

## **LOCAL GOVERNMENT (AMENDMENT) ACT.**

**Act No. 27, 1965.**

**Elizabeth II, An** Act to make further provisions with respect to  
**No. 27, 1965** the powers, authorities, duties and functions of  
councils; for this and other purposes to amend  
the Local Government Act, 1919, as amended  
by subsequent Acts, and the Municipal Council of  
Sydney Electric Lighting Act, 1896-1935; to  
validate certain matters; and for purposes con-  
nected therewith. [Assented to, 17th December,  
1965.]

**BE**

**B**E it enacted by the Queen's Most Excellent Majesty, by No. 27, 1965 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. (1) This Act may be cited as the "Local Govern- Short title.  
ment (Amendment) Act, 1965".

(2) The Local Government Act, 1919, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

2. (1) Part II of the Principal Act is amended by omitting subsection two of section eleven and by inserting in lieu thereof the following subsection:—

(2) The Governor may proclaim as a city a municipality which either—

(a) has a population of at least fifteen thousand persons and which is an independent centre of population and is not a suburb, whether residential, industrial, commercial or maritime, of any other municipality or centre of population; or

(b) has a population of at least one hundred thousand persons, and which has a distinct character and entity as a centre of population.

(2) The amendment made by subsection one of this section does not affect the status as a city of any city proclaimed before the commencement of this Act.

3. Part IV of the Principal Act is amended by omitting from paragraph (d) of subsection one of section twenty-eight the words "the Town Planning Associations of Australia" and by inserting in lieu thereof the words "the Australian Planning Institute".

4. (Travelling expenses.)

Amendment of Act No. 41, 1919, Part II—  
(Constitution of Cities, Municipalities, and Shires.)  
Sec. 11.  
(Proclamation of cities.)

Amendment of Act No. 41, 1919, Part IV—  
(The Councils of Cities, Municipalities, and Shires.)  
Sec. 28.

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**No. 27, 1965**    **4.** (1) Part VII of the Principal Act is amended—

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

Sec. 133.

(Appeal on  
question of  
whether land  
is ratable.)

(a) by inserting next after subsection seven of section one hundred and thirty-three the following new subsection :—

(8) (a) A court of petty sessions before which an appeal under this section is heard may make such order as it thinks fit for payment of the costs of or incidental to any such appeal.

(b) Any such order shall operate as an order for the recovery of money under the Small Debts Recovery Act, 1912, as amended by subsequent Acts, and be enforceable as such an order under the provisions of that Act, as so amended.

(c) For the purpose of enforcing any such order, the order may be entered in the records of the Small Debts Court exercising jurisdiction at the place where the order was made in such manner as may be prescribed by rules made under the Small Debts Recovery Act, 1912, as amended by subsequent Acts.

New sec.  
158A.

Writing-off  
of extra  
charges.

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

158A. The council may write off extra charges in respect of rates levied for any year on any land within its area or within such part of its area as the council may determine, or upon any ratable person, if it is of opinion that—

(a) payment of those extra charges would cause hardship to the persons ratable in respect of that land or to that ratable person, as the case may be; or

(b) the persons ratable in respect of that land, or that ratable person, as the case may be, were or was unable for reasons beyond their or his control to pay those rates when they became due and payable.

(c)

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- (c) by inserting next after section 160c the following new section :—

New sec.  
160D.

160D. The council may, upon application made by any ratable person, agree with that person to accept payment by instalments of rates due and payable by that person to the council, and where that person complies with the terms and conditions of the agreement the council may write off or reduce extra charges in respect of those rates.

Payment of  
rates by  
instalments.

(2) The amendment made by paragraph (b) of subsection one of this section shall be deemed to have commenced on the first day of January, one thousand nine hundred and sixty-five.

**5. Part IX of the Principal Act is amended—**

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

- (a) by inserting next after subsection one of section 270G the following new subsection :—

Sec. 270G.  
(Functions  
of parking  
advisory  
committees.)

(1A) A parking advisory committee shall consider, and furnish a report and recommendation to the council on, any application for the construction of a parking station referred to it by the council pursuant to subsection one of section 270JA of this Act.

- (b) by inserting next after section 270J the following new sections :—

New secs.  
270JA and  
270JB.

270JA. (1) Before approving an application (whether or not subject to conditions) made under this Act or under any town or country planning scheme within the meaning of Part XIIA of this Act to use any land or building or part of a building or to construct a building which, or part of which, is designed for use as a parking station, the council shall refer the application to the parking advisory committee for a report and recommendation on the application.

Parking  
advisory  
committee  
to consider  
applications  
to construct  
parking  
stations.

(2)

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(2) If the parking advisory committee recommends—

- (a) that the application be approved, the council may approve the application;
- (b) that the application be approved subject to conditions, the council shall not approve the application except subject to those conditions; or
- (c) that the application be refused, the council shall refuse the application,

and in a case referred to in paragraph (b) or (c) of this subsection the council shall forthwith inform the applicant of the recommendation of the parking advisory committee.

Appeal where parking advisory committee refuses approval of a parking station.

270JB. (1) Where—

- (a) the council is dissatisfied with the decision of the parking advisory committee upon its application for an approval under subsection one of section 270J of this Act; or
- (b) a person making an application referred to in subsection one of section 270JA of this Act is dissatisfied with the recommendation of the parking advisory committee on that application,

the council or that person, as the case may be, may, within two months after the decision or recommendation of the parking advisory committee is notified to it or him, appeal to the Minister.

(2) If the appellant, upon making the appeal, or the parking advisory committee, within seven days after it is informed by the Minister of the appeal, so requests the Minister in writing, the Minister shall afford them an opportunity of appearing before and being heard by a person appointed by the Minister for that purpose.

(3)

(3) The decision of the Minister on an No. 27, 1965 appeal under this section shall be final.

(c) by inserting next after section 270o the following new Division :—

New  
Division  
13B.

DIVISION 13B.—*Free parking areas.*

270P. This Division shall apply to all areas, and to the councils of all areas.

Application  
of Division.

270Q. The council may on any land acquired by or vested in or under the care, control and management of the council, other than a public road or a public reserve or land held by the council on trust for any purpose, provide areas for the accommodation of vehicles without payment of a fee or charge.

Free  
parking  
areas.

270R. (1) Where an offence against any ordinance made under subsection four of section two hundred and seventy-seven of this Act occurs in relation to any vehicle, the person who at the time of the occurrence of the offence is the owner of the vehicle shall, by virtue of this section, be guilty of an offence against the ordinance as if he were the actual offender guilty of the offence, unless the court is satisfied that the vehicle was at the relevant time a stolen vehicle or a vehicle illegally taken or used.

Liability  
of vehicle  
owner for  
certain  
offences.

(2) Nothing in this section shall affect the liability of the actual offender but where a penalty has been imposed on or recovered from any person in relation to any such offence no further penalty shall be imposed on or recovered from any other person in relation thereto.

(3)

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(3) In this section—

“Owner” in relation to a vehicle being a motor vehicle includes—

- (a) every person who is the owner or joint owner or part owner of the vehicle and any person who has the use of the vehicle under a hire-purchase agreement but not the lessor under any such agreement;
- (b) the person in whose name the vehicle is registered except where such person has sold or otherwise disposed of the vehicle and has complied with the provisions of the regulations under the Motor Traffic Act, 1909, as amended by subsequent Acts, applicable to him in regard to such sale or disposal;
- (c) in the case of a vehicle to which a trader’s plate is affixed, the person to whom such trader’s plate is in issue.

“Registered” means registered under the Motor Traffic Act, 1909, as amended by subsequent Acts.

“Trader’s plate” means a trader’s plate issued under the Motor Traffic Act, 1909, as amended by subsequent Acts, for use as prescribed by regulation under that Act.

Sec. 277.  
(Ordinances.)

- (d) by inserting next after subsection three of section two hundred and seventy-seven the following new subsection :—

(4) Ordinances may be made for or with respect to carrying Division 13B of this Part into effect and in particular for or with respect to regulating the use of areas provided under section 270Q of this Act for the accommodation of vehicles.

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

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Amendment  
of Act No.  
41, 1919,  
Part XI —  
(Building  
Regulation.)

- (a) (i) by inserting at the end of subsection one of section 317v the following new paragraph :—

Sec. 317v.  
(Reference  
of  
objections.)

The person lodging the objection shall lodge therewith a fee of twenty-five pounds.

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

(3) (a) When giving a direction under this section, the board shall also direct the objector to pay, as costs to the council concerned, an amount equal to that payable by the council under section 317P of this Act in respect of the determination of the objection.

(b) The amount so directed to be paid shall be deducted by the council concerned from the fee lodged pursuant to subsection one of this section, and any balance remaining after such deduction shall be refunded to the objector by the council.

(c) Where the amount so directed to be paid exceeds the amount of the fee lodged pursuant to subsection one of this section, the amount of such excess shall be recoverable by the council concerned as a debt.

- (b) by inserting next after subsection two of section 317x the following new subsection :—

Sec. 317x.  
(Powers of  
board.)

(3) When making its award, the board, in addition to any order it may make under the Arbitration Act, 1902, as amended by subsequent Acts, for the payment of costs, may order the appellant to pay, as costs to the council concerned, such

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such sum as to the board seems just, not exceeding the amount payable by the council under section 317P of this Act in respect of the appeal.

Any amount ordered to be paid under this subsection shall be recoverable by the council as a debt.

Sec. 317AL.  
(Reference  
of  
objections.)

- (c) (i) by inserting at the end of subsection one of section 317AL the following new paragraph :—

The person lodging the objection shall lodge therewith a fee of twenty-five pounds.

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

(3) (a) When giving a direction under this section the board shall also direct the objector to pay, as costs to the council concerned, an amount equal to that payable by the council under section 317AF of this Act in respect of the determination of the objection.

(b) The amount so directed to be paid shall be deducted by the council concerned from the fee lodged pursuant to subsection one of this section, and any balance remaining after such deduction shall be refunded to the objector by the council.

(c) Where the amount so directed to be paid exceeds the amount of the fee lodged pursuant to subsection one of this section, the amount of such excess shall be recoverable by the council concerned as a debt.

Sec. 317AO.  
(Powers of  
board.)

- (d) by inserting next after subsection two of section 317AO the following new subsection :—

(3) When making its award, the board, in addition to any order it may make under the Arbitration Act, 1902, as amended by subsequent

Acts,

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Acts, for the payment of costs, may order the appellant to pay, as costs to the council concerned, such sum as to the board seems just, not exceeding the amount payable by the council under section 317AF of this Act in respect of the appeal.

Any amount ordered to be paid under this subsection shall be recoverable by the council concerned as a debt.

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

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

- (a) by inserting in subsection two of section three hundred and twenty-four after the word “and” the words “, except where the council considers that there are exceptional circumstances justifying the opening of the pathway,”; Sec. 324.  
(Provisions  
respecting  
blind roads.)
- (b) by inserting at the end of subsection one of section three hundred and twenty-seven the following new paragraph :— Sec. 327.  
(Conditions  
to be ob-  
served  
before  
opening new  
roads or sub-  
divisions.)
- Paragraph (c) of this subsection shall not apply, and shall be deemed never to have applied, where the road to be opened, or the road provided for in the subdivision, is a lane or pathway nor to a widening of a public road.
- (c) by inserting next after subsection two of section 341L the following new subsection :— Sec. 341L.  
(Powers of  
board.)
- (3) When making its award, the board, in addition to any order it may make under the Arbitration Act, 1902, as amended by subsequent Acts, for the payment of costs, may order the appellant to pay, as costs to the council concerned, such sum as to the board seems just, not exceeding the amount payable by the council under section 341D of this Act in respect of the appeal.

Any

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Any amount ordered to be paid under this subsection shall be recoverable by the council as a debt.

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

**8. Part XIII of the Principal Act is amended—**

New sec.  
355A.

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

Control of  
boating near  
bathing  
areas.

355A. (1) The council may, in accordance with this section, erect notices prohibiting the entry of any boat or vessel into any waters, specified in the notices, and—

- (a) adjoining any public baths; or
- (b) adjoining any public reserve and used for public bathing.

(2) Any such notice shall be erected in a conspicuous position on or near the shore of the waters specified in the notice.

(3) The council may, with the approval in writing of the Maritime Services Board of New South Wales, place buoys or piles within any such waters for the purpose of delineating the boundaries of the waters to which any such notice applies.

(4) If any person causes or permits a boat or vessel to enter any waters in contravention of any such notice, he shall be guilty of an offence against this Act.

(5) Nothing in this section prohibits the lawful passage of any boat or vessel along the waters specified in any such notice if there is no reasonably practicable alternative passage around those waters.

(b)

- (b) by inserting next after section three hundred and sixty-four the following new section and short heading thereto :—

No. 27, 1965  
New sec.  
364A.

*Loans to sporting clubs.*

364A. (1) The council shall have power, and shall be deemed always to have had power, to lend money, at such rates of interest, and subject to such terms and conditions as may be agreed upon, to any club, or the governing body of any club, which is not conducted for private profit, for the purpose of constructing or improving sporting facilities for use in connection with the activities of the club, and for the erection or improvement of buildings associated with or incidental to those facilities, on lands which are owned by, vested in, or under the care, control and management of, the council or of which the club or governing body is the owner or lessee.

Loans to  
sporting  
clubs.

(2) Notwithstanding the provisions of subsection one of this section, the council shall not, after the commencement of the Local Government (Amendment) Act, 1965, lend money under subsection one of this section—

- (a) except with the approval in writing of the Minister; and
- (b) at a rate of interest that—
  - (i) in the case where that money was borrowed by the council, is less than the rate of interest payable by the council on the money borrowed by it; or
  - (ii) in any other case, is less than the rate of interest determined by the Australian Loan Council as the rate of interest payable on privately negotiated loans raised by local government authorities.

(3)

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(3) In subsection one of this section, "club" means a body or association of persons associated together for the purposes of any lawful sport.

Amendment of Act No. 41, 1919, Part XVII— (Trading.) **9.** Part XVII of the Principal Act is amended by inserting at the end of section four hundred and nineteen the following new subsection :—

Sec. 419. (Principles of trading by councils.)

(2) Except with the approval in writing of the Minister, the council shall not supply electricity to any person in any part of its area upon terms or at rates different from those upon which it supplies electricity in similar circumstances to other persons within that part of its area.

Amendment of Act No. 41, 1919, Part XXIII— (Miscellaneous Powers.)

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

Sec. 504. (General fund may be applied to any purpose.)

(a) by omitting from subsections two and (2A) of section five hundred and four the words "one hundred pounds" wherever occurring and by inserting in lieu thereof the words "five hundred pounds";

New sec. 504B.

(b) by inserting next after section 504A the following new section :—

Eradication of fruit fly.

504B. The council may expend its funds on the eradication of any organism belonging to the family Trypetidae (fruit flies).

Sec. 509. (Medical attendance in sparsely settled areas.)

(c) by inserting next after subsection four of section five hundred and nine the following new subsection :—

Dentist.

(5) A council may in like manner enter into an arrangement whereby a dentist, within the meaning of the Dentists Act, 1934, as amended by subsequent Acts, shall become resident in the shire or part

part thereof or in the neighbourhood thereof; and for that purpose the provisions of this section shall apply, mutatis mutandis, and such arrangement may be with any association or public body.

11. Part XXIV of the Principal Act is amended by omitting from section 518A the words "and if the Governor so approves".

Amendment of Act No. 41, 1919, Part XXIV— (Ancillary Powers.) Sec. 518A. (Sale of land for housing.)

12. (1) Part XXV of the Principal Act is amended by inserting in subsection one of section five hundred and thirty-six after the words "Gazette and" the words "a notice in or to the effect of the prescribed form to be published".

(2) Subsection one of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment of Act No. 41, 1919, Part XXV— (Acquisition of Land.) Sec. 536. (Method of resumption.)

13. (1) Part XXIX of the Principal Act is amended—

(a) by inserting in paragraph (b) of subsection (1A) of section 564D after the words "charges and" where firstly occurring the words "except in the case of a loan raised by public subscription, the";

(b) by omitting paragraphs (d) and (f) of the same subsection.

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

Amendment of Act No. 41, 1919, Part XXIX— (County Councils.) Sec. 564D. (Guarantee by Treasurer.)

(1B) Every guarantee executed by the Treasurer under this section in respect of a loan to be raised by public subscription shall, subject to this section, be enforceable against the Treasurer by every person who is a subscriber to that loan and by his heirs, administrators and assigns.

(2)

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(2) The guarantees executed by the Treasurer in respect of the loans raised by public subscription by the Sydney County Council or the Prospect County Council on or after the fifth day of September, one thousand nine hundred and sixty-two, are hereby validated.

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

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

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

- (a) by omitting from subsection one of section six hundred and two the word "seven" and by inserting in lieu thereof the word "five";
- (b) by omitting subsection three of the same section and by inserting in lieu thereof the following new subsection :—

(3) Where, before the time fixed for the sale—

- (a) an overdue rate, and all other rates due and in arrears, are paid to the council; or
- (b) an arrangement satisfactory to the council for payment of all such rates is entered into by the ratable person,

the council shall not proceed with the sale.

Amendment  
of 60 Vic.  
No. 23.  
Sec. 27.

(Obligation  
to supply  
electricity.)

**15. The Municipal Council of Sydney Electric Lighting Act, 1896-1935, is amended by inserting at the end of section twenty-seven the following new subsection :—**

(2) Notwithstanding the provisions of subsection one of this section, the council may, with the approval in writing of the Minister, supply electricity to any person in any part of its area upon terms or at rates different from those upon which it supplies electricity in similar circumstances to other persons within that part of its area.

Validation  
of urban  
farm land  
rate—  
Municipality  
of Holroyd.

**16. (1) The rate of twopence in the pound on the unimproved capital value of all urban farm lands within the Municipality of Holroyd, made and levied by the council of that**

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Act.**

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that municipality for the year one thousand nine hundred and sixty-four, and any decision given by the council of that municipality with regard to whether any land within that municipality was urban farm lands, shall be, and be deemed always to have been, as valid and effectual as if the proclamation published in the Gazette Number 26 of the sixth day of March, one thousand nine hundred and sixty-four, extending the provisions of subsection two of section one hundred and eighteen of the Principal Act to that municipality had been made immediately before the first day of January, one thousand nine hundred and sixty-four. No. 27, 1965  
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(2) The provisions of subsection two of section one hundred and eighteen of the Principal Act shall apply and be deemed always to have applied to and in respect of appeals against any such decision.

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