

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.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney 20 November, 1969.*

New South Wales



ANNO OCTAVO DECIMO

ELIZABETHÆ II REGINÆ

Act No. , 1969.

An Act to make further provisions with respect to the powers, authorities, duties and functions of councils; for this and other purposes to amend the Local Government Act, 1919, and certain other Acts; to validate certain matters; 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 Short title. (Further Amendment) Act, 1969".

Local Government (Further Amendment).

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

2. Part IV of the Principal Act is amended—

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

5 (a) by inserting at the end of subsection one of section twenty-eight the following new paragraphs :—
Sec. 28.
(Travelling expenses.)

(g) where the council is a member of The Australian Gas Association, to and from the annual or regional conventions of such Association;

10 (h) in such cases as may be prescribed, to and from the periodical conferences or meetings of such other associations or organisations as may be prescribed.

15 (b) by omitting subsections one and (1A) of section 28A and by inserting in lieu thereof the following subsections :—
Sec. 28A.
(Insurance of members.)

20 (1) The council may insure or may itself provide for the insurance of members of the council against personal injury, whether fatal or not, arising out of or in the course of the carrying out by such member of any business of the council or the performance by such member of any function in his capacity as a member of the council.

25 (1A) The council may insure or may itself provide for the insurance of any person who is not the holder of civic office and who has been elected or appointed as a member of any committee constituted under this Act and as such member is authorised to exercise or perform, otherwise than
30 as a servant, any power, authority, duty or function
of

Local Government (Further Amendment).

of the council against any personal injury, whether fatal or otherwise, arising out of or in the course of the exercise or performance by that person of any such power, authority, duty or function.

5 3. Part V of the Principal Act is amended—

Further amendment of Act No. 41, 1919. Part V. (Electoral Provisions.)

- (a) (i) by inserting next after subsection one of section sixty-four the following new subsection :—

10 (1A) The council may cause a roll of electors to be prepared in accordance with this Division for an extraordinary election which is held not more than six months after an election for which a roll has been prepared under subsection one of this section.

- 15 (ii) by omitting from subsection four of the same section the words "shall be the roll for that ward or riding that was used at such first election, triennial ordinary election or prior extraordinary election" and by inserting in lieu thereof the following words :—

- 20 shall be—
- 25 (a) where the council has not caused a roll of electors to be prepared in accordance with this Division for that extraordinary election, the roll for that ward or riding that was used at such first election, triennial ordinary election or prior extraordinary election; or
 - 30 (b) where the council has caused such a roll to be so prepared, that roll.

(b)

Local Government (Further Amendment).

5 (b) (i) by omitting from subsection seven of section 65A the words "The roll of electors" and by inserting in lieu thereof the words "Except as provided in subsection eight of this section, the roll of electors";

(ii) by inserting at the end of the same section the following new subsection :—

10 (8) The council may cause a roll of electors to be prepared in accordance with this Division for a poll and where it does so that roll shall be used for the poll.

4. (1) Part VII of the Principal Act is amended—

Further amendment of Act No. 41, 1919. Part VII. (Finance.)

15 (a) by inserting next after paragraph (b) of subsection three of section one hundred and sixty the following new paragraph :—

Sec. 160. (Certificate as to amount due.)

20 (c) where the person, appearing from any of the council's records to be the owner of the land at the date of the certificate, acquired the land pursuant to Division 5 of Part XXX of this Act, that that person is shown in those records as the owner of the land.

25 (b) by inserting in subsection three of section 160E after the words "unimproved rating factor and" the words ", where the valuation includes a valuation of the improved capital value,";

Sec. 160E. (Rating of certain classes of lease from the Crown.)

(c) (i) by omitting from paragraph (b) of subsection two of section one hundred and seventy-four the following words :—

Sec. 174. (Limited overdrafts.)

30 In calculating the limit of overdraft in respect of a fund any sum received by the council from the Government or Main Roads

Board

Local Government (Further Amendment).

Board as a grant and credited to such fund, except any sum received as endowment under Division 5 of Part VII of this Act, shall be excluded.

- 5 (ii) by omitting subsections (2A) and three of the same section and by inserting in lieu thereof the following subsections :—

10 (2A) Where the Minister is of the opinion that special circumstances make it expedient so to do, he may, on the application of the council, from time to time fix the amount which may, in respect of any fund, be borrowed by the council by way of overdraft.

15 (3) No greater sum shall be borrowed under this section than—

20 (a) where the amount that may be borrowed by the council in respect of a fund has not been fixed by the Minister under subsection (2A) of this section—the amount stated in the certificate of the auditor of the council as being the sum which may be borrowed within the limits imposed by subsection two of this section; or

25 (b) where the amount that may be so borrowed is so fixed—the amount so fixed.

- 30 (d) (i) by omitting subsection one of section 178A and by inserting in lieu thereof the following subsection :—

35 (1) Subject to this section the council may, without obtaining any approval under section one hundred and seventy-three of this Act, accept an advance not exceeding ten thousand dollars from a ratepayer or the occupier of any land within the area of the council or from the

Sec. 178A.
(Advances
for works
applied for
by ratepayer
or occupier.)

Local Government (Further Amendment).

the owner or occupier of, or the person liable for payment of rates on, land outside the area of the council for the purpose of carrying out any works that the council is authorised to carry out and that are applied for by such ratepayer, owner, occupier or other person as the case may be.

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(ii) by omitting subsections three and four of the same section and by inserting in lieu thereof the following subsections :—

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(3) The terms of the loan shall include provision for repayment within fifteen years from the day on which the loan is made.

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(4) The council shall not accept any such advance if, by doing so, the amount owing by the council under this section would exceed ten per centum of the total revenue of such council for the preceding year, or such greater amount as the Minister may from time to time determine.

20

(e) by omitting section 200E.

Sec. 200E.
(Exchange stock, etc.)

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

25

5. Part IX of the Principal Act is amended—

Further amendment of Act No. 41, 1919. Part IX. (Public Roads.)

(a) (i) by inserting in subsection two of section two hundred and twenty-nine after the words "the council may" the words "open or";

Sec. 229. (Width of new roads.)

30

(ii) by omitting subsection three of the same section;

(b)

Local Government (Further Amendment).

- 5 (b) by omitting from subsection one of section 241A Sec. 241A. the words "cleansing of any such private thoroughfare the council may itself bear the cost of such cleansing" and by inserting in lieu thereof the words "carrying out of any such work, the council may itself bear the cost of such work"; (Private thoroughfare.)
- 10 (c) (i) by inserting in subsection one of section 267B Sec. 267B. after the words "or has" the words "or have"; (Removal of derelict vehicles and the remains of vehicles from public roads.)

15 (ii) by omitting from the same subsection the words "the council may seize and take charge of and remove or tow away or cause to be removed or towed away such vehicle or remains" and by inserting in lieu thereof the words "the council may cause the vehicle or remains to which the notice refers to be examined by a servant of the council duly appointed for the purpose by resolution of the council and, if that servant is of opinion that the cost of towing or removing the vehicle or remains to any place referred to in paragraph

20 (b) of this subsection will be—

 - 25 (a) greater than the value of the vehicle or remains, he may, on behalf of the council, seize and take charge of and remove or tow away or cause to be removed or towed away the vehicle or remains and cause the vehicle or remains to be destroyed or otherwise disposed of; or
 - 30 (b) equal to or less than the value of the vehicle or remains, he may, on behalf of the council, seize and take charge of and remove or tow away or cause to be removed or towed away the vehicle or remains to a place set apart

35 by the council";

(iii)

Local Government (Further Amendment).

(iii) by omitting subsection two of the same section;

5 (iv) by inserting in subsection four of the same section after the word "seized" the words "under paragraph (b) of subsection one of this section";

(v) by inserting at the end of the same section the following new subsection :—

10 (5) In this section, a reference to a vehicle or the remains of a vehicle includes a reference to any goods or other things upon or within the vehicle or remains.

(d) by omitting from section 270c the definition of Sec. 270c. "Parking meter" and by inserting in lieu thereof the (Interpretation.) following definition :—

15 "Parking meter" means a device that is installed in a metered space and that is designed to indicate or is capable of indicating whether the fee or charge fixed in respect of any vehicle or horse standing or waiting in that
20 metered space has been paid and includes the stand upon which a parking meter is erected.

(e) by inserting next after section 270R the following New sec. 270s. new section :—

25 270s. (1) Where it appears to a proper servant of a council that any person has committed, or by virtue of section 270R of this Act is guilty of, any offence against any ordinance made under subsection four of section two hundred and seventy-seven
30 of this Act the proper servant may serve a notice on that person to the effect that if that person does not desire to have the matter determined by a court,

that

Local Government (Further Amendment).

that person may pay to a servant of that council specified in the notice within the time specified therein an amount of penalty prescribed for the offence if dealt with under this section.

5 (2) Any notice under subsection one of this section—

(a) may be served personally or by post; or

10 (b) if it relates to an offence of which the owner of a vehicle is guilty by virtue of section 270R of this Act, may be addressed to the owner without naming him or stating his address and may be served by leaving it on or attaching it to the vehicle.

15 (3) Any person alleged to have committed or to be guilty of an offence to which subsection one of this section applies shall have the right to decline to be dealt with under this section.

20 Any person who fails to pay the penalty within the time specified in the notice given to him under subsection one of this section or within such further time as may in any particular case be allowed shall be deemed to have declined to be dealt with under this section.

25 (4) Where the amount of any prescribed penalty for an alleged offence is paid pursuant to this section no person shall be liable for any further proceedings for the alleged offence.

30 (5) Payment of a penalty pursuant to this section shall not be regarded as an admission of liability for the purpose of nor in any way affect or prejudice any civil claim, action or proceeding arising out of the same occurrence.

(6)

Local Government (Further Amendment).

(6) The council may by resolution—

- 5 (a) fix the amount of penalty payable under this section for any offence referred to in subsection one of this section, not exceeding the maximum penalty for the offence imposed by or under this Act;
- 10 (b) for the purposes of this section, fix different amounts of penalties for different offences or classes of offences or for offences or classes of offences having regard to the circumstances thereof or offences or classes of offences committed in different areas provided by the council under section 270Q of this Act.

15 (7) The provisions of this section are supplemental to and not in derogation of the provisions of any other section of this Act or any other Act in relation to proceedings which may be taken in respect of offences.

20 6. Part X of the Principal Act is amended—

Further amendment of Act No. 41, 1919. Part X. (Public Health, Safety, and Convenience.)

- (a) by inserting at the end of paragraph (b) of subsection two of section two hundred and eighty-two the words “and the contents of any septic tank, septic closet, and chemical closet”; Sec. 282. (Keeping, removal, and destruction.)
- 25 (b) by inserting at the end of paragraph (c) of the same subsection the words “and the contents of any sullage holding tank, sullage pit, and grease trap”.

Local Government (Further Amendment).

7. Part XI of the Principal Act is amended—

Further
amendment
of Act No.
41, 1919.
Part XI.
(Building
Regulation.)

- (a) (i) by inserting next after paragraph (g) of subsection one of section three hundred and nine the following new paragraph :—

Sec. 309.
(Proclama-
tion of
residential
districts.)

5 Unless the proclamation otherwise expressly provides, a proclamation under this subsection, whether made before or after the commencement of the Local Government (Further Amendment) Act, 1969, does not extend to prohibiting the use of a building solely for the purposes of a boarding-house.

- 10 (ii) by inserting in subparagraph (ii) of paragraph (d) of subsection (1C) of the same section after the word "objects" the words ", within such time as may be prescribed,";

- (b) by inserting in paragraph (m) of section three hundred and thirteen after the word "subsidence" the words "or slip";

Sec. 313.
(Subjects
for con-
sideration.)

- 20 (c) by inserting next after section 314A the following new section :—

New sec.
314B.

25 314B. (1) Without limiting the operation of any other provision of this Act, where an application is made to the council for approval of the erection of a building on any land and the building, if erected in accordance with the plans and specifications accompanying the application—

Approval
of certain
building
applications
may be
refused
unless lots
consolidated.

- (a) would occupy land in two or more lots in a lawful division of land; or
- 30 (b) would occupy land in one or more lots in a lawful division of land but would not comply with any provision of this Act or the ordinances or the requirements of the council but for the fact that that lot or one of those

those

Local Government (Further Amendment).

those lots is conterminous with another lot that is in the same ownership as the land on which the building is proposed to be erected, the council may refuse to approve of the application until a plan referred to in subsection four of this section has been registered in the office of the Registrar-General.

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(2) A person making an application under subsection one of this section or some person authorised by him in writing may cause to be lodged with the council a plan showing as one lot the land referred to in paragraph (a) or (b) of subsection one of this section.

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(3) Where a plan referred to in subsection two of this section shows as a boundary of the lot referred to in that subsection a boundary that is not shown as the boundary of a lot in a current plan, as defined in section 327AA of this Act—

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(a) the town clerk or shire clerk shall not endorse on the plan a certificate referred to in subsection four of this section; and

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(b) the plan shall be deemed to be a plan of subdivision submitted for the approval of the council under Part XII of this Act.

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(4) Where—

(a) the town clerk or shire clerk is satisfied that a lot (in this subsection referred to as a "consolidated lot") shown in a plan comprises land referred to in paragraph (a) or (b) of subsection one of this section; and

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(b) the council refused to approve of an application for approval to erect a building on that land until a plan referred to in subsection two of this section had been registered in the office of the Registrar-General,

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the town clerk or shire clerk, as the case may be, may certify that the plan illustrates a consolidated lot for the purposes of this section.

(5)

Local Government (Further Amendment).

5 (5) Where a plan bears a certificate referred to in subsection four of this section, the Registrar-General may register the plan in the manner provided for the registration of deposited plans.

10 (6) An application for approval of the erection of a building shall not be refused by reason only of this section where part only of the land referred to in paragraph (a) or (b) of subsection one of this section is land under the provisions of the Real Property Act, 1900, or where two or more parts of that land are not of the same tenure.

15 (d) by omitting paragraph (a) of subsection (2A) of Sec. 317M. section 317M and by inserting in lieu thereof the (Appoint-ment.) following paragraph :—

20 (a) The chairman may, in writing, appoint a deputy member to act in the place of any member, other than the chairman, at any meeting of the board during the absence of that member from that meeting.

(e) by omitting paragraph (a) of subsection three of Sec. 317AC. section 317AC and by inserting in lieu thereof the (Appoint-ment.) following paragraph :—

25 (a) The chairman may, in writing, appoint a deputy member to act in the place of any member, other than the chairman, at any meeting of the board during the absence of that member from that meeting.

30 (f) by inserting in section three hundred and eighteen Sec. 318. next after paragraph thirty-three the following new (Ordin-ances.) paragraph :—

35 (34) authorising the council to control and regulate in its area or any part of its area specified in the ordinance the installation of solid or liquid fuel heaters.

(g)

Local Government (Further Amendment).

(g) by omitting from subsection three of section three hundred and nineteen the words "Provided that in no case shall the total amount of fees payable upon the application for the approval of the council under section three hundred and twelve exceed two thousand dollars."

Sec. 319.
(Additional provisions re ordinances.)

8. Part XII of the Principal Act is amended—

Further amendment of Act No. 41, 1919. Part XII. (Town Planning.)

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

New sec. 327AA.

327AA. (1) In this section—

Land included in a current plan not to be disposed of except in lots or portions shown on that plan.

"current plan", in relation to any land, means—

(a) a plan of subdivision registered or recorded in the office of the Registrar-General (whether before or after the commencement of the Local Government (Further Amendment) Act, 1969) but does not include so much of that plan as relates to land included in a plan of subdivision registered or recorded in that office after the plan of subdivision firstmentioned in this paragraph was so registered or recorded ;

(b) a Crown plan (whether made before or after the commencement of the Local Government (Further Amendment) Act, 1969, but not being a plan of subdivision referred to in paragraph (f) of the definition of

"plan

Local Government (Further Amendment).

“plan of subdivision” in this subsection) showing lots or portions, but does not include so much of that plan as relates to land—

- 5 (i) included in a plan of subdivision registered or recorded in the office of the Registrar-General after the Crown plan was made; or
- 10 (ii) included in a subsequent Crown plan showing lots or portions;

“plan of subdivision” means—

- 15 (a) a plan registered in the office of the Registrar-General under paragraph (e) of subsection one, or paragraph (c) of subsection two, of section three hundred and twenty-seven of this Act;
- 20 (b) a plan registered or recorded in the office of the Registrar-General showing land that is a lot or portion in a lawful division of land, whenever made, not being land that is a
- 25 lot in a plan of subdivision so registered or recorded;
- (c) a map or plan of land comprised in an application made under Part IV of the Real Property Act, 1900;
- 30 (d) where a certificate of title has issued for any land following the correction of any error or misdescription of the boundaries of the land, any plan showing that land with boundaries
- 35 as so corrected;

(e)

Local Government (Further Amendment).

(e) a plan registered in the office of the Registrar-General in accordance with subsection five of section 314B of this Act; and

5 (f) a plan registered or recorded in the office of the Registrar-General showing land that has been resumed, appropriated or purchased by a body authorised by any Act to resume or
10 appropriate land.

(2) Notwithstanding the provisions of subsection twelve of section one hundred and ninety-six of the Conveyancing Act, 1919, where
15 any land is included in a current plan, that land shall not be disposed of by way of sale, conveyance, transfer, partition or lease (other than a lease for a period not exceeding five years without option of
20 renewal) unless the land is a lot or portion shown in the current plan and the Registrar-General may refuse to register any instrument evidencing any disposition that contravenes the provisions of this subsection.

(3) The Registrar-General may indicate
25 upon any plan which is in his custody or otherwise record the registration or recording of any later plan comprising some or all of the land in such first-mentioned plan.

(4) Subsection two of this section does not apply to—

30 (a) land that is disposed of as the whole of the residue—

(i) of a lot or portion in a current plan after part of that lot or portion has been resumed, appropriated or purchased by a body authorised by any
35 Act to resume or appropriate land;

(ii)

Local Government (Further Amendment).

- (ii) of a lot or portion in a current plan after part of that lot or portion has been opened as a public road; or
- 5 (iii) of the land comprised in a certificate of title or Crown Grant after part of the land has been shown in a current plan;
- (b) land that is disposed of as the whole of the land comprised in a certificate of title or Crown Grant;
- 10 (c) the disposition of land that is part of a lot or portion in a current plan different parts of which are owned in severalty where—
 - 15 (i) one of the several owners disposes of the part of the lot or portion owned by him to an owner of any other part; or
 - (ii) the several owners dispose of the lot or portion to some other person; or
- 20 (d) the disposition of land that is a lot or portion in a lawful division of land, whenever made, not being a lot or portion shown in a plan of subdivision registered or recorded in the office of the Registrar-General that is
- 25 not a current plan or shown in a Crown plan that is not a current plan.

(b) by inserting at the end of paragraph (1) of subsection one of section three hundred and thirty-three the following word and new paragraph :—

Sec. 333.
(Subjects for consideration re subdivisions.)

- 30 and
- (m) whether the land is or probably will be subject to subsidence or slip.

Local Government (Further Amendment).

- (c) by inserting in section three hundred and thirty-nine Sec. 339. after the word "Act," the words "or who disposes (Penalty.) of any land in contravention of subsection two of section 327AA of this Act,";
- 5 (d) (i) by omitting from paragraph (e) of subsection Sec. 341A. two of section 341A the words "holding a cer- (Appoint-
ment.) tificate as Town and Country Planner qualify-
ing him to assist councils in the preparation of
10 schemes in accordance with section 342E of
this Act and shall be";
- (ii) by omitting paragraph (a) of subsection three
of the same section and by inserting in lieu
thereof the following paragraph :—
- 15 (a) The chairman may, in writing, appoint
a deputy member to act in the place of any
member, other than the chairman, at any meet-
ing of the board during the absence of that
member from that meeting.
- 20 (e) by omitting subsection three of section 341E and by Sec. 341E.
inserting in lieu thereof the following subsection :— (Panel.)
- (3) The panel shall consist of sixteen members,
that is to say—
- 25 (a) one member, being an officer of the Depart-
ment of Local Government, who shall be
known as the deputy chairman of the board;
- (b) two members, who shall be officers of the
Department of Lands and registered sur-
veyors, and who shall be nominated by the
Under Secretary for Lands;
- 30 (c) four members, who shall be engineers
selected by the Governor from eight engi-
neers nominated by the Institution of
Engineers, Australia (Sydney Division);
- (d)

Local Government (Further Amendment).

- 5 (d) five members, who shall be officers of councils and shall be selected by the Governor from a panel of ten such officers 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 ;
- 10 (e) four members, each of whom shall be a registered surveyor selected by the Governor from eight such surveyors nominated by the Institution of Surveyors of New South Wales.

9. (1) Part XIII A of the Principal Act is amended—

Further amendment of Act No. 41, 1919. Part XIII A. (Town and Country Planning Schemes.)

- 15 (a) by inserting next after paragraph (h) of subsection three of section 342G the following new paragraph :— (Contents of scheme.)

(h1) the regulation of subdivisions and of matters relating thereto ;

- 20 (b) (i) by omitting subsection one of section 342L and by inserting in lieu thereof the following subsection :— (Variation of prescribed scheme.)

(1) A prescribed scheme may be varied by a subsequent scheme (in this Part referred to as a "varying scheme").

- 25 A varying scheme may supplement or amend the prescribed scheme.

(ii)

Local Government (Further Amendment).

(ii) by omitting paragraph (a) of subsection two of the same section and by inserting in lieu thereof the following paragraph :—

(a) In this subsection—

5 “local scheme” means a scheme that applies to any land in an area to which or to part of which a prescribed scheme that also applies to land in another area applies;

10 “previous scheme” means a pre-scribed scheme (whether or not it is a varying scheme) that, upon its coming into operation, applied to land in two or more areas.

15 (iii) by inserting in paragraph (b) of the same subsection after the word “applies” where firstly occurring the words “and to which a previous scheme before its revocation pursuant to paragraph (d) of this subsection applied”;

20 (iv) by omitting from subparagraph (i) of paragraph (b) of the same subsection the words “County of Cumberland Planning Scheme” and by inserting in lieu thereof the words “previous scheme”;

25 (v) by omitting from subparagraph (ii) of paragraph (b) of the same subsection the words “County of Cumberland Planning Scheme as relate to the land to which the local scheme applies and” and by inserting in lieu thereof the words “previous scheme as”;

30 (vi) by omitting from subparagraph (i) of paragraph (b) of subparagraph (iii) of paragraph (b) of the same subsection the words “County of Cumberland Planning Scheme in respect of any land to which the local scheme applies before the revocation of the County of Cumberland Planning Scheme in respect of that

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Local Government (Further Amendment).

- that land, pursuant to paragraph (d) of this subsection” and by inserting in lieu thereof the words “previous scheme”;
- 5 (vii) by omitting from subparagraph (ii) of paragraph (b) of subparagraph (iii) of paragraph (b) of the same subsection the words “County of Cumberland Planning Scheme committed in respect of any land to which the local scheme applies before such” and by inserting
- 10 in lieu thereof the words “previous scheme committed before its”;
- (viii) by omitting from subparagraph (iii) of paragraph (b) of subparagraph (iii) of paragraph (b) of the same subsection the words “County of Cumberland Planning Scheme in respect of
- 15 any land to which the local scheme applies” and by inserting in lieu thereof the words “previous scheme”;
- (ix) by omitting from subparagraph (i) of paragraph (c) of the same subsection the words
- 20 “the County of Cumberland Planning Scheme” and by inserting in lieu thereof the words “a previous scheme before its revocation pursuant to paragraph (d) of this subsection”;
- (x) by omitting from subparagraph (ii) of the same paragraph the words “the County of Cumberland Planning Scheme” and by
- 25 inserting in lieu thereof the words “a previous scheme”;
- (xi) by omitting from the same subparagraph the words “in the local scheme of that provision or of a provision substantially to the same effect” and by inserting in lieu thereof the
- 30 words “of that provision or of a provision substantially to the same effect in the local scheme by the coming into operation of which that previous scheme was revoked pursuant to
- 35 paragraph (d) of this subsection”;
- (xii)

Local Government (Further Amendment).

- (xii) by omitting from paragraph (d) of the same subsection the words "the County of Cumberland Planning Scheme" and by inserting in lieu thereof the words "any previous scheme";
- 5 (xiii) by inserting in paragraph (e) of the same subsection after the word "subsequent" the word "varying";
- (c) by inserting in subsection one of section 342T in Sec. 342T. the definition of "Development" after the word (Defini- "building," where firstly occurring the words "the tions.) subdivision of the land".
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(2) The County of Cumberland Planning Scheme, as defined by paragraph (a) of subsection two of section 342L of the Principal Act, as in force immediately before commencement of this Act, shall be deemed to be a previous scheme for the purposes of that section as amended by this section.

(3) Any action, matter or thing done, taken or commenced before the commencement of this Act shall be as valid and effectual as it would have been had the amendments made by paragraphs (a) and (c) of subsection one of this section been in force at the time when that action, matter or thing was done, taken or commenced.

10. Part XIV of the Principal Act is amended—

Further amendment of Act No. 41, 1919. Part XIV. (Water, Sewerage, Drainage, or Electricity Works.)

- 25 (a) by omitting from subsection three of section three hundred and seventy-eight the words "loan raised in respect thereof," and by inserting in lieu thereof the words "loan raised in respect of the construction of such works, or the augmentation or extension thereof,";
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Sec. 378. (Council shall levy a sufficient sum.)

(b)

Local Government (Further Amendment).

- (b) by inserting next after subsection (5C) of section three hundred and seventy-nine the following new subsection :—
- Sec. 379.
(Land supplied with water.)

5 (5D) The council may exempt from sewerage local rates any land which is not built upon and which by reason of its being subject to flooding or tidal inundation is in the opinion of the council unsuitable for the erection of a building.

11. Part XXIII of the Principal Act is amended—

Further amendment of Act No. 41, 1919. Part XXIII. (Miscellaneous Powers.)

- 10 (a) by inserting next after section four hundred and ninety the following new section :—
- New sec. 490A.

15 490A. (1) In this section "marina" means a pontoon, jetty, pier, or similar structure, designed or adapted to provide moorings for small boats used primarily for pleasure or recreation and includes ancillary works such as slipways, facilities for the repair and maintenance of boats and the provision of fuel, accessories and parts for boats, and of foodstuffs.

20 (2) The council may, on land which it is entitled to use for the purpose, provide, control and manage, a marina, and may, in connection therewith, demand and recover such fees or charges as may be fixed by resolution of the council subject

25 to any maximum prescribed by ordinance.

- (b) (i) by inserting in subsection one of section 496A after the words "it may impose" the words "to any person for the purpose of purchasing a dwelling or";
- Sec. 496A.
(Advances by council for housing.)

(ii)

Local Government (Further Amendment).

- (ii) by omitting from subsection two of the same section the words "The owner" and by inserting in lieu thereof the words "A person to whom any such advance is made";
- 5 (c) by inserting at the end of section five hundred and five the following new subsection :—
- Sec. 505.
(Works or services outside area.)
- (2) A reference in subsection one of this section to "another council" includes a reference to a local authority of any State or Territory of the Commonwealth adjoining New South Wales.
- 10
- (d) by inserting next after section 506B the following new section :—
- New sec. 506c.
- 15 506c. (1) Where a local authority of any State or Territory of the Commonwealth adjoining New South Wales is authorised under and in accordance with the laws of that State or Territory to enter into an agreement, of the nature referred to in this subsection with the council of an area and that council's area adjoins the area of that authority, that council may, with the approval of the Minister, enter into an agreement with that local authority for the carrying out or performance in that council's or that local authority's area or in both such areas of any local government works, services or undertakings by that local authority or by the council or by both acting jointly.
- 20
- 25
- Certain works outside the State.
- (2) For the purpose of this section the council may acquire, in any manner other than by way of resumption or appropriation, and hold land in the area of the local authority.
- 30
- (3) In this section "council" includes a county council or two or more councils which have entered into an agreement referred to in section five hundred and twenty-one of this Act, and "area" includes a county district or the area of two or more councils, as the case may be.
- 35

(e)

Local Government (Further Amendment).

(e) (i) by omitting subsection one of section five hundred and nine and by inserting in lieu thereof the following subsections :—

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

5 (1) Where the council of a shire is of the opinion that the shire or any part thereof lacks adequate medical, dental or nursing services, the council may enter into an agreement of the nature referred to in subsection (1A) of this section with a medical practitioner, a dentist within the meaning of the Dentists Act, 1934, 10 or a registered nurse within the meaning of the Nurses Registration Act, 1953, as the case may require, for that medical practitioner, dentist or nurse to provide medical, dental or 15 nursing services, as the case may be, in the shire or that part of the shire.

(1A) An agreement for the purposes of subsection one of this section shall be an agreement—

- 20 (a) whereby the council guarantees a gross annual income, to be specified in the agreement, to the other party to the agreement from his practice of medicine, dentistry or nursing within the 25 shire or part of the shire to which the agreement relates and undertakes to pay to that party the amount by which the actual gross income of that party from that practice falls short of the 30 guaranteed gross annual income; or
- (b) whereby the council agrees to pay to the medical practitioner, dentist or nurse a specified subsidy for a specified period.

35 (ii) by omitting subsections four and five of the same section ;

(f)

Local Government (Further Amendment).

(f) by inserting at the end of section 510A the following new subsections :—

Sec. 510A.
(Land used for storage of old motor vehicles, etc.)

5 (2) Without limiting the generality of subsection one of this section, the council may, by notice in writing, order the owner or occupier of any land used for any of the purposes referred to in paragraphs (a) and (b) of subsection one of this section to do, within a reasonable time to be specified in the notice, such one or more of the following things as may be specified in such notice, that is to say—

10 (a) to stack any disused motor vehicles or old machinery or other old or used or second-hand materials on the land in an orderly manner and to the satisfaction of the council in such situation on the land as may be specified in the notice ;

15 (b) to erect on the land fences or screens of such a kind and in such a position as may be so specified ;

20 (c) to plant trees within the land in such positions as may be so specified.

25 (3) If the order is not obeyed the council may enter upon the land and execute the order and may recover the cost in a summary manner from the person to whom the order has been directed but without prejudice to that person's right to recover the cost from any other person liable for such cost.

30 (4) (a) Any person who has received an order under this section may, within the time and in the manner prescribed by rules of court, appeal against the order to a district court judge having jurisdiction within the district in which the land is situated.

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

(c)

Local Government (Further Amendment).

5 (c) The decision of such court upon any such appeal shall be final, and shall be binding upon the council and the appellant, and for the purposes of this Act shall be deemed to be the final decision of the council.

(d) If in any decision under this section costs are awarded, such costs may be enforced and recovered in like manner to costs awarded in a judgment of the district court.

10 (g) by omitting from section 512D the words "one hundred dollars" and by inserting in lieu thereof the words "two hundred dollars". Sec. 512D. (Penalty for breaking electric line, etc.)

12. Part XXX of the Principal Act is amended— Further amendment of Act No. 41, 1919. Part XXX. (Supplementary.)

15 (a) (i) by omitting from subsection one of section six hundred and eleven the words "the council shall pay the same to the Treasury" and by inserting in lieu thereof the words "the council may transfer that balance to such fund as it may deem proper, but shall on application being made by any person entitled thereto pay that balance to that person"; Sec. 611. (Payment to the Treasury.)

20 (ii) by omitting from subsection three of the same section the words "subsections one and two" and by inserting in lieu thereof the words "subsection two";

25 (b) by inserting at the end of section six hundred and fifty-four the following new subsection :— Sec. 654. (Disputes between councils, &c., may be submitted to Minister.)

30 (7) This section shall apply to differences between a county council and one or more other county councils or between a county council and one

Local Government (Further Amendment).

5

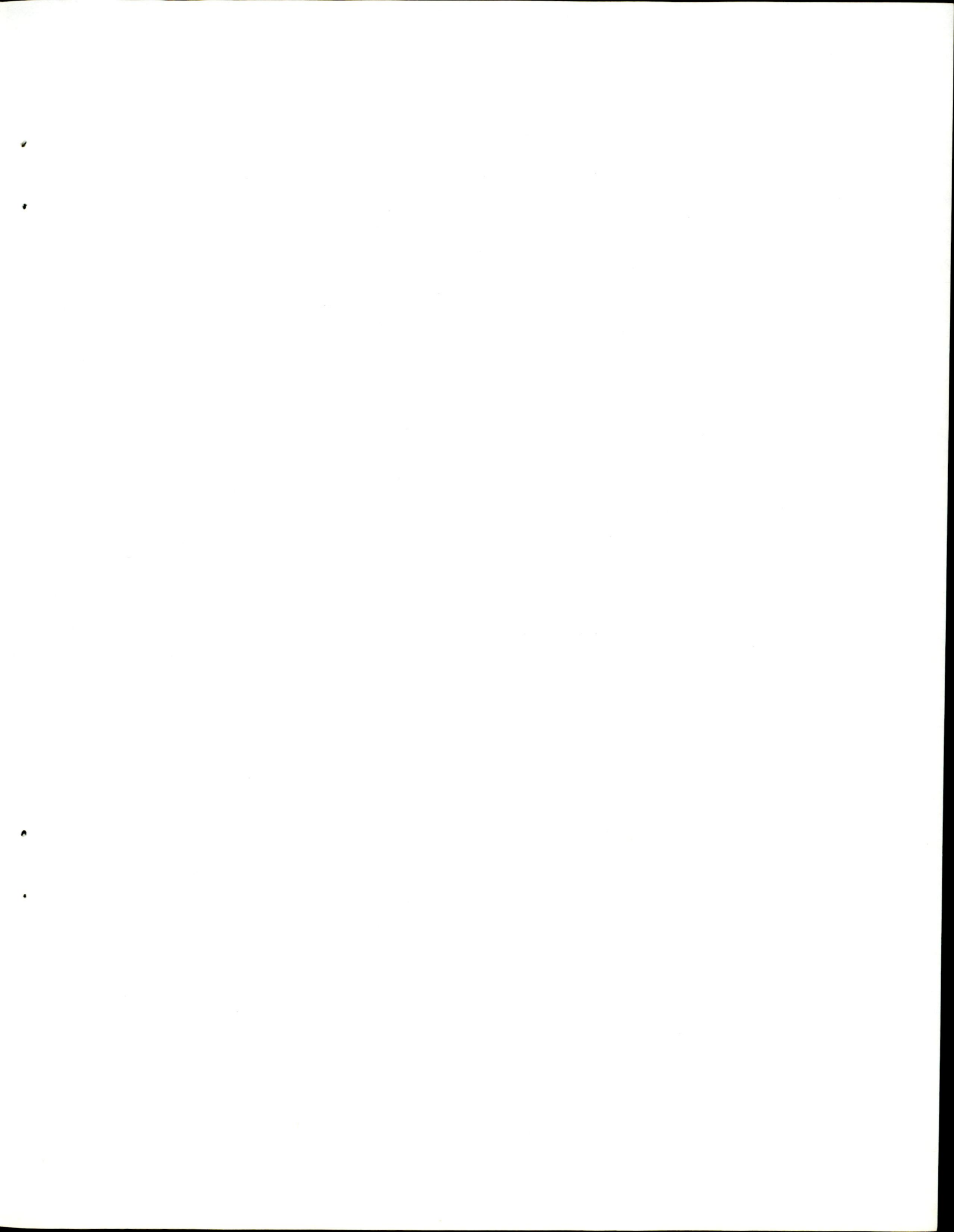
one or more councils of areas or a department of the Government in the same way as it applies to differences between the councils of any two or more areas or between a council and a department of the Government.

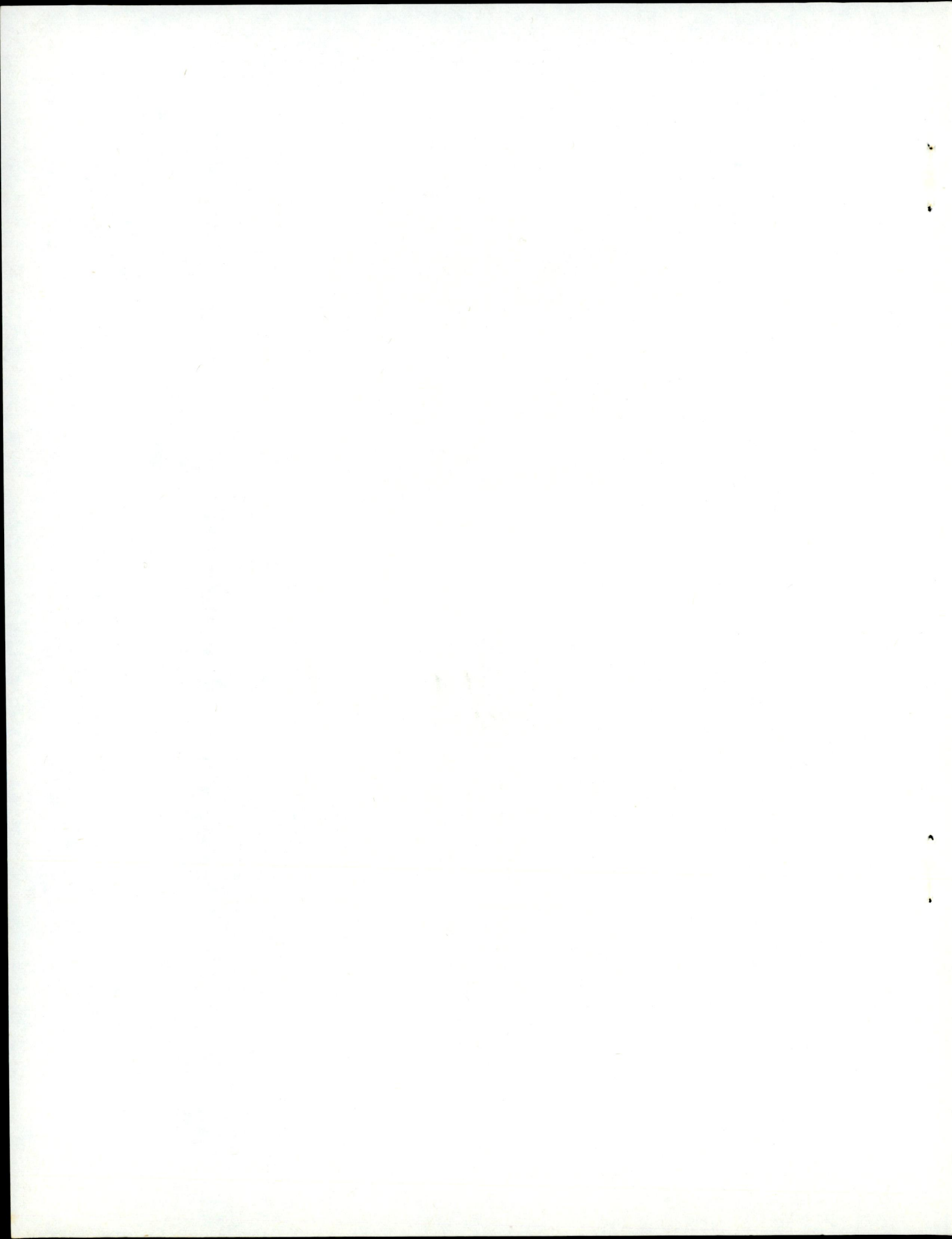
13. The Municipal Council of Sydney Electric Lighting Act, 1896, is amended by omitting from section thirty-two the words "one hundred dollars" and by inserting in lieu thereof the words "two hundred dollars".

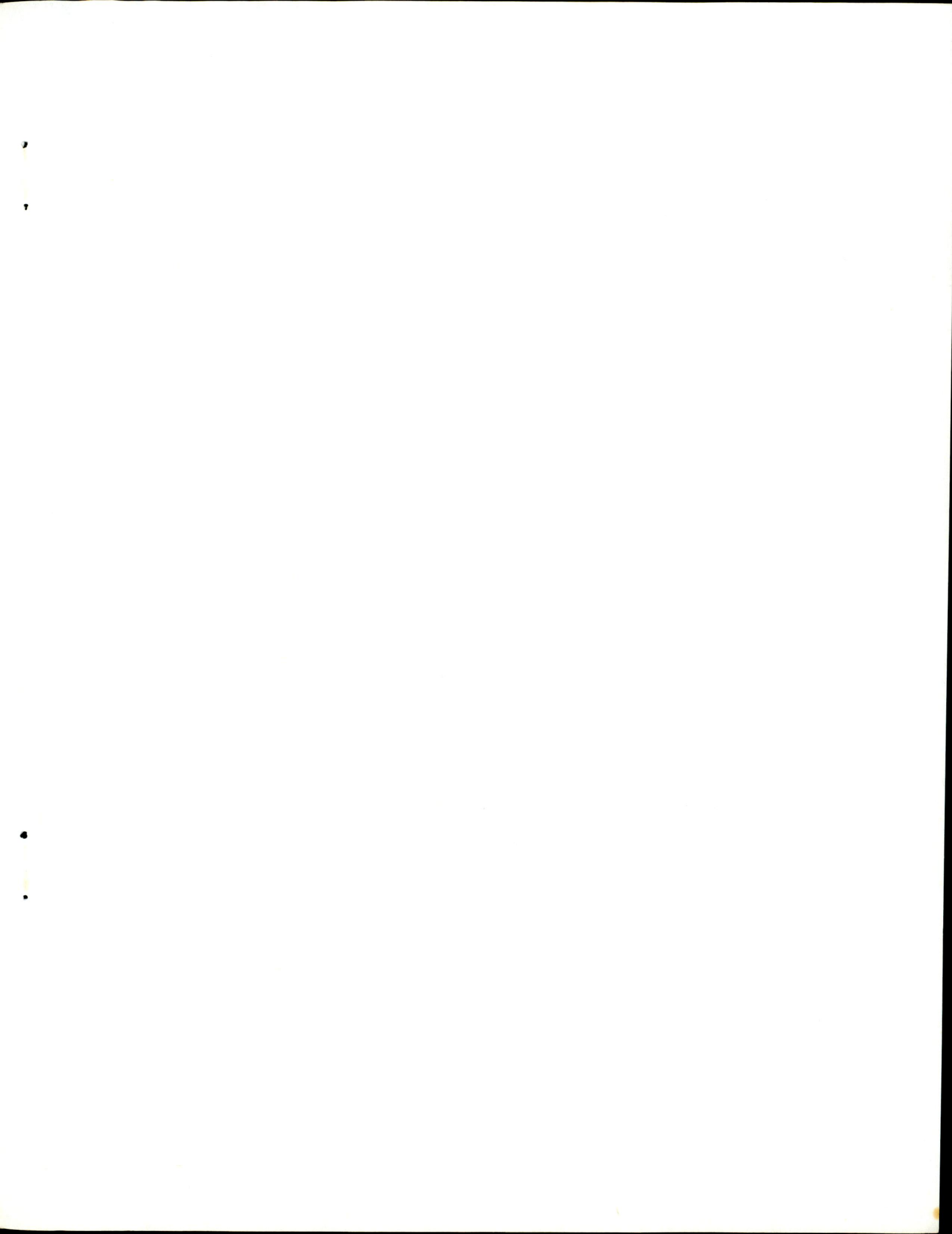
Amendment
of Act No.
23, 1896.
Sec. 32.
(Penalty
for breaking
electric line,
&c.)

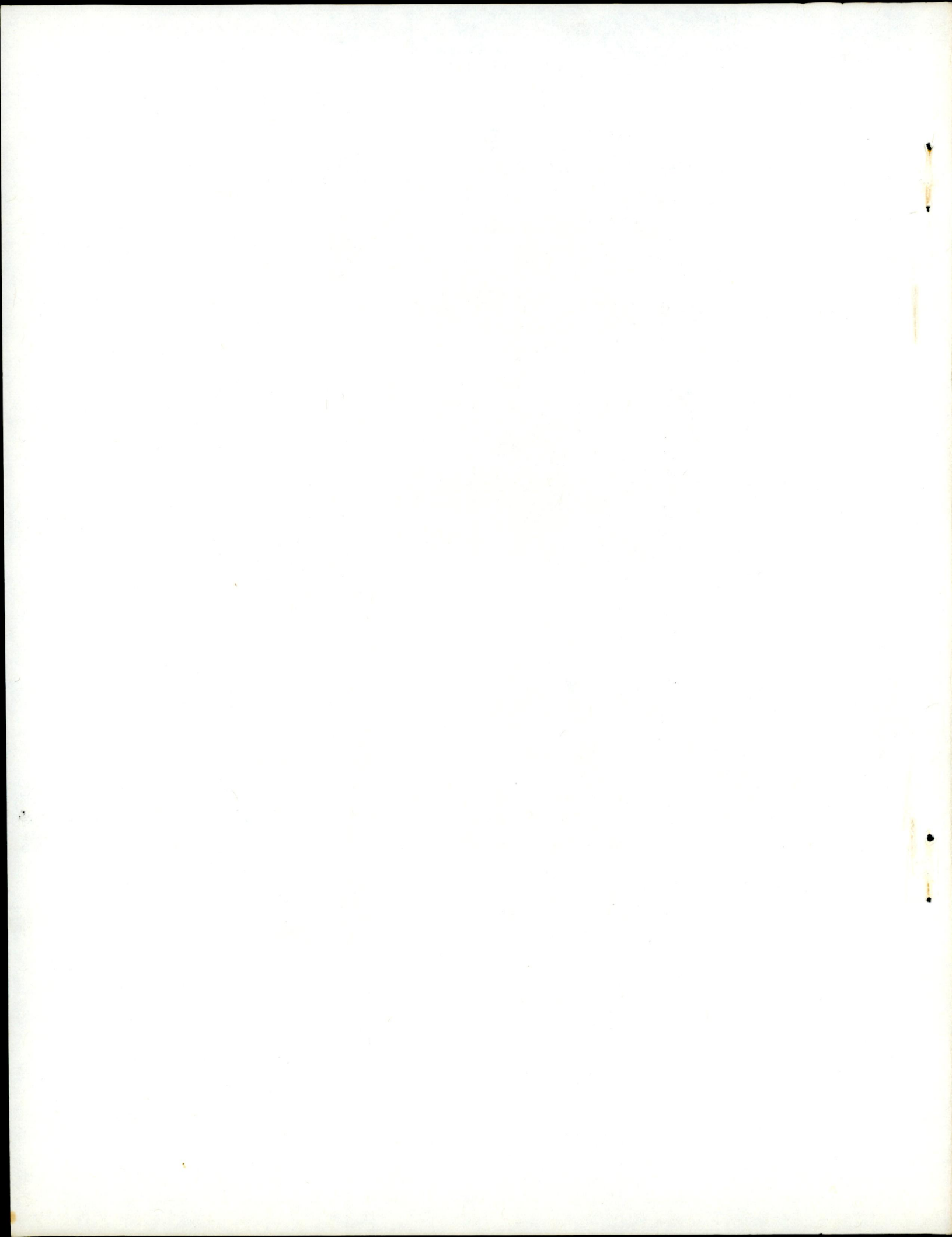
BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1969
[25c]









LOCAL GOVERNMENT (FURTHER AMENDMENT) BILL, 1969

EXPLANATORY NOTE

THE objects of this Bill are to amend the Local Government Act, 1919—

- (a) to authorise the payment of travelling expenses to members of certain councils attending certain meetings of The Australian Gas Association and meetings of other prescribed associations or organisations;
- (b) to extend the council's power to insure officers of councils against personal injury sustained while carrying out certain business of the council to include injuries sustained while carrying out any business of the council;
- (c) to provide that a council may resolve to prepare a roll for an extraordinary election or for taking a poll in circumstances where provision is now made for use of an existing roll;
- (d) to provide for additional information to be shown on a certificate issued pursuant to section 160 of the Act;
- (e) to remove certain restrictions, based on the income of the relevant fund, on the borrowing of councils by way of limited overdraft;
- (f) to make further provisions with respect to the accepting by councils of advances from certain persons for the purpose of carrying out works applied for by such persons;
- (g) to remove the restriction on a council repurchasing inscribed stock issued by it at less than its face value;
- (h) to permit a council in certain circumstances to open a public road less than 50 feet wide;
- (i) to permit a council which carries out works on thoroughfares which are not public roads to do so, in certain circumstances, at its own expense;
- (j) to provide that any goods on a derelict vehicle or remains of a vehicle on a public road shall be dealt with in the same manner as such vehicle or remains and to permit a duly appointed servant of a council to determine whether such vehicle, remains or goods are of no value and may be destroyed forthwith or should be kept by the council in anticipation of a claim being made by the owner;
- (k) to extend the definition of "parking meter" to include a device which does not record time but which is designed to show only the payment of a fee;
- (l) to provide for the issue by certain servants of the council of penalty notices for certain offences against an ordinance relating to parking on free parking areas provided by councils and for any person served with such notice to elect to be dealt with in the prescribed manner;
- (m) to clarify the power of councils to maintain services for the removal of effluent and sullage water;

- (n) to remove doubts as to whether the conduct of a boarding-house in a residential district is permissible and to provide for a time to be prescribed within which objections may be made by electors residing, or owning land, in a residential district against a proposal by the Minister for the alteration of that district;
- (o) to make provisions under which a person who proposes to erect a building the site of which extends to two or more adjoining lots in a plan of subdivision may be required to lodge a plan of the site with the Registrar-General for registration of that plan;
- (p) to prohibit the disposal of certain land except by reference to the latest plan relating to the subdivision of the land;
- (q) to provide that the Chairman of the Cumberland, Newcastle and Wollongong Board of Appeal, the Country Board of Appeal and the Board of Subdivision Appeals, instead of the Minister, may appoint a deputy member from the respective Boards of Appeals Panels to act in the place of a member who is absent for good cause;
- (r) to increase from twelve to sixteen the number of members to be appointed to the Board of Subdivision Appeals Panel and to remove the requirement that the registered surveyors nominated by the Institution of Surveyors of New South Wales as members of both the Board of Subdivision Appeals and the Board of Subdivision Appeals Panel should have town planning qualifications;
- (s) to provide for the making of an ordinance to permit the councils of those areas or parts of areas to which the ordinance is applied to control the installation of solid and liquid fuel heaters;
- (t) to remove the limit of \$2,000 placed on the fees payable to the council in respect of an application for approval to erect a building;
- (u) to provide that in considering an application for approval to subdivide land the council may take into consideration the question of whether the land is liable to subsidence or slip;
- (v) to ensure that the control exercised on development under Part XIIA of the Act extends, and always has extended, to controlling the subdivision of land;
- (w) to provide for the preparation of local schemes by councils whose areas are subject to a prescribed scheme;
- (x) to empower councils to levy rates for the purpose of repaying the capital cost of extensions to water or sewerage works and the cost of maintenance of the works;
- (y) to permit a council to exempt from sewerage local rates certain land which is subject to flooding;
- (z) to define a "marina" and authorise councils, on land which the council is entitled to use for the purpose, to establish marinas;
- (aa) to authorise councils to make advances to persons for the purchase of existing dwellings;

- (bb) to authorise councils of areas bordering other States or Territories to enter into agreements with the adjoining interstate local authority to carry out local government works for the benefit of either or both areas;
- (cc) to remove the requirement that a council of a shire should take a poll of electors before entering into an agreement with a medical practitioner, nurse or dentist to reside and practise in the area of the council in return for a guaranteed income as set out in the agreement, and also to remove the requirement that the practitioner, nurse or dentist should reside in the area;
- (dd) to extend the council's power to control the use of land used for the storage of old motor vehicles;
- (ee) to increase from \$100 to \$200 the maximum penalty for damaging electrical installations and to make a similar amendment to the Municipal Council of Sydney Electric Lighting Act, 1896;
- (ff) to omit the requirement that, following a sale of land for overdue rates, surplus moneys held by the council for more than ten years should be paid to the Treasury;
- (gg) to extend the existing provision under which differences between two councils may be submitted to the Minister so that it applies to differences between two county councils or between a county council and a council or a Government Department;
- (hh) to make other amendments of an ancillary or consequential nature.

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No. , 1969.

A BILL

To make further provisions with respect to the powers, authorities, duties and functions of councils; for this and other purposes to amend the Local Government Act, 1919, and certain other Acts; to validate certain matters; and for purposes connected therewith.

[MR WADDY *on behalf of* MR MORTON—18 November, 1969.]

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 Short title.
(Further Amendment) Act, 1969".

Local Government (Further Amendment).

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

2. Part IV of the Principal Act is amended—

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

5 (a) by inserting at the end of subsection one of section twenty-eight the following new paragraphs :—
Sec. 28.
(Travelling expenses.)

(g) where the council is a member of The Australian Gas Association, to and from the annual or regional conventions of such Association;

10 (h) in such cases as may be prescribed, to and from the periodical conferences or meetings of such other associations or organisations as may be prescribed.

15 (b) by omitting subsections one and (1A) of section 28A and by inserting in lieu thereof the following subsections :—
Sec. 28A.
(Insurance of members.)

20 (1) The council may insure or may itself provide for the insurance of members of the council against personal injury, whether fatal or not, arising out of or in the course of the carrying out by such member of any business of the council or the performance by such member of any function in his capacity as a member of the council.

25 (1A) The council may insure or may itself provide for the insurance of any person who is not the holder of civic office and who has been elected or appointed as a member of any committee constituted under this Act and as such member is authorised to exercise or perform, otherwise than
30 as a servant, any power, authority, duty or function
of

Local Government (Further Amendment).

of the council against any personal injury, whether fatal or otherwise, arising out of or in the course of the exercise or performance by that person of any such power, authority, duty or function.

5 3. Part V of the Principal Act is amended—

Further
amendment
of Act No.
41, 1919.
Part V.
(Electoral
Provisions.)

- (a) (i) by inserting next after subsection one of section sixty-four the following new subsection :—

10 (1A) The council may cause a roll of electors to be prepared in accordance with this Division for an extraordinary election which is held not more than six months after an election for which a roll has been prepared under subsection one of this section.

- 15 (ii) by omitting from subsection four of the same section the words "shall be the roll for that ward or riding that was used at such first election, triennial ordinary election or prior extraordinary election" and by inserting in lieu thereof the following words :—

shall be—

- 25 (a) where the council has not caused a roll of electors to be prepared in accordance with this Division for that extraordinary election, the roll for that ward or riding that was used at such first election, triennial ordinary election or prior extraordinary election; or

- 30 (b) where the council has caused such a roll to be so prepared, that roll.

(b)

Local Government (Further Amendment).

- (b) (i) by omitting from subsection seven of section 65A the words "The roll of electors" and by inserting in lieu thereof the words "Except as provided in subsection eight of this section, the roll of electors";
- 5
- (ii) by inserting at the end of the same section the following new subsection :—
- (8) The council may cause a roll of electors to be prepared in accordance with this Division for a poll and where it does so that roll shall be used for the poll.
- 10
4. (1) Part VII of the Principal Act is amended—
- Further amendment of Act No. 41, 1919. Part VII. (Finance.)
- (a) by inserting next after paragraph (b) of subsection three of section one hundred and sixty the following new paragraph :—
- 15
- (c) where the person, appearing from any of the council's records to be the owner of the land at the date of the certificate, acquired the land pursuant to Division 5 of Part XXX of this Act, that that person is shown in those records as the owner of the land.
- 20
- (b) by inserting in subsection three of section 160E after the words "unimproved rating factor and" the words ", where the valuation includes a valuation of the improved capital value,";
- 25
- Sec. 160E. (Rating of certain classes of lease from the Crown.)
- (c) (i) by omitting from paragraph (b) of subsection two of section one hundred and seventy-four the following words :—
- 30
- In calculating the limit of overdraft in respect of a fund any sum received by the council from the Government or Main Roads Board
- Board

Local Government (Further Amendment).

Board as a grant and credited to such fund, except any sum received as endowment under Division 5 of Part VII of this Act, shall be excluded.

- 5 (ii) by omitting subsections (2A) and three of the same section and by inserting in lieu thereof the following subsections :—

10 (2A) Where the Minister is of the opinion that special circumstances make it expedient so to do, he may, on the application of the council, from time to time fix the amount which may, in respect of any fund, be borrowed by the council by way of overdraft.

15 (3) No greater sum shall be borrowed under this section than—

20 (a) where the amount that may be borrowed by the council in respect of a fund has not been fixed by the Minister under subsection (2A) of this section—the amount stated in the certificate of the auditor of the council as being the sum which may be borrowed within the limits imposed by subsection two of this section; or

25 (b) where the amount that may be so borrowed is so fixed—the amount so fixed.

- 30 (d) (i) by omitting subsection one of section 178A and by inserting in lieu thereof the following subsection :—

35 (1) Subject to this section the council may, without obtaining any approval under section one hundred and seventy-three of this Act, accept an advance not exceeding ten thousand dollars from a ratepayer or the occupier of any land within the area of the council or from the

Sec. 178A.
(Advances
for works
applied for
by ratepayer
or occupier.)

Local Government (Further Amendment).

5 the owner or occupier of, or the person liable for payment of rates on, land outside the area of the council for the purpose of carrying out any works that the council is authorised to carry out and that are applied for by such ratepayer, owner, occupier or other person as the case may be.

10 (ii) by omitting subsections three and four of the same section and by inserting in lieu thereof the following subsections :—

(3) The terms of the loan shall include provision for repayment within fifteen years from the day on which the loan is made.

15 (4) The council shall not accept any such advance if, by doing so, the amount owing by the council under this section would exceed ten per centum of the total revenue of such council for the preceding year, or such greater amount as the Minister may from time to time determine.

(e) by omitting section 200E.

Sec. 200E.
(Exchange stock, etc.)

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

5. Part IX of the Principal Act is amended—

Further amendment of Act No. 41, 1919. Part IX. (Public Roads.)

(a) (i) by inserting in subsection two of section two hundred and twenty-nine after the words "the council may" the words "open or";

Sec. 229. (Width of new roads.)

30 (ii) by omitting subsection three of the same section;

(b)

Local Government (Further Amendment).

- 5 (b) by omitting from subsection one of section 241A Sec. 241A. the words "cleansing of any such private thorough- (Private thorough-fare.) fare the council may itself bear the cost of such cleansing" and by inserting in lieu thereof the words "carrying out of any such work, the council may itself bear the cost of such work";

- 10 (c) (i) by inserting in subsection one of section 267B Sec. 267B. after the words "or has" the words "or have"; (Removal of derelict vehicles and the remains of vehicles from public roads.)
- 15 (ii) by omitting from the same subsection the words "the council may seize and take charge of and remove or tow away or cause to be removed or towed away such vehicle or remains" and by inserting in lieu thereof the words "the council may cause the vehicle or remains to which the notice refers to be examined by a servant of the council duly appointed for the purpose by resolution of the council and, if that servant is of opinion that the cost of towing or removing the vehicle or remains to any place referred to in paragraph
- 20 (b) of this subsection will be—
- 25 (a) greater than the value of the vehicle or remains, he may, on behalf of the council, seize and take charge of and remove or tow away or cause to be removed or towed away the vehicle or remains and cause the vehicle or remains to be destroyed or otherwise disposed of; or
- 30 (b) equal to or less than the value of the vehicle or remains, he may, on behalf of the council, seize and take charge of and remove or tow away or cause to be removed or towed away the vehicle or remains to a place set apart
- 35 by the council";

(iii)

Local Government (Further Amendment).

(iii) by omitting subsection two of the same section ;

5 (iv) by inserting in subsection four of the same section after the word "seized" the words "under paragraph (b) of subsection one of this section";

(v) by inserting at the end of the same section the following new subsection :—

10 (5) In this section, a reference to a vehicle or the remains of a vehicle includes a reference to any goods or other things upon or within the vehicle or remains.

(d) by omitting from section 270C the definition of "Parking meter" and by inserting in lieu thereof the following definition :— Sec. 270C. (Interpretation.)

15 "Parking meter" means a device that is installed in a metered space and that is designed to indicate or is capable of indicating whether the fee or charge fixed in respect of any vehicle or horse standing or waiting in that
20 metered space has been paid and includes the stand upon which a parking meter is erected.

(e) by inserting next after section 270R the following new section :— New sec. 270S.

25 270S. (1) Where it appears to a proper servant of a council that any person has committed, or by virtue of section 270R of this Act is guilty of, any offence against any ordinance made under subsection four of section two hundred and seventy-seven
30 of this Act the proper servant may serve a notice on that person to the effect that if that person does not desire to have the matter determined by a court,

that

Local Government (Further Amendment).

that person may pay to a servant of that council specified in the notice within the time specified therein an amount of penalty prescribed for the offence if dealt with under this section.

5 (2) Any notice under subsection one of this section—

(a) may be served personally or by post; or

10 (b) if it relates to an offence of which the owner of a vehicle is guilty by virtue of section 270R of this Act, may be addressed to the owner without naming him or stating his address and may be served by leaving it on or attaching it to the vehicle.

15 (3) Any person alleged to have committed or to be guilty of an offence to which subsection one of this section applies shall have the right to decline to be dealt with under this section.

20 Any person who fails to pay the penalty within the time specified in the notice given to him under subsection one of this section or within such further time as may in any particular case be allowed shall be deemed to have declined to be dealt with under this section.

25 (4) Where the amount of any prescribed penalty for an alleged offence is paid pursuant to this section no person shall be liable for any further proceedings for the alleged offence.

30 (5) Payment of a penalty pursuant to this section shall not be regarded as an admission of liability for the purpose of nor in any way affect or prejudice any civil claim, action or proceeding arising out of the same occurrence.

(6)

Local Government (Further Amendment).

(6) The council may by resolution—

- 5 (a) fix the amount of penalty payable under this section for any offence referred to in subsection one of this section, not exceeding the maximum penalty for the offence imposed by or under this Act;
- 10 (b) for the purposes of this section, fix different amounts of penalties for different offences or classes of offences or for offences or classes of offences having regard to the circumstances thereof or offences or classes of offences committed in different areas provided by the council under section 270Q of this Act.

15 (7) The provisions of this section are supplemental to and not in derogation of the provisions of any other section of this Act or any other Act in relation to proceedings which may be taken in respect of offences.

20 6. Part X of the Principal Act is amended—

Further amendment of Act No. 41, 1919. Part X. (Public Health, Safety, and Convenience.)

- (a) by inserting at the end of paragraph (b) of subsection two of section two hundred and eighty-two the words “and the contents of any septic tank, septic closet, and chemical closet”; Sec. 282. (Keeping, removal, and destruction.)
- 25 (b) by inserting at the end of paragraph (c) of the same subsection the words “and the contents of any sullage holding tank, sullage pit, and grease trap”.

Local Government (Further Amendment).

7. Part XI of the Principal Act is amended—

Further amendment of Act No. 41, 1919. Part XI. (Building Regulation.)

- (a) (i) by inserting next after paragraph (g) of subsection one of section three hundred and nine the following new paragraph :—

Sec. 309. (Proclamation of residential districts.)

5 Unless the proclamation otherwise expressly provides, a proclamation under this subsection, whether made before or after the commencement of the Local Government (Further Amendment) Act, 1969, does not extend to prohibiting the use of a building solely for the purposes of a boarding-house.

10

- (ii) by inserting in subparagraph (ii) of paragraph (d) of subsection (1C) of the same section after the word "objects" the words ", within such time as may be prescribed,";

15

- (b) by inserting in paragraph (m) of section three hundred and thirteen after the word "subsidence" the words "or slip";

Sec. 313. (Subjects for consideration.)

- (c) by inserting next after section 314A the following new section :—

20

New sec. 314B.

25 **314B. (1)** Without limiting the operation of any other provision of this Act, where an application is made to the council for approval of the erection of a building on any land and the building, if erected in accordance with the plans and specifications accompanying the application—

Approval of certain building applications may be refused unless lots consolidated.

- (a) would occupy land in two or more lots in a lawful division of land; or

30

- (b) would occupy land in one or more lots in a lawful division of land but would not comply with any provision of this Act or the ordinances or the requirements of the council but for the fact that that lot or one of those

those

Local Government (Further Amendment).

those lots is conterminous with another lot that is in the same ownership as the land on which the building is proposed to be erected, the council may refuse to approve of the application until a plan referred to in subsection four of this section has been registered in the office of the Registrar-General.

(2) A person making an application under subsection one of this section or some person authorised by him in writing may cause to be lodged with the council a plan showing as one lot the land referred to in paragraph (a) or (b) of subsection one of this section.

(3) Where a plan referred to in subsection two of this section shows as a boundary of the lot referred to in that subsection a boundary that is not shown as the boundary of a lot in a current plan, as defined in section 327AA of this Act—

- (a) the town clerk or shire clerk shall not endorse on the plan a certificate referred to in subsection four of this section; and
- (b) the plan shall be deemed to be a plan of subdivision submitted for the approval of the council under Part XII of this Act.

(4) Where—

- (a) the town clerk or shire clerk is satisfied that a lot (in this subsection referred to as a "consolidated lot") shown in a plan comprises land referred to in paragraph (a) or (b) of subsection one of this section; and
- (b) the council refused to approve of an application for approval to erect a building on that land until a plan referred to in subsection two of this section had been registered in the office of the Registrar-General,

the town clerk or shire clerk, as the case may be, may certify that the plan illustrates a consolidated lot for the purposes of this section.

(5)

Local Government (Further Amendment).

5 (5) Where a plan bears a certificate referred to in subsection four of this section, the Registrar-General may register the plan in the manner provided for the registration of deposited plans.

10 (6) An application for approval of the erection of a building shall not be refused by reason only of this section where part only of the land referred to in paragraph (a) or (b) of subsection one of this section is land under the provisions of the Real Property Act, 1900, or where two or more parts of that land are not of the same tenure.

15 (d) by omitting paragraph (a) of subsection (2A) of section 317M and by inserting in lieu thereof the following paragraph :— Sec. 317M. (Appointment.)

20 (a) The chairman may, in writing, appoint a deputy member to act in the place of any member, other than the chairman, at any meeting of the board during the absence of that member from that meeting.

(e) by omitting paragraph (a) of subsection three of section 317AC and by inserting in lieu thereof the following paragraph :— Sec. 317AC. (Appointment.)

25 (a) The chairman may, in writing, appoint a deputy member to act in the place of any member, other than the chairman, at any meeting of the board during the absence of that member from that meeting.

30 (f) by inserting in section three hundred and eighteen next after paragraph thirty-three the following new paragraph :— Sec. 318. (Ordinances.)

35 (34) authorising the council to control and regulate in its area or any part of its area specified in the ordinance the installation of solid or liquid fuel heaters.

(f)

Local Government (Further Amendment).

(g) by omitting from subsection three of section three hundred and nineteen the words "Provided that in no case shall the total amount of fees payable upon the application for the approval of the council under section three hundred and twelve exceed two thousand dollars."

Sec. 319.
(Additional provisions re ordinances.)

8. Part XII of the Principal Act is amended—

Further amendment of Act No. 41, 1919. Part XII. (Town Planning.)

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

New sec. 327AA.

327AA. (1) In this section—
"current plan", in relation to any land, means—

Land included in a current plan not to be disposed of except in lots or portions shown on that plan.

(a) a plan of subdivision registered or recorded in the office of the Registrar-General (whether before or after the commencement of the Local Government (Further Amendment) Act, 1969) but does not include so much of that plan as relates to land included in a plan of subdivision registered or recorded in that office after the plan of subdivision firstmentioned in this paragraph was so registered or recorded ;
or

(b) a Crown plan (whether made before or after the commencement of the Local Government (Further Amendment) Act, 1969, but not being a plan of subdivision referred to in paragraph (f) of the definition of

"plan

Local Government (Further Amendment).

“plan of subdivision” in this subsection) showing lots or portions, but does not include so much of that plan as relates to land—

- 5 (i) included in a plan of subdivision registered or recorded in the office of the Registrar-General after the Crown plan was made; or
- 10 (ii) included in a subsequent Crown plan showing lots or portions;

“plan of subdivision” means—

- 15 (a) a plan registered in the office of the Registrar-General under paragraph (e) of subsection one, or paragraph (c) of subsection two, of section three hundred and twenty-seven of this Act;
- 20 (b) a plan registered or recorded in the office of the Registrar-General showing land that is a lot or portion in a lawful division of land, whenever made, not being land that is a lot in a plan of subdivision so
- 25 registered or recorded;
- (c) a map or plan of land comprised in an application made under Part IV of the Real Property Act, 1900;
- 30 (d) where a certificate of title has issued for any land following the correction of any error or misdescription of the boundaries of the land, any plan showing that land with boundaries
- 35 as so corrected;

(e)

Local Government (Further Amendment).

(e) a plan registered in the office of the Registrar-General in accordance with subsection five of section 314B of this Act; and

5 (f) a plan registered or recorded in the office of the Registrar-General showing land that has been resumed, appropriated or purchased by a body authorised by any Act to resume or appropriate land.

10

(2) Notwithstanding the provisions of subsection twelve of section one hundred and ninety-six of the Conveyancing Act, 1919, where any land is included in a current plan, that land shall not be disposed of by way of sale, conveyance, transfer, partition or lease (other than a lease for a period not exceeding five years without option of renewal) unless the land is a lot or portion shown in the current plan and the Registrar-General may refuse to register any instrument evidencing any disposition that contravenes the provisions of this subsection.

15

20

(3) The Registrar-General may indicate upon any plan which is in his custody or otherwise record the registration or recording of any later plan comprising some or all of the land in such first-mentioned plan.

25

(4) Subsection two of this section does not apply to—

30 (a) land that is disposed of as the whole of the residue—

(i) of a lot or portion in a current plan after part of that lot or portion has been resumed, appropriated or purchased by a body authorised by any Act to resume or appropriate land;

35

(ii)

Local Government (Further Amendment).

- (ii) of a lot or portion in a current plan after part of that lot or portion has been opened as a public road ; or
- 5 (iii) of the land comprised in a certificate of title or Crown Grant after part of the land has been shown in a current plan ;
- (b) land that is disposed of as the whole of the land comprised in a certificate of title or Crown Grant ;
- 10 (c) the disposition of land that is part of a lot or portion in a current plan different parts of which are owned in severalty where—
 - 15 (i) one of the several owners disposes of the part of the lot or portion owned by him to an owner of any other part ; or
 - (ii) the several owners dispose of the lot or portion to some other person ; or
- 20 (d) the disposition of land that is a lot or portion in a lawful division of land, whenever made, not being a lot or portion shown in a plan of subdivision registered or recorded in the office of the Registrar-General that is not a current plan or shown in a Crown plan that is not a current plan.
- 25 (b) by inserting at the end of paragraph (1) of subsection one of section three hundred and thirty-three the following word and new paragraph :—
 - 30 **and**
 - (m) whether the land is or probably will be subject to subsidence or slip.

Sec. 333.
(Subjects for consideration re subdivisions.)

Local Government (Further Amendment).

- (c) by inserting in section three hundred and thirty-nine Sec. 339.
after the word "Act," the words "or who disposes (Penalty.)
of any land in contravention of subsection two of
section 327AA of this Act,";
- 5 (d) (i) by omitting from paragraph (e) of subsection Sec. 341A.
two of section 341A the words "holding a cer- (Appoint-
tificate as Town and Country Planner qualify- ment.)
ing him to assist councils in the preparation of
10 schemes in accordance with section 342E of
this Act and shall be";
- (ii) by omitting paragraph (a) of subsection three
of the same section and by inserting in lieu
thereof the following paragraph :—
- 15 (a) The chairman may, in writing, appoint
a deputy member to act in the place of any
member, other than the chairman, at any meet-
ing of the board during the absence of that
member from that meeting.
- 20 (e) by omitting subsection three of section 341E and by Sec. 341E.
inserting in lieu thereof the following subsection :— (Panel.)
- (3) The panel shall consist of sixteen members,
that is to say—
- 25 (a) one member, being an officer of the Depart-
ment of Local Government, who shall be
known as the deputy chairman of the board;
- (b) two members, who shall be officers of the
Department of Lands and registered sur-
veyors, and who shall be nominated by the
Under Secretary for Lands;
- 30 (c) four members, who shall be engineers
selected by the Governor from eight engi-
neers nominated by the Institution of
Engineers, Australia (Sydney Division);
- (d)

Local Government (Further Amendment).

- 5 (d) five members, who shall be officers of councils and shall be selected by the Governor from a panel of ten such officers 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;
- 10 (e) four members, each of whom shall be a registered surveyor selected by the Governor from eight such surveyors nominated by the Institution of Surveyors of New South Wales.
9. (1) Part XIIA of the Principal Act is amended—
- Further amendment of Act No. 41, 1919. Part XIIA. (Town and Country Planning Schemes.)
- 15 (a) by inserting next after paragraph (h) of subsection three of section 342G the following new paragraph :— (Sec. 342G. (Contents of scheme.)
- (h1) the regulation of subdivisions and of matters relating thereto;
- 20 (b) (i) by omitting subsection one of section 342L and by inserting in lieu thereof the following subsection :— (Sec. 342L. (Variation of prescribed scheme.)
- (1) A prescribed scheme may be varied by a subsequent scheme (in this Part referred to as a "varying scheme").
- 25 A varying scheme may supplement or amend the prescribed scheme.

(ii)

Local Government (Further Amendment).

(ii) by omitting paragraph (a) of subsection two of the same section and by inserting in lieu thereof the following paragraph :—

(a) In this subsection—

5 “local scheme” means a scheme that applies to any land in an area to which or to part of which a prescribed scheme that also applies to land in another area applies;

10 “previous scheme” means a prescribed scheme (whether or not it is a varying scheme) that, upon its coming into operation, applied to land in two or more areas.

(iii) by inserting in paragraph (b) of the same subsection after the word “applies” where firstly occurring the words “and to which a previous scheme before its revocation pursuant to paragraph (d) of this subsection applied”;

(iv) by omitting from subparagraph (i) of paragraph (b) of the same subsection the words “County of Cumberland Planning Scheme” and by inserting in lieu thereof the words “previous scheme”;

(v) by omitting from subparagraph (ii) of paragraph (b) of the same subsection the words “County of Cumberland Planning Scheme as relate to the land to which the local scheme applies and” and by inserting in lieu thereof the words “previous scheme as”;

(vi) by omitting from subparagraph (i) of paragraph (b) of subparagraph (iii) of paragraph (b) of the same subsection the words “County of Cumberland Planning Scheme in respect of any land to which the local scheme applies before the revocation of the County of Cumberland Planning Scheme in respect of that

Local Government (Further Amendment).

- that land, pursuant to paragraph (d) of this subsection” and by inserting in lieu thereof the words “previous scheme”;
- 5 (vii) by omitting from subparagraph (ii) of paragraph (b) of subparagraph (iii) of paragraph (b) of the same subsection the words “County of Cumberland Planning Scheme committed in respect of any land to which the local scheme applies before such” and by inserting
10 in lieu thereof the words “previous scheme committed before its”;
- (viii) by omitting from subparagraph (iii) of paragraph (b) of subparagraph (iii) of paragraph (b) of the same subsection the words “County
15 of Cumberland Planning Scheme in respect of any land to which the local scheme applies” and by inserting in lieu thereof the words “previous scheme”;
- (ix) by omitting from subparagraph (i) of paragraph (c) of the same subsection the words
20 “the County of Cumberland Planning Scheme” and by inserting in lieu thereof the words “a previous scheme before its revocation pursuant to paragraph (d) of this subsection”;
- 25 (x) by omitting from subparagraph (ii) of the same paragraph the words “the County of Cumberland Planning Scheme” and by inserting in lieu thereof the words “a previous scheme”;
- 30 (xi) by omitting from the same subparagraph the words “in the local scheme of that provision or of a provision substantially to the same effect” and by inserting in lieu thereof the words “of that provision or of a provision
35 substantially to the same effect in the local scheme by the coming into operation of which that previous scheme was revoked pursuant to paragraph (d) of this subsection”;
- (xii)

Local Government (Further Amendment).

- (xii) by omitting from paragraph (d) of the same subsection the words "the County of Cumberland Planning Scheme" and by inserting in lieu thereof the words "any previous scheme";
- 5 (xiii) by inserting in paragraph (e) of the same subsection after the word "subsequent" the word "varying";
- (c) by inserting in subsection one of section 342T in Sec. 342T. the definition of "Development" after the word (Defini- "building," where firstly occurring the words "the tions.) subdivision of the land".
- 10

(2) The County of Cumberland Planning Scheme, as defined by paragraph (a) of subsection two of section 342L of the Principal Act, as in force immediately before com-
 15 mencement of this Act, shall be deemed to be a previous scheme for the purposes of that section as amended by this section.

(3) Any action, matter or thing done, taken or com-
 20 menced before the commencement of this Act shall be as valid and effectual as it would have been had the amend-
 ments made by paragraphs (a) and (c) of subsection one of this section been in force at the time when that action, matter or thing was done, taken or commenced.

10. Part XIV of the Principal Act is amended—

Further
 amendment
 of Act No.
 41, 1919.
 Part XIV.
 (Water,
 Sewerage,
 Drainage, or
 Electricity
 Works.)

- 25 (a) by omitting from subsection three of section three hundred and seventy-eight the words "loan raised in respect thereof," and by inserting in lieu thereof the words "loan raised in respect of the construction of such works, or the augmentation or extension thereof,";
- 30

(b)

Sec. 378.
 (Council shall levy a sufficient sum.)

Local Government (Further Amendment).

- (b) by inserting next after subsection (5c) of section three hundred and seventy-nine the following new subsection :—
- Sec. 379.
(Land supplied with water.)

5 (5D) The council may exempt from sewerage local rates any land which is not built upon and which by reason of its being subject to flooding or tidal inundation is in the opinion of the council unsuitable for the erection of a building.

11. Part XXIII of the Principal Act is amended—

Further amendment of Act No. 41, 1919. Part XXIII. (Miscellaneous Powers.)

- 10 (a) by inserting next after section four hundred and ninety the following new section :—
- New sec. 490A.

15 490A. (1) In this section "marina" means a pontoon, jetty, pier, or similar structure, designed or adapted to provide moorings for small boats used primarily for pleasure or recreation and includes ancillary works such as slipways, facilities for the repair and maintenance of boats and the provision of fuel, accessories and parts for boats, and of foodstuffs.

Marinas.

20 (2) The council may, on land which it is entitled to use for the purpose, provide, control and manage, a marina, and may, in connection therewith, demand and recover such fees or charges as may be fixed by resolution of the council subject to any maximum prescribed by ordinance.

25

- (b) (i) by inserting in subsection one of section 496A after the words "it may impose" the words "to any person for the purpose of purchasing a dwelling or";
- Sec. 496A.
(Advances by council for housing.)

(ii)

Local Government (Further Amendment).

(ii) by omitting from subsection two of the same section the words "The owner" any by inserting in lieu thereof the words "A person to whom any such advance is made";

5 (c) by inserting at the end of section five hundred and five the following new subsection :— Sec. 505. (Works or services outside area.)

10 (2) A reference in subsection one of this section to "another council" includes a reference to a local authority of any State or Territory of the Commonwealth adjoining New South Wales.

(d) by inserting next after section 506B the following new section :— New sec. 506c.

15 506c. (1) Where a local authority of any State or Territory of the Commonwealth adjoining New South Wales is authorised under and in accordance with the laws of that State or Territory to enter into an agreement, of the nature referred to in this subsection with the council of an area and that council's area adjoins the area of that authority, that council may, with the approval of the Minister, enter into an agreement with that local authority for the carrying out or performance in that council's or that local authority's area or in both such areas of any local government works, services or undertakings by that local authority or by the council or by both acting jointly. Certain works outside the State.

30 (2) For the purpose of this section the council may acquire, in any manner other than by way of resumption or appropriation, and hold land in the area of the local authority.

35 (3) In this section "council" includes a county council or two or more councils which have entered into an agreement referred to in section five hundred and twenty-one of this Act, and "area" includes a county district or the area of two or more councils, as the case may be.

(e)

Local Government (Further Amendment).

(e) (i) by omitting subsection one of section five hundred and nine and by inserting in lieu thereof the following subsections : —

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

5 (1) Where the council of a shire is of the opinion that the shire or any part thereof lacks adequate medical, dental or nursing services, the council may enter into an agreement of the nature referred to in subsection (1A) of this section with a medical practitioner, a dentist
10 within the meaning of the Dentists Act, 1934, or a registered nurse within the meaning of the Nurses Registration Act, 1953, as the case may require, for that medical practitioner, dentist or nurse to provide medical, dental or
15 nursing services, as the case may be, in the shire or that part of the shire.

(1A) An agreement for the purposes of subsection one of this section shall be an agreement—

20 (a) whereby the council guarantees a gross annual income, to be specified in the agreement, to the other party to the agreement from his practice of medicine, dentistry or nursing within the
25 shire or part of the shire to which the agreement relates and undertakes to pay to that party the amount by which the actual gross income of that party from that practice falls short of the guaranteed gross annual income; or

30 (b) whereby the council agrees to pay to the medical practitioner, dentist or nurse a specified subsidy for a specified period.

35 (ii) by omitting subsections four and five of the same section;

(f)

Local Government (Further Amendment).

(f) by inserting at the end of section 510A the following new subsections :—

Sec. 510A.
(Land used for storage of old motor vehicles, etc.)

5 (2) Without limiting the generality of subsection one of this section, the council may, by notice in writing, order the owner or occupier of any land used for any of the purposes referred to in paragraphs (a) and (b) of subsection one of this section to do, within a reasonable time to be specified in the notice, such one or more of the following things as
10 may be specified in such notice, that is to say—

15 (a) to stack any disused motor vehicles or old machinery or other old or used or second-hand materials on the land in an orderly manner and to the satisfaction of the council in such situation on the land as may be specified in the notice ;

(b) to erect on the land fences or screens of such a kind and in such a position as may be so specified ;

20 (c) to plant trees within the land in such positions as may be so specified.

25 (3) If the order is not obeyed the council may enter upon the land and execute the order and may recover the cost in a summary manner from the person to whom the order has been directed but without prejudice to that person's right to recover the cost from any other person liable for such cost.

30 (4) (a) Any person who has received an order under this section may, within the time and in the manner prescribed by rules of court, appeal against the order to a district court judge having jurisdiction within the district in which the land is situated.

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

(c)

Local Government (Further Amendment).

5 (c) The decision of such court upon any such appeal shall be final, and shall be binding upon the council and the appellant, and for the purposes of this Act shall be deemed to be the final decision of the council.

(d) If in any decision under this section costs are awarded, such costs may be enforced and recovered in like manner to costs awarded in a judgment of the district court.

10 (g) by omitting from section 512D the words "one hundred dollars" and by inserting in lieu thereof the words "two hundred dollars". Sec. 512D. (Penalty for breaking electric line, etc.)

12. Part XXX of the Principal Act is amended— Further amendment of Act No. 41, 1919. Part XXX. (Supplementary.)

15 (a) (i) by omitting from subsection one of section six hundred and eleven the words "the council shall pay the same to the Treasury" and by inserting in lieu thereof the words "the council may transfer that balance to such fund as it may deem proper, but shall on application being made by any person entitled thereto pay that balance to that person"; Sec. 611. (Payment to the Treasury.)

20 (ii) by omitting from subsection three of the same section the words "subsections one and two" and by inserting in lieu thereof the words 25 "subsection two";

(b) by inserting at the end of section six hundred and fifty-four the following new subsection :— Sec. 654. (Disputes between councils, &c., may be submitted to Minister.)

30 (7) This section shall apply to differences between a county council and one or more other county councils or between a county council and one

Local Government (Further Amendment).

5 one or more councils of areas or a department of the Government in the same way as it applies to differences between the councils of any two or more areas or between a council and a department of the Government.

13. The Municipal Council of Sydney Electric Lighting Act, 1896, is amended by omitting from section thirty-two the words "one hundred dollars" and by inserting in lieu thereof the words "two hundred dollars".

Amendment
of Act No.
23, 1896.
Sec. 32.
(Penalty
for breaking
electric line,
&c.)

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