

CONCURRENCE COPY

LOCAL GOVERNMENT (AMENDMENT) BILL, 1978

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Municipal Council of Sydney Electric Lighting (Amendment) Bill, 1978, is cognate with this Bill.

The objects of this Bill are to amend the Local Government Act, 1919 (hereinafter referred to as the Principal Act)—

- (a) to make amendments to Part VIIA of the Principal Act with respect to the constitution and functions of the Local Government Grants Commission (hereinafter referred to as the Commission) that are necessary to qualify the State for assistance under the (Commonwealth) Local Government (Personal Income Tax Sharing) Act 1976 (hereinafter referred to as the Commonwealth Act) and, in particular—
 - (i) to provide for a deputy chairman of the Commission (Schedule 1 (3) (a));
 - (ii) to provide that instead of the selection of 2 members of the Commission by the Governor from among nominated officers of councils 2 members shall be persons nominated by the Minister who are or have been associated with local government (Schedule 1 (3) (b));
 - (iii) to provide for the appointment of acting members by the Minister instead of the Governor (Schedule 1 (3) (c));
 - (iv) to repeal the provisions relating to the Commission Panel (Schedule 1 (4) and (5));
 - (v) to alter the provisions relating to meetings of the Commission and the procedure thereat (Schedule 1 (8));
 - (vi) to establish a Local Government Revenue Sharing Fund into which shall be paid moneys received under the Commonwealth Act (Schedule 1 (13), new section 218L);
 - (vii) to provide for the determination by the Minister, on the recommendation of the Commission, of the allocation among councils, on the basis required by the Commonwealth Act, of the amount to which the State is entitled under the Commonwealth Act (Schedule 1 (13), new sections 218M and 218N);
 - (viii) to provide that the Minister shall furnish to the Commonwealth Treasurer a statement, certified by the Auditor-General, of payments made in accordance with the Commonwealth Act (Schedule 1 (13), new section 218O); and

- (ix) to provide for copies of the Commission's reports embodying its recommendations to be furnished to the Prime Minister of Australia and to be laid before both Houses of Parliament (Schedule 1 (13) and new section 218Q);
- (b) to provide that a present member of the Commission who was selected from and among nominated officers of councils shall continue to hold office for the term of his office that was unexpired when the constitution of the Commission is altered as referred to in paragraph (a) (ii) (Schedule 2);
- (c) to make provision for the granting by councils, if the Minister consents, of leases of, or licences (other than periodic licences) in respect of, land in certain public reserves and, in particular—
 - (i) to provide for the advertising of the proposed lease or licence in a newspaper circulating in the council's area (Schedule 3, new section 519c (4));
 - (ii) to provide that the council shall consider any objections to the proposed lease or licence received by it (Schedule 3, new section 519c (5));
 - (iii) to provide that before dealing with an application for consent the Minister must request the New South Wales Planning and Environment Commission to furnish a report relating to the application and take such report into consideration when dealing with the application (Schedule 3, new section 519c (8));
- (d) to enable councils to grant periodic licences in respect of land in certain public reserves if the granting of the licences is authorised by ordinance;
- (e) to enable existing possession or occupation of land in certain public reserves to be regularised and, in particular—
 - (i) to provide that where a person is in possession or occupation of any such land under a right purporting to have been previously conferred on him by a council, he may make application for the Minister's approval of his continued possession or occupation of the land (Schedule 4, clause 1);
 - (ii) to provide that where a person is entitled to make, and makes, such an application he shall be deemed to have a lawful right to possession or occupation as if that right had been conferred under a lease or licence and to provide for the circumstances in which that lawful right shall cease (Schedule 4, clause 3); and
 - (iii) to provide that, where the Minister approves of an application, a lease of, or licence in respect of, the land specified in the approval shall be deemed to have been granted by the council to the applicant for the term and on such terms, conditions, restrictions and covenants as are specified in the instrument of approval (Schedule 4, clause 4 (2));

- (f) to bring certain provisions of section 270R and 351B ("owner-onus" in respect of certain offences relating to vehicles) of the Principal Act into conformity with provisions of section 270 ("owner-onus" in respect of certain other offences relating to vehicles) of that Act (Schedule 5);
- (g) to make provision with respect to the recovery from the person carrying out building or subdivision work of the cost of making good certain damage or injury to public roads and associated works and, in particular, to provide that a council in approving an application to erect a building or to open a public road or subdivide land may require the applicant to provide to the council security for the payment of the cost of making good any such damage or injury (Schedule 6 (3) and (4));
- (h) to apply to elections held under the Principal Act those provisions of the Parliamentary Electorates and Elections Act, 1912, which relate to the exhibition of posters, the removal of illegal posters and the requirement that the name and address of the author be printed on advertisements, "how to vote" cards, etc. (Schedule 7 (1));
- (i) to enact evidentiary provisions relating to approvals of loans to councils (Schedule 7 (3));
- (j) to provide for the fee for a transcript of proceedings before boards of appeal to be fixed by ordinance made under the Principal Act (Schedule 7 (4));
- (k) to permit a council to charge different rates for electricity supplied to persons in different parts of its area for the purpose only of applying a general variation in the scale of rates (Schedule 7 (5));
- (l) to remove the limit of \$200 from the liability of a person to pay for damage which he causes to any electric line or any other thing or device specified in section 512D of the Principal Act (Schedule 7 (6));
- (m) to extend any power of a council under the Principal Act to construct, carry out or provide any buildings or works to empowering the council to enter into an agreement with the Crown—
 - (i) for the construction or carrying out, or the payment of the whole or any part of the cost of the construction or carrying out, of any buildings or works;
 - (ii) for the maintenance, or the payment of the whole or any part of the cost of the maintenance, of any buildings or works; and
 - (iii) for the control and management of any buildings or works (Schedule 7 (7));
- (n) to amend the Local Government (Appeals) Amendment Act, 1975, to confirm the commencement of section 7 (1) (f) of that Act and to provide separately that section 6 (e) of that Act shall commence on a day appointed by the Governor and notified by proclamation in the Gazette (Schedule 8); and
- (o) to make other provisions of a minor, consequential or ancillary nature.

in that certain provisions of article 17 and 18 of the Convention are in force in certain States, it is not necessary to refer to certain provisions of article 17 of the Convention in order to determine whether the Convention is in force in a State.

(c) In order to determine whether the Convention is in force in a State, it is necessary to refer to the provisions of article 17 of the Convention which relate to the entry into force of the Convention in a State.

(d) In order to determine whether the Convention is in force in a State, it is necessary to refer to the provisions of article 18 of the Convention which relate to the termination of the Convention in a State.

(e) In order to determine whether the Convention is in force in a State, it is necessary to refer to the provisions of article 19 of the Convention which relate to the suspension of the Convention in a State.

(f) In order to determine whether the Convention is in force in a State, it is necessary to refer to the provisions of article 20 of the Convention which relate to the amendment of the Convention.

(g) In order to determine whether the Convention is in force in a State, it is necessary to refer to the provisions of article 21 of the Convention which relate to the interpretation of the Convention.

(h) In order to determine whether the Convention is in force in a State, it is necessary to refer to the provisions of article 22 of the Convention which relate to the dispute settlement provisions of the Convention.

(i) In order to determine whether the Convention is in force in a State, it is necessary to refer to the provisions of article 23 of the Convention which relate to the final provisions of the Convention.

(j) In order to determine whether the Convention is in force in a State, it is necessary to refer to the provisions of article 24 of the Convention which relate to the entry into force of the Convention in a State.

(k) In order to determine whether the Convention is in force in a State, it is necessary to refer to the provisions of article 25 of the Convention which relate to the termination of the Convention in a State.

**LOCAL GOVERNMENT (AMENDMENT) BILL,
1978**

No. , 1978.

A BILL FOR

An Act to amend the Local Government Act, 1919, with respect to the constitution and functions of the Local Government Grants Commission, rights to possession or occupation of land in certain public reserves and certain other matters.

[MR JENSEN—24 *January*, 1978.]

Local Government (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5 **1.** This Act may be cited as the "Local Government Short title.
(Amendment) Act, 1978".

2. (1) Except as provided in subsections (2), (3) and Commence-
(4), this Act shall commence on the date of assent to this ment.
Act.

10 (2) Section 5 (1) shall, in its application to—

(a) Schedule 1, commence on the day on which that
Schedule commences; or

(b) Schedule 3, commence on the day on which that
Schedule commences.

15 (3) Schedules 1 and 3 shall commence on such day
as may be appointed by the Governor in respect of each of
them (whether or not it is the same day) and as may be
notified by proclamation published in the Gazette.

20 (4) Section 6 and Schedule 8 shall be deemed always
to have commenced on 16th April, 1975.

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

Local Government (Amendment).

4. This Act contains the following Schedules :— Schedules.

5 SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT
RELATING TO THE CONSTITUTION AND FUNCTIONS
OF THE LOCAL GOVERNMENT GRANTS COMMISSION.

SCHEDULE 2.—TRANSITIONAL PROVISION RELATING
TO THE CONSTITUTION OF THE LOCAL GOVERNMENT
GRANTS COMMISSION.

10 SCHEDULE 3.—AMENDMENT TO THE PRINCIPAL ACT
RELATING TO POSSESSION OR OCCUPATION OF LAND
IN CERTAIN PUBLIC RESERVES.

SCHEDULE 4.—TRANSITIONAL PROVISIONS RELATING
TO EXISTING POSSESSION OR OCCUPATION OF LAND
IN CERTAIN PUBLIC RESERVES.

15 SCHEDULE 5.—AMENDMENTS TO THE PRINCIPAL
ACT RELATING TO PARKING OFFENCES.

SCHEDULE 6.—AMENDMENTS TO THE PRINCIPAL ACT
RELATING TO DAMAGE TO PUBLIC ROADS.

20 SCHEDULE 7.—MISCELLANEOUS AMENDMENTS TO
THE PRINCIPAL ACT.

SCHEDULE 8.—AMENDMENTS TO THE LOCAL
GOVERNMENT (APPEALS) AMENDMENT ACT,
1975.

25 5. (1) The Principal Act is amended in the manner set Amendment
forth in Schedules 1, 3, 5, 6 and 7. of Act No.
41, 1919.

(2) Schedules 2 and 4 have effect.

6. The Local Government (Appeals) Amendment Act, Amendment
1975, is amended in the manner set forth in Schedule 8. of Act No.
34, 1975.

Local Government (Amendment).

7. (1) Section 602 (5A) of the Principal Act shall be deemed always to have commenced on 1st January, 1953.

Commencement of section 602 (5A) of the Principal Act.

(2) Subsection (1) does not operate so as to affect any proceedings commenced before the date of assent to this Act in which the title of a council to land (being a title that purports to have been acquired by reason of the purchase of that land pursuant to a sale thereof for overdue rates) was or is in dispute.

SCHEDULE 1.

Sec. 5 (1).

10 AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION AND FUNCTIONS OF THE LOCAL GOVERNMENT GRANTS COMMISSION.

(1) Section 3, matter relating to Part VIIA—

Omit “218J”, insert instead “218Q”.

15 (2) Part VIIA, Division 1—

Before section 218A, insert :—

DIVISION 1.—*Constitution of Local Government Grants Commission.*

(3) (a) Section 218A (2) (b) (ii)—

20 Omit “that Department;”, insert instead “that Department and who shall be the deputy chairman; and”.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

- 5 (b) Section 218A (2) (b) (iii), (iv)—
Omit the subparagraphs, insert instead :—
(iii) two members nominated by the Minister,
each of whom is, when appointed, or has,
at any time before his appointment,
10 been, associated with local government
in New South Wales, whether as a
member of a council or otherwise.
- (c) Section 218A (3) (a)—
15 Omit “with the leave of the Minister granted
for any particular period, the Governor”, insert
instead “through illness or any other cause, the
Minister”.
- (d) Section 218A (3) (a) (i)—
20 Omit “on the nomination of the Minister,
appoint a person as an acting member and the
acting chairman”, insert instead “appoint a
person as an acting member”.
- (e) Section 218A (3) (a) (ii)—
25 After “member” where thirdly occurring, insert
“and acting deputy chairman”.
- (f) Section 218A (3) (a) (iii)—
Omit “or (iv)”.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

- 5 (g) Section 218A (3) (a) (iii)—
Omit “select and appoint a member of the panel”, insert instead “appoint a person having the qualification referred to in that subparagraph”.
- 10 (h) Section 218A (4)—
Omit the subsection, insert instead :—
(4) An acting member shall be deemed to be a member of the Grants Commission.
- (i) Section 218A (5)—
15 Omit “an acting chairman or acting member” wherever occurring, insert instead “the deputy chairman, an acting deputy chairman or an acting member”.
- (j) Section 218A (5)—
20 Omit “the acting chairman”, insert instead “the deputy chairman, acting deputy chairman”.
- (k) Section 218A (6)—
After “member or” where firstly occurring, insert “by the Minister of any”.
- 25 (4) Section 218B—
Omit the section.

*Local Government (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

- 5 (5) Section 218C—
Omit the section.
- (6) (a) Section 218D (1)—
Omit “or a member of the panel”.
- (b) Section 218D (1) (b)—
10 Omit “to the Governor”, insert instead “, in the
case of a member, to the Governor or, in the
case of an acting member, to the Minister”.
- (c) Section 218D (1) (e)—
After “aforesaid;”, insert “or”.
- 15 (d) Section 218D (1) (f), (g)—
Omit the paragraphs, insert instead :—
(g) being a member, for any cause which
appears to the Governor to be sufficient,
is removed from office by the Governor
20 or, being an acting member, for any
cause which appears to the Minister to
be sufficient, is removed from office by
the Minister.
- (e) Section 218D (2), (2A)—
25 Omit section 218D (2), insert instead :—
(2) Without limiting subsection (1), a
member of the Grants Commission referred to
in section 218A (2) (b) (ii) or an acting

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

5 member of the Grants Commission referred to
in section 218A (3) (a) (ii) shall be deemed
to have vacated his office—

10 (a) if he ceases to be an officer of the
Department of Local Government
without his office as a member or an
acting member of the Commission
having previously been confirmed
under subsection (2A); or

15 (b) where he has ceased to be such an
officer and his office as a member or
an acting member of the Grants
Commission was previously confirmed
under subsection (2A), upon the
20 expiration of the period for which it
was confirmed.

25 (2A) The Minister may, before a member of
the Grants Commission referred to in section
218A (2) (b) (ii) or an acting member of that
Commission referred to in section 218A (3) (a)
(ii) ceases to be an officer of the Department
of Local Government, by instrument in writing,
confirm his office as a member or an acting
member of that Commission for such period (not
exceeding the period for which he was appointed
30 as a member or an acting member) after he
ceases to be an officer of that Department as is
specified in that instrument.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

- 5 (f) Section 218D (3)—
Omit “of the Grants Commission or the panel”.
- (g) Section 218D (3)—
Omit “nominated or selected in the same manner
as his predecessor shall be appointed by the
10 Governor”, insert instead “having the like
qualification as his predecessor shall be
appointed, in the case of a new member, by the
Governor or, in the case of a new acting
member, by the Minister”.
- 15 (7) (a) Section 218E—
After “chairman” where firstly occurring, insert
“, deputy chairman”.
- (b) Section 218E—
20 Omit “acting chairman” where firstly occurring,
insert instead “acting deputy chairman”.
- (c) Section 218E—
Omit “or an acting chairman”, insert instead
“, the deputy chairman or an acting deputy
chairman”.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

5 (8) (a) Section 218F (1), (1A)—

Omit section 218F (1), insert instead :—

(1) At any meeting of the Grants
Commission—

(a) the chairman;

10 (b) in the absence of the chairman, the
deputy chairman; or

(c) in the absence of the chairman and the
deputy chairman, the acting deputy
chairman, if any,

15 shall preside.

(1A) The person presiding at any meeting of
the Grants Commission shall, in addition to a
deliberative vote, have, in the event of an equality
of votes, a second or casting vote.

20 (b) Section 218F (2)—

Omit “chairman”, insert instead “person
presiding”.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

5 (9) Part VIIA, Division 2—

After section 218F, insert :—

DIVISION 2.—*Local Government Assistance Fund.*

(10) (a) Section 218G (1) (b)—

Omit “Part”, insert instead “Division”.

10 (b) Section 218G (2)—

Omit the subsection.

(c) Section 218G (3A)—

After section 218G (3), insert :—

15 (3A) A requirement under subsection (3)
may specify the form in which the information is
to be produced and the person or body to whom
it is to be produced.

(11) Section 218I (1)—

Omit “Part”, insert instead “Division”.

20 (12) (a) Section 218J (1) (d)—

After “chairman” where firstly occurring, insert
“, deputy chairman”.

(b) Section 218J (1) (d)—

25 Omit “acting chairman”, insert instead “acting
deputy chairman”.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

5 (13) Part VIIA, Divisions 3, 4—

After section 218J, insert :—

DIVISION 3.—*Local Government Revenue Sharing
Fund.*

10 218K. (1) In this Division, “Commonwealth Act” ^{Interpre-}
means the Local Government (Personal Income Tax ^{tation.}
Sharing) Act 1976 of the Parliament of the Common-
wealth or, if that Act is amended, that Act as amended
from time to time.

15 (2) A reference in this Division to the
annual share of revenue for any year ending on 30th
June is a reference to the amount to the payment of
which the State is, subject to compliance with the
Commonwealth Act, entitled under that Act in respect
of that year.

20 218L. (1) There shall be constituted an account ^{Revenue}
in the Special Deposits Account in the Treasury to be ^{Sharing}
called the “Local Government Revenue Sharing ^{Fund.}
Fund” which in this Division is referred to as the
“Revenue Sharing Fund”.

25 (2) The Treasurer shall pay into the
Revenue Sharing Fund all amounts paid to the State
under the Commonwealth Act.

*Local Government (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

- 5 218M. (1) The Minister shall, in respect of the year ending on 30th June, 1979, and each subsequent year ending on 30th June, make a determination—
- Payments
from
Revenue
Sharing
Fund.
- 10 (a) for the allocation of not less than the percentage referred to in section 6 (2) (a) of the Commonwealth Act of the annual share of revenue for the year in respect of which the determination is made among councils on a population basis, that is to say, on a basis that takes into account the respective populations of the areas of those
- 15 councils and may take into account the respective sizes, and the respective population densities, of the areas of those councils and any other matters agreed upon between the Prime Minister of Australia and the Premier as being relevant for the purposes of that allocation; and
- 20 (b) for the allocation of the remainder of the annual share of revenue for the year in respect of which the determination is made among councils on a general equalisation basis, that is to say, on a basis that has the object of ensuring, so far as is practicable, that each council is able to function, by reasonable effort, at a standard not
- 25 appreciably below the standards of other councils in the State, being a basis that takes account of differences in the capacities of those councils to raise revenue and differences in the amounts required to be expended by those councils in the performance of their functions.
- 30
- 35

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

5 (2) In determining an allocation referred
to in subsection (1) (b), the Minister shall have
regard to the recommendation of the Grants Commis-
sion made under section 218N (1) (c) (ii) with
respect to the allocation.

10 (3) Particulars of an allocation determined
by the Minister under subsection (1) shall not be
made public until the Minister of State for the time
being responsible for the administration of the Com-
monwealth Act has been informed of those particulars
15 and the Minister has informed that Minister of State
that the allocation has been made in accordance with
section 6 of the Commonwealth Act.

20 (4) Each council is entitled to receive,
without undue delay, from the Revenue Sharing Fund
payment, being a payment that is unconditional, of
the amount determined for allocation to it under sub-
section (1).

25 218N. (1) The Grants Commission shall, in Recom-
mendations
of Grants
Commis-
sion. respect of the year ending on 30th June, 1979, and
each subsequent year ending on 30th June, make to
the Minister recommendations with respect to—

30 (a) the percentage (not being less than the per-
centage referred to in section 6 (2) (a) of
the Commonwealth Act) of the annual
share of revenue for the year in respect of
which the recommendation is made to be
allocated among councils;

Local Government (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

- 5 (b) the principles in accordance with which the
basis referred to in section 218M (1) (a)
should be applied; and
- (c) the allocation among councils—
- 10 (i) on the basis referred to in section
218M (1) (a) applied in accord-
ance with principles approved by
the Minister, of the percentage,
approved by the Minister, of the
15 annual share of revenue for the year
in respect of which the recommenda-
tion is made; and
- (ii) on the basis referred to in section
218M (1) (b) of the remainder of
that annual share of revenue.
- 20 (2) The Grants Commission shall make
recommendations with respect to the matters—
- (a) referred to in subsection (1) (a) and (b)
as soon as practicable after being requested
by the Minister to make those recommenda-
25 tions; and
- (b) referred to in subsection (1) (c) as soon
as practicable after the approvals of the
Minister referred to in subsection (1) (c)
(i) have been notified to it,

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

5 and, if after making any such recommendation it is
requested by the Minister to reconsider its recom-
mendation on any matter, shall make a further recom-
mendation on that matter as soon as practicable
after being so requested to reconsider.

10 (3) Any recommendation made by the
Grants Commission under subsection (1) or any
further recommendation made by it under subsection
15 (2) shall be embodied in a report with respect to
matters relating to the making of the recommendations
and as soon as practicable after preparing it shall
furnish it to the Minister.

 (4) The Grants Commission shall not make
public its recommendations made under subsection
20 (1), any further recommendation made under sub-
section (2) or any report referred to in subsection
(3).

 (5) For the purpose of enabling the Grants
Commission to perform its functions under this
section—

25 (a) the Grants Commission shall hold such
hearings and make such inspections,
investigations and inquiries as it thinks
necessary;

30 (b) the Grants Commission may require the
production by the council of any informa-
tion which may, in the opinion of the Grants
Commission, assist it; and

Local Government (Amendment).

SCHEDULE 1—continued.

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION AND FUNCTIONS OF THE LOCAL GOVERNMENT GRANTS COMMISSION—continued.

5 (c) submissions may be made to the Grants Commission by, or by associations of, councils. 2

(6) Hearings held for the purpose of subsection (5) shall be ordinarily held in public.

10 (7) A requirement under subsection (5) (b) may specify the form in which the information is to be produced and the person or body to whom it is to be produced. 01

15 218o. As soon as practicable after 30th June, 1979, and 30th June in each subsequent year, the Minister shall furnish to the Treasurer of the Commonwealth— Statements of payments to councils to be furnished. 21

20 (a) a statement, in accordance with a form approved by the Treasurer of the Commonwealth, specifying payments made by the State during the year to which the statement relates in accordance with the Commonwealth Act and the dates of those payments; and 05

25 (b) a certificate by the Auditor-General certifying that, in his opinion, the contents of the statement are correct. 22

DIVISION 4.—General.

Meetings of Grants Commission.

218p. The Grants Commission shall meet—

(a) at such times as the Minister directs; and 02

Local Government (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

- 5 (b) at such other times as the Grants Commission thinks necessary or desirable, but in any case it shall meet at least once in each year.

- 10 218Q. (1) As soon as practicable after 30th June, Annual report. 1978, and 30th June in each subsequent year, the Grants Commission shall furnish to the Minister a report on the manner in which it performed its functions under Division 2, and containing a copy of any proposals or determinations made by it under that Division during the year to which the report relates.

- 15 (2) The Minister shall cause a copy of any report furnished to him—

- (a) under subsection (1) to be laid before both Houses of Parliament within 14 sitting days after receipt of the report by him; and
- 20 (b) under section 218N (3) to be furnished, as soon as practicable after receipt of the report by him, to the Prime Minister of Australia and only after a copy has been so furnished shall—

- 25 (i) cause another copy of the report to be laid before both Houses of Parliament within 14 sitting days after receipt of the report by him; and

- 30 (ii) cause the report to be made public.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

5 (3) For the purposes of subsection (2),
sitting days shall be counted whether or not they occur
during the same session.

(14) Section 573 (3)—

After section 573 (2), insert :—

10 (3) Subsection (1) does not extend to authorising
an ordinance to be made applying, *mutatis mutandis*,
to county councils any of the provisions of Division
3 of Part VIIA.

SCHEDULE 2.

Sec. 5 (2).

15 TRANSITIONAL PROVISION RELATING TO THE CONSTITUTION
OF THE LOCAL GOVERNMENT GRANTS COMMISSION.

Upon the commencement of Schedule 1, a member of the
Local Government Grants Commission referred to in section
218A (2) (b) (iii) or (iv) of the Principal Act, as in force
20 immediately before that commencement, shall be deemed to
have been appointed as a member of that Commission
referred to in section 218A (2) (b) (iii) of that Act, as in
force upon that commencement, and subject to the Principal
Act, shall hold office as such a member for the term of his
25 appointment that was unexpired at that commencement.

Term of
office of
certain
members
termin-
ated.

Local Government (Amendment).

SCHEDULE 3.

Sec. 5 (1).

AMENDMENT TO THE PRINCIPAL ACT RELATING TO
POSSESSION OR OCCUPATION OF LAND IN CERTAIN
PUBLIC RESERVES.

5 Sections 519C-519F—

After section 519B, insert :—

519C. (1) This section applies to land which is or forms part of a public reserve, other than—

Leases of or licences in respect of land in certain public reserves.

10

(a) lands which are a reserve as defined in section 37M (1) of the Crown Lands Consolidation Act, 1913; or

(b) land to which section 519A applies.

01

15

(2) The provisions of section 519 do not apply to or in respect of land to which this section applies.

20

(3) The council may apply in writing to the Minister for his consent to the granting of a lease of or a licence in respect of land to which this section applies to a person specified in the application, being the person specified, in accordance with subsection (4) (c), in the advertisement referred to in subsection (4) relating to the proposed lease of or licence in respect of that land.

25

(4) An application under subsection (3) may not be made unless, at least 1 month before making the application, the council has caused to be inserted in a newspaper circulating within its area an advertisement—

30

(a) giving notice of its intention to grant, in accordance with the consent, if given, of the Minister, a lease of or a licence in respect of land to which this section applies;

Local Government (Amendment).

SCHEDULE 3—*continued.*AMENDMENT TO THE PRINCIPAL ACT RELATING TO
POSSESSION OR OCCUPATION OF LAND IN CERTAIN
PUBLIC RESERVES—*continued.*

- 5 (b) specifying particulars of the area and loca-
tion of the land;
- (c) specifying the name and address of the pro-
posed lessee or licensee;
- 10 (d) specifying the proposed term, and particu-
lars of any proposed options for renewal,
of the proposed lease or licence; and
- (e) stating that objections to the granting of the
lease or licence may be lodged with the
15 council within 1 month after the date of
publication of the advertisement.

(5) The council shall consider any objec-
tions to the granting of a lease or licence received by
it pursuant to the advertisement referred to in sub-
section (4) and if it then decides to apply to the
20 Minister for his consent to the granting of the lease
or licence shall forward to the Minister with its
application—

- (a) copies of all such objections and a state-
ment setting out, in respect of each such
25 objection, the council's decision and its
reasons therefor;
- (b) a statement setting out all of the facts
relating to the proposal to grant the lease
or licence;
- 30 (c) a copy of the advertisement;

Local Government (Amendment).

SCHEDULE 3—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO
POSSESSION OR OCCUPATION OF LAND IN CERTAIN
PUBLIC RESERVES—*continued.*

5 (d) a statement setting out the terms, conditions,
restrictions and covenants proposed to be
included in the lease or licence; and

10 (e) a statement setting out the manner in which
and the extent to which the public interest
would, in the opinion of the council, be
affected by the granting of the proposed
lease or licence, including the manner in
which and the extent to which the needs of
15 the area with respect to public reserves
would, in the opinion of the council, be
adversely affected by the granting of the
proposed lease or licence.

(6) Where—

20 (a) an application is made to the Minister under
subsection (3); and

(b) the Minister is satisfied that the provisions
of subsections (4) and (5) have been
complied with with respect to the proposed
lease or licence to which the application
25 relates,

the Minister, if he thinks fit, may, by instrument in
writing, consent to the granting of a lease of or a
licence in respect of the whole or of part of the land
to which the application relates to the person specified

Local Government (Amendment).

SCHEDULE 3—*continued.*AMENDMENT TO THE PRINCIPAL ACT RELATING TO
POSSESSION OR OCCUPATION OF LAND IN CERTAIN
PUBLIC RESERVES—*continued.*

5 in the application as the proposed lessee or licensee
and may give that consent subject to conditions
requiring that the lease or licence—

(c) be for such term and with such options (if
any) for renewal as may be specified or
10 referred to in that instrument; and

(d) contain such terms, conditions, restrictions
and covenants as may be specified or
referred to in that instrument.

(7) The Minister shall—

15 (a) before dealing with an application under
subsection (3), request the New South
Wales Planning and Environment Commis-
sion to furnish to him within such period
as may be specified in the request a report
20 relating to the application; and

(b) take into consideration any report furnished
in accordance with paragraph (a) when
dealing with the application.

25 (8) The consent of the Minister to the
granting by the council of a lease or licence under
this section shall be conclusive evidence that the
provisions of subsections (4) and (5) have been
complied with by the council.

Local Government (Amendment).

SCHEDULE 3—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO
POSSESSION OR OCCUPATION OF LAND IN CERTAIN
PUBLIC RESERVES—*continued*

- 5 519D. After obtaining the consent of the Minister under section 519C, the council may grant a lease of or a licence in respect of the land to which the consent relates in accordance with the terms of the consent. Grant of lease by council.
- 10 519E. (1) Sections 519C and 519D do not apply to or in respect of the granting by the council of a licence in respect of land to which section 519C applies if the granting of the licence is authorised by an ordinance made for the purposes of this subsection. Licences for periodic use of land in certain public reserves.
- 15 (2) An ordinance made for the purposes of subsection (1) shall not authorise the granting of a licence—
- 20 (a) to use the land otherwise than on a periodic basis specified in the ordinance;
- (b) unless it prohibits the erection on that land of any building or structure of a permanent nature; or
- (c) to use the land otherwise than for the purpose of a lawful game or sport or other lawful purpose specified in the ordinance.
- 25 519F. A council shall not grant a lease of or a licence in respect of land to which section 519C applies otherwise than pursuant to section 519D or pursuant to the authority granted by an ordinance made for the purposes of section 519E (1). Restriction on councils' powers to grant leases of or licences in respect of land in certain public reserves.
-

Local Government (Amendment).

SCHEDULE 4.

Sec. 5 (2).

TRANSITIONAL PROVISIONS RELATING TO EXISTING POSSESSION OR OCCUPATION OF LAND IN CERTAIN PUBLIC RESERVES.

- 5 1. Where at the commencement of Schedule 3 a person is in possession or occupation of any land to which section 519c of the Principal Act applies and his possession or occupation of that land commenced pursuant to a right purporting to have been previously conferred on him, whether
- 10 by an instrument in writing or otherwise, by the council in whose area the land is situated, he may make an application in accordance with clause 2 for the Minister's approval to his continued possession or occupation of the land.
- Application for approval of possession or occupation.
2. The application—
- 15 (a) shall be in or to the effect of the prescribed form;
- (b) shall be made by lodging it with the council in whose area the land to which it relates is situated for transmission to the Minister;
- 20 (c) may not be so lodged after the expiration of 12 months after the date of assent to this Act; and
- (d) shall, within 28 days after its being so lodged, be forwarded by the council to the Minister, accompanied by—
- 25 (i) a copy of any instrument purporting to confer the right to possession or occupancy sought to be continued or, if there is no such instrument, full particulars of the right;
- Manner of making application.

Local Government (Amendment).

SCHEDULE 4—*continued.*

TRANSITIONAL PROVISIONS RELATING TO EXISTING POSSESSION OR OCCUPATION OF LAND IN CERTAIN PUBLIC RESERVES—*continued.*

- 5 (ii) a statement setting out all of the facts relating to the purported conferring of the right; and
- (iii) a statement setting out the council's views on whether or not the application should be
- 10 approved and, if so, on what terms.

3. Where a person is entitled to make, and makes, an application under clause 1 in respect of any land—

Interim rights of applicant.

- 15 (a) he shall, subject to paragraph (b), be deemed to have a lawful right to possession or occupation of that land corresponding to the right purporting to have been conferred on him by the council as referred to in clause 1 as if that lawful right had been conferred under a lease or licence, as the case may require, authorised by law to be granted by
- 20 the council, being a lease or licence with the same options (if any) for renewal and containing the same terms, conditions, restrictions and covenants (if any) as purported to attach to the right purporting to have been so conferred; and
- 25 (b) he shall continue to have that lawful right under this clause until the Minister so approves or disapproves of the application.

4. (1) The Minister may, by instrument in writing—

Approval or disapproval of application and effect thereof.

- 30 (a) approve of an application made under clause 1 as regards the whole of the land to which the application relates or as regards any part thereof; or
- (b) disapprove of any such application.

Local Government (Amendment).

SCHEDULE 4—*continued.*

TRANSITIONAL PROVISIONS RELATING TO EXISTING POSSESSION OR OCCUPATION OF LAND IN CERTAIN PUBLIC RESERVES—*continued.*

5 (2) Where the Minister so approves of any such application—

(a) the instrument of approval shall specify—

(i) the term;

(ii) the options (if any) for the renewal; and

10 (iii) the terms, conditions, restrictions and covenants,

of the lease or licence which under paragraph (b) the applicant is to be deemed to have been granted; and

15 (b) a lease or licence (as the case may require according to the terms of the approval) of or in respect of the land specified or described in the approval shall be deemed to have been lawfully granted by the council under provisions made by or under the
20 Principal Act to the applicant—

(i) for the term, with the options (if any) for renewal and containing such terms, conditions, restrictions and covenants as are specified in accordance with paragraph (a) in the instrument of approval; and
25

(ii) as if those provisions had been complied with in respect of the granting of that lease or licence.

Local Government (Amendment).

SCHEDULE 4—*continued.*TRANSITIONAL PROVISIONS RELATING TO EXISTING POSSESSION OR OCCUPATION OF LAND IN CERTAIN PUBLIC RESERVES—*continued.*

5 (3) Any of the matters required by subclause (2) of this clause to be specified in an instrument of approval may, if it seems convenient to the Minister to do so, be specified by reference to the copy of the instrument, if any, referred to in clause 2 (d) (i) that accompanied the application for the
10 Minister's approval.

(4) The Minister shall, as soon as practicable after executing an instrument of approval, cause to be published in the Gazette—

15 (a) such particulars as he thinks sufficient of the land to which the approval relates;

(b) the name of the person whose application relating to that land was approved; and

20 (c) such other particulars relating to any matters referred to in subclause (2) of this clause as he thinks it desirable to publish.

5. Where an application under clause 1 is expressed to be made by any person in his capacity as a trustee for any other person or for any body, corporate or unincorporate, the right conferred on that person by clause 3 is held by him as
25 trustee for that other person or body and, if the application is approved as referred to in clause 4 (1) (a)—

(a) the approval shall specify that the approval is given to the applicant in his capacity as trustee for that person or body; and

Local Government (Amendment).

SCHEDULE 4—*continued.*

TRANSITIONAL PROVISIONS RELATING TO EXISTING POSSESSION OR OCCUPATION OF LAND IN CERTAIN PUBLIC RESERVES—*continued.*

- 5 (b) the lease or licence to be deemed by clause 4 (2) (b) to have been granted to him shall be deemed to have been granted to him as trustee for that person or body.

6. Where—

- 10 (a) an application in relation to any land is made under clause 1; and
- (b) the applicant's possession or occupation of that land was, immediately before the application was made, lawful,

Effect of application where previous possession or occupation lawful.

15 the applicant's lawful right to possession or occupation of that land that existed immediately before the application was made ceases upon the application being made and he thereafter has, subject to any further lease or licence being granted to him under section 519C of the Principal Act, only such
20 right to possession or occupation of that land as results from the operation of clause 3 and, if applicable, clauses 4 (2) (b) and 5.

7. Where—

- 25 (a) on the date of assent to this Act, a person is in possession or occupation of any land to which section 519C of the Principal Act applies; and

Right to possession or occupation where no application made under clause 1.

Local Government (Amendment).

SCHEDULE 4—*continued.*

TRANSITIONAL PROVISIONS RELATING TO EXISTING POSSESSION OR OCCUPATION OF LAND IN CERTAIN PUBLIC RESERVES—*continued.*

- 5 (b) he has not made an application in accordance with clause 2 for the Minister's approval to his continued possession or occupation of that land,

he has such right to possession or occupation, if any, of that land as he would have had if this Schedule had not been
10 enacted.

SCHEDULE 5.

Sec. 5 (1).

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PARKING OFFENCES.

- (1) Section 270o (5), definition of "Owner"—

15 Omit "motor", insert instead "registered".

- (2) (a) Section 270R (1)—

20 Omit ", unless the court is satisfied that the vehicle was at the relevant time a stolen vehicle or a vehicle illegally taken or used.", insert instead :—

unless—

- 25 (a) in any case where the offence is dealt with under section 270s, he satisfies the proper servant specified in the notice served under that section that the vehicle was at the relevant time a stolen vehicle or a vehicle illegally taken or used; or

Local Government (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PARKING OFFENCES—*continued.*

5 (b) in any other case, the court is satisfied that the vehicle was at the relevant time a stolen vehicle or a vehicle illegally taken or used.

(b) Section 270R (2A), (2B), (2C)—

10 After section 270R (2), insert :—

(2A) Notwithstanding subsection (1), no owner of a vehicle shall, by virtue of that subsection, be guilty of an offence if—

15 (a) in any case where the offence is dealt with under section 270s, he—

20 (i) within 21 days after service on him of a notice under that section alleging that he has been guilty of the offence, supplies by statutory declaration to the proper servant specified in the notice the name and address of the person who was in charge of the vehicle at all relevant times relating to the offence; or

25 (ii) satisfies that servant that he did not know and could not with reasonable diligence have ascertained that name and address; or

30

Local Government (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PARKING OFFENCES—*continued.*

(b) in any other case, he—

5 (i) within 21 days after service on
him of a summons in respect
of the offence, supplies by
statutory declaration to the
10 informant the name and
address of the person who was
in charge of the vehicle at all
relevant times relating to the
offence; or

15 (ii) satisfies the court that he did
not know and could not with
reasonable diligence have
ascertained that name and
address.

20 (2B) A statutory declaration under sub-
section (2A) if produced in any proceedings
against the person named therein and in respect
of the offence in respect of which the statutory
25 declaration was supplied shall be prima facie
evidence that that person was in charge of the
vehicle at all relevant times relating to that
offence.

30 (2C) A statutory declaration which relates to
more than one offence shall be deemed not to
be a statutory declaration under, or for the
purposes of, subsection (2A).

Local Government (Amendment).

SCHEDULE 5—continued.

**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PARKING OFFENCES—continued.**

(c) Section 270R (3), definition of "Owner"—

5 Omit "motor", insert instead "registered".

(3) (a) Section 351B (1)—

Omit "motor".

(b) Section 351B (1)—

10 Omit " , unless the court is satisfied that the
vehicle was at the relevant time a stolen vehicle
or a vehicle illegally taken or used.", insert
instead :—

unless—

15 (a) in any case where the offence is
dealt with under section 351C,
he satisfies the proper servant
specified in the notice served
under that section that the vehicle
was at the relevant time a stolen
20 vehicle or a vehicle illegally taken
or used; or

25 (b) in any other case, the court is
satisfied that the vehicle was at
the relevant time a stolen vehicle
or a vehicle illegally taken or
used.

Local Government (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PARKING OFFENCES—*continued.*

(c) Section 351B (2A), (2B), (2C)—

5 After section 351B (2), insert :—

(2A) Notwithstanding subsection (1), no owner of a vehicle shall, by virtue of that subsection, be guilty of an offence if—

10 (a) in any case where the offence is dealt with under section 351C, he—

15 (i) within 21 days after service on him of a notice under that section alleging that he has been guilty of the offence, supplies by statutory declaration to the proper servant specified in the notice the name and address of the person who was in charge of the vehicle at all relevant times relating to the offence; or

20 (ii) satisfies that servant that he did not know and could not with reasonable diligence have ascertained that name and address; or

25 (b) in any other case, he—

30 (i) within 21 days after service on him of a summons in respect of the offence, supplies by statutory declaration to the

Local Government (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PARKING OFFENCES—*continued.*

5 informant the name and
address of the person who was
in charge of the vehicle at all
relevant times relating to the
offence; or

10 (ii) satisfies the court that he did
not know and could not with
reasonable diligence have
ascertained that name and
address.

15 (2B) A statutory declaration under subsection
(2A) if produced in any proceedings against the
person named therein and in respect of the
offence in respect of which the statutory declara-
tion was supplied shall be prima facie evidence
20 that that person was in charge of the vehicle at
all relevant times relating to that offence.

(2C) A statutory declaration which relates to
more than one offence shall be deemed not to be
a statutory declaration under, or for the purposes
of, subsection (2A).

25 (d) Section 351B (3), definition of "owner"—
Omit "motor vehicle", insert instead "vehicle,
being a registered vehicle".

Local Government (Amendment).

SCHEDULE 6.

Sec. 5 (1).

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
DAMAGE TO PUBLIC ROADS.

(1) Section 245 (5)—

5 After section 245 (4), insert :—

(5) This section does not apply to or in respect of any damage or injury which a developer referred to in section 245A is liable, under subsection (2) of that section, to pay the cost of making good.

10 (2) Section 245A—

After section 245, insert :—

245A. (1) For the purposes of this section—

Developer's liability for damage or injury to public roads.

(a) a reference to construction work is a reference to—

15 (i) the erection of a building for which the council's approval is required under Division 4 of Part XI; or

20 (ii) the opening of a public road or the subdivision of land, whether or not the subdivision provides for the opening of a public road, for which the council's approval is required under Division 2 of Part XII;

Local Government (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
DAMAGE TO PUBLIC ROADS—*continued.*

- 5 (b) the reference to damage or injury caused as a consequence of construction work is a reference to damage or injury, not being damage or injury caused by ordinary wear and tear and reasonable use—
- 10 (i) caused to any public road, to any thing or device referred to in section 245 (1) (b) or to any thing that is to be deemed by section 245 (4) to be a public road for the purposes of section 245;
- 15 (ii) occurring at or in the vicinity of the place where access to the construction work is obtained from any public road; and
- 20 (iii) caused by the developer or by any person engaged to perform work at the site of the construction work, whether as an employee of the developer or otherwise, or by any person delivering or removing any
- 25 material to or from that site, whether as an employee of the developer or otherwise; and
- 30 (c) a reference to a developer, in relation to any construction work, is a reference to the person to whom the council granted an approval under Division 4 of Part XI or Division 2 of Part XII to carry out that construction work.

Local Government (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
DAMAGE TO PUBLIC ROADS—*continued.*

(2) Where—

- 5 (a) damage or injury is caused as a consequence of construction work; and
- (b) the developer has, pursuant to a condition imposed by the council under section 314 or 331, provided security for the payment of the cost of making good any such damage or injury,

the developer is liable to pay to the council that cost.

- 15 (3) Any deposit lodged with the council as a security referred to in subsection (2) (b) may be applied in or towards payment of that cost.

(4) To the extent that—

- 20 (a) any such deposit exceeds that cost, the council shall refund the excess to the developer; or
- (b) any such deposit is less than that cost or any guarantee given as such a security is for an amount that is less than that cost, the council may, in any court of competent jurisdiction, recover the difference as a debt from the developer.

(3) Section 314 (1B), (1C)—

After section 314 (1A), insert :—

- 30 (1B) The power of a council to approve of an application subject to conditions includes the power to approve of an application subject to the condition that

Local Government (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
DAMAGE TO PUBLIC ROADS—*continued.*

5 the applicant shall provide to the council security for the payment of the cost of making good any damage or injury, referred to in section 245A (1) (b), caused as a consequence of construction work, being the work to which the approval relates.

10 (1C) A security referred to in subsection (1B) shall be—

(a) the deposit with the council of such reasonable amount; or

(b) a guarantee satisfactory to the council for such reasonable amount,

15 as is determined by the council and specified in the condition.

(4) Section 331 (2A), (2B)—

After section 331 (2), insert :—

20 (2A) The power of a council to approve of an application subject to conditions includes the power to approve of an application subject to the condition that the applicant shall provide to the council security for the payment of the cost of making good any damage or injury, referred to in section 245A (1) (b), caused
25 as a consequence of construction work, being the work to which the approval relates.

Local Government (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
DAMAGE TO PUBLIC ROADS—*continued.*

- 5 (2B) A security referred to in subsection (2A)
shall be—
- (a) the deposit with the council of such
reasonable amount; or
 - (b) a guarantee satisfactory to the council
for such reasonable amount,
- 10 as is determined by the council and specified in the
condition.

SCHEDULE 7.

Sec. 5 (1).

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

- (1) Section 78—
- 15 Omit “and 151A”, insert instead “151A, 151B, 151D
and 151E”.
- (2) Section 83 (f)—
- 20 Omit “sections 23 to 67 inclusive and sections 75 to
136 inclusive”, insert instead “Part IV, section 22
excepted, and Divisions 2 to 16 of Part V”.

Local Government (Amendment).

SCHEDULE 7—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued.

(3) Section 182 (3), (4), (5)—

5 Omit section 182 (3), insert instead :—

(3) For the purpose of any security for a loan
under this Act, a certificate—

(a) signed on or after the date of assent to the
10 Local Government (Amendment) Act,
1978, by—

(i) the Minister; or

(ii) a person authorised by the Minister,
either generally or in a particular
case, to sign the certificate; or

15 (b) signed on or after 25th February, 1976,
and before the date of assent referred to in
paragraph (a) by an officer of the
Department of Local Government,

20 and specifying the purpose, and the terms and
conditions, of the loan, shall be admissible in any
proceedings and shall be conclusive evidence that—

(c) the approval of the Governor has been
obtained;

25 (d) the purpose, and the terms and conditions,
of the loan are as set out in the certificate;
and

(e) the provisions of this Act with respect to
the proposal for the loan have been duly
complied with.

Local Government (Amendment).

SCHEDULE 7—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued.

(4) A document purporting to be a certificate—

5 (a) under subsection (3) (a) and to have been
signed by the Minister or by some person
authorised by him, either generally or in a
particular case, to sign the certificate; or

10 (b) under subsection (3) (b) and to have been
signed by an officer of the Department of
Local Government,

shall be deemed to have been so signed unless the
contrary is proved.

15 (5) A person, other than the Minister, shall not
sign a certificate under subsection (3) (a) unless
he has been authorised in writing to do so by the
Minister.

(4) Section 342BI (2)—

20 Omit “corresponding to the fee referred to in section
73 (2) of the Justices Act, 1902, for copies of
depositions”.

(5) Section 419 (3)—

After section 419 (2), insert :—

25 (3) Subsection (2) does not prevent the council
from charging different rates for electricity supplied to
persons in different parts of its area where it does so
solely by reason of a variation of the scale of rates
charged for electricity and the scale, as varied, is to be
applied uniformly throughout its area.

Local Government (Amendment).

SCHEDULE 7—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued.

(6) (a) Section 512D—

5 Omit “not exceeding two hundred dollars”.

(b) Section 512D—

Omit “or police”.

(7) Section 521A—

After section 521, insert :—

10 521A. (1) In this section, “Crown” does not include a body or a statutory body representing the Crown. Joint undertakings with the Crown.

15 (2) Any power conferred by or under this or any other Act on the council to construct, carry out or provide any buildings or works for any purpose extends to empowering the council to enter into an agreement with the Crown for or with respect to any one or more of the following :—

20 (a) the construction or carrying out, or the payment of the whole or any part of the cost of the construction or carrying out, of any buildings or works on lands on which the Crown or the council may lawfully
25 construct, carry out or provide buildings or works for that purpose, being buildings or works which, under the agreement, are to be used, wholly or partly and at all times or at times determined in accordance with the agreement for that purpose;

Local Government (Amendment).

SCHEDULE 7—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued.

5 (b) the maintenance, or the payment of the whole or any part of the cost of the maintenance, of any buildings or works referred to in paragraph (a);

(c) the control and management of any buildings or works so referred to.

10 (3) Subsection (2) applies so as to empower the council to enter into an agreement referred to in that subsection whether or not the buildings or works to which the agreement relates were constructed or
15 carried out before or after the date of assent to the Local Government (Amendment) Act, 1978, or the date of the agreement.

20 (4) Ordinances may be made with respect to any buildings or works to which an agreement entered into under subsection (2) relates as if those buildings or works had been constructed, carried out or provided solely by the council for the purpose for which, under the agreement, they are to be used.

Local Government (Amendment).

SCHEDULE 8.

Sec. 6.

AMENDMENTS TO THE LOCAL GOVERNMENT (APPEALS)
AMENDMENT ACT, 1975.

(1) Section 2 (1)—

5 Omit “subsection (2)”, insert instead “subsections
(2) and (3)”.

(2) Section 2 (2)—

Omit “Sections 6 (e) and 7 (1) (f)”, insert instead
“Section 6 (e)”.

10 (3) Section 2 (3)—

After section 2 (2), insert :—

(3) Section 7 (1) (f) shall commence on 21st
November, 1975.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1978

[48c]

Sec. 6

SCHEDULE 8

AMENDMENTS TO THE LOCAL GOVERNMENT (APPEALS) AMENDMENT ACT, 1975

(1) Section 2 (1) —

2 — Omit subsection (2); insert instead "subsections (2) and (3)."

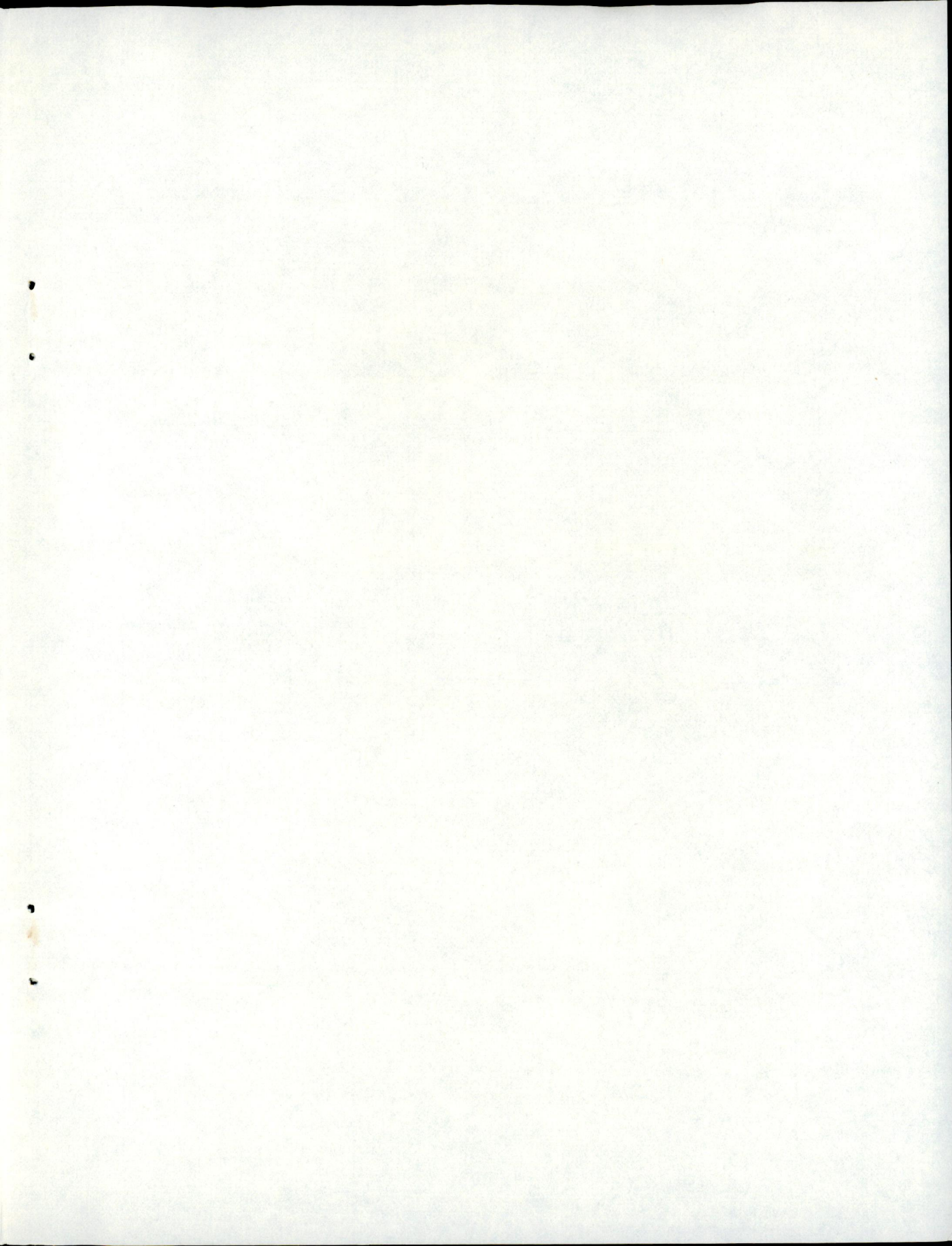
(2) Section 2 (2) —

Omit "Sections 6 (c) and 7 (1) (b)", insert instead "Section 6 (c)."

10 (3) Section 2 (3) —

After section 2 (2), insert: —

(3) Section 7 (1) (i) shall commence on 31st November 1975.



LOCAL GOVERNMENT (AMENDMENT) BILL, 1978

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Municipal Council of Sydney Electric Lighting (Amendment) Bill, 1978, is cognate with this Bill.

The objects of this Bill are to amend the Local Government Act, 1919 (hereinafter referred to as the Principal Act)—

- (a) to make amendments to Part VIIA of the Principal Act with respect to the constitution and functions of the Local Government Grants Commission (hereinafter referred to as the Commission) that are necessary to qualify the State for assistance under the (Commonwealth) Local Government (Personal Income Tax Sharing) Act 1976 (hereinafter referred to as the Commonwealth Act) and, in particular—
 - (i) to provide for a deputy chairman of the Commission (Schedule 1 (3) (a));
 - (ii) to provide that instead of the selection of 2 members of the Commission by the Governor from among nominated officers of councils 2 members shall be persons nominated by the Minister who are or have been associated with local government (Schedule 1 (3) (b));
 - (iii) to provide for the appointment of acting members by the Minister instead of the Governor (Schedule 1 (3) (c));
 - (iv) to repeal the provisions relating to the Commission Panel (Schedule 1 (4) and (5));
 - (v) to alter the provisions relating to meetings of the Commission and the procedure thereat (Schedule 1 (8));
 - (vi) to establish a Local Government Revenue Sharing Fund into which shall be paid moneys received under the Commonwealth Act (Schedule 1 (13), new section 218L);
 - (vii) to provide for the determination by the Minister, on the recommendation of the Commission, of the allocation among councils, on the basis required by the Commonwealth Act, of the amount to which the State is entitled under the Commonwealth Act (Schedule 1 (13), new sections 218M and 218N);
 - (viii) to provide that the Minister shall furnish to the Commonwealth Treasurer a statement, certified by the Auditor-General, of payments made in accordance with the Commonwealth Act (Schedule 1 (13), new section 218o); and

- (ix) to provide for copies of the Commission's reports embodying its recommendations to be furnished to the Prime Minister of Australia and to be laid before both Houses of Parliament (Schedule 1 (13) and new section 218Q);
- (b) to provide that a present member of the Commission who was selected from and among nominated officers of councils shall continue to hold office for the term of his office that was unexpired when the constitution of the Commission is altered as referred to in paragraph (a) (ii) (Schedule 2);
- (c) to make provision for the granting by councils, if the Minister consents, of leases of, or licences (other than periodic licences) in respect of, land in certain public reserves and, in particular—
 - (i) to provide for the advertising of the proposed lease or licence in a newspaper circulating in the council's area (Schedule 3, new section 519c (4));
 - (ii) to provide that the council shall consider any objections to the proposed lease or licence received by it (Schedule 3, new section 519c (5));
 - (iii) to provide that before dealing with an application for consent the Minister must request the New South Wales Planning and Environment Commission to furnish a report relating to the application and take such report into consideration when dealing with the application (Schedule 3, new section 519c (8));
- (d) to enable councils to grant periodic licences in respect of land in certain public reserves if the granting of the licences is authorised by ordinance;
- (e) to enable existing possession or occupation of land in certain public reserves to be regularised and, in particular—
 - (i) to provide that where a person is in possession or occupation of any such land under a right purporting to have been previously conferred on him by a council, he may make application for the Minister's approval of his continued possession or occupation of the land (Schedule 4, clause 1);
 - (ii) to provide that where a person is entitled to make, and makes, such an application he shall be deemed to have a lawful right to possession or occupation as if that right had been conferred under a lease or licence and to provide for the circumstances in which that lawful right shall cease (Schedule 4, clause 3); and
 - (iii) to provide that, where the Minister approves of an application, a lease of, or licence in respect of, the land specified in the approval shall be deemed to have been granted by the council to the applicant for the term and on such terms, conditions, restrictions and covenants as are specified in the instrument of approval (Schedule 4, clause 4 (2));

- (f) to bring certain provisions of section 270R and 351B ("owner-onus" in respect of certain offences relating to vehicles) of the Principal Act into conformity with provisions of section 270 ("owner-onus" in respect of certain other offences relating to vehicles) of that Act (Schedule 5);
 - (g) to make provision with respect to the recovery from the person carrying out building or subdivision work of the cost of making good certain damage or injury to public roads and associated works and, in particular, to provide that a council in approving an application to erect a building or to open a public road or subdivide land may require the applicant to provide to the council security for the payment of the cost of making good any such damage or injury (Schedule 6 (3) and (4));
 - (h) to apply to elections held under the Principal Act those provisions of the Parliamentary Electorates and Elections Act, 1912, which relate to the exhibition of posters, the removal of illegal posters and the requirement that the name and address of the author be printed on advertisements, "how to vote" cards, etc. (Schedule 7 (1));
 - (i) to enact evidentiary provisions relating to approvals of loans to councils (Schedule 7 (3));
 - (j) to provide for the fee for a transcript of proceedings before boards of appeal to be fixed by ordinance made under the Principal Act (Schedule 7 (4));
 - (k) to permit a council to charge different rates for electricity supplied to persons in different parts of its area for the purpose only of applying a general variation in the scale of rates (Schedule 7 (5));
 - (l) to remove the limit of \$200 from the liability of a person to pay for damage which he causes to any electric line or any other thing or device specified in section 512D of the Principal Act (Schedule 7 (6));
 - (m) to extend any power of a council under the Principal Act to construct, carry out or provide any buildings or works to empowering the council to enter into an agreement with the Crown—
 - (i) for the construction or carrying out, or the payment of the whole or any part of the cost of the construction or carrying out, of any buildings or works;
 - (ii) for the maintenance, or the payment of the whole or any part of the cost of the maintenance, of any buildings or works; and
 - (iii) for the control and management of any buildings or works(Schedule 7 (7));
 - (n) to amend the Local Government (Appeals) Amendment Act, 1975, to confirm the commencement of section 7 (1) (f) of that Act and to provide separately that section 6 (e) of that Act shall commence on a day appointed by the Governor and notified by proclamation in the Gazette (Schedule 8); and
 - (o) to make other provisions of a minor, consequential or ancillary nature.
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**LOCAL GOVERNMENT (AMENDMENT) BILL,
1978**

No. , 1978.

A BILL FOR

An Act to amend the Local Government Act, 1919, with respect to the constitution and functions of the Local Government Grants Commission, rights to possession or occupation of land in certain public reserves and certain other matters.

[MR JENSEN—24 January, 1978.]

Local Government (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5 **1.** This Act may be cited as the “Local Government Short title.
(Amendment) Act, 1978”.

2. (1) Except as provided in subsections (2), (3) and Commence-
(4), this Act shall commence on the date of assent to this ment.
Act.

10 (2) Section 5 (1) shall, in its application to—

(a) Schedule 1, commence on the day on which that
Schedule commences; or

(b) Schedule 3, commence on the day on which that
Schedule commences.

15 (3) Schedules 1 and 3 shall commence on such day
as may be appointed by the Governor in respect of each of
them (whether or not it is the same day) and as may be
notified by proclamation published in the Gazette.

 (4) Section 6 and Schedule 8 shall be deemed always
20 to have commenced on 16th April, 1975.

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

Local Government (Amendment).

4. This Act contains the following Schedules :— Schedules.

5 SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT
RELATING TO THE CONSTITUTION AND FUNCTIONS
OF THE LOCAL GOVERNMENT GRANTS COMMISSION.

SCHEDULE 2.—TRANSITIONAL PROVISION RELATING
TO THE CONSTITUTION OF THE LOCAL GOVERNMENT
GRANTS COMMISSION.

10 SCHEDULE 3.—AMENDMENT TO THE PRINCIPAL ACT
RELATING TO POSSESSION OR OCCUPATION OF LAND
IN CERTAIN PUBLIC RESERVES.

SCHEDULE 4.—TRANSITIONAL PROVISIONS RELATING
TO EXISTING POSSESSION OR OCCUPATION OF LAND
IN CERTAIN PUBLIC RESERVES.

15 SCHEDULE 5.—AMENDMENTS TO THE PRINCIPAL
ACT RELATING TO PARKING OFFENCES.

SCHEDULE 6.—AMENDMENTS TO THE PRINCIPAL ACT
RELATING TO DAMAGE TO PUBLIC ROADS.

20 SCHEDULE 7.—MISCELLANEOUS AMENDMENTS TO
THE PRINCIPAL ACT.

SCHEDULE 8.—AMENDMENTS TO THE LOCAL
GOVERNMENT (APPEALS) AMENDMENT ACT,
1975.

5. (1) The Principal Act is amended in the manner set forth in Schedules 1, 3, 5, 6 and 7. Amendment of Act No. 41, 1919.

(2) Schedules 2 and 4 have effect.

6. The Local Government (Appeals) Amendment Act, 1975, is amended in the manner set forth in Schedule 8. Amendment of Act No. 34, 1975.

Local Government (Amendment).

7. (1) Section 602 (5A) of the Principal Act shall be deemed always to have commenced on 1st January, 1953.

Commence-
ment of
section 602
(5A) of the
Principal
Act.

(2) Subsection (1) does not operate so as to affect any proceedings commenced before the date of assent to this Act in which the title of a council to land (being a title that purports to have been acquired by reason of the purchase of that land pursuant to a sale thereof for overdue rates) was or is in dispute.

SCHEDULE 1.

Sec. 5 (1).

10 AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION AND FUNCTIONS OF THE LOCAL GOVERNMENT GRANTS COMMISSION.

(1) Section 3, matter relating to Part VIIA—

Omit “218J”, insert instead “218Q”.

15 (2) Part VIIA, Division 1—

Before section 218A, insert :—

DIVISION 1.—*Constitution of Local Government Grants Commission.*

(3) (a) Section 218A (2) (b) (ii)—

20 Omit “that Department;”, insert instead “that Department and who shall be the deputy chairman; and”.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

- 5 (b) Section 218A (2) (b) (iii), (iv)—
Omit the subparagraphs, insert instead :—
(iii) two members nominated by the Minister,
each of whom is, when appointed, or has,
at any time before his appointment,
10 been, associated with local government
in New South Wales, whether as a
member of a council or otherwise.
- (c) Section 218A (3) (a)—
15 Omit “with the leave of the Minister granted
for any particular period, the Governor”, insert
instead “through illness or any other cause, the
Minister”.
- (d) Section 218A (3) (a) (i)—
20 Omit “on the nomination of the Minister,
appoint a person as an acting member and the
acting chairman”, insert instead “appoint a
person as an acting member”.
- (e) Section 218A (3) (a) (ii)—
25 After “member” where thirdly occurring, insert
“and acting deputy chairman”.
- (f) Section 218A (3) (a) (iii)—
Omit “or (iv)”.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

- 5 (g) Section 218A (3) (a) (iii)—
Omit “select and appoint a member of the panel”, insert instead “appoint a person having the qualification referred to in that subparagraph”.
- 10 (h) Section 218A (4)—
Omit the subsection, insert instead :—
(4) An acting member shall be deemed to be a member of the Grants Commission.
- (i) Section 218A (5)—
15 Omit “an acting chairman or acting member” wherever occurring, insert instead “the deputy chairman, an acting deputy chairman or an acting member”.
- (j) Section 218A (5)—
20 Omit “the acting chairman”, insert instead “the deputy chairman, acting deputy chairman”.
- (k) Section 218A (6)—
After “member or” where firstly occurring, insert “by the Minister of any”.
- 25 (4) Section 218B—
Omit the section.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

- 5 (5) Section 218C—
Omit the section.
- (6) (a) Section 218D (1)—
Omit “or a member of the panel”.
- (b) Section 218D (1) (b)—
10 Omit “to the Governor”, insert instead “, in the
case of a member, to the Governor or, in the
case of an acting member, to the Minister”.
- (c) Section 218D (1) (e)—
After “aforesaid;”, insert “or”.
- 15 (d) Section 218D (1) (f), (g)—
Omit the paragraphs, insert instead :—
(g) being a member, for any cause which
appears to the Governor to be sufficient,
is removed from office by the Governor
20 or, being an acting member, for any
cause which appears to the Minister to
be sufficient, is removed from office by
the Minister.
- (e) Section 218D (2), (2A)—
25 Omit section 218D (2), insert instead :—
(2) Without limiting subsection (1), a
member of the Grants Commission referred to
in section 218A (2) (b) (ii) or an acting

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

5 member of the Grants Commission referred to
in section 218A (3) (a) (ii) shall be deemed
to have vacated his office—

10 (a) if he ceases to be an officer of the
Department of Local Government
without his office as a member or an
acting member of the Commission
having previously been confirmed
under subsection (2A); or

15 (b) where he has ceased to be such an
officer and his office as a member or
an acting member of the Grants
Commission was previously confirmed
under subsection (2A), upon the
20 expiration of the period for which it
was confirmed.

(2A) The Minister may, before a member of
the Grants Commission referred to in section
218A (2) (b) (ii) or an acting member of that
Commission referred to in section 218A (3) (a)
25 (ii) ceases to be an officer of the Department
of Local Government, by instrument in writing,
confirm his office as a member or an acting
member of that Commission for such period (not
exceeding the period for which he was appointed
30 as a member or an acting member) after he
ceases to be an officer of that Department as is
specified in that instrument.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

- 5 (f) Section 218D (3)—
Omit “of the Grants Commission or the panel”.
- (g) Section 218D (3)—
Omit “nominated or selected in the same manner
as his predecessor shall be appointed by the
10 Governor”, insert instead “having the like
qualification as his predecessor shall be
appointed, in the case of a new member, by the
Governor or, in the case of a new acting
member, by the Minister”.
- 15 (7) (a) Section 218E—
After “chairman” where firstly occurring, insert
“, deputy chairman”.
- (b) Section 218E—
20 Omit “acting chairman” where firstly occurring,
insert instead “acting deputy chairman”.
- (c) Section 218E—
Omit “or an acting chairman”, insert instead
“, the deputy chairman or an acting deputy
chairman”.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

5 (8) (a) Section 218F (1), (1A)—

Omit section 218F (1), insert instead :—

(1) At any meeting of the Grants
Commission—

(a) the chairman;

10 (b) in the absence of the chairman, the
deputy chairman; or

(c) in the absence of the chairman and the
deputy chairman, the acting deputy
chairman, if any,

15 shall preside.

(1A) The person presiding at any meeting of
the Grants Commission shall, in addition to a
deliberative vote, have, in the event of an equality
of votes, a second or casting vote.

20 (b) Section 218F (2)—

Omit “chairman”, insert instead “person
presiding”.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

5 (9) Part VIIA, Division 2—

After section 218F, insert :—

DIVISION 2.—*Local Government Assistance Fund.*

(10) (a) Section 218G (1) (b)—

Omit “Part”, insert instead “Division”.

10 (b) Section 218G (2)—

Omit the subsection.

(c) Section 218G (3A)—

After section 218G (3), insert :—

15 (3A) A requirement under subsection (3)
may specify the form in which the information is
to be produced and the person or body to whom
it is to be produced.

(11) Section 218I (1)—

Omit “Part”, insert instead “Division”.

20 (12) (a) Section 218J (1) (d)—

After “chairman” where firstly occurring, insert
“, deputy chairman”.

(b) Section 218J (1) (d)—

25 Omit “acting chairman”, insert instead “acting
deputy chairman”.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

5 (13) Part VIIA, Divisions 3, 4—

After section 218J, insert :—

DIVISION 3.—*Local Government Revenue Sharing
Fund.*

10 218K. (1) In this Division, “Commonwealth Act” **Interpre-**
means the Local Government (Personal Income Tax **tation.**
Sharing) Act 1976 of the Parliament of the Common-
wealth or, if that Act is amended, that Act as amended
from time to time.

15 (2) A reference in this Division to the
annual share of revenue for any year ending on 30th
June is a reference to the amount to the payment of
which the State is, subject to compliance with the
Commonwealth Act, entitled under that Act in respect
of that year.

20 218L. (1) There shall be constituted an account **Revenue**
in the Special Deposits Account in the Treasury to be **Sharing**
called the “Local Government Revenue Sharing **Fund.**
Fund” which in this Division is referred to as the
“Revenue Sharing Fund”.

25 (2) The Treasurer shall pay into the
Revenue Sharing Fund all amounts paid to the State
under the Commonwealth Act.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

5 (2) In determining an allocation referred to in subsection (1) (b), the Minister shall have regard to the recommendation of the Grants Commission made under section 218N (1) (c) (ii) with respect to the allocation.

10 (3) Particulars of an allocation determined by the Minister under subsection (1) shall not be made public until the Minister of State for the time being responsible for the administration of the Commonwealth Act has been informed of those particulars
15 and the Minister has informed that Minister of State that the allocation has been made in accordance with section 6 of the Commonwealth Act.

20 (4) Each council is entitled to receive, without undue delay, from the Revenue Sharing Fund payment, being a payment that is unconditional, of the amount determined for allocation to it under subsection (1).

25 218N. (1) The Grants Commission shall, in respect of the year ending on 30th June, 1979, and each subsequent year ending on 30th June, make to the Minister recommendations with respect to—

30 (a) the percentage (not being less than the percentage referred to in section 6 (2) (a) of the Commonwealth Act) of the annual share of revenue for the year in respect of which the recommendation is made to be allocated among councils;

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

- 5 (b) the principles in accordance with which the
basis referred to in section 218M (1) (a)
should be applied; and
- (c) the allocation among councils—
- 10 (i) on the basis referred to in section
218M (1) (a) applied in accord-
ance with principles approved by
the Minister, of the percentage,
approved by the Minister, of the
15 annual share of revenue for the year
in respect of which the recommenda-
tion is made; and
- (ii) on the basis referred to in section
218M (1) (b) of the remainder of
that annual share of revenue.
- 20 (2) The Grants Commission shall make
recommendations with respect to the matters—
- (a) referred to in subsection (1) (a) and (b)
as soon as practicable after being requested
by the Minister to make those recommenda-
25 tions; and
- (b) referred to in subsection (1) (c) as soon
as practicable after the approvals of the
Minister referred to in subsection (1) (c)
(i) have been notified to it,

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

5 and, if after making any such recommendation it is
requested by the Minister to reconsider its recom-
mendation on any matter, shall make a further rec-
ommendation on that matter as soon as practicable
after being so requested to reconsider.

10 (3) Any recommendation made by the
Grants Commission under subsection (1) or any
further recommendation made by it under subsection
(2) shall be embodied in a report with respect to
15 matters relating to the making of the recommendations
and as soon as practicable after preparing it shall
furnish it to the Minister.

20 (4) The Grants Commission shall not make
public its recommendations made under subsection
(1), any further recommendation made under sub-
section (2) or any report referred to in subsection
(3).

(5) For the purpose of enabling the Grants
Commission to perform its functions under this
section—

25 (a) the Grants Commission shall hold such
hearings and make such inspections,
investigations and inquiries as it thinks
necessary;

30 (b) the Grants Commission may require the
production by the council of any informa-
tion which may, in the opinion of the Grants
Commission, assist it; and

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

5 (c) submissions may be made to the Grants
Commission by, or by associations of,
councils.

(6) Hearings held for the purpose of
subsection (5) shall be ordinarily held in public.

10 (7) A requirement under subsection (5)
(b) may specify the form in which the information is
to be produced and the person or body to whom it
is to be produced.

15 218o. As soon as practicable after 30th June, 1979,
and 30th June in each subsequent year, the Minister
shall furnish to the Treasurer of the Commonwealth—

Statements
of payments
to councils
to be
furnished.

(a) a statement, in accordance with a form
approved by the Treasurer of the Common-
wealth, specifying payments made by the
State during the year to which the statement
relates in accordance with the Common-
wealth Act and the dates of those payments;
and

25 (b) a certificate by the Auditor-General certifying
that, in his opinion, the contents of the
statement are correct.

DIVISION 4.—*General.*

218p. The Grants Commission shall meet—

Meetings
of Grants
Commission.

(a) at such times as the Minister directs; and

Local Government (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

- 5 (b) at such other times as the Grants
Commission thinks necessary or desirable,
but in any case it shall meet at least once in each year.

- 10 218Q. (1) As soon as practicable after 30th June, Annual
1978, and 30th June in each subsequent year, the report.
Grants Commission shall furnish to the Minister a
report on the manner in which it performed its
functions under Division 2, and containing a copy of
any proposals or determinations made by it under that
Division during the year to which the report relates.

- 15 (2) The Minister shall cause a copy of any
report furnished to him—

- (a) under subsection (1) to be laid before both
Houses of Parliament within 14 sitting days
after receipt of the report by him; and
- 20 (b) under section 218N (3) to be furnished, as
soon as practicable after receipt of the
report by him, to the Prime Minister of
Australia and only after a copy has been
so furnished shall—

- 25 (i) cause another copy of the report to
be laid before both Houses of
Parliament within 14 sitting days
after receipt of the report by him;
and

- 30 (ii) cause the report to be made public.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

- 5 (3) For the purposes of subsection (2), sitting days shall be counted whether or not they occur during the same session.

(14) Section 573 (3)—

After section 573 (2), insert :—

- 10 (3) Subsection (1) does not extend to authorising an ordinance to be made applying, *mutatis mutandis*, to county councils any of the provisions of Division 3 of Part VIIA.

SCHEDULE 2.

Sec. 5 (2).

15 TRANSITIONAL PROVISION RELATING TO THE CONSTITUTION
OF THE LOCAL GOVERNMENT GRANTS COMMISSION.

- 20 Upon the commencement of Schedule 1, a member of the Local Government Grants Commission referred to in section 218A (2) (b) (iii) or (iv) of the Principal Act, as in force immediately before that commencement, shall be deemed to have been appointed as a member of that Commission referred to in section 218A (2) (b) (iii) of that Act, as in force upon that commencement, and subject to the Principal Act, shall hold office as such a member for the term of his 25 appointment that was unexpired at that commencement.

Term of office of certain members terminated.

Local Government (Amendment).

SCHEDULE 3.

Sec. 5 (1).

AMENDMENT TO THE PRINCIPAL ACT RELATING TO
POSSESSION OR OCCUPATION OF LAND IN CERTAIN
PUBLIC RESERVES.

5 Sections 519C-519F—

After section 519B, insert :—

519C. (1) This section applies to land which is or forms part of a public reserve, other than—

10 (a) lands which are a reserve as defined in section 37M (1) of the Crown Lands Consolidation Act, 1913; or

Leases of or licences in respect of land in certain public reserves.

(b) land to which section 519A applies.

15 (2) The provisions of section 519 do not apply to or in respect of land to which this section applies.

20 (3) The council may apply in writing to the Minister for his consent to the granting of a lease of or a licence in respect of land to which this section applies to a person specified in the application, being the person specified, in accordance with subsection (4) (c), in the advertisement referred to in subsection (4) relating to the proposed lease of or licence in respect of that land.

25 (4) An application under subsection (3) may not be made unless, at least 1 month before making the application, the council has caused to be inserted in a newspaper circulating within its area an advertisement—

30 (a) giving notice of its intention to grant, in accordance with the consent, if given, of the Minister, a lease of or a licence in respect of land to which this section applies;

Local Government (Amendment).

SCHEDULE 3—*continued.*AMENDMENT TO THE PRINCIPAL ACT RELATING TO
POSSESSION OR OCCUPATION OF LAND IN CERTAIN
PUBLIC RESERVES—*continued.*

- 5 (b) specifying particulars of the area and loca-
tion of the land;
- (c) specifying the name and address of the pro-
posed lessee or licensee;
- 10 (d) specifying the proposed term, and particu-
lars of any proposed options for renewal,
of the proposed lease or licence; and
- (e) stating that objections to the granting of the
lease or licence may be lodged with the
15 council within 1 month after the date of
publication of the advertisement.

(5) The council shall consider any objec-
tions to the granting of a lease or licence received by
it pursuant to the advertisement referred to in sub-
20 section (4) and if it then decides to apply to the
Minister for his consent to the granting of the lease
or licence shall forward to the Minister with its
application—

- (a) copies of all such objections and a state-
ment setting out, in respect of each such
25 objection, the council's decision and its
reasons therefor;
- (b) a statement setting out all of the facts
relating to the proposal to grant the lease
or licence;
- 30 (c) a copy of the advertisement;

Local Government (Amendment).

SCHEDULE 3—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO
POSSESSION OR OCCUPATION OF LAND IN CERTAIN
PUBLIC RESERVES—*continued.*

5 (d) a statement setting out the terms, conditions,
restrictions and covenants proposed to be
included in the lease or licence; and

10 (e) a statement setting out the manner in which
and the extent to which the public interest
would, in the opinion of the council, be
affected by the granting of the proposed
lease or licence, including the manner in
15 which and the extent to which the needs of
the area with respect to public reserves
would, in the opinion of the council, be
adversely affected by the granting of the
proposed lease or licence.

(6) Where—

20 (a) an application is made to the Minister under
subsection (3); and

(b) the Minister is satisfied that the provisions
of subsections (4) and (5) have been
complied with with respect to the proposed
lease or licence to which the application
25 relates,

the Minister, if he thinks fit, may, by instrument in
writing, consent to the granting of a lease of or a
licence in respect of the whole or of part of the land
to which the application relates to the person specified

Local Government (Amendment).

SCHEDULE 3—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO
POSSESSION OR OCCUPATION OF LAND IN CERTAIN
PUBLIC RESERVES—*continued.*

5 in the application as the proposed lessee or licensee
and may give that consent subject to conditions
requiring that the lease or licence—

(c) be for such term and with such options (if
any) for renewal as may be specified or
10 referred to in that instrument; and

(d) contain such terms, conditions, restrictions
and covenants as may be specified or
referred to in that instrument.

(7) The Minister shall—

15 (a) before dealing with an application under
subsection (3), request the New South
Wales Planning and Environment Commis-
sion to furnish to him within such period
as may be specified in the request a report
20 relating to the application; and

(b) take into consideration any report furnished
in accordance with paragraph (a) when
dealing with the application.

25 (8) The consent of the Minister to the
granting by the council of a lease or licence under
this section shall be conclusive evidence that the
provisions of subsections (4) and (5) have been
complied with by the council.

Local Government (Amendment).

SCHEDULE 3—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO
POSSESSION OR OCCUPATION OF LAND IN CERTAIN
PUBLIC RESERVES—*continued*

- 5 519D. After obtaining the consent of the Minister under section 519C, the council may grant a lease of or a licence in respect of the land to which the consent relates in accordance with the terms of the consent. Grant of lease by council.
- 10 519E. (1) Sections 519C and 519D do not apply to or in respect of the granting by the council of a licence in respect of land to which section 519C applies if the granting of the licence is authorised by an ordinance made for the purposes of this subsection. Licences for periodic use of land in certain public reserves.
- 15 (2) An ordinance made for the purposes of subsection (1) shall not authorise the granting of a licence—
- 20 (a) to use the land otherwise than on a periodic basis specified in the ordinance;
- (b) unless it prohibits the erection on that land of any building or structure of a permanent nature; or
- (c) to use the land otherwise than for the purpose of a lawful game or sport or other lawful purpose specified in the ordinance.
- 25 519F. A council shall not grant a lease of or a licence in respect of land to which section 519C applies otherwise than pursuant to section 519D or pursuant to the authority granted by an ordinance made for the purposes of section 519E (1). Restriction on councils' powers to grant leases of or licences in respect of land in certain public reserves.
-

Local Government (Amendment).

SCHEDULE 4.

Sec. 5 (2).

TRANSITIONAL PROVISIONS RELATING TO EXISTING POSSESSION OR OCCUPATION OF LAND IN CERTAIN PUBLIC RESERVES.

- 5 1. Where at the commencement of Schedule 3 a person is in possession or occupation of any land to which section 519c of the Principal Act applies and his possession or occupation of that land commenced pursuant to a right purporting to have been previously conferred on him, whether
- 10 by an instrument in writing or otherwise, by the council in whose area the land is situated, he may make an application in accordance with clause 2 for the Minister's approval to his continued possession or occupation of the land.
- Application for approval of possession or occupation.
2. The application—
- 15 (a) shall be in or to the effect of the prescribed form;
- (b) shall be made by lodging it with the council in whose area the land to which it relates is situated for transmission to the Minister;
- 20 (c) may not be so lodged after the expiration of 12 months after the date of assent to this Act; and
- (d) shall, within 28 days after its being so lodged, be forwarded by the council to the Minister, accompanied by—
- 25 (i) a copy of any instrument purporting to confer the right to possession or occupancy sought to be continued or, if there is no such instrument, full particulars of the right;
- Manner of making application.

*Local Government (Amendment).*SCHEDULE 4—*continued.*TRANSITIONAL PROVISIONS RELATING TO EXISTING POSSESSION OR OCCUPATION OF LAND IN CERTAIN PUBLIC RESERVES—*continued.*

5 (ii) a statement setting out all of the facts relating to the purported conferring of the right; and

10 (iii) a statement setting out the council's views on whether or not the application should be approved and, if so, on what terms.

3. Where a person is entitled to make, and makes, an application under clause 1 in respect of any land— **Interim rights of applicant.**

15 (a) he shall, subject to paragraph (b), be deemed to have a lawful right to possession or occupation of that land corresponding to the right purporting to have been conferred on him by the council as referred to in clause 1 as if that lawful right had been conferred under a lease or licence, as the case may require, authorised by law to be granted by the council, being a lease or licence with the same options (if any) for renewal and containing the same terms, conditions, restrictions and covenants (if any) as purported to attach to the right purporting to have been so conferred; and

25 (b) he shall continue to have that lawful right under this clause until the Minister so approves or disapproves of the application.

4. (1) The Minister may, by instrument in writing— **Approval or disapproval of application and effect thereof.**

30 (a) approve of an application made under clause 1 as regards the whole of the land to which the application relates or as regards any part thereof; or

(b) disapprove of any such application.

Local Government (Amendment).

SCHEDULE 4—*continued.*

TRANSITIONAL PROVISIONS RELATING TO EXISTING POSSESSION OR OCCUPATION OF LAND IN CERTAIN PUBLIC RESERVES—*continued.*

5 (2) Where the Minister so approves of any such application—

(a) the instrument of approval shall specify—

(i) the term;

(ii) the options (if any) for the renewal; and

10 (iii) the terms, conditions, restrictions and covenants,

of the lease or licence which under paragraph (b) the applicant is to be deemed to have been granted; and

15 (b) a lease or licence (as the case may require according to the terms of the approval) of or in respect of the land specified or described in the approval shall be deemed to have been lawfully granted by the council under provisions made by or under the
20 Principal Act to the applicant—

(i) for the term, with the options (if any) for renewal and containing such terms, conditions, restrictions and covenants as are specified in accordance with paragraph (a) in the instrument of approval; and
25

(ii) as if those provisions had been complied with in respect of the granting of that lease or licence.

Local Government (Amendment).

SCHEDULE 4—*continued.*TRANSITIONAL PROVISIONS RELATING TO EXISTING POSSESSION OR OCCUPATION OF LAND IN CERTAIN PUBLIC RESERVES—*continued.*

5 (3) Any of the matters required by subclause (2) of this clause to be specified in an instrument of approval may, if it seems convenient to the Minister to do so, be specified by reference to the copy of the instrument, if any, referred to in clause 2 (d) (i) that accompanied the application for the
10 Minister's approval.

(4) The Minister shall, as soon as practicable after executing an instrument of approval, cause to be published in the Gazette—

15 (a) such particulars as he thinks sufficient of the land to which the approval relates;

(b) the name of the person whose application relating to that land was approved; and

20 (c) such other particulars relating to any matters referred to in subclause (2) of this clause as he thinks it desirable to publish.

5. Where an application under clause 1 is expressed to be made by any person in his capacity as a trustee for any other person or for any body, corporate or unincorporate, the right conferred on that person by clause 3 is held by him as
25 trustee for that other person or body and, if the application is approved as referred to in clause 4 (1) (a)—

(a) the approval shall specify that the approval is given to the applicant in his capacity as trustee for that person or body; and

*Local Government (Amendment).*SCHEDULE 4—*continued.*TRANSITIONAL PROVISIONS RELATING TO EXISTING POSSESSION OR OCCUPATION OF LAND IN CERTAIN PUBLIC RESERVES—*continued.*

- 5 (b) the lease or licence to be deemed by clause 4 (2) (b) to have been granted to him shall be deemed to have been granted to him as trustee for that person or body.

6. Where—

- 10 (a) an application in relation to any land is made under clause 1; and
- (b) the applicant's possession or occupation of that land was, immediately before the application was made, lawful,

Effect of application where previous possession or occupation lawful.

- 15 the applicant's lawful right to possession or occupation of that land that existed immediately before the application was made ceases upon the application being made and he thereafter has, subject to any further lease or licence being granted to him under section 519C of the Principal Act, only such
- 20 right to possession or occupation of that land as results from the operation of clause 3 and, if applicable, clauses 4 (2) (b) and 5.

7. Where—

- 25 (a) on the date of assent to this Act, a person is in possession or occupation of any land to which section 519C of the Principal Act applies; and

Right to possession or occupation where no application made under clause 1.

Local Government (Amendment).

SCHEDULE 4—*continued.*

TRANSITIONAL PROVISIONS RELATING TO EXISTING POSSESSION OR OCCUPATION OF LAND IN CERTAIN PUBLIC RESERVES—*continued.*

- 5 (b) he has not made an application in accordance with clause 2 for the Minister's approval to his continued possession or occupation of that land,

he has such right to possession or occupation, if any, of that land as he would have had if this Schedule had not been
10 enacted.

SCHEDULE 5.

Sec. 5 (1).

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PARKING OFFENCES.

- (1) Section 270o (5), definition of "Owner"—

15 Omit "motor", insert instead "registered".

- (2) (a) Section 270R (1)—

20 Omit " , unless the court is satisfied that the vehicle was at the relevant time a stolen vehicle or a vehicle illegally taken or used.", insert instead :—

unless—

- 25 (a) in any case where the offence is dealt with under section 270s, he satisfies the proper servant specified in the notice served under that section that the vehicle was at the relevant time a stolen vehicle or a vehicle illegally taken or used; or

Local Government (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PARKING OFFENCES—*continued.*

5 (b) in any other case, the court is satisfied that the vehicle was at the relevant time a stolen vehicle or a vehicle illegally taken or used.

(b) Section 270R (2A), (2B), (2C)—

10 After section 270R (2), insert :—

(2A) Notwithstanding subsection (1), no owner of a vehicle shall, by virtue of that subsection, be guilty of an offence if—

15 (a) in any case where the offence is dealt with under section 270s, he—

20 (i) within 21 days after service on him of a notice under that section alleging that he has been guilty of the offence, supplies by statutory declaration to the proper servant specified in the notice the name and address of the person who was in charge of the vehicle at all relevant times relating to the offence; or

25 (ii) satisfies that servant that he did not know and could not with reasonable diligence have ascertained that name and address; or

30

Local Government (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PARKING OFFENCES—*continued.*

(b) in any other case, he—

5 (i) within 21 days after service on
him of a summons in respect
of the offence, supplies by
statutory declaration to the
10 informant the name and
address of the person who was
in charge of the vehicle at all
relevant times relating to the
offence; or

15 (ii) satisfies the court that he did
not know and could not with
reasonable diligence have
ascertained that name and
address.

20 (2B) A statutory declaration under sub-
section (2A) if produced in any proceedings
against the person named therein and in respect
of the offence in respect of which the statutory
25 declaration was supplied shall be prima facie
evidence that that person was in charge of the
vehicle at all relevant times relating to that
offence.

30 (2C) A statutory declaration which relates to
more than one offence shall be deemed not to
be a statutory declaration under, or for the
purposes of, subsection (2A).

Local Government (Amendment).

SCHEDULE 5—continued.

**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PARKING OFFENCES—continued.**

(c) Section 270R (3), definition of "Owner"—

5 Omit "motor", insert instead "registered".

(3) (a) Section 351B (1)—

Omit "motor".

(b) Section 351B (1)—

10 Omit " , unless the court is satisfied that the
vehicle was at the relevant time a stolen vehicle
or a vehicle illegally taken or used.", insert
instead :—

unless—

15 (a) in any case where the offence is
dealt with under section 351C,
he satisfies the proper servant
specified in the notice served
under that section that the vehicle
20 was at the relevant time a stolen
vehicle or a vehicle illegally taken
or used; or

25 (b) in any other case, the court is
satisfied that the vehicle was at
the relevant time a stolen vehicle
or a vehicle illegally taken or
used.

Local Government (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PARKING OFFENCES—*continued.*

(c) Section 351B (2A), (2B), (2C)—

5 After section 351B (2), insert :—

(2A) Notwithstanding subsection (1), no owner of a vehicle shall, by virtue of that subsection, be guilty of an offence if—

10 (a) in any case where the offence is dealt with under section 351C, he—

15 (i) within 21 days after service on him of a notice under that section alleging that he has been guilty of the offence, supplies by statutory declaration to the proper servant specified in the notice the name and address of the person who was in charge of the vehicle at all relevant times relating to the offence; or

20 (ii) satisfies that servant that he did not know and could not with reasonable diligence have ascertained that name and address; or

25

(b) in any other case, he—

30 (i) within 21 days after service on him of a summons in respect of the offence, supplies by statutory declaration to the

Local Government (Amendment),

 SCHEDULE 5—*continued.*

 AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
 PARKING OFFENCES—*continued.*

5 informant the name and
 address of the person who was
 in charge of the vehicle at all
 relevant times relating to the
 offence; or

10 (ii) satisfies the court that he did
 not know and could not with
 reasonable diligence have
 ascertained that name and
 address.

15 (2B) A statutory declaration under subsection
 (2A) if produced in any proceedings against the
 person named therein and in respect of the
 offence in respect of which the statutory declara-
 tion was supplied shall be prima facie evidence
 20 that that person was in charge of the vehicle at
 all relevant times relating to that offence.

(2C) A statutory declaration which relates to
 more than one offence shall be deemed not to be
 a statutory declaration under, or for the purposes
 of, subsection (2A).

25 (d) Section 351B (3), definition of "owner"—
 Omit "motor vehicle", insert instead "vehicle,
 being a registered vehicle".

Local Government (Amendment).

SCHEDULE 6.

Sec. 5 (1).

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
DAMAGE TO PUBLIC ROADS.

(1) Section 245 (5)—

5 After section 245 (4), insert :—

(5) This section does not apply to or in respect of any damage or injury which a developer referred to in section 245A is liable, under subsection (2) of that section, to pay the cost of making good.

10 (2) Section 245A—

After section 245, insert :—

245A. (1) For the purposes of this section—

Developer's liability for damage or injury to public roads.

(a) a reference to construction work is a reference to—

15 (i) the erection of a building for which the council's approval is required under Division 4 of Part XI; or

20 (ii) the opening of a public road or the subdivision of land, whether or not the subdivision provides for the opening of a public road, for which the council's approval is required under Division 2 of Part XII;

Local Government (Amendment).

SCHEDULE 6—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
DAMAGE TO PUBLIC ROADS—*continued.*

- 5 (b) the reference to damage or injury caused as a consequence of construction work is a reference to damage or injury, not being damage or injury caused by ordinary wear and tear and reasonable use—
- 10 (i) caused to any public road, to any thing or device referred to in section 245 (1) (b) or to any thing that is to be deemed by section 245 (4) to be a public road for the purposes of section 245;
- 15 (ii) occurring at or in the vicinity of the place where access to the construction work is obtained from any public road; and
- 20 (iii) caused by the developer or by any person engaged to perform work at the site of the construction work, whether as an employee of the developer or otherwise, or by any person delivering or removing any
- 25 material to or from that site, whether as an employee of the developer or otherwise; and
- 30 (c) a reference to a developer, in relation to any construction work, is a reference to the person to whom the council granted an approval under Division 4 of Part XI or Division 2 of Part XII to carry out that construction work.

Local Government (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
DAMAGE TO PUBLIC ROADS—*continued.*

(2) Where—

5

(a) damage or injury is caused as a consequence of construction work; and

10

(b) the developer has, pursuant to a condition imposed by the council under section 314 or 331, provided security for the payment of the cost of making good any such damage or injury,

the developer is liable to pay to the council that cost.

15

(3) Any deposit lodged with the council as a security referred to in subsection (2) (b) may be applied in or towards payment of that cost.

(4) To the extent that—

20

(a) any such deposit exceeds that cost, the council shall refund the excess to the developer; or

25

(b) any such deposit is less than that cost or any guarantee given as such a security is for an amount that is less than that cost, the council may, in any court of competent jurisdiction, recover the difference as a debt from the developer.

(3) Section 314 (1B), (1C)—

After section 314 (1A), insert :—

30

(1B) The power of a council to approve of an application subject to conditions includes the power to approve of an application subject to the condition that

Local Government (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
DAMAGE TO PUBLIC ROADS—*continued.*

5 the applicant shall provide to the council security for the payment of the cost of making good any damage or injury, referred to in section 245A (1) (b), caused as a consequence of construction work, being the work to which the approval relates.

10 (1C) A security referred to in subsection (1B) shall be—

(a) the deposit with the council of such reasonable amount; or

(b) a guarantee satisfactory to the council for such reasonable amount,

15 as is determined by the council and specified in the condition.

(4) Section 331 (2A), (2B)—

After section 331 (2), insert :—

20 (2A) The power of a council to approve of an application subject to conditions includes the power to approve of an application subject to the condition that the applicant shall provide to the council security for the payment of the cost of making good any damage or injury, referred to in section 245A (1) (b), caused
25 as a consequence of construction work, being the work to which the approval relates.

Local Government (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
DAMAGE TO PUBLIC ROADS—*continued.*

- 5 (2B) A security referred to in subsection (2A)
shall be—
- (a) the deposit with the council of such
reasonable amount; or
 - (b) a guarantee satisfactory to the council
for such reasonable amount,
- 10 as is determined by the council and specified in the
condition.
-

SCHEDULE 7.

Sec. 5 (1).

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

- (1) Section 78—
- 15 Omit “and 151A”, insert instead “151A, 151B, 151D
and 151E”.
- (2) Section 83 (f)—
- 20 Omit “sections 23 to 67 inclusive and sections 75 to
136 inclusive”, insert instead “Part IV, section 22
excepted, and Divisions 2 to 16 of Part V”.

Local Government (Amendment).

SCHEDULE 7—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued.

(3) Section 182 (3), (4), (5)—

5 Omit section 182 (3), insert instead :—

(3) For the purpose of any security for a loan under this Act, a certificate—

(a) signed on or after the date of assent to the Local Government (Amendment) Act, 1978, by—

10 (i) the Minister; or
(ii) a person authorised by the Minister, either generally or in a particular case, to sign the certificate; or

15 (b) signed on or after 25th February, 1976, and before the date of assent referred to in paragraph (a) by an officer of the Department of Local Government,

20 and specifying the purpose, and the terms and conditions, of the loan, shall be admissible in any proceedings and shall be conclusive evidence that—

(c) the approval of the Governor has been obtained;

25 (d) the purpose, and the terms and conditions, of the loan are as set out in the certificate; and

(e) the provisions of this Act with respect to the proposal for the loan have been duly complied with.

Local Government (Amendment).

SCHEDULE 7—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued.

(4) A document purporting to be a certificate—

5 (a) under subsection (3) (a) and to have been
signed by the Minister or by some person
authorised by him, either generally or in a
particular case, to sign the certificate; or

10 (b) under subsection (3) (b) and to have been
signed by an officer of the Department of
Local Government,

shall be deemed to have been so signed unless the
contrary is proved.

15 (5) A person, other than the Minister, shall not
sign a certificate under subsection (3) (a) unless
he has been authorised in writing to do so by the
Minister.

(4) Section 342BI (2)—

20 Omit “corresponding to the fee referred to in section
73 (2) of the Justices Act, 1902, for copies of
depositions”.

(5) Section 419 (3)—

After section 419 (2), insert :—

25 (3) Subsection (2) does not prevent the council
from charging different rates for electricity supplied to
persons in different parts of its area where it does so
solely by reason of a variation of the scale of rates
charged for electricity and the scale, as varied, is to be
applied uniformly throughout its area.

Local Government (Amendment).

SCHEDULE 7—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued.

(6) (a) Section 512D—

5 Omit “not exceeding two hundred dollars”.

(b) Section 512D—

Omit “or police”.

(7) Section 521A—

After section 521, insert :—

10 521A. (1) In this section, “Crown” does not include a body or a statutory body representing the Crown. Joint under-
takings with
the Crown.

15 (2) Any power conferred by or under this or any other Act on the council to construct, carry out or provide any buildings or works for any purpose extends to empowering the council to enter into an agreement with the Crown for or with respect to any one or more of the following :—

20 (a) the construction or carrying out, or the payment of the whole or any part of the cost of the construction or carrying out, of any buildings or works on lands on which the Crown or the council may lawfully construct, carry out or provide buildings or works for that purpose, being buildings or works which, under the agreement, are to be used, wholly or partly and at all times or at times determined in accordance with the agreement for that purpose;

25

Local Government (Amendment).

SCHEDULE 7—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued.

5 (b) the maintenance, or the payment of the whole or any part of the cost of the maintenance, of any buildings or works referred to in paragraph (a);

(c) the control and management of any buildings or works so referred to.

10 (3) Subsection (2) applies so as to empower the council to enter into an agreement referred to in that subsection whether or not the buildings or works to which the agreement relates were constructed or carried out before or after the date of assent to the
15 Local Government (Amendment) Act, 1978, or the date of the agreement.

20 (4) Ordinances may be made with respect to any buildings or works to which an agreement entered into under subsection (2) relates as if those buildings or works had been constructed, carried out or provided solely by the council for the purpose for which, under the agreement, they are to be used.

Local Government (Amendment).

SCHEDULE 8.

Sec. 6.

AMENDMENTS TO THE LOCAL GOVERNMENT (APPEALS)
AMENDMENT ACT, 1975.

(1) Section 2 (1)—

5 Omit “subsection (2)”, insert instead “subsections
(2) and (3)”.

(2) Section 2 (2)—

Omit “Sections 6 (e) and 7 (1) (f)”, insert instead
“Section 6 (e)”.

10 (3) Section 2 (3)—

After section 2 (2), insert :—

(3) Section 7 (1) (f) shall commence on 21st
November, 1975.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1978

[48c]

Local Government (Amendment)

Sec. 6

SCHEDULE 8

AMENDMENTS TO THE LOCAL GOVERNMENT (APPEALS) AMENDMENT ACT, 1975.

(1) Section 2 (1) —

Omit subsection (2), insert instead "subsections (2) and (3)".

(2) Section 2 (2) —

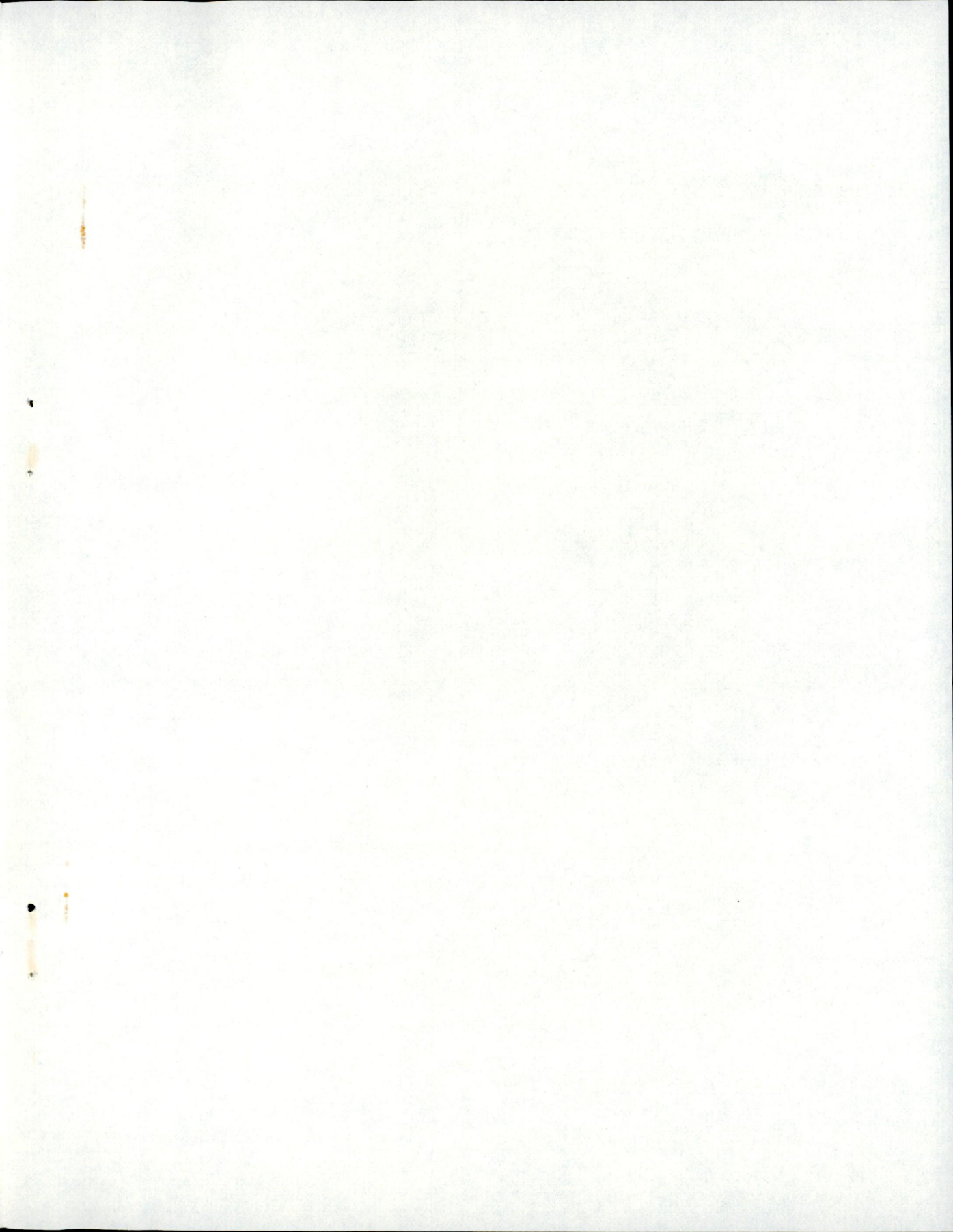
Omit "Sections 6 (a) and 7 (1) (1)", insert instead "Section 6 (c)".

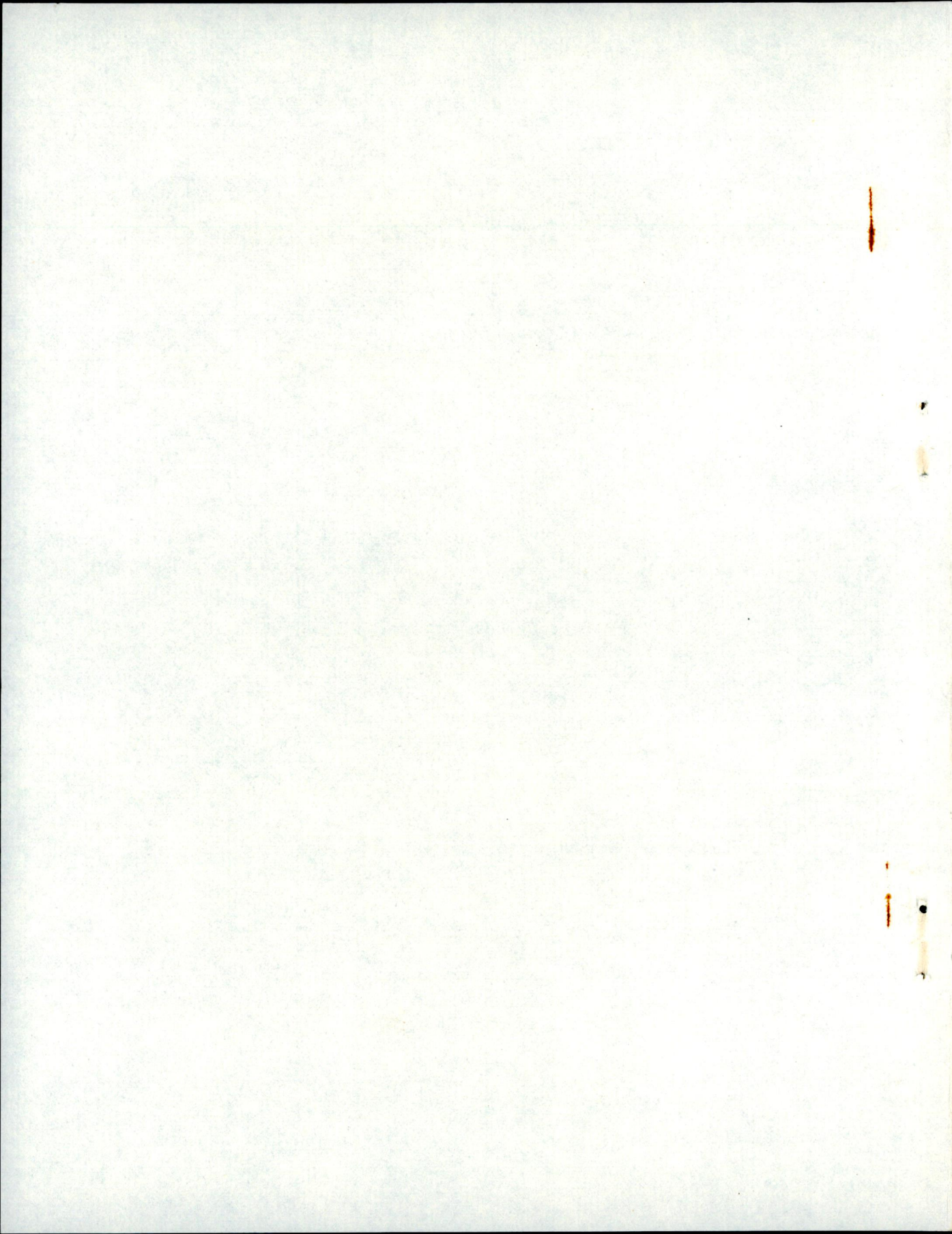
10 (3) Section 2 (3) —

After section 2 (2), insert: —

(3) Section 7 (1) (1) shall commence on 21st November 1975.

BY AUTHORITY OF THE GOVERNMENT PRINTER, NEW YORK





LOCAL GOVERNMENT (AMENDMENT) BILL, 1978**EXPLANATORY NOTE**

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Municipal Council of Sydney Electric Lighting (Amendment) Bill, 1978, is cognate with this Bill.

The objects of this Bill are to amend the Local Government Act, 1919 (hereinafter referred to as the Principal Act)—

- (a) to make amendments to Part VIIA of the Principal Act with respect to the constitution and functions of the Local Government Grants Commission (hereinafter referred to as the Commission) that are necessary to qualify the State for assistance under the (Commonwealth) Local Government (Personal Income Tax Sharing) Act 1976 (hereinafter referred to as the Commonwealth Act) and, in particular—
- (i) to provide for a deputy chairman of the Commission (Schedule 1 (3) (a));
 - (ii) to provide that instead of the selection of 2 members of the Commission by the Governor from among nominated officers of councils 2 members shall be persons nominated by the Minister who are or have been associated with local government (Schedule 1 (3) (b));
 - (iii) to provide for the appointment of acting members by the Minister instead of the Governor (Schedule 1 (3) (c));
 - (iv) to repeal the provisions relating to the Commission Panel (Schedule 1 (4) and (5));
 - (v) to alter the provisions relating to meetings of the Commission and the procedure thereat (Schedule 1 (8));
 - (vi) to establish a Local Government Revenue Sharing Fund into which shall be paid moneys received under the Commonwealth Act (Schedule 1 (13), new section 218L);
 - (vii) to provide for the determination by the Minister, on the recommendation of the Commission, of the allocation among councils, on the basis required by the Commonwealth Act, of the amount to which the State is entitled under the Commonwealth Act (Schedule 1 (13), new sections 218M and 218N);
 - (viii) to provide that the Minister shall furnish to the Commonwealth Treasurer a statement, certified by the Auditor-General, of payments made in accordance with the Commonwealth Act (Schedule 1 (13), new section 218O); and

- (ix) to provide for copies of the Commission's reports embodying its recommendations to be furnished to the Prime Minister of Australia and to be laid before both Houses of Parliament (Schedule 1 (13) and new section 218Q);
- (b) to provide that a present member of the Commission who was selected from and among nominated officers of councils shall continue to hold office for the term of his office that was unexpired when the constitution of the Commission is altered as referred to in paragraph (a) (ii) (Schedule 2);
- (c) to make provision for the granting by councils, if the Minister consents, of leases of, or licences (other than periodic licences) in respect of, land in certain public reserves and, in particular—
 - (i) to provide for the advertising of the proposed lease or licence in a newspaper circulating in the council's area (Schedule 3, new section 519c (4));
 - (ii) to provide that the council shall consider any objections to the proposed lease or licence received by it (Schedule 3, new section 519c (5));
 - (iii) to provide that before dealing with an application for consent the Minister must request the New South Wales Planning and Environment Commission to furnish a report relating to the application and take such report into consideration when dealing with the application (Schedule 3, new section 519c (8));
- (d) to enable councils to grant periodic licences in respect of land in certain public reserves if the granting of the licences is authorised by ordinance;
- (e) to enable existing possession or occupation of land in certain public reserves to be regularised and, in particular—
 - (i) to provide that where a person is in possession or occupation of any such land under a right purporting to have been previously conferred on him by a council, he may make application for the Minister's approval of his continued possession or occupation of the land (Schedule 4, clause 1);
 - (ii) to provide that where a person is entitled to make, and makes, such an application he shall be deemed to have a lawful right to possession or occupation as if that right had been conferred under a lease or licence and to provide for the circumstances in which that lawful right shall cease (Schedule 4, clause 3); and
 - (iii) to provide that, where the Minister approves of an application, a lease of, or licence in respect of, the land specified in the approval shall be deemed to have been granted by the council to the applicant for the term and on such terms, conditions, restrictions and covenants as are specified in the instrument of approval (Schedule 4, clause 4 (2));

- (f) to bring certain provisions of section 270R and 351B ("owner-onus" in respect of certain offences relating to vehicles) of the Principal Act into conformity with provisions of section 270 ("owner-onus" in respect of certain other offences relating to vehicles) of that Act (Schedule 5);
 - (g) to make provision with respect to the recovery from the person carrying out building or subdivision work of the cost of making good certain damage or injury to public roads and associated works and, in particular, to provide that a council in approving an application to erect a building or to open a public road or subdivide land may require the applicant to provide to the council security for the payment of the cost of making good any such damage or injury (Schedule 6 (3) and (4));
 - (h) to apply to elections held under the Principal Act those provisions of the Parliamentary Electorates and Elections Act, 1912, which relate to the exhibition of posters, the removal of illegal posters and the requirement that the name and address of the author be printed on advertisements, "how to vote" cards, etc. (Schedule 7 (1));
 - (i) to enact evidentiary provisions relating to approvals of loans to councils (Schedule 7 (3));
 - (j) to provide for the fee for a transcript of proceedings before boards of appeal to be fixed by ordinance made under the Principal Act (Schedule 7 (4));
 - (k) to permit a council to charge different rates for electricity supplied to persons in different parts of its area for the purpose only of applying a general variation in the scale of rates (Schedule 7 (5));
 - (l) to remove the limit of \$200 from the liability of a person to pay for damage which he causes to any electric line or any other thing or device specified in section 512D of the Principal Act (Schedule 7 (6));
 - (m) to extend any power of a council under the Principal Act to construct, carry out or provide any buildings or works to empowering the council to enter into an agreement with the Crown—
 - (i) for the construction or carrying out, or the payment of the whole or any part of the cost of the construction or carrying out, of any buildings or works;
 - (ii) for the maintenance, or the payment of the whole or any part of the cost of the maintenance, of any buildings or works; and
 - (iii) for the control and management of any buildings or works (Schedule 7 (7));
 - (n) to amend the Local Government (Appeals) Amendment Act, 1975, to confirm the commencement of section 7 (1) (f) of that Act and to provide separately that section 6 (e) of that Act shall commence on a day appointed by the Governor and notified by proclamation in the Gazette (Schedule 8); and
 - (o) to make other provisions of a minor, consequential or ancillary nature.
-

in the case of a person who is a member of a firm, the firm shall be deemed to be a person who is a member of the firm.

141. In the case of a person who is a member of a firm, the firm shall be deemed to be a person who is a member of the firm.

(b) In the case of a person who is a member of a firm, the firm shall be deemed to be a person who is a member of the firm.

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PROOF

**LOCAL GOVERNMENT (AMENDMENT) BILL,
1978**

No. , 1978.

A BILL FOR

An Act to amend the Local Government Act, 1919, with respect to the constitution and functions of the Local Government Grants Commission, rights to possession or occupation of land in certain public reserves and certain other matters.

[MR JENSEN—24 *January*, 1978.]

BE

Local Government (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5 **1.** This Act may be cited as the "Local Government Short title.
(Amendment) Act, 1978".

2. (1) Except as provided in subsections (2), (3) and Commence-
(4), this Act shall commence on the date of assent to this ment.
Act.

10 (2) Section 5 (1) shall, in its application to—

(a) Schedule 1, commence on the day on which that
Schedule commences; or

(b) Schedule 3, commence on the day on which that
Schedule commences.

15 (3) Schedules 1 and 3 shall commence on such day
as may be appointed by the Governor in respect of each of
them (whether or not it is the same day) and as may be
notified by proclamation published in the Gazette.

20 (4) Section 6 and Schedule 8 shall be deemed always
to have commenced on 16th April, 1975.

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

Local Government (Amendment).

4. This Act contains the following Schedules :— Schedules.

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT
RELATING TO THE CONSTITUTION AND FUNCTIONS
OF THE LOCAL GOVERNMENT GRANTS COMMISSION.

5 SCHEDULE 2.—TRANSITIONAL PROVISION RELATING
TO THE CONSTITUTION OF THE LOCAL GOVERN-
MENT GRANTS COMMISSION.

10 SCHEDULE 3.—AMENDMENT TO THE PRINCIPAL ACT
RELATING TO POSSESSION OR OCCUPATION OF LAND
IN CERTAIN PUBLIC RESERVES.

SCHEDULE 4.—TRANSITIONAL PROVISIONS RELATING
TO EXISTING POSSESSION OR OCCUPATION OF LAND
IN CERTAIN PUBLIC RESERVES.

15 SCHEDULE 5.—AMENDMENTS TO THE PRINCIPAL ACT
RELATING TO PARKING OFFENCES.

SCHEDULE 6.—AMENDMENTS TO THE PRINCIPAL ACT
RELATING TO DAMAGE TO PUBLIC ROADS.

SCHEDULE 7.—MISCELLANEOUS AMENDMENTS TO
THE PRINCIPAL ACT.

20 SCHEDULE 8.—AMENDMENTS TO THE LOCAL
GOVERNMENT (APPEALS) AMENDMENT ACT,
1975.

5. (1) The Principal Act is amended in the manner set forth in Schedules 1, 3, 5, 6 and 7. Amendment of Act No. 41, 1919.

25 (2) Schedules 2 and 4 have effect.

6. The Local Government (Appeals) Amendment Act, 1975, is amended in the manner set forth in Schedule 8. Amendment of Act No. 34, 1975.

Local Government (Amendment).

7. (1) Section 602 (5A) of the Principal Act shall be deemed always to have commenced on 1st January, 1953.

Commencement of section 602 (5A) of the Principal Act.

(2) Subsection (1) does not operate so as to affect any proceedings commenced before the date of assent to this Act in which the title of a council to land (being a title that purports to have been acquired by reason of the purchase of that land pursuant to a sale thereof for overdue rates) was or is in dispute.

SCHEDULE 1.

Sec. 5 (1).

10 AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION AND FUNCTIONS OF THE LOCAL GOVERNMENT GRANTS COMMISSION.

(1) Section 3, matter relating to Part VIIA—

Omit “218J”, insert instead “218Q”.

15 (2) Part VIIA, Division 1—

Before section 218A, insert :—

DIVISION 1.—*Constitution of Local Government Grants Commission.*

(3) (a) Section 218A (2) (b) (ii)—

20 Omit “that Department;”, insert instead “that Department and who shall be the deputy chairman; and”.

SCHEDULE

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

- 5 (b) Section 218A (2) (b) (iii), (iv)—
Omit the subparagraphs, insert instead :—
(iii) two members nominated by the Minister,
each of whom is, when appointed, or has,
at any time before his appointment,
10 been, associated with local government
in New South Wales, whether as a
member of a council or otherwise.
- (c) Section 218A (3) (a)—
15 Omit “with the leave of the Minister granted
for any particular period, the Governor”, insert
instead “through illness or any other cause, the
Minister”.
- (d) Section 218A (3) (a) (i)—
20 Omit “on the nomination of the Minister,
appoint a person as an acting member and the
acting chairman”, insert instead “appoint a
person as an acting member”.
- (e) Section 218A (3) (a) (ii)—
25 After “member” where thirdly occurring, insert
“and acting deputy chairman”.
- (f) Section 218A (3) (a) (iii)—
Omit “or (iv)”.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

- 5 (g) Section 218A (3) (a) (iii)—
Omit “select and appoint a member of the panel”, insert instead “appoint a person having the qualification referred to in that subparagraph”.
- 10 (h) Section 218A (4)—
Omit the subsection, insert instead :—
(4) An acting member shall be deemed to be a member of the Grants Commission.
- (i) Section 218A (5)—
- 15 Omit “an acting chairman or acting member” wherever occurring, insert instead “the deputy chairman, an acting deputy chairman or an acting member”.
- (j) Section 218A (5)—
- 20 Omit “the acting chairman”, insert instead “the deputy chairman, acting deputy chairman”.
- (k) Section 218A (6)—
After “member or” where firstly occurring, insert “by the Minister of any”.
- 25 (4) Section 218B—
Omit the section.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

- 5 (5) Section 218C—
Omit the section.
- (6) (a) Section 218D (1)—
Omit “or a member of the panel”.
- (b) Section 218D (1) (b)—
10 Omit “to the Governor”, insert instead “, in the
case of a member, to the Governor or, in the
case of an acting member, to the Minister”.
- (c) Section 218D (1) (e)—
After “aforesaid;”, insert “or”.
- 15 (d) Section 218D (1) (f), (g)—
Omit the paragraphs, insert instead :—
(g) being a member, for any cause which
appears to the Governor to be sufficient,
is removed from office by the Governor
20 or, being an acting member, for any
cause which appears to the Minister to
be sufficient, is removed from office by
the Minister.
- (e) Section 218D (2), (2A)—
25 Omit section 218D (2), insert instead :—
(2) Without limiting subsection (1), a
member of the Grants Commission referred to
in section 218A (2) (b) (ii) or an acting

SCHEDULE

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

5 member of the Grants Commission referred to
in section 218A (3) (a) (ii) shall be deemed
to have vacated his office—

10 (a) if he ceases to be an officer of the
Department of Local Government
without his office as a member or an
acting member of the Commission
having previously been confirmed
under subsection (2A); or

15 (b) where he has ceased to be such an
officer and his office as a member or
an acting member of the Grants
Commission was previously confirmed
under subsection (2A), upon the
20 expiration of the period for which it
was confirmed.

25 (2A) The Minister may, before a member of
the Grants Commission referred to in section
218A (2) (b) (ii) or an acting member of that
Commission referred to in section 218A (3) (a)
(ii) ceases to be an officer of the Department
of Local Government, by instrument in writing,
confirm his office as a member or an acting
member of that Commission for such period (not
exceeding the period for which he was appointed
as a member or an acting member) after he
30 ceases to be an officer of that Department as is
specified in that instrument.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

5 (f) Section 218D (3)—

Omit “of the Grants Commission or the panel”.

(g) Section 218D (3)—

10

Omit “nominated or selected in the same manner as his predecessor shall be appointed by the Governor”, insert instead “having the like qualification as his predecessor shall be appointed, in the case of a new member, by the Governor or, in the case of a new acting member, by the Minister”.

15 (7) (a) Section 218E—

After “chairman” where firstly occurring, insert
”, deputy chairman”.

(b) Section 218E—

20

Omit “acting chairman” where firstly occurring,
insert instead “acting deputy chairman”.

(c) Section 218E—

Omit “or an acting chairman”, insert instead
“, the deputy chairman or an acting deputy
chairman”.

SCHEDULE

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

5 (8) (a) Section 218F (1), (1A)—

Omit section 218F (1), insert instead :—

(1) At any meeting of the Grants
Commission—

(a) the chairman;

10 (b) in the absence of the chairman, the
deputy chairman; or

(c) in the absence of the chairman and the
deputy chairman, the acting deputy
chairman, if any,

15 shall preside.

(1A) The person presiding at any meeting of
the Grants Commission shall, in addition to a
deliberative vote, have, in the event of an equality
of votes, a second or casting vote.

20 (b) Section 218F (2)—

Omit “chairman”, insert instead “person
presiding”.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

5 (9) Part VIIA, Division 2—

After section 218F, insert :—

DIVISION 2.—*Local Government Assistance Fund.*

(10) (a) Section 218G (1) (b)—

Omit “Part”, insert instead “Division”.

10 (b) Section 218G (2)—

Omit the subsection.

(c) Section 218G (3A)—

After section 218G (3), insert :—

15 (3A) A requirement under subsection (3) may specify the form in which the information is to be produced and the person or body to whom it is to be produced.

(11) Section 218I (1)—

Omit “Part”, insert instead “Division”.

20 (12) (a) Section 218J (1) (d)—

After “chairman” where firstly occurring, insert
“, deputy chairman”.

(b) Section 218J (1) (d)—

25 Omit “acting chairman”, insert instead “acting
deputy chairman”.

SCHEDULE

Local Government (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

5 (13) Part VIIA, Divisions 3, 4—

After section 218J, insert :—

DIVISION 3.—*Local Government Revenue Sharing
Fund.*

10 218K. (1) In this Division, “Commonwealth Act” ^{Interpre-}
means the Local Government (Personal Income Tax ^{tation.}
Sharing) Act 1976 of the Parliament of the Common-
wealth or, if that Act is amended, that Act as amended
from time to time.

15 (2) A reference in this Division to the
annual share of revenue for any year ending on 30th
June is a reference to the amount to the payment of
which the State is, subject to compliance with the
Commonwealth Act, entitled under that Act in respect
of that year.

20 218L. (1) There shall be constituted an account ^{Revenue}
in the Special Deposits Account in the Treasury to be ^{Sharing}
called the “Local Government Revenue Sharing ^{Fund.}
Fund” which in this Division is referred to as the
“Revenue Sharing Fund”.

25 (2) The Treasurer shall pay into the
Revenue Sharing Fund all amounts paid to the State
under the Commonwealth Act.

SCHEDULE

*Local Government (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

- 5 218M. (1) The Minister shall, in respect of the year ending on 30th June, 1979, and each subsequent year ending on 30th June, make a determination—
- Payments
from
Revenue
Sharing
Fund.
- 10 (a) for the allocation of not less than the percentage referred to in section 6 (2) (a) of the Commonwealth Act of the annual share of revenue for the year in respect of which the determination is made among councils on a population basis, that is to say, on a basis that takes into account the
- 15 respective populations of the areas of those councils and may take into account the respective sizes, and the respective population densities, of the areas of those councils and any other matters agreed upon between
- 20 the Prime Minister of Australia and the Premier as being relevant for the purposes of that allocation; and
- 25 (b) for the allocation of the remainder of the annual share of revenue for the year in respect of which the determination is made among councils on a general equalisation basis, that is to say, on a basis that has the object of ensuring, so far as is practicable, that each council is able to function, by reasonable effort, at a standard not
- 30 appreciably below the standards of other councils in the State, being a basis that takes account of differences in the capacities of those councils to raise revenue and differences in the amounts required to be expended by those councils in the performance of
- 35 their functions.

SCHEDULE

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

5 (2) In determining an allocation referred
to in subsection (1) (b), the Minister shall have
regard to the recommendation of the Grants Commis-
sion made under section 218N (1) (c) (ii) with
respect to the allocation.

10 (3) Particulars of an allocation determined
by the Minister under subsection (1) shall not be
made public until the Minister of State for the time
being responsible for the administration of the Com-
monwealth Act has been informed of those particulars
15 and the Minister has informed that Minister of State
that the allocation has been made in accordance with
section 6 of the Commonwealth Act.

20 (4) Each council is entitled to receive,
without undue delay, from the Revenue Sharing Fund
payment, being a payment that is unconditional, of
the amount determined for allocation to it under sub-
section (1).

25 218N. (1) The Grants Commission shall, in Recom-
mendations
of Grants
Commis-
sion.
respect of the year ending on 30th June, 1979, and
each subsequent year ending on 30th June, make to
the Minister recommendations with respect to—

30 (a) the percentage (not being less than the per-
centage referred to in section 6 (2) (a) of
the Commonwealth Act) of the annual share
of revenue for the year in respect of which
the recommendation is made to be allocated
among councils;

SCHEDULE

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

- 5 (b) the principles in accordance with which the
basis referred to in section 218M (1) (a)
should be applied; and
- (c) the allocation among councils—
- 10 (i) on the basis referred to in section
218M (1) (a) applied in accord-
ance with principles approved by
the Minister, of the percentage,
approved by the Minister, of the
15 annual share of revenue for the year
in respect of which the recommenda-
tion is made; and
- (ii) on the basis referred to in section
218M (1) (b) of the remainder of
that annual share of revenue.
- 20 (2) The Grants Commission shall make
recommendations with respect to the matters—
- (a) referred to in subsection (1) (a) and (b)
as soon as practicable after being requested
by the Minister to make those recommenda-
25 tions; and
- (b) referred to in subsection (1) (c) as soon
as practicable after the approvals of the
Minister referred to in subsection (1) (c)
(i) have been notified to it,

SCHEDULE

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

5 and, if after making any such recommendation it is
requested by the Minister to reconsider its recom-
mendation on any matter, shall make a further rec-
ommendation on that matter as soon as practicable
after being so requested to reconsider.

10 (3) Any recommendation made by the
Grants Commission under subsection (1) or any
further recommendation made by it under subsection
(2) shall be embodied in a report with respect to
15 matters relating to the making of the recommendations
and as soon as practicable after preparing it shall
furnish it to the Minister.

(4) The Grants Commission shall not make
public its recommendations made under subsection
20 (1), any further recommendation made under sub-
section (2) or any report referred to in subsection
(3).

(5) For the purpose of enabling the Grants
Commission to perform its functions under this
section—

25 (a) the Grants Commission shall hold such
hearings and make such inspections,
investigations and inquiries as it thinks
necessary;

30 (b) the Grants Commission may require the
production by the council of any informa-
tion which may, in the opinion of the Grants
Commission, assist it; and

SCHEDULE

*Local Government (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

5 (c) submissions may be made to the Grants Commission by, or by associations of, councils.

(6) Hearings held for the purpose of subsection (5) shall be ordinarily held in public.

10 (7) A requirement under subsection (5) (b) may specify the form in which the information is to be produced and the person or body to whom it is to be produced.

15 218o. As soon as practicable after 30th June, 1979, and 30th June in each subsequent year, the Minister shall furnish to the Treasurer of the Commonwealth—

Statements of payments to councils to be furnished.

20 (a) a statement, in accordance with a form approved by the Treasurer of the Commonwealth, specifying payments made by the State during the year to which the statement relates in accordance with the Commonwealth Act and the dates of those payments; and

25 (b) a certificate by the Auditor-General certifying that, in his opinion, the contents of the statement are correct.

DIVISION 4.—*General.*

218p. The Grants Commission shall meet—

(a) at such times as the Minister directs; and

Meetings of Grants Commission.

SCHEDULE

Local Government (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

- 5 (b) at such other times as the Grants
Commission thinks necessary or desirable,
but in any case it shall meet at least once in each year.

10 218Q. (1) As soon as practicable after 30th June, Annual
1978, and 30th June in each subsequent year, the report.
the Grants Commission shall furnish to the Minister a
report on the manner in which it performed its
functions under Division 2, and containing a copy of
any proposals or determinations made by it under that
Division during the year to which the report relates.

15 (2) The Minister shall cause a copy of any
report furnished to him—

- (a) under subsection (1) to be laid before both
Houses of Parliament within 14 sitting days
after receipt of the report by him; and
- 20 (b) under section 218N (3) to be furnished, as
soon as practicable after receipt of the
report by him, to the Prime Minister of
Australia and only after a copy has been
so furnished shall—
- 25 (i) cause another copy of the report to
be laid before both Houses of
Parliament within 14 sitting days
after receipt of the report by him;
and
- 30 (ii) cause the report to be made public.

SCHEDULE

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION AND FUNCTIONS OF THE LOCAL
GOVERNMENT GRANTS COMMISSION—*continued.*

5 (3) For the purposes of subsection (2),
sitting days shall be counted whether or not they occur
during the same session.

(14) Section 573 (3)—

After section 573 (2), insert :—

10 (3) Subsection (1) does not extend to authorising
an ordinance to be made applying, *mutatis mutandis*,
to county councils any of the provisions of Division
3 of Part VIIA.

SCHEDULE 2.

Sec. 5 (2).

15 TRANSITIONAL PROVISION RELATING TO THE CONSTITUTION
OF THE LOCAL GOVERNMENT GRANTS COMMISSION.

Upon the commencement of Schedule 1, a member of the
Local Government Grants Commission referred to in section
218A (2) (b) (iii) or (iv) of the Principal Act, as in force
20 immediately before that commencement, shall be deemed to
have been appointed as a member of that Commission
referred to in section 218A (2) (b) (iii) of that Act, as in
force upon that commencement, and subject to the Principal
Act, shall hold office as such a member for the term of his
25 appointment that was unexpired at that commencement.

Term of
office of
certain
members
termin-
ated.

SCHEDULE

Local Government (Amendment).

SCHEDULE 3.

Sec. 5 (1).

AMENDMENT TO THE PRINCIPAL ACT RELATING TO
POSSESSION OR OCCUPATION OF LAND IN CERTAIN
PUBLIC RESERVES.

5 Sections 519C-519F—

After section 519B, insert :—

519C. (1) This section applies to land which is or forms part of a public reserve, other than—

Leases of or licences in respect of land in certain public reserves.

10 (a) lands which are a reserve as defined in section 37M (1) of the Crown Lands Consolidation Act, 1913; or

(b) land to which section 519A applies.

15 (2) The provisions of section 519 do not apply to or in respect of land to which this section applies.

20 (3) The council may apply in writing to the Minister for his consent to the granting of a lease of or a licence in respect of land to which this section applies to a person specified in the application, being the person specified, in accordance with subsection (4) (c), in the advertisement referred to in subsection (4) relating to the proposed lease of or licence in respect of that land.

25 (4) An application under subsection (3) may not be made unless, at least 1 month before making the application, the council has caused to be inserted in a newspaper circulating within its area an advertisement—

30 (a) giving notice of its intention to grant, in accordance with the consent, if given, of the Minister, a lease of or a licence in respect of land to which this section applies;

SCHEDULE

Local Government (Amendment).

SCHEDULE 3—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO
POSSESSION OR OCCUPATION OF LAND IN CERTAIN
PUBLIC RESERVES—*continued.*

- 5 (b) specifying particulars of the area and loca-
tion of the land;
- (c) specifying the name and address of the pro-
posed lessee or licensee;
- 10 (d) specifying the proposed term, and particu-
lars of any proposed options for renewal,
of the proposed lease or licence; and
- (e) stating that objections to the granting of the
lease or licence may be lodged with the
15 council within 1 month after the date of
publication of the advertisement.

(5) The council shall consider any objec-
tions to the granting of a lease or licence received by
it pursuant to the advertisement referred to in sub-
section (4) and if it then decides to apply to the
20 Minister for his consent to the granting of the lease
or licence shall forward to the Minister with its
application—

- (a) copies of all such objections and a state-
ment setting out, in respect of each such
25 objection, the council's decision and its
reasons therefor;
- (b) a statement setting out all of the facts
relating to the proposal to grant the lease
or licence;
- 30 (c) a copy of the advertisement;

SCHEDULE

Local Government (Amendment).

SCHEDULE 3—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO
POSSESSION OR OCCUPATION OF LAND IN CERTAIN
PUBLIC RESERVES—*continued.*

- 5 (d) a statement setting out the terms, conditions,
restrictions and covenants proposed to be
included in the lease or licence; and
- 10 (e) a statement setting out the manner in which
and the extent to which the public interest
would, in the opinion of the council, be
affected by the granting of the proposed
lease or licence, including the manner in
which and the extent to which the needs of
15 the area with respect to public reserves
would, in the opinion of the council, be
adversely affected by the granting of the
proposed lease or licence.

(6) Where—

- 20 (a) an application is made to the Minister under
subsection (3); and
- 25 (b) the Minister is satisfied that the provisions
of subsections (4) and (5) have been
complied with with respect to the proposed
lease or licence to which the application
relates,

the Minister, if he thinks fit, may, by instrument in writing, consent to the granting of a lease of or a licence in respect of the whole or of part of the land to which the application relates to the person specified

Local Government (Amendment).

SCHEDULE 3—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO
POSSESSION OR OCCUPATION OF LAND IN CERTAIN
PUBLIC RESERVES—*continued.*

5 in the application as the proposed lessee or licensee
and may give that consent subject to conditions
requiring that the lease or licence—

 (c) be for such term and with such options (if
 any) for renewal as may be specified or
10 referred to in that instrument; and

 (d) contain such terms, conditions, restrictions
and covenants as may be specified or
referred to in that instrument.

(7) The Minister shall—

15 (a) before dealing with an application under
subsection (3), request the New South
Wales Planning and Environment Commis-
sion to furnish to him within such period
as may be specified in the request a report
20 relating to the application; and

 (b) take into consideration any report furnished
in accordance with paragraph (a) when
dealing with the application.

25 (8) The consent of the Minister to the
granting by the council of a lease or licence under
this section shall be conclusive evidence that the
provisions of subsections (4) and (5) have been
complied with by the council.

SCHEDULE

Local Government (Amendment).

SCHEDULE 3—*continued.*
 AMENDMENT TO THE PRINCIPAL ACT RELATING TO
 POSSESSION OR OCCUPATION OF LAND IN CERTAIN
 PUBLIC RESERVES—*continued*

- 5 519D. After obtaining the consent of the Minister under section 519C, the council may grant a lease of or a licence in respect of the land to which the consent relates in accordance with the terms of the consent. Grant of lease by council.
- 10 519E. (1) Sections 519C and 519D do not apply to or in respect of the granting by the council of a licence in respect of land to which section 519C applies if the granting of the licence is authorised by an ordinance made for the purposes of this subsection. Licences for periodic use of land in certain public reserves.
- 15 (2) An ordinance made for the purposes of subsection (1) shall not authorise the granting of a licence—
- 20 (a) to use the land otherwise than on a periodic basis specified in the ordinance;
- (b) unless it prohibits the erection on that land of any building or structure of a permanent nature; or
- (c) to use the land otherwise than for the purpose of a lawful game or sport or other lawful purpose specified in the ordinance.
- 25 519F. A council shall not grant a lease of or a licence in respect of land to which section 519C applies otherwise than pursuant to section 519D or pursuant to the authority granted by an ordinance made for the purposes of section 519E (1). Restriction on councils' powers to grant leases of or licences in respect of land in certain public reserves.

Local Government (Amendment).

SCHEDULE 4.

Sec. 5 (2).

TRANSITIONAL PROVISIONS RELATING TO EXISTING POSSESSION OR OCCUPATION OF LAND IN CERTAIN PUBLIC RESERVES.

- 5 1. Where at the commencement of Schedule 3 a person is in possession or occupation of any land to which section 519c of the Principal Act applies and his possession or occupation of that land commenced pursuant to a right purporting to have been previously conferred on him, whether
- 10 by an instrument in writing or otherwise, by the council in whose area the land is situated, he may make an application in accordance with clause 2 for the Minister's approval to his continued possession or occupation of the land.
- Application for approval of possession or occupation.
2. The application—
- 15 (a) shall be in or to the effect of the prescribed form;
- (b) shall be made by lodging it with the council in whose area the land to which it relates is situated for transmission to the Minister;
- 20 (c) may not be so lodged after the expiration of 12 months after the date of assent to this Act; and
- (d) shall, within 28 days after its being so lodged, be forwarded by the council to the Minister, accompanied by—
- 25 (i) a copy of any instrument purporting to confer the right to possession or occupancy sought to be continued or, if there is no such instrument, full particulars of the right;
- Manner of making application.

SCHEDULE

*Local Government (Amendment).*SCHEDULE 4—*continued.*TRANSITIONAL PROVISIONS RELATING TO EXISTING POSSESSION OR OCCUPATION OF LAND IN CERTAIN PUBLIC RESERVES—*continued.*

- 5 (ii) a statement setting out all of the facts relating to the purported conferring of the right; and
- (iii) a statement setting out the council's views on whether or not the application should be approved and, if so, on what terms.
- 10

3. Where a person is entitled to make, and makes, an application under clause 1 in respect of any land—

Interim rights of applicant.

- (a) he shall, subject to paragraph (b), be deemed to have a lawful right to possession or occupation of that land corresponding to the right purporting to have been conferred on him by the council as referred to in clause 1 as if that lawful right had been conferred under a lease or licence, as the case may require, authorised by law to be granted by the council, being a lease or licence with the same options (if any) for renewal and containing the same terms, conditions, restrictions and covenants (if any) as purported to attach to the right purporting to have been so conferred; and
- 15
- 20
- 25 (b) he shall continue to have that lawful right under this clause until the Minister so approves or disapproves of the application.

4. (1) The Minister may, by instrument in writing—

- (a) approve of an application made under clause 1 as regards the whole of the land to which the application relates or as regards any part thereof; or
- 30
- (b) disapprove of any such application.

Approval or disapproval of application and effect thereof.

SCHEDULE

Local Government (Amendment).

SCHEDULE 4—*continued.*TRANSITIONAL PROVISIONS RELATING TO EXISTING POSSESSION OR OCCUPATION OF LAND IN CERTAIN PUBLIC RESERVES—*continued.*

5 (2) Where the Minister so approves of any such application—

(a) the instrument of approval shall specify—

(i) the term;

(ii) the options (if any) for the renewal; and

10 (iii) the terms, conditions, restrictions and covenants,

of the lease or licence which under paragraph (b) the applicant is to be deemed to have been granted; and

15 (b) a lease or licence (as the case may require according to the terms of the approval) of or in respect of the land specified or described in the approval shall be deemed to have been lawfully granted by the council under provisions made by or under the
20 Principal Act to the applicant—

(i) for the term, with the options (if any) for renewal and containing such terms, conditions, restrictions and covenants as are specified in accordance with paragraph (a)
25 in the instrument of approval; and

(ii) as if those provisions had been complied with in respect of the granting of that lease or licence.

SCHEDULE

Local Government (Amendment).

SCHEDULE 4—*continued.*TRANSITIONAL PROVISIONS RELATING TO EXISTING POSSESSION OR OCCUPATION OF LAND IN CERTAIN PUBLIC RESERVES—*continued.*

5 (3) Any of the matters required by subclause (2) of this clause to be specified in an instrument of approval may, if it seems convenient to the Minister to do so, be specified by reference to the copy of the instrument, if any, referred to in clause 2 (d) (i) that accompanied the application for the
10 Minister's approval.

(4) The Minister shall, as soon as practicable after executing an instrument of approval, cause to be published in the Gazette—

15 (a) such particulars as he thinks sufficient of the land to which the approval relates;

(b) the name of the person whose application relating to that land was approved; and

20 (c) such other particulars relating to any matters referred to in subclause (2) of this clause as he thinks it desirable to publish.

5. Where an application under clause 1 is expressed to be made by any person in his capacity as a trustee for any other person or for any body, corporate or unincorporate, the right conferred on that person by clause 3 is held by him as
25 trustee for that other person or body and, if the application is approved as referred to in clause 4 (1) (a)—

(a) the approval shall specify that the approval is given to the applicant in his capacity as trustee for that person or body; and

SCHEDULE

Local Government (Amendment).

SCHEDULE 4—*continued.*

TRANSITIONAL PROVISIONS RELATING TO EXISTING POSSESSION OR OCCUPATION OF LAND IN CERTAIN PUBLIC RESERVES—*continued.*

5 (b) the lease or licence to be deemed by clause 4 (2) (b) to have been granted to him shall be deemed to have been granted to him as trustee for that person or body.

6. Where—

10 (a) an application in relation to any land is made under clause 1; and

(b) the applicant's possession or occupation of that land was, immediately before the application was made, lawful,

Effect of application where previous possession or occupation lawful.

15 the applicant's lawful right to possession or occupation of that land that existed immediately before the application was made ceases upon the application being made and he thereafter has, subject to any further lease or licence being granted to him under section 519c of the Principal Act, only such
20 right to possession or occupation of that land as results from the operation of clause 3 and, if applicable, clauses 4 (2) (b) and 5.

7. Where—

25 (a) on the date of assent to this Act, a person is in possession or occupation of any land to which section 519c of the Principal Act applies; and

Right to possession or occupation where no application made under clause 1.

Local Government (Amendment).

SCHEDULE 4—*continued.*

TRANSITIONAL PROVISIONS RELATING TO EXISTING POSSESSION OR OCCUPATION OF LAND IN CERTAIN PUBLIC RESERVES—*continued.*

- 5 (b) he has not made an application in accordance with clause 2 for the Minister's approval to his continued possession or occupation of that land,

he has such right to possession or occupation, if any, of that land as he would have had if this Schedule had not been
10 enacted.

SCHEDULE 5.

Sec. 5 (1).

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PARKING OFFENCES.

- (1) Section 270o (5), definition of "Owner"—
15 Omit "motor", insert instead "registered".

- (2) (a) Section 270R (1)—

Omit " , unless the court is satisfied that the vehicle was at the relevant time a stolen vehicle or a vehicle illegally taken or used.", insert
20 instead :—

unless—

- (a) in any case where the offence is dealt with under section 270s, he satisfies the proper servant specified in the notice served under that section that the vehicle was at the relevant time a stolen vehicle or a vehicle illegally taken or used; or
25

SCHEDULE

Local Government (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PARKING OFFENCES—*continued.*

5 (b) in any other case, the court is
satisfied that the vehicle was at
the relevant time a stolen vehicle
or a vehicle illegally taken or
used.

(b) Section 270R (2A), (2B), (2C)—

10 After section 270R (2), insert :—

(2A) Notwithstanding subsection (1), no
owner of a vehicle shall, by virtue of that
subsection, be guilty of an offence if—

15 (a) in any case where the offence is dealt
with under section 270s, he—

20 (i) within 21 days after service on
him of a notice under that
section alleging that he has
been guilty of the offence,
supplies by statutory declara-
tion to the proper servant
specified in the notice the name
and address of the person who
was in charge of the vehicle at
all relevant times relating to
the offence; or

25 (ii) satisfies that servant that he did
not know and could not with
reasonable diligence have
ascertained that name and
30 address; or

SCHEDULE

Local Government (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PARKING OFFENCES—*continued.*

(b) in any other case, he—

5 (i) within 21 days after service on
him of a summons in respect
of the offence, supplies by
statutory declaration to the
10 informant the name and
address of the person who was
in charge of the vehicle at all
relevant times relating to the
offence; or

15 (ii) satisfies the court that he did
not know and could not with
reasonable diligence have
ascertained that name and
address.

20 (2B) A statutory declaration under sub-
section (2A) if produced in any proceedings
against the person named therein and in respect
of the offence in respect of which the statutory
25 declaration was supplied shall be prima facie
evidence that that person was in charge of the
vehicle at all relevant times relating to that
offence.

30 (2C) A statutory declaration which relates to
more than one offence shall be deemed not to
be a statutory declaration under, or for the
purposes of, subsection (2A).

Local Government (Amendment).

SCHEDULE 5—continued.

**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PARKING OFFENCES—continued.**

(c) Section 270R (3), definition of “Owner”—

5 Omit “motor”, insert instead “registered”.

(3) (a) Section 351B (1)—

Omit “motor”.

(b) Section 351B (1)—

10 Omit “, unless the court is satisfied that the
vehicle was at the relevant time a stolen vehicle
or a vehicle illegally taken or used.”, insert
instead :—

unless—

15 (a) in any case where the offence is
dealt with under section 351C,
he satisfies the proper servant
specified in the notice served
under that section that the vehicle
was at the relevant time a stolen
20 vehicle or a vehicle illegally taken
or used; or

25 (b) in any other case, the court is
satisfied that the vehicle was at
the relevant time a stolen vehicle
or a vehicle illegally taken or
used.

Local Government (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PARKING OFFENCES—*continued.*

(c) Section 351B (2A), (2B), (2C)—

5 After section 351B (2), insert :—

(2A) Notwithstanding subsection (1), no owner of a vehicle shall, by virtue of that subsection, be guilty of an offence if—

10 (a) in any case where the offence is dealt with under section 351C, he—

15 (i) within 21 days after service on him of a notice under that section alleging that he has been guilty of the offence, supplies by statutory declaration to the proper servant specified in the notice the name and address of the person who was in charge of the vehicle at all relevant times relating to the offence; or

20 (ii) satisfies that servant that he did not know and could not with reasonable diligence have ascertained that name and address; or

25 (b) in any other case, he—

30 (i) within 21 days after service on him of a summons in respect of the offence, supplies by statutory declaration to the

Local Government (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PARKING OFFENCES—*continued.*

5 informant the name and
address of the person who was
in charge of the vehicle at all
relevant times relating to the
offence; or

10 (ii) satisfies the court that he did
not know and could not with
reasonable diligence have
ascertained that name and
address.

15 (2B) A statutory declaration under subsection
(2A) if produced in any proceedings against the
person named therein and in respect of the
offence in respect of which the statutory declara-
tion was supplied shall be prima facie evidence
20 that that person was in charge of the vehicle at
all relevant times relating to that offence.

(2C) A statutory declaration which relates to
more than one offence shall be deemed not to be
a statutory declaration under, or for the purposes
of, subsection (2A).

25 (d) Section 351B (3), definition of "owner"—

Omit "motor vehicle", insert instead "vehicle,
being a registered vehicle".

Local Government (Amendment).

SCHEDULE 6.

Sec. 5 (1).

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO DAMAGE TO PUBLIC ROADS.

(1) Section 245 (5)—

5 After section 245 (4), insert :—

(5) This section does not apply to or in respect of any damage or injury which a developer referred to in section 245A is liable, under subsection (2) of that section, to pay the cost of making good.

10 (2) Section 245A—

After section 245, insert :—

245A. (1) For the purposes of this section—

(a) a reference to construction work is a reference to—

Developer's liability for damage or injury to public roads.

15 (i) the erection of a building for which the council's approval is required under Division 4 of Part XI; or

20 (ii) the opening of a public road or the subdivision of land, whether or not the subdivision provides for the opening of a public road, for which the council's approval is required under Division 2 of Part XII;

Local Government (Amendment).

SCHEDULE 6—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
DAMAGE TO PUBLIC ROADS—*continued.*

- 5 (b) the reference to damage or injury caused
as a consequence of construction work is a
reference to damage or injury, not being
damage or injury caused by ordinary wear
and tear and reasonable use—
- 10 (i) caused to any public road, to any
thing or device referred to in section
245 (1) (b) or to any thing that is
to be deemed by section 245 (4) to
be a public road for the purposes of
section 245;
- 15 (ii) occurring at or in the vicinity of the
place where access to the construc-
tion work is obtained from any
public road; and
- 20 (iii) caused by the developer or by any
person engaged to perform work at
the site of the construction work,
whether as an employee of the
25 developer or otherwise, or by any
person delivering or removing any
material to or from that site, whether
as an employee of the developer or
otherwise; and
- 30 (c) a reference to a developer, in relation to any
construction work, is a reference to the
person to whom the council granted an
approval under Division 4 of Part XI or
Division 2 of Part XII to carry out that
construction work.

Local Government (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
DAMAGE TO PUBLIC ROADS—*continued.*

(2) Where—

- 5 (a) damage or injury is caused as a consequence
of construction work; and
- (b) the developer has, pursuant to a condition
imposed by the council under section 314 or
10 331, provided security for the payment of
the cost of making good any such damage
or injury,

the developer is liable to pay to the council that cost.

- (3) Any deposit lodged with the council as
a security referred to in subsection (2) (b) may be
15 applied in or towards payment of that cost.

(4) To the extent that—

- (a) any such deposit exceeds that cost, the
council shall refund the excess to the
developer; or
- 20 (b) any such deposit is less than that cost or
any guarantee given as such a security is for
an amount that is less than that cost, the
council may, in any court of competent
jurisdiction, recover the difference as a debt
25 from the developer.

(3) Section 314 (1B), (1C)—

After section 314 (1A), insert :—

- 30 (1B) The power of a council to approve of an
application subject to conditions includes the power to
approve of an application subject to the condition that

SCHEDULE

Local Government (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
DAMAGE TO PUBLIC ROADS—*continued.*

5 the applicant shall provide to the council security for the payment of the cost of making good any damage or injury, referred to in section 245A (1) (b), caused as a consequence of construction work, being the work to which the approval relates.

10 (1C) A security referred to in subsection (1B) shall be—

(a) the deposit with the council of such reasonable amount; or

(b) a guarantee satisfactory to the council for such reasonable amount,

15 as is determined by the council and specified in the condition.

(4) Section 331 (2A), (2B)—

After section 331 (2), insert :—

20 (2A) The power of a council to approve of an application subject to conditions includes the power to approve of an application subject to the condition that the applicant shall provide to the council security for the payment of the cost of making good any damage or injury, referred to in section 245A (1) (b), caused as a consequence of construction work, being the work to which the approval relates.

25

SCHEDULE

Local Government (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
DAMAGE TO PUBLIC ROADS—*continued.*

- 5 (2B) A security referred to in subsection (2A) shall be—
 - (a) the deposit with the council of such reasonable amount; or
 - (b) a guarantee satisfactory to the council for such reasonable amount,
- 10 as is determined by the council and specified in the condition.

SCHEDULE 7.

Sec. 5 (1).

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

- (1) Section 78—
- 15 Omit “and 151A”, insert instead “151A, 151B, 151D and 151E”.
- (2) Section 83 (f)—
- 20 Omit “sections 23 to 67 inclusive and sections 75 to 136 inclusive”, insert instead “Part IV, section 22 excepted, and Divisions 2 to 16 of Part V”.

SCHEDULE

Local Government (Amendment).

SCHEDULE 7—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued.

(3) Section 182 (3), (4), (5)—

5 Omit section 182 (3), insert instead :—

(3) For the purpose of any security for a loan under this Act, a certificate—

(a) signed on or after the date of assent to the Local Government (Amendment) Act, 1978, by—

10

(i) the Minister; or

(ii) a person authorised by the Minister, either generally or in a particular case, to sign the certificate; or

15

(b) signed on or after 25th February, 1976, and before the date of assent referred to in paragraph (a) by an officer of the Department of Local Government,

20

and specifying the purpose, and the terms and conditions, of the loan, shall be admissible in any proceedings and shall be conclusive evidence that—

(c) the approval of the Governor has been obtained;

25

(d) the purpose, and the terms and conditions, of the loan are as set out in the certificate; and

(e) the provisions of this Act with respect to the proposal for the loan have been duly complied with.

Local Government (Amendment).

SCHEDULE 7—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued.

(4) A document purporting to be a certificate—

5 (a) under subsection (3) (a) and to have been
signed by the Minister or by some person
authorised by him, either generally or in a
particular case, to sign the certificate; or

10 (b) under subsection (3) (b) and to have been
signed by an officer of the Department of
Local Government,

shall be deemed to have been so signed unless the
contrary is proved.

15 (5) A person, other than the Minister, shall not
sign a certificate under subsection (3) (a) unless
he has been authorised in writing to do so by the
Minister.

(4) Section 342BI (2)—

20 Omit “corresponding to the fee referred to in section
73 (2) of the Justices Act, 1902, for copies of
depositions”.

(5) Section 419 (3)—

After section 419 (2), insert :—

25 (3) Subsection (2) does not prevent the council
from charging different rates for electricity supplied to
persons in different parts of its area where it does so
solely by reason of a variation of the scale of rates
charged for electricity and the scale, as varied, is to be
applied uniformly throughout its area.

SCHEDULE

Local Government (Amendment).

SCHEDULE 7—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued.

(6) (a) Section 512D—

5 Omit “not exceeding two hundred dollars”.

(b) Section 512D—

Omit “or police”.

(7) Section 521A—

After section 521, insert :—

10 521A. (1) In this section, “Crown” does not include a body or a statutory body representing the Crown. Joint under-
takings with
the Crown.

15 (2) Any power conferred by or under this or any other Act on the council to construct, carry out or provide any buildings or works for any purpose extends to empowering the council to enter into an agreement with the Crown for or with respect to any one or more of the following :—

20 (a) the construction or carrying out, or the payment of the whole or any part of the cost of the construction or carrying out, of any buildings or works on lands on which the Crown or the council may lawfully construct, carry out or provide buildings or works for that purpose, being buildings or works which, under the agreement, are to be used, wholly or partly and at all times or at times determined in accordance with the agreement for that purpose;

SCHEDULE

Local Government (Amendment).

SCHEDULE 7—continued.

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued.

5 (b) the maintenance, or the payment of the whole or any part of the cost of the maintenance, of any buildings or works referred to in paragraph (a);

(c) the control and management of any buildings or works so referred to.

10 (3) Subsection (2) applies so as to empower the council to enter into an agreement referred to in that subsection whether or not the buildings or works to which the agreement relates were constructed or carried out before or after the date of assent to the
15 Local Government (Amendment) Act, 1978, or the date of the agreement.

20 (4) Ordinances may be made with respect to any buildings or works to which an agreement entered into under subsection (2) relates as if those buildings or works had been constructed, carried out or provided solely by the council for the purpose for which, under the agreement, they are to be used.

Local Government (Amendment).

SCHEDULE 8.

Sec. 6.

AMENDMENTS TO THE LOCAL GOVERNMENT (APPEALS)
AMENDMENT ACT, 1975.

(1) Section 2 (1)—

5 Omit “subsection (2)”, insert instead “subsections
(2) and (3)”.

(2) Section 2 (2)—

Omit “Sections 6 (e) and 7 (1) (f)”, insert instead
“Section 6 (e)”.

10 (3) Section 2 (3)—

After section 2 (2), insert :—

(3) Section 7 (1) (f) shall commence on 21st
November, 1975.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1978

SCHEDULE 8

AMENDMENTS TO THE LOCAL GOVERNMENT (ARRAIS)
AMENDMENT ACT 1978

(1) Section 2 (1) —

2 Omit subsection (2), insert in read subsections (2) and (3).

(2) Section 2 (2) —

3 Omit Sections 6 (a) and 7 (1) — (2), insert in read Section 6 (a).

10 (3) Section 2 (3) —

4 After section 2 (2) insert: —

(3) Section 7 (1) (3) shall commence on 21st November 1978.

