

CONCURRENCE COPY

LOCAL GOVERNMENT (AMENDMENT) BILL, 1983

EXPLANATORY NOTE

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

The Motor Traffic (Local Government) Amendment Bill, 1983, is cognate with this Bill.

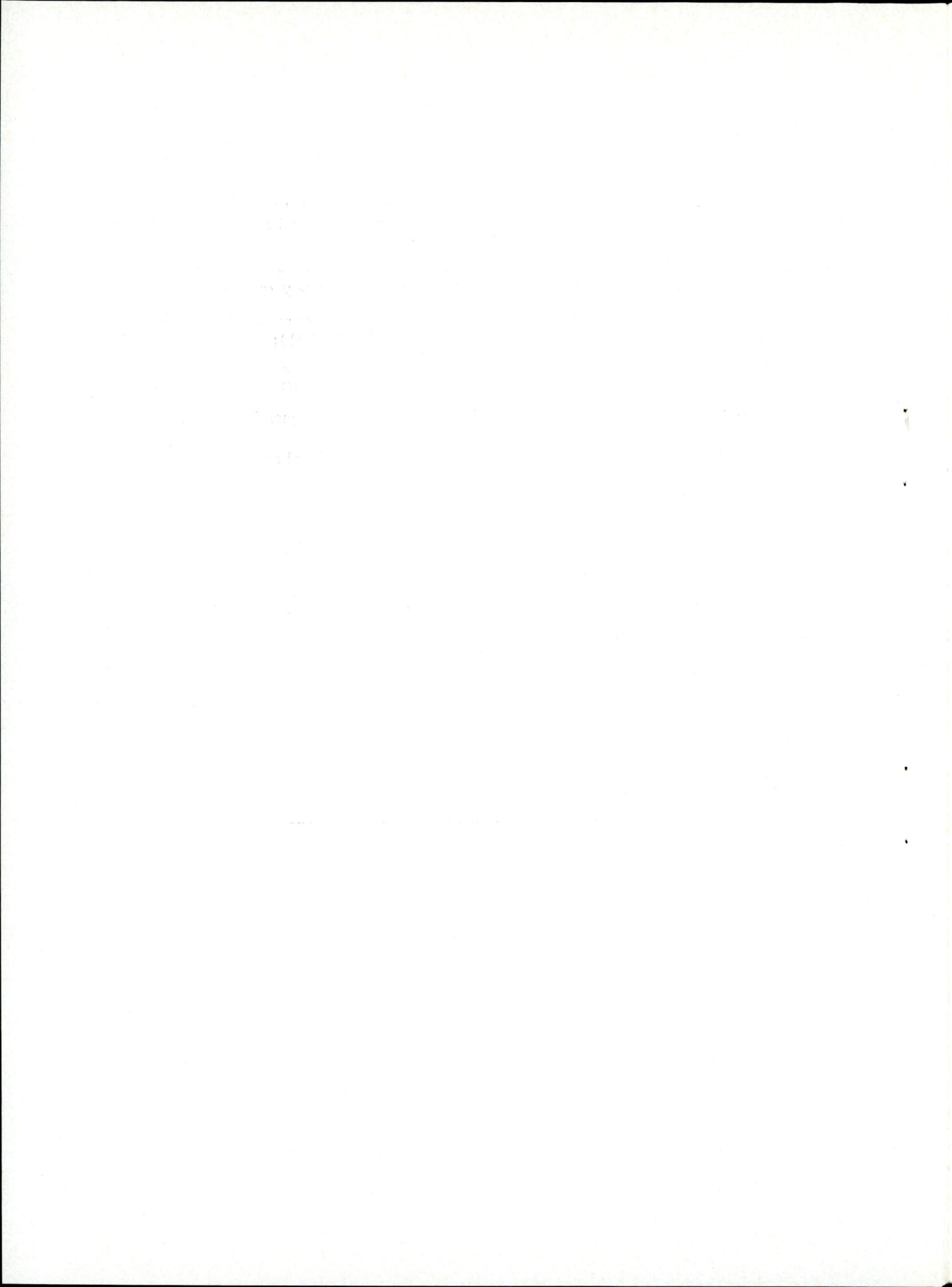
The object of this Bill is to amend the Local Government Act, 1919, so as to—

- (a) clarify the operation of provisions relating to the election of popularly elected mayors and presidents (Schedule 1 (1), (2), (6) (b));
- (b) extend the term for which aldermen and councillors hold office from 3 to 4 years (Schedule 1 (3), (4), (5), (9), (10));
- (c) provide that ordinary elections of councils are to be held on the fourth Saturday in September instead of the third Saturday in September (Schedule 1 (6) (a));
- (d) provide that popularly elected mayors and presidents are to have an original vote for the purposes of the election of delegates to a county council (Schedule 1 (12));
- (e) alter the method of excluding 1 of 2 or more candidates who have received an equal number of votes in an election (Schedule 1 (11), (13));
- (f) ensure that councils and county councils have the power to take real or personal property on lease (Schedule 2 (1), (27));
- (g) extend the requirement that the town or shire clerk appointed by a council shall hold the prescribed certificate to all councils irrespective of their income and to remove the power of the Minister to exempt certain councils from that requirement (Schedule 2 (2));
- (h) remove the power of the Minister to exempt a council from the requirement that a deputy clerk appointed by it shall hold the prescribed certificate (Schedule 2 (3));
- (i) remove the exemption whereby councils with less than a certain income are not required to appoint an engineer (Schedule 2 (4));
- (j) remove the power of the Minister to exempt a council which conducts an electricity trading undertaking from the requirement that it shall employ an electrical engineer as the servant having the principal oversight of the undertaking and to extend that requirement to all such councils irrespective of their income (Schedule 2 (5));

- (k) enable the Minister to exempt a council from the requirement that a person employed as the servant having the principal oversight of a gas trading undertaking of the council shall hold the prescribed certificate (Schedule 2 (6));
- (l) make it clear that the payment of gratuities by councils to their former employees or the dependants of former employees is subject to section 15CE of the Local Government and Other Authorities (Superannuation) Act, 1927 (Schedule 2 (8));
- (m) remove the power of the Governor to exclude an area from the operation of the prohibition against taking the division of the area into wards or ridings into account in applying the general fund of the council of the area (Schedule 2 (9));
- (n) remove the power of the Council of the City of Sydney to borrow by loans raised in other countries and to extend to all councils the power to issue inscribed stock for the purpose of securing the repayment of loans (Schedule 2 (10));
- (o) remove the power of the Governor to exempt a council from the operation of the prohibition against keeping ward or riding accounts in respect of the council's general fund (Schedule 2 (11));
- (p) permit a person to lodge submissions, instead of objections, in relation to proposals by a council to regulate traffic on public roads or to grant leases of certain land or licences in respect of certain land (Schedule 2 (12), (22), (23));
- (q) delete certain obsolete provisions relating to the Metropolitan Traffic Act, 1900 (Schedule 2 (13));
- (r) make it clear that councils have the power to provide community welfare services (Schedule 2 (14));
- (s) enable councils to control and regulate beauty salons (Schedule 2 (15));
- (t) enable councils to supply trees, shrubs and other vegetation to a person, whether or not on payment of any charge, for planting within the council's area (Schedule 2 (16));
- (u) make it clear that councils have power to make, buy and sell promotional and souvenir material (Schedule 2 (17));
- (v) remove the power of the Governor to transfer to councils the powers of justices under the Native Dogs Destruction and Poisoned Baits Act, 1901 (Schedule 2 (18));
- (w) clarify the power of councils to tender for certain works (Schedule 2 (19));
- (x) make provision with respect to notices required to be given by councils in relation to certain impounded articles and with respect to the fixing of a maximum amount which may be charged for the storage of those articles (Schedule 2 (20));
- (y) remove the power of councils (based on the public interest during war conditions) to cancel certain contracts (Schedule 2 (21));

- (z) extend the power of councils to enter into joint undertakings with the Crown to statutory bodies representing the Crown and such other bodies as may be prescribed (Schedule 2 (24));
- (aa) enable councils to effect indemnity insurance in respect of civil liability that may arise in connection with their activities (Schedule 2 (25));
- (ab) remove the requirement that a plan of resumed or appropriated land shall be lodged with the Surveyor-General (Schedule 2 (26));
- (ac) enable a notice required to be served on a person to be served by posting the notice by prepaid letter to the person's post office box (Schedule 2 (28)); and
- (ad) make other provisions of a minor, ancillary or consequential nature.

The Bill also makes provisions of a saving and transitional nature.



LOCAL GOVERNMENT (AMENDMENT) BILL, 1983

No. , 1983.

A BILL FOR

An Act to amend the Local Government Act, 1919, in relation to elections
and the powers of councils and in other respects.

[MR GORDON—17 *February*, 1983.]

See also Motor Traffic (Local Government) Amendment Bill, 1983.

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 Short title.

1. This Act may be cited as the "Local Government (Amendment) Act, 1983".

Principal Act.

2. The Local Government Act, 1919, is referred to in this Act as the 10 Principal Act.

Schedules.

3. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT IN RELATION TO ELECTIONS.

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

Amendment of Act No. 41, 1919.

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

20 Savings and transitional provisions.

5. (1) Nothing in Schedule 1 (3) affects the term of office of any alderman or councillor elected or appointed before the ordinary election of councils in 1983.

Local Government (Amendment).

(2) The maximum amount prescribed for the purposes of section 510c (3) (b) (i) of the Principal Act, as amended by this Act, shall, unless and until some other maximum amount is prescribed, be deemed to be \$30.

SCHEDULE 1.

5

(Sec. 4.)

AMENDMENTS TO THE PRINCIPAL ACT IN RELATION
TO ELECTIONS.

(1) (a) Section 25A (2)—

Omit the subsection, insert instead:—

10

(2) Except to the extent that this section otherwise provides, the mayor or president of an area to which this section applies shall be elected by the electors of that area at the general election of the council of that area next following the application of this section to that area and at each general election of that council thereafter.

15

(b) Section 25A (3)—

Omit “an election”, insert instead “a general election”.

(c) Section 25A (6), (9)—

Omit “ordinary election” wherever occurring, insert instead “general election”.

20

(d) Section 25A (10)—

After section 25A (9), insert:—

(10) In this section, “general election” means any election referred to in section 39 (1) (a), (b) or (c).

25 (2) (a) Section 27 (1) (a), (b)—

Omit the paragraphs.

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT IN RELATION
TO ELECTIONS—*continued.*

(b) Section 27 (1) (c)—

5 Omit the paragraph, insert instead:—

(c) for any ordinary election of mayor or president in the year of any ordinary election of councils—within 3 weeks after the day that the ordinary election of the council is held;

10 (3) Section 32 (b)—

Omit “three”, insert instead “4”.

(4) Section 34 (2)—

Omit “triennial”.

(5) Section 38 (3)—

15 Omit “triennial”.

(6) (a) Section 39 (1) (a), (b)—

Omit the paragraphs, insert instead:—

(a) for the ordinary election in the year 1983—the fourth Saturday in September;

20 (b) for ordinary elections after the year 1983—the fourth Saturday in September in every fourth year thereafter;

(b) Section 39 (2) (a)—

Omit the paragraph, insert instead:—

25 (a) for an election other than an extraordinary election—the day on which the election referred to in subsection (1) (a), (b) or (c) of aldermen or councillors of the area

Local Government (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT IN RELATION
TO ELECTIONS—*continued.*

5 is held or, if any such election is uncontested, the day
on which the election would have been held if it had
been contested; or

(7) Section 58 (1)—

Omit the subsection, insert instead:—

- 10 (1) The Governor may, by proclamation—
(a) divide municipalities into wards; and
(b) name or alter the name of any ward.

(8) Section 61 (1)—

Omit the subsection, insert instead:—

- 15 (1) The Governor may, by proclamation—
(a) divide shires into ridings; and
(b) name or alter the name of any riding.

(9) (a) Section 64 (1) (b)—

Omit “triennial”.

(b) Section 64 (1) (c)—

20 Omit “, a triennial”, insert instead “or”.

(c) Section 64 (4)—

Omit “a triennial”, insert instead “an”.

(d) Section 64 (4) (a)—

Omit “triennial”.

Local Government (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION
TO ELECTIONS—*continued.*

- (10) (a) Section 65A (3), (5)—
5 Omit “triennial” wherever occurring.
- (b) Section 65A (7)—
Omit “a triennial”, insert instead “an”.
- (11) Section 70 (3)—
After section 70 (2), insert:—
10 (3) A returning officer shall not be entitled to vote at any election conducted by him.
- (12) Section 87 (4A)—
After “original vote”, insert “(except in respect of the election of delegates to a county council pursuant to section 562)”.
- 15 (13) (a) Schedule 6, Division 4, Rule 3—
Omit the Rule, insert instead:—
- 20 3. (a) Where, on any count at which the candidate with the fewest number of votes has to be excluded, 2 or more candidates have an equal number of votes (that number being fewer than the number of votes that any other candidate has or those candidates being the only continuing candidates)—
- 25 (i) such one of those candidates as had the fewest number of votes at the last count at which they did not have an equal number of votes shall be excluded; or
- (ii) if they had an equal number of votes at all preceding counts, the candidate whose name is on a slip drawn in accordance with paragraph (b) of this Rule shall be excluded.

Local Government (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT IN RELATION
TO ELECTIONS—*continued.*

5 (b) For the purposes of paragraph (a) of this Rule, the names of the candidates who have an equal number of votes having been written on similar slips of paper by the returning officer and the slips having been folded by him so as to prevent the names being seen and having been mixed, 1 of those slips shall be drawn at random by him.

10 (c) Notwithstanding anything to the contrary in this Schedule, the process of counting each of the unexhausted ballot-papers of an excluded candidate to the continuing candidate next in the order of the voter's preference shall not be repeated where there is only 1 continuing candidate, but that 1 continuing candidate shall be declared elected.

15

(b) Schedule 6, Division 4, Rule 4, definition of "An absolute majority of votes"—

Omit "The casting vote of the returning officer given in pursuance of paragraph (b) of Rule 3 of this Division of this Schedule shall be included in reckoning an absolute majority of votes."

20

(c) Schedule 6, Division 4, Rule 4, definition of "Determine by lot"—

Omit the definition.

SCHEDULE 2.

(Sec. 4.)

25 MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

(1) Section 22 (2)—

After "purchasing", insert "taking on lease".

Local Government (Amendment).

SCHEDULE 2—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(2) Section 88 (2)—

Omit the subsection, insert instead:—

5 (2) A council shall not appoint and employ a person as town or shire clerk unless the person holds a certificate as prescribed.

(3) (a) Section 89 (2)—

Omit “prescribed:”, insert instead “prescribed.”.

(b) Section 89 (2), proviso—

10 Omit the proviso.

(4) Section 90 (2), (5)—

Omit the subsections.

(5) (a) Section 90A (1)—

Omit “prescribed:”, insert instead “prescribed.”.

15 (b) Section 90A (1), proviso—

Omit the proviso.

(c) Section 90A (3)—

Omit the subsection.

(6) Section 90B (1)—

20 After “council shall”, insert “, unless exempted by the Minister,”.

(7) Section 91—

Omit the section.

Local Government (Amendment).

SCHEDULE 2—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (8) Section 97—
5 Omit “When”, insert instead “Subject to section 15CE of the Local Government and Other Authorities (Superannuation) Act, 1927, when”.
- (9) Section 107 (5) (b)—
Omit the paragraph.
- (10) Sections 200A, 200B—
10 Omit the sections and the short heading to section 200A.
- (11) Section 206 (3) (b)—
Omit the paragraph.
- (12) (a) Section 269A (6)—
15 Omit “an objection in writing to”, insert instead “a submission in writing in respect of”.
- (b) Section 269A (8)—
Omit “objections to”, insert instead “submissions in respect of”.
- (c) Section 269A (8)—
Omit “such objection”, insert instead “such submission”.
- 20 (d) Section 269A (10)—
After “objections to the application”, insert “comprised in submissions”.

Local Government (Amendment).

SCHEDULE 2—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(13) Section 270 (2)–(4)—

Omit the subsections.

5 (14) Section 298A—

After section 298, insert:—

Community welfare services.

298A. The council shall have and shall be deemed always to have had power to provide community welfare services.

10 (15) (a) Section 302 (1) (c)—

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

(b) Section 302 (1) (d)—

After section 302 (1) (c), insert:—

(d) beauty salons.

15 (16) Section 482B—

After section 482A, insert:—

Supply of trees by councils.

482B. (1) The council may supply trees, shrubs and other vegetation to any person for planting in its area.

20 (2) Trees, shrubs or other vegetation may be supplied pursuant to subsection (1) at such cost, if any, as the council may determine.

Local Government (Amendment).

SCHEDULE 2—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(17) Section 483 (4)—

After section 483 (3), insert:—

- 5 (4) The council may manufacture, purchase or obtain and supply promotional and souvenir material, whether relating to the council's area or any other area.

(18) Section 484—

Omit the section.

10 (19) Section 499 (2)—

At the end of section 499, insert:—

- (2) For the purposes of subsection (1), the cost of carrying out any work under that subsection shall be—
- 15 (a) except in a case to which paragraph (b) applies—the actual cost to the council of carrying out the work; or
- (b) where the work is carried out pursuant to a tender or quotation—the amount specified in the tender or quotation as payable for the carrying out of the work.

(20) (a) Section 510c (3) (b) (i)—

20 Omit the subparagraph, insert instead:—

- (i) pays to the council any charge (not exceeding the prescribed maximum amount) which the council requires to be paid for the storage of the article; and

Local Government (Amendment).

SCHEDULE 2—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) Section 510C (5)—
After “shall”, insert “forthwith”.
- 5 (c) Section 510C (8) (b)—
Omit “prescribed”, insert instead “the council requires to be paid”.
- (21) Section 516A—
Omit the section.
- 10 (22) (a) Section 519A (4) (d), (5) (c)—
Omit “objections to” wherever occurring, insert instead “submissions in writing in respect of”.
- (b) Section 519A (6)—
Omit “objections” where firstly and secondly occurring, insert instead “submissions”.
- 15 (c) Section 519A (6)—
After “objections” where lastly occurring, insert “comprised in submissions so”.
- (23) (a) Section 519C (4) (e), (5)—
Omit “objections to” wherever occurring, insert instead “submissions in writing in respect of”.
- 20 (b) Section 519C (5) (a)—
Omit “copies of all such objections”, insert instead “details of all objections comprised in submissions so received”.

Local Government (Amendment).

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

(24) (a) Section 521A (1)—

Omit the subsection, insert instead:—

5 (1) In this section, “approved body” means a body, or a body of a class, prescribed for the purposes of this section.

(b) Section 521A (2)—

After “the Crown” where firstly occurring, insert “or an approved body”.

10 (c) Section 521A (2) (a)—

After “Crown”, insert “or approved body (as the case may be)”.

(25) Section 528 (2)—

At the end of section 528, insert:—

15 (2) The council may effect indemnity insurance with respect to any civil liability of the council that may arise in connection with the exercise by it of any of its powers, authorities, duties or functions.

(26) Section 536 (2)—

Omit “a copy of the plan shall be lodged with the Surveyor-General at the Department of Lands, Sydney. Such plans”.

20 (27) Section 563 (1)—

After “purchasing”, insert “taking on lease”.

(28) Section 628 (2) (c)—

After “business”, insert “or post office box”.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1983

