

LOCAL GOVERNMENT  
(AMENDMENT) ACT.

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Act No. 44, 1920.

An Act to amend the Local Government Act, 1919, and certain other Acts; to validate certain things; and for purposes consequent thereon or incidental thereto. [Assented to, 31st December, 1920.] George V,  
No. 44.

**B**E it enacted by the King'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:—

**1.** This Act may be cited as the "Local Government (Amendment) Act, 1920," and shall be read and construed with the Local Government Act, 1919, hereinafter called "the Principal Act." Short title  
and  
construction.

**2.**

George V,  
No. 44.

Amendment of  
s. 19 of the  
Principal Act.

Amendment  
of s. 20.

*Ibid.*

Division of  
assets and  
liabilities.

**2.** Section nineteen of the Principal Act is amended by omitting the words "under this Part" in subsection one and inserting in lieu thereof the words "in section sixteen, paragraphs (a) to (f) both inclusive."

**3.** Section twenty of the Principal Act is omitted and the following section is inserted in lieu thereof:—

20. (1) Where areas are altered in any manner provided by this Part, all rates and charges due in respect of and charged upon land under this Act shall be due to and may be recovered by the council of the area in which such land is for the time being situate; and, if land which has been rated as one parcel be (as the result of such alteration) partly in two or more areas, the councils of those areas may agree upon an apportionment of the amounts so due between them.

(2) Where land is taken from one area and added to another, and the Minister is of opinion that the change is not one of such magnitude as substantially to affect the position of creditors, he may dispense with the making of any arrangement under the following provisions of this section.

(3) Where an area is divided into a different number of areas, or where land is taken from one or more areas and constituted a separate area, or where land is taken from one area and added to another, the following provisions of this section shall (subject to the last preceding subsection) have effect.

(4) The Minister shall require the councils of the areas affected to confer with one another and to agree upon an arrangement as to the apportionment of assets, rights, and liabilities between the areas affected, and to agree with their creditors (if any) as to any division of debts included in such arrangement.

(5) Where the councils or the councils and creditors (if any) do not confer or cannot agree as aforesaid the Minister may make a draft of such an arrangement and give the prescribed notice thereof by advertisement. The councils and their creditors may agree to any such draft with or without amendment.

(6)

(6) Where the councils and their creditors do not agree to any such draft, with or without amendment, any council or creditor may within the time allowed in the aforesaid notice submit the matter of making an equitable arrangement to a district court judge, who may summon witnesses, hear evidence, and determine the matter, and make an arrangement which shall be final and shall be embodied in the Governor's proclamation.

George V,  
No. 44.

(7) If the matter be not submitted to a district court judge as hereinbefore provided, the arrangement proposed by the Minister with or without amendment as aforesaid may be embodied in the Governor's proclamation.

(8) Where such prescribed notice has been duly given, any council or creditor who does not make a submission as aforesaid shall be deemed to have agreed to such arrangement.

(9) A person to whom a council owes less than one hundred pounds at the date of the advertisement of such notice shall be deemed not to be a creditor within the meaning of this Part.

(10) Where after the publication of a proclamation under this Part it is found that any provision of this section has not been complied with, neither the proclamation nor the arrangement embodied therein shall be invalidated, but the Governor may amend such arrangement in such respects (if any) as he may deem advisable, and such amended arrangement shall be deemed to have been validly proclaimed.

(11) All reconstitutions of areas under the Local Government Act, 1906, and all proclamations thereof shall be deemed to have been and to be valid and in accordance with law.

**4.** Section thirty-three of the Principal Act is amended by omitting subsection two and inserting the following new subsection :—

Amendment  
of s. 33.  
*Ibid.*

(2) Before taking office as alderman or councillor a person elected or appointed thereto shall before a justice of the peace (to whom it shall not be necessary to issue a writ of *dedimus potestatem*)  
take

George V,  
No. 44.

take and subscribe and transmit to the clerk an oath of allegiance to His Majesty, and make and subscribe and transmit to the clerk the following declaration of office :—

I, \_\_\_\_\_, having been elected or appointed alderman (or councillor) of \_\_\_\_\_, do hereby declare that I will duly and faithfully fulfil the duties of the office according to the best of my judgment and ability.

Any neglect to transmit such oath and declaration to the clerk within fourteen days after his election or appointment shall be deemed a refusal to accept office, and to cause an extraordinary vacancy.

This subsection shall not come into force until the first day of January, one thousand nine hundred and twenty-one, and any neglect by any alderman or councillor before that date to take the oath of allegiance and to make a declaration of office shall not be deemed to have been a refusal to accept office.

Amendment  
of s. 95.  
*Ibid.*

**5.** Section ninety-five of the Principal Act is amended by adding at the end of subsection one the following proviso :—

Provided that the council may delegate to the mayor or president or to a servant of the council the power to make temporary appointments and to remove any person so appointed (such appointments and removals to be subject to confirmation by the council), and the power to appoint and remove servants needed for casual work or for emergencies.

Amendment  
of s. 105.  
*Ibid.*

**6.** Section one hundred and five of the Principal Act is amended by the insertion in paragraph (c) of the words “appointment and” before the word “employment.”

Amendment  
of s. 107.  
*Ibid.*

**7.** Section one hundred and seven of the Principal Act is amended by adding at the end of paragraph (f) of subsection two the following proviso :—

Provided that where a local rate is levied for the sole benefit of an urban area, the provisions of this paragraph shall apply mutatis mutandis to the local fund into which such rate is paid.

**8.**

**8.** Section one hundred and twenty-four of the Principal Act is amended as follows :—

George V,  
No. 44.

- (a) by omitting subsection two and substituting the following :—

Amendment  
of s. 124.  
*Ibid.*

(2) The purpose of a loan rate shall be to pay interest on and repay the principal of a loan. If in any year there be a surplus remaining after meeting the commitments of that year such surplus may be used either for the completion of the loan works, for additional works of a similar character, for the repayment of other loans expended upon similar works, or to reduce or suspend the loan rate in the following year.

- (b) by the omission of subsections six, seven, and eight and the insertion of the following in lieu thereof :—

(6) Where the council satisfies the Minister that a net income will probably be or has already been derived from any loan work or service after making full provision for depreciation of the assets, and will be or is available, together with any surplus proceeds of the loan rate (if any), for the payment of interest and instalments of repayment or reserve in respect of the loan, the Minister may grant permission to the council to reduce or to refrain from levying the loan rate.

(7) Such permission shall not operate for a longer period than three years in any particular case, but may be renewed.

(8) Any such permission shall cease to operate if at any time during its currency the net income aforesaid plus the yield of the loan rate (if any) be found insufficient to provide for interest and for instalments of repayment or reserve and for depreciation as aforesaid.

**9.**

**George V,  
No. 44.** **9.** Section one hundred and twenty-seven of the Principal Act is amended by the addition of the following :—

Amendment  
of s. 127.

*Ibid.*

(1A) Where separate rates are leviable over the whole area such rates shall be made separately, but may be levied as a combined rate or as separate rates as the council may decide.

(3) Where rates are combined the collections shall be credited to the appropriate accounts in the proportions which the various rates bear to the total. Arrears of previous rates separately levied may be combined and distributed likewise.

Amendment  
of s. 131.

*Ibid.*

**10.** Section one hundred and thirty-one of the Principal Act is amended by omitting the words "made on the application of a council."

Amendment  
of s. 149.

*Ibid.*

**11.** Section one hundred and forty-nine of the Principal Act is amended by omitting from subsection one the words "for the rate" and by inserting in lieu thereof the words "for the current rate and for all arrears of the rate owing by any previous owner in respect of the land."

Amendment  
of s. 158.

*Ibid.*

**12.** Section one hundred and fifty-eight of the Principal Act is amended by adding after subsection seven a new subsection as follows :—

(8) The council may decide whether the whole proceeds of the charge hereunder shall be carried to the general fund or shall be duly apportioned between the appropriate funds.

Amendment  
of s. 167.

*Ibid.*

**13.** Section one hundred and sixty-seven of the Principal Act is amended by the insertion of the following new paragraph after paragraph (f) of subsection one :—

(g) receives any application for its approval.

Amendment  
of s. 180.

*Ibid.*

**14.** Section one hundred and eighty of the Principal Act is amended by the omission in subsection six of the word "modifications" and the insertion in lieu thereof of the word "alterations."

**15.**

**15.** Section one hundred and eighty-one of the Principal Act is amended by the omission of subsection eight and the insertion in lieu thereof of the following :—

George V,  
No. 44.  
Amendment  
of s. 181.

(8) The Minister may recommend the council to alter the proposal, and if the council adopt the recommendation, the altered proposal shall be substituted for that first submitted.

*Ibid.*

**16.** Section two hundred and two of the Principal Act is amended by inserting in subsection four after the word "twenty" the word "one."

Amendment  
of s. 202.  
*Ibid.*

**17.** Section two hundred and nine of the Principal Act is amended—

Amendment  
of s. 209.  
*Ibid.*

- (a) in subsection one by omitting the words "interim and";
- (b) by omitting subsection three.

**18.** Section two hundred and eleven of the Principal Act is amended by omitting subsections eight, nine, and ten and inserting the following subsections in lieu thereof :—

Amendment  
of s. 211.  
*Ibid.*

(8) The auditor shall make a full and complete audit of the accounts of the council, using due care, skill, and diligence, and shall certify whether in his opinion the statements of accounts are full and fair statements properly drawn up so as to exhibit a full and true view of the council's affairs, and whether they are in accordance with the books of the council and the provisions of the Act and the ordinances thereunder.

(9) The auditor shall, in addition to certifying as aforesaid, report to the council and the Minister—

- (i) Whether or not in his opinion—
  - (a) due provision has been made for the repayment of loans; and
  - (b) the value of assets has (so far as the auditor can judge) been in all cases fairly stated; and
  - (c) due diligence and care have been shown in the collection and banking of income; and

(d)

George V,  
No. 44.

- (d) the expenditure incurred has been duly authorised, vouched, and supervised; and
  - (e) proper account has been kept of plant, stores and materials; and
  - (f) any of the moneys or other property of the council have been misappropriated or improperly or irregularly dealt with; and
- (ii) As to any other matters which in his judgment call for special notice or which are prescribed.

Amendment  
of s. 213.  
*Ibid.*

**19.** Section two hundred and thirteen of the Principal Act is amended—

- (a) by omitting subsections seven and eight and inserting the following:—

(7) Any person upon whom a surcharge is at the commencement of the Local Government (Amendment) Act, 1920, unsatisfied or is hereafter made may (within one month from such commencement or making) appeal to the court of petty sessions or district court nearest in either case to the office of the council; and the decision of such court to confirm, reduce, or annul the surcharge shall be final, and shall be given effect to by the council.

- (b) by omitting from subsection nine the word “Minister” where first occurring, and inserting in lieu thereof the word “court”; and

- (c) by omitting from subsection eleven the words “to the Minister.”

Amendment  
of s. 226.  
*Ibid.*

**20.** Section two hundred and twenty-six of the Principal Act is amended by the insertion after subsection three of a new subsection as follows:—

3A. The Governor may proclaim roads as main roads, and alter or repeal any such proclamation or any classification of main roads made before the commencement of this Act.

Amendment  
of s. 233.  
*Ibid.*

**21.** Section two hundred and thirty-three of the Principal Act is amended by the omission of subsection six.

**22.**



**22.** Section three hundred and eight of the Principal Act is amended by omitting subsection three and inserting in lieu thereof the following new subsections:—

George V,  
No. 44.  
Amendment  
of s. 308.

(3) In any case where a public road less than sixty-six feet wide is opened after the commencement of this Act, the building line (whether fixed by the council or not) shall be at a distance of not less than thirty-three feet from the middle line of the road.

*Ibid.*

(4) Any approval given by a council before the commencement of the Local Government (Amendment) Act, 1920, for the erection of a building fronting a road opened before the commencement of this Act shall, notwithstanding the provisions of this or any other Act, be deemed to have been and to be valid.

**23.** Section three hundred and twenty-seven of the Principal Act is amended by omitting from paragraph (c) of subsection two the words "under the seal of the council."

Amendment  
of s. 327.  
*Ibid.*

**24.** Section three hundred and seventy-eight of the Principal Act is amended by the insertion after subsection three of a new subsection as follows:—

Amendment  
of s. 378.  
*Ibid.*

(3A) Wherever in the opinion of the council the amount of the rate upon any land would not be sufficient to pay for the water used or probably to be used in connection with the land, the council may by notice in writing direct the owner within the time named in the notice either to agree to pay for the supply of water at a charge fixed by resolution of the council, or to instal a meter and pay for the water by measure, and in collecting any such charge credit shall be allowed for the amount of the rate if paid.

of C.T.W. &  
S. (Amend-  
ment) Act,  
1905, s. 35.

**25.** Section three hundred and ninety-nine of the Principal Act is amended by adding thereto the following new subsection:—

Amendment  
of s. 399.  
*Ibid.*

(5) The provisions of this Act with respect to the charge of a rate upon the land in respect of which it is levied shall mutatis mutandis apply with respect to the amount due by any person to

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the

George V,  
No. 44.

the council for the construction of any works of water supply or sewerage under this section. This subsection shall take effect as from the date of the commencement of this Part.

Amendment  
of s. 401.  
*Ibid.*

**26.** Section four hundred and one of the Principal Act is amended in subsection two by the insertion after paragraph (h) of the following new paragraph :—

- (i) The prevention of the destruction of trees and shrubs, and the authorising of measures necessary to preserve or provide arboreal cover.

Amendment  
of s. 402.  
*Ibid.*

**27.** Section four hundred and two of the Principal Act is amended in subsection one—

- (a) by the omission of the word “or” between the words “sewerage” and “drainage” ;  
(b) by the insertion of the words “or electricity” after the word “drainage.”

Amendment  
of s. 421.  
*Ibid.*

**28.** Section four hundred and twenty-one of the Principal Act is amended by the omission of subsection six and the insertion of the following :—

(6) This section shall apply to rails, pipes, wires, cables, tunnels, and structures laid, suspended or placed upon, under, or over any public place before or after the commencement of this Act, but shall not apply to—

- (a) cases where such things were so laid, suspended, or placed under the authority of any statute ; or  
(b) cases where a tunnel has been or shall be within five years from the commencement of this Act so placed by a person who at such commencement held the fee simple of the road and also held the fee simple of the land on each side of the road where such tunnel is so placed.

Amendment  
of s. 509.  
*Ibid.*

**29.** Section five hundred and nine of the Principal Act is amended in subsection one by adding (at the end of the subsection) the following :—“or in consideration of the council undertaking to pay to such practitioner a stated subsidy for a stated period.”

**30.**

**30.** Section five hundred and eighteen of the Principal Act is amended by omitting subsection three.

George V,  
No. 44.  
Amendment of  
s. 518.  
*Ibid.*

**31.** Section five hundred and forty-nine of the Principal Act is amended in subsection three by adding the words "or ridings" after the word "wards."

Amendment  
of s. 549.  
*Ibid.*

**32.** Section six hundred and fifty-five of the Principal Act is amended by adding after subsection three the following new subsections:—

Amendment  
of s. 655.  
*Ibid.*

(1) The water rate levied by the council of the municipality of Dubbo during the year one thousand nine hundred and nineteen, shall not be invalid by reason of the fact that the rate was made before the necessary by-law was published in the Gazette in accordance with the provisions of the Country Towns Water Supply and Sewerage Acts, 1880-1905.

Dubbo water  
rate.

(5) The action of the Minister for Public Works in entering upon the reconstruction of the Parramatta-road without the authority of certain councils and in altering the levels of the said road shall be and be deemed to have been valid and in accordance with law. Where any council has not entered into an agreement for the repayment of a share of the cost of such work such council shall pay and the said Minister may recover from the council one half of the cost of that portion of the said work within its area (as certified by the said Minister) by instalments spread over a period of ten years commencing on the first day of September, one thousand nine hundred and twenty, with simple interest at five per centum per annum.

Parramatta-  
road.

**33.** The Third Schedule to the Principal Act is amended by omitting from paragraph (a) of subclause one of clause seven thereof the words "the first day of January next following."

Amendment  
of Third  
Schedule.  
*Ibid.*