

Local Government (Board of Review) Bill 1982

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 repeals Divisions 1 to 4 of Part II. of the Principal Act and inserts proposed sections 16 to 24o. The proposed sections provides as follows:

DIVISION 1—INTERPRETATION AND APPLICATION.

Proposed section 16 is an interpretation provision.

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

Proposed Section 17—

Proposed sub-section (1) provides that there is to be a Local Government Commission.

Proposed sub-section (2). The members of the Commission are to be appointed by the Governor in Council.

Proposed sub-section (3). Each member of the Commission is to be appointed for a term not exceeding three years and will be eligible for reappointment.

Proposed sub-sections (4) and (5) deal with vacancies in the office of a member of the Commission.

Proposed sub-sections (6) and (7) provide for the appointment by the Minister of a member of the Commission as Chairman.

Proposed sub-sections (8) and (9) provide that at least two meetings of the Commission are to be held each year. The meetings are to be called by the convenor.

Proposed sub-section (10) sets out the functions of the Commission.

Proposed section 18 deals with meetings of the Commission.

Proposed section 19 provides for the appointment of staff for the Commission and any Division of the Commission.

Proposed section 20 deals with the payment of members of the Commission and any Division.

Proposed section 21.

Proposed sub-section (1) provides that the Minister may appoint one or more Divisions of the Commission.

Each Division is to consist of three members of the Commission (proposed sub-section (2)).

Proposed sub-sections (3) and (4) deal with vacancies in the membership of a Division.

Proposed sub-section (5) deals with defects or irregularities in the appointment of a member of a Division.

Proposed section 22 deals with the proceedings and functions of a Division.
Proposed section 23.

Proposed sub-section (1) provides that when conducting an inquiry a Division must hold at least one public hearing.

Proposed sub-sections (2) and (3) deal with the giving of notice in respect of a public hearing to be held by a Division.

Proposed section 24 deals with the making of submissions to the Division.

Proposed section 24A prescribes the procedure to be followed by a Division in conducting a public hearing.

DIVISION 3—ALTERATIONS TO THE BOUNDARIES OF MUNICIPAL DISTRICTS.

Proposed section 24B specifies the matters which the Governor in Council, on the recommendation of the Minister, may provide for by order.

Proposed section 24C prescribes requirements for the constitution or proclamation of new boroughs, towns and cities.

Proposed section 24D provides the means of instituting a proposal for consideration by a Division.

Proposed section 24E.

Proposed sub-section (1) provides that the Minister is not to make a recommendation under section 24B (a) to (e) unless he has referred the proposal to a Division and the Division has reported to him on that proposal.

For the remaining matters referred to in section 24B the Minister may (but is not required) refer the proposal to a Division before making a recommendation to the Governor in Council (proposed sub-section(2)).

Where a proposal has been referred to a Division the Minister is to cause notice to be given of that referral (proposed sub-section(3)).

Proposed section 24F. Where the Minister is to make a recommendation under paragraphs (f) to (l) of section 24B to the Governor in Council without referring the matter concerned to a Division he is to give notice of the impending order.

Proposed section 24G sets out matters which a Division may, at its discretion, have regard to when it is conducting an inquiry.

Proposed section 24H deals with the manner in which a Division is to report to a Minister in respect of any proposal he has referred to it.

Proposed section 24I provides that the Minister is to make public the report of the Division.

Proposed section 24J sets out the action the Minister may take on a report he has received from a Division. In particular proposed sub-section (2) provides that where a Board has reported to a Minister on any matters referred to in paragraphs (a) to (e) of section 24B the Minister may—

(a) take no further action;

(b) cause to be given notice that voters in the relevant area to which the report relates may request a poll to ascertain the extend of public opposition to the report;

- (c) alter or amend the proposals dealt with in the report; or
- (d) refer a report back to the Division.

Proposed section 24K deals with a referral of a report back to a Division by the Minister.

Proposed section 24L deals with polls of electors in certain instances. The poll may be requested by not less than one-tenth of the voters on the voters' roll which relate to the relevant area.

Proposed section 24M sets out the procedure for ensuring that request for a poll meets the requirements of the legislation.

Proposed section 24N prescribes the conditions for the conduct of the poll.

Proposed section 24O provides that the Minister is to have regard to the result of a poll.

Clause 3 makes a number of changes to sections 64 and 65 of the Principal Act (which deal with travelling expenses of councillors and the election of the chairman of a municipality).

The most important changes are provided for in the proposed new sub-sections (2) to (5) of section 64.

Proposed sub-section (2) provides that a municipal council may pay an annual allowance to its councillors not exceeding \$1500 for expenses (other than travelling expenses) incurred by them in carrying out their duties as members of the council.

Proposed sub-sections (3) to (5) deal with the procedure for the payment of the allowance.

Clause 4 provides that where the chairman of a municipal council does not complete his term of office, he or his personal representative will be entitled to retain that part of the allowance already paid and his successor will receive the remainder.

Clause 5 makes a minor correction to section 125 of the Principal Act (which relates to the nomination form for candidates for councillor).

Clause 6 provides for amendment to section 158 of the Principal Act (which deals with the employment of staff by councils).

Proposed sub-section (2) provides that a council may enter into an agreement with any officer with respect to any term of employment of that officer which is not otherwise provided for by the Local Government Act or any other Act providing for terms and conditions of employment of such officers or any industrial award or agreement applicable to that officer.

Proposed sub-section (2A) provides that a council may name one of its officers or employ a person to be the Chief Executive Officer. In considering an appointment the council is to have regard to the need to appoint a person having knowledge of and experience in local government matters.

Proposed sub-section (2B). The Chief Executive Officer is to have administrative charge of the municipality.

Clause 7 sub-clause (1) inserts a new section 180A into the Principal Act to permit councils to delegate to an officer, employee or a committee, consisting wholly of councillors or officers (having a quorum in either case of not less than three) any power authority or duty of the council under the Local Government Act. The sub-section, however, provides that certain of the council's power or authorities may not be delegated.

Sub-clause (2) inserts a new sub-section (6) into section 190 of the Principal Act. The proposed sub-section provides where the power to make a decision in relation to any matter has been delegated by a council to a standing committee of councillors under section 180A the committee is to make the decision in a meeting which is conducted in accordance with section 190 and is open to the general public.

Clause 8 amends section 244 of the Principal Act to provide that the acquisition of land or equipment for social services purposes shall be deemed to be a permanent work or undertaking within the meaning of Part XV. of the Principal Act.

Clause 9 provides for an amendment to section 605A of the Principal Act consequent upon the insertion of the proposed new Part XXVIII.

Clause 10 inserts a new Part XXVIII. (which deals with the provision of housing by municipal councils) into the Principal Act to replace the present provisions.

The new part provides as follows:

Proposed section 697 is an interpretation provision.

Proposed section 698.

Proposed sub-section (1) provides that a municipal council may prepare a scheme for the provision of housing in any part of the municipal district.

Proposed sub-section (2) specifies the matters which must be set out in the scheme.

Proposed section (3) requires a council, before implementing such a scheme, to apply to the Minister for Local Government for his consent.

The Minister may request additional information in respect of the scheme (proposed sub-section (4)).

Proposed sub-section (5) provides that the Minister may, after consulting with the Minister of Housing, consent to the scheme and may impose terms, conditions, restrictions and limitations on the scheme or vary or modify the scheme.

Proposed section 699 sets out a council's powers in relation to a housing scheme.

Proposed section 700 provides that a council, may with the consent of the Minister for Local Government after consulting with the Minister for Housing, sell or lease any land acquired under Part XXVIII. 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.

Clause 11 inserts a new section 896AA dealing with a council's powers to interfere with any land, property, undertakings or works of the Minister of Public Works, any public statutory corporation or another municipality.

Clauses 12 and 13 provide for consequential amendments to the Principal Act.

