

GREATER NEWCASTLE ACT.

Act No. 20, 1937.

An Act to unite the City of Newcastle and certain other areas and parts of areas and to constitute the united area as a city; to provide for the division of the united area into wards; to confer and impose certain powers, authorities, duties and functions upon the Council of the united area; to repeal the Newcastle District Abattoir and Sale-yards Act, 1912, and certain other Acts; to amend the Local Government Act, 1919, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 15th December, 1937.]

George VI,
No. 20, 1937.

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 :—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Greater Newcastle Act, 1937."

Short title,
construction
and division
into Parts.

(2) This Act shall be read and construed with the Local Government Act, 1919, as amended by subsequent Acts.

(3)

Greater Newcastle Act.

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(3) This Act is divided into Parts as follows:—

PART I.—PRELIMINARY—SS. 1, 2.

PART II.—CONSTITUTION OF CITY OF GREATER
NEWCASTLE—S. 3.PART III.—CONSTITUTION OF GREATER NEWCASTLE
COUNCIL—SS. 4-12.DIVISION 1.—*Aldermen and first election*—SS. 4, 5.DIVISION 2.—*Greater Newcastle Electoral Com-
mission*—S. 6.DIVISION 3.—*Division into wards*—SS. 7, 8.DIVISION 4.—*Preparation of rolls*—SS. 9, 10.DIVISION 5.—*First election*—S. 11.DIVISION 6.—*Method of Voting at elections of
Greater Newcastle Council*—S. 12.PART IV.—SPECIAL PROVISIONS AS TO COUNCILS—SS.
13-16.PART V.—TRANSFER OF RIGHTS, LIABILITIES,
PROPERTY AND SERVANTS.—SS. 17, 18.PART VI.—ADDITIONAL POWERS AND FUNCTIONS—SS.
19-31.DIVISION 1.—*Preliminary*—S. 19.DIVISION 2.—*Newcastle District Abattoir Board*—
SS. 20-24.DIVISION 3.—*Transfer of certain transport func-
tions*—SS. 25-31.

PART VII.—MISCELLANEOUS—SS. 32-44.

PART VIII.—ORDINANCES—S. 45.

SCHEDULES.

Interpreta-
tion.**2.** In this Act, unless the context or subject matter
otherwise indicates or requires—“Appointed day” means the first day of March
one thousand nine hundred and thirty-eight or
such later day as may be proclaimed by the
Governor.

“Commission”

- “Commission” means the Greater Newcastle Electoral Commission appointed under this Act. No. 20, 1937.
- “Greater Newcastle” means the City of Greater Newcastle constituted by this Act.
- “Greater Newcastle Council” means the Council of the City of Greater Newcastle.
- “Local Government Act” means the Local Government Act, 1919, as amended by subsequent Acts.

PART II.

CONSTITUTION OF CITY OF GREATER NEWCASTLE.

3. (1) Upon the appointed day the City of Newcastle, together with the municipalities referred to in the First Schedule to this Act, and the part of the Shire of Tarro described in Part I of the Second Schedule to this Act and the part of the Shire of Lake Macquarie described in Part II of the Second Schedule to this Act, shall, without further or other authority than this Act, be united and shall be constituted an area within the meaning of the Local Government Act. Union of certain municipalities and parts of certain shires.

(2) Such area shall be a city and shall be described as the City of Greater Newcastle.

(3) The provisions of the Local Government Act shall to the extent to which they are not inconsistent with this Act, apply to and in respect of the City of Greater Newcastle.

(4) Upon the appointed day—

- (a) the part of the Shire of Tarro described in Part I of the Second Schedule to this Act shall cease to be a part of the Shire of Tarro;
- (b) the council of such shire shall be deemed to be the council of that shire as altered by the taking away of the part referred to in Part I of the Second Schedule to this Act; and
- (c) no reconstitution of the council or the area of the Shire of Tarro shall be necessary.

(5)

(5) Upon the appointed day—

- (a) the part of the Shire of Lake Macquarie described in Part II of the Second Schedule to this Act shall cease to be a part of the Shire of Lake Macquarie;
- (b) the council of such shire shall be deemed to be the council of that shire as altered by the taking away of the part referred to in Part II of the Second Schedule to this Act; and
- (c) no reconstitution of the council or the area of the Shire of Lake Macquarie shall be necessary.

(6) (a) The union of the areas and parts of areas referred to in subsection one of this section, and the constitution of Greater Newcastle under this section shall be deemed to be an exercise of the power conferred upon the Governor by paragraph (c) of section sixteen of the Local Government Act, and the provisions of that Act (except section twenty) shall, to the extent to which provision is not otherwise made in this Act, apply as if on the date of the commencement of this Act, a proclamation had been issued by the Governor under the said paragraph (c) of section sixteen providing for the union of the areas and parts of areas referred to in subsection one of this section on the appointed day, and the constitution on that day of Greater Newcastle.

(b) For the purpose of giving effect to the provisions of this Act, any proclamation which the Governor is authorised to make under section twenty-one of the Local Government Act, may be made at any time either before or after the appointed day.

PART III.

CONSTITUTION OF GREATER NEWCASTLE COUNCIL.

DIVISION 1.—*Aldermen and first election.*

Aldermen
and wards.

4. (1) The Greater Newcastle Council shall consist of twenty-one aldermen.

(2)

(2) Greater Newcastle shall be divided into seven wards. No. 20, 1937.

(3) The respective wards of Greater Newcastle shall be represented on the Greater Newcastle Council by an equal number of aldermen.

5. (1) The first election of aldermen for the Greater Newcastle Council (in this Act referred to as the first election) shall be held on a day to be proclaimed by the Governor: First election.

Provided that such first election shall be held before the appointed day.

(2) The office of an alderman elected at such first election shall—

- (a) commence on the appointed day;
- (b) become vacant on the day appointed by or under the Local Government Act for the next ordinary election of aldermen under that Act after the appointed day or on the occurrence of an extraordinary vacancy, whichever first happens.

(3) (a) For the purposes only of this subsection Greater Newcastle shall be deemed to have been constituted upon the date of the first election, and the persons elected at the first election shall be deemed to be aldermen of the Greater Newcastle Council, and the provisions of the Local Government Act and the ordinances thereunder to the extent to which they are applicable, shall apply accordingly.

(b) During the period commencing on the date of the first election and ending on the appointed day, the powers and functions of the Greater Newcastle Council shall be limited to the matters and things following that is to say—

- (i) the election of a mayor;
- (ii) the provision of an office for the Greater Newcastle Council;
- (iii) the appointment of servants of the Greater Newcastle Council and the organisation of the staff of servants, but only so far as such appointment and organisation are necessary before the appointed day;

(iv)

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(iv) the preparation, performance and carrying into effect of all such acts, matters and things as in the opinion of the Greater Newcastle Council are necessary or expedient in order to enable that council to exercise and discharge on and after the appointed day all or any of the powers authorities duties and functions conferred and imposed on the Greater Newcastle Council by or under this Act.

(c) The first meeting of the Greater Newcastle Council during the period commencing on the date of the first election and ending on the appointed day shall be convened by the Minister by notice in the Gazette. The notice shall specify the date hour and place of such meeting.

(d) The Minister may by notice in the Gazette specify the date, or the time during or within which the mayor shall be elected pursuant to paragraph (b) of this subsection.

(4) Upon the appointed day the person elected as mayor pursuant to paragraph (b) of subsection three of this section shall become the mayor of Greater Newcastle for all purposes and shall hold his office as mayor under and subject to the provisions of the Local Government Act.

DIVISION 2.—Greater Newcastle Electoral Commission.

Commission.

6. (1) There shall be a Greater Newcastle Electoral Commission which shall consist of three members who shall be appointed by the Governor by notification published in the Gazette.

(2) One of the members so appointed shall be the Electoral Commissioner for New South Wales.

(3) The office of a member of the Commission shall be tenable for the period specified in the notification and if necessary for such extended period to be specified in a further notification as the Governor may deem proper for the carrying out by the Commission of the powers and duties conferred and imposed upon it by this Act.

(4) At any sitting of the Commission the Electoral Commissioner for New South Wales shall, when present, be Chairman; and in his absence the members present shall appoint one of themselves to be Chairman as occasion may require.

(5)

(5) At any sitting of the Commission two members shall form a quorum; and in the event of an equality of votes the Chairman shall have a casting vote in addition to his original vote.

(6) For the purposes of carrying out the powers and duties conferred and imposed on the Commission by this Act the Commission shall have the powers and immunities of a Commissioner, and the Chairman of the Commission shall have the powers of a chairman within the meaning of Division 1 of Part II of the Royal Commissions Act, 1923-1934, and the provisions of that Act, with the exception of section thirteen and of Division 2 of Part II shall, mutatis mutandis, apply to any witness or person summoned by or appearing before the Commission.

(7) For the purposes of carrying out the powers and duties conferred and imposed on the Commission by this Act the Commission may, with the approval of the Minister of the Department concerned, make use of the services of any of the officers and employees of the public service, including members of the police force; and it shall be the duty of the council of the City of Newcastle and of each municipality and shire referred to in the First Schedule and the Second Schedule to this Act, and of every officer and servant of any such council to furnish such information and afford such assistance as the Commission may require for the purposes aforesaid.

DIVISION 3.—*Division into wards.*

7. (1) It shall be the duty of the Commission and it is hereby directed to divide the proposed area of Greater Newcastle into seven wards, and to determine the boundaries of the wards. Determination of boundaries of wards.

(2) Such division and determination shall be made as soon as practicable after the commencement of this Act.

(3) The Commission shall report to the Governor the boundaries of the wards as determined by it and shall recommend names to be assigned by the Governor to such wards.

(4) The Governor shall, by proclamation published in the Gazette, set out the names of such wards and the boundaries thereof, and upon such publication those wards,

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wards, with such names, shall, for the purposes of the preparation under this Part of an original roll of electors for Greater Newcastle and of the carrying out of the first election, be the wards of Greater Newcastle.

(5) On and from the appointed day such division of Greater Newcastle into wards and the naming of such wards shall be deemed to have been made under subsection one of section fifty-eight of the Local Government Act, and the provisions of that Act shall, subject to section four of this Act, apply accordingly.

Basis of
determina-
tion.

8. (1) The division of Greater Newcastle into wards and the determination of the boundaries thereof shall be made by the Commission in accordance with the provisions of this section.

(2) (a) Each ward shall have such an area that the number of electors for such ward shall, subject to the margin of allowance, be one-seventh of the total number of electors for the respective wards.

(b) The margin of allowance shall not exceed ten per centum above or below the number obtained by dividing by seven the total number of electors for the respective wards.

(c) For the purposes of this subsection "elector" means a person who is enrolled as an elector on the roll prepared during the year one thousand nine hundred and thirty-seven for the City of Newcastle or for any municipality or shire referred to in the First Schedule or the Second Schedule to this Act, and who would be qualified for enrolment if the City of Greater Newcastle had already been constituted and such wards had already been duly proclaimed under the Local Government Act as the wards of that City.

(3) In determining the boundaries of the wards due consideration shall be given to community or diversity of interest, lines of communication, and physical features.

DIVISION 4.—*Preparation of rolls.*

Preparation
of original
roll.

9. (1) It shall be the duty of the Commission, and it is hereby directed to prepare an original roll of electors for the City of Greater Newcastle.

(2)

(2) Such roll shall be prepared as soon as practicable after the publication in the Gazette pursuant to section seven of this Act of the proclamation dividing Greater Newcastle into wards.

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10. (1) The Commission shall prepare such roll in accordance with the provisions of this section.

Method of preparation of roll.

(2) Rolls shall be prepared separately for each ward; and the rolls for all the wards shall, taken together, be the original roll for Greater Newcastle.

(3) The Commission shall compile a list in respect of each ward of Greater Newcastle proclaimed under this Act, and shall include in such list the name of every person who is enrolled on the roll prepared during the year one thousand nine hundred and thirty-seven for the City of Newcastle or for any municipality or shire referred to in the First Schedule or the Second Schedule to this Act, and who would be qualified for enrolment on the roll for that ward, if the City of Greater Newcastle had already been constituted, and such ward had already been duly proclaimed under the Local Government Act as a ward of that City.

(4) Such list shall be in or to the effect of the form prescribed by or under the Local Government Act for an original roll of electors, and shall contain the information required by that form so far as such information is set out in any roll referred to in subsection three of this section.

(5) The Commission shall forthwith cause a fair copy to be made of the list so compiled for each ward, and shall certify to the correctness of the same.

(6) The list for a ward so certified shall for the purpose of the carrying out of the first election be the roll of electors for that ward.

(7) On and from the appointed day each roll of electors for a ward so prepared shall be deemed to have been prepared under and in accordance with the Local Government Act as a roll of electors for that ward.

(8) On and from the date upon which the preparation by the Commission under this Division of the rolls of

No. 20, 1987.

of electors for all the wards of Greater Newcastle is completed, the following provisions shall have effect—

- (a) a person who immediately before such date possesses a qualification for enrolment on the roll of electors for B riding of the Shire of Tarro, and who possesses that qualification in respect of a parcel of land which is situated within the part of that shire described in Part I of the Second Schedule to this Act shall cease to hold the qualification for enrolment in respect of that parcel of land on the roll of electors for the said riding;
- (b) a person who immediately before such date possesses a qualification for enrolment on the roll of electors for B riding of the Shire of Lake Macquarie, and who possesses that qualification in respect of a parcel of land which is situated within the part of that shire described in Part II of the Second Schedule to this Act, shall cease to hold the qualification for enrolment in respect of that parcel of land on the roll of electors for the said riding.

DIVISION 5.—*First election.*

**First
election.**

11. (1) Subject to this Act—

- (a) the first election shall be carried out under and in accordance with the Local Government Act and the ordinances made thereunder, except ordinance ten, which relates to postal voting in shires, and Ordinance 10A, which relates to proportional representation;
- (b) the Local Government Act and the ordinances made thereunder, except Ordinance ten and Ordinance 10A, shall apply to and in respect of the first election.

(2) (a) For the purposes of the first election the Governor may appoint a returning officer.

(b) The provisions of the Local Government Act and the ordinances thereunder relating to the returning officer for an election shall, mutatis mutandis, apply to and in respect of the returning officer appointed under this section.

(3)

(3) The Minister shall notify in the Gazette "the office of the council" for the purpose of the first election.

(4) The expenses incurred in carrying out the first election shall, when certified under the hand of the returning officer, be paid by the Colonial Treasurer.

The amount of such expenses shall be repaid by the Greater Newcastle Council within six months after the account therefor is rendered to that council by the Colonial Treasurer.

(5) For the purposes of carrying out the first election the returning officer may, with the approval of the Minister of the Department concerned, make use of the services of any of the officers and employees of the public service, including members of the police force; and it shall be the duty of the council of the City of Newcastle and of each municipality and shire referred to in the First Schedule and the Second Schedule to this Act, and of every officer and servant of any such council to furnish such information and afford such assistance as the returning officer may require for the purposes aforesaid.

DIVISION 6.—*Method of voting at elections of Greater Newcastle Council.*

12. The Local Government Act is amended—

Amendment
of Act No.
41, 1919.
Sec. 73.

(a) by inserting at the end of subsection four of section seventy-three, the following proviso:—

Provided that in the case of a contested election of aldermen for the City of Greater Newcastle (including the first election of aldermen for the City of Greater Newcastle to be held pursuant to Part III of the Greater Newcastle Act, 1937) the following provisions shall have effect:—

(a) The ballot-papers for the election shall be in or to the effect of the form set out in Schedule Five to this Act.

(b)

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cf. Sydney
Corporation
Act, 1932-
1934,
s. 35 (4).

- (b) An elector shall record his vote on a ballot-paper as follows:—He shall vote for not less than the prescribed number of candidates by placing the figure “1” in the square opposite the name of the candidate for whom he votes as his first preference and by placing the figures “2,” “3,” “4” (and so on as the case requires) in the squares respectively opposite the names of so many other candidates as will, with the candidate for whom he votes as his first preference, complete the prescribed number.

The elector may, in addition, indicate the order of his preference for as many more candidates as he pleases by placing in the squares respectively opposite their names other figures next in numerical order after the figures already placed by him on the ballot-paper.

In this paragraph “the prescribed number” means a number equal to twice the number of the candidates to be elected, plus one, or, if there are fewer candidates than that number, the total number of candidates.

Sydney
Corporation
Act, 1932-
1934,
s. 40 (1A).

Ibid. s. 46.

- (c) The method of counting the votes to ascertain the result of the election shall be as prescribed in Schedule Six to this Act.
- (d) A ballot-paper shall be informal and shall be rejected at the count if—
- (i) it is not authenticated by the initials of the returning officer or in such other manner as may be prescribed; or
 - (ii) the figure “1” standing alone indicating a first preference for some candidate is not placed on the ballot-paper; or
 - (iii) the figure “1” standing alone indicating a first preference is placed opposite the name of more than one candidate; or
 - (iv)

(iv) it has upon it any mark or writing by which in the opinion of the returning officer the voter can be identified; or

(v) it has no vote indicated on it or it does not indicate the voter's first preference for one candidate and his consecutive preferences for so many other candidates as will with the candidate for whom he votes as his first preference, be equal in number to the prescribed number as defined in paragraph (b) of this proviso.

(c) A ballot-paper shall not be informal for any reason other than the reasons specified in paragraph (d) of this proviso, but shall be given effect to according to the voter's intention, so far as his intention is clear.

(f) Notwithstanding anything to the contrary in this proviso at any election at which only one candidate is to be elected, and at which there are not more than two candidates, a ballot-paper shall not be informal by reason only of the fact that the voter has indicated his vote by placing in one square the figure "1" or a cross, and by leaving the other square blank, and in that case the cross shall be deemed to be equivalent to the figure "1."

(b) by inserting next after Schedule Four the following new Schedules:—

New Schedules Five and Six.

SCHEDULE FIVE.

City of Greater Newcastle.

BALLOT-PAPER.

ELECTION of [Aldermen (or an Alderman)] on the day of , 19 , for Ward of the City of Greater Newcastle.

Sec. 73 (4).

List

Greater Newcastle Act.

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Names.	List of Candidates for Election.	Addresses.
<input type="checkbox"/>		
<input type="checkbox"/>		
<input type="checkbox"/>		
<input type="checkbox"/>		
<input type="checkbox"/>		
<input type="checkbox"/>		
<input type="checkbox"/>		
<input type="checkbox"/>		

The number of aldermen to be elected is

Directions.—In marking his vote on this ballot-paper the voter must place in the squares respectively opposite the names of at least [here insert the number which represents twice the number of aldermen to be elected plus one, or if the number of candidates is less than that number, the total number of candidates] candidates, the figures "1," "2," "3," "4," and so on up to and inclusive of the number [here insert the number which represents twice the number of aldermen to be elected plus one, or if the number of candidates is less than that number, the total number of candidates] so as to indicate the order of his preference for such candidates, and if there are any more candidates may, in addition, indicate the order of his preference for as many of them as he pleases by placing in the squares respectively opposite their names other figures next in numerical order after those already used by him.

SCHEDULE SIX.

City of Greater Newcastle.

METHOD OF COUNTING VOTES AT CONTESTED ELECTIONS.

Division 1.

Sec. 73 (4). Where one candidate only is to be elected at an election in any ward the votes shall be counted and the result of the election ascertained by the returning officer, or under his direction and supervision, in accordance with the following provisions:—

- (a) The unrejected ballot-papers shall be arranged under the names of the respective candidates by placing in a separate parcel all those on which a first preference is indicated for the same candidate.

(b)

- (b) The total number of first preferences given for each candidate on such ballot-papers shall then be counted. **No. 20, 1937.**
- (c) The candidate who has received the largest number of first preference votes shall, if that number constitutes an absolute majority of votes, be elected.
- (d) If no candidate has received an absolute majority of first preference votes, a second count shall be made.
- (e) On the second count the candidate who has received the fewest first preference votes shall be excluded, and each unexhausted ballot-paper counted to him shall be counted to the candidate next in the order of the voter's preference.
- (f) If a candidate then has an absolute majority of votes, he shall be declared elected, but if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the fewest votes and counting each of his unexhausted ballot-papers to the continuing candidate next in the order of the voter's preference shall be repeated until one candidate has received an absolute majority of votes.
- (g) The candidate who has received an absolute majority of votes shall be declared elected.

Division 2.

Where two candidates are to be elected at an election in any ward the votes shall be counted and the result of the election ascertained by the returning officer, or under his direction and supervision, in accordance with the following provisions:—

- (a) One of the candidates shall be elected in accordance with the provisions of Division 1 of this Schedule.
- (b) All the unrejected ballot-papers shall be rearranged under the names of the respective candidates in accordance with the first preference indicated thereon, except that each ballot-paper on which a first preference for the elected candidate is indicated shall be placed in the parcel of the candidate next in the order of the voter's preference.
- (c) The number of ballot-papers in the parcel of each candidate shall then be counted and the total number of votes so counted to each candidate shall be ascertained.
- (d) If a candidate then has an absolute majority of votes he shall be elected, but if no candidate then has an absolute majority of votes, the count shall proceed as provided in paragraphs (d), (e) and (f) of Division 1 of this Schedule, until one candidate has received an absolute majority of votes:

Provided that in the application of paragraphs (d) and (e) of Division 1 of this Schedule, any reference to first preference votes shall be read as a reference to all the votes counted to a candidate in pursuance of this Division.

(e)

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- (e) The candidate who has received an absolute majority of votes shall be elected.

Division 3.

Where three candidates are to be elected at an election in any ward two of the candidates shall be elected in accordance with the provisions of Division 1 and Division 2 of this Schedule.

The third candidate shall be elected in the manner provided in Division 2 of this Schedule as regards the election of the second candidate:

Provided that a ballot-paper on which a first preference for any elected candidate is marked shall be placed in the parcel of the continuing candidate next in the order of the voter's preference.

Division 4.

1. In the process of counting under Division 1, or Division 2, or Division 3, as the case may be, of this Schedule, exhausted ballot-papers shall be set aside as finally dealt with and shall thenceforth not be taken into account in the election of a candidate under that particular Division.

2. (a) When a candidate is elected or excluded, each ballot-paper counted to him shall be deemed to be exhausted if there is not indicated upon it a next preference for one continuing candidate.

(b) "Next preference" in paragraph (a) of this rule includes the first of the subsequent preferences marked on the ballot-paper which is not given to an elected or excluded candidate: Provided that where there is a break in the consecutive numbering of preferences marked on a ballot-paper (other than a break necessitating the rejection of the ballot-paper as informal in pursuance of subparagraph (v) of paragraph (d) of the proviso to subsection four of section seventy-three of this Act), only those preferences preceding the break shall be taken into account.

3. (a) If on any count two or more candidates have an equal number of votes and one of them has to be excluded, the returning officer shall determine by lot between them which of them shall be excluded.

(b) If in the final count for the election of a candidate, two candidates have an equal number of votes, the returning officer shall decide by his casting vote which shall be elected; but except as provided in this paragraph he shall not vote at the election.

4. In this Schedule—

"Continuing candidate" means a candidate not already elected or excluded from the count.

"An absolute majority of votes" means a greater number than one-half of the whole number of ballot-papers other than informal and exhausted ballot-papers. The casting vote of
the

the returning officer given in pursuance of paragraph (b) of Rule 3 of this Division of this Schedule shall be included in reckoning an absolute majority of votes. No. 20, 1937.

“Unrejected ballot-papers” means all ballot-papers not rejected as informal.

“Determine by lot” means determine in accordance with the following directions:—

The names of the candidates concerned having been written on similar slips of paper, and the slips having been folded so as to prevent identification, and mixed and drawn at random, the candidate or candidates shall, for the purpose of exclusion from the count, be excluded in the order in which their names are drawn.

PART IV.

SPECIAL PROVISIONS AS TO COUNCILS.

13. The triennial ordinary election of aldermen for the City of Newcastle and for the municipalities referred to in the First Schedule to this Act, directed under the Local Government Act to be held on the eighteenth day of December one thousand nine hundred and thirty-seven, shall not be held. Triennial ordinary elections.

14. The mayors and aldermen of the City of Newcastle and of the municipalities referred to in the First Schedule to this Act, in office immediately before the eighteenth day of December one thousand nine hundred and thirty-seven, may, subject to the provisions of the Local Government Act, remain in such office until the appointed day. Aldermen may continue in office.

This section shall not be construed to render any such alderman who is otherwise qualified ineligible for election as an alderman of Greater Newcastle.

15. (1) It shall not be lawful for the council of the City of Newcastle or of any of the municipalities referred to in the First Schedule to this Act to make and levy any rate for the year one thousand nine hundred and thirty-eight except with the approval of the Governor. Rates.

It

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It shall not be lawful for the council of the Shire of Tarro or for the council of the Shire of Lake Macquarie to levy, on land within that part of the shire described in the Second Schedule to this Act, the general rate made by the council of the shire for the year one thousand nine hundred and thirty-eight, except with the approval of the Governor.

Where any such approval is given, a notification thereof shall be published in the Gazette.

(2) (a) The Greater Newcastle Council shall for the year one thousand nine hundred and thirty-eight and for the year one thousand nine hundred and thirty-nine make and levy rates as follows:—

- (i) in respect of that portion of Greater Newcastle which was, immediately before the appointed day, comprised within the area of the City of Newcastle—a rate equivalent in amount to the amount of the general rate made and levied for the year one thousand nine hundred and thirty-seven in respect of that area;
- (ii) in respect of those portions respectively of Greater Newcastle which were, immediately before the appointed day, comprised within the municipalities referred to in the First Schedule to this Act—rates equivalent in amount to the respective amounts of the general rate made and levied for the year one thousand nine hundred and thirty-seven in respect of each of those municipalities;
- (iii) in respect of those portions respectively of Greater Newcastle which, immediately before the appointed day, formed part of the Shire of Tarro and of the Shire of Lake Macquarie,— rates equivalent in amounts to the respective amounts of the general rates made and levied for the year one thousand nine hundred and thirty-seven in respect of each of those shires.

(b) The rates made and levied under this subsection for the years one thousand nine hundred and thirty-eight

thirty-eight and one thousand nine hundred and thirty-nine shall be deemed for all purposes of the Local Government Act to be the general rates for those years respectively made and levied by the Greater Newcastle Council under the said Act.

16. Upon the appointed day the council of the City of Newcastle and the council of each municipality referred to in the First Schedule to this Act shall, by virtue of this section, be dissolved. Dissolution
of councils.

PART V.

TRANSFER OF RIGHTS, LIABILITIES, PROPERTY AND SERVANTS.

17. (1) On and from the appointed day the following provisions shall, subject to this Act, have effect:— Transfer.

(a) All real and personal property and all right and interest therein and all management and control of any land or thing which, immediately before the appointed day, is vested in or belongs to the council of the City of Newcastle or of any of the municipalities referred to in the First Schedule to this Act shall vest in and belong to the Greater Newcastle Council.

No attornment by a lessee of any land vested in the Greater Newcastle Council by this section shall be necessary.

(b) All rates, moneys, liquidated and unliquidated claims which, immediately before the appointed day, are payable to or recoverable by the council of the said city or of any of the said municipalities shall respectively be rates, moneys, liquidated and unliquidated claims payable to or recoverable by the Greater Newcastle Council.

(c) All suits, actions, and proceedings pending immediately before the appointed day at the suit of the council of the said city or of any of the said municipalities shall respectively be suits, actions, and proceedings pending at the suit of the Greater Newcastle Council. (d)

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- (d) All contracts, agreements, and undertakings entered into with and all securities lawfully given to or by the council of the said city or of any of the said municipalities and in force immediately before the appointed day shall be deemed to be contracts, agreements, and undertakings entered into with and securities given to or by the Greater Newcastle Council.
- (e) The Greater Newcastle Council may pursue the same remedies for the recovery of any such rates, moneys, and claims, and for the prosecution of such suits, actions and proceedings as if the same had originally been payable to and recoverable by or instituted at the suit of the Greater Newcastle Council.
- (f) The Greater Newcastle Council may enforce and realise any security or charge existing immediately before the appointed day in favour of the council of the said city or of any of the said municipalities in respect of any such rates, moneys, and claims, as if such security or charge were existing in favour of the Greater Newcastle Council.
- (g) All debts due and moneys payable by the council of the said city or of any of the said municipalities and all claims liquidated or unliquidated recoverable against any such council shall be debts due and moneys payable by and claims recoverable against the Greater Newcastle Council.
- (h) All debts of the council of the said city or of any of the said municipalities existing immediately before the appointed day shall be secured over the revenue of the Greater Newcastle Council in the same way and to the same extent in every respect as such debts are immediately before the appointed day secured over the revenues of the council of the said city or of any such municipality, and the priority of security in the revenue of the Greater Newcastle Council shall be as prescribed by the Local Government Act, or by any law for the time being in force relating thereto.
- (i)

- (i) Where for the fulfilment of its obligations or undertakings the council of the said city or of any of the said municipalities is required by law to levy loan rates, and/or local loan rates, and/or local rates, the Greater Newcastle Council shall be deemed to be subject to the like requirements, and in respect thereof the provisions of the Local Government Act, relating to such rates, shall apply.

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(2) Without prejudice to the generality of subsection one of this section, all rights, powers, authorities, duties, obligations, and functions which, immediately before the appointed day, are vested in or belong to the council of the City of Newcastle or of any of the municipalities referred to in the First Schedule to this Act, and which are conferred or imposed upon any of such councils by or under the Local Government Act or by or under any other Act (whether a Public Act or a Private Act) or otherwise in any manner whatsoever, shall, upon and from the appointed day, vest in and belong to and be exercised and discharged by the Greater Newcastle Council.

(3) All ordinances, proclamations, notifications, rules, regulations, and by-laws in force immediately before the appointed day and applicable within the whole or any part of the City of Newcastle or any of the municipalities referred to in the First Schedule to this Act or the part of the shire of Tarro described in Part I of the Second Schedule to this Act, or the part of the shire of Lake Macquarie described in Part II of the Second Schedule to this Act, shall, to the extent to which they are not inconsistent with this Act or with any ordinance or proclamation made thereunder, continue to be in force and to be so applicable, but may be amended or repealed in accordance with the law for the time being in force.

18. (1) On the appointed day all persons who immediately before such day were servants of the council of the City of Newcastle or of any of the municipalities referred to in the First Schedule to this Act—

Transfer of servants.

- (a) shall be transferred to the service of the Greater Newcastle Council; and

(b)

No. 20, 1987.

- (b) shall become servants of the Greater Newcastle Council and shall be paid salary or wages at the rates at which they were employed immediately before the appointed day until such salaries or wages are varied or altered by the Greater Newcastle Council; and
- (c) shall be deemed to have been appointed and employed by the Greater Newcastle Council under the provisions of the Local Government Act.

The persons so transferred shall, on and from the appointed day, until otherwise directed by the Greater Newcastle Council, continue to perform the duties which attached to their employment immediately before the appointed day.

(2) Where any condition of employment of any person so transferred to the Greater Newcastle Council is at the date of his transfer regulated by an award or industrial agreement, such condition shall continue to be so regulated until an award by which the Greater Newcastle Council is bound is made by a competent tribunal, or such condition is regulated by an industrial agreement to which the Greater Newcastle Council is a party.

(3) The period of service with the council of one or more cities, municipalities or shires under the Local Government Act of any person so transferred shall, upon such transfer, be counted as service with the Greater Newcastle Council for the purposes of this or any other Act or of any ordinance, regulation or by-law or of the terms and conditions of any staff agreement or of any award or agreement made under the Industrial Arbitration Act, 1912, as amended by subsequent Acts.

(4) The transfer of any person under this section shall not affect any right to leave of absence accrued prior to such transfer.

(5) If the employment of any person transferred under this section is terminated by the Greater Newcastle Council otherwise than for misconduct within a period of two years from the date of his transfer, the Greater Newcastle Council shall grant to him a gratuity equivalent to the amount of three weeks' salary or wages for each year of service, such salary or wages being reckoned

reckoned on the average of the salary or wages paid to him during the fifty-two weeks immediately preceding the termination of his employment.

This subsection shall apply only to a person who has been employed continuously by the council of any one or more cities, municipalities or shires under the Local Government Act for a period of not less than five years immediately preceding the appointed day.

(6) Where a person who is transferred under this section was engaged by the council of the City of Newcastle or of any of the municipalities referred to in the First Schedule to this Act under a subsisting contract of service which provides for payment of compensation in the event of the termination of his employment, and the employment of such person is, before the expiration of the period of the contract, terminated by the Greater Newcastle Council otherwise than in accordance with the terms of such contract, the Greater Newcastle Council shall pay to such person the amount of compensation provided for in the contract, and, if the amount of such compensation be less than the amount that would be payable to such person under subsection five of this section, shall also pay to him a gratuity equivalent to the difference.

A person who is entitled to receive any compensation or compensation and gratuity under this subsection shall not be deemed entitled to receive a gratuity under subsection five of this section.

(7) The provisions of the Local Government (Superannuation) Act, 1927-1935, shall continue to apply to and in respect of any person transferred under this section in like manner and to the same extent as the said Act would have applied if this Part of this Act had not been enacted.

(8) The Local Government Act is amended by inserting in paragraph (a) of subsection one of section ninety-five after the word "Act" the words "or any Act conferring powers or imposing duties on the council." Amendment of Act No. 41, 1919, s. 95 (1) (a).

PART VI.

ADDITIONAL POWERS AND FUNCTIONS.

DIVISION 1.—*Preliminary.*

Additional powers and functions.

19. In addition to the powers authorities duties and functions which may be exercised and discharged by the Greater Newcastle Council by or under the Local Government Act or any other Act, the Greater Newcastle Council may exercise and discharge the powers authorities duties and functions conferred and imposed upon it by or under this Part of this Act.

DIVISION 2.—*Newcastle District Abattoir Board.*

Date upon which abattoir and saleyards are to be taken over by the Greater Newcastle Council.

20. (1) This section shall commence upon the date upon which the City of Greater Newcastle is constituted an area within the meaning of the local Government Act pursuant to section three of this Act.

The date upon which the said city is so constituted is in this section referred to as the "prescribed date."

(2) In this Division of this Part "the appointed day" means the first anniversary of the prescribed date.

(3) The persons who, immediately before the prescribed date, hold office as members of the Newcastle District Abattoir Board shall, subject to the Newcastle District Abattoir and Sale-yards Act, 1912, as amended by subsequent Acts and as modified by this section, continue to hold office as such members until the appointed day.

(4) No triennial general election of members of the said Board, under section three of the Newcastle District Abattoir and Sale-yards Act, 1912, as amended by subsequent Acts, shall be held during the period commencing on the prescribed date and ending on the appointed day.

(5) The Newcastle District Abattoir and Sale-yards Act, 1912, as amended by subsequent Acts, is amended by omitting from subsection two of section four all words from the commencement of that subsection down to and including the words "extraordinary vacancy."

(6)

(6) Where an extraordinary vacancy in the office of a member of the said Board occurs at any time during the period commencing on the prescribed date and ending on the appointed day, the vacancy shall be filled by an alderman of the Greater Newcastle Council appointed in that behalf by a resolution of the said Council. No. 20, 1937.

(7) Any moneys borrowed by the said Board pursuant to section thirteen of the Newcastle District Abattoir and Sale-yards Act, 1912, as amended by subsequent Acts, after the prescribed date, shall be a charge upon the rates and revenues of the City of Greater Newcastle and upon the revenues and sinking fund of the said Board.

(8) The Newcastle District Abattoir and Sale-yards Act, 1912, as amended by subsequent Acts, is further amended— Further amendment of Act No. 49, 1912.

(a) by inserting at the end of section fourteen the following new subsection— Sec. 14.

(6) In this section—

“Municipality” includes the City of Greater Newcastle.

“Council” includes the Council of the City of Greater Newcastle.

(b) by omitting section sixteen; Sec. 16.

(c) by inserting in paragraph (a) of subsection one of section nineteen immediately after the word “Health” the words “or by a person who is an inspector under the Meat Industry Act, 1915-1934, or by a person approved by the Metropolitan Meat Industry Commissioner.” Sec. 19.

(d) by omitting from paragraph (b) of subsection one of section nineteen the words “and shall pay the prescribed fee” and by inserting in lieu thereof the words “but no fee shall be charged”;

(e) by inserting at the end of section twenty-one the following new subsection:— Sec. 21.

(4) In this section—

“Municipality” includes the City of Greater Newcastle.

“Council”

“Council” includes the Council of the City of Greater Newcastle.

(f) by inserting at the end of section twenty-five the following new subsection:—

(4) If the employment of any such officer or servant is terminated by the Board otherwise than for misconduct at any time during the period commencing on the prescribed date and ending on the appointed day the Board shall pay to him out of its funds a gratuity equivalent to the amount of three weeks' salary or wages for each year of service such salary or wages being reckoned on the average of the salary or wages paid to him during the fifty-two weeks immediately preceding the termination of his employment.

This subsection shall apply only to a person who has been employed continuously by the Board for a period of not less than five years immediately preceding the prescribed date.

In this subsection the expressions “prescribed date” and “appointed day” shall have the meanings ascribed to them respectively in Division 2 of Part VI of the Greater Newcastle Act, 1937.

The provision of funds for the purpose of meeting any liability imposed on the Board by this subsection shall be deemed to be an authorised purpose or object of the Board.

21. (1) Upon the appointed day—

- (a) the Acts mentioned in the Third Schedule to this Act, to the extent therein expressed, shall, by virtue of this section, be repealed;
- (b) the Newcastle District Abattoir Board shall, by virtue of this section, be dissolved;
- (c) the members of the Newcastle District Abattoir Board shall cease to hold office as such members.

(2)

(2) On and from the appointed day the following provisions shall, subject to this Act, have effect:—

No. 20, 1937.

- (a) All real and personal property and all right and interest therein and all management and control of any land or thing which, immediately before the appointed day, is vested in or belongs to the Newcastle District Abattoir Board, shall vest in and belong to the Greater Newcastle Council.
- (b) No attornment by a lessee of any land vested in the Greater Newcastle Council by this section shall be necessary.
- (c) All moneys and liquidated or unliquidated claims which, immediately before the appointed day, are payable to or recoverable by the said Board, shall respectively be moneys and liquidated or unliquidated claims payable to or recoverable by the Greater Newcastle Council.
- (d) All suits, actions, and proceedings pending immediately before the appointed day at the suit of the said Board shall respectively be suits, actions and proceedings pending at the suit of the Greater Newcastle Council.
- (e) All contracts, agreements and undertakings entered into with and all securities lawfully given to or by the said Board, and in force immediately before the appointed day shall be deemed to be contracts, agreements, and undertakings entered into with and securities given to or by the Greater Newcastle Council.
- (f) The Greater Newcastle Council may pursue the same remedies for the recovery of any such moneys and claims, and for the prosecution of such suits, actions and proceedings as the said Board might have done but for this Act.
- (g) The Greater Newcastle Council may enforce and realise any security or charge existing immediately before the appointed day in favour of the said Board, in respect of any such moneys

H

and

Greater Newcastle Act.

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and claims as if such security or charge were existing in favour of the Greater Newcastle Council.

- (h) All debts due and moneys payable by the said Board, and all claims liquidated or unliquidated recoverable against the said Board shall be debts due and moneys payable by and claims recoverable against the Greater Newcastle Council.

Trading
under-
taking.

22. (1) On and from the appointed day the Greater Newcastle Council shall maintain, control and manage the abattoir and cattle sale-yards vested in it under this Division.

(2) The maintenance, control and management by the Greater Newcastle Council of such abattoir and sale-yards shall be a trading undertaking of that Council within the meaning of the Local Government Act, and that Act shall apply accordingly.

(3) Such abattoir shall be deemed to have been provided and established by the Greater Newcastle Council under the Local Government Act, and such cattle sale-yards shall be deemed to have been provided and established by that Council as a public cattle market under that Act, and the provisions of that Act shall apply to and in respect of such abattoir and cattle sale-yards.

Transfer of
officers and
servants.

23. (1) On the appointed day all persons who, immediately before such day, were officers and servants of the Newcastle District Abattoir Board—

- (a) shall be transferred to the service of the Greater Newcastle Council; and
- (b) shall become servants of the Greater Newcastle Council and shall be paid salary or wages at the rates at which they were employed immediately before the appointed day until such salaries or wages are varied or altered by the Greater Newcastle Council; and
- (c) shall be deemed to have been appointed and employed by the Greater Newcastle Council.

The persons so transferred shall, on and from the appointed day until otherwise directed by the Greater Newcastle

Newcastle Council, continue to perform the duties which attached to their employment immediately before the appointed day.

(2) Where any condition of employment of any person so transferred to the Greater Newcastle Council is, at the date of his transfer, regulated by an award or industrial agreement, such condition shall continue to be so regulated until an award by which the Greater Newcastle Council is bound is made by a competent tribunal or such condition is regulated by an industrial agreement to which the Greater Newcastle Council is a party.

(3) The period of service with the Newcastle District Abattoir Board of any person transferred under this section shall, upon such transfer, be counted as service with the Greater Newcastle Council for the purposes of this or any other Act, or of any ordinance, regulation or by-law or of the terms and conditions of any staff agreement, or of any award or agreement made under the Industrial Arbitration Act, 1912, as amended by subsequent Acts.

(4) The transfer of any person under this section shall not affect any right to leave of absence accrued prior to such transfer.

(5) If the employment of any person transferred under this section is terminated by the Greater Newcastle Council otherwise than for misconduct within a period of two years from the date of his transfer, the Greater Newcastle Council shall grant to him a gratuity equivalent to the amount of three weeks' salary or wages for each year of service, such salary or wages being reckoned on the average of the salary or wages paid to him during the fifty-two weeks immediately preceding the termination of his employment.

This subsection shall apply only to a person who has been employed continuously by the Newcastle District Abattoir Board for a period of not less than five years immediately preceding the appointed day.

(6) Where a person who is transferred under this section was engaged by the Newcastle District Abattoir Board under a subsisting contract of service which provides for payment of compensation in the event of the termination

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termination of his employment before the expiration of the period of the contract, and the employment of such person is terminated by the Greater Newcastle Council otherwise than in accordance with the terms of such contract, the Greater Newcastle Council shall pay to such person the amount of compensation provided for in the contract, and, if the amount of such compensation be less than the amount that would be payable to such person under subsection five of this section, shall also pay to him a gratuity equivalent to the difference.

A person who is entitled to receive any compensation or compensation and gratuity under this subsection shall not be deemed entitled to receive a gratuity under subsection five of this section.

(7) (a) Where a person who is transferred under this section was engaged by the Newcastle District Abattoir Board under a subsisting contract of service which does not provide for payment of compensation in the event of the termination of his employment before the expiration of the period of the contract, and the employment of such person is terminated by the Greater Newcastle Council otherwise than in accordance with the terms of such contract, such person shall receive from the Greater Newcastle Council such compensation as he would have been entitled to had his services been terminated otherwise than according to law.

(b) If the amount of such compensation be less than the amount that would be payable to such person under subsection five of this section the Greater Newcastle Council shall also pay to him a gratuity equivalent to the difference.

(c) A person who is entitled to receive any compensation or compensation and gratuity under this subsection shall not be deemed entitled to receive a gratuity under subsection five of this section.

(8) Any person so transferred shall retain and shall have and enjoy the same rights and privileges, if any, with regard to annual, sick, deferred and extended leave, as if he had continued an officer or servant of the Newcastle District Abattoir Board during the period of his service with the Greater Newcastle Council.

(9)

(9) Any person so transferred who, upon such transfer, does not become a permanent servant within the meaning of the Local Government (Superannuation) Act, 1927-1935, shall retain the same rights and privileges, if any, in relation to payments from any superannuation scheme and pension fund or other fund of a like character as if he had continued to be an officer or servant of the Newcastle District Abattoir Board during the period of his service with the Greater Newcastle Council.

(10) Any person so transferred who, upon such transfer, or at any time thereafter, becomes a permanent servant within the meaning of the Local Government (Superannuation) Act, 1927-1935, and who, within three months after such transfer, or after the date upon which he becomes a permanent servant as aforesaid (as the case may require), by notice in writing addressed to the Greater Newcastle Council, so elects, shall be entitled to retain the rights and privileges, if any, in relation to payments from any superannuation scheme and pension fund or other fund of a like character to which he would have been entitled if he had continued to be an officer or servant of the Newcastle District Abattoir Board during the period of his service with the Greater Newcastle Council.

The provisions of the Local Government (Superannuation) Act, 1927-1935, shall not apply to or in respect of any person who makes such election as aforesaid.

(11) No person so transferred shall be entitled to claim benefits under this Act, as well as under any other Act, ordinance, by-law, or resolution in respect of the same period of service.

24. On and from the appointed day—

Saving of
by-laws.

(a) all by-laws made under the Newcastle District Abattoir and Sale-yards Act, 1912, as amended by subsequent Acts, and in force immediately before the appointed day, so far as they are not inconsistent with this Division of this Part of this Act, shall continue in force but may be repealed by ordinances made under the Local Government Act;

(b)

Greater Newcastle Act.

No. 20, 1937.

(b) any reference, in such by-laws or in any Act, or other instrument, to the Newcastle District Abattoir Board shall be construed as a reference to the Greater Newcastle Council;

Amendment
of Act
No. 41, 1919,
s. 461.

(c) the Local Government Act is amended by inserting at the end of subsection two of section four hundred and sixty-one (as inserted by this Act) the words "and in the case of the council of the City of Greater Newcastle shall also include power to do all or any of the following matters and things:—

(i) to establish, maintain, conduct and control works for canning, curing and smoking meat;

(ii) to purchase cattle and meat;

(iii) to sell, either on its own behalf or on behalf of any other person, cattle and meat, including bacon, ham, sausages, saveloys and other smallgoods manufactured or prepared from a carcase or any portion thereof."

Further
amendment
of Act No.
41, 1919.

New secs.
464A, 464B.

Secs. 463 and
464 not to
apply to
Greater
Newcastle.

(d) the Local Government Act is further amended by inserting after section four hundred and sixty-four the following new sections:—

464A. Sections four hundred and sixty-three and four hundred and sixty-four shall not apply to or in respect of the City of Greater Newcastle or the council of the City of Greater Newcastle.

464B. (1) This section shall apply to and in respect of the City of Greater Newcastle and the council of the City of Greater Newcastle.

(2) (a) The Governor may notify in the Gazette and in two local newspapers that, on and after a day therein mentioned, it shall not be lawful within the City to slaughter, otherwise than in the abattoir of the council, for the purpose of any trade or business, any animal (other than rabbits, poultry or game) to be used within the City for the food of man.

of. Act No.
49, 1912,
sec. 17.

(b)

(b) The Governor may, in like manner, revoke any such notification.

(c) If any person slaughters or causes to be slaughtered any animal (other than rabbits, poultry or game) to be used within the City for the food of man in contravention of a notification made under this subsection he shall be liable to a penalty of not less than twenty pounds and not exceeding one hundred pounds.

(d) Provided that the Governor may, by like notification, exempt any part of the City from the provisions of this section, or from any notification thereunder, subject to such conditions as he thinks necessary.

(e) Any notification under section seventeen of the Newcastle District Abattoir and Saleyards Act, 1912, as amended by subsequent Acts, in force immediately before the appointed day (as defined in the Greater Newcastle Act, 1937) shall, to the extent to which such notification applies within the City, be deemed to have been made under this subsection.

(3) No person shall bring or send or cause or allow to be brought or sent into the City from any part of New South Wales outside the City any carcase or part of a carcase which is to be used within the City for the food of man and which is derived from any animal (other than rabbits, poultry or game) slaughtered in New South Wales but outside the City, unless—

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cf. Act No.
69, 1915,
s. 21A.

- (a) the animal has been slaughtered at the abattoir established under the Meat Industry Act, 1915-1934, or at premises which are licensed or deemed to be licensed by The Metropolitan Meat Industry Commissioner under section 21A of the said Act; and
- (b) such animal has been inspected at the time of slaughter and passed as fit for human consumption by a person who is an inspector appointed by the Council or by a person who is an inspector under

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under the Meat Industry Act, 1915-1934, or a person approved by The Metropolitan Meat Industry Commissioner.

cf. Act No.
69, 1915,
s. 22.

(4) (a) The Council shall cause to be inspected the carcasses of all animals (other than rabbits, poultry or game) slaughtered within or brought into the City to be used therein for the food of man, and shall affix thereto or imprint thereon such marks as may be deemed expedient and shall do all things that are necessary or expedient for carrying out such inspection, and may charge such fees therefor as are prescribed, but, save as provided in subsection five of this section, no such fees shall be charged in respect of any carcass or part of a carcass brought into the City from any part of New South Wales outside the City.

(b) Any inspector duly authorised in that behalf by the Council shall condemn any carcass or part of a carcass which in his opinion is unfit for human consumption.

(c) Any carcass or part of a carcass which is condemned in pursuance of this subsection shall become the absolute property of the Council which shall pay the owner thereof such reasonable compensation as the Council may determine.

cf. Act No.
49, 1912,
s. 19.

(5) Any person bringing or causing to be brought into the City from any part of New South Wales outside the City any carcass or part of a carcass which is to be used within the City for the food of man and which is derived from any animal (otherwise than rabbits, poultry or game) slaughtered in New South Wales but outside the city, shall cause the same to be taken to the abattoir of the Council or to some place approved by the Board of Health for inspection by the person authorised in that behalf by the Council; and if any such carcass or part thereof is taken to the said abattoir such person shall pay the prescribed fee for the use of any facilities

facilities or room at the abattoir; but no such fee shall be in excess of the reasonable value of such use.

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DIVISION 3.—*Transfer of certain transport functions.*

25. In this Division—

Definitions.

“Commissioner” means the Commissioner for Road Transport and Tramways.

“Newcastle Transport District” means the district defined by the Governor pursuant to section eleven of the Transport Act, 1930, by proclamation published in Government Gazette Number one hundred and fifty-two of the tenth day of October one thousand nine hundred and thirty.

26. (1) The Governor may—

Vesting of powers, etc.

(a) by proclamation published in the Gazette, vest in the Greater Newcastle Council on and from a date specified in the proclamation all the powers, authorities, duties and functions of the Commissioner exercisable in respect of the Newcastle Transport District in relation to tramways (including trackless trolleys) and the conduct of transport services;

(b) by the same or a subsequent proclamation vest in the Greater Newcastle Council on and from a date specified in the proclamation all the powers, authorities, duties and functions of the Commissioner exercisable in respect of the Newcastle Transport District in relation to the control of the running of privately owned motor omnibus services, the registration, control and regulation under the Transport Act, 1930, of motor omnibuses and other public vehicles, and the licensing, control and regulation under such Act of the drivers and conductors of motor omnibuses and other public vehicles.

Nothing in this subsection shall be construed to apply in any way to any of the powers, authorities, duties or functions of the Commissioner exercisable in relation to the registration, control or regulation of motor vehicles or the licensing, control or regulation of the drivers thereof under the Motor Traffic Act, 1909-1930, or the licensing

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licensing, control or regulation of public motor vehicles under the State Transport (Co-ordination) Act, 1931, or the assessing or collecting of taxes on motor vehicles under any Act or the making of payments from or the administration or control of the Road Transport and Traffic Fund or the Public Vehicles Fund established by the Transport Act, 1930.

(2) Any power, authority, duty or function vested in the Greater Newcastle Council under this section shall be exercised by that Council throughout the whole of the Newcastle Transport District.

(3) Any power, authority, duty or function which is transferred to the Greater Newcastle Council under this section shall thereafter be exercised and performed by that Council and not by the Commissioner.

Proposals
for vesting
of powers.

27. (1) A proposal to the Governor to exercise any power conferred by section twenty-six of this Act may be submitted to the Minister by the Greater Newcastle Council, and no such power shall be exercised except upon a proposal so submitted.

(2) If the Minister considers it desirable that any such proposal should be proceeded with, he may give such notices, institute such inquiries and cause such conferences to be held, arrangements to be made and entered into, and steps to be taken as he may think necessary or convenient.

Application
of Acts, etc.

28. Where any power, authority, duty or function is vested in the Greater Newcastle Council by a proclamation made under this Division of this Part of this Act, the following provisions shall apply as on and from the date upon which such proclamation takes effect, namely:—

- (a) A reference express or implied in any Act or other instrument to the Commissioner or an officer or employee of the Commissioner shall, in the application of that Act or instrument to or in respect of the Newcastle Transport District in relation to the power, authority, duty or function so transferred, be construed as a reference to the Greater Newcastle Council or to a servant of that Council.

(b)

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- (b) All assets, funds, accounts, rights and liabilities (including the capital indebtedness to the State of the Commissioner) vested in or incurred by the Commissioner in respect of his transport services in the Newcastle Transport District shall be vested in or transferred to the Greater Newcastle Council.
- (c) Any regulation in any way affecting or relating to the power, authority, duty or function so transferred and in force immediately before the date upon which the proclamation takes effect, shall, if not inconsistent with this Division, continue in force within the Newcastle Transport District, but may be repealed or amended by regulations made in that behalf under the Transport Act, 1930.
- (d) Any registration certificate for a public vehicle and any license for the driver or conductor of a public vehicle granted by the Commissioner under the Transport Act, 1930, in respect of the Newcastle Transport District and in force immediately before the date upon which the proclamation takes effect shall continue in force until the date of expiry thereof unless it is sooner suspended or cancelled.

29. (1) For the purposes of this Division the Governor may, at any time, by proclamation or proclamations—

What may be provided for by proclamation.

- (a) Make such special provision as he may deem necessary for or with respect to the amount of any liabilities transferred to the Greater Newcastle Council under this Division, which constituted part of the capital indebtedness to the State of the Commissioner, and for or with respect to the payment of interest on and instalments of such amount to the Colonial Treasurer.
- (b) Provide for the continuance of suits, actions and proceedings pending immediately before the date upon which the proclamation takes effect in relation to any assets, funds, accounts, rights or liabilities vested in or transferred to the Greater Newcastle Council under this Division.

(c)

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- (c) Make such provision as he may deem necessary, having regard to any such vesting or transfer of assets, funds, accounts, rights and liabilities, for or with respect to any contracts, agreements, and undertakings entered into with and securities given to or by the Commissioner.
- (d) Make such provision as he may deem necessary, having regard to any such vesting or transfer of assets, funds, accounts, rights and liabilities, for or with respect to the pursuit of remedies, the prosecution of suits, actions and proceedings, the enforcement and realisation of securities or charges, and the recovery of liquidated and unliquidated claims and of debts due and moneys payable.
- (e) Make such provision as he may deem necessary, having regard to the powers, authorities, duties and functions vested in the Greater Newcastle Council under this Division, for the transfer, temporarily or otherwise, of all or any of the officers and employees of the Commissioner to the service of the Greater Newcastle Council.
- (f) Provide for the retention, having and enjoyment by any officer or employee so transferred of the rights, privileges and concessions referred to in the proclamation and for the continued application of any award or industrial agreement by which the employment of any such officer or employee was regulated immediately before such transfer.
- (g) Generally make such provision for or with respect to any matter or thing as may be necessary or convenient to enable full effect to be given to the vesting of any power, authority, duty or function in the Greater Newcastle Council or to any matter indicated or referred to in this section.

(2) Any such proclamation shall have the force of law.

Arrangements,
etc., between
Commissioner
and Council.

30. (1) The Greater Newcastle Council and the Commissioner shall arrange and adjust all matters connected with or arising out of any vesting in or transfer to such Council

Council of the assets, funds, accounts, rights and liabilities of the Commissioner effected by any proclamation made under this Division of this Part of this Act, or which are necessary or convenient to be arranged or adjusted to give effect to any such vesting or transfer.

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(2) The Commissioner and the Greater Newcastle Council may agree that the Commissioner may perform any services for the Greater Newcastle Council or the Greater Newcastle Council may perform any services for the Commissioner in connection with the construction or repair of any plant or equipment upon such terms of payment or otherwise as may be arranged.

31. (1) The Motor Traffic Act, 1909-1930, is amended— Amendment of Act No. 5, 1900.

(a) by omitting the second proviso to subsection one of section six; Sec. 6.

(b) by omitting subsection two of the same section.

(2) The Transport Act, 1930, as amended by subsequent Acts, is amended— Amendment of Act No. 18, 1930.

(a) by inserting at the end of section fifteen the following new subsection:— Sec. 15.

(3) (a) A public motor vehicle shall not be registered under this Act unless it is registered under the Motor Traffic Act, 1909-1930.

(b) The driver of a public motor vehicle shall not be licensed under this Act unless he is licensed under the Motor Traffic Act, 1909-1930.

(b) by inserting in paragraph (w) of subsection one of section two hundred and sixty-four after the word "Act" the words "subject to such exemptions or partial exemptions as may be specified." Sec. 264.

(3) The Transport Act, 1930, as amended by subsequent Acts, is further amended— Further amendment of Act No. 18, 1930.

(a) by omitting subsection two of section one hundred and seventy and by inserting in lieu thereof the following subsection:— Sec. 170.

(2) (a) Service license fees charged under this Act shall be paid to the Public Vehicles Fund.

(b)

Greater Newcastle Act.**No. 20, 1937.**

(b) All fees (except service license fees) charged under this Act in respect of districts other than the district defined under section eleven of this Act shall be paid to the Road Transport and Traffic Fund.

(c) All fees (except service license fees) charged under this Act in respect of the district defined as aforesaid shall be paid to an appropriate fund established by or under the Greater Newcastle Act, 1937.

Sec. 202.

(b) by omitting paragraph (c) of subsection one of section two hundred and two and by inserting in lieu thereof the following paragraph:—

(c) all fees (except service license fees) charged under this Act in respect of districts other than the district defined under section eleven of this Act.

(4) This section shall commence upon the date upon which a proclamation pursuant to paragraph (b) of subsection one of section twenty-six of this Act takes effect.

PART VII.**MISCELLANEOUS.**

32. (1) The production of—

(a) a copy of the Gazette containing any proclamation, notification, ordinance, regulation, by-law, order, direction or notice purporting to be made or given under this Act;

(b) a copy of any printed paper purporting to be or to contain any proclamation, notification, ordinance, regulation, by-law, order, direction or notice made or given under this Act and purporting to be printed by the Government Printer;

(c)

Evidence of certain instruments. of Act No. 41, 1919, s. 618.

(c) a copy purporting to be a true copy of any order, direction, or notice made by the Greater Newcastle Council and purporting to be certified as such under the hand of the Mayor or proper servant of the Council;

No. 20 1937.

shall be prima facie evidence of the due making, existence, confirmation, approval, and giving of such proclamation, notification, ordinance, regulation, by-law, order, direction, or notice, and of all preliminary steps necessary to give full force and effect to the same and of the contents thereof.

(2) A copy of any order, direction, or notice certified as aforesaid shall be delivered to any person who demands the same on payment to the Greater Newcastle Council of a sum not exceeding one shilling.

(3) The provisions of this section shall, unless inconsistent with the context or subject-matter, extend to any proclamation, notification, or notice made or given under any Act relating to any power, authority, duty or function of the Greater Newcastle Council, whether made or given before or after the commencement of this Act, and whether made or given under an Act since repealed or under a future Act.

33. (1) If the Greater Newcastle Council or any member thereof neglects or refuses to do anything which by or under this Act it or he is directed or required to do, it or he shall for any such offence be liable to a penalty not exceeding fifty pounds.

Official defaults.
cf. Act No. 41, 1919, s. 634.

(2) If any servant of the Greater Newcastle Council neglects or refuses to do anything which by or under this Act he is directed or required to do, he shall for any such offence be liable to a penalty not exceeding five pounds.

34. The Local Government Act is amended—

Amendment of Act No. 41, 1919.

(a) by inserting at the end of section three hundred and fifty-eight the following new subsection:—

Sec. 358. |

(2) The council may subsidise technical education institutions.

(b) by inserting in section three hundred and sixty after the word "club" the words "or technical education institution";

Sec. 360.

(c)

Greater Newcastle Act.**No. 20, 1937.****Sec. 483.**

Sec. 461,
new subsecs.
(2) and (3).
cf. Act No.
69, 1915,
s. 14.

(c) by inserting in section four hundred and eighty-three after the word "area" the words "or of any place outside the area but in the vicinity thereof";

(d) by inserting at the end of section four hundred and sixty-one the following new subsections:—

(2) The powers conferred on the council by subsection one of this section shall include power to do all or any of the following matters and things—

(a) to provide, manage and control works for preserving, chilling or freezing meat;

(b) to sell meat on behalf of any other person;

(c) to export meat on behalf of any person and sell the same in any place on behalf of such person, and enter into all contracts and do all things that it may deem necessary or expedient for exporting or selling as aforesaid;

(d) to deliver or contract to deliver to any person any meat from an abattoir of the council;

(e) to make such arrangements as it thinks fit with regard to the purchase, collection and disposal of offal or other matter and apply any manufacturing process thereto and convert it into a merchantable article and sell the same.

(3) In this section "offal" includes blood, refuse, portions of meat, hides, skins, hair, hoofs and horns or other portions of any animal which are not ordinarily used for the food of man.

Sec. 464.

(e) (i) by omitting from subsection one of section four hundred and sixty-four the word "proclamation" and by inserting in lieu thereof the word "ordinances";

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

35. In addition to the disqualifications for a civic office prescribed in the Local Government Act, a person who is an officer or servant of the Hunter District Water Supply and Sewerage Board shall be disqualified for a civic office with the Greater Newcastle Council; and the provisions of the Local Government Act shall apply to and in respect of any person so disqualified as if he were disqualified for a civic office under subsection two of section thirty of that Act.

No. 20, 1937.

Officers and servants of Hunter District Water Supply and Sewerage Board disqualified for civic office with Greater Newcastle Council.

36. (1) The Greater Newcastle Council may borrow by way of ordinary loan any sums necessary to meet any liability imposed on the Greater Newcastle Council by subsection five or subsection six of section eighteen of this Act or by subsection five or subsection six of section twenty-three of this Act.

Borrowing for certain purposes.

(2) The provisions of the Local Government Act relating to borrowing by a council by way of ordinary loan shall apply to and in respect of any borrowing by the Greater Newcastle Council under this section.

(3) Without prejudice to the generality of subsection two of this section, the provisions of section one hundred and ninety-seven of the Local Government Act shall apply to and in respect of any advance made to the Greater Newcastle Council under this section.

(4) The approval of the Governor of an ordinary loan raised by the Greater Newcastle Council under this section shall, for the purposes of any security in respect of that loan, be conclusive evidence that the Greater Newcastle Council is authorised to borrow the amount mentioned in the instrument of approval.

37. (1) The Greater Newcastle Council may from time to time appoint standing or special committees, and may remit to such committees any matters for consideration, or inquiry, or management, or regulation; and may delegate to any such committee any of the powers and duties by this Act conferred or imposed upon the Greater Newcastle Council, except the powers to borrow money, to make a rate, to execute a deed or contract, or to institute an action.

Council may appoint standing or special committees. cf. Act No. 48, 1920 (N.Z.), s. 49.

(2) A person may be appointed a member of a committee under this section, notwithstanding that he may not be a member of the Greater Newcastle Council.

(3)

Greater Newcastle Act.

No. 20, 1937.

(3) Where a person who is not a member of the Greater Newcastle Council is appointed a member of a committee he shall be deemed to be a co-opted member of the committee and may participate in the deliberations and discussions of the committee in common with the other members thereof, but he shall not vote on any question which is before the committee for determination.

Committee may exercise delegated powers.

cf. Act No. 48, 1920 (N.Z.), s. 50.

38. Every committee to which any powers or duties are delegated as aforesaid may, without confirmation by the Greater Newcastle Council, exercise or perform the same in like manner and with the same effect as that Council could itself have exercised or performed the same.

Committee to be subject to direction by Council.

cf. *Ibid.* s. 51.

39. Every such committee shall be subject in all things to the control of the Greater Newcastle Council, and shall carry out all directions, general or special, of that Council given in relation to such committee or its affairs.

Chairman of committee.

cf. *Ibid.* s. 53.

40. The Greater Newcastle Council may appoint a member of any such committee to be the permanent chairman thereof; and if no such appointment is made, the committee may make the appointment. Such Council may from time to time remove such chairman and appoint another in his stead.

Discharge of committee.

cf. *Ibid.* s. 54.

41. The Greater Newcastle Council may from time to time discharge, alter, continue, or reconstitute any committee appointed by it.

Commencement.

42. (1) This section shall commence on the appointed day.

Amendment of Act No. 9, 1909. (Schedule One.)

(2) The Fire Brigades Act, 1909-1927, is amended by omitting from Part II of Schedule One the names of the following country municipalities, that is to say—

Adamstown	Newcastle
Carrington	Stockton
Hamilton	Wallsend
Lambton	Waratah
Lambton, New	Wickham
Merewether	

and by inserting in such Part of such Schedule after the name "Grafton South" the name "Greater Newcastle."

(3)

(3) The enactment of subsection two of this section shall not affect the tenure of office of the Member of the Board of Fire Commissioners of New South Wales who was elected on the twenty-third day of February, one thousand nine hundred and thirty-seven, in accordance with the provisions of the Fire Brigades Act, 1909-1927, by the councils of the municipalities and shires mentioned in Part II of Schedule One of that Act.

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Saving.

43. (1) This section shall commence on the appointed day.

Commencement of section.

(2) The elected members of the Hunter District Water Supply and Sewerage Board in office immediately before the commencement of this Act shall, subject to the Hunter District Water and Sewerage Act, 1892-1928, continue to hold office until the thirty-first day of December, one thousand nine hundred and thirty-eight.

Office of present elected members.

Such elected members shall thereupon cease to hold office, and shall not be entitled to compensation by reason of their removal from office.

Any such elected member shall, if otherwise qualified, be eligible for election as an elected member of the said Board.

(3) If an extraordinary vacancy occurs in the office of an elected member of the Hunter District Water Supply and Sewerage Board before the thirty-first day of December, one thousand nine hundred and thirty-eight, the Governor may appoint some person to fill the vacancy until the said date.

Extraordinary vacancies.

(4) The Hunter District Water and Sewerage Act, 1892-1928, is amended—

Amendment of Act 55 Vic. No. 27.

(a) by omitting from section seven the words “one thousand nine hundred and twenty-four” and by inserting in lieu thereof the words “one thousand nine hundred and thirty-eight”;

Sec. 7. (Duration of office of members.)

(b) by omitting from subsection one of section fourteen the words “one thousand nine hundred and twenty-four” and by inserting in lieu thereof the words “one thousand nine hundred and thirty-eight”;

Sec. 14. (Date of elections.)

(c)

Greater Newcastle Act.

No. 20, 1937.

First
Schedule.
(Constitu-
encies.)
Sec. 5.

(c) by omitting the First Schedule and by inserting in lieu thereof the following Schedule:—

FIRST SCHEDULE.

Constituency.	Area.	No. of Members to be returned.
First ...	Greater Newcastle	Five
Second ...	Lake Macquarie, Tarro	One
Third ...	West Maitland, East Maitland, Morpeth, Bolwarra, Terrace, Port Stephens.	One
Fourth ...	Cessnock, Kearsley	One

Governor may vary times and validate irregularities.
cf. Act No. 58, 1932, s. 18.

44. The Governor may, by proclamation in the Gazette before or after the time at or during or within which anything may or shall be done in pursuance of this Act alter or extend such time or may validate anything done after such time or done irregularly in matter of form.

PART VIII.

ORDINANCES.

Ordinances.

45. (1) Ordinances may be made under and in accordance with the Local Government Act in relation to all or any of the following matters or matters incidental thereto:—

- (a) Any of the powers, authorities, duties or functions conferred or imposed on the Greater Newcastle Council by or under this Act.
- (b) Any of the powers conferred or duties imposed by this Act upon the Governor or the Minister.
- (c) Any matter mentioned in this Act.
- (d) Any matter which is necessary or convenient to be prescribed for giving effect to this Act.
- (e) Generally for carrying into effect the provisions of this Act.

(2).

(2) Without prejudice to the generality of sub-section one of this section any such ordinance may require the Greater Newcastle Council to establish a particular fund in respect of any activity of the Greater Newcastle Council, and may specify the assets of which any such fund is to consist and the purposes to which any such fund may be applied.

FIRST SCHEDULE.

Secs. 3, 6, 8,
10-18.

Adamstown.	Merewether.
Carrington.	Stockton.
Hamilton.	Wallsend.
Lambton.	Waratah.
New Lambton.	Wickham.

For the purposes of this Schedule and of the constitution of the City of Greater Newcastle, the Municipality of Waratah shall be deemed to include portion 349, parish of Newcastle, county of Northumberland, and the Municipalities of Waratah and Wickham shall be deemed to include the area of thirty-four acres two roods vested in the Broken Hill Proprietary Company Limited by section four of the Newcastle Iron and Steel Works Act, 1912.

SECOND SCHEDULE.

Secs. 3, 6, 8,
10, 11 and
17.

PART I.

Part of the Shire of Tarro to be included in Greater Newcastle.

DESCRIPTION.

Parishes of Newcastle and Hexham, county of Northumberland.—Commencing on the generally southern boundary of the Shire of Tarro at its intersection with the right bank of Ironbark Creek; and bounded thence by that bank of that creek generally north-easterly to the right bank of the Hunter River (South Channel); by that bank of that river generally south-easterly to the aforesaid generally southern boundary of the Shire of Tarro at the north-eastern corner of portion 96, parish of Newcastle, and by boundaries of the Shire southerly, generally westerly, northerly and westerly to the point of commencement.

PART II.

Part of the Shire of Lake Macquarie to be included in Greater Newcastle.

DESCRIPTION.

Parish of Newcastle, county of Northumberland.—Commencing on the generally northern boundary of the Shire of Lake Macquarie at the

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the southernmost south-eastern corner of the Municipality of Adamstown; and bounded thence by part of the generally southern boundary of the parish of Newcastle easterly, southerly and generally easterly to the high-water mark of the South Pacific Ocean; by that high-water mark generally north-easterly to the generally eastern boundary of the Shire of Lake Macquarie at the southernmost corner of the Municipality of Merewether; and by boundaries of the Shire northerly, generally westerly, north-westerly and southerly to the point of commencement.

Sec. 21.

THIRD SCHEDULE.

No. of Act.	Short Title.	Extent to which Repealed.
1912, No. 49 ...	Newcastle District Abattoir and Sale-yards Act, 1912.	The whole.
1915, No. 68 ...	Newcastle District Abattoir and Sale-yards Further Amendment Act, 1915.	The whole.
1919, No. 34 ...	Newcastle District Abattoir and Sale-yards Amendment Act, 1919.	The unrepealed portion.
1919, No. 41 ...	Local Government Act, 1919 ...	The words "or the Newcastle District Abattoirs and Sale-yards Act, 1912," occurring in subsection two of section four hundred and sixty. Paragraph (n) of subsection five of section six hundred and fifty-four.
1926, No. 21 ...	Newcastle District Abattoir and Sale-yards (Amendment) Act, 1926.	The whole.
1931, No. 18 ...	Newcastle District Abattoir and Sale-yards (Amendment) Act, 1931.	The whole.

CLOSER