

LOCAL GOVERNMENT (FURTHER AMENDMENT) ACT.

Act No. 50, 1935.

George V.
No. 50, 1935.

An Act to make further provisions in relation to the powers, authorities, duties and functions of municipal, shire and county councils; to make certain contingent appropriations out of the Consolidated Revenue Fund; to validate certain matters; for these and other purposes to amend the Local Government Act, 1919, the Country Towns Water Supply, Sewerage and Drainage (Reduction of Debts) Act, 1934, and certain other Acts; and for purposes connected therewith. [Assented to, 16th December, 1935.]

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. (1) This Act may be cited as the "Local Government (Further Amendment) Act, 1935," and shall be read and construed with the Local Government Act, 1919, as amended by subsequent Acts.

(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.
Sec. 177.
(Purpose
of ordinary
loans.)

2. The Principal Act is amended—

(a) (i) by inserting next after paragraph (g) of section one hundred and seventy-seven the following new paragraphs:—

(g1) the erection, construction or carrying out of works of drainage, stormwater channels, public baths, works for the development

development of tourist traffic, works for the improvement and embellishment of public reserves and places of public recreation or resort, bridges and roads of access into settled districts, and works for the purpose of the establishment or extension of electricity works and particularly works for extending electricity works trading undertakings into rural districts, and the purchase of necessary machinery and equipment for such purposes; or

(g2) the erection, construction and carrying out of works of water supply or sewerage and works connected therewith; or

(g3) the provision of funds to meet the cost of construction by the Metropolitan Water, Sewerage, and Drainage Board or the Hunter District Water Supply and Sewerage Board of water mains or sewers and works connected therewith; or

(g4) the purchase of tools and materials required by the council for or in connection with any work to be carried out by the council in pursuance of the Prevention and Relief of Unemployment Act, 1930-1935, or any Act amending such Act, under agreement with the Minister; or

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

(2) The approval of the Governor of an ordinary loan for any of the purposes mentioned in paragraph (g1) or paragraph (g2) of subsection one of this section shall not be given unless the Minister by notice published in the Gazette has indicated that the purpose is one in respect of which a supplementary advance will be made under subsection (2A) of section five hundred and thirty-nine

thirty-nine of this Act or in respect of which an agreement will be entered into by the Treasurer under subsection one of section 493A of this Act.

No such notice in respect of a purpose mentioned in paragraph (g2) of subsection one of this section shall be published unless the proposals for the erection, construction and carrying out of the works have been considered by the Loans and Advances Advisory Committee and that Committee has made a report to the Minister thereon.

(3) The approval of the Governor of an ordinary loan for any of the purposes mentioned in paragraph (g3) of subsection one of this section shall not be given unless the council has first entered into an agreement with the Metropolitan Water, Sewerage, and Drainage Board or the Hunter District Water Supply and Sewerage Board pursuant to subsection (2A) of section four hundred and ninety-three of this Act.

(4) The approval of the Governor of an ordinary loan for any of the purposes mentioned in paragraph (g1), paragraph (g2), paragraph (g3), or paragraph (g4) of subsection one of this section shall not be given after the thirtieth day of June, one thousand nine hundred and thirty-eight.

(5) The approval of the Governor of an ordinary loan for any of the purposes mentioned in paragraph (g1), paragraph (g2), paragraph (g3) or paragraph (g4) of subsection one of this section shall, for the purposes of any security in respect of that loan, be conclusive evidence that the council is authorised to borrow the amount mentioned in the instrument of approval.

Sec. 178.
(Terms of
ordinary
loan.)

- (b) (i) by omitting subsection one of section one hundred and seventy-eight;
(ii) by omitting from subsection four of the same section all words after the word "prescribed";

(c)

- (c) by omitting subsection seven of section one hundred and eighty;
- (d) by omitting section one hundred and eighty-five and by inserting in lieu thereof the following new section:—

No. 50, 1935.

Sec. 180.

(Shire special loans.)

Substituted sec. 185.

Terms of loans.

185. (1) Every renewal or ordinary or special loan shall be raised on such terms as the Governor may approve.

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

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

No. 50, 1935.

Sec. 493.
(Construction of works under conditions involving council liability.)

(c) for the taking up of the loan by the council in instalments and for any consequential adjustment of the terms of repayment.

(e) (i) by inserting next after subsection two of section four hundred and ninety-three the following new subsection:—

(2A) (a) Where, for the benefit of a part of its area, the council deems it advisable that the Board should construct water mains or sewers, and works connected therewith, and supply water or carry off sewage, the council may enter into an agreement with the Board under this subsection.

(b) An agreement under this subsection shall provide for the construction of the works by the Board out of moneys provided by the council (being moneys borrowed for the purpose by way of ordinary loan) and shall include—

- (i) an undertaking by the Board to meet, to the extent of the net collectable income of the Board in any year, the liability of the council for payments on account of the loan falling due in that year;
- (ii) an undertaking by the council to pay to the Board the deficiency (if any) of the collectable income of the Board in any year in relation to the proportion of the working expenses of the Board for that year which are properly chargeable in respect of the works and services to which the agreement relates plus interest for that year at the rate agreed upon, upon the amount (if any) by which the capital cost of the works exceeds the amount provided by the council;
- (iii) provision for ascertaining the amount of any such deficiency.

The

The agreement may also include such other terms, conditions or provisions not inconsistent with this Act as the council and the Board may think fit.

No. 50, 1935.

(c) In this subsection—

“Collectable income of the Board” means the moneys payable to the Board in any year whether by way of rates or charges or otherwise howsoever in respect of the works and services to which the agreement relates.

“Net collectable income of the Board” means the collectable income of the Board less—

- (i) the proportion of the working expenses of the Board for the year, which are properly chargeable in respect of such works and services; and
- (ii) interest for the year at the rate agreed upon, upon the amount (if any) by which the capital cost of the works exceeds the amount provided by the council.

“Board” means—

- (i) in relation to water mains or sewers or works connected therewith within the area of operations of the Metropolitan Water, Sewerage, and Drainage Board—the Metropolitan Water, Sewerage, and Drainage Board;
- (ii) in relation to water mains or sewers or works connected therewith within any water district or sewerage district as respectively defined in the Hunter District Water and Sewerage Act, 1892-1928—the Hunter District Water Supply and Sewerage Board.

- (ii) by omitting from subsection three of the same section the words “such agreement” where firstly occurring and by inserting in lieu

No. 50, 1935.

lieu thereof the words "any agreement made pursuant to subsection one or subsection two of this section";

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

(3A) To provide for the payment of any such sums as are referred to in subparagraph (ii) of paragraph (b) of subsection (2A) of this section, the council shall levy a local rate on the lands ratable by the Board in respect of the works and services to which the agreement under which such sums are payable relates or pay the sum out of the general fund;

- (iv) by inserting in subsection four of the same section after the words "under this section" the words "or payable in respect of an undertaking referred to in subparagraph (ii) of paragraph (b) of subsection (2A) of this section.

New sec.
493A.

Agreement
by Treasurer
in relation
to certain
loan
liabilities
of councils.

*am
Act
addition
Act 10.03*

- (f) by inserting next after section four hundred and ninety-three the following new section:—

493A. (1) In any case where a council borrows money it shall be lawful for the Treasurer, on the recommendation of the Minister, to enter into an agreement with the council to pay to the council, in each year during such period as may be specified in the recommendation, ~~the sum specified in the recommendation~~ for or towards meeting the liability of the council in respect of such borrowing.

The agreement may include such terms, conditions or provisions not inconsistent with this Act as the Minister may recommend and may, if the Minister so recommends, provide for the repayment, in instalments or otherwise, of any sums paid to the council thereunder.

Agreement
by Treasurer
to meet
interest in
excess of
3½ per cent.

(2) Without prejudice to the generality of subsection one of this section in any case where the rate of interest on moneys borrowed by a council ~~by way of ordinary loan for any of the purposes mentioned in paragraph (g2) of subsection one of section one hundred and~~ seventy-seven

Local Government (Further Amendment) Act.

581

~~seventy-seven of this Act, or by way of renewal loan for the purpose of repaying or renewing any such ordinary loan or any earlier renewal loan in respect thereof and of paying the expenses thereof exceeds three and one-half per centum per annum, it shall be lawful for the Treasurer to enter into an agreement with the council to pay to the council in each year a sum equivalent to the difference between the amount payable as interest for that year and the amount which would have been so payable if the rate of interest were three and one-half per centum per annum.~~

No. 50, 1935.

(3) Such sums as from time to time become due and payable by the Treasurer under any agreement authorised by this section ~~shall~~ ^{may} be paid out of ~~the Consolidated Revenue Fund~~ ^{moneys provided} without further appropriation than this Act and/or out of moneys provided by the Parliament of the Commonwealth of Australia upon terms which are not inconsistent with the application of such moneys for the purposes of this section.

(4) A recommendation shall not be made by the Minister under subsection one of this section after the thirtieth day of June, one thousand nine hundred and ~~thirty-eight~~.

- (g) (i) by inserting in subsection two of section five hundred and thirty-nine after the word "purpose" the words "or from moneys made available to the State of New South Wales by the Parliament of the Commonwealth of Australia upon terms which are not inconsistent with the application of such moneys for the purpose";
- (ii) by inserting in the same subsection after the words "to councils for" the words "or in connection with";
- (iii) by inserting at the end of the same subsection the words "or for the provision of services or for or towards the payment of interest on moneys borrowed by councils for any of such purposes or for

Sec. 539.

(Advances to councils.)

No. 50, 1935.

for or towards meeting any guarantee given by a council under subsection one or subsection two of section four hundred and ninety-three of this Act, or for or towards meeting the liability of a council in respect of an undertaking referred to in subparagraph (ii) of paragraph (b) of subsection (2A) of that section, or for or towards meeting the liability of a council in respect of a borrowing by way of ordinary loan for any of the purposes referred to in paragraph (g3) of subsection one of section one hundred and seventy-seven of this Act;

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

(2A) The Minister may make advances to councils to supplement moneys borrowed for any of the purposes mentioned in paragraph (g1) or paragraph (g2) of subsection one of section one hundred and seventy-seven of this Act.

Any such advance shall be made out of moneys provided by Parliament for the purpose or out of moneys made available to the State of New South Wales by the Parliament of the Commonwealth of Australia upon terms which are not inconsistent with the application of such moneys for the purposes of this subsection.

Further
amendment
of Act No.
41, 1919.
Sec. 121.
(Local rate.)

3. The Principal Act is further amended—

- (a) by omitting from subsection one of section one hundred and twenty-one the word “which” and by inserting in lieu thereof the words “or for or towards repaying with interest any advance made by the Minister in connection with the execution of any work or service where, in either case, such work or service”;
- (b) by inserting at the end of subsection one of section three hundred and eighty-two the words “Provided that the council shall not, without the consent of the Minister, extend any such works with respect to which a debt is owing to the Treasurer”
- (c)

Sec. 382.
(Powers of
council.)

- (c) by inserting next after section four hundred the following new Division:—

No. 50, 1935.
New Div. 6A.

DIVISION 6A.—*Loans and Advances Advisory Committee.*

400A. (1) There shall be constituted a Loans and Advances Advisory Committee (in this Division referred to as the "Committee") which shall have and may exercise and perform the powers, authorities, duties and functions by this Division conferred and imposed on the Committee.

Loans and
Advances
Advisory
Committee.

(2) The Committee shall consist of three members who shall be appointed by the Governor.

(3) One of such members shall, in and by his appointment be the chairman of the Committee, and another of such persons shall, in and by his appointment, be the deputy-chairman of the Committee.

(4) The provisions of the Public Service Act, 1902, or of any Act amending that Act, shall not apply to the appointment of members of the Committee, and such members shall not, in their capacity as members of the Committee, be subject to the provisions of any such Act.

(5) Any two members of the Committee shall form a quorum and any meeting at which a quorum is present shall be competent to transact any business of the Committee.

(6) The procedure for calling meetings and the conduct of business at meetings of the Committee shall, subject to any ordinance made in that behalf, be as determined by the Committee.

(7) The Committee shall keep minutes of all its proceedings.

(8) The Committee shall furnish the Minister with full information on any business of the Committee which the Minister may require.

(9)

Local Government (Further Amendment) Act.

No. 50, 1935.

1935, 1936, 1937

(9) (a) The Governor may remove any member of the Committee appointed under this section.

(b) If any member of the Committee

- (i) dies; or
- (ii) resigns his office by writing under his hand addressed to the Governor; or
- (iii) is absent from three consecutive meetings of the Committee—except with leave granted by the Committee; or
- (iv) is removed by the Governor,

his office as a member shall thereupon become vacant and the Governor may appoint a person to take the place of the member whose office has become vacant.

(10) No act or proceeding of the Committee shall be invalidated or prejudiced by reason only of the fact that at the time such act or proceeding was done taken or commenced there was a vacancy in the office of any one member.

(11) A member of the Committee shall not be entitled to receive any salary, fee, allowance or remuneration for his services as a member of the Committee, but shall be entitled to receive travelling expenses at a rate prescribed.

(12) At any meeting of the Committee the chairman, or in his absence the deputy-chairman, shall preside.

The chairman, or in his absence the deputy-chairman, shall have a deliberative vote, and, if the voting on any question is equal, shall have a second or casting vote.

(13) Upon the thirtieth day of June, one thousand nine hundred and thirty-eight, the Committee shall be dissolved and the members of the Committee shall cease to hold office as such members.

**Functions of
Committee.**

400B. (1) It shall be the duty of the Committee to consider and furnish reports to the Minister with respect to proposals for the erection, construction

construction and carrying out of works of water supply or sewerage and works connected therewith, under conditions providing for the payment of the cost thereof from moneys borrowed by way of ordinary loan by the councils concerned and from supplementary advances made by the Minister under subsection (2A) of section five hundred and thirty-nine of this Act.

No. 50, 1935.

(2) In each such report the Committee shall set out—

- (a) the estimated cost of the works;
- (b) the amount, calculated in the manner set out in subsection three of this section, which could be provided out of moneys borrowed by the council.

(3) The following provisions shall have effect with respect to the calculation of the amount which could be provided out of moneys borrowed by the council:—

(a) The Committee shall estimate—

- (i) upon what portion of the area of the council a local rate might be made and levied in respect of the works when constructed or extended;
- (ii) the population of such portion of the area;
- (iii) the sum which would be produced annually by rates and charges equivalent to an annual charge of twenty-five shillings (in the case of works of water supply) and/or of twenty-one shillings (in the case of works of sewerage) per head of such population;
- (iv) the probable average annual cost of maintenance and management of the works over the period not exceeding

exceeding forty-five years during which the loan would be repayable.

(b) The Committee shall calculate the amount which, together with interest at the rate of three and one-half per centum per annum, would be repaid during such period by equal consecutive half-yearly instalments each equal to half the difference between the annual sum estimated in accordance with subparagraph (iii) of paragraph (a) of this subsection and the probable average annual cost estimated in accordance with subparagraph (iv) of the same paragraph.

(c) The amount calculated in accordance with paragraph (b) of this subsection shall be the amount which could be provided out of moneys borrowed by the council.

Sec. 490.
(Acrodromes.)

(d) by inserting in subsection one of section four hundred and ninety, after the word "may," where firstly occurring, the words "within or outside its area."

Further amendment of Act No. 41, 1919. New s. 422B. Agreement by Treasurer in relation to certain franchises.

4. The Principal Act is further amended by inserting next after section 422A the following new section:—

422B. (1) Where, for the benefit of a part of its area, the council deems it advisable that a person who has entered into an agreement with the council under section four hundred and twenty of this Act relating to the supply of electric current to the public, should extend a main line or branch line of supply, the council may, in any case where such person is not bound under the agreement to make such extension, request the Minister to make a recommendation under this section.

(2) The Minister may thereupon recommend the Treasurer to undertake to pay to such person

person in each year during such period as may be specified a specified sum for or towards meeting any annual liability of such person incurred in connection with such extension, and may further recommend that such undertaking shall impose such terms and conditions as may be specified.

(3) It shall be lawful for the Treasurer to give an undertaking in accordance with the recommendation.

Such sums as from time to time become due and payable by the Treasurer under any such undertaking ~~may~~ be paid out of the Consolidated Revenue Fund without further appropriation than this Act and/or out of moneys provided by the Parliament of the Commonwealth of Australia upon terms which are not inconsistent with the application of such moneys for the purposes of this section.

(4) The Treasurer may, if the Minister so recommends, require such person to repay, in instalments or otherwise, any sums paid to him pursuant to the undertaking and to give security for such repayments.

For the purpose of any such security the Treasurer is hereby declared to be a corporation sole under the name of "The Colonial Treasurer" and by that name shall have perpetual succession and an official seal and may sue and be sued and may take all legal proceedings, and may take and hold any property real or personal.

Where any property or interest therein or charge thereon is vested in or acquired by the Colonial Treasurer as such corporation sole the same shall, unless otherwise disposed of by the person for the time being holding the office of Colonial Treasurer, pass and devolve to and vest in his successors in that office.

(5) A recommendation shall not be made by the Minister under subsection two of this section after the thirtieth day of June, one thousand nine hundred and thirty-eight.

for d

Local Government (Further Amendment) Act.

No. 50, 1935.

Amendment
of Act No.
58, 1934.Sec. 6.
(Reduction
of interest
rate.)

5. (1) The Country Towns Water Supply, Sewerage, and Drainage (Reduction of Debts) Act, 1934, is amended—

(a) by omitting subsection one of section six and by inserting in lieu thereof the following new subsection:—

(1) In any case where the rate of interest payable by a council to the Crown or to the Colonial Treasurer on a debt owing under any Act in respect of the construction of works of water supply, sewerage or drainage, exceeds three and one-half per centum per annum, such rate of interest is hereby reduced to three and one-half per centum per annum.

Where any such debt is payable by instalments of principal and interest combined the amount of any such instalment shall be the amount which would be payable if the rate of interest were three and one-half per centum per annum.

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

(4) The amounts to be debited for interest to the Junee Water Supply Administration Account pursuant to section thirteen of the Junee Water Supply Administration Acts, 1915-1927, shall be calculated at the rate of three and one-half per centum per annum.

Commence-
ment.

(2) Subsection one of this section shall be deemed to have commenced on the first day of January, one thousand nine hundred and thirty-five.