

LOCAL GOVERNMENT (FURTHER AMENDMENT) ACT.

Act No. 44, 1948.

George VI.
No. 44, 1948. An Act to amend the Local Government Act, 1919, the Local Government (Areas) Act, 1948, the Gas and Electricity Act, 1935-1946, and certain other Acts in certain respects; to validate certain matters; and for purposes connected therewith. [Assented to, 24th December, 1948.]

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

Short title. **1.** This Act may be cited as the "Local Government (Further Amendment) Act, 1948."

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

Sec. 90A.
(Electrical engineers.) (a) (i) by omitting subsection one of section 90A and by inserting in lieu thereof the following subsection:—

(1) Where after the commencement of the Local Government (Further Amendment) Act, 1948—

(a) a vacancy occurs in the position of the servant having the principal oversight of an electricity trading undertaking conducted by the council; or (b)

- (b) the council establishes or acquires an electricity trading undertaking; No. 44, 1948.

the council shall employ in that position an electrical engineer who shall hold a certificate as prescribed:

Provided that the Minister on the occurrence of a vacancy as aforesaid or upon the establishment or acquisition of an electricity trading undertaking may grant the council an exemption from this provision.

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

(3) Subsection one of this section shall apply only—

- (a) where the total estimated annual income from all sources of the electricity trading undertaking exceeds the sum of four thousand pounds; or

- (b) where two or more councils, each conducting its own electricity trading undertaking, employ the same electrical engineer, and where the combined total estimated annual income from all sources of such undertakings exceeds the sum of four thousand pounds.

- (b) by inserting at the end of section one hundred and nineteen the following proviso:— Sec. 119.
(Suspension
of land tax.)

Provided further that any land tax due and payable at the commencement of the Local Government (Further Amendment) Act, 1948, in pursuance of the foregoing provisions of this section is hereby waived.

- (c) by omitting section one hundred and forty-one. Sec. 141.
(Rating of
Crown
leases.)

(d)

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New sec.

148A.

Liability
where land
is subdivi-
ded.cf. Sch.
Three,
s. 16 (2).

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

148A. (1) This section shall apply only to land valued under the Valuation of Land Act, 1916.

(2) Where any land has been subdivided, and a portion sold or let, any unpaid rates may be apportioned accordingly by the council on the recommendation of the Valuer-General.

New sec.
417A.Acquisition
of gas and
electricity
undertak-
ings.

(e) by inserting next after section four hundred and seventeen the following new section:—

417A. (1) (a) Where any person is supplying gas or electricity to the public otherwise than under the authority of an agreement conferring upon the council an option to purchase the undertaking of the supplier the council may acquire such undertaking by resumption in accordance with the provisions of this section.

(b) The provisions of Part XXV of this Act shall apply, *mutatis mutandis*, to and in respect of any resumption pursuant to this subsection.

(c) Any plant, equipment, machinery or apparatus used or capable of being used for the purposes of such undertaking and vested in the supplier at the date of any such resumption shall vest in the council.

The compensation payable in respect of any resumption pursuant to this section shall include the value, as at the date of resumption, of plant, equipment, machinery or apparatus vested in the council pursuant to this subsection and of the goodwill of any undertaking so resumed. Such value shall be the value agreed upon between the council and the supplier and in default of agreement the value as determined by the Land and Valuation Court.

(2) The right of acquisition conferred upon the council under subsection one of this section shall not extend to any case where the
person

person supplying gas or electricity to the public No. 44, 1948.
also manufactures, generates or distributes gas
or electricity for or in connection with any
industry, business or undertaking carried on by
such person.

In any such case the council may with the approval of the Governor give notice in writing to the supplier that it is desirous of acquiring the plant, equipment, machinery or apparatus of the supplier, other than that which is used for or in connection with the manufacture, generation or distribution of gas or electricity for or in connection with any industry, business or undertaking carried on by such person.

If after the expiration of a period of six months, or such further period as the Minister may allow, from the giving of such notice the council and the supplier fail to agree upon terms for the acquisition by the council of such plant, equipment, machinery or apparatus, such plant, equipment, machinery or apparatus shall thereupon vest in the council.

Compensation payable in respect of such plant, equipment, machinery or apparatus shall be the value, as agreed upon between the council and the supplier, of such plant, equipment, machinery or apparatus at the date of such vesting.

In default of agreement the value shall be as determined by the Land and Valuation Court.

(3) The Land and Valuation Court shall have jurisdiction to hear and determine any matter under this section and its determination shall be final and conclusive.

(4) Where the Council exercises the right of acquisition conferred upon it by this section every person who, immediately before the day upon which the undertaking or part thereof is vested in the council, was wholly or principally employed on or in connection with the undertaking or that part thereof vested in the
the

No. 44, 1948.

the council, shall on such day (subject to any agreement which may be entered into between the council, the supplier and the employee)—

- (a) be transferred to the service of the council;
- (b) become a servant of the council;
- (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: Provided that such salary or wages shall not be reduced nor the services of the servant terminated (except for misconduct) for a period of two years from the date of such transfer; and
- (d) be deemed to have been appointed and employed by the council under the provisions of this Act.

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

Sec. 418.
(Trading
undertak-
ings.)

- (f) by inserting at the end of subsection four of section four hundred and eighteen the following new paragraph:—

- (b) (i) Any such agreement for the extension of a trading undertaking referred to in paragraph (a) of subsection one of this section may include provisions whereby the council of the area into which such extension is to be made may pay to the council proposing to extend its undertaking the whole or any part of the annual liability of such council incurred in connection with such extension.

- (ii) The council of the area into which such extension is made may pay any sums falling due under any such agreement from the general fund

fund or, if it considers that such extension is of direct benefit to portion only of the area, may make and levy a local rate on the unimproved capital value or on the improved capital value of ratable land within such portion. No. 44, 1948.

- (g) by inserting next after section four hundred and twenty the following new section:— New sec. 420A.

420A. Where, after the commencement of the Local Government (Further Amendment) Act, 1948, a vacancy occurs in the position of an employee having the principal oversight of an electricity supply undertaking carried on by any person supplying electricity to the public under any agreement with any council or councils made in pursuance of section four hundred and twenty of this Act the total estimated annual income of which from all sources exceeds the sum of four thousand pounds, or where any person commences to supply electricity to the public under such an agreement and the total estimated annual income of the undertaking exceeds that sum, such person shall employ an electrical engineer who shall hold a certificate as prescribed: Employment of certified electrical engineer. cf. s. 90A.

Provided that the Minister, on the occurrence of a vacancy as aforesaid, or upon the commencement of the supply of electricity as aforesaid, may grant such person an exemption from this provision.

3. The Local Government (Areas) Act, 1948, is amended— Amendment of Act No. 30, 1948.

- (a) by omitting from paragraph (c) of subsection five of section seventeen the words "made under the Sydney Corporation Act, 1932, as amended by subsequent Acts, and in force immediately before the appointed day" and by inserting in lieu thereof the words "which the Municipal Council of Sydney directed or caused to be made during the years one thousand nine hundred and forty-seven and one thousand nine hundred and forty-eight"; Sec. 17. (Valuation of land.)
- (b)

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(b) by inserting at the end of the same paragraph the words "and shall come into force on the appointed day."

Any appeal against any such assessment or valuation pending before the appointed day in accordance with the provisions of the Sydney Corporation Act, 1932, as amended by subsequent Acts, may be continued and determined in accordance with the provisions of that Act, as so amended, in force immediately before the appointed day.

The provisions of subsection four of section eighteen of Schedule Three of the Principal Act shall apply to and in respect of any such assessment or valuation and for the purposes of such application any such appeal shall be deemed to be an objection."

Amendment
of Act No.
42, 1935.
Sec. 55A.
(Inscribed
stock.)
cf. Act No.
58, 1932,
s. 262F (4).

4. The Gas and Electricity Act, 1935, as amended by subsequent Acts, is amended by inserting in subsection three of section 55A after the word "shall" the words "both as regards the issue and any transfer thereof for full consideration in money or money's worth."

Expenditure
by councils
in connec-
tion
with Royal
visit.

5. Each of the following authorities, that is to say, the Municipal Council of Sydney, the Sydney County Council, and each municipal, shire or county council is hereby and shall be deemed always to have been empowered to expend from its funds such moneys as it thinks fit for the purpose of promoting any function, entertainment, pageant or display arranged in connection with the visit which Their Majesties propose to make to New South Wales.

Validation
of certain
payments by
the Muni-
cipal Council
of Sydney.

6. (1) The payment of the sum of one thousand pounds made by the Municipal Council of Sydney on the seventeenth day of June, one thousand nine hundred and forty-eight, as a subsidy to the City of Sydney Eisteddfod 1948 is hereby validated.

(2) The Municipal Council of Sydney is hereby empowered and shall be deemed always to have been empowered to subsidise the Sydney Symphony Orchestra and for that purpose to enter into any agreement with any person or body whether corporate or unincorporate.

7.

7. Notwithstanding the provisions of section 20c of the Local Government Act, 1919, as amended by subsequent Acts, or the provisions of the Local Government (Areas) Act, 1948, the salary or wages payable by the council of an area constituted under the Local Government (Areas) Act, 1948, to a servant who by virtue of that Act is transferred to the service of the council so constituted shall, from the first day of January, one thousand nine hundred and forty-nine, until such time as the salary or wages of such servant is altered by such council in accordance with the provisions of section 20c of the Local Government Act, 1919, as amended by subsequent Acts, be at the rate at which such servant was paid on the first day of July, one thousand nine hundred and forty-eight.

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Salaries of
certain
servants.

Nothing in this section shall apply to or in respect of any increase in salary or wages payable to a servant in accordance with the provisions of any award of a competent tribunal or of any industrial agreement.

8. Notwithstanding the provisions of section 20c of the Local Government Act, 1919, as amended by subsequent Acts, or the provisions of the Local Government (Areas) Act, 1948, the period of service with one or more municipalities, shires or county districts existing under the Local Government Act, 1919, as so amended, at any time before the first day of January, one thousand nine hundred and forty-nine, of any person who by virtue of the Local Government (Areas) Act, 1948, is transferred to the service of the Council of the City of Sydney as constituted under that Act, shall not be counted as service with the Council of that City for the purpose of calculating the amount of a gratuity payable by that Council under any award or agreement made under the Industrial Arbitration Act, 1940, as amended by subsequent Acts, to or in respect of a servant of that Council upon his retirement or death.

Period of
service of
certain
servants.