

LOCAL GOVERNMENT (AMENDMENT) ACT.

Act No. 33, 1939.

George VI. An Act to make further provision for and in
No. 33, 1939. relation to county councils; to authorise
the Colonial Treasurer to guarantee loans
of certain councils and county councils; to
amend the Local Government Act, 1919, as
amended by subsequent Acts, in certain
respects; and for purposes connected there-
with. [Assented to, 7th November, 1939.]

BE it enacted by the King's Most Excellent Majesty,
by and with the advice and consent of the Legis-
lative Council and Legislative Assembly of New South
Wales in Parliament assembled, and by the authority of
the same, as follows:—

Short title. **1.** This Act may be cited as the “Local Government
(Amendment) Act, 1939.”

**Amendment
of Act
No. 41, 1919.** **2.** The Local Government Act, 1919, as amended by
subsequent Acts, is amended—

**Sec. 562.
(Constitu-
tion of
county
councils.)** (a) by inserting after subsection nine of section five
hundred and sixty-two the following new sub-
section:—

(9A) Where the Governor by proclamation
alters the boundaries of a county district by
including

including in the county district the whole or part of a municipality or shire and the proclamation directs that such municipality or shire or the part thereof shall be a county electorate an election of a delegate of the council concerned shall be held in the prescribed manner within a time specified in the proclamation and the delegate elected shall, subject to this Act, hold office until the next general election of the county council.

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

Sec. 564.
(Functions
of county
councils.)

(2A) Where a county district is constituted or proposed for the purpose of the supply of water or electricity in bulk only, the councils of the municipalities and shires concerned in the district (constituted or proposed) may, under and in accordance with subsection two of this section, request the Governor to delegate to the county council the power to exercise or perform, for the benefit of the county district, so much of any power or duty which by law those councils or any one of them may exercise or perform, as relates to the supply of water or electricity in bulk only.

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

(4A) Where a delegation has been made in pursuance of a request of the nature referred to in subsection (2A) of this section—

- (a) each constituent council shall have full power to exercise or perform so much of any power or duty which by law may be exercised by a council in relation to the supply of water or electricity, as has not been delegated to the county council;

(b)

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- (b) a county council may with the consent of the council of an area supply water or electricity, as the case may be, otherwise than in bulk, to any person within that area or to all or any of the persons in a specified locality within that area upon such terms and conditions as it may deem fit;
- (c) the county council shall sell and deliver and the constituent councils shall buy and receive water or electricity, as the case may be, at such points within the district and on such terms and conditions as may be agreed upon or, in the event of agreement not being reached between the county council and any constituent council, at such point and on such terms and conditions as the Governor shall from time to time notify in respect of that constituent council;
- (d) a constituent council shall not (except with the consent of the county council) supply water or electricity, as the case may be, except water or electricity bought and received pursuant to paragraph (c) of this subsection.

New secs. 564B,
564C, 564D and
564E.

Transfer of
assets, etc.,
in certain
events.

- (c) by inserting next after section 564A the following new sections:—

564B. (1) Where a county district is constituted for the purpose of the supply of water or electricity (otherwise than in bulk only) and any works of water supply or works for the supply of electricity, as the case may be, or the control and management of any such works are, at the date of the constitution of the county district, vested in a constituent council and the powers and duties of the constituent council relating to such works including a power to levy rates

rates in respect of such works are, by a delegation proclaimed under section five hundred and sixty-four of this Act, delegated to the county council then, as from the date upon which the proclamation of such delegation is published in the Gazette (in this subsection hereinafter referred to as "the date of the delegation") the following provisions shall have effect:—

- (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 date of the delegation is vested in or belongs to the constituent council and is held in connection with such works shall vest in and belong to the county council.
- (b) All rates, moneys, liquidated and unliquidated claims which immediately before the date of the delegation are payable to or recoverable by the constituent council in relation to such works shall be rates, moneys, liquidated and unliquidated claims payable to or recoverable by the county council.
- (c) All suits, actions, and proceedings pending immediately before the date of the delegation at the suit of the constituent council in relation to any matter or claim in relation to such works shall respectively be suits, actions and proceedings pending at the suit of the county council.
- (d) All contracts, agreements, and undertakings entered into with and all securities lawfully given to or by the constituent council in respect of such works or in respect of the income of any fund connected with such works and in force immediately before the date of the delegation shall be deemed to be contracts, agreements, and undertakings entered into with and securities given to or by the county council.

(e)

- (e) The county 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 constituent council might have done but for this section.
- (f) The county council may enforce and realise any security or charge existing immediately before the date of the delegation in favour of the constituent council in respect of any such moneys and claims as if such security or charge were existing in favour of the county council.
- (g) All debts due and moneys payable by the constituent council solely relating to such works, and all claims liquidated or unliquidated recoverable against the constituent council solely relating to such works shall be debts due and moneys payable by and claims recoverable against the county council.
- (h) The county council shall as from the date of the delegation indemnify and keep harmless the constituent council against all claims against that council in respect of moneys borrowed in connection with such works or charged upon the income of any fund connected with such works and against all claims for any other liabilities incurred in respect thereof.
- (i) The county council shall pay all interest accruing due in respect of any moneys borrowed on account of such works or charged upon the income of any fund connected with such works and make the contributions required by or under this Act to be made to any reserve for loan repayment in connection with any loan on account of such works or charged as aforesaid or to any other fund or account whatsoever.

(j)

- (j) Nothing contained in this section shall prejudice or affect the security rights, powers, authorities, and remedies of any holder of a bond, debenture, mortgage deed or other security given by the constituent council before the date of the delegation or of any person entitled at the said date to any security by virtue of this Act in respect of loans raised for purposes of such works or charged upon the income of any fund connected with such works but such holder shall have and continue to have during the currency of his bond, debenture, mortgage deed or other security the same security rights, powers, authorities, and remedies in respect of such works and in respect of any assets hereby vested in the county council and the revenue therefrom as if the said bond, debenture, mortgage deed or other security had been given by the county council instead of by the constituent council.
- (ja) Every holder of any bond, debenture, mortgage deed or other security given by a constituent council before the delegation whereby any loan is charged upon the income of any fund of the constituent council connected with such works shall have the same security rights, powers, authorities and remedies in respect of the income of the corresponding fund of the county council as if a bond, debenture, mortgage deed or security in similar terms *mutatis mutandis* had been given to such holder by the county council: Provided that where works of more than one constituent council become vested pursuant to this Act in a county council, the county council shall keep a separate account of its income from or in relation to the works

works formerly vested in each of the constituent councils; and the holders of securities given by any one of the constituent councils shall have priority over the holders of securities given by any others of the constituent councils to the extent of that part of the income of the county council which arises from or in relation to the works formerly vested in such one of the constituent councils.

- (k) Nothing contained in the Local Government (Amendment) Act, 1939, shall prejudice or affect the rights, powers, authorities and remedies, against the constituent council, its revenues and assets, of the holder of any bond, debenture, mortgage deed or other security given by that council before the date of the delegation or of any person entitled to any security by virtue of this Act.
- (1) The liability imposed upon the county council by this section shall for the purpose of securing the discharge thereof rank in priority over any loan raised by the county council.

(2) Where a county district is constituted for the purpose of the supply of electricity (otherwise than in bulk only) and at the date of such constitution there is in existence an agreement under section four hundred and twenty of this Act, entered into by a constituent council with some other person, which agreement relates to the supply of electricity by that other person to the public, and the powers and duties of the constituent council relating to works for the supply of electricity (including the powers and duties conferred and imposed by section four hundred and twenty of this Act) are by a delegation proclaimed under section five hundred and sixty-four of this Act, delegated to the county council, then as from the date upon which the

the proclamation of such delegation is published in the Gazette, such agreement shall be deemed to be an agreement entered into by the county council with such other person.

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564c. (1) Where a county district is constituted for the purpose of the supply of water (otherwise than in bulk only) the county council may arrange with a constituent council for the maintenance and management within the area of the constituent council of specified reticulation works with such restrictions and reservations as to the county council may seem meet.

Delegation
by county
council to
constituent
council.

Such arrangement shall be embodied in an agreement between the county council and the constituent council which shall contain such provisions as may be agreed upon or as may be prescribed.

(2) Where an agreement has been entered into in pursuance of subsection one of this section the Governor may by proclamation delegate to the constituent council the power to exercise or perform any power which has been delegated to the county council and which, by the agreement, is required or authorised to be exercised or performed by the constituent council in relation to such maintenance and management; and upon publication of such proclamation the constituent council shall have full power to exercise the powers and shall perform the duties described in the proclamation. In describing any such power or duty in the proclamation it shall be sufficient to quote the part or section number of this Act prescribing the power or duty.

564d. (1) Where a county council in the exercise of powers delegated to it under this Part borrows money for the purpose of works of water supply or works for the supply of electricity, the Treasurer may, on the recommendation of the Minister, guarantee the due repayment of the amount so borrowed.

Guarantee
by
Treasurer.

(2) Such sums as may from time to time become due and payable by the Treasurer under

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under any guarantee given under the authority of this section shall be paid out of moneys provided by Parliament.

Special provisions as to certain loan rates.

564E. Where a county council has raised a loan for works of water supply or works for the supply of electricity and in the opinion of the county council any works constructed out of moneys provided by the loan would be of special benefit to portions only of the district the county council may for the purpose of paying interest on and repaying the principal of the loan, at its discretion, make and levy loan rates differentially upon the ratable land within such portions only or upon the ratable land within such part or parts of such portions only as the county council may determine.

Sec. 493A.
(Agreement by Treasurer in relation to certain loan liabilities.)

(d) by inserting after subsection four of section 493A the following new subsection:—

(5) For the purposes of this section “council” includes a county council.

Further amendment of Act No. 41, 1919.

Sec. 565.
(Assessment of cost.)

3. The Local Government Act, 1919, as amended by subsequent Acts, is further amended—

- (a) by omitting from subsection one of section five hundred and sixty-five the words “particularly, in respect of any matter for which the county council is not authorised to rate” and by inserting in lieu thereof the words “in particular, but without prejudice to the generality of the foregoing provisions”;
- (b) by inserting in the same subsection after the words “expenses of the county council” the words “other than expenses incurred or to be incurred in respect of any matter for which the county council is authorised to rate”;
- (c) by omitting from subsection five of the same section the words “in respect of any matter for which the county council is not authorised to rate, that council” and by inserting in lieu thereof the words “the county council”;

(d)

(d) by inserting in the same subsection after the word "expenditure" the words "other than expenditure in respect of any matter for which the county council is authorised to rate."

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4. The Local Government Act, 1919, as amended by subsequent Acts, is further amended by inserting after section one hundred and eighty-two the following new section:—

Further amendment of Act No. 41, 1919.

New sec. 182A.

Guarantee by Treasurer.

182A. (1) The Treasurer may on the recommendation of the Minister guarantee the due repayment of any moneys borrowed in accordance with the provisions of this Act by the council of an area situated within the Western Division.

(2) Such sums as may from time to time become due and payable by the Treasurer under any guarantee given under the authority of this section shall be paid out of moneys provided by Parliament.

(3) For the purposes of this section, the municipalities of Balranald, Hillston and Nyngan shall be deemed to be situated within the Western Division.

