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Incorporation Act, 1906.

New South Wales.



ANNO SEXTO

EDWARDI VII REGIS.

Act No. 56, 1906,* as amended by the Act No. 1, 1907,† the Act No. 28, 1908,‡ the Act No. 35, 1915§, and the Act No. 76, 1916¶.

An Act to consolidate and amend the law relating to the Local Government of Shires and Municipalities.

BE it enacted by the King'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 :—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Local Government Act, Short title, 1906," and shall, except as hereinafter provided, commence and come into operation on the first day of January, one thousand nine hundred and seven.

(2) The provisions of Parts XVIII, XIX, XX, XXI, XXII, and XXIII, and of paragraph (d) of section one hundred and seventy of this Act, so far as they relate to municipalities, shall not come into operation on such day, but shall come into operation on a day to be proclaimed by the Governor.

Commencement of certain provisions postponed.

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(3)

* Assented to, 28th December, 1906. † Assented to, 12th July, 1907. ‡ Assented to, 24th December, 1908. § Assented to, 18th November, 1915. ¶ Assented to, 20th December, 1916.

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Certain provisions
of other Acts
continued.

(3) Part X and sections two hundred and one and two hundred and sixty-five of the Municipalities Act, 1897, as therein enacted, and as applied by the Municipalities Electric Light Act, 1904, and any by-laws relating to matters dealt with in such provisions in force at the passing of this Act, shall apply to municipalities under this Act, and, notwithstanding the repeal of the said Acts, shall, for the purposes of this Act, remain in full force and effect until the provisions of this Act referred to in subsection two of this section come into operation, and shall thereupon stand repealed.

2. This Act is divided into Parts as follows :—

PART I.—PRELIMINARY.

PART II.—CITIES.

PART III.—CONSTITUTION OF AREAS.

PART IV.—RECONSTITUTION OF AREAS.

PART V.—DIVISIONS OF AREAS—RIDINGS AND WARDS.

PART VI.—CONSTITUTION OF COUNCILS.

PART VII.—FRANCHISE—ELECTORS AND RATEPAYERS—LISTS
AND ROLLS.

PART VIII.—REVISION COURTS.

PART IX.—CANDIDATES.

PART X.—OUSTER OF OFFICE.

PART XI.—PRIMARY FUNCTIONS OF COUNCILS.

PART XII.—SPECIFIC POWERS.

PART XIII.—ADDITIONAL FUNCTIONS OF COUNCILS.

PART XIV.—POWER OF GOVERNOR AND MINISTER TO IMPOSE
DUTY TO EXERCISE FUNCTIONS.

PART XV.—SERVANTS OF COUNCIL.

PART XVI.—NATIONAL WORKS.

PART XVII.—ACQUISITION OF LAND AND WORKS.

PART XVIII.—RATABLE LAND.

PART XIX.—VALUES AND VALUATIONS.

PART XX.—RATES.

PART XXI.—GENERAL RATES.

PART XXII.—OTHER RATES—SPECIAL, LOCAL, LOAN.

PART XXIII.—RATES UNDER OTHER ACTS.

PART XXIV.—ENDOWMENT.

PART XXV.—DEFAULTING AREAS.

PART XXVI.—LOANS.

PART

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PART XXVII.—FUNDS.

PART XXVIII.—ACCOUNTS AND AUDIT.

PART XXIX.—ORDINANCES.

PART XXX.—REGULATIONS.

PART XXXI.—MISCELLANEOUS.

SCHEDULES.

3. In this Act, unless inconsistent with the context or subject-matter,—

“Adjoining”—Shires and municipalities are “adjoining” if only separated from each other by a public reserve, road, river, or stream, or other like natural divisions.

“Area,” or “local government area” means municipality or shire.

“City,” “village,” “town,” are not restricted to the meanings given to them in the Crown Lands Act of 1884, although including the same, where applicable.

“Clerk” or “council clerk” or “shire clerk” includes person duly acting as council clerk of an area.

“Council” means council of an area.

“Elector” means person qualified to vote at elections of councillors or aldermen.

“Existing municipality” means borough or municipal district constituted under the Municipalities Act, 1897.

“Hoarding” means structure used for the exhibition of advertisements, and includes a sky-sign.

“Improvements” includes houses and buildings, fencing, planting, excavations for holding water, wells, ringbarking, clearing from timber, or scrub, or sweet briar, or noxious weeds, or laying down in grass or pasture, and any other improvements whatsoever the benefit of which is unexhausted at the time of valuation.

“Justice” means justice of the peace.

“Lease” includes an original or derivative lease or under-lease or contract or agreement for the same.

“Lessee” includes an original or derivative lessee and under-lessee and any person deriving title under or from a lessee or under-lessee.

“Mayor” means mayor of a municipality.

“Mine” is land used or held for any mining purpose, and land so used or held is a mine. A mine includes all underground workings, and all engines, machinery, workshops, tramways, and other plant; all buildings (not being dwelling-houses), works, and the surface of any land occupied exclusively in connection with and for the purposes of the mine: Provided that,

Definitions.

Shires, s. 3.

Extension, s. 6.

Extension, s. 58

Act No. 53, 1966.

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that, in the case of a mine occupied under a lease, license, or other mineral holding, such land is situate within the boundaries of such lease, license, or holding.

“Minister” means Minister charged with the administration of this Act, or any portion thereof, under the Constitution Act, 1902.

“Municipality” means area constituted a municipality in pursuance of this Act.

“Notification” and “notified” means respectively notification published in the Gazette and notified in the Gazette.

“Office” means office of president or councillor, and “officer” means holder of any such office.

“Ordinances” means ordinances made in pursuance of this Act.

“Owner” means every person who is, whether at law or in equity,—

(a) entitled to land for any estate of freehold in possession, including the holder of a conditional purchase; or

(b) entitled to land for any such estate of freehold as aforesaid as a married woman, to her separate use, otherwise than by the intervention of trustees; or

(c) entitled to appoint, or to dispose immediately and absolutely of the fee-simple of any land; or

(d) a settlor, grantor, assignor, or transferor of land comprised in any settlement, grant, assignment, transfer, conveyance or other instrument, not made bona fide for valuable consideration; or

(e) by virtue of any mortgage (legal or equitable), or of any charge or encumbrance on land the owner of any estate or interest in land; or

(f) in actual receipt of, or entitled to receive, or if the land were let to a tenant, would be entitled to receive the rents and profits of land, whether as a beneficial owner, trustee, or mortgagee in possession, or who is receiving the rents derived from land by virtue of any mortgage, or of any charge or encumbrance whatsoever, or who is otherwise, whether at law or in equity, entitled to land for an estate of freehold in possession; or

(g) entitled to land partly in one and partly in another or others of the aforesaid ways.

“Part” means part of this Act.

“Prescribed” means prescribed by or under this Act.

“President” means president of a council.

“Private land” means land the fee-simple of which is not vested in His Majesty the King, and Crown lands held under any tenure which gives a right to purchase the fee-simple.

“Proclaimed”

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- "Proclaimed" means proclaimed by publication in the Gazette.
- "Proclamation" means proclamation published in the Gazette.
- "Public place" means public road, bridge, jetty, wharf, ferry, or other place which the public are entitled to use, but does not include a public reserve.
- "Public reserve" means public parks and lands similarly dedicated by the Crown for the use, recreation, or enjoyment of the general public, but does not include a common.
- "Public road" means road which the public are entitled to use.
- "Regulation" means regulation made in pursuance of this Act.
- "Returning officer" means officer appointed to conduct elections or polls under this Act.
- "Road" means road, street, lane, highway, or thoroughfare, including a bridge or culvert thereon.
- "Schedule" means Schedule to this Act.
- "Shire" means shire constituted under this Act or any Act hereby repealed.
- "Shires Act" means Local Government (Shires) Act, 1905.
- "State" means State of New South Wales.
- "Treasurer" means Colonial Treasurer.
- "Western division" has the meaning given to that expression in the Crown Lands Act of 1884, or any Act hereafter to be passed amending that Act.

4. (1) On the commencement of this Act the Shires Act and the Local Government Extension Act, 1906, shall be repealed.

(2) On the commencement of this Act the Municipalities Act, 1897, and the Municipalities Electric Light Act, 1901, and all by-laws made under such Acts shall be repealed, except so far as certain of the provisions of such Acts and certain of such by-laws are made to continue in full force and effect by section one.

(3) On the commencement of this Act the Acts mentioned in Schedule One shall be repealed.

(4) No such repeal shall affect property vested, acts and things validated, or authorised, powers and protection acquired, or indemnities given under the Acts hereby repealed.

(5) Notwithstanding such repeal, and save so far as otherwise expressly provided by this Act,—

- (a) the mayor and aldermen of the council of an existing municipality in office at the commencement of this Act, and the president and councillors of a shire in office at the passing of this Act, shall remain in office for the period hereinafter provided, and this Act shall apply to them; and such mayor and aldermen, and such president and councillors, while in office, shall be the council of the area: Provided that where in any such municipality there is no council, the Governor may,

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By-laws, to continue
in force until
ordinances are made.

Rates to be due as if
this Act had not
passed.

Rights, liabilities,
contracts, &c., to
vest and attach.

Saving as to
incorporation.

Functions of
councils.

This Act to apply to
things done under
Acts repealed.

Certain Acts not
affected.
Extension, s. 4.

- may, instead of proceeding under Part XXV of this Act, dissolve the municipality, and thereupon it shall cease to be a municipality within the meaning of this Act ;
- (b) all municipal by-laws in force at the commencement of this Act in an existing municipality shall continue in force until ordinances applicable to the municipality are made ; and this Act shall, until such time as aforesaid, apply to all such by-laws as if they were ordinances ;
 - (c) all ordinances and regulations in force at the passing of this Act in a shire shall be ordinances and regulations under this Act ;
 - (d) all rates, charges, and sums of money which under the Acts hereby repealed are, at the commencement of this Act, due or payable to or leviable by or for any existing municipality, or shire, shall be paid to and may be received, levied, and recovered by the council for the time being of the area, and shall remain a charge on property as if this Act had not passed ;
 - (e) all rights and liabilities acquired and incurred, and all contracts and undertakings entered into, all securities lawfully given, and all actions, suits, and proceedings pending at the commencement of this Act, shall respectively be vested and attach, and may be enforced, realized, carried on, and prosecuted as if this Act had not passed ; and no such action, suit, or proceeding shall abate or be discontinued, or be prejudicially affected by the operation of this Act ;
 - (f) such repeal shall not, except as herein expressly provided, affect the incorporation by any Act of any of the enactments so repealed ;
 - (g) notwithstanding the provisions of this Act, any functions which the council of a municipality is at the commencement of this Act exercising, and which are included among those which under this Act the Council of a municipality may acquire, may be conferred by the Governor on such council.

(6) Save so far as there is anything in this Act inconsistent therewith, this Act shall apply to all matters and things made, done, or commenced under the Acts hereby repealed, and at the commencement of this Act of any force or effect or capable of acquiring any force or effect by virtue of the Acts hereby repealed, as if this Act had been in force at the time they were made, done, or commenced, and they were made, done, or commenced hereunder.

5. (1) Unless otherwise expressly provided, nothing in this Act shall operate so as to repeal any of the provisions of the Metropolitan Traffic Act, 1900, Country Towns Water and Sewerage Act of 1880, the Metropolitan Water and Sewerage Act of 1880, the Hunter District

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District Water Supply and Sewerage Act of 1892, the Water and Drainage Act, 1902, the Sydney Corporation Act, 1902, the Sydney Harbour Trust Act, 1900, the Public Health Act, 1902, or any Act amending any of those Acts, or to take away powers vested in any person or body by any of the said Acts, or any by-laws or regulations made thereunder.

(2) Except where expressly provided, nothing in this Act shall apply to or affect the city of Sydney.

6. All references in the Public Health Act, 1902, the Cattle Slaughtering and Diseased Animals and Meat Act, 1902, or in the Noxious Trades Act, 1902, or the Country Towns Water and Sewerage Acts, 1880-1905, to a local authority or to a municipality or its council, or to an officer of such authority, municipality, or council, shall apply to a shire or its council, or the officer of a shire or its council.

7. In any Act, regulations, or by-laws, references to existing municipalities and their councils and servants shall apply to municipalities and the councils and servants of municipalities constituted by or under this Act.

PART II.

CITIES.

8. In addition to the cities proclaimed before the commencement of this Act, the Governor, by proclamation, may constitute as a city a municipality which—

- (a) has, during the five municipal financial years next preceding such proclamation, had an average population of at least twenty thousand persons; and
- (b) has during the said period had an average gross municipal revenue from all sources of at least twenty thousand pounds; and
- (c) is an independent centre of population and is not a suburb, whether residential, industrial, commercial, or maritime, or any other municipality or centre of population.

PART

PART III.

CONSTITUTION OF AREAS.

DIVISION 1.—*Shires.*

The shires
constituted.
Shires, s. 5.

Orders for
provisional
government of areas.
Shires, s. 7 (a).

Temporary councils.

9. The shires constituted under the Shires Act shall be shires constituted under this Act, having the boundaries and bearing the names respectively defined and given to them under the Shires Act.

10. The Governor may make orders for the provisional government of shires on their being constituted, and in the exercise of such power may—

(a) appoint a temporary council of five members, who shall, within six months from the date of their appointment, direct and supervise the preparation of lists and rolls of electors, and make all necessary arrangements for the election of the first council. Such temporary council may employ whatever temporary clerical and other assistance may be required to carry out the work entrusted to them, and the cost of such employment, and of the preparation of lists and rolls and arrangements for election, may, with the approval of the Treasurer, be paid from the Consolidated Revenue Fund. Such temporary council shall have no powers other than those granted in this subsection.

(b) provide for the continuance of the present administration of roads, bridges, ferries, jetties, public watering-places, and other public works and services by the Department of Public Works pending the taking over of such administration by the council, and fix a date when the control of such works shall be vested in the council in pursuance of this Act.

Continuance of
administration of
Public Works and
services.
Shires, s. 7 (b).

Orders made under
s. 7 of the Shires Act
are orders made
under this Act.

11. Orders for the provisional government of shires, appointments of a temporary council, and provision made for the continuance of the administration of public works and services by the Department of Public Works, and for the taking over of the administration of such works by, and the vesting of the control of such works in, the council made by the Governor under the Shires Act, shall be orders, appointments, and provision made under this Act.

DIVISION 2.—*Municipalities.*

Existing
municipalities
constituted and
incorporated.
Extension, s. 9.

12. Every existing municipality, with any area added thereto in pursuance of the Shires Act, is constituted a municipality under this Act. Thereupon the body corporate of such existing municipality shall be dissolved, and shall be replaced by the Council of the municipality which under that name is created a body corporate. All powers, rights, and liabilities of such old body corporate shall be the powers, rights, and liabilities of the council of the municipality.

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DIVISION 3.—*Shires and municipalities.*

13. The Governor may alter the name of any area and of its council.

Re-naming areas.

Shires, s. 5 (5).

14. (1) Any land on the boundary of but not within an area as constituted shall be deemed, with any building or structure thereon, to be included in the area, if—

Land on boundary of area.

Substituted section, Act No. 28, 1903, s. 2.

- (a) it has at any time been reclaimed from tidal waters; or
- (b) it is situate under tidal waters or on the shore, or on or below high-water mark, or below the margin of any tidal waters, and—
 - (i) is privately owned; or
 - (ii) there is thereon any jetty, wharf, pier, or building; or
 - (iii) the Governor by proclamation declares that the land shall form part of the area.

(2) For the purposes of this section "tidal waters" includes the waters of the sea or of any lake, estuary, river, bay, or lagoon in which the tide ebbs and flows.

PART IV.

RECONSTITUTION OF AREAS.

DIVISION 1.—*Shires and municipalities.*

15. (1) The Governor may at any time—

- (a) unite two or more adjoining areas;
- (b) divide an area into two or more areas, or divide two or more adjoining areas into a different number and description of areas;
- (c) in any order uniting or dividing areas, or by separate order, alter the boundaries of areas;
- (d) convert a municipality into a shire or a shire into a municipality;
- (e) unite part or parts of an area to the whole or part or parts of another area;
- (f) add any land, not within an area, except land in the Western Division, to a municipality or shire;

Reconstitution by uniting, dividing, altering, or converting areas.

Extensions, s. 14 (1).

Amended, Act No. 28, 1908, s. 3.

and may by order reconstitute the new areas so formed as municipalities or shires, and give names to such areas and their councils:

But the Governor may exercise the powers of paragraph (c), (e), or (f) without reconstituting the area.

(2) Provided that before exercising the power in paragraph (a) or (e) of subsection one of this section a poll of ratepayers shall, at the request of one-third of the ratepayers of any such area, be taken in each

Substituted subsection, Act No. 28, 1908, s. 3.

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each area, and such power shall not be exercised unless at such polls a majority of the votes has, in each area, been cast in favour of the power being exercised.

Area to be continuous.

Extension, s. 14 (2).

Objections to reconstitution.

Extension, s. 14 (3).

Adjustments of boundaries.

Extension, s. 14 (4).

New subsection.
Ibid.

Arrangement with creditors on reconstitution of areas.

Extension, s. 17 (1).

Orders distributing property, rights, and liabilities of areas.

Extension, s. 17 (2).

Objections to such orders.

Extension, s. 17 (3).

Ordinances of old areas.

Extension, s. 18 (3).

Rates due to old areas.

Extension, s. 18 (3).

(3) Every area, when so reconstituted, shall consist of adjoining areas.

(4) But before any area is so reconstituted the prescribed notice shall be given, and any council, ratepayer, or creditor of any area may within the period prescribed in such notice make written representations on the subject of the proposed reconstitution.

(5) Notwithstanding that no objection may have been made to any proposed boundaries mentioned in such notice, the Governor may make such variations in such boundaries as he may consider desirable.

(6) Where before the first of January, one thousand nine hundred and nine, the reconstitution of an area or the alteration of its boundaries under subsection one of this section have been ordered or proclaimed, such order or proclamation shall be valid, although the provisions of this Act may have been contravened, or may not have been carried out.

16. (1) No areas shall, except under the next succeeding section, be reconstituted under this Act, unless and until—

(a) an arrangement as to the apportionment of debts between the areas affected by such reconstitution is agreed to by all the creditors (if any) of such areas; or

(b) such arrangement is agreed to by a majority in number of such creditors, and approved by the Governor.

(2) On the reconstitution of areas, the Governor shall make orders distributing among such areas the property, moneys, and rights of old areas forming part of the reconstituted areas, and for that purpose may direct securities to be transferred, and given.

(3) But before any such order is made, the prescribed notice shall be given, and any person who was or is a creditor of such old area, or any person representing not less than fifty persons who would be ratepayers of the new area, may, within the period prescribed in such notice, make written representations on the subject of the proposed order.

(4) On the reconstitution of areas the Governor may make orders—

(a) prescribing what ordinances (if any) of an old area forming part of the new area shall have effect within the new area or within any specified part thereof until new ordinances are in force therein, and providing for enforcing those ordinances;

(b) providing for the recovery of rates, charges, and sums of moneys due to or from any old area, and the continuing of proceedings begun before the reconstitution;

(c)

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- (c) conferring and imposing on the council of the reconstituted area all or any of the powers and duties which had been, prior to such reconstitution, conferred or imposed upon or acquired by the council of any old area forming part of the reconstituted area; Powers and duties of old areas.
New paragraph, Act No. 28, 1908, s. 4.
- (d) appointing and constituting a provisional council, whose members shall hold office until a council is elected or appointed under section forty-six of this Act. Provisional council.
New paragraph, Ibid.

DIVISION 2.—Shires.

17. Where the Governor includes the area of a municipality in a shire, the following provisions shall apply:—
- (a) Such area shall be a riding or two or more complete ridings of such shire. Provisions where municipality included in a shire.
Extension, s. 16.
Area to be riding.
 - (b) Such area shall be solely responsible for the unpaid debts and liabilities of the municipality as at the date of the inclusion of its area in the shire. The revenue of the shire levied within or received in respect of such area shall be subject to a first charge in favour of such debts and liabilities, and shall be primarily applied to meet the same and to make payments to any sinking fund. The residue of such revenue shall be applied and used, as the council may determine, for the benefit of such area. When the said debts and liabilities unpaid at the time of the inclusion of such area in the shire have been fully paid off, the operations of the preceding portion of this paragraph and of paragraph (a), may, in the discretion of the council, be terminated. Area to be responsible for debts and liabilities.
 - (c) If in any such area a special rate under the Municipalities Act, 1897, has been levied during the municipal financial year next preceding its inclusion in a shire, then the shire council may, in and for the benefit of such area, continue to levy such rate, which, for the purposes of this Act, shall be a local rate, and shall be expended for the benefit of the said area; but it shall not be necessary before making the rate to hold a poll under this Act. Special rates.
 - (d) The Governor may apply to such area any powers which, under this Act, may be exercised or acquired by a municipality so as to continue the powers which the municipality possessed before the inclusion of its area in the shire, and such powers may thereupon be exercised by the council of the shire in such area by virtue of this section, and notwithstanding any other provisions of this Act. Powers.
 - (e) The council of the shire may, under the provisions of this Act applicable to municipalities, raise money by way of loan for the purpose only of repaying any loan for which the municipality Loans.

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municipality was liable at the time of the inclusion of its area in the shire, or of repaying any loan contracted under this section, in which case the provisions of this Act relating to loans by municipalities shall apply to the shire: Provided that the loan rate to be collected in connection with any such loan shall be levied only within the said area, but the loan shall nevertheless be borrowed on the credit of the shire and on the security of its revenues.

DIVISION 3.—*City of Sydney.*

Uniting areas to
city of Sydney.
Extension, s. 15.

18. (1) The Governor may at any time, on receipt of a resolution from each of the councils concerned, which said resolution shall have been passed by a majority of each council at one meeting, and confirmed by a majority at a second meeting—

- (a) unite to the city of Sydney the whole or any part of a municipality adjoining such city; or
- (b) unite any part of the said city to any such municipality; and
- (c) make consequent alterations in the boundaries of the said city and of any such municipality, and may by order reconstitute the said city and any such municipality with the boundaries as so altered.

Preliminary
procedure.

(2) But before any such reconstitution is made the prescribed notice shall be given, and any council, ratepayer, or creditor of the said city or of the municipality affected may, within the period and to the person prescribed in such notice, make written representations on the subject of the proposed reconstitution, and a poll of the electors concerned may be taken by a council on petition from one-fifth of such electors.

Variations of
boundaries.

(3) Notwithstanding that no objection may have been made to any proposed boundaries mentioned in such notice, the Governor may make such variations in such boundaries as he may consider desirable.

PART V.

DIVISIONS OF AREAS.—RIDINGS AND WARDS.

DIVISION 1.—*Shires—Ridings.*

Division into
ridings.
Shires, s. 6 (1).
Governor may
make or alter
divisions.
Shires, s. 6 (2).

19. (1) The Governor shall by notification divide shires into ridings.

(2) The Governor may by notification alter any such division: Provided that such alteration shall not affect the representation of the shire on its council until the next following general election of the council.

(3)

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(3) But before making any such alteration the prescribed notice shall be given, and the council, or any person representing at least fifty electors of the shire, shall be heard in manner to be prescribed.

Notice.

Shires, s. 6 (3).

Amended,
Act No. 28, 1908,
s. 5 (1).

20. Any division of shires into ridings, and any alteration of such division made under the Shires Act, shall be a division and an alteration of such division under this Act.

Divisions made
under the Shires Act
are divisions under
this Act.

DIVISION 2.—Municipalities—Wards.

21. (1) It shall be optional but not compulsory for the Governor, on receipt of a petition from the council or a majority of ratepayers, by notification to divide municipalities into wards.

Division into wards.

Extension, s. 12.

Verbal amendment.

(2) The Governor may by notification alter, abolish, and re-create any such division made under this Act or any Act hereby repealed: Provided that—

Alteration, abolition
and re-creation of
wards.

Amended,
Act No. 28, 1908,
s. 5 (2).

(a) such alteration shall not affect the representation of the municipality on its council until the next following general election of the council;

(b) before making such alteration the prescribed notice shall be given, and the council, or any person representing at least fifty electors of the municipality, shall be heard in the manner prescribed;

Preliminaries to
alteration of wards.

(c) before so abolishing any such division the Governor shall, on the request of one hundred or more of the electors of the municipality, remit to a poll of electors the question whether such division shall be abolished. The council shall thereupon fix and notify as prescribed a day on which such poll shall be held, and the same shall be held accordingly. If at such poll a majority of those voting at the poll is opposed to the abolition of such division, the division shall not be abolished then or within twelve months thereafter.

Procedure before
abolishing wards.

Poll of electors.

22. Until a municipality is divided into wards, in pursuance of this Act, the wards of the existing municipality shall be the wards of the municipality constituted by this Act.

Existing division
into wards.

Extension, s. 13.

PART VI.

CONSTITUTION OF COUNCILS.

DIVISION 1.—Shires.

23. (1) Every shire shall be governed by a council, the members of which shall be called councillors.

Shire governed by
council.

(2) The councillors shall, except where otherwise provided, be elected by the electors.

Shires, s. 18 (1) (2).
To be elected.

(3) A councillor may resign his office,

Resignations.

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Representations of
ridings.

Shires, s. 18 (1).

Number of
councillors.

Shires, s. 18 (3).

Amended,
Act No. 28, 1908,
s. 6.

24. The respective ridings of a shire shall have equal representation on the council.

25. The first council of a shire shall consist of six members; such number of members may, for the purposes of any later election, be increased to nine on resolution by the council; or, where such increase has been made, may be decreased to six, provided that, before any such increase or decrease is made, the council shall take a poll of electors on the question, and the decision of the majority of the votes cast at such poll shall determine the question.

Expenses of
councillors.

Shires, s. 18 (6).

26. A council may out of the general fund of the shire pay to its members reasonable allowances towards their expenses in travelling to and from meetings of the council, or on the business of the council.

Remuneration of
president.

Shires, s. 18 (5).

Extension, s. 50.

Maximum.

27. A council may, out of the general fund of the shire, grant an annual allowance, or allowances, to any person holding the office of or acting as its president for his expenses. The maximum amount of such allowance or allowances shall be specified in the ordinances, and shall not exceed fifty pounds in each year.

First election of
shire council.

Shires, s. 20 (1).

28. (1) The first election of the councillors of a shire after its constitution shall be held on a day and at a place to be fixed and proclaimed by the Governor.

Expenses of first
election of shire
council.

Shires, s. 19 (4).

(2) The expenses incurred by a returning officer in connection with such first election may be paid from the Consolidated Revenue Fund, and shall, if so paid, be deducted from any endowment which may subsequently become due to the shire.

DIVISION 2.—*Municipalities.*

Municipality
governed by council.

Extension, s. 51.

To be elected.

29. (1) Every municipality shall be governed by a council, the members of which shall be called aldermen.

(2) The aldermen shall, except where otherwise provided, be elected by the electors.

Resignations.

(3) An alderman may resign his office.

Existing
municipalities.

Extension, ss. 3 (3),
51.

30. The aldermen in office in any existing municipality at the commencement of this Act shall constitute the council of the municipality under this Act, and shall remain in office subject to the provisions of this Act until and retire from office on the last Friday in January, one thousand nine hundred and eight.

Number of members
of council.

Extension, s. 51.

31. (1) The number of aldermen shall be as determined by the Governor; such number shall not be less than six nor more than twelve, except in the case of the existing municipality of North Sydney, where such number shall not be less than six nor more than fifteen; and except in the case of the union of two or more municipalities,

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municipalities, when the Governor may, in his discretion, determine that the council of the united areas shall consist of any number greater than twelve but not greater than eighteen aldermen.

(2) The number of aldermen to be elected by the respective wards shall be as determined by the Governor.

Number of wards.
Extension, s. 51.

32. (1) Allowances or travelling expenses shall not be paid by the council to its aldermen.

No allowances to aldermen.
Extension, s. 51.

(2) The council may determine whether any and what remuneration shall be allowed any person executing the office of mayor.

Remuneration of mayor.
Extension, s. 51.

33. If an extraordinary vacancy occur in the council before the last Friday in January, one thousand nine hundred and eight, and before the roll of electors is made, the roll for the existing municipality in force at the commencement of this Act shall be used at the election to fill such vacancy.

Extraordinary vacancies before first lists are compiled.
Extension, s. 51.

34. Where an area has been added to an existing municipality under subsection two of section five of the Shires Act, and where under the Municipalities Act, 1897, the said area has been constituted a ward of such municipality but no aldermen of such ward have been elected, the council of such municipality may, on the passing of this Act, cause lists and rolls of electors for such area qualified under this Act to be prepared in pursuance of this Act, and may thereupon hold an election as prescribed of such number of aldermen as might under the Municipalities Act, 1897, be elected in respect of such ward. The aldermen so elected shall retire from office on the general retirement of aldermen in pursuance of this Act.

Election of aldermen for new ward constituted on addition of area under Shires Act.
Extension, s. 51.

DIVISION 3.—Shires and municipalities.

35. (1) One of the councillors of each shire shall be the president, and shall preside when present at meetings of the council. A president may resign his office.

President of shire.
Shires, s. 18 (1) (2).

(2) One of the aldermen of each municipality shall be the mayor and shall preside when present at meetings of the council. A mayor may resign his office.

Mayor of municipality.
Shires, s. 18 (1).
Extension, s. 51.

(3) Within fourteen days after the constitution of the council a president or mayor shall be elected by the council from its members in the manner prescribed.

Election of president or mayor.
Shires, s. 21 (1).
Extension, s. 51.

(4) On the last day of February in each year every president or mayor then in office shall retire.

Retirement of president or mayor.
Shires, 21 (3).
Extension, s. 51.

(5) On some day between the first and the fifteenth days of February in each year, every council shall elect a president or mayor, who shall hold his office from the first day of March next following his election. At such election the retiring president or mayor shall, if otherwise qualified, be eligible for re-election.

Time of election of president or mayor.
Shires, s. 21 (4).
Extension, s. 51.

(6)

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Extraordinary
vacancies : president
or mayor.

Shires, s. 21 (5).

Extension, s. 51.

Election of president or
mayor on constitution
of council in defaulting
area ; Shires, s. 21 (2).
Extension, s. 51.

Deputy president or
deputy mayor.

Shires, s. 18 (7).

Extension, s. 51.

Governor may
appoint president or
mayor.

Shires, s. 18 (8).

Extension, s. 51.

Councils to be elected
for ridings or wards.

Shires, s. 19 (1).

Extension, s. 51.

Municipality not
divided.

Nominations.

Shires, s. 19 (2).

Extension, s. 51.

Shires, s. 19 (7).

Extensions, s. 51.

Manner of election.

Shires, s. 19 (3).

Extension, s. 51.

Expenses of
elections.

Shires, s. 19 (4).

Extensions, s. 51.

Validation of
elections.

Shires, s. 19 (5).

Extension, s. 51.

(6) Within fourteen days of the occurrence of an extraordinary vacancy in the office of president or mayor, caused by death, resignation, ouster, disqualification, or otherwise, an election shall be held to fill the vacancy.

(7) Within fourteen days after the first due constitution of a council, after an area has been proclaimed a defaulting area, a president or mayor shall be elected as prescribed.

(8) A council may appoint one of its members to act as deputy president or deputy mayor during such time as the president or mayor may be temporarily absent from the area, or from his duties on account of illness or other sufficient reason. The deputy while so acting shall have the powers, authorities, duties, and liabilities of the president or mayor.

(9) If a council fail to elect a president or mayor within the period prescribed, the Governor may appoint some member of the council to be president or mayor.

36. Members of councils shall be elected for the respective ridings or wards of the area by the electors of such ridings or wards: Provided that where a municipality is not divided into wards, the council shall be elected by the electors of the whole municipality.

37. (1) Nominations shall be made in the prescribed manner, and where the number of candidates nominated does not exceed the number of members to be elected, the persons so nominated shall be deemed to have been elected; otherwise there shall be a ballot.

(2) Whosoever forges, or fraudulently defaces, or fraudulently destroys any nomination paper, or delivers to the returning officer or clerk any forged nomination paper, knowing it to be forged, shall be liable to imprisonment for a term not exceeding six months, with or without hard labour. Any attempt to commit any such offence shall be punishable as the offence itself.

38. (1) The election of members of councils shall be conducted by a returning officer to be appointed as prescribed.

(2) Except where otherwise provided for by this Act, the expenses incurred by a returning officer in connection with an election shall be repaid to him out of the general fund of the area, and may be recovered in a summary way before two justices.

39. No election of members of a council shall be invalid by reason only of—

- (a) any formal defect or error in or relating to the election, if the election was held substantially as prescribed;
- (b) any defect or want of title of the returning officer if he has acted as such; or
- (c)

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(c) the fact that the election was held at a time other than that appointed or prescribed ;
and if the Governor proclaims that any such defect or error does not invalidate any such election, such proclamation shall be conclusive as to the matter stated therein.

40. Sections eighty-nine, ninety, ninety-one, one hundred and two, one hundred and seven, one hundred and eight, and one hundred and nine of the Parliamentary Electorates and Elections Act, 1902, shall, mutatis mutandis, apply to elections of members of councils.

Application of provisions of Parliamentary Electorates and Elections Act. Shires, s. 19 (6). Extension, s. 51.

41. An election to fill an extraordinary vacancy in a council caused by death, resignation, ouster, disqualification, or otherwise shall be held within one month from the occurrence of such vacancy, and on a day and at a place to be fixed and notified by the council as prescribed.

Extraordinary vacancies. Shires, s. 20 (2). Extension, s. 51.

42. All members of a council shall retire from office on the last Friday of January, one thousand nine hundred and eight, and on the same day in every third year thereafter ; and elections of members of councils shall take place on the following day. A retiring member shall, if otherwise qualified, be eligible for re-election.

Extension, s. 51. Shires, s. 20 (3). Retirements--Date of elections. Extensions, s. 51. Shires, s. 20 (4).

43. (1) If it appears to the Minister to be impracticable or inconvenient to hold an election on the day prescribed, he may postpone the election to a subsequent day, not being more than—

Postponement of election. Substituted section. Act No. 76, 1916, s. 4.

- (a) six months thereafter, in the case of an election in the year one thousand nine hundred and seventeen ; or
- (b) one month thereafter, in the case of an election in any year subsequent to the year one thousand nine hundred and seventeen.

(2) Where the time for the holding of the triennial ordinary election is postponed in any area—

- (a) the election of mayor or president shall be postponed, and shall be held within fourteen days after the day of election of the council, and in such case the mayor or president in office at the time of the postponement may remain in office as the mayor or president until such day, and the mayor or president in office on such day may if re-elected as alderman or councillor remain in office as mayor or president until his successor is elected or appointed ; and
- (b) the retiring aldermen or councillors may remain in office until the day next preceding the day of the election of the council.

44. The duly constituted council of an area shall be a body corporate, having perpetual succession and a common seal.

Council to corporate. Shires, s. 5 (4). Extension, ss. 9, 10.

45. On the reconstitution of an area the body corporate existing prior to such reconstitution shall be dissolved.

Body corporate on reconstitution. Extension, s. 9.

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Councils of
reconstituted areas.
Extension, s. 18 (1).

46. (1) Where areas are reconstituted the Governor may, by order, appoint and constitute a council for each reconstituted area, or in his discretion may authorise an election to be held in the prescribed manner. The members of such council shall hold office until the day fixed by this Act for the next retirement of all members of councils.

Governor may
appoint to
extraordinary
vacancies on
reconstitution.
Extension, s. 18 (2).

(2) The Governor may appoint persons to fill extraordinary vacancies in any council so constituted, or may declare that such vacancies shall be filled by election under this Act, in which case such vacancies shall be filled accordingly.

Governor to fill
vacant offices of
alderman.
Extension, s. 52.

47. Where, at any election of a council, the number of officers elected is less than the number of offices which the election was held to fill, the Governor may appoint persons to fill the offices thus left vacant.

Vacancy by reason of
absence of member
of council from
meetings.

New section,
Act No. 28, 1908, s. 7.

Conference expenses.

New section,
Ibid.

47A. If any member of council is absent without leave granted by resolution of the council from the meetings of the council for three consecutive months, he shall thereupon cease to hold office, and his office shall be vacant.

47B. Notwithstanding anything to the contrary in this Part a council may, out of the general fund of its area, pay the reasonable expenses of one of its members elected by the council to represent it as delegate to any conference of councils of municipalities or of shires on matters relating to local government, or the business of the council.

PART VII.

FRANCHISE—ELECTORS AND RATEPAYERS—LISTS AND ROLLS.

DIVISION 1.—*Shires.*

Qualification as
occupiers.
Shires, s. 22 (2).

48. Any natural-born or naturalised British subject, male or female, of the age of twenty-one years or upwards, shall be entitled to be placed on the list as "occupier," and to be enrolled as an elector if he on the day prescribed—

Tenants.

(a) has been continuously, during the three months next preceding such prescribed day, in joint or several occupation as tenant under lease in writing or oral tenancy of any ratable land in the shire which, with or without any house or other buildings thereon, is of a yearly value of five pounds or upwards :

Joint tenants

Provided that only one of such joint occupiers shall be entitled to be placed on the roll. The joint occupier who shall be so entitled shall be determined by a majority of the occupiers, evidenced by agreement signed by such majority and delivered to the clerk, or failing such agreement, according to the alphabetical order of the surnames of the occupiers ;

(b)

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- (b) is the manager, secretary, or director of a public company, body corporate, or one of a body of trustees which is in occupation as tenant as aforesaid of any ratable land in the shire which, with or without any houses or other buildings thereon, is of a yearly value of five pounds or upwards; and—
- Companies, trustees occupying as tenants.
- (i) has been nominated by the directors of such company or body corporate, or by such body of trustees, as an elector in respect of such occupation; or
- (ii) where no such nomination has been made, is the manager, or, where there is no manager, is the secretary of such company, or is the trustee of such body of trustees whose name first appears on the instrument creating the trust; or
- (c) is the resident manager of any ratable land in the shire which, with or without any houses or other buildings thereon, is of a yearly value of five pounds or upwards; or
- Resident manager of ratable land.
- (d) has been continuously during the three months next preceding such prescribed day in joint or several occupation of any ratable land in the shire, by virtue of a miner's right or business license under the Mining Act, 1874, or any Act amending or consolidating the same;
- Occupier under miner's right or business license.
- (e) has been continuously, during the three months next preceding such prescribed day, resident within the shire and a share farmer of ratable land therein—that is to say, a person holding a written license to occupy and cultivate ratable land of a yearly value of five pounds or upwards in consideration of sharing the produce of such land;
- Share farmer. Extension, s. 53.
- (f) is in occupation of lands or buildings in the shire owned by the Crown, and, directly or indirectly, pays rent for the same by way of deduction from salary or otherwise.
- Occupier of Crown land—public servant. Extension, s. 53.
- 49.** Any natural-born or naturalised British subject, male or female, of the age of twenty-one years or upwards, shall be entitled to be placed on the list as "owner" and to be enrolled as an elector if he on the day prescribed—
- Qualifications of owners. Shires, s. 22 (3).
- (a) is severally the owner of any ratable land in the shire;
- Owner.
- (b) is jointly such owner as aforesaid;
- Joint owner.
- (c) is the manager, secretary, or director of a public company or body corporate, or one of a body of trustees, which is such owner as aforesaid; and—
- Companies or trustees as owners.
- (i) has been nominated by the directors of such company or body corporate, or by such body of trustees as an elector in respect of such land; or

(i)

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(ii) where no such nomination has been made, is the manager, or, where there is no manager, is the secretary of such company, or is the trustee of such body of trustees whose name first appears on the instrument creating the trust.

Crown lessee.

(d) is the holder of a lease, promise or contract of lease, or license from the Crown of ratable Crown land situate in a shire; or

Resident manager of Crown lease.

(e) is the resident manager of any lease, promise or contract of lease, or license from the Crown of ratable Crown land in the shire.

Lists to be prepared triennially.

Shires, s. 22 (1).

Extension, s. 53.

50. (1) A shire council shall, once in three years, on the day and in the manner prescribed, cause a list to be made of the names of the persons who appear to have the necessary qualification of electors as occupiers or owners.

First lists in new area to be prepared by council of old area.

Shires, s. 22 (1).

Extension, s. 53.

(2) Provided that, for the purposes of the first election of a council under this Act, the list shall be made by the council then in office or the temporary council.

Supplementary lists.

Extension, s. 53.

51. Supplementary lists and rolls of the names of persons duly qualified for enrolment as electors of a shire whose names are not included in the rolls of electors in force for the time being, or whose qualifications have been altered by a change of residence, and who make application in the prescribed manner to be enrolled, may be prepared and revised in the prescribed manner and at the prescribed time or times in each year intervening between the triennial preparations and revisions of the lists and rolls.

Owner to be placed on list for each riding in which he is owner.

Shires, s. 22 (4).

52. (1) The names on the list for the shire shall be entered on lists for the respective ridings of the shire, each person's name being entered on the list of each riding in which such person holds the qualification of occupier or has ratable land, as the case may be.

Owner in one riding cannot be listed as occupier in another riding.

Occupier in two or more ridings to be listed in only one.

(2) Provided that a person qualified as aforesaid as owner in any riding shall not be entitled to be enrolled as an occupier in the same or any other riding in the same area; and that a person qualified as occupier in two or more ridings shall be entitled to be enrolled only in such one riding as he has notified by writing under his hand delivered to the prescribed person within the prescribed time, or, failing such notification, in such one riding as the clerk may notify in the prescribed manner.

Declaration.

Shires, s. 22 (6).

Rolls for ridings.

Shires, s. 22 (4).

(3) Any person claiming enrolment may be required to make a declaration in the prescribed form.

Rolls for shire.

Shires, s. 22 (4).

Rolls in force.

Shires, s. 22 (5).

53. (1) The lists of electors prepared as aforesaid shall, when revised and signed by the revision court, be the rolls of electors for the respective ridings.

(2) The rolls for the riding shall together constitute the roll of electors for the shire.

(3) Any such roll shall be in force until a new roll is made.

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54. Any person whose name is on a roll of electors under the qualification of occupier, and who, at the date of an election, retains the qualification under which he was enrolled, and any person whose name is on the roll of electors under the qualification of owner, for a shire or riding, shall be an elector of such shire or riding, and shall be entitled at any election of councillors within the riding for which he is enrolled to as many votes as there are candidates to be elected, but shall not give more than one vote to any one candidate. He shall vote for the full number of councillors to be elected.

Qualification to vote.

Shires, s. 23.

Extension, s. 51.

DIVISION 2.—*Municipalities.*

55. Any natural-born or naturalised British subject, male or female, of the age of twenty-one years or upwards, shall be entitled to be placed on the list as "occupier," and to be enrolled as an elector, if he, on the day prescribed—

Qualification as occupier.

Extension, s. 53.

- (a) has been continuously during the three months next preceding such prescribed day, in joint or several occupation as direct tenant of the owners and ratepaying lessees, under lease in writing or oral tenancy, of any ratable land in the municipality which, with or without any houses or other buildings thereon, is of a yearly value of five pounds or upwards, such oral tenancy being bona fide.

Tenants.

Amended.

Act No. 76, 1916, s. 3.

Provided that only one of such joint occupiers shall be entitled to be placed on the roll. The joint occupier who shall be so entitled shall be determined by a majority of the occupiers, evidenced by agreement signed by such majority, and delivered to the clerk, or failing such agreement, according to the alphabetical order of the surnames of the occupiers;

Joint tenants.

- (b) is the manager, secretary, or director of a public company, body corporate, or one of a body of trustees which is in occupation as tenant as aforesaid of any ratable land in the municipality which, with or without any houses or other buildings thereon, is of a yearly value of five pounds or upwards; and
- (i) has been nominated by the directors of such company or body corporate, or by such body of trustees, as an elector in respect of such occupation; or
- (ii) where no such nomination has been made, is the manager, or, where there is no manager, is the secretary of such company, or is the trustee of such body of trustees whose name first appears on the instrument creating the trust;

Companies, trustees, occupying as tenants.

(c)

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Occupier under
miner's right or
business license.

Share farmer.
Extension, s. 53.

Occupier of Crown
land—public
servant.
Extension, s. 53.

Qualification as
owner.

Owner.

Joint owners.

Companies, trustees,
as owners.

Crown lessees.

Qualification of
ratepaying lessee.

Lessee.

Joint lessee.

- (c) has been continuously, during the three months next preceding such prescribed day, in joint or several occupation of any ratable land in the municipality, by virtue of a miner's right or business license under the Mining Act, 1874, or any Act amending or consolidating the same;
- (d) has been continuously, during the three months next preceding such prescribed day, resident within the municipality, and a share farmer of ratable land therein—that is to say, a person holding a written license to occupy and cultivate ratable land of a yearly value of five pounds or upwards in consideration of sharing the produce of such land; or
- (e) is in occupation of lands or buildings within the municipality owned by the Crown, and, directly or indirectly, pays rent for the same by way of deduction from salary or otherwise.

56. Any natural-born or naturalised British subject, male or female, of the age of twenty-one years or upwards, shall be entitled to be placed on the list as "owner" and to be enrolled as an elector if he, on the day prescribed,—

- (a) is severally the owner of any ratable land in the municipality;
- (b) is jointly such owner as aforesaid;
- (c) is the manager, secretary, or director of a public company or body corporate, or one of a body of trustees, which is such owner as aforesaid; and
 - (i) has been nominated by the directors of such company or body corporate, or by such body of trustees as an elector in respect of such land; or
 - (ii) where no such nomination has been made, is the manager, or, where there is no manager, is the secretary of such company, or is the trustee of such body of trustees whose name first appears on the instrument creating the trust;
- (d) is the holder of a lease, promise, or contract of lease or license from the Crown of ratable Crown land situate in the municipality.

57. Any natural-born or naturalised British subject, male or female, of the age of twenty-one years or upwards, shall be entitled to be placed on the list as "ratepaying lessee" and to be enrolled as an elector if he, on the day prescribed,—

- (a) is severally the lessee of any ratable land in the municipality, and is, under a lease in writing, or other documents of title relating to such land, liable to pay to any person the whole or any part of any rates which may be made and levied under this Act in respect of such land;
- (b) is jointly such lessee as aforesaid, and is so liable as aforesaid;
- (c)

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(c) is the manager, secretary, or director of a public company, or body corporate, or one of a body of trustees which is such lessee so liable as aforesaid; and—

- (i) has been nominated by the directors of such company or body corporate, or by such body of trustees as an elector in respect of such land; or
- (ii) where no such nomination has been made is the manager, or where there is no manager, is the secretary of such company, or is the trustee of such body of trustees whose name first appears on the instrument creating the trust.

58. (1) A council of a municipality shall, once in three years, on the day and in the manner prescribed, cause a list to be made of the names of the persons who appear to have the necessary qualification of electors as occupiers or owners or ratepaying lessees.

Companies, trustees, as lessees.
Lists to be prepared triennially.
Extension, s. 53.

(2) Provided that, for the purposes of the first election of a council under this Act, the list shall be made by the council then in office.

First lists in new area to be prepared by council of old area.
Extension, s. 53.

59. Supplementary lists and rolls of the names of persons duly qualified for enrolment as electors of a municipality whose names are not included in the rolls of electors in force for the time being, or whose qualifications have been altered by a change of residence, and who make application in the prescribed manner to be enrolled, may be prepared and revised in the prescribed manner and at the prescribed time or times in each year intervening between the triennial preparations and revisions of the lists and rolls.

Supplementary lists
Extension, s. 53.

60. (1) The names on the list for the municipality shall be entered on lists for the respective wards, if any, of the municipality, each person's name being entered on the list of each ward in which such person holds the qualification of occupier or ratepaying lessee or has ratable land, as the case may be.

Owner or ratepaying lessee to be placed on list for each ward in which he is owner.
Shires, s. 22.
Extension, s. 53.

(2) Provided that a person qualified as aforesaid as owner or ratepaying lessee in any ward shall not be entitled to be enrolled as an occupier in the same or any other ward in the same municipality; and that a person qualified as occupier in two or more wards shall be entitled to be enrolled only in such one ward as he has notified by writing under his hand delivered to the prescribed person within the prescribed time, or, failing such notification, in such one ward as the clerk may notify in the prescribed manner.

Owner or ratepaying lessee in one ward cannot be listed as occupier in another ward.
Occupier in two or more wards to be listed in only one.

(3) Any person claiming enrolment may be required to make a declaration in the prescribed form.

Declaration.

61. (1) The lists of electors prepared as aforesaid shall, when revised and signed by the revision court, be the rolls of electors for the respective wards.

Rolls for wards.
Extension, s. 53.

(2) The rolls for the wards shall together constitute the roll of electors for the municipality.

Rolls for municipality.
(3)

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Roll where
municipality not
divided into wards.

Roll in force.

Shires, s. 23.

Extension, s. 53.

Extension, s. 51.

(3) If a municipality is not divided into wards, the list of electors for the municipality, when revised and signed by the revision court, shall be the roll of electors for the municipality.

(4) Any such roll shall be in force until a new roll is made.

62. Any person whose name is on a roll of electors under the qualification of occupier, and who, at the date of an election, retains the qualification under which he was enrolled, and any person whose name is on the roll of electors under the qualification of owner or ratepaying lessee, for a municipality or ward, shall be an elector of such municipality or ward, and shall be entitled at any election of aldermen within the ward for which he is enrolled to as many votes as there are candidates to be elected, but shall not give more than one vote to any one candidate. He shall vote for the full number of aldermen to be elected.

DIVISION 3.—*Shires and municipalities.*

Married woman
may vote.
Extension, s. 53.
Husband and wife.

The making of the
roll of ratepayers.
Extension, s. 54.

Roll of ratepayers.

Minister may require
list of electors and
ratepayers to be
furnished for
reconstituted area.
Extension, s 18 (1).

63. A woman shall not be disqualified by marriage for being on any roll of electors, or for being an elector, or for voting at an election : Provided that a husband and wife shall not both be qualified to be enrolled as electors in respect of the same land.

64. (1) A council shall within the prescribed time after the making of the roll of electors, prepare a roll of ratepayers by transcribing from the roll of electors the names of the persons thereon who are owners or ratepaying lessees, or lessees of Crown lands, or tenants of lands vested in the Chief Commissioner for Railways and Tramways.

(2) Such roll, when signed by the mayor or president and countersigned by the clerk, shall be the roll of ratepayers for the area, and shall remain in force until a new roll of ratepayers is made.

(3) The persons on such roll shall be entitled to vote at a poll of ratepayers.

65. Where areas are reconstituted under this Act, the Minister may, for the purpose of making lists of electors and ratepayers of the new area, require lists of electors and ratepayers of the old area to be furnished, and may from such lists cause the requisite lists to be prepared for the new area. Such lists, when revised in accordance with this Act, shall be the rolls for the new area, and shall be in force until the new rolls are made.

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PART VIII.

REVISION COURTS.

Shires and Municipalities.

66. (1) In each area the Governor shall appoint a revision court annually to revise the lists of electors prepared as aforesaid. Annual appointment. Shires, s. 24.

(2) A revision court shall consist of either a stipendiary or police magistrate, or three justices. Extension, s. 53. Constitution.

(3) The proceedings of a revision court shall be conducted in the prescribed manner and at the prescribed place and time. Proceedings.

67. The provisions of section one hundred and thirty-six of the Parliamentary Electorates and Elections Act, 1902, relating to a committee of elections and qualifications and the members thereof, and to proceedings before the same in relation to any matter before such committee, shall apply to the revision court and the members thereof, and to the proceedings before such court in relation to the revision of a list of electors under this Act. Power to call witnesses—Proceedings. Extension, s. 53.

68. The Governor may, at the request of a council, appoint a revision court, which may at the prescribed time of the year one thousand nine hundred and seven, and in the prescribed manner, revise the first rolls of electors relating to the area of the said council. Revision, 1907. Extension, s. 53.

PART IX.

CANDIDATES.

Shires and municipalities.

69. Any male person whose name is on the roll of electors for an area shall, if not disqualified, be eligible to be elected and to act as alderman or councillor of the area. Qualification. Shires, s. 25. Extension, s. 53.

70. A person is disqualified for such office if—

- (a) he has not prior to the seventh clear day before the day of nomination of candidates for such office, paid all sums due by him on such day to the council for rates or charges; Disqualifications. Extension, s. 53.
- (b) he is a judge of the Supreme Court or of any district court;

* * * * *

Paragraph (c) repealed. Act No. 35, 1915 s. 2.

- (d) his affairs are under composition with his creditors by any deed of assignment duly executed by him;
- (e) he is an uncertificated bankrupt or insolvent;
- (f) he has been convicted of felony, and has not received a free pardon or served his sentence;
- (g) he is undergoing a sentence of imprisonment;
- (h)

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- (h) he is of unsound mind;
- (i) he holds any position or place of profit under or in the gift of the council;
- (j) he is directly or indirectly by himself or any partner, engaged or interested (other than as a shareholder in an incorporated company, association, or partnership consisting of more than twenty members) in any contract, agreement, or employment with, by, or on behalf of the council, except in a contract or agreement for or in relation to—
 - (i) the publication of advertisements in a public journal;
 - (ii) the supply by the council of any water, or of gas, or of coke or other products from gas works, or of electricity;
 - (iii) the performance by the council of any work or services in connection with footways, roads, or sanitation;
 - (iv) permission granted by the council to occupy footways during the erection of buildings;
 - (v) security for damage to footways or roadways; or
 - (vi) any lease granted before his election of land belonging to or under the control of the council.

Penalty on
disqualified
person acting.
Shires, s. 25 (3).
Extension, s. 53.

71. Any person acting in such office while so disqualified shall be liable to a penalty not exceeding one hundred pounds, and if convicted of an offence mentioned in paragraphs (i) or (j) of the last preceding section, the minimum penalty shall be fifty pounds, and he shall be disqualified for such office for seven years thereafter, and shall not be competent to recover from the council any sums due to him by the council under any contract or agreement; and if he has received from the council any sums under any contract or agreement, the same may be recovered from him by the council in any court of competent jurisdiction within two years from the date of such receipt.

PART X.

OUSTER OF OFFICE.

Shires and municipalities.

Rule or order ousting
a person from office.
Shires, s. 26.
Extension, s. 55.

72. (1) Upon affidavit—
- (a) that any person declared elected to an office has been elected unduly or contrary to this Act; or
 - (b) that any person disqualified for any office has been elected to or holds or acts in such office,
- the Supreme Court, or a judge thereof, or any district court or court of petty sessions having jurisdiction in the area in which the election

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election has been held, may grant a rule or order calling upon such person to show cause why he should not be ousted of such office :
 Provided that no such rule or order for ousting any person as having been elected unduly or contrary to this Act shall be granted unless the application is made within three months from the declaration of election.

Application for rule must be made within three months of election.

(2) If upon the return of the rule or order it appears to the court that the said person was elected unduly or contrary to this Act, or was at the time of his election, or while holding or acting in such office, disqualified for such office, the court may make the rule or order absolute, or if the matter does not so appear may discharge the rule or order, and in either case with or without costs.

Order on return of rule.

(3) The person against whom any such rule or order is made absolute shall be deemed thereby to be ousted of such office.

Ouster.

(4) An appeal from any rule or order of a district court or court of petty sessions under this section on the ground that such rule or order is erroneous in law, may be made to the Supreme Court or a judge thereof.

Appeal.

(5) Any such appeal from a district court shall be made and determined in the same manner as an appeal in an action in such court.

(6) Any such appeal from a court of petty sessions shall be made and determined in the same manner as an appeal from the determination of justices in the exercise of their summary jurisdiction.

PART XI.

PRIMARY FUNCTIONS OF COUNCILS.

DIVISION 1.—*Shires.*

73. (1) The council of a shire, on its constitution under this Act, may, within its area, exercise the following powers, and shall perform the following duties :—

Primary functions of shires.
 Shires, s. 9 (1).
 Schedule One.

(i) the care, control, construction, formation, fencing, maintenance, and management of all public places except—

(a) those vested in the Railway Commissioners;

(b) those which the Governor may except from the jurisdiction of the council, or which are excepted by this Act;

(c) public places, other than roads, bridges, or ferries, of which the care or management is by law vested in any public body other than the council;

(d)

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Amended,
Act No. 28, 1908.
s. 8.

Amended, *Ibid.*

Extension, s. 22.

- (d) any road less than sixty-six feet wide laid out by any proprietor upon or through his own land ;
- (e) any road so laid out of or more than sixty-six feet wide unless and until a plan of the road has been submitted to and approved by the council and the road has been put to the satisfaction of the council in such a state as may be prescribed by ordinance in that behalf ;
- (f) national works ;
- (ii) the regulation of traffic in public places, including roads and bridges which are national works, provided that such control shall not interfere with the powers of the Minister for Public Works in carrying out necessary repairs or alterations to such national works, or in regulating the weight of loads or classes of traffic permitted to cross national bridges.
- (iii) the provision of lights at dangerous points on roads, and at points where roads cross or diverge ; and the lighting of streets in villages and towns ;
- (iv) the making of provisions—
 - (a) for the prevention or mitigation of bush fires (including the organisation of bush-fire brigades) ; and
 - (b) for the prevention or mitigation of menace to the safety of life or property from floods (including the provision of flood boats and the organisation of flood brigades) ;
- (v) the leasing, acquisition, or erection and the maintenance of offices for the transaction of the council's business ; such power may be exercised with respect to offices outside the shire where the council so decides by the vote of an absolute majority of its members, passed at one meeting and confirmed by a similar majority at a subsequent meeting held within six weeks after the first meeting ;
- (vi) the construction and maintenance of jetties and wharves ;
- (vii) the construction and maintenance of streets and footpaths in villages and towns, including kerbing and guttering and tree-planting ;
- (viii) the prevention of the pollution of natural watercourses ;
- (ix) the administration of the Public Watering Places Act, 1900, for which purpose the following provisions shall have effect when so provided by order of the Governor duly proclaimed—
 - (a) the powers and duties conferred and imposed on the Governor and the Minister by sections six, seven, eight, nine, and ten of the said Act, shall be transferred to and shall be exercised and discharged by the council ;

(b)

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(b) a person duly authorised by the council shall have the powers conferred by sections eleven and seventeen of the said Act on a person duly authorised by the Minister; Amended,
Act No. 23, 1903,
s. 8.

(c) section sixteen of the said Act shall be repealed;

(d) notwithstanding anything in the said Act, a council may let any public watering place on lease for a term not exceeding ten years; and may grant an extension of any lease for a term not exceeding five years at the same or an increased rental without calling for public tenders where the council considers such extension is justified by the nature of the improvements made by the lessee; New paragraph,
Ibid.

(x) the making and formation of any public road excepted by paragraphs (d) and (e) of subsection (i):

Provided that where a council exercises the powers of this subsection it shall thereafter be charged with the care, control, construction, formation, fencing, maintenance, and management of such road; Extension, s. 22.

(xi) the care, control, and maintenance of any stormwater channel, culvert, drain, or watercourse, or any improvements thereto constructed by the Minister for Public Works without the authority of the Governor; Extension, s. 20.
Amended, Ibid.

(xii) the provision of drinking troughs for animals in public places and water therefor. New paragraph,
Ibid.

(2) The fact that any offices leased, acquired, erected, or maintained by a shire council before the thirtieth day of September, one thousand nine hundred and eight, were situate outside the shire, or that the business of such council was transacted at any offices so situate, shall not be deemed to have affected and shall not affect the validity of such lease, acquisition, erection, or maintenance, or of anything done or to be done in pursuance thereof, or the validity of any act done or to be done by the council or its president. New subsection,
Ibid.

(3) For the purposes of this Act "public road" shall include— New subsection,
Ibid.

(a) any road proclaimed or dedicated under any Act dealing with public roads, or under the Crown Lands Acts, or classified as a main road in the Gazette of the thirty-first day of December, one thousand nine hundred and six, or approved by the council under section ninety-nine of this Act; or any road of which the council has the care, control, and management under subsection one, paragraphs i (e) and (x) of this section, or under sections seventy-four and seventy-eight of this Act;

(b)

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- (b) any road left in division or subdivision of Crown lands, or used as a road over Crown lands, and with respect to which a council signifies its intention to take control, provided the approval of the Secretary for Lands be first obtained;
- (c) any road left in division or subdivision of private lands, and of which a council, by notice in the Gazette, signifies its intention to take control, provided that the council shall, before publishing such notice, serve on the owner of the land comprising the road notice of such intention; and such owner may, as prescribed, appeal within thirty days of such service to a District Court judge having jurisdiction within the area against the carrying out of such intention. Such judge may hear and determine such appeal, and make such order as he thinks fit.

DIVISION 2.—Municipalities.

Primary functions,
Municipalities.
Extension, s. 22.

74. The council of a municipality within its area may exercise the like powers and shall perform the like duties as are conferred and imposed on the council of a shire by the next preceding section, and in addition thereto, may exercise the following powers and shall perform the following duties—

Amended,
Act No. 28, 1908,
s. 9.

- (i) the conservation, collection, removal, and disposal within or outside the area (subject to the approval of the night-soil depot by the Board of Health) of night-soil and refuse, the construction and situation of privies, the regulation of the degree of closet accommodation, and the construction and maintenance of drains and sewers in villages and towns;
- (ii) the providing of water for villages and towns not supplied with water by the Metropolitan Board of Water Supply and Sewerage without reticulation (trunk supply main and stand pipes only);
- (iii) the regulation and licensing of public vehicles, and of the drivers and conductors thereof;
- (iv) the regulation and licensing of the hawking of goods;
- (v) the care and management of parks and recreation grounds, public reserves and commons, the care of which is not by or under any statute vested in other bodies or persons.

DIVISION 3.—Shires and municipalities.

Control and
management of
public roads.
Extension, s. 25.
Shires, s. 10.

75. (1) A council shall have the control and management of all public roads in its area, and may use such roads and the soil thereof to any required depth in the exercise of any powers conferred on the council.

(2)

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(2) No person shall use any such road, or the soil of or under such road, or permit the same to be used in derogation or so as to affect the exercise of the rights or powers of the council. This provision shall bind the Crown.

75A. Where, by the operation of this Act, a public ferry which was in operation at any time during the year ended on the thirty-first day of December, one thousand nine hundred and six, passed to the care of a council, such council shall cause such ferry to be worked for the use of the public, unless the Minister grants permission to close such ferry. This provision may be enforced against the council at the suit of the Minister, or of any person interested.

Public ferries.
New section,
Act No. 23, 1903,
s. 10.

75B. A council shall, in respect of any public road or part of a public road in its area, have the right to lodge a caveat against the bringing of such road or part of a road under the provisions of the Real Property Act, 1900.

Power of councils to
lodge caveats.
New section, Ibid.

76. A council may, in and through any private or Crown land adjoining or lying near to any public road within its area, make, open, cleanse, and keep open any ditches, gutters, tunnels, drains, and watercourses; and for such purposes may enter any land.

Opening of ditches,
drains, &c., through
private property.
Shires, s. 10.

77. (1) A council or any person authorised by a council may, at all reasonable times in the day-time, enter any unenclosed private or Crown land within its area, and which is not the site or curtilage of a house or a garden, lawn, yard, court, park, plantation, planted walk, avenue, land under crop, or nursery for trees, and search for, dig, raise, gather, take, and carry away with horses, carts, or otherwise, from any part of such land which is not within fifty yards of any dwelling-house, bridge, dam, jetty, or other like structure, and is not a quarry actually worked as such on private land, any materials necessary for improving or maintaining any public place or reserve under its control, but so as not to damage any building, road, bridge, ford, dam, jetty, or other like structure, or to divert, interfere with, or interrupt the course of any river or creek.

Extension, s. 25.
Materials may be
taken from
unenclosed land for
public purposes.

(2) The council shall pay to the owner of any land the value of any materials taken therefrom, and shall pay to the owner and occupier of any land compensation for any damage they may sustain through the exercise of any of the powers conferred by this section.

Compensation for
materials taken.
Shires, s. 10.
Extension, s. 25.

78. (1) A council may within its area open new public roads, divert any road, alter or increase the width of any public road, or cause the level or surface of any public road or footpath to be raised or lowered.

New public roads—
widening, raising,
lowering roads.
Shires, s. 10.
Extension, s. 25.

(2) Any land required for the purpose of carrying out the provisions of this section shall be acquired under the Public Roads Act, 1902.

Acquisition of land.
Amended,
Act No. 23, 1908, s. 11.

(3) Any sum paid as compensation or as part compensation for such land, with interest thereon and all necessary expenses incidental to the appropriation, exchange, or resumption thereof, shall be provided by the council:

Council to provide
compensation.
Amended, Ibid.

Provided

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Provided that nothing herein shall affect the power of the Secretary for Lands to make compensation or part compensation in land in pursuance of the said Act.

(4) The Governor shall, before authorising the appropriation, exchange, or resumption, satisfy himself that the Council has made such provision.

Governor to be satisfied that provision is made.

Power to close road.

Shires, s. 10.

Extension, s. 25.

79. For such time as is necessary for making, improving, maintaining, repairing, altering, or increasing the width, or causing to be raised or lowered the level or surface of any public road within any area, the council may close such road and stop all traffic thereon.

Temporary roads.

Shires, s. 10.

Extension, s. 25.

80. (1) A council may make a temporary road through any land within its area which is not the site or curtilage of a house or a garden, lawn, yard, court, park, plantation, planted walk, avenue, or nursery for trees for use as a public highway during such time as a road is closed under the preceding section.

Fencing temporary roads.

(2) Where a council makes a temporary road as aforesaid through any fenced land, it shall erect a sufficient fence on such road, and shall keep such fences in repair during the time such road is used, and may remove such fence when no longer required.

Recovery of half cost of forming and guttering footways.

Extension, s. 25.

Shires, s. 10.

81. Where a council has kerbed, paved, or asphalted the footway or guttered the carriage-way of a public street in a village or town, it may, in any court of competent jurisdiction, recover from the owner of any land opposite to and on the same side of the street as the place where the said work has been done a sum, to be fixed by the council, not exceeding one-half the expense of the said work.

Encroachments on public roads to be removed.

Shires, s. 10.

Extension, s. 25.

**Amended,
Act No. 28, 1908,
s. 12.**

82. (1) If, before or after the setting out and marking of the footway of a public road in any area any erection or building, or any hedge or other fence, or any drain or watercourse, has, after the commencement of this Act, been constructed or made so as to encroach on such road, or obstruct the free use thereof, the council may cause notice to be served on the owner or on the person causing such encroachment or obstruction, and to be placed upon such encroachment or obstruction or on the land immediately adjoining thereto, and also to be published in the Gazette, and twice in some newspaper circulating in the area, requiring that such encroachment or obstruction be removed within sixty days after the date of such notice. The above provisions shall apply also to any encroachment or obstruction, being a hedge, fence, wall in the nature of a fence, post, steps, awning or verandah, or post supporting any awning or verandah, drain, watercourse, or any structure of bark, rubberoid, canvas, or other like material, planted, erected, or made before or after the commencement of this Act. In this section, "encroachment" includes any obstruction on the footway or carriage-way of a road.

(2) If such encroachment or obstruction is not effectually removed within the said time the council may cause it to be removed.

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83. No road or part of a road shall be closed, nor shall the position of a reserved road within an incomplete purchase from the Crown or conditional lease be altered within an area in pursuance of the Public Roads Act, 1902, unless the consent in writing of the council of the area has been first obtained.

Power to close road.

Shires, s. 10.

Extension, s. 25.

84. A council may plant trees in any public road or street in its area, and erect tree-guards or fences to protect them, and may set apart and fence portions of public roads or streets as tree reserves, provided that in such cases the portion of such road remaining available for public traffic, including footpaths, shall in no case be thereby reduced to less than forty-four feet, and that such reserves shall be so arranged as not to interfere with reasonable access to premises.

Tree planting.

Tree reserves.

Shires, s. 10.

Extension, s. 25.

85. A council may, with the approval of the Governor, lease to any person or permit any person to use or occupy any of its buildings, works, or undertakings.

Power to lease buildings, wharfs, markets, &c.

Shires, s. 10.

Extension, s. 25.

86. A council may, in lieu of directly undertaking the performance of any of its duties under this Act, enter into a contract with any person or persons for such performance.

Power to contract

for public services.

Shires, s. 10.

Extension, s. 25.

87. (1) A council may do any acts not otherwise unlawful, which may be necessary to the proper exercise and performance of its powers and duties.

Power to do any

necessary acts.

Shires, s. 10.

Extension, s. 25.

(2) A council may agree to pay for any purchase lawfully made, or for the performance of any work which it might lawfully undertake, by instalments extending over a period of years.

New subsection,

Act No. 28, 1908,

s. 13.

88. Any references in the Public Roads Act, 1902, to a municipality or to the council of a municipality shall be deemed to refer also to an area or its council.

References in Public

Roads Act.

Shires, s. 10.

Extension, s. 25.

PART XII.

SPECIFIC POWERS.

DIVISION 1.—*Shires.**Dairies supervision.*

89. At any time after the commencement of this Act, the Governor may, on the recommendation of the Board of Health, proclaim that any shire council shall be the local authority within the meaning of the Dairies Supervision Act, 1901, for the administration of the said Act within such council's area; and thereupon such council shall be and shall become invested with the powers, rights, duties, and liabilities of a local authority under the said Act.

Dairies.

Extension, s. 50.

*Local Government.**Metropolitan Traffic Act.*

Metropolitan Traffic
Act.

90. The Metropolitan Traffic Act, 1900, shall not, except as hereinafter provided, apply within a shire: Provided that, at the request of a council of a shire, the whole or part of which is within the county of Cumberland, the Governor may, by proclamation, apply the said Act to the said shire or part thereof.

*DIVISION 2.—Shires and municipalities.**Impounding Act.*

Council alone to
exercise the powers
conferred by the
Impounding Act.
Extension, s. 25.
Shires, s. 11.

91. (1) Every council shall, in and for its area, alone have and exercise the following powers which by the Impounding Act, 1898, may be or are required to be exercised in and for any district by the court of petty sessions of such district or a majority of the justices assembled in such court, that is to say, powers relating to—

- (a) the establishment of pounds;
- (b) the appointment of poundkeepers;
- (c) the determination of the amount of security to be given by each poundkeeper;
- (d) the monthly inspection of the pound-book and instructions;
- (e) the receiving of such book and instructions from each poundkeeper on his ceasing to hold office as such; and
- (f) the fixing of charges for the care and sustenance of animals impounded.

Poundkeeper.

(2) The poundkeeper shall in every case be a servant of the council.

Existing pounds
and poundkeepers.

(3) All pounds already established, and all poundkeepers in office in any area at the commencement of this Act, shall be deemed to have been established and appointed under this Act.

Animals may be
impounded at any
time on any day.
Extension, s. 25.

(4) The powers conferred by section thirteen of the Impounding Act, 1898, may be exercised by the council of a municipality at any time on any day of the week, and may be so exercised by the council of a shire in an urban area or, if the electors resident within a town or population area (as defined by the Crown Lands Acts) situate within the shire approve of such exercise at a poll which shall be taken by the council on the written request of twenty or more electors so resident, in such town or population area.

Impounding Act,
1898.
Extension s. 103.

92. For the purposes of this Act, the Impounding Act, 1898, is amended as follows, and such amendments shall have effect only within a municipality or shire:—

- (a) In subsection one of section six the word "council" is substituted for the word "Government."
- (b) In subsection three of section six the words "when demanded be produced to the council clerk" are substituted for the words "once in every month be produced to the petty sessions."
- (c)

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- (c) In subsection three of section six the words "or council" are inserted after the word "Minister."
- (d) In section seventeen the words "or president or mayor" are inserted after the words "police officer."
- (e) In subsection three of section twenty-six, all the words from and including "forthwith forward such transcript" down to and including the words "under this Act" are omitted, and the words "pay such moneys to the general fund of the council" are substituted therefor; and the words "council's office" are substituted for the words "court-house."
- (f) In section forty the words "and the council of a shire shall, in respect of any public place as defined in the Shires Act, in any village, town or urban area in such shire, and in respect of any reserve, park, or land of whatever kind vested in or under the control or management of any such council by virtue of any Act now or hereafter to be in force," are inserted after the words "in force."
- (g) In section forty-two the words "or local government ordinance or regulation" are inserted after the word by-law," where first occurring; and the words "ordinance or regulation" are inserted after the word "by-law" at the end of the section.
- (h) Section fifty-nine is repealed.

93. In section thirteen of the Impounding Act, 1898, the words "on any business day" are hereby repealed, and the words "on any day of the week" are substituted therefor.

Animals may be impounded on any day of the week.

Shires, s. 11.

Extension, s. 25.

Wharfage and Tonnage Rates Act.

94. With respect to any wharf, dock, pier, jetty, landing-stage, slip, or platform, the control and management of which is vested in a council, such council shall have the powers of the Governor under Division 3 of the Wharfage and Tonnage Rates Act, 1901; and the provisions of the said Act, and any Acts amending the same, are, mutatis mutandis, hereby incorporated with this Act so far as they relate to any such wharf, dock, pier, jetty, landing-stage, slip, or platform.

Wharfs, docks, &c. Extension, s. 102.

Police Offences Act.

95. (1) A council shall alone in and for its area have, exercise, and incur the following powers and obligations which, by the Police Offences Act, 1901, may or are required to be exercised and incurred by the police magistrate, or by other justices of the peace, or by the Surveyor-General or person deputed by him, or by any magistrate or municipal officer of any town, or other person acting under the authority of the Governor, or by the police magistrate with the assistance

Powers to be exercised alone by the council which formerly were exercised by the persons named in Police Offences Act, 1901.

Shires, s. 12.

Extension, s. 25.

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assistance of the bench of magistrates, or by the Colonial Treasurer or such other officer as the Governor may authorise respectively, that is to say, the powers conferred by the said Act for or in respect of—

- (a) the enclosure of holes or foundations near any public place and the lighting of such enclosures ;
- (b) the receiving of notices as to the blasting of rocks, and the giving of such directions thereon as may be deemed necessary for the public safety ;
- (c) the granting of leave for the opening of any drain or sewer, or the removal of any turf, clay, sand, gravel, stone, or other material from any carriage-way or footway ;
- (d) the setting out, aligning, and defining of carriage-ways and footways in streets and public places ;
- (e) the giving of notice for the removal or abatement of any building or erection in any street, part of a street, or public place within the distance from the kerbstone or extreme edge of the footway fixed and declared by the Governor ;
- (f) the receiving of notice of the intention to erect any house, shop, or other building in any street before such erection is commenced, and the furnishing of information as to any legal provisions relating to such proposed erection ;
- (g) the marking of names of streets upon any walls and the numbering of houses ;
- (h) causing footways to be levelled and removing or abating any flagging, steps, or other injury or obstruction therefrom ;
- (i) the receiving of notice from any person desirous of flagging, paving, gravelling, or putting a kerbstone to the footway in front of his house or premises, and the giving of directions as to the length, breadth, height, slope, and inclination of such footway :

(2) Provided that the said council may by ordinance delegate all or any of the said powers to any servant of such council.

(3) With respect only to the foregoing provisions, the said Act shall be read as if the word "council" stood in such Act, instead of the following words and descriptions respectively, namely, "police magistrate," "any justice," "justice of the peace," "one of the nearest resident justices of the peace," "said justice," "some justice of the peace," "the Surveyor-General or any person deputed by him," "any magistrate or municipal officer of any such town under the authority of the Governor," "any person appointed by the Governor," "police magistrate with the assistance of the bench of magistrates," and "Colonial Treasurer or other such officer as the Governor of the said Colony shall otherwise authorise and appoint."

(4) No police magistrate or justice of the peace or other officer or person as aforesaid shall be required or empowered to do any

The "council" to be read instead of certain other expressions.

Certain powers taken away from justices.

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any act or give any notice or direction or information, or receive any notice as hereinbefore mentioned, as to any of the said matters or things existing, arising, or occurring within the limits of any area.

(5) So much of all fines, fees, and sums of money recoverable by reason of the operation in any area of the said Act as would be paid into the Consolidated Revenue Fund, if this Act had not been passed, shall belong to the council, and shall be paid to the clerk.

Disposal of fines and fees.

(6) Sections seventy-two and seventy-three of the Police Offences Act, 1901, shall apply to any area, and the powers of a constable under the former of those sections may be exercised by any servant of the council duly authorised by the council in that behalf.

Application of ss. 72 and 73 of Police Offences Act.

Cattle Slaughtering and diseased animals and meat.

96. The powers which may within their areas be exercised by councils of existing municipalities under the Cattle Slaughtering and Diseased Animals and Meat Act, 1902, or section seventeen of the Public Health Act, 1902, are hereby vested in and may be exercised within their areas by the councils of municipalities and shires. The word "cattle" in the first mentioned Act is altered to include horses, mules, asses, horned cattle, camels, pigs, sheep, and goats of any age or of either sex.

Certain powers of municipalities transferred to councils of areas.

Extension, s. 44.

Definition of cattle.

Public Health Act.

97. The provisions of sections ninety-six, ninety-seven, and ninety-eight of the Public Health Act, 1902, shall apply, mutatis mutandis, to this Act, and to the ordinances and regulations, and to the councils of areas and to their servants.

Provisions of Public Health Act, 1902, shall apply.

Extension, s. 27.

Sand drifting on roads.

98. (1) When any land is in such a condition that sand blown or falling from it causes obstruction to any public road within a municipality, such land shall be a nuisance within the meaning of Part VII of the Public Health Act, 1902, and liable to be dealt with summarily in the manner provided by such Part.

Sand drifting on roads a nuisance.

Extension, s. 23.

(2) A police or stipendiary magistrate, or any two justices in petty sessions, may, on being satisfied by the Council of the municipality that after due diligence the owner or occupier of such land cannot be found and served with the notice required by such Part of the Public Health Act, 1902, by order authorise such council to do all things necessary to abate the nuisance; and the council may recover all moneys so spent as a rate from such owner or occupier.

Council may abate nuisance.

New roads.

99. (1) Every person, other than a person acting by authority of the council, who proposes in any area to open through or upon any land any road in order that the same may be used as a public road or

New roads—applications to be made to council.

Extension, s. 29.

as

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as a means of access to two or more parcels of land, shall submit to the council a plan and specification of such road, and in the case of land in a village, town, urban area, or municipality, such plan and specification shall give the prescribed particulars as to surface drainage. Every such person shall apply in writing to the council to approve of such road.

Council to approve
of plan of roads and
drainage.
Extension, s. 29.

(2) The council may thereupon approve or disapprove of such plan and specification, and may by notice to such person inform him of such approval or disapproval, and in the latter case of the reasons of such disapproval.

(3) Provided that if within forty days from such application the council does not notify such person of its disapproval of the plan and specification, the council shall be deemed to have approved of the plan and specification :

Appeal against
council's
requirements.

(4) Provided also, that if the council disapprove of such plan and specification, the person who proposes to open the road may appeal against such disapproval to a District Court judge having jurisdiction in the area ; and such judge may summon witnesses, hear evidence, and determine the matter, having regard to the circumstances of the case and to the public interest. The decision of such judge shall be final, and shall be given effect to by such person, and by the council.

Penalty for opening
road without
council's approval.

(5) Any person who opens any road in order that the same may be used for any of the above purposes without having obtained such approval shall be liable to a penalty not exceeding one hundred pounds.

Persons forming
road to form and
make road before
leasing or selling
certain land.
Extension, s. 29 (4).

100. (1) Every person who opens any such road as aforesaid shall, before he sells, leases, or otherwise disposes of any land having frontage to the road, make the road and provide drainage according to the approved plan and specification to the satisfaction of the council, in accordance with the ordinances in that behalf, or give security to the satisfaction of the council that he will so make the road and provide drainage.

Appeal as to security.

(2) If the council is not satisfied with the security offered, such person may appeal to a District Court judge having jurisdiction in the area, who may summon witnesses, hear evidence, and determine the matter, having regard to the circumstances of the case and the public interest. The decision of such judge shall be final, and shall be given effect to by such person and the council. The council may sue and recover upon such security in any court of competent jurisdiction.

In default, council
may form and
make road at
owner's cost.

(3) If any person who so opens any such road sells, leases, or otherwise disposes of any such land before the road and drainage have been made as aforesaid, or security given as aforesaid, the council may, by notice in writing, require such person to so make the road and drainage, or give security as aforesaid, within the
period

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period stated in the notice; and if such person fail to comply with such notice the council may make such road and drainage and recover the cost thereof from such person in any court of competent jurisdiction.

101. (1) If any road so opened as aforesaid has not been dedicated to the public, such road may be closed to the public and taken out of the care, control, and management of the council on notice in writing of such intention to so close the road being given to the clerk signed by all persons having an interest in the land upon or through which the road was opened.

Roads not dedicated
may be closed.
Extension, s. 30.

(2) Upon any road being so closed to the public as aforesaid, any security given in respect of the making of such road and the providing of drainage in regard thereto shall become void and of no effect.

Quarries and waterholes.

102. (1) Where any quarry or mining shaft or any waterhole dangerous to the public is in open or unenclosed land within fifty yards of a highway or place of public resort dedicated to the public, and is not separated therefrom by a secure and sufficient fence, it shall be kept reasonably fenced for the prevention of accidents, and unless so kept, shall be a nuisance within the meaning of Part VII of the Public Health Act, 1902, and liable to be dealt with summarily in the manner provided by such Part.

Quarries, shafts, and
waterholes
dangerous to public
not fenced declared
nuisance.
Extension, s. 31.

(2) A police or stipendiary magistrate, or any two justices in petty sessions may, on being satisfied by the council that the said nuisance exists, and that after due diligence the owner or occupier of such quarry, mining shaft, or waterhole cannot be found and served with the notice required by such Part of the said Act, by order authorise such council to do all things necessary to abate, by fencing as aforesaid, the nuisance; and the council may recover all moneys so spent, as a rate from such owner or occupier.

Council may abate
nuisance.

(3) For the purposes of this section, "quarry" means every pit or opening, used or disused, made for the purpose of getting stones, slates, lime, chalk, clay, gravel, or sand, or any excavation whatever, not being a natural opening; and "waterhole" means every tank, dam, or natural or artificial reservoir for water, or any excavation in which water has collected, or may collect.

Definitions—quarry,
waterhole.

Fees and charges.

103. (1) A council may fix, with the approval of the Governor, and may recover from the person to whom or on whose order any service is rendered by the council, in pursuance of its powers under this Act, fees and charges for such service. Proceedings for the recovery of such fees and charges may be taken at any time within twelve months after the making of a written demand for payment.

Council may fix and
recover fees.
Substituted section,
Act No. 28, 1908,
s. 14.

(2)

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(2) After the thirty-first day of December, one thousand nine hundred and eight, a council shall, in cases where the service is rendered, make such charges as aforesaid, recoverable as aforesaid, for the removal of nightsoil or garbage, or both nightsoil and garbage, payable by the occupier of the premises served. At the request of the council such charges shall be paid in advance, subject to the right of the person making such payment to a refund, on the determination of his occupation, of any amount overpaid by him. Such charges shall be carried to a special fund. The cost of nightsoil and garbage removal shall not be paid out of the general fund, but out of the said special fund: Provided that the Governor may, from time to time by proclamation, exempt any council from the operation of this subsection.

(3) All fees and charges owing to any existing municipality on the first day of January, one thousand nine hundred and seven, may be recovered from the person liable to pay the same under the Acts repealed by the Principal Act: Provided a written demand be made for the payment thereof, and proceedings be taken for the recovery thereof within three months from the passing of this Act.

Sale or lease of land.

Power to sell or
lease lands.
Extension, s. 33.

104. A council may, with the approval of the Governor, sell or lease any lands vested in the council but not required for the purposes of the council. The proceeds of any such sale shall be paid to such fund of the council as the Minister may direct, and, in the absence of any such direction, shall be paid to a loan fund.

Power of entry.

Council may enter
into and upon any
building or land.
Extension, s. 27.

105. A council of an area shall have power, by themselves or their servants, to enter into and upon any building or land within the area at all reasonable hours in the daytime, or at any hour during which business is in progress or is usually carried on in the premises, for the purpose of executing any work or making any inspection authorised to be executed or made by them under this Act, or the ordinances or regulations, without being liable to any legal proceedings on account thereof.

Boundary works.

Boundary roads,
bridges, and ferries
to be maintained at
joint expense of
adjoining areas.
Shires, s. 14.
Extension, s. 34.
Amended,
Act No. 28, 1908,
s. 15.

106. (1) Where one side of a public road or one bank of a river, stream, or watercourse lies in one area, and the other side of the public road or the other bank lies in another adjoining area, or where the centre or one side of a public road, river, stream, or watercourse forms a common boundary of the areas, the councils of such areas shall unite in making or repairing such public road, and in building, providing, maintaining

Act No. 56, 1906.

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maintaining and managing necessary bridges, ferries, and other works over or upon such river, stream, or watercourse, so far as the same follows the boundaries or the common boundary of the respective areas.

(2) Either of the councils may request the other to enter into an agreement with it for the above purpose, and on failure to agree, either council may refer the matter to the Governor, who may refer the matter for hearing to some person appointed by him in that behalf, and on the recommendation of such person may make an order—

Agreements by
councils.
Amended,
Act No. 28, 1908,
s. 15.

- (a) directing the performance of any such work as aforesaid;
- (b) directing how, by whom, and at whose expense the work shall be performed, maintained, and managed;
- (c) making such further orders in respect of the works as he may think necessary.

(3) Obedience to any order under this section may be enforced by action or by motion for a mandamus at the suit of any such council or of any owner of ratable property abutting upon or within the distance of a mile from the boundary road, or from the road in the line whereof the bridge, ferry, or other work is, or ought to be, constructed.

The enforcing of
orders.

(4) This section shall apply to boundary roads, rivers, streams, and watercourses, where an existing municipality adjoins the city of Sydney, and for that purpose the word "area" includes the city of Sydney.

Application of
section.
City of Sydney.

(5) This section shall apply to public roads, bridges, ferries, and other works upon the boundary between the Western Division and any area, and for that purpose the word "area" includes the Western Division and the word "council" includes the Minister.

Application to
Western Division.
Extension, s. 35.

PART XIII.

ADDITIONAL FUNCTIONS OF COUNCILS.

DIVISION I—*Shires.*

107. The council of a shire may acquire the right to exercise any or all of the following powers in the manner hereinafter provided:—

Acquisition of
functions by shires.
Shires, s. 9 (2).

- (i) The conservation, collection, removal, and disposal within or outside the area (subject to the approval of the nightsoil depot by the Board of Health) of nightsoil and refuse, the construction and situation of privies, the regulation of the degree of closet accommodation, and the construction and maintenance of drains and sewers in villages and towns.

Amended,
Act No. 28, 1903,
s. 16.

(ii)

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- (ii) The providing of water for villages and towns not supplied with water by the Metropolitan Board of Water Supply and Sewerage, without reticulation (trunk supply main and stand-pipes only).
- (iii) The regulation and licensing of public vehicles, and of the drivers and conductors thereof.
- (iv) The regulation and licensing of the hawking of goods.
- (v) The care and management of parks and recreation grounds, public reserves, and commons, the care of which is not by or under any statute vested in other bodies or persons.

Urban areas in
shires.
Extension, s. 24.

Powers.

108. (1) The Governor, on the application of a council of a shire, may, by notice in the Gazette, declare any portion of the shire to be and the same shall thereupon be constituted an urban area.

(2) The council of such shire shall thereupon have, with respect to such urban area, the powers of the council of a municipality under this Act.

(3) Provided that, with regard to the provisions of section one hundred and ten :—

Polls.

- (a) the petition may be signed by fifty, or, if there be less than three hundred ratepayers on the roll, by one-sixth of the ratepayers having qualification in respect of land in the urban area ;
- (b) the poll shall be of ratepayers having such qualification.

DIVISION 2.—Shires and municipalities.

Acquisition of
functions by areas.
Extension, s. 23 (2).

109. The council of an area may acquire the right to exercise any or all of the following powers in the manner hereinafter provided :—

- (i) The administration of the powers and duties of the Secretary for Lands conferred and imposed by the Public Gates Act, 1901.
- (ii) The administration of the powers and duties of justices in sessions conferred and imposed by the Native Dog Destruction and Poisoned Baits Act, 1901: Provided no appeal shall be allowed under section eleven of that Act to quarter sessions from a decision of a council.
- (iii) The provision, maintenance, and management of water supplies, with reticulation if required.
- (iv) The watering of streets.
- (v) The compulsory connection of buildings in municipalities, towns, and villages with the sewers of the council, and the removal and disposal of sewage.
- (vi) The construction, maintenance, and operation of passenger ferries and public punts.
- (vii) The establishment and maintenance of fire brigades and stations in towns.
- (viii)

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- (viii) The extirpation of noxious weeds, pests, vermin, and animals, Extension, s. 45.
not being animals which have been or may hereafter be declared noxious under the Pastures Protection Act, 1902, or any Act amending the same.
- (ix) The acquisition or erection and maintenance of a town hall, shire hall, or of any municipal building other than those required for office purposes.
- (x) The construction, establishment, and maintenance within its area of cattle sale-yards and abattoirs.
- (xi) The construction, maintenance, and management of public markets; the regulation of the holding of public markets; the charging and regulation of rents and fees for the use of stalls in buildings and places where markets are held, and of fees in respect of goods and animals brought for sale or sold therein.
- (xii) The draining and reclamation of swampy or low-lying land.
- (xiii) The establishment and maintenance of parks and recreation grounds.
- (xiv) The provision and maintenance of garbage destructors, and the collection and destruction of garbage.
- (xv) The provision and maintenance and management of public cemeteries.
- (xvi) The construction, maintenance, and management of public baths; the regulation of bathing and the observance of decency in connection therewith; the provision of life-saving appliances, danger notices, and life-saving attendants, and the construction, maintenance, and hiring by the council or other persons to the public of bathing-houses and bathing-machines, and the regulation thereof.
- (xvii) The provision, maintenance, and management of public urinals, closets, and lavatories.
- (xviii) The provision, maintenance, and management of disinfecting chambers.
- (xix) The provision, maintenance, and management of lethal chambers.
- (xx) The manufacture and supply of gas.
- (xxi) The manufacture and supply of electricity.
- (xxii) The manufacture and supply of hydraulic or other power.
- (xxiii) The regulation and control of theatres, dancing saloons, buildings used for public assemblies, and places of public amusement or of public resort.
- (xxiv) The establishment, maintenance, and management of night shelters.
- (xxv) The regulation and control of common lodging-houses.
- (xxvi) The establishment, maintenance, and management of places of public recreation or improvement.
- (xxvii)

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- (xxvii) The establishment, maintenance, and management of public libraries.
- (xxviii) The establishment, maintenance, and management of art galleries.
- (xxix) The establishment, maintenance, and management of museums.
- (xxx) The provision, maintenance, and management of schools of art, reading rooms, and mechanics' institutes.
- (xxxi) The establishment, maintenance, and management of public gardens.
- (xxxii) The establishment, maintenance, or subsidising of public bands or orchestras.
- (xxxiii) The regulation—
 - (a) of hoardings; and
 - (b) of the posting or painting of bills, signs, or advertisements.
- (xxxiv) The rearrangement and beautification of the area, and the acquisition of land, streets, buildings, etc., therefor, together with the sale or lease of land or buildings after such rearrangement.
- (xxxv) The regulation of buildings, balconies, verandahs, or other structures abutting on or extending over any public place, and the removal thereof.
- (xxxvi) The carrying out jointly by councils of undertakings authorised by the Act, for the mutual benefit of their areas, and the joint control, regulation, management, and maintenance thereof.
- (xxxvii) The inspection and regulation of the wholesale and retail sale and of the storage and exhibition for sale of fish, and of oysters, and crustaceæ, and of rabbits, poultry, and game.
- (xxxviii) The suppression of public nuisances caused by the emission, discharge, or escape of smoke, fumes, steam, oil, or oil vapour, either separately or any two or more in combination, from premises within or partly within the area, or by the discharge of waste waters or waste products from any factory or other building in the area.
- (xxxix) The regulation or prevention of the erection of any structure of calico or canvas, or other inflammable material.
 - (xl) The regulation and supervision of the opening up of streets or roads for the laying of pipes, construction of tunnels, or other purposes; the regulation of the laying of wires or cables under or over or through the roads or streets of the area for the transmission of electricity; and the making of a charge for damage resulting therefrom.
 - (xli) The regulation and supervision of the sale, storage, exhibition for sale, conveyance, and mode of delivery, by carcase or otherwise

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otherwise, of meat for human consumption; and of the disposal and removal of other meat, and of any blood, offal, or other refuse.

- (xlii) The regulation and supervision of the manner, route, and times of driving animals in public places.
- (xliii) The regulation of the erection of buildings as to height, design, structure, materials, building line, sanitation, the proportion of any lot which may be occupied by the building or buildings to be erected thereon; and the subdivision of land for building purposes so as to secure due ways of access to the rear as well as to the front of buildings erected, or to be erected, thereon.
- (xliv) The suppression of houses of ill-fame and disorderly houses.
- (xlv) The regulation and control of the solicitation or collection in public places of gifts of money, or of subscriptions for any purpose.
- (xlvi) The establishment, control, maintenance, and regulation of infants' milk depôts.
- (xlvii) The establishment, control, maintenance, and regulation of mortuaries.
- (xlviii) The numbering of buildings in towns having a population of two thousand or more inhabitants, with power to require the owners thereof to number them in accordance with a plan of numbering prescribed by the council.
- (xlix) The regulation and control of seamen's boarding-houses.
 - (1) The regulation and collection of fees for the agistment of animals on commons or other lands under the control of municipal councils.
 - (li) The regulation of the interment of the dead, with power, subject to the Governor's approval, to prohibit burials in any cemetery or land in any case where such course appears to the council to be necessary for the prevention of the pollution of any water supply, or for the better protection of the health of residents in the neighbourhood of such cemetery or land. New paragraph, Act No. 28, 1903, s. 17.
 - (lii) The advertising of the advantages of the area for purposes of settlement or touring. New paragraph, Ibid.
 - (liii) The supply and sale of stone or gravel from the council's quarries or pits. New paragraph, Ibid.

110. A council may, under sections one hundred and seven, one hundred and eight, and one hundred and nine, from time to time, acquire the right to exercise any or all of the powers therein specified, in the following manner:—

- (a) A resolution must be passed by an absolute majority of the council specifying the powers required, and alleging that they

Method of acquiring additional powers. Shires, s. 9 (2).

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they are necessary for the good government of the area. Such resolution must be confirmed by the vote of a majority of the members of the council present at a subsequent meeting called as prescribed; and

- (b) An application in the form prescribed must be made by the mayor or president on behalf of the council to the Governor, asking that the specified powers, or some of them, be conferred on the council. Such application shall be notified by the Governor in manner to be prescribed.
- (c) On receipt of a petition signed by not less than fifty, or if there be less than three hundred ratepayers on the roll, by one-sixth of the ratepayers, the Governor shall direct that a poll of the ratepayers of the area shall be taken as to whether all or any of the powers applied for shall be conferred on the council.
- (d) The Governor shall prescribe the questions to be submitted at the poll.
- (e) Such poll shall be taken in accordance with the regulations and ordinances.
- (f) The result of any poll so taken shall be communicated to the Governor.
- (g) If, at the poll, so taken, a majority of the ratepayers voting is against the conferring of any power applied for, the Governor shall refuse the application of the council in that particular, and the right to exercise such power shall not again be applied for by the council until after the expiration of two years from the day of such poll.
- (h) The Governor may, except as aforesaid, grant the application of the council, in whole or in part.
- (i) When the Governor confers any such power he shall make an order accordingly, which shall be proclaimed.

Extensions, s. 23.

Exclusive powers,
Shires, s. 9 (3).
Extension, s. 23.

Schedule Two.

Noxious weeds,
plants, and animals.
Extension, s. 45.

Definition of noxious
weed or plant or
animal.

111. The powers and duties specified in sections seventy-three, seventy-four, one hundred and seven, and paragraphs (i) and (ii) of section one hundred and nine, so far as they relate to public places in the area, shall, subject to this Act, be exclusively exercised by the council of the area, and the provisions of the Acts mentioned in Schedule Two shall not apply to such public places unless such places are excepted by the Governor from the jurisdiction of the council.

112. (1) A council which has, in accordance with this Act, acquired the powers of paragraph (viii) of section one hundred and nine applicable in that behalf—

- (a) may, with the approval of the Governor, declare any plant or animal to be noxious, and such plant or animal shall within its area be a noxious plant or animal for the purposes of this Act;

(b)

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- (b) shall extirpate and destroy all noxious plants or animals upon any land vested in or leased by it, or upon any public place or reserve under its care and management ; Extirpation on public places and reserves.
- (c) when any noxious plant or animal is found growing or living upon any land within an area, not being unoccupied Crown land or land subject to the provision of the last preceding paragraph, the council shall cause to be served upon the occupier, or, if there be no occupier, upon the owner thereof, a notice requiring him to extirpate and destroy the plants or animals on the land within three months from the service of the notice. Extirpation on private land.

(2) If, at the expiration of such period, the plants or animals have not been so extirpated and destroyed, or reasonable efforts have not been made to so extirpate and destroy them, the council may forthwith extirpate and destroy them, and any reasonable expense so incurred by a council may be recovered in any court of competent jurisdiction from the occupier, or if there is no occupier, from the owner of the land. Council may recover cost.

(3) For the purposes of carrying out the provisions of this section, a council may enter any land. Power to enter land.

(4) This section shall not apply to such animals as have been or may hereafter be declared noxious under the Pastures Protection Act, 1902, or any Act amending the same. Not applicable to animals declared noxious under Pastures Protection Act.

113. (1) A council which has, in accordance with this Act, acquired the powers of paragraph (x) of section one hundred and nine, applicable in that behalf, may construct, establish, maintain, and control within or outside its area cattle sale-yards and abattoirs ; and, during the maintenance by a council of any sale-yards (whether constructed in pursuance of this Act or of any Act hereby repealed), or of any abattoirs, the prescribed fees shall be payable to the council in respect of any cattle— Cattle sale-yards and abattoirs— power to construct and control. Extension, s. 46. Amended, Act No. 28, 1908, s. 18.

- (a) brought to such sale-yards or abattoirs for sale or slaughter : or
- (b) yarded in or brought to any other sale-yard or premises within the area for sale or slaughter :

Provided that this subsection shall apply to any cattle sale-yards constructed by any council outside its area before the commencement of this Act. Cattle sale-yards outside areas.

(2) Any fees payable under paragraph (b) of subsection one shall not exceed the corresponding fee under paragraph (a) of the same subsection in respect to the same description of cattle. Power to charge fees.

(3) When an abattoir has been established as aforesaid, or when any council has in conjunction with any other council jointly established an abattoir, the Governor may, for the purpose of securing the effective inspection of cattle slaughtered, or intended for slaughter, by proclamation, prohibit or regulate the sale or exposure Sale of carcasses of cattle not slaughtered in abattoir. Amended, Ibid.

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exposure for sale within the area of any such councils of any carcase or part of a carcase of any cattle to be used as the food of man which has not been slaughtered in the abattoir, or in the abattoir established under the Act fourteenth Victoria number thirty-six.

Penalty.

(4) Any person exposing for sale or selling any carcase or part of a carcase in contravention of a proclamation under this section shall be liable to a penalty not exceeding twenty-five pounds.

"Cattle."

Amended,
Act No. 28, 1908,
s. 18.

(5) For the purposes of this section, "cattle" includes horned cattle, pigs, and sheep, horses, mules, asses, camels, and goats of any age and of either sex.

Theatres and places
of public resort.

114. Where a council has, in accordance with the provisions of this Act, acquired the powers of paragraph (xxiii) of section one hundred and nine applicable in that behalf, the following provisions shall apply:—

Safety of places of
assembly, etc.
Extension, s. 47.

(a) The council shall have such power and control over all places of public resort, and places within the area where people assemble together or pass, whether in buildings or otherwise, as may be necessary to ensure the safety of those so assembling or passing.

Buildings.

(b) Every building in the area used as a place of public resort shall, to the satisfaction of the council, or any person appointed by the Council in that behalf, be substantially constructed and supplied with ample, safe, and convenient means of ingress and egress for the use of the public and for escape in case of fire; and it shall be the duty of the council to take measures to keep the means of egress or ingress, during the whole time that such building is used as a place of public resort, free and unobstructed. The council may close such building, if necessary, to ensure the objects of this section.

Buildings of public
entertainment.

(c) It shall not be lawful to use any building or enclosure within the area for public meetings, or as assembly rooms, or as a theatre or music hall or dancing hall, or for any public performances or public amusements whatever, whether a charge is made for admission thereto or not, except upon the conditions set out in ordinances made in that behalf.

Licenses.

(d) The council may license, or refuse to license, as it thinks fit, and upon such conditions as may be prescribed by ordinances in that behalf, any building proposed to be used as a place of public resort for any purposes of amusement whatever, and may charge such fees for the license thereof as may be prescribed by ordinance, and if so provided in the ordinances no building shall be used for any of the purposes mentioned in this section unless such building is licensed by the council.

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115. A council which has, in accordance with the provisions of this Act, acquired the powers of paragraph (xxxiii) of section one hundred and nine applicable in that behalf, may do all or any of the following things—

- (a) Regulate and control all hoardings in the area and prevent the erection or use of such hoardings as may affect injuriously the amenities of a public park or pleasure promenade, or disfigure the natural beauty of a landscape or harbour foreshore. Substituted paragraph, Act No. 28, 1908, s. 19.
- * * * * *
- (c) regulate and control all bills, placards, and advertisements attached or fixed to, or painted on any such hoardings, or on any building or on any fence, rock, cliff, or tree, and obliterate, abolish, or remove the same if, in the opinion of the council, unsightly or objectionable; Paragraph (b) omitted. Ibid. Regulation and control. Amended, Ibid.
- (d) license persons engaged in posting, fixing, or painting bills, placards, or advertisements; and fix and recover the fees to be paid by such persons: Licenses and license fees.

Provided that—

- (1) The charge for or for renewal of any license for a hoarding shall not exceed a sum calculated at the rate of one penny per annum per square yard of advertising space on such hoarding; and where such license is issued or renewed after the first day of January in any year, the charge shall be calculated for the remainder of the year at the above rate, any fraction of a week being counted as a full week, the minimum charge to be ten shillings. New proviso, Ibid.
- (2) All hoardings in use for advertising purposes on thirty-first October, one thousand nine hundred and eight, shall be exempt from the provisions of this section for a period of five years from the thirty-first December, one thousand nine hundred and seven, if the charges before mentioned are regularly paid and the hoardings are not allowed to fall in a state of disrepair.
- (3) The maximum fee which may be charged for bill-posters' licenses shall be one shilling.

115A. Where any council has, under this Act, the power to regulate and license public vehicles, and the drivers and conductors thereof, the Stage Carriages Act, 1899, shall not apply within the area of such council: Provided that sections thirteen and fourteen of the said Act shall apply within the area, and in so applying such sections the words "the Local Government Act, 1906, and any ordinances thereunder, so far as they relate to public vehicles," shall be read for the words "this Act"; and the words "the ordinances under the said Act" shall be read for the words "the last preceding section." Public vehicles. New section, Act No. 28, 1908, s. 20.

PART XIV.

POWER OF GOVERNOR AND MINISTER TO IMPOSE DUTY TO EXERCISE
FUNCTIONS.*Shires and municipalities.*

Governor may
impose powers and
duties.

Extension, s. 23 (4).

116. Notwithstanding anything in this Act, the Governor may, by proclamation, confer and impose on a council any power or duty relating to public health or the prevention of the spread of disease which is included among those which may be acquired by a council; and thereupon such council shall, to the best of their ability, exercise such power or perform such duty, and in default thereof such council guilty of such default shall be liable to the penalty prescribed by regulations.

Governor may hand
public places, public
reserves, cemeteries,
and commons over
to councils.

Extension, s. 26.

Dissolution of
trusts.

117. Notwithstanding anything in this Act, the Governor may by proclamation charge a council with the care, construction, and management of any public place, or public reserve, cemetery, or any common in its area; and thereupon any trust relating to the care, construction or management thereof shall be dissolved, and all powers and duties of such trust and of the members thereof shall, without prejudice to anything done or commenced or contracted to be done, cease and determine, and all assets and liabilities of such trust, subject to any provisions which the Governor may require to be made with respect to existing debts, securities, and assets of such trust, shall be the assets and liabilities of the council.

Powers and duties
which Governor may
confer and impose
on councils.

Extension, s. 49.

118. The Governor may, from time to time, by proclamation, confer and impose upon the council of any area all, or any, of the following powers and duties, notwithstanding that they may not have been conferred or imposed on the council originally or subsequently to incorporation by or under the foregoing provisions of this Act, or that the result of a poll of the ratepayers of the area has been adverse to the acquiring of such powers or the imposition of such duties—

- (i) the maintenance and control of camping reserves, and permanent and temporary commons;
- (ii) the control and management of such reserves, parks, works, buildings, erections, machines, implements, wells, reservoirs, wharfs, jetties, or other things, which have been purchased, resumed, appropriated, commenced, constructed, erected, or provided for out of moneys appropriated by Parliament, and which are not expressly placed by statute under any other management or control.

Maintenance of
roads.

Extension, s. 38.

119. (1) The Minister may cause inspection to be made of any road classified as a main road prior to the commencement of this Act, which classification the Minister is hereby empowered to make.

(2)

Local Government.

(2) If as the result of such inspection it appears to the Minister that any part of such road is not being properly maintained, the Minister, by document under his hand, may require the council of the area in which such part of such road is situate to repair and maintain it to his satisfaction or to the satisfaction of an officer appointed by him, and may specify an amount which such council shall annually expend upon such repair and maintenance; and such council shall comply with the said requirements.

(3) If a council fail to comply with any such requirement made to it as aforesaid, the Minister may withhold payment of any endowment to which such council would otherwise be entitled under this Act, or any portion thereof, until the council has complied with such requirement, and may, in default of such compliance, expend the amount so withheld upon such repair and maintenance.

PART XV.

SERVANTS OF COUNCILS.

DIVISION 1.—*Shires.*

120. (1) There shall be an engineer for a shire, or, by arrangement between the councils, for two or more adjoining shires.

Appointment of
assistant engineer
to be shire engineer.
Shires, s. 48.

(2) The first shire engineer shall be appointed by the council or councils within the time prescribed by the regulations, and in the following manner:—

- (a) The council or councils shall fix the salary for such shire engineer.
- (b) The council or councils shall, within the time prescribed by the regulations, offer the appointment to some person who was, at the commencement of the Shires Act, a district assistant engineer employed in the area of the shire or shires of such council or councils or such of his assistants as may be certified by the Minister to be suitable; or with the consent of the Minister, may offer the appointment to any other district assistant engineer, or any of his assistants.
- (c) If the offer be accepted, any rights which the district assistant engineer or his assistant may have to any pension, gratuity, or refund payable out of the Consolidated Revenue Fund on the abolition of his office in the public service shall be adjusted, but the payments in respect thereof shall not be made until he bona fide retires from the service of the shire or shires.

(d)

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- (d) If the offer be made and be not accepted, the council or councils may proceed to make the appointment in accordance with the regulations in that behalf.
- (e) If the offer be not made within the time prescribed as aforesaid the Governor may appoint a shire engineer.

DIVISION 2.—*Municipalities.*

Present servants may
continue in office.
Extension, s. 40.

121. The clerks and other servants in office in the existing municipalities at the commencement of this Act may continue in and hold office as though they had been appointed by councils elected under this Act.

DIVISION 3.—*Shires and municipalities.*

Appointment of
servants.
Extension, s. 39.

122. (1) A council may appoint servants, including an engineer and a council clerk and a deputy clerk, who, during the absence of the clerk from his duties, shall have the powers and duties of the clerk.

(2) The Governor may appoint a council clerk to a municipality or shire, and may appoint an engineer to a municipality, or, after the first appointment, an engineer to a shire, where the office has been vacant for three months.

Sanitary inspector.
Extension, s. 39 (3-4)

123. (1) The Governor may by notification, on information from the Board of Health that the sanitary duties are not being efficiently carried out, require a council to appoint a sanitary inspector, and may, if the council do not appoint such inspector within three months of the date of the notification, himself appoint such inspector.

(2) In any case where the Governor exercises the powers of the last preceding subsection, the salary of the sanitary inspector shall be paid from the general or some special fund of the area.

Servants failing to
account for, or to
deliver up moneys,
&c.
Extension, s. 41.

124. (1) If any servant of a council when required by the mayor or the president or the council fail—

- (a) to render accounts of moneys come into his hands or under his control, and of his dealings therewith, or to pay to the mayor or the president or the council the balance of any such moneys; or
- (b) to deliver up within two days to the mayor or the president or the council all papers, property, and things in his possession or power, relating to the execution of this Act or belonging to the council,

any two justices in petty sessions may, on the complaint of the mayor or the president, order such servant to render such accounts, pay such balance, or deliver up such papers, property, and things, and that on non-compliance with such order such servant be imprisoned for a period not

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not exceeding six months. It shall be the duty of the mayor or the president to institute proceedings whenever he has reason to believe that an offence against this section has been committed.

(2) No proceeding under this section shall affect the liability of any surety of the offender, or relieve the offender from being held to answer any criminal information, charge, or proceeding. Saving.

(3) Upon proof on oath to any justice that there is probable cause for believing that any such servant so charged is about to abscond, such justice may, without summons, issue his warrant under which such servant may be apprehended and brought before him. Upon prima facie proof on oath of the matter complained of, such justice may commit such servant to prison, or some lockup or place of security or safe custody, and order him to be brought up at a time and place to be appointed by such justice, or may discharge him on his entering into a recognisance. Person charged held to bail.

125. Every servant employed by a council who exacts or accepts on account of anything done by virtue of his office, or in relation to any matters to be done under this Act, any fee, commission, payment, present or reward other than the salary or allowance allowed by the council, shall be liable to a penalty of not less than ten pounds nor more than one hundred pounds. The council or any ratepayer may sue for such penalty by action of debt in any court of competent jurisdiction, and shall on recovery thereof be entitled to costs of suit. Penalty for acceptance of fee, reward, or gratuity. Extension, s. 42.

126. Where a council has reasonable grounds to believe that any of its servants has stolen or embezzled any of its moneys or property, the council shall, with due diligence, prosecute the offender. Prosecution of servants for embezzlement. Extension, s. 43.

PART XVI.**NATIONAL WORKS.****DIVISION 1.—Shires.**

127. (1) Where, by reason of a large area of Crown lands in a shire being thrown open to sale or lease, it is necessary to make new subdivision roads or roads of access to such land, and the council shows that the cost of making such roads would be largely beyond its financial ability, the Governor may declare the making of such roads to be a national work, or may pay to the council such proportion of the cost of the work as may be agreed upon between the Minister and the council. Shires, s. 17.

(2)

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(2) Any such work so declared to be national shall be constructed subject to the provisions of the Public Works Act, 1900, and shall be maintained, managed, and administered by the Minister for Public Works, but may at any later time be handed over, either temporarily or permanently, to the council of the shire, and shall thereafter be managed, controlled, maintained, and administered by such council.

DIVISION 2.—Shires and municipalities.

National works,
Shires, s. 17.
Extension, s. 37.

128. The Governor may by proclamation declare any park, road, bridge, or public work of whatever character in an area to be a national work, and thereupon such work, if a new work, shall be constructed subject to the provisions of the Public Works Act, 1900; and such work, whether it be a new work or already in existence, shall be maintained, managed, and administered by the Minister for Public Works, but may at any later time be handed over, either temporarily or permanently, to the council of the area, and shall thereafter be managed, controlled, maintained, and administered by such council.

PART XVII.**ACQUISITION OF LAND AND WORKS.***Shires and municipalities.*

Council may acquire
lands and buildings
for lawful purposes.
Shires, s. 15.
Extension s. 36.

129. (1) A council, with the approval of the Governor, may purchase, acquire under this Act by resumption or appropriation, or rent land, and rent, construct, or otherwise acquire or provide buildings, within its area, or may purchase or rent buildings or land outside its area to be used for any purpose which may lawfully be undertaken by the council.

Council may use
land and buildings
for those purposes.

(2) The council may use, or cause or permit to be used, any land or buildings acquired for or on behalf of the area for any of the above purposes, and may in connection with such use provide all necessary works, appliances, machinery, and things, and control and manage the same.

Resumption by
Government on
petition of council.
Shires, s. 16.
Extension, s. 36.

130. (1) Any council desirous of acquiring land by compulsorily taking the same may, on passing a resolution by an absolute majority of its members, petition the Governor to authorise the appropriation or resumption of such land. The Governor may thereupon, if he think proper, authorise such appropriation or resumption.

Land vested in
council.

(2) In such case the Minister shall appropriate or resume the said land by Gazette notification under Division 1 of Part V of the Public Works Act, 1900; and thereupon shall notify that the
land

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land is, and thereupon it shall be, vested in the council as the body corporate of the area. Such appropriation or resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of the said Act.

(3) Any sum paid by the Government as compensation Compensation. for such land, together with interest and all necessary expenses incidental to the appropriation or resumption, shall be repaid by the council. The Governor shall, before authorising the appropriation or resumption, satisfy himself that the council has made provision to his satisfaction for such repayment.

(4) In all cases of resumption under this Act, the Basis of compensation. compensation given shall be in accordance with the provisions of the Public Works Act, 1900.

(5) In lieu of the interest specified in subsection two of Rate of interest. section one hundred and nineteen of the Public Works Act, 1900, the rate of interest payable by the Government or the council on sums due as compensation under this section shall be four per centum per annum.

PART XVIII.

RATABLE LAND.

Shires and municipalities.

131. (1) All land, whether the property of His Majesty or not, Definition of ratable land. shall be ratable, except the following descriptions of land and the Shires, s. 28. land occupied by and used in connection with the buildings hereinafter Extension, s. 57. mentioned:—

- (a) Commons, public parks, and public reserves not held under Extension, s. 57. lease or license;
- (b) cemeteries, public hospitals, benevolent institutions, and buildings used exclusively for public charitable purposes;
- (c) churches and other buildings used exclusively for public worship, and free public libraries;
- (d) lands the property of the Crown which are not occupied or Substituted paragraph, Act No. 28, 1908, s. 21. on which any public works are in course of construction Ibid. by or for the Crown;
- (e) lands vested in the University of Sydney, or in the colleges Extension, s. 57. thereof, and occupied and used by such University or colleges, or any of them, solely for the purposes of education;
- (f) lands held under lease or agreement for lease from the Crown New paragraph, Ibid. for purposes of oyster culture.

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Certain lands vested
in Railway
Commissioner.

(2) All land vested in the Chief Commissioner for Railways and Tramways which is used or occupied for any purpose, and is not actually used for the purposes of the Government railways or tramways, or for purposes connected therewith, shall also be ratable.

Liability of certain
Crown land to rates.
Amended,
Act No. 23, 1903.
s. 21.

(3) Provided that, notwithstanding anything to the contrary in this Act, ratable land, which is the property of the Crown, and is not held under lease, license, or tenancy, shall be liable to the amount per pound of any rate struck; but where such rate is struck on the improved capital value, the Crown shall only be liable for the said rate per pound on the unimproved capital value of its land. This subsection shall not apply to rates made after the first day of January, one thousand nine hundred and nine, under the Country Towns Water and Sewerage Acts, 1880-1905.

PART XIX.

VALUES AND VALUATIONS.

Shires and municipalities.

Unimproved value of
land.
Shires, s. 29.
Extension, s. 58.

132. (1) The unimproved capital value of land (other than land held as described in subsections two and three of this section), is the amount of the capital sum for which the fee-simple estate in such land would sell, under such reasonable conditions of sale as a bona fide seller would require, assuming the actual improvements (if any) had not been made; and also allowing a reasonable deduction for profitable expenditure by the owner or occupier on visible and effective improvements which, although not upon the land, have been constructed for its drainage, for its prevention from inundation, or otherwise for its more beneficial use.

Coal or shale mines.
Shires, s. 29.
Extension, s. 58.

(2) (a) The unimproved capital value of a mine of coal or shale is a sum equal to three shillings per ton on the average annual output of large coal or shale, and one shilling and sixpence per ton of small coal won from the mine during the three years next preceding that during which the valuation is made; or, at the option of the council, such unimproved capital value shall be assessed under subsection one of this section.

Metalliferous mine.
Shires, s. 29.
Extension, s. 58.

(b) The unimproved capital value of a mine situate on Crown land and held from the Crown under a gold-mining, gold-dredging, or other mineral or mining lease or license or mineral holding (except for coal or shale mining purposes) is a sum equal to twenty per centum of the average annual saleable value to the mine-owner of the ore or mineral won from the mine, or of the product derived

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derived from such ore or mineral during the three years next preceding that during which the valuation is made; such value to be determined as such ore, mineral, or product leaves the area within which such mine is situate; or, where the land is not being principally worked as a mine, the capital value of the property with the improvements (if any) thereon, less the value at the time of the valuation of all buildings, fencing, machinery, and dredging or other plant erected thereon, and less also the sum expended during the three years next preceding the said time by any lessee or licensee solely in opening up such mine.

(c) Where a mine is situate on land other than Crown land as defined in the Crown Lands Act of 1884, the unimproved capital value of such land shall be assessed under subsection one, or, at the option of the council, the unimproved capital value of the mine shall be assessed on the basis of the annual output under paragraph (a) or paragraph (b) of subsection two of this section according as the mine is worked for the purposes of mining for coal or shale, or for any other mineral.

Mine on private land.

Shires, s. 29.

Extension, s. 58.

(d) Where any part of a mine is under the sea, or under the tidal waters of any estuary or harbour, such part shall be assessed with, and as part of, the mine of which it forms part, notwithstanding that the overlying land and water are not within the boundaries of any area.

Mines under the sea.

Extension, s. 58.

(e) Where a mine is situated partly in one area and partly in another or others, the valuers of such areas shall confer and shall jointly assess the unimproved capital value of such mine, and shall in like manner agree upon the apportionment of such assessment between the areas in which such mine is situated: Where councils have not caused valuations to be made in accordance with this subsection for the years one thousand nine hundred and seven and one thousand nine hundred and eight in the case of shires and one thousand nine hundred and eight in the case of municipalities, such councils may cause such valuations to be made at any time, and such valuations shall for the purposes of any rates made or to be made be deemed to have come into force on the first day of January, one thousand nine hundred and seven, in the case of shires and on the first day of January, one thousand nine hundred and eight, in the case of municipalities.

Mines in two or more areas—joint valuation.

Extension, s. 58.

Amended, Act No. 28, 1903, s. 22.

(f) If such valuers cannot agree upon such apportionment or assessment, the question shall, upon the application of either of the valuers, be referred to the nearest court of petty sessions. The decision of such court as to apportionment shall be final; but any person aggrieved by the assessment may appeal therefrom to the nearest district court, but may not appeal to any other court, except under section one hundred and forty of this Act.

Appeal against joint assessment or apportionment.

Extension, s. 58.

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Valuation of Crown
land held under
lease or license.

Shires, s. 29.

Extension, s. 58.

Amended,
Act No. 28, 1908,
s. 22.

Improved capital
value of land.

Extension, s. 60.

Assessed annual
value.

Extension, s. 61.

Valuation of
preceding year may
be adopted.

Substituted sub-
section, Act No. 28,
1908, s. 23.

Substituted, *Ibid.*

Substituted, *Ibid.*

(3) The unimproved capital value of Crown land held for pastoral or agricultural purposes under any other description of lease from the Crown, or under any other terms of occupation at a rent, or under license from the Crown under the laws relating to the occupation and use of Crown lands, including homestead selections, is a sum equal to twenty times the amount of the rent payable to the Crown under the lease or license during the year next preceding that during which the valuation is made or, if such lease or license was not in force during such preceding year, twenty times the rent payable to the Crown thereunder for the year in which the valuation is made.

133. The improved capital value of land is the amount of the capital sum for which the fee-simple estate of the land, with all improvements and buildings thereon, would sell under such reasonable conditions of sale as a bona-fide seller would require.

134. The assessed annual value of ratable land shall be nine-tenths of the fair average rental of such land with the improvements (if any) thereon: Provided that such assessed annual value shall not be less than five per centum of the unimproved capital value of the land, whether improved or unimproved.

135. (1) A council shall at least once in every three years cause valuation to be made of all ratable land in its area: Provided that the council may, without causing a fresh valuation to be made, adopt as the valuations for any period the whole or any part of the valuations in force at the close of the next preceding period when such valuations are considered by the council to be still just and equitable.

In a municipality such valuation shall be of the unimproved capital value, the improved capital value, and the assessed annual value.

In a shire the valuation of the unimproved capital value shall be compulsory, and of the improved capital value, and the assessed annual value, optional:

Provided that a council may adopt the valuations under the Land and Income Tax Assessment Act of 1895 as the first valuation of unimproved capital value under this Act.

(2) A council may, whenever it thinks necessary, cause valuations to be made of any or of all ratable land in its area.

(3) Where a valuation is made of land which was not ratable before the commencement of the then current year, the rate thereon shall be proportionate to the portion of such year during which such land was ratable.

Where a valuation is made of land which had not been rated, but which was ratable at the commencement of the then current year, the rate thereon shall be for the whole of such year, except where otherwise provided in this Act.

In any other case the valuation shall come into force on the first day of January next following the making of the valuation, except where otherwise provided in this Act.

(4)

Local Government.

(4) Where any court holds that a valuation is invalid for any reason except that the land valued is not ratable, the council may cause fresh valuation to be made, which shall take the place of the valuation so held to be invalid, and shall, for the purposes of any rates made or to be made, be deemed to have come into force at the time when the last-mentioned valuation came into force.

Substituted,
Act No. 28, 1908,
s. 23.

(4A) All valuations made in a municipality during the year one thousand nine hundred and eight shall be and be deemed to have been as valid as if they were made within the first year after the constitution of the council of the municipality. This provision shall apply to every municipality without exception, notwithstanding the decision of any court. Every valuation of land made after the first day of January, one thousand nine hundred and seven, in a shire, or one thousand nine hundred and eight in a municipality, with amendments (if any) on appeal, shall remain in force until a fresh valuation of such land comes into force; but the valuation in force shall be subject to appeal each year as prescribed.

New subsection,
Ibid.

(5) Notice of valuation shall be given as prescribed, to the owner, or, in the case of Crown land held under lease or license, to the holder of such lease or license, or, in the case of land vested in the Chief Commissioner for Railways and Tramways which is occupied by a tenant under lease, oral or written, to such tenant, and, in the case of other Crown land, to the Treasurer, and to any person entitled to appeal under this Part: Provided that, in the case of a lessee or occupier entitled to appeal under subsection three of section one hundred and thirty-eight the liability for and the right to recover rates, as provided by this Act, shall not be affected by reason only of the fact that notice of such rates has not been given to such lessee or occupier unless the name of such lessee or occupier is on the list of ratepayers in respect of the property for the rates of which he is so liable.

Notice of valuation.
Shires, s. 30.
Extension, s. 59.

(6) When the name of the owner of any ratable land is not known to the council, it shall be sufficient to designate such person as "the owner."

Owner's name
unknown.

(7) Any valuation or entry of valuation made under this Act may be altered at any time in any case where it is found that an error has been made as to the area, ownership, or occupation of land, or any mistake of calculation of values has been made, or where there is a change of ownership or occupation. Where any land has been subdivided, and a portion sold or let, the valuation of such land may be altered, and such valuation and any unpaid rates due on such land may be apportioned by the council. Such alteration or alteration and apportionment shall be initialled by the president or mayor and clerk after resolution of the council making such alteration or apportionment: Provided that in every such case of alteration or apportionment notice thereof shall be served, and an appeal therefrom shall lie,

New subsection,
Ibid.

Local Government.

as provided in section one hundred and thirty-eight with respect to valuations, and such alteration or apportionment shall take effect from the date fixed by the resolution of the council.

Other minor errors in the valuation book not affecting the amount at which land is valued may be altered as prescribed by ordinance.

Separate valuations
of parcels of land.
Extension, s. 59.
Amended,
Act No. 23, 1903,
s. 24 (1).

136. The valuations to be made and adopted under this Act shall be separate valuations made in respect of each parcel of ratable land as separately held by any occupier, tenant, lessee, or owner. Where any portion of a mine as defined in this Act is separately let or sublet to and occupied by any person for residential, business, grazing, or agricultural purposes, such portion shall be valued and rated separately.

Appointment of
valuers.
Amended, *Ibid.*,
s. 24 (2).

137. (1) Such valuation shall be made by one or more competent valuers appointed by the council as prescribed; and, where a mine is situated in two or more areas, the council of any one of such areas may at any time require the councils of the other areas to appoint valuers for the purpose of making a joint valuation of the mine.

Declarations by
valuers.
Shires, s. 31.
Extension, s. 59.

(2) Every valuer shall, before acting, make a statutory declaration before a justice that he will make such valuation impartially and truly, and shall transmit such declaration to the president or mayor, under seal.

Powers of valuers.

(3) For the purpose of making such valuation, every valuer—

Power to enter.

(a) may enter at all reasonable hours in the daytime any ratable land within the area;

Power to ask
questions.

(b) may put questions to any owner or person in occupation or charge of such land upon any matters required to be stated in the valuation. And if, after being informed by such valuer of his purpose in putting such questions, any such owner or person refuses or wilfully omits to answer the same, to the best of his knowledge and belief, or wilfully makes any false answer or statement in reply to any such question, he shall be liable to a penalty not exceeding ten pounds.

Appeal from
valuations.
Shires, s. 32.
Extension, s. 59.
Amended, *Ibid.*,
s. 25 (1).

138. (1) If any person is aggrieved by any such valuation he may appeal therefrom within the time and in the manner prescribed by the ordinances, as follows:—

(a) Where the valuation of the unimproved capital value of the land does not exceed ten thousand pounds, to the nearest court of petty sessions;

(b) where such valuation does exceed the sum of ten thousand pounds, to the nearest district court;

In such appeal the question may be raised whether the land is ratable.

Amended, *Ibid.* 17

(2) Such court may amend or strike out the valuation appealed from.

(3)

Local Government.

(3) Every lessee or occupier of ratable land, for the rates of which he has become liable under any agreement, shall be considered to have the same right of appeal as a person aggrieved by a valuation within the meaning of subsection one of this section. Lessee or occupier may appeal. Extension, s. 60.

(4) The Governor may make regulations for the hearing of such appeals; any appellant may appear at an appeal court by his counsel, solicitor, or agent, provided such agent is authorised by the appellant in writing. Amended, Act No. 28, 1908, s. 25 (1).

(5) Subject to section one hundred and forty, the decision of any such appeal court shall be final and conclusive. Amended, Ibid.

139. Appeals to courts of petty sessions under this Part shall be heard at such places as the Governor may proclaim. Place of hearing appeals to petty sessions. Extension, s. 59.

140. (1) Any person dissatisfied with the decision of an appeal court as being erroneous in point of law with relation to the principle on which the valuation was or ought to have been made, or in relation to the question whether the land is ratable, may, within sixteen days after such decision, apply in writing to such court to state and sign a case setting forth the facts and the grounds of its decision so far as they relate to matters of principle affecting the valuation of the land or to the question whether the land is ratable. Appeals to Supreme Court. Shires, s. 32. Extension, s. 59. Amended, Act No. 28, 1908, s. 25 (2).

(2) The Supreme Court shall hear and determine the said matters of principle, or the said question, or may cause the case to be sent back for amendment, and thereupon it shall be amended accordingly, and the determination of the Supreme Court shall be given after such amendment. Amended, Ibid.

(3) The Supreme Court may make such order as to the costs of the parties in or in relation to the said appeal as it may deem just.

(4) Any such determination or order of the Supreme Court shall be carried out by the appeal court aforesaid, and shall be final and conclusive.

(5) The Supreme Court may make rules and orders regulating its practice in proceedings under this section.

(6) Notwithstanding anything in section one hundred and forty-six, in any action for the recovery of rates made before the first day of January, one thousand nine hundred and nine, the defence that the land was not ratable may be raised. New subsection, Ibid.

Local Government.

PART XX.

RATES.

Shires and municipalities.

General and other
rates.
Extension, s. 62.

141. (1) Rates levied by a council may be of four kinds,
namely—

General rates.
Special rates.
Local rates.
Loan rates :

Loan rates in shires.

Provided that loan rates shall not be levied by the council of a shire, except where expressly provided in this Act.

Form of rate-book.
Council to prepare
estimates.
Extension, s. 63.

(2) The form of the rate-book shall be as prescribed.

142. (1) Before making any rate a council shall cause estimates to be prepared of—

- (a) the amount of the proposed expenditure out of the fund to which the proceeds of the rate are to be carried ;
- (b) the amount in hand available for such expenditure ;
- (c) the amount of other revenue likely to be available for such expenditure ;
- (d) the amount required to be raised by the rate for such expenditure ;
- (e) the total value of the land on which the rate is to be levied ;
- (f) the rate proposed to be made and levied, and whether on the unimproved or improved capital value of land ; and
- (g) such further particulars as may be prescribed by the regulations.

Estimates to be
notified.

(2) Such estimates, upon being approved by the council, shall be publicly notified in the area as prescribed at least fourteen days before the proposed rate is made.

Omission of council
not to invalidate
rate.

(3) The omission of a council to carry out the requirements of this section shall not invalidate any rate otherwise lawful.

Further notice in
case of special, local,
and loan rates.
Extension, s. 64.

143. (1) Before any special, local, or loan rate is made, the council shall give a further notice as prescribed, stating—

- (a) the amount of the rate ;
- (b) the purpose for which the rate is to be made ;
- (c) in the case of a loan rate, the amount of the loan and the interest thereon, and the purpose for which the loan money is to be applied, and the amount to be carried to the sinking fund ;
- (d) in the case of a local rate, the portion of the area to which it is to apply.

Length of notice.

(2) Such notice shall, in the case of a municipality, be given at least fourteen days, and shall, in the case of a shire, be given at least twenty-eight days, before the making of the rate.

Local Government.

144. (1) The amount of any rate under this Act shall be paid to the council by the owner of the land in respect of which the rate is levied (including the Crown), except where the land is held under lease or license from the Crown, in which case the rate shall be so paid by the holder of such lease or license, and except where land vested in the Chief Commissioner for Railways and Tramways is occupied by a tenant under lease, oral or written, in which case the rate shall be so paid by such tenant.

Rates to be paid by the owner.
Shires, s. 34.
Extension, s. 70.

(2) Where a mine is subject to any lease or license, the owner and every lessee and licensee shall be jointly and severally liable for the whole amount of the rates due to the council in respect of the land or the mine; but, as between themselves, notwithstanding any provisions to the contrary, each shall be liable only for the part of such rates proportionate to the value of his interest in the land and the improvements thereon, or to his interest in the mine, and, if either of them pay to the council more than his proportionate part as aforesaid, he may recover the excess by way of contribution from the other. Such liability shall be subject to any special agreement between the owner and the lessee and licensee to be made, if the land or mine in respect of which the agreement is made is situated in a shire, after the commencement of the Shires Act, or, if such land or mine is situated in a municipality, after the commencement of this Act; but shall not be subject to or affected by any such agreement made before such commencement as aforesaid, and such agreement so made shall, so far as it is inconsistent with the provisions of this subsection, be null and void.

Lessees and licensees—division of liability.
Extension, s. 58.

Special agreements.

(3) Such amount shall be due and payable on the expiration of the time fixed in a notice of such rate served on such owner or holder or tenant or licensee as prescribed, not being less than thirty days after such service.

When rates are due.
Shires, s. 34.
Extension, s. 70.

(4) Joint owners, lessees, or licensees of ratable land, and joint tenants of land vested in the Chief Commissioner for Railways and Tramways, shall be jointly and severally liable for the whole amount of the rates due to the council in respect of the land; but, as between themselves, each shall only be liable for the part of such rates proportionate to the value of his interest in the land and the improvements thereon. If any of them pay to the council more than his proportionate part as aforesaid, he may recover the excess by way of contribution from the others.

Joint owners, lessees, and licensees.
Shires, s. 34.
Extension, s. 70.

(5) Nothing in this Act shall, except in the case provided for in subsection two of this section, affect any private agreement with respect to the ultimate liability to pay any specified rates or arrears of rates.

Private agreement as to payment of rates.
Shires, s. 34 (4).
Extension, s. 70.

(6) Provided that where a lessee of ratable land in an area has agreed with the owner, or with the mesne lessee from whom he

Lessors and lessees—Land Tax Leases Act.
New subsection.
Act No. 28, 1908, s. 26 (1).

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he immediately holds, to pay municipal or local government taxes, whether under those designations or under any words of description which would include municipal or local government taxes, and, in the case of land within a municipality, such agreement was made before the commencement of this Act, and, in the case of land within a shire, was made before the commencement of the Shires Act, the owner and all the lessees, including mesne lessees, shall, notwithstanding such agreement and during the currency of such agreement, be respectively liable, as between themselves, for so much of the local government rate under this Act as is equal to the amount of the land tax, or tax in lieu of land tax, on the land which they respectively would have been liable to pay under the Acts mentioned in Schedule Three if the operation of the said Acts had not been suspended, based on the valuation of the unimproved capital value under this Act. The adjustment of the Commissioners of Taxation under the fourth section of the Land Tax (Leases) Act, 1902, shall be made on the application of any person interested in such agreement, and shall be on the basis of such valuation, and of a land tax or tax in lieu of land tax, without exemptions, and after the first adjustment, there shall be a readjustment by the commissioners at every subsequent period of valuation. Such adjustment shall be final and shall not be subject to appeal in any court.

Any person interested in any such agreement as aforesaid may notify the council of the terms of such agreement. Where such notification has been received by the council, such council shall (notwithstanding the provisions of subsection one of this section) first proceed for the recovery of the whole of any rates due under this Act from the lessee who is the last lessee within the knowledge of the council bound by any such agreement. In the case of rates made after the commencement of this Act unless the council be notified as aforesaid before the making of any rates, the council may recover the whole of such rates from the lessor.

Failing in any legal proceedings against any person as aforesaid, the council shall next so proceed against the lessor from whom such person immediately holds; and, failing in any such proceedings against a lessor who is a mesne lessee, the council shall next so proceed against the lessor from whom he immediately holds; and so on.

Any lessee who has paid, or any mesne lessee who has paid or suffered the deduction as hereinafter provided of any such rates may recover as a debt from, or deduct from any moneys due to, the lessor from whom he immediately holds, the proportionate amount of rates determined as aforesaid by the said commissioners to be the portion payable in respect of the land rated by all the persons under whom he derives title; and any lessor who has made any payment to the council or to his immediate lessor in respect of such rates may recover

as

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as a debt from any lessee under him such portion thereof as such lessee is liable for under his agreement and the terms of this subsection.

The council, the commissioners aforesaid, and any authorised servant of either of them, may, under the prescribed penalty, demand the production within a reasonable time of any agreement as aforesaid from any owner, lessee, or person having the custody of such agreement, or require any person in occupation of land, or in receipt of the rent of land, to answer any question for the purposes of this subsection. A certificate of such adjustment aforesaid purporting to be signed by the said commissioners, or their secretary, or registrar, shall be prima facie evidence of such adjustment.

This subsection shall apply and shall be deemed to have applied to all rates made under this Act after the first day of January, one thousand nine hundred and eight.

In this subsection the word "lessor" includes his successors in title.

(7) All such rates shall be a charge upon the land in respect of which such rates are imposed, except Crown lands, in priority to all sales, conveyances, mortgages, charges, loans, and encumbrances whatsoever, and may, notwithstanding any statute of limitations or anything contained in this Act, be recovered at any time within ten years by the council from the owner of the land, except the Crown.

Unpaid rates to be a charge upon the land.

Shires, s. 34.

Extension, s. 70.

Amended,
Act No. 28, 1908,
s. 26 (2).

All amounts due as rates by the same person may be recovered in one proceeding. Where proceedings are taken by a council in a district court or court of petty sessions to recover any rates, such proceedings may be so taken in any such court for the district in which the land in respect of which the rates are claimed to be due is situate.

(8) Any rates due or to become due to a council and owing for a period of six months shall bear interest from their due date until payment at the rate of four per centum per annum calculated at simple interest: Provided that rates due to a council, and owing for a period of six months at the commencement of this Act, shall bear interest from the date of such commencement at the rate of four per centum per annum calculated at simple interest.

Rates in arrear for six months to bear interest.

Shires, s. 34.

Rate of interest.

Extension, s. 70.

(9) Such interest shall be recoverable as rates under this Act, but without any necessity to make any demand or give any notice.

Interest recoverable as rates.

(10) When the owner sells any ratable land he shall give the prescribed notice of such sale, and shall, until such notice is so given, continue to be liable for rates and interest thereon accruing due in respect of such land as if he were still the owner thereof.

Vendor of ratable land to notify sale.

Shires, s. 34 (8).

Extension, s. 70.

145. Where rates are due and unpaid in respect of any ratable land within an area, the council may recover from any person who is or

Recovery of rates from occupier.

Shires, s. 35.

has Extension, s. 70.

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has been in occupation of such land the amount of any such rates which have become due during such occupation, together with interest thereon, upon proving—

- (a) that such rates are under this Act due and payable by the owner or lessee or licensee or tenant, as the case may be; and
- (b) that the owner or lessee or licensee or tenant, as the case may be, is resident outside New South Wales or is unknown to the council, or that the council has commenced legal proceedings against the owner or lessee or licensee or tenant, as the case may be, for the recovery of such rates, and has used due diligence but has been unable to effect due service on the owner or lessee or licensee or tenant, as the case may be:

Provided that such occupier may recover from the owner or lessee or licensee or tenant, as the case may be, the amount of any such rates paid by him to the council, or may deduct the same from any rent or any proceeds of the land due or to become due from such occupier to the owner or lessee or licensee or tenant, as the case may be.

Proceedings to
recover rates.
Shires, s. 36.
Extension, s. 70 (5).

146. (1) In any proceeding by a council to recover the amount of any rate from the owner, lessee, licensee, or tenant, as the case may be, or to prove under the last preceding section that any rate is due and payable by the owner or lessee or licensee or tenant, as the case may be, the plaintiff must, in the event of a notice of defence or plea being filed, prove—

- (a) the amount of the rate;
- (b) that the prescribed notice has been duly given of the valuation;
- (c) that the prescribed notice has been duly given to pay the rate.

Entry in rate-book
to be evidence.
Shires, s. 36.
Extension, s. 70 (5).

(2) In any such proceeding an entry in the rate-book being one of a series of entries prescribed to be made, such series purporting to have been sealed with the seal of the council, signed by the president or mayor, and countersigned by the clerk, shall be prima facie evidence of the facts therein stated without proof of the affixing of the seal or of the signatures of the president or mayor or clerk.

Defences available.

(3) In any such proceeding to recover the amount of any rate the defendant shall not be allowed to raise any question of law or fact except as to a matter which by this section the plaintiff must prove, or except that he is not the owner, lessee, licensee, or tenant, as the case may be, of the land subject to the rate.

Question of title not
to be raised.

(4) In any such proceeding no jurisdiction otherwise competent shall be ousted on the ground that such proceeding raises a question of title to land or affects the title to any land. But no order or judgment in any such proceeding shall be admissible in any court as evidence of title.

Council to sue for
certain rates in
arrear.
Shires, s. 37.
Extension, s. 70.

147. A council shall take steps to recover amounts due to it in respect of rates and shall, when necessary, take legal proceedings to recover amounts so due and owing for more than six months.

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148. (1) When any ratable land is unoccupied, and the rates accrued in respect thereof under this Act have been unpaid for four years, the council may, subject to the conditions and after the notices prescribed,—

Council may take possession of unoccupied land for arrears of rates.
Shires, s. 38.
Extension, s. 70.

- (a) take possession of the land ;
- (b) hold the land against any person ; and
- (c) lease the land from time to time for any term not exceeding seven years.

(2) A council, after so taking possession of any land, shall keep accounts—

Accounts of receipts and of moneys due in respect of land.

- (a) of the rents and other moneys received by it in respect of the land, less the expenses of and incidental to the giving of the prescribed notices, and the letting and the collection of the rents of the land ;
- (b) of the rates and the interest thereon, and other sums due to the council in respect of the land.

(3) The moneys so received shall be applied in defraying the expenses necessarily incurred by the council in giving the notices, executing the lease, in collecting such rents and moneys, and in paying the rates and interest and other expenses due in respect of the land. The residue (if any) of such moneys shall belong to such person as would, when the same respectively were received, have been entitled to receive the rents and profits of the land if this Act had not been passed.

Application of moneys.

(4) Within sixteen years after the land has been so taken possession of by the council, any person who, but for this Act, would be entitled to the land may inspect the accounts kept in pursuance of this section, and may require the council, on payment of the balance (if any) due to the council, to put him in possession of the land, subject to any lease lawfully made by the council under this Act.

Persons entitled may demand land within specified period.

(5) The council shall comply with such requirement, and, if the balance is on the accounts against the council, shall pay such balance to the person aforesaid. Any tenant of the council shall attorn to the person so put in possession of the land.

Council shall yield possession.

(6) Unless some person within the said sixteen years so requires the council to put him in possession of the land, the land and all rents and moneys received by the council in respect thereof shall, on the expiration of such sixteen years, vest absolutely in the council.

Council may retain land.

149. Where any money is received by a council of an area in respect of any rates on any land, such money shall be applied for or towards the rates due in respect of such land in the order in which they became due, notwithstanding any directions to the contrary.

Payments of rates—order of priority.
Extension, s. 70.

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PART XXI.

GENERAL RATES.

DIVISION 1.—*Shires.*

General rate levied
on unimproved
capital value.

Shires, s. 33.

Reduction of general
rate below one penny
in the pound.

Suspension of land
tax enactments.

Schedule Three.

General rate to be
levied each year.

Minimum rate.

150. (1) A council of a shire shall make and levy a general rate of not less than one penny in the pound and not more than two pence in the pound upon the unimproved capital value of all ratable land in its shire: Provided that on representation from any council that a general rate of one penny in the pound on such unimproved capital value is more than sufficient to meet the requirements of its shire, the Governor may, in his discretion, allow the reduction of such rate below one penny in the pound.

(2) The Governor shall, forthwith, on the council of a shire imposing a rate on such unimproved capital value, proclaim that the operation of the enactments mentioned in Schedule Three are to the extent therein mentioned suspended in such shire.

(3) Such rate shall be made and levied in and for each year, commencing the first day of January.

(4) The minimum amount of the general rate in respect of any portion of land shall be two shillings and sixpence.

DIVISION 2.—*Municipalities.*

General rate
levied on
unimproved capital
value.

Extension, s. 65.

Reduction of general
rate below one penny
in the pound.

Suspension of land
tax enactments.
Schedule Three.

General rate to be
levied each year.

Adjustment of
general rates in year
1903.

151. (1) A council of a municipality shall make and levy a general rate of not less than one penny in the pound on the unimproved capital value of all ratable land in its municipality: Provided that on representation from any council that a general rate of one penny in the pound on such unimproved capital value is more than sufficient to meet the requirements of its municipality, the Governor may in his discretion allow the reduction of such rate below one penny in the pound.

(2) The Governor shall forthwith, on the council of a municipality imposing a rate on such unimproved capital value, proclaim that the operation of the enactments mentioned in Schedule Three are to the extent therein mentioned suspended in such municipality.

(3) Such rate shall be made and levied in and for each year, commencing the first day of January.

(4) Where, before the making of the general rate under this Act for the year one thousand nine hundred and eight, there has been paid in respect of any land the amount due under the Municipalities Act, 1897, for the municipal year ending the first Tuesday in February, one thousand nine hundred and eight, the council shall deduct from the amount of the general rate on such land one-tenth of the amount paid as aforesaid under the said Act.

(5)

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(5) A council of a municipality over and above the said general rate of not less than one penny in the pound on the unimproved capital value of all ratable land in its area, may on the same or subsequent estimate raise any additional sum which may be required by an additional general rate on either the unimproved or the improved capital value of such land, as may be determined by the council: Provided that notice shall be given as prescribed of the proposal to levy such additional general rate, and that if, within the prescribed period, one hundred persons on the roll of ratepayers, or if the number on the roll be less than six hundred, then one-sixth of the ratepayers on such roll, make a written demand for a poll on the question whether the basis of assessment for such rate shall be the unimproved or the improved capital value, the council shall forthwith meet and fix and notify, as prescribed, a day, not being less than seven nor more than fourteen days after such meeting, for the holding of such poll, shall hold the poll on such day, and shall abide by the decision of such poll. At the poll all ratepayers of the area may vote.

Council may levy additional general rate.

Amended, Act No. 28, 1908, s. 27.

Poll on basis of assessment of additional general rates.

(6) In a municipality the total amount to be derived from the levying of and leviable as general rates and additional general rates, shall not, taken together, exceed the total amount which the council estimate would be yielded by a rate of twopence in the pound on the unimproved capital value and one shilling and sixpence in the pound on the assessed annual value, taken together, of all ratable land in the municipality. Estimates under this section shall be prepared as prescribed.

Limit of general rates.

(7) No rate of more than twopence in the pound upon the unimproved capital value shall be levied upon a mine worked for the purpose of mining for any mineral other than coal or shale.

Rates on mines.

(8) The minimum amount of the general rate in respect of any portion of land shall be two shillings and sixpence.

Minimum rate.

DIVISION 3.—*Shires and municipalities.*

152. The suspension in an area of the enactments mentioned in Schedule Three shall take effect from the first day of the year in which the first general rate on the unimproved capital value of ratable land is made in such area: Provided always that such suspension shall not apply to the land tax for the years from one thousand eight hundred and ninety-six up to the year in which such first general rate is made in such area.

Suspension of land tax.

Extension, s. 65.

PART XXII.

OTHER RATES—SPECIAL, LOCAL, LOAN.

*Shires and municipalities.**Special rates.*

The making of
special rates.
Extension, s. 66.

Lighting rates.

Rates may be levied
each year, and may
be decreased.

Poll in case of
special rate.

Special rate—who
may demand poll—
who may vote.

Cases in which poll
may not be
demanded.

Amended,
Act No. 28, 1908,
s. 28.

Existing
municipalities.

153. (1) Special rates may be made and levied on the unimproved or, at the option of the council, on the improved capital value of ratable land in its area for any purpose which may lawfully be undertaken by the council.

(2) Any such special rate levied for the purpose of defraying the cost of lighting roads may be levied only upon ratable lands within the area deriving any benefit or advantage from the expenditure of such rate.

(3) A special rate duly made may be levied each year until rescinded by the council. But the council may in any such year levy a lower rate.

(4) On the notification of a proposal to make a special rate, and before the rate is made, a poll may be demanded as hereinafter provided, whereupon the council shall forthwith meet and fix and notify, as prescribed, a day, not being less than seven nor more than fourteen days in the case of a municipality, nor less than fourteen nor more than twenty-eight days in the case of a shire, after such meeting for the holding of the poll on the question whether the rate shall be made; and if so made, whether the rate shall be on the unimproved or on the improved capital value, and shall hold the poll on that day.

(5) In the case of a special rate, the demand for a poll must be made by not less than fifty persons on the roll of ratepayers, or, if there be less than three hundred ratepayers on the roll, by not less than one-sixth of such ratepayers, by writing signed by them and delivered to the mayor or president; and at the poll only the persons on the roll of ratepayers may vote.

(6) Provided that no poll may be demanded if the council, within six months before the thirty-first day of December, one thousand nine hundred and eight, or within six months after the reconstitution of its area, as the case may be, passes a resolution that a special rate be levied for a specified work or service, and

(a) in the case of an existing municipality (with or without any area added thereto) being constituted an area under this Act—

(i) a special rate leviable on all ratable property was in force in the existing municipality on its constitution as aforesaid; and

(ii) such rate was for the same work or service as the proposed special rate; and (iii)

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- (iii) the proposed rate is such that the estimated amount leviable in respect of the rate for the first year of its operation will not exceed the total amount which was leviable by the existing municipality in respect of its special rate during its last financial year; and
- (iv) the proposal has been submitted to and approved by the Minister; or
- (b) in the case of the reconstitution of an area or areas out of an old area or old areas—
 - (i) a special rate leviable on all the ratable land which on reconstitution is included in the new area or areas was in force in the old area or old areas on the reconstitution aforesaid; and
 - (ii) such rate was for the same work or service as the proposed special rate; and
 - (iii) the proposed rate in the pound on the improved or unimproved capital value as the case may be is not greater than the rate in the pound as aforesaid in force in the old area or old areas as aforesaid.
- (7) If a majority of those voting at the poll be opposed to any such rate, no rate for the same purpose shall be made then or at any time within twelve months after the vote. Majority against rate.

Local rates.

154. (1) For or towards defraying the expenses of executing any work or service which in the opinion of the council would be of special benefit to a portion of its area to be defined as prescribed, a council may make and levy a local rate on the unimproved or, at the option of the council, on the improved capital value of ratable land within such portion. Local rate within particular portion of an area.
Extension, s. 67.

(2) A local rate duly made may be levied each year until the cost of executing the work or performing the service for which the rate was made has been paid. But the council may, in any such year, levy a lower rate. Rate may be levied each year.

(3) On the notification of a proposal to make a local rate, and before the rate is made, a poll of ratepayers may be demanded as hereinafter provided, whereupon the council shall forthwith meet and fix and notify, as prescribed, a day, not being less than seven nor more than fourteen days in the case of a municipality, nor less than fourteen nor more than twenty-eight days in the case of a shire, after such meeting for the holding of the poll on the question whether the rate shall be made, and if so made, whether the rate shall be on the unimproved or on the improved capital value, and shall hold the poll on that day. Poll in case of local rate.

(4)

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Proviso : cases when
poll may not be
demanded.

Amended,
Act No. 28, 1938,
s. 23.

Existing
municipalities.

Reconstituted areas.

Local rate—whomay
demand poll—who
may vote.

Majority against
rate.

(4) Provided that no poll may be demanded if the council within six months before the thirty-first day of December, one thousand nine hundred and eight, or within six months after the reconstitution of its area, as the case may be, passes a resolution that a local rate be levied for a specified work or service, and within a specified portion of the area, and

(a) in the case of an existing municipality (with or without any area added thereto) being constituted an area under this Act—

- (i) a special rate under the Municipalities Act, 1897, leviable on all ratable property within the said portion, was in force in the existing municipality on its constitution as aforesaid; and
- (ii) such rate was for the same work or service as the proposed local rate; and
- (iii) the proposed rate is such that the estimated amount leviable in respect of the rate for the first year of its operation will not exceed the total amount which was leviable by the existing municipality in respect of its special rate during its last financial year; and
- (iv) the proposal has been submitted to and approved by the Minister; or

(b) in the case of the reconstitution of an area or areas out of an old area or old areas—

- (i) a special or local rate leviable on all ratable land within the said portion was in force in such old area or old areas on reconstitution as aforesaid; and
- (ii) such rate was for the same work or service as the proposed local rate; and
- (iii) the proposed rate in the pound on the unimproved or improved capital value, as the case may be, is not greater than the rate in the pound as aforesaid in force in the old area or old areas as aforesaid.

(5) The demand for a poll must be made as aforesaid by fifty persons on the roll of ratepayers having their qualification in respect of land within the portion within which the rate is to apply; and if there are not one hundred and fifty persons on the roll of ratepayers who have their qualification in respect of land within such portion, the demand for a poll may be made by any number not less than one-fifth of such persons; and at the poll only the persons on such roll and having such qualification may vote.

(6) If a majority of the persons voting at the poll be opposed to any such rate, no rate for the same purpose shall be made then or at any time within twelve months after the vote.

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155. If a council has under section seventy-three or section seventy-four made and formed a public road under the powers conferred by subsection (x) of section seventy-three the Council may, for the purpose of recouping it for the expense thereby incurred, make and levy a local rate under the last preceding section on all lands having frontage to such road or to which such road gives immediate access. In such case no poll may be demanded under this Act on the question whether the rate shall be made.

Local rate for construction of private roads.

Extension, s. 22 (2)

Loan rates.

156. (1) When a council borrows money by the issue of debentures, mortgage deeds, or bonds, the council shall, before such issue, and in every succeeding year until such securities are paid, make and levy a loan rate on the unimproved or improved capital value of all ratable land in the area. Such rate shall not be reduced or repealed until the debt in respect of which it is levied has been paid off.

Rate when new loan is raised.

Extension, s. 68.

(2) Provided that where a loan is raised for any work or service which in the opinion of the council would be of special benefit to a portion only of its area, the loan rate may, at the discretion of the council, be levied only on the ratable land within such portion. Where a council proposes to so limit a loan rate to a portion of an area, only persons whose names are entered on the ratepayers' roll in respect of lands within such portion may vote at the poll elsewhere provided in this Act as to the raising of such loan, and as to the basis on which such rate shall be levied.

(3) The proceeds of each such yearly rate shall be sufficient to pay the interest payable in the year in which it is levied, and to provide a sum at a percentage rate on the original amount of such loan.

Amount of rate.

(4) A council may make and levy any other loan rate as aforesaid for the payment of the capital sum and interest on any loan made before or after the commencement of this Act.

Other loan rates.

(5) Subsections one, two, and three hereof shall not apply to any redemption loan to repay in the whole or in part a loan liability existing at the commencement of this Act, or any redemption loan in connection with or relating immediately or through any other loan to the first-mentioned loan.

Redemption loans

Limitation of rating.

157. (1) In any municipality the total amount leviable under sections one hundred and fifty-one, one hundred and fifty-three, one hundred and fifty-four, and one hundred and fifty-six, as general, additional general, special, local, and loan rates, taken together, shall not exceed the total amount which would be yielded by a rate of two-pence in the pound on the unimproved capital value, and twenty-four pence in the pound on the assessed annual value, taken together, of all ratable land in the municipality. Estimates under this section shall be prepared as prescribed.

Limitation of all rates in municipalities.

Extension, s. 69.

(2)

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Power of Governor
to permit limit to be
exceeded in certain
cases.

(2) If in any municipality the amount of all rates leviable under sections one hundred and fifty-one, one hundred and fifty-three, one hundred and fifty-four, and one hundred and fifty-six, is less than is necessary for all the purposes to which the general rates may, under this Act, be applied, and for all the purposes for which in such municipality any special, local, or loan rate is, at the commencement of this Act, being levied, taken together, the Governor may, at any time within two years from the commencement of this Act, on the application of the council of such municipality, by proclamation empower such council to increase such rates beyond the limits prescribed by this section so as to provide a sum sufficient for the purposes aforesaid; and the basis on which such extra rate shall be levied shall, in all cases where the deficiency to be provided for exceeds three hundred pounds, be decided by a poll of the ratepayers, and, in all cases where the deficiency to be provided for is less than three hundred pounds, by the council of the municipality.

Validations and
adjustments.

(3) If, at any time, it appear that the total amount of rates made and levied in any municipality exceeds the limits hereinbefore provided; the Governor may, on being satisfied of the bona fide intention of the council to obey the law, by proclamation validate such rates as from the date of their being made, and thereupon such rates shall not be deemed to be invalid in law, or to be beyond the provisions of this Act: Provided that the Governor shall, in case the excess be of a material amount, direct that the rates so made shall be readjusted in manner to be prescribed by him, and the council shall so readjust such rates.

PART XXIII.

RATES UNDER OTHER ACTS.

DIVISION 1.—*Municipalities.*

Rating under other
Acts.
Extension, s. 98.

158. (1) Where, under any special Act in force at the commencement of this Act, the council of a municipality is empowered for a special purpose to levy a rate on the annual value of ratable property assessed under the Municipalities Act, 1897, hereby repealed, such council may, in lieu thereof, and for the same purpose, levy a special or local rate under this Act on either the improved or the unimproved capital value of ratable land in its area at the option of such council.

(2) Provided that where the special Act makes express provision as to who shall be liable to pay the rate, such provision shall have effect, notwithstanding anything in this Act. But this proviso shall

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shall not apply to any general incorporation by the special Act of provisions of the Municipalities Act, 1897, relating to the making, levying, or recovery of rates under that Act.

(3) The provisions of this Act, relating to the taking of a poll of ratepayers on the question whether such rate shall or shall not be levied shall not apply; but a poll may be demanded as elsewhere in this Act provided, according as the proposed rate is a special or local rate, on the question whether such rate shall be on the improved or the unimproved capital value, and a decision of a majority of the ratepayers who vote at such poll shall be given effect to by the council, and the provisions of this Act, and of the ordinances and regulations with regard to the taking of polls, shall apply.

(4) Where, in any such special Act, it is provided that such rate shall not exceed a certain maximum rate on the annual value, the special or local rate which may be levied on the improved or unimproved capital value under this section, in place of such rate, shall not exceed such maximum amount in the pound on such improved or unimproved capital value as the Governor may fix, by notification in the Gazette as soon as practicable after the first valuation of the council has been made under this Act. Such maximum rate shall be so fixed upon the certificate of the Government Statistician that it is estimated, according to the latest available valuations, to produce such a revenue during the first year of its operation as would reasonably approximate to that which would be produced by the levying on the annual value of the maximum rate specified by or under such Act. Such rate so fixed shall continue to be the maximum, notwithstanding any subsequent variations in the assessments.

(5) Where, in any such special Act, it is provided that such rate shall not be less than a certain specified minimum rate on the annual value, or where it is provided that a certain specified minimum rate may be imposed and levied, the minimum amount of the rate on the improved or unimproved capital value which shall or may be levied, in place of such rate, shall be fixed in like manner as is provided in the preceding subsection with respect to the maximum rate.

(6) The council shall, at any time, at the request of the Minister, make a valuation of the annual value as defined by the Municipalities Act, 1897, of ratable property in the whole or portion of its area, for the information of the Government Statistician.

159. (1) The rates which may be levied by the council of a municipality under the Country Towns Water and Sewerage Acts, 1880-1905, shall not be levied on the assessed annual value as defined in the Municipalities Act, 1897, but may be levied at the option of the council on the improved or on the unimproved capital value as defined in this Act: Provided that the valuation of any lands or tenements

a Rating under
Country Towns
Water and Sewerage
Acts.
Extension, s. 99.

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tenements for the purposes of the Country Towns Water and Sewerage Acts, 1880-1905, shall not exceed in any year the valuation (if any) of such lands or tenements in force during the same or the previous year under this Act.

(2) A poll of the ratepayers under this Act of the municipality may be demanded, as elsewhere in this Act provided, on the question whether such rate shall be levied on the improved or on the unimproved capital value, and the decision of a majority of the ratepayers who vote at such poll shall be given effect to by the council; and the provisions of this Act, and of the ordinances and regulations with regard to the taking of polls, shall apply.

(3) The maximum rate on the improved or unimproved capital value under this section shall be such amount in the pound on such improved or unimproved capital value as the Governor may fix by notification in the Gazette upon the certificate of the Government Statistician that such maximum rate so fixed is estimated according to the latest available valuations to produce for the municipality such a revenue during the first year of its operation as would reasonably approximate to that which would be produced by levying the maximum rate allowed under the said Country Towns Water and Sewerage Acts, 1880-1905. The said notification shall be made as soon as practicable after the valuation of the council has been made under this Act.

DIVISION 2.—Shires and municipalities.

Application to
Metropolitan Water
and Sewerage Acts.
Extension, s. 104.

160. The assessed annual value under this Act shall be the valuation which, under the provisions of the Metropolitan Water and Sewerage Act of 1880, and the Hunter District Water Supply and Sewerage Act of 1892, and any Acts amending the same, shall not be exceeded by any valuation for the purposes of making and levying rates payable to the Metropolitan Board of Water Supply and Sewerage, and to the Hunter District Board of Water Supply and Sewerage respectively.

PART XXIV.**ENDOWMENT.***DIVISION 1.—Shires.*

Endowment for first
three years.
Shires, s. 8.

161. (1) The Governor shall, on or before the thirty-first day of December, one thousand nine hundred and six, and every third year thereafter, by proclamation, declare the class within which each shire shall be placed respectively; and in determining the class of each shire the following matters shall be taken into consideration—

(a) the extent of the shire;

(b)

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- (b) the probable annual revenue derivable from a rate of one penny in the pound on the unimproved capital value of ratable land in the shire ;
- (c) the necessary annual expenditure ;
- (d) the extent of the roads to be made and maintained ;
- (e) the difficulty of construction and maintenance of roads and other public works ;
- (f) the facilities to be afforded to vehicular traffic ;
- (g) the extent of public works maintained by the Government ;
- (h) the extent of Crown lands (other than parks or reserves for public recreation) from which the council will receive no rates, and the existence of which in the shire involves expenditure by the council on road construction, or in other ways.

(2) There shall be payable out of the Consolidated Revenue, for the endowment of the shires in every year, a sum not less than one hundred and fifty thousand pounds, to be appropriated by Parliament for such purpose and paid to the shires on the following basis—

- (a) the endowment of a shire of the first class shall be such sum, not exceeding ten shillings in the pound on the proceeds of the general rate received by the council during the next preceding year, as the Governor may determine: Provided that, in any case in which the Governor does not consider that the necessities of a shire warrant the payment of an endowment, no endowment shall be paid ;
- (b) the endowment of a shire of the second class shall be fifteen shillings in the pound on such proceeds ;
- (c) the endowment of a shire of the third class shall be twenty shillings in the pound on such proceeds ;
- (d) the endowment of a shire of the fourth class shall be twenty-five shillings in the pound on such proceeds ;
- (e) the endowment of a shire of the fifth class shall be thirty shillings in the pound on such proceeds ;
- (f) the endowment of a shire of the sixth class shall be such sum, not less than forty shillings in the pound on such proceeds, as the Governor may determine.

DIVISION 2.—*Municipalities.*

162. (1) All existing municipalities shall preserve the right to endowment they now enjoy by virtue of any Act hereby repealed.

(2) Where, under subsection two of section five of the Shires Act, an area has been added to a municipality, such municipality may, at the discretion of the Minister, be granted an endowment in respect of such added area, and such endowment shall not be subject to the provisions of the next following subsection.

Existing municipalities.
Extension, s. 19.
Additions to municipality—
endowment of added areas.

(3)

*Local Government.***General endowment.**

(3) All municipalities which do not receive endowments under any Act hereby repealed shall be entitled to receive out of funds to be voted by Parliament an endowment based upon the result of investigations which the Governor may cause to be made into the administration and financial necessities of such municipalities, not exceeding in any municipality a sum equal to three shillings and fourpence in the pound on the general rate collected by the council of such municipality: Provided that no endowment shall be paid in cases where the revenues of the councils under this Act, exclusive of endowment, are sufficient, in the opinion of the Minister, to meet the reasonable requirements under proper management of such municipalities.

**Endowment where
transferred
expenditure exceeds
transferred land tax.**

(4) Provided that when the Minister, or any person appointed by him in that behalf, has certified that the estimated responsibility for expenditure transferred to a municipality from the Government by this Act exceeds the amount of the land tax suspended in such municipality, the Minister may, in his discretion, grant to such municipality an endowment exceeding the aforesaid amount of three shillings and fourpence in the pound, but not greater than the excess of expenditure aforesaid.

**Endowment on
reconstitution of
municipalities.
Extension, s. 20.**

163. (1) When a new municipality is constituted by the union of two or more municipalities in respect of which the sums payable by way of endowment, or the periods for which such sums are payable, are different, separate accounts shall be kept, for so long as the Minister may think necessary, of the general rates raised within the respective municipalities so united, and the amount of endowment payable to such new municipality shall, while such separate accounts are so kept, be computed with respect to each former municipality separately, and the total endowment shall be such as would be payable if such union had not taken place.

**Endowment on
reconstitution of
areas to be adjusted
by Governor.**

(2) In every other case of a reconstituted area, the Governor shall, in accordance with this Act, proclaim the conditions upon which the endowment shall from the date of such reconstitution be paid.

DIVISION 3.—Shires and municipalities.

**Treasurer to pay
endowments.
Shires, s. 8.
Extension, s. 21.**

164. Upon receipt of a certificate signed as prescribed of the amount of endowment of an area under this Act, the Treasurer may, subject to this Act, pay such amount from the Consolidated Revenue Fund to the council of such area. The Treasurer shall, from time to time, be allowed credit for any sums of money so paid by him; and the receipt of the mayor or president, under his hand and the seal of the area, countersigned by the council clerk, shall be a sufficient discharge to the Treasurer.

**Endowments
withheld.
Shires, s. 8.
Extension, s. 21.**

165. The Minister may withhold the payment of the endowment of any area the council of which neglects or refuses to transmit to an officer to be appointed by the Governor such statistics, returns, and accounts as may be prescribed.

166.

Act No. 56, 1906.

Local Government.

166. The Minister may, if he consider that the council of any area has neglected to take steps to enforce the payment of rates, withhold part or the whole of the endowment of such area. Endowments withheld.
Shires, s. 8.
Extension, s. 21.
167. If in accordance with any provision of this Act any endowment or part of an endowment is withheld for a period exceeding two years, such endowment or such part of an endowment shall be forfeited. Endowments withheld for two years forfeited.
Shires, s. 8.
Extension, s. 21.

PART XXV.

DEFAULTING AREAS.

Shires and municipalities.

168. (1) An area shall, for the purposes of this Act, be deemed to be a defaulting area— Definition of a defaulting area.
Shires, s. 27.
Extension, s. 56.
- (a) if there is in the area no council or not sufficient members of the council to form a quorum of the council, by reason of a failure to elect members at the time or within the period prescribed; or
- (b) if the requirements of this Act as to the making and levying of a general rate have not been duly carried out within the area; or
- (c) if the council has ceased for six months to exercise its functions.
- (2) The Governor shall at any time after any such default, by proclamation, appoint an administrator of the area, and may in like manner at any time remove him. Such administrator shall have the powers, duties, and liabilities of the council, and shall be paid out of the general fund of the area such salary as the Governor may determine. Appointment of administrator for defaulting area.
- (3) When an administrator is so appointed, the servants (unless specifically retained by the administrator) and the officers in the area shall thereupon cease to hold office. Council to cease to hold office—also servants unless retained.
- (4) Provided that in case of a default described in paragraph (a) of subsection one of this section, the Governor, instead of appointing such administrator, may at any time by proclamation authorise an election of or appoint the requisite number of councillors. Governor may authorise an election or appoint aldermen or councillors.
- (5) At any time after the appointment of an administrator as aforesaid the Governor may, by proclamation, authorise the election of a new council on a day appointed in such proclamation. If at such election members of the council are elected sufficient to form a quorum the Governor may, by proclamation, constitute such members to be the council of the area, and the powers and duties of the administrator shall cease. Election of new council.

PART

PART XXVI.

LOANS.

DIVISION 1.—*Municipalities.*

Council may borrow
if Governor approve.
Limit of loans.
Extension, s. 76.

Purposes for which
council may borrow.

Loans a charge on
revenues of area.

Loans of existing
municipalities in
excess of limit.

Municipality which
has been added to
under Shires Act—
interest to be raised
by local rate in old
area.

Proviso : certain
municipalities
excepted.

169. (1) A council of a municipality may (if the Governor approve) borrow to an amount which, with any other amounts owing by the council in respect of loans, does not exceed ten per centum of the unimproved capital value of all ratable lands in the area, for the following purposes—

- (a) for or towards or incidental to the carrying out of permanent improvements or works within or outside the area; or
- (b) for the effecting of any other objects which the council are by law required or authorised to effect; or
- (c) for the repayment of any moneys lawfully borrowed by it before or after the commencement of this Act.

(2) All moneys shall be borrowed on the credit of the area, and shall be a charge upon the revenues of the council.

(3) If the borrowings of any existing municipality, or of any municipality constituted under this Act and comprising the whole or part of an existing municipality, at the time of the commencement of this Act, or at the time of its constitution under this Act, as the case may be, exceed the limit of borrowing prescribed in this Act, it shall not be lawful for such municipality, until the total amount owing by the council has fallen below such limit, to raise any further loan except for the purpose of repaying an existing loan, and the moneys obtained by the new loan shall not be used for any other purpose.

(4) Where, under subsection two of section five of the Shires Act, an area has been added to a municipality, and such municipality has contracted a loan which was unpaid at the time of such addition, the amount required to pay the interest, whether accrued or accruing, due on such loan, shall, during a period covering not less than five years after the adding of such area, to be prescribed by the Governor, be raised by a local rate on the ratable land in the area of the old municipality, in which case it shall not be necessary, before making such rate, to take a poll under this Act :

Provided that this subsection shall not apply to the municipalities of Kogarah, Hurstville, North Botany, Bankstown, Rockdale, Corowa, Moama, Albury, Annandale, Ashfield, Palmain, Cabramatta and Canley Vale, Carrington, Darlington, Hunter's Hill, Lambton, Leichhardt, Manly, Petersham, Waratah, Wickham, Woollahra, Grafton, South Grafton, West Maitland, and Glebe, nor shall this subsection apply, in respect of areas reclaimed from the waters of Port Jackson and Port Hunter, to the municipalities to which such reclamations have been added under the Local Government (Shires) Act, 1905.

Local Government.

170. No money shall be borrowed by a council of a municipality for any purpose except for the repayment of moneys lawfully borrowed by it, unless and until—

Conditions on which money may be borrowed for new works or services.

- (a) the amount of the proposed loan and the details prescribed by the regulations of the proposed expenditure of the money to be borrowed have been notified; Public notice. Extension, s. 77.
- (b) there has been a report on such proposed expenditure by an officer appointed by the Governor and the Governor has approved of the proposed loan; Report by officer.
- (c) there has been a poll taken of the persons on the ratepayers' roll of the area, at which a majority of the votes has been cast in favour of the proposed loan; at such poll the question shall be submitted whether the loan rate to be imposed in respect of the loan shall be on the unimproved or on the improved capital value of the ratable land in the area, and, subject to the provisions of this Act, the decision of such question by the majority of ratepayers voting thereon at such poll shall be given effect to by the council; Poll of ratepayers.
- (d) a loan rate, as prescribed by this Act, has been duly made. Loan rate.

170A. (1) Where, before the twenty-eighth day of December, one thousand nine hundred and six, the council of an existing municipality had obtained the sanction of the Governor under the Municipalities Act, 1897, to borrow money, and had entered into but not completed negotiations for such borrowing, or incurred liabilities which it was intended should be met by the proceeds of such borrowing, the council of the municipality constituted by this Act may, with the approval of the Governor, borrow such money under this Act, in which case the limitation of amount in subsection one of section one hundred and sixty-nine, and the provisions of section one hundred and seventy, shall not apply in respect of such borrowing. Previous borrowing not completed at commencement of Act. New section, Act No. 1, 1907, s. 2.

(2) Where, before the said date, any such council had obtained such sanction and had agreed for such borrowing, and the money was advanced after such date, and before the third day of July, one thousand nine hundred and seven, to the council constituted under this Act, such borrowing shall be deemed to have been and to be valid, and to have been the borrowing of the existing municipality made before the first-mentioned date. Validation of certain borrowing.

170B. (1) The Governor may approve of the council of the municipality of Lithgow borrowing, and the said council may, in pursuance of this section, borrow the sum of six thousand pounds. Council of Lithgow may on authority of Governor borrow £6,000. New section, Ibid.

Section one hundred and fifty-six and subsections one, three, and four of section one hundred and sixty-nine, section one hundred and seventy, and section one hundred and seventy-five, shall not apply to such borrowing.

Local Government.

Application of
borrowed money.

(2) Notwithstanding anything to the contrary in this Act, the money so borrowed shall be applied to the following purposes :—

- (a) For or towards or incidental to the completion and carrying out of the erection of a garbage destructor and of extensions and additions to the gasworks of the municipality.
- (b) For the repayment to any fund of the council of all or any moneys expended out of that fund on or towards or incidental to the carrying out of the works or undertakings in the immediately preceding paragraph set out;
- (c) For the repayment of all or any moneys borrowed by the council without the approval of the Governor, and expended by the council for or towards or incidental to the carrying out of the works or undertakings in paragraph (a) of this subsection set out.

The provisions of subsection one of section one hundred and seventy-five shall not apply, or be deemed to have applied, to any borrowing for which repayment is provided in this subsection.

Loan rate to be
levied.

(3) The council shall, in the year commencing on the first January next following after the borrowing of money under this section, and in each succeeding year until the loan is repaid, make and levy a loan rate which (at the option of the council) shall be on the unimproved or improved capital value of all ratable land in the area. Such loan rate shall not be less than sufficient to pay the interest falling due each year in respect of the loan, together with a sum amounting to not less than two and a half per centum on the principal sum of six thousand pounds to be carried to a sinking fund for the repayment of the sum borrowed.

Limitation of
amount borrowed
and of loan rates.

(4) Nothing in this section shall be construed to empower the said council—

- (a) to borrow so that the amount so borrowed, together with any other amounts owing by the council in respect of loans, exceeds ten per centum of the unimproved capital value of all ratable lands in the municipality; or
- (b) to levy rates which, together with the rate leviable under this section, would exceed the total amount which is now leviable or may hereafter be made leviable under the provisions of this Act.

Not to affect
Municipal Loans
Authorisation and
Validation Act.

New section,
Act No. 1, 1907, s. 2.

Security for loans.

Extension, s. 78.

170c. Nothing in this Act shall be taken to repeal the Municipal Loans Authorisation and Validation Act, 1906, and any powers conferred by that Act upon an existing municipality may be exercised by the council of a municipality constituted by this Act.

171. (1) For securing the repayment of the principal and interest of any moneys borrowed in pursuance of this Act, a council of a municipality may, under its common seal, issue debentures, mortgage-deeds, or bonds according to forms to be prescribed in the regulations.

(2)

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(2) Any person may transfer his right and interest in such debentures, mortgage-deeds, or bonds by deed, made in accordance with the prescribed form, or to the like effect. Within thirty days after any such transfer, notice thereof shall be given by the transferor to the council.

Transfer of securities.

172. (1) A council of a municipality desiring that any loan proposed to be made shall be guaranteed by the Government must apply to the Treasurer in writing.

Procedure in raising loans guaranteed by the Government.

Extension, s. 81.

(2) Upon receipt of such application, the Treasurer shall if the proposed loan is for a purpose and for an amount authorised by this Act, and if the provisions of this Act have been complied with, cause the books and affairs of the council to be examined so far as may be necessary to ascertain the true financial condition of the council, and the propriety of granting the application.

Examination of books.

(3) The Treasurer may refuse such application, or recommend to the Governor that the same be granted in whole or in part, or subject to such conditions as he may think expedient.

Treasurer may refuse or may recommend guarantee.

(4) The Governor, upon such recommendation being made, may, by proclamation, guarantee on behalf of the Government the repayment of the loan, subject to any conditions specified in the proclamation.

Governor may guarantee.

173. (1) Any loan so guaranteed shall be secured by debentures and interest coupons in the form prescribed by the regulations and issued by the council, each debenture being for fifty pounds or a multiple of fifty pounds. Interest shall be payable half-yearly on the presentation of the interest coupons.

Debentures and interest coupons.

Extension, s. 82.

(2) After the issue of any debenture of a council, guaranteed by the Government, all property and revenues of the council shall be subject to a charge in favour of the Government to the extent of the loan secured by such debenture and the interest thereon in priority and preference to all encumbrances, rights, charges, and claims whatsoever accruing against or attaching to such property and revenues subsequently to the date of the proclamation guaranteeing the repayment of the loan.

Government to have priority of claim on revenues of council.

(3) If, within seven days after the date on which any such interest coupon or debenture is payable, the same is duly presented for payment and is not paid or redeemed, the holder may notify the Treasurer of such default, and thereupon the Treasurer shall, out of the Consolidated Revenue Fund, pay or redeem such coupon or debenture, and debit the sum so paid to a Treasury account, and may call upon the council to forthwith repay such sum.

In case of default Treasurer to redeem interest coupons or debentures.

174. Where the Government has guaranteed any loan of a council of a municipality under the provisions of this Act, the right of the Government, as against such council or its area to be indemnified in respect of the liability so incurred, and to exercise the powers and remedies

Government indemnified against wrongful act on part of council.

Extension, s. 83.

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remedies in this Act provided, shall not be affected or prejudiced in any way by reason of a wrongful exercise by such council of its power to borrow money, or the non-observance of any condition precedent or subsequent to the exercise of such power, or to the right or authority of the council to charge the area in respect of such loan.

DIVISION 2.—*Shires and municipalities.*

Members of council
authorising illegal
borrowing to be
personally liable.
Extension, s. 79.

175. (1) If a council borrows on the credit of its property or revenues any money which the council as the body corporate of the area is not legally bound to repay, all the members of such council who have consented to such borrowing shall be jointly and severally liable to repay such money and all interest thereon to the person from whom the same was borrowed at the time and in the manner provided in the instrument or agreement under which the money was borrowed, and the same may be so recovered from such members, or any of them, in any court of competent jurisdiction.

Appropriation of
council's funds to
repay money wrongly
borrowed forbidden.
Extension, s. 79.

(2) If any appropriation of the money of a council is made for the purpose of repaying any money so borrowed and which the council as the body corporate of the area is not bound to repay, the members of the council who have consented to such appropriation shall thereupon be jointly and severally liable to refund the same and all interest thereon; and the same may be recovered from them or any of them in any court of competent jurisdiction at the suit of any elector, ratepayer, or creditor of the area on behalf of the council.

Temporary
borrowing.
Substituted section,
Act No. 28, 1908,
s. 29.

176. (1) Notwithstanding the provisions of this Act, a council may temporarily borrow in any year on the credit of the area and on the security of its revenues an amount not exceeding one-third of the estimated revenue to be received from rates if the consent of the Minister has been first obtained. For securing the repayment of any moneys borrowed or to be borrowed temporarily by a council under this Act, together with interest, if any, thereon, the council of a shire shall have the same powers to give security as the council of a municipality.

Validation of certain
shire borrowings.

(2) All temporary loans made to and securities for the same given by any council of a shire after the commencement of this Act and before the commencement of the Local Government (Amending) Act, 1908, to secure the repayment of moneys borrowed with the consent of the Minister, or of which the Minister has at any time approved, together with interest, if any, thereon, shall be deemed to have been and to be good and valid loans and securities, and to have been lawfully made and given, notwithstanding that the amount of such loan may have been greater than that authorised by the statute law,

(3)

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(3) Where a council has temporarily borrowed to an amount greater than that authorised as aforesaid, and such borrowings are validated hereunder, such council shall, before the thirtieth day of June, one thousand nine hundred and nine, repay such temporary borrowings to the extent necessary to reduce the amount owing to the amount so authorised.

Repayment of temporary borrowings validated.

(4) A council borrowing temporarily under this section shall keep a temporary loan fund as prescribed, and shall pay moneys to and out of such fund as prescribed.

Temporary loan fund.

(5) Nothing in section one hundred and fifty-six of this Act shall apply to any temporary borrowing under this section.

Saving.

176A. Where before the first day of June, one thousand nine hundred and eight, a loan has been made to the council of a municipality or of an existing municipality, such loan shall be deemed to have been a good valid and legal loan, and to have been lawfully contracted by such council, and the securities given for such loan shall be deemed to have been and to be good and valid securities, and to have been lawfully given to secure the repayment of such loan.

Validation of previous loans and securities in municipalities. New section, Act No. 23, 1908, s. 29.

176B. A council of a shire or municipality shall not borrow money in any way except as provided by this or some other Act; nor obtain any loan in anticipation of the Governor's approval or Minister's consent, as the case may be, when such approval or consent is required by any Act to be given in order to authorise the loan.

Limitation of council's borrowing powers. New section, Ibid.

177. (1) Where a council makes default for three months in the due payment of the principal or interest of any loan, a receiver may be appointed.

Appointment of receiver. Extension, s. 84.

(2) Where the loan is guaranteed by the Government, the receiver may be appointed by the Governor by proclamation, or by the Supreme Court on the application of the Treasurer.

By Governor;

(3) Where the loan is not so guaranteed, the receiver may be appointed by the Supreme Court on the application of a holder of the security given by the council for the loan.

Supreme Court.

178. (1) A receiver shall have the same powers and immunities as a receiver appointed by the Supreme Court in its equitable jurisdiction.

Powers of receiver. Extension, s. 85.

(2) A receiver, in the name of the council, may cause valuations to be made and rates to be made and levied, may enforce payment of moneys due to the council or the municipality, and recover moneys deposited by the council in any bank. The receiver shall, for the above purposes, have the powers of the council, and of its mayor, president, and clerk.

Further powers of receiver.

(3) A receiver shall apply the moneys received by him, after meeting the necessary expenses, towards the payment of any principal or interest due on any loan to the council, and the reimbursement of the Consolidated Revenue Fund to the extent to which that fund has been drawn upon to meet claims in respect of any such loan.

Duties of receiver.

(4)

Local Government.

Receiver to act
under Court.Withdrawal of
receiver.Further duties of
receiver.

(4) A receiver appointed by the Supreme Court shall act under the directions of the Court until discharged by it.

(5) A receiver appointed by the Governor shall be withdrawn by the Governor, and shall cease to act as such receiver when the whole of the matured obligations of the council in respect of the guaranteed loan have been wholly met or discharged, or may be withdrawn before that time, but in such last-mentioned case the Governor, by proclamation, may at any time appoint another receiver in respect of the same loan without any further default of the council or evidence of such default.

(6) A receiver, whether appointed by the Supreme Court or by the Governor, shall be under the same obligations to render and publish all the prescribed statements and returns and to perform other duties imposed by the Minister, as would, if there were no such receiver, have to be rendered, published, or performed by the mayor, or president or clerk.

PART XXVII.**FUNDS.***Shires and municipalities.*Accounts carried to
general fund.

Shires, s. 39.

Extension, s. 71.

179. (1) There shall be a general fund for each area to which shall be carried the following revenues of the council—

- (a) the proceeds of all general rates, and additional general rates, and all dues, rents, fees, and charges, and the amount of all penalties, expenses, compensation, or other moneys payable in respect of offences against this Act or any by-laws, ordinances, or regulations;
- (b) moneys received under any grant, endowment, or statutory authority;
- (c) other revenues not directed by this Act to be carried to any other fund.

Purposes to which
general fund may
be applied.

(2) Subject to the provisions of this Act as to the powers and duties conferred and imposed upon councils, and so far as such powers and duties extend, the general fund may, in any area, be applied to the following purposes, and no other—

- (i) the formation, construction, and maintenance of roads and streets, culverts and bridges;
- (ii) the preservation of the public health;
- (iii) the lighting of roads and streets;
- (iv) the supply of water to villages and towns;

(v)

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- (v) the extirpation of noxious animals, plants, and weeds;
- (vi) the construction and maintenance of tanks and public watering places;
- (vii) the erection and maintenance or the hire of council offices;
- (viii) the maintenance of permanent and temporary commons, parks, and camping reserves;
- (ix) the watering of streets;
- (x) the carrying out of any service required by this Act to be performed by the council and not payable out of any other fund of the council;
- (xi) the general expenses of the council in carrying out the provisions of this Act;
- (xii) such other purposes as the Governor may, from time to time, proclaim;
- (xiii) The payment of a yearly subscription to the Local Government Association of New South Wales or the Shires Association of New South Wales: New paragraph, Act No. 28, 1908, s. 30.

Provided that, in municipalities, the general fund may be applied in the payment of capital and interest on loans:

Provided also that, except for the lighting of dangerous points on roads or bridges, the cost of lighting roads and streets shall not be paid from the general fund, but nevertheless a council of a municipality whose area is wholly situate within twenty miles from the Sydney Post Office, and of any municipality the whole area of which derives any benefit or advantage from the expenditure on lighting streets, may in its discretion pay such cost out of its general fund. General fund may be applied to pay loans and interest. Extension, s. 71. New proviso, Ibid.

Where a local rate is made for lighting roads or streets a poll may not be demanded as to whether such rate shall be made.

180. (1) In each area there shall be a special fund for each special rate levied and for each work or service carried on by the council in respect of which the special rate has been made. Special fund. Extension, s. 72.

(2) There shall be carried to such fund the proceeds of the special rate and the revenues derived from the work or service in respect of which the fund is kept. What shall be carried to special fund.

(3) The fund shall only be applied for the purposes of or incidental to the said work or service. But any balance to the credit of any such fund when it is closed may, with the approval of the Governor, be carried to some other fund of the council. Application of special funds.

181. (1) In each area there shall be a local fund for each local rate levied. There shall be carried to such fund the proceeds of the local rate and the revenues derived from any work or service in respect of which the rate is levied. Local fund. Extension s. 73.

(2) The fund shall only be applied for the purposes of such work or service; but any balance to the credit of any such fund when it is closed may, with the approval of the Governor, be carried to some other fund of the council. Application of local fund.

181A.

Local Government.

Transfers from fund
to fund validated.
New section,
Act No. 28, 1908,
s. 31.

181A. (1) Where, before the first day of July, one thousand nine hundred and eight, the proceeds of any rate, other than a general rate, and other than a rate under the Country Towns Water and Sewerage Acts, 1880-1905, which was directed by any Act to be paid to an account or fund specified, other than the general fund, or any sum at credit of such account or fund, has been paid to the general fund or some other fund of a municipality or an existing municipality or used for public purposes other than those for which such rate was levied, such payment or use shall be deemed to have been and to be valid:

Saving.

Provided that nothing herein shall affect any security or charge on such special rate or the proceeds thereof to secure the repayment of a loan to the council.

Validation—Lithgow
council.

(2) The council of the municipality of Lithgow shall be deemed to have been authorised to use money to the extent of one thousand two hundred pounds, at credit of the account of rates and charges under the Country Towns Water and Sewerage Acts, 1880-1905, for the purposes of the general fund, and any such use of such money is hereby validated.

Any moneys so used shall be repaid from the general fund within six years from the thirty-first day of December, one thousand nine hundred and eight.

Transfers from fund
to fund regulated.

(3) Moneys shall not be transferred from one fund of a council to any other fund, except in accordance with this Act or with regulations which the Governor is hereby authorised to make with regard thereto. In such regulations provision may be made for the distribution of the administrative expenses of the council among the various funds, and for the definition of administrative expenses.

Loan funds.
Extension, s. 74.

182. (1) Where any borrowed money is owing by a council there shall be kept a separate loan fund in respect of each work or service in respect of which any such money is owing.

What shall be carried
to loan funds.

(2) There shall be carried to each such fund—

- (a) the proceeds of loans raised for the particular work or service to which such fund refers;
- (b) the proceeds of all loan rates (if any) levied in respect of such loans;
- (c) such sums as the council may vote in aid of such loan fund from the general fund or from the special or local fund (if any) in which the working account in respect of such work or service is kept.

Application of loan
fund.
Interest.
Sinking fund.

(3) A loan fund shall be applied—

- (a) in paying the interest on loans;
- (b) if, under the provisions of this Act, a sinking fund must be provided in connection with such loan, in purchasing interest-bearing Government securities each year;

(c)

Local Government.

- (c) after full provision has been made for the current year for Capital expenditure. paying interest and purchasing securities as aforesaid, in meeting the capital cost of the work or service in respect of which the loan fund is kept ;
- (d) in repaying borrowed money owing by the council in respect Repayments. of loans obtained for such work or service, and carried to such fund.
- (4) Government securities purchased by a council in Government securities. pursuance of this section shall not be sold nor charged except as provided by regulations under this Act.
- (5) Any balance to the credit of any such fund when it is Balances. closed, may, with the approval of the Governor, be carried to some other fund of the council.

PART XXVIII.

ACCOUNTS AND AUDIT.

Shires and municipalities.

183. (1) A council shall cause true and regular accounts to be kept in books of account of all sums of money received and paid into or out of every fund, and of the several purposes for which such moneys have been received and paid, and shall cause the accounts to be balanced once at least in every six months. Books of accounts to be kept and balanced. Shires, s. 40. Extension, s. 75.

(2) The Governor may prescribe the form or manner in which any such books shall be kept, and shall prescribe the time and manner in which the council, periodically, shall publish full and accurate accounts of its receipts, disbursements, assets, and liabilities. Governor may prescribe form of account books.

(3) Such books shall be open for inspection by the members of the council and the electors, without fee, at all reasonable times, and if the clerk does not permit such inspection he shall be liable to a penalty not exceeding ten pounds. Books open to inspection.

(4) If it appears to the Minister that the books and accounts of any council have been negligently or improperly kept, or wilfully falsified, he may withhold the payment of any further endowment of the area until he is satisfied that the said books and accounts are being carefully and properly kept. Endowment may be withheld if books not properly kept.

184. (1) The books and accounts of a council shall be audited, at the times and in the manner prescribed, by auditors, to be appointed by the council. Audit of books and accounts. Shires, s. 41. Extension, s. 75.

(2) The Governor shall make regulations as to the number of auditors to be employed and as to the certification of auditors, and shall direct the amount of the minimum remuneration to be paid to each auditor. The remuneration of auditors shall be paid out of the general fund of the area. Auditors to be appointed by council subject to regulation. Qualifications of auditors.

(3)

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Governor may
cancel appointment
of an auditor and
appoint another.

(3) No person shall be appointed as an auditor who is not so certificated. The Governor may cancel the appointment of any auditor, and the council may thereupon, but subject to this Act, appoint another auditor in his place.

Governor may
appoint auditors.

(4) If the council fail to appoint auditors as prescribed, the Governor shall thereupon appoint them.

Appointment of
examiners of
accounts.

Shires, s. 42.

Extension, s. 75.

185. (1) The Governor may appoint examiners of accounts, whose duty will be to inspect the accounts of the councils, and to report to the councils and the Minister respectively any irregularity, dishonesty, or breach of this Act or of the regulations or ordinances which they may discover.

Examiners to have
power to disallow
items.

(2) Such examiners may disallow any expenditure or entry in the books which they may consider has been wrongly, irregularly, or dishonestly incurred or made, or which has been incurred or made in contravention of the Act, or of the regulations or ordinances. Any such sum so disallowed shall be a surcharge upon and may be recovered from or deducted from moneys due to the officers or servants of the council by whom the expenditure was incurred or ordered to be incurred, or by whom the entry was made or ordered to be made.

Surcharge.

Appeal against
surcharge.

(3) Any person upon whom a surcharge is made by such examiner may appeal to the Minister, whose decision shall be final. Such appeal shall be made within one month of the surcharge.

Powers of auditors
and examiners.

Shires, s. 43.

Extension, s. 75.

186. (1) For the purpose of any such audit or examination of accounts, an auditor or examiner of accounts may take evidence upon oath or affirmation (which oath or affirmation he is hereby empowered to administer), and may, by summons under his hand, require such persons as he thinks fit to appear personally before him, at a time and place to be fixed in and by such summons, and to produce to him such books and papers as appear necessary for such audit or examination, and may examine such witnesses as he thinks fit.

(2) Provided that where such witnesses are members or servants of a council or residents of an area where accounts are under investigation, such examination shall be held at either the council's meeting place, or at some convenient place within the boundaries of such area.

Enforcement of
summons.

(3) Any person so required who, without just excuse,—
(a) neglects or refuses to comply with such summons; or
(b) refuses to be examined on oath or affirmation, or to take an oath or affirmation; or
(c) refuses to answer such lawful questions as are put to him, shall be liable to a term of imprisonment not exceeding twelve months, or a penalty not exceeding twenty pounds.

Retirement of
auditors.

Extension, s. 75.

(4) On the commencement of this Act the auditors of an existing municipality then in office shall retire.

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PART XXIX.

ORDINANCES.

Shires and municipalities.

187. (1) Subject to the provisions of this Act as to the powers and duties conferred and imposed upon councils, and so far as such powers and duties extend, the Governor may, at any time after the passing of this Act, make, amend, alter, or repeal ordinances applicable to all or any specified area or to specified portions of areas for carrying this Act into effect, and such ordinances may deal with matters respecting—

Matters which may be dealt with by ordinances.
Shires, s. 44.
Extension, ss. 86, 87.

- (i) the qualifications and duties of servants of councils and the appointment, suspension, and dismissal of such servants ;
- (ii) public places and ferries under the control of councils and the regulation of traffic thereon ;
- (iii) public wharfs and bridges ;
- (iv) public health, safety, and convenience ;
- (v) the carrying out jointly of works on boundaries and the joint control thereof ;
- (vi) the lighting and cleansing of public places ;
- (vii) the suppression of nuisances ;
- (viii) the regulation of the hawking of goods and the licensing of hawkers by councils, and the charging of a license fee, which shall be paid to the general fund of the area ;
- (ix) the removal of night-soil, filth, or refuse ;
- (x) the regulation and the licensing of public vehicles and the drivers and conductors thereof, and the charging of a license fee ;
- (xi) the fixing and collecting of tolls on roads, bridges, wharfs, jetties, ferries, and public watering places under the control of the council ;
- (xii) the fixing, recovery, and collection of fees and charges for services rendered by a council in pursuance of its powers under this Act ;
- (xiii) encroachments on public roads, streets, or other public places by buildings, fences, hedges, ditches, or drains ;
- (xiv) the supply and distribution of water ;
- (xv) the care, construction, and management within the area of roads, streets, bridges, culverts, jetties, ferries, and wharfs ;
- (xvi) the powers of officers and servants ;
- (xvii) any other powers and duties conferred and imposed on or acquired by a council under this Act ;

(xviii)

Local Government.

- (xviii) the regulation of the proceedings of councils and their committees;
- (xix) the quorum of councils;
- (xx) the appointment and the powers of committees of councils;
- (xxi) the manner of conducting polls of electors and rate-payers;
- (xxii) the making of lists and rolls of electors, and the form of declaration which may be required of a person claiming enrolment;
- (xxiii) the inspection, revision, and notification of such lists and rolls, and the appointment and proceedings of revision courts;
- (xxiv) the proof of the contents of such lists and rolls;
- (xxv) the nomination of candidates for election to a council;
- (xxvi) the times and the manner of elections, and the declaration of the results thereof;
- (xxvii) the appointment of electoral officers and clerks, and their powers, duties, and liabilities;
- (xxviii) the appointment and regulation of polling-places;
- (xxix) the enforcing of order at polling-places or at revision courts by the arrest of persons offending, or reasonably suspected of offending, against this Act or the ordinances, or otherwise;
- (xxx) the election of presidents and mayors and the appointment of their deputies;
- (xxxi) the vacating of the offices of president and councillor, and mayor and alderman;
- (xxxii) elections to fill extraordinary vacancies in councils;
- (xxxiii) the preparation, scaling, and inspection of rate-books, and the amendment thereof; the time within which rates shall be made, notices be given as to rates, and the regulation of all other matters relating to rating;
- (xxxiv) the appointment and the powers and duties of valuers;
- (xxxv) the procedure as to valuations and appeals against valuations, and the duties of the council and its officers and servants in relation to such appeals;
- (xxxvi) the times, places, and forms for hearing such appeals;
- (xxxvii) lands in respect of which rates are in arrear;
- (xxxviii) notices, documents, and forms;
- (xxxix) providing for the service of notices required or authorised to be given under this Act or the ordinances;
- (xl) providing for matters which by this Act may be prescribed;

(xli)

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- (xli) generally for carrying out the provisions of this Act, or of any Act administered by a council, and for enforcing and securing the observance thereof; and
- (xlii) relating to any matter mentioned in this section, although the same or a similar matter may have been already provided for by the Police Offences Act, 1901;
- (xliii) the holding of polls of electors and the notification of the result of such polls; Extension, s. 87.
- (xliv) the voting by post at elections and polls of electors or ratepayers;
- (xlv) the making and notification of a roll of ratepayers, the holding of polls of ratepayers, and the notification of the result of such polls;
- (xlvi) the adoption of mechanical means of voting, and of taking and counting votes at elections of aldermen or councillors, and at polls of electors and of ratepayers, and the regulation of such means of voting;
- (xlvii) the regulation of hoardings, buildings, balconies, or verandahs, abutting on or extending over any public place;
- (xlviii) the carrying out jointly of undertakings for mutual benefit of areas, and the joint control thereof;
- (xlix) the manufacture and supply of gas and the installation and distribution of electric-light, and of electric, hydraulic, or other power;
 - (l) the suppression of houses of ill-fame and disorderly houses;
 - (li) the regulation of the erection and management of buildings used as places of public resort or amusement;
 - (lii) the conduct and safety of the people in places of public amusement and of public resort;
 - (liii) the keeping of all premises free from offensive or unwholesome matter; and, subject to the Noxious Trades Act, 1902, the suppression of nuisances;
 - (liv) the appointment of places for the inspection and whole-sale disposal of fish;
 - (lv) the mitigation or suppression of public nuisances caused by the emission, discharge, or escape of smoke, fumes, steam, oil, or oil-vapour, either separately or any two or more in combination, from premises within the area;
 - (lvi) the construction, establishing, maintenance, and regulation of markets, cattle sale-yards, and abattoirs;
 - (lvii) the fixing and collecting of fees and charges in respect of markets, cattle sale-yards, and abattoirs, and sewerage and drainage, and of hoardings and places of public amusement;
 - (lviii)

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- (lviii) the regulation of bathing and the observance of decency in connection therewith; the construction and use of public baths, bathing-houses, and bathing-machines;
- (lix) the regulation or prevention of the erection of any structure of calico or canvas or other inflammable material;
- (lx) noxious weeds, pests, animals, and vermin;
- (lxi) the opening to use by the public of new roads through private land, and the acceptance of the care, construction, and management of such;
- (lxii) the regulation and supervision of the opening up of streets or roads for the laying of pipes, construction of tunnels, or other similar purposes, and the regulation of the laying of wires or cables under or over or through the roads or streets of the area for the transmission of electricity, and the making of a charge for damage resulting therefrom;
- (lxiii) the inspection of milk and dairies;
- (lxiv) the inspection and prevention of the sale of unwholesome or adulterated food;
- (lxv) the sale and mode of delivery of meat by carcase or otherwise, and the disposal and removal of any blood, offal, or other refuse;
- (lxvi) the construction of communicating drains with main sewers, and sewerage generally;
- (lxvii) the regulation of the use by the public of all public parks, public reserves, gardens, shrubberies, commons, and other public places which are under the control of the council in virtue of this Act, and the removal and punishment of trespassers and persons causing annoyance or inconvenience thereon;
- (lxviii) the regulation of the manner, route, and times of driving cattle along the public thoroughfares;
- (lxix) the regulation of the erection of buildings, as to height, design, structure, building materials, building line, and sanitation;
- (lxx) any other of the powers and duties conferred and imposed upon or acquired by a council in pursuance of this Act.

Ordinances to have
force of law.

Shires, s. 44.

Extension, s. 87.

Alteration or
rescission.

Shires, s. 45.

Extension, s. 86.

(2) Every such ordinance shall have the force of law when published in the Gazette, but not sooner or otherwise: Provided that any ordinance so published under this Act before the commencement of this Act shall not have effect until such commencement.

188. (1) A council may, subject to the provisions herein contained, alter or rescind any such ordinance so far as applicable within its area, and may also (whether the Governor has or has not made

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made ordinances to be in force in the said area) make new ordinances for any of the purposes for which ordinances applicable to it may be made.

(2) No such alteration, rescission, or new ordinances shall be made by a council, unless passed by a majority of at least two-thirds of the members present at a meeting of the council specially called for that purpose. Two-thirds majority required.

(3) Such alteration, rescission, or new ordinances on being so passed shall be notified by the council in the Gazette, and attention shall be drawn to such notice by advertisement published twice in some newspaper circulating generally in the area. Notification.

(4) Within twenty-one days after the date of the first publication of such advertisement any electors, being not less than one-tenth in number of the electors of the area, may, by writing signed by them, delivered to the president, mayor, or clerk, demand that the whole, or any specified part of such alteration, rescission, or new ordinances, be submitted to a poll of the electors of the area, and the matter shall thereupon be submitted by the council to such poll as prescribed. Poll may be demanded.

(5) Provided that a poll may not be demanded in respect of— Poll may not be demanded.

- (a) new ordinances which are substantially the same as ordinances then in force in every part of some other area; or
- (b) an alteration which makes an ordinance substantially the same as an ordinance then in force in every part of some other area;

if attention has been called to such fact in the Gazette notice mentioned in subsection three of this section.

(6) The decision of the majority of electors voting at the poll shall determine whether the alteration, rescission, or new ordinances submitted to the poll may come into force; and subject to such decision, or if no poll is demanded, the clerk shall forward two copies of the alteration, rescission, or new ordinances (omitting such as are negated by the poll) to the Minister. Proposed ordinance to be sent to Minister. Shires, s. 45. Extension, s. 86.

(7) The Minister, after correcting any minor or verbal errors, shall transmit such alteration, rescission, or new ordinances to the Governor, with a report stating whether they are consistent with the principles of law and equity, and are within the powers of the council, and if there is any reason why they should not be made. Minister to report to Governor.

(8) The Governor may, after the receipt of the report of the Minister, allow the alteration, rescission, or new ordinances, or may disallow them in whole or in part, and for that purpose may make such amendments as may seem expedient or fit; and the Minister shall report to the clerk the result of the Governor's decision. Allowance by Governor. Shires, s. 45. Extension, s. 86.

(9)

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Passing of ordinance
by council.

Shires, s. 45.

Extension, s. 86.

(9) Such alteration, rescission, or new ordinances, if and so far as they are allowed by the Governor, on being passed by a simple majority of the council at a special meeting called for that purpose, and on being sealed with the common seal of the council and advertised in the Gazette in the prescribed manner, shall have the force of law.

PART XXX.**REGULATIONS.***Shires and municipalities.*

Regulations made by
Governor.

Shires, s. 46.

Extension, s. 88.

189. (1) The Governor may at any time after the passing of this Act make regulations relating to—

- (i) the appointment of officers and servants by the Governor ;
- (ii) accounts and audit and the duties of examiners of accounts ;
- (iii) the form in which the accounts of councils shall be kept, and the periodical publishing of such accounts ;
- (iv) returns to be furnished periodically by officers or clerks to the Commonwealth or State Government Statistician or other persons ;
- (v) the opening to use by the public of new roads through private land and the acceptance of the care, construction, and management of such roads ;
- (vi) notifications of the elections of officers, appointments of servants and auditors, and of other matters, and the service of notices required by the regulations ;
- (vii) empowering and directing councils jointly or severally to appoint and employ servants, including a clerk and an engineer, and such other servants as may be prescribed, and prescribing the qualifications which must be possessed by such servants, the manner of appointment, and the conditions of employment ;
- (viii) the disqualification of presidents and councillors mayors and aldermen from voting at meetings of the council in cases in which they or any of their relations are interested, specifying the degree of relationship and the nature of the interest necessary to create the disqualification ;
- (ix) the hearing of objections and appeals ;
- (x) the procedure to be followed by councils when raising loans ;
- (xi) matters which by this Act may be prescribed by regulations ;
- (xii) all such other matters as the Governor may deem necessary for carrying this Act into effect, and for the observance thereof.

(2)

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(2) Every such regulation shall have the force of law when published in the Gazette, but not sooner or otherwise: Provided that any regulation so published under this Act before the commencement of this Act shall not have effect until such commencement.

PART XXXI.

MISCELLANEOUS.

Shires and municipalities.

190. By any ordinances or regulations the Governor or a council may impose a penalty for any breach thereof, and may impose a maximum and minimum penalty; every such penalty shall be paid to the general fund of the area: Provided that such penalty shall not exceed fifty pounds, and such ordinances or regulations may provide, in addition to any such penalty, that any expense incurred by a council in consequence of any such breach or in the execution of any work directed by any such ordinances or regulations to be executed by any person and not so executed, shall be paid by the person committing such breach or failing to execute such work.

Penalties for breaches of ordinances or regulations. Shires, s. 49. Extension, s. 90.

191. All penalties imposed by this Act, or by any ordinances or regulations made thereunder, and all fees, tolls, and charges for services rendered, authorised thereby, may be recovered in a summary way before any two justices in petty sessions, and shall, when recovered, be paid to the council interested.

Penalties how recovered. Extension, s. 91.

192. The production of the Gazette containing any ordinance or regulation purporting to be made, approved, and published in pursuance of this Act, shall, in any legal proceeding, be sufficient evidence that such regulation or ordinance has been so made, approved, and published.

Gazette to be evidence. Shires, s. 47. Extension, s. 90.

193. In any legal proceedings or prosecution by a council under this Act, or any ordinances, regulations, or by-laws, no proof shall be required—

Evidence. Extension, s. 100.

- (a) of the persons constituting or the extent of the jurisdiction of the council; or
- (b) of any order or authority to appear for or prosecute for or on behalf of the council; or
- (c) of the particular or general appointment of any servant of the council; or
- (d) of the presence of a quorum of the council when any order or resolution is made or passed.

194. In any prosecution by or on behalf of any council for trespass or any offence on streets or footpaths, it shall not be necessary to prove the gazettal or alignment of such street or footpath, but

Prosecutions for trespass—evidence of street or footpath. Extension, s. 101.

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it shall be sufficient evidence of the fact that the place whereon the trespass or offence is alleged to have occurred is a street or a footpath if it is proved that such place is a thoroughfare in the nature of a street or footpath and is so used by the public.

Service of notices.
Extension, s. 92.

195. (1) Where it is provided by this Act that an order may be served upon any person requiring such person to do or abstain from doing anything, or where it is required by any regulation or ordinance that any notice be given or sent to any person, such order or notice may be delivered to such person personally or by sending it to his last known place of abode or business by messenger or by post.

Notices to persons
absent from New
South Wales.

(2) If such person is or appears after inquiry by the council to be absent from New South Wales, the order or notice shall be sent by post to his last known address in New South Wales, and the council shall also, in the event of such person having, to the cognizance of the council, an agent in New South Wales, serve notice upon such agent in any of the modes prescribed by the last preceding subsection; and

(a) if in the above case such person has not, to the cognizance of the council, an agent in New South Wales; or

(b) if such person (whether in New South Wales or not) is not known; and if in cases (a) and (b) the order or notice relates to any land or building, such order or notice may be served or given by serving it on the occupier of such land or building, or leaving it with some inmate of such building of the apparent age of sixteen years or over, or, if there be no occupier, by affixing it on some conspicuous part of such land or building.

Inquiry as to agent.

(3) The Council shall, for the purpose of the next preceding subsection, make inquiry as to whether a person known has an agent in New South Wales.

Inquiries deemed to
have been made.

(4) Upon service having been effected by the Council, whether service is made upon the agent or not, all inquiries requisite under this section shall be deemed to have been made and the service shall be conclusive evidence thereof.

Proof.

(5) Proof by affidavit or otherwise of the posting shall be conclusive evidence of service.

Proceedings of
council.

Entry in minute-
book to be evidence.

Shires, s. 49.

Extension, s. 92.

193. Every entry in the minute or other book purporting to be a minute of the business transacted at a meeting of a council or committee, and to be signed by the mayor, president, or chairman of the council or committee, at the meeting of such council or committee held next after such first-named meeting, shall be prima facie evidence that such business as is therein recorded was transacted at such meeting and that such meeting was duly convened and held.

Proclamation of area.

Shires, s. 49 (2).

Extension, s. 92.

197. The production of the Gazette containing a proclamation constituting an area shall, in all proceedings, be conclusive evidence of the legality of such constitution.

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198. Any proclamation or notification under this Act or the Shires Act may, by proclamation or notification, be altered or rescinded: Provided that such alteration or rescission shall not affect anything done before the publication of such subsequent proclamation or notification under or by virtue of the proclamation or notification so altered or rescinded.

Governor may rescind notification or proclamation.
Shires, s. 50.
Extension, s. 92.
Amended,
Act No. 28, 1908,
s. 32 (1).

199. The following provisions shall apply in respect to offences under this Act:—

- (1) It shall be the duty of a member of the police force who finds a person committing a breach of this Act, or of any ordinance, to demand from such person his name and place of abode, and to report the fact of such breach and the name and place of abode of such person, as soon as conveniently may be, to the clerk.
- (2) Any person who, upon demand made as aforesaid, refuses to state his name and place of abode, or states a name or place of abode which in the opinion of the member of the police force making the demand is false, may, without any other warrant than this Act, be apprehended by him and taken before any court of summary jurisdiction, there to be dealt with according to law.
- (3) Any person who, upon demand made as aforesaid, refuses to state his name and place of abode, or states a false name or place of abode, shall be liable to a penalty not exceeding ten pounds.
- (4) Any person who wilfully obstructs the Governor or Minister or a council, or any person acting under the authority of the Governor or Minister, or a council, in the performance of anything which the Governor or Minister, or the council, or such person is empowered or required by this Act to do, shall be liable to a penalty not exceeding ten pounds.
- (5) When any matter or thing is by this Act or by order, proclamation, or notice, made under the authority thereof, directed or forbidden to be done by any person, and such person neglects or refuses to carry out or contravenes such direction or prohibition, he shall, if no other penalty is provided, be liable to a penalty not exceeding twenty pounds.

Offences.
Shires, s. 51.
Extension, s. 92.
Report of breaches and arrest of offenders.

Offenders may be arrested without warrant.

Penalty for refusing name and address.

Penalties for wilful obstruction.

Offences against this Act.

200. No proceedings of a council, or of any committee thereof, or of any person acting as mayor, president, alderman, or councillor, shall be invalidated by reason of any defect in the appointment or election, or of any disqualification of any member of the council or of any such person, or by reason of there being any vacancy in the council or committee at the time of such proceedings.

Proceedings not to be invalidated.
Shires, s. 52.
Extension, s. 92.

Local Government.

Officer may be appointed to hold inquiries.

Shires, s. 53.

Extension, s. 92.

Authority to direct prosecution.

Shires, s. 54.

Extension, s. 92.

Representation of council in proceedings.

Expenses.

Proceedings to be commenced within six months.

Power to accept bequests and devises.

Extension, s. 93.

Mayor or president may appoint substitutes.

Extension, s. 94.

Validation of acts of substitutes.

Penalty for default of president, mayor, or member of council.

Shires, s. 18 (4).

Extension, s. 51.

Inaccuracy of description.

Amended, Act No. 28, 1908, s. 32 (2).

Non-compliance with preliminary conditions.

Extension, s. 95.

201. The Governor or the Minister may appoint any officer of the Public Service to make inquiry as to any matter relating to the administration of this Act. Such officer, and any person to whom under this Act any matter may be referred, shall have the powers of a Commissioner under the Royal Commissioner's Evidence Act, 1901, and the provisions of the said Act shall apply to and in relation to any such officer or person in conducting any such inquiry or reference.

202. (1) The mayor, president, or any person appointed by the council in that behalf may direct any prosecution or legal proceedings to be taken for or in respect of any offence against this Act or any ordinance or regulation.

(2) Any officer or servant of a council appointed by the council in that behalf, may represent and act for the council in the conduct of any action, suit, or other legal proceeding in any court by, for, or on account of, or against such council.

(3) Such officer shall be reimbursed out of the general fund all damages, costs, charges, and expenses to which he may be put, or to which he may become liable by reason of his so acting.

(4) No person shall be subject to any incapacity or disability, or be liable to pay any penalty or incur any forfeiture under this Act, unless proceedings in respect thereof are commenced within six months after the happening of such incapacity or disability, or after such penalty or forfeiture has been incurred.

203. A council may acquire, possess, and hold property in books, papers, instruments, works of art, and other articles, and in land and buildings, by bequest or devise.

204. (1) Whenever, in consequence of death or absence, or other inability, any alderman, councillor, or servant of the council of an area, is prevented from performing any duty, which by this Act he is directed to perform, it shall be lawful for the mayor or president to appoint any other alderman, councillor, or person to perform the same.

(2) All the acts and proceedings of any alderman, councillor, or person so appointed as aforesaid shall have the same validity as the acts and proceedings of the alderman, councillor, or servant of the council in whose place such alderman, councillor, or person has been so appointed as aforesaid would have had.

205. If any president, mayor, or member of a council neglects or refuses to do anything which by law he is directed to perform, he shall for every such offence be liable to a penalty not exceeding ten pounds.

206. (1) No misnomer or inaccurate description or omission of description in any proclamation or notification under this Act shall affect the operation of such proclamation or notification.

(2) No proclamation or notification of the Governor, purporting to be made under this Act, and being within the powers conferred

Local Government.

conferred on the Governor, shall be deemed invalid on account of any non-compliance with any matter required by this Act as preliminary to the making of such proclamation or notification.

207. Where, in pursuance of this or any other Act, or any ordinances, regulations, or by-laws, a council lawfully orders or directs any person to perform any work or do any act or thing, and such person fails to perform such work or do such act or thing as and when so ordered or directed, the council may cause such work to be performed or such act or thing to be done, and may, in any court of competent jurisdiction, recover from the said person the expenses so incurred as a debt due to the council.

Power to enforce orders.

Extension, s. 96.

208. (1) If the occupier of any premises prevents the owner thereof from obeying or carrying into effect any provisions of this Act or of any ordinance or regulation thereunder respectively, or of any notice or order under the said Act, ordinances, or regulations, any justice to whom application is made in that behalf may, by order in writing, require such occupier to permit the execution of any works if they appear to such justice to be necessary for the purpose of obeying or carrying into effect the said provisions; and if such occupier does not comply with the order within forty-eight hours after the time when it was made, he shall be liable to a penalty not exceeding five pounds for every day during the continuance of such non-compliance.

Occupier preventing owner from carrying out this Act.

Extension, s. 97.

(2) Such penalty shall be in lieu of any penalties to which the occupier might otherwise have become liable by reason of any default by him in carrying into effect the said provisions.

Penalty.

209. (1) A council may make a fair rental charge upon persons who have laid or erected, or may, with the council's permission, lay or erect, pipes, wires, cables, or rails, on, under, over, or through the public and other places under the control of the council. This subsection shall not apply to the Crown.

Charges on pipes, wires, cables, and rails.

Extension, s. 105.

(2) If any dispute arise as to the amount of such rental charge, such dispute shall be finally settled by the decision of the nearest court of petty sessions. Such charges may be made, levied, and recovered by a council as rates.

Control of beaches and adjacent waters.

210. Where high-water mark of any tidal waters is the boundary of any area, and where the council of the area has acquired the powers of paragraph (xvi) of section one hundred and nine of this Act, the powers of the said paragraph and any ordinances relating thereto shall extend and apply to the foreshores below such high-water mark, and to the tidal waters adjacent to such foreshores, and to all persons thereon or therein.

Control of foreshores and tidal waters.

New section, Act No. 28, 1903, s. 33.

Indemnity.

*Local Government.**Indemnity.*

Indemnity for non-compliance with Audit Act.

New section,
Act No. 28, 1908,
s. 34.

211. All persons whosoever concerned or engaged, before or after the commencement of this Act, in paying any account for work which is situate within a shire or municipality and which was completed on or before the thirty-first day of July, one thousand nine hundred and eight, are hereby indemnified and held harmless for or in respect of any non-compliance with the provisions of section forty-one of the Audit Act, 1902.

SCHEDULES.

SCHEDULE ONE.

Nos. of Acts.	Titles of Acts.	Extent of repeal.
2 Wm. IV, No. 16...	An Act for regulating the rates of tolls or dues to be levied at the markets of Sydney and Parramatta.	The whole.
3 Vic. No. 19 ...	An Act to authorise the establishment of markets in certain towns in the Colony of New South Wales, and for the appointment of commissioners to manage the same.	The whole.
5 Vic. No. 2 ...	An Act to amend an Act intituled an Act to authorise the establishment of markets in certain towns in the Colony of New South Wales, and for the appointment of commissioners to manage the same.	The whole.
61 Vic. No. 24 ...	Nuisances Prevention Act, 1897	The whole.
Act No. 20, 1898 ...	Cattle Driving Act, 1898	The whole.
Act No. 55, 1902 ...	Wagga Wagga Cattle Driving Act, 1902	The whole.
Act No. 62, 1902 ...	Maitland Cattle Driving Act, 1902	The whole.
Act No. 67, 1902 ...	Newcastle Paving and Public Vehicles Act, 1902 ...	The whole.

Also all enactments, whether in public or private Acts (except the Sydney Corporation Act, 1902), relating to municipal cattle sale-yards, or relating to the making and levying of special rates for street-watering.

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SCHEDULE TWO.

2 Wm. IV No. 12	}	Relating to roads, ferries, and tolls.
4 Wm. IV No. 11		
14 Vic. No. 5		
18 Vic. No. 15		
20 Vic. No. 38		
21 Vic. No. 8	}	Maitland roads.
24 Vic. No. 12		
25 Vic. No. 7		
35 Vic. No. 2		
17 Vic. No. 16		
18 Vic. No. 22		
11 Vic. No. 49 (South Head road).		

SCHEDULE THREE.

Nos. of Acts.	Titles of Acts.	Extent of suspension.
59 Vic. No. 15 ...	Land and Income Tax Assessment Act of 1895.	Subsections (vii) and (viii) of section 17, and the words in subsection (iv) of section 15, "except from land subject to land tax as hereinafter specifically excepted."
59 Vic. No. 15 ...	Land and Income Tax Assessment Act of 1895 ...	} So much as relates to land values taxation.
61 Vic. No. 21 ...	Land and Income Tax (Amendment) Act, 1897 ...	
62 Vic. No. 37 ...	Land and Income Tax (Declaratory) Act, 1898 ...	
59 Vic. No. 16 ...	Land Tax Act of 1895 ...	The whole.
Act No. 28, 1900..	Land Tax (Assessment Books) Act, 1900 ...	The whole.
Act No. 46, 1900..	Land Tax (Contribution) Act, 1900...	The whole.
Act No. 115, 1902	Land Tax (Leases) Act, 1902 ...	The whole.

By Authority: WILLIAM APPLGATE GULLICK, Government Printer, Sydney, 1917.

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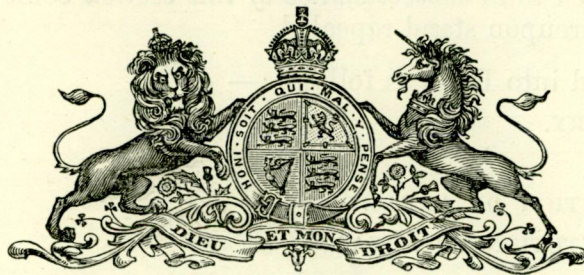
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New South Wales.



ANNO SEXTO

EDWARDI VII REGIS.

Act No. , 1906.

An Act to consolidate and amend the law relating to the
Local Government of Shires and Municipalities.

BE it enacted by the King'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:—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Local Government Act, Short title.
1906," and shall, except as hereinafter provided, commence and come
into operation on the first day of January, one thousand nine hundred
and seven.

(2) The provisions of Parts XVIII, XIX, XX, XXI, XXII, Commencement of
and XXIII, and of paragraph (d) of section *one hundred and seventy* certain provisions
of this Act, so far as they relate to municipalities, shall not come postponed.
into operation on such day, but shall come into operation on a day
to be proclaimed by the Governor.

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(3) Part X and sections two hundred and one and two hundred and sixty-five of the Municipalities Act, 1897, as therein enacted, and as applied by the Municipalities Electric Light Act, 1904, and any by-laws relating to matters dealt with in such provisions in force at the passing of this Act, shall apply to municipalities under this Act, and, notwithstanding the repeal of the said Acts, shall, for the purposes of this Act, remain in full force and effect until the provisions of this Act referred to in *subsection two of this section* come into operation, and shall thereupon stand repealed.

Certain provisions of
other Acts
continued.

2. This Act is divided into Parts as follows :—

PART I.—PRELIMINARY.

PART II.—CITIES.

PART III.—CONSTITUTION OF AREAS.

PART IV.—RECONSTITUTION OF AREAS.

PART V.—DIVISIONS OF AREAS—RIDINGS AND WARDS.

PART VI.—CONSTITUTION OF COUNCILS.

PART VII.—FRANCHISE—ELECTORS AND RATEPAYERS—LISTS
AND ROLLS.

PART VIII.—REVISION COURTS.

PART IX.—CANDIDATES.

PART X.—OUSTER OF OFFICE.

PART XI.—PRIMARY FUNCTIONS OF COUNCILS.

PART XII.—SPECIFIC POWERS.

PART XIII.—ADDITIONAL FUNCTIONS OF COUNCILS.

PART XIV.—POWER OF GOVERNOR AND MINISTER TO IMPOSE
DUTY TO EXERCISE FUNCTIONS.

PART XV.—SERVANTS OF COUNCILS.

PART XVI.—NATIONAL WORKS.

PART XVII.—ACQUISITION OF LAND AND WORKS.

PART XVIII.—RATABLE LAND.

PART XIX.—VALUES AND VALUATIONS.

PART XX.—RATES.

PART XXI.—GENERAL RATES.

PART XXII.—OTHER RATES—SPECIAL, LOCAL, LOAN.

PART XXIII.—RATES UNDER OTHER ACTS.

PART XXIV.—ENDOWMENT.

PART XXV.—DEFAULTING AREAS.

PART XXVI.—LOANS.

PART

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PART XXVII.—FUNDS.

PART XXVIII.—ACCOUNTS AND AUDIT.

PART XXIX.—ORDINANCES.

PART XXX.—REGULATIONS.

PART XXXI.—MISCELLANEOUS.

SCHEDULES.

3. In this Act, unless inconsistent with the context or subject-matter,—

Definitions.

Shires, s. 3 ;

Extension, s. 6.

“Adjoining”—Shires and municipalities are “adjoining” if only separated from each other by a public reserve, road, river, or stream, or other like natural divisions.

“Area,” “or local government area” means municipality or shire.

“City,” “village,” “town,” are not restricted to the meanings given to them in the Crown Lands Act of 1884, although including the same where applicable.

“Clerk” or “council clerk” or “shire clerk” includes person duly acting as council clerk of an area.

“Council” means council of an area.

“Elector” means person qualified to vote at elections of councillors or aldermen.

“Existing municipality” means borough or municipal district constituted under the Municipalities Act, 1897.

“Hoarding” means structure used for the exhibition of advertisements, and includes a sky-sign.

“Improvements” includes houses and buildings, fencing, planting, excavations for holding water, wells, ringbarking, clearing from timber, or scrub, or sweet briar, or noxious weeds, or laying down in grass or pasture, and any other improvements whatsoever the benefit of which is unexhausted at the time of valuation.

“Justice” means justice of the peace.

“Lease” includes an original or derivative lease or under-lease or contract or agreement for the same.

“Lessee” includes an original or derivative lessee and under-lessee and any person deriving title under or from a lessee or under-lessee.

“Mayor” means mayor of a municipality.

“Mine” is land used or held for any mining purpose, and land so used or held is a mine. A mine includes all underground workings, and all engines, machinery, workshops, tramways, and other plant; all buildings (not being dwelling-houses), works, and the surface of any land occupied exclusively in connection with and for the purposes of the mine: Provided that

Extension, s. 58.

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that, in the case of a mine occupied under a lease, license, or other mineral holding, such land is situate within the boundaries of such lease, license, or holding.

“Minister” means Minister charged with the administration of this Act, or any portion thereof, under the Constitution Act, 1902.

“Municipality” means area constituted a municipality in pursuance of this Act.

“Notification” and “notified” mean respectively notification published in the Gazette and notified in the Gazette.

“Office” means office of president or councillor, and “officer” means holder of any such office.

“Ordinances” means ordinances made in pursuance of this Act.

“Owner” means every person who is, whether at law or in equity,—

- (a) entitled to land for any estate of freehold in possession, including the holder of a conditional purchase; or
- (b) entitled to land for any such estate of freehold as aforesaid as a married woman, to her separate use, otherwise than by the intervention of trustees; or
- (c) entitled to appoint, or to dispose immediately and absolutely of the fee-simple of any land; or
- (d) a settlor, grantor, assignor, or transferor of land comprised in any settlement, grant, assignment, transfer, conveyance or other instrument, not made bona fide for valuable consideration; or
- (e) by virtue of any mortgage (legal or equitable), or of any charge or encumbrance on land the owner of any estate or interest in land; or
- (f) in actual receipt of, or entitled to receive, or if the land were let to a tenant, would be entitled to receive the rents and profits of land, whether as a beneficial owner, trustee, or mortgagee in possession, or who is receiving the rents derived from land by virtue of any mortgage, or of any charge or encumbrance whatsoever, or who is otherwise, whether at law or in equity, entitled to land for an estate of freehold in possession; or
- (g) entitled to land partly in one and partly in another or others of the aforesaid ways.

“Part” means Part of this Act.

“Prescribed” means prescribed by or under this Act.

“President” means president of a council.

“Private land” means land the fee-simple of which is not vested in His Majesty the King, and Crown lands held under any tenure which gives a right to purchase the fee-simple.

“Proclaimed”

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- "Proclaimed" means proclaimed by publication in the Gazette.
- "Proclamation" means proclamation published in the Gazette.
- "Public place" means public road, bridge, jetty, wharf, ferry, or other place which the public are entitled to use, but does not include a public reserve.
- "Public reserve" means public parks and lands similarly dedicated by the Crown for the use, recreation, or enjoyment of the general public, but does not include a common.
- "Public road" means road which the public are entitled to use.
- "Regulation" means regulation made in pursuance of this Act.
- "Returning officer" means officer appointed to conduct elections or polls under this Act.
- "Road" means road, street, lane, highway, or thoroughfare, including a bridge or culvert thereon.
- "Schedule" means Schedule to this Act.
- "Shire" means shire constituted under this Act or any Act hereby repealed.
- "Shires Act" means Local Government (Shires) Act, 1905.
- "State" means State of New South Wales.
- "Treasurer" means Colonial Treasurer.
- "Western division" has the meaning given to that expression in the Crown Lands Act of 1884, or any Act hereafter to be passed amending that Act.

4. (1) On the commencement of this Act the Shires Act and the Local Government Extension Act, 1906, shall be repealed. Repeal of Acts.

(2) On the commencement of this Act the Municipalities Act, 1897, and the Municipalities Electric Light Act, 1904, and all by-laws made under such Acts shall be repealed, except so far as certain of the provisions of such Acts and certain of such by-laws are made to continue in full force and effect by *section one*.

(3) On the commencement of this Act the Acts mentioned in Schedule One shall be repealed. Extension, s. 3.

(4) No such repeal shall affect property vested, acts and things validated, or authorised, powers and protection acquired, or indemnities given under the Acts hereby repealed. Savings as to past transactions.

(5) Notwithstanding such repeal, and save so far as otherwise expressly provided by this Act,— Savings as to officers, by-laws, rates, &c.

- (a) the mayor and aldermen of the council of an existing municipality in office at the commencement of this Act, and the president and councillors of a shire in office at the passing of this Act, shall remain in office for the period hereinafter provided, and this Act shall apply to them; and such mayor and aldermen, and such president and councillors, while in office, shall be the council of the area: Provided that where in any such municipality there is no council, the Governor may, Mayors, aldermen.

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may, instead of proceeding under *Part XXV* of this Act, dissolve the municipality, and thereupon it shall cease to be a municipality within the meaning of this Act.

- (b) all municipal by-laws in force at the commencement of this Act in an existing municipality shall continue in force until ordinances applicable to the municipality are made; and this Act shall, until such time as aforesaid, apply to all such by-laws as if they were ordinances. By-laws to continue in force until ordinances are made.
- (c) all ordinances and regulations in force at the passing of this Act in a shire shall be ordinances and regulations under this Act.
- (d) all rates, charges, and sums of money which under the Acts hereby repealed are, at the commencement of this Act, due or payable to or leviable by or for any existing municipality, or shire, shall be paid to and may be received, levied, and recovered by the council for the time being of the area, and shall remain a charge on property as if this Act had not passed; Rates to be due as if this Act had not passed.
- (e) all rights and liabilities acquired and incurred, and all contracts and undertakings entered into, all securities lawfully given, and all actions, suits, and proceedings pending at the commencement of this Act, shall respectively be vested and attach, and may be enforced, realised, carried on, and prosecuted as if this Act had not passed; and no such action, suit, or proceeding shall abate or be discontinued, or be prejudicially affected by the operation of this Act. Rights, liabilities, contracts, &c., to vest and attach.
- (f) such repeal shall not, except as herein expressly provided, affect the incorporation by any Act of any of the enactments so repealed. Saving as to incorporation.
- (g) notwithstanding the provisions of this Act, any functions which the council of a municipality is at the commencement of this Act exercising, and which are included among those which under this Act the council of a municipality may acquire, may be conferred by the Governor on such council. Functions of councils.

(6) Save so far as there is anything in this Act inconsistent therewith, this Act shall apply to all matters and things made, done, or commenced under the Acts hereby repealed, and at the commencement of this Act of any force or effect or capable of acquiring any force or effect by virtue of the Acts hereby repealed, as if this Act had been in force at the time they were made, done, or commenced, and they were made, done, or commenced hereunder. This Act to apply to things done under Acts repealed.

5. (1) Unless otherwise expressly provided, nothing in this Act shall operate so as to repeal any of the provisions of the Metropolitan Traffic Act, 1900, Country Towns Water and Sewerage Act of 1880, the Metropolitan Water and Sewerage Act of 1880, Certain Acts not affected. Extension, s. 4.
the

Local Government.

the Hunter District Water Supply and Sewerage Act of 1892, the Water and Drainage Act, 1902, the Sydney Corporation Act, 1902, the Sydney Harbour Trust Act, 1900, the Public Health Act, 1902, or any Act amending any of those Acts, or to take away powers vested in any person or body by any of the said Acts, or any by-laws or regulations made thereunder.

(2) Except where expressly provided, nothing in this Act shall apply to or affect the city of Sydney.

6. All references in the Public Health Act, 1902, the Cattle Slaughtering and Diseased Animals and Meat Act, 1902, or in the Noxious Trades Act, 1902, to a local authority or to a municipality or its council, or to an officer of such authority, municipality, or council, shall apply to a shire or its council, or the officer of a shire or its council.

Applications of Acts to Shires.
Shires, s. 4.

7. In any Act, regulations, or by-laws, references to existing municipalities and their councils and servants shall apply to municipalities and the councils and servants of municipalities constituted by or under this Act.

References in other Acts.
Extension, s. 5.

PART II.

CITIES.

8. In addition to the cities proclaimed before the commencement of this Act, the Governor, by proclamation, may constitute as a city a municipality which—

Proclamation of cities.
Extension, s. 8.

- (a) has, during the five municipal financial years next preceding such proclamation, had an average population of at least twenty thousand persons; and
- (b) has during the said period had an average gross municipal revenue from all sources of at least twenty thousand pounds; and
- (c) is an independent centre of population and is not a suburb, whether residential, industrial, commercial, or maritime, of any other municipality or centre of population.

PART

Local Government.

PART III.

CONSTITUTION OF AREAS.

DIVISION 1.—*Shires.*

9. The shires constituted under the Shires Act shall be shires constituted under this Act, having the boundaries and bearing the names respectively defined and given to them under the Shires Act.

The shires constituted.
Shires, s. 5.

10. The Governor may make orders for the provisional government of shires on their being constituted, and in the exercise of such power may—

Orders for provisional government of areas.
Shires, s. 7 (a).

- (a) appoint a temporary council of five members, who shall, within six months from the date of their appointment, direct and supervise the preparation of lists and rolls of electors, and make all necessary arrangements for the election of the first council. Such temporary council may employ whatever temporary clerical and other assistance may be required to carry out the work entrusted to them, and the cost of such employment, and of the preparation of lists and rolls and arrangements for election, may, with the approval of the Treasurer, be paid from the Consolidated Revenue Fund. Such temporary council shall have no powers other than those granted in this subsection.

Temporary councils.

- (b) provide for the continuance of the present administration of roads, bridges, ferries, jetties, public watering-places, and other public works and services by the Department of Public Works pending the taking over of such administration by the council, and fix a date when the control of such works shall be vested in the council in pursuance of this Act.

Continuance of administration of Public Works and services.
Shires, s. 7 (b).

11. Orders for the provisional government of shires, appointments of a temporary council, and provision made for the continuance of the administration of public works and services by the Department of Public Works, and for the taking over of the administration of such works by and the vesting of the control of such works in the council made by the Governor under the Shires Act, shall be orders, appointments, and provision made under this Act.

Orders made under s. 7 of the Shires Act are orders made under this Act.

DIVISION 2.—*Municipalities.*

12. Every existing municipality, with any area added thereto in pursuance of the Shires Act, is constituted a municipality under this Act. Thereupon the body corporate of such existing municipality shall be dissolved, and shall be replaced by the council of the municipality which under that name is created a body corporate. All powers, rights, and liabilities of such old body corporate shall be the powers, rights, and liabilities of the council of the municipality.

Existing municipalities constituted and incorporated.
Extension, s. 8.

DIVISION

*Local Government.*DIVISION 3.—*Shires and municipalities.*

13. The Governor may alter the name of any area and of its council.

Re-naming areas.

Shires, s. 5 (5).

Extension, s. 14 (5).

14. Any land which is not within any area, but is on the boundary of an area, and which has at any time before or after the commencement of the Act been reclaimed from tidal waters, shall be deemed to be included within the area, and the boundaries of the area are altered accordingly.

Reclamations.

Extension, s. 11.

PART IV.

RECONSTITUTION OF AREAS.

DIVISION 1.—*Shires and municipalities.*

15. (1) The Governor may at any time—

Reconstitution by

uniting, dividing,

altering, or

converting areas.

(a) unite two or more adjoining areas ;

(b) divide an area into two or more areas, or divide two or more adjoining areas into a different number and description of areas ;

Extension, s. 14 (1).

(c) in any order uniting or dividing areas, or by separate order, alter the boundaries of areas ;

(d) convert a municipality into a shire or a shire into a municipality ;

(e) unite part or parts of an area to the whole or part or parts of another area ;

and may by order reconstitute the new areas so formed as municipalities or shires, and give names to such areas and their councils :

(2) Provided that before acting upon power (a) or (e) in subsection one a poll shall be taken of the ratepayers in each area or part of an area affected by the proposed union if demanded by one-third of such ratepayers in any such area in manner to be prescribed, and the result of the poll shall decide the question whether such power shall be exercised.

Polls of ratepayers.

(3) Every area, when so reconstituted, shall consist of adjoining areas.

Areas to be

continuous.

(4) But before any area is so reconstituted the prescribed notice shall be given, and any council, ratepayer, or creditor of any area may within the period prescribed in such notice make written representations on the subject of the proposed reconstitution.

Extension, s. 14 (2).

Objections to

reconstitution.

Extension, s. 14 (3).

(5) Notwithstanding that no objection may have been made to any proposed boundaries mentioned in such notice, the Governor may make such variations in such boundaries as he may consider desirable.

Adjustments of

boundaries.

Extension, s. 14 (4).

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16. (1) No areas shall, except under the next succeeding section, be reconstituted under this Act, unless and until—
- (a) an arrangement as to the apportionment of debts between the areas affected by such reconstitution is agreed to by all the creditors (if any) of such areas; or
 - (b) such arrangement is agreed to by a majority in number of such creditors, and approved by the Governor.
- (2) On the reconstitution of areas, the Governor shall make orders distributing among such areas the property, moneys, and rights of old areas forming part of the reconstituted areas, and for that purpose may direct securities to be transferred, and given.
- (3) But before any such order is made, the prescribed notice shall be given, and any person who was or is a creditor of such old area, or any person representing not less than fifty persons who would be ratepayers of the new area, may, within the period prescribed in such notice, make written representations on the subject of the proposed order.
- (4) On the reconstitution of areas the Governor may make orders—
- (a) prescribing what ordinances (if any) of an old area forming part of the new area shall have effect within the new area or within any specified part thereof until new ordinances are in force therein, and providing for enforcing those ordinances;
 - (b) providing for the recovery of rates, charges, and sums of money due to or from any old area, and the continuing of proceedings begun before the reconstitution.

Arrangement with creditors on reconstitution of areas.

Extension, s. 17 (1).

Orders distributing property, rights, and liabilities of areas.

Extension, s. 17 (2).

Objections to such orders.

Extension, s. 17 (3).

Ordinances of old areas.

Extension, s. 18 (3).

Rates due to old areas.

Extension, s. 18 (3).

DIVISION 2.—Shires.

17. Where the Governor includes the area of a municipality in a shire, the following provisions shall apply:—
- (a) Such area shall be a riding or two or more complete ridings of such shire.
 - (b) Such area shall be solely responsible for the unpaid debts and liabilities of the municipality as at the date of the inclusion of its area in the shire. The revenue of the shire levied within or received in respect of such area shall be subject to a first charge in favour of such debts and liabilities, and shall be primarily applied to meet the same and to make payments to any sinking fund. The residue of such revenue shall be applied and used, as the council may determine, for the benefit of such area. When the said debts and liabilities unpaid at the time of the inclusion of such area in the shire have been fully paid off, the operations of the preceding portion of this paragraph and of paragraph (a), may, in the discretion of the council, be terminated.
- (c)

Provisions where municipality included in a shire.

Extension, s. 16.

Area to be riding.

Area to be responsible for debts and liabilities.

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- (c) If in any such area a special rate under the Municipalities Act, 1897, has been levied during the municipal financial year next preceding its inclusion in a shire, then the shire council may, in and for the benefit of such area, continue to levy such rate, which, for the purposes of this Act, shall be a local rate, and shall be expended for the benefit of the said area; but it shall not be necessary before making the rate to hold a poll under this Act. Special rates.
- (d) The Governor may apply to such area any powers which, under this Act, may be exercised or acquired by a municipality so as to continue the powers which the municipality possessed before the inclusion of its area in the shire, and such powers may thereupon be exercised by the council of the shire in such area by virtue of this section, and notwithstanding any other provisions of this Act. Powers.
- (e) The council of the shire may, under the provisions of this Act applicable to municipalities, raise money by way of loan for the purpose only of repaying any loan for which the municipality was liable at the time of the inclusion of its area in the shire, or of repaying any loan contracted under this section, in which case the provisions of this Act relating to loans by municipalities shall apply to the shire: Provided that the loan rate to be collected in connection with any such loan shall be levied only within the said area, but the loan shall nevertheless be borrowed on the credit of the shire and on the security of its revenues. Loans.

DIVISION 3.—City of Sydney.

18. (1) The Governor may at any time, on receipt of a resolution from each of the councils concerned, which said resolution shall have been passed by a majority of each council at one meeting, and confirmed by a majority at a second meeting— Uniting areas to city of Sydney. Extension, s. 15.

- (a) unite to the city of Sydney the whole or any part of a municipality adjoining such city; or
- (b) unite any part of the said city to any such municipality; and
- (c) make consequent alterations in the boundaries of the said city and of any such municipality, and may by order reconstitute the said city and any such municipality with the boundaries as so altered.

(2) But before any such reconstitution is made the prescribed notice shall be given, and any council, ratepayer, or creditor of the said city or of the municipality affected may, within the period and to the person prescribed in such notice, make written representations on the Preliminary procedure.

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the subject of the proposed reconstitution, and a poll of the electors concerned may be taken by a council on petition from one-fifth of such electors.

(3) Notwithstanding that no objection may have been made to any proposed boundaries mentioned in such notice, the Governor may make such variations in such boundaries as he may consider desirable.

Variations of boundaries.

PART V.

DIVISIONS OF AREAS.—RIDINGS AND WARDS.

DIVISION 1.—*Shires—Ridings.*

19. (1) The Governor shall by notification divide shires into ridings.

Division into ridings.

(2) The Governor may by notification alter any such division: Provided that such alteration shall not affect the representation of the shire on its council until the next following general election of the council.

Shires, s. 6 (1).

Governor may make or alter divisions.

Shires, s. 6 (2).

(3) But before making any such alteration the prescribed notice shall be given, and the council, or any person representing at least fifty persons resident within the shire, shall be heard in manner to be prescribed.

Notice.

Shires, s. 6 (3).

20. Any division of shires into ridings, and any alteration of such division made under the Shires Act, shall be a division and an alteration of such division under this Act.

Divisions made under the Shires Act are divisions under this Act.

DIVISION 2.—*Municipalities—Wards.*

21. (1) It shall be optional but not compulsory for the Governor, on receipt of a petition from the council or a majority of ratepayers, by notification to divide municipalities into wards.

Division into wards.

Extension, s. 12.

Verbal amendment.

(2) The Governor may by notification alter, abolish, and re-create any such division: Provided that—

Alteration, abolition, and re-creation of wards.

(a) such alteration shall not affect the representation of the municipality on its council until the next following general election of the council;

(b) before making such alteration the prescribed notice shall be given, and the council, or any person representing at least fifty persons resident within the municipality, shall be heard in the manner prescribed;

Preliminaries to alteration of wards.

(c) before so abolishing any such division the Governor shall, on the request of one hundred or more of the electors of the municipality, remit to a poll of electors the question whether

Procedure before abolishing wards.

Poll of electors.

such

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such division shall be abolished. The council shall thereupon fix and notify as prescribed a day on which such poll shall be held, and the same shall be held accordingly. If at such poll a majority of those voting at the poll is opposed to the abolition of such division, the division shall not be abolished then or within twelve months thereafter.

22. Until a municipality is divided into wards, in pursuance of this Act, the wards of the existing municipality shall be the wards of the municipality constituted by this Act.

Existing division
into wards.
Extension, s. 13.

PART VI.

CONSTITUTION OF COUNCILS.

DIVISION 1.—*Shires.*

23. (1) Every shire shall be governed by a council, the members of which shall be called councillors.

Shire governed by
council.
Shires, s. 18 (1) (2).
To be elected.

(2) The councillors shall, except where otherwise provided, be elected by the electors.

(3) A councillor may resign his office.

Resignations.

24. The respective ridings of a shire shall have equal representation on the council.

Representations of
ridings.
Shires, s. 18 (1).

25. The first council of a shire shall consist of six members; such number of members may, for the purposes of any later election, be increased to nine on resolution by the council.

Number of
councillors,
Shires, s. 18 (3).

26. A council may out of the general fund of the shire pay to its members reasonable allowances towards their expenses in travelling to and from meetings of the council, or on the business of the council.

Expenses of
councillors.
Shires, s. 18 (6).

27. A council may, out of the general fund of the shire, grant an annual allowance, or allowances, to any person holding the office of or acting as its president for his expenses. The maximum amount of such allowance or allowances shall be specified in the ordinances, and shall not exceed fifty pounds in each year.

Remuneration of
president.
Shires, s. 18 (5).
Extension, s. 50.
Maximum.

28. (1) The first election of the councillors of a shire after its constitution shall be held on a day and at a place to be fixed and proclaimed by the Governor.

First election of
shire council.
Shires, s. 20 (1).

(2) The expenses incurred by a returning officer in connection with such first election may be paid from the Consolidated Revenue Fund, and shall, if so paid, be deducted from any endowment which may subsequently become due to the shire.

Expenses of first
election of shire
council.
Shires, s. 19 (4).

DIVISION

*Local Government.*DIVISION 2.—*Municipalities.*

29. (1) Every municipality shall be governed by a council, the members of which shall be called aldermen. Municipality governed by council. Extension, s. 51.

(2) The aldermen shall, except where otherwise provided, be elected by the electors. To be elected.

(3) An alderman may resign his office. Resignations.

30. The aldermen in office in any existing municipality at the commencement of this Act shall constitute the council of the municipality under this Act, and shall remain in office subject to the provisions of this Act until and retire from office on the last Friday in January, one thousand nine hundred and eight. Existing municipalities. Extension, ss. 3 (3), 51.

31. (1) The number of aldermen shall be as determined by the Governor; such number shall not be less than six nor more than twelve, except in the case of the existing municipality of North Sydney, where such number shall not be less than six nor more than fifteen; and except in the case of the union of two or more municipalities, when the Governor may, in his discretion, determine that the council of the united areas shall consist of any number greater than twelve but not greater than eighteen aldermen. Number of members of council. Extension, s. 51.

(2) The number of aldermen to be elected by the respective wards shall be as determined by the Governor. Number for wards. Extension, s. 51.

32. (1) Allowances or travelling expenses shall not be paid by the council to its aldermen. No allowances to aldermen. Extension, s. 51.

(2) The council may determine whether any and what remuneration shall be allowed any person executing the office of mayor. Remuneration of mayor. Extension, s. 51.

33. If an extraordinary vacancy occur in the council before the last Friday in January, one thousand nine hundred and eight, and before the roll of electors is made, the roll for the existing municipality in force at the commencement of this Act shall be used at the election to fill such vacancy. Extraordinary vacancies before first lists are compiled. Extension, s. 51.

34. Where an area has been added to an existing municipality under subsection two of section five of the Shires Act, and where under the Municipalities Act, 1897, the said area has been constituted a ward of such municipality but no aldermen of such ward have been elected, the council of such municipality may, on the passing of this Act, cause lists and rolls of electors for such area qualified under this Act to be prepared in pursuance of this Act, and may thereupon hold an election as prescribed of such number of aldermen as might under the Municipalities Act, 1897, be elected in respect of such ward. The aldermen so elected shall retire from office on the general retirement of aldermen in pursuance of this Act. Election of aldermen for new ward constituted on addition of area under Shires Act. Extension, s. 51.

DIVISION 3.—*Shires and municipalities.*

35. (1) One of the councillors of each shire shall be the president, and shall preside when present at meetings of the council. President of shire. Shires, s. 18 (1) (2).
A president may resign his office. (2)

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- (2) One of the aldermen of each municipality shall be the mayor and shall preside when present at meetings of the council. A mayor may resign his office. Mayor of municipality. Shires, s. 18 (1). Extension, s. 51.
- (3) Within fourteen days after the constitution of the council a president or mayor shall be elected by the council from its members in the manner prescribed. Election of president or mayor. Shires, s. 21 (1). Extension, s. 51.
- (4) On the last day of February in each year every president or mayor then in office shall retire. Retirement of president or mayor. Shires, s. 21 (3). Extension, s. 51.
- (5) On some day between the first and the fifteenth days of February in each year, every council shall elect a president or mayor, who shall hold his office from the first day of March next following his election. At such election the retiring president or mayor shall, if otherwise qualified, be eligible for re-election. Time of election of president or mayor. Shires, s. 21 (4). Extension, s. 51.
- (6) Within fourteen days of the occurrence of an extraordinary vacancy in the office of president or mayor, caused by death, resignation, ouster, disqualification, or otherwise, an election shall be held to fill the vacancy. Extraordinary vacancies: president or mayor. Shires, s. 21 (5). Extension, s. 51.
- (7) Within fourteen days after the first due constitution of a council, after an area has been proclaimed a defaulting area, a president or mayor shall be elected as prescribed. Election president or mayor on constitution of council in defaulting area; Shires, s. 21 (2). Extension, s. 51.
- (8) A council may appoint one of its members to act as deputy president or deputy mayor during such time as the president or mayor may be temporarily absent from the area, or from his duties on account of illness or other sufficient reason. The deputy while so acting shall have the powers, authorities, duties, and liabilities of the president or mayor. Deputy president or deputy mayor. Shires, s. 18 (7). Extension, s. 51.
- (9) If a council fail to elect a president or mayor within the period prescribed, the Governor may appoint some member of the council to be president or mayor. Governor may appoint president or mayor. Shires, s. 18 (8). Extension, s. 51.
- 36.** Members of councils shall be elected for the respective ridings or wards of the area by the electors of such ridings or wards: Provided that where a municipality is not divided into wards, the council shall be elected by the electors of the whole municipality. Councils to be elected for ridings or wards. Shires, s. 19 (1). Extension, s. 51. Municipality not divided.
- 37.** (1) Nominations shall be made in the prescribed manner, and where the number of candidates nominated does not exceed the number of members to be elected, the persons so nominated shall be deemed to have been elected; otherwise there shall be a ballot. Nominations. Shires, s. 19 (2). Extension, s. 51.
- (2) Whosoever forges, or fraudulently defaces, or fraudulently destroys any nomination paper, or delivers to the returning officer or clerk any forged nomination paper, knowing it to be forged, shall be liable to imprisonment for a term not exceeding six months, with or without hard labour. Any attempt to commit any such offence shall be punishable as the offence itself. Shires, s. 19 (7). Extension, s. 51.

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38. (1) The election of members of councils shall be conducted by a returning officer to be appointed as prescribed. Manner of election.
Shires, s. 19 (3).

(2) Except where otherwise provided for by this Act, the expenses incurred by a returning officer in connection with an election shall be repaid to him out of the general fund of the area, and may be recovered in a summary way before two justices. Extension, s. 51.
Expenses of elections.
Shires, s. 19 (4)
Extension, s. 51.

39. No election of members of a council shall be invalid by reason only of— Validation of elections.
Shires, s. 19 (5)
Extension, 49.

(a) any formal defect or error in or relating to the election, if the election was held substantially as prescribed;

(b) any defect or want of title of the returning officer if he has acted as such; or

(c) the fact that the election was held at a time other than that appointed or prescribed;

and if the Governor proclaims that any such defect or error does not invalidate any such election, such proclamation shall be conclusive as to the matter stated therein.

40. Sections eighty-nine, ninety, ninety-one, one hundred and two, one hundred and seven, one hundred and eight, and one hundred and nine of the Parliamentary Electorates and Elections Act, 1902, shall, mutatis mutandis, apply to elections of members of councils. Application of provisions of Parliamentary Electorates and Elections Act.
Shires, s. 19 (6);
Extension, s. 51.

41. An election to fill an extraordinary vacancy in a council caused by death, resignation, ouster, disqualification, or otherwise shall be held within one month from the occurrence of such vacancy, and on a day and at a place to be fixed and notified by the council as prescribed. Extraordinary vacancies.
Shires, s. 20 (2).
Extension s. 51.

42. All members of a council shall retire from office on the last Friday of January, one thousand nine hundred and eight, and on the same day in every third year thereafter; and elections of members of councils shall take place on the following day. A retiring member shall, if otherwise qualified, be eligible for re-election. Extension s. 49.
Shires, s. 20 (3).
Retirements—Date of elections.
Extension, s. 51.
Shires, s. 20 (4).

43. If it appears to the Governor to be impracticable or inconvenient to hold any election on any day prescribed, he may, by proclamation, appoint any day in the month of February for holding such election. In such case the outgoing members shall remain in office until the day next preceding the day of the election. Postponement of election.
Shires, s. 20 (3).
Extension, s. 51.

44. The duly constituted council of an area shall be a body corporate, having perpetual succession and a common seal. Council to be body corporate.
Shires, s. 5 (4)
Extension, ss. 9, 10.

45. On the reconstitution of an area the body corporate existing prior to such reconstitution shall be dissolved. Body corporate on reconstitution.
Extension, s. 9.

46. (1) Where areas are reconstituted the Governor may, by order, appoint and constitute a council for each reconstituted area, or in his discretion may authorise an election to be held in the prescribed manner. The members of such council shall hold office until the day fixed by this Act for the next retirement of all members of councils. Councils of reconstituted areas.
Extension, s. 18 (1).

(2)

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(2) The Governor may appoint persons to fill extraordinary vacancies in any council so constituted, or may declare that such vacancies shall be filled by election under this Act, in which case such vacancies shall be filled accordingly.

Governor may appoint to extraordinary vacancies on reconstitution. Extension, s. 18 (2).
Governor to fill vacant offices of alderman. Extension s. 52.

47. Where, at any election of a council, the number of officers elected is less than the number of offices which the election was held to fill, the Governor may appoint persons to fill the offices thus left vacant.

PART VII.

FRANCHISE—ELECTORS AND RATEPAYERS—LISTS AND ROLLS.

DIVISION 1.—*Shires.*

48. Any natural born or naturalised British subject, male or female, of the age of twenty-one years or upwards, shall be entitled to be placed on the list as "occupier," and to be enrolled as an elector if he on the day prescribed—

Qualification as occupiers. Shires, s. 22 (2).

- (a) has been continuously, during the three months next preceding such prescribed day, in joint or several occupation as tenant under lease in writing or oral tenancy of any ratable land in the shire which, with or without any houses or other buildings thereon, is of a yearly value of five pounds or upwards :

Tenants.

Provided that only one of such joint occupiers shall be entitled to be placed on the roll. The joint occupier who shall be so entitled shall be determined by a majority of the occupiers, evidenced by agreement signed by such majority, and delivered to the clerk, or, failing such agreement, according to the alphabetical order of the surnames of the occupiers :

Joint tenants.

- (b) is the manager, secretary, or director of a public company, body corporate, or one of a body of trustees which is in occupation as tenant as aforesaid of any ratable land in the shire which, with or without any houses or other buildings thereon, is of a yearly value of five pounds or upwards ; and—

Companies, trustees occupying as tenants.

- (i) has been nominated by the directors of such company or body corporate, or by such body of trustees, as an elector in respect of such occupation ; or
(ii) where no such nomination has been made, is the manager, or, where there is no manager, is the secretary of such company, or is the trustee of such body of trustees whose name first appears on the instrument creating the trust ; or

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- (c) is the resident manager of any ratable land in the shire which, with or without any houses or other buildings thereon, is of a yearly value of five pounds or upwards; or Resident manager of ratable land.
- (d) has been continuously during the three months next preceding such prescribed day in joint or several occupation of any ratable land in the shire, by virtue of a miner's right or business license under the Mining Act, 1874, or any Act amending or consolidating the same; Occupier under miner's right or business license.
- (e) has been continuously, during the three months next preceding such prescribed day, resident within the shire and a share farmer of ratable land therein—that is to say, a person holding a written license to occupy and cultivate ratable land of a yearly value of five pounds or upwards in consideration of sharing the produce of such land; Share farmer. Extension, s. 53.
- (f) is in occupation of lands or buildings in the shire owned by the Crown, and, directly or indirectly, pays rent for the same by way of deduction from salary or otherwise. Occupier of Crown land—public servant. Extension, s. 53.
- 49.** Any natural born or naturalised British subject, male or female, of the age of twenty-one years or upwards, shall be entitled to be placed on the list as "owner" and to be enrolled as an elector if he on the day prescribed— Qualifications of owners. Shires, s. 22 (3).
- (a) is severally the owner of any ratable land in the shire; Owner.
- (b) is jointly such owner as aforesaid;
- (c) is the manager, secretary, or director of a public company or body corporate, or one of a body of trustees, which is such owner as aforesaid; and— Joint owner. Companies or trustees as owners.
- (i) has been nominated by the directors of such company or body corporate, or by such body of trustees as an elector in respect of such land; or
- (ii) where no such nomination has been made, is the manager, or, where there is no manager, is the secretary of such company, or is the trustee of such body of trustees whose name first appears on the instrument creating the trust.
- (d) is the holder of a lease, promise or contract of lease, or license from the Crown of ratable Crown land situate in a shire; or Crown lessee.
- (e) is the resident manager of any lease, promise or contract of lease, or license from the Crown of ratable Crown land in the shire. Resident manager of Crown lease.
- 50.** (1) A shire council shall, once in three years, on the day and in the manner prescribed, cause a list to be made of the names of the persons who appear to have the necessary qualification of electors as occupiers or owners. Lists to be prepared triennially. Shires, s. 22 (1). Extension, s. 53.
- (2) Provided that, for the purposes of the first election of a council under this Act, the list shall be made by the council then in office or the temporary council. First lists in new area to be prepared by council of old area. Shires, s. 22 (1). Extension, s. 53.

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51. Supplementary lists and rolls of the names of persons duly qualified for enrolment as electors of a shire whose names are not included in the rolls of electors in force for the time being, or whose qualifications have been altered by a change of residence, and who make application in the prescribed manner to be enrolled, may be prepared and revised in the prescribed manner and at the prescribed time or times in each year intervening between the triennial preparations and revisions of the lists and rolls.

Supplementary lists.
Extension, s. 53.

52. (1) The names on the list for the shire shall be entered on lists for the respective ridings of the shire, each person's name being entered on the list of each riding in which such person holds the qualification of occupier or has ratable land, as the case may be.

Owner to be placed on list for each riding in which he is owner.

Shires, s. 22 (4).

(2) Provided that a person qualified as aforesaid as owner in any riding shall not be entitled to be enrolled as an occupier in the same or any other riding in the same area; and that a person qualified as occupier in two or more ridings shall be entitled to be enrolled only in such one riding as he has notified by writing under his hand delivered to the prescribed person within the prescribed time, or, failing such notification, in such one riding as the clerk may notify in the prescribed manner.

Owner in one riding cannot be listed as occupier in another riding.

Occupier in two or more ridings to be listed in only one.

(3) Any person claiming enrolment may be required to make a declaration in the prescribed form.

Declaration.

Shires, s. 22 (6).

53. (1) The lists of electors prepared as aforesaid shall, when revised and signed by the revision court, be the rolls of electors for the respective ridings.

Rolls for ridings.

Shires, s. 22 (4).

(2) The rolls for the ridings shall together constitute the roll of electors for the shire.

Rolls for shire.

Shires, s. 22 (4).

(3) Any such roll shall be in force until a new roll is made.

Rolls in force.

Shires, s. 22 (5).

54. Any person whose name is on a roll of electors under the qualification of occupier, and who, at the date of an election, retains the qualification under which he was enrolled, and any person whose name is on the roll of electors under the qualification of owner, for a shire or riding, shall be an elector of such shire or riding, and shall be entitled at any election of councillors within the riding for which he is enrolled to as many votes as there are candidates to be elected, but shall not give more than one vote to any one candidate. He shall vote for the full number of councillors to be elected.

Qualification to vote.

Shires, s. 23.

Extension, s. 51.

DIVISION 2.—Municipalities.

55. Any natural born or naturalised British subject, male or female, of the age of twenty-one years or upwards, shall be entitled to be placed on the list as "occupier," and to be enrolled as an elector, if he, on the day prescribed—

Qualification as occupier.

Extension, s. 53.

(a)

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- (a) has been continuously, during the three months next preceding ^{Tenants.} such prescribed day, in joint or several occupation as direct tenant of the owners and ratepaying lessees, under lease in writing or oral tenancy, of any ratable land in the municipality which, with or without any houses or other buildings thereon, is of a yearly value of five pounds or upwards, such oral tenancy being bona fide and verified by statutory declaration of the terms thereof :

Provided that only one of such joint occupiers shall ^{Joint tenants.} be entitled to be placed on the roll. The joint occupier who shall be so entitled shall be determined by a majority of the occupiers, evidenced by agreement signed by such majority, and delivered to the clerk, or, failing such agreement, according to the alphabetical order of the surnames of the occupiers ;

- (b) is the manager, secretary, or director of a public company, ^{Companies, trustees, occupying as tenants.} body corporate, or one of a body of trustees which is in occupation as tenant as aforesaid of any ratable land in the municipality which, with or without any houses or other buildings thereon, is of a yearly value of five pounds or upwards ; and
- (i) has been nominated by the directors of such company or body corporate, or by such body of trustees, as an elector in respect of such occupation ; or
- (ii) where no such nomination has been made, is the manager, or, where there is no manager, is the secretary of such company, or is the trustee of such body of trustees whose name first appears on the instrument creating the trust ;
- (c) has been continuously, during the three months next preceding ^{Occupier under miner's right or business license.} such prescribed day, in joint or several occupation of any ratable land in the municipality, by virtue of a miner's right or business license under the Mining Act, 1874, or any Act amending or consolidating the same ;
- (d) has been continuously, during the three months next preceding ^{Share farmer. Extension, s. 53.} such prescribed day, resident within the municipality and a share farmer of ratable land therein—that is to say, a person holding a written license to occupy and cultivate ratable land of a yearly value of five pounds or upwards in consideration of sharing the produce of such land ; or
- (e) is in occupation of lands or buildings within the municipality ^{Occupier of Crown land—public servant. Extension, s. 53.} owned by the Crown, and, directly or indirectly, pays rent for the same by way of deduction from salary or otherwise.

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56. Any natural-born or naturalised British subject, male or female, of the age of twenty-one years or upwards, shall be entitled to be placed on the list as "owner" and to be enrolled as an elector if he, on the day prescribed,—

- (a) is severally the owner of any ratable land in the municipality ;
- (b) is jointly such owner as aforesaid ;
- (c) is the manager, secretary, or director of a public company or body corporate, or one of a body of trustees, which is such owner as aforesaid ; and—
 - (i) has been nominated by the directors of such company or body corporate, or by such body of trustees as an elector in respect of such land ; or
 - (ii) where no such nomination has been made, is the manager, or, where there is no manager, is the secretary of such company, or is the trustee of such body of trustees whose name first appears on the instrument creating the trust ;
- (d) is the holder of a lease, promise, or contract of lease or license from the Crown of ratable Crown land situate in the municipality.

57. Any natural born or naturalised British subject, male or female, of the age of twenty-one years or upwards, shall be entitled to be placed on the list as "rate-paying lessee," and to be enrolled as an elector if he, on the day prescribed,—

- (a) is severally the lessee of any ratable land in the municipality, and is, under a lease in writing or other documents of title relating to such land, liable to pay to any person the whole or any part of any rates which may be made and levied under this Act in respect of such land ;
- (b) is jointly such lessee as aforesaid, and is so liable as aforesaid ;
- (c) is the manager, secretary, or director of a public company, or body corporate, or one of a body of trustees which is such lessee so liable as aforesaid ; and—
 - (i) has been nominated by the directors of such company, or body corporate, or by such body of trustees as an elector in respect of such land ; or
 - (ii) where no such nomination has been made is the manager, or, where there is no manager, is the secretary of such company, or is the trustee of such body of trustees whose name first appears on the instrument creating the trust.

58. (1) A council of a municipality shall, once in three years, on the day and in the manner prescribed, cause a list to be made of the names of the persons who appear to have the necessary qualification of electors as occupiers or owners or ratepaying lessees.

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(2) Provided that, for the purposes of the first election of a council under this Act, the list shall be made by the council then in office.

First lists in new area to be prepared by council of old area. Extension, s. 53.

59. Supplementary lists and rolls of the names of persons duly qualified for enrolment as electors of a municipality whose names are not included in the rolls of electors in force for the time being, or whose qualifications have been altered by a change of residence, and who make application in the prescribed manner to be enrolled, may be prepared and revised in the prescribed manner and at the prescribed time or times in each year intervening between the triennial preparations and revisions of the lists and rolls.

Supplementary lists. Extension, s. 53.

60. (1) The names on the list for the municipality shall be entered on lists for the respective wards, if any, of the municipality, each person's name being entered on the list of each ward in which such person holds the qualification of occupier or rate-paying lessee or has ratable land, as the case may be.

Owner or ratepaying lessee to be placed on list for each ward in which he is owner. Shires, s. 22. Extension, s. 53.

(2) Provided that a person qualified as aforesaid as owner or rate-paying lessee in any ward shall not be entitled to be enrolled as an occupier in the same or any other ward in the same municipality; and that a person qualified as occupier in two or more wards shall be entitled to be enrolled only in such one ward as he has notified by writing under his hand delivered to the prescribed person within the prescribed time, or, failing such notification, in such one ward as the clerk may notify in the prescribed manner.

Owner or ratepaying lessee in one ward cannot be listed as occupier in another ward.

Occupier in two or more wards to be listed in only one.

(3) Any person claiming enrolment may be required to make a declaration in the prescribed form.

Declaration.

61. (1) The lists of electors prepared as aforesaid shall, when revised and signed by the revision court, be the rolls of electors for the respective wards.

Rolls for wards. Extension, s. 53.

(2) The rolls for the wards shall together constitute the roll of electors for the municipality.

Rolls for municipality.

(3) If a municipality is not divided into wards, the list of electors for the municipality, when revised and signed by the revision court, shall be the roll of electors for the municipality.

Roll where municipality not divided into wards.

(4) Any such roll shall be in force until a new roll is made.

Roll in force.

62. Any person whose name is on a roll of electors under the qualification of occupier, and who, at the date of an election, retains the qualification under which he was enrolled, and any person whose name is on the roll of electors under the qualification of owner or rate-paying lessee, for a municipality or ward, shall be an elector of such municipality or ward, and shall be entitled at any election of aldermen within the ward for which he is enrolled to as many votes as there are candidates to be elected, but shall not give more than one vote to any one candidate. He shall vote for the full number of aldermen to be elected.

Shires, s. 23. Extension, s. 53.

Extension, s. 51.

DIVISION

*Local Government.*DIVISION 3.—*Shires and municipalities.*

63. A woman shall not be disqualified by marriage for being on any roll of electors, or for being an elector, or for voting at an election: Married woman may vote.
 Provided that a husband and wife shall not both be qualified to be enrolled as electors in respect of the same land. Extension, s. 53. Husband and wife.

64. (1) A council shall, within the prescribed time after the making of the roll of electors, prepare a roll of ratepayers by transcribing from the roll of electors the names of the persons thereon who are owners or ratepaying lessees, or lessees of Crown lands or tenants of lands vested in the Chief Commissioner for Railways and Tramways. The making of the roll of ratepayers. Extension, s. 54.

(2) Such roll, when signed by the mayor or president and countersigned by the clerk, shall be the roll of ratepayers for the area, and shall remain in force until a new roll of ratepayers is made. Roll of ratepayers.

(3) The persons on such roll shall be entitled to vote at a poll of ratepayers.

65. Where areas are reconstituted under this Act, the Minister may, for the purpose of making lists of electors and ratepayers of the new area, require lists of electors and ratepayers of the old area to be furnished, and may from such lists cause the requisite lists to be prepared for the new area. Such lists, when revised in accordance with this Act, shall be the rolls for the new area, and shall be in force until the new rolls are made. Minister may require lists of electors and ratepayers to be furnished for reconstituted area. Extension, s. 18 (1).

PART VIII.

REVISION COURTS.

Shires and municipalities.

66. (1) In each area the Governor shall appoint a revision court annually to revise the lists of electors prepared as aforesaid. Annual appointment. Shires, s. 24; Extension, s. 53.

(2) A revision court shall consist of either a stipendiary or police magistrate or three justices. Constitution.

(3) The proceedings of a revision court shall be conducted in the prescribed manner and at the prescribed place and time. Proceedings.

67. The provisions of section one hundred and thirty-six of the Parliamentary Electorates and Elections Act, 1902, relating to a committee of elections and qualifications and the members thereof, and to proceedings before the same in relation to any matter before such committee, shall apply to the revision court and the members thereof, and to the proceedings before such court in relation to the revision of a list of electors under this Act. Power to call witnesses—Proceedings. Extension, s. 53.

68. The Governor may, at the request of a council, appoint a revision court, which may at the prescribed time of the year one thousand nine hundred and seven, and in the prescribed manner, revise the first rolls of electors relating to the area of the said council. Revision, 1907. Extension, s. 53.

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PART IX.

CANDIDATES.

Shires and municipalities.

69. Any male person whose name is on the roll of electors for an area shall, if not disqualified, be eligible to be elected and to act as alderman or councillor of the area.

Qualification
Shires, s. 25 ;
Extension, s. 53.

70. A person is disqualified for such office if—

Disqualifications.
Extension, s. 53.

- (a) he has not, prior to the seventh clear day before the day of nomination of candidates for such office, paid all sums due by him on such day to the council for rates or charges ;
- (b) he is a judge of the Supreme Court or of any district court ;
- (c) he is an officer on full pay or a non-commissioned officer or private in the naval or military service of His Majesty other than the citizen forces of the Commonwealth ;
- (d) his affairs are under composition with his creditors by any deed of assignment duly executed by him ;
- (e) he is an uncertificated bankrupt or insolvent ;
- (f) he has been convicted of felony, and has not received a free pardon or served his sentence ;
- (g) he is undergoing a sentence of imprisonment ;
- (h) he is of unsound mind ;
- (i) he holds any position or place of profit under or in the gift of the council ;
- (j) he is directly or indirectly by himself, or any partner, engaged or interested (other than as a shareholder in an incorporated company, association, or partnership consisting of more than twenty members) in any contract, agreement, or employment with, by, or on behalf of the council, except in a contract or agreement for or in relation to—
 - (i) the publication of advertisements in a public journal ;
 - (ii) the supply by the council of any water, or of gas, or of coke or other products from gas works, or of electricity ;
 - (iii) the performance by the council of any work or services in connection with footways, roads, or sanitation ;
 - (iv) permission granted by the council to occupy footways during the erection of buildings ;
 - (v) security for damage to footways or roadways ; or
 - (vi) any lease granted before his election of land belonging to or under the control of the council.

71. Any person acting in such office while so disqualified shall be liable to a penalty not exceeding one hundred pounds, and if convicted of an offence mentioned in paragraphs (i) or (j) of the last

Penalty on
disqualified
person acting.
Shires, s. 25 (3).
Extension, s. 53.

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last preceding section, the minimum penalty shall be fifty pounds, and he shall be disqualified for such office for seven years thereafter, and shall not be competent to recover from the council any sums due to him by the council under any contract or agreement; and if he has received from the council any sums under any contract or agreement, the same may be recovered from him by the council in any court of competent jurisdiction within two years from the date of such receipt.

PART X.

OUSTER OF OFFICE.

Shires and municipalities.

72. (1) Upon affidavit—

- (a) that any person declared elected to an office has been elected unduly or contrary to this Act; or
- (b) that any person disqualified for any office has been elected to or holds or acts in such office,

the Supreme Court, or a judge thereof, or any district court or court of petty sessions having jurisdiction in the area in which the election has been held, may grant a rule or order calling upon such person to show cause why he should not be ousted of such office: Provided that no such rule or order for ousting any person as having been elected unduly or contrary to this Act shall be granted unless the application is made within three months from the declaration of election.

Rule or order ousting a person from office.
Shires, s. 26;
Extension, s. 55.

(2) If upon the return of the rule or order it appears to the court that the said person was elected unduly or contrary to this Act, or was at the time of his election, or while holding or acting in such office, disqualified for such office, the court may make the rule or order absolute, or if the matter does not so appear may discharge the rule or order, and in either case with or without costs.

Application for rule must be made within three months of election.

(3) The person against whom any such rule or order is made absolute shall be deemed thereby to be ousted of such office.

Order on return of rule.

(4) An appeal from any rule or order of a district court or court of petty sessions under this section on the ground that such rule or order is erroneous in law, may be made to the Supreme Court or a judge thereof.

Appeal.

(5) Any such appeal from a district court shall be made and determined in the same manner as an appeal in an action in such court.

(6) Any such appeal from a court of petty sessions shall be made and determined in the same manner as an appeal from the determination of justices in the exercise of their summary jurisdiction.

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Local Government.

PART XI.

PRIMARY FUNCTIONS OF COUNCILS.

DIVISION 1.—*Shires.*

73. The council of a shire, on its constitution under this Act, may within its area exercise the following powers and shall perform the following duties:—

Primary functions
of shires.
Shires, s. 9 (1).
Schedule One.

- (i) the care, control, construction, formation, fencing, maintenance, and management of all public places except—
 - (a) those vested in the Railway Commissioners;
 - (b) those which the Governor may except from the jurisdiction of the council, or which are excepted by this Act;
 - (c) public places, other than roads, bridges, or ferries, of which the care or management is by law vested in any public body other than the council;
 - (d) any road less than sixty-six feet wide laid out by any proprietor upon or through his own land;
 - (e) any road so laid out of or more than sixty-six feet wide unless and until a plan of the road has been submitted to and approved by the council and the road has been put to the satisfaction of the council in such a state as may be prescribed by ordinance in that behalf;
 - (f) national works;
- (ii) the regulation of traffic in public places;
- (iii) the provision of lights at dangerous points on roads, and at points where roads cross or diverge; and the lighting of streets in villages and towns;
- (iv) the making of provisions—
 - (a) for the prevention or mitigation of bush fires (including the organisation of bush-fire brigades); and
 - (b) for the prevention or mitigation of menace to the safety of life or property from floods (including the provision of flood boats and the organisation of flood brigades);
- (v) the leasing, acquisition, or erection and the maintenance of offices for the transaction of the council's business;
- (vi) the construction and maintenance of jetties and wharves;
- (vii) the construction and maintenance of streets and footpaths in villages and towns, including kerbing and guttering and tree-planting;
- (viii) the prevention of the pollution of natural watercourses;
- (ix) the administration of the Public Watering Places Act, 1900, for which purpose the following provisions shall have effect

Extension, s. 22.

Local Government.

effect when so provided by order of the Governor duly proclaimed—

- (a) the powers and duties conferred and imposed on the Governor and the Minister by sections six, seven, eight, nine, and ten of the said Act, shall be transferred to and shall be exercised and discharged by the council ;
- (b) a person duly authorised by the council shall have the powers conferred by section eleven of the said Act on a person duly authorised by the Minister ;
- (c) section sixteen of the said Act shall be repealed ;
- (x) the making and formation of any public road excepted by paragraphs (d) and (e) of subsection (i) :

Provided that where a council exercises the powers of this subsection it shall thereafter be charged with the care, control, construction, formation, fencing, maintenance, and management of such road ; Extension, s. 22.

- (xi) the care, control, and maintenance of any stormwater channel, culvert, drain, or watercourse, or any improvements thereto by the Minister for Public Works without the authority of the Governor. Extension, s. 26.

DIVISION 2.—*Municipalities.*

74. The council of a municipality within its area may exercise the like powers and shall perform the like duties as are conferred and imposed on the council of a shire by the next preceding section, and in addition thereto, may exercise the following powers and shall perform the following duties— Primary functions.
Municipalities.
Extension, s. 22.

- (i) the conservation, collection, removal, and disposal of night-soil and refuse, the construction and situation of privies, the regulation of the degree of closet accommodation, and the construction and maintenance of drains and sewers in villages and towns ;
- (ii) the providing of water for villages and towns not supplied with water by the Metropolitan Board of Water Supply and Sewerage without reticulation (trunk supply main and stand-pipes only) ;
- (iii) the regulation and licensing of public vehicles, and of the drivers and conductors thereof ;
- (iv) the regulation and licensing of the hawking of goods ;
- (v) the care and management of parks and recreation grounds, public reserves, and commons, the care of which is not by or under any statute vested in other bodies or persons.

DIVISION

*Local Government.*DIVISION 3.—*Shires and municipalities.*

75. (1) A council shall have the control and management of all public roads in its area, and may use such roads and the soil thereof to any required depth in the exercise of any powers conferred on the council.

Control and management of public roads.
Extension, s. 25;
Shire, s. 10.

(2) No person shall use any such road, or the soil of or under such road, or permit the same to be used in derogation or so as to affect the exercise of the rights or powers of the council. This provision shall bind the Crown.

76. A council may, in and through any private or Crown land adjoining or lying near to any public road within its area make, open, cleanse, and keep open any ditches, gutters, tunnels, drains, and watercourses; and for such purposes may enter any land.

Opening of ditches, drains, &c., through private property.
Shires, s. 10;
Extension, s. 25.

77. (1) A council or any person authorised by a council may, at all reasonable times in the day-time, enter any unenclosed private or Crown land within its area, and which is not the site or curtilage of a house or a garden, lawn, yard, court, park, plantation, planted walk, avenue, land under crop, or nursery for trees, and search for, dig, raise, gather, take, and carry away with horses, carts, or otherwise, from any part of such land which is not within fifty yards of any dwelling-house, bridge, dam, jetty, or other like structure, and is not a quarry actually worked as such on private land, any materials necessary for improving or maintaining any public place or reserve under its control, but so as not to damage any building, road, bridge, ford, dam, jetty, or other like structure, or to divert, interfere with, or interrupt the course of any river or creek.

Materials may be taken from unenclosed land for public purposes.

(2) The council shall pay to the owner of any land the value of any materials taken therefrom, and shall pay to the owner and occupier of any land compensation for any damage they may sustain through the exercise of any of the powers conferred by this section.

Compensation for materials taken.
Shires, s. 10;
Extension, s. 25.

78. (1) A council may within its area open new public roads, divert any road, alter or increase the width of any public road, or cause the level or surface of any public road or footpath to be raised or lowered.

New public roads—widening, raising, lowering roads.
Shires, s. 10;
Extension, s. 25.

(2) Any land required for the purpose of carrying out the provisions of this subsection shall be acquired under the Public Roads Act, 1902.

Acquisition of land.

(3) Any sum paid as compensation or as part compensation for such land, with interest thereon and all necessary expenses incidental to the appropriation, exchange, or resumption thereof, shall be provided by the council.

Council to provide compensation.

(4) The Governor shall, before authorising the appropriation, exchange, or resumption, satisfy himself that the council has made such provision.

Governor to be satisfied that provision is made.

Local Government.

79. For such time as is necessary for making, improving, maintaining, repairing, altering, or increasing the width, or causing to be raised or lowered the level or surface of any public road within any area, the council may close such road and stop all traffic thereon.

Power to close road.
Shires, s. 10;
Extension, s. 25.

80. (1) A council may make a temporary road through any land within its area which is not the site or curtilage of a house or a garden, lawn, yard, court, park, plantation, planted walk, avenue, or nursery for trees for use as a public highway during such time as a road is closed under the preceding section.

Temporary roads.
Shires, s. 10;
Extension, s. 25.

(2) Where a council makes a temporary road as aforesaid through any fenced land, it shall erect a sufficient fence on such road, and shall keep such fences in repair during the time such road is used, and may remove such fence when no longer required.

Fencing temporary roads.

81. Where a council has kerbed, paved, or asphalted the footway or guttered the carriage-way of a public street in a village or town, it may, in any court of competent jurisdiction, recover from the owner of any land opposite to and on the same side of the street as the place where the said work has been done a sum, to be fixed by the council, not exceeding one-half the expense of the said work.

Recovery of half cost of forming and guttering footways.
Extension, s. 25;
Shires, s. 10.

82. (1) If before or after the setting out and marking of the footway of a public road in any area any erection or building, or any hedge or other fence, or any drain or watercourse, has, after the commencement of this Act, been constructed or made so as to encroach on such road, or obstruct the free use thereof, the council may cause notice to be placed upon such encroachment or obstruction, or on the land immediately adjoining thereto, and also to be published in the Gazette, and twice in some newspaper circulating in the area, requiring that such encroachment or obstruction be removed within sixty days after the date of such notice.

Encroachments on public roads to be removed.
Shires, s. 10;
Extension, s. 25.

(2) If such encroachment or obstruction is not effectually removed within the said time the council may cause it to be removed.

83. No road or part of a road shall be closed, nor shall the position of a reserved road within an incomplete purchase from the Crown or conditional lease be altered within an area in pursuance of the Public Roads Act, 1902, unless the consent in writing of the council of the area has been first obtained.

Power to close road.
Shires, s. 10;
Extension, s. 25.

84. A council may plant trees in any public road or street in its area, and erect tree-guards or fences to protect them, and may set apart and fence portions of public roads or streets as tree reserves, provided that in such cases the portion of such road remaining available for public traffic, including footpaths, shall in no case be thereby reduced to less than forty-four feet, and that such reserves shall be so arranged as not to interfere with reasonable access to premises.

Tree planting.
Tree reserves.
Shires, s. 10;
Extension, s. 25.

85. A council may, with the approval of the Governor, lease to any person or permit any person to use or occupy any of its buildings, works, or undertakings.

Power to lease buildings, wharfs, markets, &c.
Shires, s. 10;
Extension, s. 25.

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86. A council may, in lieu of directly undertaking the performance of any of its duties under this Act, enter into a contract with any person or persons for such performance.

Power to contract for public services.
Shires, s. 10;
Extension, s. 25.

87. A council may do any acts not otherwise unlawful, which may be necessary to the proper exercise and performance of its powers and duties.

Power to do any necessary acts.
Shires, s. 10;
Extension, s. 25.

88. Any references in the Public Roads Act, 1902, to a municipality or to the council of a municipality shall be deemed to refer also to an area or its council.

References in Public Roads Act.
Shires, s. 10;
Extension, s. 25.

PART XII.

SPECIFIC POWERS.

DIVISION 1.—*Shires.*

Dairies supervision.

89. At any time after the commencement of this Act, the Governor may, on the recommendation of the Board of Health, proclaim that any shire council shall be the local authority within the meaning of the Dairies Supervision Act, 1901, for the administration of the said Act within such council's area; and thereupon such council shall be and shall become invested with the powers, rights, duties, and liabilities of a local authority under the said Act.

Dairies.
Extension, s. 50.

Metropolitan Traffic Act.

90. The Metropolitan Traffic Act, 1900, shall not, except as hereinafter provided, apply within a shire: Provided that, at the request of a council of a shire, the whole or part of which is within the county of Cumberland, the Governor may by proclamation apply the said Act to the said shire or part thereof.

Metropolitan Traffic Act.

DIVISION 2.—*Shires and municipalities.*

Impounding Act.

91. (1) Every council shall, in and for its area, alone have and exercise the following powers which by the Impounding Act, 1898, may be or are required to be exercised in and for any district by the court of petty sessions of such district or a majority of the justices assembled in such court, that is to say, powers relating to—

Council alone to exercise the powers conferred by the Impounding Act.
Extension, s. 25;
Shires, s. 11.

- (a) the establishment of pounds;
- (b) the appointment of poundkeepers;

(c)

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- (c) the determination of the amount of security to be given by each poundkeeper ;
- (d) the monthly inspection of the pound-book and instructions ;
- (e) the receiving of such book and instructions from each poundkeeper on his ceasing to hold office as such ; and
- (f) the fixing of charges for the care and sustenance of animals impounded.

(2) The poundkeeper shall in every case be a servant of the Poundkeeper.
council.

(3) All pounds already established, and all poundkeepers Existing pounds and in office in any area at the commencement of this Act, shall be poundkeepers. deemed to have been established and appointed under this Act.

(4) The powers conferred by section thirteen of the Impounding Act, 1898, may be exercised by the council of a municipality at any time on any day of the week, and may be so exercised by the council of a shire in an urban area or, if the electors resident within a town or population area (as defined by the Crown Lands Acts) situate within the shire approve of such exercise at a poll which shall be taken by the council on the written request of twenty or more electors so resident, in such town or population area.

Animals may be impounded at any time on any day.
Extension, s. 25.

92. For the purposes of this Act, the Impounding Act, 1898, is amended as follows, and such amendments shall have effect only within a municipality or shire :—

Impounding Act, 1898.
Extension, s. 103.

- (a) In subsection one of section six the word " council " is substituted for the word " Government."
- (b) In subsection three of section six the words " when demanded be produced to the council clerk " are substituted for the words " once in every month be produced to the petty sessions."
- (c) In subsection three of section six the words " or council " are inserted after the word " Minister."
- (d) In section seventeen the words " or president or mayor " are inserted after the words " police officer."
- (e) In subsection three of section twenty-six, all the words from and including " forthwith forward such transcript " down to and including the words " under this Act " are omitted, and the words " pay such moneys to the general fund of the council " are substituted therefor ; and the words " council's office " are substituted for the words " court-house."
- (f) In section forty the words " and the council of a shire shall, in respect of any public place as defined in the Shires Act, in any village, town or urban area in such shire, and in respect of any reserve, park, or land of whatever kind vested in or under the control or management of any such council by virtue of any Act now or hereafter to be in force," are inserted after the words " in force."

(g)

Local Government.

(g) In section forty-two the words "or local government ordinance or regulation" are inserted after the word "by-law," where first occurring; and the words "ordinance or regulation" are inserted after the word "by-law" at the end of the section.

(h) Section fifty-nine is repealed.

93. In section thirteen of the Impounding Act, 1898, the words "on any business day" are hereby repealed, and the words "on any day of the week" are substituted therefor.

Animals may be impounded on any day of the week.
Shires, s. 11;
Extension, s. 25.

Wharfage and Tonnage Rates Act.

94. With respect to any wharf, dock, pier, jetty, landing-stage, slip, or platform, the control and management of which is vested in a council, such council shall have the powers of the Governor under Division 3 of the Wharfage and Tonnage Rates Act, 1901; and the provisions of the said Act, and any Acts amending the same, are, mutatis mutandis, hereby incorporated with this Act so far as they relate to any such wharf, dock, pier, jetty, landing-stage, slip, or platform.

Wharfs, docks, &c.
Extension, s. 102.

Police Offences Act.

95. (1) A council shall alone in and for its area have, exercise, and incur the following powers and obligations which, by the Police Offences Act, 1901, may or are required to be exercised and incurred by the police magistrate, or by other justices of the peace, or by the Surveyor-General or person deputed by him, or by any magistrate or municipal officer of any town, or other person acting under the authority of the Governor, or by the police magistrate with the assistance of the bench of magistrates, or by the Colonial Treasurer or such other officer as the Governor may authorise respectively, that is to say, the powers conferred by the said Act for or in respect of—

Powers to be exercised alone by the council which formerly were exercised by the persons named in Police Offences Act, 1901.
Shires, s. 12;
Extension, s. 25.

- (a) the enclosure of holes or foundations near any public place and the lighting of such enclosures;
- (b) the receiving of notices as to the blasting of rocks, and the giving of such directions thereon as may be deemed necessary for the public safety;
- (c) the granting of leave for the opening of any drain or sewer, or the removal of any turf, clay, sand, gravel, stone, or other material from any carriage-way or footway;
- (d) the setting out, aligning, and defining of carriage-ways and footways in streets and public places;
- (e) the giving of notice for the removal or abatement of any building or erection in any street, part of a street, or public place within the distance from the kerbstone or extreme edge of the footway fixed and declared by the Governor;

(f)

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- (f) the receiving of notice of the intention to erect any house, shop, or other building in any street before such erection is commenced, and the furnishing of information as to any legal provisions relating to such proposed erection;
- (g) the marking of names of streets upon any walls and the numbering of houses;
- (h) causing footways to be levelled and removing or abating any flagging, steps, or other injury or obstruction therefrom;
- (i) the receiving of notice from any person desirous of flagging, paving, gravelling, or putting a kerbstone to the footway in front of his house or premises, and the giving of directions as to the length, breadth, height, slope, and inclination of such footway:

(2) Provided that the said council may by ordinance delegate all or any of the said powers to any servant of such council.

(3) With respect only to the foregoing provisions, the said Act shall be read as if the word "council" stood in such Act, instead of the following words and descriptions respectively, namely, "police magistrate," "any justice," "justice of the peace," "one of the nearest resident justices of the peace," "said justice," "some justice of the peace," "the Surveyor-General or any person deputed by him," "any magistrate or municipal officer of any such town under the authority of the Governor," "any person appointed by the Governor," "police magistrate with the assistance of the bench of magistrates," and "Colonial Treasurer or other such officer as the Governor of the said Colony shall otherwise authorise and appoint."

The "council" to be read instead of certain other expressions.

(4) No police magistrate or justice of the peace or other officer or person as aforesaid shall be required or empowered to do any act or give any notice or direction or information, or receive any notice as hereinbefore mentioned, as to any of the said matters or things existing, arising, or occurring within the limits of any area.

Certain powers taken away from justices.

(5) So much of all fines, fees, and sums of money recoverable by reason of the operation in any area of the said Act as would be paid into the Consolidated Revenue Fund, if this Act had not been passed, shall belong to the council, and shall be paid to the clerk.

Disposal of fines and fees.

(6) Sections seventy-two and seventy-three of the Police Offences Act, 1901, shall apply to any area, and the powers of a constable under the former of those sections may be exercised by any servant of the council duly authorised by the council in that behalf.

Application of ss. 72 and 73 of Police Offences Act.

Cattle Slaughtering and diseased animals and meat.

96. The powers which may within their areas be exercised by councils of existing municipalities under the Cattle Slaughtering and Diseased Animals and Meat Act, 1902, or section seventeen of the Public Health Act, 1902, are hereby vested in and may be exercised

Certain powers of municipalities transferred to councils of areas. Extension, s. 44.

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within their areas by the councils of municipalities and shires. The word "cattle" in the first mentioned Act is altered to include horses, mules, asses, horned cattle, camels, pigs, sheep, and goats of any age or of either sex. Definition of cattle.

Public Health Act.

97. The provisions of sections ninety-six, ninety-seven, and ninety-eight of the Public Health Act, 1902, shall apply, *mutatis mutandis*, to this Act, and to the ordinances and regulations, and to the councils of areas and to their servants. Provisions of Public Health Act, 1902, shall apply. Extension, s. 27.

Sand drifting on roads.

98. (1) When any land is in such a condition that sand blown or falling from it causes obstruction to any public road within a municipality, such land shall be a nuisance within the meaning of Part VII of the Public Health Act, 1902, and liable to be dealt with summarily in the manner provided by such Part. Sand drifting on roads a nuisance. Extension, s. 28.

(2) A police or stipendiary magistrate, or any two justices in petty sessions, may, on being satisfied by the Council of the municipality that after due diligence the owner or occupier of such land cannot be found and served with the notice required by such Part of the Public Health Act, 1902, by order authorise such council to do all things necessary to abate the nuisance; and the council may recover all moneys so spent as a rate from such owner or occupier. Council may abate nuisance.

New roads.

99. (1) Every person, other than a person acting by authority of the council, who proposes in any area to open through or upon any land any road in order that the same may be used as a public road or as a means of access to two or more parcels of land, shall submit to the council a plan and specification of such road, and in the case of land in a village, town, urban area, or municipality, such plan and specification shall give the prescribed particulars as to surface drainage. Every such person shall apply in writing to the council to approve of such road. New roads— applications to be made to council. Extension, s. 29.

(2) The council may thereupon approve or disapprove of such plan and specification, and may by notice to such person inform him of such approval or disapproval, and in the latter case of the reasons of such disapproval: Council to approve of plan of roads and drainage. Extension, s. 29.

(3) Provided that if within forty days from such application the council does not notify such person of its disapproval of the plan and specification, the council shall be deemed to have approved of the plan and specification:

(4) Provided also, that if the council disapprove of such plan and specification, the person who proposes to open the road may appeal against such disapproval to a district court judge having jurisdiction in the area; and such judge may summon witnesses, hear evidence, and Appeal against council's requirements.

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and determine the matter, having regard to the circumstances of the case and to the public interest. The decision of such judge shall be final, and shall be given effect to by such person, and by the council.

(5) Any person who opens any road in order that the same may be used for any of the above purposes without having obtained such approval shall be liable to a penalty not exceeding one hundred pounds. Penalty for opening road without council's approval.

100. (1) Every person who opens any such road as aforesaid shall, before he sells, leases, or otherwise disposes of any land having frontage to the road, make the road and provide drainage according to the approved plan and specification to the satisfaction of the council, in accordance with the ordinances in that behalf, or give security to the satisfaction of the council that he will so make the road and provide drainage. Persons forming road to form and make road before leasing or selling certain land. Extension, s. 29 (4).

(2) If the council is not satisfied with the security offered, such person may appeal to a district court judge having jurisdiction in the area, who may summon witnesses, hear evidence, and determine the matter, having regard to the circumstances of the case and the public interest. The decision of such judge shall be final, and shall be given effect to by such person and the council. The council may sue and recover upon such security in any court of competent jurisdiction. Appeal as to security.

(3) If any person who so opens any such road sells, leases, or otherwise disposes of any such land before the road and drainage have been made as aforesaid, or security given as aforesaid, the council may, by notice in writing, require such person to so make the road and drainage, or give security as aforesaid, within the period stated in the notice; and if such person fail to comply with such notice the council may make such road and drainage and recover the cost thereof from such person in any court of competent jurisdiction. In default, council may form and make road at owner's cost.

101. (1) If any road so opened as aforesaid has not been dedicated to the public, such road may be closed to the public and taken out of the care, control, and management of the council on notice in writing of such intention to so close the road being given to the clerk signed by all persons having an interest in the land upon or through which the road was opened. Roads not dedicated may be closed. Extension, s. 30.

(2) Upon any road being so closed to the public as aforesaid, any security given in respect of the making of such road and the providing of drainage in regard thereto shall become void and of no effect.

Quarries and waterholes.

102. (1) Where any quarry or mining shaft or any waterhole dangerous to the public is in open or unenclosed land within fifty yards of a highway or place of public resort dedicated to the public, and Quarries, shafts, and waterholes dangerous to public not fenced declared nuisance. Extension, s. 31.

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and is not separated therefrom by a secure and sufficient fence, it shall be kept reasonably fenced for the prevention of accidents, and unless so kept shall be a nuisance within the meaning of Part VII of the Public Health Act, 1902, and liable to be dealt with summarily in the manner provided by such Part.

(2) A police or stipendiary magistrate, or any two justices in petty sessions, may, on being satisfied by the council that the said nuisance exists, and that after due diligence the owner or occupier of such quarry, mining shaft, or waterhole cannot be found and served with the notice required by such Part of the said Act, by order authorise such council to do all things necessary to abate by fencing as aforesaid the nuisance; and the council may recover all moneys so spent as a rate from such owner or occupier.

Council may abate nuisance.

(3) For the purposes of this section, "quarry" means every pit or opening, used or disused, made for the purpose of getting stones, slates, lime, chalk, clay, gravel, or sand, or any excavation whatever not being a natural opening; and "waterhole" means every tank, dam, or natural or artificial reservoir for water, or any excavation in which water has collected or may collect.

Definitions—quarry, waterhole.

Fees and charges.

103. A council may fix, with the approval of the Governor, and may recover fees and charges for any service rendered by the council in pursuance of its powers under this Act.

Council may fix and recover fees.
Extension, s. 32.

Sale or lease of land.

104. A council may, with the approval of the Governor, sell or lease any lands vested in the council but not required for the purposes of the council. The proceeds of any such sale shall be paid to such fund of the council as the Minister may direct, and, in the absence of any such direction, shall be paid to a loan fund.

Power to sell or lease lands.
Extension, s. 33.

Power of entry.

105. A council of an area shall have power, by themselves or their servants, to enter into and upon any building or land within the area at all reasonable hours in the daytime, or at any hour during which business is in progress or is usually carried on in the premises, for the purpose of executing any work or making any inspection authorised to be executed or made by them under this Act or the ordinances or regulations, without being liable to any legal proceedings on account thereof.

Council may enter into and upon any building or land.
Extension, s. 27.

Boundary works.

106. (1) Where one side of a public road or one bank of a river, stream, or watercourse lies in one area, and the other side of the public road or the other bank lies in another adjoining area, or where the centre of a public road, river, stream, or watercourse forms a common boundary

Boundary roads, bridges, and ferries to be maintained at joint expense of adjoining areas.
Shires, s. 14;
Extension, s. 34.

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boundary of the areas, the councils of such areas shall unite in making or repairing such public road, and in building, providing, maintaining and managing necessary bridges, ferries, and other works over or upon such river, stream, or watercourse, so far as the same follows the boundaries or the common boundary of the respective areas.

(2) Either of the councils may request the other to enter into an agreement with it for the above purpose, and on failure to agree, either council may refer the matter to the Governor, who may refer the matter for hearing in the prescribed manner to some person appointed by him in that behalf, and on the recommendation of such person may make an order—

- (a) directing the performance of any such work as aforesaid ;
- (b) directing how, by whom, and at whose expense the work shall be performed, maintained, and managed ;
- (c) making such further orders in respect of the works as he may think necessary.

(3) Obedience to any order under this section may be enforced by action or by motion for a mandamus at the suit of any such council or of any owner of ratable property abutting upon or within the distance of a mile from the boundary road, or from the road in the line whereof the bridge, ferry, or other work is, or ought to be, constructed.

(4) This section shall apply to boundary roads, rivers, streams, and watercourses where an existing municipality adjoins the city of Sydney, and for that purpose the word "area" includes the city of Sydney.

(5) This section shall apply to public roads, bridges, ferries, and other works upon the boundary between the Western Division and any area, and for that purpose the word "area" includes the Western Division and the word "council" includes the Minister.

PART XIII.

ADDITIONAL FUNCTIONS OF COUNCILS.

DIVISION I—*Shires.*

107. The council of a shire may acquire the right to exercise any or all of the following powers in the manner hereinafter provided :—

- (i) The conservation, collection, removal, and disposal of night-soil and refuse, the construction and situation of privies, the degree of closet accommodation, and the construction and maintenance of drains and sewers in villages and towns.

(ii)

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- (ii) The providing of water for villages and towns not supplied with water by the Metropolitan Board of Water Supply and Sewerage, without reticulation (trunk supply main and stand-pipes only).
- (iii) The regulation and licensing of public vehicles, and of the drivers and conductors thereof.
- (iv) The regulation and licensing of the hawking of goods.
- (v) The care and management of parks and recreation grounds, public reserves, and commons, the care of which is not by or under any statute vested in other bodies or persons.

108. (1) The Governor, on the application of a council of a shire, may, by notice in the Gazette, declare any portion of the shire to be and the same shall thereupon be constituted an urban area.

Urban areas in shires.
Extension, s. 24.

(2) The council of such shire shall thereupon have, with respect to such urban area, the powers of the council of a municipality under this Act.

Powers.

(3) Provided that, with regard to the provisions of *section one hundred and ten* :—

- (a) the petition may be signed by fifty, or, if there be less than three hundred ratepayers on the roll, by one-sixth of the ratepayers having qualification in respect of land in the urban area ;
- (b) the poll shall be of ratepayers having such qualification.

Polls.

DIVISION 2.—Shires and municipalities.

109. The council of an area may acquire the right to exercise any or all of the following powers in the manner hereinafter provided :—

Acquisition of functions by areas.
Extension, s. 23 (2).

- (i) The administration of the powers and duties of the Secretary for Lands conferred and imposed by the Public Gates Act, 1901.
- (ii) The administration of the powers and duties of justices in sessions conferred and imposed by the Native Dog Destruction and Poisoned Baits Act, 1901 : Provided no appeal shall be allowed under section eleven of that Act to quarter sessions from a decision of a council.
- (iii) The provision, maintenance, and management of water supplies, with reticulation if required.
- (iv) The watering of streets.
- (v) The compulsory connection of buildings in municipalities, towns, and villages with the sewers of the council, and the removal and disposal of sewage.
- (vi) The construction, maintenance, and operation of passenger ferries and public punts.

(vii)

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- (vii) The establishment and maintenance of fire brigades and stations in towns.
- (viii) The extirpation of noxious weeds, pests, vermin, and animals, not being animals which have been or may hereafter be declared noxious under the Pastures Protection Act 1902, or any Act amending the same. Extension, s. 45.
- (ix) The acquisition or erection and maintenance of a town hall, shire hall, or of any municipal building other than those required for office purposes.
- (x) The construction, establishment, and maintenance within its area of cattle sale-yards and abattoirs.
- (xi) The construction, maintenance, and management of public markets; the regulation of the holding of public markets; the charging and regulation of rents and fees for the use of stalls in buildings and places where markets are held, and of fees in respect of goods and animals brought for sale or sold therein.
- (xii) The draining and reclamation of swampy or low-lying land.
- (xiii) The establishment and maintenance of parks and recreation grounds.
- (xiv) The provision and maintenance of garbage destructors, and the collection and destruction of garbage.
- (xv) The provision and maintenance and management of public cemeteries.
- (xvi) The construction, maintenance, and management of public baths; the regulation of bathing and the observance of decency in connection therewith; the provision of life-saving appliances, danger notices, and life-saving attendants, and the construction, maintenance, and hiring by the council or other persons to the public of bathing-houses and bathing-machines, and the regulation thereof.
- (xvii) The provision, maintenance, and management of public urinals, closets, and lavatories.
- (xviii) The provision, maintenance, and management of disinfecting chambers.
- (xix) The provision, maintenance, and management of lethal chambers.
- (xx) The manufacture and supply of gas.
- (xxi) The manufacture and supply of electricity.
- (xxii) The manufacture and supply of hydraulic or other power.
- (xxiii) The regulation and control of theatres, dancing saloons, buildings used for public assemblies, and places of public amusement or of public resort.
- (xxiv) The establishment, maintenance, and management of night shelters.

(xxv)

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- (xxv) The regulation and control of common lodging-houses.
- (xxvi) The establishment, maintenance, and management of places of public recreation or improvement.
- (xxvii) The establishment, maintenance, and management of public libraries.
- (xxviii) The establishment, maintenance, and management of art galleries.
- (xxix) The establishment, maintenance, and management of museums.
- (xxx) The provision, maintenance, and management of schools of art, reading rooms, and mechanics' institutes.
- (xxxi) The establishment, maintenance, and management of public gardens.
- (xxxii) The establishment, maintenance, or subsidising of public bands or orchestras.
- (xxxiii) The regulation—
 - (a) of hoardings; and
 - (b) of the posting or painting of bills, signs, or advertisements.
- (xxxiv) The rearrangement and beautification of the area, and the acquisition of land, streets, buildings, &c., therefor, together with the sale or lease of land or buildings after such rearrangement.
- (xxxv) The regulation of buildings, balconies, verandahs, or other structures abutting on or extending over any public place, and the removal thereof.
- (xxxvi) The carrying out jointly by councils of undertakings authorised by the Act, for the mutual benefit of their areas, and the joint control, regulation, management, and maintenance thereof.
- (xxxvii) The inspection and regulation of the wholesale and retail sale and of the storage and exhibition for sale of fish, and of oysters, and crustaceæ, and of rabbits, poultry, and game.
- (xxxviii) The suppression of public nuisances caused by the emission, discharge, or escape of smoke, fumes, steam, oil or oil vapour, either separately or any two or more in combination, from premises within or partly within the area, or by the discharge of waste waters or waste products from any factory or other building in the area.
- (xxxix) The regulation or prevention of the erection of any structure of calico or canvas, or other inflammable material.
- (xl) The regulation and supervision of the opening up of streets or roads for the laying of pipes, construction of tunnels, or other purposes; the regulation of the laying of wires or cables

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cables under or over or through the roads or streets of the area for the transmission of electricity; and the making of a charge for damage resulting therefrom.

- (xli) The regulation and supervision of the sale, storage, exhibition for sale, conveyance, and mode of delivery, by carcase or otherwise, of meat for human consumption; and of the disposal and removal of other meat, and of any blood, offal, or other refuse.
- (xlii) The regulation and supervision of the manner, route, and times of driving animals in public places.
- (xliii) The regulation of the erection of buildings as to height, design, structure, materials, building line, sanitation, the proportion of any lot which may be occupied by the building or buildings to be erected thereon; and the subdivision of land for building purposes so as to secure due ways of access to the rear as well as to the front of buildings erected, or to be erected, thereon.
- (xliv) The suppression of houses of ill-fame and disorderly houses.
- (xlv) The regulation and control of the solicitation or collection in public places of gifts of money, or of subscriptions for any purpose.
- (xlvi) The establishment, control, maintenance, and regulation of infants' milk depôts.
- (xlvii) The establishment, control, maintenance, and regulation of mortuaries.
- (xlviii) The numbering of buildings in towns having a population of two thousand or more inhabitants, with power to require the owners thereof to number them in accordance with a plan of numbering prescribed by the council.
- (xlix) The regulation and control of seamen's boarding-houses.
- (l) The regulation and collection of fees for the agistment of animals on commons or other lands under the control of municipal councils.

110. A council may, under *sections one hundred and seven, one hundred and eight, and one hundred and nine*, from time to time, acquire the right to exercise any or all of the powers therein specified, in the following manner:—

Method of acquiring additional powers.
Shires, s. 9 (2).

- (a) A resolution must be passed by an absolute majority of the council specifying the powers required, and alleging that they are necessary for the good government of the area. Such resolution must be confirmed by the vote of a majority of the members of the council present at a subsequent meeting called as prescribed; and
- (b) An application in the form prescribed must be made by the mayor or president on behalf of the council to the Governor, asking

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- asking that the specified powers, or some of them, be conferred on the council. Such application shall be notified by the Governor in manner to be prescribed.
- (c) On receipt of a petition signed by not less than fifty, or if there be less than three hundred ratepayers on the roll, by one-sixth of the ratepayers, the Governor shall direct that a poll of the ratepayers of the area shall be taken as to whether all or any of the powers applied for shall be conferred on the council.
 - (d) The Governor shall prescribe the questions to be submitted at the poll.
 - (e) Such poll shall be taken in accordance with the regulations and ordinances.
 - (f) The result of any poll so taken shall be communicated to the Governor. Extension, s. 23.
 - (g) If, at the poll so taken, a majority of the ratepayers voting is against the conferring of any power applied for, the Governor shall refuse the application of the council in that particular, and the right to exercise such power shall not again be applied for by the council until after the expiration of two years from the day of such poll.
 - (h) The Governor may, except as aforesaid, grant the application of the council, in whole or in part.
 - (i) When the Governor confers any such power he shall make an order accordingly, which shall be proclaimed.

111. The powers and duties specified in *sections seventy-three, seventy-four, one hundred and seven, and paragraphs (i) and (ii) of section one hundred and nine*, so far as they relate to public places in the area, shall, subject to this Act, be exclusively exercised by the council of the area, and the provisions of the Acts mentioned in Schedule Two shall not apply to such public places unless such places are excepted by the Governor from the jurisdiction of the council. Exclusive powers. Shires, s. 9 (3). Extension, s. 23.

112. (1) A council which has, in accordance with this Act, acquired the powers of *paragraph (viii) of section one hundred and nine* applicable in that behalf— Noxious weeds, plants, and animals. Extension, s. 45.

- (a) may, with the approval of the Governor, declare any plant or animal to be noxious, and such plant or animal shall within its area be a noxious plant or animal for the purposes of this Act; Definition of noxious weed or plant or animal.
- (b) shall extirpate and destroy all noxious plants or animals upon any land vested in or leased by it, or upon any public place or reserve under its care and management; Extirpation on public places and reserves.
- (c) when any noxious plant or animal is found growing or living upon any land within an area, not being unoccupied Crown land or land subject to the provision of the last preceding paragraph, Extirpation on private land.

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paragraph, the council shall cause to be served upon the occupier, or, if there be no occupier, upon the owner thereof, a notice requiring him to extirpate and destroy the plants or animals on the land within three months from the service of the notice.

(2) If, at the expiration of such period, the plants or animals have not been so extirpated and destroyed, or reasonable efforts have not been made to so extirpate and destroy them, the council may forthwith extirpate and destroy them, and any reasonable expense so incurred by a council may be recovered in any court of competent jurisdiction from the occupier, or if there is no occupier, from the owner of the land. Council may recover cost.

(3) For the purposes of carrying out the provisions of this section, a council may enter any land. Power to enter land.

(4) This section shall not apply to such animals as have been or may hereafter be declared noxious under the Pastures Protection Act, 1902, or any Act amending the same. Not applicable to animals noxious under Pastures Protection Act.

113. (1) A council which has, in accordance with this Act, acquired the powers of *paragraph (x) of section one hundred and nine*, applicable in that behalf, may construct, establish, maintain, and control within its area cattle sale-yards and abattoirs; and, during the maintenance by a council of any sale-yards (whether constructed in pursuance of this Act or of any Act hereby repealed), or of any abattoirs, the prescribed fees shall be payable to the council in respect of any cattle— Cattle sale-yards and abattoirs—power to construct and control. Extension, s. 46.

(a) brought to such sale-yards or abattoirs for sale or slaughter; or

(b) yarded in or brought to any other sale-yard or premises within the area for sale or slaughter.

Provided that this subsection shall apply to any cattle sale-yards constructed by any council outside its area before the commencement of this Act. Cattle sale yards outside areas.

(2) Any fees payable under paragraph (b) of subsection one shall not exceed the corresponding fee under paragraph (a) of the same subsection in respect of the same description of cattle. Power to charge fees.

(3) When an abattoir has been established as aforesaid in an area, the Governor may, for the purpose of securing the effective inspection of cattle slaughtered, or intended for slaughter, by proclamation, prohibit or regulate the sale or exposure for sale within the area of any carcase or part of a carcase of any cattle to be used as the food of man which has not been slaughtered in the abattoir, or in the abattoir established under the Act fourteenth Victoria number thirty-six. Sale of carcasses of cattle not slaughtered in abattoir.

(4) Any person exposing for sale or selling any carcase or part of a carcase in contravention of a proclamation under this section shall be liable to a penalty not exceeding twenty-five pounds. Penalty.

(5)

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(5) For the purposes of this section, "cattle includes "Cattle." horned cattle, pigs, and sheep of any age and of either sex.

114. Where a council has, in accordance with the provisions of *Theatres and places of public resort.* this Act, acquired the powers of *paragraph (xxiii) of section one* *hundred and nine* applicable in that behalf, the following provisions shall apply :—

- (a) The council shall have such power and control over all places *Safety of places of assembly, &c. Extension, s. 47.* of public resort, and places within the area where people assemble together or pass, whether in buildings or otherwise, as may be necessary to ensure the safety of those so assembling or passing.
- (b) Every building in the area used as a place of public resort *Buildings.* shall, to the satisfaction of the council, or any person appointed by the council in that behalf, be substantially constructed and supplied with ample, safe, and convenient means of ingress and egress for the use of the public and for escape in case of fire; and it shall be the duty of the council to take measures to keep the means of egress or ingress, during the whole time that such building is used as a place of public resort, free and unobstructed. The council may close such building, if necessary, to ensure the objects of this section.
- (c) It shall not be lawful to use any building or enclosure within *Buildings of public entertainment.* the area for public meetings, or as assembly rooms, or as a theatre or music hall or dancing hall, or for any public performances or public amusements whatever, whether a charge is made for admission thereto or not, except upon the conditions set out in ordinances made in that behalf.
- (d) The council may license, or refuse to license, as it thinks *Licenses.* fit, and upon such conditions as may be prescribed by ordinances in that behalf, any building proposed to be used as a place of public resort for any purposes of amusement whatever, and may charge such fees for the license thereof as may be prescribed by ordinance, and if so provided in the ordinances no building shall be used for any of the purposes mentioned in this section unless such building is licensed by the council.

115. A council which has, in accordance with the provisions of *Hoardings. Extension, s. 48.* this Act, acquired the powers of *paragraph (xxxiii) of section one* *hundred and nine* applicable in that behalf, may do all or any of the following things—

- (a) prevent the erection or use of any hoarding in the area *Sanction of council.* without the consent of the council;
- (b)

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- (b) demolish or remove any hoarding which, in the opinion of a servant of the council appointed in that behalf, is or may be dangerous, unsightly, or objectionable, or which has been erected without such consent as aforesaid; Destruction of objectionable structures.
- (c) regulate and control all hoardings now or hereafter to be erected, and all bills, placards, and advertisements attached or fixed to, or painted on any such hoardings, or on any building or on any fence, rock, cliff, or tree, and obliterate, abolish, or remove the same if, in the opinion of the council, unsightly or objectionable; Regulation and control.
- (d) license persons engaged in posting, fixing, or painting bills, placards, or advertisements; and fix and recover the fees to be paid by such persons. Licenses and license fees.

PART XIV.

POWER OF GOVERNOR AND MINISTER TO IMPOSE DUTY TO EXERCISE FUNCTIONS.

DIVISION I.—*Shires and municipalities.*

116. Notwithstanding anything in this Act, the Governor may, by proclamation, confer and impose on a council any power or duty relating to public health or the prevention of the spread of disease which is included among those which may be acquired by a council; and thereupon such council shall, to the best of their ability, exercise such power or perform such duty, and in default thereof such council guilty of such default shall be liable to the penalty prescribed by regulations. Governor may impose powers and duties. Extension, s. 23 (4).

117. Notwithstanding anything in this Act, the Governor may by proclamation charge a council with the care, construction, and management of any public place, or public reserve, cemetery, or any common in its area; and thereupon any trust relating to the care, construction, or management thereof shall be dissolved, and all powers and duties of such trust and of the members thereof shall, without prejudice to anything done or commenced or contracted to be done, cease and determine, and all assets and liabilities of such trust, subject to any provisions which the Governor may require to be made with respect to existing debts, securities, and assets of such trust, shall be the assets and liabilities of the council. Governor may hand public places, public reserves, cemeteries, and commons over to councils. Extension, s. 26. Dissolution of trusts.

118. The Governor may, from time to time, by proclamation, confer and impose upon the council of any area all, or any, of the following powers and duties, notwithstanding that they may not have been Powers and duties which Governor may confer and impose on councils. Extension, s. 49.

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been conferred or imposed on the council originally or subsequently to incorporation by or under the foregoing provisions of this Act, or that the result of a poll of the ratepayers of the area has been adverse to the acquiring of such powers or the imposition of such duties—

- (i) the maintenance and control of camping reserves, and permanent and temporary commons;
- (ii) the control and management of such reserves, parks, works, buildings, erections, machines, implements, wells, reservoirs, wharfs, jetties, or other things, which have been purchased, resumed, appropriated, commenced, constructed, erected, or provided for out of moneys appropriated by Parliament, and which are not expressly placed by statute under any other management or control.

119. (1) The Minister may cause inspection to be made of any road classified as a main road prior to the commencement of this Act, which classification the Minister is hereby empowered to make.

Maintenance of
roads.
Extension, s. 38.

(2) If as the result of such inspection it appears to the Minister that any part of such road is not being properly maintained, the Minister, by document under his hand, may require the council of the area in which such part of such road is situate to repair and maintain it to his satisfaction, or to the satisfaction of an officer appointed by him, and may specify an amount which such council shall annually expend upon such repair and maintenance; and such council shall comply with the said requirements.

(3) If a council fail to comply with any such requirement made to it as aforesaid, the Minister may withhold payment of any endowment to which such council would otherwise be entitled under this Act, or any portion thereof, until the council has complied with such requirement, and may, in default of such compliance, expend the amount so withheld upon such repair and maintenance.

PART XV.

SERVANTS OF COUNCILS.

DIVISION 1.—*Shires.*

120. (1) There shall be an engineer for a shire, or, by arrangement between the councils, for two or more adjoining shires.

(2) The first shire engineer shall be appointed by the council or councils within the time prescribed by the regulations, and in the following manner:—

Appointment of
assistant engineer
to be shire engineer.
Shires, s. 48.

- (a) The council or councils shall fix the salary for such shire engineer.

(b)

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- (b) The council or councils shall, within the time prescribed by the regulations, offer the appointment to some person who was, at the commencement of the Shires Act, a district assistant engineer employed in the area of the shire or shires of such council or councils, or such of his assistants as may be certified by the Minister to be suitable; or, with the consent of the Minister, may offer the appointment to any other district assistant engineer, or any of his assistants.
- (c) If the offer be accepted, any rights which the district assistant engineer or his assistant may have to any pension, gratuity, or refund payable out of the Consolidated Revenue Fund on the abolition of his office in the public service shall be adjusted, but the payments in respect thereof shall not be made until he bona fide retires from the service of the shire or shires.
- (d) If the offer be made and be not accepted, the council or councils may proceed to make the appointment in accordance with the regulations in that behalf.
- (e) If the offer be not made within the time prescribed as aforesaid the Governor may appoint a shire engineer.

DIVISION 2.—Municipalities.

121. The clerks and other servants in office in the existing municipalities at the commencement of this Act may continue in office and hold office as though they had been appointed by councils elected under this Act.

Present servants may
continue in office
Extension, s. 40.

DIVISION 3.—Shires and municipalities.

122. (1) A council may appoint servants, including an engineer and a council clerk and a deputy clerk, who, during the absence of the clerk from his duties, shall have the powers and duties of the clerk.

Appointment of
servants.
Extension, s. 39.

(2) The Governor may appoint a council clerk to a municipality or shire, and may appoint an engineer to a municipality, or, after the first appointment, an engineer to a shire, where the office has been vacant for three months.

123. (1) The Governor may by notification, on information from the Board of Health that the sanitary duties are not being efficiently carried out, require a council to appoint a sanitary inspector, and may, if the council do not appoint such inspector within three months of the date of the notification, himself appoint such inspector.

Sanitary inspector.
Extension, s. 39 (3-4).

(2) In any case where the Governor exercises the powers of the last preceding subsection, the salary of the sanitary inspector shall be paid from the general or some special fund of the area.

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124. (1) If any servant of a council when required by the mayor or the president or the council fail—

- (a) to render accounts of moneys come into his hands or under his control, and of his dealings therewith, or to pay to the mayor or the president or the council the balance of any such moneys; or
- (b) to deliver up within two days to the mayor or the president or the council all papers, property, and things in his possession or power, relating to the execution of this Act or belonging to the council,

Servants failing to account for, or to deliver up moneys, &c.

Extension, s. 41.

any two justices in petty sessions may, on the complaint of the mayor or the president, order such servant to render such accounts, pay such balance, or deliver up such papers, property, and things, and that on non-compliance with such order such servant be imprisoned for a period not exceeding six months. It shall be the duty of the mayor or the president to institute proceedings whenever he has reason to believe that an offence against this section has been committed.

(2) No proceeding under this section shall affect the liability of any surety of the offender, or relieve the offender from being held to answer any criminal information, charge, or proceeding.

Saving.

(3) Upon proof on oath to any justice that there is probable cause for believing that any such servant so charged is about to abscond, such justice may, without summons, issue his warrant under which such servant may be apprehended and brought before him. Upon prima facie proof on oath of the matter complained of, such justice may commit such servant to prison, or some lockup or place of security or safe custody, and order him to be brought up at a time and place to be appointed by such justice, or may discharge him on his entering into a recognisance.

Person charged held to bail.

125. Every servant employed by a council who exacts or accepts on account of anything done by virtue of his office, or in relation to any matters to be done under this Act, any fee, commission, payment, present, or reward other than the salary or allowance allowed by the council, shall be liable to a penalty of not less than ten pounds nor more than one hundred pounds. The council or any ratepayer may sue for such penalty by action of debt in any court of competent jurisdiction, and shall on recovery thereof be entitled to costs of suit.

Penalty for acceptance of fee, reward, or gratuity. Extension, s. 42.

126. Where a council has reasonable grounds to believe that any of its servants has stolen or embezzled any of its moneys or property, the council shall, with due diligence, prosecute the offender.

Prosecution of servants for embezzlement. Extension, s. 43.

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PART XVI.

NATIONAL WORKS.

DIVISION 1.—*Shires.*

127. (1) Where, by reason of a large area of Crown lands in a shire being thrown open to sale or lease, it is necessary to make new subdivision roads or roads of access to such land, and the council shows that the cost of making such roads would be largely beyond its financial ability, the Governor may declare the making of such roads to be a national work, or may pay to the council such proportion of the cost of the work as may be agreed upon between the Minister and the council.

(2) Any such work so declared to be national shall be constructed subject to the provisions of the Public Works Act, 1900, and shall be maintained, managed, and administered by the Minister for Public Works, but may at any later time be handed over, either temporarily or permanently, to the council of the shire, and shall thereafter be managed, controlled, maintained, and administered by such council.

DIVISION 2.—*Shires and municipalities.*

128. The Governor may by proclamation declare any park, road, bridge, or public work of whatever character in an area to be a national work, and thereupon such work, if a new work, shall be constructed subject to the provisions of the Public Works Act, 1900; and such work, whether it be a new work or already in existence, shall be maintained, managed, and administered by the Minister for Public Works, but may at any later time be handed over, either temporarily or permanently, to the council of the area, and shall thereafter be managed, controlled, maintained, and administered by such council.

PART XVII.

ACQUISITION OF LAND AND WORKS.

Shires and municipalities.

129. (1) A council, with the approval of the Governor, may purchase, acquire under this Act by resumption or appropriation, or rent land, and rent, construct, or otherwise acquire or provide buildings, within its area, or may purchase or rent buildings or land outside its area to be used for any purpose which may lawfully be undertaken by the council.

(2) The council may use, or cause or permit to be used, any land or buildings acquired for or on behalf of the area for any of the

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the above purposes, and may in connection with such use provide all necessary works, appliances, machinery, and things, and control and manage the same.

130. (1) Any council desirous of acquiring land by compulsorily taking the same may, on passing a resolution by an absolute majority of its members, petition the Governor to authorise the appropriation or resumption of such land. The Governor may thereupon, if he think proper, authorise such appropriation or resumption. Resumption by Government on petition of council. Shires, s. 16. Extension, s. 36.

(2) In such case the Minister shall appropriate or resume the said land by Gazette notification under *Division 1 of Part V* of the Public Works Act, 1900; and thereupon shall notify that the land is, and thereupon it shall be, vested in the council as the body corporate of the area. Such appropriation or resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of the said Act. Land vested in council.

(3) Any sum paid by the Government as compensation for such land, together with interest and all necessary expenses incidental to the appropriation or resumption, shall be repaid by the council. The Governor shall, before authorising the appropriation or resumption, satisfy himself that the council has made provision to his satisfaction for such repayment. Compensation.

(4) In all cases of resumption under this Act, the compensation given shall be in accordance with the provisions of the Public Works Act, 1900. Basis of compensation.

(5) In lieu of the interest specified in subsection two of section one hundred and nineteen of the Public Works Act, 1900, the rate of interest payable by the Government or the council on sums due as compensation under this section shall be four per centum per annum. Rate of interest.

PART XVIII.

RATABLE LAND.

Shires and municipalities.

131. (1) All land, whether the property of His Majesty or not, shall be ratable, except the following descriptions of land and the land occupied by and used in connection with the buildings hereinafter mentioned:— Definition of ratable land. Shires, s. 28; Extension, s. 57.

- (a) Commons, public parks, and public reserves not held under lease or license; Extension, s. 57.
- (b) cemeteries, public hospitals, benevolent institutions, and buildings used exclusively for public charitable purposes;
- (c) churches and other buildings used exclusively for public worship, and free public libraries;
- (d)

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- (d) unoccupied Crown lands ;
 (e) lands vested in the University of Sydney, or in the colleges thereof, and occupied and used by such university or colleges, or any of them, solely for the purposes of education.

(2) All land vested in the Chief Commissioner for Railways and Tramways which is used or occupied for any purpose, and is not actually used for the purposes of the Government railways or tramways, or for purposes connected therewith, shall also be ratable.

(3) Provided that, notwithstanding anything to the contrary in this Act, ratable land which is the property of the Crown, and is not held under lease, license, or tenancy, shall be rated only on the unimproved capital value, and not, in any case, on the improved capital value.

PART XIX.

VALUES AND VALUATIONS.

Shires and municipalities.

132. (1) The unimproved capital value of land (other than land held as described in *subsections two and three* of this section), is the amount of the capital sum for which the fee-simple estate in such land would sell, under such reasonable conditions of sale as a bona fide seller would require, assuming the actual improvements (if any) had not been made; and also allowing a reasonable deduction for profitable expenditure by the owner or occupier on visible and effective improvements which, although not upon the land, have been constructed for its drainage, for its prevention from inundation, or otherwise for its more beneficial use.

(2) (a) The unimproved capital value of a mine of coal or shale is a sum equal to three shillings per ton on the average annual output of large coal or shale, and one shilling and sixpence per ton of small coal won from the mine during the three years next preceding that during which the valuation is made; or, at the option of the council, such unimproved capital value shall be assessed under subsection one of this section.

(b) The unimproved capital value of a mine situate on Crown land and held from the Crown under a gold-mining, gold-dredging, or other mineral or mining lease or license or mineral holding (except for coal or shale mining purposes) is a sum equal to twenty per centum of the average annual saleable value to the mine-owner of the ore or mineral won from the mine, or of the product derived from such ore or mineral during the three years next preceding that during which the valuation is made; such value to be determined

as

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as such ore, mineral, or product leaves the area within which such mine is situate; or, where the land is not being principally worked as a mine, the capital value of the property with the improvements (if any) thereon, less the value at the time of the valuation of all buildings, fencing, machinery, and dredging or other plant erected thereon, and less also the sum expended during the three years next preceding the said time by any lessee or licensee solely in opening up such mine.

(c) Where a mine is situate on land other than Crown land as defined in the Crown Lands Act of 1884, the unimproved capital value of such land shall be assessed under subsection one, or, at the option of the council, the unimproved capital value of the mine shall be assessed on the basis of the annual output under paragraph (a) or paragraph (b) of subsection two of this section according as the mine is worked for the purposes of mining for coal or shale, or for any other mineral.

Mine on private land.
Shires, s. 29;
Extension, s. 58.

(d) Where any part of a mine is under the sea, or under the tidal waters of any estuary or harbour, such part shall be assessed with, and as part of, the mine of which it forms part, notwithstanding that the overlying land and water are not within the boundaries of any area.

Mines under the sea.
Extension, s. 58.

(e) Where a mine is situated partly in one area and partly in another or others, the valuers of such areas shall confer and shall jointly assess the unimproved capital value of such mine, and shall in like manner agree upon the apportionment of such assessment between the areas in which such mine is situated.

Mines in two or more areas—joint valuation.
Extension, s. 58.

(f) If such valuers cannot agree upon such apportionment or assessment, the question shall, upon the application of either of the valuers, be referred to the nearest court of petty sessions. The decision of such court as to apportionment shall be final; but any person aggrieved by the assessment may appeal therefrom to the nearest district court, but may not appeal to any other court, except under *section one hundred and forty of this Act*.

Appeal against joint assessment or apportionment.
Extension, s. 58.

(3) The unimproved capital value of Crown land held under any other description of lease from the Crown, or under any other terms of occupation at a rent, or under license from the Crown under the laws relating to the occupation and use of Crown lands, including homestead selections, is a sum equal to twenty times the amount of the rent payable to the Crown under the lease or license during the year next preceding that during which the valuation is made.

Valuation of Crown land held under lease or license.
Shires, s. 29;
Extension s. 58.

133. The improved capital value of land is the amount of the capital sum for which the fee simple estate of the land, with all improvements and buildings thereon, would sell under such reasonable conditions of sale as a bona fide seller would require.

Improved capital value of land.
Extension, s. 60.

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134. The assessed annual value of ratable land shall be nine-tenths of the fair average rental of such land with the improvements (if any) thereon: Provided that such assessed annual value shall not be less than five per centum of the unimproved capital value of the land, whether improved or unimproved.

Assessed annual value.
Extension, s. 61.

135. (1) A council shall, in the first year after its constitution and in every third year thereafter, cause valuation (of the unimproved capital value, of the improved capital value, and of the assessed annual value) to be made in respect of all ratable land in its area: Provided that a council may adopt the valuations under the Land and Income Tax Assessment Act of 1895, as the first valuation of unimproved capital value under this Act.

Valuations shall be made for every area.
Shires, s. 30;
Extension, s. 59.

(2) Every such valuation shall remain in force until a fresh valuation is made, and shall be in the form prescribed.

Valuation in force.

(3) The council may, without causing a fresh valuation to be made, adopt as the valuations for any triennial period the whole or any part of the valuations made or adopted during the next preceding triennial period and in force at the close thereof, when such valuations are considered by the council to be still just and equitable.

Valuation of preceding year may be adopted.

(4) A fresh valuation may be made in any particular case when buildings or structures are erected or altered on ratable land, or when ratable land is sold.

Fresh valuation.
Shires, s. 30;
Extension, s. 60.

(5) Notice of valuation shall be given as prescribed, to the owner, or, in the case of Crown land held under lease or license, to the holder of such lease or license, or, in the case of land vested in the Chief Commissioner for Railways and Tramways which is occupied by a tenant under lease, oral or written, to such tenant, and, in the case of other Crown land, to the Treasurer, and to any person entitled to appeal under this Part: Provided that, in the case of a lessee or occupier entitled to appeal under *subsection three of section one hundred and thirty-eight* the liability for and the right to recover rates, as provided by this Act, shall not be affected by reason only of the fact that notice of such rates has not been given to such lessee or occupier unless the name of such lessee or occupier is on the list of ratepayers in respect of the property for the rates of which he is so liable.

Notice of valuation.
Shires, s. 30;
Extension, s. 59.

(6) When the name of the owner of any ratable land is not known to the council, it shall be sufficient to designate such person as "the owner."

Owner's name unknown.

136. The valuations to be made and adopted under this Act shall be separate valuations made in respect of each parcel of ratable land as separately held by any occupier, tenant, lessee, or owner.

Separate valuations of parcels of land.
Extension, s. 59.

137. (1) Such valuation shall be made by one or more competent valuers appointed by the council as prescribed.

Appointment of valuers.

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(2) Every valuer shall, before acting, make a statutory declaration before a justice that he will make such valuation impartially and truly, and shall transmit such declaration to the president or mayor, under seal.

Declarations by
valuers.
Shires, s. 31;
Extension, s. 59.

(3) For the purpose of making such valuation, every valuer—

Powers of valuers.

(a) may enter at all reasonable hours in the daytime any ratable land within the area;

Power to enter.

(b) may put questions to any owner or person in occupation or charge of such land upon any matters required to be stated in the valuation. And if, after being informed by such valuer of his purpose in putting such questions, any such owner or person refuses or wilfully omits to answer the same, to the best of his knowledge and belief, or wilfully makes any false answer or statement in reply to any such question, he shall be liable to a penalty not exceeding ten pounds.

Power to ask
questions. †

138. (1) If any person is aggrieved by any such valuation he may appeal therefrom within the time and in the manner prescribed by the ordinances, as follows:—

Appeal from
valuations.
Shires, s. 32;
Extension, s. 59.

(a) Where such valuation does not exceed ten thousand pounds, to the nearest court of petty sessions;

(b) where such valuation does exceed the sum of ten thousand pounds, to the nearest district court.

(2) Such court may amend the valuation appealed from.

(3) Every lessee or occupier of ratable land, for the rates of which he has become liable under any agreement, shall be considered to have the same right of appeal as a person aggrieved by a valuation within the meaning of subsection one of this section.

Lessee or occupier
may appeal.
Extension, s. 60.

(4) The Governor may make regulations for the hearing of such appeals.

(5) Subject to *section one hundred and forty*, the decision of any such appeal court shall be final and conclusive as to the amount of such assessment.

139. Appeals to courts of petty sessions under this Part shall be heard at such places as the Governor may proclaim.

Place of hearing appeals
to petty sessions.
Extension, s. 59.

140. (1) Any person dissatisfied with the decision of an appeal court as being erroneous in point of law with relation to the principle on which the valuation was or ought to have been made, may, within sixteen days after such decision, apply in writing to such court to state and sign a case setting forth the facts and the grounds of its decision so far as they relate to matters of principle affecting the valuation of the land.

Appeals to
Supreme Court.
Shires, s. 32;
Extension, s. 59.

(2) The Supreme Court shall hear and determine the said matters of principle, or may cause the case to be sent back for amendment, and thereupon it shall be amended accordingly, and the determination of the Supreme Court shall be given after such amendment.

(3)

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(3) The Supreme Court may make such order as to the costs of the parties in or in relation to the said appeal as it may deem just.

(4) Any such determination or order of the Supreme Court shall be carried out by the appeal court aforesaid, and shall be final and conclusive.

(5) The Supreme Court may make rules and orders regulating its practice in proceedings under this section.

PART XX.

RATES.

Shires and municipalities.

141. (1) Rates levied by a council may be of four kinds, General and other rates.
Extension, s. 62.
namely—

- General rates.
- Special rates.
- Local rates.
- Loan rates :

Provided that loan rates shall not be levied by the council of a Loan rates in shires shire, except where expressly provided in this Act.

(2) The form of the rate-book shall be as prescribed. Form of rate-book.

142. (1) Before making any rate a council shall cause estimates Council to prepare estimates.
Extension, s. 63 to be prepared of—

- (a) the amount of the proposed expenditure out of the fund to which the proceeds of the rate are to be carried ;
- (b) the amount in hand available for such expenditure ;
- (c) the amount of other revenue likely to be available for such expenditure ;
- (d) the amount required to be raised by the rate for such expenditure ;
- (e) the total value of the land on which the rate is to be levied ;
- (f) the rate proposed to be made and levied, and whether on the unimproved or improved capital value of land ; and
- (g) such further particulars as may be prescribed by the regulations.

(2) Such estimates, upon being approved by the council, shall be publicly notified in the area as prescribed at least fourteen Estimates to be notified. days before the proposed rate is made.

(3) The omission of a council to carry out the requirements Omission of council not to invalidate rate. of this section shall not invalidate any rate otherwise lawful.

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143. (1) Before any special, local, or loan rate is made, the council shall give a further notice as prescribed, stating—

- (a) the amount of the rate;
- (b) the purpose for which the rate is to be made;
- (c) in the case of a loan rate, the amount of the loan and the interest thereon, and the purpose for which the loan money is to be applied, and the amount to be carried to the sinking fund;
- (d) in the case of a local rate, the portion of the area to which it is to apply.

Further notice in case of special, local, and loan rates.
Extension, s. 64.

(2) Such notice shall, in the case of a municipality, be given at least fourteen days, and shall, in the case of a shire, be given at least twenty-eight days, before the making of the rate.

Length of notice.

144. (1) The amount of any rate under this Act shall be paid to the council by the owner of the land in respect of which the rate is levied (including the Crown), except where the land is held under lease or license from the Crown, in which case the rate shall be so paid by the holder of such lease or license, and except where land vested in the Chief Commissioner for Railways and Tramways is occupied by a tenant under lease, oral or written, in which case the rate shall be so paid by such tenant.

Rates to be paid by the owner.
Shires, s. 34.
Extension, s. 70.

(2) Where a mine is subject to any lease or license, the owner and every lessee and licensee shall be jointly and severally liable for the whole amount of the rates due to the council in respect of the land or the mine; but, as between themselves, notwithstanding any provisions to the contrary, each shall be liable only for the part of such rates proportionate to the value of his interest in the land and the improvements thereon, or to his interest in the mine, and, if either of them pay to the council more than his proportionate part as aforesaid, he may recover the excess by way of contribution from the other. Such liability shall be subject to any special agreement between the owner and the lessee and licensee to be made, if the land or mine in respect of which the agreement is made is situated in a shire, after the commencement of the Shires Act, or, if such land or mine is situated in a municipality, after the commencement of this Act; but shall not be subject to or affected by any such agreement made before such commencement as aforesaid, and such agreement so made shall, so far as it is inconsistent with the provisions of this subsection, be null and void.

Lessees and licensees—division of liability.
Extension, s. 58.

(3) Such amount shall be due and payable on the expiration of the time fixed in a notice of such rate served on such owner or holder or tenant or licensee as prescribed, not being less than thirty days after such service.

When rates are due.
Shires, s. 34.
Extension, s. 70.

(4) Joint owners, lessees, or licensees of ratable land, and joint tenants of land vested in the Chief Commissioner for Railways and Tramways, shall be jointly and severally liable for the whole amount

Joint owners, lessees and licensees.
Shires, s. 34.
Extension, s. 70.

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amount of the rates due to the council in respect of the land; but, as between themselves, each shall only be liable for the part of such rates proportionate to the value of his interest in the land and the improvements thereon. If any of them pay to the council more than his proportionate part as aforesaid, he may recover the excess by way of contribution from the others.

(5) Nothing in this Act shall, except in the case provided for in *subsection two of this section*, affect any private agreement with respect to the ultimate liability to pay any specified rates or arrears of rates.

Private agreement as to payment of rates.

Shires, s. 34 (4)
Extension, s. 70.

(6) Provided that where the lessee of ratable land in an area has agreed with the owner to pay municipal or local government taxes, and, in the case of land within a municipality, such agreement was made before the commencement of this Act, and, in the case of land within a shire, was made before the commencement of the Shires Act, the owner shall, notwithstanding such agreement and during the currency of such agreement, be liable, as between himself and any lessee under him, for so much of the local government rate under this Act as is equal to the amount of the land tax on the land which he would have been liable to pay under the Acts mentioned in Schedule Three of this Act if the operation of the said Acts had not been suspended. The adjustment by the Commissioners under the fourth section of the Land Tax (Leases) Act, 1902, shall be made on the basis of a land tax without exemptions, and, after the first adjustment, there shall be a readjustment by the Commissioners at every subsequent period of valuation.

Lessors and lessees—
Land Tax Leases Act.
Extension, s. 72.

Adjustment by
Land Tax
Commissioners.

(7) All such rates shall be a charge upon the land in respect of which such rates are imposed, except Crown land, in priority to all sales, conveyances, mortgages, charges, loans, and encumbrances whatsoever, and may, notwithstanding any statute of limitations or anything contained in this Act, be recovered at any time within ten years by the council from the owner of the land, except the Crown.

Unpaid rates to be a charge upon the land.

Shires, s. 34;
Extension, s. 70.

(8) Any rates due or to become due to a council and owing for a period of six months shall bear interest from their due date until payment at the rate of four per centum per annum calculated at simple interest: Provided that rates due to a council, and owing for a period of six months at the commencement of this Act, shall bear interest from the date of such commencement at the rate of four per centum per annum calculated at simple interest.

Rates in arrear for six months to bear interest.

Shires, s. 34.

Rate of interest.

Extension, s. 70.

(9) Such interest shall be recoverable as rates under this Act, but without any necessity to make any demand or give any notice.

Interest recoverable as rates.

(10) When the owner sells any ratable land he shall give the prescribed notice of such sale, and shall, until such notice is so given, continue to be liable for rates and interest thereon accruing due in respect of such land as if he were still the owner thereof.

Vendor of ratable land to notify sale.
Shires, s. 34 (8);
Extension, s. 70.

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145. Where rates are due and unpaid in respect of any ratable land within an area, the council may recover from any person who is or has been in occupation of such land the amount of any such rates which have become due during such occupation, together with interest thereon, upon proving—

Recovery of rates from occupier.
Shires, s. 35.
Extension, s. 70.

- (a) that such rates are under this Act due and payable by the owner or lessee or licensee or tenant, as the case may be; and
- (b) that the owner or lessee or licensee or tenant, as the case may be, is resident outside New South Wales or is unknown to the council, or that the council has commenced legal proceedings against the owner or lessee or licensee or tenant, as the case may be, for the recovery of such rates, and has used due diligence but has been unable to effect due service on the owner or lessee or licensee or tenant, as the case may be:

Provided that such occupier may recover from the owner or lessee or licensee or tenant, as the case may be, the amount of any such rates paid by him to the council, or may deduct the same from any rent or any proceeds of the land due or to become due from such occupier to the owner or lessee or licensee or tenant, as the case may be.

146. (1) In any proceeding by a council to recover the amount of any rate from the owner, lessee, licensee, or tenant, as the case may be, or to prove under the last preceding section that any rate is due and payable by the owner or lessee or licensee or tenant, as the case may be, the plaintiff must, in the event of a notice of defence or plea being filed, prove—

Proceedings to recover rates.
Shires, s. 36;
Extension, s. 70 (5).

- (a) the amount of the rate;
- (b) that the prescribed notice has been duly given of the valuation;
- (c) that the prescribed notice has been duly given to pay the rate.

(2) In any such proceeding an entry in the rate-book, being one of a series of entries prescribed to be made, such series purporting to have been sealed with the seal of the council, signed by the president or mayor, and countersigned by the clerk, shall be prima facie evidence of the facts therein stated without proof of the affixing of the seal or of the signatures of the president or mayor or clerk.

Entry in rate-book to be evidence.
Shires, s. 36;
Extension, s. 70 (5).

(3) In any such proceeding to recover the amount of any rate the defendant shall not be allowed to raise any question of law or fact except as to a matter which by this section the plaintiff must prove, or except that he is not the owner, lessee, licensee, or tenant, as the case may be, of the land subject to the rate.

Defences available

(4) In any such proceeding no jurisdiction otherwise competent shall be ousted on the ground that such proceeding raises a question of title to land or affects the title to any land. But no order or judgment in any such proceeding shall be admissible in any court as evidence of title.

Question of title not to be raised.

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147. A council shall take steps to recover amounts due to it in respect of rates and shall, when necessary, take legal proceedings to recover amounts so due and owing for more than six months.

Council to sue for certain rates in arrear.
Shires, s. 37;
Extension, s. 70.

148. (1) When any ratable land is unoccupied, and the rates accrued in respect thereof under this Act have been unpaid for four years, the council may, subject to the conditions and after the notices prescribed,—

Council may take possession of unoccupied land for arrears of rates.
Shires, s. 38;
Extension, s. 70.

- (a) take possession of the land;
- (b) hold the land against any person; and
- (c) lease the land from time to time for any term not exceeding seven years.

(2) A council, after so taking possession of any land, shall keep accounts—

Accounts of receipts and of moneys due in respect of land.

- (a) of the rents and other moneys received by it in respect of the land, less the expenses of and incidental to the giving of the prescribed notices, and the letting and the collection of the rents of the land;
- (b) of the rates and the interest thereon, and other sums due to the council in respect of the land.

(3) The moneys so received shall be applied in defraying the expenses necessarily incurred by the council in giving the notices, executing the lease, in collecting such rents and moneys, and in paying the rates and interest and other expenses due in respect of the land. The residue (if any) of such moneys shall belong to such person as would, when the same respectively were received, have been entitled to receive the rents and profits of the land if this Act had not been passed.

Application of moneys.

(4) Within sixteen years after the land has been so taken possession of by the council, any person who, but for this Act, would be entitled to the land may inspect the accounts kept in pursuance of this section, and may require the council, on payment of the balance (if any) due to the council, to put him in possession of the land, subject to any lease lawfully made by the council under this Act.

Persons entitled may demand land within specified period.

(5) The council shall comply with such requirement, and, if the balance is on the accounts against the council, shall pay such balance to the person aforesaid. Any tenant of the council shall attorn to the person so put in possession of the land.

Council shall yield possession.

(6) Unless some person within the said sixteen years so requires the council to put him in possession of the land, the land and all rents and moneys received by the council in respect thereof shall, on the expiration of such sixteen years, vest absolutely in the council.

Council may retain land.

149. Where any money is received by a council of an area in respect of any rates on any land, such money shall be applied for or towards the rates due in respect of such land in the order in which they became due, notwithstanding any directions to the contrary.

Payments of rates—order of priority.
Extension, s. 70.

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PART XXI.

GENERAL RATES.

DIVISION 1.—*Shires.*

150. (1) A council of a shire shall make and levy a general rate of not less than one penny in the pound and not more than two pence in the pound upon the unimproved capital value of all ratable land in its shire: Provided that on representation from any council that a general rate of one penny in the pound on such unimproved capital value is more than sufficient to meet the requirements of its shire, the Governor may, in his discretion, allow the reduction of such rate below one penny in the pound.

General rate levied on unimproved capital value.
Shire, s. 33.
Reduction of general rate below one penny in the pound.

(2) The Governor shall, forthwith, on the council of a shire imposing a rate on such unimproved capital value, proclaim that the operation of the enactments mentioned in Schedule Three are to the extent therein mentioned suspended in such shire.

Suspension of land tax enactments.
Schedule Three.

(3) Such rate shall be made and levied in and for each year, commencing the first day of January.

General rate to be levied each year.

(4) The minimum amount of the general rate in respect of any portion of land shall be two shillings and sixpence.

Minimum rate.

DIVISION 2.—*Municipalities.*

151. (1) A council of a municipality shall make and levy a general rate of not less than one penny in the pound on the unimproved capital value of all ratable land in its municipality: Provided that on representation from any council that a general rate of one penny in the pound on such unimproved capital value is more than sufficient to meet the requirements of its municipality, the Governor may in his discretion allow the reduction of such rate below one penny in the pound.

General rate levied on unimproved capital value.
Extension, s. 65.
Reduction of general rate below one penny in the pound.

(2) The Governor shall forthwith, on the council of a municipality imposing a rate on such unimproved capital value, proclaim that the operation of the enactments mentioned in Schedule Three are to the extent therein mentioned suspended in such municipality.

Suspension of land tax enactments.
Schedule Three.

(3) Such rate shall be made and levied in and for each year, commencing the first day of January:

General rate to be levied each year.

(4) Where, before the making of the general rate under this Act for the year one thousand nine hundred and eight, there has been paid in respect of any land the amount due under the Municipalities Act, 1897, for the municipal year ending the first Tuesday in February, one thousand nine hundred and eight, the council shall deduct from the amount of the general rate on such land one-tenth of the amount paid as aforesaid under the said Act.

Adjustment of general rates in year 1907.

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(5) A council of a municipality which has levied a general rate of not less than one penny in the pound on the unimproved capital value of all ratable land in its area, may raise any additional sum which may be required by an additional general rate on either the unimproved or the improved capital value of such land, as may be determined by the council: Provided that notice shall be given as prescribed of the proposal to levy such additional general rate, and that if, within the prescribed period, one hundred persons on the roll of ratepayers make a written demand for a poll on the question whether the basis of assessment for such rate shall be the unimproved or the improved capital value, the council shall forthwith meet and fix and notify, as prescribed, a day, not being less than seven nor more than fourteen days after such meeting, for the holding of such poll, shall hold the poll on such day, and shall abide by the decision of such poll. At the poll all ratepayers of the area may vote.

Council may levy additional general rate.

Poll on basis of assessment of additional general rates.

(6) In a municipality the total amount to be derived from the levying of and leviable as general rates and additional general rates, shall not, taken together, exceed the total amount which the council estimate would be yielded by a rate of two pence in the pound on the unimproved capital value and one shilling and sixpence in the pound on the assessed annual value, taken together, of all ratable land in the municipality. Estimates under this section shall be prepared as prescribed.

Limit of general rates.

(7) No rate of more than two pence in the pound upon the unimproved capital value shall be levied upon a mine worked for the purpose of mining for any mineral other than coal or shale.

Rates on mines.

(8) The minimum amount of the general rate in respect of any portion of land shall be two shillings and sixpence.

Minimum rate.

DIVISION 3.—Shires and Municipalities.

152. The suspension in an area of the enactments mentioned in Schedule Three shall take effect from the first day of the year in which the first general rate on the unimproved capital value of ratable land is made in such area: Provided always that such suspension shall not apply to the land tax for the years from one thousand eight hundred and ninety six up to the year in which such first general rate is made in such area.

Suspension of land tax.

Extension, s. 65.

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PART XXII.

OTHER RATES—SPECIAL, LOCAL, LOAN.

DIVISION 1.—*Shires and municipalities.**Special rates.*

153. (1) Special rates may be made and levied on the unimproved or, at the option of the council, on the improved capital value of ratable land in its area for any purpose which may lawfully be undertaken by the council. The making of special rates. Extension, s. 66.

(2) Any such special rate levied for the purpose of defraying the cost of lighting roads may be levied only upon ratable lands within the area deriving any benefit or advantage from the expenditure of such rate. Lighting rates.

(3) A special rate duly made may be levied each year until rescinded by the council. But the council may in any such year levy a lower rate. Rates may be levied each year, and may be decreased.

(4) On the notification of a proposal to make a special rate, and before the rate is made, a poll may be demanded as hereinafter provided, whereupon the council shall forthwith meet and fix and notify, as prescribed, a day, not being less than seven nor more than fourteen days in the case of a municipality, nor less than fourteen nor more than twenty-eight days in the case of a shire, after such meeting for the holding of the poll on the question whether the rate shall be made; and if so made, whether the rate shall be on the unimproved or on the improved capital value, and shall hold the poll on that day. Poll in case of special rate.

(5) In the case of a special rate, the demand for a poll must be made by not less than fifty persons on the roll of ratepayers, or, if there be less than three hundred ratepayers on the roll, by not less than one-sixth of such ratepayers, by writing signed by them and delivered to the mayor or president; and at the poll only the persons on the roll of ratepayers may vote. Special rate—who may demand poll—who may vote.

(6) Provided that no poll may be demanded if the council, within six months after the first constitution, or the reconstitution, of its area, as the case may be, passes a resolution that a special rate be levied for a specified work or service; and Cases in which poll may not be demanded.

(a) in the case of an existing municipality (with or without any area added thereto) being constituted an area under this Act— Existing municipalities.

- (i) a special rate leviable on all ratable property was in force in the existing municipality on its constitution as aforesaid; and
- (ii) such rate was for the same work or service as the proposed special rate; and
- (iii) the proposed rate is such that the estimated amount leviable in respect of the rate for the first year of its operation

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operation will not exceed the total amount which was leviable by the existing municipality in respect of its special rate during its last financial year; and

- (iv) the proposal has been submitted to and approved by the Minister; or

- (b) in the case of the reconstitution of an area or areas out of an Reconstituted areas.
old area or old areas—

- (i) a special rate leviable on all the ratable land which on reconstitution is included in the new area or areas was in force in the old area or old areas on the reconstitution aforesaid; and
- (ii) such rate was for the same work or service as the proposed special rate; and
- (iii) the proposed rate in the pound on the improved or unimproved capital value as the case may be is not greater than the rate in the pound as aforesaid in force in the old area or old areas as aforesaid.

(7) If a majority of those voting at the poll be opposed to Majority against rate.
any such rate, no rate for the same purpose shall be made then or at any time within twelve months after the vote.

Local rates.

154. (1) For or towards defraying the expenses of executing any work or service which in the opinion of the council would be of special benefit to a portion of its area to be defined as prescribed, a council may make and levy a local rate on the unimproved or, at the option of the council, on the improved capital value of ratable land within such portion. Local rate within particular portion of an area. Extension, s. 67.

(2) A local rate duly made may be levied each year until the cost of executing the work or performing the service for which the rate was made has been paid. But the council may, in any such year, levy a lower rate. Rate may be levied each year.

(3) On the notification of a proposal to make a local rate, and before the rate is made, a poll of ratepayers may be demanded as hereinafter provided, whereupon the council shall forthwith meet and fix and notify, as prescribed, a day, not being less than seven nor more than fourteen days in the case of a municipality, nor less than fourteen nor more than twenty-eight days in the case of a shire, after such meeting for the holding of the poll on the question whether the rate shall be made, and if so made, whether the rate shall be on the unimproved or on the improved capital value, and shall hold the poll on that day. Poll in case of local rate.

(4) Provided that no poll may be demanded if the council within six months after the first constitution, or the reconstitution, of its area, as the case may be, passes a resolution that a local rate be levied for a specified work or service, and within a specified portion of the area; and Proviso: cases when poll may not be demanded.

(a)

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- (a) in the case of an existing municipality (with or without any area added thereto) being constituted an area under this Act— Existing municipalities.
- (i) a special rate under the Municipalities Act, 1897, leviable on all ratable property within the said portion, was in force in the existing municipality on its constitution as aforesaid; and
 - (ii) such rate was for the same work or service as the proposed local rate; and
 - (iii) the proposed rate is such that the estimated amount leviable in respect of the rate for the first year of its operation will not exceed the total amount which was leviable by the existing municipality in respect of its special rate during its last financial year; and
 - (iv) the proposal has been submitted to and approved by the Minister; or
- (b) in the case of the reconstitution of an area or areas out of an old area or old areas— Reconstituted areas.

- (i) a special or local rate leviable on all ratable land within the said portion was in force in such old area or old areas on reconstitution as aforesaid; and
- (ii) such rate was for the same work or service as the proposed local rate; and
- (iii) the proposed rate in the pound on the unimproved or improved capital value, as the case may be, is not greater than the rate in the pound as aforesaid in force in the old area or old areas as aforesaid.

(5) The demand for a poll must be made as aforesaid by fifty persons on the roll of ratepayers having their qualification in respect of land within the portion within which the rate is to apply; and if there are not one hundred and fifty persons on the roll of ratepayers who have their qualification in respect of land within such portion, the demand for a poll may be made by any number not less than one-fifth of such persons; and at the poll only the persons on such roll and having such qualification may vote. Local rate—who may demand poll—who may vote.

(6) If a majority of the persons voting at the poll be opposed to any such rate, no rate for the same purpose shall be made then or at any time within twelve months after the vote. Majority against rate.

155. If a Council has under section seventy-three or section seventy-four made and formed a public road under the powers conferred by *subsection (x) of section seventy-three* the Council may, for the purpose of recouping it for the expense thereby incurred, make and levy a local rate *under the last preceding section* on all lands having frontage to such road or to which such road gives immediate access. In such case no poll may be demanded under this Act on the question whether the rate shall be made. Local rate for construction of private roads. Extension, s. 22 (2).

156.

*Local Government.**Loan Rates.*

156. (1) When a council borrows money by the issue of debentures, mortgage deeds, or bonds, the council shall, before such issue, and in every succeeding year until such securities are paid, make and levy a loan rate on the unimproved or improved capital value of all ratable land in the area. Such rate shall not be reduced or repealed until the debt in respect of which it is levied has been paid off.

Rate when new loan is raised.
Extension, s. (8).

(2) Provided that where a loan is raised for any work or service which in the opinion of the council would be of special benefit to a portion only of its area, the loan rate may, at the discretion of the council, be levied only on the ratable land within such portion. Where a council proposes to so limit a loan rate to a portion of an area, only persons whose names are entered on the ratepayers' roll in respect of lands within such portion may vote at the poll elsewhere provided in this Act as to the raising of such loan, and as to the basis on which such rate shall be levied.

(3) The proceeds of each such yearly rate shall be sufficient to pay the interest payable in the year in which it is levied, and to provide a sum at a percentage rate on the original amount of such loan.

Amount of rate.

(4) A council may make and levy any other loan rate as aforesaid for the payment of the capital sum and interest on any loan made before or after the commencement of this Act.

Other loan rates.

(5) Subsections one, two, and three hereof shall not apply to any redemption loan to repay in the whole or in part a loan liability existing at the commencement of this Act, or any redemption loan in connection with or relating immediately or through any other loan to the first-mentioned loan.

Redemption loans.

Limitation of rating.

157. (1) In any municipality the total amount leviable under sections 151, 153, 154, and 156, as general, additional general, special, local, and loan rates, taken together, shall not exceed the total amount which would be yielded by a rate of two pence in the pound on the unimproved capital value, and twenty-four pence in the pound on the assessed annual value, taken together, of all ratable land in the municipality. Estimates under this section shall be prepared as prescribed.

Limitation of all rates in municipalities.
Extension, s. 69.

(2) If in any municipality the amount of all rates leviable under sections 151, 153, 154, and 156, is less than is necessary for all the purposes to which the general rates may, under this Act, be applied, and for all the purposes for which in such municipality any special local or loan rate is, at the commencement of this Act, being levied, taken together, the Governor may, at any time within two years from the commencement of this Act, on the application of the council of such municipality, by proclamation empower such council to increase such

Power of Governor to permit limit to be exceeded in certain cases.

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rates beyond the limits prescribed by this section so as to provide a sum sufficient for the purposes aforesaid; and the basis on which such extra rate shall be levied shall, in all cases where the deficiency to be provided for exceeds three hundred pounds, be decided by a poll of the ratepayers, and, in all cases where the deficiency to be provided for is less than three hundred pounds, by the council of the municipality.

(3) If, at any time, it appear that the total amount of rates made and levied in any municipality exceeds the limits hereinbefore provided, the Governor may, on being satisfied of the bona fide intention of the council to obey the law, by proclamation validate such rates as from the date of their being made, and thereupon such rates shall not be deemed to be invalid in law, or to be beyond the provisions of this Act: Provided that the Governor shall, in case the excess be of a material amount, direct that the rates so made shall be readjusted in manner to be prescribed by him, and the council shall so readjust such rates. Validations and adjustments.

PART XXIII.

RATES UNDER OTHER ACTS.

DIVISION 1.—*Municipalities.*

158. (1) Where, under any special Act in force at the commencement of this Act, the council of a municipality is empowered for a special purpose to levy a rate on the annual value of ratable property assessed under the Municipalities Act, 1897, hereby repealed, such council may, in lieu thereof, and for the same purpose, levy a special or local rate under this Act on either the improved or the unimproved capital value of ratable land in its area at the option of such council. Rating under other Acts.
Extension, s. 98.

(2) Provided that where the special Act makes express provision as to who shall be liable to pay the rate, such provision shall have effect, notwithstanding anything in this Act. But this proviso shall not apply to any general incorporation by the special Act of provisions of the Municipalities Act, 1897, relating to the making, levying, or recovery of rates under that Act.

(3) The provisions of this Act, relating to the taking of a poll of ratepayers on the question whether such rate shall or shall not be levied shall not apply; but a poll may be demanded as elsewhere in this Act provided, according as the proposed rate is a special or local rate, on the question whether such rate shall be on the improved or the unimproved capital value, and a decision of a majority of the ratepayers.

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ratepayers who vote at such poll shall be given effect to by the council, and the provisions of this Act, and of the ordinances and regulations with regard to the taking of polls, shall apply.

(4) Where, in any such special Act, it is provided that such rate shall not exceed a certain maximum rate on the annual value, the special or local rate which may be levied on the improved or unimproved capital value under this section, in place of such rate, shall not exceed such maximum amount in the pound on such improved or unimproved capital value as the Governor may fix, by notification in the Gazette as soon as practicable after the first valuation of the council has been made under this Act. Such maximum rate shall be so fixed upon the certificate of the Government Statistician that it is estimated, according to the latest available valuations, to produce such a revenue during the first year of its operation as would reasonably approximate to that which would be produced by the levying on the annual value of the maximum rate specified by or under such Act. Such rate so fixed shall continue to be the maximum, notwithstanding any subsequent variations in the assessments.

(5) Where, in any such special Act, it is provided that such rate shall not be less than a certain specified minimum rate on the annual value, or where it is provided that a certain specified minimum rate may be imposed and levied, the minimum amount of the rate on the improved or unimproved capital value which shall or may be levied, in place of such rate, shall be fixed in like manner as is provided in the preceding subsection with respect to the maximum rate.

(6) The council shall, at any time, at the request of the Minister, make a valuation of the annual value as defined by the Municipalities Act, 1897, of ratable property in the whole or portion of its area, for the information of the Government Statistician.

159. (1) The rates which may be levied by the council of a municipality under the Country Towns Water and Sewerage Acts, 1880-1905, shall not be levied on the assessed annual value as defined in the Municipalities Acts, 1897, but may be levied at the option of the council on the improved or on the unimproved capital value as defined in this Act: Provided that the valuation of any lands or tenements for the purposes of the Country Towns Water and Sewerage Acts, 1880-1905, shall not exceed in any year the valuation (if any) of such lands or tenements in force during the same or the previous year under this Act.

Rating under
Country Towns
Water and Sewerage
Acts.
Extension, s. 99.

(2) A poll of the ratepayers under this Act of the municipality may be demanded, as elsewhere in this Act provided, on the question whether such rate shall be levied on the improved or on the unimproved capital value, and the decision of a majority of the ratepayers

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ratepayers who vote at such poll shall be given effect to by the council; and the provisions of this Act, and of the ordinances and regulations with regard to the taking of polls, shall apply.

(3) The maximum rate on the improved or unimproved capital value under this section shall be such amount in the pound on such improved or unimproved capital value as the Governor may fix by notification in the Gazette upon the certificate of the Government Statistician that such maximum rate so fixed is estimated according to the latest available valuations to produce for the municipality such a revenue during the first year of its operation as would reasonably approximate to that which would be produced by levying the maximum rate allowed under the said Country Towns Water and Sewerage Acts, 1880-1905. The said notification shall be made as soon as practicable after the valuation of the council has been made under this Act.

DIVISION 2.—*Shires and municipalities.*

160. The assessed annual value under this Act shall be the valuation which, under the provisions of the Metropolitan Water and Sewerage Act of 1880, and the Hunter District Water Supply and Sewerage Act of 1892, and any Acts amending the same, shall not be exceeded by any valuation for the purposes of making and levying rates payable to the Metropolitan Board of Water Supply and Sewerage, and to the Hunter District Board of Water Supply and Sewerage respectively.

Application to
Metropolitan Water
and Sewerage Acts.
Extension, s. 104.

PART XXIV.

ENDOWMENT.

DIVISION 1.—*Shires.*

161. (1) The Governor shall, on or before the thirty-first day of December, one thousand nine hundred and six, and every third year thereafter, by proclamation, declare the class within which each shire shall be placed respectively; and in determining the class of each shire the following matters shall be taken into consideration—

Endowment for first
three years.
Shires, s. 8.

- (a) the extent of the shire;
- (b) the probable annual revenue derivable from a rate of one penny in the pound on the unimproved capital value of ratable land in the shire;
- (c) the necessary annual expenditure;
- (d) the extent of the roads to be made and maintained;
- (e) the difficulty of construction and maintenance of roads and other public works;
- (f)

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- (f) the facilities to be afforded to vehicular traffic ;
- (g) the extent of public works maintained by the Government ;
- (h) the extent of Crown lands (other than parks or reserves for public recreation) from which the council will receive no rates, and the existence of which in the shire involves expenditure by the council on road construction, or in other ways.

(2) There shall be payable out of the Consolidated Revenue, for the endowment of the shires in every year, a sum not less than one hundred and fifty thousand pounds, to be appropriated by Parliament for such purpose and paid to the shires on the following basis—

- (a) the endowment of a shire of the first class shall be such sum, not exceeding ten shillings in the pound on the proceeds of the general rate received by the council during the next preceding year, as the Governor may determine: Provided that, in any case in which the Governor does not consider that the necessities of a shire warrant the payment of an endowment, no endowment shall be paid ;
- (b) the endowment of a shire of the second class shall be fifteen shillings in the pound on such proceeds ;
- (c) the endowment of a shire of the third class shall be twenty shillings in the pound on such proceeds ;
- (d) the endowment of a shire of the fourth class shall be twenty-five shillings in the pound on such proceeds ;
- (e) the endowment of a shire of the fifth class shall be thirty shillings in the pound on such proceeds ;
- (f) the endowment of a shire of the sixth class shall be such sum, not less than forty shillings in the pound on such proceeds, as the Governor may determine.

DIVISION 2.—*Municipalities.*

162. (1) All existing municipalities shall preserve the right to endowment they now enjoy by virtue of any Act hereby repealed.

Existing municipalities.
Extension, s. 19.

(2) Where, under subsection two of section five of the Shires Act, an area has been added to a municipality, such municipality may, at the discretion of the Minister, be granted an endowment in respect of such added area, and such endowment shall not be subject to the provisions of the next following subsection.

Additions to municipality—
endowment of added areas.

(3) All municipalities which do not receive endowments under any Act hereby repealed shall be entitled to receive out of funds to be voted by Parliament an endowment based upon the result of investigations which the Governor may cause to be made into the administration and financial necessities of such municipalities, not exceeding

General endowment

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exceeding in any municipality a sum equal to three shillings and fourpence in the pound on the general rate collected by the council of such municipality: Provided that no endowment shall be paid in cases where the revenues of the councils under this Act, exclusive of endowment, are sufficient, in the opinion of the Minister, to meet the reasonable requirements under proper management of such municipalities.

(4) Provided that when the Minister, or any person appointed by him in that behalf, has certified that the estimated responsibility for expenditure transferred to a municipality from the Government by this Act exceeds the amount of the land tax suspended in such municipality, the Minister may, in his discretion, grant to such municipality an endowment exceeding the aforesaid amount of three shillings and fourpence in the pound, but not greater than the excess of expenditure aforesaid.

Endowment where transferred expenditure exceeds transferred land tax.

163. (1) When a new municipality is constituted by the union of two or more municipalities in respect of which the sums payable by way of endowment, or the periods for which such sums are payable, are different, separate accounts shall be kept, for so long as the Minister may think necessary, of the general rates raised within the respective municipalities so united, and the amount of endowment payable to such new municipality shall, while such separate accounts are so kept, be computed with respect to each former municipality separately, and the total endowment shall be such as would be payable if such union had not taken place.

Endowment on reconstitution of municipalities. Extension, s. 20.

(2) In every other case of a reconstituted area, the Governor shall, in accordance with this Act, proclaim the conditions upon which the endowment shall from the date of such reconstitution be paid.

Endowment on reconstitution of areas to be adjusted by Governor.

DIVISION 3.—Shires and municipalities.

164. Upon receipt of a certificate signed as prescribed of the amount of endowment of an area under this Act, the Treasurer may, subject to this Act, pay such amount from the Consolidated Revenue Fund to the council of such area. The Treasurer shall, from time to time, be allowed credit for any sums of money so paid by him; and the receipt of the mayor or president, under his hand and the seal of the area, countersigned by the council clerk, shall be a sufficient discharge to the Treasurer.

Treasurer to pay endowments. Shires, s. 8; Extension, s. 21.

165. The Minister may withhold the payment of the endowment of any area the council of which neglects or refuses to transmit to an officer to be appointed by the Governor such statistics, returns, and accounts as may be prescribed.

Endowments withheld. Shires, s. 8; Extension, s. 21.

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166. The Minister may, if he consider that the council of any area has neglected to take steps to enforce the payment of rates, withhold part or the whole of the endowment of such area.

Endowments withheld.
Shires, s. 8;
Extension, s. 21.

167. If in accordance with any provision of this Act any endowment or part of an endowment is withheld for a period exceeding two years, such endowment or such part of an endowment shall be forfeited.

Endowments withheld for two years forfeited.
Shires, s. 8;
Extension, s. 21.

PART XXV.

DEFAULTING AREAS.

Shires and municipalities.

168. (1) An area shall, for the purposes of this Act, be deemed to be a defaulting area—

Definition of a defaulting area.
Shires, s. 27;
Extension, s. 56.

- (a) if there is in the area no council or not sufficient members of the council to form a quorum of the council, by reason of a failure to elect members at the time or within the period prescribed; or
- (b) if the requirements of this Act as to the making and levying of a general rate have not been duly carried out within the area; or
- (c) if the council has ceased for six months to exercise its functions.

(2) The Governor shall at any time after any such default, by proclamation, appoint an administrator of the area, and may in like manner at any time remove him. Such administrator shall have the powers, duties, and liabilities of the council, and shall be paid out of the general fund of the area such salary as the Governor may determine.

Appointment of administrator for defaulting area.

(3) When an administrator is so appointed, the servants (unless specifically retained by the administrator) and the officers in the area shall thereupon cease to hold office.

Council to cease to hold office—also servants unless retained.

(4) Provided that in case of a default described in paragraph (a) of subsection one of this section, the Governor, instead of appointing such administrator, may at any time by proclamation authorise an election of or appoint the requisite number of councillors.

Governor may authorise an election or appoint aldermen or councillors.

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(5) At any time after the appointment of an administrator as aforesaid the Governor may, by proclamation, authorise the election of a new council on a day appointed in such proclamation. If at such election members of the council are elected sufficient to form a quorum the Governor may, by proclamation, constitute such members to be the council of the area, and the powers and duties of the administrator shall cease.

PART XXVI.

LOANS.

DIVISION 1.—*Municipalities.*

169. (1) A council of a municipality may (if the Governor approve) borrow to an amount which, with any other amounts owing by the council in respect of loans, does not exceed ten per centum of the unimproved capital value of all ratable lands in the area, for the following purposes—

- (a) for or towards or incidental to the carrying out of permanent improvements or works within or outside the area; or
- (b) for the effecting of any other objects which the council are by law required or authorised to effect; or
- (c) for the repayment of any moneys lawfully borrowed by it before or after the commencement of this Act.

(2) All moneys shall be borrowed on the credit of the area, and shall be a charge upon the revenues of the council.

(3) If the borrowings of any existing municipality, or of any municipality constituted under this Act and comprising the whole or part of an existing municipality, at the time of the commencement of this Act, or at the time of its constitution under this Act, as the case may be, exceed the limit of borrowing prescribed in this Act, it shall not be lawful for such municipality, until the total amount owing by the council has fallen below such limit, to raise any further loan except for the purpose of repaying an existing loan, and the moneys obtained by the new loan shall not be used for any other purpose.

(4) Where, under subsection two of section five of the Shires Act, an area has been added to a municipality, and such municipality has contracted a loan which was unpaid at the time of such addition, the amount required to pay the interest, whether accrued or accruing, due on such loan, shall, during a period covering not less than

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than five years after the adding of such area, to be prescribed by the Governor, be raised by a local rate on the ratable land in the area of the old municipality, in which case it shall not be necessary, before making such rate, to take a poll under this Act:

Provided that this subsection shall not apply to the municipalities of Kogarah, Hurstville, North Botany, Bankstown, Rockdale, Corowa, Moama, Albury, Annandale, Ashfield, Balmain, Cabramatta and Canley Vale, Carrington, Darlington, Hunter's Hill, Lambton, Leichhardt, Manly, Petersham, Waratah, Wickham, Woollahra, Grafton, South Grafton, West Maitland, and Glebe, nor shall this subsection apply, in respect of areas reclaimed from the waters of Port Jackson and Port Hunter, to the municipalities to which such reclamations have been added under the Local Government (Shires) Act, 1905.

170. No money shall be borrowed by a council of a municipality for any purpose except for the repayment of moneys lawfully borrowed by it, unless and until—

- (a) the amount of the proposed loan and the details prescribed by the regulations of the proposed expenditure of the money to be borrowed have been notified; Conditions on which money may be borrowed for new works or services. Public notice. Extension, s. 77.
- (b) there has been a report on such proposed expenditure by an officer appointed by the Governor and the Governor has approved of the proposed loan; Report by officer.
- (c) there has been a poll taken of the persons on the ratepayers' roll of the area, at which a majority of the votes has been cast in favour of the proposed loan; at such poll the question shall be submitted whether the loan rate to be imposed in respect of the loan shall be on the unimproved or on the improved capital value of the ratable land in the area, and, subject to the provisions of this Act, the decision of such question by the majority of ratepayers voting thereon at such poll shall be given effect to by the council; Poll of ratepayers.
- (d) a loan rate, as prescribed by this Act, has been duly made. Loan rate

171. (1) For securing the repayment of the principal and interest of any moneys borrowed in pursuance of this Act, a council of a municipality may, under its common seal, issue debentures, mortgage-deeds, or bonds according to forms to be prescribed in the regulations. Security for loans. Extension, s. 78.

(2) Any person may transfer his right and interest in such debentures, mortgage-deeds, or bonds by deed, made in accordance with the prescribed form, or to the like effect. Within thirty days after any such transfer, notice thereof shall be given by the transferor to the council. Transfer of securities.

172. (1) A council of a municipality desiring that any loan proposed to be made shall be guaranteed by the Government must apply to the Treasurer in writing. Procedure in raising loans guaranteed by the Government. Extension, s. 81.

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(2) Upon receipt of such application, the Treasurer shall Examination of books. if the proposed loan is for a purpose and for an amount authorised by this Act, and if the provisions of this Act have been complied with, cause the books and affairs of the council to be examined so far as may be necessary to ascertain the true financial condition of the council, and the propriety of granting the application.

(3) The Treasurer may refuse such application, or recommend to the Governor that the same be granted in whole or in part, Treasurer may refuse or may recommend guarantee. or subject to such conditions as he may think expedient.

(4) The Governor, upon such recommendation being made, Governor may guarantee. may, by proclamation, guarantee on behalf of the Government the repayment of the loan, subject to any conditions specified in the proclamation.

173. (1) Any loan so guaranteed shall be secured by debentures Debentures and interest coupons. and interest coupons in the form prescribed by the regulations and issued by the council, each debenture being for fifty pounds or a multiple of fifty pounds. Extension, s. 82. Interest shall be payable half-yearly on the presentation of the interest coupons.

(2) After the issue of any debenture of a council, guaranteed Government to have priority of claim on revenues of council. by the Government, all property and revenues of the council shall be subject to a charge in favour of the Government to the extent of the loan secured by such debenture and the interest thereon in priority and preference to all encumbrances, rights, charges, and claims whatsoever accruing against or attaching to such property and revenues subsequently to the date of the proclamation guaranteeing the repayment of the loan.

(3) If, within seven days after the date on which any such In case of default Treasurer to redeem interest coupons or debentures. interest coupon or debenture is payable, the same is duly presented for payment and is not paid or redeemed, the holder may notify the Treasurer of such default, and thereupon the Treasurer shall, out of the Consolidated Revenue Fund, pay or redeem such coupon or debenture, and debit the sum so paid to a Treasury account, and may call upon the council to forthwith repay such sum.

174. Where the Government has guaranteed any loan of a Government indemnified against wrongful act on part of council. council of a municipality under the provisions of this Act, the right of the Government, as against such council or its area to be indemnified Extension, s. 83. in respect of the liability so incurred, and to exercise the powers and remedies in this Act provided, shall not be affected or prejudiced in any way by reason of a wrongful exercise by such council of its power to borrow money, or the non-observance of any condition precedent or subsequent to the exercise of such power, or to the right or authority of the council to charge the area in respect of such loan.

*Local Government.*DIVISION 3.—*Shires and municipalities.*

175. (1) If a council borrows on the credit of its property or revenues any money which the council as the body corporate of the area is not legally bound to repay, all the members of such council who have consented to such borrowing shall be jointly and severally liable to repay such money and all interest thereon to the person from whom the same was borrowed at the time and in the manner provided in the instrument or agreement under which the money was borrowed, and the same may be so recovered from such members, or any of them, in any court of competent jurisdiction.

Members of council
authorising illegal
borrowing to be
personally liable.
Extension, s. 79.

(2) If any appropriation of the money of a council is made for the purpose of repaying any money so borrowed and which the council as the body corporate of the area is not bound to repay, the members of the council who have consented to such appropriation shall thereupon be jointly and severally liable to refund the same and all interest thereon; and the same may be recovered from them or any of them in any court of competent jurisdiction at the suit of any elector, ratepayer, or creditor of the area on behalf of the council.

Appropriation of
council's funds to
repay money wrongly
borrowed forbidden.
Extension, s. 79.

176. Notwithstanding the provisions of the preceding clause, a council may temporarily borrow in any year an amount not exceeding one-third of the estimated revenue to be received from rates if the consent of the Minister shall have been first obtained.

Temporary loans—
overdrafts.
Extension, s. 80.

177. (1) Where a council makes default for three months in the due payment of the principal or interest of any loan, a receiver may be appointed.

Appointment of
receiver;
Extension, s. 84.

(2) Where the loan is guaranteed by the Government, the receiver may be appointed by the Governor by proclamation, or by the Supreme Court on the application of the Treasurer.

By Governor;

(3) Where the loan is not so guaranteed, the receiver may be appointed by the Supreme Court on the application of a holder of the security given by the council for the loan.

Supreme Court.

178. (1) A receiver shall have the same powers and immunities as a receiver appointed by the Supreme Court in its equitable jurisdiction.

Powers of receiver.
Extension, s. 85.

(2) A receiver, in the name of the council, may cause valuations to be made and rates to be made and levied, may enforce payment of moneys due to the council or the municipality, and recover moneys deposited by the council in any bank. The receiver shall, for the above purposes, have the powers of the council, and of its mayor, president, and clerk.

Further powers of
receiver.

(3) A receiver shall apply the moneys received by him, after meeting the necessary expenses, towards the payment of any principal

Duties of receiver.

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principal or interest due on any loan to the council and the reimbursement of the Consolidated Revenue Fund to the extent to which that fund has been drawn upon to meet claims in respect of any such loan.

(4) A receiver appointed by the Supreme Court shall act under the directions of the Court until discharged by it. Receiver to act under Court.

(5) A receiver appointed by the Governor shall be withdrawn by the Governor, and shall cease to act as such receiver when the whole of the matured obligations of the council in respect of the guaranteed loan have been wholly met or discharged, or may be withdrawn before that time, but in such last-mentioned case the Governor, by proclamation, may at any time appoint another receiver in respect of the same loan without any further default of the council or evidence of such default. Withdrawal of receiver.

(6) A receiver, whether appointed by the Supreme Court or by the Governor, shall be under the same obligations to render and publish all the prescribed statements and returns, and to perform other duties imposed by the Minister, as would, if there were no such receiver, have to be rendered, published, or performed by the mayor, or president, or clerk. Further duties of receiver.

PART XXVII.

FUNDS.

Shires and municipalities.

179. (1) There shall be a general fund for each area to which shall be carried the following revenues of the council— Accounts carried to general fund.

- (a) the proceeds of all general rates, and additional general rates, and all dues, rents, fees, and charges, and the amount of all penalties, expenses, compensation, or other moneys payable in respect of offences against this Act or any by-laws, ordinances, or regulations; Shires, s. 39.
- (b) moneys received under any grant, endowment, or statutory authority; Extension, s. 71.
- (c) other revenues not directed by this Act to be carried to any other fund.

(2) Subject to the provisions of this Act as to the powers and duties conferred and imposed upon councils, and so far as such powers and duties extend, the general fund may, in any area, be applied to the following purposes, and no other— Purposes to which general fund may be applied.

- (i) the formation, construction, and maintenance of roads and streets, culverts and bridges;

(ii)

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- (ii) the preservation of the public health ;
- (iii) the lighting of roads and streets ;
- (iv) the supply of water to villages and towns ;
- (v) the extirpation of noxious animals, plants, and weeds ;
- (vi) the construction and maintenance of tanks and public watering places ;
- (vii) the erection and maintenance or the hire of council offices ;
- (viii) the maintenance of permanent and temporary commons, parks, and camping reserves ;
- (ix) the watering of streets ;
- (x) the carrying out of any service required by this Act to be performed by the council and not payable out of any other fund of the council ;
- (xi) the general expenses of the council in carrying out the provisions of this Act ;
- (xii) such other purposes as the Governor may, from time to time, proclaim :

Provided that, in municipalities, the general fund may be applied in the payment of capital and interest on loans.

180. (1) In each area there shall be a special fund for each special rate levied and for each work or service carried on by the council in respect of which the special rate has been made.

(2) There shall be carried to such fund the proceeds of the special rate and the revenues derived from the work or service in respect of which the fund is kept.

(3) The fund shall only be applied for the purposes of or incidental to the said work or service. But any balance to the credit of any such fund when it is closed may, with the approval of the Governor, be carried to some other fund of the council.

181. (1) In each area there shall be a local fund for each local rate levied. There shall be carried to such fund the proceeds of the local rate and the revenues derived from any work or service in respect of which the rate is levied.

(2) The fund shall only be applied for the purposes of such work or service ; but any balance to the credit of any such fund when it is closed may, with the approval of the Governor, be carried to some other fund of the council.

182. (1) Where any borrowed money is owing by a council there shall be kept a separate loan fund in respect of each work or service in respect of which any such money is owing.

(2) There shall be carried to each such fund—

- (a) the proceeds of loans raised for the particular work or service to which such fund refers ;
- (b) the proceeds of all loan rates (if any) levied in respect of such loans ;

(c)

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- (c) such sums as the council may vote in aid of such loan fund from the general fund or from the special or local fund (if any) in which the working account in respect of such work or service is kept.

(3) A loan fund shall be applied—

- (a) in paying the interest on loans ; Application of loan fund.
 (b) if, under the provisions of this Act, a sinking fund must be provided in connection with such loan, in purchasing interest-bearing Government securities each year ; Interest. Sinking fund.
 (c) after full provision has been made for the current year for paying interest and purchasing securities as aforesaid, in meeting the capital cost of the work or service in respect of which the loan fund is kept ; Capital expenditure.
 (d) in repaying borrowed money owing by the council in respect of loans obtained for such work or service, and carried to such fund. Repayments.

(4) Government securities purchased by a council in pursuance of this section shall not be sold nor charged except as provided by regulations under this Act. Government securities.

(5) Any balance to the credit of any such fund when it is closed, may, with the approval of the Governor, be carried to some other fund of the council. Balances.

PART XXVIII.

ACCOUNTS AND AUDIT.

DIVISION 1.—*Shires and municipalities.*

183. (1) A council shall cause true and regular accounts to be kept in books of account of all sums of money received and paid into or out of every fund, and of the several purposes for which such moneys have been received and paid, and shall cause the accounts to be balanced once at least in every six months. Books of accounts to be kept and balanced. Shires, s. 40 ; Extension, s. 75.

(2) The Governor may prescribe the form or manner in which any such books shall be kept, and shall prescribe the time and manner in which the council, periodically, shall publish full and accurate accounts of its receipts, disbursements, assets, and liabilities. Governor may prescribe form of account books.

(3)

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(3) Such books shall be open for inspection by the members of the council and the electors, without fee, at all reasonable times, and if the clerk does not permit such inspection he shall be liable to a penalty not exceeding ten pounds.

Books open to inspection.

(4) If it appears to the Minister that the books and accounts of any council have been negligently or improperly kept, or wilfully falsified, he may withhold the payment of any further endowment of the area until he is satisfied that the said books and accounts are being carefully and properly kept.

Endowment may be withheld if books not properly kept.

184. (1) The books and accounts of a council shall be audited, at the times and in the manner prescribed, by auditors, to be appointed by the council.

Audit of books and accounts.

Shires, s. 41 ;
Extension, s. 75.

(2) The Governor shall make regulations as to the number of auditors to be employed and as to the certification of auditors, and shall direct the amount of the minimum remuneration to be paid to each auditor. The remuneration of auditors shall be paid out of the general fund of the area.

Auditors to be appointed by council subject to regulation. Qualifications of auditors.

(3) No person shall be appointed as an auditor who is not so certificated. The Governor may cancel the appointment of any auditor, and the council may thereupon, but subject to this Act, appoint another auditor in his place.

Governor may cancel appointment of an auditor and appoint another.

(4) If the council fail to appoint auditors as prescribed, the Governor shall thereupon appoint them.

Governor may appoint auditors.

185. (1) The Governor may appoint examiners of accounts, whose duty will be to inspect the accounts of the councils, and to report to the councils and the Minister respectively any irregularity, dishonesty, or breach of this Act or of the regulations or ordinances which they may discover.

Appointment of examiners of accounts.

Shires, s. 42 ;
Extension, s. 75.

(2) Such examiners may disallow any expenditure or entry in the books which they may consider has been wrongly, irregularly, or dishonestly incurred or made, or which has been incurred or made in contravention of the Act, or of the regulations or ordinances. Any such sum so disallowed shall be a surcharge upon and may be recovered from or deducted from moneys due to the officers or servants of the council by whom the expenditure was incurred or ordered to be incurred, or by whom the entry was made or ordered to be made.

Examiners to have power to disallow items.

Surcharge.

(3) Any person upon whom a surcharge is made by such examiner may appeal to the Minister, whose decision shall be final. Such appeal shall be made within one month of the surcharge.

Appeal against surcharge.

186. (1) For the purpose of any such audit or examination of accounts, an auditor or examiner of accounts may take evidence upon oath or affirmation (which oath or affirmation he is hereby empowered to administer), and may, by summons under his hand, require such persons as he thinks fit to appear personally before him, at a time and

Powers of auditors and examiners.

Shires, s. 43 ;
Extension, s. 75.

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and place to be fixed in and by such summons, and to produce to him such books and papers as appear necessary for such audit or examination, and may examine such witnesses as he thinks fit.

(2) Provided that where such witnesses are members or servants of a council or residents of an area where accounts are under investigation, such examination shall be held at either the council's meeting place, or at some convenient place within the boundaries of such area.

(3) Any person so required who, without just excuse,—
 (a) neglects or refuses to comply with such summons; or
 (b) refuses to be examined on oath or affirmation, or to take an oath or affirmation; or
 (c) refuses to answer such lawful questions as are put to him,
 shall be liable to a term of imprisonment not exceeding twelve months, or a penalty not exceeding twenty pounds.

Enforcement of summons.

(4) On the commencement of this Act the auditors of an existing municipality then in office shall retire.

Retirement of auditors.

Extension, s. 75.

PART XXIX.

ORDINANCES.

Shires and municipalities.

187. (1) Subject to the provisions of this Act as to the powers and duties conferred and imposed upon councils, and so far as such powers and duties extend, the Governor may, at any time after the passing of this Act, make, amend, alter, or repeal ordinances applicable to all or any specified area or to specified portions of areas for carrying this Act into effect, and such ordinances may deal with matters respecting—

Matters which may be dealt with by ordinances.
 Shires, s. 44;
 Extension, s. 86, 87.

- (i) the qualifications and duties of servants of councils, and the appointment, suspension, and dismissal of such servants;
- (ii) public places and ferries under the control of councils and the regulation of traffic thereon;
- (iii) public wharfs and bridges;
- (iv) public health, safety, and convenience;
- (v) the carrying out jointly of works on boundaries and the joint control thereof;
- (vi) the lighting and cleansing of public places;
- (vii) the suppression of nuisances;

(viii)

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- (viii) the regulation of the hawking of goods and the licensing of hawkers by councils, and the charging of a license fee, which shall be paid to the general fund of the area ;
- (ix) the removal of night-soil, filth, or refuse ;
- (x) the regulation and the licensing of public vehicles and the drivers and conductors thereof, and the charging of a license fee ;
- (xi) the fixing and collecting of tolls on roads, bridges, wharfs, jetties, ferries, and public watering places under the control of the council ;
- (xii) the fixing, recovery, and collection of fees and charges for services rendered by a council in pursuance of its powers under this Act ;
- (xiii) encroachments on public roads, streets, or other public places by buildings, fences, hedges, ditches, or drains ;
- (xiv) the supply and distribution of water ;
- (xv) the care, construction, and management within the area of roads, streets, bridges, culverts, jetties, ferries, and wharfs ;
- (xvi) the powers of officers and servants ;
- (xvii) any other powers and duties conferred and imposed on or acquired by a council under this Act ;
- (xviii) the regulation of the proceedings of councils and their committees ;
- (xix) the quorum of councils ;
- (xx) the appointment and the powers of committees of councils ;
- (xxi) the manner of conducting polls of electors and rate-payers ;
- (xxii) the making of lists and rolls of electors, and the form of declaration which may be required of a person claiming enrolment ;
- (xxiii) the inspection, revision, and notification of such lists and rolls, and the appointment and proceedings of revision courts ;
- (xxiv) the proof of the contents of such lists and rolls ;
- (xxv) the nomination of candidates for election to a council ;
- (xxvi) the times and the manner of elections, and the declaration of the results thereof ;
- (xxvii) the appointment of electoral officers and clerks, and their powers, duties, and liabilities ;
- (xxviii) the appointment and regulation of polling-places ;
- (xxix) the enforcing of order at polling-places or at revision courts by the arrest of persons offending, or reasonably suspected of offending, against this Act or the ordinances, or otherwise ;

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- (xxx) the election of presidents and mayors and the appointment of their deputies ;
- (xxxi) the vacating of the offices of president and councillor, and mayor and alderman ;
- (xxxii) elections to fill extraordinary vacancies in councils ;
- (xxxiii) the preparation, sealing, and inspection of rate-books, and the amendment thereof ; the time within which rates shall be made, notices be given as to rates, and the regulation of all other matters relating to rating ;
- (xxxiv) the appointment and the powers and duties of valuers ;
- (xxxv) the procedure as to valuations and appeals against valuations, and the duties of the council and its officers and servants in relation to such appeals ;
- (xxxvi) the times, places, and forms for hearing such appeals ;
- (xxxvii) lands in respect of which rates are in arrear ;
- (xxxviii) notices, documents, and forms ;
- (xxxix) providing for the service of notices required or authorised to be given under this Act or the ordinances ;
- (xl) providing for matters which by this Act may be prescribed ;
- (xli) generally for carrying out the provisions of this Act, or of any Act administered by a council, and for enforcing and securing the observance thereof ; and
- (xlii) relating to any matter mentioned in this section, although the same or a similar matter may have been already provided for by the Police Offences Act, 1901 ;
- (xliii) the holding of polls of electors and the notification of the result of such polls ; Extension, s. 87.
- (xliv) the voting by post at elections and polls of electors or ratepayers ;
- (xlv) the making and notification of a roll of ratepayers, the holding of polls of ratepayers, and the notification of the result of such polls ;
- (xlvi) the adoption of mechanical means of voting, and of taking and counting votes at elections of aldermen or councillors, and at polls of electors and of ratepayers, and the regulation of such means of voting ;
- (xlvii) the regulation of hoardings, buildings, balconies, or verandahs, abutting on or extending over any public place ;
- (xlviii) the carrying out jointly of undertakings for mutual benefit of areas, and the joint control thereof ;
- (xlix) the manufacture and supply of gas and the installation and distribution of electric-light, and of electric, hydraulic, or other power ;

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- (l) the suppression of houses of ill-fame and disorderly houses ;
- (li) the regulation of the erection and management of buildings used as places of public resort or amusement ;
- (lii) the conduct and safety of the people in places of public amusement and of public resort ;
- (liii) the keeping of all premises free from offensive or unwholesome matter ; and, subject to the Noxious Trades Act, 1902, the suppression of nuisances ;
- (liv) the appointment of places for the inspection and whole-sale disposal of fish ;
- (lv) the mitigation or suppression of public nuisances caused by the emission, discharge, or escape, of smoke, fumes, steam, oil, or oil-vapour, either separately or any two or more in combination, from premises within the area ;
- (lvi) the construction, establishing, maintenance, and regulation of markets, cattle sale-yards, and abattoirs ;
- (lvii) the fixing and collecting of fees and charges in respect of markets, cattle sale-yards, and abattoirs, and sewerage and drainage, and of hoardings and places of public amusement ;
- (lviii) the regulation of bathing and the observance of decency in connection therewith ; the construction and use of public baths, bathing-houses, and bathing-machines ;
- (lix) the regulation or prevention of the erection of any structure of calico or canvas or other inflammable material ;
- (lx) noxious weeds, pests, animals, and vermin ;
- (lxi) the opening to use by the public of new roads through private land, and the acceptance of the care, construction, and management of such ;
- (lxii) the regulation and supervision of the opening up of streets or roads for the laying of pipes, construction of tunnels, or other similar purposes, and the regulation of the laying of wires or cables under or over or through the roads or streets of the area for the transmission of electricity, and the making of a charge for damage resulting therefrom ;
- (lxiii) the inspection of milk and dairies ;
- (lxiv) the inspection and prevention of the sale of unwholesome or adulterated food ;
- (lxv) the sale and mode of delivery of meat by carcase or otherwise, and the disposal and removal of any blood, offal, or other refuse ;

(lxvi)

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- (lxvi) the construction of communicating drains with main sewers, and sewerage generally;
 - (lxvii) the regulation of the use by the public of all public parks, public reserves, gardens, shrubberies, commons, and other public places which are under the control of the council in virtue of this Act, and the removal and punishment of trespassers and persons causing annoyance or inconvenience thereon;
 - (lxviii) the regulation of the manner, route, and times of driving cattle along the public thoroughfares;
 - (lxix) the regulation of the erection of buildings, as to height, design, structure, building materials, building line, and sanitation;
 - (lxx) any other of the powers and duties conferred and imposed upon or acquired by a council in pursuance of this Act.
- (2) Every such ordinance shall have the force of law when published in the Gazette, but not sooner or otherwise: Provided that any ordinance so published under this Act before the commencement of this Act shall not have effect until such commencement. Ordinances to have force of law. Shires, s. 44; Extension, s. 87.
- 188.** (1) A council may, subject to the provisions herein contained, alter or rescind any such ordinance so far as applicable within its area, and may also (whether the Governor has or has not made ordinances to be in force in the said area) make new ordinances for any of the purposes for which ordinances applicable to it may be made. Alteration or rescission. Shires, s. 45; Extension, s. 86.
- (2) No such alteration, rescission, or new ordinances, shall be made by a council, unless passed by a majority of at least two-thirds of the members present at a meeting of the council specially called for that purpose. Two-thirds majority required.
- (3) Such alteration, rescission, or new ordinances on being so passed shall be notified by the council in the Gazette, and attention shall be drawn to such notice by advertisement published twice in some newspaper circulating generally in the area. Notification.
- (4) Within twenty-one days after the date of the first publication of such advertisement any electors, being not less than one-tenth in number of the electors of the area, may, by writing signed by them, delivered to the president, mayor, or clerk, demand that the whole, or any specified part of such alteration, rescission, or new ordinances, be submitted to a poll of the electors of the area, and the matter shall thereupon be submitted by the council to such poll as prescribed. Poll may be demanded.
- (5) Provided that a poll may not be demanded in respect of— Poll may not be demanded.
- (a) new ordinances which are substantially the same as ordinances then in force in every part of some other area; or
 - (b)

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- (b) an alteration which makes an ordinance substantially the same as an ordinance then in force in every part of some other area ;

if attention has been called to such fact in the Gazette notice mentioned in subsection three of this section.

(6) The decision of the majority of electors voting at the poll shall determine whether the alteration, rescission, or new ordinances submitted to the poll may come into force ; and subject to such decision, or if no poll is demanded, the clerk shall forward two copies of the alteration, rescission, or new ordinances (omitting such as are negated by the poll) to the Minister.

Proposed ordinance
to be sent to Minister.
Shires, s. 45 ;
Extension, s. 86.

(7) The Minister, after correcting any minor or verbal errors, shall transmit such alteration, rescission, or new ordinances to the Governor, with a report stating whether they are consistent with the principles of law and equity, and are within the powers of the council, and if there is any reason why they should not be made.

Minister to report
to Governor.

(8) The Governor may, after receipt of the report of the Minister, allow the alteration, rescission, or new ordinances, or may disallow them in whole or in part, and for that purpose may make such amendments as may seem expedient or fit ; and the Minister shall report to the clerk the result of the Governor's decision.

Allowance by
Governor.
Shires, s. 45 ;
Extension, s. 86.

(9) Such alteration, rescission, or new ordinances, if and so far as they are allowed by the Governor, on being passed by a simple majority of the council at a special meeting called for that purpose, and on being sealed with the common seal of the council and advertised in the Gazette in the prescribed manner, shall have the force of law.

Passing of ordinance
by council.
Shires, s. 45 ;
Extension, s. 86.

PART XXX.

REGULATIONS.

Shires and municipalities.

189. (1) The Governor may at any time after the passing of this Act make regulations relating to—

Regulations made by
Governor.

- (i) the appointment of officers and servants by the Governor ;
- (ii) accounts and audit and the duties of examiners of accounts ;
- (iii) the form in which the accounts of councils shall be kept, and the periodical publishing of such accounts ;
- (iv) returns to be furnished periodically by officers or clerks to the Commonwealth or State Government Statistician or other persons ;
- (v) the opening to use by the public of new roads through private land and the acceptance of the care, construction, and management of such roads ;

Shires, s. 46 ;
Extension, s. 88.

(vi)

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- (vi) notifications of the elections of officers, appointments of servants and auditors, and of other matters, and the service of notices required by the regulations ;
- (vii) empowering and directing councils jointly or severally to appoint and employ servants, including a clerk and an engineer, and such other servants as may be prescribed, and prescribing the qualifications which must be possessed by such servants, the manner of appointment, and the conditions of employment ;
- (viii) the disqualification of presidents and councillors mayors and aldermen from voting at meetings of the council in cases in which they or any of their relations are interested, specifying the degree of relationship and the nature of the interest necessary to create the disqualification ;
- (ix) the hearing of objections and appeals ;
- (x) the procedure to be followed by councils when raising loans ;
- (xi) matters which by this Act may be prescribed by regulations ;
- (xii) all such other matters as the Governor may deem necessary for carrying this Act into effect, and for the observance thereof.

(2) Every such regulation shall have the force of law when published in the Gazette, but not sooner or otherwise : Provided that any regulation so published under this Act before the commencement of this Act shall not have effect until such commencement.

PART XXXI.

MISCELLANEOUS.

Shires and municipalities.

190. By any ordinances or regulations the Governor or a council may impose a penalty for any breach thereof, and may impose a maximum and minimum penalty ; every such penalty shall be paid to the general fund of the area : Provided that such penalty shall not exceed fifty pounds, and such ordinances or regulations may provide, in addition to any such penalty, that any expense incurred by a council in consequence of any such breach or in the execution of any work directed by any such ordinances or regulations to be executed by any person and not so executed, shall be paid by the person committing such breach or failing to execute such work.

191. All penalties imposed by this Act, or by any ordinances or regulations made thereunder, and all fees, tolls, and charges for services rendered, authorised thereby, may be recovered in a summary way before any two justices in petty sessions, and shall, when recovered, be paid to the council interested.

192.

Penalties for breaches
of Ordinances or
Regulations.

Shires, s. 49 ;
Extension, s. 90.

Penalties, how
recovered.
Extension, s. 91.

Local Government.

192. The production of the Gazette containing any ordinance or regulation purporting to be made, approved, and published in pursuance of this Act, shall, in any legal proceeding, be sufficient evidence that such regulation or ordinance has been so made, approved, and published.

Gazette to be evidence.
Shires, s. 47;
Extension, s. 90.

193. In any legal proceedings or prosecution by a council under this Act, or any ordinances, regulations, or by-laws, no proof shall be required—

Evidence.
Extension, s. 100.

- (a) of the persons constituting or the extent of the jurisdiction of the council; or
- (b) of any order or authority to appear for or prosecute for or on behalf of the council; or
- (c) of the particular or general appointment of any servant of the council; or
- (d) of the presence of a quorum of the council when any order or resolution is made or passed.

194. In any prosecution by or on behalf of any council for trespass or any offence on streets or footpaths, it shall not be necessary to prove the gazettal or alignment of such street or footpath, but it shall be sufficient evidence of the fact that the place whereon the trespass or offence is alleged to have occurred is a street or a footpath if it is proved that such place is a thoroughfare in the nature of a street or footpath, and is so used by the public.

Prosecutions for trespass—evidence of street or footpath.
Extension, s. 101.

195. (1) Where it is provided by this Act that an order may be served upon any person requiring such person to do or abstain from doing anything, or where it is required by any regulation or ordinance that any notice be given or sent to any person, such order or notice may be delivered to such person personally or by sending it to his last known place of abode or business by messenger or by post.

Service of notices.
Extension, s. 92.

(2) If such person is or appears after inquiry by the council to be absent from New South Wales, the order or notice shall be sent by post to his last known address in New South Wales, and the council shall also, in the event of such person having, to the cognizance of the council, an agent in New South Wales, serve notice upon such agent in any of the modes prescribed by the last preceding subsection; and—

Notices to persons absent from New South Wales.

- (a) if in the above case such person has not, to the cognizance of the council, an agent in New South Wales; or
- (b) if such person (whether in New South Wales or not) is not known; and if in cases (a) and (b) the order or notice relates to any land or building, such order or notice may be served or given by serving it on the occupier of such land or building, or leaving it with some inmate of such building of the apparent age of sixteen years or over, or, if there be no occupier, by affixing it on some conspicuous part of such land or building.

(3) The Council shall, for the purpose of the next preceding subsection, make inquiry as to whether a person known has an agent in New South Wales.

Inquiry as to agent.

(4)

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(4) Upon service having been effected by the Council, whether service is made upon the agent or not, all inquiries requisite under this section shall be deemed to have been made and the service shall be conclusive evidence thereof. Inquiries deemed to have been made.

(5) Proof by affidavit or otherwise of the posting shall be conclusive evidence of service. Proof.

196. Every entry in the minute or other book purporting to be a minute of the business transacted at a meeting of a council or committee, and to be signed by the mayor, president, or chairman of the council or committee, at the meeting of such council or committee held next after such first-named meeting, shall be *prima facie* evidence that such business as is therein recorded was transacted at such meeting and that such meeting was duly convened and held. Proceedings of council.
Entry in minute-book to be evidence.
Shires, s. 49;
Extension, s. 92.

197. The production of the Gazette containing a proclamation constituting an area shall, in all proceedings, be conclusive evidence of the legality of such constitution. Proclamation of area.
Shires, s. 49 (2);
Extension, s. 92.

198. Any proclamation or notification under this Act may, by a like proclamation or notification, be altered or rescinded: Provided that such alteration or rescission shall not affect anything done before the publication of such subsequent proclamation or notification under or by virtue of the proclamation or notification so altered or rescinded. Governor may rescind notification or proclamation.
Shires, s. 50;
Extension, s. 92.

199. The following provisions shall apply in respect to offences under this Act:— Offences.
Shires, s. 51;
Extension, s. 92.

(1) It shall be the duty of a member of the police force who finds a person committing a breach of this Act, or of any ordinance, to demand from such person his name and place of abode, and to report the fact of such breach and the name and place of abode of such person, as soon as conveniently may be, to the clerk. Report of breaches and arrest of offenders.

(2) Any person who, upon demand made as aforesaid, refuses to state his name and place of abode, or states a name or place of abode which in the opinion of the member of the police force making the demand is false, may, without any other warrant than this Act, be apprehended by him and taken before any court of summary jurisdiction, there to be dealt with according to law. Offenders may be arrested without warrant.

(3) Any person who, upon demand made as aforesaid, refuses to state his name and place of abode, or states a false name or place of abode, shall be liable to a penalty not exceeding ten pounds. Penalty for refusing name and address.

(4) Any person who wilfully obstructs the Governor or Minister, or a council, or any person acting under the authority of the Governor or Minister, or a council, in the performance of anything which the Governor or Minister, or the council, or such person is empowered or required by this Act to do, shall be liable to a penalty not exceeding ten pounds. Penalties for wilful obstruction.

(5)

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(5) When any matter or thing is by this Act or by order, proclamation, or notice, made under the authority thereof, directed or forbidden to be done by any person, and such person neglects or refuses to carry out or contravenes such direction or prohibition, he shall, if no other penalty is provided, be liable to a penalty not exceeding twenty pounds.

Offences against this Act.

200. No proceedings of a council, or of any committee thereof, or of any person acting as mayor, president, alderman, or councillor, shall be invalidated by reason of any defect in the appointment or election, or of any disqualification of any member of the council or of any such person, or by reason of there being any vacancy in the council or committee at the time of such proceedings.

Proceedings not to be invalidated.
Shires, s. 52;
Extension, s. 92.

201. The Governor or the Minister may appoint any officer of the Public Service to make inquiry as to any matter relating to the administration of this Act. Such officer, and any person to whom under this Act any matter may be referred, shall have the powers of a Commissioner under the Royal Commissioner's Evidence Act, 1901, and the provisions of the said Act shall apply to and in relation to any such officer or person in conducting any such inquiry or reference.

Officer may be appointed to hold inquiries.
Shires, s. 53;
Extension, s. 92.

202. (1) The mayor, president, or any person appointed by the council in that behalf, may direct any prosecution or legal proceedings to be taken for or in respect of any offence against this Act or any ordinance or regulation.

Authority to direct prosecution.
Shires, s. 54;
Extension, s. 92.

(2) Any officer or servant of a council appointed by the council in that behalf may represent and act for the council in the conduct of any action, suit, or other legal proceeding in any court by, for, or on account of or against such council.

Representation of council in proceedings.

(3) Such officer shall be reimbursed out of the general fund all damages, costs, charges, and expenses to which he may be put, or to which he may become liable by reason of his so acting.

Expenses.

(4) No person shall be subject to any incapacity or disability, or be liable to pay any penalty or incur any forfeiture under this Act, unless proceedings in respect thereof are commenced within six months after the happening of such incapacity or disability, or after such penalty or forfeiture has been incurred.

Proceedings to be commenced within six months.

203. A council may acquire, possess, and hold property in books, papers, instruments, works of art, and other articles, and in land and buildings, by bequest or devise.

Power to accept bequests and devises.
Extension, s. 93.

204. (1) Whenever, in consequence of death or absence, or other inability, any alderman, councillor, or servant of the council of an area, is prevented from performing any duty, which by this Act he is directed to perform, it shall be lawful for the mayor or president to appoint any other alderman, councillor, or person to perform the same.

Mayor or president may appoint substitutes.
Extension, s. 94

(2) All the acts and proceedings of any alderman, councillor, or person so appointed as aforesaid shall have the same validity as the

Validation of acts of substitutes.

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acts and proceedings of the alderman, councillor, or servant of the council in whose place such alderman, councillor, or person has been so appointed as aforesaid would have had.

205. If any president, mayor, or member of a council neglects or refuses to do anything which by law he is directed to perform, he shall for every such offence be liable to a penalty not exceeding ten pounds.

Penalty for default of president, mayor, or member of council. Shires, s. 18 (4); Extension, s. 51.

206. (1) No misnomer or inaccurate description or omission of description in any proclamation under this Act shall affect the operation of such proclamation.

Inaccuracy of description.

(2) No proclamation of the Governor, purporting to be made under this Act, and being within the powers conferred on the Governor, shall be deemed invalid on account of any non-compliance with any matter required by this Act as preliminary to the making of such proclamation.

Non-compliance with preliminary conditions. Extension, s. 95.

207. Where, in pursuance of this or any other Act, or any ordinances, regulations, or by-laws, a council lawfully orders or directs any person to perform any work or do any act or thing, and such person fails to perform such work or do such act or thing as and when so ordered or directed, the council may cause such work to be performed or such act or thing to be done, and may, in any court of competent jurisdiction, recover from the said person the expenses so incurred as a debt due to the council.

Power to enforce orders. Extension, s. 96.

208. (1) If the occupier of any premises prevents the owner thereof from obeying or carrying into effect any provisions of this Act or of any ordinance or regulation thereunder respectively, or of any notice or order under the said Act, ordinances, or regulations, any justice to whom application is made in that behalf may, by order in writing, require such occupier to permit the execution of any works if they appear to such justice to be necessary for the purpose of obeying or carrying into effect the said provisions; and if such occupier does not comply with the order within forty-eight hours after the time when it was made, he shall be liable to a penalty not exceeding five pounds for every day during the continuance of such non-compliance.

Occupier preventing owner from carrying out this Act. Extension, s. 97.

(2) Such penalty shall be in lieu of any penalties to which the occupier might otherwise have become liable by reason of any default by him in carrying into effect the said provisions.

Penalty.

209. (1) A council may make a fair rental charge upon persons who have laid or erected, or may, with the council's permission, lay or erect, pipes, wires, cables, or rails, on, under, over, or through the public and other places under the control of the council. This subsection shall not apply to the Crown.

Charges on pipes, wires, cables, and rails. Extension, s. 105.

(2) If any dispute arise as to the amount of such rental charge, such dispute shall be finally settled by the decision of the nearest court of petty sessions. Such charges may be made, levied, and recovered by a council as rates.

SCHEDULES.

Local Government.

SCHEDULES.

SCHEDULE ONE.

Nos. of Acts.	Titles of Acts.	Extent of repeal.
2 Wm. IV, No. 16...	An Act for regulating the rates of tolls or dues to be levied at the markets of Sydney and Parramatta.	The whole.
3 Vic. No. 19 ...	An Act to authorise the establishment of markets in certain towns in the Colony of New South Wales, and for the appointment of commissioners to manage the same.	The whole.
5 Vic. No. 2 ...	An Act to amend an Act intituled an Act to authorise the establishment of markets in certain towns in the Colony of New South Wales, and for the appointment of commissioners to manage the same.	The whole.
61 Vic. No. 24 ...	Nuisances Prevention Act, 1897	The whole.
Act No. 20, 1898 ...	Cattle Driving Act, 1898	The whole.
Act No. 55, 1902 ...	Wagga Wagga Cattle Driving Act, 1902	The whole.
Act No. 62, 1902 ...	Maitland Cattle Driving Act, 1902	The whole.
Act No. 67, 1902 ...	Newcastle Paving and Public Vehicles Act, 1902 ...	The whole.

Also all enactments, whether in public or private Acts (except the Sydney Corporation Act, 1902), relating to municipal cattle sale-yards, or relating to the making and levying of special rates for street-watering.

SCHEDULE TWO.

2 Wm. IV No. 12 }	
4 Wm. IV No. 11 }	
14 Vic. No. 5 }	
18 Vic. No. 15 }	
20 Vic. No. 38 }	Relating to roads, ferries, and tolls.
21 Vic. No. 8 }	
24 Vic. No. 12 }	
25 Vic. No. 7 }	
35 Vic. No. 2 }	
17 Vic. No. 16 }	Maitland roads.
18 Vic. No. 22 }	
11 Vic. No. 49 (South Head road).	

SCHEDULE

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SCHEDULE THREE.

Nos. of Acts.	Titles of Acts.	Extent of suspension.
59 Vic. No. 15 ...	Land and Income Tax Assessment Act of 1895.	Subsections (vii) and (viii) of section 17, and the words in subsection (iv) of section 15, "except from land subject to land tax as herein-after specifically excepted."
59 Vic. No. 15 ...	Land and Income Tax Assessment Act of 1895.	} So much as relates to land values taxation.
61 Vic. No. 21 ...	Land and Income Tax (Amendment) Act, 1897	
62 Vic. No. 37 ...	Land and Income Tax (Declaratory) Act, 1898	
59 Vic. No. 16 ...	Land Tax Act of 1895	The whole.
Act No. 28, 1900..	Land Tax (Assessment Books) Act, 1900	The whole.
Act No. 46, 1900..	Land Tax (Contribution) Act, 1900...	The whole.
Act No. 115, 1902	Land Tax (Leases) Act, 1902 ...	The whole.