

No. 2981.

An Act to amend the Local Government
Acts.

[31st December, 1918.]

BE it enacted by the King'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. This Act may be cited as the *Local Government Act* 1918 and shall be read and construed as one with the *Local Government Act* 1915 (hereinafter called the Principal Act)

Short title
construction
and citation.

Nos. 2080, 2811,
2847, 2806.

Act) and any Act amending the same all of which Acts and this Act may be cited together as the Local Government Acts.

General.

2. For sub-section (2) of section one hundred and twenty-five of the Principal Act there shall be substituted the following sub-section:—

Re-enactment and amendment of No. 2686 s. 125 (2).

“(2) If the returning officer dies or becomes incapable of acting, such deputy returning officer, or, in case no deputy has been appointed, the chairman, or, in case there is no chairman or the chairman is absent incapable of acting or refuses to act, the municipal clerk shall, for all the purposes of such election, be deemed to be the returning officer.”

Death or incapacity &c. of returning officer.

3. In sub-section (1) of section one hundred and forty-eight of the Principal Act after the words “parliamentary elections” there shall be inserted the words “or to compulsory preferential voting at elections for the Legislative Assembly”; and in section one and in the heading to section one hundred and forty-eight of the said Act after the words “Voting by Post” there shall be inserted the words “and Compulsory Preferential Voting.”

Amendment of No. 2686 s. 148.

Extension to municipal elections of provisions relating to preferential voting at Assembly elections.

Amendment of No. 2686 ss. 1, 148, and of heading to s. 148.

4. Sub-section (3) of section three hundred and forty of the Principal Act shall be amended by omitting the words “within six months after they become payable” and inserting in lieu thereof the words “on or before the tenth day of June following the date such rates or other moneys are made and levied.”

Amendment of No. 2686 s. 340.

Interest on rates &c. when payable.

5. Notwithstanding anything in section six hundred and ninety-two of the Principal Act or in section seven of the *Justices Act* 1915 no municipality shall be exempted from the payment of fees for the service of summonses issued on the complaint of the municipality to enforce payment of any rates or moneys.

Removal of exemption of municipalities from payment of fees for service of certain summonses.

See No. 2686 s. 692; No. 2675 s. 7.

6. (1) The council of every municipality by its surveyor or any person authorized by it or him in writing may in connexion with any works which it is authorized to execute enter upon any land within or with the consent of the Minister without the municipal district, not being the site or curtilage of any house or a garden lawn yard court park plantation planted walk avenue or nursery for trees, and

Right to council to occupy land temporarily for stacking &c. stone thereon.

Comp. No. 2686 s. 501.

and occupy the same during the progress of such work for the purpose of stacking breaking or crushing stone on such land.

Compensation.

(2) The council shall make compensation to the owners and occupiers of any lands for any damages which they sustain through the exercise of the powers conferred by this section.

How determined.

No. 2686, Part XXXVII.

(3) If the amount of compensation is not agreed upon by the council and any person claiming the same it shall be determined in accordance with the provisions of Part XXXVII. of the Principal Act.

Power to municipal councils to expend funds for celebrations of armistice and declaration of peace.

Comp. No. 1784 s. 2; No. 2141 s. 2.

7. Notwithstanding anything in any Act it shall be taken and deemed to be and to have been lawful for the council of any municipality (including the city of Melbourne and the city of Geelong) to apply and to have applied out of the municipal or town fund of the municipality any sums of money approved by the council in connexion with celebrations in Victoria on the occasion of any armistice or declaration of peace in connexion with the present war.

Building By-laws.

Power to appoint referees.

See No. 2686 s. 198.

Comp. No. 2847 s. 3.

8. (1) In the case of any municipality the council of which under the powers conferred by the Principal Act makes any by-laws for regulating and restraining the erection and construction of buildings erections or hoardings there may be appointed as hereinafter provided two persons as referees for the purposes of this Act and the said by-laws.

(2) One of such referees shall be appointed by the Governor in Council and the other by the council of such municipality.

(3) Every person so appointed—

(a) shall be an architect engineer or surveyor of known ability ; and

(b) shall not be a member or officer of the council.

Qualification.

Ib.

Removal.

Ib.

(4) Subject to this Act the Governor in Council or the council (as the case may be) may remove any referee appointed under this section and appoint another qualified person in his place.

Referee not to act when interested.

Ib. s. 4.

9. (1) A referee shall not act as such with respect to any building of which he is the owner architect or builder or in which he is in any manner whether directly or indirectly interested.

(2) In

(2) In the event of any referee being so disqualified the Governor in Council or the council (as the case may be) shall appoint another qualified person to act in such matter instead of such referee.

10. The referees—

- (a) shall perform the several duties respectively imposed upon them whether expressly by this Act or the said by-laws or at the instance of any builder or owner who requires any matter to be referred to them as provided in this Act or in any such by-law ;
- (b) subject to this Act shall determine any matters arising for their determination ; and
- (c) subject to and for the purposes of this Act shall have and may exercise the powers of arbitrators under the *Arbitration Act 1915*.

Duties of referees.
Comp. No. 2847
s. 5.

Referees to have certain powers of arbitrators.
No. 2814.

11. If any doubt, difference or dissatisfaction in respect of any matter as to which provision is made by or under the said by-laws arises between any parties concerned, or between any party and the surveyor for the municipality as to—

Jurisdiction of referees defined.
Comp. No. 2847
s. 6.

- (a) any act done, or to be done, in pursuance of the said by-laws ;
- (b) the effect of the provisions of the said by-laws in any case ;
- (c) the mode in which the provisions and directions of the said by-laws are or ought to be carried into effect ;
- (d) whether the requirements implied in terms of qualification applied to sites to soils to materials or to workmanship or otherwise, and denoting good sound fire-proof fit proper or sufficient, are fulfilled in certain cases ;
- (e) the expenses to be borne by the respective owners of premises parted by the same party walls or the proportions thereof ;
- (f) the proportions of the expense to be borne by the occupier or by the owner of premises in respect of any works executed ; or
- (g) any other matter whatever—

any party concerned may require the referees on appeal to determine such matter, upon a requisition by notice in writing to the municipal clerk, setting forth, either generally

or

or otherwise, the matters in respect of which the determination of the referees is required ; and the referees shall, subject to this Act, hear and determine the same.

Differences of
opinion.
Comp. No. 2847
s. 7.

12. (1) The determination of the referees shall be final and conclusive ; but where the referees differ in opinion as to any matter the same shall be referred by them to the final arbitrament and decision of an umpire who shall be some qualified person appointed by the referees.

(2) Such umpire shall have and may exercise all or any of the powers of the referees or either of them and the provisions of this Act with regard to referees shall so far as applicable and with such alterations modifications and substitutions as are necessary extend and apply to any such umpire.

(3) No member or officer of the council shall be appointed an umpire.

Referee acting
singly.
Ib. s. 8.

13. (1) When any matter is by this Act required directed or permitted to be done by the referees the same may with the assent of all the parties thereto be done by either of them unless express provision to the contrary is made ; and if done by any one of them with such assent it shall be as valid and effectual as if done by both of them.

Inquiries and
surveys.

(2) Subject to such restrictions and regulations as are made in that behalf by the council the referees may appoint one of their number under their hands to make any inquiry or any survey which appears to them either necessary or expedient in order to enable them to determine any matters in reference.

Power to
modify by-laws
in special cases.
Ib. s. 9.

14. (1) Where in the case of any particular building proposed to be altered or erected in the municipal district the owner or builder or architect thereof lodges with the surveyor for the municipality an objection in writing to the effect that with respect to that building any of the provisions of the by-laws aforesaid are inapplicable or will needlessly affect with injury the course and operation of business or will defeat the objects of such by-laws and that by the adoption of a modification of such provisions such objects will be attained either better or as effectually, the objection shall be considered by the surveyor and the referees.

(2) If the surveyor and referees are of opinion that the objection is well founded they may direct with respect to such

such building such modification of any such provisions to be made as will give effect to the purposes of the said by-laws.

15. The power and authority of the referees shall not be revocable by any party to any matter without the consent of all the parties thereto; and although any party does not attend upon the hearing of any such matter, the referees may proceed with the same and make their award.

Powers not revocable save by consent of parties.

Power to proceed in absence of party.

Comp. No. 2847 s. 10.

16. The referees shall—

- (a) keep proper minutes of all their proceedings; and
(b) lodge the same or true copies thereof certified under their hands with the municipal clerk.

Referees to keep minutes &c.

Ib. s. 11.

17. (1) Every award of the referees shall be given in writing and shall be signed by the referees and lodged with the municipal clerk and shall be filed by him in the office of the council.

Awards.

Ib. s. 12 (1).

(2) Every such award—

- (a) may by leave of the Supreme Court or a judge thereof be enforced in the same manner as a judgment or order of the said Court to the like effect; and
(b) shall together with the costs charges and expenses of the reference be binding upon and conclusive against the parties thereto and all persons whomsoever.

Effect and enforcement of awards.

See No. 2614 s. 13.

Comp. No. 2847 s. 12 (2).

(3) Any person on payment to the municipal clerk of a fee of Two shillings and sixpence may inspect any such award and take a copy thereof or make any extracts therefrom.

Copies of awards.

Ib. s. 12 (3).

(4) In any proceedings in any court or before any judge or justice a copy of an award of the referees signed by the referees or sealed with the seal of the municipality shall be *prima facie* evidence of the matters therein contained.

Copy of award to be *prima facie* evidence.

Ib. s. 12 (4).

18. (1) Every referee shall receive for his own use and benefit a fee of One guinea for his time and trouble in determining any reference objection or appeal made under this Act or any of the said by-laws, whether in conjunction with the surveyor for the municipality or not.

Fees payable to referees.

Ib. s. 13.

(2) Such fee shall be paid in the first instance by the party making lodging or demanding the reference objection or

or

or appeal before the same is entered upon considered or decided.

Declaration of referees.
Comp. No. 2847
s. 14.

19. Before any referee acts in pursuance of his appointment he shall make the following declaration to be administered by a justice :—

I, A.B., do solemnly and sincerely declare that I will diligently faithfully and impartially execute the duties of a referee under the *Local Government Act 1918*.

Duties of municipal clerk as to referees.
Ib. s. 15.

20. The municipal clerk shall—

- (a) keep a register of all matters referred to the referees or which come under their cognisance in pursuance of this Act ;
- (b) keep and preserve all documents connected with the duties of the referees ; and
- (c) receive all notices provided for pursuant to this Act or the said by-laws requiring any act to be done by the referees and file and number the same in the order in which they are received.