

LOCAL GOVERNMENT (AMENDMENT) ACT.

Act No. 13, 1954.

Elizabeth II,
No. 13, 1954.

An Act to confer a right of appeal on questions of law arising in the determination of claims for compensation under section 342^{ac} of the Local Government Act, 1919, as amended by subsequent Acts; for this purpose to amend that Act, as so amended; and for purposes connected therewith. [Assented to, 20th April, 1954.]

BE it enacted by the Queen'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
and
citation.

1. This Act may be cited as the "Local Government (Amendment) Act, 1954."

Amendment
of Act No.
41, 1919.

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

Sec. 342^{ac}.
(Compensa-
tion.)

- (a) by omitting from subparagraph (i) of paragraph (a) of subsection five of section 342^{ac} the words "or police";
- (b) by inserting in the same paragraph after the words "The decision of the Court or magistrate shall" the words ", subject to this section and to section seventeen of the Land and Valuation Court Act, 1921-1940,";
- (c) by omitting from subparagraph (ii) of paragraph (b) of the same subsection the words "police or";
- (d) by omitting paragraph (c) of the same subsection;
- (e) by inserting next after the same subsection the following new subsections:—

(6) (a) Any party to proceedings under this section before a court of petty sessions who is dissatisfied with the determination of that court on a question of law may, by leave of the Land and Valuation Court,
appeal

appeal therefrom by way of case stated by the stipendiary magistrate before whom the court of petty sessions was holden to the Land and Valuation Court. No. 13, 1954.

(b) The Land and Valuation Court may, when granting leave to appeal under this subsection and notwithstanding anything contained in any Act or rule of court, impose conditions as to costs or otherwise in respect of the appeal.

(c) Subject to subsection seven of this section, the Land and Valuation Court may hear and determine the question of law and may—

- (i) reverse, affirm or amend the determination in respect of which the case was stated;
- (ii) remit the matter to the stipendiary magistrate with the opinion of the court thereon; or
- (iii) make such other order in relation to the matter as it deems fit:

Provided that the court may cause the case to be sent back for amendment, and thereupon it shall be amended accordingly, and judgment shall be delivered after it has been so amended.

(d) The power conferred by section twenty of the Land and Valuation Court Act, 1921-1940, to make rules shall include power to make rules with respect to—

- (i) the time within which and the manner in which applications may be made to the Land and Valuation Court for leave to appeal pursuant to this subsection;
- (ii) all matters relating to the statement of cases pursuant to this subsection, the setting down of those cases and the hearing and determination of the questions of law involved.

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(7) The Land and Valuation Court may, in lieu of hearing and determining the question of law arising on any case stated under subsection six of this section, refer to the Supreme Court the case so stated; and for the purpose of that reference the case so stated shall be deemed to be a case stated under section seventeen of the Land and Valuation Court Act, 1921-1940.

Without prejudice to the generality of the foregoing provisions of this subsection, the Supreme Court may, on such reference, make any order that the Land and Valuation Court could have made had the case so stated not been referred to the Supreme Court.

(8) For the purposes only of this section the Land and Valuation Court Act, 1921-1940, shall be deemed to be amended by inserting at the end of subsection one of section seventeen the following new proviso and subsection:—

Provided that in proceedings before the court under subsection five or subsection six of section 342AC of the Local Government Act, 1919, as amended by subsequent Acts, a party shall not require the court to state a case unless he has first obtained the leave of the Supreme Court or of the court. Nothing in this proviso shall be construed as limiting or affecting the power of the court to state a case of its own motion.

(1A) (a) An application for leave pursuant to the proviso to subsection one of this section shall—

(i) be made within the prescribed time or within such further time as the court to which the application is made may allow;

(ii)

- (ii) where the application is made to the Supreme Court, be made in the manner prescribed by rules made by the judges of that Court or any two of them, or, where the application is made to the court, be made in the manner prescribed;
- (iii) be granted as of course where the amount of compensation claimed exceeds five hundred pounds.

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(b) The Supreme Court or the court may, when granting leave pursuant to the proviso to subsection one of this section, and notwithstanding anything contained in any Act or rule of court, impose conditions as to costs or otherwise in respect of the appeal.

(c) Where an order is made granting leave to appeal pursuant to the proviso to subsection one of this section, that order shall be deemed to be a requirement in writing made under that subsection and to have been made within the time prescribed under that subsection.

(9) The Council which is the responsible authority concerned and the claimant may appear by solicitor or counsel in any proceedings under this section before the Supreme Court, the Land and Valuation Court or a court of petty sessions.

3. The amendments made by section two of this Act to section 342AC of the Local Government Act, 1919, as amended by subsequent Acts, apply to and in respect of proceedings instituted under the said section 342AC before the commencement of this Act as well as to proceedings instituted under the said section 342AC after such commencement.

MACLEAY