

LOCAL GOVERNMENT (AMENDMENT) ACT.

Act No. 41, 1928.

An Act to extend the powers of the councils of municipalities and shires in certain respects; to validate certain matters; to amend the provisions of the Local Government Act, 1919, as amended by subsequent Acts as to the qualification of electors; to amend the said Act as so amended and certain other Acts; and for purposes connected therewith. [Assented to, 21st December, 1928.]

George V,
No. 41, 1928.

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:—

1. (1) This Act may be cited as the "Local Government (Amendment) Act, 1928," and shall be read and construed with the Local Government Act, 1919, as amended by subsequent Acts.

(2)

Local Government (Amendment) Act.

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(2) The Local Government Act, 1919, as so amended, is in this Act referred to as the Principal Act.

Amendment of Act No. 41, 1919.

2. The Principal Act is amended as follows:—

(a) by inserting in the definition of “newspaper” before the word “circulating” in section four the following words: “registered for transmission through post”;

Sec. 19.
(Alteration of areas.)

(b) (i) by inserting after paragraph (d) of subsection one of section nineteen the following new paragraph:—

(e) in a case where it is proposed to exercise in respect of two or more adjoining areas the powers of one or more of the said paragraphs, by the council of one of such areas or by an officer of the Minister.

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

(3) Within the time fixed in such notice, objection to the proposal may be lodged—

(a) by the council of any area affected; or

(b) by fifty electors of any such area; or

(c) in a case where part of an area is proposed to be taken from one and added 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 lands situated in that part.

(c) by omitting from subsection two of section twenty the word “and” where that word firstly occurs and by inserting in lieu thereof the word “or”;

Sec. 30.
(Disqualification for office.)

(d) (i) by inserting in paragraph (b) of subsection two of section thirty after the word “falls” the words “or his appointment is made”;

(ii)

(ii) by inserting after paragraph (k) of subsection five of section thirty the following new paragraph :—

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or (l) the sale and delivery of an article to the council in the ordinary course of a retail business when the sale is made without his personal knowledge and in disregard of his express general instructions.

(e) by omitting from subsection two of section thirty-three the word "taking" and inserting in lieu thereof the words "acting in."

Sec. 33 (2).
(Oath.)

3. The Principal Act is further amended—

Further amendment of Act No. 41, 1919.

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

Sec. 51 (2).
(Qualification.)

(3) A person who on the prescribed day possesses one or more qualifications for enrolment shall not be deemed to lose his right to enrolment merely because of a change of qualification or a loss of one of his qualifications between the prescribed day and the last day for the receipt of claims for enrolment.

(b) by inserting at the end of subsection two of section fifty-six the words "or by reason only of a change of qualification."

Sec. 56 (2).
(Persons entitled to vote.)

4. The Principal Act is further amended by inserting at the end of paragraph (d) of section fifty-four the following words: "and is not already enrolled in some other area by virtue of this paragraph only."

Further amendment of Act No. 41, 1919, s. 54.
(Qualification of an occupier.)

5. The Principal Act is further amended—

Further amendment of Act No. 41, 1919.

(a) by inserting at the end of subsection one of section fifty-eight the words "and may name or alter the name of any ward";

Sec. 58.
(Wards.)

(b) by inserting at the end of section ninety the following new subsection :—

Sec. 90.
(Engineers.)

(5) In arriving at the aggregate income for the purposes of this section, nightsoil and garbage removal fees and charges shall be disregarded, and where the costs of street lighting

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Sec. 90.

Electrical
engineers.

lighting or nightsoil or garbage removal services are paid from the proceeds of the general rate, a deduction of such costs shall be made.

(c) by inserting next after section ninety the following new section :—

90A. (1) Every council which conducts an electricity trading undertaking or undertakings shall, on and after a date to be proclaimed, employ an electrical engineer who shall hold a certificate as prescribed.

(2) Subject to the approval of the Minister, any person holding the prescribed certificate may be appointed electrical engineer to two or more councils.

(3) Subsection one of this section shall apply only—

(a) where the total annual income from all sources of the undertaking or undertakings averaged over the last preceding three years, or if not in existence during the last preceding three years averaged over the period during which the undertaking or undertakings have been in existence, exceeds the sum of four thousand pounds; or

(b) where two or more councils, each conducting its own electricity trading undertaking, employ the same electrical engineer, and where the combined total annual income from all sources of such undertakings averaged over the last preceding three years, or if the undertakings have not been in existence during the last preceding three years averaged over the period the undertakings have been in existence, exceeds the sum of four thousand pounds.

(4) For the purpose of this section “council” shall include a county council or an urban committee.

(5) Ordinances may be made prescribing the conditions under which certificates as electrical engineer may be issued.

(d)

- (d) by inserting in subsections one and two of section ninety-three after the word "engineer" the words "or electrical engineer"; No. 41, 1928.
Sec. 93.
(Failure to appoint.)
- (e) (i) by inserting in subsection one of section ninety-nine after the words "apply to" the word "county"; Sec. 99.
(Inquiry before dismissal.)
- (ii) by inserting in the same subsection after the words "gas managers" the words "electrical engineers, persons in charge of trading undertakings of a council for the supply of electricity or hydraulic power";
- (iii) by inserting at the end of the same section the following new subsections:—
- (9) The council shall pay to the Minister the expenses of the person holding the inquiry (including the salary of any public servant engaged thereon) or such portion thereof as the Minister may decide.
- (10) The person holding the inquiry may award costs and expenses (including the expenses of the person holding the inquiry) to an amount assessed by him against either the council or the servant. Any costs or expenses so awarded may be recovered as a debt.
- (11) The person holding the inquiry shall also determine whether the servant shall or shall not be paid his salary or any part thereof for the period of his suspension.
- (12) For the purpose of this section "council" includes county council and an urban committee.
- (f) by omitting from subsection three of section one hundred and eight the words "may be carried to some other fund if the Governor approve" and by inserting in lieu thereof the words "shall be carried to such other fund as the Minister directs"; Sec. 108 (3).
(Special fund.)
- (g) by omitting from subsection three of section one hundred and nine the words "may be carried to some other fund if the Governor approve" and by inserting in lieu thereof the words "shall be carried to such other fund as the Minister directs"; Sec. 109 (3).
(Local fund.)
- (h)

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Sec. 110 (3).
(Trading
fund.)

(h) by omitting from subsection three of section one hundred and ten the words "may be carried to some other fund if the Governor approve" and by inserting in lieu thereof the words "shall be carried to such other fund as the Minister directs";

Sec. 124 (6).
(Loan rates.)

(i) by omitting subsection six of section one hundred and twenty-four and by inserting in lieu thereof the following new subsection:—

(6) The Minister may grant permission to the council to reduce or refrain from levying the loan rate where the council satisfies him that it has made or will make provision from the appropriate fund for the payment of part or the whole of the interest and instalments of repayment or amounts payable for depreciation or for loan repayment or sinking fund, or where in the case of a loan for the credit of a trading fund the council satisfies him that a net income will probably be or has already been derived from the undertaking after making reasonable provision for depreciation, and that such net income 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 amounts payable to reserve for loan repayment or sinking fund.

Sec. 127.
(Combination
of rates.)

(j) (i) by omitting subsection one of section one hundred and twenty-seven and by inserting in lieu thereof the following new subsection:—

(1) Where more rates than one are levied by a council such rates shall be made separately but may be levied as separate rates or as a combined rate.

(ii) by omitting subsection (1A) of the same section;

Sec. 167.
(Finances.)

(k) by inserting at the end of section one hundred and sixty-five the following new paragraph:—
(d) the levying of combined rates.

(l) (i) by inserting in subsection four of section one hundred and eighty after the word "loan" where it thirdly occurs the words
"or

- “or where the council proposes to pay such interest and principal from the proceeds of a local rate levied in that part”;
- (ii) by inserting in subsection nine of section one hundred and eighty after the figures “1914” the words “together with any liabilities of the council in respect of a contract entered into in pursuance of section five hundred and seventeen”;
- (iii) by omitting from the proviso to the same subsection the word “full” and by inserting in lieu thereof the word “reasonable”;
- (m) (i) by omitting from paragraph (a) of section one hundred and eighty-four the words “in respect of loans, will cause the total amount of loans owing” and by inserting in lieu thereof the words “in respect of loans and liabilities of the council upon contracts entered into in pursuance of section five hundred and seventeen, will cause the total amount owing on account of loans and such contracts”;
- (ii) by omitting from the proviso to the same paragraph the word “full” and by inserting in lieu thereof the word “reasonable.”

6. The Principal Act is further amended—

- (a) by omitting paragraph (h) of subsection one of section one hundred and thirty-two and by inserting in lieu thereof the following new paragraph :—
- (h) land which belongs to a religious body and which is occupied and used in connection with a church or other building used or occupied for public worship or solely as a rectory, vicarage, presbytery, manse, or parsonage, in connection with such church or building; and
- (b) by omitting paragraph (j) and by inserting in lieu thereof the following new paragraph :—
- (j) land which belongs to and which is occupied and used in connection with

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Sec. 180.

(Shire special loans.)

Sec. 134.

(Limit of borrowing.)

Further amendment of Act No. 41, 1919.

Sec. 132.

(Exemption from rates—church lands.)

Sec. 132.

(School lands.)

any

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

Further amendment of Act No. 41, 1919, ss. 174, 175.

7. (1) The Principal Act is further amended—

- (a) by omitting sections one hundred and seventy four and one hundred and seventy-five and by inserting in lieu thereof the following new sections:—

Limited overdrafts.

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-half of the income of the fund concerned, that is to say:—

- (a) one-half of the income as shown by the last audited accounts; or
- (b) if there are no audited accounts, or if the fund was not in existence during the whole of the last year for which there are audited accounts, or during the whole of the year immediately preceding the year in which the overdraft is proposed to be obtained, one-half of the income as estimated in the published estimates of the fund for such last-mentioned year.

In calculating the limit of overdraft in respect of a fund any sum received by the council from the Government or Main Roads Board as a grant and credited to such fund, except any sum received as endowment under Division 5 of Part VII of this Act, shall be excluded.

(3)

(3) 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.

(4) The council may borrow and re-borrow from time to time within the limits provided by this section.

175. (1) Money borrowed by way of limited overdraft shall be deemed to be secured upon the income of the fund in respect of which the money is borrowed. Security of overdrafts.

(2) A certificate in the prescribed form purporting to be the certificate of the auditor of the council shall be conclusive as regards any lender that the amount mentioned therein may be lawfully borrowed and that the provisions of this Act with respect to borrowing have been duly complied with, and such certificate shall continue to be operative as regards any lender until such lender shall receive a new certificate.

(3) It shall not be necessary to levy a loan rate in respect of a loan by way of limited overdraft.

(4) Nothing contained in this Act shall invalidate or prejudicially affect any authority given by the Minister to a council under the provisions of subsection three of section one hundred and seventy-four of this Act as the same stood prior to the commencement of the Local Government (Amendment) Act, 1928, or any security lawfully given under or by virtue of such authority, and the council may borrow and re-borrow from time to time within the limit imposed by such authority, subject only to such condition as to reduction of the overdraft as may be named therein.

Every such authority shall be conclusive evidence that the provisions of the Act with regard to the borrowing have been duly complied with.

(5)

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(5) Notwithstanding anything contained in this Act a council may borrow and re-borrow from time to time upon any certificate of the auditor which had, prior to the commencement of the Local Government (Amendment) Act, 1928, been given under the provisions of subsection four of section one hundred and seventy-four of this Act as the same stood prior to the commencement of the Local Government (Amendment) Act, 1928, within the limit stated in such last-mentioned certificate. The power of the council to borrow and re-borrow conferred by this subsection shall continue as regards the council only until the auditor shall give a certificate in the prescribed form under this Act and as regards the lender until the lender shall receive such certificate.

(b) by inserting in subsection one of section twenty-one after paragraph (q1) the following new paragraph :—

(q2) fix in the case of the constitution of an area in accordance with paragraphs (c), (d), (e), or (f) of section sixteen, the limit not exceeding which the council may borrow and re-borrow by way of limited overdraft in respect of any fund of the council, except a trust fund, until the estimates for the next year are published, or until the audit of the accounts for the next year.

Sec. 173.
(Consequential.)

(c) by omitting from subsection two of section one hundred and seventy-three the words "or for the authority of the Minister referred to in section one hundred and seventy-four";

Sec. 211.
(Duties of auditor.)

(d) by inserting at the end of subsection eight of section two hundred and eleven the following words :—

He shall also certify in the prescribed form the amount which the council may borrow by way of limited overdraft in respect of each fund of the council in pursuance of section one hundred and seventy-four.

(2)

(2) The council may appropriate money from any fund in respect of which money shall have been borrowed by way of overdraft to repay any sum or sums so borrowed after the commencement of the Local Government (Amendment) Act, 1927, and before the thirty-first day of December, one thousand nine hundred and twenty-eight, if the sum or sums so borrowed are within the limit of the Minister's certificate or certificates held by the council at the date of such commencement; and any such appropriation made before the commencement of the Local Government (Amendment) Act, 1928, is hereby validated.

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8. The Principal Act is further amended—

Further amend-
ment of Act
No. 41, 1919.

- (a) (i) by omitting from subsection one of section two hundred and five the words "main road grants"; Sec. 205.
(Withholding
endowment.)
- (ii) by omitting from subsection two of the same section the word "grant";
- (b) by inserting at the end of subsection one of section two hundred and forty-one the words "or lay any pipe in or through such land"; Sec. 241.
(Drainage.)
- (c) by inserting at the end of section two hundred and forty-three the following new subsection:— Sec. 243.
(Guttering.)
- (5) Where a roadway is laid to a kerb in concrete construction with or without an asphaltic top, the strip of such construction adjoining the kerb and of a width of eighteen inches shall be deemed to be guttering within the meaning of this section.
- (d) by inserting next after section two hundred and forty-nine the following new section:— Sec. 249A.
- 249A. If any animal is found straying in any public road, the owner or person in charge of such animal shall be liable to a penalty not exceeding five pounds nor less than five shillings for each animal, unless he proves that he has taken all reasonable means to prevent such animal from so straying. Straying
animals.
- (e) by omitting paragraph (k) of section two hundred and seventy-seven. Sec. 277.
(Consequen-
tial.)
- (f)

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Sec. 250.
(Stoppage of
traffic.)

- (f) by inserting after subsection three of section two hundred and fifty a new subsection as follows :—

(3A) The council may prohibit heavy traffic from using earth formations on roads not less than two chains in width where clear side tracks have been made available.

Sec. 251A.
(Motor
by-passes.)

- (g) (i) by inserting at the end of subsection three of section 251A the words :—

A by-pass may be constructed either by building a ramp to enable motor vehicles to be driven over the top of the fence or by way of a pit dug in or alongside the road and covered with an open grille so as to enable motor vehicles to pass over it, but to be an obstacle to the passage of animals.

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

Any person who drives over a by-pass any vehicle of which the weight together with the loading thereon exceeds the weight specified in the notice shall be liable to a penalty not exceeding fifty pounds, and in addition shall be liable in damages for the cost of effecting any necessary repairs to the by-pass occasioned by such use and for any injury sustained by any person before such repairs are effected.

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

(13) The person by whom a by-pass is erected in pursuance of this section shall not be liable for any damage sustained by reason of the by-pass unless it is shown that such person has been negligent with respect to the erection, maintenance, or repair of the by-pass or notice boards, or in the carrying out of any provision of this section.

The protection afforded by this subsection shall extend to the successor in title of the person by whom the by-pass was

was

was erected, and such successor shall be liable only in respect of any damage sustained by reason of some neglect, act, or omission of his own in respect of the repair or condition of the by-pass or notice boards, or in carrying out any requirement of the council.

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(14) The council at whose requirement or by whose permission a by-pass is erected in pursuance of this section shall not be liable for any damage sustained unless it is shown that the council has been negligent in some regard in connection with the by-pass.

- (h) by inserting after subsection seven of section two hundred and sixty-two the following new subsections:—

Sec. 262
(Realignment.)

(8) Where land is acquired by the realignment method the council may lease the whole or any part of such land to any landowner from whom the land is acquired or his sequels in title, for not more than ten years at any one time and subject to such conditions and reservations as the council may decide, at an annual rental not exceeding ten per centum of the compensation.

(9) The lessee of such land may erect thereon at his own expense a building not exceeding one storey in height, or other improvements of such materials and to such design as are approved by the council.

The council shall not require such structure to be erected of brick, stone, concrete or other like materials of a permanent nature, any building ordinances or regulations for the time being in force notwithstanding.

(10) All buildings or other improvements so erected by the lessee shall remain the property of the lessee and shall be removed by him immediately upon or prior to the determination of the lease.

(11)

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(11) No compensation shall be paid in respect of any injury, damage or disturbance arising from the re-entry by the council into possession of the land upon the expiration or determination of the lease.

Sec. 277.
(Ordinances.)

- (i) (i) by inserting at the end of paragraph (j) of section two hundred and seventy-seven the words "or which by limiting the field of vision of the driver of a motor or other vehicle are likely to create danger to traffic";
- (ii) by omitting from the same section the word "and" following paragraph (s);
- (iii) by inserting at the end of the same section the following new paragraphs:—
- (u) preventing damage to public roads, and the doing of things likely to injure public roads;
 - (v) regulating the weight of vehicles likely to injure public roads and the loads on such vehicles;
 - (w) regulating the use of vehicles likely to injure public roads;
 - (x) the weighing of vehicles and loads, the estimation of weight according to a prescribed scale for various classes of goods, the requiring of vehicles and loads to be taken to a public weighbridge for weighing, and the marking of weight on the vehicles;
 - (y) restricting traffic or any specified class of traffic to protect public roads from injury; and
 - (z) regulating and permitting the erection on public roads in return for advertising concessions of highway lighthouses or beacons;
- (j) by inserting at the end of section two hundred and eighty-one the following new paragraph:—
- (o) require that a dwelling shall be provided with adequate stove or other facilities for cooking.
- (k)

Sec. 281.
(Sanitation,
&c.)

- (k) by inserting at the end of subsection two of section two hundred and ninety-four the following new paragraph :— No. 41, 1928.
Sec. 294 (2).
(Application of Part VI of Public Health Act, 1902.)
- (b) The provisions of Part VI of the Public Health Act, 1902, shall apply and shall be deemed as from the commencement of the Local Government Act, 1906, to have applied in any area administered by the council of a shire ;
- (l) by inserting at the end of section three hundred and three the following new subsection :— Sec. 303.
(Ordinances.)
- (2) In any such ordinance special provision with respect to any or all the matters mentioned in this Part may be made for and in respect of any specified class or classes of premises, and any such ordinance may provide special conditions to be observed for the promotion and perservation of public health, safety, and convenience in or upon or in respect of any specified class or classes of premises.
- (m) by inserting at the end of section three hundred and four the following new definition :— Sec. 394.
(Interpretation.)
- “Structure” includes a wireless aerial mast or post visible from any public place or public reserve.
- (n) by inserting at the end of section three hundred and eight the following new subsection :— Sec. 308.
(Building lines, corner allotments.)
- (5) Notwithstanding the foregoing provisions of this section a building the front elevation of which is to face a public road and which is to be erected having regard to the building line of that road may, if the council approve, be erected without regard to the building line of any other public road.
- (o) by inserting at the end of subsection one of section three hundred and nine the following new paragraphs :— Sec. 309.
(Residential districts.)
- (f) prohibit the erection or use in the district of any building for the purpose of a residential flat :

Provided

No. 41, 1928.

Provided that this shall not apply to a residential flat building which has been erected or the erection of which has been approved by the council before the date of the proclamation.

- (g) prohibit the use in the district of any land for the purposes of any trade, business, avocation or calling described in the proclamation.

Further amendment of Act No. 41, 1919. Sec. 309. (Residential districts.)

9. The Principal Act is further amended by inserting at the end of subsection one of section three hundred and nine the following new subsections :—

(1A) Any provision inserted in a proclamation in pursuance of the powers conferred by paragraphs (c), (d) or (g) of subsection one of this section may apply—

- (a) generally to all or any trades, industries, manufactures, shops, and places of public amusement ;
- (b) particularly to the trades, industries, manufactures, shops, and places of public amusement mentioned in the proclamation ;
- (c) to all trades, industries, manufactures, shops, and places of public amusement other than those mentioned in the proclamation.

(Retro-spective operation.)

(1B) Subsection (1A) of this section shall be deemed to have been in force since the commencement of this Act, but shall not operate so as to affect any proceeding which has been commenced prior to the passing of the Local Government (Amendment) Act, 1928, or the carrying on of any trade or industry the subject-matter of any such proceeding.

(3) (a) Where an application is made by the council to the Governor under this section the Minister shall give the prescribed notice of the proposal.

(b) Within the time fixed in such notice objection to the proposal may be lodged by any person interested.

(c)

(c) The Minister may, if in his opinion the circumstances warrant, refer the proposal to a person appointed by him for inquiry and report. No. 41, 1928.

(d) After considering any objections received to the proposal or the report of the officer appointed to hold the inquiry, if any, the Minister may submit the proposal to the Governor for decision.

10. The Principal Act is further amended—

Further amendment of Act No. 41, 1919.

(a) by inserting after section three hundred and seventeen a new section as follows:— New s. 317A.

317A. (1) Any person may at any time apply for a certificate to the effect that in the opinion of the council a building in all respects complies with the Act, the ordinances and the plans and specifications approved by the council or if there has been any contravention of the Act or ordinances or any departure from the approved plans and specifications that such contravention or departure is not such as need be rectified. Certificate of compliance.

(2) Application for the certificate shall be made in writing and shall state the name and address of the applicant, and the particulars of the building in respect of which the certificate is required.

(3) The council shall, upon payment of the prescribed fee, as soon as practicable furnish such certificate to the applicant, if the building in its opinion complies with the Act, the ordinances, and the plans and specifications approved by the council, or if, in its opinion, any contravention of the provisions of the Act or ordinances or any departure from the approved plans and specifications is not such as need be rectified.

(4) The production of the certificate shall for all purposes be deemed conclusive evidence in favour of a bona fide purchaser for value that at the date thereof the building complied with the requirements of the Act and ordinances.

(b)

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Sec. 333.

(b) by inserting in section three hundred and thirty-three next after paragraph (h) the following new paragraph:—

(i) whether the land has been declared unsuitable for building upon under the provisions of the Public Health Act, 1902.

Sec. 358.

(Subsidy.)

(c) (i) by omitting from paragraph (d) of section three hundred and fifty-eight the word “and”;

(ii) by inserting at the end of the same section a new paragraph as follows:—

(f) associations, institutes, and clubs for returned sailors and soldiers.

Sec. 360.

(Restriction.)

(d) (i) by omitting from section three hundred and sixty the word “or”;

(ii) by inserting in the same section after the word “museum” the words “or association, institute, or club”;

Sec. 378.

(Water rates.)

(e) by omitting the words “where no capital debt due to Government” from the short heading of subsection three of section three hundred and seventy-eight.

Sec. 379.

(Water and sewerage rates.)

(f) (i) by omitting from the heading of subsection five of section three hundred and seventy-nine the words “water rate,” and inserting in lieu thereof the words “water and sewerage rates”;

(ii) by omitting at the end of the same subsection the words “Any such exemption may be revoked or altered by the council”;

(iii) by inserting after the same subsection the following new subsection:—

(5A) The council may exempt from the payment of sewerage local rates any public hospital or public charitable institution.

(iv) by omitting the heading of subsection six of the same section;

(v) by omitting from subsection six of the same section the words “and may revoke or alter any exemption so granted”;

(vi)

(vi) by inserting after subsection seven of the same section a new subsection as follows :— No. 41, 1928.

(8) Any exemptions made under this section may be revoked or altered by the council.

(g) by inserting after section three hundred and ninety-eight a new section as follows :— New s. 398A.

398A. If in the opinion of the council any drainage reserve vested in it in pursuance of the last preceding section is no longer required for the purpose of a drainage reserve, the council may, with the approval of the Governor, sell it, and by appropriate transfer or conveyance vest it in the purchaser for an estate of inheritance in fee simple in possession free from encumbrances. Sale of drainage reserves.

(h) by omitting from subsection one of section four hundred the words “out of the Public Works Fund,” and by inserting in lieu thereof the words “out of moneys provided by Parliament” ; Sec. 400.
(Loans by Treasury.)

(i) by omitting from subsection one of section four hundred and thirty-two the words “or bull,” and by inserting after the words “one year” the words “or bull above the age of eight months” ; Sec. 432.
(Entire stock, extra damages.)

(j) (i) by omitting subsection three of section four hundred and thirty-six and by inserting the following subsection in lieu thereof :— Sec. 436.
(Sale of impounded animal.)

(3) The circumstances under which an animal may be sold and the method of sale shall be as prescribed. The proceeds arising from the sale shall be applied first to payment of pound fees, the charges and expenses of public notices, and the charges for sustenance, and then to payment of damage or deterrent fees and driving charges. The balance, if any, shall, subject to subsection five of this section, be paid to the General Fund of the council.

(ii)

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Sec. 437.
(Destruction
of impounded
animal.)

Further amend-
ment of Act No.
41, 1919,

Sec. 493.
(Local rate in
respect of
W. & S.
guarantee.)

Sec. 494 (2).
(Flying-fox
gear.)

New s. 494A.

Dredging and
reclamation.

New s. 495A.

Removal of
undergrowth.

(ii) by omitting from subsection five of the same section the words "on request pay such surplus to the owner of the animal," and by inserting in lieu thereof the words "on request made within twelve months after the sale, pay to the owner of the animal such surplus less ten per centum";

(k) by inserting in subsection one of section four hundred and thirty-seven after the words "selling it" the words "or that the value of the animal is such that the proceeds of its sale would not pay the sustenance and other fees and charges."

11. The Principal Act is further amended—

(a) by omitting from paragraph (b) of subsection three of section four hundred and ninety-three the words "by the said board in respect of such water mains, sewers, and works" and by inserting in lieu thereof the words "by the Board concerned in respect of such water mains, sewers, and works, or pay the sum out of the General Fund";

(b) by inserting after subsection two of section four hundred and ninety-four the following new subsection:—

(3) The council may construct and operate "flying-fox" gear and like appliances over a river or watercourse for the conveyance of passengers and produce.

(c) by inserting after section four hundred and ninety-four a new section as follows:—

494A. The council with the approval of the Governor and subject to such conditions as he may impose may carry out dredging in tidal waters and reclaim areas in tidal waters.

(d) by inserting after section four hundred and ninety-five a new section as follows:—

495A. (1) In any municipality or in any urban area, town, or village in a shire the council may serve on the owner of any land notice requiring him within a reasonable period,

period, not less than one month, stated in the notice, to remove undergrowth which is a harborage for rubbish or vermin or a dangerous menace from fire. No. 41, 1928.

(2) 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 section five hundred and two New s. 502A. a new section as follows:—

502A. The council may contribute from the General Fund towards the erection by the Railway Commissioners for New South Wales of railway platforms. Railway platforms.

- (f) (i) by inserting after paragraph (c) of sub-section two of section five hundred and seven the following new paragraphs:— Sec. 507. (Public vehicles.)

(d) The council may also attach to or endorse upon any license conditions respecting the fares to be charged for journeys terminating within or beyond the boundaries of the area.

(e) The council may during the term of a license alter any such conditions as to time-tables, time of journey, route or fares by notice in the prescribed form to the holder of the license, and endorse any such alteration upon the license.

(ii)

No. 41, 1928.

(ii) by inserting at the end of subsection three of the same section the following words:—
 “A council may suspend or cancel a license if any of the conditions attached thereto or endorsed thereupon be not complied with, and in particular any condition as to the charging of a higher or lower fare than that fixed by the council in respect of the journey”;

Sec. 509.
(Nurses.)

(g) (i) by omitting from subsection four of section five hundred and nine the words “duly trained” and by inserting in lieu thereof the word “registered”;
 (ii) by omitting from the same subsection the words “approved of by the Minister”;

Sec. 517.
(Time-payment contracts.)

(h) by inserting after subsection four of section five hundred and seventeen the following new subsection:—

(5) Subsection two of this section shall not apply in respect of a contract for the purchase of land for any purpose of the council.

Sec 519.
(Power to let.)

(i) by inserting after subsection four of section five hundred and nineteen the following new subsections:—

(5) The council may with the approval of the Governor grant a lease of any land or building or other real or personal property of the council for any term less than twenty-one years for which tenders were called and accepted prior to the commencement of the Local Government (Amendment) Act, 1927, upon the terms and conditions of such tenders.

(6) Any agreement to lease any land or building or any other real or personal property of the council which was entered into by the council prior to the commencement of the Local Government (Amendment) Act, 1927, shall not be invalidated or be deemed to have been invalidated by the amendment of this section made by that Act and all rights and liabilities acquired and incurred under any such agreement prior to such amendment may be enforced, realised upon, and prosecuted as if that Act had not been passed.

(j)

- (j) by inserting in subsection one of section five hundred and twenty-two after the words “lighting such public road” the words “or the carrying out of any work or service in respect of such road”;
- (k) by inserting in paragraph (a) of subsection two of section five hundred and twenty-four after the word “avenue” the words “land under crop or fallow”;
- (l) by inserting after section five hundred and forty-nine the following new section:—
 549A. The Governor may if in his opinion circumstances have arisen rendering it advisable so to do and in accordance with procedure which may be prescribed by ordinance, by proclamation remove all the members of an urban committee from office, order that the urban committee shall be abolished, and make such further orders as in the circumstances he may deem necessary.
- (m) (i) by inserting at the end of subsection three of section five hundred and fifty the words “and may be expended by the urban committee only for the purposes for which such rate is levied”;
- (ii) by omitting subsections four and five of the same subsection;
- (n) by inserting at the end of paragraph (f) of subsection one of section five hundred and fifty-five the following words “or their wives’ or husbands’ relations”;
- (o) (i) by omitting from subsection nine of section five hundred and sixty-two the words “upon a date,” and inserting in lieu thereof the words “in the prescribed manner within a time”;
- (ii) by omitting from subsection ten of the same section the words “at the prescribed time,” and inserting the words “within the prescribed time”;
- (iii) by omitting the proviso to the same subsection;

(p)

No. 41, 1928.

Sec. 563.
(Chairman.)

- (p) (i) by inserting in subsection three of section five hundred and sixty-three after the word "meetings" the following words: "at which he is present";
- (ii) by omitting paragraphs (a), (b), (c), and (d) of subsection three of section five hundred and sixty-three and by inserting in lieu thereof the following new paragraphs:—
- (a) annually at the first meeting of the county council in any year;
- (b) on the occurrence of a vacancy at the next meeting of the county council after such occurrence;
- (iii) by omitting from subsection four of the same section the word "within" and by inserting in lieu thereof the word "at";
- (iv) by omitting subsection eight of the same section.

Sec. 142.
(Rate-book.)

- (q) by inserting at the end of section one hundred and forty-two the following new subsection:—
- (9) A rate-book may be constituted of a series of cards or loose leaves in the prescribed form.

Sec. 600.
(Recovery of rate—rate-books.)

- (r) by inserting at the end of subsection two of section six hundred the following words: "or if the entry is on a card or loose-leaf unless it is shown by an affidavit by the clerk that the card or loose-leaf is part of a series of entries which are covered by a certificate of total rates levied which has been sealed with the seal of the council and signed by the mayor or president and countersigned by the clerk."

Further amendment of Act No. 41, 1919, s. 4.
(Definitions.)

12. The Principal Act is amended—

- (a) by omitting the definition of "lease in relation to Crown lands" from section four and by inserting the following definition in lieu thereof:—
- "Lease," in relation to Crown lands or land within a State Forest, includes a license or permit.

Sec. 141.
(Rating of Crown leases.)

- (b) (i) by omitting from subsection one of section one hundred and forty-one the words "or permit" wherever occurring;
- (ii)

- (ii) by omitting from subsection two of the same section the words "In this subsection 'lessee' includes the holder of a permit, and 'lease' has a corresponding meaning." No. 41, 1928.

13. The Principal Act is amended by omitting section five hundred and thirty-nine and by inserting in lieu thereof the following new section :—

539. (1) The Minister for Public Works may, at the request of the Minister, erect, construct, or carry out for a council any works necessary or convenient in connection with any works or undertakings which the council might lawfully erect, construct, or carry out. Construction of works for councils and advances therefor.

(2) The Minister may, from moneys provided by Parliament for the purpose, make advances to councils for the erection, construction, or carrying out of works or undertakings.

(3) Before any such work or undertaking is erected, constructed, or carried out, or any such advance is made, the Minister may require the council to enter into a contract conditioned to secure the payment by it of yearly or half-yearly instalments for defraying—

- (a) the cost of the work or undertaking or the refund of the money advanced or a portion of such cost or money ; and
- (b) interest on such cost or money at such rate as the Minister may decide.

(4) If any such instalment be not paid on the due date there shall be added thereto a sum equal to ten per centum thereof ; and such instalment, together with such additional sum, may be recovered by the Minister.

The Minister may on cause shown remit part or the whole of such additional charge in respect of any past or future contract entered into under this section.

(5) The provisions of this or any other Act relating to moneys borrowed or contracts entered into by councils shall not apply to advances or contracts made under this section.

No. 41, 1928.

(6) Where the Governor is satisfied that the council cannot both maintain any work or undertaking erected, constructed, or carried out by the Minister for Public Works for the council under the provisions of this section or any work or undertaking erected, constructed, or carried out by the council with an advance or advances under the provisions of this section and pay such instalment as aforesaid, he may, in his discretion, from time to time notify that the payment of such instalment is postponed, or that such instalment is reduced for a stated period of years to a sum stated in the notification.

(7) For the purpose of this section council includes County Council.

Further amendment of Act No. 41, 1919. Sch. 3. (Valuation period.)

14. The Principal Act is further amended—

(Objection to valuations.)

- (a) by omitting from paragraphs (a) and (b) of subsection one of section eight of Schedule Three the words “three years” and inserting in lieu thereof the words “six years”;
- (b) (i) by omitting from paragraph (b) of subsection two of section eighteen of the same Schedule the words “and with the Registrar of the Valuation Court”;
- (ii) by inserting after subsection two of the same section a new subsection as follows:—
- (2A) The clerk shall forthwith forward the objection to the Registrar of the Valuation Court.

Validation of titles. cf. s. 339 (2).

15. A contravention of any provision relating to the subdivision of land contained in the Local Government Act, 1906, or any amendment thereof or any ordinance made under that Act or any amendment thereof shall not be deemed to have invalidated any instrument intended to affect or evidence the title to any land.

Validations. (Nowra Water Supply.)

16. (1) The proclamation respecting the Nowra 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.

(2)

(2) The postponement by the Minister for ^{No. 41, 1928.} Public Works until the thirty-first day of December, ^(Municipality of Moama.) one thousand nine hundred and twenty-nine, of the due date for the payment by the council of the municipality of Moama of its annual instalment of one hundred and twenty-two pounds in liquidation of the debt owing by the said council to the Colonial Treasurer in respect of its works of water supply and fixed under the Country Towns Water and Sewerage (Reduction of Debts) Act, 1922, is hereby ratified.

(3) The securities given by the Rylstone shire ^(Rylstone shire.) council during the year one thousand nine hundred and twenty-six, to secure the repayment of the respective sums of three thousand two hundred and sixty pounds and four thousand two hundred and forty pounds borrowed for the purpose of establishing electricity supply undertakings in the Kandos urban area and in the town of Rylstone respectively, are hereby validated.

(4) The action of the Young municipal council ^(Municipality of Young.) during the year one thousand nine hundred and twenty-eight in borrowing by way of limited overdraft in respect of the electricity works trading fund an amount of two thousand five hundred pounds in excess of the limit authorised by the Minister, is hereby validated.

(5) The rates and charges for water and for ^{Municipality of Wagga Wagga—} excess water made and levied by the council of the ^{Water Rates.} Municipality of Wagga Wagga under the provisions of the Principal Act by virtue of by-laws made under the Country Towns Water and Sewerage Act of 1880, and by virtue of a resolution passed by the council in the year 1927 and under a subsequent amendment of such resolution shall be deemed to have been duly made and levied and are hereby validated.