

Local Government (General Amendment) Bill 1981

NOTES ON CLAUSES

Clause 1 is a clause in the usual form, containing provisions relating to the short title and the commencement of the Act. The Principal Act is the *Local Government Act 1958*.

Clause 2 amends section 8 (1) of the Principal Act by deleting the current requirement that a municipal council is to obtain the consent of the Governor in Council if it wishes to break, alter or change its common seal.

Clause 3 amends sections 65 and 66 of the Principal Act to provide that a chairman of a municipality is to be elected by way of a secret ballot. A consequential amendment is made to clause 47 of the 15th Schedule of the Principal Act.

Clause 4 amends section 132 of the Principal Act to provide for at least one polling booth for every 1500 voters in respect of municipalities which have not adopted compulsory voting. Where voting is compulsory the position is unchanged (at least one such booth for every 1000 voters).

Clause 5 amends section 137 of the Principal Act to provide that a candidate for election as a municipal councillor may not act as a scrutineer (whether on his own behalf or for another candidate) at an election. A consequential amendment is made to section 143.

Clause 6. Section 160 of the Principal Act deals with suspensions of or enquiries by councils to consider the removal, discharge or termination of certain senior officers. The section is to be amended to provide that in proposing an enquiry the council is to give the officer its reasons in writing. This is to bring enquiries into line with the provisions applying to suspensions.

Clause 7 clarifies the wording of sub-section (5) of section 173 of the Principal Act.

Clause 8. Part VI of the Principal Act deals with meetings of a municipal council. At present it is not clear as to who gives the formal notice of such meetings. Proposed section 178 provides that notice is to be given by the municipal clerk or any other authorized officer.

Clause 9 makes consistent the penalties for two similar offences under section 187.

Clause 10. Section 188 deals with the calling of a compulsory meeting of a municipal council. At present the section does not specify who is to decide whether a councillor has a reasonable excuse for failing to attend the meeting called under this section. The section is to be amended to provide that if a councillor fails to attend the meeting the municipal clerk is to advise the Minister in writing. If

the Minister after considering any submission received from the councillor and the council is not satisfied that the councillor has a reasonable excuse for failing to attend he is to advise the councillor and the clerk accordingly. The councillor, from a date specified in the order, is to be incapable of being or continuing to be a councillor. The Minister may then apply to the Supreme Court to have the councillor ousted from office.

A consequential amendment is made to section 156.

Clause 11 contains two new by-law making powers for municipal councils.

The first will permit councils to make by-laws to control and regulate building operations to prevent objectionable noises at unreasonable times.

The second will permit councils to regulate the times during which incinerators may be used on properties used wholly or partly for residential purposes.

Clauses 12, 13 and 14 delete requirements or are consequential upon the deletion of requirements for municipal councils to seek the approval of the Governor in Council before exercising various powers.

Clause 15 amends section 251 of the Principal Act to provide for land held in trust and used exclusively for the purposes of the Australian Legion of Ex-Servicemen and Women (Victorian Branch) to be non rateable.

Clause 16 incorporates a new sub-section (7) into section 290 of the Principal Act to provide that a municipal council may, with the consent of the Governor in Council, during the currency of a separate rate delete any work or undertaking for which the rate is to be levied if it is satisfied that the circumstances have so changed that the work shall not proceed.

This provision is to apply to any separate rate whether it was made before or after the commencement of the *Local Government (Amendment) Act 1981*.

Clause 17 amends section 319 of the Principal Act to provide that the rating system used by a municipality may be changed from a combination of site and net annual values to site value.

The section has also been redrafted to clarify its intent.

Clause 18 makes a correction to section 386 of the Principal Act and also repeals sub-section (5) of that section.

Clause 19 amends section 386A of the Principal Act to provide that where a rate demand is posted on or after 18 December the person liable to pay the rates in question will have up to 21 days (14 days at present) to advise the council if he wishes to pay the rates by instalments.

Clause 20 empowers the council of any municipality to fix or alter the breadth of the carriages or footways of any public highway.

Clause 21 repeals the requirement that the consent of the Minister is required before any new street or road which is in any place less than 20 metres wide can be opened by the council.

Clause 22 makes two amendments to section 535 of the Principal Act.

The first is to provide that at least one month before a council changes the name of a road or street it is to give notice of its intention in a newspaper generally circulating in the municipal district and also give written notice to every occupier in the road or street.

The second is to provide that the notice to each occupier is to be by way of ordinary prepaid post, At present it must be by certified post.

Sub-section (4) and (4A) of section 535 have been redrafted to clarify their intent.

Clause 23 amends section 555 of the Principal Act to authorize councils to grant permits and charge fees for—

- (a) the leaving in roads and streets of receptacles (exceeding a capacity of two cubic metres) for the reception of litter and waste; and
- (b) the placing of advertising boards in roads and streets.

Clause 24 makes several amendments to section 555A of the Principal Act.

First, a number of corrections to amendments enacted by the *Local Government (Further Amendment) Act 1981* are made.

Secondly, a new provision is proposed so that disabled persons may leave a motor vehicle in a municipal parking area for twice the period fixed for that area and, if a fee is charged, pay only the fee for the fixed period.

Clause 25 amends section 582 of the Principal Act to make it clear that where a private street construction scheme is funded from an advance or borrowing raised for the purpose of the scheme a council may charge 1% above the rate of interest being paid for the time being by the council.

Clause 26 amends 648 of the Principal Act by deleting the current requirement for a municipal council to obtain the consent of the Governor in Council in respect of water works in relation to floods.

Clause 27 amends a number of sections in the Principal Act by replacing various statutory fees and deposits with the provision for fixing such fees and deposits by regulations and inserts a new Division 4 in Part XLVII to empower the making of regulations for or with respect to the matters specified.

Clause 28 inserts a new Part XLVIA into the Act. The purpose of the new part is to gather together a number of certificates given by municipal councils relating to land. Regulations may be made under the proposed section 898 (1) (g) prescribing the format of applications for certificates, the certificates, themselves and the fees to be paid.

Clause 29 makes a correction to section 1 of the *Local Government (Further Amendment) Act 1981*.

