

**LOCAL GOVERNMENT (BORROWING) AMENDMENT  
ACT 1989 No. 20**

NEW SOUTH WALES



**TABLE OF PROVISIONS**

1. Short title
2. Commencement
3. Amendment of Local Government Act 1919 No. 41
4. Savings

**SCHEDULE 1—PRINCIPAL AMENDMENTS**

**SCHEDULE 2—AMENDMENTS BY WAY OF STATUTE LAW REVISION**

---



**LOCAL GOVERNMENT (BORROWING) AMENDMENT ACT 1989**  
**No. 20**

NEW SOUTH WALES



**Act No. 20, 1989**

An Act to amend the Local Government Act 1919 with respect to councils' powers of borrowing. [Assented to 20 April 1989]

*Local Government (Borrowing) Amendment 1989*

---

**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Local Government (Borrowing) Amendment Act 1989.

**Commencement**

2. This Act commences on a day or days to be appointed by proclamation.

**Amendment of Local Government Act 1919 No. 41**

3. The Local Government Act 1919 is amended as set out in Schedules 1 and 2.

**Savings**

4. (1) Subsections (3) and (4) of section 182 of the Local Government Act 1919 as in force immediately before the date of commencement of Schedule 1 (6) continue to apply to a loan which had not been repaid before that date.

(2) Subsection (2) of section 188 of the Local Government Act 1919 as in force immediately before the date of commencement of Schedule 1 (11) continues to apply to a security issued under that section which was in force immediately before that date.

---

**SCHEDULE 1—PRINCIPAL AMENDMENTS**

(Sec. 3)

(1) Sections 173–173C—

Omit section 173, insert instead:

**Borrowing—generally**

173. Except as provided by any other Act, a council may borrow only in accordance with this Division.

**Minister's determination as to borrowing**

173A. (1) A council shall not borrow except in accordance with—

- (a) the borrowing limit determined for the time being by the Minister which has been notified in writing to the council; and
- (b) any terms or conditions determined for the time being by the Minister which have been notified in writing to the council.

(2) Nothing in this section affects section 174 or 176.

SCHEDULE 1—PRINCIPAL AMENDMENTS—*continued***Methods of borrowing**

173B. A council may borrow by way of limited overdraft, renewal loan, ordinary loan or such other means as may be approved by the Minister and notified in writing to the council.

**Delegation of Minister's functions**

173C. The Minister may delegate all or any of the Minister's powers, authorities, duties and functions under this Division (other than this power of delegation) to any person employed in the Department of Local Government.

(2) Section 176 (**Renewal loans**)—

After section 176 (2), insert:

(3) A council may borrow any amount by way of renewal loan if it has first notified the Secretary of the Department of Local Government in writing of the amount to be borrowed.

(3) Section 177 (**Ordinary loans**)—

Omit section 177 (3).

(4) Section 178A (**Advances by ratepayers and occupiers**)—

## (a) Section 178A (1)—

Omit “, without obtaining any approval under section 173,”.

## (b) Section 178A (6)—

Omit “Minister”, insert instead “Secretary of the Department of Local Government”.

(5) Section 181A (**Capitalisation of interest—suspension of loan rates**)—

Section 181A (c)—

Omit “; and the Governor may when giving his approval (if given) allow or disallow any such provision”.

(6) Section 182 (**Security for ordinary and renewal loans**)—

Omit section 182 (2)–(5).

(7) Section 183 (**Bank accounts**)—

## (a) Omit section 183 (1), insert instead:

(1) Subject to the provisions of this Act, all money borrowed by a council shall be lodged to the credit of a bank account of the council, other than an account containing money subject to a trust.

## (b) Section 183 (2) (a)—

Omit “, as set out in the approval of the Governor”.

*Local Government (Borrowing) Amendment 1989*

---

SCHEDULE 1—PRINCIPAL AMENDMENTS—*continued*

- (8) Section 185 (**Repayment**)—  
Omit the section.
- (9) Section 186 (**Reserves for loan repayment**)—  
 (a) From section 186 (2), omit “in its application for approval the council intimated that it proposed”, insert instead “the council proposes”.  
 (b) From section 186 (4), omit “application for approval of”, insert instead “decision to raise”.
- (10) Section 187 (**Loans under other Acts**)—  
From section 187 (b), omit “separate”.
- (11) Section 188 (**Security for loans**)—  
Omit section 188 (2), insert instead:  
 (2) All such securities shall, notwithstanding the provisions of any other Act, rank *pari passu*.
- (12) Section 218 (**Ordinances**)—  
After section 218 (f), insert:  
 (f1) borrowing by councils;

SCHEDULE 2—AMENDMENTS BY WAY OF STATUTE LAW  
REVISION

(Sec. 3)

- (1) Part 7, Division 4, short headings—  
Omit the short headings in Division 4.
- (2) Section 175 (**Security of overdrafts**)—  
Omit section 175 (4) and (5).
- (3) Section 182A (**Guarantee by Treasurer**)—  
 (a) Section 182A (1A) (e)—  
Omit “Revenue”.  
 (b) Section 182A (3)—  
Omit “municipalities of Balranald, Hillston and Nyngan”, insert instead “Shires of Balranald, Carrathool and Bogan”.
- (4) Section 186 (**Reserves for loan repayment**)—  
Omit section 186 (3).

*Local Government (Borrowing) Amendment 1989*

---

SCHEDULE 2—AMENDMENTS BY WAY OF STATUTE LAW  
REVISION—*continued*

- (5) Section 191 (**Investment by trustees etc.**)—  
Section 191 (1)—  
Omit “, 1898”, insert instead “1925”.
- (6) Section 192A (**Agreements for temporary concessions in repayment of loans and/or interest thereon**)—  
Omit the section.
- (7) Section 192C (**Trustees’ protection in respect of renewal loans**)—  
Section 192C (2)—  
Omit “Master in the Protective Division”, insert instead  
“Protective Commissioner”.
- (8) Section 200C (**Inscribed stock**)—  
(a) Section 200C (3)—  
Omit “, as amended by subsequent Acts,”.  
(b) Section 200C (4) (a)—  
Omit “, or any Act amending or replacing the said Act”.
- 

[*Minister’s second reading speech made in—  
Legislative Assembly on 4 April 1989  
Legislative Council on 12 April 1989*]





**LOCAL GOVERNMENT (BORROWING) AMENDMENT  
BILL 1989**

NEW SOUTH WALES



**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 with respect to the power of a council to borrow money—

- (a) to remove the requirement that the Governor's approval be obtained before a loan is raised; and
- (b) to enable the Minister for Local Government to supervise borrowing by a council by setting the council's borrowing limit, by specifying the terms and conditions to which any borrowing by the council is to be subject and by approving additional forms of borrowing; and
- (c) to remove the requirement that a council keep a separate bank account for each loan; and
- (d) to provide that securities for all loans raised by a council are to rank *pari passu* (that is, equally); and
- (e) by way of statute law revision.

---

**Clause 1** specifies the short title of the proposed Act.

**Clause 2** provides that the proposed Act is to commence on a day or days to be appointed by proclamation.

**Clause 3** gives effect to Schedules 1 and 2.

**Clause 4** enacts certain savings provisions.

**SCHEDULE 1—PRINCIPAL AMENDMENTS**

**Removal of requirement for Governor's approval to borrowing**

Schedule 1 (1), (3), (4) (a), (5), (6), (7) (b), (8) and (9) amend the Principal Act so as to remove the requirement that the Governor's approval be obtained before a loan is raised.

*Local Government (Borrowing) Amendment 1989*

---

**Supervision of borrowing by Minister for Local Government**

Schedule 1 (1) omits section 173 of the Principal Act and replaces it with proposed sections 173-173C.

Proposed section 173 provides that, subject to other statutory exceptions, a council may borrow only in accordance with Division 4 of Part 7 of the Principal Act.

Proposed section 173A enables the Minister to supervise a council's borrowing by determining borrowing limits and by imposing terms and conditions of borrowings.

Proposed section 173B specifies the methods by which a council may borrow which include any means approved by the Minister and notified in writing to the council.

Proposed section 173C enables the Minister to delegate the Minister's functions under the Division to any person employed in the Department of Local Government.

Schedule 1 (2) enables a council to borrow any amount by way of renewal loan if the council has first notified the Secretary of the Department of Local Government in writing of the amount to be borrowed.

**Removal of requirement for separate bank account for each loan**

Schedule 1 (7) (a) and (10) remove the requirement that all money borrowed by way of renewal or ordinary loan be lodged to the credit of a separate bank account.

**Ranking of securities**

Schedule 1 (11) replaces the provision that securities issued by a council to secure the repayment of principal and interest in respect of money borrowed under the Principal Act have priority as between the respective holders of the securities according to their dates of execution with a provision that all such securities are to rank *pari passu*.

**Other matters**

Schedule 1 (4) (b) amends section 178A (Advances by ratepayers and occupiers) of the Principal Act to require a council to report on advances not exceeding \$10,000 from ratepayers and occupiers of land within the council's area to the Secretary of the Department of Local Government rather than to the Minister.

Schedule 1 (12) enables the making of ordinances with respect to borrowing by councils.

**SCHEDULE 2—AMENDMENTS BY WAY OF STATUTE LAW REVISION**

Schedule 2 makes amendments by way of statute law revision.

---

# LOCAL GOVERNMENT (BORROWING) AMENDMENT BILL 1989

NEW SOUTH WALES



## TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Local Government Act 1919 No. 41
4. Savings

SCHEDULE 1—PRINCIPAL AMENDMENTS

SCHEDULE 2—AMENDMENTS BY WAY OF STATUTE LAW REVISION

---



**LOCAL GOVERNMENT (BORROWING) AMENDMENT  
BILL 1989**

NEW SOUTH WALES



No. , 1989

---

---

**A BILL FOR**

An Act to amend the Local Government Act 1919 with respect to councils' powers of borrowing.

---

---

*Local Government (Borrowing) Amendment 1989*

---

**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Local Government (Borrowing) Amendment Act 1989.

**5 Commencement**

2. This Act commences on a day or days to be appointed by proclamation.

**Amendment of Local Government Act 1919 No. 41**

3. The Local Government Act 1919 is amended as set out in Schedules  
10 1 and 2.

**Savings**

4. (1) Subsections (3) and (4) of section 182 of the Local Government Act 1919 as in force immediately before the date of commencement of Schedule 1 (6) continue to apply to a loan which had not been repaid before  
15 that date.

(2) Subsection (2) of section 188 of the Local Government Act 1919 as in force immediately before the date of commencement of Schedule 1 (11) continues to apply to a security issued under that section which was in force immediately before that date.

20

**SCHEDULE 1—PRINCIPAL AMENDMENTS**

(Sec. 3)

(1) Sections 173–173C—

Omit section 173, insert instead:

**Borrowing—generally**

25 173. Except as provided by any other Act, a council may borrow only in accordance with this Division.

**Minister's determination as to borrowing**

173A. (1) A council shall not borrow except in accordance with—

- 30 (a) the borrowing limit determined for the time being by the Minister which has been notified in writing to the council;  
and  
(b) any terms or conditions determined for the time being by the Minister which have been notified in writing to the  
35 council.

(2) Nothing in this section affects section 174 or 176.

*Local Government (Borrowing) Amendment 1989*SCHEDULE 1—PRINCIPAL AMENDMENTS—*continued***Methods of borrowing**

173B. A council may borrow by way of limited overdraft, renewal loan, ordinary loan or such other means as may be approved by the Minister and notified in writing to the council.

5 **Delegation of Minister's functions**

173C. The Minister may delegate all or any of the Minister's powers, authorities, duties and functions under this Division (other than this power of delegation) to any person employed in the Department of Local Government.

10 (2) Section 176 (**Renewal loans**)—

After section 176 (2), insert:

(3) A council may borrow any amount by way of renewal loan if it has first notified the Secretary of the Department of Local Government in writing of the amount to be borrowed.

15 (3) Section 177 (**Ordinary loans**)—

Omit section 177 (3).

(4) Section 178A (**Advances by ratepayers and occupiers**)—

## (a) Section 178A (1)—

Omit “, without obtaining any approval under section 173,”.

## 20 (b) Section 178A (6)—

Omit “Minister”, insert instead “Secretary of the Department of Local Government”.

(5) Section 181A (**Capitalisation of interest—suspension of loan rates**)—

Section 181A (c)—

## 25 Omit “; and the Governor may when giving his approval (if given) allow or disallow any such provision”.

(6) Section 182 (**Security for ordinary and renewal loans**)—

Omit section 182 (2)–(5).

(7) Section 183 (**Bank accounts**)—

## 30 (a) Omit section 183 (1), insert instead:

(1) Subject to the provisions of this Act, all money borrowed by a council shall be lodged to the credit of a bank account of the council, other than an account containing money subject to a trust.

## (b) Section 183 (2) (a)—

## 35 Omit “, as set out in the approval of the Governor”.

*Local Government (Borrowing) Amendment 1989*

SCHEDULE 1—PRINCIPAL AMENDMENTS—*continued*

(8) Section 185 (**Repayment**)—

Omit the section.

(9) Section 186 (**Reserves for loan repayment**)—

5 (a) From section 186 (2), omit “in its application for approval the council intimated that it proposed”, insert instead “the council proposes”.

(b) From section 186 (4), omit “application for approval of”, insert instead “decision to raise”.

(10) Section 187 (**Loans under other Acts**)—

10 From section 187 (b), omit “separate”.

(11) Section 188 (**Security for loans**)—

Omit section 188 (2), insert instead:

(2) All such securities shall, notwithstanding the provisions of any other Act, rank *pari passu*.

15 (12) Section 218 (**Ordinances**)—

After section 218 (f), insert:

(f1) borrowing by councils;

SCHEDULE 2—AMENDMENTS BY WAY OF STATUTE LAW  
REVISION

20

(Sec. 3)

(1) Part 7, Division 4, short headings—

Omit the short headings in Division 4.

(2) Section 175 (**Security of overdrafts**)—

Omit section 175 (4) and (5).

25 (3) Section 182A (**Guarantee by Treasurer**)—

(a) Section 182A (1A) (e)—

Omit “Revenue”.

(b) Section 182A (3)—

30 Omit “municipalities of Balranald, Hillston and Nyngan”, insert instead “Shires of Balranald, Carrathool and Bogan”.

(4) Section 186 (**Reserves for loan repayment**)—

Omit section 186 (3).



*Local Government (Borrowing) Amendment 1989*

---

SCHEDULE 2—AMENDMENTS BY WAY OF STATUTE LAW  
REVISION—*continued*

- (5) Section 191 (**Investment by trustees etc.**)—  
Section 191 (1)—  
Omit “, 1898”, insert instead “1925”.
- 5 (6) Section 192A (**Agreements for temporary concessions in repayment of loans and/or interest thereon**)—  
Omit the section.
- (7) Section 192C (**Trustees’ protection in respect of renewal loans**)—  
Section 192C (2)—  
10 Omit “Master in the Protective Division”, insert instead  
“Protective Commissioner”.
- (8) Section 200C (**Inscribed stock**)—  
(a) Section 200C (3)—  
Omit “, as amended by subsequent Acts,”.  
(b) Section 200C (4) (a)—  
15 Omit “, or any Act amending or replacing the said Act”.
-





