

**LOCAL GOVERNMENT (AMENDMENT) ACT.**

Act No. 19, 1945.

George VI.  
No. 19, 1945.

An Act to amend the Local Government Act, 1919, the Sydney Corporation Act, 1932, and certain other Acts in certain respects; to validate certain matters; and for purposes connected therewith. [Assented to, 5th April, 1945.]

**B**E 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.

- Short title.** 1. This Act may be cited as the "Local Government (Amendment) Act, 1945."
- Division into Parts.** 2. This Act is divided into Parts as follows:—
- PART I.—PRELIMINARY—ss. 1-2.
- PART II.—AMENDMENTS OF LOCAL GOVERNMENT ACT, 1919—ss. 3-26.
- PART III.—MISCELLANEOUS—ss. 27-33.
- SCHEDULES.

**PART II.**

## AMENDMENTS OF LOCAL GOVERNMENT ACT, 1919.

The  
Principal  
Act.

3. The Local Government Act, 1919, as amended by subsequent Acts, is in this Part referred to as the Principal Act.

Amendment of  
Act No. 41,  
1919, Part I—  
Preliminary.  
(Definitions.)

4. (1) Part I of the Principal Act is amended—

("By or  
under.")

- (a) by inserting in section four in the definition of "By or under" next after the words "By or under" the words "or 'under'";

(b)

- (b) (i) by inserting in the same section in the definition of "Clerk" next after the words "or 'council clerk'" the words "or 'county clerk'"; No. 19, 1945.  
("Clerk.")
- (ii) by inserting at the end of the same definition the words "or county district as the case may be";
- (c) by inserting in the same section after the word "permit" in the second definition of "Lease" the words "and a tenement under the Mining Act, 1906, as amended by subsequent Acts, shall be deemed for the purposes of this Act to be held under a lease by the person in lawful occupation of the tenement under a miner's right or business license"; ("Lease.")
- (d) by inserting in the same section at the end of the definition of "Lessee" the words "and a person in lawful occupation under a miner's right or business license of a tenement under the Mining Act, 1906, as amended by subsequent Acts, shall be deemed to be a lessee for the purposes of this Act." ("Lessee.")

(2) Part II of the Principal Act is amended by inserting at the end of subsection two of section eleven the following paragraph:— Amendment  
of Act No.  
41, 1919,  
Part II—  
Constitution  
of Cities,  
etc.

Where a municipality is constituted by the union of areas or parts of areas or the boundaries of a municipality are altered by the addition to it of part of another area, the municipality shall be deemed to comply with the requirements of paragraphs (a) and (b) of this subsection if, during the period of five years referred to in those paragraphs, the average population and gross income prescribed by those paragraphs were contained and earned in and in respect of the areas or parts of areas of which the municipality is so constituted or which are comprised in the municipality as the case may be.

5. Part III of the Principal Act is amended—

- (a) by omitting the proviso to paragraph (b) of section sixteen; Amendment  
of Act No. 41,  
1919, Part III  
—Alteration of  
Cities, Muni-  
cipalities  
and Shires.  
Sec. 16.  
(Alteration of  
areas; land in  
Western  
Division.)
- (b)

No. 19, 1945.

Sec. 19.

(Proposals  
for altera-  
tion of  
areas.)New  
s. 20c.Transfer of  
servants.  
cf. Act No.  
20, 1937,  
ss. 18 and  
23.

- (b) (i) by omitting subsection five of section nineteen;
- (ii) by omitting from subsection six of the same section the words "or if the decision of such poll be in the affirmative";
- (c) by inserting next after section 20B the following new section:—

20c. (1) Where under section sixteen of this Act a new area is constituted or the boundaries of an area are altered, every person who immediately before the day of such constitution or alteration was a servant of the council of any area affected and who was wholly or principally employed on or in connection with any work, trading undertaking, right, power, authority, duty, obligation, or function which becomes transferred to, vested in, exercisable by or conferred or imposed upon the council of the new area or of another area, shall on such day (subject to any agreement which may be entered into between the council of the area affected, the council of such new or other area and the servant)—

- (a) be transferred to the service of the council of such new or other area; and
- (b) become a servant of the council of such new or other area; and
- (c) be paid salary or wages not less than at the rate at which he was employed immediately before such day until such salary or wages is or are varied or altered by the council of such new or other area: Provided that such salary or wages shall not be reduced for a period of at least two years from date of such transfer; and
- (d) be deemed to have been appointed and employed by the council of such new or other area under the provisions of this Act.

The

The person so transferred shall on and from such day until otherwise directed by the council of such new or other area continue to perform the duties which attached to his employment immediately before such day. **No. 19, 1945.**

(2) Where any condition of employment of any person so transferred to the council of such new or other area 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 regulating such condition and binding the council of such new or other area is made by a competent tribunal, or such condition is regulated by an industrial agreement to which the council of such new or other area is a party.

(3) The period of service with the council of one or more municipalities, shires or county districts under this Act of any person so transferred shall upon such transfer be counted as service with the council of such new or other area 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, 1940, as amended by subsequent Acts.

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

(5) If any person transferred under this section, within a period of twelve months from the date of his transfer, resigns his position with the council of such new or other area, except in anticipation of termination of his employment for misconduct, or if the employment of any person transferred under this section is terminated by the council of such new or other area otherwise than for misconduct within a period of two years from the date of his transfer, the council

No. 19, 1945.

council of such new or other area shall grant to him a gratuity equivalent to the amount of four weeks' salary or wages for each year of service, such salary or wages being reckoned at the rate subsisting at the date of his transfer.

This subsection shall apply only to a person who has been employed continuously by the council of any one or more municipalities, shires or county districts under this Act for a period of not less than one year immediately preceding the day of his transfer to the service of the council of such new or other area.

(6) Where a person who is transferred under this section was engaged by the council of an area affected 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 council of such new or other area otherwise than in accordance with the terms of such contract the council of such new or other area 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, as amended by subsequent Acts, 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 section had not been enacted.

(8)

(8) A servant of the council who at the time of the constitution of a new area or the alteration of an area is engaged on war service as defined in the Defence Act 1903 of the Parliament of the Commonwealth of Australia, as amended by subsequent Acts, shall for the purposes of this section be deemed to be still in the employ of the council and his war service as well as his service with the council shall be counted as service with the council for the purposes referred to in subsection three of this section, and he shall be deemed to have been employed continuously by the council for the purposes of subsection five of this section.

No. 19, 1945.

- (d) by inserting at the end of paragraph (k) of subsection one of section twenty-one the following proviso:—

Sec. 21 (1)  
(k).  
(Provisional  
councils.)

Provided that if any member of the provisional council so appointed—

- (i) dies;
- (ii) resigns his office by writing under his hand addressed to the Governor through the Minister;
- (iii) is removed from office by the Governor;
- (iv) becomes bankrupt, compounds with his creditors or makes an assignment of his estate for their benefit;
- (v) is convicted of a felony or indictable misdemeanour;
- (vi) becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act of 1898;
- (vii) declines office;
- (viii) is absent without the leave of the council from four consecutive ordinary meetings of the council;

the office of any such member shall become vacant and the Governor may by proclamation appoint a person to fill the vacant office.

## No. 19, 1945. 6. Part IV of the Principal Act is amended—

Amendment  
of Act No. 41,  
1919, Part IV  
—The Councils  
of Cities, Muni-  
cipalities and  
Shires.

Sec. 24 (3).  
(Number  
of  
council-  
lors.)

- (a) by inserting at the end of subsection three of section twenty-four the following words:—

“Provided that in any special case where, after inquiry, he deems it advisable so to do, the Governor may fix a number exceeding nine.”

Sec. 28.  
(Travel-  
ling  
expenses.)

- (b) (i) by omitting from paragraph (b) of subsection one of section twenty-eight the words “passed beforehand”;
- (ii) by omitting from paragraph (c) of the same subsection the words “passed beforehand by” and by inserting in lieu thereof the word “of”;
- (iii) by omitting from the proviso to paragraph (d) of the same subsection the words “one member” and by inserting in lieu thereof the words “two members”;

Sec. 31.  
(Effect of  
disqualifica-  
tion.)

- (c) by inserting at the end of section thirty-one the following new subsection:—

(4) If the defendant, in any prosecution for an offence against this section, satisfies the court that the facts and circumstances giving rise to the disqualification in respect of which the prosecution is taken are of a trifling character, and that the acts which gave rise to that disqualification were done in good faith and without knowledge that he would incur such disqualification by doing those acts, the court—

- (a) may dismiss the case; or
- (b) may proceed to convict such person, and may declare that all or any of the provisions of paragraphs (a), (b) and (c) of subsection three of this section shall not apply to or in respect of the person so convicted.

Any declaration made by a court under paragraph (b) of this subsection shall have effect according to its tenor.

(d)

- (d) by inserting at the end of section thirty-four the following new subsection:—

No. 19, 1945.

Sec. 34.

(Office of mayor or president.)

(2) The mayor or president in office immediately before the triennial ordinary election may if re-elected as alderman or councillor continue in office as mayor or president until his successor is elected or appointed.

- (e) by inserting next after subsection three of section forty-four the following new subsection:—

Sec. 44.

(Ouster of office.)

(3A) If in proceedings for ouster taken on a ground mentioned in paragraph (b) of subsection one of section forty-three of this Act, the person concerned satisfies the court or judge that the facts and circumstances giving rise to the disqualification in respect of which the proceedings for ouster are taken are of a trifling character, and that the acts which gave rise to that disqualification were done in good faith and without knowledge that he would incur such disqualification by doing those acts, the court or judge may discharge the rule or order and may, if satisfied that in the circumstances of the case it is reasonable so to do, declare that the person concerned shall be freed of the disqualification in respect of which the proceedings for ouster were taken.

Any declaration made by a court or judge pursuant to this subsection shall have effect according to its tenor.

7. Part VI of the Principal Act is amended—

Amendment of Act No. 41, 1919, Part VI —Administration.

- (a) by inserting next after section 90A the following new section:—

New sec. 90B.

90B. (1) Subject to this Act, where, on and after a date to be proclaimed, a vacancy occurs in any area in the position of the servant having the principal oversight of the gas trading undertaking or undertakings of the council, the council shall employ in that position a person who shall hold a certificate as prescribed.

Overseers or engineers —gas undertakings.

(2)



## No. 19, 1945.

(2) Subject to the approval of the Minister, any person holding the prescribed certificate may be appointed as the person to have the principal oversight of the gas trading undertakings of two or more councils.

(3) For the purposes of this section "council" shall include a county council and an urban committee.

(4) The provisions of section eighty-two of the Gas and Electricity Act, 1935, as amended by subsequent Acts, shall not apply to or in respect of a council.

(5) Ordinances may be made prescribing the conditions under which certificates may be issued for the purposes of this section.

Sec. 99 (1).  
(Inquiries.)

- (b) (i) by inserting at the end of subsection one of section ninety-nine the following words:—

"This section shall also apply to all servants of a council (including the Sydney County Council) who have had at least one year's continuous service with the council."

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

(6) (a) The person holding the inquiry shall make a report in writing.

(b) The original of the report shall be furnished by him to the council, and copies of the report shall at the same time be furnished by him to the Minister and the servant respectively.

(c) The report shall be read in open council.

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

(11A) (a) In any case where the council decides to terminate the services of the servant notwithstanding that the report of the person holding the inquiry is substantially favourable to the servant, the Minister, on the application of the servant made within

within fourteen days after termination of his services, may, after such inquiry as he deems sufficient, direct the council to pay to the servant as from the date of termination of his services compensation not exceeding an amount equivalent to the amount of four weeks' salary or wages for each year of service, such salary or wages being reckoned on the average of the weekly salary or wages paid to him during the fifty-two weeks immediately preceding the date upon which the inquiry was ordered or the date of his suspension as the case may be.

(b) The council shall pay to the servant the amount of compensation as directed by the Minister, and if the council fails to do so the servant may recover the amount as a debt due to him by the council.

8. Part VII of the Principal Act is amended—

(a) by omitting section one hundred and twenty-three.

Amendment of Act No. 41, 1919, Part VII. —Finance.

Sec. 123. (Local rate for lighting.)

(b) by omitting the proviso to subsection two of section one hundred and thirty-nine and by inserting in lieu thereof the following proviso :—

Sec. 139. (Making and levying rates.)

Provided that the liability of any person for rates shall not be affected by reason only of the fact that notice has not been given to such person within the year in which the rate is made.

This proviso shall have effect as if it had been inserted in this Act on the first day of January, one thousand nine hundred and thirty-six.

(c) by inserting at the end of subsection one of section one hundred and sixty the words "including any amount due or payable or which will become due or payable under subsection one of section two hundred and forty-three or under section two hundred and forty-four of this Act for work carried out before the date of such certificate";

Sec. 160. (Certificates as to amounts due.)

(d)

**Local Government (Amendment) Act.****No. 19, 1945.**

New ss. 160A  
and 160B.  
Transfer of  
land in  
payment of  
rates.

(d) by inserting next after section one hundred and sixty the following new sections:—

160A. (1) Where rates and amounts recoverable as rates are due and in arrears in respect of land the council may accept a transfer of the land in full satisfaction of all sums due and in arrears in respect of the said land.

(2) (a) An owner who proposes to transfer land to the council under this section shall make application to the council in the manner and form prescribed.

(b) The application shall contain such information and particulars as are prescribed.

(c) The council shall not make any decision in relation to any such application, unless at least thirty days have elapsed after the application has been placed before a meeting of the council.

Abandonment of rates.  
Invalid and old-age pensioners.

160B. The council may write off or reduce rates and extra charges on overdue rates due by any person who is in receipt of a pension under the Invalid and Old-age Pensions Act 1908 as amended by subsequent Acts of the Parliament of the Commonwealth of Australia.

Subst. sec. 163.

(e) by omitting section one hundred and sixty-three and by inserting in lieu thereof the following section:—

Notice of transfer.

163. (1) Subject to this section—

(a) the ratable person and the transferee in any case where the ratable person transfers his estate or interest in ratable land;

(b) the mortgagee of ratable land in any case where under the mortgage he enters into possession of the land;

(c) the trustee executor or administrator of the estate or interest in ratable land of a deceased person,

shall

shall within one month of such transfer, entry into possession, grant of probate of will or of letters of administration, as the case may require, give notice thereof to the council. No. 19, 1945.

(2) Subject to paragraph (b) of subsection one of this section it shall not be necessary under this section to give notice of any mortgage nor of the discharge of any mortgage.

(f) (i) by omitting from subsection one of section one hundred and seventy-seven paragraphs (g1), (g2), (g3), and (g4), and by inserting in lieu thereof the following paragraphs— Sec. 177.  
(Ordinary  
loans.)

(g1) the establishment, acquisition, erection, construction or carrying out of works of water supply, electricity supply, gas supply, sewerage, drainage or stormwater channels, and works connected therewith and the purchase of necessary machinery and equipment for such purposes; or

(g2) enabling or assisting the council to exercise the powers and authorities conferred on it by section four hundred and ninety-six or section 496A of this Act; or

(g3) any work or service or any object which the council is authorised by law to erect, construct, carry out, or effect; or

(g4) providing controlling and managing works and services for or in connection with public health and national fitness; or

(ii) by omitting subsections two, three, four and five of the same section and by inserting in lieu thereof the following subsections:—

(2) The approval of the Governor of an ordinary loan for any of the purposes mentioned in paragraph (g3) of subsection one of this section shall not be given unless the Minister by notice published in the Gazette

No. 19, 1945.

Gazette has indicated that the purpose is one in respect of which a supplementary advance will be made under section five hundred and thirty-nine of this Act.

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

Sec. 177B.  
(Ordinary  
loans for  
certain pur-  
poses.)

(g) by omitting section 177B;

New sec. 181D.

(h) by inserting next after section 181c the following new section:—

Special  
areas—  
limits of  
borrowing  
and rating,  
etc., not to  
apply.

181D. (1) This section shall apply to the council of any area to which the Governor by proclamation has declared that it shall apply.

(2) A proclamation under subsection one of this section shall not be issued in respect of any area unless—

(a) the area has had, during the period of five years next preceding the proclamation, an average population of at least ten thousand persons; and

(b) the average annual gross income of the council of the area from all sources during the said period has been at least one hundred thousand pounds.

(3) (a) The limit of borrowing applied by this Act to the council of an area shall not apply to the council of an area to which this section applies.

(b) Any loan rate which it may be necessary for the council of an area to which this section applies to make and levy may be made and levied notwithstanding that thereby the prescribed limit of rating may be exceeded.

(c)

cf. s. 564  
(4).

(c) A poll may not be demanded in respect of any loan proposal of the council of an area to which this section applies, nor in respect of the basis of any loan rate of such council.

- (i) by inserting in subsection eleven of section one hundred and eighty-six after the word "fund" where secondly occurring the words "or invested in any such loan by subscribing thereto or by purchasing at their current market value any securities issued in respect of any such loan and paying any interest accrued in respect of such securities from the last preceding due date";
- (j) by inserting at the end of subsection two of section one hundred and eighty-eight the following words:—

Sec. 186  
(11).  
(Applica-  
tion of  
moneys in  
loan repay-  
ment  
reserves.)

Sec. 188.  
(Security  
for loans.)

Provided further that notwithstanding the provisions of any other Act and notwithstanding any rule of law or equity to the contrary, a mortgage-deed or bond securing a loan by way of limited overdraft within the limits provided by section one hundred and seventy-four of this Act shall, until a final discharge thereof shall have been given to the council, have and continue to have and be deemed always to have had and to have retained priority as a security for the balance from time to time owing to the lender on such overdraft according to its date of execution as against such debentures, mortgage-deeds and bonds as may have been or may be executed subsequently to such date.

9. Part IX of the Principal Act is amended—

Amendment of  
Act No. 41,  
1919, Part  
IX—Public  
Roads.

- (a) by inserting next after paragraph (k) of subsection one of section two hundred and forty the following new paragraphs:—
- (l) erect structures in the road for the accommodation of bicycles;
- (m) provide and place seats in the road for the convenience of persons using the road.

Sec. 240  
(1).  
(Power  
to construct  
and improve  
roads.)

(b)

**Local Government (Amendment) Act.**

No. 19, 1945.

New sec.  
241A.  
Private  
thorough-  
fare.

- (b) by inserting next after section two hundred and forty-one the following new section:—

241A. (1) Where, in the opinion of the council, it is expedient for public use, safety or convenience, or for preventing unsightly or insanitary conditions, that any work of construction, improvement, maintenance, protection, repair or drainage of any private thoroughfare shall be carried out, the council may enter upon the private thoroughfare and carry out and complete the work.

All the expenses incurred by the council in so doing shall be paid by the owner for the time being of the land fronting, adjoining or abutting on that portion of the private thoroughfare upon which the work is carried out, or if there is more than one such owner, by the respective owners in such proportions as the council may determine.

(2) In determining the proportion of such expenses to be paid by the respective owners, the council shall have regard to the benefit to be derived by any land from such work, and to the amount and value of any work done on or in respect of the private thoroughfare by the respective owners or occupiers of any such land.

(3) If within fourteen days after the service upon any such owner of notice of the amount of the expenses so incurred or determined, such amount is not paid to the council, the council may recover such amount as a debt.

(4) In this section "private thoroughfare" means land used as a private lane, right of way or means of access to two or more properties, but does not include land owned by the Crown.

Sec. 242.  
(Council not  
liable for  
damage  
caused by  
tar.)

- (c) (i) by inserting in section two hundred and forty-two after the word "sanded" the words "or screened with metal";

(ii)

- (ii) by inserting at the end of the same section No. 19, 1945.  
the following new subsection:—

(2) In this section “tar” includes bitumen and bituminous compounds and emulsions and like substances; and “tarred” has a corresponding meaning.

- (d) by inserting at the end of subsection one of Sec. 243.  
section two hundred and forty-three the follow- (Kerbing  
and gutter-  
ing and  
footpath  
paving  
costs.)  
ing new paragraphs:—

(b) The council upon application in writing by any such owner shall furnish the applicant with a statement showing the particulars of such amount and cost.

(c) Notwithstanding any other provision in this Act any such owner in any proceedings against him for the recovery of any such amount may, if an appropriate plea, notice of defence or statement of defence as the case may be is duly filed, dispute his liability on the ground that the amount debited in the appropriate book of the council has been debited through fraud, erroneous calculation, clerical mistake or accidental slip.

- (e) (i) by omitting paragraph (b) of section two Sec. 249.  
hundred and forty-nine; (Control  
and  
manage-  
ment of  
roads.)

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

(z) control and regulate the conditions under which dogs may be upon roads;

(aa) regulate the photographing of persons for gain in any public place.

(bb) regulate the excavation on any land adjacent to a public road of any quarry, pit or the like in such manner and to such extent as is necessary to secure the support of the road and any thing lawfully thereon, therein or thereunder or the protection from injury of persons using the road;

Quarries  
and pits,  
etc.  
(cc)



## Local Government (Amendment) Act.

No. 19, 1945.

(cc) provide, control and manage sites for the accommodation of vehicles in or near public roads and public reserves and charge a fee for the use thereof.

New secs.  
249B, 249C.

(f) by inserting next after section 249A the following new sections:—

Numbering  
of build-  
ings.

249B. (1) The owners or occupiers of lands on which buildings are erected or which are subdivided into building allotments and which have frontages to or entrances from roads shall for the purpose of distinguishing them mark the buildings or fences or road frontages with such numbers and in such manner and form as the council may from time to time direct or approve, so that such markings may be readily seen from the road, and shall renew such markings as often as they are destroyed, obliterated or defaced.

(2) If any such owner or occupier neglects for one week after notice to him from the council to mark any such building, or fence or road frontage with such number and in such manner and form as the council may direct or approve, or to renew the marking thereof as aforesaid, he shall be guilty of an offence under this Act.

(3) Where the occupier of any lands incurs expenses in complying with the requirements of any notice given to him under subsection two of this section he shall be entitled to recover such expenses from the owner of the lands.

(4) Any person who without the authority of the council destroys, pulls down, obliterated or defaces any such marking or who marks any such number otherwise than in accordance with this section shall be guilty of an offence under this Act; and the council may cause any unlawful marking to be obliterated or destroyed.

Broken  
bottles,  
etc.

249C. (1) A person shall not throw, place or leave any bottle, glass or glass receptacle, broken glass, nail or other sharp thing (not being

being road material) on or in any public place, <sup>No. 19, 1945.</sup> or in any lane, path, passage or the like to which the public has access for the time being, in such a position as to cause or to be likely to cause injury to any person or animal or damage to any vehicle or property.

(2) A person shall not in any public place or in any lane, path, passage or the like to which the public has access for the time being, wilfully destroy or damage any bottle, glass, or glass receptacle.

- {g} (i) by omitting from subsection one of section <sup>Sec. 251A.</sup> 251A the words "if permission to erect a <sup>(Motor by-passes.)</sup> public gate at that place has been granted under the Public Gates Act, 1901, and has not been revoked" and by inserting in lieu thereof the words "if permission to erect a gate at that place has been granted under any Act and has not been revoked";
- (ii) by omitting from subsection two of the same section the word "public";
- (iii) by omitting from the same subsection the word "rabbit-proof";
- (iv) by inserting at the end of the same subsection the words "except with the consent of the Pastures Protection Board constituted by or under the Pastures Protection Act, 1934, as amended by subsequent Acts, for the district in which it is proposed that the by-pass shall be erected";
- (v) by inserting in subsection three of the same section after the word "council" the words "to any specification which may be prescribed";
- (vi) by omitting subsection five of the same section and by inserting in lieu thereof the following subsection:—

(5) The person erecting the by-pass shall erect near each end of the by-pass in such a position as to be readily seen by a person approaching the by-pass a notice bearing the

No. 19, 1945.

the words "motor by-pass". The notice shall be of the materials, height, size, design and appearance prescribed.

Sec. 262.  
(Realignment.)

- (h) by omitting subsection four of section two hundred and sixty-two and by inserting in lieu thereof the following subsection:—

(4) Under the realignment method compensation for any injurious effects suffered by reason of such realignment may be claimed but shall be limited to payment of the value of the land taken from any owner by reason of the realignment.

Such value shall be ascertained and such compensation shall be payable—

- (a) in the case of land clear of buildings and obstructions, as at the date when the notice referred to in subsection three of this section is served upon the owner of such land, and
- (b) in all other cases, as at the date when such land is cleared of buildings and obstructions by the owner or lessee whether for the purpose of building to the new alignment or not.

Subject to the provisions of this section, from the date upon which such compensation shall be payable the land shall vest in the council for a public road.

Sec. 277.  
(Roads—  
Ordinances.)

- (i) (i) by inserting next after paragraph (l) of section two hundred and seventy-seven the following new paragraph:—

(11) preventing and regulating the excavation of sand from land adjacent to or in the vicinity of any public road in cases where such excavation is below the level of the road and constitutes a disfigurement of the locality or danger to the public in a public road;

(ii).

(ii) by inserting at the end of the same section No. 19, 1945 the following new paragraphs:—

- (aa) controlling and regulating the conditions under which dogs may be in or upon public places and preventing the fouling by dogs of public places and adjoining premises;
- (bb) preventing persons from leaving or placing any matter or thing on any road, or from permitting or suffering any matter or thing to be left or placed or to fall or escape on any road.

**10.** Part X of the Principal Act is amended—

Amendment of Act No. 41, 1919, Part X—  
Public Health, Safety and Convenience.

(a) by omitting paragraph (n) of subsection two of section two hundred and eighty-one and by inserting in lieu thereof the following paragraph:—

Sec. 281.  
(Bathing and washing facilities, etc.)

(n) require that any new or existing dwelling connected with a public system of water supply shall be provided with suitable kitchen sinks and facilities approved by the council for bathing and for washing clothes with water laid thereto;

(b) by inserting next after section two hundred and eighty-eight the following new section:—

New sec. 288A.

288A. (1) This section shall apply to any area or part of an area to which it is applied by proclamation.

Structures on wheels, tents, caravans, etc. cf. Imperial Act 26 Geo. V and 1 Edw. VIII, c. 49, s. 269.

(2) The council may regulate the use of movable dwellings within the area and for that purpose require—

(a) that persons permitting land occupied by them to be used as sites for movable dwellings shall be licensed in that behalf; and

(b)

No. 19, 1945.

(b) that persons proposing to erect or place or use such dwellings shall be licensed in that behalf.

(3) (a) In the case of a license referred to in paragraph (a) of subsection two of this section, conditions may be attached with respect to the number and classes of movable dwellings which may be erected, placed or used on the land at the same time, with respect to the space to be kept free between any two such dwellings, and with respect to water supply and the securing of sanitary conditions.

(b) In the case of a license referred to in paragraph (b) of subsection two of this section, conditions may be attached with respect to the use of the movable dwelling (including the space to be kept free between it and any other such dwelling) and its removal at the end of a specified period, and the securing of sanitary conditions.

(4) Subject to the provisions of this section, a person shall not allow any land occupied by him to be used for camping purposes on more than two consecutive days or more than sixty days in any twelve consecutive months, unless either—

(a) he holds in respect of the land so used such a license as is referred to in paragraph (a) of subsection two of this section; or

(b) each person using the land as a site for a movable dwelling holds in respect of that dwelling such a license as is referred to in paragraph (b) of the said subsection, or has made an application for such license which has not been refused.

For the purposes of this subsection, land which is in the occupation of the same person as, and within one hundred yards of, a site on which there is during any part of any day a movable dwelling shall be regarded as being used for camping purposes on that day. (5)

(5) Subject to the provisions of this section a person shall not keep a movable dwelling on any one site, or on two or more sites in succession, if any one of those sites is within one hundred yards of another of them, on more than two consecutive days, or sixty days in any twelve consecutive months, unless—

- (a) he holds or has made an application which has not been refused for such a license in respect of that dwelling as is referred to in paragraph (b) of subsection two of this section; or
- (b) the occupier of each piece of land on which the dwelling is kept holds in respect of that land such a license as is referred to in paragraph (a) of the said subsection.

(6) Where under this section an application for a license is made to a council, the council shall be deemed to have granted it unconditionally, unless within four weeks from the receipt thereof the council or its authorised servant gives notice to the applicant stating that his application is refused, or stating the conditions subject to which the license is granted, and if an applicant is aggrieved by the refusal of the council to grant him a license or by any condition attached to a license granted he may appeal to a court of summary jurisdiction.

The decision of a court of summary jurisdiction on any such appeal shall be final and shall be binding on the council and the appellant, and for the purposes of this Act shall be deemed to be the final decision of the council.

(7) Nothing in this section applies—

- (a) to a movable dwelling which—
  - (i) is kept by its owner on land occupied by him in connection with his dwelling-house and is used for habitation only by him or by members of his household;
  - (ii)

No. 19, 1945.

(ii) is kept by its owner on pastoral or agricultural land occupied by him and is used for habitation only at certain seasons and only by persons employed in pastoral or farming operations on that land; or

(b) to a movable dwelling while it is not in use for human habitation and is being kept on premises the occupier of which permits no movable dwelling to be kept thereon except such as are for the time being not in use for human habitation.

(8) A person who contravenes any of the provisions of this section or fails to comply with any condition attached to a license granted to him under this section, shall be liable to a penalty not exceeding five pounds and to a further penalty not exceeding two pounds for each day on which the offence continues after conviction therefor.

(9) For the purposes of this section—

(a) the expression “movable dwelling” includes any tent, any van or other conveyance whether on wheels or not, and any shed or similar structure, being a tent, conveyance or structure which is used either regularly or at certain seasons only or intermittently, for human habitation:

Provided that it does not include a structure to which a building ordinance under Part XI of this Act applies;

(b) the owner of land which is not let shall be deemed to be the occupier thereof;

(c) if a movable dwelling is removed from the site on which it stands, but within twenty-four hours is brought back to the same site or to another site within one hundred yards thereof, then for the purpose of reckoning any such period of two consecutive days as is mentioned

mentioned in subsection four or subsection five of this section it shall be deemed not to have been removed or, as the case may be, to have been moved direct from the one site to the other. No. 19, 1945.

- (c) (i) by inserting in paragraph (e) of section two hundred and eighty-nine next after the word "particular" the words "dogs, cats"; Sec. 289 (e).  
(Keeping of animals—  
dogs, cats.)
- (ii) by inserting in paragraph (m) of the same section after the words "judgment of the district court" the following words:— Sec. 289  
(m).  
(Dangerous  
waterholes.)

"The decision of such judge upon any such appeal shall be final, and shall be binding upon the council and the appellant, and for the purposes of this Act shall be deemed to be the final decision of the council."
- (d) by inserting at the end of subsection two of section two hundred and ninety-eight the following words: "and may also subsidise maternity and infant welfare centres and persons bodies or organisations in respect of the transport of children to and from school." Sec. 298.  
(Maternity and  
infant welfare  
centres.)

**11. Part XI of the Principal Act is amended—**

- (a) (i) by omitting from subsection three of section three hundred and nine the word "four" and by inserting in lieu thereof the word "three"; Amendment  
of Act No. 41,  
1919, Part  
XI—Building  
Regulation.  
Section  
309 (3)  
(Residential  
flats.)
- (ii) by omitting from the same subsection the words and letters "Class C and Class D" and by inserting in lieu thereof the words and letter "and Class C."
- (b) by inserting at the end of section three hundred and fifteen the following proviso:— Sec. 315.  
(Currency  
of building  
permits.)  
cf. s. 335 (2).

Provided that the council may if good cause be shown grant an extension or renewal of such approval beyond such period.
- (c) by inserting at the end of section three hundred and seventeen the following new subsection:— Sec. 317.
  - (2) Proceedings for the recovery of any such penalty may be instituted at any time within twelve months after the date upon which such work is done. Penalties—  
time within  
which  
proceedings  
may be  
taken.



**Local Government (Amendment) Act.**

No. 19, 1945.

This subsection shall not apply to or in respect of any work done more than six months before the commencement of the Local Government (Amendment) Act, 1945.

New  
Division  
4A.

(d) by inserting next after section 317A the following new Division:—

DIVISION 4A—*Existing buildings.*

Repair or  
demolition  
of existing  
buildings.  
cf. Act No.  
58, 1932,  
s. 373.

317B. (1) If any building is in such a dilapidated or unsightly condition as to be prejudicial to the property in or inhabitants of the neighbourhood of such building, the council may order the owner to demolish, or as an alternative, to re-erect such building or any part thereof or otherwise to put the same or any part thereof into a state of repair and good condition to the satisfaction of the council within a reasonable time to be fixed by the order.

(2) If the order is not obeyed the council may with all convenient speed enter upon the building and the land upon which it stands and execute the order.

(3) Where the order directs the demolition of a building or any part thereof the council, if executing the order, may remove the materials to a convenient place and (unless the expenses of the council under this section in relation to such building are paid to it within fourteen days after such removal) sell the same if and as it, in its discretion, thinks fit.

(4) All expenses incurred by the council in relation to any such demolition or sale as aforesaid may be deducted by the council out of the proceeds of the sale, and the surplus (if any) shall be paid by the council on demand to the owner of the building; and if such building or any part thereof is not demolished and such materials are not sold by the council, or if the proceeds of the sale are not sufficient to defray the said expenses, the council may recover such expenses or the deficiency from the owner of the building together with all costs in respect thereof

in

**Local Government (Amendment) Act.**

**149**

in a summary manner, but without prejudice to the owner's right to recover the same from any lessee or other person liable for the expenses of repairs. **No. 19, 1945.**

(5) Any owner who has received an order under this section may appeal against the order to a district court judge having jurisdiction within the area.

The provisions of subsections two, three and four of section three hundred and forty-one of this Act shall apply to and in respect of any such appeals. For the purposes of such application a reference in any of those subsections to the Land and Valuation Court or to the court shall be construed as a reference to the district court or to the district court judge hearing the appeal.

**12.** Part XII of the Principal Act is amended—

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

- (a) by omitting the proviso to subsection two of section three hundred and twenty-seven; **Sec. 327 (2). (Limit, 20 acres.)**
- (b) by inserting at the end of subsection one of section 340A the following words: "or where such space is adjacent to land reserved or dedicated, under the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, for the purpose of public recreation, or to a public park which is not vested in the council, such space shall, if the council at any time so directs, be surrendered to the Crown, and upon such surrender the land comprised in such space shall be deemed to be Crown lands within the meaning of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, and may be dealt with accordingly." **Sec. 340A. (1). (Surrender of certain land to Crown.)**
- (c) (i) by omitting from subsection one of section three hundred and forty-one the words "a District Court judge having jurisdiction within the area" and by inserting in lieu thereof the words "the Land and Valuation Court"; **Sec. 341. (Appeals—building and subdivision, etc.)**

(ii)

No. 19, 1945.

- (ii) by omitting from subsection two of the same section the word "judge" and by inserting in lieu thereof the word "court";
- (iii) by omitting from subsection three of the same section the word "judge" and by inserting in lieu thereof the word "court";
- (iv) by omitting from subsection four of the same section the words "district court" and by inserting in lieu thereof the words "Land and Valuation Court";
- (v) by inserting at the end of the same section the following new subsection:—

(5) (a) Any appeal made under this section may be remitted by the court to the court of petty sessions nearest to the proposed building or public road or land in respect of which the appeal is made, and such court of petty sessions shall hear and determine the appeal, and for such purposes shall have the powers and authorities conferred on the Land and Valuation Court by this section.

(b) The decision of a court of petty sessions on any appeal so remitted to it shall for all purposes be deemed to be the decision of the Land and Valuation Court and shall have effect accordingly.

Amendment  
of Act No. 41,  
1919, Part  
XIII—Public  
Recreation.

New sec.  
352A.

Regulation of  
cutting of any  
channel  
through  
land owned  
or controlled  
by the  
council so  
as to release  
lake waters,  
etc.

### 13. Part XIII of the Principal Act is amended—

- (a) by inserting next after section three hundred and fifty-two the following new section:—

352A. (1) The council may regulate the cutting of any channel or the doing of any thing on or adjacent to any land acquired by the council or under the care, control and management of the council which causes or is likely to cause the waters of any river, creek, canal, drain, reservoir, pool, marsh, lake, or lagoon to flow in or upon or through such land.

(2)

(2) (a) The council shall not grant permission to the cutting of any such channel or the doing of any such thing without the consent of the Minister or of a person authorised by the Minister in that behalf.

(b) The consent of the Minister or of a person so authorised may be applied for and given in writing, orally, by telephone or by telegraph.

(b) by inserting at the end of paragraph (f) of section three hundred and fifty-three the words "and life-saving or swimming instructors";

Sec. 353.  
(Life-saving  
instructors.)

(c) by inserting at the end of subsection two of section three hundred and fifty-eight the words "and institutions including kindergartens and nurseries providing or proposing to provide for the physical, mental or cultural welfare or education of persons";

Sec. 358.  
(Subsidies.)

(d) by inserting at the end of section three hundred and sixty-seven the following new paragraph:—

Sec. 367.  
(Ordin-  
ances.)

(j) the control and regulation of the taking of animals into a public reserve or place of public recreation, amusement or improvement under the control of the council or the permitting or suffering of animals to be in or upon any such public reserve or place.

**14. Part XIV of the Principal Act is amended—**

Amendment  
of Act No. 41,  
1939, Part  
XIV—Water,  
Sewerage,  
Drainage, or  
Electricity  
Works.

(a) by inserting next after section three hundred and seventy-five the following new section:—

New sec.  
375A.

375A. (1) Where the liability of the council to the Treasurer incurred under this Part in respect of any work of water supply, sewerage, drainage, or electricity has been extinguished either before or after the commencement of the Local Government (Amendment) Act, 1945, the Treasurer shall certify to the Governor that such liability has been extinguished.

Vesting  
land in  
council  
upon  
extinction  
of liability  
to Treasury.

(2)

## No. 19, 1945.

(2) Thereupon the Governor may by proclamation declare that—

(a) all land acquired for the purpose of such work is vested in the council;

(b) all right, title, or interest of the Minister for Public Works to or in such work is vested in the council.

(3) Upon publication in the Gazette of such proclamation such land and all such right, title and interest shall vest in the council.

Sec. 378  
(2).  
(Excess  
water  
charges.)

(b) by inserting at the end of subsection two of section three hundred and seventy-eight the following new paragraph:—

(b) Different charges may be made and levied in respect of different quantities of such excess water.

Sec. 379.  
(Exemption  
from Sewer-  
age Rate.)

(c) by inserting next after subsection (5B) of section three hundred and seventy-nine the following new subsection:—

(5c) The Council may exempt from sewerage local rates any land which for the time being is not ratable in respect of the water supply local rate.

New secs.  
392A and  
392B.  
Tampering  
with water  
meters,  
&c.  
cf. sec.  
512E.

(d) by inserting next after section three hundred and ninety-two the following new sections:—

392A. (1) Any person who wilfully, fraudulently or by culpable negligence injures, or suffers to be injured any water pipe, meter, fitting, appliance, apparatus or works belonging to the council, or alters the index of any water meter, or prevents any water meter from duly registering the quantity of water supplied or interferes with any water meter or with any seal affixed to any water meter or pipe, or fraudulently abstracts, causes to be wasted or diverted, consumes, or uses water supplied by the council, shall be guilty of an offence and shall on summary conviction be liable to a penalty not exceeding fifty pounds or to imprisonment for a term not exceeding twelve months

months, and shall (without prejudice to any No. 19, 1945. other right or remedy for the protection of the council or the punishment of the offender) for every such offence forfeit and pay to the council a sum not exceeding twenty-five pounds and the council may in addition thereto recover the amount of any damage sustained.

(2) The existence of artificial means for causing such alteration or prevention, or for abstracting, wasting, diverting, consuming or using water supplied by the council when the pipe, meter, fitting, appliance, apparatus or work is under the custody or control of the consumer shall be prima facie evidence that such alteration, prevention, abstraction, waste, diversion, consumption or use (as the case may be) has been fraudulently, knowingly and wilfully caused by the consumer.

392B. (1) (a) A water main laid by a council either before or after the commencement of this section outside the boundaries of any land liable to be rated to a water supply local rate shall on and from such commencement be deemed to include the water pipes and necessary fittings connecting the water main with such land at the point within the land at which a water meter is or is to be installed: Provided that any such connecting pipe shall not be deemed to be a water pipe of the council for the purposes of paragraph (b) of subsection one of section three hundred and seventy-nine of this Act.

Connections  
to water  
mains.

(b) In the case of a water main laid after the commencement of this section such water pipes and necessary fittings shall as far as practicable be laid and installed when the water main is laid.

(2) This section shall commence on the first day of January, one thousand nine hundred and forty-six.

(e)

No. 19, 1945.

New sec.

396A.

Connections  
to sewer  
mains.

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

396A. (1) (a) (i) A sewer main laid by a council either before or after the commencement of this section outside the boundaries of land liable to be rated to a sewerage local rate shall on and from such commencement be deemed to include the sewer pipes and necessary fittings connecting the main with such land at the point within the land at which a boundary trap or interceptor trap or the like is, or is to be installed: Provided that in any case where a boundary trap or interceptor trap or the like is not installed in connection with the pipes connecting the sewer main with the land the sewer main shall be deemed to terminate at the boundary of such land where it is crossed by the connecting pipes: Provided further that any such connecting pipe shall not be deemed to be a sewer of the council for the purposes of subsection two of section three hundred and seventy-nine of this Act.

(ii) In the case of a sewer main laid after the commencement of this section, such sewer pipes and necessary fittings shall as far as practicable be laid and installed when the sewer main is laid.

(b) The council may at the request of the person ratable in respect of any land extend such sewer pipes and necessary fittings so as to provide for the drainage of all sewage from the land and provide such connections as may be necessary to enable a water-closet, bath, wash-basin, sink, and wash-tubs to be drained into the sewer, and provide and instal a water-closet, pan, seat and cistern:

Provided that the council may in respect of anything done or provided in pursuance of this paragraph impose upon the ratable person a charge sufficient to provide for the payment by equated instalments of principal and interest combined of the cost thereof and interest on cost within a period of years not exceeding the period

period prescribed, and any charge so imposed may be recovered as a rate and shall be a charge upon the land in respect of which it is imposed as if it were a rate: No. 19, 1945.

Provided further that the council shall not be responsible for or for payment of the cost of the repair, maintenance or renewal of anything done or provided in pursuance of this paragraph and anything so done or provided shall be and remain the property of the owner of the land.

(c) Where a sewer main has been laid before the commencement of this section or is laid thereafter within the boundaries of land liable to be rated to a sewerage local rate the council may at the request of the person ratable in respect of the land carry out such further works as may be necessary to provide for the drainage of all sewage from the land and provide such connections as may be necessary to enable a water-closet, bath, wash-basin, sink and wash-tubs to be drained into the sewer and provide and instal a water-closet, pan, seat and cistern: Provided that the council may in respect of anything done or provided in pursuance of this paragraph impose upon the ratable person a charge sufficient to provide for the payment by equated instalments of principal and interest combined of the cost thereof and interest on cost within a period of years not exceeding the period prescribed and any charge so imposed may be recovered as a rate and shall be a charge upon the land in respect of which it is imposed as if it were a rate:

Provided further that the council shall not be responsible for or for payment of the cost of the repair, maintenance or renewal of anything done or provided in pursuance of this paragraph and anything so done or provided shall be and remain the property of the owner of the land.

(2) This section shall commence on the first day of January, one thousand nine hundred and forty-six. (f)



No. 19, 1945.

New sec.  
398B.  
Drainage  
reserves  
resumption.

(f) by inserting next after section 398A the following new section:—

398B. (1) Where the council is satisfied that any drainage reserve which is not vested in it in pursuance of section three hundred and ninety-eight of this Act is no longer required for the purpose of drainage it may acquire such drainage reserve by resumption for the purpose of selling or exchanging the land and such sale or exchange shall be made in accordance with the provisions of this Act.

(2) In this section "drainage reserve" means any land which is shown on a plan lodged with the Registrar-General before or after the commencement of the Local Government (Amendment) Act, 1945, and marked with the words "drainage reserve" or any words of like import; but where a later plan including such land has been so lodged, and such land is not marked as aforesaid on the later plan, such land shall not be deemed to be a drainage reserve for the purposes of this section.

(g) by omitting from section four hundred and three the word "or" where secondly occurring and by inserting in lieu thereof the word "and".

Sec. 403.  
(Regulation  
of drainage  
of premises.)

Amendment of  
Act No. 41,  
1919, Part  
XVII—  
Trading.

Sec. 421 (5)  
(Pipes, wires,  
etc., under or  
over public  
places.)

Sec. 422B  
(5).

(Agreement  
by Treasurer  
respecting  
certain  
franchises.)

Amendment  
of Act No. 41,  
1919, Part  
XVIII—  
Impounding.

New sec.  
425A.

Contribu-  
tion to  
pound  
upkeep.

15. Part XVII of the Principal Act is amended—

(a) by omitting subsection five of section four hundred and twenty-one;

(b) by omitting subsection five of section 422B.

16. Part XVIII of the Principal Act is amended—

(a) by inserting next after section four hundred and twenty-five the following new section:—

425A. A council which proposes to open and establish or which maintains a public pound which is likely to be used or is used for impounding animals from another area may claim from

from the council of such other area payment of an annual contribution towards the maintenance of the pound. Where such other council refuses to make such contribution or a part thereof, the matter may be referred to the Minister pursuant to section six hundred and fifty-four of this Act as a difference between the councils, and that section shall apply accordingly.

- (b) (i) by inserting next after paragraph (c) of subsection three of section four hundred and twenty-six the following new paragraph:—
- (d) to the whole or any part or parts of the area to which the provisions of subsection one of this section are extended by proclamation.
- (ii) by omitting subsection four of the same section and by inserting in lieu thereof the following subsection:—
- (4) Where a public road runs through a travelling stock reserve which is sufficiently fenced on both sides the travelling stock reserve shall for the purposes of this section be deemed to be a public road.
- (c) by omitting from subsection one of section four hundred and thirty-six the words "Thursday in every week" and by inserting in lieu thereof the words "Thursday or such other regular day or days in every week as the council may determine".
- (d) by inserting in subsection one of section four hundred and thirty-seven after the word "president" the words "or any person authorised in writing in that behalf by the mayor or president, either generally or for any particular case or class of cases".

**17.** Part XXI of the Principal Act is amended—

- (a) by inserting next after subsection one of section four hundred and sixty-one the following new subsection:—
- (1A) A council which provides, controls and manages abattoirs outside its area, shall, notwithstanding anything to the contrary in this
- or

No. 19, 1945.

Sec. 426.  
(Council may impound.)

Sec. 436.  
(Pound sale day.)

Sec. 437.  
(Destruction of impounded animals.)

Amendment of Act No. 41, 1919, Part XXI—Abattoirs.  
Sec. 461.  
(Powers—abattoirs.)

**Local Government (Amendment) Act.****No. 19, 1945.**

or any other Act, be the local authority within the meaning of the Cattle Slaughtering and Diseased Animals and Meat Act, 1902, as amended by subsequent Acts, in respect of such abattoirs.

- (b) by inserting in paragraph (b1) of subsection two of the same section after the word "curing" the words "dehydrating, processing."

Amendment  
of Act No. 41,  
1919, Part  
XXII—Noxious  
Plants.

**18. Part XXII of the Principal Act is amended—**

Sec. 472  
(2).  
(Duty of  
occupiers.)

- (a) by omitting paragraph (a) of subsection two of section four hundred and seventy-two;
- (b) by omitting from paragraph (b) of the same subsection the word "entirely";
- (c) by inserting next after subsection three of the same section the following new subsection:—

(4) If for any reason the notice required to be given in accordance with subsection one of this section is not given within the prescribed time, the Minister may extend the time for the giving of the notice.

Amendment  
of Act No. 41,  
1919, Part  
XXIII—Mis-  
cellaneous  
Powers.

**19. Part XXIII of the Principal Act is amended—**

Sec. 478A.  
(Charcoal.)

- (a) by inserting at the end of section 478A the following new subsections:—

(2) The council shall have and shall be deemed always to have had the power to make payment for charcoal purchased or agreed to be purchased in pursuance of subsection one of this section by instalments in advance or otherwise in accordance with such conditions as may be or as may have been agreed upon.

(3) The council shall have and shall be deemed always to have had the power to enter into agreement with any person engaged or proposing to engage in the manufacture of charcoal for the supply of materials, plant, appliances, equipment

equipment or services therefor or in relation thereto subject to such conditions and terms as may be or as may have been agreed upon; and any such agreement may be varied or extended subject to such further conditions and terms, if any, as may be agreed upon. No. 19, 1945.

(4) Subject to this section the council shall have and shall be deemed always to have had the power to make advances at such rates of interest and subject to such conditions and provisions as it may impose to any person engaged or proposing to engage in the manufacture of charcoal for the purpose of providing materials, plant, appliances, equipment or services therefor or in relation thereto.

The council shall for every such advance take such security as may be agreed upon with such person or as may be prescribed.

(5) The council may borrow by way of ordinary loan for any of the purposes of subsections two, three and four of this section.

- (b) by inserting next after section 478A the following new section:— New sec. 478B.

478B. The council shall have and shall be deemed always to have had the power to purchase or obtain and to supply firewood, coal and coke within or outside the area. Firewood, coal, and coke.

- (c) by inserting next after section four hundred and eighty two the following new section:— New sec. 482A.

482A. The council may, subject to any conditions that may be prescribed and for use for such purposes as may be prescribed, provide, control and manage works of and services for or in relation to afforestation on land acquired by the council for such purpose within or outside the area. Afforestation.

- (d) by inserting next after section four hundred and eighty-three the following new section:— New sec. 483A.

483A. (1) The council may, subject to and in accordance with any law of the Commonwealth for the time being in force, provide control and manage Broadcasting stations.

No. 19, 1945.

manage or join with any person or council in providing, controlling and managing broadcasting stations, or may subsidise such stations.

(2) The powers conferred by this section may be exercised within or outside the area of the council; but such powers shall be exercised only for the purpose of advertising the advantages of the area, or furnishing information concerning the activities of the council or for such other purposes of a like character as may be prescribed.

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

- (e) (i) by omitting subsection two of section 493A;  
(ii) by omitting subsection four of the same section;

Sec. 495A.  
(Removal  
of vegeta-  
tion.)

- (f) by omitting from subsection one of section 495A the words "undergrowth which is" and by inserting in lieu thereof the words "any vegetation or vegetative matter whether alive or dead which is or is likely to become";

Sec. 496.  
(Housing.)

- (g) by omitting subsections two, three, four and five of section four hundred and ninety-six, and by inserting in lieu thereof the following subsections:—

(2) (a) Any such dwelling, shop or other building and any works necessary or convenient in connection therewith may at the request of the council be erected or carried out for the council by the Crown in accordance with any agreement entered into for the purpose.

(b) Any such agreement may include provisions for securing the payment by the council of yearly or half-yearly instalments for defraying the cost of the work and interest on such cost, and for payment of an additional charge if any such instalment is not paid on the due date.

(c) Any such instalment and additional charge to the extent to which it is not remitted by the Crown, which remission the Crown is hereby authorised to make, may be recovered from the council as a debt.

(3)

(3) In respect of the sale or lease of a dwelling and its site under this section the council may give preference to purchasers or lessees who have large families, or who are occupying insanitary or overcrowded premises or who are living under unsatisfactory conditions. No. 19, 1945.

(4) Notwithstanding any other provision of this Act a lease under this section may be made at such rental (whether the same is the best rental that can be obtained or not) as the council may determine.

(h) by inserting next after section four hundred and ninety-six the following new section:— New sec.  
496A.

496A. (1) Subject to this section the council may make advances of money at such rates of interest and subject to such covenants, conditions and provisions as it may impose to any owner of land for the purpose of erecting a dwelling or for the purpose of reconditioning, rebuilding, or adding to any existing dwelling on such land. Advances by  
council for  
housing.

(2) The owner shall give security to the satisfaction of the council for any moneys so advanced.

(3) (a) Ordinances may be made prescribing all matters which are necessary or convenient to be prescribed for carrying this section into effect.

(b) Without prejudice to the generality of paragraph (a) of this subsection, any such ordinance may prescribe—

(i) the maximum amount that may be advanced by the council either generally or in respect of any particular class of dwellings;

(ii) the maximum periods for repayment of advances by instalments. Different periods of time may be prescribed in respect of different dwellings having regard to their durability and the materials of which they are constructed.

(i)

**No. 19, 1945.**

Sec. 500  
(2).  
(Work on  
private  
land.)  
New sec.  
510A.

Land used  
for storage  
of old  
motor  
vehicles,  
etc.

- (i) by inserting in subsection two of section five hundred after the word "mains" the words "or carry out on such premises any works whatsoever which may be lawfully carried out";
- (j) by inserting next after section five hundred and ten the following new section:—

510A. The council may for the purpose of preventing the creation or securing the abatement of unsightly conditions regulate the use of land—

- (a) for the storage of disused motor vehicles or old machinery or other old or used or second-hand materials; or
- (b) for the dismantling or breaking up of old motor vehicles or old machinery and the like;
- (k) by inserting at the end of section 512J the following new subsection:—

(6) The particulars of the licenses of electrical contractors and electricians shall be recorded at the Department of Local Government. A certificate purporting to be under the hand of the Under Secretary of that Department or of any prescribed officer certifying that any person is not the holder of an electrical contractor's license or an electrician's license or that certain particulars do or do not appear on such records shall in all courts and upon all occasions whatsoever be received as evidence.

Such certificate shall be prima facie evidence of the particulars contained therein.

The production of such records or any license, requisition, notice or other document upon which such certificate may be founded and proof of the signature of the Under Secretary or officer so certifying shall not be necessary unless the court so orders.

Sec. 513.  
(Ordinances—  
public vehicles—  
fares.)

cf. Act No.  
13, 1930,  
sec. 264  
(1) (ai).

- (l) (i) by inserting next after paragraph (m) of subsection one of section five hundred and thirteen the following new paragraphs:—
- (m1) the fixing, publication and collection of maximum and minimum fares

fares or charges for the hire or use of public vehicles and the imposition of penalties for charging fares or making charges other than those so fixed; No. 19, 1945.

(m2) the imposition of penalties for the failure, neglect or refusal by a passenger or hirer to pay any such fare or charge or for quitting the public vehicle before paying such fare or charge; cf. *Ibid.*  
sec. 264  
(1) (aj).

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

(4) An ordinance prescribing any of the matters which may be prescribed under section 482A of this Act shall, before being made, be submitted to the Minister for the time being administering the Forestry Act, 1916, and the ordinance shall not be made unless such Minister approves.

20. Part XXIII<sup>A</sup> of the Principal Act is amended— Amendment  
of Act No. 41,  
1919, Part  
XXIII—  
Small Holdings.

(a) by inserting at the end of the definition of “Small holding” in section 514A the words “or such greater amount as may be prescribed in respect of any particular area”; Sec. 514A.  
(Defini-  
tion.)

(b) by omitting from subsection one of section 514<sup>B</sup> the words “by gift, agreement, purchase or lease.” Sec. 514<sup>B</sup>.  
(Acquisi-  
tion of  
land.)

21. Part XXIV of the Principal Act is amended— Amendment  
of Act No. 41,  
1919, Part  
XXIV—  
Ancillary  
Powers.

(a) (i) by omitting paragraph (a) of subsection two of section five hundred and eighteen; Sec. 518  
(Power to  
sell or  
exchange  
property.)

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

(2<sup>A</sup>) Notwithstanding the provisions of subsection two of this section, where any land is vested in the council for public health,



No. 19, 1945.

health, recreation, enjoyment or other public purpose of a like nature, or has been conveyed or transferred to the council pursuant to section 340A of this Act, and such land is adjacent to land reserved or dedicated, under the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, for the purpose of public recreation, or to a public park which is not vested in the council, the council may, with the approval of the Governor, surrender the land to the Crown; and upon such surrender the land shall be deemed to be Crown lands within the meaning of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, and may be dealt with accordingly.

Sec. 521.  
(Joint  
action by  
councils.)

- (b) (i) by omitting from subsection one of section five hundred and twenty-one the words "The councils of adjoining areas" and by inserting in lieu thereof the words "Two or more councils";
- (ii) by omitting from subsection two of the same section the words "composed of members of the councils" and by inserting in lieu thereof the words "which may be composed either wholly of members of the councils, or partly of members of the councils and partly of servants or other persons";
- (iii) by inserting at the end of the same section the following new subsection:—

Joint  
under-  
takings,  
agreements  
re joint  
committees:  
travelling  
expenses.

(4) In any case where the councils in such agreements delegate to such committee the power to pay to members of the committee reasonable allowances towards their necessary out-of-pocket expenses for conveyance and subsistence in travelling to and from the meetings of the committee or upon inspections within the areas of the councils such payments may be made by the committee provided such inspections are authorised by resolution of the committee; and the allowances

allowances payable under this subsection shall, mutatis mutandis, be as from time to time prescribed in respect of members of councils travelling to and from meetings of councils or upon inspections within their areas as the case may be. No. 19, 1945.

- (c) by inserting next after section five hundred and twenty-eight the following new sections:— New secs. 528A, 528B and 528C.

528A. It shall be lawful for the council to accept appointment as the agent of the Government Insurance Office of New South Wales in pursuance of section nine of the Government Insurance Act, 1927-1943, and for that purpose to enter into and carry out any agreement with the said Office. Council may be agent of the Government Insurance Office.

528B. It shall be lawful for the council to be appointed or employed and to accept appointment or employment as the agent of any company supplying a public utility such as gas or electricity or any other council, including the Municipal Council of Sydney, for the collection or payment of moneys; and agreements may be entered into between the respective parties for this purpose. Councils as collecting agents for other councils. cf. (N.Z.) Finance Act, 1941 (No. 4), s. 30.

528C. It shall be lawful for the council subject to the provisions of any ordinance made in that behalf to be appointed or employed and to accept appointment or employment as the agent of the Crown for any purpose in respect of which the Crown may appoint or employ an agent, and agreements in connection therewith may be entered into between the council and the Crown. Councils as agents for the Crown.

- (d) by inserting next after section five hundred and thirty the following new section:— New sec. 530A.

530A. (1) This section shall apply to any area to which it is applied by the Governor by proclamation and to the council of such area. Power to delegate.

(2) Subject to this section the council may by resolution authorise an officer, or a servant, or a person, or a committee consisting either wholly or in part of officers, servants or persons

No. 19, 1945.

persons to exercise or perform on behalf of the council any power, authority, duty, or function of the council other than a power, authority, duty or function relating to—

- (a) the making of any rate, the fixing of any charges or fees, or the borrowing of any moneys;
- (b) the voting of moneys for expenditure on the works, services or operations of the council;
- (c) the resumption, purchase, sale, exchange, leasing or surrender of any land or other property or the granting of any lease of land;
- (d) the acceptance of tenders;
- (e) any application or notice to the Governor or the Minister;
- (f) the payment of travelling expenses;
- (g) any other matter which may be prescribed.

(3) (a) Any such authority may, if the council so resolves, be unlimited as to the period during which it may be exercised, or may be exercisable only during such period as may be specified in the resolution.

(b) The exercise of any such authority shall be subject to such limitations and conditions as may be specified by the council by resolution, or as may be prescribed.

(4) Any officer, servant, person or committee, when acting in the exercise of any such authority and within its scope, shall be deemed to be the council.

(5) Any authority conferred by the council under this section may be withdrawn by the council by a subsequent resolution, either wholly or in part.

(6) No act of an officer, servant, person or committee done within the scope of any such authority during the period in which such authority remains in force shall be invalidated by reason of a withdrawal of the authority or  
by

by reason of the revocation by the Governor of the proclamation applying this section to the area and the council concerned. No. 19, 1945.

**22.** Part XXVI of the Principal Act is amended—

Amendment  
of Act No. 41,  
1919, Part  
XXVI—  
National  
Works  
Sec. 539.  
(Conse-  
quential.)

- (a) by omitting from subsection two of section five hundred and thirty-nine all words following the words “of that section”;
- (b) by omitting from subsection (2A) of the same section the words and symbols “paragraph (g1) or paragraph (g2)” and by inserting in lieu thereof the word and symbols “paragraph (g3)”.

**23.** Part XXVII of the Principal Act is amended—

Amendment  
of Act No. 41,  
1919, Part  
XXVII—  
Urban Areas.

- (a) by omitting from subsection five of section five hundred and forty-eight the word “Ku-ring-gai”;
- (b) by omitting section 549A and by inserting in lieu thereof the following section:—

Sec. 548 (5).  
(Correction)

549A. (1) (a) The Governor may, if in his opinion circumstances have arisen rendering it advisable so to do, by proclamation order that an urban committee shall be abolished, and make such further orders as in the circumstances he may deem necessary.

Subst. sec.  
549A.

Abolition of  
urban  
committees.

(b) Upon the abolition of the urban committee any urban committeeman for the time being holding office on that committee shall be deemed to have retired from office.

(2) The Governor may, without regard to the procedure prescribed by section five hundred and forty-eight of this Act, if in his opinion circumstances have arisen rendering it advisable so to do, by proclamation again establish an urban committee so abolished.

- (c) by omitting paragraph (d) of subsection two of section five hundred and fifty-two.

Sec. 552.  
(General  
powers of  
urban com-  
mittee.)

**24.**

No. 19, 1945. **24.** Part XXIX of the Principal Act is amended—

Amendment  
of Act No. 41,  
1919, Part  
XXIX—  
County  
Councils.  
Sec. 561.  
(Name of  
county  
council.)

(a) by inserting at the end of section five hundred and sixty-one the following new subsection:—

(6) (a) The council of a county district may be described as “the Council of the ..... County District” or as “the ..... County Council.”

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

Sec. 562.  
(Constitu-  
tion of  
county  
councils.)

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

(4A) (a) (i) The Minister may, from time to time after the first election of delegates to the county council, redetermine the number of delegates authorised or fixed to be elected for each county electorate.

(ii) Without prejudice to the generality of subparagraph (i) of paragraph (a) of this subsection where any area the whole or part of which comprises or is included in a county electorate is altered pursuant to Part Three of this Act the Minister may at any time after such alteration redetermine the number of delegates authorised or fixed to be elected for each county electorate.

(b) Any alteration, in pursuance of paragraph (a) of this subsection, of the number of delegates authorised or fixed to be elected for a county electorate shall not affect the representation of the electorate on the county council until the next following general election of the county council or such earlier time as may be proclaimed.

(ii)

- (ii) by inserting in subsection five of the same No. 19, 1945. section after the word "may" the words "from time to time";
- (iii) by inserting in the same subsection after the word "combine" the words "or alter the combination of";
- (iv) by inserting in the same subsection after the word "combining" the words "or so altering the combination of";
- (v) by omitting from the same subsection the word "councils" where it firstly and secondly occurs and by inserting in lieu thereof the words "areas or parts of areas";
- (vi) by inserting at the end of the same subsection the following words:—

Provided that the appointment of the number of delegates to be elected by an electorate altered by the alteration of the combination of areas or parts of areas shall not affect the representation of the electorate on the county council until the next following general election of the county council or such earlier time as may be proclaimed.

- (c) by inserting next after subsection four of section Sec. 563. five hundred and sixty-three the following new (Corporate body— subsection:— chairman.)

(4A) A delegate of a council concerned who is in office as chairman of a county council immediately before—

- (i) a periodical election of delegates to the county council; or
- (ii) an ordinary election of aldermen or councillors of the council concerned,

may, if re-elected at such periodical or ordinary election as a delegate or as an alderman or councillor as the case may be, continue in office as chairman until his successor is elected or appointed.

(d)

No. 19, 1945.

Sec. 564  
(Functions  
of county  
councils.)  
Limits of  
loans and  
rates.

- (d) by inserting at the end of subsection four of section five hundred and sixty-four the following new proviso:—

Provided further that any amounts borrowed or rates levied by the county council shall not affect the limits of borrowing or rating of the councils of the areas wholly or partly included in the county district.

Sec. 564B.

(Transfer  
of assets to  
county  
councils.)

- (e) (i) by omitting from subsection one of section 564B all words from the commencement of the subsection down to and including the words “shall have effect” and by inserting in lieu thereof the following words:—

“Where by a proclamation under section five hundred and sixty-four of this Act the powers and duties in relation to any works (other than works for the purpose of the supply of water or electricity in bulk only) which are vested in the council of an area wholly or partly included in a county district or the control and management of which are vested in such council, are delegated to the council of such county district then, as from the date appointed by the Governor as stated in the proclamation of such delegation (in this section hereinafter referred to as ‘the date of delegation’) the following provisions shall have effect”;

- (ii) by inserting next after paragraph (1) of the same subsection the following new paragraph:—

(m) (i) Every person who immediately before the date of delegation was a servant of a council concerned and who was wholly or principally employed on or in connection with any such works shall on such date (subject to any agreement which may be entered into between the county council,

the

the servant and the council concerned)— No. 19, 1945.

- (a) be transferred to the service of the county council; and
- (b) become a servant of the county council; and
- (c) be paid salary or wages at the rate at which he was employed immediately before the date of delegation until such salary or wages is or are varied or altered by the county council; and
- (d) be deemed to have been appointed and employed by the county council under the provisions of this Act.

The person so transferred shall on and from the date of delegation until otherwise directed by the county council continue to perform the duties which attached to his employment immediately before the date of delegation.

- (ii) Where any condition of employment of any person so transferred to the county 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 regulating such condition and binding the county council is made by a competent tribunal, or such condition is regulated by an



No. 19, 1945.

an industrial agreement to which the county council is a party.

- (iii) The period of service with the council of one or more municipalities, shires or county districts under this Act of any person so transferred shall upon such transfer be counted as service with the county 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, 1940, as amended by subsequent Acts.
- (iv) The transfer of any person under this paragraph shall not affect any right to leave (including long service leave) of absence accrued prior to such transfer.
- (v) If any person transferred under this paragraph, within a period of twelve months from the date of his transfer, resigns his position with the county council, except in anticipation of termination of his employment for misconduct, or if the employment of any person transferred under this paragraph is terminated by the county council otherwise than for misconduct within a period of two years from the date of his transfer, the county council shall grant to him a gratuity equivalent to the amount of four weeks' salary or wages for each year of service, such salary or wages being reckoned at the rate subsisting at the date of his transfer. This

This subparagraph shall apply No. 19, 1945. only to a person who has been employed continuously by the council of any one or more municipalities, shires or county districts under this Act for a period of not less than one year immediately preceding the day of his transfer to the service of the county council.

- (vi) Where a person who is transferred under this paragraph was engaged by a council concerned 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 county council otherwise than in accordance with the terms of such contract the county 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 subparagraph (v) of this paragraph, 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 subparagraph shall not be deemed entitled to receive a gratuity under subparagraph (v) of this paragraph.

(vii)

No. 19, 1945.

- (vii) The provisions of the Local Government (Superannuation) Act, 1927, as amended by subsequent Acts, shall continue to apply to and in respect of any person transferred under this paragraph in like manner and to the same extent as the said Act would have applied if this paragraph had not been enacted.
- (viii) A servant of a council who at the date of the delegation is engaged in war service as defined in the Defence Act 1903 of the Parliament of the Commonwealth of Australia, as amended by subsequent Acts, and who previously to his enlistment was wholly or principally employed on or in connection with any such works shall for the purposes of this paragraph be deemed to be so employed and his war service as well as his previous service with the council shall be counted as service with the council for the purposes referred to in subparagraph (iii) of this paragraph and he shall be deemed to have been employed continuously by the council for the purposes of subparagraph (v) of this paragraph.
- (iii) by omitting subsection two of the same section and by inserting in lieu thereof the following subsection:—
- (2) Where by a proclamation under section five hundred and sixty-four of this Act the powers and duties relating to works for the supply of gas or electricity (other than works for the purpose of the supply of gas
- or**

or electricity in bulk only) which are conferred or imposed on the council of an area wholly or partly included in a county district, including the powers and duties conferred and imposed by section four hundred and twenty of this Act, are delegated to the council of such county district, and at the date of delegation there is in existence an agreement under section four hundred and twenty of this Act entered into by the council of such area as aforesaid with some other person, which agreement relates to the supply of gas or electricity by that other person to the public, then as from the date of delegation such agreement shall be deemed to be an agreement entered into by the county council with such other person.

- (f) by inserting next after section five hundred and sixty-five the following new Division:—

*DIVISION 4A.—Abolition of county district and dissolution of county council consequent upon union of areas of constituent councils.*

565A. (1) Where all of the areas or parts of areas included in a county district are united in pursuance of Part III the county council for such county district shall, by virtue of this section and notwithstanding the provisions of subsection five of section five hundred and sixty-one and of subsection five of section five hundred and sixty-four of this Act, be abolished and the county council shall by virtue of this section be dissolved.

(2) Upon and after the day (hereinafter in this section referred to as “the appointed day”) upon which such union becomes effective the powers, authorities, duties and functions of the county council shall be exercised and performed by the council of the area constituted by such union (hereinafter in this section referred to as “the council of the united area”) and the council of the united area shall be in law the successor of the county council.

(3)

No. 19, 1945.

New  
Division  
4A.

Union of areas  
comprised in  
county  
district.

No. 19, 1945.

(3) On and from the appointed day 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 appointed day, is vested in or belongs to the county council shall vest in and belong to the council of the united area. No attornment by a lessee of any land vested in the council of the united area 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 county council shall respectively be rates, moneys, liquidated and unliquidated claims payable to or recoverable by the council of the united area.
- (c) All suits, actions, and proceedings pending immediately before the appointed day at the suit of the county council shall respectively be suits, actions, and proceedings pending at the suit of the council of the united area.
- (d) All contracts, agreements and undertakings entered into with and all securities lawfully given to or by the county council, and in force immediately before the appointed day, shall be deemed to be contracts, agreements and undertakings entered into with and securities lawfully given to or by the council of the united area.
- (e) The council of the united area may pursue the same remedies for the recovery of 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 such council.

(f)

- (f) The council of the united area may enforce and realise any security or charge existing immediately before the appointed day in favour of the county council in respect of any such rates, moneys and claims as if such security or charge were existing in favour of the council of the united area. No. 19, 1945.
- (g) All debts due and moneys payable by the county council and all claims liquidated and unliquidated recoverable against the county council shall be debts due and moneys payable by and claims recoverable against the council of the united area.
- (h) All debts of the county council existing immediately before the appointed day shall be secured over the revenue of the council of the united area in the same way, and to the same extent in every respect, as such debts were immediately before the appointed day secured over the revenue of the county council, and the priority of security in the revenue of the council of the united area shall be as prescribed.
- (i) Where for the fulfilment of its obligations or undertakings the county council is required by law to levy loan rates, the council of the united area shall be deemed to be subject to the like requirement, and in respect thereof the provisions of this Act relating to such rates shall apply.
- (j) Where for the fulfilment of its obligations or undertakings the county council has lawfully borrowed moneys, or has entered into contracts in pursuance of section five hundred and seventeen of this Act, or is authorised to borrow moneys, and the principal amount  
owing

No. 19, 1945.

owing in respect of such loans and contracts and the amounts of any loans authorised but not raised by the county council together with the principal amount owing in respect of any loans raised and contracts entered into in pursuance of section five hundred and seventeen of this Act and the amounts of any loans authorised but not raised by the councils of the areas united exceed the limit of borrowing of the council of the united area prescribed by this Act, it shall be deemed to be lawful for such limit of borrowing to be so exceeded by the council of the united area.

- (k) The provisions of section 20c of this Act relating to servants shall on and after the appointed day apply, mutatis mutandis, to and in respect of the servants of the county council, and any reference in such section to the council of the new area shall be read and construed as a reference to the council of the united area.

**25.** Part XXX of the Principal Act is amended—

- (a) by omitting subsection six of section five hundred and eighty and by inserting in lieu thereof the following subsection:—

(6) Every such action shall be commenced within the period of twelve months next after the occurring of the cause of action. Such period is in this subsection referred to as “the prescribed period”:

Provided that where an application is made to a judge of the Supreme Court in accordance with rules of court for an extension of the prescribed period, the judge may, if he is satisfied that sufficient cause has been shown, or that having regard to all the circumstances of the case, it would be reasonable so to do, make an order

Amendment  
of Act No. 41,  
1919, Part  
XXX—Supple-  
mentary  
Sec. 580.  
(Notice of  
action.)

order for extension of the prescribed period for No. 19, 1945.  
such further period and subject to such terms  
and conditions (if any) as may be set out in the  
order.

Such application for extension may be made  
either within the prescribed period or at any  
time within twelve months thereafter.

Any person who is dissatisfied with the de-  
cision of the judge on any such application may  
appeal to the Supreme Court and that court may  
on the appeal make any order which ought to  
have been made in the first instance.

Every such appeal shall be made in accord-  
ance with rules of court.

- (b) by inserting at the end of subsection two of Sec. 581.  
section five hundred and eighty-one the words:— Compen-  
sation.)

Rules of court may be made under the  
District Courts Act, 1912, as amended by subse-  
quent Acts, prescribing the fees to be paid by  
either or both of the parties in relation to the  
submission, hearing and determination of a  
reference under this section, and the making of  
an order with respect to the claim.

- (c) (i) by inserting in paragraph (a) of subsection Sec. 603  
two of section six hundred and three next (2).  
after the word "sell" the words "in one lot (Sale of  
of adjoining parcels or in separate land by  
parcels"; Public  
Trustee.)

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

(6) Where any land has been subdivided  
and a portion sold under this section any  
unpaid rates in respect of such land may  
be apportioned accordingly on the recom-  
mendation of the Valuer-General.

- (d) by omitting from section 603A the words "the Sec. 603A.  
Public Trustee after obtaining a valuation (Conveyance  
of the land from the Valuer-General is reason- of land to  
ably of opinion that the proceeds of the sale council.)  
thereof would not exceed the total of the fees  
and expenses of the Public Trustee and the rates  
or charges due to the council, he may", and  
by



No. 19, 1945.

by inserting in lieu thereof the words "the amount of the improved value of the land for the time being in force under the Valuation of Land Act, 1916, as amended by subsequent Acts, is less than the total amount of the estimated fees and expenses of the Public Trustee on such sale and the rates and charges due to the council the Public Trustee shall";

Sec. 608  
(1).  
(Distribution of  
balance.)

(e) by omitting from subsection one of section six hundred and eight the words "Where the balance of the purchase money does not exceed five hundred pounds, the Public Trustee may pay and distribute the balance" and by inserting in lieu thereof the words "The Public Trustee may distribute the balance of the purchase money";

Sec. 609.  
(Balance exceeding  
£500.)  
(Repeal.)

(f) by omitting section six hundred and nine;

Sec. 611.  
(Payment to the  
Treasury  
after twenty  
years.)

(g) (i) by omitting from subsection one of section six hundred and eleven the words "and transfer the same to the council" and by inserting in lieu thereof the words "the same to the Treasury";

(ii) by omitting from subsection two of the same section the words "the Supreme Court in its equitable jurisdiction on application by the council shall, unless the court deems that there is some special reason to the contrary, order that the balance or any part thereof, as the case may be, be paid transferred and delivered out to the council:

Provided that nothing in this subsection shall preclude the council from making any subsequent application" and by inserting in lieu thereof the words "the Master in Equity shall pay the same to the Treasury";

(iii) by omitting subsections three, four and five of the same section and by inserting in lieu thereof the following subsection:—

(3) Any sum paid to the Treasury under subsections one and two of this section shall be carried to a special trust account.

On

On proof to the Supreme Court in its No. 19, 1945.  
equitable jurisdiction made at any time that  
any person is entitled to such sum or any  
part thereof the Court on application by the  
person claiming to be entitled may order  
the Treasurer to pay to such person the  
whole or any part of the money so paid to  
the Treasury but without interest thereon.

(h) by inserting at the end of section six hundred and fifteen the following new subsection:—

Sec. 615.  
(Proceedings  
for the  
recovery of  
charges and  
fees.)

(5) (a) Where the charge or fee is payable by a ratable person and the ratable person has had a verdict or judgment given against him for the amount of the charge or fee and has not paid the amount of such verdict or judgment the council may serve upon any person in occupation of the land in respect of which the charge or fee was incurred a notice of the amount of such verdict or judgment and a demand that any rent then due or thereafter to become due by such person in respect of the land be paid by him as it falls due to the council in liquidation of the amount of the verdict or judgment.

(b) In default of payment of rent as aforesaid the council may recover the amount of the demand, or any outstanding portion thereof as a debt.

(c) Any payment to the council under this section shall be a valid discharge to the payer for rent equivalent to the amount of such payment as against all other persons whomsoever.

(d) Nothing in this section shall apply to a person who is in occupation for or on behalf or as the servant of the Crown or of any council;

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

Sec. 644.  
(Demanding  
name of  
offender.)

(4) Without prejudice to the generality of the foregoing provisions of this section any member of the police force may without any other warrant than this Act apprehend and take before any court of summary jurisdiction, there to be dealt

No. 19, 1945.

dealt with according to law, any person who contrary to the provisions of this Act or of any ordinance made thereunder drives any animal or vehicle in a public place while he is under the influence of intoxicating liquor.

Amendment  
of Act No. 41,  
1919,  
Schedule  
Three.  
Sec. 14.  
(Valuers.)

**26.** (1) Schedule Three to the Principal Act is amended by inserting in subsection one of section fourteen after the word "valuers" the words "who shall hold a certificate as prescribed and be".

Amendment  
of Act No.  
41, 1919,  
Schedule  
Seven.

(2) Schedule Seven to the Principal Act is amended by omitting therefrom the heading "Class D" and the matter appearing under that heading.

### PART III.

#### MISCELLANEOUS.

Amendment  
of Act No. 20,  
1937.  
Repeal of  
sec. 35.

**27.** The Greater Newcastle Act, 1937, as amended by subsequent Acts, is amended by omitting section thirty-five.

Amendment  
of Act No. 35,  
1934, s. 66.  
(Travelling  
stock and  
camping  
reserves.)

**28.** Part IV of the Pastures Protection Act, 1934, as amended by subsequent Acts, is amended by inserting at the end of section sixty-six the following new subsection:—

cf. Act No.  
41, 1919,  
s. 426 (4).

(4) Where a public road runs through a travelling stock reserve which is sufficiently fenced on both sides the road shall for the purposes of this section be deemed to form part of the travelling stock reserve.

Amendment  
of Act No.  
58, 1934,  
Second  
Schedule.  
(Validation  
of remis-  
sion of  
instal-  
ments.)

**29.** (1) The Country Towns Water Supply, Sewerage and Drainage (Reduction of Debts) Act, 1934, is amended by omitting from the fifth and sixth columns respectively of the Second Schedule the figures "221.11.9" and "189.6.4" opposite the word "Berrigan," and by inserting in lieu thereof respectively the figures "371.11.9" and "339.6.4."

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

**30.** The acceptance by the Colonial Treasurer, subject to validation, of payment by the council of the municipality of Dubbo of an amount of twelve thousand five hundred pounds in full repayment of the sum of fifteen thousand three hundred and eighty-six pounds being the balance of an advance of seventeen thousand pounds made by the Minister to the said council for the construction of public swimming baths is hereby validated.

No. 19, 1945.  
Dubbo  
baths—  
repayment  
of debt to  
Minister.  
Validation

**31.** In any proceeding by the council of the municipality of Cessnock for the recovery of any rates made during the year one thousand nine hundred and twenty-seven or during any subsequent year up to and including the year one thousand nine hundred and thirty-nine the council shall not be debarred from recovering such rates by reason only of any defect or insufficiency in any affidavit as to service by post of a rate notice sworn by the person now deceased who was employed as town clerk by the said council at the time such rates were made.

Proof of  
service of  
rate notices  
by post,  
Cessnock  
Council  
rates.

**32.** (1) The payment to the Colonial Treasurer by any council named in the first column of Schedule I to this Act of the amount specified in the third column of the said Schedule in respect of the work indicated in the second column of the said Schedule respectively opposite the name of such council shall notwithstanding any provision in any Act to the contrary be accepted by the Colonial Treasurer in full settlement of any liability of the council to the Colonial Treasurer in respect of such work.

Extinction  
of certain  
liabilities  
to the  
Treasurer  
in respect  
of water  
supply and  
sewerage  
and other  
works.

(2) Any debt of interest incurred under Part XIV of the Local Government Act, 1919, as amended by subsequent Acts, and owing to the Colonial Treasurer by any council named in the first column of Schedule II to this Act in respect of the work indicated in the second column of the said Schedule opposite the name of such council is hereby extinguished.

**33.** Any liability of the Blaxland Shire Council to the Colonial Treasurer incurred under Part XIV of the Local Government Act, 1919, as amended by subsequent Acts, in respect of the Back Creek Dam constructed in connection with the Portland water supply work is hereby extinguished.

Portland  
water  
supply  
debt.

SCHEDULES.

No. 19, 1945.

## SCHEDULES.

Sec. 32 (1).

## SCHEDULE I.

Payments to be accepted by the Treasurer in full settlement of liabilities of certain councils in respect of certain works.

FIRST COLUMN.	SECOND COLUMN.	THIRD COLUMN.
Council.	Work.	Amount paid by council to be accepted in full settlement of liability to Treasurer.
		£ s. d.
Berry Municipal Council...	(a) Berry Water Supply	3,000 0 0
	(b) Bolong Farms Water Supply.	12,300 0 0
Casino Municipal Council...	Stormwater drainage ...	5,749 11 4
Cowra Municipal Council	Water supply and sewerage.	58,205 11 6
Dubbo Municipal Council	Water supply and sewerage.	146,000 0 0
Forbes Municipal Council	Water supply and sewerage.	69,468 18 7
Kyogle Shire Council ...	Kyogle water supply ...	13,500 0 0
Nattai Shire Council ...	Burradoo water supply	3,150 0 0
Warren Municipal Council	Water supply ...	2,000 0 0
Wentworth Municipal Council.	Water supply ...	4,784 1 10

Sec. 32 (2).

## SCHEDULE II.

Councils whose interest debts to the Treasurer in respect of certain works are extinguished.

FIRST COLUMN.	SECOND COLUMN.
Council.	Work.
Albury Municipal Council ...	South Albury Sewerage.
Balranald Municipal Council ...	Water supply.
Lithgow Municipal Council ...	Sewerage.
Mudgee Municipal Council ...	Water supply.
Murwillumbah Municipal Council	Water supply.
Nyngan Municipal Council ...	Water supply.
Orange Municipal Council ...	Water supply.
Peak Hill Municipal Council ...	Water supply.

WORKERS'