case the fee may be retained to defray the costs incurred by the municipal councils involved in conducting the poll.

25

(2) The provisions of this Act and the regulations made under this Act dealing with the elections of councillors and any matters incidental thereto shall in so far as they are not abrogated by the provisions of this section and with the alterations and adaptations which are necessary apply to polls conducted under this Division.

30

24o. (1) The Minister shall have regard to the result of a poll.

Result of Poll.

(2) The Minister shall cause notice to be given in the *Government Gazette* and in a newspaper generally circulating in the relevant area of the result of the poll.”.

35

(2) An order made under Part II. of the Principal Act as in force immediately before the commencement of this section shall, notwithstanding the coming into operation of this section be valid and effectual and the provisions of Part II. of the Principal Act as in force immediately before the commencement of this section shall continue to apply to that order.

Transitional provision.

3. (1) Section 64 of the Principal Act is amended as follows:

Amendment of No. 6299 s. 64.

40

(a) After the expression “64” there shall be inserted the expression “(1)”; and

(b) For the words “approved by resolution” there shall be substituted the words “approved by prior resolution”.

(2) After

(2) After section 64 of the Principal Act there shall be inserted the following sub-sections:

Allowance for
councillors
expenses.

“(2) The council may in its discretion determine that all councillors be paid an annual allowance of an amount which shall be the same for each councillor and which shall not exceed \$1500 for any expenses (other than travelling expenses payable under sub-section (1)) incurred by them while carrying out their duties as members of the council. 5

(3) The council shall in each year apply out of the municipal fund moneys necessary to pay allowances made under sub-section (2). 10

(4) The amount of the allowance payable under sub-section (2) shall be fixed at the meeting prescribed by section 66 (2) and shall be paid in four equal quarterly instalments.

(5) Where an extraordinary vacancy occurs in the office of councillor, the councillor vacating that office or, where he has died, his personal representative shall be entitled to retain any instalments which were paid to him under this section and his successor shall be paid any remaining instalments.”. 15

Amendment of
No. 6299 s. 71.

4. (1) In section 71 of the Principal Act after sub-section (2) there shall be inserted the following sub-section: 20

“(3) Where a chairman does not complete his term of office he or his personal representative shall be entitled to retain those instalments which were paid to him under this section and the chairman who is elected to take his place is entitled to be paid any remaining instalments.”. 25

Amendment of
No. 6299.
New section
72A. inserted.
Section 181
not to apply.

(2) After section 72 of the Principal Act there shall be inserted the following section:

“72A. The provisions of section 181 shall not apply to anything done pursuant to the provisions of this Division.”. 30

5. In paragraph (b) of section 125 of the Principal Act after the expression “(b)” there shall be inserted the words “under his own hand”.

Amendment of
No. 6299
s. 158.

6. In section 158 of the Principal Act after sub-section (1) there shall be inserted the following sub-sections: 35

Agreement with
respect to
terms of
employment.

“(2) The council may enter into an agreement with any officer with respect to any term or condition of employment of that officer which is not otherwise provided for by this Act, any other Act providing for terms and conditions of employment of municipal officers or any industrial award or agreement applicable to that officer. 40

(2A) The

(2A) The council may name one of its officers to be the Chief Executive Officer or may employ some other person for this purpose and in doing so shall have regard to the need to appoint a person having knowledge of and experience in local government matters.

5 (2B) The Chief Executive Officer shall have administrative charge of the municipality and shall perform his duties in accordance with the directions of the council and the provisions of this Act or any other Act imposing duties on municipal officers.”.

7. (1) After section 180 of the Principal Act there shall be
10 inserted the following section:

Amendment of
No. 6299.
New s. 180A.
Delegations.

“180A. (1) The council may by resolution delegate to an officer employé or a committee consisting wholly of councillors or officers (having a quorum in either case of not less than three) any power authority duty or function of the council under this Act other than
15 this power of delegation or a power authority or function relating to—

- (a) the fixing of any charges or fees, or the borrowing of any moneys;
- 20 (b) the voting of moneys for expenditure on works, services or operations of the council;
- (c) the resumption, purchase, sale, exchange, leasing for more than three years or surrender of any land or other property or the granting of any lease of land;
- 25 (d) any matter involving the fixing of the council’s seal on any document and any contract referred to in section 503;
- (e) any statutory application to the Governor in Council or the Minister;
- 30 (f) the fixing of payments to officers, employés or councillors of any allowances or amounts for reimbursement of expenses;
- (g) any schemes for the carrying out of works for the benefit of private premises wholly or partly at the cost of the owners of those premises;
- 35 (h) the hearing or consideration of any appeal or objection pursuant to this Act;
- (i) the determination of whether compensation or damages are payable and the fixing of any amount for compensation or damages;
- 40 (j) auditors’ reports and final settlement of accounts;
- (k) appointment of any officer named in section 158 (2A) or section 160;

(l) any

- (l) any action pursuant to sections 5, 160, 165, 246 (7) and to Parts VI., X., XI., XVI., XVII., XXXIII., XXXIVA., XXXV., XXXVI., XLA. and XLIX.; or
- (m) any other matters which the Governor in Council by order published in the *Government Gazette* from time to time declares. 5

(2) A resolution made under sub-section (1) shall specify the period of time during which the delegation of power may be exercised or where the council has resolved that the delegation shall be exercisable for an unlimited period of time the resolution shall so specify. 10

(3) The council may by resolution vary or revoke a delegation made by it.

(4) A power authority duty or function delegated by the council shall be exercised or performed in accordance with the instrument of delegation and shall be subject to the conditions and limitations specified in the instrument of delegation. 15

(5) The delegation of a power authority duty or function by the council does not prevent the exercise of the power or authority or the performance of the duty or function by the council. 20

(6) Any act or thing done in performance of a duty or function or the exercise of an authority or power by the delegate under sub-section (1) has the same force and effect as if it had been done by the council.

(7) No act of a delegate done within the scope of a delegation under this section during the period in which that delegation remains in force shall be invalidated by reason of a later revocation or variation of the delegation. 25

(8) Where a council exercises the power of delegation conferred by this section a record of the resolution shall be kept by the municipal clerk in a Register of Delegations and the record shall include a reference to the appropriate entry in the minute book. 30

(9) The council shall at regular intervals review all decisions made under a delegation and, to enable the council to perform this function, every delegate shall keep such records as the council by resolution decides. 35

(10) Nothing in this section shall authorize a council to be represented on any statutory body composed either wholly or in part of council representatives by other than a councillor.”

(2) After sub-section (5) of section 190 of the Principal Act there shall be inserted the following sub-section: 40

“(6) Where the power to make a decision in relation to any matter has been delegated to a standing committee by the Council under section 180A, the committee shall make that decision in a meeting

meeting which shall be held with open doors unless it becomes necessary to exclude strangers because of their disorderly conduct.”.

8. In section 244 (1) (e) of the Principal Act after the words “of the municipality” there shall be inserted the words “and the acquisition of land or equipment for the purposes of this paragraph shall be deemed to be a permanent work or undertaking within the meaning of Part XV.”.

Amendment of
No. 6299
s. 244 (1) (e).

9. For sub-section (6) of section 605A of the Principal Act there shall be substituted the following sub-section:

Amendment of
No. 6299
s. 605A.

“(6) Where the council is of the opinion that in order to carry out any of the steps referred to in sub-section (3) it is expedient that any street or any part of a street should be closed or that any easement or restrictive covenant should be extinguished then the provisions of section 699 with such modifications as are necessary shall apply to this section.”.

10. For Part XXVIII. of the Principal Act there shall be substituted the following Part:

Amendment of
No. 6299.
New Part
XXVIII.

‘PART XXVIII.—HOUSING SCHEMES

697. In this Part unless inconsistent with the context or subject-matter—

Interpretations.

“House” includes flat and also includes outbuildings, fences and other appurtenances to a house or flat.

“House.”

“Scheme” means a housing scheme under this Part.

“Scheme.”

698. (1) A council may prepare a scheme for the provision of housing in any part of the municipal district.

Preparation of
housing
schemes.

(2) The scheme shall set out—

- (a) the number and types of houses to be provided;
- (b) the estimated cost of implementing the scheme and the estimated financial return from the scheme;
- (c) the manner in which it is to be financed;
- (d) the council’s reason for proposing it;
- (e) the proposed use of any other land to be acquired for the scheme; and
- (f) the method of disposal of the land and houses acquired or built under the scheme.

(3) A council, before implementing a scheme, shall apply to the Minister for his consent to the scheme.

(4) The Minister may, request that additional information relating to the scheme be provided.

(5) The

(5) The Minister may, after consulting with the Minister of Housing, consent to the implementation of the scheme and may impose any terms conditions restrictions and limitations on the scheme or vary or modify the scheme as he sees fit.

Powers of council in implementing scheme.

699. (1) For the purposes of implementing a scheme the council may— 5

- (a) in the manner specified in this Act purchase or take compulsorily any land in the municipal district;
- (b) use land vested in it, including land held on trust for the particular purpose of the provision of housing, but not including land held on trust for any other particular purpose; 10
- (c) cause the land so purchased, acquired or vested in it to be subdivided and in giving effect to the subdivision—
 - (i) provide or cause to be provided services to the land; or 15
 - (ii) seal a plan of subdivision under this Act, the *Strata Titles Act 1967* or the *Cluster Titles Act 1974*;
- (d) construct or cause to be constructed houses on the land; 20
- (e) purchase existing houses or make any necessary repairs and alterations to existing houses;
- (f) sell or lease houses, the subject of the scheme upon the terms and conditions the council thinks appropriate in each case; 25
- (g) take security for any amount owing to the council through the sale of a house;
- (h) close roads according to the procedure set out in section 528 (2), and in the case of a road which is wholly or partly on Crown land, with the consent of the Minister of Lands. 30

(2) Any provisions in this Act relating to the sale or lease of property shall not apply to a sale or lease of property under sub-section (1) (f).

(3) Where the council is of the opinion that it is expedient for the implementation of a scheme that an easement should be extinguished or re-located it shall— 35

- (a) serve notice of its intention to do so—
 - (i) upon the owner of any property which the council considers is likely to be affected by the proposal; 40
 - (ii) upon any statutory corporation which has a right or interest in the easement; and

(b) publish

(b) publish notice of its intention to do so in a newspaper generally circulating in the area—

and shall allow at least one month from the date of service and publication of notice for any person to set forth their objections to the extinguishment or re-location of the easement.

(4) The council may after considering all objections made pursuant to sub-section (3) and if of the opinion that the extinguishment or re-location of the easement will not substantially injure the public or any person objecting to it recommend to the Minister that the easement be extinguished or re-located, and accordingly the Governor in Council may upon the recommendation of the Minister by order published in the *Government Gazette* extinguish or re-locate the easement.

(5) The council upon the extinguishment or re-location of an easement under sub-sections (3) and (4) shall make provision for—

- (a) access to any land likely to be prejudicially affected by the extinguishment or re-location;
- (b) the rectification or other alteration of documents of title to lands the descriptions of which are likely to be affected by the extinguishment or re-location.

700. (1) Notwithstanding the provisions of this Part, a council may with the consent of the Minister after he has consulted with the Minister of Housing sell or lease any land—

Power to sell or lease certain lands.

- (a) purchased or taken compulsorily for the purposes of implementing a scheme; or
- (b) vested in the council other than on trust for a particular purpose—

without constructing or causing to be constructed houses on that land to any person who intends to use that land for the construction of houses.

(2) The provisions of this Act relating to the sale or lease of property shall not apply to any sale or lease of land in compliance with sub-section (1).'

11. After section 896A of the Principal Act there shall be inserted the following section:

Amendment of No. 6299 s. 896A.

'896AA. (1) Where any works or undertakings which any municipality is authorized to carry out may interfere materially with any land property undertakings or works vested in or under the management or control of a corporation such works shall

Council to obtain agreement before carrying out works or land not vested in it.

not

not be proceeded with by the municipality unless and until every such corporation concerned has agreed thereto or a determination has been made by the Governor in Council as hereinafter provided.

(2) Unless within fourteen days after the municipality authorized to carry out the works serves on the corporation notice in writing that it intends to proceed with those works, the corporation delivers to the municipality a statement of its objections to those proposed works the corporation shall be taken to have agreed thereto. 5

(3) In default of agreement between the municipality and the corporation all matters in difference between them shall be determined by the Governor in Council whose decision shall be final and binding upon the parties. 10

(4) Any such agreement or determination may provide for all or any of the following matters: 15

(a) Any new altered or substituted works to be made or executed by the municipality and to be vested in the corporation and being works reasonably necessary for preventing interference with or protecting land property undertakings or works vested in or under the management and control of the corporation; 20

(b) The payment or apportionment of the payment of the cost of the new altered or substituted works; and

(c) Any other matters necessary or convenient to be provided for. 25

(5) When the new altered or substituted works made or executed by the municipality are finally completed those new altered or substituted works shall be vested in and under the control and management of such corporation.

(6) Where it is necessary to carry out immediately any works to which this section would apply for the purposes of avoiding the occurrence of serious injury to persons or serious damage to property the council or the municipal engineer may notwithstanding the foregoing provisions of this section, carry out the works needed. 30

(7) The provisions of this section shall with such modifications as are necessary apply to any case where any works authorized to be carried out by the corporation may interfere with any land property undertakings or works authorized to be carried out by the municipality. 35

(8) A reference to "corporation" in this section is a reference to any one or more of the following: 40

(a) The Minister of Public Works;

(b) Any public statutory corporation;

(c) Any municipality other than the municipality referred to in sub-section (1).'. 45

12. The Principal Act is amended as follows:

(a) In the Table in section 1—

(i) for the expression—

“Division 1.—Interpretation and Application, s. 16.

Division 2.—Advisory Board, s. 17.

Division 3.—Powers of Governor in Council, ss. 18–19.

Division 4.—Procedure for Petitions Requests and Applications, ss. 20–24.”

there shall be substituted the expression—

“Division 1.—Interpretation and Application, s. 16.

Division 2.—Local Government Commission and Divisions of the Local Government Commission, ss. 17–24A.

Division 3—Alterations to the Boundaries of Municipal Districts, ss. 24B–24o.”;

(ii) in the expression “Division 4.—Election and Privileges of Chairman, ss. 65–72.” for the expression “72” there shall be substituted the expression “72A”; and

“

<p>Part XXVIII.— Housing and Reclamation, ss. 697–755.</p>	}	<p>Division 1.—Interpretation, s. 697. Division 2.—Housing Schemes to provide Dwellings for Persons of Small Means, ss. 698–712. Division 3.— Reclamation Schemes for the Improvement of Insanitary Low-lying or Over-crowded Areas, ss. 713–716. Division 4.—Closing of Streets, &c., ss. 717–722. Division 5.—Betterment Charge in Connexion with Reclamation Scheme, ss. 723–743. Division 6.—General, ss. 744–755.”</p>
--	---	---

there shall be substituted the expression—

“Part XXVIII.—Housing Schemes, ss. 697–700.”;

(b) In section 3 (1) after the interpretation of “Portion of Victoria” there shall be inserted the following interpretation:

““Printing” includes all modes of representing or reproducing words in visible form and “print” and “printed” have a corresponding meaning.”;

(c) In

- (c) In section 26 for the expression “sub-section (1) of section 18 of this Act” there shall be substituted the expression “section 24B”;
- (d) In section 27 for the expression “sub-section (1) of section 18 of this Act” there shall be substituted the expression “section 24B”;
- (e) Section 34 and sub-section (2) of section 35 are repealed;
- (f) In section 37—
- (i) in paragraph (a) for the expression “paragraph (h) of sub-section (1) of section 18 of this Act” there shall be substituted the following expression “section 24B (h)”;
- (ii) after paragraph (b) there shall be inserted the following paragraph:
- “(c) a name is given to any shire, borough or subdivision or the name of any shire, borough or subdivision is altered—”;
- (g) In section 155 (2) after the words “by the returning officer” there shall be inserted the words “or in the case of a poll conducted under Part II. by notice in the *Government Gazette*”; and
- (h) In section 393 (9) the words “or reclamation scheme” are repealed.

Amendment of
No. 6299.
Repeal of
2nd and 3rd
Schedule.

13. (1) The Second and Third Schedules of the Principal Act are repealed.

(2) In clause 17 of the Fifteenth Schedule to the Principal Act for the words “Members of the public” there shall be substituted the words “Except in the case of a meeting to which section 190 (6) of the *Local Government Act 1958* applies, members of the public”.