

1990 - No. 207

LOCAL GOVERNMENT ACT 1919 - ORDINANCE

(Applying provisions of the Local Government Act 1919
and its Ordinances to County Councils)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Local Government Act 1919, has been pleased to make the Ordinance set forth hereunder.

DAVID HAY
Minister for Local Government.

Commencement

1. This Ordinance commences on 1 May 1990.

Amendment of Ordinance No. 1

2. Ordinance No. 1 under the Local Government Act 1919 is amended:

- (a) by inserting in clause 1 (a) after the word "areas" the words "and all county districts, including the Sydney County District";
- (b) by inserting in clause 1 (b), in alphabetical order, the following definitions:

"**Clerk**" includes the General Manager of an electricity council;

"**Council**" includes a County Council;

"**Deputy President**", in relation to a Council, includes the Deputy Chairman of a County Council;

"Electricity council" has the same meaning as it has in section 4 (1) of the Electricity Act 1945;

"President", in relation to a Council, includes the Chairman of a County Council;

"Shire" includes "County District";

- (c) by omitting from the definition of "Member" in clause 1 (b) the words " Alderman or Councillor" and by inserting instead the words "or delegate to a County Council";
- (d) by omitting from clause 20 (c) the words "an Inspector of Local Government Accounts" and by inserting instead the words "a Local Government Inspector";
- (e) by omitting from clause 52 the words "(vide section 85 of the Act)";
- (f) by inserting in clause 52 after the word "President" where firstly occurring the words "or General Manager of an electricity council".

Amendment of Ordinance No. 4

3. Ordinance No. 4 under the Local Government Act 1919 is amended:

- (a) by inserting in clause 1 after the word "areas" the words "and, except as provided by this clause, all county districts (other than the county districts of electricity councils)";
- (b) by inserting at the end of clause 1 the following subclauses:
 - (2) Part B applies to all county districts other than the county districts of electricity councils specified in Schedule 2 to the Public Finance and Audit Act 1983.
 - (3) Clause 12 (3) applies to the county districts of electricity councils.
- (c) by inserting in clause 2, in alphabetical order, the following definitions:
 - "Council"** includes a County Council.
 - "Council Clerk"** includes a County Clerk.
 - "Electricity Council"** has the same meaning as it has in section 4 (1) of the Electricity Act 1945.
- (d) by omitting clause 4 and by inserting instead the following clause:

Appointment of Auditor

4. For the purposes of section 211 (2) of the Act, the prescribed time is:

- (a) between 1 January and 31 March in each year; and
- (b) not later than one month after an extraordinary vacancy occurs in the position of Auditor.
- (e) by omitting from the heading to PART C the word "SERVANTS" and by inserting instead the word "EMPLOYEES";
- (f) by omitting from clause 8 (b) (iii) and (c) the words "a servant" wherever occurring and by inserting instead the words "an employee";
- (g) by omitting clause 9;
- (h) by omitting from clauses If (a), 12 (1), 13 (ai), 13C (cii), 13E (ci), 14 and 15A (a) the word "servants" wherever occurring and by inserting instead the word "employees";
- (i) by inserting in clauses 11 (c), 12 (1) and (2) (except paragraph (f)) after the word "President" wherever occurring the words "or Chairman";
- (j) by omitting from clause 12 (1) and (2) (e), the proviso to clause 13 and clause 15A (b) and (c) the word "servant" wherever occurring and by inserting instead the word "employee";
- (k) by omitting from clause 12 (2) (g) the words "of the Act" and by inserting instead the words "or 563 (3) of the Act, as the case may be";
- (l) by inserting after clause 12 (2) the following subclause:
 - (3) The General Manager of an electricity council must report to the Minister and the Secretary of the Local Government and Shires Associations of New South Wales:
 - (a) the occurrence of a vacancy in the office of Chairman of the council; and
 - (b) the election, and the name, of the person to fill any such vacancy,within 7 days of the occurrence of the vacancy or the election, as the case may be.
- (m) by omitting clauses 18, 26A and 31E (3);
- (n) by omitting from the heading to Division 10 of Part D the word "Servants" and by inserting instead the word "Employees";

(o) by inserting after clause 53 the following clause:

Savings

54. If any provision of this Ordinance relating to the issue of a certificate as Council Clerk, Municipal Engineer, Local Government Engineer (Civil), Electrical Engineer or Town and Country Planner is altered or repealed, any such certificate in force immediately before the alteration or repeal, unless otherwise provided by the instrument of alteration or repeal, continues in force:

- (b) if the provision is altered - as if the certificate were issued in accordance with the provision as so altered; or
- (c) if the provision is repealed - as if the provision had not been repealed.

Amendment of Ordinance No. 5

4. Ordinance No. 5 under the Local Government Act 1919 is amended:

- (a) by inserting at the end of clause 1 the following subclause:
 - (2) In provisions of this Ordinance which apply to county districts, a reference to a Council includes a reference to a County Council.
- (b) by inserting in clauses 18, 22, 29, 32, 36A and 37 after the word "areas" wherever occurring the words "and all county districts, including the Sydney County District";
- (c) by omitting clause 24 (a) and the proviso to that clause and by inserting instead the following clause:

Making and levying rates

24. (1) Any rate made by a Council must be made on or before 31 March of the year for which it is made.

(2) A rate must be levied during the year for which it is made.

- (d) by inserting in clause 25 (b) and (c) after the word "area" wherever occurring the words "or county district";
- (e) by omitting from clause 25 (b) the words "Municipality or Shire" and by inserting instead the words "area or county district";
- (f) by omitting from clause 25 (c) the words "or President" and by inserting instead the words ", President, Chairman or General Manager, as the case may be,";

- (g) by omitting from clauses 25 (c) and 27 the word "servant" wherever occurring and by inserting instead the word "employee";
- (h) by omitting from clause 28E (1) and (3) the words "Council Clerk" wherever occurring and by inserting instead the words "Clerk or County Clerk, or in the case of an electricity council (within the meaning of the Electricity Act 1945), the General Manager";
- (i) by omitting from Form 4 the words "Municipality (or Shire)" and by inserting instead the words "City/Municipality/Shire/County District";
- (j) by inserting in Form 4 after the word "Riding)" the words "(if applicable)";
- (k) by omitting from Form 4 the words "Council of the abovenamed Municipality or Shire" and by inserting instead the matter "..... Council";
- (l) by omitting from the Table to Form 4 the matter in the column headed "Value of land" and by inserting instead the following matter:

Land value
Assessed annual value
- (m) by omitting from the Table to Form 4 the words "unimproved capital value or unimproved rating factor "and by inserting instead the words "land value";
- (n) by omitting from the Table to Form 4 the matter "..... capital value or rating factor" wherever occurring and by inserting instead the words "the land value";
- (o) by omitting from Form 4 the word "Clerk" and by inserting instead the words "Council Clerk/General Manager/County Clerk.>";
- (p) by omitting from Form 4 the words "Town (or Shire) Clerk" wherever occurring and by inserting instead the words "Council Clerk/General Manager/County Clerk";
- (q) by omitting from Form 4 the words "Council Clerk" and by inserting instead the word "Council";
- (r) by omitting from Form 6A the words "Municipality" Shire and by

inserting instead the words "City/Municipality/Shire/County District";

- (s) by omitting from Form 9 the words "Municipality (or Shire)" and by inserting instead the words "City/Municipality/Shire/County District";
- (t) by omitting from Form 9A the words "(Municipality or Shire)" and by inserting instead the words "City/Municipality/Shire/County District";
- (u) by omitting from Form 9A the word "(Clerk)" and by inserting instead the words "(Council Clerk/County Clerk/General Manager)";
- (v) by inserting in Forms 9,13,14 and 15 after the words "Council Clerk" wherever occurring the words "Clerk/General Manager";
- (w) by inserting in Forms 13, 14 and 15 after the matter "/SHIRE" wherever occurring the matter "/COUNTY DISTRICT".

Amendment of Ordinance No. 20

5. Ordinance No. 20 under the Local Government Act 1919 is amended:

- (a) by omitting clause 4 (1) and by inserting instead the following subclause:
 - 4. (1) Sections 26, 28A 29 (2)–(4), 29A, 30 (2)–(4), 31, 33 (1) (a) and (2), 35, 36, 37, 46A–46H, 47 (2), 48, 49, 85, 86, 96A–98, 124 (1) and (10), 165, 166, 167, 169, 172, 212–218, 219, 477, 482, 488, 498–500, 504A, 505, 514, 521A, 523, 525, 528B–528D and 536A–536E, Part 30 (other than those provisions of the Part referred to in section 573 (2) of the Act) and Schedules 5 and 5A to the Act apply to the Sydney County Council and other County Councils in the same way as they apply to Councils.
- (b) by omitting clause 4 (3) and by inserting instead the following matter:
 - (3) Sections 87 (2), 88, 89, 93, 95, 105, 116, 124 (2)–(9) and (14), 173–177A, 181A–182A, 186, 187, 419 (1) and 530A of the Act apply to County Councils (except the Sydney County Council and other County Councils that are electricity councils within the meaning of the Electricity Act 1945) in the same way as they apply to Councils.
 - (4) Sections 100–104, 106 (1) (e) and (2), 111, 120, 132–164, 178A, 183, 188 (1), 189–200, 506, 516–518, 519, 520, 521, 524,

528, 529, 530 and 531–536 of the Act apply to County Councils (except the Sydney County Council) in the same way as they apply to Councils.

Application of financial provisions of the Act to certain County Councils

4A. (1) Sections 112, 113 and 206–211 of the Act apply to County Councils (except the Sydney County Council and any other County Council that is specified in Schedule 2 to the Public Finance and Audit Act 1983) in the same way as they apply to Councils.

(2) Sections 188 (2) and (3) and 201 of the Act apply to County Councils (except any County Council with investment powers conferred by Part 3 of the Public Authorities (Financial Arrangements) Act 1987) in the same way as they apply to Councils.

Application of certain provisions of the Act to electricity councils

4B. (1) Sections 386, 417B, 418 (except to the extent to which the section is inconsistent with the Electricity Act 1945), 419 (1) (except to the extent to which the section is inconsistent with the Electricity Act 1945), 419A, 420 (1), 422, 500D, 501, 502 and 512B–512G of the Act apply to the Sydney County Council and other County Councils that are electricity councils within the meaning of the Electricity Act 1945 in the same way as they apply to Councils.

(2) Sections 106 (1) (d), 110, 382–384, 416–417A, 506A and 506B of the Act apply to County Councils (except the Sydney County Council) that are electricity councils within the meaning of the Electricity Act 1945 in the same way as they apply to Councils.

Application of certain provisions of the Act to County Councils supplying water

4C. Sections 106 (1) (c) and (d), 109, 110 and 121, Divisions 3, 4, 5 and 10 of Part 14, and sections 382–392B, 399, 501 and 502 of the Act apply to County Councils to which have been delegated powers to supply water in the same way as they apply to Councils

Application of provisions of the Act to County Councils having flood prevention powers

4D. Sections 106 (1) (a), 107, 121, 272, 383–387, 393 and 395, Divisions 3, 4, 9 and 10 of Part 14, Part 15 and sections 494, 494A and 501 of the Act apply to County Councils to which have been delegated powers relating to flood prevention in the same way as they apply to Councils.

Application of provisions of the Act to County Councils having power to eradicate noxious plants

4E. Sections 106 (1) (a) and 107 and Divisions 3 and 5–9 of Part 22 of the Act apply to County Councils to which have been delegated powers to eradicate noxious plants in the same way as they apply to Councils.

Application of provisions of the Act to County Councils having power to destroy aquatic pests

4F. Sections 106 (1) (a) and 107, Divisions 3 and 5–9 of Part 22 and Part 28 of the Act apply to County Councils to which have been delegated powers to destroy aquatic pests in the same way as they apply to Councils.

Application of provisions of the Act to County Councils providing abattoirs

4G. Sections 106 (1) (d), 110, 121, 416, 417, 418 and 419 and Part 21 of the Act apply to County Councils to which have been delegated powers to provide abattoirs in the same way as they apply to Councils.

Amendment of Ordinance No 22

6. Ordinance No. 22 under the Local Government Act 1919 is amended:

- (a) by inserting in clause 1 after the word "areas" the words "and all county districts, including the Sydney County District";
- (b) by omitting from Form 1 the words "Municipality (or Shire)" and by inserting instead the words "City/Municipality/Shire/County District";
- (c) by inserting in Form 1 after the words "Council Clerk" the words "/County Clerk/General Manager";

(d) by omitting from Form 1 the words "[*in case of a Shire, add Office address.*]".

Amendment of Ordinance No. 24

7. Ordinance No. 24 under the Local Government Act 1919 is amended:

(a) by inserting in clause 1, in alphabetical order, the following definitions:
 "**Clerk**" includes the County Clerk of a County Council;
 "**Council**" includes a County Council;

(b) by inserting in clause 3 after the word "areas" the words "and all county districts (other than the county districts of electricity councils within the meaning of section 4 (1) of the Electricity Act 1945)";

(c) by omitting from Forms 4, 5, 6, 6A, 7, 8 and 9 the words "City or Municipality or Shire" wherever occurring and by inserting instead the words "City/Municipality/Shire/County District";

(d) by omitting from Forms 4, 5, 6, 6A, 7 and 8 the words "Mayor resident" wherever occurring and by inserting instead the words "Mayor/President/Chairman";

(e) by omitting from Form 6A the words "Mayor/President" and by inserting instead the words "Mayor/President/Chairman";

(f) by omitting from Form 6A the words "Town/Shire";

(g) by omitting from Form 7 the words "Town or Shire".

Amendment of Ordinance No. 26

8. Ordinance No. 26 under the Local Government Act 1919 is amended:

(a) by omitting clause 1 and by inserting instead the following clauses:

Application of Ordinance

1. (1) This Ordinance applies to and in respect of the accounts of the Councils of all areas and all county districts, except as provided by this clause.

(2) This Ordinance does not apply to and in respect of the accounts of the County Councils referred to in Schedule 2 to the Public Finance and Audit Act 1983.

Definitions

1AA. In this Ordinance:

"clerk" includes a county clerk and the General Manager of an electricity council;

"Council" includes a County Council;

"electricity council" has the same meaning as it has in section 4 (1) of the Electricity Act 1945;

"electricity trading fund" means a trading fund established in respect of an electricity undertaking;

"financial year", in relation to:

- (a) a fund other than an electricity trading fund, means the period from 1 January to 31 December; and
- (b) an electricity trading fund, means the period from 1 July to 30 June;

"the Act" means the Local Government Act 1919.

- (b) by omitting from clause 2 (c) the words "an inspector of Local Government accounts" and by inserting instead the words "a local government inspector";
- (c) by omitting from clause 6 (a) and (g) the words "Form No. 1 hereunder" wherever occurring and by inserting instead the matter "From 1";
- (d) by omitting from clause 6 (a) the words "of this Ordinance";
- (e) by omitting from clause 6 (c) the words "In Municipalities and Shires where Part V of the Valuation of Land Act has been brought into operation and a valuation list under the said Act" and by inserting instead the words "Where a valuation list under Part 5 of the Valuation of Land Act 1916";
- (f) by omitting from clause 6 (g) the word "rate-book" wherever occurring and by inserting instead the words "rate book";
- (g) by omitting clause 8 (b) and by inserting instead the following paragraph:
 - (b) development applications made to the Council under the Environmental Planning and Assessment Act 1979.
- (h) by omitting from clauses 10 (a), 16, 19 (a) and (b), 21 (c) and (d), 22 (b), 24 (a), (b) and (h), 26 (a) and (c), 26A (g), 27A (c) and (d), 29 (a), 36, 37 (b) and 55 the word "servant" wherever occurring and by inserting instead the word "employee";

- (i) by omitting from clause 11 the words "electric current,";
- (j) by omitting from clause 16 the matter "section 87 2 (e)" and by inserting instead the matter "section 87 (2) (e)";
- (k) by omitting from clause 18 (a) the words "Form No. 2 hereunder" and by inserting instead the matter "Form 2";
- (l) by omitting from clauses 18 (b) and 55 the word "hereunder" wherever occurring;
- (m) by omitting from clause 18 (c) the words "of this clause" wherever occurring;
- (n) by omitting from clauses 24 (d), 27A (b), 28 (b), 28A (a), (b), (d) and (e), 29 (a) and 50B (f) the word "servants" wherever occurring and by inserting instead the word "employees";
- (o) by inserting in clause 24 (g) (i) after the word "area" wherever occurring the words "or county district";
- (p) by omitting from clauses 26A (k) and 36 the words "A servant" wherever occurring and by inserting instead the words "An employee";
- (q) by omitting from clause 27A (c) the words "a servant" and by inserting instead the words "an employee";
- (r) by omitting from clauses 28 (a) and (e), 29 (a), 30 (a) and (d) and 44 the words "or President" wherever occurring and by inserting instead the words ", President or Chairman";
- (s) by omitting from clause 30 (a) the word "workmen's" and by inserting instead the word "workers";
- (t) by omitting from clauses 30 (b) and 31 (b) the word "workmen" wherever occurring and by inserting instead the word "workers";
- (u) by omitting from clause 31 (a) and (e) the word "President" wherever occurring and by inserting instead the words "Mayor, President or Chairman";
- (v) by omitting from clause 31 (b) the word "Shire" and by inserting instead the words "area or county district";
- (w) by omitting from clauses 44 and 56 the words "an inspector of local government accounts" wherever occurring and by inserting instead the words "a local government inspector";
- (x) by omitting from clause 53A the matter "subsection nine of section 211 or of section 216" and by inserting instead the matter "section 211 (9) or 216";

- (y) by omitting from clause 55 the words "Upon any inspector of local government accounts making any surcharge he" and by inserting instead the words "A local government inspector making a surcharge";
- (z) by omitting from clause 56 and Form 4 the words "Inspector of Local Government Accounts" wherever occurring and by inserting instead the words "Local Government Inspector";
- (aa) by omitting from Form 1 the matter "U.C.V." wherever occurring and by inserting instead the words "Land Value";
- (bb) by omitting from Form 1 the matter "1919" wherever occurring;
- (cc) by omitting from Form 1 the matter "Charges (s. 158)" wherever occurring and by inserting instead the matter "Charge for Overdue Rates";
- (dd) by omitting from Form 4 the words "[municipality or shire]".

Amendment of Ordinance No. 29A

9. Ordinance No. 29A under the Local Government Act 1919 is amended:

- (a) by inserting in clause 1 after the word "areas" the words "and all county districts, including the Sydney County District";
- (b) by inserting in clause 2 (2) after the words "reference to" where secondly occurring the words "a County Council and";
- (c) by omitting from clause 2 (2) the words "a Council" where secondly occurring and by inserting instead the words "a Council or a County Council";
- (d) by omitting from clauses 3 (3) (b) and 4 (1) and (2) the words "or Shire Clerk" wherever occurring and by inserting instead the words ", Shire Clerk, County Clerk or General Manager (as the case may be)".

Amendment of Ordinance No. 37A

10. ordinance No. 37A under the Local Government Act 1919 is amended:

- (a) by omitting from clause 1 the words "County District" and by inserting instead the words "and Richmond River County Districts";
- (b) by omitting from clause 3 the word "servant" and by inserting instead the word "employee".

Amendment of Ordinance No. 50

11. Ordinance No. 50 under the Local Government Act 1919 is amended:

- (a) by inserting after clause 1 the following clause:

Application of Ordinance

1A. This Ordinance applies to all areas and to the Castlereagh-Macquarie, Central Murray, Central Northern, Far North Coast, Far North Western Slopes, Hawkesbury River, Mid-western, New England Tablelands (Noxious Plants) and Upper Macquarie County Districts.

(2) A provision of this Ordinance which applies to a particular plant has effect in a place only when the plant is a noxious plant for the purposes of Part 22 of the Act in that place.

- (b) by omitting clause 2A,
- (c) by omitting from Forms 1, 2 and 3 the words "Municipal (or Shire) Council" wherever occurring and by inserting instead the matter "..... Council";
- (d) by omitting from Forms 1, 2 and 3 the words ",1919, as amended by subsequent Acts," wherever occurring and by inserting instead the matter "1919";
- (e) by omitting from Form 1 the words "Municipality (or Shire) of" and by inserting instead the words "..... Municipality/Shire/County District";
- (f) by omitting from Forms 1, 2 and 3 the words "Town (or Shire) Clerk" wherever occurring and by inserting instead the matter "..... Clerk";
- (g) by omitting from Form 3 the word "servants" and by inserting instead the word "employees".

Amendment of Ordinance No. 50A

12. Ordinance No. 50A under the Local Government Act 1919 is amended by omitting clause 1 (a) and by inserting instead the following subclause:

1. (a) This Ordinance applies to all areas and the Clarence River, Far North Coast and Hawkesbury River County Districts.

Amendment of Ordinance No. 77

13. Ordinance No. 77 under the Local Government Act 1919 is amended:

- (a) by inserting in clause 1 (a) after the word "areas" the words "and all county districts, including the Sydney County District";
- (b) by inserting in clause 1 (b), in alphabetical order, the following definition:
 - "council" includes a county council;
- (c) by omitting from clause 3 the words "Under Secretary, Department of Local Government and Lands" and by inserting instead the words "Secretary, Department of Lands";
- (d) by omitting from paragraph 1 of Form 1 the words "City/Municipality/Shire" and by inserting instead the words "City/Municipality/Shire/County District";
- (e) by omitting from paragraph 6 of Form 1 the words "the office of the Registrar-General" and by inserting instead the words "the LandTitles Office";
- (f) by omitting from Form 1 the words "Mayor/President" and by inserting instead the words "Mayor/President/Chairman";
- (g) by omitting from Form 1 the word "Clerk" and by inserting instead the words "..... Clerk/General Manager";
- (h) by inserting in Forms 2 and 2A after the word "Clerk" wherever occurring the words "/General Manager";
- (i) by omitting from Forms 3,4 and 5 the words "President/Mayor" wherever occurring and by inserting instead the words "Mayor/President/Chairman";
- (j) by omitting from Forms 3,4,5,6,7 and 8 the words "Shire/Town Clerk" wherever occurring and by inserting instead the words "..... Clerk/General Manager".

Amendment of Ordinance No. 96

14. Ordinance No. 96 under the Local Government Act 1919 is amended:

- (a) by inserting in clause 1 after the word "areas" the words "and all county districts, including the Sydney County District";
- (b) by inserting in clause 2 after the word "Council" the words "of an area";

- (c) by omitting from clauses 5 and 6 the words "or President or Clerk" wherever occurring and by inserting instead the words ", President, Chairman, Clerk or General Manager";
- (d) by inserting in clause 5 after the word "area" the words "or county district";
- (e) by omitting from clause 7 the words "President, or Clerk" and by inserting instead the words "President, Chairman, Clerk or General Manager";
- (f) by omitting from clause 8 the word "servant" and by inserting instead the word "employee";
- (g) by omitting from Form 2 the matter "U.C.V." wherever occurring and by inserting instead the words "land value";
- (h) by omitting from Form 2 the words "UNIMPROVED CAPITAL VALUE" and by inserting instead the words "LAND VALUE".

EXPLANATORY NOTE

The object of this Ordinance is to amend a number of Ordinances under the Local Government Act 1919 to update the application of those Ordinances, and the provisions of that Act, to county councils. In particular, the Ordinance:

- applies the provisions of Ordinances Nos. 1 (relating to meetings), 5 (relating to rates), 22 (relating to service of notices by advertisement), 29A (relating to powers of entry), 77 (relating to resumption of land) and 96 (relating to statistics) to all county councils; and
- amends Ordinance No. 20 to apply certain provisions of the Local Government Act 1919 to certain county councils; and
- applies provisions of Ordinances Nos. 4 (relating to staff) and 24 (relating to loans) to county councils that are not electricity councils within the meaning of the Electricity Act 1945; and
- applies the provisions of Ordinance No. 26 (relating to accounts and audits) to county councils that are not subject to the Public Finance and Audit Act 1983; and
- applies the provisions of Ordinances Nos. 37A (relating to natural watercourses), 50 (relating to noxious plants) and 50A (relating to aquatic pests) to various rural county councils.
