

New South Wales



ANNO DUODECIMO

ELIZABETHÆ II REGINÆ

Act No. 32, 1963.

AN Act to make further provisions with regard to the alteration of local government boundaries; to constitute a Boundaries Commission and to specify its powers, authorities, duties and functions; for these and other purposes to amend the Local Government Act, 1919, as amended by subsequent Acts; and for purposes connected therewith. [Assented to, 18th September, 1963.]

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. (1) This Act may be cited as the "Local Government (Boundaries Commission) Amendment Act, 1963".

37625

[1s. 4d.]

(2) Short title, commencement and construction.

Local Government (Boundaries Commission) Amendment.

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(3) This Act shall be read and construed with the Local Government Act, 1919, as amended by subsequent Acts, which Act, as so amended, is in this Act referred to as the Principal Act.

Amendment
of Act No.
41, 1919.

2. The Principal Act is amended—

Sec. 3.
(Division
into
Parts.)

(a) by inserting in section three next after the matter relating to Part II the words and symbols "PART IIA.—LOCAL GOVERNMENT BOUNDARIES COMMISSION—ss. 15A–15J.";

Sec. 4.
(Defin-
itions.)

(b) by inserting in section four next before the definition of "Building line" the following new definition :—

"Boundaries Commission" means the Local Government Boundaries Commission constituted under Part IIA of this Act.

New Part
IIA.

(c) by inserting next after section fifteen the following new Part :—

PART IIA.

LOCAL GOVERNMENT BOUNDARIES COMMISSION.

Boundaries
Commission.

15A. (1) There shall be a Local Government Boundaries Commission which shall have and may exercise and discharge the powers, authorities, duties and functions conferred or imposed upon it by or under this Act.

(2) (a) The members of the Boundaries Commission shall be appointed by the Governor and, subject to this Part, each member shall hold office for five years from the date of his appointment and shall be eligible for reappointment.

(b)

Local Government (Boundaries Commission) Amendment.

(b) Subject to paragraph (c) of this subsection, the Boundaries Commission shall consist of three members, that is to say—

- (i) one member nominated by the Minister, who shall be the chairman;
- (ii) one member (hereinafter referred to as “the departmental member”) who shall be an officer of the Department of Local Government nominated for appointment by the person for the time being holding the office of or duly acting as Under Secretary of that Department;
- (iii) one member (hereinafter referred to as “the councils’ member”) who shall be selected by the Governor from three officers of councils who have been nominated jointly as prescribed by the governing bodies of the Local Government Association of New South Wales and the Shires Association of New South Wales.

(c) Where in the exercise or discharge of any of the powers, authorities, duties or functions conferred on the Boundaries Commission by paragraph (a), (b) or (e) of subsection one of section 15J of this Act, an examination, inquiry or report is made in relation to the boundaries of the City of Sydney, the Boundaries Commission shall consist of four members of whom three shall be the persons referred to in paragraph (b) of this subsection and the remaining member shall be a person selected by the Governor from three officers of the Council of the City of Sydney who have been nominated by such Council who shall hold office as such member only for the purpose of the examination or inquiry for which he is appointed and of making any report, recommendation or proposal arising out of such examination or inquiry :

Provided

Local Government (Boundaries Commission) Amendment.

Provided that the member of the Boundaries Commission appointed pursuant to this paragraph shall not vote on any recommendation or proposal by the Boundaries Commission for the inclusion in the City of Sydney of the whole or any part of any other area.

(3) (a) Where at any time a member of the Boundaries Commission is absent from his office as a member with the leave of the Minister, granted for any particular period or with respect to any particular examination or inquiry, the Governor may—

- (i) if such member is the chairman, on the nomination of the Minister, appoint a person as an acting member and the acting chairman of the Boundaries Commission;
- (ii) if such member is the departmental member, on the nomination of the person for the time being holding the office of or duly acting as Under Secretary of the Department of Local Government, appoint an officer of that Department as an acting member of the Boundaries Commission;
- (iii) if such member is the councils' member, select and appoint a member of the panel as an acting member of the Boundaries Commission;
- (iv) if such member is the person nominated by the Council of the City of Sydney in accordance with paragraph (c) of subsection two of this section, appoint another person nominated by that council as an acting member of the Boundaries Commission.

(b) Such appointment may be made with respect to one or more members of the Boundaries Commission, and shall be for such period or with respect to such particular examination or inquiry as may be specified in the notification of appointment. (4)

Local Government (Boundaries Commission) Amendment.

(4) An acting chairman or an acting member, as the case may be, shall have and may exercise and discharge all the powers, authorities, duties and functions of the chairman or member in whose place he acts.

(5) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising an acting chairman or acting member to act in the place of the chairman or a member; and all acts and things done or omitted to be done by an acting chairman or acting member when so acting as aforesaid shall have the same consequences as if the same had been done or omitted to be done by the chairman or member in whose place the acting chairman or acting member is acting.

(6) The provisions of the Public Service Act, 1902, or any Act amending the same, shall not apply to or in respect of the appointment by the Governor of any member or acting member of the Boundaries Commission, and any member or acting member so appointed shall not, in his capacity as such member or acting member, be subject to the provisions of any such Act.

(7) The office of member or acting member of the Boundaries Commission shall not for the purposes of any Act be deemed to be an office or place of profit under the Crown.

15B. (1) There shall be a panel to be called the **Panel**. "Boundaries Commission Panel" which in this Part is referred to as "the panel".

(2) The members of the panel shall be appointed by the Governor and, subject to this Part, each member of the panel shall hold office for five years from the date of his appointment and shall be eligible for reappointment.

(3)

Local Government (Boundaries Commission) Amendment.

(3) The panel shall consist of five members of whom—

- (a) three shall be officers of councils who have been nominated jointly as prescribed by the governing bodies of the Local Government Association of New South Wales and the Shires Association of New South Wales; and
- (b) the remaining members shall be the officers of councils referred to in subparagraph (iii) of paragraph (b) of subsection two of section 15A of this Act, other than the officer selected by the Governor to be a member of the Boundaries Commission pursuant to that subparagraph.

Notwithstanding paragraph (b) of this subsection a person shall not become a member of the panel by reason of his being nominated pursuant to paragraph (a) of subsection four of section 15D of this Act to fill the vacant office of a member or acting member of the Boundaries Commission.

**Nomina-
tions.**

15C. (1) Nominations for the appointment of the members of the Boundaries Commission referred to in subparagraph (iii) of paragraph (b), and in paragraph (c), of subsection two of section 15A of this Act, of the acting member referred to in subparagraph (iv) of paragraph (a) of subsection three of that section, and of the members of the panel referred to in paragraph (a) of subsection three of section 15B of this Act shall be made in the manner and within the time prescribed, and shall be accompanied by the written consent of each person nominated to serve on the Boundaries Commission and the panel, if appointed.

(2) If within the time prescribed sufficient nominations under this Part have not been validly made by the bodies entitled to make nominations the Governor may appoint such number of persons having the appropriate qualifications as may be necessary.

15D.

Local Government (Boundaries Commission) Amendment.

15D. (1) A member or acting member of the Boundaries Commission or a member of the panel shall be deemed to have vacated his office if he—

Cessation
of office.

- (a) dies;
- (b) resigns his office in writing under his hand addressed to the Governor;
- (c) becomes a mentally ill person, a protected person, or an incapable person, within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts;
- (d) becomes permanently incapable of performing his duties;
- (e) is convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for twelve months or upwards or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or misdemeanour punishable as aforesaid;
- (f) having been appointed as a member or an acting member in his capacity as an officer of a council or of the Department of Local Government, ceases to be such an officer;
- (g) for any cause which appears to the Governor to be sufficient, is removed from office by the Governor.

(2) If a member of the panel is appointed (otherwise than under subparagraph (iii) of paragraph (a) of subsection three of section 15A of this Act) as a member of the Boundaries Commission, he shall be deemed to have vacated his office as a member of the panel.

(3) Notwithstanding the provisions of subsection one of this section, a member or acting member of the Boundaries Commission who, pursuant to paragraph (f) of that subsection, vacates his office as such by reason of his ceasing to

Local Government (Boundaries Commission) Amendment.

to be an officer of a council may continue to act as a member or acting member of the Boundaries Commission for the purposes only of—

- (a) any examination or inquiry commenced before he ceased to be such an officer if, before he ceased to be such an officer, he took part as a member or acting member of the Boundaries Commission in the proceedings of the Boundaries Commission in respect of such examination or inquiry; and
- (b) making any report or proposal arising out of any such examination or inquiry.

(4) Upon the vacation of office under this section of—

- (a) a member or acting member of the Boundaries Commission, a new member or acting member nominated or selected in the same manner as his predecessor shall be appointed by the Governor to fill the vacant office; or
- (b) a member of the panel, a new member nominated jointly as prescribed by the governing bodies of the Local Government Association of New South Wales and the Shires Association of New South Wales shall be appointed by the Governor to fill the vacant office,

and shall hold office for the residue of his predecessor's term.

Unfilled
vacant
office.

15E. (1) No act or proceeding of the Boundaries Commission shall be invalidated or prejudiced by reason only of the fact that at the time such act or proceeding was done, taken or commenced, there was a vacancy in the office of any member other than the chairman.

(2)

Local Government (Boundaries Commission) Amendment.

(2) All acts and proceedings of the Boundaries Commission shall, notwithstanding the subsequent discovery of any defect in the appointment of any member or acting member thereof, be as valid as if such member or acting member had been duly appointed and as if the Boundaries Commission had been properly and fully constituted.

15F. Where an acting member is appointed to the Boundaries Commission under subsection three of section 15A of this Act, or a person is appointed under subsection four of section 15D of this Act to a vacancy on the Boundaries Commission, the Boundaries Commission as newly constituted, in respect of any examination or inquiry commenced before the appointment and for the purposes of making any report or proposal arising out of any such examination or inquiry, may exercise and shall discharge any power, authority, duty or function that the Boundaries Commission could have exercised or discharged had the necessity for the appointment of the acting member or person, as the case may be, not arisen, without commencing the examination or inquiry anew.

Powers of Boundaries Commission where acting member appointed or casual vacancy filled.

15G. The chairman and each other member of the Boundaries Commission, and any acting chairman or acting member, as the case may be, shall be entitled to receive such travelling and out-of-pocket expenses and, if he is not a member of the Public Service, such remuneration (whether by way of fees or allowance or otherwise), as may be prescribed in respect of the chairman or an acting chairman, or a member or acting member.

Fees and travelling expenses.

15H. (1) In proceedings before the Boundaries Commission, no person shall be represented—

Legal or other representation.

- (a) by a barrister or solicitor or by a person who has qualified for admission as a barrister or solicitor; or
- (b) by any person acting for fee or reward.

(2)

Local Government (Boundaries Commission) Amendment.

(2) Nothing in this section shall preclude—

- (a) an employee of any person from representing that person before the Boundaries Commission if such employee is not a barrister or solicitor or other person referred to in paragraph (a) of subsection one of this section;
- (b) a person who is the mayor of a municipality, president of a shire or chairman of a county council or urban committee from appearing in that capacity in proceedings before the Boundaries Commission;
- (c) a person who is a barrister or solicitor or other person referred to in paragraph (a) of subsection one of this section from preparing any documents or submissions or tendering any legal advice in connection with any proceedings before the Boundaries Commission.

Meetings
and
procedure.

15I. (1) The chairman shall preside at all meetings of the Boundaries Commission.

(2) The chairman and one other member of the Boundaries Commission constituted in accordance with paragraph (b) of subsection two of section 15A of this Act, shall form a quorum.

(3) The chairman and two other members of the Boundaries Commission constituted in accordance with paragraph (c) of subsection two of section 15A of this Act shall form a quorum.

(4) At a meeting of the Boundaries Commission constituted in accordance with paragraph (b) of subsection two of section 15A of this Act, the decision of the majority shall prevail, but the dissenting member may furnish a minority report.

(5)

Local Government (Boundaries Commission) Amendment.

(5) At a meeting of the Boundaries Commission constituted in accordance with paragraph (c) of subsection two of section 15A of this Act at which all of the members are present, the decision of the majority shall prevail, but where the members present are equally divided in opinion upon any question, no decision of the Boundaries Commission shall be recorded and each member may furnish a separate report.

(6) Where at any meeting of the Boundaries Commission constituted in accordance with paragraph (b) of subsection two of section 15A of this Act, at which one of the members is not present, the members present are divided in opinion upon any question, the determination of that question shall be postponed until a meeting at which all members are present.

(7) Where at any meeting of the Boundaries Commission constituted in accordance with paragraph (c) of subsection two of section 15A of this Act at which all of the members are not present, the members present are divided in opinion on any question, the determination of that question shall be postponed until a meeting at which all members are present.

(8) The procedure for the calling of meetings of the Boundaries Commission and for the conduct of business thereat shall, except as may be from time to time prescribed, be as determined by the Boundaries Commission.

(9) In the exercise and discharge of its powers, authorities, duties and functions, the Boundaries Commission shall not be bound to follow strict legal procedure nor to observe the rules of law governing the admission of evidence.

(10) No writ of prohibition or certiorari shall lie in respect of any examination, inquiry, proposal, report, recommendation, determination, order,

Local Government (Boundaries Commission) Amendment.

order, proceeding or direction of the Boundaries Commission in the exercise or discharge of the powers, authorities, duties and functions conferred and imposed on it by this Part.

Powers,
authorities,
duties and
functions
of the
Boundaries
Commission.

15J. (1) The Boundaries Commission shall have and may exercise and discharge the following powers, authorities, duties and functions :—

- (a) to examine, without holding an inquiry, and report on any matter with respect to the boundaries of cities, municipalities, shires, urban areas and county districts which may be referred to it by the Minister ;
- (b) to hold an inquiry into and report upon any proposal mentioned in subsection one of section nineteen of this Act and referred to the Boundaries Commission in accordance with subsection four of that section ;
- (c) to hold any inquiry for the purposes of Division 2 of Part XXVII of this Act and to report thereon to the Minister ;
- (d) to hold an inquiry into and report upon any proposal mentioned in subsection one of section 561A of this Act and referred to the Boundaries Commission in accordance with subsection four of that section ;
- (e) to submit to the Minister any proposal—
 - (i) mentioned in subsection one of section nineteen of this Act ;
 - (ii) for the creation or dissolution, or the alteration of boundaries, of an urban area ; or
 - (iii) mentioned in subsection one of section 561A of this Act,

and which arises out of any examination or inquiry under paragraph (a), (b), (c) or (d) of this subsection.

Notwithstanding

Local Government (Boundaries Commission) Amendment.

Notwithstanding paragraphs (a), (b), (c), (d) or (e) of this subsection no recommendation by the Boundaries Commission shall be implemented by the Minister until a copy of the report of the Boundaries Commission containing that recommendation has been laid before both Houses of Parliament.

(2) Notwithstanding the provisions of subsection one of this section the Boundaries Commission shall not have, and shall not exercise or discharge, the powers, authorities, duties and functions referred to in paragraph (a), or subparagraph (iii) of paragraph (e), of that subsection in relation to a county district constituted or proposed to be constituted for the supply of electricity.

(3) Any inquiry held by the Boundaries Commission under this section shall be open to the public.

- (d) by inserting in paragraph (d) of section sixteen after the word "into" the words "the same or"; Sec. 16.
(Alteration of areas.)
- (e) by omitting section seventeen; Sec. 17.
(New municipality—conditions precedent.)
- (f) (i) by inserting next after subsection one of section nineteen the following new subsection :— Sec. 19.
(Proposals for alteration of areas.)

(1A) A proposal submitted to the Minister by the Boundaries Commission pursuant to the provisions of subparagraph (i) of paragraph (e) of subsection one of section 15J of this Act shall, except where it is a modification within the meaning of subsection six of this section, be deemed to be a proposal to the Governor for the purposes of this Part.

(ii)

Local Government (Boundaries Commission) Amendment.

(ii) by omitting from subsection four of the same section the words "such local land board as he may appoint, or to a person appointed by him in accordance with this Act" and by inserting in lieu thereof the words "the Boundaries Commission";

(iii) by inserting at the end of subsection six of the same section the following new paragraph:—

In this subsection "modification" means only such a modification as does not in the opinion of the Minister constitute a new proposal but does not include a modification that would, if it were implemented, result in any part of the City of Sydney being included in any other area, unless it is recommended by the Boundaries Commission constituted as provided for in paragraph (c) of subsection two of section 15A of this Act.

Sec. 20D.
(Transfer
of servants
where areas
are divided.)

(g) by inserting in subsection one of section 20D after the word "into" the words "the same or";

Sec. 541.
(Declaration
of urban
areas.)

(h) by inserting at the end of paragraph (b) of subsection two of section five hundred and forty-one the following word and new paragraph:—

; or

(c) on a proposal submitted to the Minister by the Boundaries Commission pursuant to the provisions of subparagraph (ii) of paragraph (e) of subsection one of section 15J of this Act.

Sec. 543.
(Notice of
application.)

(i) (i) by omitting from subsection one of section five hundred and forty-three the word "Where" and by inserting in lieu thereof the words "Where the Boundaries Commission submits a proposal, or where";

(ii)

Local Government (Boundaries Commission) Amendment.

- (ii) by omitting from the same subsection the words "grant the application" and by inserting in lieu thereof the words "declare the urban area";
- (j) by inserting next after subsection one of section five hundred and forty-four the following new subsection :— Sec. 544. (Inquiries and polls.)
- (1A) Any such inquiry shall be held by the Boundaries Commission.
- (k) (i) by inserting next after subsection one of section 561A the following new subsection :— Sec. 561A. (Proposals for alteration or union.)
- (1A) A proposal in relation to a county district submitted to the Minister by the Boundaries Commission pursuant to the provisions of subparagraph (iii) of paragraph (e) of subsection one of section 15J of this Act shall, except where it is a modification within the meaning of subsection five of this section, be deemed to be a proposal to the Governor for the purposes of this section.
- (ii) by omitting from subsection four of the same section the words "a person appointed by him in accordance with this Act" and by inserting in lieu thereof the words "the Boundaries Commission";
- (iii) by inserting at the end of subsection five of the same section the following new paragraph :—
- In this subsection "modification" means only such a modification as does not in the opinion of the Minister constitute a new proposal.

3. Any proposal—

Savings.

- (a) mentioned in subsection one of section nineteen of the Principal Act;
- (b) for the creation or dissolution, or alteration of the boundaries, of an urban area; or

(c)

Local Government (Boundaries Commission) Amendment.

- (c) mentioned in subsection one of section 561A of the Principal Act,

which was submitted to the Minister before the commencement of this Act and which has not been dealt with and disposed of before that commencement shall be deemed to have been submitted under and shall be dealt with and completed under the provisions of the Principal Act as amended by this Act.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1963

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 3 September, 1963.*

New South Wales



ANNO DUODECIMO

ELIZABETHÆ II REGINÆ

Act No. 32, 1963.

An Act to make further provisions with regard to the alteration of local government boundaries; to constitute a Boundaries Commission and to specify its powers, authorities, duties and functions; for these and other purposes to amend the Local Government Act, 1919, as amended by subsequent Acts; and for purposes connected therewith. [Assented to, 18th September, 1963.]

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. (1) This Act may be cited as the "Local Government (Boundaries Commission) Amendment Act, 1963".
- (2) Short title, commencement and construction.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

HOWARD T. FOWLES,
Chairman of Committees of the Legislative Assembly.

Local Government (Boundaries Commission) Amendment.

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(3) This Act shall be read and construed with the Local Government Act, 1919, as amended by subsequent Acts, which Act, as so amended, is in this Act referred to as the Principal Act.

Amendment
of Act No.
41, 1919.

2. The Principal Act is amended—

Sec. 3.
(Division
into
Parts.)

(a) by inserting in section three next after the matter relating to Part II the words and symbols "PART IIA.—LOCAL GOVERNMENT BOUNDARIES COMMISSION—SS. 15A–15J.";

Sec. 4.
(Defin-
itions.)

(b) by inserting in section four next before the definition of "Building line" the following new definition :—

"Boundaries Commission" means the Local Government Boundaries Commission constituted under Part IIA of this Act.

New Part
IIA.

(c) by inserting next after section fifteen the following new Part :—

PART IIA.

LOCAL GOVERNMENT BOUNDARIES COMMISSION.

Boundaries
Commission.

15A. (1) There shall be a Local Government Boundaries Commission which shall have and may exercise and discharge the powers, authorities, duties and functions conferred or imposed upon it by or under this Act.

(2) (a) The members of the Boundaries Commission shall be appointed by the Governor and, subject to this Part, each member shall hold office for five years from the date of his appointment and shall be eligible for reappointment.

(b)

Local Government (Boundaries Commission) Amendment.

(b) Subject to paragraph (c) of this subsection, the Boundaries Commission shall consist of three members, that is to say—

- (i) one member nominated by the Minister, who shall be the chairman;
- (ii) one member (hereinafter referred to as “the departmental member”) who shall be an officer of the Department of Local Government nominated for appointment by the person for the time being holding the office of or duly acting as Under Secretary of that Department;
- (iii) one member (hereinafter referred to as “the councils’ member”) who shall be selected by the Governor from three officers of councils who have been nominated jointly as prescribed by the governing bodies of the Local Government Association of New South Wales and the Shires Association of New South Wales.

(c) Where in the exercise or discharge of any of the powers, authorities, duties or functions conferred on the Boundaries Commission by paragraph (a), (b) or (e) of subsection one of section 15J of this Act, an examination, inquiry or report is made in relation to the boundaries of the City of Sydney, the Boundaries Commission shall consist of four members of whom three shall be the persons referred to in paragraph (b) of this subsection and the remaining member shall be a person selected by the Governor from three officers of the Council of the City of Sydney who have been nominated by such Council who shall hold office as such member only for the purpose of the examination or inquiry for which he is appointed and of making any report, recommendation or proposal arising out of such examination or inquiry :

Provided

Local Government (Boundaries Commission) Amendment.

Provided that the member of the Boundaries Commission appointed pursuant to this paragraph shall not vote on any recommendation or proposal by the Boundaries Commission for the inclusion in the City of Sydney of the whole or any part of any other area.

(3) (a) Where at any time a member of the Boundaries Commission is absent from his office as a member with the leave of the Minister, granted for any particular period or with respect to any particular examination or inquiry, the Governor may—

- (i) if such member is the chairman, on the nomination of the Minister, appoint a person as an acting member and the acting chairman of the Boundaries Commission;
- (ii) if such member is the departmental member, on the nomination of the person for the time being holding the office of or duly acting as Under Secretary of the Department of Local Government, appoint an officer of that Department as an acting member of the Boundaries Commission;
- (iii) if such member is the councils' member, select and appoint a member of the panel as an acting member of the Boundaries Commission;
- (iv) if such member is the person nominated by the Council of the City of Sydney in accordance with paragraph (c) of subsection two of this section, appoint another person nominated by that council as an acting member of the Boundaries Commission.

(b) Such appointment may be made with respect to one or more members of the Boundaries Commission, and shall be for such period or with respect to such particular examination or inquiry as may be specified in the notification of appointment. (4)

Local Government (Boundaries Commission) Amendment.

(4) An acting chairman or an acting member, as the case may be, shall have and may exercise and discharge all the powers, authorities, duties and functions of the chairman or member in whose place he acts.

(5) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising an acting chairman or acting member to act in the place of the chairman or a member; and all acts and things done or omitted to be done by an acting chairman or acting member when so acting as aforesaid shall have the same consequences as if the same had been done or omitted to be done by the chairman or member in whose place the acting chairman or acting member is acting.

(6) The provisions of the Public Service Act, 1902, or any Act amending the same, shall not apply to or in respect of the appointment by the Governor of any member or acting member of the Boundaries Commission, and any member or acting member so appointed shall not, in his capacity as such member or acting member, be subject to the provisions of any such Act.

(7) The office of member or acting member of the Boundaries Commission shall not for the purposes of any Act be deemed to be an office or place of profit under the Crown.

15B. (1) There shall be a panel to be called the ^{Panel.} "Boundaries Commission Panel" which in this Part is referred to as "the panel".

(2) The members of the panel shall be appointed by the Governor and, subject to this Part, each member of the panel shall hold office for five years from the date of his appointment and shall be eligible for reappointment.

(3)

Local Government (Boundaries Commission) Amendment.

(3) The panel shall consist of five members of whom—

- (a) three shall be officers of councils who have been nominated jointly as prescribed by the governing bodies of the Local Government Association of New South Wales and the Shires Association of New South Wales ; and
- (b) the remaining members shall be the officers of councils referred to in subparagraph (iii) of paragraph (b) of subsection two of section 15A of this Act, other than the officer selected by the Governor to be a member of the Boundaries Commission pursuant to that subparagraph.

Notwithstanding paragraph (b) of this subsection a person shall not become a member of the panel by reason of his being nominated pursuant to paragraph (a) of subsection four of section 15D of this Act to fill the vacant office of a member or acting member of the Boundaries Commission.

Nomina-
tions.

15c. (1) Nominations for the appointment of the members of the Boundaries Commission referred to in subparagraph (iii) of paragraph (b), and in paragraph (c), of subsection two of section 15A of this Act, of the acting member referred to in subparagraph (iv) of paragraph (a) of subsection three of that section, and of the members of the panel referred to in paragraph (a) of subsection three of section 15B of this Act shall be made in the manner and within the time prescribed, and shall be accompanied by the written consent of each person nominated to serve on the Boundaries Commission and the panel, if appointed.

(2) If within the time prescribed sufficient nominations under this Part have not been validly made by the bodies entitled to make nominations the Governor may appoint such number of persons having the appropriate qualifications as may be necessary.

15D.

Local Government (Boundaries Commission) Amendment.

15D. (1) A member or acting member of the Boundaries Commission or a member of the panel shall be deemed to have vacated his office if he—

Cessation
of office.

- (a) dies;
- (b) resigns his office in writing under his hand addressed to the Governor;
- (c) becomes a mentally ill person, a protected person, or an incapable person, within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts;
- (d) becomes permanently incapable of performing his duties;
- (e) is convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for twelve months or upwards or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or misdemeanour punishable as aforesaid;
- (f) having been appointed as a member or an acting member in his capacity as an officer of a council or of the Department of Local Government, ceases to be such an officer;
- (g) for any cause which appears to the Governor to be sufficient, is removed from office by the Governor.

(2) If a member of the panel is appointed (otherwise than under subparagraph (iii) of paragraph (a) of subsection three of section 15A of this Act) as a member of the Boundaries Commission, he shall be deemed to have vacated his office as a member of the panel.

(3) Notwithstanding the provisions of subsection one of this section, a member or acting member of the Boundaries Commission who, pursuant to paragraph (f) of that subsection, vacates his office as such by reason of his ceasing
to

Local Government (Boundaries Commission) Amendment.

to be an officer of a council may continue to act as a member or acting member of the Boundaries Commission for the purposes only of—

- (a) any examination or inquiry commenced before he ceased to be such an officer if, before he ceased to be such an officer, he took part as a member or acting member of the Boundaries Commission in the proceedings of the Boundaries Commission in respect of such examination or inquiry; and
- (b) making any report or proposal arising out of any such examination or inquiry.

(4) Upon the vacation of office under this section of—

- (a) a member or acting member of the Boundaries Commission, a new member or acting member nominated or selected in the same manner as his predecessor shall be appointed by the Governor to fill the vacant office; or
- (b) a member of the panel, a new member nominated jointly as prescribed by the governing bodies of the Local Government Association of New South Wales and the Shires Association of New South Wales shall be appointed by the Governor to fill the vacant office,

and shall hold office for the residue of his predecessor's term.

Unfilled
vacant
office.

15E. (1) No act or proceeding of the Boundaries Commission shall be invalidated or prejudiced by reason only of the fact that at the time such act or proceeding was done, taken or commenced, there was a vacancy in the office of any member other than the chairman.

(2)

Local Government (Boundaries Commission) Amendment.

(2) All acts and proceedings of the Boundaries Commission shall, notwithstanding the subsequent discovery of any defect in the appointment of any member or acting member thereof, be as valid as if such member or acting member had been duly appointed and as if the Boundaries Commission had been properly and fully constituted.

15F. Where an acting member is appointed to the Boundaries Commission under subsection three of section 15A of this Act, or a person is appointed under subsection four of section 15D of this Act to a vacancy on the Boundaries Commission, the Boundaries Commission as newly constituted, in respect of any examination or inquiry commenced before the appointment and for the purposes of making any report or proposal arising out of any such examination or inquiry, may exercise and shall discharge any power, authority, duty or function that the Boundaries Commission could have exercised or discharged had the necessity for the appointment of the acting member or person, as the case may be, not arisen, without commencing the examination or inquiry anew.

Powers of Boundaries Commission where acting member appointed or casual vacancy filled.

15G. The chairman and each other member of the Boundaries Commission, and any acting chairman or acting member, as the case may be, shall be entitled to receive such travelling and out-of-pocket expenses and, if he is not a member of the Public Service, such remuneration (whether by way of fees or allowance or otherwise), as may be prescribed in respect of the chairman or an acting chairman, or a member or acting member.

Fees and travelling expenses.

15H. (1) In proceedings before the Boundaries Commission, no person shall be represented—

- (a) by a barrister or solicitor or by a person who has qualified for admission as a barrister or solicitor; or
- (b) by any person acting for fee or reward.

Legal or other representation.

(2)

Local Government (Boundaries Commission) Amendment.

(2) Nothing in this section shall preclude—

- (a) an employee of any person from representing that person before the Boundaries Commission if such employee is not a barrister or solicitor or other person referred to in paragraph (a) of subsection one of this section;
- (b) a person who is the mayor of a municipality, president of a shire or chairman of a county council or urban committee from appearing in that capacity in proceedings before the Boundaries Commission;
- (c) a person who is a barrister or solicitor or other person referred to in paragraph (a) of subsection one of this section from preparing any documents or submissions or tendering any legal advice in connection with any proceedings before the Boundaries Commission.

Meetings
and
procedure.

15i. (1) The chairman shall preside at all meetings of the Boundaries Commission.

(2) The chairman and one other member of the Boundaries Commission constituted in accordance with paragraph (b) of subsection two of section 15A of this Act, shall form a quorum.

(3) The chairman and two other members of the Boundaries Commission constituted in accordance with paragraph (c) of subsection two of section 15A of this Act shall form a quorum.

(4) At a meeting of the Boundaries Commission constituted in accordance with paragraph (b) of subsection two of section 15A of this Act, the decision of the majority shall prevail, but the dissenting member may furnish a minority report.

(5)

Local Government (Boundaries Commission) Amendment.

(5) At a meeting of the Boundaries Commission constituted in accordance with paragraph (c) of subsection two of section 15A of this Act at which all of the members are present, the decision of the majority shall prevail, but where the members present are equally divided in opinion upon any question, no decision of the Boundaries Commission shall be recorded and each member may furnish a separate report.

(6) Where at any meeting of the Boundaries Commission constituted in accordance with paragraph (b) of subsection two of section 15A of this Act, at which one of the members is not present, the members present are divided in opinion upon any question, the determination of that question shall be postponed until a meeting at which all members are present.

(7) Where at any meeting of the Boundaries Commission constituted in accordance with paragraph (c) of subsection two of section 15A of this Act at which all of the members are not present, the members present are divided in opinion on any question, the determination of that question shall be postponed until a meeting at which all members are present.

(8) The procedure for the calling of meetings of the Boundaries Commission and for the conduct of business thereat shall, except as may be from time to time prescribed, be as determined by the Boundaries Commission.

(9) In the exercise and discharge of its powers, authorities, duties and functions, the Boundaries Commission shall not be bound to follow strict legal procedure nor to observe the rules of law governing the admission of evidence.

(10) No writ of prohibition or certiorari shall lie in respect of any examination, inquiry, proposal, report, recommendation, determination, order,

Local Government (Boundaries Commission) Amendment.

order, proceeding or direction of the Boundaries Commission in the exercise or discharge of the powers, authorities, duties and functions conferred and imposed on it by this Part.

Powers,
authorities,
duties and
functions
of the
Boundaries
Commission.

15J. (1) The Boundaries Commission shall have and may exercise and discharge the following powers, authorities, duties and functions :—

- (a) to examine, without holding an inquiry, and report on any matter with respect to the boundaries of cities, municipalities, shires, urban areas and county districts which may be referred to it by the Minister ;
- (b) to hold an inquiry into and report upon any proposal mentioned in subsection one of section nineteen of this Act and referred to the Boundaries Commission in accordance with subsection four of that section ;
- (c) to hold any inquiry for the purposes of Division 2 of Part XXVII of this Act and to report thereon to the Minister ;
- (d) to hold an inquiry into and report upon any proposal mentioned in subsection one of section 561A of this Act and referred to the Boundaries Commission in accordance with subsection four of that section ;
- (e) to submit to the Minister any proposal—
 - (i) mentioned in subsection one of section nineteen of this Act ;
 - (ii) for the creation or dissolution, or the alteration of boundaries, of an urban area ; or
 - (iii) mentioned in subsection one of section 561A of this Act,

and which arises out of any examination or inquiry under paragraph (a), (b), (c) or (d) of this subsection.

Notwithstanding

Local Government (Boundaries Commission) Amendment.

Notwithstanding paragraphs (a), (b), (c), (d) or (e) of this subsection no recommendation by the Boundaries Commission shall be implemented by the Minister until a copy of the report of the Boundaries Commission containing that recommendation has been laid before both Houses of Parliament.

(2) Notwithstanding the provisions of subsection one of this section the Boundaries Commission shall not have, and shall not exercise or discharge, the powers, authorities, duties and functions referred to in paragraph (a), or subparagraph (iii) of paragraph (e), of that subsection in relation to a county district constituted or proposed to be constituted for the supply of electricity.

(3) Any inquiry held by the Boundaries Commission under this section shall be open to the public.

- (d) by inserting in paragraph (d) of section sixteen after the word "into" the words "the same or"; Sec. 16.
(Alteration of areas.)
- (e) by omitting section seventeen; Sec. 17.
(New municipality—conditions precedent.)
- (f) (i) by inserting next after subsection one of section nineteen the following new subsection:— Sec. 19.
(Proposals for alteration of areas.)

(1A) A proposal submitted to the Minister by the Boundaries Commission pursuant to the provisions of subparagraph (i) of paragraph (e) of subsection one of section 15J of this Act shall, except where it is a modification within the meaning of subsection six of this section, be deemed to be a proposal to the Governor for the purposes of this Part.

(ii)

Local Government (Boundaries Commission) Amendment.

(ii) by omitting from subsection four of the same section the words "such local land board as he may appoint, or to a person appointed by him in accordance with this Act" and by inserting in lieu thereof the words "the Boundaries Commission";

(iii) by inserting at the end of subsection six of the same section the following new paragraph:—

In this subsection "modification" means only such a modification as does not in the opinion of the Minister constitute a new proposal but does not include a modification that would, if it were implemented, result in any part of the City of Sydney being included in any other area, unless it is recommended by the Boundaries Commission constituted as provided for in paragraph (c) of subsection two of section 15A of this Act.

Sec. 20D.
(Transfer
of servants
where areas
are divided.)

(g) by inserting in subsection one of section 20D after the word "into" the words "the same or";

Sec. 541.
(Declaration
of urban
areas.)

(h) by inserting at the end of paragraph (b) of subsection two of section five hundred and forty-one the following word and new paragraph:—

; or

(c) on a proposal submitted to the Minister by the Boundaries Commission pursuant to the provisions of subparagraph (ii) of paragraph (e) of subsection one of section 15J of this Act.

Sec. 543.
(Notice of
application.)

(i) (i) by omitting from subsection one of section five hundred and forty-three the word "Where" and by inserting in lieu thereof the words "Where the Boundaries Commission submits a proposal, or where";

(ii)

Local Government (Boundaries Commission) Amendment.

- (ii) by omitting from the same subsection the words "grant the application" and by inserting in lieu thereof the words "declare the urban area";
- (j) by inserting next after subsection one of section five hundred and forty-four the following new subsection :— Sec. 544. (Inquiries and polls.)
- (1A) Any such inquiry shall be held by the Boundaries Commission.
- (k) (i) by inserting next after subsection one of section 561A the following new subsection :— Sec. 561A. (Proposals for alteration or union.)
- (1A) A proposal in relation to a county district submitted to the Minister by the Boundaries Commission pursuant to the provisions of subparagraph (iii) of paragraph (e) of subsection one of section 15J of this Act shall, except where it is a modification within the meaning of subsection five of this section, be deemed to be a proposal to the Governor for the purposes of this section.
- (ii) by omitting from subsection four of the same section the words "a person appointed by him in accordance with this Act" and by inserting in lieu thereof the words "the Boundaries Commission";
- (iii) by inserting at the end of subsection five of the same section the following new paragraph :—
- In this subsection "modification" means only such a modification as does not in the opinion of the Minister constitute a new proposal.

3. Any proposal—

- (a) mentioned in subsection one of section nineteen of the Principal Act;
- (b) for the creation or dissolution, or alteration of the boundaries, of an urban area; or

Savings.

(c)

Local Government (Boundaries Commission) Amendment.

(c) mentioned in subsection one of section 561A of the Principal Act,

which was submitted to the Minister before the commencement of this Act and which has not been dealt with and disposed of before that commencement shall be deemed to have been submitted under and shall be dealt with and completed under the provisions of the Principal Act as amended by this Act.

In the name and on behalf of Her Majesty I assent to this Act.

E. W. WOODWARD,
Governor.

*Government House,
Sydney, 18th September, 1963.*

LOCAL GOVERNMENT (BOUNDARIES COMMISSION)
AMENDMENT BILL.

SCHEDULE of the amendment referred to in Legislative Council's Message of 4 April, 1963, showing Legislative Council's further amendment to Legislative Assembly's amendment upon the Legislative Council's amendment No. 12 referred to in Legislative Assembly's Message of 3 April, 1963.

J. R. STEVENSON,
Clerk of the Parliaments.

Amendment No. 12.—Page 12, clause 2, lines 28 to 30 inclusive. After the word "Parliament" *add* "and the recommendation has not been disapproved by a resolution of which notice has been given within fifteen sitting days by either House of Parliament."

NOTE.—These references are to the Council's reprint of the Assembly's Bill.

LOCAL GOVERNMENT (BOUNDARIES COMMISSION)
AMENDMENT BILL.

SCHEDULE showing Legislative Assembly's disagreements from, disagreements from and further amendments upon, and an amendment upon, the Legislative Council's amendments referred to in Message of 3 April, 1963.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

Amendment No. 1.—Page 3, clause 2, lines 1 and 2. *Reinsert* the words “Subject to paragraph (c) of this subsection.”

Amendment No. 2.—Page 3, clause 2, lines 4 and 5. *Reinsert* all words on these lines.

Page 3, clause 2, lines 6 to 9 inclusive. *Omit* all words on these lines.

Amendment No. 3.—Page 3, clause 2, lines 25 to 41 inclusive. *Reinsert* all words on these lines.

Page 3, clause 2, line 28. *Omit* the words “or (b)” and *insert* in lieu thereof the words “, (b) or (e)”.

Page 3, clause 2, after line 41, *add* the words—

“Provided that the member of the Boundaries Commission appointed pursuant to this paragraph shall not vote on any recommendation or proposal by the Boundaries Commission for the inclusion in the City of Sydney of the whole or any part of any other area.”

Amendment No. 4.—Page 4, clause 2, lines 7 to 11 inclusive. *Reinsert* all words on these lines.

Page 4, clause 2, lines 12 to 15 inclusive. *Omit* all words on these lines.

Amendment No. 5.—Page 4, clause 2, lines 27 to 33 inclusive. *Reinsert* all words on these lines.

Amendment No. 6.—Page 6, clause 2, lines 16 and 17. *Reinsert* the words “and in paragraph (c).”

NOTE.—These references are to the Council's reprint of the Assembly's Bill.

Amendment No. 7.—Page 6, clause 2, lines 18 to 20 inclusive. *Reinsert* the words “of the acting member referred to in subparagraph (iv) of paragraph (a) of subsection three of that section.”

Amendment No. 8.—Page 9, clause 2, line 22. *Omit* the words “**or the Judiciary**”.

Amendment No. 9.—Page 10, clause 2, lines 19 to 23 inclusive. *Reinsert* all words on these lines.

Amendment No. 10.—Page 10, clause 2, lines 29 to 37 inclusive. *Reinsert* all words on these lines.

Amendment No. 11.—Page 11, clause 2, lines 7 to 14 inclusive. *Reinsert* all words on these lines.

Amendment No. 12.—Page 12, clause 2, lines 28 to 30 inclusive. *Omit* all words after the word “**Minister**” and *insert* the words “until a copy of the report of the Boundaries Commission containing that recommendation has been laid before both Houses of Parliament.”

Amendment No. 13.—Page 13, clause 2, lines 25 to 31 inclusive. *Reinsert* all words on these lines.

Page 13, clause 2, lines 26 to 28 inclusive. *Omit* the words “effect an alteration to the boundaries of the City of Sydney” and *insert* the words “result in any part of the City of Sydney being included in any other area”.

Local Government (Boundaries Commission) Amendment Bill.

MR. PRESIDENT, --

The Legislative Assembly having had under consideration the Legislative Council's Message dated 27th March, 1963, requesting its concurrence in certain amendments made by the Council in the Local Government (Boundaries Commission) Amendment Bill, acquaints the Legislative Council as follows:-

Amendment No. 1: Disagrees to the amendment,--because it is consequential to Amendment No. 3 which is disagreed to hereafter.

Amendment No. 2: Disagrees to the amendment,--because as the Boundaries Commission is purely an administrative tribunal its proceedings do not in themselves involve any question of law, procedure or evidence and its findings are not final and binding on the rights of property or person, and accordingly there is no need for it to be presided over by a Judge.

Amendment No. 3: Disagrees to the amendment, but proposes to amend the words which this amendment seeks to omit by omitting the words "or (b)" and inserting in lieu thereof the words ", (b) or (e)", and by adding at the end thereof the words:- "Provided that the member of the Boundaries Commission appointed pursuant to this paragraph shall not vote on any recommendation or proposal by the Boundaries Commission for the inclusion in the City of Sydney of the whole or any part of any other area.",--because it is considered that the importance of the City of Sydney warrants the Council of the City of Sydney being represented on any Boundaries Commission dealing with a proposal to curtail the boundaries of the City.

Amendment No. 4: Disagrees to the amendment,--because it is consequential to Amendment No. 2 which is disagreed to.

Amendments Nos. 5, 6 and 7: Disagrees to these amendments,--because they are consequential to Amendment No. 3 which is disagreed to.

Amendment No. 8: Disagrees to the amendment,--because it is consequential to Amendment No.2 which is disagreed to.

The Legislative Assembly having had under consideration the Legislative Council's message dated 27th March, 1963, requesting the concurrence in certain amendments made by the Council in the Local Government (Boundaries Commission) Amendment Bill, reports the Legislative Council as follows:—

Amendment No. 1: Disagree to the amendment,--because it is consequential to Amendment No. 2 which is disapproved in toto.

Amendment No. 2: Disagree to the amendment,--because as the Boundaries Commission is purely an administrative tribunal its proceedings do not in themselves involve any question of law, procedure or evidence and its findings are not final and binding on the rights of property or person, and accordingly there is no need for it to be presided over by a Judge.

Amendment No. 3: Disagree to the amendment, but propose to amend the words which this amendment seeks to omit by omitting the words "or (b)" and inserting in their stead the words: "(a) or (b)", and by adding at the end thereof the words: "provided that the member of the Boundaries Commission appointed pursuant to this paragraph shall not vote on any recommendation or proposal by the Boundaries Commission for the inclusion in the City of Sydney of the whole or any part of any other area."--because it is considered that the importance of the City of Sydney warrants the Council of the City of Sydney being represented on any Boundaries Commission dealing with a proposal to curtail the boundaries of the City.

Amendment No. 4: Disagree to the amendment,--because it is consequential to Amendment No. 2 which is disapproved.

Amendments Nos. 5, 6 and 7: Disagree to these amendments,--because they are consequential to Amendment No. 2 which is disapproved.

Amendment No. 8: Disagree to the amendment,--because it is consequential to Amendment No. 2 which is disapproved.

Amendments Nos. 9, 10 and 11: Disagrees to these amendments,-- because they are consequential to Amendment No. 3 which is disagreed to.

Amendment No. 12: Agrees to the amendment, but proposes to amend it by omitting all the words after the word "Minister" and by inserting in lieu thereof the words "until a copy of the report of the Boundaries Commission containing that recommendation has been laid before both Houses of Parliament."

Amendment No. 13: Disagrees to the amendment,-- because it is consequential to Amendment No. 3 which is disagreed to, but proposes to amend the words which the amendment seeks to omit by omitting the words "effect an alteration to the boundaries of the City of Sydney" and by inserting in lieu thereof the words "result in any part of the City of Sydney being included in any other area".

And the Assembly requests the concurrence of the Legislative Council in its disagreements from, disagreements from and further amendments upon, and an amendment to the Council's amendments in the Bill.

(sgd) Ray Maher,
Speaker.

Legislative Assembly Chamber,
Sydney, 3rd April, 1963.

Amendments Nos. 9, 10 and 11: Disagree to these amendments, because they are consequential to Amendment No. 3 which is inserted.

Amendment No. 12: Agree to the amendment, but propose to amend it by striking all the words after the word "Minister" and by inserting in lieu thereof the words "until a copy of the report of the Boundary Commission containing that recommendation has been laid before both Houses of Parliament."

Amendment No. 13: Disagree to the amendment, because it is consequential to Amendment No. 3 which is inserted, but propose to amend the words which the amendment seeks to omit by striking the words "and by inserting in lieu thereof the words "of the City of Sydney" and by inserting in lieu thereof the words "inserted in any part of the City of Sydney being included in any other area."

And the Assembly requests the concurrence of the Legislative Council in its disallowance from disallowance from and further amendments upon, and an amendment to the Council's amendments in the Bill.

(and) Ray Baker,
Speaker.

Legislative Assembly Chamber,
Sydney, 1st April, 1963.

Local Government (Boundaries Commission) Amendment Bill.

MR. PRESIDENT, --

The Legislative Assembly having had under consideration the Legislative Council's Message dated 27th March, 1963, requesting its concurrence in certain amendments made by the Council in the Local Government (Boundaries Commission) Amendment Bill, acquaints the Legislative Council as follows:-

Amendment No. 1: Disagrees to the amendment,--because it is consequential to Amendment No. 3 which is disagreed to hereafter.

Amendment No. 2: Disagrees to the amendment,--because as the Boundaries Commission is purely an administrative tribunal its proceedings do not in themselves involve any question of law, procedure or evidence and its findings are not final and binding on the rights of property or person, and accordingly there is no need for it to be presided over by a Judge.

Amendment No. 3: Disagrees to the amendment, but proposes to amend the words which this amendment seeks to omit by omitting the words "or (b)" and inserting in lieu thereof the words ", (b) or (e)", and by adding at the end thereof the words:- "Provided that the member of the Boundaries Commission appointed pursuant to this paragraph shall not vote on any recommendation or proposal by the Boundaries Commission for the inclusion in the City of Sydney of the whole or any part of any other area.",--because it is considered that the importance of the City of Sydney warrants the Council of the City of Sydney being represented on any Boundaries Commission dealing with a proposal to curtail the boundaries of the City.

Amendment No. 4: Disagrees to the amendment,--because it is consequential to Amendment No. 2 which is disagreed to.

Amendments Nos. 5, 6 and 7: Disagrees to these amendments,--because they are consequential to Amendment No. 3 which is disagreed to.

Amendment No. 8: Disagrees to the amendment,--because it is consequential to Amendment No.2 which is disagreed to.

The Legislative Assembly having had under consideration the Legislative Council's message dated 27th March, 1953, requesting its concurrence in certain amendments made by the Council in the Local Government (Boundaries Commission) Amendment Bill, requests the Legislative Council as follows:--

Amendment No. 1: Disagree to the amendment,--because it is consequential to Amendment No. 2 which is disagreed to.

Amendment No. 2: Disagree to the amendment,--because as the Boundaries Commission is purely an administrative tribunal its proceedings do not in themselves involve any question of law, procedure or evidence and its findings are not final and binding on the rights of property or person, and accordingly there is no need for it to be presided over by a Judge.

Amendment No. 3: Disagree to the amendment, but propose to amend the words which this amendment seeks to omit by omitting the words "or (b)" and inserting in their stead the words:-- " (b) or (c)", and by adding at the end thereof the words:-- "provided that the member of the Boundaries Commission appointed pursuant to this paragraph shall not vote on any recommendation or proposal by the Boundaries Commission for the inclusion in the City of Sydney of the whole or any part of any other area."--because it is considered that the importance of the City of Sydney warrants the Council of the City of Sydney being represented on any Boundaries Commission dealing with a proposal to curtail the boundaries of the City.

Amendment No. 4: Disagree to the amendment,--because it is consequential to Amendment No. 2 which is disagreed to.

Amendments Nos. 5, 6 and 7: Disagree to these amendments,--because they are consequential to Amendment No. 2 which is disagreed to.

Amendment No. 8: Disagree to the amendment,--because it is consequential to Amendment No. 2 which is disagreed to.

Amendments Nos. 9, 10 and 11: Disagrees to these amendments,-- because they are consequential to Amendment No. 3 which is disagreed to.

Amendment No. 12: Agrees to the amendment, but proposes to amend it by omitting all the words after the word "Minister" and by inserting in lieu thereof the words "until a copy of the report of the Boundaries Commission containing that recommendation has been laid before both Houses of Parliament."

Amendment No. 13: Disagrees to the amendment,-- because it is consequential to Amendment No. 3 which is disagreed to, but proposes to amend the words which the amendment seeks to omit by omitting the words "effect an alteration to the boundaries of the City of Sydney" and by inserting in lieu thereof the words "result in any part of the City of Sydney being included in any other area".

And the Assembly requests the concurrence of the Legislative Council in its disagreements from, disagreements from and further amendments upon, and an amendment to the Council's amendments in the Bill.

(sgd) Ray Maher,
Speaker.

Legislative Assembly Chamber,
Sydney, 3rd April, 1963.

LOCAL GOVERNMENT (BOUNDARIES COMMISSION) AMENDMENT BILL.

*Schedule of Amendments referred to in Legislative Council's
Message of 27 March, 1963.*

- No. 1.—Page 3, clause 2, lines 1 and 2. *Omit* “Subject to paragraph (c) of this subsection,”.
- No. 2.—Page 3, clause 2, lines 4 and 5. *Omit* all words on these lines, *insert*—
(i) one member being a Judge of the District Court of New South Wales appointed by the Governor and who shall be the chairman;
- No. 3.—Page 3, clause 2, lines 25 to 41 inclusive. *Omit* all words on these lines.
- No. 4.—Page 4, clause 2, lines 7 to 11 inclusive. *Omit* all words on these lines, *insert*—
(i) if such member is the chairman he shall appoint a Judge of the District Court of New South Wales as an acting member and the acting chairman;
- No. 5.—Page 4, clause 2, lines 27 to 33 inclusive. *Omit* all words on these lines.
- No. 6.—Page 6, clause 2, lines 16 and 17. *Omit* “and in paragraph (c),”.
- No. 7.—Page 6, clause 2, lines 18 to 20 inclusive. *Omit* “of the acting member referred to in subparagraph (iv) of paragraph (a) of subsection three of that section,”.
- No. 8.—Page 9, clause 2, line 22. *After* “the Public Service” *insert* “**or the Judiciary**”.
- No. 9.—Page 10, clause 2, lines 19 to 23 inclusive. *Omit* all words on these lines.
- No. 10.—Page 10, clause 2, lines 29 to 37 inclusive. *Omit* all words on these lines.
- No. 11.—Page 11, clause 2, lines 7 to 14 inclusive. *Omit* all words on these lines.
- No. 12.—Page 12, clause 2. *After* line 24 *insert* new paragraph—
Notwithstanding paragraphs (a), (b), (c), (d) or (e) of this subsection no recommendation by the Boundaries Commission shall be implemented by the Minister without the sanction of the Governor and the approval of Parliament as expressed in a resolution by both Houses thereof.
- No. 13.—Page 13, clause 2, lines 25 to 31 inclusive. *Omit* all words on these lines after “proposal” on lines 24 and 25.

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 28 February, 1963.*

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

J. R. STEVENSON,
Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, 27 March, 1963.*

New South Wales



ANNO DUODECIMO

ELIZABETHÆ II REGINÆ

Act No. , 1963.

An Act to make further provisions with regard to the alteration of local government boundaries; to constitute a Boundaries Commission and to specify its powers, authorities, duties and functions; for these and other purposes to amend the Local Government Act, 1919, as amended by subsequent Acts; and for purposes connected therewith.

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. (1) This Act may be cited as the "Local Government (Boundaries Commission) Amendment Act, 1963".

Short title,
commence-
ment and
construction.

94365 129—

(2)

NOTE.—The words to be *omitted* are ruled through; those to be *inserted* are printed in **black letter**.

Local Government (Boundaries Commission) Amendment.

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(3) This Act shall be read and construed with the Local Government Act, 1919, as amended by subsequent Acts, which Act, as so amended, is in this Act referred to as the Principal Act.

2. The Principal Act is amended—

Amendment
of Act No.
41, 1919.

10 (a) by inserting in section three next after the matter relating to Part II the words and symbols "PART IIA.—LOCAL GOVERNMENT BOUNDARIES COMMISSION—ss. 15A–15J."; Sec. 3. (Division into Parts.)

15 (b) by inserting in section four next before the definition of "Building line" the following new definition :— Sec. 4. (Definitions.)
"Boundaries Commission" means the Local Government Boundaries Commission constituted under Part IIA of this Act.

(c) by inserting next after section fifteen the following new Part :— New Part IIA.

20

PART IIA.

LOCAL GOVERNMENT BOUNDARIES COMMISSION.

25 15A. (1) There shall be a Local Government Boundaries Commission which shall have and may exercise and discharge the powers, authorities, duties and functions conferred or imposed upon it by or under this Act. Boundaries Commission.

30 (2) (a) The members of the Boundaries Commission shall be appointed by the Governor and, subject to this Part, each member shall hold office for five years from the date of his appointment and shall be eligible for reappointment.

(b)

Local Government (Boundaries Commission) Amendment.

(b) Subject to paragraph (c) of this subsection, The Boundaries Commission shall consist of three members, that is to say—

- 5 (i) ~~one member nominated by the Minister, who shall be the chairman;~~
- (ii) **one member being a Judge of the District Court of New South Wales appointed by the Governor and who shall be the chairman;**
- 10 (iii) one member (hereinafter referred to as “the departmental member”) who shall be an officer of the Department of Local Government nominated for appointment by the person for the time being holding the office of or duly acting as Under Secretary of that Department;
- 15 (iii) one member (hereinafter referred to as “the councils’ member”) who shall be selected by the Governor from three officers of councils who have been nominated jointly as prescribed by the governing bodies of the Local Government Association of New South Wales and the Shires Association of New South Wales.
- 20
- 25

(c) Where in the exercise or discharge of any of the powers, authorities, duties or functions conferred on the Boundaries Commission by paragraph (a) or (b) of subsection one of section 15J of this Act, an examination, inquiry or report is made in relation to the boundaries of the City of Sydney, the Boundaries Commission shall consist of four members of whom three shall be the persons referred to in paragraph (b) of this subsection and the remaining member shall be a person selected by the Governor from three officers of the Council of the City of Sydney who have been nominated by such Council who shall hold office as such member only for the purpose of the examination or inquiry for which he is appointed and of making any report, recommendation or proposal arising out of such examination or inquiry.

Local Government (Boundaries Commission) Amendment.

5 (3) (a) Where at any time a member of the Boundaries Commission is absent from his office as a member with the leave of the Minister, granted for any particular period or with respect to any particular examination or inquiry, the Governor may—

10 ~~(i) if such member is the chairman, on the nomination of the Minister, appoint a person as an acting member and the acting chairman of the Boundaries Commission;~~

15 **(i) if such member is the chairman he shall appoint a Judge of the District Court of New South Wales as an acting member and the acting chairman;**

20 (ii) if such member is the departmental member, on the nomination of the person for the time being holding the office of or duly acting as Under Secretary of the Department of Local Government, appoint an officer of that Department as an acting member of the Boundaries Commission;

25 (iii) if such member is the councils' member, select and appoint a member of the panel as an acting member of the Boundaries Commission.

30 ~~(iv) if such member is the person nominated by the Council of the City of Sydney in accordance with paragraph (e) of subsection two of this section, appoint another person nominated by that council as an acting member of the Boundaries Commission.~~

35 (b) Such appointment may be made with respect to one or more members of the Boundaries Commission, and shall be for such period or with respect to such particular examination or inquiry as may be specified in the notification of appointment.

40 (4) An acting chairman or an acting member, as the case may be, shall have and may exercise and discharge all the powers, authorities, duties and functions of the chairman or member in whose place he acts.

(5)

Local Government (Boundaries Commission) Amendment.

5 (5) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising an acting chairman or acting member to act in the place of the chairman or a member; and all acts and things done or omitted to be done by an acting chairman or acting member when so acting as aforesaid shall have the same consequences as if the same had been done or omitted to be done by the chairman or member in whose place the acting chairman or acting member is acting.

10 (6) The provisions of the Public Service Act, 1902, or any Act amending the same, shall not apply to or in respect of the appointment by the Governor of any member or acting member of the Boundaries Commission, and any member or acting member so appointed shall not, in his capacity as such member or acting member, be subject to the provisions of any such Act.

15 (7) The office of member or acting member of the Boundaries Commission shall not for the purposes of any Act be deemed to be an office or place of profit under the Crown.

20 15B. (1) There shall be a panel to be called the **Panel**. "Boundaries Commission Panel" which in this Part is referred to as "the panel".

25 (2) The members of the panel shall be appointed by the Governor and, subject to this Part, each member of the panel shall hold office for five years from the date of his appointment and shall be eligible for reappointment.

30 (3) The panel shall consist of five members of whom—

35 (a) three shall be officers of councils who have been nominated jointly as prescribed by the governing bodies of the Local Government Association of New South Wales and the Shires Association of New South Wales; and
(b)

Local Government (Boundaries Commission) Amendment.

5 (b) the remaining members shall be the officers of councils referred to in subparagraph (iii) of paragraph (b) of subsection two of section 15A of this Act, other than the officer selected by the Governor to be a member of the Boundaries Commission pursuant to that subparagraph.

10 Notwithstanding paragraph (b) of this subsection a person shall not become a member of the panel by reason of his being nominated pursuant to paragraph (a) of subsection four of section 15D of this Act to fill the vacant office of a member or acting member of the Boundaries Commission.

15 15c. (1) Nominations for the appointment of the members of the Boundaries Commission referred to in subparagraph (iii) of paragraph (b), and in ^{Nomina-} ~~paragraph (e)~~, of subsection two of section 15A of this Act, ~~of the acting member referred to in~~ ^{tions.} ~~subparagraph (iv) of paragraph (a) of sub-~~ ~~section three of that section,~~ and of the members of the panel referred to in paragraph (a) of subsection three of section 15B of this Act shall be made in the manner and within the time pre-
20 scribed, and shall be accompanied by the written
25 consent of each person nominated to serve on the Boundaries Commission and the panel, if appointed.

30 (2) If within the time prescribed sufficient nominations under this Part have not been validly made by the bodies entitled to make nominations the Governor may appoint such number of persons having the appropriate qualifications as may be necessary.

35 15D. (1) A member or acting member of the Boundaries Commission or a member of the panel shall be deemed to have vacated his office if he—

- (a) dies;
- (b) resigns his office in writing under his hand addressed to the Governor;
- (c)

Local Government (Boundaries Commission) Amendment.

- (c) becomes a mentally ill person, a protected person, or an incapable person, within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts;
- 5 (d) becomes permanently incapable of performing his duties;
- (e) is convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for twelve months or upwards or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or misdemeanour punishable as aforesaid;
- 10 (f) having been appointed as a member or an acting member in his capacity as an officer of a council or of the Department of Local Government, ceases to be such an officer;
- 15 (g) for any cause which appears to the Governor to be sufficient, is removed from office by the Governor.
- 20

(2) If a member of the panel is appointed (otherwise than under subparagraph (iii) of paragraph (a) of subsection three of section 15A of this Act) as a member of the Boundaries Commission, he shall be deemed to have vacated his office as a member of the panel.

25

(3) Notwithstanding the provisions of subsection one of this section, a member or acting member of the Boundaries Commission who, pursuant to paragraph (f) of that subsection, vacates his office as such by reason of his ceasing to be an officer of a council may continue to act as a member or acting member of the Boundaries Commission for the purposes only of—

30

- 35 (a) any examination or inquiry commenced before he ceased to be such an officer if, before he ceased to be such an officer, he took

Local Government (Boundaries Commission) Amendment.

took part as a member or acting member of the Boundaries Commission in the proceedings of the Boundaries Commission in respect of such examination or inquiry; and

- 5 (b) making any report or proposal arising out of any such examination or inquiry.

(4) Upon the vacation of office under this section of—

- 10 (a) a member or acting member of the Boundaries Commission, a new member or acting member nominated or selected in the same manner as his predecessor shall be appointed by the Governor to fill the vacant office; or

- 15 (b) a member of the panel, a new member nominated jointly as prescribed by the governing bodies of the Local Government Association of New South Wales and the Shires Association of New South Wales shall be appointed by the Governor to fill the vacant office,

20 and shall hold office for the residue of his predecessor's term.

- 25 15E. (1) No act or proceeding of the Boundaries Commission shall be invalidated or prejudiced by reason only of the fact that at the time such act or proceeding was done, taken or commenced, there was a vacancy in the office of any member other than the chairman. ^{Unfilled vacant office.}

- 30 (2) All acts and proceedings of the Boundaries Commission shall, notwithstanding the subsequent discovery of any defect in the appointment of any member or acting member thereof, be as valid as if such member or acting member had been duly appointed and as if the Boundaries Commission had been properly and fully constituted.

35

15F.

Local Government (Boundaries Commission) Amendment.

- 5 15F. Where an acting member is appointed to the Boundaries Commission under subsection three of section 15A of this Act, or a person is appointed under subsection four of section 15D of this Act to a vacancy on the Boundaries Commission, the Boundaries Commission as newly constituted, in respect of any examination or inquiry commenced before the appointment and for the purposes of making any report or proposal arising out of any such examination or inquiry, may exercise and shall discharge any power, authority, duty or function that the Boundaries Commission could have exercised or discharged had the necessity for the appointment of the acting member or person, as the case may be, not arisen, without commencing the examination or inquiry anew.
- 10
- 15
- 20 15G. The chairman and each other member of the Boundaries Commission, and any acting chairman or acting member, as the case may be, shall be entitled to receive such travelling and out-of-pocket expenses and, if he is not a member of the Public Service **or the Judiciary**, such remuneration (whether by way of fees or allowance or otherwise), as may be prescribed in respect of the chairman or an acting chairman, or a member or acting member.
- 25
- 30 15H. (1) In proceedings before the Boundaries Commission, no person shall be represented—
- (a) by a barrister or solicitor or by a person who has qualified for admission as a barrister or solicitor; or
- (b) by any person acting for fee or reward.
- (2) Nothing in this section shall preclude—
- 35 (a) an employee of any person from representing that person before the Boundaries Commission if such employee is not a barrister or solicitor or other person referred to in paragraph (a) of subsection one of this section;
- 40 (b)
- Powers of Boundaries Commission where acting member appointed or casual vacancy filled.
- Fees and travelling expenses.
- Legal or other representation.

Local Government (Boundaries Commission) Amendment.

5 (b) a person who is the mayor of a municipality, president of a shire or chairman of a county council or urban committee from appearing in that capacity in proceedings before the Boundaries Commission;

10 (c) a person who is a barrister or solicitor or other person referred to in paragraph (a) of subsection one of this section from preparing any documents or submissions or tendering any legal advice in connection with any proceedings before the Boundaries Commission.

15 151. (1) The chairman shall preside at all meetings of the Boundaries Commission. Meetings and procedure.

(2) The chairman and one other member of the Boundaries Commission constituted in accordance with paragraph (b) of subsection two of section 15A of this Act, shall form a quorum.

20 ~~(3) The chairman and two other members of the Boundaries Commission constituted in accordance with paragraph (c) of subsection two of section 15A of this Act shall form a quorum.~~

25 ~~(4)~~ (3) At a meeting of the Boundaries Commission constituted in accordance with paragraph (b) of subsection two of section 15A of this Act, the decision of the majority shall prevail, but the dissenting member may furnish a minority report.

30 (5) At a meeting of the Boundaries Commission constituted in accordance with paragraph (c) of subsection two of section 15A of this Act at which all of the members are present, the decision of the majority shall prevail, but where the members present are equally divided in opinion upon any question, no decision of the Boundaries Commission shall be recorded and each member may furnish a separate report.

35 ~~(6)~~ (4) Where at any meeting of the Boundaries Commission constituted in accordance with paragraph

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5 paragraph (b) of subsection two of section 15A of this Act, at which one of the members is not present, the members present are divided in opinion upon any question, the determination of that question shall be postponed until a meeting at which all members are present.

10 (7) Where at any meeting of the Boundaries Commission constituted in accordance with paragraph (c) of subsection two of section 15A of this Act at which all of the members are not present, the members present are divided in opinion on any question, the determination of that question shall be postponed until a meeting at which all members are present.

15 ~~(8)~~ (5) The procedure for the calling of meetings of the Boundaries Commission and for the conduct of business thereat shall, except as may be from time to time prescribed, be as determined by the Boundaries Commission.

20 ~~(9)~~ (6) In the exercise and discharge of its powers, authorities, duties and functions, the Boundaries Commission shall not be bound to follow strict legal procedure nor to observe the rules of law governing the admission of evidence.

25 ~~(10)~~ (7) No writ of prohibition or certiorari shall lie in respect of any examination, inquiry, proposal, report, recommendation, determination, order, proceeding or direction of the Boundaries Commission in the exercise or discharge of the powers, authorities, duties and functions conferred and imposed on it by this Part.

30 15J. (1) The Boundaries Commission shall have and may exercise and discharge the following powers, authorities, duties and functions :—

35 (a) to examine, without holding an inquiry, and report on any matter with respect to the boundaries of cities, municipalities, shires, urban areas and county districts which may be referred to it by the Minister ;

(b)

Local Government (Boundaries Commission) Amendment.

- 5 (b) to hold an inquiry into and report upon any proposal mentioned in subsection one of section nineteen of this Act and referred to the Boundaries Commission in accordance with subsection four of that section;
- (c) to hold any inquiry for the purposes of Division 2 of Part XXVII of this Act and to report thereon to the Minister;
- 10 (d) to hold an inquiry into and report upon any proposal mentioned in subsection one of section 561A of this Act and referred to the Boundaries Commission in accordance with subsection four of that section;
- (e) to submit to the Minister any proposal—
- 15 (i) mentioned in subsection one of section nineteen of this Act;
- (ii) for the creation or dissolution, or the alteration of boundaries, of an urban area; or
- 20 (iii) mentioned in subsection one of section 561A of this Act,
- and which arises out of any examination or inquiry under paragraph (a), (b), (c) or (d) of this subsection.

25 **Notwithstanding paragraphs (a), (b), (c), (d) or (e) of this subsection no recommendation by the Boundaries Commission shall be implemented by the Minister without the sanction of the Governor and the approval of Parliament as expressed in a resolution by both Houses thereof.**

30

(2) Notwithstanding the provisions of subsection one of this section the Boundaries Commission shall not have, and shall not exercise or discharge, the powers, authorities, duties and functions referred to in paragraph (a), or subparagraph (iii) of paragraph (e), of that subsection in relation to a county district constituted or proposed to be constituted for the supply of electricity.

35

(3) Any inquiry held by the Boundaries Commission under this section shall be open to the public.

40

- (d) by inserting in paragraph (d) of section sixteen after the word "into" the words "the same or";
- (e) Sec. 16.
(Alteration of areas.)

Local Government (Boundaries Commission) Amendment.

(e) by omitting section seventeen;

Sec. 17.
(New municipality—
conditions
precedent.)

(f) (i) by inserting next after subsection one of section nineteen the following new subsection :—

Sec. 19.
(Proposals
for alteration
of
areas.)

5 (1A) A proposal submitted to the Minister by the Boundaries Commission pursuant to the provisions of subparagraph (i) of paragraph (e) of subsection one of section 15J of this Act shall, except where it is a modification within the meaning of subsection six of this section, be deemed to be a proposal to the Governor for the purposes of this Part.

10 (ii) by omitting from subsection four of the same section the words “such local land board as he may appoint, or to a person appointed by him in accordance with this Act” and by inserting in lieu thereof the words “the Boundaries Commission”;

15 (iii) by inserting at the end of subsection six of the same section the following new paragraph :—

20 In this subsection “modification” means only such a modification as does not in the opinion of the Minister constitute a new proposal. ~~but does not include a modification that would, if it were implemented, effect an alteration to the boundaries of the City of Sydney, unless it is recommended by the Boundaries Commission constituted as provided for in paragraph (e) of subsection two of section 15A of this Act.~~

25 (g) by inserting in subsection one of section 20D after the word “into” the words “the same or”;

Sec. 20D.
(Transfer
of servants
where areas
are divided.)

(h)

Local Government (Boundaries Commission) Amendment.

- (h) by inserting at the end of paragraph (b) of sub- Sec. 541.
section two of section five hundred and forty-one the (Declaration
following word and new paragraph :— of urban
areas.)
- ; or
- 5 (c) on a proposal submitted to the Minister by
the Boundaries Commission pursuant to
the provisions of subparagraph (ii) of para-
graph (e) of subsection one of section 15J
of this Act.
- 10 (i) (i) by omitting from subsection one of section Sec. 543.
five hundred and forty-three the word "Where" (Notice of
and by inserting in lieu thereof the words application.)
"Where the Boundaries Commission submits
a proposal, or where";
- 15 (ii) by omitting from the same subsection the
words "grant the application" and by inserting
in lieu thereof the words "declare the urban
area";
- 20 (j) by inserting next after subsection one of section Sec. 544.
five hundred and forty-four the following new sub- (Inquiries
section :— and polls.)
- (1A) Any such inquiry shall be held by the
Boundaries Commission.
- 25 (k) (i) by inserting next after subsection one of Sec. 561A.
section 561A the following new subsection :— (Proposals
for
alteration
or union.)
- (1A) A proposal in relation to a county
district submitted to the Minister by the
Boundaries Commission pursuant to the pro-
visions of subparagraph (iii) of paragraph (e)
30 of subsection one of section 15J of this Act
shall, except where it is a modification within
the meaning of subsection five of this section,
be deemed to be a proposal to the
Governor for the purposes of this section.
- (ii)

Local Government (Boundaries Commission) Amendment.

5 (ii) by omitting from subsection four of the same section the words "a person appointed by him in accordance with this Act" and by inserting in lieu thereof the words "the Boundaries Commission";

(iii) by inserting at the end of subsection five of the same section the following new paragraph:—

10 In this subsection "modification" means only such a modification as does not in the opinion of the Minister constitute a new proposal.

3. Any proposal—

Savings.

15 (a) mentioned in subsection one of section nineteen of the Principal Act;

(b) for the creation or dissolution, or alteration of the boundaries, of an urban area; or

(c) mentioned in subsection one of section 561A of the Principal Act,

20 which was submitted to the Minister before the commencement of this Act and which has not been dealt with and disposed of before that commencement shall be deemed to have been submitted under and shall be dealt with and completed under the provisions of the Principal Act as
25 amended by this Act.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1963

[1s. 4d.]

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 28 February, 1963.*

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, March, 1963.*

New South Wales



ANNO DUODECIMO

ELIZABETHÆ II REGINÆ

Act No. , 1963.

An Act to make further provisions with regard to the alteration of local government boundaries; to constitute a Boundaries Commission and to specify its powers, authorities, duties and functions; for these and other purposes to amend the Local Government Act, 1919, as amended by subsequent Acts; and for purposes connected therewith.

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. (1) This Act may be cited as the "Local Government (Boundaries Commission) Amendment Act, 1963".

94365 129—

(2) Short title, commencement and construction.

NOTE.—The words to be *omitted* are ruled through; those to be *inserted* are printed in **black letter**.

Local Government (Boundaries Commission) Amendment.

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(3) This Act shall be read and construed with the Local Government Act, 1919, as amended by subsequent Acts, which Act, as so amended, is in this Act referred to as the Principal Act.

2. The Principal Act is amended—

Amendment of Act No. 41, 1919.

10 (a) by inserting in section three next after the matter relating to Part II the words and symbols "PART IIA.—LOCAL GOVERNMENT BOUNDARIES COMMISSION—ss. 15A–15J."; Sec. 3. (Division into Parts.)

15 (b) by inserting in section four next before the definition of "Building line" the following new definition :— Sec. 4. (Definitions.)
"Boundaries Commission" means the Local Government Boundaries Commission constituted under Part IIA of this Act.

20 (c) by inserting next after section fifteen the following new Part :— New Part IIA.

PART IIA.

LOCAL GOVERNMENT BOUNDARIES COMMISSION.

25 15A. (1) There shall be a Local Government Boundaries Commission which shall have and may exercise and discharge the powers, authorities, duties and functions conferred or imposed upon it by or under this Act. Boundaries Commission.

30 (2) (a) The members of the Boundaries Commission shall be appointed by the Governor and, subject to this Part, each member shall hold office for five years from the date of his appointment and shall be eligible for reappointment.

(b)

Local Government (Boundaries Commission) Amendment.

(b) ~~Subject to paragraph (e) of this subsection,~~ The Boundaries Commission shall consist of three members, that is to say—

- 5 (i) ~~one member nominated by the Minister, who shall be the chairman;~~
- (ii) **one member being a Judge of the District Court of New South Wales appointed by the Governor and who shall be the chairman;**
- 10 (iii) one member (hereinafter referred to as “the departmental member”) who shall be an officer of the Department of Local Government nominated for appointment by the person for the time being holding the office of or duly acting as Under Secretary of that Department;
- 15 (iii) one member (hereinafter referred to as “the councils’ member”) who shall be selected by the Governor from three officers of councils who have been nominated jointly as prescribed by the governing bodies of the Local Government Association of New South Wales and the Shires Association of New South Wales.
- 20

25 (c) Where in the exercise or discharge of any of the powers, authorities, duties or functions conferred on the Boundaries Commission by paragraph (a) or (b) of subsection one of section 15J of this Act, an examination, inquiry or report is made in relation to the boundaries of the City of Sydney, the Boundaries Commission shall consist of four members of whom three shall be the persons referred to in paragraph (b) of this subsection and the remaining member shall be a person selected by the Governor from three officers of the Council of the City of Sydney who have been nominated by such Council who shall hold office as such member only for the purpose of the examination or inquiry for which he is appointed and of making any report, recommendation or proposal arising out of such examination or inquiry.

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Local Government (Boundaries Commission) Amendment.

5 (3) (a) Where at any time a member of the Boundaries Commission is absent from his office as a member with the leave of the Minister, granted for any particular period or with respect to any particular examination or inquiry, the Governor may—

10 ~~(i) if such member is the chairman, on the nomination of the Minister, appoint a person as an acting member and the acting chairman of the Boundaries Commission;~~

15 **(i) if such member is the chairman he shall appoint a Judge of the District Court of New South Wales as an acting member and the acting chairman;**

20 (ii) if such member is the departmental member, on the nomination of the person for the time being holding the office of or duly acting as Under Secretary of the Department of Local Government, appoint an officer of that Department as an acting member of the Boundaries Commission;

25 (iii) if such member is the councils' member, select and appoint a member of the panel as an acting member of the Boundaries Commission.

30 ~~(iv) if such member is the person nominated by the Council of the City of Sydney in accordance with paragraph (c) of subsection two of this section, appoint another person nominated by that council as an acting member of the Boundaries Commission.~~

35 (b) Such appointment may be made with respect to one or more members of the Boundaries Commission, and shall be for such period or with respect to such particular examination or inquiry as may be specified in the notification of appointment.

40 (4) An acting chairman or an acting member, as the case may be, shall have and may exercise and discharge all the powers, authorities, duties and functions of the chairman or member in whose place he acts.

(5)

Local Government (Boundaries Commission) Amendment.

5 (5) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising an acting chairman or acting member to act in the place of the chairman or a member; and all acts and things done or omitted to be done by an acting chairman or acting member when so acting as aforesaid shall have the same consequences as if the same had been done or omitted to be done by the chairman or member in whose place the acting chairman or acting member is acting.

15 (6) The provisions of the Public Service Act, 1902, or any Act amending the same, shall not apply to or in respect of the appointment by the Governor of any member or acting member of the Boundaries Commission, and any member or acting member so appointed shall not, in his capacity as such member or acting member, be subject to the provisions of any such Act.

20 (7) The office of member or acting member of the Boundaries Commission shall not for the purposes of any Act be deemed to be an office or place of profit under the Crown.

25 15B. (1) There shall be a panel to be called the Panel. "Boundaries Commission Panel" which in this Part is referred to as "the panel".

30 (2) The members of the panel shall be appointed by the Governor and, subject to this Part, each member of the panel shall hold office for five years from the date of his appointment and shall be eligible for reappointment.

(3) The panel shall consist of five members of whom—

- 35 (a) three shall be officers of councils who have been nominated jointly as prescribed by the governing bodies of the Local Government Association of New South Wales and the Shires Association of New South Wales; and
(b)

Local Government (Boundaries Commission) Amendment.

5 (b) the remaining members shall be the officers of councils referred to in subparagraph (iii) of paragraph (b) of subsection two of section 15A of this Act, other than the officer selected by the Governor to be a member of the Boundaries Commission pursuant to that subparagraph.

10 Notwithstanding paragraph (b) of this subsection a person shall not become a member of the panel by reason of his being nominated pursuant to paragraph (a) of subsection four of section 15D of this Act to fill the vacant office of a member or acting member of the Boundaries Commission.

15 15C. (1) Nominations for the appointment of the members of the Boundaries Commission referred to in subparagraph (iii) of paragraph (b), ~~and in~~ ^{Nomina-} ~~paragraph (e),~~ ^{tions.} of subsection two of section 15A of this Act, ~~of the acting member referred to in~~ ~~subparagraph (iv) of paragraph (a) of sub-~~ ~~section three of that section,~~ and of the members of the panel referred to in paragraph (a) of subsection three of section 15B of this Act shall be made in the manner and within the time prescribed, and shall be accompanied by the written consent of each person nominated to serve on the Boundaries Commission and the panel, if appointed.

20
25 (2) If within the time prescribed sufficient nominations under this Part have not been validly made by the bodies entitled to make nominations the Governor may appoint such number of persons having the appropriate qualifications as may be necessary.

30 15D. (1) A member or acting member of the Boundaries Commission or a member of the panel shall be deemed to have vacated his office if he— ^{Cessation of office.}

35 (a) dies;

(b) resigns his office in writing under his hand addressed to the Governor;

(c)

Local Government (Boundaries Commission) Amendment.

- 5 (c) becomes a mentally ill person, a protected person, or an incapable person, within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts;
- (d) becomes permanently incapable of performing his duties;
- 10 (e) is convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for twelve months or upwards or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or misdemeanour punishable as aforesaid;
- 15 (f) having been appointed as a member or an acting member in his capacity as an officer of a council or of the Department of Local Government, ceases to be such an officer;
- 20 (g) for any cause which appears to the Governor to be sufficient, is removed from office by the Governor.

25 (2) If a member of the panel is appointed (otherwise than under subparagraph (iii) of paragraph (a) of subsection three of section 15A of this Act) as a member of the Boundaries Commission, he shall be deemed to have vacated his office as a member of the panel.

30 (3) Notwithstanding the provisions of subsection one of this section, a member or acting member of the Boundaries Commission who, pursuant to paragraph (f) of that subsection, vacates his office as such by reason of his ceasing to be an officer of a council may continue to act as a member or acting member of the Boundaries Commission for the purposes only of—

- 35 (a) any examination or inquiry commenced before he ceased to be such an officer if, before he ceased to be such an officer, he took

Local Government (Boundaries Commission) Amendment.

took part as a member or acting member of the Boundaries Commission in the proceedings of the Boundaries Commission in respect of such examination or inquiry; and

- 5 (b) making any report or proposal arising out of any such examination or inquiry.

(4) Upon the vacation of office under this section of—

- 10 (a) a member or acting member of the Boundaries Commission, a new member or acting member nominated or selected in the same manner as his predecessor shall be appointed by the Governor to fill the vacant office; or

- 15 (b) a member of the panel, a new member nominated jointly as prescribed by the governing bodies of the Local Government Association of New South Wales and the Shires Association of New South Wales
20 shall be appointed by the Governor to fill the vacant office,

and shall hold office for the residue of his predecessor's term.

- 25 15E. (1) No act or proceeding of the Boundaries Commission shall be invalidated or prejudiced by reason only of the fact that at the time such act or proceeding was done, taken or commenced, there was a vacancy in the office of any member other than the chairman. ^{Unfilled vacant office.}

- 30 (2) All acts and proceedings of the Boundaries Commission shall, notwithstanding the subsequent discovery of any defect in the appointment of any member or acting member thereof, be as valid as if such member or acting member
35 had been duly appointed and as if the Boundaries Commission had been properly and fully constituted.

15F.

Local Government (Boundaries Commission) Amendment.

5 15F. Where an acting member is appointed to the Boundaries Commission under subsection three of section 15A of this Act, or a person is appointed under subsection four of section 15D of this Act to a vacancy on the Boundaries Commission, the Boundaries Commission as newly constituted, in respect of any examination or inquiry commenced before the appointment and for the purposes of making any report or proposal arising out of any such examination or inquiry, may exercise and shall discharge any power, authority, duty or function that the Boundaries Commission could have exercised or discharged had the necessity for the appointment of the acting member or person, as the case may be, not arisen, without commencing the examination or inquiry anew.

Powers of Boundaries Commission where acting member appointed or casual vacancy filled.

10 15G. The chairman and each other member of the Boundaries Commission, and any acting chairman or acting member, as the case may be, shall be entitled to receive such travelling and out-of-pocket expenses and, if he is not a member of the Public Service or the Judiciary, such remuneration (whether by way of fees or allowance or otherwise), as may be prescribed in respect of the chairman or an acting chairman, or a member or acting member.

Fees and travelling expenses.

15H. (1) In proceedings before the Boundaries Commission, no person shall be represented—

Legal or other representation.

- 30 (a) by a barrister or solicitor or by a person who has qualified for admission as a barrister or solicitor; or
(b) by any person acting for fee or reward.

(2) Nothing in this section shall preclude—

- 35 (a) an employee of any person from representing that person before the Boundaries Commission if such employee is not a barrister or solicitor or other person referred to in paragraph (a) of subsection one of this section;
40 (b)

Local Government (Boundaries Commission) Amendment.

- 5 (b) a person who is the mayor of a municipality, president of a shire or chairman of a county council or urban committee from appearing in that capacity in proceedings before the Boundaries Commission;
 - 10 (c) a person who is a barrister or solicitor or other person referred to in paragraph (a) of subsection one of this section from preparing any documents or submissions or tendering any legal advice in connection with any proceedings before the Boundaries Commission.
- 15 15i. (1) The chairman shall preside at all meetings of the Boundaries Commission. Meetings and procedure.
- (2) The chairman and one other member of the Boundaries Commission constituted in accordance with paragraph (b) of subsection two of section 15A of this Act, shall form a quorum.
- 20 ~~(3) The chairman and two other members of the Boundaries Commission constituted in accordance with paragraph (c) of subsection two of section 15A of this Act shall form a quorum.~~
- 25 ~~(4)~~ (3) At a meeting of the Boundaries Commission constituted in accordance with paragraph (b) of subsection two of section 15A of this Act, the decision of the majority shall prevail, but the dissenting member may furnish a minority report.
- 30 (5) At a meeting of the Boundaries Commission constituted in accordance with paragraph (c) of subsection two of section 15A of this Act at which all of the members are present, the decision of the majority shall prevail, but where the members present are equally divided in opinion
- 35 upon any question, no decision of the Boundaries Commission shall be recorded and each member may furnish a separate report.
- ~~(6)~~ (4) Where at any meeting of the Boundaries Commission constituted in accordance with paragraph

Local Government (Boundaries Commission) Amendment.

5 paragraph (b) of subsection two of section 15A of this Act, at which one of the members is not present, the members present are divided in opinion upon any question, the determination of that question shall be postponed until a meeting at which all members are present.

10 (7) Where at any meeting of the Boundaries Commission constituted in accordance with paragraph (c) of subsection two of section 15A of this Act at which all of the members are not present, the members present are divided in opinion on any question, the determination of that question shall be postponed until a meeting at which all members are present.

15 ~~(8)~~ (5) The procedure for the calling of meetings of the Boundaries Commission and for the conduct of business thereat shall, except as may be from time to time prescribed, be as determined by the Boundaries Commission.

20 ~~(9)~~ (6) In the exercise and discharge of its powers, authorities, duties and functions, the Boundaries Commission shall not be bound to follow strict legal procedure nor to observe the rules of law governing the admission of evidence.

25 ~~(10)~~ (7) No writ of prohibition or certiorari shall lie in respect of any examination, inquiry, proposal, report, recommendation, determination, order, proceeding or direction of the Boundaries Commission in the exercise or discharge of the powers, authorities, duties and functions conferred and imposed on it by this Part.

35 15J. (1) The Boundaries Commission shall have and may exercise and discharge the following powers, authorities, duties and functions :—

(a) to examine, without holding an inquiry, and report on any matter with respect to the boundaries of cities, municipalities, shires, urban areas and county districts which may be referred to it by the Minister ;

(b)

Powers,
authorities,
duties and
functions
of the
Boundaries
Commission.

Local Government (Boundaries Commission) Amendment.

- 5 (b) to hold an inquiry into and report upon any proposal mentioned in subsection one of section nineteen of this Act and referred to the Boundaries Commission in accordance with subsection four of that section;
- (c) to hold any inquiry for the purposes of Division 2 of Part XXVII of this Act and to report thereon to the Minister;
- 10 (d) to hold an inquiry into and report upon any proposal mentioned in subsection one of section 561A of this Act and referred to the Boundaries Commission in accordance with subsection four of that section;
- 15 (e) to submit to the Minister any proposal—
 - (i) mentioned in subsection one of section nineteen of this Act;
 - (ii) for the creation or dissolution, or the alteration of boundaries, of an urban area; or
 - 20 (iii) mentioned in subsection one of section 561A of this Act,
 and which arises out of any examination or inquiry under paragraph (a), (b), (c) or (d) of this subsection.

25 **Notwithstanding paragraphs (a), (b), (c), (d) or (e) of this subsection no recommendation by the Boundaries Commission shall be implemented by the Minister without the sanction of the Governor and the approval of Parliament as expressed in a resolution by both Houses thereof.**

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(2) Notwithstanding the provisions of subsection one of this section the Boundaries Commission shall not have, and shall not exercise or discharge, the powers, authorities, duties and functions referred to in paragraph (a), or subparagraph (iii) of paragraph (e), of that subsection in relation to a county district constituted or proposed to be constituted for the supply of electricity.

35

(3) Any inquiry held by the Boundaries Commission under this section shall be open to the public.

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- (d) by inserting in paragraph (d) of section sixteen after the word "into" the words "the same or";
- (e) Sec. 16. (Alteration of areas.)

Local Government (Boundaries Commission) Amendment.

(e) by omitting section seventeen;

Sec. 17.
(New municipality—
conditions—
precedent.)

(f) (i) by inserting next after subsection one of section nineteen the following new subsection :—

Sec. 19.
(Proposals
for alteration
of
areas.)

5 (1A) A proposal submitted to the Minister
by the Boundaries Commission pursuant to
the provisions of subparagraph (i) of para-
graph (e) of subsection one of section 15J
10 of this Act shall, except where it is a modifica-
tion within the meaning of subsection six of
this section, be deemed to be a proposal
to the Governor for the purposes of this Part.

15 (ii) by omitting from subsection four of the same
section the words “such local land board as he
may appoint, or to a person appointed by him
in accordance with this Act” and by inserting
in lieu thereof the words “the Boundaries
Commission”;

20 (iii) by inserting at the end of subsection six of
the same section the following new para-
graph :—

25 In this subsection “modification” means
only such a modification as does not in the
opinion of the Minister constitute a new pro-
posal. ~~but does not include a modification
that would, if it were implemented, effect
an alteration to the boundaries of the City
of Sydney, unless it is recommended by
the Boundaries Commission constituted as
provided for in paragraph (e) of subsec-
tion two of section 15A of this Act.~~

30 (g) by inserting in subsection one of section 20D after
the word “into” the words “the same or”;

Sec. 20D.
(Transfer
of servants
where areas
are divided.)

(h)

Local Government (Boundaries Commission) Amendment.

- (h) by inserting at the end of paragraph (b) of sub- Sec. 541.
 section two of section five hundred and forty-one the (Declaration
 following word and new paragraph :— of urban
 areas.)
- ; or
- 5 (c) on a proposal submitted to the Minister by
 the Boundaries Commission pursuant to
 the provisions of subparagraph (ii) of para-
 graph (e) of subsection one of section 15J
 of this Act.
- 10 (i) (i) by omitting from subsection one of section Sec. 543.
 five hundred and forty-three the word "Where" (Notice of
 and by inserting in lieu thereof the words application.)
 "Where the Boundaries Commission submits
 a proposal, or where";
- 15 (ii) by omitting from the same subsection the
 words "grant the application" and by inserting
 in lieu thereof the words "declare the urban
 area";
- 20 (j) by inserting next after subsection one of section Sec. 544.
 five hundred and forty-four the following new sub- (Inquiries
 section :— and polls.)
- (1A) Any such inquiry shall be held by the
 Boundaries Commission.
- 25 (k) (i) by inserting next after subsection one of Sec. 561A:
 section 561A the following new subsection :— (Proposals
 for
 alteration
 or union.)
- (1A) A proposal in relation to a county
 district submitted to the Minister by the
 Boundaries Commission pursuant to the pro-
 visions of subparagraph (iii) of paragraph (e)
 30 of subsection one of section 15J of this Act
 shall, except where it is a modification within
 the meaning of subsection five of this section,
 be deemed to be a proposal to the
 Governor for the purposes of this section.
- (ii)

Local Government (Boundaries Commission) Amendment.

(ii) by omitting from subsection four of the same section the words "a person appointed by him in accordance with this Act" and by inserting in lieu thereof the words "the Boundaries Commission";

(iii) by inserting at the end of subsection five of the same section the following new paragraph:—

In this subsection "modification" means only such a modification as does not in the opinion of the Minister constitute a new proposal.

3. Any proposal—

Savings.

(a) mentioned in subsection one of section nineteen of the Principal Act;

(b) for the creation or dissolution, or alteration of the boundaries, of an urban area; or

(c) mentioned in subsection one of section 561A of the Principal Act,

which was submitted to the Minister before the commencement of this Act and which has not been dealt with and disposed of before that commencement shall be deemed to have been submitted under and shall be dealt with and completed under the provisions of the Principal Act as amended by this Act.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1963

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This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 28 February, 1963.*

New South Wales



ANNO DUODECIMO

ELIZABETHÆ II REGINÆ

Act No. , 1963.

An Act to make further provisions with regard to the alteration of local government boundaries; to constitute a Boundaries Commission and to specify its powers, authorities, duties and functions; for these and other purposes to amend the Local Government Act, 1919, as amended by subsequent Acts; and for purposes connected therewith.

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. (1) This Act may be cited as the "Local Government (Boundaries Commission) Amendment Act, 1963".

Short title,
commence-
ment and
construction.

Local Government (Boundaries Commission) Amendment.

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(3) This Act shall be read and construed with the Local Government Act, 1919, as amended by subsequent Acts, which Act, as so amended, is in this Act referred to as the Principal Act.

2. The Principal Act is amended—

Amendment of Act No. 41, 1919.

10 (a) by inserting in section three next after the matter relating to Part II the words and symbols "PART IIA.—LOCAL GOVERNMENT BOUNDARIES COMMISSION—ss. 15A–15J."; Sec. 3. (Division into Parts.)

15 (b) by inserting in section four next before the definition of "Building line" the following new definition :— Sec. 4. (Definitions.)
"Boundaries Commission" means the Local Government Boundaries Commission constituted under Part IIA of this Act.

(c) by inserting next after section fifteen the following new Part :— New Part IIA.

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PART IIA.

LOCAL GOVERNMENT BOUNDARIES COMMISSION.

25 15A. (1) There shall be a Local Government Boundaries Commission which shall have and may exercise and discharge the powers, authorities, duties and functions conferred or imposed upon it by or under this Act. Boundaries Commission.

30 (2) (a) The members of the Boundaries Commission shall be appointed by the Governor and, subject to this Part, each member shall hold office for five years from the date of his appointment and shall be eligible for reappointment.

(b)

Local Government (Boundaries Commission) Amendment.

(b) Subject to paragraph (c) of this subsection, the Boundaries Commission shall consist of three members, that is to say—

- 5 (i) one member nominated by the Minister, who shall be the chairman;
- 10 (ii) one member (hereinafter referred to as “the departmental member”) who shall be an officer of the Department of Local Government nominated for appointment by the person for the time being holding the office of or duly acting as Under Secretary of that Department;
- 15 (iii) one member (hereinafter referred to as “the councils’ member”) who shall be selected by the Governor from three officers of councils who have been nominated jointly as prescribed by the governing bodies of the Local Government Association of New South Wales and the Shires Association of New South Wales.
- 20

(c) Where in the exercise or discharge of any of the powers, authorities, duties or functions conferred on the Boundaries Commission by paragraph (a) or (b) of subsection one of section 15J of this Act, an examination, inquiry or report is made in relation to the boundaries of the City of Sydney, the Boundaries Commission shall consist of four members of whom three shall be the persons referred to in paragraph (b) of this subsection and the remaining member shall be a person selected by the Governor from three officers of the Council of the City of Sydney who have been nominated by such Council who shall hold office as such member only for the purpose of the examination or inquiry for which he is appointed and of making any report, recommendation or proposal arising out of such examination or inquiry.

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Local Government (Boundaries Commission) Amendment.

5 (3) (a) Where at any time a member of the Boundaries Commission is absent from his office as a member with the leave of the Minister, granted for any particular period or with respect to any particular examination or inquiry, the Governor may—

10 (i) if such member is the chairman, on the nomination of the Minister, appoint a person as an acting member and the acting chairman of the Boundaries Commission;

15 (ii) if such member is the departmental member, on the nomination of the person for the time being holding the office of or duly acting as Under Secretary of the Department of Local Government, appoint an officer of that Department as an acting member of the Boundaries Commission;

20 (iii) if such member is the councils' member, select and appoint a member of the panel as an acting member of the Boundaries Commission;

25 (iv) if such member is the person nominated by the Council of the City of Sydney in accordance with paragraph (c) of subsection two of this section, appoint another person nominated by that council as an acting member of the Boundaries Commission.

30 (b) Such appointment may be made with respect to one or more members of the Boundaries Commission, and shall be for such period or with respect to such particular examination or inquiry as may be specified in the notification of appointment.

35 (4) An acting chairman or an acting member, as the case may be, shall have and may exercise and discharge all the powers, authorities, duties and functions of the chairman or member in whose place he acts.

(5)

Local Government (Boundaries Commission) Amendment.

5 (5) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising an acting chairman or acting member to act in the place of the chairman or a member; and all acts and things done or omitted to be done by an acting chairman or acting member when so acting as aforesaid shall have the same consequences as if the same had been done or omitted to be done by the chairman or member in whose place the acting chairman or acting member is acting.

10 (6) The provisions of the Public Service Act, 1902, or any Act amending the same, shall not apply to or in respect of the appointment by 15 the Governor of any member or acting member of the Boundaries Commission, and any member or acting member so appointed shall not, in his capacity as such member or acting member, be subject to the provisions of any such Act.

20 (7) The office of member or acting member of the Boundaries Commission shall not for the purposes of any Act be deemed to be an office or place of profit under the Crown.

25 15B. (1) There shall be a panel to be called the Panel. "Boundaries Commission Panel" which in this Part is referred to as "the panel".

30 (2) The members of the panel shall be appointed by the Governor and, subject to this Part, each member of the panel shall hold office for five years from the date of his appointment and shall be eligible for reappointment.

(3) The panel shall consist of five members of whom—

35 (a) three shall be officers of councils who have been nominated jointly as prescribed by the governing bodies of the Local Government Association of New South Wales and the Shires Association of New South Wales; and
(b)

Local Government (Boundaries Commission) Amendment.

5 (b) the remaining members shall be the officers of councils referred to in subparagraph (iii) of paragraph (b) of subsection two of section 15A of this Act, other than the officer selected by the Governor to be a member of the Boundaries Commission pursuant to that subparagraph.

10 Notwithstanding paragraph (b) of this subsection a person shall not become a member of the panel by reason of his being nominated pursuant to paragraph (a) of subsection four of section 15D of this Act to fill the vacant office of a member or acting member of the Boundaries Commission.

15 15C. (1) Nominations for the appointment of the members of the Boundaries Commission referred to in subparagraph (iii) of paragraph (b), and in paragraph (c), of subsection two of section 15A of this Act, of the acting member referred to in subparagraph (iv) of paragraph (a) of subsection three of that section, and of the members of the panel referred to in paragraph (a) of subsection three of section 15B of this Act shall be made in the manner and within the time prescribed, and shall be accompanied by the written consent of each person nominated to serve on the Boundaries Commission and the panel, if appointed.

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25
30 (2) If within the time prescribed sufficient nominations under this Part have not been validly made by the bodies entitled to make nominations the Governor may appoint such number of persons having the appropriate qualifications as may be necessary.

35 15D. (1) A member or acting member of the Boundaries Commission or a member of the panel shall be deemed to have vacated his office if he—

(a) dies;

(b) resigns his office in writing under his hand addressed to the Governor;

(c)

Local Government (Boundaries Commission) Amendment.

- (c) becomes a mentally ill person, a protected person, or an incapable person, within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts;
- 5 (d) becomes permanently incapable of performing his duties;
- (e) is convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for twelve months or upwards or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or misdemeanour punishable as aforesaid;
- 10 (f) having been appointed as a member or an acting member in his capacity as an officer of a council or of the Department of Local Government, ceases to be such an officer;
- 15 (g) for any cause which appears to the Governor to be sufficient, is removed from office by the Governor.
- 20

(2) If a member of the panel is appointed (otherwise than under subparagraph (iii) of paragraph (a) of subsection three of section 15A of this Act) as a member of the Boundaries Commission, he shall be deemed to have vacated his office as a member of the panel.

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(3) Notwithstanding the provisions of subsection one of this section, a member or acting member of the Boundaries Commission who, pursuant to paragraph (f) of that subsection, vacates his office as such by reason of his ceasing to be an officer of a council may continue to act as a member or acting member of the Boundaries Commission for the purposes only of—

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- (a) any examination or inquiry commenced before he ceased to be such an officer if, before he ceased to be such an officer, he took
- 35

Local Government (Boundaries Commission) Amendment.

took part as a member or acting member of the Boundaries Commission in the proceedings of the Boundaries Commission in respect of such examination or inquiry; and

- 5 (b) making any report or proposal arising out of any such examination or inquiry.

(4) Upon the vacation of office under this section of—

- 10 (a) a member or acting member of the Boundaries Commission, a new member or acting member nominated or selected in the same manner as his predecessor shall be appointed by the Governor to fill the vacant office; or

- 15 (b) a member of the panel, a new member nominated jointly as prescribed by the governing bodies of the Local Government Association of New South Wales and the Shires Association of New South Wales shall be appointed by the Governor to fill the vacant office,

and shall hold office for the residue of his predecessor's term.

- 25 15E. (1) No act or proceeding of the Boundaries Commission shall be invalidated or prejudiced by reason only of the fact that at the time such act or proceeding was done, taken or commenced, there was a vacancy in the office of any member other than the chairman. ^{Unfilled vacant office.}

- 30 (2) All acts and proceedings of the Boundaries Commission shall, notwithstanding the subsequent discovery of any defect in the appointment of any member or acting member thereof, be as valid as if such member or acting member had been duly appointed and as if the Boundaries Commission had been properly and fully constituted.

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15F.

Local Government (Boundaries Commission) Amendment.

5 15F. Where an acting member is appointed to the Boundaries Commission under subsection three of section 15A of this Act, or a person is appointed under subsection four of section 15D of this Act to a vacancy on the Boundaries Commission, the Boundaries Commission as newly constituted, in respect of any examination or inquiry commenced before the appointment and for the purposes of making any report or proposal arising out of any such examination or inquiry, may exercise and shall discharge any power, authority, duty or function that the Boundaries Commission could have exercised or discharged had the necessity for the appointment of the acting member or person, as the case may be, not arisen, without commencing the examination or inquiry anew.

Powers of Boundaries Commission where acting member appointed or casual vacancy filled.

20 15G. The chairman and each other member of the Boundaries Commission, and any acting chairman or acting member, as the case may be, shall be entitled to receive such travelling and out-of-pocket expenses and, if he is not a member of the Public Service, such remuneration (whether by way of fees or allowance or otherwise), as may be prescribed in respect of the chairman or an acting chairman, or a member or acting member.

Fees and travelling expenses.

25 15H. (1) In proceedings before the Boundaries Commission, no person shall be represented—

Legal or other representation.

- 30 (a) by a barrister or solicitor or by a person who has qualified for admission as a barrister or solicitor; or
- (b) by any person acting for fee or reward.

(2) Nothing in this section shall preclude—

- 35 (a) an employee of any person from representing that person before the Boundaries Commission if such employee is not a barrister or solicitor or other person referred to in paragraph (a) of subsection one of this section;
- (b)

Local Government (Boundaries Commission) Amendment.

5 (b) a person who is the mayor of a municipality, president of a shire or chairman of a county council or urban committee from appearing in that capacity in proceedings before the Boundaries Commission;

10 (c) a person who is a barrister or solicitor or other person referred to in paragraph (a) of subsection one of this section from preparing any documents or submissions or tendering any legal advice in connection with any proceedings before the Boundaries Commission.

15 15i. (1) The chairman shall preside at all meetings of the Boundaries Commission.

Meetings
and
procedure.

(2) The chairman and one other member of the Boundaries Commission constituted in accordance with paragraph (b) of subsection two of section 15A of this Act, shall form a quorum.

20 (3) The chairman and two other members of the Boundaries Commission constituted in accordance with paragraph (c) of subsection two of section 15A of this Act shall form a quorum.

25 (4) At a meeting of the Boundaries Commission constituted in accordance with paragraph (b) of subsection two of section 15A of this Act, the decision of the majority shall prevail, but the dissenting member may furnish a minority report.

30 (5) At a meeting of the Boundaries Commission constituted in accordance with paragraph (c) of subsection two of section 15A of this Act at which all of the members are present, the decision of the majority shall prevail, but where the members present are equally divided in opinion upon any question, no decision of the Boundaries Commission shall be recorded and each member may furnish a separate report.

35 (6) Where at any meeting of the Boundaries Commission constituted in accordance with paragraph

Local Government (Boundaries Commission) Amendment.

5 paragraph (b) of subsection two of section 15A of this Act, at which one of the members is not present, the members present are divided in opinion upon any question, the determination of that question shall be postponed until a meeting at which all members are present.

10 (7) Where at any meeting of the Boundaries Commission constituted in accordance with paragraph (c) of subsection two of section 15A of this Act at which all of the members are not present, the members present are divided in opinion on any question, the determination of that question shall be postponed until a meeting at which all members are present.

15 (8) The procedure for the calling of meetings of the Boundaries Commission and for the conduct of business thereat shall, except as may be from time to time prescribed, be as determined by the Boundaries Commission.

20 (9) In the exercise and discharge of its powers, authorities, duties and functions, the Boundaries Commission shall not be bound to follow strict legal procedure nor to observe the rules of law governing the admission of evidence.

25 (10) No writ of prohibition or certiorari shall lie in respect of any examination, inquiry, proposal, report, recommendation, determination, order, proceeding or direction of the Boundaries Commission in the exercise or discharge of the powers, authorities, duties and functions conferred and imposed on it by this Part.

30 15J. (1) The Boundaries Commission shall have and may exercise and discharge the following powers, authorities, duties and functions :—

35 (a) to examine, without holding an inquiry, and report on any matter with respect to the boundaries of cities, municipalities, shires, urban areas and county districts which may be referred to it by the Minister;

(b)

Powers,
authorities,
duties and
functions
of the
Boundaries
Commission.

Local Government (Boundaries Commission) Amendment.

- 5 (b) to hold an inquiry into and report upon any proposal mentioned in subsection one of section nineteen of this Act and referred to the Boundaries Commission in accordance with subsection four of that section;
- (c) to hold any inquiry for the purposes of Division 2 of Part XXVII of this Act and to report thereon to the Minister;
- 10 (d) to hold an inquiry into and report upon any proposal mentioned in subsection one of section 561A of this Act and referred to the Boundaries Commission in accordance with subsection four of that section;
- 15 (e) to submit to the Minister any proposal—
- (i) mentioned in subsection one of section nineteen of this Act;
- (ii) for the creation or dissolution, or the alteration of boundaries, of an urban area; or
- 20 (iii) mentioned in subsection one of section 561A of this Act, and which arises out of any examination or inquiry under paragraph (a), (b), (c) or (d) of this subsection.
- 25 (2) Notwithstanding the provisions of subsection one of this section the Boundaries Commission shall not have, and shall not exercise or discharge, the powers, authorities, duties and functions referred to in paragraph (a), or subparagraph (iii) of paragraph (e), of that subsection in relation to a county district constituted or proposed to be constituted for the supply of electricity.
- 30 (3) Any inquiry held by the Boundaries Commission under this section shall be open to the public.
- 35 (d) by inserting in paragraph (d) of section sixteen after the word "into" the words "the same or"; (e) Sec. 16. (Alteration of areas.)

Local Government (Boundaries Commission) Amendment.

(e) by omitting section seventeen;

Sec. 17.
(New municipality—
conditions
precedent.)

(f) (i) by inserting next after subsection one of section nineteen the following new subsection :—

Sec. 19.
(Proposals
for alteration
of
areas.)

5 (1A) A proposal submitted to the Minister by the Boundaries Commission pursuant to the provisions of subparagraph (i) of paragraph (e) of subsection one of section 15J of this Act shall, except where it is a modification within the meaning of subsection six of this section, be deemed to be a proposal to the Governor for the purposes of this Part.

10 (ii) by omitting from subsection four of the same section the words “such local land board as he may appoint, or to a person appointed by him in accordance with this Act” and by inserting in lieu thereof the words “the Boundaries Commission”;

15 (iii) by inserting at the end of subsection six of the same section the following new paragraph :—

20 In this subsection “modification” means only such a modification as does not in the opinion of the Minister constitute a new proposal, but does not include a modification that would, if it were implemented, effect an alteration to the boundaries of the City of Sydney, unless it is recommended by the Boundaries Commission constituted as provided for in paragraph (c) of subsection two of section 15A of this Act.

25 (g) by inserting in subsection one of section 20D after the word “into” the words “the same or”;

Sec. 20D.
(Transfer
of servants
where areas
are divided.)

(h)

Local Government (Boundaries Commission) Amendment.

- (h) by inserting at the end of paragraph (b) of sub- Sec. 541.
 section two of section five hundred and forty-one the (Declaration
 following word and new paragraph :— of urban
 areas.)
- ; or
- 5 (c) on a proposal submitted to the Minister by
 the Boundaries Commission pursuant to
 the provisions of subparagraph (ii) of para-
 graph (e) of subsection one of section 15J
 of this Act.
- 10 (i) (i) by omitting from subsection one of section Sec. 543.
 five hundred and forty-three the word "Where" (Notice of
 and by inserting in lieu thereof the words application.)
 "Where the Boundaries Commission submits
 a proposal, or where";
- 15 (ii) by omitting from the same subsection the
 words "grant the application" and by inserting
 in lieu thereof the words "declare the urban
 area";
- 20 (j) by inserting next after subsection one of section Sec. 544.
 five hundred and forty-four the following new sub- (Inquiries
 section :— and polls.)
- (1A) Any such inquiry shall be held by the
 Boundaries Commission.
- 25 (k) (i) by inserting next after subsection one of Sec. 561A.
 section 561A the following new subsection :— (Proposals
 for
 alteration
 or union.)
- (1A) A proposal in relation to a county
 district submitted to the Minister by the
 Boundaries Commission pursuant to the pro-
 30 visions of subparagraph (iii) of paragraph (e)
 of subsection one of section 15J of this Act
 shall, except where it is a modification within
 the meaning of subsection five of this section,
 be deemed to be a proposal to the
 Governor for the purposes of this section.
- (ii)

Local Government (Boundaries Commission) Amendment.

5 (ii) by omitting from subsection four of the same section the words "a person appointed by him in accordance with this Act" and by inserting in lieu thereof the words "the Boundaries Commission";

(iii) by inserting at the end of subsection five of the same section the following new paragraph :—

10 In this subsection "modification" means only such a modification as does not in the opinion of the Minister constitute a new proposal.

3. Any proposal—

Savings.

15 (a) mentioned in subsection one of section nineteen of the Principal Act;

(b) for the creation or dissolution, or alteration of the boundaries, of an urban area; or

(c) mentioned in subsection one of section 561A of the Principal Act,

20 which was submitted to the Minister before the commencement of this Act and which has not been dealt with and disposed of before that commencement shall be deemed to have been submitted under and shall be dealt with and completed under the provisions of the Principal Act as
25 amended by this Act.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1963
[1s. 4d.]

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No. , 1963.

A BILL

To make further provisions with regard to the alteration of local government boundaries; to constitute a Boundaries Commission and to specify its powers, authorities, duties and functions; for these and other purposes to amend the Local Government Act, 1919, as amended by subsequent Acts; and for purposes connected therewith.

[MR. HILLS;—19 February, 1963.]

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. (1) This Act may be cited as the "Local Government (Boundaries Commission) Amendment Act, 1963".

94365 129—

(2) Short title, commencement and construction.

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(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(3) This Act shall be read and construed with the Local Government Act, 1919, as amended by subsequent Acts, which Act, as so amended, is in this Act referred to as the Principal Act.

2. The Principal Act is amended—

Amendment of Act No. 41, 1919.

10 (a) by inserting in section three next after the matter relating to Part II the words and symbols "PART IIA.—LOCAL GOVERNMENT BOUNDARIES COMMISSION—ss. 15A–15J."; Sec. 3. (Division into Parts.)

15 (b) by inserting in section four next before the definition of "Building line" the following new definition :— Sec. 4. (Definitions.)
"Boundaries Commission" means the Local Government Boundaries Commission constituted under Part IIA of this Act.

(c) by inserting next after section fifteen the following new Part :— New Part IIA.

20 PART IIA.

LOCAL GOVERNMENT BOUNDARIES COMMISSION.

25 15A. (1) There shall be a Local Government Boundaries Commission which shall have and may exercise and discharge the powers, authorities, duties and functions conferred or imposed upon it by or under this Act. Boundaries Commission.

30 (2) (a) The members of the Boundaries Commission shall be appointed by the Governor and, subject to this Part, each member shall hold office for five years from the date of his appointment and shall be eligible for reappointment.

(b)

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(b) Subject to paragraph (c) of this subsection, the Boundaries Commission shall consist of three members, that is to say—

- 5 (i) one member nominated by the Minister, who shall be the chairman;
- 10 (ii) one member (hereinafter referred to as “the departmental member”) who shall be an officer of the Department of Local Government nominated for appointment by the person for the time being holding the office of or duly acting as Under Secretary of that Department;
- 15 (iii) one member (hereinafter referred to as “the councils’ member”) who shall be selected by the Governor from three officers of councils who have been nominated jointly as prescribed by the governing bodies of the Local Government Association of New South Wales and the Shires Association of
- 20 New South Wales.

25 (c) Where in the exercise or discharge of any of the powers, authorities, duties or functions conferred on the Boundaries Commission by paragraph (a) or (b) of subsection one of section 15J of this Act, an examination, inquiry or report is made in relation to the boundaries of the City of Sydney, the Boundaries Commission shall consist of four members of whom three shall be the persons referred to in paragraph (b) of this

30 subsection and the remaining member shall be a person nominated by the Council of the City of Sydney who shall hold office as such member only for the purpose of the examination or inquiry for which he is appointed and of making any report,

35 recommendation or proposal arising out of such examination or inquiry.

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5 (3) (a) Where at any time a member of the Boundaries Commission is absent from his office as a member with the leave of the Minister, granted for any particular period or with respect to any particular examination or inquiry, the Governor may—

- 10 (i) if such member is the chairman, on the nomination of the Minister, appoint a person as an acting member and the acting chairman of the Boundaries Commission;
- 15 (ii) if such member is the departmental member, on the nomination of the person for the time being holding the office of or duly acting as Under Secretary of the Department of Local Government, appoint an officer of that Department as an acting member of the Boundaries Commission;
- 20 (iii) if such member is the councils' member, select and appoint a member of the panel as an acting member of the Boundaries Commission;
- 25 (iv) if such member is the person nominated by the Council of the City of Sydney in accordance with paragraph (c) of subsection two of this section, appoint another person nominated by that council as an acting member of the Boundaries Commission.

30 (b) Such appointment may be made with respect to one or more members of the Boundaries Commission, and shall be for such period or with respect to such particular examination or inquiry as may be specified in the notification of appointment.

35 (4) An acting chairman or an acting member, as the case may be, shall have and may exercise and discharge all the powers, authorities, duties and functions of the chairman or member in whose place he acts.

(5)

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5 (5) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising an acting chairman or acting member to act in the place of the chairman or a member; and all acts and things done or omitted to be done by an acting chairman or acting member when so acting as aforesaid shall have the same consequences as if the same had been done or omitted to be done by the chairman or member in whose place the acting chairman or acting member is acting.

15 (6) The provisions of the Public Service Act, 1902, or any Act amending the same, shall not apply to or in respect of the appointment by the Governor of any member or acting member of the Boundaries Commission, and any member or acting member so appointed shall not, in his capacity as such member or acting member, be subject to the provisions of any such Act.

20 (7) The office of member or acting member of the Boundaries Commission shall not for the purposes of any Act be deemed to be an office or place of profit under the Crown.

25 15B. (1) There shall be a panel to be called the Panel. "Boundaries Commission Panel" which in this Part is referred to as "the panel".

30 (2) The members of the panel shall be appointed by the Governor and, subject to this Part, each member of the panel shall hold office for five years from the date of his appointment and shall be eligible for reappointment.

(3) The panel shall consist of five members of whom—

35 (a) three shall be officers of councils who have been nominated jointly as prescribed by the governing bodies of the Local Government Association of New South Wales and the Shires Association of New South Wales; and
(b)

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5 (b) the remaining members shall be the officers of councils referred to in subparagraph (iii) of paragraph (b) of subsection two of section 15A of this Act, other than the officer selected by the Governor to be a member of the Boundaries Commission pursuant to that subparagraph.

10 Notwithstanding paragraph (b) of this subsection a person shall not become a member of the panel by reason of his being nominated pursuant to paragraph (a) of subsection four of section 15D of this Act to fill the vacant office of a member or acting member of the Boundaries Commission.

15 15c. (1) Nominations for the appointment of the members of the Boundaries Commission referred to in subparagraph (iii) of paragraph (b), and in paragraph (c), of subsection two of section 15A of this Act, of the acting member referred to in subparagraph (iv) of paragraph (a) of subsection three of that section, and of the members of the panel referred to in paragraph (a) of subsection three of section 15B of this Act shall be made in the manner and within the time prescribed, and shall be accompanied by the written consent of each person nominated to serve on the Boundaries Commission and the panel, if appointed.

25 (2) If within the time prescribed sufficient nominations under this Part have not been validly made by the bodies entitled to make nominations the Governor may appoint such number of persons having the appropriate qualifications as may be necessary.

30 15D. (1) A member or acting member of the Boundaries Commission or a member of the panel shall be deemed to have vacated his office if he—

- (a) dies;
- (b) resigns his office in writing under his hand addressed to the Governor;

(c)

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- (c) becomes a mentally ill person, a protected person, or an incapable person, within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts;
- 5 (d) becomes permanently incapable of performing his duties;
- (e) is convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for twelve months or upwards or is convicted elsewhere than in New South Wales of an offence which if committed in
10 New South Wales would be a felony or misdemeanour punishable as aforesaid;
- 15 (f) having been appointed as a member or an acting member in his capacity as an officer of a council or of the Department of Local Government, ceases to be such an officer;
- 20 (g) for any cause which appears to the Governor to be sufficient, is removed from office by the Governor.

(2) If a member of the panel is appointed (otherwise than under subparagraph (iii) of paragraph (a) of subsection three of section 15A of this Act) as a member of the Boundaries Commission, he shall be deemed to have vacated his office
25 as a member of the panel.

(3) Notwithstanding the provisions of subsection one of this section, a member or acting member of the Boundaries Commission who, pursuant to paragraph (f) of that subsection, vacates his office as such by reason of his ceasing to be an officer of a council may continue to act as a member or acting member of the Boundaries Commission for the purposes only of—

- (a) any examination or inquiry commenced before he ceased to be such an officer if, before he ceased to be such an officer, he
took

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took part as a member or acting member of the Boundaries Commission in the proceedings of the Boundaries Commission in respect of such examination or inquiry; and

- 5 (b) making any report or proposal arising out of any such examination or inquiry.

(4) Upon the vacation of office under this section of—

- 10 (a) a member or acting member of the Boundaries Commission, a new member or acting member nominated or selected in the same manner as his predecessor shall be appointed by the Governor to fill the vacant office; or

- 15 (b) a member of the panel, a new member nominated jointly as prescribed by the governing bodies of the Local Government Association of New South Wales and the Shires Association of New South Wales shall be appointed by the Governor to fill the vacant office,

and shall hold office for the residue of his predecessor's term.

- 25 15E. (1) No act or proceeding of the Boundaries Commission shall be invalidated or prejudiced by reason only of the fact that at the time such act or proceeding was done, taken or commenced, there was a vacancy in the office of any member other than the chairman. **Unfilled vacant office.**

- 30 (2) All acts and proceedings of the Boundaries Commission shall, notwithstanding the subsequent discovery of any defect in the appointment of any member or acting member thereof, be as valid as if such member or acting member had been duly appointed and as if the Boundaries Commission had been properly and fully constituted.

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15F.

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15F. Where an acting member is appointed to the Boundaries Commission under subsection three of section 15A of this Act, or a person is appointed under subsection four of section 15D of this Act to a vacancy on the Boundaries Commission, the Boundaries Commission as newly constituted, in respect of any examination or inquiry commenced before the appointment and for the purposes of making any report or proposal arising out of any such examination or inquiry, may exercise and shall discharge any power, authority, duty or function that the Boundaries Commission could have exercised or discharged had the necessity for the appointment of the acting member or person, as the case may be, not arisen, without commencing the examination or inquiry anew.

Powers of Boundaries Commission where acting member appointed or casual vacancy filled.

15G. The chairman and each other member of the Boundaries Commission, and any acting chairman or acting member, as the case may be, shall be entitled to receive such travelling and out-of-pocket expenses and, if he is not a member of the Public Service, such remuneration (whether by way of fees or allowance or otherwise), as may be prescribed in respect of the chairman or an acting chairman, or a member or acting member.

Fees and travelling expenses.

15H. (1) In proceedings before the Boundaries Commission, no person shall be represented—

(a) by a barrister or solicitor or by a person who has qualified for admission as a barrister or solicitor; or

(b) by any person acting for fee or reward.

Legal or other representation.

(2) Nothing in this section shall preclude an employee of any person from representing that person before the Boundaries Commission if such employee is not a barrister or solicitor or other person referred to in paragraph (a) of subsection one of this section.

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15i. (1) The chairman shall preside at all meet- Meetings
ings of the Boundaries Commission. and
procedure.

5 (2) The chairman and one other member
of the Boundaries Commission constituted in
accordance with paragraph (b) of subsection two
of section 15A of this Act, shall form a quorum.

10 (3) The chairman and two other members
of the Boundaries Commission constituted in accord-
ance with paragraph (c) of subsection two of section
15A of this Act shall form a quorum.

15 (4) At a meeting of the Boundaries Com-
mission constituted in accordance with paragraph
(b) of subsection two of section 15A of this Act,
the decision of the majority shall prevail, but the
dissenting member may furnish a minority report.

20 (5) At a meeting of the Boundaries Com-
mission constituted in accordance with paragraph
(c) of subsection two of section 15A of this Act
at which all of the members are present, the deci-
sion of the majority shall prevail, but where the
members present are equally divided in opinion
upon any question, no decision of the Boundaries
Commission shall be recorded and each member
may furnish a separate report.

25 (6) Where at any meeting of the Boun-
daries Commission constituted in accordance with
paragraph (b) of subsection two of section 15A
of this Act, at which one of the members is
not present, the members present are divided in
30 opinion upon any question, the determination of
that question shall be postponed until a meeting
at which all members are present.

35 (7) Where at any meeting of the Boun-
daries Commission constituted in accordance with
paragraph (c) of subsection two of section 15A
of

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5 of this Act at which all of the members are not present, the members present are divided in opinion on any question, the determination of that question shall be postponed until a meeting at which all members are present.

10 (8) The procedure for the calling of meetings of the Boundaries Commission and for the conduct of business thereat shall, except as may be from time to time prescribed, be as determined by the Boundaries Commission.

15 (9) In the exercise and discharge of its powers, authorities, duties and functions, the Boundaries Commission shall not be bound to follow strict legal procedure nor to observe the rules of law governing the admission of evidence.

20 (10) No writ of prohibition or certiorari shall lie in respect of any examination, inquiry, proposal, report, recommendation, determination, order, proceeding or direction of the Boundaries Commission in the exercise or discharge of the powers, authorities, duties and functions conferred and imposed on it by this Part.

25 15J. (1) The Boundaries Commission shall have and may exercise and discharge the following powers, authorities, duties and functions :—
Powers, authorities, duties and functions of the Boundaries Commission.

30 (a) to examine, without holding an inquiry, and report on any matter with respect to the boundaries of cities, municipalities, shires, urban areas and county districts which may be referred to it by the Minister ;

35 (b) to hold an inquiry into and report upon any proposal mentioned in subsection one of section nineteen of this Act and referred to the Boundaries Commission in accordance with subsection four of that section ;

(c) to hold any inquiry for the purposes of Division 2 of Part XXVII of this Act and to report thereon to the Minister ;

(d)

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- 5 (d) to hold an inquiry into and report upon any proposal mentioned in subsection one of section 561A of this Act and referred to the Boundaries Commission in accordance with subsection four of that section;
- (e) to submit to the Minister any proposal—
- 10 (i) mentioned in subsection one of section nineteen of this Act;
- (ii) for the creation or dissolution, or the alteration of boundaries, of an urban area; or
- 15 (iii) mentioned in subsection one of section 561A of this Act, and which arises out of any examination or inquiry under paragraph (a), (b), (c) or (d) of this subsection.

20 (2) Notwithstanding the provisions of subsection one of this section the Boundaries Commission shall not have, and shall not exercise or discharge, the powers, authorities, duties and functions referred to in paragraph (a), or subparagraph (iii) of paragraph (e), of that subsection in relation to a county district constituted or proposed to be constituted for the supply of electricity.

25 (3) For the purposes of any inquiry held by the Boundaries Commission, the chairman or acting chairman and the members and acting members of the Boundaries Commission shall have the powers, authorities, protections and immunities conferred on the chairman of a commission and a commissioner respectively by Division 1 of Part II of the Royal Commissions Act, 1923, as amended by subsequent Acts, and the provisions of section one hundred and fifty-two of the Justices Act, 1902, as amended by subsequent Acts, shall mutatis mutandis apply to any witness or person summoned by or appearing before the Boundaries Commission.

The

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5 The provisions of the Royal Commissions Act, 1923, as amended by subsequent Acts, (section thirteen and Division 2 of Part II excepted) shall, mutatis mutandis, apply to and in respect of any witness or person summoned by or appearing before the Boundaries Commission.

(d) by inserting in paragraph (d) of section sixteen after the word "into" the words "the same or"; Sec. 16.
(Alteration of areas.)

(e) by omitting section seventeen; Sec. 17.
(New municipality—conditions precedent.)

10 (f) (i) by inserting next after subsection one of section nineteen the following new subsection :— Sec. 19.
(Proposals for alteration of areas.)

15 (1A) A proposal submitted to the Minister by the Boundaries Commission pursuant to the provisions of subparagraph (i) of paragraph (e) of subsection one of section 15J of this Act shall, except where it is a modification within the meaning of subsection six of this section, be deemed to be a proposal to the Governor for the purposes of this Part.

20 (ii) by omitting from subsection four of the same section the words "such local land board as he may appoint, or to a person appointed by him in accordance with this Act" and by inserting in lieu thereof the words "the Boundaries Commission";

25 (iii) by inserting at the end of subsection six of the same section the following new paragraph :—

30 In this subsection "modification" means only such a modification as does not in the opinion of the Minister constitute a new proposal, but does not include a modification that would, if it were implemented, effect an alteration to the boundaries of the City of Sydney, unless

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unless it is recommended by the Boundaries Commission constituted as provided for in paragraph (c) of subsection two of section 15A of this Act.

- 5 (g) by inserting in subsection one of section 20D after the word "into" the words "the same or"; Sec. 20D.
(Transfer of servants where areas are divided.)
- (h) by inserting at the end of paragraph (b) of subsection two of section five hundred and forty-one the following word and new paragraph :— Sec. 541.
(Declaration of urban areas.)
- 10 ; or
- (c) on a proposal submitted to the Minister by the Boundaries Commission pursuant to the provisions of subparagraph (ii) of paragraph (e) of subsection one of section 15J of this Act.
- 15
- (i) (i) by omitting from subsection one of section five hundred and forty-three the word "Where" and by inserting in lieu thereof the words "Where the Boundaries Commission submits a proposal, or where"; Sec. 543.
(Notice of application.)
- 20 (ii) by omitting from the same subsection the words "grant the application" and by inserting in lieu thereof the words "declare the urban area";
- (j) by inserting next after subsection one of section five hundred and forty-four the following new subsection :— Sec. 544.
(Inquiries and polls.)
- 25 (1A) Any such inquiry shall be held by the Boundaries Commission.
- (k) (i) by inserting next after subsection one of section 561A the following new subsection :— Sec. 561A.
(Proposals for alteration of union.)
- 30 (1A) A proposal in relation to a county district submitted to the Minister by the Boundaries Commission pursuant to the provisions of subparagraph (iii) of paragraph (e)
- 35 of

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of subsection one of section 15J of this Act shall, except where it is a modification within the meaning of subsection five of this section, be deemed to be a proposal to the Governor for the purposes of this section.

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(ii) by omitting from subsection four of the same section the words "a person appointed by him in accordance with this Act" and by inserting in lieu thereof the words "the Boundaries Commission";

10

(iii) by inserting at the end of subsection five of the same section the following new paragraph:—

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In this subsection "modification" means only such a modification as does not in the opinion of the Minister constitute a new proposal.

3. Any proposal—

Savings.

- (a) mentioned in subsection one of section nineteen of the Principal Act;
- (b) for the creation or dissolution, or alteration of the boundaries, of an urban area; or
- (c) mentioned in subsection one of section 561A of the Principal Act,

25 which was submitted to the Minister before the commencement of this Act and which has not been dealt with and disposed of before that commencement shall be deemed to have been submitted under and shall be dealt with and completed under the provisions of the Principal Act as

30 amended by this Act.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1963
[1s. 4d.]

