

**LOCAL GOVERNMENT (FURTHER AMENDMENT)
ACT, 1980, No. 141**

New South Wales



ANNO VICESIMO NONO

ELIZABETHÆ II REGINÆ

Act No. 141, 1980.

An Act to amend the Local Government Act, 1919, with respect to the change in constitution of areas, the payment of fees and allowances to members of councils and county councils, the making and payment of rates and other matters; and to validate certain matters. [Assented to, 10th December, 1980.]

See also Broken Hill Water and Sewerage (Rating) Amendment Act, 1980; Hunter District Water, Sewerage and Drainage (Rating) Amendment Act, 1980; Metropolitan Water, Sewerage, and Drainage (Rating) Amendment Act, 1980.

Local Government (Further Amendment).

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 (Further Amendment) Act, 1980”. Short title.

2. (1) Except as provided by subsections (2), (3), (4) and (5), this Act shall commence on the date of assent to this Act. Commencement.

(2) Section 3 shall, in its application to a provision of Schedule 1, commence or be deemed to have commenced on the day on which the provision commences or is deemed to have commenced, as the case may require.

(3) Schedule 1 (10) shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(4) Schedule 1 (14) (a) and (15) shall be deemed to have commenced on 1st January, 1980.

(5) Schedule 1 (14) (b), (c) and (d) shall commence, or be deemed to have commenced, as the case may require, on 1st January, 1981.

3. The Local Government Act, 1919, is amended in the manner set forth in Schedule 1. Amendment of Act No. 41, 1919.

4. (1) In this section, “prescribed servant”, in relation to a council, means a servant of the council wholly or principally employed on or in connection with an undertaking provided, controlled, managed or established by the council under Part XXI of the Local Government Act, 1919. Rights of certain transferred servants of councils.

Local Government (Further Amendment).

(2) The provisions of sections 20c and 20D of the Local Government Act, 1919, as in force immediately before the date of assent to this Act, continue to apply to and in respect of a person who, as at that date, is a servant of a council and who has been transferred, within the period of 2 years before that date, to the service of the council pursuant to either of those sections as if this Act had not been enacted.

(3) Nothing in subsection (2) operates so as to apply the provisions of section 20c (5) and section 20D (6) (in so far as that latter subsection applies the provisions of section 20c (5)) of the Local Government Act, 1919, as in force immediately before the date of assent to this Act, to or in respect of—

(a) a person—

- (i) who has been transferred, within the period of 2 years before that date, to the service of the council pursuant to section 20c or 20D of the Local Government Act, 1919;
- (ii) whose employment is, on or after that date, terminated by the council; and
- (iii) who is, as at the date on which his employment is so terminated, a prescribed servant of the council; or

(b) the termination, within the period of 2 years before that date, by a council of the employment of a prescribed servant of the council, if—

- (i) within that period, the servant has been re-appointed and re-employed by the council as a servant of the council;
- (ii) the servant is a servant of the council as at that date; and
- (iii) the council has not, before that date, granted the servant a gratuity pursuant to either of those provisions.

Local Government (Further Amendment).

(4) A council shall not, in relation to a person—

(a) who has been transferred, within the period of 2 years before the date of assent to this Act, to the service of the council pursuant to section 20C or 20D of the Local Government Act, 1919; and

(b) who is, as at that date, a servant of the council,

terminate his employment within 3 years after the date of his transfer, if he is a prescribed servant, on the ground of redundancy arising from the constitution of the new area, the alteration of the boundaries of the area, the division of the areas or the arrangement under section 20D in relation to the division, as the case may be.

(5) The provisions of section 20C of the Local Government Act, 1919, as in force immediately before the date of assent to this Act, continue, subject to section 9 (2) and (3) of the Local Government Areas Amalgamation Act, 1980, to apply to and in respect of a person transferred, as referred to in that last-mentioned Act, on 1st January, 1981, to the service of the council of a united area as if this Act had not been enacted.

(6) Nothing in subsection (5) applies to or in respect of a person—

(a) who is transferred, as referred to in the Local Government Areas Amalgamation Act, 1980, on 1st January, 1981, to the service of the council of a united area;

(b) whose employment is, on or after that date, terminated by the council; and

(c) who is, at the date on which his employment is so terminated, a prescribed servant of the council.

5. (1) In this section, a reference to a provision of section 160AA is a reference to a provision of section 160AA of the Local Government Act, 1919, as amended by this Act. ^{Refund of certain rates, etc.}

Local Government (Further Amendment).

(2) Where, in respect of a rate levied by a council for the year commencing on 1st January, 1980—

- (a) an application is made to the council under section 160AA (3) or (5) by a person entitled to make the application; and
- (b) the person has, before the date on which the application is made, paid, in whole or in part, the rate or a rating contribution in respect of the rate,

the council shall refund to the person the amount by which the rate is required to be reduced under section 160AA (3) or (5) to the extent, if any, to which the rate or rating contribution (including any interest or extra charges determined, under the Local Government Act, 1919, to be part of the rate) has been overpaid.

Application of amendments relating to reduction of certain rates.

6. The amendments made to the Local Government Act, 1919, by section 3 and Schedule 1 (14) (b), (c) and (d) do not apply to or in respect of a rate made under that Act in relation to any rating year commencing before 1st January, 1981.

Validation of certain agreements under s. 564c of the Local Government Act, 1919.

7. (1) An agreement which a county council has, before the date of assent to this Act, purported to enter into under section 564c of the Local Government Act, 1919, with a constituent council, being an agreement which, had that section, as amended by this Act, been in force at the time the agreement was entered into, would have been valid, is hereby validated.

(2) Anything done, or omitted or suffered to be done, by a county council or a constituent council in accordance with an agreement referred to in subsection (1) is hereby validated.

Local Government (Further Amendment).

SCHEDULE 1.

Sec. 3.

AMENDMENTS TO THE LOCAL GOVERNMENT ACT, 1919.

- (1) (a) Section 4, definition of "Municipality"—
Before "includes", insert ", except in Part II,".
- (b) Section 4, definition of "Pathway"—
Omit "propelled by foot passengers".

- (2) Part II, Division 3A—
After Division 3, insert :—

DIVISION 3A.—Change in constitution of municipalities and shires.

- 13A. (1) The Governor may, at any time, by proclamation—
 - (a) constitute a municipality as a shire or a shire as a municipality;
 - (b) give a name to an area so constituted; and
 - (c) provide for any matter or thing which the Governor may deem necessary or expedient in the circumstances,

Constitution of municipalities as shires and shires as municipalities.

without affecting the continuity of the body corporate constituted by the council of the area or anything done, or suffered or omitted to be done, by that council.

- (2) The Governor may not, by proclamation under subsection (1)—

- (a) alter the boundaries of an area or of any ward or riding within an area; or
- (b) abolish any ward or riding.

Local Government (Further Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE LOCAL GOVERNMENT ACT, 1919—
continued.

Effect of
proclama-
tion under
s. 13A—
generally.

13B. (1) In this section, a reference to—

- (a) a corresponding office or a corresponding division, in relation to an office or division specified in a column of the Table, is a reference to the office or division specified opposite thereto in the other column of the Table; and
- (b) the Table is a reference to the Table to this section.

(2) On and from the day on which a proclamation under section 13A (1) takes effect with respect to an area—

- (a) an office of a member or servant of the council of the area, being an office in existence immediately before that day and specified in a column of the Table, shall become and be the corresponding office;
- (b) a division of the area, being a division in existence immediately before that day and specified in a column of the Table, shall become and be the corresponding division;
- (c) a person who, immediately before that day, held an office of a member or servant of the council of the area specified in a column of the Table shall hold the corresponding office; and
- (d) a reference in any instrument to—
 - (i) the name of the area immediately before that day shall be read and construed as a reference to the name of the area given in the proclamation or determined in accordance with section 12 (2) or 13 (2), as the case may be;

*Local Government (Further Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE LOCAL GOVERNMENT ACT, 1919—
continued.

- (ii) the name of the council of the area immediately before that day shall be read and construed as a reference to the name of the council determined in accordance with section 12 (3) or 13 (3), as the case may be;
- (iii) the name of an office of a member or servant of the council of the area, being an office in existence immediately before that day and specified in a column of the Table, shall be read and construed as a reference to the corresponding office; and
- (iv) a division of the area, being a division in existence immediately before that day and specified in a column of the Table, shall be read and construed as a reference to the corresponding division.

TABLE.

Column 1. Office or Division of Shire.	Column 2. Office or Division of Municipality.
President	Mayor
Deputy President	Deputy Mayor
Councillor	Alderman
Shire clerk	Town clerk
Riding	Ward

Local Government (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE LOCAL GOVERNMENT ACT, 1919—
continued.

Effect of
proclama-
tion under
s. 13A—
shire
constituted
as municipi-
pality.

13C. On and from the day on which a proclamation under section 13A (1) takes effect with respect to an area which, immediately before that day, was a shire—

- (a) a provision of this Act or of any ordinance in force immediately before that day—
 - (i) which applied to that shire (not being a provision which applied to shires generally and not to municipalities) shall, except as may otherwise be provided in the proclamation or until the provision is amended, altered, repealed or rescinded, continue to apply to that area; and
 - (ii) which applied to municipalities generally and not to shires shall apply to that area;
- (b) any proclamation so in force under section 305 (2) (b) or (c) in relation to the shire shall cease to apply; and
- (c) any urban area, within the meaning of Part XXVII, in existence in the shire immediately before that day shall be dissolved and any urban committee established in respect of any such urban area shall be abolished.

Local Government (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE LOCAL GOVERNMENT ACT, 1919—
continued.

13D. On and from the day on which a proclamation under section 13A (1) takes effect with respect to an area which, immediately before that day, was a municipality—

Effect of proclamation under s. 13A—municipality constituted as shire.

(a) a provision of this Act or of any ordinance in force immediately before that day—

(i) which applied to that municipality (not being a provision which applied to municipalities generally and not to shires) shall, except as may otherwise be provided in the proclamation or until the provision is amended, altered, repealed or rescinded, continue to apply to that area; and

(ii) which applied to shires generally and not to municipalities shall apply to that area; and

(b) any local district established under section 530c in existence in the municipality immediately before that day shall be abolished and any district committee of any such local district shall be dissolved.

(3) Section 16 (f)—

Omit the paragraph.

Local Government (Further Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE LOCAL GOVERNMENT ACT, 1919—
continued.

(4) Section 19 (1)—

Omit “(f)”, insert instead “(e)”.

(5) (a) Section 20 (2)—

Omit “paragraphs (a), (b) or (f) of section 16”,
insert instead “section 16 (a) or (b)”.

(b) Section 20 (2)—

Omit “paragraphs (a) or (b) or (f) of section 16”,
insert instead “section 16 (a) or (b)”.

(6) (a) Section 20c (1)—

Omit “on such day”.

(b) Section 20c (1) (a)—

Before “be”, insert “on such day”.

(c) Section 20c (1) (b)—

Before “become”, insert “on such day”.

(d) Section 20c (1) (c), (c1)—

Omit section 20c (1) (c), insert instead :—

- (c) on and from such day, subject to Part V of the Industrial Arbitration Act, 1940, be remunerated by the council of such new or other area on terms not less advantageous than those on which he was remunerated immediately before such day; and

Local Government (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE LOCAL GOVERNMENT ACT, 1919—
continued.

(c1) on and from such day not have his employment as a servant of the council of such new or other area terminated, within 3 years after such day, on the ground of redundancy arising from such constitution or alteration; and

(e) Section 20c (1) (d)—

Before “be”, insert “on such day”.

(f) Section 20c (1A), (1B)—

After section 20c (1), insert :—

(1A) Subject to subsection (1B), a person so transferred to the service of the council of such new or other area may not, without his consent, be required by that council, within 3 years after the date of his transfer, to be based, as a servant of that council, at a place outside the area in which, immediately before that date, he was based as a servant of the council of that area.

(1B) Where a person so transferred has once, in relation to the transfer to the service of the council of such new or other area, given an unconditional consent for the purposes of subsection (1A), that subsection does not apply in respect of him in relation to that transfer.

(g) Section 20c (5)—

Omit the subsection.

Local Government (Further Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE LOCAL GOVERNMENT ACT, 1919—
continued.

(h) Section 20c (6)—

Omit :—

, and if the amount of such compensation be less than the amount that would be payable to such person under subsection (5), shall also pay to him a gratuity equivalent to the difference.

A person who is entitled to receive any compensation or gratuity under this subsection shall not be deemed entitled to receive a gratuity under subsection (5).

(i) Section 20c (8)—

Omit “, and he shall be deemed to have been employed continuously by the council for the purposes of subsection (5)”.

(7) (a) Section 20D (5)—

Omit “upon publication thereof”.

(b) Section 20D (5) (a)—

Before “be”, insert “upon publication of the proclamation”.

(c) Section 20D (5) (b)—

Before “become”, insert “upon publication of the proclamation”.

Local Government (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE LOCAL GOVERNMENT ACT, 1919—
continued.

(d) Section 20D (5) (c), (c1)—

Omit section 20D (5) (c), insert instead :—

- (c) upon and from publication of the proclamation, subject to Part V of the Industrial Arbitration Act, 1940, be remunerated by the council of such new area on terms not less advantageous than those on which he was remunerated immediately before the publication of the proclamation;
- (c1) upon and from publication of the proclamation not have his employment as a servant of such new area terminated, within 3 years after the date of his transfer, on the ground of redundancy arising from the division of the areas or an arrangement under this section in relation to that division; and

(e) Section 20D (5A), (5B)—

After section 20D (5), insert :—

(5A) Subject to subsection (5B), a person transferred under subsection (5) to the service of a council of a new area may not, without his consent, be required by that council, within 3 years after the date of his transfer, to be based, as a servant of that council, at a place outside the area in which, immediately before that date, he was based as a servant of the council of that area.

(5B) Where a person so transferred has once, in relation to the transfer to the service of the council of the new area, given an unconditional consent for the purposes of subsection (5A), that subsection does not apply in respect of him in relation to that transfer.

Local Government (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE LOCAL GOVERNMENT ACT, 1919—
continued.

(f) Section 20D (6)—

Omit “subsections (2) to (8) inclusive of section 20c”, insert instead “section 20c (2), (3), (4), (6), (7) and (8)”.

(8) (a) Section 21 (1) (q1)—

Omit “paragraphs (c), (d), (e), or (f) of section 16”, insert instead “section 16 (c), (d) or (e)”.

(b) Section 21 (1) (q2)—

Omit “paragraphs (c), (d), (e), or (f) of section 16”, insert instead “section 16 (c), (d) or (e)”.

(9) Section 28 (2)—

Omit “prescribed”. insert instead “determined from time to time by the Minister”.

(10) Section 29A—

Omit the section, insert instead :—

Payments
of fees to
members.

29A. (1) Except as provided by this section, the council shall pay a member of the council for each day on which he—

- (a) attends a meeting of the council or a meeting of any committee of the council;

Local Government (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE LOCAL GOVERNMENT ACT, 1919—
continued.

- (b) carries out an inspection within the area in compliance with a resolution of the council; or
- (c) undertakes business of the council outside the area in compliance with a resolution of the council,

a fee of \$30 (or, where some other amount is prescribed, that other amount).

(2) The fees paid or payable, pursuant to subsection (1), to any one member of the council shall not exceed \$1,000 (or, where some other amount is prescribed, that other amount) in the aggregate for any period of 12 months commencing on the third Saturday in September in any year.

(3) A member of the council may at any time elect, by notice in writing given to the clerk—

- (a) not to receive the fees otherwise payable under subsection (1); or
- (b) to receive such part of the fees payable under subsection (1) as he specifies in the notice.

(4) A notice given by a member of the council under subsection (3) may be revoked or varied, at any time, by notice in writing given by the member to the clerk.

(5) A notice given under subsection (3) or (4) shall take effect on the day on which it is received by the clerk.

(6) This section shall not be construed so as to affect the payment of any allowance payable under section 29.

Local Government (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE LOCAL GOVERNMENT ACT, 1919—
continued.

(11) (a) Section 111 (2) (b)—

Omit “ten”, insert instead “5”.

(b) Section 111 (2) (b)—

Omit “from that fund”.

(12) Section 118AAA—

After section 118AA, insert :—

Minister's
approval
for general
rate re-
lating to
non-resi-
dential
land.

118AAA. (1) Before a council makes a general rate in respect of ratable land under section 118 (4) (c) in any year and after the council has complied with section 118AA, it shall apply to the Minister for approval to make the rate.

(2) An application under subsection (1) shall be in such form and shall be made within such period as the Minister may direct.

(3) On receipt of an application under subsection (1), the Minister may—

(a) approve the application;

(b) refuse the application; or

(c) refuse the application but approve the making of a general rate in respect of ratable land under section 118 (4) (c) by the council other than the rate sought in the application.

(4) The Minister shall, in writing, notify a council which makes an application under subsection (1) of his decision with respect to the application as soon as practicable after the decision is made.

Local Government (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE LOCAL GOVERNMENT ACT, 1919—
continued.

(5) Where, under subsection (3) (c), the Minister approves the making of a general rate by a council, he may direct that the council be exempted from further compliance with section 118AA in relation to the making of the rate and the direction shall have effect accordingly.

(13) (a) Section 132 (1) (m)—

Omit “that Act.”, insert instead “that Act; and”.

(b) Section 132 (1) (n)—

After section 132 (1) (m), insert :—

(n) land which is leased to the Crown for the purpose of a cattle dip site or for performing and carrying out the process of cattle dipping.

(14) (a) Section 160AA (1), definition of “eligible pensioner”—

(i) In paragraph (a) (i), after “Part IV”, insert “or a benefit under Part IVAAA”.

(ii) From paragraph (a) (i), omit “Consolidation”.

(iii) From paragraph (a), omit “medical service entitlement”, insert instead “health benefits”.

(iv) From paragraph (a), omit “Services” where secondly occurring, insert instead “Security”.

(v) From paragraph (b), omit “medical service entitlement” wherever occurring, insert instead “health benefits”.

(vi) From paragraph (b), omit “Services” wherever occurring, insert instead “Security”.

Local Government (Further Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE LOCAL GOVERNMENT ACT, 1919—
continued.

(b) Section 160AA (4A), (6A)—

Omit "\$120" wherever occurring, insert instead "\$150".

(c) Section 160AA (4A), (6A)—

Omit "\$60" wherever occurring, insert instead "\$75".

(d) Section 160AA (16)—

After section 160AA (15), insert :—

(16) The amount by which a rate is to be reduced in accordance with subsection (4A) or (6A) may be varied from time to time by ordinance and the amount as so varied shall be read as the amount stated in subsection (4A) or (6A), as the case may be.

(15) (a) Section 160B—

After "Part IV", insert "or a benefit under Part IVAAA".

(b) Section 160B—

Omit "Consolidation".

(16) Section 226 (2) (d)—

Omit "propelled by foot-passengers".

(17) Section 235 (1) (e)—

After "carriage-way,", insert "bicycle-way,".

Local Government (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE LOCAL GOVERNMENT ACT, 1919—
continued.

(18) Section 288c (9)—

After section 288c (8), insert :—

(9) Where a direction is given by the council to an owner of land and—

(a) the owner—

(i) does not appeal against the direction to the Land and Environment Court; and

(ii) does not comply with the direction within the time specified in the notice of the council; or

(b) the owner—

(i) does appeal against the direction to the Land and Environment Court and the Court dismisses the appeal or determines the appeal by giving a direction of a kind that could be given by the council under subsection (2); and

(ii) does not comply with the direction given by the Court within the time specified by the Court,

the owner shall, whether or not the council has exercised any power conferred on it under subsection (7) or (8) in respect of the land, be guilty of an offence under this Act.

(19) Section 447—

Omit “in connection therewith”.

(20) Section 504 (2A)—

Omit “\$4,000”, insert instead “\$8,000”.

Local Government (Further Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE LOCAL GOVERNMENT ACT, 1919—
continued.

(21) Section 563 (10)—

Omit “, subject to the ordinances in that behalf, pay to its members reasonable allowances”, insert instead “pay to its members allowances, not exceeding such amounts, or amounts calculated in such manner, as may, from time to time, be determined by the Minister,”.

(22) (a) Section 564c (1)—

Omit “maintenance and management”, insert instead “conduct, operation, maintenance and management (including the supply and distribution of water and the making and levying of rates or charges, or both, in relation thereto)”.

(b) Section 564c (2)—

Before “maintenance”, insert “conduct, operation,”.

(23) Section 611 (1)—

Omit “ten”, insert instead “5”.
