

## LOCAL GOVERNMENT (AMENDMENT) ACT.

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Act No. 47, 1946.

George VI.  
No. 47, 1946. An Act to amend the Local Government Act, 1919, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 20th December, 1946.]

**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:—

Short title. **1.** This Act may be cited as the "Local Government (Amendment) Act, 1946."

**2.**

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

No. 47, 1946.  
Amendment  
of Act No.  
41, 1919.  
Sec. 20c.  
(Transfer of  
servants.)

(a) (i) by inserting in subsection one of section 20c after the word "sixteen" the words "(paragraph (d) excepted)";

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

(5) (a) If the employment of any person transferred under this section is terminated by the council of any such new or other area otherwise than for misconduct within a period of two years from the date of his transfer, or if any person so transferred resigns his position with the council of such new or other area within the period commencing one year after and ending two years from the date of his transfer and the council has prior to the date on which his resignation was tendered failed to offer him in writing continuous employment at a salary or wage at least equal to that received by such person immediately prior to the date of his transfer and such failure is not occasioned by the misconduct of such person the council of such new or other area shall grant to such person a gratuity 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 such person during the fifty-two weeks immediately preceding the date of his transfer:

Provided that nothing contained in this subsection shall require the council of such new or other area to offer any person transferred under this section employment beyond the date fixed for retirement by this Act:

Provided further that the amount of any gratuity payable under this subsection shall not in any case exceed an amount being the equivalent

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equivalent of the salary or wages, reckoned on the average of the weekly salary or wages paid to such person during the fifty-two weeks immediately preceding the date of his transfer, which such person would have received if he had continued in the employment of the council from which he was transferred until the date fixed for retirement by this Act.

(b) 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.

New sec.  
20d.

Transfer of  
servants  
where areas  
are divided.

(b) by inserting next after section 20c the following new section:—

20d. (1) The provisions of this section shall apply to the transfer of servants in any case where under paragraph (d) of section sixteen of this Act any whole areas or whole areas and parts of areas are divided into a different number of areas.

(2) The council of each new area and, where whole areas and parts of areas are divided, the council of any area of which part has been taken, shall confer with one another and agree upon an arrangement as to the transfer of those persons who immediately before such division were servants of the councils of the areas affected.

(3) Where the councils have not agreed within a period of one month from the date of such division or within such further period as the Minister may allow the Minister may make such an arrangement.

(4) An arrangement under this section shall—

(a) in the case where whole areas are divided, provide for the transfer of all persons who

who immediately before such division were servants of the councils of the areas affected to the service of the councils of the new areas; No. 47, 1946.

- (b) in the case where whole areas and parts of areas are divided, provide for the transfer to the service of the councils of the new areas of—
  - (i) all persons who immediately before such division were servants of the councils of the areas wholly affected, and
  - (ii) such persons who immediately before such division were servants of an area from which part has been taken, as the councils of the areas affected may determine.

(5) An arrangement made under this section shall be embodied in a proclamation and upon publication thereof any person affected by such arrangement shall—

- (a) be transferred to the service of the council of the new area specified;
- (b) become a servant of the council of such new area;
- (c) be paid salary or wages not less than at the rate at which he was employed immediately before the publication of such proclamation until such salary or wages is or are varied or altered by the council of such new 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 area under the provisions of this Act.

The person so transferred shall on and from the publication of such proclamation until otherwise directed by the council of such new area continue to perform the duties which attached to his employment immediately before such publication.

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(6) The provisions of subsections two to eight inclusive of section 20c of this Act shall apply to and in respect of the transfer of any person under subsection five of this section.

(7) Pending the publication of a proclamation embodying an arrangement under this section the Governor may by proclamation under this Part make such provision, as the Governor may deem necessary or expedient, for the temporary transfer to the service of any of the councils of the new areas of the servants of the councils of any of the areas affected and for the performance of the duties of such servants and for the payment of the salary or wages of such servants at the rates at which such servants were employed immediately before such division and for any other matter or thing incidental thereto.

Sec. 21.  
(What may be provided for in Governor's proclamation.)

(c) by inserting next after subsection one of section twenty-one the following new subsection:—

(1A) Where by proclamation under subsection one of this section the Governor appoints a provisional council and empowers it to exercise all or any of the powers of a council pending the election of a council the Governor may in such or in any later proclamation provide for the appointment of such provisional council to take effect at any time prior to the date of constitution of the area in respect of which the provisional council is appointed and for the provisional council to exercise prior to such date the powers of a council for or in relation to the matters and things following, that is to say:—

- (a) the election of a mayor or president;
- (b) the provision of an office for the council;
- (c) the transfer and appointment of servants;
- (d) the apportionment of assets, rights and liabilities;
- (e) the preparation, performance and carrying into effect of all such acts, matters and things as in the opinion of the

the provisional council are necessary or expedient to enable that council to exercise and discharge all or any of the powers of a council as from the date from which the area concerned is constituted. Provided, however, that no arrangement with respect to the transfer and appointment of servants or to the apportionment of assets, rights and liabilities shall take effect prior to the constitution of the area concerned.

(d) by omitting subparagraph (v) of paragraph (m) of subsection one of section 564B and by inserting in lieu thereof the following subparagraph:—

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Sec. 564B.  
(Transfer of assets, etc., in certain events.)

(v) (a) 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 or, if any person so transferred resigns his position with the county council within the period commencing one year after and ending two years from the date of his transfer and the council has prior to the date on which his resignation was tendered failed to offer him in writing continuous employment at a salary or wage at least equal to that received by such person immediately prior to the date of his transfer and such failure is not occasioned by the misconduct of such person the county council shall grant to such person a gratuity 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 such person during the fifty-two weeks immediately preceding the date of his transfer:

Provided

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Provided that nothing contained in this subparagraph shall require the county council to offer any person transferred under this paragraph employment beyond the date fixed for retirement by this Act:

Provided further that the amount of any gratuity payable under this subparagraph shall not in any case exceed an amount being the equivalent of the salary or wages, reckoned on the average of the weekly salary or wages paid to such person during the fifty-two weeks immediately preceding the date of his transfer, which such person would have received if he had continued in the employment of the council from which he was transferred until the date fixed for retirement by this Act.

- (b) This subparagraph 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 county council.
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