

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS)
AMENDMENT ACT 1985 No. 209**

New South Wales



ANNO TRICESIMO QUARTO

ELIZABETHÆ II REGINÆ

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Act No. 209, 1985

An Act to amend the Local Government Act 1919 with respect to elections, rating, the appointment and duties of local government inspectors, building approvals and recreation areas; to validate certain matters; and for other purposes. [Assented to, 10th December, 1985.]

Local Government (Miscellaneous Provisions) Amendment 1985

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

1. This Act may be cited as the "Local Government (Miscellaneous Provisions) Amendment Act 1985".

Commencement

2. (1) Except as provided by this section, this Act shall commence on the date of assent to this Act.

(2) The provisions of Schedule 2 shall commence on such day or days as may be appointed by the Governor and notified by proclamation published in the Gazette.

(3) Section 5, in its application to a provision of Schedules 1 and 2, shall commence on the day on which the provision commences.

Principal Act

3. The Local Government Act 1919 is referred to in this Act as the Principal Act.

Schedules

4. This Act contains the following Schedules:

SCHEDULE 1—AMENDMENTS TO THE PRINCIPAL ACT
TAKING EFFECT ON DATE OF ASSENT

SCHEDULE 2—OTHER AMENDMENTS TO THE PRINCIPAL
ACT

Amendment of Act No. 41, 1919

5. The Principal Act is amended in the manner set forth in Schedules 1 and 2.

Construction of certain Acts

6. A reference in—

(a) the Principal Act;

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- (b) the Local Government and Other Authorities (Superannuation) Act 1927;
- (c) the Gas and Electricity Act 1935; and
- (d) the Greater Newcastle Act 1937,

to a servant or servants shall be read as a reference to an employee or employees.

SCHEDULE 1

(Sec. 5)

AMENDMENTS TO THE PRINCIPAL ACT TAKING EFFECT ON
DATE OF ASSENT

- (1) Section 30 (2) (b)—

After “council”, insert “, any amount of rates being disregarded where the person is a pensioner who has arranged for the council to defer payment of the amount”.

- (2) Section 34 (1A)—

After section 34 (1), insert:

(1A) For the purposes of subsection (1), a person is elected on the day on which the person is declared to be elected.

- (3) (a) Section 56A (2)—

After “election” where firstly occurring, insert “or for a poll at which voting is not compulsory”.

- (b) Section 56A (2)—

After “election” where secondly and thirdly occurring, insert “or poll”.

- (4) Section 90 (1)—

After “Every”, insert “municipal and”.

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SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT TAKING EFFECT ON
DATE OF ASSENT—*continued*

- (5) (a) Section 118 (1), paragraph (a) (i) of the definition of “non-residential land”—

Omit “occupation;”, insert instead “occupation, a guest-house, a boarding-house or a house let in lodgings; or”.

- (b) Section 118 (1), paragraph (a) (ii) of the definition of “non-residential land”—

Omit the subparagraph.

- (6) Section 132 (1) (g) (i)—

After “purposes”, insert “, except where, in the case of land the subject of a claim registered under Part IV of the Mining Act 1973, the council by resolution determines that the land shall not be ratable”.

- (7) (a) Section 142 (2) (d)—

After “error”, insert “in a valuation list furnished by the Valuer-General or any error”.

- (b) Section 142 (6), (6A)—

Omit section 142 (6), insert instead:

(6) Notice of any alteration or amendment in the rate-book (other than an alteration of valuation) shall be given to all persons to whom the Valuer-General is required by section 29 of the Valuation of Land Act 1916 to give a notice of valuation of the land or stratum to which the alteration relates.

(6A) The provisions of Part III of the Valuation of Land Act 1916 apply to and in relation to an alteration or amendment referred to in subsection (6), a person to whom notice is given under that subsection and the council giving the notice in the same way as they apply to and in relation to a notice of valuation under that Act, the person to whom the notice is given and the Valuer-General.

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SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT TAKING EFFECT ON
DATE OF ASSENT—*continued*

(8) (a) Section 160AA (8), (11)—

Omit “the Minister” wherever occurring, insert instead “a council”.

(b) Section 160AA (8), (9), (11)—

Omit “he may” wherever occurring, insert instead “the council may”.

(c) Section 160AA (9)—

Omit “the Minister” where firstly occurring, insert instead “a council”.

(d) Section 160AA (9) (a) (ii), (15)—

Omit “Minister” wherever occurring, insert instead “council”.

(e) Section 160AA (9A)—

After section 160AA (9), insert:

(9A) A person aggrieved by a failure on the part of a council to make an order under subsection (8) or (9) may apply to the Minister to redress the grievance and the Minister may, where such an application is made—

(a) make any order that the council could have made under that subsection; or

(b) decline to make such an order,

and an order made under paragraph (a) has effect as if it had been made by the council under subsection (8) or (9).

(f) Section 160AA (11)—

Omit “he thinks”, insert instead “the council thinks”.

Local Government (Miscellaneous Provisions) Amendment 1985

SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT TAKING EFFECT ON
DATE OF ASSENT—*continued*

(g) Section 160AA (15A)—

After section 160AA (15), insert:

(15A) Where, pursuant to an application made under this section before or after the commencement of this subsection, a reduced rate applies, the council may, if the eligibility of the rateable person for a reduction in a subsequent rate is verified by the council as prescribed by ordinance, reduce the subsequent rate without requiring a further application under this section.

(9) (a) Section 212 (1)—

Omit “inspectors of local government accounts”, insert instead “local government inspectors”.

(b) Section 212 (1A)—

After section 212 (1), insert:

(1A) A person who, immediately before the date of assent to the Local Government (Miscellaneous Provisions) Amendment Act 1985, held office as an inspector of local government accounts shall be deemed to have been duly appointed as a local government inspector.

(c) Section 212 (2)–(2B)—

Omit section 212 (2), insert instead:

(2) A local government inspector may inspect any matter relating to a power, authority, duty or function conferred or imposed on a council.

(2A) The powers conferred by subsection (2) on a local government inspector include powers to inspect the accounts of a council and the internal organisation and management of its offices.

(2B) Nothing in this Part operates to prejudice or affect the generality of subsection (2).

Local Government (Miscellaneous Provisions) Amendment 1985

SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT TAKING EFFECT ON
DATE OF ASSENT—*continued*

(d) Section 212 (3)—

Omit “An inspector of local government accounts”, insert instead “A local government inspector”.

(10) (a) Section 213—

Omit “An inspector of local government accounts” wherever occurring, insert instead “A local government inspector”.

(b) Section 213 (4)—

Omit “inspector of local government accounts”, insert instead “local government inspector”.

(c) Section 213 (12)—

Omit “an inspector of local government accounts”, insert instead “a local government inspector”.

(11) Section 214 (1)—

Omit “inspector of local government accounts”, insert instead “local government inspector”.

(12) Section 215—

Omit “an inspector of local government accounts”, insert instead “a local government inspector, and annual reports of the council”.

(13) (a) Section 218 (m)—

Omit “inspectors of local government accounts”, insert instead “local government inspectors, and of annual reports of the council”.

(b) Section 218 (o)—

Omit “inspector of local government accounts”, insert instead “local government inspector”.

Local Government (Miscellaneous Provisions) Amendment 1985

SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT TAKING EFFECT ON
DATE OF ASSENT—*continued*

(14) (a) Section 298 (1A)—

After “manage”, insert “, and shall be deemed always to have been authorised to provide, control and manage, maternity welfare centres, infant welfare centres,”.

(b) Section 298 (1A)—

After “nature”, insert “on any land owned by it or on any land (including a public reserve) under its care, control and management”.

(15) Section 298B—

After section 298A, insert:

Aged persons

298B. A council may, at such rate of interest, and on such terms and conditions, as it thinks fit, lend money for the purpose of providing—

- (a) a settlement for aged persons; or
- (b) a nursing home associated with a settlement for aged persons,

or both.

(16) (a) Section 313 (1) (l)—

Omit “and”.

(b) Section 313 (1) (n), (o)—

At the end of section 313 (1) (m), insert:

- (n) whether the use of the building is likely to cause offensive noise as defined in the Noise Control Act 1975; and
- (o) the likely effect of the building on adjoining land and buildings.

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SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT TAKING EFFECT ON
DATE OF ASSENT—*continued*

(17) Section 317B (2A)—

After section 317B (2), insert:

(2A) A person who, having been ordered under subsection (1) or (1A) to demolish a building or alteration, fails to demolish the building or alteration as required by the order, is liable to a penalty not exceeding \$2,000, whether or not the council executes the order under subsection (2).

(18) Section 364 (3)—

After section 364 (2), insert:

(3) In subsection (1), the reference to places of public recreation includes, and shall be deemed always to have included, a reference to areas provided on any land owned by the council or on any land (including a public reserve) under its care, control and management, being areas provided—

(a) for sporting activities; or

(b) for recreational activities which promote the physical, cultural or intellectual welfare of persons within the community,

together with associated facilities, but does not include a reference to a showground or racecourse.

(19) (a) Section 473 (1)—

After “council” where secondly occurring, insert “or the owner or occupier”.

(b) Section 473 (1A)—

After section 473 (1), insert:

(1A) A council may advertise its willingness to eradicate a noxious plant from private land at the expense of the owner or occupier.

Local Government (Miscellaneous Provisions) Amendment 1985

SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT TAKING EFFECT ON
DATE OF ASSENT—*continued*

(20) Section 477 (2)—

At the end of section 477, insert:

(2) A council may make, and shall be deemed always to have been authorised to make, a monetary contribution towards the acquisition of land within the area by some other person or body.

(21) Section 514 (e)—

Omit “prescribed for the purpose of this section”, insert instead “determined by resolution of the council”.

(22) Section 519A—

Omit the section.

(23) (a) Section 519C (1) (b)—

Omit the paragraph.

(b) Section 519C (3)—

After “granting”, insert “for a public purpose”.

(c) Section 519C (3A)—

After section 519C (3), insert:

(3A) In subsection (3)—

“public purpose” includes public recreation, the physical, cultural and intellectual welfare of persons within the community, public health and the provision of public utilities.

(24) Section 654A—

After section 654, insert:

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SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT TAKING EFFECT ON
DATE OF ASSENT—*continued*

Annual report

654A. A council shall, as soon as practicable after the end of each financial year of the council occurring after 31 December 1985, submit to each elector and the Minister an annual report in a form approved by the Minister that includes—

- (a) financial reports;
- (b) a description of major problems encountered by the council during that year and of the manner in which they were, or are proposed to be, resolved; and
- (c) any other prescribed matter.

(25) Section 655 (6)–(8)—

After section 655 (5), insert:

(6) To the extent to which the general purpose rate levied by the council of the shire of Yarrawluma during the years 1979–1982, both inclusive, exceeded the rate authorised by section 131A, the levying of the rate is validated.

(7) Any postponement of rates granted during the years 1974–1984, both inclusive, by the former council of the municipality of Narrabri, or by the council of the shire of Narrabri, and purporting to have been granted in accordance with section 160C is validated.

(8) A lease or licence granted under section 519C before the date of assent to the Local Government (Miscellaneous Provisions) Amendment Act 1985 is validated to the extent that it was granted for a public purpose within the meaning of section 519C (3), as enacted on that date of assent.

SCHEDULE 2

(Sec. 5)

OTHER AMENDMENTS TO THE PRINCIPAL ACT

(1) Section 71 (4)—

After “prescribed”, insert “and shall be rejected unless there has been paid to the council in relation to the nomination a deposit of \$100 or such other amount as may be prescribed”.

(2) Section 83 (d)—

After section 83 (c), insert:

(d) the payment and forfeiture of deposits paid under section 71 (4);

(3) (a) Section 133 (2)—

After “appeal”, insert “to the Land and Environment Court”.

(b) Section 133 (3)–(5)—

Omit the subsections, insert instead:

(3) Where, on an appeal under this section, the Land and Environment Court determines that part only of the land to which the appeal relates is ratable, the Court shall determine the value of that part.

(c) Section 133 (7), (8)—

Omit the subsections.

(4) Section 158 (2) (a)—

Omit “ten per centum per annum simple interest”, insert instead “the rate of simple interest fixed by, or calculated as provided by, ordinance for the purposes of this section”.

(5) Section 312A—

After section 312, insert:

Certain persons may inspect plans

312A. A person who owns land—

(a) that adjoins land on which it is proposed to erect or alter a building; or

Local Government (Miscellaneous Provisions) Amendment 1985

SCHEDULE 2—*continued*

OTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(b) the enjoyment of which may be detrimentally affected by the erection or alteration of a building on other land, may, as prescribed, inspect such of the plans of the proposed building or alteration as show its height and its external configuration in relation to the site on which it is proposed to be erected or altered.
