

Act No. 40, 1906.

An Act for the better government of municipalities and shires; for those purposes to amend, extend, and repeal certain Acts, and to apply the provisions of the Local Government (Shires) Act, 1905, to municipalities; and for other purposes. [18th December, 1906.]

LOCAL GOVERNMENT
EXTENSION.
—

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. This Act may be cited as the "Local Government Extension Act, 1906," and shall, except where otherwise in this Act provided, commence and come into operation on a day within six months from its passing to be proclaimed by the Governor; but if such day is not so proclaimed, it shall, except as aforesaid, commence and come into operation at the expiration of six months from its passing.

2.

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Division of Act.

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

- PART I.—PRELIMINARY—ss. 1-8.
- PART II.—CONSTITUTION OF MUNICIPALITIES—ss. 9-18.
1. *Constitution and incorporation*—ss. 9-11.
 2. *Division into wards*—ss. 12, 13.
 3. *Reconstitution*—ss. 14-16.
 4. *Supplemental orders*—ss. 17, 18.
- PART III.—ENDOWMENT—ss. 19-21.
- PART IV.—POWERS AND DUTIES OF COUNCILS—ss. 22-50.
1. *General powers and duties*—ss. 22-33.
 2. *Works on boundaries*—ss. 34, 35.
 3. *Acquisition of land and works*—s. 36.
 4. *National works*—ss. 37, 38.
 5. *Servants of council*—ss. 39-43.
 6. *Statutory powers*—ss. 44-50.
- PART V.—COUNCILS—ss. 51-56.
1. *Constitution and election*—ss. 51, 52.
 2. *Qualifications and disqualifications*—ss. 53, 54.
 3. *Ouster of office*—s. 55.
 4. *Defaulting municipalities*—s. 56.
- PART VI.—VALUATIONS AND RATES—ss. 57-70.
1. *Ratable land*—s. 57.
 2. *Land values*—s. 58.
 3. *Valuations*—ss. 59-61.
 4. *Rates*—ss. 62-70.
- PART VII.—FUNDS, ACCOUNTS, AND AUDIT—ss. 71-75.
1. *Funds*—ss. 71-74.
 2. *Accounts and audit*—s. 75.
- PART VIII.—LOANS—ss. 76-85.
1. *Loans generally*—ss. 76-80.
 2. *Guarantee by Government*—ss. 81-83.
 3. *Receivers*—ss. 84, 85.

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PART IX.—ORDINANCES AND REGULATIONS—*ss.* 86-91.

1. *Ordinances*—*ss.* 86, 87.
2. *Regulations*—*ss.* 88, 89.
3. *Penalties and evidence*—*ss.* 90, 91.

PART X.—SUPPLEMENTAL AND GENERAL—*ss.* 92-105.

Repeal and savings.

3. (1) On a day to be proclaimed by the Governor, the Acts mentioned in Schedule One shall be repealed. Repeal of Acts.
Schedule One.
- (2) 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.
- (3) 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, shall remain in office for the period hereinafter provided, and this Act shall apply to them; and such mayor and aldermen while in office shall be the council of the municipality: Provided that where in any such municipality there is no council, the Governor may, instead of proceeding under Division 4 of Part V of this Act, dissolve the municipality, and thereupon it shall cease to be a municipality within the meaning of this Act. Savings as to officers' by-laws, rates, &c.
Mayors, aldermen.
- (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 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, shall be paid to and may be received, levied, and recovered by the council for the time being of the municipality, 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.
- (d) 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.
- (e) Such repeal shall not, except as herein expressly provided, affect the incorporation by any Act of any of the enactments so repealed. (4)

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This Act to apply
to things done under
Acts repealed.

(4) 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.

Certain Acts not
affected.

4. (1) Unless otherwise expressly provided, nothing in this or the Shires 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 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.

City of Sydney.

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

References in other Acts.

References in other
Acts to repealed Acts.

5. 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.

Interpretation.

Definitions.

6. In this Act, unless the context indicates or requires another meaning,—

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

“Clerk” or “council 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 aldermen or councillors.

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

“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.

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

“Ordinances”

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- “Ordinances” means ordinances made in pursuance of this Act.
- “Part” means Part of this Act.
- “Prescribed” means prescribed by this Act or by any Schedule, ordinance, or regulation.
- “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.
- “Regulation” means regulation made in pursuance of this Act.
- “Returning officer” means officer appointed to conduct elections or polls under this Act.
- “Schedule” means Schedule to this Act.
- “Shire” means shire constituted by the Shires Act or under this Act.
- “Shires Act” means Local Government (Shires) Act, 1905.

Other expressions defined in the Shires Act have the meanings so defined, except the expression “public reserve,” which shall, for the purposes of that Act, and of this Act, mean public parks and lands similarly dedicated by the Crown for the use, recreation, or enjoyment of the general public, but shall not include a common.

7. Where any enactments of the Shires Act are applied to municipalities, the said enactments shall be read as forming part of this Act, *mutatis mutandis*; and for that purpose—

- “Shire” shall be read “municipality.”
- “Riding” shall be read “ward.”
- “President” shall be read “mayor.”
- “Councillor” shall be read “alderman.”

Proclamation of 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, of any other municipality or centre of population.

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PART II.

CONSTITUTION OF MUNICIPALITIES.

DIVISION I.—CONSTITUTION AND INCORPORATION.

Existing municipalities constituted and incorporated.

9. 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, with perpetual succession and a common seal. All powers, rights, and liabilities of such old body corporate shall be the powers, rights, and liabilities of the council of the municipality.

Constitution of other municipalities.

10. Where any area is hereafter constituted or reconstituted a municipality the council shall under the name given to it be a body corporate, with perpetual succession and a common seal.

Reclamations.

Reclamations.

11. 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 this Act been reclaimed from tidal waters, shall be deemed to be included within the area, and the boundaries of the area are accordingly altered.

DIVISION 2.—DIVISION INTO WARDS.

Division of municipality into wards.
Division into wards not compulsory.

12. (1) Division 2 of Part II of the Shires Act shall apply to municipalities :

(2) Provided that on receipt of a petition from the council or a majority of ratepayers it shall be optional but not compulsory for the Governor to divide a municipality into wards: Provided also that the Governor may, in the manner and subject to the conditions prescribed in the Shires Act with respect to the alteration of divisions, abolish any division of a municipality and re-create any such divisions.

Abolition of wards.

Procedure before abolishing wards.

Poll of electors.

(3) But 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.

Existing division into wards.

13. 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.

DIVISION

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DIVISION 3.—RECONSTITUTION.

14. (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;

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

and may by order reconstitute the new areas so formed as municipalities or shires, and give names to such areas and their councils. Such powers shall be in addition to, and not in substitution for, any powers contained in the Shires Act:

Provided that before acting upon power (a) or (e) in this subsection a poll shall be taken of the ratepayers in each area or part of an area affected by the proposed union, if demanded in manner to be prescribed by one-third of such ratepayers in any such area, and the result of the poll shall decide the question whether such power shall be exercised.

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

Areas to be continuous.

(3) 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.

Objections to reconstitution.

(4) 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.

(5) The Governor may alter the name of any area and of its council.

Re-naming areas.

15. (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.

- (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.

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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.

Provisions where municipality included in a shire.
Ridings.

16. (1) Where the Governor includes the area of a municipality in a shire, the following provisions shall apply—

Debts.

(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 operation of the preceding portion of this paragraph, and of paragraph (a), may, in the discretion of the council, be terminated ;

Special rate.

(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 ;

Powers and duties.

(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 ;

Borrowing 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,

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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 4.—SUPPLEMENTAL ORDERS.

17. (1) No area or areas shall, except under the last preceding section, be reconstituted under this Act, unless and until—

Arrangement with creditors on reconstitution of areas.

- (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.

Orders distributing property, rights, and liabilities of areas.

(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.

Objections to such orders.

18. (1) Where areas are reconstituted under this or the Shires Act, the Governor may by order appoint and constitute a council or councils for the new area or areas, or in his discretion may authorise an election to be held in the prescribed manner. The members of such council or councils shall hold office until the day fixed by this Act for the next retirement of all members of councils. For the purpose of making lists of electors and ratepayers of the new area, the Minister may 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.

Reconstitution of councils on reconstitution of areas.

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

Extraordinary vacancies.

(3)

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(3) In addition thereto the Governor may, in the case of such reconstitution, make orders—

Ordinances of old areas.

(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 ;

Rates due to old areas.

(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.

PART III.

ENDOWMENT.

Existing municipalities.

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

Additions to municipality—endowment of added areas.

(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.

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

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Endowment upon reconstitution of area.

20. (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.

(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.

21. Subsections three, four, five, and six of section eight of Part III of the Shires Act shall apply to municipalities.

Application of s. 8 of Shires Act.

PART IV.

POWERS AND DUTIES OF COUNCILS.

DIVISION 1.—GENERAL POWERS AND DUTIES.

22. (1) The council of a municipality on its constitution under this Act may exercise the powers and shall perform the duties contained in Chapters I and II of Schedule One to the Shires Act, and for such purposes the said Chapters of such Schedule shall apply to municipalities, excepting section eleven of Chapter II, within the metropolitan district: Provided that, for the purposes of the Shires Act and this Act, the following additional paragraph is added to Chapter I of Schedule One of the former Act:—

Application to municipalities of Chapters I and II of Schedule One to Shires Act.

“(vii) (a) The prevention of the pollution of natural watercourses.”

(2) The council of a municipality or shire may make and form any public road excepted by paragraph (d) or paragraph (e) of item (i) of Chapter I of Schedule One to the Shires Act, and may, for the purpose of recouping it for the expense thereby incurred, make and levy a local rate 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. 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.

Roads laid out by the owner through private land.

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Additional powers
may be acquired by
councils.

23. (1) The council of a municipality may acquire the right to exercise any or all of the powers contained in Chapter III of Schedule One to the Shires Act in the manner prescribed by subsection two of section nine of the Shires Act, and for that purpose the said subsection shall apply to municipalities :

Provided that, for the purposes of the Shires Act and this Act, subsection two of section nine of the former Act is amended, as follows :—

- (i) In paragraph (c), by the omission of the words “the Governor may grant or refuse the application, in whole or in part, but,” and by inserting the words “fifty, or if there be less than three hundred ratepayers on the roll” after the word “than” ;
- (ii) in paragraph (c), by substituting the word “ratepayers” for the word “electors” each time it occurs in the paragraph ;
- (iii) in paragraph (c), by substituting the words “the Governor shall” for the word “may” where it occurs in the third line before the word “direct” ;
- (iv) at end of paragraph (c), by adding the words “and ordinances” after the word “regulations” ;
- (v) by inserting, after paragraph (f), new paragraphs, as follows:—
 - (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.

Paragraph (g) in the Shires Act becomes paragraph (i).

(2) Any council may in a similar manner acquire the right to exercise any or all of the powers contained in Schedule Two to this Act.

(3) Subsection three of section nine of the Shires Act shall apply to municipalities : Provided that, for the purposes of the Shires Act and this Act, Schedule Two of the former Act is amended by substituting “fourteen Victoria number five” for “fourteen Victoria “number sixty-five.”

(4) Notwithstanding anything in this Act or the Shires Act, 1905, the Governor may, by proclamation, confer and impose on any council of a municipality or shire any power or duty relating to the public health or the prevention of the spread of disease which is included among those which may, under either of the said Acts, 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.

24.

Additional powers
may be acquired.
Schedule Two.

Application of
subsec. 3 of s. 9 of
Shires Act.

Governor may
confer and impose
powers and duties.

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24. The Governor, on the application of the 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.

The council of such shire shall thereupon have, with respect to such urban area, the powers of the council of a municipality under sections twenty-two and twenty-three of this Act :

Provided that, with regard to the provisions of section nine of the Shires Act incorporated by the last-mentioned section—

- (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.

25. For the purposes of the exercise of the powers and duties conferred and imposed by this Act, the provisions of sections ten, eleven, and twelve of Division I of Part IV of the Shires Act shall apply to municipalities : Application of ss. 10, 11, 12 of Shires Act.

Provided that, for the purposes of the Shires Act and this Act, subsection five of section twelve of the former Act is amended by inserting the words “in any area” after the word “operation,” and omitting those words where occurring after the word “Act” : Fines under Police Offences Act.

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

Provided that paragraphs (j) and (k) of subsection one of section twelve of the Shires Act, 1905, are hereby repealed, and shall not apply to municipalities nor to shires : Repeal of inoperative provisions of Shires Act.

Provided also that, for the purposes of the Shires Act and this Act, paragraph (g) of section ten of the former Act is amended by inserting at the end of the paragraph the words “and may remove such fence when no longer required.”

26. Notwithstanding anything in this Act or the Shires Act, 1905, the Governor by proclamation may 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 Governor may hand public places, public reserves, cemeteries, and commons over to councils.
Dissolution of trusts.

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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:

Stormwater channels, culverts, drains, watercourses.

Provided that the council of an area in which any stormwater channel, culvert, drain, or watercourse, or any improvement thereto, shall have been constructed by the Minister for Public Works, without the authority of the Governor, shall be charged with the care, control, and maintenance thereof as from the commencement of this Act.

Council may enter into and upon any building or land.

27. (1) 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 Shires Act or the ordinances or regulations, without being liable to any legal proceedings on account thereof.

Provisions of Public Health Act, 1902, shall apply.

(2) 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.

Sand drifting on roads a nuisance.

28. (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.

Council may abate nuisances.

(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.

New roads— application to be made to council.

29. (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.

Council to approve of plan of roads and drainage.

(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 the reasons of such disapproval: Provided that if within forty days from such

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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 :

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.

Appeal against council's requirement.

(3) 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.

(4) 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. 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.

Person forming road to form and make road before leasing or selling certain land.

(5) 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 fails 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.

30. (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.

(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.

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

31. (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.

Council may abate nuisance.

(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.

Definitions—quarry, waterhole.

(3) For the purpose 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.

Council may fix and recover fees and charges.

32. 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 or the Shires Act.

Power to sell or lease lands.

Power to sell or lease lands.

33. 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.

DIVISION 2.—WORKS ON BOUNDARIES.

Application of Division 2 of Part IV of Shires Act.

34. The provisions of Division 2 of Part IV of the Shires Act shall apply to municipalities, and in so applying them the word “area” shall include a municipality constituted under this Act:

Provided that 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 or such municipality.

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35. The provisions of section fourteen of the Shires Act and of section thirty-four of this Act 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.

Section 14, Shires Act; section 34, this Act.

DIVISION 3.—ACQUISITION OF LAND AND WORKS.

36. The provisions of Division 3 of Part IV of the Shires Act shall apply to municipalities.

Application of Division 3 of Part IV of Shires Act.

DIVISION 4.—NATIONAL WORKS.

37. The provisions of subsection one of section seventeen of Division 4 of Part IV of the Shires Act shall apply to municipalities.

Application of Division 4 of Part IV of Shires Act.

Maintenance of main roads.

38. (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.

Inspection of main roads.

(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.

Maintenance of main roads.

(3) If a council fails 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.

Endowment may be withheld.

DIVISION 5.—SERVANTS OF COUNCIL.

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

Appointment of servants.

(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.

Governor may appoint if council default.

(3)

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(3) 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.

(4) 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.

Present servants
continue in office.

40. 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.

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

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

- (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 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 president to institute proceedings whenever he has reason to believe that an offence against this section has been committed.

Saving.

(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.

Person charged held
to bail.

(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.

Penalty for
acceptance of fee,
reward, or gratuity.

42. 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

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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.

43. 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.

DIVISION 6.—STATUTORY POWERS.

Cattle Slaughtering and Public Health.

44. 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.

Noxious plants and animals.

45. (1) A council which has, in accordance with this Act, acquired the powers of item (vi) of Schedule Two applicable in that behalf— Noxious weeds, plants, and animals.

- (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, the council shall cause to be served upon the occupier, or, if there is 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.

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.

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Power to enter land. (2) For the purposes of carrying out the provisions of this section, a council may enter any land :

Provided that the powers of item (vi) of Schedule Two and of 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.

Cattle sale-yards and abattoirs.

Cattle sale-yards and abattoirs—power to construct and control.

46. (1) A council which has, in accordance with this Act, acquired the powers of item (viii) of Schedule Two 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—

- (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.

Power to charge fees. (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.

Sale of carcases of cattle not slaughtered in abattoir.

(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.

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

Safety of the people in places of public resort.

Place of public resort.

47. Where a council has, in accordance with the provisions of this Act, acquired the powers of item (xxi) of Schedule Two applicable in that behalf, the following provisions shall apply :—

Safety of places of assembly, &c.

- (a) The council shall have such power and control over all places of public resort, and places within the area where people assemble

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assemble together or pass, whether in buildings or otherwise, as may be necessary to ensure the safety of those so assembling or passing.

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; and

Character of buildings used as public resorts.

- (b) 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.

Buildings of public entertainment.

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.

Licensing of buildings used as public resorts.

Control of hoardings and advertisements.

48. A council which has, in accordance with the provisions of this Act, acquired the powers of item (xxx) of Schedule Two applicable in that behalf, may do all or any of the following things—

Hoardings.

- (a) prevent the erection or use of any hoarding in the area without the consent of the council;
- (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;
- (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;

Sanction of council.

Destruction of objectionable structures.

Regulation and control.

(d)

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Licenses and license fees.

- (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.

Specific powers and duties.

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

49. 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 or the Shires 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.

Dairies supervision.

Dairies.

50. (1) Section four of the Shires Act is amended by the omission therefrom of the words "the Dairies Supervision Act, 1901."

(2) 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.

PART V.

COUNCILS.

DIVISION 1.—CONSTITUTION AND ELECTION.

Application of Division 1 of Part V of Shires Act.

51. Division 1 of Part V, except subsection six of section eighteen, and subsection three of section twenty, of the Shires Act shall apply to municipalities:

Provided that at every election of councillors or aldermen under the Shires Act or this Act every voter shall vote for the full number of councillors or aldermen to be elected: Provided

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Provided that in a municipality—

- (a) the number of aldermen shall be as determined by the Governor, but 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.
- (b) where a municipality is not divided into wards, the council shall be elected by the whole municipality; Where municipality not divided.
- (c) the aldermen of the first and every other council shall be elected; Aldermen elected.
- (d) the number of aldermen to be elected by the respective wards shall be as determined by the Governor; Number for wards.
- (e) no allowances or travelling expenses shall be paid by the council to its aldermen, but the council may determine whether any and what remuneration shall be allowed any person executing the office of mayor; No allowances to aldermen.
- (f) 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.

Provided also that, for the purposes of the Shires Act and this Act, the word "Friday" is substituted for the word "Monday" in subsection three of section twenty of the former Act:

Provided also, that in a municipality all aldermen in office at the commencement of this Act shall remain in office until, and retire from office on the last Friday in January, one thousand nine hundred and eight, and elections of aldermen shall take place on the following day. Thereafter aldermen shall retire from office on the last Friday in the month of January in every third year, and elections of aldermen shall take place on the succeeding day: Provided that if it appear 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 aldermen shall remain in office until the day next preceding the day of the election:

Provided also that the provision to charge the expenses of a first election shall not apply to a municipality:

Provided also that, for the purposes of the Shires Act and this Act, subsection three of section twenty of the former Act is amended by substituting the word "third" for the word "second":

Provided

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Provided also that, for the purposes of the Shires Act and this Act, subsection five of section eighteen of the former Act is amended by inserting the words "or allowances" after the word "allowance," and by adding the words "in each year" after the word "pounds":

Provided also that 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.

Governor to fill vacant offices of aldermen.

52. 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.

DIVISION 2.—QUALIFICATIONS AND DISQUALIFICATIONS.

Qualifications at elections.

Application of Division 2 of Part V of Shires Act.

53. (1) Division 2 of Part V, except sub-paragraph (iii) of paragraph (b) of subsection two of section twenty-two of the Shires Act, shall apply to municipalities:

List for first election.

Provided that for the purposes of the first election of the council of a municipality the list shall be made by the council then in office:

List where not divided into wards.

Provided also that where a municipality is not divided into wards, the list for the municipality, on being revised, shall be the roll of electors who are entitled to vote at any election:

Provided also that, in applying the provisions of Part V of the Shires Act to municipalities, section twenty-two of the Shires Act shall be read as if amended as follows:—

- (a) In subsection one, after the word "owners" by adding the words "or rate-paying lessees."
- (b) In subsection two the word "tenant" shall be deemed to include only direct tenants of the owners and rate-paying lessees.
- (c) In subsection two, paragraph (a), by inserting after the word "upwards" the following words: "such oral tenancy, being bonâ fide and verified by statutory declaration of the terms thereof."

(d)

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(d) By inserting the following new subsection to follow subsection three, and to be numbered four :—

(4) 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,—

- (a) on the day appointed by an ordinance made in that behalf is severally the lessee of any ratable land in the shire, 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 the Act in respect of such land ;
- (b) on such day aforesaid is jointly such lessee as aforesaid, and is so liable as aforesaid ;
- (c) on such day 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.
- (f) In subsection four by adding after the word “owner” in the proviso the words “or rate-paying lessee.”
- (g) Section twenty-three of the Shires Act shall be read as if amended by inserting after the word “owner” where it first occurs the words “or rate-paying lessee”:

Provided also that, for the purposes of the Shires Act and this Act, the former Act is amended by the omission from the proviso to paragraph (a) of subsection two of section twenty-two, of all the words after the words “Provided that only one of such joint occupiers shall be entitled to be placed on the roll,” down to and inclusive of the words “five pounds” the second time they occur; and by the omission of the word “occupiers” where it first occurs after the words so omitted, and the insertion in place thereof of the word “occupier”:

Provided also that the words “or on such day is the resident manager of any lease, promise or contract of lease, or license, from the Crown of ratable Crown land” in paragraph (d) of subsection three of section twenty-two of the Shires Act shall not apply to municipalities :

Resident manager of leased land in municipalities.

Provided also that, for the purposes of the Shires Act, and of this Act, item (iii) of paragraph (b) in subsection two of section twenty-two of the Shires Act shall stand as paragraph (c) of that subsection; and that paragraph (e) shall stand as paragraph (d). This proviso shall for the purposes of the Shires Act come into operation on the passing of this Act :

Resident manager of freehold land in shire.

Provided

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Married women not disqualified for being on roll.

Provided also that, for the purposes of the Shires Act and this Act, a woman shall not be disqualified by marriage for being on any roll of electors, or for being an elector or voting at an election, but may not be elected as an alderman or councillor: Provided that a husband and wife shall not both be qualified in respect of the same land. This proviso shall, for the purposes of the Shires Act, come into operation on the passing of this Act:

Share farmers qualified.

Provided also that, for the purposes of the Shires Act and of this Act, 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 of electors as "occupier," and to be enrolled as an elector, if he, on the day prescribed under the Shires Act or this Act for the making of the list of electors, 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. This proviso shall, for the purposes of the Shires Act, come into operation on the passing of this Act:

State employees' franchise.

Provided that an occupier of land and buildings owned by the Crown shall be entitled to be enrolled as an elector in a shire or municipality, if directly or indirectly he pays the rent for the same by way of deduction from salary or otherwise:

Amendment of s. 22 of Shires Act.

- Provided also that—
- (a) for the purposes of the Shires Act and this Act, subsection one of section twenty-two of the former Act is amended by inserting the words "a council shall once in three years" in place of the words "a council shall each year" where occurring at the beginning of the clause.
 - (b) 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.
 - (c) Supplementary lists and rolls of the names of persons duly qualified for enrolment as electors of an area 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:

Preparation of supplementary lists in intervening years.

Provided also that, for the purposes of the Shires Act and this Act, subsection two of section twenty-five of the former Act is amended by the omission of paragraph (k).

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(2) 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 under the Shires Act or this Act :

Revision court, powers of, to call witnesses.

Provided also that, for the purposes of the Shires Act and this Act, sub-paragraph (ii) of paragraph (j) of subsection two of section twenty-five of the former Act is amended by inserting at end of sub-paragraph the words, "or of gas, or of coke, or other products from gas works, or of electricity."

Roll of ratepayers.

54. (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 railway lands.

The making of the roll of ratepayers.

(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.

Poll of ratepayers.

DIVISION 3.—OUSTER OF OFFICE.

55. The provisions of Division 3 of Part V of the Shires Act shall apply to municipalities.

Application of Division 3 of Part V of Shires Act.

DIVISION 4.—DEFAULTING MUNICIPALITIES.

56. The provisions of Division 4 of Part V of the Shires Act shall apply to municipalities.

Application of Division 4 of Part V of Shires Act.

Local Government Extension.

PART VI.

VALUATIONS AND RATES.

DIVISION 1.—RATABLE LAND.

Application of Division
of Part VI of Shires Act.

57. The provisions of Division 1 of Part VI of the Shires Act shall apply to municipalities :

Public reserves held
under license.

Provided that, in addition to the lands thereby made ratable, all public reserves held under license shall be ratable by a municipality or a shire :

Railway reserves.

Provided also that subsection two of section twenty-eight of the Shires Act shall not apply to reserves or other lands vested in the Chief Commissioner for Railways and Tramways which are not used or occupied for any purpose, and that such lands shall not be ratable in a municipality or a shire :

Crown land not
ratable on improved
capital value.

Provided also 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 in no case on the improved capital value :

University lands.

Provided also that lands vested in the University of Sydney, or in the colleges thereof, and occupied and used by the said university or colleges, or any of them, for the purposes of education solely, shall not be ratable in a municipality or shire.

DIVISION 2.—LAND VALUES.

Application of
Division 2 of
Part VI of Shires
Act.

58. (1) The provisions of subsection four of section twenty-nine of the Shires Act are hereby repealed.

Repeal.

(2) The provisions of Division 2 of Part VI of the Shires Act, as amended by this Act, shall apply to municipalities.

(3) Subsection two of section twenty-nine of the Shires Act is hereby repealed, and the following subsection is inserted in lieu thereof, and shall apply to municipalities and shires :—

Coal or shale mines.

(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.

(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

Local Government Extension.

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 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 Private land. land as defined in the Crown Lands Act of 1881, 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: Provided that, where the mine is subject to any Lessees and licensees—division of liability. 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 pays 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 agreements. special agreement between the owner and the lessee and licensee to be made after the commencement of this Act, but shall not be subject to or affected by any such agreement made before such commencement, and such agreement so made shall, so far as it is inconsistent with the provisions of this subsection, be null and void.

(d) where any part of a mine is under the sea, or under Mines under the sea. 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.

(e) Where a mine is situated partly in one shire and Mines in two or more areas—joint valuation. partly in another or others, the valuers of such shires 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 shires in which such mine is situated.

If

Local Government Extension.

Appeal against joint
assessment or
apportionment.

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 appeal to no other court, except under subsection four of section thirty-two of the Shires Act.

Definition of
"mine."

(4) For the purposes of the Shires Act and this Act, a 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, 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.

DIVISION 3.—VALUATIONS.

Application of
Division 3 of Part VI
of Shires Act.
Valuations.

59. The provisions of Division 3 of Part VI of the Shires Act shall apply to municipalities:

Provided that, for the purposes of the Shires Act and this Act, subsection one of section thirty of the former Act is amended by the insertion, after the word "valuation" in the second line, of the words "of the unimproved, and of the improved capital value and of the assessed annual value":

Provided further that, for the purposes of this Act and the Shires Act, the valuations to be made and adopted under this Act and the Shires Act shall be separate valuations made in respect of each parcel of ratable land as separately held by any occupier, tenant, lessee, or owner: Provided further that in any municipality notice of valuation shall be given as prescribed to any person entitled to appeal under section thirty-two of the Shires Act or section sixty, subsection three, of this Act:

Provided also that, in the case of a lessee or occupier entitled to appeal under section sixty, subsection three, 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 such lessee or occupier is on the list of ratepayers in respect of the property for the rates of which he is so liable.

Provided also that, for the purposes of the Shires Act and this Act, appeals to courts of petty sessions under section thirty-two of the former Act shall be heard at such places as the Governor may proclaim.

Local Government Extension.

60. (1) The improved capital value of land is the amount of the Improved capital value of land. 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 :

(2) Fresh valuations may be made in any case when Fresh valuations. buildings or structures are erected or altered on ratable land.

(3) Every lessee or occupier of ratable land, for the rates Lessees or occupiers —right of appeal. of which he has become liable under any agreement, shall, for the purposes of the Shires Act and this Act, be considered to have the same right of appeal as a person aggrieved by a valuation within the meaning of section thirty-two of the Shires Act.

61. For the purposes of this Act, the assessed annual value of Assessed annual value of ratable land. 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.

DIVISION 4.—RATES.

Different kinds of rates.

62. (1) Rates levied by a council may be of four kinds, General and other rates. namely—

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

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

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

Estimates and notification of rates.

63. (1) Before making any rate a council shall cause estimates Council to prepare 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 value of land ; and
- (g) such further particulars as may be prescribed by the regulations. (2)

Local Government Extension.

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.

64. (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.

General rates.

Application of s. 33 of Shires Act.

65. (1) Subsection three of section thirty-three of the Shires Act is hereby repealed. The provisions of section thirty-three, as hereby amended, of Division 4 of Part VI of the Shires Act shall apply to municipalities :

No limit in municipalities.

Provided that the limit of two pence in the pound provided in subsection one of section thirty-three of the Shires Act shall not apply to municipalities, except in the case of a rate on a mine worked for the purpose of mining for any mineral other than coal or shale, in which case the said limit shall apply :

Adjustment of general rates in year 1907.

Provided also that where, before the making of the general rate under this Act for the year one thousand nine hundred and seven, 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 seven, 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 Municipalities Act, 1897 :

Suspension of land tax.

Provided also that the suspension in a shire under section thirty-three of the Shires Act, or in a municipality under this section, of the enactments mentioned in Schedule Three of the Shires Act, 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 shire or municipality ; and, further, 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 shire or municipality. (2)

Local Government Extension.

(2) 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.

(3) 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.

Amount derived from general rates.

Special rates.

66. (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.

Provided that 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.

(2) 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.

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

(3) 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.

Local Government Extension.

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

(4) 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.

Cases in which poll may not be demanded.

(5) Provided that no poll may be demanded if the council, within six months after the first constitution under this Act, 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

Existing municipalities.

(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) 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

Reconstituted areas.

(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.

Majority against rate.

(6) 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.

Local rates.

Local rate within particular portion of an area.

67. (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.

(2)

Local Government Extension.

(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 under this Act, 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) 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.

Local Government Extension.

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

(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.

Majority against rate.

(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.

Loan rates.

Rate when new loan is raised.

68. (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.

(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.

Amount of rate.

(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.

Other loan rates.

(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.

Redemption loan.

(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.

Limitation

Local Government Extension.

Limitation of rating.

69. (1) In any area the total amount leviable under the four last preceding sections, 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 area. Estimates under this section shall be prepared as prescribed. Limitation of rating.

(2) If in any area the amount of all rates leviable under the four last preceding sections 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 area 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.

(3) If at any time it appear that the total amount of rates made and levied in any area 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.

Recovery and enforcement of rates.

70. (1) The provisions of sections thirty-four (as amended hereby), thirty-five, thirty-six (as amended hereby), thirty-seven, and thirty-eight of Division 4 of Part VI of the Shires Act shall apply to municipalities, and shall extend to every description of rates imposed by councils under this or any other Act. Application of
ss. 34-38 of Shires
Act.

(2) 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, Lessors and lessees—
Land Tax (Leases)
Act—Land Tax
Contribution Act.

Local Government Extension.

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 or the Shires 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 the Shires 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.

(3) Provided that for the purposes of the Shires Act and this Act subsection two of section thirty-six of the former Act is amended by omitting the words "and purporting" and substituting the words "such series purporting": Provided also that, for the purposes of the Shires Act and this Act, subsection four of section thirty-four of the former Act is amended by omitting the words "between the owner and occupier" and the words "of either" where they occur.

Payments of rates—
order of priority.

(4) Where any money is received by a council of a municipality or shire 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.

(5) Subsection one of section thirty-six of the Shires Act is amended by inserting after the words "plaintiff must" the words "in the event of a notice of defence or plea being filed."

(6) Subsection five of section thirty-four of the Shires Act is hereby amended by inserting after the word "land," where secondly occurring in the said subsection, the words "in respect of which such rates are imposed."

Interest—date from
which calculated.

(7) Provided that where at the commencement of this Act rates are due and have been unpaid for a period of six months or more, the interest provided by subsection six of section thirty-four of the Shires Act shall be calculated from such commencement only.

Railway land.

(8) Provided also that, in subsection one of section thirty-four of the Shires Act, the words "land vested in the Chief Commissioner for Railways and Tramways of New South Wales" are for the purposes of the said Act and this Act substituted for the words "railway land."

Local Government Extension.

PART VII.

FUNDS, ACCOUNTS, AND AUDIT.

DIVISION I.—FUNDS.

General Fund.

71. The provisions of Division I of Part VII of the Shires Act General fund. shall apply to municipalities :

Provided that, in municipalities, the general fund may be General fund may be applied to pay loans and interest. applied in the payment of capital and interest on loans.

Special fund.

72. (1) In each area there shall be a special fund for each Special fund. 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 What shall be carried to special fund. 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 Application of special funds. 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.

Local fund.

73. (1) In each area there shall be a local fund for each Local fund. 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 Application of local fund. 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.

Loan funds.

74. (1) Where any borrowed money is owing by a council Loan funds. 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— What shall be carried to loan funds.
- (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.

(3)

Local Government Extension.

- 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 ;
- Capital expenditure.
- (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 ;
- Repayments.
- (d) in repaying borrowed money owing by the council in respect of loans obtained for such work or service, and carried to such fund.
- Government securities.
- (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.
- Balances.
- (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.

DIVISION 2.—ACCOUNTS AND AUDIT.

- Application of Division 2 of Part VII of Shires Act.
Retirement of auditors.
- 75.** The provisions of Division 2 of Part VII of the Shires Act shall apply to municipalities.
- On the commencement of this Act the auditors of an existing municipality then in office shall retire.

PART VIII.

LOANS.

DIVISION 1.—LOANS GENERALLY.

- Council may borrow if Governor approve.
Limit of loans.
- 76.** (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—
- Purposes for which council may borrow.
- (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)

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

(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. Loans of existing municipalities in excess of limit.

(4) Where, under subsection two of section five of the Shires Act, an area is added to a municipality, and such municipality has contracted a loan which is 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: Municipality which has been added to— interest to be raised by local rate in old area.

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. Proviso: Certain municipalities excepted.

77. 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.
 - (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, Poll of ratepayers.
- subject

Local Government Extension.

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 ;

Loan rate.

(d) a loan rate, as prescribed by this Act, has been duly made.

Security for loans.

78. (1) For securing the payment 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.

Transfer of securities.

(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.

Members of council authorising illegal borrowing to be personally liable.

79. (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.

(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.

80. Notwithstanding the provision 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.

DIVISION 2.—GUARANTEE BY GOVERNMENT.

Procedure in raising loans guaranteed by the Government.

81. (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.

Examination of books.

(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. (3)

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(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.

82. (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.

(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.

83. 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 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. Government indemnified against wrongful act on part of council.

DIVISION 3.—RECEIVERS.

84. (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;

(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.

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Appointment of
receiver by Supreme
Court.

(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.

Powers of receiver.

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

Further powers of
receiver.

(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.

Duties 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.

Receiver to act under
Court.

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

Withdrawal of
receiver.

(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.

Further duties 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.

Local Government Extension.

PART IX.

ORDINANCES AND REGULATIONS.

DIVISION 1.—ORDINANCES.

86. The provisions of Division 1 of Part VIII of the Shires Act shall apply to municipalities and shall extend to all ordinances made under the authority of this Act, and ordinances may be made under this Act or the Shires Act to apply only to specified portions of areas.

Application of
Division 1 Part VIII
of Shires Act.

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

Other matters which
may be dealt with by
ordinances.

- (i) the holding of polls of electors and the notification of the result of such polls;
- (ii) the voting by post at elections and polls of electors or rate-payers;
- (iii) the making and notification of ratepayers' roll, the holding of polls of ratepayers, and the notification of the result of such polls;
- (iv) 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;
- (v) the regulation of hoardings, buildings, balconies, or verandahs, abutting on or extending over any public place;
- (vi) the carrying out jointly of undertakings for mutual benefit of areas, and the joint control thereof;
- (vii) the manufacture and supply of gas and the installation and distribution of electric-light, and of electric, hydraulic, or other power;
- (viii) the suppression of houses of ill-fame and disorderly houses;
- (ix) the regulation of the erection and management of buildings used as places of public resort or amusement;
- (x) the conduct and safety of the people in places of public amusement and of public resort;
- (xi) the keeping of all premises free from offensive or unwholesome matter, and, subject to the Noxious Trades Act, 1902, the suppression of nuisances;
- (xii) the appointment of places for the inspection and wholesale disposal of fish;

(xiii)

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- (xiii) 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 ;
- (xiv) the construction, establishing, maintenance, and regulation of markets, cattle sale-yards, and abattoirs ;
- (xv) 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 ;
- (xvi) the regulation of bathing and the observance of decency in connection therewith ; the construction and use of public baths, bathing-houses, and bathing-machines ;
- (xvii) the regulation or prevention of the erection of any structure of calico or canvas or other inflammable material ;
- (xviii) noxious weeds, pests, animals, and vermin ;
- (xix) the opening to use by the public of new roads through private land, and the acceptance of the care, construction, and management of such ;
- (xx) 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 ;
- (xxi) the inspection of milk and dairies ;
- (xxii) the inspection and prevention of the sale of unwholesome or adulterated food ;
- (xxiii) the sale and mode of delivery of meat by carcase or otherwise, and the disposal and removal of any blood, offal, or other refuse ;
- (xxiv) the construction of communicating drains with main sewers, and sewerage generally ;
- (xxv) 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 the Shires Act or this Act, and the removal and punishment of trespassers and persons causing annoyance or inconvenience thereon ;
- (xxvi) the regulation of the manner, route, and times of driving cattle along the public thoroughfares ;
- (xxvii) the regulation of the erection of buildings, as to height, design, structure, building materials, building line, and sanitation ;
- (xxviii) any other of the powers and duties conferred and imposed upon or acquired by a council in pursuance of this Act.

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(2) The provisions of subsection two of section forty-four, and the provisions of section forty-five of the Shires Act, shall apply to such ordinances and to the council and electors of any area.

Provisions of secs. 44 and 45 of Shires Act.

DIVISION 2.—REGULATIONS.

88. The provisions of Division 2 of Part VIII of the Shires Act shall apply to municipalities, and shall extend to regulations made under this Act.

Application of Division 2 of Part VIII of Shires Act.

89. The Governor may also at any time after the passing of this Act make regulations relating to—

Regulations made by the Governor.

- (i) the procedure to be followed by councils when raising loans ;
- (ii) matters which by this Act may be prescribed by regulations ;
- (iii) all such other matters as the Governor may deem necessary for carrying this Act into effect, and for the observance thereof.

DIVISION 3.—PENALTIES AND EVIDENCE.

90. The provisions of Division 3 of Part VIII of the Shires Act shall apply to municipalities, and shall extend to ordinances and regulations made under this Act.

Application of Division 3 of Part VIII of Shires Act.

91. All penalties imposed by this Act, or the Shires 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.

PART X.

SUPPLEMENTAL AND GENERAL.

92. (1) The provisions of sections forty-nine, fifty, fifty-one, fifty-two, fifty-three, and fifty-four, Part IX of the Shires Act, shall apply to municipalities.

Application of Part IX of Shires Act.

(2) Section fifty-five of the Local Government (Shires) Act, 1905, is hereby repealed.

Repeal.

(3) Where it is provided by this Act or the Shires 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

Service of notices.

Local Government Extension.

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.

(4) 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.

(5) 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.

(6) 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.

(7) Proof by affidavit or otherwise of the posting shall be conclusive evidence of service.

Bequests.

Power to accept
bequests and devises.

93. 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.

Substitute for absent officers or servants.

Mayor or president
may appoint
substitutes.

94. (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.

Validation of acts of
substitutes.

(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.

Proclamations.

Local Government Extension.

Proclamations.

95. (1) No misnomer or inaccurate description or omission of description in any proclamation under this Act or the Shires Act shall affect the operation of such proclamation. Inaccuracy in description.

(2) No proclamation of the Governor purporting to be made under this Act or under the Shires 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 or the Shires Act as preliminary to the making of such proclamation. Non-compliance with preliminary conditions.

Power to enforce orders.

96. 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.

Carrying out Act or orders thereunder.

97. (1) If the occupier of any premises prevents the owner thereof from obeying or carrying into effect any provisions of this Act or of the Shires Act, or of any ordinance or regulation thereunder respectively, or of any notice or order under the said Acts, 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.

(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.

Rating under other Acts.

98. (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 Rating under other Acts.

Local Government Extension.

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 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.

Local Government Extension.

99. (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 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.

(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.

Evidence.

100. In any legal proceeding or prosecution by a council under this Act, or any ordinances, regulations, or by-laws, no proof shall be required—

Evidence.

- (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.

101. 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 gazzetal or alignment of such street or footpath, but it shall

Prosecutions for
trespass—evidence of
street or footpath.

Local Government Extension.

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.

Wharfs, docks, &c.

102. 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.

Impounding Act,
1898.

103. For the purposes of the Shires Act and 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) 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 added after the word “by-law” at the end of the section.
- (h) Section fifty-nine is repealed.

Basis

Local Government Extension.

Basis of rating under Metropolitan Water and Sewerage Acts.

104. The assessed annual value shall be the valuation which, under the provisions of the Metropolitan Water and Sewerage Act, 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 the Hunter District Board of Water Supply and Sewerage, respectively.

Application to Metropolitan Water and Sewerage Acts.

105. (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.

(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.

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. 23 ... | Municipalities Act, 1897 | 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. |
| Act No. 36, 1904 ... | Municipalities Electric Light Act, 1904 | 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.

Local Government Extension.

SCHEDULE TWO.

- (i) The provision, maintenance, and management of water supplies, with reticulation if required.
- (ii) The watering of streets.
- (iii) The compulsory connection of buildings in municipalities, towns, and villages with the sewers of the council, and the removal and disposal of sewage.
- (iv) The construction, maintenance, and operation of passenger ferries, and public punts.
- (v) The establishment and maintenance of fire brigades and stations in towns.
- (vi) The extirpation of noxious weeds, pests, animals, and vermin.
- (vii) The acquisition or erection and maintenance of a town hall, shire hall, or of any municipal building other than those required for office purposes.
- (viii) The construction, establishment, and maintenance within its area of cattle sale-yards and abattoirs.
- (ix) 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.
- (x) The draining and reclamation of swampy or low-lying land.
- (xi) The establishment and maintenance of parks and recreation grounds.
- (xii) The provision and maintenance of garbage destructors, and the collection and destruction of garbage.
- (xiii) The provision and maintenance and management of public cemeteries.
- (xiv) 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.
- (xv) The provision, maintenance, and management of public urinals, closets, and lavatories.
- (xvi) The provision, maintenance, and management of disinfecting chambers.
- (xvii) The provision, maintenance, and management of lethal chambers.
- (xviii) The manufacture and supply of gas.
- (xix) The manufacture and supply of electricity.
- (xx) The manufacture and supply of hydraulic or other power.
- (xxi) The regulation and control of theatres, dancing saloons, buildings used for public assemblies, and places of public amusement or of public resort.
- (xxii) The establishment, maintenance, and management of night shelters.
- (xxiii) The regulation and control of common lodging houses.
- (xxiv) The establishment, maintenance, and management of places of public recreation or improvement.
- (xxv) The establishment, maintenance, and management of public libraries.
- (xxvi) The establishment, maintenance, and management of art galleries.
- (xxvii) The establishment, maintenance, and management of museums.
- (xxviii) The provision, maintenance, and management of schools of art, reading rooms, and mechanics' institutes.
- (xxix) The establishment, maintenance, and management of public gardens.
- (xxx) The establishment, maintenance, or subsidising of public bands or orchestras.
- (xxxi) The regulation—
 - (a) of hoardings; and
 - (b) of the posting or painting of bills, signs, or advertisements.
- (xxxii) 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

xxxiii)

Local Government Extension.

- (xxxiii) The regulation of buildings, balconies, verandahs, or other structures abutting on or extending over any public place, and the removal thereof.
 - (xxxiv) The carrying out jointly by councils of undertakings authorised by this Act for the mutual benefit of their areas, and the joint control, regulation, management, and maintenance thereof.
 - (xxxv) 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.
 - (xxxvi) 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.
 - (xxxvii) The regulation or prevention of the erection of any structure of calico or canvas, or other inflammable material.
 - (xxxviii) 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.
 - (xxxix) 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.
 - (xl) The regulation and supervision of the manner, route, and times of driving animals in public places.
 - (xli) 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.
 - (xlii) The suppression of houses of ill-fame and disorderly houses.
 - (xliii) The regulation and control of the solicitation or collection in public places of gifts of money, or of subscriptions for any purpose.
 - (xliv) The establishment, control, maintenance, and regulation of infants' milk depôts.
 - (xlv) The establishment, control, maintenance, and regulation of mortuaries.
 - (xlvi) 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.
 - (xlvii) The regulation and control of seamen's boarding-houses.
 - (xlviii) The regulation and collection of fees for the agistment of animals on commons or other lands under the control of municipal councils.
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