

LOCAL GOVERNMENT (AMENDMENT) ACT.

Act No. 33, 1927.

George V, **An Act** to extend the franchise in local government
No. 33. areas; and for this and other purposes to amend the Local Government Act, 1919, and certain other Acts; to validate certain notifications, proclamations, and certain other matters: to repeal the Municipal District of Wrightville Naming Act of 1902; and for purposes connected therewith. [Assented to, 21st March, 1927.]

BE 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:

Short title. **1.** This Act may be cited as the "Local Government (Amendment) Act, 1927," and shall be read and construed with the Local Government Act, 1919, and any Acts amending the same.

The

The Local Government Act, 1919, as so amended is **George V,**
in this Act called the Principal Act. **No. 33.**

2. Part I of the Principal Act is amended as follows:—

- (a) by omitting from section four the definition of “Minister”;
Amendment of Act No. 41, 1919, Part I.
Sec. 4.
Omission of definition of “Minister.”
- (b) by omitting from the definition in section four of “Subdivision, subdivide, and similar expressions,” the words “not being lots or portions in a Crown or private subdivision made before or after the commencement of this Act”; and by inserting at the end of the same definition the following new paragraphs:—
Sec. 4.
(Sub-division.)
- “or (c) any division of land upon disposal by the Crown made either before or after the commencement of this Act; or
- (d) any division of land in accordance with the boundaries of lots in any subdivision lawfully made either before or after the commencement of this Act.”
- (c) by omitting from section ten the words “Height of Buildings Act, 1912,” “Weights and Measures Act, 1916,” and “Metropolitan Water and Sewerage Act of 1880,” and by inserting in lieu thereof respectively the words “Height of Buildings (Metropolitan Police District) Act, 1912,” “Weights and Measures Act, 1915,” and “Metropolitan Water, Sewerage, and Drainage Act, 1924”;
Sec. 10.
(Acts not affected.)
- (d) by inserting in the same section after the words “the Liquor Act, 1912,”—“the Explosives Act, 1905, the Inflammable Liquid Act, 1915.”

3. (1) Part III of the Principal Act is amended as follows:—

- (a) In section sixteen—
Sec. 16.
- (i) by inserting at the end of paragraph (a) the following words:—“or where the part taken is in the Western Division, without adding it to another area”;
(Alteration of areas.)
- (ii)

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Sec. 19.
(Proposals for
alteration.)

- (ii) by inserting in paragraph (e) after the word "areas" the words "or areas and parts of areas";
- (b) in section nineteen by omitting paragraph (c) of subsection one and inserting a new paragraph as follows:—
- (c) in a case where part of an area is proposed to be separated from one and attached to another area or is proposed to be created a separate area—by fifty electors of that part or by any number of electors not less than one-third of those enrolled in respect of land situated in that part; or
- (c) (i) by inserting in subsection (1A) of section twenty after the words "not within an area:" the letter and words "or (c) taking land from any one or more areas for the purpose of constituting such land a separate shire or municipality";
- (ii) by omitting from subsection two of the same section the words "Where land is taken from one area and added to another" and inserting the following words in lieu thereof:—"Where it is proposed to exercise the powers of paragraphs (a), (b), (e), or (f) of section sixteen and where the powers of paragraphs (c) or (d) of section sixteen have been exercised the following provisions of this section shall have effect: Provided that where it is proposed to exercise the powers of paragraphs (a) or (b) or (f) of section sixteen";
- (iii) by omitting subsection three;
- (iv) by omitting from subsection five the words "do not confer or cannot agree" and inserting the words "have not agreed within a period of three months from the date of the Minister's requisition";
- (v)

- (v) by omitting from subsection six the words “and their creditors” and by inserting in lieu thereof the words “or the councils and their creditors (if any)”;
- (vi) by omitting from subsections six and seven of section twenty the words “in the Governor’s proclamation” and by inserting in lieu thereof the words “in a proclamation”;
- (vii) by omitting subsection twelve of section twenty and by inserting in lieu thereof the following new subsection:—

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Sec. 20 (12).

(12) (a) Where there is a contract or agreement in existence between the council and any person relating to the performance of a work or service or the granting of a privilege throughout the whole or part of a municipality or shire, and any alteration of the area is made under this Part the following provisions shall have effect as from the date of the alteration:—

- (i) Where any portion of the area embraced by the contract or agreement is taken from the area of a council which is a party to the contract or agreement and added to the area of another council, or constituted a separate shire or municipality, the duties, rights, privileges, and liabilities of such first-mentioned council under such contract or agreement shall be limited to the land which is within its area and is embraced by the contract or agreement; while the corresponding duties, rights, privileges, and liabilities under the contract or agreement so far as they relate to the portion of the area embraced by the contract or agreement and added to the area of another council or constituted a separate shire or municipality shall apply to
and

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and in respect of the other council or the council of the new area as the case may be.

- (ii) Where by dividing or uniting areas or parts the area of a council which is a party to the contract or agreement is abolished and a new area or areas are constituted, the duties, rights, privileges, and liabilities of such first-mentioned council shall apply to and in respect of the council in whose area the land embraced by the contract or agreement is included, or if such land is included in two or more new areas, such duties, rights, privileges, and liabilities shall apply to and in respect of each of the councils of such areas with respect to the portion of the land included in its area.
- (iii) In every such case the duties, rights, privileges, and liabilities under the contract or agreement of the other party or parties thereto shall continue in full force and effect in relation only to the councils or council in whose areas or area the land embraced by the contract or agreement is included, and such councils or council as the case may be shall be deemed to be substituted in the contract or agreement for the council therein named so far as such land or portion thereof is included in its area.

(b) Where the original agreement confers a right of purchase or of cancellation upon the council that right shall not without the consent of the other party or parties to the agreement be exercised (after the alteration of boundaries or reconstitution aforesaid) unless the councils concerned exercise it in concert with each other.

(c)

(c) This subsection may be set aside by agreement between the parties concerned. **George V,
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(d) This subsection shall be deemed to have come into force on the first day of January, one thousand nine hundred and twenty.

(d) by inserting after section twenty the following new section :— **New s. 20A.
Application
of
ordinances.**

20A. (1) Where areas are altered by—

- (a) taking part of one area and adding it to another area ; or
- (b) adding to an area land which is not within an area ; or
- (c) taking land from one or more areas and constituting such land a separate shire or municipality,

then as from the date specified in that behalf in the proclamation, or if no date is so specified as from the date of the publication in the Gazette of the proclamation, the following provisions shall have effect :—

- (i) The ordinances which shall thereafter apply to the part added and to the area as so altered are the ordinances for the time being in force in the area to which the part was so added, and ordinances which for the time being apply to towns, villages, and urban areas in such area shall apply to towns, villages, and urban areas in the part added.
- (ii) The ordinances in force in the area from which a part is taken shall continue until repealed, varied, or amended under this Act to apply within the remainder of that area.

(2) This section shall be deemed to have come into operation on the first day of January, one thousand nine hundred and twenty.

(e)

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Sec. 21 (1).
(Proclamations.)

(e) (i) by inserting in subsection one of section twenty-one after the word "proclamation" where it firstly occurs the words "or proclamations";

(ii) by inserting in the same subsection after paragraph (q) the following new paragraph:—

(q1) prescribe in the case of the constitution of an area in accordance with paragraphs (c), (d), (e), or (f) of section sixteen what ordinances are to be in force in the area so constituted or any part thereof, and such ordinances so prescribed shall be in force in such area or part; and

(iii) by inserting in subsection two of the same section before the words "such proclamation" the word "any."

Repeal of
s. 6 (d) of
Act No. 29,
1922.

(2) Paragraph (d) of section six of the Local Government (Validation and Amendment) Act, 1922, is hereby repealed.

Amendment of
Part IV of Act
No. 41, 1919.

4. Part IV of the Principal Act is amended—

Sec. 28 (1).
(Travelling
expenses.)

(a) by inserting at the end of paragraph (a) of subsection one of section twenty-eight the words "or the meetings of any committee of the council";

Sec. 30 (5).
(Disqualification for civic
office.)

(b) by inserting at the end of subsection five of section thirty the following new paragraph:—

(k) the settlement by him of any claim he may have against the council for compensation in respect of property in which he has an interest upon damage thereto by the council under its statutory powers or for compensation for the resumption thereof for the purposes of the council;

Sec. 33.
(Election.)

(c) (i) by inserting in subsection two of section thirty-three after the word "appointment" the following words:—"or in the event of his being absent from the State at the time of his election or appointment, within
fourteen

fourteen days after his return to the State if such return is within sixty days of the election or appointment”;

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(ii) by omitting from the same subsection all words after the words “extraordinary vacancy”;

(d) by inserting in paragraph (f) of section forty-nine after the word “relations” the words “or any of their wives’ or husbands’ relations.”

Sec. 49 (f).
(Ordinances.)

5. (1) Part V of the Principal Act is amended—

Amendment of
Part V of Act
No. 41, 1919.
(Franchise.)

(a) by omitting subsection one of section fifty-one and inserting new subsection as follows:—

Sec. 51 (1).

(1) In order to have the requisite qualification of an elector in respect of a ward or riding a person must, on the day prescribed for enrolment, be either an owner or ratepaying lessee of ratable land in the ward or riding, or an occupier of land in the ward or riding.

Meaning of
requisite
qualification.

(b) by omitting paragraphs (d), (e), (f), (g), and (h) of section fifty-four and inserting new paragraph (d) as follows:—

Sec. 54.

(Qualification
of occupier.)

(d) upon such prescribed day he is residing or has his principal place of abode on land, whether ratable or not, in the ward or riding and has continuously during the period of six months next preceding such prescribed day resided or had his principal place of abode in the area:

(c) by omitting paragraph (b) of section fifty-five including the proviso inserted by section seven of the Local Government (Validation and Amendment) Act, 1922;

Sec. 55 (b).

(Aliens.)

(d) (i) by omitting from subsection two of section fifty-six the words “ward or riding” and inserting the word “area”;

Sec. 56.

(Persons
entitled to
vote.)

(ii) by omitting subsection three of the same section.

Local Government (Amendment) Act.

**George V,
No. 33.** (2) Section seven of the Local Government (Validation and Amendment) Act, 1922, is hereby repealed.

Repeal of
Act No. 29,
1922, s. 7.

Amendment of
Act No. 41, 1919,
Parts V and VI.

6. (1) Part V of the Principal Act is further amended—

Sec. 72.
(Uncontested
election.)

(a) (i) by omitting from subsection one of section seventy-two the words “the election” and by inserting in lieu thereof the words “any ordinary election, or on and from the day of nomination at any extraordinary election”;

(ii) by omitting from subsection two of the same section the words “the election” where those words secondly occur and inserting in lieu thereof the words “any ordinary election, or on and from the day of nomination at any extraordinary election”;

Sec. 82.
(Compulsory
polls.)

(b) by omitting the proviso to section eighty-two and by inserting the following proviso in lieu thereof:—

Provided that in the case of the votes being equal the question shall be undetermined, and that if the decision of the poll is against the proposal voted upon the same question or one substantially the same shall not be again submitted to a poll for a period of at least one year.

(2) Part VI of the Principal Act is amended—

Sec. 88.
(Certificated
clerks.)

(a) by omitting from section eighty-eight the words “make an appointment” and inserting in lieu thereof the words “appoint and employ a town or shire clerk”;

Sec. 90 (2).
(Engineers.)

(b) by omitting from subsection two of section ninety the words “the council shall if during the last preceding year its income from all sources other than a gas or electricity undertaking exceeded the sum of fifteen thousand pounds” and by inserting in lieu thereof the following words:—“the employment of an
engineer

engineer shall be optional with the council except that in cases where the aggregate income of the council in respect of—

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- (a) the General Fund ;
- (b) the Water Supply Local Fund (if any) ;
- (c) the Sewerage Local Fund (if any) ;
- (d) any special and/or local fund for the building of roads or bridges or engineering works (other than electrical engineering)

exceeds the sum of fifteen thousand pounds, the council shall ” ;

- (c) (i) by inserting in subsection one of section ninety-nine after the word “ inspectors ” the words “ gas managers ” ;
- (ii) by omitting subsection eight of the same section and by inserting in lieu thereof the following new subsection :—

Sec. 99 (1).
(Dismissal
of certain
servants.)

New ss. (8).

(8) The person holding the inquiry shall have the powers conferred by the Royal Commissions Act, 1923, on a commissioner appointed under Division 1 of Part II of that Act and the said Act, section thirteen and Division 2 of Part II excepted, and the provisions of section one hundred and fifty-two of the Justices Act, 1902, shall mutatis mutandis apply to any witness or person summoned by or appearing before such person.

7. Part VII of the Principal Act is amended as follows :—

Amendment of
Part VII of Act
No. 41, 1919.
(Finance.)

- (a) by inserting next after subsection one of section one hundred and twenty-one the following new subsection :—

Sec. 121.

New ss. (1A).

(1A) For or towards meeting any liability transferred to the council of a municipality or shire consequently upon the alteration of the boundaries of the area, the council may make and levy a local rate on the unimproved capital value or on the improved capital value of the ratable land added to the area.

(b)

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Sec. 123 (2).
(Lighting
rates.)

(b) by omitting subsection two of section one hundred and twenty-three and inserting new subsection two as follows:—

(2) The council shall in the manner prescribed define a lighting district within which such rate shall be levied.

Sec. 124.
(Loan rates.)

(c) (i) (a) by inserting in subsection six of section one hundred and twenty-four after the word "service" the words "or any additions or extensions thereto";

(b) by inserting in the same subsection after the words "in respect of the loan" the words "or loans";

(c) by inserting in the same subsection after the word "rate" wherever occurring the words "or rates";

(ii) by omitting from subsection ten of section one hundred and twenty-four the words "if the Minister consent";

(iii) by inserting at the end of the same section the following new subsections:—

(13) Where a loan is or has been raised for the construction or reconstruction of a main road as defined by the Main Roads Act, 1924, and the Main Roads Board of New South Wales has granted the council a subsidy for or towards the payment of interest on or the repayment of principal of such loan the Minister may grant permission to the council to reduce or to refrain from levying the loan rate during the continuance of the subsidy.

(14) Where a loan is raised for meeting any liabilities transferred to the council consequently upon the alteration of the boundaries of the area, the loan rate may at the discretion of the council be levied as a local loan rate only on the ratable land added to the area.

Local loan
rate on
transferred
area.

(d)

(d) (i) by omitting from paragraph (d) of sub-George V,
section one of section one hundred and No. 33.
thirty-two the word "solely";

Sec. 132.
(Ratable
land.)

(ii) by omitting paragraph (h) of the same subsection and by inserting in lieu thereof the following new paragraph:—

(h) land which is occupied by or used in connection with a church or other building used or occupied for public worship or as a rectory vicarage presbytery manse or parsonage in connection with such church or building; and

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

and

(j) any school registered under the Bursary Endowment Act, 1912, and any certified school under the Public Instruction (Amendment) Act, 1916, and any playground belonging to or used in connection with any such school.

(e) (i) by omitting from subsection two of section Sec. 133 (2).
one hundred and thirty-three the words "is (Appeal.)
not ratable or that it is not ratable to any particular rate" and by inserting in lieu thereof the words "or some part thereof is not ratable or not ratable to any particular rate";

(ii) by inserting at the end of subsection five of Sec. 133 (15).
the same section the following paragraph:—

Where the Court determines that part only of the land is ratable, the Court shall determine the value of that part.

(f) by omitting paragraph (b) of section one Sec. 135 (b).
hundred and thirty-five; (Consequential amendment, see Act 1921 No. 10, s. 23 (8).)

(g)

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Sec. 137 (2).
Temporary
valuation
provisions.)

Land
becoming
not ratable.
Sec. 1.9 (9).

(g) by inserting at the beginning of subsection two of section one hundred and thirty-seven the following words:—"Subject to the provisions of section one hundred and forty-one";

(h) by inserting at the end of section one hundred and thirty-nine the following new subsection:—

(9) Where land which was ratable becomes not ratable, part of the rate paid thereon proportionate to the period of the year during which the land is not ratable shall be refunded by the council.

(i) by omitting section one hundred and forty-one and by inserting in lieu thereof the following new section:—

Sec. 141.
Rating of
Crown
leases.
Rating of
Crown leases
and permits.

141. (1) Where any rate is levied on the unimproved capital value of land held for pastoral or agricultural purposes under lease from the Crown under any Act dealing with Crown lands (including homestead selections) or under the Hay Irrigation Act, 1902, or the Wentworth Irrigation Act (1890), or which is held under lease or permit (other than a grazing permit for a term less than twelve months) under the Forestry Act, 1916, the unimproved capital value for the purpose of such rate shall, subject to this Act, be the sum ascertained by calculation as follows:—

(a) in the case of a lease which carries no right of conversion ultimately into a freehold tenure or of a permit—twenty times the amount of the rent payable under the lease or permit during the year next preceding that in which the calculation is made;

(b) in the case of all other leases—during the first ten years of the lease dating from the grant thereof—twenty times the amount of the rent payable under

the

the lease during the year next preceding that in which the calculation is made; and during the remainder of the lease —thirty times the amount of such rent;

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- (c) where a lease or permit was not in force during the preceding year the rent for the current year shall be used in the calculation.

(2) The lessee of any such land may at any time before the first day of November in any year elect that instead of the rate being levied on the unimproved capital value ascertained as set out in the preceding subsection, it shall be levied on the unimproved capital value of land valued in accordance with the law as if the holder of the lease or homestead selection were the owner of the fee simple :

Provided that upon any election being duly made by a lessee under this section the election shall be binding upon him for a period of five years; at the expiration of which he may again elect, and so on at intervals of five years :

Provided further that in any case where an election is duly made under this section, the council shall, in levying any rate on the unimproved capital value, give effect to such election.

In this subsection "lessee" includes the holder of a permit, and "lease" has a corresponding meaning.

(3) Where no such election has been made, a notice of valuation shall not be deemed to be invalid merely on account of the notice not including a statement of the unimproved capital value of the land ascertained in accordance with Schedule Three of this Act.

This subsection shall extend and be deemed from the commencement of this Act to have extended to areas in which the provisions of Schedule Three of this Act are in force.

(j)

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- (j) by omitting subsection three of section one hundred and forty-nine and by inserting the following subsection in lieu thereof :—

(3) Nothing in this section shall affect or extend to any person who is the holder of a lease or purchase from the Crown or from the council, made before or after the passing of the Local Government (Amendment) Act, 1927, where the lease is granted or purchase made after the rate is levied, whether the land has been previously held under a lease or purchase from the Crown or from the council or not.

New s. 151A.

- (k) by inserting after section one hundred and fifty-one new section as follows :—

Existing
agreements,
apportion-
ment of
rates.

151A. (1) This section shall apply to any case where a lessee has agreed with the owner or with the mesne lessee from whom he immediately holds to pay municipal or local government rates, whether under those designations or under any words of description which would include rates made under this Act, but shall only apply where such agreement was made after—

- (a) the first day of January, one thousand nine hundred and eight, in the case of land within any municipality ;
- (b) the first day of January, one thousand nine hundred and seven, in the case of land within any shire.

(2) Where from any such agreement it appears that such agreement was intended to provide for the payment of a proportion and not the whole of the rates, and where such agreement does not provide a method of arriving at such proportion, any party to such agreement may make application to the Valuer-General to make a fair and equitable adjustment of the proportion of such rates which in the opinion of the Valuer-General should be paid under the agreement.

(3)

(3) The adjustment shall be made by the Valuer-General according to the respective interests of the parties in the land as unimproved for the purposes of the general rate or any rate levied on the unimproved capital value, and as improved in the case of any rate levied on the improved capital value.

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(4) The cost of such adjustment shall be paid by the person applying therefor and shall be fixed by the Valuer-General.

(5) Every adjustment so made by the Valuer-General shall be final and conclusive and shall not be subject to appeal, and the agreement shall be read as if the amount determined by the Valuer-General to be payable in respect of the part comprised in the agreement had originally been inserted therein.

(6) A certificate of the adjustment purporting to be signed by the Valuer-General or his deputy shall be prima facie evidence of the adjustment.

(l) by inserting the following new subsection after subsection four of section one hundred and fifty-seven :—

Sec. 157.
Mining
lessees, &c.,
division of
liability.
Dover, &c.,
Co.
v. Cessnock,
6 L.G.R.
119.

(5) Where a lease has been granted or is granted by the Crown under the provisions of subsection two of section 70B of the Mining Act, 1906, the lease shall for the purpose of this section be deemed to have been granted by the owner of the land leased.

(m) by omitting from section one hundred and sixty-one the words "unless proceedings for the recovery thereof have failed, or the approval of the Minister to the abandonment or writing off has been obtained" and by inserting in lieu thereof the words "except in accordance with an ordinance in that behalf, and then only upon the certificate of the auditor of the council that the abandonment or writing off is in accordance with such ordinance";

Sec. 161.
(Abandonment of rates.)

(n)

- George V,
No. 33.
Sec. 165.
(Ordinances.)
- (n) by inserting at the end of section one hundred and sixty-five the following new paragraph:—
(c) the class of cases in which, and the circumstances in which, rates may be abandoned or written off.
- Sec. 167 (1).
(Charges for services.)
- (o) by omitting from subsection one of section one hundred and sixty-seven the words “ ordinance by resolution of the council ” and by inserting in lieu thereof the words “ charge or fee so fixed, then the charge or fee may be fixed by resolution of the council subject to the maxima (if any) prescribed by ordinance ”;
- Sec. 173 (2).
(Ways of borrowing.)
- (p) by omitting subsection two of section one hundred and seventy-three and by inserting in lieu thereof the following new subsection:—
(2) Except as provided in section one hundred and seventy-four a council shall not borrow unless the loan has been previously authorised, that is to say the approval of the Governor has been obtained.
Application for such approval or for the authority of the Minister referred to in section one hundred and seventy-four shall be made by the council in the prescribed manner.
- Sec. 174.
- (q) by omitting section one hundred and seventy-four and by inserting the following new section:—
174. (1) The council may borrow by way of limited overdraft for any purpose which the council is authorised to create or expend any fund (other than a trust fund) or for any purpose for which moneys raised by ordinary loan may be applied.
(2) Subject to this section the amount which may be borrowed by the council by way of overdraft shall not exceed one-third of the income of the fund concerned, that is to say:—
(a) one-third of the income as shown by the latest year's accounts; or
(b)
- Purposes of overdraft.
- Limit of overdraft.

- (b) if the fund was not in existence for the whole of the preceding year, one-third of the income as estimated in the published estimates of the council for the year in which the overdraft is obtained.

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(3) If the council find it necessary for any specially urgent reason to borrow by way of overdraft in excess of the amount indicated in subsection two of this section it may apply to the Minister, who may give authority accordingly up to but not exceeding one-half the previous year's income or estimated income, as the case may be, but any such authority shall be subject to conditions requiring the council to reduce the overdraft to not more than one-third of a year's income of the fund within a term of years specified in the authority, not exceeding five years in any case.

(4) No greater sum shall be borrowed under this section than the amount stated in a certificate of the auditor of the council as being the sum which may be borrowed within the limits imposed by this section or the authority of the Minister.

- (r) (i) by omitting from subsection one of section one hundred and seventy-five the words "the certificate of limit of overdraft is issued" and by inserting in lieu thereof the words "the money is borrowed";
- (ii) by inserting in subsection two of the same section after the word "certificate" where that word first occurs the words "of the auditor of the council";
- (iii) by omitting from the same subsection the words "issue of the certificate" and by inserting in lieu thereof the word "borrowing";
- (s) by omitting section 177A and the short heading preceding that section;

Sec. 175.
(Security of
overdraft.)

Sec. 177A.
(Substituted
section.)

(t)

**George V,
No. 33.**(Ratepayers'
advances.)

- (t) by inserting next after section one hundred and seventy-eight the following short heading and section :—

*Ratepayers' advances.*Advances
for works
applied for
by ratepayer.

178A. (1) Subject to this section the council may, without obtaining any approval under section one hundred and seventy-three, accept an advance not exceeding five hundred pounds from a ratepayer for the purpose of carrying out necessary works applied for by the ratepayer.

(2) The loan shall be either free of interest or at a rate not exceeding four per centum per annum simple interest.

(3) The terms of the loan shall include provision for repayment by yearly or half-yearly instalments spread over not more than ten years.

(4) The council shall not accept any such advance if the amount proposed to be accepted when added to other amounts then owing by the council under this section exceeds ten per centum of the total revenue of such council for the preceding year.

(5) It shall not be compulsory for the council to levy a loan rate in respect of any such loan.

(6) The council shall report each such loan, its purpose and terms, to the Minister for record.

Sec. 180 (9).
(Shire
special
loans.)

- (u) by inserting at the end of subsection nine of section one hundred and eighty the following proviso :—

“ Provided that where the council satisfies the Governor that a net income will probably be or has already been derived from any loan work or service after making full provision for the depreciation of the assets and payment
of

of interest and instalments of repayment or reserve in respect of the loan, the Governor may direct that such loan or part thereof shall not be taken into account in calculating the council's limit of borrowing under this section."

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- (v) by inserting at the end of subsection eight of section one hundred and eighty-one the following words:—"Where the proposal has been so altered the council shall notify the altered proposal unless the Minister certifies that the alteration is not of a substantial nature";
- (w) by inserting next after section 181B the following new section:—

Sec. 181 (8).
(Special
loans.)

New s. 181c.

181c. (1) The Governor may grant approval to a council to borrow for the construction of a main road in the county of Cumberland if the council has first obtained the approval of the Main Roads Board of New South Wales to such construction and an undertaking from the board to defray the interest and repay the loan.

County of
Cumberland
main roads.

(2) In such case it shall not be necessary for the council to carry out the procedure required by section one hundred and eighty or section one hundred and eighty-one of this Act as a condition precedent to borrowing, except to make application thereunder for the Governor's approval.

(3) In any such case it shall not be necessary for the council to levy a loan rate.

(4) Any such loan shall not be taken into account in ascertaining whether the council's borrowings are within the limit provided by this Act.

(5) This section shall be deemed to have come into operation on the first day of January, one thousand nine hundred and twenty-five.

(x)

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Sec. 154.
(Limits of
borrowing.)

- (x) by inserting at the end of paragraph (a) of section one hundred and eighty-four the following proviso :—

“ Provided that where the council satisfies the Governor that a net income will probably be or has already been derived from any loan work or service after making full provision for the depreciation of the assets and payment of interest and instalments of repayment or reserve in respect of the loan, the Governor may direct that such loan or part thereof shall not be taken into account in calculating the council's limit of borrowing under this section.”

Sec. 211 (3).
(Auditors.)

- (y) (i) by omitting from subsection three of section two hundred and eleven the words “ but may be cancelled by the Governor at any time and an appointment may be made for the unexpired portion of the one-year's term ” ;

Sec. 211 (4).
Ibid.

- (ii) by omitting subsection four of the same section ;

Sec. 211 (9).
(Audit.)

- (iii) by omitting from subsection nine of the same section the words “ in addition to certifying as aforesaid ” and by inserting in lieu thereof the words “ in respect of each audit.”

Amendment of
Part IX of Act
No. 41, 1919.
(Public roads.)

New s. 233A.

Private
railways,
bridges, and
street
crossings.

8. Part IX of the Principal Act is amended—

- (a) by inserting after section two hundred and thirty-three a new section as follows :—

233A. (1) Where any bridge or level crossing over any private railway or any railway bridge has been constructed before or after the commencement of this Act by any person, firm, or company, whether under the authority of any Act or not, the following provisions shall have effect :—

- (a) The owner of the railway shall, so long as the bridge and the roadway thereover or level crossing or the roadway under the bridge is left open for traffic, keep the

the bridge, level crossing, or overbridge and the roadway under such overbridge in a proper state of repair to the satisfaction of the council. George V,
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- (b) The council may at any time by notice direct the owner of the railway to reconstruct or repair any such bridge, level crossing, or overbridge, or the roadway under such overbridge. Sec s. 632
post.
- (c) Such owner may upon giving the prescribed notice close and fence off such bridge or level crossing or the roadway under such overbridge so as to prevent traffic thereon for such time as is necessary to enable the requirements of the council to be carried out.
- (d) Any dispute between a council and the owner of such railway as to any matter arising under this section shall be settled in the same manner as is provided in section two hundred and seventy-three of this Act for the settlement of a difference between a council and the Railway Commissioners for New South Wales.
- (e) The provisions of this subsection shall be subject to any agreement made between the council or its predecessor and the owner or his predecessors in title.

(2) The provisions of subsection one of this section shall not apply to any bridge, level crossing, or overbridge constructed by any person, firm, or company under the provisions of section five hundred and two of this Act.

(3) Where not more than two years before the commencement of the Local Government (Amendment) Act, 1927, the council has reconstructed or repaired any such bridge,

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bridge, level crossing, or overbridge or the roadway under such overbridge for the purpose of putting the same in a proper state of repair, the owner of the railway shall be liable for the cost of such reconstruction or repair, and the council may recover such cost from such owner in any court of competent jurisdiction.

Sec. 243 (1).
(Footways.)

(b) by inserting at the end of subsection one of section two hundred and forty-three the following words:—"The portion of a footway which is at the intersection of two public roads shall be deemed to be opposite and adjacent to the land nearest thereto which is bounded by the two public roads";

Sec. 245.
(Extraordinary traffic.)

(c) by inserting in section two hundred and forty-five after the words "any person by" the words "whom or by";

Sec. 251 (1).
(Public gates.)

(d) by inserting at the end of subsection one of section two hundred and fifty-one the following words:—"It shall not be necessary for a council when exercising such powers to notify in the Gazette its intention to grant permission to erect a public gate";

Sec. 262 (5).
(Realignment.)

(e) by inserting in the proviso to subsection five of section two hundred and sixty-two after the word "repairs" the words "and improvements," and by inserting in the same proviso after the word "preservation" the words "and temporary use";

Sec. 271.
(Works under Water Act, 1912.)

(f) by inserting at the end of section two hundred and seventy-one the following new subsection:—

Drainage union.

(3) For the purposes of this section the word "trust" shall be deemed to include a drainage union constituted under the provisions of the Water Act, 1912, or any Act thereby repealed.

(g)

- (g) by inserting next after section two hundred and seventy-six the following new section:— **George V,
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276A. The council may (after public notice and hearing any objector who lodges objection within one month) lease to any adjoining land-owner for not more than five years at any one time any public road or part thereof which the council considers is not needed for present public use. New s. 276A.
Leasing unnecessary roads.

Any such lease shall contain a provision for the determination of the lease by the council upon six months' notice to the lessee.

- (h) by omitting from paragraph (g) of section two hundred and seventy-seven the words and figures "Neglected Children and Juvenile Offenders Act, 1905" and by inserting in lieu thereof the words and figures "Child Welfare Act, 1923"; Sec. 277 (g).
Ordinances.)

9. (1) Part X of the Principal Act is amended— Amendment of
Part X of Act
No. 41, 1919.
(Public
health and
convenience.)

- (a) by inserting in section two hundred and seventy-nine after the word "health" the word "safety"; Sec. 279.
(General
powers.)

- (b) (i) by inserting in subsection two of section two hundred and eighty-one at the end of paragraph (1) the following words:—"in any such case the council may remove and sell the materials, and after deducting the expenses incident to the demolition, removal, and sale, pay over the balance (if any) to the owner. If such proceeds do not cover the expense the amount of the deficiency may be recovered by the council from the owner in any court of competent jurisdiction"; Sec. 281 (2)
(1).
(Sanitation.)

- (ii) by inserting in the same subsection after paragraph (m) the following new paragraph:— *Id.* (2) (n).

- (n) require that a dwelling on land ratable to a sewerage rate in connection with any Baths and
washtubs.

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any public system of sewerage shall be provided with a suitable bath and washtubs.

Sec. 283.
(Night-soil and
garbage
removal.)

(c) by omitting subsections six, seven, and eight of section two hundred and eighty-three ;

Sec. 289.

(d) by inserting at the end of section two hundred and eighty-nine the following new paragraphs :—

Tipping
rubbish.

(h) control and regulate the depositing upon any land of any material likely to cause a public nuisance or to give rise to a condition which will endanger public health, or material likely to attract or tend to attract vermin to such land, or to form suitable harbourage for vermin ;

Unsafe
walls, &c.

(i) direct the removal of walls or buildings which in the opinion of the council have become ruinous and may become dangerous to the public, or may remove such walls or buildings, at the expense of the owner thereof ;

Firearms.

(j) regulate and control the use of firearms within the boundaries of any city, town, village, or urban area ;

Inflammable
substances.

(k) regulate and control the keeping and use of inflammable or explosive compounds or materials in any city, town, village, or urban area ;

Private
lanes.

(l) where land is used as a private lane, right-of-way, or means of access to two or more properties, by notice in writing require the owners of the properties served thereby to drain the lane, right-of-way or means of access, or to remove therefrom any matter or thing which may, in the opinion of the council, cause any insanitary or objectionable condition thereon ;

(m)

- (m) require quarries, clay-pits, sand-pits, disused mines, dams or waterholes on any land likely to be a danger to the public to be enclosed by a sufficient fence to the satisfaction of the council; or where the council considers that in the circumstances fencing is not a sufficient precaution require the owner of any quarry, clay-pit, sand-pit, disused mine, dam or waterhole to empty the same of water, or to fill in or cover the same to the satisfaction of the council within a time stated by the council.

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No. 33.
Quarries,
mines, &c.

Any such owner may within the time and in the manner prescribed by rules of court appeal to a district court judge having jurisdiction within the area against the requirement of the council.

Such judge may determine whether the requirement of the council is reasonable in all the circumstances of the case and whether it shall or shall not be carried out either in its entirety or with modifications and may extend the time within which anything is to be done. The costs of the appeal shall be in the discretion of the judge.

If costs are awarded they may be recovered in like manner to costs awarded in a judgment of the district court.

- (e) by inserting in subsection two of section two hundred and ninety-eight after the words "the council" the words "may subsidise life-saving clubs and";
- (f) (i) by inserting in the heading of the same Part after the words "Public Health" the word "Safety";
- (ii) by inserting in the subheading of Division 5 of the same Part after the word "health" the word "safety."

**George V,
No. 33.** (2) Part I of the Principal Act is amended by inserting in section three after the words "Public Health" the word "Safety,"

(Consequential amendments.)

Amendment of Part XI of Act No. 41, 1919.

Sec. 305 (2).
(Regulation of building.)

10. Part XI of the Principal Act is amended—

(a) by omitting from paragraph (b) of subsection two of section three hundred and five the words "or villages" and by inserting in lieu thereof the words "villages or portions of a shire";

Sec. 309.
(Residential districts.)

(b) by omitting subsection two of section three hundred and nine, and by inserting the following subsection in lieu thereof :—

(2) Nothing in this section shall preclude the continuance of the use of any building for any purpose for which the same was used immediately before the date of the proclamation aforesaid, or the alteration, enlargement, rebuilding or extension of any building used for any such purpose whether or not such alteration, enlargement, rebuilding or extension involve the use of adjoining land which immediately before the date of the proclamation was in the same ownership or for such other purpose as the council thinks reasonable in the circumstances.

Sec. 313.
(Erection of buildings.)

(c) by inserting at the end of section three hundred and thirteen the following new paragraph :—

(i) height, materials, stability, design, and position of fences (if any) to be erected on or on the boundaries of the allotment on which the building is to be erected.

New sec 316A.
Alteration of fencing.

(d) by inserting next after section three hundred and sixteen the following new section :—

316A. When a plan has been approved by a council, fencing or other structures not shown upon the plan shall not at any time, without the consent of the council, be erected so as to restrict the use in connection with the building of the unoccupied area of the allotment.

(e)

- (e) by inserting at the end of paragraph seven of section three hundred and eighteen the following words:—“and regulating generally the erection of fences on or on the boundaries of any land and the height, materials, stability, design, and position of existing fences on or on the boundaries of any land.”

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No. 33.
Sec. 318.

11. Part XII of the Principal Act is amended—

Amendment of
Part XII of Act
No. 41, 1919.
(Town
Planning.)

- (a) by omitting from paragraph (c) of subsection two of section three hundred and twenty-seven the words “the signatures of all necessary parties”;
- (b) by omitting from the proviso to section three hundred and thirty-three, paragraph (a) thereof;
- (c) (i) by omitting subsection five of section three hundred and thirty-four;
- (ii) by omitting paragraph (b) of subsection six of the same section and by inserting the following new paragraph:—
- (b) in a shire, unless at the time of the proposed subdivision the land is within the area served by the water or gas supply of any village, town, or urban area or within the area to be served by any such supply under construction or about to be constructed at the time of the subdivision.
- (d) by inserting at the end of section three hundred and thirty-nine the following new subsection:—

Sec. 327.
(Plans.)

Sec. 333.
(Limit
removed.)

Sec. 334 (5).
(Pipes in
roads.)

Ibid. (6).

Sec. 339.

(2) A contravention of this or any other section of this Part shall not invalidate or be deemed to have invalidated any instrument intended to affect or evidence the title to any land.

(e)

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No. 33.

New secs.
340A, 340B.
(Reserves.)
Public
garden and
recreation
spaces.

(c) by inserting after section three hundred and forty the following new sections:—

340A. (1) Where in the subdivision of land provision is made for public garden and recreation space, such space shall be conveyed or transferred to the council if the council at any time so requires.

(2) This section shall apply where such provision was made in a subdivision effected prior to the commencement of the Local Government (Amendment) Act, 1927, as well as to cases in which it is made after such commencement.

Drainage
reserves.
See ss. 332
(c), 333 (h),
338.

340B. (1) Where in the subdivision of land provision is made for a drainage reserve, such reserve shall be conveyed or transferred to the council if the council at any time so requires.

(2) This section shall extend to subdivisions made since the passing of the Local Government (Validation and Amendment) Act, 1922, as well as to subdivisions made after the passing of the Local Government (Amendment) Act, 1927.

Amendment of
Part XIV of Act
No. 41, 1919.
(Water,
sewerage, &c.)
Sec. 374 (3).

12. Part XIV of the Principal Act is amended—

(a) (i) by omitting subsection three of section three hundred and seventy-four and inserting the following subsection:—

(3) As soon as practicable after such notification as aforesaid the Minister for Public Works shall certify under his hand the amount which has been expended on such works together with interest, at a rate or rates as provided in this section accrued from the time of expenditure of each sum included in such amount up to the end of the half year in which the notification as provided in subsection seven of this section is published.

(ii)

- (ii) by inserting after subsection three of section three hundred and seventy-four the following new subsection:— George V,
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Sec. 374 (2A).

(3A) In any case where the certificate does not include all amounts expended or to be expended on any work, the Minister for Public Works shall, when the total amount expended shall have been ascertained, finally certify under his hand the whole of the amount expended upon such works.

Such final certificate shall include the amount of any previous certificate less the amount of any principal repaid or due to the end of the half-year in which the final certificate is given and shall also include any amount not previously included together with interest thereon at the rate or rates as provided in this section calculated from the time of expenditure of each sum included therein up to the end of the half year in which the notification as provided in subsection seven of this section is published.

- (iii) by omitting subsection six of section three hundred and seventy-four and inserting the following subsection:— Sec. 374 (6).

(6) The amount of any such certificate or final certificate subject to any such partial remission as aforesaid when notified by the Governor as provided in this section, shall be the capital debt of the council to the Treasurer.

An earlier certificate shall be superseded by a final certificate at the expiration of the half-year in which such final certificate is given, but not sooner.

- (iv) by adding after the word "interest" in paragraph (c) of subsection seven of section three hundred and seventy-four the words "at a rate as provided in this section"; Sec. 374 (7).

(v)

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No. 33.

Sec. 374 (8).

Interest—
Fixation of
rate.
cf. C.T.W.
& S. (Amend-
ment) Act,
1905, s. 29.

(v) by omitting subsection eight of section three hundred and seventy-four and inserting the following subsection :—

(8) (a) The Governor shall by proclamation as soon as may be after the commencement of the Local Government (Amendment) Act, 1927, for periods prior to the thirtieth day of June, one thousand nine hundred and twenty-six, and, as soon as may be after the thirtieth day of June in each and every year for periods after such commencement, fix the rate of interest to be charged on amounts expended in any such period.

(b) The rate so to be fixed for each period shall reasonably approximate to the percentage cost of moneys borrowed by the Government of New South Wales in the twelve months immediately prior to that period for which the rate of interest is fixed.

(c) The rates to be adopted for the purposes of certificates to be made under the provisions of subsections three and (3A) of this section and subsection three of section three hundred and seventy-seven shall be the rates proclaimed in accordance with paragraph (a) of this subsection.

(d) The rates to be adopted for purposes of paragraph (c) of subsection seven of this section and paragraph (b) of subsection four of section three hundred and seventy-seven shall be determined having regard to the several rates proclaimed in accordance with paragraph (a) of this subsection for any periods during the construction of the works, and also to the amount expended in each of the said periods.

(e) For the purposes of this subsection the expression "period" shall be deemed

deemed to mean the period of twelve months commencing on the first day of July in any year. George V,
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- (vi) by inserting at the end of the same section the following new subsection :— Sec. 374 (10).

(10) Every certificate of the Minister for Public Works and every notification by the Governor purporting to have been given or made under this section before the commencement of the Local Government (Amendment) Act, 1927, shall be deemed to have been given or made in accordance with the provisions of this Act, notwithstanding any failure of compliance with the provisions thereof, and every such notification by the Governor of the capital debt of a council for water, sewerage, drainage, or electricity works shall be deemed in all respects whatsoever to have been and to be valid. Validation
of past
certificates
and notifi-
cations.

- (b) by omitting from subsection one of section three hundred and seventy-five the words “carried by the Treasurer to a Loan Trust Fund” and by inserting the words “paid to the General Sinking Fund constituted under the State Debt and Sinking Fund Act, 1904”;

- (c) by omitting section three hundred and seventy-seven and by inserting the following new section in lieu thereof :— Sec. 377.

377. (1) When any work partly constructed by the Minister for Public Works but not completed is in his opinion so far constructed as to be of use to the council he may report that fact to the Governor. Partly
constructed
works.

(2) The Governor may notify that the council shall take over any partly constructed work and the care and management thereof.

(3) The said Minister may certify the amount actually expended in such construction, and the amount so certified, together with interest in accordance with section three hundred

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hundred and seventy-four of this Act, shall upon the certificate being notified become a debt due by the council to the Treasurer.

Such interest shall be calculated from the time of the expenditure of each sum included in such amount up to the end of the half-year in which the notification provided for in this section is published.

(4) Upon receipt of such certificate the Governor may notify—

(a) the period not exceeding in any case one hundred years in which the debt is to be paid; such period shall be fixed with regard to the nature and durability of the work; and

(b) the instalment which shall be paid by the council during each half-year succeeding that in which the notification is published in order to repay such debt with interest.

(5) The council shall in respect of any indebtedness under this section be liable for payment thereof in the same way as if works had been notified as complete in accordance with provisions of section three hundred and seventy-four of this Act.

(6) Like action may be taken from time to time, and the provisions of this section shall apply when the work has been further constructed and before completion.

(7) When any work has been notified as having been finally completed and the capital debt on the completed work and the period for repayment fixed and the half-yearly instalment has been notified, the provisions of this section shall be superseded by the foregoing provisions of this Part.

(8) In finally computing the capital debt credit shall be given to the council for payments under this section in respect of works notified before actual completion.

(d)

- (d) by adding at the end of subsection one of section three hundred and seventy-eight the following proviso :—

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Sec. 378 (1).

Provided that in respect of stormwater drainage works the council, with the approval of the Governor, may defray the cost of maintenance and management, and provide for the payment of instalments from the general fund or the sewerage local fund, or make a contribution of such amount as may be approved by the Governor from the general fund to the stormwater drainage local fund.

- (e) (i) by omitting subsections one, two, and three of section three hundred and eighty-eight and the short heading preceding that section and by inserting the following short heading and subsections in lieu thereof :—

Special powers of Governor and Minister for Public Works.

(1) The Minister for Public Works shall from time to time cause inspection to be made of any water, sewerage, drainage, or electricity works of the council where there is money owing to the Treasurer by the council in respect of those works.

If upon any such inspection he is of opinion that such works are not properly constructed or not kept in repair or not kept in efficient working order he may direct the council to make such repairs or alterations as he thinks necessary, and, if the council makes default for three months in effecting such repairs or alterations, he may cause such repairs or alterations to be effected and recover the cost thereof from the council as a debt.

(2) (a) In respect of any water, sewerage, drainage, or electricity works constructed by the Minister for Public Works for any council under this Act, or the Acts repealed by

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by this Act, or otherwise out of public funds, the Governor, by notification, may direct that a specified sum shall be set aside annually out of the revenue derived from such works in order to provide a reserve for the purpose of effecting renewals of such works.

(b) The sum so notified shall be paid each year into a separate account in the council's bank.

As soon as may be after such payment the amount set aside shall be invested in Commonwealth or State Government loans or securities or placed on fixed deposit at interest with a bank or with the Treasurer.

Interest accruing from such investments or such deposit shall be regularly added to the account and invested in like manner.

(c) The fund created by such payments and interest accrued thereon shall not be drawn upon by the council except for the purpose of effecting such renewals of the works as may be approved by the Minister for Public Works.

(3) (a) In the event of a council making default in respect of the requirements of this section the Governor may direct that the sum notified as aforesaid shall be paid each year into a Special Deposits Account in the Treasury, and if any council fail forthwith to comply with such direction the provisions of section three hundred and seventy-six of this Act shall apply as in the case of a council making default in due payment of any instalment.

Interest at a rate to be fixed by the Treasurer shall be credited annually to the account by the Treasurer, and the account shall not be drawn upon except for such renewals as may be approved by the Minister for Public Works.

(b)

(b) This subsection shall apply to any existing fund created for the purpose of providing for renewals if the Governor so direct, and to the extent specified in such direction.

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(c) The provisions of subsections two and three of this section may be suspended or varied in whole or in part in any case where the Governor is satisfied that adequate provision has already been made for the renewal of any works.

- (ii) by omitting from subsection four of the same section the words "Minister (or the Minister for Public Works)" and by inserting in lieu thereof the words "Minister for Public Works";
- (f) by inserting in subsection five of section three hundred and ninety-two after the word "Minister" the words "for Public Works";
- (g) (i) by inserting in subsection one of section three hundred and ninety-six after the word "Minister" the words "for Public Works";
- (ii) by omitting subsection two of the same section and inserting in lieu thereof the following new subsection:—

(2) The Minister for Public Works shall cause inspection to be made of any sewage disposal or treatment works, and may give directions as to their proper maintenance and working in order that their efficiency may be maintained and that nuisance therefrom may be prevented.

Inspection
and method
of working.

Such directions shall be obeyed by the council, and if not so obeyed within a reasonable time after written notice thereof is served upon the council, the said Minister may cause such things to be done for the aforesaid purposes as he may deem necessary, and may recover the expense thereby incurred from the council as a debt.

(h)

**George V,
No. 33.**Sec. 401 (1).
(Catchment
districts.)Sec. 402.
(Control and
management
by Govern-
ment.)Sec. 403.
(Drainage.)Amendment of
Part XVIII of
Act No. 41, 1919.
(Impounding.)
Sec. 423 (1)
(c).
(Conse-
quential on
Act No. 14,
1921, s. 2.)Sec. 424.
(T.S. & C.R.)Sec. 427.
In what
pound.

- (h) by inserting in subsection one of section four hundred and one after the word "may" the words "on the recommendation of the Minister for Public Works";
- (i) (i) by omitting from subsection one of section four hundred and two the words "the Minister or";
- (ii) by omitting from subsection two of the same section the words "the Minister or";
- (j) by inserting at the end of section four hundred and three the following words: "and may require the construction of sufficient drains for that purpose, or may, at the cost of the owner, construct drains to dispose of roof, surface, and other waters from the premises so as to conduct the water to the most appropriate gutter or water channel under the control of the council."

13. Part XVIII of the Principal Act is amended—

- (a) by omitting from paragraph (c) of subsection one of section four hundred and twenty-three the words "and sections one hundred and eighty-two and one hundred and eighty-three of the Stock Act, 1901";
- (b) by inserting in section four hundred and twenty-four at the end of the definition of "occupant" the following words:—"and in respect of a travelling stock and camping reserve includes the Pastures Protection Board under whose control such reserve has been placed under section 26A of the Pastures Protection Act, 1912";
- (c) by inserting the following words at the end of section four hundred and twenty-seven:—

Where a quarantine area or line has been notified or established under the Stock Diseases Act, 1923, the pound to which the animal shall be taken shall be the pound to which access may be had most conveniently having regard to the provisions of that Act;

(d)

(d) by omitting from subsection six of section four hundred and thirty-three the words "from the pound";

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No. 33.
Sec. 433 (6).
(Release.)

(e) by inserting at the end of section four hundred and thirty-six the following new subsection:—

Sec. 436.
St. P'u

(5) Where the proceeds of the sale of an impounded animal exceed the fees, charges, and damages payable under this Act in respect of such animal the council shall on request pay such surplus to the owner of the animal.

14. Part XIX of the Principal Act is amended by omitting subsection six of section four hundred and forty-six and inserting the following new subsection in lieu thereof:—

Amendment
of Part XIX
of Act No. 41,
1919.
Sec. 446 (6).

(6) (a) A sum not exceeding three thousand pounds may be expended from the Waverley Cemetery Fund upon the construction or reconstruction of the following roads within the municipality of Waverley:—

(Waverley
Cemetery.)

Boundary street East, St. Thomas street, Trafalgar street, Macpherson street, and the twenty-feet lane at the foot of the cemetery wall.

(b) In addition to the said amount a sum not exceeding three hundred and sixty-five pounds in any one year may be expended from the Waverley Cemetery Fund annually on the maintenance of the following roads in approach or adjacent to the cemetery, namely:—

Chesterfield parade—from Arden street to St. Thomas street.

Trafalgar street—from St. Thomas street to Hardy street.

Boundary street—from St. Thomas street to the Pacific Ocean.

Boundary street—from Arden street to St. Thomas street.

Twenty-feet lane at foot of cemetery wall.

St. Thomas street—from Macpherson street to Boundary street.

Macpherson street—from Albion street to St. Thomas street.

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Amendment of
Part XXII of Act
No. 41, 1919.
(Noxious plants
and animals.)
Sec. 470.

Ibid.

Sec. 471.

Ibid.

Ibid.

New s. 471A.

Duty to
destroy on
declaration by
Governor.

15. Part XXII of the Principal Act is amended—

- (a) (i) by inserting in subsection one of section four hundred and seventy after the word “declared” the words “by the council”;
- (ii) by omitting from subsection two of the same section the words “After the expiration of two months from the publication of the notice aforesaid, if the occupier of any land has not in the opinion of the council taken reasonable steps to comply with the requirements of this section the council may subject to the provisions of this Act” and by inserting in lieu thereof the words “After the expiration of one month from the publication of the notice aforesaid, if the occupier of any land has not taken reasonable steps to comply with the requirements of this section the council may, subject to the provisions of this Act”;
- (b) (i) by inserting in section four hundred and seventy-one after the word “declared” the words “by the council”;
- (ii) by omitting from paragraph (a) of subsection one of the same section the words “two months” and by inserting in lieu thereof the words “one month”;
- (iii) by omitting from subsection two of the same section the words “in the opinion of the council”;
- (c) by inserting after section four hundred and seventy-one the following new section:—

471A. (1) Where any plant or animal has been declared by the Governor to be a noxious plant or animal in all municipalities and shires, or in any district under the provisions of section four hundred and sixty-eight, it shall be the duty of all occupiers, or if there be no occupier the owner, of any land therein to keep such land free therefrom.

(2)

(2) Any occupier or owner offending against the provisions of this section shall be liable to a penalty not exceeding fifty pounds. George V,
No. 33.

(3) Proceedings for recovery of a penalty under this section may be instituted by the council or by any person.

(4) The council may at its discretion in any case where the occupier or owner fails to destroy any such plant or animal, prior to or subsequently to or in lieu of prosecuting for such offence, cause such plant or animal within such land to be destroyed, and may recover from the occupier or owner, as the case may be, any reasonable expense incurred thereby.

(5) The provisions of subsection four of section four hundred and seventy-one shall apply with respect to plants or animals declared to be noxious under section four hundred and sixty-eight.

- (d) (i) by omitting from section four hundred and seventy-three the proviso to subsection two, and inserting in lieu thereof the following provisos :—

Provided that this subsection shall not apply to dedicated roads which are separated from such lands by fences, and are used as public thoroughfares :

Provided also that where a road, whether dedicated or undedicated, which adjoins any such lands is fenced on one side only, the council may notify that the duty to destroy noxious plants and animals upon the whole of such road shall extend to and apply to the person whose unfenced lands the road adjoins.

- (ii) by inserting in subsection three of the same section after the word "statutory" the words "or public," and after the word "reserves" the words "or public reserves" ;

(e)

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Sec. 475.

Amendment
of Part XXIII
of Act No. 41,
1919.

Sec. 493 (2).
(Guarantees,
Water and
Sewerage.)

Sec. 493.
New subsection.
(Local rates.)
Combined
rate.

Sec. 500.
(Works on
private land.)

Sec. 502.
(Private
railway
lines.)

- (c) by omitting from subsection one of section four hundred and seventy-five the word "forty" and inserting the word "eighty."

16. Part XXIII of the Principal Act is amended—

- (a) (i) by omitting from subsection two of section four hundred and ninety-three the words "Board of Water Supply and Sewerage" and by inserting in lieu thereof the words "Metropolitan Water, Sewerage and Drainage Board";

- (ii) by inserting at the end of the same section the following new subsection:—

(4) Notwithstanding anything contained elsewhere in this Act, a local rate levied under the provisions of this section may be combined with the general rate and the proceeds of the combined rate may be paid into the general fund.

Where a combined rate is levied as provided in this section it shall not be necessary to keep the accounts of a local fund.

Any sum payable in respect of a guarantee under this section may, pending the making or collection of the combined rate, be paid from the general fund.

The provisions of subsections two and three of section one hundred and twenty-seven shall apply to a combined rate levied under the provisions of this subsection.

- (b) by omitting from section five hundred the word "tar-paving" and inserting the word "paving";

- (c) (i) by inserting in subsection one of section five hundred and two after the words "bridges across" the words "or subways under";

- (ii) by inserting in subsection two of the same section after the words "provided by" the words "section two hundred and seventy-three of";

(iii)

(iii) by omitting from subsection five of the same section the words "bridge or level crossing" and by inserting in lieu thereof the words "level crossing, subway, or bridge";

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(iv) by inserting in the same subsection after the word "crossing" where that word secondly and thirdly occurs the word "subway";

(d) by omitting section five hundred and eleven.

Sec. 511.
(Monuments.)

17. Part XXIV of the Principal Act is amended—

Amendment of
Part XXIV of
Act No. 41, 1919.

(a) by omitting section five hundred and seventeen and inserting the following:—

Sec. 517.

517. (1) The council may agree to pay for any purchase lawfully made, or for the performance of any work which it might lawfully undertake, by instalments extending over a period of years.

Time-
payment
contracts.

(2) Before entering into any such contract the council shall advertise the proposed conditions of the contract and call for tenders.

Such tenders shall be considered on their merits before a decision is arrived at.

(3) A council shall not enter into contracts under this section if the amount of the liabilities under such contracts when added to the amount owing by the council as loans shall exceed twenty per centum of the unimproved capital value of all ratable land in the area in the case of a municipality, or in the case of a shire thrice the amount of the income of the shire as shown by the last year's accounts.

(4) The council shall not enter into a contract under this section if the amount of the annual payments necessary under such contract when added to the annual payments to be made under any other contract under this section then subsisting in respect of any particular fund shall be more than ten per centum

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centum of the estimated income of that fund during the year in which the contract is entered into.

Sec. 519 (2).
(Leases.)

- (b) (i) by omitting from subsection two of section five hundred and nineteen the words "without the approval of the Governor";
- (ii) by inserting at the end of the same subsection the words "except upon competition either by public auction or tender";
- (iii) by inserting at the end of the same section the following new subsections:—

(3) The lease shall reserve the best rent that can reasonably be obtained, regard being had to the circumstances of the case.

(4) The term of the lease shall not exceed—

(a) in the case of a building lease, ninety-nine years;

(b) in any other case, twenty-one years.

Sec. 520.
Ibid.

- (c) by omitting from section five hundred and twenty the words "or lease";

Sec. 522 (1).
(Boundary roads, bridges, &c.)

- (d) by omitting from subsection one of section five hundred and twenty-two the words "making or repairing such public road, and in building, providing, maintaining" and by inserting in lieu thereof the words "making, repairing, or lighting such public road, and in building, providing, maintaining, lighting";

Sec. 524 (2).

- (e) by omitting from paragraph (d) of subsection two of section five hundred and twenty-four the words "the clause" and by inserting in lieu thereof the words "this section."

Amendment of
Part XXVII of
Act No. 41, 1919.
(Urban areas.)

Sec. 549.

(Urban
committees.)

18. Part XXVII of the Principal Act is amended as follows:—

- (a) In section five hundred and forty-nine—

(i) by the omission of subsection four and the insertion of new subsection four as follows:—

(4) The number of committeemen constituting an urban committee shall be

be three or such other number as the Governor may determine from time to time. George V,
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- (ii) by adding after subsection six new subsection 6A as follows :—

(6A) If a vacancy in the office of urban committeeman continue after the time prescribed for election thereto the Governor may appoint any qualified person to the vacant office :

Provided that where he deems it expedient the Minister may authorise the holding of an election to fill the vacant office.

- (b) (i) by omitting from subsection two of section five hundred and fifty-one the words “only for the benefit of an urban area shall be secured only” and by inserting in lieu thereof the words “upon the application of an urban committee or for the benefit of an urban area shall be secured primarily” ; Sec. 551.
(Security for
loans.)
- (ii) by omitting subsection four of the same section.

- (c) by adding after section five hundred and fifty-four the following new sections :— New secs
554A, 554B.

554A. Notwithstanding anything contained in sections five hundred and fifty and five hundred and fifty-one of this Act, the accounts of an urban committee may, at the request of the urban committee, be kept by the council, and the urban committee may authorise the president and clerk to draw cheques upon its bank accounts for the purpose of meeting expenditure authorised by the urban committee. Accounts of
urban
committees.

554B. Where an urban area has been established and there is no urban committee of that area in office the council may exercise in relation to the urban area the powers given by this Act to an urban committee or which the council could exercise upon the application or request of an urban committee. Powers of
council when
no urban
committee
in office.

322 Local Government (Amendment) Act.

George V, No. 33. **19.** (1) Part XXIX of the Principal Act is amended—

Amendment of Part XXIX of Act No. 41, 1919.

Sec. 562.
(County councils.)

- (a) (i) by inserting in subsection eight of section five hundred and sixty-two after the word "council" the words "for any reason set out in section thirty-five or section thirty-six";
- (ii) by inserting in subsection fourteen of the same section after the words "county council" the words "and the Minister";
- (iii) by inserting at the end of the same section the following new subsection:—

(15) Where a vacancy in the office of delegate continues after the time prescribed for election thereto, the Governor may appoint any member of the councils concerned to fill the vacant office:

Provided that where he deems it expedient the Minister may authorise the holding of an election to fill the vacant office.

Sec. 563.
(Election of chairman.)

- (b) (i) by omitting paragraphs (a), (b), and (c) of subsection three of section five hundred and sixty-three, and by inserting in lieu thereof the following new paragraphs:—

(a) within one month after the date of the first election or appointment of the county council; and

(b) within one month after the date of each subsequent general election or an appointment of the whole of the county council; and

(c) within the month of December in each of the years intervening between the years of the general elections of the county council; and

(d) within one month after the occurrence of a vacancy.

(ii)

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

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(3A) The chairman may resign his office by letter to the county council.

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

(11) The county council may pay to its chairman an allowance during his term of office.

Allowance to
chairman.

- (c) by omitting the proviso to subsection four of section five hundred and sixty-five inserted by section thirty-five of the Local Government (Validation and Amendment) Act, 1922, and by adding a proviso in the same terms at the end of subsection four of section five hundred and sixty-four ;

Sec. 565 (4).
(Correction
of an error.)

- (d) by inserting at the end of paragraph (a) of section five hundred and seventy-three the following words: "without limiting the generality of the foregoing power applying any of the provisions of sections twenty-six, thirty, thirty-one, thirty-five, forty-eight, eighty-six, or of Part VIII of this Act; and"

Sec. 573 (1).
(Ordinances.)

(2) Part I of the Principal Act is amended by inserting in the definition "office" or "civic office" after the word "alderman" the words "or chairman or member of a county council."

(3) Section thirty-five of the Local Government (Validation and Amendment) Act, 1922, is hereby repealed.

20. Part XXX of the Principal Act is amended—

Amendment of
Part XXX of Act
No. 41, 1919.
(Legal
proceedings.)

- (a) by omitting from subsection three of section five hundred and ninety the words "a council" and inserting the words "the clerk";

Sec. 590 (3).
(Debts.)

- (b) by inserting at the end of section five hundred and ninety-one the following new paragraph :—

Sec. 591.
(Laying of
informations.)

(c) in any case by an officer of the Board of Health appointed by that board in that behalf either generally or in respect of any special proceeding.

(c)

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Sec. 603 (5).
(Consequential
in Act No. 33,
1922, s. 32.)

Sec. 604 (3)
(f).
(Conveyances
by Public
Trustee.)

Secs. 608 (2),
609.
(Payment
into court.)

Sec. 610.
(*Ibid.*)

Sec. 611 (2).
(*Ibid.*)

N. w. s. 625A.

Notice of
transfer.

- (c) by omitting from subsection five of section six hundred and three the words "without obtaining the approval of the Governor to such purchase";
- (d) by omitting from paragraph (f) of subsection three of section six hundred and four the words "by ordinance" and by inserting in lieu thereof the words "by regulations made under the Conveyancing Act, 1919";
- (e) by omitting from subsection two of section six hundred and eight and from section six hundred and nine the words and figures "Part III of the Trustee Act, 1898" and by inserting in lieu thereof the words and figures "Part IV of the Trustee Act, 1925";
- (f) (i) by omitting from subsection one of section six hundred and ten the words and figures "sections fifty-nine, sixty-one, and sixty-three of the Trustee Act, 1898—(a) the particular" and by inserting in lieu thereof the words and figures "Part IV of the Trustee Act, 1925—(a) the";
- (ii) by omitting subsection two of the same section.
- (g) by inserting in subsection two of section six hundred and eleven after the figures "1898" the words and figures "or under Part IV of the Trustee Act, 1925";
- (h) by inserting next after section six hundred and twenty-five the following new section:—
- 625A. Where the value of land is an issue to be determined in any court, a notice under section one hundred and sixty-three coming from the custody of the council may, if the transfer of the land to which the notice relates, or the purchase price or consideration therefor is, in the opinion of the court, material to be considered, be received as prima facie evidence of the contents thereof, and without proof of the signature of the person or persons by whom the notice purports to have been signed.
- (i)

- (i) in section six hundred and forty— George V,
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- (i) by inserting after subsection one the following new subsection, namely:— Sec. 640.
(Recovery of penalties.)
- (1A) Any penalty, fine, or forfeiture under this Act or any ordinance made thereunder recovered in proceedings instituted by a member of the police force or by an officer of the Board of Health shall be paid to the Consolidated Revenue Fund.
- (ii) by inserting at the commencement of subsection two the words “subject to the provisions of this section”; and by inserting in the same subsection after the words “police force” the words “or an officer of the Board of Health.”
- (j) by inserting at the commencement of subsection two of section six hundred and forty-seven the words “except with the consent of any council the interests of which may be concerned”; Sec. 647 (2).
(Proclamations.)
- (k) by omitting subsection two of section six hundred and forty-nine and by inserting in lieu thereof the following new subsection:— Sec. 649 (2).
(Public inquiries.)
- (2) The person holding the inquiry shall have the powers conferred by the Royal Commissions Act, 1923, on a commissioner appointed under Division 1 of Part II of that Act, and the said Act, section thirteen and Division 2 of Part II excepted, and the provisions of section one hundred and fifty-two of the Justices Act, 1902, shall mutatis mutandis apply to any witness or person summoned by or appearing before such person.
- (l) (i) by omitting paragraph (d) of subsection five of section six hundred and fifty-four and by inserting new paragraph (d) in lieu thereof:— Sec. 654 (5).
(Consequential on Act No. 50, 1924.)
- (d) the Metropolitan Water, Sewerage and Drainage Board;
- (ii)

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(Addition
of other
departments.)

(ii) by omitting from paragraph (n) of the same subsection the word "and"; and by adding at the end of subsection five the following new paragraphs:—

(p) the Grafton and South Grafton Water Board;

(q) the Forestry Commission of New South Wales;

(r) the Main Roads Board of New South Wales.

Amendment
of Act No. 41,
1919, Sch. 3.

(Separate
valuations.)

21. (1) Schedule Three of the Principal Act is amended—

(a) by omitting subclause two of clause ten and inserting the following subclause in lieu thereof:—

(2) Lands which are separately owned, or lands which do not adjoin shall be separately valued provided that all lands valued on a freehold basis which are separated by a road generally used by the public may be included in one valuation if owned by the same person and worked as one holding.

(Part
ratable.)

(b) by inserting at the end of subclause two of clause nineteen the following new paragraph:—

(g) determine whether any part of the land included in a valuation is ratable, and the value of that part.

Secs. 4, 368,
651, Sch. 3
(24).

(2) The Principal Act is further amended—

(a) by omitting from section four, from section three hundred and sixty-eight, from section six hundred and fifty-one, and from clause twenty-four of Schedule Three the words "Board of Water Supply and Sewerage" and by inserting in lieu thereof the words "Metropolitan Water, Sewerage and Drainage Board";

Secs. 368,
405, Sch. 3
(24).

(b) by omitting from section three hundred and sixty-eight and from section four hundred and five and clause twenty-four of Schedule Three the words "Metropolitan Water and Sewerage Act of 1880" and by inserting in lieu thereof the words "Metropolitan Water, Sewerage, and Drainage Act, 1924";

(c)

- (c) by inserting at the end of subsection four of section four hundred and twenty the following words:—

For the purposes of this subsection "sitting days" means days upon which a House meets for the despatch of business; and a prorogation or dissolution of Parliament shall not prevent the running of the fifteen sitting days within which the notice of motion to disallow an agreement or part is to be given.

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Sec. 420 (4).
(Trading
franchises.)

22. The Woollahra Loan Act, 1918, is amended—

- (a) by omitting section four and by inserting in lieu thereof the following new section:—

4. The council shall in each year commencing with the year beginning on the first day of January next following the commencement of the Local Government (Amendment) Act, 1927, levy a loan rate on the unimproved capital value of all ratable land in the municipality for the purpose of paying interest on and repaying the principal of the loan, and shall continue to levy such rate each year until the sum borrowed shall have been repaid.

- (b) by omitting the Schedule to the said Act.

23. The proclamations respecting—

- (a) Wellington Water Supply, published in the Government Gazette number sixty-seven of the eighth day of June, one thousand nine hundred and twenty-three;
- (b) Ballina Water Supply, published in the Government Gazette number one hundred and five of the seventh day of July, one thousand nine hundred and twenty-two;
- (c) Peak Hill Water Supply, published in the Government Gazette number sixty-nine of the fifteenth day of June, one thousand nine hundred and twenty-three;
- (d) Gunnedah Water Supply, published in the Government Gazette number forty-four of the thirteenth day of April, one thousand nine hundred and twenty-three;

Amendment
of Act No. 26,
1918, s. 4.

Levy of loan
rate.

(Schedule.)

Validation of
certain pro-
clamations.

(e)

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- (e) Balranald Water Supply, published in the Government Gazette number sixty-five of the eighth day of May, one thousand nine hundred and twenty-three;
- (f) Cootamundra Water Supply, published in the Government Gazette number one hundred and seventy-one of the twenty-fourth day of December, one thousand nine hundred and twenty-five,

shall be deemed to have been valid and of full force and effect notwithstanding that any such proclamation may have affected a thing done before the publication thereof.

Validation
of certain
securities.

24. The securities given by the Blaxland Shire Council and the Bellingen Shire Council respectively during the year one thousand nine hundred and twenty-five to secure the repayment of the respective sums of five thousand pounds and nine thousand pounds borrowed for the purpose of establishing electricity supply undertakings in the Portland and Bellingen urban areas respectively are hereby validated.

Repeal of Act
No. 116,
1902.

25. The Municipal District of Wrightville Naming Act of 1902 is hereby repealed.

Amendment
of Impound-
ing Act, 1898.

26. (1) The Impounding Act, 1898, is amended by inserting next after section seven the following new sections:—

Poundkeepers to
keep brand
directory.
cf. Act No. 27,
1901, s. 182.

7A. (1) Every poundkeeper shall keep copies of the latest edition of the brand directories and of subsequent Gazettes containing lists of the brands subsequently registered and the names and residences of the proprietors thereof; and shall, on the receipt of a fee of one shilling, permit a search in such brand directories and Gazettes at all reasonable hours.

(2) Every poundkeeper who fails to comply with any requirement of this section shall, for every such offence, be liable to a penalty not exceeding five pounds.

Notice of
impounding
to be sent to
owner of
brand.
Act No. 27,
1901, s. 133.

7B. (1) When any cattle or horses are impounded, the poundkeeper shall forthwith send notice thereof to the proprietor of the brand which appears last in order on such cattle or horses.

(2)

(2) Every poundkeeper who neglects or delays to send any such notice shall, for every such offence, be liable to a penalty not exceeding ten pounds.

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(2) Nothing in this section shall affect the operation of paragraph (c) of subsection one of section four hundred and twenty-three of the Local Government Act, 1919, as amended by this Act.

27. The Main Roads Act, 1924, is amended by inserting in section three next after the definition of "Metropolitan Main Road" the following definition:—

Amendment
of Act No. 24,
1924, s. 3.

"Minister" means the Minister of the Crown for the time being administering this Act.