

LOCAL GOVERNMENT (AMENDMENT) ACT.

Act No. 26, 1960.

An Act to make further provisions with respect to disqualifications for civic office; to authorise the writing off, in certain circumstances, of part of the rates payable on land within certain zones or reservations; to prohibit the demolition of residential buildings without the approval of the council; for these and other purposes to amend the Local Government Act, 1919, as amended by subsequent Acts, and the Secret Commissions Prohibition Act, 1919; and for purposes connected therewith. [Assented to, 19th April, 1960.]

Elizabeth II,
No. 26, 1960.

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:—

1. This Act may be cited as the "Local Government (Amendment) Act, 1960".

Short title
and
citation.

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

Amendment
of Act No.
41, 1919.

(a) (i) by inserting at the end of paragraph (j) of subsection two of section thirty the following word and new paragraphs:—

Sec. 30.
(Qualifica-
tion for
office.)

; or

(k) he has, after the commencement of the Local Government (Amendment) Act, 1960, been convicted of an offence against

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against the Secret Commissions Prohibition Act, 1919, as amended by that Act, and any period for which he is, in respect of that conviction, disqualified for a civic office has not elapsed; or

- (1) he has been convicted of an offence against section 30A of this Act and any period for which he is, in respect of that conviction, disqualified for a civic office has not elapsed.
- (ii) by omitting paragraph (b) of subsection three of the same section;
- (iii) by omitting subsections four, (4A) and five of the same section;

New sec.
30A.

- (b) by inserting next after the same section the following new section :—

Disability of members of councils for voting on account of interest in contracts, etc.
cf. 23 & 24 Geo. 5 c. 51, s. 76;
11 & 12 Geo. 6 c. 26, s. 131
(1)-(3);
1 & 2 Eliz. 2 c. 26, s. 15.

30A. (1) If a member of a council has any pecuniary interest, direct or indirect, in any contract or proposed contract with the council or in any other matter in which the council is concerned, and is present at a meeting of the council at which the contract, proposed contract or other matter is the subject of consideration, he shall at the meeting, as soon as practicable after the commencement thereof, disclose his interest, and shall not take part in the consideration or discussion of, or vote on any question with respect to, the contract, proposed contract or other matter :

Provided that this section shall not apply to an interest in a contract, proposed contract or other matter which a member may have as a ratepayer or elector of the area, or as a consumer of gas, electricity or water supplied to him by the council in like manner and subject to the like conditions as are applicable in the case of persons who are not members of the council, or to an interest in any matter relating to the terms on which the right to participate in any service, including the supply of goods, is offered to the public.

(2)

(2) For the purposes of this section a person shall (subject as hereafter in this subsection provided) be treated as having indirectly a pecuniary interest in a contract, proposed contract or other matter, if—

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- (a) he or any nominee of his is a member of a company or other body with which the contract is made or is proposed to be made or which has a direct or indirect pecuniary interest in the other matter under consideration; or
- (b) he is a partner, or is in the employment, of a person with whom the contract is made or is proposed to be made or who has a direct or indirect pecuniary interest in the other matter under consideration:

Provided that—

- (i) this subsection shall not apply to membership of, or employment under, any council or statutory body;
- (ii) a member of a company or other body shall not, by reason only of his membership, be treated as being so interested if he has no beneficial interest in any shares of that company or other body.

(3) Where a member of a council has indirectly a pecuniary interest in a contract, proposed contract or other matter and would not fall to be treated as having such an interest but for the fact that he has a beneficial interest in shares of a company or other body, then, if the total nominal value of those shares does not exceed five hundred pounds or one hundredth of the total nominal value of the issued share capital of the company or body, whichever is the less, so much of subsection one of this section as prohibits him from taking part in the consideration or discussion of, and from voting on any question with respect to, the contract, proposed contract

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contract or other matter shall not apply to him, without prejudice, however, to the duty of disclosure imposed by the said subsection one :

Provided that where the share capital of the company or other body is of more than one class, this subsection shall not apply if the total nominal value of all the shares of any one class in which he has a beneficial interest exceeds one hundredth part of the total issued share capital of that class of the company or other body.

(4) In the case of married persons living together the interest of one spouse shall, if known to the other, be deemed for the purposes of this section to be also an interest of that other spouse.

(5) A general notice given in writing to the clerk of the council by a member thereof to the effect that he or his spouse is a member or in the employment of a specified company or other body, or that he or his spouse is a partner or in the employment of a specified person, shall, unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of his interest in any contract, proposed contract or other matter relating to that company or other body or to that person which may be the subject of consideration after the date of the notice.

(6) The clerk of the council shall record in a book to be kept for the purpose particulars of any disclosure made under subsection one of this section, and of any notice given under subsection five thereof, and the book shall be open at all reasonable hours to the inspection of any elector.

(7) (a) If any person fails to comply with the provisions of subsection one of this section, he shall for each offence be liable to a penalty not exceeding one hundred pounds unless he proves that he did not know that a contract, proposed contract, or other matter in which he had a pecuniary interest was the subject of consideration at the meeting.

(b)

(b) Where a person is convicted of an offence against this section he shall be disqualified for a civic office for a period of seven years unless the court by which he is convicted sees fit in the circumstances of the case to reduce the period of disqualification to a shorter period or to declare that such person shall not by virtue of his conviction be disqualified for a civic office. No. 26, 1960.

(8) The Minister may, subject to such conditions as he may think fit to impose, remove any disability imposed by subsection one of this section in any case in which the number of members of the council so disabled at any one time would be so great a proportion of the whole as to impede the transaction of business, or in any other case in which it appears to the Minister that it is in the interests of the electors of the area that the disability should be removed.

(9) The council may by resolution provide for the exclusion of a member of the council from a meeting of the council whilst any contract, proposed contract or other matter in which he has such an interest as aforesaid is under consideration.

(10) In this section, the expression "shares" includes stock and the expression "share capital" shall be construed accordingly.

(c) by omitting from section seventy-eight the words "and one hundred and fifty-one" and by inserting in lieu thereof the words "one hundred and fifty-one, and 151A"; Sec. 78.
(Various offences.)

(d) by inserting next after section 160B the following new section:— New sec.
160c.

160c. (1) Where in the opinion of the council— Power to
reduce
rates.

(a) a substantial part of the unimproved capital value of any parcel of land upon which is erected a building used or occupied solely as a single dwelling-house is attributable to the fact that such parcel—

(i) is, under any planning scheme prepared under Part XIIA of this Act, within a zone or reservation in which

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which land may be used for industrial or commercial purposes or for a residential purpose, otherwise than as a site for a single dwelling-house; and

(ii) would, but for the fact that the building erected on it is used or occupied solely as a single dwelling-house, probably be used for industrial or commercial purposes or for any such residential purpose; and

(b) payment of the amount of the rates levied upon such parcel in any year would cause hardship to the ratable person,

the council may, on the application of the ratable person, write off and remit or excuse from payment an amount that bears to the whole amount of the rates so levied the same proportion as the part, referred to in paragraph (a) of this subsection, of the unimproved capital value of the parcel bears to the whole of that unimproved capital value, or such less amount as the council thinks fit.

The value of the part, referred to in paragraph (a) of this subsection, of the unimproved capital value of a parcel shall be determined—

(c) in the case of land included in a valuation list or supplementary list furnished to the council under the Valuation of Land Act, 1916, as amended by subsequent Acts, by the Valuer General; and

(d) in the case of land valued under Schedule Three to this Act, by the valuer appointed by the council under that Schedule.

(2) In this section “single dwelling-house” means a dwelling not inhabited nor adapted for habitation by more than one family and includes a dwelling in a row of two or more dwellings attached to each other such as are commonly known as semi-detached or terrace buildings, but does not include a flat.

(3)

(3) The provisions of this section shall apply only to any rate made and levied by a council on or after the first day of January, one thousand nine hundred and sixty.

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- (e) (i) by omitting from subsection one of section 178A the words "two thousand pounds" and by inserting in lieu thereof the words "five thousand pounds";
- (ii) by omitting from subsection two of the same section the words "four per centum" and by inserting in lieu thereof the words "five per centum".

Sec. 178A.

(Advances for works applied for by rate-payer.)

- (f) by omitting subsection five of section two hundred and thirty-three and by inserting in lieu thereof the following subsection :—

Sec. 233.

(Proprietary rights in regard to roads.)

(5) Where any public road is resumed by the Crown the council shall be entitled to claim compensation therefor. Such compensation shall be limited to the capital sum expended by the council upon the construction of the road together with the sum, if any, paid by the council for the purchase or resumption of the land therefor, together with the capital sum expended by the council in providing and constructing, laying, suspending, or otherwise placing upon, under or over the road, for or in connection with any water, sewerage or drainage works, or any trading undertaking, of the council, any pipes, tunnels, poles, wires, cables or structures which, at the time of the resumption by the Crown, were owned and used by the council for or in connection with any such works or trading undertakings :

Provided that where any such pipes, tunnels, poles, wires, cables or other structures can reasonably continue to be used by the council for or in connection with any such works or trading undertakings, no compensation shall be payable in respect of such pipes, tunnels, poles, wires, cables or other structures.

Where the council finds it necessary to purchase or resume other land for, and to construct, a new road to replace that resumed by the Crown the council

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council may in lieu of compensation as aforesaid claim as compensation the cost of the purchase or resumption and of the construction of such new road, together with the cost of providing upon, under or over such road all such necessary pipes, tunnels, poles, wires, cables or structures required to provide services similar to those owned and used by the council in the road resumed by the Crown; and in such case the compensation when paid shall be placed in the trust fund until it is expended on such new road and services.

**New sec.
317BA.**

(g) by inserting next after section 317B the following new section :—

**Demolition
of
residential
buildings.**

317BA. (1) A person shall not, without the approval of the council, demolish any building used or designed for use for residential purposes or any part of any such building except for buildings located in zoned industrial areas, commercial areas and living areas under control of any planning authority.

(2) The council shall not consider any application for an approval under this section unless it is satisfied that the building or part in respect of which the application is made is unoccupied.

(3) In respect of any application under this section for approval of the demolition of a building or part of a building the council shall take into consideration this Act, the ordinances, the circumstances of the case, and the public interest, and without limiting the generality of the foregoing provisions of this subsection shall take into consideration—

- (a) the condition of the building;
- (b) the probable economic life of the building;
- (c) the historic and architectural significance of the building;
- (d) the purposes for which the land on which the building is erected may lawfully be used;

(e)

- (e) the purposes for which the land on which the building is erected is likely to be used if the building or part is demolished; and
- (f) the provisions of any town planning or country planning scheme.

(4) Any owner of any premises in respect of which an application has been made to the council under subsection one of this section who is dissatisfied with the decision of the council on such application or by any neglect or delay of the council to give within forty days after service of the application on the council a decision with respect thereto, may appeal to the Land and Valuation Court.

(5) Such court may summon witnesses, hear evidence, and determine the matter, having regard to this Act, the ordinances, the circumstances of the case, and the public interest.

(6) The decision of such court 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.

(7) If in any decision under this section costs are awarded, such costs may be enforced and recovered in like manner to costs awarded in a judgment of the Land and Valuation Court.

(8) This section shall remain in force for a period of three years from the commencement of the Local Government (Amendment) Act, 1960, and for such further period or periods thereafter, not exceeding twelve months in any one case, as may be prescribed by ordinance.

- (h) by omitting from subsection one of section three hundred and seventeen the words "fifty pounds" and by inserting in lieu thereof the words "one hundred pounds";

(i)

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Sec. 333.

(Subjects for consideration re subdivisions.)

- (i) by inserting at the end of section three hundred and thirty-three the following new subsection :—

(2) Where the council is entitled to impose as a condition of its approval of a subdivision of land a requirement that the applicant for such approval shall provide a portion of the land proposed to be subdivided for public garden and recreation space, the council may, instead of imposing that condition, impose as a condition of its approval a requirement that such applicant shall pay to the council a sum of money which shall be reasonable in the particular circumstances of the case. Any sum of money so paid shall be placed by the council in the trust fund and shall not be applied otherwise than in the acquisition by the council of land for the purposes of public recreation or in the improvement and embellishment of any public reserve under its care, control, and management.

Sec. 375A.

(Vesting land in council upon extinction of liability to Treasury.)

- (j) by inserting next after subsection one of section 375A the following new subsection :—

(1A) Where—

- (a) works have been constructed by the Minister for Public Works under this Part ;
 (b) no notification under subsection seven of section three hundred and seventy-four of this Act has been made in respect of such works ; and
 (c) there is no indebtedness by the council to the Crown in respect of such works,

the Minister for Public Works shall certify to the Governor that there is no such indebtedness.

Sec. 426.

(Council may impound.)

- (k) by inserting next after subsection one of section four hundred and twenty-six the following new subsection :—

(1A) Any animal found tethered on a public road may be impounded by the council.

Nothing in this subsection shall empower the council to impound any saddled horse, or horse in harness attached to a vehicle constructed to be drawn

by

by a horse, unless after reasonable inquiry in the vicinity of the place where the horse is tethered the council cannot locate a person in charge of the horse and the council is satisfied that the horse is tethered on the public road solely for the purpose of grazing. No. 26, 1960.

- (l) (i) by inserting in subsection three of section five hundred and sixty-four after the words “(including the provision of flood boats and the organisation of flood brigades)” the words “or to the eradication of noxious plants”;

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

(3A) The power under subsection three of this section to delegate to a county council the power to exercise or perform, for the benefit of the county district, any power or duty which by law the constituent councils or any one of them may exercise or perform in relation to the eradication of noxious plants shall not, where a request for the delegation has not been made by the majority in number of the constituent councils, be exercised except upon a proposal submitted to the Minister—

- (a) by any council concerned; or
(b) by an officer of the Minister.

The provisions of subsections two, three, four, and five of section 561A of this Act shall apply, mutatis mutandis, to and in respect of any such proposal.

- (m) by inserting next after section five hundred and seventy the following new section :— New sec.
570A.

570A. A county council to which has been delegated powers and duties in relation to the supply of electricity may expend in any one year from its electricity works trading fund in contributing to research or technical organisations engaged on matters associated with the generation or distribution of Contribu-
tions to
research.

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of electricity or the development of nuclear energy a sum not exceeding one-tenth of one per centum of the total income of such fund from revenue in that year or five hundred pounds, whichever is the greater.

Sec. 602.
(Sale of
land for
rates.)

(n) by inserting next after subsection five of section six hundred and two the following new subsection :—

(5A) At any sale by public auction under this section the council may bid for and purchase the land.

Where the council purchases any land under this subsection the purchase price shall be paid by transfers from and to the appropriate funds under this Act.

Any such transfer shall, for the purposes of subsection one of section six hundred and four, and subsection two of section six hundred and five, of this Act, be deemed to be payment to the council of the purchase price of the land purchased by the council, and any moneys transferred to a fund of the council under the provisions of this subsection shall, for the purposes of subsection one of section six hundred and six of this Act, be deemed to be purchase money received by the council upon the sale of land for overdue rates.

Amendment
of Act No.
26, 1919.
Sec. 10.
(Penalty
on
conviction.)

3. The Secret Commissions Prohibition Act, 1919, is amended by inserting at the end of section ten the following new subsection :—

(2) Where a person is convicted of an offence against this Act he shall be disqualified for a civic office within the meaning of the Local Government Act, 1919, as amended by subsequent Acts, for a period of seven years from the conviction unless the court by which he is convicted sees fit in the circumstances of the case to reduce the period of disqualification to a shorter period.

PUBLIC