

LOCAL GOVERNMENT (AMENDMENT) BILL, 1979

EXPLANATORY NOTE

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

The object of this Bill is to amend the Local Government Act, 1919 ("the Act")—

- (a) to replace the existing provisions of the Act with respect to fire safety in existing buildings and, by those new provisions—
 - (i) to empower a council to order the owner of land on which an existing building is erected to carry out specified work or provide specified fire-fighting equipment for the purpose of ensuring that adequate provision is made for fire safety (Schedule 1—proposed section 317D (1) (a) and (b));
 - (ii) to empower a council to order such an owner to prepare and submit particulars of work he considers necessary to make provision for specified matters relating to fire safety (Schedule 1—proposed section 317D (2) and (3));
 - (iii) to provide that a council may approve (with or without modification) or disapprove of particulars of work that an owner submits pursuant to an order referred to in subparagraph (ii) (Schedule 1—proposed section 317E (1));
 - (iv) where a council approves of particulars of work that an owner submits, to empower the council to order him to carry out that work within the period specified by the council provided that he is given at least 28 days to object to the council against any modification of the work made by the council (Schedule 1—proposed section 317E (2) and (3));
 - (v) where a council disapproves of particulars of work that an owner submits, to empower the council to prepare particulars of the necessary work and to order the owner to carry out that work within the period specified by the council provided that he is given at least 28 days to object to the council against carrying out that work (Schedule 1—proposed section 317E (4));

- (vi) where an owner fails to submit particulars of work pursuant to an order referred to in subparagraph (ii), to empower the council to prepare particulars of the necessary work and to order the owner to carry out that work within the period specified by the council (Schedule 1—proposed section 317E (5));
- (vii) to enable the council to recover its expenses in preparing particulars of work where an owner fails to submit particulars of work or, in certain circumstances, where the council disapproves of particulars of work that the owner submits (Schedule 1—proposed section 317E (7));
- (viii) to confer a right of appeal to the Local Government Appeals Tribunal against an order of the council (Schedule 1—proposed section 317F);
- (ix) to require a council to notify an owner to whom it gives an order of his right to appeal against that order (Schedule 1—proposed section 317G (1));
- (x) to authorise a council to modify an order it has given to an owner if the owner agrees to the modification (Schedule 1—proposed section 317G (2));
- (xi) to make all the owners of land on which a building is erected liable to comply with an order relating to the building notwithstanding that the order was not given to all of those owners (Schedule 1—proposed section 317G (3));
- (xii) to provide that, where an owner fails to comply with an order, the council may carry out the work or provide the equipment, as the case may be, and recover its expenses from the owner (Schedule 1—proposed section 317H);
- (xiii) to make it an offence if a person fails to comply with an order and to impose a penalty not exceeding \$10,000 in the case of a corporation or \$2,000 in any other case and a daily penalty not exceeding \$500 in the case of a corporation and \$100 in any other case (Schedule 1—proposed section 317I (1));
- (xiv) to provide that proceedings for an offence referred to in subparagraph (xiii) may be brought before the Supreme Court in its summary jurisdiction or before a stipendiary magistrate, but to prohibit a stipendiary magistrate from imposing a penalty that exceeds \$2,000 (Schedule 1—proposed section 317I (2) and (3));
- (xv) to empower the Board of Fire Commissioners of New South Wales, by certain of its officers and servants, to make joint inspections of buildings with persons approved by the council of the area concerned to determine whether adequate provision has been made for fire safety provided that the council or the owner, lessee or occupier of the building requests the inspection or a written complaint is made about fire safety in the building (Schedule 1—proposed section 317J (1)–(3));

- (xvi) to require the Board of Fire Commissioners of New South Wales to furnish to the appropriate council a report of any inspection referred to in subparagraph (xv) and any recommendations it considers appropriate (Schedule 1—proposed section 317J (4));
 - (xvii) to require a council to table any report and recommendations furnished by the Board of Fire Commissioners of New South Wales at its next meeting and to determine whether it will exercise its powers in respect of the matter within 28 days or at the next meeting of the council after the report and recommendations are tabled, whichever is the later (Schedule 1—proposed section 317J (5));
 - (xviii) to empower the Board of Fire Commissioners of New South Wales, by certain of its officers and servants, to inspect buildings to determine whether any prescribed provisions of or made under an Act for fire safety have been contravened or have not been complied with (Schedule 1—proposed section 317J (7));
 - (xix) to require a council to notify the Heritage Council of New South Wales of its intention to give an order in relation to certain historic buildings and to have due regard to any recommendations made by the Heritage Council of New South Wales (Schedule 1—proposed section 317JA);
 - (xx) to authorise the Supreme Court, upon application by a council, to prohibit the use of a building for all or any specified purposes if the safety of persons is endangered by inadequate provision for fire safety (Schedule 1—proposed section 317JB); and
 - (xxi) to make other provisions of a minor, ancillary or consequential nature (Schedule 1);
- (b) to provide that a provincial municipality must have a population of 25,000 persons (instead of 15,000 persons) before it may be proclaimed as a city (Schedule 2 (1));
 - (c) to provide that a metropolitan municipality must have a population of 150,000 persons (instead of 100,000 persons) before it may be proclaimed as a city (Schedule 2 (1));
 - (d) to provide for the taking of a poll of electors to decide whether the mayor or president of certain councils should be elected by the electors or should continue to be elected by those electors, as the case may require (Schedule 2 (2) and (4));
 - (e) to extend the period during which an alderman or councillor is required to transmit his oath of allegiance to the clerk of the council upon his election or appointment from 14 days to 21 days after his election or appointment (Schedule 2 (3));

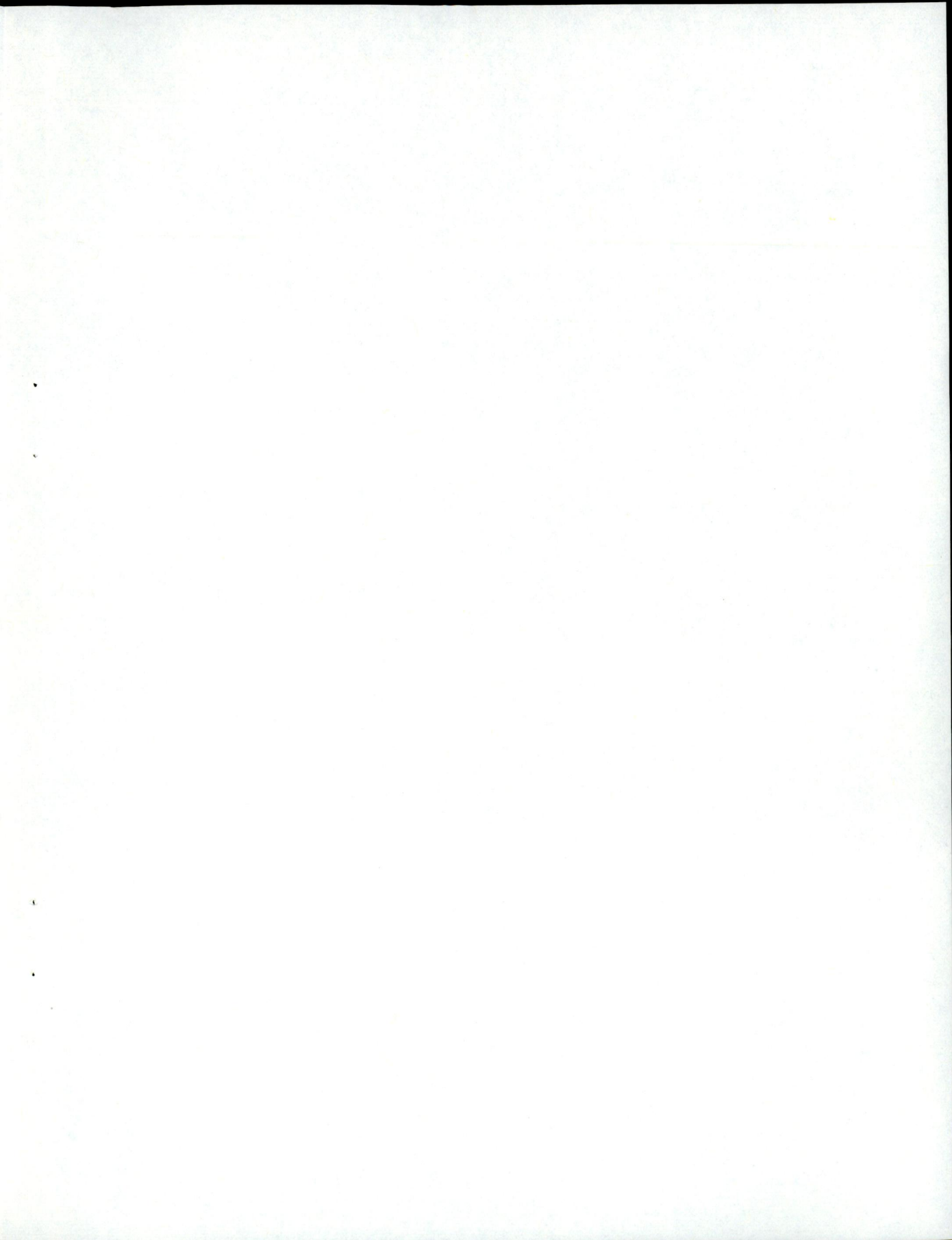
- (f) to provide that a mayor or president shall not exercise a casting vote at the election—
 - (i) of a mayor or deputy mayor or of a president or deputy president, as the case may be; or
 - (ii) of delegates to a county council (Schedule 2 (5));
- (g) to provide that where a pensioner ratepayer is entitled to a reduction of rates and a postponement of those rates under section 160c of the Act the reduction shall be calculated on the balance of the rates payable after that postponement (Schedule 2 (6));
- (h) to provide that—
 - (i) a ratepayer is not required to make a written election to pay rates by instalments but is required only to pay the first instalment by the due date;
 - (ii) a ratepayer is entitled to pay rates by instalments despite the fact that the previous rates are still owing if he pays the other rates before or at the same time that he pays the first instalment; and
 - (iii) a council may accept late payment of any instalment of rates in certain circumstances (Schedule 2 (7));
- (i) to correct a reference in the Act to another section of the Act (Schedule 2 (8));
- (j) to remove a council's power to provide, maintain, manage, control and regulate piggeries and pigs for the consumption of wholesome house and shop refuse (Schedule 2 (9) (a)–(c));
- (k) to require the Health Commission's approval instead of the Minister of Health's approval to any places on which council garbage depots are situated (Schedule 2 (9) (d));
- (l) to make it clear that a council may take into consideration in respect of an application for building approval any adverse effect on the drainage of adjoining sites (Schedule 2 (10));
- (m) to authorise a council to lend money to a ratepayer for the purpose of assisting him to meet his contribution to the cost of works involved in extending electricity to his land (Schedule 2 (11));
- (n) to increase from \$2,000 to \$4,000 the amount that a county council may expend for any unauthorised but lawful purpose in any one year (Schedule 2 (12));
- (o) to increase the maximum penalty that an ordinance may impose for a breach thereof from \$200 to \$1,000 in respect of a corporation and \$500 in respect of an individual (Schedule 2 (13) (a));

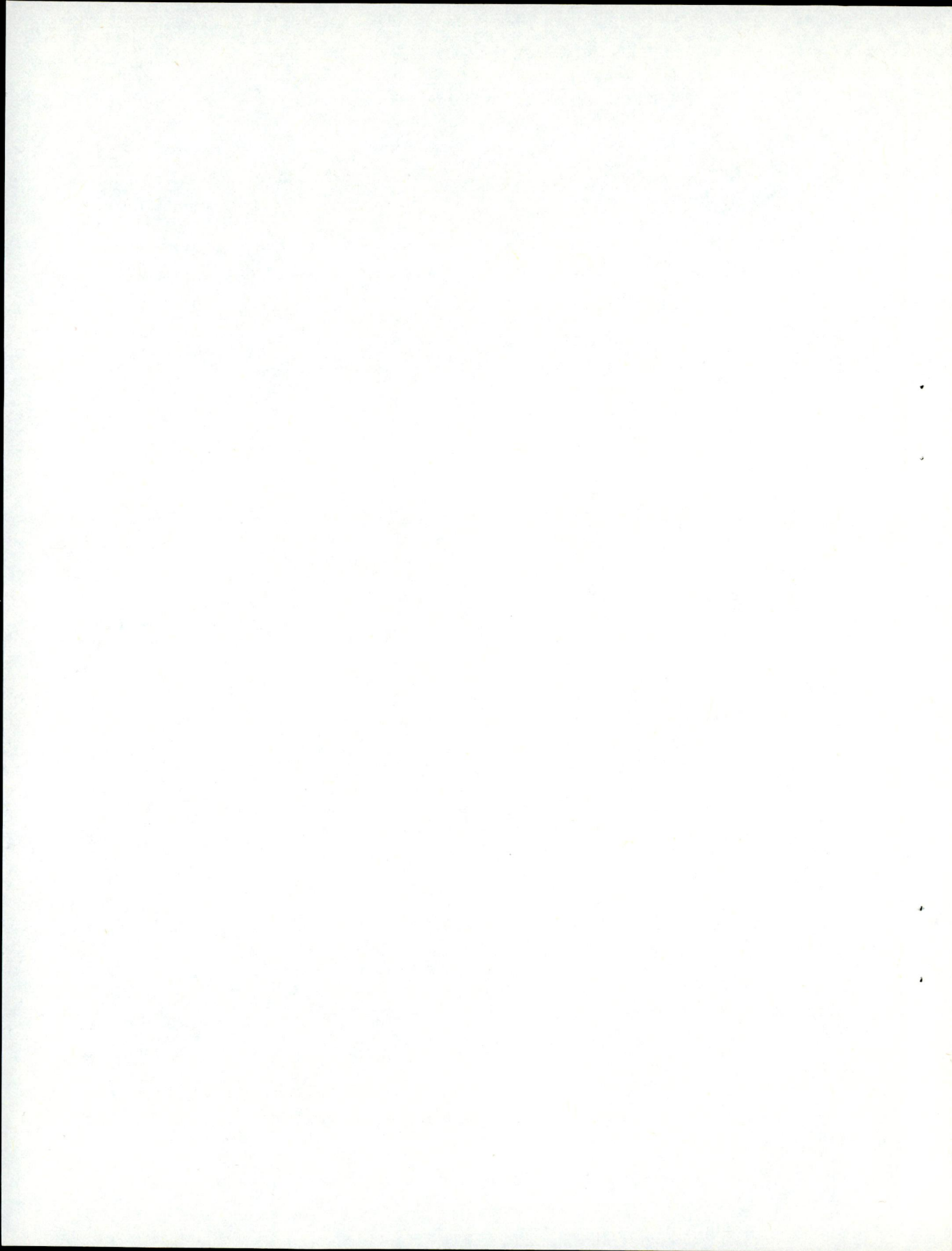
(p) to increase the maximum penalty that an ordinance may impose for a continuing breach thereof from \$10 per day to \$100 per day in respect of a corporation and \$50 per day in respect of an individual (Schedule 2 (13) (b)); and

(q) to enact certain savings, transitional and other provisions (Schedule 3).



... (b) (7) - (C) ...





PROOF

**LOCAL GOVERNMENT (AMENDMENT) BILL,
1979**

No. , 1979.

A BILL FOR

An Act to amend the Local Government Act, 1919, with respect to fire safety in existing buildings, rates and certain other matters.

[MR JENSEN—21 *November*, 1979.]

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, 1979".

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

(2) Section 5, in its application to Schedules 1 and 2 (5),
10 and Schedules 1 and 2 (5) shall commence on the day that is 1
month after the date of assent to this Act.

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

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

15 SCHEDULE 1.—AMENDMENT TO THE PRINCIPAL ACT
RELATING TO FIRE SAFETY IN EXISTING BUILDINGS.

SCHEDULE 2.—MISCELLANEOUS AMENDMENTS TO THE
PRINCIPAL ACT.

20 SCHEDULE 3.—SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS.

5. The Principal Act is amended in the manner set forth in Amendment
Schedules 1 and 2. of Act No.
41, 1919.

6. Schedule 3 has effect. Savings,
transitional
and other
provisions.

Local Government (Amendment).

SCHEDULE 1.

Sec. 5.

AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE SAFETY
IN EXISTING BUILDINGS.

Part XI, Division 4B—

5 Omit the Division, insert instead :—

DIVISION 4B.—*Fire safety in existing buildings.*

317C. (1) In this Division—

Interpre-
tation: Pt.
XI, Div. 4B.

10 “board”, in relation to an objection made under this
Division, means the Board of Appeal constituted
under Part XIIB to deal with that objection;

“owner”, in relation to a building, means the owner of
the land on which the building is erected;

“work” means work in the nature of alterations or
otherwise, and includes—

- 15 (a) the provision of means of escape or
egress;
- (b) the installation of automatic sprinklers
or drenchers; and
- 20 (c) the protection from fire of means of
escape or egress.

(2) A reference in this Division (however
expressed) to provision for fire safety is a reference to
provision for all or any of the following things, namely :—

- 25 (a) the safety of persons in the event of fire;
- (b) the prevention of fire;
- (c) the suppression of fire;
- (d) the prevention of the spread of fire.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
SAFETY IN EXISTING BUILDINGS—*continued.*

5 (3) A reference in this Division to the owner of
land is, in the case of land which is the subject of a strata
scheme under the Strata Titles Act, 1973, a reference to
the body corporate for that strata scheme.

(4) Where—

10 (a) an objection is made to the Tribunal in
accordance with section 317F against an order of
a council under section 317D and the board
confirms that order with modifications; or

15 (b) a council modifies an order under section 317D
in accordance with section 317G (2),
a reference in this Division to the order is a reference to
the order as so modified.

20 317D. (1) For the purpose of ensuring that adequate
provision for fire safety is made in or in connection with
a building, the council may, by notice in writing, order the
owner to do either or both of the following things,
namely :—

Orders by council with respect to fire safety.

(a) to carry out, within the period specified in the
notice, such work as may be so specified;

25 (b) to provide, within the period specified in the
notice, such fire-fighting equipment as may be so
specified.

30 (2) For the purpose of giving an order under
subsection (1) (a) pursuant to section 317E, the council
may, by notice in writing, order the owner to prepare and
submit to the council, within the period (not exceeding 3
months) specified in the notice, particulars of the work he
considers necessary to make provision for such matters as
may be so specified.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
SAFETY IN EXISTING BUILDINGS—*continued.*

5 (3) A person does not comply with an order under subsection (2) for the submission of particulars of work unless he submits such plans and specifications as he would be required to submit under section 312 (1) (b) if he were applying to the council for approval of that work.

10 (4) An order may be given under subsection (1) in relation to a building whether or not an order is or has been given under subsection (2) in relation to that building.

15 317E. (1) Where a person submits particulars of work to a council in accordance with an order of the council under section 317D (2), the council shall, within 28 days after those particulars of work are submitted—

Submission of particulars of work by owner.

- 20 (a) approve of those particulars of work without modification or with such modifications as it thinks fit; or
- (b) disapprove of those particulars of work.

25 (2) If a council approves of particulars of work that a person has submitted without modification, the council shall forthwith order, under section 317D (1) (a), the person to carry out that work.

(3) If a council approves of particulars of work that a person has submitted with modifications, the council shall—

- 30 (a) forthwith notify the person of those modifications and specify in the notification the period (not less than 28 days) within which the person may object to the council against those modifications; and

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
SAFETY IN EXISTING BUILDINGS—*continued.*

- 5 (b) after the expiration of the period so specified and
after giving due regard to any objection received,
order, under section 317D (1) (a), the person
to carry out the work subject to such modifica-
tions as may be specified in the notice of the
order.
- 10 (4) If a council disapproves of particulars of
work that a person has submitted, the council shall—
- 15 (a) prepare, within 3 months after that disapproval,
particulars of the work that it considers necessary
to make provision for the matters specified in the
notice of the order given to the person under
section 317D (2);
- 20 (b) forthwith notify the person of the particulars of
the work so prepared and specify in the notifica-
tion the period (not less than 28 days) within
which the person may object to the council
against carrying out that work; and
- 25 (c) after the expiration of the period so specified and
after giving due regard to any objection received,
order, under section 317D (1) (a), the person
to carry out that work subject to such modifica-
tions (if any) as may be specified in the notice
of the order.
- 30 (5) Where a person fails to submit particulars
of work to a council in accordance with an order of the
council under section 317D (2), the council shall, within
a period of 3 months after that failure—
- (a) prepare particulars of the work that it considers
necessary to make provision for the matters
specified in the notice of the order; and

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
SAFETY IN EXISTING BUILDINGS—*continued.*

5 (b) order, under section 317D (1) (a), the person
to carry out that work.

10 (6) An order given pursuant to this section is
not invalid by reason only of the failure of the council to
approve or disapprove of any particulars of work or
prepare particulars of any work, as the case may be,
within the period it is required to do so by this section.

(7) A council may recover from a person its
expenses in preparing particulars of work under this section
in any court of competent jurisdiction as a debt due to the
council—

15 (a) if the council disapproved of particulars of work
that the person had submitted and the court is of
the opinion that the work does not make
provision for the matters specified in the notice of
the order given to the person under section 317D
20 (2); or

(b) if the person failed to submit particulars of work
to the council in accordance with the order given
to the person under section 317D (2).

25 317F. (1) Except as provided in subsection (2), a
person who is required to comply with an order under
section 317D or a person who may be affected by
the order may, by himself or by any person on his behalf,
object to the Tribunal against the order within 1 month
after notice of the order is served or within the period
30 specified for compliance with the order, whichever is the
shorter period.

Objection
to
Tribunal.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
SAFETY IN EXISTING BUILDINGS—*continued.*

5 (2) A person who is required to comply with
an order given pursuant to section 317E (2) or (3) (b)
is not entitled to object to the Tribunal against the order
unless the objection—

(a) relates to the period specified for compliance
with the order; or

10 (b) in the case of an order given pursuant to section
317E (3) (b), relates to any modifications made
by the council.

(3) If any person objects to the Tribunal against
an order, the board may, on hearing the appeal—

15 (a) confirm the order without modification;

(b) confirm the order with such modifications
(including modifications of the period specified
for compliance with the order) as it thinks fit;
or

20 (c) refuse to confirm the order.

(4) Where an objection is duly made to the
Tribunal against an order, the order has no force or effect
for the purposes of this Division unless the board confirms
the order, with or without modification, or the appeal is
25 withdrawn.

317G. (1) Where a council gives a person an order
under section 317D, the council shall, in the notice of the
order—

Provisions
applicable
to orders
generally.

30 (a) state that the person or any other person affected
by the order may object to the Tribunal against
the order or a specified part of the order, as the
case may be; and

(b) specify the period limited for objection.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
SAFETY IN EXISTING BUILDINGS—*continued.*

5 (2) A council may, at any time, modify an order
it has given to a person under section 317D (including a
modification of the period specified for compliance with
the order) if the person agrees to that modification.

(3) Where land on which a building is erected is
owned by more than one person—

10 (a) an order under section 317D in respect of the
building is not invalid by reason only that it was
not given to all of those owners; and

15 (b) any of those owners may comply with such an
order without prejudice to the liability of the
other owners to pay for the cost of complying
with the order.

20 (4) Nothing in this Division prejudices the right
of an owner to recover from any other person all or any
of the expenses incurred by him in complying with an order
under section 317D in relation to a building, including
expenses recovered under section 317H.

25 317H. (1) Where a person fails to comply with an
order under section 317D for the carrying out of work or
the provision of fire-fighting equipment in respect of a
building, the council and any person authorised by it may
enter upon the building and the land on which the building
is erected and carry out that work or provide that equip-
ment so far as that work or that equipment has not been
carried out or provided. Council may complete work.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
SAFETY IN EXISTING BUILDINGS—*continued.*

5 (2) The council may remove any materials demolished in carrying out work under subsection (1) to a convenient place and sell the materials if and as it thinks fit.

10 (3) Any expenses incurred by the council in connection with the exercise of its powers under this section (less the proceeds, if any, of any sale under this section) may be recovered by the council in any court of competent jurisdiction as a debt due to the council by the owner.

317I. (1) A person who fails to comply with an order **Offences.**
under section 317D is guilty of an offence and is liable—

- 15 (a) to a penalty not exceeding \$10,000 in the case of a corporation or \$2,000 in any other case; and
- 20 (b) except in the case of an order under section 317D (2), to an additional penalty not exceeding \$500, in the case of a corporation, or \$100, in any other case, for each day that the order is not complied with after the day specified for compliance with the order.

25 (2) Proceedings for an offence arising under subsection (1) may be taken only before a court of petty sessions held before a stipendiary magistrate sitting alone or before the Supreme Court in its summary jurisdiction.

30 (3) If proceedings for an offence arising under subsection (1) are taken before a court of petty sessions, the maximum penalty that the court may impose in respect of the offence is, notwithstanding anything to the contrary in subsection (1), \$2,000 (including any daily penalty).

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
SAFETY IN EXISTING BUILDINGS—*continued.*

5 (4) Proceedings in the Supreme Court in its summary jurisdiction for an offence arising under subsection (1) may be commenced only within 6 months after the offence was committed.

(5) In the event of a failure to comply with an order under section 317D—

10 (a) proceedings for an offence arising under subsection (1) may be taken notwithstanding that the council is exercising or has exercised all or any of its powers under this Division in relation to that failure; or

15 (b) the council may exercise all or any of its powers under this Division in relation to that failure notwithstanding that proceedings have been taken for the offence.

20 317J. (1) The Board of Fire Commissioners of New South Wales (in this section referred to as the "Board"), by an officer or servant of the Board authorised for the purposes of this section by the Minister administering the Fire Brigades Act, 1909, may, subject to subsection (2), exercise the powers conferred on a council under section 25 524 for the purposes of inspecting a building to determine whether adequate provision for fire safety has been made in or in connection with the building.

Special provision with respect to Board of Fire Commissioners.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
SAFETY IN EXISTING BUILDINGS—*continued.*

5 (2) The Board is not authorised to inspect a
building under subsection (1) unless—

(a) it is requested to do so by the council of the area
in which the building is located;

10 (b) it is requested to do so by a person who holds
himself out as the owner, lessee or occupier of
the building; or

(c) it has received a complaint in writing that
adequate provision for fire safety has not been
made in or in connection with the building,

15 and unless the officer or servant of the Board who carries
out the inspection is accompanied during the inspection
by a person authorised by that council.

(3) A council shall, at the request of the Board,
make available a person authorised by it for the purposes
of an inspection by the Board under subsection (1).

20 (4) Where the Board carries out an inspection
of a building under subsection (1), it shall furnish to the
council of the area in which the building is located—

(a) a report of the inspection; and

25 (b) if it is of the opinion that adequate provision for
fire safety has not been made in or in connection
with the building, such recommendations as
to the carrying out of work or the provision of
fire-fighting equipment as it considers
appropriate.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
SAFETY IN EXISTING BUILDINGS—*continued.*

(5) A council shall—

- 5 (a) table any report and recommendations it receives
under subsection (4) at the next meeting of the
council; and
- 10 (b) at any meeting of the council held within 28 days
after receiving the report and recommendations
or at the next meeting of the council held after
the tabling of the report and recommendations,
whichever is the later, determine whether it will
exercise its powers under this Division.

15 (6) A reference in subsection (5) to a meeting
of a council does not include a reference to a special
meeting of the council unless the special meeting is called
for the purpose of tabling any report and recommendations
or making any determination referred to in that subsection.

20 (7) The Board, by an officer or servant of the
Board authorised for the purposes of this section by the
Minister administering the Fire Brigades Act, 1909, may
exercise the powers conferred on a council under section
524 for the purposes of inspecting a building to determine
whether the provisions of or made under any Act (including
25 this Act) for fire safety (being provisions prescribed for the
purposes of this subsection) have been contravened or have
not been complied with.

30 317JA. (1) This section applies to buildings which are
listed in the Register of the National Estate kept in
pursuance of the Australian Heritage Commission Act
1975 of the Parliament of the Commonwealth.

Special provision with respect to Heritage Council of New South Wales.

Local Government (Amendment).

SCHEDULE 1—*continued.*AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
SAFETY IN EXISTING BUILDINGS—*continued.*

5 (2) A council shall not give an order under
section 317D (not being an order given pursuant to section
317E) in respect of a building to which this section
applies unless—

10 (a) the Heritage Council of New South Wales (in
this section referred to as the “Heritage Council”)
is given at least 28 days’ notice of the council’s
intention to do so;

15 (b) a joint inspection of the building is made with
the Heritage Council if it requests such an inspec-
tion within 28 days of being notified of the
council’s intention to give the order; and

(c) where such an inspection has been made—

20 (i) in the case of an order under section
317D (2)—the Heritage Council is
given at least 14 days to notify the
council whether it wishes to be consulted
in connection with the order; or

25 (ii) in any other case—the Heritage Council
is given at least 28 days to make recom-
mendations to the council as a
consequence of the inspection.

(3) Where the Heritage Council notifies a
council that it wishes to be consulted in connection with an
order under section 317D (2), the council shall include
a statement to that effect in the notice of the order.

30 (4) A council shall not give an order under
section 317D (being an order given pursuant to section
317E) in respect of a building to which this section
applies unless the Heritage Council is given at least 28
35 days to make recommendations to the council in respect of
the order.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
SAFETY IN EXISTING BUILDINGS—*continued.*

5 (5) A council shall, in exercising its powers under this Division in respect of a building to which this section applies, give due regard to any recommendations made by the Heritage Council.

(6) Nothing in this section affects any of the provisions of the Heritage Act, 1977.

10 317JB. The Supreme Court may, upon application by a council, make such orders (including interlocutory orders) as it considers appropriate for the cessation of the use of any building or part thereof for all or any specified purposes if the safety of persons in the building or of any other persons is endangered by reason that adequate provision for fire safety has not been made in or in connection with the building.

15

Order for cessation of occupancy.

SCHEDULE 2.

Sec. 5.

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

20 (1) (a) Section 11 (2) (a)—
Omit “fifteen thousand persons”, insert instead “25,000 persons”.

(b) Section 11 (2) (b)—
25 Omit “one hundred thousand persons”, insert instead “150,000 persons”.

(2) (a) Section 25A (1) (b)—
Omit “made upon the application of the council”, insert instead “made pursuant to subsection (7) or (8)”.

Local Government (Amendment).

SCHEDULE 2—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

(b) Section 25A (6)–(9)—

5 After section 25A (5), insert :—

(6) Where the council of an area (not being an
area referred to in subsection (1) (a))—

10 (a) receives a petition signed by not less than
one-tenth in number of the enrolled electors
praying that a poll be taken on the question
of whether this section should be applied to
the council's area or should continue to
apply to the council's area, as the case may
be; or

15 (b) resolves that such a poll be taken,

the council—

20 (c) where such a poll has not been held since
the last ordinary election of the council and
the petition is presented, or the resolution
passed, more than 6 months before the end
of the council's term of office—shall take
such a poll forthwith; or

25 (d) where such a poll has been held since the
last ordinary election of the council but a
further such petition has been presented or a
further such resolution passed, or where
such a petition is presented or such a resolu-
tion passed 6 months or less before the end
of the council's term of office—may take
30 such a poll forthwith, but, if it does not do
so, shall take such a poll at the next
ordinary election of the council,

and shall certify the result of the poll to the Governor
not later than 28 days after the taking of the poll.

Local Government (Amendment).

SCHEDULE 2—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

5 (7) Where the decision of a poll held under
subsection (6)—

(a) is in favour of applying this section to an
area—the Governor shall, by proclamation,
apply this section to the area; or

10 (b) is not in favour of continuing to apply this
section to an area—the Governor shall
revoke the proclamation applying this
section to the area.

15 (8) The Governor may, by proclamation, apply
this section to an area upon the application of the
council of the area unless the decision of a poll last
held under subsection (6) is not in favour of applying
this section to the area.

20 (9) A proclamation applying this section to an
area may be revoked only pursuant to subsection (7)
(b) and, if it is so revoked, the revocation does not
take effect until the next ordinary election of the
council of the area or the next extraordinary vacancy
in the office of mayor or president of the area,
whichever first occurs.

25 (3) Section 33 (2)—

Omit “fourteen days” wherever occurring, insert instead
“21 days”.

(4) Section 82A (1)—

Before “73 (3B)”, insert “25A (6) or”.

Local Government (Amendment).

SCHEDULE 2—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

(5) Section 87 (4), (4A)—

5 Omit section 87 (4), insert instead :—

(4) At a meeting of the council, the mayor or president (or the chairman presiding at the meeting) has, in the event of an equality of votes, a casting vote except in respect of—

10 (a) the election of a mayor or president pursuant to section 25;

(b) the election of a deputy-mayor or deputy-president pursuant to section 26; or

15 (c) the election of delegates to a county council pursuant to section 562.

(4A) At a meeting of the council, the mayor or president does not have an original vote if he is an alderman or councillor by reason of the operation of section 25A (5).

(6) Section 160AA (7A)—

20 After section 160AA (7), insert :—

(7A) Where the payment of part of a rate which is required to be reduced by subsection (3) or (5) is postponed under section 160C, the amount of the rate for the purposes of this section shall be deemed to be the amount of that part of the rate that is not postponed under section 160C.

25

Local Government (Amendment).

SCHEDULE 2—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

(7) Section 160DA—

5 Omit the section, insert instead :—

160DA. (1) Notwithstanding anything in this Act, the person liable to pay any rates levied in the year commencing 1st January, 1980, or in any subsequent year may pay those rates by 4 instalments in accordance with this section if—

Payment
of current
rates by 4
instalments.

10

(a) the first instalment is paid on or before the day provided for the payment of that instalment; and

15

(b) where, on the day immediately preceding the day on which those rates are levied, rates are owing to the council by that person in respect of the land referred to in the rate notice for the rates so levied—the rates so owing are paid before or at the same time as the first instalment is paid.

20

(2) For the purposes of subsection (1)—

(a) each instalment shall be of an amount equal to one-fourth of the rates, disregarding any remainder, together, in the case of the first instalment, with that remainder;

25

(b) the first instalment shall be due and payable on the date that is 1 month after service of the rate notice; and

30

(c) the second, third and fourth instalments shall be due and payable on dates that are respectively 3, 5 and 7 months after service of the rate notice.

Local Government (Amendment).

SCHEDULE 2—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

5 (3) Where a person pays rates by instalments
in accordance with this section—

(a) the council shall accept those payments; and

(b) any instalments of those rates which are not due
for payment—

(i) shall not recoverable by the council; and

10 (ii) shall not be increased pursuant to section
158.

(4) Where a person fails to pay any instalment
of rates (other than the first) on or before the day provided
for payment of that instalment—

15 (a) the total amount of the instalments unpaid on
that day shall become due and payable to, and
recoverable by, the council; and

(b) the provisions of this Act relating to overdue
rates shall apply in respect of the unpaid balance
of the rates,

as if that person were not paying the rates by instalments in
accordance with this section.

(5) Where, in the opinion of the council—

25 (a) a refusal to accept payment of an instalment of
rates which is made after the day provided for
its payment would cause hardship to the person
who is liable to pay the rates; or

Local Government (Amendment).

SCHEDULE 2—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

- 5 (b) that person was unable for reasons beyond his
control to pay that instalment on or before the
day provided for its payment,
- 10 the council may accept the payment of that instalment and,
for the purposes of this section, that instalment shall be
deemed to have been paid on the day provided for its
payment.

- (8) Section 160E (1), definition of “valuer”—
Omit “subsection (9) of section 160C”, insert instead
“section 160C (1)”.
- (9) (a) Section 283 (1) (b)—
15 After “depot-rubbish;”, insert “and”.
- (b) Section 283 (1) (c)—
Omit “garbage; and”, insert instead “garbage.”.
- (c) Section 283 (1) (d)—
Omit the paragraph.
- 20 (d) Section 283 (4)—
Omit “Minister of Health”, insert instead “Health
Commission”.

- (10) (a) Section 313 (p)—
Omit “defined.”, insert instead “defined; and”.

Local Government (Amendment).

SCHEDULE 2—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

(b) Section 313 (q)—

5 After section 313 (p), insert :—

(q) whether the erection of the building adversely
affects the drainage of adjoining sites.

(11) Section 500D—

After section 500c, insert :—

10 500D. (1) Subject to this section, the council may, on Loans for
the application of a ratable person who has an estate or the
interest in land within the council's area, lend money to provision of
that person for the purpose of assisting him in meeting his works for
contribution to the cost of works involved in extending the extending
supply of electricity to that land. the supply of
15 supply of electricity to that land. electricity.

20 (2) A loan under subsection (1) may be made
at such rate of interest, and subject to such conditions and
provisions, as the council thinks fit to impose, and in
particular any such provisions may include a provision
requiring the applicant to pay to the council by equal instal-
ments, and within such period as may be prescribed for
the purpose of this subsection, an amount equal to the
amount of the loan together with the total amount of
interest due in respect of the loan.

25 (3) The provisions of this Act with respect to
the charge of a rate on land in respect of which it is levied
shall apply to the amount of a loan made under subsection
(1) and of any interest due in respect of the loan as if the
amount were a rate so charged and as if the land with
30 respect to which the loan was made were land in respect
of which the rate had been levied.

Local Government (Amendment).

SCHEDULE 2—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

- (12) Section 504 (2A)—
- 5 Omit “\$2,000”, insert instead “\$4,000”.
- (13) (a) Section 576 (4) (a)—
- Omit “two hundred dollars”, insert instead “\$1,000 in the case of corporations or \$500 in the case of individuals”.
- 10 (b) Section 576 (4) (b)—
- Omit “ten dollars per day”, insert instead “\$100 per day in the case of corporations or \$50 per day in the case of individuals”.

SCHEDULE 3.

Sec. 6.

15 SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

1. Division 4B of Part XI of the Principal Act, as in force immediately before the commencement of Schedule 1, applies to and in respect of any direction given under that Division before that commencement as if Schedule 1 had not been enacted. Existing directions for carrying out fire safety work.
- 20 2. Section 160DA of the Principal Act, as in force immediately before the date of assent to this Act, shall apply to rates levied in any year preceding the year commencing 1st January, 1980, as if this Act had not been enacted. Payment of rates by instalments.

Local Government (Amendment).

SCHEDULE 3—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

3. An approval given pursuant to section 283 (4) of the Principal Act before the date of assent to this Act shall, on and after that date, be deemed to have been given by the Health Commission of New South Wales. Approval of depots under s. 283 (4) of Principal Act.
4. Section 25A of the Principal Act does not cease to apply to an area by reason only of the amendment of that section by this Act. Application of s. 25A of Principal Act.
5. Section 160AA (7A) of the Principal Act, as inserted by this Act, does not apply in respect of rates levied in any year preceding the year commencing 1st January, 1980. Reduction of rates for pensioners.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES, 1979

LOCAL GOVERNMENT (AMENDMENT) BILL, 1979

EXPLANATORY NOTE

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

The object of this Bill is to amend the Local Government Act, 1919 ("the Act")—

(a) to replace the existing provisions of the Act with respect to fire safety in existing buildings and, by those new provisions—

(i) to empower a council to order the owner of land on which an existing building is erected to carry out specified work or provide specified fire-fighting equipment for the purpose of ensuring that adequate provision is made for fire safety (Schedule 1—proposed section 317D (1) (a) and (b));

(ii) to empower a council to order such an owner to prepare and submit particulars of work he considers necessary to make provision for specified matters relating to fire safety (Schedule 1—proposed section 317D (2) and (3));

(iii) to provide that a council may approve (with or without modification) or disapprove of particulars of work that an owner submits pursuant to an order referred to in subparagraph (ii) (Schedule 1—proposed section 317E (1));

(iv) where a council approves of particulars of work that an owner submits, to empower the council to order him to carry out that work within the period specified by the council provided that he is given at least 28 days to object to the council against any modification of the work made by the council (Schedule 1—proposed section 317E (2) and (3));

(v) where a council disapproves of particulars of work that an owner submits, to empower the council to prepare particulars of the necessary work and to order the owner to carry out that work within the period specified by the council provided that he is given at least 28 days to object to the council against carrying out that work (Schedule 1—proposed section 317E (4));

- (vi) where an owner fails to submit particulars of work pursuant to an order referred to in subparagraph (ii), to empower the council to prepare particulars of the necessary work and to order the owner to carry out that work within the period specified by the council (Schedule 1—proposed section 317E (5));
- (vii) to enable the council to recover its expenses in preparing particulars of work where an owner fails to submit particulars of work or, in certain circumstances, where the council disapproves of particulars of work that the owner submits (Schedule 1—proposed section 317E (7));
- (viii) to confer a right of appeal to the Local Government Appeals Tribunal against an order of the council (Schedule 1—proposed section 317F);
- (ix) to require a council to notify an owner to whom it gives an order of his right to appeal against that order (Schedule 1—proposed section 317G (1));
- (x) to authorise a council to modify an order it has given to an owner if the owner agrees to the modification (Schedule 1—proposed section 317G (2));
- (xi) to make all the owners of land on which a building is erected liable to comply with an order relating to the building notwithstanding that the order was not given to all of those owners (Schedule 1—proposed section 317G (3));
- (xii) to provide that, where an owner fails to comply with an order, the council may carry out the work or provide the equipment, as the case may be, and recover its expenses from the owner (Schedule 1—proposed section 317H);
- (xiii) to make it an offence if a person fails to comply with an order and to impose a penalty not exceeding \$10,000 in the case of a corporation or \$2,000 in any other case and a daily penalty not exceeding \$500 in the case of a corporation and \$100 in any other case (Schedule 1—proposed section 317I (1));
- (xiv) to provide that proceedings for an offence referred to in subparagraph (xiii) may be brought before the Supreme Court in its summary jurisdiction or before a stipendiary magistrate, but to prohibit a stipendiary magistrate from imposing a penalty that exceeds \$2,000 (Schedule 1—proposed section 317I (2) and (3));
- (xv) to empower the Board of Fire Commissioners of New South Wales, by certain of its officers and servants, to make joint inspections of buildings with persons approved by the council of the area concerned to determine whether adequate provision has been made for fire safety provided that the council or the owner, lessee or occupier of the building requests the inspection or a written complaint is made about fire safety in the building (Schedule 1—proposed section 317J (1)–(3));

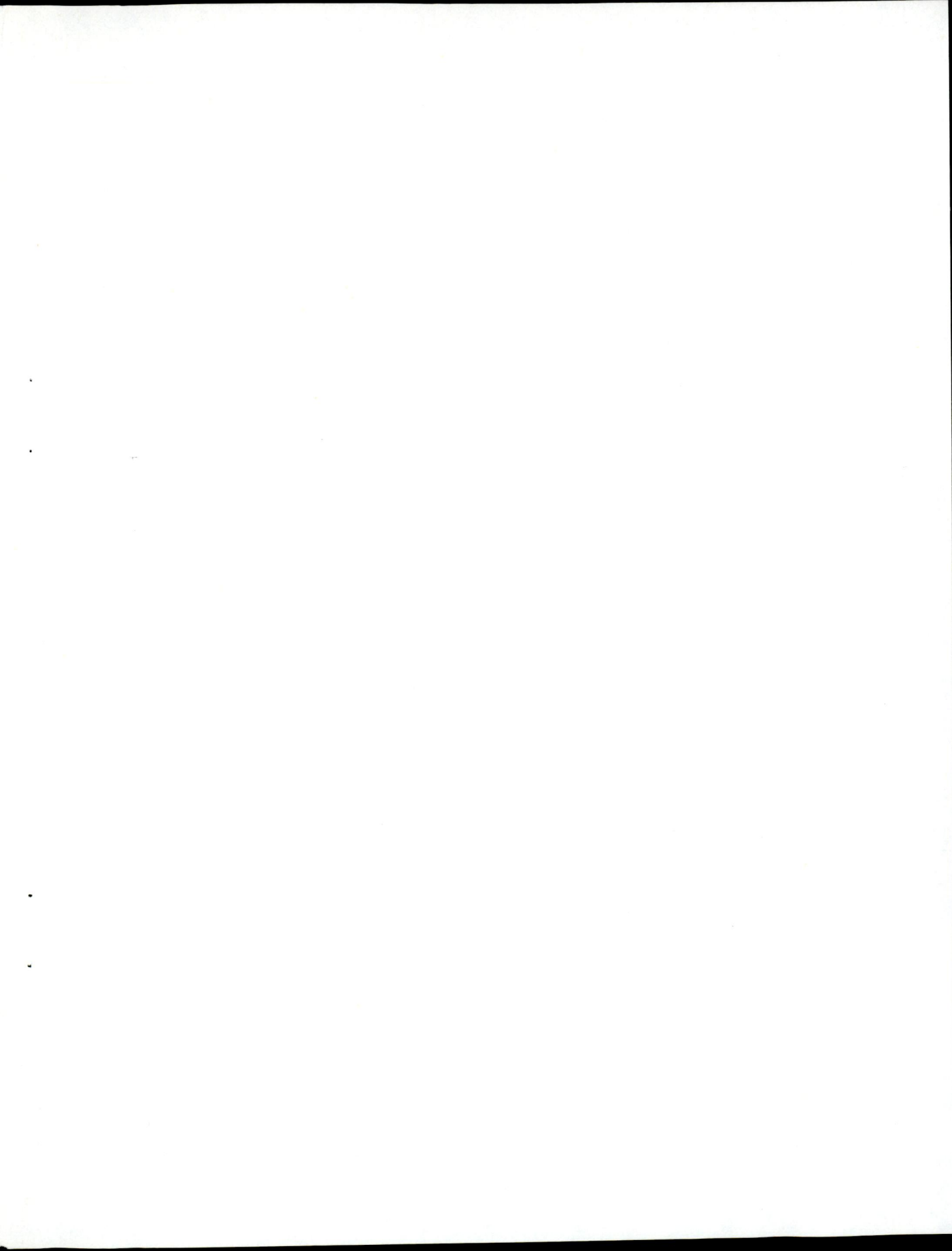
- (xvi) to require the Board of Fire Commissioners of New South Wales to furnish to the appropriate council a report of any inspection referred to in subparagraph (xv) and any recommendations it considers appropriate (Schedule 1—proposed section 317J (4));
 - (xvii) to require a council to table any report and recommendations furnished by the Board of Fire Commissioners of New South Wales at its next meeting and to determine whether it will exercise its powers in respect of the matter within 28 days or at the next meeting of the council after the report and recommendations are tabled, whichever is the later (Schedule 1—proposed section 317J (5));
 - (xviii) to empower the Board of Fire Commissioners of New South Wales, by certain of its officers and servants, to inspect buildings to determine whether any prescribed provisions of or made under an Act for fire safety have been contravened or have not been complied with (Schedule 1—proposed section 317J (7));
 - (xix) to require a council to notify the Heritage Council of New South Wales of its intention to give an order in relation to certain historic buildings and to have due regard to any recommendations made by the Heritage Council of New South Wales (Schedule 1—proposed section 317JA);
 - (xx) to authorise the Supreme Court, upon application by a council, to prohibit the use of a building for all or any specified purposes if the safety of persons is endangered by inadequate provision for fire safety (Schedule 1—proposed section 317JB); and
 - (xxi) to make other provisions of a minor, ancillary or consequential nature (Schedule 1);
- (b) to provide that a provincial municipality must have a population of 25,000 persons (instead of 15,000 persons) before it may be proclaimed as a city (Schedule 2 (1));
 - (c) to provide that a metropolitan municipality must have a population of 150,000 persons (instead of 100,000 persons) before it may be proclaimed as a city (Schedule 2 (1));
 - (d) to provide for the taking of a poll of electors to decide whether the mayor or president of certain councils should be elected by the electors or should continue to be elected by those electors, as the case may require (Schedule 2 (2) and (4));
 - (e) to extend the period during which an alderman or councillor is required to transmit his oath of allegiance to the clerk of the council upon his election or appointment from 14 days to 21 days after his election or appointment (Schedule 2 (3));

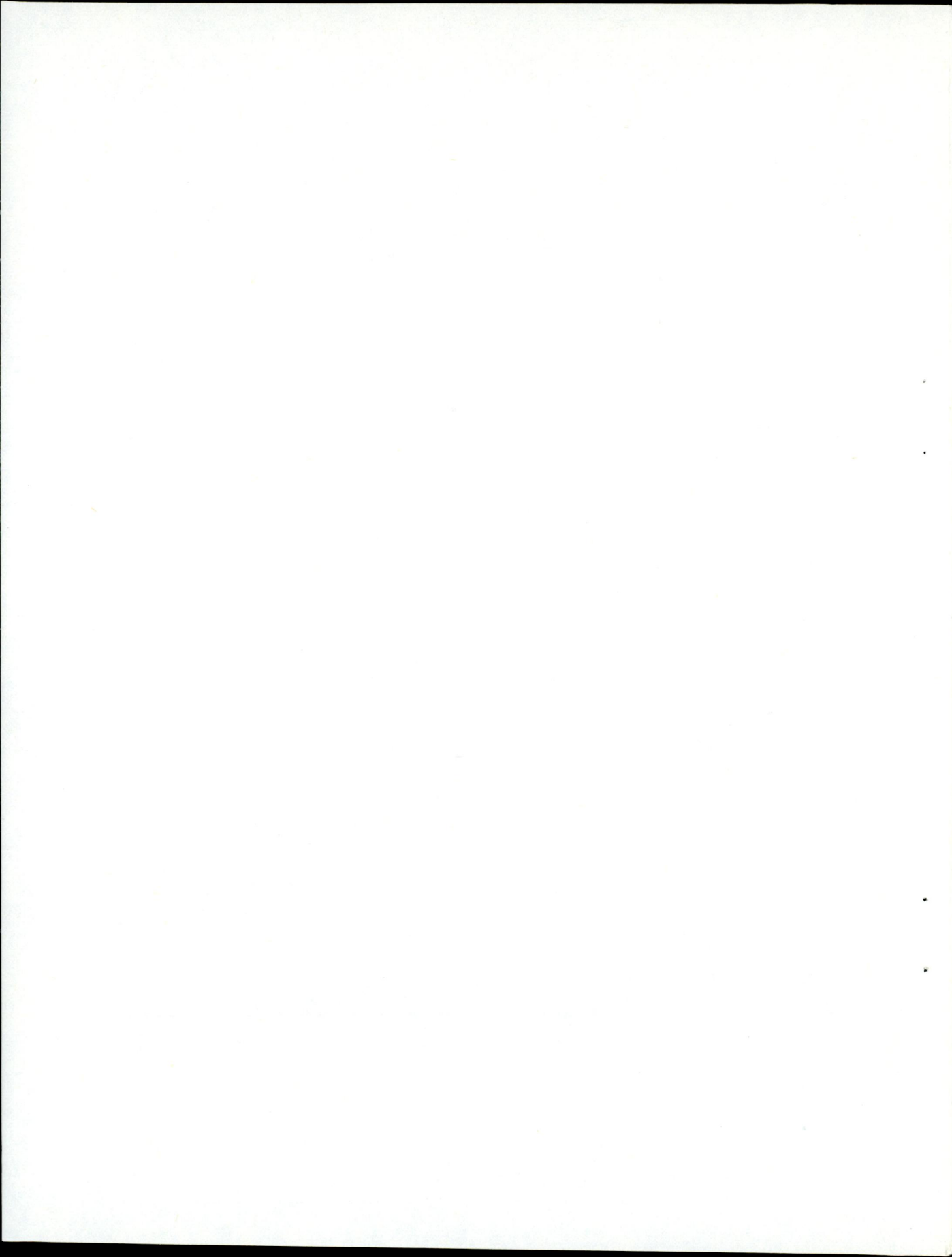
- (f) to provide that a mayor or president shall not exercise a casting vote at the election—
 - (i) of a mayor or deputy mayor or of a president or deputy president, as the case may be; or
 - (ii) of delegates to a county council
(Schedule 2 (5));
- (g) to provide that where a pensioner ratepayer is entitled to a reduction of rates and a postponement of those rates under section 160C of the Act the reduction shall be calculated on the balance of the rates payable after that postponement (Schedule 2 (6));
- (h) to provide that—
 - (i) a ratepayer is not required to make a written election to pay rates by instalments but is required only to pay the first instalment by the due date;
 - (ii) a ratepayer is entitled to pay rates by instalments despite the fact that the previous rates are still owing if he pays the other rates before or at the same time that he pays the first instalment; and
 - (iii) a council may accept late payment of any instalment of rates in certain circumstances
(Schedule 2 (7));
- (i) to correct a reference in the Act to another section of the Act (Schedule 2 (8));
- (j) to remove a council's power to provide, maintain, manage, control and regulate piggeries and pigs for the consumption of wholesome house and shop refuse (Schedule 2 (9) (a)–(c));
- (k) to require the Health Commission's approval instead of the Minister of Health's approval to any places on which council garbage depots are situated (Schedule 2 (9) (d));
- (l) to make it clear that a council may take into consideration in respect of an application for building approval any adverse effect on the drainage of adjoining sites (Schedule 2 (10));
- (m) to authorise a council to lend money to a ratepayer for the purpose of assisting him to meet his contribution to the cost of works involved in extending electricity to his land (Schedule 2 (11));
- (n) to increase from \$2,000 to \$4,000 the amount that a county council may expend for any unauthorised but lawful purpose in any one year (Schedule 2 (12));
- (o) to increase the maximum penalty that an ordinance may impose for a breach thereof from \$200 to \$1,000 in respect of a corporation and \$500 in respect of an individual (Schedule 2 (13) (a));

- (p) to increase the maximum penalty that an ordinance may impose for a continuing breach thereof from \$10 per day to \$100 per day in respect of a corporation and \$50 per day in respect of an individual (Schedule 2 (13) (b)); and
 - (q) to enact certain savings, transitional and other provisions (Schedule 3).
-

... the ... (b) (7) (D) ...

... (b) (7) (D) ...





**LOCAL GOVERNMENT (AMENDMENT) BILL,
1979**

No. , 1979.

A BILL FOR

An Act to amend the Local Government Act, 1919, with respect to fire safety in existing buildings, rates and certain other matters.

[MR JENSEN—21 *November*, 1979.]

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, 1979".

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

(2) Section 5, in its application to Schedules 1 and 2 (5),
10 and Schedules 1 and 2 (5) shall commence on the day that is 1
month after the date of assent to this Act.

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

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

15 **SCHEDULE 1.—AMENDMENT TO THE PRINCIPAL ACT
RELATING TO FIRE SAFETY IN EXISTING BUILDINGS.**

**SCHEDULE 2.—MISCELLANEOUS AMENDMENTS TO THE
PRINCIPAL ACT.**

20 **SCHEDULE 3.—SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS.**

5. The Principal Act is amended in the manner set forth in Amendment
Schedules 1 and 2. of Act No.
41, 1919.

6. Schedule 3 has effect.

Savings,
transitional
and other
provisions.

Local Government (Amendment).

SCHEDULE 1.

Sec. 5.

AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE SAFETY
IN EXISTING BUILDINGS.

Part XI, Division 4B—

5 Omit the Division, insert instead :—

DIVISION 4B.—*Fire safety in existing buildings.*

317c. (1) In this Division—

Interpre-
tation: Pt.
XI, Div. 4B.

10 “board”, in relation to an objection made under this
Division, means the Board of Appeal constituted
under Part XII B to deal with that objection;

“owner”, in relation to a building, means the owner of
the land on which the building is erected;

“work” means work in the nature of alterations or
otherwise, and includes—

- 15 (a) the provision of means of escape or
egress;
- (b) the installation of automatic sprinklers
or drenchers; and
- 20 (c) the protection from fire of means of
escape or egress.

(2) A reference in this Division (however
expressed) to provision for fire safety is a reference to
provision for all or any of the following things, namely :—

- 25 (a) the safety of persons in the event of fire;
- (b) the prevention of fire;
- (c) the suppression of fire;
- (d) the prevention of the spread of fire.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
SAFETY IN EXISTING BUILDINGS—*continued.*

5 (3) A reference in this Division to the owner of
land is, in the case of land which is the subject of a strata
scheme under the Strata Titles Act, 1973, a reference to
the body corporate for that strata scheme.

(4) Where—

10 (a) an objection is made to the Tribunal in
accordance with section 317F against an order of
a council under section 317D and the board
confirms that order with modifications; or

(b) a council modifies an order under section 317D
in accordance with section 317G (2),

15 a reference in this Division to the order is a reference to
the order as so modified.

20 317D. (1) For the purpose of ensuring that adequate
provision for fire safety is made in or in connection with
a building, the council may, by notice in writing, order the
owner to do either or both of the following things,
namely :—

Orders by
council with
respect to
fire safety.

(a) to carry out, within the period specified in the
notice, such work as may be so specified;

25 (b) to provide, within the period specified in the
notice, such fire-fighting equipment as may be so
specified.

30 (2) For the purpose of giving an order under
subsection (1) (a) pursuant to section 317E, the council
may, by notice in writing, order the owner to prepare and
submit to the council, within the period (not exceeding 3
months) specified in the notice, particulars of the work he
considers necessary to make provision for such matters as
35 may be so specified.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
SAFETY IN EXISTING BUILDINGS—*continued.*

5 (3) A person does not comply with an order under subsection (2) for the submission of particulars of work unless he submits such plans and specifications as he would be required to submit under section 312 (1) (b) if he were applying to the council for approval of that work.

10 (4) An order may be given under subsection (1) in relation to a building whether or not an order is or has been given under subsection (2) in relation to that building.

15 317E. (1) Where a person submits particulars of work to a council in accordance with an order of the council under section 317D (2), the council shall, within 28 days after those particulars of work are submitted—

Submission
of
particulars
of work
by owner.

20 (a) approve of those particulars of work without modification or with such modifications as it thinks fit; or

(b) disapprove of those particulars of work.

25 (2) If a council approves of particulars of work that a person has submitted without modification, the council shall forthwith order, under section 317D (1) (a), the person to carry out that work.

(3) If a council approves of particulars of work that a person has submitted with modifications, the council shall—

30 (a) forthwith notify the person of those modifications and specify in the notification the period (not less than 28 days) within which the person may object to the council against those modifications; and

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
SAFETY IN EXISTING BUILDINGS—*continued.*

- 5 (b) after the expiration of the period so specified and after giving due regard to any objection received, order, under section 317D (1) (a), the person to carry out the work subject to such modifications as may be specified in the notice of the order.
- 10 (4) If a council disapproves of particulars of work that a person has submitted, the council shall—
- 15 (a) prepare, within 3 months after that disapproval, particulars of the work that it considers necessary to make provision for the matters specified in the notice of the order given to the person under section 317D (2);
- 20 (b) forthwith notify the person of the particulars of the work so prepared and specify in the notification the period (not less than 28 days) within which the person may object to the council against carrying out that work; and
- 25 (c) after the expiration of the period so specified and after giving due regard to any objection received, order, under section 317D (1) (a), the person to carry out that work subject to such modifications (if any) as may be specified in the notice of the order.
- 30 (5) Where a person fails to submit particulars of work to a council in accordance with an order of the council under section 317D (2), the council shall, within a period of 3 months after that failure—
- (a) prepare particulars of the work that it considers necessary to make provision for the matters specified in the notice of the order; and

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
SAFETY IN EXISTING BUILDINGS—*continued.*

5 (b) order, under section 317D (1) (a), the person
to carry out that work.

(6) An order given pursuant to this section is
not invalid by reason only of the failure of the council to
approve or disapprove of any particulars of work or
prepare particulars of any work, as the case may be,
10 within the period it is required to do so by this section.

(7) A council may recover from a person its
expenses in preparing particulars of work under this section
in any court of competent jurisdiction as a debt due to the
council—

15 (a) if the council disapproved of particulars of work
that the person had submitted and the court is of
the opinion that the work does not make
provision for the matters specified in the notice of
the order given to the person under section 317D
20 (2); or

(b) if the person failed to submit particulars of work
to the council in accordance with the order given
to the person under section 317D (2).

25 317F. (1) Except as provided in subsection (2), a person who is required to comply with an order under
section 317D or a person who may be affected by
the order may, by himself or by any person on his behalf,
object to the Tribunal against the order within 1 month
after notice of the order is served or within the period
30 specified for compliance with the order, whichever is the
shorter period.

Objection
to
Tribunal.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
SAFETY IN EXISTING BUILDINGS—*continued.*

5 (2) A person who is required to comply with
an order given pursuant to section 317E (2) or (3) (b)
is not entitled to object to the Tribunal against the order
unless the objection—

(a) relates to the period specified for compliance
with the order; or

10 (b) in the case of an order given pursuant to section
317E (3) (b), relates to any modifications made
by the council.

(3) If any person objects to the Tribunal against
an order, the board may, on hearing the appeal—

15 (a) confirm the order without modification;

(b) confirm the order with such modifications
(including modifications of the period specified
for compliance with the order) as it thinks fit;
or

20 (c) refuse to confirm the order.

(4) Where an objection is duly made to the
Tribunal against an order, the order has no force or effect
for the purposes of this Division unless the board confirms
the order, with or without modification, or the appeal is
25 withdrawn.

317G. (1) Where a council gives a person an order under section 317D, the council shall, in the notice of the order—

Provisions
applicable
to orders
generally.

30 (a) state that the person or any other person affected
by the order may object to the Tribunal against
the order or a specified part of the order, as the
case may be; and

(b) specify the period limited for objection.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
SAFETY IN EXISTING BUILDINGS—*continued.*

5 (2) A council may, at any time, modify an order it has given to a person under section 317D (including a modification of the period specified for compliance with the order) if the person agrees to that modification.

(3) Where land on which a building is erected is owned by more than one person—

10 (a) an order under section 317D in respect of the building is not invalid by reason only that it was not given to all of those owners; and

15 (b) any of those owners may comply with such an order without prejudice to the liability of the other owners to pay for the cost of complying with the order.

20 (4) Nothing in this Division prejudices the right of an owner to recover from any other person all or any of the expenses incurred by him in complying with an order under section 317D in relation to a building, including expenses recovered under section 317H.

25 317H. (1) Where a person fails to comply with an order under section 317D for the carrying out of work or the provision of fire-fighting equipment in respect of a building, the council and any person authorised by it may enter upon the building and the land on which the building is erected and carry out that work or provide that equipment so far as that work or that equipment has not been carried out or provided. Council may complete work.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
SAFETY IN EXISTING BUILDINGS—*continued.*

5 (2) The council may remove any materials demolished in carrying out work under subsection (1) to a convenient place and sell the materials if and as it thinks fit.

10 (3) Any expenses incurred by the council in connection with the exercise of its powers under this section (less the proceeds, if any, of any sale under this section) may be recovered by the council in any court of competent jurisdiction as a debt due to the council by the owner.

317i. (1) A person who fails to comply with an order under section 317D is guilty of an offence and is liable—

- 15 (a) to a penalty not exceeding \$10,000 in the case of a corporation or \$2,000 in any other case; and
- 20 (b) except in the case of an order under section 317D (2), to an additional penalty not exceeding \$500, in the case of a corporation, or \$100, in any other case, for each day that the order is not complied with after the day specified for compliance with the order.

25 (2) Proceedings for an offence arising under subsection (1) may be taken only before a court of petty sessions held before a stipendiary magistrate sitting alone or before the Supreme Court in its summary jurisdiction.

30 (3) If proceedings for an offence arising under subsection (1) are taken before a court of petty sessions, the maximum penalty that the court may impose in respect of the offence is, notwithstanding anything to the contrary in subsection (1), \$2,000 (including any daily penalty).

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
SAFETY IN EXISTING BUILDINGS—*continued.*

5 (4) Proceedings in the Supreme Court in its summary jurisdiction for an offence arising under subsection (1) may be commenced only within 6 months after the offence was committed.

(5) In the event of a failure to comply with an order under section 317D—

10 (a) proceedings for an offence arising under subsection (1) may be taken notwithstanding that the council is exercising or has exercised all or any of its powers under this Division in relation to that failure; or

15 (b) the council may exercise all or any of its powers under this Division in relation to that failure notwithstanding that proceedings have been taken for the offence.

20 317J. (1) The Board of Fire Commissioners of New South Wales (in this section referred to as the "Board"), by an officer or servant of the Board authorised for the purposes of this section by the Minister administering the Fire Brigades Act, 1909, may, subject to subsection (2), exercise the powers conferred on a council under section 25 524 for the purposes of inspecting a building to determine whether adequate provision for fire safety has been made in or in connection with the building.

Special provision with respect to Board of Fire Commissioners.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
SAFETY IN EXISTING BUILDINGS—*continued.*

5 (2) The Board is not authorised to inspect a
building under subsection (1) unless—

- (a) it is requested to do so by the council of the area
in which the building is located;
- (b) it is requested to do so by a person who holds
10 himself out as the owner, lessee or occupier of
the building; or
- (c) it has received a complaint in writing that
adequate provision for fire safety has not been
made in or in connection with the building,

15 and unless the officer or servant of the Board who carries
out the inspection is accompanied during the inspection
by a person authorised by that council.

(3) A council shall, at the request of the Board,
make available a person authorised by it for the purposes
of an inspection by the Board under subsection (1).

20 (4) Where the Board carries out an inspection
of a building under subsection (1), it shall furnish to the
council of the area in which the building is located—

- (a) a report of the inspection; and
- (b) if it is of the opinion that adequate provision for
25 fire safety has not been made in or in connection
with the building, such recommendations as
to the carrying out of work or the provision of
fire-fighting equipment as it considers
appropriate.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
SAFETY IN EXISTING BUILDINGS—*continued.*

(5) A council shall—

- 5 (a) table any report and recommendations it receives
under subsection (4) at the next meeting of the
council; and
- 10 (b) at any meeting of the council held within 28 days
after receiving the report and recommendations
or at the next meeting of the council held after
the tabling of the report and recommendations,
whichever is the later, determine whether it will
exercise its powers under this Division.

15 (6) A reference in subsection (5) to a meeting
of a council does not include a reference to a special
meeting of the council unless the special meeting is called
for the purpose of tabling any report and recommendations
or making any determination referred to in that subsection.

20 (7) The Board, by an officer or servant of the
Board authorised for the purposes of this section by the
Minister administering the Fire Brigades Act, 1909, may
exercise the powers conferred on a council under section
524 for the purposes of inspecting a building to determine
25 whether the provisions of or made under any Act (including
this Act) for fire safety (being provisions prescribed for the
purposes of this subsection) have been contravened or have
not been complied with.

30 317JA. (1) This section applies to buildings which are
listed in the Register of the National Estate kept in
pursuance of the Australian Heritage Commission Act
1975 of the Parliament of the Commonwealth.

Special
provision
with
respect to
Heritage
Council
of New
South
Wales.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
SAFETY IN EXISTING BUILDINGS—*continued.*

5 (2) A council shall not give an order under
section 317D (not being an order given pursuant to section
317E) in respect of a building to which this section
applies unless—

10 (a) the Heritage Council of New South Wales (in
this section referred to as the “Heritage Council”)
is given at least 28 days’ notice of the council’s
intention to do so;

15 (b) a joint inspection of the building is made with
the Heritage Council if it requests such an inspec-
tion within 28 days of being notified of the
council’s intention to give the order; and

(c) where such an inspection has been made—
20 (i) in the case of an order under section
317D (2)—the Heritage Council is
given at least 14 days to notify the
council whether it wishes to be consulted
in connection with the order; or

25 (ii) in any other case—the Heritage Council
is given at least 28 days to make recom-
mendations to the council as a
consequence of the inspection.

(3) Where the Heritage Council notifies a
council that it wishes to be consulted in connection with an
order under section 317D (2), the council shall include
a statement to that effect in the notice of the order.

30 (4) A council shall not give an order under
section 317D (being an order given pursuant to section
317E) in respect of a building to which this section
applies unless the Heritage Council is given at least 28
35 days to make recommendations to the council in respect of
the order.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
SAFETY IN EXISTING BUILDINGS—*continued.*

5 (5) A council shall, in exercising its powers
under this Division in respect of a building to which this
section applies, give due regard to any recommendations
made by the Heritage Council.

(6) Nothing in this section affects any of the
provisions of the Heritage Act, 1977.

10 317JB. The Supreme Court may, upon application by a council, make such orders (including interlocutory orders) as it considers appropriate for the cessation of the use of any building or part thereof for all or any specified purposes if the safety of persons in the building or of any other persons is endangered by reason that adequate provision for fire safety has not been made in or in connection with the building. Order for cessation of occupancy.

15

SCHEDULE 2.

Sec. 5.

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

- 20 (1) (a) Section 11 (2) (a)—
Omit “fifteen thousand persons”, insert instead
“25,000 persons”.
- (b) Section 11 (2) (b)—
Omit “one hundred thousand persons”, insert instead
25 “150,000 persons”.
- (2) (a) Section 25A (1) (b)—
Omit “made upon the application of the council”,
insert instead “made pursuant to subsection (7) or
(8)”.

Local Government (Amendment).

SCHEDULE 2—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

(b) Section 25A (6)–(9)—

5 After section 25A (5), insert :—

(6) Where the council of an area (not being an
area referred to in subsection (1) (a))—

10 (a) receives a petition signed by not less than
one-tenth in number of the enrolled electors
praying that a poll be taken on the question
of whether this section should be applied to
the council's area or should continue to
apply to the council's area, as the case may
be; or

15 (b) resolves that such a poll be taken,

the council—

20 (c) where such a poll has not been held since
the last ordinary election of the council and
the petition is presented, or the resolution
passed, more than 6 months before the end
of the council's term of office—shall take
such a poll forthwith; or

25 (d) where such a poll has been held since the
last ordinary election of the council but a
further such petition has been presented or a
further such resolution passed, or where
such a petition is presented or such a resolu-
tion passed 6 months or less before the end
of the council's term of office—may take
such a poll forthwith, but, if it does not do
so, shall take such a poll at the next
ordinary election of the council,

30

and shall certify the result of the poll to the Governor
not later than 28 days after the taking of the poll.

Local Government (Amendment).

SCHEDULE 2—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

5 (7) Where the decision of a poll held under
subsection (6)—

(a) is in favour of applying this section to an
area—the Governor shall, by proclamation,
apply this section to the area; or

10 (b) is not in favour of continuing to apply this
section to an area—the Governor shall
revoke the proclamation applying this
section to the area.

15 (8) The Governor may, by proclamation, apply
this section to an area upon the application of the
council of the area unless the decision of a poll last
held under subsection (6) is not in favour of applying
this section to the area.

20 (9) A proclamation applying this section to an
area may be revoked only pursuant to subsection (7)
(b) and, if it is so revoked, the revocation does not
take effect until the next ordinary election of the
council of the area or the next extraordinary vacancy
in the office of mayor or president of the area,
whichever first occurs.

25 (3) Section 33 (2)—

Omit “fourteen days” wherever occurring, insert instead
“21 days”.

(4) Section 82A (1)—

Before “73 (3B)”, insert “25A (6) or”.

Local Government (Amendment).

SCHEDULE 2—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

(5) Section 87 (4), (4A)—

5 Omit section 87 (4), insert instead :—

(4) At a meeting of the council, the mayor or president (or the chairman presiding at the meeting) has, in the event of an equality of votes, a casting vote except in respect of—

10 (a) the election of a mayor or president pursuant to section 25;

(b) the election of a deputy-mayor or deputy-president pursuant to section 26; or

15 (c) the election of delegates to a county council pursuant to section 562.

(4A) At a meeting of the council, the mayor or president does not have an original vote if he is an alderman or councillor by reason of the operation of section 25A (5).

(6) Section 160AA (7A)—

20 After section 160AA (7), insert :—

(7A) Where the payment of part of a rate which is required to be reduced by subsection (3) or (5) is postponed under section 160C, the amount of the rate for the purposes of this section shall be deemed to be the amount of that part of the rate that is not postponed under section 160C.

25

Local Government (Amendment).

SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

(7) Section 160DA—

5 Omit the section, insert instead :—

160DA. (1) Notwithstanding anything in this Act, the person liable to pay any rates levied in the year commencing 1st January, 1980, or in any subsequent year may pay those rates by 4 instalments in accordance with this section if—

Payment
of current
rates by 4
instalments.

10

(a) the first instalment is paid on or before the day provided for the payment of that instalment; and

15

(b) where, on the day immediately preceding the day on which those rates are levied, rates are owing to the council by that person in respect of the land referred to in the rate notice for the rates so levied—the rates so owing are paid before or at the same time as the first instalment is paid.

20

(2) For the purposes of subsection (1)—

(a) each instalment shall be of an amount equal to one-fourth of the rates, disregarding any remainder, together, in the case of the first instalment, with that remainder;

25

(b) the first instalment shall be due and payable on the date that is 1 month after service of the rate notice; and

30

(c) the second, third and fourth instalments shall be due and payable on dates that are respectively 3, 5 and 7 months after service of the rate notice.

Local Government (Amendment).

SCHEDULE 2—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

5 (3) Where a person pays rates by instalments
in accordance with this section—

(a) the council shall accept those payments; and

(b) any instalments of those rates which are not due
for payment—

10 (i) shall not recoverable by the council; and

(ii) shall not be increased pursuant to section
158.

(4) Where a person fails to pay any instalment
of rates (other than the first) on or before the day provided
for payment of that instalment—

15 (a) the total amount of the instalments unpaid on
that day shall become due and payable to, and
recoverable by, the council; and

20 (b) the provisions of this Act relating to overdue
rates shall apply in respect of the unpaid balance
of the rates,

as if that person were not paying the rates by instalments in
accordance with this section.

(5) Where, in the opinion of the council—

25 (a) a refusal to accept payment of an instalment of
rates which is made after the day provided for
its payment would cause hardship to the person
who is liable to pay the rates; or

Local Government (Amendment).

SCHEDULE 2—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

- 5 (b) that person was unable for reasons beyond his
control to pay that instalment on or before the
day provided for its payment,
- 10 the council may accept the payment of that instalment and,
for the purposes of this section, that instalment shall be
deemed to have been paid on the day provided for its
payment.
- (8) Section 160E (1), definition of “valuer”—
Omit “subsection (9) of section 160C”, insert instead
“section 160C (1)”.
- (9) (a) Section 283 (1) (b)—
15 After “depot-rubbish;”, insert “and”.
- (b) Section 283 (1) (c)—
Omit “garbage; and”, insert instead “garbage.”.
- (c) Section 283 (1) (d)—
Omit the paragraph.
- 20 (d) Section 283 (4)—
Omit “Minister of Health”, insert instead “Health
Commission”.
- (10) (a) Section 313 (p)—
Omit “defined.”, insert instead “defined; and”.

Local Government (Amendment).

SCHEDULE 2—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

- 5 (b) Section 313 (q)—
After section 313 (p), insert :—
(q) whether the erection of the building adversely
affects the drainage of adjoining sites.

(11) Section 500D—

After section 500C, insert :—

- 10 500D. (1) Subject to this section, the council may, on the application of a ratable person who has an estate or
interest in land within the council's area, lend money to that person for the purpose of assisting him in meeting his
contribution to the cost of works involved in extending the supply of electricity to that land. Loans for
the
provision of
works for
extending
the supply of
electricity.

- 15
20 (2) A loan under subsection (1) may be made
at such rate of interest, and subject to such conditions and
provisions, as the council thinks fit to impose, and in
particular any such provisions may include a provision
requiring the applicant to pay to the council by equal instal-
ments, and within such period as may be prescribed for
the purpose of this subsection, an amount equal to the
amount of the loan together with the total amount of
interest due in respect of the loan.

- 25 (3) The provisions of this Act with respect to
the charge of a rate on land in respect of which it is levied
shall apply to the amount of a loan made under subsection
(1) and of any interest due in respect of the loan as if the
amount were a rate so charged and as if the land with
30 respect to which the loan was made were land in respect
of which the rate had been levied.

Local Government (Amendment).

SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

(12) Section 504 (2A)—

5 Omit "\$2,000", insert instead "\$4,000".

(13) (a) Section 576 (4) (a)—

Omit "two hundred dollars", insert instead "\$1,000 in the case of corporations or \$500 in the case of individuals".

10 (b) Section 576 (4) (b)—

Omit "ten dollars per day", insert instead "\$100 per day in the case of corporations or \$50 per day in the case of individuals".

 SCHEDULE 3.

Sec. 6.

15 SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

1. Division 4B of Part XI of the Principal Act, as in force immediately before the commencement of Schedule 1, applies to and in respect of any direction given under that Division before that commencement as if Schedule 1 had not been enacted. Existing directions for carrying out fire safety work.

20 2. Section 160DA of the Principal Act, as in force immediately before the date of assent to this Act, shall apply to rates levied in any year preceding the year commencing 1st January, 1980, as if this Act had not been enacted. Payment of rates by instalments.

Local Government (Amendment).

SCHEDULE 3—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

3. An approval given pursuant to section 283 (4) of the Principal Act before the date of assent to this Act shall, on and after that date, be deemed to have been given by the Health Commission of New South Wales. Approval of depots under s. 283 (4) of Principal Act.
4. Section 25A of the Principal Act does not cease to apply to an area by reason only of the amendment of that section by this Act. Application of s. 25A of Principal Act.
5. Section 160AA (7A) of the Principal Act, as inserted by this Act, does not apply in respect of rates levied in any year preceding the year commencing 1st January, 1980. Reduction of rates for pensioners.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES, 1979

[48c]

**LOCAL GOVERNMENT (AMENDMENT) ACT, 1979,
No. 199**

New South Wales



ANNO VICESIMO OCTAVO

ELIZABETHÆ II REGINÆ

Act No. 199, 1979.

An Act to amend the Local Government Act, 1919, with respect to fire safety in existing buildings, rates and certain other matters. [Assented to, 21st December, 1979.]

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 :—

Short title. **1.** This Act may be cited as the "Local Government (Amendment) Act, 1979".

Commence- **2.** (1) Except as provided in subsection (2), this Act shall
ment. commence on the date of assent to this Act.

(2) Section 5, in its application to Schedules 1 and 2 (5), and Schedules 1 and 2 (5) shall commence on the day that is 1 month after the date of assent to this Act.

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

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

SCHEDULE 1.—AMENDMENT TO THE PRINCIPAL ACT
RELATING TO FIRE SAFETY IN EXISTING BUILDINGS.

SCHEDULE 2.—MISCELLANEOUS AMENDMENTS TO THE
PRINCIPAL ACT.

SCHEDULE 3.—SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS.

Amendment **5.** The Principal Act is amended in the manner set forth in
of Act No. Schedules 1 and 2.
41, 1919.

Savings,
transitional
and other
provisions. **6.** Schedule 3 has effect.

Local Government (Amendment).

SCHEDULE 1.

Sec. 5.

AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE SAFETY
IN EXISTING BUILDINGS.

Part XI, Division 4B—

Omit the Division, insert instead :—

DIVISION 4B.—*Fire safety in existing buildings.*

317C. (1) In this Division—

Interpre-
tation: Pt.
XI, Div. 4B.

“board”, in relation to an objection made under this
Division, means the Board of Appeal constituted
under Part XII B to deal with that objection;

“owner”, in relation to a building, means the owner of
the land on which the building is erected;

“work” means work in the nature of alterations or
otherwise, and includes—

- (a) the provision of means of escape or
egress;
- (b) the installation of automatic sprinklers
or drenchers; and
- (c) the protection from fire of means of
escape or egress.

(2) A reference in this Division (however
expressed) to provision for fire safety is a reference to
provision for all or any of the following things, namely :—

- (a) the safety of persons in the event of fire;
- (b) the prevention of fire;
- (c) the suppression of fire;
- (d) the prevention of the spread of fire.

Local Government (Amendment).

 SCHEDULE 1—*continued.*

 AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
 SAFETY IN EXISTING BUILDINGS—*continued.*

(3) A reference in this Division to the owner of land is, in the case of land which is the subject of a strata scheme under the Strata Titles Act, 1973, a reference to the body corporate for that strata scheme.

(4) Where—

- (a) an objection is made to the Tribunal in accordance with section 317F against an order of a council under section 317D and the board confirms that order with modifications; or
- (b) a council modifies an order under section 317D in accordance with section 317G (2),

a reference in this Division to the order is a reference to the order as so modified.

317D. (1) For the purpose of ensuring that adequate provision for fire safety is made in or in connection with a building, the council may, by notice in writing, order the owner to do either or both of the following things, namely :—

- (a) to carry out, within the period specified in the notice, such work as may be so specified;
- (b) to provide, within the period specified in the notice, such fire-fighting equipment as may be so specified.

(2) For the purpose of giving an order under subsection (1) (a) pursuant to section 317E, the council may, by notice in writing, order the owner to prepare and submit to the council, within the period (not exceeding 3 months) specified in the notice, particulars of the work he considers necessary to make provision for such matters as may be so specified.

Orders by
council with
respect to
fire safety.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
SAFETY IN EXISTING BUILDINGS—*continued.*

(3) A person does not comply with an order under subsection (2) for the submission of particulars of work unless he submits such plans and specifications as he would be required to submit under section 312 (1) (b) if he were applying to the council for approval of that work.

(4) An order may be given under subsection (1) in relation to a building whether or not an order is or has been given under subsection (2) in relation to that building.

317E. (1) Where a person submits particulars of work to a council in accordance with an order of the council under section 317D (2), the council shall, within 28 days after those particulars of work are submitted—

Submission
of
particulars
of work
by owner.

- (a) approve of those particulars of work without modification or with such modifications as it thinks fit; or
- (b) disapprove of those particulars of work.

(2) If a council approves of particulars of work that a person has submitted without modification, the council shall forthwith order, under section 317D (1) (a), the person to carry out that work.

(3) If a council approves of particulars of work that a person has submitted with modifications, the council shall—

- (a) forthwith notify the person of those modifications and specify in the notification the period (not less than 28 days) within which the person may object to the council against those modifications; and

Local Government (Amendment).

SCHEDULE 1—*continued.*AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
SAFETY IN EXISTING BUILDINGS—*continued.*

- (b) after the expiration of the period so specified and after giving due regard to any objection received, order, under section 317D (1) (a), the person to carry out the work subject to such modifications as may be specified in the notice of the order.
- (4) If a council disapproves of particulars of work that a person has submitted, the council shall—
- (a) prepare, within 3 months after that disapproval, particulars of the work that it considers necessary to make provision for the matters specified in the notice of the order given to the person under section 317D (2);
- (b) forthwith notify the person of the particulars of the work so prepared and specify in the notification the period (not less than 28 days) within which the person may object to the council against carrying out that work; and
- (c) after the expiration of the period so specified and after giving due regard to any objection received, order, under section 317D (1) (a), the person to carry out that work subject to such modifications (if any) as may be specified in the notice of the order.
- (5) Where a person fails to submit particulars of work to a council in accordance with an order of the council under section 317D (2), the council shall, within a period of 3 months after that failure—
- (a) prepare particulars of the work that it considers necessary to make provision for the matters specified in the notice of the order; and

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
SAFETY IN EXISTING BUILDINGS—*continued.*

(b) order, under section 317D (1) (a), the person to carry out that work.

(6) An order given pursuant to this section is not invalid by reason only of the failure of the council to approve or disapprove of any particulars of work or prepare particulars of any work, as the case may be, within the period it is required to do so by this section.

(7) A council may recover from a person its expenses in preparing particulars of work under this section in any court of competent jurisdiction as a debt due to the council—

- (a) if the council disapproved of particulars of work that the person had submitted and the court is of the opinion that the work does not make provision for the matters specified in the notice of the order given to the person under section 317D (2); or
- (b) if the person failed to submit particulars of work to the council in accordance with the order given to the person under section 317D (2).

317F. (1) Except as provided in subsection (2), a person who is required to comply with an order under section 317D or a person who may be affected by the order may, by himself or by any person on his behalf, object to the Tribunal against the order within 1 month after notice of the order is served or within the period specified for compliance with the order, whichever is the shorter period.

Objection
to
Tribunal.

Local Government (Amendment).

SCHEDULE 1—*continued.*AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
SAFETY IN EXISTING BUILDINGS—*continued.*

(2) A person who is required to comply with an order given pursuant to section 317E (2) or (3) (b) is not entitled to object to the Tribunal against the order unless the objection—

- (a) relates to the period specified for compliance with the order; or
- (b) in the case of an order given pursuant to section 317E (3) (b), relates to any modifications made by the council.

(3) If any person objects to the Tribunal against an order, the board may, on hearing the appeal—

- (a) confirm the order without modification;
- (b) confirm the order with such modifications (including modifications of the period specified for compliance with the order) as it thinks fit; or
- (c) refuse to confirm the order.

(4) Where an objection is duly made to the Tribunal against an order, the order has no force or effect for the purposes of this Division unless the board confirms the order, with or without modification, or the appeal is withdrawn.

317G. (1) Where a council gives a person an order under section 317D, the council shall, in the notice of the order—

- (a) state that the person or any other person affected by the order may object to the Tribunal against the order or a specified part of the order, as the case may be; and
- (b) specify the period limited for objection.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
SAFETY IN EXISTING BUILDINGS—*continued.*

(2) A council may, at any time, modify an order it has given to a person under section 317D (including a modification of the period specified for compliance with the order) if the person agrees to that modification.

(3) Where land on which a building is erected is owned by more than one person—

- (a) an order under section 317D in respect of the building is not invalid by reason only that it was not given to all of those owners; and
- (b) any of those owners may comply with such an order without prejudice to the liability of the other owners to pay for the cost of complying with the order.

(4) Nothing in this Division prejudices the right of an owner to recover from any other person all or any of the expenses incurred by him in complying with an order under section 317D in relation to a building, including expenses recovered under section 317H.

317H. (1) Where a person fails to comply with an order under section 317D for the carrying out of work or the provision of fire-fighting equipment in respect of a building, the council and any person authorised by it may enter upon the building and the land on which the building is erected and carry out that work or provide that equipment so far as that work or that equipment has not been carried out or provided. Council may complete work.

Local Government (Amendment).

SCHEDULE 1—*continued.*AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
SAFETY IN EXISTING BUILDINGS—*continued.*

(2) The council may remove any materials demolished in carrying out work under subsection (1) to a convenient place and sell the materials if and as it thinks fit.

(3) Any expenses incurred by the council in connection with the exercise of its powers under this section (less the proceeds, if any, of any sale under this section) may be recovered by the council in any court of competent jurisdiction as a debt due to the council by the owner.

Offences.

317I. (1) A person who fails to comply with an order under section 317D is guilty of an offence and is liable—

- (a) to a penalty not exceeding \$10,000 in the case of a corporation or \$2,000 in any other case; and
- (b) except in the case of an order under section 317D (2), to an additional penalty not exceeding \$500, in the case of a corporation, or \$100, in any other case, for each day that the order is not complied with after the day specified for compliance with the order.

(2) Proceedings for an offence arising under subsection (1) may be taken only before a court of petty sessions held before a stipendiary magistrate sitting alone or before the Supreme Court in its summary jurisdiction.

(3) If proceedings for an offence arising under subsection (1) are taken before a court of petty sessions, the maximum penalty that the court may impose in respect of the offence is, notwithstanding anything to the contrary in subsection (1), \$2,000 (including any daily penalty).

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
SAFETY IN EXISTING BUILDINGS—*continued.*

(4) Proceedings in the Supreme Court in its summary jurisdiction for an offence arising under subsection (1) may be commenced only within 6 months after the offence was committed.

(5) In the event of a failure to comply with an order under section 317D—

- (a) proceedings for an offence arising under subsection (1) may be taken notwithstanding that the council is exercising or has exercised all or any of its powers under this Division in relation to that failure; or
- (b) the council may exercise all or any of its powers under this Division in relation to that failure notwithstanding that proceedings have been taken for the offence.

317J. (1) The Board of Fire Commissioners of New South Wales (in this section referred to as the "Board"), by an officer or servant of the Board authorised for the purposes of this section by the Minister administering the Fire Brigades Act, 1909, may, subject to subsection (2), exercise the powers conferred on a council under section 524 for the purposes of inspecting a building to determine whether adequate provision for fire safety has been made in or in connection with the building.

Special provision with respect to Board of Fire Commissioners.

Local Government (Amendment).

SCHEDULE 1—*continued.*AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
SAFETY IN EXISTING BUILDINGS—*continued.*

(2) The Board is not authorised to inspect a building under subsection (1) unless—

- (a) it is requested to do so by the council of the area in which the building is located;
- (b) it is requested to do so by a person who holds himself out as the owner, lessee or occupier of the building; or
- (c) it has received a complaint in writing that adequate provision for fire safety has not been made in or in connection with the building,

and unless the officer or servant of the Board who carries out the inspection is accompanied during the inspection by a person authorised by that council.

(3) A council shall, at the request of the Board, make available a person authorised by it for the purposes of an inspection by the Board under subsection (1).

(4) Where the Board carries out an inspection of a building under subsection (1), it shall furnish to the council of the area in which the building is located—

- (a) a report of the inspection; and
- (b) if it is of the opinion that adequate provision for fire safety has not been made in or in connection with the building, such recommendations as to the carrying out of work or the provision of fire-fighting equipment as it considers appropriate.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
SAFETY IN EXISTING BUILDINGS—*continued.*

(5) A council shall—

- (a) table any report and recommendations it receives under subsection (4) at the next meeting of the council; and
- (b) at any meeting of the council held within 28 days after receiving the report and recommendations or at the next meeting of the council held after the tabling of the report and recommendations, whichever is the later, determine whether it will exercise its powers under this Division.

(6) A reference in subsection (5) to a meeting of a council does not include a reference to a special meeting of the council unless the special meeting is called for the purpose of tabling any report and recommendations or making any determination referred to in that subsection.

(7) The Board, by an officer or servant of the Board authorised for the purposes of this section by the Minister administering the Fire Brigades Act, 1909, may exercise the powers conferred on a council under section 524 for the purposes of inspecting a building to determine whether the provisions of or made under any Act (including this Act) for fire safety (being provisions prescribed for the purposes of this subsection) have been contravened or have not been complied with.

317JA. (1) This section applies to buildings which are listed in the Register of the National Estate kept in pursuance of the Australian Heritage Commission Act 1975 of the Parliament of the Commonwealth.

Special provision with respect to Heritage Council of New South Wales.

Local Government (Amendment).

SCHEDULE 1—*continued.*AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
SAFETY IN EXISTING BUILDINGS—*continued.*

(2) A council shall not give an order under section 317D (not being an order given pursuant to section 317E) in respect of a building to which this section applies unless—

- (a) the Heritage Council of New South Wales (in this section referred to as the “Heritage Council”) is given at least 28 days’ notice of the council’s intention to do so;
- (b) a joint inspection of the building is made with the Heritage Council if it requests such an inspection within 28 days of being notified of the council’s intention to give the order; and
- (c) where such an inspection has been made—
 - (i) in the case of an order under section 317D (2)—the Heritage Council is given at least 14 days to notify the council whether it wishes to be consulted in connection with the order; or
 - (ii) in any other case—the Heritage Council is given at least 28 days to make recommendations to the council as a consequence of the inspection.

(3) Where the Heritage Council notifies a council that it wishes to be consulted in connection with an order under section 317D (2), the council shall include a statement to that effect in the notice of the order.

(4) A council shall not give an order under section 317D (being an order given pursuant to section 317E) in respect of a building to which this section applies unless the Heritage Council is given at least 28 days to make recommendations to the council in respect of the order.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO FIRE
SAFETY IN EXISTING BUILDINGS—*continued.*

(5) A council shall, in exercising its powers under this Division in respect of a building to which this section applies, give due regard to any recommendations made by the Heritage Council.

(6) Nothing in this section affects any of the provisions of the Heritage Act, 1977.

317JB. The Supreme Court may, upon application by a council, make such orders (including interlocutory orders) as it considers appropriate for the cessation of the use of any building or part thereof for all or any specified purposes if the safety of persons in the building or of any other persons is endangered by reason that adequate provision for fire safety has not been made in or in connection with the building.

Order for
cessation
of
occupancy.

SCHEDULE 2.

Sec. 5.

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

- (1) (a) Section 11 (2) (a)—
Omit “fifteen thousand persons”, insert instead “25,000 persons”.
- (b) Section 11 (2) (b)—
Omit “one hundred thousand persons”, insert instead “150,000 persons”.
- (2) (a) Section 25A (1) (b)—
Omit “made upon the application of the council”, insert instead “made pursuant to subsection (7) or (8)”.

Local Government (Amendment).

SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

(b) Section 25A (6)–(9)—

After section 25A (5), insert :—

(6) Where the council of an area (not being an area referred to in subsection (1) (a))—

(a) receives a petition signed by not less than one-tenth in number of the enrolled electors praying that a poll be taken on the question of whether this section should be applied to the council's area or should continue to apply to the council's area, as the case may be; or

(b) resolves that such a poll be taken,

the council—

(c) where such a poll has not been held since the last ordinary election of the council and the petition is presented, or the resolution passed, more than 6 months before the end of the council's term of office—shall take such a poll forthwith; or

(d) where such a poll has been held since the last ordinary election of the council but a further such petition has been presented or a further such resolution passed, or where such a petition is presented or such a resolution passed 6 months or less before the end of the council's term of office—may take such a poll forthwith, but, if it does not do so, shall take such a poll at the next ordinary election of the council,

and shall certify the result of the poll to the Governor not later than 28 days after the taking of the poll.

Local Government (Amendment).

SCHEDULE 2—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

(7) Where the decision of a poll held under subsection (6)—

- (a) is in favour of applying this section to an area—the Governor shall, by proclamation, apply this section to the area; or
- (b) is not in favour of continuing to apply this section to an area—the Governor shall revoke the proclamation applying this section to the area.

(8) The Governor may, by proclamation, apply this section to an area upon the application of the council of the area unless the decision of a poll last held under subsection (6) is not in favour of applying this section to the area.

(9) A proclamation applying this section to an area may be revoked only pursuant to subsection (7) (b) and, if it is so revoked, the revocation does not take effect until the next ordinary election of the council of the area or the next extraordinary vacancy in the office of mayor or president of the area, whichever first occurs.

(3) Section 33 (2)—

Omit “fourteen days” wherever occurring, insert instead “21 days”.

(4) Section 82A (1)—

Before “73 (3B)”, insert “25A (6) or”.

Local Government (Amendment).

SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

(5) Section 87 (4), (4A)—

Omit section 87 (4), insert instead :—

(4) At a meeting of the council, the mayor or president (or the chairman presiding at the meeting) has, in the event of an equality of votes, a casting vote except in respect of—

- (a) the election of a mayor or president pursuant to section 25;
- (b) the election of a deputy-mayor or deputy-president pursuant to section 26; or
- (c) the election of delegates to a county council pursuant to section 562.

(4A) At a meeting of the council, the mayor or president does not have an original vote if he is an alderman or councillor by reason of the operation of section 25A (5).

(6) Section 160AA (7A)—

After section 160AA (7), insert :—

(7A) Where the payment of part of a rate which is required to be reduced by subsection (3) or (5) is postponed under section 160C, the amount of the rate for the purposes of this section shall be deemed to be the amount of that part of the rate that is not postponed under section 160C.

Local Government (Amendment).

SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

(7) Section 160DA—

Omit the section, insert instead :—

160DA. (1) Notwithstanding anything in this Act, the person liable to pay any rates levied in the year commencing 1st January, 1980, or in any subsequent year may pay those rates by 4 instalments in accordance with this section if—

Payment
of current
rates by 4
instalments.

- (a) the first instalment is paid on or before the day provided for the payment of that instalment; and
- (b) where, on the day immediately preceding the day on which those rates are levied, rates are owing to the council by that person in respect of the land referred to in the rate notice for the rates so levied—the rates so owing are paid before or at the same time as the first instalment is paid.

(2) For the purposes of subsection (1)—

- (a) each instalment shall be of an amount equal to one-fourth of the rates, disregarding any remainder, together, in the case of the first instalment, with that remainder;
- (b) the first instalment shall be due and payable on the date that is 1 month after service of the rate notice; and
- (c) the second, third and fourth instalments shall be due and payable on dates that are respectively 3, 5 and 7 months after service of the rate notice.

Local Government (Amendment).

SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

(3) Where a person pays rates by instalments in accordance with this section—

- (a) the council shall accept those payments; and
- (b) any instalments of those rates which are not due for payment—
 - (i) shall not be recoverable by the council; and
 - (ii) shall not be increased pursuant to section 158.

(4) Where a person fails to pay any instalment of rates (other than the first) on or before the day provided for payment of that instalment—

- (a) the total amount of the instalments unpaid on that day shall become due and payable to, and recoverable by, the council; and
- (b) the provisions of this Act relating to overdue rates shall apply in respect of the unpaid balance of the rates,

as if that person were not paying the rates by instalments in accordance with this section.

(5) Where, in the opinion of the council—

- (a) a refusal to accept payment of an instalment of rates which is made after the day provided for its payment would cause hardship to the person who is liable to pay the rates; or

Local Government (Amendment).

SCHEDULE 2—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

(b) that person was unable for reasons beyond his control to pay that instalment on or before the day provided for its payment,

the council may accept the payment of that instalment and, for the purposes of this section, that instalment shall be deemed to have been paid on the day provided for its payment.

(8) Section 160E (1), definition of “valuer”—

Omit “subsection (9) of section 160c”, insert instead “section 160c (1)”.

(9) (a) Section 283 (1) (b)—

After “depot-rubbish;”, insert “and”.

(b) Section 283 (1) (c)—

Omit “garbage; and”, insert instead “garbage.”.

(c) Section 283 (1) (d)—

Omit the paragraph.

(d) Section 283 (4)—

Omit “Minister of Health”, insert instead “Health Commission”.

(10) (a) Section 313 (p)—

Omit “defined.”, insert instead “defined; and”.

Local Government (Amendment).

SCHEDULE 2—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

(b) Section 313 (q)—

After section 313 (p), insert :—

- (q) whether the erection of the building adversely affects the drainage of adjoining sites.

(11) Section 500d—

After section 500c, insert :—

Loans for
the
provision of
works for
extending
the supply of
electricity.

500d. (1) Subject to this section, the council may, on the application of a ratable person who has an estate or interest in land within the council's area, lend money to that person for the purpose of assisting him in meeting his contribution to the cost of works involved in extending the supply of electricity to that land.

(2) A loan under subsection (1) may be made at such rate of interest, and subject to such conditions and provisions, as the council thinks fit to impose, and in particular any such provisions may include a provision requiring the applicant to pay to the council by equal instalments, and within such period as may be prescribed for the purpose of this subsection, an amount equal to the amount of the loan together with the total amount of interest due in respect of the loan.

(3) The provisions of this Act with respect to the charge of a rate on land in respect of which it is levied shall apply to the amount of a loan made under subsection (1) and of any interest due in respect of the loan as if the amount were a rate so charged and as if the land with respect to which the loan was made were land in respect of which the rate had been levied.

Local Government (Amendment).

SCHEDULE 2—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL
ACT—*continued.*

(12) Section 504 (2A)—

Omit "\$2,000", insert instead "\$4,000".

(13) (a) Section 576 (4) (a)—

Omit "two hundred dollars", insert instead "\$1,000 in the case of corporations or \$500 in the case of individuals".

(b) Section 576 (4) (b)—

Omit "ten dollars per day", insert instead "\$100 per day in the case of corporations or \$50 per day in the case of individuals".

SCHEDULE 3.

Sec. 6.

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

1. Division 4B of Part XI of the Principal Act, as in force immediately before the commencement of Schedule 1, applies to and in respect of any direction given under that Division before that commencement as if Schedule 1 had not been enacted. Existing directions for carrying out fire safety work.

2. Section 160DA of the Principal Act, as in force immediately before the date of assent to this Act, shall apply to rates levied in any year preceding the year commencing 1st January, 1980, as if this Act had not been enacted. Payment of rates by instalments.

Local Government (Amendment).

SCHEDULE 3—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- Approval of depots under s. 283 (4) of Principal Act. 3. An approval given pursuant to section 283 (4) of the Principal Act before the date of assent to this Act shall, on and after that date, be deemed to have been given by the Health Commission of New South Wales.
- Application of s. 25A of Principal Act. 4. Section 25A of the Principal Act does not cease to apply to an area by reason only of the amendment of that section by this Act.
- Reduction of rates for pensioners. 5. Section 160AA (7A) of the Principal Act, as inserted by this Act, does not apply in respect of rates levied in any year preceding the year commencing 1st January, 1980.

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

A. R. CUTLER,
Governor.

*Government House,
Sydney, 21st December, 1979.*