

STATE PLANNING AUTHORITY ACT.

Act No. 59, 1963.

An Act to provide for the constitution of The State Planning Authority of New South Wales and to define its responsibilities, powers, authorities, duties and functions; to provide for the constitution of regional planning districts and regional planning committees; to dissolve The Cumberland County Council and The Northumberland County Council; to amend Part XIII A of the Local Government Act, 1919, as amended by subsequent Acts, and certain other Acts and the County of Cumberland Planning Scheme Ordinance in certain respects; and for purposes connected therewith. [Assented to, 19th December, 1963.]

**Elizabeth II,
No. 59, 1963**

BE

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BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.

PRELIMINARY.

Short title
and com-
mencement.

1. (1) This Act may be cited as the "State Planning Authority Act, 1963".

(2) The several Parts of this Act shall commence upon such day or days as may be appointed in respect thereof by the Governor and notified by proclamation published in the Gazette.

Division
into Parts.

2. This Act is divided into Parts, as follows :—

PART I.—PRELIMINARY—*ss.* 1–3.

PART II.—CONSTITUTION OF THE AUTHORITY—*ss.* 4–11.

PART III.—RESPONSIBILITIES, POWERS, AUTHORITIES, DUTIES AND FUNCTIONS OF THE AUTHORITY—*ss.* 12–21.

PART IV.—REGIONAL PLANNING DISTRICTS AND REGIONAL PLANNING COMMITTEES—*ss.* 22–24.

PART V.—DISSOLUTION OF THE CUMBERLAND COUNTY COUNCIL AND THE NORTHUMBERLAND COUNTY COUNCIL—*ss.* 25–29.

PART VI.—FINANCE—*ss.* 30–56.

DIVISION 1.—*Funds—ss.* 30–37.

DIVISION 2.—*Contributions by councils and the Treasurer to the General Fund—ss.* 38–40.

DIVISION 3.—*Charges and fees—ss.* 41–43.

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PART VII.—GENERAL—ss. 57–71.

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DIVISION 1.—*Accounts and audit*—ss. 57–59.

DIVISION 2.—*Regulations*—ss. 60–62.

DIVISION 3.—*Miscellaneous*—ss. 63–71.

PART VIII.—AMENDMENT OF THE LOCAL GOVERNMENT ACT, 1919, AS AMENDED BY SUBSEQUENT ACTS, AND CERTAIN OTHER ACTS—ss. 72–79.

DIVISION 1.—*Amendment of Part XIII A of the Local Government Act, 1919, as amended by subsequent Acts*—s. 72.

DIVISION 2.—*Transitional provisions*—ss. 73–77.

DIVISION 3.—*Amendment of County of Cumberland Planning Scheme Ordinance, as amended*—ss. 78, 79.

SCHEDULES.

3. In this Act unless the context or subject matter otherwise indicates or requires— Interpretation.

“Area” has the meaning ascribed thereto in the Local Government Act, 1919, as amended by subsequent Acts.

“Authority” means The State Planning Authority of New South Wales constituted by and under this Act.

“Council” has the meaning ascribed thereto in the Local Government Act, 1919, as amended by subsequent Acts.

“Development area” means the Cumberland Development Area constituted by section thirty-four of this Act, the Northumberland Development Area constituted by section thirty-five of this Act, and any other development area constituted under section thirty-six of this Act.

“Land”

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“Land” includes any estate or interest in land (whether legal or equitable) and any easement, right, or privilege, in, over, or affecting, land and also includes all lands of the Crown.

“Member” means member of the Authority.

“Prescribed” means prescribed by this Act or by the regulations.

“Ratable land” means ratable land within the meaning of section one hundred and thirty-two of the Local Government Act, 1919, as amended by subsequent Acts.

“Regulations” means regulations made under this Act.

PART II.

CONSTITUTION OF THE AUTHORITY.

Constitution
of
Authority.

4. (1) (a) There shall be a State Planning Authority of New South Wales which shall have and may exercise and discharge the responsibilities, powers, authorities, duties and functions conferred and imposed upon it by or under this or any other Act.

In the exercise and discharge of such responsibilities, powers, authorities, duties and functions the Authority shall, except where the Authority makes a recommendation to the Minister or decides an appeal, be subject in all respects to the control and direction of the Minister.

(b) For the purposes of any Act, the Authority shall be deemed to be a statutory body representing the Crown.

(c) The Authority shall consist of twelve members appointed by the Governor, that is to say—

- (i) two members who shall, in and by the instruments by which they are appointed, be respectively the chairman and the deputy-chairman of the Authority, and

and one of whom shall possess the qualifications in town planning or country planning prescribed under the Local Government Act, 1919, as amended by subsequent Acts; No. 59, 1963

- (ii) one member who shall be the Commissioner for Main Roads or an officer of the Department of Main Roads nominated by the Commissioner for Main Roads;
- (iii) one member who shall be an officer of a Government Department under the control of the Minister for Transport or statutory body representing the Crown under the control of that Minister and who shall be nominated for such appointment by that Minister;
- (iv) one member who shall be an officer of the Department of Local Government nominated by the person for the time being holding the office of or duly acting as the Under Secretary of that Department;
- (v) one member who shall be nominated by the Minister and shall have such special knowledge and experience in the operation of one or more public utility undertakings as the Minister thinks fit;
- (vi) one member who shall be appointed from a panel of four persons, of whom one shall be a member of the Royal Australian Institute of Architects (New South Wales Chapter) nominated by that body, one shall be a member of the Institution of Engineers (Australia) nominated by that body, one shall be a member of the Institution of Surveyors (Australia) nominated by that body, and one shall be a member of the Australian Planning Institute (Sydney Division) nominated by that body, such nominations to be made in the prescribed manner and within the prescribed time;
- (vii) one member, who shall be an officer of the council of an area wholly or partly within the County of Cumberland, nominated in the prescribed manner and

and within the prescribed time by the governing body of the Local Government Association of New South Wales;

- (viii) one member, who shall be an officer of the council of an area wholly outside the County of Cumberland, nominated in the prescribed manner and within the prescribed time by the governing body of the Local Government Association of New South Wales;
- (ix) one member, who shall be an officer of a council, wholly or partly within the Eastern Division within the meaning of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, nominated in the prescribed manner and within the prescribed time by the governing body of the Shires Association of New South Wales;
- (x) one member, who shall be an officer of a council, wholly outside the Eastern Division within the meaning of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, nominated in the prescribed manner and within the prescribed time by the governing body of the Shires Association of New South Wales;
- (xi) one member, who shall be an officer of the Council of the City of Sydney, nominated in the prescribed manner and within the prescribed time by that Council.

(d) In the case of the illness or absence of the chairman, the deputy-chairman shall act in his place, and whilst so acting shall have the immunities, powers, authorities and duties of the chairman.

(e) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising the deputy-chairman to act in the place of the chairman; and all acts or things done or omitted by the deputy-chairman

while

while so acting as aforesaid shall be as valid and effectual and shall have the same consequences as if they had been done or omitted by the chairman. No. 59, 1963

(2) (a) A member shall, subject to this Act, be appointed for such term, not exceeding seven years, as may be specified in the instrument of appointment, and, if otherwise qualified, be eligible for reappointment from time to time.

Any such reappointment shall be for such term, not exceeding seven years, as may be specified in the instrument of reappointment.

(b) (i) On the occurrence of a vacancy in the office of a member, the Governor may appoint a person to hold office for the balance of his predecessor's term of office.

Any appointment to fill the vacant office of a member appointed under subparagraph (i) of paragraph (c) of subsection one of this section shall be made so that at least one of the members referred to in that subparagraph possesses the qualifications in town and country planning prescribed under the Local Government Act, 1919, as amended by subsequent Acts.

(ii) An appointment to fill the vacant office of a member referred to in subparagraph (ii), (iii), (iv), (v), (vii), (viii), (ix), (x) or (xi) of paragraph (c) of subsection one of this section shall be made on the nomination of the person who or body which nominated the member in whose place he is appointed.

(iii) An appointment to fill the vacant office of a member referred to in subparagraph (vi) of paragraph (c) of subsection one of this section or paragraph (a) of subsection three of this section shall be made from a panel nominated for that purpose in a similar manner to the panel referred to in the said subparagraph (vi).

(c) A person who is of or above the age of sixty-five years shall not be appointed as a member.

(3)

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(3) (a) If within the prescribed time a panel is not constituted for the purposes of subparagraph (vi) of paragraph (c) of subsection one of this section or subparagraph (iii) of paragraph (b) of subsection two of this section, the Governor may appoint a member of one of the bodies referred to in subparagraph (vi) of paragraph (c) of subsection one of this section, nominated by the Minister, to be a member of the Authority in lieu of the member required to be appointed from the panel referred to in those subparagraphs.

(b) If within the prescribed time a person is not nominated for the purpose of subparagraph (vii), (viii), (ix), (x) or (xi) of paragraph (c) of subsection one of this section, the Governor may appoint an officer of a council nominated by the Minister to be a member of the Authority in lieu of the member required to be appointed under the said subparagraph (vii), (viii), (ix), (x) or (xi), as the case may be.

(4) (a) The chairman and the deputy-chairman shall devote the whole of their time to the duties of their offices and shall receive such annual salaries and allowances as the Governor may from time to time determine.

(b) Each member (other than the chairman and deputy-chairman) shall receive such remuneration and allowances as the Governor may from time to time determine.

(c) Where any member not being the chairman or deputy-chairman is an officer of the Public Service or of a statutory body representing the Crown he shall, notwithstanding the provisions of any Act or of any rule or regulation made under any Act, be entitled to receive remuneration and allowances under this section in addition to any remuneration to which he is otherwise entitled.

(d) Where by or under any Act provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office, or prohibiting him from engaging in employment outside the duties of his office, such provision shall not operate to disqualify him from
holding

holding that office and also the office of a member (but not the office of chairman or deputy-chairman) under this Act, or from accepting and retaining any remuneration and allowances payable to a member under this subsection. No. 59, 1963

(e) The office of a member (other than the chairman and deputy-chairman) shall not for the purposes of any Act be deemed to be an office or place of profit under the Crown.

(5) The provisions of the Public Service Act, 1902, as amended by subsequent Acts, shall not apply to or in respect of the appointment by the Governor of any member of the Authority, and any member so appointed shall not, in his capacity as such member, be subject to the provisions of such Act during his term of office.

(6) (a) Each member before entering upon the duties of his office shall take an oath of allegiance under and in accordance with the provisions of the Oaths Act, 1900, as amended by subsequent Acts, and shall make and subscribe the following declaration of office :—

I having been appointed a member of The State Planning Authority of New South Wales do hereby declare that I will truly and faithfully fulfil the duties of that office according to the best of my judgment and ability.

(b) If a person, after having been afforded an opportunity of taking such oath of allegiance and making and subscribing such declaration, neglects to do so for a period of one month, or such extended period as the Governor may appoint pursuant to paragraph (c) of this subsection, after the date on which he is appointed, he shall on the expiration of such period of one month, or extended period, as the case may be, be deemed to have declined to accept office.

(c) Where the Governor is satisfied that the delay in taking such oath and making and subscribing such declaration is unavoidable he may extend the time for taking such oath and making and subscribing such declaration for any period not exceeding six months.

(d)

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(d) Any person who is deemed to have declined to accept office shall not be eligible to be reappointed to fill the vacancy created.

(7) A member shall be deemed to have vacated his office—

- (a) if, being the chairman or the deputy-chairman, he engages in New South Wales during his term of office in any paid employment outside the duties of his office;
- (b) if he dies;
- (c) if he becomes bankrupt, compounds with his creditors, or makes any assignment of his salary, remuneration, allowances or estate for their benefit;
- (d) if, being the chairman or the deputy-chairman, he absents himself from duty for a period exceeding fourteen consecutive days, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) unless such absence is occasioned by illness or other unavoidable cause;
- (e) if, being a member other than the chairman or the deputy-chairman, he is absent from four consecutive ordinary meetings of the Authority of which reasonable notice has been given him either personally or in the ordinary course of post unless on leave granted by the Authority or unless he is before the expiration of four weeks after the last of such meetings excused by the Authority for his absence from such meetings;
- (f) if he becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts;
- (g) if he is convicted in New South Wales of a felony or of a misdemeanour which is punishable by imprisonment for twelve months or upwards, or if he is convicted

convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or a misdemeanour which is punishable as aforesaid; No. 59, 1963

- (h) if he resigns his office by writing under his hand addressed to the Governor;
- (i) if he declines office or is deemed to have declined office;
- (j) if, not being the chairman or the deputy-chairman, he is removed from office by the Governor;
- (k) if, being one of the members referred to in subparagraph (ii), (iii) or (iv) of paragraph (c) of subsection one of this section, he ceases to hold the qualification by virtue of which he was appointed or, being one of the members referred to in subparagraph (i) of that paragraph and having held the qualification referred to in that subparagraph, he ceases to hold that qualification;
- (l) if, being the member referred to in subparagraph (vi) of paragraph (c) of subsection one of this section, he ceases to be a member of the body by which he was nominated to the panel referred to in the said subparagraph (vi);
- (m) if, having been appointed by virtue of his being an officer of a council, he ceases to be an officer of a council.

A member shall be deemed to have vacated his office upon the day upon which he attains the age of sixty-five years.

(8) The Governor may, for any cause which appears to him sufficient, remove any member nominated for appointment under paragraph (c) (subparagraph (i) excepted) of subsection one of this section.

(9) (a) The chairman or the deputy-chairman may be suspended from his office by the Governor for misbehaviour or incompetence, but shall not be removed from office except as provided in this subsection. (b)

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(b) The Minister shall cause to be laid before Parliament a full statement of the grounds of suspension if Parliament is then in session, and if not, then within seven sitting days after the commencement of the next session.

(c) The chairman or the deputy-chairman suspended under this section shall be restored to office unless each House of Parliament, within twenty-one days from the time when such statement has been laid before it, declares by resolution that the chairman or the deputy-chairman, as the case may be, ought to be removed from office, and if each House of Parliament within the said time does so declare, the chairman or the deputy-chairman, as the case may be, shall be removed by the Governor accordingly.

(10) A person who, at the date of his appointment as chairman or deputy-chairman, is an officer of the Public Service and who ceases to be chairman or deputy-chairman from any cause whatsoever, otherwise than in pursuance of subsection seven or nine of this section (paragraph (h) of subsection seven excepted), shall if he is under the age of sixty years be appointed to some office in the Public Service not lower in classification and salary than that which he held immediately before his appointment as chairman or deputy-chairman.

(11) (a) Nothing contained in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, or under the Superannuation Act, 1916, or any Act amending such Acts, to any person appointed as chairman or deputy-chairman who is at the time of his appointment or has been at any time previous thereto an officer of the Public Service or an employee within the meaning of the Superannuation Act, 1916, or any amendment thereof.

(b) Any officer of the Public Service or any person who is an employee within the meaning of the Superannuation Act, 1916, as amended by subsequent Acts, or any permanent servant within the meaning of the Local Government and Other Authorities (Superannuation) Act, 1927-1959, as amended by subsequent Acts, who is appointed as chairman or deputy-chairman shall continue to contribute to
any

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any fund or account and shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity as if he were an officer or employee within the meaning of the Public Service Act, 1902, the Superannuation Act, 1916, or a permanent servant within the meaning of the Local Government and Other Authorities (Superannuation) Act, 1927-1959, as the case may be, or any Act amending such Acts, and for such purpose his service as chairman or deputy-chairman shall be deemed to be service for the purpose of such Acts. **No. 59, 1963**

In respect of a chairman or deputy-chairman who is an employee or permanent servant as aforesaid, the Authority shall pay to the State Superannuation Board or the Local Government Superannuation Board, as the case may be, such amounts as would have been payable if such chairman or deputy-chairman had remained an employee or permanent servant as aforesaid and had continued to be employed, at the same salary or wages as the salary or wages at which he is employed by the Authority, by the employer by whom he was employed immediately before his appointment as chairman or deputy-chairman, as the case may be.

5. (1) The Authority shall be a body corporate, with perpetual succession and a common seal, and may sue or be sued in its corporate name, and shall, subject to this Act, be capable of purchasing, holding, granting, demising, disposing of or otherwise dealing with real and personal property, and of doing and suffering all such acts and things as bodies corporate may by law do and suffer. Authority to be body corporate—proceedings of Authority.

(2) The corporate name of the Authority shall be "The State Planning Authority of New South Wales".

(3) The common seal shall be kept in the custody of the chairman and shall not be affixed to any instrument except in pursuance of a resolution of the Authority.

Any instrument executed in pursuance of any such resolution shall be attested by the signature of any two members.

(4)

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(4) (a) The procedure for the calling of meetings of the Authority and for the conduct of business at such meetings shall, subject to this Act and any regulations in relation thereto, be as determined by the Authority.

(b) The chairman, or in his absence the deputy-chairman, shall preside at all meetings of the Authority at which he is present, and in addition to a deliberative vote shall, in the event of an equality of votes, have a second or casting vote.

(c) Seven members, one of whom shall be the chairman or, in his absence, the deputy-chairman, shall form a quorum, and any duly convened meeting at which a quorum is present shall be competent to transact any business of the Authority and shall have and may exercise and discharge all the powers, authorities, duties and functions of the Authority.

A decision of a majority of the members present at a meeting of the Authority shall be the decision of the Authority.

(5) The Authority shall cause full and accurate minutes to be kept of its proceedings at formal meetings, and submit to the Minister a copy of the minutes of each formal meeting within one week after the date on which each such formal meeting is held.

(6) No act or proceeding of the Authority shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced, there was a vacancy in the office of a member.

(7) (a) No matter or thing done, and no contract entered into by the Authority, and no matter or thing done by any member or by any other person whomsoever acting under the direction of the Authority shall, if the matter or thing was done or the contract was entered into bona fide for the purpose of executing this Act, subject them or any of them personally to any action, liability, claim or demand whatsoever.

(b)

(b) Nothing in this subsection shall exempt any member from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of the Authority, and which such member authorised or joined in authorising. No. 59, 1963

6. (1) The Authority shall appoint and employ such servants as may be necessary for carrying out the provisions of this Act. Servants.

(2) Subject to the provisions of this Act, every servant of the Authority shall continue in the service of the Authority at the will of the Authority only.

(3) All servants of the Authority shall be subject to the sole control and governance of the Authority which may fix wages and conditions of employment where such wages and conditions are not fixed in accordance with the provisions of any other Act.

7. The regulations may make provision—

Regulations
re servants.

- (a) for and in relation to the control and governance of servants by the Authority; and
- (b) for and in relation to any other matter or thing necessary or convenient to ensure the maintenance of discipline and efficiency in the service of the Authority.

8. (1) Where a servant of the Authority is guilty of misconduct or of contravening any regulation made under this Part, or any rule or direction of the Authority, the servant may in accordance with the regulations— Governance
of servants.

- (a) be dismissed or suspended;
- (b) be reduced in rank, position, or grade and pay;

but

No. 59, 1963 but every such servant so dealt with shall be notified in writing of the nature of the misconduct charged or of the breach of regulation, rule or direction alleged to have been committed, and may appeal to the Crown Employees Appeal Board constituted under the Crown Employees Appeal Board Act, 1944, as amended by subsequent Acts, in the manner provided.

(2) Before adopting any recommendation made by the head of a branch of the service of the Authority which affects the right of promotion of any servant of the Authority who has been in the service of the Authority for a period of not less than one year, the Authority shall give full consideration to any objection made by such servant against the adoption of the recommendation.

For the purposes of this subsection, the service, before the commencement of Part V of this Act, with The Cumberland County Council or The Northumberland County Council, or as an officer or employee of the Public Service, as the case may be, of any person transferred to the service of the Authority under section twenty-seven of this Act shall be deemed to be service with the Authority.

An objection under this section shall be in writing, shall be in or to the effect of the form prescribed by the regulations, shall be accompanied by a full statement of the facts on which the objection is based and shall be lodged with the Authority within one month after the date upon which the recommendation to which objection is taken was made to the Authority.

The regulations may prescribe all matters necessary or convenient to be prescribed for giving effect to this section.

(3) For the purpose of investigating and ascertaining the facts relevant to any objection lodged under subsection two of this section, the Authority may delegate any of its powers

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powers or functions to any one member, or to two or more members, but the decision on the objection shall be made by the Authority and such decision shall be final. **No. 59, 1963**

9. The Crown Employees Appeal Board Act, 1944, as amended by subsequent Acts, is amended by inserting at the end of the Second Schedule the words "The State Planning Authority of New South Wales". **Amendment of Act No. 15, 1944. Second Schedule.**

10. (1) For the purposes of exercising and discharging the responsibilities, powers, authorities, duties and functions conferred or imposed on the Authority by or under this or any other Act the Authority may, with the approval of the Minister of the Department concerned and on such terms as may be arranged make use of the services of any of the officers or employees of any Government Department. **Authority may make use of certain employees of the Crown, statutory bodies and councils.**

(2) The Authority may for the like purpose with the approval of any statutory body or council, and the Minister, and on such terms as may be arranged, make use of the services of any of the officers, servants or employees of such statutory body or council.

(3) The Authority, at any time prior to the day appointed pursuant to subsection two of section one of this Act in respect of the commencement of Part V of this Act, may direct The Cumberland County Council or The Northumberland County Council, on such terms as the Authority may specify, to make available to the Authority on loan any servants or employees employed by either of such county councils.

Any person so directed to be transferred on loan shall during the period he is on loan to the Authority retain all the rights and privileges appertaining to his office, service or employment before such transfer as if he had not been so transferred on loan.

11.

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Payments
in respect
of long
service
leave on
death of
servant.

11. (1) Where a servant of the Authority has acquired a right to leave with pay in respect of long service leave and dies before entering upon it, or after entering upon it dies before its termination, the widow or widower of such servant, or if there is no such widow or widower the children of such servant, or if there is no such widow, widower or children such person who in the opinion of the Authority was, at the time of the death of such servant, a dependent relative of such servant, shall be entitled to receive the money value of the leave not taken or not completed, computed at the rate of salary or wages such servant received at the time of his or her death less any amount paid to such servant in respect of the leave not taken or not completed.

(2) Where there is a guardian of any children entitled under subsection one of this section, the payment to which such children are entitled may be made to such guardian for their maintenance, education and advancement.

(3) Where there is no person entitled under subsection one of this section to receive the money value of any leave not taken or not completed by a servant of the Authority as aforesaid payment in respect thereof shall be made to the personal representative of such servant.

(4) Where payment of the money value of leave has been made under this section no action may be brought against the Authority for payment of any amount in respect of such leave.

PART III.

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RESPONSIBILITIES, POWERS, AUTHORITIES, DUTIES AND
FUNCTIONS OF THE AUTHORITY.

12. Subject to this Act, the Authority shall be charged with the responsibility of promoting and co-ordinating town and country planning and securing the orderly and economic development and use of land and shall have and may exercise and discharge the following powers, authorities, duties and functions : —

Responsi-
bilities,
powers,
authorities,
duties and
functions
of the
Authority.

- (a) to submit to the Minister such proposals for the development and use of land and with regard to town and country planning as it considers necessary or appropriate, including proposals for the development and use of land in conjunction with the provision of utility services and public transport facilities;
- (b) to consider, and furnish reports to and advise and make recommendations to the Minister upon, any matter or proposal relating to the development and use of land or to town and country planning which may be referred to it by the Minister;
- (c) to carry out research into problems of town and country planning and prepare and issue memoranda, reports, bulletins, maps or plans relating to town and country planning;
- (d) to advise councils upon all matters concerning the principles of town and country planning and the implementation thereof in local planning schemes;
- (e) to exercise and discharge such other powers, authorities, duties and functions as are conferred or imposed on it by or under this or any other Act;
- (f) to do such supplemental, incidental and consequential acts as may be necessary or expedient for the exercise or discharge of its responsibilities, powers, authorities, duties and functions :

Provided that nothing contained in this section shall be deemed to empower the Authority to determine that any rural land shall or shall not be used for any particular agricultural or pastoral purpose.

13.

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Contracts.

13. (1) The Authority may make and enter into contracts or agreements with any person for the performance of services, or for the supply of goods, machinery, or material, in connection with the exercise or discharge by the Authority of its responsibilities, powers, authorities, duties and functions under this or any other Act.

(2) Any such contract or agreement shall be deemed for the purposes of the Constitution Act, 1902, as amended by subsequent Acts, to be a contract or agreement for or on account of the Public Service of New South Wales.

Inquiries.

14. (1) The Authority shall, as and when required by the Minister, conduct inquiries or investigations for any purpose connected with the carrying out of the provisions of this Act or of Part XIIA of the Local Government Act, 1919, as amended by subsequent Acts.

(2) The Authority shall furnish the Minister with a report setting out the results of any inquiry or investigation under this section.

(3) For the purposes of any inquiry or investigation under this section the chairman or deputy-chairman and the members of the Authority shall have the powers, authorities, protections and immunities conferred on the chairman of a commission and a commissioner respectively by Division 1 of Part II of the Royal Commissions Act, 1923, as amended by subsequent Acts, and the provisions of section one hundred and fifty-two of the Justices Act, 1902, as amended by subsequent Acts, shall *mutatis mutandis* apply to any witness or person summoned by or appearing before the Authority.

The provisions of the Royal Commissions Act, 1923, as amended by subsequent Acts (section thirteen and Division 2 of Part II excepted), shall *mutatis mutandis* apply to and in respect of any witness or person summoned by or appearing before the Authority.

Sub-
committees.

15. (1) The Authority may establish sub-committees for the purposes of advising the Authority upon such matters within the scope of the Authority's responsibilities, powers, authorities, duties and functions as may be referred to the sub-committees by the Authority.

(2)

(2) (a) A person may be appointed to any such sub-committee whether or not he is a member of the Authority or a regional planning committee. No. 59, 1963

(b) The office of member of any such sub-committee shall not, for the purposes of any Act, be deemed to be an office or place of profit under the Crown.

(3) Every member of a sub-committee appointed in terms of this section shall, if he is not a member or servant of the Authority, be paid such fees for attending meetings and transacting business of the sub-committee and making inspections, and such travelling expenses as the Governor may from time to time determine.

Where any member of any such sub-committee is an officer of the Public Service or of a statutory body representing the Crown (not being the Authority) he shall, notwithstanding the provisions of any Act or of any rule or regulation made under any Act, be entitled to receive fees and expenses under this section in addition to any remuneration to which he is otherwise entitled.

16. (1) The Authority may for the purposes of this Act or pursuant to any power or obligation conferred or imposed on it by the Local Government Act, 1919, as amended by subsequent Acts, or by any ordinance made under Part XIII A of that Act, as so amended, acquire land, including land previously appropriated or resumed for any purpose, by lease or purchase or by resumption or appropriation in accordance with the provisions of this Part. Land—how
acquired.

(2) Without limiting the generality of subsection one of this section, the Authority may acquire, in any manner authorised by that subsection—

- (a) any land to which a prescribed scheme or an interim development order applies and which the Authority considers should be made available in the public interest for any purpose;
- (b) any land of which that proposed to be acquired under this Part forms part;
- (c) any land adjoining or in the vicinity of any land proposed to be acquired under this Part.

17.

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 Resumption.
 cf. Act No.
 7, 1912,
 sec. 4.

17. Subject to the provisions of section sixteen of this Act, the Governor may under the Public Works Act, 1912, as amended by subsequent Acts, resume any land, and appropriate any land vested in Her Majesty, or in any person in trust for Her Majesty. Such resumption or appropriation shall be deemed to be for an authorised work, and the Authority shall be deemed to be the Constructing Authority :

Provided that sections thirty-four, thirty-five, thirty-six and thirty-seven of the Public Works Act, 1912, as amended by subsequent Acts, shall not apply in respect of the expenditure on any works constructed in pursuance of this Act, but section thirty-eight of that Act, as so amended, shall apply to such expenditure.

Subdivision.
 cf. *Ibid.*,
 sec. 5.

18. The Authority may cause a plan to be made of any land acquired by it under this Part showing the proposed roads and reserves for public recreation or other public purposes, and the land to be set apart as sites for buildings or works.

Power of
 Authority
 to make
 roads, etc.
 cf. *Ibid.*,
 sec. 6.

19. The Authority may—

- (a) cause any work to be done on or in relation to any land acquired by it for the purpose of rendering it fit to be used for any purpose for which it may be used under any interim development order, or prescribed scheme, made under Part XIII A of the Local Government Act, 1919, as amended by subsequent Acts, and applying to such land ;
- (b) dedicate by notification in the Gazette any reserve for public recreation or for other public purposes, and fence, plant and improve any such reserve ; and by notification in the Gazette vest such reserve in the council of the area in which it is situated or in trustees ; and
- (c) set apart land as sites for buildings or works or for religious, charitable or municipal purposes.

Where any reserve is vested under this section in trustees other than a council, the provisions of the Public Parks Act, 1912, as amended by subsequent Acts, shall be deemed to extend to such reserve.

20. For the purposes of section eighty-one of the Public Works Act, 1912, as amended by subsequent Acts, the Authority shall be deemed to be a Constructing Authority.

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Authority to be Constructing Authority for purposes of section 81 of Public Works Act, 1912.

21. The Authority may, with the approval of the Minister and subject to such terms and conditions as the Minister may attach to his approval, sell, lease, exchange or otherwise deal with or dispose of land that has been acquired by the Authority under this Part or that is vested by Part V of this Act in the Authority, otherwise than as a responsible authority under any prescribed scheme under Part XIIA of the Local Government Act, 1919, as amended by subsequent Acts, and may, with the like approval and subject to the like terms and conditions, grant easements or rights-of-way over such land or any part thereof :

Disposal of land.

Provided that the approval of the Minister shall not be required for a lease of any such land by the Authority for a term which is less than three years.

PART IV.

REGIONAL PLANNING DISTRICTS AND REGIONAL PLANNING COMMITTEES.

22. The Authority may, with the approval of the Minister, by order published in the Gazette—

Constitution of regional planning districts.

- (a) constitute any area, or group of areas, either with or without parts of areas, to be a regional planning district;
- (b) alter the boundaries of any regional planning district constituted under this section, but so that it comprises an area, or a group of areas, either with or without parts of areas.

A regional planning district, as constituted or altered, shall not comprise areas or parts of areas that do not adjoin.

23.

No. 59, 1963
Regional
planning
committees.

23. (1) In respect of each regional planning district the Authority shall appoint a regional planning committee.

Each regional planning committee shall consist of—

- (a) a chairman who shall be a member or servant of the Authority;
- (b) such number, as may be prescribed in respect of that committee, of officers, within the meaning of the Local Government Act, 1919, as amended by subsequent Acts, of councils of the areas wholly or partly within the regional planning district, nominated by such councils within the time prescribed in respect of that committee and in the prescribed manner;
- (c) where the City of Sydney is wholly or partly within the regional planning district an officer, within the meaning of the Local Government Act, 1919, as amended by subsequent Acts, of the Council of the City of Sydney nominated by that council within the time prescribed in respect of that committee and in the prescribed manner; and
- (d) such other persons as the Authority thinks fit.

The regulations may specify the number of officers to be nominated for the purposes of paragraph (b) of this subsection by any council or group of councils entitled to make the nomination but so that the number of officers so specified does not exceed the number prescribed for the purposes of such paragraph.

The number of persons appointed under paragraphs (a) and (d) of this subsection shall not exceed twice the number prescribed for the purposes of paragraphs (b) and (c) of this subsection.

A regional planning committee may be constituted notwithstanding that no nomination or insufficient nominations has or have been made under and in accordance with paragraph (b) or (c) of this subsection.

(2) (a) Each member of a regional planning committee shall, subject to this section, be appointed for such term, not exceeding three years, as may be specified by the Authority in the instrument of appointment, and, if otherwise qualified, be eligible for reappointment from time to time.

Any

Any such reappointment shall be for such term, not exceeding three years, as may be specified in the instrument of reappointment. No. 59, 1963

(b) A member of a regional planning committee shall be deemed to have vacated his office if he—

- (i) dies;
- (ii) resigns his office by writing under his hand addressed to the Authority;
- (iii) is removed from office by the Authority;
- (iv) being the chairman, ceases to hold office as a member or servant of the Authority; or
- (v) having been appointed under paragraph (b) or (c) of subsection one of this section, ceases to be an officer of the council of which he was an officer when appointed.

(c) The Authority may, with the approval of the Minister, remove for any cause which appears to it sufficient any member of a regional planning committee from office.

(d) On the occurrence of a vacancy in the office of a member of a regional planning committee, the Authority may, with the approval of the Minister, appoint a person to fill the vacant office and such person shall hold office for the residue of his predecessor's term of office as such member.

(3) The procedure for the calling of meetings of a regional planning committee, and for the conduct of business at such meetings shall, subject to any regulations made in relation thereto, be as determined by the committee.

(4) The members of a regional planning committee, not being a member or servant of the Authority, shall be entitled to receive such remuneration (whether by way of fee or allowance or otherwise) and such travelling expenses as may from time to time be fixed by the Authority.

(5) Where any member of a regional planning committee is an officer of the Public Service or of a statutory body representing the Crown (not being the Authority), he shall, notwithstanding the provisions of any Act or of any rule or regulation made under any Act, be entitled to receive remuneration and expenses under this section in addition to any remuneration to which he is otherwise entitled.

(6)

State Planning Authority Act.

No. 59, 1963

(6) The office of chairman or member of a regional planning committee shall not, for the purposes of any Act, be deemed to be an office or place of profit under the Crown.

Powers and duties of regional planning committee.

24. The regional planning committee for each regional planning district may investigate and make recommendations to the Authority on any matter which may affect the planning of the regional planning district and shall do so in respect of any matter which has been referred to it by the Authority.

PART V.
DISSOLUTION OF THE CUMBERLAND COUNTY COUNCIL AND THE NORTHUMBERLAND COUNTY COUNCIL.

Interpretation.

25. In this Part—

“Appointed day” means the day appointed pursuant to subsection two of section one of this Act in respect of the commencement of this Part.

“Northumberland County District” means the county district for local government purposes constituted under Part XXIX of the Local Government Act, 1919, as amended by subsequent Acts, under the name of Northumberland County District, by proclamation published in the Gazette, Number 84, of the twenty-third day of July, one thousand nine hundred and forty-eight.

“The Cumberland County Council” means the county council for The Cumberland County District.

“The Cumberland County District” means the county district for local government purposes constituted under Part XXIX of the Local Government Act, 1919, as amended by subsequent Acts, under the name of The Cumberland County District, by proclamation published in the Gazette, Number 78, of the twenty-seventh day of July, one thousand nine hundred and forty-five.

“The Northumberland County Council” means the county council for the Northumberland County District.

26. Upon and after the appointed day the following provisions have effect :—

- | | |
|---|---|
| <p>(a) The Cumberland County Council and The Northumberland County Council are dissolved.</p> | <p>Dissolution of The Cumberland County Council and The Northumberland County Council and transfer of assets, etc., to the Authority.</p> |
| <p>(b) The Cumberland County District and the Northumberland County District are abolished.</p> | <p></p> |
| <p>(c) (i) The Local Government Act, 1919, as amended by subsequent Acts, is amended by omitting Division 8 of Part XIIA.</p> | <p>Amendment of Act No. 41, 1919. Division 8, Part XIIA. (Scheme for the County of Cumberland.)</p> |
| <p>(ii) The Local Government (Areas) Act, 1948, as amended by subsequent Acts, is amended—</p> <p style="padding-left: 20px;">(a) by omitting paragraph (s) of section twenty-six;</p> <p style="padding-left: 20px;">(b) by omitting section thirty-three.</p> | <p>Amendment of Act No. 30, 1948. Secs. 26(s), 33. (Consequential.)</p> |
| <p>(iii) The Local Government Town and Country Planning (Amendment) Act, 1950, is amended by omitting sections two, three and four.</p> | <p>Amendment of Act No. 9, 1950. Secs. 2, 3 and 4. (Consequential.)</p> |
| <p>(iv) The Local Government (Amendment) Act, 1951, as amended by subsequent Acts, is amended—</p> <p style="padding-left: 20px;">(a) by omitting subsection four of section two;</p> <p style="padding-left: 20px;">(b) by omitting sections three, four and five.</p> | <p>Amendment of Act No. 18, 1951. Secs. 2(4), 3, 4 and 5. (Consequential.)</p> |
| <p>(v) The Local Government (Amendment) Act, 1959, is amended—</p> <p style="padding-left: 20px;">(a) by omitting paragraphs (c) and (d) of subsection one of section six;</p> <p style="padding-left: 40px;">(b)</p> | <p>Amendment of Act No. 21, 1959. Secs. 6 and 7. (Consequential.)</p> |

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Amendment
of Act No.
7, 1962.
Sec. 4.
(Conse-
quential.)

- (b) by omitting from paragraph (b) of subsection three of the same section the words "amendments made by paragraphs (b), (c) and (d)" and by inserting in lieu thereof the words "amendment made by paragraph (b)";
- (c) by omitting subsection one of section seven;
- (d) by omitting from subsection three of the same section the words "subsections one and two" and by inserting in lieu thereof the words "subsection two".
- (vi) The Local Government (Town and Country Planning) Amendment Act, 1962, is amended by omitting section four.
- (d) The proclamation published in the Gazette, Number 84, of the twenty-third day of July, one thousand nine hundred and forty-eight, constituting the Northumberland County District and delegating to The Northumberland County Council certain functions, powers and duties, and the proclamations published in the Gazette, Number 147, of the nineteenth day of November, one thousand nine hundred and forty-eight, and the Gazette, Number 14, of the ninth day of February, one thousand nine hundred and sixty-two, delegating to The Northumberland County Council further functions, powers and duties, are repealed.
- (e) All real and personal property including all books, maps, plans and documents and all right and interest therein and all management and control of any land or thing which, immediately before the appointed day, were vested in or belonged to The Cumberland County Council or The Northumberland County Council shall vest in and belong to the Authority :

Provided that any such maps, plans and documents relating to any interim development application

application or interim development appeal in respect of land within the Northumberland County District shall vest in and belong to the council of the area in which such land is situated. No. 59, 1963

- (f) All moneys, liquidated and unliquidated claims which, immediately before the appointed day, were payable to or recoverable by The Cumberland County Council or The Northumberland County Council shall be moneys, liquidated and unliquidated claims payable to or recoverable by the Authority.
 - (g) All suits, actions and proceedings pending immediately before the appointed day at the suit of The Cumberland County Council or The Northumberland County Council or of any person against either council in respect of any matter or claim shall respectively be suits, actions and proceedings pending at the suit of the Authority or of such other person against the Authority, as the case may be.
 - (h) All contracts, agreements and undertakings entered into with and all securities lawfully given to or by The Cumberland County Council or The Northumberland County Council and in force immediately before the appointed day shall be deemed to be contracts, agreements and undertakings entered into with and securities given to or by the Authority.
 - (i) The Authority may pursue the same remedies for the recovery of any such moneys and claims, and for the prosecution of such suits, actions and proceedings as The Cumberland County Council or The Northumberland County Council might have done but for this Act.
 - (j) The Authority may enforce and realise any security or charge existing immediately before the appointed day in favour of The Cumberland County Council or The Northumberland County Council in respect of any such moneys and claims as if such security or charge were existing in favour of the Authority.
- (k)

State Planning Authority Act.

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- (k) All debts due and moneys payable by The Cumberland County Council or The Northumberland County Council and all liquidated or unliquidated claims recoverable against The Cumberland County Council or The Northumberland County Council shall be debts due and moneys payable by and claims recoverable against the Authority.
- (l) All liquidated and unliquidated claims for which The Cumberland County Council or The Northumberland County Council would, but for this Act, have been liable shall be liquidated and unliquidated claims for which the Authority shall be liable.
- (m) No attornment by a lessee of any land vested in the Authority by this section shall be necessary.

Transfer of
servants of
the county
councils
and certain
officers and
employees
of the
Public
Service
to the
Authority.

27. (1) (a) Every person who immediately before the appointed day was a servant of The Cumberland County Council or The Northumberland County Council shall on the appointed day be transferred to the service of and become a servant of the Authority.

(b) A servant transferred to the Authority under this subsection shall be paid salary or wages at a rate not less than the rate which was payable to him immediately before the appointed day, subject to any adjustment necessary to give effect to any fluctuation in the basic wage for adult males, or adult females, as the case may be, as assessed and calculated in accordance with the provisions of section 61v of the Industrial Arbitration Act, 1940, as amended by subsequent Acts, and as adjusted from time to time in accordance with the provisions of section 61x of that Act, as so amended, until such salary or wages is or are varied or altered by the Authority.

(c) Where a servant transferred to the Authority under this subsection was, immediately before the appointed day, a permanent servant to whom the provisions of the Local Government and Other Authorities (Superannuation) Act, 1927-1959, applied, those provisions shall continue to apply to him, and for the purposes of such application any reference in that Act to a council shall be construed as including a reference to the Authority.

(d)

(d) Where any condition of employment of the servant was, immediately before the appointed day, regulated by an award or industrial agreement, such condition shall continue to be so regulated until an award regulating such condition and binding on the Authority is made by a competent tribunal or such condition is regulated by an industrial agreement to which the Authority is a party. No. 59, 1963

(2) (a) This subsection shall apply to such persons as immediately before the appointed day are officers or employees of the Public Service employed in the Department of Local Government and as the Governor, on the recommendation of the Minister, may, in a notification published in the Gazette on or before the appointed day, specify as persons to be transferred under this section to the service of the Authority.

(b) Every person to whom this subsection applies shall on the appointed day be transferred to the service of and become a servant of the Authority.

(c) A person transferred to the service of the Authority under this subsection—

(i) shall be paid salary or wages at a rate not less than the rate which was payable to him immediately before the appointed day, subject to any adjustment necessary to give effect to any fluctuation in the basic wage for adult males, or adult females, as the case may be, as assessed and calculated in accordance with the provisions of section 61v of the Industrial Arbitration Act, 1940, as amended by subsequent Acts, and as adjusted from time to time in accordance with the provisions of section 61x of that Act, as so amended, until such salary or wages is or are varied or altered by the Authority;

(ii) shall retain any rights which, at the appointed day, have accrued or are accruing to him as an employee within the meaning of the Superannuation Act, 1916, or any amendment thereof, and shall continue to contribute to any fund or account and shall be entitled to receive any payment or pension as if he had continued to be an employee within the meaning of the Superannuation Act, 1916, or any amendment thereof;

(iii)

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(iii) shall, if within the period of five years next following the appointed day he ceases to be an employee of the Authority from any cause whatsoever other than dismissal for misconduct or by reason of his attaining the age of sixty-five years, be entitled to be appointed on the recommendation of the Public Service Board to some office in the Public Service not lower in classification and salary than that which he held immediately before his transfer to the service of the Authority.

(d) Where any condition of employment of any officer or employee transferred to the service of the Authority under this subsection was, immediately before he is so transferred, regulated by an award or industrial agreement or agreement made under or in pursuance of the Public Service Act, 1902, as amended by subsequent Acts, such condition shall continue to be so regulated until an award regulating such condition and binding on the Authority is made by a competent tribunal, or such condition is regulated by an industrial agreement to which the Authority is a party.

(e) In respect of any person liable to make contributions referred to in subparagraph (ii) of paragraph (c) of this subsection the Authority shall pay to the State Superannuation Board such contributions and payments as would have been payable by the Government of New South Wales if such person had remained in the Public Service and had been paid salary or wages at the rate paid to him by the Authority.

(3) (a) Annual, sick and long service leave shall continue to accrue to a servant transferred to the Authority under this section on the same basis as they accrued to him immediately before the appointed day as a servant of The Cumberland County Council or The Northumberland County Council or as an officer or employee of the Public Service, as the case may be, until such basis is varied or altered by the Authority.

(b)

(b) For the purpose of calculating the entitlement to long service leave of any servant transferred to the Authority under this section—

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- (i) any service of such servant which, by the terms of any Act or of any industrial agreement or award under the Industrial Arbitration Act, 1940, as amended by subsequent Acts, was, immediately before the appointed day, required to be taken into account for the purpose of determining his entitlement to any such leave as a servant of The Cumberland County Council or The Northumberland County Council, or as an officer of the Public Service, as the case may be, shall be deemed to be service with the Authority;
- (ii) there shall be deducted from any long service leave to which any such servant of the Authority becomes entitled as such any long service leave already taken by him in respect of any period of service referred to in subparagraph (i) of this paragraph.

(c) A servant transferred to the Authority under this section shall be entitled to receive as a servant of the Authority any annual leave or sick leave accrued to him as a servant of The Cumberland County Council or The Northumberland County Council, or as an officer of the Public Service, as the case may be, as at the appointed day.

(4) Any person transferred to the service of the Authority under this section shall not be entitled to claim benefits under this Act as well as under any other Act in respect of the same period of service.

(5) Nothing in this section affects the operation of any of the provisions of the Industrial Arbitration Act, 1940, as amended by subsequent Acts.

28. (1) Subject to the provisions of subsections two, three and four of this section, the provisions of this Part shall not affect any right, liability, obligation, penalty or legal proceedings accrued, incurred or instituted before the appointed day by virtue of or in relation to or under the provisions of the County of Cumberland Planning Scheme Ordinance, the Northumberland County District Planning Scheme

Savings.

State Planning Authority Act.

No. 59, 1963 ——— Scheme Ordinance or any other town or country planning scheme ordinance as prescribed immediately before the appointed day.

(2) Where before the appointed day any consent or permission to carry out development was granted or was deemed to have been granted, either conditionally or unconditionally, by The Cumberland County Council as a responsible authority under the County of Cumberland Planning Scheme Ordinance or any amendment thereof, or any other town or country planning scheme ordinance, such consent or permission shall be deemed on and from the appointed day to have been granted by the Authority as responsible authority and any conditions attached to such consent or permission by The Cumberland County Council may be enforced by the Authority in all respects as if they were conditions attached to a permission or consent granted by the Authority as responsible authority.

(3) All foreshore building lines and all tree preservation orders fixed or made by The Cumberland County Council under the provisions of the County of Cumberland Planning Scheme Ordinance or any amendment thereof, or any other town or country planning scheme ordinance, and in force at the appointed day shall continue in full force and effect until altered, abolished or rescinded in the manner provided under the ordinance or any amendment thereof.

(4) Any interim development appeal made against any decision of The Northumberland County Council under the provisions of subsection five of section 342v of the Local Government Act, 1919, as amended by subsequent Acts, and pending at the appointed day, shall be deemed to have been made in accordance with the provisions of the said subsection as in force at the appointed day, and may be dealt with, continued and completed, and shall be given effect to, in all respects as if the council in whose area is situated the land to which the appeal relates had been entitled to give and had given the decision appealed against and the appeal were against that decision.

(5) Nothing in this section limits any saving in the Interpretation Act of 1897, as amended by subsequent Acts.

29. On and from the appointed day a reference, whether expressed or implied, in any Act, ordinance, order, regulation or by-law or in any other instrument or document whatsoever to—

No. 59, 1963

References to Cumberland County Council and Northumberland County Council to be references to Authority, etc.

- (a) The Cumberland County Council or The Northumberland County Council shall be read and construed as a reference to the Authority;
- (b) The Cumberland County District shall be read and construed as a reference to The Cumberland County District as constituted under the Local Government Act, 1919, as amended by subsequent Acts, immediately before the appointed day;
- (c) the Northumberland County District shall be read and construed as a reference to the Northumberland County District as constituted under the Local Government Act, 1919, as amended by subsequent Acts, immediately before the appointed day.

PART VI.

FINANCE.

DIVISION 1.—*Funds.*

30. (1) There shall be established in the Special Deposits Account in the Treasury a State Planning Authority Account into which shall be deposited all moneys received by the Authority and from which shall be issued all amounts required to meet expenditure incurred in accordance with the provisions of this Act.

State Planning Authority Account.

(2) In the books of the Authority there shall be created the following funds :—

- (a) The State Planning Authority General Fund, in this Part referred to as the General Fund;

(b)

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No. 59, 1963
 ———

(b) a development fund in respect of each development area, to be known as the
 (name of development area)
 Development Fund;
 and

(c) The State Planning Authority Trust Fund, in this Part referred to as the Trust Fund.

(3) The funds shall be separate and distinct.

General Fund.

31. (1) The General Fund shall consist of the following assets of the Authority, that is to say—

- (a) all moneys received or receivable by the Authority under Division 2 of this Part;
- (b) all moneys received or receivable in respect of any matter not appertaining to any other fund;
- (c) all moneys transferred in accordance with this Act from a development fund to the General Fund;
- (d) all moneys directed by or under this Act to be allocated to the General Fund.

(2) The General Fund may be applied to any of the following purposes, that is to say—

- (a) meeting the administrative expenses of the Authority;
- (b) any lawful purpose under this Act in respect of which expenditure is not chargeable to any fund other than the General Fund.

Development funds.

32. (1) The development fund in respect of each development area shall consist of the following assets of the Authority, that is to say—

- (a) all advances made to the Authority in pursuance of section 342AN of the Local Government Act, 1919, as amended by subsequent Acts and by this Act, for
 or

or in connection with the exercise or discharge by the Authority of its responsibilities, powers, authorities, duties or functions within or in respect of the development area ;

- (b) all moneys borrowed for the purpose of the acquisition or development of land within the development area and for the purpose of repaying or renewing a loan obtained for such purpose, and the proceeds of any levy or assessment made by the Authority for the purpose of repaying moneys so borrowed or renewing such a loan ;
- (c) the proceeds of the sale or lease of any land of the Authority situated within the development area ;
- (d) all moneys and land directed by or under this Act to be allocated to the development fund.

(2) All land of the Authority situated within a development area (not being land referred to in subsection one of section thirty-three of this Act) shall form part of the assets of the development fund in respect of that development area.

(3) The development fund in respect of each development area may be applied to any of the following purposes, that is to say—

- (a) the acquisition or development of any land within the development area ;
- (b) the payment of rates and charges due and payable by the Authority in respect of land within the development area ;
- (c) transfers to any reserve for loan repayment in respect of moneys borrowed in respect of the development area or in respect of any loan transferred to the Authority in pursuance of section twenty-six of this Act ;

(d)

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- (d) payment of principal, interest and expenses in respect of moneys borrowed in respect of the development area or in respect of any loan transferred to the Authority in pursuance of section twenty-six of this Act;
- (e) transfers in accordance with this Act to the General Fund;
- (f) any purpose authorised by or under this Act for the application of the development fund.

Trust Fund. **33.** (1) The Trust Fund shall consist of the following assets, that is to say—

- (a) all moneys and land held by the Authority by way of deposit or in trust for any person;
- (b) all moneys and land assigned conveyed bequeathed or devised to the Authority in trust for the purpose of any power, authority, duty or function which the Authority is by or under this Act empowered to exercise or perform.

(2) The Trust Fund shall be applied as follows, that is to say—

- (a) where the moneys or land are held by way of deposit or in trust for any person, the moneys may be paid or the land may be assured to or on behalf of the person entitled thereto :

Provided that if the moneys have remained in the Trust Fund for ten years the Authority may transfer them to such fund as it may deem proper, subject to repaying them from that fund to any person entitled thereto;

- (b) except as otherwise provided in this section, for the purposes and according to the trusts upon which the moneys or land are held by the Authority.

34.

34. (1) The areas specified in the First Schedule to this Act are constituted as a development area to be known as the Cumberland Development Area and the development fund established in respect thereof shall be known as the Cumberland Development Fund.

No. 59, 1963
Cumberland
Develop-
ment Area
and Fund.

(2) All fixed assets and fixed liabilities of The Cumberland County Council transferred to the Authority in pursuance of section twenty-six of this Act shall form part of the Cumberland Development Fund.

(3) All other assets and liabilities of The Cumberland County Council so transferred shall form part of the General Fund or the Cumberland Development Fund in such proportions or to such extent as the Minister shall determine.

35. (1) The Cities of Newcastle, Greater Cessnock and Maitland and the Shires of Lake Macquarie and Port Stephens are constituted as a development area to be known as the Northumberland Development Area and the development fund established in respect thereof shall be known as the Northumberland Development Fund.

Northum-
berland
Develop-
ment Area
and Fund.

(2) All fixed assets and fixed liabilities of The Northumberland County Council transferred to the Authority in pursuance of section twenty-six of this Act shall form part of the Northumberland Development Fund.

(3) All other assets and liabilities of The Northumberland County Council so transferred shall form part of the General Fund or the Northumberland Development Fund in such proportions or to such extent as the Minister shall determine.

36. (1) Development areas may be constituted in accordance with this section.

Constitu-
tion of
develop-
ment areas.

(2) The Authority may, by notice published in the Gazette, notify a proposal to constitute as a development area any area or areas specified in the notice.

(3)

State Planning Authority Act.

No. 59, 1963

(3) In determining which areas should be included in the development area the Authority shall have regard to any development plans prepared by it, town and country planning principles and such other matters as the Authority thinks fit.

(4) Within the prescribed time after the publication in the Gazette of the notice referred to in subsection two of this section, the Authority shall in the prescribed manner notify the councils of the areas proposed to be included in the development area of the proposal.

(5) Any council so notified, other than a council in whose area the Authority has acquired any land pursuant to Part III of this Act may, by notice in writing lodged with the Authority, within one month after its being so notified, object to its inclusion in the development area.

(6) Where objection has been lodged under subsection five of this section the Authority shall refer the matter to the Minister who shall, after such inquiry as he deems fit, either—

- (a) confirm the proposal; or
- (b) alter the proposal by excluding from the proposed development area any area other than an area in which the Authority has acquired any land pursuant to Part III of this Act.

(7) An area shall not be included in more than one development area.

(8) A development area shall not be constituted of two or more areas unless each of the areas comprising it adjoins another of such areas.

(9) If no objection is lodged under subsection five of this section the proposal shall be deemed to be confirmed immediately upon the expiry of the period allowed for the lodgment of objections.

(10)

(10) The areas specified in the proposal as confirmed or altered shall upon publication in the Gazette of a notice constituting such areas as a development area be constituted as a development area under the name specified in such notice. No. 59, 1963

(11) Where the Authority acquires any land pursuant to Part III of this Act the Authority shall, if such land is not already within a development area, within one month after acquiring such land, notify a proposal under subsection two of this section to constitute a development area comprising or including such area.

(12) The constitution of a development area in accordance with this section shall be disallowed if a resolution to that effect is carried by either House of Parliament provided notice of such resolution is given within fifteen sitting days after publication in the Gazette of the notice constituting such development area.

37. (1) The Authority shall in each year transfer from each development fund to the General Fund such amount as may be determined by the Minister on account of administrative expenses. Transfers to General Fund and questions as to funds.

(2) If any question arises under this Act or the regulations with respect to—

(a) the fund, or account within a fund, to which any moneys or land should be allocated; or

(b) the fund which should be applied for any purpose, the Minister may determine the question.

DIVISION 2.—Contributions by councils and the Treasurer to the General Fund.

38. (1) The Authority may, in respect of the year ending on the thirty-first day of December in the year following the year in which this Part commences, and in respect of each ensuing year ending on the thirty-first day of December, serve a requisition upon each council whose name is, as at the first day of December in the year next preceding the year in respect of which the requisition is served, included in the Second Schedule to this Act, requiring it to pay a contribution to the General Fund of the Authority. Contributions by councils to the General Fund.

(2)

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(2) The requisition of the Authority for a contribution as aforesaid shall be served upon the council on, or within one month before, the first day of December in the year next preceding the year in respect of which the contribution is required.

(3) A contribution shall become due and payable in whole or by instalments on the date or dates, as the case may be, specified in the requisition but no such date shall be earlier than the thirty-first day of March in the year in respect of which the contribution is required :

Provided that the Authority may grant to any council an extension of time for payment of the contribution or any instalment thereof and in any such case the contribution or instalment shall become due and payable on the day upon which the extension of time expires.

(4) The Authority may recover as a debt any contribution or instalment due by a council under this section.

(5) The contribution under this section of each council shall be calculated at such a uniform rate in the pound upon the unimproved capital value of all ratable land in the areas of those councils as the Authority, subject to subsection six of this section, may fix.

(6) The rate referred to in subsection five of this section shall be fixed by the Authority having regard only to the amount estimated by the Authority to be required to meet the outgoings from the General Fund for the year in respect of which the contribution is required, after deducting from such amount any other moneys available or to become available to meet such outgoings, including the contribution by the Treasurer under section thirty-nine of this Act, and such rate shall not, under any circumstances, exceed one-tenth of a penny in the pound upon such value.

(7) The contribution of a council shall be paid in the first place from its general fund and may be added to any rate levied for general purposes or may be levied by the council as a separate special rate. Where a separate special rate is levied it may be used to recoup the general fund to the extent of any payments made from that fund under this section.

(8)

(8) Where any amount is added by a council to any rate levied for general purposes, or any separate special rate is levied in order to make any contribution under this section and such amount or special rate, or any part thereof, has pursuant to any of the provisions of the Local Government Act, 1919, as amended by subsequent Acts, been written off or the payment of any part of such amount or special rate has been postponed pursuant to the provisions of section 160c of that Act, as so amended, the council may reduce such contribution or any subsequent contribution payable under this section by an amount equal to the amount so written off or to the amount payment of which was so postponed, as the case may be.

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For the purposes of this subsection, the amount of any rates written off shall not include any amount paid or payable by the Treasurer to the council in respect of the rates so written off.

39. (1) The Treasurer shall, in respect of the year ending on the thirty-first day of December in the year following the year in which this Part commences, and in each ensuing year ending on the thirty-first day of December, pay out of moneys provided by Parliament as a contribution to the General Fund an amount equivalent to the total contributions payable by the councils to the General Fund that year or an amount of two hundred and fifty thousand pounds, whichever amount is the lesser.

Contribution by the Treasurer.

(2) In respect of the year ending on the thirty-first day of December in the year in which this Part commences the Treasurer shall pay out of moneys provided by Parliament as a contribution to the General Fund such amount, not exceeding one hundred thousand pounds, as he thinks fit.

40. (1) The Governor may, by regulation, amend the Second Schedule to this Act by including therein the name of any area or by omitting therefrom the name of any area for the time being specified therein.

Second Schedule.

(2) The Second Schedule as so amended from time to time shall be the Second Schedule to this Act.

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DIVISION 3.—*Charges and fees.*

Right to
charges
and fees.
cf. Act No.
41, 1919,
sec. 166.

41. For the purposes and subject to the provisions of this Act the Authority may fix make demand levy and recover charges and fees in accordance with this Division.

Charges and
fees fixed
by regula-
tion or
resolution.
cf. *Ibid.*,
sec. 167.

42. (1) Where under the provisions of any Act, ordinance or regulation, the Authority—

- (a) supplies any service;
- (b) makes any registration;
- (c) gives any permission;
- (d) furnishes any information; or
- (e) receives any application for its approval,

the charge or fee may be fixed by regulation or where there is no charge or fee so fixed then the charge or fee may be fixed by resolution of the Authority subject to the maximum (if any) fixed by regulation.

(2) In any such regulation or resolution provision may be made requiring a deposit or prepayment in respect of such charge or fee.

(3) Nothing in this section shall authorise any charge or fee contrary to the provisions of any Act, ordinance or regulation.

Liability
for charge
or fee.
cf. *Ibid.*,
sec. 169.

43. The charge or fee shall be paid to the Authority by the person to whom or at whose request the service permission or information is supplied given or furnished or at whose request the registration is made or from whom the application is received, as the case may be.

DIVISION

DIVISION 4.—*Loans.*

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44. (1) The Authority may, with the approval of the Governor, borrow moneys for the purposes of acquiring land or carrying out works in any development area in pursuance of any powers vested in the Authority and for the renewal of loans for such purposes and of any loan transferred to the Authority in pursuance of section twenty-six of this Act.

Governor's consent to loans.

(2) Where, for the purpose of carrying out works in a development area in pursuance of section nineteen of this Act, the Authority proposes to borrow any sum so that the total loan liability in respect of the development fund for that development area exceeds one hundred thousand pounds, an abstract of the proposal shall be laid before both Houses of Parliament before application is made under this section for the approval of the Governor to the loan.

If either House of Parliament passes a resolution, of which notice has been given at any time within fifteen sitting days after the abstract has been laid before such House, disallowing the proposal an application for the Governor's approval of the loan shall not be made.

45. (1) Each loan raised by or transferred to the Authority shall be secured upon the income of the development fund to which the loan belongs.

Security for loans. cf. Act No. 41, 1919, sec. 182.

(2) For the purposes of any security for loans under this Act the approval of the Governor shall be conclusive evidence that the provisions of this Act with respect to the proposal for the loan have been duly complied with.

46. (1) Every loan shall be raised on such terms as the Governor may approve.

Terms of loans. cf. *Ibid.*,

(2) Without prejudice to the generality of subsection one of this section, the Governor may approve of terms which provide—

sec. 188 (1).

- (a) (i) for payment of yearly or half-yearly instalments each of principal and interest combined over a period of years;
- (ii) for repayment of principal in yearly or half-yearly instalments over a period of years, and payment

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- payment of interest with yearly or half-yearly rests on the balance of principal for the time being unpaid;
- (iii) for payment of interest only, with rests at such intervals as may be specified over a specified period, and thereafter for payment of instalments in the manner specified in subparagraph (i) of this paragraph or for repayment of principal and payment of interest in the manner specified in subparagraph (ii) of this paragraph; or
 - (iv) for repayment of principal in one sum at the end of a period of years, and payment of interest with yearly or half-yearly rests;
- (b) for the repayment of principal or of the balance of principal, as the case may be, on the date upon which any payment of interest or any instalment, as the case may be, falls due;
 - (c) for the taking up of the loan by the Authority in instalments and for any consequential adjustment of the terms of repayment.

Assessment
of loan com-
mitments.
cf. Act No.
41, 1919,
secs. 572A,
572B.

47. (1) The Authority may, in respect of the year ending on the thirty-first day of December in the year following the year in which this Part commences, and in each ensuing year ending on the thirty-first day of December, assess the amount required in any such year for the payment of interest on, or repayment of principal of, any loan upon the councils whose areas are included in the development area to which the loan relates.

(2) Where the Authority decides to make an assessment upon the councils as aforesaid it shall not later than the first day of October in the year preceding that in which the assessment is to be paid notify such councils as to its intention and require each such council to furnish to the Authority a certified statement of the unimproved capital value of all ratable land within the council's area.

(3) The council shall furnish such certified statement within one month after being required so to do.

(4)

State Planning Authority Act.

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(4) The assessment to be made upon any such council shall be for such amount as bears to the amount referred to in subsection one of this section the same proportion as the unimproved capital value, shown in the last statement furnished by that council to the Authority in pursuance of subsection three of this section, of the ratable land in the area of that council bears to the unimproved capital value shown in the statements last furnished by all the councils in the development area to the Authority in pursuance of subsection three of this section, of all the ratable land in the areas of all such councils. No. 59, 1963

(5) The assessment shall be made by resolution of the Authority under seal and notice thereof shall be served by the Authority upon the councils concerned on or before the first day of December in the year preceding the year to which the assessment relates.

(6) A council so assessed shall pay the amount of the assessment from its general fund.

(7) The Authority may recover as a debt any amount assessed upon any of the councils concerned and not paid on or before the thirtieth day of June in the year to which the assessment relates.

48. (1) For securing the repayment of the principal and interest of any moneys borrowed in pursuance of this Act, the Authority may, in the prescribed manner, issue inscribed stock, debentures, mortgage-deeds or bonds in or to the effect of the prescribed forms. Security for loans.
cf. Act No. 41, 1919,
sec. 188 (1).

(2) All inscribed stock, debentures, mortgage-deeds or bonds issued by the Authority shall rank *pari passu* without any preference one above the other by reason of priority of date or otherwise.

49. Every debenture issued under the provisions of this Act, and every coupon originally annexed to the debenture, and whether separated therefrom or not, may be transferred by simple delivery. Transfer of debentures and coupons.
cf. *Ibid.*,
sec. 189.

50.

State Planning Authority Act.

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Payment
of debentures
and coupons.
cf. Act No.
41, 1919,
sec. 190.

50. (1) The holder of any debenture issued under the provisions of this Act shall be entitled to receive payment from the Authority of the principal sum therein stated upon presentation of the debenture on or after the date when and at the place where the principal sum is payable.

(2) The holder of any coupon originally annexed to the debenture, and whether separated therefrom or not, shall be entitled to receive payment from the Authority of the interest mentioned in the coupon upon presentation of the same on or after the date when and at the place where the interest is payable.

Lost
debentures.
cf. *ibid.*,
sec. 192.

51. (1) If any debenture issued under this Act is lost, destroyed or defaced before it has been paid off, the Authority may subject to the provisions of this section issue a new debenture in lieu thereof.

(2) The new debenture with interest coupons annexed shall bear the same date number principal sum and rate of interest as the lost, destroyed or defaced debenture.

(3) Where the debenture is lost or destroyed, a new debenture shall not be issued unless and until—

- (a) a judge of the Supreme Court has been satisfied by affidavit of the person entitled to the lost or destroyed debenture, or of some person approved by the judge, that the same has been lost or destroyed before it has been paid off;
- (b) such advertisements as the judge may direct have been published;
- (c) six months have elapsed since the publication of the last of the advertisements; and
- (d) sufficient security has been given to the Authority to indemnify the Authority against any double payment if the missing debenture is at any time thereafter presented for payment.

(4)

(4) Where the debenture is defaced the new debenture shall not be issued unless and until the defaced debenture is lodged with the Authority. No. 59, 1963

(5) The provisions of this section shall, mutatis mutandis, extend to the case of a lost, destroyed or defaced coupon.

52. (1) If for six months default is made by the Authority in making any payment whether of principal or interest to the holder of any inscribed stock, debenture, coupon, mortgage-deed, or bond issued under the provisions of this Act the holder may apply to the Supreme Court in its equitable jurisdiction for the appointment of a receiver of the income of the development fund of the Authority of which the relevant loan forms part. Appointment of receiver. cf. Act No. 41, 1919, sec. 193.

(2) A receiver may be appointed in respect of the income of a development fund either generally or as regards specified income.

(3) The court may make such orders and give such directions as it may deem proper for and with respect to—

- (a) the appointment of a receiver;
- (b) the removal of a receiver;
- (c) the appointment of a receiver in place of a receiver previously appointed.

(4) A receiver shall be deemed to be an officer of the court and shall act under its directions.

53. (1) The receiver shall have power to assess and collect all income of the development fund in respect of which he has been appointed receiver and for the purposes of this subsection the receiver shall be deemed the Authority and may exercise all the powers thereof. Powers and duties of receiver. cf. *Ibid.*, sec. 194.

(2) The receiver shall discharge such duties of the Authority or of any servant of the Authority as may be prescribed by regulation.

54.

State Planning Authority Act.

No. 59, 1963 **54.** The receiver shall be entitled to such commission or remuneration for his services as the court may order, and the commission shall be payable by the Authority from the General Fund of the Authority.

Commission.
cf. Act No.
41, 1919,
sec. 195.

55. The receiver shall subject to any order of the court pay and apply all the money received by him in the following order, that is to say—

Application
of moneys
received.
cf. *Ibid.*,
sec. 196.

- (a) firstly in payment of the amount due and payable to the holder of the inscribed stock, debentures, coupons, mortgage-deeds, or bonds;
- (b) secondly in payment of all the residue of the money to the Authority.

56. A person advancing money to the Authority shall not be bound to inquire into the application of the money advanced or be in any way responsible for the non-application or misapplication thereof.

Application
of moneys
by the
Authority.
cf. *Ibid.*,
sec. 197.

PART VII.
GENERAL.**DIVISION 1.—Accounts and audit.**

57. The Authority shall cause to be kept proper books of account in respect of each fund established by it so as to show—

Accounts
generally.

- (a) the assets, liabilities, income and expenditure in respect of the fund; and
- (b) the sources of income and purposes of expenditure in respect of the fund.

58.

58. (1) The Authority shall, as soon as practicable after the thirtieth day of June in each year, prepare and transmit to the Minister for presentation to Parliament a statement of accounts in a form approved by the Auditor-General exhibiting a true and correct view of the financial position of the Authority as at the thirtieth day of June then last past and of the transactions of the Authority during the year ending on the thirtieth day of June then last past.

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Annual
statements.

(2) The statement shall be laid before both Houses of Parliament.

59. (1) The accounts of the Authority shall be audited and reported upon by the Auditor-General, who shall have in respect to the accounts of the Authority all the powers conferred on the Auditor-General by any law now or hereafter to be in force relating to the audit of the public accounts; and the Audit Act, 1902, and Acts amending the same, shall apply to the chairman and members of the Authority and its servants in the same manner as it applies to accounting officers of public departments.

Audit.

(2) The Auditor-General shall report to the Authority and the Minister—

(a) whether or not in his opinion—

- (i) due provision has been made for the repayment of loans;
 - (ii) the value of assets has (so far as he can judge) been in all cases fairly stated;
 - (iii) due diligence and care have been shown in the collection and banking of income;
 - (iv) the expenditure incurred has been duly authorised, vouched, and supervised;
 - (v) proper account has been kept of plant, stores, and materials; and
 - (vi) any of the moneys or other property of the Authority have been misappropriated or improperly or irregularly dealt with; and
- (b) as to any other matters which in his judgment call for special notice or which are prescribed.

(3)

State Planning Authority Act.

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(3) Towards defraying the cost and expenses of the audit by the Auditor-General the Authority shall at such periods as the Treasurer may direct pay to the Treasurer for credit of the Consolidated Revenue Fund, such sums as the Treasurer may decide.

DIVISION 2.—Regulations.

Regulations. 60. (1) The Governor may make regulations for or with respect to—

- (a) any of the powers conferred on or duties imposed on the Governor, the Minister, the Authority or regional planning committees;
- (b) requiring information, particulars, returns and statistics to be furnished by councils and the time and mode of furnishing and the manner of verification of the same;
- (c) the form, time, manner and mode of giving notices under this Act;
- (d) the payment of fees and travelling and out-of-pocket expenses to members of sub-committees of the Authority for attending meetings, transacting business of such sub-committees and making inspections for the purposes of this Act;
- (e) prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) A regulation may be of general or specially limited application according to time, place or circumstances, and may be general or restricted to any specified class or subject-matter.

61.

61. A regulation may—

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- (a) impose a penalty for any breach thereof and also distinct penalties in case of successive breaches thereof but no such penalty shall exceed fifty pounds; and
- (b) impose also a daily penalty for any continuing breach thereof not exceeding five pounds per day.

Penalties for breach of regulations.

62. (1) Regulations shall—

Publication, etc., of regulations.

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified therein; and
- (c) be laid before both Houses of Parliament within fourteen days after publication if Parliament is in session and, if not, then within fourteen sitting days after the commencement of the next session.

(2) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before the House disallowing the regulation or part thereof, such regulation or part shall thereupon cease to have effect.

DIVISION 3.—*Miscellaneous.*

63. All courts and persons having by law or consent of parties authority to hear, receive and examine evidence—

Judicial notice of seal of the Authority.

- (a) shall take judicial notice of the seal of the Authority affixed to any document; and
- (b) shall until the contrary be proved presume that such seal was properly affixed thereto.

64. Any notice, summons, writ or other proceeding required to be served on the Authority may be served by being left at the office of the Authority, or, in the case of a notice, by post.

Service of notice of proceedings on the Authority.

65.

State Planning Authority Act.

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 Documents
 —how
 authenti-
 cated.

65. Every summons, process, demand, order, notice, statement, direction or document requiring authentication by the Authority may be sufficiently authenticated without the seal of the Authority if signed by the chairman of the Authority.

Recovery
 of penalty.

66. (1) Any penalty imposed by the regulations may be recovered in a summary manner before a stipendiary magistrate or any two justices in petty sessions.

(2) Where the penalty is a daily penalty it may be recovered either under a separate information or complaint for each day or under an information or complaint for the sum of the daily penalties.

Recovery
 of charges,
 etc.

67. (1) Any charge, fee or money due to the Authority under the provisions of this Act may be recovered as a debt in a court of competent jurisdiction.

(2) Proceedings for the recovery of any charge, fee or money so due to the Authority shall be deemed to be for the recovery of a debt or liquidated demand within the meaning of—

- (a) section twenty-four of the Common Law Procedure Act, 1899, as amended by subsequent Acts;
- (b) section sixty-four of the District Courts Act, 1912, as amended by subsequent Acts;
- (c) section twenty-five of the Small Debts Recovery Act, 1912, as amended by subsequent Acts.

Proof of
 certain
 matters not
 required.

68. In any legal proceedings by or against the Authority no proof shall be required (until evidence is given to the contrary) of—

- (a) the constitution of the Authority;
- (b) any resolution of the Authority;
- (c)

- (c) the appointment of any member or any servant of the Authority; No. 59, 1963
- (d) the presence of a quorum at any meeting at which any determination is made or any act is done by the Authority.

69. (1) The Authority may from time to time by resolution delegate such of the powers, authorities, duties or functions of the Authority (other than the power of delegation) as may be prescribed by the regulations and as are specified in the resolution—

- (a) to any member of the Authority;
- (b) to any servant of the Authority;
- (c) to any officer, servant or employee of whose services the Authority makes use pursuant to this or any other Act.

(2) Any such delegation may be made either generally or for any particular case or class of cases.

(3) Any person when acting within the scope of any such delegation to him shall be deemed to be the Authority.

(4) Any instrument necessary to be executed and any notice, order, summons, or other like document requiring authentication for the purpose of the exercise or discharge of any power, authority, duty or function delegated to any person under this section shall be sufficiently executed or authenticated as the case may be if signed by such person in such a way as to show that he does so under and in pursuance of the delegation.

(5) The Authority may by resolution revoke any such delegation.

70. (1) A writ or other process in respect of any damage or injury to person or property shall not be sued out or served upon the Authority or any member of the Authority or any servant Notice of action.

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No. 59, 1963 — servant of the Authority or any person acting in its or his aid for anything done or intended to be done or omitted to be done under this Act, until the expiration of one month after notice in writing has been served on the Authority or member or servant, as provided in this section.

(2) The notice shall state—

- (a) the cause of action;
- (b) the time and place at which the damage or injury was sustained; and
- (c) the name and place of abode or business of the intended plaintiff and of his attorney, if any, in the case.

(3) In the case of damage to property, any person who produces on demand his authority from the Authority shall be permitted to inspect the property damaged, and all facilities and information necessary to ascertain fully the value of the property damaged, the nature and extent of the damage, and the amount of money, if any, expended in repairing the damage shall be given to him.

(4) At the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action that is not stated in the notice, and unless the notice has been served the plaintiff shall not be entitled to maintain the action :

Provided that at any stage of the proceedings the court or any judge of the court in which the action is pending may, if the court or judge deems it to be just or reasonable in the circumstances so to do—

- (a) amend any defect in the notice on such terms and conditions, if any, as the court or judge may fix;
- (b) direct that any non-compliance or insufficient compliance with this section shall not be a bar to the maintenance of the action.

(5)

(5) Every such action shall be commenced within ^{No. 59, 1963} the period (in this subsection referred to as the "prescribed period") of twelve months next after the occurring of the cause of action :

Provided that where an application is made to a judge of the Supreme Court in accordance with rules of court for an extension of the prescribed period the judge may, if he is satisfied that sufficient cause has been shown, or that having regard to all the circumstances of the case, it would be reasonable so to do, make an order for extension of the prescribed period for such further period and subject to such terms and conditions, if any, as may be set out in the order.

Such application for extension may be made either within the prescribed period or at any time within twelve months thereafter.

Any person who is dissatisfied with the decision of the judge on any such application may appeal to the Supreme Court and that court may on the appeal make any order which ought to have been made in the first instance.

Every such appeal shall be made in accordance with rules of court.

(6) The Authority, or any member, servant or person to whom any such notice of action is given as aforesaid, may tender amends to the plaintiff, his attorney or agent at any time within one month after service of notice of action, and in case the same is not accepted may plead the tender in bar.

(7) The defendant in every such action may plead the general issue and at the trial thereof give this Act and the special matter in evidence.

71. (1) As soon as practicable after the thirtieth day of June in each year, the Authority shall prepare and furnish ^{Annual report.} to the Minister a report upon the operations and activities of the Authority during the year ending on the date aforesaid.

(2) The Minister shall lay such report, or cause it to be laid, before both Houses of Parliament as soon as practicable after the receipt by him of the report.

AMENDMENT OF THE LOCAL GOVERNMENT ACT, 1919, AS
AMENDED BY SUBSEQUENT ACTS, AND CERTAIN OTHER
ACTS.

DIVISION 1.—*Amendment of Part XIIA of the Local
Government Act, 1919, as amended by subsequent Acts.*

- Amendment
of Act No.
41, 1919.
- Sec. 342B.
(Defini-
tions.)
- Division 2.
(Heading.)
- Sec. 342C.
(Preparation
of schemes.)
- Sec. 342D.
(Direction
to council
to prepare
a scheme.)
- 72.** (1) Part XIIA of the Local Government Act, 1919, as amended by subsequent Acts, is amended—
- (a) by omitting from section 342B the definition of “Advisory Committee” and by inserting in lieu thereof the following definition:—
- “Authority” means the State Planning Authority of New South Wales constituted under the State Planning Authority Act, 1963.
- (b) by inserting in the heading to Division 2 after the word “*schemes*” the words “*by councils*”;
- (c) by omitting from subsection two of section 342C the words “the Minister” and by inserting in lieu thereof the words “the Authority”;
- (d) (i) by omitting from subsection one of section 342D the words “The Minister may from time to time” and by inserting in lieu thereof the words “The Authority may from time to time, with the approval of the Minister,”;
- (ii) by omitting the proviso to subsection two of the same section and by inserting in lieu thereof the following proviso:—
- Provided that the Authority may, from time to time, upon the application of the council or councils concerned, extend such period if it appears to the Authority to be expedient so to do.
- (iii) by omitting from subsection three of the same section the words “the Minister” and by inserting in lieu thereof the words “the Authority”;
- (e)

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- (e) (i) by omitting from subsection one of section **No. 59, 1963** 342E the words "the Minister" where firstly occurring and by inserting in lieu thereof the words "the Authority"; Sec. 342E.
(Appointment of
planning
committee.)
- (ii) by omitting from the same subsection the words "the Minister on the recommendation of the Advisory Committee" and by inserting in lieu thereof the words "the Authority";
- (iii) by omitting from the proviso to subsection two of the same section the words "the Minister, on the recommendation of the Advisory Committee," and by inserting in lieu thereof the words "the Authority";
- (iv) by omitting paragraph (a) of the same proviso;
- (v) by omitting from the same proviso the words "the Cumberland County Council or";
- (vi) by omitting from subsection five of the same section the words "the Minister" and by inserting in lieu thereof the words "the Authority";
- (f) (i) by omitting from subsection one of section **Sec. 342F.** 342F the words "the Minister" and by inserting in lieu thereof the words "the Authority"; (Notice of
scheme.)
- (ii) by omitting from subsection two of the same section the words "The Minister may, after considering a report of the Advisory Committee, certify that the scheme so submitted to the Minister" and by inserting in lieu thereof the words "The Minister may, after considering a report of the Authority, certify that the scheme so submitted to the Authority";
- (iii) by omitting from the same subsection the words "proposals contained in the scheme apply proper planning principles to the land to which the scheme relates and" and by inserting in lieu thereof the words "planning principles contained in the scheme so submitted";
- (iv)

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(iv) by omitting from subsection six of the same section the words "the Minister" wherever occurring and by inserting in lieu thereof the words "the Authority";

(v) by inserting in the same subsection after the words "agent, before" the words "and to be heard by";

Sec. 342G.
(Contents
of scheme.)

(g) (i) by omitting from paragraph (v) of subsection three of section 342G the word "councils" and by inserting in lieu thereof the words "the responsible authorities specified in the scheme";

(ii) by inserting in paragraph (a) of subsection five of the same section after the words "as prescribed" the words ", or the Authority";

(iii) by inserting at the end of the same subsection the following new paragraph :—

(b) A scheme may contain provision for the appointment of a special committee, constituted as prescribed, to assist the responsible authority in carrying into effect and enforcing the scheme.

Such committee may include as members persons who are not members of the body which is the responsible authority.

New
Division 2A.

(h) by inserting next after section 342G the following new Division and heading thereto :—

DIVISION 2A.—Preparation of schemes by the Authority.

Preparation
of schemes
by the
Authority.

342GA. (1) The Minister may direct the Authority to prepare a scheme with respect to any land. Any such direction may be general or limited to purposes specified in the direction.

(2) The Authority shall as soon as practicable prepare a scheme in pursuance of such direction, whether or not any other scheme has been or is being prepared affecting such land.

(3)

(3) The scheme shall be in the form of a draft ordinance, shall refer to such maps, plans, specifications and particulars as the Authority thinks fit and may adopt wholly or partially or by reference any of the provisions contained in a set of standard or model provisions adopted by the Authority. No. 59, 1963

342GB. (1) The Authority shall submit to the Minister the scheme prepared by it in accordance with any direction given under section 342GA of this Act. Notice of scheme.

(2) The Minister may, after considering a report of the Authority, certify that the scheme so submitted to the Minister is adequate and sufficient and that the planning principles contained in the scheme so submitted appear to the Minister to be suitable for implementation.

(3) Where the Minister has so certified, the Authority—

(a) shall give notice as prescribed that the scheme has been prepared and shall in such notice—

(i) specify the address of the place or places at which copies of the draft ordinance and the maps, plans, specifications and other particulars relating to the scheme may be inspected and the times and dates when they may be inspected;

(ii) notify that objections against the scheme or any part of it may be forwarded to the Authority;

(b) shall forward particulars and a map or plan indicating in general terms the extent or nature of the scheme to all Departments of the Crown in right of the State or of the Commonwealth, all statutory bodies representing the Crown and all councils which appear to it to be affected by the scheme;

(c)

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(c) shall arrange for copies of such ordinance and maps, plans, specifications and other particulars to be made available for public inspection without charge at the places and times and on the dates referred to in subparagraph (i) of paragraph (a) of this subsection.

(4) Any person who has an estate or interest in any land affected by the scheme and any Department, statutory body or council may object in the manner prescribed to the Authority against the scheme or any part of it and shall state the grounds of the objection.

(5) Any such objection may only be made—

- (a) within a period of three months; or
- (b) if the Minister in the prescribed manner so directs in respect of a varying scheme, within such period not exceeding three months but not less than one week as may be specified in the direction,

after the publication of the notice referred to in paragraph (a) of subsection three of this section (or where the notice is published more than once, after the first publication thereof) or within such further period as the Minister may allow.

(6) The Authority shall consider all objections to the scheme made under this section and shall decide what recommendations thereon shall be made to the Minister.

Before deciding what recommendations shall be made to the Minister, the Authority shall afford each objector an opportunity to appear personally, or by counsel, solicitor or agent, before and to be heard by the Authority in support of his objection.

342GC. (1) The provisions of section 342G of this Act shall apply, mutatis mutandis, to and in respect of schemes prepared by the Authority under this Division.

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Application of certain provisions to schemes prepared by the Authority.

(2) The provisions of this Division shall apply, mutatis mutandis, to and in respect of schemes prepared by the Authority pursuant to a direction given to the Authority under section 342AH of this Act.

- (i) by omitting the heading to Division 3 and by inserting in lieu thereof the following heading and new section :—

Division 3.
Substituted heading, and new sec. 342GD.

DIVISION 3.—Approval of planning schemes prepared by councils.

342GD. The provisions of this Division shall apply to and in respect of planning schemes prepared by councils under this Part.

Application of this Division.

- (j) by omitting from section 342H the words “the Minister” wherever occurring and by inserting in lieu thereof the words “the Authority”;

Sec. 342H.
(Submission of scheme to Minister.)

- (k) by omitting section 342I;

Sec. 342I.
(Reference to Advisory Committee.)

- (l) (i) by omitting from subsection one of section 342J the words “The Minister shall examine the scheme submitted to him” and by inserting in lieu thereof the words “The Authority shall examine the scheme submitted to it”;

Sec. 342J.
(Consideration of scheme.)

- (ii) by inserting next after the same subsection the following new subsection :—

(1A) The Authority shall furnish to the Minister a report on the scheme setting out details of its examination of the scheme and its consideration of the objections to the scheme made to the council or councils concerned, together

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together with such recommendations with respect to such objections and the scheme as the Authority may think fit.

- (iii) by omitting paragraph (b) of subsection two of the same section;
- (iv) by inserting in subsection three of the same section after the words "the Minister may" the words "direct the Authority to";
- (v) by omitting from subsection four of the same section the words "Where the Minister" and by inserting in lieu thereof the words "Where the Authority at the direction of the Minister";
- (vi) by omitting from subsection six of the same section the words "the Minister" where secondly, thirdly, fourthly and fifthly occurring and by inserting in lieu thereof the words "the Authority";
- (vii) by inserting in the same subsection after the words "agent, before" the words "and to be heard by";
- (viii) by inserting next after the same subsection the following new subsection :—

(6A) The Authority shall furnish to the Minister a report on all objections made under subsection five of this section to the alterations to the scheme proposed by the Minister, together with a report on the recommendations on such objections made by the council or councils concerned, and may make such recommendations with respect to such objections or the proposed alterations to the scheme as it may think fit.
- (ix) by omitting from subsection seven of the same section the words "to him by the council or councils concerned in pursuance of subsection six" and by inserting in lieu thereof the words "by the council or councils concerned or the Authority in pursuance of subsection six or (6A)";
- (x)

(x) by omitting from subsection eight of the same section the word "six" and by inserting in lieu thereof the word, figure and symbols "six, (6A)";

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(m) by omitting section 342k;

Sec. 342k.
(Prescribed scheme.)

(n) by inserting next after section 342k the following new Divisions and headings thereto :—

New Divisions 3A and 3B and headings.

DIVISION 3A.—Approval of planning schemes prepared by the Authority.

342KA. The provisions of this Division shall apply to and in respect of schemes prepared by the Authority pursuant to a direction given to the Authority under section 342GA or 342AH of this Act.

Application of this Division.

342KB. After the Authority has pursuant to section 342GB of this Act considered all objections to the scheme and decided what recommendations thereon shall be made to the Minister, the scheme shall be submitted to the Minister and shall be accompanied by the objections (if any) or a copy thereof made to the Authority pursuant to subsection four of that section, a summary of any submissions made at the hearing of such objections and a statement in writing setting out such recommendations in respect of each objection.

Submission of scheme to Minister.

342KC. (1) The Minister shall examine the scheme submitted to him by the Authority and shall consider the objections to the scheme made to the Authority having regard to the recommendations made by the Authority in respect of each such objection.

Consideration of scheme.

(2) The Minister may then decide—

(a) to proceed with the scheme without alteration; or

(b)

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(b) to proceed with the scheme with such alterations as he deems expedient arising out of his consideration of the objections; or

(c) not to proceed with the scheme.

(3) Where the Minister decides to proceed with the scheme with alterations, and considers that the alterations are so extensive or are otherwise of such a nature as to justify the scheme or any part thereof being referred back to the Authority to be dealt with in accordance with subsection four of this section, the Minister may refer back the scheme or part accordingly.

(4) Where the Minister so refers back the scheme or any part, the Authority—

(a) shall give notice as prescribed of the alterations to the scheme proposed by the Minister and shall in such notice—

(i) specify the address of the place or places at which copies of the draft ordinance and the maps, plans, specifications and other particulars relating to the proposed alterations may be inspected and the times and dates when they may be inspected;

(ii) notify that objections against the proposed alterations or any of them may be forwarded to the Authority;

(b) shall forward particulars and a map or plan indicating in general terms the extent or nature of the alterations to the scheme proposed by the Minister to all Departments of the Crown in right of the State or of the Commonwealth, all statutory bodies representing the Crown and all councils which appear to it or them to be affected by any of the proposed alterations; and

(c)

(c) shall arrange for copies of all maps, plans, specifications and other particulars relating to the proposed alterations to be made available for public inspection without charge at the places and times and on the dates referred to in subparagraph (i) of paragraph (a) of this subsection. No. 59, 1963

(5) Any person who has an estate or interest in any land affected by any of the alterations to the scheme proposed by the Minister and any Department, statutory body or council may, within such period as may be specified by the Minister and notified as prescribed (but not less than one month), object in the manner prescribed to the Authority against the proposed alterations to the scheme and shall state the grounds of the objection.

(6) The Authority shall consider all objections made under subsection five of this section to the alterations to the scheme proposed by the Minister and shall decide what recommendations thereon shall be made to the Minister. Any such recommendations shall be in writing and shall be forwarded to the Minister within such period as may be notified to the Authority by the Minister, together with the objections (if any) or a copy thereof made to the Authority pursuant to subsection five of this section and a summary of any submissions made at the hearing of such objections.

Before deciding what recommendations on such objections shall be made to the Minister, the Authority shall afford each objector an opportunity to appear personally, or by counsel, solicitor or agent, before and to be heard by the Authority in support of his objection.

(7) The Minister shall consider such objections having regard to any recommendations made to him by the Authority in pursuance of subsection

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subsection six of this section and shall decide whether the proposed alterations should be made to the scheme and whether wholly or in part, and shall deal with the scheme in one of the ways referred to in subsection two of this section.

(8) Where a scheme has been altered in pursuance of subsection two of this section, a reference in subsections three, four, five, six and seven of this section to "the scheme" shall be construed as a reference to the scheme as so altered.

DIVISION 3B.—Prescribing of schemes.

Prescribing
of schemes.

342KD. (1) The Governor, on the recommendation of the Minister that the scheme, or the scheme as altered pursuant to section 342J or 342KC of this Act, be prescribed, may make an ordinance prescribing the scheme, or the scheme as so altered, as the case may be.

Any such scheme which has been embodied in an ordinance so made is in this Part hereinafter referred to as a "prescribed scheme".

(2) The Authority shall give notice, as prescribed, of the fact that the scheme has come into operation, and that copies of the ordinance prescribing the scheme and of any maps, plans, specifications or other particulars referred to therein will be available for public inspection.

(3) Copies of the ordinance and all maps, plans, specifications or other particulars referred to therein authenticated as prescribed shall be made available during ordinary office hours for public inspection without charge at the office of the Authority and, in so far as they relate to land within the area of a council being a responsible authority and to land adjoining such area, at the office of that council.

(o)

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- (o) (i) by inserting in paragraph (a) of subsection two of section 342L in the definition of "local scheme" after the word "Cumberland" the words "or by the Authority in respect of any such area"; No. 59, 1963
Sec. 342L.
(Variation
of pre-
scribed
scheme.)
- (ii) by omitting from the definition of "County of Cumberland Planning Scheme" in the same paragraph the words ", upon its being prescribed under this Part, the supplementary scheme referred to in subsection one of section two of the Local Government Town and Country Planning (Amendment) Act, 1950, and";
- (iii) by omitting from the same definition the words "prepared by the Cumberland County Council varying either such scheme" and by inserting in lieu thereof the words ", varying such scheme, prepared by the Cumberland County Council before the commencement of Part V of the State Planning Authority Act, 1963, or by the Authority";
- (iv) by omitting from paragraph (a) of subparagraph (iii) of paragraph (b) of the same subsection the words "the Cumberland County Council" and by inserting in lieu thereof the words "the Authority";
- (v) by omitting from subparagraph (i) of paragraph (c) of the same subsection the words "the injurious affection of an estate or interest in land" and by inserting in lieu thereof the words "any injurious affection, damage, liability or expenditure of the nature referred to in subsection one of section 342AC of this Act";
- (vi) by inserting in the same subparagraph after the words "injurious affection" where secondly occurring the words ", damage, liability or expenditure";
- (vii)

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- (vii) by omitting from subparagraph (ii) of the same paragraph the words "Where an estate or interest in land is injuriously affected by reason of any provision contained in the County of Cumberland Planning Scheme and a claim for compensation in respect of such injurious affection" and by inserting in lieu thereof the words "Where by reason of any provision contained in the County of Cumberland Planning Scheme a person was entitled to make a claim for compensation in respect of injurious affection, damage, liability or expenditure of the nature referred to in subsection one of section 342AC of this Act and such claim";
 - (viii) by inserting in the same subparagraph after the words "such injurious affection" where secondly occurring the words ", damage, liability or expenditure";
 - (ix) by omitting from paragraph (e) of the same subsection the words "The Cumberland County Council" and by inserting in lieu thereof the words "Subject to this Part, the Authority";
 - (x) by omitting the proviso to the same paragraph;
 - (xi) by omitting from paragraph (f) of the same subsection the words "The Cumberland County Council" and by inserting in lieu thereof the words "The Authority";
 - (xii) by inserting at the end of the same subsection the following new paragraph :—
 - (g) The provisions of this subsection shall apply to all local schemes prepared by the Authority, whether or not the direction given by the Minister to prepare such a scheme was general or limited to specified purposes.
- (p)

(p) by omitting from section 342M the words “the Advisory Committee” and by inserting in lieu thereof the words “the Authority”;

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 Sec. 342M.
 (Revocation
 of prescribed
 schemes.)

(q) (i) by omitting subsection one of section 342N and by inserting in lieu thereof the following subsection :—

Sec. 342N.
 (Powers,
 etc., of
 responsible
 authority.)

(1) The responsible authority specified in a prescribed scheme shall have and may exercise and discharge all the powers, authorities, duties and functions conferred and imposed on the responsible authority by the prescribed scheme.

Where the responsible authority so specified is—

(a) a county council, the powers, authorities, duties and functions conferred and imposed on such county council as a responsible authority under the prescribed scheme shall be deemed to be powers, authorities, duties and functions duly delegated to the county council under section five hundred and sixty-four of this Act on and from the date on which the prescribed scheme comes into force, notwithstanding that a request for such delegation has not been made by a majority in number of the constituent councils, or by any of them; or

(b) the Authority, it shall have all the powers, authorities, duties and functions conferred and imposed on it as a responsible authority under the prescribed scheme,

but without prejudice to the power of each constituent council to exercise or discharge so much of any power, authority, duty or function

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function which by law may be exercised or discharged by a council in relation to town and country planning as has not been so deemed to have been delegated to the county council or is not conferred or imposed on the Authority, as the case may be.

- (ii) by omitting from subsection two of the same section the words "the council which is";
- (iii) by omitting from the same subsection the words "such council" and by inserting in lieu thereof the words "the responsible authority";
- (iv) by omitting from the same subsection the word "council" where thirdly, fourthly, fifthly and sixthly occurring and by inserting in lieu thereof the words "responsible authority";
- (v) by omitting from subsection four of the same section the word "council" wherever occurring and by inserting in lieu thereof the words "responsible authority";

Sec. 342o.
(Carrying prescribed schemes into effect.)

- (r) (i) by inserting in paragraph (b) of section 342o after the word "scheme" the words "and, where the Authority is a responsible authority under the prescribed scheme, it shall for the purposes of this paragraph have all the powers of a council with respect to the realignment of public roads";
- (ii) by omitting from paragraph (g) of the same section the words "the council which is";

Sec. 342p.
(Enforcement of prescribed schemes.)

- (s) by omitting from paragraph (c) of subsection one of section 342p the word "council" and by inserting in lieu thereof the words "responsible authority";

Sec. 342r.
(Notices relaxing temporary prohibition or restriction of building.)

- (t) (i) by inserting in section 342r after the words "such time as" the words "a council which is";
- (ii) by omitting from paragraph (a) of the same section the words "The responsible authority" and by inserting in lieu thereof the words "The council which is the responsible authority";
- (iii)

(iii) by omitting from paragraph (b) of the same section the words "the Minister" and by inserting in lieu thereof the words "the Authority";

(iv) by inserting in paragraph (d) of the same section after the words "the duty of" the words "the council which is";

(v) by omitting from the same paragraph the words "Any person dissatisfied with the failure of the responsible authority to give such a notice within such period of three months in respect of land in which he has an estate or interest may appeal to the Minister within two months after the expiration of such period of three months, and the Minister on any such appeal may, if he thinks fit, give such a notice, and a notice so given by him shall have effect as if it were a notice given by the responsible authority and approved by the Minister." and by inserting in lieu thereof the following words : —

Any person dissatisfied with the failure of the council which is the responsible authority to give such a notice within such period of three months in respect of land in which he has an estate or interest may appeal to the Authority within two months after the expiration of such period of three months, and the Authority on any such appeal may, if it thinks fit, give such a notice, and a notice so given shall have effect as if it were a notice given by the council which is the responsible authority and approved by the Authority.

(vi) by inserting in paragraph (e) of the same section after the words "apply to" the words "the council which is";

(vii)

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- (vii) by omitting from paragraph (f) of the same section the words "The responsible authority" and by inserting in lieu thereof the words "The council which is the responsible authority";
- (viii) by omitting paragraph (g) of the same section and by inserting in lieu thereof the following paragraph :—

(g) Any person dissatisfied with the refusal of any such application, or by any conditions imposed by the council which is the responsible authority, may within twenty-eight days from the date on which he received notice of the decision of such council or such longer period as the Authority may allow, appeal to the Authority, and the Authority may dismiss or allow the appeal, either unconditionally, or subject to such conditions as it thinks proper to impose.

The decision of the Authority on an appeal under this paragraph shall be final and shall have effect as if it were the decision of such council.

Sec. 342u.
(Interim
development
orders.)

- (u) (i) by inserting in subsection one of section 342U after the words "the council or councils concerned has or have" the words ", or the Authority has,";
- (ii) by omitting from the same section the words "the Advisory Committee" wherever occurring and by inserting in lieu thereof the words "the Authority";
- (iii) by omitting from subsection seven of the same section the words "the Department of Local Government" and by inserting in lieu thereof the words "the office of the Authority";

Sec. 342v.
(Permission
for interim
develop-
ment.)

- (v) (i) by omitting from paragraph (b) of subsection (1B) of section 342v the words "the Minister" and by inserting in lieu thereof the words "the Authority";

(ii)

(ii) by omitting from paragraph (b) of the proviso to subsection two of the same section the words "his power to require the application to be referred to him" and by inserting in lieu thereof the words "any power to require the application to be referred to the Authority";

(iii) by omitting paragraphs (a) and (b) of subsection three of the same section and by inserting in lieu thereof the following paragraphs :—

(a) The Authority may give directions to the council that—

(i) any interim development application lodged by a Government Department, statutory body or public utility undertaking; or

(ii) any interim development application, or any class or description of interim development applications, which, having regard to considerations affecting the public interest, whether generally or in the locality concerned, the Authority considers expedient to be referred to it for decision,

be referred to it and any decision of the Authority on an application so referred to it shall be deemed to be the decision of the council :

Provided that, before dealing with any application so referred to the Authority, it shall, if either the council or the applicant so desire, afford them an opportunity of appearing personally or by counsel, solicitor or agent before and being heard by a person appointed by it for the purpose.

(b) The Authority may give directions requiring the council to furnish it with such information with respect to interim development applications as the Authority considers necessary

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necessary or expedient for the purpose of enabling it to exercise its functions under this subsection.

- (iv) by omitting from subsection five of the same section the word "Minister" where firstly, secondly, thirdly and fifthly occurring and by inserting in lieu thereof the word "Authority";
- (v) by omitting from the same subsection the words "may dismiss the appeal or may allow the appeal either unconditionally or subject to such conditions as he thinks proper to impose, but the Minister, before deciding any such appeal" and by inserting in lieu thereof the following words and new paragraphs:—

"shall—

- (a) in any case where the appeal is in respect of an interim development application which was lodged by a Government Department, statutory body or public utility undertaking or is an appeal in respect of any interim development application or any class or description of interim development applications referred to in subparagraph (ii) of paragraph (a) of subsection three of this section, furnish to the Minister a report thereon containing a recommendation as to whether the appeal should, in the opinion of the Authority, be dismissed or allowed either conditionally or subject to such conditions as may be specified in the report, and the reasons for such recommendation; and
- (b)

- (b) in any other case, dismiss the appeal or allow the appeal either unconditionally or subject to such conditions as the Authority thinks proper to impose, No. 59, 1963

but the Authority, before making any such report or deciding any such appeal”;

- (vi) by inserting in the same subsection after the word “appearing” the words “personally or by counsel, solicitor or agent”;
- (vii) by inserting in the same subsection after the words “for the purpose.” the following new paragraph :—

Where pursuant to paragraph (a) of this subsection the Authority makes a report to the Minister, the Minister shall dismiss the appeal or allow the appeal either unconditionally or subject to such conditions as he thinks proper to impose.

- (viii) by omitting from the same subsection the words “The decision of the Minister” and by inserting in lieu thereof the words “The decision of the Authority or the Minister, as the case may be.”;
- (ix) by omitting from subsection six of the same section the word “Minister” and by inserting in lieu thereof the word “Authority”;
- (w) (i) by omitting from paragraph (b) of subsection one of section 342Y the words “the Minister” and by inserting in lieu thereof the words “the Authority, with the approval of the Minister.”; Sec. 342Y.
(Suspension
of provisions
of prescribed
scheme.)
- (ii) by inserting next after the same paragraph the following word and new paragraph :—
- ; or
- (c) the Minister has directed the Authority to prepare such a scheme;
- (iii)

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(iii) by omitting from the same subsection the words "the Advisory Committee" and by inserting in lieu thereof the words "the Authority";

Sec. 342AC.
(Compensation.)

(x) (i) by omitting from paragraph (e) of subsection one of section 342AC the words "before the resolution to prepare a scheme has been passed or the publication in the Gazette of the notice that the Minister has directed the council to prepare a scheme or, in the case of land to which the scheme referred to in Division 8 of this Part applies, before the publication of the notification referred to in subsection two of section 342AA of this Act" and by inserting in lieu thereof the words "in relation to any land, before the coming into operation of restrictions upon interim development imposed under Division 7 of this Part,";

(ii) by omitting from the same subsection the words "makes a claim therefor within the time prescribed, be entitled to obtain, from the council which is" and by inserting in lieu thereof the words "institutes proceedings to enforce a claim therefor within the time prescribed, be entitled to obtain, from";

(iii) by omitting from paragraph (a) of subsection two of the same section the words "where the prescribed scheme is the scheme referred to in Division 8 of this Part, after the publication of the notification referred to in subsection two of section 342AA of this Act" and by inserting in lieu thereof the words "in the case of the County of Cumberland Planning Scheme, after the twelfth day of July, one thousand nine hundred and forty-six";

(iv) by omitting from paragraph (e) of the same subsection the words "the council which is";

(v) by omitting from the same paragraph the word "council" where secondly occurring and by inserting in lieu thereof the words "responsible authority";

(vi)

(vi) by inserting next after paragraph (g) of the same subsection the following new paragraphs :—

(h) in respect of the injurious affection of an estate or interest in land by reason of any provision of a prescribed scheme which specifies, or enables to be specified, the purposes for which the land may be used or which prohibits, restricts or regulates the use of land, except where such land is zoned or reserved for the purpose of a public place or public reserve within the meaning of the Local Government Act, 1919, as amended by subsequent Acts, a public cemetery, a public hospital, a public railway, a public school or such other purpose as may, for the purposes of this subsection, be specified as a public purpose in the prescribed scheme;

(i) in respect of the injurious affection of an estate or interest in land by reason of any provision of a prescribed scheme which requires, or enables to be required, in relation to any land or the erection of any building, the provision of suitable space or accommodation for—

(i) the loading, unloading or fuelling of vehicles; or

(ii) vehicles likely to be used by persons resorting to or occupying such land or building.

(vii) by inserting in the definition of "Material date" in the same subsection after the word "Minister" wherever occurring the words "directed the Authority, pursuant to section 342GA or 342AH of this Act, to prepare a scheme, or the Authority";

(viii)

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(viii) by omitting from the same definition the words "the scheme referred to in Division 8 of this Part, the date upon which the notification referred to in subsection two of section 342AA of this Act was published" wherever occurring and by inserting in lieu thereof the words "the County of Cumberland Planning Scheme, the twelfth day of July, one thousand nine hundred and forty-six";

(ix) by omitting subsection three of the same section and by inserting in lieu thereof the following subsection :—

(3) Where an estate or interest in land is injuriously affected by reason of any provision contained in the prescribed scheme, and—

(a) if such provision or a provision substantially to the same effect could, immediately before the prescribed scheme came into operation, have been validly included in any ordinance, regulation, proclamation, declaration, notification, notice or other like instrument issued or made under the authority of this Act (other than this Part) or any other Act; or

(b) if, immediately before the prescribed scheme came into operation, the said estate or interest could have been injuriously affected by the operation of the provisions of any Act, including this Act (except this Part), to the same or substantially the same extent as it is injuriously affected under the prescribed scheme,

then—

(c) if no compensation would have been payable by reason of the inclusion of the provision aforesaid or a provision substantially to the same effect in such ordinance.

ordinance, regulation, proclamation, declaration, notification, notice or other like instrument, or by the bringing into operation of such Act, no compensation shall be payable under this Division;

- (d) if compensation would have been so payable the amount of compensation payable in respect of that provision of the scheme shall not be greater than the compensation which would have been so payable.
- (x) by omitting from paragraph (f) of subsection four of the same section the words "the council" and by inserting in lieu thereof the words "any responsible authority";
- (xi) by inserting at the end of the same subsection the following new paragraph :—
- (h) There shall be taken into account any purchase money or compensation paid or payable under this or any other Act on the purchase or compulsory acquisition of the land or any part thereof.
- (xii) by omitting from paragraph (a) of subsection five of the same section the words "council the question of whether such council" and by inserting in lieu thereof the words "body which is a responsible authority, the question of whether such body";
- (xiii) by omitting paragraph (b) of the same subsection and by inserting in lieu thereof the following paragraphs :—
- (b) The time within which proceedings under this section may be instituted and, in the case of proceedings instituted before a court

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court of petty sessions held before a stipendiary magistrate, the manner of instituting such proceedings and any matter in connection therewith, may be prescribed by ordinance made under this Act.

Where an application is made to a judge of the Land and Valuation Court in accordance with rules of court in relation to proceedings under this subsection in which that court has jurisdiction or to a court of petty sessions held before a stipendiary magistrate in relation to proceedings under this subsection in which that court has jurisdiction, for an extension of the time prescribed the judge or stipendiary magistrate, as the case may be, may, if he is satisfied that sufficient cause has been shown, or that having regard to all the circumstances of the case, it would be reasonable so to do, make an order for extension of the time prescribed for such further period and subject to such terms and conditions (if any) as may be set out in the order.

Such application for extension may be made either within the time prescribed or at any time within twelve months thereafter.

This paragraph shall apply to and in respect of any claim for compensation made before or after the commencement of the State Planning Authority Act, 1963.

(c) The power conferred by section twenty of the Land and Valuation Court Act, 1921-1961, to make rules shall include power to make rules with respect to the manner of instituting, hearing and determining proceedings under this subsection and any matter in connection therewith.

- (xiv) by omitting from subsection nine of the same section the words "Council which is the";
(y)

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- (y) by omitting from subsection one of section 342AD the words "the council which is";
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Sec. 342AD.
(Recovery of
compensa-
tion.)
- (z) (i) by omitting from paragraph (b) of subsection one of section 342AH the words "where the Minister under section 342D of this Act has directed" and by inserting in lieu thereof the words "where a direction to prepare a scheme has been given under section 342D of this Act to";
- Sec. 342AH.
(Powers of
Minister in
case of
default by
councils.)
- (ii) by inserting in paragraph (c) of the same subsection after the words "inquiry that" the words "any council which is";
- (iii) by omitting paragraph (i) of the same subsection;
- (iv) by omitting from paragraph (ii) of the same subsection the words "the Advisory Committee" and by inserting in lieu thereof the words "the Authority";
- (v) by omitting from paragraph (a) of subsection two of the same section the words "the Minister and the Advisory Committee" and by inserting in lieu thereof the words "the Authority";
- (vi) by omitting from subparagraph (i) of paragraph (b) of the same subsection the words "the Minister or the Advisory Committee" and by inserting in lieu thereof the words "the Authority";
- (vii) by omitting from subparagraph (ii) of the same paragraph the words "the Minister or the Advisory Committee, as the case may be," and by inserting in lieu thereof the words "the Authority";
- (viii)

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—

(viii) by omitting subsection three of the same section and by inserting in lieu thereof the following subsection :—

(3) Any expenditure incurred by the Authority in pursuance of this section, less any remissions allowed by the Authority, which remissions the Authority, with the approval of the Minister, is hereby authorised to allow, shall be repaid by the council concerned on demand by the Authority, and where more than one council is concerned, in such proportions as may be determined by the Authority.

(ix) by omitting from subsection four of the same section the words “The Treasurer” and by inserting in lieu thereof the words “The Authority”;

(x) by omitting from subsection five of the same section the words “the Treasurer” and by inserting in lieu thereof the words “the Authority”;

Division 12.
(Town and
Country
Planning
Advisory
Committee.)

(aa) by omitting Division 12;

Division 13.
(Functions
of the
Advisory
Committee.)

(bb) by omitting Division 13;

Sec. 342AN.
(Advances.)

(cc) by inserting at the end of section 342AN the following new subsection :—

(3) A reference in this section to “councils” or “council” shall include a reference to the Authority.

Sec. 342AR.
(Appoint-
ment of
officers and
employees.)

(dd) by omitting section 342AR;

(ee).

State Planning Authority Act.

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- (ee) (i) by omitting from paragraph (b) of subsection one of section 342^{ASA} the words “responsible authority” wherever occurring and by inserting in lieu thereof the words “council which is the responsible authority”; No. 59, 1963
Sec. 342^{ASA}.
(Evidence.)
- (ii) by omitting from the same paragraph the words “the Minister or the Department of Local Government, under the hand of the Under Secretary of that Department” and by inserting in lieu thereof the words “the Authority, under the hand of the Secretary of the Authority”;
- (iii) by omitting from paragraph (a) of subsection two the words “responsible authority” and by inserting in lieu thereof the words “council which is the responsible authority”;
- (iv) by omitting from paragraph (b) of the same subsection the words “the Minister or the Department of Local Government, the Under Secretary of that Department” and by inserting in lieu thereof the words “the Authority, the Secretary of the Authority”;
- (v) by omitting from the same paragraph the words “the Under Secretary” where secondly occurring and by inserting in lieu thereof the words “the Authority”;
- (ff) (i) by inserting in paragraph (b) of subsection two of section 342^{AT} after the word “council” the words “or the Authority”; Sec. 342^{AT}.
(Ordinances.)
- (ii) by inserting in paragraph (c) of the same subsection after the word “scheme” the words “or the Authority when it is so engaged”;
- (iii) by inserting in paragraph (f) of the same subsection after the word “councils” the words “and the Authority”;
- (iv)

State Planning Authority Act.

No. 59, 1963

(iv) by omitting from paragraph (g) of the same subsection the words “(other than the Advisory Committee) appointed under this Part” and by inserting in lieu thereof the words “referred to in subsection five of section 342G of this Act”.

(2) The amendment made by subparagraph (vi) of paragraph (x) of subsection one of this section shall be deemed to have commenced on the twenty-seventh day of June, one thousand nine hundred and fifty-one.

DIVISION 2.—*Transitional provisions.*

Construction.

73. This Division shall be read and construed with the Local Government Act, 1919, as amended by subsequent Acts, which Act, as so amended, is in this Division referred to as the Principal Act.

Transitional provisions—schemes in course of preparation as at 1st July, 1962.

74. (1) Notwithstanding the amendments made by section seventy-two of this Act, a scheme in course of preparation at the commencement of this Part, being a scheme in course of preparation at the commencement of the Local Government (Town and Country Planning) Amendment Act, 1962, and in respect of which the notice required by section 342F of the Principal Act as enacted before the commencement of this Part had been given at the commencement of this Part shall, subject to subsections two and three of this section be dealt with and completed by the Governor, the Minister, the Authority, the council or councils concerned and any officer or person in all respects as though the amendments made by section five of the Local Government (Town and Country Planning) Amendment Act, 1962, and by Division 1 of this Part had not been made, except that in the application of sections 342I and 342J of the Principal Act as enacted immediately before the commencement of this Part to and in respect of such schemes such sections shall be deemed to be amended by inserting the words “the Authority” in lieu of the words “the Advisory Committee” wherever occurring, and Divisions 12 and 13 of Part XIIA of the Principal Act, as so enacted, shall be deemed to be repealed.

(2)

(2) Where the Minister, under subparagraph (iii) of paragraph (a) of subsection one of section 342J of the Principal Act, as enacted immediately before the commencement of the Local Government (Town and Country Planning) Amendment Act, 1962, refers the scheme back to the council for further consideration, the Minister may, by order published in the Gazette, direct that any or all of the provisions of section 342J of the Principal Act, as amended by this Act, shall apply to the scheme, and the scheme shall thenceforth be dealt with accordingly.

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(3) The Minister may, if he is of opinion that any scheme referred to in subsection one of this section does not apply proper planning principles, by notification published in the Gazette direct that such scheme shall not be dealt with and completed as is provided by that subsection and in any such case the scheme shall cease to have any force or effect and the council or councils concerned shall, in accordance with the resolution or resolutions passed by it or them under section 342c of the Principal Act, as enacted immediately before the commencement of this Part, or in accordance with the direction given to it or them by the Minister under section 342D of the Principal Act, as enacted immediately before the commencement of this Part, as soon as practicable prepare in pursuance of such resolution, resolutions or direction a scheme embodying proper planning principles.

75. A scheme in course of preparation at the commencement of this Part, not being a scheme referred to in section seventy-four of this Act, but including a scheme in respect of which any direction has been given under subsection two or three of section six of the Local Government (Town and Country Planning) Amendment Act, 1962, or under subsection two or three of section seventy-four of this Act, shall be deemed to have been undertaken under and shall be dealt with and completed by the Governor, the Minister, the Authority, the council or councils concerned and any officer or person under the provisions of the Principal Act, as amended by this Act, and for this purpose—

Transitional provisions—schemes in course of preparation at commencement of this Part.

- (a) any act done before such commencement to or in relation to any such scheme or the preparation thereof

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thereof under or pursuant to any provision of the Principal Act shall be deemed to have been done under the corresponding provision of the Principal Act, as amended by this Act, and where any such act was done by or in relation to the Minister, or under or pursuant to any such provision any scheme or other document was submitted or forwarded to the Minister and the Principal Act, as amended by this Act, provides for such act to be done by or in relation to the Authority, or the Authority with the approval or at the direction of the Minister, or for the scheme or other document to be submitted or forwarded to the Authority, such act shall be deemed to have been done by or in relation to the Authority, or the Authority with the approval or at the direction of the Minister, and such scheme or other document shall be deemed to have been submitted or forwarded to the Authority, as the case may require;

- (b) a scheme referred by the Minister to the Advisory Committee under section 342I of the Principal Act shall be deemed to have been referred to the Authority for report under subsection (1A) of section 342J of the Principal Act, as amended by this Act.

Transfer
of certain
documents,
etc., from
Minister and
Department
of Local
Govern-
ment.

76. (1) Upon the commencement of this Part all documents, maps and plans embodied, incorporated or referred to in a prescribed scheme under Part XIII A of the Principal Act and held by the Minister or the Department of Local Government shall be transferred to the Authority.

(2) Where the original of any such document, map or plan was intrusted to the Minister or the said Department, such original shall upon its transfer to the Authority be deemed for the purposes of section 342ASA of the Principal Act, as amended by this Act, to be intrusted to the Authority.

77.

77. The repeal of section 342K of the Principal Act effected by paragraph (m) of subsection one of section seventy-two of this Act shall not affect the validity of any ordinance made under the said section 342K and in force immediately before the commencement of this Part, but any such ordinance shall be deemed to have been made under section 342KD of the Principal Act, as amended by this Act.

No. 59, 1963
Existing
ordinances
unallected.

DIVISION 3.—*Amendment of County of Cumberland Planning Scheme Ordinance, as amended.*

78. The County of Cumberland Planning Scheme Ordinance as prescribed by the Local Government (Amendment) Act, 1951, and as amended by the County of Cumberland Planning Scheme (Amendment No. 1) Ordinance, the Local Government (Amendment) Act, 1959, the Local Government (Town and Country Planning) Amendment Act, 1962, and the County of Cumberland Planning Scheme (Amendment No. 4) Ordinance, is amended—

Amendment
to County
of Cumberland
Planning
Scheme
Ordinance.

(a) by omitting paragraph (d) of clause five;

Cl. 5.
(Cumberland
County
Council
to be
responsible
authority
for certain
purposes.)

(b) by omitting from paragraph (b) of subclause one of clause six the words “in its application to land zoned as Rural Area”.

Cl. 6.
(Councils
to be
responsible
authorities
for certain
purposes.)

79. The Local Government (Town and Country Planning) Amendment Act, 1962, is amended by omitting section six.

Amendment
of Act No. 7,
1962.
Sec. 6.
(Savings—
schemes in
course of
preparation.)

Wheat Industry Stabilization Act.**No. 59, 1963****SCHEDULES.****Sec. 34 (1).****THE FIRST SCHEDULE.**

Cities of Sydney, Liverpool, Parramatta, Penrith.

Municipalities of Ashfield, Auburn, Bankstown, Blacktown, Botany, Burwood, Camden, Campbelltown, Canterbury, Concord, Drummoyne, Fairfield, Holroyd, Hunter's Hill, Hurstville, Kogarah, Ku-ring-gai, Lane Cove, Leichhardt, Manly, Marrickville, Mosman, North Sydney, Randwick, Rockdale, Ryde, Strathfield, Waverley, Willoughby, Windsor, Woollahra.

Shires of Baulkham Hills, Hornsby, Sutherland, Warringah, Wollondilly.

**Secs. 38 (1),
40.****THE SECOND SCHEDULE.**

Cities of Sydney, Newcastle, Greater Wollongong, Greater Cessnock, Liverpool, Maitland, Parramatta, Penrith.

Municipalities of Ashfield, Auburn, Bankstown, Blacktown, Botany, Burwood, Camden, Campbelltown, Canterbury, Concord, Drummoyne, Fairfield, Holroyd, Hunter's Hill, Hurstville, Kogarah, Ku-ring-gai, Lane Cove, Leichhardt, Manly, Marrickville, Mosman, North Sydney, Randwick, Rockdale, Ryde, Shellharbour, Strathfield, Waverley, Willoughby, Windsor, Woollahra.

Shires of Baulkham Hills, Hornsby, Lake Macquarie, Port Stephens, Sutherland, Warringah, Wollondilly.
